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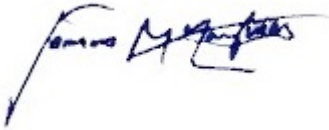
For assistance in understanding or reading this document or specific information about this Agenda or on the "Public Participation" initiative please call the Committee Team on 01629 761133 or email committee@derbyshiredales.gov.uk

31 January 2022

To: All Councillors

As a Member or Substitute of the **Planning Committee**, please treat this as your summons to attend a meeting on **Tuesday, 8 February 2022 at 6.00pm** in the **Council Chamber, Town Hall, Matlock DE4 3NN**.

Yours sincerely,



James McLaughlin
Director of Corporate Services & Customer Services

AGENDA

SITE VISITS: There will be no site visits prior to this meeting of Planning Committee. A presentation with photographs and diagrams will be available at the meeting for all applications.

1. APOLOGIES/SUBSTITUTES

Please advise the Committee Team on 01629 761133 or e-mail: committee@derbyshiredales.gov.uk of any apologies for absence and substitute arrangements.

2. APPROVAL OF THE MINUTES OF THE PREVIOUS MEETING

11 January 2022

3. INTERESTS

Councillors are required to declare the existence and nature of any interests they may have in subsequent agenda items in accordance with the District Council's Code of Conduct. Those Interests are matters that relate to money or that which can be valued in money, affecting the Councillor, her/his partner, extended family and close friends. Interests that become apparent at a later stage in the proceedings may be declared at that time.

4. PUBLIC PARTICIPATION

To provide members of the public **who have given prior notice** (by no later than 12 Noon on the working day prior to the meeting) with the opportunity to express views, ask questions or submit petitions relating to planning applications under consideration. Representations will be invited immediately before the relevant item of business/planning

application is discussed. Details of the Council's Scheme are reproduced overleaf. To register to speak on-line, please click here www.derbyshiredales.gov.uk/attendameeting. Alternatively email: committee@derbyshiredales.gov.uk or telephone 01629 761133.

5. APPLICATIONS FOR DETERMINATION

Please note that for the following items, references to financial, legal and environmental considerations and equal opportunities and disability issues will be embodied within the text of the report, where applicable.

	Page No.
5.1 APPLICATION NO. 21/01337/FUL (Presentation)	05 - 25
<p>Change of use and conversion of market hall to a mixed use premises comprising of a cinema, a community hall/meeting space (Use Class F.2) or office (Use Class E), a Class E Unit (cafe/ restaurant or retail use) or Sui generis unit (hot food take-away/ drinking establishment with expanded food provision) with associated building operations, internal and external alterations, landscaping works, new bus facilities and enhanced lay-by provision on the Bakewell Road frontage of Matlock Indoor Market Hall, Bakewell Road, Matlock.</p>	
5.2 APPLICATION NO. 21/01225/FUL (Presentation)	26 - 44
<p>Erection of 2no. housing blocks to provide 120no. bed spaces, erection of a multifaith centre, siting of a portacabin for parcel storage, creation of additional car parking and associated demolition and landscaping works at H M Prison Sudbury, DE6 5HW.</p>	
5.3 APPLICATION NO. 21/01532/FUL (Presentation)	45 - 52
<p>Extension of existing building to provide an additional holiday let at The Coach House, Bank Top Farm, Squashley Bank, Roston.</p>	
6. INFORMATION ON ACTIVE AND CLOSED ENFORCEMENT INVESTIGATIONS	53 - 62
7. APPEALS PROGRESS REPORT	63 - 76
<p>To consider a status report on appeals made to the Planning Inspectorate.</p>	

Members of the Committee:

Councillors Jason Atkin (Chairman), Richard Fitzherbert (Vice Chairman)

Robert Archer, Sue Bull, Sue Burfoot, Neil Buttle, Tom Donnelly, Graham Elliott, Clare Gamble, Stuart Lees, Peter O'Brien, Garry Purdy and Peter Slack.

Nominated Substitute Members:

Jacqueline Allison, Paul Cruise, Helen Froggatt, Chris Furness, Dawn Greatorex, Andrew Statham and Colin Swindell.

SITE VISITS

There will be no site visits prior to this meeting.

COMMITTEE SITE MEETING PROCEDURE

The purpose of the site meeting is to enable the Committee Members to appraise the application site. The site visit is not a public meeting. No new drawings, letters of representation or other documents may be introduced at the site meeting. The procedure will be as follows:

1. A coach carrying Members of the Committee and a Planning Officer will arrive at the site as close as possible to the given time and Members will alight (weather permitting)
2. A representative of the Town/Parish Council and the applicant (or representative can attend.
3. The Chairman will ascertain who is present and address them to explain the purpose of the meeting and sequence of events.
4. The Planning Officer will give the reason for the site visit and point out site features.
5. Those present will be allowed to point out site features.
6. Those present will be allowed to give factual responses to questions from Members on site features.
7. The site meeting will be made with all those attending remaining together as a single group at all times.
8. The Chairman will terminate the meeting and Members will depart.
9. All persons attending are requested to refrain from smoking during site visits.

PUBLIC PARTICIPATION

Members of the public may make a statement, petition or ask questions relating to planning applications or other agenda items in the non-exempt section of an agenda at meetings of the Planning Committee. The following procedure applies.

- a) Public Participation will be limited to one hour per meeting, with the discretion to extend exercised by the Committee Chairman (in consultation) in advance of the meeting. On line information points will make that clear in advance of registration to speak.
- b) Anyone wishing to make representations at a meeting must notify the Committee Section before Midday on the working day prior to the relevant meeting. At this time they will be asked to indicate to which item of business their representation relates, whether they are supporting or opposing the proposal and whether they are representing a town or parish council, a local resident or interested party.
- c) Those who indicate that they wish to make representations will be advised of the time that they need to arrive at the meeting venue so that the Committee Clerk can organise the representations and explain the procedure.
- d) Where more than 2 people are making similar representations, the Committee Administrator will seek to minimise duplication, for instance, by establishing if those present are willing to nominate a single spokesperson or otherwise co-operate in the presentation of their representations.
- e) Representations will only be allowed in respect of applications or items which are scheduled for debate at the relevant Committee meeting,
- f) Those making representations will be invited to do so in the following order, after the case officer has introduced any new information received following publication of the agenda and immediately before the relevant item of business is discussed. The following time limits will apply:

Town and Parish Councils	3 minutes
Objectors	3 minutes
Ward Members	5 minutes
Supporters	3 minutes
Agent or Applicant	5 minutes

At the Chairman's discretion, the time limits above may be reduced to keep within the limited one hour per meeting for Public Participation.

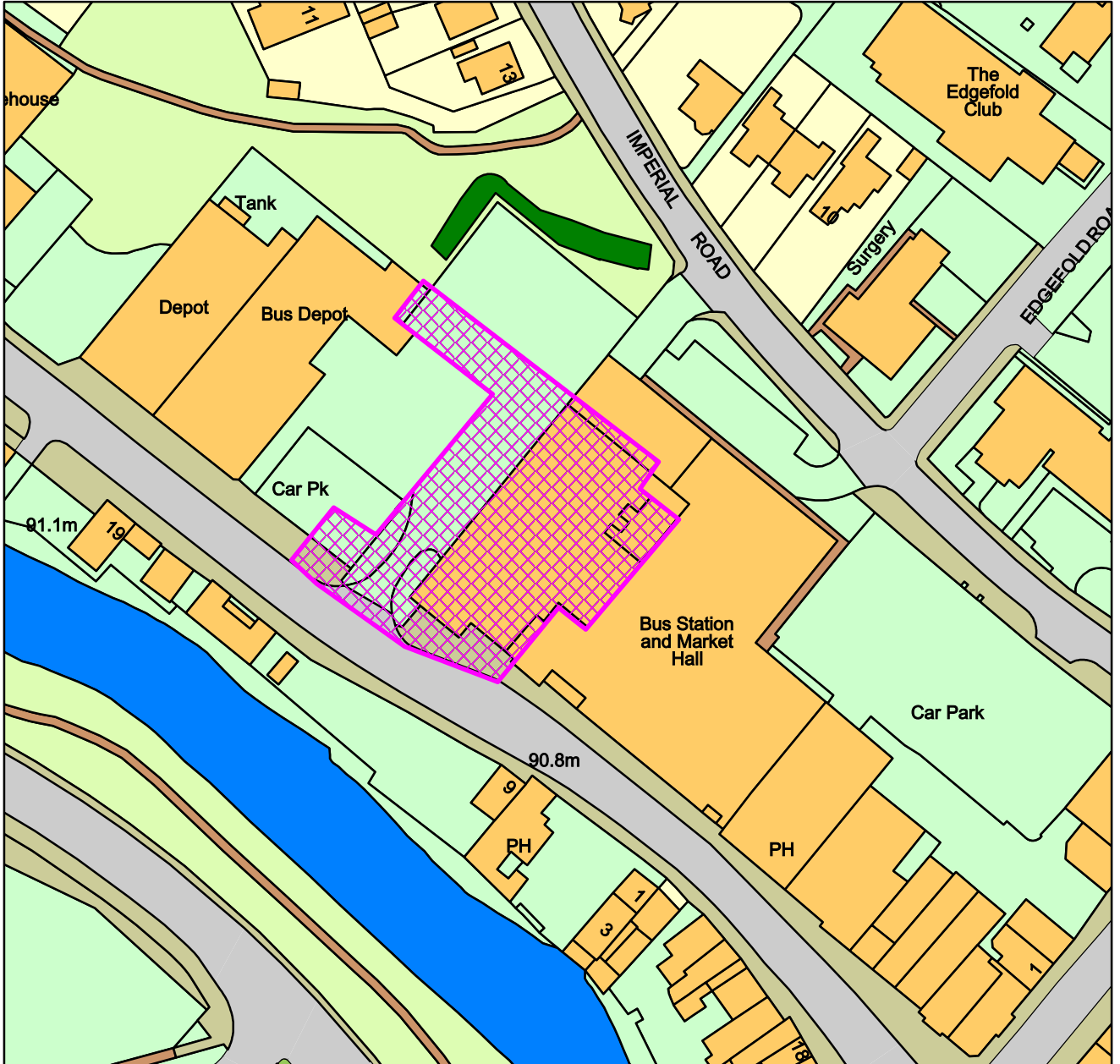
- g) After the presentation it will be for the Chairman to decide whether any points need further elaboration or whether any questions which have been raised need to be dealt with by Officers
- h) The relevant Committee Chairman shall exercise discretion during the meeting to rule out immediately any comments by participants that are not directed to genuine planning considerations.

APPLICATION NUMBER		21/01337/FUL	
SITE ADDRESS:		Matlock Indoor Market Hall, Bakewell Road, Matlock	
DESCRIPTION OF DEVELOPMENT		Change of use and conversion of market hall to a mixed use premises comprising of a cinema, a community hall/meeting space (Use Class F.2) or office (Use Class E), a Class E Unit (cafe/ restaurant or retail use) or Sui generis unit (hot food take-away/ drinking establishment with expanded food provision) with associated building operations, internal and external alterations, landscaping works, new bus facilities and enhanced lay-by provision on the Bakewell Road frontage	
CASE OFFICER	Mr. G. A. Griffiths	APPLICANT	Derbyshire Dales District Council
PARISH	Matlock	AGENT	Lathams Architects
WARD MEMBERS	Cllr. M. Burfoot Cllr. S. Burfoot Cllr. S. Wain	DETERMINATION TARGET	31 st December 2021
REASON FOR DETERMINATION BY COMMITTEE	Planning application submitted on behalf of the District Council for its own development	REASON FOR SITE VISIT (IF APPLICABLE)	n/a

MATERIAL PLANNING ISSUES
<ul style="list-style-type: none"> • The appropriateness of re-purposing the building and the proposed uses; • Whether the development is well designed, safe and respects the character, identity and context of this part of the town; • The impact of the development on highway safety; • Flooding and drainage, and • The measures to mitigate the effects of and adapt to climate change.

RECOMMENDATION
That planning permission be granted subject to conditions

21/01337/FUL - Matlock Indoor Market Hall, Bakewell Road, Matlock



Derbyshire Dales DC

1:1,250

Date: 27/01/2022

100019785

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Derbyshire Dales District Council,
Town Hall, Bank Road, Matlock, Derbyshire DE4 3NN.
Telephone: (01629) 761100.
website :www.derbyshiredales.gov.uk

1. THE SITE AND SURROUNDINGS

- 1.1 The application site consists of the former Matlock Market Hall and covered bus bay area. It is located on the north-east side of Bakewell Road (A615), approximately 135m from Crown Island, the commercial and retail heart of Matlock town centre, and around 200m from Matlock Bridge which crosses the River Derwent and provides access to Matlock Railway Station and bus interchange.
- 1.2 The Matlock Bus Station is currently partly accommodated within the site boundary, to the north-west of the existing former Market Hall building, with a public car park and employment uses beyond.
- 1.3 The area also encompasses the rear service bay to the Market Hall, toilets and plant. A steep wooded bank is located to the rear of the site and although not part of the application this land is controlled by DDDC. A narrow strip of land opposite the site separates the River Derwent from Bakewell Road. This contains retail and car sales directly opposite the site and employment uses further towards the north west.
- 1.4 The space occupied by the former Market Hall is located in the under-croft of a single deck car park.
- 1.5 The Bakewell Road frontage and the return elevation towards the bus station are clad in riven finish natural stone blocks with reconstituted stone panels above which form the parapet to the car park. There is no fenestration to Bakewell Road other than the two glazed entrance doors to the former Market Hall. The site is nevertheless designated as part of the primary shop frontage of the town centre. The Matlock Bridge Conservation Area lies to the south of the site and the Matlock Bank Conservation Area to the east/north east. The site is wholly within Flood Zone 2.





2. DETAILS OF THE APPLICATION

- 2.1 Full planning permission is sought to alter, extend and convert the former market hall and main bus station. The application scheme is proposed to result in the transformation of the site from an insular and uninviting structure into part of an attractive, revitalised and welcoming gateway to Matlock town centre. The intention is to deliver a scheme that works within the existing footprint and the surrounding context, as well as offer a more engaging and appealing facade to the public.
- 2.2 As part of the design brief, the District Council set out that the following important design requirements would need to be met:
- Sustainable – must minimise carbon use (materials and fuel);
 - Contextual – must avoid harm to adjacent heritage and townscape and must acknowledge the importance of the gateway location; and
 - Commercial – must optimise visibility and attract footfall and allow occupiers to thrive.
- 2.3 The design process design process started with a review of the following:
- Client and Stakeholder requirements; and
 - Design work produced by the cinema operator and his team.

A process of refinement and comment followed which has resulted in the application scheme. Designs have also been shared with the head lease holder and neighbouring operators.

- 2.4 The overall development is proposed to be implemented in two construction phases. Phase 1 includes the two screen Cinema and a food and beverage (F&B) unit (approx 793.5m²), public realm and new bus passenger facilities. Works to the highway would also take place during this phase. The mitigation for the phased delivery will be reflected in the elevational treatment too. It is advised that the side elevation, past the kitchen entrance to the F&B unit, will consist of 2.8m high hoarding to offer both security as well as an aesthetically pleasing elevation, albeit the exact specification and detail will follow. Phase 2 of the project is subject

to separate fundraising and would see the inclusion of the Community Space (approx 133.7m²) and reconfiguration of the fire exit corridor and escape route that will complete the side elevation in line with the proposal.

- 2.5 The development is proposed to serve three new distinct units, with independent entrances that are proposed to have an individual but cohesive material treatment. The proposed cinema would face onto Bakewell Road and its presence identified by a new, projecting entrance formed by the canopy, ramp/landing area and glazed frontage. On the corner of the building, the a chamfered entrance to the F&B unit is proposed to create a point of interest visible from both ends on Bakewell Road, as well as a transition between the Cinema and the Community Space. The façade would wrap around the building and be unified by the use of materials to match the existing, including Birchover stone walls, with ashlar panels at base level and stone cladding at the top, as well as the introduction of buff brick for the new walls to the F&B and Community Space.
- 2.6 The proposal includes areas for signage and projecting signs to the cinema and F&B unit. All advertisement areas are proposed to be integrated within the proposed frontages. The cinema advertisement display consists of an illuminated projecting sign and signage above the entrance canopy but the exact details and specifications of these will be included in a separate advertisement application by the Cinema operator should planning permission be granted
- 2.7 As part of project team discussions, the inclusion of an area for public art display is proposed to be located above the north-west parapet to the chamfered F&B unit. The intention, if feasible, is to exhibit local artwork the community can enjoy and, moreover, present an opportunity to display something of Matlock on a gateway building into the town centre. However, at this stage, the design of the signage/advertisement items, as well as the reference to the Public Art area, are indicative only and will be further developed as part of separate applications.
- 2.8 Consideration has been given to incorporating measures where possible to enable natural ventilation and sunlight and mitigate solar gain, helping to reduce the level of mechanical heating and cooling required. Energy efficient lighting is proposed and floor heights are to be raised throughout to mitigate potential future flooding risk.
- 2.9 The application site is located centrally within the commercial heart of Matlock and benefits from existing public transport routes and facilities. The application scheme proposes to relocate the existing bus bays and passenger seating areas. The existing 125 space single deck District Council operated carpark, which forms the roof to the application scheme, will not be affected by the proposed development. In support of the scheme, the District Council proposes to increase the number of disabled bays in the adjacent, ground level, Spa Villas car park. Deliveries are proposed via the existing service yard at the rear. There are highways works scheduled to take place within the site boundary and its vicinity, for which coordination with the Local Highway Authority has been conducted to ensure design coordination at pre-planning stage.
- 2.10 The applicant has submitted a Flood Risk Assessment to identify any potential flood risk to the site from a range of sources and identifies the site as 'less vulnerable' and advises that the construction of this type of development is permitted in Flood Zone 2. Therefore, according to the NPPF, the proposed development in the proposed location is appropriate. The Flood Risk Consultant has identified the following risk of flooding probability at the site: Fluvial Flood Risk – medium probability During the 1% AEP + 20% climate change flood event the proposed raised floor level of 91.5 AOD is above this design flood level. During the 1% AEP + 30% climate change flood event the proposed raised floor level of 91.5 AOD is below this design flood level. The FRA indicates that there will be no loss of flood plain storage as filling outside of the existing building footprint is not proposed. Surface Water

Flood Risk – high risk. The proposed raised floor level of 91.5 AOD will be at the same level as the estimated 0.1% AEP surface water flood level. Groundwater Flood Risk – low risk
Flood Risk from Sewers – high risk Reservoir Flood Risk – high risk.

- 2.11 There are currently three non-native trees within the application site boundary which are in poor condition and are of low ecological and arboricultural value. The application scheme proposes introducing new tree planting to the area to the north of the Bakewell Road bus exit and along the boundary between the site and the adjacent garage yard. Adjacent heavily wooded land owned by DDDC, but outside the application boundary will not be affected by the proposed development.

3 PLANNING POLICY AND LEGISLATIVE FRAMEWORK

- 3.1 Adopted Derbyshire Dales Local Plan (2017)
- S1 Sustainable Development Principles
 - S2 Settlement Hierarchy
 - S3 Development within Defined Settlement Boundaries
 - S7 Matlock/Wirksworth/Darley Dale Development Area Strategy
 - PD1 Design and Place Making
 - PD2 Protecting the Historic Environment
 - PD6 Trees, Hedgerows and Woodlands
 - PD7 Climate Change
 - PD8 Flood Risk Management and Water Quality
 - PD9 Pollution Control and Unstable Land
 - HC15 Community Facilities and Services
 - HC17 Promoting Sport, Leisure and Recreation
 - HC18 Provision of Public Transport Facilities
 - HC19 Accessibility and Transport
 - HC20 Managing Travel Demand
 - HC21 Car Parking Standards
 - EC6 Town and Local Centres
 - EC7 Primary Shopping Frontages
 - EC8 Promoting Peak District Tourism and Culture
- 3.2 Derbyshire Dales District Council Climate Change Supplementary Planning Document (2021)
- 3.3 National Planning Policy Framework 2021
- 3.4 National Planning Practice Guidance

4 RELEVANT PLANNING HISTORY

15/00879/FUL Installation of plant and machinery and associated works - Granted

5 CONSULTATION RESPONSES

Matlock Town Council

- 5.1 The Council welcomes the application and is pleased to see a proposed redevelopment of this site which it hopes will add to the experience, variety and choice of facilities available to resident and visitors and to the vibrancy of this area of the Town. They support the details design elements contained within the application, however note that there are some elements still to be determined. The main concerns of Matlock Town Council are centred on the changes to the areas which the public will use. It is noted that the only access proposed to the new shop premises for pedestrians is from Bakewell Road as there is a 'No Public Access' sign on the wall of the building at the Imperial Road access therefore it would appear

that there are no acceptable possibilities to enable a wider safe footway from Imperial Road and its car parks.

The raised floor level clearly affects the direct access into the proposed premises in terms of ramps, steps etc. The proposed solutions as shown in the Planning Application are insufficient to determine their acceptability with regard to their width. The specific areas are the frontage alongside Bakewell Road and the frontage alongside the exit of the vehicular access road. There are similar concerns as to the proposed usage of the access road space between the existing building and the existing land boundary. At present this is extremely narrow and restricted by kerbside vegetation.

It is noted that the width of the existing pedestrian pavement area has been severely curtailed at the junction of the access road and Bakewell Road, presumably to facilitate an extended lay by for a further bus needing to stop on Bakewell Road. From what can be estimated from the 'to scale' drawings there would appear to be a 'pinch point' (at the corner of the existing building) where pavement width to the revised kerb-line is only around 2m in width which is certainly unsatisfactory and much less than the pavement width on much of Bakewell Road.

It is noted that the access road is to be widened to accommodate the 2 No. bus bays, taxi waiting areas and the pedestrian pavements. Assuming that the buses using the bays continue to be the same size and design, there appears to be limited distance for two vehicles to manoeuvre into the running lane without the need to reverse first. (A swept path matter).

The new taxi standing area location requires passengers to cross the access road. At present access to taxis is available without the need to do this. It appears that there may be a form of pedestrian crossing of the access road close to Bakewell Road however this needs clarification.

It appears that black asphalt surfacing will be used throughout instead of the existing concrete paving which is certainly not going to enhance the appearance and appeal of the redeveloped façade to the public and the Town of Matlock as a tourist attraction.

It is suggested that the floor should be raised to just above the 91.77 OAD level to hope to alleviate floodwater ingress in future and not to the height specified (91.5 AOD), thus anticipating a 30% climate change scenario. Whilst this is a matter for the Environment Agency, Severn Trent Water and the Lead Local Flood Authority it is noted that neither the Environment Agency or Severn Trent Water are listed as consultees.

Has consideration been given to any further maintenance work to the roof of the existing Market Hall, which has been prone to leaking in the past, thus ensuring that that such events will not happen to the new premises especially below the existing canopy? Can the positioning of the toilets be moved, putting them together on the back wall, allowing windows to be placed on the bus shelter side of the building. Has any consideration been given to the incorporation of upper floor space in the smaller units? The height will be of advantage to the proposed cinema but whilst tight, it may be possible for these units.

It is noted many of the existing structural columns supporting the car park roof slab have been located with the proposed new walls of the interior premises. Will this render any needed future structural works to be more difficult to undertake and will the few remaining existing structural columns not enclosed in the new wall, restrict the layout of those premises affected?

It would appear the corner of the existing building at the proposed entrance to the F & B premises will result in a single strut supported cantilever arrangement for the structural slab

of the car park (if the existing walls of the building are a load bearing component of the slab). It is suggested this aspect will require specialist consideration of the removal of the existing walls and any structural work to strengthen the existing slab and its column support.

Again, not on the Planning Application consultation list are the Utility Companies with apparatus buried both with the existing building, the area of the existing bus bays and within the pavements around the existing building. Have consultations with these Companies been held to discuss any required safeguarding works or relocation of their apparatus? The foregoing are only comment or observations for consideration. Matlock Town Council would however be pleased to learn of the outcome of any deliberations between DDDC and the developer on these matters as they are clearly matters of integration of the developers proposals in a manner to ensure the wellbeing and attraction of Matlock Town Centre.

Environment Agency

- 5.2 The site falls fully within flood zone 2 and it is advised the national flood risk standing advice (FRSA) is applied in this instance. Based on the previous use of the site as a bus depot a condition in respect of possible contamination is recommended.

Local Highway Authority (Derbyshire County Council)

- 5.3 In view of the town centre location of the proposals with nearby public parking, good public transport access and the presence of on-street parking restrictions there are no highway objections in principle. Clarification is requested that the existing servicing arrangements for the premises from within the 'bus station' are would remain. The proposals include modification to the existing public transport waiting arrangements both inside the 'bus station' and on Bakewell Road. The County Council currently has 2 schemes programmed to undertake the layby improvements on Bakewell Road and also to enhance bus stop facilities within the bus station and these are intended to be completed in conjunction with these proposals. The plan as submitted does not fully reflect the current proposals but as they are located within the red line boundary will be to be considered as part of this application. To avoid confusion the highways works (to be undertaken by DCC) should be removed from the application and the redline redrawn to cover the applicants land only. Should any other works be proposed within highways limits, the applicant would be required to enter into a legal agreement with the Highway Authority.

The existing pedestrian access to the bus station is through the market area and this shall be lost as part of the proposals. The County Council scheme includes a linking footway from Bakewell Road to the proposed 'bus lane' and this will be required to be completed on site, and available for use, before the existing route is close.

No parking provision is proposed, however the site benefits from the existing public roof top parking and an adjacent surface car park. The introduction of cycle parking is noted however this is shown within highway limits and will be subject to necessary licensing / agreement.

Following receipt of additional information, the Local Highway Authority have advised the following:

The servicing arrangements and the cycle parking are both acceptable.

Regarding to the A6 bus layby works (by DCC), I appreciate the additional work that would be involved in amending the red-line boundary at this stage. However as these works are still shown within the red line boundary can the planning permission confirm that the consent does not include those works?

If the above can be satisfactorily addressed I would raise no further comments but would recommend conditions.

Arboriculture and Landscape Officer (Derbyshire Dales District Council)

- 5.4 There are no objections. They were involved in the design and specification of appropriate tree planting for this scheme.

Environmental Health (Derbyshire Dales District Council)

- 5.5 There is no objection in principle to the above planning application on the condition that the site, and the size, layout and design of all commercial stalls and units, etc. operating thereon would comply fully with all relevant Food Hygiene and Health and Safety at Work requirements.

Lead Local Flood Authority (LLFA)

- 5.6 Initial comments:

While we are not a statutory consultee as this is a minor application, in view of the history of flooding in the area, please could the applicant provide information as to what is proposed for surface water drainage from the building? What is the existing drainage and is any betterment proposed? Have SUDS methods been considered?

The District Councils has subsequently advised the LLFA that the development, with the exception of the proposed covered ramped entrance to the cinema is entirely within the current building envelope and that the development involves infilling the bus-bay area to provide the new F&B unit plus community space and conversion of the existing Market Hall space. A copy of the Flood Risk Assessment was also provided.

Following receipt of this information the LLFA have advised the following:

We had previously reviewed the FRA, within which the applicant has addressed flood risk issues. However, there is no mention of surface water drainage from the site. As this is a minor application, we are not in a position to object. However, ultimately we would like to review the surface water drainage proposals in view of the history of flooding in the area. This could either be through the applicant providing further information at this stage, or through us recommending conditions. The LLFA have advised that they will provide the Local Planning Authority with some suggested conditions ahead of the planning committee meeting.

Matlock Civic Association

- 5.7 The redevelopment of this site is welcomed which has long been an unattractive, underused group of buildings at the main approach to Matlock from the west. They support the detailed design proposals submitted in the application documents but note that there are some elements that are missing or where crucial details such as materials or paint colours are yet to be confirmed.

The Association is pleased to have been a constituent group within the Matlock Community Vision (MCV) initiative. They know that MCV has suggested to DDDC that many details, particularly related to the public realm could be the subject of conditions requiring further proposals and detailed approval - and that MCV might be involved in agreeing these details. They agree this approach because it should minimise delays in making progress on the project. Local Plan policy PD1 must apply to these conditional elements.

The Public Realm is a vital component of the scheme but there are few details of what is proposed. It is feared that the attractive building frontages along Bakewell Road and down the bus exit road to the new Community Room may just be set in wall-to-kerb tarmac. This would be a backward step. The existing surface treatment is paving slabs with a stone surfaced sitting area with a series of seats. This paving has sunk in places (not surprising after 40 years) but the new surfacing should be at least of equivalent quality. A more

environmentally friendly solution would be to lift and relay the existing materials with perhaps re-use of some of the existing natural stone walling that will be removed as part of the adaptations to the building. The existing seats should be saved and re-used - perhaps linked to the new bus shelters.

There are just two standard bus shelters proposed as replacements for the existing covered bus station but this is a stop or terminus for many bus services, some of which (like the X17 Chesterfield service) are very heavily used. People currently are at least under cover with generous seating and have some shelter from the prevailing south-west winds. The two new shelters may not be big enough, they may be open to the prevailing wind (this is not clear) and there are no seats shown. This element of the project needs to be reconsidered and integrated with the public realm design work described above and the new pedestrian access to the proposed Community Room towards the back of the site.

Along Bakewell Road there are no new bus shelters shown but the existing bus layby is being enlarged to take two buses. Currently passengers are either in the open or need to shelter in the car park stairwell or the Marks and Spencer's store entrance. Without any new provision bus passengers will inevitably wait in the new Cinema foyer too. New shelters along Bakewell Road are needed and their design and location needs to be integrated into the design of the public realm referred to above.

The Community Space is an MCV aspiration and they are pleased to see provision has been made for an initial community room. The pedestrian access to it needs to be reasonably wide and attractive and not impeded too much by the new bus shelters.

The application shows the site of the Community Room and the space beyond protected by a long, high hoarding but no materials are specified. It could be some time before the Community Room is brought into use and the future of the space beyond resolved and acted on. The hoarding needs to be of permanent, durable materials and high enough to prevent litter being thrown over it. It could incorporate a large painted mural which would minimise the risks of fly-posting, vandalism and graffiti.

In relation to corner artwork, they are pleased to see this idea included in the drawings. It is an idea the Association put forward through MCV and we would welcome the opportunity to be involved in commissioning the work. We also have funds that could be made available to help.

Matlock Community Vision Steering Group

- 5.8 The submission of the planning application for the market hall redevelopment represents the culmination of a long process, which has involved contributions from many different stakeholders, individuals and organisations along the way. Matlock Community Vision Steering Group was delegated responsibility by the wider MCV group to meet with DDDC officers as the plans developed. Latterly MCV acting Chair Tony Symes and Brian Ford as architectural adviser to MCV have been party to discussions between District Council officers the architects and proposed cinema operator.

The Design and Access Statement, with the accompanying drawings, provides a very clear description of the design proposals. In broad terms, they are pleased that the architects have been able to take on board many of our suggestions. They understand that their concerns regarding the treatment of the public realm (hard and soft landscaping, paving, bus shelters etc) and their desire that the south-west corner of the building be 'celebrated' – potentially through the incorporation of an illuminated art-work - are matters that are to be 'conditioned' (ie subject to further discussion and design).

The Steering Group have received comments regarding the treatment of the north-west elevation, including alarm at the prospect of an extract flue rising above the car park parapet. Concern has also been expressed regarding the location of toilets within the F&B unit, suggesting they could better be located next to the Cinema toilets, giving more flexibility in

planning the kitchen area and the treatment of the elevation. Both points were raised by the Steering Group early in the process, but have not been resolved. They have also received comments expressing disappointment that funding for the Community Space has not been included at this stage, particularly in the light of the extended period of time invested by MCV.

There are still many matters of detail to be resolved. They have promoted thermal improvements to the building fabric, daylighting, solar control, natural ventilation, and underfloor heating, and are pleased that the Design and Access Statement addresses many of these aspects of sustainability. However, much will depend on the detailed design, which has yet to take place, and the Steering Group look forward to participating in further discussions on this. The quality of the final project will also be influenced by the type of contract. In this case, a traditional contract will provide the design team and the District Council with much more control over construction detail, and they would support this choice of contract. MCV are now keen to go forward to raise funding for the Community space and to collaborate with the District Council on the next stage.

Cllr M Burfoot

- 5.9 This long awaited planning application is welcomed for a popular new use, which will transform the depressing and run-down former bus station and market hall. This follows many years of campaigning by the Bakewell Road Group, which became Matlock Community Vision (MCV), in order to persuade the District Council to seek a cinema operator and invest capital into a scheme which has always been requested by local residents in a succession of proposed action plans, workshops and consultation exercises, over the past 15-20 years.

I have been closely involved in all these initiatives, along with other local activists, many with professional skills and experience. More recently, post graduate architecture students from Nottingham visited Matlock several times and produced exciting proposals, as part of their course, for not just this site, but for the entire Bakewell Road area, excluding M&S. Regrettably, without substantial external investment or government funding, the complete redevelopment envisaged by MCV cannot be realised. I regret the fact that even the proposed community room, included in this application, cannot be achieved in the short term without the procurement of an additional funding pot.

The site occupies an important and visually prominent entrance to Matlock town centre at the corner of the two storey 1980's supermarket development, now M&S and Boyes. I support the much improved frontage design proposed now, compared to earlier draft schemes. However, my disappointment lies in the failure to echo the building quality and internal layout for a two-screen cinema and retail, food or beverage unit with a high quality public realm component along Bakewell Road. The quality Yorkstone paved 'Impress' scheme in Crown Square, Bank Road and Bakewell Road surely deserved to be extended and replicated between the vacant former Crown public house and the all important and conspicuous corner of the proposed business unit round to the proposed new bus stops. I think tarmac is proposed for surfacing of the footway and cinema entrance here, part funded, I believe, by the County Council, but hardly indicative of a prestigious scheme, which in other towns in Derbyshire would be high quality unit paving.

Therefore, with the exception of my misgivings about the proposed treatment of the Bakewell Road footway, I strongly support this application.

6 REPRESENTATIONS RECEIVED

- 6.1 A total of three representations have been received; two objecting and one in support of the application. A summary of the representations is outlined below:

- a) There are currently several bus bays, seating for about 25 people, and a taxi rank in a cold, dirty, draughty space. There used to be toilets. With the challenge of climate change it is expected that the planning brief to require some enhancement of the present dire passenger experience, but instead it further diminishes the provision to a couple of roadside bus stops.
- b) It is considered important that visitors to the new cinema, and to Matlock, feel able and willing to come and go home by bus or taxi.
- c) The following adjustments are recommended
 - The food outlet space should operate like a railway station waiting-room, that is, a heated, lit, welcoming place open from first to last bus. It should include a real-time bus information screen and a catering counter when commercially viable. At other times a vending machine could suffice.
 - The bus stops should have more seating and be under a canopy.
 - The toilets should be accessible from outside if the indoor space is closed.
 - There should be a taxi-rank with suitable provision for drivers.
- d) There is one concern regarding the viability of the proposal.
- e) The town centre redevelopment is supported as it is felt that the existing bus station is a cross between a toilet and a loading bay.
- f) I agree with the Civic Society comments regarding paving / bus shelter provision are concurred with.
- g) It is considered important that security / lighting / CCTV is provided around the bus stops to deter antisocial behaviour.

7 OFFICER APPRAISAL

7.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that applications for planning permission are determined in accordance with the development plan unless material considerations indicate otherwise. The development plan for the purposes of the Act is the Adopted Derbyshire Dales Local Plan (2017). The National Planning Policy Framework (2021) is also a material consideration in respect of this application.

7.2 Having regard to the nature of the development, the relevant provisions of the development plan, national planning guidance and the consultation comments and representations received, the main issues to assess in the consideration of this application are:

- The appropriateness of re-purposing the building and the proposed uses;
- Whether the development is well designed, safe and respects the character, identity and context of this part of the town;
- The impact of the development on highway safety;
- Flooding and drainage, and
- The measures to mitigate the effects of and adapt to climate change.

The appropriateness of re-purposing the building and the proposed uses

7.3 The application includes a change of use of the building from an indoor market hall (Use Class E) to create three distinct planning units comprising a cinema (sui generis use), a community hall/meeting space (Use Class F.2) or office (Use Class E) and a Class E Unit (cafe/ restaurant or retail use) or sui generis unit (hot food take-away/ drinking establishment with expanded food provision) unit. As set out in the application section of this report the development is to be implemented in two construction phases. Phase 1 includes the two screen cinema and a food and beverage (F&B) unit. In the case of the F&B unit the application proposes either sui generis use or a use falling within class E, to allow greater flexibility with regard to any end user that may wish to occupy the premises. Phase 2 of the project is subject to separate fundraising and would see the delivery of the community space (approx 133.7m²).

- 7.4 Policy S1 of the Adopted Derbyshire Dales Local Plan (2017); Sustainable Development Principles seeks to ensure that all development makes a positive contribution towards the achievement of sustainable development; by making efficient and effective use of land and buildings; whilst conserving and where possible enhancing the natural and historic environment, and minimising the risk of damage to areas of importance for nature conservation and landscape value; alongside seeking to ensure a high standard of design and supporting the local economy and businesses and minimising adverse impacts upon character and appearance.
- 7.5 The application site lies within Matlock settlement framework boundary, Matlock Town Centre and the site frontage forms part of the primary shopping frontage along Bakewell Road. Policies S3 and EC6 of the Adopted Derbyshire Dales Local Plan (2017) are therefore relevant. Policy S3, seeks to retain any buildings that make a positive contribution to the character and appearance of the settlement. The policy also requires that any access is safe and traffic can be accommodated by the existing highway network. Parking is also a policy consideration. Policy EC6: Town and Local Centres highlights the importance of maintaining and where possible, enhancing the vitality and viability of town centres including Matlock Town Centre, in accordance with its function, scale and identified development needs. Policy EC6 seeks to secure appropriate retail, leisure, and other commercial development in centres of a scale and type appropriate to the role and function of that centre. In addition Policy EC6 supports the creation of safe, attractive and accessible town, district and local centres, providing a good range of shopping, food and drink uses, services, offices, and entertainment, leisure and cultural facilities, and high quality public spaces. This is to be achieved without detriment to parking facilities or access by public transport.
- 7.6 Policy EC7 of the Adopted Derbyshire Dales Local Plan (2017) states that within a primary shopping frontage area, proposals for changes of use to A1 retail will be supported. Changes of use proposals from A1 retail (now use class E) to other town centre uses will only be permitted where it will not create a concentration of non-shopping uses and result in an unacceptable change in the retail character of the immediate area or have an adverse effect on the vitality or viability of the town centre.
- 7.7 The development proposal would breathe new life into the former market hall building, which until its closure had been in decline. The site is sustainably located in terms of access to public transport, parking and other retail premises along the Bakewell Road primary shopping frontage. The proposed uses of the building would add to the existing shopping, food and drink uses, services, offices, and entertainment, leisure and cultural offer within the town, strengthening its vitality and viability and will enhance consumer choice.
- 7.8 Notwithstanding the changes to the Use Classes Order and the creation of an all-encompassing commercial class E use, the provision of a cinema and a community hall would not result in an over concentration of non-shopping uses, having regard to the occupation of neighbouring buildings by convenience and comparison retailers (M and S food and Boyes). It is considered that such uses would be appropriate to the town centre and would comply with policies S1, EC1, EC6 and EC7 of the Adopted Derbyshire Dales Local Plan (2017). The aforementioned policies of the development plan align with chapter 7 of the NPPF; Ensuring the vitality of town centre and the advice that planning policies and decisions should support the role that town centres play at the heart of local communities, by taking a positive approach to their growth, management and adaptation.

Whether the development is well designed, safe and respects the character, identity and context of this part of the town

- 7.9 An important issue to assess in the consideration of this application is the impact of the external alterations to the building on its character and appearance and the character,

identity and context of this part of the town. The design of the development has evolved following engagement with Matlock Community Vision (MCV) Steering Group, London Metric (head leaseholder), M&S, Derbyshire County Council and the cinema operator. The proposed development seeks to make external changes to the existing building and has been designed in conjunction with the planned improvement works to the bus lay by to be undertaken separately by the County Council. This collaborative approach seeks to improve the townscape of Matlock, in addition to improving the public realm and access to the bus facilities in line with Policy PD1.

- 7.10 Policy PD1 of the Adopted Derbyshire Local Plan 2017 deals with design and place making and requires development to be of high quality design that respects the character, identity and context of the Derbyshire Dales townscapes. The policy also requires that development contributes positively to an area's character, history and identity in terms of scale, height, density, layout, appearance, materials, and the relationship to adjacent buildings and landscape features.
- 7.11 The structure of the existing building is mass reinforced concrete. This forms the column grid and the roof deck. The north-west section of the existing building includes a long section of cantilevered car park deck which overhangs the bus bays and passenger seating areas of the Bus Station. This is a poorly overlooked area with little if any pedestrian movement, following the closure of the indoor market. The proposals seek to enhance the appearance of the building and create a focus corner element to present a more inviting space when entering the town and accessing the primary shopping area. The new commercial and community spaces have been designed to incorporate attractive shopfronts which will enhance / elevate the building and encourage both retailers as well as the public to this part of the town. As can be seen from the consultation responses and representations received there is general support for the enhancements to the building. The alterations have been architect designed and have regard to and respond to the gateway location of site, whilst looking to maximise the opportunities to mitigate the effects of and adapt to climate change.
- 7.12 The development has been designed to be flood resilient resulting in a higher finished floor level, and the need for access ramps. These ramps, however have been carefully designed in terms of their siting and appearance to read as an integral part of the development. The ramps have been designed to building regulation standards to ensure access to the units by users of all abilities.
- 7.13 Having been involved in the design process Officers agree with the findings in the Design and Access Statement, that the cohesive treatment and use of quality materials (including Birchover stone, ashlar panels, brick and metal cladding) that follow on from the existing built fabric and character, create a much more attractive building as well as town centre for those visiting, working and living in the area. The shopfrontages have been purposefully designed to include areas for signage that will be respectful and in-keeping with the buildings design. Matlock Community Vision Steering Group suggested the inclusion of an area for public art display located above the north-west parapet to the chamfered F&B unit. The building design allows for such a proposal, however, this and any signage (requiring express advertisement consent) will require a separate grant of planning permission.
- 7.14 The new Cinema will be 'announced' by a new projected entrance formed by the canopy, ramp / landing area and glazed shopfront that creates a sense of arrival. On the corner of the building, the new chamfered entrance to the food and beverage unit creates a point of interest visible from both ends on Bakewell Road as well as a transition between the Cinema and the Community Space. As such the façade wraps around and is unified by the use of materials to match existing (Birchover stone walls, Ashlar panels at base level and stone cladding at the top) as well as the introduction of buff brick for the new walls to the F&B and Community Space. Subject to careful consideration of materials and finishes (which would need to be controlled by condition) the development would enhance the character and

appearance of this part of the town and be of a quality that respects its character, identity and context.

- 7.15 The existing bus waiting area is deeply revealed within the building. This is currently a uninviting space, where there is limited public surveillance due to the lack of footfall. The proposals to incorporate the bus waiting area into the scheme and to bring this area out into the open, close to the entrance to the chamfered F&B entrance and start of the primary shopping frontage in this area would be an improvement in this respect and lead to greater surveillance. This would serve to improve public safety.
- 7.16 Concern has been raised from a number of consultees with regard to the treatment of footway surrounding the development. The County Council works propose a tarmac treatment to the new footway serving the new bus waiting area and footway in front of the proposed F&B unit and cinema. Tarmac is the default treatment of the County Council and the existing concrete paving slabs are subject to ponding issues. A small area of Yorkstone paving sets on District Council land immediately adjacent to the existing Market Hall corner unit are to be retained. Within the submitted Design and Access Statement, the treatment of this area of public realm on the Bakewell Road frontage is proposed as a design matter to be agreed by way of condition, however, this is on land outside of the District Councils control and will need to be agreed with the County Council. Within the current scheme budget there is insufficient funding to meet the cost of an enhanced treatment and its future maintenance. However, the District Council remains committed to pursuing external funding opportunities to provide an enhanced paving treatment in this area, if possible as part of the scheme to further improve the entrance to the town centre. The standard tarmac treatment of the footways is not in itself considered to be so harmful so as to warrant refusal of the application in terms of the impacts on the character and appearance of this part of the town.
- 7.17 The application scheme proposes introducing new tree planting to the area to the north of the Bakewell Road bus exit and along the boundary between the site and the adjacent garage yard, which will provide an enhanced landscaped setting. Taking the above into consideration the development is considered to comply with Policy PD1 and guidance contained within the National Planning Policy Framework which advocates good design.
- 7.18 Policy PD2 requires proposals that affect a heritage asset and/or its setting to demonstrate how it has taken into account of design, form, scale, mass, the use of appropriate materials and detailing, siting and views away from and towards the heritage asset. The Matlock Bridge Conservation Area lies to the south of the site and the Matlock Bank Conservation Area to the east/north east. The nature of the development, which retains the buildings existing built form and mass and alterations are such that no harm would result to these nearby heritage assets.

The impact of the development on the local highway network and highway safety

- 7.19 The Local Highway Authority are satisfied, in view of the town centre location of the site with nearby public parking, good public transport access and the presence of on-street parking restrictions, that the development would be acceptable from a highway safety and parking perspective.
- 7.20 The applicant has clarified that the existing servicing arrangements for the premises will remain to serve the three proposed units. The existing service bay for the Market Hall, other than a limited area for plant will remain undeveloped and the elevations submitted include an access gate to this yard suitable for vans to park to enable deliveries to the proposed cinema and other units. This is considered to be acceptable.
- 7.21 The Local Highway Authority had requested that the red line planning area be amended as the two schemes they have prepared which improve the layby on Bakewell Road differed

from what is showed on the plans. This areas was included to demonstrate that the building design had taken into consideration planned changes to this area. Such works are, however, independent of this application and not required in order for the development to be acceptable in planning terms. The Local Highway Authority have requested a condition that before any other works commence (precluding pedestrian access to the bus station) the replacement footway shall be provided in accordance with the application drawings. The applicant has however clarified that they need to undertake works to the building shell before the County Council undertake their works e.g. building the facing wall on the side elevation before a new footway to the bus shelters can be introduced. Such a condition would prohibit such works. The District Council will need to apply to the County Council to carry out development affecting the highway and agree the scope of those works under the relevant provisions of the Highway Act. However, at this stage it is anticipated that the Country Council will carry out these works independently of the development proposed as part of this application. A condition preventing works until the footway has been provided is not considered to be necessary in this respect.

- 7.22 No parking provision is proposed, however the site benefits from the existing public roof top parking and an adjacent surfaced car park. Despite the topography of Matlock, the site is accessible by foot by many residents. The site is also adjacent to the town centre bus station and a number of bus stops located on Bakewell Road thus encouraging the use of convenient public transport rather than personal car usage. The District Council has installed x4 publicly available EV charging points to the rear of the Town Hall in the Edgefold Road car park approx. 500m from the entrance to the building to encourage sustainable travel. These charging points will be promoted to users of the site by operators. The introduction of cycle parking will also encourage sustainable travel to the site.

Flooding and drainage

- 7.23 The EA's Flood Map shows the development site to be within Flood Zone 2 with a medium probability of flooding. Notwithstanding the town centre location of the site and the presence of the existing building, planning practice guidance advises that you do not need to carry out a sequential test for minor development. The exception test however applies and a Flood Risk Assessment has been submitted with the application. This advises that during the 1% AEP + 20% CC flood event the site flood level is 91.09mAOD. The proposed raised floor level of 91.5mAOD is above this flood level. During the 1% AEP + 30% CC flood event the site flood level is 91.77mAOD. The proposed raised floor level of 91.5mAOD is below this flood level. Fluvial flooding produces the highest flood levels at the site. As the building is to be extensively refurbished, flood mitigation measures will be implemented to further reduce flood risk. There will be no loss of floodplain storage as filling outside of the existing building footprint is not proposed. Although not a statutory consultee for minor development the Lead Local Flood Authority (LLFA) have reviewed the FRA and are satisfied that it has appropriately addressed flood risk issues.
- 7.24 The LLFA have advised that they would like to review the surface water drainage proposals for the site in view of the history of flooding in the area. With the exception of the proposed covered ramped entrance to the cinema the development is entirely within the current building envelope, with no additional volume proposed that would materially affect surface water flows rates or methods. The LLFA has indicated that this can be conditioned and will recommend a condition to officers ahead of the planning committee meeting for member consideration. Notwithstanding the necessity of such a condition, officers are satisfied that the development with the mitigation measures suggested would not be vulnerable to a flooding event and would not increase flood risks elsewhere, thereby complying with the requirements of Policy PD8 of the Adopted Derbyshire Dales Local Plan (2017) and guidance contained within the National Planning Policy Framework (2021).

Mitigating the effects of and adapting to climate change

- 7.25 The proposed re-use of the Indoor Market Hall, Bakewell Road Matlock is fundamentally sustainable with large amounts of embodied carbon being retained within the existing structure. An existing mass reinforced concrete framed building which is no longer needed for its original use, as a market hall, is being retained and repurposed for a new use. The applicant advises that the cement element of concrete is responsible for approximately 7% of global greenhouse gas emissions annually. The space occupied by the bus station is also underutilised, with only two of the five bus bays currently in use. The scheme seeks to re-use natural stone external walling material which will become available as a result of the redesign of the Bakewell Road frontage. This will reduce carbon emissions resulting from the extraction, dressing and transportation of natural stone. Due to the south/ south-west orientation, the tarmac surface of the car park above as well as the proposed large areas of glazing to the new spaces the proposal will be exposed to direct solar heat gain. To counteract the solar gain, ventilation and solar shading systems are proposed. The south facing entrance to the Cinema will be protected by a projecting canopy that will counteract overheating as well as provide a shaded area. If required, the top lights above the doors can be openable and provide natural ventilation in addition to the M&E cooling strategy. A series of horizontal blades (brise soleil system) to the top lights above the larger windows to the F&B unit are proposed to control the amount of sunlight and solar heat gain that enters the space. As the new shopfront to the F&B unit is significantly glazed, the brise soleil system will prevent solar glare and reduce overheating while allowing a generous amount of daylight to reach the interior. To ensure natural ventilation and air movement the top lights will be openable.
- 7.26 Additionally, for the Community Space, the Matlock Community Vision team suggested the incorporation of sustainability measures to ensure the efficient year-round use of the building. The proposal includes the natural ventilation and daylight measures that will be achieved by the use of two louvered inlet openings on either side of the proposed windows as well as high-level centre-pivot for exhaust air. The proposal also includes a light shelf to enhance light penetration deeper into the plan. The development is considered to incorporate measures to respond to and help address climate change and will involve the re-use of a building in a sustainable location for leisure and community use that will reduce the need to travel further afield to access such facilities. The development is therefore considered to comply with the requirements of Policy PD7 of the Adopted Derbyshire Dales Local Plan (2017) and guidance contained in the Climate Change SPD. A condition to secure the proposed measures and any other measures that can be achieved to address climate change is recommended.

Conclusion

- 7.27 The provision of a new, all year-round indoor leisure facility, community space / office and food and beverage unit will help supplement the existing offer within Matlock Town Centre and encourage a higher number of visits to the town and visitor spend. The development would make use of an existing building and following careful re-design and alteration, utilising appropriate materials will enhance the character and appearance of this part of the town. The proposal will also deliver a more inviting bus waiting area, incorporate measures to help address climate change and will be flood resilient, whilst not increasing the risk of flooding elsewhere. The development would satisfy the relevant provisions of the development plan and national planning guidance and a recommendation of approval is put forward on this basis.

8 RECOMMENDATION

That planning permission be granted subject to the following conditions:

1. The development hereby permitted must be begun before the expiration of three years from the date of this permission.

Reason:

This is a statutory period which is specified in Section 91 of the Town and Country Planning Act 1990.

2. This consent relates solely to the application plans numbered 1100 P01, 2100 P01, 2101 P01, 2102 P01, 3201 P01, 3202 P01 and 3203 P01 received by the Local Planning Authority on the 5th and 17th November 2021.

Reason:

For the avoidance of doubt.

3. Samples of all materials to be used in the construction of the external surfaces (including the brise soleil shading system) of the proposed development shall be submitted to and approved in writing by the Local Planning Authority before any work to any external surface is carried out. The development shall thereafter be constructed in accordance with the approved details.

Reason:

To ensure a satisfactory external appearance of the development in accordance with Policy PD1 of the Adopted Derbyshire Dales Local Plan (2017).

4. Details of the materials, treatment and/or colour of the window and door frames shall be submitted to and approved in writing by the Local Planning Authority prior to installation. The window and door frames shall then be installed in accordance with the approved details and so retained.

Reason:

To protect the external appearance of the building and preserve the character of the area in accordance with Policy PD1 of the Adopted Derbyshire Dales Local Plan (2017).

5. Details of the treatment of the footway around the Class E (cafe/ restaurant or retail use) or sui generis (hot food take-away/ drinking establishment with expanded food provision) unit entrance on Bakewell Road frontage shall be submitted to and approved in writing by the Local Planning Authority prior to first use. The development shall be carried out in accordance with the details so approved.

Reason:

In the interests of pedestrian safety and to ensure a satisfactory external appearance of the development in accordance with Policies PD1 and HC19 of the Adopted Derbyshire Dales Local Plan (2017).

6. Details of the specification of the hoarding to North West elevation and the Class E (cafe/ restaurant or retail use) or sui generis (hot food take-away/ drinking establishment with expanded food provision) unit's extractor box/vent shall be submitted to and approved in writing by the Local Planning Authority prior to installation. The hoarding and extractor box/vent shall then be installed in accordance with the approved details and so retained.

Reason:

To protect the external appearance of the building and preserve the character of the area in accordance with Policy PD1 of the Adopted Derbyshire Dales Local Plan (2017).

7. The units the subject of the application shall not be taken into use until cycle parking has been provided in accordance with the application drawings and maintained thereafter free from any impediment to its designated use.

Reason:

In the interests of highway safety in accordance with Policy HC19 of the Adopted Derbyshire Dales Local Plan (2017).

8. The service bay shall remain available for use at all times for the occupiers of the units.

Reason:

In the interests of highway safety in accordance with Policy HC19 of the Adopted Derbyshire Dales Local Plan (2017).

9. The development hereby permitted shall be carried out in accordance with the Flood Risk Assessment by JBA Consulting dated July 2021 and the flood mitigation measures therein, unless otherwise agreed in writing by the Local Planning Authority.

Reason:

To reduce the risk from flooding to the proposed development and its future occupants in accordance with Policy PD8 of the Adopted Derbyshire Dales Local Plan (2017).

10. If, during development, contamination not previously identified is found to be present at the site then no further development (unless otherwise agreed in writing with the local planning authority) shall be carried out until a remediation strategy detailing how this contamination will be dealt with has been submitted to, and approved in writing by, the local planning authority. The remediation strategy shall be implemented as approved.

Reason:

To ensure that the development does not contribute to, and is not put at unacceptable risk from or adversely affected by, unacceptable levels of water pollution from previously unidentified contamination sources at the development site in accordance with Policy PD8 of the Adopted Derbyshire Dales Local Plan (2017).

11. Within 3 months of development commencing details of the biodiversity enhancement (namely the location of the Swift nesting boxes) shall be submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be implemented so that physical measures are incorporated before the first occupation of any unit and thereafter retained and maintained in situ.

Reason:

In order to safeguard and enhance habitat on or adjacent to the site in order to secure an overall biodiversity gain in accordance with Policy PD3 of the Adopted Derbyshire Dales Local Plan (2017).

12. All soft landscaping comprised in the approved details of landscaping shall be carried out in the first planting and seeding season following the first occupation of the building(s) or the completion of the development whichever is the sooner; All shrubs, trees and hedge planting shall be maintained free from weeds and shall be protected from damage by vermin and stock. Any trees or plants which, within a period of five years, die, are removed, or become seriously damaged or diseased shall be replaced in the next planting season with others of a similar size and species, unless otherwise agreed in writing by the local planning authority. All hard landscaping shall also be carried out in accordance with the approved details prior to the occupation of any part of the development or in accordance with a programme to be agreed in writing with the Local Planning Authority.

Reason:

To ensure a satisfactory standard of landscaping in the interests of amenity in accordance with Policy PD6 of the Adopted Derbyshire Dales Local Plan (2017).

13. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 and the Town and Country Planning (Uses Classes) Order 1987 or any statutory instrument amending, revoking and/or replacing these Orders, the units hereby approved shall be used as a cinema (sui generis use class), a community hall / meeting space (Use class F.2), office (Use Class E (c) and (g(i))), café, restaurant or retail use (Use Class E(a), (b)) or a hot food takeaway or drinking establishment with expanded food provision (sui generis use classes) as set out in the submitted plans only and for no other purpose, including any other activity within the same class of the schedule to that Order.

Reason:

To maintain control in the interest of the effect upon the character of the town centre and highway safety in accordance with Policies EC6 and EC7 of the Adopted Derbyshire Dales Local Plan (2017).

14. Prior to works commencing on the external faces of the building full details of the measures to address climate change shall be submitted to and approved in writing by the Local Planning Authority. The measures shall thereafter be carried out in accordance with the approved details prior to first use of the units.

Reason:

To ensure the delivery of measures to address climate change in accordance with the aims of Policy PD7 of the Adopted Derbyshire Dales Local Plan (2017).

INFORMATIVES:

1. The Local Planning Authority considered the application as submitted to be acceptable. On this basis, there was no need to engage with the applicant in a positive and proactive manner to resolve any planning problems and permission was granted without negotiation.
2. The Town and Country Planning (Fees for Applications, Deemed Applications and Site Visits) (England) Regulations 2012 as amended stipulate that a fee will henceforth be payable where a written request is received in accordance with Article 27 of the Development Management Procedure Order 2015 for the discharge of conditions attached to any planning permission. Where written confirmation is required that one or more conditions imposed on the same permission have been complied with, the fee chargeable

by the Authority is £34 per householder request and £116 per request in any other case. The fee must be paid when the request is made and cannot be required retrospectively.

3. This permission does not permit the display of any advertisements which require consent under the Town and Country Planning (Control of Advertisements) (England) Regulations, 2007 or under any Regulation revoking and re-enacting or amending those Regulations, including any such advertisements shown on the submitted plans.
4. This permission does not include permission for the public art area and its inclusion is illustrative only and shall be the subject of a further planning application.
5. Pursuant to Section 50 (Schedule 3) of the New Roads and Street Works Act 1991, before any excavation works are commenced within the limits of the existing highway works (on the bus layby on the A6), at least 6 weeks prior notification shall be given to the County Council's New Roads and Street works Section at County Hall, Matlock.
6. This permission relates to the following plans and documents

plans numbered 1100 P01, 2100 P01, 2101 P01, 2102 P01, 3201 P01, 3202 P01 and 3203 P01 received by the Local Planning Authority on the 5th and 17th November 2021.

Underground Utilities Survey A1-L1

Design and Access Statement by Lathams Oct 2021

Flood Risk Assessment by JBA Consulting July 2021

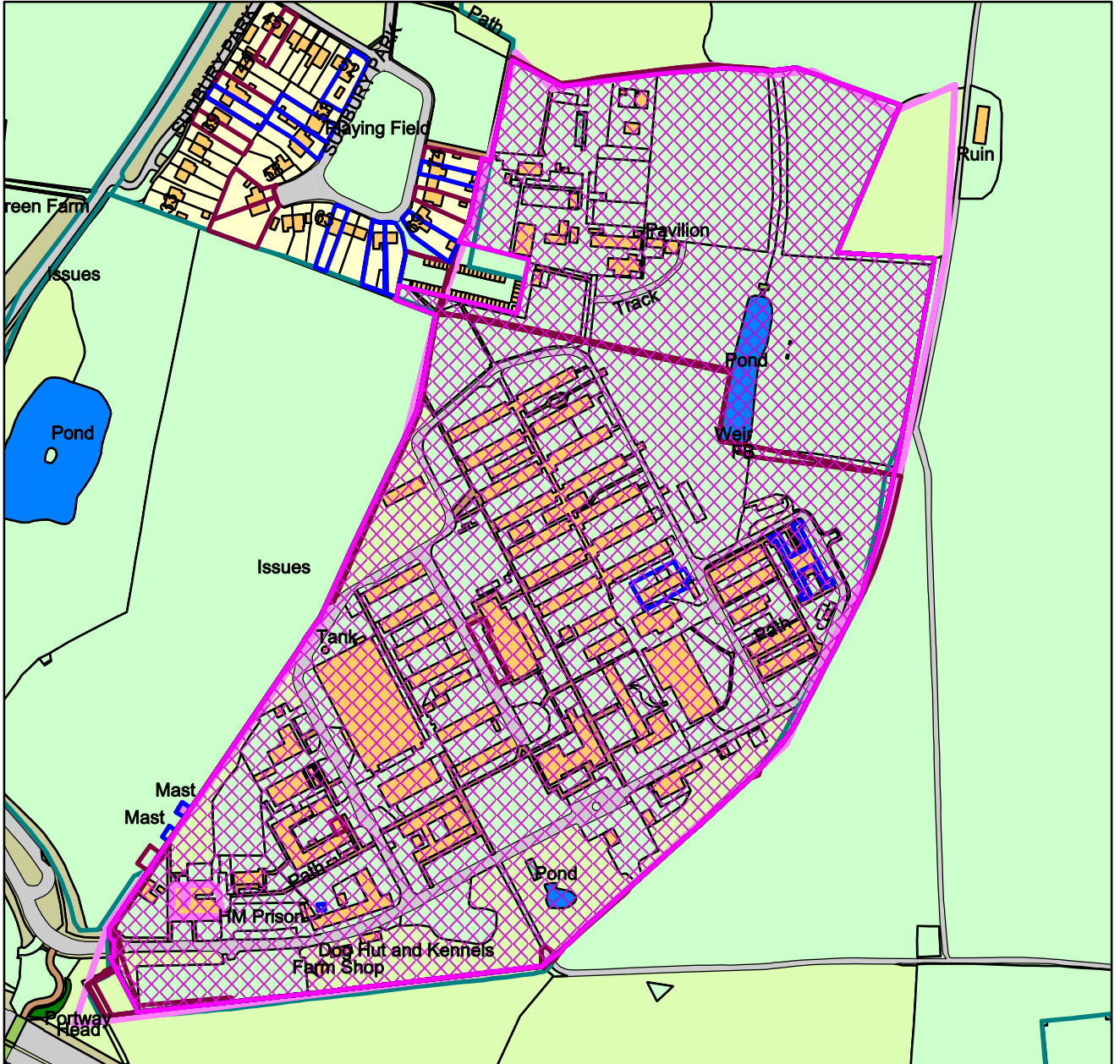
Climate Change Statement

APPLICATION NUMBER		21/01225/FUL	
SITE ADDRESS:		H M Prison Sudbury, Sudbury, DE6 5HW	
DESCRIPTION OF DEVELOPMENT		Erection of 2no. housing blocks to provide 120no. bed spaces, erection of a multifaith centre, siting of a portacabin for parcel storage, creation of additional car parking and associated demolition and landscaping works	
CASE OFFICER	Mr J Baldwin	APPLICANT	Ministry of Justice
PARISH/TOWN	Sudbury	AGENT	Mr Tudor Jones
WARD MEMBER	Cllr Allison	DETERMINATION TARGET	09/02/2022
REASON FOR DETERMINATION BY COMMITTEE	Major Planning Application	REASON FOR SITE VISIT (IF APPLICABLE)	Not applicable.

MATERIAL PLANNING ISSUES
<ul style="list-style-type: none"> - Principle of development - Residential amenity - Impact on heritage assets - Impact on landscape, trees and biodiversity - Climate change

RECOMMENDATION
Approval with conditions.

21/01225/FUL - HMP Sudbury, Sudbury



Derbyshire Dales DC

1:4,000

Date: 27/01/2022

100019785

Crown Copyright and database rights (2018) Ordnance Survey (100019785)
Derbyshire Dales District Council,
Town Hall, Bank Road, Matlock, Derbyshire DE4 3NN.
Telephone: (01629) 761100.
website :www.derbyshiredales.gov.uk

THE SITE AND SURROUNDINGS

- 1.1 The application site is HMP Sudbury; a former hospital, constructed for the United States Air Force which is now a category D open resettlement establishment holding sentenced adult prisoners and sentenced young offenders.
- 1.2 The site is accessed off the south eastern side of the A515 approximately 700m to the north west of Sudbury Village. The site sits outside, but is entirely surrounded by the Sudbury Conservation Area and the Grade II Registered Historic Park and Garden to Sudbury Hall – a grade I listed property within the village. Approximately 300m to the east of the site, within the Registered Park and Garden, is Vernon’s Folly, a grade II* listed Deercote.
- 1.3 The existing prison site consists of a number of existing buildings including accommodation blocks, offices and employments premises. The majority of the buildings on site are single storey structures.





DETAILS OF THE APPLICATION

- 2.1 Planning permission is sought for the erection of 2no. housing blocks; a multifaith centre; the siting of a portacabin; creation of additional car parking and associated demolition and landscaping works.
- 2.2 It is proposed to construct two 60 bed accommodation blocks of the same modular design, two storeys in height and 60m (length) x 12m (width). They would be sited on the former site of the 'H' block toward the eastern edge of the site – recently demolished following the approval of application ref. 21/00902/DEM. The proposed buildings would be finished in red brick slips to the lower elevations and aluminum cladding to the first floor. It is proposed to install photo-voltaic panels to both sides to the roof of both buildings
- 2.3 The proposed multifaith building would be constructed close to the north western boundary of the site. The building would accommodate offices, a kitchen, ablutions and two halls. The proposed building would be constructed using red brick slips to the exterior walls and profile metal sheeting to the roof. Photo-voltaic panels would be installed to the south western roof slope.
- 2.4 The proposed portacabin would be located between two existing workshop buildings and would be 12.2m (length) x 4m (height) x 2.4m (height) and would be used for storing parcels.
- 2.5 It is proposed to extend an existing car park to the rear of an existing office and The Secret Diner at the south west corner of the site. This will accommodate an additional 80 spaces, with 4 further disabled spaces and 4 EV charging spaces.

2.6 Various hard and soft landscaping works are also proposed in association with the above works. These works are set out on the submitted plans and amended plans received by the Local Planning Authority which are detailed at the end of this report.

3.0 PLANNING POLICY AND LEGISLATIVE FRAMEWORK

1. Adopted Derbyshire Dales Local Plan (2017)
 - S1: Sustainable Development Principles
 - S2: Settlement Hierarchy
 - S4: Development within the Countryside
 - PD1: Design and Place Making
 - PD2: Protecting the Historic Environment
 - PD3: Biodiversity and the Natural Environment
 - PD5: Landscape Character
 - PD6: Trees, Hedgerows and Woodlands
 - PD7: Climate Change
 - PD8: Flood Risk Management and Water Quality
 - PD9: Pollution Control and Unstable Land
 - HC19: Accessibility and Transport
 - HC21: Car Parking Standards
2. National Planning Policy Framework (2021)
 - National Planning Practice Guidance
 - Climate Change Supplementary Planning Document (2021)

4.0 RELEVANT PLANNING HISTORY:

21/00902/DEM	Prior notification of proposed demolition - Demolition of P5 and P6 dormitory buildings	ANPR	30/07/2021
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CONSULTATION RESPONSES

Sudbury Parish Council

5.1 At a recent Parish Council meeting, the Council discussed the planning application from HMP Sudbury, as well as concerns raised by local residents. The Council would first like to thank HMP Sudbury for consulting local residents with regard to the planning application. However, the Council objects to the application on the following material planning grounds:

1. Lack of infrastructure.
2. The Council is concerned that the current water and sewerage infrastructure is not robust enough to support a further 80 en-suite units. At present, in times of water shortage, water is diverted from supplying Sudbury Park to supply HMP Sudbury, and an increase in en-suite units will both increase the likelihood of local water shortage by increasing demand, and exacerbate the problem that already occurs when there is a regional water shortage.
3. The Council is aware that the palisade fence is already regarded by local residents as being, in several places, unfit for purpose. Adding to the prison population without a similar increase in provision of security around the site could lead to further incidents of anti-social behaviour and an associated danger for local residents.
4. Public Transport. Prisoners take the service bus to Uttoxeter for work, leaving from the bus stop close to the underpass at the western end of Sudbury village. Local residents have reported that due to this there are often very few seats available on the bus for members of the public, and some local residents are afraid to get the service bus due to the presence of prisoners on it. More prisoners will probably mean more passengers wanting to use the service bus, which will exacerbate this problem.

5. Privacy for Residents. Residents of Sudbury Park voiced concerns that the new, two-storey accommodation blocks are not in keeping with the current low-lying aspect of the site as a whole. More concerning to the council, it appears that these blocks will have sight-lines into the gardens of local residents. The Council feels that this will reduce residents' personal security and their ability to enjoy their own private space. Similar concerns were noted about the north-facing windows on the Multi-faith centre.
6. Security. The Council is aware that illicit "parcel-drops" are a problem around the prison site, and consider that local residents' concerns about these are valid. The multi-faith centre is projected to be sited close to the boundary palisade fence, and the Council is concerned that the area between the building and the fence could become a drop-zone for increased packages. Similar concerns have been raised about the DHL parcel-drop hut, and whether this could become a staging-post for illicit deliveries.

Environment Agency

- 5.2 The site lies fully within flood zone 1 and therefore we have no fluvial flood risk concerns associated with the site. Please note that there is an ordinary unnamed watercourse (marked as a drain on detailed mapping) which runs through part of the site. This watercourse does not fall within the remit of the EA and therefore the LPA should consult the LLFA for their views.

Derbyshire Constabulary

- 5.3 I was contacted by the agents earlier this year in respect of the security element for BREEAM assessments at a number of MOJ uplift programme developments, with only the Sudbury Prison being in Derbyshire. Ultimately it was decided to use the same external private consultant for all of the BREEAM assessments, and I note that this is reference within the planning application detail. I'm content for this assessment to form the basis of crime preventative input for the proposal, so no further comments from me are required in this respect. The additional capacity has been noted by our regional prison intelligence team.

Derbyshire Wildlife Trust

- 5.4 We have reviewed the Ecological Walkover Survey (Middlemarch Environmental, May 2021), the Bat Survey (Middlemarch Environmental, July 2021), the Ecological Mitigation Strategy (Middlemarch Environmental, September 2021), the Construction Environmental Management Plan Revision 1 (ESS Modular Spatial Initiative), the Arboricultural Impact Assessment, Middlemarch Environmental, September 2021 and the most recent proposal plans submitted with the application.

Survey work has been updated/undertaken in line with best practice guidelines and the impact assessment is considered reasonable. No major ecological constraints to the re-development of the four areas of the site have been identified. The Ecological Mitigation Strategy proposes adequate measures to safeguard wildlife and create new habitats on site. Biodiversity Net Gain has also been considered and the DEFRA metric 3.0 used to quantify losses and gains. The current proposals will result in net gain of +0.47 biodiversity units for area habitats and +0.56 biodiversity units for linear habitats, which is greater than the 10 % mandated by the Environment Act 2021. Implementation of the Ecological Mitigation Strategy should be secured through an appropriately worded condition. The requirements of this document must be clearly communicated to contractors in the same manner as the Construction Environmental Management Plan.

A Landscape and Ecological Management Plan (LEMP) should also be conditioned to ensure appropriate future management to achieve the predicted biodiversity net gain. This should include a monitoring requirement with clear targets/objectives and actions to take if these are not met. It is hoped that the information provided is helpful to the Council. If you require any further information or wish to discuss any of the comments made, please do not hesitate to contact me.

Historic England

- 5.5 On the basis of the information available to date, we do not wish to offer any comments. We refer you to the expertise of your specialist conservation and archaeological advisers.

East Staffordshire Borough Council

- 5.6 East Staffordshire Borough Council has no objections to the proposal as submitted.

Trees and Landscape Officer (Derbyshire Dales)

- 5.7 Visual impact of the proposals in the landscape

The proposed 2 house blocks buildings are 2 storey in contrast to the majority of the existing buildings in the site which are single storey and they are also significant in their dimensions. However, an existing prison building located within 100m of the proposed new house blocks is taller than a 2 storey building. Furthermore, the proposed house blocks would replace a recently demolished building which was also 2 storeys tall, though this had a flat roof rather than a pitched roof as proposed. Considering this my opinion is that the proposed new house blocks would not make the visual impact of the prison site in the landscape significantly more adverse than it was before works commenced.

The proposed multifaith centre is a single storey building, similar to the existing which is to be demolished. My opinion is that this development would not make the visual impact of the prison site in the landscape significantly more adverse than it is currently.

The proposed car park extension and cabin in my opinion are sufficiently screened from views from outside the site that they will have no impact on the visual appearance of the landscape.

The submitted Landscape and Visual Impact Assessment concludes that,

'the likely visual impacts generated as a result of the proposed development would be limited to that on receptors at short to middle-distances, including adjacent residential receptors and users of the local road and PRoW network. These impacts are likely to be highly localised and from receptors whose experience is already influenced by filtered views to the prison. There are likely to be very limited impacts on landscape character as a result of the proposals being set within the receiving landscape of an existing prison. At a local level, at year 15 after completion, the significance of effect on the site and its local landscape context will be negligible adverse. It is considered that the proposed development is acceptable in landscape and visual terms'.

I agree with this assessment.

Arboricultural impact of the proposals

There are currently no Tree Preservation Orders (TPO) at this location and the site is not situated within a Conservation Area, though it is adjacent the Sudbury Conservation Area. Therefore, none of the trees on the parts of the site subject to the proposals are currently subject to statutory protection.

There are no designated Ancient Woodlands on site or within influencing distance of it.

The submitted Arboricultural Impact Assessment (Report Reference: 601433- 5358-MEN-000-XX-SU-X-0005 P02RT-MME-154096B-02 Rev B, Issue Date: September 2021) recorded a total of 38 individual trees, 6 groups of trees and 2 hedgerows in the parts of the site subject to the proposals. These were classified as approximately half BS5837:2012 category B (moderate quality, considered a constraint on development and should be retained when practicable and protected during development) and half category C (low

quality, not a constraint on development). No category A trees (high quality) were identified in the report.

The existing tree cover on the site is mainly confined to locations close to the boundaries.

I consider that the identified tree removals necessary to facilitate the proposals are not significant for their individual or collective arboricultural value or for their contribution to the visual appearance and character of the surrounding landscape. The proposed tree removals should not therefore be considered a constraint on the proposed development.

Tree protection measures

The submitted Arboricultural Impact Assessment does not contain any information relating to temporary tree protection measures for retained trees during development works. I recommend that this information should be required to be submitted for approval in the form of a site specific detailed Arboricultural Page 3 of 3 Method Statement which should include a Tree Protection Plan. This could be in the form of a condition to a grant of planning consent.

Landscaping proposals

The planting aspects of the Proposed Landscape Plan (Drawing Reference 601433-5358-AHR-098-XX-DR-L-9931) are acceptable. It indicates sufficient tree and hedgerow replanting to adequately compensate for the proposed tree removals and will provide some screening of the proposed house blocks when viewed from the South-East as the trees and hedgerow grow and develop.

All specifications, guidance and recommendations in this document should be followed in full. I recommend that this be the subject of a condition to a grant of planning consent.

Similar plans do not appear to have been submitted for the proposed multi-faith centre or the car park area. I understand that new planting in these areas is not possible due to potential interference with CCTV security camera splays.

Environmental Health (Derbyshire Dales)

Commercial

- 5.8 No objection in principle to the proposal on food safety/hygiene grounds however: (1) The premises and operation would have to comply with the requirements of the Food Safety Act 1990 (as amended) and meet the specific food safety standards and requirements stated in EC Regulation 852/2004 and other associated legislation as applying to this proposal through the enlargement of the food operation and the implications on existing services involved in the storage, preparation and supply of foodstuffs to those persons at the site.

Public Health

- 5.9 No objections, however as there is potential for contaminants to be present on site I would recommend conditions including a risk assessment, remediation scheme and the implementation of a remediation scheme.

Derbyshire Fire and Rescue

- 5.10 No comments

Development Control Archaeologist (Derbyshire County Council):

- 5.11 Having reviewed the evidence the report unfortunately does not provide any assessment of post war mapping to consider the four locations within the site proposed for development, the ages of any surviving structures in these locations or evidence of structures having been built and/ or demolished since World War Two. What is clear, however, is that the primary

site proposed development, which lies on the eastern side of the prison, appears to have seen both development and demolition on the decades after the war. The OS map of 1955 shows a block (subH plan) oriented SW-NE which is no longer present, and the current proposals require demolition of another H-plan block that is oriented N-S. 2

The HS concludes that with regard to below ground archaeology they have been unable to find anything that would suggest the presence of remains that “would preclude the proposed development” (8.6). I agree with this assessment. Whilst the discussion offered does not provide the level of assessment normally required of an archaeological desk-based assessment (National Planning Policy Framework 194) there is sufficient evidence to suggest it is most unlikely that any archaeological remains of national importance and/ or worthy of physical preservation would be encountered. Furthermore, given that the main proposed development coincides with an area that has seen construction and demolition during and since World War Two it seems unlikely that any significant archaeological remains will survive or be threatened by the current proposals. On this basis I recommend that no further archaeological requirements be placed upon the applicant.

Chesterfield Royal Hospital

- 5.12 Section 106 impact on health to be considered. Initial modelling suggests that the impact of this development is up to £102K

REPRESENTATIONS RECEIVED

- 6.1 A total of 5 representations have been received along with comments from 2 other public bodies. A summary of the representations is outlined below:

- Concerns regarding loss of privacy to neighbouring residential properties as a result of housing block 1.
- Concerns regarding the loss of privacy of neighbouring residential properties as a result of the proposed multifaith building.
- Concerns regarding security at the boundary to the site and historic parcel drops.
- The proposed buildings are not in keeping with the existing housing blocks which are currently single storey.
- Housing block 2 is replacing a non-permanent portacabin.
- The increased population could require upgrades to the sewage system which could have financial implications on nearby residents.
- The increased population could require upgrades to the electrical generators which could have financial implications on nearby residents.
- The existing fencing to the prison is inadequate.
- There are currently security issues with inmates leaving the prison. This would be exacerbated with additional inmates.
- Access to water is currently an issue which would be exacerbated with additional inmates on site.

6.2 Derbyshire Swift Conservation Project

We note 2 comments in the Ecological Walkover survey: firstly, “Buildings...these habitats have no intrinsic ecological value....” and, secondly, a recommendation for “the installation of bird and bat boxes on.....the new accommodation block”.

The ecological value of a building can easily be enhanced by building in nest sites for urban birds such as the rapidly declining and red listed House Sparrow, Starling, Swift and House Martin. All 4 species readily utilise Swift bricks and so these can be considered a “universal” nest site.

We request that a condition is imposed to ensure this development is built with up to 10 internal nest bricks designed for Swifts as a universal biodiversity enhancement for urban bird species.

This request is supported by the National House Building Council Foundation, the standard setting body for new homes: "Section 8.1 Nest sites for birds (page 42): "Provision of integral nest sites for swifts is through hollow chambers fitted into the fabric of a building while in construction. Although targeting Swifts they will also be used by House Sparrows, Tits and Starlings so are considered a 'universal brick'"

Additionally, section 174(b) of the revised National Planning Policy Framework (NPPF, 2019), states: "To promote and enhance biodiversity and geodiversity, plans should: ...identify and pursue opportunities for securing measurable net gains for biodiversity..." and is explained further by the accompanying guidance notes (NPPF, Natural Environment Guidance, paragraph 023): "...relatively small features can often achieve important benefits for wildlife, such as incorporating 'swift bricks' and bat boxes in developments..."

6.3 National Trust

Application site boundary and mitigation proposals

Firstly we consider that it is important to highlight that the 'red line' application boundary currently extends onto National Trust land. Within the application, this is a key area of proposed mitigation planting that has formed the basis of assessments of landscape, visual and heritage impact as well as consultations with statutory consultees. While we understand that there are some constraints that may prevent mitigation planting on the Applicant's own land in this location, it should be noted that any mitigation on National Trust land will require both our agreement and that of our Tenant. Unfortunately, while the Applicant has recently opened discussions with the National Trust and its Tenant about this proposed mitigation, no agreement has yet been reached between the three parties. The National Trust welcomes the principle of improving boundary screening, however we have raised some concerns about the safety/security of this boundary to which we await a response from the establishment. National Trust therefore objects to this proposal pending resolution of this issue, along with revised plans and assessments taking account of our further comments below.

Response to application proposals and impact assessments

National Trust has no in principle objection to the limited expansion of Sudbury Prison to provide appropriate facilities and additional accommodation to meet future space requirements. We also support the principle of a transition to a low carbon, sustainable estate.

However, we are concerned about the current proposal, in particular the height, massing and detailing of the proposed accommodation blocks which are located on the eastern boundary of the prison site adjacent to Sudbury Registered Historic Park and Gardens. A key aspect of the setting of the historic property which may be impacted by the application proposal is the intervisibility between the Hall, Deercote and wider Parkland. There are also incidental views towards the site from the Deercote and Parkland which are described in the Applicant's Heritage Statement and Landscape and Visual Impact Assessment.

The Heritage Statement acknowledges that the new accommodation blocks will increase the visual prominence of the prison complex in views from designated heritage assets. There are, however, several limitations to the Applicant's assessment of heritage impacts which are broadly as follows:

- No proper assessment has been made of impacts on views towards the northern parkland and Deercote from the windows of Sudbury Hall, from which clear views of both exist.
- Where aspects of the assessment rely on existing mature or over mature parkland trees for screening, it should be noted that any tree will have a finite lifespan and when replaced with a new parkland tree this will take many years to grow to the same height and spread in order to achieve the same level of screening.
- The assessment (along with the Landscape and Visual Impact assessment) relies on mitigation planting on National Trust land that has not yet been agreed by the affected parties.

Design of the accommodation blocks

The Design and Access Statement indicates that the proposal utilises a standardised modular design. We suggest that bearing in mind the sensitive setting, adjustments should be made to the proposals to minimise impacts on the settings of Sudbury Hall, Park and Deercote.

While we welcome the use of darker/ more recessive colours (generally) for the proposed accommodation blocks, it should be noted that at 11m in height the new blocks will be approximately 4m taller than the existing Modular Temporary Unit that they replace (approx. 7m measured off plan). There is clearly scope for these buildings to skyline in views towards the site across parkland from the west, from Public Rights of Way across parkland from the east, from the Grade II* listed Deercote and potentially from the Hall itself. We therefore request that each of these views is modelled using verified views (accurate digital visualisations) and that the height of the buildings is reduced, either by utilising a flat roof or by significantly reducing the roof pitch.

For the same reasons we request that:

- the upper sections and roofs of the new accommodation blocks (to be constructed of metal) are powder coated with a medium/dark grey matt finish, reducing the potential visibility and reflectivity of these building elements,
- pale/white building elements on the gables and facades (labelled 07 on Houseblock Elevations) and roofs are amended to a medium/dark grey powder coated finish,
- that metal staircases (labelled 09 on Houseblock Elevations) are amended to a medium/dark grey powder coated finish, otherwise these could be a visually intrusive building element particularly from nearby locations within the park.
- That PV arrays on the roofs of buildings are specified to be low reflectivity to avoid glint and glare.

OFFICER APPRAISAL

The following material planning issues are relevant to this application:

- Principle of development
- Residential amenity
- Impact on heritage assets
- Impact on landscape, trees and biodiversity
- Climate change

7.1 Principle of Development

7.2 The site is located to the south of the dwellinghouses at Sudbury Park which are included within the settlement framework boundary for Sudbury, a tier three settlement in the Adopted Derbyshire Dales Local Plan (2017). As the site lies outside of this defined boundary, it is

deemed to be located in the countryside by policy S2 of the Adopted Derbyshire Dales Local Plan (2017)

7.3 Policy S4 relates to development in the countryside and seeks to support development proposals in these location where “it comprises the redevelopment of a previously developed site/or conversion or extension of existing buildings for employment use provided it is appropriate to its location and does not have an adverse impact on the character and appearance of the rural area”.

7.4 In this case, it is proposed to construct new buildings which are of essential community use. Whilst in most instances it would be logical to assess whether the buildings could be located within a defined settlement or could be accommodated through the re-use or replacement of existing buildings the planning circumstances of a free standing prison in the open countryside are clearly different and warrant assessment on their own merit. The proposed accommodation blocks would replace the former ‘H’ block, an accommodation block which has recently been demolished following the approval of planning ref. 21/00902/DEM. Similarly, the new multifaith building would replace an existing building nearby. As the proposed additional buildings would be constructed within the confines of an existing prison facility, subject to assessment of the planning impacts, the principle of redevelopment and additional development is considered acceptable.

7.5 Residential Amenity

7.6 A number of concerns have been raised by local residents with regard to overlooking and loss of privacy as a result of the new housing blocks and multifaith building. Policy PD1 of the Adopted Derbyshire Dales Local Plan (2017) requires development proposals to “achieve a satisfactory relationship with surrounding development and not cause unacceptable effects by reason of visual intrusion, overlooking, overshadowing, overbearing effect, noise, light pollution or other adverse impacts on local character and amenity”.

7.7 It is acknowledged that the proposed housing blocks would accommodate a net increase in bed spaces at the prison of 80. This accommodation, unlike the existing accommodation blocks would be set across two floors. There is however considered to be a significant distance between the siting of the accommodation block and the existing dwellings of Sudbury Park of over 200m. There is some sparse planting and single storey buildings which would further interrupt views between the new accommodation blocks and the rear gardens/windows of the properties. No significant amenity impacts are considered to occur at this separation distance.

7.8 With regard to the new multifaith building, whilst this is to be sited closer to the properties along Sudbury Park, it would remain some 100m+ distance away. The building is also proposed to be a multifaith building and would not permanently house inmates for great lengths of time. Overall the level of overlooking/loss of privacy as a result of the proposed multifaith building and housing blocks are considered to be minimal and would not warrant the refusal of planning permission in this case.

7.9 There are also no concerns with regards to overbearing impacts, overshadowing, noise or light pollution. The proposed development is considered to achieve a satisfactory relationship with surrounding properties and would comply with policy PD1 of the Adopted Derbyshire Dales Local Plan (2017) in this regard.

7.10 Impact on heritage assets

7.11 Policy PD2 of the Adopted Derbyshire Dales Local Plan (2017) deals specifically with protecting the historic environment and advises that the District Council will conserve heritage assets in a manner appropriate to their significance.

- 7.12 There are a number of heritage assets within close proximity to the site – grade II listed Sudbury Hall Historic Park and Gardens, grade I listed Sudbury Hall, grade II* listed Vernon’s Folly and the Sudbury Conservation Area.
- 7.13 The proposed multifaith building is located adjacent to the north western boundary of the site which also forms the boundary of both the Sudbury Conservation Area and the Registered Historic Park and Garden. Despite the existing planting, which is to be slightly enhanced through additional landscaping and planting along the boundary, there would be views of the multifaith building across the open land of the heritage assets from the A515 to the west. Consideration however is given to the existing view of the prison facility from the A515, the addition of a further, single storey building, when read against the back drop of the existing prison development is not considered to result in harm to the character, appearance and setting of the heritage assets such that their significance would be materially impacted.
- 7.14 The submitted Heritage Statement which accompanies the application concludes that the two storey accommodation block buildings proposed to the east of the site are likely to result in less than substantial harm to the setting and special character and appearance of the grade II* listed Vernon’s Folly. Given the proximity of the building to the Folly and the location of the new two storey accommodation buildings adjacent to the boundary, the District Council agree that there would be some harm to the setting of the grade II* listed Folly. The District Council however, disagree that further planting along the boundary of the site would reduce this impact to a degree that could be considered no harm. The planting would, when established help filter views of the new building however, this could take a number of years and would not fully screen the building from the views from the heritage asset.
- 7.15 The comments received from the National Trust raise concerns regarding the impact of the accommodation blocks on views toward the Parkland and grade II* listed Vernon’s Folly. The eastern boundary is relatively open and the Folly was purposefully sited and designed to be an 'eye catcher' in the landscape in views from Sudbury Hall. It is highlighted in the Heritage Statement submitted by the applicants that “the structure can be seen from the Queen’s Room on the first floor of Sudbury Hall”. However, given the A50 road which runs between the Deercote and Sudbury Hall, and the presence of an existing two storey structure on the application site there has been historic erosion of the relationship between the Hall, Deercote and Registered Park and Garden. It is therefore considered that any additional harm caused by the two additional accommodation blocks is unlikely to amount to substantial harm. It is however acknowledged that the development will be seen from the Hall and harm its relationship with its former Parkland and Deercote. Having regard to the existing erosion of the relationship, the presence of the existing prison and associated development and the provision of planting and landscaping to mitigate the effects, it is considered that this harm is less than substantial harm in NPPF terms.
- 7.16 Paragraph 202 of the National Planning Policy Framework (2021) states that “Where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use”
- 7.17 Having regard to the above, it is acknowledged that the level of harm would likely be at the lower end of less than substantial harm. In this case, the development would secure additional accommodation for the prison which is of essential community use, thereby providing some public benefits to be derived from the development. There are also environmental benefits to be derived due to the bio-diversity net gain outlined within the submitted Ecological Mitigation Assessment and the installation of renewable energy by addition of the solar PV panels to the buildings. It is considered on balance that the less than substantial harm to the nearby heritage assets which would be toward the lower end of less

than substantial is outweighed by the public benefits to be derived from the proposed development and the development would therefore comply with policy PD2 of the Adopted Derbyshire Dales Local Plan (2017) and guidance contained within the National Planning Policy Framework (2021).

7.18 There are no concerns with regard to the proposed development on any archaeological potential at the site. The proposed siting of a portacabin and the modest car park extension are also considered to result in no harm to the heritage assets outlined above.

7.19 Landscape, trees and biodiversity

7.20 Some concerns have been had been raised by the District Council regard the impact of the proposed two storey accommodation blocks in particular on the character and appearance of the surrounding landscape. The existing prison buildings are predominantly single storey structures and the increased height of the new buildings would therefore have a greater visual impact. Amended landscaping plans have been received throughout the consideration of this application which have sought to soften the impact of the buildings through the introduction of additional planting along the eastern boundary of the site.

7.21 There are security concerns relating to the introduction of too much planting within the site as this may interfere with CCTV sightlines. Planting along the boundary edge also raises issue with regard to providing access over the boundary fence. The submitted scheme has been deemed to be acceptable from a security stand point. The Tree and Landscape Officer (Derbyshire Dales) has also confirmed that this amended scheme would help to soften the visual impact of the development on the landscape. The proposed development is not considered to result in significant harm to the character and appearance of the countryside setting and the proposal would comply with policies S4, PD1, PD5 and PD6 of the Adopted Derbyshire Dales Local Plan (2017).

7.22 In order to avoid the need for a pre-commencement the applicant has submitted a further arboricultural assessment and tree protection measures. These have also been deemed to be acceptable.

7.23 Policy PD3 of the Adopted Derbyshire Dales Local Plan (2017), and Paragraph 179 of the National Planning Policy Framework (2021), both seek a measurable net gain in biodiversity.. A net gain of just 1% would be policy compliant in these circumstances and accords with current interpretation of the requirements of The Environment Act 2021 appeal decisions.

7.24 The applicant has submitted an ecological mitigation strategy which concludes that, securing the implementation of the submitted landscaping scheme would “include new grassland, swales, tree planting and hedgerows and achieve a 20.3% biodiversity net gain for area habitats and a 93.75% net gain for linear habitats”. This significantly exceeds the 10% minimum which is incorporated in the incoming Environment Act (2021) and subject to the submission of a landscape and ecological management plan, the proposed development is considered to be in accordance with both policy PD3 of the Adopted Derbyshire Dales Local Plan (2017) and guidance contained within the National Planning Policy Framework (2021).

7.25 Climate Change

7.26 In May 2019 the District Council declared a climate emergency to seek to make the District carbon neutral by 2030. Policy PD7 of the Adopted Derbyshire Dales Local Plan (2017) seeks to “support the generation of energy from renewable or low-carbon sources provided that the installation would not have significant adverse impact”. The Council’s Climate Change SPD (2021) further supports the use of low carbon and renewable energy.

7.27 The proposed development includes the installation of a large number of solar panels to the roof of both the housing blocks and the multifaith centre. The applicants have submitted an Energy Statement alongside this application which show that the accommodation blocks and multifaith centre would achieve net zero energy use due to the amount of energy produced from the PV panels. Details have also been submitted to show that it is anticipated that both the accommodation blocks and the multifaith building would achieve a BREEAM rating of Excellent.

7.28 It is considered that the application has given significant consideration to the use of low carbon energy sources and the overall impact of the buildings on the District Council's efforts to tackle climate change. The measures taken are considered to be in accordance with policy PD7 Adopted Derbyshire Dales Local Plan and the Adopted Climate Change SPD (2021).

7.29 Other Matters

7.30 Sudbury Parish Council have raised concerns relating to the ability of the drainage network to accommodate surface water and foul drainage needs arising from the development. The water company has a duty to accommodate these needs and appropriate connections to foul and surface water drainage will need to be made before the buildings proposed as part of this application can be utilised. This would not constitute a reason for refusal of the application.

7.31 The District Council sets out its approach to developer contribution in its Adopted Developer Contributions SPD (2020). Within it, the approach and formula to be applied to healthcare contributions is included. Such calculations are carried out by the Clinical Commissioning Group for the area having regard to additional needs arising from the development and cost of capital projects. Although the request from Chesterfield Royal Hospital is noted, this has not come through the CCG and it cannot be demonstrated that the contribution would be reasonable related in scale and kind and born from additional demands on services in the locality from the development. This contribution would not therefore be CIL regulations compliant.

7.32 Conclusion

7.33 The proposal expands accommodation and facilities at a long established prison site. Such consolidation of the facility is considered to serve an identified need which can only reasonably be met at the existing site in the countryside. Whilst some less than substantial harm will result to the setting of the grade I listed Sudbury Hall and grade II* listed Vernon's Folly, this harm is at the lower end of less than substantial harm and the public benefits of expanding the accommodation and new facilities to meet prisoner needs along with the positive contribution of the scheme to renewable energy production and biodiversity are considered to outweigh that harm.

7.34 Taking the above into consideration and subject to conditions the application satisfies the relevant provisions of the Adopted Derbyshire Dales Local Plan (2017), the Adopted Supplementary Planning Document: Climate Change (2021) and the guidance contained within the National Planning Policy Framework (2021).

7.35 A recommendation of approval is put forward on this basis.

8.0 RECOMMENDATION

That planning permission be granted subject to the following conditions.

1. The development hereby permitted must be begun before the expiration of three years from the date of this permission.

Reason:

This is a statutory period which is specified in Section 91 of the Town and Country Planning Act 1990.

2. This permission relates solely to the application as amended by the revised plan(s) received by the Local Planning Authority on the 12/12/21 numbered DR-L-9930, DR-A-2001, DR-A-2002, DR-A-2003, DR-A-2004, DR-A-2011, DR-A-2011, DR-A-2026, DR-L-0833, DR-L-9931, DR-L-9932, DR-L-9934, DR-L-9932, DR-L-9981, DR-L-9933, DR-C-9603 and the following amended plans received by the Local Planning Authority on 12/01/2022 numbered DR-L-9800, DR-L-9981, DR-L-9800

Reason:

For the avoidance of doubt.

3. All soft landscaping comprised in the approved details of landscaping shall be carried out in the first planting and seeding season following the first occupation of the building(s) or the completion of the development whichever is the sooner; All shrubs, trees and hedge planting shall be maintained free from weeds and shall be protected from damage by vermin and stock. Any trees or plants which, within a period of five years, die, are removed, or become seriously damaged or diseased shall be replaced in the next planting season with others of a similar size and species, unless otherwise agreed in writing by the local planning authority. All hard landscaping shall also be carried out in accordance with the approved details prior to the occupation of any part of the development or in accordance with a programme to be agreed in writing with the Local Planning Authority.

Reason:

To ensure a satisfactory standard of landscaping in the interests of amenity in accordance with policies S4, PD1 and PD5 of the Adopted Derbyshire Dales Local Plan (2017).

4. Unless otherwise agreed in writing by the Local Planning Authority, the accommodation blocks and multifunction centre hereby approved shall be constructed in accordance with the details set out in the submitted Technical Note – External Envelope Materials.

Reason

To ensure a satisfactory external appearance of the development in accordance with policies S4 and PD1 of the Adopted Derbyshire Dales Local Plan (2017).

5. Prior to the buildings hereby approved being brought into use, details of the proposed photovoltaic panels (which should have a non-reflective finish) shall be submitted to and approved in writing by the Local Planning Authority. The panels shall then be installed in accordance with the approved details.

Reason

To ensure a satisfactory external appearance of the development in accordance with policies S4 and PD1 of the Adopted Derbyshire Dales Local Plan (2017).

6. Unless otherwise agreed in writing by the Local Planning Authority, prior to the first occupation of the building(s) the photovoltaic panels set out in the approved details shall be installed and operational.

Reason

To ensure the development is constructed in accordance with policy PD7 of the Adopted Derbyshire Dales Local Plan (2017) and the Adopted Climate Change SPD (2021).

7. The development hereby permitted shall be carried out in accordance with the approved tree protections plan (DR-L9800) and details contained within the approved Arboricultural Method Statement received by the Local Planning Authority on 12/01/2021.

Reason

To safeguard the visual amenity provided by the trees on the site in accordance with policies S4, PD1, PD5 and PD6 of the Adopted Derbyshire Dales Local Plan (2017).

8. The approved Ecological Mitigation Strategy shall be implemented and the development hereby permitted shall be carried out in accordance with the approved strategy.

Reason

In the interest of providing a biodiversity net gain in accordance with policy PD3 of the Adopted Derbyshire Dales Local Plan (2017) and the National Planning Policy Framework (2021)

9. Prior to the buildings hereby approved being brought into first use, unless otherwise agreed in writing with the Local Planning Authority details Swift bricks to be incorporated in the construction of buildings shall be submitted to an approved in writing by the Local Planning Authority. The development shall then be carried out in accordance with the approved details.

Reason

In the interest of providing a biodiversity net gain in accordance with policy PD3 of the Adopted Derbyshire Dales Local Plan (2017) and the National Planning Policy Framework (2021)

10. Prior to the buildings hereby approved being brought into use, a Landscape and Ecological Management Plan shall be submitted to an approved in writing by the Local Planning Authority. The management plan shall be carried out as approved in accordance with the approved details.

Reason

In the interest of providing a biodiversity net gain in accordance with policy PD3 of the Adopted Derbyshire Dales Local Plan (2017) and the National Planning Policy Framework (2021)

11. Development shall not commence until an assessment of the risks posed by any contamination has been submitted in writing to and approved in writing by the local planning authority. Such an assessment shall be carried out in accordance with authoritative UK guidance. Where the approved risk assessment identifies contamination posing unacceptable risks, no development shall begin until a detailed remediation scheme to protect the development from the effects of such contamination has been submitted in writing to and approved in writing by the Local Planning Authority. Where the approved risk assessment identifies contamination posing unacceptable risks, no development shall begin until a detailed remediation scheme to protect the development from the effects of such contamination has been submitted in writing to and approved in writing by the Local Planning Authority.

Reason

To address any contamination on site in accordance with policy PD9 of the Adopted Derbyshire Dales Local Plan (2017).

9.0 NOTES TO APPLICANT:

The Local Planning Authority prior to and during the consideration of the application engaged in a positive and proactive dialogue with the applicant which resulted in the submission of a scheme that overcame initial concerns relating the impact of the proposed development on the character of the landscape and the setting, character and appearance of nearby heritage assets.

The Town and Country Planning (Fees for Applications and Deemed Applications, Requests and Site Visits) (England) Regulations 2012 (SI 2012/2920) stipulate that a fee will henceforth be payable where a written request is received in accordance with Article 30 of the Town and Country Planning (Development Management Procedure) Order 2010. Where written confirmation is required that one or more Conditions imposed on the same permission have been complied with, the fee chargeable by the Authority is £97 per request. The fee must be paid when the request is made and cannot be required retrospectively. Further advice in regard to these provisions is contained in DCLG Circular 04/2008.

This decision notice relates to the following documents:

DR-L-9900 - Site Location Plan (P07)
DR-L-9930 - Site Layout Plan (P10)
DR-B-9200 - Existing Dorm Elevations (A to D) (P02)
DR-B-9201 - Existing Dorm Elevations (E to F) (P02)
DR-L-9970 - Through-Care Building Demolition Plan (P01)
DR-B-9200 - Existing Elevations to Throughcare (P01)
SU-W-9001 - Topographical & GPR Survey (P01)
DR-A-2001 - Ground Floor Plan
DR-A-2002 - First Floor Plan
DR-A-2003 - Attic Floor Plan
DR-A-2004 - Roof Plan
DR-A-2011 - House Block Elevations
DR-A-2011 - House Block Elevations
DR-A-2029 - 1-20 Construction Sections C1 (P01)
DR-A-2035 - Building Section CC & DD (P01)
DR-A-2026 - Section A-A, B-B
DR-L-0833 - Sudbury - Accommodation block 01 - 1-200 Site Section (P04)
DR-L-9934 - Accommodation block existing and proposed levels (P02)
DR-A-0021 - Level 00 - Accommodation Schedule (Multifaith) (P02)
DR-A-2001 - Ground Floor Plan (Multifaith) (P02)
DR-A-4002 - Level 00 - Finishes Schedule & Arrangement Plan (Multifaith) (P02)
DR-A-2002 - Roof Plan (Multifaith) (P03)
DR-A-2011 - 1-100 - Concept Design Elevations (Multifaith) (P03)
DR-A-2022 - 1-50 Section CC' & DD (Multifaith) (P02)
DR-A-2026 - 1-50 Sections AA' & BB' (Multifaith) (P02)
DR-ME-9902 - PV Layout (Multifaith) (P03)
DR-A-9000 - Proposed DHL Cabin Room Layout (P04)
DR-L-9960 - Proposed Car Park Extension (P05)
DR-L-9931 - Proposed Accommodation Blocks Landscaping (P09)
DR-L-9932 - Proposed Accommodation Blocks Soft Landscape Plan (P01)
DR-L-9934 - Proposed Accommodation Blocks Existing and Proposed Levels (P03)
DR-L-9932 - Proposed Multi-Faith Centre (P06)
DR-L-9981 - New Build Multi-Faith Building Soft Landscape Plan (P01)
DR-L-9933 - Proposed DHL Portacabin Landscape (P05)
RP-A-9140 – Design and Access Statement (P04)
RP-T-0001 - Planning Statement (P01)
RP-ME-9002 - Energy Statement (P02)
SH-Y-6609 - BREEAM Planning Summary (Accommodation)
SH-Y-6609 - BREEAM Planning Summary (Multifaith)
RP-X-0005 - Heritage Statement (P02)
RP-X-0005 - Landscape and Visual Impact Assessment (P02)
SU-X-0005 - Arboricultural Impact Assessment (P02)
RP-W-9004 - Ecology Walkover Study (P01)
RP-W-9009 - Bat Survey (P01)
SU-X-0004 - Ecological Mitigation Strategy (P01)
SU-X-0006_BIOMETRIC - Biodiversity Metric

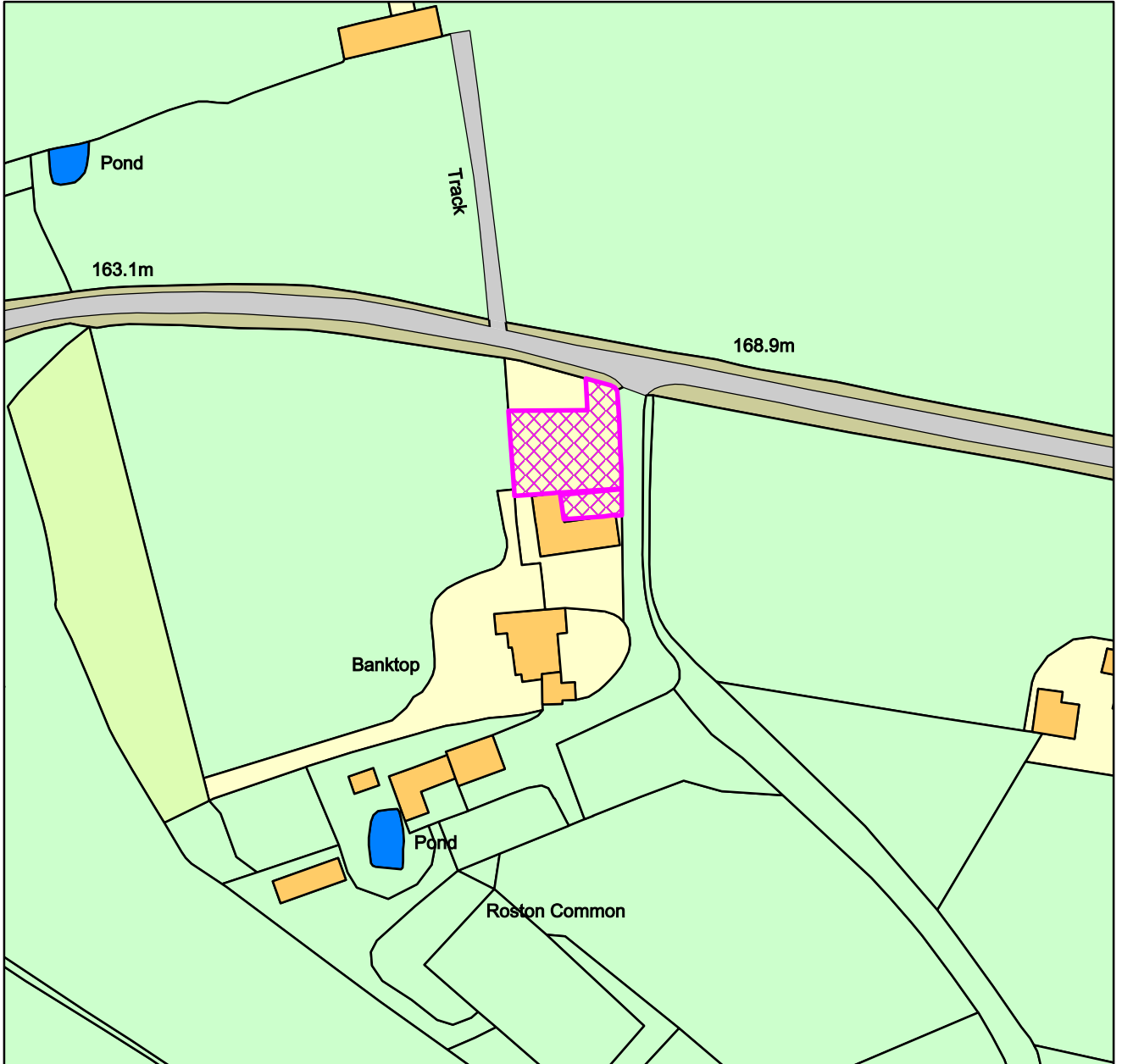
RP-W-9002 - Transport Statement
RP-W-9008 - Travel Plan
RP-W-9007 - Ground Investigation Report (P01)
RP-W-9006 - Geotechnical and Geo-Environmental Desk Study (P01)
RP-C-9000 - Flood Risk Assessment (P02)
RP-D-9301 - Drainage Strategy (P02)
DR-C-9601 - Existing Drainage Layout (P03)
DR-C-9603 - Proposed Drainage Layout (P04)
DR-C-9606 - Accommodation Block Proposed Drainage Layout (P01)
DR-C-9600 - Existing Drainage Layout (P03)
DR-C-9604 - Proposed Drainage Layout (P03)
DR-C-9602 - Existing Drainage Layout (P03)
DR-C-9605 - Proposed Drainage Layout (P03)
DR-E-9901 - Accommodation Block External Electrical Services (P01)
DR-E-9901 - Multifaith Electrical Services Strategy (P05)
DR-E-9101 - Car Park Electrical Services Layout (P05)
RP-W-9010 – Construction Environmental Management Plan (P01)
DR-L-9800-S3 Sudbury (P01)
DR-L-9981 - Soft Landscape Details (P01)
DR-L-9800 – Arboricultural Method Statement
Technical Note – External Envelope Materials (P02)

APPLICATION NUMBER		21/01532/FUL	
SITE ADDRESS:		The Coach House, Bank Top Farm, Squashley Bank, Roston	
DESCRIPTION OF DEVELOPMENT		Extension of existing building to provide an additional holiday let	
CASE OFFICER	Sarah Arbon	APPLICANT	Mr Davis
PARISH/TOWN	Norbury and Roston	AGENT	Andrew Large Surveyors Ltd
WARD MEMBER(S)	Cllr A Morley	DETERMINATION TARGET	16 th February 2022
REASON FOR DETERMINATION BY COMMITTEE	Ward Member Request	REASON FOR SITE VISIT (IF APPLICABLE)	To assess the impact of the development on the local environment.

MATERIAL PLANNING ISSUES
<ul style="list-style-type: none"> - Principle of development - Impact on character and appearance - Impact on residential amenity

RECOMMENDATION
Refusal

21/01532/FUL - The Coach House, Bank Top Farm, Squashley Bank



Derbyshire Dales DC

1:1,250

Date: 27/01/2022

100019785

Crown Copyright and database rights (2018) Ordnance Survey (100019785)
Derbyshire Dales District Council,
Town Hall, Bank Road, Matlock, Derbyshire DE4 3NN.
Telephone: (01629) 761100.
website :www.derbyshiredales.gov.uk

1.0 THE SITE AND SURROUNDINGS

- 1.1 Bank Top Farm is a dwelling located in open countryside at Squashley Bank, approximately half a mile to the east of Roston village. To the south of the main dwelling, which is set back from the road are a series of farm buildings, stables, a pond and manege. The local landscape is characterised by pastoral fields bounded by hedgerows and small blocks of woodland.
- 1.2 The building to be extended is single storey and 'L' shaped and sits in front of the existing farmhouse at a lower land level with a gravelled parking area and lawn to the front. It is white render with sections of grey wood cladding. There is a low level fence / hedge on the road boundary and the building is set back 20m from the road. The existing building incorporates 2 holiday lets with parking for 6 vehicles in two blocks of 3.



2.0 DETAILS OF THE APPLICATION

- 2.1 Planning permission is sought for an extension to the front of the existing building to provide an additional holiday let cottage. The extension would measure 6.6m in length and 5.3m in width of an eaves height of 2.5m and a ridge height of 5m which is 0.6m lower than the existing building. External materials would match the existing building. The extension would provide one bedroom self-contained accommodation. The car parking layout would be rearranged to a linear row of six car parking spaces to the east of the building.

3.0 PLANNING POLICY AND LEGISLATIVE FRAMEWORK

1. Adopted Derbyshire Dales Local Plan 2017
 - S1 Sustainable Development Principles
 - S4 Development in the Countryside
 - S9 Rural Parishes Development Strategy
 - PD1 Design and Place Making
 - PD5 Landscape Character
 - HC19 Accessibility and Transport
 - HC21 Car Parking Standards
 - EC8 Promoting Peak District Tourism and Culture
 - EC9 Holiday Chalets, Caravan and Campsite Developments

2. National Planning Policy Framework
National Planning Practice Guidance

4.0 RELEVANT PLANNING HISTORY:

20/01308/FUL -Conversion and change of use of office block to holiday accommodation,
Granted 19/03/2021

20/00599/FUL Proposed conversion and change of use of office block to form 2no. offices
and a holiday cottage Granted 11/09/2020

17/01191/VCOND Removal of condition 3 of planning permission 17/00301/FUL to enable
the building for A2 use to be separate from the ownership / curtilage of the main building,
Granted 02/02/2018

17/00301/FUL Erection of single storey office building, Granted 14/07/2017

5.0 CONSULTATION RESPONSES

Norbury and Roston Parish Council

- 5.1 No response received.

Derbyshire County Council (Highways)

- 5.2 No objections in principle in view of existing uses on site and parking to be provided prior
to first occupation by condition

Environmental Health (Derbyshire Dales)

- 5.3 No objections to this application in principle.

6.0 REPRESENTATIONS RECEIVED

- 6.1 A total of 11 representations in support have been received. A summary of the
representations is outlined below:

- a) Guests are actually boosting business for local trades including local pubs, shops and
tourist attractions.
- b) They currently provide cleaning services for the other two properties on the site which
has created a steady revenue for their business allowing them to retain staff even
through the pandemic.
- c) The planning demonstrates that this is a low impact design, sensitive and subservient to
the existing Coach House and Den which are in keeping with the house and the grounds.
- d) Ashbourne thrives on the business that is brought in by tourists.
- e) The proposed small extension would be commensurate with existing buildings and in
their view there would be negligible disruption and impact in the immediate vicinity.
- f) Any increase in visitor numbers albeit small would be a bonus to local tourism without
being burdensome.
- g) The appropriate use which the Coachworks building has been put to following COVID is
to be applauded.
- h) The building assimilates well with the surrounding area and provides much needed local
employment and tourism for the Ashbourne area.
- i) The holiday let's have been a great source of business for the Roston Inn with holiday
makers visiting multiple times a week.

- j) The holiday properties there are a very tidy and attractive asset to the village and local economy.
- k) There is a need to be supporting local rural businesses, and this proposal does exactly that.
- l) It will have minimal road use impact and the access off the road is good.
- m) The current holiday accommodation has exceptionally high occupancy of 95% and 94% and is testament to the high quality. It currently provides employment to a local cleaning company and brings much needed tourism to local businesses; from farm gate egg sales, to the local pub, to local attractions, and the nearby town of Ashbourne -all of which rely on tourism as well as local trade.
- n) The proposed development will provide a sustainable income for the owner following the downsizing of Coachworks due to Covid and health reasons.

7.0 OFFICER APPRAISAL

The following material planning issues are relevant to this application:

- Principle of development
- Impact on character and appearance
- Impact on residential amenity

Principle of development

- 7.1 Policy S4 of the Adopted Derbyshire Dales Local Plan (2017) supports applications for development in the countryside when it represents the sustainable growth of tourism in sustainable locations where identified needs are not met by existing facilities.
- 7.2 Policy EC8 of the Adopted Derbyshire Dales Local Plan (2017) deals specifically with 'promoting Peak District Tourism and Culture' and supports new tourist provision and initiatives in towns and villages, and in the countryside through the reuse of existing buildings or as part of farm diversification, particularly where these would also benefit local communities and support the local economy.
- 7.3 Policy EC9 of the Adopted Derbyshire Dales Local Plan (2017) specifically relates to proposals for new holiday accommodation which considers the appropriateness of a site in terms of sustainability. It states development will be permitted provided that the site is in a sustainable location within, or in close proximity to an existing settlement with good connections to the main highway network, and the public rights of way network and/or cycle ways, and is either served by public transport or within a safe attractive ten minute walk of regular public transport services.
- 7.4 It is important in assessing the current application to fully understand the history of the site. Planning permission was granted by Members of the planning committee in 2017 for the 'Erection of single storey office building (Use Class A2)', application ref: 17/00301/FUL. This decision was made against officer recommendation as the proposal was to be a new build office building within the countryside and judged to be an unsustainable location. Members overturned the decision on the basis of the existing business on site and judged that the social and economic benefits outweighed the environmental harm. At the time of this decision, justification from the applicant that the business was financially sustainable and was in transition from being a small to medium sized enterprise (with turnover in excess of £1.1 million pounds - a figure expected to grow in future years). It stated that the office space would support the growth of the business for the foreseeable future. Permission was granted on the basis that it would not be separated from the ownership of Bank Top Farm via a condition in July 2017.

- 7.5 In February 2018, a variation of this condition allowing the building to be separated from the ownership of Bank Top Farm was granted subject to the building remaining in A2 use. This was granted due to the owner being unable to secure a commercial mortgage and as the reason for the condition was due to the protecting the residential amenity of Bank Top Farm the applicant sought to reduce impacts by restricting the hours of operation and planting a screen hedge. On this basis, the variation was considered acceptable.
- 7.6 In September 2020, planning permission was granted to change the use of the building to 2 no. offices and a holiday cottage. The retained office space was 28 square metres providing two one person offices and communal areas and the remaining 77 square metres provided a two bedroom self-contained holiday cottage. In justification the applicants confirmed that due to the COVID-19 pandemic office based enterprise had been obliterated with all staff working from home. It was advised that the holiday let accommodation would help provide additional income for the applicant's business in lieu of recent losses. When assessed against Policies S4 and EC8 the principle of conversion was considered acceptable for the mixed commercial and tourism uses.
- 7.7 In March 2021, permission was granted to change the use of the office space into a one bedroom self-contained holiday cottage. The conversion in the countryside to a tourism use was compliant with policy S4, the office use was not a protected employment use and it was advised that the COVID-19 pandemic had a severe impact on the business use and the space was no longer required for the use. In granting this permission and previous permissions detailed above it was considered that the building was finished to a high standard and its conversion would have a neutral impact on the landscape.
- 7.8 This proposal involves an extension to the front of the existing building to provide an additional one bedroom self-contained holiday cottage which would bring the total on site to three cottages. Whilst Policy S4 supports applications for development in the countryside when it represents the sustainable growth of tourism in sustainable locations where identified needs are not met by existing facilities, it does not support new build accommodation in isolated locations that are only accessible by the private car. Furthermore, Policy EC8 only supports tourism accommodation within the countryside that is either conversion or part of farm diversification with Policy EC9 stating the requirements of a site being considered sustainable.
- 7.9 The site is located 6 miles south west of Ashbourne and the nearest bus stop is on Dove Street in Ellastone (a 47 min walk). The Roston Inn is a 20 min walk from the site along a road with no pavements. This site is considered isolated from Roston and this settlement is not considered to have good connections to the main highway network, public rights of way network and/or cycle ways. The site is not served by public transport or within a safe attractive ten minute walk of regular public transport services. It is on this basis that the principle of a new build holiday cottage is not appropriate in terms of sustainability.
- 7.10 Having regard to the relevant provisions of the development plan and national guidance it is considered that the construction of a new building (albeit an extension) to accommodate an additional holiday cottage, where demand is met by two existing holiday cottages, in an isolated rural location with poor access to public transport and without the infrastructure necessary to travel by means other than the private motor vehicle would constitute an unwarranted and inherently unsustainable form of development in the countryside, contrary to policies S4, EC8 and EC9.

Impact on character and appearance

- 7.11 Policy S4 of the Adopted Derbyshire Dales Local Plan (2017) seeks to ensure that new development protects and where possible, enhances the landscape's intrinsic character and distinctiveness, including the character, appearance and integrity of the historic and cultural environment.
- 7.12 Policy PD1 of the Adopted Derbyshire Dales Local Plan (2017) requires development to be of high quality design that respects the character, identity and context of the Derbyshire Dales townscapes and landscapes, development on the edge of settlements to enhance and/or restore landscape character, contribute positively to an area's character, history and identity in terms of scale, height, density, layout, appearance, materials and the relationship to adjacent buildings and landscape features.
- 7.13 Policy PD5 of the Adopted Derbyshire Dales Local Plan (2017) seeks to resist development, which would harm or be detrimental to the character of the local and wider landscape.
- 7.14 It has been established that the existing building has the form of a basic utility building which does not necessarily enhance the character and appearance of the area. The conversions have been assessed as having a neutral effect on the surrounding area. The proposed extension that would project 6.6m towards the road to the north would significantly increase the size and dominance of the existing building which when travelling from the east is highly visible from the road and significantly obscures the existing farmhouse. Furthermore the extension would obscure more of the open land to the east, irrespective of its slightly lower land level. The proposal, due to its higher land level than the road, would be visually prominent and would have an adverse impact on the character and appearance of the immediate landscape, contrary to policies S4, PD1 and PD5.

Impact on residential amenity

- 7.15 The applicant is the owner of Bank Top Farm which is the nearest residential property to the south and the original approval for the building tied the ownership to this existing property, however, this has subsequently been varied. The tie was considered necessary to protect the amenity of the existing property in light of the office use. On the basis that the nearest residential property is the applicant the impact on the residential amenity in relation to this property is not considered significant. Whilst there is a property to the east this is at a distance of approximately 100m with an intervening field and is not considered to be significantly impacted by the proposal. The proposal therefore accords with Policy PD1.

8.0 RECOMMENDATION

That planning permission be refused for the following reasons.

1. The proposal to construct a new holiday let in a remote rural location not served by public transport such that visitors would be wholly reliant on the private car to access the facility would constitute an unwarranted and inherently unsustainable form of rural tourism in the countryside, contrary to policies S4, EC8 and EC9.
2. The proposed holiday let by reason of its siting and appearance would increase the size and dominance of the existing building thereby harming the quality and distinctiveness of its surroundings contrary to policies S4, PD1 and PD5 of the Adopted Derbyshire Dales Local Plan (2017).

9.0 NOTES TO APPLICANT:

The Local Planning Authority considered the merits of the submitted application and judged that there was no prospect of resolving the fundamental planning problems with it through negotiation. On this basis the requirement to engage in a positive and proactive manner was considered to be best served by the Local Planning Authority issuing a decision on the application at the earliest opportunity and thereby allowing the applicant to exercise their right to appeal.

This decision notice relates to the following documents:

Site location and block plan scale 1:1250

Proposed site plan scale 1:200

Proposed elevations and floor plan scale 1:100

Existing elevations and floor plan scale 1:100

Design and access statement

Ashbourne North

ENF/18/00020	Unauthorised signage and changes to shop front	Diamond Geeza Barbers 3 Church Street Ashbourne Derbyshire DE6 1AE	Pending Consideration
ENF/19/00082	Siting of caravan and alterations to associated access track	Land To The Rear Of Woodcock Delph And Adjacent To Herdsman Close Farm Ashbourne Road Fenny Bentley Derbyshire	Pending Consideration
ENF/19/00154	Breach of Conditions 19 and 20 of Planning Permission 09/00496/FUL (Allowed on appeal)	The Mount 4 North Avenue Ashbourne Derbyshire	Pending Consideration
ENF/20/00003	Installation of solar panels to roof	13 Church Street Ashbourne Derbyshire DE6 1AE	Notice Issued
ENF/20/00055	Unauthorised engineering works to facilitate a vehicular access and parking space onto a classified road, 23 Buxton Road, Ashbourne.	23 Buxton Road Ashbourne Derbyshire DE6 1EX	Pending Consideration
ENF/21/00120	Change of use to flat	Second Floor 34 St John Street Ashbourne Derbyshire DE6 1GH	Pending Consideration
ENF/21/00184	An existing telegraph pole within the footway has not be relocated adjacent to the new boundary wall location, in accordance with Condition 23 of the planning consent.	The Mount 4 North Avenue Ashbourne Derbyshire	DM Application Received

Ashbourne South

ENF/17/00038	Unauthorised works to listed building	Avanti Jewellers 2 - 4 Church Street Ashbourne Derbyshire DE6 1AE	Pending Consideration
ENF/18/00125	Breach of Conditions 6 (Soft Landscaping), 7(Landscape Management Plan), 8 (Amenity and Play Areas laid out before first occupation) and 27 (Landscape and Ecological Management Plan) of 14/00722/FUL	Land Formerly Hillside Farm Wyaston Road Ashbourne Derbyshire DE6 1NB	Notice Issued
ENF/18/00164	Unauthorised siting of caravan for residential purposes.	Land To The Rear Of Mayfield Road Cadet Hut Mayfield Road Ashbourne Derbyshire DE6 1AR	Pending Consideration
ENF/21/00021	Siting of storage container	Henmore Trading Estate Mayfield Road Ashbourne Derbyshire DE6 3AS	Notice Issued

Brailsford

ENF/17/00058	Unauthorised erection of replacement fencing around boundary of South Lodge, Long Lane, Longford, Derbyshire	South Lodge Long Lane Longford Derbyshire DE6 3DS	Pending Consideration
ENF/18/00009	Unauthorised building works to barn at West Mammerton Farm, Sutton Lane, Longford	Buildings At West Mammerton Farm Sutton Lane Longford Derbyshire	Pending Consideration
ENF/18/00138	Unauthorised change of use of Agricultural land and the erection of a timber built cabin.	Land North East Of Willow Croft New Road Mercaston Derbyshire	Notice Issued

Carsington Water

ENF/16/00034	Unauthorised erection of Dog kennels	Four Lane Ends Farm Gibfield Lane Hulland Ward Derbyshire DE6 3EJ	Notice Issued
ENF/19/00067	Unauthorised engineering works to create a raised platform base for the approved building, and a new access and access track onto land off Manystones Lane, Brassington.	Land North Of Wirksworth Dale Brassington Derbyshire	Pending Consideration
ENF/19/00096	Unauthorised change of use of the building known as Shaws Barn, from B8 (Limited storage and distribution) use, to a use including the sale of alcohol.	Shaws Barn Winn Lane Atlow Derbyshire DE6 1NS	Pending Consideration
ENF/20/00128	Erection of shed and boundary fence	3 Haven View Mill Lane Bradbourne Derbyshire DE6 1PA	Pending Consideration
ENF/21/00025	Without planning permission ^(a) unauthorised building and engineering operations comprising a wider access, hard surfaced track to a newly created hardstanding area, the formation of a raised deck area and surfacing upon which children's play equipment has been sited on the land edged blue ^(b) the material change of use of the land edged blue from agricultural to recreational use and ^(c) the use of the land edged red as a caravan and camping site	Land North West Side Of Manystones Lane Brassington Derbyshire	Pending Consideration
ENF/21/00042	Unauthorised change of use of land for the siting of a tent with associated log burner, and storage of vehicles	Land North Of Knockerdown Inn Knockerdown Ashbourne Derbyshire	Pending Consideration

Clifton And Bradley

ENF/20/00005	Clearance of hedgerow at 'The Firs' residential development and erection of fence - Related planning applications 16/00340/OUT and 18/00699/REM	Land At The Firs Main Road Wyaston Derbyshire DE6 2DR	Pending Consideration
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ENF/20/00141	Siting of static caravans	Cloud Barn Clifton Road Clifton Derbyshire DE6 2DH	Pending Consideration
ENF/21/00044	Engineering works to extend existing bunding	Darley Moor Motor Cycle Road Racing Club The Darley Moor Sports Centre Darley Moor Ashbourne Derbyshire DE6 2ET	DM Application Received

Darley Dale

ENF/12/00034	Unauthorised demolition of a Listed wall and unauthorised access off the A6 at Dale Road North Darley Dale.	Stancliffe Quarry, Darley Dale, Matlock.	Notice Issued
ENF/17/00139	Works comprising the siting of an office building on "the land"	Ameycroft Farm Farley Hill Matlock Derbyshire DE4 5LR	Notice Issued
ENF/19/00102	Without planning permission, the material change of use of the Land for the storage of a static caravan (Breach of Condition 1 of Appeal Decision APP/P1045/C/15/3131891)	Woodside Farm Back Lane Darley Moor Matlock Derbyshire DE4 5LP	Notice Issued
ENF/19/00144	Without planning permission the unauthorised use of the site as a camping and caravan site	Land Opposite Square And Compass Main Road Darley Bridge Derbyshire DE4 2EQ	Notice Issued
ENF/20/00154	Felling of Scot's Pine tree subject to Tree Preservation Order 119 (G3)	Land At St Elphins Park Dale Road South Darley Dale Derbyshire	Pending Consideration
ENF/21/00107	Extension allegedly not being built to the approved plans.	46 Hill View Hackney Road Hackney Derbyshire DE4 2PX	Pending Consideration
ENF/21/00182	The level of foundation for the garage is now much higher than originally proposed. No drainage solutions possible if walls are completed.	Lilac Cottage Holt Road Hackney Derbyshire DE4 2QD	Pending Consideration

Dovedale And Parwich

ENF/21/00113	the material change of use of the Land to use for storage of vehicles and other related materials, unauthorised extension to an agricultural building and unauthorised engineering works	Dove Mount Spend Lane Sandybrook Ashbourne Derbyshire DE6 2AR	Notice Issued
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Doveridge And Sudbury

ENF/20/00129	Formation of a car park in association with the fishing club	Land Between Dove Villa And Tollgate Cottage Doveridge Derbyshire	Notice Issued
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Hulland

ENF/15/00004	Unauthorised engineering works including substantive excavation on land at Common Farm.	Common Farm Mugginton Lane End Weston Underwood Ashbourne Derbyshire DE6 4PP	Pending Consideration
ENF/15/00024	The unlawful use of the buildings outlined and hatched green on the 1:2500 and 1:1000 Scale attached plans, as a dwellinghouse (Use Class C3).	Blackbrook Lodge Farm Intakes Lane Turnditch Derbyshire DE56 2LU	Notice Issued
ENF/18/00155	Replacement agricultural storage building not built in accordance with permission 15/00616/AGR, construction of car park and building being used as a dog training business	Moorside Farm Moor Lane Kirk Ireton Derbyshire DE6 3JZ	Pending Consideration

Masson

ENF/15/00054	Unauthorised alterations to a Grade II Listed Building.	Rita's Fish Bar 182 South Parade Matlock Bath Derbyshire DE4 3NR	Pending Consideration
ENF/19/00086	Breach of condition 16 (paint finish and colour of all external joinery) of planning permission DDD/0697/0381/C - Repainting of premises without prior consent to variation	Unit 5 The Riverside South Parade Matlock Bath Derbyshire DE4 3NR	Pending Consideration
ENF/19/00139	Breach of Conditions - Use of premises as a hotel without compliance with conditions 2, 4, 6 and 7 of planning permission 17/01012/FUL and conditions 2, 3, 6, 7 and 8 of listed building consent 17/01013/LBALT	Cromford Court Derby Road Matlock Bath Derbyshire DE4 3PY	Pending Consideration
ENF/20/00015	Unauthorised erection of fence adjacent to a classified road, A6, and within close proximity to protected trees (DCCTPO/123/A1).	Rock Cottage Rock Lodge 69 Derby Road Cromford Derbyshire DE4 3RP	Notice Issued
ENF/20/00020	Construction of raised platforms	Weavers Cottage 45 Yeoman Street Bonsall Derbyshire DE4 2AA	Pending Consideration
ENF/20/00035	Externally illuminated signage	The Coven The George Centre 30 North Parade Matlock Bath Derbyshire DE4 3NS	Pending Consideration
ENF/20/00068	Unauthorised internal and external works to this listed building	90 The Hill Cromford Derbyshire DE4 3QU	Pending Consideration
ENF/20/00097	Use of shed as letting accommodation, installation of outdoor toilet and shower room and creation of wetroom in property	14 The Hill Cromford Derbyshire DE4 3QL	Notice Issued

ENF/21/00101	Erection of timber pergola with pvc corrugated roof in rear garden of Grade 2 listed building. Unsympathetic to the area and poorly constructed.	53 The Hill Cromford Derbyshire DE4 3QR	Pending Consideration
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Matlock All Saints

ENF/18/00042	Unauthorised alteration of shop frontage	Turkish Delight 57 Dale Road Matlock Derbyshire DE4 3LT	Notice Issued
ENF/19/00044	Erection of verandah to top of shed	133 Smedley Street Matlock Derbyshire DE4 3JG	Notice Issued
ENF/21/00140	Erection of a fence around land at the address which is above 1m in height adjacent to a highway	69 Victoria Hall Gardens Matlock Derbyshire DE4 3SQ	Pending Consideration
ENF/21/00162	Dwelling being let out as holiday accommodation for larger groups	65 Cavendish Road Matlock Derbyshire DE4 3HD	Pending Consideration

Matlock St Giles

ENF/13/00084	Unauthorised erection of workshop	Phillips Woodware Smuse Lane Matlock Derbyshire DE4 5EY	Notice Issued
ENF/17/00020	Unauthorised use of land for the storage and stationing of caravans.	Duke William Hotel 91 Church Street Matlock Derbyshire DE4 3BZ	Notice Issued
ENF/18/00178	The development is not in accordance with the approved plans.	Land Adjacent To 9 Oak Tree Gardens Tansley Derbyshire	Pending Consideration
ENF/19/00008	Use of land for the parking of vehicles, unloading and storage of aggregates, unloading and storage of domestic and business waste and as a personal allotment with a greenhouse	Land To The Rear Of Sunnyside Farm Riber Road Riber Matlock Derbyshire DE4 5JU	Pending Consideration
ENF/19/00015	Formation of access onto a classified road (A615)	The Cottage Alfreton Road The Cliff Matlock Derbyshire DE4 5EZ	Notice Issued
ENF/19/00168	Replacement windows in Grade II* Listed Building	St Andrews House Lumsdale Road Matlock Derbyshire DE4 5NG	Pending Consideration
ENF/20/00012	Unauthorised erection of garage within the domestic curtilage	20 Lynholmes Rise Matlock Derbyshire DE4 3DX	Pending Consideration
ENF/20/00103	Breach of Condition 14 of planning permission 15/00861/FUL and formation of roadway and associated engineering works (raising of land and formation of swales)	Land South Of Bentley Bridge Chesterfield Road Matlock Derbyshire	Pending Consideration

ENF/20/00145	Installation of air conditioning unit to exterior of Grade II Listed Building	Tavern At Tansley Nottingham Road Tansley Derbyshire DE4 5FR	Pending Consideration
ENF/21/00007	Unauthorised building works at rear of property to create a raised decking area and boundary fence.	12 Portway Drive Matlock Derbyshire DE4 3TS	Pending Consideration
ENF/21/00015	Unauthorised erection of banner sign on front fascia of shop.	Bow Boutique 8 - 10 Causeway Lane Matlock Derbyshire DE4 3AR	Pending Consideration
ENF/21/00033	The developer is digging footings and undertaking other groundworks for the new housing contrary to the requirements of his planning conditions. Footings were being dug on 1st and 2nd March, Prior to discharge of conditions 6 and 12. Waste arisings are being stocked on site. No precautions are being taken to address the presence of contamination within these materials.	Land At Pump Close Matlock Derbyshire	Pending Consideration
ENF/21/00068	Unauthorised engineering works to facilitate new roadway at Thornberries, Land South of Bentley Bridge	Access Track Off Old Stone Lane Matlock Derbyshire	Notice Issued

Norbury

ENF/17/00056	Unauthorised engineering works to facilitate access at Old House Farm, Can Alley, Roston, Derbyshire	Old House Farm Can Alley Roston Derbyshire DE6 2EF	Pending Consideration
ENF/19/00034	Erection of Building	The Orchard Audishaw Lane Boylestone Derbyshire	Notice Issued
ENF/20/00018	Unauthorised change of use of garage block to independent dwelling	Coton Wood Lodge Muse Lane Boylestone Derbyshire DE6 5AB	Pending Consideration
ENF/20/00148	Unauthorised stationing of static and mobile caravans for the purposes of human habitation and the change of use of land for the storage of vehicles and machinery not associated with agriculture	Shaw Lane Farm Shaw Lane Marston Montgomery Derbyshire DE6 2FJ	Notice Issued
ENF/21/00089	unauthorised use of land for the storage of stall buildings, cabins and trailers	Whitehall Farm Hales Green Yeaveley Derbyshire DE6 2DS	Pending Consideration
ENF/21/00091	Unauthorised use of land for recreational purposes (keeping of horses)	Springfields Farm Cubley Lane Marston Montgomery Derbyshire DE6 2FJ	Notice Issued
ENF/21/00104	Building allegedly not in keeping with the plans and conditions of 17/00376/FUL- Currently being used as a dwelling and having been built with a second storey.	Rosemount Mill Lane Roston Derbyshire DE6 2EE	Notice Issued

ENF/21/00106	Horse exercise area extended without planning permission.	Old House Farm Can Alley Roston Derbyshire DE6 2EF	Pending Consideration
ENF/21/00181	Change of use to pet shop (Use Class E)	Outbuildings At Long Chimneys Farm Darley Moor Ashbourne Derbyshire DE6 2ET	Pending Consideration
ENF/21/00190	A few years ago a neighbour put a shed up for cattle and is now renting it out for none agricultural storage. Ref: 13/00421/AGR They are living in a garage as a dwelling and the daughter is running a business from home with no permission (Peachy Blossom Florist - Lydia Hubbard).	Shawleys Farm Shields Lane Roston Derbyshire DE6 2EF	Pending Consideration
ENF/21/00213	Static Caravan	Wheatsheaf Farm Yeaveley Derbyshire DE6 2DT	Pending Consideration

Stanton

ENF/20/00120	Without planning permission, the unauthorised erection of a dwellinghouse, deliberately concealed inside an agricultural storage/stable building Without planning permission the erection of a single storey, lean to extension to the agricultural storage/stable building	North Park Farm Whitworth Road Darley Dale Derbyshire DE4 2HJ	Pending Consideration
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Wirksworth

ENF/17/00018	Unauthorised works to remove a fire surround in a Grade II Listed Building.	Red Lion Hotel Market Place Wirksworth Derbyshire DE4 4ET	Pending Consideration
ENF/18/00126	Removal of front wall and erection of ply wood replacement	Kenwood Cottage Wash Green Wirksworth Derbyshire DE4 4FD	Pending Consideration
ENF/19/00004	Installation of hot tub to front of property	Stowe Cottage 4 New Road Middleton By Wirksworth Derbyshire DE4 4NA	Pending Consideration
ENF/20/00008	Unauthorised ground works to facilitate a car park and large plant training area.	Land To The North Of Jacksons Ley And Porter Lane Middleton By Wirksworth Derbyshire	Pending Consideration
ENF/20/00077	Unauthorised building works, consisting of demolition of outbuilding and erection of two storey side extension to dwelling at 5 Churchill Avenue, Middleton by Wirksworth.	5 Churchill Avenue Middleton By Wirksworth Derbyshire DE4 4NG	Pending Consideration

ENF/20/00164	Without planning permission, the unauthorised change of use of the building and associated land from office use (Use Class B1) permitted under Part 3, Class R of Schedule 2 of the Town and Country Planning (General Permitted Development (England) Order (2015) (as amended) to a Dwellinghouse (Use Class C3).	Land At Manor Lodge Little Bolehill Bolehill Derbyshire DE4 4GR	Pending Consideration
ENF/21/00009	Operation of logging business on agricultural land	Land To The North East Of West View New Road Middleton By Wirksworth Derbyshire	DM Application Received
ENF/21/00017	Without planning permission the change of use of the agricultural building and associated land to HGV and vehicle repair workshop (Use Class B2) use unconnected to agriculture.	Arm Lees Farm Ryder Point Road Wirksworth Derbyshire DE4 4HE	Pending Consideration
ENF/21/00219	Unauthorised excavations to create a flat level vehicular access onto a classified road	19 Oakerthorpe Road Bolehill Derbyshire DE4 4GP	Pending Consideration

Total Open Cases

82

Enforcement Investigations Closed

In the Month Prior to 26/01/2022



Ashbourne South

ENF/19/00040	Breach of Condition 10 (Construction Management Plan) of planning permission 15/00060/OUT	Land Off Lathkill Drive Ashbourne Derbyshire	Justification from Officer	19/01/2022
ENF/20/00019	Breach of Condition 4 (working hours) of planning permission 17/00250/REM	Land South Of Leys Farm Wyaston Road Ashbourne Derbyshire	Justification from Officer	26/01/2022

Brailsford

ENF/19/00164	Lack of maintenance of public open space to Miller Home Development at Luke Lane (Planning Permission Reference Number: 13/00826/FUL)	Land Off Luke Lane Brailsford Derbyshire	Complaint Unfounded	11/01/2022
ENF/20/00013	Breach of condition 5 (working hours) of Appeal Decision APP/P1045/W/17/3167362 (related planning permissions - 16/00567/OUT (outline) and 18/00397/REM and 19/00467/REM (reserved matters))	Land Off Main Road Brailsford Derbyshire	Justification from Officer	26/01/2022

Carsington Water

ENF/18/00196	Works to Holiday Let - Installation of chimney, erection of conservatory and extension to single storey element. Other Works - Caravan hookups, associated timber structure and extension to shower block	New Harboro Farm Manystones Lane Brassington Derbyshire DE4 4HF	Not in the Public interest to pursue	14/01/2022
ENF/22/00009	Suspected works to create driveway and vehicular access for several vehicles including business vehicles.	Drumgowna Main Street Kniveton Ashbourne Derbyshire DE6 1JH	Complaint Unfounded	19/01/2022

Clifton And Bradley

ENF/19/00159	Formation of a new access off a Classified Road	The Flatts Wyaston Road Ashbourne Derbyshire	Planning Application Received	12/01/2022
ENF/21/00010	Erection of conservatory to side elevation	Mount Pleasant Farm Cottage Sprinkswoods Lane Snelston Derbyshire DE6 2DJ	Duplicated Case	11/01/2022

Darley Dale

ENF/21/00203	Roof painted an obtrusive colour.	Molyneux Business Park Whitworth Road Darley Dale Derbyshire	Complaint Unfounded	14/01/2022
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Doveridge And Sudbury

ENF/22/00007	Non-compliance with condition 6 of application 18/00891/REM (in relation to hardstanding and the pedestrian access spur onto Bakers Lane)	Land To The East Of Bakers Lane Doveridge Derbyshire	Notice complied with	19/01/2022
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Hulland

ENF/20/00123	Provision of additional caravan pitches, Breach of Condition 6 of Planning Permission Reference 16/00568/FUL and erection of storage buildings and band stand	Blackbrook Lodge Camping And Caravan Site Intakes Lane Turnditch Derbyshire DE56 2LU	Complied Voluntarily	12/01/2022
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Masson

ENF/22/00004	Structure protecting an electronic gate is being installed on the public footpath area.	27 Tor View Rise Cromford Matlock Derbyshire DE4 3RA	Complaint Unfounded	18/01/2022
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Matlock All Saints

ENF/20/00126	Unauthorised building works in rear garden consisting of a timber building and raised platform	88 Jackson Road Matlock Derbyshire DE4 3JQ	Planning Application Received	07/01/2022
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Matlock St Giles

ENF/18/00132	Replacement windows and non compliance with planning permission 13/00762/FUL	27 - 29 Causeway Lane Matlock Derbyshire	Not in the Public interest to pursue	14/01/2022
ENF/22/00002	Working outside of hours. Deliveries before 8am. Illegal parking on Starkholmes Road. Lighting of fires.	Land At Pump Close Matlock Derbyshire	Complied Voluntarily	20/01/2022

Wirksworth

ENF/18/00216	Breach of conditions 3 and 4 of planning permission 15/00793/FUL - Conversion and extension of garage to form dependant relative unit.	38 West End Wirksworth Derbyshire DE4 4EG	Justification from Officer	04/01/2022
ENF/22/00003	Installation of hot tub at holiday let without permission, in the vicinity of a listed building and within a conservation area.	Silk Mill House Crown Yard Wirksworth Matlock Derbyshire DE4 4ET	Complaint Unfounded	19/01/2022

Total Closed Cases 17

NOT CONFIDENTIAL - For public release

PLANNING COMMITTEE – 8th February 2022

PLANNING APPEAL – PROGRESS REPORT

Report of the Corporate Director

REFERENCE	SITE/DESCRIPTION	TYPE	DECISION/COMMENT
Southern			
17/00752/FUL	The Manor House, Church Street, Brassington	WR	Appeal being processed
18/00662/LBALT	Brook Cottage, Pethills Lane, Kniveton	WR	Appeal being processed
20/99972/FUL	87 Belper Road, Ashbourne	WR	Appeal being processed
19/01213/FUL	Four Lane Ends, Gibfield Lane, Hulland Ward	WR	Appeal dismissed – a copy of the decision is attached
20/01289/FUL	Agnes Meadow Farm, Agnes Meadow Lane, Kniveton	WR	Appeal being processed
20/01073/LBALT	Agnes Meadow Farm, Agnes Meadow Lane, Kniveton	WR	Appeal being processed
ENF/21/00025	Land north west side of Manystones Lane, Brassington	WR	Appeal being processed
21/00455/OUT	36 Windmill Lane, Ashbourne	WR	Appeal being processed
21/00229/FUL	Land And Buildings West Of Fernley Hulland Ward	WR	Appeal being processed
21/00969/FUL	Brackendale, Ashbourne Road, Brassington	HH	Appeal being processed
Central			
ENF/20/00120	North Park Farm, Whitworth Road Darley Dale	IH	Appeal being processed
20/00581/FUL	5 Asker Lane, Matlock	IH	Appeal being processed

ENF/20/00164	Manor Lodge, Little Bolehill, Bolehill	WR	Appeal being processed
20/01247/CLEUD	Manor Lodge, Little Bolehill, Bolehill	WR	Appeal being processed
20/01275/FUL	158 Derby Road, Cromford	HOUSE	Appeal being processed
20/00854/FUL	Darley Hillside Methodist Church, Moor Lane, Darley Dale	WR	Appeal allowed – a copy of the decision is attached
20/01332/FUL	8-10 Snitterton Road, Matlock	WR	Appeal being processed
21/00441/FUL	Derwent Reach, Aston Lane, Oker, Matlock	HH	Appeal being processed
ENF/21/00017	Armlees Farm, Ryder Point Road, Wirksworth	IH	Appeal being processed
21/01027/FUL	34 Steeple Grange, Wirksworth	HH	Appeal being processed
21/00722/FUL	43 Church Street, Matlock	HH	Appeal being processed
21/00927/FUL	43 St Johns Street, Wirksworth	HH	Appeal being processed

WR - Written Representations

IH - Informal Hearing

PI – Public Inquiry

LI - Local Inquiry

HH - Householder

OFFICER RECOMMENDATION:

That the report be noted.



Appeal Decision

Site visit made on 19 October 2021

by K A Taylor MSC URP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 13 January 2022

Appeal Ref: APP/P1045/W/21/3278962

Darley Hillside Methodist Church, Moor Lane, Darley Dale DE4 2HG

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr Simon Heslop against the decision of Derbyshire Dales District Council.
 - The application Ref 20/00854/FUL, dated 4 September 2020, was refused by notice dated 23 April 2021.
 - The development proposed is alterations and extension and change of use and alteration of vehicular access of former Methodist church to form single dwelling unit.
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Decision

1. The appeal is allowed and planning permission is granted for alterations and extension and change of use and alteration of vehicular access of former Methodist church to form single dwelling unit at Darley Hillside Methodist Church, Darley Dale DE4 2HG in accordance with the terms of the application, Ref 20/00854/FUL, dated 4 September 2020, subject to the following conditions set out in the attached schedule.

Preliminary Matter

2. A revised version of the National Planning Policy Framework (the Framework) was published on 20 July 2021. In reaching my decision I have had regard to the revised Framework.

Main Issue

3. The main issue is whether sufficient evidence has been demonstrated to justify the permanent loss of the existing community facility.

Reasons

4. The appeal site relates to a former Methodist Church located outside the settlement boundary of Darley Dale, within the designated countryside. The proposal would convert the building into a 5-bedroom dwelling utilising the roof space with new openings, alterations to existing and a modest rear extension. The existing access would be modified by widening and realignment of the existing wall.
5. Policy HC15 of the Derbyshire Dales Local Plan, 2017 (LP) seeks to maintain and improve the provision of local community facilities and services. It sets out that development which involves the loss of a community asset or facility, including places of worship will only be supported where it can be demonstrated that (a) there is evidence to demonstrate that the existing use is no longer needed to serve the needs of the community; or (b) the existing

- facility is no longer financially or commercially viable as demonstrated through a robust comprehensive marketing exercise with the facility actively marketed at a realistic price for a continuous period of at least 12 months immediately prior to the submission of an application; and (c) the use or facility has been offered to the local community for their acquisition / operation at a realistic price.
6. The policy is broadly consistent with the approach of the Framework, in regard to guarding against the loss of community services and facilities. At paragraph 93 (a) it specifically refers to the provision and use of shared spaces, community facilities being places of worship.
 7. Historically it appears that the appeal site, the former 'Darley Hillside Methodist Church' was one of two Methodist Chapels within the area of Darley Dales that was closed. Hackney Methodist Church closed in August 2017 and the appeal site in February 2018. This was due to falling congregation numbers, with those now being accommodated at a single place of worship nearby at the Darley Dale Church.
 8. There has been a significant amount of time since the appeal site closed, and from the evidence before me including site observations, the building would not require significant repairs or investment to bring it up to standard. The proposed works required to facilitate the conversion would comply with LP Policies S4, PD1, HC8 and HC19. However, it is clear that there has not been any activity at the site for some time.
 9. The Council contends that the evidence presented does not demonstrate that the existing use is no longer needed to serve the needs of the community and evidence should extend to include that the building is not required for any of the community uses set out in policy, which is stipulated in the supporting text and relates to criterion (a) of Policy HC15.
 10. However, within the previous appeal decision¹, the Inspector concluded at paragraph 7, the interpretation of supporting text and that *'this does not form the policy wording itself. Instead it is simply an aid to understanding the policy'*. At paragraph 10 the Inspector concludes that *'I am satisfied that the building's use as a Methodist Church is no longer needed to serve the needs of the community'*.
 11. Therefore, I do not consider that the policy explicitly requires that such a proposal needs to demonstrate that it is not required for all of the community uses listed, this would be rather erroneous. Neither does the supporting text refer to places of worship or the suggested wording by the Council of 'existing community use'. The text simply refers to 'existing use'. The wording of the policy itself, requires that the existing use is no longer needed to serve the needs of the community.
 12. From the evidence before me, including that there are alternative places of worship that have sufficiently accommodated the former congregation of the community, and there are other community facilities / uses nearby. I have no reason to disagree with the Inspector's findings and conclusions on these matters alone, and I am satisfied that criterion (a) has been met.

¹ APP/P1045/W/19/3241930

13. Moreover, I consider that there is somewhat of an inconsistent approach from the Council, in that there are similar considerations in this case, to those within the 'Hackney Church' determination. Given that both churches were within a short distance apart, served within the same community and congregation. It was also confirmed at that time Darley Dale is well served by existing community facilities and there was no demand for such a community use.
14. Nonetheless, in regard, to the first part of criterion (b) of Policy HC15, it explicitly relates to an existing facility being no longer financially or commercially viable. Given that this is a place of worship, the commercial aspect would not be relevant, which is the same conclusion that the previous Inspector took at the appeal site. Despite this, it does indicate that marketing should be carried out for a period of 12 months at a realistic price. Criterion (c) goes further in that it should be demonstrated that it has been offered to the local community for their acquisition / operation at a realistic price.
15. On the basis of the evidence before me, it appears that Fidler Taylor² were instructed within 2017 prior to the closure and then marketed the property on behalf of the Mid Derbyshire Methodist Circuit in 2018 following closure, initially by way of auction. The property was subsequently then sold prior to auction in 2019 to the appellant. It appears there were some discussions with 'The Scouts' and a local theatre group in 2017 but this did not materialise due to consideration of the cost of the long-term running and maintenance of the building for such a community use.
16. Once purchased, it appears that the appellant sought to undertake further marketing to demonstrate there was not a community need and that it has been offered to the local community for their acquisition. This evidence has been provided by way of a letter³ that states the building has been marketed for some time since October 2019. It confirms there have been a significant number of enquiries but those were interested in the change of use for residential development than any for the existing use. It also states there have been no offers to date.
17. This evidence is further supported by a 'Property Performance Report' of the marketing summary, incorporates where it was advertised including Rightmove and 4 times in the Peak Advertiser, a local independent newspaper. Appropriate interest and feedback are also supported up to January 2021, albeit negative in part from third parties. Although, I have not been provided with a full marketing brochure, in the appellant's evidence it shows that the advert sets out that it is an ex Methodist Church for sale as an ongoing community facility or with planning potential for redevelopment. As such, it shows marketing methods were undertaken, and it was on the basis of its current community use and offers in the region of the valuation.
18. Evidence has been provided on the valuation of the building⁴. These set out that in terms of the valuation of the property the opinions are that the value should be fairly reflected in the order of between some £300,000 to £325,000. The Council maintain that these are not considered to be a realistic price based on its current community use. However, I have no substantive evidence from the Council of an alternative figure or their own valuation of the property of

² Email from Simon Croft, Fidler-Taylor, dated 15 March 2021

³ Eadon Lockwood & Riddle, dated 14 September 2020

⁴ Caudwell & Co, dated 11 March 2021 / Eadon Lockwood & Riddle, dated 8 March 2021

what they consider as a realistic price or indeed what alternative valuation process they want. As such, on the basis of the evidence before me, I have no reason to disagree with the appellant's baseline assessment from those sales agents on the valuation, and that this could not be a realistic price within current market environments. The matters raised relating to blind auctions or not, are irrelevant for the purposes of the LP Policy and cannot form the basis of a 'realistic price' assumption.

19. Furthermore, in terms of marketing it would appear from the evidence that the appellant has carried out a marketing exercise for longer than the 12-month period that would be required under the provision of the Policy. As such, it would appear that generally marketing was maintained throughout the planning process. It considered the local community for their acquisition / operation. There was no contact / enquiries from any community groups. No dialogue has taken place on negotiating the site on behalf of any other community use for the existing or an alternative, within the period of marketing taking place by the appellant or since 2017.
20. Future uses of the site other than a place of worship (Class F1)⁵ would need to be within in Class F1. Any alternative 'local community use' (Class F2) would require planning consent as there is no permitted change between Classes F1 and F2. I have not been provided with any evidence to suggest that an application for an alternative local community use is forthcoming or even prior to its closure. Neither is there any substantive evidence of the building coming forward as a viable community project with local stakeholders. Given the period of time that has lapsed since its use as a place of worship, I am not satisfied that it currently offers any community value, positively contributes to the local community or that there is a real prospect of the site being used in the future for a local community use.
21. In arriving at this conclusion, I have taken into account the previous appeal decision. I note the Inspector dismissed on the basis of insufficient evidence provided. However, the evidence and justification before me in this appeal case has changed, leading me to reach a different conclusion.
22. For the reasons given above, I conclude that sufficient evidence has been demonstrated to justify the permanent loss of the existing community facility. The proposal would not be in conflict with Policy HC15 of the LP, as I have set out above. Moreover, it would not be in conflict with paragraph 93 of the Framework, that has regard to community facilities.

Other Matters

23. I have also been referred to other developments, including 'Darley Dale Medical Centre'. However, I do not consider that the scheme was directly comparable with the appeal proposal. It relates to a change of use of a doctor's surgery to a house in multiple occupation where the surgery was already relocated nearby, and pre-dates the appeal proposal and previous application. In any case, I have considered the appeal proposal on its own merits.
24. As I have found above, the appeal proposal would not result in any adverse impacts, including the loss of a place of worship. There would be a number of benefits to the appeal proposal, including the redevelopment of the site which

⁵ The Town and Country (Use Classes) (Amendment) (England) Regulations 2020

would make efficient use of previously developed land. Securing a new residential unit and boosting the supply of new homes in line with paragraph 60 of the Framework. There would be a modest social benefit in providing the housing and economic advantages would also arise from the construction phase, and in consideration of the appeal all weigh in favour of the proposal.

Conditions

25. I have considered the conditions suggested by the Council of which the appellant has seen including those of pre-commencement, and in light of the Planning Practice Guidance (PPG). For clarity, precision and to ensure compliance with the PPG, I have undertaken some minor editing and rationalisation.
26. A condition specifying the time limit and approved plans is necessary as this provides certainty. I have imposed conditions (3), (4), (5), (6) specifying materials, rooflights and window details are to be agreed, and in order to safeguard the character and appearance of the existing building and area.
27. Conditions (7), (8) are necessary for landscaping of the site, in the interests of living conditions of future occupiers and the character and appearance of the area. Conditions (9),(10) are necessary for safe access to the site, parking provision, and the interests of highway safety. Conditions (11), (12), in the interests of protecting the character and appearance of the existing building and area.
28. I have not imposed the Council's suggested conditions on removing permitted development rights. In accordance with the PPG and the Framework, planning conditions should not be used to restrict national permitted development rights unless there is clear justification. In accordance with the PPG, they would not be reasonable or necessary and there is no clear justification for doing so.

Conclusion

29. There are no material considerations that indicate the appeal should be determined other than in accordance with the development plan. For the reasons given above, I therefore conclude that the appeal should be allowed subject to conditions.

K A Taylor

INSPECTOR

Appeal Ref: APP/P1045/W/21/3278962
Darley Hillside Methodist Church, Moor Lane, Darley Dale DE4 2HG

Schedule of conditions attached to planning permission

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: OS Location Plan; 1914-Block; 1914-04; 1915-05 rev A; 1914-06 rev A; 1914-07 rev A; 1914-08 rev A; 1914-09; 1914-10 rev A.
- 3) Samples of all materials to be used in the construction of the external surfaces of the proposed development shall be submitted to and approved in writing by the Local Planning Authority before the commencement of development. The development shall be constructed in accordance with the approved details.
- 4) Details of all new external window and door joinery and/or metal framed glazing shall be submitted to and approved in writing by the Local Planning Authority prior to installation. The submitted details shall include depth of reveal, details of heads, cills and lintels, elevations at a scale of not less than 1:10 and horizontal/vertical frame sections (including sections through glazing bars) at not less than 1:2. The works shall be carried out in accordance with the approved details.
- 5) Details of the proposed rooflights (including size, manufacturer and model number) shall have been submitted to and approved in writing by the Local Planning Authority prior to installation. The new rooflights shall be of a design which, when installed, do not project forward of the roof plane. The works shall be carried out in accordance with the approved details
- 6) All window and door frames shall be recessed in their openings a minimum of 50mm behind the front face of the external walls of the dwellinghouse hereby approved.
- 7) No development shall commence on site until a scheme of hard and soft landscaping has been submitted to and approved in writing by the Local Planning Authority, the details of which shall include: -
 - a) indications of all existing trees, hedgerows and other vegetation on the land;
 - b) all vegetation to be retained including details of the canopy spread of all trees and hedgerows within or overhanging the site, in relation to the proposed buildings, roads, and other works;
 - c) measures for the protection of retained vegetation during the course of development;
 - d) all plant species, planting sizes, planting densities, the number of each species to be planted and plant protection;
 - e) finished site levels and contours in relation to the extension;
 - f) means of enclosure, and;
 - g) hard surfacing materials.
- 8) All soft landscaping comprised in the approved details of landscaping shall be carried out in the first planting and seeding season following the first occupation of the building or the completion of the development whichever is

the sooner; All shrubs, trees and hedge planting shall be maintained free from weeds and shall be protected from damage by vermin and stock. Any trees or plants which, within a period of five years, die, are removed, or become seriously damaged or diseased shall be replaced in the next planting season with others of a similar size and species. All hard landscaping shall also be carried out in accordance with the approved details prior to the occupation of any part of the development or in accordance with a programme to be agreed in writing with the Local Planning Authority.

- 9) The dwelling hereby approved shall not be occupied until the existing access has been modified in accordance with Plan No. 1914-10 rev A.
- 10) Prior to the occupation of the dwelling on-site parking shall be provided, clear of turning area and maintained thereafter free from any impediment to its designated use.
- 11) Details of all new or replacement external chimneys, flues, extract ducts, vents, grilles and meter housings shall be submitted to and approved in writing by the Local Planning Authority prior to installation. The development shall thereafter be carried out in accordance with the approved details.
- 12) All gutters, downpipes and other external plumbing shall be constructed in metal with a black painted finish and so retained thereafter.

- END OF SCHEDULE -



Appeal Decision

Site visit made on 19 October 2021

by **K A Taylor MSC URP MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 18 January 2022

Appeal Ref: APP/P1045/W/21/3274248

Four Lane Ends Farm, Gibfield Lane, Hulland Ward, Derbyshire DE6 3EJ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission under section 73A of the Town and Country Planning Act 1990 for the development of land carried out without complying with conditions subject to which a previous planning permission was granted.
 - The appeal is made by Mr Richard Bowler against the decision of Derbyshire Dales District Council.
 - The application Ref 19/01213/VCOND, dated 24 October 2019, was refused by notice dated 22 April 2021.
 - The application sought planning permission for '*use of premises for commercial dog breeding and boarding purposes, replacement kennel and erection of new isolation unit*' without complying with a condition attached to planning permission Ref 16/00374/FUL, dated 10 May 2017.
 - The condition in dispute is No 3 which states that: *The sound insulation recommendations set out in the Noise Impact Assessment by Peak Acoustics dated 20th July 2016 in relation to the replacement kennel (to house boarding dogs) and isolation cubicle buildings set out in the 1:500 Scale Proposed Block Plan dated 5th October 2016 shall be carried out in full within 3 months of the date of this decision unless otherwise agreed in writing by the Local Planning Authority and thereafter in perpetuity. No boarding dogs shall be housed in these buildings until the sound insulation works have been carried out in full and independently verified through further sound recording by a competent person and the results submitted to and approved in writing by the Local Planning Authority.*
 - The reason given for the condition is: *For the avoidance of doubt and in the interests of safeguarding the amenities of the occupants of nearby residential properties in accordance with the aims of Policy SF4 of the Adopted Derbyshire Dales Local Plan (2005) and guidance contained within the National Planning Policy Framework (2012).*
-

Decision

1. The appeal is dismissed.

Procedural Matters

2. The Council, and the appellant replicates in their statement that the appeal has been submitted in accordance with section 73 of the Act (S73). However, the condition in question required details to be submitted within an agreed timeframe, and the evidence indicates that the development commenced prior to the submission of the application which has led to this appeal.
3. The appeal therefore relates to a proposal where the terms of the condition of the planning permission have been breached by works or development already carried out, which is more appropriately addressed under S73A of the Act. As such, I have proceeded to determine this appeal on that basis. I consider that no party has been prejudiced by the approach I have taken, as the details in

respect of the commencement of development are clearly set out within the planning application form.

4. The reason for the condition is stated as being in the interests of safeguarding the amenities of the occupants of nearby residential properties and to accord with Policy SF4 of the Local Plan 2005. Since that application was approved a new local plan has been adopted '*Derbyshire Dales Local Plan, December 2017*' (DDL), thus Policy SF4 has been superseded. The Council's reason for refusal does not include any policy references. However, in the evidence before me, my attention has been drawn to Policies PD1 and EC1 of the DDL. On this basis, I have considered the appeal accordingly, with the changes to the statutory development plan and relevant policies to the appeal.

Background & Main Issue

5. Planning permission was granted in 2017¹ for the use of the premises for commercial dog breeding and boarding purposes, with the erection of replacement kennel and new isolation unit. Planning history at the site sets out that an application² was made to discharge details reserved by condition, but also sought to vary Condition(s) 5 and 6 of the original consent to utilise the replacement kennel building to house boarding cats. Although, this was granted, conditions were not discharged, and the appellant has since housed breeding dogs.
6. The appellant now proposes to substitute the sound mitigation measures which are the subject of Condition 3 with a 17.5m long by 2m high acoustic fence, already constructed behind the replacement kennel building. The original noise impact assessment³ (NIA) recommended and included measures to install an improved façade and roof specification, such as an insulated steel panel or other panel with similar octave band noise reduction properties. Masonry would also provide required noise reductions and to minimise noise breakout, the kennels should be sealed and ventilation/windows.
7. The main issue, therefore, is whether the condition is reasonable or necessary in the interests of living conditions of nearby residential occupants.

Reasons

8. The original 'Peak' NIA was specifically carried out to assess the likelihood of complaints arising due to the 15-replacement kennels and 6 new build isolation kennels. It identified that the nearest sensitive receptor was the house on Brick-Kiln Lane and dog's barking was the primary noise source. Levels of noise were recorded over a 24-hour period and in line with standards, including BS8233:2014. The assessment was carried out within the kennel building. It concluded that the sound rating for dogs barking in the kennels with the current façade would exceed the day and night-time background levels having a 'significant adverse impact' above desirable levels, thus requiring further mitigation.
9. The 'Spire' NIA⁴ was undertaken on a grass verge at the entrance of the appeal site and at a representative location close to Brick Kiln Farm. It was also

¹ 16/00374/FUL

² 17/01185/VCOND

³ Noise Impact Assessment, Project Reference Number: PA55, Peak Acoustics, dated 20/07/2016

⁴ Spire Environmental Noise, Vibration and Air Quality Consultants, Noise Impact Assessment, R20.1493-1-AG, dated 26/10/2020.

carried out for a period of 24 hours. It concluded that during the periods of the assessment, noise criterion in the daytime and night-time was exceeded at both locations. However, it found there to be no correlation between existing activities at the dog kennels and existing measured noise levels, as the climate was dominated by road traffic noise at both receptors.

10. Nevertheless, I have some serious concerns with the latest 'Spire' NIA in comparison to the original 'Peak' NIA. The baseline levels for assessment (Dba) during both daytime and night-time hours have discrepancies, and the locations of the assessments were different. Particularly that this was not carried out in close proximity to the acoustic fence or within the kennel building. Neither does it go on to assess (other than an assumption) of comparisons of the fence to those suggested recommendations of building modifications, that were originally proposed, or indeed reductions in noise levels having been achieved since the first NIA.
11. Given that the locations were roadside, it would be expected that noise levels of traffic generation would be higher, of which did not form a baseline in the original NIA. The Council also confirm that since the determination of the application there have been a significant number of complaints relating to noise at the premises for dogs barking, I have no evidence to the contrary. Therefore, I am not satisfied on the basis of the evidence before me that the acoustic fence provides alternative suitable mitigation or reduces noise levels of dogs barking within the immediate and wider area of the site.
12. Condition 3 relates to both the replacement kennel and the isolation cubicle building. It goes further to restrict the replacement kennel to house boarding dogs. However, the 'Spire' NIA that was carried out was on the basis of the replacement kennel being used to house breeding dogs. I am not satisfied from the evidence, that the noise emanating would be the same. Such as boarding dogs would not necessary be housed for continuous periods within the building and there would be changes in frequency with dogs coming and going when boarding was required. Unlike breeding dogs, which would likely be housed continuously during breeding times and has the potential to incorporate significantly more dogs 'puppies' being housed at the time of breeding.
13. Furthermore, Condition 3 also relates to mitigation measures being carried out for the 'isolation cubicle' building. I have not been provided with any substantive evidence that this has been carried out or that the replacement fencing provides suitable mitigation to justify the variation of the condition, in this regard. Moreover, the appellant's evidence is limited as to why any scheme of insulation would not be practical. There is no evidence to support that powered ventilation would be inconsistent with statutory animal welfare requirements, transmission of disease would occur or as to why the costs were prohibitive.
14. In deciding an application under S73, the local planning authority must only consider the disputed condition/s that are the subject of the application – it is not a complete re-consideration of the application⁵. Planning Practice Guidance⁶ states that in granting permission under S73, new conditions may be imposed provided that they do not materially alter the development that was subject to the original permission and are conditions that could have been imposed on

⁵ Paragraph: 031 Reference ID: 21a-031-20180615; Revision date: 15 06 2018

⁶ Paragraph: 040 Reference ID: 21a-040-20190723; Revision date: 23 07 2019

that original permission. However, it is not been clearly set out which of the other conditions on the permission have been discharged or complied with, including other time restricted detail conditions relating to ventilation and the noise management plan, given the conflict with noise mitigation measures.

15. Even, if I were to change the wording of Condition 3, there is insufficient evidence to enable me to consider whether the other conditions continue to have effect, should be varied or removed. Furthermore, the suggested condition by the Council of the number of mature dogs and that this should be modified so not to exceed 35 at any one time, excluding puppies would not meet the tests in the National Planning Policy Framework of being precise or reasonable. It would be difficult to establish as to what timeframe a puppy or even a young stock dog would mature to be a dog for the purposes of the condition. Which would be dependent on different ages, breeding condition and the breed type. It would also reduce those specified numbers of dogs in Condition 6 of the original consent, of which was not applied to be modified in this case.
16. Given the uncertainty about other conditions, and in the knowledge that the subject condition has been breached, this raises issues about whether there has been a wider breach of conditions precedent and indeed whether any such potential breaches would go to the heart of the planning permission. In any event, there are other options open to the appellant and Council to address this issue, including enforcement, and on that basis, it is not necessary for me to vary the condition and I have therefore not chosen to do so.
17. Overall, I conclude that Condition 3 is necessary and reasonable to protect the living conditions of nearby residents. Moreover, the variation of Condition 3 would conflict with Policies EC1 and PD1 of the DDLP, insofar they relate to protecting amenity of occupiers nearby, and that development does not cause unacceptable effects of noise.

Other Matters

18. The appellant's evidence heavily relies on the content of the 'Officers' report. However, a Council is not duty bound to follow the advice of its professional officer's and this alone would not amount to unreasonable behaviour. From the evidence before me, the Planning Committee came to this conclusion on the basis of the representations received and undertook an objective analysis from the applicant's evidence submitted with the application at that time.
19. I acknowledge that the appellant's have run a successful and highly regarded pedigree dog breeding business for some time, they are members of the Kennel Club, subject to RSPC inspections and have a track record of prioritising animal welfare. However, these matters are a neutral consideration in the appeal scheme, and do not outweigh the concerns and harm identified above.

Conclusion

20. For the reasons given above, taking account of all other matters, I conclude that the appeal should be dismissed.

KA Taylor

INSPECTOR

BACKGROUND PAPERS

The following documents have been identified in accordance with the provisions of Section 100(d) (5) (a) of the Local Government Act 1972 and are listed for inspection by members of the public.

Background papers used in compiling reports to this Agenda consist of:

- The individual planning application, (including any supplementary information supplied by or on behalf of the applicant) and representations received from persons or bodies consulted upon the application by the Local Planning Authority and from members of the public and interested bodies by the time of preparation of the Agenda.
- The Town and Country Planning Act 1990 (as amended), the Planning (Listed Buildings and Conservation Areas) Act 1990 (as amended) and related Acts, Orders and Regulation and Circulars published by or on behalf of the Secretary of State for the Department for Communities and Local Government.
- The National Planning Policy Framework
- The Planning Practice Guidance

These documents are available for inspection and will remain available for a period of up to 4 years from the date of the meeting, during normal office hours. Requests to see them should be made to our Business Support Unit on 01629 761336 and arrangements will be made to comply with the request as soon as practicable.