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Monday, 6 March 2023

To All Councillors:

As a Member or Substitute of the **Planning Committee**, please treat this as your summons to attend a meeting on **Tuesday, 14 March 2023 at 6.00 pm** in the **Council Chamber, Town Hall, Matlock, DE4 3NN**

Yours sincerely,

James McLaughlin
Director of Corporate and Customer Services

This information is available free of charge in electronic, audio, Braille and large print versions, on request.

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

AGENDA

SITE VISITS: Attached to the agenda is a list of sites the Committee will visit (**by coach**) on **Monday, 13 March 2023**. A presentation with photographs and diagrams will be available at the meeting for all applications including those visited by the Committee.

1. APOLOGIES FOR ABSENCE

Please advise the Democratic Services Team on 01629 761133 or email committee@derbyshiredales.gov.uk of any apologies for absence.

2. APPROVAL OF MINUTES OF PREVIOUS MEETING (Pages 9 - 12)

14 February 2023

3. INTERESTS

Members 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 Member, 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 [Speak at Planning Committee](#). 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.

5.1. APPLICATION NO. 22/01299/FUL (Pages 13 - 20)

Installation of 3no. roof-mounted Air Source Heat Pumps, a buffer tank and associated acoustic fencing at Derbyshire Dales District Council, Town Hall, Bank Road, Matlock, Derbyshire, DE4 3NN.

5.2. APPLICATION NO. 22/01373/OUT (Pages 21 - 56)

Outline planning application for a mixed-use development of up to 100no. dwellinghouses and a commercial development with approval being sought for access at Land South of Main Road, Brailsford.

5.3. APPLICATION NO. 23/00069/FUL (Pages 57 - 66)

Erection of rear extension to create residential annex with roof terrace and associated landscaping works at The Grange, Holme Road, Matlock Bath, Matlock, Derbyshire, DE4 3NU.

5.4. APPLICATION NO. 23/00038/OUT (Pages 67 - 90)

Outline planning consent for the erection of up to 15no. dwellinghouses and associated garaging with approval being sought for access at Land adjacent Biggin View, Dog Lane, Hulland Ward.

6. APPEALS PROGRESS REPORT (Pages 91 - 112)

To consider a status report on appeals made to the Planning Inspectorate.

Members of the Committee: Jason Atkin (Chair), Richard FitzHerbert (Vice-Chair)

Jacqueline Allison, Robert Archer, Sue Burfoot, Neil Buttle, Tom Donnelly, Graham Elliott, Helen Froggatt, David Hughes, Stuart Lees, Peter O'Brien, Garry Purdy, Janet Rose and Peter Slack

Nominated Substitute Members:

Substitutes – Councillors Matt Buckler, Paul Cruise, Chris Furness, Dawn Greatorex, Andrew Statham, Colin Swindell, Steve Wain and Mark Wakeman

SITE VISITS

Members are asked to convene outside Reception, at the front entrance of the Town Hall, Matlock at **9:50am prompt** on **Monday, 13 March 2023**, before leaving (**by coach**) at **10:00am** to visit the sites as detailed in the included itinerary.

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.

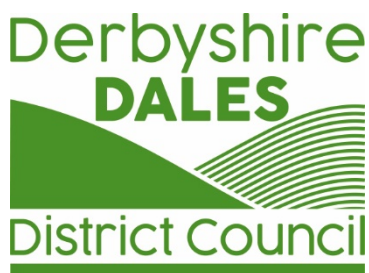
- g) After the presentation it will be for the Chairman to decide whether any points need further elaboration or whether any questions which have been raised need to be dealt with by Officers.
- h) The relevant Committee Chairman shall exercise discretion during the meeting to rule out immediately any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

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SITE VISITS

LEAVE OFFICE		10.00
22/01373/OUT	Land South of Main Road, Brailsford	10:30
23/00038/OUT	Land East of Dog Lane, Hulland Ward, Derbyshire	11:10
23/00069/FUL	The Grange, Holme Road, Matlock Bath, Matlock, DE4 3NU	11.55
RETURN		12.20

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Planning Committee

Minutes of a Planning Committee meeting held at 6.00 pm on Tuesday, 14th February, 2023 in the Council Chamber, Town Hall, Matlock, DE4 3NN.

PRESENT Councillor Jason Atkin - In the Chair

Councillors: Jacqueline Allison, Robert Archer, Sue Burfoot, Neil Buttle, Tom Donnelly, Graham Elliott, Richard FitzHerbert, Helen Froggatt, David Hughes and Stuart Lees

Present as Substitute - Councillors: Mark Wakeman

Chris Whitmore (Development Control Manager), Sarah Arbon (Senior Planning Officer), Tommy Shaw (Democratic Services Team Leader) and Angela Gratton (Democratic Services Officer)

Members of the Public – 4

Note:

“Opinions expressed or statements made by individual persons during the public participation part of a Council or committee meeting are not the opinions or statements of Derbyshire Dales District Council. These comments are made by individuals who have exercised the provisions of the Council’s Constitution to address a specific meeting. The Council therefore accepts no liability for any defamatory remarks that are made during a meeting that are replicated on this document.”

APOLOGIES

Apologies for absence were received from Councillor(s): Peter O'Brien, Garry Purdy and Janet Rose

294/22 - APPROVAL OF MINUTES OF PREVIOUS MEETING

It was moved by Councillor Jason Atkin, Seconded by Councillor Tom Donnelly and

RESOLVED (unanimously)

That the minutes of the meeting of the Planning Committee held on 24 January 2023 be approved as a correct record.

The Chairman declared the motion **CARRIED**.

18:01 Councillor Neil Buttle joined the meeting

295/22 - INTERESTS

There were no declarations of interest.

296/22 - APPLICATION NO. 21/01257/FUL

The Development Manager gave a presentation showing details of the application and photographs of the site and surroundings.

The Committee visited the site prior to the meeting to allow Members to appreciate the proposal in the context of its surroundings.

In accordance with the procedure for public participation, Mr David Oulsam (Agent) spoke in support of the application.

Consultation responses were set out in section 5 of the report.

It was moved by Councillor David Hughes, seconded by Councillor Richard FitzHerbert and

RESOLVED (unanimously)

That planning permission be approved subject to the conditions set out in the report.

The Chairman declared the motion **CARRIED**.

297/22 - APPLICATION NO. 22/01204/FUL

The Development Manager gave a presentation showing details of the application and photographs of the site and surroundings.

The Committee visited the site prior to the meeting to allow Members to appreciate the proposal in the context of its surroundings.

Consultation responses were set out in section 5 of the report.

It was moved by Councillor Tom Donnelly, seconded by Councillor Robert Archer and

RESOLVED (unanimously)

That planning permission be approved subject to the conditions set out in the report.

The Chairman declared the motion **CARRIED**.

298/22 - APPLICATION NO. 22/01242/FUL

The Senior Planning Officer gave a presentation showing details of the application and photographs of the site and surroundings.

The Committee visited the site prior to the meeting to allow Members to appreciate the proposal in the context of its surroundings.

In accordance with the procedure for public participation, a statement was read out in support of the application on behalf of Mr Nick Marriott (Agent). Members read a statement from Ms Dawn Kinley (Local Resident) against the application.

Consultation responses were set out in section 5 of the report.

It was moved by Councillor David Hughes, seconded by Councillor Mark Wakeman and

RESOLVED (unanimously)

That planning permission be approved subject to the conditions set out in the report with Condition 7 to include engineers drawings for the parking with finished site levels and an informative in relation to climate change mitigation measures.

The Chairman declared the motion **CARRIED**.

299/22 - APPLICATION NO. 22/01077/FUL

The Senior Planning Officer gave a presentation showing details of the application and photographs of the site and surroundings.

The Committee visited the site prior to the meeting to allow Members to appreciate the proposal in the context of its surroundings.

In accordance with the procedure for public participation, Mr Ben Rayner (Agent) spoke in support of the application and a statement was read out on behalf of Cllr Janet Rose, Ward Member.

Consultation responses were set out in section 5 of the report.

During debate Members considered this was in a sustainable location for rural tourism and with the availability of the use of the Derbyshire Connect Service provides a sustainable transport mode.

It was moved by Councillor Tom Donnelly, seconded by Councillor Stuart Lees and

RESOLVED

That planning permission be approved against officer recommendation as members considered the harm to the listed building to be less than substantial and made the judgement that the public benefits of tourism outweighed the harm.

Subject to conditions in respect of timescale, approved plans, improvements to the access visibility, external materials, restriction to holiday accommodation, a lighting strategy, preventing works within the bird breeding season, a landscape and biodiversity enhancement and management plan and measurement to mitigate climate change.

Voting

12 For

1 Against

0 Abstentions

The Chairman declared the motion **CARRIED**.

300/22 - APPEALS PROGRESS REPORT

It was moved by Councillor Jason Atkin, seconded by Councillor Tom Donnelly and

RESOLVED (unanimously)

That the report be noted.

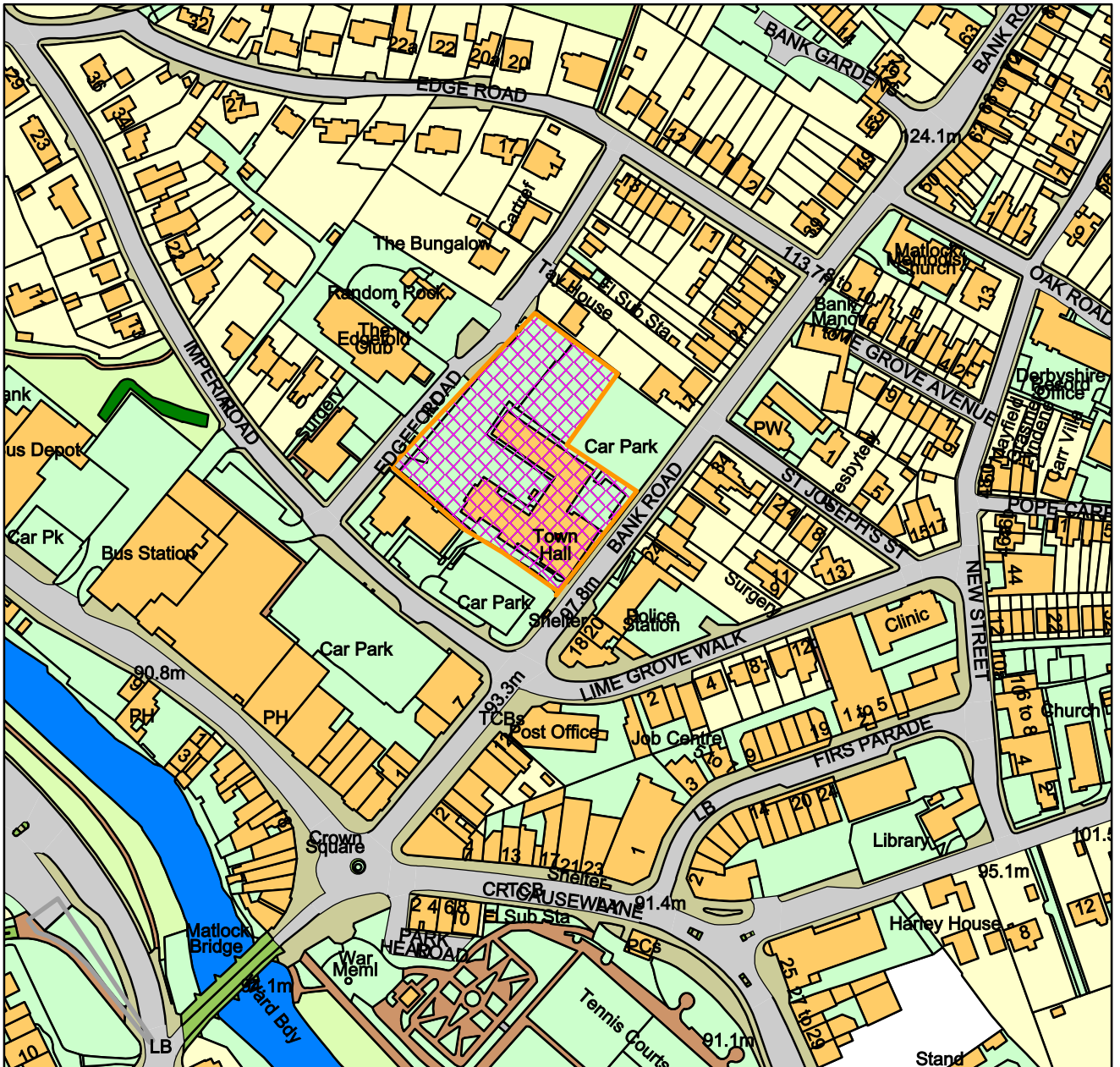
The Chairman declared the motion **CARRIED**.

Meeting Closed: 7.56 pm

Chairman

22/01299/FUL

DDDC Offices, Town Hall, Bank Road, Matlock



Derbyshire Dales DC

1:2,500

Date: 03/03/2023

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

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APPLICATION NUMBER		22/01299/FUL	
SITE ADDRESS:		Derbyshire Dales District Council, Town Hall, Bank Road, Matlock, Derbyshire, DE4 3NN	
DESCRIPTION OF DEVELOPMENT		Installation of 3no. roof-mounted Air Source Heat Pumps, a buffer tank and associated acoustic fencing	
CASE OFFICER	Gina Huffen	APPLICANT	Mrs Joanna Hill
PARISH/TOWN	Matlock Town	AGENT	N/A
WARD MEMBER(S)	Councillor S Burfoot Councillor M Burfoot Councillor S Wain	DETERMINATION TARGET	15.03.2023
REASON FOR DETERMINATION BY COMMITTEE	The application relates to a building owned and occupied by Derbyshire Dales District Council	REASON FOR SITE VISIT (IF APPLICABLE)	No Site Visit

MATERIAL PLANNING ISSUES
<ul style="list-style-type: none"> – The principle of the development. – The impact of the works upon the character and appearance of the building and the impact upon the wider Conservation Area. – The impact on Residential Amenity.

RECOMMENDATION
That planning permission be granted subject to conditions.

1.0 THE SITE AND SURROUNDINGS

1.1 The application relates to the roof of the existing town hall building. The Town Hall dates from 1984 and incorporates parts of a former 19th Century Hydro establishment. It is a prominent building of stone construction located within the centre of Matlock and within the Matlock Bank Conservation Area.



2.0 DETAILS OF THE APPLICATION

- 2.1 Planning permission is sought for the installation of 3no. air source heat pumps, a buffer tank and associated acoustic fencing to the roof of the Town Hall. The heat pumps would be installed to the north-west facing section of the roof, facing towards the main inner open courtyard of the Town Hall and Edgefold Road.
- 2.2 The apparatus will be enclosed by acoustic fencing which will mainly 2m in height with one return section being higher at 3m.
- 2.3 When the application was initially submitted 2no. air source heat pumps were proposed, however following internal discussions the scheme was revised to propose 3no. pumps of a reduced size.
- 2.4 The application is supported by a Sound Impact Assessment which assesses the potential noise impact of the proposed air source heat pumps.

3.0 PLANNING POLICY AND LEGISLATIVE FRAMEWORK

3.1 Adopted Derbyshire Dales Local Plan 2017

S1 Sustainable Development Principles
S3 Development within Defined Settlement Boundaries
PD2 Protecting the Historic Environment
PD7 Climate Change
PD1 Design and Place Making

- 3.2 National Planning Policy Framework (2021)
National Planning Practice Guidance
Climate Change Supplementary Planning Document 2021

4.0 RELEVANT PLANNING HISTORY:

09/00754/FUL	Demolition of annex and change of use of land to create 12 no. car parking spaces	PERC	07/01/2010
09/00754/AMD	Non Material Amendment - Alteration to fire exit screen wall	PER	09/03/2011
16/00023/FUL	Replacement roof covering and rooflights and installation of solar panels	PERC	15/06/2016
1188/0856	DEMOLITION OF PART OF BUILDING WITHIN A CONSERVATION AREA	A	15/02/1989
1088/0800	EXTENSION TO OFFICES	A	16/12/1988

5.0 CONSULTATION RESPONSES

5.1 Matlock Town Council

No Objection.

5.2 Derbyshire County Council (Highways)

No Comment.

5.3 Derbyshire Dales District Council Design and Conservation Officer

“The Town Hall dates from 1984 and incorporated parts a former 19th century Hydro establishment. The 1984 parts are flat roofed with a low parapet and on the central section is a raised mansard roofed section with a plant room and roof access point. This is clad in the dark brown finished standing seam metal cladding to which other upper parts of the Town Hall are clad. The Town Hall is located within the Matlock Bank Conservation Area.

The proposed development is the installation on the flat roof, adjacent to the mansard roofed section, of 2no. air source heat pumps, a buffer tank and associated acoustic fencing. The proposed acoustic fencing (mainly 2.0m high with one return section being higher, 3m) will be of timber construction and is to enclose the apparatus and will be stained/painted in an opaque dark brown (to match the colour of the existing metal cladding). The apparatus is to be located on the north-west facing side of the mansard roof section - i.e. into the inner open courtyard of the main Town Hall building.

It is considered that the proposed location of the apparatus is relatively well concealed and that subject to the acoustic timber panels being painted/stained in an opaque colour that matches the colour of the metal cladding it will be adjacent to then the actual apparatus will be fully concealed and the screening element will be the only visible part of the scheme. It is concluded that, subject to this, the proposed development would not be harmful to the character and appearance of this part of the Conservation Area.”

5.4 Environmental Health (Derbyshire Dales)

No response to date

6.0 REPRESENTATIONS RECEIVED

6.1 No representations received to date.

7.0 OFFICER APPRAISAL

7.1 The following material planning issues are relevant to this application:

- Principle of development
- Impact on the character and appearance of the building and the wider Conservation Area
- Impact on amenity

Principle of Development

7.2 Policy PD7 of the adopted Local Plan (2017) promotes a development strategy that seeks to mitigate global warming and in doing so supports the installation of low-carbon energy sources provided it would not have a significant adverse impact (either alone or cumulatively), on landscape character, visual amenity, water quality and flood risk, the historic environment and heritage assets as well as their setting and biodiversity.

7.3 The installation of air source heat pumps to the Town Hall roof will not only improve the energy efficiency of a large building but also enable it to increase its renewable energy production as a means of mitigating the impacts of climate change. The proposed

development is acceptable in principle, therefore the key issues to consider are the impact upon the character and appearance of the building, the Conservation Area and amenity.

Impact on the character and appearance of the building and the wider Conservation Area

- 7.4 Policy PD2 states that the District Council will conserve heritage assets in a manner appropriate to their significance. The Town Hall is located within the Matlock Bank Conservation Area and incorporates part of a former 19th Century Hydro building. The proposed location of the heat pumps and fencing is relatively well concealed, and subject to the acoustic fencing being painted in an appropriate opaque colour matching the colour of the metal cladding of the adjacent plant room, the actual apparatus will be fully concealed and the screening element will be the only visible part of the scheme.
- 7.5 The development is to be sited in appropriate roof top position to the rear (north-west) of the Town Hall. The development therefore would not harm the character and appearance of the building and would conserve the significance of the Conservation Area in accordance with policy PD7.

Impact on Residential Amenity

- 7.6 The application is supported by a Sound Impact Assessment which assesses the potential noise impact of the proposed air source heat pumps on surrounding sound sensitive receptors.
- 7.7 As part of this assessment an environmental sound survey has been undertaken at a location representative of nearest residential dwellings (10 Imperial Road and 26 Bank Road) to establish the baseline sound climate in the vicinity. Noise mitigation methods have been incorporated into the proposal via the inclusion of acoustic fencing around the apparatus. The impact assessment states that noise levels will be below background noise levels during the day and at or below background at night. Therefore the application demonstrates that there would be a low noise impact upon neighbouring properties. Sound from the heat pumps may be audible in outside garden areas only at the quietest periods of the night when the amenity space of residential property is likely not to be in use.
- 7.8 The Sound Impact Assessment has been referred to the Council's Environmental Health Team for Assessment, and any comments will be updated at the meeting. Given the evidence submitted with the application the application does demonstrate that noise impact would be mitigated to low levels and that noise from the development would not harm the amenity of the area or neighbouring properties.

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. The development hereby approved shall not be carried out other than in accordance with the following approved plans and documents and subject to the following condition:

01 - Site Location Plan, 1:1250 Scale (received 18.11.2022)

02 - Amended Proposed Site Layout Plan, 1:500 Scale (received 31.01.2023)

- 03 - Amended Proposed Roof Top Plant and Fencing Layout, Drawing No. LE-023-22-100 Rev. B (received 30.01.2023)
- 04 - Amended Air Source Heat Pump Technical Specification, Daikin Technical Data Sheet (received 30.01.2023)
- 05 - Amended Buffer Tank Housing Detail (received 31.01.2023)
- 06 - Noise Attenuation Barrier Detail, Soundshield (received 30.01.2023)
- 07 - Heating System Supply Cable Proposal, LeisureEnergy (received 13.12.2022)
- 08 - Acoustic Screening Specifications, JCW Absorbent Sound Screen (received 21.11.2022)
- 09 - Amended ASHP Sound Impact Assessment (received 17.02.2023)

Reason:

For the avoidance of doubt and in the interests of the proper planning of the area.

3. The acoustic fencing shall be installed before the first use of the air source heat pumps hereby approved and thereafter shall be maintained throughout the lifetime of the development hereby approved.

Reason:

To minimise the visual impact of the development upon the building and its setting within the Matlock Bank Conservation Area in accordance with policies PD1 and PD2 of the Adopted Derbyshire Dales Local Plan (2017).

4. The acoustic fencing and buffer tank enclosure shall be painted in RAL 'Bronze Anolok 547' at the time of erection and thereafter shall be maintained throughout the lifetime of the development hereby approved.

Reason:

To minimise the visual impact of the development upon the building and its setting within the Matlock Bank Conservation Area in accordance with policies PD1 and PD2 of the Adopted Derbyshire Dales Local Plan (2017).

5. The air source heat pumps and associated equipment hereby approved shall be removed as soon as reasonably practicable when no longer needed.

Reason:

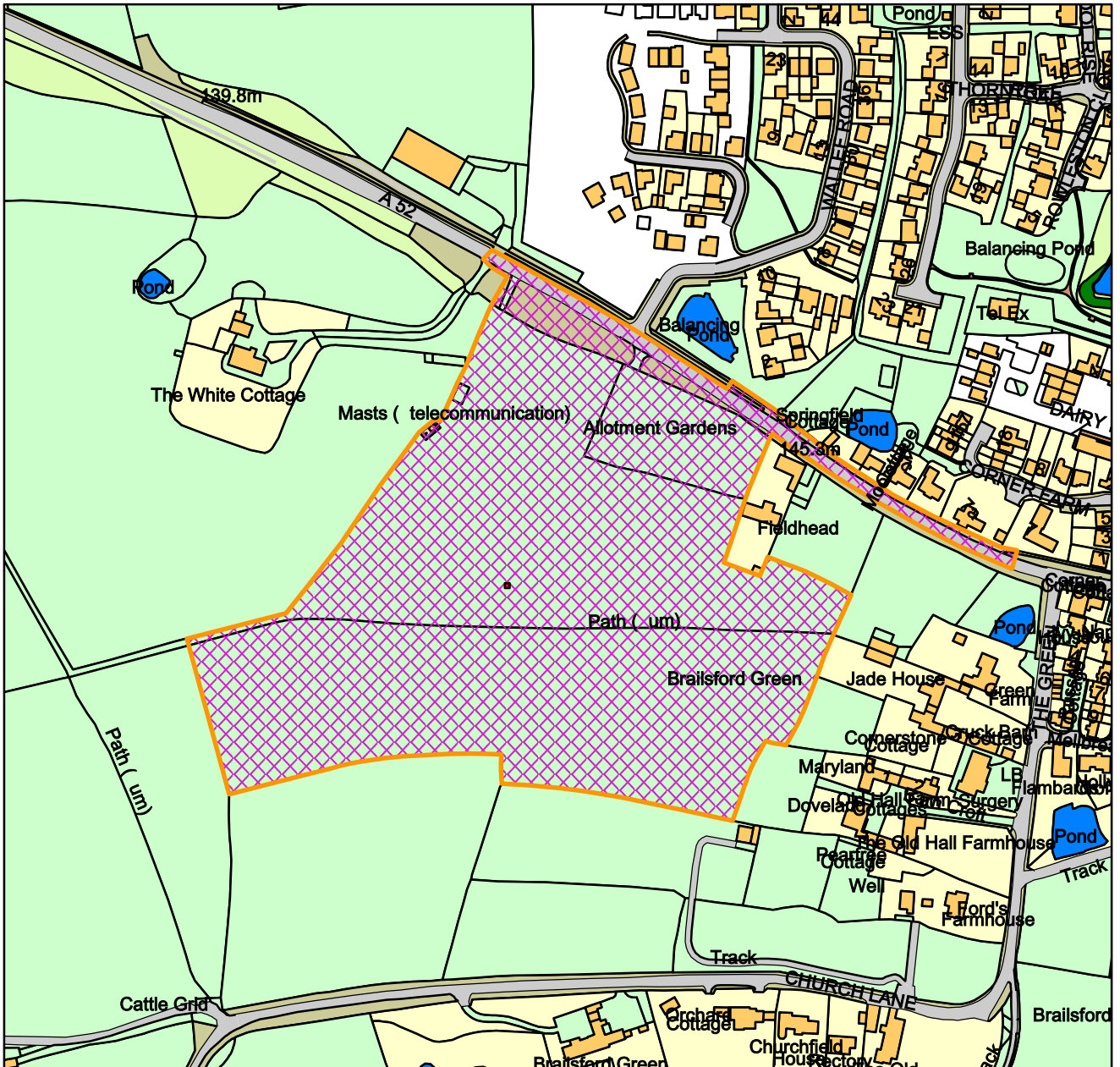
To ensure that the development is removed when no longer required or functional to minimise the visual impact of the development upon the building and its setting within the Matlock Bank Conservation Area in accordance with policies PD1 and PD2 of the Adopted Derbyshire Dales Local Plan (2017).

9.0 NOTES TO APPLICANT:

- 9.1 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.

22/01373/OUT

Land South Of Main Road, Brailsford



Derbyshire Dales DC

1:3,500

Date: 03/03/2023

100019785

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

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APPLICATION NUMBER		22/01373/OUT	
SITE ADDRESS:		Land South of Main Road, Brailsford	
DESCRIPTION OF DEVELOPMENT		Outline planning application for a mixed-use development of up to 100no. dwellinghouses and a commercial development with approval being sought for access	
CASE OFFICER	Adam Maxwell	APPLICANT	Mr Tom Goodall
PARISH/TOWN	Brailsford	AGENT	Planning & Design Practice Ltd
WARD MEMBER(S)	Cllr Michele Morley	DETERMINATION TARGET	15.03.2023
REASON FOR DETERMINATION BY COMMITTEE	Major application	REASON FOR SITE VISIT (IF APPLICABLE)	For Members to appreciate the site and context.

MATERIAL PLANNING ISSUES
<ul style="list-style-type: none"> • Whether residential development on this site is acceptable in principle • Whether a commercial development on this site is acceptable in principle • Impact on cultural heritage • Landscape impact and impact upon the character and appearance of the area • Transport and impact on highway safety • Impact upon the amenity of neighbouring properties • Sustainable building and climate change • Flood risk and drainage • Impact on trees and biodiversity • Affordable housing, housing mix and developer contributions

RECOMMENDATION
That the application be refused for the reasons set out in section 8.0 of the report.

1.0 THE SITE AND SURROUNDINGS

- 1.1 The site comprises 6.30 hectares of arable land beyond the western edge of Brailsford and south of the Avant Homes housing development on the south side of the A52 (Main Road). Brailsford public footpath no.40 runs through the centre of the site. The site lies beyond but adjacent to the settlement boundary of Brailsford.
- 1.2 The land slopes gently downwards from Main Road from north east to south west. The field is largely bounded by substantial hedgerows with dispersed mature trees. There is a mature oak tree located within the centre of the site.
- 1.3 The nearest neighbouring residential properties include the recently constructed residential estate to the north, Field Head House and Barn to the north east, and the residential properties along The Green to the east of the site.
- 1.4 The site lies adjacent to the designated Brailsford Conservation Area to the east. There are three Grade II listed buildings adjacent to the site on The Green including Green Farm, Barns south of Green Farm and Old Hall Farmhouse. Grade I listed All Saints' Church is located 430m to the south west of the site.

2.0 DETAILS OF THE APPLICATION

- 2.1 Outline permission is sought for up to 100 dwellings and a commercial development with access included and all other matters reserved. Access would be from the A52 (Main Road). The applicant has withdrawn the proposed medical centre from the application.
- 2.2 An indicative plan shows 100 dwellings with the access road branching to the east and west to provide access to the dwellings. The indicative plan shows land reserved for commercial development on the north east corner of the site adjacent to the proposed access. The indicative plan also shows: green corridors between areas of housing; a balancing pond to the south west of the site; and green areas, community garden and woodland to the east of the site along the boundary to the conservation area. A new pedestrian crossing point across the A52 is shown adjacent to the access.
- 2.3 The development would deliver 30% affordable housing (up to 30 affordable dwellings), the application states that housing mix is to be determined at the reserved matters stage but that there would be a broad mix of house types including bungalows, terraces, semi-detached and detached houses comprising of 1, 2, 3 and 4 bedroom units.





3.0 PLANNING POLICY AND LEGISLATIVE FRAMEWORK

3.1 Adopted Derbyshire Dales Local Plan 2017

- S1 Sustainable Development Principles
- S2 Settlement Hierarchy
- S4 Development within the Countryside
- S5 Strategic Housing Development
- S9 Rural Parishes Development Strategy
- S10 Local Infrastructure Provision and Developer Contributions
- 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
- HC1 Location of Housing Development
- HC4 Affordable Housing Provision
- HC11 Housing Mix and Type
- HC14 Open Space, Sports and Recreation Facilities
- HC15 Community Facilities and Services
- HC18 Provision of Public Transport Facilities
- HC19 Accessibility and Transport
- HC20 Managing Travel Demand
- HC21 Car Parking Standards
- EC1 New and Existing Employment Development

3.2 Adopted Brailsford Neighbourhood Plan 2021

- H1 Housing
- TMA1 Traffic Management and Accessibility
- LW1 Landscape and Wildlife
- CW1 Community Facilities
- CW2 Community Enterprises

3.3 Other:

- The National Planning Policy Framework (NPPF) (2021)
- National Planning Practice Guidance
- Climate Change Supplementary Planning Document (SPD) (2021)
- Developer Contributions SPD (2020)
- Landscape Character and Design SPD (2018)

4.0 RELEVANT PLANNING HISTORY:

None

5.0 CONSULTATION RESPONSES

5.1 Parish Council: Object for the following reasons:

“The future of the GP surgery in Brailsford, Ednaston and Hulland Ward - shared practice – has been a concern for residents for nearly 2 years. The management group South Dales Health are clear that the practice cannot continue satisfactorily without a new building and facilities - estimated cost c£2m. They believe that the new build can only be funded from S106 development monies.

At a public meeting held in April 2022 - with over 100 residents in attendance there was a large majority in favour of No New Development to fund the surgery and the Parish Council has been researching other sources.

The key concerns relating to this development are:

- The continued extension of the village - its move westwards, nearly three times the size in 2013 and its sustainability as a village location.
- This site is outside the agreed development boundary and is adjacent to the conservation area on a site previously ruled undevelopable by DDDC consultants and planners.
- The approval of large estates is contrary to the agreed parameters in our approved Neighbourhood Plan.
- The mix of housing proposed - the village priority is bungalows. DDDC already turned down an application for bungalows on part of the proposed site because it was outside the development boundary and the impact on the conservation area.
- The suitability of the site for a GP surgery and even more so the alternative suggestion of commercial/retail for this location
- Significant additional and large traffic movements in an area already considered dangerous because of speeding traffic entering the village. The Parish Council are pressing to get a SID (speed indicator device) for this end of the village.
- At present there is limited safe accommodation for pedestrians, including school children to the new school on Luke Lane. No footpaths outside the proposed development and a substandard (too narrow) pavement outside the existing development. Pedestrian refuges and crossings previously ruled unnecessary or too dangerous by Highways Authority.
- These are the subject of a longstanding and ongoing dispute with the Planning Authority as conditions imposed on earlier applications have not been fulfilled.
- The school is already overcrowded.”

5.2 Derbyshire Fire & Rescue Service

“The following recommendations, whilst they may not be enforceable, are offered as general advice in the interests of greater fire safety.

The Fire and Rescue Authority strongly recommend the installation of a domestic sprinkler system in the above premises, however should you choose not to install a domestic sprinkler system at this stage, the Fire and Rescue Authority would like to recommend that you provide a minimum 32mm water supply capable of delivering the required volumes which would allow an installation to be carried out easier and at less cost should this be proposed

in the future.”

5.3 Derbyshire Wildlife Trust

“We have reviewed the Ecological Impact Assessment (EclA) (Ramm Sanderson, October 2022) and the Biodiversity Metric (Ramm Sanderson, October 2022). We advise that the EclA is compliant with best practice guidelines. Development will result in the loss of arable land. Boundary features are largely intended for retention. The application area falls within 250 m of two great crested newt ponds, however no ponds are present on site and the majority of the onsite habitat (arable) is considered sub-optimal for this species. A District Level Licensing (DLL) approach is proposed, which is considered acceptable, and an application should be made to Natural England. An impact assessment and conservation payment certificate (IACPC) is typically issued, which should be submitted to the LPA to confirm the scheme is eligible. A precautionary method of working is also proposed during construction, as best practice.

There are significant opportunities for biodiversity enhancements within the scheme. A large area of open space is proposed within the site, including the retention of an existing oak tree and the creation of two waterbodies: one balancing pond and one historic pond reinstated. We advise that both ponds should aim to retain some water all year round and that surrounding habitats are suitable to support amphibians. We welcome the proposed green corridor across the centre of the site, however note that it will be severed by a road. This will bisect the most direct route between the two onsite ponds, although there will still be connectivity to the south. We recommend that drop kerbs and offset gullies are secured in the residential road network to prevent entrapment of amphibians and allow movement across the site.

We welcome the recommendations made in Section 5.3 for signage on any public footpaths that lead away from the development site towards the nearby LWS, detailing the location of the LWS and providing important information pertaining to the site (e.g. appropriate disposal of litter, proper utilisation of footpaths, keeping dogs on leads) to try and reduce trampling pressures.

A Biodiversity Net Gain Assessment has been undertaken using Metric 3.1 and a summary provided. Currently, a gain of +5.11 habitat units (+40%) and +2.63 hedgerow units (+26.45%) is proposed.



Notwithstanding the need for further review Derbyshire Wildlife Trust recommend planning conditions in regard to the District Level Licence for Great Crested Newts, Construction Environment Management Plan (CEMP) and Landscape and Biodiversity Enhancement and Management Plan (LBEMP).

5.4 Education Authority

“Primary Level

The proposed development falls within and directly relates to the normal area of Brailsford CE Controlled Primary School. The proposed development of 100 dwellings would generate the need to provide for an additional 24 primary pupils.

Brailsford CE Controlled Primary School has a net capacity for 119 pupils, with 101 pupils currently on roll. The number of pupils on roll is projected to increase during the next five years to 150.

An evaluation of recently approved major residential developments within the normal area of Brailsford CE Controlled Primary School shows no new developments, and therefore there would be no additional primary pupils.

Analysis of the current and future projected number of pupils on roll, together with the impact of approved planning applications shows that the normal area primary school would not have sufficient capacity to accommodate the 24 primary pupils arising from the proposed development.

Secondary Level

The proposed development falls within and directly relates to the normal area of Queen Elizabeth's Grammar School. The proposed development of 100 dwellings would generate the need to provide for an additional 28 secondary with post16 pupils.

Queen Elizabeth's Grammar School has a net capacity for 1645 pupils with 1376 pupils currently on roll. The number of pupils on roll is projected to decrease to 1330 during the next five years.

An evaluation of recently approved major residential developments within the normal area of Queen Elizabeth's Grammar shows new development totalling 465 dwellings, amounting to an additional 130 secondary with post16 pupils.

Analysis of the current and future projected number of pupils on roll, together with the impact of approved planning applications shows that the normal area secondary school would have sufficient capacity to accommodate the 28 secondary with post 16 pupils arising from the proposed development.

SEND

A contribution towards SEND infrastructure will be requested for developments of 100 dwellings or more. The request for a contribution towards Special Educational Needs and Disability (SEND) provision is not subject to an analysis of capacity within a given geographical area, i.e. the locality within which the development is located. Rates of all types of SEND are increasing and special schools and Enhanced Resource School (ERS) units generally operate at or above capacity to avoid pupils being placed out of County. The pattern of provision across the County often involves pupils travelling a significant distance in order to access the most appropriate place to suit their needs. It is therefore not appropriate or possible to assess capacity against the need for places generated by any given development within any specific locality.

The proposed development for 100 dwellings $\times 0.7/100 = 0.7$ pupil places.

Mitigation

The above analysis indicates that there would be a need to mitigate the impact of the proposed development on school places in order to make the development acceptable in planning terms. The County Council therefore requests financial contributions as follows:

- £435,973.20 towards the provision of 24 Primary places at Brailsford CE Controlled Primary School + additional education facilities.
- £72,762.83 towards SEND places."

5.5 Environment Agency

No comment.

5.6 Force Designing Out Crime Officer

“There are no overriding reasons why we would object to the development in principle relating to matters of crime and disorder.

The supporting masterplan is noted as indicative, but with no obvious flaws evident. Care will need to be taken regarding the supervision of proposed green space paths by active edges, as well as adequate boundary definition between such routes and close private space.”

5.7 Highway Authority

“The Highway Authority has undertaken an initial appraisal of the submitted documents and concludes that the assessment provided is insufficient, as such it is recommended that this application is not determined until a more comprehensive assessment has been submitted and reviewed. Detailed comments are provided below on what has been submitted to date.

The application has been supported with a Transport Statement (TS) and Travel Plan (TP), this is not suitable for a development of this scale and should be a Transport Assessment (TA) which has a wider reaching appraisal. As such a TA should be submitted and the scope of the assessment should be agreed with the Highway Authority before it is prepared.

The site is not allocated in the adopted Local Plan or Brailsford Neighbourhood Plan, therefore no strategic assessment has been undertaken to consider the impact of this site alongside the other planned growth. The TS considers a future year of 2027, however this is not considered to be sufficient and a horizon year to match the end of the Local Plan should also be presented.

The accessibility of the site on foot and bicycle using the industry standard 2km and 5km has been provided. No actual distances or journey time assessment has been provided to essential services bases on local route characteristics, further comment is made on this later.

Vehicle Access

A ghost lane has been proposed, it is not clear how the conclusion to provide this been reached, the applicant should provide some reasoning why this is proposed as it does not provide a consistent approach to other junctions in Brailsford on further afield on the A52.

Alterations are suggested to amend the speed limit, again this needs explanation and it should be noted that the process to relocate it falls outside the control of the planning process. If the applicant is to maintain the access as currently proposed it should be supported with a road safety audit, departures from standard report and the dimensions of the lanes, taper length etc should be provided.

Works to the Highway associated with the opposite Avant Homes development are not completed and this application therefore needs to align with that consented access arrangement.

Trip Rates

The proposed trip rates appear to be low, and a sensitivity test undertaken by the Highway Authority confirms this. The TRICs output does not reflect the rural setting by virtue of the average car ownership levels and size of nearby population. Furthermore, the TS make no account for the proposed commercial/medical centre generation and as this is to be

determined at this stage the total number of trips is likely to be a significant under estimation and makes the TS unreflective of the proposal.

As indicated previously the assessment years are not sufficient and a sensitivity test to align with the Local Plan is needed. TEMPRO 8 should be used to consider vehicle growth as this is the latest release.

Other matters to be addressed in a future submission

There are some local services in Brailsford, but access to them is via narrow footways with multiple crossings being needed which are disincentives to walking particularly those undertaking escorted education trips. It is considered necessary for a WCHRA to be provided to review the route to the local services and propose interventions where there are limitations to the existing network.

Where services are not available in the immediate community they should be identified and the TA propose how future residents will travel to reach them by a choice of modes.

The proposal must include measures to prioritise bicycle access, it is clear that the A52 is not an attractive route for cyclists and even within Brailsford itself where the speed limit is lower there is presently no dedicated infrastructure. As such the access and routes to services should be reviewed with a JAT and CLoS as defined in LTN 1/20.

The nearest bus stops need to be improved to help encourage active travel, it is expected that this will be included in any amended access proposals.

There is a public right of way passing through the site, this could offer a more attract route into the village centre which would be car free. The applicant should explore options to enhance this route which not only has reduced conflict but is more direct.

Travel Plan

This proposed a 10% shift of car driver activity to other mode within 3 years. This is low target compared to what a successful plan could achieve, but in context of the limited access to employment or secondary education in the existing community, limited walking infrastructure and no cycling infrastructure this target is unrealistically high. Equally the plan only proposes to share information and does not provide for any incentive to encourage active travel or increased public transport usage, as such the Highway Authority concludes that the plan, as proposed, is unlikely to achieve its target and does not make the positive impact toward climate change adaption and the wider net zero ambition.

The travel plan needs to be re written alongside the new TA.

Indicative Masterplan

As the application is presented in outline these comments are for noting.

The current highway design guide is the DSP which can be found on Derbyshire County Councils website, the applicant should confirm that this document remains current before developing any reserved matters layout.

The layout is car dominated, doesn't prioritise active travel and is made up of cul-de-sacs. Furthermore, the layout utilises false junctions rather than designing the carriageway for the predominant movement pattern.

The applicant is also reminded that the design speed of the street should be very low and the layout self-enforces this. This should be read alongside the need to provide tree lined streets and designing to create a sense of place.

Conclusions

Overall, the application is unacceptable in its present form as the levels of assessment provided is insufficient. It does not use the road user hierarchy in its assessment, the design of the access or streets which has resulted in a car dominated proposal.

The applicant should provide a new Transport Assessment and Travel Plan addressing the above matters and make amendments to the masterplan. The submission as currently proposed conflicts with local and national policy, and matters need to be amended to remove that conflict.”

5.8 Historic England

No comment.

5.9 Lead Local Flood Authority

No objections subject to planning conditions

5.10 NHS Derby and Derbyshire Integrated Care Board

“The development is proposing 100 (A) dwellings which based on the average household size of 2.5 per dwelling and assuming 100% of the new population would come into this area for primary care health provision would result in an increased patient population of approx. 250 (B) (2.5 x A).

It is unlikely that NHS England or NHS Derby and Derbyshire Combined Care Group (CCG) would support a single handed GP development as the solution to sustainably meet the needs of the housing development and that the health contribution would ideally be invested in enhancing capacity / infrastructure with existing local practices. The closest practices to this development are;

- Brailsford and Hulland Medical Practice
- Brailsford and Hulland Medical Practice – branch site
- Ashford Medical Practice
- Ashford Medical Surgery

We would like to discuss the potential for S.106 funding to be used to provide additional capacity at any practice in the vicinity of the development, which may be through the extension of one or more existing site, or a new building.

The amount requested is proportionate to the scale of the housing development proposed.

The indicative size of the premises requirements has been calculated based on current typical sizes of new surgery projects factoring in a range of list sizes recognising economies of scale in larger practices. The cost per sq m has been identified by a quantity surveyor experienced in health care projects.

The financial contribution requested is £90,000.”

5.11 Severn Trent Water

No response to date.

5.12 Sport England

“The proposed development does not fall within either our statutory remit (Statutory Instrument 2015/595), or non-statutory remit, therefore Sport England has not provided a detailed response in this case, but would wish to give the following advice to aid the assessment of this application.

If the proposal involves the loss of any sports facility then full consideration should be given to whether the proposal meets paragraph 99 of National Planning Policy Framework (NPPF), is in accordance with local policies to protect social infrastructure and any approved Playing Pitch Strategy or Built Sports Facility Strategy that the local authority has in place.

If the proposal involves the provision of a new sports facility, then consideration should be given to the recommendations and priorities set out in any approved Playing Pitch Strategy or Built Sports Facility Strategy that the local authority may have in place. In addition, to ensure they are fit for purpose, such facilities should be designed in accordance with Sport England, or the relevant National Governing Body, design guidance notes.

If the proposal involves the provision of additional housing then it will generate additional demand for sport. If existing sports facilities do not have the capacity to absorb the additional demand, then new and/or improved sports facilities should be secured and delivered in accordance with any approved local policy for social infrastructure, and priorities set out in any Playing Pitch Strategy or Built Sports Facility Strategy that the local authority has in place.

In line with the NPPF (including Section 8) and PPG (Health and wellbeing section), consideration should also be given to how any new development, especially for new housing, will provide opportunities for people to lead healthy lifestyles and create healthy communities. Sport England’s Active Design guidance can be used to help with this when developing or assessing a proposal. Active Design provides ten principles to help ensure the design and layout of development encourages and promotes participation in sport and physical activity.”

5.13 DDDC Conservation Officer

“The proposed development is for outline planning permission for a mixed-use development of up to 100 no. dwelling houses and a commercial development or new medical centre, with approval being sought for access.

The proposed development site is located to the south of the A52 at the western end of the settlement of Brailsford.

Brailsford evolved as a linear village on the main Ashbourne to Derby road. That linear nature along the A52 has, notwithstanding 20th century development/infill, been retained. As a consequence of the location of a medieval manor house or property, ‘The Green’ is a southern spur off the main street which undoubtedly gave access to the former manor house/hall (the site is partially occupied by a former moat) and in the 17th -19th century ‘The Green’ was the site of the development of a series of farmhouses and farm buildings (and associated land), together with the (former) rectory at the southern bend of ‘The Green’. This part of the settlement forms the core of the Brailsford Conservation Area (designated 1996).

As part of the proposed designation of the Conservation Area in 1996 the following attributes were recognised – ‘the west side of The Green has some of the villages oldest buildings (mainly farmsteads), three of which are grade II listed. It is an area of possible former toft

and croft farming practices, a medieval form of enclosure. Therefore, the fields and hedgerows on The Green are believed to be of considerable historic interest and important to its setting. The Old Rectory dates back to the early 16th century and has had numerous additions since then in 1682, 1883 & 1925. It is a building of importance to the character of 'The Green'. The submitted Heritage, Design & Access Statement (HDAS) acknowledges and recognises that "this original part of Brailsford is known as Brailsford Green and is the oldest part of Brailsford" and that the site "consists of arable grassland in agricultural use bounded by hedgerows".

The proposed development site is on open land to the west of 'The Green and outside the Conservation Area, however the development sites' eastern boundary abuts the Conservation Area boundary. Access to the new development will be off the A52 and an indicative layout has been submitted.

Whilst the western boundary of the Conservation Area includes a series of historic crofts associated with the listed and historic farmhouses/buildings on the western side of 'The Green', the boundary does not indicate the extent of the contributory value and importance of the adjacent fields and open land. To serve these relatively large farmsteads their land holding would have extended westwards and include the proposed development site. Whilst outside the Conservation Area it is considered that these fields & open land are synonymous with, and contribute significantly to the setting and context of the Conservation Area and its identified attributes and importance to, the village as a whole. In this important regard and identification the current fields and open land to the west of the Conservation Area boundary are an important and intrinsic contributor to its setting and its historical context and development.

The HDAS makes reference to the recent, extensive, developments on the northern side of the A52 and that this development "has already changed the character of the area and the rural setting of Brailsford to some extent". Whilst that may be the case for the northern side of the A52 the southern side, and this western side, has remained rural and open and devoid of new development. The retention of this rural character and appearance of the existing and historical built development along 'The Green' and the open land/fields beyond are considered significant to the character, appearance and experience of the designated heritage assets.

The HDAS makes several references to the proposed inclusion of a buffer of green areas and low density development adjacent to the Conservation Area boundary. The reason cited for this is to ensure the proposed development will only 'cause minimal impact' on the designated heritage assets. It is considered that this proposal, in itself, is a fundamental flaw of the proposed development scheme as it has been considered that the new development needs to be buffered and screened etc. from the Conservation Area. This separation of built development will reinforce the divorced and separated nature of the proposed development on the rural edge of the village and in that regard such a development scheme would be an intrusive and detrimental inclusion/encroachment on this side of the village. The potential impacts of such a development scheme will be harmful to the setting of the Conservation Area.

The NPPF states that 'the setting of a designated heritage asset can contribute to its significance'. Historic England's national guidance on the 'setting of heritage assets' (2015) states that 'the setting of a heritage asset is the surroundings in which a heritage asset is experienced. Its extent is not fixed'. Furthermore it states that the importance of setting lies in 'what it contributes to the significance of the heritage asset'. It is considered that a fundamental attribute of the significance of the Conservation Area is to be found and experienced in the individual & collective impact of structures (listed and non-listed buildings) making up the built environment and its layout, as well as the historic and intrinsic connection to the rural and open landscape to the west.

The HDAS states that “in order to ensure that the proposed development does not harm the special character and significance of the conservation area, grade II listed adjacent properties, and non-designated heritage assets, by virtue of changes to their settings, the layout of the development responds to the location character and significance of these features and existing buildings, and the likely impact of the development upon them has been carefully considered”. It is considered that the indicative scale, extent and layout of the proposed development does not respond to the locations character or to the significance of the designated and non-designated heritage assets. Nor, in regard to the proximity, degree of visual & physical change and scale & extent of the development and its potential prominence, conspicuousness and competition to the existing character and appearance of ‘The Green’ and the existing open land to the west of the Conservation Area, does the proposed development present any attributes or enhancements to the setting of the Conservation Area.

The HDAS states that “it must be noted that, the new development of 75 homes directly opposite the site has already changed the character of the area and the rural setting of Brailsford to some extent”. It is considered that the recent amounts of new developments in Brailsford have been located to the northern side of the A52 and that the southern side, and particularly the area containing ‘The Green’ and its associated open landscape to the west and south, that this has remained undisturbed (since designation in 1996) and thus has retained its intrinsic and integral character and appearance in association with the setting and context of the Conservation Area.

It is concluded that the presence and magnitude of such development, in this sensitive location and context, will have an adverse effect on the setting of the Conservation Area and its impact(s) will result in irrevocable harm.”

5.14 DDDC Environmental Health

No response to date.

5.15 DDDC Policy

“Although not a policy consideration in relation to the determination of this application, a significant part of the proposed site was included in the Call for Sites undertaken in 2021 and assessed through the SHELAA process in 2022.

The site failed stage B the conclusions stated that the main constraints were the potential impact on landscape character and sensitivities regarding the proximity of the Conservation Area and nearby Listed Buildings. The Highways Authority also commented that there are no pedestrian footways on the site frontage or link to the centre of the village. In terms of infrastructure, issues were also raised regarding the capacity of Brailsford Primary School and Queen Elizabeth’s Grammar School and Severn Trent identified concerns with the sewerage infrastructure.

The conclusion stated: on balance it is considered given the potential impact of development on landscape character, notably the character of the village from approach to the west and in combination with new development to the north of the A52 alongside effects to the setting of the historic environment, notably Brailsford Conservation Area, that the site is undevelopable.

The outline application proposes a development of 100 housing units and commercial development or medical facility in Brailsford. It is proposed that the site is accessed from the A52. The site is currently agricultural land, adjacent to the Conservation Area and close to the defined settlement boundary.

As the site is not within the defined settlement boundary for Brailsford it is contrary to policy in the Local Plan however Policy S4 sets out the circumstances where limited development may be acceptable should a five year housing land supply not in in place, the current five year land supply is 3.96 years.

The key policy question is that given there is no five year land supply, is this a suitable location for housing development? Policy S2 recognises Brailsford as a third tier settlement and therefore limited development may be acceptable. In order to be an acceptable location for development the policies identified as relevant in the Local Plan will need to be met. In addition the constraints on development identified through the SHELAA would need to be fully addressed through the reserved matters. In particular the landscape impact and the potential impact on the Conservation Area and setting of a Listed building.

In addition, the pedestrian links to Brailsford centre and the impact on the sewerage infrastructure. In determining the planning application it will need to be considered if the tilted balance has been engaged and whether there are any circumstances that dictate whether the presumption in favour of development can be set aside e.g. impact upon local landscape or Conservation Area.”

5.16 DDDC Rural Housing Enabler

No response to date.

5.17 DDDC Trees and Landscape Officer

“The only existing trees on the site that are subject to statutory protection by being within a conservation area would be those on the eastern boundary of the site.

There are no trees currently subject to Tree Preservation Order (TPO) on the site or close enough to it to be adversely affected by the proposals.

There are numerous mature trees and hedgerows particularly around the boundary of the site and it is important that these be retained, appropriately protected during development works and successfully integrated into the development for the long-term in order to maintain their contribution to the character and appearance of the site and its contribution to the local landscape.

It is particularly important to retain and protect from damage larger trees because their diverse contribution to amenity cannot be replaced quickly. The old oak tree in roughly the centre of the site should, in my opinion, be regarded as a ‘veteran tree’ because of its range of ecologically valuable features. It is particularly important to protect this tree from damage during any development works and successfully integrate it into the development for the long term. This should include provision of more than the minimum distance between tree and development and limiting development in its vicinity to green open space.

Consideration should be given to how this tree could retain its important habitat features (including dead and damaged branches) while being situated within an intensified land use.

To facilitate an assessment of the potential impact of the proposals on existing trees and hedgerows requires further information to be submitted. I recommend that the applicant should submit for approval pre-determination an AIA prepared according to the guidelines of BS 5837 (2012). This should include:

- Tree Schedule to include all trees within 15m of the red line boundary of the site,
- Tree Constraints Plan based on the existing layout of the site,

- Tree Retention and Removals Plan based on the proposed layout of the site, and
- Tree Protection Plan based on the proposed layout plan with specification for temporary tree protection fencing and/or temporary ground protection.

If the AIA indicates that development or site activity would encroach into the canopy extent or root protection area of any retained trees then I recommend that a detailed site specific Arboricultural Method Statement be submitted for approval. This could be required as a condition to a grant of planning consent.”

5.18 DCC Archaeologist

“The proposed development area (PDA) lies immediately to the east of the Brailsford conservation area (DDR7012) in part of Brailsford, (Brailsford Green) described in the Heritage Statement as being “This original part of Brailsford is known as Brailsford Green and is the oldest part of Brailsford”. Brailsford village is a pre-Norman establishment, with some evidence of Anglo-Scandinavian occupation in the area, and is recorded in the Domesday survey. Please consult your own buildings and conservation archaeologist on this application.

In terms of below ground impacts; the potential for development to affect below ground archaeology has not been addressed in the submission. I therefore require further information regarding below ground archaeological impacts and potential significance, pre-determination, in accordance with Para 194 of NPPF.

I suggest that this can be provided by augmenting the Heritage Statement with elements of a Desk Based archaeological assessment accompanied by suitable expert advice regarding below ground archaeology. This should consider the historical origins and development of the village, from the point of view of the PDA, in relation to it. This should also draw on LiDAR data and an examination of the aerial photography as well as a geophysical survey (with evaluation trenching if necessary). The desk based assessment and geophysical survey should be undertaken pre-determination with any evaluation trenching work conditioned into any planning application if required.”

5.19 DCC Landscape Architect

No comment.

5.20 DCC Policy

DCC Policy conclude the following:

“On the basis of the detailed Officer comments below, Derbyshire County Council considers expresses concern that the application proposals may be disproportionately large at 100 dwellings for the scale, role and function of Brailsford as a Third Tier settlement. Three sites are already allocated in the DDDL to the north of the village for housing developments ranging between 32 and 47 dwellings, which may give an indication of the scale of development that the District Council considers appropriate for Brailsford.

However, a key consideration in the assessment of the application proposals is that the District Council cannot demonstrate a five year land supply, in which case there would be a presumption in favour of the application proposals in terms of policies in the NPPF and Policies S4: Development in the Countryside and HC1: Location of Housing Development of the adopted Local Plan. In addition, the application proposals would provide for significant benefits to the local community including 30% of the new housing being provided as affordable units, 40% of the site being set aside for public open space, the provision of 10% biodiversity net gain across the site and the provision of land that could accommodate a

new medical centre for the village to replace the existing medical centre which is in need of modernisation and expansion. Childrens play facilities could be included within the overall proposed scheme which would provide community benefit. A community fund could also be considered.

A further material planning consideration is Appeal Decision (appeal ref: APP/P1045/W/17/3167362) at Land off Main Road, Brailsford (application ref: 16/00567/OUT) relating to 'Outline application for residential development of up to 75 dwellings and associated access' which was allowed at appeal on the 8th September 2017 on land to the north of the current application site which is also located outside the defined Settlement Development Boundary.

Therefore in conclusion, in the context of paragraph 11 of the NPPF and the 'tilted balance' it would appear that on balance the application proposals would be acceptable in the context of national and local plan policies for sustainable development and recent appeal case.

In the context of the above, Derbyshire County Council considers that whilst this is a large scale housing scheme outside of the defined settlement limit, it is recognised that the District Council cannot demonstrate a five year housing land supply. The community benefits of the proposal are considerable i.e. the provision of approximately 33 new affordable dwellings out of the total of up to 100 dwellings, significant areas of public open space and the possibility of a new medical centre to serve the village together with the potential for a childrens play area and a community fund."

5.21 DCC Rights of Way

"DDDLP Policy PD4: Green Infrastructure sets out the District Councils ambition to secure the long term management of green infrastructure networks. Whilst not specifically mentioning Public Rights of Way the third bullet point of the policy details bridleways and cycle ways. The sixth bullet point seeks the protection and extension of long distance trails. Brailsford Public Footpath No. 40 which runs through the application site is part of the Centenary Way.

BNP Policy GSL1: Green and Open Spaces seeks new rights of way or accessible links to the wider footpath network.

Brailsford Public Footpath No. 40 runs through the proposed development site. However, the line of the path, used to plan the layout of the proposed development, differs from the definitive line of the footpath, as shown on the attached plan. I would grateful if you could make the applicant aware of the legal line. It is not uncommon for the line of a path, particularly through an open field, to move over time. Although, even when the walked line becomes slightly different, the legal line remains the official line of the path until it is changed by a legal event, such as a diversion order.

Therefore, the Rights of Way Section must object to the proposals as they stand, as the development would obstruct the legal line of the path. For work to proceed as proposed, a footpath diversion will be necessary, to divert the path onto the walked line. The applicant should apply to your council for the requisite diversion.

The applicant should be advised that an application can be submitted for the diversion of the public footpath in advance of planning permission being granted. The intention to put the footpath at the centre of the scheme is welcomed, as are the intentions to add to the public rights of way network with further footpaths, improve the connecting paths off site, and to limit the impact of the development on footpath 40 by providing a green linear park through which the path would run.

Any planning permission should include these intentions as conditions, in order to formalise them. The applicant should liaise with the Rights of Way Section at each stage of the planning process, to ensure that the details of any intentions relating to public rights of way are acceptable prior to any works taking place.

I should be grateful if you would advise the applicant as follows: -

- Both the legal line of footpath 40, and the walked line, must remain open and unobstructed.
- There should be no disturbance to the path surface without prior authorisation from the Rights of Way Section.
- Consideration should be given to the safety of members of the public using the path during the works. A temporary closure of paths will be permitted on application to DCC where the path(s) remain unaffected on completion of the development.
- There should be no encroachment of the path, and no fencing should be installed without consulting the Rights of Way Section.”

5.22 DCC Sustainable Travel Team

“A local bus service known as ‘swift’ operates along Main Road, the A52, which runs along the main part of the north eastern side of this development site. The ‘swift’ bus service links Derby with Ashbourne and, although not on Sunday, to Uttoxeter with a timetable providing buses generally hourly 06:30 to 00:50 (Mon-Sat) / 09:25 to 18:45 (Sun).

Bus stops are provided on Main Road close to the north west corner of the site and are situated approximately 100m from the proposed development access road (slightly less for the Derby bound stop).

Both bus stops feature basic facilities but do not meet current accessibility standards.

The bus stops would benefit from upgrades in terms of accessibility and infrastructure such as shelter and real-time information provision. There is an uncontrolled tactile crossing point at the Ashbourne direction stop but this is immediately forward of the site which is now considered to be bad practice. The other issue is that there is no footway link on the south west side of Main Road and bus passengers from the development would be expected to cross the A52 twice in order to use this stop. Consideration should be made for a section of new footway to link from the development to this bus stop; a relocated uncontrolled tactile crossing point could be incorporated into this.

I would prefer bus stop infrastructure to be delivered within a required S278 agreement rather than S106 funding.”

5.23 Peak & Northern Footpaths Society

“I have no objection. I trust that the improvements to the local public rights of way network as described in the application documents will be secured in any planning permission. In particular the surfaces of Brailsford FPs 26 and 40, both on and off-site, should be improved as authorised by the county council. In addition the new links to these paths should be legally dedicated as public footpaths, or formally adopted. This will achieve the aims mentioned in the documents of enhancing existing walks around the village, improving the accessibility of the Centenary Way, and enhancing links to the open countryside.”

5.24 Derbyshire Dales Ramblers

“Ramblers Derbyshire Dales Group has no objection providing that:

- i. Brailsford FP 40 remains unaffected at all times, including the path surface, both during and after any development
- ii. Consideration should be given to the safety of members of the public using the Right of Way during the proposed works
- iii. Any encroachment of the paths would need consultation and permission with/from the DCC Rights of Way Team
- iv. Any additionally created paths would benefit from being added to the Definitive Map to both secure their legal safeguarding and to show the new routes on the OS”

6.0 REPRESENTATIONS RECEIVED

6.1 48 letters of representation have been received to date all in objection to the application. The material planning reasons are summarised below:

- a) The land is not designated for housing development in the local plan or neighbourhood plan.
- b) The application is contrary to policies in the local plan and neighbourhood plan.
- c) There is no need for further housing development within the village.
- d) Recognise the need for affordable housing but this should be provided within the areas designated in the neighbourhood plan.
- e) The scale of development proposed is excessive. The village has already expanded by 50% since 2017.
- f) Existing village facilities would not be able to cope with the increased traffic and demand created by the proposed development.
- g) There is no infrastructure within the village for childcare for children under the age of 2.
- h) There is no need for the proposed medical centre.
- i) Surface water from the proposed development will increase the risk of flooding for neighbouring properties.
- j) Sewerage infrastructure is insufficient to serve the development and any further proposals will put it at major risk.
- k) The development will harm the amenity of users of the footpath crossing the site.
- l) The proposed road crossing the footpath would create a hazard.
- m) The development will harm the privacy of neighbouring properties.
- n) The development will result in significant air pollution which is already in excess of World Health Organisation (WHO) limits along the A52 through the village.
- o) The development would result in light pollution harming the character of the area.
- p) The development will result in an adverse impact upon wildlife on the site.
- q) Insufficient information has been submitted in regard to potential impacts upon wildlife.
- r) The development will result in harm to trees on site.
- s) The development will result in loss of Grade 2 agricultural land.
- t) The development significantly encroaches upon the green fields surrounding the village.
- u) The development will significantly impact upon the openness of the countryside.
- v) The development will increase the likelihood of livestock being disturbed by residents and pets.
- w) The development will harm the landscape and the character and appearance of the area.
- x) The development will result in harm to the setting of the Grade 1 listed church, several Grade 2 listed buildings on Church Lane and the Conservation Area.
- y) The parking provision for the proposed medical facility or commercial unit is inadequate.
- z) The access to the proposed development would be unsafe.
- aa) The development will generate more traffic.
- bb) The development will harm pedestrian safety particularly for children who have to walk along the main road for school.

- cc) There is no footpath on the proposed development side of the main road.
- dd) Insufficient information has been submitted in regard to the proposed access.
- ee) Part of the site was used by allotments which have been removed in preparation for this application.

6.2 1 letter of representation has been received making the following general comment:

- a) S.106 impact on health to be considered. Initial modelling suggests that the impact of this development is up to £85,000.

6.3 29 non-attributable letters of representation have been received to date all in objection to the application. The material planning reasons are summarised below:

- The site is outside of Brailsford and not designated for housing development.
- The development would generate a significant amount of traffic.
- The development would harm highway safety.
- Occupants of the proposed development would be dependent upon the private car.
- Insufficient off-street parking is proposed to serve the development.
- There is no footpath connection between the application site and the village.
- There is insufficient capacity within the school to serve the development.
- There is insufficient capacity within the medical practice to serve the development.
- The development would have a harmful visual and landscape impact.
- The development would result in harmful light pollution.
- The development would have a harmful impact upon drainage / flooding.
- There is insufficient capacity within the sewage network to serve the development.
- Contributions secured by planning obligation would not necessarily be given to Brailsford.
- The development would have a harmful impact upon biodiversity.
- There is no need for the proposed development.
- The development would harm the setting of the Anglo-Scandinavian high cross Scheduled Monument at All Saints' Church.
- The development would harm the setting of nearby listed buildings.
- The development would harm the setting of Brailsford Conservation Area.
- The development would harm the character and appearance of the area.
- The development would result in the loss of productive arable land.
- The development would result in the loss of allotments.

7.0 OFFICER APPRAISAL

7.1 This application seeks outline permission for up to 100 dwellings on the site, and a commercial development, with all matters other than access reserved.

7.2 Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that applications for planning permission under the Act 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) and the Adopted Brailsford Parish Neighbourhood Plan (2021).

7.3 Having regard to the consultation responses and representations received and the relevant provisions of the development plan and the National Planning Policy Framework (NPPF), the main issues to assess are listed below. These are matters related to the principle of the development and therefore must be considered at the outline stage.

- Whether residential development on this site is acceptable in principle
- Impact on cultural heritage

- Landscape impact and impact upon the character and appearance of the area
- Transport and Impact on highway safety
- Impact upon the amenity of neighbouring properties
- Sustainable building and climate change
- Flood risk and drainage
- Impact on trees and biodiversity
- Affordable housing, housing mix and developer contributions

Principle

- 7.4 The application site is not allocated for housing in the development plan and is located outside but partially on the edge of Brailsford. Policy S2 directs development to the most sustainable locations to reduce the need to travel and promote sustainable communities based on the services and facilities available in each settlement. Brailsford is a third tier settlement where policy provides for reduced levels of development in comparison to higher order settlements in order to safeguard and, where possible, improve their role consistent with maintaining or enhancing key environmental attributes. New development should be focused within the defined settlement boundary in accordance with their scale, role and function unless otherwise indicated in the Local Plan.
- 7.5 Policy H1 supports small-scale infill development housing development within the settlement boundary which relates well to neighbouring properties and is appropriate for the rural setting.
- 7.6 Outside of defined settlement boundaries policy S4 seeks to ensure that new development protects and, where possible, enhances the character and distinctiveness of the landscape, the historic and cultural environment and the setting of the Peak District National Park whilst also facilitating sustainable rural community needs, tourism and economic development.
- 7.7 The Council is unable to demonstrate a 5 year housing land supply at this time. Paragraph 11 d) of the National Planning Policy Framework is therefore engaged. The development plan does, however, contain provisions in circumstances where the Council is unable to demonstrate a 5 year supply of housing which align with the framework in terms of achieving sustainable development. Policy S4 i) allows for residential development on non-allocated sites on the edge of defined settlement boundaries of first, second and third tier settlements.
- 7.8 The application site is located on the western edge of residential development south of Main Road. The access to the site would be approximately 450m from the village store / post office and 60m to the nearest bus stop on Main Road.
- 7.9 Therefore, in the current circumstances the principle of residential development on this site is in accordance with policies S2 and S4 i) of the Adopted Derbyshire Dales Local Plan (2017). However, for Brailsford policy S2 provides for reduced levels of development to safeguard, and where possible, improve their role consistent with maintaining or enhancing key environmental attributes. The scale of the proposed development is substantial relative to the size of Brailsford and the range of services and facilities available.
- 7.10 The application also proposes a commercial development as part of the development. The indicative plans show a 0.35 Ha area of land to the north east of the site reserved for this purpose. The application does not propose any specific use class or scale of development but the application form indicates that this element of the development would have a floor area of 1000m².
- 7.11 The planning application proposes that this land would be made available for uses including a convenience food store, office space or other commercial purposes which can be undertaken in a residential area. The proposal therefore appears to be broad in scope,

proposing a range of potential uses falling within and outside Use Class E (Commercial, Business and Service) but excluding Use Classes B2 (General Industrial) and B8 (Storage or distribution).

- 7.12 Policy S2 allows for new development within the settlement boundary of a reduced scale relative to existing services and facilities available within the village. The application site is however outside the settlement boundary for Brailsford. There is no provision within the development plan for commercial development on the site other than rural employment development in accordance with policies S4 c) and EC1. There is no provision for retail development of the scale proposed. Furthermore, the application form indicates a proposed floor space of up to 1000m². This scale of development would be very significant relative to the current size of Brailsford, existing facilities, services and infrastructure.
- 7.13 As stated in the representations received, part of the site was used as allotments which have been removed ahead of submission of this application. Google Earth imagery shows the allotments to be in use as recently as 2021. Whilst allotments constitute agricultural use of the land and the reinstatement of a single field did not require planning permission, Policy HC15 seeks to protect community facilities such as allotments and only supports their loss where it can be demonstrated that the existing use is no longer needed to serve the needs of the community, is no longer commercially viable or the use of the facility has been offered to the community for their acquisition. No information to demonstrate that the allotments are no longer needed to serve the community has been submitted with the application. This is unfortunate given that the evidence that underpins the Developer Contributions SPD indicates that the provision of allotments within the Derbyshire Dales Plan area is below the nationally recommended amount and existing sites are at capacity.

Impact on cultural heritage

- 7.14 The site is located to the south of the A52 at the western end of the settlement. Brailsford evolved as a linear village on the main Ashbourne to Derby road. That linear nature along the A52 has, notwithstanding 20th century infill development, been retained. As a consequence of the location of a medieval manor house or property, 'The Green' is a southern spur off the main street which gave access to the former manor house/hall and in the 17th -19th century 'The Green' was the site of the development of a series of farmhouses and farm buildings (and associated land), together with the former rectory. This part of the settlement forms the core of the Brailsford Conservation Area.
- 7.15 The west side of 'The Green' has some of the oldest buildings in the village (mainly farmsteads), three of which are grade II listed. It is an area of possible former toft and croft farming practices, a medieval form of enclosure. Therefore, the fields and hedgerows on 'The Green' are believed to be of considerable historic interest and important to its setting. The Old Rectory dates back to the early 16th century and is a building of importance to the character of 'The Green'.
- 7.16 The proposed development site is on open land to the west of 'The Green' and outside the Conservation Area, however the eastern boundary abuts the Conservation Area boundary. Whilst the western boundary of the Conservation Area includes a series of historic crofts associated with the listed and historic farmhouses / buildings on the western side of 'The Green', the boundary does not indicate the extent of the contributory value and importance of the adjacent fields and open land. To serve these relatively large farmsteads their land holding would have extended westwards and include the proposed development site.
- 7.17 Therefore, whilst outside the Conservation Area these fields & open land are synonymous with, and contribute significantly to the setting and context of the Conservation Area and its identified attributes and importance to, the village as a whole. In this important regard and identification the current fields and open land to the west of the Conservation Area boundary

are an important and intrinsic contributor to its setting and its historical context and development.

- 7.18 Policies PD2 is relevant and states that the Council will conserve heritage assets in a manner appropriate to their significance. This will take into account the desirability of sustaining and enhancing their significance and will ensure that development proposals contribute positively to the character of the built and historic environment. Particular protection will be given to heritage assets including (amongst other things) conservation areas, listed buildings, archaeological sites or heritage features and non-designated heritage assets. Policy H1 requires development to demonstrate an understanding of attention to the village environment, its rural location and history and provides specific design requirements.
- 7.19 The Brailsford Conservation Area and listed buildings are designated heritage assets. The Local Planning Authority is obliged to have special regard to the desirability of preserving listed buildings their setting or any features of special architectural or historic interest which they possesses. The Local Planning Authority is also obliged to pay special attention to the desirability of preserving or enhancing the character or appearance of the conservation area.
- 7.20 A Heritage, Design & Access Statement (HDAS) has been submitted with the application. The HDAS acknowledges and recognises that “this original part of Brailsford is known as Brailsford Green and is the oldest part of Brailsford” and that the site “consists of arable grassland in agricultural use bounded by hedgerows”. The application is in outline only with all matters reserved except for access. However, the submitted indicative layout shows a buffer of green areas and low density development adjacent to the Conservation Area boundary. The HDAS makes several references to these design measures to ensure that the development will only “cause minimal impact”. The HDAS also makes reference to the recent developments on the north side of the A52 and that states that this development “has already changed the character of the area and the rural setting of Brailsford to some extent”.
- 7.21 The NPPF states that ‘the setting of a designated heritage asset can contribute to its significance. Historic England’s national guidance on the ‘setting of heritage assets’ (2015) states that “the setting of a heritage asset is the surroundings in which a heritage asset is experienced. Its extent is not fixed”. Furthermore, it states that the importance of setting lies in “what it contributes to the significance of the heritage asset”.
- 7.22 A fundamental attribute of the significance of the Conservation Area and the listed buildings to the west of ‘The Green’ is to be found and experienced in the individual and collective impact of structures (listed and non-listed buildings) making up the built environment and its layout, as well as the historic and intrinsic connection to the rural and open landscape to the west (the application site).
- 7.23 The HDAS states that “in order to ensure that the proposed development does not harm the special character and significance of the conservation area, grade II listed adjacent properties, and non-designated heritage assets, by virtue of changes to their settings, the layout of the development responds to the location character and significance of these features and existing buildings, and the likely impact of the development upon them has been carefully considered”. The HDAS concludes that “a high-quality development can be delivered on the site which does not harm the character and significance of the Conservation Area or nearby listed buildings, including All Saints Church”.
- 7.24 Officers disagree with the conclusions of the HDAS. Having regard to the significance of affected heritage assets and the application site it is considered that the indicative scale, extent and layout of the proposed development does not respond positively to the character or the significance of affected designated and non-designated heritage assets. The development does not (in regard to the proximity; degree of visual and physical change;

scale and extent of the development; prominence; conspicuousness; competition to the existing character and appearance of 'The Green' and the existing open land to the west of the Conservation Area) present any attributes or enhancements to the setting of the Conservation Area.

- 7.25 The approach to the indicative layout is that the development needs to be buffered and screened from the Conservation Area. This separation of built development will reinforce the divorced and separated nature of the proposed development on the rural edge of the village and such a development scheme would be an intrusive and detrimental encroachment on this side of the village.
- 7.26 The HDAS states that "it must be noted that, the new development of 75 homes directly opposite the site has already changed the character of the area and the rural setting of Brailsford to some extent". However, recent development in Brailsford has been located to the northern side of the A52 whereas the southern side, and particularly the area containing 'The Green' and its associated open landscape to the west and south has remained undisturbed and has retained its intrinsic and integral character and appearance in association with the setting and context of the Conservation Area.
- 7.27 It is therefore concluded that the development will affect the setting of Brailsford Conservation Area and the setting of affected listed buildings wherein including Green Farm (Grade II), Barns South of Green Farm (Grade II), Old Hall Farmhouse (Grade II), The Old Rectory (Grade II) and All Saints Church (Grade I). The development will not preserve or conserve the setting of the Conservation Area or affected listed buildings. The development will result in a very significant and irrevocable impact which would result in harm to the setting of affected heritage assets contrary to policies PD2 and H1.
- 7.28 The harm identified, while very significant, would not result in substantial harm or total loss of the Conservation Area or affected listed buildings. Therefore in accordance with paragraph 202 of the NPPF the harm should be weighed against the public benefits of the proposal bearing that the NPPF states that great weight should be given to the conservation of designated heritage assets and the statutory duty to have special regard to the desirability of preserving the Conservation Area and listed buildings.
- 7.29 The County Archaeologist advises that due to the location of the PDA (proposed development area) relative to the Conservation Area that there is potential for the development to affect below ground archaeology. Therefore, an archaeological assessment is required pre-determination considering the historical origins and development of the village, drawing on LiDAR data, examination of aerial photography and geophysical survey (with evaluation trenching if necessary).
- 7.30 An archaeological assessment has not been submitted with the application. Therefore, as submitted insufficient information has been provided to allow archaeological impacts and potential significance to be understood contrary to policy PD2 and paragraph 194 of the NPPF. The agent has been made aware of the comments from the County Archaeologist, however, as there are fundamental concerns about the proposed development an archaeological assessment has not been requested prior to determination.

Landscape impact and impact upon the character and appearance of the area

- 7.31 Policy S1 of the Adopted Derbyshire Dales Local Plan (2017) states that development should conserve and where possible enhance the natural and historic environment, including settlements within the plan area. Policy PD1 requires all development to be of high quality design that respects the character, identity and context of the Derbyshire Dale's townscapes and landscapes.

- 7.32 Policy S4 s) states that permission will be granted for development where it does not undermine, either individually or cumulatively with existing or proposed development, the physical separation and open undeveloped character between nearby settlements either through contiguous extension to existing settlements or through development on isolated sites and land divorced from the settlement edge.
- 7.33 Policy PD5 deals specifically with landscape character and states that the Council will seek to protect, enhance and restore the landscape character of the area. This will be achieved by requiring that development has particular regard to maintaining landscape features, landscape character and the setting of the Peak District National Park. Development that would harm or be detrimental to the character of the local and wider landscape or the setting of a settlement will be resisted.
- 7.34 Policy PD1 goes on to say that development will only be permitted where the location, materials, scale and use are sympathetic and complement the landscape character, natural features (including trees, hedgerows and water features that contribute positively to landscape character) are retained and managed and opportunities for appropriate landscaping are sought such that landscape characteristics are strengthened.
- 7.35 Policy LW1 of Brailsford Neighbourhood Plan states that proposals shall demonstrate appropriate regard for the landscape sensitivities and designations that are significant features of and constrain development within the parish including the landscape within which the Conservation Area is set. Inter-visibility between the proposed site and the open countryside will need to be assessed and addressed.
- 7.36 The application site comprises a large arable field and forms part of a wider landscape of mainly arable fields bound by hedgerows. The land falls gently to the south west and there are distant views to the wider countryside between the field boundaries of tall hedges and occasional trees. The site lies within the Needwood and South Derbyshire Claylands Landscape Character Area (LCA) and within the Settled Plateau Farmlands Landscape Character Type (LCT). The site is not subject to any landscape designations; however, Brailsford Conservation Area is located close to the east and several public rights of way (PROW) cross and are within close proximity of the site.
- 7.37 This is predominately pastoral landscape of rolling countryside that is still largely rural and relatively tranquil, featuring distinctive field boundary patterns and characteristic hedgerows with hedgerow trees. Grassland for livestock is the dominant land use although dairy and cereal farming are also important. This LCT is characterised by gently rolling upland plateau, slowly permeable, seasonally waterlogged soils over glacial till, pastoral farming with some cropping, marl pits forming small ponds, densely scattered boundary trees and occasional small woodland blocks, small to medium fields surrounded by hedgerows, parkland estates, areas of former common land with clusters of red brick and Staffordshire blue clay tile roofed cottages, scattered farmsteads and estate farms and extensive view over lower ground.
- 7.38 The application is supported by a Landscape and Visual Appraisal (LVA). The LVA identifies the relevant LCA and LCT, examines the value of the landscape and the impact of the proposed development.
- 7.39 The LVA provides an assessment of the sensitivity of this landscape and concludes that the site and immediate landscape is of medium landscape value. The LVA states that during operation (following completion) that the development would have an initial minor adverse effect on landscape character reducing to minor / negligible adverse effect by year 15. Impact upon the site and immediate context is considered to be moderate adverse reducing to moderate / minor adverse by year 15.

- 7.40 Impacts upon local visual receptors are also considered by the LVA. Impacts upon residential properties and settlement are considered to be major / moderate adverse falling to moderate / minor adverse by year 15. Impact upon the footpath running through the site is considered to be major / moderate adverse reducing to moderate adverse by year 15. Impact upon views from footpaths looking towards the development from the north and east are considered to be minor / negligible adverse reducing to negligible adverse by year 15. Views from Church land and the lane leading to All Saints Church are considered to be moderate / minor adverse reducing to minor adverse by year 15.
- 7.41 The LVA concludes that subject to adoption of appropriate design and mitigation measures as identified on the submitted indicative plans that impacts on landscape and visual receptors are minimised in the longer term and that the development would not result in any unacceptable long-term landscape and visual effects.
- 7.42 Officers have sought independent landscape advice from Derbyshire Landscape and Placemaking on the landscape impact of the application and the submitted LVA.
- 7.43 Derbyshire Landscape and Placemaking have provided comments and broadly agree with the submitted LVA in terms of the identification of relevant LCA and LCT. The comments also broadly agree with the description of local views of the site but recommend that further investigation of potential views from Ednaston and Pools Head are investigated. The LVA is considered to over emphasise the potential of existing vegetation in terms of screening with views being assessed with vegetation in full leaf. There is also an overemphasis on the transient nature of some views and the exclusion of assessment of receptors of high sensitivity in some cases. The LVA is therefore considered to underrepresent visual impacts in some cases particularly to the south western part of the development.
- 7.44 The application site is an open field south west of Brailsford with close visual and functional links with the oldest part of the village. The site also has high amenity value for residents with footpath links to All Saints Church and Ednaston providing open views to the south west. A development of this scale would inevitably result in a significant visual impact from close vantage points, irrespective of layout, scale and external appearance. The development of the site would have a clear urbanising impact through the erection of dwellings, commercial development, roads and boundary treatments along with associated noise, lighting and activity.
- 7.45 The development would result in a major adverse visual change from these close vantage points which could not be completely mitigated through the retention of green spaces and landscaping as shown on the indicative drawings. The site and land on southern side of the A52 in this location has retained its rural character which contributes towards the setting of the various heritage assets engaged, with new development focused to the north of the A52 and off Luke Lane. As identified above the development would result in very significant harm to the setting of the Conservation Area and identified listed buildings. It therefore follows that the development would result in harm to the character and appearance of the village, its setting and settlement pattern.
- 7.46 Impacts of the development upon landscape character and in the wider immediate landscape are more limited. The development would not result in significant harm to landscape character nor the wider landscape of the area subject to appropriate design and landscaping.
- 7.47 The development would therefore not preserve or enhance the character, appearance and local distinctiveness of the landscape contrary to policies S1, S4, PD5 and LW1. This impact must be taken into account and weighed in the planning balance.

Transport and Impact on Highway Safety

- 7.48 Policies S1, S4 r) and HC19 of the Adopted Derbyshire Dales Local Plan (2017) require development proposals to demonstrate that they can be safely accessed in a sustainable manner. Proposals should minimise the need to travel, particularly by unsustainable modes of transport and help deliver the priorities of the Derbyshire Local Transport Plan. Policy TMA1 encourages development proposals to provide for safe access to surrounding community facilities, an additional pelican crossing at the statutory distance from Luke Lane junction and a new pedestrian crossing on Luke Lane to provide safer access to the school and additional funding for public transport services within the parish.
- 7.49 The application is supported by a Transport Statement (TS) and Residential Travel Plan (TP). The TS concludes that there are good opportunities for pedestrian travel from the site, with amenities in Brailsford located within walking distance. Pedestrians are served by an existing footway on the northern side of the A52. The proposed site access would provide an uncontrolled pedestrian crossing point with a refuge island to facilitate connectivity with the existing footway and a footway to the west to connect with the existing bus stop. The nearest bus stops to the site are located opposite and adjacent to the site frontage and are served by regular services to and from Derby and Ashbourne throughout the day. Derby railway station is accessible via bus.
- 7.50 The TS states that the development could generate 68 vehicle movements during a typical weekday peak hour. This level of additional traffic is considered to be negligible and would not result in a severe impact upon the road network.
- 7.51 Access is not reserved and therefore must be assessed as part of this application. The application proposes a 5.5m wide site access carriageway with 6m kerb radii. A ghost island layout is proposed (for vehicles to turn right into the site). A 2m wide footway would be provided to the western side of the site access carriageway extending to tie into the existing footway at the bus stop to the west. A 2m wide footway would also be provided to the east to an uncontrolled pedestrian crossing point with a 2m wide refuge island located within the ghost island taper. To the west of the ghost island the TS proposes to change the existing national speed limit to 30mph to the west. The relation would be supported by an enhanced village gateway, signage and street lighting. The application proposes 2.4m by 120m visibility splays which can be delivered within adopted highway and / or land within the control of the applicant.
- 7.52 The Highway Authority have been consulted and have provided detailed comments on the submitted application, TS and TP. The Highway Authority advise that the submitted information is insufficient. The Highway Authority state that due to the scale of the development the submitted TS is not suitable and a Transport Assessment (TA) which has a wider reaching appraisal should be submitted. The Highway Authority also raise a number of technical matters outstanding in regard to the proposed access, data underpinning the application and travel plan.
- 7.53 Having visited the site and had regard to the submitted TS, representations and consultation response from the Highway Officer, the application has not provided sufficient evidence to demonstrate that the proposed access would be safe or that the development would not harm highway safety contrary to policies S4 r) and HC19. The agent has been made aware of these issues and is in discussions with the Highway Authority. A further update will be provided at the meeting if further information is submitted.
- 7.54 The site is located approximately 500m from local services within the village and in close proximity to existing bus stops to Ashbourne and Derby. However, access to local services them is via existing narrow footways with multiple crossing points required which are disincentives to walking, particularly for those undertaking escorted education trips. The

Highway Authority recommend that a Walking, Cycling and Horse Riding Assessment (WCHRA) is submitted to review routes and propose interventions where there are limitations to the existing network, including measures to prioritise bicycle access. The County Sustainable Travel Team recommend that the existing bus stops are upgraded in terms of accessibility and infrastructure and connected to the development with appropriate footways and crossing points.

- 7.55 The site is located within walking distance of facilities within the village. However, there are concerns about accessibility and connectivity. Further information is required to inform routes from the site to local services and what measures are required to upgrade routes particularly for walkers and cyclists. This information is required prior to determination to establish routes available and the scope for upgrade works which may need to be secured by planning condition or planning obligation. A revised travel plan is also required taking into account the comments of the Highway Authority.
- 7.56 Therefore, as submitted, insufficient evidence has been submitted to demonstrate that the development can be safely accessed in a sustainable manner contrary to policies S1, S4, HC19 and TMA1.

Impact on amenity of neighbouring properties

- 7.57 The nearest neighbouring residential properties include the recently constructed residential estate to the north, Field Head House and Barn to the north east, and the residential properties along The Green to the east of the site.
- 7.58 The development would result in the erection of up to 100 dwellings and a commercial development on site along with associated gardens, open space, roads, parking, noise, lighting and activity. The development therefore would result in a change to the outlook of neighbouring properties, particularly Field Head House and Barn and the residential properties along The Green to the east of the site. Nevertheless, the submitted indicative drawing shows that it would be possible to achieve a satisfactory relationship and separation distance from all neighbouring properties.
- 7.59 Therefore while the development would affect outlook the development would not materially harm the amenity, privacy or security of any neighbouring property due to overbearing, overlooking or loss of light. The concerns raised in regard to impact on outlook and views are understood, however, it is normal for residential properties to be sited close to each other provided that satisfactory privacy and amenity can be achieved. Impact upon private views are not a material planning consideration.
- 7.60 There is some concern about the potential impact from the proposed commercial development particularly in terms of noise and disturbance. This is because the term 'commercial' set out in the development description is broad and could, for example, include uses falling within class B2 (general industrial), class B8 (storage or distribution, including open air storage) or any number of sui generis that are commercial in nature. Such uses are unlikely to be appropriate within a residential area, particularly one in a rural area. Therefore, if permission were granted it would be necessary to consider whether it was necessary to restrict the use of the commercial element to uses compatible with residential areas, for example, falling within class E.
- 7.61 The development would result in some impact in terms of noise and disturbance during construction. However, this is the case with any development and could be satisfactorily controlled subject to planning conditions to control hours of construction works, construction compound and parking and wheel cleaning facilities.

7.62 Therefore, subject to conditions the development could be accommodated on site without significant harm to the amenity of neighbouring properties or occupants of the development in accordance with policies S1 and PD1.

Sustainable building and climate change

7.63 The application is outline with all matters reserved other than access. Nevertheless, the impact of the development upon climate change fundamentally relates to the principle of the development and therefore should be assessed at this stage.

7.64 Policies S1 and PD7 of the Adopted Derbyshire Dales Local Plan (2017) state that the Council will promote a development strategy that seeks to mitigate the impacts of climate change and respects our environmental limits by: requiring new development to be designed to contribute to achieving national targets to reduce greenhouse emissions by using land-form, layout, building orientation, planting, massing and landscaping to reduce energy consumption; supporting generation of energy from renewable or low-carbon sources; promoting sustainable design and construction techniques, securing energy efficiency through building design; supporting a sustainable pattern of development; water efficiency and sustainable waste management.

7.65 The submitted Planning Statement (PS) addresses mitigating global warming and adapting to climate change. The planning statement does not propose any specific mitigation measures but states that “it is envisaged that the development will incorporate a sustainable approach to energy conservation both through the design and construction process.” The statement says that building envelopes will be designed and constructed to exceed the current building regulations guidance using efficient lighting systems and sustainable sourced materials, wherever practicable. The roofs could be fitted with photovoltaic (PV) panels and the primary heating source could be in the form of ground or air source heat pumps.

7.66 Notwithstanding the concerns raised in regard to scale of development, landscape and visual impact the site is sustainably located in terms of distance from the village and availability of public transport. The application also demonstrates that, subject to a planning condition, the development could be delivered in a manner that would reduce carbon emissions and energy consumption thereby mitigating the impacts of climate change in accordance with policies S1 and PD7.

Flood risk and drainage

7.67 The whole site is located within Flood Zone 1 which is described as land having a less than 1 in 1,000 annual probability of river or sea flooding. The site is therefore at low risk from flooding. The application is for major development and therefore a Flood Risk Assessment (FRA) has been submitted with the application.

7.68 Policies S1 and PD8 are relevant and state that the Council will support development proposals that avoid areas of current or future flood risk and which do not increase the risk of flooding elsewhere. Development will be supported where it is demonstrated that there is no deterioration in ecological status either through pollution of surface or groundwater or indirectly through pollution of surface or groundwater or indirectly through overloading of the sewerage system and wastewater treatment works. New development shall incorporate Sustainable Drainage Measures (SuDS) in accordance with national standards.

7.69 The FRA includes a drainage strategy. This strategy concludes that surface water would be dealt with by discharge into an existing drainage ditch out-falling into Brailsford Brook. Attenuation would be provided via two wet ponds designed to attenuate surface water runoff for all storm events up to and including the 1 in 100 year plus 40% climate change storm

event, plus a 10% consideration for urban creep. The indicative plan shows the proposed ponds along with swales through the site. This is an appropriate means of dealing with surface water from the new impermeable areas created by the development and would potentially contribute positively to biodiversity. The indicative plan shows a swale along the northern boundary of the site.

- 7.70 Foul water would be conveyed via a gravity sewer network which will discharge into a pumping station on the site. The pumping station will then convey flows via a rising main through the site to form a new connection into the public combined sewer network within Painters Lane. Discharge to the main sewer is acceptable in principle and in accordance with Planning Practice Guidance. This would mitigate risk of pollution of the water environment in accordance with policy PD9.
- 7.71 The Environment Agency (EA) and Lead Local Flood Authority (LLFA) have been consulted. The EA raise no objection to the development. The LLFA also raise no objection, subject to the imposition of planning conditions. Seven Trent Water have been consulted on the application but have not provided any comment to date.
- 7.72 The submitted FRA demonstrates that the development would be located within Flood Zone 1 an area of lowest flood risk. The development would be appropriately flood resistant and resilient. Any residual flood risk could be safely managed and safe access and escape routes would be available at all times. Foul water would be to the main sewer. The drainage strategy demonstrates that surface water would be dealt with appropriately by a SuDS scheme. Surface water would be dealt with in accordance with national planning guidance to a surface water body.
- 7.73 Therefore, subject to conditions the application does demonstrate that the development can be accommodated on site in accordance with policies S1 and PD8.

Impact on trees and biodiversity

- 7.74 There are a number of trees and hedges on and adjacent to the site that could be affected by the development. Policies S1 and PD3 state that the Council will seek to protect, manage and where possible enhance the biodiversity and geological resources of the area by ensuring that development will not result in harm to biodiversity or geodiversity interests and by taking account of a hierarchy of protected sites. This will be achieved by conserving designated sites and protected species and encouraging development to include measures to contribute positively to overall biodiversity and ensure that there is a net overall gain to biodiversity. Policy LW1 requires development proposals to integrate into the landscape by prioritising retention of existing features, particularly tree belts, copses and hedgerows and where required replacement planting.
- 7.75 The application is supported by an Ecological Impact Assessment (EclA) and Biodiversity Metric. No tree survey or impact assessment has been submitted with the application.
- 7.76 The only trees on or adjacent to the site that are subject to statutory protection by being within a Conservation Area are those on the eastern boundary of the site. There are no trees subject to Tree Preservation Order (TPO) on the site or close enough to be adversely affected by the proposals.
- 7.77 The Council's Tree and Landscape Officer advises that there are a number of mature trees and hedgerows particularly around the boundary of the site and it is important these are retained, protected and incorporated into the development. It is particularly important to retain and protect from damage larger trees because their diverse contribution to amenity cannot be replaced quickly. The old oak tree in the centre of the site should be regarded as a 'veteran tree' because of its range of ecologically valuable features. It is particularly

important to protect this tree from damage during any development works and successfully integrate it into the development for the long term. This should include provision of more than the minimum distance between tree and development and limiting development in its vicinity to green open space.

- 7.78 The Tree and Landscape Officer advises that an Arboricultural Impact Assessment (AIA) be prepared and submitted prior to determination to inform the development. However, the application is outline with layout a reserved matter. The submitted application does demonstrate that it is possible to achieve a layout which would avoid any significant impact upon trees on or adjacent to the site. However, it is important that if permission is granted that planning conditions be imposed to require this to inform / support any application for reserved matters.
- 7.79 The application site is not close to any statutory conservation sites. All sites are well removed and isolated from the development and therefore there would be no significant adverse impacts upon designated sites either directly or indirectly.
- 7.80 The application demonstrates that there are no features of high nature conservation value or designations at the application site. The development will result in the loss of arable land. Boundary features including hedgerows and trees would largely be retained except for the new access point. Potential impacts on protected species are assessed within the EclA.
- 7.81 Having regard to the advice from Derbyshire Wildlife Trust (DWT) the application has demonstrated that, subject to planning conditions to secure avoidance measures and a Construction and Environment Management Plan (CEMP) it can be carried out in a manner that will not harm designated sites or protected species in accordance with policies S1 and PD3.
- 7.82 The submitted biodiversity net gain assessment concludes that the development will deliver a net gain for habitats and hedgerows on-site of 40% for habitats and 26% for hedgerows. The report together with the indicative plan demonstrates that this is feasible in principle. DWT has requested a copy of the raw biodiversity metric view review. This has been provided and any further comments will be updated at the meeting. If permission is granted a planning condition to secure a Landscape and Biodiversity Enhancement and Management Plan (LBEMP) would be recommended.
- 7.83 Therefore, subject to conditions the application does demonstrate that the development can be accommodated on site in accordance with policies S1 and PD3.

Affordable housing, housing mix and developer contributions

- 7.84 Policy S10 states that suitable arrangements will be put in place to improve infrastructure, services and community facilities, where necessary when considering new development, including providing for health and social care facilities, in particular supporting the proposals that help to deliver the Derbyshire Health and Wellbeing Strategy and other improvements to support local Clinical Commissioning Groups (CCG) and facilitating enhancements to the capacity of education, training and learning establishments throughout the Plan Area.
- 7.85 A health contribution has been sought by the CCG. A contribution of £90,000 is required to enhance capacity / infrastructure in specified local practices, including the existing medical practice in Brailsford. The development will also result in the need for additional primary and Special Educational Needs and Disability (SEND) provision to be provided. The Education Authority has stated that this would amount to £435,973.20 towards the provision of 24 primary places at Brailsford CE Controlled Primary School (and additional education facilities) and £72,762.83 towards SEND places. If permission is granted it will be necessary

to secure these contributions through prior entry into a planning obligation to meet the demands deriving from the development.

- 7.86 In order to address the significant need for affordable housing across the Local Plan area, policy HC4 requires that all residential developments of 11 dwellings or more or with a combined floor space of more than 1000 square metres provide 30% of the net dwellings as affordable housing. The application proposes to meet this policy requirement by providing affordable housing on site. Therefore, all units of affordable housing (up to 30) would be delivered on site, of which 8 would be First Homes in accordance with national planning guidance. This is considered to constitute acceptable provision. If permission is granted a detailed scheme would need to be agreed and secured through prior entry into a planning obligation.
- 7.87 Policy HC11 prescribes a housing mix to meet the Council's housing needs and to create a sustainable, balanced and inclusive communities. Brailsford Neighbourhood Plan policy H1 requires local housing requirements to be met, particularly for 2 and 3 bedroom affordable homes and bungalows. The application proposes that the dwellings will comprise 1, 2, 3 and 4 bedroomed dwellings. The application outline with detailed matters reserved. The application does demonstrate that it would be possible to achieve a suitable housing mix to meet the requirements of the Local Plan and Neighbourhood Plan. If permission is granted a planning condition to secure an appropriate mix would be necessary, with provisions to agree a different mix, where justified.
- 7.88 Policy HC14 requires new residential developments of 11 dwellings or more to provide or contribute towards public open space and sports facilities. Policy GSL1 requires developments to provide for a variety of open spaces sensitive the local landscape. The Adopted Supplementary Planning Document (SPD) on Developer Contributions dated February 2020 supersedes the table in policy HC14 as it is based on the updated study from January 2018. This 2018 study concluded that whilst the quantity and quality of open space and recreation facilities across the District are in most cases sufficient the following deficiencies were identified as likely to occur by 2033
- Parks and Gardens – 2.42ha
 - Natural and semi natural greenspaces – 16.16ha
 - Amenity greenspace – 2.54ha
 - Provision for children and young people – 0.13ha
 - Allotments – 0.45ha
- 7.89 The SPD sets out the provision per dwelling that is required to meet this identified deficiency and the proposal exceeds these requirements. For example, the SPD requirement based on 100 dwellings is 162m² for children's play provision. The SPD has a requirement for parks and gardens which would amount to 974m². In this rural location a natural green space would be appropriate than formal parks and gardens as they would reflect the character of the area and bring biodiversity benefits. The SPD also has a requirement for allotments which would amount to 394m². Allotments would be appropriate on this site in principle, particularly given concerns raised over the loss of the former allotments. However the indicative layout does not show sufficient space on this site for the minimum size recommended in the SPD (0.4ha or 4,000m²). Therefore a contribution based on requirements would equate to £5,910.
- 7.90 The application site includes a sufficient amount of land to deliver appropriate open space provision in accordance with the requirements of policy HC14 and the Developer Contributions SPD (2020) as part of any subsequent approval of reserved matters application. This provision can be secured by planning condition and a contribution for allotments can be secured by prior entry into a planning obligation.

7.91 Therefore, subject to condition and prior entry into a planning obligation to secure affordable housing provision and development contributions for education and allotments the application does demonstrate that the development is in accordance with policies S10, HC4, HC11 and HC14.

The Planning Balance

7.92 The principle of residential development on this site is in accordance with policies S2 and S4 i) of the Adopted Derbyshire Dales Local Plan (2017). However, in this location policy S2 provides for reduced levels of development to safeguard, and where possible, improve the role of the village consistent with maintaining or enhancing key environmental attributes. The scale of the proposed development is substantial relative to Brailsford and the range of services and facilities available.

7.93 The application also proposes a commercial development as part of the development. There is no provision within the development plan for commercial development on the site other than rural employment development in accordance with policies S4 c) and EC1. There is no provision for retail development of the scale proposed which would be significant relative to the current size of Brailsford, existing facilities, services and infrastructure.

7.94 The indicative scale, extent and layout of the proposed development does not respond positively to the character or the significance of this part of the settlement or the setting of Brailsford Conservation Area a designated heritage asset. Furthermore, the development does not present any attributes or enhancements to the setting of the Conservation Area. The indicative layout would reinforce the divorced and separated nature of the proposed development which would be an intrusive encroachment on this side of the village.

7.95 The development will affect the setting of Brailsford Conservation Area and the setting of affected listed buildings wherein including Green Farm (Grade II), Barns South of Green Farm (Grade II), Old Hall Farmhouse (Grade II), The Old Rectory (Grade II) and All Saints Church (Grade I). The development would not conserve the setting of the Conservation Area or affected listed buildings. The development will result in very significant harm to the setting of affected heritage assets contrary to policies PD2 and H1.

7.96 The relationship of the site and affected heritage assets is an important aspect of landscape character. The development would not result in significant harm to landscape character but would therefore not preserve or enhance the character, appearance and local distinctiveness of the landscape contrary to policies S1, S4, PD5 and LW1.

7.97 The application is therefore determined to be contrary to the provisions of the development plan.

7.98 The Council is unable to demonstrate a 5 year housing land supply at this time. The National Planning Policy Framework (NPPF) is a material consideration and paragraph 11 says that in these circumstances the Local Planning Authority should grant planning permission for sustainable development unless:

- i. the application of policies in the NPPF that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or
- ii. any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the NPPF taken as a whole.

7.99 The Brailsford Neighbourhood Plan was adopted in July 2021 and therefore forms part of the development plan. The neighbourhood plan is less than two years old but does not contain policies and allocations to meet identified housing requirements. Therefore, in

accordance with paragraph 14 of the NPPF any conflict with the neighbourhood plan would not be likely to significantly and demonstrably outweigh the benefits.

7.100 The harm identified to the setting of Brailsford Conservation Area and the setting of affected listed buildings would be less than substantial and therefore in accordance with Paragraph 202 of the NPPF the harm must be weighed against public benefits.

7.101 The development would deliver up to 100 dwellings on the site at a time where the Council is unable to demonstrate a 5 year housing land supply. The development therefore would make a positive contribution to housing delivery. Furthermore, the development would deliver up to 30 affordable homes. The development would provide economic and social benefits during construction and occupation, however these benefits would not be exceptional and to a large degree would be commensurate with any residential development.

7.102 The development would result in enhancement to biodiversity on site in excess of policy requirements. However, at the same time the development would result in the loss of Grade 2 agricultural land (very good quality agricultural land). Policies in the NPPF seek to secure biodiversity net gain while offering protection for the best and most versatile (BMV) agricultural land. This is considered to be a neutral consideration neither for nor against the development. The consequential loss of allotments is unfortunate and also a negative of the development given the need for this type of community space within the district, notwithstanding the need for an off-site contribution identified which could be secured through legal agreement.

7.103 The scale of the proposed development, visual and landscape impact and harm to the setting of the Conservation Area and affected listed buildings would be very significant. In determining this application the Local Planning Authority is obliged to give great weight to and have special regard to the desirability of preserving the Conservation Area, listed buildings and their setting. In that context, it is considered that the harm identified would not be outweighed by public benefits and therefore the presumption in favor of sustainable development set out by paragraph 11 of the NPPF does not apply. Notwithstanding this clear reason for refusal (in NPPF terms) it is considered that the adverse impacts identified about would significantly and demonstrably outweigh the benefits of the development.

7.104 The application is therefore recommended for refusal.

8.0 RECOMMENDATION

That the application be refused for the following reasons:

1. The development would significantly harm the setting of the designated Brailsford Conservation Area and the setting of Green Farm (Grade II listed), Barns South of Green Farm (Grade II listed), Old Hall Farmhouse (Grade II listed), The Old Rectory (Grade II listed) and All Saints Church (Grade I listed) contrary to policies S1 and PD2 of the Adopted Derbyshire Dales Local Plan (2017) and policy H1 of the Adopted Brailsford Parish Neighbourhood Plan (2021). The public benefits arising from the development would not outweigh this harm and therefore the development is contrary to the National Planning Policy Framework (2021).
2. The development would be of a substantial scale relative to the village and have an adverse visual and landscape impact and harm the character and appearance of the area contrary to policies S1, S4, PD1 and PD5 of the Adopted Derbyshire Dales Local Plan (2017) and policies H1 and LW1 of the Adopted Brailsford Parish Neighbourhood Plan (2021) and the National Planning Policy Framework.

3. Insufficient information has been submitted to demonstrate that access to the site will be capable of serving the development without having detrimental impacts on highway safety and that the development will satisfactorily minimise the need to travel by unsustainable means contrary to policies S1, S4 and HC19 of the Adopted Derbyshire Dales Local Plan (2017) and policy TMA1 of the Adopted Brailsford Parish Neighbourhood Plan (2021) and the National Planning Policy Framework.
4. Insufficient evidence has been submitted to assess potential impacts of the development upon archaeological significance contrary to policy PD2 Adopted Derbyshire Dales Local Plan (2017) and the National Planning Policy Framework.

9.0 NOTES TO APPLICANT:

The Local Planning Authority has met and discussed the merits of the application with the applicant during the course of the application. There was no prospect of resolving the fundamental planning problems with the application 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 within the agreed extension of time and thereby allowing the applicant to exercise their right to appeal.

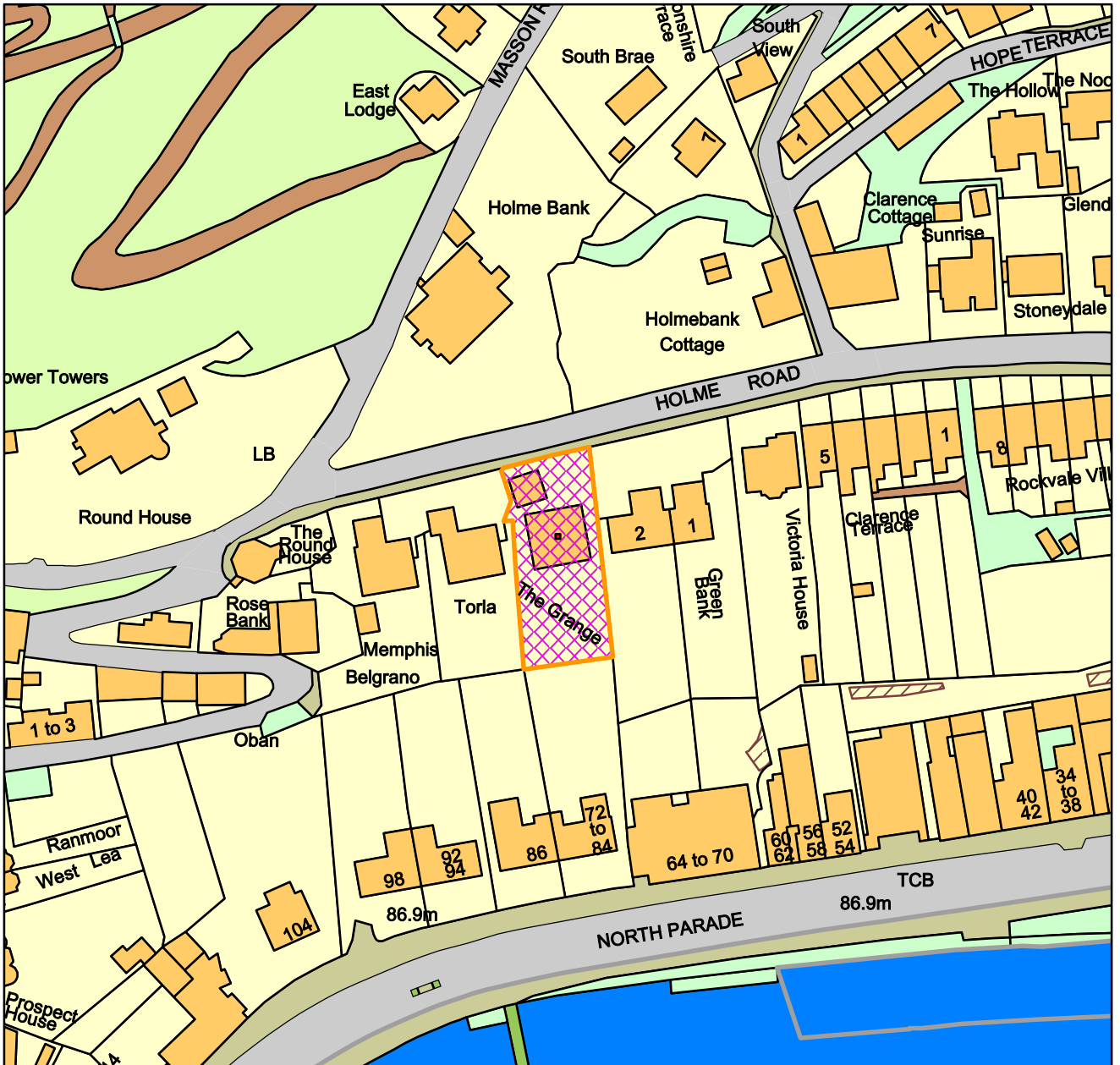
This decision relates solely to the application form and the following plans and documents:

Indicative Master Plan (received 24.02.2023)
Site Location Plan – Ref 3811-001 Rev B
Green Infrastructure Plan – Ref 3811
Heritage Plan – Ref 3811-003
Character Area Plan – Ref 3811-004
Road Layout Plan – Ref 3811-005
Proposed Site Access Layout – Ref ADC1294-DR-002 Rev P1
Planning Statement – 3811_PS_V2
Heritage, Design and Access Statement – 3811_HDAS_V2
Landscape and Visual Appraisal Rev B
Residential Travel Plan – ADC1294-RP-C
Transport Statement – ADC1294-RP-B
Flood Risk Assessment and Drainage Strategy – ADC1294-RP-C-v3
Ecological Impact Assessment (Low Impact EclA) – RSE_6168_R1_V1
Biodiversity Metric 3.1 Calculation Tool

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23/00069/FUL

The Grange, Holme Road, Matlock Bath



Derbyshire Dales DC

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Date: 03/03/2023

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APPLICATION NUMBER		23/00069/FUL	
SITE ADDRESS:		The Grange, Holme Road, Matlock Bath, Matlock, Derbyshire, DE4 3NU	
DESCRIPTION OF DEVELOPMENT		Erection of rear extension to create residential annex with roof terrace and associated landscaping works	
CASE OFFICER	Mr Joe Baldwin	APPLICANT	Mr Stuart Atkinson
PARISH/TOWN	Matlock Bath	AGENT	Mrs Anna Manning
WARD MEMBER(S)	Cllr G Purdy and Cllr D Murphy	DETERMINATION TARGET	17.03.2023
REASON FOR DETERMINATION BY COMMITTEE	More than 5 unresolved objections and as the application has been called in by Cllr G Purdy.	REASON FOR SITE VISIT (IF APPLICABLE)	For Members to appreciate the site and context and assess the impacts of the development on the character and appearance of the existing dwelling and the amenity of neighbouring occupants.

MATERIAL PLANNING ISSUES
<ul style="list-style-type: none"> - Impact on the character, appearance and setting of the property, Matlock Bath Conservation Area and the Derwent Valley Mills World Heritage Site - Impact on residential amenity - Highway safety and parking provision.

RECOMMENDATION
- Granted with Conditions

1.0 THE SITE AND SURROUNDINGS

1.1 The application relates to an existing detached dwelling – The Grange, located off the southern side of Holme Road toward the northern edge of Matlock Bath. The site is located within both the Matlock Bath Conservation Area and the Derwent Valley Mills World Heritage Site. The existing dwelling on site is finished in stone and render. The former detached garage to the front of the property has been converted to habitable accommodation and is currently operated as a holiday let. The garden to the dwelling drops steeply from the property at the northern end of the site toward the properties fronting North Parade to the south.



2.0 DETAILS OF THE APPLICATION

2.1 Planning permission is sought for the erection of a rear extension to the property to create a residential annex with roof terrace and associated landscaping works as set out on the amended plans. The proposed extension would be constructed using large areas of glazing, white render and charred timber cladding. The extension would be split across two levels following the gradient of the rear garden.

3.0 PLANNING POLICY AND LEGISLATIVE FRAMEWORK

1. Adopted Derbyshire Dales Local Plan (2017)
 - S1: Sustainable Development Principles
 - S2: Settlement Hierarchy
 - S3: Development Within Defined Settlement Boundaries
 - PD1: Design and Place Making
 - PD2: Protecting the Historic Environment
 - HC10: Extensions to Dwellings
 - HC19: Accessibility and Transport
 - HC21: Car Parking Standards
2. National Planning Policy Framework (2021)
National Planning Practice Guidance

4.0 RELEVANT PLANNING HISTORY:

08/00068/FUL	Erection of decking (retrospective)	Granted with Conditions	07/04/2008
01/02/0095	Rooftop extension	Granted	06/04/2001

5.0 CONSULTATION RESPONSES

Matlock Bath Parish Council

5.1 Matlock Bath Parish Council strongly objects to this application for the following reasons:

- Loss of parking plus the additional need for more cars. Despite the applicant's suggestion that there are ample spaces for the use of the building a quick analysis of the stated users prove this not to be true. There are 2 spaces on the driveway currently if one car blocks the other in. Minimum parking standards and turning areas are recommended by DCC Highways, if these rules are applied there is only one parking space compliant on the built area. The parking is also on a steep slope.
- The existing house is shown as 5 bedrooms (but is actually 6 as the garage is not drawn on the existing drawing). The proposed drawing suggests that there will only be 5 bedrooms if the application is granted (6 with the garage). The labelling of a clearly obvious bedroom as an office should not be overlooked. The house will have 7 bedrooms including the garage and proposed. Additional bedrooms need additional parking spaces and the office label seen for what it is.
- There is a proposed ensuite bathroom and a separate bathroom although the application is only for a one bedroom annex.
- The house is already large and incongruous on the hillside and judged to be the maximum for that plot. We would doubt that DDDC planners would permit such a building on the plot had it been applied for in 2023. To add to the anomaly is wrong. The bulk and architecture of the house as proposed makes an already inappropriate house even bigger and more inappropriate. The proposal takes the house from 4 bedrooms to 7 (with a potential of 11 bedrooms in total) and must be viewed as over intensification of the land.

- The impact of the proposal on the neighbouring properties, especially the immediate neighbour is huge. The extension extends The Grange further down the hillside so that its large bulk is overbearing to the neighbour. The neighbouring property has a private rear garden that will be directly overlooked from a balcony. It is also the only private amenity space for this property.
- The proposal has not been sensibly considered from a construction perspective. The extension at a lower level will undermine the existing house as well as retaining boundary walls to both neighbours.
- The development is not in keeping with a Conservation Area.
- Whilst the extension will not be seen from the front (Holme Road), it will be clearly visible from certain parts of the village below.
- No Party Wall agreements have been sought and we understand both properties will be insisting that a formal agreement is made before any building work commences. The extent of the construction work necessary to safeguard the existing house and both neighbouring properties especially the boundary walls is huge and unlikely to be justified by the gain in accommodation.
- The garage has been converted to an air bnb for which planning permission was not sought.
- We further feel that the drawings are unclear for the main house.
- We question how such construction work can be carried out compliantly given the limited access to the property and the constraints and limitations of Holme Road. We would ask where the builders park their vehicles, where skips will be housed, digger access to the work position and how they will remove excavations. Surely DDDC will be liable if the road is blocked and all the parking is impassable with vans. We believe there is zero chance the extension can be built without blocking the road. We ask therefore how the intended work will be carried out compliantly.
- We would question the intention of this application and from social media postings that this property could be a 'party house'. We would also question why the development is being advertised prior to planning permission being sought and a decision made. We have sent evidence of social media postings to the Planning Officer under separate cover. On Agoda.com it states "when booking more than 5 rooms ..."
- The application states it is for a one bedroom extension; however, on Instagram.com (matlockbath_airbnb) it states 2 bedrooms - "the design giving flexibility allowing the provision of an #entirespace#airbnbexperience or providing #multigenerationalliving for family and friends"
- We believe this property is being converted into a commercial property which is not suitable in a residential area.

There is an overwhelming opposition in the village to the current application for reasons mentioned above.

Finally, the Parish Council, on behalf of residents, wishes to exercise its right to have the application heard by a full planning committee unless DDDC are minded to refuse the application using delegated powers.

Comments are also made regarding enforcement complaints made against the property.

Derbyshire County Council (Highways)

5.2 No response to date, this will be reported in the late representations.

Design and Conservation Officer (Derbyshire Dales)

5.3 No response to date, this will be reported in the late representations.

6.0 REPRESENTATIONS RECEIVED

- 6.1 A total of 15 representations have been received in objection to the proposed development. A summary of the representations is outlined below:
- Concerns regarding parking issues along Holme Road being exacerbated by the development.
 - There are a number of rooms, including the former garage at the property which are used for Airbnb
 - The application does not seek additional residential accommodation, the new accommodation would effectively create a small hotel.
 - The design of the extension would be out of keeping and harmful to the character of the Conservation area.
 - Concerns regarding the disruption to the local area during the build period.
 - The extension would be visible from the A6 with the glass elevation reflecting sunlight.
 - The extension would alter the building line of properties along this side of Holme Road.
 - Concerns regarding highway safety.
 - Concerns regarding noise from potential occupants of the development.
 - The increase in number of holiday lets is making properties unaffordable for families who want to move to the area.
 - Concerns regarding how the development may impact on the stability of neighbouring properties.
 - The development would lead to additional overlooking of neighbouring properties.
 - The development would appear overbearing from neighbouring properties.
 - Sectional drawings would show the level of overbearing and overlooking from the development.
 - The development would require a party wall agreement.
 - The original plans of the property were designed to respect the building line of the adjacent dwellings.
- 6.2 A total of 4 non attributable representations have also received which raise the following objections:
- The garage of the property has already been converted and there is insufficient parking at the property.
 - There has been an influx of B&Bs in the area.
 - Concerns regarding noise from potential occupants of the extension.
 - Building works would exacerbate exiting parking difficulties on the road.
 - Access to the applicant's property is already dangerous and limited.

7.0 OFFICER APPRAISAL

Principle of development:

- 7.1 The development site is located within the settlement boundary of Matlock Bath, a third tier settlement as identified by policy S2. The principle of the development should therefore be assessed against policy S3 (Development Within Defined Settlement Boundaries). Policy S3 is supportive of extensions to residential properties provided that "the proposed development is of a scale, density, layout and design that is compatible with the character, appearance and amenity of the part of the settlement in which it would be located" and "it would have a layout, access and parking provision appropriate to the proposed use, site and its surroundings".
- 7.2 On the basis of the above it is considered that the main issues to assess in the consideration of this application would be:
- Impact on residential amenity

- Impact on the character, appearance and setting of the property, Matlock Bath Conservation Area and the Derwent Valley Mills World Heritage Site
- Highway safety and parking provision.

7.3 A large number of comments received from local residents have raised concerns regarding the use of the premises as an Airbnb. The Local planning Authority are aware of the current use of the garage and rooms within the dwelling as holiday accommodation however it appears that this remains ancillary to the main use of the property as a dwellinghouse falling within Use Class C3 and no material change of use has occurred. This application seeks planning permission for an extension to the dwelling to form a residential annex and must be determined on that basis. There remains a link through to the existing dwelling along with shared parking and garden and therefore no separate planning unit would be created.

Impact on residential amenity

7.4 Policy PD1 requires development proposals to achieve a satisfactory relationship with adjacent development and not cause unacceptable effects by reason of visual intrusion, overlooking, shadowing, overbearing effect, noise, light pollution or other adverse impacts on local character and amenity.

7.5 Some concerns have been raised by neighbouring residents with regard to overlooking from the proposed terraces and the scale of the extension appearing overbearing. Having visited the property and appreciated the development from the gardens of neighbouring dwellings it is recognised that whilst given the nature of the site, with significant sloping gardens there is some existing overlooking between the properties along Holme Road, the proposed elevated pathway from the front of the dwelling to the proposed rear terrace was at a height and proximity to the boundary with the neighbouring property such that it would afford open views into the neighbouring properties garden significantly reducing the privacy of the neighbouring occupants. This has been raised with agent and amended plans have been submitted which omit this element and introduce a privacy screen to the eastern side of the new terrace. The scale of the extension would not cause any significant loss of light and would not be overbearing when appreciated from adjacent land such that it would warrant the refusal of permission in this case.

7.6 On the basis of the amended plans the development would retain a satisfactory relationship with surrounding dwellings and not result in any unacceptable effects by reason of visual intrusion, overlooking, overbearing effect, noise, light pollution or other adverse impacts in accordance with policy PD1.

Impact on the character, appearance and setting of the property, Matlock Bath Conservation Area and the Derwent Valley Mills World Heritage Site

7.7 Policy PD2 deals specifically with protecting the historic environment and states that the District Council will conserve heritage assets in a manner appropriate to their significance.

7.8 The formal consultation response from the Design and Conservation officer has not been received to date. This will be reported to members as a late representation, however, it has been verbally advised that there are no objections to the proposed development in terms of its impact on the character and appearance of the existing dwelling or its impact on the wider significance or character and appearance of the Matlock Bath Conservation Area or the Derwent Valley Mills World Heritage Site.

7.9 It is noted that, despite some existing planting within the site which, due to the time of year is currently providing its most limited amount of screening, there would be some views of the proposed extension from both the A6 and Lovers Walk. The extension is of a contemporary design due to its construction utilising large amounts of glazing, render and

charred timber. This design gives the extension a relatively lightweight appearance to the rear of the property and the construction of the extension to follow the sloping land levels of the site would further reduce its visual impact. The existing dwelling is a relatively modern addition to the conservation area (approved in 1997) and the scale design and appearance of the proposed extension, subject to conditions, is not considered to result in any harm to its existing character or appearance or any harm to the wider special character, appearance or significance of the Matlock Bath Conservation Area or the Derwent Valley Mills World Heritage Site.

7.10 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”. In this case, given that no harm has been identified to the Matlock Bath Conservation Area or the Derwent Valley Mills World Heritage Site, there is no requirement to assess the public benefits to be derived from the proposed development.

7.11 Having regard to the above, the proposed development is considered to comply with the provisions of policy PD1 and PD2.

Highway safety and parking provision

7.12 As highlighted above, policy S3 requires developments to “have a layout, access and parking provision appropriate to the proposed use, site and its surroundings”. A large number of concerns have been raised regarding the level of off street parking available at the property”.

7.13 At the time of writing the formal consultation response from the Local Highway Authority has not been received. This will be reported to members as a late representation.

7.14 Currently, the property is a five bedroom dwelling with an additional bedroom in the former garage. The level of vehicular parking required for this dwelling cannot be accommodated by the existing two off street parking spaces and therefore some additional parking is required on street or in local public car parks. The proposed development seeks to add an additional bedroom within the extension however two existing bedrooms will be converted to a home office. Whilst it is appreciated that the home office could still function as a bedroom this would not present a net increase in bedrooms at the property with the total number of bedrooms (including the office) remaining at 5 (and the additional rooms in the garage). It is therefore not considered that the extension would result in any additional parking requirement beyond the current dwelling.

7.15 Notwithstanding the above, the site is located within the settlement boundary of Matlock Bath, a tier 3 settlement with good access to public transport both by bus and by rail. Furthermore, it is possible to park on are on Holme Road adjacent to the site and at the time of the site visit there was space for several cars available and there are public car parks within approximately 5 minute walk of the property.

7.16 On the basis of the above, Officers are satisfied that the level of parking both on street and off street at the dwelling, given its position within a tier 3 settlement which is well served by public transport is sufficient and a recommendation of refusal on this basis could not be sustained at appeal. The development is therefore considered to be in accordance with policies S3 and HC21.

Conclusion

7.17 Based on the above and subject to conditions, the proposed development is considered to be in accordance with the relevant parts of the Adopted Derbyshire Dales Local Plan (2017) and a recommendation of approval is made 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. The development hereby approved shall not be carried out other than in accordance with the following approved plans and subject to the following conditions:

AP102 (Rev A) – Proposed Floor Plans (rec 02.03.2023)

AP103 (Rev A) – Proposed Elevations (rec 02.03.2023)

Reason:

For the avoidance of doubt and in the interests of the proper planning of the area.

3. Samples of all facing and roofing materials shall be submitted to and approved in writing by the Local Planning Authority before works commence on the facing walls or roof of the development hereby approved. The development shall thereafter be constructed in accordance with the approved details.

Reason:

To ensure the use of appropriate materials in the interests of preserving or enhancing the character and appearance of the Conservation Area in accordance with policies PD1 and PD2 of the Adopted Derbyshire Dales Local Plan (2017).

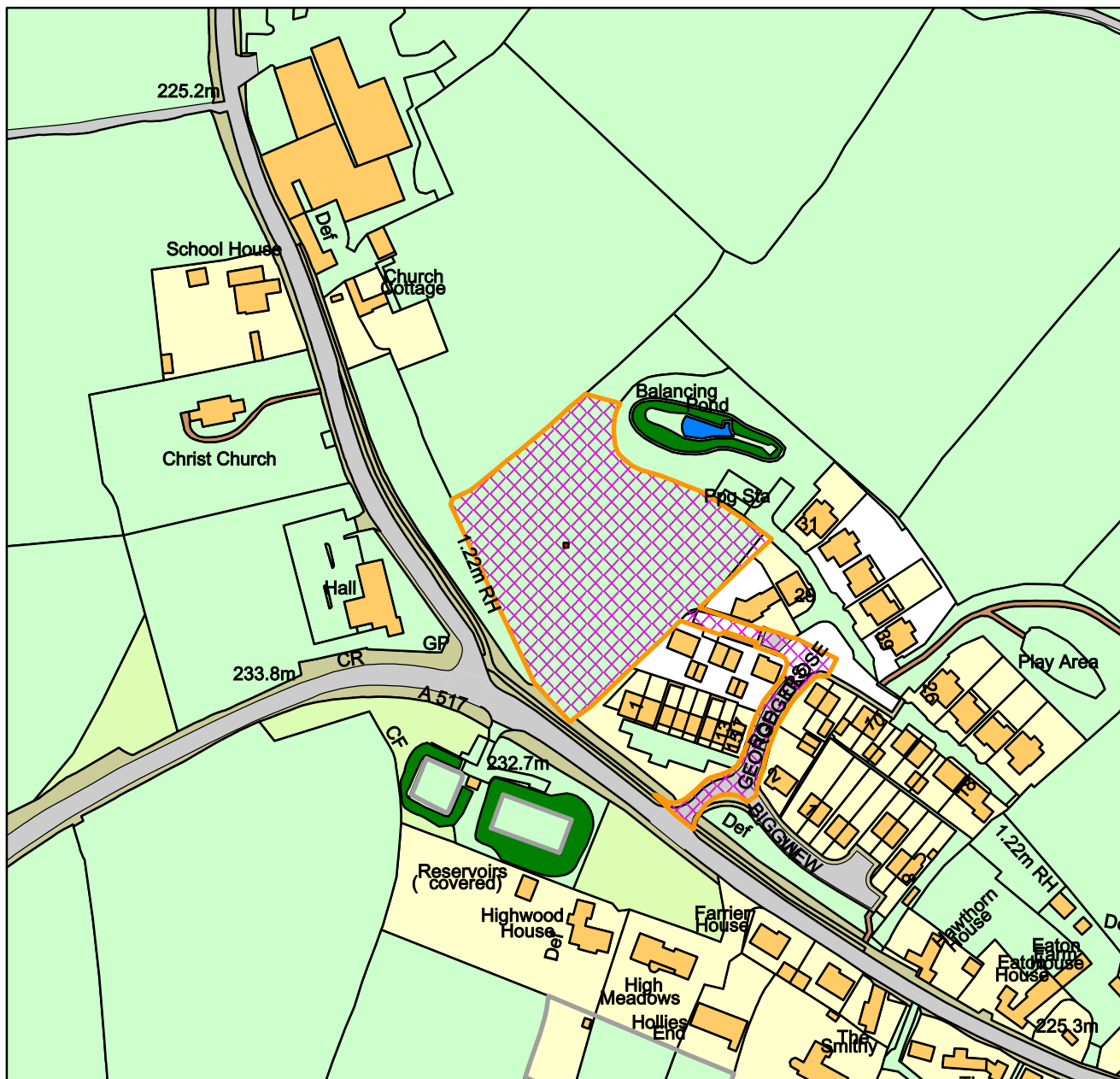
9.0 NOTES TO APPLICANT:

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 to overlooking and loss of privacy to neighbouring occupants.

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.

23/00038/OUT

Land East Of Dog Lane, Hulland Ward



Derbyshire Dales DC

1:2,500

Date: 03/03/2023

100019785

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Derbyshire Dales District Council,
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Telephone: (01629) 761100.
website : www.derbyshiredales.gov.uk

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APPLICATION NUMBER		23/00038/OUT	
SITE ADDRESS:		Land adjacent Biggin View, Dog Lane, Hulland Ward	
DESCRIPTION OF DEVELOPMENT		Outline planning consent for the erection of up to 15no. dwellinghouses and associated garaging with approval being sought for access	
CASE OFFICER	Sarah Arbon	APPLICANT	John Yates
PARISH/TOWN	Biggin By Hulland	AGENT	JMI Planning
WARD MEMBER(S)	Cllr Richard Bright	DETERMINATION TARGET	14 th April 2023
REASON FOR DETERMINATION BY COMMITTEE	Major application	REASON FOR SITE VISIT (IF APPLICABLE)	To consider the amended access arrangement.

MATERIAL PLANNING ISSUES
<ul style="list-style-type: none"> • Suitability of the location • The effect of the proposal on the character and identity of the settlement and the local landscape • Impact on heritage • Highway considerations • Flood risk and drainage • Residential amenity impacts • Impact on trees, biodiversity and wildlife, and • Developer contributions and housing mix

RECOMMENDATION
<p>That authority be delegated to the Development Manager or Principal Planning Officer to grant planning permission, subject to conditions upon completion of a s106 legal agreement to secure 30% of the dwellings as affordable units on-site (with any residual amount (i.e. less than 1 unit) provided as an offsite financial contribution.</p>

1.0 THE SITE AND SURROUNDINGS

- 1.1 This 0.77 hectare site is a square shaped field located to the north east of Hulland Ward adjacent to the junction where the A517 meets Dog Lane. The site has a small frontage onto the A517 and its north western boundary adjoins a field adjacent to Church Cottage and its associated farm buildings known as Church Farm. Both the south western and north western boundaries are screened by existing hedging and trees with the site boundary set back from Dog Lane. Immediately adjacent to the south east is the Cameron Homes development of 33 dwellings that is nearing completion.
- 1.2 The land slopes downwards from the south-west to the north-east. The field is largely bounded by substantial hedgerows with inter-set trees. The landscape character is one of Settled Plateau Farmlands landscape type of the Needwood and South Derbyshire Claylands landscape character area. Key features include the field boundary hedges and mature hedgerow trees.
- 1.3 From the A517, the site is visual but partially screened by the existing hedgerows. From the north east on Dog Lane, the site is largely screened by the existing hedgerow screening and further north along Dog Lane beyond Church Farm the farm buildings and hedges screen the site from this direction. Long distance views of the site from the track to the north and footpath to the east are not afforded due to the land levels and intervening screening with only the adjacent Cameron Homes development viewed.
- 1.4 The site lies adjacent to the settlement boundary of Hulland Ward and share a boundary with the allocated site HC2 (s) – land off A517 and Dog Lane for 33 dwellings that has been implemented.

2.0 DETAILS OF THE APPLICATION

- 2.1 This is a re-submission of an outline application for 15 dwellings following the refusal of a similar proposal at planning committee on the 13th September 2022 for the following reason:-

“The development would be served by an access, which due to its close proximity to existing housing, width and lack of dedicated footways would present access difficulties, lead to pedestrian and vehicular conflict and would not provide a safe means of access by foot, thereby leading to danger and inconvenience to highway users contrary to the requirements of Policies S4 and HC19 of the Adopted Derbyshire Dales Local Plan (2017)”.
- 2.2 The applicant has lodged an appeal to the Planning Inspectorate against this decision, which is currently pending consideration. This application seeks the same development with changes to the site access. Access would be via the existing Cameron Homes development off the A517 via the internal estates roads of Biggin View and George Rogers Close and the internal private drive to the front of plots 11, 12, 13, 14 and 23. A Technical Access Note has been submitted with this application which includes the provision of a kerb build out along the frontage of the bay window at No.23 creating a one-way priority arrangement for vehicular access. A swept path analysis has been provided to evidence that a large refuse vehicle and large car can access the development without conflict and with acceptable clearance between the carriageway and existing housing, whilst leaving suitable space for pedestrian movements. The report states that the proposed access carriageway would be positioned 0.5m from the existing bay window at No.23 and the vehicle track of a large car would be around 1m from the window.
- 2.3 Two plans within this Technical Access Note provide two options for the access to the site (Plan no's ADC3090-DR- 003 P1 and ADC3090-DR- 004 P1). The first shows the existing arrangement proposed as part of the previous application with a 5.5m wide carriageway with

a section of 12m of road that pedestrians and vehicles would share the same surface before joining the 2m wide footway within the development. Option 2 proposes a 2m kerb build out that would narrow the carriageway to 4m surrounding the bay window or plot 23. The 12m section of shared surface would remain on this proposal.

- 2.3 Due to the fact that the site is accessed from the existing development via a private drive the internal access cannot be adopted due to the location of the existing plot 23 being close up to the road without the 2m footway. In the previous application the agent was made aware of the conveyance plan of plot 23 and amended the proposed layout to accord with the approved and built development on the adjacent land. Notice has been served on all the relevant landowners that include 21, 23 and 25 George Roger's Close.
- 2.4 An indicative plan shows 15 dwellings with the access road curving to the north slightly and creating a turning head to the west linking to the driveway to plot 11 to the North West and a smaller private drive for plots 1, 2, and 7 in the southern corner of the site. The applicant indicates that the development will comprise a mixture of 3, 4 and 5 bedroomed homes.



3 PLANNING POLICY AND LEGISLATIVE FRAMEWORK

- 3.1. Adopted Derbyshire Dales Local Plan 2017
S1 Sustainable Development Principles
S2 Settlement Hierarchy
S4 Development within the Countryside
S9 Rural Parishes Development Strategy
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

HC4 Affordable Housing Provision
HC11 Housing Mix and Type
HC14 Open Space, Sports and Recreation Facilities
HC17 Promoting Sport, Leisure and Recreation
HC19 Accessibility and Transport
HC20 Managing Travel Demand
HC21 Car Parking Standards.

3.2. Other:

The National Planning Policy Framework (NPPF) (2021)
National Planning Practice Guide
Developer Contributions SPD (2020)
Climate Change SPD (2021)

4.0 RELEVANT PLANNING HISTORY:

None

5.0 CONSULTATION RESPONSES

Hulland Ward Parish Council

- 5.1 Hulland Ward Parish Council vigorously rejects the proposals for the following reasons:
- a) The application calls for development of a green field site which is also outside the Derbyshire Dales Local Plan.
 - b) With 101 houses already built (or in the process of being built) Hulland Ward has more than satisfied the requirement of the Local Plan, which requires 99 houses until 2033
 - c) The proposed access road to the proposed 15 house development is a single-track road over private ground which has already been rejected for being unsafe, unadopted and unprofessional.
 - d) the proposed application is adjacent to the only designated heritage asset in the Hulland Ward area, which is Christ Church, and would impinge on the integrity of that building and its surroundings.

Biggin Parish Council

- 5.2 Object for the following reasons:-

1. The greenfield site of this planning application is in Biggin Parish and is outside the local plan and it is classed as countryside and no development is permitted.
2. The development proposed would encroach on dog lane where the village hall and the historic Hulland Church which is a listed building sits.
3. It would dominate and harm the appearance of the area and the Church.
4. The present developments next to this proposed development are already highly visible from the road and the junction turning on to dog lane.
5. Increased traffic is already high in the area and the country lanes are not suited to further traffic.
6. New housing developments previously granted planning and built in this area have already exceeded the amount called for in the local plan.
7. These developments have already caused harm to the character and appearance of the countryside and local area where Hulland ward meets Biggin Parish.
8. These developments have encroached into Biggin Parish.
9. They do not blend in with the existing Hulland ward estate and certainly do not blend in with Biggin landscape and historic buildings.
10. Excessive windows on these properties have caused extreme light pollution and reflection in the area.

11. The heights of these buildings possibly due to the unsuitability of the lay of the land being sloped make them stand out and intimidate the valley below and also the existing residents on the Hulland ward estate.
12. Allowing this application would only escalate this problem we are already faced with.
13. Building on this land which is sloped is not suitable and problems with previous developments land adjacent have come to light. Retaining walls have been built to a high level with movement occurring further strengthening of these have had to be constructed.
14. This creates not only a concern for the future and development stability but creates high buildings that stand out not blending in with the original estate development.
15. The skyline view from Biggin is spoilt by these buildings and the light pollution is devastating making an urban industrial environment opposed to the once rural environment it was.
16. The entrance proposed to the new development for private vehicles/emergencies/council refuse lorries/deliveries/removal vans etc. access is via the previous development on land previously sold for development by the applicant.
17. It appears to be an afterthought as the land where the access is privately owned by residents with access only for the land owner by a singular farming vehicle.
18. The property's are close to this proposed access and pedestrian access by residents is safe along with children of those family who can play safely, however this would not be possible if access allowed.
19. Biggin Parish is an historical farming hamlet set in open countryside and is to be protected from development harming the appearance of the open countryside.
20. Biggin parish is not in the local plan and is banded as countryside not to be developed in and the land where this planning application proposed is part of the Biggin parish and therefore this application should be refused.

Highway Authority:

- 5.3 This application is identical in quantum to application 22/00008 which was recently determined and is now subject to a planning appeal. The current application has been submitted with an access technical note prepared by ADC Infrastructure. In the previous application Derbyshire County Council in its role as the Highway Authority noted the absence of the footway resulted in the scheme not aligning with the prevailing design guide, but equally was not sufficient to warrant refusal, just its future status remaining private.

This application proposes 15 dwellings and is submitted in outline with all matters reserved apart from access. Vehicle access is proposed over the existing private driveway which is 5.5m wide, a separate pedestrian access is provided onto the A517. The indicative internal layout shows a traditional street layout with carriageway and 2 footways, with the footways terminating before existing private drive which provides vehicle access. The location plan which shows the "red line" boundary only includes the carriageway and private drive in Biggin View.

The submitted technical note presents the argument that the drive would operate as a shared surface and the trip generation is not sufficiently large to result in conflict based in nationally recognised guidance in Manual for Streets. It also provides an alternative design which narrows the private drive adjacent to the existing dwellings bay window. A swept path analysis is provided for both access options, but the final design would be a matter for a future reserved matters submission.

The prevailing Highway Design guide is the "Delivering Streets and Places" guide produced in 2017, this provide guidance on what street dimensions would be needed and what exceptions might exist. It recommends an overall corridor width of 7.5m, but equally acknowledges that variations can be accepted subject to tracking. In the case of this application a maximum width of 5.5m can be provided, this would be a departure from the

published guidance, but tracking is provided. It should be noted that despite the shared space option there is a separate pedestrian access proposed which gives an alternative option which is car free, also the 5.5m does provide sufficient space for a vehicle and cyclist or pedestrian to pass without conflict. The length of the 5.5m private drive is relatively short and clearly would have a low design speed.

It is the conclusion of the Highway Authority that the available width and geometry would result in a conflict with the locally adopted street design guidance, but due to the swept path analysis, available street widths, alternative pedestrian facilities and being mindful of national guidance, that there are no safety or capacity harms arising and as such the proposal does not conflict with paragraph 111 of the NPPF. The matter of future dedication is not a planning consideration, and the design of the development, at the reserved matters stage, would inform that decision, but it would appear unlikely that an adoptable layout could be achieved, however this is not an impediment to the implementation of the development. It is recommended that conditions be included in any decision notice to secure the vehicle and pedestrian access points, require bicycle parking detail to be provided and a welcome pack to advise future residents of sustainable transport options.

Environmental Health:

- 5.4 No objections, however, recommend a watching brief on contaminated land.

Lead Local Flood Authority:

- 5.5 This site lies within flood zone 1 and therefore the LPA can apply national flood risk standing advice (FRSA) in this instance if necessary. The agent has supplied the TRI confirming that the applicant has the right to connect to the existing surface water attenuation pond. The LLFA has reviewed the Flood Risk Assessment and have no objection subject to conditions, however before providing conditions further detail is required on the attenuation ponds connection, maintenance, management, capacity in order to establish that connecting the proposed site would not increase the risk of flooding on the adjacent site.

Education Authority (DDC):

- 5.6 The proposed development falls within and directly relates to the normal area of Hullah CE Primary School. The proposed development of 15 dwellings would generate the need to provide for an additional 2 infant and 2 junior pupils. Hullah CE Primary School has a net capacity for 84 pupils, with 60 pupils currently on roll. The number of pupils on roll is projected to increase during the next five years to 72. An evaluation of recently approved major residential developments within the normal area of Hullah CE Primary School shows no new developments in additional dwellings, which amounts to no additional primary level pupils. Analysis of the current and future projected number of pupils on roll, together with the impact of approved planning applications shows that the normal area primary school would have sufficient capacity to accommodate the 2 infant and 2 junior pupils arising from the proposed development.

The proposed development falls within and directly relates to the normal area of Queen Elizabeth Grammar School. The proposed development of 15 dwellings would generate the need to provide for an additional 3 secondary pupils. Queen Elizabeth Grammar School has a net capacity for 1645 pupils with 1376 pupils currently on roll. The number of pupils on roll is projected to decrease to 1330 during the next five years. An evaluation of recently approved major residential developments within the normal area of Queen Elizabeth Grammar School shows new development totalling 428 dwellings, amounting to an additional 120 secondary pupils. Analysis of the current and future projected number of pupils on roll, together with the impact of approved planning applications shows that the

normal area secondary school would have sufficient capacity to accommodate the 3 secondary pupils arising from the proposed development.

The above analysis indicates that there would be no need to mitigate the impact of the proposed development on school places in order to make the development acceptable in planning terms. The County Council therefore requests no financial contributions. The above is based on current demographics which can change over time and therefore the County Council would wish to be consulted on any amendments to a planning application or further applications for this site.

NHS Commissioning Group

- 5.7 They have not responded to consultation, however, on the previous 22/00008/OUT application they stated that no S106 contributions were required as the development falls under their threshold.

Director of Housing (DDDC)

- 5.8 It is assumed that 25% (one house) of the affordable housing would be first homes. It is recommended that the further 3 affordable homes are delivered through a registered provider, all being for social rent. The mix of homes should be as follows:-
2 x 1 bed 2 person house
1 x 2 bed 4 person house

The above mix reflects the fact that 50% of the Council's housing register comprises of single people. In addition previous affordable schemes in the village have either been older persons bungalows or 2+ family homes. Given the relative size and construction cost of these 3 homes, the properties should easily meet the Nationally Described Standards for two property types. A two storey 1 bed house should achieve 58m² and a 2 bed 4 person house should achieve 79m².

Archaeologist (DDC)

- 5.9 The site has some archaeological potential, being very close to the site at Wheeldon Way where archaeological potential was identified by geophysical survey in the context of an application for housing 14/00698, and conditions placed to secure some archaeological work. The archaeology at Wheeldon Way possibly represents prehistoric or medieval activity, although the confirmatory fieldwork has not yet been carried out.

Following a review of the submission of a geophysical survey, the geophysics shows no convincing archaeological targets and given the modest size of the site it is advised that there is no need for further archaeological involvement in this application.

Tree and Landscape Officer (DDDC)

- 5.10 Currently unprotected trees and established native hedgerows forming historic field boundaries are located close to and around the site regarding which no details have been submitted to date. Should outline consent be granted, it is recommended that further information should be required to be submitted for approval at reserved matters stage to enable the LPA to be fully informed about any potential conflict between existing trees and the proposed development by the proposed site layout. This should take the form of:

An Arboricultural Impact Assessment to the guidelines of BS5837:2012 to include a Tree Schedule, Tree Constraints Plan on a plan of the site as existing, a Tree Retentions and Removals Plan on a plan of the site as proposed and a Tree Protection Plan on a plan

of the site as proposed. If any proposed development would encroach the root protection areas (as defined by BS5837:2012) of any retained trees or hedgerow then a detailed site-specific Arboricultural Method Statement should also be required for approval that demonstrates how the proposals would be executed without harm to retained trees.

The site is enclosed by established native hedgerows and trees along all but the north-eastern boundary. These are important visual and historic elements of the local landscape and should be retained and appropriately protected during development and incorporated into it for the long term. It is important that all existing trees and hedgerows are retained because they contribute to the history, character and appearance of the local landscape.

A recent residential development adjoins the proposed development site to the east. This site has a straight edge boundary abutting the proposed site created by the previously existing retained field boundary. This abrupt edge to the village has a distinctly inorganic appearance. The proposed development presents the opportunity to create a more natural edge to the settlement if the site layout were to be designed appropriately. This would serve to assimilate both sites into a more organic form in the countryside surrounding the site. In order to inform the Council's assessment of the visual impact of the proposals in the landscape it is recommended that a Landscape Visual Impact Assessment be required for submission for approval. The surrounding viewpoints submitted by the agent are considered acceptable.

Derbyshire Wildlife Trust

- 5.11 Whilst the Trust have not yet responded to consultation on this application, the Ecology information submitted is identical to the 22/00008/OUT application. In their previous consultation they reviewed the Ecological Impact Assessment prepared by Ramm Sanderson Ecology Ltd November 2021 submitted and checked their biodiversity datasets and mapping. They are not aware of any statutory or non-statutory designated sites or the presence of any species or habitats of principal importance (UK BAP Priority species/habitats).

The ecological assessment has identified the following habitats:

- Broadleaved trees which are to be retained within the proposals.
- Dense scrub – to be lost
- Species poor semi-improved grassland – to be lost (the dominant habitat on site)
- Tall ruderal – to be lost

In terms of protected species the recommendations within the submitted report are supported.

Whilst the overall impact on biodiversity is not considered to be substantive in terms of any unacceptable loss of protected or important habitats there is clearly a small loss of biodiversity that has not been fully quantified. It is therefore not possible to know whether the application will result in a net loss of biodiversity overall.

It is advised that the Biodiversity Metric assessment referred to in the EIA is submitted so that these issues can be resolved through appropriate habitat creation and enhancement on site or if necessary off-site. Once these details are available they can review and make recommendations for suitable conditions.

5.12 Environment Agency

This site lies within flood zone 1 and therefore the LPA can apply national flood risk standing advice (FRSA) in this instance if necessary.

There are no other environmental constraints associated with the site and therefore we have no further comment to make.

Derbyshire Force Designing Out Crime Officer

5.13 There is a footpath shown on the indicative site plan which runs from within the site, between the backs of gardens and emerges at the junction of Dog Lane and the A517. This route compromises security for the backs of associated housing, as is not overlooked for the majority of its route, and consequently would not be considered as viable from a community safety perspective. It is understood that the indicative plan is the same as proposed for refused application 22/00008, now under appeal. If either outline application is subsequently approved the future detail of this enclosed path should be removed and safer alternatives found.

6.0 REPRESENTATIONS RECEIVED

6.1 Eleven letters of objection have been received and these are summarised below:-

- a) The proposal still includes an unsafe access route.
- b) The new proposal is not any safer as there is no pedestrian walkway, narrowness of the road and close proximity to houses.
- c) The development will bring extra site traffic to an already busy main road.
- d) Hulland Ward has fulfilled and exceeded its quota for new build houses.
- e) There are a number of unsold properties in the area indicating an oversupply.
- f) A length of 12m of road with no pedestrian walkways is dangerous.
- g) The proposed access would be less than 1m from 27 George Rodgers Close.
- h) The existing dwellings are family houses with small children that will be directly affected by increased traffic especially during construction.
- i) A notice 1 has been served on the owner of 21 Georges Rodgers Close as they have freehold interest in the proposed access and object as the proposal would use their shared driveway for access to the development.
- j) Any right of access should be reasonable and considerate to adjoining residents safety and the one proposed is not.
- k) The shared driveway is not sufficient for the highways authority to adopt and is too narrow to accommodate safe pedestrian and disabled access.
- l) The shared driveway has not been constructed to withstand HGVs.
- m) The proposed access route is unchanged in dimensions or construction that was deemed unsuitable by councillors at planning committee.
- n) The driveway was only intended for the 3 dwellings served by it as it is narrow with no raised footpaths or curbs.
- o) The proposed chicane would narrow the road even more and would create a bottleneck outside their property (No. 25 George Rodgers Close).
- p) There is concern for the safety of their children with the increased traffic to the front of their property.
- q) In icy conditions vehicles could hit the window of No.23 as it is so close to the road.
- r) As a freeholder of the private drive, although we must legally grant right of access to the current landowner, we are under no obligation to allow any changes to the structure or layout of our private driveway. I wish to make it clear that we would not consent to the proposed changes to the structure/ layout of our privately owned driveway.
- s) The 'Access Technical Note' refers to the private drive becoming a shared surface.

- t) Item 10 of the report has omitted the full section 7.2.14 from Manual for Streets in relation to making suitable provision for disabled people.
- u) Section 8 and 9 of the document states that “pedestrians and vehicles share road space for 12m before pedestrians re-join the proposed footway within the development site”.
- v) There is no protected pedestrian access for the occupants of plot 23 contrary to MfS sections 7.2.13, 7.2.10 and 7.2.12.
- w) The proposed kerb alongside the bay windows of plot 23 attempts to deal with the closeness of the window to the road (0.5m), however, it will simply reduce the width of the road to single access creating more of a conflict between cars and pedestrians and will reduce the space for existing residents to manoeuvre.
- x) The use of this access road during construction would be intolerable and dangerous.
- y) The application suggest the private drive is 5.5m, however, it is 5.4m in width at its eastern edge and 5.1m at its western edge with only 600mm total clearance between vehicles and footpaths.
- z) With no kerbs in icy weather vehicles could hit pedestrians or houses.
- aa) The plans submitted do not correlate with the conveyance plans for plot 23 as the road curves and is not straight.
- bb) The submitted report offers no solution to vehicle and pedestrian conflict.
- cc) The vehicle measurements on the plan do not include mirrors and differ from MfS.
- dd) Hulland Ward and Biggin have endured a significant level of new home development in recent years, and further sites are under construction (Wheeldon Way 39 homes, Eaton Farmhouse 3 homes). The target set by the local plan has been exceeded.
- ee) There are ancient hedgerows and a Ash tree on the site with the site supporting wildlife ad landscape biodiversity.
- ff) The site is unsustainable as Hulland Ward does not have sufficient services.
- gg) There have been 2 serious accidents on Dog Lane and increased traffic in the area is not wanted.
- hh) Existing residents may park in front of their properties which would reduce access.
- ii) The increase in use of the access onto Biggin View would be dangerous.

7.0 OFFICER APPRAISAL

- 7.1 This application seeks outline permission for up to 15 dwellings on the site, with all matters other than access reserved for subsequent approval.
- 7.2 Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that applications for planning permission under the Act 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 a material consideration in respect of this application.
- 7.3 The Council is unable to demonstrate a 5 year housing land supply at this time and the tilted balance in favour of the development is engaged by virtue of Para 11d) of the National Planning Policy Framework (2021).
- 7.4 As part of the consideration of future housing needs and the Council’s aspirations for growth and economic recovery, a call for sites as part of the Strategic Housing Land Availability Assessment process was undertaken between 26th May and 7th July 2021. The application site was put forward as part of this exercise. The assessment of the site, in terms of its deliverability is considered in the issues section of this report.
- 7.5 Having regard to the above, consultation responses and representations received and the relevant provisions of the development plan and guidance contained within the National Planning Policy Framework, the main issues to assess are:
 - Suitability of the location

- The effect of the proposal on the character and identity of the settlement and the local landscape
- Impact on heritage
- Highway considerations
- Flood risk and drainage
- Residential amenity impacts
- Impact on trees, biodiversity and wildlife, and
- Developer contributions and housing mix

Suitability of Location

- 7.6 Notwithstanding that the Council cannot demonstrate a 5 year housing land supply at this time and the presumption in favour of the development is engaged, there are provisions in the Development Plan for housing development on the edge of first, second and third tier settlements (Policy S2) in circumstances where there is no 5 year housing land supply, subject to consideration against other policies in the Local Plan and the provisions of the NPPF. This policy recognises that the higher order settlements in the Derbyshire Dales District are best suited in terms of access to services, facilities and employment opportunities to accommodate new housing development in such a scenario.
- 7.7 Although the site is located beyond the existing strategic land allocations in the development plan, it is well connected to and would be serviced off the Biggin View development recently built out by Cameron Homes on the edge of the existing settlement framework boundary. Hulland Ward is an accessible settlement with some facilities. The village has a primary school, medical centre, shop and two pubs. Whilst it is recognised that an accessible settlement such as Hulland Ward will provide for reduced levels of development in comparison to higher order settlements, a development of 15 houses is considered to be an appropriate amount of additional growth in the village that will help underpin local facilities and provide for greater self-containment.

The effect of the proposal on the character and identity of the settlement and the local landscape

- 7.8 A key consideration in respect of this application is the impact of the development on the local landscape and character, identity and setting of the existing settlement. Policy S1 of the Adopted Derbyshire Dales Local Plan (2017) advises that development will conserve and where possible enhance the natural and historic environment, including settlements within the plan area.
- 7.9 Policy PD1 requires all development to be of high quality design that respects the character, identity and context of the Derbyshire Dales townscapes and landscapes.
- 7.10 Policy PD5 deals specifically with landscape character and advises that development that would harm or be detrimental to the character of the local and wider landscape or the setting of a settlement will be resisted.
- 7.11 In considering the suitability of the site for development as part of the local plan review call for sites exercise, the County Council Landscape Officer commented that the site is a single field enclosed by mature hedgerows and abutting new residential development to the south-east off Biggin Way. It was acknowledged that the site is visually contained by residential properties to the south and east and boundary vegetation.
- 7.12 Although the comments of the Parish Council relating to the impact on the Biggin landscape and those making representations are noted, the applicant has prepared a series of viewpoints from the main receptors, having agreed these with the Councils Trees and Landscape Officer. Having regard to the visibility of the site, the amount of development and

its relationship with existing development it is not considered that a development of up to 15 dwellings on the site, subject to careful consideration of the layout, scale and appearance of the development (which are all reserved matters) would result in harm to the local landscape or character and identity of this part of the settlement. The development would be well related to existing development and contained by existing landscape features and as indicated by the Trees and Landscape Officer development of the site presents the opportunity to create a more natural edge to the settlement. It will be necessary as part of any future approval of reserved matters application to retain and supplement existing landscaping to safeguard the setting of the settlement and the local landscape.

Impact on Heritage

- 7.13 A Grade II listed church, Christ Church is located to the west of the site on the opposite side of Dog Lane. In the assessment of the site as part of the call for sites exercise the District Council's Conservation and Design Officer concluded that some harm may be caused to heritage assets by development at this site and that special attention should be given to mitigate against this harm, especially on Christ Church.
- 7.14 Policy PD2 of the Adopted Derbyshire Dales Local Plan seeks to conserve heritage assets in a manner appropriate to their significance. The position of the site relative to church and existing residential development beyond and intervening landscaping is such that redevelopment of the site would result in no harm, or harm at the lower end of less than substantial harm in NPPF terms which would be mitigated by a development of an appropriate layout, scale and appearance and with appropriate landscaping. Paragraph 202 of the NPPF advises 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.

Highway considerations

- 7.15 Development plan policies require that the access serving a development is safe and the highway network can satisfactorily accommodate traffic generated by the development or can be improved as part of the development. In the previous application the committee considered that safe access could not be achieved, however, this application provides a "Technical Access Note" with two plans showing options which need to be considered.
- 7.16 The application seeks the approval of the access, which comprises a continuation of an estate road serving the Biggin View development, which does not include a sufficient margin for a footway fronting existing plot no. 23. The Highways Authority has reviewed the submitted 'Technical Access Note' against the Manual for Streets and Highways Design Guide "Delivering Streets and Places" and considers that the tracking details for the 5.5m width provides sufficient evidence that a vehicle and cyclist or pedestrian are able to pass without conflict. Furthermore, it should be noted that despite the shared space option there is a separate pedestrian access proposed which gives an alternative option which is car free. A swept path analysis is provided for both access options.
- 3.2 Planning Committee Members, having visited the site on the 12th September noted that the site access was constrained to the extent that access to the development would be impeded by vehicles parked on the road outside of the dwellings to plots 11-13 and the bay window to plot 23 being open. With no continuous dedicated footpath and a constrained access and without any ability to control on street parking and the opening of windows it was not considered that the access serving new development would be safe or promote choice of transport and in this respect it was not considered that the highway network could satisfactorily accommodate traffic generated by the development to satisfy policy requirements. Although additional vehicle tracking plans have been submitted for the original access option, this was not considered to be previously acceptable by members due

to the situation on the ground. This option does not appear to consider a scenario where the bay windows to plot 23 are open and the constraining effect this has on the highway width. To address members concerns, an alternative option has been presented, which proposes a narrowing of the road to 4m with a build out to ensure that access by a car and HGV can be maintained at all times. This is considered to be satisfy the requirements of Policy HC19 of the Adopted Derbyshire Dales Local Plan (2017) and would address member concerns in this respect.

- 7.17 The concerns raised by those making representations with regard to traffic are noted, however, the junction of Biggin View with the A517 is considered acceptable to serve further residential development of the scale proposed. Construction traffic and the noise and disturbance associated with such activity is noted. It is considered that a condition to restrict the times of construction activity would be appropriate in this case, given the close proximity of the site to existing residents and the route of the proposed access road.

Flood risk and drainage

- 7.18 Adopted Local Plan Policy PD8 directs new development away from areas of current or future flood risk and states that the development should not increase the risk of flooding elsewhere. The whole of the application site lies within Flood Zone 1 which is described as land having a less than 1 in 1,000 annual probability of river or sea flooding. The site is therefore at low risk from flooding.
- 7.19 A Flood Risk Assessment (FRA) has been submitted in support of the application in accordance with the requirements of the National Planning Policy Framework. A drainage strategy has also been submitted which includes an indicative Sustainable Urban Drainage Scheme (SuDS) showing the installation of permeable pavement features and a flow control chamber discharging to a headwall to the existing pond to the north east of the site.
- 7.20 The report states that the a SuDS scheme would be capable of satisfactorily managing surface runoff without increasing the flood risk to other people while providing multiple benefits with respect to the sustainable management of surface water runoff. The report makes a number of recommendations in regard to flood risk mitigation and drainage provision including finished floor levels, provision and maintenance of a SuDS scheme. Foul drainage would be to the main sewer.
- 7.21 The Environment Agency raise no objection to the development because the site is within Flood Zone 1 and advises that foul drainage should be to the main sewer as proposed. The Lead Local Flood Authority have requested confirmation on a number of points including whether the land owner would permit discharge of surface water into the pond, the capacity of the pond and where it discharges. The applicant has provided this information and we await a further response from the Lead Local Flood Authority which will be provided at the meeting.
- 7.22 The application demonstrates that the development would not be at risk of flooding and subject to planning conditions to secure the approval, implementation and maintenance of an appropriate SuDS scheme and finished floor levels that the development would not increase the risk of flooding elsewhere. Foul drainage would be to the main sewer which is acceptable. The application is therefore in accordance with Policy PD8 and National Planning Practice Guidance.

Residential amenity impacts

- 7.23 Adopted Local Plan Policy S1 seeks to secure development which provide a high standard of amenity for all existing and future occupants of land and buildings, ensuring communities have a healthy, safe and attractive living environment.

- 7.24 The submitted indicative layout shows that there is sufficient space within the site for a development of this scale to be accommodated with sufficient separation distances from proposed dwellings to the existing residential properties to the south east of the site. The development would not be overbearing or lead to any significant loss of light or privacy to any neighbouring property. The plans also show that the proposed dwellings would be provided with a high standard of amenity space.
- 7.25 The development would be accessed through the residential development to the south east which would be acceptable in principle. Additional vehicle traffic would not harm the amenity of occupants of existing properties. There may be additional vehicle traffic and disturbance during construction, however this would be for a limited period and would not constitute a reason for refusal of planning permission subject to appropriate working hours.
- 7.26 The development would therefore provide occupants a high standard of amenity and conserve the amenity, security and privacy of occupants of neighbouring properties and the living environment of the local community in accordance with policy S1 and PD1.

Impact on trees, biodiversity and wildlife

- 7.27 Policy PD6 of the Adopted Derbyshire Dales Local Plan requires that Trees, hedgerows, orchards or woodland of value should be retained and integrated within development wherever possible.
- 7.28 The Trees and Landscape Officer has recommended that further information should be provided in relation to existing trees at reserved matters stage to enable the Local Planning Authority to be fully informed about any potential conflict between existing trees and the proposed development. This will be important to ensure that the existing trees and landscape features along the boundary of the site with Dog Lane are retained to contain the development and protect the local landscape. A condition to secure such details and retain the trees along the boundary with Dog Lane is considered appropriate in this respect.
- 7.29 The Adopted Derbyshire Dales Local Plan (2017) seeks enhancement of biodiversity (Policy PD3) and is supported by the NPPF, paragraph 174 of which advises that planning decisions should provide net gains for biodiversity. The direction of travel and importance of improving biodiversity is also clear from the Environment Act 2021, even though the 10% requirement is not yet in force.
- 7.30 Derbyshire Wildlife Trust advised previously that whilst the overall impact on biodiversity is not considered to be substantive in terms of any unacceptable loss of protected or important habitats there is clearly a small loss of biodiversity that has not been fully quantified. To quantify the loss a Biodiversity Metric Assessment should be carried out. Officers are satisfied in this case, given the extent of the site, the value of the existing habitat and amount of development proposed that this can be considered as part of the subsequent approval of landscaping on site and through a condition which requires a Biodiversity Metric Assessment to be submitted as part of any approval of reserved matters application to demonstrate a net gain and habitat creation and enhancement across the site to satisfy the relevant provisions of the development plan and national planning guidance.

Developer contributions and housing mix

- 7.31 Policy S10 advises that suitable arrangements will be put in place to improve infrastructure, services and community facilities, where necessary when considering new development, including providing for health and social care facilities, in particular supporting the proposals that help to deliver the Derbyshire Health and Wellbeing Strategy and other improvements

to support local Clinical Commissioning Groups (CCG) and facilitating enhancements to the capacity of education, training and learning establishments throughout the Plan Area.

7.32 No health contribution has been sought by the CCG in this case, as the development falls below their threshold for seeking a contribution. The Education Authority re-assessed the application and whilst previously they identified that a contribution towards the provision of 3 secondary and 1 post 16 places at Queen Elizabeth's Grammar School and additional education facilities was required, it is now considered that the school would have sufficient capacity to accommodate the additional pupils derived from this development and as such no contribution is required.

7.33 In order to address the significant need for affordable housing across the Plan area, all residential developments of 11 dwellings or more or with a combined floorspace of more than 1000 square metres should provide 30% of the net dwellings proposed as affordable housing. The applicant agrees to make such provision, which is supported by the District Council's Housing Team. It is anticipated that 4 units would be delivered on site and 0.5 of a unit delivered in the form of an off-site financial contribution (applying the formula contained in the Developer Contributions SPD (2020)). One of the affordable houses would be a first home in order to comply with the 25% national requirement and the further 3 affordable homes should be delivered through a registered provider, all being for social rent with a mix of homes as follows:-

2 x 1 bed 2 person house
1 x 2 bed 4 person house

The scheme shall be agree with the District Council as part of the requirements of the s106 to satisfy the relevant provisions of the development plan and national guidance.

7.34 Policy HC11 of the Adopted Derbyshire Dales Local Plan prescribes a housing mix to meet the District Councils housing needs and to create a sustainable, balanced and inclusive communities. The applicant proposes that the dwellings will comprise 3, 4 and 5 bed roomed dwellings. Without justification this would not constitute an acceptable mix, being skewed towards the larger house types. A condition to secure a mix which conforms to the requirements set out in Policy HC11 is necessary in this case, with provisions to agree a different mix where justified.

7.35 The application does not make provision to help mitigate the effects of or adapt to climate change. A condition is recommended to ensure that measures are included as part of any subsequent approval of reserved matters application.

7.36 The application site includes a sufficient amount of land to deliver appropriate open space provision in accordance with the requirements of the Developer Contributions SPD (2020) as part of any subsequent approval of reserved matters application.

The Planning Balance

7.37 The development plan makes provision for new housing development on the edge of tier 1 – 3 settlements in circumstances where the District Council is unable to demonstrate a five year supply of housing land. Paragraph 11 d) of the NPPF advises that decisions should apply a presumption in favour of sustainable development and grant permission unless the application of policies in the framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed or any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the framework taken as a whole.

7.38 Having regard to this, the consultation responses and representations received and the relevant provisions of the development plan and guidance contained within the NPPF it is clear from the consideration of the main issues that the development should be approved as, subject to careful consideration of the reserved matters, there would be no significant adverse impacts or technical reasons to refuse planning permission that would significantly and demonstrably outweigh the benefits arising from the provision of market and affordable housing. Technical matters and compliance with development plan policies and national guidance can be controlled through the use of conditions and a S106 legal agreement. A recommendation of approval is put forward on this basis. A condition is recommended to secure the narrowing of the highway and kerb build out to address members concerns in respect of the original application.

8.0 RECOMMENDATION

That authority be delegated to the Development Manager or Principal Planning Officer to grant planning permission, subject to the following conditions upon completion of a s106 legal agreement to secure 30% of the dwellings as affordable units on-site (with any residual amount (i.e. less than 1 unit) provided as an offsite financial contribution.

1. Application for approval of all reserved matters must be made not later than the expiration of three years from the date of this permission. The development hereby permitted must be begun not later than the expiration of two years from the final approval of the reserved matters, or in the case of approval of such matters on different dates, the date of the final approval of the last such matter to be approved.

Reason:

This is a statutory period which is specified in Section 92 of the Town and Country Planning Act 1990.

2. An application for details of the following matters (hereafter referred to as the “reserved matters”) shall be submitted to and approved in writing by the Local Planning Authority before the commencement of any works:-
 - a) the scale of the development;
 - b) the layout of the development;
 - c) the external appearance of the development;
 - d) the landscaping of the site.

The development shall thereafter be implemented in accordance with the approved details.

Reason:

The application was made for outline planning permission and is granted to comply with the provisions of Section 92 of the Town and Country Planning Act 1990 and Article 5(1) of the Town and Country Planning (Development Management Procedure) Order 2015.

3. This permission relates solely to the application plan no's 01001 P2, 1001 P3 and 04001 P1 received by the Local Planning Authority on the 13th January 2023.

Reason:

For the avoidance of doubt

4. As part of any approval of reserved matters application concerning layout a surface water drainage scheme, to manage surface water run-off from the development (including climate

change requirements) shall be submitted to and approved in writing by the local planning authority. The scheme shall also include:

- Appropriate operational, maintenance and access requirements for each drainage feature or SuDS component are adequately considered, including any proposed arrangements for future adoption by any public body or statutory undertaker.

The scheme shall be constructed in accordance with the approved details and shall be managed/maintained in accordance with the approved maintenance and management details for the lifetime of the development.

Reason:

To ensure that the site is appropriately drained to prevent localised flooding in accordance with the aims of Policy PD8 of the Adopted Derbyshire Dales Local Plan (2017).

5. No dwelling shall be occupied until a Verification Report pertaining to the relevant surface water drainage system(s), has been submitted to and approved in writing by the local planning authority. This Report shall demonstrate the suitably modelled operation of the drainage system such that flood risk is appropriately managed.

Reason:

To ensure that the site is appropriately drained to prevent localised flooding in accordance with the aims of Policy PD8 of the Adopted Derbyshire Dales Local Plan (2017).

6. No development shall commence on any dwellinghouse construction until a scheme for the disposal of foul water discharge from the development and a timetable for its implementation have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved scheme and details and permanently retained thereafter.

Reason:

To ensure that foul sewage is appropriately disposed of in accordance with the aims of Policy PD9 of the Adopted Derbyshire Dales Local Plan (2017).

7. The finished floor levels of the dwellinghouses shall be 150mm above ground level unless otherwise agreed in writing by the Local Planning Authority.

Reason:

To adhere to best practice and to ensure that the future dwellings are not at risk from flooding in accordance with the aims of Policy PD8 of the Adopted Derbyshire Dales Local Plan (2017).

8. Any approval of reserved matters application relating to the layout of the development shall include:
 - a) A tree survey - the results of a tree survey (according to sections 4.4 and 4.5 BS 5837:2012) to include all existing trees on and within 15m of the site.
 - b) Tree constraints plans – every surveyed tree should have its location, category grading (section 4.5 BS 5837 (2012)), canopy spread and root protection area (section 4.6 BS 5837 (2012)) plotted onto two accurate site survey plans; the first should show the site as existing and the second should show the site as proposed.

- c) An arboricultural impact assessment – according to section 5.4 BS 5837 (2012) which should present an evaluation of the impact of the proposals on the existing trees.
- d) Tree removals plan – every surveyed tree should have its location, category grading, canopy spread and root protection areas (section 4.6 BS 5837 (2012)) plotted onto an accurate site survey plan showing the proposed site. The trees which will need to be removed to facilitate the proposals should be indicated using different symbols to the trees for retention.

Reason:

To ensure an accurate assessment of the effect of the development on the trees and in the interests of visual amenity and biodiversity in accordance with policies S1, S4, PD1, and PD6 of the Adopted Derbyshire Dales Local Plan (2017).

- 9. No machinery shall be operated on the site, no process or operations shall be carried out and no deliveries shall be taken at or despatched from the site except between 8:00 and 18:00 hours Monday to Friday and 9:00 and 13:00 on Saturdays or at any time on Sundays and Bank Holidays unless otherwise agreed in writing by the Local Planning Authority.

Reason:

To safeguard the residential amenity of the occupants of existing dwellings from construction activity in accordance with the aims of Policy PD1 of the Adopted Derbyshire Dales Local Plan (2017).

- 10. The dwellings shall incorporate measures to help mitigate the effects of and adapt to climate change. The measures and any scheme including timetable for delivery shall be submitted to the Local Planning Authority approved as part of any of any reserved matters application. The development shall thereafter be carried out in accordance with the approved details.

Reason:

In the interests of mitigating the effects of and adapting to climate change in accordance with the aims of Policy PD7 of the Adopted Derbyshire Dales Local Plan (2017).

- 11. In the event that ground contamination that has not been identified is found at any time when carrying out the approved development it must be reported in writing immediately to the Local Planning Authority. An investigation and risk assessment must be undertaken in accordance with DEFRA and the Environment Agency's *'Model Procedures for the Management of Land Contamination, CLR 11'*, and where remediation is necessary a remediation scheme must be prepared which is subject to the approval in writing of the Local Planning Authority. The development should thereafter be carried out in accordance with the approved remediation scheme.

Reason:

To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors in accordance with aims of Policy PD9 of the Adopted Derbyshire Dales Local Plan (2017).

- 12. Any approval of reserved matters application relating to landscaping shall be accompanied by a Biodiversity Metric Assessment which demonstrates a net biodiversity gain across the site, appropriate habitat creation and enhancement and details of future maintenance and

management. The development shall thereafter be carried out in accordance with the approved details.

Reason:

To ensure biodiversity net gain in accordance with the requirements of Policy PD3 of the Adopted Derbyshire Dales Local Plan (2017) and paragraph 174 of the National Planning Policy Framework (2021).

13. Any approval of reserved matters application relating to landscaping and layout shall, unless otherwise agreed in writing by the Local Planning Authority, make provision for the retention and enhancement of existing boundary trees and vegetation to provide a suitable buffer between the development and surrounding countryside to the north and Dog Lane.

Reason:

To minimise the impact of the development on the local landscape, a nearby heritage asset and the character of the settlement in accordance with policies S1, PD2, PD5, and PD6 of the Adopted Derbyshire Dales Local Plan (2017).

14. Notwithstanding the submitted details, any approval of reserved matters application shall provide for the following overall mix of housing: 1 bed - 15%, 2- bed - 40%, 3-bed - 40% and 4+ bed - 5% unless it can be demonstrated that the character of the area, evidence of local housing need or turnover of properties would justify an alternative mix.

Reason:

To ensure an appropriate housing mix to meet the objectively assessed housing needs of district in accordance with the aims of Policy HC11 of the Adopted Derbyshire Dales Local Plan (2017).

15. Where the estate street provided is not to be adopted by the Local highway Authority prior to the first occupation of any dwelling details of the management company that shall be responsible for the future maintenance of all the unadopted roads, footways, shared parking areas within the site, including proposed 'private' signage along with an ongoing maintenance strategy, and timescales for the transfer to such company, shall be submitted to the Local Planning Authority. Such areas shall be transferred to the management company in accordance with the approved details.

Reason:

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

- 16 No dwelling shall be constructed until drawings of the site access works comprising vehicle access from Biggin View and Pedestrian access onto the A517 have been submitted to and approved in writing by the Local Planning Authority. The development and access shall thereafter be provided in accordance with the approved details prior to occupation of any dwelling.

Reason:

To ensure the safe and free flow of traffic onto the highway in accordance with Policy HC19 of the Adopted Derbyshire Dales Local Plan (2017).

17. No individual dwelling in the development hereby approved shall be occupied until sheltered, secure and accessible bicycle parking has been provided in accordance with details which shall first be submitted to and approved in writing by the Local Planning Authority. The storage area shall be maintained for this purpose thereafter.

Reason:

To promote sustainable travel and healthy communities in accordance with Policy HC19 of the Adopted Derbyshire Dales Local Plan (2017).

18. No dwelling hereby approved shall not be occupied until the applicant has submitted to and had approval in writing from the Local Planning Authority a residential welcome pack promoting sustainable forms of access to the development. The pack shall be provided to each resident at the point of the first occupation of the dwelling.

Reason:

To reduce vehicle movements and promote sustainable access in accordance with Policy HC19 of the Adopted Derbyshire Dales Local Plan (2017).

19. Prior to commencement of the development hereby permitted details of a construction management plan shall be submitted to and approved in writing by the Local Planning Authority. The approved plan shall be adhered to throughout the demolition/construction period. The plan/statement shall include but not be restricted to:

- Parking of vehicle of site operatives and visitors (including measures taken to ensure
- satisfactory access and movement for existing occupiers of neighbouring properties
- during construction);
- Advisory routes for construction traffic;
- Any temporary access to the site;
- Locations for loading/unloading and storage of plant, waste and construction materials;
- Method of preventing mud and dust being carried onto the highway;
- Arrangements for turning vehicles;
- Arrangements to receive abnormal loads or unusually large vehicles;
- Methods of communicating the Construction Management Plan to staff, visitors and
- neighbouring residents and businesses.

Reason:

In the interests of safe operation of the adopted highway in the lead into development both during the demolition and construction phase of the development in accordance with Policy HC19 of the Adopted Derbyshire Dales Local Plan (2017).

21. No dwelling hereby approved shall be occupied until the access to serve the development has been laid out, in full, in accordance with drawing numbered ADC3090-DR-004 P1 set out in the Technical Access Note and is made available to all future residents.

Reason:

To ensure a safe means of access and encourage sustainable travel in accordance with Policy HC19 of the Adopted Derbyshire Dales Local Plan (2017).

9.0 NOTES TO APPLICANT:

The Local Planning Authority prior to the submission of the application engaged in a positive and proactive dialogue with the applicant in relation to the committee resolution and subsequent appeal for the previous 22/00008/OUT application.

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.

Government guidance contained within the national Planning Practice Guidance (Water supply, wastewater and water quality – considerations for planning applications, paragraph 020) sets out a hierarchy of drainage options that must be considered and discounted in the following order:

1. Connection to the public sewer
2. Package sewage treatment plant (adopted in due course by the sewerage company or owned and operated under a new appointment or variation)
3. Septic Tank

Foul drainage should be connected to the main sewer. Where this is not possible, under the Environmental Permitting Regulations 2010 any discharge of sewage or trade effluent made to either surface water or groundwater will need to be registered as an exempt discharge activity or hold a permit issued by the Environment Agency, in addition to planning permission. This applies to any discharge to inland freshwaters, coastal waters or relevant territorial waters.

Please note that the granting of planning permission does not guarantee the granting of an Environmental Permit.

Upon receipt of a correctly filled in application form we will carry out an assessment. It can take up to 4 months before we are in a position to decide whether to grant a permit or not.

Domestic effluent discharged from a treatment plant/septic tank at 2 cubic metres or less to ground or 5 cubic metres or less to surface water in any 24 hour period must comply with General Binding Rules provided that no public foul sewer is available to serve the development and that the site is not within an inner Groundwater Source Protection Zone.

A soakaway used to serve a non-mains drainage system must be sited no less than 10 metres from the nearest watercourse, not less than 10 metres from any other foul soakaway and not less than 50 metres from the nearest potable water supply.

Where the proposed development involves the connection of foul drainage to an existing non-mains drainage system, the applicant should ensure that it is in a good state of repair, regularly de-sludged and of sufficient capacity to deal with any potential increase in flow and loading which may occur as a result of the development.

Where the existing non-mains drainage system is covered by a permit to discharge then an application to vary the permit will need to be made to reflect the increase in volume being discharged. It can take up to 13 weeks before we decide whether to vary a permit.

Further advice is available at: <https://www.gov.uk/permits-you-need-for-septic-tanks> and

This Decision Notice relates solely to the application plans and documents:-

Plan no. 1001 P3

Plan no. 01001 P2

Plan No's 01005 P2 and 04001 P1

Access Technical Note ADC3090-RP-B including plans ADC3090-DR-003 P1 and 004 P1

Design and Access Statement Rev A dated 21st December 2021

Planning and Heritage Statement by JMI Planning

Flood Risk Assessment by RAB dated 21st November 2021

Ecological Impact Assessment by RammSanderson dated November 2021

Geophysical Survey by Archaeological; Research Services dated June 2022

Key to viewpoints and Viewpoint photos 1 -7

NOT CONFIDENTIAL - For public release

PLANNING COMMITTEE – 14th March 2023

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
21/00130/FUL	Land east of Turlowfields Lane, Hognaston	HEAR	Appeal being processed
ENF/22/00008	View House, Somersal Herbert	WR	Appeal being processed
21/01109/FUL	Land east of Nether Lane, Kirk Ireton	WR	Appeal dismissed – copy of appeal decision attached
21/01512/PDA	The Barn, Upper Lane, Biggin	WR	Appeal dismissed – copy of appeal decision attached
21/01099/FUL	Land off Ashbourne Road, Brassington	WR	Appeal being processed
21/01000/FUL	Ashbourne Lodge Care Home, 80 Derby Road, Ashbourne	WR	Appeal being processed
22/00455/FUL	The Grove, Brunswood Lane, Hulland Ward, Ashbourne	WR	Appeal being processed
22/00590/FUL	Cobscroft, Trough Lane, Hulland Village	HH	Appeal being processed
22/00986/CLPUD	Ashbourne Touring and Camping Park, DE6 3HF	WR	Appeal being processed
22/00008/OUT	Land off Biggin View, Hulland Ward	WR	Appeal being processed
22/01243/FUL	Hilltop Barn, Derby Road, Ashbourne	HH	Appeal being processed

22/01085/FUL	Brackendale, Ashbourne Road, Brassington	HH	Appeal being processed
ENF/2021/00044	Darley Moor Motor Cycle Road Racing Club Ltd, Darley Moor Sports Centre, Darley Moor, Ashbourne	WR	Appeal being processed
22/01020/FUL	The Walsage, Roston, Ashbourne	WR	Appeal being Processed
Central			
21/00927/FUL	43 St Johns Street, Wirksworth	HH	Appeal being processed
ENF/22/00045	Willersley Castle, Mill Road, Cromford	WR	Upheld with modification - copy of appeal decision attached
22/00893/FUL	34 Castle View Drive, Cromford	HH	Appeal being processed
22/00982/FUL	3 Sunnybank, Rowsley	HH	Appeal dismissed – copy of appeal decision attached
22/01133/FUL	2 Ashtree Close, Matlock	HH	Appeal being processed
22/00772/OUT	Land opposite The Homestead, Whitworth Road, Darley Dale	WR	Appeal being processed
22/00648/VCOND	21 Imperial Road, Matlock	WR	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 7 February 2023

by **Andrew Dale BA (Hons) MA MRTPI**

an Inspector appointed by the Secretary of State

Decision date: **01st March 2023**

Appeal Ref. APP/P1045/D/22/3310051 3 Sunnybank, Rowsley, Matlock DE4 2DX

- 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 Pheasey against the decision of Derbyshire Dales District Council.
 - The application ref. 22/00892/FUL, dated 29 July 2022, was refused by notice dated 26 September 2022.
 - The development proposed is "*Proposed demolition of existing sun room and proposed extension over existing garage.*"
-

Decision

1. The appeal is dismissed.

Procedural matters

2. In the heading above, I have taken the name of the appellant from the householder application form. The planning appeal form included the agent's name in sections A and B, the former being reserved for the appellant's details.
 3. Surprisingly, the description of the proposed development given on the householder application form, the planning appeal form, the Council's decision notice and the Council's delegated report fails to acknowledge that a ground floor extension would be built at the rear on the footprint of the existing sun room which is to be demolished. It is shown on the plans and referred to in the Design and Access Statement. Still, it is apparent from the main body of the Council's delegated report that the Council gave consideration to this proposed rear ground floor extension. I shall do likewise and the description of the proposal in the heading above can be considered to be amended accordingly.
 4. Generally, the householder appeal procedure is based on the assumption that a decision can reasonably be made on the basis of the plans which were before the Council when it made its decision, in the knowledge that the process does not allow any opportunity for the Council to comment on the grounds of appeal or for third parties to make any additional comments. My decision therefore focusses on those plans. Whilst detailed revised plans have not been submitted with the appeal, I am aware that the appellant has sought to evolve the scheme as part of his appeal submission. I will turn to that matter later in my decision.
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Main issue

5. The Council had no objections to the proposed ground floor rear extension, having found that it would have a simple form and reflect the detailing and materials of the host dwelling. I see no reason to reach a different view. The main issue is therefore the impact of the proposed extension over the existing garage upon the character and appearance of the house and its surroundings.

Reasons

6. Paired with 5 Sunnybank, the appeal property is a semi-detached 2-storey house with a garage on the other side linked to the garage at 1 Sunnybank. It falls within a pleasant residential area of fairly recent origin, where the houses follow a compact layout around a series of cul-de-sacs and exhibit traditional and distinctive design features including stone elevations, red brick detailing, steeply pitched roofs laid with small plain tiles and garages that are generally well set back from the front facades.
7. The original character of nos 1, 3 and 5 remains substantially intact. Together they make a positive contribution to the street scene close to the entrance of Sunnybank from Hinckley Court which goes on towards Peak Village, a sizeable and popular shopping destination with a nature reserve. Given the location of the appeal property, its rear elevation, including the rear roof slope over the garage, is open to public views from Riverbank, the cul-de-sac a short distance to the north, from a section of Hinckley Court and when exiting Peak Village.
8. The principle of extending the house is not at issue. However, the National Planning Policy Framework advises that good design is a key aspect of sustainable development; so development should add to the overall quality of the area, be visually attractive as a result of good architecture and sympathetic to local character and establish or maintain a strong sense of place. I consider that the appeal scheme is ill-judged in these important respects.
9. The proposed extension over the existing garage would be of limited overall size and massing, utilise matching fenestration detailing and be lower than the main 2-storey building. Even so, it is apparent that building up over the garage in the manner proposed would introduce an elongated section of flat roof behind a rather stunted portion of sloping roof. The Council is correct to refer to a hybrid design. There would be a direct and awkward clash of roof forms. Moreover, having regard to the flat roof's degree of projection and its alignment with the existing first floor rear window, the development would appear as a somewhat incongruous first floor flat-roofed rear addition rather than as a dormer window set unobtrusively into the roof slope.
10. The design throws up other unfortunate features. The proposed flat roof would overlap a corner of the main rear roof. The front pitched roof would appear as a visually weak and ill-proportioned feature between the roof of the host property and the roof over the garage to no. 1. The narrow band of existing garage roofing left below the front of the extension would appear awkward. Cladding all sides of the extension in vertical roofing tiles would depart too far from the traditional stone finish of the host property and the others positioned close by.
11. I consider that the proposed extension over the existing garage would not be an example of high-quality design or present a visually attractive solution that

- would add to the overall quality of the area. The development would not be sufficiently respectful of or complementary to the existing building's character, design and form, the local character and the wider setting of the site.
12. I saw that some of the properties on the same estate have been extended and altered. The appellant has drawn my attention to 3 such properties. The 4 photographs supplied appear to relate to 6 Sunnybank (photograph 1), 5 Devonshire Drive (photograph 3) and 2 Schofield Court (photographs 2 and 4). I have not been provided with the precise details of these sites including whether or not planning permissions have been granted for the extensions and alterations that have taken place. It is possible that permitted development rights may have been exercised for some of the works. In any event, on my site visit, I could not detect any extension project identical to or even very similar to what is proposed under this appeal scheme. There are no binding local precedents for the appeal proposal in the available evidence before me.
 13. I find on the main issue that the proposed extension over the existing garage would harm the character and appearance of the house and its surroundings. There would be conflict with the aims of Policies PD1: *Design and Place Making* and HC10: *Extensions to Dwellings* of the adopted Derbyshire Dales Local Plan 2017 which, amongst other things, seek developments that contribute to local distinctiveness and sense of place and require that the height, scale, form and design of any extension to a dwelling be in keeping with the scale and character of the original dwelling and the site's wider setting and location. There would also be a failure to respect the key design themes in the National Planning Policy Framework that relate to achieving well-designed places.
 14. The appellant points to possible amendments that he says would follow suggestions made by the Council's planning officers. These would relate to constructing the front of the extension over the garage in natural stone and extending the rear upward slope of the proposed extension so that it meets up with main rear roof slope of the existing house. Stone coloured render is also suggested for the side and rear walls of the extension. Such suggestions are not referred to in the Council's delegated report or in a footnote to the decision. A sketch impression has been submitted with the appeal but no revised plans as such. The extension would also appear to be set flush with the front of the garage on that sketch. Viewed as a whole, the scheme would be so markedly changed from the scheme before the Council when it made its decision that I have decided not to consider these suggestions. If such a scheme is to be pursued a fresh application would need to be made to the Council in the first instance whereupon any interested third parties would have an opportunity to comment.
 15. Local representations were also made about the implications of the construction for the neighbouring garage at no. 1. The responsibility for the safe development of the site rests with the appellant who would need to comply with the building regulations and arrange for a party wall agreement before commencing works. The appellant's architect is confident that all works would take place "...inside of the boundary of the extension."
 16. My finding on the main issue is decisive to the outcome of this appeal. There is conflict with the development plan. The harm cannot be mitigated by the imposition of planning conditions and it is not outweighed by other material

considerations, including the wish of Mr and Mrs Pheasey to extend their home to meet the demands of their work life. For the reasons given above and taking into account all other matters raised, I conclude that this appeal should not succeed.

Andrew Dale

INSPECTOR



Appeal Decision

Site visit made on 13 December 2022

by David Jones BSc (Hons) MPlan MRTPI

an Inspector appointed by the Secretary of State

Decision date: 17th February 2023

Appeal Ref: APP/P1045/W/22/3298296

Land at Nether Lane, Kirk Ireton Easting: 426911, Northing: 350100

- 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 & Mrs Aled & Dominie Edwards against the decision of Derbyshire Dales District Council.
 - The application Ref 21/01109/FUL, dated 6 September 2021, was refused by notice dated 11 November 2021.
 - The development proposed is the erection of 2 no. dwellinghouses.
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Decision

1. The appeal is dismissed.

Main Issue

2. The main issue is whether the proposed development would preserve or enhance the character or appearance of the Kirk Ireton Conservation Area (KICA).

Reasons

3. The appeal site is located within the Kirk Ireton Conservation Area (KICA). The KICA was originally designated in 1971 around the village core which comprises of buildings dating from predominantly the 18th and 19th centuries. The KICA was extended quite considerably in 1992 into its current form to include the landscape that surrounds the village. The significance of the KICA is largely derived from its rural setting, including views from the settlement out across an attractive agricultural landscape, and narrow lanes enclosed by hedgerows which provide a 'secretive' approach to the village's traditional core which has retained a strong visual integrity due to construction methods and materials.
4. The site is a parcel of agricultural land located between the dwellings of Hill View and Netherfield Cottage on the eastern side of Nether Lane. Ground levels fall away from the lane through the site to the east. Nether Lane is narrow and lined by residential properties, with those dwellings on the western side of the lane taking advantage of their elevated ground levels which provide long-range views over the site into the Ecclesbourne Valley. Views eastwards across the site are also afforded from the public right of way (PROW) located to the rear of these dwellings, and from points along Nether Lane itself.
5. The Kirk Ireton Conservation Area Character Appraisal (CA) confirms that the 'spaces' between buildings are just as important as the buildings themselves and should therefore be given a significant degree of consideration in proposals for development. The CA also identifies several principal views which contribute

towards the special interest of the KICA. One such view is eastwards from the KICA across the appeal site and into the attractive landscape and Ecclesbourne Valley beyond. This view has therefore been recognised as one of the most important and defining views from within the KICA.

6. The appeal proposal would see erection of two detached dwellings consisting of two linked blocks with large openings to their east facing elevations. Due to the sloping topography of the site the lower ground floor of the dwellings would sit beneath the highway, and therefore when viewed from Nether Lane they would largely appear as single storey structures. Both dwellings would also present a gabled elevation to Nether Lane which would assist in reducing their overall width. Nevertheless, the dwellings would still appear as prominent features that would significantly alter and block part of the principal view away from the KICA and the contribution it makes to its special interest. This would be experienced from the dwellings and the PROW on the western side of Nether Lane, as well as from other points along Nether Lane itself.
7. I acknowledge that consideration has been given to the principal view in the design of the proposed scheme, in particular by allowing gaps to exist between site 1 and Hill View, between sites 1 and 2, and between site 2 and Netherfield Cottage. Furthermore, the appellant states that the appeal proposal results in a reduction in the mass of both dwellings and an increase in the gap between sites 1 and 2 of approximately 49% when compared to the previous scheme. However, whilst the principal view would not be lost altogether, I find that the proposed development would still reduce, frame, and alter the principal view to the extent that it would have a harmful effect on the character and appearance of the KICA.
8. At present views across the southern end of the site from Nether Lane are largely obscured by the existing mature hedgerow which runs along part of the site's western boundary in the approximate position of site 2. Although the proposal would see the existing hedgerow removed allowing clearer views either side of the gabled elevation of the dwelling on site 2, this would not outweigh the cumulative negative impact that the scale and siting of the two new dwellings would have on the principal view. The gabled elevations of the proposed dwellings would be taller than much of the existing hedge, and I consider it highly probable that the proposed development would form part of the landscape for a considerable period. There is however no guarantee regarding the long-term existence of the existing hedge, as evidenced by the CA which appears to indicate that the hedge previously ran along the site's entire western boundary with Nether Lane as opposed to just part of it.
9. I also observed that additional hedgerow planting had taken place along the same boundary towards the northern end of the site, although this planting appeared to have taken place recently and it currently has no discernible impact on the principal view from Nether Lane. Whilst this additional hedgerow planting could in the future mature to the extent that views from Nether Lane across the site would be entirely blocked, there would again be no certainty that the hedgerow would be retained in perpetuity or maintained at a height so that views across the site would be entirely blocked.
10. In terms of their layout and design the two proposed dwellings would almost mirror each other. Although nearby properties comprise a variety of house types and designs, there is a consistency in the materials used with properties

predominately constructed with sandstone walls and clay tile roofs. Though also incorporating a modern trend, including the use of glazing and timber cladding on their lower levels, the proposed dwellings would be constructed using materials largely in keeping with the local vernacular. Consequently, by virtue of the appropriate use of materials, along with the separation distance afforded by the gap between sites 1 and 2, the repetitive design of the two dwellings would not result in any undue harm being caused to the character or appearance of the KICA. This however does not alter my conclusion that the proposed development would fail to preserve or enhance the character or appearance of the KICA due to its effect upon the principal view.

11. Section 72 (1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires me to pay special attention to the desirability of preserving or enhancing the character or appearance of the KICA. Paragraph 199 of the National Planning Policy Framework (the Framework) states that when considering the impact of a development on a designated heritage asset, great weight should be given to the asset's conservation. Whilst the harm I have identified would be less than substantial, it nevertheless is of considerable importance and weight. Paragraph 202 of the Framework requires this harm to be weighed against the public benefits of the proposal.
12. There would be a benefit to the local housing supply through the provision of 2no dwellings. There would also be benefits to the local economy through the creation of temporary construction related jobs, and the on-going contributions of future occupiers in terms of local spending and their use of local services and facilities. These benefits however would be modest due to the small scale of the development. Matters relating to the risk of contamination, highway safety, occupants' living conditions, and flooding would also represent modest public benefits. Taking these points together, I conclude that the benefits of the proposal would not outweigh the harm identified, which carries considerable importance and weight.
13. I therefore conclude that the proposed development would fail to preserve or enhance the character or appearance of the KICA. Accordingly, the proposal would conflict with Policies PD1, PD2 and PD5 of the Adopted Derbyshire Dales Local Plan (December 2017) (LP) and Policies P1 and P2 of the Kirk Ireton Derbyshire Neighbourhood Plan 2019-2033 (made July 2021). These policies, among other matters, seek to ensure that developments conserve heritage assets in a manner appropriate to their significance, and are not detrimental to the heritage value of the landscape or views from the village, including those views highlighted by the CA.

Other Matters

14. The Council also referred to Policies S2 and HC1 of the LP in its decision notice, which relate to the principle of proposed housing development having regard to its location and the settlement hierarchy. However, in both the delegated report and statement of case the Council raises no objection to the principle of residential development in this location, acknowledging that the proposed development could reasonably be considered as infill and consolidation of the existing built framework of Kirk Ireton. I find no compelling reason to disagree with this conclusion and therefore find that the proposal would accord with Policies S2 and HC1 of the LP.

15. The Council has confirmed that it cannot demonstrate a deliverable housing land supply of 5 years. In addition, the appellants also contend that a complete review of the LP has not been undertaken within five years from the date of its adoption, as required by Regulation 10A of the Town and Country Planning (Local Planning) (England) Regulations 2012, and therefore paragraph 11(d) of the Framework is engaged. As such, the appellants consider, in line with paragraph 11(d)(ii), that permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.
16. However, the effect of paragraph 11(d)(i) means that permission should not be granted if policies in the Framework that protect areas of assets of particular importance provides a clear reason for refusing the development proposed. Given my conclusion on the main issue, the balance required by paragraph 11(d)(ii) is unnecessary to undertake.

Conclusion

17. The proposal would conflict with the development plan as a whole, and there are no material considerations, including the approach of the Framework, to outweigh it. The appeal is therefore dismissed.

David Jones

INSPECTOR



Appeal Decision

Site visit made on 13 December 2022

by David Jones BSc (Hons) MPlan MRTPI

an Inspector appointed by the Secretary of State

Decision date: 03 March 2023

Appeal Ref: APP/P1045/W/22/3299235

The Barn, Upper Lane, Biggin DE6 3FH

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant approval required under Schedule 2, Part 3, Class Q of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).
 - The appeal is made by Mr McCabe against the decision of Derbyshire Dales District Council.
 - The application Ref 21/01512/PDA, dated 13 December 2021, was refused by notice dated 8 February 2022.
 - The development proposed is the change of use of agricultural building to dwelling.
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Decision

1. The appeal is dismissed.

Applications for costs

2. An application for costs was made by Derbyshire Dales District Council against Mr McCabe. This application is subject of a separate decision.

Procedural Matters

3. The application form did not include a description of the proposed development. Consequently, the description in the banner header above has been taken from the appeal form and the decision notice. I have dealt with the appeal accordingly.

Background and Main Issue

4. Class Q (a) of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended), (the GPDO) permits the change of use of a building and any land within its curtilage from a use as an agricultural building to a use falling within Class C3 (dwellinghouses) of the Schedule to the Use Classes Order. Class Q (b) of the GPDO permits building operations reasonably necessary to convert the building referred to in (a) above.
5. Paragraph Q.1 (a) of the GPDO states that development is not permitted by Class Q if the site was not solely for an agricultural use as part of an established agricultural unit (i) on 20 March 2013, (ii) in the case of a building which was in use before that date but was not in use on that date, when it was last in use, or (iii) in the case of a site which was brought into use after 20 March 2013, for a period of at least 10 years before the date development under Class Q begins.

6. Planning permission¹ was granted at the appeal site on 30 January 2020 for the '*reinstatement of cladding to hay barn, re-routing of farm track and temporary earth bund for duration of the restoration works (part retrospective)*'. Following the completion of the works approved under the planning permission, an application for prior approval² was made under Schedule 2, Part 3, Class Q of the GPDO for the '*change of use from an existing agricultural barn. Building works include all necessary internal works to construct a home, externally the only building works are to add windows and doors*'. This application was refused on 12 March 2021 and subsequently dismissed at appeal³ on 29 July 2021.
7. The Council consider that as the original building was taken back to its skeletal frame and new foundations laid during the completion of the works granted under the planning permission, the development resulted in the construction of a new building. As a result, the Council do not consider that it would comply with criterion of Class Q.1(a) (iii) as the building, which was brought into use after 20 March 2013, has not been in use for a period of at least 10 years before the date development under Class Q begins.
8. Given the above, the main issue is whether the proposal would be permitted development, with particular regard to whether the requirements of paragraph Q.1(a) would be met.

Reasons

9. The appeal site is located within the open countryside and is accessed from Upper Lane via a gated entrance. The site comprises an agricultural building constructed of concrete block work, vertical hung Yorkshire boarding, and profiled metal roofing.
10. For the purposes of Class Q, an 'established agricultural unit' is defined in Schedule 2, Part 3, Paragraph X of the GPDO as being 'agricultural land occupied as a unit for the purposes of agriculture on or before 20th March 2013 or for 10 years before the date the development begins'. An 'agricultural building' is defined as a building (excluding a dwellinghouse) used for agriculture and which is so used for the purposes of a trade or business, and 'agricultural use' refers to such uses.
11. There is no dispute between the parties that there is an established historical agricultural use of the appeal site, and that a building on the site has been and continues to be used for agricultural purposes. Based on the information before me, which include photographs and a letter from the previous owner of the land detailing its previous and recent use, and from my own observations on site, I have no reason to disagree.
12. However, the Council consider that given the level of the works carried out following the granting of the planning permission in 2020 the development amounted to the construction of a new building on the site. The appellant contends that, whilst the works undertaken were significant, they do not amount to a new building. This is largely based on the retention of the building's steel frame.

¹ Council Ref: 19/01286/FUL

² Council Ref: 21/00189/PDA

³ APP/P1045/W/21/3271492

13. To support this view, the appellant has provided a letter from a structural surveyor which confirms that the steelwork is the original steel frame and that it forms an integral part of the structure of the building. Following the removal of part of the building's blockwork I was able to view part of the steel frame during my site visit, with those parts visible appearing weathered which further supported the conclusion of the structural surveyor. The Council also agree that the steel frame appears to be from the original building.
14. From the evidence available to me it is readily apparent that there is very little remaining of the original dilapidated building. Whilst I acknowledge that the steelwork is the original steel frame, the works undertaken involved the erection of full height blockwork walls with new footings to all four sides of the building, new roofing, and the addition of timber boarding to parts of the exterior of the new blockwork walls. The totality of these works means that in essence a new building has been constructed.
15. Whether or not the scale of the works goes beyond a repair or upgrade and instead amount to the construction of a new building is a matter of planning judgement with reference to the circumstances of the case. To my mind, the building operations undertaken at the appeal site clearly go beyond what could reasonably be considered a repair or upgrade and have resulted in the construction of a new building. The fact that these works may have been approved under the planning permission from 2020 does not alter my view.
16. I note the appellant's view that the works constitute the re-cladding of an existing building, and that these works could be reversed if so desired. However, for the reasons stated above I find that the works carried out go significantly beyond what could be described as the 're-cladding' of an existing building. Furthermore, the reversal of these works would be extensive and require amongst other things the demolition of walls and removal of foundations. I consider that this only further supports my finding that the works undertaken have resulted in the construction of a new building.
17. I therefore find that the works are so extensive that they amount to a new building. As a result, the development proposed would not comply with criterion of Class Q.1(a) (iii) as the building, which was brought into use after 20 March 2013, has not been in use for a period of at least 10 years before the date development under Class Q begins.

Other Matters

18. Several comments were made by third parties in relation to the application, including a number in support of the proposal. These included that converting the building into a dwelling would be positive and make better use of the structure, and that the work carried out to date had been done to a high standard. The GPDO however grants planning permission within specified parameters, and none of these other points affect whether the appeal proposal is permitted development under the GPDO.

Conclusion

19. For the reasons given above, I conclude that the proposal would not constitute permitted development under Schedule 2, Part 3, Class Q of the GPDO. The appeal is therefore dismissed.

David Jones

INSPECTOR



Appeal Decision

Site visit made on 10 November 2022

by Elaine Gray MA(Hons) MSc IHBC

an Inspector appointed by the Secretary of State

Decision date: 27 February 2023

Appeal Ref: APP/P1045/C/22/3303820

Willersley Castle, Cromford, Matlock, Derbyshire DE4 5JH

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (TCPA) as amended by the Planning and Compensation Act 1991.
 - The appeal is made by Mr V Philips/Globebrow Ltd against an enforcement notice issued by Derbyshire Dales District Council.
 - The enforcement notice is dated 27 June 2022.
 - The breach of planning control as alleged in the notice is: Without planning permission the unauthorised erection of structures in the grounds of a listed building as shown on both aerial photographic views and individual photographs attached to the notice at annexes Plan 1 and Plan 2: 1. Octagonal Structure 2. Three poles and tyres 3. Wired climb through 4. Rope and tub balance 5. Run over platform 6. Air rifle shooting range 7. Archery range 8. Assorted climbing/rope walking structures 9. Axe throwing range 10. Raised timber planter with seating around 11. 2 x timber river bank landing stages.
 - The requirements of the notice are: a) Permanently cease the use of all structures in the positions identified on aerial photograph (annex Plan 1 of the notice), showing the location of the structures numbered 1-9 along with the corresponding individual photographs of the structures 1-9. b) Permanently cease the use of all structures in the positions identified on aerial photograph (annex Plan 2 of the notice), showing the location of the structures number 10 and 11, along with the corresponding individual photographs of the structures 10 and 11. c) Permanently remove all the structures, 1-11 identified on Plan 1 and Plan 2 of the notice from the land edged red on Plan 3 of the notice and reinstate the land to reflect its former condition prior to the provision/erection of the structures number 1-11.
 - The period for compliance with the requirements is 30 days.
 - The appeal is proceeding on the grounds set out in section 174(2)(a), (c) and (g) of the Town and Country Planning Act 1990 as amended. Since the prescribed fees have been paid within the specified period, the appeal on ground (a) and the application for planning permission deemed to have been made under section 177(5) of the Act as amended falls to be considered.
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Decision

1. It is directed that the enforcement notice be corrected by:
 - the deletion of the text of the requirements paragraph in its entirety and its replacement with the text: 'a) Permanently remove all the structures comprising: 1. Octagonal Structure 2. Three poles and tyres 3. Wired climb through 4. Rope and tub balance 5. Run over platform 6. Air rifle shooting range 7. Archery range 8. Assorted climbing/rope walking structures 9. Axe throwing range 10. Raised timber planter with seating around from the land edged red on Plan 3 of the notice b) Reinstate the land to reflect its former condition prior to the provision/erection of those structures.'; and

- the deletion of the text '30 days' from the compliance paragraph and its substitution with the text 'two months'.
2. Subject to these corrections, the appeal is allowed insofar as it relates to the two timber river bank landing stages and planning permission is granted for these on the application deemed to have been made under section 177(5) of the 1990 Act, as amended.
 3. The appeal is dismissed and the enforcement notice is upheld as corrected insofar as it relates to: Octagonal Structure; Wired climb through; Rope and tub balance; Air rifle shooting range; Archery range; Axe throwing range, and planning permission is refused on the application deemed to have been made for these elements under section 177(5) of the 1990 Act as amended.

The enforcement notice

4. The notice requires the cessation of use of the structures listed in the allegation. However, as no material change of use has been alleged, the requirements a) and b) for the use to cease are unnecessary. The removal of the structures is sufficient to meet the aims of the notice, and so I have directed that the notice be amended accordingly. I am satisfied that no injustice arises from this change.

Ground (c)

5. Ground (c) is that the matters alleged in the notice do not constitute a breach of planning control. Under this ground, the onus of proof is on the appellant.
6. The gist of the appellant's argument is that the structures attacked by the notice do not fall within the definition of operational development for planning purposes. Development is defined in s55(1) of the TCPA as 1. the carrying out of building, engineering, mining or other operations in, on, over or under land, or 2. the making of any material change in the use of any buildings or other land.
7. The established three tests for considering whether or not a building has been created are size, permanence and attachment to the ground. Furthermore, the courts have held that operational development 'comprises activities which result in some physical alteration to the land, which has some degree of permanence to the land itself'. Ref *Parkes v SSE* [1979] 1 All ER 21172
8. With specific reference to the curtilage of listed buildings, Part 2, Class A of the GPDO relates to minor operations comprising the erection, construction, maintenance, improvement or alteration of a gate, fence, wall or other means of enclosure. Under paragraph A.1(d), such development is not permitted by Class A if it would involve 'development within the curtilage of, or to a gate, fence, wall or other means of enclosure surrounding, a listed building'.
9. The enforcement notice makes reference to the structures being in the grounds and also the setting of the listed building. The appellant picks up on this, arguing that the notice does not claim that the structures are in the curtilage of Willersley Castle, which is a grade II* listed building. However, he produces little evidence to show that they are not within the curtilage. From the evidence before me, it appears that Willersley Castle has an extensive curtilage, as befits a building of its status. Furthermore, I am satisfied that the structures that are the subject of the notice fall within that curtilage.

10. The question to be considered then is whether the structures in question meet these definitions, and require planning permission. With regard to the matter of permanence, the appellant argues that none of the structures are intended to be permanent. However, he gives no definite time frame or date to indicate where they are to be removed. For that reason, this factor cannot be definitive, and I shall go on to consider the physical attributes of each installation.
11. The **octagonal structure** has no walls or roof and is less than 1m high. On those grounds, I agree that it is not a building. However, it comprises posts that are set into the ground and rails that enclose an area of land. As it falls within the curtilage of the listed building, I am satisfied that it requires planning permission under Part 2 Class A.
12. The **three poles and tyres** installation comprises a gravelled area on the ground with timber bordering. There are three vertical posts and a stack of tyres that can be moved from post to post. Although the poles are fixed into the ground, the overall structure is too small to be reasonably be considered a building. Furthermore, it does not form a fence or means of enclosure. On those grounds, I find that it does not need planning permission.
13. The **wired climb through** and the **rope and tub balance** do not have roofs or walls. However, in a similar vein to the octagonal structure, they comprise posts set into the ground and rails which enclose areas of land. As they are within the curtilage of the listed building, I am satisfied that they therefore require planning permission under Part 2 Class A.
14. The **run over platform** is a piece of apparatus comprising a moveable platform. It can be lifted off the ground by one person and the appellant confirms that it is moved around the site. It is not attached to the ground. It is not big or heavy enough to be fixed to the ground by its own weight. This structure does not amount to a building or a fence or means of enclosure, and so does not require planning permission.
15. The **air rifle shooting range** and the **archery range** are field shelters with roofs and walls. They are large enough to be occupied by a number of people at a time whilst in use. I agree with the appellant that they may be considered buildings. I accept that they have no foundations, but I have not been presented with any definition of a building that requires the presence of foundations. In any event, it is evident that they are well enough fixed to the ground to serve the purposes for which they were constructed, and to be used safely. Whilst they are somewhat rudimentary, I am satisfied that these are buildings for which planning permission is required.
16. Assorted **climbing/rope walking structures** have no walls or roofing and there is no evidence that this installation amounts to a building. It does not appear as an enclosure, but simply as apparatus for activities. On this basis, I am satisfied that no planning permission is needed.
17. The **axe throwing range** comprises a field shelter and some posts. The shelter has walls and a roof. It is fixed to the earth, and the fact that it does not have foundations is, again, not determinative. I am satisfied that it amounts to a building for which planning permission is required, on similar grounds to the air rifle shooting range and the archery range structures above.

18. The raised **timber planter with seating** comprises a roughly circular arrangement of moveable bench seating. The benches are formed of long planks of wood set on rectangular timber supports. This installation does not amount to a building for planning purposes. Whilst it does surround an area with the planter at the centre, it is not a fence or wall, and does not amount to an enclosure in that sense. As an installation for the purposes of outdoor seating, I am satisfied that it does not fall into any definition of development requiring planning permission.
19. The two **timber river landing stages** comprise areas of decking to provide a landing point for canoes, in order to avoid erosion of the river bank. The appellant argues that they are not buildings, having no walls or roof. However, they are supported by posts set into the earth, and were evidently constructed or erected in their positions. They are big enough to have brought about a physical alteration to the land, which comprises the river bank.
20. Although the land is not within a domestic setting, it is useful to refer to the provisions of the Government's 'Permitted development rights for householders - Technical Guidance', (Ministry of Housing, Communities & Local Government 2019). This document sets out guidance for buildings within the curtilage of dwellings, and specifically includes garden decking within the definition of a building. Furthermore, a raised platform exceeding 0.3m in height is a building that will require planning permission in a domestic curtilage.
21. Taking this guidance and the factors above into account, I am satisfied that the landing stages amount to raised platforms that require planning permission. The appellant contends that other similar features are found on river banks for angling, but he is not aware of any such structures that have needed planning permission. However, each case is to be considered on its merits, and so this observation has not led me to a different conclusion on this particular matter.
22. In conclusion, I find that planning permission is required for the following: the octagonal structure; the wired climb through; the rope and tub balance; the air rifle shooting range; the archery range; the axe throwing range; and the two river landing stages.
23. Conversely, I have found that the three poles and tyres, the run over platform, the climbing/rope walking structures, and the planter and seating do not require planning permission. To that extent, the appeal on ground (c) succeeds, and I direct that the enforcement notice be corrected accordingly.

Ground (a) and the deemed planning application

Main Issue

24. The main issue is the effect of the development on the significance of the grade II* listed building, including its setting, and on the character and appearance of the Willersley Castle Registered Historic Park and Garden (RPG), the Cromford Village Conservation Area (CA), and the Derwent Valley Mills World Heritage Site (WHS).

Reasons

Heritage assets

25. Annex 2 of the National Planning Policy Framework (NPPF) confirms that world heritage sites, listed buildings, registered parks and gardens and conservation areas are designated heritage assets. The NPPF sets out that heritage assets should be conserved in a manner appropriate to their significance. When considering the impact of development on the significance of a designated heritage asset, great weight should be given to its conservation. The more important the asset, the greater the weight should be. It makes clear that significance can be harmed by development within the setting of a heritage asset.
26. Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act) requires special attention to be paid to the desirability of preserving or enhancing the character or appearance of conservation areas in the exercise of planning functions. Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 sets out that, in considering whether to grant planning permission for development which affects a listed building or its setting, the decision maker shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.
27. The NPPF defines setting as the surroundings in which a heritage asset is experienced. Its extent is not fixed and may change as the asset and its surroundings evolve. Elements of a setting may make a positive or negative contribution to the significance of an asset, may affect the ability to appreciate that significance or may be neutral. It goes on to say that significance derives not only from a heritage asset's physical presence, but also from its setting.

Significance

28. Willersley Castle was built in 1792 by William Thomas for Sir Richard Arkwright. With its fine ashlar frontage, it is described as a large and severe castellated house in extensive grounds. The late 18th and early 19th century grounds and park are described more fully in the entry for the Willersley Castle Registered Historic Park and Garden.
29. The Statement of Outstanding Universal Value for the WHS describes an industrial landscape of high historical and technological significance in the Derwent Valley, including the pivotal contribution of Richard Arkwright in establishing the Arkwright System'. The housing that developed to service the mills and accommodate the industrial communities is of great significance to the WHS, as is Arkwright's own residence at Willersley Castle.
30. The building itself stands on an artificially levelled platform that was cut into the south facing rocky hillside. From here, the ground drops sharply towards the riverside meadows which form the southern section of the park. The Council's 'Cromford Conservation Area Appraisal' describes this area as being formed on the inside of a broad meander in the river, and highlights the importance of the parkland trees. This land is a key element of the setting of the listed building, both in views from it and towards it from across the river to the south.
31. Another important view is gained from the bridge to the east as one approaches the property. From here, the side elevation of the building is clearly visible across the parkland, emphasising the high status of the building

which is further underlined by its physical isolation from the village of Cromford.

32. It is apparent that the parklands were laid out to be experienced as a dynamic, sequential experience. The grounds extend further to the north of the principle listed building, with a path following the course of the river alongside Hagg Wood. Here, the landscape becomes much more dramatic, in contrast to the tranquil southern stretch by the river. Although one quickly loses sight of the building on this path, it nonetheless remains part of the experience of visiting the property as a whole, giving a further sense of its scale and grandeur.
33. From my observations on site, and the evidence before me, I find that Willersley Castle and its registered park and garden are of very high significance in heritage terms. The landscape setting around Willersley Castle makes a hugely positive contribution to its significance, adding both to the physical and social prominence of the building and the understanding of its interconnection with the industrial hinterland. The site also makes a positive contribution to the significance of the CA and the WHS through the aesthetic qualities of the listed building and the spaciousness of its grounds in contrast to the more tightly developed grain of the village.

Effect of the development

34. As noted above, I have found that a number of the structures that are the subject of the notice do not amount to operational development for planning purposes. I shall therefore consider the effect of the remaining structures on the significance of the heritage assets.
35. The air rifle shooting range and the archery range are directly to the south of the castle, in line with its principal façade. The octagonal structure, the wired climb through and the rope and tub balance are located to the south east of the listed building, and are more visible in the views from the bridge. The axe throwing range is situated to the west of the castle. It is not visible from the main approach to the building, and is further obscured by the land mass. Nonetheless, it directly affects the experience of the RPG.
36. The design of the landscape emphasises the natural elements such as the river, the trees and the form of the land. These elements complement the listed building, and provide a fitting setting. The development introduces structures that add visual clutter, and detract from the natural elements which should be to the fore in views to or from the listed building, or when moving through the designed park land.
37. The fact that they are predominantly of timber helps to a degree to integrate the structures. Nonetheless, they do not have an obvious functional or visual relationship to the design intent of the RPG. They are not the type of structure that would typically be found in a designed landscape of this historic era. Crucially, they disrupt the close visual relationship between the former house and its landscape setting. On that basis, these structures harm the setting of the listed building, eroding its significance, and in turn, the significance of the RPG, the CA, and the WHS.
38. Accordingly, overall, the development conflicts with the overarching statutory duties as set out in the Planning (Listed Buildings and Conservation Areas) Act 1990, which must be given considerable importance and weight, and with the

NPPF. In addition, it fails to comply with Policy PD2 of the Derbyshire Dales District Council Local Plan (LP), which seeks to conserve heritage assets in a manner appropriate to their significance.

39. Although serious, the harm to the heritage assets in this case would be less than substantial, within the meaning of the term in paragraph 195 of the NPPF. Paragraph 196 requires that, where there is less than substantial harm, the harm should be weighed against the public benefits of the works.
40. The appellant explains that the structures in question are required to facilitate the adventure element of the activity centre use. I have no doubt that the grounds of the castle provide opportunities for a wide range of pursuits and adventure due to their extent and layout. However, this needs to be balanced against the need to protect the significance of the heritage assets.
41. It is clearly of benefit to have the listed building in use, and the centre also offers opportunities for its visitors to experience and appreciate the heritage assets. I acknowledge these factors and also the need for the apparatus in terms of the facilities the centre offers. However, there is no evidence that these outcomes could not have been achieved through a scheme of development that would be more sympathetic to the heritage assets. That being the case, a grant of planning permission would not be justified. I accept that no alterations to any historic building have taken place, but that is neutral in my consideration.
42. I therefore find that insufficient public benefits have been identified that would justify or outweigh the harm I have identified to the heritage assets. The scheme therefore conflicts with the NPPF, which directs, at paragraph 193, that great weight should be given to the assets' conservation, irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to their significance.

The river landing stages

43. Whilst the river landing stages have introduced development to the riverside where none previously existed, they are fairly unobtrusive in appearance. Their simple form is in keeping with their purpose of providing access to and from the river for canoes. Taking these factors into account, I am satisfied that the stages do not harm the wider setting of Willersley Castle. For the same reasons, no harm arises to the RPG, the CA or the WHS.
44. Hagg Wood and the woodlands north and west of Home Farm are ancient woodlands, and the Council have raised concerns over the impact of the development on them. The NPPF states that planning permission should be refused for development resulting in the loss or deterioration of irreplaceable habitats, including ancient woodland and the loss of aged or veteran trees found outside ancient woodland.
45. I have taken account of the representation from the Forestry Commission which refers to the guidance entitled 'Ancient woodland, ancient trees and veteran trees: advice for making planning decisions' from Natural England and the Forestry Commission, published 14 January 2022, which refers to both direct and indirect effects of development.
46. However, the appellant produces an email from a representative of Natural England following a visit to the appeal site. The email confirmed that they did

not wish to raise any issues regarding the impact of the development by the river. Conversely, the Council have not produced any detailed or quantitative evidence of direct or indirect harm in this particular case arising from the landing stages. In the absence of substantive evidence to the contrary, I find no conflict with LP Policy PD3, which seeks to protect biodiversity and the natural environment.

47. I have taken into account concerns raised over noise and disturbance from participants at the centre using the landing stages. However, there is no detailed or substantive evidence before me relating to the problems that have been alluded to. These representations have therefore not led me to a different conclusion on the main issues of the appeal.

Ground (g)

48. Ground (g) is that the time given to comply with the notice is too short.
49. The appellant explains that apparatus to support the adventure and exercise activities at the site are essential if the premises are to remain viable. He goes on to say that the removal of the facilities without their replacement would cause the termination of the operation. That being the case, he requires time for negotiations with the Council to re-site and/or redesign the apparatus, preferably over the winter months when the premises are not operational. He states that a compliance period of nine months would be needed for this process.
50. Appellants are entitled to assume success on any ground in an enforcement appeal, which means they are not obligated to consider an alternative development until the decision is made. However, in this particular case, the appellant has indicated that the apparatus in question will be changed as part of the offer at the centre. As the timescale of the appeal process has covered the winter months, it seems to me that there has been some time for the appellant to undertake this process.
51. Nonetheless, 30 days seems to me to be a tight timescale to make the arrangements and carry out the requirements of the notice. I consider that two months would be reasonable to provide the appellant with more leeway, whilst ensuring that the significance of the heritage assets is protected. I am mindful that the Council have powers to extend the period of compliance should this be justified.
52. To that extent, the appeal on ground (g) succeeds and I have directed that the enforcement notice be amended accordingly.

Conclusion

53. For the reasons given, I conclude that the appeal should succeed in part only, and I will grant planning permission for the two timber river bank landing stages, but otherwise I will uphold the notice with corrections and refuse to grant planning permission in respect of the other parts of the matters as set out above. The requirements of the notice will cease to have effect so far as inconsistent with the planning permission which I will grant by virtue of s180 of the Act.

Elaine Gray 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.

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