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26 January 2015

To: All Councillors

As a Member or Substitute of the **Central and Northern Area Planning Committee**, please treat this as your summons to attend a meeting on **Tuesday 3 February 2015 at 6.00pm in the COUNCIL CHAMBER, TOWN HALL, MATLOCK DE4 3NN.**

Yours sincerely

A handwritten signature in black ink, appearing to be "Sandra Lamb", written in a cursive style.

Sandra Lamb
Head of Corporate Services

AGENDA

SITE VISITS The Committee is advised a coach will leave the **TOWN HALL, MATLOCK** at **3.50pm prompt**. A schedule detailing the sites to be visited is attached to the agenda.

1. APOLOGIES/SUBSTITUTES

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

2. APPROVAL OF THE MINUTES OF THE PREVIOUS MEETING

2 December 2014.

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. 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.

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 their 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.

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- | | | |
|------------|---|----------------|
| 4.1 | APPLICATION NO. 14/00764/FUL (Site Visit) | 4 - 10 |
| | Change of use of bakery to two dwellings at Hayes Bakers, Chesterfield Road, Two Dales. | |
| 4.2 | APPLICATION NO. 14/00810/ADV | 11 - 15 |
| | Internally illuminated pole sign at land at Bakewell Road, Matlock. | |
| 5. | APPEALS PROGRESS REPORT | 16 - 39 |
| | To note a report on appeals to the Planning Inspectorate. | |

NOTE

For further information about this Agenda or on the Public Participation initiative contact the Committee Team on 01629 761133 or e-mail committee@derbyshiredales.gov.uk.

Members of the Committee

Councillors David Burton, Robert Cartwright, Mrs Ann Elliot, David Fearn, Neil Horton, Mike Longden, Jean Monks, Garry Purdy, Mike Ratcliffe, Lewis Rose OBE, Andrew Statham, Geoff Stevens MBE, Mrs Jacquie Stevens, Mrs Philippa Tilbrook, Barrie Tipping, Mrs Carol Walker, Ms Jo Wild.

Substitute Members

Councillors Mrs Jacque Bevan, Richard Bright, Steve Bull, Mrs Sue Burfoot, Albert Catt, David Chapman, Tom Donnelly, Richard FitzHerbert, Steve Flitter, Chris Furness, Cate Hunt, Angus Jenkins, Andrew Lewer, Tony Millward, Peter Slack, Colin Swindell, Mrs Judith Twigg

SITE VISITS

Members will leave the Town Hall, Matlock at 3.50pm prompt for the following site visits:

- | | | |
|---------------|--|---------------|
| 4.00pm | Application No. 14/00764/FUL HAYES BAKERS, CHESTERFIELD ROAD, TWO DALES | 4 – 10 |
|---------------|--|---------------|

Requested by Ward Member to assess the impact of the proposal on the character and appearance of the area and the amenity of neighbouring residents.

**4.20pm Application No. 14/00810/ADV
LAND AT BAKEWELL ROAD, MATLOCK**

11 - 15

Requested by Ward Member to assess the impact of the sign on the character and appearance of the area.

4.45pm Return to Town Hall

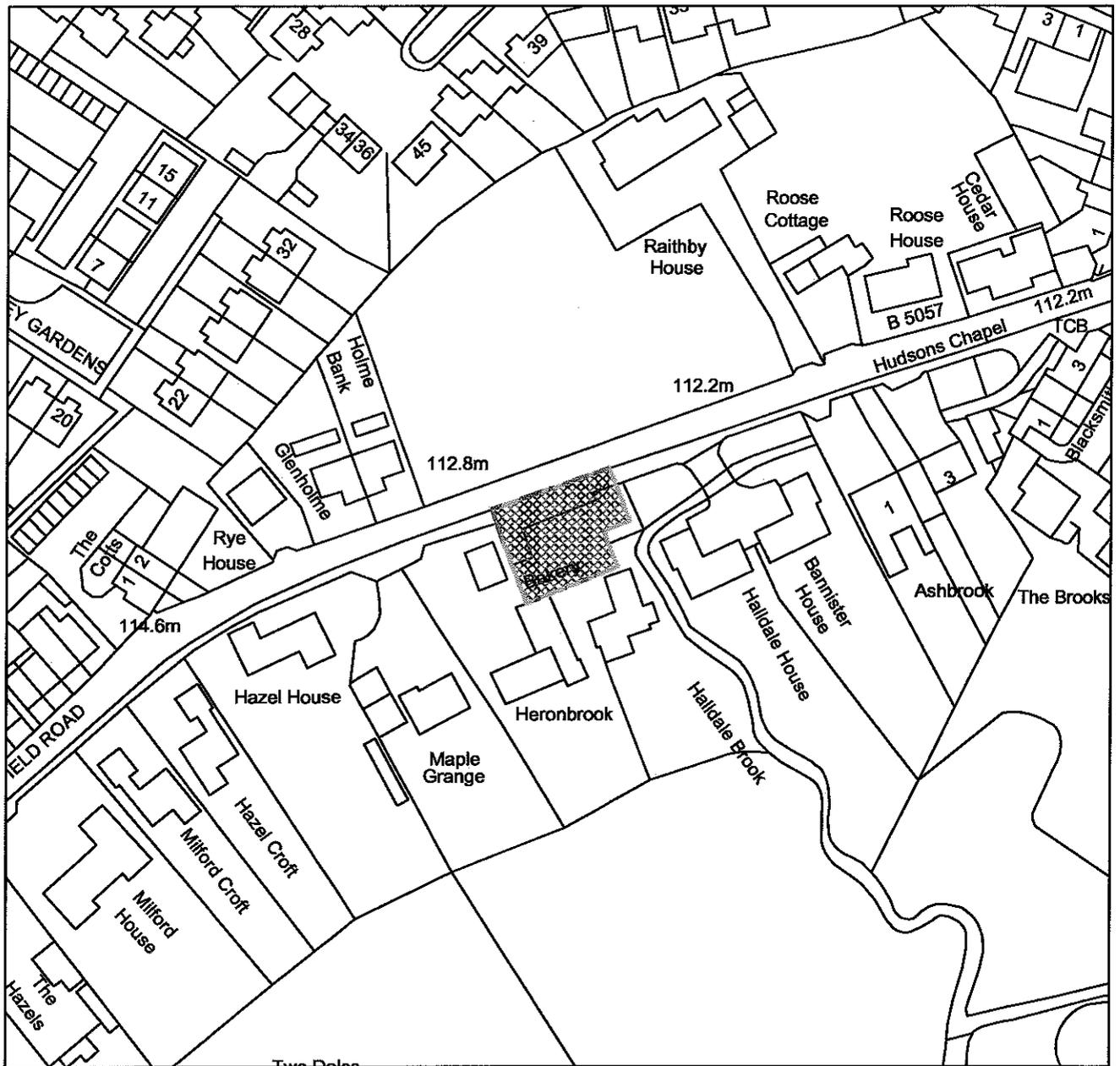
COMMITTEE SITE MEETING PROCEDURE

You have been invited to attend a site meeting of the Council's Planning Committee/Advisory Committee. The purpose of the 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.

14/00764/FUL

Hayes Bakers, Chesterfield Road, Two Dales



Derbyshire Dales DC

1:1,250

Date: 23/01/2015

100019785

Crown Copyright and database rights (2014) Ordnance Survey (100019785)

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

14/00764/FUL CHANGE OF USE OF BAKERY TO TWO DWELLINGS AT HAYES BAKERS, CHESTERFIELD ROAD, TWO DALES FOR MR IAN HAYES

Town Council: Darley Dale
Application type: Full

Date of receipt: 06.11.14
Case Officer: Mrs H Frith

THE SITE AND SURROUNDINGS:

The existing building is an attractive former chapel/school building which is prominent within the street scene in this locality. The building was last in use as a Bakery but is now vacant. The site fronts directly onto the highway on Chesterfield Road. To the rear is a large flat roofed extension wholly out of keeping with the original building. Residential properties surround the site to the east, south and west. The dwellings to the south of the site are at a lower ground level. A stream flows from the east to the south of the site.

THE APPLICATION:

Planning permission is sought to convert the original building into two dwellings and demolish the existing unsightly rear extension to create garden areas for the dwellings. Each dwelling would be a three bedroom property. Parking for house no. 1 is to be to the front of the building and parking for house no. 2 to the rear of the building.

It is intended that the ornate side windows would be renovated and the windows to the side and front elevation re used with no additional openings. To the rear of the building the original structure cannot be seen due to the existing extension. Three roof lights are proposed to the main front roof slope, with one to the lower roof and five to the rear. For the boundary treatment to the rear of the site it is intended that the existing wall will be lowered to a height of 1.5m.

RELEVANT HISTORY:

MAT968/13 Change of use from storage warehouse to bakery – Granted unconditionally
MAT254/11 Extension to existing grocery and provisions warehouse- Granted
MAT154/7 Extension to warehouse – No decision on file
MAT/1251/1 Conversion of chapel and school to warehouse and store – Permitted with conditions relating to parking and landscaping
MAT/449/9 Conversion of school to light engineering – Permitted with a condition relating to parking

CONSULTATIONS:

Town Council – No objection

Local Highway Authority – The building has previously been used as a place of worship and more recently a Bakery. The proposals are for 4 on-site parking spaces. Bin storage should not obstruct the private drive access, parking or turning provision. No objections subject to conditions.

REPRESENTATIONS:

One letter of support which notes: this is a residential proposal in a residential area

Three letters of objection which note:

- The wall to the south east of the existing building is in a poor state of repair, detail of how this will be repaired without blocking the stream are required.
- Do not want services to be disrupted as they are very close to the building to be demolished

- The height of the rear wall will not be sufficient to ensure our privacy
- Drainage is a concern as we have been flooded by water running from the existing buildings and the existing drain is not fully functioning
- What will happen to the existing basement, this could become a problem area if not filled in
- Need reassurance that the mess caused to our property will be kept to a minimum and all land and property is made good to our satisfaction.
- Query what the boundary treatments will be
- Stability of the existing retaining walls is of concern
- Surface water is proposed to be via the main sewer I trust no surface water from the new areas will run off to my property
- There is potential for overlooking into bedroom windows

POLICIES:

Adopted Derbyshire Dales Local Plan 2005

SF1: Development Within Settlement Framework Boundaries

SF5: Design And Appearance Of Development

H1: New Housing Development Within Settlement Framework Boundaries

H9: Design And Appearance Of New Housing

EDT4: Other Existing Employment Land And Premises

TR1: Access Requirements And The Impact Of New Development

TR8: Parking Requirements For New Development

National Planning Policy Framework and National Planning Policy Guidance

ISSUES:

The issues for consideration are: the loss of an employment use, the proposed residential use, the impact upon the character and appearance of the existing building and its surroundings, the impact upon residential amenity, boundary treatments, drainage and highway safety.

Loss of Employment Use

Policy EDT4 of the Adopted Derbyshire Dales Local Plan requires that planning permission will only be granted for change of use of existing business uses to non-employment uses where the continuation of the uses no longer required or the current use is incompatible with the surrounding properties. In this case the use as a Bakery has ceased and therefore it is assumed that this use is no longer required in this building. However, there remains the potential for this building to be put to an alternative employment generating use. Despite this potential, the existing building has restricted potential for employment uses given its physical restrictions as a historic Chapel building and its proximity to neighbouring residents. The existing unrestricted bakery use or similar use of the building has the potential to adversely affect the amenities of neighbouring residents through hours of operation and noise/nuisance associated with the business. Therefore in this case the loss of the employment use is considered to be acceptable in accordance with Policy EDT4 of the Adopted Derbyshire Dales local Plan, as a residential use in this location is far more suited to the adjoining land use.

Proposed Residential Use

In July 2014 the Draft Derbyshire Dales Local Plan was submitted for examination in public. Following the first two days of the examination, the Inspector issued an interim report highlighting that the proposed housing numbers did not meet the Objectively Assessed Need and there had not been sufficient collaboration with other Local Authorities

and therefore the Plan would be found to be unsound if it progressed. Since then the Draft Local Plan has been subsequently withdrawn from examination. In view of this determination of proposals for development must refer back to the Adopted Derbyshire Dales Local Plan (2005) where those Policies are in accord with the National Planning Policy Framework (NPPF), as well as considering the Framework itself.

In view of the housing policies now being out of date, the determination of proposals for new residential development has to be considered in light of paragraph 14 of the NPPF, which notes that such sustainable development should be approved unless there is significant and demonstrable harm caused by the development.

Two Dales is considered to be a sustainable area suitable for new residential development. Such a conversion scheme in a sustainable area is supported by Local Plan policies and guidance contained within the National Planning Policy Framework. It is considered that such a conversion scheme is acceptable in principle.

Character and appearance

The building is proposed to be converted utilising existing openings to the front and side elevations of the building and renovating the large ornate windows to either gable end of the building. It is unclear whether the existing openings will be utilised to the rear due to the scope of the existing extension. As this unsightly extension is to be removed as part of the proposals, the works to the rear elevation of the original building are considered to be a significant improvement to the appearance of the building and the surroundings.

It would appear from the submitted plans that the windows on the front elevation of the building are to be replaced with plain framing. The existing windows on this front elevation have an ornate appearance and contribute significantly to the overall character and appearance of the existing building. The replacement of windows to the rear is not considered to be as significant due to these being outside of the public realm and given the existing extension. It is therefore considered reasonable in this case to ensure that all new windows and doors are agreed via condition. The windows to the entire building should be of metal construction with a dark finish. The windows to the rear elevation could be of a plain and modern appearance which would still ensure an improvement to the rear of the building. To the front and side elevations it is considered important, in order to maintain the character and appearance of the building the ornate pattern of glazing should be replicated as far as possible on the front and rear elevations. In terms of the doors to the building the existing main entrance to the western elevation is no longer in existence, the treatment of this opening will be required via condition. It is also considered that the door to the single storey element on the front elevation should be a solid timber door with painted finish. A condition is required to ensure these appropriate works are secured.

Limited details have been provided regarding the treatment of boundary walls. The existing railings on site are considered to be attractive elements within the street scene and should be replicated where possible. A condition is required to ensure all boundary treatments are appropriately provided on the site.

There is no submitted information regarding the surfacing of the site. To ensure this is in keeping with the historic character and appearance of the original building it is considered that the surfacing of the site should be agreed via condition.

Subject to these matters being agreed via conditions the proposal is considered acceptable in terms of the impact upon the character and appearance of the existing building and the

wider street scene in accordance with Policies SF5 and H9 of the Adopted Derbyshire Dales Local Plan and guidance contained within the National Planning Policy Framework.

Residential amenity

Concern has been raised by a neighbouring resident that the proposed conversion will result in overlooking to their property. The site is at a higher ground level than the neighbouring properties and a wall to 1.5m in height is proposed to be formed from the existing walling of the extension to the rear boundary. This boundary wall will prevent any overlooking from the ground floor windows of the property. The upper floor windows will be at low level due to the ornate elongated windows. The main light into the upper floor rooms would be from roof lights. In view of this and given the change in land levels, the location of the neighbouring properties and their private amenity areas it is considered that the proposal will have minimal potential for overlooking. In terms of the impact upon neighbouring residents the proposal is considered to be acceptable in accordance with the requirements of Policies SF1, SF5 and H9 of the Adopted Derbyshire Dales Local Plan and guidance contained within the National Planning Policy Framework.

Boundary treatments

As noted above further details are required regarding the finished boundary treatments to the site to ensure an appropriate finished form of development in terms of visual amenity. Concern has been raised by two neighbours regarding the stability of the raised ground which appears to have some serious cracking on the retaining walls. The retaining structures would not be required to be resolved under building regulations as part of the conversion work. This is not a planning matter but rather is a civil matter to be resolved between the affected parties. However it is reasonable to assume that the applicant, in order to sell the newly created properties, will want to ensure site stability and any major repair works before carrying out the conversion.

Drainage

The concerns raised regarding the drainage of the site would be dealt with under building regulations and with the relevant Water Authority and therefore is not a matter to be resolved through this planning application.

Highway Safety

The proposal is to utilise the existing access to the property with the garage building (which forms part of the larger extension) removed to provide 2 parking spaces to the rear of the building for house no. 2 with 2 spaces provided to the frontage of the building for house no. 1. The highway authority is satisfied with this level of parking. The proposal meets the requirement of policies TR1 and TR8 of the Adopted Derbyshire Dales Local Plan and guidance contained within the NPPF.

Conclusion

In principle the loss of the employment use in this context is acceptable given the constraints of the building and the proximity of residential properties. The proposed residential use of the building is considered suitable for the building in this sustainable location. Subject to conditions the proposal will enhance the appearance of the building. The proposal is not considered to have a harmful impact upon the amenity of neighbouring residents and adequate parking is provided. Therefore the proposal is considered to meet the requirements of local and national planning policy.

OFFICER RECOMMENDATION:

To grant planning permission subject to the following conditions:

1. Condition ST02a
2. Prior to the commencement of development details of all new windows which shall be of metal finish shall be submitted to and agreed in writing by the Local Planning Authority. The finished colour of the windows shall be agreed, to the front and side elevations the replacement windows shall replicate as far as possible the existing window pattern. Works shall be completed in accordance with the agreed details.
3. Prior to the commencement of development details of all new doors including their materials and finished colour shall be submitted to and agreed in writing by the Local Planning Authority. Works shall be completed in accordance with the agreed details.
4. Prior to the surfacing being installed details of the surface treatments shall be submitted to and agreed in writing by the Local Planning Authority. Works shall be completed in accordance with the agreed details.
5. The proposed roof lights shall sit flush with the plane of the roof.
6. Prior to the commencement of development details of all boundary treatments shall be submitted to and agreed in writing by the Local Planning Authority. Works shall be completed in accordance with the agreed details
7. Before any operations are commenced, space shall be provided within the site curtilage for site accommodation, storage of plant and materials, parking and manoeuvring of goods vehicles, designed, laid out and constructed all as may be agreed with the Local Planning Authority in advance of construction work commencing and maintained free from impediment throughout the duration of construction works.
8. The premises, the subject of the application, shall not be occupied until the on-site parking spaces have been provided for in accordance with the application drawings, laid out and constructed as may be agreed with the Local Planning Authority and maintained thereafter free from any impediment to its designated use.
9. Prior to the occupation of either unit adequate bin storage and a bin dwell area for use on refuse collection days shall be provided clear of the public highway, within the site curtilage, clear of all access and parking and turning provision and retained thereafter free from any impediment to its designated use.
10. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any Order revoking or re-enacting that Order with or without modification) no external alterations or additions, including any additional or alterations to windows and dormer windows shall be made to any dwelling hereby approved and no buildings, extensions, gates, fences or walls (other than those expressly authorised by this permission) shall be carried out within the curtilage of any dwelling without the prior written approval of the Local Planning Authority upon an application submitted to it.

Reasons:

1. Reason ST02a
- 2-6. To ensure an appropriate finished form of development in accordance with Policies SF5 and H9 of the Adopted Derbyshire Dales Local Plan and guidance contained within the National Planning Policy Framework.
- 7-9. In the interests of highway safety in accordance with Policies TR1 and TR8 of the Adopted Derbyshire Dales Local Plan and guidance contained within the National Planning Policy Framework.
10. To preserve the character and appearance of the original building and its surroundings in accordance with Policies SF5 and H9 of the Adopted Derbyshire Dales Local Plan and guidance contained within the National Planning Policy Framework.

NOTES TO APPLICANT:

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 problems with the application and consent was granted without negotiation.

With effect from the 6th April 2008, the Town and Country Planning (Fees for Applications and Deemed Applications) (Amendment) (England) Regulations 2008 (SI 958/2008) stipulate that a fee will henceforth be payable where a written request is received in accordance with Article 21 of the General Development Procedure Order. Where written confirmation is required that one or more conditions imposed on the same permission have been complied with, the fee chargeable by the Authority is £97 per request. The fee must be paid when the request is made and cannot be required retrospectively. Further advice in regard to these provisions is contained in DCLG Circular 04/2008.

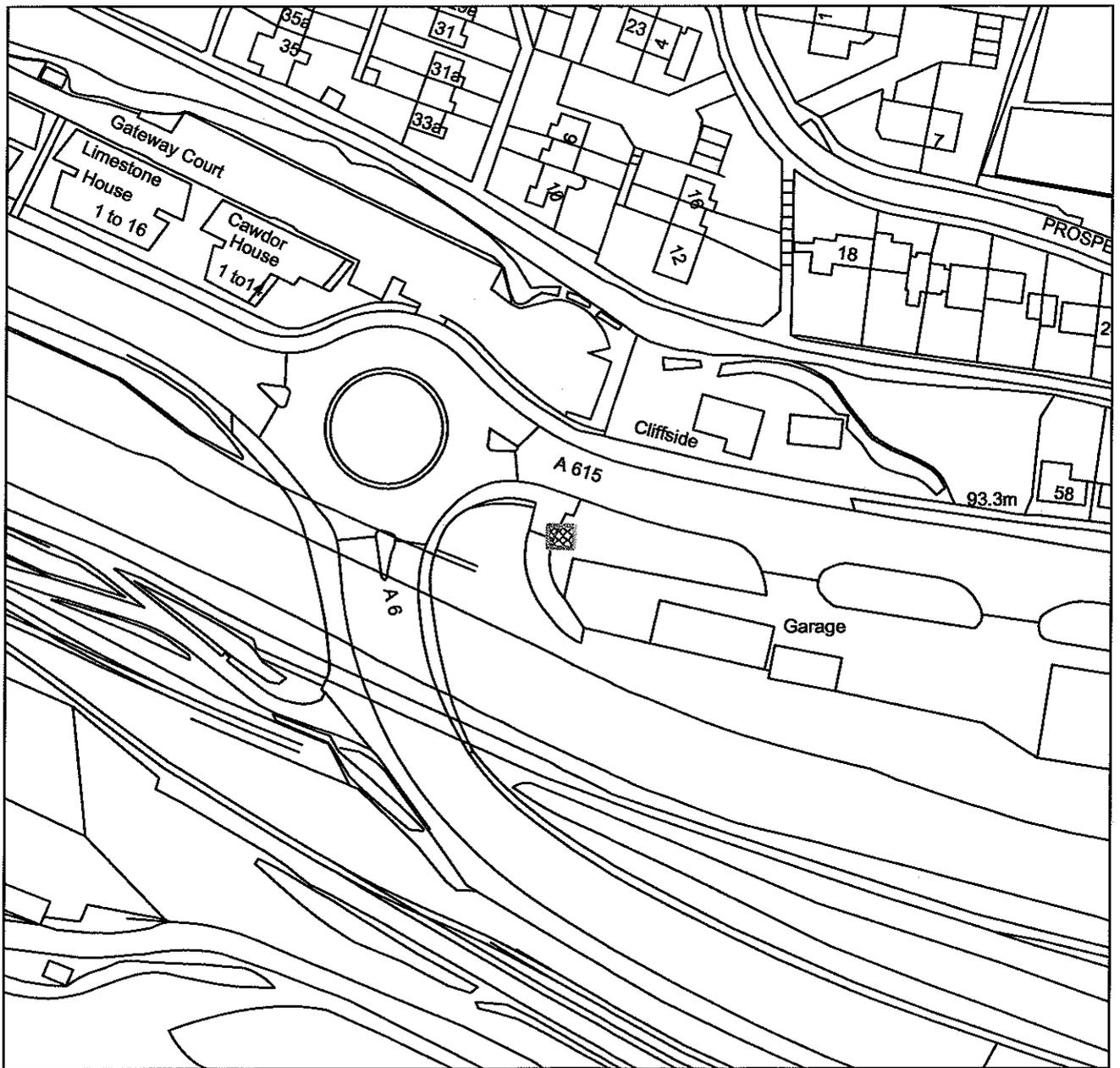
This decision notice relates to the following documents:

- Location plan
- Block plan
- Proposed north and south elevations no. 07 A
- Proposed ground floor plan no. 04 A
- Proposed east and west elevations no. 06
- Proposed first floor plan no. 05 A
- Existing north and south elevations no. 03
- Existing east and west elevations no. 02
- Existing ground floor plan no. 01

BACK TO AGENDA

14/00812/ADV

43 Bakewell Road, Matlock



Derbyshire Dales DC

1:1,250

Date: 23/01/2015

100019785

Crown Copyright and database rights (2014) Ordnance Survey (100019785)

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

14/00810/ADV INTERNALLY ILLUMINATED POLE SIGN AT LAND AT BAKEWELL ROAD, MATLOCK FOR MCDONALD'S RESTAURANTS LTD.

Town Council: Matlock
Application type: Advertisement

Date of receipt: 25.11.14
Case Officer: Mr. G. Griffiths

THE SITE AND SURROUNDINGS:

The site lies to the west of Matlock town centre and is bounded by Bakewell Road to the north and the River Derwent and A6 to the south. The site is level and roughly rectangular with a frontage of some 170m and a depth between 14 and 22m. This previously included three single storey buildings and part of the car park/storage area to Twiggs; demolition works are currently taking place with respect to redeveloping the site for the McDonalds restaurant and a bulk wine retailer.

The site is separated from Bakewell Road by a wide highway verge containing several trees and can be accessed via three entrance points. The rear boundary of the site is screened with vegetation and separated from the River Derwent by flood defences.

The site is within a commercial area, with some residential properties within the vicinity of the site. The site is also within the Settlement Framework boundary of Matlock.

THE APPLICATION:

Express advertisement consent is sought for the erection of a pole sign. This is proposed to be sited on land to the west of this commercial site to draw attention to the approved McDonalds restaurant from the approaches to the town along the A6 and on A615 Bakewell Road.

It is proposed that the composite aluminium 'wood effect' pole would be 8m high, with three internally illuminated panels attached as follows

- top panel – 1.44m wide by 1.25m high – yellow 'M' on dark green background
- middle panel – 1.44m wide by 0.98m high – wood effect panel with signage to be agreed
- bottom panel – 1.44m wide by 0.635m high - 'drive thru' with white and yellow image set on dark green background.

The luminance of the signs would be limited to 600cd/m².

RELEVANT HISTORY:

| | |
|--------------|---|
| 14/00820/FUL | Redevelopment of site to provide restaurant/food takeaway and bulk wine retail store with associated parking (revisions to planning permission 14/00249/FUL) – to be determined |
| 14/00528/ADV | Illuminated and non-illuminated freestanding signage - Refused |
| 14/00526/ADV | Illuminated and Non-Illuminated Freestanding Signage – Granted |
| 14/00309/ADV | Internally illuminated pole sign – Withdrawn |
| 14/00308/ADV | Internally illuminated and non-illuminated signage – Granted. |
| 14/00307/ADV | Illuminated and Non-Illuminated Freestanding Signage - Withdrawn |
| 14/00249/FUL | Redevelopment of site to provide restaurant/food takeaway and bulk wine retail store with associated parking - Granted. |

CONSULTATIONS:

Town Council – Object:

- sign appears to be the same height as the previous application which were objected to on the grounds of being too large – would consider a smaller sign
- plan shows sign that says “24 hours” opening which has not been approved.

Local Highway Authority – No objection subject to conditions.

REPRESENTATIONS:

Two letters of representation from a Derbyshire resident. The comments can be summarised as follows:

- agree with the comments of Matlock Civic Association and Town Council
- signage is too tall and garish
- negative impact on town centre gateway
- out of keeping with local context
- not sited on McDonald’s property
- no valid reason for advert at this location
- 24 hour operation not approved.

Matlock Civic Association – Object:

- too high and too garish for important gateway to the town
- particularly concerned that not sited on the property to which it refers
- could see no valid reason why such an advertisement could be required on the site and should be resisted.

POLICIES:

1. National Planning Policy Framework.
2. National Planning Policy Guidance.

ISSUES:

1. The site is a commercial site but is also set in the context of an equally prominent residential area on the north side of the A6 and A615. The principal issues for consideration are the impact that the sign will have on the character and appearance of the site and the surrounding area and the lighting requirement for the sign and the impact that this would have on residential amenity and highway safety.
2. National Planning Policy Guidance advises that consideration should be given to the amenity of signage. This states:
‘in assessing amenity, the local planning authority would always consider the local characteristics of the neighbourhood: for example, if the locality where the advertisement is to be displayed has important scenic.... features.’
Any assessment of this signage is logically done in the context of the wider environment of Matlock.
3. It is appreciated that the size of the sign has been reduced in height from the previous pole sign application which measured 7m high, with a 3m high by 3m wide sign set atop (total height of 10m). This sign was proposed to comprise the yellow McDonalds ‘Arches’ in the form of an ‘M’ with McDonalds written in white on a red background below. This was considered to be a prominent structure that would cause substantial harm to visual amenity on the approach to the town of Matlock along the A6/A615 Bakewell Road.

4. The current proposal for signs on the pole are also, in total area, smaller than the previously proposed sign and are broken into three separate signs which are considered to reduce the overall sense of scale of the sign.
5. The colour of the signage is a reflection of the livery of the approved McDonalds building and the extent of illumination would be significantly reduced by comparison with the previous proposal. It is considered that the level of illumination proposed with this revised signage would not significantly harm the amenity of nearby residents.
6. The middle of the three signs referred to the premises being open 24 hours. This wording has been taken off this sign as such an approval of opening hours has not been granted. Nevertheless, there would be a need to understand what would replace it; this could be submitted for consideration by Officers before the sign is erected if consent were to be granted.
7. However, notwithstanding the above, Matlock is a market town where there is no proliferation of signage, as may be found in more urban areas. The signage within the town largely forms an integral part of the businesses premises within which it is positioned, and these premises are not dominated by such strident, and in this respect, relatively isolated signage. This would be emphasised further with the sign being illuminated at night being set away from the restaurant.
8. As part of a current planning application (ref: 14/00820/FUL) revisions are now being proposed to the original grant of permission (ref: 14/00249/FUL), for the redevelopment of site to provide the restaurant/food takeaway and bulk wine retail store. Planning application 14/00820/FUL proposes encroaching into the roadside verge bank and removing the trees which would presently form the backdrop to the sign and which contribute to the streetscape on the approach to the town centre.
9. Although the outcome of that application cannot be prejudged, even if the trees were to be retained, the introduction of a sign designed to be seen from two roadways would be likely to put pressure on future pruning or works to nearby vegetation to maintain its prominence.
10. Notwithstanding this, by reason of its size and siting, it is considered that the pole sign would in any event be a prominent feature, diminishing the attractiveness of its vegetated backdrop and causing harm to visual amenity on the approach to the town of Matlock along the A6/A615 Bakewell Road. It is considered that a more appropriate solution could be to provide a similar sign on the frontage of the proposed car park, where it is contained within the development and relates moreso to the restaurant, rather than acting as essentially an advanced warning sign.
11. The Local Highway Authority has considered the proposal and has advised that there is a discrepancy in the submitted drawings and that permission should be clarified to relate only to the signage siting detailed on drawing no. 5524_8078_102 Rev C which would overcome any issues of 'fall over' distance affecting the A6. In this respect, the site location plan has been amended to correspond with the block plan. If consent were to be granted and a condition is considered appropriate in reference to the approved plans and also a condition to ensure the illumination does not exceed 600 cd/m² and all light sources are static and shielded.
12. Given the above, it is recommended, in the balance, that express advertisement consent be refused.

OFFICER RECOMMENDATION:

Advertisement Consent be refused for the following reason:

1. The pole sign, by reason of its size and siting, would be a prominent structure causing harm to visual amenity on the approach to the town of Matlock along the A6/A615 Bakewell Road. As such, it is considered that the proposal is contrary to guidance contained in the National Planning Policy Framework and the National Planning Policy Guidance.

NOTES TO APPLICANT:

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

Amended Site Location Plan 1:1250 received on 14th January 2015
Drawing No. 5524_8078_102 Rev C received on 25th November 2014
Amended Drawing of Sign Type 1B received on 19th December 2014

BACK TO AGENDA

PLANNING APPEAL - PROGRESS REPORT

Report of the Director of Planning & Housing Services

| REFERENCE | SITE/DESCRIPTION | TYPE | DECISION/COMMENT |
|---|---|------|--|
| ENF/13/00072 | The Three Stags, Darley Dale | WR | Appeal being processed |
| ENF/13/00083 13/00594/FUL (linked together) | 24 Chapel Hill, Cromford | PI | Appeal being processed |
| 14/00379/PDA | Barns 1 and 2 Home Farm, Whitelea Lane, Tansley and Barn 3 Home Farm, Whitelea Lane, Tansley | WR | Appeal being processed |
| 14/00097/OUT | Tansley House Gardens, Tansley | IH | Appeal allowed – copy of appeal decision attached |
| 14/00102/OUT | 106 Northwood Lane, Darley Dale | IH | Appeal dismissed – copy of appeal decision attached |
| 14/00089/OUT | Asker Lane, Matlock | PI | Appeal being processed |
| 14/00182/FUL | 25 Cavendish Road, Matlock | WR | Appeal dismissed – copy of appeal decision attached |
| 14/00510/FUL | 25 Cavendish Road, Matlock | WR | Appeal dismissed – copy of appeal decision attached |
| 14/00538/AGR | Rear of 11A Little Bolehill, Bolehill | WR | Appeal being processed |
| 14/00493/FUL | 10 Imperial Road, Matlock | WR | Appeal being processed |
| 14/000539/FUL | Carrlane Farm, Carr Lane, Riber | HH | Appeal being processed |

WR - Written Representations

IH - Informal Hearing

LI - Local Inquiry

PI – Public Inquiry

HH – Householder

OFFICER RECOMMENDATION:

That the report be noted.

Appeal Decision

Hearing held on 9 December 2014

Site visit made on 9 December 2014

by SD Harley BSc(Hons) MPhil MRTPI ARICS

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 22 January 2015

Appeal Ref: APP/P1045/A/14/2226401

Land at Tansley House Gardens, Tansley, Nr Matlock, Derbyshire DE4 5HQ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
 - The appeal is made by Y Bar Ltd, against the decision of Derbyshire Dales District Council.
 - The application Ref 14/00097/OUT, dated 19 December 2013, was refused by notice dated 14 May 2014.
 - The development proposed is residential with access from Tansley House Gardens.
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Decision

1. The appeal is allowed and outline planning permission is granted for residential with access from Tansley House Gardens on land at Tansley House Gardens, Tansley, Near Matlock, Derbyshire DE4 5HQ in accordance with the terms of the application Ref 14/00097/OUT, dated 19 December 2013, subject to the conditions in the Conditions Schedule below.

Procedural Matter

2. The application is in outline only with all matters reserved for future consideration. Plans showing a possible way of developing the site have been submitted but these are for illustrative purposes only. I have considered the appeal on this basis.
3. In a signed Statement of Common Ground the Council and the appellant agree that the policies in the adopted Derbyshire Dales Local Plan, 2005, (LP) have limited weight in the context of the National Planning Policy Framework (the Framework) and the lack of a deliverable 5 year housing land supply. The Statement of Common Ground also notes the withdrawal of the Pre Submission Draft Derbyshire Dales Local Plan, 2013, (Draft LP). The effect of this is discussed below.

Main Issues

4. The main issues are:
 - whether the proposal would be sustainable development having regard to the provisions of paragraph 7 of the Framework and the location of the site, taking particular account of the setting of Tansley Village;
 - whether other harm would be caused by the development; and, if so,

- whether that harm would significantly and demonstrably outweigh the benefits of providing additional housing.

Reasons

Planning policy background

5. Planning applications and appeals should be determined in accordance with the development plan unless material considerations indicate otherwise. However, the weight to be attached to policies in the development plan should be according to their degree of consistency with the the Framework, which sets out the Government's planning policies and is a material consideration.
6. The Framework states that local planning authorities should identify a supply of deliverable sites to provide 5 years worth of housing land to meet their Objectively Assessed Housing Needs, with an additional buffer of 5% (or 20% if there has been persistent undersupply). The Council does not have a deliverable 5 year Housing Land Supply to meet Objectively Assessed Housing Needs. The actual extent of the shortfall is not yet determined but is likely to be significant as indicated by the Local Plan Inspector in his report of the Examination into the Draft LP in July 2014.
7. The decision notice refers to Saved Policies SF4 and H4 of the LP. Having regard to Paragraph 49 of the Framework, these policies, which broadly prohibit housing outside a Settlement Framework boundary in the countryside, must be considered as not up-to-date and so afforded very little weight in terms of housing supply and location. This is because in order to address such a shortfall of housing land it may well be necessary to allow development outside settlements in the surrounding countryside. Extending development to the appeal site would not, therefore, of itself breach a fundamental principle of the Framework, unless there are significant and demonstrable adverse impacts.
8. The decision notice also refers to Development Management Planning Policies 2 and 6 of the Draft LP. Whilst the Framework says that weight may also be given to relevant policies in emerging plans, since the decision was issued the Draft LP has been withdrawn, and it is unlikely to significantly progress to adoption in the near future. The appeal therefore falls to be decided in accordance with the Framework, and this position is agreed by the parties in the Statement of Common Ground.
9. Policy NBE8 of the LP is also referred to on the decision notice and says that planning permission will only be granted for development that protects or enhances the character, appearance and local distinctiveness of the landscape. This is more restrictive than the Framework, which seeks a more balanced approach concerning landscape character and development in the countryside, and accepts that harm or loss can be allowed where there is clear and convincing justification. Accordingly, it attracts less weight than the principles in the Framework.

Sustainability

10. The Framework has a presumption in favour of sustainable development. This is defined in respect of three roles. These are an economic role, including contributing to building a strong, responsive and competitive economy by ensuring a sufficient supply of the right land is available for development to support growth and co-ordinating development including the provision of

infrastructure; a social role including a supply of housing for present and future generations with high quality development and accessible local services; and an environmental role which includes contributing to protecting and enhancing our natural, built and historic environment.

11. The appeal site lies outside but adjacent to the Settlement Framework of Tansley. It is next to an existing area of housing and within easy walking distances of a primary school (although there is no pre-school), play area, village halls, churches, public houses, bus stops (albeit with a rather limited bus service) and an employment area on the Old Coach Road. Matlock town centre, with its amenities, is less than 2 miles away. The Council has consistently seen Tansley as a sustainable settlement suitable for some housing growth, and indeed new housing has been built in Tansley in recent years. The Council acknowledges that to accommodate the required new housing in the District it will be necessary to consider development on green field sites which were previously outside Settlement Framework boundaries.
12. The amount of housing that could be accommodated on the site has not been established and there are a number of constraints to be taken into account. The Planning Statement accompanying the application suggests that a mix of 1,2,3 and 4 bedroomed units would meet the requirements of the Local Housing Needs Survey. However, given the prevailing densities and the need to make efficient and effective use of land the appellant considers a density of 23 dwellings per hectare would be more appropriate and the indicative layout plan shows 27 units. As the Council has cannot demonstrate a 5 year supply of deliverable housing sites, the provision of such additional dwellings represents a significant benefit.
13. The proposed development would bring economic benefits to the construction industry. Extra residents in the village would help support the school and other local facilities although would be unlikely to be of a sufficient scale to support the return of a local shop.

Affordable housing

14. The proposed development would contribute to the community by providing needed residential accommodation and proposes to provide a proportion of affordable housing which would be an additional benefit. The Council welcomes the provision of affordable housing on-site and, as several affordable housing schemes have been secured in Tansley in recent years, would like to see 4 bungalows provided even if this meant a smaller number of affordable units overall. Two bedroomed houses would be preferred over three bedroomed houses. The Council has proposed that affordable housing could be secured by condition and that an obligation under s106 of the Town and Country Planning Act, 1990, is not necessary.
15. The appellant has suggested that any planning condition should not be prescriptive about the amount of affordable housing at this stage but should make provision for a feasibility study similar to one in appeal Ref APP/C2708/A/07/2061094 dated 16 March 2010. I appreciate that the Council, in the context of an immediate District wide need for affordable housing, would prefer more certainty and considers that there should be no viability issues in delivering the proportion of affordable housing requested without delay.

16. Paragraph 205 of the Framework says that local planning authorities should take account of changes in market conditions over time and, wherever appropriate, be sufficiently flexible to prevent planned development being stalled. Whilst this specifically relates to planning obligations, I consider it equally pertinent to a condition which is being used in preference to an obligation, as advised in paragraph 203 of the Framework.
17. The Guidance recognises that viability will vary by house type. It goes on to say that viability is particularly relevant for affordable housing contributions which are often the largest single item sought on housing developments and that these contributions should not be sought without regard to individual scheme viability.
18. The Council has expressed a preference for bungalows even if that would mean a smaller number of affordable units. Bungalows are not part of the submitted indicative proposals, and there would accordingly be a need to agree the mix of dwelling types. For these reasons I consider that a mechanism for assessing viability would be more appropriate than a prescriptive amount of affordable housing.
19. I turn now to the effect of the proposed development on the natural, built and historic environment. The site has not been developed before, but nothing in the Framework establishes an objection in principle to development on such land. The appeal site comprises one field and part of another field that I am told were wild flower meadows but which have been rough ploughed and are now overgrown.
20. To the north/north-east the site is bounded by Footpath No 4 beyond which are gardens to houses on Church Street and Tansley House Gardens. To the south-east is Tansley House Gardens, a cul de sac of more modern dwellings, and from which access would be taken. To the south/south-west are fields also in the ownership of the appellant that slope down to the wooded banks of a stream. To the northwest is open land with properties on The Old Coach Road beyond. A substantial tree/hedge row runs in a north-east/south-west direction from Footpath No 4 down to the stream.
21. The appeal site and adjoining land, although not designated as Green Belt or Green Space, is nonetheless pleasing as an unbuilt on area, albeit it may be less pleasing in appearance following ploughing a year or two ago. The proposed development would result in some harm to the landscape, as it would be replacing a substantial part of the existing undeveloped fields with dwellings and associated works.
22. However, the site is bounded by housing on two sides and the fields, although a group together, are severed from the wider open countryside by Tan Brook, the A615, development on the other side of the A615 and the industrial area on the Old Coach Road. Accordingly the development would not constitute a significant encroachment into the rural countryside.
23. A finger of land included in the Lumsdale Conservation Area (CA), which encompasses the majority of the Old Coach Road industrial area and a much larger irregular area to the west, extends in a south-easterly direction towards Footpath No 9. Although the land owned by the appellant adjoins this extremity of the CA, it was not included in the CA when it was designated or at any subsequent review. The Council says this is because the CA seeks to

protect the industrial heritage of the surrounding area including the brooks which served local industries. As the proposed development would retain a significant land buffer between the houses and the CA boundary, there would be a neutral effect on the setting of the CA.

24. The main road between Tansley and Matlock is the A615. This runs alongside the brook towards the bottom of the valley which has steep banks on either side. The appeal site is located on the bank rising up to Tansley Knoll below existing houses which step up the bank. The site can be seen in glimpsed views from the A615 and is seen as a field above trees in the valley bottom and below the backdrop of houses on Tansley House Gardens, Church Street and the land above.
25. The site can also be seen from the footpath on Tansley Cliff on the opposite side of the A615, but again the view is glimpsed through trees and narrow gaps, and the site is perceived as sitting above trees and below existing houses. It would be less visible during those times when trees are in full leaf. Provided some open space and existing trees and hedges were generally retained and supplemented, to my mind the scheme would not result in a significant material change to the impression of houses climbing a hillside. I note that at the Hearing the appellant expressed a willingness to reduce the density of development on the western part of the site to reflect the lower density of adjacent development, and to provide a better buffer zone, which would further mitigate the appearance of the proposed development in the longer views.
26. For the reasons set out above I therefore consider that, although some fields would be lost, the harm to the landscape and the setting of Tansley village would be limited.
27. An Ecological Site Appraisal was submitted with the application. This concluded that the ecological character comprises of grassland with hedgerows and scrub. No evidence of protected species were found although I am told that badgers have been seen in at least one nearby garden. It seems likely that wildlife uses the site and the stream and that is not unexpected in this location outside a Settlement Framework. However, I have no basis to suppose the habitat or foraging environment of protected species would be unacceptably affected by the proposed development.
28. I note that the proposed development incorporates the retention of hedgerows and wildlife corridor improvements. Natural England and the Derbyshire Wildlife Trust have no objections subject to suitable conditions and the Council raises no concerns. Accordingly I conclude that the effect on the ecological character of the area would not be unacceptable.
29. For the reasons set out above I conclude that with appropriate safeguarding conditions the proposed development would not have an unacceptable effect on the natural, built and historic environment and would amount to sustainable development in accordance with the principles of the Framework.

Sustainable Development

30. In the Officer report it was accepted the site was not so intrinsically unsustainable as to merit refusal on that ground. Accordingly, and for the reasons set out above, I would agree, and conclude the site would satisfy the

economic, social and environmental roles for sustainable development, and would provide additional market and affordable housing and would accord in this respect with the Framework.

Other harm

Living conditions

31. The occupiers of houses in the village, particularly those on Tansley House Gardens and Tawney Close, now enjoy pleasant views across the appeal site and the associated sense of rural openness that it provides. This would change because of the scheme, as the open fields would be partially replaced with houses. However, whilst these residents have benefited from the undeveloped nature of the appeal site over the years, that alone cannot be a reason to prevent development on the land being brought forward. It also does not necessarily mean the impact on their living conditions would be unacceptable, as to consider otherwise would stand in the way of building on many undeveloped sites.
32. Moreover, existing houses are separated from the site either by Footpath No 4, which remains on its existing route, or by Footpath No 9 or by the Tansley House Gardens carriageway. The layout and house types are indicative and the Council considers the separation distances from adjoining houses would be acceptable and that there would be no harm to residential amenity. Matters of privacy and outlook could be addressed under a Reserved Matters application. There is nothing unreasonable about looking onto other dwellings even though there would be lighting associated with it. For these reasons I consider the relationship between the existing and proposed houses would be acceptable, and that the living conditions of occupiers of nearby properties would not be so significantly affected as to justify refusal.

Highway matters

33. Access to the site would be via the Tansley House Gardens cul-de-sac. Although not adopted and without street lights, it has surfaced footways on both sides as far as the proposed access point into the site.
34. Concerns have been raised about visibility at the junction of Tansley House Gardens and Church Street. Although the road layout provides appropriate visibility this can be impeded by vehicles parked near the corners, and a number of properties on Church Street have no off-street parking. Concern has also been raised about the narrowness of Church Street and the capacity and safety of the junction of Church Street with the A615. However, Derbyshire County Council, as Highway Authority, has no objections to the proposed access arrangements subject to appropriate conditions, and would be able to regulate parking along Church Street or close to junctions. I see no reason to disagree with the views of the Highway Authority in this respect.
35. Concerns have been expressed about the lack of assessment of the cumulative effects of traffic associated with this and the possible development on the Whitelea Nursery site (which was proposed as an allocation in the Draft LP and is the site preferred by some but not all local residents). However, I am told that the Highway Authority does not carry out assessments for schemes of less than 80 dwellings, and the combined development arising from this and the Whitelea Nursery site is likely to be significantly less than this. Moreover,

paragraph 32 of the Framework says that development should only be prevented on transport grounds where the impact of the development would be severe. Accordingly I conclude that the harm arising in this respect would not be significant.

36. It seems likely to me that the additional traffic arising from the proposed development would result in some inconvenience due to waiting to pass on Church Street and at junctions. However I have no reason to suppose this would be severe, and neither the Council nor the Highway Authority has raised concerns in that respect.

Prematurity

37. Tansley Parish Council has drawn attention to the Planning Practice Guidance (the Guidance) which says that planning permission could be refused on the grounds that the development would be premature in relation to the emerging local plan. However, paragraph 14 of the Framework says that, where the development plan is absent or out-of-date, planning permission should be granted, other than where it is clear that the adverse impacts of granting permission would significantly and demonstrably outweigh the benefits, taking the policies in the Framework and any other material considerations into account.
38. The Guidance explains that arguments about prematurity are unlikely to justify the refusal of permission unless the development proposed, individually or cumulatively with other proposals, would be so substantial that to grant permission would undermine the plan-making process by predetermining decisions about the scale, location or phasing of new development that are central to an emerging Local Plan. The Guidance goes on to say that refusal of planning permission on grounds of prematurity will seldom be justified where a draft Local Plan has yet to be submitted for examination. In this case the Draft LP has been withdrawn. The Council has raised no concerns in respect of prematurity and taking into account the Guidance I see no reason to disagree.
39. There was also little before me to show that building here would prejudice the re-use of previously developed land elsewhere such as Whitelea Nursery. Tansley Parish Council is concerned that the costs of highway, drainage and healthcare, individually or cumulatively with other proposals, have not been taken into account. However, no concerns have been raised by the relevant bodies in relation to this scheme, and this is only a 'potential' concern, the scale of which has not been specified and which may or may not arise. In my opinion there was insufficient evidence submitted to mean this would be a justifiable reason to dismiss this proposal. For these reasons I consider the proposals could not be resisted on the grounds of prematurity.

Balancing any harm against the benefits of providing additional housing

40. There is a shortfall in housing land supply, and so, having regard to paragraph 49 of the Framework, the policies in the development plan relating to that matter must be considered out-of-date. This shortfall is something to which significant weight should be attached. The relevant policies from the Local Plan are not consistent with the Framework, the Local Plan is out-of-date, and, for the reasons set out above I have concluded that the site is suitably sustainable. I therefore consider the provision of housing as proposed must be seen as a significant benefit.

41. Therefore, having regard to paragraph 14 in the Framework, the benefit of this housing has to be balanced against the harm identified. Moreover, to justify resisting the proposal under paragraph 14 the harm must "significantly and demonstrably" outweigh the benefits.
42. As explained above the harm I have identified to the countryside is limited due to the site's relationship to existing built development, the stream and the road, topography, and the open space and landscaping that would be retained. I have concluded that other harm to living conditions, highways, infrastructure and from prematurity is not significant. Therefore I consider that harm arising from the development would not outweigh the significant benefit of more housing.
43. I have noted that Tansley Parish Council and local residents consider the approach in paragraphs 49 and 14 of the Framework to be contrary to the concept of localism and are dissatisfied that the approach taken by the Draft LP is now deemed to be out-of-date. The Framework places a clear emphasis on the primacy of the development plan and the opportunities communities have to shape the scale, location and timing of development. However, this greater involvement does depend upon the expeditious preparation of local plans that make provision for the future needs of areas. The approach in paragraphs 49 and 14 of the Framework only becomes applicable when the development plan system has not achieved one of its main tasks, such as the provision of an adequate supply of housing land, or is inconsistent with national guidance. As such, I do not accept that it undermines the concept of localism. Moreover, this proposal has not negated the extensive and comprehensive consultation process that was recently completed in relation to the housing options, as I have no reason to suppose the sites identified through that process will not still form the basis for the housing allocations in a future Local Plan.
44. I have taken account of the appeal Ref APP/P1045/A/13/2195508 at West Yard which was refused on 13 August 2013. However, since that time the Council has withdrawn the Draft LP and accepts that a 5 year housing land supply is not available, so the policy circumstances are very different. I have also taken account of appeal Ref APP/C2708/A/07/2061094 which was allowed on 16 March 2010 and appeal Ref APP/P1045/A/13/2195546 which was allowed on 9 October 2013.
45. For the reasons set out above I conclude no harm has been shown that would significantly and demonstrably outweigh the benefits of providing this additional housing in this location.

Conditions

46. I have assessed the suggested conditions against the six tests for conditions in paragraph 206 of the Framework and against the Guidance.
47. As this is an outline application, the standard conditions relating to the commencement of the development and the submission of reserved matters should be applied. As the application is in outline further details are required of the access arrangements. In the interests of highway safety pedestrian visibility splays should be provided to the private drives and parking spaces secured at properties in the development.

48. As set out above, I have already referred to the need for a condition requiring a viability assessment and for affordable housing to be provided to achieve a satisfactory supply of a variety of housing to meet the needs of the area.
49. Further assessments are required to establish the botanical interest of the site and the mitigation proposals in the submitted Preliminary Ecological Site Appraisal and subsequent assessments should be secured, together with the protection and enhancement of trees and hedgerows. The works proposed by Derbyshire Wildlife Trust and future management can be addressed through landscape implementation and management conditions, as can improvement works to, and protection of, footpaths as requested by Derbyshire County Council and the Peak and Northern Footpaths Society. The removal of trees, shrubs and hedgerows during the nesting season should be controlled to protect birds.
50. The future management and maintenance of the open areas to ensure a satisfactory appearance on both the red and blue edged land can be secured by condition. Whilst it would not be appropriate to require the transfer of land to Tansley Parish Council as requested, I note that the appellant at the Hearing seemed willing to consider this, and this could be addressed under the management scheme.
51. Foul and surface water drainage should be agreed and implemented in the interests of public health. In the interests of public safety water pressure sufficient to enable the efficient operation of domestic water sprinklers should be provided as requested by the Fire and Rescue Service.
52. Due to the steepness of Tansley House Gardens and the relative narrowness of parts of Church Street I consider that a Construction Methodology Statement is necessary and appropriate to mitigate on-street parking and congestion. In the interests of sustainability and to encourage home working a high speed broadband link should be provided.

Final conclusion

53. For the reasons set out above, and taking into account all other relevant matters raised, I conclude the appeal should be allowed.

SDHarley

INSPECTOR

Conditions Schedule

- 1) Details of the appearance, landscaping, layout, and scale, including existing and proposed levels across the site in relation to adjacent land, (the reserved matters) shall be submitted to and approved in writing by the local planning authority before any development begins and the development shall be carried out as approved.
- 2) Application for approval of the reserved matters shall be made to the local planning authority not later than 3 years from the date of this permission.
- 3) The development hereby permitted shall begin not later than 2 years from the date of approval of the last of the reserved matters to be approved.

- 4) The landscaping details submitted for approval in connection with Condition 1 above shall include details of all trees and shrubs on the site to be retained, together with details of their means of protection and a timetable for the implementation of those protection works. The means of protection shall then be instigated in accordance with the approved details and timetable.
- 5) The landscaping details submitted for approval in connection with Condition 1 above shall include details of the play area, together with a timetable for its implementation and details of its future maintenance. The play area shall then be provided and thereafter maintained in accordance with the approved details and timetable.
- 6) Prior to the commencement of the development details shall be submitted to and approved in writing by the Local Planning Authority of improvements to and protection for public footpaths on and adjoining the site together with a timetable for its implementation. The footpath improvements and protection shall then be provided in accordance with the approved details and timetable and thereafter retained.
- 7) Notwithstanding the submitted Preliminary Ecological Site Appraisal, no development shall take place until the results of a Phase 2 Ecological Assessment, carried out to establish the extent of botanical interest, together with appropriate mitigation measures, has been submitted to and approved in writing by the local planning authority.
- 8) The landscaping details submitted for approval in connection with Condition 1 above shall include details (including a timetable) of how the ecological recommendations in the Preliminary Ecological Site Appraisal and the Phase 2 Ecological Assessment are to be incorporated within the proposed development. These details shall then be incorporated into the development in accordance with the approved details and timetable.
- 9) No removal of hedgerows, trees, shrubs, brambles or ivy shall take place between 1 March and 31 August inclusive, unless a survey has been undertaken by a competent ecologist to assess nesting bird activity on the site during this period, and details of measures to protect nesting birds have first been submitted to and approved in writing by the local planning authority and then implemented as approved.
- 10) A landscape management plan, including long term design objectives, management responsibilities and maintenance schedules for all open areas on the land edged red and blue on Plan Ref S1.01, other than small, privately owned, domestic gardens, shall be submitted to and approved by the local planning authority prior to the occupation of the development for its permitted use. The landscape management plan shall be carried out as approved.
- 11) No development shall take place until a schedule of landscape maintenance for a minimum period of 5 years has been submitted to and approved in writing by the local planning authority. The schedule shall include details of

the arrangements for its implementation. Maintenance shall be carried out in accordance with the approved schedule.

- 12) The development shall not begin until such time as an independent financial assessment has been submitted to and approved in writing by the Council. The financial assessment shall indicate the level (if any) of affordable housing which the scheme could provide, taking account of any available public subsidy. Thereafter development shall not commence until such time as either (a) the approved financial assessment confirms that affordable housing is not viable OR (b) if affordable housing is viable then a scheme for the provision of affordable housing as part of the development has been submitted to and approved in writing by the local planning authority. The affordable housing shall be provided in accordance with the approved scheme and shall meet the definition of affordable housing in Annex 2 of the Framework or any future guidance that replaces it. The scheme shall include:
- a. the numbers, type, tenure and location on the site of the affordable housing provision to be made which shall contain the maximum numbers of affordable housing units/bed spaces indicated by the financial viability assessment;
 - b. the timing of the construction of the affordable housing and its phasing in relation to the occupancy of the market housing;
 - c. the arrangements for the transfer of the affordable housing to an affordable housing provider or the management of the affordable housing (if no Registered Social Landlord is involved);
 - d. the arrangements to ensure that such provision is affordable for both first and subsequent occupiers of the affordable housing; and
 - e. the occupancy criteria to be used for determining the identity of occupiers of the affordable housing and the means by which such occupancy criteria shall be enforced.
- 13) No dwelling hereby permitted shall be occupied until its parking, together with any associated manoeuvring space, has been provided in accordance with details that have first been submitted to and approved in writing by the local planning authority.
- 14) Any garage permitted/car spaces provided shall be kept available for the parking of motor vehicles at all times. The garage/car spaces shall be used solely for the benefit of the occupants of the dwelling of which it forms part and their visitors and for no other purpose and permanently retained as such thereafter.
- 15) Prior to the commencement of the development on site a scheme including precise details of the access from Tansley House Gardens and within the site, and including bin stores, lighting and future management and maintenance arrangements shall be submitted for the approval of the local planning authority. No dwelling shall be occupied until the details have been approved in writing by the local planning authority and the approved access has been formed to base level, drained and lit in accordance with the approved details.
- 16) Prior to the occupation of any dwelling a timetable for the completion of the access road, including the top coating and lighting shall be submitted for the

approval of the local planning authority and the approved works shall be completed in accordance with the approved schedule.

- 17) No development shall take place, including any works of demolition, until a Construction Method Statement has been submitted to, and approved in writing by, the local planning authority. The approved Statement shall be adhered to throughout the construction period. The Statement shall provide for:
 - a. the parking and manoeuvring of vehicles of site operatives and visitors;
 - b. loading and unloading of plant and materials;
 - c. storage of plant and materials used in constructing the development;
 - d. the erection and maintenance of security hoardings where appropriate;
 - e. wheel washing facilities.
- 18) No dwelling shall be occupied until its private driveway/parking space(s) have been provided with 2m by 2m pedestrian visibility splays to either side. The splays shall at all times be kept free from any obstruction over 600mm in height when measured from the pavement.
- 19) The proposed private driveway/parking spaces shall be no steeper than 1:14 for the first 5m from the nearest highway boundary and no steeper than 1:10 thereafter.
- 20) Prior to the commencement of the development on site details of the proposed surface water drainage scheme and the proposed foul water drainage scheme, together with a timetable for their implementation, shall be submitted to and approved in writing by the local planning authority. The drainage scheme shall then be implemented in accordance with the approved details and timetable.
- 21) Prior to the commencement of the development a scheme for the provision of information and communications technology (ICT) infrastructure capable of delivering High Speed Broadband shall be submitted to and approved in writing by the local planning authority. The scheme shall relate to the site only and shall provide a single point for connection to the wider ICT network. Thereafter each dwelling shall be provided with a connection to the approved ICT infrastructure prior to first occupation.
- 22) Prior to the commencement of the development a scheme for the provision of a water supply capable of delivering the required volume of water to allow the installation of domestic water sprinklers shall be submitted for the approval of the local planning authority. The approved scheme shall be implemented prior to the occupation of any of the dwellings on the site.

APPEARANCES

FOR THE APPELLANT:

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|--------------------------|---|
| Tony Bowhill M Foster | Bowhill Planning Partnership. Y Bar Ltd. |
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FOR THE LOCAL PLANNING AUTHORITY:

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|------------------------------|------------------------------------|
| Helen Frith BA(Hons); Dip.TP | Derbyshire Dales District Council. |
| Howard Crowe MA; CMLI | Derbyshire Dales District Council. |
| Michael Hase BA(Hons) MRTPI | Derbyshire Dales District Council. |

INTERESTED PERSONS:

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|------------------|-------------------------|
| Vicki Raynes | Tansley Parish Council. |
| Kathleen Camm | Local Resident. |
| Ruth Cooper | Local Resident. |
| Stafford Hildred | Local Resident. |
| Ian Strange | Local Resident. |

Documents submitted at or after the Hearing

- 1) Derbyshire Wildlife Trust, letter dated 3 December 2014.
- 2) Appeal decision Ref APP/P1045/A/13/2195508 dated 13 August 2013.
- 3) Tansley Parish Council Statement, December 2014 and associated documents.
- 4) Official copy of register of title, supplied by Tansley Parish Council.
- 5) Ian Strange, Statement in support of the proposal.
- 6) Proposed condition about affordable housing supplied by the agent.
- 7) Appeal decision Ref APP/C2708/A/07/2061094 dated 16 March 2010

BACK TO AGENDA

Appeal Decision

Hearing held on 16 December 2014

Site visit made on 16 December 2014

by Susan Ashworth BA (Hons) BPI MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 21 January 2015

Appeal Ref: APP/P1045/A/14/2226244

Land to the rear of 106 Northwood Lane, Darley Dale, Matlock DE4 2HS

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
 - The appeal is made by Mr Stephen Mead against the decision of Derbyshire Dales District Council.
 - The application Ref 14/00102/OUT, dated 3 March 2014, was refused by notice dated 7 May 2014.
 - The development proposed is single residential dwelling, land to the rear of 106 Northwood Lane.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The application was submitted in outline with access, layout and scale to be determined at this stage. I have dealt with the appeal on this basis.
3. Prior to the Hearing, the Council, in its Statement of Case, conceded that following an Inspectors report into the emerging draft local plan, a 5 year supply of housing land could not be demonstrated. Therefore in accordance with the provisions of paragraph 14 of the National Planning Policy Framework it considers relevant housing policies to be out of date. Furthermore the Council now considers that the site lies in a sustainable location. As it considers there are no other adverse impacts of the scheme, the Council is of the view that the principle of development is acceptable under paragraph 14.
4. In addition, following the carrying out of speed readings, the Highway Authority considers that the development can achieve the required visibility splays. Accordingly both reasons for refusal have been withdrawn. Notwithstanding this the appellant has chosen to pursue the appeal and matters raised by third parties form the basis of the main issues.

Main Issues

5. The main issues in this case are:
 - Whether the proposed development would provide a suitable site for housing having regard to the principles of sustainable development and housing land supply.

- The effect of the proposed development on highway safety.

Reasons

Whether the proposed development would provide a suitable site for housing having regard to the principles of sustainable development and housing land supply

6. The site comprises part of the rear garden of a semi-detached property, 106 Northwood Lane, Darley Dale which is sloping and mainly open. It presently accommodates a garage, which is used only as an outbuilding, and a single vehicle car port. The site is accessed by a private drive off Northwood Lane which leads to No 108 and which also provides vehicular access to the rear of No 110.
7. The proposal is for the construction of a detached dwelling, with access from the private drive and the creation of a new vehicular access to No 106 off Northwood Lane with provision of two car parking spaces to serve the existing dwelling.
8. The development plan consists of the Derbyshire Dales Local Plan (2005) (the Local Plan) which sets out a settlement hierarchy to establish where new development is most appropriately located. Northwood lies outside the settlement boundary and, for the purposes of planning policy, is within the countryside. Policies SF4 and H4 of the Local Plan seek to protect the character of the countryside. Accordingly new residential development is restricted to housing that essentially requires a countryside location or affordable housing to meet a local need. The proposal is for a market house that does not meet this exception. As such the proposal is contrary to the provisions of policies SF4 and H4.
9. However, the Local Plan predates the National Planning Policy Framework (the Framework) which was published in 2012. Paragraph 215 of the Framework advises that due weight should be given to policies in existing plans according to their degree of consistency with the Framework. In this case there is a considerable degree of inconsistency between the two as the Framework clearly supports the presumption in favour of sustainable development. Although the site does not lie within the settlement boundary it is not within an isolated location in the countryside which the Framework seeks to protect. Rather it lies within an established residential area, bounded by residential properties and a recreation ground.
10. In accordance with guidance within the Framework, sustainability is about more than the relationship of a development to a settlement boundary, it is about economic, social and environmental matters. From the evidence provided, and from what I saw on my site visit, there is reasonable access to local services, and to a bus route. The development would not result in harm to the character of the area and would provide limited economic and social benefit. As such the proposed development can therefore be considered to be sustainable.
11. Moreover, the Council has conceded that it cannot demonstrate a 5 year housing land supply. Paragraph 49 of the Framework states that in such cases relevant policies for the supply of housing, which in this case include Policy H4, should not be considered up to date. Paragraph 14 of the Framework directs that where relevant policies are out of date, 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; or specific policies in the Framework indicate development should be restricted.

12. Accordingly I conclude that little weight can be given to Policies SF4 and H4 of the Local Plan as a result of their being out of date and inconsistent with the Framework and that the proposed development would provide a suitable site for housing. Whether planning permission should be granted therefore turns on whether any adverse impacts of doing so would outweigh the benefits and I turn now to the second main issue.

The effect of the development on highway safety

13. The proposed new access to No 106 Northwood Lane would be formed by removing banking and relocating an existing retaining wall. This would provide access two parking spaces at the side of the dwelling. There is currently a pedestrian access in this location.
14. As a result of the combination of vehicle speeds and the road gradient, parties at the hearing were broadly in agreement that visibility splays of 2m x 24m were required at the site access in accordance with guidance provided in the Manual for Streets. The Highway Authority considered that such distance could be achieved, and thus vehicles would be able to manoeuvre safely without resulting in a danger to highway safety. The consultants acting on behalf of the third party however, argued that the achievable splay fell considerably short of this at around 2.4m x 13m.
15. Measurements taken on site indicated that a splay of 2m or 2.4m x 24m in an easterly direction would cross part of the front garden wall to No 110 and a part of the corner of the garden itself. The wall is low and planting behind it is sparse so that a driver emerging from the new access would be able to see over it. However this land is within the control of the third party and there is concern that uncontrolled future development by the third party within that land could impede visibility.
16. I have taken into consideration the Highway Authority's view that it is unlikely that the wall would be raised in height, such that would it impede visibility, as this would require planning permission and therefore be subject to control. Furthermore any restriction to visibility would not be in the owners of No 110's own interest. However, there is nothing before me to suggest that planting could not take place within the garden, such that would increase the height of the boundary treatment, without restriction. There are examples of high hedges close to the highway boundary in the locality. As such I am unconvinced that the visibility splay would remain open in perpetuity. Consequently visibility could fall below the recommended 2m x 24m and as such the access would be detrimental to highway safety.
17. No turning area would be provided in connection with the parking spaces but this is not an uncommon situation in a residential environment, particularly one in which vehicle speeds and volumes are low. I have taken into consideration the concern of the highways consultant that the relocated retaining wall could be a further restriction to visibility. However, it is proposed to set the retaining wall 2m back from the site boundary and in my judgement the design and detail of its construction, including that of the slope between the end of the

wall and the highway, could be resolved by planning condition. Nevertheless this does not affect my broader conclusion on visibility.

18. The existing private drive, which lies closer to 110 Northwood Lane than the proposed new access, currently provides vehicular access to three properties. That access is also substandard in terms of visibility in an easterly direction at its junction with Northwood Lane, as the required visibility splay projects across the front garden of 110. In a previous appeal for a similar development (ref T/APP/P1045/A/90/164282/P3) the Inspector concluded that to add another dwelling which would take its access from the lane, thereby intensifying the use of the access, would increase vehicular movements to the detriment of highway safety.
19. The current proposal would similarly add another dwelling which would potentially add further traffic to the lane. That potential increase in traffic would be tempered by the relocated car parking spaces to be provided to No 106. Nevertheless, No 106 is presently serviced from Northwood Lane and the proposal would therefore introduce service, delivery and visitor vehicle movements to the lane. Whilst there is some disagreement between the third parties and the Highway Authority about the precise number of additional vehicle movements, the proposal would nevertheless result in an increase in the use of a substandard access over the existing situation.
20. Furthermore, although the Council has suggested a condition to prevent occupiers of No 106 using the drive and creating a new vehicular access to the rear of the property, it seems to me that such a condition would be unenforceable and, given the occupier's right of access over the lane, unreasonable. As such it would not meet the tests for conditions set out in paragraph 206 of the Framework. Whilst I accept that the appellant does not intend this to happen, and would be willing to have the legal rights to use the lane amended, there is no such amended agreement before me. Unrestricted additional vehicle movements by any future occupiers of No 106 would further intensify the use of the lane.
21. I therefore conclude that as the new access to provide parking space to No 106 would be substandard in terms of visibility to the east, and that the development would result in intensification in use of an existing substandard access, the proposal would be detrimental to highway safety. As such the proposal would be contrary to Policy TR1 of the Local Plan which requires that development is served by a safe access with appropriate gradient, width alignment and visibility. Policy TR1 is consistent with the provisions of the Framework which require a safe and suitable access to be achieved for all people.

Other Matters

22. The Inspector in the previous appeal also made reference to the impact of the proposed additional unit on the living conditions of adjoining occupiers, particularly at No 110. There are windows to the side elevation of No 110 which are located immediately adjacent to the lane. At the site visit I noted that the ground floor window serves a kitchen /dining room. Although not forming one of the Council's original reasons for refusal, in my judgement the intensification of use of the access would have a detrimental effect on the living conditions of that property, particularly through noise, disturbance and effect on privacy. This adds weight to my overall conclusion. To a lesser extent the

proposal would also have a minor detrimental effect on the living conditions of the occupiers of No 108.

The Planning Balance and Conclusion

23. The Council cannot currently demonstrate a 5 year housing land supply and as such Policy H4 of the Local Plan is out of date. Policy SF4, in so far as it relates to this site within a built up part of the countryside, is inconsistent with the Framework. Consequently I have concluded that the proposed development would provide a suitable site for housing in principle. However, for the reasons outlined above, the proposal would be detrimental to highway safety and would have an adverse impact on the living conditions of the occupiers of the adjoining property.
24. My conclusion, having taken into account all other matters raised, is that the adverse impacts of the proposal are significant. These impacts significantly and demonstrably outweigh the benefits of the proposal when assessed against the policies of the Framework as a whole. The appeal is therefore dismissed.

Susan Ashworth

INSPECTOR

APPEARANCES

The Appellant

Mr Stephen Mead I Eng MICE

For the Local Planning Authority

Ms Helen Frith BA (Hons) DipTP Derbyshire Dales District Council

Mr Ian Turkington AMIHIE Derbyshire County Council

Mr Paul Froggatt Derbyshire County Council

For Mr & Mrs Neath

Mr David Cummins BEng (Hons) ADC Infrastructure Ltd
Msc, MCIHT, CMILT, CEng

Ms Rebecca Leconte BSc (Hons) ADC Infrastructure Ltd

Mr John Steedman Steedman Planning

Interested Parties

Mr & Mrs Neath Near Neighbours

Mr & Mrs Hopkins Near Neighbours

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Appeal Decisions

Site visit made on 15 December 2014

by Tom Cannon BA DIP TP MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 19 December 2014

Appeal A: APP/P1045/D/14/2227167

25 Cavendish Road, Matlock, Derbyshire, DE4 3GY

- 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 Wyatt against the decision of Derbyshire Dales District Council.
 - The application Ref 14/00182/FUL was refused by notice dated 23 July 2014.
 - The development proposed is a single storey extension.
-

Appeal B: APP/P1045/D/14/2227344

25 Cavendish Road, Matlock, Derbyshire, DE4 3GY

- 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 Wyatt against the decision of Derbyshire Dales District Council.
 - The application Ref 14/00510/FUL was refused by notice dated 24 September 2014.
 - The development proposed is a single storey front extension.
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Decision

1. Appeal A is dismissed.
2. Appeal B is dismissed.

Procedural Matters

3. As set out above, there are two appeals which differ only in the detail of the design of the proposed extension. Although I have considered each proposal on its individual merits, to avoid duplication I have dealt with the two schemes together in this document, except where otherwise indicated.
4. The Council's reason for refusal refers to Development Management Policies 1, 8 and 9 of the Derbyshire Dales Local Plan Submission Draft May 2014 (LPSD). These policies appear to be broadly consistent with the core planning principles of the National Planning Policy Framework (the Framework) that planning should seek to secure high quality design, take account of the different character of different areas, and conserve heritage assets in a manner appropriate to their significance. However, I do not have details of the current status of the LPSD or if any unresolved objections have been received to its relevant policies. This reduces the weight I have attached to policies in the LPSD in my assessment of this appeal.

Main Issue

5. The main issue is the same in both appeals. It is the effect of the proposed development on the host building and whether the proposed development would preserve or enhance the character or appearance of the Matlock Bank Conservation Area.

Reasons

6. The appeal property is a modern detached house located within the Matlock Bank Conservation Area. Although accessed off Cavendish Road, the dwelling occupies a prominent position elevated above Wellington Street. It features a steep pitched roof, with narrow two storey projecting gable, and is faced in coursed stone.
7. The Matlock Bank Conservation Area lies on a steeply sloping hillside overlooking the Derwent Valley, and was principally developed in association with the town's expanding hydropathic industry of the late 19th and early twentieth century. Whilst the area is dominated by several large, high quality landmark buildings which were former hydropathic establishments, its prevailing character is largely defined by the linear rows of terraced and semi-detached dwellings, and stone retaining walls which follow the contours of the bank. Houses in the area are generally constructed from local gritstone with steep pitched roofs and simple, modest fenestration detailing.
8. Both proposals seek to provide a single storey extension which would project forward of the principle elevation of the existing property. They only differ in that Appeal A proposes to introduce a shallow pitched roof, with Appeal B incorporating a flat roof concealed behind a stone-coped parapet.
9. The angle of the roof pitch proposed under Appeal A would be significantly lower than the main roof slope of the house and other traditional dwellings in the locality. Its extended width would accentuate both the horizontal emphasis of the extension and its shallow roof form, and contrast with the narrow proportions and steeper roof pitch of the existing two storey projecting gable to the property. Although the glazed front elevation would partially enhance its vertical emphasis and provide a design feature, this extensive area of glazing would conflict with the simple, modest fenestration pattern of the existing property and other houses in the area. A condition recessing the glazing would not adequately reduce this impact.
10. Such factors, when combined with its forward projection and elevated position, would add to the extensions prominence from views along Wellington Street, particularly from lower ground to the south and west. This impact would not be sufficiently mitigated by the varied alignment of buildings on this side of Wellington Street. Thus, the extension proposed under Appeal A would be out of scale and character with both the existing house and other properties in the locality and introduce an overly dominant addition within the surrounding street scape.
11. The introduction of a flat roof with stone-coped parapet under Appeal B, would only serve to intensify the squat appearance of the extension which would be poorly related in scale, design and form to the existing house. The modern design and proportions of the proposed parapet would also introduce detailing which is not characteristic of the host dwelling, and would fail to respect the

projecting cornice and parapet elements of the property immediately to the east, identified as a prominent or landmark building in the Matlock Bank Conservation Area Appraisal 2007. Nor does the presence of the occasional modern flat roof building in the locality justify the introduction of further flat roof development which conflicts with the prevailing pattern of development within the Conservation Area.

12. Therefore, the extensions proposed under Appeal A and Appeal B due to their size, form, design and detailing would cause material harm to the character and appearance of the host building. These factors in combination with its highly prominent elevated position would result in an intrusive form of development which would fail to preserve or enhance the character or appearance of the Matlock Bank Conservation Area, the significance of which, as a designated heritage asset should be safeguarded under the provisions of the Framework.
13. Accordingly, the development would conflict with Policies SF1, SF5, H2 and NBE21 of the Derbyshire Dales Local Plan 2005 which requires that, extensions do not have a detrimental impact on the character and appearance of the dwelling and its surroundings, and preserves or enhances the character or appearance of the Conservation Area. These objectives are broadly consistent with the core planning principles of the Framework, that planning should seek to secure high quality design, take account of the different character of different areas, and conserve heritage assets in a manner appropriate to their significance.
14. The proposals would also be contrary to Development Management Policies 1, 8 and 9 of the emerging LPSD which amongst other things seeks to ensure that the scale, massing, height and layout of new development preserves or enhances the quality and distinctiveness of its surroundings, and does not have an adverse impact on the significance of the heritage asset.
15. It has been suggested that, as the principle elevation of the property does not front onto a highway, an application for a front extension to the dwelling would not normally require planning permission, subject to the restrictions in Class A, Part 1 of the Town and Country Planning (General Permitted Development) Order. Nevertheless, permitted development rights were removed when the property was built. Thus, the permitted development fall-back position does not give rise for consideration under this appeal.
16. I also note that the Planning Practice Guidance advises that conditions restricting the future use of permitted development rights will rarely pass the test of necessity and should only be used in exceptional circumstances. However, this proposal does not seek to impose such a condition, nor does it relate to an appeal against a condition removing permitted development rights from the site.
17. Although the Council Conservation Officer does not appear to have objected to the principle of the development, this does not outweigh the harm I have identified.
18. For the reasons set out above, and having regard to all other matters raised, including the scope of possible planning conditions, I conclude that Appeal A and Appeal B should be dismissed.

T Cannon

INSPECTOR

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