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13 January 2014

To: All Councillors

As a Member or Substitute of the **Southern Area Planning Committee**, please treat this as your summons to attend a meeting on **Tuesday 21 January 2014 at 6.00 pm in the Ashbourne Sports and Community Centre.**

Yours sincerely

A handwritten signature in black ink, appearing to read 'Sandra Lamb', with a stylized flourish at the end.

Sandra Lamb
Head of Democratic Services

AGENDA

SITE VISITS The Committee is advised a coach will leave the Ashbourne Sports and Community Centre at **2.30pm** 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

10 December 2013.

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 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 | <u>Application No. 13/00595/TEMP (Site Visit)</u> | 5 - 10 |
| | Change of use of existing workshop/office to provide Manager's accommodation for a temporary period of three years at Homestead Stables, Mercaston Lane, Mercaston | |
| 4.2 | <u>Application No. 13/00695/FUL (Site Visit)</u> | 11 - 19 |
| | Extension and conversion of former garage to create two holiday flats (retrospective) at Annie's Meadow, Kniveton Lane, Offcote. | |
| 4.3 | <u>Application No. 13/00761/VCOND (Site Visit)</u> | 20 - 29 |
| | Retention of garage/stable building with first floor accommodation without compliance with Condition 6 of planning permission 09/00004/FUL to enable use as holiday let at Annie's Meadow, Kniveton Lane, Offcote. | |
| 4.4 | <u>Application No. 13/00679/FUL (Site Visit)</u> | 30 - 37 |
| | Replacement windows at the Old Chapel, Coffin Lane, Kirk Ireton. | |
| 5. | <u>TREES PROGRESS REPORT – DDDC APPLICATIONS</u> | 38 - 39 |
| | To note a report on action taken in respect of trees in Conservation Areas and Tree Preservation Orders. | |
| 6. | <u>APPEALS PROGRESS REPORT</u> | 40 - 43 |
| | 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 Richard Bright, Ken Bull, Steve Bull, Albert Catt, Tom Donnelly (Vice Chairman), David Fearn, Richard FitzHerbert, Steve Flitter, David Frederickson, Mrs Cate Hunt, Angus Jenkins, Andrew Lewer, Tony Millward (Chairman), Mike Ratcliffe, Lewis Rose, OBE, Andrew Shirley, Geoff Stevens MBE.

Substitutes: Councillors Mrs Sue Burfoot, David Burton, Bob Cartwright, Chris Furness, Neil Horton, Garry Purdy, Andrew Statham, Mrs Jacquie Stevens, Mrs Carol Walker.

SITE VISITS

Members will leave the Ashbourne Sports and Community Centre at **2.30pm** prompt for the following site visits:

2.45pm Application No. 13/00595/FUL 5 - 10

Homestead Stables, Mercaston Lane, Mercaston

Requested by the Ward Member to enable Members of the Planning Committee to fully appreciate the issues involved.

3.15pm Application No. 13/00695/FUL 11 - 19

Annie's Meadow, Kniveton Lane, Offcote

Requested by members of the Planning Committee having been deferred at the Southern Area Planning Committee meeting on 10 December 2013.

3.25pm Application No. 13/00761/VCOND 20 - 29

Annie's Meadow, Kniveton Lane, Offcote

Requested by members of the Planning Committee having been deferred at the Southern Area Planning Committee meeting on 10 December 2013.

3.50pm Application No. 13/00679/FUL 30 - 37

The Old Chapel, Coffin Lane, Kirk Ireton

Requested by officers and the Ward Member to enable members of the Planning Committee to fully appreciate the issues involved.

4.30pm Return to Ashbourne Leisure Centre

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.

13/00595/TEMP

Homestead Stables, Mercaston Lane, Mercaston



Scale : 1:2500

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

Organisation	Derbyshire Dales District Council
Department	Not Set
Comments	Not Set
Date	10 January 2014
Licence No.	100019785

13/00595/TEMP CHANGE OF USE OF EXISTING WORKSHOP/OFFICE TO PROVIDE MANAGER'S ACCOMMODATION FOR A TEMPORARY PERIOD OF THREE YEARS AT HOMESTEAD STABLES, MERCASTON LANE, MERCASTON FOR MISS CHARMAINE MILBURN

Parish Council: Hulland Ward
Application type: Temporary

Date of receipt: 20/08/2013
Case Officer: Mr W Shaw

THE SITE AND SURROUNDINGS:

The application relates to a 14.5 acre horse livery, equestrian training business premises, located between the A52 and A517 in open countryside on the western side of Mercaston Lane, Mercaston. Access is along a track that rises for about 100m and then continues for a further 200m between fields/paddocks in the applicant's control. A public footpath runs from the site access across land on the northern side of the track in a northeast direction. At the end of the track is a yard area enclosed by several buildings, one of which is a partially built three sided range of eight stables, a workshop area and reception. Other existing facilities include 7 purpose built stables in an American barn, 2 external foaling boxes, hay shed, 20m x 40m outdoor school and play field, feed room and tack room. The business has an option to rent a further 14 acres from a neighbouring farmer and there is extant outline planning permission for the erection of an indoor riding area with associated parking in the paddock closest to the existing buildings on the site.

Specifically, the application relates to the workshop part of the building that has been constructed, and a section of attached stables (nos. 5-8) that are yet to be built.

THE APPLICATION:

Temporary planning permission is sought to change the use of the workshop part of the timber stables building and to erect the stables and modify them in order that the proposed three bedroom manager's accommodation can be provided for a temporary three year period. The single storey 'L' shaped area measures some 11m by just under 9m and is 4m wide. It has a kitchen and toilet area, several windows and two entrance doors. Stables 5-8 together totals some 16m in length and will have the same width as the workshop. The three bedrooms and bathroom facilities will be contained within these stables.

The application is supported by a Planning, Design and Access statement, a business plan summary and several letters of support from clients and a veterinary group. The statement refers to the accommodation being for two adults and two children, the accommodation will be linked with stable 5 incorporating an en-suite. It is also proposed to incorporate an internal corridor on the northwest of stables 8, 7 and 6, retaining the external door shown opposite stable 6. Additional French double doors would be added to the workshop area, which will provide access to a secure play area. No changes to materials and finishes on the approved plans will be required. Approval of a temporary manager's living accommodation will enable the business 'Equestria', which has been trading in excess of ten years on this site, to meet the demands and needs of its clients and its employees, namely: -

1. The security and safety of its clients through eradicating lone working.
2. The security and safety of equine workers through eradicating lone working
3. The security and safety of all horses for which there is a duty of care for
4. Increased welfare management of all horses for which there is a duty of care for

5. Increase in evening and weekend working to meet the time requirements of the riding school clientele

The provision of temporary manager living accommodation will enable Equestria to deliver growth and create employment through its planned new enterprises which are: -

- Becoming a licenced Riding School
- Hosting and delivering 'Horse Agility' training and competition days
- Horse Breeding (this was a critical part of Equestria's original business plan that was suspended due to the inability to provide the correct level of welfare for the mare and foal as a result of not being able to remain on site full-time).

Background of existing business by applicant

The application site known as Homestead Stables was purchased by my partner and I in 2002 for the sole purpose of developing a purpose building horse livery and breeding yard.

Our 14 and half acre site is positioned between the A52 and the A517 on Mercaston Lane, Mercaston providing an ideal location for horse enthusiasts of all levels (novice to experienced including competition riders) from the regions of Derby, Ashbourne, Belper, Wirksworth and Uttoxeter.

The business currently is home to 17 horses, 7 owned by the applicants and 10 by livery clients, for which there is a duty of care. Additionally, throughout the year the business deals with holiday livery and training/rehabilitating horses where the average stay is two weeks. 'Equestria' established a sound reputation for the care and welfare of horses without advertisement, but we, and our clients are conscious that no one lives on site. This at times makes it difficult to acquire new clients as well as retaining existing ones (correspondence from a former client confirms this). Clients and lone working can involve persons being present alone on site, tending to horses before or after work in the case of the former, where accidents, injury or a security breach can occur. The number of horses on site is planned to increase and there is support from a Derby based veterinary business who set out horse emergencies in their correspondence that are time critical, which on site accommodation can enable immediate attention, ensuring the welfare of the horses is not compromised. The expansion of the business, including planned employment, means it is essential for living accommodation to be provided.

Livery may be full or part time and the site has capacity for a further 8 horses, with 2 to 3 intended, should the temporary managers accommodation be allowed. 'Equestria' also deals with problematic horse cases where animals have either emotional or physical problems, retraining is undertaken. Further, the business is to operate a riding school, with qualification having been recently gained as a 'Think Like a Pony' instructor. This allows adults and children of all abilities, including those with learning difficulties, to be taught how to train horses in an 'empathic' way. There is only one other 'Think Like a Pony' centre in the country, in Leeds. With more instructors being trained, centres such as Equestria will become a support mechanism premises. Although there are 3 other riding schools in a 15 mile radius, they do not teach/train and educate to our level, and one of these is due to close (Ridgewood Equestrian). An on-site presence is also required for the business breeding programme which has already mentioned was started previously but suspended due to the intense vigil required which could not be provided. Horses have the ability to influence birth and may delay i.e. due to weather conditions.

The statement refers to the two personnel of the business and their extensive experience and qualifications. A further two employees are intended who will assist in the management of the business. The businesses budget allows for the recruitment of a full time apprentice, which will be sought from the local community. Equestria throughout the year uses external contractors to help maintain and develop its premises.

Finally, the supporting information includes a summary business plan financial statement for the period between 2013/2014 to 2015/2016, with projected net profit figures.

RELEVANT HISTORY:

- 11/00645/EXO Extension of time limit for implementation – Erection of indoor riding area and associated car parking (outline) – Granted
- 08/00398/FUL Construction of stables, equestrian workshop, isolation stable, hay store, septic tank and alterations to access – Approved.
- 08/00397/OUT Erection of indoor riding arena and associated car parking (outline) - Approved
- 00/10/0704: Erection of stables, construction of access and parking area for horse training business – Approved.

CONSULTATIONS:

Local Highway Authority

The Highway Authority refer to the previous application to develop this site into equestrian use for which no objections were raised subject to the access being laid out to design requirements including visibility splays. However, as these previous requirements are to be carried out before works commence on site, no additional conditions relating to the access driveway are required for this separate application as the current access driveway is adequate in its current state to serve one dwelling.

Therefore, subject to 2no parking spaces being created within the site for the building in question there are no highway objections.

Parish Council

The Parish Council are happy for this development to go ahead providing they can be assured that this is a temporary development.

REPRESENTATIONS:

None

POLICIES:

Adopted Derbyshire Dales Local Plan (2005)

- SF4: Development in The Countryside
- SF5: Design And Appearance of Development
- H4: Housing Development Outside Settlement Framework Boundaries
- H9: Design And Appearance Of new Housing
- EDT13: Buildings Associated With Agriculture, Forestry Or Other Rural Based Enterprise
- NBE12: Foul Sewage
- NBE26: Landscape Design In Association With New Development

- TR1: Access Requirements And The Impact Of New Development
- TR8: Parking Requirements For New Development
- L11: Equestrian Development

Derbyshire Dales Local Plan Pre-Submission Draft (June 2013)

- Development Management Policy 2 - Development in the Countryside
- Development Management Policy 3 - Agricultural and Rural Workers
- Development Management Policy 4 - Residential Conversions in the Countryside
- Development Management Policy 9 - Design and Appearance Of Development
- Development Management Policy 22 - Access and Parking

Other

- National Planning Policy Framework (2012)

ISSUES:

1. The proposed manager's accommodation relates to the workshop/office part of the existing building and an approved 16m long section, for 4no stables, yet to be built. Only the inward facing northwest elevation will have changes to the previously approved door and window details (less doors). Hence, the main issue to consider is whether the proposed temporary manager's accommodation is in accordance with relevant planning policies that deal with rural worker accommodation in the countryside.
2. Policy H4 is supportive of rural enterprise worker dwellings where it has been demonstrated that they are essential for the business to function properly. Paragraph 55 of the National Planning Policy Framework currently provides guidance regarding rural dwellings. The paragraph advises that, 'to promote sustainable development in rural areas', housing should be carefully located. New isolated housing should only be allowed in special circumstances such as 'the essential need for a rural worker to live permanently at or near their place of work'. New essential rural workers' dwellings should therefore, be 'essential' and 'sustainable'. The Derbyshire Dales Local Plan Pre-Submission Draft is at a relatively early stage of preparation, and, as such, its emerging Policies may be afforded only limited weight. This particular application therefore needs to demonstrate an essential functional need for a worker to be readily available to deal with issues, as set out below.
3. Whether or not a worker needs to live on site is a matter of judgement based on factors such as the frequency of potential out-of-hour problems, the ability of a resident worker to identify and address those problems, the severity of loss if they are not addressed within a reasonable timescale. Whilst this particular business is well established, it has only gone partway towards the already approved developments that it has extant planning permission for, in particular, completing the entire stable block and obtaining the 'reserved matters' details for the indoor riding school. Currently the applicant has to drive from Belper to and from the premises and this has to fit in with existing family responsibilities. A skilled equine worker will know each horse individually and note any subtle change in temperament. This careful observation is most effectively undertaken by being on site to monitor horses both in the paddocks and the stables. Without this on site monitoring more urgent horse emergencies can occur which include wounds or fracture, colic, respiratory distress, laminitis, foaling, eye injuries and sick/collapsed foals. Given the sites relatively isolated nature, but with a public footpath running across the associated paddock/field, security of the horses, and, when a worker or person tending their horse is on their own, safety is a further issue, which the proposed

accommodation would address. Hence, whilst the business has operated to date without a permanent presence on site, it is considered that a temporary dwelling is desirable and will be essential when the business is fully developed. The completion of the approved extant permissions will, it is projected by the applicants, result in a financially sound rural business that in the long run can support a permanent dwelling on site.

4. In conclusion, temporary rural worker dwellings in the past have usually involved the introduction of a mobile home/chalet to the business premises concerned. The proposal will utilise an existing building and new approved stables that will be constructed if temporary planning permission is granted, any impact is likely therefore to be minimal. The provision will allow for the business operation to develop and will ultimately provide the financial information to assess a more permanent solution should this emerge. A recommendation of approval, subject to appropriate conditions is therefore recommended which will enable the business to expand in the manner set out in the submitted details.

OFFICER RECOMMENDATION:

Temporary Planning be granted subject to the following conditions: -

1. The temporary manager's accommodation hereby approved shall be discontinued and the workshop/office and stables facilities restored to their approved appearance/use no later than three years following their first occupation, the date of which having been notified and agreed in writing with the Local Planning Authority.
2. The occupancy of the temporary accommodation hereby approved shall be restricted to the manager of the equestrian enterprise and his or her immediate dependants/family members for the duration of the temporary permission hereby granted.

Reasons:

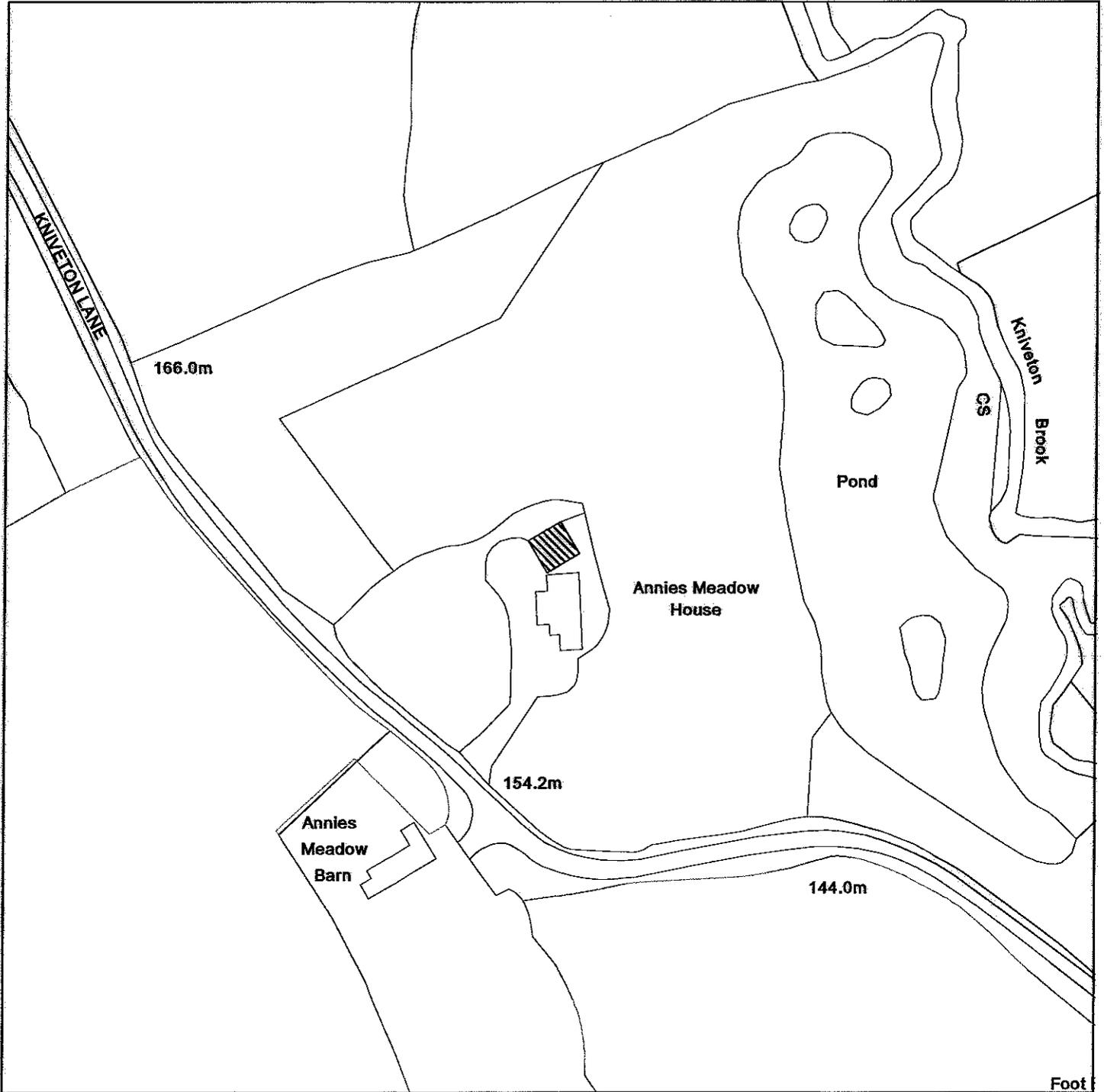
1. For the avoidance of doubt as the permission sought is for a temporary period only.
2. For the avoidance of doubt as unrestricted occupancy would be contrary to the advice at Paragraph 55 of the National Planning Policy Framework (March 2012).

Footnotes

1. The Local Planning Authority considered the application as submitted to be acceptable. On this basis, there was no need to engage with the applicant in a positive and proactive manner to resolve any planning problems and permission was granted without negotiation.
2. This permission relates to the following documents:
 - Planning / Design and Access Statement received 29th August 2013
 - Additional supporting comments and information – exhibits A – F inclusive received 29th August 2013
 - 1:1250 Scale red edged site location plan – Drawing Reference : 13/08/370 - No 01
 - 1:500 Scale proposed block plan – Drawing Reference 13/08/370 – No.031:100 Scale proposed floor plans & elevations – Drawing Reference 13/08/370 – No 04

13/00695/FUL

Annies Meadow, Offcote



Scale : 1:1250

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

Organisation	Derbyshire Dales District Council
Department	Not Set
Comments	Not Set
Date	10 January 2014
Licence No.	100019785

**13/00695/FUL EXTENSION AND CONVERSION OF FORMER GARAGE TO
CREATE TWO HOLIDAY FLATS (RETROSPECTIVE) AT ANNIES
MEADOW, OFFCOTE FOR MR & MRS GOOCH**

Parish Council: Offcote and Underwood
Application type: Full

Date of receipt: 26/09/2013
Case Officer: Mr W Shaw

INTRODUCTION:

This application was reported to committee on the 10th December 2013 at which members resolved to defer any decision pending a site visit being undertaken.

THE SITE AND SURROUNDINGS:

Annies Meadow is a two storey, stone and plain tile dwelling located along Kniveton Lane in the lower part of a valley in open countryside at Offcote. Access is via a recessed gate down a surfaced driveway which initially leads to a recently built double garage and stables building, with ancillary accommodation above. The driveway then swings round northwards to the dwelling and a wide area of hardstanding. The property stands in several acres and has a lake on lower ground to the rear.

THE APPLICATION:

Retrospective planning permission is sought for the conversion and a height increase of a former garage building to make provision for 2no holiday let units. The building is stated to have been raised by 0.9m and changes have been made to its external appearance, with its wide door being replaced with a single door and a patio window style door opening on its front elevation. A single window and 3no rooflights have been introduced to the rear, and a ground and a first floor window have been inserted into the open side elevation.

A supporting statement advises that the works were carried out after the garage became surplus to requirements following a new garage block being constructed. The attached garage was converted to ancillary accommodation, which did not need planning permission. Internally, a bedroom, wet room and lounge were provided for the applicant's mother, who was confined to a wheelchair. The first floor was laid out for use as a home cinema. Following the death of the applicant's mother and having been made redundant, the applicant decided to convert the accommodation into 2no flats that could be used both as ancillary accommodation to the house and as tourist accommodation. The building continues to contain facilities for the main house, but this application seeks permission to make the flats lawful for use as holiday accommodation. At some point in the future the applicant intends that the flats revert back to ancillary accommodation to the house (this is stated not to be development requiring planning permission).

The statement refers to the economic significance of tourism to the district and to relevant planning policy criteria, in support of the proposals.

Notwithstanding the above the applicant's agent, following the December Committee meeting, has made the following, further planning representation's regarding both of his client's applications: -

- The most relevant policies are SF4 and EDT19, although the Committee report also quoted SF5, but this is clearly related to new building work and not changes of use. Whilst the holiday flats have not resulted in 'the retention and restoration of a traditional vernacular agricultural building that otherwise would be a loss to the

13/00695/FUL (Continued)

character and appearance of the countryside' this is true but not relevant to the determination of these applications.

- There is no mention in saved Policy SF4 that the building to be reused is either of vernacular design or to previously have been in agricultural use. The Policy refers only to 'an existing rural building'. Both the buildings in these applications comply with that description, the policy contains no other criteria to suggest that the policy is contravened by these applications.
- Similarly, saved Policy EDT19 does not restrict the type of building which may be used to provide tourist accommodation. It requires the new tourist accommodation to involve 'the re-use, adaptation or change of use of building...', which is what both these planning applications proposed. Again none of the other criteria are contravened, particularly the upward extension of the garage by 0.9m with no increase in footprint cannot by any reasonable interpretation of the phrase be considered to be 'extensive alteration, rebuilding or extension'.
- The interpretation of your policies by Council officers appears to be based not on what the relevant policies actually say but how they have obviously been interpreted on other occasions. This is considered to be unreasonable conduct which, if these applications are refused, will inevitably result in an application for costs being made against the Council on appeal.
- The planning report refers to the National Planning Policy Framework stating at paragraph 28, in respect to the rural economy, 'that local and neighbourhood plans should 'support sustainable rural tourism' development. However, it is considered that 'sustainable' is taken to mean development in appropriate locations and/or utilising existing vernacular buildings with minimal alterations rather than new build development.' Nowhere in the National Planning Policy Framework does it say that.
- Paragraph 7 of the National Planning Policy Framework mentions the three dimensions to sustainable development, an economic role, a social role and an environmental role, but does not give one priority over the other. Indeed, the following paragraph makes it clear that 'to achieve sustainable development, economic, social and environmental gains should be sought jointly and simultaneously through the planning system. The planning system should play an active role in guiding development to sustainable solutions'. That is not the same as guiding development to sustainable locations, which would normally be regarded as settlements with a choice of transport, whilst visitors to Annie's Meadow could arrive by bus, it is likely that most will come by car and use that vehicle to travel around the district spending money as they do so. This, it is suggested, should not count against these applications given the positive endorsement of economic growth in rural areas provided by paragraph 28 of the National Planning Policy Framework and the planning permissions granted for tourist accommodation elsewhere in this part of the Derbyshire Dales District, including Annie's Meadow Barn directly opposite this site.
- Bullet point three in paragraph 28 supports sustainable rural tourism and leisure developments that benefit businesses in rural areas, communities and visitors, and which respect the character of the countryside. This should include supporting the provision and expansion of tourist and visitor facilities in appropriate locations where identified needs are not met by existing facilities in rural service centres.

13/00695/FUL (Continued)

- Demand for tourist accommodation in a tranquil countryside setting can never be met by accommodation within a town. The Council seeks to attract visitors by emphasising the range of facilities available. Indeed, the Council's web site says 'the Derbyshire Dales has a wide range of superb holiday accommodation to suit all tastes. So if it's a pampering stay in a luxury hotel, the privacy of your own self-catering holiday cottage or the independence of a camping or caravanning holiday, start your search to find something to meet your requirements'.

These two planning applications seek to add to the range of quality accommodation available in the district.

- Paragraph 187 of the National Planning Policy Framework requires planning authorities to look for solutions rather than problems. To date the applicant has been faced only with obstacles not solutions but it is not too late to change this. Recommendations may be changed in light of changed circumstances, as was seen at the previous Committee meeting (item 4.3 refers). In view of these comments, in revisiting the Councils policies and the guidance in the National Planning Policy Framework, it is suggested that this should be the case and the recommendation to Committee for both applications should be one of approval.
- In addition to the representations received from the agent the applicant's sister has submitted written representation explaining that the holiday unit known as 'Woodside' was exactly as it was for our late mother, but for a small kitchen being added. I am sure it would have been laid out differently for holiday visitors. The rest of the downstairs was an open hallway, with kitchen units under a window facing the driveway. The widow was replaced by the door that now accesses the two holiday units. This area was reached via a lobby area between the house and garage. Hence, the route to the home cinema was not by going outside and coming back in, as alleged, as there was no doorway until one was added in January or February, and the door to the main house was bricked up. An oak stairway led upstairs to an open room with seating, a large screen and digital projector. It was sad when the walls had to be erected and the layout changed, as we enjoyed the home cinema when we visited. The facilities for our late mother would have provided much needed respite for our father and myself as principal carers.
- Following discussion with Council Officers the applicant has submitted a time line to explain the sequence of works carried out and the occupation of the building.

This indicates a start to building works in June 2012 with a completion of its original form by the end of August 2012. It is suggested that the building was put to use at the beginning of October 2012. The applicant's mother; who was to utilise part of the accommodation died in late October 2012 and in December 2012, given his redundancy earlier in the autumn the applicant started to change the internal layout. A new doorway was created and between January and April 2013 the building was sub-divided and two holiday units created. The first guests arrived in May 2013.

RELEVANT HISTORY:

13/00761/VCOND Retention of garage/stable building with first floor accommodation without compliance with condition 6 of planning permission 09/00004/FUL to enable use as holiday let – pending

13/00695/FUL (Continued)

- 13/00598/VCOND Retention of garage/stable building with first floor accommodation without compliance with condition 6 of planning permission 09/00004/FUL to enable use as holiday let – refused
- 09/00004/FUL Erection of garage/stable building with first floor accommodation – granted
- 08/00388/FUL New vehicular access - granted

CONSULTATIONS:

Local Highway Authority

Whilst there is a relatively low traffic generation on the fronting public highway (Kniveton Lane C111), the proposals will introduce visitors, who are unfamiliar with the site and the surrounding area, using the sites existing vehicular access. Also, given the sites rural location, it's envisaged the vast majority of visitors will be reliant on a car to both access the site and to use during their stay.

During a recent site visit it was estimated that passing vehicle speeds were approximately 30mph. In accordance with current design guidance within Manual for Streets 2, emerging visibility splays of 2.4m x 43m should be achieved where passing vehicles are travelling at 30mph. Whilst these splays were not achieved from the sites existing vehicular access during the recent site visit, they could easily be accommodated with the regular trimming back of the fronting vegetation within the applicants control and the public highway.

Hence, the Highway Authority confirm that they have no objections to the proposals but recommend that conditions are imposed in respect to the creation and maintenance of visibility splays and parking and manoeuvring space at the premises. (Advisory notes are also provided for the applicant's information in respect to a public right of way which crosses the applicants' premises).

Parish Council

No response

REPRESENTATIONS:

A 78 signature petition signed by individuals and businesses in the Ashbourne area has been received

Individual representations have been received concerning both applications. Their comments may be summarised as follows: -

- As a near neighbour I consider the building works to be of a high standard that fit in well within the surroundings. I became aware in the latter part of last year that Mr Gooch had been made redundant and was planning to use his existing buildings as holiday accommodation. This was carried out and visitors started to use the properties in May of this year.
- Tourism is crucial to the survival of small market towns like Ashbourne and the surrounding villages. The applicant is able to generate an income from the holiday rentals and I fully support the applications and hope that the Council grant approval without delay.

13/00695/FUL (Continued)

- Having lived in Offcote for many years I am therefore very keen for any developments in this beautiful hamlet to enhance, not detract from our striking landscape.
- The applicant and his wife have been residents of Kniveton and Latterly Offcote for over 20 years and are passionate about maintaining Offcote's beauty, their home and fishpond providing a haven for Local Wildlife.
- Offcote already has other successful holiday accommodation units i.e. Annie's Meadow Barn, Parkfield's Barn and Billy's Bothy. In nearby Kniveton village many of the quaint cottages have now been converted to holiday homes (arguably removing valuable housing for young families) and yet all of these ventures are deemed acceptable and permissible development. I cannot see why this development should not be approved.
- The applicants have had to diversify in order to survive the recession. In considering their options they concluded that the buildings they had already built for family use could offer a much needed additional income. The Derbyshire Dales and Peak District National park are accepted as being the most visited in the country, tourists will not only help to support the applicants but will bring much needed cash to Ashbourne and surrounding area.
- The new enterprise will have no detrimental effect on the parish and will enable the applicants to remain as residents of Offcote for the foreseeable future.
- The building work at Annie's Meadow had been fully completed before the buildings were changed to their current use as holiday accommodation. I worked with the applicant, and after his redundancy discussed the difficulties in the current economic climate and the poor prospects of finding a job in the Ashbourne area. I witnessed the conversion of the existing buildings first hand in the early part of the year, most of the work was carried out by the applicant, in my opinion, to a very high standard.
- I support the application as the holiday lets have been tastefully and sympathetically modified and in keeping with the local area. The accommodation will attract visitors who will spend money i.e. restaurants, petrol stations and local businesses. The accommodation is unobtrusive and any impact can only be beneficial.
- We have a direct view of the applicant's property across the valley and are happy with the building work. Holiday let use is a major part of the economy in our area and accommodations such as this is an asset to the neighbourhood. Traffic going past our house is not a problem and Corley Lane is very quiet and the few cars going to the applicant's property is not a problem.
- I am aware that the original intention was to make a home cinema and somewhere for Mr Gooch's mother (who was infirm) to come and stay. Work commenced to this end but unfortunately in late 2012, after the development had been completed Mr Gooch was made redundant and, since Mrs Gooch and their daughter were not in work, the family had to think of a way of creating an income. This is where the idea of the holiday accommodation originated and changes to the development took place in early 2013. Had Mr and Mrs Gooch originally intended to create holiday

13/00695/FUL (Continued)

accommodation, I am convinced that they would have gone about the developments in a more time and cost effective way.

- The new garage block has been constructed in reclaimed stone to a high standard and I am aware that renewable energy sources have been used to heat the holiday accommodation. There are no immediate neighbours.

POLICIES:

1. Adopted Derbyshire Dales Local Plan (2005)

- SF4: Development In The Countryside
- SF5: Design And Appearance of Development
- H2: Extensions to Dwellings
- EDT19: Tourist Accommodation Outside Defined Settlement Frameworks
- NBE12: Foul Sewage
- TR1: Access Requirements And The Impact Of New Development
- TR8: Parking Requirements For New Development

2. Derbyshire Dales Local Plan Pre Submission Draft – June 2013

- Development Management Policy 2 – Development in the Countryside
- Development Management Policy 4 – Residential Conversions in the Countryside
- Development Management Policy 9 – Design and Appearance Of Development
- Development Management Policy 12 – Tourism Development
- Development Management Policy 22 – Access and Parking

3. Other

National Planning Policy Framework (2012)

ISSUES:

1. The holiday units have been provided within the enlarged and altered former garage building and are capable of being occupied in a 'self-contained' capacity. Policy EDT19 of the Adopted Derbyshire Dales Local Plan (2005) deals with the provision of 'Tourist Accommodation Outside Defined Settlement Frameworks' and advises that:

Outside defined Settlement Frameworks planning permission will only be granted for new tourist accommodation where;

- a) It involves the re-use, adaptation or change of use of buildings and;
- b) The building or group of buildings are of permanent and substantial construction and;
- c) The form, bulk and general design make a positive contribution to the character and appearance of its surroundings and;
- d) The building or group of buildings can be converted without extensive alteration, rebuilding or extension and;
- e) The conversion does not have a detrimental impact upon the character and appearance of the building or group of buildings or its surroundings.

2. In the preamble to policy EDT19 at paragraph 4.40 of the Adopted Local Plan it states that planning permission for tourist accommodation including farm diversification schemes, will only be granted where it reflects sustainable rural tourism and involves the conversion of suitable existing rural buildings where this would meet sustainable development objectives. The applicant in extending and converting the building has raised its height

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and made alterations, with the introduction of new fenestration details to specifically create self-contained living accommodation. This, in the Council's opinion despite the representations made by the applicant, comprises essentially newly created holiday units contrary to the requirements of Policy EDT19. Whilst the applicants maintain that the building extended and converted was put to ancillary use prior to being utilised as a holiday let any usage could only have been for a very limited period of time as the holiday lets were advertised as such in April 2013. The applicants agent contends that the works to the building cannot by any reasonable interpretation be 'extensive alteration, rebuilding or extension'. However, the works would have involved the entire roof having to be taken off the vertical walls being raised including the gable side elevation, which has resulted in a second floor being created.

3. By requesting the accommodation to be approved for use as holiday let purposes this, in the Council's opinion, in the circumstances described, is tantamount to a retrospective request for new tourist accommodation in the countryside, in ancillary domestic accommodation that has had to be enlarged/modified to create the accommodation. The end result of this is a substantial increase in useable floor space that has allowed for the creation of two new holiday units that as previously stated, are not considered to accord with Policy EDT19.

4. It is acknowledged that development plan policies are supportive of tourism development, but this does not mean that this can be any development in any location. Adopted Local Plan Policies SF4 and SF5 state between them that development in the countryside will only be permitted where, amongst other criteria it is required to assist the growth of tourism, represents an acceptable re-use adaptation or extension of an existing rural building and preserves or enhances the character and appearance of the countryside. The holiday flats have not resulted in the retention and restoration of a traditional vernacular agricultural building, that otherwise would be a loss to the character and appearance of the countryside. They have been created from the enlargement of an ancillary garage, part of the applicant's domestic accommodation, and are in fact two additional units of residential accommodation.

5. The Derbyshire Dales Local Plan Pre-Submission Draft is at a relatively early stage of preparation, which means its policies may be afforded limited weight. Nonetheless, its policies have been drawn up to reflect and be in accordance with the National Planning Policy Framework (NPPF). Development Management Policy (DMP) 2 requires the growth of tourism in the countryside to be sustainable. Of particular relevance is DMP12 – Tourism Development. It advises that: -

Planning permission for the provision or expansion of tourist related development (excluding chalet accommodation, caravan and camp site development) will only be granted where:

- a) the design and appearance of the proposed development does not have an adverse impact upon the character and appearance of its surroundings and;
- b) the proposed development would not create unacceptable problems in terms of the relationship between the proposal and the neighbouring uses beyond the development site and;
- c) the site is in a sustainable location and is accessible by a variety of modes of transport.

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Notwithstanding the above criteria, which has to be satisfied in tandem, the policy advises that in all cases, preference will be given to the re-use, adaptation or change of use of existing buildings which are of permanent and substantial construction and where the building or group of buildings can be converted without extensive alteration, rebuilding or extension. Hence, whilst tourism development may be supported in principle, it is clear that in respect to the above provisions, the isolated nature of the applicant's premises does not appear to comply with this requirement as users of the holiday accommodation would almost certainly arrive by car or other motor vehicle.

6. The National Planning Policy Framework at paragraph 28 refers to the rural economy and advises that local and neighbourhood plans should 'support sustainable rural tourism' development. However, it is considered that 'sustainable' is taken to mean development in appropriate locations and/or utilising existing vernacular buildings with minimal alterations rather than new build development. The further representations in support of this retrospective application are noted. The applicant appears to have adapted his plan for the building as circumstances have changed. However this is not a situation where a building was in the interim state for any substantial period of time and given the transitory nature of its ancillary use that usage does not, it is considered, fundamentally alter the balance of the argument against the retention of this recently extended and converted building as two holiday lets.

OFFICER RECOMMENDATION:

Planning permission be refused for the following reason: -

1. The proposal is for retrospective planning permission for the creation of 2no holiday let units, by alteration and enlargement of a domestic garage. The creation of tourism accommodation by such works is unwarranted, unsustainable and, by its nature, encroaching, in this isolated rural location. As such, the proposed is contrary to the aims of Policies SF4 and EDT19 of the Adopted Derbyshire Dales Local Plan (2005) and advice within the National Planning Policy Framework (2012).

Footnote

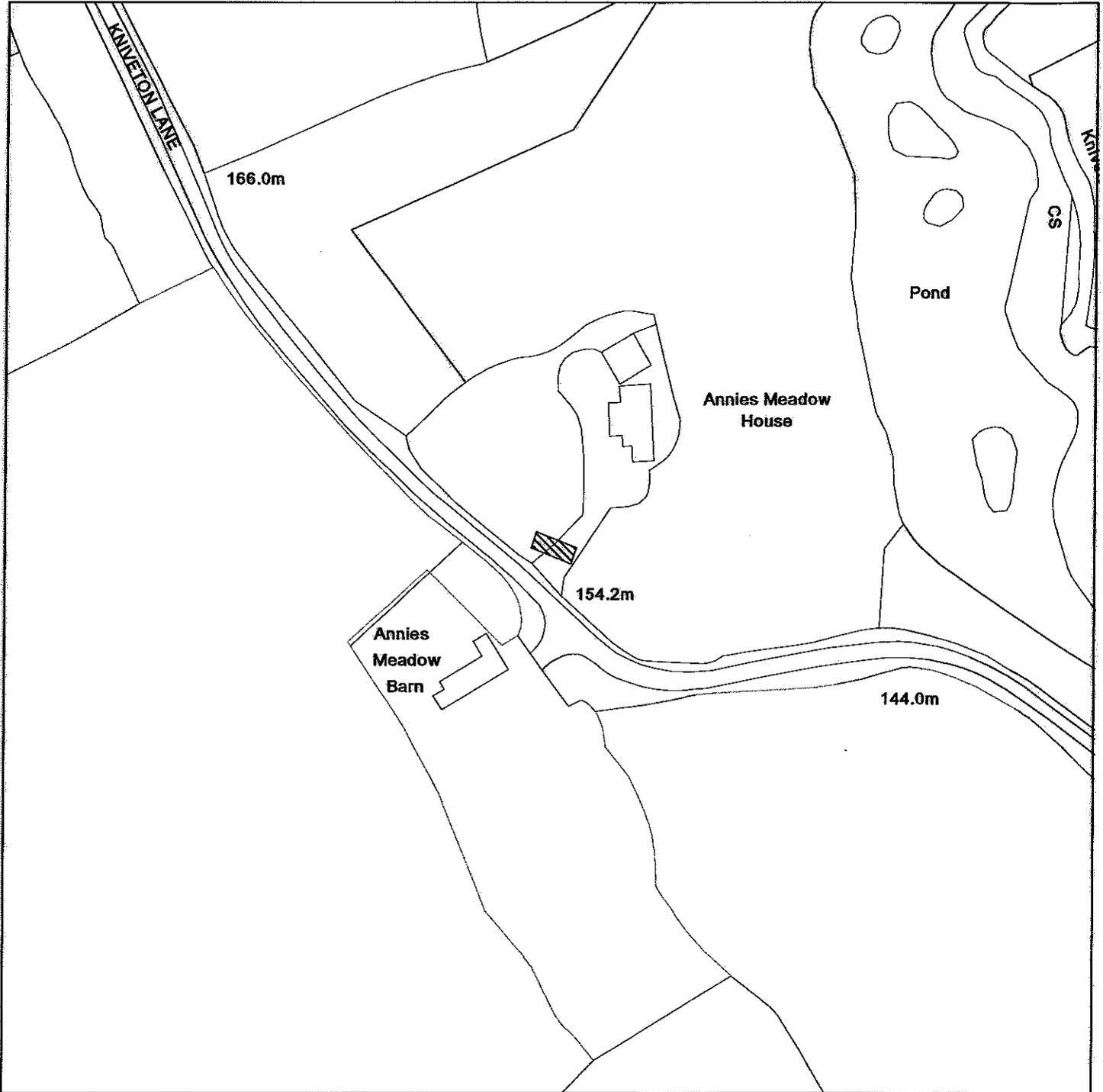
1. The Local Planning Authority considered the merits of the submitted application and judged that there was no prospect of resolving the fundamental planning problems with it through negotiation. On this basis the requirement to engage in a positive and proactive manner was considered to be best served 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.

This decision notice relates to the following documents:

- Supporting statement by JMW Planning Limited dated 25th September 2013
- 1:100 Scale 'as built' plan and elevations – drawing no SW/3/91
- 1:000 Scale 'as converted' plans and elevations – drawing no SW/3/92
- A4 sheet of colour photographs
- Further correspondence by JMW Planning Limited dated 16th December 2013

13/00761/VCOND

Annies Meadow, Kniveton Lane, Offcote



Scale : 1:1250

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Organisation	Derbyshire Dales District Council
Department	Not Set
Comments	Not Set
Date	10 January 2014
Licence No.	100019785

13/00761/VCOND RETENTION OF GARAGE/STABLE BUILDING WITH FIRST FLOOR ACCOMMODATION WITHOUT COMPLIANCE WITH CONDITION 6 OF PLANNING PERMISSION 09/00004/FUL TO ENABLE USE AS HOLIDAY LET AT ANNIES MEADOW, KNIVETON LANE, OFFCOTE FOR MR BARRY GOOCH

Parish Council: Offcote and Underwood
Application type: Variation of Condition

Date of receipt: 29/10/2013
Case Officer: Mr W Shaw

INTRODUCTION:

This application was reported to committee on the 10th December 2013 at which members resolved to defer any decision pending a site visit being undertaken.

THE SITE AND SURROUNDINGS:

Annies Meadow is a two storey, stone and plain tile dwelling located along Kniveton Lane in the lower part of a valley in open countryside at Offcote. Access is via a recessed gate down a surfaced driveway which initially leads to a recently built double garage and stables building, with ancillary accommodation above. The driveway then swings round northwards to the dwelling and a wide area of hardstanding. The property stands in several acres and has a lake on lower ground to the rear.

THE APPLICATION:

Specifically the application relates to planning Condition No 6 which was imposed when the garages/stables and ancillary accommodation building was granted planning permission in February 2009, under application reference 09/00004/FUL. The condition specifies that:-

“The development hereby permitted shall only be occupied in connection with and incidental to the occupation of the adjoining dwelling known as Annies Meadow. It shall not at any time be occupied as an independent dwelling or separated from the ownership or curtilage of the main dwelling.”

Following investigation it came to the Councils attention that the first floor accommodation was being advertised for use as holiday let accommodation.

In order to resolve this planning breach the applicant is seeking to vary Condition 6 to the following wording:-

“The living accommodation permitted shall be used solely in connection with the existing dwelling, Annies Meadow, as overspill accommodation or for holiday let purposes. It shall not at any time be separated from the ownership or curtilage of the main dwelling.”

The applicant's agent in a supporting statement refers to work having started on this building in late July 2011, with relevant condition discharge and inspections by the Councils building control office. It is asserted that the works were substantially complete by mid-January 2012 with the applicant left to complete the interior. This happened over a six to eight month period. The statement goes on to explain that in late October and early November 2012 the applicant and members of his family used the accommodation whilst the heating system of his dwelling was off. The applicant's father stayed in the accommodation following the death of his wife, and it was then used by other family

13/00761/VCOND (Continued)

members. The statement continues that tourism use commenced in May 2013, because the accommodation was no longer needed by the family. The applicant's agent suggests that the evidence submitted confirms that the original use of the building was as specified in the decision for application 09/00004/FUL. The applicant was advised, on asking a 'senior planning officer', to submit variation of condition application 13/00598/VCOND.

The agent hopes that the Council will accept that the accommodation is not 'new build', and the application to widen the use of the accommodation is not inappropriate. Notwithstanding this, the agent refers to the 'saved' policies of the Adopted Derbyshire Dales Local Plan (2005) cited in the previous refusal and contends that holiday use either complies with the policy criteria, or that the policy is not relevant. Reference is made to Circular Guidance on decision reasons, and on the National Planning Policy Framework, of which paragraphs that are considered to support the proposed development are referred to. Supporting the application is stated to be in accordance with the guidance, particularly at paragraph 28 'supporting a prosperous rural economy' which refers to planning policies aimed at creating jobs and prosperity by taking a positive approach to sustainable new development.

Reference is made to the previous applications reason for refusal which refers to no 'overriding justification' for this tourism accommodation. This, the agent states, does not sit easily with the District Council's views on the benefits of tourism, the economic significance of which is recognised in several publications. Amongst these is highlighted the pre-submission draft of the new Derbyshire Dales Local Plan. Paragraph 6.18 states 'tourism already makes a significant contribution to the local economy employing approximately 6000 people and attracting approximately 5 million visitors to Derbyshire Dales, spending £296 million. It is clear that the District Council intends to continue to support tourism in the next Local Plan period up to 2028. Proposed Strategic Policy 6 and Development Management Policy 12 confirm the position. Paragraph 6.24 says 'a wide range of tourist accommodation is required to provide choice to visitors to the plan area'. Hence, it is suggested that this proposal is justified in both policy and economic terms.

In summary, the agent considers the building to have been used as approved but, as circumstances have changed, the applicant now wishes to widen the scope of people that may lawfully use the accommodation. A new dwelling has not been created in the countryside and the applicant is aware that this would require special justification. By imposing the suggested condition the Council will be satisfied that a new dwelling has not been created without justification in the countryside. It would also be consistent with guidance in paragraphs 203 and 206 of the framework.

The District Council is asked to reconsider its' previous decision based on the information provided. Whilst not wishing to take this matter to appeal, he will have no alternative if his proposal is rejected again.

Notwithstanding the above the applicant's agent, following the December Committee meeting, has made the following, further planning representation's regarding both of his client's applications: -

- The most relevant policies are SF4 and EDT19, although the Committee report also quoted SF5, but this is clearly related to new building work and not changes of use. Whilst the holiday flats have not resulted in 'the retention and restoration of a traditional vernacular agricultural building that otherwise would be a loss to the character and appearance of the countryside' this is true but not relevant to the determination of these applications.

13/00761/VCOND (Continued)

- There is no mention in saved Policy SF4 that the building to be reused is either of vernacular design or to previously have been in agricultural use. The Policy refers only to 'an existing rural building'. Both the buildings in these applications comply with that description, the policy contains no other criteria to suggest that the policy is contravened by these applications.
- Similarly, saved Policy EDT19 does not restrict the type of building which may be used to provide tourist accommodation. It requires the new tourist accommodation to involve 'the re-use, adaptation or change of use of building...', which is what both these planning applications proposed. Again none of the other criteria are contravened, particularly the upward extension of the garage by 0.9m with no increase in footprint cannot by any reasonable interpretation of the phrase be considered to be 'extensive alteration, rebuilding or extension'.
- The interpretation of your policies by Council officers appears to be based not on what the relevant policies actually say but how they have obviously been interpreted on other occasions. This is considered to be unreasonable conduct which, if these applications are refused, will inevitably result in an application for costs being made against the Council on appeal.
- The planning report refers to the National Planning Policy Framework stating at paragraph 28, in respect to the rural economy, 'that local and neighbourhood plans should 'support sustainable rural tourism' development. However, it is considered that 'sustainable' is taken to mean development in appropriate locations and/or utilising existing vernacular buildings with minimal alterations rather than new build development.' Nowhere in the National Planning Policy Framework does it say that.
- Paragraph 7 of the National Planning Policy Framework mentions the three dimensions to sustainable development, an economic role, a social role and an environmental role, but does not give one priority over the other. Indeed, the following paragraph makes it clear that 'to achieve sustainable development, economic, social and environmental gains should be sought jointly and simultaneously through the planning system. The planning system should play an active role in guiding development to sustainable solutions'. That is not the same as guiding development to sustainable locations, which would normally be regarded as settlements with a choice of transport, whilst visitors to Annie's Meadow' could arrive by bus, it is likely that most will come by car and use that vehicle to travel around the district spending money as they do so. This, it is suggested, should not count against these applications given the positive endorsement of economic growth in rural areas provided by paragraph 28 of the National Planning Policy Framework and the planning permissions granted for tourist accommodation elsewhere in this part of the Derbyshire Dales District, including Annie's Meadow Barn directly opposite this site.
- Bullet point three in paragraph 28 supports sustainable rural tourism and leisure developments that benefit businesses in rural areas, communities and visitors, and which respect the character of the countryside. This should include supporting the provision and expansion of tourist and visitor facilities in appropriate locations where identified needs are not met by existing facilities in rural service centres.

13/00761/VCOND (Continued)

- Demand for tourist accommodation in a tranquil countryside setting can never be met by accommodation within a town. The Council seeks to attract visitors by emphasising the range of facilities available. Indeed, the Council's web site says 'the Derbyshire Dales has a wide range of superb holiday accommodation to suit all tastes. So if it's a pampering stay in a luxury hotel, the privacy of your own self-catering holiday cottage or the independence of a camping or caravanning holiday, start your search to find something to meet your requirements'.

These two planning applications seek to add to the range of quality accommodation available in the district.

- Paragraph 187 of the National Planning Policy Framework requires planning authorities to look for solutions rather than problems. To date the applicant has been faced only with obstacles not solutions but it is not too late to change this. Recommendations may be changed in light of changed circumstances, as was seen at the previous Committee meeting (item 4.3 refers). In view of these comments, in revisiting the Councils policies and the guidance in the National Planning Policy Framework, it is suggested that this should be the case and the recommendation to Committee for both applications should be one of approval.
- Following discussion with Council Officers the applicant has submitted a time line to explain the sequence of works carried out and the occupation of the building.

Works started on the building in July 2011 and the overall structure was completed in January 2012. From January 2012 to April 2012 all internal works were completed and the building was utilised by daughter and boyfriend

In May 2012 as the building was too dark, added additional windows. Following redundancy and the death of his mother in December 2012 started to change internal layout. Between January and April fitted kitchen, refurnished and added additional electrics with first use by holiday guests in May 2013.

RELEVANT HISTORY:

- | | |
|----------------|---|
| 13/00695/FUL | Extension and conversion of former garage to create two holiday flats (retrospective) – pending |
| 13/00598/VCOND | Retention of garage/stable building with first floor accommodation without compliance with Condition 6 of planning permission 09/00004/FUL to enable use as holiday let - refused |
| 09/00004/FUL | Erection of garage/stable building with first floor accommodation – granted |
| 08/00388/FUL | New vehicular access - granted |

CONSULTATIONS:

Local Highway Authority

Refer to their previous response to application 13/00598/VCOND in which they recommended that a parking space is allocated to the proposed use. Adequate refuse bin storage provision should also be provided clear of all access, parking or turning areas. These comments remain valid and no objections to the proposals are raised.

13/00761/VCOND (Continued)

Parish Council
No response

REPRESENTATIONS:

A 78 signature petition signed by individuals and businesses in the Ashbourne area has been received

Individual representations have been received concerning both applications. Their comments may be summarised as follows: -

- As a near neighbour I consider the building works to be of a high standard that fit in well within the surroundings. I became aware in the latter part of last year that Mr Gooch had been made redundant and was planning to use his existing buildings as holiday accommodation. This was carried out and visitors started to use the properties in May of this year.
- Tourism is crucial to the survival of small market towns like Ashbourne and the surrounding villages. The applicant is able to generate an income from the holiday rentals and I fully support the applications and hope that the Council grant approval without delay.
- Having lived in Offcote for many years I am therefore very keen for any developments in this beautiful hamlet to enhance, not detract from our striking landscape.
- The applicant and his wife have been residents of Kniveton and Latterly Offcote for over 20 years and are passionate about maintaining Offcote's beauty, their home and fishpond providing a haven for Local Wildlife.
- Offcote already has other successful holiday accommodation units i.e. Annies Meadow Barn, Parkfield's Barn and Billy's Bothy. In nearby Kniveton village many of the quaint cottages have now been converted to holiday homes (arguably removing valuable housing for young families) and yet all of these ventures are deemed acceptable and permissible development. I cannot see why this development should not be approved.
- The applicants have had to diversify in order to survive the recession. In considering their options they concluded that the buildings they had already built for family use could offer a much needed additional income. The Derbyshire Dales and Peak District National Park are accepted as being the most visited in the country, tourists will not only help to support the applicants but will bring much needed cash to Ashbourne and surrounding area.
- The new enterprise will have no detrimental effect on the parish and will enable the applicants to remain as residents of Offcote for the foreseeable future.
- The building work at Annies Meadow had been fully completed before the buildings were changed to their current use as holiday accommodation. I worked with the applicant, and after his redundancy discussed the difficulties in the current economic climate and the poor prospects of finding a job in the Ashbourne area. I witnessed the conversion of the existing buildings first hand in the early part of the

13/00761/VCOND (Continued)

year, most of the work was carried out by the applicant, in my opinion, to a very high standard.

- I support the application as the holiday lets have been tastefully and sympathetically modified and in keeping with the local area. The accommodation will attract visitors who will spend money i.e. restaurants, petrol stations and local businesses. The accommodation is unobtrusive and any impact can only be beneficial.
- We have a direct view of the applicant's property across the valley and are happy with the building work. Holiday let use is a major part of the economy in our area and accommodations such as this is an asset to the neighbourhood. Traffic going past our house is not a problem and Corley Lane is very quiet and the few cars going to the applicant's property is not a problem.
- I am aware that the original intention was to make a home cinema and somewhere for Mr Gooch's mother (who was infirm) to come and stay. Work commenced to this end but unfortunately in late 2012, after the development had been completed Mr Gooch was made redundant and, since Mrs Gooch and their daughter were not in work, the family had to think of a way of creating an income. This is where the idea of the holiday accommodation originated and changes to the development took place in early 2013. Had Mr and Mrs Gooch originally intended to create holiday accommodation, I am convinced that they would have gone about the developments in a more time and cost effective way.
- The new garage block has been constructed in reclaimed stone to a high standard and I am aware that renewable energy sources have been used to heat the holiday accommodation. There are no immediate neighbours.

POLICIES:

1. Adopted Derbyshire Dales Local Plan (2005)
 - SF4: Development In The Countryside
 - SF5: Design And Appearance Of Development
 - H5: Conversion And Re-Use Of Buildings to Provide Residential Accommodation Outside Settlement Frameworks
 - H9: Design And Appearance Of New Housing
 - EDT19: Tourist Accommodation Outside Defined Settlement Frameworks
 - TR1: Access Requirements And The Impact Of New Development
 - TR8: Parking Requirements For New Development
2. Derbyshire Dales Local Plan Pre Submission Draft – June 2013
 - Development Management Policy 2 – Development in the Countryside
 - Development Management Policy 4 – Residential Conversions in the Countryside
 - Development Management Policy 9 – Design and Appearance Of Development
 - Development Management Policy 12 – Tourism Development
 - Development Management Policy 22 – Access and Parking
3. Other
 - National Planning Policy Framework (2012)

13/00761/VCOND (Continued)

ISSUES:

1. The main issue to consider in respect to this re-submitted application is whether the proposed variation of condition is acceptable in terms of relevant planning policy considerations.
2. Firstly, as with the previous application, it is considered appropriate to set out the background to the proposal. The submitted drawing that accompanied application 09/00004/FUL indicated that the accommodation above the garages and stables comprised a lounge, bathroom and bedroom. Clearly this was not a fully self-contained unit but, to prevent the accommodation being occupied independently Condition 6 was imposed. The reason given for Condition 6 was 'for the avoidance of doubt', and 'provision of an independent dwelling in this locality would be unsustainable and contrary to Policy SF4 of the Adopted Derbyshire Dales Local Plan (2005)'.
3. The originally approved ancillary accommodation internal layout has been altered by the applicant, with the installation of a kitchen and a further bedroom making in total accommodation comprising 2no. en-suite bedrooms, living area and kitchen area. The accommodation has been advertised as 'barn conversion' holiday home on the English Country Cottages website (amongst others) since April 2013. The application form confirms that the development was completed on 1st April 2013. The applicant has suggested that the accommodation was first occupied by family prior to use as a holiday let, however, this appears to have been for a limited period of time and substantial internal changes have subsequently been carried out.
4. Notwithstanding the interim usage suggested it is considered that the short term transitory nature of this followed by further substantial internal works suggests that it is logical to assess the scheme as essentially new build holiday accommodation. Adopted Local Plan Policies SF4 and SF5 state between them that development in the countryside will only be permitted where, amongst other criteria, it is required to serve the essential requirements of agriculture, it assists the growth of tourism, represents an acceptable re-use adaptation or extension of an existing rural building and preserves or enhances the character and appearance of the countryside.

However, of particular relevance is Adopted Local Plan Policy EDT19 which only permits tourist accommodation outside defined settlement framework where, amongst other things, it involves the re-use, adaptation or change of use of existing buildings which are of permanent and substantial construction and capable of conversion without extensive alteration, rebuilding or extension. Hence, whilst policies in the adopted local plan support the growth of tourism in principle, they do not support new build tourism development in the manner that has been provided by the applicant. Whilst it is the applicants contention that the building was used as approved prior to holiday use it is considered reasonable in this set of circumstances to view the building as a new build not a change of use or conversion.

5. The Derbyshire Dales Local Plan Pre-Submission Draft is at a relatively early stage of preparation, which means its policies may be afforded limited weight. Nonetheless, its policies have been drawn up to reflect and be in accordance with the National Planning Policy Framework (NPPF). Development Management Policy DMP 2 requires the growth of tourism in the countryside to be sustainable. Policy DMP12 deals with 'Tourism Development', and requires development to be in a 'sustainable location and is accessible by a variety of modes of transport'.

13/00761/VCOND (Continued)

Whilst the Derbyshire Dales is a tourism area, tourism accommodation that, in the Councils opinion, represents new build accommodation of permanent construction in isolated locations such as this is not regarded as sustainable economic development that the National Planning Policy Framework seeks to support. The applicant has recently created three holiday units following new build construction works, with all three not having the benefit of planning permission in place. The National Planning Policy Framework and adopted local plan policies give qualified support to tourist related development in rural areas. In particular the growth and expansion of business and enterprise in rural areas is encouraged through conversion of existing buildings and well-designed new buildings, provided it is sustainable rural tourism and leisure developments that respect the character of the countryside. Furthermore, as referred to above, the provision and expansion of tourist and visitor facilities is also encouraged if it is in appropriate locations.

6. Policies SF4, SF5 and the underlying aims of Policy EDT19 of the Derbyshire Dales Local Plan (LP) are consistent with the Framework. These policies support development that assists the growth of tourism provided that proposals are appropriate in nature and scale to a rural area and preserve or enhance the character, quality and appearance of the countryside. Local Plan Policy EDT19 also notes that tourist accommodation outside settlement boundaries will only be granted where it reflects sustainable tourism and involves the conversion of suitable existing rural buildings. Because the construction of new buildings to provide tourist accommodation is not explicitly acknowledged in Local Plan Policy EDT19, it does not fully reflect the advice in the Framework. However, the premises are remote from the nearest recognised settlement and so services, leisure destinations and shops are all some distance away by road, with Ashbourne being the closest. Any public transport is unlikely to be frequent in this location, if at all, leaving car borne journeys to be the norm. This would be inconsistent with the sustainability objectives of the National Planning Policy Framework and local planning policies to actively manage patterns of growth to reduce the need to travel by making the fullest possible use of public transport, walking and cycling.
7. Notwithstanding the additional representations, from the applicant and his agent, the case put forward does not, based on the particular circumstances of this proposal, suggest that the application should be supported. Although the evolving nature of the applicants circumstances have influenced his actions and therefore his original intentions appear to have been subsumed into later unauthorised works the fact remains that the use of the recently completed building for holiday purposes is not a sustainable form of development. It is not sustainable because it is tantamount to a new build unit of tourist accommodation in a remote location with a lack of accessibility by means of transport other than by motor vehicle. A recommendation of refusal is therefore still put forward.

OFFICER RECOMMENDATION:

Planning permission to be refused for the following reason: -

1. The proposed variation of Condition 6 of planning permission 09/00004/FUL would, if allowed, result in the establishment of new build holiday let accommodation in open countryside. In the absence of any overriding justification to support the additional use of the approved living accommodation, the proposal represents a form of development that is unwarranted, unsustainable and, by its nature, encroaching in this isolated rural location. As such, the proposal is contrary to the aims of Policies

13/00761/VCOND (Continued)

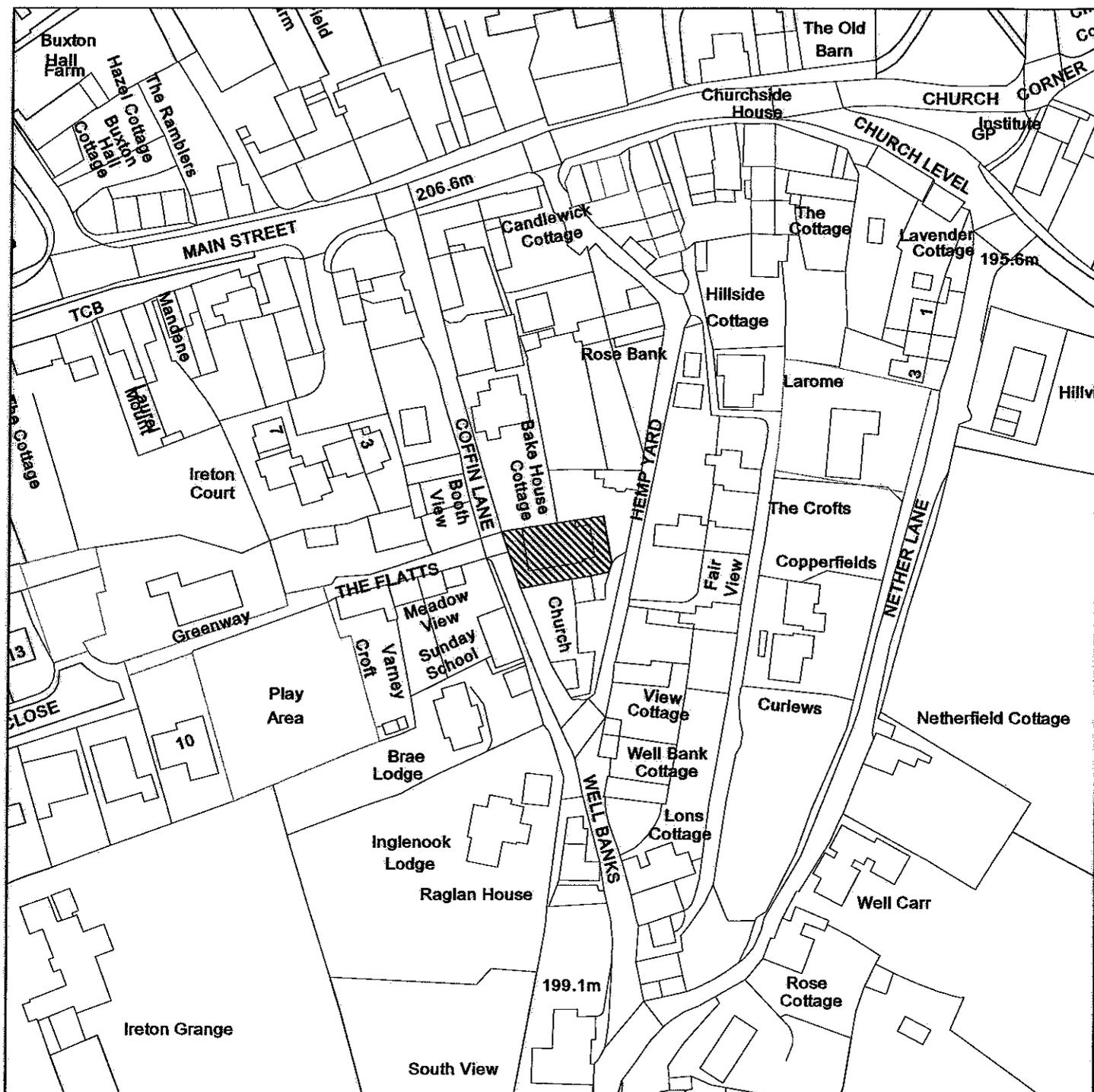
SF4 and EDT19 of the Adopted Derbyshire Dales Local Plan (2005) and advice at paragraph 28 of the National Planning Policy Framework (2012).

Footnotes:

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 permission relates to the following documents:
 - Design and Access Statement by JMW Planning Limited dated 25/10/13
 - 1:2500 Scale and NTS Site location plan, drawing received 29/10/13
 - 1:100 Scale plan and elevations, drawing reference SW/12/10/2
 - A4 Colour photograph of building, received 29/10/13
 - Copies of planning decision notices for applications 09/00004/FUL & 13/00598/VCOND
 - Letter of support from applicants relative
 - Further correspondence by JMW Planning Limited dated 16th December 2013

13/00679/FUL

Old Chapel, Coffin Lane, Kirk Ireton



Scale : 1:1250

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

Organisation	Derbyshire Dales District Council
Department	Not Set
Comments	Not Set
Date	10 January 2014
Licence No.	100019785

**13/00679/FUL REPLACEMENT WINDOWS AT THE OLD CHAPEL, COFFIN LANE,
KIRK IRETON FOR MRS S. COLLINGTON**

Parish: Kirk Ireton
Application type: Full

Date of receipt: 18.09.13
Case Officer: Mr C. Whitmore

THE SITE AND SURROUNDINGS:

The Old Chapel is situated off Coffin Lane, within the centre of Kirk Ireton. The building was constructed in 1875-6 as a new Primitive Methodist Chapel for the village supplementing the existing chapel of 1836 (a grade II listed building) which is located opposite. It is constructed from coursed pitched stonework with associated architectural dressings, round-topped windows and a two-tone slate roof with integral decorative patterning. The building retains its curtilage boundary walling with remains of its original decorative cast-iron gates & railings. Up until recently the building also retained its original cast iron windows, which incorporated coloured and reeded glass.

The garden area to Bake House Cottage extends up to the north (side facing) elevation of The Old Chapel.

THE APPLICATION:

Retrospective planning permission is sought to retain the new bronze windows that have been inserted in the north and south elevations of the building. These works require planning permission because condition 10 of planning permission WED/0488/0250/c (which dealt with the conversion of the chapel to a dwelling) stated that the door on the west elevation and the windows in the north and south elevations shall not be altered, removed or replaced without the prior written approval of the Local Planning Authority. The reason for the condition was to ensure a satisfactory standard of development.

The original cast iron windows, with coloured and reeded glass have been removed and new bronze framed windows incorporating clear glass have been fitted. The new windows accommodate two panes of glass that have an overall thickness of 16mm. The introduction of double glazing and an opening section has resulted in the need for two thick horizontal transoms. Lead has also been applied to the outer glass pane to mimic the original window pattern.

In setting out the reasons why the windows were removed the applicant advises the following:

“It has been impossible to consistently maintain the original windows over the past 25 years due to the fact that their material structure has been compromised by the following:

- Broken and cracked glass (due to expansion and contraction of iron frame and vandalism),
- Gap between the opening casement window on each of the frames,
- Inability to remove existing putty without breaking more glass,
- Rusting of the cast iron frame consistently compromises the paint finish,
- Lack of seal between the frame and stone mullion which allows water to consistently run through and around the windows.

13/00679/FUL (Continued)

Due to their increasingly dilapidated state, we have been looking for a suitable solution for replacing the windows for as long as we have lived here but due to their unique character and small dimension of the flat stone mullion (50mm) with which the frame has to sit, we had rejected all alternatives such as UPVC, powder coated aluminium and wood as none would fit or look right.

RELEVANT HISTORY:

WED/0488/0250c	Conversion of Chapel to Dwelling	Granted
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CONSULTATIONS:

Local Highway Authority
No objections.

Parish Council

The Parish Council fully support the application and make the following comments: "The applicants undertook a great deal of research to find suitable replacement windows which have proved acceptable to other authorities in listed buildings. The Parish Council is aware of the one objection made and it is felt that all villages are constantly evolving and that the situation is not unique within the village. It is also noted that some of the original windows already had clear glass."

Conservation Advisory Forum:

- As the new windows have been inserted (without the benefit of Planning Permission) the CAF were able to study photographs of the original windows and the new windows.
- Whilst converted to residential use some 25 years ago the chapel has retained its external appearance as a small Victorian ecclesiastical building. This is a distinctive building type and its architecture and its detailing – particularly the cast-metal windows – form an important part of its former chapel character. In this regard the building type, form, design & details (i.e. the sum of all its parts) make a positive contribution to the special character and appearance of the Kirk Ireton Conservation Area.
- CAF considered that the original cast metal windows with their fine metal glazing bars, red & blue glass to their margins, reeded glass to the central parts and the pivoting window mechanism formed an integral part or feature of this building and were a significant element of its character and appearance.
- CAF considered the replacement windows and found that they were very different in character and appearance to the originals and did not have their uniqueness and fineness of construction and detailing. The detailing of the new windows was crude with thick horizontal transoms and the unnecessary/ill-advised inclusion of applied leadwork strips. CAF concluded that the new windows were detrimental to the character and appearance of this building type and the loss of the original cast metal windows has produced a very different appearance to this distinctive building which is in conflict with the original architectural design and detailing of the former chapel.
- CAF further regretted the loss of the original coloured and reeded glass and the pivoting window detail (now side-hung casements). The overall effect of the new windows is the introduction of a 'deadening' effect on the elevations and a significant loss of historic character & detail.

13/00679/FUL (Continued)

- In conclusion, the Forum objected to the works, which are considered to be harmful to the special character and appearance of this part of the Kirk Ireton Conservation Area.

REPRESENTATIONS:

15 emails and letters of representation have been received, 14 in support and 1 objecting to the application.

In support of the application, the following comments are made:

- The new windows complement the chapel and enhance the stonework.
- The new frames are in keeping with the architecture of the building and the clear glass has greatly improved the appearance of the property. As a result the village conservation area has been boosted by this enhancement.
- Living within close proximity of the Chapel, I watched as the windows were put in place. To my amazement the Chapel itself became more visual and its architecture was enhanced, certainly by no means detrimental to its appearance.
- The clear glass does not detract from the building. In fact it enhances the look of it and enhances our outlook onto it. There are other windows in the village that overlook other properties that are clear glass, as is the nature of houses in a village such as this.
- The move to clear glass does not detract from the building. The windows suit the property very well, fitting sympathetically with its style and construction. The new windows still have a clear reference to the former use of the building and reflect well the spirit of Methodism, which would not have been ostentatious. They have blended well into the building and the surroundings, particularly as neither the remaining Methodist Chapel on Coffin Lane, nor the Parish Church on Main Street have a lot of outstanding stained glass. This change is not at all incongruous with the rest of the village, which, as a whole, has been fairly successful in blending the old and the new.
- As one of the nearest neighbours to the property we have no concerns with regards the move to clear glass rather than obscured, and do not feel that this lessens our privacy; our proximity to other houses on The Flatts does require the acceptance of some compromise in this regard.
- The windows in the Chapel look really good and actually better than the windows that they have replaced and are no detriment to the conservation area in which we live. As to the fact that they overlook the neighbouring property, the Chapel has stood on the site for many, many years longer than Bakehouse Cottage. Our property has a similar situation in that the garden borders the next door cottage which has 4 windows overlooking it which were not there when we bought it 45 years ago. In a village such as Kirk Ireton many of the gardens are overlooked.
- The Local Planning Authority needs to bear in mind that the property is now a home, not a museum. When the Chapel was originally built the coloured glass was not installed for the privacy of neighbours because there were no neighbours nearby, just an orchard. If the Local Planning Authority wanted obscured glass to be permanently kept, this should have been stated at the time when planning permission was granted to convert the Chapel into a home.
- The Old Chapel new windows are everything that the huge glass panels installed into the new builds on Nether Lane, on view to every visitor entering the village are not!

13/00679/FUL (Continued)

- Bakehouse Cottage is approx. 25m from the Chapel, more than twice the distance from the house to house distance across the Main Street around Ireton Court Area. If you take similar measurements from house to house around the village then just about every house would need translucent or opaque windows to maintain someone's privacy.
- Anyone living in the village would find it extremely difficult to buy or rent a property that was not overlooked by neighbour's windows. This is characteristic of a village community.
- The original cast iron windows had been installed for 137 years and had suffered from the exposure to the elements. The windows had rusted, expanded and cracked the glass in places, allowing wind and rain to come in. The new windows are made of bronze, which is strong and malleable. It does not rust or corrode. The design produces a window with a similar thickness to the original ones so it fits exactly to the window jamb. One problem is the leaded lights that look a bit weak but they do copy the original tracery and they stop the windows looking too flat.
- The windows on the north and south elevation are difficult to see from the road and the colour blends in well with the stone and is not as aggressive as the original white ones. The windows now take on the appearance of early Gothic windows which is sympathetic to the chapel.
- I walk past the chapel every day and regard the new windows as a great improvement. The old windows were very dilapidated and were in need of serious attention.
- There are many old buildings in our village built close together cramped and overlooking each other. It is this which gives the village its charm and makes it a sought after place to live.
- The windows enhance rather than detract from the environment, and are in keeping with their surroundings.
- As previous owners of Bakehouse Cottage we were consulted regarding the replacement windows. The old windows had a mixture of old cracked, non-matching coloured glass, horrible obscure glass and clear glass. We thought they were an eyesore and had concerns about one of the frames as it appeared to be falling out. The new frames were to be sympathetic to the chapel, the ethos of the village and what would have been our view of the chapel. We experience the view from the original clear glass panels which were the larger panels and saw absolutely no reason for objection as the privacy of Bakehouse Cottage was not compromised in any way.

In their letter of objection the current occupants of Bakehouse Cottage to the north of The Old Chapel make the following comments:

- The Old Chapel abuts our property, with no curtilage and its exterior wall is in fact the boundary wall to the end of our property. A number of the windows replaced directly overlook our property. The change of these windows from old, opaque and stained glass to new clear glass has rendered these windows direct unhindered line of sight into our garden and a number of downstairs windows. Due to elevation differences between our properties a number of our upstairs windows are also compromised – including our main bedrooms.
- The previous windows were a feature, leaving a soft glow from any internal lighting and life movement was by silhouette. All of this framed by stained glass.

13/00679/FUL (Continued)

- The new windows have lost all of these features and now offer direct and invasive sight into our property, including the ability to open the windows reducing our privacy even further.
- The old windows clearly depicted the building as a chapel and were a very attractive feature to the local area from a number of vantage points. The old windows left significant doubt as to whether the chapel was a home due to the preservation of the external appearance. The replacement windows have significantly altered the external appearance of the building and are detrimental to the feel of the building. It has removed the look and feel of a chapel and makes it very obvious that it is a home with clear and unhindered sight into the internal structure, lighting and furnishings.
- Given the historic importance of this building within the village, the occupants of Bakehouse Cottage feel that it should be preserved.

The occupants of Bakehouse Cottage have suggested altering the glass to opaque, adding aftermarket staining to the new glass and an alternative arrangement of screening to help mitigate the impact of the new windows on their privacy.

POLICIES:

Adopted Derbyshire Dales Local Plan (2005)

SF4: Development in the Countryside

SF5: Design and Appearance of Development

NBE21: Development Affecting a Conservation Area

Derbyshire Dales Local Plan Pre-Submission Draft (June 2013):

Development Management Policy 2 – Development in the Countryside

Development Management Policy 8 – The Historic Environment

Development Management Policy 9 – Design and Appearance of Development

Other:

The National Planning Policy Framework (2012) – Parts 7 and 12

ISSUES:

1. The main issues to assess in the consideration of this application are;
 - a. The impact of the replacement windows on the quality and distinctiveness of their surroundings and the character and appearance of Kirk Ireton Conservation Area, and;
 - b. the impact of the development on the local environment, particularly the privacy of the occupants of neighbouring residential properties and;

Policy context

2. Policy SF4 of the Adopted Derbyshire Dales Local Plan (2005) requires development to be appropriate in nature and scale to a rural area in order to preserve / enhance the character and appearance of the countryside and minimise any adverse impact on the local environment.

13/00679/FUL (Continued)

Policy SF5 aligns with Part 7 of the National Planning Policy Framework which deals with matters of design and states that planning permission will only be granted for development that preserves / enhances the quality and distinctiveness of its surroundings and where it reinforces the sense of place engendered by the presence of distinctive local building styles and materials.

3. The Old Chapel is situated within Kirk Ireton Conservation Area; a designated heritage asset. Policy NBE21 'Development Affecting a Conservation Area' aligns with guidance contained at Part 12 of the National Planning Policy Framework (NPPF) and requires development to either preserve or enhance the character and appearance of a conservation area.
4. Although the building is not listed, it is of some historic and architectural interest. Paragraph 135 of the National Planning Policy Framework states that the effect of an application on the significance of non-designated heritage asset should be taken into account in determining applications. In weighing applications that affect directly or indirectly non designated heritage assets, a balanced judgement needs to be made as to the scale of any harm or loss and the significance of the heritage asset.

The impact of the development on the quality and distinctiveness of their surroundings and consequent impact on the character and appearance of Kirk Ireton Conservation Area

5. Condition 10 of planning permission WED/0488/0250c removed the right to alter or remove the door in the west and the windows in the north and south elevations of the former chapel to ensure a satisfactory standard of development. It does not extend to include the windows either side of the entrance door in the west elevation facing Coffin Lane, although Condition 2 removes the right to make any material alteration to the building without the prior written approval of the Local Planning Authority. It is unclear as to whether Condition 10 was imposed to protect the living conditions of nearby residential properties or the buildings character and appearance. However, given its former use and position within the village it would not be unreasonable to assume that the condition was imposed for both of these reasons.
6. The original cast iron windows were a fundamental design element and architectural feature of the chapel. Whilst the replacement bronze windows have diminished some of the buildings character, they have been purposely designed to reflect the pattern / design of the original cast iron windows. Although the profile and design of the replacement windows do not reflect fully the fineness of detail of the original windows and the coloured and reeded glass has been replaced with clear, thin profile double glazing they are not considered to have a significant detrimental impact on the buildings character and appearance or the surrounding area. The original cast iron windows were in a poor condition. It is considered that their replacement with modern windows, which replicate the overall design detailing of the old has an essentially neutral impact on the quality and distinctiveness of their surroundings and preserves the character and appearance of the conservation area in which the building is located.

13/00679/FUL (Continued)

Impact on the local environment / privacy of the occupants of neighbouring residential properties

7. A key consideration is the impact of the replacement windows on the privacy of the occupants of neighbouring residential properties. The replacement windows in the south elevation overlook an area of land which is used for open storage. Whilst there are some residential properties beyond this relatively small parcel of the land, the views from the windows in this elevation do not result in any significant loss of privacy due to the distances involved. The north elevation of The Old Chapel abuts the boundary with Bakehouse Cottage and the replacement windows afford views over part of the occupants' garden. Although the applicant advises that some of the original windows incorporated clear glass panes, the replacement windows provide views of the neighbours' property. The Old Chapel is sited approximately 20m to the south of Bakehouse Cottage, such that it is unlikely that there would be any intrusive view through the ground and first floor windows of the neighbouring property. The views from the two windows of the garden given the internal floor level would be from the landing of an internal staircase and behind a supporting beam. Whilst from these areas there will be overlooking of the neighbours garden, such views would be transitional and mitigated by existing garden structures. On balance, the replacement windows are not therefore considered to result in a significant loss of privacy between dwellings, such that refusal is justified on this ground.
8. On balance, whilst the loss of the original windows has resulted in a change to the appearance of the building and some loss of its original character, and although the comments of the Conservation Advisory Forum are noted it is considered that the replacement windows have an essentially neutral impact on the quality and distinctiveness of their surroundings, preserve the character and appearance of the surrounding conservation area and do not result in a significant loss of privacy. A recommendation of approval is put forward on this basis.

OFFICER RECOMMENDATION:

That planning permission be granted unconditionally.

Footnotes:

1. The Local Planning Authority considered the application as submitted to be acceptable. On this basis, there was no need to engage with the applicant in a positive and proactive manner to resolve any planning problems and permission was granted without negotiation.

This Decision Notice relates to the following documents:

1:1250 Scale Site Location Plan;

Photographs of the Existing Windows;

Design Statement and Document Titled 'Additional Information to Accompany Design Statement';

1:10 Scale Drawing of the Proposed Windows numbered 1248/01;

Heritage System Technical Specification Details, and;

1:1 Scale Sections through the Proposed Windows Drawings received by the District Council on the 18th September and 15th and 28th October 2013.

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SOUTHERN PLANNING COMMITTEE – 21st JANUARY, 2014

DISTRICT COUNCIL TREE APPLICATIONS/NOTIFICATIONS

Progress report for December 2013

APPLICATIONS TO CARRY OUT WORKS TO PRESERVED TREES:

TPO NO.	ADDRESS/APPLICATION	DECISION/COMMENT
107	46 PREMIER AVENUE, ASHBOURNE CROWN LIFTING OF ASH Reasons: Excessive shading To grow organic vegetables Risk of dead branches falling	PENDING DECISION
123	3 CATHERINE COURT, ASHBOURNE CROWN REDUCTION OF 3 LIMES Reasons: Overpowering the garden of the neighbouring property Dropping branches	PENDING DECISION
107	3 FORSHAW CLOSE/6 HAMBLETON CLOSE, ASHBOURNE PRUNING OF OAK Reasons: To crown lift and balance the crown	PENDING DECISION
14	IVY BANK HOUSE, CHURCH STREET, BRASSINGTON PRUNING OF BEECH Reasons: To reduce weight & wind resistance To reduce heavy shading	PENDING DECISION
14	HIGHBANK HOUSE, HILLSIDE LANE, BRASSINGTON PRUNING OF LIME Reasons: Low branches over roof and drive To improve light to house	PENDING DECISION
8	WAYSIDE, CHAPEL LANE, CLIFTON PRUNING OF CEDAR Reasons: Overhanging branches close to roof & TV aerial	PENDING DECISION

NOTIFICATIONS OF INTENTION TO CARRY OUT WORKS TO TREES IN CONSERVATION AREAS:

CONS. AREA	ADDRESS/PROPOSED WORKS	DECISION/COMMENT
CARSINGTON & HOPTON	TOWN END COTTAGE, MAIN STREET, CARSINGTON FELLING OF 5 CONIFERS	NO OBJECTIONS

CONS. AREA	ADDRESS/PROPOSED WORKS	DECISION/COMMENT
	PRUNING OF A DAMSON Reasons: Not given	
HOGNASTON	HILL VIEW, MAIN STREET, HOGNASTON PRUNING OF TREES Reasons: Dominating the garden Encroaching on Silver Birch Close proximity to neighbouring property Dangerously close to footpath Renewal of permission in part	NO OBJECTIONS
CARSINGTON & HOPTON	HOPTON HALL, MAIN STREET, HOPTON PRUNING OF BEECH TREE Reasons: Coarsely branched with major forks Proximity to school yard	NO OBJECTIONS
CARSINGTON & HOPTON	MINING HIGH, MINING LANE, CARSINGTON FELLING OF TREES Reasons: Signs of Dutch Elm Disease	PENDING DECISION

OFFICER RECOMMENDATION: That the report be noted.

NOT CONFIDENTIAL - For public release

SOUTHERN AREA PLANNING COMMITTEE – 21 January 2014

PLANNING APPEAL - PROGRESS REPORT

Report of the Director of Planning & Housing Services

REFERENCE	SITE/DESCRIPTION	TYPE	DECISION/COMMENT
ENF/11/00034	Peak Gateway Leisure Club, Osmaston	WR	Appeal Upheld with Modifications – Copy of Decision Attached
ENF/11/00009	Turlow Fields Farm, Turlow Fields Lane, Hognaston	LI	Appeal being processed
13/00084/FUL	31 The Green Road, Ashbourne	IH	Appeal being processed
ENF/11/00037	Hillside Lodge Farm, Kirk Ireton	IH	Appeal being processed
13/00364/FUL	The Paddocks, Somersal Herbert	WR	Appeal being processed
13/00255/OUT	Hillside Farm, Wyaston Road, Ashbourne	LI	Appeal being processed
12/00741/FUL	Land South of Glebe Farm, Commonside, Brailsford	WR	Appeal being processed
13/00093/FUL	Land at Wash Hills, Town Street, Brassington	IH	Appeal being processed
13/00161/LBALT	Ednaston Home Farm, Brailsford	WR	Appeal being processed
13/00254/FUL	Holmlea Farm Cottage, Marston Lane, Doveridge	WR	Appeal being processed

WR - Written Representations

IH - Informal Hearing

LI - Local Inquiry

HH - Householder

OFFICER RECOMMENDATION:

That the report be noted.



Appeal Decision

Site visit made on 15 October 2013

by **John Whalley**

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

Decision date: 13 December 2013

Appeal ref: APP/P1045/C/12/2182564

Peak Gateway Leisure Club, Moor Lane, Osmaston, Ashbourne, Derbyshire DE6 1NA

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991 against an enforcement notice issued by Derbyshire Dales District Council.
- The appeal is made by Peak Gateway Ltd.
- The notice was issued on 14 August 2012.
- The breach of planning control as alleged in the notice is, without planning permission, operational development comprising the construction of a track and formation of hardstanding areas.
- The requirements of the notice are to:
 - a) Remove the track and hard standing materials in their entirety and take the resulting material to a registered place for disposal.
 - b) Reinstate the land to grass by replacing the removed material with soil, level and seed with grass.
- The period for compliance with the requirements is 2 months.
- The appeal is proceeding on the grounds set out in section 174(2)(c) and (f) of the Town and Country Planning Act 1990 as amended.

Summary of decision: The enforcement notice is varied and upheld

Appeal site

1. The appeal site is a 2.9 hectare field south-east of a caravan park, adjoining the facility known as the Peak Gateway Leisure Club, to the south of Ashbourne. The enforcement notice alleges the unlawful construction of an access track and hardstanding areas. At the time of the inspection, a post and wire fence had been put up near the north-western edge of the land, close to the caravan park. The larger part of the appeal site on the other side of the new fence was being used for grazing livestock.
2. The track, formed with re-used old road surfacing materials, ran the length of the north-western site boundary, within the fence and close to the caravan park. The hardstanding surfacing to areas referred to in the notice's allegation had been removed and the land grassed over. The hardstandings had been formed to site several individual mobile homes or caravans between the track and the caravan site.

The appeal on ground (c)

3. The Appellants said that the notice site of 2.9ha was part of an agricultural holding of 3.38ha, held on an agricultural licence. As it was less than 5ha, it

therefore benefitted from the permitted development rights set out in Part 6 to Schedule 2 to the Town and Country Planning (General Permitted Development) Order 1995 as amended.

4. Part 6, Class B to the Order allows the carrying out on agricultural land comprised in an agricultural unit of not less than 0.4 hectares, but less than 5 hectares, of development consisting of, amongst others, the provision of a private way and of a hard surface. That is conditional on the development being on land which is part of an agricultural unit and it being reasonably necessary for the purposes of agriculture within that unit.
5. In the case of the hardstandings, removed since the notice was issued, they were provided for the stationing of mobile homes associated with the caravan park just to the north. That was not an agricultural use of the land. Although that use was said to be for no more than 28 days a year, (Caravan Sites and Control of Development Act 1960, First Schedule), the hardstandings constructed for that purpose could not benefit from any section of Part 6 to Schedule 2 to the Order. Nor, in my view, could the appeal track, where used at least in part to gain access to mobile homes parked alongside the track.
6. Yet it was asserted that the track, part of the alleged breach of planning control, did not require planning permission. The Appellants said the boggy land needed a track for farm machinery to gain access to the field. That may be. But I am not persuaded that the appeal development benefitted from Part 6, Class B of the Order. Not just because of it being shared with a non-agricultural use when the notice was issued, but also I find it did not comply with Part 6.
7. The Appellants said that when the enforcement notice was issued, the appeal site was leased to them under a grazing licence, part of an area of 3.38ha, said to form their agricultural unit at that time. Although therefore said to have been part of an agricultural unit of more than 0.4ha but less than 5ha, the appeal statement also said it was part of a large agricultural estate. If that was so, the development would come within Class A of Part 6 and be subject to the condition that a developer shall, before beginning the development, apply to the local planning authority for a determination as to whether the prior approval of the authority will be required for, amongst others, the siting and means of construction of a private way, and the siting of an excavation or deposit.
8. It was later emphasised that the 3.38ha land, held under an annually renewed 12 month grazing licence since September 2009, is a separate agricultural holding. But to be regarded as an agricultural unit, I consider that this small area should be held on something more secure and permanent than a temporary grazing licence whose terms could vary from season to season.
9. It was also unclear as to whether the appeal site, where the appeal track is now fenced off from the grazing land, was at the date of issue of the enforcement notice, not only part of an agricultural unit, but also part of the caravan park.
10. Finally, the evidence that the track was reasonably necessary for the purposes of agriculture within the unit was scant. It was said to have been necessary for farm machinery to gain access to the field. But the track runs the length of the

north-western site boundary, seemingly to afford access through the land, rather than just into it. I am not persuaded that this length of track was reasonably necessary for agricultural purposes within an agricultural unit.

11. In an appeal on legal grounds, the burden of proof lies with the appellant. I consider that burden was not discharged here. The appeal on ground (c) fails.

The appeal on ground (f)

12. The appeal hardstandings have been removed. There can be no objection to that part of the requirements remaining. As to the track, the Appellants said that an opportunity should be given for a planning application to be made to retain the track prior to its removal.
13. The other submission made was that, if the track materials have to be removed, they should be made available for maintaining other tracks, rather than have to be sent to a waste disposal site. The Council's concern was that the materials might otherwise be used in a further unlawful manner. Whilst I find no objection to the Appellants' suggestion, it would be difficult to precisely word an alternative requirement to ensure that excavated materials were dealt with in an appropriate and timely manner. The appeal on ground (f) fails.
14. There was no ground (g) appeal. But both parties referred to the period for compliance. The Council said that whilst they considered 2 months adequate, they would have no objection to an extended period. Nor do I. I will increase the period for compliance with the requirements to 6 months. That will allow for any alternatives to off-site removal of excavated materials to be pursued and possibly agreed as both parties see fit and to allow for avoiding poor ground conditions adversely affecting the movement of materials in winter.

FORMAL DECISION

15. The enforcement notice is varied by the deletion of the words "2 months" in the last line of para. 5 on page 2 of the notice and the substitution therefor of the words "6 months". Subject to that variation, the enforcement notice is upheld.

John Whalley

INSPECTOR