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12 January 2015

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 20 January 2015 at 6.00 pm in the MAIN HALL, ASHBOURNE ELIM PENTECOSTAL CHURCH, THE WATERSIDE CENTRE, ASHBOURNE DE6 1DG.**

Yours sincerely

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

Sandra Lamb
Head of Corporate Services

AGENDA

SITE VISITS The Committee is advised a coach will leave the **ASHBOURNE ELIM PENTECOSTAL CHURCH** at **2.15pm PROMPT - MEMBERS PLEASE ASSEMBLE IN THE FOYER.** 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

11 November 2014.

3. INTERESTS

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

4. APPLICATIONS FOR DETERMINATION

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

PUBLIC PARTICIPATION

To provide members of the public **WHO HAVE GIVEN PRIOR NOTICE** (by no later than 12 noon on the working day prior to the meeting) with the opportunity to express their views, ask questions or submit petitions relating to planning applications under consideration. Representations will be invited immediately before the relevant item of business/planning application is discussed.

Page No.

4.1 APPLICATION NO. 14/00509/FUL (Site Visit)	4 - 9
Change of use of domestic garage to beauty salon, Willow Lodge, 115 Mayfield Road, Ashbourne.	
4.2 APPLICATION NO. 14/00073/VCOND (Site Visit)	10 - 17
Section 73A Application – removal of occupancy Condition 4 of planning permission WED/182/14 at Crowtrees, Thurstaston Lane, Longford.	
5. APPEALS PROGRESS REPORT	18 - 37
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, Cate Hunt, Angus Jenkins, Tony Millward, BEM (Chairman), Garry Purdy, Lewis Rose, OBE, Andrew Shirley, Peter Slack, Geoff Stevens, MBE.

Substitutes: Councillors Jacque Bevan, Sue Burfoot, David Burton, Bob Cartwright, Ann Elliott, Chris Furness, Neil Horton, Jean Monks, Andrew Lewer, Andrew Statham, Jacque Stevens, Barry Tipping, Philippa Tilbrook, Judith Twigg, Carol Walker, Jo Wild.

SITE VISITS

Members will leave the **ASHBOURNE ELIM PENTECOSTAL CHURCH** at **2.15pm** prompt for the following site visit. **NB: MEMBERS TO ASSEMBLE IN THE FOYER.**

2.20pm Application No. 14/00509/FUL	4 - 9
WILLOW LODGE, 115 MAYFIELD ROAD, ASHBOURNE Requested by the Ward Members to enable members of the planning committee to fully appreciate the issues involved.	

2.55pm Application No. 14/00073/VCOND

10 - 17

CROWTREES, THURVASTON LANE, LONGFORD

Requested by the Ward Member and Officers to enable members of the planning committee to fully appreciate the issues involved.

3.30pm Return

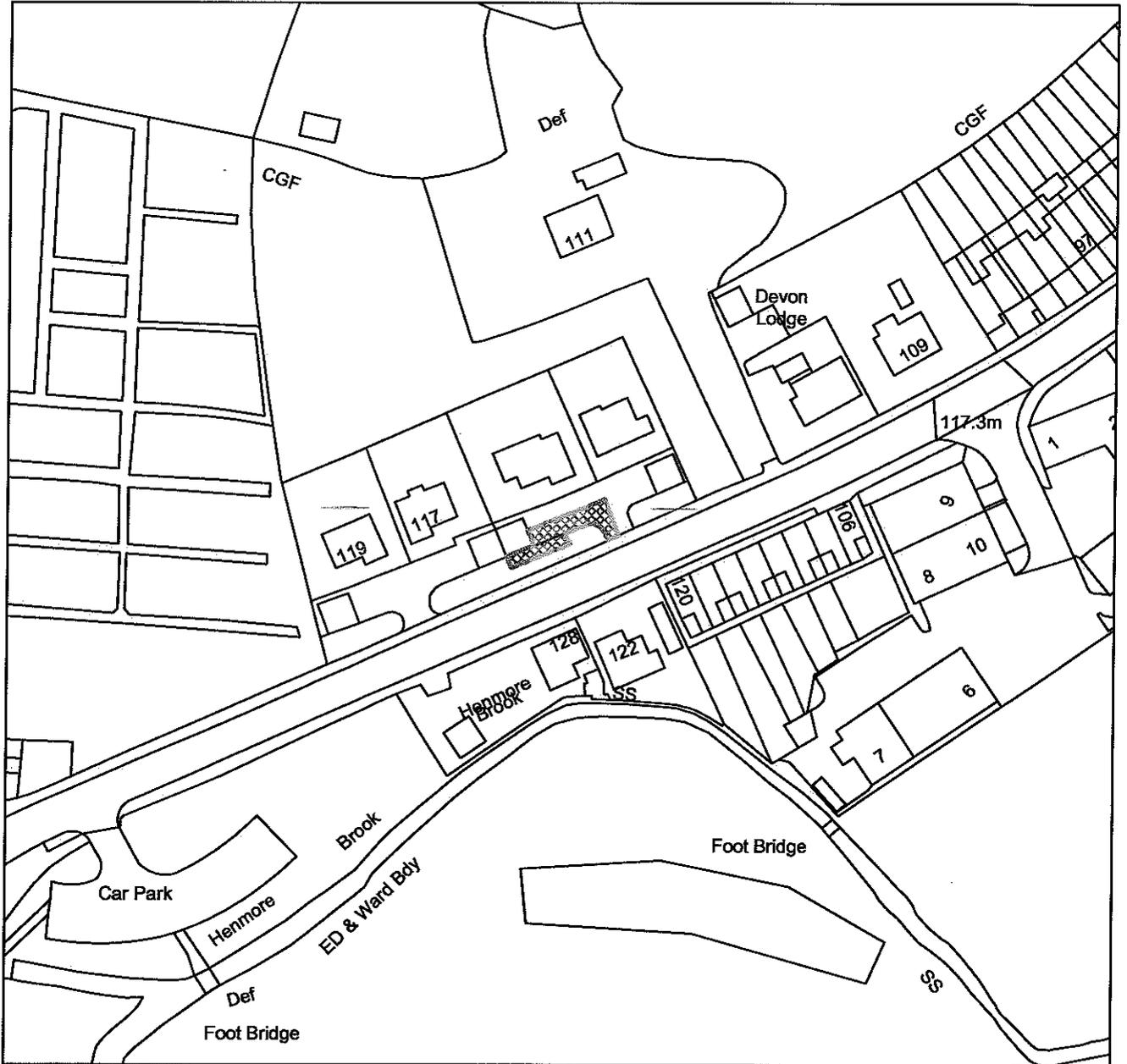
COMMITTEE SITE MEETING PROCEDURE

You have been invited to attend a site meeting of the Council's Planning Committee/Advisory Committee. The purpose of the meeting is to enable the Committee Members to appraise the application site. The site visit is not a public meeting. No new drawings, letters of representation or other documents may be introduced at the site meeting. The procedure will be as follows:

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

14/00509/FUL

Willow Lodge, 115 Mayfield Road, Ashbourne



Derbyshire Dales DC

1:1,250

Date: 12/01/2015

100019785

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

14/00509/FUL CHANGE OF USE OF DOMESTIC GARAGE TO BEAUTY SALON, WILLOW LODGE, 115 MAYFIELD ROAD, ASHBOURNE FOR MR. A. MUDIE

Town Council: Ashbourne
Application type: Full

Date of receipt: 22.10.2014
Case Officer: Mr. W. Shaw

THE SITE AND SURROUNDINGS:

Willow Lodge is a two storey brick and plain tile detached dwelling located on the northern side of Mayfield Road, near to Ashbourne Cemetery. A shared driveway leads to the applicant's triple garage, which is elevated above the highway behind a landscaped verge; the applicant's dwelling stands a little higher to the north, beyond a retaining wall.

The application concerns one of the garages within the freestanding building that is nearest to the highway. This garage has been fitted out internally as a small beauty salon, with an internal door located behind the existing garage door. (The garage itself was added to the original double garage built to serve the applicant's dwelling.)

The immediate surroundings consist of other houses and the cemetery in this edge of town location.

THE APPLICATION:

Full planning permission is sought for the garage to be used as a beauty salon. In support of the proposal the applicant explains that the business is to be run by his daughter, who lives nearby, catering for one client at a time on an appointment only basis. It is likely that a client's vehicle, one at a time, will be at the premises and there is ample parking space. Whilst the business will be a separate enterprise, it is not intended that the garage and house will ever be separated in the event of any future sale of the house. It is intended that the salon would revert back to a garage following any move. The Local Highway Authority has already confirmed that there appears to be no highway reason to oppose the application.

The proposed hours of business are weekdays between 9.00 a.m. – 7.00 p.m. with no weekend opening.

RELEVANT HISTORY:

06/00481/FUL Two storey extension and car port extension – Granted.

CONSULTATIONS:

Local Highway Authority:

Whilst the proposal removes 2 domestic parking spaces, at least 4 will remain and the scale of the proposed salon is so small that only a couple of clients would be present at any one time. It is also the case that the salon will not be separated from the dwelling and in the event of the house being sold the salon would revert back to a garage. Hence, subject to appropriate conditions being imposed that specify a parking space for the salon and that the salon is made ancillary to the dwelling there are no highway objections.

Town Council:
No objections.

REPRESENTATIONS:

Four letters have been received from the occupiers of neighbouring dwellings. Their representations may be summarised as follows:-

- (i) If the proposed use is allowed, should the applicant sell his property the use should cease and revert to solely residential.
- (ii) The business should be for the exclusive use of the applicant and his immediate family and should not be let or operated by any other person.
- (iii) There should be a restriction of one client car being parked at any one time.
- (iv) No external signage should be allowed.
- (v) Planning permission should not be given for commercial development in an area assigned purely for residential purposes. A beauty salon should be in the town centre where there are numerous vacant premises. Space is available on the nearby Henmore Trading Estate.
- (vi) Planning permission had previously been given for a car port extension to the original double garage but the works undertaken involved a totally walled extension to create a third garage, with matching double doors and windows. The extension could not be used as a garage or car port because secondary doors were fitted behind the outer double doors.
- (vii) The application refers to the proposal involving 15m² of space for the beauty salon. However, the submitted ground (block) plan includes the whole building, which will be 45m² with toilet and kitchen included.
- (viii) Whilst the application specifies that there will be no signage, which I strongly agree with, I find it difficult to believe that a viable business can operate without signage.
- (ix) Work has already started on creating the proposed beauty salon. Whilst the application relates to there being ample parking space, the area for parking is often full to overflowing. On occasion the applicant has been forced to park his own car on the roadside, which is very busy.
- (x) Allowing the proposal would set a precedent in a residential area. It seems unlikely that no clients would be treated at the weekend. Saturday is always a busy day for salons when working people seek treatments.
- (xi) Street parking on Mayfield Road is already at a premium and the applicants parking area at the property is usually full with cars.

POLICIES:

Adopted Derbyshire Dales Local Plan (2005)

SF1: Development Within Settlement Frameworks Boundaries

SF5: Design And Appearance of Development

SF8: Catering For The Needs Of People With Disabilities in Development And Redevelopment

EDT5: Industrial And Business Development Within Settlement Framework

- EDT6: Conversion And Re-Use Of Buildings For Industrial And Business Development Within Settlement Frameworks
- EDT8: Design And Appearance Of New Industrial And Business Premises
- EDT9: Provision For People With Disabilities In Schemes For Employment Purposes
- NBE12: Foul Sewage
- TR1: Access Requirements And The Impact Of New Development
- TR8: Parking Requirements For New Development

Other:

National Planning Policy Framework (2012)

National Planning Policy Guidance (2014)

ISSUES:

1. The main issues to consider in respect to this particular application are: -
 - i. Is the proposed use acceptable in principle in this residential location?
 - ii. Would the appearance of the proposed beauty salon have any detrimental impact on the character of the area?
 - iii. Would there be any unacceptable impact on the amenities of any neighbouring residents, and
 - iv. Highway safety

2. Working from home may not be contrary to planning control if it is regarded as being ancillary to the principle use of the property as a dwelling. Indeed, many businesses such as music teachers, hairdressers, consultants etc may use part of their home for work purposes without any adverse impact upon neighbouring residents. Hence, whilst the proposal relates to part of a freestanding triple garage at the front of the applicants property, use of one of the three garages, that is not attached to the immediate neighbour's double garage, for business purposes is not considered, in principle, to be unacceptable. Indeed, in the preamble to Adopted Local Plan Policy EDT5 it states that 'many small firms initially operate from home...' and 'these can often operate within the defined Settlement Frameworks without having an adverse impact on the amenity of the surrounding properties and land uses'. That said, proposals that are likely to have an adverse impact upon the surrounding area will be resisted.

3. Policy EDT6, which deals with conversion and re-use of buildings to business development within Settlement Frameworks, is supportive of such development, subject to a number of provisions. These are that the form, bulk and design is in keeping with the surroundings and there is no detrimental impact upon the character and appearance of the building or group of buildings. Taking the above into account and given that the external appearance of the garage will not change (except for when the outer doors are open), the proposal would appear to satisfy the relevant criteria. Policy EDT8, in dealing with the Design and Appearance of New Business Premises, echoes the criteria of Policy EDT6 and also requires that the premises do not create unacceptable problems in terms of the relationship between the proposal and the neighbouring uses beyond the site. It is also the case that Paragraph 21 of the NPPF, under 'building a strong, competitive economy, urges Local Planning Authority's to facilitate flexible working practices such as the integration of residential and commercial uses within the same unit.

4. In terms of impact upon neighbouring residents, the following points are considered to be relevant. The garage to be used does not adjoin any living accommodation and any noise generated within the proposed salon is likely to be, for the most part, from a hairdryer, radio or conversation between salon operative and client. Its size at 15 square metres dictates that there is insufficient room for numerous clients. Similarly, a client parking upon the applicant's driveway should not result in any undue impact upon the occupiers of 113 Mayfield Road, who share the access, any more than any visitor or other family member attending the premises.
5. Turning now to highway considerations, it may be seen from the comments of the Highway Authority that they are not opposed to the proposal. The size of the premises will not result in a significant number of vehicles visiting the premises at any one time and as such is unlikely to lead to any unacceptable highway safety issues on Mayfield Road. As such, the requirements of Adopted Local Plan Policies TR1 and TR8 which deal with access, circulation and parking are considered to be satisfied.
6. The comments from neighbouring residents are noted. Their concerns in the main relate to residential amenity, parking issues and visual amenity. It is acknowledged that the applicant's garage is quite prominent, being located in an elevated position within the property frontage. However, with appropriate conditions being imposed to prevent any independent use of the salon, that it is used on an appointments only (i.e. no passing trade) basis, that advertisements on the premises are not introduced and that the use ceases (as the applicant has indicated) should he move on from Willow Lodge, it is considered that overall there should be no unacceptable impact on neighbours.
7. In conclusion, subject to appropriate conditions being imposed, the balance of consideration is that a recommendation of approval is merited.

OFFICER RECOMMENDATION:

Planning permission be granted subject to the following conditions: -

1. ST02a Time Limit On Full
2. The beauty salon hereby approved shall not be sub-let from the current ownership/occupation of the property named Willow Lodge at 115 Mayfield Road and its operation shall be by a resident or family member of the occupiers of that property.
3. In the event of the current occupiers of Willow Lodge relocating from that dwelling, the business use shall cease and the former garage use shall be reinstated.
4. The premises the subject of this permission shall not be open for business between the hours of 19.00pm and 09.00am, Monday to Friday and shall not be open at weekends and bank holidays, unless the Local Planning Authority gives prior written approval to any alternative opening times.
5. Notwithstanding the provisions within the Town and Country Planning (Control of Advertisements) (England) Regulations 2007, no signage shall be introduced at the premises to advertise the beauty salon.
6. This permission does not extend to the 2no remaining garages within the existing building.

Reasons:

1. ST02a
2. For the avoidance of doubt and to safeguard the residential character of the immediate locality, in accordance with the aims of Policy EDT8 of the Adopted Derbyshire Dales Local Plan (2005).
3. For the avoidance of doubt and to safeguard the residential character of the immediate locality, in accordance with the aims of Policy EDT8 of the Adopted Derbyshire Dales Local Plan (2005).
4. In order to safeguard the amenity of nearby residents in accordance with the aims of Policy EDT8 of the Adopted Derbyshire Dales Local Plan (2005).
5. To safeguard the character and appearance of this residential location in accordance with the aims of Policy EDT5, EDT6 and EDT8 of the Adopted Derbyshire Dales Local Plan (2005).
6. For the avoidance of doubt.

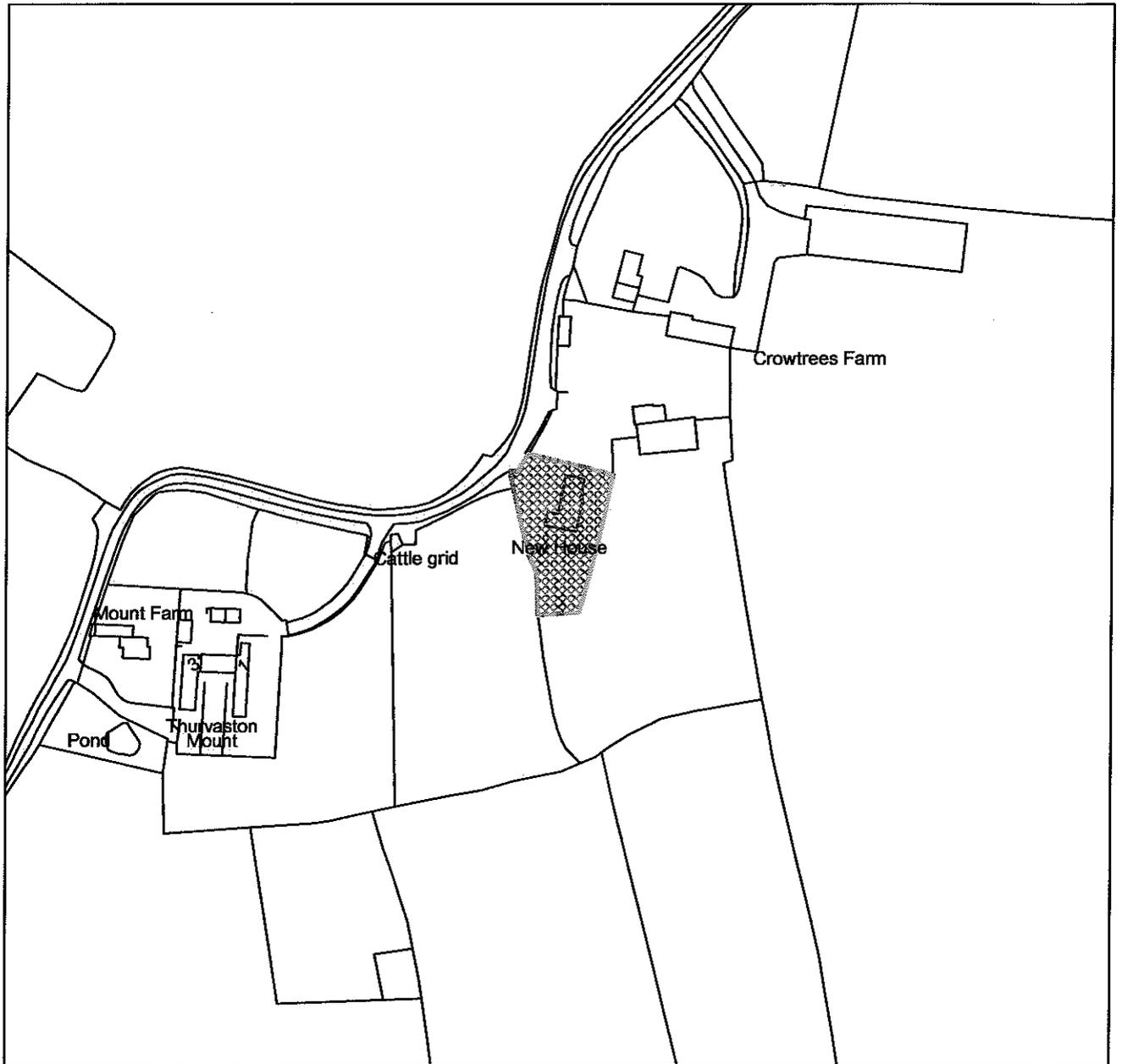
Footnotes:

1. The Local Planning Authority have during the consideration of this application engaged in a positive and proactive dialogue with the applicant which has resulted in revised proposals which overcame initial problems with the application relating to how the business would operate.
2. This decision relates to the following documents: -
 - A4 size red edged site location plan, received 22nd October 2014
 - 1:500 Scale block plan, received 22nd October 2014
 - 1:100 Scale existing plan and elevation
 - 1:100 Scale proposed plan and elevation
 - Supporting colour photographs, received 22nd October 2014
 - Email received from applicant on the 7th January 2015 with additional supporting information.

BACK TO AGENDA

14/00073/VCOND

Crowtrees, Thurvaston Lane, Longford



Derbyshire Dales DC

1:2,500

Date: 12/01/2015

100019785

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

14/00073/VCOND

**SECTION 73A APPLICATION – REMOVAL OF OCCUPANCY
CONDITION 4 OF PLANNING PERMISSION WED/182/14 AT
CROWTREES, THURVASTON LANE, LONGFORD FOR RPC
COMMERCIALS**

Parish Council: Longford
Application type: Variation of Condition

Date of receipt: 07/02/2014
Case Officer: Mr. W. Shaw

THE SITE AND SURROUNDINGS:

The application relates to an existing two-storey brick and plain tile detached dwelling located along Thurvaston Lane, in Longford Parish. It stands adjacent to a commercial vehicle, plant and machinery dealership/dismantling business and it is subject to an occupancy restriction which only allows a person solely employed at the commercial premises (and any resident dependants of such a person) to reside in it. The dwelling has its own front access and a large driveway/hardstanding area, and has an enclosed garden located to its southern side. The adjacent commercial premises extend across land both to the rear of the dwelling and to the north where a building comprising a workshop, offices and welfare facilities is located. This building stands upon an extensive yard area where numerous commercial vehicles are also stationed; the land to the rear of the dwelling also contains commercial vehicles in various states of dilapidation. An old brick barn stands in the northwest corner of the site and a gated entrance and high wall encloses the commercial premises from Thurvaston Lane.

The premises are located in open countryside that is used for agricultural purposes.

THE APPLICATION:

The application seeks the removal of the occupancy restriction concerning the associated dwelling. The restriction was imposed at condition 4 of planning permission WED/182/14, dated 8th January 1982. It specifically states: -

'The occupation of the dwelling shall be limited to a person solely employed at the adjoining vehicle dismantling/repair business (and any dependants of such a person residing with him) or a widow or widower of such a person.'

In conjunction with the occupancy restriction condition is a section 52 legal agreement dated 21st February 1983. A similar provision is made which limits the occupancy of the dwelling to a person engaged in the management and supervision of the vehicle dismantling and scrap metal business. A further provision requires that the dwelling shall not be sold assigned or sub-let except as one parcel with the said land (which refers on plan to the extent of the commercial business).

A supporting letter sets out the history of the premises going back to the 1950's. Vehicles on site range from light commercial vehicles to 44 tonne heavy goods vehicles, numbering between 30-50 at any one time, with additional trailers also stored for sale/parts etc. This gives the potential for a significant number of HGV's to be generated on the local highway network. Whilst the applicant has operated the business without significant complaints and maintained good relationships with neighbours, the size of site could result in nuisance if the business was to operate at full capacity.

The house occupies some 0.17 hectares of the overall 1.25 hectares of the premises. Parts of the site are not screened as well as others and, with several clusters of dwellings nearby it could be said that the premises are an alien feature in the local landscape. This has been in mind when the applicant has considered the future planning for the business operations as well as the occupancy restriction. With regard to the latter the level of supervision required on site no longer exists to the same extent. Site security is less important and the previous operation of a snow plough in winter has ceased. This, in conjunction with potential changes to the business, reduces any 24 hour residential presence on site to the extent whereby it is no longer needed. Removal of the tie would provide greater flexibility and whilst the creation of a new 'open market' house in the countryside would normally raise affordable housing consideration, environmental benefits are proposed which need to be considered.

If the occupancy condition was removed, land to the east (rear) and south of the dwelling would be cleared of commercial vehicles (in various states of repair), trailers, parts and ancillary plant and machinery and the land restored to create an 'agricultural paddock'. This would be possible as the area required by RPC Commercials to operate is from a much smaller area, totalling some 0.46 hectares. Close to 60% of the commercial site would become clear which would be a significant visual improvement and result in there being much less potential for increased vehicle movements should the business operate at full capacity. The land to be cleared has no underground tanks and it is not envisaged that it is contaminated. Also, no major landscaping or engineering operations would be required. Nonetheless, the applicant is prepared to enter into a further legal agreement to ensure that any concerns raised by the Council or other consultees could be appropriately mitigated.

The letter goes on to state that:

Policy EDT4 of the Adopted Derbyshire Dales Local Plan (2005) is considered to be relevant given that it deals with ... 'change of use of existing business or industrial land or premises for non-employment uses'. The policy advises that planning permission will only be granted where: -

- a) The continuation of the land or premises in industrial or business use is no longer required or;
- b) The current use is incompatible with the surrounding properties and land uses.

Both these criterion would be complied with as the land and building in question are no longer required for the business use. It is also the case that the current use is not compatible with its rural surroundings at its current extent. The restoration of the relevant land will be in accordance with the main thrust of Local Plan Policy NBE8 which seeks to deliver 'development that protects or enhances the character, appearance and local distinctiveness of the landscape'.

Finally, during the course of the applications consideration the applicant requested time to submit further supporting information, which involved a 'Transport Statement' and further 'Policy' considerations relating to the National Planning Policy Framework.

RELEVANT HISTORY:

02/05/0419	Erection of three dwellings, conversion of existing barn to dwelling and alterations to access (outline) – Refused
01/10/0728	Erection of three dwellings and conversion of existing barn to dwelling (outline) – Refused
WED/083/608	Extension to workshop and office accommodation – Granted
WED/583/321	Details of dwelling (Reserved matters) – Granted
WED/182/14	Erection of dwelling (outline) – Granted
WED/881/603	Erection of dwelling – Refused
WED/281/102	Vehicle workshop - Granted

CONSULTATIONS:

Local Highway Authority

Initially, raised no concerns from a highways perspective in respect of removal of the occupancy restriction. (This did not relate to the proposed paddock being created or that the commercial operations were being reduced). The submitted Transport Statement and further information have now been considered. The statement refers to the pre and post development scenarios and makes the assumption that the reduction in (commercial) site area will have a consequential decrease in vehicular trips from the site. When considering trip generation the Highway Authority normally uses the TRICS database to ascertain trip rates for a particular land use. However, the database does have limitations and does not cover every type of land use or commercial operation. It is also the case that a reduction in site area does not always directly relate to a reduction in traffic, especially for this particular use where there are large areas of outside storage (the site could be compressed into a smaller area and still generate a similar level of traffic). In this instance there is no mention of reducing the number of vehicle and trailer licenses associated with the business activities at the site and there would be no reasonable conditions to restrict traffic movements of any new scale of business and presumably the same number of staff/drivers would also still work at the site. Whilst some beneficial reduction in traffic may ensue this would be extremely difficult to accurately model or analyse at this stage given the possible variations. However, it is not expected that a direct relationship would occur, i.e. 58% reduction in site area would equate to a 58% reduction in HGV traffic, or the 80% reduction in HGV traffic mooted in the statement, based on the information available.

The applicant has also conducted an assessment of typical traffic movements on a daily and weekly basis. As previously inferred, a remote site such as this is unlikely to have comparable site information in the TRICS database and without independent count data being available, it is difficult to confirm whether the figures identified are credible. It is also not clear whether the paddock created would have any commercial or business interest. If it is only to serve the existing dwelling it would be appropriate to impose a condition that secures its private use.

The report suggests that the reduction in vehicle trips would reduce the likelihood of road user accidents and 'improve the general safety of the rural highway network' – however, whilst the assessment considers accident records for the local area it does

not consider causation factors or the type of vehicles involved i.e. do the recorded accidents involve HGV's? it is therefore difficult to confirm whether any reduction in HGV traffic, as a result of the proposals, would bring about the suggested improvements to general highway safety. The site would appear to have operated at this site for a considerable period of time without any major highway safety issues.

Whilst the Highway Authority do not necessarily agree with the precise methodology or analysis submitted in the transport assessment it remains of the opinion that in transport terms it would not be possible to demonstrate that the development proposals applied for (variation / removal of occupancy restriction) would be so severe in transportation terms so as to justify a reason for refusal on highway safety grounds.

Parish Council

Initially, the Parish Council confirmed that the unanimously objected to the application on grounds that: -

- a) The business is still operating
- b) The scale of the business is irrelevant
- c) When the property was built it was tied to the business, nothing has changed
- d) Lifting the tie would set a precedent

(These comments were reiterated following further consideration by the Parish Council, and they requested that the application be referred to Committee).

REPRESENTATIONS:

None

POLICIES:

1. 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
 - EDT4: Other Existing Employment Land And Business Premises
 - NBE8: Landscape Character
 - TR1: Access Requirements And The Impact Of New Development
 - TR8: Parking Requirements For New Development
2. Other
 - National Planning Policy Guidance (2012)
 - National Planning Policy Framework (2014)

ISSUES:

1. The main issue to consider is whether it is necessary and appropriate to retain the occupancy restriction condition on the dwelling in question, based on the case put forward in the submitted details.

2. By way of background, the occupancy restriction was imposed due to the dwelling being required for 'security and management reasons'. A snow clearing service was also provided by the applicant to the County Council on roads in the area in the winter period. Improvements to the appearance of the commercial site were also part of the reasoning in support of the proposed dwelling, which were included in the associated section 52 planning obligation agreement.
3. This particular application is not the usual type of case whereby a rural worker occupancy condition is sought to be removed. Indeed, the majority of applications to remove rural worker occupancy restriction(s) concerns agricultural worker dwellings. In these cases it is usually the case that the essential need the dwelling served has ceased but it is incumbent on the applicant to demonstrate that the dwelling cannot be utilised by other farm workers. In this case the justification put forward is based primarily on there being benefits to the local highway network and visual improvements with more than 50% of the site being cleared of dilapidated vehicles, trailers etc and the land becoming an agricultural paddock. It is suggested that the business can continue without the essential need for an on-site presence. It is pertinent to consider the benefits that could result from this proposal and weigh them in the planning balance.
4. With regard to the highway implications the applicants agent referred to the size of the existing site being such that there is potential for an increase in vehicle movements, if it was to be operated to its full capacity/potential. As a long established commercial site it may be the case that the number of vehicles associated with the premises could increase, without the need for any planning permission. Hence, with reference to guidance within the National Planning Policy Framework it is contended by the applicant's agent that the proposal would represent sustainable development (notwithstanding the location being highly unsustainable) bringing forward economic, social and environmental gains. Paragraph 7 of the NPPF clarifies that the economic role of sustainable development includes 'contributing to building a strong, responsive and competitive economy' to 'support growth and innovation.' The proposal would enable value to be released by separating the dwelling from the business. The 'uplift' it is suggested would enable the applicant to invest in aspects of his business operations which do not require a large number of vehicle movements and provide him with the confidence to 'create additional jobs and prosperity', in line with paragraph 28 of the National Planning Policy Framework. It would it is claimed adhere to section 1 of the framework 'Building a Strong Competitive Economy' and paragraph 21 which seeks to ensure that 'Investment in business should not be over-burdened by the combined requirements of planning policy expectations.'

The applicant continues their case for the development in terms of a 'social' role of sustainable development. Paragraph 7 of the framework clarifies that key aspects include 'supporting strong, vibrant and healthy communities' and 'creating a high quality built environment'. The existing significant traffic movements would be constrained it is suggested if the commercial sites potential for expansion is restricted by the proposed reduction in site area. The Transport Statement confirms that the likelihood of vehicular/vulnerable road user accidents would be constrained with the resultant improvement to general safety of the surrounding highway network. Hence, it is claimed that significant social benefit would ensue.

The Environmental benefit is the removal of a significant proportion of a non-conforming use and its replacement by an agricultural paddock.

5. Whilst there may be benefits in what is a 'non-conforming' business use in the countryside contracting in terms of potential vehicle movements and visual amenity, the following points are considered to be relevant.

The area to be removed from the site, for the most-part is occupied by vehicles, trailers etc that are not capable of independent movement. Hence, their removal will not necessarily decrease vehicle movements on the local highway network. It is the residual area on which driveable lorries and other HGV's are parked and, as such, there is no certainty of existing vehicle movements decreasing should the proposed agricultural paddock be created. Indeed, the Highway Authority's comments tend to confirm this. Therefore, the benefits to highway safety warrant less weight than suggested by the applicant.

In addition the 'uplift' that would occur should the restricted occupancy condition be removed needs to be considered against the loss of an associated worker property at a potential time when the business operations may be about to change. The tie was imposed in part for security reasons and as the business will continue, whether in some modified form or not, security may not be as effective if the dwelling was occupied by anyone not involved with the business. Whilst the business location is not one that would be readily supported for a new business it has been successful and reducing the site area and severing the property will it is considered hamper the continued use or expansion of the business and may lessen its potential for beneficial reuse by other parties or businesses in the future. This reduction in the attractiveness of this site, which has served a non-conforming use well, is contrary to the sustainability aim of providing for the economic health of the district.

6. It is the case that there is no policy in the Adopted Derbyshire Dales Local Plan (2005) that deals with the removal of tied occupancy conditions. Paragraph 55 of the National Planning Policy Framework refers to cases when a dwelling in the countryside may be justified, under special circumstances, such as the need for a rural worker to live permanently at or near their place of work. It is considered that notwithstanding the stated benefits that will/may be secured, the principal consideration is whether the occupancy tie still serves a useful planning purpose. There is clear benefit in this isolated rural location in having a dwelling at the premises that needs to be occupied by an associated worker, or indeed owner/manager. It has served the business well and would be attractive to any future new user. If, as speculated, the business went the way of an increase in the number of vehicles and movements at the premises, it would appear that the associated dwelling is required perhaps to a greater extent than thus far. Hence, whilst there may be some merit to the associated proposals if the condition was to be removed it has not been clearly demonstrated that removal of the tie is appropriate as it would result in a new market dwelling in the countryside to benefit the applicant but at the same time reduce the future attractiveness and flexibility of this business site which contributes to the economic well being of the district.
7. Based on the above, a recommendation of refusal is considered appropriate.

OFFICER RECOMMENDATION:

Planning permission be refused for the following reason(s):-

1. The application dwelling was granted to serve the specific needs of this isolated rural business. The submitted application fails to clearly demonstrate that the operation of this business has changed significantly since the dwelling was approved, such that the occupancy restriction tying the dwelling to the adjacent commercial business premises has outlived its usefulness. Without an associated dwelling and with a reduced commercial area the business premises may in the future prove unattractive for continued economic use contrary to the aims of promoting sustainable development. As such, without any overriding justification, the creation of an open market dwelling severed from the adjoining business in this countryside location is contrary to the aims of promoting sustainable development and advice in 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:
 - 1:1250 site location plan, drawing no C9757.13004
 - 1:500 scale site block plan (sui generis to paddock), drawing no C9757.13.005
 - DPDS Consulting letter dated 3rd February 2014
 - Copy decision notice for application WED/182/14
 - Copy letter by Local Planning Authority to Member of Parliament dated 15th November 1982
 - Copy of associated Section 52 legal agreement dated 21st February 1982
 - DPDS Consulting letter, including Transport Assessment by Opus International Consultants (UK) Limited, dated 2nd September 2014.

BACK TO AGENDA

PLANNING APPEAL – PROGRESS REPORT

Report of the Corporate Director

REFERENCE	SITE/DESCRIPTION	TYPE	DECISION/COMMENT
ENF/12/00093	Roston Inn, Mill Lane, Roston	WR	Appeal being processed
13/00710/FUL	Bradley Pastures, Bradley	WR	Appeal being processed
13/00689/CLEUD	Marston Lane, Doveridge	WR	Appeal being processed
13/00818/FUL	Bradley Nook Farm, Hulland Ward	WR	Appeal being processed
13/00911/OUT	Land at Old Derby Road, Ashbourne	LI	Appeal allowed – copy of decision attached
14/00331/CLPUD	Headlow Fields Farm, Snelston	WR	Appeal being processed
14/00408/PDA	Overtown Farm, Overtown, Hognaston	WR	Appeal being processed
13/00529/FUL & 13/00530/LBALT	Waldley Manor, Marston Montgomery	WR	Appeal being processed
14/00427/PDA	Toad Holes Barn, Hulland Ward	WR	Appeal being processed
14/00362/PDA	Firs Farm, Cubley Common	WR	Appeal being processed
14/00135/FUL	96 Belper Road, Ashbourne	WR	Appeal dismissed – copy of decision attached
14/00429/PDA	The Cedars, Hollington	WR	Appeal being processed

WR - Written Representations
IH - Informal Hearing
LI - Local Inquiry
HH - Householder

OFFICER RECOMMENDATION:

That the report be noted.

Appeal Decision

Inquiry held on 11 November 2014

Site visit made on 12 November 2014

by John Felgate BA(Hons) MA MRTPI

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

Decision date: 16 December 2014

Appeal Ref: APP/P1045/A/14/2218952

Land off Old Derby Road, Ashbourne, Derbyshire

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
 - The appeal is made by The Trustees of Sir Ian Walker-Okeover's 1959 Settlement against the decision of Derbyshire Dales District Council.
 - The application Ref 13/00911/OUT, dated 23 December 2013, was refused by notice dated 26 March 2014.
 - The development proposed is residential development of up to 200 dwellings, with public open space, highway improvements and landscaping.
-

Decision

1. The appeal is allowed and planning permission is granted for residential development of up to 200 dwellings, with public open space, highway improvements and landscaping, on land off Old Derby Road, Ashbourne, Derbyshire, in accordance with the terms of the application Ref 13/00911/OUT, dated 23 December 2013, subject to the conditions set out in the attached schedule.

Preliminary Matters

2. The Council originally refused planning permission on the grounds that the site is outside the settlement boundary, and that the proposed development would cause harm to the landscape. However, at a meeting on 18 September 2014, the Corporate Committee resolved to withdraw that refusal reason. This decision was taken in the light of changed circumstances relating to the District's housing land requirement. At the inquiry, the Council confirmed that it no longer wished to oppose the scheme.
3. The application seeks outline planning permission with all matters reserved except access.
4. A Section 106 agreement has been entered into by the appellants, the District Council, and Derbyshire County Council, which contains provisions relating to affordable housing, education contributions, greenways, and sustainable travel.

Policy Background

The development plan

5. The development plan for the purposes of the appeal comprises the saved policies of the Derbyshire Dales Local Plan, adopted in November 2005. Ashbourne is identified as one of the District's three market towns. Paragraph

2.6 states that the market towns are the best-placed settlements to contribute to the achievement of sustainable development, and that priority will be given to development in these settlements.

6. The proposals map defines a settlement framework boundary around Ashbourne. The appeal site is adjacent to that boundary, but outside it, and thus in the countryside. Policy SF4 states that development in the countryside will only be permitted for various specified purposes, such as agriculture, forestry, outdoor sport and tourism. The appeal proposal is not for any of these specified purposes.
7. Policy NBE8 states that planning permission will be granted only where the development protects or enhances the character, appearance and distinctiveness of the landscape.

Emerging plans

8. A replacement local plan for the Derbyshire Dales was submitted in May 2013, and a public examination was opened in July 2014. On 29 July 2014, the examining inspector issued an Examination Note, setting out his initial findings. His main conclusion was that the plan as submitted would not be found sound. On 2 October 2014, the Council resolved that the plan be withdrawn.
9. A neighbourhood area has been designated for Ashbourne, and an initial scoping consultation has taken place. But no draft neighbourhood plan has yet been published.

Agreed Matters

10. The Council and the appellants agree that the District's housing land supply is currently less than the 5 years' supply required by the National Planning Policy Framework (the NPPF). However, this is questioned by other objectors.
11. As a result of the above, in accordance with NPPF paragraph 49, it is agreed by the Council and the appellants that the housing supply policies of the 2005 Local Plan should be treated as out of date. Both parties agree that these include Policy SF4.
12. The appellants argue that the same applies to NBE8. This is not agreed by the Council. However, in the light of the land supply situation, the Council accepts that its original objection on landscape grounds should no longer outweigh the need for housing. Other objectors disagree.
13. The Council also agrees that the development would be sustainable, and that there are no overriding objections on technical or other grounds. Again this view is not shared by others, particularly in respect of traffic impacts.

Main Issues

14. In the light of all the matters raised, I find that the main issues in the appeal are:
 - the need for additional housing land in Derbyshire Dales District;
 - the effect of the proposed development on the character and appearance of the landscape;
 - and the effects on traffic congestion and highway safety.

Reasons for Decision

Housing needs

15. When the Council made its decision to refuse planning permission for the proposed development, it did so in the context of the emerging draft Local Plan of May 2013. That plan envisaged a housing requirement, for the period 2006-28, of 4,400 dwellings. However, following the plan's Examination in July 2014, and taking account of all the evidence as to household formation, migration, employment growth, affordable housing needs, and the existing backlog, the Examining Inspector found that the District's full objectively-assessed need was likely to be at least 6,500 dwellings. The evidence regarding environmental constraints did not justify such a wide divergence between these figures.
16. Now that the draft Local Plan has been withdrawn, there is neither an up-to-date adopted housing policy, nor an emerging policy. In these circumstances, having regard to paragraph 47 of the NPPF¹, the Courts have determined that the figure to be used for the purposes of calculating the 5-year land supply should be the objectively-assessed need². In this case, although the Local Plan Inspector himself acknowledged that his figure of 6,500 dwellings was not meant to be definitive, it remains at present the most authoritative estimate available for the District.
17. On this basis, the available supply is either 3.9 years, according to the Council, or 1.9 years, according to the appellants. The difference between these two assessments is accounted for by disagreements of a technical nature over some of the specific components: the size of the NPPF buffer; the way the backlog should be dealt with; the windfall allowance; the contribution from the Peak District National Park area; and the deliverable supply from two of the identified sites. However, for the purposes of the present appeal, both parties agree that these differences are of little significance because, either way, the supply is less than 5 years. Furthermore, there is no dispute between the appellants and the Council that this is a consideration which commands substantial weight in the planning balance.
18. I appreciate the concerns raised by local residents regarding this issue of housing supply, and particularly the view expressed at the inquiry by the Reverend Broadhurst: that the Inspector's figure of 6,500 dwellings is simply too many for Ashbourne to cope with. However, that is a decision to be resolved through the next local plan, whenever that plan now emerges. In the meantime, for the reasons that I have explained, it is necessary to consider the full housing need, and to balance that need against any specific harm that is identified. General issues and constraints affecting the town, such as its road system, schools and health services, and its attractive character, have already been considered by the Examining Inspector, and despite those concerns, he found insufficient evidence to justify the lower level of housing that the Council proposed; especially as the Council's own housing study³ had identified sites (including the present appeal site) with a capacity well in excess of that level. When the draft Local Plan is re-submitted, the Council will be able to present new evidence, if it wishes to do so. But in the meantime, the NPPF requires

¹ The National Planning Policy Framework

² *Hunston Properties v SoS & St Albans Council* [2013 EWHC 2678 Admin] ; AND *Gallagher Homes and others v Solihull Council* [2014 EWHC 1283 Admin];

³ The Strategic Housing Land Availability Assessment, November 2013

that, where there is less than a 5-year supply, housing proposals are considered in the light of the presumption in favour of sustainable development.

19. I am well aware that over the last 12 months or so, planning permissions have been granted for a number of other large developments in Ashbourne, including Willow Meadow Farm (65 dwellings) and Hillside Farm (125 dwellings and 65 extra care units). In addition the proposed development at Ashbourne Airfield (367 dwellings and other development) now has a resolution to grant permission, subject to completion of a S.106 agreement, and Leys Farm (145 dwellings) was recommended for approval at an imminent (at the time of the inquiry) Committee meeting. Together, these are large numbers. But this does not change the fact that the test that must be applied is whether a 5-year supply can be demonstrated.
20. I appreciate that some of these sites are not yet included in the 5-year land supply calculations. But the 5-year supply is not just a totalling of all potential sites, it is an assessment of how many houses are realistically deliverable within the relevant period, taking account of each site's particular circumstances. The Airfield site, for example, not only has yet to obtain formal outline planning permission, but will then have a number of stages to still go through, including some significant infrastructure requirements, before houses can be built and occupied. In any event, the Council clearly accepts that, despite these other sites becoming available, there remains a shortfall, and that the present appeal site at Old Derby Road is now needed to meet part of the District's housing requirements. On the evidence before me, I can find no reason to doubt that assessment.
21. I therefore conclude on this first issue that the development now proposed is needed, to contribute to local housing needs. Consequently, the presumption in favour of sustainable development applies, and in accordance with NPPF paragraph 14, permission should be granted unless any adverse impacts would significantly and demonstrably outweigh the scheme's benefits.

Effects on the character and appearance of the landscape

22. The appeal site occupies an elevated position, on moderately sloping ground, on the edge of Ashbourne. Although the site is outside the town's current built-up area, it is separated from the more open countryside beyond by the A52 Ashbourne Bypass. And whilst it comprises reasonably attractive, rolling farmland, the site has no special qualities, and is not subject to any protective designation at national or local levels. The National Park is some 3-4 km to the north, on the opposite side of Ashbourne.
23. The site is seen at close range from Old Derby Road, and from the Willow Meadow Road residential area. However, these viewpoints are within the built-up area, and the site is viewed from them in an urban fringe context. The loss of openness would change these views considerably, but the effects would be localised, and could be partly mitigated by new landscaping and the incorporation of open space, as shown in the illustrative Master Plan (Plan No. INCLA-NO213).
24. From the Bypass, there are partial inward views, again from close range. But from here, the views are limited to the site's southern margin, and could be easily screened by reinforcing the existing highway planting. The proposed

- acoustic fencing along this boundary would have some additional impact, but this could be reduced by setting it back, amongst the existing and new landscaping.
25. There are longer views from the higher ground at Ashbourne Golf Course, as seen in the photographs in the appellants' landscape and visual impact study. But from this direction, the proposed development would be seen in the context of the approved development at Willow Meadow Farm and that expected to be permitted at Leys Farm, and indeed would be less prominent than either of these. In this context, the additional impact arising from the development now proposed would be very limited.
 26. The site is crossed by a public footpath, forming part of both the Centenary Way (Ashbourne to Ilkeston) and Bonnie Prince Charlie Walk (Ashbourne to Derby) routes. However, there is no reason why this footpath could not be retained on its existing alignment. The views obtained by walkers on this section of the footpath would change, and their enjoyment of this part of the path would be reduced. But the appeal site represents only a small proportion of the footpath as a whole. In that context, the change in character of this part of the route would not be unduly significant. To the north of the appeal site, the footpath continues through the built-up area in any event.
 27. Views from various other viewpoints are referred to by some local residents, including Thorpe Cloud, Stanton Woods, and around Okeover Hall, some of which are on the edge of the National Park. However, these are very distant. At such long distances, even though the proposed development might be just visible in good conditions, it would be neither unduly noticeable nor harmful.
 28. The appeal site contains some attractive and distinctive small-scale landscape features. In the lower part of the site, to the rear of Cedar Close and Chestnut Drive, there is a stream with trees and other vegetation along its banks. And on the higher slopes there are some small groups of mature trees. But the watercourse and its surroundings could be preserved by locating open space adjacent to it, as suggested in the Master Plan. In this connection, I note that the S.106 agreement provides for on-site greenways, along the site's north-western and north-eastern boundaries. The more important trees throughout the site could also be retained, as part of an overall landscaping scheme. These features could therefore be adequately protected by condition.
 29. I note the view of some objectors, that the site performs the role of a buffer between Ashbourne and its Bypass, and as part of the town's setting. On the surface, that argument is not without its attractions. However, there appears no particular planning policy to that effect. In the absence of any policy basis, it seems to me that the need for the site to be retained for these purposes (as opposed to other planning objectives such as meeting housing needs) is not compelling. Even if the appeal site were developed, Ashbourne would still have a countryside setting beyond the Bypass. And in this context, there seems little doubt that the latter provides a strong, defensible boundary, which is capable of enduring for the long term.
 30. Overall, the development's principal adverse effect would be the loss of the site's openness. This would cause some harm to the local landscape, and to that extent, the proposed development would conflict with Policy NBE8. I also bear in mind that the NPPF, at paragraphs 17 and 109, seeks to protect and enhance valued landscapes, and to recognise the countryside's intrinsic

character and beauty. But nevertheless, for the reasons that I have explained, in this case the harm would be minor, due to the site's urban fringe location, limited visibility, and lack of any special qualities. In these circumstances, it seems to me that the harm to the landscape should be given only modest weight.

Effects on traffic congestion and highway safety

Site access and Old Derby Road/Derby Road junction

31. The proposed development would generate traffic onto local roads, and particularly on Old Derby Road and Derby Road⁴. However, alterations are proposed to the T-junction where these two roads meet. These would include easing the kerb radii, and widening of the exit lane to accommodate left and right-turning vehicles side-by-side, thus increasing both capacity and safety. On this basis, the appellants' computer modelling, in the Transport Assessment report by Bancroft Consulting, suggests that the modified junction would operate well within its safe capacity, and without excessive queuing. The appellants' modelling also shows that the proposed new junction at the site access onto Old Derby Road would be far enough away from the Derby Road junction for the two to operate independently, without traffic conflicts.
32. Alternative evidence has been submitted by Mr Stuart Green, a local resident, based on traffic surveys and modelling carried out by himself, which suggests that the development would cause severe congestion around the site entrance and the Derby Road junction. This evidence therefore directly contradicts that of the appellants. I have no reason to doubt that both exercises have been undertaken in good faith, and using considerable skill and expertise. However, they cannot both be right.
33. I note that the appellants' consultants' modelling has been carried out using 'PICADY', a recognised software package, which is widely used in transport planning. The consultants also state that their study has been carried out in compliance with the relevant guidance⁵, particularly in terms of survey methodology and in consultation with the Highway Authority. Although that guidance has since been superseded, it was in force when the work was carried out, and I therefore give it significant weight in this case. In the case of Mr Green's work, I do not have enough information to judge whether it was carried out on an equally rigorous basis. It therefore seems to me that the appellants' modelling results are to be preferred.
34. In any event, the Highway Authority has accepted the appellants' analysis, and their junction design proposals, subject only to requiring further engineering details in relation to the Derby Road junction. In the circumstances, I find this conclusive. Both main parties are also agreed that the site access and junction works can be secured by condition, and I see no reason to disagree.

Derby Road/Sturston Road junction

35. In addition, the development would also add to the existing traffic flows towards the town centre, and in particular at the 5-way junction which includes Derby Road and Sturston Road. This is an acknowledged problem junction

⁴ Also referred to in some submissions as 'New' Derby Road

⁵ Guidance on transport Assessment: DfT and DCLG, March 2007

which, as I saw on my visit⁶, is already at capacity in the peak hours, and also sometimes outside those hours. Even without any of the developments now proposed, the junction is expected to be significantly over capacity by 2019. In the case of the Leys Farm and Airfield developments, the Highway Authority has sought contributions towards a comprehensive town-wide traffic study and future traffic management scheme, which might include major improvements to the Derby Road/Sturston Road junction, possibly involving third-party land.

36. In the case of the appeal proposals, the appellants initially proposed a contribution on a similar basis. But, for whatever reason, that proposal has not been taken forward in the S.106 agreement, which includes the Highway Authority as one of its signatories. Instead, the appellants propose what is essentially an interim improvement to the Derby Road/ Sturston Road junction. This improvement, which is said to be the best that can be achieved without land acquisition, would involve some minor kerb realignment and new road markings. This would create just sufficient additional capacity for the appeal proposal alone. It would not significantly reduce the existing peak hour congestion, nor would it provide any spare capacity for any of the other planned developments in Ashbourne. But it would mean that the development now proposed would not exacerbate the 2019 'with-development' scenario beyond the levels already predicted without the development. The appellants describe this as a 'net nil detriment' approach.
37. Local residents evidently have deep misgivings about this approach, and I can understand why. If the appeal scheme were to go ahead not on its own, but in tandem with one or both of the Leys Farm and Airfield sites, and in advance of any comprehensive traffic management measures, then the net nil detriment calculation would become purely theoretical. And if a comprehensive scheme is subsequently implemented anyway, as seems likely to be necessary, then the resources spent on the appellants' interim works will have been wasted. Either way, the proposed solution for Derby Road/Sturston Road seems less than optimal.
38. However, the advice in NPPF paragraph 32 is that developments should only be refused on transport grounds where the residual cumulative impact would be severe. In this case, the Highway Authority does not dispute that the appellants' proposed junction improvement would achieve the nil-detriment effect that is claimed. Neither does it dispute that the appellants' junction scheme is feasible and acceptable in safety terms. The proposed development would therefore effectively mitigate its own impact. On this basis, the development's impact cannot be judged as severe.
39. With regard to the issue of cumulative developments, the Leys Farm and Airfield developments are not yet formally committed, and thus the detailed terms of any permissions and obligations relating to those sites remain to be finalised. Whereas, I must make a decision on the appeal scheme now, based on the evidence before me. It is far from clear how the Highway Authority envisages that the Derby Road/Sturston Road junction should ultimately be dealt with, to cope with the cumulative impact of all the likely developments, but that does not mean that a satisfactory solution will not be found. The Highway Authority evidently sees the appellants' interim solution as an

⁶ On my visit, I observed the Derby Road/Sturston Road junction at various times between 08.00 – 09.00 and 10.30 – 11.30

acceptable way forward. The Authority has clearly come to this view in the full knowledge that other major developments are planned⁷. Again I give significant weight to the Highway Authority's view on this, as these matters go beyond the evidence that is available to me, and it seems to me that the Authority is in the best position to judge.

40. I have given all these matters very careful consideration. On the one hand, the appellants' proposal for the Derby Road/Sturston Road junction is probably not a long-term solution. To that extent, it may or may not prove to be the best outcome that could have been achieved from this development. But on the other hand, it would represent a slight improvement on the existing situation; because although in the peak hours the extra capacity might quickly be taken up by the additional traffic from the development itself, at other times it seems likely that there would be some residual net benefit, albeit on a small scale. And notwithstanding the Council's aspirations for a comprehensive town-wide scheme at some time in the future, in the short term there seems little prospect of any improvement to this particular junction, other than through the present appeal proposal.
41. On balance therefore, I conclude that the proposed works to the Derby Road/Sturston Road junction would provide an appropriate level of mitigation. Again the parties are agreed that these works, which are all on highway land, can be secured by condition, and I agree.

Conclusion on traffic and highway issues

42. For the reasons set out above, and subject to the conditions that I intend to impose, I conclude that the proposed development would not have an unacceptable impact on traffic congestion or highway safety. In this respect, it seems to me that the proposals satisfy NPPF paragraph 32, and also the relevant Local Plan policy, TR1.

Other matters

43. The proposed development would create jobs and investment, contributing to economic growth at both local and national levels. In accordance with NPPF paragraphs 17 – 19, this is a benefit to be weighed in the balance, alongside the scheme's contribution to meeting housing needs.
44. I note the concerns expressed about local school capacities, and the difficulties faced in meeting rapidly increasing pupil numbers throughout the town. However, the Education Authority does not object to the development. The S.106 agreement provides for contributions totalling just under £1.2m, towards the costs of providing additional places at all school levels. These contributions are fully in line with the sums calculated and requested by the Education Authority. Similar concerns are voiced in relation to doctors and other medical services. But there is no objection from any of the agencies responsible for providing or co-ordinating these services.
45. With regard to matters of drainage, sewerage and flood risk, these are addressed in the submitted Flood Risk Assessment report. The Environment Agency points to a need for further technical work, but does not see any need for this to hold up the grant of outline permission, subject to appropriate conditions. I see no reason to disagree.

⁷ I note that the Authority reaffirmed its position in a letter dated 15 July 2014

46. The Ecological Survey identifies some potential wildlife habitats, possibly including bats, concentrated mainly on the site's north western boundary, around the watercourse and its banks. There seems no reason why this area cannot be adequately protected at the reserved matters stage. The illustrative plan proposes open space along this edge, and this can be adequately secured by condition.
47. The Old Toll House, on the site's north-eastern boundary, is a Grade II listed building. However, in so far as the building's significance derives in part from its setting, I agree that this relates mainly to its roadside location and the relationship to the historic turnpike road between Ashbourne and Derby. The property has its own substantial garden, which provides for ample separation between the house itself and the development now proposed. There is also more than adequate space within the appeal site for additional screen planting if required. I therefore see no reason why the building's setting should be adversely affected.
48. The site is overlooked by other existing residential properties on two sides, along Old Derby Road and in the Willow Meadow Road estate. I appreciate that some property owners in these two areas would lose their present open views across the site. I have every sympathy for the loss of amenity that they would experience. However, this is not a compelling consideration compared to unmet housing needs. Issues relating to privacy, overshadowing, or noise could all be adequately addressed at the reserved matters stage. There is therefore no reason why any adjoining occupiers should suffer an unacceptable impact on their living conditions.
49. Although the appeal site is some distance from Ashbourne town centre, and journeys on foot or by bicycle would involve a steep hill, these factors do not mean that the development would not be sustainable. The site is directly adjacent to the town. Ashbourne has a good range of facilities, and is one of the district's main settlements. Sustainability involves a balanced judgement relating to a wide range of economic, social and environmental considerations.
50. I fully appreciate the importance that the Localism Act gives to the empowerment of existing communities, and this is also acknowledged in the NPPF and in relevant Ministerial statements. But in the present case, the proposed neighbourhood plan for Ashbourne has not yet reached the stage where it can be given any weight in planning decisions.
51. I note that the Town Council raises concerns of a procedural nature regarding the Corporate Committee's decision in September 2014, when the original Planning Committee decision on the application was reversed. But the question of whether the Council's own internal procedures were correctly followed is not for this appeal, as I can only consider the planning merits.

The Section 106 Agreement

52. The Section 106 agreement provides for the education contributions referred to above, plus provisions relating to affordable housing, greenways and sustainable travel. The NPPF paragraph 204 and the relevant Regulations⁸ require that these obligations must be necessary to make the development

⁸ The Community Infrastructure Levy Regulations 2010

acceptable in planning terms, and directly related to the proposed development, and fairly and reasonably related in scale and kind.

53. With regard to the affordable housing, the provisions are based on a notional level of 45% overall, of which half would be directly provided on site, and the remainder via a contribution to off-site provision. At the inquiry, the Council confirmed that this is their preferred method, so as to enable the affordable housing to be dispersed amongst some of the smaller villages. I also note that these provisions accord with the Council's supplementary guidance.
54. Regarding greenways, the agreement requires on-site provision to be made in accordance with the indicative details on the master plan, and a more detailed scheme to be approved later, plus a maintenance sum; and an off-site contribution of around £63,000. This would allow the upgrading of the Centenary Way's existing bridge across the stream, connecting to Chestnut Drive. This approach seems to me to accord with the intentions of Local Plan Policy CS8, relating to the provision of community infrastructure.
55. The sustainable travel provisions include two contributions of £5,000 each, one as a monitoring fee relating to the Travel Plan, and the other for measures to promote sustainable transport to schools. These contributions accord with the approach in Local Plan Policy TR2, which provides for legal obligations where necessary, to secure the implementation of Travel Plans.
56. The education contributions have been calculated using formulae provided nationally by the Department for Education. As above, these seem to me to accord with Policy CS8.
57. For these reasons, and those discussed earlier in this decision, I find that the S.106 agreement's obligations are all necessary to make the development acceptable in planning terms. They are also reasonable in scale and kind, and directly related to the proposed development. They therefore meet the relevant legal and policy tests for planning obligations.

Conditions

58. The NPPF paragraph 206 sets out the relevant tests for planning conditions. These include that conditions should be necessary and reasonable. After consideration of the conditions proposed by the Council, those that I consider to meet the tests are set out in the attached Schedule.
59. Conditions 1.1 – 1.3 set out the requirements as to reserved matters and time limits. These are needed to comply with the statutory provisions for outline permissions.
60. Condition 2.1 sets out the matters to be addressed in a future landscaping scheme, and ensures its implementation. Condition 2.2 provides for its future maintenance. Conditions 3.1 – 3.4 require the retention and protection of existing trees and hedges, subject to a scheme to be agreed. These conditions are necessary to ensure a good standard of development, and also to protect existing landscape features and wildlife habitats.
61. Condition 4.1 requires the provision of open space and play space, in accordance with details to be agreed. This is necessary to create a satisfactory residential environment for future occupiers.

62. Conditions 5.1 - 5.5 require the provision of various on-site and off-site highway works, including those discussed above. These are needed for reasons of highway safety. Condition 6.1 secures the implementation of the submitted Travel Plan, in the interests of promoting sustainable travel patterns and transport choices.
63. Conditions 7.1 – 7.4 secure the provision of adequate surface and foul water drainage systems, in order to ensure an appropriate standard of development and minimise flood risk. Conditions 8.1 – 8.5 require the provision of suitable noise attenuation measures where necessary, to ensure a satisfactory residential environment.
64. The suggested conditions relating to materials and parking are unnecessary, as these can be covered in the reserved matters required under Condition 1. Street lighting is covered elsewhere, in Condition 5.5. The proposed condition to close all existing accesses is not necessary, as there is only one, and that would have to be removed to construct the proposed new junction in accordance with condition 5.1. A restriction on any other new accesses is unnecessary too, because a further planning permission would be required. The proposed conditions relating to nesting birds and contamination are not needed, because these matters are controllable through other legislation; and because there is no evidence that any contamination is likely. With regard to the proposed requirement for a construction method statement, vehicle routing on the public highway is outside planning control, the control of dust and mud are subject to other legal requirements, and the site is large enough to accommodate site huts, construction vehicles and storage without controls through planning conditions.

Conclusions

65. The proposed development would result in a loss of open countryside, and some erosion of the town's landscape setting. In these respects it would conflict with Local Plan Policies SF4 and NBE8. But in view of the lack of a 5-year housing land supply, Policy SF4 is out of date, and consequently the loss of countryside on its own carries little weight. Whilst I do not accept the appellants' argument that Policy NBE8 is out of date too, the harm to the landscape would be relatively minor, for the reasons that I have given above. No other harm has been demonstrated. And, for the reasons already stated, I am satisfied that the proposed highway works would provide adequate mitigation for the likely impacts on traffic and road safety.
66. Against this, the proposed development would provide up to 200 dwellings, in an area where, despite other committed and proposed developments, the supply of housing land remains below the level required to meet the objectively assessed need. In particular, it would make a very substantial contribution to the supply of housing in the affordable sector. In the light of the NPPF's relevant housing policies, these are important benefits, to which I attach substantial weight. The development would also have significant economic benefits, which are a material planning consideration.
67. Together, it seems to me that these benefits outweigh the relatively minor harm that has been identified. And furthermore, even if a different view were taken on that particular conclusion, it seems to me that on any reasonable

basis, the harm could not be held to significantly and demonstrably outweigh the benefits.

68. In terms of sustainability, the proposed development's social and economic impacts would clearly be beneficial. The harm to the landscape would be capable of being offset by the creation of a high-quality residential environment with good living conditions. The environmental effects would thus be neutral. Overall, I conclude that the proposed scheme would meet the NPPF's aspirations for sustainable development.
69. I have taken account of all the other matters raised, but none outweighs these conclusions.
70. The appeal is therefore allowed.

John Felgate

INSPECTOR

BACK TO AGENDA

SCHEDULE OF CONDITIONS

The planning permission to which this decision relates is granted subject to the following conditions (numbered 1.1 – 8.5):

1) *Reserved matters and time limits*

1.1 No development shall be commenced until details of the appearance, landscaping, layout, and scale (hereinafter called "the *reserved matters*") of the proposed development have been submitted to the local planning authority and approved in writing. The development shall be carried out in accordance with the details thus approved.

1.2 Application for approval of the reserved matters shall be made to the local planning authority not later than three years from the date of this permission.

1.3 The development hereby permitted shall begin not later than two years from the date of approval of the last of the reserved matters to be approved.

2) *Landscaping works*

2.1 The landscaping works to be approved under Condition 1 shall include details of all planting and seeding, the surfacing of all hard surfaced areas, all boundary treatments, all re-grading or re-contouring of the land, and any signage and street furniture. The landscaping works thus approved shall be carried out in accordance with these approved details, and in accordance with a phased programme to be submitted to and approved in writing by the local planning authority.

2.2 All landscaped areas shall be maintained in accordance with a landscape management plan to be submitted to the local planning authority and approved in writing. Any tree or plant forming part of the approved landscaping scheme which dies, or becomes seriously damaged or diseased, or is removed for any reason, within a period of 5 years after planting, shall be replaced during the next planting season with others of similar size and species.

3) *Retention of trees and hedgerows*

3.1 No development shall take place until a tree and hedgerow retention scheme has been submitted to the local planning authority and approved in writing. The scheme shall specify which of the existing trees and hedgerows on the site are to be retained, and shall contain details of proposed measures for the protection and retention of those trees and hedgerows during construction.

3.2 These details shall include protective fencing, and such fencing shall be erected in accordance with the approved details before any equipment, machinery or materials are brought on to the site, and shall remain in place until the latter have been removed from the site and the development has been completed. Nothing shall be stored or placed in any area fenced in accordance with this condition, and the ground levels within these areas shall not be altered, nor shall any excavation be made, except with the written consent of the local planning authority.

3.3 No retained tree or hedgerow shall be cut down, uprooted or destroyed, nor be topped, lopped or pruned, other than in accordance with the approved details. Any works which may be thus approved shall be carried out in accordance with BS 5837.

3.4 If any retained tree or hedgerow is removed, uprooted or destroyed or dies, within a period of 5 years from the date of completion of the development, replacement planting shall be carried out in accordance with details to be approved in writing by the local planning authority.

4) *Open space and play areas*

4.1 No development shall be commenced until an open space and play areas scheme has been submitted to the local planning authority and approved in writing. The scheme shall make provision for public open space and children's play, in accordance with Policy L6 of the Derbyshire Dales Local Plan (November 2005), located broadly as shown on the submitted Master Plan (plan ref. INCLA-NO213). The scheme shall also include a phased programme for the laying out and bring into use of all the proposed open space and play areas, and details of the arrangements for their future management and maintenance. The open spaces and play areas shall thereafter be implemented, managed and maintained in accordance with the details thus approved.

5) *Access and highway works*

5.1 The access to the site, and proposed footways to Old Derby Road, shall be laid out as shown on the submitted plan, Drawing No. F13148/03 (Revision A). No other development shall be carried out until the first 15m of the access road, and the whole of the associated footways, have been constructed to at least binder course level, and a timetable for the full completion of these works has been submitted to the local planning authority and approved in writing. These works shall thereafter be completed in accordance with the timetable thus approved.

5.2 No development, other than works required for the construction of the site access under Condition 5.1, shall be commenced until visibility splays of 2.4m x 43m in both directions have been created at the junction with Old Derby Road, in accordance with Drawing No. F13148/03 (Revision A). Thereafter, clear visibility shall be maintained within these splay areas, above a height of 600mm from ground level.

5.3 No more than 10 of the proposed dwellings shall be occupied until the Old Derby Road/Derby Road junction has been altered, in accordance with a detailed junction improvement scheme to be submitted to the local planning authority and approved in writing. The detailed scheme shall be broadly in accordance with the relevant details included in Drawing No. F13148/03 (Revision A).

5.4 No more than 30 of the proposed dwellings shall be occupied until the Derby Road/Sturston Road junction has been improved, in accordance with a detailed junction improvement scheme to be submitted to the local planning authority and approved in writing. The detailed scheme shall be broadly in accordance with the relevant details included in Drawing No. F13148/04.

5.5 The layout details to be submitted under Condition 1 above shall include details of all necessary on-site highway infrastructure, including access roads, turning areas, footways, street lighting and highway drainage, together with a timetable for the implementation of these works. No dwelling shall be occupied until the highway infrastructure serving that unit has been provided, in accordance with the approved details, and the relevant roads and footways finished to at least binder course level. These works shall thereafter be fully completed in accordance with the approved timetable.

6) *Travel Plan*

6.1 None of the proposed dwellings shall be occupied until the submitted Travel Plan (by Bancroft Consulting, dated January 2013) has been brought into effect, in accordance with a timetable to be submitted to the local planning authority and approved in writing. The Travel Plan shall thereafter be implemented in accordance with the approved details.

7) *Drainage works*

7.1 No development shall be commenced until a detailed scheme of foul and surface water drainage has been approved in writing by the local planning authority. The scheme shall provide for the attenuation of surface water run-off, and the disposal of

foul sewage to the public sewer network, in accordance with the general principles outlined in the submitted 'Level 2 Flood Risk Assessment' by Wallingford Hydrosolutions Ltd, dated December 2013.

7.2 The drainage scheme shall also include an assessment of the flood risks arising from the existing watercourse adjacent to the site, and any necessary measures to protect future occupiers and users of the development from any such risks.

7.3 In addition, the scheme shall also include details of how the proposed foul and surface water drainage systems will be managed and maintained throughout the lifetime of the development.

7.4 No dwelling shall be occupied until the foul and surface water drainage works to serve that dwelling have been installed and brought into use, in accordance with the details thus approved. Thereafter, the drainage systems shall be managed and maintained in accordance with the approved arrangements.

8) *Noise attenuation*

8.1 No development shall be commenced until a noise attenuation scheme has been submitted to the local planning authority and approved in writing. The scheme shall define in detail those areas of the site where attenuation is required, based on the indicative noise contours shown in the submitted Ambient Noise Assessment report by Philip Dunbavin Associates, dated November 2013.

8.2 Within the areas thus defined, the scheme shall contain details of measures, including glazing and ventilation systems and acoustic barriers, calculated to achieve the following internal and external noise levels:

Living rooms: not exceeding 35dB L_{Aeq}

Bedrooms: not exceeding 30dB L_{Aeq} / 45dB L_{Amax}

Gardens, amenity areas, play areas and open space: not exceeding 55dB L_{Aeq} .

8.3 The scheme shall also set out the arrangements for the on-going maintenance of all acoustic fencing or other acoustic barriers (including cyclical replacement where necessary), so as to ensure continuing protection to occupiers and users throughout the life of the development.

8.4 No dwelling shall be occupied unless the noise attenuation measures relevant to that dwelling, as specified in the approved scheme, have been installed or erected.

8.5 Thereafter, all acoustic fencing and other barriers shall be retained and maintained in accordance with the approved scheme..

APPEARANCES

FOR THE LOCAL PLANNING AUTHORITY:

Mr Brett Wilson, of Counsel Instructed by the Solicitor to the Council

He called:

Mr Paul Wilson, MCD Corporate Director for Planning Services
DipTP DipMgmt MRTPI

FOR THE APPELLANT:

Mr Jeremy Cahill, QC Instructed by Mr Tom Collins, Fisher German LLP

He called:

Mr Anthony Bateman, Pegasus Group
BA(Hons)TP MRICS
MRTPI MCMi MIOd FRSA

OTHER INTERESTED PERSONS WHO SPOKE AT THE INQUIRY:

Mrs Cherrie Broadhurst	Resident of Wyaston Road
Rev. Mark Broadhurst	Resident of Wyaston Road
Mr Alan Rogers	Resident of Old Derby Road
Mr Charles Swaby	Resident of Osmaston

DOCUMENTS

- 1 Statement of Common Ground, dated September 2014
- 2 Letter from Mrs S Maskrey, resident of Willow Meadow Road, dated 24 October 2014
- 3 Letter from Mrs Broadhurst, dated 30 October 2014 (enclosing copies of her letters relating to the Willow Meadow Farm scheme)
- 4 Letter from the Council, dated 30 October 2014, responding to the Inspector's pre-inquiry note and enclosing Docs Nos. 5-11:
- 5 Local Plan proposals map, as adopted 2005
- 6 Map of housing sites in Ashbourne, recently permitted or under consideration
- 7 Ordnance survey extract showing Peak District National Park boundary in relation to Ashbourne
- 8 Report to Corporate committee, 18 Sept 2014 re: reconsideration of decision on the appeal application
- 9 Minutes of the above
- 10 Report to council meeting, re: withdrawal of the draft Local Plan
- 11 Minutes of the above
- 12 Letter from Cllr Ian Bates, on behalf of Ashbourne Town Council, dated 7 November 2014
- 13 Email dated 10 November 2014 from Mr Stuart Green, resident of Old Derby Road, enclosing spreadsheet of traffic survey data
- 14 Opening submissions by Mr Cahill
- 15 Addendum to Mr Bateman's Appendix 25: updated housing supply tables
- 16 Report to Local Plan advisory Committee, 28 November 2012, re: draft local plan consultation
- 17 Report to Southern Planning Committee, October 2014, re: Ashbourne Airfield planning application
- 18 Report to Committee, 11 November 2014, re: Leys Farm planning application
- 19 Landscape Design associates' report on the appeal proposal, dated July 2014
- 20 Technical note by Bancroft Consultants, in response to Mr Green's traffic survey data
- 21 Drawing No F13148/04: proposed junction improvement, Derby Road/Sturston Road
- 22 Rev. Broadhurst's speaking notes, with 'Planning Resource' item re appeal decision in Wiltshire
- 23 Council's list of proposed conditions
- 24 Executed Section 106 agreement



Appeal Decision

Site visit made on 15 December 2014

by J Westbrook BSC(ECON) MSC PGCE MRTPI

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

Decision date: 17 December 2014

Appeal Ref: APP/P1045/D/14/2227285

96 Belper Road, ASHBOURNE, Derbyshire, DE6 1BD

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr John Partridge against the decision of Derbyshire Dales District Council.
 - The application Ref 14/00135/FUL was refused by notice dated 21 July 2014.
 - The development proposed is an extension to an outbuilding to form ancillary accommodation for a dependent relative.
-

Decision

1. The appeal is dismissed

Main issue

2. The main issue in this case is the effect of the proposed development on the character and appearance of the area around Belper Road and on the host dwelling.

Reasons

3. No 96 Belper Road is a large, two-storey detached house, on an extensive plot and situated on the south side of the road. It is set well back from the road and shares an access with the neighbouring house to the west. The appeal property has a single-storey side extension, projecting at an angle forward of the main house, which houses a twin garage, a car port and a utility room. There is a detached outbuilding to the side of the house, to the rear of the garage, which currently comprises a television lounge and a shower/utility room. The outbuilding measures some 7 metres by 4 metres and has an angled corner to provide access between the building and the garage.
4. The proposed development would involve an extension of the outbuilding by a further 5.5 metres to the south and the construction of a first floor over the whole extended building. It would have a living room, kitchen and shower room downstairs, and two bedrooms and a bathroom on the first floor. It would have a hipped roof and materials to match the existing. It would project some 2 – 3 metres beyond the rear elevation of the existing house and would be some 6-7 metres from the side elevation of the house.
5. The outbuilding as extended would have the form of a self-contained, two-bedroomed detached dwelling. The supporting statement describes the building as a dwelling and indicates that it would be occupied by the son of the

- appellant. There is no indication as to the nature of the dependency of the son upon the rest of the household, if any.
6. I accept that a condition could be imposed on the completed building to ensure that its use remained incidental to that of the main dwelling. However, the building would appear to be, if anything, slightly deeper than the host dwelling and it would fail to appear subordinate to it. The dwelling is already set further back into the surrounding countryside than the other properties in the row on the south side of the road, and the extended two-storey outbuilding would project out still further, albeit by a small amount.
 7. By virtue of its scale, and regardless of the dependence or independence of its occupants, it would have the appearance of a separate two-storey dwelling in very close proximity to the existing house. It would result in a somewhat cramped grouping of buildings and structures in what is otherwise a large, spacious plot that effectively extends into the countryside. On this basis it would conflict with Policies SF5(a) and H2(a) of the Derbyshire Dales Local Plan (LP), which relate to the design and appearance of development, including the impact of house extensions.
 8. Policy H3 of the LP relates to the development of dependent persons units. It requires that the scale of such a unit is commensurate with the needs of the dependent person and that it would not result in a detrimental impact on the character and appearance of the dwelling and its surroundings. I have no details relating to the needs of the dependent person, in this case the appellant's son, or why a self-contained two-bedroomed unit would be required to meet those needs. For this reason and having regard to my conclusions in the previous paragraph, I find that the proposal would conflict with Policy H3(a) and (b) of the LP.
 9. In conclusion, I find that the proposal would be harmful to the generally spacious character and appearance of the area and to the host dwelling itself. It would conflict with policies in the Council's Local Plan and there are no material considerations before me to indicate that the decision should be taken otherwise than in accordance with that Plan.

J Westbrook

INSPECTOR

BACK TO AGENDA