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2 April 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 14 April 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 be 'Sandra Lamb', written in a cursive style.

Sandra Lamb  
Head of Corporate Services

## **AGENDA**

**SITE VISITS** The Committee is advised a coach will leave the **ASHBOURNE ELIM PENTECOSTAL CHURCH** at **4.30PM 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](mailto:committee@derbyshiredales.gov.uk) of any apologies for absence and substitute arrangements.

### **2. APPROVAL OF THE MINUTES OF THE PREVIOUS MEETING**

25 February 2015.

### **3. INTERESTS**

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

#### 4. APPLICATIONS FOR DETERMINATION

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

##### PUBLIC PARTICIPATION

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

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| 4.1 | <b>APPLICATION NO. 15/00036/FUL (Site Visit)</b><br>Single-storey rear extension at 15 South Street, Ashbourne.   | 4 - 7   |
| 4.2 | <b>APPLICATION NO. 14/00849/FUL (Site Visit)</b><br>Erection of dwelling at land adjacent 29 Mayfield Road, Ashbourne, Derbyshire.  | 8 - 15  |
| 4.3 | <b>APPLICATION NO. 14/00801/FUL</b><br>Retention of mobile home for use as a temporary rural workers dwelling for a period of 5 years, Keepers Field, Bullhill Lane, Ireton Wood. | 16 - 22 |
| 5.  | <b>APPEALS PROGRESS REPORT</b><br>To note a report on appeals to the Planning Inspectorate.   | 23 - 50 |

##### 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](mailto: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.



15/00036/FUL

15 South Street, Ashbourne



Derbyshire Dales DC

1:1,250

Date: 02/04/2015

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

**15/00036/FUL SINGLE-STOREY REAR EXTENSION AT 15 SOUTH STREET,  
ASHBOURNE FOR MR. ROBINSON**

Application Type: FULL  
Town Council: Ashbourne

Date of Receipt: 22<sup>nd</sup> January 2015  
Case Officer: Mr. A. T. Ecclestone

**THE SITE AND SURROUNDINGS:**

The application property is a mid-terraced dwelling, situated to the south of the town centre off Station Street. The property has a shared passage way to the side and a back yard area. The neighbouring dwelling at no. 17 has a conservatory structure to the rear elevation which overlooks the rear yard of the application property.

**THE APPLICATION:**

The proposal is for a single-storey rear extension with lean to roof to provide a breakfast room to the rear of the existing dwelling. The extension is proposed to wrap around the existing off shot kitchen to the rear elevation. Overall the extension will project 4.1m from the rear elevation of the main part of the dwelling. The maximum height of the roof structure is to be 3.6m and the lower end of the lean to roof 2.6m.

**RELEVANT HISTORY:**

None.

**CONSULTATIONS:**

Local Highway Authority:  
No objection.

Town Council:  
No objection.

**REPRESENTATIONS:**

One objection received from the neighbouring resident which is summarised as follows:

- Loss of light
- Imposing brick wall in close proximity to no. 17.

**POLICIES:**

Adopted Derbyshire Dales Local Plan (2005)  
SF1: Development Within Settlement Framework Boundaries  
SF5: Design And Appearance Of Development  
H2: Extensions to Dwellings

National Planning Policy Framework and National Planning Policy Guidance

**ISSUES:**

The proposed extension is considered to be of a design and materials that will compliment and be in keeping with the character and appearance of the existing dwelling.

Therefore, the issue to consider in this case is the impact the proposed single-storey rear extension will have upon the amenity of the neighbouring property. Concern has been raised by a neighbouring resident that the proposed extension will block natural light to their property and will be an imposing structure in close proximity to the boundary.

As the properties are in a terraced row they naturally have a close relationship with one another. The neighbouring property no. 17 South Street has a conservatory structure to the rear which undoubtedly has some impact upon the application property in terms of overlooking.

Given the close relationship between the properties and the existence of an extension to the neighbouring property, it is considered that in this case the proposed extension will improve the privacy of the application property. Whilst the proposed extension will have some impact upon the neighbour at no. 17, as it will form a wall in close proximity to their conservatory, the same could occur through the erection of a boundary treatment which could be erected as permitted development. In view of this it is considered that, on balance, the proposed extension will not cause such harm to the amenity of the neighbouring residents such that refusal is warranted in this case.

As a window to the side elevation close to the neighbour is proposed, it is essential to ensure that this is a non-opening and obscure glazed window and that it will remain as such in perpetuity. No further windows should be added to the side elevation without the benefit of planning permission. The brick to the elevations of the extension are also required to match the existing. These matters can be covered by conditions, a grant of planning permission is therefore recommended.

**OFFICER RECOMMENDATION:**

Planning Permission be granted subject to conditions:

1. Condition ST02a: Time Limit on Full.
2. The window to the side elevation as shown on plan 1447 02A shall be non-opening and obscure glazed and shall remain so in perpetuity.
3. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or in any Statutory Instrument revoking or re-enacting that Order with or without modification) no further windows, including dormer windows, or other openings shall be formed in the side elevation of the extension hereby approved without the prior written approval of the Local Planning Authority upon an application submitted to it.
4. The proposed brickwork to the extension shall match in terms of colour and size the brick of the existing dwelling.

Reason:

1. Reason ST02a.
- 2-3. To safeguard the privacy and amenity of occupiers of neighbouring properties in accordance with Policies SF1, SF5 and H2 of the Adopted Derbyshire Dales Local Plan and guidance contained within the National Planning Policy Framework.
4. To ensure an appropriate finished form of development in accordance with Policies SF5 and H2 of the Adopted Derbyshire Dales Local Plan and guidance contained within the National Planning Policy Framework.

Note to applicant:

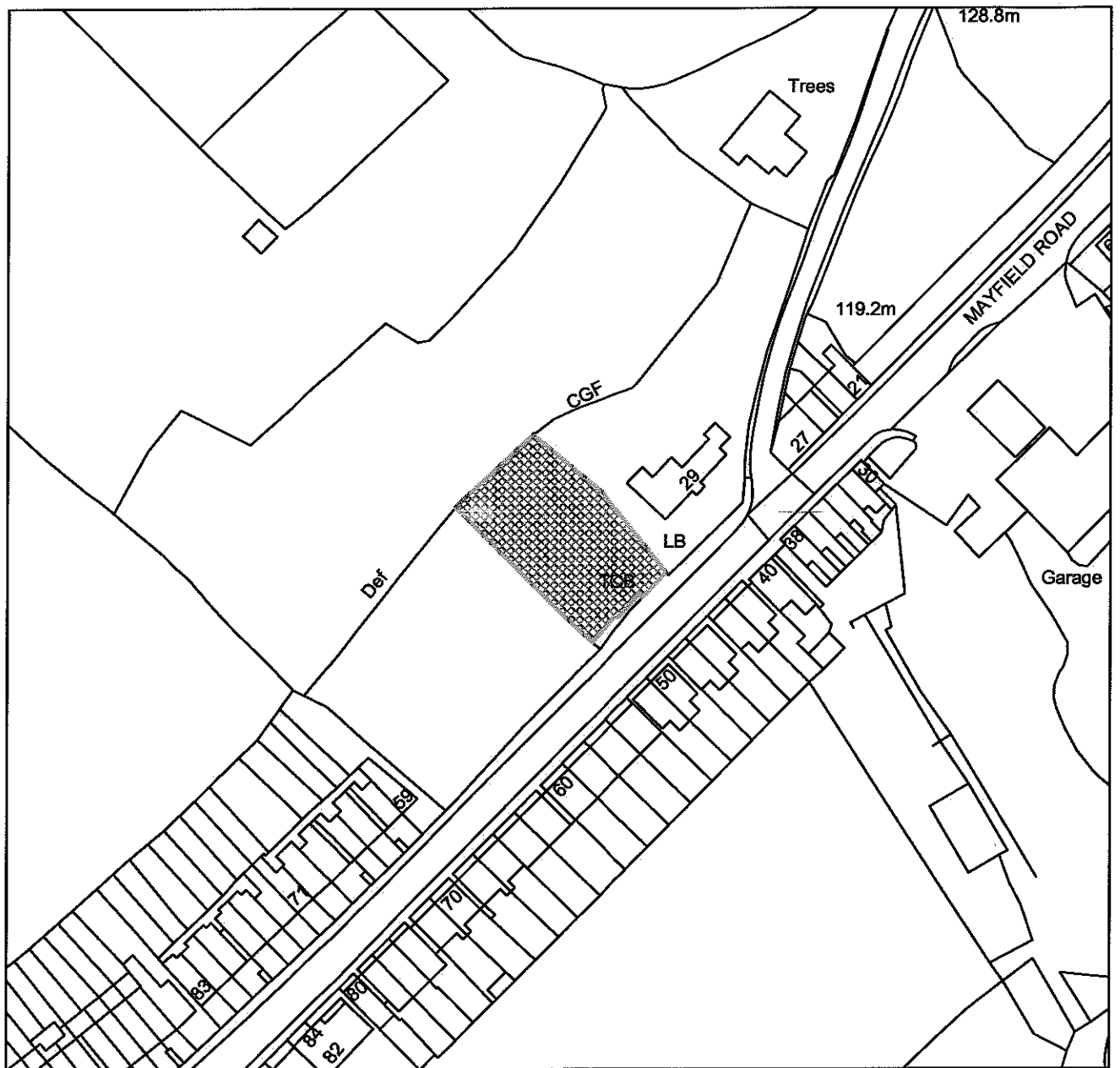
This Decision Notice relates to the following documents:

Drawings numbered 01 and 02A, received by the Council on 26<sup>th</sup> January 2015.

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

14/00849/FUL

Land adjacent to 29 Mayfield Road, Ashbourne



Derbyshire Dales DC

1:1,250

Date: 02/04/2015

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



**14/00849/FUL ERECTION OF DWELLING AT LAND ADJACENT 29 MAYFIELD ROAD, ASHBOURNE, DERBYSHIRE FOR HANNAH ELLIS-HUNT**

Town Council: Ashbourne  
Application type: Full

Date of receipt: 10.12.14  
Case Officer: Mr Chris Whitmore

**THE SITE AND SURROUNDINGS:**

The application site concerns an area of steeply sloping land to the west of No. 29 Mayfield Road at the western end of Ashbourne, close to the Dark Lane road junction. The site is less 0.1ha in area and includes the existing access to no. 29 Mayfield Road and a small orchard, which is bound to the north by a post and rail fence and west by an established hedgerow. No. 29 Mayfield Road is a large detached rendered property elevated above road level. Existing hedgerow and tree planting screen the building from the road. Opposite the site access on the southern side of Mayfield Road are terraces of traditional red brick and tiles dwellings. The site sits outside Ashbourne Conservation Area, which is located to the east.

**THE APPLICATION:**

Full planning permission is sought to erect a single dwelling with integral garage on the land. The proposed dwelling will be in the form of a three storey property with a shallow mono-pitch roof. It will share the existing access with no. 29 Mayfield Road. Its front wall will line though with the north facing wall of a later outshot at the rear of no. 29 Mayfield Road. Due to the difference in levels the proposed dwelling will sit 1.4m (approx.) above the ridge level of the adjacent dwelling. Its overall height will also be slightly higher at 8m. The proposed dwelling will be 12m wide by 8m deep and will be cut into the site, so that the rear wall will only be 5.5m above relative ground level. The proposed dwelling will have a contemporary appearance and will be faced in a mixture of render and 'Trespa' panels finished a graphite grey colour. A small entrance lobby with flat roof will sit proud of the principal elevation, which will be staggered.

In order to accommodate the dwelling three small, unprotected Cherry trees will need to be removed. All other tree planting on site is shown to be retained. Parking and circulation space for up to two cars is shown in front of the proposed dwelling.

**RELEVANT HISTORY:**

04/09/0818	Erection of three storey dwelling and associated access	Appeal against non-determination dismissed
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**CONSULTATIONS:**

Town Council:

Object. Members feel that the dwelling is not in keeping with the surrounding area and out of character with other dwellings. They also raise concerns regarding the access.

Local Highway Authority:

The proposals seek to use the existing access serving No. 29 Mayfield Road and reconfigure the internal access arrangements to provide a shared access for no. 29 and the new property. The existing access would, with the land identified by the application site boundary, appear to achieve 2.4m x 43m visibility sightlines, when measured up to 1m out into the carriageway at each extremity. This would be sufficient to meet current safe minimum criteria, it will however, require regular

maintenance of the frontage vegetation / hedge to ensure that this is maintained for the life of the development. I have also considered recorded accident statistics in the vicinity and whilst there are 2 recorded accidents within 100m of the proposed site, none appear attributable to the operation of the existing domestic access.

The existing driveway gradient is relatively steep, however, it is obviously used on a regular basis in association with the existing property. Whilst it would be desirable to achieve a lesser driveway gradient this is not something the Local Highway Authority could sustain an objection to, on highway safety grounds.

The proposals include provision of additional on-site car parking spaces for both properties, which is considered acceptable from a highway safety viewpoint.

Therefore, on the basis of the information submitted and subject to conditions it is unlikely the Local Highway Authority would be in a position to sustain an objection to the proposals on highway safety grounds.

### **REPRESENTATIONS:**

An email of representation from a member of the public has been received. They consider that the proposed building is out-of-keeping with the surrounding area and agree with Ashbourne Town Council's comments.

### **POLICIES:**

Adopted Derbyshire Dales Local Plan 2005

SF4: Development in the Countryside

SF5: Design And Appearance Of Development

H9: Design And Appearance Of New Housing

NBE6: Trees And Woodland

NBE8: Landscape Character

NBE26: Landscape Design In Association With New Development

TR1: Access Requirements And The Impact Of New Development

TR8: Parking Requirements For New Development

Other:

The National Planning Policy Framework (2012)

National Planning Practice Guidance (2014)

### **ISSUES:**

1. The site lies outside of the settlement framework boundary for Ashbourne (as defined in the current Adopted Derbyshire Dales Local Plan (2005), within the countryside. Policy SF4 of the Adopted Local Plan aims to restrict development in the countryside to that which is essential to such a location. Policy H4 of the Adopted Local Plan specifically deals with 'Housing Development Outside Settlement Framework Boundaries' and advises planning permission will be granted for housing that:
  - a) Is essential for the operation of agriculture, forestry or other rural enterprise that needs to be in that location, or
  - b) Consists of affordable housing for an identified local need.
2. The proposed development is not stated to be for either of these purposes. The case put forward on behalf of the applicant is that the proposed development is justified on the basis of the District Council's inability to demonstrate a five year supply of housing

land. In such circumstances, Paragraph 14 of the National Planning Policy Framework (2012) advises that there is a policy presumption in favour of granting planning permission for new housing development, unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits.

3. In judging whether any adverse impacts of granting permission for a single dwelling on the land would, in this case, outweigh the benefits the main issues to assess having regard to relevant policies of the Development Plan and national guidance are:
  - a) the suitability of the location with regard to access to services, facilities and employment opportunities;
  - b) the impact of the development on the character and appearance of this part of Ashbourne / the countryside;
  - c) whether the design of the dwelling would be in scale and character with its surroundings;
  - d) the impact on the amenity of the occupants of the adjacent dwelling (no. 29 Mayfield Road), and;
  - e) whether there would be any highway safety implications.

#### *Suitability of location*

4. The application site sits on the fringes of Ashbourne, within walking distance of a number of shops, schools and other important services and facilities. The erection of a single dwelling on the land would therefore constitute a sustainable form of development (an aim of national guidance), insofar as access to key services, facilities and employment opportunities is concerned.

#### *Impact of the development on the character and appearance of this part of Ashbourne / the countryside*

5. The proposal will be similar in nature to and will form a continuation of the residential development along Dark Lane. The proposed dwelling will be well screened in views from the road, despite the loss of three small unprotected Cherry trees of limited amenity value, and will not compete visually with the characteristic terraced development on the opposite side of Mayfield Road. Being well contained by retained tree and hedgerow planting (in the adjoining field) the development would not represent a significant intrusion into the countryside, such that refusal on the ground that the development would be harmful to this part of Ashbourne / the countryside could be sustained it is considered.

#### *Whether the design of the dwelling would be in scale and character with its surroundings*

6. A key consideration is whether the proposed dwelling would be in scale and character with its surroundings. Policies SF5 and H9 of the Adopted Derbyshire Dales Local Plan (2005) deal with matters of design. Policy SF5 advises that planning permission will only be granted for development where... (a) the scale, density, massing, height, layout, materials of construction and landscaping preserves or enhances the quality and local distinctiveness of its surroundings. Policy H9 requires new housing development to be in scale and character with its surroundings and have regard to distinctive landscape features amongst other considerations. The National Planning Policy Framework is a material planning consideration in development management decisions and states in respect of design that development should add to the overall

quality of the area and respond to local character and history, and reflect the identity of local surroundings. It is recognised that good design is a key aspect of sustainable development and should contribute positively to making places better for people. The Inspector in the consideration of application 04/09/0818 concluded that the effect of erecting a full height three storey dwelling, occupying the same part of the site, would not be of great visual significance. With regard to the design of the previously proposed dwelling the Inspector did not consider, given the context of the site, that the imitation of earlier housing styles was necessary and did not consider the proposed design to be incongruous. The dwelling that is now proposed, due to its reduced height, would not appear as prominent within the streetscene. By cladding the exterior walls at second floor level in graphite coloured sheets it would imitate / have the feel of a tiled roof and would break up the massing of the front wall. The pallet of materials has been reconsidered (and amended drawings received) so that they reflect more closely the materials used in the construction of properties in the local area. The design of No. 29 Mayfield Road and the properties that line the northern side of Dark Lane vary and reflect the building styles at the time of construction. The contemporary design of the proposed dwelling is not considered to be inappropriate in this regard. The proposed dwelling would have a close association with no. 29 Mayfield Road, by reason of its close proximity. Being faced in render the proposed dwelling would have an affinity with this property.

*Impact on the amenity of the occupants of the adjacent dwelling.*

7. The proposed dwelling would be positioned behind the rear wall of the adjacent dwelling (no. 29 Mayfield Road). The siting, orientation, height and scale of the proposed dwelling and the position of window openings is such that it would not overshadow the adjacent dwelling, appear overbearing or result in any loss of privacy.

*Highway Safety Implications*

8. The Local Planning Authority are satisfied, subject to conditions, that the existing access can serve an additional dwelling without detriment to highway safety and that a suitable level of off street parking can be achieved.

*Summary*

9. Taking the above into consideration, it is concluded that there would be no significant and demonstrable adverse impacts in granting permission that would outweigh the benefits of delivering a single dwelling on the land, close to existing services and facilities and employment opportunities and contributing to the District Councils supply of housing in this case. A recommendation of approval is put forward on this basis.

**OFFICER RECOMMENDATION:**

To grant planning permission subject to the following conditions:

1. ST02a: Time Limit On Full.
2. This permission relates solely to the application as amended by the revised plans received by the Local Planning Authority on the 24<sup>th</sup> February 2015 numbered 178/PD/02A and 178/PD/01B.

3. Samples of all materials to be used in the construction of the external surfaces of the proposed dwelling shall be submitted to and approved in writing by the Local Planning Authority prior to the commencement of development. The development shall thereafter be constructed in accordance with the approved details.
4. Prior to the commencement of development details of all windows and doors to be installed in the walling of the dwelling hereby approved shall be submitted to and approved in writing by the Local Planning Authority. The submitted details shall include material, finish, depth of reveal, details of any heads, cills and lintels, elevations at a scale of not less than 1:10 and horizontal/vertical frame sections at a scale of not less than 1:2. The development shall thereafter be carried out in accordance with the approved details.
5. Before any other operations are commenced (excluding site clearance), space shall be provided within the site curtilage for the storage of plant and materials, site accommodation, loading and unloading of goods vehicles, parking and manoeuvring of site operatives and visitors vehicles, laid out and constructed in accordance with detailed designs to be submitted in advance to the Local Planning Authority for written approval and maintained throughout the contract period in accordance with the approved designs free from any impediment to its designated use.
6. The existing access shall be maintained as per the application drawings, constructed with a solid bound material and be provided with 2.4m x 4.3m visibility splays in either direction (measured up to 1m into the carriageway at the extremity of the splay), the area in advance of the sightlines being maintained clear of any object greater than 1m in height (0.6m in the case of vegetation), relative to adjoining nearside carriageway channel level and maintained as such for the life of the development.
7. The premises, the subject of the application, shall not be taken into use until space has been provided within the application site in accordance with the application drawings for the parking and manoeuvring of residents / visitors vehicles (including secure covered cycle parking), laid out, surfaced and maintained throughout the life of the development free from any impediment to its designated use.
8. There shall be no gates, chains or other barriers within 5m of the nearside highway boundary and any gates shall open inwards only.

Reasons:

1. ST02a.
2. For the avoidance of doubt.
3. To assist in the selection of appropriate materials and to ensure a satisfactory external appearance of the development in accordance with the aims of Policies SF5 and H9 of the Adopted Derbyshire Dales Local Plan (2005) and guidance contained within the National Planning Policy Framework (2012).
4. To ensure a satisfactory external appearance of the development in accordance with the aims of Policies SF5 and H9 of the Adopted Derbyshire Dales Local Plan (2005) and guidance contained within the National Planning Policy Framework (2012).

5. In the interests of highway safety in accordance with the aims of Policy TR1 of the Adopted Derbyshire Dales Local Plan (2005) and guidance contained within the National Planning Policy Framework (2012).
6. In the interests of highway safety in accordance with the aims of Policy TR1 of the Adopted Derbyshire Dales Local Plan (2005) and guidance contained within the National Planning Policy Framework (2012).
7. In the interests of highway safety in accordance with the aims of Policy TR1 and TR8 of the Adopted Derbyshire Dales Local Plan (2005) and guidance contained within the National Planning Policy Framework (2012).
8. In the interests of highway safety in accordance with the aims of Policy TR1 of the Adopted Derbyshire Dales Local Plan (2005) and guidance contained within the National Planning Policy Framework (2012).

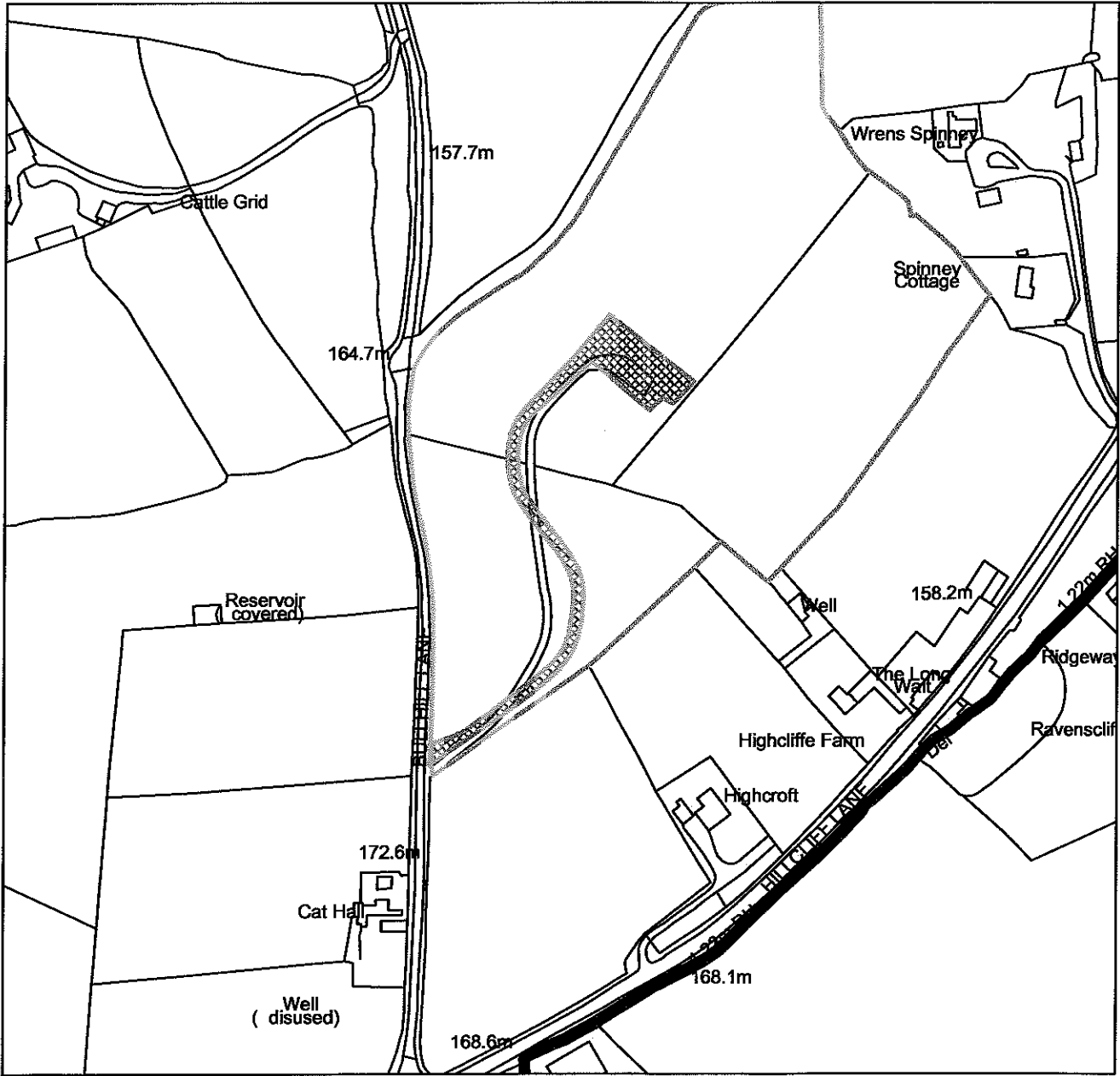
Footnotes:

1. During the consideration of the application the Local Planning Authority engaged in a positive and proactive dialogue with the applicant which resulted in the submission of scheme that overcame initial concerns regarding the appearance of the proposed dwelling.
2. NFA20 Conditions Precedent... Conditions 3, 4, and 5.
3. NFA21 Conditions Fee Discharge.
4. The Highway Authority recommends that the first 5m of the proposed access driveway should not be surfaced with a loose material (i.e. unbound chippings or gravel etc.). In the event that loose material is transferred to the highway and is regarded as a hazard or nuisance to highway users the Authority reserves the right to take any necessary action against the householder.
5. Pursuant to Sections 149 and 151 of the Highways Act 1980, the applicant must take all necessary steps to ensure that mud or other extraneous material is not carried out of the site and deposited on the public highway. Should such deposits occur, it is the applicant's responsibility to ensure that all reasonable steps (e.g. street sweeping) are taken to maintain the roads in the vicinity of the site to a satisfactory level of cleanliness.
6. Pursuant to Section 163 of the Highways Act 1980, where the site curtilage slopes down towards the public highway measures shall be taken to ensure that surface water run-off from within the site is not permitted to discharge across the footway margin. This usually takes the form of a dish channel or gully laid across the access immediately behind the back edge of the highway, discharging to a drain or soakaway within the site.
7. Pursuant to Section 50 (Schedule 3) of the New Roads and Streetworks Act 1991, before any excavation works are commenced within the limits of the public highway (including public Rights of Way), at least 6 weeks prior notification should be given to the Director of Environmental Services at County Hall, Matlock (telephone 01629 580000 and ask for the New Roads and Streetworks Section).

This Decision Notice relates to the following documents:  
NTS Block Plan As Proposed, and;  
Design and Access Statement by Dove Architectural Design Limited received by the District Council on the 17<sup>th</sup> December 2014, and;  
1:1250 and 1:100 Scale Site Location and Proposed Dwelling Layout and Cross Section Plan numbered 178/PD/01B;  
1:100 Scale Proposed Dwelling Elevations and Section Plan numbered 178/PD/02A;  
1:100 Scale Plan Showing the Relationship of the Proposed Dwelling with No. 29 Mayfield Road numbered 178/PD/04, and;  
Email and Supporting Photographs from the Applicants Agent received by the District Council on the 24<sup>th</sup> February 2015.

14/00801/FUL

Keepers Field, Bulhill Lane, Ireton Wood



Derbyshire Dales DC

1:2,500

Date: 02/04/2015

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Town Hall, Bank Road, Matlock, Derbyshire DE4 3NN.  
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**14/00801/FUL      RETENTION OF MOBILE HOME FOR USE AS TEMPORARY  
RURAL WORKERS DWELLING FOR A PERIOD OF 5 YEARS,  
KEEPERS FIELD, BULLHILL LANE, IRETON WOOD FOR MR. M.  
GOODWIN**

Parish Council:      Hulland Ward  
Application type:    Full

Date of receipt: 16.12.2014  
Case Officer: Mr. W. Shaw

**INTRODUCTION:**

This application relates to an existing mobile home which was originally granted planning permission, on appeal, for a temporary 3 year period on 13<sup>th</sup> November 2009. A further application, received on 13<sup>th</sup> September 2012 sought another 3 year temporary period for the mobile home to allow the occupier, a person engaged in a game bird rearing business, to remain in residence as an essential worker, at his business premises. After due consideration, and notwithstanding a recommendation of refusal based on a lack of financial viability and failure to demonstrate that the business was a sustainable enterprise, members determined to be in favour of the application, but for a further 18 months only and not 3 years, as applied for. Having noted that the business had experienced difficult operating conditions due to the economy Members considered that the extension to the temporary period that the mobile home could remain on site should enable the applicant to develop and operate a sustainable business, including one that has financial viability, which would ultimately enable a permanent dwelling to be afforded by the business.

The temporary 18 month period expired on 24<sup>th</sup> October 2014, and, without any communication from the applicant the Council initially served a breach of condition notice. However, a further application (the subject of this report) was received on 16<sup>th</sup> December 2014 and validated on 29<sup>th</sup> December 2014. Following a period of consideration the Council issued an Enforcement Notice, dated 3<sup>rd</sup> February 2015, which the applicant has lodged an appeal against. It is also the case that an appeal has also been lodged against the 'non determination' of this application which seeks to retain the mobile home on site for a further 5 year period.

As the Council is now unable to formally determine this application, Members are now requested to advise whether or not they would have been in favour of the application. The resolution arrived at may then be referred to the Planning Inspectorate for information in the consideration of the latest appeals concerning this particular site.

**THE SITE AND SURROUNDINGS:**

The application relates to a temporary mobile home located on the applicant's game bird rearing enterprise located off Bullhill Lane at Turnditch. The temporary dwelling is positioned in a middle part of some 4 hectares of land upon which there are numerous timber bird shelters, an aviary enclosure, a storage container and the caravan in which the applicant resides. Access is through a recessed gate from Bullhill Lane along a track which winds up and over a crest before reaching a parking area next to the caravan.

The site is for the most part enclosed by well-established hedgerow, including one passing through a middle part of the premises in a southwest to northeast direction. A number of dwellings are located beyond the premises southern and eastern boundaries; a public footpath borders the northern perimeter of the enterprise.

## **THE APPLICATION:**

The application seeks to retain the existing mobile home upon the application site for use as a rural workers' dwelling for a further temporary period of 5 years.

A supporting statement dated December 2012, advises that the 18 month temporary period previously granted has not afforded the applicant time to develop the business to its full potential. Difficult personal circumstances have brought financial pressures which, in turn, have constrained investment. This has been exacerbated by the short length of the permission which has also been a constraint on investment. Nevertheless the business remains viable and provides the applicant with full-time employment. Reference is made to the National Planning Policy Framework having replaced PPG7 and there no longer being the need for a financial justification, as well as a functional need, for a rural worker dwelling. The Statement refers to Adopted Local Plan Policies H4 and H7 both allowing for houses outside Settlement Framework boundaries where the dwelling is essential for the operation of a rural business that needs to be in such a location. However, Policy H7 refers to the functional and financial tests of PPG7 which are replaced by the National Planning Policy Framework, in which there is no such requirement.

Paragraphs 214 and 215 of the National Planning Policy Framework are cited which allowed for decision-makers to give full weight to Local Plan policies adopted since 2004, for a further 12 months, following publication of the National Planning Policy Framework in March 2012, even if there is a limited degree of conflict with the Framework. After this period, due weight may only be given to relevant policies in existing plans according to their degree of consistency with the Framework. Hence, it must, therefore, be questioned whether Policy H7 can continue to be given weight as it requires tests which no longer form part of National Policy.

The Statement refers back to the Appeal Inspector accepting that this development was in compliance with the criteria set out in the Local Plan Policy, and as there has been no change in relevant Local Plan Policy, that clearly remains the case. Reference is made to Paragraphs 18, 19 and 28 of the National Planning Policy Framework which relate to economic growth to create jobs and prosperity; for the planning system to encourage sustainable growth and not act as an impediment to it and that planning should support economic growth in rural areas. The Statement refers to paragraph 55 of the National Planning Policy Framework which advises that to promote sustainable development in rural areas Local Planning Authorities should allow isolated homes in the countryside where there is an essential need for a rural worker to live permanently at or near their place of work in the countryside. Significant weight must thus be placed on the need to support economic growth through the planning system.

The Statement adds it is evident that since the appeal decision national guidance now reflects even greater support for rural enterprise and for housing to support such enterprises.

The game farm business is now well established, it has been operating successfully for more than 5 years and benefits from a permanent permission by virtue of the appeal decision in 2009. The Inspector accepted that the enterprise is capable of being viable and sustainable. Both the Council and the Inspector agreed (at the 2009 Appeal) that a rural business of this nature cannot function without a permanent presence of a worker to be readily available and the mobile home is well sited to be the functional requirements of the enterprise.

On the issue of its impact on landscape character, the Appeal Inspector stated that even in winter he did not consider that the mobile home would be harmful to any significant extent on the character and appearance of the countryside.

The Statement concludes that whilst the business is already viable and well-established the 18 month period granted by the most recent permission has not enabled the applicant to develop the business to its full potential and has been a constraint on investment. The mobile home was accepted by the Appeal Inspector in 2009, based on National and Local Policy. He accepted that the functional need had been met and that the financial test could be met. The visual impact of the mobile home was not significantly harmful. The only change in national planning policy context has been for greater encouragement for rural enterprise and a relaxation of controls over houses for rural workers. There can be no justification for a refusal to renew the permission for a further period, indeed it can be argued that under current guidance a permanent permission is justified. However, this application merely seeks a permission for a further 5 years.

### **RELEVANT HISTORY:**

APP/P1045/W/15/3005486 – Appeal against Enforcement Notice relating to Removal of Mobile Home – Pending.

12/00547/FUL: Retention of Mobile Home for Use as Temporary Rural Worker Dwelling for a Period of 3 Years – Granted (for 18 month period only)

08/00554/TEMP: Siting of mobile home for use as temporary agricultural workers dwelling in connection with game farm business – Refused (appeal allowed)

Appeal Ref: APP/P1045/C/09/210674 – Appeal against an enforcement notice. The breach of planning control as alleged in the notice was without planning permission:

1. the material change of use of the land to use for the stationing of a mobile home for the purposes of human habitation,
2. unauthorised engineering operations comprising the formation and surfacing of an access driveway across the land.
3. unauthorised building operations comprising the erection of numerous fenced enclosures and structures on the land which are utilised for the rearing of game birds.

(Appeal allowed)

### **CONSULTATIONS:**

Local Highway Authority:

No objection subject to agricultural occupancy restriction to support agricultural operations on surrounding controlled farmland.

Parish Council:

The Parish Council have not received any adverse comments about this application. Providing the applicant can produce accounts to show that this unit is a workable business venture, there are no objections.

### **REPRESENTATIONS:**

A local resident objects to the application for the following reasons.

From the very beginning almost every requirement and regulation for a rural enterprise has been abused. An extension of occupation of the mobile home was agreed to by

Councillors contrary to the Officer recommendation and facts. The enterprise has failed and, as a result, both the Council and other parties have suffered considerable expense and inconvenience. Yet one more attempt is being made to retain occupation of the mobile home illegally sited and occupied from the beginning. I wish to register the strongest opposition to any further concession in this respect, further I request that all vestiges of occupation be removed from the site and, with respect, may I suggest every statement made in support is carefully vetted.

#### **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
- NBE8: Landscape Character
- NBE12: Foul Sewage
- NBE26: Landscape Design In Association With New Development
- TR1: Access Requirements And The impact Of New Development
- TR8: Parking Requirements For New Development

2. National Planning Policy Framework (2012)

#### **ISSUES:**

1. As with the previous application for the retention of the mobile home, granted for a period of 18 months, instead of the 3 year period applied, the main issue to consider is whether there is relevant planning policy justification for the mobile home to remain on site for a further 5 year period.
2. Firstly, by way of background, the Inspector who dealt with the original appeals relating to the game bird rearing enterprise and the temporary mobile home, came to the following conclusions. First, there was a firm intention and an ability of the appellant to develop the enterprise as proposed. He also considered that it is essential for the proper functioning of the enterprise for a worker to be readily available at most times. The Inspector noted that the appellant's profit and loss account showed a profit, albeit below the minimum agricultural wage. Also there was no business plan nor detailed financial projections. The Inspector considered the appellant's intentions to develop the business to incubate and hatch eggs to save costs, which was stated to lead to business profitability, in excess of £20,000, although detailed costs associated with this were unclear. Also, there was a business loan which the appellant stated would appear in the next set of accounts. However, the Inspector considered that there was just sufficient information for him to conclude that the financial aspect of the enterprise had been properly considered by the appellant and that the enterprise 'could' be viable in the future. This can be tested again with the benefit of more sets of accounts at such time as the appellant may reapply for planning permission. Hence, the mobile dwelling was approved for a temporary 3 year period and the game bird rearing enterprises became lawful. (The Council contended that the enterprise had not been planned on a sound financial basis).

3. In September 2012, a further application, referenced 12/00547/FUL, was submitted to retain the temporary mobile home in situ for a further 3 year period. The reason put forward why a permanent dwelling could not be funded by the enterprise, and hence the need for the temporary dwelling to remain at the site, was that a 'double dip' recession had hit the leisure industry for which the enterprise produces and supplies game birds. The Agricultural Consultant representing the applicant set out a business plan for the enterprise, including changes to operations with the aim of it becoming 'completely self-sufficient' during 2013, in terms of rearing pheasant chicks. The Consultant provided a detailed trading profit and loss account for year ending March 2011 and a balance sheet for 2010, showing a profit of £13,404 to the 31<sup>st</sup> March 2011.
4. The further 18 months being granted to allow the mobile home to remain on site, and for the applicant to develop a viable rural enterprise, expired on 24<sup>th</sup> October 2014. The applicant did not engage in further negotiation either before the deadline nor indeed afterwards when the mobile home once more became unauthorised. Hence, the Council commenced proceedings to regularise the breach of planning control, and have the temporary mobile home removed from the premises.

This latest application refers to the business being 'viable and well-established' but offers no financial information to confirm its viability, and as such, in the Council's opinion, its sustainability. The Supporting Statement argues that there is no reference to a need for any 'financial' justification in the National Planning Policy Framework, for rural worker dwellings, the only reference at Paragraph 55 is to 'the essential need for a rural worker to live permanently at or near their place of work in the countryside'. However, at the start of paragraph 55 it begins with 'to promote sustainable development in rural areas' and refers to the special circumstances where new isolated homes may be justified, in the countryside. It is considered that sustainable development should be economically viable development, otherwise, new business ventures with only the potential to become viable could be introduced into rural areas, with essential worker dwellings, which do not thereafter need to be removed even if the business fails to be viable. It is the case that the mobile home has been on site for around 6 years, yet the applicant has still not produced satisfactory financial information to demonstrate that his enterprise is sustainable. The Agricultural Consultant associated with application 12/00547/FUL, when the National Planning Policy Framework was in force, saw fit to present financial information to support the case for the mobile home to remain in place. Without information to demonstrate that the game bird rearing business is a viable enterprise, as claimed in the Supporting Statement, the justification for the mobile home to remain on site has not been demonstrated.

5. The outcome of this particular application is now down to a Planning Inspector as the applicant has lodged an appeal against 'non determination'. However, it is considered inappropriate for the mobile home to remain on site for a further period of 5 years. Hence, had the Council been able to determine this application the recommendation would be one of refusal based on the case set out above, which, in short, relates to the enterprise failing to demonstrate either its current or potential future sustainability, to justify the mobile home being retained.

**OFFICER RECOMMENDATION:**

That Members resolve whether or not they would have been in favour of the application to retain the mobile home as a temporary rural worker dwelling for a further period of 5 years (Committee's resolution may then be forwarded to the Planning Inspectorate for consideration).

**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	Appeals dismissed – copy of appeal decision attached
13/00689/CLEUD	Marston Lane, Doveridge	WR	Appeals dismissed – copy of appeal decision attached
13/00818/FUL	Bradley Nook Farm, Hulland Ward	WR	Appeal being processed
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	Appeals dismissed – copy of appeal decision attached
14/00362/PDA	Firs Farm, Cubley Common	WR	Appeal allowed – copy of appeal decision attached
14/00429/PDA	The Cedars, Hollington	WR	Appeal dismissed – copy of appeal decision attached
14/00664/PDA	Kingsgrove Farm, Brailsford	WR	Appeal being processed
14/00801/FUL	Keepers Field, Bullhill Labne, Ireton Wood	WR	Appeal being processed
ENF/14/00082	Keepers Field, Bullhill Labne, Ireton Wood	WR	Appeal being processed
14/00641/FUL	Parkfield Byre, Offcote, Kniveton	WR	Appeal being processed

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

**OFFICER RECOMMENDATION:**

That the report be noted.

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# Appeal Decision

Site visit made on 27 January 2015

**by Michael R Moffoot DipTP MRTPI DipMgt MCMi**

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

**Decision date: 19 March 2015**

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**Appeal Ref: APP/P1045/A/14/2217296**

**Bradley Pastures, Bradley, Ashbourne, Derbyshire DE6 1LP**

- 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 Jonathan Archer against the decision of Derbyshire Dales District Council.
  - The application Ref: 13/00710/FUL, dated 1 October 2013, was refused by notice dated 12 March 2014.
  - The development proposed is erection of a single wind turbine generator with 75m hub height.
- 

## Decision

1. The appeal is dismissed.

## Main Issues

2. The main issues in this case are:
  - (i) the effect of the proposed development on the character and appearance of the surrounding area, including the cumulative effect;
  - (ii) the effect of the proposal on the living conditions of the occupiers of dwellings in the locality with particular reference to outlook, noise and disturbance and shadow flicker; and
  - (iii) whether the environmental and economic benefits of the scheme would be sufficient to outweigh any harm that may be caused.

## Reasons

### *Policy background*

3. Amongst other things, Policy SF4 of the *Derbyshire Dales Local Plan (2005)* only permits development in the countryside where the proposal is appropriate in nature and scale to a rural area, preserves or enhances the character and appearance of the countryside and minimises any adverse impact on the local environment. Policy NBE8 states that permission will only be granted for development that protects or enhances the character, appearance and local distinctiveness of the landscape.
4. Policy CS5 provides for renewable energy installations where it can be demonstrated that the benefits of renewable energy production outweigh any adverse impact the development has on the immediate and wider environment; it does not create unacceptable problems in terms of the relationship between



the proposal and neighbouring uses; and it is sited so as to minimise the amount of harm to the immediate or wider landscape. Policy CS6 sets out criteria for permitting wind turbine generators, including where it can be demonstrated that the development does not have an unacceptable adverse impact upon the immediate or wider landscape and would not create unacceptable problems in terms of the relationship between the proposal and neighbouring uses.

5. Although these policies date from 2005 and therefore precede by some years the *National Planning Policy Framework* ('the Framework'), they are broadly consistent with the wider objectives of national policy in relation to sustainable development and protection of the countryside albeit that the Local Plan policies are in part rather more prescriptive.
6. The Framework emphasises the clear presumption in favour of sustainable development and the role the planning system plays in addressing climate change. It states that applications should be approved if the project's impacts are (or can be made) acceptable. The Framework also favours renewable energy projects, advising that they should be granted permission unless the significant positive weight in favour of a proposal is outweighed by any adverse consequences arising from its construction and operation. However, it also refers to the landscape and visual impacts that renewable energy developments can have and the need to recognise the intrinsic character and beauty of the countryside.
7. Reference has also been made to policies in the emerging *Derbyshire Dales Local Plan Pre Submission Draft*. However, whilst it was submitted in May 2014 for examination in public, I have not been advised of the current status of the document or what stage it has reached in the process leading to formal adoption. I therefore attach very limited weight to the policies cited by the Council.
8. The parties have also referred to other documents, including the *Overarching National Policy Statement for Energy (EN-1)*, the *National Policy Statement for Renewable Energy Infrastructure (EN-3)*, the *Landscape Sensitivity for Renewables in the Peak Sub Region* (2009) and the *Peak Sub-Region Climate Change Study*. The *Planning practice guidance for renewable and low carbon energy* (2013) has been archived and replaced by the *Planning Practice Guidance* (2014).

#### *Character and appearance*

9. The proposed single 500kW wind turbine would have a tapering, tubular steel tower with three blades and a white/pale grey matt finish. It would be 75.6m high to the hub and have an overall height of 99.6m to blade tip. The associated infrastructure includes a crane hardstanding and sub-station adjacent to the turbine and an access track from the A517 some 450m to the south.
10. The turbine would be located on gently sloping land on the side of the shallow Dayfield Brook valley and would be sited slightly lower than the land to the north at Ridge Lane and the A517 to the south. The surrounding landscape is largely agricultural in character, consisting of a patchwork of small fields and open pastures, field boundaries of trees and hedges and distinctive belts of woodland. The closest residential properties are located some 500m to the























## **Main Issue**

4. The main issues are the effect of the proposed development on:-
  - the special architectural and historic interest of the listed building;
  - biodiversity, including any protected species (planning appeal only).

## **Reasons**

### *The special architectural and historic interest of the listed building*

5. The appeal building is a grade II listed building, which forms part of a group of buildings, including the main listed farmhouse of Waldley Manor and another building now converted to a dwelling. It is a small, C17th timber framed and brick building with a plain tiled roof, which was formerly a barn and is now disused and in a poor state of repair. The submitted structural engineers report for the appellant considers that the existing timber and wattle-filled eastern gable was constructed as an internal wall and suggests that it was built as a later extension to a larger building which is no longer there.
6. In 2007 the Council granted permission and listed building consent (now lapsed) for a very similar scheme to the current scheme. A subsequent scheme for a larger extension was dismissed on appeal in April 2014 on the grounds that the proposed internal works to the first floor of the building would fail to preserve its features of special architectural interest and that the scale and design of the proposed extension would also fail in that respect. In addition, the extension would harm the setting and significance of both the barn and the adjacent farmhouse. That decision was issued after the submission of these appeals.
7. The proposed works to remove and relocate the existing roughly hewn first floor joists and the floor covering to a higher level are the Council's sole area of concern in relation to the application for listed building consent. These works did not form part of the approved 2007 scheme (indeed that consent included a condition requiring the retention and repair of the timbers where necessary and the approval of a detailed repair schedule). The removal and relocation of the joists to a higher level without any floor surface did form part of the dismissed 2014 scheme.
8. In considering a proposal for listed building consent and planning permission, the duty imposed by sections 16 and 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 require that special regard must be had to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses. Paragraph 132 of the National Planning Policy Framework (the Framework) states that when considering the impact of new development on the significance of a listed building, great weight should be given to its conservation. The paragraph goes on to say that significance can be harmed or lost through alteration and that any harm should require clear and convincing justification. The Council's Supplementary Planning Document (SPD) 'The Conversion of Farm Buildings Design Guidance' 2005 requires the retention of interior spaces. It also says that the removal of structural floor timbers will not be acceptable and that the removal of existing floor surfaces

considered to be of historic or architectural importance will be strongly resisted.

9. The appellant's submitted statement of significance indicates that the joists are part of the original fabric of the building and that a first floor formed part of the original building evidence by the high level gable opening and from what I saw at my visit I would agree that five of the joists are original. The existing floor boards which have been cut through in places to accommodate scaffolding appear to be a later addition as suggested by the appellant. The height of the first floor gives the ground floor of the building the sense of a small, intimate space. Like the Inspector in the previous appeal, I find that the first floor in its existing position, is an intrinsic and significant element of the listed building that is important to its significance and its character.
10. Part of the appellant's justification for the works is to increase the floor to ceiling height of the proposed living room. Although disputed by the Council, the appellant's amendment to the submitted information, made before the Council's decision, specifying a distance of 1930mm accords with the plans and is broadly accurate and closer to this than the 2310mm originally referred to, from what I saw at my visit. Whilst the headroom at ground floor level would be restricted, the plans include a good sized kitchen and separate dining room in the proposed extension together with three bedrooms and two bathrooms at first floor level. It seems to me that with some reconfiguration of internal living space, there is ample habitable room space to create a viable development.
11. The submitted structural engineers report indicates that the joists and floor boards show signs of worm infestation and there is some 'bounce' in the floor. It advises further timber surveys followed by replacement or treatment and the removal and replacement of the existing timbers and boards taking into account any revised loading conditions. Although it also refers to damage and ongoing movement in the building, the suggested recommendations do not specifically refer to the noted structural problems individually. The report notes that the damage to the northern elevation has been caused by overloading of the first floor in the past with animal feeds and it seems to me that the recommendations for the roof structure, for ties and for the rebuilding of brickwork would stabilize the building sufficiently without the proposed works to the first floor.
12. Furthermore, I have not been provided with any compelling evidence that a suitable conservation engineering solution to retain the timbers in situ with additional strengthening where necessary could not be achieved as suggested in English Heritage's consultation response to the proposal.
13. The appellant's suggested condition for the retention and repair of floor joists where necessary (similar to that which formed part of the 2007 consent) would not overcome the harm that would be caused by the proposed works and would not make the development acceptable. This scheme is not comparable to the 2007 scheme in this respect because the previous scheme did not include the removal and relocation of the first floor.
14. I conclude then that the proposed alterations would significantly alter the space and volume of the ground floor and this would harm both the building's traditional character and its significance. Although the harm would

be less than substantial, I must give it considerable importance and weight. I am not persuaded that there is clear and convincing justification for it (as sought in paragraph 132 of the Framework) in terms of structural or economic necessity. I have taken into account the poor and deteriorating condition of the building and the public benefits of the proposal in securing its optimum viable use as required in paragraph 134 of the Framework. I have also noted the support from neighbours and the Parish Council. However, I am not persuaded that there is no other viable alternative to the removal and relocation of the first floor that could not be found within a reasonable timescale and the beneficial re-use of the building does not outweigh the harm that would be caused. The proposed alterations would not preserve the special architectural and historic interest of this listed building and would be contrary to the Council's SPD and to national policy in the Framework.

*Biodiversity, including any protected species*

15. S40 of the Natural Environment and Rural Communities Act 2006 requires that decision makers have regard to the purpose of conserving biodiversity. ODPM Circular 06/2005 states that *'it is essential that the presence or otherwise of protected species, and the extent that they may be affected by the proposed development, is established before planning permission is granted.'* The National Planning Policy Framework states that *'the planning system should contribute to and enhance the local environment by minimising impacts on biodiversity and providing net gains in biodiversity where possible'*. The objective of policy NBE5 in the Derbyshire Dales Local Plan (LP) 2005 in seeking to protect species that are protected by law accords with the objective of the Framework.
16. The appellant's submitted ecology report dated August 2012 identified in a daytime bat survey for signs of bats, access points and roost sites on 30 July 2012 two bat droppings inside the barn that were considered to have come from a pipistrelle bat. It found that despite having several cavities, gaps and cracks the building had low roost potential due to the draughts from its poor state of repair. An evening activity emergence survey on 13 August 2012 recorded no bats emerging from the barn but some were observed foraging around the building. Its conclusions from these surveys, combined with a previous survey in 2006 for the approved 2007 scheme, were that no bat roost would be affected through the conversion of the building and consequently it recommended that a Natural England license would not be required.
17. Natural England, a statutory consultee, did not raise any objection to the application. However, the Derbyshire Wildlife Trust, with whom the Council has a Service Level Agreement for nature conservation advice, has advised that the survey work was inadequate and that further bat surveys should be undertaken during the bat active season (May to September) to more conclusively determine the presence or absence of a bat roost.
18. The Council did not raise any objection in these terms to the previous scheme dismissed on appeal in 2014 but I have noted that in that case no response was received by the Council from the Derbyshire Wildlife Trust and there were other planning policy reasons to refuse the application.

19. At my visit I noted the poor condition of the building and found no conclusive evidence of bats. However, whilst I have not been referred to any good practice guidelines for such surveys, in my experience it is common practice to require two or three activity surveys on different dates within one season and that surveys carried out more than two years ago (ie the 2006 survey) should not be relied on. In light of this and as there seems to be some doubt between professional ecologists regarding the presence or otherwise of bats, it is reasonable that a precautionary approach is taken as I cannot be satisfied that there would be no harm given the limited survey work carried out for this proposal.
20. I conclude, therefore, on the basis of the information submitted, that the proposed development would adversely affect bats, a protected species, contrary to LP policy NBE5.

**Conclusion**

21. For the reasons given above, both appeals should be dismissed.

*Sarah Colebourne*

INSPECTOR



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## Appeal Decision

Site visit made on 9 January 2015

**by Gary Deane BSc (Hons) DipTP MRTPI**

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

**Decision date: 4 February 2015**

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**Appeal Ref: APP/P1045/A/14/2227868**

**The Firs, Firs Farm, Cubley Common, Cubley, Derbyshire DE6 2EX**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant approval required under Schedule 2, Part 3, Class MB of the Town and Country Planning (General Permitted Development) Order 1995 (as amended).
  - The appeal is made by The Hon D P C Legh against the decision of Derbyshire Dales District Council.
  - The application Ref 14/00362/PDA, dated 22 May 2014, was refused by notice dated 21 July 2014.
  - The development proposed is conversion of redundant farm buildings to three residential units.
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### Decision

1. The appeal is allowed and approval is granted under the provisions of Schedule 2, Part 3, Class MB of the Town and Country Planning (General Permitted Development) Order 1995 (as amended) for the conversion of redundant farm buildings to three residential units at The Firs, Firs Farm, Cubley Common, Cubley, Derbyshire DE6 2EX in accordance with the terms of the application Ref 14/00362/PDA, dated 22 May 2014, and the plans submitted with it, subject to the conditions set out in the schedule to this decision.

### Procedural and preliminary matters

2. The provisions of the Town and Country Planning (General Permitted Development) Order 1995 (as amended) (the GPDO) require the local planning authority (LPA) to assess the proposal solely on the basis of its impact in terms of the conditions set out in paragraph MB.2, taking into account any representations received. Of these conditions, the Council considers that three are relevant in this case: the transport and highway impacts of the development; the design or external appearance of the buildings; and whether the location or siting of the buildings makes it otherwise impractical or undesirable for the proposed change of use to take place. The GPDO also requires the LPA to have regard to the National Planning Policy Framework (the Framework) insofar as it is relevant to the prior approval as if the application were a planning application.
3. My determination of this appeal has been made in the same manner.



## Reasons

4. The proposal is primarily to convert a group of redundant single storey farm buildings (the buildings) to three residential units at Firs Farm that, together with an adjacent farmhouse, are arranged around a central courtyard within the countryside.
5. By way of background, in 2008 the Council granted planning permission<sup>1</sup> for a similar development at this location. That planning permission was subject to several conditions and a legal agreement to secure a financial contribution towards the provision of affordable housing. Because the approved scheme was not implemented it has now lapsed. Planning permission<sup>2</sup> was subsequently granted for a new access road from the A515 to serve the buildings and the farmhouse, which is complete and in use. This access road would serve the appeal scheme.

### *Transport and highway impacts*

6. Derbyshire County Council, as Highway Authority, and the Council raise no objection to the transport and highway impacts of the development provided several conditions are imposed. These conditions address visibility splays, vehicle parking and turning within the site, the position of any entrance gates and the arrangements for materials and vehicles during the construction phase. I have no reason to disagree with these findings. On that basis, like the Council, I find that the transport and highway impacts of the proposal are acceptable. Condition MB.2(1)(a) of the GPDO is, therefore, met.

### *Design or external appearance of the building*

7. In my opinion, the proposed conversion and external alteration of the buildings to residential use is well designed. It would essentially and successfully retain the functional form and general appearance of former agricultural buildings. The simple form, uncluttered roof slopes, appropriate fenestration that respects the existing openings, and use of traditional external materials all combine to reinforce this strong impression. To my mind, the buildings would continue to conform to an agricultural norm with the new use in place and their intrinsic character, as rural buildings would be retained. The proposal, once complete, would be clearly legible as former farm buildings in the landscape.
8. Therefore, I conclude that the appeal scheme would achieve the high standard of design sought in paragraph 17 of the Framework. To my mind, the finished external appearance of the buildings would contribute to enhancing the built environment, to which paragraph 7 of the Framework refers. Condition MB2(2) of the GPDO is, therefore, met.

### *Location and siting*

9. The site stands alone within the countryside, adjacent to the A515. There are some limited services available in Great Cubley, including a village hall and church, which is some distance away and is itself remote from larger centres of population such as Ashbourne, where a greater range of services and facilities are found. Few details of local bus services have been provided and, in any

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<sup>1</sup> Ref 07/00248/FUL dated 13 February 2008

<sup>2</sup> Ref 10/00086/FUL dated 26 March 2010

- event, walking or cycling to the nearest bus stop along the busy A515 would be far from safe or desirable.
10. In those circumstances, it cannot be reasonably assumed that future occupiers of the new dwellings would regularly walk or cycle the considerable distance to any of these destinations. As such, the proposal is not located where it could be conveniently accessed by public transport. For these reasons, I consider that future occupiers would be heavily reliant on the private car for most journeys, like the occupiers of and visitors to the adjacent farmhouse. The proposal, therefore, conflicts with a core principle of the Framework, which is to ensure that patterns of growth are managed to make the fullest possible use of public transport, walking and cycling.
  11. The Framework also advises that LPAs should avoid allowing new isolated homes in the countryside, as would be the case here, unless there are special circumstances. Examples of such circumstances are given in paragraph 55 of the Framework, which include where the development would re-use redundant or disused buildings and lead to an enhancement to the immediate setting.
  12. Although vacant and in varying states of disrepair, the buildings are structurally sound and their conversion, as proposed, would not appear to be impractical. In my opinion, the buildings have a traditional style and form, and a quality that is well worth protecting. From what I saw, most of the main openings in the buildings have been boarded up and some roof tiles are missing or have been dislodged. The walls, in part, show signs of disrepair, timber pallets are stacked against part of the building, and the area of grass between the building and the A515 is unkempt and overgrown. Taken together, these features give the buildings and their setting a run down, derelict appearance.
  13. Because the proposal deals sensitively and appropriately with the conversion and alteration of the buildings, their intrinsic character and quality would be restored. Land around the buildings would be attractively landscaped. Vehicles would park to one side of the buildings instead of using the central courtyard thus opening up the vista into and across the site on the main approach from the south. As a result, the proposal would significantly enhance the immediate setting of the buildings. I have little doubt that it qualifies as a special circumstance that would justify the introduction of new homes in an isolated countryside location, to which paragraph 55 of the Framework refers.
  14. Given the strong credentials of the appeal scheme in this regard, it is my judgement that, on balance, the shortcomings of the site with regard to access by means other than the private car are insufficient to conclude that the location or siting of the proposal is therefore undesirable or impractical. As such, I consider that the proposal meets condition MB(1)(e) of the GPDO.
  15. I note that the Council considers the proposal to be contrary to Policies SF4 and H4 of the Derbyshire Dales Local Plan. However, the reference to the development plan in paragraphs 11 and 196 of the Framework, on which the Council relies, is in the context of an application for planning permission. In a similar vein, planning permission was given for the 2008 scheme, the assessment of which would have taken the development plan as its starting point. My assessment reflects the terms of the prior notification procedure.

## **Conclusion**

16. Overall, I consider that the proposal satisfies the requirements of the GPDO with regard to being permitted development for the change of use from agriculture to three residential units. Consequently, for the reasons set out above, and having regard to all the representations made, I conclude that the appeal should be allowed.

## **Conditions**

17. In granting approval, the GPDO requires that the development shall be carried out in accordance with the details provided in the application. Paragraph MB2(3) also stipulates that development shall begin within a period of three years. In addition, to ensure the satisfactory appearance of the proposal and to protect the visual character of the local area, conditions are imposed to require details of external materials, window and door frames, and landscaping. For the same reason, a condition is necessary to remove some permitted development rights including those relating to extensions, roof additions and alterations, porches and outbuildings.
18. In the interests of highway safety, conditions are imposed to ensure that space for vehicle parking and turning within the site is available for use before any dwelling is occupied; to prohibit the introduction of gates close to the A515; and to ensure that visibility at the junction between the access road and the public highway is free from obstruction. To safeguard the living conditions of the occupiers of the adjacent farmhouse and to safeguard the appearance of the area and to protect highway safety, it is necessary to require a construction method statement setting out the arrangements during the construction phase.
19. Where appropriate, I have added to and amended some of the Council's suggested conditions to more closely reflect national guidance and for the sake of clarity.

*Gary Deane*

INSPECTOR

**Schedule of conditions attached to Appeal Decision**  
**Ref: APP/P1045/A/14/2227868**  
**The Firs, Firs Farm, Cubley Common, Cubley, Derbyshire DE6 2EX**

- 1) The use shall not commence until samples of the materials to be used in the construction of the external surfaces of the buildings have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.
- 2) The use shall not commence until details of the reveal, design, materials, treatment and colour of the windows and doorframes have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.
- 3) The use shall not commence until details of both hard and soft landscape works have been submitted to and approved in writing by the local planning authority. These details shall include trees and shrubs, areas of grass, means of enclosure (including screen walls and fences), hard surfacing materials along with an implementation and maintenance programme. The works shall be carried out in accordance with the approved details.
- 4) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any order revoking and re-enacting that Order with or without modification), no development falling within Classes A, B, C, D, or E of Part 1 of Schedule 2 to that Order shall be carried out.
- 5) No structure, erection or planting above 0.6 metres in height shall be placed in front of a line from a point 2.4 metres measured along the centre line of the access to serve the development hereby approved from the nearer edge of the carriageway, to points measured 100 metres in each direction along the nearer edge of the carriageway from the centre line of that access.
- 6) There shall be no gates or other barriers on the access road, which is within 5 metres of the nearer edge of the carriageway. No gates, barriers or any part of their opening arc shall open over the public highway.
- 7) Prior to first occupation of any dwelling hereby approved space shall have been laid out, drained and surfaced for the parking and turning of vehicles in accordance with drawing number L30.2/005 Revision E, and that area shall not thereafter be used for any purpose other than the parking and turning of vehicles.
- 8) The use shall not commence until a Construction Method Statement has been submitted to and approved in writing by the local planning authority. The approved Statement shall be adhered to throughout the construction period. The Statement shall provide for: (a) the parking of vehicles of site operatives and visitors; (b) loading and unloading of plant and materials; and (c) storage of plant and materials used in constructing the development hereby approved.



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## Appeal Decision

Site visit made on 23 February 2015

**by Chris Hoult BA(Hons)BPhil MRTPI MIQ**

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

**Decision date: 31 March 2015**

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**Appeal Ref: APP/P1045/A/14/2228127**

**Unit 1, The Cedars, Main Street, Hollington, Ashbourne, Derbyshire, DE6 3AG**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant approval required under Schedule 2, Part 3, Class MB of the Town and Country Planning (General Permitted Development) Order 1995 as amended ("the GPDO").
  - The appeal is made by Mr Neil Heldreich against the decision of Derbyshire Dales District Council.
  - The application Ref. 14/00429/PDA, dated 13 July 2014, was refused by notice dated 16 September 2014.
  - The development proposed is the conversion of a two storey brick built barn with a single storey steel and timber lean-to to the east into a 4 bedroom dwelling.
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### Decision

1. The appeal is dismissed.

### Procedural matters

2. The appeal relates to a prior approval application for the proposed development under the provisions of Class MB. Permitted development rights apply to a change of use of a building and any land falling within its curtilage to a use falling within Use Class C3 (Class MB(a)) together with building operations reasonably necessary to convert the building to such a use (Class MB(b)). Paragraph MB.1 sets out the limitations applying to the exercise of permitted development, while paragraph MB.2 sets out the conditions applying.
3. Among these is a requirement for an application to determine whether the Council's prior approval is required as to impacts/risks in relation to transport and highways, noise, contamination and flooding. Also for development under this Class, prior approval must be sought as to whether (in the words of the GPDO) "*the location or siting of the building makes it otherwise impractical or undesirable for the building to change from agricultural use to a use falling within Class C3...*". Additionally, for proposals which involve building operations i.e. conversion works, permitted under Class MB(b), prior approval can encompass the design or external appearance of the building.
4. The procedure for applications for prior approval under Part 3 is set out in paragraph N to Part 3, while paragraph O provides an interpretation of the terms used in Part 3. Among these is an interpretation of the term "curtilage" for purposes of development under classes M, MA and MB. It is defined as follows: "*(i) the piece of land, whether enclosed or unenclosed, immediately*

*beside or around the agricultural building, closely associated with and serving the purposes of the agricultural building; or (ii) an area of land immediately beside or around the agricultural building no larger than the land occupied by the agricultural building, whichever is the lesser (my emphasis)."*

5. In the course of my determination of the appeal, after my site visit was undertaken but before my decision was issued, the Government published additional guidance, as part of its Planning Practice Guidance (PPG), aimed at clarifying some of the legislative provisions relating to Class MB development<sup>1</sup>. In particular, the updated PPG makes clear that the prior approval provisions do not apply a test in relation to sustainability of location. The permitted development right recognises that many agricultural buildings may not be able to rely on public transport for their daily needs.
6. Clarification is also provided as to what might be meant by "impractical" or "undesirable" for purposes of paragraph MB.2. My reading of the updated guidance is that these words are restricted to their commonly-understood everyday meaning. When siting and location are considered, the PPG indicates that the decision-maker should consider the National Planning Policy Framework (NPPF) only to the extent that it is relevant to the matter upon which prior approval is sought. As regards undesirability of siting or location, from the examples given in the guidance, this should relate to more limited site-specific considerations – e.g. proximity to intensive poultry farming buildings or silage storage.
7. In dealing with the appeal, I have regard to these provisions, requirements and interpretations and, in particular, the recently-issued additional guidance on interpretations in the PPG. Since the new guidance appears to me to have a material bearing on my decision, with regard to the Council's first reason for refusal and the evidence in relation to that, I sought the parties' views on it. Further representations were made by the Council in a statement received on 23 March 2015, clarifying its position. I take these into account in my decision.
8. Although the plans accompanying the proposal show two units on the site to be converted, it is clear that the proposal before me relates only to Unit 1. The location plan was amended in respect of the "red line" area to refer only to this unit and its associated curtilage.

### **Background and main issue**

9. The Council accepts that the proposal meets the limitations in paragraph MB.1 with regard to the scope of the conversion works and that they are reasonably necessary to convert the building. It has no issue with its design and external appearance. From what I saw on site and from reading the plans, I see no reason to disagree with its view, except for the limitation relating to its last use (paragraph MB.1(a)). I deal with that below. I also deal below with the matter of the building's curtilage, given the interpretation in paragraph O. Finally, given that the proposal includes the formation of a new access, I examine whether it falls within the scope of the permitted development rights. These matters all have a bearing on whether the proposal is permitted development.
10. On the basis that I am satisfied, or capable of being satisfied, on these matters, I go on to address the Council's reasons for refusal of prior approval,

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<sup>1</sup> See new paragraphs ID: 13-101-20150305 – ID: 13-109-20150305 published on 5 March 2015.

on the proposal's merits. It has no issue with noise, contamination or flooding. Its original objections related to the adequacy of the proposed access to Main Street and sustainability considerations, in relation to the building's siting and/or location. In its statement of 23 March 2015, in the light of paragraph 108<sup>2</sup> of the updated PPG, it accepts that a test in relation to the sustainability of the location could no longer be applied. However, it maintains that the siting of the building is undesirable, having regard to access considerations. It raises no objections on the grounds that the siting/location is impractical. I see no reason to disagree with its view on that account.

11. In the light of this, the main issues are as follows:

- (a) whether the proposed change of use amounts to permitted development pursuant to Class MB(a) of Part 3 of Schedule 2 to the GPDO, having regard to its last use, the extent of its proposed curtilage and access considerations; and
- (b) whether the siting of the building is undesirable, having regard to effects on the safety of road users and on the character and appearance of the open countryside.

## Reasons

### *Last use*

12. Under paragraph MB.1(a), development would not be permitted if the site (the building plus any land in its curtilage) was not solely in agricultural use, as part of an established agricultural unit, either on 20 March 2013 or when it was last in use. I have no evidence in relation to the date in question. The appellant's case is that it is redundant but was last used for agriculture.
13. The building is a former barn which was not actively in use at the time of my visit. At its northern end, the largest of four rooms at ground floor level reaches up to the building's full ridge height. To the south, there are three smaller ground-floor rooms and, above those, a further room in the roof space. All the rooms were inspected and found to be empty, save for some pieces of wood being stored in one of the ground floor rooms. The rooms were entirely un-modernised and some of them retained their cow pens and similar internal subdivisions originating from the building's use as a barn or store. Their interior is as shown in photographs which form part of the appellant's evidence.
14. A third-party objector with some apparent knowledge of the building's history claims that it was proposed to convert it into a workshop/storage room, in conjunction with the conversion of another outbuilding into a workshop in connection with the appellant's established furniture restoration business. That building is now in use, the change of use having been permitted in 2010. The proposal did not, however, include the building subject of this application.
15. That said, I cannot rule out that it might have been used for storage in the meantime in connection with the business such as to establish a new use for it, other than agricultural use. It would not meet the limitations of paragraph MB.1(a) if only part of it was used for storage or, at the time of its last use, it and its associated curtilage was not part of an established agricultural unit. I have no detailed evidence of its history which demonstrates that these

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<sup>2</sup> Full reference: paragraph ID: 13-108-20150305.

limitations have been met. Even if I accept that there is no clear evidence to indicate that it has been the subject of an intervening storage use (and the third-party evidence is unclear on that point), I still have no way of knowing whether, when it was last in use, it was part of an established agricultural unit.

#### *Extent of curtilage*

16. The definition of "curtilage" for purposes of Class MB is set out in the GPDO itself and is set out above. Whether based on an area closely associated with and serving the purposes of the building in its former agricultural use or on an area no larger than the land area occupied by the building, it cannot exceed the lesser of the two in area. The building and adjoining workshop are set within a hard-surfaced yard which extends from the access into the site to fields on its eastern boundary. To its side is a wooden lean-to structure which would be replaced by a proposed glazed extension. Beyond that is an open-sided barn which would be removed. The yard extends a little way to the south beyond which is a field across which the proposed access would run.
17. The appellant does not expressly identify the building's curtilage on the plans but, from examining the "red line" area on the location plan, it appears to incorporate the yard area to the front (south) of it and appears also to extend to land to the front and side of the proposed glazed structure, including that occupied by the open-sided barn. Such an area is plainly larger than that of the footprint of the building. On the Council's estimates, it would be 620 sq m, compared with a floor area for the building of 245 sq m. If the proposed curtilage exceeds that defined under paragraph O for purposes of Class MB, the proposal cannot be permitted development as its area would exceed that to which permitted development rights could apply.

#### *Proposed access*

18. The proposal involves the formation of a new dedicated access which would run across fields to exit on to Main Street some way to the south of the site. I question whether, on its proposed route, it could be permitted development. Rights under Class MB apply in respect of "a change of use of a building and any land within its curtilage". The proposal incorporates the formation of an access which would plainly be outside the building's curtilage, as defined for purposes of Class MB.
19. It could be permitted development as minor works under Part 2 Class B of Schedule 2 to the GPDO<sup>3</sup>. However, for the reasons I have given, it is unclear whether the proposal as a whole is permitted development and I have no evidence as to whether Main Street is a classified road. In any event, Article 3(6) of the GPDO expressly does not grant rights for the formation of any access which "*creates an obstruction to the view of persons using any highway used by vehicular traffic, so as to be likely to cause danger to such persons*". I deal with highway safety considerations below.

#### *Conclusions on first main issue*

20. In respect of all of the above considerations, there is some uncertainty as to whether the proposal amounts to permitted development. The appellant has

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<sup>3</sup> "The formation, laying out and construction of a means of access to a highway which is not a trunk road or a classified road, where that access is required in connection with development permitted by any Class in this Schedule (other than by Class A of this Part)."



not in my view sufficiently demonstrated the position regarding the building's last use. Moreover, the proposed curtilage significantly exceeds that to which any permitted development rights could apply. In addition, the proposed access may not be permitted development.

21. Regarding the last use, I have no evidence to indicate that it fails to meet the relevant limitations. Rather, the evidence is inconclusive and appears to be bound up with that of the history of the building, which appears to have been insufficiently investigated or may simply not be available. As regards the curtilage, on the submitted plans, it appears to exceed that which could be regarded as permitted development. However, it is open to me to require by means of a condition attached to a grant of prior approval a curtilage for the proposed dwelling which would be more restricted in area, provided that that would not involve a material change to the proposal. As regards the access, it would be permitted development as minor works if the proposal as a whole were so judged but only if both Main Street is an unclassified road and any highway safety concerns are capable of being satisfactorily addressed.
22. In the light of this, and on the evidence before me, I must conclude that, with regard to its last use and the extent of its proposed curtilage, the proposal cannot amount to permitted development under the provisions of Class MB. However, it is possible that more detailed evidence of the building's history could be brought to bear and that a more restricted curtilage could be demarcated by condition. The access could be permitted development in its own right. Accordingly, I shall go on to assess the proposal's merits on the basis that it could be demonstrated to be permitted development. The two matters to which I have regard in framing my second main issue represent two "sides" of the same objection and can be considered together.

#### *Whether siting undesirable*

23. The proposed access would run across a field to exit at a field gate to the north of the Red Lion Public House (PH). Main Street is a narrow country lane along which two vehicles may pass with a little care but it narrows alongside the PH. This, and the PH's attendant car parks to the north and south, which are simple pull-ins from the road with limited turning capacity, would have the effect of moderating traffic speeds. This includes in the vicinity of the proposed access, which is a little way north of the northern car park. Visibility is severely impeded by a hedgerow fronting the road. From the north, traffic speeds would be higher given that it is straight for some distance. To the south, visibility is limited also by a bend in the road. However, there is the scope to realign the hedgerow by setting it back from the road frontage in order to achieve recommended splays of 2.4m x 33m in both directions.
24. In its representation on the appeal, the Highway Authority is of the view that this is a matter which could be covered by a planning condition. On that basis, it envisages that any objection on the grounds of a risk to the safety of road users is capable of being addressed. I see no reason to disagree with such a view. However, the Council raises objection to any ensuing loss of hedgerow with regard to its effects on the character and appearance of the open countryside. Moreover, in its statement of 23 March 2015, it appears to raise objection on similar grounds to the requirement for an access track of some 70m in length across the field. I go on, therefore, to assess the effects of both these factors with this objection in mind.

25. I do not share the Council's concerns regarding the access track. Although the shading on the submitted plans indicates that it would be hard-surfaced, its surfacing can be the subject of details to be agreed with the Council. In any event, it would largely be screened in views from the road by the hedgerow.
26. As regards the hedgerow, there is already a gap to accommodate the present field access and I noted that there is in any event sporadic residential development with accesses which open out on to the continuation of the road further to the south. I do, however, have concerns relating to the extent to which the gap would need to be widened and/or the hedgerow removed or re-aligned and the impact of such operations on its visual integrity. It is a mature hedgerow and a strong and consistent feature on the eastern side of Main Street leading to and from the village.
27. The appellant is of the view that, to the north, a visibility splay of 2.4m x 60m can be achieved by a simple trimming back of the existing hedgerow. To the south, he is less certain, commenting only that *"it appears that (it) is possible to achieve 2.4m x 33m in the southerly direction within the applicant's ownership, however, this would require some removal and re-planting of hedgerow along this line."* My observations on site bear out the uncertainty as to the extent to which the hedgerow would need to be altered to the south. No details have been provided regarding this element of the proposal. Any realignment of the hedgerow which involves removing and re-planting sections of it would take several years to mature. While it might meet the requirements of local plan Policy TR1 as regards provision of a safe access, its effect on the character and appearance of the open countryside is much less clear.
28. It appears to me that the potential for harm on this account has not been adequately investigated by the appellant. I am unable therefore to conclude that no harm would arise. Even if I accept, in the light of the updated guidance in the PPG, that it is not necessarily a consequence of the siting or location of the building, it remains the case that I must be satisfied as to the proposal's highways impacts in order for prior approval to be granted.

### **Overall conclusions**

29. I conclude that the proposal cannot amount to permitted development. I accept that further evidence could be adduced as to the building's last use, that it may be possible to define a more restrictive curtilage for the building and that the access could separately amount to permitted development. However, these uncertainties are not addressed in the evidence before me. Even if they could be satisfactorily addressed, further evidence is required as to the effects of any removal/realignment of the hedgerow that may be required in order to accommodate a suitably safe access.
30. All of this leads me to the conclusion that prior approval for the proposed change of use to a Class C3 residential use and the associated operational development cannot be granted on this application. For these reasons, I conclude that the appeal should be dismissed.

*C M Hoult*

INSPECTOR