

Old Matlock

Conservation Area Appraisal

9. Conservation Policy & Legislative Context



CONSERVATION POLICIES

NATIONAL PLANNING GUIDANCE

Planning Policy Statement 5 : Planning for the Historic Environment

Planning Policy Statements set out government guidance on planning issues and provide guidance to local planning authorities and others of the operation of the planning system. Local planning authorities must take their guidance into account in preparing their development plans. PPS5 on Planning for the Historic Environment provides guidance specifically in relation to historic assets / historic environment.

The factors to take into consideration when designating (or reviewing) an area are set down in a separate document 'Guidance on Conservation Area Appraisals' published by English Heritage in February 2006.

PPS 5 came into force in March 2010 and replaced the previous Planning Policy Guidance Notes 15 and 16 : Planning and the Historic Environment and Planning and Archaeology. PPS5 creates an integrated approach to the consideration of the historic environment and 'heritage assets' within the planning system – all 'heritage assets' now being within the remit of one planning policy statement.

The terminology 'heritage assets' relates to those parts of the historic environment that have significance because of their archaeological, architectural or artistic interest. Hence a 'heritage asset' (non-designated) can be a building, monument, site, place, area or landscape positively identified as having a degree of significance (including for example a locally listed building). A 'designated' heritage asset includes a World Heritage Site, Listed Building, Scheduled Ancient Monument, Protected Wreck Site, Registered Park and Garden, Registered Battlefield or Conservation Area.

In essence, there are twelve policies contained within PPS5. The policies in the PPS are a material planning consideration which must be taken into account in development management decisions, where relevant. The twelve policies (in brief) are as follows:-

HE1 : Heritage Assets and Climate Change

A greater emphasis has been given to the re-use /modification of buildings, securing sustainable development, enhancing energy efficiency etc.

Plan Making Policies

HE2 : Evidence Base for Plan Making

Local Planning Authorities should have evidence about the historic environment/heritage assets in their area; maintain or have access to a Historic Environment Register (held by Derbyshire County Council); and use evidence to assess heritage assets and the contribution they make. Conservation Area Character Appraisals can significantly contribute to this evidence base.

HE 3: Regional and Local Plan Approaches

The Regional Spatial Strategy and the Local Development Framework should set out a positive pro-active strategy for conservation and enjoyment of the historic environment, and the significance and contribution of the heritage assets.

HE4: Permitted Development and Article 4 Directions

Local Planning Authorities should consider the use of Article 4 Directions if exercising permitted development rights would undermine the aims for the historic environment.

HE5: Monitoring Indicators

Local Planning Authorities should consider how best to monitor the impact of their planning policies and decisions on the historic environment, including attention to where heritage assets are at risk of loss or decay.

Development Management

HE6: Information Requirements for Applications for Consent Affecting Heritage Assets

Applicants should provide a description of the significance of the heritage asset affected and the contribution of the setting to that significance. The level of detail should be proportionate to the importance of the asset and no more than is sufficient to understand the potential impact of the works. Information together with an assessment of the impact of the proposal should be set out in the application. Local Planning Authorities should not validate applications where the significance of the heritage asset cannot be adequately understood.

HE7: Policy Principles Guiding the Determination of Applications for Consent Relating to All Heritage Assets.

In making decisions on planning, listed building or Conservation Area Consent applications Local Planning Authorities should:-

- Identify and assess the significance of any element of the historic environment affected

by the proposal (including setting) and should take account of the evidence provided, designation records, the HER record, the heritage asset itself, the outcome of consultations and where appropriate, expert advice.

- Take into account the nature of the significance of the heritage asset and the value it holds for this and future generations
- Seek the views of the community if the heritage asset has a special significance to the community. Take into account the desirability of sustaining and enhancing the significance of the heritage asset and the positive contribution that conservation can make to the establishment and maintenance of sustainable communities and economic vitality.
- Take into account new development making a positive contribution to the character and local distinctiveness of the historic environment. Consideration of design should include scale, height, massing, alignment, materials and use.
- Where evidence of deliberate neglect or damage has been undertaken in hope of obtaining consent, this should not be taken into account in any decision.
- Where loss of significance is justified on the merits of new development, new development should not be permitted without taking reasonable steps to ensure the development will proceed after the loss has occurred – by planning conditions or obligations.

HE8: Additional Policy Principle Guiding the Consideration of Applications for Consent Relating to Heritage Assets that are not covered by Policy HE9 (i.e. non-designated heritage assets)

The effect of an application on the significance of a heritage asset or its setting is a material consideration. Heritage assets are valued components of the historic environment and where a development proposal is subject to detailed pre-application discussions there is a presumption that identification of unidentified heritage assets will take place.

HE9: Additional Policy Principles Guiding the Consideration of Applications for Consent Related to Designated Heritage Assets.

There should be a presumption in favour of the conservation of designated heritage assets and the more significant the designated heritage asset, the greater its conservation should be. Once lost heritage assets cannot be replaced. Significance can be harmed or lost through alteration/destruction of the heritage asset or development within its setting. Loss affecting any designated asset should have clear and convincing justification. Substantial

harm/loss of a grade II LB, park or garden should be exceptional and to higher status heritage assets wholly exceptional.

Where substantial harm or total loss of significance is proposed Local Planning Authorities should refuse consent unless:

- The substantial harm/loss is necessary in order to deliver substantial public benefits which outweigh the harm/loss
- The nature of the heritage asset prevents all reasonable uses of the site
- No viable use of the heritage asset can be found in the medium term to enable its conservation
- Conservation via grant funding or charitable or public ownership is not possible
- The harm/loss of the heritage asset is outweighed by the benefit of bringing the site back into use.

Local Planning Authorities should require applicants to provide evidence that other potential owners/users have been sought through appropriate marketing and that reasonable endeavours have been made to seek grant, or for charitable institutions / public authorities to take on the asset.

Where a proposal has a harmful impact on the significance of a designated heritage asset (less than substantial) Local Planning Authorities should weigh the public benefit of the proposal and recognise that the greater harm to significance, the greater the justification will be needed for its loss.

Not all elements of a World Heritage Site or Conservation Area will necessarily contribute to its significance and Local Planning Authorities should consider the relative significance of the element affected and its contribution to the World Heritage Site / Conservation Area as a whole. Local Planning Authorities should consider better revealing the significance of those areas where appropriate.

There are many heritage assets with archaeological interest, not currently designated as Scheduled Ancient Monuments, but are of equivalent significance and the absence of designation does not indicate a lower significance. These assets should be considered in the light of policies HE9 and HE10.

HE10: Additional Policy Principles Guiding the Consideration of Applications Affecting the Setting of a Designated Heritage Asset.

Where proposals affect the setting of a heritage asset, Local Planning Authorities should treat

favourably those proposals, which preserve the elements of the setting and that make a positive contribution or better reveal the significance of the asset. Local Planning Authorities should weigh any harm against the wider benefits of the application. The greater the negative impact on significance, the greater the benefits needed to justify approval. Local Planning Authorities should take a pro-active role in identifying opportunities for change which enhances or better reveals the significance of the heritage asset.

HE11: Enabling Development

Local Planning Authorities should assess the benefits of an application for enabling development to secure the future conservation of the heritage asset and outweigh the disbenefits of departing from the development plan.

HE12: Policy Principles Guiding the Recording of Information Related to Heritage Assets

Documenting /recording a building should not be a factor in deciding the retention of the historic asset. However in investigating the significance of the historic environment, the evidence base can be added to, for future planning and further understanding. Where loss (part or whole) of an historic asset is justified Local Planning Authorities should require the developer to adequately record, and advance understanding, in a timely manner, prior to that loss using planning conditions or obligations as appropriate. Copies of reports etc, should be deposited with the Historic Environment Record and/or local museum /public depository

Historic Environment Planning Practice Guide

In addition to PPS5, an 'Historic Environment Planning Practice Guide' has been published by English Heritage, the Department of Culture, Media and Sport and the Department of Communities and Local Government. This endeavors to provide pertinent guidance and more detail in respect of, and in conjunction with, the 12 policies in the PPS5. It also replaces the more comprehensive information as detailed in PPG15 (Annex C) and part 6 of the document provides information on making Repairs; Restoration, Additions and Alterations; and Works for Research.

PPS5: Planning for the Historic Environment PS5 – www.communities.gov.uk
Historic Environment Planning Practice Guide
www.english-heritage.org.uk

LOCAL PLANNING GUIDANCE

Derbyshire Dales Local Plan **(Adopted November 2005)**

The adopted Local Plan reinforces the view that the quality of the environment, natural and man-made, is an asset to be conserved. It realizes that this can be viewed as a major constraint to development, but that it also offers great opportunities for development to be conceived in harmony with it. Positive conservation policies coupled with a development strategy are needed, so that aims to meet real needs and encourage sustainable realistic developments in conjunction with the environment, are achieved.

The policies below can be found within the **Natural, Historic and Built Environment** section. The most relevant to this Appraisal are noted below.

Policy NBE3. **Other Sites Of Importance For Nature Conservation**

Planning permission for development within or likely to have a direct or indirect adverse impact upon any other site important for nature conservation including Derbyshire Wildlife Sites, Regionally Important Geological Sites or Local Nature Reserves will only be granted if it can be clearly demonstrated that there are benefits resulting from the development which would outweigh the harm caused to the nature conservation value of the site. Where necessary the Council will impose conditions or seek to negotiate a Section 106 Obligation to secure appropriate mitigation and/or compensatory measures to protect and enhance the nature conservation interests of the site.

There is one R.I.G.S. located within the Conservation Area: at Pic Tor, which includes Pic Tor itself and the cliff face down to the River Derwent along with part of the churchyard.

Policy NBE4 **Protecting Features or Areas of Importance to Wild Flora and Fauna**

Planning permission for development within, or likely to have an adverse impact upon the integrity or continuity of areas or features of importance to wild flora and fauna, will not be granted unless it can be clearly demonstrated that there are benefits resulting from development which would outweigh the importance of the feature to wild flora and fauna.

Where appropriate the Council will impose conditions or seek to negotiate a Section 106 Obligation to secure appropriate long-term management, mitigation and / or compensatory measures to protect and enhance the importance of the area or feature to wild flora and fauna

Policy NBE5

Development affecting Species Protected by law or are Nationally Rare

Planning permission for development likely to have a direct or indirect adverse impact upon species protected by law or identified as nationally rare will only be granted if it can be demonstrated that there is an overriding need for the development and where necessary, mitigation and/or compensatory measures can be put in place that allows the status of the species to be maintained or enhanced.

Policy NBE6

Trees And Woodlands

Planning permission will only be granted for development likely to have a direct or indirect adverse impact upon trees and woodlands if it can be demonstrated that the justification for the development outweighs their importance for the nature conservation or amenity value. Where any trees are lost as part of a development proposal the Council will impose conditions or seek to negotiate a Section 106 Obligation to replace those that are lost on the basis of three replacements for each one lost.

Policy NBE7

Features Important in the Landscape

Planning permission will only be granted for development likely to have an adverse impact upon landscape features such as hedgerows, walls, streams and ponds, where it can be demonstrated that the justification for the development outweighs their importance to the character and appearance of the immediate and wider landscape. In appropriate circumstances the Council will impose conditions or seek to negotiate a S106 Obligation to safeguard the long-term protection and management of such features.

Policy NBE8

Landscape Character

Planning permission will only be granted for development that protects or enhances the character, appearance and local distinctiveness of the landscape.

Supplementary Planning Guidance

In July 2007 Derbyshire Dales District Council adopted Supplementary Planning Guidance for Landscape Character and Design. Old Matlock is

defined within that document as being at the juncture of three Landscape Character Areas. To the west is the White Peak (Limestone Slopes and Dales), to the south Derbyshire Peak Fringe and Lower Derwent (Wooded Slopes and Valleys) and to the north-west beyond the Conservation Area boundary is the Dark Peak (Setted Valley Pastures). Further information on Landscape Character can be found in document 'Supplementary Planning Guidance for Landscape Character and Design' available on the Council's website, or on request.

Policy NBE16

Development Affecting A Listed Building

Planning permission for development will only be granted where it does not have an adverse impact upon the special character or setting of a listed building.

Policy NBE17

Alterations And Extensions To A Listed Building

Planning permission for development involving alterations or extensions to listed buildings will only be granted where;

- (a) the historic form of the building is retained and;
- (b) any architectural or historically important elements of the building, are retained in largely unaltered form; and
- (c) the proposed design, materials, scale and detailing does not have an adverse impact the character and appearance of the listed building

Policy NBE18

Conversion And Changes Of Use Of A Listed Building

Planning permission for the conversion and/or change of use of a listed building will be granted provided that;

- (a) the original use is no longer appropriate or viable and;
- (b) if the proposed use is not the original use, it is appropriate to the status of the listed building
- (c) the proposal will protect the listed building and its setting

Policy NBE19

Demolition Of Listed Buildings

Planning permission for development involving the demolition of a listed building will only be granted where;

- (a) the building is wholly beyond economic repair and;
- (b) it can be demonstrated that every possible effort has been made to

continue its current use or find a compatible alternative use that would allow for the retention of the listed building and;

- (c) the application is accompanied by a redevelopment scheme for the site, the merits of which would outweigh the loss of the listed building.

The Council will impose conditions or seek to enter into a Section 106 Obligation to ensure the implementation of the redevelopment scheme at the earliest possible opportunity following demolition of the listed building.

Policy NBE21

Development Affecting A Conservation Area

Planning permission for development proposals within or adjacent to a conservation area will be granted provided that they preserve or enhance the character or appearance of the area.

Policy NBE22

Shop Fronts in Conservation Areas

Planning permission for the replacement of a shop front within a Conservation Area will only be granted where:-

- (a) the existing shop front has little or no architectural and / or historic value or does not make a contribution of the Conservation Area ; or
- (b) it can be demonstrated that a shop front or architectural and / or historic value or that makes a contribution to the character of the Conservation Area is wholly beyond repair and restoration; and
- (c) the design and appearance of the new shop front preserves or enhances the character or appearance of the Conservation Area.

Policy NBE23

Conservation of Historic Parks and Gardens

Planning permission will only be granted for development within a Registered Park or Garden (as identified on the Adopted Local Plan map) where it does not have an adverse impact upon its character and appearance.

Planning permission will only be granted for development where it does not have an adverse impact upon the setting of a registered Park and Garden.

Where appropriate the Council will impose conditions or seek to negotiate a Section 106 Obligation to secure appropriate mitigation and / or compensatory measures to protect the important features of the historic park or garden.

Policy NBE24

Archaeological Sites And Heritage Features

Planning permission will not be granted for development likely to disturb or have an adverse impact upon Scheduled Ancient Monuments or other nationally important archaeological remains or their setting

Planning permission for development likely to disturb or have an adverse impact upon other important archaeological or heritage features, or their setting will only be granted where it can be demonstrated that;

- (a) the feature can be preserved in-situ, or;
- (b) where in-situ preservation is not feasible mitigation measures can be put in place that minimises any adverse impact upon the feature and its setting.

Where appropriate the Council will impose conditions or seek to negotiate a Section 106 Obligation to ensure appropriate investigation and recording, before and during development.

Policy NBE26

Landscape Design In Association With New Development

In determining applications for planning permission the Council will consider whether there is a need for the submission, implementation and maintenance of a scheme of landscaping to ensure that the proposed development would integrate with or enhance its surroundings. Where this is considered to be necessary appropriate conditions will be imposed on any planning permission.

Other policies in the Derbyshire Dales Adopted Local Plan will be relevant to Old Matlock although they are not all recorded here, where the emphasis is on the built and natural environment of the Conservation Area. Other relevant policies include:-

Strategic Framework policies

- SF1 Development Within Settlement Framework Boundaries*
- SF2 Protection of Important Open Spaces
- SF5 Design and Appearance of Development

*In relation to policy SF1, the majority of the Conservation Area is within a defined Settlement Boundary.

Housing policies

- H1 New Housing Development within Settlement Framework Boundaries
- H2 Extensions to Dwellings
- H3 Dependent Persons Units

- H8 Extending Domestic Curtilages into the Countryside
- H9 Design and Appearance of New Housing.
- H10 Affordable housing within the Settlement Framework of Market towns

Economic & Development Policies

- EDT2 Existing Strategic Employment Land & Business Premises*
- EDT4 Other Existing Employment Land & Business Premises
- EDT5 Industrial and Business Development within Settlement Frameworks
- EDT6 Conversion and Re-use of Buildings for Industrial and Business Development within Settlement Frameworks.
- EDT7 Extension and Expansion of Existing Industrial and Business Land and Premises
- EDT8 Design and Appearance of New Industrial and Business Premises
- EDT 11 Retail Uses within Employment Areas
- EDT18 Tourist Accommodation within the Settlement Framework of Market Towns and Other Settlements..

*EDT2 relates to Lime Tree Business Park which is situated just beyond the north-east boundary of the Conservation Area.

Town Centre and Retailing policies

- S4 Non Retail Uses in Primary Shopping Frontages
- S6 The Design and Appearance of Shops and Commercial premises
- S10 Development in Local Shopping Centres*
- S12 Important Local Services and Facilities

*S10 relates to four sites surrounding the junction of Matlock Green (A615) with Church Street and Lime Tree Road.

Transportation policies

- TR1 Access Requirements and the Impact of New Development
- TR3 Provision for Public Transport

Infrastructure and Community Facilities policies

- CS5 Renewable Energy Installations

Leisure and Recreation policies

- L3 Safeguarding Recreational Sites & Facilities*
- L9 Safeguarding Public Rights of Way
- L10 Derwent Valley Heritage Trail*
- L13 Matlock Parks*

*L3 This policy is relevant to Matlock Football Ground and Cricket Ground which abuts the northern boundary of the Conservation Area.

*L10 (b) relates to the Derwent Valley Heritage Trail which extends along the eastern boundary of the Conservation Area.

*L13 relates to Matlock Parks of which Pic Tor is included.

LEGISLATION

Conservation area designation has always had minimal impact on the individual and successive governments have always sought to ensure that the rights of individuals within conservation areas are not overly constrained, as compared with individuals outside of protected areas. However, erosion of historic fabric within conservation areas over the years has led to some additional controls being made available to protect the overall environment. Conservation Area Consent is required for the total (or substantial) demolition of a building. Following the outcome of the Shimizu case, various works that would previously have constituted partial demolition are not now subject to consent, despite their removal having a potentially detrimental effect on the character or appearance of the area e.g. removal of architectural detail etc.

Development

The Town & Country Planning (General Permitted Development Order) 1995 indicates the rights of an individual to act without the need for a planning approval. However, some of these rights are withdrawn, or are more limited in their application in conservation areas and national parks, than elsewhere. In October 2008 amendments were introduced to the TCP (GPDO) 1995 by the TCP (GPDO) 2008. The following indicate constraints within a Conservation Area that are **'additional'** to **normal planning requirements** outside a Conservation Area.

Planning permission is required for:-

- An extension to the dwelling-house which would extend beyond a wall forming a side elevation of the original dwelling-house.
- An extension of the dwelling-house which would have more than one storey and extend beyond the rear wall of the original dwelling-house.
- Cladding a house with stone, artificial stone, pebble-dash, render, timber, plastic and tiles.

- The enlargement of a house consisting of an addition or alteration to its roof.
- The provision, alteration or improvement of a building/enclosure/pool or the provision of a container to be used for domestic heating purposes (oil/gas) within the curtilage of a dwelling-house **if** any part of the building, enclosure, pool or container would be situated on land between a wall forming a side elevation of the house and the boundary of the curtilage of the house.
- The installation, alteration or replacement of a chimney, flue or soil and vent pipe on a house **if** the chimney, flue, soil, or vent pipe would be installed on a wall or roof-slope which fronts a highway and forms either the principal or side elevation of a house.
- The installation, alteration or replacement of a satellite dish on a house, or within the curtilage of a house **if** it consists of the installation of a satellite dish, on a chimney, wall or roof slope which faces onto, and is visible from a highway or on a building which exceeds 15 metres in height.
- The installation, alteration or replacement of flue, forming part of combined heat and power system, on a dwelling-house **if** the flue would be installed on a wall or a roof-slope forming the principal or side elevation of the dwelling-house and would be visible from a highway.

Trees

Under the Town and Country Planning Act 1990 (Section 211), subject to range of exceptions, anyone proposing to cut down, top or lop a tree in a conservation area is required to give six weeks notice to the local planning authority. This provides the local authority with the opportunity for bringing the tree under their general control by making a tree preservation order in respect of it. Penalties for contravention are similar to those relating to tree preservation orders.

Conservation Area Consent

Conservation Area Consent is required for the substantial or total destruction of a building in a conservation area greater than 115 cubic metres. Consideration is given as to whether the building makes a positive contribution to the character and appearance of the Conservation Area. Conservation Area Consent is also required for the demolition of walls, fences and other means of enclosure where planning permission would be required for their construction.

Article 4 Directions

It is recognized that in some conservation areas, the above criteria only provide limited measures and additional controls may be desirable. The General Planning Development Order (GPDO) therefore allows the local authority to introduce Article 4 Directions to withdraw further rights in relation to features, which are considered to be of particular significance in the area. Items which can be brought under additional control include:-

Installation of Micro-generation Equipment

Planning permission is required for :-

- The installation, alteration or replacement of solar thermal equipment on a house (or flats) **if** the solar PV or solar thermal equipment would be installed on a wall forming the principal or side elevation of the house and would be visible from the highway, or; on a wall of a building within the curtilage of the house and would be visible from a highway.
- The installation, alteration or replacement of stand alone solar within the curtilage of a dwelling-house **if** it is to be situated within any part of the curtilage of the dwelling-house and would be visible from the highway.
- The installation, alteration or replacement of a flue, forming part of a biomass heating system on a dwelling-house **if** the flue would be installed on a wall or a roof-slope forming the principal or side elevation of the dwelling-house and would be visible from a highway.
- Alteration to a dwelling-house (this could include external windows)
- Roof slopes and materials
- External doors/porches
- Ancillary buildings
- Hard surfaces, e.g. drives and hard-standings
- Satellite antennae
- Gates, walls, fences
- Chimneys
- Painting

If it is considered that there is a particular threat to the character or appearance of a conservation area from inappropriate 'permitted development', the local planning authority will give consideration to

the establishment of an Article 4 Direction (under the provisions of the Town and Country Planning Act 1990) to bring specified aspects of permitted development under control. Normally it is recommended that any Article 4 Direction should be reviewed every five years.

Any potential new Directions would be the subject of a full public consultation exercise with local residents and the Parish Council.

Advertisement Control

It is recognized that all outdoor advertisements affect the appearance of the building or the neighbourhood where they are to be displayed and there is a duty by the Local Planning Authority to pay special regard to the desirability of preserving or enhancing the character and appearance of the conservation area. As many conservation areas include retail and commercial premises, outdoor advertising is essential to commercial activity and the success of local businesses will usually help to maintain buildings in good repair and in having an attractive appearance.

Certain categories of 'deemed consent' advertisements, which may have a significant visual impact, are not permitted for display in a conservation area without the local planning authority's specific consent. Where it is proving impossible to prevent unsuitable or harmful advertisement displays a Direction for an Area of Special Advertisement Control can be made to justify imposing additional restrictions.

Supplementary Planning Guidance

- Landscape Character and Design (2007)
- Shop Front and Commercial Properties Design Guidance (2006)
- The Conversion of Farm Buildings Design Guidance (2005)

All the above are available on the District Council web-site www.derbyshiredales.gov.uk.

In summary, in a Conservation Area, the District Council can:-

- ensure that proposed new design and materials harmonise with the buildings and the surrounding area
- prepare development or design briefs for specific sites in conservation areas
- introduce an Article 4 Direction if it is considered appropriate

- control advertisements and shop signage
- endeavour that traffic control measures are not at odds with the character of the area
- consider enhancement schemes and look to environmental improvements
- make grants available for the repair of buildings and for enhancement schemes within the area
- control works to trees