

The Arc
High Street
Clowne
Derbyshire
S43 4JY

Date: 8th January 2019

Dear Sir or Madam

You are hereby summoned to attend a meeting of the Planning Committee of Bolsover District Council to be held in the Council Chamber, The Arc, Clowne, on Wednesday 16th January 2019 at 1000 hours.

Register of Members' Interest - Members are reminded that a Member must within 28 days of becoming aware of any changes to their Disclosable Pecuniary Interests provide written notification to the Authority's Monitoring Officer.

You will find the contents of the agenda itemised on page 2.

Yours faithfully



Joint Head of Corporate Governance and Monitoring Officer
To: Chairman and Members of the Planning Committee

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**PLANNING COMMITTEE
AGENDA**

**Wednesday 16th January 2019 at 1000 hours
in the Council Chamber, The Arc, Clowne**

Item No.		Page No.(s)
	PART 1 – OPEN ITEMS	
1.	<u>Apologies for Absence</u>	
2.	<u>Urgent Items of Business</u> To note any urgent items of business which the Chairman has consented to being considered under the provisions of Section 100(B) 4(b) of the Local Government Act 1972	
3.	<u>Declarations of Interest</u> Members should declare the existence and nature of any Disclosable Pecuniary Interest and Non Statutory Interest as defined by the Members' Code of Conduct in respect of: <ul style="list-style-type: none"> a) any business on the agenda b) any urgent additional items to be considered c) any matters arising out of those items and if appropriate, withdraw from the meeting at the relevant time.	
4.	To approve the minutes of a meeting held on 19 th December 2018	3 to 9
5.	Notes of a Site Visit held on 14 th December 2018	10
6.	Applications to be determined under the Town & Country Planning Acts.	
	(i) 18/000623/FUL - Construction of new dwelling, construction of new barn, conversion of existing barn to microbrewery/ kitchen with associated office at Land to the West of Bridge Close, Hollin Hill Road, Clowne	11 to 29
7.	Update: Section 106 Agreements	30 to 36
8.	Report: Appeal Decisions: April 2015 – December 2018	37 to 67

PLANNING COMMITTEE

Minutes of a meeting of the Planning Committee of the Bolsover District Council held in the Council Chamber, The Arc, Clowne on Wednesday 19th December 2018 at 1000 hours

PRESENT:-

Members:-

Councillor T. Munro in the Chair

Councillors T. Alexander, P.M. Bowmer, T. Connerton, C.P. Cooper, P.A. Cooper, M.G. Crane, S.W. Fritchley, D. McGregor (until Minute No. 0547(4)), B.R. Murray-Carr, K. Reid, P. Smith, R. Turner, B. Watson, D.S. Watson and J. Wilson.

Officers:-

C. Fridlington (Planning Manager (Development Control)), J. Fieldsend (Team Leader (Non Contentious) Solicitor), A. Brownsword (Senior Governance Officer) and A. Bluff (Governance Officer) (Observing)

0542. APOLOGIES

Apologies for absence were received from Councillors J.A. Clifton, S. Peake and R. Turner

0543. URGENT ITEMS OF BUSINESS

The Chair consented to the following item of business being raised:

Application No. 17/00396/OUT - Residential development of up to 65 dwellings with public open space and a cycle/pedestrian link to Storth Lane including access at Land to The Rear Of 17 To 95 Alfreton Road, Pinxton – Contribution request from the Clinical Commissioning Group.

0544. DECLARATION OF INTEREST

The following declaration was received:

Minute No.	Member	Type of Interest
0547(4)	Duncan McGregor	Significant Other Interest due to being a Member of Heritage and Wellbeing Creswell Limited which was an organisation trying to

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secure leisure facilities for
Creswell.

0545. MINUTES – 21ST NOVEMBER 2018

Moved by Councillor S.W. Fritchley and seconded by Councillor B.R. Murray-Carr
RESOLVED that the minutes of a meeting of the Planning Committee held on 21st November 2018 be approved as a true and correct record.

0546. SITE VISIT NOTES – 16TH NOVEMBER 2018

Moved by Councillor P. Smith and seconded by Councillor J. Wilson
RESOLVED that the notes of a Planning Site Visit held on 16th November 2018 be approved as a true and correct record.

0547. APPLICATIONS TO BE DETERMINED UNDER THE TOWN AND COUNTRY PLANNING ACTS

1. 18/00372/FUL - The stationing of a log cabin as a temporary occupational dwelling for a period of three years associated with the farming operation at Cedar Farm, to be occupied by an agricultural worker and family at Cedar Farm, Chesterfield Road, Tibshelf, Alfreton

Further details were included within the Supplementary Report.

The Planning Manager (Development Control) presented the report which gave details of the application and highlighted the history of the site and the key issues set out in the report.

Mr. C. Holt and Mrs Rowe attended the meeting and spoke in support of the application.

The Committee considered the application having regard to the Bolsover District Local Plan, National Planning Policy Framework and the Publication Version of the Bolsover District Local Plan.

Moved by Councillor T. Munro and seconded by Councillor J. Wilson
RESOLVED that application no. 18/00372/FUL be APPROVED subject to the following conditions:

1. No development shall take place until the precise details of the disposal of foul water drainage and the precise details of the design and siting of the log cabin, and the method of its construction, have been submitted to and agreed in writing by the local planning authority. Thereafter, the development must be carried out in complete accordance with the approved details.
2. The log cabin hereby permitted must not have external dimensions greater than 20m x 6.8m and must not be higher than 3.05m when

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measured from internal floor to internal ceiling.

3. At all times during the lifetime of the development hereby permitted, the log cabin stationed at Cedar Farm for human habitation must be maintained so it is capable of being removed by road either as a single unit or in the event a twin unit is provided; it remains capable of being removed by road in two separate pieces.
4. Prior to the first occupation of the log cabin hereby permitted, the external cladding for the log cabin must be provided with external finishes first submitted to and agreed in writing by the local planning authority.
5. The existing access must remain unaltered other than any works required to provide visibility sightlines of 2.4m x 149m in both directions measured to the nearside carriageway edge prior to the first occupation of the log cabin hereby permitted. The land in advance of the visibility sightlines must thereafter be retained throughout the life of the development free of any object greater than 1m in height (0.6m in the case of vegetation) relative to the adjoining nearside carriageway channel level.
6. The log cabin hereby permitted to be stationed on Cedar Farm must not be occupied other than by a person occupied solely in agriculture and their immediate dependants.
7. The use of the log cabin for human habitation, as hereby permitted, must cease within three years of the date of this permission. Thereafter, the log cabin provided for the purposes of human habitation under the terms of this permission shall be permanently removed from Cedar Farm no later than three years and three months after the date of this permission.

(Planning Manager (Development Control))

2. 17/00657/FUL - Site remodelling and remediation; development of accommodation for employment uses (use classes B1c / B2 / B8); car parking; access and landscaping; associated works at Land East Of M1 Motorway And North Of Ball Hill, South Normanton

The application had been withdrawn by the applicant prior to commencement of Committee.

(Planning Manager (Development Control))

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3. 18/00493/VAR - Application for the variation of Condition 4 of Planning Permission 17/00153/FUL (to remove trading hours of between 0600hrs and 2300hrs to allow 24 hour trading) at 2 Tallys End, Barlborough, Chesterfield, S43 4WP

The application had been withdrawn by the applicant prior to commencement of Committee.

(Planning Manager (Development Control))

Councillor D. McGregor declared a Significant Other Interest in the following item of business and left the room while the decision was made.

4. 18/00087/OUT - Outline planning application (all matters reserved except for access) for the residential led, mixed-use redevelopment of land to the south of Colliery Road, Creswell. Comprising of circa 300 dwellings, circa 0.8 hectares of employment land, convenience retail, community scale leisure facility, medical centre (including demolition of vacant church building) and the upgrade of Colliery Road to adoptable standard at Land South Of Model Village, Creswell

The Planning Manager (Development Control) presented the report which gave details of the application and highlighted the history of the site and the key issues set out in the report.

Councillor D. McGregor and Mr. D. Ridout attended the meeting and spoke in support of the application.

Councillor D. McGregor then left the meeting.

The Committee considered the application having regard to the Bolsover District Local Plan, National Planning Policy Framework, the Publication Version of the Bolsover District Local Plan Affordable Housing SPD, the Historic Environment SPD, the Creswell Village and Model Village Conservation Area Appraisal and Management Plan and the Planning (Listed Buildings and Conservation Areas) Act 1990 – Section 72.

Moved by Councillor S.W. Fritchley and seconded by Councillor P. Smith

RESOLVED that application no. 18/00087/OUT be APPROVED pending completion of a S106 obligation regarding the developer contributions and obligations as set out in the proposals section of this report in respect of:

- affordable housing,
- education,
- play space, recreation facilities and leisure provision,
- Travel Plan and
- GP practice

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And subject to conditions including the following given in precis form below to be formulated in full by the Head of Planning/Planning Manager in liaison with chair and vice chair of the Planning Committee:-

Conditions

Approval of reserved matters before commencement.

Application for reserved matters to be made within 3 years and commencement triggers.

Permission relates to amended drawings:-

- Site Location redline boundary ref: 14.057/03f
- Colliery Road 'General Arrangement' drawing ref: WIE 13853 – A04
- Road Link to Gleeson's site 06 024 A01
- Illustrative Masterplan ref: 14.057/02U.

Application for approval of reserved matters to be accompanied by the results of an archaeological field evaluation.

Reserved Matters application to be accompanied by (a) Construction and Environmental Management Plan and (b) Biodiversity Enhancement and Management Plan.

Reserved Matters application to be accompanied by a detailed design and associated management and maintenance plan of the surface water drainage for the site to have been approved prior to commencement.

Surface water destination to accord with the hierarchy:

- I. into the ground (infiltration);
- II. to a surface water body;
- III. to a surface water sewer, highway drain, or another drainage system;
- IV. to a combined sewer.

Application for approval of reserved matters shall be designed to exclude any development or land uses to which the public have access within 25m of each of the deep mine shafts on site. In addition the development shall be designed to screen public views of the mine shaft caps.

Application for approval of reserved matters shall be designed to include any noise mitigation required to mitigate noise to achieve recommended internal and external sound level criteria for new dwellings. To address noise sources from industrial estates, railway line, and lagoon restoration scheme.

Prior to commencement, details of how surface water run-off from the site will be avoided/dealt with during the construction phase.

Ground contamination investigation and remediation.

No piled foundations unless demonstrated safe to ground water.

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The link to Gleeson's site is to be delivered prior to commencement, the Colliery Road upgrade is to be undertaken in accordance with a phasing plan and completed at least to base course level and reopened prior to 80 dwellings being completed.

Land to the southern corner of the cricket pitch and otherwise within the recreation ground to be conditioned to leisure use.

Scheme of public art provision on site to be agreed.

Scale/floor area of retail uses to be limited to 500m²

Appropriate Highway Authority Conditions:-

Provision of highways to base course to link to public highway prior to occupation.

The gradient of the new road shall not exceed 1:30 for the first 10m into the site from the existing highway boundary and 1:20 thereafter.

Scheme for maintenance of the streets until S38 adoption agreement in place.

Provision of off-street parking space.

Bin stores shall be provided within private land at the entrance to shared private accesses.

Revised Travel plan.

(Informative Notes to include

Any subsequent reserved matters application will need to include design of the internal layout of the site in accordance with the guidance contained in the Manual for Streets document and the 6Cs Design Guide.

Reserved matters application should be accompanied by a swept path analysis to demonstrate that service and emergency vehicles can successfully enter and manoeuvre within the site.)

(Planning Manager (Development Control))

0548. URGENT ITEM OF BUSINESS

17/00396/OUT - Residential development of up to 65 dwellings with public open space and a cycle/pedestrian link to Storth Lane including access at Land to The Rear Of 17 To 95 Alfreton Road, Pinxton – Contribution request from the Clinical Commissioning Group

The Planning Manager (Development Control) thanked the Chair for allowing the urgent item of business and explained that following approval of the application by the Planning Committee on 21st November 2018, a late representation had been received from the NHS Hardwick Clinical Commissioning Group requesting a contribution towards an extension to the existing GP Surgery.

The Applicant had been consulted and had agreed to the contribution.

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Moved by Councillor B.R. Murray-Carr and seconded by Councillor K. Reid

RESOLVED that approval be DEFERRED and delegated to Planning Manager in consultation with Chairman and Vice-Chairman of Planning Committee subject to:

- A. Completion of S106 Planning Obligation to cover the amended heads of terms listed below;
- B. Conditions deemed necessary including those set out in draft form in the draft minutes of the Planning Committee meeting at pages 5 – 11 of the main agenda for this meeting, to be formulated in full by the Planning Manager

A. S106 Heads of Terms:

- 10% affordable housing;
- Public art £10,000; and
- Off-site leisure £51,025 [65 dwellings x £785 per dwelling].
- Health contributions of £381.57 per dwelling.

(Planning Manager (Development Control))

The Chairman wished everyone a Merry Christmas and all the best for 2019.

The meeting concluded at 1048 hours.

PLANNING SITE VISIT

Notes of a Planning Site Visit held on 14 December 2018 commencing at 1000 hours.

PRESENT:-

Members:-

Councillor T. Munro in the Chair

Councillors T. Alexander, C.P. Cooper, P.A. Cooper, D. McGregor, P. Smith, R. Turner, D.S. Watson and J. Wilson.

Officer:-

S. Phillipson (Principal Planning Officer)

1. APOLOGIES

Apologies were received from Councillors P.M. Bowmer, J.A. Clifton, S. Peake, K. Reid, and B. Watson.

2. SITES VISITED

1) McDonalds, Tally's End, Barlborough (18/00493/VAR)

2) Cedar Farm, Tibshelf (18/00372/FUL)

3) Land south of Creswell Model Village (18/00087/OUT)

The meeting concluded at 11:10 hours

PARISH

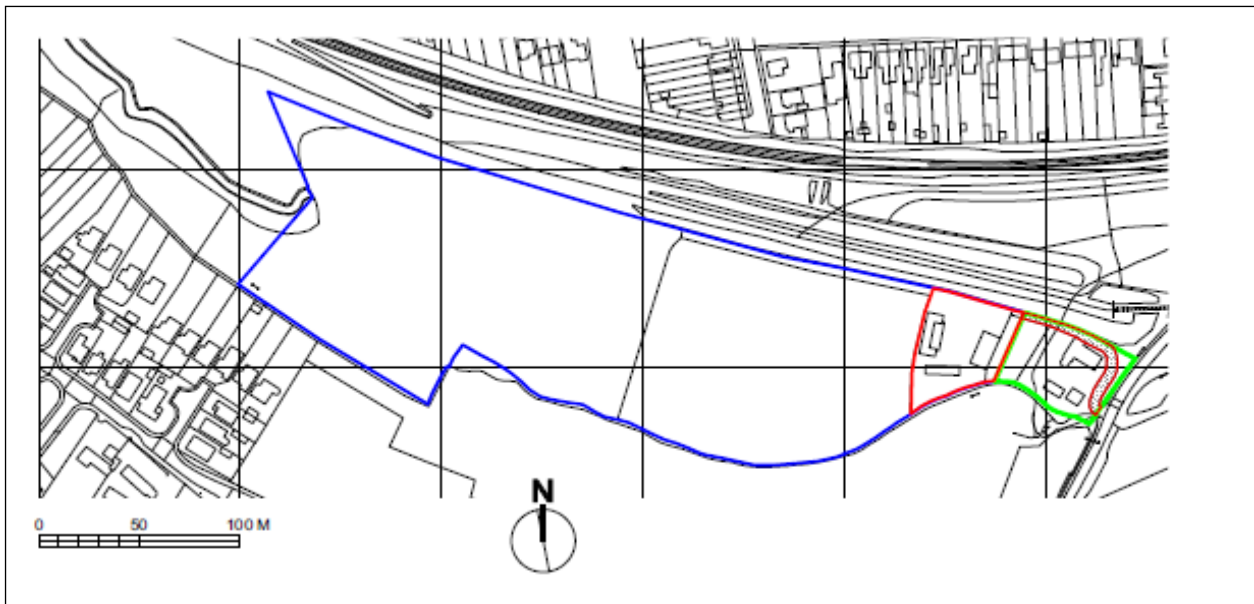
Clowne

APPLICATION Construction of new dwelling, construction of new barn, conversion of existing barn to microbrewery/ kitchen with associated office.
LOCATION Land to the West of Bridge Close, Hollin Hill Road, Clowne
APPLICANT Mr & Mrs Salt 10 Church View Clowne Chesterfield S43 4LN
APPLICATION NO. 18/000623/FUL **FILE NO.** PP-06574992
CASE OFFICER Mr Chris Fridlington
DATE RECEIVED 6th December 2018

DELEGATED APPLICATION REFERRED TO COMMITTEE BY: Planning Manager
REASON: To ensure transparency in the department's decision taking into account the planning history attached to the site, the Heritage Conservation Manager's support for the design of the proposed development, and the potential support for these proposals in national planning policies in the revised National Planning Policy Framework.

SITE

The application site lies on land off Hollin Hill that lies outside of the settlement framework but adjacent to the designated Clowne Conservation Area. The site is accessed from a shared driveway that runs around the northern side of an existing dwelling known as Bridge Close. Clowne Linear Park runs parallel to part of this driveway and the northern boundary of the site and a small stream runs along the southern boundary of the application site. There is mature planting along both these boundaries and some planting between the site and Bridge Close, which is on land at a lower level to the application site.

Location Plan

The application site is currently occupied by three buildings: a 4 bay steel framed barn with blockwork and profiled sheet walls and roof; a timber clad stable block for 8 horses (permission granted 2007 - 07/00295/FUL), and a single storey derelict barn.

Existing Barn



Derelict Barn



Stables



PROPOSAL

The current application proposes: (1) construction of a new barn; (2) conversion of an existing barn to microbrewery; and (3) the erection of a new house with residential annex on land off Hollin Hill on the edge of Clowne.

The new house with integral annex would be sited broadly on the footprint of the derelict barn that currently lies adjacent to the southern boundary of the application site. The new barn would be sited opposite the new house and between the existing stables and converted barn so the whole development would be arranged around a central courtyard to the rear of a property known as Bridge Close.

In summary, these proposals are a resubmission of a recently refused application for similar proposals. The key difference between the two sets of proposals is the addition of the annex (shown on the visualisation overleaf extending off the main house under a cat-slide roof). The applicants have also provided further justification for the new house and annex, which is discussed in more detail in the later sections of this report.

Visualisation of Proposals



AMENDMENTS

No amendments to report.

HISTORY

In May 2010, planning permission was refused for the demolition of an existing barn and erection of two storey dwelling (application no. 10/00072/FUL). The subsequent appeal was dismissed because the proposed dwelling was located outside of the settlement framework and because the proposal would cause harm to the rural character and appearance of the site and its surroundings and fail to preserve the character, appearance and setting of the Clowne Conservation Area by virtue of its siting and design.

In 2007, permission was granted for the erection of the existing stable block and a new barn to replace the derelict barn on the application site (07/00295/FUL).

In October 2018, planning permission was refused for application no. 18/00043/FUL, which proposed: (1) construction of a new barn; (2) conversion of an existing barn to microbrewery; and (3) the erection of a new house on the current application site for the following reasons:

- 1. The current application does not meet the requirements of HOU9 because there is no essential need for the new house proposed in countryside outside of the settlement framework. Therefore, the proposals for a new house are considered to be contrary to relevant national planning policies and saved Local Plan policies GEN8 and ENV3 because the house is not necessary in this location.*

2. *It is also considered the proposals would not result in such a significant improvement to the rural environment or such a significant benefit to the local community through the reclamation or re-use of land that there are exceptional circumstances in which permission may be granted for a house in this location under the enhancement criteria in relevant national planning policies and ENV3.*

The current application is a resubmission of this refused application but in this case, the main thrust of the argument made by the applicants for a newly-built house on the application site relates to meeting the unmet needs of two family members with protected characteristics.

CONSULTATIONS

Bolsover District Council (Engineers) – No response to date

Bolsover District Council (Environmental Health) – No response to date

Bolsover District Council (Heritage Conservation Manager) - No response to date

Clowne Parish Council – No response to date.

Derbyshire County Council (Flood Team) – No response to date

Derbyshire County Council (Highways) – No response to date

Environment Agency – No response to date.

Severn Trent Water – No objections subject to conditions

PUBLICITY

The application has been publicised by site notice and neighbour notification and one representation has been received by the Council in support of the application. The reasons for supporting the application are given as follows:

I am in full support of this proposal. From a consumer point of view the fact that I can buy quality products made in the same village in which I live is amazing. I also know (from my own experience) that there is a great need for the products that Sirius Therapies provides and further expansion of businesses like this is essential if we are to tackle the environmental issue that we find ourselves in today. Clowne is in a period of regeneration, we have new restaurants, bars and finally people are coming into Clowne from other towns. The venture described in this proposal will only add to this regeneration and continue to help put Clowne on the map (for the right reasons).

POLICY

Bolsover District Local Plan

Relevant saved Local Plan policies include:

GEN 1 Minimum requirements for development)

GEN 2 (Impact of the development on the countryside)
GEN 4 (Development on contaminated land)
GEN8 (Settlement Frameworks)
ENV 3 (Development in the countryside)
ENV4 (Reuse and adaptation of rural buildings)
ENV 5 (Nature conservation interests throughout the district)
HOU9 (Essential new dwellings in the countryside)
CON 4 (Development adjoining conservation areas)
CON 10 Development affecting the setting of listed buildings)

Publication Version of the Local Plan

The Publication Version of the Local Plan is now entering into examination in public by the Secretary of State but there are no emerging policies that are significantly different from the thrust of saved Local Plan policies in the existing Local Plan. Notably, the application site remains outside of the settlement framework and is not designated for residential development in the Publication Version of the Local Plan.

National Planning Policy Framework

The National Planning Policy Framework was revised in July 2018. The paragraphs in the revised Framework that are most relevant to the current application include:

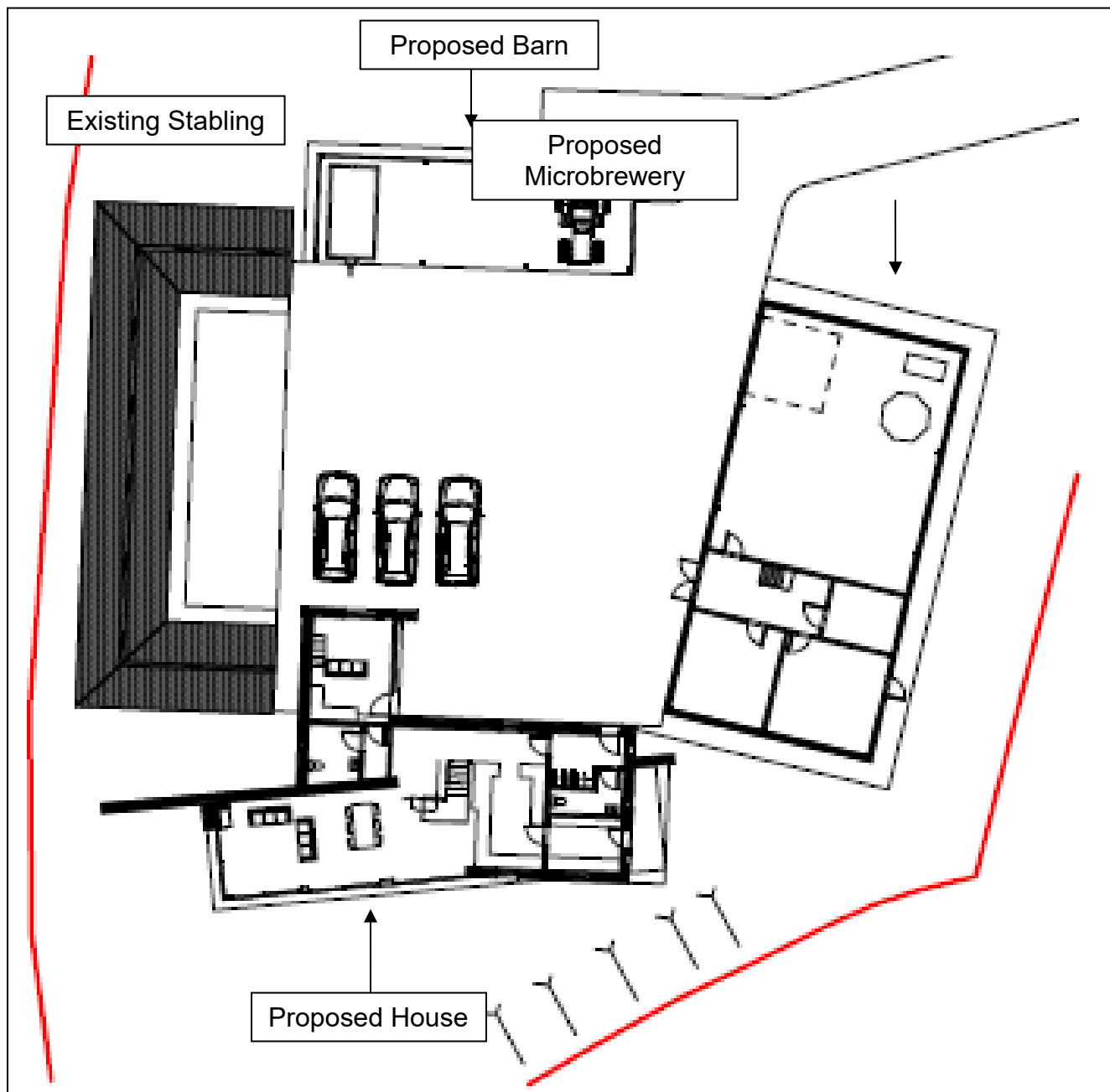
- Paragraph 8: Achieving sustainable development
- Paragraph 11: Presumption in favour of sustainable development
- Paragraph 34: Development contributions
- Paragraphs 47-50: Determining applications
- Paragraph 54-57: Planning conditions and obligations
- Paragraph 67: Identifying land for homes
- Paragraphs 73-74: Maintaining supply and delivery
- Paragraph 76: Timescales for commencement of permission
- Paragraphs 83 & 84: Supporting a prosperous rural economy
- Paragraph 92 & 94: Promoting healthy and safe communities
- Paragraph 127: Achieving well-designed places
- Paragraphs 184 & 189-193 Proposals affecting heritage assets

ASSESSMENT

Construction of a new barn

Previously, planning permission has been granted for a new barn on the application site (07/00295/FUL) and this permission remains extant because it was implemented when the existing stable block was built. However, this barn would have been located on the site proposed for the new house (see overleaf).

Site Layout



The new barn (proposed in this application) is required for the dry storage of hay, the drying of hops, and the storage of implements and it would be a steel-framed building clad in horizontal open jointed timber. This type of building used in association with land management would normally be acceptable in the countryside under ENV3, which allows for development that is necessary in the countryside.

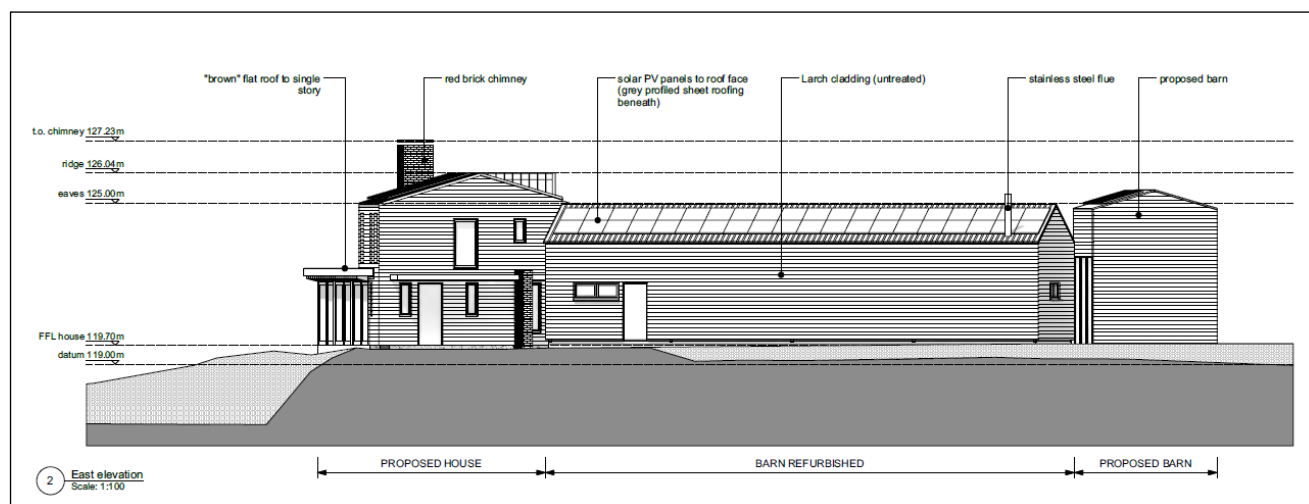
In these respects, a similar conclusion to that reached on the previous application can be reached on this aspect of the proposals in the current application; the new barn could be approved on the basis of its individual planning merits but the barn proposed in this application (shown below) is only 'needed' because the new house would be constructed in

the position of the new barn that has not yet been built but was approved previously under application no. 07/00295/FUL.

In addition, the consented barn would be located tighter to the southern boundary of the site where it would have less visual impact than the barn proposed in this application and there appears to be no obvious or essential requirement for two new barns on the application site. Therefore, if the house proposed in this application were to be refused planning permission; there is fall-back position that would allow the applicant to build the new barn that has already been consented under the existing permission (07/00295/FUL) in a better location.

Consequently, it is not considered a decision on this application turns on the acceptability of the new barn because if the application is approved, the new barn would be required and would be acceptable in planning terms; if this application is refused, the consented barn could still be built to meet any residual need for an extra farm building on the site.

East-facing elevation of proposed barn



Conversion of the existing barn to microbrewery and commercial kitchen

The current application proposes to convert and subdivide the existing barn on the site to form a microbrewery, a commercial grade kitchen and a small office. The office would be used for the administration of the adjacent land in ownership (currently partly-used for growing hops) and shared by the microbrewery business and the operator of the commercial kitchen. The commercial kitchen would be used for creating candles, soaps and similar scented products that would be made from natural ingredients.

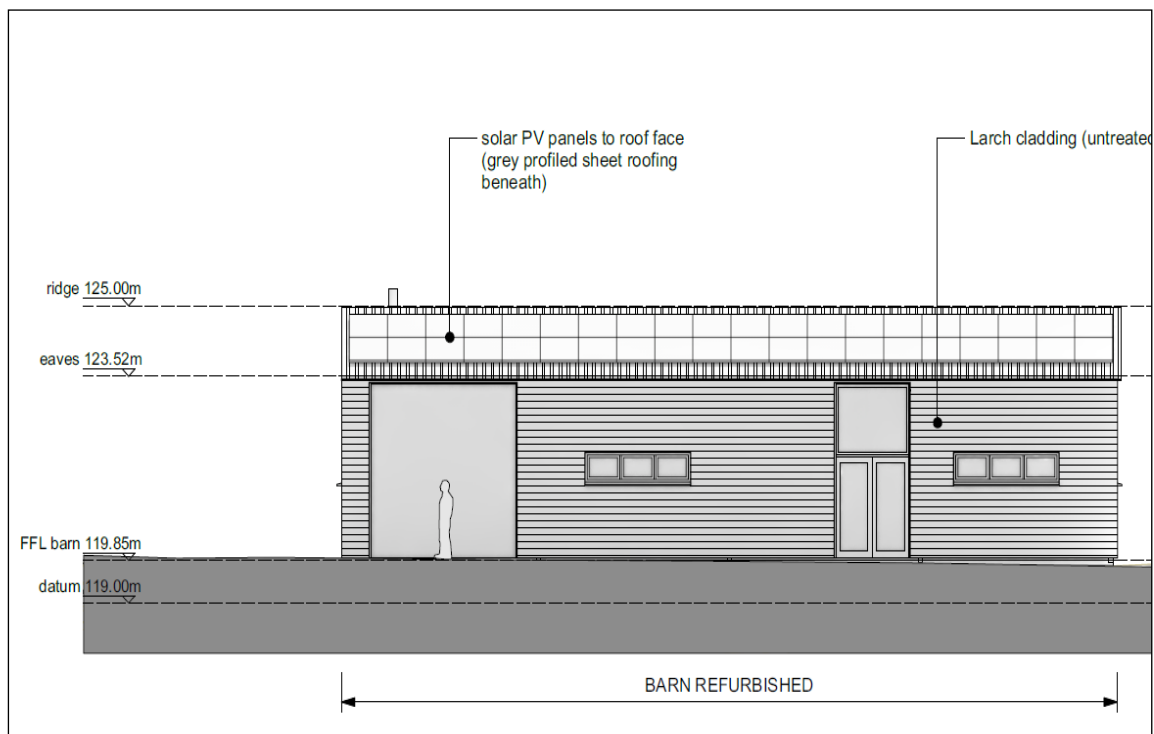
The submitted plans (overleaf) show that the walls will be clad with timber boarding and the roof will be covered with new profiled sheeting, similar to the sheeting on the existing building. Solar photovoltaic panels are proposed to both roof faces whereas there would be a limited amount of new openings in the existing building. Overall, it is considered that the converted building would retain the appearance of a rural building and this helps to minimise the visual impact of these proposals on the surrounding Conservation Area, nearby listed St John the Baptist's church, and the wider landscape in accordance with saved Local Plan policies

CON4, CON10 and GEN2.

Saved Local Plan policy ENV4 and national planning policies in the revised National Planning Policy Framework also support the proposed re-use and adaptation of the existing barn and there are no objections to the proposals to convert the existing barn on highway safety grounds. In addition, it is highly unlikely that the proposed use would be unneighbourly other than the Council's Environmental Health Protection Officers have previously recommended conditions to deal with the potential for odour. In addition, supplementary details have been submitted with this application that provide further evidence that both businesses are likely to be successful over the longer term.

Therefore, as in the determination of the previous application, there are no overriding objections to the proposals for conversion of the existing barn to microbrewery and commercial kitchen (when assessed in isolation) subject to appropriate planning conditions.

External appearance of converted barn



Erection of a new house

Previously, proposals for a new house on this site have been assessed against policies in the Bolsover District Local Plan and the Framework based on the applicant's case that in the first instance: the house was needed as an occupational dwelling associated with the microbrewery and commercial kitchen that would operate from the converted barn (as discussed in the previous section of this report). A similar case is made in this application insofar as additional information has been provided to help demonstrate that both these on-site businesses would be viable propositions over the longer term.

Therefore, the need for the house proposed in this application could be assessed against the merits of the applicants' proposals for conversion of the existing barn to a commercial use noting the new house could allow both applicants to make a success of their respective business proposals. The business proposals are both related to the management of land in the applicants' control (c.3 hectares) because it is intended to grow hops for the microbrewery and scented plants for use in the commercial kitchen on this land. The proposed house would also help prevention of crime because someone living on the site would provide more security for the site itself and the associated land holding.

In these respects: saved Local Plan policy HOU9 and Paragraph 79 of the revised Framework both allow for new dwellings in the countryside to meet an essential need for a rural worker, including those taking majority control of a farm business, to live permanently at or near their place of work in the countryside. These policies are consistent with saved Local Plan policies GEN8 and ENV3, which only allow for residential development on the application site (i.e. in the countryside outside of the settlement framework) in very limited circumstances.

However, the justification for the dwelling falls short of that required for a new house in the countryside for an occupational worker because there is no 'essential' requirement for either applicant to be on the site at most times during the night and day throughout the year to manage the land or either business operating from the converted barn. Equally, whilst both the applicants' businesses would benefit from the marketing aspects (and practical aspects) of growing all or part of their product on their own land; it is also clear that neither business is dependent on being in the proposed location outside of the existing settlement framework to operate successfully.

Moreover, the applicants' business proposals also appear to have altered from the previous application or the information submitted with this application makes it more explicit that the applicants intend to maintain their interest in an information technology company. This company is intended to be operated as part of a single business with the commercial kitchen and microbrewery and it is less than clear from the submitted information whether either applicant would be employed full time in the kitchen and/or microbrewery and/or the information technology business.

Therefore, the proposals do not comply with saved Local Plan policy HOU9 or Paragraph 79 of the revised Framework in the absence of an 'essential need for the dwelling' and the dwelling does not need to be in this location to meet the needs of a rural-based business contrary to the requirements of saved Local Plan policy ENV3. Notably, this conclusion appears to have already been accepted by the applicants given that on page 9 of the submitted Supplementary Planning Statement it is said:

It is not argued that the proposal constitutes an essential rural worker's dwelling, although living on site would have strong benefits to the sustainability of the applicant's enterprises.

Instead, page 10 of the submitted Supplementary Planning Statement now goes on to say:

It is the applicant's case that because of the exceptional circumstances of the duty of care towards their children and the substantial benefits that the proposal would have in terms of addressing the disadvantages that their children face, it is necessary to build a new dwelling

in this location.

Public Sector Duty

In accordance with the public sector duty in the Equality Act 2010, the Council does need to consider how its decision making on this application would affect a person with a disability, which is a protected characteristic as defined in the same Act. This is because the information provided by the applicants indicates there are two family members who live with the applicants that have a disability which affects their ability to carry out normal day to day activities.

The information provided by the applicants suggests the proposed annex would help promote equality of opportunity for both of these two family members by allowing each in turn to live semi-independently from their parents in an annex that would provide all the facilities for day-to-day living. In addition, the information provided by the applicants suggests the opportunity for the older of the two family members and then for the younger family member to live in the assisted living accommodation (provided by the annex) with better access to Eco Therapy, for example, would have a positive impact on their own physical and emotional welfare.

This is important because the information submitted to the Council by the applicants indicate that they have taken on 'carer's roles' for the two family members with protected characteristics whose needs are not being met in their current accommodation or in any other way according to the information made available to the Council. In these terms, granting planning permission for the current application would minimise the disadvantages faced by the household arising from two members of the family having a protected characteristic.

Therefore, a decision to approve this application could be deemed to be consistent with the public sector duty set out in the Equality Act 2010 because an approval would provide the applicants the opportunity to use private money to build a new house to help meet the unmet needs of the household and minimise the disadvantages currently suffered by the two family members because of their protected characteristics.

A decision to approve this application on this basis could also be deemed to be consistent with national planning policies which say that the needs of groups with specific housing requirements should be addressed by local planning authorities and go on to say: in rural areas, planning policies and decisions should be responsive to local circumstances and support housing developments that reflect local needs.

However, with equal regard to the public sector duty in the Equality Act 2010, the applicants' proposals need to be balanced against the provisions of policy ENV3 to achieve a fair decision on this application, which can be shown to have been made in the wider public interest. As noted above, policy ENV3 only allows for residential development outside of the settlement framework in limited circumstances and specifically: where that development is necessary to be in the countryside.

In this case, officers remain concerned that a new dwelling is not the only way to address the applicants' particular circumstances and it is not clear that genuine hardship would be caused as a direct result of planning permission being refused for this application. For example, other

households face similar issues and may also feel they have a need or desire to live in the countryside but do not have the same 'opportunities' to meet their unmet needs by the provision of a new house in the countryside as proposed in this application. In these terms, an approval would make a big difference to the applicants but would only make a slight difference to tackling wider issues of inequality and discrimination.

Consequently, the applicants' circumstances are not considered to be unique or exceptional in terms of the issues they are seeking to address (with regard to the unmet needs of the two family members) but their proposed solution is highly individualised being based on their personal circumstances (such as having land in their ownership) and goes beyond the normal expectations of a public sector body adapting services or making reasonable adjustments for people with similar protected characteristics (or group of people with a shared protected characteristic) as provided for under the Equality Act.

Therefore, officers consider the applicants' case indicates the new house is highly desirable in this location but not strictly necessary in planning terms so granting planning permission for this application contrary to the Council's adopted planning policies could be seen as a disproportionate response to the applicants' individual circumstances. Nonetheless, with due regard to the public sector duty in the Equality Act 2010, it is considered that the desirability of meeting the unmet needs of the applicants and their family through the provision of a new house with an annex does weigh in favour of granting planning permission for the current application.

Relationship between the needs of the applicants and the business case

In the determination of the previous application, officers did consider whether a combination of the opportunity to meet the unmet needs of the two family members with protected characteristics and the relative strength of the applicants' business case would constitute the exceptional circumstances that would form the reasons for approval of this application.

In these respects, it was noted that the need for the new house based on the applicants' personal circumstances could be transient and that officers would normally recommend approval of temporary accommodation (such as a mobile home) when the need for a new house in the countryside arises from a start-up business, as in this case. It was therefore suggested that a newly-built house could initially meet the applicants' need to live in the new house from a wellbeing perspective and as the brewery (and kitchen) started to operate commercially; the new house could then serve as an occupational dwelling.

As noted above, the applicants have now seemingly moved away from arguing there is an essential need for an occupational worker's dwelling on the site but do seem to remain committed to operating both the microbrewery and commercial kitchen from the site. So, it remains reasonable to say there is a live-work element to the current proposals and whilst this might not justify a new house in the countryside, permission would result in some wider economic benefits.

The business plans submitted with the application show that the microbrewery is a realistic business proposition that is likely to be successful. Similarly, the operations taking place in the commercial kitchen could expand into a larger market if the conversion of the existing

barn were to be granted planning permission. In both cases, the respective businesses intend to emphasise their local connections and use locally produced hops and scented plants. Therefore, although these businesses would not create a significant amount of jobs, they would still provide local employment opportunities and have some positive impacts on the local economy.

Similarly, there is still no compelling case that the house is required to accommodate a person with a registered disability and it is not considered that there is an essential need for the house insofar as it would allow the applicants to live closer to close relatives who might require their care. However, the applicants have now sought to emphasise that the annex is needed over the longer term to accommodate the younger of the two family members with protected characteristics. As noted above, this is a positive aspect of this application that provides some social benefits.

Therefore, if these socio-economic benefits are augmented by any environmental benefits then there may be a case that the benefits of granting planning permission would demonstrably and significantly offset or outweigh the policy objection to a new house in the countryside that is not required in this particular location to meet an essential need in planning terms.

Design Quality

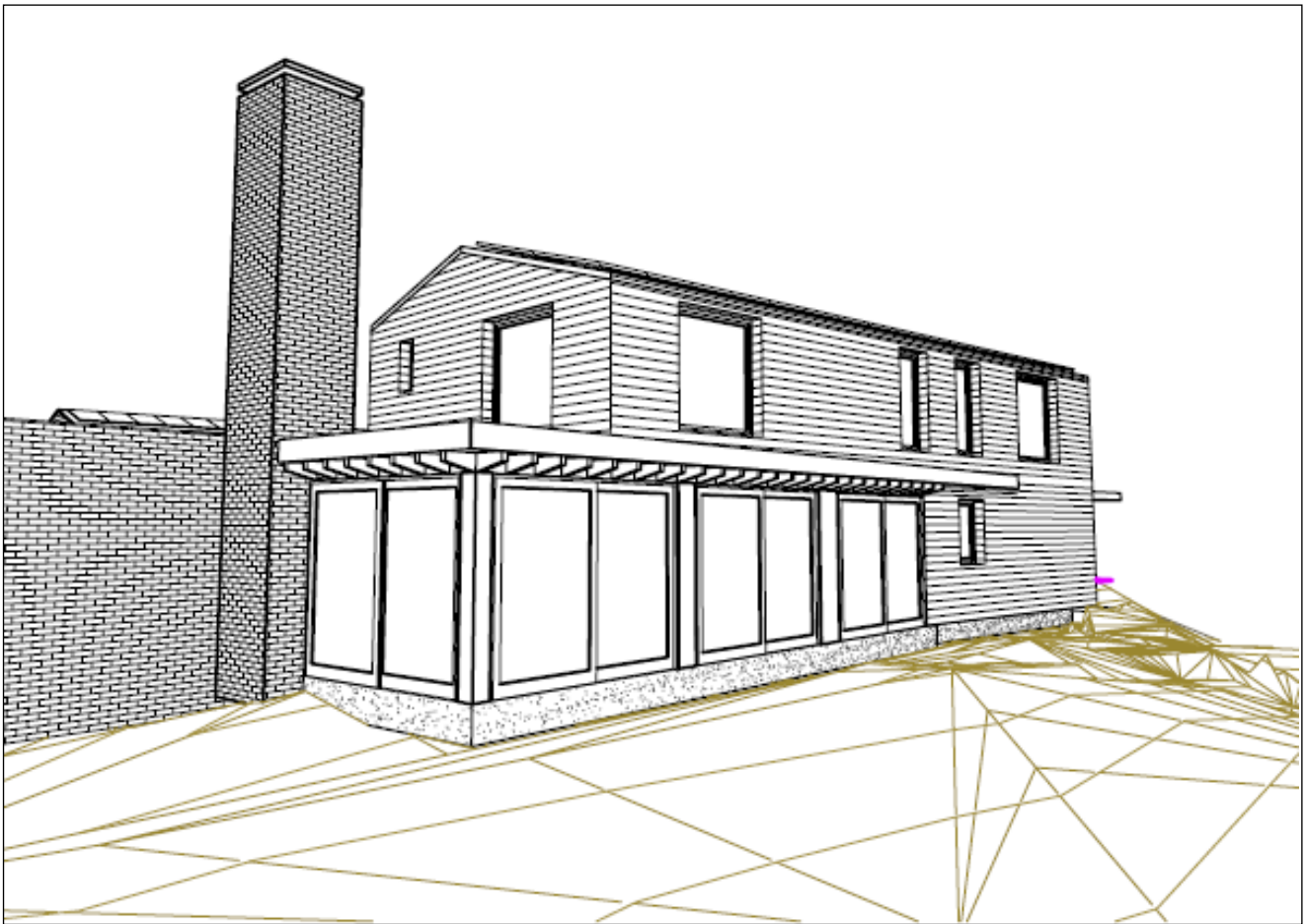
Aside from a dwelling required by a rural worker, there are other exceptions in Paragraph 79 of the revised Framework that might allow consent for a new house in the countryside to be granted including where the design of the new house would be of exceptional quality, in that its design would be:

- truly outstanding or innovative, reflecting the highest standards in architecture, and would help to raise standards of design more generally in rural areas; or
- would significantly enhance its immediate setting, and be sensitive to the defining characteristics of the local area.

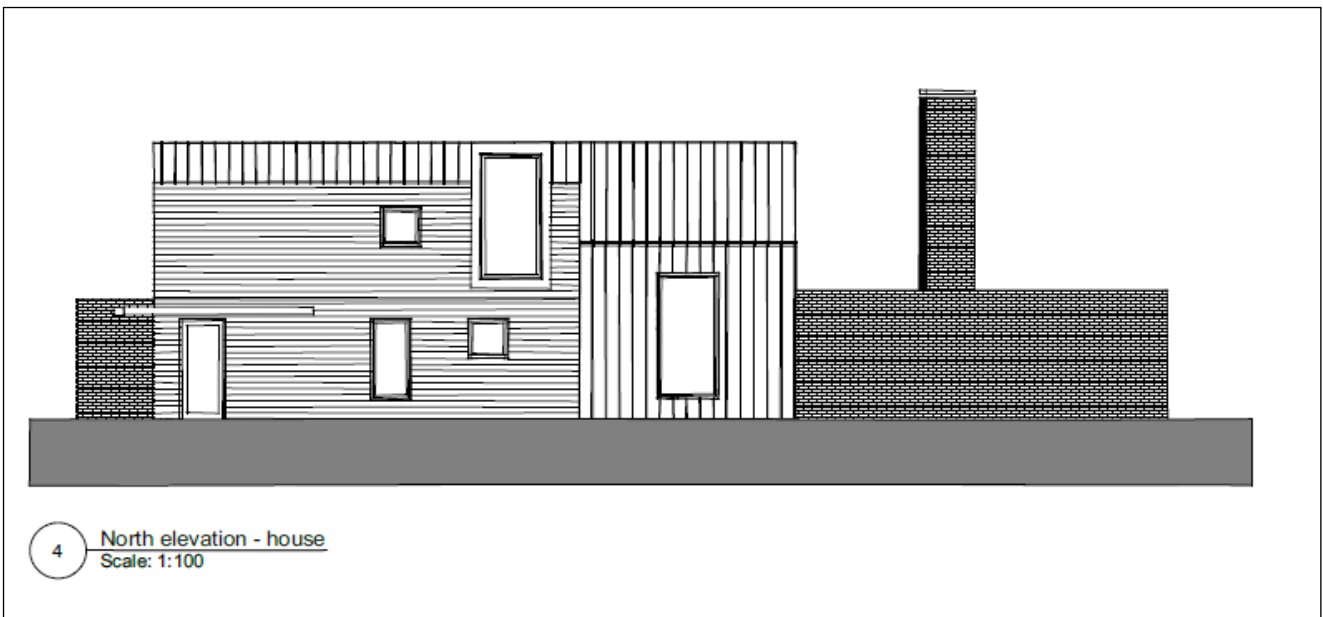
In this case, the Council's Heritage Conservation Manager commented that the previously refused scheme was well considered and the new proposals continue to propose conversion existing agricultural buildings and introduce a new dwelling whilst referencing the character of the existing site and its buildings. Therefore, the design quality of the new house could weigh in favour of granting planning permission for the current application.

As shown on the submitted plans (overleaf), the proposed house is composed around a central building that has been designed to look like a farm building. The walls of this part of the new house would be clad in timber and would have a zinc-covered roof with solar photovoltaic panels to the south facing roof face. A glazed single-storey element forms an intersecting design feature linked to the south facing elevation of the main part of the building, which would have a 'brown' roof to encourage biodiversity and slow surface water runoff. This adds interest to the building as would a sheltering brick-built fin wall that would extend beyond either end of the house and a brick-built chimney. The use of red-brick and the presence of the chimney is intended to echo Clowne's industrial heritage.

South Facing Elevation

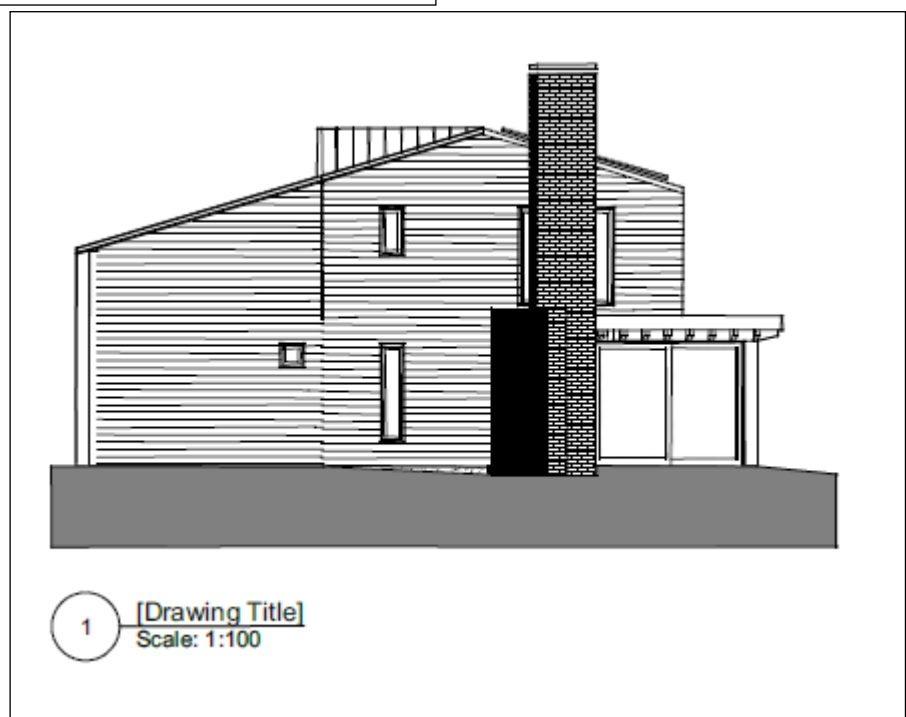
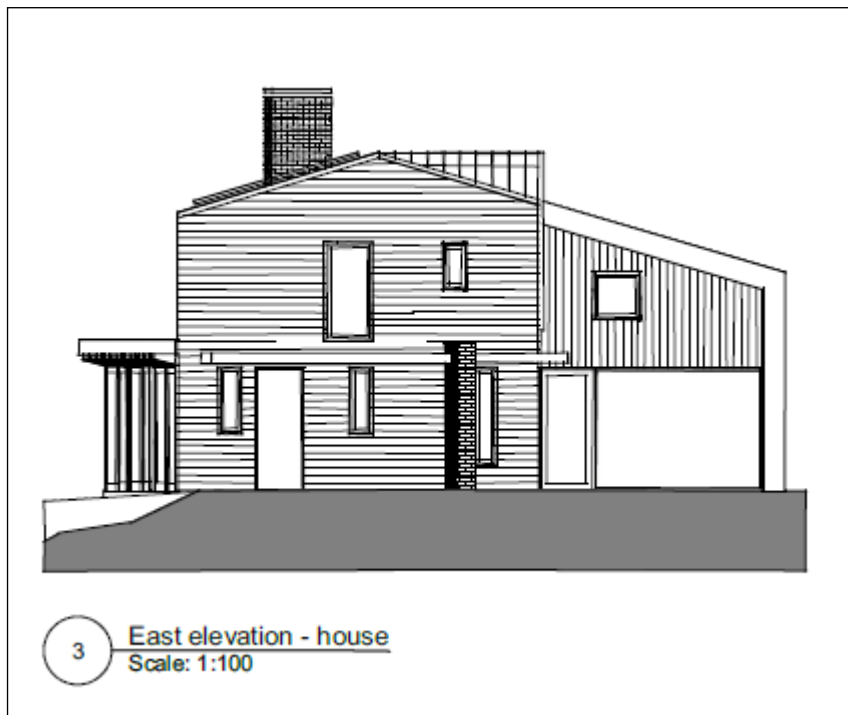


North-Facing Elevation



The north facing elevation of the new house (shown at the bottom of the previous page) is much plainer and whilst the irregular shaped windows might add some interest; the addition of the annex generally detracts from the composition of the main house. In design terms, the annex is especially intrusive when seen as part of the west and east facing elevation (shown below) and is a somewhat inelegant addition to the main core of the proposed house.

East and west facing elevations



Therefore, taken as a whole, the new house would fall short of being truly innovative and/or of exceptional design quality as described in national planning policies. Although it is acknowledged it would be distinctive, there is nothing truly ground-breaking in either the form and massing or the individual elements of the new house, the proposed construction materials or the environmental performance of the building whereas the addition of the annex diminishes the overall design quality of the house.

Consequently, the dwelling would not be permissible solely on the basis of design quality for the above reasons but it should still be taken into account that the dwelling is of a reasonable design that could otherwise be considered enabling development that could enhance the quality of the local area including the setting of the adjacent Conservation Area.

Enabling Development

Paragraph 79 of the revised Framework also says, amongst other things, isolated homes in the countryside will not be permissible unless:

- the development would represent the optimal viable use of a heritage asset or would be appropriate enabling development to secure the future of heritage assets;
- the development would re-use redundant or disused buildings and enhance its immediate setting;

In addition, Paragraph 202 of the revised Framework says local planning authorities should assess whether the benefits of a proposal for enabling development, which would otherwise conflict with planning policies but which would secure the future conservation of a heritage asset, outweigh the dis-benefits of departing from those policies. Saved Local Plan policy ENV3 also allows for development outside of the settlement framework where the development would result in a significant improvement to the rural environment or would benefit the local community through the reclamation or re-use of land.

In this case, it is reasonable to say the new house, and the development as a whole, would not have a negative impact on the surrounding Conservation Area partly because the main views into the site would be dominated by buildings that would be of a similar appearance to farm buildings. The buildings would also be sited in a relatively discrete location screened from most public vantage points by mature trees and the chimney would more likely be seen as a 'quirky feature' in the landscape rather than a particularly intrusive and alien development.

Furthermore, the proposed development would result in the existing buildings being improved and the derelict barn being removed. However, these enhancements would have a limited impact on the overall environmental quality of the local area partly because the buildings are, as above, sited in a relatively discrete location screened from most public vantage points by mature trees. In addition, the presence of farm buildings and stabling in a rural area is not unusual and a consent has already been granted for a replacement for the derelict barn. There is also no reason to consider that the site itself or the existing buildings are currently in

a non-conforming use that would justify a new house to enable re-location of an existing unneighbourly business, for example.

Therefore, the new house cannot be justified as enabling development that would warrant an exception to saved Local Plan policies primarily because the value of a new open market house is not proportionate to the value of the enhancements to the public realm that could be achieved by granting permission for this application on an exceptional basis. The provision of a new open market house on the land is also not considered to be a proportionate way to offset the private costs of carrying out improvements to the buildings that would not be excessive compared to the 'normal' business costs of maintaining land and buildings on a small holding of land. Similarly, the provision of a new open market house would not be a proportionate response to the applicants' extensive schedule of tree planting as welcome as this work may be.

Consequently, whilst there are no overriding objections to the proposals on conservation grounds, the house does not meet the requirements of ENV3 or national policies in terms of being necessary enabling development that would give rise to significant public benefits or substantial enhancement to the special qualities of the adjacent Conservation Area and/or the environmental quality of the local area more generally.

The Planning Balance

It is therefore concluded that any environmental benefits resulting from granting planning permission for this application would not justify granting planning permission for a new house in the countryside in their own right. The design of the house also falls short of the exceptional quality that would be required to justify an approval of this application on design grounds alone.

Nonetheless, the environmental benefits of granting permission for the new house combined with the socio-economic benefits of a new house to better accommodate a household including two family members with protected characteristics and the local employment opportunities resulting from the expansion of an existing business and the start-up of a locally-based microbrewery – when taken together – do weigh in favour of the current proposals.

Equally, the application site is on the edge of Clowne in a reasonably sustainable location in terms of access to services and facilities and the applicants have completed and intend to carry out further environmental improvements on their land such as tree planting and habitat creation. Therefore, the current proposals have some merit and it is unlikely that the new house and associated development would have a harmful impact on the countryside subject to appropriate planning conditions.

However, the provision of a newly-built house cannot be demonstrated to be an essential requirement in terms of meeting the current unmet needs of the appellants or the needs of their family over the longer term. In addition, it is accepted by the applicants that there is no essential need for a rural worker's dwelling on the site at this time and the applicants have provided limited evidence to show that the house would otherwise be occupied by a rural

worker on a permanent basis. Finally, the provision of a newly-built house is not required to facilitate a significant improvement to the environmental quality of the local area.

Therefore, the provision of a new house is not strictly necessary in planning terms and the supporting text to saved Local Plan policy ENV3 states that housing development in the countryside will be strictly controlled and proposals for new houses will require special justification. Policy ENV3 accords with national policies which set a presumption against sporadic development in the countryside other than in exceptional circumstances.

For the above reasons, it is not considered that the social, economic and or environmental benefits of granting planning permission for this application amount to the special circumstances required to justify a new house in the countryside outside the settlement framework either individually or cumulatively.

As the new house is integral to the current application and the Council cannot issue a split decision; there is no opportunity to otherwise grant permission for the proposed conversion of the existing barn or erection of a new barn even though these elements of the application may be acceptable on the basis of their individual planning merits.

Accordingly, officers recommend that planning permission is refused for the current application.

RECOMMENDATION

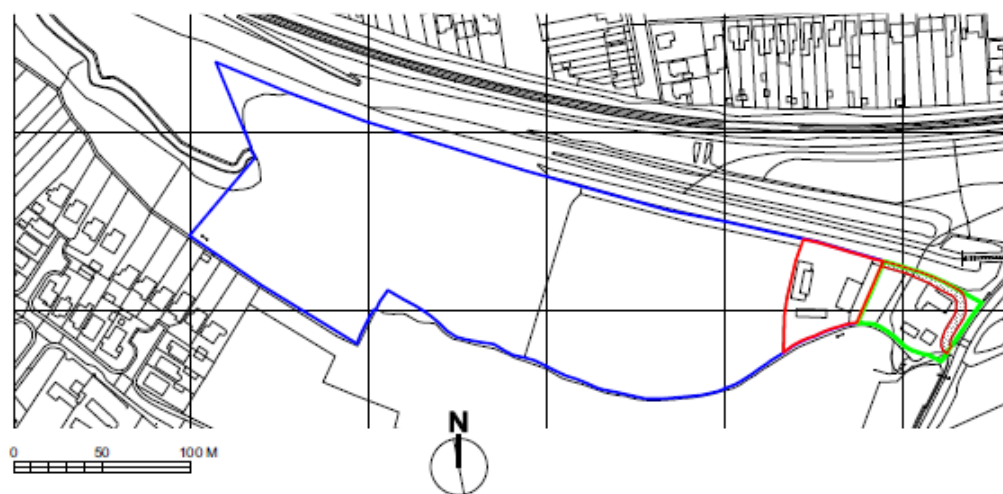
The application be REFUSED for the following reasons:

In the absence of exceptional circumstances that would justify the erection of a new house outside of the settlement framework, the proposed house is not considered to be development that is necessary in this countryside location. Therefore, the application is contrary to saved Local Plan Policy ENV3.

Statement of Decision Process

Officers have sought to work positively and pro-actively with the applicants and their agent prior to the submission of this application seeking to address the policy issues set out in full in the officer report. However, amended plans would not address the fundamental reasons for refusal of this application.

Site Location Plan



Key:

- Site boundary
- Other land in same ownership
- Bridge Hill Close (applicant's parents)

Bolsover District Council

Planning Committee

16th January 2019

<u>Update: Section 106 Agreements</u>
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Report of the Planning Manager (Development Control)

Purpose of the Report

- To ensure that the District Council has a robust procedure for recording and monitoring Section 106 obligations.

Report Details

1. Background

- 1.1 In September 2017, members of the Planning Committee noted the new procedures for recording and monitoring Section 106 obligations proposed by officers. At the same meeting, members agreed with an officer recommendation that compliance with planning obligations in s.106 agreements should be reported to the Planning Committee on a quarterly basis. This report is the quarterly status report and is intended to give members the opportunity to assess the effectiveness of the updated procedures as well as receive up-to-date information on ongoing cases where planning obligations are involved.
- 1.2 It was agreed that it is important to provide this information to members for two key reasons: (i) if obligations required to make a development acceptable in planning terms aren't properly discharged then there is a risk of harm to the Council's reputation and public confidence in the Council's decision making; and (ii) there are strict criteria on how and when Section 106 contributions received by the District Council should be spent; if these criteria aren't met then there is a risk the proposed contribution will have to be returned to the developer and the associated infrastructure will not be provided.
- 1.3 Consequently, it is not only important that the District Council has a robust procedure for recording and monitoring Section 106 obligations, it is also important that there is appropriate oversight of how effectively these procedures work in practice: hence the purpose of this report.

2. Internal Audit Report

- 2.1 In accordance with the 2018/19 Annual Audit Plan, an internal audit has been undertaken and a report produced on the processes and controls in place in respect

of S106 Agreements at Bolsover District Council, which includes the work of the S.106 Monitoring Group that meets on a quarterly basis. .

- 2.2 The conclusion of the 17/09/18 Internal Audit Report is that no significant concerns were found and that the reliability of the controls was assessed as **Substantial**. There is a sound system of controls in place, designed to achieve the system objectives. Controls are being consistently applied and risks well managed. However some refinements of the processes were recommended (R1 – R4). All recommendations are low priority as set out in the Internal Audit Report Implementation Schedule. These are set out below together with the actions now taken to address the Audit Report recommendations.

- 2.3 *R1 Update the S106 Agreement procedure to reflect the actual processes in place.*

The procedure has now been updated in response to the audit recommendations.

- 2.4 *R2 Consideration should be given to developing the S106 Monitoring Group action plan further and add target dates and/or actual completion dates for a clear and concise record of actions completed.*

This will be undertaken where practical although it will not always be appropriate to add further target dates. The procedure is already governed by a set of clear triggers and targets to chase S106 obligations and deadlines to spend monies by. Hence in most circumstances there is no need to add a further layer of target dates. However the format of the meeting minutes has now been changed to provide for a clearer record of when actions have been completed.

- 2.5 *R3 Define timescales for reporting S106 Agreements “contributions to be spent” to S106 Monitoring Group and to Planning Committee to ensure adequate time has been given for Member consultation.*

As 5 year spend by dates approach the relevant S106 sums will now be brought to the attention of the Monitoring Group no later than 2 years from spend by date; and reported to Planning Committee no later than 1 year from the spend by date. The procedure has been amended.

- 2.6 *R4 Record dates of letters/chasers on Planning spreadsheet to ensure a history of each S106 obligation is documented and available quickly in one place to avoid inefficiencies of checking information back to minutes/notes/emails and accidentally chasing a payment twice. This will further assist in reporting information to Planning Committee.*

This will be undertaken in future and the S106 procedure has been amended.

3. S106 Money in BDC Holding Account

- 3.1 The current financial spreadsheet is attached as Appendix A. Line numbers referred to below are on the left hand side of the table at Appendix A. The spreadsheet shows that there is currently a total balance on hand for all S106 contributions of £945,550.46.

- 3.2 The following cases are highlighted because the deadline for spending S106 money is approaching and within 1 year of the 5 year spending deadline:-
- a. Line 47. The Brambles Doe Lea, art work £34,063.86 remaining which needs to be spent in accordance with the S106 terms by 01.05.19. The installation date for the art work is now set for March 2019 such that the art sum will have been substantially spent by the deadline. However the Arts Officer has reported that there may be an underspend. Additional works will need to be identified for this by the Arts officer or any unspent monies returned.
 - b. Line 51. Carter Ln South Normanton, art work £4,953.20 needs spending by 24.09.19. Becoming more urgent now. The Arts Officer needs to progress with scheme allocation and spend.
 - c. Line 55. Town St Pinxton. £10,368 for formal sports needs spending by 17.11.19. Whilst this amount is still showing on the Condition Balance at 31.03.19 at Appendix A this money has in fact now been spent and works provided on site.
 - d. Line 56. Town St Pinxton. £8,724 for informal POS needs spending by 17.11.19. As above this sum has now been spent and works provided on site.
- 3.3 Line 36. The Vale Croft, Carr Vale, Bolsover play area money £8,067 reported to committee in the last S106 update report as being at risk, has now been spent within the 5 year deadline on footpath improvements serving the play area at Carr Vale.
- 3.4 There are no other areas of concern in respects of spending deadlines for payments received and the deadlines for expenditure.
- 3.5 No new S106 payments have been received this quarter.

4. S106 Obligations Soon Due on Active Development Sites

- 4.1 In terms of current development sites, there are a number of sites where development has been commenced and officers are monitoring progress against S106 trigger points. The current monitoring list includes:-
- The Edge, Clowne (12/00529). Permission for 149 dwellings now completed. £100,000 maintenance sum payable to BDC when Public Open Space adopted following resolution of snagging issues which still being pursued.
 - High Ash Farm site (14/00057/OUTMAJ and 18/00084/OTHER). Permission for 41 dwellings. Commenced but obligation triggers not yet reached. Main trigger is occupation of 24 dwellings:-
 - a. Play £10,000 and land
 - b. Education £16,623
 - c. Art £10,000
 - d. Footpath Link contribution £11,500
 - e. Affordable – none provided 5 market dwellings delivered by 14/08/19.

- Skinner Street Creswell (15/00368/FUL) permission for 82 dwellings. Now at 14 occupations. The only requirements are for a School Link and footpath link to be delivered by 50th occupation.
- Hawk Brook Close / Cavendish Grange / Oxcroft Lane, Bolsover (17/00314/FUL). Permission for 35 dwellings. Development has commenced and 3 units have been sold. The Applicant has already paid S106 sums due in advance of triggers. Also 3 affordable houses yet to be provided – trigger is 16 occupations and negotiations on the this obligation are underway.
- Mooracre Lane Bolsover (17/00234/FUL). Permission for 212 dwellings. Commenced on site in April 2018. First occupation November 2018. Various S106 obligations (highways, affordable housing, bus service, primary education, POS and play, SuDS, ransom strips) with various phased triggers. The first trigger due for BDC payments is at 60 occupations which will not be reached for some time yet.
- Brookvale Shirebrook Keepmoat (14/00594) permission for first phase 153 dwellings. 148 occupations as at 30/09/18. Highways/GP surgery/Bus sum £879,000 received by BDC. £310,000 of this amount now transferred to DCC for Highway improvements. Remaining money for CCG request /Bus Service incentive and further highway works.
- Station Road, Langwith Junction (16/00530/FUL). Permission for 68 dwellings. Trigger for payment is 34 dwellings occupied which is not yet reached. Sums eventually due:-
£52,000 informal - to upgrade Langwith Rec
£16,000 health – GP practice at Langwith
- Mansfield Road Tibshelf (13/00182/OUT). Permission for 170 dwellings. At 80 occupations as at 30.09.18. First trigger now reached for payment of the first phase education payments. This was received by DCC in March 2018. Informal play equipment on site at 90 occupations to max value of £123,590 has now been provided on site.
Next trigger is 85 occupations for first stage payments for:-
Formal sport and recreation in the parish 50% of £146,880 = 73,440 plus inflation;
Health, Staffa Tibshelf Surgery 50% of £60,000 = 30,000 plus inflation;
A request for payment for these amounts is due to be sent out within the next few weeks.
Second phase education payments are due within the next 12 months or so, to be paid direct to DCC at 120 dwellings occupied.
- Doe Hill Lane Tibshelf. Permission for 57 dwellings (15/00438/FUL). 22 dwellings occupied by 22.10.18. First Trigger is 28 dwellings so a request for payment will be issued shortly.
Obligations include:-
Informal POS £765/dwelling plus £27,010 maintenance at 28 occupations.
Education £4857/dwelling at 75% occupation.
Art £10,000 at 75% occupation.
Affordable – none if delivery targets met.
Other – ecology and local employment.

- Rosewood Lodge Farm, Alfreton Road, South Normanton (14/00531/OUT).
Permission for 144 dwellings. Just started on site. However several obligations are triggered prior to occupation and so are likely to be triggered soon:-
Sports/rec £131,950
Education £68,394
Art Scheme (to £10,000) with timetable for implementation
Health £79,895
Affordable – only if delivery targets not met for market housing.

5. Recommendations

- 5.1 **That the Planning Committee notes this report.**

6 Consultation and Equality Impact

- 6.1 There has been no public consultation in respect of this report, and there are no negative equality impacts identified. Officers consider that increasing member oversight of compliance with s.106 legal agreements should promote **equality** of opportunity for local residents through ensuring obligations are met.

7 Alternative Options and Reasons for Rejection

- 7.1 Reporting the status of current s.106 legal agreements to Planning Committee address recommendations made in the 2016 audit report and has been agreed by members of the Planning Committee. Therefore, officers have not considered alternative options.

8 Implications

Finance and Risk Implications

- 8.1 If obligations required to make a development acceptable in planning terms aren't properly discharged then there is a risk of harm to the Council's reputation and public confidence in the Council's decision making. If financial contributions are not spent within a defined period then the money has to be returned to the developer and normally returned with interest. Therefore, there are finance and risk implications if procedures for recording and monitoring s.106 legal agreements are not sufficiently robust.

Legal Implications including Data Protection

- 8.2 There are no data protection implications insofar as s.106 legal agreements are part of the statutory planning register and are therefore public documents. S.106 of the 1990 Act provides the legal framework for the acceptance and discharge of s.106 legal obligations and the procedure notes address the key legislative provisions of this section of the 1990 Act.

Human Resources Implications

- 8.3 None.

9 Decision Information

Is the decision a Key Decision? (A Key Decision is one which results in income or expenditure to the Council of £50,000 or more or which has a significant impact on two or more District wards)	No.
District Wards Affected	All
Links to Corporate Plan priorities or Policy Framework	<ul style="list-style-type: none"> • Unlocking Our Growth Potential (main aim); • Providing our Customers with Excellent Services • Supporting Our Communities to be Healthier, Safer, Cleaner and Greener; • Transforming Our Organisation.

10 Document Information

Appendix No	Title
1	Financial Spreadsheet
Background Papers (These are unpublished works which have been relied on to a material extent when preparing the report. They must be listed in the section below. If the report is going to Cabinet (NEDDC) or Executive (BDC) you must provide copies of the background papers)	
n/a	
Report Author	Contact Number
Steve Phillipson	Ext 2248

Appendix A

S106 Money in BDC Holding Account

Funding of budgets from S106 holding accounts - B922/0563 + B918/0561						
hide for prints	Relate d Cost Centre	Description	Planning Application Number	Condition Balance at 31/3/19	Use by	Allocated in future years
				B918/0561		
47	G125	C The Brambles, Doe Lea	05/00735	(34,063.86)	01.05.19	5 years from receipt
51	G125	C South of 191 Carter Lane East S/N	09/00563	(625.20)	24.09.19	5 years from receipt
61	G125	C Woodside Stables, Rotherham Rd Clowne	14/00226/FUL	(7,419.67)	14.1.21	5 years from receipt
66	G125	? Carter Lane West South Normanton	14/00551/FUL	(5,165.00)	7.12.22	5 years from payment of sundry debtor
79	G125	Sterry House Farm, Clowne	15/00455/FUL	(16,572.00)	18.04.22	5 years from receipt
	G125	Percent for Art Totals		(63,845.73)		
24	G170	C Vale Croft, Carr Vale, Bolsover	06/00687 + 10/0036	(0.00)	20.09.18	5 years from receipt
28	G170	C New Terrace, Pleasley	05/00453	(16,650.71)	15.06.24	15 years from receipt
29	G170	C The Brambles, Doe Lea	05/00735	(19,863.94)		no clawback on remaining amount
33	G170	R Joint Service Centre, South Normanton	06/00760			no clawback remaining
54	G170	C Weavers Gardens/Ball Hill South Normanton	08/00055/OUT	(30,422.23)	26.08.20	5 years from receipt
55	G170	C Town Street, Pinxton (Land behind rectory)	13/00236/FUL	0.00	17.11.19	5 years from receipt assumed
62	G170	C Woodside Stables, Rotherham Rd Clowne	14/00226/FUL	(40,177.10)	14.1.21	5 years from receipt
67	G170	? Carter Lane West South Normanton	14/00551/FUL	(38,527.00)	7.12.22	5 years from payment of sundry debtor
74	G170	? Sterry House Farm, Clowne	15/00455/FUL	(0.31)	6.2.22	5 years from receipt
77	G170	? Babbington St, Former Allotment Gardens, Tibshelf	03/00755/FULMAJ	(5,724.00)	21.3.22	no clawback per SP
82	G170	Meridian Close, Bolsover	17/00314/FUL	(31,790.45)	22.12.22	5 years from receipt
	G170	Outdoor Sport (Formal) Totals		(183,155.74)		
35	G126	R Heritage Drive, Clowne (GL Homes)	BOL9504/0126			no clawback
36	G126	C Vale Croft, Carr Vale, Bolsover	06/00687 + 10/0036	(0.69)	20.09.18	5 years from receipt
38	G126	C Hazelmere Park (Skinner St) Creswell	04/00066	(1,591.30)		maint
42	G126	R Rangewood Rd Development, S/N	00/00378			maint
45	G126	C The Brambles, Doe Lea	05/00735	(1,591.40)		maint
56	G126	C Town Street, Pinxton (Land behind rectory)	13/00236/FUL	0.00	17.11.19	5 years from receipt assumed
63	G126	C Woodside Stables, Rotherham Rd Clowne	14/00226/FUL	(567.79)	14.1.21	5 years from receipt
68	G126	? Carter Lane West South Normanton	14/00551/FUL	(21,100.67)	7.12.22	5 years from payment of sundry debtor
69	G126	? The Edge, Mansfield Road, Clowne	maintenance	0.00		expected?
70	G126	? Thurgaton Way (phase 2)	14/00065/OUT	(31,659.00)	1.8.22	5 years from receipt assumed
71	G126	? Creswell Road, Clowne	14/00603/FUL	0.00		expected?
75	G126	? Sterry House Farm, Clowne	15/00455/FUL	(12,107.13)	6.2.22	5 years from receipt
76	G126	? Babbington St, Former Allotment Gardens, Tibshelf	03/00755/FULMAJ	(3,324.00)	21.3.22	no clawback per SP
81	G126	Meridian Close, Bolsover	17/00314/FUL	(27,475.00)	22.12.22	5 years from receipt
	G126	Open Space (Informal) Totals		(99,416.98)		
72	G226	? Carter Lane West South Normanton	14/00551/FUL	0.00		5 years from receipt
59	G226	C Brookvale - South Shirebrook	14/00594/OUT	(569,000.00)		5 years from completion not receipt
	G226	Highways Totals		(569,000.00)		
73	G227	? Thurgaton Way (phase 2)	14/00065/OUT	(30,132.00)	1.8.22	5 years from receipt assumed
	G227	Health Totals		(30,132.00)		
				(945,550.46)		

Bolsover District Council

Planning Committee

16 January 2019

<u>Report: Appeal Decisions: April 2015 – December 2018</u>
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Report of the Planning Manager (Development Control)

Purpose of the Report

- To report the Planning Service's performance on appeal against the Government's quality of decision making targets.

1 Report Details

Background

- 1.1 In November 2016 the Department for Communities and Local Government (now the Ministry of Housing, Communities and Local Government) produced guidance entitled "Improving Planning Performance which included guidance on speed of planning decisions and quality of planning decisions. This report relates to the quality of decision making targets.
- 1.2 Since 2016, the Government has assessed the quality of decision making by local planning authorities with reference to the percentage of allowed appeals compared to the total number of decisions made by the authority on minor and major applications (i.e. no of allowed appeals ÷ total no of determined applications x 100 = performance %) over two assessment periods from April 2015 to March 2017 and from April 2016 to March 2018.
- 1.3 If 10 per cent of an authority's total number of decisions on applications made during the second assessment period are overturned at appeal then that authority will be considered for designation as an under-performing authority, which could mean that applicants would be able to apply for planning permission directly to the Planning Inspectorate rather than to a Council that has been put into 'special measures' because it has under-performed against Government targets.
- 1.4 However, this measurement is taken nine months after the specified assessment period (i.e. at the end of December) to allow appeals against refused applications made during the relevant period to be determined by the Planning Inspectorate – for example an appeal made in respect of an application refused in March 2018 might not get determined until much later in the year.

- 1.5 Therefore, this report provides an update on this Council's performance on quality of decision making now the second of the two assessment periods has closed.
- 1.6 This report also includes three appendices, which summarises the key issues raised in the appeals determined over the two assessment periods to provide members with an appropriate oversight of the quality of delegated decisions on both minor and major applications.

2 Conclusions and Reasons for Recommendation

- 2.1 During the first appeal monitoring period (April 2015 to March 2017) no decisions made by the Council to refuse major planning applications were overturned at appeal. Using the Government's method of measuring performance: 0.3% of all the Council's decisions on minor applications were overturned at appeal.
- 2.2 During the second monitoring period (April 2016 to March 2018); 3.5% of all the Council's decisions on major applications were overturned at appeal (i.e. two appeals were allowed) and 1.2% of decisions on minor applications were overturned at appeal.
- 2.3 The Council is therefore well below the 10% threshold set by the Government for quality performance and this indicates the Council's current decision making on planning applications is sound.
- 2.4 However, there are opportunities to learn from the reasoning behind appeals allowed by the Planning Inspectorate and a summary of the appeal decisions from the two assessment periods are included as Appendices A, B and C.
- 2.5 In these respects, Government has recently announced a third assessment period from April 2017 to March 2019, which means that the two recently allowed appeal decisions (Glapwell Nurseries and Ball Hill) will continue to count against the Council's performance on major applications over this assessment period and the next if this monitoring regime continues into 2020.
- 2.6 Therefore, it is important to understand how Planning Inspectors apply weight and national policies to the Council's planning decisions to reduce the risk of further overturns of decisions made at officer level or at Planning Committee. In particular, performance at appeal on major applications is particularly sensitive because of the relatively low numbers of major applications determined each quarter.

3 Consultation and Equality Impact

- 3.1 Consultations are carried out with each application and appeal. Consultations on this report of appeal decisions was not considered necessary because the report is primarily being presented to members to share information.
- 3.2 Appeal decisions do not need an equality impact assessment in their own right but by monitoring appeal decisions it allows us to check that equalities are considered correctly in every application. There have been no appeal decisions reporting equalities have been incorrectly addressed.

4 Alternative Options and Reasons for Rejection

- 4.1 An alternative option would be to not publish appeal decisions to members. Appeal decisions were reported in the past but haven't been reported for some time. It is however considered useful to report decisions again due to the threat of intervention if the Council does not meet the nationally set targets so officers and members of the Planning Committee have a common understanding of the key issues raised at appeal and so that members are able to maintain appropriate oversight over the quality of delegated decisions.

5 Implications

5.1 Finance and Risk Implications

- 5.1.1 Costs can be awarded against the council if an appeal is lost and the council has acted unreasonably.
- 5.1.2 The council can be put into special measures if it does not meet its quality of performance targets.

5.2 Legal Implications including Data Protection

- 5.2.1 Appeal documents are publicly available to view online. Responsibility for data is PINS during the appeal process.
- 5.2.2 Appeal decisions are open to legal challenge but only on procedural matters.

5.3 Human Resources Implications

- 5.3.1 Appeal work is factored into normal officer workload and if original application report is thorough it reduces the additional work created by a written representations appeal. Additional workload may be created if the appeal is a hearing or public enquiry.

6 Recommendations

- 6.1 This report be noted.
- 6.2 Appeal decisions and performance against performance target be reported to Committee members every 6 months.

7 Decision Information

Is the decision a Key Decision? (A Key Decision is an executive decision which results in income or expenditure to the Council of £50,000 or more or which has a significant impact on two or more District wards)	No
Is the decision subject to Call-In? (Only Key Decisions are subject to Call-In)	No

District Wards Affected	No
Links to Corporate Plan priorities or Policy Framework	All

8 Document Information

Appendix No	Title
Appendix A	Planning Appeal Decisions relating to decisions made in the First Monitoring Period between April 2015 and March 2017.
Appendix B	Planning Appeal Decisions relating to decisions made in the Second Monitoring Period between April 2017 and March 2018.
Appendix C:	Planning Enforcement Appeal Decisions from April 2015 to date.
Background Papers (These are unpublished works which have been relied on to a material extent when preparing the report. They must be listed in the section below. If the report is going to Cabinet (NEDDC) or Executive (BDC) you must provide copies of the background papers)	
Report Authors	Contact Number
Chris Fridlington Karen Wake	Ext: 2265 Ext: 2266

Report Reference –

Appendix A:

Planning Appeal Decisions relating to decisions made in the First Monitoring Period (April 2015-March 2017)

Major Development

APP/R1010/W/15/3138391: Land adjacent former Hilltop Farm, A617, New Houghton: Outline Application with all Matters Reserved for Residential Development.

Main Issues

The main issue for consideration was whether the proposed development would provide a suitable site for housing, having regard to the principles of sustainable development, including any effect on the character and appearance of the best and most versatile agricultural land.

Conclusions

The site was a demolished farm within an area of open countryside and in an area allocated in the Local Plan as an important open break. The Inspector considered that the proposal for 180 houses and related infrastructure, including roundabout would reduce the open character of the site substantially causing harm to the landscape character of the area.

At the time of the appeal the council did not have a 5yr supply of housing and as such the inspector considered that the presumption in favour of the sustainable development set out in the NPPF and therefore Policy GEN 10 of the Bolsover District Local Plan acted as a constraint to development and was therefore considered out of date in accordance with paragraph 49 of the NPPF and that in accordance with paragraph 14 of the NPPF, permission should be granted unless any adverse impacts would significantly and demonstrably outweigh the benefits when assessed against the framework as a whole.

The Inspector considered that the provision of 180 houses in an area with a lack of housing supply would have considerable economic and social benefits in line with the NPPF and that this represented a strong need for development which would justify the loss of the best and most versatile agricultural land in accordance with Policy ENV 2 of the Local Plan.

However, the inspector considered the site to be too far from local facilities to be considered to be a sustainable location. He also considered that the development would erode the gap between New Houghton and Glapwell and would have an adverse effect on the character and appearance of the local area. In view of this, even though Policy GEN 10 was considered out of date, he still gave weight to this policy as, although it restrained development, it also has a strategic purpose which seeks to prevent the coalescence of settlements and protect the setting of settlements which the proposal would adversely affect. This was considered contrary to the core planning principles in paragraph 17 of the NPPF.

The Inspector concluded that the adverse impacts of the proposal significantly and demonstrably outweighed the benefits of the proposal and therefore the development would not provide a suitable site for housing, having regard to the principles of sustainable development, including any effect on the character and appearance of the best and most versatile agricultural land.

The appeal was dismissed.

Recommendations

None. The council now has a five year supply of housing and even when it didn't, although not entirely in line with every requirement in the NPPF, the policies in question were considered broadly in line with the core principles of the framework.

APP/R1010/W/16/3147350: Land to the East of Duchess Street, Whitwell: Outline Application with all Matters Reserved for Residential Development of 15 Dwellings.

Main Issues

The main issues in this case are:

- The effect of the proposal on the character, appearance and openness of the countryside
- Whether the proposal would result in the loss of the best and most versatile agricultural land.

Conclusions

The site is outside the settlement framework in an area of open countryside designated as an important open area under Policy GEN 10 of the Bolsover District Local Plan. In accordance with the NPPF, this policy was not considered up to date as the council did not have a five year supply of housing and the policy restricted the location of housing.

In accordance with paragraph 14 of the NPPF the contribution 15 houses made to the supply of housing land was considered to weigh heavily in support of the appeal.

However, the inspector considered that the development would have an adverse effect on the character and appearance of the open area. In view of this, even though Policy GEN 10 was considered out of date, he still gave some weight to this policy as, although it restrained development, it also has a strategic purpose which seeks to prevent the coalescence of settlements and protect the setting of settlements which the proposal would adversely affect. This was considered contrary to the core planning principles in paragraph 17 of the NPPF.

The inspector considered that in this case, the need for housing in the area would be a material consideration which would outweigh the loss of grade 2 agricultural land and this would be consistent with Policy ENV 2 of the Local Plan and that the site was situated in a sustainable location.

The inspector also referred to paragraph 8 of the NPPF which states that to achieve sustainable development, economic, social and environmental gains should be sought jointly and simultaneously through the planning system and considered the proposal would bring social benefits in terms of making a contribution, albeit limited, to new housing provision and bring modest economic benefits. The Inspector attached significant weight to this.

However, the Inspector concluded that the proposal was considered to reduce in the openness of the Important Open Break and harm the character and appearance of the area. The proposal would not therefore meet the environmental dimension of sustainable

development. In addition the NPPF confirms that good design is a key aspect of sustainable development and a proposal should therefore improve the character of an area. On this basis he considered the proposal would not constitute a sustainable form of development and as such a presumption in favour of development did not apply and the harm to the environment would significantly and demonstrably outweigh the benefits of the proposal.

The appeal was dismissed.

Recommendations

None. The Council now has a five year supply of housing so the policies which were considered out of date in this appeal would now be given more weight in accordance with the NPPF.

APP/R1010/W/16/3164521:Land West of Cragg Lane, Newton: Outline Application with All Matters Reserved Residential Development of 80 Dwellings

Main Issues

The main issue in this case was the effect of the development on the character and appearance of the area which is in the setting of the Newton Conservation Area (NCA), the Old Blackwell Conservation Area (OBCA) and listed buildings and unlisted buildings of merit nearby.

Conclusions

The Inspector considered that the significance of both NCA and OBCA and the listed buildings and other traditional buildings within them derived from the special architectural and historic interest of Newton and Old Blackwell as agricultural settlements set in a rural landscape.

The construction of 80 dwellings was considered to introduce a significant block of modern development directly adjacent to a part of Newton where there is a high concentration of traditional buildings on a main route into the village and would have an urbanising and effect on the settlement edge. The Inspector considered that this would harm the landscape setting and agricultural significance of the NCA and the heritage assets within it.

The Inspector also considered that the development would harm views across the rural landscape between Old Blackwell and Newton and from the Grade II Listed Church, harming the setting of the Listed Building and OBCA.

The Inspector concluded that the proposal would harm the character and appearance of the area and would fail to preserve the settings of the NCA, OBCA and the heritage assets within them and as such would be contrary to the provisions of paragraph 132 of the NPPF and policies CON 1, CON 4, and CON 10 of the Bolsover District Local Plan.

The Inspector considered the harm arising from the development to be less than substantial and in accordance with paragraphs 133 and 134 of the NPPF and therefore the degree of harm is required to be balanced against any public benefits the development would bring. Considerable weight was attached to the benefit of 80 new dwellings contributing to the housing supply and the associated economic and social benefits it may bring. However the Inspector did not consider the benefits, even though they were public,

and substantial, did not outweigh the great weight attached to the harm identified to the setting of the designated heritage assets and the character and appearance of the area.

The Inspector acknowledged that the council considered that it had a five year supply of housing but went on to say that in this case, even if the council did not have a five year supply of housing, the harm identified to the setting of the designated heritage assets and the character and appearance of the area would still outweigh the benefits provided by the development.

The appeal was dismissed.

Recommendations

None. The existing policy on Development affecting the setting of Listed Buildings and Conservation Areas are in line with the guidance in the NPPF and the Council gave correct weight to the harm caused by the development.

APP/R1010/W/16/31650: Lodge Farm, 126 Shuttlewood Road, Bolsover: Outline Application with All Matters Reserved for Residential Development of 64 Houses.

Main Issues

The main issues in this case were:

- Whether there is a 5 year supply of housing land in the district;
- The effect of the proposal on the character and appearance of the local area;
- The effect of the proposal on heritage assets, in particular the setting of Bolsover Castle;
- The effect of the proposal on highway Safety;
- If any harm is identified, whether there are any material factors which would outweigh the harm identified in this case.

The application was refused by Planning Committee in accordance with the officer recommendation.

Conclusions

The Inspector considered Policy CON 10 to be consistent with chapter 12 of the NPPF. He also considered Policies GEN 2, GEN 11, GEN 8 and ENV 3 insofar as they seek to protect the countryside from unnecessary development, to be broadly in accordance with the core planning principles in the NPPF which recognises the intrinsic character and beauty of the countryside.

Paragraph 49 of the NPPF advises that housing applications should be considered in the context of a presumption in favour of sustainable development but that relevant policies for the supply of housing should not be considered up to date if the council cannot demonstrate a 5 year supply of housing land.

The Inspector assessed the available housing supply and how this was calculated. The Inspector concluded that the council could demonstrate a 5 year supply of housing land. The presumption in favour of sustainable development in paragraph 14 of the NPPF therefore didn't apply and the proposal was to be determined in accordance with the development plan unless material considerations indicated otherwise.

The Inspector considered the proposal would have a significantly harmful impact on the character and appearance of the countryside and would therefore fail to respect the character of the local area contrary to Policy GEN 2 of the Bolsover District Local Plan. The Inspector went on to say that the proposal would fail to recognise the intrinsic character and beauty of the countryside explicit within the NPPF's core principles and attached substantial weight to the harm to the character and appearance of the area.

The Inspector considered the proposal would impact on the setting of Bolsover Castle. It was considered that the proposal would have only limited effect but given the significance of the heritage asset (Grade I listed building and scheduled ancient monument) the effect of the proposal would amount to less than substantial harm which carries considerable importance and weight. Paragraph 134 of the NPPF requires that less than substantial harm to a heritage asset is weighed against the public benefits of a scheme.

The Inspector gave moderate weight to the provision of housing and limited weight to the economic benefits provided and limited weight to ecological improvements proposed. The Inspector concluded that if considered solely in relation to the effect on heritage assets, these combined benefits would be sufficient to outweigh the extent of "less than substantial harm" identified to the setting of Bolsover Castle and the proposal would comply with national policy in relation to heritage assets outlined in the NPPF and the Local Plan Policies.

However, the Inspector concluded that the harm to the setting of Bolsover Castle as a heritage asset, together with the harm to the character and appearance of the area would outweigh the moderate benefits of the development. The proposal was therefore not considered to be sustainable development with no material considerations which warranted a decision other than in accordance with the development plan. The proposal was concluded to be contrary to Policies GEN 2, GEN 8, GEN 11 and ENV 3 of the Bolsover District Local Plan.

The appeal was dismissed.

Recommendations

None.

The existing countryside Policy is in line with the Guidance in the NPPF. The Inspector accepted the council has a five year supply of housing

Minor Development

APP/R1010/D/15/3035699: 397 Worksop Road, Mastin Moor Chesterfield: Two Storey Extension with New Loft Conversion Above

Main Issues

The main issues were:

- Whether the proposal would be inappropriate development in the Green Belt for the purposes of the *National Planning Policy Framework* (the Framework) and development plan policy.
- The effect on the openness of the Green Belt.
- The effect of the proposal on the character and appearance of the host property and surrounding area of Mastin Moor.
- If the development is inappropriate whether the harm by reason of inappropriateness and any other harm would be clearly outweighed by other considerations so as to amount to the very special circumstances necessary to justify the development.

Conclusion

The Inspector concluded that the extension would be a disproportionate addition over and above the size of the original building and therefore would be inappropriate development in the Green Belt contrary to the Framework and BDLP policies GEN 9 and HOU8 and that there would also be a loss of openness in the Green Belt. Together these factors constituted a significant material harm to the Green Belt to which substantial weight was attached. He also concluded that there was also other harm to the character and appearance of the property and its surroundings.

The appeal was dismissed

Recommendations

None.

The existing Green Belt Policy is in line with the Guidance in the NPPF.

APP/R1010/D/15/3136537: 27 High Street, Whitwell: Retention of the Installation of Exterior Cladding.

Main Issues

The main issue was the effect of the proposal on the character and appearance of the appeal property and on the Whitwell Conservation Area.

Conclusion

The Inspector concluded that the development harmed the character and appearance of the Conservation Area contrary to the requirement of Policy CON 1 of the Bolsover District Local Plan and that Policy CON 1 is consistent with the policies in Section 12 of the framework on conserving and enhancing the historic environment and as such should be given full weight.

The Inspector considered that the public benefits of the external insulation works did not outweigh the harm caused.

The appeal was dismissed.

Recommendations

None. The existing policy on Development in Conservation Areas are in line with the guidance in the NPPF.

APP/R1010/W/15/3131645: Former Clowne Tennis Club, Rood Lane, Clowne: Re-development of Land for Seven, Three Bed Dormer Bungalows with New Access Road off Court View.

Main Issues

The main issue was the effect of the development on highway safety.

The application was refused by Planning Committee against officer recommendation due to the impact on highway safety but this was not supported by the Highway Authority and the recommendation to Committee was to approve the proposal.

Conclusion

The Inspector concluded that the concerns over highway safety were unsustainable. He concluded that the proposal would result in an efficient and effective use of the site and was supported by the sustainability objectives of the National Planning policy Framework and found that there were no material issues which weighed significantly against it.

The appeal was allowed subject to conditions.

Recommendations

Careful consideration of the proposal is required and if the Highway Authority do not support refusal of a proposal on Highway Safety grounds this is likely to be given significant weight by the Planning Inspector.

APP/R1010/W/16/3149092: Crich View Farm, Tibshelf Road, Stainsby Common: Outline Application with all Matters Reserved for Residential Development of Two Dwellings.

Main Issues

The main issues are the:

- The effect of the development on highway safety
- Whether or not the proposal, given its rural location, would constitute a sustainable location for access to facilities and services

Conclusions

The council did not have a five year supply of deliverable housing. In the absence of a five year supply, policies ENV 3 and HOU 9 which seek to confine residential development to settlement frameworks were considered out of date in accordance with paragraph 49 of the NPPF and in accordance with that paragraph there should be a presumption in favour of sustainable development. The inspector considered that the site was not isolated residential development as considered in paragraph 55 of the NPPF and that the site was close enough to facilities, services and employment in Holmewood and to bus stops giving access to other settlements to be considered a sustainable location.

However, the Inspector considered the restricted visibility from the proposed access onto a busy, 50mph road meant that the proposal would result in increased risk to the safety of

highway users and as such would cause significant harm to highway safety. The proposal was therefore considered to conflict with policy GEN 1 of the Local Plan.

The Inspector therefore concluded that, when assessed against the Framework as a whole, the harm to highway safety would significantly and demonstrably outweigh the limited benefits of the scheme, including the contribution to housing supply and the sustainable location and as such the scheme was not regarded as sustainable development overall.

The appeal was dismissed

Recommendations

None. The Council now has a five year supply of housing so the policies which were considered out of date in this appeal would now be given more weight in accordance with the NPPF.

APP/R1010/W/16/3149755: Hickinwood Farm Yard and Barn, Hickinwood Lane, Clowne: Notification of Prior Approval for Change of Use of an Agricultural Building to Commercial (B1) Use.

Main Issues

The application was for prior approval under Schedule 2, Part 3, Class R of the Town and Country Planning (General Permitted Development)(England)Order 2015 (GPDO) for change of use of a building to a commercial use. Class R allows for changes of use from agricultural buildings to B1 use subject to specific requirements and restrictions. The main issues were:

- Whether the proposal would be permitted development in respect of Class R of the GPDO, subject to the prior approval of certain matters.
- Is so, whether or not prior approval is required having regard to the assessment of transport and highways impacts of the development, noise impacts of the development, contamination risks on the site and flooding risks on the site.

Conclusions

Compliance with Class R requires that the building was solely used for an agricultural unit on 3rd July 2012 or in the case of a building which was not in use on that date when it was last in use. Schedule 2 Part 3, paragraph x of the GPDO sets out that an established 'agricultural unit' means agricultural land occupied as a unit for the purposes of agriculture.

The inspector concluded that the evidence supplied did not demonstrate that the building was used solely for an agricultural use as part of an established agricultural unit on 3rd July 2012 or remained unused on that date, so that its last use prior to 3rd July 2012 was solely for an agricultural use as part of an established agricultural unit. The change of use therefore was not development permitted by the GPDO and there was no need to consider the prior approval matters as it would not alter the outcome of the appeal.

The appeal was dismissed.

Recommendations

None.

**APP/R1010/W/16/3155405: Land East of 28 Church Road, Stanfree, Chesterfield:
Outline Application with all Matters Reserved for Residential Development of Seven
Dwellings**

Main Issues

Given that the site was for residential development outside settlement frameworks when the council did not have a 5 year supply of deliverable housing the main issues were:

- Whether the occupants of the proposed dwellings would have reasonable access to services and facilities
- The effect of the proposal on the character and appearance of the area.
- Whether the proposal would contribute to the achievement of sustainable development.

Conclusions

The Inspector considered that Stanfree had little in the way of services and facilities and bus services were limited and there would therefore occupiers of the dwellings would need to rely on private car use to meet their daily needs.

The Inspector considered that proposal would detract harmfully from the rural character and appearance of the area contrary to Policies ENV 3 and HOU 9 of the Local Plan.

The Inspector also considered that the number of houses would be relatively small and therefore whilst the scheme would contribute positively to the increasing the supply of housing, this benefit would be small and would not be sufficient to encourage the provision of new local services

The Inspector concluded that the adverse impacts of permitting housing to encroach into open countryside in an area with few services or facilities making occupiers be reliant on the private car would not be outweighed by the benefits of the proposal and on balance the development would not contribute to the achievement of sustainable development.

The appeal was dismissed.

Recommendations

None. The Council correctly assessed the sustainability of the development. The Council also now has a five year supply of housing so the policies which were considered in this appeal would also now be given more weight in accordance with the NPPF.

**APP/R1010/W/17/316977 : Cedar Farm, Chesterfield Road, Tibshelf: Conversion of
Agricultural Barn and Store to One Residential Unit.**

Main Issues

The application was for prior approval under Schedule 2, Part 3, Class Q (a) and (b) of the Town and Country Planning (General Permitted Development)(England) Order 2015 (GPDO) for change of use of a building to a residential use. Class Q allows for changes of use from agricultural buildings to residential use subject to specific requirements and restrictions. The main issues were:

- Whether the proposal would be permitted development in respect of Class Q of the GPDO, subject to the prior approval of certain matters.
- If so, whether the location and siting of the building would make it otherwise impractical or undesirable for the building to change from agricultural use to a use falling within Class C3 (dwellinghouses.)

Conclusions

The Inspector concluded that the works required to the building to allow it to be used as a dwelling did not include new structural elements, just the over-cladding or partial replacement of existing blockwork with brick and as such considered the proposal to meet the requirements for prior approval under paragraph Q.2.(1) of the GPDO and therefore the proposal was permitted development.

The Inspector therefore went on to consider the location and siting of the building. The dwelling would be sited within, and share an access with, the working farmyard. It would be close to a cow shed and an area of open storage used for storing agricultural machinery and equipment, hay bales and hardcore would be directly in front elevation and amenity space of the proposed dwelling. To access the storage area it would be necessary to pass directly in front of the proposed dwelling and as the site is a working farm the equipment would be used frequently and at unsociable hours. The Inspector considered that this would lead to noise and disturbance for future residents of the dwelling and that there was a potential for odour nuisance from the cow shed.

The Inspector acknowledged that the dwelling would be occupied by appellant and his family but this couldn't be controlled and if the appellant sold the dwelling, future occupiers would be subject to the noise disturbance and odour.

The Inspector concluded that the siting of the building within the yard of a working farm, in close proximity to the agricultural machinery storage area and a cowshed would make it undesirable for the building to change from agricultural use to a dwelling.

The appeal was dismissed.

Recommendations

None.

APP/R1010/W/17/3166898: 125 Dale Close, Langwith: Use of Dwelling as Base for Private Hire Business

Main Issues

The main issues in this case are:

- The effect of the proposal on the living conditions of neighbouring occupiers with regard to on-street parking, noise, disturbance and visual amenity and
- Highway Safety.

Conclusions

The house is a semi-detached property at the head of a cul-de-sac in a residential area with parking for a number of vehicles. The proposed hours of operation were 0700hrs-2330hrs Monday-Friday, 0700-0100 Saturdays and 10.30 to midnight Sundays. There were five vehicles associated with the business.

The Inspector did not consider that the proposal would not materially affect the neighbours living conditions in terms of visual amenity or access to their properties. However the Inspector concluded that as a result of the number of vehicles and hours of operation the proposal in this residential would result in noise and disturbance which would adversely affect the living conditions of neighbouring occupants contrary to Policy GEN 2 of the Bolsover District Local Plan.

The Inspector also concluded that the number of vehicles associated with the dwelling and private hire business would result in increased vehicle movements outside the site and additional on street parking which would have an adverse effect on highway safety contrary to the requirements of Policies GEN 1 and GEN 2 of the Bolsover District Local Plan.

The appeal was dismissed

Recommendations

None

APP/R1010/W/17/3166928: Agricultural Building at Stockley Farm, Palterton: Conversion of Agricultural Barn and Store to One Residential Unit.

Main Issues

The application was for prior approval under Schedule 2, Part 3, Class Q (a) and (b) of the Town and Country Planning (General Permitted Development)(England)Order 2015 (GPDO) for change of use of a building to a residential use. Class Q allows for changes of use from agricultural buildings to residential use subject to specific requirements and restrictions. The main issues were:

- Transport and highways impacts of the development,
- noise impacts of the development,
- Whether the location and siting of the building would make it otherwise impractical or undesirable for the building to change from agricultural use to a dwelling house.

Conclusions

The building is in the middle of a farm yard. Some of the farm buildings are used for storage of bales and agricultural equipment but many of them are unused and in poor repair. Future occupants of the building would be living in close proximity to agricultural uses and would access the dwelling through the farm yard.

The Inspector considered that although existing agricultural activity is low at present this use could be intensified resulting in noise, dust, odour, disturbance and inconvenience for future residents. The Inspector concluded that the proposal would result in an unsatisfactory and therefore objectionable living environment for future occupants of the proposed conversion and as such the proposal would fail to meet the requirements of Schedule 2 Part 3 Class Q.2(b) and (e).

The Inspector also considered that the access to the site had relatively poor visibility and that vehicles travelled along Stockley Lane at Significant speed and the additional vehicle movements as a result of the proposed dwelling would increase highway safety risks. The Inspector concluded that this was a further indication of the unsuitable location of the conversion and the proposal also failed to meet the requirements of Schedule 2 Part 3 Class Q.2(b) and (e).

The appellant had suggested various conditions to tie the conversion to the ownership of the farm but the Inspector considered that the conditions suggested did not meet the six tests for conditions as they would not be precise, reasonable or enforceable and would therefore fail to meet all the tests of the NPPF and the PPG.

The appeal was dismissed.

Recommendations

None

APP/R1010/D/17/3168460: The Laurels, Ruthyn Avenue, Barlborough: Retention of Building for Stable and ancillary facilities

Main Issues

- Whether or not the building constitutes inappropriate development in the Green Belt.
- The effect of the building on the character and appearance of the countryside and
- If the building constitutes inappropriate development in the Green Belt, whether the resultant harm by reason of inappropriateness, and any other harm, are clearly outweighed by other circumstances so as to amount to the very special circumstances necessary to justify its approval.

Conclusions

The Council had expressed concern that the building had been constructed as a dwelling and the nature of the structure made it unsuitable as stables/kennels as described in the application. The Inspector determined the application on the basis that the building was stables and kennels for use in connection with the existing dwelling as described in the application form.

The Inspector considered the building to be inappropriate development in Green Belt as defined in the NPPF and Policy GEN 9 of the Bolsover District Local Plan as it didn't meet any of the exceptions to the presumption against development in the Green Belt set out in the NPPF or Policy GEN 9.

The Inspector also considered the building to have a neutral effect on the character and appearance of the area.

The Inspector concluded that paragraph 87 of the NPPF establishes that inappropriate development is by definition harmful to the Green Belt and should not be approved except in very special circumstances and paragraph 88 requires substantial weight to be given to that harm. Despite the Inspectors consideration that the building has a neutral effect on the character and appearance of the area, no other substantive conditions were identified which would outweigh the harm identified. Therefore the very special circumstances needed to justify the development did not exist and the development was contrary to the requirements of the NPPF and Policy GEN 9 of the Bolsover District Local Plan.

The appeal was dismissed.

Recommendations

None.

The existing Green Belt Policy is in line with the Guidance in the NPPF. However, applications should be considered as described and not considered for another use even if the type of construction appears unsuitable for the intended use.

APP/R1010/W/17/3172633: Land at Hilcote Lane, Hilcote: Construction and Operation of a 14MW Peaking Power Generation Plant and Ancillary Equipment and Access

Main Issues

The application was for a peaking power generation plant (PPGP). It comprises 7 natural gas fired engine-driven electricity generators housed in acoustically insulated steel containers. The electricity would support the local electricity network. The proposal included a number of transformers, gas kiosk, oil tanks etc and was enclosed by a 4.5m high acoustic fence.

- Whether, in the context of the relevant development plan policy, the proposed development would be acceptable on the site and
- The effect of the development on the character and appearance of the area.

Conclusions

The site is outside the defined settlement framework boundary. Policy ENV 3 of the Bolsover District Local Plan indicates outside settlement frameworks planning permission will only be granted in certain specific circumstances. One of these circumstances is whether the development is necessary in such a location or is required for the exploitation of sources of renewable energy. Policy ENV 3 does not elaborate on what is meant by “for the exploitation of renewable energy developments.”

The appellant indicated that the proposed flexible peaking power generation capacity specifically forms part of the renewable energy infrastructure, being developed to meet the UK’s obligations under the EU Renewable Energy Directive, because renewable energy sources are supplies that are dependent on the times of day and weather conditions. The Inspector considered it was not unreasonable to conclude that the development would constitute development required for the exploitation of sources of renewable energy and therefore met the requirements of Policy ENV 3 in this respect.

The Inspector also considered that the proposal environmentally stable, considered it would not impact on the vitality of Hilcote village and would not lead to unnecessary urbanisation and sprawl in the longer term. The Inspector concluded that the proposed development would meet the requirements of Policy ENV 3.

The Inspector also considered that given the proximity of the site to the motorway and Industrial development the proposal would not appear as an overly incongruous extension of built development into the open countryside so as to cause significant harm to its character or appearance.

The Concluded that the development would not cause substantive harm to the character or appearance of the countryside. It would not conflict with Policy ENV 3 of the Bolsover District Local Plan nor would it conflict with the core planning principle of the NPPF that indicates that planning should take account of the roles and character of different roles and character of different areas and recognise the intrinsic character and beauty of the countryside.

The appeal was allowed subject to a number of conditions.

Recommendations

Careful consideration of the individual character of the countryside is required in each case. Supporting text in the emerging Local Plan should give clarity to what is meant by “for the exploitation of renewable energy developments.”

APP/R1010/W/17/3171022: Hickinwood Farm Yard and Barn, Hickinwood Lane, Clowne: Notification of Prior Approval for Change of Use of an Agricultural Building to Commercial (B1) Use.

Main Issues

The application was a resubmission of an application for prior approval under Schedule 2, Part 3, Class R of the Town and Country Planning (General Permitted Development)(England)Order 2015 (GPDO) for change of use of a building to a commercial use. Class R allows for changes of use from agricultural buildings to B1 use subject to specific requirements and restrictions. The original application was refused and dismissed on appeal. The application was re-submitted with the addition of 2 affidavits as additional evidence.

The main issues were:

- Whether the proposal would be permitted development in respect of Class R of the GPDO, subject to the prior approval of certain matters.
- Is so, whether or not prior approval is required having regard to the assessment of transport and highways impacts of the development, noise impacts of the development, contamination risks on the site and flooding risks on the site.

Conclusions

Compliance with Class R requires that the building was solely used for an agricultural unit on 3rd July 2012 or in the case of a building which was not in use on that date when it was last in use. Schedule 2 Part 3, paragraph x of the GPDO sets out that an established ‘agricultural unit’ means agricultural land occupied as a unit for the purposes of agriculture.

The inspector again concluded that the evidence supplied did not demonstrate that the building was used solely for an agricultural use as part of an established agricultural unit on 3rd July 2012 or remained unused on that date, so that its last use prior to 3rd July 2012 was solely for an agricultural use as part of an established agricultural unit. The change of use therefore was not development permitted by the GPDO and there was no need to consider the prior approval matters as it would not alter the outcome of the appeal.

The appeal was dismissed

Recommendations

None.

APP/R1010/W/17/3176077: Land at Featherbed Lane, Bolsover: Extension to Stable Building to Provide Ancillary Facilities.

Main Issues

The main issue is whether the proposal is consistent with the objectives of local and national planning policies relating to development in rural areas, including the effect upon the character and appearance of the area.

Conclusions

The application was for an extension to a previously approved block of three stables and a tack room. The extension included a window and was to provide a mess room including kitchen area and toilet.

The site is in an area of open countryside. The Inspector considered the keeping of horses to be a use which requires a rural location and this was accepted by the council in the granting of the stable block.

The council had expressed concern that the proposed facilities were unnecessary for serving a private use where only three horses were kept. The Inspector disagreed and considered it reasonable for the users of the stables to require washing facilities/ toilet and an area to sit and shelter from inclement weather. The Inspector went on to say that if the users of the stables had such facilities it would reduce the need to travel to and from the site as users would be able to stay longer and therefore there were potential benefits to the environmental sustainability of the proposal in that respect.

The Inspector considered the extension to be of a scale and design in keeping with the approved stable block and that the screening around the site would screen the extension from wider views and as such would not have a harmful effect upon the character and appearance of the area

The Inspector concluded that on this basis the proposal complied with Policies ENV 3 and GEN 2 of the Bolsover District Local Plan and that these policies were consistent with the core planning principle of the NPPF which seeks recognition for the intrinsic character and beauty of the countryside.

The appeal was allowed subject to conditions requiring the proposed window to be removed from the scheme in order to minimise the opportunity for crime and that the extension be used for purposes ancillary to the keeping of horses only and no residential occupation to be carried out.

Recommendations

None.

The existing countryside Policy is in line with the Guidance in the NPPF. However, applications should be considered as described and not considered for another use even if the type of facilities appears to be intended for a different use.

Appendix B:

Planning Appeal Decisions relating to decisions made in the Second Monitoring Period between April 2017 and March 2018

Major Developments

APP/R1010/W/17/3183977: Land at Sunny Bank, Tibshelf: Outline Application With All Matters Reserved Except Access for Residential Development.

Main Issues

The main issues are:

- Whether the development would be in an appropriate location with regard to the development plan, the National Planning Policy Framework and any other material considerations
- The effect on the character and appearance of the Important Open Area (IOA)
- The effect on local biodiversity
- Whether the development would have a safe and suitable road access.

Conclusions

The Inspector considered that in principle the development would not be in an appropriate location as it was outside settlement frameworks and would not maintain the open character if the IOA and as such was contrary to Policies GEN 10 and ENV 3 of the Bolsover District Local Plan.

The Inspector considered that the site was in an area rural in character and that the development would be a significant and prominent encroachment into open countryside and would fail to maintain the open character of the IOA contrary to Policies GEN 2 in relation to the character and appearance of the area and GEN 10 in relation to the IOA.

The Inspector considered there was no evidence to show the site supported protected species or that it was an important wildlife corridor. The Inspector did not consider that the development would have a significant adverse effect on local wildlife and mitigation works could enhance the site's biodiversity and as such the development would not be contrary to Policy ENV which aims to retain locally important habitats.

The Inspector agreed that the site only had access to adoptable roads via a private unmade road and would need to gain consent for the work on the unmade road to bring it up to adoptable standards. The Inspector also agree with the Highway Authority concerns about the visibility at the proposed junction. However the Inspector considered these to be design details which could be resolved and a pre-commencement condition could control this. On this basis the Inspector considered the development could have satisfactory road access and would not be contrary to Policy GEN 1 which is concerned with minimum requirements for development or GEN 2 in respect of highway access and traffic generation.

On balance the Inspector concluded that the council had a 5yr supply of housing but even if it didn't the weight to be given to housing policies remains a matter of planning judgement and that the council's countryside policies are in line with the Framework and the adverse impacts of the proposal would significantly outweigh the benefits when assessed against the Framework when taken as a whole such that the presumption in favour of sustainable development should not be applied.

The Inspector concluded that the development would be contrary to the relevant policies in the development plan and there were no material considerations of such weight as to warrant a decision other than in accordance with the development plan.

The appeal was dismissed.

Recommendations

None.

The existing countryside Policy is in line with the Guidance in the NPPF. The Inspector accepted the council has a five year supply of housing.

APP/R1010/W/17/3188368: Land East of M1, North of Ball Hill, South Normanton: Outline Planning Permission for Site Remodelling, Development of Residential Dwellings, Car Parking, Access and Landscaping, Associated Works. Details of Access Included in the Application, All Other Matters Reserved.

Main Issues

The main issue was whether the site was an appropriate location for residential development with particular regard to protected trees, noise and ground conditions.

The application was refused by Planning Committee against officer recommendation.

Conclusions

The Inspector concluded that the purpose of an outline application for planning permission is to determine whether or not the principle of residential development on a site is acceptable. In this instance, whilst the scale of development, appearance, landscaping and layout were reserved for subsequent consideration, the access to the site was set out in detail. The Council did not object to the location of the proposed access and the Inspector agreed.

The Inspector also concluded that the purpose of indicative site layouts within the outline application process is to suggest how development could be carried out. The Inspector considered that the appellant had demonstrated an iterative process to the identification of the site's main constraints – trees, noise, ground conditions – and how these impacted upon the site's developable area and the proposal sought to retain flexibility regarding numbers of dwellings, given these constraints. The Inspector considered that the appellant had demonstrated that the principle of residential within the site would not be unacceptable, or unacceptably constrain residential development within the site.

The Inspector concluded that subject to conditions, sufficient control existed to allow an appropriate, and appropriately detailed, scheme to be devised fully informed by the site's detailed constraints.

The appeal was allowed subject to conditions.

Recommendations

The existing Policies considered were in line with the Guidance in the NPPF. However, outline applications should be considered as described in principle and only the matters not reserved should be considered in detail. Any indicative plans relating to reserved matters are only indicative and if no details of house numbers are included, even if only a

very small number of dwellings can be accommodated then the application may be considered approvable.

APP/R1010/W/18/3206018: Appletree Inn, Clowne Road, Stanfree: Outline Application with All Matters Reserved for Development of Up to 38 Dwellings including Public Open Space and Other Associated Matters.

Main Issues

The main issues were:

- Whether the proposed development would be sustainable in respect of its location
- The effect of the proposed development upon the character and appearance of the area
- The effect of the development on protected species
- Whether the site could be adequately drained of surface water
- Whether the proposed development would make adequate provision towards public infrastructure

Conclusions

The Inspector considered that the development would not be sustainable in terms of its location as it did not lend itself to sustainable transport choices and most journeys would be undertaken by motor vehicle. This would conflict with paragraph 103 of the NPPF and Policies GEN 8 and ENV 3 of the Bolsover District Local Plan.

The Inspector considered that the site was a field partly surrounded by houses partly surrounded by open countryside and the proposal would result in the built area encroaching into the countryside changing the character of the area from rural to suburban. This was considered not to enhance the natural environment by recognising the intrinsic character and beauty of the countryside and as such was contrary to paragraph 170 of the NPPF.

The Inspector concluded the development would harm the character and appearance of the countryside contrary to Policy GEN 2 of the Bolsover District Local Plan.

The Inspector concluded that the proposal would not harm protected species and as such would not conflict with Policy ENV 5 of the Local Plan or paragraph 174 of the NPPF.

The Inspector also concluded that the site could be adequately drained of surface water and as such complied with paragraph 174 of the NPPF.

In the absence of a legal agreement being put forward the proposal was contrary to Policy HOU 6 of the Local Plan and paragraph 64 of the NPPF which requires affordable housing provision in major housing development.

The appeal was dismissed.

Recommendation

None

The policies considered are in line with the NPPF

APP/R1010/W/18/3198997: Glapwell Nurseries, Glapwell Lane, Glapwell: Outline Application with All Matters Reserved Except Means of Access for Redevelopment and Relocation of Nursery and Garden Centre and Residential Development for up to 65 Dwellings and Ancillary Works

Main Issues

- Whether there is a 5 year supply of housing in the District
- The effect of the development on the character and appearance of the area and
- Whether future occupiers of the development would be unduly reliant on private transport

The application was refused by Planning Committee in accordance with the officer recommendation.

Conclusions

The Council's ability to demonstrate a 5 year supply of deliverable housing sites was the main issue as it affected whether the appeal was to be considered against the 'tilted balance' set out in part d) of Paragraph 11 of the Framework. This states that where a 5 year supply cannot be demonstrated, permission should be granted, unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits.

The Council asserted that it is able to demonstrate a 5 year supply of deliverable housing sites taking the housing requirement figure of 272 dwellings per annum set out in the emerging local plan. The appellant challenged the inclusion of 13 sites in the supply. The Inspector removed 7 of the sites and reduced the numbers counted on two others.

Despite the removal of these sites from the calculation the Inspector concluded that this left a housing supply of 1450 dwellings which still exceeds the requirement of 1391 and as such confirmed that the Council can demonstrate a five year supply of Housing. The Inspector considered that tilted balance set out in paragraph 11 of the framework therefore did not apply and the development should be determined in accordance with the development plan unless material considerations indicate otherwise.

The Inspector concluded that the appeal site is located in the countryside outside of the Settlement Framework for Glapwell. Policies GEN 8 and ENV 3, seek to restrict new development in the countryside unless it would meet one of a limited number of exceptions. The development would not meet any of these exceptions and would therefore be contrary to those policies. The Inspector also concluded that whilst the Local Plan is quite old, Paragraph 213 of the Framework states that existing policies should not be considered out-of-date simply because they were adopted or made prior to the publication of the Framework and as set out above, the Council is also able to demonstrate a 5 year supply of deliverable housing sites.

Set against this, the Inspector concluded that the site would not significantly harm the character and appearance of the area, and would be relatively well served by services, facilities, and public transport. In addition, the Inspector found that the development would provide for the restoration and reuse of the Grade II listed bothy within the site, which is identified in the Council's Heritage at Risk Strategy and that this would be a significant benefit that would put the building into a viable long term use.

The Inspector concluded the development would also provide a significant number of new dwellings, including affordable housing, and would generate economic benefits through the

creation of employment and the purchasing of materials and furnishings. The planning obligation proposed would also provide contributions towards off-site sports facilities, children's play facilities, education, and public art. Moreover, the existing garden centre would be retained and improved.

The Inspector concluded that overall, there was conflict with the development plan but no other significant harm would arise from the development. Moreover, significant benefits would be delivered. In this case, the conflict with the development plan would therefore be outweighed by other material considerations.

The appeal was allowed.

Recommendation

The Policies considered are in line with the NPPF and the Council is still considered to have a 5 year supply of deliverable housing, the Inspector did give different weight to other material considerations and notably in this decision; the Inspector placed very limited weight on the Council's settlement hierarchy study.

Careful consideration also needs to be given to the assessment a site's deliverability in line with the 2018 NPPF before counting it in the Councils supply of deliverable housing noting the Inspector's rigorous dismissal of several sites listed in the Council's five year supply.

Minor Developments

APP/R1010/W/17/3188607: 2 Tibshelf Road, Westhouses: Outline Application with All Matters Reserved for Two Detached/Semi-Detached Houses

Main Issues

The main issues were:

- Whether the development would be in an appropriate location with regard to the Council's development plan and the NPPF,
- The effect of the development on the character and appearance of the area
- Whether the development would be affected by the historic coal mining legacy.

Conclusions

The Inspector considered that Policies ENV 3 and HOU 9 were in line with the NPPF and as the site was outside defined settlement frameworks, new houses would require special justification as set out in these policies. Such justification had not been provided and as such the development would not be in an appropriate location and be contrary to HOU9 and ENV 3.

The Inspector considered that the site would be a logical infill site and the scale and form of development could be controlled in a reserved matters application to ensure the development was in keeping with the established development pattern. On this basis the Inspector concluded the proposal would not have an adverse effect on the character and appearance of the area and would not be contrary to the guidance in the NPPF.

The Inspector also considered that although a coal mining risk assessment had not been submitted, a condition could be imposed to require submission of further investigative reports to address the coal mining issues and subject to such a condition the proposal would be in line with paragraphs 120 and 121 of the NPPF.

The Inspector concluded that although there would be no harm to the character and appearance of the area or the coal mining legacy, the site is outside the settlement framework and therefore contrary to the relevant policies in the Local Plan. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires determination of the appeal in accordance with the development plan unless material considerations indicate otherwise and the Inspector did not consider that there were any material considerations of such weight as to warrant a decision other than in accordance with the development plan.

The appeal was dismissed.

Recommendations

None.

The existing countryside Policy is in line with the Guidance in the NPPF.

APP/R1010/D/17/3186544: 40 Brunner Avenue, Shirebrook: Single Storey and Two Storey Extension to Side and Rear.

Main Issues

The main issue was the effect of the development on the living conditions of occupiers of 39 Brunner Avenue with particular regard to daylight and outlook.

Conclusions

The Inspector concluded that the proposal would have a significant, harmful impact upon the outlook from and daylight and sunlight received by the nearest ground floor windows of the attached dwelling and would have a significantly enclosing, oppressive, overbearing impact on the outlook from the ground floor windows. This was considered contrary to Policy GEN 2 of the Bolsover District Local Plan which states that planning permission will not be granted for development which creates materially harmful impacts on the local environment unless these impacts are outweighed by the social or economic benefits to the community offered by the development.

The development was supported by the resident of the dwelling affected by the proposal but this support was not considered to be of sufficient social or economic benefit to outweigh the considerable harm identified above.

The appeal was dismissed.

Recommendations

None. The Inspector agreed with the Council's assessment of the impact of the development and Policy GEN 2 of the Local Plan is in line with the NPPF.

APP/R1010/W/17/3184727: Land to the East of Rowthorne Lane, Glapwell: Outline Application with All Matters Reserved for 9 Self-Build Dwellings

Main Issues

The main issues were

- Whether the appeal site would be an appropriate location for residential development having regard for the policies of the development plan, the NPPF and any other material considerations
- The effect on the character and appearance of the Important Open Area (IOA)

Conclusions

Paragraph 49 of the NPPF advises that housing applications should be considered in the context of a presumption in favour of sustainable development but that relevant policies for the supply of housing should not be considered up to date if the council cannot demonstrate a 5 year supply of housing land.

The Inspector assessed the available housing supply and how this was calculated. The Inspector concluded that the council could demonstrate a 5 year supply of housing land. The presumption in favour of sustainable development in paragraph 14 of the NPPF therefore didn't apply and the proposal was to be determined in accordance with the development plan unless material considerations indicated otherwise.

The Inspector considered that the fact that the site was outside settlement frameworks in an area of open countryside and the fact that there was no special justification for the dwellings meant that the site would not be an appropriate location for residential development as the proposals would be contrary to Policies ENV 3 and HOU 9 of the Bolsover District Local Plan.

The Inspector also considered that the development would be detrimental to the character and appearance of the area and would fail to maintain the open character of the Important Open Area which would be contrary to Policies GEN 2 (in relation to character and appearance) and GEN 10 (in relation to maintaining the open character of the area) of the Bolsover District Local Plan.

The Inspector concluded that the proposal would have some limited economic and social benefits but that these modest benefits would not outweigh the harm identified above.

The appeal was dismissed

Recommendations

None.

The existing countryside Policy is in line with the Guidance in the NPPF. The Inspector accepted the council has a five year supply of housing

APP/R1010/W/18/3196271: 156 Station Road, Shirebrook: Change of Use From Storage For Adjacent Shop to Retail Unit and One Self-Contained Flat

Main Issues

The effect on the significance of The Beehive, a visually distinct terrace which was built for Shipstones Brewery and was the first purpose built large retail unit with family accommodation over within the Mansfield District and which is an unlisted building of merit and a non-designated heritage asset.

The application was refused by Planning Committee against officer recommendation due to the impact on the unlisted building of merit.

Conclusions

The building is an unlisted building of merit and a non-designated heritage asset (NDHA.) Such assets have a degree of significance. The Framework advises that the effect of an application on the significance of the NDHA should be taken into account and a balanced judgement required having regard to the scale of harm or loss of significance of the heritage asset.

The Inspector considered that the external appearance of the building would not be materially altered and the retail use operating in the shop unit at the front of the building would not be lost. The capacity for retail use would be reduced by the proposed sub-division to create the flat but no evidence was given to demonstrate that the reduced floor space would render the unit unviable.

The Inspector considered that the building was on the edge of the town centre in a primarily residential area where residential development would be appropriate and the development would provide some residential development whilst retaining the retail frontage to safeguard the character and appearance of the building.

The Inspector concluded that the development would not have a harmful effect on the significance of The Beehive and would not conflict with one of the core principles of the Framework which aims to ensure that heritage assets are conserved in a manner appropriate to their significance.

The appeal was allowed and the development permitted subject to conditions relating to compliance with amended plans, details of the window and door in the side wall to be submitted and the retail of the retail unit for A1 retail use.

Recommendations

Careful consideration of the proposal is required and if the Planning Officers do not support refusal on impact on heritage assets; this is likely to be given significant weight by the Planning Inspector

APP/R1010/W/18/3202999: Land and Buildings to the East of Willow Farm, Mansfield Road, Creswell: Refusal of UPVC Window Details Submitted in an application for Approval of Details Reserved by Condition following Approval of Planning Permission For Conversion of Barns to Two Dwellings

Main Issues

The main issue was whether the windows and doors installed preserved or enhanced the character and appearance of the Creswell Conservation Area.

Conclusions

The Inspector considered the farmhouse and barns to comprise a model farmstead which were identified as unlisted buildings of merit and contributed positively to the character and appearance of the conservation area.

The Inspector considered that neither the material nor the chunky moulded profile of the fenestration was typical of the historic barn such that the resulting appearance of the barn now looked more like a dwelling on a modern housing estate and its rural character and appearance had been substantially diminished.

The Inspector also considered that just because this part of the conservation area was not publically prominent, it did not follow that its heritage value should not be protected.

The Inspector concluded that the windows and door harmed the character and appearance of the conservation area contrary to Policies CON 1 and ENV 4 of the Bolsover District Local Plan.

The appeal was dismissed

Recommendation.

None.

The policies considered are in line with the NPPF

APP/R1010/W/18/3205664: Land to the South of 32 Chesterfield Road, New Houghton: Residential Development for One Dwelling

Main Issues

The main issues were the effect of the proposed development upon

- The character and appearance of the area and;
- The provision of open space

Conclusions

The Inspector considered that the back of the building would be very plain and would sit close to the boundary with the open space and due to the prominent and forward position of the proposed dwelling in relation to other houses the dwelling would be an unattractive feature in the street scene.

The Inspector also considered that the gable elevation which faced the cul-de-sac would also be plain especially at first floor and would be unsightly due to the prominent expanse of unbroken brickwork.

The Inspector considered that the combination of the proposed position forward of the general building line and the prominent plain elevations would result in development that would have a harmful effect upon the character and appearance of the area contrary to Policy Gen 2 of the Bolsover District Local Plan and paragraph 127 of the NPPF.

The Inspector accepted the site was designated as open space and recreation in the Local Plan but considered that as the land was owned by the applicant and not maintained for recreation and was previously part of the garden to a house which was previously demolished to build the three houses to the rear of the site, then the proposal would not have a harmful effect upon the provision of open space.

The Inspector concluded that although there was no harm to the provision of open space, there was significant harm to the character and appearance of the area.

The appeal was dismissed.

Recommendation

No recommendation in terms of decision making. The part of Policy GEN 2 considered in this application is in line with guidance in the NPPF.

Consider removal of the site as an open space allocation in the emerging Local Plan.

Appendix C: Planning Enforcement Appeal Decisions from April 2015

The performance of Local Authorities in relation to the outcome of enforcement appeals are not being measured in the same way as planning appeals. However it is considered useful to report the enforcement appeals within the same time period to address any issues or lessons learnt from these appeal decisions.

APP/R1010/C/16/3149450: Land South of 10 Vivian Street, Shuttlewood: Appeal Against an Enforcement Notice Requiring the Ceasing of the Use of the Land for the Stationing of a Caravan and the Removal of a Static Residential Caravan from the Land.

Main issues

The breach of planning control alleged was the use of land for siting a residential static caravan without planning permission. An enforcement notice was issued requiring:

- The use of the land to cease and;
- Permanently remove the caravan from the site

Conclusions

The Inspector amended the notice to allege a material change of use of the land to use for the siting of a static caravan used for human habitation.

The site was used for growing vegetables and flowers outside any domestic cartilage. The appellant stated the caravan was not connected to any services and was used for storage of garden tools and equipment and the living space was used for a rest from gardening activities and not for residential purposes. The burden of proof lied with the appellant.

The council stated the caravan met the tests for definition of a caravan and had all the apparatus for everyday living on undeveloped garden land.

The Inspector agreed that the caravan met the legal definition of a caravan as it was a structure of normal dimensions, designed for human habitation and could still be moved as a single structure. The Inspector considered the fact that some of the fixtures had been removed and that it was not connected to services did not alter that fact.

The Inspector quoted previous case law and considered that it was not possible to know whether a material change of use had occurred without knowing the purpose for which the caravan was used and whether that purpose fitted with the existing land. On this basis he concluded that the stationing of a caravan was not a material change of use in itself.

He concluded that the use of the site was a private garden and the caravan was used for storage and recreation associated with that use and was not used for residential occupation and that that use was incidental to the use as garden land and therefore did not require planning permission.

The Inspector also concluded that the council cannot issue a notice in respect of a breach of control that has not yet taken place and there was no evidence that the caravan was used for residential occupation. This meant the alleged use set out in the enforcement notice had not occurred.

The enforcement notice was quashed.

Recommendations

Care needs to be taken to assess the use of land on the basis it is used at that time and not consider any other use even if the type of facilities appear to be intended for a different use. The alleged change of use/breach of planning control has to be specific and has to have already occurred.

APP/R1010/C/17/3170679: The Laurels, Ruthyn Avenue, Barlborough: Appeal Against Enforcement Notice Requiring Removal of Building for Stable and ancillary facilities and Restoration of Site to Grassed Area.

Main Issues

Planning permission had previously been refused for the retention of the building and an appeal had been dismissed. This was an appeal on ground (a) against the enforcement notice requiring demolition of the building within 3 months and the restoration of the site to a grassed area within 6 months. The main issues were:

- Whether or not the appeal building constitutes inappropriate development in the green belt;
- The effect of the building on the character and appearance of the countryside; and
- If inappropriate, whether the harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations so as to amount to the very special circumstances necessary to justify its retention.

Conclusions

The Inspector agreed with the decision on the dismissed planning appeal and considered the building to be inappropriate development in the Green Belt which, by definition, was harmful as set out in the NPPF and attached substantial weight to that harm.

The Inspector concluded the considerations put forward in support of allowing the appeal held very limited weight and did not clearly outweigh all of the substantial harm identified in respect of inappropriateness and therefore the very special circumstances necessary to justify the development did not exist.

It was concluded that the development conflicted with the aims and objectives of Policy GEN 9 of the Bolsover District Local Plan and the NPPF.

The appeal was dismissed, planning permission refused and the enforcement notice upheld.

Recommendations

None.

The existing Green Belt Policy is in line with the Guidance in the NPPF.

COMMITTEE UPDATE SHEET

SUPPLEMENTARY REPORT OF THE PLANNING MANAGER

This sheet is to be read in conjunction with the main report.

Agenda Item No: 6 Planning Applications to be determined

Planning Site Visits to be held on 11 January 2019 were cancelled because only one application is on this month's agenda and members had already visited the application site in September 2018.

Summary of representations received after the preparation of the original main Committee Report and any recommendation based thereon.

Agenda item No: 6 (i): Construction of new dwelling with supported living annexe, construction of new barn, conversion of existing barn to microbrewery/ kitchen with associated office on land to the West of Bridge Close, Hollin Hill Road, Clowne (18/00623/FUL).

Since the original officer report was published two further consultee responses have been received:

1) BDC (Heritage Conservation Manager) - no objections to the proposal and does not consider that there will be any impact upon heritage assets but does consider the proposal to be of a high quality design and in keeping with its proposed uses.

2) DCC (Highways) – No objections subject to conditions.

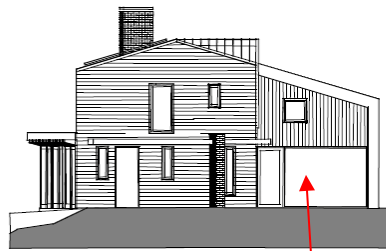
The applicant's agent has also asked that officers clarify the differences between the current application and the previous application (18/00043/FUL), which was refused planning permission in October 2018.

In terms of the development proposals:

Application no. 18/00043/FUL proposed construction of new dwelling, construction of new barn, conversion of existing barn to microbrewery/ kitchen with associated office.

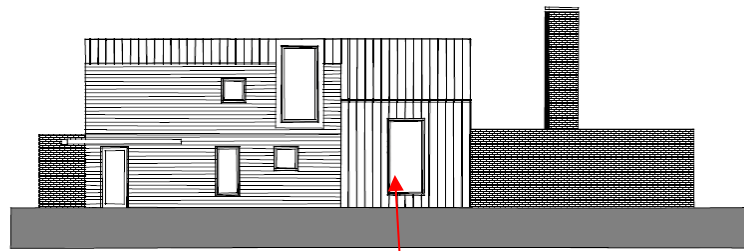
The current application proposes construction of new dwelling with supported living annexe, construction of new barn, conversion of existing barn to microbrewery/ kitchen with associated office.

The only difference between the two development proposals and the design of the proposals is the addition of the supported living annex shown overleaf.



3 East elevation - house
Scale: 1:100

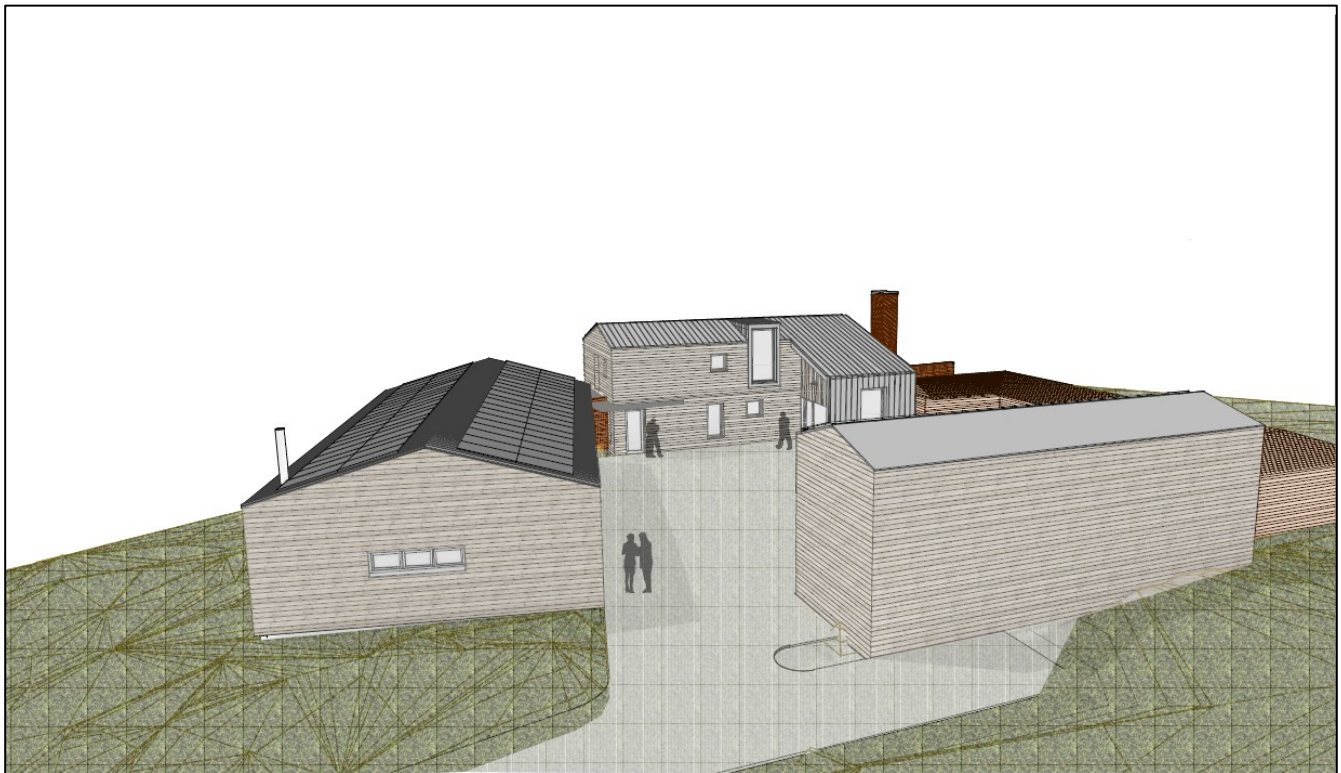
annex



4 North elevation - house
Scale: 1:100

annex

The annex has no internal connections through to the new house and contains all the facilities needed for day to day living including kitchen, shower room and bedroom. As noted above, the Heritage Conservation Manager has no objections to these proposals and considers the design of the proposals to be of a high quality.



Personal Circumstances

The applicants say that a supported living annexe would be beneficial to both family members with protected characteristics. The older of the two would live in the annexe first to develop skills needed for permanent independent living. The younger of the two family members would then move into the annex and the use of the accommodation would support independent living as far as is practicable over the longer term.

The needs case as set out above is different from the previous application insofar as the younger of the two family members received a diagnosis after the submission but prior to the determination of application no. 18/00043/FUL. The assisted living annex in this application is different to the original 'needs case' in that the proposed house did not include any special adaptations to meet the long-term needs of either of the two family members.

It is the applicant's case that because of the exceptional circumstances of the duty of care towards their children and the substantial benefits that the proposal would have in terms of addressing the disadvantages that their children face, it is necessary to build a new dwelling in this location.

Business Case

It is fair to say that in both submissions, the applicants have stated "It is not argued that the proposal constitutes an essential rural worker's dwelling, although living on site would have strong benefits to the sustainability of the applicant's enterprises". It is implied in the original officer report that this stance has changed, which may have been unfair to the applicants.

However, the applicants did not choose to challenge the presumption in the supplementary officer report on the previous application that suggested the micro-brewery and commercial kitchen taken together could generate an 'essential need' for a rural worker's dwelling. It was also said in this report that a consent for a temporary dwelling to test the long term viability of the proposed micro-brewery and expansion of the commercial kitchen would be more appropriate than consent for a permanent dwelling based solely on the needs of the two businesses.

Subsequently, officers consider the applicants have more clearly stated that they will retain a continued interest in Basilisk Data in their submissions with the current application whereas officers had previously assumed the applicants would dispose of their interest in this information technology based business to fund their interest in the microbrewery and commercial kitchen. It remains unclear to officers to what extent the applicants would be employed in either business and to what extent a live-work relationship would exist between the applicants living in the proposed house and the operations taking place in the converted barn.

However, it remains clear that the proposals could result in the creation of local employment opportunities regardless of how the applicants were to operate their business interests.

Other Relevant Considerations

In all other respects, there are no substantive differences between the two applications and in the absence of demonstrable harm to the amenities of the local area arising from the proposals: the key issue remains whether there are special circumstances to justify granting planning permission for a new house in the countryside outside the settlement framework.

Planning Balance

Therefore, as with the previous application, if it is accepted that there are exceptional circumstances that would justify permission being granted for a new house in the countryside there is a case that the development proposed in this application can be made acceptable in planning terms, subject to appropriate planning conditions and a legal agreement,.

However, as with the previous application the issues remain finely balanced. On one hand, an approval would provide an opportunity to address the unmet needs of this particular household and allow two locally-based businesses to develop and expand. On the other hand, officers consider there is insufficient justification to recommend conditional approval of the current application for the reasons set out in the original report.

In summary, officers still do not consider that the social, economic and or environmental benefits of granting planning permission for this application amount to the special circumstances required to justify a new house in the countryside outside the settlement framework either individually or cumulatively. Therefore, the recommendation of refusal remains unchanged.

RECOMMENDATION

The application be REFUSED for the following reasons:

In the absence of exceptional circumstances that would justify the erection of a new house outside of the settlement framework, the proposed house is not considered to be development that is necessary in this countryside location. Therefore, the application is contrary to saved Local Plan Policy ENV3.