

Public Document Pack



**North East
Derbyshire**
District Council

Contact: Alan Maher

Tel: 01246 217391

Email: alan.maher@ne-derbyshire.gov.uk

Date: Monday, 18 July 2022

To: **Members of the Planning Committee**

Please attend a meeting of the Planning Committee to be held on **Tuesday, 26 July 2022** at **2.00 pm** in the Council Chamber, District Council Offices, 2013 Mill Lane, Wingerworth, Chesterfield S42 6NG.

A recording of the meeting will be placed on the Council's You Tube Channel. Click on the following link if you want to view the meeting:

[North East Derbyshire District Council - YouTube](#)

Yours sincerely

A handwritten signature in black ink that reads "Sarah Skeneberg".

Assistant Director of Governance and Monitoring Officer

Members of the Committee

Councillor William Armitage
Councillor Andrew Cooper
Councillor Peter Elliott
Councillor Mark Foster
Councillor Roger Hall
Councillor David Hancock
Councillor Lee Hartshorne

Councillor Maggie Jones
Councillor Heather Liggett
Councillor Alan Powell
Councillor Jacqueline Ridgway
Councillor Kathy Rouse
Councillor Diana Ruff - Chair

Please notify the Interim Governance Manager, Alan Maher by 4.00 pm on Friday 22 July 2022 of any substitutions made for the meeting.

For further information about this meeting please contact: Alan Maher 01246 217391

A G E N D A

1 Apologies for Absence and Substitutions

To receive any apologies for absence and notices of substitutions from Members.

2 Declarations of Interest

Members are requested to declare the existence and nature of any disclosable pecuniary interests and/or other interests, not already on their register of interests, in any item on the agenda and withdraw from the meeting at the appropriate time.

3 Minutes of the Last Meeting (Pages 4 - 13)

To approve as a correct record and the Chair to sign the Minutes of the Planning Committee held on Tuesday 28 June 2022.

4 NED/22/00519/FL - CLAY CROSS (Pages 14 - 23)

Change of use of a commercial unit to a Pet Crematorium (sui generis use), with associated flue, warehousing and offices on land at 2E-2F Church View, Clay Cross. (Revised scheme of Application NED/22/00195/FL)

(Planning Manager – Development Management)

5 NED/22/00508/FL - HIGHAM (Pages 24 - 31)

Section 73 Application to remove condition 12 (removal of permitted development), pursuant to Application NED/97/00521/FL at The Barn, Corner Farm, Main Road, Higham.

(Planning Manager – Development Management)

6 Late Representations - Summary Update Report - TO FOLLOW

(Planning Manager – Development Management)

7 Planning Appeals - Lodged and Determined (Pages 32 - 34)

(Planning Manager – Development Management)

8 Matters of Urgency

To consider any other matter which the Chair is of the opinion should be considered as a matter of urgency.

We speak your language



North East
Derbyshire
District Council

Polish

Mówimy Twoim językiem

Urdu

ہم آپ کی زبان بولتے ہیں

Romanian

Vorbim limba dumneavoastră

Chinese

我们会说你的语言



If you require this agenda in **large print** or another format
please call us on **01246 217753** Text No: 07800 00 24 25

If you require an adjustment to enable you to participate in or access the meeting
please contact the Governance Team at least 72 hours before the meeting starts.

PLANNING COMMITTEE

MINUTES OF MEETING HELD ON TUESDAY, 28 JUNE 2022

Present:

Councillor Diana Ruff (Chair) (in the Chair)
Councillor Alan Powell (Vice-Chair)

Councillor William Armitage
Councillor Peter Elliott
Councillor Roger Hall
Councillor David Hancock
Councillor Heather Liggett

Councillor Andrew Cooper
Councillor Mark Foster
Councillor Lee Hartshorne
Councillor Maggie Jones
Councillor Kathy Rouse

Also Present:

A Kirkham	Planning Manager - Development Management
J Owen	Chartered Legal Executive
A Maher	Interim Governance Manager
A Bond	Governance Officer

PLA/ Apologies for Absence and Substitutions

**9/22-
23**

There were no apologies for absence.

PLA/ Declarations of Interest

10/2

2-23 There were no Declarations of Interest.

PLA/ Minutes of the Last Meeting

11/2

2-23 The minutes of the meeting held on 31 May 2022 were approved a true record.

PLA/ NED/22/00248/FL - ASHOVER

12/2

2-23 The report to Committee explained that a retrospective Section 73 Application had been submitted to revise Condition 2 (Approved Drawings), pursuant to NED 20/00079/FL at Crofton Vale, Alton Lane, Littlemoor, Ashover. The application had been referred to Committee by Councillor W Armitage, who had raised concerns about it.

Planning Committee was recommended to approve the Application, subject to the conditions set out in the report.

The report to Committee explained why Members were asked to approve the recommendations. Officers believed that the changes to the height of the building, the first floor windows and to the front and rear elevations, had not significantly impacted on the character of the area or on the neighbouring properties. Consequently, they felt that retrospective planning permission for the changes, subject to the conditions set out in the report, should be approved.

Members were informed that no one had registered to speak on the Application.

Planning Committee considered the Application. It took into account the Principle of Development and in particular, the site's location within the Settlement Development Limits (SDL) for Littlemoor. It considered Policy SS8 of the Local Plan that supports development which respects the form and character of the existing settlement and surrounding landscape, through careful siting, design and use of materials. Committee took into account Policy SDC12, which requires that all new developments be of high quality design and make a positive contribution to the quality of the local environment. It also considered the relevant Ashover Neighbourhood Plan Policies.

Members discussed the Application. They heard how the amended plans and what had been constructed only involved minimal alteration from the previously approved plans. They heard about the 200 millimetre (20 centimetre) increase in the ridge height and the other variations. Members were also informed how the previously approved materials were used in its construction. They reflected on whether the minimal alterations to the scale and design of the building which had now been constructed had had a detrimental impact on the character of the area.

At the conclusion of the discussion Councillor P Elliot and Councillor A Cooper moved and seconded a motion to approve the Application, in line with officer recommendations. The motion was put to the vote and agreed by the Committee

RESOLVED -

- (1) That the Application be conditionally approved, in line with officer recommendations.
- (2) That the final wording of the conditions be delegated to the Planning Manager (Development Management).

Conditions

1. The development hereby approved shall be carried out in accordance with the submitted plans:

Existing Site Plan – Ref: 026 18 A001
Proposed Site Plan - Ref: 026 18 A002 Rev A
Site Section - Ref: 004-22 A005
Proposed Plans - Ref: 004-22 A101
Proposed Elevations - Ref: 004-22 A103
Landscaping and tree protection - Ref: 026 18 A007
Stone Head, Cils, Quoins – Ref: 026 18 A104

unless otherwise specifically agreed through a formal submission under the Non-Material Amendment procedures and unless otherwise required by any other condition in this decision notice.

2. All planting, seeding or turfing in the approved scheme of landscaping (landscaping and tree protection - Ref: 026 18 A007) shall be carried out in the first planting and seeding season following the occupation of the buildings or

the completion of the development, whichever is the sooner. Any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless the Local Planning Authority gives written consent to any variation.

3. The premises, the subject of the application, shall not be occupied until space has been provided within the application site in accordance with the application drawings for the parking and manoeuvring of residents' and visitors' vehicles, laid out, surfaced and maintained throughout the life of the development free from any impediment to its designated use.
4. Prior to the first occupation of the dwelling hereby approved, any Made Ground on the site shall be removed or a contamination investigation and risk assessment of that part of the site shall be carried out by a competent person in accordance with current guidance and in accordance with a scheme which has been approved by the local planning authority, to demonstrate that the site is suitable for the use hereby approved. Where the site investigation and risk assessment shows that contamination remediation is required, a remediation scheme shall be prepared and submitted to the local planning authority for written approval; the approved remediation scheme shall be implemented as approved and a verification report shall be submitted to and approved in writing demonstrating that the remediation has been carried out successfully prior to the first occupation of the dwelling hereby approved.
5. Where any suspected areas of contamination are discovered during the development of the site, the process of site investigation and risk assessment as identified in condition 5 above shall be carried out by a competent person in accordance with current guidance and in accordance with a scheme which has been approved by the local planning authority, to demonstrate that that part of the site is suitable for the use hereby approved.
6. In the event that it is proposed to import soil onto site in connection with the development, the soil to be imported shall be sampled at source and analysed in a laboratory that is accredited under the MCERTS Chemical Testing of Soil Scheme for all parameters previously agreed in writing with the local planning authority, the results of which shall be submitted to and shall be approved in writing with the local planning authority.

Notes

The Highway Authority recommends that the first 5m of the proposed access driveway should not be surfaced with a loose material (i.e. unbound chippings or gravel etc). In the event that loose material is transferred to the highway and is regarded as a hazard or nuisance to highway users, the Authority reserves the right to take any necessary action against the householder.

Pursuant to Sections 149 and 151 of the Highways Act 1980, steps shall be taken to ensure that mud or other extraneous material is not carried out of the site and deposited on the public highway. Should such deposits occur, it is the applicant's responsibility to ensure that all reasonable steps (e.g. street sweeping) are taken to maintain the roads in the vicinity of the site to a

satisfactory level of cleanliness.

In the unlikely event of bats being found during the development all works should cease immediately and advice sought from a professional ecologist.

PLA/ NED/21/00690/FL - KILLAMARSH

13/2

2-23

The report to Committee explained that an application had been submitted for the conversion of an existing stable block into a three-bedroom dwelling at stables to the west of Walnut Drive, off Field Lane, Killamarsh. The Application had been referred to Committee by local ward councillors M Potts and S Clough, who had raised concerns about it.

Planning Committee was recommended to approve the Application, subject to the conditions set out in the report.

The report to Committee explained why Members were asked to approve the recommendations.

Members heard how the converted stable block would be used by the applicants, who wished to live there so that they could provide ongoing surveillance of the site. Only limited external alterations would be required to carry out the conversion, primarily the raising of the roof. Officers had concluded that the development would comply with Planning Policy. The Council's Development Plan and the National Planning Policy Framework (NPPF) both supported the appropriate re-use of existing agricultural buildings, which, they contended, this would be. As such, the development would not be inappropriate and there were no technical reasons why permission ought not to be granted.

Planning Committee then considered the Application. No one had registered to speak on it. Committee took into account the Principle of Development and in particular, the site's location within the Green Belt. Committee took into account Local Plan Policy SS10. This allows for the conversion of existing buildings within the Green Belt which preserve openness and do not conflict with Green Belt purposes. Committee considered Policies SS9 and SDC3, on the need for developments outside of defined settlement limits to be in keeping with their countryside locations and other relevant planning policies.

Members discussed the Application. Some Members raised concern about the Green Belt location of the site and whether the development would be in line with Local Plan policy SDC 1, on the appropriate re-use of a building in the Green Belt and countryside. Some Members queried what utility services would be provided to the converted building and asked that these be specified as a condition if the Application was to be approved. They also sought and received clarification about what future stabling arrangements would be put in place. Committee heard how the Applicant had currently designated another building on the site for this purpose.

At the conclusion of the discussion Councillor D Hancock and Councillor W Armitage moved and seconded a motion to approve the application subject to an additional condition requiring the provision of utility services to the converted property.

RESOLVED -

- (1) That the Application be conditionally approved, in line with officer recommendations and subject to an additional condition requiring utility services to be provided to the converted property.
- (2) That the final wording of the conditions be delegated to the Planning Manager (Development Management).

Conditions

- 1 The development hereby permitted shall be begun before the expiration of three years from the date of this permission.
- 2 The development hereby approved shall be carried out in accordance with the proposed/amended plans referenced 20-01: Location Plan; 20-07b: Elevations as Proposed; 20-03C Block Plan as Proposed and 20-06b Layout as Proposed.
- 3 Before the development, hereby approved, starts, precise specifications (including the manufacturer, range and colour details where applicable) or samples of the walling and roofing materials to be used, shall be made available on site for inspection, and subsequent written approval, by the Local Planning Authority. The development shall then be carried out in accordance with the approved details.
- 4 The dwelling, hereby approved, shall not be first occupied until space has been provided within the dwelling curtilage for the parking, loading and unloading, manoeuvring and turning of service and delivery vehicles and space for the manoeuvring of residents and any visitors vehicles, all located, designed, laid out and constructed as agreed in writing with the Local Planning Authority. The areas so designated shall then be retained for those specific uses alone thereafter.
- 5 The dwelling, hereby approved, shall only be occupied in association with the land outlined in red and blue on the approved plans and it shall not be occupied as an independent dwelling house or sold off separately from the land or the buildings that occupy it.
- 6 Prior to the first occupation of the dwelling, hereby approved, a bin storage and a bin dwell area for use on refuse collection days shall be provided in accord with a scheme submitted to and approved in writing by the Local Planning Authority. The scheme so approved shall then be retained as agreed thereafter.
- 7 Any gates where fitted shall open inwards into the site only.
- 8 Before the commencement of the development hereby approved:
 - a) A phase I land contamination assessment (desk-study) shall be undertaken and approved in writing by the Local Planning Authority.

b) The land contamination assessment shall include a desk-study with details of the history of the site use including details of a site investigation strategy (if potential contamination is identified) to effectively characterise the site based on the relevant information discovered by the desk study and justification for the use or not of appropriate guidance. The site investigation strategy shall, where necessary, include relevant soil, ground gas, surface and groundwater sampling/monitoring as identified by the desk-study strategy

The site investigation shall be carried out by a competent person in accordance with the current U.K. requirements for sampling and analysis. A report of the site investigation shall be submitted to the local planning authority for approval.

9 Before the commencement of the development hereby approved:

Where the site investigation identifies unacceptable levels of contamination, a detailed remediation scheme to bring the site to a condition suitable for the intended use by removing unacceptable risks to human health, buildings and other property and the natural and historical environment shall be submitted to and approved in writing by the local planning authority. The submitted scheme shall have regard to CLR 11 and other relevant current guidance. The approved scheme shall include all works to be undertaken, proposed remediation objectives and remediation criteria and site management procedures. The scheme shall ensure that the site will not qualify as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land after remediation.

10 The dwelling, hereby approved, shall not be occupied until:

a) The approved remediation works required by condition 9 above have been carried out in full in compliance with the approved methodology and best practice.

b) If during the construction and/or demolition works associated with the development hereby approved any suspected areas of contamination are discovered, which have not previously been identified, then all works shall be suspended until the nature and extent of the contamination is assessed and a report submitted and approved in writing by the local planning authority and the Local Planning Authority shall be notified as soon as is reasonably practicable of the discovery of any suspected areas of contamination. The suspect material shall be re-evaluated through the process described in condition(s) 8b to 9 above and satisfy condition 10a above.

c) Upon completion of the remediation works required by condition 9 and 10a above a validation report prepared by a competent person shall be submitted to and approved in writing by the local planning authority.

11 The validation report shall include details of the remediation works and Quality Assurance/Quality Control results to show that the works have been carried out in full and in accordance with the approved methodology. Details of any validation sampling and analysis to show the site has

achieved the approved remediation standard, together with the necessary waste management documentation shall be included.

- 12 Prior to the first use of the dwelling, hereby approved, a plan showing the garden area to be used in connection with the dwelling shall be submitted to and be approved in writing by the Local Planning Authority. The garden shall then be confined to the approved area only.
- 13 Before any development, hereby approved, starts, the following shall be submitted to and be approved in writing by the Local Planning Authority:
 - o a scheme of landscaping, which shall include indications of all existing trees and hedgerows on the land,
 - o the details of any trees and hedgerows to be retained, together with measures for their protection during development,
 - o a schedule of proposed plant species, size and density and planting locations and;
 - o an implementation programme.
- 14 All planting, seeding or turfing in the approved scheme of landscaping shall be carried out in the first planting and seeding season following the occupation of the buildings or the completion of the development, whichever is the sooner. Any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless the Local Planning Authority gives written consent to any variation.
- 15 Prior to the first occupation of the dwelling, hereby approved, details of the bat and bird boxes to be installed on the building to be converted, and/or the remainder of the land holding, and a timetable for their installation, shall be submitted to and be approved in writing by the Local Planning Authority. Details shall be presented on a plan and include the specific types of features/box, their location and number. The agreed scheme shall then be implemented in full and be maintained, as such, thereafter.
- 16 Prior to any work, hereby approved, commencing, a plan detailing all and any works of alteration and/or reconstruction shall be submitted to and be approved in writing by the Local Planning Authority. No other works of alteration or reconstruction shall then take place other than as shown on the agreed plan.
- 17 Prior to any works, hereby approved, commencing, details of all the services that will be provided on site, including water, electricity and gas, and the means by which they will be provided, including details of all/any trenching etc., shall be submitted to and be approved in writing by the Local Planning Authority. The services shall then be provided in accord with the approved details.
- 18 Notwithstanding the provisions of Article 3(1) of the Town and Country Planning (General Permitted Development) Order 2015, (or any Order revoking and re-enacting that Order) no extensions (Part 1 Class A),

dormer windows (Part 1 Class B), alterations to the roof (Part 1 Class C), porches (Part 1 Class D), curtilage buildings (Part 1 Class E) or swimming pool(s) (Part 1 Class E) shall be erected/constructed without first obtaining planning permission.

- 19 Prior to the first use of the dwelling, hereby approved, details of all/any external lighting to be installed/placed/erected on the dwelling or within the curtilage serving it shall be submitted to and be approved in writing by the Local Planning Authority. The agreed lighting shall then be installed in accord with the agreed scheme and no other external lighting shall be placed/erected/installed on the site.

PLA/ NED/21/00582/FL - ASHOVER

14/2

2-23

The report to Committee explained that an Application had been submitted for a proposed two bedroom cottage at Matlock Farm Park, Jaggers Lane, Darley Moor, Matlock. The application had been referred to Committee by Councillor C Renwick, who had raised issues about it.

Planning Committee was recommended to reject the Application.

The report to Committee explained why Members were recommended to do this. In particular, officers were concerned about the position and design of the proposed dwelling. They felt that as the site forms part of the Dark Peak National Character Area and Landscape Character Type Enclosed Moorland, and had been identified as a Secondary Area of Multiple Environmental Sensitivity (AMES), it should be considered as most sensitive to development. Officers had concluded, therefore that the justification for the dwelling would not outweigh the landscape harm it would cause.

Before Members discussed the Application those registered to speak were asked to address the Committee. Cllr C Renwick and D Moulton, on behalf of the Applicant, both spoke in support of the Application. No one had registered to speak against it.

Committee considered the Application. It took into account the Principle of Development and whether it would be in line with Local Plan Policy SS1 on sustainable development and the contribution to the local economy by business expansion and growth. It also took into account Local Plan Policy SS9 on the circumstances in which development in the countryside would be appropriate and Local Plan Policy SDC3, which requires new developments not to cause significant harm to the landscape or important views. Committee also took into account other Parish, District and National Planning Policies.

Members discussed the Application. They reflected on the economic contribution the Farm makes to the District as a tourist attraction. They considered the role of the proposed dwelling and the additional site security that it was intended to enable. They discussed what might use may then be made of the caravan that is currently used for this purpose. Some Members suggested that the new building would comply with Planning Policy LC6, which seeks to ensure that new developments in the countryside are based on the essential needs of local businesses. To this end, they also felt it important that the property should be tied

to the business and not sold on.

Members considered how its landscape impact might be softened through the use of appropriate screening. They also discussed what materials might be used. Some Members felt that the building would not cause unacceptable harm to this sensitive site and that the Application should be approved.

At the conclusion of the discussion Councillor P Elliot and M Foster agreed and seconded a motion to approve the Application. The motion was put the vote and was agreed.

RESOLVED -

- (1) That the Application be approved conditionally, contrary to officer recommendations.
- (2) That the final wording of the conditions be determined by the Planning Manager (Development Management).

Reasons

That the benefits to the local business and the District's Visitor Economy of approving the dwelling in this location outweighed the minimal damage to the landscape

PLA/ Planning Appeals - Lodged and Determined

15/2

2-23 The report to Committee informed Members that two appeals had been lodged. No appeals had been allowed. Two appeals had been dismissed.

PLA/ Matters of Urgency (Public)

16/2

2-23 None.

PLA/ Exclusion of Public

17/2

2-23 **RESOLVED -**

That the public be excluded from the meeting during the discussion of the following item of business to avoid the disclosure to them of exempt information as defined in Paragraphs 2, 3 and 5, Part 1 of Schedule 12A to the Local Government Act 1972, (as amended by the Local Government (Access to Information) (Variation) Order 2006).

PLA/ Section 106 (Legal) Agreements Update

18/2

2-23 Committee received an update on the current 'Section 106' Agreements, or agreements, reached between the Council as Planning Authority with developers to carry out specific work to help offset the impact of new developments on local people.

The report set out details of those agreements where the funding had now been

secured. It also included information about Section 106 agreements where the funding had not yet been received or written-off.

Committee discussed specific Section 106 agreements. Members sought clarity about what further action which had been made on these agreements and payments that had been made since Committee had last received an update, which in some instances was not apparent from the information provided.

RESOLVED -

- (1) That the information contained within Appendices A, B and C of the report is noted.
- (2) That the contents of paragraphs 1.1 to 1.6 of the report is noted and endorsed.

**PLA/
19/2
2-23** **Matters of Urgency (Private)**
None.

PLANNING COMMITTEE – 26 July 2022

REFERENCE NUMBER: 22/00519/FL **Application Expiry Date:** 29.07.2022
Application Type: Full application

Proposal Description: Change of use of commercial unit to a pet crematorium (sui generis use) with associated flue, warehousing and offices (Revised Scheme of 22/00195/FL)

At: 2E- 2F Church View, Clay Cross, S45 9HA

For: Mr R Slack - Chesterfield Pet Crematorium Ltd

Third Party Reps: 0 **Parish:** Clay Cross

Ward Name: Pilsley and Morton

Author of Report: Emily Cartwright **Date of Report:** 11.07.2022

MAIN RECOMMENDATION: REFUSE

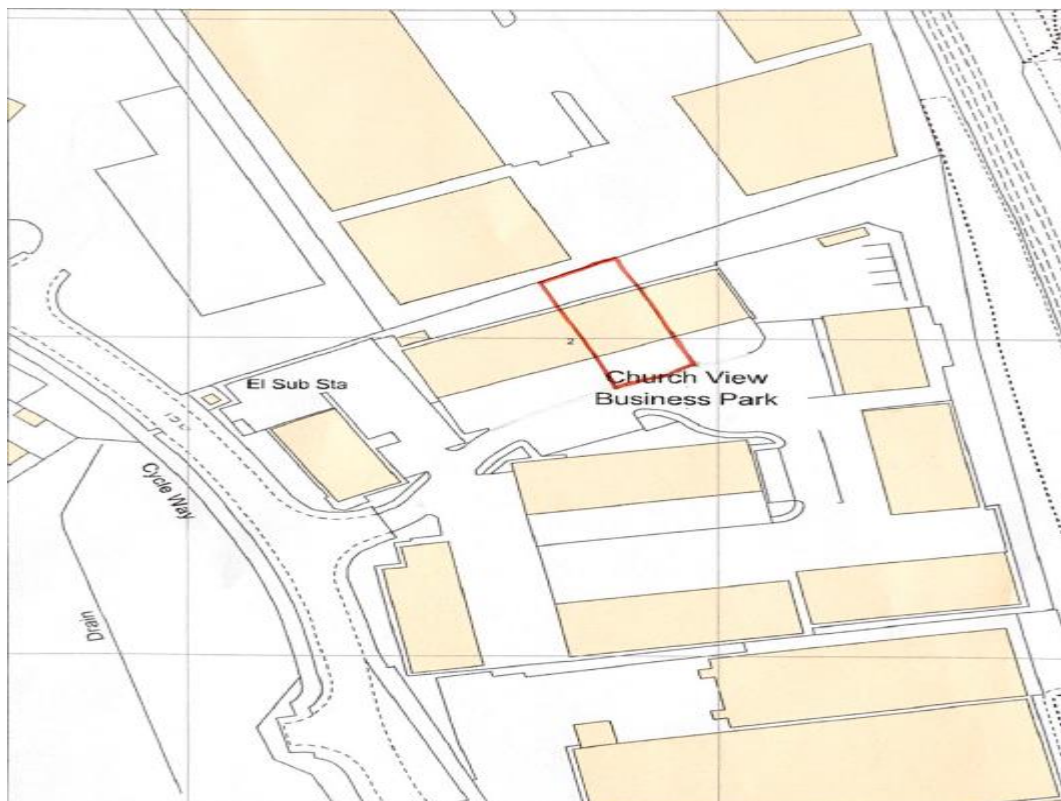


Fig.1 Site Location (not to scale)

1.0 Reason for Report

1.1 This application is being considered by Planning Committee as Councillor Shipman has called the application in on the following grounds:

- The application is for a business which is providing local employment, and, only because of a quirk in how pet crematoriums are classed, it falls outside the scope of usage for Coney Green. There are no other locations large enough to accommodate a business like this. The result of this is that the business would have to leave NEDDC, which is counterproductive of 'providing employment' in our district.

2.0 Proposal and Background

Site Description

- 2.1 The application site comprises a small complex of eight business units known as Church View Business Park, located between Coney Green Road and the railway line to the east.
- 2.2 The application building is located within Block 2 which is sited along the northern boundary of the site and comprises units 2E and 2F. These two units are located to the middle of Block 2; as per Fig 2 below the western unit comprises a warehouse area served by a roller shutter and personnel doors whilst the eastern unit features the main entrance door with offices, ancillary kitchen, toilet facilities and the cremation area to the rear.

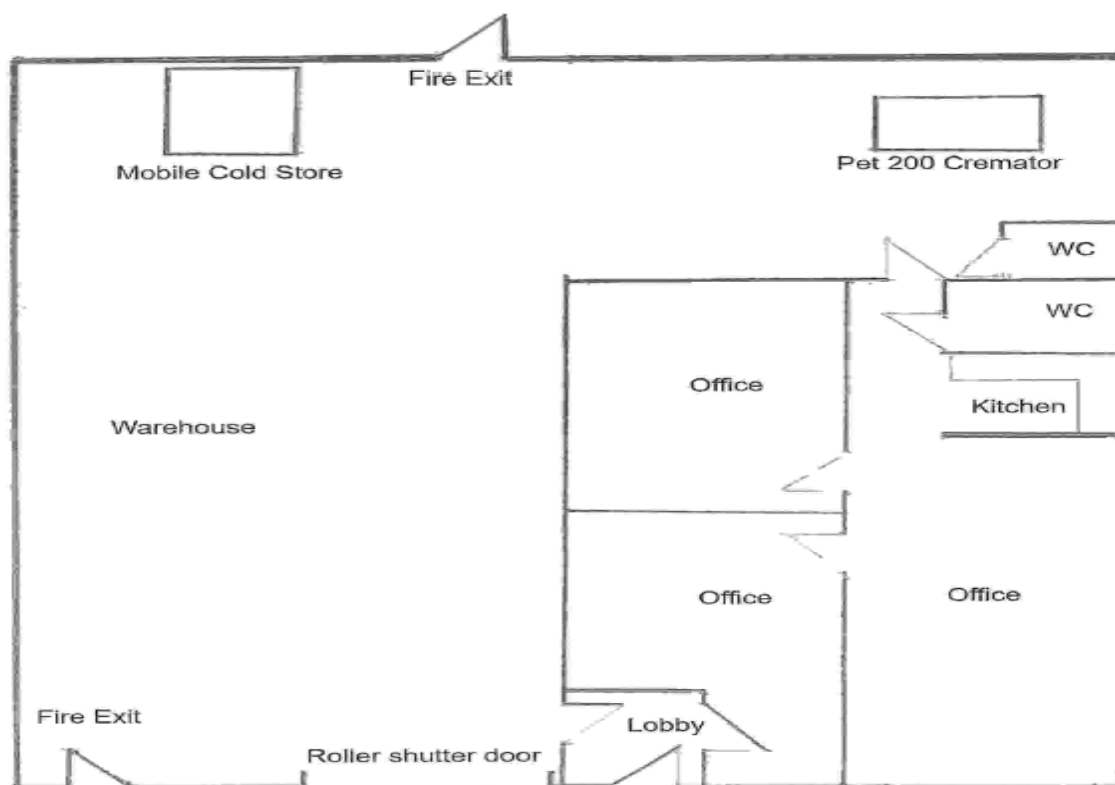


Fig. 2 Site Plan (not to scale)

- 2.3 The site is accessed via Church View, which in turn is accessed off Coney Green Road to the west of the site. The two units are served by eight dedicated parking spaces to the front.
- 2.4 The site is bounded to the north and south by existing business units which are occupied by a range of business uses.
- 2.5 The site is located within the defined Settlement Development Limit for Clay Cross and is also designated as a Principal Employment Area.

Proposal

- 2.6 Full permission is sought to retain the change of use of Unit 2E-2F Church View to a Pet Crematorium (Sui Generis use).
- 2.7 The change of use would be for the operation of a pet crematorium with an associated flue, warehousing and offices (see Fig 3 below).

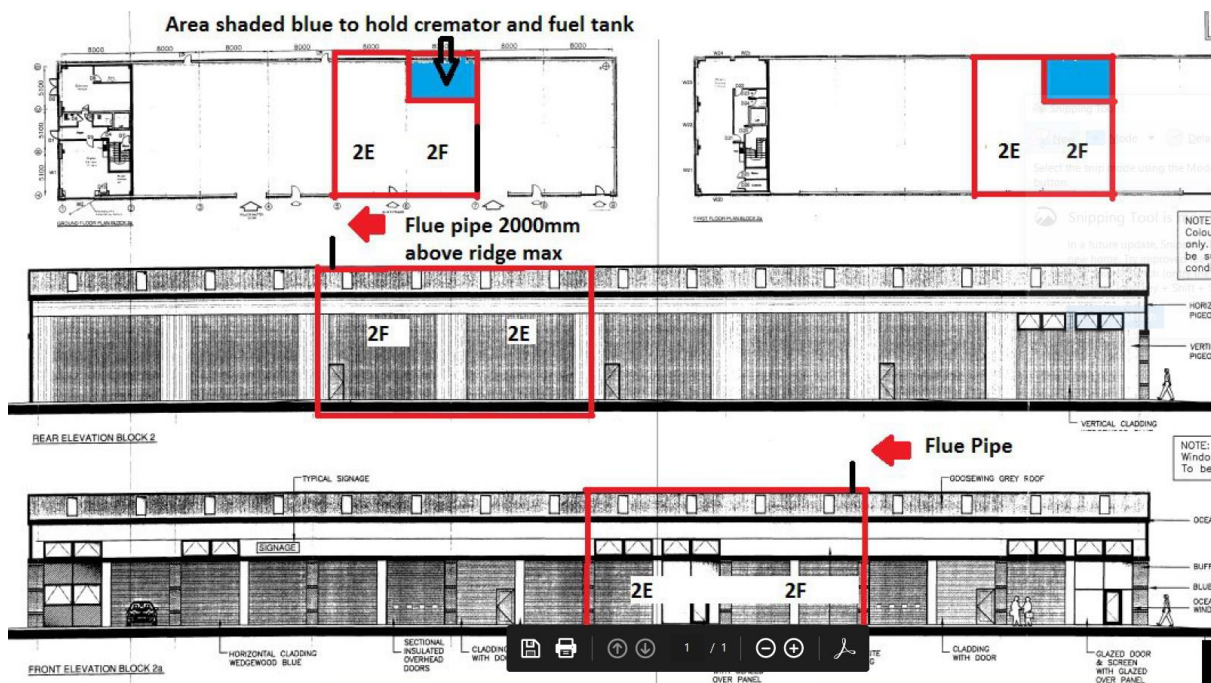


Fig.3 Proposed units with flue (not to scale)

- 2.8 Unit 2E will primarily be a warehouse to store items associated with the business such as urns for ashes, memorials and other keepsakes. To the rear of this unit is a cold store (Fig. 2 above).
- 2.9 Unit 2F features an office area where the administration side of the business takes place, with a small associated kitchen and toilet facilities. To the rear of this unit is the Pet 200 Cremator.
- 2.10 The cremator measures 2.3m by 1.1m with a void of 0.7m x 0.75m x 1.2m and features an integrated secondary after-chamber and then a flue stack which extends vertically from the cremator and out through the roof of the rear of the unit.

- 2.11 The chimney flue is sited within the north west (facing) rear roof elevation and measures 200mm above the maximum ridge height, and 255mm wide in diameter. This is finished in a matt grey colour.
- 2.12 The business operates by collecting animals directly from their owner or from the vets, in a small van. Once collected, the pet is stored in the cold store until the cremation takes place. Only one pet is ever cremated at a time and no more than seven animals are cremated per day. The ashes from each animal are then collected and placed in the chosen urn. The ashes are then generally delivered back to the family or vet, although occasionally the client will collect the ashes themselves.
- 2.13 The hours of operation of the cremation business in terms of client visits and cremations would be from 8am to 6pm Monday to Saturday only. Call-out to collect animals would occur from 7am to 7pm on any day. In addition to this, the business owners may need access to the building to place pets in the cold store at any time, including occasionally out of hours and on Sunday and Bank Holidays.
- 2.14 The business currently employs two full time members of staff, and they hope to employ 2.5 full time equivalent additional employees once the business is established.

3.0 Amendments

- 3.1 No amendments have been made

4.0 Relevant Planning History

- 4.1 22/00195/FL - Application for change of use to a pet crematorium (Sui Generis) (Refused)
- 4.2 07/00894/FL - Revised Scheme of NED 06/01176/FL for the construction of 8 units for business/ industrial and commercial uses with associated access and car parking (Major Development) (Conditionally Approved)
- 4.3 06/01176/FL -Construction of 9 units for business/ industrial and commercial uses with associated access and car parking (Major Development) (Amended Plans) (Conditionally Approved)

5.0 Consultation Responses

- 5.1 The **Parish Council** have raised concerns regarding emissions particularly the co2 aspect as they are trying to make Clay Cross a greener space after years of industrial waste being pumped into the atmosphere.
- 5.2 The **Ward Members** have provided no comment
- 5.3 **County Highways Authority** (HA) have raised no highway safety objections.

5.4 **Environmental Health Officer (EHO)** have commented that the proposed process requires an environmental permit before it can operate and raise no concerns regarding the granting of planning permission.

5.5 **Yorkshire Water Services Ltd (YW)** have raised no comment

6.0 Representations

6.1 The application was publicised by way of neighbour letters and the display of a site notice. No letters of representation have been received.

7.0 Relevant Policy and Strategic Context

North East Derbyshire Local Plan (Adopted November 2021)

7.1 The following policies of the Local Plan are relevant to the determination of this application:

SS1 Sustainable Development
SS7 Development on Unallocated Land within Settlement with defined Settlement Development Limits
WC2 Principal Employment Areas
SDC11 Flood Risk and Drainage
SDC12 High Quality Design and Place Making
SDC13 Environmental Quality
ID3 Sustainable Travel

National Planning Policy Framework (NPPF)

7.2 The overarching aims of the National Planning Policy Framework (NPPF) have been considered in the assessment of this application. The main sections are covered in the assessment below.

8.0 Planning Issues

Principle of Development

8.1 The application site is situated within the defined Settlement Development Limit of Clay Cross and an area designated as a Principal Employment Area.

8.2 Local Plan Policy SS7 is supportive of development proposals within Settlement Development Limits, provided that the development is appropriate in scale, design and location to the character and function of the settlement, is compatible with, and does not prejudice any intended use of adjacent sites and land uses and accords with other policies of the plan.

8.3 The NPPF looks to support sustainable development, good design is a key aspect of this. Development should be visually attractive, sympathetic to the local character and history of the area and maintain a good sense of place.

8.4 Local Plan Policy WC2 sets out the council's approach to protecting the principal employment areas within the District. The policy protects these areas

for general industrial uses (Use Class B2), storage and distribution uses (Use Class B8), and office, light industrial and research and development uses (Use Class E (g)) only.

- 8.5 The policy then goes on to set out the Council's approach to other employment generating uses within the District's Principal Employment Areas and states that proposals for those other employment generating uses (those not falling within Use Classes B2, B8 and E (g)) will only be permitted in Principal Employment Areas where they would both be ancillary to the main use on the application site and (Officer emphasis) would not prejudice the future functioning or viability of employment uses on the site, or nearby employment sites by reason of conflicting activities, access arrangements, or movement of traffic or people.
- 8.6 In this case a pet crematorium would be the main use of the site. Whilst, it is noted that the actual pet incinerator and associated infrastructure only takes up a small floor area of the site, the use, when taken in the round, is classified as a Sui Generis use. As such, it does not fall within a B2, B8 and E(g) use, as required by policy WC2, and so the use is contrary to that policy. It is accepted that much of the remainder of the site would be used for storage or as offices but these uses are ancillary to the primary use of the site as a pet crematorium.
- 8.7 The sites identified in policy WC2 are so noted due to the important contribution the sites make to the local and strategic portfolio of B Class employment land and the policy seeks to retain them for this purpose rather than for other peripheral commercial uses not directly falling within the normal commercial and employment uses. Importantly it provides areas where such uses can operate without the risk of causing undue noise and disturbance to neighbouring uses.
- 8.8 Conversely, policy WC3 identifies those other employment sites where other non B-class employment generating uses (in line with the current NPPF definition for employment), and potentially including uses such as a pet crematorium, would be acceptable.
- 8.9 Therefore, Officers conclude that the purpose behind the provision of policy WC2 in the Local Plan plays an important role in delivering wider sustainable development across the District and the loss of such land would undermine the strategic approach to delivering such development and prejudice adversely the Council's policy on delivering commercial development on appropriate sites and without the Council's employment land base being reduced through its use for other non-mainstreamed commercial uses.
- 8.10 Officers note that the applicant states that a comprehensive search for alternative sites within the Chesterfield/North Derbyshire area has been completed and has concluded a suitable alternative site cannot be found. However, in view of the abovementioned strong policy provision of WC2, Officers do not consider that this would override the policy position in this case.

- 8.11 In view of the above, the principal of the change of use of the site to a Pet Crematorium is considered to be contrary to Policy WC2.

Design and Impact on the Character of the Area Considerations

- 8.12 Local Plan policy states that development will be permitted provided it would not be detrimental to the character and appearance of the site and its surrounding environment and it would not have a detrimental effect on the amenities of neighbouring occupiers and uses.
- 8.13 The submitted plans illustrate that external alterations are limited to the installation of a flue pipe only. The flue pipe would be no higher than 200mm above the maximum ridge height and 255mm in diameter. The flue pipe is finished in a matt grey colour.
- 8.14 Officers consider the proposed change to be of an appropriate design and scale for the intended use and to be in keeping, and respect, the character of the existing industrial appearance of the building and neighbouring commercial uses. It is therefore considered that the resultant overall design and appearance of Units 2E and 2F to be acceptable.

Amenity Considerations

- 8.15 Local Plan Policy SDC12 seeks to ensure that new development protects the amenity of existing and future occupiers of land and buildings.
- 8.16 The application site is located within a designated Principal Employment Site situated close to numerous existing commercial units. There are no residential properties in the immediate vicinity of the site, with the closest residential dwellings located approximately 105m to the west of the site along Bloomery Way.
- 8.17 In view of the separation distances, Officers do not consider the scheme to have any overriding or harmful impacts on nearby residential neighbours and, as the other closest uses are commercial in nature, there would be no adverse impact on those closer, industrial, neighbours.

Environmental Quality

- 8.18 Local Plan policy SDC13 sets out how all development proposals will need to be assessed in relation to their impact on air, light, noise, and ground and water pollution. Planning applications for development with the potential to pose a risk of pollution, such as a crematorium, should be accompanied by an assessment of its likely impact on environmental quality.
- 8.19 The application is accompanied by a Technical Summary Report which provides detailed technical information about the pet crematorium processes and this includes emission data and sound level measurements.

- 8.20 Environmental Health Officers have reviewed the submitted details and confirm that the proposed processes require an environmental permit before it can operate and so raise no concerns in regards the granting of planning permission as other legislation would address and control this issue.
- 8.21 Officers note the concerns of the Parish Council, however in view of the clear consultee comments on the matter, do not consider that the development would pose any unregulated risk of air or noise pollution

Highway Safety Considerations

- 8.22 Paragraph 111 of the NPPF (2021) states that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.
- 8.23 The proposal will not involve any changes to the access point or parking arrangements on site.
- 8.24 The County Highway Authority was consulted on the application, raising no highway safety objections to the scheme. Due to the site being located off the main highway and self-contained, Officers concur with that conclusion.

Flood Risk Considerations

- 8.25 The proposed development is within a Flood Zone 1 (land assessed as having less than 1 in 1,000 annual probability of river flooding) and has the lowest level of risk of fluvial and surface water flooding.
- 8.26 Officers consider that the development would be acceptable from a flood risk perspective.

Summary and Conclusion

- 9.1 Having taken into account all the material matters, it is considered that the proposed use, classified as sui generis, on a site designated as a Primary Employment Area specifically allocated by policy WC2, is not acceptable as it would prejudice the Council's policy on delivering commercial development on appropriate sites. The proposal, therefore, runs contrary to the policies of the Development Plan.
- 9.2 Planning applications should be determined in accordance with the Development Plan, unless material considerations indicate otherwise. The applicant, in this case, advises that there is no other locally available site. However, Officers conclude that due to the clear policy position, as set out in the recently adopted Local Plan, and a variety of other suitable designated employment areas in both Clay Cross and the wider area, that this reason alone does not carry sufficient weight to override the clear policy position.
- 9.3 Officers note that matters relating to design, amenity, environmental quality, highway safety and flood risk are deemed to be acceptable.

9.4 As such, in closing, officers recommend that the application is **refused**.

10.0 Recommendation

10.1 REFUSE Permission for the following reasons:-

The application site is situated within the Coney Green Principal Employment Area.

Local Plan Policy WC2 sets out the Council's approach to protecting the Principal Employment Areas within the District. The policy protects these areas for general industrial use (Use Class B2), storage and distribution uses (Use Class B8), and office, light industrial and research and development uses (Use Class E (g)) only. Other employment generating uses will only be permitted in these Principal Employment Areas where they would both be ancillary to the main use on the application site and would not prejudice the future functioning or viability of employment use on the site or nearby employment sites.

The sites identified in policy WC2 are so noted due to the important contribution the sites make to the local and strategic portfolio of B Class employment and it seeks to retain them for this purpose rather than for other peripheral commercial uses not directly falling within the normal commercial and employment uses. Importantly it provides areas where such uses can operate without the risk of causing undue noise and disturbance to neighbouring uses.

The proposal seeks a change of use to a Pet Crematorium (Sui Generis use). The use of the site for this purpose would be directly contrary to the provisions of the Development Plan, prejudice the Council's ability to deliver commercial development on appropriate sites and reduce the Council's employment land through its use for other non-mainstreamed commercial uses.

There are no other material considerations to outweigh the harm caused to the development plan and so the application is unacceptable and contrary to policy WC2 of the North East Derbyshire Local Plan.

PLANNING COMMITTEE – 26 July 2022

REFERENCE NUMBER: 22/00508/FL Application Expiry Date: 7th July 2022

Application Type: Full Planning Permission

Proposal Description: **Section 73 application to remove condition 12 (removal of permitted development) pursuant to 97/00521/FL.**
At: **The Barn Corner Farm Main Road Higham Alfretton DE55 6EH**

For: **Mr Paul Cropper**

Third Party Reps: 1 **Parish:** Shirland And Higham Parish
Ward Name: Shirland Ward

Author of Report: Case Officer Aspbury Planning Ltd **Date of Report:** 11.07.2022

MAIN RECOMMENDATION: REFUSE



1.0 Reason for Report

- 1.1 The application has been called in by Councillor Shipman to consider the reason for removal of permitted development rights.

2.0 Proposal and Background

- 2.1 The proposal has been submitted as a s73 application to remove condition 12 under planning reference 97/00521/FL
- 2.2 Condition 12 states: Notwithstanding the provision of the Town and Country Planning (General Permitted Development) Order 1995 (or any order revoking and re-enacting that order), no development falling within Schedule 2 Part 1, Classes A,B,C, D and E of such order shall be erected unless expressly authorised in writing by the Local Planning Authority.
- 2.3 The subject dwelling was formerly a barn in use as a workshop and was converted to a dwelling in 2000 under the above planning approval which also comprised the erection of a double garage, and alteration to the vehicular access on land to the rear of Corner Farm.
- 2.4 The site lies within the Higham Settlement Development Limits and the Higham Conservation Area.

3.0 Relevant Planning History

- 3.1 **97/00521/FL** Conversion of existing workshop to dwelling, erection of double garage, and alteration to vehicular access on land to the rear (Conservation Area)
Status: Subject to Section 106 Agreement
- 3.2 **12/00145/FLH** Construction of a detached double garage with store above and addition of 2 no dormer windows to existing dwelling (Conservation Area)
Status: Application Returned
- 3.3 **17/00842/FLH** Proposed Oak framed double garage with glass link to dwelling (Conservation Area) Status: Conditionally Approved
- 3.4 **19/00353/FLH** Application for 2no dormer windows with alterations to existing window heights and re-roofing with Solar PV roofing slates (Conservation Area)
Status: Refused
- 3.5 **19/00424/FLH** Application for 2no Velux windows and re-roofing with Solar PV roofing slates (Conservation Area) Status: Refused
- 3.6 **20/00031/FLH** Application to install ergosun integrated solar roof tiles (Conservation Area) Status: Refused

4.0 Consultation Responses

4.1 Councillor Shipman has requested that the application be heard by Planning Committee for the following reasons:-

- The reason for imposing the condition is vague and generic and it is not clear how the removal of permitted development rights is justified in this particular case.
- The NPPF makes clear that the removal of permitted development rights is rarely justified.
- There is nothing sufficiently unique or unusual about this site that justifies the removal of permitted development rights enjoyed by almost all other houses in England.
- Permitted development rights are constrained by limitations set out in the Order to ensure that the resulting developments are minor and uncontroversial. There are additional measures in the GPDO restricting permitted development rights in conservation areas.
- No clear evidence has been provided that this dwelling taking advantage of permitted development rights would cause greater planning harm than would be caused by any other house in the area making use of their permitted development rights.

4.2 The Ward Councillors have not commented.

4.3 Shirland Parish Council have not commented.

5.0 Representations

5.1 Three nearby neighbours were consulted by letter and a site notice posted outside of the site on the 10th June 2022. No representations have been received.

6.0 Relevant Policy and Strategic Context

6.1 The Development Plan comprises of the North East Derbyshire Local Plan 2014-2034. There is no Neighbourhood Plan for Shirland and Higham.

6.2 North East Derbyshire District Local Plan

- SS1 - Sustainable Development
- SS2 - Spatial Strategy and the Distribution of Development
- SS7 - Development on Unallocated Land within Settlements with defined Settlement Development Limits
- LC5 - Residential Extensions
- SDC12 - High quality Design and Place-Making
- SDC5 - Development within Conservation Areas

6.3 National Planning Policy Framework

The revised National Planning Policy Framework was published on 20 July 2021 and sets out the government's planning policies for England and how these are expected to be applied. This revised Framework replaces the previous National Planning Policy Framework published in July 2012, 2018 and 2019. At the heart of the NPPF is a presumption in favour of sustainable development. There are three dimensions to sustainable development that give rise to the need for the planning system to perform a number of roles; which are interdependent and need to be pursued in mutually supportive ways (so that opportunities can be taken to secure net gains across each of the different objectives) which include support economic, social and environmental objectives.

6.4 To promote sustainable development, the NPPF advises that these are objectives that should be delivered through Development Plans and the Framework. They are not criteria's to adjudge planning applications against, that is the role of development plan policies which should play an active role in guiding development towards sustainable solutions taking into account local circumstances, to reflect the character, needs and opportunities of each area.

6.5 Paragraph 54 states that planning conditions should not be used to restrict national permitted development rights unless there is clear justification to do so.

6.6 Paragraph 55 of the NPPF states that Local planning authorities should consider whether otherwise unacceptable development could be made acceptable through the use of conditions or planning obligations.

6.7 Chapters of relevance are:
Chapter 4. Decision-making
Chapter 12. Achieving well-designed places
Chapter 16. Conserving and enhancing the historic environment

6.8 Other SPD's

- Successful Places Interim Design Guide
- Historic England. Adapting Traditional Farm Buildings. Best Practice Guidelines for Adaptive Reuse

7.0 **Planning Issues**

7.1 The principle of residential development has been accepted with the grant of planning permission under planning reference 97/00521/FL.

7.2 The proposal lies within the Settlement Development Limits (SDL) for Higham which is defined within the Local Plan settlement Hierarchy as a Level 3 village with limited sustainability.

- 7.3** Local Plan policies SS1 and SDC5 seek to ensure that proposals protect and enhance the character, quality and settings of towns and villages and heritage assets. In regard to design Local Plan policies SS7 and SDC12 seek to ensure that proposals are appropriate in scale, design and location to the character and function of the settlement and are in keeping with the surrounding area.
- 7.4** The dwelling is a former barn that was used as a workshop, once forming part of the farmstead known as Corner Farm. The site is located close to the junction of Main Road with Chesterfield Road, in the northern part of the village and Conservation Area. There are several listed buildings to the north and south of the site along Main Road, none of which are directly affected by the proposal. The site is also covered by DCC Tree Preservation Order no. 31.
- 7.5** The main consideration is the impact on the site, it's surroundings, and the Conservation Area of any future development under the specified classes of the Permitted Development Order, should the restriction on such development be removed, and whether there is clear justification for the restriction of national permitted development rights.



Fig 1 – south and west elevations



Fig 2 East elevation

Impact upon the site and character of the area.

- 7.6** The reason for the condition as stated on the decision notice is: To preserve the character and appearance of the building. This accords with the aims of policies SS1, SS7, SDC5 and SDC12 of the North East Derbyshire Local Plan 2014 – 2034.
- 7.7** The site is located within the designated conservation area for Higham, and is therefore considered as a heritage asset.
- 7.8** The building is part of a former traditional farmstead, which forms part of the historic environment, and as such is considered to be of greater significance than many of the dwellings within the same Conservation Area.
- 7.9** The Historic England Guidance on adapting traditional farm buildings seeks to explain how the significance of historic farm buildings can be retained and enhanced through well-informed maintenance and sympathetic development.
- 7.10** Paragraph 4.2 of the Historic England guidance states that: The acceptability of adaptation proposals is determined according to the principles set out in the National Planning Policy Framework (NPPF) and the local planning authority's Local Plan, which should take into account the historical significance, character, layout and location of buildings and their contribution to the landscape.

- 7.11** It goes on to state that: Planning permission and listed building consent are the responsibility of the local planning authority. The planning authority may attach conditions to the planning consent. The planning authority may also seek to control post-adaptation works by the withdrawal of permitted development rights and the use of Article 4 directions to control any curtilage development and to protect the setting in sensitive locations.
- 7.12** Protection of the historic character of the farm building and its setting is an important ongoing factor following conversion of the building to a dwelling. Domestic extensions such as porches and dormer windows, and some outbuildings can be alien in character, and may not work successfully within the context of historic farm buildings. However, a carefully designed extension or new structure might be considered alongside a farm building if this will safeguard the significance of the main structure.
- 7.13** The restriction on certain Permitted Development Rights allows the Local Planning authority to retain control over future additions and alterations on the site, by ensuring that consideration can be given to development proposals. This approach also offer consistency across the Conservation Area and the District. A balanced judgement can then be made, having regard to the scale of any harm in relation to the significance of the heritage asset, in accordance with Chapter 16 of the NPPF, and policies SS1, SS7, SDC5 and SDC12 of the North East Derbyshire Local Plan 2014 – 2034.
- 7.14** The agent in their planning statement have provided an example of an appeal that was allowed within the District and where the Inspector judged that the removal of PD in that instance was not justified. Officers don't consider that the appeal is comparable as it relates to 5 new build houses within an SDL; whereas this is a converted barn within a designated Conservation Area. It is considered in this case that there is clear justification why permitted development should be removed.

8.0 Summary and Conclusion

- 8.1** The proposal seeks to remove a condition allowing the LPA to consider certain developments which may impact a designated heritage asset, by applying a balanced assessment according to the level of harm and the significance of the heritage asset. This accords with the aims of policies SS1, SS7, SDC5 and SDC12 of the Adopted North East Derbyshire Local Plan.
- 8.2** For the reasons outlined in this report, it is considered that the condition is reasonable and justified in accordance with the guidance relating to planning conditions and obligations contained within Chapter 4 of the NPPF.

9.0 Recommendation

- 9.1** That the application to remove condition 12 be refused for the following reason.

Reason for Refusal

The removal of the permitted development rights described under condition 12 of planning permission NED/97/00521/FL relates to a former barn and workshop which has been converted to a residential dwelling. The building lies within the Higham Conservation Area and is part of a former traditional farmstead, which forms part of the historic environment, and is considered to be of significance within the Higham Conservation Area.

The removal of the permitted development rights remain justified in order for the Local Planning Authority to retain control of any additions to the building ensuring the continuing protection of the historic character of this former farm building and its setting within the Conservation Area. To grant permission for the removal of this condition would be contrary to policies LC5, SDC5 and SDC12 of the North East Derbyshire Local Plan.

North East Derbyshire District Council

Planning Committee

26 July 2022

Planning Appeals Lodged and Determined

Report No PM/03/22-23/AK of the Planning Manager – Development Management

This report is public

Purpose of the Report

- To inform the Committee of the appeals lodged and determined.

1 Report Details

1.1 Appeals Lodged

The following appeals have been lodged:-

Mr Tim Folkes - Application for certificate of lawful use for use of the dwelling house without adherence to agricultural workers condition at Robincroft Farm, Swathwick Lane, Wingerworth (21/00855/LDC)

Planning Officer – Susan Wraith susan.wraith@ne-derbyshire.gov.uk

Mr James Green - Application for single storey front and two storey side extension with Juliet balcony (Conservation Area) at 2 Birdfield Farm, White Lane, Ridgeway (22/00194/FLH)

Planning Officer – Kevin Figg kevin.figg@ne-derbyshire.gov.uk

1.2 Appeals Allowed

The following appeal has been allowed:-

Mr Phil Hurley - Erection of a single storey outbuilding to provide 2 no. stables and a tack room/store (Conservation Area) (revised scheme) at Bonny Brook, Horsleygate Lane, Holmesfield (21/00841/FL)

Means of Determination – Delegated

Planning Officer's Recommendation – Refused

Planning Officer – (AP) Susan Wraith susan.wraith@ne-derbyshire.gov.uk

1.3 **Appeals Dismissed**

The following appeal has been dismissed:-

Mr Craig Hughes - Application for the demolition of former public house and erection of 4 no. 3-bedroom dwellings with associated off-street parking and garden areas, and closure of footpath Eckington FP52 (Conservation Area/ Affecting a public Right of Way) (Amended Plans) (Further Amended Plans) at Butchers Arms, Main Road, Marsh Lane (20/01305/FL)

Means of Determination – Committee

Planning Officer's Recommendation – Conditionally Approve

Planning Officer – (AP) Susan Wraith susan.wraith@ne-derbyshire.gov.uk

1.4 **Appeals Withdrawn**

No appeals have been withdrawn.

2 **Conclusions and Reasons for Recommendation**

2.1 N/a.

3 **Consultation and Equality Impact**

3.1 N/a.

4 **Alternative Options and Reasons for Rejection**

4.1 N/a.

5 **Implications**

5.1 **Finance and Risk Implications**

N/a.

5.2 **Legal Implications including Data Protection**

N/a.

5.3 **Human Resources Implications**

N/a.

6 Recommendations

6.1 N/a.

7 Decision Information

Is the decision a Key Decision? A Key Decision is an executive decision which has a significant impact on two or more District wards or which results in income or expenditure to the Council above the following thresholds: <i>NEDDC: Revenue - £100,000 <input type="checkbox"/></i> <i>Capital - £250,000 <input type="checkbox"/></i> <input checked="" type="checkbox"/> <i>Please indicate which threshold applies</i>	No
Is the decision subject to Call-In? (Only Key Decisions are subject to Call-In)	No
District Wards Affected	All
Links to Corporate Plan priorities or Policy Framework	All

8 Document Information

Appendix No	Title
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 you must provide copies of the background papers)	
Report Author	Contact Number
Joanne Edwards	01246 217163