

**HIGH PEAK BOROUGH COUNCIL  
DEVELOPMENT CONTROL COMMITTEE**

4<sup>th</sup> November 2019

<b>Application No:</b>	HPK/2015/0404	
<b>Location</b>	Corbar Hill House	
<b>Proposal</b>	Proposed conversion of former Coach House at Corbar Hill House to form 4no dwellings as well as the erection of 11 no. dwelling houses on land to the rear of Corbar Hill House and associated ground works, infrastructure & landscaping.	
<b>Applicant</b>	LPC Living Ltd	
<b>Agent</b>	CODA Planning Ltd	
<b>Parish/ward</b>	Buxton	<b>Date registered:</b> 5 <sup>th</sup> May 2016
<b>If you have a question about this report please contact:</b> Rachael Simpkin <i>rachael.simpkin@highpeak.gov.uk 01538 395400 ext. 4122</i>		

## REFERRAL

The above planning application has been referred to the Development Control Committee as it is a major housing development.

### 1. SUMMARY OF RECOMMENDATION

**REFUSE** planning permission ref. HPK/2015/0404 in the absence of a completed s106 legal agreement (Deed of Variation) to secure a financial contribution towards affordable housing and insufficient information to properly assess impacts on bats as a protected species.

### 2. DESCRIPTION OF THE SITE AND ITS SURROUNDINGS

2.1 Corbar Hill House (including the coach house at the rear) is a Grade II listed building. It is located within the Buxton Park Conservation Area within the Built-up Area Boundary of Buxton. The site is covered by a HPBC TPO 193. The property and wider 0.63ha application site is located on an elevated position above Buxton town centre at the summit of Corbar Hill with Corbar Woods forming a green backdrop at the rear. The property is formerly known as John Duncan School, Wye House. It consists of a large detached house dated mid 19<sup>th</sup> century. This former family home was constructed in the French chateau architectural style from rock faced millstone grit with a Westmorland slate roof and stone stacks. The latterly constructed coach house c.1870's has undergone some significant modifications internally.

2.2 From its family residential use, the main house had been converted to a hospital / asylum and latterly functioned as a school. In 2002, planning permission and listed building consent was granted for conversion of both the former school and coach house to residential apartment accommodation (14 units), together with the construction of four new 2 and 3 storey detached blocks around the site containing a total of 30 units. Only the conversion of the existing property (12 units) and two blocks (A and B at 16 units) to the northeast of the site have been completed to total 28 dwelling units overall. The conversion of the coach house to 2 apartments and the construction of Blocks C and D were not constructed, however, this element of the original 2002 approval is considered to be extant.

### **3. THE APPLICATION PROPOSAL**

3.1 The pending application seeks approval for the erection of 11 dwelling houses across 3 blocks on the broad footprint of the previously approved Blocks C and D, which are positioned behind the coach house at the rear of the site. A further 4 additional units are proposed through the conversion of the vacant coach house, which was previously approved for a swimming pool in association with proposals for the conversion of Wye House. At the 30<sup>th</sup> October 2017 Development Control Meeting it was resolved that planning permission be granted subject to a variation of the s106 and conditions as described in the report.

3.2 In detail, the scheme comprises of 3 linked residential blocks to form 11 townhouses as follows: Block C (4 x 4-bedroom dwellings); Block D (2 x 3-bedroom townhouses) and Block E (4 x 2-bedroom and 1 x 4-bedroom dwellings). As well, the Coach House would be converted into 1 x 1-bedroom, 2 x 2-bedroom and 1 x 3-bedroom dwellings. There would be associated access, car parking and landscaping infrastructure works as a result of the scheme.

3.3 The application and details attached to it, including the plans, supporting documents, representations made by residents and the responses from consultees can be found on the Council's website at:-

<http://planning.highpeak.gov.uk/portal/servlets/ApplicationSearchServlet?PKID=194784>

### **4. RELEVANT PLANNING HISTORY**

HPK/2016/0265 - Listed Building Consent for proposed conversion of former Coach House at Corbar Hill House to form 4no dwellings as well as the erection of 11 no dwelling houses on land to the rear of Corbar Hill House and associated ground works, infrastructure & landscaping. Pending.

HPK/2008/0444 - Resubmission of HPK/2008/0038 for the conversion of the ground floor of rear building to create residents swimming pool, single storey side extension and replacement boiler house – Approved 28/08/2008.

HPK/2008/0431 Listed Building Application: Conversion and re-development of the ground floor of the rear building at Wye House to create residents swimming pool.

Proposal to include new single storey side extension to replace existing boiler house – Approved 28/08/2008.

HPK/2002/0898 Listed Building Application: Conversion to 14 no. apartments with demolition of garages and erection of 30 no. apartments in four new four no. blocks – Approved 11/04/2003.

HPK/2002/0864 Conversion of former school to 14 no. residential apartments and erection of 30 no. residential apartments in 4 blocks - Approved 22/05/2003.

## **5. PLANNING POLICIES RELEVANT TO THE DECISION**

### **Adopted High Peak Adopted Local Plan 2016**

Policy S1	Sustainable Development Principles
Policy S1a	Presumption in Favour of Sustainable Development
Policy S2	Settlement Hierarchy
Policy S3	Strategic Housing Development
Policy S7	Buxton Sub-area Strategy
Policy EQ1	Climate Change
Policy EQ5	Biodiversity
Policy EQ6	Design and Place Making
Policy EQ7	Built and Historic Environment
Policy EQ8	Green Infrastructure
Policy EQ9	Trees, Woodlands and Hedgerows
Policy EQ10	Pollution Control and Unstable Land
Policy EQ11	Flood Risk Management
Policy H1	Location of Housing Development
Policy H3	New Housing Development
Policy H4	Affordable Housing
Policy CF3	Local Infrastructure Provision
Policy CF4	Open Space, Sports and Recreation Facilities
Policy CF6	Accessibility and Transport
Policy CF7	Planning Obligations and Community Infrastructure Levy

### **Supplementary Planning Guidance**

- Residential Design
- Landscape Character
- Housing Needs Survey
- Planning Obligations
- Buxton Conservation Areas Character Appraisal

### **National Planning Policy Framework (NPPF)**

### **National Planning Practice Guidance (NPPG)**

## **6. CONSULTATIONS**

<b>Site notice</b>	Expired
<b>Press notice</b>	Expired
<b>Neighbours</b>	Expired

## Neighbours

A total of 7 representations have been received, details of which can be read on the related public files. The following is a summary of the objections and issues raised:-

- The internal access route marked on the planning application is insufficient;
- The narrow access point from Corbar Road would not facilitate two-way traffic flow;
- Exiting the site is difficult and particularly if there is onstreet parking opposite;
- It would not be suitable for heavy goods deliveries and machinery in relation to the proposed new build scheme;
- Corbar Road has been identified as the construction traffic route for the extra care scheme on Brown Edge Road – as a consequence the combined construction traffic would severely affect the convenience of road users, pedestrian and vehicle safety;
- Insufficient parking for existing / proposed residents and visitors as the existing car park for Corbar Hill House would not be replaced;
- These combined issues would exacerbate existing onstreet car parking concerns;
- A total of 32 additional car parking spaces would impact upon the character and appearance of the area;
- The plans for the coachhouse are excessive and the context of the buildings would be out of character and appearance with Wye House;
- The proposal should maintain the setting of the Wye House building;
- The loss of trees would be to the detriment of the overall appearance of the area;
- Concerns in respect of bats within the coachhouse and that other wildlife would be disturbed / affected as a result of the development;
- A pond with amphibian use is referred to;
- Loss of view and privacy in respect of the proposed dwellings which would be located at an elevated level;
- Such increased volume of housing in a relatively quiet area would create additional noise pollution to the neighbours and surrounding area;
- There are more suitable sites in Buxton to accommodate additional housing without needing to lose trees or affect wildlife, particularly in respect of the site's location adjacent to Corbar Woods;
- The proposal is an inappropriate development of woodland and if approved would set a precedent for future woodland development and the devastating effects it would have on the natural environment;
- Construction noise concerns, including impact to wildlife;
- Additional housing would put pressure on local services, and,
- An existing apartment owner queries when works would be commenced.

## Consultations

<b>Consultee</b>		<b>Officer response</b>
<b>Buxton Civic</b>		Refer to trees, nature

<b>Association</b>		conservation and s106 obligations section.
<p>Trees should be removed as a last resort, but where trees are required to be removed a policy of replacement of at least 2 for each one removed should be executed to assist in mitigation of impact upon the natural environment. Badgers: a recent internal BCA May 2016 report has indicated that a possibility exists of badgers trailing through this area. The developer therefore should be mindful of their responsibility per the 1992 Protection of Badgers Act. Towards mitigation of cumulative development in this area with respect to water run off and surface drainage, we would wish to see all car park areas having design features incorporated such as being porous. There appears to be no provision for any affordable housing. Is this an oversight?</p>		
<b>Conservation Officer</b>	Overall, no objections subject to recommended conditions.	Refer to heritage section.
<b>Ancient Monuments Society, Council for British Archaeology, The Georgian Group, The Victorian Society and Twentieth Century Society</b>	Awaited.	Noted.
<b>HPBC Horticulture Officer</b>	No objections subject to recommended conditions.	Refer to Design / Layout section.
<b>Natural England</b>	The Local Planning Authority is expected to assess and consider the possible impacts resulting from this proposal in respect of: local biodiversity and geodiversity sites, local landscape character and local or national biodiversity priority habitats and species.	Refer to nature conservation section.
<b>DCC Local Highway Authority</b>	No objections subject to recommended conditions.	Refer to Highways Section.
<p>The further plan identifies 32no. spaces to serve the proposed development that presumably remains as 10no. 2/3 bedroom and 5no. 4/4+ bedroom units. As stated within the original response to the application, whilst the proposal provides a modestly less than the desired maximum provision, given the remote location of the development from the public highway and area of the site, it is considered unlikely that such shortfall would result in severe harm to safe operation of the public highway. Therefore, there are no highway objections to the proposals subject to inclusion of the conditions recommended within the response of 20 June 2016.</p>		
<b>Derbyshire Wildlife Trust</b>	Insufficient information.	Refer to Nature Conservation Section.
<p>25.10.19: In circumstances where the survey information for a European Protected species is more than 3 years old it is highly unlikely that the applicant will be able to secure an EPS licence from Natural England and updated survey work will be</p>		

<p>required. From my understanding survey work has been undertaken in 2014 and 2016. All of this survey work, whilst providing valuable background information is out of date and is not sufficient for planning or licensing purposes. Maternity roosts for brown long-eared bat and pipistrelle bat were found to be present in the 2014 survey. The applicant should be advised that updated bat surveys should be undertaken in the spring/summer (optimum period May-August, in line with the latest Bat Survey Guidance and undertaken by appropriately licensed and experienced ecologists) to determine whether there have been any changes to the status of the bat roosts. A detailed mitigation, compensation and enhancement plan should then be drawn up and submitted to the LPA for consideration. The necessary bat survey work will need to be undertaken prior to determination of this application.</p>		
<b>DCC Lead Local Flood Authority</b>	<p>Standing advice for 'green category' development is referred to in respect of the implementation and maintenance of a Sustainable Urban Drainage Scheme (SuDS).</p>	<p>Refer to Technical Matters Section.</p>
<b>HPBC Environmental Health</b>	<p>No objections subject to recommended conditions.</p>	<p>Refer to Technical Matters Section.</p>
<b>DCC Education</b>	<p>Current pupil numbers, projections and an analysis of recently approved planning applications indicate the relevant normal area infant, junior and secondary school would have sufficient capacity within the next five years to accommodate the additional pupils arising from this development and therefore no Education S106 Contribution would be required at this time.</p>	<p>Refer to s106 Obligations section.</p>

## 7. POLICY AND MATERIAL CONSIDERATIONS

### Planning Policy

7.1 The determination of a planning application should be made pursuant to section 38(6) of the Planning and Compulsory Purchase Act 2004, which is to be read in conjunction with section 70(2) of the Town and Country Planning Act 1990.

7.2 Section 38(6) requires the Local Planning Authority to determine planning applications in accordance with the development plan, unless there are material considerations which 'indicate otherwise'. Section 70(2) provides that in determining applications the Adopted Local Planning Authority "shall have regard to the provisions of the Development Plan, so far as material to the application and to any other material considerations". The

Development Plan for the borough consists of the Adopted High Peak Local Plan dated April 2016.

7.3 The revised NPPF (National Planning Policy Framework) as updated is a mandatory material consideration in decision making.

7.4 Once again achieving sustainable development sits at the heart of the NPPF as referred to within paragraphs 10 and 11.

7.5 As before, achieving sustainable development requires the consideration of three overarching and mutually dependant objectives being: economic, social and environmental where they are to be applied to local circumstances of character, need and opportunity. These objectives are stated as follows:

- a) an economic objective – to help build a strong, responsive and competitive economy, by ensuring that sufficient land of the right types is available in the right places and at the right time to support growth, innovation and improved productivity; and by identifying and coordinating the provision of infrastructure;
- b) a social objective – to support strong, vibrant and healthy communities, by ensuring that a sufficient number and range of homes can be provided to meet the needs of the present and future generations; and by fostering a well designed and safe built environment, with accessible services and open spaces that reflect current and future needs and support communities' health, social and cultural well being; and,
- c) an environmental objective – to contribute to protecting and enhancing our natural, built and historic environment; including making the effective use of land, helping to improve biodiversity, using natural resources prudently, minimising waste and pollution, and mitigating and adapting to climate change, including moving to a low carbon economy.

7.6 NPPF para 11 requires decision makers to apply a presumption in favour of sustainable development. For decision makers this means approving development proposals that accord with an up-to-date development plan without delay.

7.7 Adopted LP (Local Plan) Policy S1a establishes a presumption in favour of sustainable development as referred to within the NPPF.

### **Principle of development**

7.8 The principle of residential development as sought has already been established through the approved consent for the partly implemented planning permission for apartments. This is with reference to the conversion of the school (14 units) and construction of blocks A and B accommodating (16 units) to the northeast of the site, which have been built out to total 28 apartments overall.

7.9 The proposed scheme seeks planning permission for 11 new-build townhouses and the conversion of the former coach house into 4 apartments instead of approved apartment blocks C and D (14 units) and the previously approved 2 apartments above the garages / store. This would result in an amended scheme of 15 dwellings, plus the 28

apartments already completed on site and therefore a total of 43 dwellings across the site to be split as 11 townhouses and 32 apartments. The approved fallback position could provide a total 44 apartments across the site by implementing blocks C and D and the coach house works as per the original approval.

7.10 The main issues in assessing this application are the scheme's effects on: the setting of the Grade II listed Corbar Hill House; the conversion of the Grade II listed coach house; the setting of the Buxton Park Conservation Area; neighbour amenity; highway safety and affordable housing provision, which will be discussed in the relevant sections below. The application site's fallback position is considered to be a material planning consideration to be weighed in the planning balance.

## **Heritage and Design**

7.11 Adopted LP (Local Plan) Policies S1 'Sustainable Development Principles' and LP EQ6 'Design and Place Making' seek to secure high quality design in all developments that responds positively to its environment and contributes to local distinctiveness and sense of place by taking account of the distinct character, townscape and setting of the area. The adopted SPD (Supplementary Planning Document) on Residential Design (2005) also provides guidance on the approach to new residential development and the factors which contribute toward local distinctiveness.

7.12 LP EQ7 'Built and Historic Environment' sets out that the Council will conserve heritage assets in a manner appropriate to their significance. This will take into account the desirability of sustaining and enhancing their significance and will ensure that development proposals contribute positively to the character of the built and historic environment. Similarly, NPPF Chapter 16 'Conserving and Enhancing the Historic Environment' is highly relevant to the assessment of the scheme. This is in view of its relationship to key heritage assets of the Grade II Listed Corbar Hill House, Grade II Listed Coach House and the Buxton Park Conservation Area.

7.13 Furthermore, Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires the decision maker, in considering whether to grant planning permission for the development, which affects a listed building or its setting, to have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses. Accordingly, the Local Planning Authority has a statutory duty to consider the scheme's effect on the listed building.

7.14 NPPF para 189 states: "In determining applications, local planning authorities should require an applicant to describe the significance of any heritage assets affected, including any contribution made by their setting". NPPF para 193 discusses: "*When considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation (and the more important the asset, the greater the weight should be). This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance*".

7.15 A Heritage Assessment has been submitted by the applicant in support of the proposed scheme. Of relevance it sets out that: "*while the construction of the Wye House blocks in the early 2000s to the north of the main house are precedence for further modern development in the curtilage of this heritage asset, there is concern that, together, the*

*further new blocks will have a cumulative adverse impact, however, minimal. The fear is that the site will become 'overdeveloped' and which may risk impacting Corbar Hill House's significance in a negative manner. This does not only relate to impact on the visual setting, which is of course a consideration, but that the presence of too many new blocks could overwhelm the setting of the main house, causing it to look 'out of place' and thus reduce any aesthetic value, particularly, that it may have. However, given the imposing nature and size of Corbar Hill House, its distinctiveness due to its use of the French Renaissance revival style in a town surrounded by largely Georgian, neo-Classical and neo-Gothic architecture, and the physical topography and terrain of the site which by its nature allows concealment of other structures on the site, it is felt that this adverse impact is largely minimal. The visual setting issues can also be somewhat offset by making sure significant screening is indeed planted so that the site's historical value does not become subordinate to modern development".*

7.16 Overall, the Heritage Assessment concludes that the 'harm' as identified above is 'less than substantial' as it is "*outweighed by the considerable benefit of bringing a significant portion of the site back into substantial use, in addition to ensuring that there is sustained future income to the facility that will allow funding for future maintenance work as well as providing additional housing for the local population which would positively impact on the property setting and its context*".

7.17 The Council's Conservation Officer states that in respect of the position and extent of the new build townhouse element of the scheme (Blocks C, D and E), these are similar in height, scale and design in respect of Blocks C and D of the originally approved scheme. It is noted that Blocks D and E are now split into two separate units, which serves to lessen their scale and massing and this is considered to be an improvement in comparison to the permitted fallback position. Whilst the proposed townhouses seek a modestly taller, steeper roof pitch than those previously approved; the submitted site sections, however, demonstrate that their ridgelines would not be easily viewed from the main Corbar Road frontage and no issues are raised in these respects.

7.18 The Conservation Officer considers that the setting of the Corbar Hill House listed building has already been compromised by the more recent apartment development (Blocks A and B) to the northeast of the site. In addition, the previous approval has given the proposed scheme a level of acceptability that would now be difficult to object to in view of the established fallback position of Blocks C and D coming forward for development. It is also considered that the rear of the site has historically been subject to some form of development in terms of ancillary outbuildings, greenhouses, tennis court and a quarry site. These factors combine to broadly support the proposed townhouse scheme as contained within Blocks C, D and E.

7.19 Detailed design revisions sought by officers have achieved a subdivision of the large window and the entrance doors have also been altered to better reflect those of the original house. In addition, the dimensions of the windows have been further amended to more closely align with the proportions of the original house. The Conservation Officer considers that these design amendments are an improvement to the scheme as submitted. No objections have been raised to the conversion of the coach house, which is considered to be more sympathetic in nature than the previously approved conversion to swimming pool. Appropriate planting and high quality materials are essential to the successful development of this site both within its immediate and wider historic townscape

context, including Conservation Area setting. In these respects, planning conditions should secure matters relating to: joinery and window details, colour scheme and external materials: walls, roofs, boundary walls / railings, surfacing and landscaping should Members be minded to approve the scheme.

7.20 The Buxton Conservation Areas Character Appraisal identifies important panoramic views from the Town Hall and Slopes towards the Crescent, Devonshire and Corbar Woods. In these circumstances, the Conservation Officer advises that it is important that sufficient tree cover is maintained throughout the site to give an effect of both significant and dense tree cover within it that blends into Corbar Woods directly behind. This is in order to limit any significant views of the ridgelines within the townscape panoramas.

7.21 In terms of potential tree impact as a result of the scheme, LP Policy EQ9 specifically seeks to protect existing trees, woodlands and hedgerows. As well, protection is also given by LP Policy EQ7 owing to their heritage contribution. The site is also covered by a HPBC TPO 193 and the trees are therefore afforded statutory protection as a result of the Conservation Area designation. The Council's Arboriculturist raises no overall objection to the principal of development on this site given the established fallback position. It is noted that the current proposals are accommodated within a modestly smaller footprint and to a degree, within an area that has few significant trees. There would, however, be some mature tree loss and potential impacts which may arise due to level changes across the site as noted by the Arboricultural Officer. In these circumstances, it is advised that a detailed Arboricultural Method Statement must be approved before any start of works on site. In addition, a comprehensive and appropriate landscaping plan would be critical in achieving a coherent approach to the entire site whilst preserving and enhancing the character and appearance of the Buxton Park Conservation Area and associated townscape views. As well, the landscaping scheme would need to be accompanied by a detailed Landscape and Ecological Management Plan (LEMP) document. Within this context, it is discussed that the Corbar Road site frontage would require more formal planting whilst to the rear, where the site is close to Corbar Woods (ancient woodland), the planting would need to be native and consistent with the landscape character of the area, such as a woodland edge type species.

7.22 The Heritage Assessment further recommends an Archaeological Watching Brief prior to the commencement of any major work in view of the small possibility that the proposed new development blocks may encroach / abut part of the former 19<sup>th</sup> century quarry earthworks. These matters, including landscaping and landscape management can be secured via suitably worded planning conditions attached to any consent should Members be minded to approve the scheme.

7.23 On heritage grounds, it is acknowledged that there would still be a degree of harm to the setting of both Corbar Hill House and the Buxton Park Conservation Area arising from the built encroachment of its setting alone, however, this harm is considered to be 'less than substantial' in the terms of the NPPF. It is therefore necessary to weigh this harm against the public benefits of the proposal. Clearly the coach house proposal represents an improved conversion in relation to the previous swimming pool consent as well as bringing the vacant listed structure back into both a suitable and beneficial use. Whereas the townhouse proposals are accommodated within a modestly smaller footprint and to a degree, within an area that has few significant trees. These factors combine to limit the impact on these heritage assets by representing a less harmful scheme than the current

fallback position. As well, the development scheme would make a small, but valuable contribution towards meeting housing delivery in the Buxton subarea of the District.

7.24 In these respects, the scheme would broadly accord with LP Policies EQ6, EQ7 and EQ9 in particular and the NPPF.

### **Residential Amenity**

7.25 The NPPF requires a good standard of amenity for all existing and future occupants of land and buildings. LP Policy EQ6 also stipulates that development should achieve a satisfactory relationship to adjacent development and should not cause unacceptable effects by reason of visual intrusion, overlooking, shadowing, overbearing or other adverse impacts on local character and amenity. Furthermore, the Council's Residential Design SPD, as a guide recommends a distance of 21.0m between habitable room windows of adjacent properties to provide an acceptable level of amenity as well. Where changes in levels on site are evident or where taller buildings are present, it is advised that these distances should increase by 1.0m for every 0.5m difference in height between buildings and is applicable in the site circumstances of rising levels from Corbar Road.

7.26 The application submission has provided detailed site sections information. Broadly speaking, the proposal would meet SPD privacy standards with the additional use of privacy glass. This is with reference to the south elevation of the Coach House where it faces onto the rear of Corbar Hill House in view of the intervening 5.0m separation distance. The open plan living space on the first floor of the Coach House would overcome any overbearing issues for the future occupants of the Coach House with regards to the proximity of the main building. Whilst those obscured windows to the ground floor would serve bathroom and hallway non-habitable accommodation. A planning condition should be applied to any consent which ensures that such windows remain as non-opening and obscured glazed for the lifetime of the development.

7.27 In respect of the new build element of the scheme to the rear of the Coach House, there would be an intervening distance of c.19.0m between the habitable room windows to the rear of the Coach House and the frontage windows of proposed new build Block E. This is despite of the intervening c.4.0m levels increase which would ordinarily dictate a privacy distance of 29.0m. In these circumstances, the SPD advises that a strict application of amenity standards can, however, limit a creative design response to site layout. As such, officers are open to schemes with a more flexible approach based upon good design principles rather than strict adherence to amenity guidelines. In these respects, the scheme has been design led and particularly in its response to the challenges of the steep topography to this aspect of the site. As well, in terms of block positioning and scale, the proposal would broadly follow the scale parameters of the previously approved Block D. As well, the car parking and turning for Blocks D and E would be positioned between the opposing buildings to create a degree of public activity within this area. Although, it is acknowledged that the introduction of habitable accommodation within the Coach House for the new scheme has resulted in some comprised amenity standards. In terms of outdoor amenity space, a combination of patio gardens and communal areas within significant landscaped grounds would provide suitable areas for future residents of the scheme whilst maintaining suitable standards for residents of the existing development.

7.28 In these respects, the scheme would broadly accord with LP Policies H1, EQ6 and EQ7 in particular and the NPPF.

### **Highway Safety**

7.29 LP Policy CF6 states that the Council will seek to ensure that development can be safely accessed in a sustainable manner. Proposals should minimise the need to travel, particularly by unsustainable modes of transport and help deliver the priorities of the Derbyshire Local Transport Plan. This will be achieved by, inter alia:

- Requiring that all new development is located where the highway network can satisfactorily accommodate traffic generated by the development or can be improved as part of the development.
- Requiring that new development can be integrated within existing or proposed transport infrastructure to further ensure choice of transportation method and enhance potential accessibility benefits.
- Ensuring development does not lead to an increase in on street parking to the detriment of the free and safe flow of traffic.

7.30 Matters of sustainable patterns of transport concerning site location and means of site access were established in respect of the approved scheme for 44 apartments.

7.31 For the varied scheme sought, the Local Highway Authority (DCC) has raised some concern in respect of the existing substandard access into the site. This is in terms of the approach angle and provision of a suitable exit visibility from the adopted highway. Although the Highways Officer has recognised that there is an extant consent in place for 44 units of which 28 units have been completed. In these circumstances, however, it is confirmed that a highway objection based on a substandard access layout would unlikely to be sustained. On matters of adequate onsite scheme car parking, the applicant was requested to provide additional information. The further plan submitted has identified a total of 32 car parking spaces to serve the proposed development of 15 units as follows: Block C (4 x 4-bedroom dwellings = 12 spaces); Block D (2 x 3-bedroom townhouses = 4 spaces) and Block E (4 x 2-bedroom and 1 x 4-bedroom dwellings = 15 spaces). As well, the Coach House would be converted into 1 x 1-bedroom = 1.5 spaces, 2 x 2-bedroom = 3 spaces and 1 x 3-bedroom = 2 spaces dwellings. This would give a total onsite requirement of 37.5 car parking spaces and resultant shortfall of 5.5 spaces. It is acknowledged that the proposal provides for a modestly less than the desired maximum car parking provision. The Highways Officer, however, confirms that given the remote location of the scheme from the public highway and overall site area, any shortfall would be unlikely to result in severe harm to the safe operation of the public highway to result in a sustained highway objection on these grounds. Furthermore, the site is considered to be sustainably located within walking distance to the town centre with good access to both public transportation and services / facilities to lessen the reliance on car journeys / car ownership. As well, the scheme would be expected to provide for cycle parking stands in accordance with LP Parking Guidance standards. This matter could be suitably secured by means of a planning condition should Members be minded to approve the scheme.

7.32 With this in mind and in view of those conditions as recommended by the Local Highways Authority, the scheme, therefore, complies with the provisions of LP Policy CF6 and the NPPF.

## **Nature Conservation**

7.33 LP Policy EQ5 'Biodiversity' outlines that the biodiversity and geological resources of the plan area and its surroundings will be conserved and where possible enhanced by ensuring that development proposals do not result in significant harm to biodiversity or geodiversity interests. This is relevant in respect of both site layout and landscaping scheme matters.

7.34 In circumstances where the survey information for a European Protected species is more than 3 years old, it would be impossible for the Council to determine whether any identified mitigation measures previously identified would be adequate and it is highly unlikely that the applicant would be able to get an EPS licence from Natural England. An updated survey is therefore required as has been confirmed by DWT (Derbyshire Wildlife Trust). The ecological survey was undertaken in 2014 and so clearly it is now out of date. Maternity roosts for brown long-eared bat and pipistrelle bat were found to be present in the 2014 survey. The applicant is aware that updated bat surveys should now be undertaken in the spring / summer (optimum period May-August). This must be in accordance with the latest Bat Survey Guidance and undertaken by appropriately licensed and experienced ecologists to determine whether there have been any changes to the status of the bat roosts. If bats are still present, then sufficient information regarding mitigation should be submitted to allow the Council to carry out an appropriate assessment before the determination of the application.

7.35 As a consequence, the scheme conflicts with LP Policy EQ5 and NPPF paragraphs 170b), d) and 175a, which seek to ensure that developments recognises the wider benefits from ecosystems and conserves and does not significantly harm biodiversity. This would therefore lead to a recommendation of refusal on grounds of insufficient information to properly assess matters of biodiversity.

## **Technical Matters**

7.36 LP Policy EQ10 'Pollution Control and Unstable Land' seeks to protect people and the environment from unsafe and polluted environments, requiring mitigation if necessary. Given the location of the application site close to existing properties, care needs to be taken during the construction phase to ensure site related activities do not cause unreasonable disruption to the neighbour's enjoyment of their properties. Accordingly, the Council's Environmental Health Team has recommended a Construction and Demolition Works and Construction Method Statement condition. On matters of contamination and flood risk, these require conditions addressing site investigation and a drainage scheme based upon SuDs principles to be agreed. These matters could be suitably secured by means of a planning condition should Members be minded to approve the scheme.

7.37 Accordingly, the scheme is considered to comply with LP Policy EQ10 and the NPPF.

## **S106 Planning Obligations**

### Affordable Housing Provision

7.38 LP Policy H3 requires new residential development to provide a range of market and affordable housing types and sizes that can reasonably meet the requirements and future needs of a wide range of household types; the mix should contribute positively to the promotion of a sustainable and inclusive community taking into account the characteristics of the existing housing stock in the surrounding locality. LP Policy H4 also requires all new residential development to meet the requirements of local people by providing affordable housing within the overall provision of new residential development and for sites between 5-24 units (or larger than 0.16ha) the requirement is 20%. If the affordable housing requirement is not provided on site then a financial contribution towards the provision of affordable housing elsewhere will be sought by the Council. This was considered to be acceptable in the context of the existing scheme comprising mostly of apartment provision.

7.39 To date, only Blocks A and B have been completed along with 12 apartments provided in Corbar Hill House. Under planning approval ref. HPK/2002/0864, 28 of the 44 units granted permission have been built out and therefore 16 units remain unconstructed. A debt of £175,000 is already due under the old agreement in relation to part of the site that is already developed. A significant period of time has already been given to the applicant to pay the money that is due now and the applicant has been requested to pay the owed monies immediately to avoid any formal recovery action.

7.40 Separately, the Council's Independent Consultant had undertaken a comprehensive review of scheme proposals and supporting appraisals submitted by the applicant to show that the proposed 15-unit scheme could support the required s106 contributions contrary to the applicant's submissions on scheme viability matters. In these respects, the level of profit generated through the sale of the houses was considered to be sufficient for the developer to proceed with the scheme should s106 contributions be requested, including affordable housing provision. The further independent appraisal showed that the resultant surplus was £194,257. In these circumstances, it was considered that the required affordable housing provision for the current scheme proposal at £94,125 could be met by the applicant.

7.41 At the time, the original 106 was entered into, the commuted sum for affordable housing was worked out for the site as a whole and then an arbitrary split applied for the payment of the contribution. Evidently the equal split in contribution did not reflect an equal split in the numbers of units. So, if blocks C & D were not to be built, then in order to retain the affordable housing sum due, the Council reverted to a calculation on a unit by unit basis to establish the amount owed:

- £350k / 44 units = £7,954 per unit
- £7,954 x 28 units completed = £222,727 commuted sum due
- This is in addition to the amount calculated at today's figures for the number of new units to be built in the new scheme standing at £94,125.

7.42 Although the number of units on the new application is below the 106 contribution threshold for affordable units the Council consider it to be part of the bigger development site as this scheme will replace the unimplemented part of the existing consent. If the additional amount due on a unit by unit basis is not paid then any release would clearly result in the loss of a significant amount towards affordable housing, which would be a material consideration in the consideration of the new application.

7.43 Following discussions, the applicant had agreed to the s106 Deed of Variation Heads of Terms as follows: A payment of £47,727 to be made at commencement of development finalising all outstanding payments of the extant permission. The payment of the £94,125 demanded by the new development will be paid upon occupation of the 7th unit.

7.44 In addition to the delay caused previously by the insolvency proceedings and dialogue regarding payment of the outstanding sum of £175,000 has meant that the Council is now concerned that enforcement of the s106 is in doubt hence any agreement with the applicant regarding the payment of commuted sum in lieu of affordable housing on site would have to include the £222,727 in respect of the 28 units already completed. This is in addition to the amount calculated at today's figures for the number of new scheme units standing at £94,125 to give a total £316,852 to be secured by the s106 Deed of Variation.

7.45 No other Section 106 requirements are triggered as the 15 unit scheme is below the threshold for public open space. Previously, no education requirements were required by DCC (Derbyshire County Council). DCC Education has been reconsulted to ascertain whether this positioned has changed. Members will be notified on the Update Sheet.

7.46 Despite the passage of time, however, there is still no s106 Deed of Variation in place providing the necessary legal commitment for appropriate affordable housing provision, which would be triggered by the grant of planning permission. As a consequence this causes a conflict with LP Policies H3 and H4 in particular and the NPPF.

## **8. CONCLUSION AND BALANCE**

8.1 The NPPF seeks to boost significantly the supply of housing and therefore the scheme would thus increase the supply and choice of housing in the Buxton area. The contribution to the economic dimension of sustainable development would include the jobs created during construction and the addition revenue through Council Tax. In addition to maintenance costs, the new residents would be likely to spend money on goods and services in the area, supporting the local economy. These social and economic benefits weigh in favour of the scheme caveated by the scheme's scale proposing a total of 15 dwelling units.

8.2 The scheme conflicts with LP Policy EQ5 and NPPF paragraphs 170b), d) and 175a, which seek to ensure that developments recognises the wider benefits from ecosystems and does not significantly harm biodiversity interests. Currently, insufficient information has been submitted to properly assess matters of biodiversity. Furthermore, there is no completed s106 Deed of Variation in place providing the necessary legal commitment to secure appropriate affordable housing provision, which would be triggered by the grant of planning permission. In these circumstances, the scheme would make inadequate provision for affordable housing to create a conflict with LP Policies H3 and H4 in particular and the NPPF. The benefits of the scheme are no considered to outweigh the conflict the relevant policies in the adopted Local Plan concerning affordable housing provision and biodiversity interests.

8.3 In conclusion, the scheme proposal would not be a sustainable form of development as it would conflict with the development plan and the NPPF when taken as a whole, and

as there are no other material considerations that indicate planning permission should be granted. Neither would the scheme be made acceptable through the imposition of reasonable planning conditions.

8.4 Accordingly, the scheme is recommended for refusal.

## **9. RECOMMENDATION**

### **A. Planning permission be refused as follows:**

- 1. The scheme raises matters of insufficient information to properly assess matters of biodiversity in relation to out of date bat survey information. In these circumstances, it cannot be concluded with certainty that the proposal has demonstrated that it would not have a harmful effect on biodiversity. As a consequence, the scheme conflicts with LP Policy EQ5 and NPPF paragraphs 170b), d) and 175a, which seek to ensure that developments recognises the wider benefits from ecosystems and conserves and does not significantly harm biodiversity.**
- 2. There is no completed s106 Deed of Variation in place providing the necessary legal commitment to secure a financial contribution totalling £316,852 towards appropriate affordable housing provision elsewhere within the borough, which would be triggered by the grant of planning permission of the scheme. In these circumstances, the scheme would make inadequate provision for affordable housing to create a conflict with Adopted Local Plan Policies H3 and H4 in particular and the NPPF.**

**B. In the event of any changes being needed to the wording of the Committee's decision (such as to delete, vary or add conditions/informatives/planning obligations or reasons for approval/refusal) prior to the decision being issued, the Head of Development Services has delegated authority to do so in consultation with the Chairman of the Committee, provided that the changes do not exceed the substantive nature of the Committee's decision.**

### **Informatives:**

1. Prior to the determination of the application the Council advised the applicant that the principle of such development is unsustainable and did not conform to the provisions of the NPPF.

## Location Plan



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