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**6. OUTLINE APPLICATION: CONSTRUCTION OF NEW EMPLOYMENT BUILDING, ASSOCIATED LANDSCAPING OPERATIONS AND ACCESS IMPROVEMENTS, BACKDALE QUARRY, HASSOP ROAD, HASSOP (NP/DDD/0315/0239, P.2382, 26/8/2016/CF)**

**APPLICANT: Bleaklow Industries Ltd**

**Site and Surroundings**

Backdale Quarry is a former quarry site that lies off Hassop Road (B6001) between Hassop and Calver. The former quarry site has a substantial footprint and the exposed quarry faces at high level have a considerable visual impact in the wider landscape. The boundaries to the site to the southeast and west are defined by woodland, and these trees screen much of the lower levels of the site. The remaining sides of the former quarry are either open to walled pastureland, or scrubland and an unbound (loose limestone) section of Bramley Lane, which is an unclassified highway, runs along the northern boundary of the site.

Quarrying has now stopped at Backdale Quarry and a Prohibition Order recently confirmed by the Secretary of State following a Public Inquiry in January, makes it absolutely clear that mineral working cannot resume without a fresh planning permission. This order also secures the restoration of much of the quarry including part of the exposed faces above the quarry floor, extensive regrading of the quarry area, and removal of buildings, roadways, structures, foundations, hardstandings, plant and equipment associated with the winning and working of minerals. However, the Prohibition Order does not affect the part of the site for which a Certificate of Lawful Use was issued in 2014 for the manufacture of matured slaked lime putty and pre-mixed mortars from imported raw materials, and the use of the land for ancillary offices.

There is a large industrial building on the lower level of the site, close to Hassop Avenue, covered by this Certificate that appears to have fallen into disuse. There are also portacabins that were used as offices that are covered by the lawful use certificate. The area to the south west of the building has been used for storage and as an HGV base, without planning permission. A flat area of the site at a higher level (the upper quarry area) has also been used more recently for storage purposes also without the benefit of planning permission. Enforcement Notices were served in respect of these alleged breaches of planning controls earlier this year and appeals have been lodged in respect of both notices.

**Proposal**

The current application seeks outline planning permission for the demolition of the existing building and the erection of a replacement building for employment purposes. The amended plans show that the building would have a floor area of 1000m<sup>2</sup> and would be sited to the south west of the existing building and the vehicular access to the site is proposed to be from Hassop Road. The building is intended to have timber boarded walls above a stone clad base and a profile sheeted roof, factory coloured dark slate blue and its use intended by the applicant is for the storage and distribution of lime putty in association with one of the applicant's existing businesses. 'As proposed' drawings have been submitted but these are only indicative as this application is for outline permission and its appearance, along with its scale and the layout of the scale, are all reserved matters.

The building shown on the amended plans is significantly smaller than the 4000m<sup>2</sup> building proposed in the original application. The applicant has also significantly revised the original application by no longer seeking planning permission for an alternative restoration scheme and the amended plans show the proposed building in the context of the restoration scheme secured by the Prohibition Order. The amended plans now show very minor landscaping works that would have no material impact on the approved restoration scheme and minor alterations to the existing vehicular access to the site. However, it should be noted that landscaping is a reserved matter.

The application does seek full permission for the alterations to the access.

**RECOMMENDATION:**

**That the application be APPROVED subject to the following conditions:**

- 1. The development hereby permitted shall be carried out in accordance with Drawing No. CL.206312.106 Revision A received by the National Park Authority on 11 August 2016 subject to the following conditions or modifications:**
- 2. Prior to the commencement of any part of the development hereby permitted, approval of Reserved Matters relating to the following details shall be obtained from the National Park Authority:**
  - i. The layout of the proposed development (including parking and manoeuvring areas)**
  - ii. The design and external appearance of the proposed development (including materials and external finishes)**
  - iii. Landscaping treatment of the site which shall not be in conflict with, or seek to amend the requirements of the scheme on ‘Plan 2’ attached to the Prohibition Order (including the retention of existing trees, boundary treatments and precise details of any planting schemes and surfacing materials)**

All such applications shall be made within three years of the date of this permission. Thereafter, the development shall be carried out as approved and begun three years from the date of this permission, or two years from final approval of all Reserved Matters, whichever is the later.

- 3. The detailed scheme shall provide for a single building with a maximum ridge height of 12 metres above the adjacent ground levels and a maximum floor area of 1000m<sup>2</sup> (measured externally), the design of which shall closely reflect the appearance of a modern portal framed agricultural building in terms of form, detailed design and materials including the provision of timber cladding above a stone plinth for the external walls of the building and a profile sheeted roof factory coloured dark slate blue.**
- 4. No development shall take place, including any works of demolition, until a Construction Method Statement has been submitted to, and approved in writing by, the local planning authority. The approved Statement shall be adhered to throughout the construction period. The Statement shall provide for:**
  - i. the parking of vehicles of site operatives and visitors**
  - ii. loading and unloading of plant and materials**
  - iii. storage of plant and materials used in constructing the development**
  - iv. the erection and maintenance of security hoarding**
  - v. wheel washing facilities**
  - vi. measures to control the emission of dust and dirt during construction**
  - vii. a scheme for recycling/disposing of waste resulting from demolition and construction works**

**The Statement shall also include precise details of:**

- i. site clearance works including a schedule of all items within the area covered by the pre-existing Certificate of Lawful Use to be removed or demolished;**
  - ii. all earthworks associated with the construction of the building hereby permitted**
  - iii. mitigation measures to avoid disturbance or harm to reptiles and birds**
  - iv. connections to services and means of foul water disposal**
  - v. external lighting (including details of luminosity)**
  - vi. a watching brief (with regard to safeguarding fossil remains) unless otherwise agreed in writing by the National Park Authority in liaison with Natural England**
  
- 5 The building hereby permitted shall not be taken into use until the existing means of vehicular access has been constructed and completed in accordance with plans to be first submitted to and agreed in writing by the National Park Authority. The said means of vehicular access shall thereafter be retained for access purposes only and the approved visibility splays shall be maintained free of any obstruction to their designated purpose throughout the lifetime of the development hereby permitted.**
  
- 6 The building hereby permitted shall not be taken into use until a bin store, and area/facilities allocated for storing of other waste and recyclable materials have been completed in accordance with plans to be first submitted to and agreed in writing by the National Park Authority. Thereafter, there shall be no outdoor storage of any items anywhere on the land associated with the use of the building hereby permitted other than in the areas designated for bin storage and storage of other waste and recyclable materials.**
  
- 7 The amended Travel Plan shall be implemented on the commencement of the use of the building hereby permitted and thereafter, the occupier of the building shall submit a monitoring and evaluation report to the National Park Authority, which assesses compliance with the Travel Plan, on each anniversary of the commencement of the use of the building for the following five years. Any recommendations made in the reports submitted to the National Park Authority shall be implemented in the following year subject to the written agreement of the National Park Authority and any recommendations made by the Authority in the event of traffic movements from the development demonstrably having a severe impact on the local road network shall be implemented by the occupier of the building within three months of notification of these recommendations by the Authority.**
  
- 8 The restoration of the quarry outside of the area covered by the pre-existing Certificate of Lawful Use shall be carried out in complete accordance with the restoration scheme approved under the Prohibition Order other than in respects of any minor works expressly consented by the National Park Authority in pursuance of the discharge any of the above conditions.**

- 9 Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking and/or re-enacting that Order) the building hereby permitted shall only be used for employment purposes associated with a use falling within B1, B2 or B8 of the Schedule to the Town and Country Planning (Use Classes) Order 1987 or any provision equivalent to that Class in any Statutory Instrument revoking and/or re-enacting that Order) and for no other purposes at any time during the lifetime of the development hereby permitted.**

### **Key Issues**

- Whether the proposals constitute major development in a National Park in policy terms;
- Whether the proposals comply with policy E2 of the Core Strategy and saved Local Plan policy LE4; and
- Whether the proposals are acceptable in planning terms with particular regard to landscape and visual impact, design siting and layout, highway safety, public rights of way, ecology and palaeontology, and other relevant considerations including issues raised in consultation responses and representations on this application.

### **Relevant Planning History**

The two most relevant events in the planning history of the former quarry site are considered to be the confirmation of a Prohibition Order earlier this year (2016) and the grant of Certificate of Lawful Use the Authority in 2014.

The Prohibition Order was confirmed by the Secretary of State following a Public Inquiry in January and relates to permission 1898/9/69 (dating from 1952) and covers 138ha including Backdale. The Order confirms that the winning and working of minerals cannot take place under permission 1898/9/69. No mineral extraction could take place without a fresh planning permission. The Order secures a detailed restoration scheme for the area previously worked for minerals at Backdale. The Prohibition Order does not fetter the development for which the Certificate of Lawful Use was issued.

The Certificate of Lawful Use was issued for an area of land, which is now the subject of the development proposals in the revised application. The Certificate describes the lawful use of this area of land as the manufacture of matured slaked lime putty and pre-mixed mortars from imported raw materials, and use of the land for ancillary offices albeit this use of the land is subject to the limitations and stipulations set out in the certificate.

For clarity and for avoidance of doubt, the alleged breaches of planning control at Backdale Quarry and the associated Enforcement Notice are considered to have no relevance to the planning merits of the current application, which does not seek to regularise the activities taking place on the site without the benefit of planning permission.

In addition to the above planning history, the following outline application was withdrawn in 2014: NP/DDD/0614/0587 Restoration of Backdale Quarry, construction of new employment buildings, associated engineering and landscaping operations and access improvements. This proposed large industrial buildings in both the lower and upper quarry floor areas.

### **Consultations**

**County Council (Flood Team)** – No objections but recommend further investigation in respect of the potential for hidden soughs to be present within the former quarry.

County Council (Highway Authority) – No overriding objections but require the submission of additional information on swept paths of lorries, amongst other things, before making final comments on this application. The Highway Authority also requests consideration to be given to financial contributions towards monitoring the amended travel plan and delivery of the nearby greenway.

District Council (Environmental Health) – No objections

Environment Agency – No objections

Natural England – No objections but require the Authority to examine various issues with regard to the input of its in-house specialists.

Parish Meeting – No objections but confirm that the proposed improvements to what had been a deteriorating eyesore are welcomed.

National Park Authority (Ecologist) - No objections subject to conditions with regard to the submission and agreement of a construction method statement; works to avoid impacts on and mitigation for birds and reptiles; submission of external lighting scheme; and all new planting to be indigenous species.

National Park Authority (Landscape Architect) – No overriding objections but reiterates that it is important that the restoration scheme approved by the Secretary for State for Backdale is able to be implemented in its entirety and makes the following comments on the revised application:

*I welcome the considerable reduction in size of the building, however I feel that a detailed building design and layout including earth works should be provided as part of a full planning application rather than this outline application.*

*The revised building appears to have been positioned arbitrarily towards the centre of the proposed larger building, if the revised building was positioned on the south east corner of the original building then it may be possible for the approved restoration scheme for Backdale to be implemented. Keeping it further east also has less intrusion on the rest of the quarry.*

*Parking and access arrangements remain the same as for the original larger proposed building. The number of parking spaces need to be reduced to match the size of the building and the proposed turning head to the west should be brought east to be positioned in front of the retained weighbridge.*

*A mound should be created to the west of the building to prevent the spread of vehicles, scrap and waste. Waste management should be considered and catered for within the design.*

National Park Authority (Public Rights of Way) – No objections but the need to avoid conflict where the path abuts the proposed parking is mentioned in comments on the revised application.

### **Representations**

Five representations on this application have been received by the Authority to date. One representation offers general support for the proposals; one is a general comment on the application but the author of the letter suggests that stringent conditions should be applied upon any granting of this application commensurate with the stated aims of preserving the nature and character of the Peak District.

Three representations are from residents that live in the National Park and object to the proposals, and one is a letter of objection from the Friends of the Peak District.

The main thrust of the objections from the three residents of the National Park is that the proposed development would lead to highway safety issues, the site should be restored back to nature in its entirety and that there is no need for this proposed development taking into account that there are existing business parks in Bakewell, Stoney Middleton and Hathersage. These representations also raise concerns about the visual impact of the access to the site and make reference to the condition of the site and the adverse impact of works already carried out on site.

The Friends of the Peak District say in their representations that whilst they have no objection in principle to the sensitive and sustainable redevelopment of the site, consistent with national park principles, they are not persuaded that the [originally] proposed scheme meets those criteria. The Friends of the Peak District have not since made any further comment on the revised application but it should be noted that they are firmly opposed to B8 use of the site which they consider would be an incongruous use within the heart of a national park that would have very low employment density and is thus unlikely to make a meaningful contribution to employment opportunities.

## **Policy Context**

### **Major Development**

The definition of a major development in the Town and Country (Development Management) Order 2015 includes the provision of a building or buildings where the floor space to be created by the development is 1,000 square metres or more. The building proposed in this application would have a floor area of 1,000 square metres and would therefore be considered to be major development with reference to the Development Management Order. However, recent case law confirms that the normal meaning of the word 'major' should be used for the purposes of interpreting and applying planning policies to development proposals. This is significant because policy GSP1 of the Authority's Core Strategy and paragraph 116 of the National Planning Policy Framework ('the Framework') say that major development should only be allowed in National Parks in very exceptional circumstances.

In this case, despite the size of the proposed building, it is considered that the proposals do not fall within the category of major development within the National Park in policy terms primarily because the building would replace an existing industrial building of a similar size and scale. Furthermore, there is an existing lawful use of the site for employment purposes. The following sections of this report will also provide an analysis of the potential impacts of the proposed development, which concludes that the proposed building would not have a major impact on the National Park. Therefore, the development proposals are not considered to be 'major development' within the scope of paragraph 116 of the Framework or within the scope of the relevant part of GSP1.

### **Economic Policies**

In principle, the current application proposes replacing an existing industrial building, which could result in a degree of 'intensification' of the lawful use of the site that lies in a location in open countryside outside any recognised settlement. Therefore, policy E2 of the Core Strategy, which deals specifically with proposals for business development in the countryside outside the Natural Zone and the named settlements, is relevant. As the proposals amount to the expansion of an existing lawful building, the most relevant parts of policy E2 are considered to be E2(A) and E2(D).

Policy E2(A) of the Core Strategy says that in open countryside businesses should be located in existing traditional buildings of historic or vernacular merit in smaller settlements, on farmsteads, and in groups of buildings in sustainable locations. However where no suitable traditional building exists, the reuse of modern buildings may be acceptable provided that there is no scope for further enhancement through a more appropriate replacement building. Policy E2(D) says proposals to accommodate growth and intensification of existing businesses will be considered carefully in terms of their impact on the appearance and character of landscapes.

Saved Local Plan policy LE4(b) is also relevant to the proposals and says that the expansion of existing industrial and business development (other than that linked to homeworking, farm diversification, forestry, mineral working and appropriate recreational activity) will not be permitted in open countryside outside designated settlements unless:

- i. it is of a modest scale in relation to the existing activity and/or buildings, and does not extend the physical limits of the established use;
- ii. it does not harm and wherever possible secures an enhancement to the amenity and valued characteristics of the area and the appearance of the site; and
- iii. new or extended buildings are clearly justified and proper consideration has been given to the possibilities of using appropriate existing buildings to meet the needs of the business.

It is considered that these policies are consistent with national planning policies in the Framework which supports the growth of the rural economy but also affords great weight to the conservation and enhancement of the National Park's scenic beauty, wildlife and cultural heritage.

### **Design and Conservation Policies**

The provisions of policy LE4(b) and policy E2 are supported by a wider range of design and conservation policies in the Development Plan including policies GSP1, GSP2, GSP3 and L1 of the Core strategy and saved Local Plan policy LC4, which are concerned with promoting sustainable development that accords with the Authority's statutory purposes, high standards of design, and safeguarding the living conditions of local communities, amongst other things. The objectives of these policies accord with the specific provisions of paragraph 115 of the Framework in relation to development in a National Park, as noted above, core planning principles set out in paragraph 17 of the Framework and the presumption in favour of sustainable development that runs through the Framework when taken as a whole.

### **Assessment**

#### **Principle**

An application for outline planning permission is normally used to establish whether the principle of a development would be acceptable before detailed plans are prepared. In this case, the proposed development would not be appropriate or acceptable within at Backdale Quarry if a lawful use for manufacturing activities has not been established within part of the site. The Lawful Development Certificate is therefore a relevant consideration that means that Authority is unable to seek the removal of the building covered by the Certificate and also means that the proposals do not amount to the creation of a new business use in open countryside.

The presence of an existing building on site is also a highly relevant consideration and this application has been amended so that the new building would have a similar footprint to the building currently on site in terms of size and scale. This is a significant change to the application not least because the much larger building that was originally proposed would have been much harder to justify. It is also clear that the retention of the existing building is not preferable partly because it is not easy to adapt this building to meet the current needs of the applicant's business and the building would not be particularly suitable for any other business that might have a 'better fit' with this countryside location. The replacement building is also of a much more appropriate design than the building currently on site and it would be less visible in its landscape setting than the existing building. There are also no traditional buildings on site that could be converted.

It is therefore considered that the need for a new building has been properly justified and the new building would not physically extend the amount of land in employment uses beyond their lawful limits. The building is similar in size to the existing building and would also lead to some enhancement to the character and appearance of the site when taking into account the existing building is a profile sheeted industrial building that can be seen from nearby public vantage points. The approval of this application would provide an opportunity to secure the removal of the existing industrial building and the associated portacabins on site, which can also be seen from public vantage points. It is therefore considered the proposals are in accordance with E2 and LE4 in these respects and that there are no overriding objections to the principle of granting planning permission for the replacement building shown on the amended plans.

### **Landscape and Visual Impact**

As submitted, the original application proposed an alternative restoration scheme to the scheme proposed by the Authority and now secured by way of Prohibition Order confirmed by the Secretary of State. By virtue of the size and scale of the former quarry and its visibility in the landscape, the alternative restoration scheme would have been capable of having a major impact on the National Park and would not have offered the same landscape and safety benefits as the scheme confirmed by the Secretary of State. However, the most recent amended plans show that it is intended to carry out the approved restoration scheme and that the development proposals would not compromise the approved scheme or prevent this scheme from being completed. Therefore, the aspects of the development proposals most likely to have a visual impact on their landscape setting are the new building, alterations to the access and parking provision.

The Highway Authority has already commented that the changes to the access are hardly discernible from the existing situation and the main issue raised in representations about the works to the access relate to the removal of trees, which has not been carried out in pursuance of any development proposed in this application. Therefore, it is not considered that minor alterations to the access 'as proposed' would have a significant visual impact taking into account that no further changes are required to create visibility splays, for example. The parking area is shown on the amended plan is adjacent to the vehicular access to the site and this area would be seen by users of the nearby footpath that runs adjacent to Hassop Road and people driving along this road would also get a glimpse of the parked cars and associated manoeuvring area. However, the parking area would be located mainly on the footprint of the existing industrial building, resulting in an enhancement to the character and appearance of the site compared to the current situation.



The applicant has provided further information in the form of photomontages that illustrate that the building itself would be well-screened by the existing trees along the boundary of the site and that the building would not be visually intrusive in the wider landscape. The building would also be sited on the lowest level of the former quarry site and the surrounding landscape rises up in all directions around the site of the building. Therefore, the building would not have a significant visual impact on its landscape setting, subject to some supplementary planting and appropriate management of the mature trees on land within the applicant's control but outside of the area covered by the approved restoration scheme.

As landscaping is a reserved matter, a condition securing submission of details of any additional planting and a management plan for the existing trees would be reasonable and necessary. The scale of the building is also a reserved matter, and because the scale of the building has a direct correlation with its potential visual impact, it would also be reasonable to limit the footprint of the building to a maximum of 1000m<sup>2</sup> by way of a condition attached to any permission for the current application. The amended plans ought to be specified as well to confirm that it is the principle of the smaller building has been accepted and that the alternative restoration scheme has been omitted from the application.

Subject to these conditions, and a condition requiring compliance with the approved restoration scheme, it is concluded that the proposed development would not have a major visual impact on its landscape setting and would offer some enhancements over the existing situation. It is therefore considered that the proposed development would accord with the landscape conservation objectives set out for the National Park in paragraph 115 of the Framework and policies in the Authority's Development Plan including core policies GSP1, GSP2 and L1 of the Core Strategy.

### **Siting, Design and Layout**

The appearance and layout of the proposed development are reserved matters so the amended plans are only indicative. This means that the approval of the precise details of the layout of the building should also be reserved by condition to any permission granted for the current application. However, the applicant has stated that the building would have timber boarded walls above a stone plinth that would be constructed to replicate dry stone walling and the roof would be profile sheeting that would be factory coloured dark slate blue.

In these respects, the building would look much like a typical modern farm building, albeit very large, which would mean that it would look more in keeping with its landscape setting than the existing industrial building on site. In these respects, the proposals are broadly in accordance with the Authority's design policies that require new buildings to match the styles and traditions of other similar building within the local area. The amended plans also show the full height of the building would be less than ten metres above the adjacent ground level. These aspects of the application supports the conclusions that the new building would be acceptable in terms of its potential visual impact but these details would need to be secured by condition in the interests of minimising the impact of the development on its landscape setting.

In terms of siting and layout, the Authority's Landscape Architect has suggested further refinements to the amended plans, but on the key point raised by the Landscape Architect the amended plans include sectional drawings that demonstrate that building would not have any significant impact on the approved restoration scheme. The plans show that the building would encroach on the very end point of the slope down from a bund that would effectively divide the former quarry site in two.

The amended plans show a low retaining wall around the base of the building that would be less than 2m in height and cut into the bund less than two metres from the toe of the slope. It is therefore considered that the impact of the proposed development would have a negligible impact on the character or appearance of the approved restoration scheme, also taking into account the area of the scheme affected by the proposed development would not be seen from public vantage points. However, it would be reasonable and necessary to reserve approval of the details of the proposed works to obtain certainty that the development can be carried out in a way that does not compromise or prejudice the approved restoration scheme and that the scale of wall proposed will safely retain the substantial bund behind it.

The Authority's Landscape Architect also comments on the amount of parking spaces and considers these should be reduced as the parking provision shown on the amended plans is the same as that proposed for the much larger building in the original submission. The Highway Authority has not commented further on this aspect of the revised application so it may not be appropriate to restrict the maximum numbers of parking spaces by condition if permission were to be granted for the current application. Nonetheless, layout is a reserved matter and it would be appropriate to reserve approval of the precise details of the siting of the building and the layout of parking and manoeuvring space to allow further consideration of these matters when detailed plans are submitted with an application seeking approval of these details.

Finally, the Authority's Landscape Architect also suggests that a bund should be created at the western end of the site to prevent the spread of storage of materials across the site. It is considered that a condition restricting outdoor storage would be a better option to address this particular issue, together with a condition requiring a schedule of works confirming the removal of developments associated with the lawful use of the site including the portacabins and the weighbridge. This condition would be reasonable and necessary in this case because they ensure the enhancements to the site that would result from granting planning permission for the current application would be secured.

### **Access and Vehicle Movements**

Access is not a reserved matter and the application seeks full approval of the proposed access arrangements. The Highway Authority considers the proposed alterations to the existing access are minimal but requires further details before they would be able to make their final recommendation. However, it is clear that the Highway Authority has no major objections to the application and it is considered that the existing access is generally safe and suitable for the proposed use of the site in any event. Therefore, the issues raised by the Highway Authority are capable of being resolved by a condition reserving approval of the precise details of amendments to the access, which would also allow the applicant to submit the additional information and make any further amendments required by the Highway Authority.

The issues raised in representations on highway safety grounds support this conclusion because they are focussed more on the potential for the proposed development to increase vehicular movements along the local road network including along Hassop Road rather than the suitability of the vehicular access to the site. The Highway Authority has assessed the travel plans submitted with the original proposals and did not consider the larger building would generate vehicular movements that would have a severe impact on the local road network and there are no records of any road traffic accidents in the local area associated with vehicles moving to and from the site. Therefore, it would be difficult to sustain an objection to the current proposals on highway safety grounds taking into account the site can be provided with a safe and suitable access in accordance with national planning policies subject to approval of the precise details for the access and subject to compliance with the amended travel plan submitted by the applicant in support of the revised application.

The Highway Authority has suggested a financial contribution to allow the travel plan to be monitored might be considered but recent case law suggests that a legal agreement cannot be used to seek financial contributions towards the costs of monitoring compliance with planning conditions. Therefore, it is highly unlikely the suggested contribution is a matter that can be pursued by this Authority. Similarly, the Highway Authority has suggested that a contribution to the nearby 'greenway' would help mitigate vehicular movements generated by the site but it cannot be seen that this type of financial contribution would be reasonably related to the proposed development. Nonetheless, it would be reasonable and necessary to require the applicant to submit a report evaluating compliance with the amended travel plan and require updated measures to be introduced in the event it can be demonstrated the proposed development has resulted in a significant impact on the local road network within the first five years of it being taken into use.

### **Rights of Way**

A diversion to a public footpath that did run through the application site has been recently confirmed and the diversion has been completed pending final checks by the Authority's Rights of Way officers. In terms of representations on this application, the only issues that have been raised by the diversion has been the loss of some trees that were removed when the new footpath was created and the erection of a dry stone wall that the Highway Authority considers has been erected on highway land rather than land in the applicant's ownership. It is therefore considered that the issues raised by this footpath diversion are not relevant to the planning merits of the current application, taking into account that the proposed development would not obstruct this footpath. Nonetheless, the landscaping condition suggested earlier in this report should also seek agreement on boundary treatments for the site to give some opportunity to realign the roadside wall if permission were to be granted for this application.

The Highway Authority also notes that there are outstanding issues related to the permanent diversion of Bramley Lane, which is an unclassified highway that runs along the northern boundary of the application site. However, the Highway Authority accepts that this issue remains outside of the scope of this application and has no relevance to the planning merits of the development proposed on the site. It is therefore concluded that an approval for the current application would not have a major impact on the public rights of way network within the local area.

### **Ecology and Palaeontology**

In light of the revisions to the application, the major impacts of the restoration of the quarry are now covered by conditions attached to the Prohibition Order rather than comprising matters to be considered in the determination of this application. The Authority's Ecologist has confirmed that the proposed development in the revised application would not have any significant impact on nature conservation interests subject to safeguards ruling out the presence of birds or reptiles during the construction phase of the development. The location and the physical limits of the proposed development, which would be constrained by the approved restoration scheme, also means that there is no likelihood that the proposed development would have any major impacts on the designated nature conservation sites within the local area.

Equally, it is highly unlikely that the proposed development would have a major impact on the conservation of fossil remains on the site now that an alternative restoration scheme is no longer being proposed. Previous investigations on other parts of the site have revealed fossilised shark remains, which are of national importance and the approved restoration scheme contains conditions include a watching brief to safeguard any further remains that are revealed when the restoration works are carried out on site. One complication is that some of the remains may be amongst spoil deposits on site; other remains may be within a particular underground strata of rock that could run close to the surface of the site of the proposed development.

Therefore, there is a small risk that the development could reveal or disturb other shark remains; applying the 'precautionary principle' in light of the very high significance of these remains means a condition should be imposed on any permission requiring a watching brief unless otherwise agreed by the Authority in liaison with Natural England. The possibility of a 'waiver' to the requirement for a watching brief is considered to be reasonable and necessary in this case because further desk top surveys could reveal that any further remains would be deep below the surface and would not be affected by the development, or the applicant may be able to demonstrate the proposals can be carried out without disturbing any sites where further fossil remains could be revealed.

### **Other Relevant Considerations**

The Environment Agency does not consider that there are any contaminants on site that would require remediation and are satisfied that the environmental impacts would not be major. Therefore, the Environment Agency has no further comments on this application and has not suggested any planning conditions but did advise that the lead local flood authority should be consulted on the application.

Derbyshire County Council are the lead local flood authority in this case and have commented that further investigation should be carried out to rule out the presence of hidden water courses within the former quarry site. However, these comments were made in respect of the original application that proposed a fuller restoration scheme, which has since been withdrawn. Therefore, these matters were covered in the consideration of the restoration scheme approved under the Prohibition Order and do not need to be considered further in the determination of this application.

Similarly, there is no need to consider flood risk and it would not be appropriate to seek a sustainable drainage system for the development primarily because the site is not prone to flooding but the precise details of drainage arrangements should be reserved to safeguard the environmental quality of the local area. This condition would be reasonable and necessary unless the applicant is able to demonstrate that there is a mains sewer in the vicinity of the development site, which can be used to dispose of foul water discharged from the site.

The District Council's Environmental Health Officer has also commented on the application and has raised no objections. This response helps to demonstrate that the development proposed in this application would not be unneighbourly but it is considered the development would be unlikely to affect the nearest neighbouring residential properties by virtue of the intervening distances and the presence of mature trees that effectively screens the former quarry site from these properties. There have also no been no objections received from the nearest neighbouring properties and Hassop Parish Meeting has offered its full support for the revised application.

Finally, concerns about the end use of the building has been raised in representations and the Friends of the Peak District have questioned the acceptability of a B8 storage and distribution use in the former quarry and whether a B8 use in a location in open countryside would constitute a sustainable form of development in particular. In this case, it is considered the concerns about the use of the site for employment uses are partly offset and outweighed by the presence of a lawful use of the site for employment uses, which constrains further consideration of the sustainability of the location for the new building and means that any approval for the new building does not amount to the creation of a new business use in open countryside.

Furthermore, the application has been revised so that the new building would be more closely related to the size and scale of the existing building on site, which means that the impacts of future uses of the site would be more likely to be commensurate with the previous use of the site as set out in the Lawful Development Certificate. The above sections of this report also set out how the building can be accommodated in this location without any major impacts on the character and appearance of its landscape setting or the amenities of the local area. It also clear that the proposed development would not compromise or prejudice the approved restoration scheme. Therefore, it is not considered that the development proposals would conflict with national planning policies or the relevant policies in the Development Plan, subject to appropriate planning conditions.

However, it is acknowledged that a building of the scale proposed in the revised application and the amount of associated land may give rise to further impacts if the uses of the building were not restricted to B1, B2 and B8 business type uses. This type of condition would give the applicant some flexibility with regard to how the site could be used but would restrict more flexible uses of the building that would need to be properly assessed before being granted consent. This approach is considered to be reasonable and necessary taking into account that planning policies would normally expect employment uses, leisure facilities, tourist accommodation such as hotels, and housing, for example, to be directed to recognised settlements with regard to the landscape conservation objectives of the National Park and planning policies that place strict controls on development in open countryside.

## **Conclusions**

It is therefore concluded that the revised application complies with national planning policies and the relevant policies in the Development Plan and that there are no other relevant considerations that indicate that the revised application should not be approved subject to appropriate planning conditions.

In reaching these conclusions, significant weight has been attached to the presence of a lawful use of the site and the desirability of replacing the existing building. Significant weight has also been attached to the amendments omitting proposals for an alternative restoration scheme and the evidence supplied by the applicant that demonstrates the proposals would not compromise or prejudice the approved scheme that has been secured under a Prohibition Order.

In light of these reasons for granting planning permission for the revised proposals, the current application is not considered to be major development within a National Park within the scope of policy GSP1 or paragraph 116 of the Framework and the amended planning application is considered to be acceptable in planning terms in all other respects. Accordingly, the revised application is recommended for conditional approval.

### List of Background Papers (not previously published)

Nil