

**9. FULL APPLICATION - CHANGE OF USE OF FORMER PORTAL FRAMED BUILDING TO A BUILDING USED FOR COMMUNITY EVENTS, WEDDINGS AND OTHER CELEBRATIONS AND EVENTS (USE CLASS D2 ASSEMBLY AND LEISURE) (RETROSPECTIVE), EXTERNAL ALTERATIONS AND EXTENSION TO EXISTING BUILDING TO FORM AMENITIES BLOCK AND ASSOCIATED CAR PARKING PROVISION AT LOWER DAMGATE FARM, ILAM MOOR LANE, ILAM (NP/SM/0915/0895 412682/353335 27/9/2016/CF)**

**Introduction**

In summary, the application proposes the change of use of a portal framed building previously used for agriculture at Lower Damgate Farm, off Ilam Moor Lane, to allow the building to be used to host events. The application is partially retrospective because the building is already being used to host wedding functions and other events. The application has been recommended for refusal by officers but a decision on this application was deferred at the Authority's Planning Committee in August of this year. A decision was deferred to allow further consideration of possible planning conditions that could be used to make the proposed development acceptable in planning terms.

**Reasons for Refusal**

The original officer's report is attached as Appendix 2. It considers the original proposals to hold 15 weddings, 6 charity events, 6 community events, 6 residential workshops per year, with two short events being held on a weekly basis throughout the year in the building at Lower Damgate. The original officer's report concludes that these proposals should be refused planning permission for the following reasons:

1. **Lower Damgate cannot be deemed to be an appropriate location for the scale of the development proposed in this application because the scale of the use of the building proposed in this application would harm the character and amenities of the local area contrary to saved Local Plan policies LE4(b)(i) and LE4(b)(ii). The use of the building at the scale proposed would be also be unneighbourly contrary to saved Local Plan policy LC4, policy GSP3 of the Core Strategy and core planning principles in the Framework.**
2. **Tranquillity is intrinsically linked to the special qualities and appreciation of the character of the surrounding landscape and the use of the building at Lower Damgate at the scale proposed would detract from the tranquillity of its landscape setting. The application therefore also conflicts with the landscape conservation objectives of policies GSP1, GSP2 and L1 of the Core Strategy and paragraph 115 of the Framework.**
3. **For the above reasons, the development proposals do not accord with the social and environmental principles of sustainable development and the harm arising from the grant of planning permission would not be demonstrably or significantly offset or outweigh by any economic benefits to the rural economy that might arise from the events being held at Lower Damgate. The application therefore conflicts with core planning principles in the Framework and with policy GSP1 of the Core Strategy.**

**Suggested Conditions**

National Planning Practice Guidance says when used properly, conditions can enhance the quality of development and enable development proposals to proceed where it would otherwise have been necessary to refuse planning permission, by mitigating the adverse effects of the development. Paragraph 203 of the National Planning Policy Framework ('the

Framework') states "Local planning authorities should consider whether otherwise unacceptable development could be made acceptable through the use of conditions". Paragraph 206 of the National Planning Policy Framework states "Planning conditions should only be imposed where they are: (i) necessary; (ii) relevant to planning and; (iii) to the development to be permitted; (iv) enforceable; (v) precise and; (vi) reasonable in all other respects."

Since the application was deferred, the applicant has submitted a full list of suggested conditions, which has been attached to this report as Appendix I. These conditions would be accepted by the applicant if permission were to be granted and the applicant considers these conditions would be more than sufficient to protect amenity, the environment and the beauty and tranquillity of the National Park if permission were to be granted. This report goes on to discuss the appropriateness of the conditions suggested by the applicant, including whether they would meet the relevant tests for conditions and/or address the reasons for refusal of the current application set out in the original officer report. The report also discusses the list of conditions suggested by the applicant in the context of the conditions suggested by the three statutory consultees that have commented on this application.

### **Statutory Consultees**

County Council (Highway Authority) – no objections to the current application subject to the following conditions:

1. The development hereby approved shall not operate other than in complete accordance with the submitted Travel Plan document dated March 2016 unless otherwise agreed in writing by the Authority.
2. The development hereby permitted shall not be brought into use until the access, parking, servicing and turning areas have been provided in accordance with the approved plans. The parking, turning and servicing areas shall thereafter be retained unobstructed as parking, turning and servicing areas, during functions, for the life of the development.

District Council (Environmental Health) - no objections in principle to the proposed development subject to the following conditions:

1. Unless prior permission has been obtained in writing from the Local Planning Authority, all noisy activities shall be restricted to the following times of operations.
  - 08:00 - 18:00 hours (Monday to Friday);
  - 08:00 - 13:00 hours (Saturday)
  - No working is permitted on Sundays or Bank Holidays.
2. The machinery, plant or equipment including air condition and ventilation systems ("machinery") installed or operated in connection with the carrying out of this permission shall be so enclosed and/or attenuated that the noise generated by the operation of the machinery shall not increase the background noise levels during day time expressed as LA90 [1hour] (day time 07:00-23:00 hours) and/or (b) LA90 [15 mins] during night time (night time 23:00-07:00 hours) at any adjoining noise sensitive locations or premises in separate occupation above that prevailing when the machinery is not operating. Noise measurements for the purpose of this condition shall be pursuant to BS 4142:2014.
3. Any amplified sound system used in connection with this permission shall be installed

with a suitably calibrated noise limiter so as to prevent the transmission of noise and vibration into any neighbouring premises. The details of the noise limiter should be submitted to and approved by the Local Planning Authority. This noise limiter should be maintained in accordance with manufacturer's instructions.

4. No amplified music shall be played outside the building being proposed in connection with this permission.
5. Noise generated by the operations within the premises by virtue of the granting of this permission shall not cause any increase in the pre-existing background noise levels 32dB LA90 (1hr) between 07.00 hours and 23.00 hours (day time) and 26dB LA90 (15mins) between 23.00 hours and 07:00 hours (night time) when measured at the nearest noise sensitive receptor.
6. The artificial lighting incorporated into this site in connection to this application shall not increase the pre-existing illuminance at the adjoining light sensitive locations when the light (s) is (are) in operation.

Parish Council - support the application subject to the imposition of the following conditions:

1. At each evening event there should be at least one staff member (excluding catering staff) for every 30 guests.
2. One staff member should have specific responsibility for ensuring that doors are kept closed at all times except when guests are entering and exiting.
3. Another staff member should have specific responsibility for managing parking.
4. All picking up and setting down by coaches should be in the yard and not on the road.
5. All music should finish by 11:30 pm.
6. All non-resident guests should leave the venue by midnight.
7. The maximum number of attendees at any event should not exceed 120.
8. The daytime recreation area should be in a field behind the buildings and not adjacent to the road. Therefore the red line on document 3572-01B (Location Plan, Site Plan and Car Parking) should be extended to include the field to the east of the barn.

Since the Authority's Planning Committee in August, the Parish Clerk has written to highlight the Parish Council's concerns that the daytime recreation area should be behind the buildings and not adjacent to the road. The Parish Clerk goes on to say this is because the Parish Council believe that noise from activities in this area, which is even closer to neighbours than the portal building, could be just as intrusive as that from the building.

### **Representations**

Since the meeting of the Authority's Planning Committee in August, a further representation has been received from the owners of Damgate Farm; this is summarised below.

At the time of the original officer report, 36 letters of support for the current application and seven letters of objection had been received by the Authority. A further representation from the Friends of the Peak District (CPRE) had also been received by the Authority raising firm objections to the application.

However, after the decision was made to defer this application at the meeting of the Planning Committee in August, a complaint was received that some representations are not genuine and that some representations may have, allegedly, been submitted fraudulently. The specific concern that was raised in the letter from a previous owner of Damgate Farm was that the Authority's website contained a representation that purported to be from her and which supported the application; Damgate Farm lies on the opposite side of the road to Lower Damgate. She states in her letter that she did not submit the representation which was on the Authority's web site. The representation concerned has been removed from the Authority's web site and has been replaced by the letter submitted by Damgate Farm's previous owner. The initial representation should now be disregarded. The circumstances behind this matter are currently under investigation so they are not referred to in any more detail in this report.

It should also be noted that the initial representation (subject of the complaint) was not specifically referred to in the original report and the officer's report did not attribute any weight to it. The initial representation was also not afforded any weight in the discussion that Members had before they moved to deferral of this application in August. Therefore, the initial representation neither influenced the original recommendation one way or another nor did it influence the decision made by Members to defer this application.

Furthermore, officers have sought to confirm the authenticity of all other representations on the application and have found no further discrepancies to date. Consequently, officers consider this application can be determined on its planning merits as a distinctly separate matter to the ongoing investigation in to the complaint that that some representations on this application are not genuine and that some representations may have, allegedly, been submitted fraudulently.

Turning to the most recent representation made by the owners of Damgate Farm, they have replied in detail to the conditions suggested by the applicant's agent. A full copy is available on the Authority's web site. The key points can be summarised as:

*"Although we have committed a great deal of time to producing these conditions we are, and have always been, vehemently opposed to the proposals for, in brief, the following reasons: The events being run affect hugely the amenity of our property, both of the our own family home and grounds but also enormously that of our holiday accommodation business too. We have suffered years of noise and disruption from events. Despite assurances from the applicant she is still not sticking to noise limits or the travel plan. We have to suffer loud music from the party barn, noise from traffic until after midnight and drunken behaviour in the fields and on the lane. We have frequently had to ask for cars associated with events to be removed from our farmyard. Why should the applicants expansion of her own business to that of an industrial scale party barn be allowed to ruin our own business which, unlike the proposals, IS in keeping with the quiet tranquil nature of the National Park? The applicant has a "thriving, high end holiday accommodation business" which is the largest in the area. The proposals cannot be necessary to fund the upkeep of her buildings and land. Most of her land is rented to a local farmer who maintains it at his own cost. The applicant has proved time and again that she cannot and will not run events in a way that preserves the unspoilt character of the area. The events are totally out of keeping with the locality".*

CONDITIONS (summarised by Officers)

- 1) All events should be run under an alcohol license.
- 2) Temporary consent of 3 years.

*This would be the same as the condition used for Brookfield Manor Hathersage, Upper House Hayfield and Beechenhill Farm Ilam despite these properties also having to invest large amounts of money.*

- 3) The number of events of any type should be limited to 8. The owners/operators shall maintain an up-to-date register of the dates of bookings and the names of all clients who

book this venue, and shall make this information available at all reasonable times to the local planning authority.

There has been a lot of confusion created around event types and their nomenclature. For the avoidance of creating any loopholes that could be exploited we think that weddings, celebrations, charity events and anything similar should simply be called an 'event' and that there should be no more than eight in any rolling calendar year.

4) There should be no more than two events in any one calendar month.

Bearing in mind most of our guests visit the area to enjoy the peace and tranquillity of the National Park we feel it is imperative that they do not have to encounter more than one event during their stay. This condition would serve to limit the effect on our amenity by allowing us to enjoy at least two weekends per calendar month in our garden with family and friends.

5) The number of attendees should be limited to no more than 80.

This is a quiet unspoilt location and events bigger than this are totally out of keeping with the setting. Events have become industrial in their size and a long way from a country celebration.

6) All music to cease by 11.00pm.

The applicant said she was prepared to accept this time at the last committee meeting in August. This would give sufficient time for all noise on site to cease by 11.30.

7) No doors or windows in the party barn to be kept open during events.

All of the noise reports submitted by and commissioned by the applicant have stressed the importance of this. If this does not happen then the specification of the buildings noise insulation becomes irrelevant.

8) Use of outside space.

The agent has stated in his report of 28th July 2016, section 8 that "All the wedding events will take place in the barn". In the same report in the last paragraph it is stated "No wedding activities take place outside the barn and if the applicant would accept a condition stating that if there were to be any activities outside the barn they would be in the field to the east of the barn close to the proposed new entrance." In his report of 15th August 2016 the agent states that "All events would take place in the barn although occasionally a community or charity event might overspill into the field to the east of the barn."

It can be deduced that the applicant is requesting permission to use outside space for events.

We would welcome the Authority's comments on this serious anomaly and ask that this be made aware to committee members in the report.

9) There should be a pre-completion sound test to ensure that proposed mitigation measures have attained the existing and predicted noise impact levels of 23- 26dB.

10) Noise generated by the operations within the premises by virtue of the granting of this permission shall not cause any increase in the pre-existing background noise levels 32dBLA90 (1hr) between 07.00 hours and 23.00 hours(daytime) and 26dB LA90 (15mins) between 23.00 hours and 07:00 hours (night time) when measured at the nearest noise sensitive receptor.

11) The future use of marquees should be prohibited. Permitted development rights should be removed.

12) Noise limiter

A detailed recommendation, with the key point being: The noise limiter shall be used and maintained so as to cut off the power to all the mains sockets within the event building in the event that the set music noise limit is exceeded.

13) Permission be non transferable.

We believe that it is important that should permission be granted for these proposals they should be conditioned such that if the applicant sell her property the permission ceases.

14) Construction & Demolition works: Time of operations

Taken from the Environmental Health Officers recommendations.

15) Plant and Machinery.

Taken from the Environmental Health Officers recommendations.

16) Noise: Sound Insulation.

Taken from the Environmental Health Officers recommendations.

17) Lighting Condition

Taken from the Environmental Health Officers recommendations.

18) The development hereby approved shall not operate other than in complete accordance with the submitted Travel Plan document dated March 2016 unless otherwise agreed in writing by the Authority.

19) The development hereby permitted shall not be brought into use until the access, parking, servicing and turning areas have been provided in accordance with the approved plans. The parking, turning and servicing areas shall thereafter be retained unobstructed as parking, turning and servicing areas, during functions, for the life of the development.

20) There shall be no firework, airborne lantern or similar displays associated with the use hereby approved carried out on site or on land within the applicants control.

21) No further events to take place until all building works etc required to convert the barn and surrounding site to the specification set out in document 3572-01B, 3572-02E, 3572-03E.

22) There should be a minimum of 6 members of staff over the age of 21 on site at all times during events.

23) There should be a parking attendant on hand to oversee the event during its entirety.

24) The applicant should be on site at all times during events to oversee the running of the events.

25) **Parking and Turning Area**

The development hereby permitted shall not be brought into use until the access, parking, servicing and turning areas have been provided in accordance with the approved plans. The parking, turning and servicing areas shall thereafter be retained unobstructed as parking, turning and servicing areas, during functions, for the life of the development.

*“We believe that every one of the above conditions is reasonable and justifiable. It is clear that the number and complexity of the conditions needed to regulate events at Lower Damgate makes them unenforceable and unworkable however without each of these conditions the amenity of both ourselves and our guests is greatly harmed. We therefore would like to comment that in our opinion the location and the building are unsuitable for the proposed use”.*

## **Discussion**

### **Size and Scale**

The original recommendation of refusal for the application was based on concerns that the proposed use of the barn would harm the valued characteristics of the local area and would be unneighbourly because of the number of events proposed and the capacity of the building, which can accommodate up to 120 guests. The location of Lower Damgate in a remote location in open countryside and within a particularly tranquil and settled pastoral landscape exacerbated these concerns.

It was considered that a ‘trial run’ by way of issuing a temporary consent would not be appropriate in this case because the events have already been taking place and have already resulted in complaints to the Authority. The applicant is also intending to make some alterations to the building used for the events to improve its appearance and provide additional noise insulation. As such, the applicant could need to make a relatively substantial capital investment in the building to be able to implement any permission for the current application and a temporary consent would not be appropriate in these circumstances.

Therefore, a more appropriate way to address concerns about the proposed use of the portal framed building would be to seek to reduce the number of events to reduce the associated impacts of holding events in the building such as noise and disturbance and increased traffic movements. In this respect, the original application sought permission to hold 15 wedding functions, 6 charity events, 6 community events, 6 residential workshops per year, with two short events being held on a weekly basis throughout the year at Lower Damgate. The applicant is now suggesting conditions restricting the number of events to 12 wedding functions (with amplified music); 2 one-off community and charity events, and 1 local school

event; and no more than 2 small events/workshops per week (such as yoga classes and art classes).

However, officers consider the reduced number of events would still result in a relatively large number of events at Lower Damgate. Moreover, the number of wedding events should be limited to twelve in total *with or without* amplified music for the sake of clarity if it were to be considered that 12 wedding events could be accommodated in this location. The applicant also suggests conditions limiting the maximum number of guests (excluding staff) at a wedding celebration or community/charity event in the barn to 120 and limiting the maximum number of participants attending small events/workshops to 30. Whereas it might be relatively easy to monitor the number of events held at Lower Damgate, monitoring the number of guests at these events would rely much more heavily on the applicant properly recording this information and supplying it to the Authority.

In these respects, a restriction on the number of guests in a building that appears to have a capacity of around 120 people in any event does not seem strictly necessary and from an officer perspective restricting the total number of events would be a more effective way of reducing the potential of the events to result in harm to the character and amenities of the local area and protect the tranquillity of Lower Damgate's landscape setting. In this case, officers remain concerned that the reduction in the number of events at Lower Damgate proposed by the applicant is not sufficient to achieve these objectives and would not make the proposals acceptable in planning terms.

#### Noise and Disturbance

One of the reasons that the number of events is a key issue is not just related to noise from amplified music from within the building, as the noise and disturbance from other activities associated with the events also causes concern. This includes the use of outdoor amenity space at Lower Damgate, vehicular movements, and other activities taking place outside of the building when events are taking place. This is why officers consider the total number of events should be limited to a specific number, regardless of whether there would be amplified music or not. Nonetheless, conditions seeking noise attenuation measures to avoid noise breaking out from the building would be reasonable and necessary to prevent the proposed use harming the tranquillity of the local area and in the interests of safeguarding the amenities of the nearest neighbouring property.

To this end, the applicant has suggested a number of conditions related to noise attenuation measures, including the relevant conditions suggested by the District Council's Environmental Health Officer and some supplementary conditions relating to a noise limiter and a requirement for all noise attenuation measures to be carried out prior to the commencement of any events with amplified music. However, the Authority does not have the necessary expertise or equipment to monitor compliance with several of these suggested conditions; there is also a risk that monitoring these suggested conditions would place an unduly onerous burden on the Authority. For example, it would require an on-site presence late at night to ensure compliance with several of the conditions relating to noise attenuation as well as the additional conditions suggested to deal with noise and disturbance from activities taking place outside of the building. Such conditions have been used on a relatively recent planning permission at Brookfield Manor, near Hathersage, but in that case the permission is a temporary one so it is, to some extent, in the applicant's interest to ensure that they are complied with. That site also had a long history of use as a conference centre, with weddings and other events.

The Parish Council and the Environmental Health Officer have also commented on the potential impact of activities taking place outside of the building, and the Parish Council have stated specifically that outdoor activities should take place on the eastern side of the building rather than on land on the western side of the building, which is closer to the nearest neighbouring properties. The applicant's suggested conditions seek to restrict the use of the

land to the west of the building and they would also place a restriction on 'hours of operation' to between the hours of 9.00am and midnight. It is considered these types of conditions would be reasonably necessary if permission were to be granted, especially when taking into account representations on this application.

Amended plans submitted to support the applicant's list of suggested conditions show a fence along the western side of the building to place a physical barrier between the building and this land and the plans show that access to the building for events will be restricted to doors in its east facing elevation. The smoking shelter would also be on the eastern side of the building and the construction of these physical elements of the scheme would be relatively easy to monitor. However, complaints about non-compliance with the restriction on the hours of operation, for example, or complaints about guests spilling out into the amenity space on the western side of the building (despite the fencing) would be much more difficult to monitor and enforce. This potential problem is exacerbated by the relatively remote location of Lower Damgate and the likelihood that monitoring compliance with conditions relating to noise breakout, restrictions on the use of outdoor amenity spaces, and hours of operation would almost certainly rely on the occupants of the nearest neighbouring properties reporting any alleged breaches of planning controls to the Authority after the breach has taken place.

The Parish Council also suggests several conditions relating to the minimum numbers of staff to be present at events and particular actions to be taken by members of staff. However, this type of conditions would normally be considered to fall outside of planning controls and would be measures that would more usually be considered as part of an application for a premises licence. Some of the issues raised by this planning application would normally be addressed by a premises licence but it appears a premises licence is not required to hold the particular type of events taking place at Lower Damgate. This means that the potential for adverse noise impacts or disturbance arising from the behaviour of guests at Lower Damgate would not be addressed through licensing controls or monitored or enforced as part of the licensing regime as they might be at a premises that operated under a premises licence.

Therefore, if permission were to be granted for this application, the Authority would be likely to be expected to take on much more responsibility for monitoring and potentially the enforcement of a wider range of conditions that would relate to the proper management of events at Lower Damgate than might be expected in a more typical situation where a particular premise or event is operated under a premises licence as well as any necessary planning permissions. Consequently, this situation adds to officers' concerns that planning conditions that might appear to mitigate for the potential adverse impacts of the proposed development are not necessarily conditions the Authority would be practicably able to enforce.

### Traffic Management

The applicant has included the two conditions suggested by the Highway Authority securing parking arrangements and compliance with the submitted traffic plan in the submitted list of suggested conditions. Amended plans submitted with this list of conditions clarifies the off-road turning arrangements for coaches and the original officer report does not raise any further concerns about the proposed parking arrangements or the Travel Plan. The report does suggest that it would be reasonable and necessary to secure both these elements of the proposals if permission were to be granted. However, there is also a strong likelihood that monitoring compliance with these conditions would rely on the occupants of the nearest neighbouring properties reporting any alleged breaches of planning control.

### Landscape and Visual Impact

The potential impact of the proposed use of the building on its landscape relates mostly to the impact of the activities taking place at Lower Damgate on the tranquillity of the local area. Paragraphs 115 and 123 of the Framework set out why it is important to consider whether the



conditions discussed in the above sections of this report would protect an area of particular tranquillity within a National Park that has remained relatively undisturbed and is prized for its recreational and amenity value as well its inherent scenic beauty not least because of the absence of noise and disturbance associated with more developed areas.

This approach is consistent with relevant policies in the Development Plan and underpins why conditions related to noise and disturbance, traffic movements, and hours of operation, for example, are highly relevant to planning and directly related to the proposed development, and why these conditions would be reasonable and necessary. Therefore, in terms of the six tests for conditions, one key issue highlighted in the above sections of the report is the enforceability of a number of conditions suggested by the applicant and statutory consultees commenting on this application. In some cases, there is a problem with the precise wording of some of the conditions suggested by the applicant, which would also undermine the enforceability of those conditions.

In summary, if a condition is found to be unenforceable then it would not meet the six tests for planning conditions set out in the Framework and a condition should not be used if it would not be practicably possible to enforce the condition. If it is not possible to enforce conditions that are intended to mitigate the adverse impact on landscape character and the amenities of the local area, the Authority would be unable to demonstrate that the conditions would be capable of making the proposed development acceptable in planning terms or address the original reasons for refusal of this application.

In terms of the visual impact of the proposed development, the application also proposes operational development and amended plans have been submitted to show the improvements to the mostly blockwork building that would be clad with timber boarding and provided with a new, insulated roof if permission were to be granted for the current application. The amended plans also clarify the additional noise insulation that would be provided to the walls of the building to help prevent noise breakout and the plans clarify the amendments to openings, which have been made to try to further reduce the possibility of noise spilling out of the building and affecting the nearest neighbouring property. In addition to these proposals, the amended plans show additional planting to help further soften the visual impact of the building within its landscape setting and the addition of the fence, mentioned above, to restrict access to land to the west of the building. A condition suggested by the Environmental Health Officer restricting external lighting has also been included by the applicant in the list of suggested conditions.

The physical nature of these works means that it is much easier to enforce. Monitoring compliance with conditions relating to the development being carried out in accordance with the amended plans or a condition relating to landscaping can be checked at any time with reference to physical works on the ground. However, it is not clear whether the condition suggested by the applicant relating to noise mitigation measures being completed prior to any events with amplified music take place in the building includes the noise insulation proposed for the building, which means it is not clear when the applicant intends to undertake the proposed improvements to the existing building. The timing of the submission of the landscaping scheme prior to the commencement of the proposed development as suggested by the applicant is also problematic insofar as this application seeks retrospective planning permission i.e. the proposed development has already commenced. This condition should instead require submission and implementation of a scheme within a specific timescale

It can therefore be considered the suggested conditions relating to building works, external lighting and landscaping would be related to planning matters and would be directly related to the proposed development but may need to be more precise before they were properly enforceable. These conditions are also reasonable and necessary in the interests of minimising the impact of the proposed development on its landscape setting and conserving and enhancing the setting of the adjacent Grade II listed farm house and associated outbuildings. However, the original officer's report does state that these measures would not

achieve such a significant enhancement to the site and its setting that would justify a large number of events at Lower Damgate or properly offset or outweigh the potential adverse impacts of these events.

Equally, officers remain of the view that the events at Lower Damgate may provide some socio-economic benefits to the local area but these benefits would be significantly and demonstrably outweighed if the potential harmful impacts of the development cannot be properly mitigated. Moreover, the Sandford Principle as set out in policy GSP1 may also have to be taken into account in this case. GSP1 says where there is an irreconcilable conflict between the statutory purposes, the conservation and enhancement of the National Park will be given priority. Consequently, in light of the reasons for deferring a decision on this application and the issues raised in this report, the key issues are now considered to whether the proposed works to the building and appropriate planning conditions would be able to mitigate the potential adverse effects of the proposed development to the extent officers could recommend conditional approval of the current application.

## **Conclusions**

In conclusion, Lower Damgate lies in a sensitive location in open countryside where it is considered particularly difficult to accommodate the numbers of events now proposed by the applicant when taking into account the number of people that might attend those events. In particular, the events would take place in a part of the National Park that is valued for its tranquillity and scenic beauty and in a location where the potential adverse impacts of the events would be demonstrably harmful to the character and amenities of the local area.

Although planning conditions have been suggested by the applicant and statutory consultees, the above report sets out the difficulty of securing compliance with conditions that relate to the operation and management of events at Lower Damgate and noise attenuation measures, for example. Consequently, there remains the potential for these proposals to harm the tranquillity of the local area and the potential for these proposals to be unneighbourly in a manner that cannot be properly mitigated by planning conditions if the Authority would not be practicably able to enforce those conditions. Moreover, the Authority would have to place responsibility for monitoring compliance with many of the suggested conditions in the hands of third parties or through expertise and equipment the Authority does not have.

In this case, officers consider the most effective way to make the proposed development acceptable in planning terms and address the original reasons for refusal of this application would be to reduce the total number of events to reduce the potential adverse impacts of those events. The applicant has suggested a reduction in the total number of events to 12 wedding functions (with amplified music); 2 one-off community and charity events, and 1 local school event; and no more than 2 small events/workshops per week (such as yoga classes and art classes. However, officers still consider the number and size of the events would amount to a substantially more intensive use of the building than can be accommodated at Lower Damgate. Accordingly, officers would continue to recommend this application is refused planning permission for the reasons set out in the original report, and as set out on the first page of this report.

Notwithstanding an officer recommendation of refusal, and without prejudice to this officer recommendation, should Members consider there are sound planning reasons to approve this application officers would recommend that the following conditions should be attached to any permission.

## **Operations**

1. Subject to the provisions of Condition 9 (below), there shall be no more than eight events in any one calendar year at Lower Damgate with more than 30 guests in

attendance and no more than one event with more than 30 guests shall take place at Lower Damgate in any five day period.

2. Events at Lower Damgate with more than 30 guests in attendance shall not take place outside the following hours: 11:00 – 23:00, Mondays – Fridays; 11:00 Saturdays – 00:00 Sunday morning; and 11:00 – 2300 Sundays.
3. There shall be no amplified music played at the premises unless there is an expressly consented event being held that day and no amplified music shall be played at the premises after 23:30.
4. No amplified music shall be played outside the building subject of this permission at any time during the lifetime of the development hereby permitted.
5. No acoustic music shall be played at the premises after 18:00 or before 11:00 on any day.
6. There shall be no more than two events (including workshops or community events) with 30 or less guests in attendance at Lower Damgate in any one week and any event with 30 or less guests shall not take place other than between the hours of 10:00 and 18:00.
7. The land to the west of the building subject of this permission and between this building and the public highway shall not be used for any purpose other than for agriculture as described by section 336 of the Town and County Planning Act 1990, as amended.
8. The owner of the premises shall maintain a register of all event and workshop bookings (including the planned date, start time and estimated number of guests) for each calendar year which shall be made available for inspection by the Authority on request.

#### **Alterations to existing Building**

9. No additional events of any type shall take place at Lower Damgate after the date of this permission until the alterations to the existing building, including the erection of a smoking shelter and all noise attenuation measures, and until the construction of a new fence on the western side of the building have been carried out in complete accordance with the details shown on the amended plans, Drawing No.s 3572-03E (Elevations) and 3572-02E (General Arrangement), received by the National Park Authority on 20 September 2016.

#### **Construction Phase**

10. Unless prior permission has been obtained in writing from the National Park Authority, all noisy activities shall be restricted to the following times of operations:
  - 08:00 - 18:00 hours (Monday to Friday);
  - 08:00 - 13:00 hours (Saturday)
  - No working is permitted on Sundays or Bank Holidays.

In this instance a noisy activity is defined as any activity (for instance, but not restricted to, building construction/demolition operations, refurbishing and landscaping) which generates noise during the construction phase of the proposed development that is audible at the site boundary.

### **Machinery including Air Conditioning and Ventilation Systems**

11. The machinery, plant or equipment including air condition and ventilation systems ("machinery") installed or operated in connection with the carrying out of this permission shall be so enclosed and/or attenuated that the noise generated by the operation of the machinery shall not increase the background noise levels during day time expressed as LA90 [1hour] (day time 07:00-23:00 hours) and/or (b) LA90 [15 mins] during night time (night time 23:00-07:00 hours) at any adjoining noise sensitive locations or premises in separate occupation above that prevailing when the machinery is not operating. Noise measurements for the purpose of this condition shall be pursuant to BS 4142:2014.

### **Noise Attenuation**

12. Any amplified sound system used in connection with this permission shall be installed with a suitably calibrated noise limiter so as to reduce the transmission of noise and vibrations. The details of the noise limiter, including the specifications of maximum noise and vibration levels that would trigger the noise limiter to cut out the sound system on the premises, shall be submitted to and approved by the National Park Authority prior to any further events taking place at Lower Damgate after the date of this permission. Thereafter, the noise limiter shall be maintained in accordance with manufacturer's instructions and the specifications approved by the National Park Authority.
13. Noise generated by the operations within the premises by virtue of the granting of this permission shall not cause any increase in the pre-existing background noise levels 32dB LA90 (1hr) between 07.00 hours and 23.00 hours (day time) and 26dB LA90 (15mins) between 23.00 hours and 07:00 hours (night time) when measured at the nearest noise sensitive receptor.

### **External Lighting**

14. The artificial lighting incorporated into this site in connection to this application shall not increase the pre-existing illuminance at the adjoining light sensitive locations when the light (s) is (are) in operation.

### **Travel Plan**

15. The development hereby approved shall not operate other than in complete accordance with the submitted Travel Plan document dated March 2016 unless otherwise agreed in writing by the National Park Authority in liaison with the local highway authority.

### **Parking and Access**

16. The development hereby permitted shall not be brought into use until the access, parking, servicing and turning areas have been provided in accordance with the details show on Drawing no. 3572-01B (Location Plan, Site Plan and Car Parking) received by the National Park Authority on 20 September 2016. The parking, turning and servicing areas shall thereafter be retained unobstructed as parking, turning and servicing areas, during functions, for the life of the development.

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## **Landscaping**

17. Unless within 3 months of the date of this decision<sup>1</sup>, the details of the landscaping scheme shown on Drawing no. 3572-01B (Location Plan, Site Plan and Car Parking), including details of species mix, is submitted in writing to the National Park Authority for approval, and unless the approved scheme is implemented within the first available planning season following the National Park Authority's approval, the use of Lower Damgate for events shall cease until such time as a scheme is approved and implemented.
18. If no scheme in accordance with Condition 17 (above) is approved within 6 months of the date of this decision, the use of Lower Damgate for events shall cease until such time as a scheme approved by the National Park Authority is implemented.
19. Any plants which subsequently die or are lost within the first 5 years of being planted in accordance with the scheme subject of Condition 17 (above) shall be re-placed with plants of the same species.

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<sup>1</sup> The planting season is normally between October of one year and the end of March the following year; the timing of condition 17 and 18 anticipates submission and approval of scheme before the end of the next available planting season so that the proposed planting would be carried out prior to April 2017.