

**11. S.73 APPLICATION – REMOVAL OR VARIATION OF CONDITIONS 2, 4 AND 15 ON NP/DDD/0713/0582 AT ROCKMILL BUSINESS PARK, THE DALE, STONEY MIDDLETON, (NP/DDD/1219/1344 AM)**

**APPLICANT: MR COLIN HALL**

**Summary**

- This application seeks to vary planning conditions to change the type of tourist accommodation within the Rockmill Building and proposes various design amendments.
- The type of accommodation proposed within the Rockmill building is serviced holiday apartments which fall within Use Class C3 (dwelling house) and not a hotel or aparthotel falling within Use Class C1 (hotels).
- Policy requires that self-catering accommodation must be subject to a holiday occupancy condition. Therefore if permission is granted it is necessary to vary planning conditions imposed upon the Rockmill building accordingly.
- The applicant has proposed an alternative mechanism to secure the completion of the whole development as an alternative to the current planning obligation, which requires the Rockmill, building and Cupola building to be developed concurrently. We consider that it is necessary for a planning obligation to secure the delivery of both elements of the scheme. Therefore, if permission is granted it is necessary to first enter into a planning obligation to secure this.
- The proposals are acceptable, in accordance with the development plan and are recommended for approval subject to the provision of amended plans, imposition of planning conditions and prior entry into a planning obligation.

**Site and Surroundings**

1. The Rockmill Business Park complex forms part of the group of industrial premises along the southern side of The Dale, some 390m beyond the confines of Stoney Middleton village. The site is adjacent to the south side of the A623, the main Chesterfield/Baslow/Chapel-en-le Frith Road. The buildings are at the foot of the steep sided valley, 'The Dale' which runs westwards from Stoney Middleton village with the A623 running along the valley floor. The existing buildings at Rockmill are mainly single-storey, with a small two-storey section at the eastern end.
2. A narrow brook runs eastwards between the site and the road. This land immediately adjacent to the brook is within Flood Risk Zone 3. Vehicular access into the site is via a bridge over the brook. To the south of the building complex the land rises steeply. Within this area of steeply sloping valley, side there is a small cave entrance, which is situated 51m south-west of the building complex and outside of the application site boundary.
3. The 'Cupola' site is situated 45m to the east of the main site and separated from it by an intervening business, which is in separate ownership. The second site is occupied by a flat-roofed two-storey office building with its own bridge access over the brook to the A623.
4. For the purposes of this report, the accommodation building site will be described as the 'Rockmill site' (and Rockmill building) and the heritage building site will be

described as the ‘Cupola site’ (and Cupola building).

### **Proposal**

5. This application has been submitted under section 73 of the Town and Country Planning Act 1990. It seeks the variation or removal of planning conditions imposed on planning permission NP/DDD/0616/0564 which granted planning permission for an amended scheme to re-develop the business park to create a *“heritage centre with craft shop / café with associated retailing, two tied worker accommodation units, tourist accommodation space, training room / community facility, café and office space”* (originally approved under application NP/DDD/0713/0582).
6. The application proposes to vary planning conditions 2, 4 and 15.
7. Planning condition 2 specifies the approved plans for the development.
8. Planning condition 4 restricts the approved uses in both buildings to the areas shown on the floor plans.
9. Planning condition 15 states that the uPVC windows shall be vertical sliding sash window frames and requires the frames to be installed in accordance with the details that have been approved.
10. A revised set of application drawings have been submitted. These include revised plans and elevation drawings for the accommodation building on the Rockmill site and the heritage centre on the Cupola site and a revised site plan for the whole development.

### **Proposed changes to Rockmill building**

11. The application proposes to change the accommodation and facilities within the building. The plans show the previously approved café, restaurant, kitchens, food stores, office and staff rooms on the ground floor of the building have now all been removed. Apartments are now proposed on all floors rather than conventional hotel rooms. The application describes the accommodation as an aparthotel.
12. 49 apartments are proposed within the building, over all four floors. These comprise 43 single bedroom apartments and 6 double bedroom apartments. Each apartment would include bedroom(s), living space, kitchen and bathroom. The size of the apartments would range from 21 to 65 square metres with the majority between 30 to 45 square metres. The bedroom / living space within the smaller apartments would be within a single room, whereas separate bedrooms would be provided in the larger apartments. The ground floor apartments would have private external patio areas separated by privacy screens.
13. A central entrance lobby and lounge would be provided at ground floor. The eastern side of the room would have a folding door system to create a 28 square metre area for use by the local community. The applicant states that a ‘coffee shop’ would be located in the west side of the room with facilities to provide drinks and snacks.
14. Access to the apartments would be via internal corridors off the entrance lobby or accessible by a staircase and lift. A laundry / staff kitchen and a set of individual toilets would be provided on the ground floor along with a locker / bicycle store.
15. The plans also propose a change to the external appearance of the building which is

not a “non-material amendment”. Externally glazed balconies are proposed to the rear elevation with sets of doors replacing windows where a balcony or patio area is proposed. Alterations are also proposed to window and door openings at ground floor. Roof lights are proposed to the side elevations of the central gable element to provide light into accommodation in the roof space.

#### Proposed changes to Cupola building

16. The internal layout of the heritage centre is amended. At ground floor, the position of the kitchen is changed but the overall type size and type of uses is unchanged.
17. Outer folding doors are proposed to the approved terrace area to the rear of the managers’ residential accommodation units. This would mean that the approved terrace would become additional living space, increasing the size of each unit by 21 square metres. The proposed doors would also provide access to the land to the rear of the accommodation.
18. Other minor changes to the elevations are proposed including solar panels to the front roof light strip and for the side elevations of the rear dormer window to be cladding rather than glazed.

#### Proposed changes to site plan

19. The existing access to the Rockmill building would be retained and the position of the footbridge and crossing would be amended. Four parking spaces are proposed to the front of the building. The total number of parking spaces in the Rockmill car park would be reduced from 100 to 97 (with an additional four spaces for disabled visitors).
20. A covered bicycle store is shown to the side of the Rockmill building and an area of drystone walling to the rear.
21. The access to the Cupola building is amended with a public footpath and dropped kerb / tactile paving shown. Solar slates are shown to the roof of the terrace to the rear of the building.

#### **RECOMMENDATION:**

**That the application be APPROVED subject to the submission and re-consultation of amended plans for the Cupola building and Rockmill building with delegated authority to the Director of Conservation and Planning to agree amended plans; and**

**Subject to prior entry into a S.106 legal agreement to secure a mechanism for securing the completion of the Cupola building (external shell) concurrently with the Rockmill building and requiring the Cupola to be completed no later than two years after the completion of the Rockmill building. The S.106 shall also secure the provision of community space in the Rockmill building, highway works, travel plan, management plan and control of occupancy of the worker accommodation units; and**

**Subject to the following planning conditions:**

- 1. Vary planning condition 2 to relevant amended plans.**
- 2. Vary planning condition 3 to a 28 day holiday occupancy condition with records of occupancy to be kept and made available to the LPA.**

**3. Re-impose planning conditions imposed upon NP/DDD/0616/0564 taking into account design amendments and conditions that have already been partially discharged.**

**Key Issues**

- What is the nature of the proposed tourist accommodation.
- Whether it is necessary for the proposed tourist accommodation to be subject to a holiday occupation condition.
- Whether it is necessary for a planning obligation to require that the erection of the two approved buildings is developed concurrently.
- Whether the proposed design amendments are acceptable.

**Relevant planning history**

2013: NP/DDD/0811/0774: Outline planning permission granted conditionally for Re-development of business park to create heritage centre with cafe/community facility, craft/work units, craft shop with associated retailing, tourist accommodation with underground carparking. Planning permission was granted subject to a 28 day holiday occupancy condition.

2016: NP/DDD/0713/0582: Full planning permission granted conditionally for re-development of business park to create - heritage centre with craft shop / café, with associated retailing, two tied worker accommodation units, tourist accommodation space, training room/community facility, café and office space.

Planning permission was granted subject to planning conditions and a planning obligation (S.106 legal agreement) requiring the accommodation centre and heritage centre to be developed concurrently, provision of community space, highway works and control of occupancy of the worker accommodation units.

2016: NP/DDD/0616/0564: Application to vary or remove conditions imposed upon NP/DDD/0713/0582 granted conditionally.

The scheme included variations to the external appearance of the buildings, and an increase in floor space for both buildings for ancillary uses. The layout of the accommodation building was also changed to provide 71 bedrooms.

2016: NP/DDD/0616/0565: Full planning permission granted conditionally for bridge widening to accommodate coach drop off.

2017: NP/DIS/0517/0556: Application to discharge conditions imposed upon NP/DDD/0517/0556.

2017: NP/DDD/0317/0227: Application for landscaping work including formation of paths to link the heritage and accommodation centres to the quarry path. Application has not determined and is still live.

## **Consultations**

Highway Authority – The conditions were not imposed at the Highway Authority's request and therefore make no comment. Previous comments, conditions and notes relating to the original application continue to apply.

District Council – No response to date.

Parish Council – No objection.

Environment Agency – The conditions were not requested by the Environment Agency and therefore make no comment.

PDNPA Ecology – No response to date.

## **Representations**

No representations have been received to date.

## **Main Policies**

Relevant Core Strategy policies: GSP1, GSP2, GSP3, GSP4, DS1, L1, L2, RT1, RT2, CC1 and HC1

Relevant Development Management policies: DMC1, DMC3, DMC4, DMC11, DMC12, DMC13, DMC14, DMC15, DMR3, DMT3, DMT6, DMT8, DMU1 and DMU2

## **National Planning Policy Framework**

22. The development plan comprises the Core Strategy 2011 and the Development Management Policies 2019. These provide are consistent with the National Park's statutory purposes and are up-to-date and in accordance with the National Planning Policy Framework (NPPF). We should therefore give our policies full weight in the determination of this application.
23. Paragraph 172 of the NPPF says that great weight should be given to conserving and enhancing landscape and scenic beauty in National Parks, which have the highest status of protection in relation to these issues. The conservation and enhancement of wildlife and cultural heritage are also important considerations in these areas, and should be given great weight in National Parks.
24. Paragraph 172 of the NPPF continues that the scale and extent of development within these designated areas should be limited. Planning permission should be refused for major development other than in exceptional circumstances, and where it can be demonstrated that the development is in the public interest. Consideration of such applications should include an assessment of:
  - a) the need for the development, including in terms of any national considerations, and the impact of permitting it, or refusing it, upon the local economy;
  - b) the cost of, and scope for, developing outside the designated area, or meeting the need for it in some other way; and
  - c) any detrimental effect on the environment, the landscape and recreational opportunities, and the extent to which that could be moderated.

25. Paragraph 77 of the NPPF says that in rural areas, planning policies and decisions should be responsive to local circumstances and support housing developments that reflect local needs. Local planning authorities should support opportunities to bring forward rural exception sites that will provide affordable housing to meet identified local needs, and consider whether allowing some market housing on these sites would help to facilitate this.
26. Paragraph 78 of the NPPF says that to promote sustainable development in rural areas, housing should be located where it will enhance or maintain the vitality of rural communities. Planning policies should identify opportunities for villages to grow and thrive, especially where this will support local services. Where there are groups of smaller settlements, development in one village may support services in a village nearby.
27. Paragraph 83 of the NPPF says that planning decisions should enable:
- a) the sustainable growth and expansion of all types of business in rural areas, both through conversion of existing buildings and well-designed new buildings;
  - b) the development and diversification of agricultural and other land-based rural businesses;
  - c) sustainable rural tourism and leisure developments which respect the character of the countryside; and
  - d) the retention and development of accessible local services and community facilities, such as local shops, meeting places, sports venues, open space, cultural buildings, public houses and places of worship.
28. Paragraph 54 of the NPPF says that local planning authorities should consider whether otherwise unacceptable development could be made acceptable through the use of conditions or planning obligations. Planning obligations should only be used where it is not possible to address unacceptable impacts through a planning condition.
29. Paragraph 55 of the NPPF says that planning conditions should be kept to a minimum and only imposed where they are necessary, relevant to planning and to the development to be permitted, enforceable, precise and reasonable in all other respects. Agreeing conditions early is beneficial to all parties involved in the process and can speed up decision making. Conditions that are required to be discharged before development commences should be avoided, unless there is a clear justification.
30. Paragraph 56 of the NPPF says that planning obligations must only be sought where they meet all of the following tests:
- a) necessary to make the development acceptable in planning terms;
  - b) directly related to the development; and
  - c) fairly and reasonably related in scale and kind to the development.

#### Core strategy

31. GSP1 says that all development must be in accordance with the National Park's legal purposes and duty. Where there is irreconcilable conflict between the statutory purposes the Sandford Principle will be applied and the conservation and enhancement of the National Park will be given priority. GSP1. E. says that major development

should not take place within the National Park other than in exceptional circumstances. Major development will only be permitted following rigorous consideration of criteria in national policy.

32. GSP3 says that development must respect, conserve and enhance all valued characteristics of the site and buildings, paying particular attention to: impact on the character and setting of buildings; scale of development; siting, landscaping and building materials; design in accordance with our Design Guide; form and intensity of use; impact on access and traffic levels; use of sustainable modes of transport; use of sustainable building techniques and adapting to and mitigating the impact of climate change.
33. GSP4 says to aid achievement of its spatial outcomes, we will consider the contribution that a development can make including where consistent with government guidance, using planning conditions and planning obligations.
34. DS1 says that the majority of new development will be directed into Bakewell and the named settlements where there is additional scope to maintain and improve the sustainability and vitality of communities. Recreation and tourism development is acceptable in principle along with new build development for affordable housing, community facilities and small-scale retail and business premises.
35. L1 and L2 say that development must conserve and enhance valued landscape character and biodiversity. We will not approve development in the Natural Zone or development that harms any sites, features or species of biodiversity importance or their setting unless there are exceptional circumstances.
36. RT1 says that we will support facilities which enable recreation, environmental education and interpretation, which encourage understanding and enjoyment of the National Park and are appropriate to the National Park's valued characteristics. Where appropriate development should be focused on or on the edge of settlements. Wherever possible, development must reuse existing traditional buildings of historic or vernacular merit and should enhance any appropriate facilities. Where this is not possible, the construction of new buildings may be acceptable.
37. RT2 says that proposals for hotels, bed and breakfast and self-catering accommodation must conform to the following principles:
  - A. The change of use of a traditional building of historic or vernacular merit to serviced or self-catering holiday accommodation will be permitted, except where it would create unacceptable landscape impact in open countryside. The change of use of entire farmsteads to holiday accommodation will not be permitted.
  - B. Appropriate minor developments which extend or make quality improvements to existing holiday accommodation will be permitted.
  - C. New build holiday accommodation will not be permitted, except for a new hotel in Bakewell.
38. CC1 says that all development must: make the most efficient and sustainable use of land, buildings and natural resources; take account of the energy hierarchy; be directed away from flood risk areas and achieve the highest possible standards of carbon reductions and water efficiency.

39. HC1 says that provision will not be made for housing solely to meet open market demand. Housing land will not be allocated in the development plan. Exceptionally, new housing can be accepted where:
- A. It addresses eligible local needs: for homes that remain affordable with occupation restricted to local people in perpetuity or for aged persons' assisted accommodation.
  - B. It provides for key workers in agriculture, forestry or other rural enterprise in accordance with HC2.
  - C. In accordance with policies GSP1 and GSP2 it is required to achieve conservation or enhancement of a valued vernacular or listed building or in settlements listed in policy DS1.

#### Development management policies

40. DMC3 says that where development is acceptable in principle, it will be permitted provided that its detailed treatment is of a high standard that respects, protects, and where possible enhances the natural beauty, quality and visual amenity of the landscape, including the wildlife and cultural heritage that contribute to the distinctive sense of place. DMC3B sets out specific criteria that particular attention will be paid to when assessing development proposals.
41. DMC11 says that proposals should aim to achieve net gains to biodiversity or geodiversity. All reasonable measures should be taken to avoid net loss. Details of safeguards and enhancement measures for a site, feature or species of nature conservation importance must be provided in line with the Biodiversity Action Plan and any action plan for geodiversity sites. DMC12 sets out the policy for sites, features or species of wildlife, geological or geomorphological importance.
42. DMC13 says that applications should provide sufficient information to enable their impact on trees, woodlands, and other landscape features to be properly considered. Trees and hedgerows which positively contribute either as individual specimens or as part of a wider group to visual amenity or biodiversity will be protected. Development involving a loss of these features will not be permitted. Development should incorporate existing trees, hedgerows and other landscape features within the site layout.
43. DMC14 says that development that presents a risk of pollution or disturbance will not be permitted unless adequate control measures are put in place to bring the pollution within acceptable limits. DMC15 says that that development on land that is known or suspected to be contaminated or unstable will be permitted that an accredited assessment shows that this can be mitigated.
44. DMR3A says that outside settlements listed in policy DS1 where self-catering accommodation is acceptable, its use will be restricted to no more than 28 days per calendar year by any one person. DMR3. B. says that a holiday occupancy condition will be applied to self-catering accommodation if the property being converted has inadequate indoor or outdoor living space or is so closely related to adjoining properties that the introduction of residential use would cause unacceptable harm to their amenity.
45. DMT3 requires safe access to be provided. DMT6, DMT7 and DMT8 are relevant for parking standards.



46. DMU1 and DMU2 require, amongst other things, for new services for development to be placed below ground.

## **Assessment**

### **Variation of conditions**

47. Section 73 of the Town and Country Planning Act 1990 provides that an application may be made for planning permission without complying with conditions applied to a previous permission. The Authority can decide whether to grant permission subject to differing conditions (this can include imposing new conditions), remove the conditions altogether or refuse to alter conditions. However, we may only consider the question of the conditions and not revisit the principle of the development.
48. In terms of decision making, a section 73 application must be treated like any other application, and due regard paid to the development plan and any other material considerations.

### **Proposed accommodation in Rockmill building**

49. Revised plans have been submitted for the Rockmill building. These show changes to the floorplan, elevations, access and car park.
50. The approved plans are for a hotel (Use class C1) with 71 bedrooms. At ground floor the approved plans show: lobby and reception; community / meeting room; café, restaurant (with external seating); kitchen; freezer and food store; office; staff facilities; guest toilets and ancillary storage. Four cleaning cupboards are provided on each floor accessed from the corridor. The bedrooms are en-suite with no kitchen facility.
51. Planning permission was granted subject to two planning conditions that control the use of the tourist accommodation within the Rockmill building. Condition 3 restricts the use of the building to Use class C1 (hotels) and community use (Use Class D1). Condition 4 states that all uses shall be confined to the areas shown on the approved floor plans.
52. The proposed plans show 49 apartments. At ground floor, an entrance lobby and lounge would be provided. Part of the entrance lobby would have a folding door system to create a community / meeting room. Facilities to provide drinks and snacks would be available. The rest of the ground floor would be turned over to apartments.
53. The accommodation would comprise 43 one bedroom apartments and 6 two bedroom apartments. Each apartment would include bedroom(s), living space, kitchen and bathroom. The size of the apartments would range from 21 to 65 square metres with the majority between 30 to 45 square metres. The bedroom / living space within the smallest 'studio' apartments would be contained within one room, whereas separate bedrooms would be provided in the majority of apartments. The ground floor apartments would have private external patio areas separated by privacy screens.
54. The application says that the accommodation will be operated as an aparthotel. The planning statement describes each room as having an element of self-sufficiency with kitchenette, fridge, microwave, sofa and dining table combined with more conventional hotel facilities. The statement goes on to say that the aparthotel will provide a lounge

and coffee shop with dining facilities available in the Cupola building or the local area. A housekeeping service would be provided on a weekly basis.

55. The application concludes that the proposed accommodation is an aparthotel which falls within Use class C1 and that the proposal is in accordance with the existing planning permission.
56. However, the layout of the proposed accommodation would more closely reflect that of a conventional apartment block rather than a hotel. Each apartment would be accessed through its own lockable door and comprise a fitted kitchen (of various sizes), a bedroom, bathroom and living room. The smaller apartments' bedroom and living room would be within a single room but the majority of apartments would have a separate bedroom and living / kitchen space.
57. All the apartments are self-contained, are described for residential purposes and contain the facilities required for day-to-day private existence, including the normal facilities for cooking, eating and sleeping associated with use as a dwelling house (Use class C3). The only communal area is the entrance lobby / lounge. This would include facilities providing drinks and snacks and a reception / concierge, but these elements would not be unusual in a residential apartment block. Outdoor space would be limited to the ground floor, but this is not an essential element of a dwelling house and would be absent in most flats.
58. We have discussed the nature of the proposed use with the applicant. The applicant has stated that the apartments would be managed collectively and that all apartments would be available to the public to book on a nightly basis through a central booking system. Occupants would collect keys to the apartment on arrival and a cleaning service would be provided on a weekly basis (including fresh towels and toiletries). Occupants would not be responsible for maintenance or able to re-decorate or furnish the apartments.
59. If managed in this way the apartments would have some elements more commonly associated with a hotel than residential apartments. However, the length of occupation and availability to book the apartments on a nightly basis does not automatically mean that they are in hotel use. It is also not unusual to let furnished apartments or for occupants of domestic apartments to hire a regular cleaning service.
60. Nine of the apartments are currently being marketed for sale by a residential estate agent. Each apartment is advertised independently to be purchased 'off plan'. The apartments are being marketed on a number of popular websites as luxury serviced apartments that *"offer an unprecedented opportunity to own a luxury apartment in an iconic tourist location, the first and only new-build holiday apartments, built in the National Park since its inception, 70 years ago!"*
61. The marketing brochure goes on to say that, *"the glass lift and quality fitted corridors lead to individual home-from-home spaces within which to relax, as they would at home"*. And that *"each apartment (or multiples of) will be owned entirely by the individual investor who, along with other investors, will have complete control of their apartment/s and the management"*.
62. The marketing brochure continues that unlike other commercial investments where the investor has no control over the operation an investment in a Rock Mill apartment is entirely different. The investor will own their apartment outright, registered at land registry. *"The investors will control the maintenance of the apartments (as with any other apartment block) and will be free to appoint the management company operating the lettings"*.

63. The marketing information is clear in describing the development as serviced apartments. Investors would be purchasing an apartment rather investing in a hotel. The identity of the owner or owners of the development is not a material consideration in determining the proposed use nor is any particular investment model. However, the marketing information indicates that each apartment would be a separate planning unit and the nature of the use and how it would be occupied is the key consideration.
64. Use class C1 is defined as ‘Use as a hotel or as a boarding or guest house where, in each case, no significant element of care is provided. Use class C3 is defined as ‘Use as a dwelling house (whether or not as a sole or main residence)’.
65. The proposed apartments would be self-contained and afford all the facilities required for day-to-day private existence. The apartments therefore would be capable of being occupied as independent dwellings. The majority of the apartments would be close to or above our maximum space standards for affordable dwellings (for one or two persons) and therefore we do not agree with the applicant that the apartments would be too small to be occupied as dwellings.
66. We note that the apartments would be located within a single building and that the applicant proposes that the apartments would be available through a single booking system on a nightly basis. There would be basic services, typically expected at a hotel including a reception, provision of drinks and snacks and a cleaning service (including laundry, toiletries and food hampers if required).
67. However, the marketing information states clearly that the development would provide luxury apartments and the first and only new-build holiday apartments in the National Park. The apartments would be individually owned and crucially each owner would have complete control of their apartment and the management of the building.
68. Therefore the nature of services provided to each apartment would be within the control of the owners and it is not unreasonable to conclude that the occupants of the apartments would stay within the accommodation for longer periods in a manner similar to a ‘time share’, as a second home or be individually let on a short term basis. The self-contained layout of the apartments leads to the conclusion that the nature of occupation would be residential rather than a hotel.
69. The provision of a reception / concierge, lounge area, drinks and snacks and cleaning services are not uncommon in residential apartments which often have a concierge and communal spaces. On the other hand, the accommodation would lack a restaurant, bar or other common guest facilities often found in hotels. Occupants of residential apartments frequently hire cleaning services, due to the lack of storage space within the building it is likely that cleaning and laundry services would be brought in off site.
70. We therefore find as a matter of fact that the proposed tourist accommodation is serviced apartments falling within Use class C3 rather than a hotel or aparthotel falling within Use Class C1.

#### Principle of tourist accommodation

71. The Authority approved planning permission on the basis that the development as a whole would deliver public benefits by enhancing the site and facilitating the provision of the heritage centre and provide community facilities within the Rock Mill building. Therefore planning permission was granted as an exception to our development plan policies, including RT2 which expressly states that new build holiday accommodation will not be permitted (except for a new hotel in Bakewell).

72. The approved scheme is for a conventional hotel with restaurant, café, en-suite bedrooms and ancillary facilities. The approved scheme is therefore not for self-catered accommodation and there is no policy requirement to apply a holiday accommodation condition. Permission was therefore granted subject to a condition restricting the Rock Mill accommodation to Use class C1 only.
73. We accept that the development description for the approved application states 'tourist accommodation' and therefore that there is flexibility in the type of tourist accommodation in principle provided that it achieved the enhancement of the site and the facilitation of the heritage centre and community facilities.
74. This application proposes a different type of holiday accommodation, which we have concluded fall within Use class C3, or in other words, apartments. We have no objection in principle to the proposed change in type of accommodation. However, the proposal is now for self-catering accommodation and therefore policy DMR3 is relevant.
75. We define holiday use (paragraph 5.23 Development Management Policies) as occupation for no more than 28 days per calendar year by any one person. Anything over 28 days occupation by any one person is classed as full time residential use and we seek to prevent this where necessary by the enforcement of planning conditions or legal agreements.
76. It is necessary therefore to impose a holiday occupation condition for the development to comply with development management policy DMR3.
77. Any approval without a holiday occupation condition would allow the apartments to be occupied on a permanent basis. This would be wholly contrary to our adopted housing policies, which only allow new housing in exceptional circumstances set out by policy HC1. Furthermore, unrestricted apartments would be much more likely to be occupied on a permanent or semi-permanent basis as second homes or for longer periods. This would provide substantially less economic benefit to the local area than short stay holiday accommodation.
78. Following the deferral of the application at the March planning committee meeting, we have met the applicant and discussed the issue of a holiday occupancy condition further. The applicant maintains his preference that a holiday occupancy condition is not applied so that guests would be able to stay on a longer basis and use the development as a base for travel. The applicant also considers that a holiday occupancy condition would put the development at a disadvantage against other developments.
79. However, the applicant has made clear that if we consider it is necessary to impose a holiday occupancy condition then the application should be approved on that basis rather than refuse the application as previously recommended.
80. The applicant considers the proposed use to be an aparthotel falling within Use class C1 and therefore that a holiday occupancy condition is not required. However, we have found that the development would create serviced apartments falling within Use class C3. In any case, the proposal is now for self-catering accommodation and therefore it is a policy requirement to restrict the use to holiday occupation in accordance with policies GSP4 and DMR3.
81. The applicant states that a C1 hotel approval does not ordinarily attract a holiday occupancy restriction and gives the developments at the Rising Sun, Marquis of Granby and at Riverside Business Park as examples.

82. The developments at Riverside and the Rising Sun are most relevant as these were determined recently and under current development plan policies. However, both schemes were for conventional hotels with restaurant facilities and en-suite rooms for guests rather than self-catering apartments and therefore both schemes are materially different to proposal.
83. The scheme at the Marquis of Granby does include apartments within the development, but the accommodation forms part of a hotel which if constructed would include substantial guest facilities including a restaurant, gym and spa facilities. Furthermore, the scheme at Marquis of Granby was originally approved in 2007 before the adoption of current development plan policies.
84. These other developments do not set a precedent for approval of the current scheme without a holiday occupancy restriction. This application must be determined on its own merits taking into account current development plan policies.
85. We therefore conclude that the proposed change to the type of tourist accommodation necessitates the imposition a holiday occupation condition for the development to comply with our development plan. We regularly impose this condition on holiday accommodation and the condition would meet the tests for conditions set out in the NPPF.
86. We therefore recommend that condition 3 is varied to our standard holiday occupancy condition.

#### Proposed community space within Rockmill Building.

87. The approved scheme included a central space on the ground floor for use by the local community. The space could be sub-divided from the rest of the approved hotel by a folding door system and the space would have direct access to a café/snack servery and wash up area. The space, which would be given over to use by the local community in the approved scheme, was approximately 70 square metres.
88. The proposed scheme retains an area within the proposed lobby for use by the local community. Part of the space would be subdivided by folding doors and the space would be located adjacent to the proposed drink and snack facilities. The space available to be given over to use by the local community is however significantly reduced to approximately 28 square metres.
89. The scheme therefore retains provision of a space for use by the local community, however the size and utility of the space would be significantly reduced which could reduce the likelihood of it being used by the local community. We note that the Parish Council raise no objection to the scheme and we have not received any other representations from the local community to date.
90. On balance and taking into account the view of the Parish Council, we consider that the area proposed to be made available by the local community is acceptable.

#### Other proposed amendments

91. The application includes revised elevation drawings for the Rock Mill building and these show various amendments. The position and size of the main building would not be changed. To the rear the proposed sub-terrain element would be omitted. The most significant change would be to the windows and doors.

92. To the rear of the building the majority of windows would be altered to doors with glazed balconies for the apartments. This would introduce a domestic character to the building, which was designed to reflect a traditional mill building, contrary to policies GSP3 and DMC3. We have discussed this issue with the applicant and agreed that larger window openings to the rear without balconies could be acceptable provided that the overall character of the development was maintained.
93. Various other alterations are proposed at ground floor to facilitate the change to apartments. These are minor in nature and generally do not raise issues with the exception of the proposed new window in the arch on the east elevation. This would have a very awkward visual relationship and would be better with just a window and the arch omitted.
94. New roof lights are proposed to the side elevations of the central gable element. There are no objections to these subject to conservation roof lights of an appropriate design and size.
95. A new outbuilding to the west side of the Rock Mill building is proposed to provide further bicycle storage space. There is no objection to this in principle, however no elevation drawings have been submitted and these would need to be secured to ensure a satisfactory detailed design.
96. Minor changes to the external appearance of the Cupola building are proposed which are acceptable. The applicant has indicated that other changes would be required to reduce the construction cost of the Cupola building. We would have no objection in principle to these changes provided that they do not erode the quality of the design. Amended plans have not been submitted showing these changes and these would need to be provided and consulted upon before a decision was issued.
97. We do have concerns about the proposed introduction of a set of opening doors to the enclosed terrace area to the worker residential accommodation units. This alteration would effectively incorporate the terraces into these apartments and provide additional habitable space. This would increase the floor space of each apartment by approximately 21 square metres. The addition would increase the overall floor space of each dwelling taking them significantly over our maximum size thresholds for affordable housing and undermine the affordability of the units if they were no longer required by workers. The existing scheme requires these units to form part of the affordable housing stock if no longer used by workers on the site.
98. If permission was granted, planning conditions could be imposed to require the submission of details for the various amendments listed above. Preferably, these changes could be included on a final set of amended drawings before the application is determined. This would give greater clarity about what is proposed and approved and also reduce the number of conditions that need to be discharged at a later date.
99. Finally, minor changes to the access arrangements are proposed and the number of parking spaces within the car park to the Rockmill building is marginally reduced. There are no objections to the proposed changes subject to the repetition of highway conditions where required.

#### Planning obligation

100. Following the deferral of the application at the March planning committee meeting we have met the applicant and discussed the issue of the planning obligation (legal agreement under Section 106).

101. The applicant proposes no changes to the planning obligation insofar as it relates to ensuring the provision of the community space within the Rockmill Building; traffic management and safety measures; implementation of travel plan; implementation of a management plan and to control the occupancy of the worker accommodation units.
102. The applicant previously stated that he was not prepared to enter into a planning obligation requiring the Rockmill and Cupola buildings to be developed concurrently, which is a requirement of the current s106 agreement. However, at the March meeting Members made clear that the delivery of the whole site was critical to the acceptability of the development and deferred to allow alternative options to be considered.
103. The applicant has set out alternative proposals for the s106 agreement. These are:
- External and internal amendments to the Cupola building to reduce construction costs.
  - Phased implementation of worker accommodation units and external toilets.
  - Provision of £500,000 in an escrow account to be released only on architect sign off for construction expenses. This amount to fund construction to a watertight shell.
  - Shell of Cupola building to be built concurrently with Rockmill building.
  - Completion of Cupola building within 2 years of the completion of Rock Mill building.
104. Paragraph 56 of the NPPF says that planning obligations must only be sought where they meet all of the following tests:
- a) necessary to make the development acceptable in planning terms;
  - b) directly related to the development; and
  - c) fairly and reasonably related in scale and kind to the development.

In determining the application the Authority resolved that it was necessary that any permission be subject to prior entry into the planning obligation and that the planning obligation met the tests now set out in paragraph 56 of the NPPF.

105. The Authority determined that it was necessary to require the Rockmill building and Cupola building to be developed concurrently to ensure that the community benefits offered by the scheme when taken as a whole are secured. The two sites and buildings are physically separate and therefore without a mechanism to ensure that both buildings are completed it is possible that either building could be completed in isolation. In that circumstance, without a planning obligation we would not be able to compel the developer or site owner to complete the rest of the development.
106. We consider that the benefits of the development do not solely relate to the provision of tourist accommodation within the Rock Mill building. The provision of the café and heritage centre within the Cupola building was in itself considered to offer significant benefits by enhancing the site, providing benefits to the local community and opportunities for visitors to learn about the local area.
107. We recognise that the provision of tourist accommodation would offer benefits to the local economy during construction and operation and a meeting space for the local community. However, these benefits were considered alongside those arising from the heritage centre and the scheme as a whole was considered to offer sufficient benefit to justify approval of planning permission for a development contrary to our development plan.

108. We therefore remain of the view that it is necessary to secure the delivery of both elements of the scheme, and in particular, the Cupola building for the development to be acceptable in planning terms. The two buildings form part of a single development scheme and are clearly related in terms of how the development as a whole can be delivered. In principle therefore a legal agreement that secured the delivery of the scheme as a whole would be fair and reasonably related in scale because it merely seeks to ensure that the development as a whole is delivered.
109. The applicant has suggested an alternative mechanism to secure the completion of the development as a whole. The mechanism (combined with other amendments designed to reduce construction costs) is that a sum would be placed in an escrow account and could only be released for construction expenses. The applicant states that the proposed sum would be sufficient to construct the external shell of an amended Cupola building concurrently with the Rockmill building. The applicant would then complete the Cupola building once funds are released from the Rockmill building.
110. The proposed mechanism is similar to one which was considered previously as an alternative to the requirement for concurrent build. The proposal does offer some security that the Cupola building will be erected by securing a fund for construction of the external shell. This mechanism does make it more likely that the external shell would be constructed.
111. However, there are additional risk to taking this approach. The proposed mechanism would secure a fund for construction but would not necessarily compel the applicant or another developer to access that fund or construct the Cupola building. Furthermore, it is not clear what action we could take to enforce the legal agreement if development did not proceed and it would be inappropriate for the Authority to carry out the development itself.
112. Furthermore, it is not clear whether the planning obligation would include a requirement for the Cupola building to be completed after the Rock Mill building.
113. We have previously accepted a similar proposed mechanism in principle and we accept that the proposals would make it more likely that the Cupola building would be completed. However, there are risks to this approach which provides less certainty than the current obligation that simply requires the two buildings to be developed concurrently. In principle, we consider that the proposed mechanism is acceptable especially if a requirement for the concurrent development of the external shell is included.
114. The precise workings of the mechanism would need to be considered further during the preparation of the S.106 legal agreement. If during that process, the legal agreement is considered unworkable by the applicant or the Authority then the application may need to return to planning committee for further consideration.
115. We therefore conclude that subject to prior entry into a planning obligation that the scheme would secure the delivery of the public benefits of the scheme as a whole.

## **Conclusion**

116. The application proposes various amendments to the approved development. We conclude that the type of accommodation proposed within the Rockmill building is serviced holiday apartments which fall within Use Class C3 and not a hotel or aparthotel falling within Use Class C1. Our policy is that self-catering accommodation must be subject to a holiday occupancy condition (development management policy DMR3). Therefore if permission is granted it would be necessary to vary the occupancy



condition imposed upon the Rockmill building accordingly.

117. Approval of the development without a holiday occupancy condition would be contrary to development management policy DMR3 and undermine our adopted approach to controlling self-catering holiday accommodation. Any approval without a holiday occupation condition would allow the apartments to be occupied on a permanent basis. This would be wholly contrary to our adopted housing policies, which only allow new housing in exceptional circumstances set out by policy HC1. Furthermore, unrestricted apartments would be much more likely to be occupied on a semi-permanent basis as second homes, which would provide substantially less economic benefit to the local area than tourists staying for shorter periods.
118. The applicant has stated that he is prepared to enter into a planning obligation as set out in this report. We consider that it is necessary for a planning obligation to secure the delivery of both elements of the scheme. Therefore if permission is granted it should be on the basis that we enter into a planning obligation with the applicant to secure the delivery of the scheme along with other issues controlled by the current planning obligation.
119. Officers do have some concerns about the design of the scheme and the proposal to extend the habitable floor area of the worker accommodation units. However, these issues collectively are minor and could be resolved by amended plans or the imposition of planning conditions requiring the submission of amended details for approval.
120. If permission is granted it is necessary to repeat conditions imposed upon planning decision NP/DDD/0616/0564 for the same reasons they were originally imposed. The wording of conditions to take into account that a number of conditions have been partially discharged.
121. We therefore conclude that subject to planning conditions and prior entry into a legal agreement that the proposal is acceptable and would not secure the public benefits that would arise from the completion of the development as a whole. Our policies are up-to-date and in accordance with the National Planning Policy Framework and therefore should be afforded full weight in the determination of the application. Having had due regard to all other issues raised we therefore recommend approval.

### **Human Rights**

Any human rights issues have been considered and addressed in the preparation of this report.

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

Nil

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