

**9. SECTION 73 APPLICATION FOR THE REMOVAL OR VARIATION OF CONDITION 1 ON NP/SM/0915/0895 AT LOWER DAMGATE FARM, ILAM. (NP/SM/0420/0318/SC)**

**APPLICANT: MS CAROLYN WILDERSPIN**

**Summary**

1. Permission is being sought to vary condition 1 of planning approval NP/SM/0915/0895. The current condition allows for no more than 12 wedding events per calendar year at Lower Damgate Farm. The applicant is asking to temporarily amend Condition No. 1 to allow 24 events in 2021 and 18 in 2022 with the original condition to come back into operation on 1st January 2023. This would allow wedding events cancelled as a result of COVID 19 restrictions to be re-scheduled.
2. The key planning considerations are whether the proposed variation of the condition (to increase the number of events for a temporary period) would conflict with the statutory purposes of the National Park and its policies primarily by negatively affecting the amenity of neighbouring dwellings. In this case, we consider that an increased but more limited number of events than sought per calendar year up until the end of December 2022 would balance safeguarding a viable hospitality business, with protecting the valued characteristics and amenity of the area for other residents and users of the vicinity.
3. On this basis, the application is recommended for approval for eight additional wedding events, four in each calendar year 2021 & 2022 taking the total to 16 in each calendar year ending 31 December 2022. This is an increase of a third over the normal maximum number of events.

**Site and Surroundings**

4. Lower Damgate lies in open countryside off Ilam Moor Lane mid-way between the two nearest named settlements Ilam, which lies around 2.5km to the south of the site, and Alstonefield, which is just over 2km to the north. The property comprises a grade II listed dwelling house, associated traditional barns that have been converted to holiday accommodation, and a large modern blockwork building that has been sub-divided into two parts. The larger part has been taken into use to host events. The remainder of the building is used in association with the business and the farm.
5. The landscape surrounding Lower Damgate is characterised as Limestone Plateau Pastures in The Authority's landscape Strategy and Action Plan. The valued characteristics of this countryside setting include its scenic beauty and its tranquillity. The landscape surrounding the application site reflects these characteristics and is generally a peaceful rural environment with open distant views to surrounding higher ground. The area is also sparsely populated but there is a farm in separate ownership immediately opposite on the other side of Ilam Moor Lane.

**Proposal**

6. The application seeks the removal or variation of condition 1 on NP/SM/0915/0895. Condition 1 reads;
7. *'Subject to the provisions of Condition 9 (below), there shall be no more than 12 wedding events in any one calendar year on land within the applicant's ownership at Lower Damgate and no more than one event with more than 30 guests shall take place at Lower Damgate in any five day period. Additionally no more than 2 one-off community and charity events, and 1 local school event per year, and no more than 2*

*small events/workshops per week (such as yoga classes and art classes) shall take place in the barn. The residential/community workshops shall be limited to the hours 09:00 to 21:00 hours and the number of guests at these workshops shall not exceed 30. 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, on request, make this information available at all reasonable times to the Authority’.*

### **RECOMMENDATION:**

**That the application be APPROVED subject to condition 1 of NP/SM/0915/0895 being varied to read:**

- 1 There shall be no more than 16 wedding events for each calendar years 2021 and 2022 on land within the applicant’s ownership at Lower Damgate and no more than one event with more than 30 guests shall take place at Lower Damgate in any five day period. From the 1 January 2023 there shall be no more than 12 wedding events in any one calendar year. Additionally no more than 2 one-off community and charity events, and 1 local school event per year, and no more than 2 small events/workshops per week (such as yoga classes and art classes) shall take place in the barn. The residential/community workshops shall be limited to the hours 09:00 to 21:00 hours and the number of guests at these workshops shall not exceed 30. 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, on request, make this information available at all reasonable times to the Authority’.**

### **Key Issues**

8. Whether the proposed variation would harm the tranquillity and valued characteristics of the area and the potential amenity of neighbouring properties.

### **Relevant History**

2016 - (NP/SM/0915/0895) - 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. Granted with conditions.

### **Consultations**

9. Highway Authority - No objections.
10. District Council Environmental Health - No objections.
11. Parish Council – *‘Ilam Parish Council is in favour of the application. It is not just a case of the applicant’s losses but also lost wages for staff, which are all local, the suppliers and catering companies and lots of other locally sourced assistance when the weddings take place. It is also big loss in the local community particularly bed and breakfast businesses in the local area where guests stay whilst they are attending the weddings’.*

### **Representations**

Four letters of representation have been received, objecting to the application on increased noise, disturbance and unneighbourliness.

## **National Planning Policy Framework**

12. National Park designation is the highest level of landscape designation in the UK. The Environment Act 1995 sets out two statutory purposes for national parks in England and Wales: Which are; to conserve and enhance the natural beauty, wildlife and cultural heritage and promote opportunities for the understanding and enjoyment of the special qualities of national parks by the public. When national parks carry out these purposes they also have the duty to; seek to foster the economic and social well-being of local communities within the National Parks.
13. The National Planning Policy Framework (NPPF) has been revised (2019). This replaces the previous document (2012) with immediate effect. The Government's intention is that the document should be considered as a material consideration and carry particular weight where a development plan is absent, silent or relevant policies are out of date.
14. In particular, paragraph 172 states 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.
15. In the National Park, the development plan comprises the Authority's Core Strategy 2011 and the new Development Management Policies (DMP), adopted May 2019. These Development Plan Policies provide a clear starting point consistent with the National Park's statutory purposes for the determination of this application. In this case, it is considered there are no significant conflicts between prevailing policies in the Development Plan and government guidance in the NPPF.

## **Main Development Plan Policies**

### **Core Strategy**

16. GSP1, GSP2 - *Securing National Park Purposes and sustainable development & enhancing the National Park*. These policies jointly seek to secure national park legal purposes and duties through the conversion and enhancement of the National Park's landscape and its natural and heritage assets.
17. GSP3 - *Development Management Principles*. Requires that particular attention is paid to the impact on the character and setting of buildings and that the design is in accord with the Authority's Design Guide and development is appropriate to the character and appearance of the National Park.
18. DS1 - *Development Strategy*. Allows for development that secures effective conservation and enhancement.

E2 - *Business in the countryside*. States, that development in the countryside outside the Natural Zone and named settlements should be located in groups of buildings in sustainable locations.

### Development Management Policies

19. DMC3 - *Siting, Design, layout and landscaping*. Reiterates, that where developments are acceptable in principle, Policy requires that design is to high standards and where possible enhances the natural beauty, quality and visual amenity of the landscape. The siting, mass, scale, height, design, building materials should all be appropriate to the context. Accessibility of the development should also be a key consideration.
20. DMC14 – *Pollution and disturbance*. States amongst other things, that development that risks pollution or disturbance including noise, will not be permitted unless adequate control measures are put into place to bring the pollution within acceptable limits.

### Assessment

21. Section 73 of the Town and Country Planning Act 1990, provides that an application maybe made for planning permission without complying with conditions applied to a previous permission. It is stated, that local authorities may decide whether to grant permission subject to differing conditions (this can include imposing new conditions), remove the conditions altogether or refuse to alter conditions. It is possible to apply for conditions to be struck out, or for their modification or relaxation. The section makes it clear, that in considering such an application a Local Planning Authority may only consider the question of the conditions and not revisit the principle of the development.

### Reason for varying the condition

22. The applicant is asking to temporarily amend Condition No. 1 to allow 24 events in 2021 and 18 in 2022 with the original condition to come back into operation on 1st January 2023. This would allow wedding events, cancelled due to the restrictions arising from the COVID 19 pandemic to be re-scheduled.
23. The applicant has stated that the coronavirus pandemic has resulted in the cancellation of many of the proposed wedding events in 2020 and is likely to lead to the cancellation of the remaining events threatening the viability of the business which makes a significant contribution to the local economy and to the local community. The suggested variation of the condition would allow the 2020 bookings to be re-arranged and spread over two years. Whilst it is the aim to fit the re- arranged events in 2021, it may not be possible to achieve this and through necessity, may need to be carried over into 2022.

### Government Advice re: Covid 19 and the planning system

24. The government has indicated that it is important that local authorities continue to provide the best service possible and prioritise decision-making to ensure the planning system continues to function, especially where this will support the local economy. In this case, whilst this is acknowledged, the National Park Authority also has a duty to protect the landscape and special qualities of the National Park. Therefore, as a consequence of COVID 19, the proposed variation brings about a conflict between the economic activity of the business and the protection of the National Park's special qualities.

### Potential impact on the tranquillity and amenity of the National Park Landscape

25. This area of the National Park is quiet and undisturbed. Tranquillity of this nature is intrinsically linked to the special qualities of the character of the surrounding landscape, and in granting the initial permission it was a delicate balance between these qualities and the merits of the proposed development.
26. The increased use of the building as proposed would undoubtedly diminish this tranquillity further, conflicting with the landscape conservation objectives of the National Park albeit for a temporary period. It is considered that doubling the number of weddings to 24 in 2021 would cause unacceptable harm.
27. Where there is potential conflict between the statutory purposes, the conservation of the National Park must be given priority. In this case, it is considered there would be a discernible loss of amenity arising from the substantial increase in wedding events proposed, albeit for a temporary period. The proposal as submitted therefore conflicts with core planning principles both in the Authority's Development Plan and the Framework (NPPF).
28. However, due to the unprecedented circumstances of COVID 19, the impacts this has had on the economy and in particular on small businesses in the hospitality industry (as is the case here), it is considered a more flexible judgement is needed.
29. In this instance, the numbers proposed by the applicant are considered unacceptable in terms of the impact on the tranquillity of the area and local residents and users of the national park's expectation of that tranquillity being preserved and maintained.
30. However, although any increase in the number of events would have an impact, we consider that a smaller increase for a temporary period would balance the special qualities of the national park and the economic need of the business.
31. In this case, 4 more wedding events per calendar year for 2 years is considered to appropriately balance the special qualities of the national park and the economic need of the business. This would take the total from 24 wedding events to 32 wedding events over the period 2021 to December 31 2022 (12 per year to 16 per year). This smaller increase would effectively allow the business to organise a wedding every week or so during the summer months, which is the busiest period for weddings.
32. This is considered to be a satisfactory balance between supporting the economic recovery/viability of a local hospitality business, whilst serving to protect the special qualities of the National Park landscape and residents amenity in the short term is an appropriate resolution and would in general accord with policy GSP1 and in particular Para: 172 of the NPPF.

### Potential impact on neighbourliness.

33. The increase in events could potentially affect the neighbouring property opposite Lower Damgate through additional noise and disturbance and the probable increase in traffic movements. In this case, whilst it is acknowledged that an increase would potentially cause further disturbance to this neighbouring property, it is considered the lower number of additional wedding events proposed and spread over a period of two calendar years, would not lead to an increase in noise and disturbance that would unduly harm the amenity of this neighbouring property. Subsequently, the proposed increase of four additional wedding events per calendar year would be an acceptable

arrangement, generally according with policies GSP3 & DMC3 in respect of the impact on the residential amenity of neighbouring occupiers.

### **Conclusion**

34. Subject to the above and the replication of all applicable and subsisting conditions from the original consent, the proposal is recommended for approval.

### **Human Rights**

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

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

36. Nil

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