

**STAFFORDSHIRE MOORLANDS DISTRICT COUNCIL
PLANNING APPLICATIONS COMMITTEE**

OCTOBER 17TH 2024

Application No:	SMD/2024/0272	
Location	Hermitage Farm, Froghall Road, Froghall	
Proposal	Application to remove condition 1 of SMD/2004/0970 entirely.	
Applicant	Mr Christopher Cooke	
Agent	N/A	
Parish/ward	Ipstones	Date registered: 17 th June 2024
If you have a question about this report please contact: Hannah Varley email: Hannah.Varley@highpeak.gov.uk		

REFERRAL

The application has been called into Committee by Cllr Linda Malyon.

1. SUMMARY OF RECOMMENDATION

Refuse

2. DESCRIPTION OF THE SITE AND ITS SURROUNDINGS

2.1 The site is in the open countryside between Froghall to the South and Ipstones to the North and is on the West side of the B5053 main road (Froghall Road). It comprises a row of holiday cottages on an existing farm complex accessed off Froghall Road. These are converted traditional stone barns and are Listed. The farmhouse to the South, which has B&B accommodation is also Listed. The farm buildings, including modern storage buildings, lie to the North. The farm is surrounded by open land. The farm is also within the Churnet Valley.

3. THE APPLICATION AND DESCRIPTION OF THE PROPOSAL

3.1 This is a "Removal or Variation of Condition" planning application which seeks to remove the following condition from the planning permission for the conversion of the barns into holiday lets (04/01361 or SMD/2004/0970) and is the only condition attached to that approval:

3.2 *Condition 1: The premises shall be used for short-stay accommodation not exceeding 4 weeks at any one time except during the period 1st October to 31st March when it may be used for Class C3 (dwellinghouses) of the Town and Country Planning Use Classes Order, 1987 as long as no occupancy exceeds 3 months of any 12 month period. A register of such occupants including details of duration of stay will be kept and made available for inspection by the Local Planning Authority, if*

requested.

Reason:- The occupation since the site lies within the open countryside outside settlement boundaries.

3.3 The reason for the condition is to restrict occupation to prevent use of the buildings as dwellings due to the location of the site in the countryside, outside of the settlement boundaries.

3.4 The intention of the applicant/owner is to use the existing holiday lets as rental dwellinghouses for long term residence, rather than time-limited residential occupation of these Class C3 units.

3.5 The applicants wish for the condition to be removed because he says the self-catering holiday lets at the farm are not profitable for them. They have stated that there has been a large increase in this type of accommodation mainly due to booking.com and Air BnB and the low overheads of this type of accommodation mean that they cannot compete.

3.6 Additionally, the applicants have mentioned that there is a shortage of affordable rental accommodation in the area and they believe that their property would be suitable to help fill this gap.

4. RELEVANT PLANNING HISTORY

SMD/1999/0201 – Change of use of redundant listed agricultural building to residential use. Approved.

SMD/1999/0241 – Listed building consent for change of use of redundant agricultural building to residential use. Approved.

SMD/1999/0255 – Listed building consent in respect of change of use / conversion of redundant agricultural building to form dwelling. Approved.

SMD/1999/0944 – Conversion of barn to holiday accommodation. Approved.

SMD/1999/0945 – Listed building consent in respect of conversion of barn to form holiday accommodation. Approved.

SMD/2004/0970 – Removal of condition 2 of planning permission SM99-0224 and replaced by “Premises to be used for short stay holiday accommodation during March to September and for extended periods during October to March. Approved.

SMD/2019/0390 – Listed building consent for the insertion of six doorways on the rear (north) elevation, including reinstatement of three former (blocked up) openings; removal and/or re-positioning of internal partition walls on ground floor... Refused.

SMD/2019/0391 – Application to remove condition 1 of 04/01361/FUL (SMD/2004/0970). Refused.

SMD/2022/0312 – Listed building consent for replacement windows with historically accurate wooden double glazed units. Approved.

SMD/2022/0469 – Demolition of a poultry unit and the erection of a holiday unit ancillary to Hermitage Farm. Refused.

SMD/2024/0321 – Application for removal or variation of condition 3 in relation to application SM92-1066. Triage.

5. PLANNING POLICIES RELEVANT TO THE DECISION

Staffordshire Moorlands Local Plan (Adopted Sept 2020)

5.1 The Development Plan comprises the Local Plan Development Document (adopted September 2020).

5.2 The following Local Plan policies are relevant to the application:

- SS1 - Development Principles
- SS2 - Settlement Hierarchy
- SS9 - Smaller Villages Area Strategy
- SS10 - Other Rural Areas Strategy
- SS11 - Churnet Valley Strategy
- H1 Housing
- E4 - Tourism and Cultural Development
- DC1 - Design Considerations
- DC2 - The Historic Environment
- T1 - Development and Sustainable Transport

National Planning Policy Framework (NPPF) Revised (2023)

5.3 The following sections of the NPPF (2023) are particularly relevant to this application:

- Paragraph(s) 1 – 14
- 4 – Decision making
- 12 – Achieving well designed places
- 16 – Conserving and enhancing the historic environment

Staffordshire Moorlands Space About Dwellings SPD

Tourism Strategy for Staffordshire Moorlands 2022-2027

6. CONSULTATIONS

Neighbour letters	Expiry date for comments: 26/07/24
Site Notice Posted	05/07/24
Press Notice	03/07/24

Public response to consultation

6.1 No public comments have been received.

Parish Council Comments

6.2 Ipstones Parish Council considered the above application at the latest meeting on 18th July 2024 and decided to support approval of the development.

7. OFFICER COMMENT AND PLANNING BALANCE

7.1 The main issues relate to:

- The principle of allowing the holiday lets to be used as independent dwellings in terms of the location of the site and sustainability.
- The loss of the holiday lets and the impact of this on the local economy and tourist economy in the Churnet Valley.
- Residential amenity
- Restrictive occupancy condition
- Other Matters

The principle of allowing the holiday lets to be used as independent dwellings in terms of the location of the site and sustainability and the Councils spatial policies

7.2 Paragraph 11 of the National Planning Policy Framework (NPPF) promotes a 'presumption in favour of sustainable development'. For decision takers this means (c) approving development proposals that accord with an up-to-date development plan without delay; or (d) where there are no relevant development plan policies, or the policies which are more important for determining the application are out-of-date, granting permission, unless: i) the application of policies in the Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or ii) Any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole.

7.3 The application site is located in the Open Countryside whereby Policy SS10 of the Local Plan (2020) is applicable. Policy SS10 states that these rural areas will provide only for development that has an essential need to be located in the countryside, supports the rural diversification and sustainability of the rural areas, promotes sustainable tourism or enhances the countryside. There is no evidence that the application seeks to meet any of these criteria. The applicant seems to suggest that this is a rural exceptions site but it is not put forward as such and nor is it demonstrated that this will be affordable housing backed by a Registered provider and that it is meeting a demonstrable need that in the local area which cannot otherwise be met by means of provision in the plan or that it adjoins a settlement – all requirement for a site to be considered as a rural exceptions site

7.4 Even if the view were taken that rather than open countryside, this site lies within the village of Froghall and Policy SS9 comes into play, then the policy is clear that only limited new housing will be permitted and only in line with Policy H1 which says that for the smaller villages such as Froghall this should be well related to the existing pattern of development and not create or extend ribbon development or lead to a sporadic pattern of development. Although this refers specifically to new development the same principle can be applied to the proposed conversion. This site is not well related to existing development and would lead to sporadic housing in the open countryside. The policy test is not met

7.5. The site is not in a sustainable location. Residents would be highly dependent on the car for access to day to day services and facilities. Nearby Froghall has very few services and facilities and therefore residents would need to travel further afield and on a frequent basis

7.6 Members will recall a relatively recent appeal decision within Whiston, also a smaller village at the Old Whiston Copperworks Site. The development was for 9 No. Dwellings.

7.7 The Inspector made the following conclusion regarding the location:-

“The occupants of the proposed dwellings would have to travel to places with a greater range of facilities, in order to carry out even their basic day to day needs. A number of the services in the village provide a particular function and would not fulfil such needs. With the somewhat isolated location of the settlement, there would be a reliance on the private car as the primary means of transport...”

I conclude that the proposal would not be in a suitable location for housing with regard to the accessibility to services. As such, it would not comply with Policy T1 of the CS where it concerns reducing reliance on the private car for travel journeys and the need to travel generally.”

7.8 The same applies to the application site. It is not a suitable location for housing with regard to the accessibility to services.

7.9 The applicant has referred to the property falling within the boundaries of the Moorlands Connect service, therefore meaning that public transport is available from the door of the property. This being said, Moorlands Connect is not a day to day service which runs at a number of scheduled times as would a standard bus service, instead it needs to be pre-booked by each individual each time an individual wishes to use the service. Therefore, although this mode of public transport is available from the site, it is not considered to make the site ‘well-connected’ with the other towns and villages in the district.

7.10 It is for all the above reasons that the application site is not a suitable location for housing and is contrary to spatial policies SS9, SS10, H1, SS1 and also Policy T1 which seek, amongst other things, to restrict and control development outside of settlement boundaries and focus housing development within the three towns and larger villages of the District

The loss of the holiday lets and the impact of this on the local economy and tourist economy in the Churnet Valley

7.11 Policy E4 encourages new tourism and cultural development which complements the distinctive character and quality of the District, having regard to policies SS9 and SS10, as well as the Churnet Valley Strategy Policy SS11.

7.12 Policy SS11 states that the Churnet Valley is identified as an area for sustainable tourism and rural regeneration. Any development in the Churnet Valley

should be of a scale and nature and of a high standard of design which conserves and enhances the heritage, landscape and biodiversity of the area. This policy provides particular support to short stay and long stay visitor accommodation.

7.13 Therefore, the loss of holiday lets which support the local tourist (and rural) economy are contrary to those policies.

7.14 The applicant claims that the self-catering holiday lets at the farm are no longer profitable for them. They have stated that there has been a large increase in this type of accommodation mainly due to booking.com and Air BnB and that the low overheads of this type of accommodation mean that they cannot compete.

7.15 Notably, no evidence has been submitted to the Council to support the viability claim that the holiday lets are no longer profitable. Although some evidence has been provided relating to other holiday lets and Air B&B options available in the area, that in itself does not demonstrate that the application properties are no longer profitable and viable.

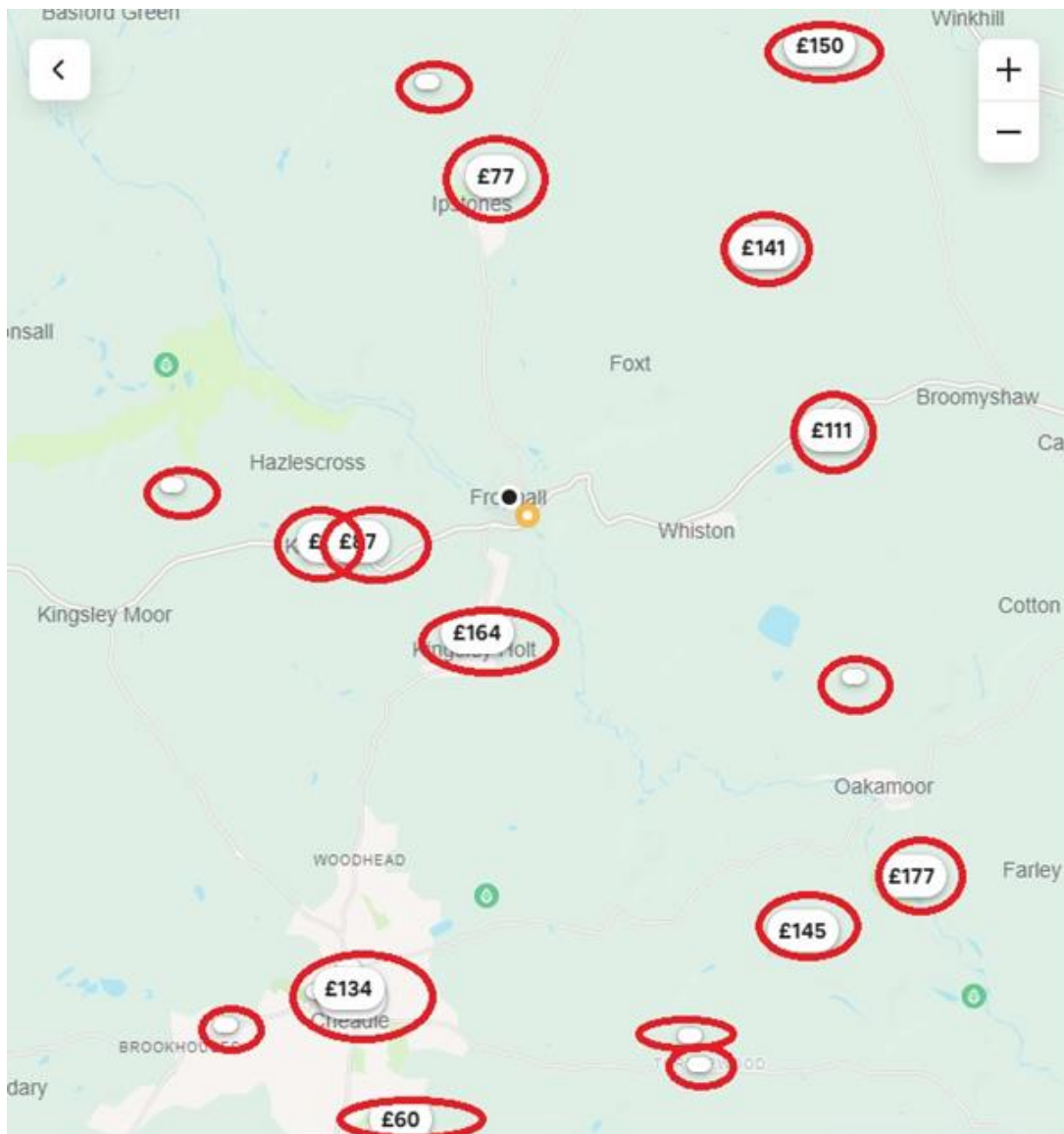
7.16 Furthermore, the applicant has made the following comments:

Policy H1 Section 5d clearly states:

“The conversion of rural buildings for residential use where the building is suitable and worthy in physical, architectural and character terms for conversion; or where such development would represent the optimal viable use of a heritage asset or would be appropriate enabling development to secure the future of heritage assets.

Allowing long term rentals where required is the only viable use of this Heritage asset as neither us nor the previous owners have been able to make a profit just from Holiday let and we can provide accounts to prove this.

There are a massive oversupply of Holiday lets in the area now, due to the rise of AirBNB and Booking.com (If required I can provide statistics on this) these properties do not have the overheads associated with our business and this is why it is no longer viable. Further most of these new Holiday lets were previously long-term rents and this has exacerbated the issue of long-term rent supply. The below screenshot shows some of the Holiday lets within a 5-minute drive of our location.”



7.17 The Churnet Valley Masterplan seeks to increase the provision of self-catering accommodation in the valley and increase overnight stays. Furthermore, there is no evidence that competition elsewhere is the sole reason for the downturn in occupancy rates at the site. There is no indication that take up of the units won't increase in the near future due to changes to the economy or changes in market trends.

7.18 Furthermore, the 'Tourism Strategy for Staffordshire Moorlands 2022-2027' outlines a number of priorities for growth in tourism. One priority raised in this document is to expand, improve and encourage investment in accommodation for tourists, in order to attract visitors to stay overnight and keep their spending in the local area rather than losing it to neighbouring regions. This document states that an existing weakness of the Staffordshire Moorlands is the lack of accommodation investment.

7.19 As per the 'Tourism Strategy for Staffordshire Moorlands 2022-2027' document, *"The most recent data tells us that day visitors dominate accounting for about 90% of the 5.6m visits but just 58% of the £335m spend. Staying visitors however account*

for 42% of the total spend despite just being 10% of visits. This highlights the importance of overnight visits and extending the duration of visits.”

7.20 From this, it is clear that the loss of the available holiday let accommodation would contradict the evidenced need of Staffordshire Moorlands for more overnight tourist accommodation. Statistically speaking, it is clear that there is an essential need for growth through investment in tourist accommodation, including a duty to protect existing accommodation facilities in the district. Although the applicant has stated that there is an abundance of holiday accommodation in the area, this stands in conflict with the findings in the Tourism Strategy for Staffordshire Moorlands.

7.21 As the applicant has stated, Policy H1 references that the conversion of rural buildings for residential use can be acceptable, where such development would represent the optimal viable use of a heritage asset. It is clear from the Tourism Strategy for Staffordshire Moorlands that tourist accommodation is of great need to encourage growth of the district, thus demonstrating that it does represent the optimal viable use of the building.

7.22 The loss of a development which promotes sustainable tourism in this rural area and contributes to the rural economy would be considered a detriment. Therefore, the removal of the available holiday lets would conflict with Policies E4, SS10 and SS11 of the Local Plan, as well as the ‘Tourism Strategy for Staffordshire Moorlands 2022-2027’.

Residential Amenity

7.23 Paragraph 135 f) of the NPPF seeks to secure a high standard of amenity for all existing and future occupants. Local Plan Policy DC1 requires development to achieve a satisfactory relationship to adjacent development and to not cause unacceptable effects by reason of visual intrusion, overlooking, shadowing, overbearing effect, noise, light pollution or other adverse impacts on local character and amenity.

7.24 The Council’s Space About Dwellings SPD outlines a series of spatial standards which need to be met to ensure reasonable enjoyment of a residence and garden by existing and proposed residents, allowing them a degree of freedom from unwanted social contact. All new dwellinghouses are required to meet the Council’s external spatial standards to enable all residents sufficient light and privacy amenity.

7.25 Notably, no information or plans have been submitted to the Council in relation to the proposed rental dwellings, in terms of the division of the building internally and externally. Therefore, the Council are unable to establish whether the new rental dwellings would have adequate amenity space, in particular externally.

7.26 Furthermore, a pair of similar applications to alter the restricted occupancy condition and change the use of the barn outbuilding from holiday lets to four dwellings were submitted to the Council under the references SMD/2019/0390 and SMD/2019/0391. The applicant made an appeal against the Council’s decision to refuse these applications, which was dismissed.

7.27 The Inspector of the appeal stated the following in his decision report in relation to the plans submitted:

“the proposed gardens and patios would be individually divided and enclosed by tall timber fences. Their physical presence, form and appearance would wholly contrast with the barn and maintain enclosure to its rear. This would add to my concerns for the suburbanisation of the listed barn and undermine the case for the proposal as a means of preserving this important former farm building.”

7.28 As the Council have not received any details to consider in terms of external amenity space, there is no reason to consider that a different conclusion would be reached in this circumstance. Even if details were provided to the Council, concern was raised by the Inspector of the appeal relating to impact of the landscaping works on the Listed Building.

7.29 Notably, the applicant has made the following points in relation to residential amenity space:

- a. *“We are not proposing new dwellings, The current dwellings are suitable for people to live for up to 3 months therefore they do not require any changes for addition lengths of stay and we are not proposing any.*
- b. *Could you please define adequate amenity space and explain why this needs to be different for stays longer than 3 months?”*

7.30 The purpose of the application in front of the Council is to remove the restricted occupancy condition to allow for a more permanent degree of residency of the dwellings. People who live somewhere permanently require external amenity space incidental to the enjoyment of the dwelling, unlike when they are on holiday. Amenity space is required by residents of dwellings for things such as parking, drying washing, gardening and play space.

7.31 As the applicants are seeking to convert the building to rental dwellings which no longer have restricted occupancy, they are required to demonstrate that the dwellings would have adequate external amenity space in accordance with the size of and number of bedrooms in each dwellinghouse.

7.32 Thus, it is considered that the completion of external landscaping works to provide adequate amenity space for a number of dwellings would be a detriment to the setting of the Listed building and would therefore be inappropriate, contrary to Policies DC1 and DC2 of the Local Plan.

Restrictive Occupancy Condition - please move this bit to the end after Residential amenity

7.33 An application was submitted to the Council under the reference SMD/2019/0391 to remove condition 1 of SMD/2004/0970 – the same as the application currently presented to the Council. The applicant went on to appeal against the refusal of the application and the appeal was dismissed.

7.34 The Inspector referred to the case of *Finney v Welsh Ministers* [2019] EWCA Civ 1868 (herein referred to as *Finney*) in their decision report for the appeal. This case concerned the limits of the power under s73 of the Town and Country Planning Act 1990 (the Act) to grant planning permission for development without complying with conditions subject to which a previous planning permission was granted.

7.35 The Inspector came to the following conclusion:

“The appeal proposal before me seeks to vary the disputed condition to allow the four independent parts of the barn to be used as C3 dwelling houses. However, the description of development in the original planning permission refers to: ‘conversion of barn to holiday accommodation’.

*I accept that the disputed condition altered the permitted use in the appeal building, effectively to a mixed-use. However, there would still, on the face of it, be a clear conflict between the proposal and the description of the original permitted development and the mixed-use granted later. Given that *Finney* says the description cannot be altered via s73, such a condition, enabling the barn to be used as four independent dwellings, without a seasonal or other time limitation on the length of occupation, would alter the nature of the development and be unlawful. A new planning application, rather than a s73 application, would therefore be required for the proposal.”*

7.36 Similarly, the application in front of the Council today shows a clear element of conflict in relation the proposal and the description of the original permitted development and the mixed-use granted later. The proposal would not be consistent with the description of the development previously approved. Therefore, granting permission to remove the restrictive occupancy condition would conflict with the purpose of the condition on the permission previously granted.

7.37 Notably, this point has been raised to the applicant however no comments have been received in response.

Other Matters

7.38 The applicant has made the following comments regarding the requirement for housing:

“In general, where a dwelling is let in exchange for rent, a tenancy is created which is governed by the Housing Act 1988 and regardless of any clauses to the contrary in the agreement the tenant would need to be given a Section 21 Notice to end the tenancy.

To summarise: if we let the property for any more than 31 days as a Class 3 dwelling (which the clause allows us to do) then an Assured Shorthold Tenancy is automatically formed and we cannot evict the tenant without redress to the courts, and even then not before 6 months.

This was our primary reason for raising the application as we were advised to so by a Council housing officer.”

7.39 This is Housing legislation and not relevant to this application which must be determined based on the Development plan policies.

8. PLANNING BALANCE & CONCLUSIONS

8.1 For the reasons above there is conflict with Policies in the Development Plan. Although the provision of 4 dwellings would contribute to the Councils current housing undersupply and this is a benefit of the proposal, this site is not a suitable location for housing because of its unsustainable location . Furthermore it would result in the loss of tourism accommodation for which there is an identified need in the District and which also supports and therefore benefits the rural economy. The proposal also fails to make adequate provision for private amenity space.

8.2 There is also the issue that procedurally this has been incorrectly submitted as a Section 73 application. Successive court cases have now ruled that a Section 73 can not alter the operative part of the permission i.e. the description of development. If the outcome of the request for the removal of the condition is one of approval, then the description is in conflict with this. As the Inspector said in the previous appeal relating to a similar proposal for this site

‘Given that Finney says the description cannot be altered via s73, such a condition, enabling the barn to be used as four independent dwellings, without a seasonal or other time limitation on the length of occupation, would alter the nature of the development and be unlawful’.

8.3 Applying para 11, the tilted balance, as this is effectively an application for housing and the Council do not have a 5 year supply, the conclusion for all of the reasons above is that the adverse impacts are significant and demonstrable and outweigh the benefits. A recommendation of refusal is therefore made.

9. RECOMMENDATION

A That planning permission be REFUSED for the following reasons:

- 1. The site is located in an unsustainable location for housing. Public transport links are very limited in this rural location. There would be a large degree of reliance on the private car as the primary means of transport to access day to day services and facilities. Thus, the provision of housing at the site is contrary to spatial policies SS9, SS10, H1, SS1 and also Policy T1 of the Staffordshire Moorlands Local Plan and the NPPF**
- 2. The proposal would result in the loss of tourist accommodation for which there is a need within the District and is therefore contrary to policies E4, SS10 and SS11 of the Local Plan as well as the ‘Tourism**

Strategy for Staffordshire Moorlands 2022-2027' which encourage tourist development in the Churnet Valley in the interests of the local rural economy,

- 3. No information or plans have been submitted by the applicant to demonstrate that the proposed new dwellings would provide adequate amenity space for residents. Furthermore, it is considered that the completion of external landscaping works to provide adequate amenity space for a number of dwellings would be a detriment to the setting of the Listed building and would therefore be inappropriate, contrary to Policies DC1 and DC2 of the Local Plan.**
- 4. A clear conflict has been identified between the proposal and the description of the original permitted development and the mixed-use granted later. The proposal would not be consistent with the description of the development previously approved. Therefore, granting permission to remove the restrictive occupancy condition would leave conflict with the description of the permission previously granted.**

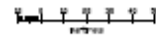
B. In the event of any changes being needed to the wording of the Committee's decision (such as to delete, vary or add conditions/in formatives/planning obligations or reasons for approval/refusal) prior to the decision being issued, the Head of Development Services has delegated authority to do so in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

RevNo	Revision note	Date	Signature	Checked
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Itemref	Quantity	Title/Name, designation, material, dimension etc			Article No./Reference		
Designed by A W Newby	Checked by Name	Approved by - date C Cook xx/06/2022	File name Location.dwg	Date 20/06/2022	Scale 1:2500		
PME Planning Services			Site Location Plan			Edition Rev A	
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