

**PLANNING COMMITTEE MEETING AGENDA**

**Monday 3<sup>rd</sup> June 2013**

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**SKIPTON AREA**

**APPLICATIONS TO BE CONSIDERED BY THE COMMITTEE**

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	<i>APPLICANT NAME: YORKSHIRE DALES ICE CREAM LTD TARGET DECISION DATE: 16/01/2013 CASE OFFICER: Roger France</i>	

## UPDATE

### 1. INTRODUCTION & PURPOSE OF THE REPORT

- 1.1. Members will recall that this full planning application was considered by the Planning Committee at their meeting on 11 February 2013. The original officer report and the written update presented to the Committee on the 11 February 2013 are included as Appendix 1. The Committee resolved to approve the application subject to the conditions recommended in the officer report and to the signing of a deed of variation to modify the existing Section 106 Agreement that currently applies to these premises. (See Appendix 2: 'Minutes of Meeting').
- 1.2. The S.106 Agreement was attached to the original 2009 planning permission for a 'farm retail outlet for the sale of ice cream, coffee and local produce'. The purpose of the Agreement was to limit the range of items that could be sold (The full Agreement is attached at Appendix 3). The purpose of the deed of variation is simply to extend the original site area to include that of the proposed extension, so that the extension is covered by the same restrictions.
- 1.3. However, members will also recall that during the consideration of the most recent application third-party representations alleged that the terms of the existing S.106 Agreement may be being breached through the sale of hot food items. It was also identified that areas of land and buildings outside the presently authorised areas were being used as additional play areas.
- 1.4. Officers accepted that the applicants' existing menu could be in breach of the Agreement (but that would have be the subject of investigation), and also confirmed that an existing building was being temporarily used without planning permission as a play area in connection with the business, i.e. in lieu of the proposed new buildings coming into use. Members were advised that any breach or unauthorised use should be investigated separately; the application before the Committee had to be determined on the basis of an understanding that the extant S.106 Agreement and existing planning conditions would be enforced. (This is because planning case law has established that the withholding of planning permission as a 'punitive' measure is unreasonable and unlawful if appropriate enforcement action is open to the local planning authority).
- 1.5. Subsequent to the February Planning Committee further meetings and discussions have taken place between planning and legal officers, and with the applicants and their legal advisors, about the interpretation of the original S.106 and how it relates to the items currently on sale. These discussions have confirmed that the ambiguity in the wording of the Agreement\_has led to different interpretations of the range of items that can be sold.
- 1.6. Nonetheless, further to these discussions with the applicants the opportunity has been taken to consider additional mitigation measures as part of the current planning application. As a consequence the decision notice has not been released, which means the application has not yet been formally determined.

1.7. The purpose of this report is to update the Planning Committee of a revision to the planning application concerning the location and amount of car parking within the site, and the recommended inclusion of a number of additional planning conditions to include (at the request of the highway authority) the formation of 6 passing places within the highway approaches to the site from the A59. The main development proposals (i.e. the new extensions to the 'Parlour/Diner' and the additional covered play areas) are unchanged and other than the additional conditions the officer recommendation is also unchanged. However, for the avoidance of doubt, because the application has not yet been formally determined the Committee has the ability to come to the same or a different decision on the application following consideration of the updated information.

## **2. UPDATE**

### **a) The S.106 Agreement**

2.1 The existing S.106 Agreement describes the 'development' to which it relates as a "farm retail outlet for the sale of ice cream, coffee and local produce". The substantive paragraph states that the premises must be "first taken into use as a shop" from which time the premises shall not be used (without the prior consent of the council) for "the sale of goods of any kinds other than the following;

- i. Ice cream, ice cream products, and other iced confectionary manufactured at Calm Slate farm
- ii. Hot & cold non-alcoholic drinks for consumption on the site and
- iii. Craft foods (excluding drinks for consumption off the site)

2.2 Officer advice at the 11 February meeting suggested to Members that firstly, that there may be a breach of the existing S.106 Agreement under (iii) above by reason of the range of sale of hot food being sold at the premises; and that secondly, that if that was found to be the case then it would be open the Council to take action to ensure the existing and proposed development would be constrained by those legal restrictions. Unfortunately 'craft food products' is not defined in the agreement and it is a phrase which contains some ambiguity. However, the limitation to the sale of 'craft food products' is a significant limitation on the range of items which can be sold.

2.3 After further consideration it is considered that the wording of (iii) does not prohibit the consumption of 'craft food products' on site, neither does it exclude hot food or meals. In the Council's opinion, a 'craft food product' is likely to be an artisanal product which is particularly or specially made involving some element of skill. It is the level of care and individuality in a product which makes it a craft product. Officers have considered the menu circulated at the meeting on the 11<sup>th</sup> February and concluded that the Council would not be able to take enforcement action against the items on page 2 of the menu at this time. In the main, there is nothing on the menu which could not in any circumstances constitute a 'craft product'.

2.4 Notwithstanding the above, the purpose of the S.106 Agreement was to ensure that the site and premises did not become an unrestricted retail outlet through any such use becoming established through the general sales of goods alongside ice cream. In practice the premises have not been primarily used as a retail shop, and the ice cream parlour/diner has not become a general restaurant use. As such, the

purpose of the S.106 Agreement is not being compromised and it is officer opinion that there is no actual harm being caused at present from any wider retail sales in breach of the agreement.

- 2.5 The representations and objections received from local residents prior to the Committee meeting mainly referred to the impact caused by the numbers of visitors using the site; in particular the visual amenity issues caused by overspill car parking and general disturbance/nuisance from traffic generation and noise. As regards the alleged breach of S.106 agreement the 'planning' issue to consider is whether the range of prepared food sales has any adverse impact on the character of the use of the site.
- 2.6 The original officer report to Committee addressed the issues of general disturbance from the proposed development. It was the opinion of the Environmental Health Officer that the separation distances between the site and the village were sufficient enough to avoid noise from the development from forming a statutory nuisance; therefore this issue did not form a reason for refusal. Similarly, there were no objections to the development from the County highway authority on the grounds of traffic generation and traffic safety.
- 2.7 Turning to the alleged breach of the legal agreement the question to answer is whether the extension of the present ice cream parlour as currently proposed would be materially different if the range of food on the menu was more restricted? In other words, whether the sale of hot food affects the number of visitors and hence the amount of cars using the site?
- 2.8 The applicant's argument is that at present there are only nine indoor tables, and that effectively equates only to serving 9 family cars, consequently the catering outlet is clearly not the main generator of current visitor numbers (indeed visitors are often bringing their own food which is not supposedly permitted on the site by the operators). The new extension adds a further 17 tables and there is no evidence to suggest this will, in itself, generate significant additional traffic over and above that already attracted. The applicants believe that extension plans will allow them to cater for existing visitors better – rather necessarily than generating more visitors. Germaine to this argument is that the proposed accommodation would replace the temporary (albeit unauthorised) use of a large agricultural building as a play area. The resulting capacity of the site following development would therefore be no greater than that existing at present.
- 2.9 As such the recommendation of approval is maintained for the reasons set out in the original application. However, some amendments to the conditions are recommended as set out and explained below.

#### **(b) Revisions to the planning application**

- 2.10 The application as originally submitted effectively sought to regularise the existing parking provision which comprises a rolled stone area with a capacity for 63 cars, but indicating a further 'overspill' area on grassland extending to the west. Further to the recent discussions with the applicants about representations concerning the regular use of the overspill area (and its visual prominence), revised plans have been submitted to the Council (received 22 April 2013) to amend the car parking proposals contained within the application. The revised scheme is for 110

'permanent' spaces and extends to the north, to the west of existing farm buildings, with a potential overspill area further to the north.

- 2.11 The planning gain from the above is the better management of the existing levels of car parking and the improved location of car parking to a more discreet part of the site. The rising land to the west of the site, presently used, is open ground, highly visible from the village; whereas the revised location uses the existing large farm buildings to screen the car parking from the main views from the village.
- 2.12 Further to the receipt of the amended plans further technical consultation was carried out with the highway authority (NYCC), and Parish and neighbour notification procedures carried out.
- 2.13 The County highway authority reaffirmed they had no objections to the application, but recommend an additional planning condition requiring off-site works within the local highway network, specifically to form 6 additional passing places; three on the road from Embsay and three on the road from the A59. The Parish Meeting maintained their objections to the application in a very comprehensive letter which is included at Appendix 4. An additional 22 third party representations were received, all in objection to the application, dismissing the amendment and repeating concerns about the impact of visitor numbers on the amenities of local residents. In particular that the development would lead to increase use of the site by visitors; this would generate additional traffic on the local road network, lead to further noise disturbance to local residents, and raise fears about the likelihood of future evening use and alcohol sales.

### **(c) Additional Recommended Planning Conditions**

- 2.14 Members will recall that it was reported to the February meeting that there were already time limits imposed on the operation of the business by the landlord (the Bolton Abbey/Chatsworth Estate) restricting opening hours to 6pm. Again as a result of the further discussions additional mitigation can be provided in that the applicants have now indicated that they would accept a planning condition limiting operating hours to 09.00 to 18.00.
- 2.15 The submission of the revised site plan, showing amended car parking, needs to be included in the list of 'approved plans' requiring the modification of Condition 2 & 4, but two additional conditions are also recommended. Firstly to provide the passing places in accordance with the highway authorities suggestion; secondly, to require the marking out of the car parking spaces within the car parking areas. The latter is to improve the efficiency of the use of these areas in avoiding haphazard parking.
- 2.16 It is therefore recommended that the list of conditions are revised as follows;
- a) Condition 2 modified to read: -
- The development hereby permitted shall not be carried out except in accordance with the details shown on the following approved plans and drawings: Plan No.598-030 submitted to the Local Planning Authority on 22 April 2013; and amended Plan No's 598/08A, 598/09A, and 598/10A, submitted to the LPA on 16 January 2013.
- b) Condition 4 modified to read: -

Notwithstanding the provision of any Town and Country Planning General Permitted or Special Development Order for the time being in force, the areas shown on Drawing No. 598/030 for parking spaces, turning areas and access shall be kept available for their intended purposes at all times.

c) Inset new condition 7: -

The development hereby approved shall not be brought into use until the individual car parking areas have been set out and marked as shown on the approved plan (Drawing No. 598/030) in accordance with details submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with approved details.

Reason: To ensure the adequate and satisfactory provision of off-street parking for vehicles generated by visitors to the development, in the interests of the general amenity of the area.

d) Insert new condition 8: -

There shall be no excavation or other groundworks, except for investigative works or the depositing of material on the site in connection with the construction of the buildings or other works hereby permitted until:

- (1) The details of the highway improvement works listed below, have been submitted to and approved in writing by the Local Planning Authority.
- (2) a programme for the completion of the works has been submitted and approved by the Local Planning Authority.

The required highway improvement works shall include the construction of passing places within Holme Lane and Newbridge Lane (in accordance with the attached plan that was provided by the Highway Authority with their consultation response dated 2 May 2013).

Reason: In the interests of safely accommodating additional traffic movements from the proposed development on the local highway network.

e) Insert new condition 9: -

The ice cream parlour premises and associated children's play facilities shall not be open for business or used by any member of the public after 18.00 on any evening, or before 09.00 on any day.

Reason: To safeguard the general amenities of the locality.

**(d) Changes to the General Permitted Development Order to be introduced from 30 May 2013**

2.17 Under the Coalition Government's Planning reforms a new Class of permitted development (Class M of Part 3 'Changes of use') has been inserted since the application was considered in February. This allows a change of use from an agricultural use to a "flexible use" (either Class A1 (Shops), A2 (Financial &

Professional Services), A3 (Restaurants & Cafes), B1 (Business), B8 (Storage & Distribution), C1 (Hotels), or D2 (Assembly & Leisure) of the Use Classes Order 1987 (as amended)), so long as 1) the property has been solely in agricultural use either since 03/07/2012 or for at least 10 years, and 2) subject to a cumulative floor space limit of 500 square metres. (There are further exclusions. In the case where the cumulative floor space is 150-500 square metres, the developer needs to notify the local authority with respect to transport and highways impacts, noise impacts, contamination risks, and flooding risks).

- 2.18 This legislative change does not alter the current need for planning permission for the proposed development, but arguably it could be seen to strengthen the applicants' case for the simple reason that the principle of using farm buildings for these "flexible uses" in an open countryside location accords with the thrust of the aims and objectives of the new legislation.
- 2.19 On the other hand, as additional visitor accommodation could be potentially provided without planning permission, i.e. over and above that now applied for, the capacity of the site could now be potentially extended further without planning permission, with implications for the amenities of surrounding property owners. To counter this issue the permitted development rights would have to be withdrawn on the holding, under a further S106 planning agreement (it is not considered that a planning condition to this effect would meet the tests of Circular 11/95).
- 2.20 The applicants have been asked to indicate their willingness to accept such an agreement as part of the revisions to the application, but as tenants of the Chatsworth Estate there is some uncertainty over whether this would be achievable. At the time of the preparation of this report this matter was under discussion and progress will be reported at the meeting, however, the absence of such an agreement would not alter the wider officer recommendation.

### **3. CONCLUSION & RECOMMENDATION**

- 3.1 At the previous Planning Committee meeting it was recommended that that the planning application for the extensions to the existing building be approved subject to planning conditions, and the existing S.106 Agreement being varied to cover the proposed extension to the ice cream parlour. Further to the above Committee resolution a variation to the legal agreement has been prepared, (See Appendix 5).
- 3.2 It was suggested at the meeting, by third parties, that the existing agreement was being breached by the sale of hot food that did not fall under the definition of 'craft food' as required by the agreement. Officer advice to Committee was that it was possible that the menu range did exceed that permitted under the S.106, but if that was the case the Council could control such sales by appropriate legal action and that action should be considered separately from the planning permission.
- 3.3 Further to officer investigation it is considered that by reason of the wording of the S.106 Agreement the sale of hot food prepared on the premises from local farm produce is unlikely to be considered a breach of the Agreement by the Courts. Therefore, for the avoidance of doubt, it is considered that there is no material breach of the existing S.106 Agreement and this information is brought to the Committee's attention before a formal decision notice is issued, to ensure that the

Members have a clear understanding of this matter before the application is determined.

- 3.4 The original officer recommendation of approval was based on an analysis of the merits of the development as assessed against then presumption in favour of sustainable development within the National Planning Policy Framework guidance, and a judgement on the balance between the economic benefits to the rural economy and any harm to the amenities of the local area. The only change to the officer recommendation is to take account of the submission of revised plans change to the car parking arrangements within the site, and the suggested additional planning conditions to reflect the changes reported in 2(b) above.

**Appendices.**

1. The original officer report and the written update presented to the Committee on the 11 February 2013.
2. Minutes of Planning Committee Meeting 11 February 2013
3. S106 Agreement dated 30 June 2009 attached to App no. 34/2008/8364.
4. Objection from the Parish Meeting dated 20 May 2013.
5. Draft deed of variation to the existing agreement.



## COMMITTEE UPDATE

**DATE OF MEETING: 11.02.2013**

**APPLICATION NO: 34/2012/13074**

**ADDRESS: Calm Slate Farm, Halton East.**

**1. CORRECTIONS TO REPORT**

*None.*

**2. REVISED PROPOSALS/PLANS**

*None. (Revised designs addressed in report).*

**3. ADDITIONAL CONSULTATIONS**

*Halton East Parish Council was re-notified following amendments submitted 16 January 2013; they replied 31 January 2013. As regards the amended design drawings the PC make the point that the changes do not address their concerns and go on to reiterate their earlier objections (that are contained in the officer report).*

*Further to the additional written material supplied by the applicant (in response to the PC's original objections) the PC still claim the development goes beyond 'farm diversification'; that existing buildings could be used; that Hesketh farm Park, Bolton Abbey, Embsay Railway and the national cycle route already adversely impacts on traffic through the village; and that the development should be refused on the grounds of "noise pollution". The PC also still express concern that the business will grow through alcohol licensing, extended operating hours, and that the tree planting will be ineffective in the short term.*

**4. ADDITIONAL REPRESENTATIONS**

*One additional letter has been received in objection to the application on the grounds of landscape impact; inappropriate design; noise from the children's play area; light pollution; harm to wildlife, the archeological importance of the site; intrusive car parking and traffic generation; and as an inappropriate business for farm diversification with no benefit to the rural economy.*

WARD AND APPLICATION No.	PROPOSED DEVELOPMENT AND SITE ADDRESS
<i>BARDEN FELL 34/2012/13074</i>	<i>EXTENSION OF ICE CREAM PARLOUR, CHANGE OF USE TO INDOOR PLAY SPACE AND CREATION OF COVERED PLAY SPACE WITH EXTENSION OF SITE TO ACCOMMODATE TREE SCREENING, RETROSPECTIVE APPLICATION FOR EXTENSION TO CAR PARK.  CALM SLATE FARM, HOLME LANE, HALTON EAST.  APPLICANT NAME: YORKSHIRE DALES ICE CREAM LTD TARGET DECISION DATE: 16/01/2013 CASE OFFICER: Roger France</i>

**This Planning Application is referred to the Planning Committee at the request of Councillor Heseltine.**

1. Site Description

- 1.1 Calm Slate Farm is located in open countryside of attractive rural character to the north west of Halton East village and south of the Yorkshire Dales National Park Boundary. It forms part of the Bolton Abbey Estate and consists of a livestock farming business (cattle and sheep) with 120 acres of pasture land; the holding is also the business base of Yorkshire Dales Ice Cream.
- 1.2 The farmstead comprises a large group of farm buildings that includes the original stone built farm house and a range of modern agricultural buildings. To the south of the main agricultural group is a recent farm diversification development opened in 2011. It comprises a purpose built, single-storey ice-cream parlour with an associated 'party room', toilets, outdoor children's play area, and car parking. The parlour buildings have been designed to an American 'farmstead' architectural style externally and a 1950's 'Diner' internally, to create a commercial theme to the visitor attraction.
- 1.3 The original vehicle access to the farm is from Moor Lane to the east (which also forms a public right of way) but the main access to the premises, and the public access for the ice cream business, is a recently constructed surfaced driveway from the south off Holme Lane (the Embsay-Halton East road).
- 1.4 There is an area to the west and south of the main farm buildings used for the open storage/parking of vans and trailers associated with the ice cream business.
- 1.5 The site falls outside the development limits of the settlements of Halton East and Embsay.
- 1.6 The existing 'Parlour' outlet is limited by a Section 106 Planning Obligation which restricts the sale of goods to: -
- 1) Ice cream-based products and other iced confectionary manufactured at Calm Slate Farm
  - 2) Hot and cold non-alcoholic drinks for consumption off the site
  - 3) Craft food products (excluding drinks for consumption off the site)

2. Proposal

- 2.1 The proposal is for further development of the newly established visitor facility, continuing the diversification of the main farm business. Full planning permission is sought for a series of linked single-storey extensions to the existing ice cream parlour to create additional internal seating and a new covered play children's play area. The proposal includes the use of an existing informal overspill car parking area as a permanent additional car park, and a landscaping scheme that involves the relocation of a section of an existing belt of recently planted trees. No alterations to the existing vehicle access are required or proposed.

- 2.2 In detail, the existing Parlour (253 sqm internal floor area) is to be extended eastwards to match the existing building design (creating a total floorspace of 403 sqm), this in turn is linked to an existing small workshop/store building. The link extension will accommodate additional servery and wash-up facilities, the existing barn (200sqm) is to be converted into a further play-space/party room. Finally, a new semi-open play space will be housed in a new 'barn' like structure (307 sqm) added to the above extensions.
- 2.3 Further to the submission of the original application a revised design scheme for the main play barn has been submitted as a formal amendment. This supersedes the original overtly American design of barn with a less elaborate structure more in keeping with modern local livestock buildings; as part of the amendment the entire east elevation will be faced in natural timber boarding
- 2.4 The extensions forms a roughly 'L' shaped building layout, semi-enclosing the present open-air play area to the south of the Parlour; all the buildings being linked with the continuation of the existing raised porch 'boardwalk'. The south, west and north elevations are clad in the same horizontal timber shiplap effect boarding (light weight resin bonded timber) as the existing structure. (As noted above the east elevation is clad in natural timber). The pitched roofs will also match the existing, with profiled metal cladding and roof cupolas. Doors and windows will be of timber construction, paint finished.
- 2.5 The new parking area is a rectangular area to west of the present authorised car park which is already used on an informal basis as overspill parking. To retain the rural character of the site the whole of the area is surfaced in rolled stone without any demarcation of spaces, and enclosed with a timber boarded fence. Added to the existing parking this will provide a single parking area that is capable of accommodating 63 vehicles in total.
- 2.6 The proposed covered play space structure would intrude into an area of recent mass planting of young trees intended to form a screen to the south of the present buildings. Consequently, the landscape proposals accompanying the current application compensate for the reduced area of planting to the south of the Parlour by the planting of an equivalent area to the east of the new extensions. This involves the re-planting or replacement of approximately 100 plants and will act to reinforce the amount of tree screening between the development and Halton East village. The planting involves mixed species of Oak, Ash, Alder, Birch and Willow planted at 1.5 to 5 metre centres.

### 3. Planning History

- 3.1 24/2004/4962: Gave permission for the conversion of an agricultural building for the use for the manufacture of and the garaging of ice cream vehicles and the formation of a new access. Conditional approval 21 February 2005. (Officer Note: This is the building in the north eastern corner of the application site that is to be converted to play space / party room).
- 3.2 34/2008/8384: (Outline Application) gave approval for the formation of farm retail outlet. The decision to approve was made by the Planning Committee in April 2008 but the decision notice was only issued after the signing of a S.106 Agreement on 10 July 2009. This agreement limited the range of goods which may be sold.
- 3.3 34/2009/9876: Granted approval of the reserved matters (scale, design, appearance and landscaping), following the outline permission 34/2008/8384, on 22 September 2009.

### 4. Planning Policy Background

- 4.1 The National Planning Policy Framework (Section 3) supports economic growth in rural areas, including sustainable tourism and leisure developments, and (Section 4) attaches "great importance" to design as a "key aspect of sustainable development".
- 4.2 Saved Local Plan Policies ENV1 (Development in Open Countryside); ENV2: (Requirements for Development in Open Countryside)
- 4.3 Good Practice Guide on Planning for Tourism (not revoked by the NPPF).

### 5. Parish/Town Council Comments

- 5.1 Halton Parish Meeting objects to the application on a number of grounds. Firstly, on a general level the Parish Meeting consider that the existing commercial development “can no longer be viewed as farm diversification”; that existing buildings should be used to “accommodate the increase of capacity”; that this and other nearby rural businesses/attractions have increased traffic in the locality; the use has created “noise pollution”; and that the operating hours should be fixed as agreed with the landlord (10.00 to 18.00).
- 5.2 Specifically with respect to the new development the objections are that: -
- 1) Increasing the 70 seat diner to 170, more than doubling the floorspace, and providing large internal and external play areas will raise noise levels, and with increased operating hours there will be greater noise disturbance for local residents.
  - 2) Car parking should be restricted.
  - 3) Drawings depicting the tree screening are misleading as it will take many years to become established.
  - 4) Contrary to the applicant’s statements the site is visible from the public roads leading into the village and surrounding area.
  - 5) Development will increase traffic levels using A59 junction and narrow village access road; traffic levels through village are increasing causing danger to residents and children.
  - 6) Closing time should be 18.00 but use has extended to 19.00 on occasions, to the detriment of residents enjoyment of homes and gardens.
  - 7) The development could be utilised as a function venue in the future; the success of the business is at the cost of the local resident’s amenities.

## 6. Consultations

- 6.1 **CDC Environmental Health Officer:** “Not identified any potential Environmental Protection issues that would give cause for concern”, and further comments: -

“In addressing the Parish Councils specific concerns, there are no records of any complaints regarding noise nuisance from the site”; “without justification, i.e. a history of noise nuisance, I would not be in a position to support their recommendation for refusal on the grounds of “noise pollution”. It appears from the site plan that the nearest residential properties are approximately 230m distance (Moorland Cottages, Hall Laithe and Halton Hall). Attenuation of noise over this distance would be in the region of 55dB(A) and as such it is unlikely that noise from the play area would cause a statutory nuisance at nearby properties.” I would think there is justification for the current operating hours of 10:00 until 18:00 to remain in force. Should we receive any noise complaints in future we would investigate and if appropriate deal with them under statutory nuisance.

- 6.2 **NYCC Highway Authority:** Recommend approval, subject to the provision of the parking spaces in accordance with the plans, and protection of public right of ways.

- 6.3 **Yorkshire Dales National Park Authority:** “Subject to the use of appropriate roof materials, significant and robust tree planting to screen the building from the east and tree planting around and within the car park to the west the National Park Authority would have no objection to the proposal.”

## 7. Representations

- 7.1 Eight letters in objection to the application; in summary the objections are broadly the same as the Parish Meeting objections: -

- Additional traffic generation.
- Concern about opening hours and noise disturbance.
- Additional capacity for visitors could be made within the existing buildings rather than additional building.

However, one objector also referred to the incongruous 'American' design style of the play barn being out of character with the Dales landscape, and the facing materials alien to the local vernacular. (NB. This has been addressed in the revised design and submission of amended plans and drawings).

## 8. Summary of Principal Planning Issues

8.1 The principle of development for extended visitor/tourist attraction facilities at this open countryside location, in relation to national and local planning policy.

8.2 Design issues and the visual impact of the development on the character of the surrounding area.

8.3 Impact on the amenities of local residents, including potential noise disturbance.

8.4 Highway safety.

## 9. Analysis

### **1. The principle of development**

9.1 The site lies in open countryside and outside of the development limits of any settlement. However, the existing Ice Cream Parlour and associated children's play facilities form a successful commercial farm diversification project, and the purpose built structures are located alongside the established farm building group. Hence the visitor development is physically closely related to the main building group and, relative to the main complex, is small in scale.

9.2 The National Planning Policy Framework (the Framework) supports sustainable rural tourism and leisure developments that benefit rural businesses, communities and visitors, provided that the development respects the character of the area and is in an appropriate location where identified needs are not met by existing facilities in rural service centres. The Framework also identifies, as part of its core planning principles, the intrinsic character and beauty of the countryside and the need to conserve and enhance the natural environment.

9.3 Saved Local Plan Policy ENV1 supports 'small scale development having a rural character' subject to specific criteria requiring - amongst other things - that such development to; be beneficial to the rural economy, and maintain landscape character. This Policy is generally in accordance with the new Framework's guidance (i.e. both support uses beneficial to the rural economy, including tourism) and the Good Practice Guide on Planning for Tourism, consequently the policy can be given some weight.

9.4 Saved Policy ENV2 applies where development is considered acceptable in principle under Policy ENV1 and seeks to ensure that such proposals are compatible with the surrounding area; does not adversely impact on the landscape; is of a design that relates to the setting allowing for public views; can adequately accommodate traffic; and, can be provided with services and infrastructure without harming the rural character and appearance of the locality.

9.5 In this case, the manufacture of ice cream at the farm is long established and while the 'Parlour' sales outlet, with the associated children's play area, is a more recent business venture it is clearly now a successful part of the farm enterprise. It is understood the attraction draws visitors from Skipton, Harrogate, Ilkley and Colne, and visitors often combine their visit with trips to other attractions in the nearby area. The business provides local employment (up to 15 staff at peak times) and makes purchases from other local suppliers. The desire to create more undercover accommodation is a response to the impact of recent poor summer weather and would make the business more resilient to climate change.

9.6 As such, in principle, the proposal to extend the existing facilities would be in accordance with the thrust of the Framework and saved LP Policy ENV1, and the acceptability of the application depends on the impact of the details of the proposal assessed against saved Policy ENV2.

### **2. Visual Impact**

- 9.7 The farm group is located in attractive 'Dales' countryside on the edge of the National Park boundary and is visible from various public view points including mid distance views from the Holme Lane approach to Halton East and the village itself. Groupings of farm buildings within this landscape are a characteristic feature of the area and larger modern functional livestock buildings are not uncommon. The existing parlour building is low in profile and visually forms part of the existing farm group that consists of typical traditional stone buildings and large modern agricultural sheds. In terms of the siting of the extensions, i.e. to form a 'courtyard' by building to the east and south of the existing structure, this is a logical location both by retaining development close to the main group and by enclosing the main areas of activity from views from the village (to the southeast).
- 9.8 The design style for the established Parlour development is that of a "traditional American farmstead'. This is described as a "Cape Cod, New England' style look, with wrap around decking, cupolas and feature doors." This style is reinforced by the internal décor/imagery of an American diner, and it is recognised that are commercial reason for doing this. By reason of the small scale nature of the buildings to date this has not have any impact outside the site.
- 9.9 However, as originally submitted this theme was developed much further in the elevations for the extended development, especially in respect of the covered play area, which is a larger building and was given a very distinctive 'American' barn-like profile. The overtly American design style of the larger play area structure would have greater visibility from the surrounding area and likely to appear as an incongruous and alien building in this distinctive 'Dales' setting. Consequently, further to agreement, a simpler, more functional design for the covered play area has been submitted as a revised scheme. This change in design is more 'bland' in appearance but is functional, in keeping with modern livestock buildings, and will be more easily assimilated into the wider landscape.
- 9.10 The facing materials match the existing, being steel framed structures with light-weight cladding to give a 'timber shiplap' effect walls; with artificial slate roofs on the Parlour extension and profiled metal cladding on the 'play barn'. As part of the amendment to the play barn the whole of the east elevation (facing the village) is to be clad in timber (and left as natural finish).
- 9.11 The additional parking is a triangular shaped area located between the authorised car park and the Parlour buildings, and is already in use as an overspill parking area. The existing newly planted tree screens form one belt to the south of the buildings and one to the east; neither have yet had time to become established. It is proposed within this application to relocate some 100 trees from the eastern half of the screen (to accommodate the new covered play space) and extend the screen to the east southwards. In the future these belts will form an effective visual (and acoustic) screen.
- 9.12 In conclusion, therefore, it is considered that the application proposals (as revised) will not have any significant visual impact on the landscape setting of this established farm group, or cause any harm to the general visual amenities of the area; including views from the village and dwellings within the locality. On this basis it is considered that the application proposals are compliant with saved LP Policy ENV2.

### **3. Impact on neighbour amenity**

- 9.13 The principal concern expressed by local residents in terms of the potential effect on amenity was the potential disturbance from noise and other activities on the site, particularly if evening opening was allowed. However, consultation with the Council's Environmental Health Officer confirms that there is no record of any past nuisance complaints or, based on the distances involved, much likelihood of any statutory nuisance as a result of the new development (see 6.1 above).
- 9.14 With respect to operating hours the applicants have commented: -  
*"Operating hours have been agreed with the landlord and the closing time of 6pm has been adhered to. Our opening times are permanently listed on the building and at our website. There have been around 10 occasions this year where we have hosted evenings for local groups, including the WI, Brownies and Young Farmers Clubs. These visits are by appointment and can only be hosted out of opening times, they are not charged for in any*

*way and consist of a talk by us about the farming, manufacturing and parlour businesses, a tour of the farm, the manufacturing and farm animals, ice cream tasting and questions. At the meeting this was explained to the residents and seemed to satisfy them as to the occasional seemingly late opening.”*

- 9.15 The applicants have also further confirmed they have no intentions of applying for an alcohol licence.
- 9.16 Therefore, it is held that the proposals are unlikely to have any unacceptable or unreasonable effects on the living conditions of the occupiers of any nearby premises.

#### **4. Highway safety**

- 9.17 The highway authority has recommended approval of the application and there is no evidence to suggest that the development has caused any specific traffic hazard or that the traffic generated by the new proposals is so unsuitable for the access roads from the A59 to the site that it justifies the withholding of planning permission.

#### **10. Recommendation**

- 10.1 Approval: subject to planning conditions and signing of a Deed of Variation to the existing s106 agreement to apply to the new development.

#### **Conditions**

1. The development hereby permitted shall be begun not later than the expiration of three years beginning with the date of this permission.  
Reason: To comply with the requirements of Section 91 of the Town & Country Planning Act 1990.
2. The development hereby permitted shall not be carried out except in accordance with the details shown on the following approved plans and drawings: Plan No.598-06 submitted to the Local Planning Authority on 2 November 2012; and amended Plan No's 598/08A, 598/09A, and 598/10A, submitted to the LPA on 16 January 2013.  
Reason: For the avoidance of doubt.
3. The proposed tree planting shall be carried out in accordance with the approved details shown on Drawing No. 598/06 and the Tree Survey report [by Andrew Durham (Architect) dated October 2012], accompanying the planning application, and shall be implemented during the first planting season following completion of the development hereby permitted and shall thereafter be retained and maintained as such. Any trees or shrubs planted in accordance with this condition shall, in the event of their death within 5 years from their date of planting, be replaced by similar specimens as soon as is practicably possible and no later than the end of the planting season following their death.  
Reason: To ensure that the development is of attractive appearance in the interests of visual amenity.
4. Notwithstanding the provision of any Town and Country Planning General Permitted or Special Development Order for the time being in force, the areas shown on Drawing No. 598/06 for parking spaces, turning areas and access shall be kept available for their intended purposes at all times.  
Reason: To ensure these areas are kept available for their intended use in the interests of highway safety and the general amenity of the development.
5. No external lighting shall be installed without the prior approval in writing of the local planning authority.  
Reason: To safeguard the amenities of the surrounding area.
6. The materials to be used in the construction of the external surfaces of the extensions hereby permitted shall match those of the existing parlour building with the exception of

the proposed east elevation which shall be clad in timber, in accordance with Drawing No. 598/09A, and retained in a natural finish.

Reason: For the avoidance of doubt and to safeguard the character and appearance of the surrounding area in the interests of visual amenity.

#### INFORMATIVES

1. The existing Public Right(s) of Way on the site must be protected and kept clear of any obstruction until such time as any alternative route has been provided and confirmed under an Order made under the Town and Country Planning Act 1990. Applicants are advised to contact the County Council's Access and Public Rights of Way Manager at County Hall, Northallerton on 0845 8727374 to obtain up-to-date information regarding the line of the route of the way. The applicant should discuss with the Highway Authority any proposals for altering the route.
2. This development is subject to the signing of a Deed of Variation to the existing Agreement (made under the provisions of section 106 of the Town and Country Planning Act 1990) between the Applicant, Landowner and Craven District Council and which set out the controls and restrictions of use, and which was signed before the decision notice on Planning Application Reference 34/2008/8384 was issued.

#### Reasons for approval

The proposed development will provide additional facilities at an established tourist attraction in a rural area, and will form sustainable economic development which accords with the National Planning Policy Framework, the Good Practice Guide on Planning for Tourism, and the provisions of Saved Policies ENV1 and ENV2 of the Craven District (outside the Yorkshire Dales National Park) Local Plan. There is no evidence that the development will adversely affect the visual amenities and character of this rural area, would lead to conditions detrimental to the amenities of the occupants of the nearby dwellings, or prejudice highway safety in the locality. It is therefore concluded that there are no reasonable grounds to justify withholding planning permission.

#### Statement of Positive Engagement: -

In dealing with this application Craven District Council has sought to approach the decision making process in a positive way, in accordance with the requirements of paragraphs 186 and 187 of the NPPF. In particular the Council has: -

- engaged in pre-application discussions
- requested amended design approaches/information to address the planning issues which have arisen in relation to dealing with this application.
- accepted additional information/changes to the scheme post validation.



Craven District Council

conditions listed below and to the provisions of the Section 52 Planning Agreement which relate to the premises not being enforced from the date of this consent.

#### Summary of Conditions

1. The development hereby permitted shall not be carried out other than wholly in accordance with Drawing No's 253/2, 253/3 & 253/4 received by Craven District Council on the 20 November 2012 unless otherwise agreed in writing by the Local Planning Authority.
2. Notwithstanding the provision of any Town and Country Planning General Permitted or Special Development Order for the time being in force, the areas shown on site and roof plan for parking spaces, turning areas and access shall be kept available for their intended purposes at all times.
3. No occupation or use of the dwelling independently from 74 High Street shall take place until the windows on the south western elevation have been fitted with obscure glazing (minimum Level 5 obscurity). The development shall be maintained with such obscure glazing at all times thereafter.
4. The flat roof of the single storey building shall not be used to provide amenity space for the occupants of the application premises.

#### Reasons for Approval

The proposed use of the premises as an independent dwelling is considered to be acceptable in principle, and subject to conditions would not give rise to any unacceptable effects with respect to residential amenity, visual amenity, and highway safety. The development is considered to meet the policy objectives of both the Adopted Craven (Outside the Yorkshire Dales National Park) Local Plan and the National Planning Policy Framework.

Statement of Positive Engagement : In dealing with this application Craven District Council has sought to approach the decision making process in a positive way, in accordance with the requirements of paragraphs 186 and 187 of the NPPF.

**34/2012/13074 Extension of ice cream parlour, change of use to indoor play space and creation of covered play space with extension of site to accommodate tree screening, retrospective application for extension to car park, Calm Slate Farm, Holme Lane, Halton East** – subject to the conditions listed below and to the signing of a deed of variation to modify the existing Section 106 Agreement regarding these premises to ensure it also applies to the development now approved.

#### Summary of Conditions

1. The development hereby permitted shall be begun not later than the expiration of three years beginning with the date of this permission.
2. The development hereby permitted shall not be carried out except in accordance with the details shown on the following approved plans and drawings: Plan No.598-06 submitted to the Local Planning Authority on 2 November 2012; and amended Plan No's 598/08A, 598/09A, and 598/10A, submitted to the Local Planning Authority on 16 January 2013.
3. The proposed tree planting shall be carried out in accordance with the approved details shown on Drawing No. 598/06 and the tree survey report [by Andrew Durham (Architect) dated October 2012], accompanying the planning application, and shall be implemented during the first planting season following completion of the development hereby permitted and shall thereafter be retained and maintained as such. Any trees or shrubs planted in accordance with this condition shall, in the event of their death within 5 years from their date of planting, be

replaced by similar specimens as soon as is practicably possible and no later than the end of the planting season following their death.

4. Notwithstanding the provision of any Town and Country Planning General Permitted or Special Development Order for the time being in force, the areas shown on Drawing No. 598/06 for parking spaces, turning areas and access shall be kept available for their intended purposes at all times.

5. No external lighting shall be installed without the prior approval in writing of the local planning authority.

6. The materials to be used in the construction of the external surfaces of the extensions hereby permitted shall match those of the existing parlour building with the exception of the proposed east elevation which shall be clad in timber, in accordance with Drawing No. 598/09A, and retained in a natural finish.

#### Informatives

The existing Public Right(s) of Way on the site must be protected and kept clear of any obstruction until such time as any alternative route has been provided and confirmed under an Order made under the Town and Country Planning Act 1990. Applicants are advised to contact the County Council's Access and Public Rights of Way Manager at County Hall, Northallerton on 0845 8727374 to obtain up-to-date information regarding the line of the route of the way. The applicant should discuss with the Highway Authority any proposals for altering the route.

This development is subject to the signing of a deed of variation to the existing agreement signed before the decision notice on Planning Application Reference 34/2008/8384 was issued. (made under the provisions of Section 106 of the Town and Country Planning Act 1990) between the applicant, landowner and Craven District Council and which sets out the controls and restrictions of use.

#### Reasons for Approval

The proposed development will provide additional facilities at an established tourist attraction in a rural area, and will form sustainable economic development which accords with the National Planning Policy Framework, the Good Practice Guide on Planning for Tourism, and the provisions of Saved Policies ENV1 and ENV2 of the Craven District (outside the Yorkshire Dales National Park) Local Plan. There is no evidence that the development will adversely affect the visual amenities and character of this rural area, would lead to conditions detrimental to the amenities of the occupants of the nearby dwellings, or prejudice highway safety in the locality. It is therefore concluded that there are no reasonable grounds to justify withholding planning permission.

Statement of Positive Engagement : In dealing with this application Craven District Council has sought to approach the decision making process in a positive way, in accordance with the requirements of paragraphs 186 and 187 of the NPPF. In particular the Council has: -

- engaged in pre-application discussions
- requested amended design approaches/information to address the planning issues which have arisen in relation to dealing with this application.
- accepted additional information/changes to the scheme post validation. (SV) (\*)

(Councillor Heseltine informed the Committee that the Chairman of Halton East Parish Meeting, to whom he was related, had objected to the application, he also had a family connection with the owners of Hesketh Farm Park, and had also undertaken work for the applicant. Although he had no financial interest he was aware of public perception and would therefore take no part in the discussion or voting on this application.)

Craven District Council

(Councillor Hart informed the Committee that his son had a business relationship with the applicant, he declared a prejudicial interest in the application and left the room during the discussion and voting thereon.)

THIS AGREEMENT is made the *Thirtieth* day of *June* 2009 BETWEEN  
CRAVEN DISTRICT COUNCIL of Council Offices Granville Street Skipton in the County of North  
 Yorkshire ("the Council") of the first part GARY STEPHEN ROGERS of Calm Slate Farm Moor  
 Lane Halton East Skipton North Yorkshire BD23 6EJ ("the Developer") of the second part THE  
CHATSWORTH ESTATES COMPANY whose registered office is at 21 Buckingham Gate London  
 SW1 (" the Reversioner") of the third part and CLIVE PIETER DE RUIG and PETER ANTHONY  
BOSTOCK both care of the same address (together "the Landlords") of the fourth part

WHEREAS

- (1) The Council is the district planning authority for the purposes of the Town and Country Planning Act 1990 as amended (hereinafter called "the Act") for the area within which is situated the land at Calm Slate Farm Halton East near Skipton shown edged red on the plan annexed hereto (hereinafter called "the Site")
- (2) The site is part of the land and buildings known as Calm Slate Farm held by the Developer as tenant under a tenancy agreement made as a deed dated 27 September 2005 between the Reversioner (1) the Landlords (2) and the Developer (3)
- (3) The Reversioner is registered as proprietor of the freehold land including the Site at H.M. Land Registry under Title Number NYK 329589 and holds it as bare trustee for the Landlords who are similarly entitled in equity by way of uncompleted purchase
- (4) A written application (reference number 34/2008/8384) has been made to the Council for planning permission to develop the Site by constructing a new building for use as a farm retail outlet for the sale of ice cream, coffee and local produce (hereinafter called "the Development" which expression shall mean and include any development of the Site carried out substantially in accordance with the plans and drawings approved by the grant of planning permission on the said application whether or not such development is carried out pursuant to and otherwise in accordance with that planning permission)
- (4) The Council is satisfied that the said application is such as may be granted conditional planning permission in the form of the draft annexed hereto if the Site is subjected to the planning obligations contained in this deed but not otherwise

NOW THIS DEED WITNESSETH as follows:-

1. THIS Deed is made in pursuance of Section 106 of the Act as substituted by Section 12 of the Planning and Compensation Act 1991 and those covenants hereinafter contained that are expressed to be made as planning obligations are planning obligations for the purposes of the said Section 106 enforceable by the Council as local planning authority and are intended to bind the Site and each and every part thereof into whosoever hands the same may come
2. THE Developer the Reversioner and the Landlords hereby severally COVENANT by way of planning obligation with the Council in relation to their respective interests in the Site that on and from the date on which the Development or any part of it is first taken into use as a shop the Development and the Site and each and every part thereof shall not without the prior written consent of the Council expressed to be given for the purposes of this deed be used for the sale of goods of any kinds other than the following:
  - 2.1 ice cream ice cream-based products and other iced confectionery manufactured at Calm Slate Farm
  - 2.2 hot and cold non-alcoholic drinks for consumption on the Site and
  - 2.3 craft food products (excluding drinks for consumption off the Site)
3. THE Developer hereby further COVENANTS
  - 3.1 with the Reversioner and the Landlords and each of them to indemnify the Reversioner and the Landlords in respect of any breach of the planning obligation in Clause 2 above occurring while he is the tenant of the Site and
  - 3.2 with the Council by way of planning obligation binding on his interest in the Site to pay to the Council the sum of three hundred pounds in respect of the Council's legal costs of and incidental to the negotiation preparation and completion of this deed
4. IT IS hereby agreed and declared that:-
  - 4.1 unless the context otherwise requires the expression "the Council" shall include its successors from time to time to its functions as district planning authority for an area which includes the Site and the expressions "the Developer" "the Reversioner" and "the

Landlords" shall include their successors in title to and assigns of their respective interests in the Site

4.2 no person shall be liable for any breach of the covenant on the part of the Developer the Reversioner and the Landlords in Clause 2 of this deed occurring after he or she has parted with his or her entire interest in the Site but without prejudice to the liability of any such person in respect of any breach occurring or subsisting at a subsequent time when he or she is again the owner of an interest in the Site.

IN WITNESS WHEREOF the parties hereto have executed this Deed the day and year first before written

THE COMMON SEAL of  
CRAVEN DISTRICT COUNCIL  
was hereunto affixed in the  
presence of:-



Head of Legal Services

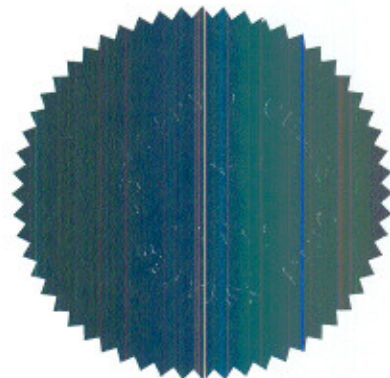
SIGNED AS A DEED by the  
said GARY STEPHEN ROGERS  
in the presence of:-

**TPG Manock**  
Solicitor  
Serge Crangle  
15 High Street  
Skipton

EXECUTED AS A DEED by THE  
CHATSWORTH ESTATES COMPANY  
by the affixing of its Common Seal in  
the presence of:-

Director

Secretary



SIGNED AS A DEED by the said  
CLIVE PIETER DE RUIG in the  
presence of:-

*Secretary*

SIGNED AS A DEED by the said  
PETER ANTHONY BOSTOCK in  
the presence of:-

*As above*  
*Secretary*

ID 358

DATED 30th June 2009

CRAVEN DISTRICT COUNCIL

with

G.S. ROGERS ESQ

and

THE TRUSTEES OF THE CHATSWORTH SETTLEMENT  
YORKSHIRE ESTATE

## PLANNING AGREEMENT

Relating to the use of a new building  
at Calm Slate Farm, Halton East,  
North Yorkshire

G.L.Cooper  
Head of Legal Services  
Council Offices  
Granville Street  
SKIPTON  
North Yorkshire  
BD23 1PS

File ref: 66/15/144





34/2008/8384

**Calm Slate Farm, Halton East**

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 Craven District Council 100024694

**SCALE: 1:2500**

DRAWING ISSUED BY: AB  
 DATE ISSUED: 3rd April 2009





Decision No - 34/2008/8384

Council Offices  
Granville Street  
Skipton  
North Yorkshire  
BD23 1PS

Telephone: 01756 706446  
Fax: 01756 700658

\*\*\*\*\* DRAFT \*\*\*\*\*

## TOWN AND COUNTRY PLANNING ACT 1990

### NOTICE OF GRANT OF OUTLINE PLANNING PERMISSION BY CRAVEN DISTRICT COUNCIL TO CARRY OUT DEVELOPMENT

Yorkshire Dales Ice Cream Ltd  
Calm Slate Farm  
Halton East  
Skipton  
BD23 6EJ

C/o  
Andrew Durham  
Great Gib  
Cononley  
Keighley  
BD20 8EB

Date of Valid Application: 11 February 2008

Date Decision Issued:

Proposal: Formation Of Farm Retail Outlet. For The Sale Of Ice Cream, Coffee And Local Produce.

Location: Calm Slate Farm, Moor Lane, Halton East, Skipton, BD23 6EJ.

*Craven District Council has considered your application and GRANTS outline planning permission subject to the following conditions:-*

(1) No development shall be started until full details of the following reserved matters have been submitted to and approved by the Local Planning Authority:

- a) appearance;
- b) landscaping; and
- c) scale.

Reason: Required to be imposed in accordance with the provisions of Article 3 (1) of the Town and Country Planning (General Development Procedure) Order 1995.

(2) Application for approval of reserved matters must be made not later than the expiration of three years beginning with the date of this permission and the development must be begun not later than the expiration of two years from the final approval of the reserved matters, or, in the case of approval on different dates, the final approval of the last such matter to be approved.

Reason: Required to be imposed in accordance with Section 92 of the Town and Country Planning Act 1990.

(3) There shall be no means of vehicular access to or from the application site other than from the u/c 353R Halton East Quarry to Halton East village road unless agreed otherwise and approved in writing by the Local Planning Authority.

Reason: In the interests of highway safety.

## TOWN AND COUNTRY PLANNING ACT 1990

Continuation of Decision No. 34/2008/8384

(4) The existing Public Right of Way shall be protected and kept clear of any obstruction until such time as any alternative route has been provided and confirmed under an Order made under the provisions of the Town and Country Planning Act 1990.

NOTE. For information a plan of the definitive Public Right of Way is enclosed. The Applicant should discuss with the Highway Authority any proposals for altering the route.

Reason: To protect the route of the Right of Way in the interests of and to protect the general amenity for all protective users.

(5) Before development commences full details of all materials to be used on the exterior of the building and on any hard paved external areas shall be submitted to and approved in writing by the Local Planning Authority. The approved materials shall subsequently be used.

(6) Before development commences full details for the provision of landscaping and boundary definition of the site and its surroundings shall be submitted to and approved in writing by the Local Planning Authority. These details shall include the timescale for the provision of these works and their subsequent maintenance.

Reason (conditions 5 & 6 ) To ensure that the development is of good appearance and to meet the requirements of Saved Policies ENV 1 and EMP 10 of the Craven District (Outside the Yorkshire Dales National Park) Local Plan.

(7) Before development commences a scheme for the erection of signing for the advice of drivers of vehicles leaving this land shall be submitted to and approved in writing by the Local Planning Authority. This scheme shall include the size, siting and location of all such signs and agreed wording to encourage drivers not to enter the village east of the access point. The approved signs shall be erected and subsequently maintained in position.

Reason: In order to encourage traffic leaving these premises to follow the adopted highways away from the village; in the interests of highway safety and amenity.

(8) The planning permission hereby granted constitutes an alternative scheme to that which was granted planning permission under reference 34/2007/7665 dated 7 September 2007 and if implemented shall in its entirety supersede that said permission. Alternatively if any part of the scheme approved under reference 34/2007/7665 is implemented then that scheme will supersede this permission in its entirety.'

Reason: This scheme has been granted as an alternative to that which was previously granted planning permission and only one of the schemes should be implemented in the interests of ensuring an satisfactory and acceptable form of development.

### Reasons for approval

The proposed scheme of development represents the provision of a tourist attraction in a rural area which accords with the provisions of Saved Policies ENV 1, ENV 2 and EMP 10 of the Craven District Local Plan. Subject to the exclusion of any general retail use in this rural building it is considered that this scheme will not adversely affect the character of this rural area nor is likely to lead to conditions detrimental to the amenities of the occupants of the nearby dwellings.

Informative:-

Attention is drawn to the provisions of the Section 106 Agreement dated

2009 restricting the range of

products that can be sold at the proposed development.

DRAFT

Mr Colin Walker  
Strategic Director Environmental Services

## PARISH OF HALTON EAST

HEP/Plan/ICPmay13

20<sup>th</sup> May 2013

Chair of Parish: Kathryn Heseltine

Old Hall  
Halton East  
Skipton  
North Yorkshire  
BD23 6EH

Mr Roger France  
Principal Planning Officer  
Craven District Council  
Development Control Services  
1 Belle Vue Square  
Broughton Road  
Skipton  
BD23 1FJ

Dear Mr France

Reference: **Application Number: 34/2012/13074**  
Proposal: **Extension of Ice Cream Parlour (Change of use to indoor play space and creation of covered play space with extension of site to accommodate tree screening, retrospective application for extension to Car Park**  
Location: **Calm Slate Farm, Holme Lane, Halton East, Skipton, BD23 6EU**

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I am writing with reference to the above Application on the instructions of the Parish of Halton East, acting in the capacity as Chair of the Parish.

On behalf of the Parish of Halton East we would like to reiterate the points made in our previous letter (24<sup>th</sup> December 2012) and I have been asked to make the following additional points:

1. This application has been amended to increase the parking from 103 (December retrospective application) to now 141, an additional 38.
  - a. At 4 people per vehicle (not taking into account people carriers) this equates to an increase of 152 people from previous application.
  - b. Footfall:
    - i. 141 cars x 4 people = 564 people
    - ii. Plus overspill of say 75 cars x 4 occupancy = 300
    - iii. Equates to total footfall of **864** plus!
    - iv. Obviously this is an on-going daily turnaround of cars.

Residents are asking when will this development stop expanding. What will be the maximum upper number of vehicles?
2. Since October 2012 residents have experienced a substantial increase to traffic. This is hitting the village on weekends and bank holidays, and no doubt in the future the school holidays, to the extent where residents have actually queued to gain access to and from the village and to their homes. This is detrimental to the enjoyment of their homes during what should be leisure time. Residents have asked what will happen if/when emergency vehicles needed to access the village?
3. The applicant has already increased his customer base by utilising agricultural buildings as 'Play Barns' since October (Halloween), without Planning permission and we assume agreement from his landlord.
4. The number of vehicles accessing the attraction has obviously increased in line with the increased visitor capacity of said Play Barns.

## PARISH OF HALTON EAST

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HEP/Plan/ICPMay13  
20<sup>th</sup> May 2013

5. A further increase to seating in the Diner from 70 to 170 and the addition of 2 permanent Play Barns and extended external play areas will only further increase the number of vehicles which we feel the proposed car park will not support.
6. The overspill car park has already reached the 28 day usage and has been recorded (from beginning of March 2013), evidence to be supplied to Planning after May 6<sup>th</sup> Bank Holiday. Plus at least another 28 days which have not been recorded covering the period January to March. What will be the outcome of this breach? Cars parking on the access B roads or along the drive to the Ice Cream Parlour (as is/has been happening already).
7. Highways have now re-assessed the access B roads and with concerns about the verges and traffic safety and are proposing passing places be constructed however if increase of capacity / vehicles this again will need to be reviewed as more will be required.
8. A significant increase to traffic using the back road through the village, as a cut through between the parlour and Hesketh / Bolton Abbey, is currently set at the national speed limit. It is hazardous to walk with children at weekends and holiday periods. The Residents would request this be reviewed and reduced to 30 or even 20 mph?
9. The noise pollution is becoming an even greater concern with the ever increasing numbers now that the Play Barns are open and the good weather is upon us. Residents further up the village have now realised the implications of this further expansion. Noise does travel!
10. Originally the Parish requested retrospectively that operating hours be fixed to the existing consent with the Planning Authority, as agreed with the Landlord at present, however residents are concerned of the enforceability as the applicant has clearly breached any agreements previously entered into with CDC and their Landlord.
11. Since the increase of activity many residents are complaining and a document has come to light: a letter received from the Landlords, Bolton Abbey Estates to the Parish (dated 15/7/2009), clearly stating these were to be 10:30 to 18:00 – again the applicant has not adhered.
  - a. Another point, the Landlord states within said letter that “noise will be mitigated due to the restricted opening times”.
12. Residents have expressed their opinion that surely a precedent has been established for tourist attractions within this locality:
  - a. Hesketh Farm Park operates 10:00 to 17:00 with last admission at 16:00.
  - b. Bolton Abbey Estates Car Parks (Cavendish Pavillion) last admission at high season is 18:00.
  - c. Brymoor Icecream (who Mr Rogers refers to in his original business plan) operates 10:00 to 18:00 (Last orders 17:00).
  - d. St Leonards Farm Park operates 10:00 to 16:00 (this is situated in a village and so is most akin to Yorkshire Dales Ice Cream Parlour)
  - e. Forbidden Corner operates 10:00 to 18:00 (or dusk if earlier)
13. The proposed plans include an increased outdoor play area which creeps further towards numerous existing residential properties – no compromise with regard to screening has been included within this amended application.
14. An increase from the currently 70 seat diner to 170 seats will increase the need of infrastructure such as:
  - a. road access (covered in above points),
  - b. car parking (covered in above points),

## PARISH OF HALTON EAST

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HEP/Plan/ICPMay13

3<sup>rd</sup> May 2013

- c. sewerage system – signage already on display in current facilities available suggest that it cannot accommodate further increase to facilities and residents are also worried if this will impact on their sewerage services.

Residents are also concerned about the increase of vehicles turning and parking in the village rather than driving straight into the applicant's premises.

15. The future: Again residents are disappointed that an Application has been submitted to further, **further**, increase the size of the current operation.
16. Residents understand the applicant has an extremely good business however at what cost to the residents enjoyment of their homes and the countryside? Reference: Craven Herald, Thursday May 2<sup>nd</sup>, Brightenber Hill Turbine Development "*Planning Inspector Zoe Hill confirmed the proposed development was rejected last year due to the impact on nearby residential properties, she also said she would be considering the impact on nearby listed buildings*". Surely the same principle applies to Halton East with Halton Hall / Old Hall Grade II property and that of local residents.
17. The applicant has already advised his is expanding his operations into the Garstang/Preston area – will this mean that the "management" at Halton East venue will be compromised?
18. Visitor Plan – where do we start?
  - a. There are many words – superfluous, the residents cannot see any tangible benefits to the control of numbers or any guarantee of implementation.
  - b. The wristband idea will result in even more traffic movement in and out of the venue as people stay for shorter periods of time (maybe).
  - c. If read correctly, the applicant states these will be initiated only if 'in accordance with planning law', 'as agreed with CDC Planners' etc. Surely, one would have thought, these would have already been put in place?
  - d. Under the heading 'Supply' the applicant states "*we are not prepared to compromise visitor enjoyment by allowing the site to become oversubscribed*" residents believe, through their own experience, the site is already oversubscribed.
  - e. An example of good management could be taken from Forbidden Corner, pre-booking on line or telephone to ensure numbers do not exceed capacity available/permitted.
19. Residents are of the belief that the applicant has been in breach of the current S106 Agreement by selling hot fast food (how can Billy Bob's Fish and Chips be considered as craft food products?). To this end if CDC were to enforce then there would be no need to expand to a 170 seated diner selling fast food in the beautiful hamlet of Halton East.

In summary, the residents of Halton East are now even more adamant this Application should not be granted.

Yours sincerely



Kathryn A Heseltine  
Chair of Parish

DATED \_\_\_\_\_ 2013

**CRAVEN DISTRICT COUNCIL**

-and-

**GARY STEPHEN ROGERS**

-and-

**THE CHATSWORTH ESTATES COMPANY**

-and-

**CLIVE PIETER DE RUIG**

**PETER ANTHONY BOSTOCK**

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**VARIATION AGREEMENT**

Under Section 106 of the Town & Country Planning Act 1990 as amended  
Relating to land at Calm Slate Farm, Halton East

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Gill Cooper  
Strategic Manager, Legal & Democratic Services  
Craven District Council  
1 Belle Vue Square  
Broughton Road  
SKIPTON

**THIS DEED** Is made the day of 2013

**BETWEEN: -**

- (1) **CRAVEN DISTRICT COUNCIL** of 1 Belle Vue Square, Broughton Road, Skipton, North Yorkshire BD23 IFJ (“the Council”)
- (2) **GARY STEPHEN ROGERS** of Calm Slate Farm, Moor Lane, Halton East, Skipton, North Yorkshire BD23 6EJ (“the Developer”)
- (3) **THE CHATSWORTH ESTATES COMPANY** (Company registration number 0217071) whose registered office is at 21 Buckingham Gate, London, SW1E 6LS (“The Reversioner”) of the third part, and
- (4) **CLIVE PETER DE RUIG and PETER ANTHONY BOSTOCK** both care of 21 Buckingham Gate, London SW1E 6LS (together “the Landlords”) of the fourth part.

**WHEREAS**

1. By virtue of an Agreement dated 30 June 2009 made between (1) the Council and (2) the Developer and (3) the Reversioner and (4) the Landlords (“the Original Agreement”) the site (as defined in the Original Agreement and being land at Calm Slate Farm, Halton East near Skipton) was made subject to various planning obligations entered into in connection with the grant of the planning permission for development on the site
2. The said planning obligations included a restriction on the range of goods sold at the site.
3. The parties to this deed have agreed to vary the terms of the Original Agreement in the manner set out herein.



**NOW THIS DEED WITNESSETH** as follows: -

1. This Deed is made pursuant to Section 106A of the Town and Country Planning Act 1990 and all other relevant enabling provisions
2. The parties hereby agree by way of variation that the plan annexed to the Original Agreement shall be deleted and replaced with the plan annexed to this Deed.
3. The Reversioner and the Landlords hereby consent to and concur in the operation of this Deed to the intent that the Site shall be bound by and have the benefit of this Deed.
4. This Deed is a local land charge and shall be registered as such
5. Save as varied the provisions of the Original Agreement shall remain in full force and effect
6. Save as provided by the original Agreement no person who is not a party to this Deed may enforce any terms hereof by virtue of the Contracts (Rights of Third Parties) Act 1999
7. Promptly following completion of this Deed the council shall endorse a memorandum of variation on the Original Agreement in the following terms:  
  
“ This Agreement has been varied by a supplemental agreement dated [ ] and made between Craven District Council (1) Gary Stephens Rogers (2) The Chatsworth Estates Company (3) and Clive Pieter de Ruig and Peter Anthony Bostock (4)”
8. The Developer shall pay the Council on or before the date of completion of this Deed, the Council's reasonable and proper legal costs together with all

disbursements included in connection with the preparation completion and registration of this Deed.

**IN WITNESS** Whereof the parties hereto have executed and delivered this Deed the day and year first before written

**THE COMMON SEAL** of

**CRAVEN DISTRICT COUNCIL** was

hereunto affixed in the presence of

Signed as a deed

**GARY STEPHENS ROGERS**

In the presence of

**EXECUTED AS A DEED** by

**THE CHATSWORTH ESTATES COMPANY**

by the affixing of its common seal

in the presence of:

Director

Secretary

**SIGNED AS A DEED** by the said

**CLIVE PIETER DE RUIG** in the

presence of:

**SIGNED AS A DEED** by the said

**PETER ANTHONY BOSTOCK** in

the presence of: