

CONSULTATION FROM NORTH EAST DERBYSHIRE DISTRICT COUNCIL

APPLICATION Outline application for a 795 dwelling scheme with associated ancillary uses, including a Local Centre, a Neighbourhood Equipped Areas of Play (NEAP), a Local Equipped Area of Play (LEAP), a Riverside Park, a Local Habitat Area, two SUDS, footpaths, walkways, cycle paths and landscaping, with details of access (14/00145/OL)

LOCATION Former Coalite Site on the North West and South East sides of Buttermilk Lane Duckmanton Chesterfield

APPLICANT Bolsover Land Limited

APPLICATION NO. 14/00064/NCO **FILE NO.** A5

CASE OFFICER Mr T Ball

DATE RECEIVED 21st February 2014

DELEGATED APPLICATION REFERRED TO COMMITTEE BY: Assistant Director Planning
REASON: Strategic cross-boundary Issue

SITE

Area of the former Coalite Works to the southern side of the River Doe Lea, comprising the former vehicle maintenance workshops, sewage works and fuel stocking yard together with the agricultural land between the A632 and the River Doe Lea.

To the south-eastern end of the site across the River Doe Lea is Snipe Bog and the Bolsover Business Park. The north-eastern area across the River is the former 'batteries' site. Across Buttermilk Lane to the north-west is the Markham south tip now landscaped. The civic amenity site and related industrial development area (scaffolding storage and plot available for development) adjoin to the western corner. Across Chesterfield Road to the south is agricultural land including an intensive pig farm and small solar farm.

Bolsover Castle and Sutton Scarsdale Hall are prominent features in the surrounding landscape.

The River Doe Lea is the District boundary.

The area of the former Coalite Works on the northern side of the River Doe Lea and within Bolsover District is the subject of a separate planning application, by the same applicant, submitted at the same time, for General Industrial (B2 uses), Warehousing (B8 uses), energy centre, a transport hub, open storage and a museum/visitor centre (14/00089/OUTEA).

PROPOSAL

This is a consultation from North East Derbyshire District Council as neighbouring planning authority. The proposal is an outline application for residential development (up to 795 dwellings with a local centre) with related play areas, riverside park, footpaths, cycle paths, etc. on the former Coalite Works site off Buttermilk Lane and agricultural land between the A632 and the river Doe Lea.

Access would be from new roundabouts on the A632 and on Buttermilk Lane.

The application includes an indicative masterplan showing a mix of house types, areas of landscaping, open space, etc.

AMENDMENTS

A confidential financial viability assessment has been submitted as part of the application. A remediation and phasing strategy, and an odour assessment, have also been submitted.

HISTORY

08/00755/OUTEA Industrial and Distribution Park (Goodman and Alvaro) on site of Coalite Works (no built development on agricultural land). Joint application to BDC and NEDDC. Application withdrawn October 2010.

CONSULTATIONS

Carried out by NEDDC except the following local consultation responses:

English Heritage: copy of response to NEDDC submitted: development will affect the setting of Bolsover Castle; the loss of a greenfield agricultural site will erode the historic rural setting of the Castle which was designed to capture wide and framed views across the Doe Lea Valley for the Terrace Range and the Little Castle. This will cause “less than substantial harm” to the significance which Bolsover Castle derives from its setting. The statutory requirement to have special regard to the desirability of preserving listed buildings, their setting and any features of special interest must be taken into account; less than substantial harm does not equate to acceptable harm - any level of harm requires 'clear and convincing' justification with the public benefit associated with the proposal weighed against the harm (National Planning Policy Framework para 134). English Heritage believe that, on balance, the harm caused to the setting of Bolsover Castle by the proposed development can be justified by the wider public benefits associated with the wider decontamination and redevelopment of the Coalite site. English Heritage understand that this scheme is not financially viable without the residential development. In light of the important link between the justification for this development and the wider redevelopment of the Coalite site they believe it is essential that a robust legal agreement is attached to any consent given ensuring that one cannot be developed without the other. Do not believe that the development of the site could be justified without the wider redevelopment of the Coalite site. 18.03.14

BDC Leisure Services: Although the application site is located within North East Derbyshire District, the development (795 dwellings, approximately 1,900 additional residents) will impact most heavily (particularly on schools, shopping and recreational facilities) on Bolsover, the nearest town to the development. Mitigation of the impact of the development on Bolsover needs to be a material consideration. There is a lack of pedestrian and cycle path linkages to surrounding areas i.e. Bolsover and Markham Vale. Opportunity to provide a greenway link between the Stockley Trail and Poolsbrook Country Park and the Trans-Pennine Trail. The proposed pedestrian bridge across the River to connect the residential areas with the industrial areas should accommodate cyclists. Proposed improvements to Buttermilk Lane are not cycle friendly. 17.04.14

Old Bolsover Town Council: Actively support the development providing the contamination on the site is thoroughly cleared. 08.04.14

Conservation Officer (BDC): The effect upon Bolsover Castle and its setting must be of

primary concern. In particular the residential development proposed for the green field, which lies adjacent to Chesterfield Road. This field is highly visible through the stone archway that leads to the viewing platform at Bolsover Castle. The stone arch acts as a frame to the agricultural fields in the distance. If this field were to be developed it would have a negative impact upon the views from the castle and impact upon the character of the castle as one approached through the archway. The development in this field would also merge Bolsover settlement with Duckmanton, at present when viewed from the Castle the two settlements are easily identifiable as separate, this development would merge the built environment. The environmental statement (10.39), states "...the public benefits of the proposed development outweigh the potential harm identified to the affected heritage assets". It is difficult to accept that the impact on the Castle is less than significant. Weighing the public benefit against heritage harm can only be properly assessed when the impact assessment has been corrected. A detailed analysis is required. The impacts not only on the Castle as a grade 1 Listed Building, but also as a scheduled Ancient Monument and grade 1 Historic Park & Garden also need to be considered.

There is general agreement that it is highly desirable to see the 'Coalite' site re-developed, but the fact that the site was used for industrial purposes before is not in itself justification to allow development at any cost. The reason for developing the green field site is presented as the only viable way to develop the 'Coalite' site, because of the cost of cleaning the site. A financial report to support this claim should be provided before full consideration can be given to the proposal.

It is disappointing that an overall design brief has not been prepared for the site which clearly identifies the design rationale and sets parameters for development (similar to the Markham Vale framework).

The proposed development as it stands has an adverse visual impact on the setting of a number of significant heritage assets. The mitigation scheme as proposed is not sufficient to override the concerns over the long-term effect on the landscape. A full assessment of the impact on the setting of the heritage assets; along with proof of financial necessity to develop the green field site, should be provided before further consideration or negotiation, and any further exploration of design is undertaken. 18.12.14

BDC Planning Policy: Detail comments which concludes:

From an assessment of this proposal, it is considered that the proposal is yet to demonstrate:

- that it is achievable and economically viable;
- that it would contribute to NEDDC's five year supply;
- that it can resolve the contamination issues on the site, particularly within Bolsover District;
- that it can effectively contribute to the required infrastructure needs generated by the development;
- that it represents sustainable development in its own right; and
- whether it is an appropriate direction for the growth of Bolsover Town.

However, it is noted that further submissions are awaited from the applicant that may address these concerns. 03.12.14

Environmental Health – considering the detail remediation proposals, formal comment not yet possible as further information and clarity is being sought..

No response received from Strategic Housing Manager.

PUBLICITY

Carried out by NEDDC

POLICY

To be assessed by NEDDC. Implications for BDC discussed below

ASSESSMENT

This is a consultation from North East Derbyshire District Council on an application for residential development (up to 795 dwellings) with associated facilities and infrastructure adjoining the District Boundary and forming land associated with the former Coalite Works. This includes the former coal stocking yard, the vehicle maintenance depot, water treatment works and an area of land in agricultural use between the A632, River Doe Lea and the former railway opposite Leaholme Estate. The residential site area is 28ha.

The remaining area of the former Coalite Works which is within Bolsover District is the subject of a related planning application submitted at the same time for B2 (General Industrial) & B8 (Storage or distribution) uses, a transport hub and energy centre. The two applications have been conceived as one development and indeed share common documents including an Environmental Statement, Master Plan and remediation and phasing strategy for the whole development.

Heritage Impact

The development involves the loss of an important greenfield site which forms part of the setting of Bolsover Castle. The greenfield area in arable agricultural use is on land which forms a small hillside with an eastern facing slope, i.e. towards Bolsover Castle. The top of the hill is marked by an infilled railway cutting with well established planting. The topography and vegetation help to screen and soften the impact of the Coalite coal stocking yard beyond, which is at a lower level than the western side.

The greenfield is particularly prominent from the Castle. On approach to The Terrace and Little Castle from the main courtyard an archway provides a key viewpoint of the countryside setting of the Castle (giving “visitors a taste of the 17th century landscape” – English Heritage response). The field proposed for development is the central feature in this view. Passage through the archway currently gives a rural view and rural character to the Castle’s setting reflecting its historic past; the proposal would change this view to one which is urban in character. The housing would be the central and dominant feature of this view.

Similarly the field is prominent in views from The Terrace, the designed viewing platform at the northern end of The Terrace, and from the windows of the main rooms in the Little Castle, all of which are designed to exploit the views across the Doe Lea valley. The Castle was designed to take advantage of these westwards facing views and to dominate the vale.

Development of the greenfield element of the proposal would change the countryside setting as experienced from the archway, to a setting urban in character. Its development would effectively link the built up area at the bottom of Bolsover Hill with the redevelopment of the Brownfield Coalite Works site and Markham Vale reducing the rural landscape element of the Castle’s setting as experienced from the other viewpoints. In addition to being an important element of the setting of the Castle the greenfield provides an important buffer in between

built-up areas and potential brownfield redevelopment areas.

There would therefore be harm to the setting of Bolsover Castle reducing the significance to the Castle which it derives from its setting.

The Castle is of exceptional national significance, which is reflected in its multiple designations as a Grade 1 Listed Building, Scheduled Ancient Monument, Grade 1 Registered Park and Garden and being within a Conservation Area; it is one of the top 2% of listed buildings in England (English Heritage response). Taking this significance into account and the development already present in the vale, in particular Bolsover Business Park (former Bolsover Colliery), the brownfield areas of the former Coalite Works and Markham Vale (former Markham Colliery) it is considered that the harm to the setting of Bolsover Castle will be “less than substantial” in the terms of the National Planning Policy Framework.

Where a development will lead to “less than substantial harm” to the significance of a designated heritage asset the harm should be weighed against the benefits of the proposal (National Planning Policy Framework policy 134). Clearly the benefits from the proposal, as stated by the applicant, is the provision of higher value residential development to finance the remediation costs of the former Coalite Works. However no such linkage has been clearly demonstrated in the submitted application documents.

It is not considered that the benefits of the proposal have been proven to be sufficient to override the harm to the setting of designated heritage assets, i.e. Bolsover Castle.

The Council has a duty under S66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 when considering planning applications which affect a Listed Building or its setting to have special regard to the desirability of preserving the building, or its setting. A recent Court of Appeal decision (“Barnwell”) made it clear that the statutory test must be given great weight when dealing with impacts on listed buildings and their settings. The judgement also indicated that where impacts result in less than substantial harm these still need to be given considerable weight. The judgement also re-iterated that ‘preserving’ means to do no harm.

Accordingly given this strong presumption against development which harms the setting of a Listed Building, that ‘less than substantial harm’ is considered to arise from the proposal to the setting of Bolsover Castle and that the public benefits from the development (providing funding for the remediation and redevelopment of the former Coalite Works) has not been proven; it is considered that the benefits from the development do not outweigh the presumption to preserve the setting of Listed Buildings, particularly of the calibre and importance of Bolsover Castle. Indeed it is even possible given the proposed phasing strategy (see below) that after an initial ‘clearance’ phase that the occupation of residential development on the greenfield area could prevent further remediation of the brownfield areas because of the impacts on the occupiers of such dwellings. There are therefore strong objections on these grounds to the development of the green field element of the proposal (i.e. the hillside field facing the Castle). There are no objections, in terms of impact on the setting of Bolsover Castle, to residential development of the brownfield element, indeed such development in those areas, may have less impact on the setting of the Castle than industrial/business use buildings.

Remediation/phasing/relationship to BDC application

A confidential Phasing and Remediation Strategy has been submitted. This indicates that the first phase of the residential development (upon the greenfield element of the site) would be released for occupation after the first two phases of remediation, i.e. after 19 months. This raises concerns that occupation of residential units would be taking place in close proximity to future phases of remediation works in particular on the adjoining brownfield areas, which could prejudice those works being carried out because of the impact of such remediation works on the living environment of new occupiers. There is a risk that only the housing development would take place if remediation works would cause unacceptable impacts on the occupiers or if remediation costs turn out to be higher than estimated.

No clear evidence has been provided of the remediation costs of the commercial areas to show that the residential development is needed as 'enabling' development. No clear consideration has been given to the remediation of the area of the former works before any residential development has been demonstrated.

The applicant has proposed a condition to restrict occupation of housing until phases one and two of the remediation strategy are complete. This would encompass the clearance of the whole site (site demolition and clearance of vegetation and remaining structures/slabs above ground) – Phase 1 – and construction of the bio-remediation treatment area with treatment of soils within plot 5 (area of the chemical works between the River Doe Lea and the former railway on the north-western side of Buttermilk Lane) – phase 2.

If the housing development is supported phasing would be required on a planning permission within NEDDC to restrict occupation of housing within NEDDC until works have been carried out within BDC area, albeit all currently on land within the control of the applicant. It could be that NEDCC do not see a need to tie the remediation of commercial land outside their administrative area to an application for housing for reasons connected with housing supply issues. It could also be possible given the different types of development proposed in the different local authority areas that ownerships may change. At the very least a S106 planning obligation should be sought to ensure the linkage and phasing is tied and regulated.

It has not been demonstrated that the proposed phasing of the residential development in relation to the overall remediation and redevelopment of the site will not impact on further phases of remediation and development of the former Coalite Works once occupation of dwellings takes place. There is potential for new occupiers of dwellings to suffer impacts from the remediation works which could seriously impact on the ability to continue with the remediation works. As such the proposal is not sustainable development in accordance with the NPPF. The remediation and odour strategies indicate that the housing would need to be limited to a later phase of the remediation works to ensure that the environment was suitable for residents and, on the precautionary principle, that remediation has been successfully completed.

Principal of Housing and impact on Bolsover

The combined development (i.e. the housing and the commercial applications taken together) constitutes a strategic matter as it straddles the District Boundary. As part of the preparation

of the Local Plan for Bolsover District, an approach will be made to North East Derbyshire District Council to jointly consider assumptions about availability, suitability, and the likely economic viability of the site to meet identified need for housing and employment land over the plan period.

The proposal represents a strategic urban extension to Bolsover Town along the A632. It is considered reasonable to assume that the infrastructure requirements will fall upon Bolsover District rather than North East Derbyshire District, particularly as the nearest settlements of Long Duckmanton (in North East Derbyshire) and Duckmanton (in Chesterfield) are beyond the M1, (e.g. over 2000m to Duckmanton Primary School, 1500m to New Bolsover Primary School) with Bolsover being the nearest service centre (1800m to town centre). For a development of this scale it is unlikely that the local water, education, health and leisure facilities would be able to accommodate the proposal without expansion. Local roads and green infrastructure will also need improvement.

None of the information submitted clearly demonstrates that the residential development is needed to help fund the remediation of the former Coalite site.

An assessment of the development has been undertaken to see whether the development is achievable and will contribute to the five year supply, and whether the site is suitable and will deliver sustainable development in terms of impacts on Bolsover District. It is considered that the proposal is yet to demonstrate:

- that it is achievable and economically viable;
- that it would contribute to NEDDC's five year supply of deliverable housing;
- that it will help resolve the contamination issues on the Coalite site, particularly those parts within Bolsover District;
- that development and occupation of housing before the completion of the remediation of the whole Coalite site will not prejudice the completion of the remediation of the whole site;
- that it can effectively contribute to the required infrastructure needs generated by the development, particularly those impacting on such facilities within Bolsover Town;
- that it represents sustainable development in its own right;
- whether it is an appropriate direction for growth of Bolsover Town taking account of other committed and proposed sites around Bolsover.

It is not considered on the basis of the evidence available that it has been demonstrated that the residential development is achievable:

- there is no overall timetable for the build out of the whole mixed use development, while the remediation strategy provides for occupation of housing after 19 months the remediation strategy has not been accepted/agreed at the present time, there being serious concerns about occupation of housing before nearby remediation works have been completed;
- the proposal does not comply with the adopted planning policies for the area (NEDDC Local Plan);
- the proposal would in practice extend Bolsover Town into North East Derbyshire and potentially join Bolsover to Markham Vale;
- the contamination of the site is a clear physical and environmental constraint, for which the remediation is still to be agreed;

- the route of the HS2 may impact on the western edge of the development;
- Other residential sites with planning permission (e.g. Blind Lane) have not been developed because of low values and economic viability concerns.

It is also considered that the site is not in a generally sustainable location given its distance from primary and secondary schools.

As currently evidenced and demonstrated it is not considered that this is a sustainable site for residential development in accordance with the National Planning Policy Framework.

Conclusions

The remediation of the former Coalite Works is a challenging problem. The proper clearance and resolution of the problems of pollution of the land and the issues of odour from the site are supported and encouraged by all parties.

However, development of the greenfield area facing Bolsover Castle a prominent area in framed and designed views from the Castle, can only be acceptable if there is a clear demonstrable need for housing value from this land to fund the remediation of the Coalite works. At the current time this is not the case.

Also the timing of the development and occupation of housing does not relate well to the proposed phasing of the remediation works. There is potential that allowing housing at an early stage may restrict the remediation of other area of the works. Again this has not been clearly demonstrated, and the formal views of Environmental Health are still awaited while discussions with the applicant continue. Irrespective of the appropriate phasing for the housing in relation to remediation, there is also the problem of controlling occupation of housing in one administrative area in relation to works being carried out in another administrative area. The applicant has proposed conditions to require the remediation to follow the proposed phasing and to restrict occupation of any housing to completion of specific phases of the remediation strategy (completion of phases 1 and 2 is suggested by the applicant but this is still under consideration by Environmental Health). If the site remains in one ownership this may well be reasonable but other controls may also be advisable such as a S106 Planning Obligation to take account of other eventualities.

While the housing area is outside the administrative area of Bolsover District it will function as an extension to Bolsover Town. The additional housing will not technically contribute to the Bolsover District housing supply and may impact on the deliverability of other sites within the District around Bolsover which have planning permission or are the subject of planning applications at the present time. The impact of such development upon the infrastructure of Bolsover has not been sufficiently considered and it appears that little funding will be available to contribute to such needs (assessment of the viability information is awaited).

It is therefore considered that the residential development of this area is not considered to be sustainable development in the terms of the National Planning Policy Framework because of its impact on heritage assets of national significance and its impacts on the infrastructure of Bolsover Town.

Accordingly the Council strongly objects to the proposed development in its current form for

the reasons given below.

RECOMMENDATION

Inform North East Derbyshire District Council that it strongly objects to the Outline application for a 795 dwelling scheme with associated ancillary uses on land at the former Coalite Works and associated land for the following reasons:

1. The Council has a duty under S66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 when considering planning applications which affect a Listed Building or its setting to have special regard to the desirability of preserving the building, or its setting.

The National Planning Policy Framework has as a core planning principle the conservation of heritage assets in a manner appropriate to their significance with a suite of policies relating to the conservation and enhancement of the historic environment (section 12).

The Bolsover District Local Plan with respect to Bolsover Castle as a Listed Building seeks to preserve or enhance the setting of Listed buildings (Policy CON10).

The Castle is of exceptional national significance, which is reflected in its multiple designations as a Grade 1 listed Building, Scheduled Ancient Monument, Grade 1 Registered Park and Garden and being within a Conservation Area; it is one of the top 2% of listed buildings in England (English Heritage response). Taking this significance into account and the development already present in the vale, in particular Bolsover Business Park (former Bolsover Colliery), the brownfield areas of the former Coalite Works and Markham Vale (former Markham Colliery) it is considered that the harm to the setting of Bolsover Castle will be “less than substantial” in the terms of the National Planning Policy Framework.

Where a development will lead to “less than substantial harm” to the significance of a designated heritage asset the harm should be weighed against the benefits of the proposal (National Planning Policy Framework policy 134). Clearly the benefits from the proposal, as stated by the applicant, is the provision of higher value residential development to finance the remediation costs of the former Coalite Works. However no such linkage has been clearly demonstrated in the submitted application documents. It is not considered that the benefits of the proposal have been proven to be sufficient to override the harm to the setting of designated heritage assets, i.e. Bolsover Castle.

There are therefore strong objections on these grounds to the (residential) development of the green field element of the proposal (i.e. the hillside field facing the Castle). As such the proposal is not considered to be sustainable development in accordance with the National Planning Policy Framework.

2. While the housing area is outside the administrative area of Bolsover District it will function as an extension to Bolsover Town. The additional housing will not technically contribute to the Bolsover District housing supply and may impact on the deliverability of other sites within the District around Bolsover which have planning permission or are the subject of planning applications at the present time. The impact of such development upon the infrastructure of Bolsover has not been sufficiently considered and it appears that little developer funding will be available to contribute to such needs although a full assessment of the viability information is awaited. As such the proposal is not considered at the present time to be sustainable development in accordance with the National Planning Policy Framework. It would be more appropriate for such proposals to be considered as part of the Local Plan preparation process with both local planning authorities.
3. It has not been demonstrated that the proposed phasing of the residential development in relation to the overall remediation and redevelopment of the site will not impact on further phases of remediation and development of the former Coalite Works once occupation of dwellings takes place. There is potential for new occupiers of dwellings to suffer impacts from the remediation works which could seriously impact on the ability to continue with the remediation works. As such the proposal is not considered at the present time to be sustainable development in accordance with the National Planning Policy Framework.
4. It is also noted that :
 - The proposed housing development is in proximity to established industrial uses at Bolsover Business Park and the proposed uses for the remaining areas of the former Coalite Works. Such uses may have adverse impacts on the proposed housing areas and should be taken into account in the determination of the application.
 - A pig farm is adjacent to the site on the southern side of Chesterfield Road.
 - The planning permission for the Markham Vale development included the provision of a cycleway/bridleway route alongside the A632 from Bolsover to Buttermilk Lane which has not yet been implemented.

4.2 THE MASTERPLAN

