

**PARISH** Hodthorpe and Belph

---

**APPLICATION** Residential Development with means of access from Queens Road including additional school parking area (In conjunction with the relocation and expansion of allotment gardens to land west of Hodthorpe).

**LOCATION** Land to the East of Hodthorpe Primary School Queens Road Hodthorpe

**APPLICANT** Mr Darren Ridout, Welbeck Estates Co Ltd.

**APPLICATION NO.** 15/00354/OUT **FILE NO.** PP-04319842

**CASE OFFICER** Mr Steve Phillipson

**DATE RECEIVED** 18th July 2015

---

### **SITE**

Hodthorpe is a small settlement covering about 11.5ha in area comprising approximately 292 dwellings located to the east of Whitwell and southwest of Worksop.

The site is approximately 1.8ha in area and is in use as allotments (leased out by Welbeck Estates to the Parish Council). The site is located to the south east corner of Hodthorpe directly adjacent to the south of Queens Road which is the main road running through Hodthorpe. There are bus stops for both directions on Queens Road adjacent to the site.

The Hodthorpe Club is to the north east of the site, otherwise mainly 2 storey dwellings face the site on the opposite side of Queens Road (mix of brick and render). The Primary School is adjacent to the west. To the south is an agricultural field and to the east is Green Lane with open countryside beyond.

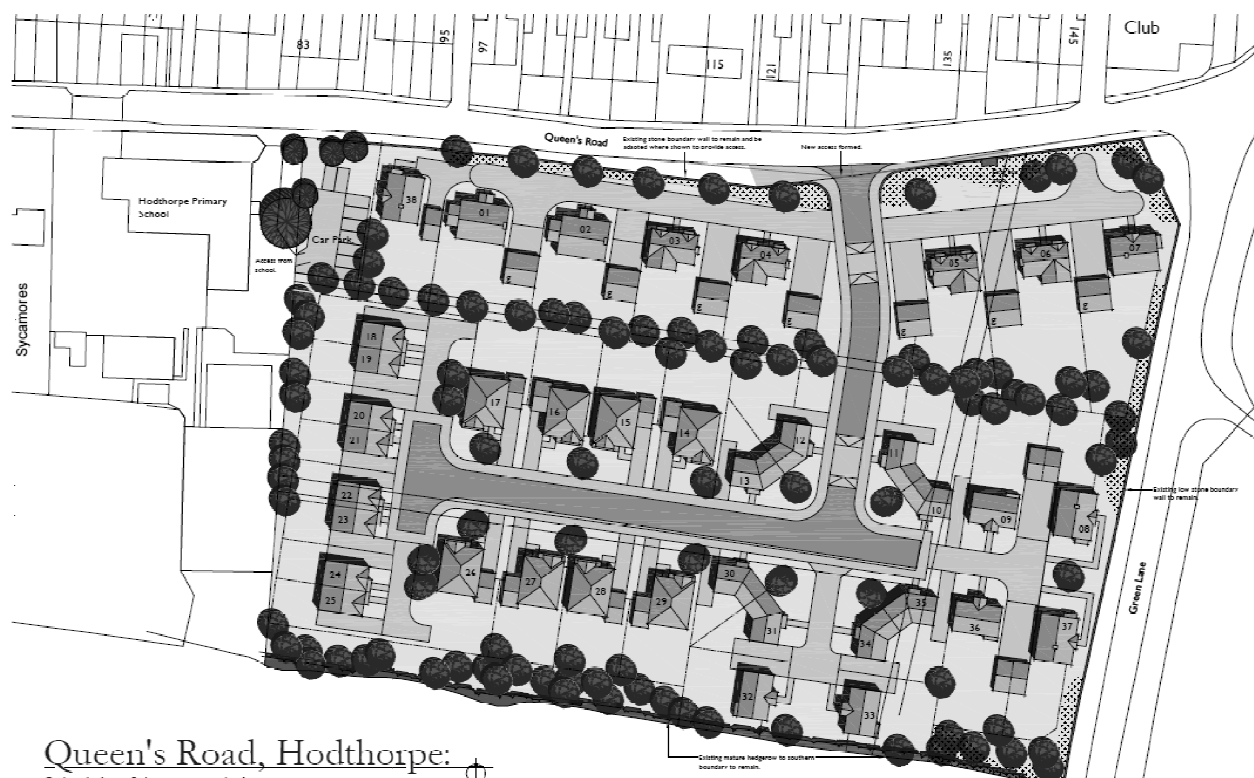
The area is relatively open in views from the immediate area with the majority of the site boundaries defined by a low natural stone wall. There are no trees within the site.


### **PROPOSAL**

Application for outline planning permission for residential development with means of access from Queens Road. Also including an additional 7 space school parking area served from the schools existing access. The existing allotments on site would be relocated from this site to land adjacent to the south west side of Hodthorpe (behind the parish recreation ground). A new community woodland area to the south side of the new allotments would be provided with permissive path.

The Applicant proposes to replace the existing 44 allotment plots on the application site with approximately 71 new plots which, the Applicant says is well beyond the 9 required in line with national guidance to demonstrate a 20% future reserve.

An indicative layout plan has been provided. As amended this shows 38 new dwellings served from a cul-de-sac accessed from a proposed junction off Queens Road.



Queen's Road, Hodthorpe: 

The application is supported by several reports including:-

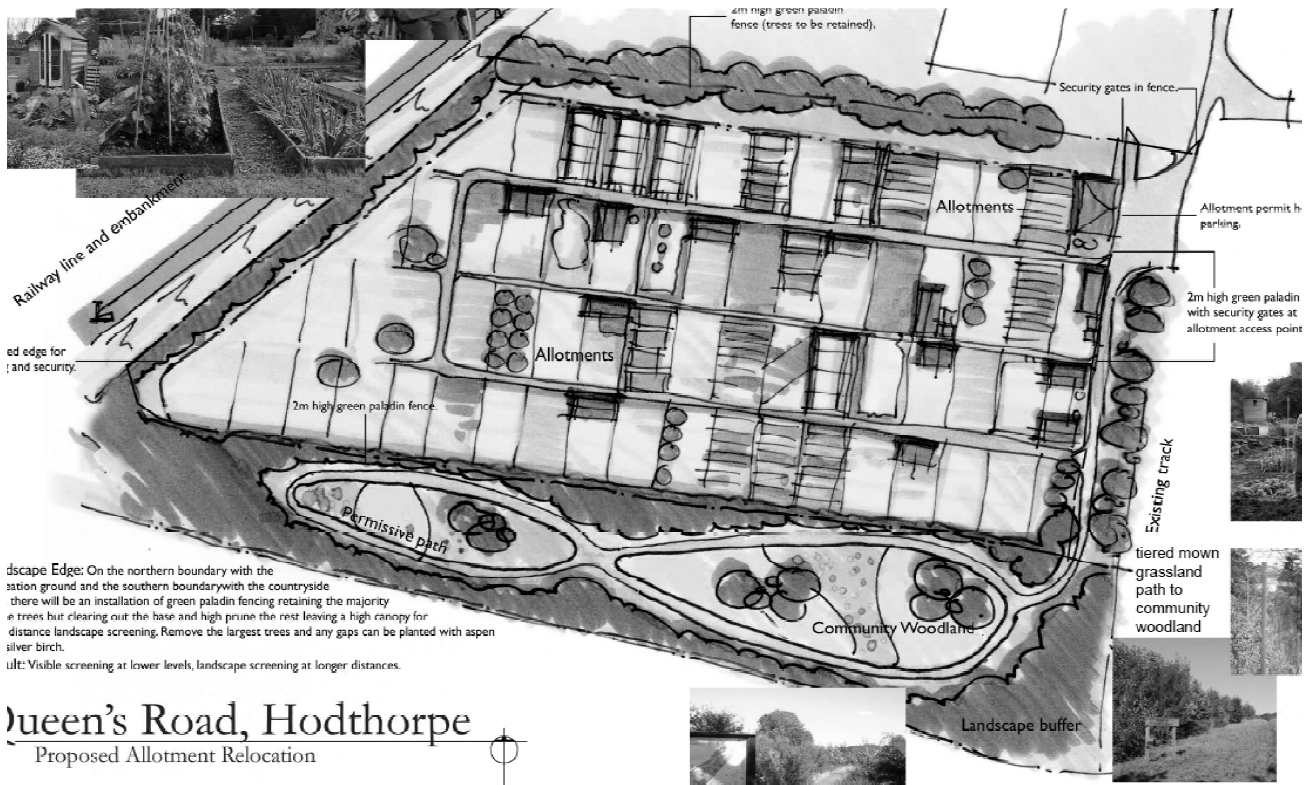
- Planning Statement
- Design and Access Statement
- Preliminary Ecological Appraisal
- Flood Risk Assessment
- Phase 1 desk study on potential contamination
- Transport Statement

#### Developer Contributions

The Applicant has agreed to enter into a S106 agreement to secure:

- Cultivate, provide and secure the allotment relocation site (to the rear of the recreation ground) before existing allotment holders are required to move from the application site (within 12 months of planning permission) and extend the lease duration from 1 year to 15 years.
- Provision of a 1ha community woodland and permissive path to south of the allotment relocation site (See indicative option plan below).
- Accordance with the Council's interim policy on affordable housing waiving the requirement for 10% on site in return for meeting delivery targets on site; save for the delivery targets being extended by one year to account for the time it will take to establish and relocate the allotments.

- Provision of 400sqm parking area (7 additional off-street parking spaces) for the school to reduce on-street parking on Queens Rd.



## AMENDMENTS

26/08/15

Additional Drainage information.

05/10/15

Revised indicative residential layout 14/1962/11.02(D) omitting the community meeting room (due to intended provision of community centre on another proposal (north side of Hodthorpe) and replacement with an off-street parking area for use by the School accessed from their existing access.

Option 1 indicative layout for new allotments and community woodland/walk

15/10/15:

Additional site entrance/access detail drawing 13050/5013/01

S106 Heads of terms

Option 2 indicative layout for new allotments and community woodland/walk

27/10/15:

Revised S106 Heads of Terms.

Suggested biodiversity mitigation proposals.

## **HISTORY (if relevant)**

No relevant history on the application site. However Committee Members will be aware that there are other residential development proposals on hand for Hodthorpe. These include applications for outline planning permission for: up to 101 dwellings at Birks Farm north of Hodthorpe (currently deferred for completion of S106 agreement and negotiations to secure a more direct footpath link to Hodthorpe); and application for outline planning permission for up to 95 dwellings on land to the south of the current application site to the south side of Hodthorpe (not yet reported to Planning Committee). Permission for 160 dwellings to the east side of Green Land has recently been refused as not sustainable and not logical settlement extension and loss of agricultural land (A revised proposal for that site reduced to up to 100 homes has just been received).

## **CONSULTATIONS**

### Environment Agency

04.8.15. No objections but advises that the EA does not consider the site to be a high risk in terms of contamination but soil and groundwater contamination could exist.

### DCC Flood Risk Management Team

17.08.15. It appears the applicant hasn't undertaken an appropriate ground investigation to support and inform the application. Therefore the application cannot demonstrate the runoff destination hierarchy as described in Document Part H of the Building Regulations 2000. The site is likely to be suitable for infiltration Sustainable Drainage Systems (SuDS). The County Council strongly supports the use of SuDS as part of the drainage system for the proposed development if the appropriate ground investigations show this would be a viable option.

Recommends that conditions are applied requiring:-

No development shall take place until a detailed assessment has been provided to demonstrate that the proposed destination for surface water accords with the hierarchy in Approved Document Part H of the Building Regulations 2000 and;  
Scheme to be approved for provision and maintenance of surface water drainage.

### Severn Trent Water

26.08.15. No objections subject to a condition requiring details of surface water and foul sewage to be approved.

### Environmental Health Officer

21.10.15 (verbal response). Advises, having regard to the current use of the site that a condition is needed to require an investigation into potential ground contamination and remediation if proved necessary.

### Parish Council

10.08.15. Hodthorpe and Belparish Parish Council strongly object to this application on the grounds that the allotment site has become the "heart and soul" of the village and a hub for integration. It enables "bridging of the generations" where youngsters can learn from the older generations about planting as well as healthy eating and ongoing cultivation.

The Parish Council has severe worries about the proposed relocation site regarding safety. Due to the relatively remote location and visual screening from the hedge there is strong concerns about the safety of the tenants allotment maintenance equipment. In addition is the real worry about the safety of individuals who will feel extremely isolated at this location.

Reconsulted on revised proposals omitting the community meeting room in lieu of school parking spaces and draft allotment relocation proposals.

07.010.15 The Parish Council continues to object to the proposals for the reasons previously stated however it has resolved to work with Welbeck Estates in a professional manner in the relocation of the allotments if planning permission is granted.

#### DCC Strategic Infrastructure Planning

Encourages high speed broadband.

New residential development should incorporate a 32mm mains water riser which will enable the installation of domestic sprinkler systems.

Hodthorpe Primary School has a current net capacity of 105 pupils and currently has 80 pupils on roll. Projections indicate that the number of pupils on roll will decrease to 63 during the next 5 years and there would be capacity to accommodate the additional pupils generated by the proposed development at the normal area primary school. The County Council therefore does not request a contribution towards the provision of primary school places. The Heritage High School has capacity to accommodate the additional pupils generated therefore no contribution is requested. 03.09.15.

#### DCC Highway Authority

9.9.15. Given the remote location and lack of services the sustainability of the location is questioned.

From the highway point of view, it is considered that a suitable layout can be achieved at the site. The existing footway fronting the site will need to be amended to provide a minimum 2m width along the length of the site's Queen's Road frontage. The section exceeding 2m should be retained as footway and occurs in the vicinity of the site access. To achieve the increase in width, the fronting wall and the bus shelter will need to be removed or set back behind the footway and behind the 2.4m x 43m visibility sightlines which will need to be provided at both the proposed new access and at the Green Lane/Queen's Road junction.

Note that a street light, telegraph pole and road sign will need to be relocated before any works can commence on Queens Road.

Otherwise no objections subject to the following conditions (*Planning Officer Comments in italics*):-

Provision of temporary access for construction purposes 5.5m wide, 6m radii, 2.4m x 43m splays.

Approval of a construction management plan (*not considered necessary*)

Provision of wheel cleaning facilities (*an advisory note adequate given DCC control*).

Relocation of street light, telegraph pole and road sign (*an advisory note adequate given DCC control*).

New estate street access to be provided with 2 x 2m footways, 5.5m wide, 6m radii, 2.4m x 43m splays.

Design of community centre access (*no longer required on amended scheme*).

Provision of parking area for community centre (*no longer required on amended scheme*).

Internal Layout to comply with County and national Design Guides (*Not necessary to condition this*).

Surface water drainage details to be approved and implemented.

Provision of new estate street to serve each dwelling before *occupation (not necessary/appropriate on outline application)*.

Two parking spaces per dwelling, garages to be at least 3m x 6m where counted as a space.

Provision of secure cycle parking.

Provision of bin stores at entrance to shared private drives.

Gates to be set back 5m from highway (*not reasonable*).

Application for approval of reserved matters to include swept path for large vehicles (*adequate as a note as it relates to the details of the layout*).

### Urban Design Officer

17.09.15. Based upon the indicative layout drawing, the applicant should be advised that the proposals would be unacceptable in terms of a number of urban design considerations.

Future reserved matters proposals would need to address the concerns in accordance with the NPPF, NPPG, Successful Places Interim SPD (2013) and Building for Life 12 (2014). It is recommended that in the event that planning permission is granted, an advice note is attached to any permission drawing attention to these comments and the need to adapt the design accordingly.

The proposed access would involve the removal of much of the existing frontage wall in order to provide a sufficiently wide footway and visibility space. The wall is an important part of the character of the site and this part of the village and its reinstatement on the back edge of the footway should be a requirement of any grant of permission.

### Derbyshire Wildlife Trust

23.10.15. The submitted Ecology Scoping Survey report is a scoping report based upon a walk around part of the outside perimeter of the site carried out on 30<sup>th</sup> June 2015. The report acknowledges the limitations associated with the survey and states that it only gathers a limited amount of information. We therefore support the recommendation in the report that an extended Phase 1 habitat survey is required to describe the main characteristics of the proposed development and the need for further targeted survey work given that the site was considered to have potential to support badger, foraging bats, reptiles, nesting birds, amphibians and notable and invasive plant species.

Overall, we would therefore advise that there is insufficient information in the consultation documents to enable the Derbyshire Wildlife Trust to make an informed assessment of whether the proposal would have any adverse ecological impacts and to advise the local planning authority accordingly as to whether the proposal complies with relevant legislation and policies relating to biodiversity.

26.10.15. Further comments that it is important that biodiversity matters are dealt with at this stage since DWT consider that there is little scope for the provision of any ecological mitigation areas that may be required based on the results of a detailed ecological assessment.

DWT are aware of at least three small water bodies on plots within the allotment site and while they agree that the likelihood of great crested newt (a protected species) being present

is limited, it is not totally beyond possibility. It is likely that the ponds do support other amphibians, as indicated by plot holders, including common toad (not a protected species but a Species of Principal Importance). One of the sustainability principles established in the National Planning Policy Framework is that there should be no net loss of biodiversity and there should be a net gain for nature. We would therefore expect the development to include a replacement water body at the very least to ensure there is no loss of biodiversity in the form of opportunities for amphibians.

The presence of Rustyback Fern at the site should be safeguarded by both the retention of the walls and its protection from any impacts during construction. If this is not possible, appropriate mitigation should be provided. Notes that the hedgerow is to be retained on the back boundary, these should not form the boundaries to the new garden plots as indicated on the plan as in such situations the long term retention and positive management cannot be guaranteed.

#### Leisure Services Officer

28.9.15 Provisional comment in relation to the adequacy of the existing recreation provision in Hodthorpe. The LSTO says that the Applicant's argument re: adequate appears to be related to quantity, which is adequate given the current population of Hodthorpe. However, the existing greenspace is arguably deficient (inadequate) in terms of quality, so any contribution would be used to enhance and improve (the quality of) existing provision, rather than create any new provision.

Provisional response (20.10.15) Notwithstanding the offer of the woodland walk the Leisure Officer would still like to request a contribution towards the enhancement and improvement of the recreation ground and the play area in particular, given that it could be argued that this is inadequate in terms of quality.

Formal response 26.10.15. Open Space: I note that the development site is an existing allotment site that is currently under used. Saved policy CLT9 states that Planning permission will not be granted on allotment land...except where...2) alternative provision is made, the spirit of the policy as outlined in the Local Plan is to not grant planning permission. The supporting text/preamble to the policy says:

*'The Local Planning Authority wishes to make it clear that it considers the allotments shown on the proposals map to be important amenities and that it will not grant planning permission for development on this land.*

*Sometimes allotment land represents the only possible site for a development which is essential to a particular community – for example a relief road or houses for old people near shops and community facilities. In such cases the local planning authority may consider granting permission, but only if appropriate alternative provision is made. It is recognised, however, that such measures cannot fully make good the loss, since established allotments are usually better for horticultural use than new land by virtue of their long term tilling, cropping, fertilising and drainage works'.*

The proposed site for replacement allotments, to the south of Queen Street Recreation Ground, is actually a former allotment site (0.49ha, as identified in the 'Audit of Built and Outdoor Sport and Open Space Sites' that was carried out in 2006), so the proposed relocation would still represent a net loss of allotment land within Hodthorpe.

As is noted in the Planning Statement ‘...a waiting list exists’, so it cannot be ‘demonstrated that the allotments are no longer required’, as per policy CLT9. As such, I would have difficulty supporting the application as submitted. However, as the applicant is offering to provide and develop an alternative allotment site that has the potential over time to be better than the existing allotments; it would be difficult to object to the development solely on the grounds of loss of provision.

I note that although the development itself does not include any open space, the applicant has included an area of semi-natural open space adjacent to the proposed allotment site that will provide an area for informal recreation and dog walking which seeks to address the shortfall in semi-natural open space within the parish as identified in the Bolsover Green Space Strategy (2012), which is welcomed and notwithstanding this, a development of this scale would normally trigger a s106 contribution as outlined below.

As the proposed development footprint is relatively small it would be difficult to provide informal green space of any meaningful size or recreational value within the development itself so it is recommended that a suitable commuted sum is negotiated in lieu of any on site requirement.

Using the current formula the open space commuted sum (for off-site provision) should £755 per dwelling index linked to the RPI.

However, as the applicant is already looking to provide some off-site open space provision within the vicinity of the development (400m), any commuted sum payments would be used for enhancing and improving the quality of existing public open space (which was identified as inadequate in the Bolsover Green Space Strategy (2012)) within the vicinity of the development (in this case Queen’s Road Recreation Ground) and the amount of any such payments would be subject to negotiation with the applicant / developer.

#### Built & Outdoor Sports Facilities:

As the proposed development isn’t of sufficient scale to require any dedicated on site built and outdoor sports facilities it is recommended that a suitable commuted sum is negotiated in lieu of any formal on site requirement. Using the current formula the commuted sum should be £898 per dwelling index linked. This commuted sum is to be invested in enhancing and improving the quality of existing built and outdoor sport facilities within the parish, which was identified as inadequate in the Bolsover Green Space Strategy (2012).

A maintenance sum will not be required where payments are made in lieu of onsite provision.

#### **PUBLICITY**

Advertised in the press, site notice posted, 55 properties consulted. One letter stating no objection, and 4 letters of objection.

Grounds of objection:-

Increased traffic.

Environmental impact.

Destruction of the allotments.

Even if allotments are moved there will still be major impact due to the time, money hard work



and passion people have put into them over the years.  
To expect people to give them up and move to the top of the village is stupid.  
The place for relocation is shielded by large trees – it has been used for allotments in the past and they got vandalised all the time. Also would not feel safe up there.  
The existing allotments are in the heart of the village and well used.  
The allotments have wildlife and ponds with newts and frogs and toads. Feeding birds.  
A lot of allotment holders have stated that they will not relocate.  
Will rip the heart out of the community.  
Have lost shop and post office; the only thing we have left is the allotments.  
Who would want to live in Hodthorpe with nothing in it?  
Allotments are used by a number of disadvantaged children to educate on food, planting and environmental protection.  
No need for a new community centre when we have the Hodthorpe Club – people of the village gave up their time and money to get it reopened after it closed for about 11 months a few years ago.  
Prefers the site behind the allotments (Johnson's site).

## **POLICY**

### Bolsover District Local Plan (BDLP)

GEN 1 – Minimum Requirements for Development  
GEN 2 – Impact of Development on the Environment  
GEN4 – Development on Contaminated Land  
GEN 5 – Land Drainage  
GEN 6 – Sewerage and Sewage Disposal  
GEN 8 – Settlement Frameworks  
GEN10- Important Open Areas  
GEN 17 – Public Art  
HOU 5 – Outdoor Recreation and Play Space Provision for New Housing Development  
HOU 6 – Affordable Housing. Also interim policy on Affordable.  
HOU9 - Essential New Dwellings in the Countryside  
CLT9 – Protection of Existing Allotments  
TRA 1 – Location of New Development  
ENV 3 – Development in the Countryside  
ENV5 - Nature Conservation Interests

### National Planning Policy Framework

Paragraph 14 – *advises that permission should be granted for sustainable development. Where the development plan policies are out-of-date permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework.*

Paragraph 49 states that:- *“Housing applications should be considered in the context of the presumption in favour of sustainable development. Relevant policies for the supply of housing should not be considered up-to-date if the local planning authority cannot demonstrate a five-year supply of deliverable housing sites.”*

Paragraph 34 states that:- *“Plans and decisions should ensure developments that generate significant movement are located where the need to travel will be minimised and the use of sustainable transport modes can be maximised.”*

Paragraph 73 states that: *“Access to high quality open spaces and opportunities for sport and recreation can make an important contribution to the health and well-being of communities. Planning policies should be based on robust and up-to-date assessments of the needs for open space, sports and recreation facilities and opportunities for new provision. The assessments should identify specific needs and quantitative or qualitative deficits or surpluses of open space, sports and recreational facilities in the local area. Information gained from the assessments should be used to determine what open space, sports and recreational provision is required.”*

Paragraph 74 states that: *“Existing open space, sports and recreational buildings and land, including playing fields, should not be built on unless:-*

- *an assessment has been undertaken which has clearly shown the open space, buildings or land to be surplus to requirements; or*
- *the loss resulting from the proposed development would be replaced by equivalent or better provision in terms of quantity and quality in a suitable location; or*
- *the development is for alternative sports and recreational provision, the needs for which clearly outweigh the loss.”*

#### Other

Guidelines to be used for assessment of applications for residential development when the Council does not have a five year supply of deliverable sites (approved in February 2015)

The adopted Green Space Strategy states that each settlement should have 2.4 ha of Formal Green Space and 1.2 hectares of Semi Natural space per 1000 population.

Hodthorpe is under provided in terms of formal green space with 1.7 ha per 1,000 population and no provision at all of semi-natural green space.

Supplementary Planning Document Successful Places: A Guide to Sustainable Housing Layout and Design (2013)

A Building for Life 12 (BfL12) - The sign of a good place to live

## **ASSESSMENT**

### **The Principle of Development**

The site lies outside, but adjacent to, the settlement framework as defined in the now aging Bolsover District Local Plan (2000). Therefore saved countryside protection policies ENV3 and HOU9 apply which do not normally allow residential development except in special circumstances. HOU9 can permit dwellings for agricultural workers but this is not relevant here. To accord with policy ENV3 development outside the settlement framework must be necessary (for example to house an agricultural worker), or it must result in a significant improvement to the rural environment, or it must benefit the local community through the reclamation or reuse of land. Notwithstanding the proposed parking spaces for the school (the merits of which are considered later in this report), it is considered that the proposal does not

meet these criteria and the proposal is contrary to these policies and approval would be a departure to these policies of the development plan.

Despite the policy conflict however, Bolsover District Council is currently experiencing a shortfall in its 5 year supply of housing. Government guidance in the National Planning Policy Framework (NPPF) advises that in such circumstances, where the development plan is absent, silent or relevant policies are out of date (as is the case for the Bolsover District Local Plan), planning permission should be granted for sustainable development unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies of the NPPF (Para.14).

Therefore significant weight in favour of sustainable housing development arises from the NPPF policy provided that proposals are deliverable and will contribute to the 5 year supply. The application is not accompanied by a viability appraisal to prove that development on the site is viable, although as a greenfield site with no obvious abnormal costs there is no reason at this stage to conclude that the site will not be deliverable.

The Council must also be satisfied that the development will be sustainable. Unsustainable development is contrary to the principles and policies of the NPPF and should not be supported unless other material considerations indicate otherwise.

There are concerns that Hodthorpe Village is not the most sustainable location given its distance from most of the social infrastructure needed such as the high school, shops and centres of employment such that development would result in increased reliance on the private car.

However, the Planning Committee's recent decision on application 14/00518/OUT for 101 dwellings proposed North of Hodthorpe is a material consideration in terms of consistent decision making. Since that application was not refused, Planning Committee has taken the view that a large urban extension elsewhere in Hodthorpe can be "sustainable development". It follows that the Council does not consider Hodthorpe, as a settlement, to be unsustainable as such. However as was reported for that application the sustainability of Hodthorpe as a location for major expansion is marginal.

Accepting the limitations of Hodthorpe as a location and in comparison to the site to the North side of Hodthorpe referred to above and the other application site on hand to the south and east, it is considered that this application site performs well in terms of sustainability. This site is on the main road and it is a logical, well connected settlement extension. There are bus stops in both directions directly adjacent to the site; the Primary School is directly adjacent to the site; the Hodthorpe Club is opposite on Queens Road; it is approximately 70m from a play area and 200m from the recreation ground. The scale of this proposal, approximately 38 dwellings, is considered to be commensurate with the scale of Hodthorpe and the School has spare capacity to deal with the additional pupils generated (even accounting for the additional demand from the proposed development to the north side of Hodthorpe). The additional patronage at the school can also be deemed to be a benefit given past concerns over low school patronage and threats of closure. Overall therefore it is considered that the proposed development would result in sustainable development and significant weight in favour arises from the NPPF policy.

### Relocation of the Allotments

A further issue of principle to consider is the loss of the existing allotments. This application site is protected in the Bolsover District Local Plan under policy CLT9. This policy will not allow development on allotment land except where either the allotments are no longer required (not the case here) or where appropriate alternative provision is made.

In this case the Applicant proposes to provide alternative allotment plots approximately 300m to the west of this site and behind the recreation ground. A small part of the relocation site (about a quarter of it) is already shown allocated as allotment land in the local plan. However in reality its use as allotments ceased some years ago and it is now all part of one agricultural field. The proposal includes replacement of the 44 existing allotment plots on the application site with 71 new plots on the relocation site however the total area of replacement allotment land is approximately the same as that which would be lost on the application site (approximately 1.8 ha). The new allotments would be created before any of the exiting allotments are lost. This would be the subject of a S106 obligation.

To address identified concerns about security and safety at the allotment relocation site (concerns raised by existing allotment holders) the Applicant proposes to clear lower level hedge branches and vegetation around the trees at the back of the recreation ground in order to allow some surveillance of the allotments at ground level. A permissive path and community woodland is also shown on the indicative plans to the south of the allotment relocation site to increase surveillance of the allotments and to provide a community amenity area. The proposed community woodland would be approximately 1 ha in area in addition to the replacement allotments land (total community/allotment area would be approximately 2.8 ha). 2m high paladin fencing around the new allotment site would provide security and prevent general public access to the allotments themselves.

The Council must decide whether the allotment relocation scheme offered represents “appropriate alternative provision” in line with policy CLT9. An equivalent area of replacement allotment land is now proposed and it is considered that adequate security measures are proposed in terms of new security fencing and improved surveillance. The longer term lease to be offered (from 1 year to 15 years) should also improve confidence for allotment holders to invest time and effort in their development. The view of the Leisure Services Officer is noted; *that about a quarter of the site for the replacement allotments is actually a former allotment site so the proposed relocation would still represent a net loss of allotment land within Hodthorpe...* However this relocation site is no longer in use as allotments, it is a field and despite the Local Plan allocation the Council has no power to prevent its continued use for general agriculture instead of allotments. Its future use as allotments cannot therefore be required by the Council. A good case could also be made that this allotment land is no longer required (given that no one is using it) which is one of the exceptions needed to satisfy policy CLT9 in the event that planning permission were sought for an alternative use of this land. Therefore it is considered that the above proposals would result in appropriate alternative provision of the allotments and therefore the application complies with policy CLT9 of the local plan. Even if the conclusion was that the proposals would not result in appropriate alternative provision the local plan is out of date and there is not a specific policy to protect allotments in the NPPF. Hence the weight that can be given to this policy is considered to be limited.

The land where the allotments would be relocated to is allocated in the local plan as an important open area - an open break between Whitwell and Hodthorpe. Policy GEN10 of the local plan will not allow development if it will detract from the objective of maintaining the open character of the break. It should be noted however that the use of land for allotments is not “development” requiring planning permission and so this policy cannot be applied. The small car parking area indicated for the new allotments might require planning permission as engineering works although it is unlikely to materially affect the open character of the area. As discussed above part of this site contained allotments in the past when the open break policy was adopted in 2000. Hence allotments must be a use capable of existing within an allocated open break.

#### Development on Agricultural Land

A further issue of principle is that this site, indeed all land around Hodthorpe is on higher grade agricultural land (grade 2). Policy ENV 2 of the local plan will not allow development which involves the loss of grades 1, 2 and 3 agricultural land unless there is a strong need to develop the particular site which overrides the national need to protect such land. The NPPF presumption in favour of sustainable housing applications where the Council does not have a five year supply of deliverable housing is capable of being a material consideration which overrides this policy.

#### Summary of Issues of Principle

The proposal is outside the settlement framework and contrary to countryside protection policies of the local plan. Approval would be a departure to the plan. Sustainable development such as this proposal is permitted by the NPPF outside the settlement framework in the absence of a 5 year supply of housing. The NPPF presumption in favour of sustainable housing applications is a material consideration which is considered to override the loss of grade 2 agricultural land in this case. The proposal would result in the loss of existing allotments however it is considered that appropriate alternative provision is proposed in line with policy. The relocation of the allotments would not be contrary to the policy designed to maintain the open break between Whitwell and Hodthorpe. The proposal is therefore considered to be acceptable in principle.

### **Other considerations and Impacts**

#### Highway Safety

Point of access detail to Queens Road is to be considered for approval with this outline application. The Highway Authority has no objections to the proposal subject to conditions as set out above (see consultations). Not all of the conditions requested are considered to be necessary/reasonable and this has also been highlighted above where relevant.

Of particular note is the need to set the frontage stone wall back from Queens Road in places to achieve the necessary visibility splay and 2m wide footpath. This stone wall contributes to the character of the area and it will be necessary to require the walls reinstatement behind the splays and footway.

#### Urban Design

Appearance, layout, scale and landscaping are reserved matters and will need to be considered when application for approval of those matters is sought at a later stage. The

Urban Design Officer has identified a number of issues with the indicative layout plan which will need to be addressed during the design of the reserved matters proposals. An advisory note to applicant can draw attention to this.

#### Drainage and Flood Risk

Consultees have no objections subject to conditions. No material adverse impacts are anticipated.

#### Risks from Possible Ground Contamination

Given the sensitive use proposed a condition is needed to require an investigation into potential ground contamination and remediation if proved necessary. This can occur on allotment sites for example where access paths through the allotments have been surfaced with ash.

#### Heritage

Unlikely to be undisturbed archaeology on this site. No material impact on setting of any listed building.

#### Ecology and Biodiversity

There are no large trees or hedgerows within the central part of the application site although part of the southern and western boundaries have hawthorn hedgerow with hedgerow trees. These can be retained. Three small ponds are reported to be present on site. Great Crested Newts (protected species) are unlikely to be present on site; however other species of amphibian may be present including common toad (not a protected species).

A preliminary ecology scoping report has been submitted with the application. It has recognised habitat with potential to support badger, foraging bats, reptiles, nesting birds, common amphibians and notable plant species. The allotment relocation site has potential to support badgers, nesting birds and foraging bats.

An extended Phase 1 habitat survey is required to provide further baseline information and it may identify the need for further targeted survey work. The submitted ecology scoping report did not specify whether the additional work was necessary prior to outline planning permission being granted or whether this work can reasonably be required by condition. i.e. such that the reserved matters designs and layout account for any necessary retention of ecological interest then identified and/or any mitigation proposals deemed necessary.

Unfortunately there has been a delay in the receipt of Wildlife Trust advice on this application. The Wildlife Trust eventually responded shortly before this report was completed and they do advise that the additional phase 1 habitat survey should be undertaken prior to determination. However as a result of the delay it is no longer survey season and delaying determination until spring could be deemed to be unreasonable if the matter can be dealt with by condition.

The National Planning Policy Guidance advises that LPA's should only ask an applicant to carry out a survey if there is a reasonable likelihood of protected species being present on the site, or affected by the development. With regard to species protected under European law, Great Crested Newts are unlikely to be present on site and bats are unlikely to be roosting on site. Retention of hedgerows and trees should minimise any loss of foraging opportunities for

bats and the additional woodland planting should result in a net gain.

With regards to species protected under UK law: badgers are not known to be on site but if they are discovered measures can be taken to exclude them from the site to prevent harm to them. Mitigation for nesting birds can be secured by condition on this site and the allotment relocation/community woodland site. A survey for reptiles and any necessary mitigation scheme can be required by condition in advance of reserved matters.

In this instance therefore it is considered that a condition requiring: a phase 1 habitat survey and targeted surveys for amphibians, reptiles, badgers and notable plant species be undertaken prior to application for approval of reserved matters (plus mitigation proposals), would be an acceptable means of assessing the impacts and effects of the proposal on biodiversity. There are opportunities for mitigation and ecological enhancement both on site and also on the allotment relocation/community woodland site such that even if further survey work identifies additional impacts mitigation proposals to balance any harm can reasonably be formulated.

#### Impacts on Social Infrastructure

##### Education:

The Education Authority has not requested a contribution on capacity grounds for either the primary school or secondary school.

##### Affordable Housing:

The Applicant has agreed to accord with the Council's interim policy on affordable housing waiving the requirement for 10% on site affordable housing in return for meeting delivery targets on site for the market dwellings; save for the delivery targets being extended by one year to account for the time it will take to establish and relocate the allotments (i.e 10% delivered within 4 years of the planning permission instead of within 3 years etc.). This is considered to be a reasonable compromise to the normal policy given the additional time it will take to manage the relocation.

##### School Parking Space:

The proposal includes a small amount of additional car parking space (7 spaces) for school staff use. This has been offered by the Applicant and has not been requested by the Council. This may be of benefit to the school and reduce the incidence of on-street parking on Queens Road. At the time the report was drafted consultation views from the school and the Education Authority on the need/value of additional parking space was awaited. Members will be updated on this prior to committee. However it should be noted that The Council does not have a policy to require this and little weight can be given to this offer in the planning balance.

##### Health:

The CCG/NHS has recently confirmed that the local GP practice has capacity to deal with this quantity of new dwellings within Hodthorpe.

##### Art:

Contribution for public art at 1% of development costs has been requested. The Councils local plan policy GEN17 says that "The Local Planning Authority will seek to negotiate the provision of a work or works of art or a contribution to community arts at a level of 1%...". However the Applicant has not agreed to this. The Applicant says that "*there are concerns over Policy*

*GEN17 preceding the NPPF and CIL Regulations and its policy tests by some margin. On balance will this be quantified to be necessary to make the development acceptable in planning terms given that in Para 2.71 supporting the policy the Council encourages, where appropriate to include public art.”*

It is considered that the Applicant is correct in that public art on this site is not necessary to make the application acceptable in planning terms, the request is not fully compliant with the CIL Regulations and the decision of the Applicant not to agree to provide public art on site is not a reason to refuse planning permission.

Leisure and Public Open Space:

The Applicant is offering to provide 1 ha of community woodland with permissive path and it is argued by the Applicant that this would contribute significantly to removing the shortfall of semi-natural green space that the Council's Green Space Strategy identifies. It is considered that it would also contribute towards recreation space referred to in policy HOU5 as “formal open space” at a level which exceeds that required in the policy (1.7 ha per 1000 population is required in the policy whereas 1ha for 38 dwellings equates to approximately 10 ha per 1000 population).

The Council's Green Space Strategy states that Hodthorpe is under provided in terms of the amount of play space / recreation grounds it has and that it has no provision at all of semi-natural green space. i.e. Hodthorpe is short in terms of the quantity of open space.

The Applicant has also been requested to consider developer contributions for leisure as set above by the Leisure Services and Tourism Officer. He is of the view that Hodthorpe's recreation space is inadequate in terms of quality rather than quantity (which he says is adequate). The LSTO request for additional contributions by way of commuted sums for formal and informal leisure has not been agreed by the Applicant.

Given the proposed over provision of formal open space land (the community woodland and path) it is considered that the LSTO's request for a further commuted sum for formal open space cannot be justified.

Policy HOU5 states that “Unless adequate provision is made or already exists new housing developments....will be required to make provision for local public open space and recreation facilities...”

Given the sites proximity from the existing play area on King Street (approximately 70m) and the proximity to the existing Recreation Ground off Queen Street (200m to the west) it can be argued that adequate provision does exist already and so there may be no requirement under policy HOU5. The LSTO has been asked to provide additional evidence to support his claim that the existing facilities are inadequate in terms of quality but this has not been provided other than to refer to the Green Space Strategy which refers to the quantity of open space rather than the quality. The case made is therefore not convincing.

The Applicant argues that the request for additional contributions is not fully justified and evidenced and that an obligation towards open space would not accord with the NPPF and CIL Regulations.



It is considered that without convincing evidence of a need for upgraded play facilities a commuted sum cannot be justified. Also even if a commuted sum for upgraded facilities were to be agreed it would not address the quantity/area shortage identified in the Green Space Strategy.

In summary it is considered that the Council has not been able to provide a robust case to evidence the need for additional contributions over and above the 1 ha of community woodland walk offered.

#### Other Matters

Conservation Area: N/A

Crime and Disorder: Contained in report

Equalities: No significant issues.

Access for Disabled: No significant issues.

Trees (Preservation and Planting): See report.

SSSI Impacts: No significant issues.

Human Rights: No significant issues.

#### **Conclusions**

The proposal is outside the settlement framework and contrary to countryside protection policies of the local plan. Approval would be a departure to the plan. Sustainable development such as this proposal is permitted by the NPPF outside the settlement framework in the absence of a 5 year supply of housing. This site performs well in terms of sustainability in comparison to other development options within Hodthorpe. The NPPF presumption in favour of sustainable housing applications is a material consideration which is considered to override the loss of grade 2 agricultural land in this case. The proposal would result in the loss of existing allotments however it is considered that appropriate alternative provision is proposed in line with policy. The relocation of the allotments would not be contrary to the policy designed to maintain the open break between Whitwell and Hodthorpe. The proposal is considered to be acceptable in principle and an assessment of the likely development impacts has not identified any unacceptable impacts that cannot be adequately mitigated by planning conditions and a Section 106 agreement to secure: replacement of the allotments; community woodland walk; additional parking area for the school; and interim affordable housing policy compliance.

#### **RECOMMENDATION**

**Defer pending completion of a S106 obligation (regarding replacement of the allotments; community woodland walk; additional parking area for the school; and interim affordable housing policy compliance) and delegate the decision to the Joint Assistant Director of Planning in consultation with Chair and Vice Chair of Planning.**

In the event planning permission is granted conditions including the following will be necessary (shown in précis form to be formulated in full by the Joint Assistant Director of Planning):

#### Conditions

Approval of reserved matters before commencement.

Application for reserved matters to be made within 3 years and commencement triggers.

Investigation of potential ground contamination.

Phase 1 habitat survey and targeted surveys for amphibians, reptiles, badgers and notable plant species be undertaken prior to application for approval of reserved matters plus mitigation proposals (likely to include inter alia amphibian ponds on site and on relocation site).

Details of surface water and foul sewage to be approved.

*(Regard to requested conditions: No development shall take place until a detailed assessment has been provided to and approved in writing by the Local Planning Authority to demonstrate that the proposed destination for surface water accords with the hierarchy in Approved Document Part H of the Building Regulations 2000.)* And;

*No development shall take place until a detailed design and associated management and maintenance plan of surface water drainage for the site, in accordance with Defra non-statutory technical standards for sustainable drainage systems (March 2015), has been submitted to and approved in writing by the Local Planning Authority. The approved drainage system shall be implemented in accordance with the approved detailed design prior to the use of the building commencing).*

Following removal to achieve access visibility, the reinstatement of the stone wall fronting the site on the back edge of the footway. A sample panel to be approved to ensure that the wall is constructed to reflect the character of the existing wall.

Provision of temporary access for construction purposes 5.5m wide, 6m radii, 2.4m x 43m splays.

New estate street access to be provided with 2 x 2m footways, 5.5m wide, 6m radii, 2.4m x 43m splays.

Provision of bin stores at entrance to shared private drives.

#### Advisory Notes

The Applicants attention is drawn to the Urban Design Officers advice 17.09.15 available on the Council's web site. Based upon the indicative layout drawing the proposals would be unacceptable in terms of a number of urban design considerations. Future reserved matters proposals would need to address the concerns in accordance with the NPPF, NPPG, Successful Places Interim SPD (2013) and Building for Life 12 (2014).

The Highway Authority will need to be contacted regarding a bus stop, street light, telegraph pole and road sign which will need to be relocated before any works can commence on Queens Road.

Provision of wheel cleaning facilities.

Two parking spaces per dwelling, garages to be at least 3m x 6m where counted as a space.

Application for approval of reserved matters to include swept path for large vehicles.