

PARISH Elmton With Creswell

APPLICATION Full application for the development of 82 dwellings and new access from Skinner Street, including link to Creswell Infants School (Revised Application) [As amended/supplemented by: Geophysical Survey Report submitted on 10/8/15; viability assessment submitted under cover of a letter from Peacock and Smith dated 28/08/15 (ref. 3375\04(28Aug2015)Sawdon.doc); Revised house type drawings for plots 4 - 13 inclusive, 16 - 25 inclusive, 27 - 28 inclusive, 41, 42, 45, 46, 49, 55, 56, 58, 60, 61, 64 - 67 inclusive, 69 and 70 submitted 7th September 2015; revised Design and Access Statement, Street Scene Drawings and revised house type drawings for plots 1-3 inclusive, 14, 15, 26, 30 - 34, 36 - 40 inclusive, 43, 44, 47, 48, 50 - 54 inclusive, 57, 62, 63, 68 and 71 - 82, as submitted under cover of two e-mails submitted on 20th October 2015; revised planning layout drawing ref. No. 1517.02 rev E and revised house type drawings for plots 29, 35 and 59 submitted under cover of e-mail dated 18th November 2015; and tracked vehicle drawing Rev. D submitted on 20/11/15]

LOCATION Land To The Rear Of Nos 34 To 54 Skinner Street Creswell

APPLICANT Mr Chris Dwan C/O Agent United Kingdom

APPLICATION NO. 15/00368/FUL **FILE NO.** PP-04371595

CASE OFFICER Mr Peter Sawdon

DATE RECEIVED 23rd July 2015

Delegated Application Referred to Committee by: Joint Assistant Director of Planning
Reason: Viability information in relation to Policy and previously agreed S106 contributions.

SITE This is 3.79ha of land to the east of Skinner Street at Creswell with levels that fall from west to east down to the railway line that bounds the eastern boundary of the site.

The site comprises an area of arable agricultural land and vacant land that contains several lines of hedgerow that in some cases contain trees.

The majority of the railway line that adjoins the site is currently disused but is safeguarded under Local Plan policy TRA2. However this spurs off an active section of railway (The Robin Hood Line) that adjoins the south eastern corner of the site.

Skinner Street forms part of the no. 77 bus route that provides a regular bus service between Worksop and Chesterfield.

Existing housing generally bounds the site to its west, along with a cemetery to the west side of Skinner Street, opposite the proposed point of vehicular access. Creswell C of E primary school and the Surestart Centre bounds the south of the site. Open undeveloped land is situated to the north.

At its closest point, the site is approx. 100m from the edge of the town centre as identified in

the Bolsover District Local Plan and Creswell train station is also located here.

PROPOSAL This is a full planning application for:

- 82 dwellings;
- Public open space;
- Facilitate a footpath link to Creswell CofE Nursery and Infants School (Creswell School) and Gypsy Lane.

A green linear park is proposed on the northern side of the site accommodating existing trees and hedgerows and a landscaped SuDS infiltration pond.

The application was submitted accompanied by the following documents to inform it: -

- Planning Statement
- Design and Access Statement
- Flood Risk Assessment
- Transport Assessment and Travel Plan
- Ecology, Tree and Hedgerow Survey, including an update to it, and Tree Survey Report
- Site Investigation (Contamination study)
- Noise Impact Assessment and response to officer's comments relating to noise and vibration.
- S106 Heads of Terms

Additional information relating to the viability of the scheme has been submitted. It is stated that this "Illustrates that the scheme is not viable. Ben Bailey is however prepared to proceed on the basis of the only S106 contribution being the £27,000 towards a footpath link, which we see as being an essential component of the proposals. The addition of any further contributions would, in Ben Bailey's opinion, render the scheme incapable of generating a surplus of any amount and therefore unviable to a greater extent than that already generated. It should be noted that even with the S106 confined to the footpath link contribution Ben Bailey will still be taking a sub-optimal level of profit in order to ensure that the site is developed."

AMENDMENTS

- Revised layout plan and Geophysical Survey Report submitted on 10/8/15;
- Viability assessment submitted under cover of a letter from Peacock and Smith dated 28/08/15;
- Revised layout, house type drawings and street scene drawings submitted 7/9/15;
- Revised Design and Access Statement, revised layout plan no. 1517.02 TS Revision C, Street Scene Drawings, revised house type drawings for plots 1-3 inclusive, 14, 15, 26, 30 - 40 inclusive, 43, 44, 47, 48, 50 - 54 inclusive, 57, 62, 63, 68 and 71 - 82, as submitted under cover of two e-mails submitted on 20th October 2015
- Revised planning layout drawing ref. No. 1517.02 rev E and revised house type drawings for plots 29, 35 and 59 submitted under cover of e-mail dated 18th November 2015
- Tracked vehicle drawing Rev. D submitted 20/11/15

HISTORY 00/00278/OUT – Planning permission was refused on 28th October 2000 for the

erection of one dwelling on land to the rear of 62 Skinner Street as despite being on allocated housing land, the development was an inefficient use of land, related poorly to the adopted highway resulting in highway safety issues, as well as resulting in harm to neighbours amenities.

10/00124/OUTMAJ – It was resolved to grant outline planning permission for housing development on this and the adjoining land to the north west in June 2013. This is subject to the completion of a S106 Planning Obligation that has yet to be finalised, such that a planning permission has not yet been issued.

14/00079/FULMAJ – Full planning permission granted on 24th July 2014 for 87 dwellings with new access from Skinner Street including link to Creswell Infants School.

CONSULTATIONS

DCC (Archaeologist) – No objections subject to condition 3/8

NHS England - The proposal would trigger the need to provide health related section 106 funding result in increased service demand which would not be easily accommodated within existing primary care resources. Several options would need to be explored including more than one independent GP Practice and such options would need to be considered and approved through the NHS England national process and would no doubt be considered more viable with section 106 contributions. 3/8

Environment Agency – No objections. Recommends advisory notes. 4/8

Housing Strategy – Notes initial heads of terms in respect of affordable housing provision (subject to waiver dependent upon delivery of completed dwellings). Advice on mix of properties and terms of agreement should affordable housing be provided on site. 19/8

Derbyshire County Council (Flood Risk Management) – No objections subject to conditions.

Crime Prevention Design Advisor – Having reviewed the above application some matters raised previously have now been resolved. The only area that hasn't been addressed which was mentioned in previous comments is lack of natural surveillance for residents over their vehicles where they are parked against a blank gable (between units). This could be resolved, as previously mentioned, by the introduction of a gable window at ground floor level from an active room. 21/8. Amended plans sufficient to address concerns 17/11

Severn Trent Water – No objections subject to inclusion of a condition requiring submission and approval of surface and foul water sewage systems. 27/8

DCC (Highways) – Initial comments seeking amendments 7/9 No objections; recommends conditions 19/11

Network Rail – No objections in principle, subject to conditions relating to drainage, boundary treatments, method statements, soundproofing, lighting and landscaping and additional advisory notes relating to developing in proximity to the railway. Also recommend that given the size and proximity of the residential development site to the railway station it is considered appropriate that a contribution is sought from the developer towards station facility improvements 15/9

Bolsover District Council Senior Valuer – Considers the submitted viability report to be acceptable 18/9

Public Arts Officer – Seeking Public Art contribution 25/9

Urban Design Officer – Reviewed against the Principles contained in 'Building for Life 12' and scored 4 out of 12 against assessment criteria; recommends amendments to address design shortcomings. 1/10. Disappointing that the applicant has been unwilling to look again at the design issues identified in the interests of achieving a good quality of design. Some

adjustments needed in any event and request that applicants re-look at the scheme to mitigate design issues further. 13/11

Derbyshire Wildlife Trust – Advise that the development should be carried out in strict accordance with the recommendations of the submitted ecological assessment in respect of badger, reptiles, nesting birds and orchids as a condition of any consent; landscaping and its management should be re-imposed as conditions as per previous consents 20/10

Head of Leisure – Note the provision of a generous central greenspace. Would expect to see provision of play equipment and this should be of a robust design, particularly if this was to be adopted by the Council. If provided off-site would expect commuted sums. Comments on the layout of the site in respect of footpath/cycle path design. Welcome access point to the south corner of the site to facilitate foot/cycle access to the school, but should be restricted to pedestrians and cyclists and car use should be discouraged. Suggest a potential footpath link to adjoining land should include a potential cycle link given Derbyshire County Council's intention to provide a multi user trail on former railway land adjacent. Would seek contributions to the provision of off-site built and outdoor sports facilities. Public Art contributions are sought. 25/8

Derbyshire County Council (Planning – developer contributions) – the development still provides a link to enable the creation of a new vehicular access into the adjacent Creswell Infant and Nursery School site. On that basis, Derbyshire County Council does not wish to request additional contributions towards the provision of strategic infrastructure in respect of this development. 13/10.

Environmental Health Officer – Conditions recommended in respect of noise and contamination. Further works to update the submitted contamination reports will be needed 13/11

Elmton with Creswell Parish Council – No response received.

PUBLICITY By site notice, press advert and 24 neighbour letters. Representations have been received from 6 individuals that raise the following issues: -

Principle – Why build on green belt land with its associated impact on natural flora and fauna, when there is a perfectly good brownfield site - and twice the size - within one mile of the proposed development, and with better/safer access? There are other brown field sites around the village that don't have an impact on traffic, or have a much less impact, such as the old colliery site and old allotment site adjacent to it. Extra pressure on resources i.e. schools/healthcare. Not of any benefit to the village only drawing on already stretched local services. Loss of green land.

Water Supply and Sewers - Domestic water pressure is currently variable on Skinner Street, will this be even more so when the new development is complete. Domestic waste to sewers, how is this going to be controlled to the main sewer, will this cause build up in the system, to already an old system. Increased flood risk due to drainage constraints in the area.

Privacy/Amenity - As I live on higher ground, I will be able to see into the new house development, not only the gardens but also the rooms, similarly they will be able to see into my upstairs rooms. Noise problems.

Highway Safety – Concerned about traffic volume which is always increasing; speed is a factor on this road. Also parking which is a problem now so would be increased. Skinner Street is already at times like a racetrack. The roads of Skinner Street and surrounding area

becoming congested more and there needs to be in some sort of traffic management and speed management. I observed a funeral taking place at the cemetery on Skinner Street, the road was down to single lane traffic due to cars parked outside the cemetery. This occurs every time there is a funeral, also on mother and Father's Day, Christmas and Easter. This is a dangerous situation which will be made 100% worse when the access to the new development opposite the cemetery is completed. Proposed entry/exit is an accident waiting to happen. Increased traffic onto Skinner Street, with buses and lorries using the Street, my house vibrates every time a bus or lorry passes now, please feel free to test the system. This could get worse and could cause damage to dwellings over a period of time. If this development goes through then a traffic calming scheme must be implemented down Skinner Street, from Rogers Avenue to Elmton Road. The entry exit roads to the proposed site are hazardous generally nothing has changed to objections raised previously.

Biodiversity. Particular attention should be paid to the wildlife surrounding this area which would surely vanish. Impact on wildlife.

Private Property Matters. Query if boundary is shown in the correct location as rear fence lines are not reflective of actual land ownership. We would ask that the builders put up their own fence on their boundary as they cannot use our fence as the boundary. Our boundary finishes approximately two metres outside the fence. If the builders cross our boundary line than we will be taking legal action against them. Can you ensure that the actual boundaries will be respected at all times and no damage to or ingress onto the existing properties will be permitted. I too have concerns as do other residents regarding the discrepancy of the boundary at the back of our properties as shown in various drawings. I echo the sentiments of my neighbour regarding their fence being used as the boundary as this applies also to my garage and wall. As stated by others the boundary is actually 2 metres away from existing fences/trees and I need space to be able to maintain my building/wall. As has already been stated when the land was used for allotments provision was made for the passage of a tractor to prevent damage to boundary fences so were moved towards the properties to alleviate this problem.

POLICY

National Planning Policy Framework and Guidance

As the Bolsover Local Plan was prepared and adopted prior to 2004, paragraphs 214 and 215 of the NPPF mean that 'due weight' rather than 'full weight' should be attached to its policies.

Paragraph 49 of the NPPF 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.*"

A core principle of the NPPF is to secure high quality design and a good standard of amenity for all existing and future occupants of land and buildings.

Bolsover District Local Plan (BDLP) GEN1 (Minimum Requirements for Development), GEN2 (Impact of Development on the Environment), GEN3 (Development Affected By Adverse Environmental Impacts from Existing or Permitted Uses), GEN4 (Development on Contaminated Land), GEN5 (Land Drainage), GEN6 (Sewerage and Sewage Disposal),

GEN8 (Settlement Frameworks), GEN11 (Development Adjoining the Settlement Framework Boundary), GEN17 (Public Art), HOU2 (Location of Housing Sites), HOU3 (Housing Allocations), HOU5 (Outdoor Recreation and Play Space Provision For New Housing Developments), HOU6 (Affordable Housing), TRA1 (Location of New Development), TRA7 (Design For Accessibility By Bus), TRA10 (Traffic Management), TRA13 (Provision For Cyclists), TRA15 (Design Of Roads and Paths To Serve New Development), ENV5 (Nature Conservation Interests throughout the District), ENV6 (Designation and Registered Nature Conservation Sites), and ENV8 (Development Affecting Trees and Hedgerows).

Other: Adopted Successful Places: Sustainable Housing Layout and Design Guidance

ASSESSMENT

The main issues associated with this proposal are the principle of the development of this site for residential purposes, the effects of the development on the character and appearance of the area, impacts on the amenities of neighbouring residents, impact on biodiversity interests and impact on public safety. Also whether the viability information submitted is sufficient to override normal requirements for S106 contributions.

Principle

The principle of residential development on this site within the identified settlement framework (Policy GEN8) is established through its allocation for housing by Policy HOU3 (Housing Allocations) of the Bolsover District Local Plan and by the recent grant of planning permission that is still an extant consent. The proposal is also considered to generally meet the objectives of the NPPF in terms of the potential delivery of new housing in a sustainable location.

The site measures 3.79ha in area and 82 dwellings are proposed. This equates to a gross density of 22dph, but when the large areas of open space are deducted the scheme equates to a net density of 32 dwellings per hectare. The amount of development is considered to be appropriate and acceptable in principle, subject to detailed matters of layout and amenity being satisfied (see later discussion).

The site is well located to the town centre and its amenities, as well as having good links to public transport, having a regular bus service between Chesterfield and Worksop on Skinner Street and being within a reasonable walking distance (approx. 200m) of Creswell train station. With the NPPF being generally supportive of sustainable development and having regard to these locational factors, it is considered that the development does not conflict with the general principles of the NPPF and the site is considered to be available, suitable and achievable for housing development in accordance with its requirements. The delivery of a non vehicular link to the town centre at the eastern corner of the site is considered essential to maximising the sustainability credentials of the development, through the provision of a convenient (non-car) link to the town centre, to encourage activity by means other than the private car. The land to create the link is in the ownership of Derbyshire County Council who at the time of the earlier planning applications indicated a willingness to provide its land for this purpose, subject to the provision of appropriate fencing to secure the security of the school. The applicants have agreed to the provision of this link to be subject of a S106 Planning Obligation (as this provision is over third party [Derbyshire County Council] land).

Design (including Crime Prevention)

This latest application proposes amendments to the scheme that has already received planning permission. The current scheme is considered to represent a less satisfactory scheme in terms of the layout and design and amendments have been sought to address concerns raised by both the urban designer and the Crime Prevention Design Advisor. Whilst some amendments have been forthcoming that have addressed the remaining concerns of the Crime Prevention Design Advisor, these have not satisfied all concerns raised in terms of layout and design, with particular emphasis on the prevalence of frontage car parking on several plots that dominate some of the proposed streets, absence of frontage boundary treatments, inconvenient rear paths to dwellings and offset distances between facing windows and windows and gardens. The Urban Designer has expressed disappointment that the applicant has been unwilling to amend the design further.

On the issue of offset distances between dwellings, the applicants have stated that “Whilst rear to rear distances in some instances may be marginally shy in the context of the Council’s Successful Place SPD distance targets to accommodate this more even spread, this is considered as necessary to facilitate the delivery of an improved and more balanced layout. What we have tried to ensure with the new scheme is that in these instances, the conceived insufficiency is only slight when considered against guidance as opposed to the severe instances included within the previously approved scheme.”

The applicants have also stated that “the key driver in the re-plan was the need to make the scheme more viable and this matter should not be lost when considering the specifics in relation to the design. Essentially, what the proposed scheme provides is a layout that we are confident we can deliver from a financial viewpoint and pertinently one which will be more saleable.”

Whilst the issue of viability is discussed later in terms of the overall planning balance, it is not considered that the scheme delivers as good a quality of scheme as originally approved and it is not considered that it delivers a high quality scheme with several shortcomings and is not considered to accord with the policies of the NPPF in this regard.

Whilst some garden sizes and offset distances fall short of guidelines, the majority of these are close to the guidelines and between new dwellings within the site, as opposed to existing neighbouring dwellings. There are 4 dwellings (plots 10 – 13 inclusive) where at a minimum 9m, the normally required 10.5m offset distance to an adjoining site is not achieved which affects existing neighbouring dwellings. Notwithstanding this, the gardens to those dwellings are long at 30m plus, and on this basis it cannot be demonstrated that this shortcoming against guidance could be seen as harmful to the amenities of the occupants of those dwellings, that will retain adequate private amenity space that would not be harmed as a result of the development.

Highways and Transportation (Incorporating discussions on related Education impacts)

Additional information was provided in response to issues initially raised by the Highway Authority, which has satisfied those issues. That Authority has now raised no objections subject to the inclusion of conditions and advisory notes.

At the time of the original outline planning application for this site, the Highway Authority

commented that the existing school adjacent to the site is served by an access which is severely substandard in terms of visibility and unsuitable to accommodate any increase in use. Provision of the additional educational facilities on the school site which would be needed to satisfy the demand created by that and this development, if approved, would generate an increase in the potential number of vehicular movements at the existing substandard access and be open to objection on highway safety grounds. The Highway Authority noted the steps taken to resolve this issue by seeking to secure a route through the application site to allow vehicular and pedestrian access to the school and a pedestrian link into the town centre adjacent to the school. The need for that access remains and has not changed since that earlier consideration of this issue.

The provision of such a vehicular access to the school was accepted by Derbyshire County Council at the time of the previous planning applications as sufficient to override the normal requirement for education contributions and this again forms the basis of Derbyshire County Council's response in terms of potential developer contributions. There is no material change in circumstances since the earlier approvals and again, it is therefore recommended that the delivery of that access for the school, in lieu of any other education contribution would need to be secured through a suitably worded S106 planning obligation. As before this would not be a through vehicular route to Gypsy Lane. As with the previous permission, it is considered that this should be prior to the occupation of the 50th dwelling on site.

Linked to the provision of the vehicular access to the school was also the upgrade of the footway link to the town centre, that Derbyshire County Council has previously stated it would permit over its land to provide an essential link to the town centre and its amenities, including the train station, from the application site. As with the earlier consent and S106 agreement, the applicant has again offered to contribute to the provision of the improvements. It is recommended that this again be covered in the S106 planning obligation as included in the earlier grant of planning permission.

Leisure Services has mentioned a possible link to the proposed Greenway to the east of the site (along the disused railway that Derbyshire County Council has recently acquired). Notwithstanding this, that proposed Greenway has no policy basis and is at very early stages in terms of any programme and is in no way a fixed or committed proposal, such that to make any linkages a requirement would be unreasonable in planning terms. On this basis, the applicant's attention will be brought to that potential project in order that they can consider possibly safeguarding the ability to put links in, should the Greenway be delivered at some point in the future. As there are no dwellings proposed alongside the north eastern boundary of the site adjacent to where the Greenway is proposed, the layout of the development should not preclude links being provided to the Greenway in the event that is delivered in the future.

Open Space

Policy HOU 5 states that *"the open space requirements of a development will be assessed using the standards, and an assumption of the average household density and size"*.

Based on the standards set out in the Green Space Strategy (0.7ha for Neighbourhood (Amenity) green space per 1000 people), Creswell has adequate quantitative provision of Amenity Green Space as the latest audit of open space shows that Creswell has 10.15ha of Amenity Green Space and 0.24ha of Equipped Play Areas (a total of 10.39ha) against a

requirement of 4.10ha of Amenity Green space. However, in terms of accessibility to Amenity Green Space, the nearest amenity green space and equipped play area is approximately 581m away along existing footways from the centre of the site. The distance to these facilities exceeds the Council's 400m guideline and therefore, in terms of accessibility to green space, adequate provision does not exist for this development. In addition, in respect of formal sports pitch provision, the Council's aspirational target from the Green Space Strategy would be for 1Ha per 1000 population, but the most recent study shows only 0.88Ha and as such is under provided against the target figure.

Bolsover District Council's Housing Layout and Design Supplementary Planning Guidance (1998, revised 2005; now superseded) states that the provision of public open space for developments of between 80 and 349 dwellings is 20m² of land per dwelling with equipment, with maintenance contributions if the area(s) were to be adopted by the Council. Leisure Services has acknowledged that the central greenspace corridor, at approx. 0.6 ha exceeds the normal requirements and is welcomed. Indeed it is considered that this space would contribute to overall provision for this and the adjoining land to the north in the event that that part of the site is brought forwards for development at a later date, in line with the earlier resolutions to grant outline planning permission on that site. The applicants had not initially shown the provision of on-site play, but have re-introduced this in line with the earlier consents, and the submitted plan now provides for a LEAP (Locally Equipped Area of Play) which is welcomed. Leisure Services has drawn attention to the fact that commuted sums would be required if the Council were to adopt the open areas and play space once provided. As no such contributions are offered to facilitate that long term maintenance, a condition relating to the provision and long term maintenance of the requisite open space would be required.

In terms of offsite sports facilities, the applicant has indicated that due to issues of viability it is unable to offer any equipment, nor contributions to off-site provisions. The absence of such facilities means that the proposal does not comply with the normal requirements of policy HOU5 (Outdoor Recreation and Play Space Provision For New Housing Developments) in respect of these two forms of amenity open space provision. The issue of viability will be discussed later in this report.

Affordable Housing

In terms of policy HOU6 (Affordable Housing), the Affordable Housing Supplementary Planning Guidance (2002), supplements HOU6, and includes a presumption that 10% of total site capacity will be given over to affordable housing. The precise figure will be a matter for negotiation with the developer based on the type of affordable housing to be provided, particular site constraints and the marginality of the site. The SPG states that the Council will not accept provision that falls below 5% of the site capacity. The size and type of affordable homes provided on site will be negotiated on the basis of the particular need in that locality.

The Strategic Housing Officer has re-iterated a need for affordable housing generally in the district.

On the 14th November 2012 the Council formally approved changes to its affordable housing policy. The new policy allows applicants on sites outside of Barlborough and less than 300 dwellings to be offered an option to waive the affordable housing requirement in return for a s.106 agreement which provides an undertaking, to commence development and complete at

least 10% of dwellings permitted within 3 years from the grant of planning permission, and at least 50% within 5 years from grant of planning permission. Failure to comply with this requirement would result in a development having to provide 10% of total permitted dwellings on the site as affordable housing, and if necessary obtain planning permission for a revised layout to deliver the units.

Whilst the utilisation of the above clause was agreed as part of the earlier approval, the applicant has indicated that due to issues of viability it is unable to offer any form of affordable housing. The absence of any such facilities means that the proposal does not comply with the normal requirements of policy HOU6 (Affordable Housing). The issue of viability will be discussed later in this report.

Archaeology

The Council's Archaeological advisor has referred to his previous comments on planning applications 10/00124/OUTMAJ and 14/00079/FULMAJ where he noted a broad spread of evidence for prehistoric activity in the vicinity of Elmton/Creswell and in the light of this general background of archaeological potential, recommends inclusion of a condition requiring a phased archaeological scheme, commencing with a written scheme of investigation and only requiring further intrusive work in the event of significant results. This approach would be in line with NPPF para. 141. Inclusion of such a condition is also considered to be in line with Policy CON13 of the Bolsover District Local Plan.

Environmental Health (Noise)

Given the site's location close to an active railway line, the applicants have submitted a noise assessment. This identifies some zones within the development where noise disturbance could result unless mitigation measures are incorporated within the design. As such, the Environmental Health Officer has advised that conditions be included to require the submission and approval of details of such mitigation measures.

Environmental Health (Contamination)

Contamination information submitted with the planning application has been reviewed. The Environmental Health Officer notes that the report does not properly assess some areas of historic activity that could potentially result in contamination and also refers to out of date guidance, such that revisions to secure this should be imposed if permission were to be granted; the Environmental Health Officer has advised that the condition attached to the earlier consent will satisfy this requirement. The Environment Agency has also provided comments on contamination and made reference to published guidance on this issue, which can be covered in an advisory note on any consent issued.

Ecology/Biodiversity

The latest scheme retains the large areas of open space and hedgerows provided for in earlier proposals for the development of this site that were accepted under the earlier grant of planning permission; that scheme had been amended in the interests of a better balance in terms of ecology impacts from the development. The ecology documents submitted with that earlier planning application have been re-submitted and complemented by an updated ecological assessment of the site carried out in July 2015. The Derbyshire Wildlife Trust has advised that the development should be carried out in strict accordance with the recommendations in respect of badger, reptiles, nesting birds and orchids detailed in the letter

from ECUS dated 15th July 2015 as a condition of any consent. In addition, the ecology-related planning conditions 6 (landscaping) and 8 (landscape management plan) of the consent under 14/00079/FUL remain relevant to this revised application and should be transferred to any (new) consent. It is considered that these conditions can be included on any new planning permission to deal with this issue and subject to the inclusion of such conditions, the proposal is considered to satisfy the requirements of the relevant local plan policies as well as the objectives of the NPPF.

Flood Risk

Derbyshire County Council's Flood Risk Management Team has assessed that the submitted Flood Risk Assessment and has recommended conditions relating to the submission, approval and implementation of a surface water drainage scheme, along with a detailed design and associated management and maintenance plan for such drainage.

Other Drainage

Severn Trent Water has requested the inclusion of a condition requiring the submission and approval of a foul and surface water drainage schemes and it is considered that the inclusion of such a condition would be necessary to ensure satisfactory drainage of the development.

Railway

With reference to the protection of the railway, Network Rail has no objection in principle to the development. Network rail has drawn attention to a number of issues in respect of controls needed alongside an active railway line, that can be covered in conditions and advisory notes.

Healthcare provision.

It will be noted from the summary of consultation responses above that NHS England is seeking S106 contributions. Notwithstanding that request, no such request was made at the time of the earlier resolution to grant outline planning permission for the wider site, or at the time of the most recent grant of planning permission on this site. Given the relatively short time since that permission was issued, it is not considered that there is any material change in circumstance that would justify a requirement for contributions.

Neighbour comments.

Whilst most issues raised in representations are covered in the above assessment, the issue of land ownership and boundaries has been raised with the applicants, who have confirmed that in their opinion, the boundaries shown on the planning application are correct. The Local Planning Authority has to take this response at face value and if the residents consider that incursion onto their private land takes place, this is a private matter between the parties concerned and as such is not considered to be material to the determination of this planning application.

Viability

The applicant has submitted a viability appraisal as part of the planning application documents. This states that the application with normally required S106 contributions would not be viable and for this reason has resulted in no S106 contributions being made, with the exception of the provision of the road to provide access to the existing Junior School site and

the contribution to upgrade the access from the site to the town centre. As discussed earlier in the report, normal requests in terms of affordable housing, off site leisure contributions and public art have not therefore, been offered. In addition, this has been cited as a reason for not offering further design upgrades.

The Council's Senior Valuer has reviewed the submitted viability documentation. Overall he has indicated that the report is appropriate.

The Council is obliged to consider scheme viability when considering S106 contribution requests and based on the Senior Valuers advice, there is no scope to seek additional contributions to those offered. It is considered that the provision of the school access and monies for upgrading links to the town centre are key issues directly relating to this scheme and their provision should be welcomed. Whilst the issues over design improvements are disappointing, if the viability argument is accepted, should design improvements add to costs then this marginalises the viability of the scheme further. The Council has to give significant weight to the issue of securing delivery of new sustainable housing development in the balance of issues on applications such as this.

Other Matters

Listed Building: N/A

Conservation Area: N/A

Crime and Disorder: See assessment

Equalities: No significant issues arise

Access for Disabled: No significant issues arise

Trees (Preservation and Planting): See assessment

SSSI Impacts: N/A

Biodiversity: See assessment

Human Rights: No significant issues arise

Conclusion

This is an allocated housing site in a highly sustainable location that delivers good connectivity to the village centre and the amenities and transport links it offers. Whilst the absence of some S106 contributions is regrettable, given the absence of a 5 year housing supply and the submitted viability report, that has been accepted as appropriate by the Council's Senior Valuer, it is not considered that planning permission should be withheld for this reason. Whilst the design is also considered to fall short in terms of normally sought design quality, the scheme is not considered to represent obviously poor design and on balance is not considered to be sufficiently poor to justify the refusal of planning permission. Conditions can be included to control detailed elements of the design within the parameters of the submitted layout. As such, subject to the completion of a S106 Planning Obligation and the inclusion of conditions to cover the issues discussed in the assessment, the proposal is considered to be acceptable in terms of adopted local and national planning policy.

RECOMMENDATION

Defer the decision to the Assistant Director of Planning in consultation with the Chair and Vice Chair of Planning subject to the completion of a S106 Agreement covering the heads of terms set out below and subject to consideration of the conditions given in draft form and to be formulated in full by the Assistant Director of Planning:

S106 Heads of Terms:

Provision of vehicular access to the school; and provision of footpath across Derbyshire County Council land to the town centre including security fencing to the school (terms as agreed in the previous S106 for the extant planning permission for this site).

Conditions:

- 1 The development shall be begun before the expiration of three years from the date of this permission.
- 2 Before construction commences on the erection of any building or wall a schedule of wall and roof materials shall first have been submitted to and approved in writing by the Local Planning Authority.
- 3 Where shown, utility meter housings shall be provided in accordance with the submitted application drawings and where not shown, these should be sited to avoid locations alongside public highways where practicable. All meter housings should be coloured to match the walling materials within which they are set as closely as practicable.
- 4 Notwithstanding the submitted landscape and boundary treatment plans, prior to the commencement of the building of any dwelling, revised details of both hard and soft landscape works shall have been submitted to and approved in writing by the Local Planning Authority and the works shall be carried out as approved. The revised details shall include:
 - Design of the green space and pond, including biodiversity enhancements in accordance with the submitted ecological assessment recommendations;
 - Details of play equipment;
 - Details of all means of enclosure;
 - All hard surfacing including highway surfaces;
 - Details of all lighting (except any on or in any individual dwelling curtilage), that should take into account the recommendations of the submitted ecological assessment recommendations;
 - Existing landscaping that is to be retained, including measures for the protection of that existing landscaping during the course of the development;
 - Details of tree pit design and root protection measures for trees to be located within 3m of the highway; and
 - A programme for implementation of the hard and soft landscaping.
- 5 If within a period of five years from the date of the planting of any tree or shrub that tree or shrub may die, be removed, uprooted or become seriously damaged it shall be replaced by another of the same species during the first available planting season, unless a variation of the landscaping scheme is approved in writing with the Local Planning Authority.
- 6 A landscape management plan, including long term design objectives, management responsibilities and maintenance schedules for all landscape areas, other than small,

privately owned, domestic gardens, shall be submitted to and approved in writing by the Local Planning Authority prior to the occupation of the development or any phase of the development, whichever is the sooner, for its permitted use. The landscape management plan shall be carried out as approved.

- 7 No development shall take place until a Written Scheme of Investigation for archaeological work has been submitted to and approved by the local planning authority in writing, and until any pre-start element of the approved scheme has been completed to the written satisfaction of the local planning authority. The scheme shall include an assessment of significance and research questions and:
 - a. The programme and methodology of site investigation and recording;
 - b. The programme for post investigation assessment;
 - c. Provision to be made for analysis of the site investigation and recording;
 - d. Provision to be made for publication and dissemination of the analysis and records of the site investigation;
 - e. Provision to be made for archive deposition of the analysis and records of the site investigation; and
 - f. Nomination of a competent person or persons/organization to undertake the works set out within the Written Scheme of Investigation.
- 8 No development shall take place other than in accordance with the archaeological Written Scheme of Investigation approved under condition 7.
- 9 No dwelling shall be occupied until the site investigation and post investigation assessment has been completed in accordance with the programme set out in the archaeological Written Scheme of Investigation approved under condition 7 and the provision to be made for analysis, publication and dissemination of results and archive deposition has been secured.
- 10 No development shall take place until such time as a surface water drainage scheme that incorporates an appropriate number of surface water treatment stages to protect the receiving waterbody from adverse impacts from the development has been submitted to, and approved in writing by, the Local Planning Authority.
- 11 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 any respective dwelling commencing and shall be maintained in accordance with the maintenance and management plan at all times thereafter.
- 12 The development hereby permitted shall not commence until drainage plans for the disposal of foul sewage have been submitted to and approved by the Local Planning Authority. The scheme shall be implemented in accordance with the approved details before the development is first brought into use. The scheme shall include details of how the proposed scheme would operate in relation to the adjacent active railway line

and shall subsequently be implemented in accordance with the approved details before the development is completed.

- 13 A scheme for sound insulation of the dwellings inside or partly within NEC B (ref: Spectrum letter dated 21 July 2015 to Ben Bailey Homes 2008, Attachment 2 Page 1), which shall include provision for mechanical ventilation shall be submitted to the Planning Authority for approval. Noise levels shall attain 30dB in bedrooms as described in BS 8233:2014. The scheme approved by the Planning Authority shall be fully implemented in accordance with the approved details before the related dwelling is first occupied.. The works and scheme shall thereafter be maintained in accordance with the approved details. No alterations to the agreed structure, roof, doors, windows or external facades shall be undertaken without prior written approval of the Local Planning Authority.
- 14 Before the development hereby approved is occupied, the sound insulation scheme submitted as part of the application and referred to in Condition 13 shall be validated by a competent person and the validation report submitted to and approved in writing by the local planning authority.
- 15 All garden boundaries contained within NEC 'B' bordering the operational railway line shall have an acoustic fence erected to protect amenity of future residents from airborne rail noise. Details of size, length and construction of the fences to be used shall be provided to and approved by the Local Planning Authority. The level of attenuation of rail noise provided by the fence for garden areas shall be stated. No dwelling within that NEC 'B' area shall be occupied prior to the erection of the acoustic fence and that fence shall be maintained as approved at all times following its erection.
- 16 Unless otherwise agreed by the Local Planning Authority, development other than that required to be carried out as part of an approved scheme of remediation must not commence until parts A to C of this condition have been complied with. If unexpected contamination is found after development has begun, development must be halted on that part of the site affected by the unexpected contamination to the extent specified by the Local Planning Authority in writing until part D has been complied with in relation to that contamination.

A. Site Characterisation - An investigation and risk assessment, in addition to any assessment provided with the planning application, must be completed in accordance with a scheme to assess the nature and extent of any contamination on the site, whether or not it originates on the site. The contents of the scheme are subject to the approval in writing of the Local Planning Authority. The investigation and risk assessment must be undertaken by competent persons and a written report of the findings must be produced. The written report is subject to the approval in writing of the Local Planning Authority. The report of the findings must include:

- (i) a survey of the extent, scale and nature of contamination;
- (ii) an assessment of the potential risks to:
 - o human health,
 - o property (existing or proposed) including buildings, crops, livestock, pets,

- woodland and service lines and pipes,
- o adjoining land,
 - o groundwater and surface waters,
 - o ecological systems,
 - o archaeological sites and ancient monuments;
- (iii) an appraisal of remedial options, and proposal of the preferred option(s).

This must be conducted in accordance with DEFRA and the Environment Agency's 'Model Procedures for the Management of Land Contamination, CLR 11'.

B. Submission of Remediation Scheme - A detailed remediation scheme to bring the site to a condition suitable for the intended use by removing unacceptable risks to human health, buildings and other property and the natural and historical environment must be prepared, and is subject to the approval in writing of the Local Planning Authority. The scheme must include all works to be undertaken, proposed remediation objectives and remediation criteria, timetable of works and site management procedures. The scheme must ensure that the site will not qualify as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land after remediation.

C. Implementation of Approved Remediation Scheme - The approved remediation scheme must be carried out in accordance with its terms prior to the commencement of development other than that required to carry out remediation, unless otherwise agreed in writing by the Local Planning Authority. The Local Planning Authority must be given two weeks written notification of commencement of the remediation scheme works.

Following completion of measures identified in the approved remediation scheme, a verification report (referred to in PPS23 as a validation report) that demonstrates the effectiveness of the remediation carried out must be produced, and is subject to the approval in writing of the Local Planning Authority.

D. Reporting of Unexpected Contamination - In the event that contamination is found at any time when carrying out the approved development that was not previously identified it must be reported in writing immediately to the Local Planning Authority. An investigation and risk assessment must be undertaken in accordance with the requirements of part A, and where remediation is necessary a remediation scheme must be prepared in accordance with the requirements of part B, which is subject to the approval in writing of the Local Planning Authority.

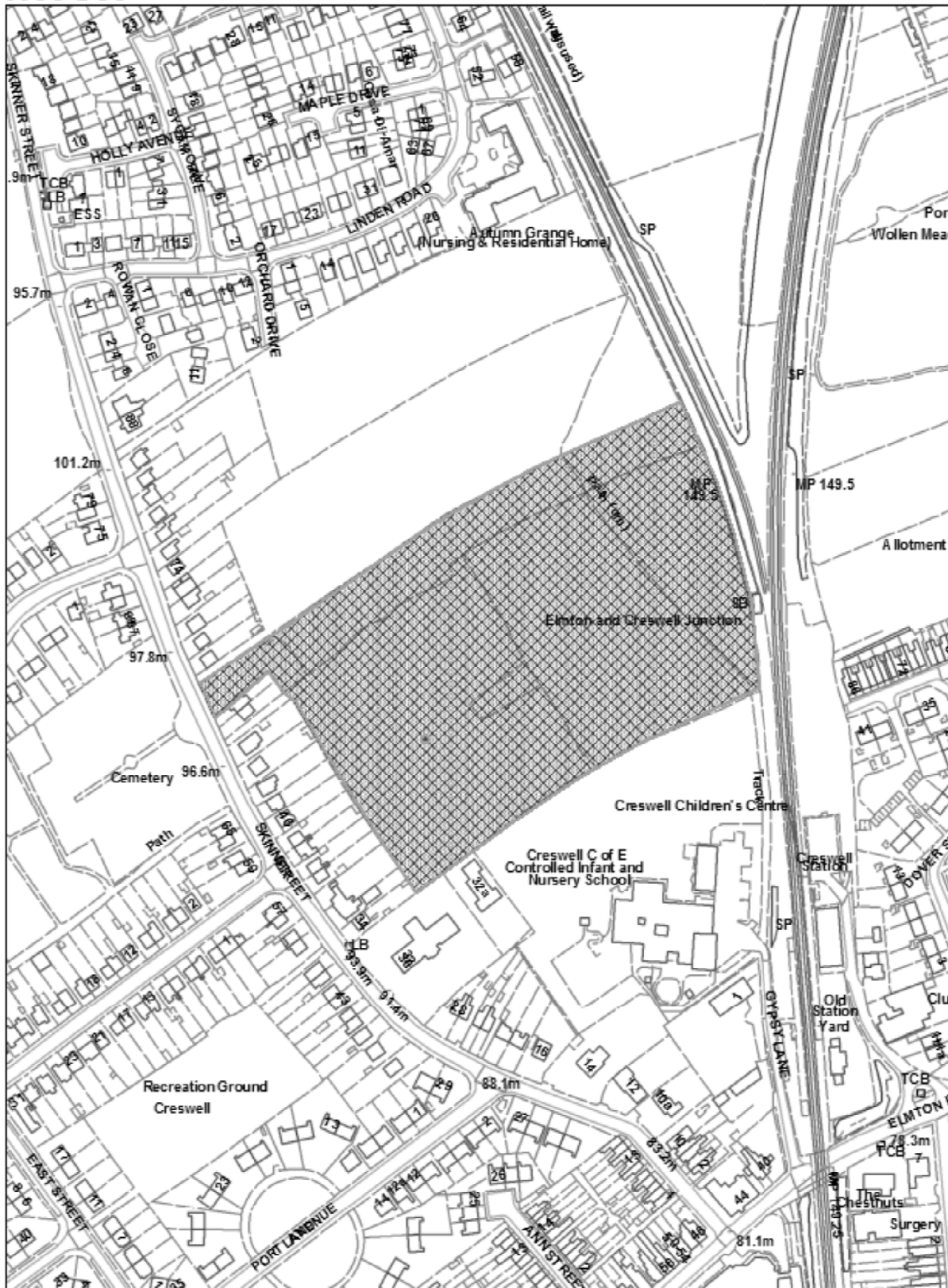
Following completion of measures identified in the approved remediation scheme a verification report must be prepared, which is subject to the approval in writing of the Local Planning Authority in accordance with part C.

E. Importation of soil - In the event that it is proposed to import soil onto site in connection with the development, the proposed soil shall be sampled at source and analysed in a laboratory that is accredited under the MCERTS Chemical testing of Soil Scheme for all parameters requested (where this is available), the results of which shall be submitted to the LPA for consideration. Only the soil approved in writing by

the Local Planning Authority shall be used on site.

- 17 Before any other operations are commenced, a new estate street junction shall be formed to Skinner Street in accordance with the application drawings, laid out, constructed to base level and provided with 2.4m by 43m visibility splays in each direction, the area in advance of the sightlines being levelled, constructed as footway and not being included in any plot or other sub-division of the site.
- 18 No dwelling shall be occupied until space has been provided in accordance with the application drawings for the parking and manoeuvring of residents and visitors vehicles for that dwelling, laid out, surfaced and maintained throughout the life of the development free from any impediment to its designated use.
- 19 The proposed access driveways to the internal estate streets shall be no steeper than 1 in 15 for the first 5m from the nearside highway boundary.
- 20 The premises, the subject of the application, shall not be occupied until the proposed new estate streets within the application site have been designed and laid out in accordance with the submitted planning application drawings and constructed to base level to adoptable standards
- 21 Prior to its installation, full details of the proposed sub-station, including any external means of enclosure for it where proposed, shall have been submitted to and approved in writing by the Local Planning Authority and shall only be implemented as approved under this condition.

Not Set



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