

PARISH Old Bolsover

APPLICATION Outline planning permission (all matters reserved for future approval other than access) for erection of up to 149 dwellings, public open space and the creation of 2 new vehicular access points onto Oxcroft Lane.

LOCATION Land to North Of Meridian Close Oxcroft Lane Bolsover

APPLICANT Ackroyd and Abbott South Yorkshire

APPLICATION NO. 15/00076/OUT **FILE NO.** PP-03977704

CASE OFFICER Mr Steve Phillipson

DATE RECEIVED 13th February 2015

The following report (shown in italics) was first considered by Planning Committee on 9th December 2015. Further details and an amended condition were included within the Supplementary Report and these have now been incorporated into the main report.

Planning Committee resolved to defer making a decision on the application to enable an independent assessment by a Highway Consultant of the traffic impacts and the application to be reported back to Committee for consideration when the assessment is complete.

Bryan G Hall (consulting civil and transportation planning engineers) were appointed to review the traffic impacts of the proposal. Their advice is summarised at the end of this report.

SITE

The site comprises a large irregular shaped open arable field approximately 6.5 ha in area within the countryside on the extreme northern edge of Bolsover. It is Grade 4 agricultural land.

Beyond the northern boundary lies open countryside with sweeping views to the north and down the valley out towards Barlborough. The north eastern corner opposite Sutherland Farm affords views across open countryside over the limestone plateau.

The eastern boundary of the site is marked by Oxcroft Lane, which is a narrow country lane that becomes single vehicle width travelling northwards from the site for approximately 3km. Sutherland Farm is located immediately east of Oxcroft Lane and the application site. This is a poultry farm and can on occasion produce odours.

The western boundary is defined by the rear boundaries of existing ribbon development along Shuttlewood Road. The south west boundaries are located adjacent to countryside used as paddocks which separate the site from properties on Mill Lane and Mill Walk.

The southernmost part of the site shares a boundary with a former industrial site (the now cleared Courtaulds site) which has planning permission for residential development. Planning permission was granted in 2005 and whilst development commenced with the construction of the access road and paths to the site, development has now stalled for some years without the construction of any of the dwellings taking place. This site is also understood to be within the ownership of the Applicant.

The site is bounded by hedgerows, which are closely cropped and managed. In places

intermittent gaps exist between lengths of hedgerow. There is only one small part of the site in the south west corner which contains internal hedges and hedgerow trees which mark a former garden boundary. The upper parts of the site are generally level to the east and the west, although the topography slopes significantly into the head of a narrow valley with a low point in the centre of the northernmost part of the site.

At its north west corner the site extends to Shuttlewood Road along a gap between No 137 and Boleappleton Farm wide enough to accommodate a footpath or single width track.



PROPOSAL

Outline planning permission (all matters reserved for future approval other than access) for erection of up to 149 dwellings, public open space and the creation of 2 new vehicular access points onto Oxcroft Lane. Potential limited access is also indicated from the new estate road provided on the Old Courtaulds site. An indicative layout has been provided (see above).

The site includes an old agricultural access from Shuttlewood Road between No 137 Shuttlewood Road and Boleappleton Farm to provide pedestrian and cycle access.

The Applicant acknowledges that an area of agricultural land to the south west of the site will be enclosed by the development. This area is not within the Applicant's ownership but the indicative layout plan submitted shows a potential road access though the current application

site to this land. 149 dwellings would result in a gross density of approx' 23 dwellings/ha.

The application is supported by the following reports:-

Transport Assessment
Travel Plan
Archaeological Assessment
Flood Risk and Drainage Assessment
Mining Assessment
Phase 1 and 2 Geo-environmental Assessment.
Odour Assessment

The Applicant argues that the Council does not have a 5 years supply of housing and that the proposals are in accordance with the National Planning Policy Framework with an opportunity to deliver a substantial amount of housing in a sustainable location on a site that is available, suitable and deliverable.

Developer Contributions

The following developer contributions are offered to be secured by S106 agreement:-

10% Affordable housing provision on site.

Highways:

Travel plan monitoring to the cost of £2500 per year for 5 years; network monitoring and off-site mitigation works to the value of £200,000 to include works to Welbeck Rd junction and Mill lane); the cost of any traffic regulation orders up to £15,000; also construction HGV routing set to an agreed route by contract.

The applicant would also agree in the S106 to use reasonable endeavours for 6 months to acquire Boleappleton Farm to provide a direct road link from the site to Shuttlewood Road (i.e. whilst the Applicant will try to provide a road link, subject to viability and third party agreement etc, there is no guarantee that such a link will be delivered). If this road link is delivered the need for other alternative off-site road works (i.e. the £200,000 worth) will be reviewed since they are not likely to be necessary as the new access route offers a preferable alternative.

Education:

A financial contribution of £136,788 towards the provision of 12 infant places at Bolsover Infant and Nursery School;

A financial contribution of £193,783 towards the provision of 12 junior places at Bolsover C of E Junior School; and

A financial contribution of £85,881 towards the provision of 5 secondary places at The Bolsover School.

Leisure/Public Open Space:

0.29ha public open space on site with LEAP Standard Play area on site;

A commuted maintenance sum for a 10 year period of £41,000 in the event of transfer to the Council;

A commuted sum of £133,802 to be provided in lieu of any formal on site outdoor sports

facilities to be spent within the Parish of Old Bolsover.

Also the following is offered by means of a planning condition, rather than S106 obligation:-
Scheme for the provision of public art on site.

AMENDMENTS

Further info received on archaeology, odours, deliverability, highways.

Revised access detail to Oxcroft Lane (7160/001 Rev C) submitted 28/07/15 showing the extent of hedgerow removal required for the accesses and visibility splays. The existing hedgerow is shown removed along two thirds of the frontage to Oxcroft Lane although replacement planting is indicated behind the splays.

01/12/15 Addendum to odour impact assessment submitted by the Applicant.

Concludes that:

Odour exposure is highly dependent on wind direction:

- on those occasions that the Proposed Development is directly downwind of the poultry farm (approximately 12% of hours in a year), the odour exposure would be either Medium or Large;
- on those occasions that the Proposed Development is downwind (but not directly downwind) of the poultry farm (an additional 4% of hours in a year over and above when directly downwind), the odour exposure would be mostly Negligible and occasionally Small; and
- on those occasions that the Proposed Development is upwind of the poultry farm (approximately 84% of hours in a year), the odour exposure would be Negligible.

But Medium and Large odour exposures are expected to be limited to when the Application Site is directly downwind of the source (Sutherland Farm) **and** when this happens to coincide with the farm being at its most odorous parts of the cycle. Accounting for the final clearout event (NOTE the mid cycle event has not been accounted for here in consultants conclusions) the probability of a moderate or substantial adverse effect being experienced is for less than 0.5 percent of the year.

Concludes on the basis of the low frequency of effect and probability the overall effect is considered 'slight adverse' and is "not significant" and the proposed development site is suitable for residential use from an odour perspective.

HISTORY (if relevant)

None relevant on site. On adjacent land to the south (former Courtaulds site) 03/00730/FULMAJ permission for 43 dwellings approved 02.08.2005.

CONSULTATIONS

BDC Planning Policy

24.11.15 Given the out-of-date nature of the adopted Bolsover District Local Plan and the absence of any new emerging policy, it is considered that the policy case is heavily governed by the NPPF and its presumption in favour of sustainable development and in particular given the published lack of a five-year supply.

However, from an assessment of this proposal, whilst it is noted that the site is in a generally sustainable location it is considered that the proposal is yet to demonstrate that it would form a well connected extension to the settlement framework of Bolsover Town. Furthermore, based on the available evidence there are strong concerns that the proposal is not achievable within 5 years as required by the Five Year Supply guidelines.

Therefore, in light of these concerns, a decision to approve the application would not be supported from a policy perspective at this stage.

DCC Highways (This response is reported in detail having regard to the potential impacts)

11.09.15. The Highway Authority has concerns regarding the traffic impact of the development on the existing highway network. If development access is limited solely to Oxcroft Lane this will limit the choice of routes available to drivers and other road users. Given the limitations of Oxcroft Lane to the north of the site, Mill Lane to the south and the Welbeck Road area and its junction with Town End, the Highway Authority will be seeking mitigation where the impacts are considered to be severe; either by physical works secured by condition or via contributions to wider network improvements by means of Section 106 contributions to off-set the impact of traffic generated by the development on the existing highway network.

The Highway Authority is aware of the District Council Planning Officer's preference for a road link to be provided from Shuttlewood Road. Whilst the Highway Authority is entirely open to the idea of such a link (which would undoubtedly offer relief to off-site traffic impacts elsewhere), it is not the only form of mitigation available and other alternative measures could also be considered. It is noted that not all of the land needed to provide the link forms part of the current application site curtilage but this is not necessarily an unrealistic prospect and this link could, in theory, form a reasonable endeavours undertaking in a S106 Agreement with other alternative interventions being available in the event it could not be provided within a meaningful timescale.

The key (but by no means only) node on the network subject to impact will be the A632/Welbeck Road junction. This application and other significant committed development in the area will be expected to contribute a proportionate share of the cost of mitigating this impact and improving the junction. Based upon the work carried out in connection with the Local Plan Transport Topic Paper and other applications, this development's contribution is expected to be in the vicinity of £155,000 (plus Travel Plan monitoring).

The Highway Authority has also considered the more localised effects of the development, particularly the likelihood of development related traffic seeking to use Mill Lane to access Shuttlewood Road. This route is currently very lightly trafficked and the percentage increase in vehicle movement resulting from the development is consequently high. However, in overall terms the frequency of trips post development will still remain within the operational capacity of this route. **The Highway Authority would therefore not be in a position to**

offer a technical capacity based objection to the development due to the impact on Mill Lane. Similarly, the Highway Authority relies upon 3 year personal injury accident data to provide an evidence base for the safety of the local network. There have been no such events on Mill Lane or its immediate environs in this period and this would preclude a recommendation for refusal of planning permission on this particular issue.

However, Mill Lane is narrow in many places and has a number of tortuous bends. On-street parking further restricts the carriageway in places and there is limited footway provision. The junction with Shuttlewood Road is also restricted. The Highway Authority is therefore sympathetic to the Local Planning Authority's concerns about the quality of the Mill Lane street environment and the amenity of existing residents and users as a consequence of the additional development traffic and considers that the applicant should introduce a package of measures to help alleviate some of these concerns. The County Council would be prepared to examine a package of traffic management measures and physical improvements which could include some or all of the following (localised footway widening at the Shuttlewood Road junction, introduction of on-street parking management on both Shuttlewood Road and Mill Lane, localised carriageway widening and provision of margins on Mill Lane, traffic management measures to regulate two-way traffic movement along Mill Lane). You may consider it appropriate to include a condition within any consent requiring a scheme detailing these measures to be submitted as part of any future full or reserved matters planning submission and subsequently implemented prior to occupation of dwellings.

DCC suggest wording to include within a S106 obligation including measures to require highway network monitoring and funding for mitigation works where required to the value of £200,000 (which includes the Welbeck Road/Town End improvement costs above); Travel Plan monitoring contribution of £2500 per year over 5 years; contractual obligation over haulier routes.

Also conditions are recommended re:-

Mill Street works as set out above

Approval of temporary construction access detail

Site compound details

Wheel cleaning of construction vehicles

Construction Management Plan

Widening of Oxcroft Lane to 5.5m and 2m wide footway to west side.

The new accesses to Oxcroft Lane provided - width of 5.5m, with 2 x 2m footways, radii of 6m and visibility sightlines of 2.4m x 60. The area forward of the sightlines shall be levelled, constructed as footway and form part of the adoptable public highway.

Access gradient not to exceed 1:30 for the first 10m and 1:20 after.

Internal layout to accord with 6CS Design Guide and Manual for Streets.

Swept path details required with application for reserved matters.

Approval of sw drainage detail.

Provision of the new estate street.

Provision of secure cycle parking.

Provision of 2 parking spaces and garage size 6 x3m.

Bin stores at entrance to shared drives.

No gates within 5m of highway

Travel Plan to be submitted, approved and implemented.

Further response from DCC Highways 17.11.15.

Confirms that the Highway Authority is satisfied that the contribution of £200,000 is sufficient to accommodate the cumulative impact mitigation works originally identified and the additional potential works on Mill Lane and its junctions.

In addition, the Highway Authority requested the inclusion of a clause for a capped figure of £5,000 per TRO up to a maximum of 3 separate Orders.

Therefore, subject to the inclusion of these requirements in the S106 Agreement and the inclusion of the conditions and notes in my letter of 11 September 2015 in any consent, the proposal is acceptable in highway terms.

Town Council

10.3.15. Highway issues – local road infrastructure unsuitable for the volume of traffic generated by the development. Deficiencies in social facilities, school places and leisure facilities not sufficient for the demand. Loss of greenfield sites when brownfield sites are available.

DCC Archaeologist

08.06.15. The geophysical survey shows what appear likely to be archaeological features on the site, corresponding to the square enclosure documented in the Derbyshire HER and other associated features. These are likely to represent field systems and/or settlement enclosures of late prehistoric or Romano-British date. A planning condition is requested requiring further field evaluation to be undertaken in line with a written scheme of investigation before submission of a reserved matters application.

Derbyshire Wildlife Trust

14.05.15. Considers that the ecological appraisal has been undertaken in accordance with good practice. From consideration of the submitted ecological information we would advise that there are unlikely to be any protected species issues arising. We would consider the hedgerows that form the site boundaries to provide the main ecological interest on the site. All the hedgerows meet the definition of UK BAP priority habitat (Habitat of Principal Importance) and, as such, should be retained and enhanced as part of the development. We do not support the use of retained existing hedgerows to form the garden boundaries. Conditions are recommended re:-

Reserved matters application should follow the general parameters of layout, and landscaping set out on the illustrative Masterplan. In particular, undeveloped areas of green infrastructure located adjacent to the hedgerows within and along the boundaries of the site.

The landscaping associated with the proposed area of public open space should be designed to provide maximum benefits for biodiversity and should include the creation of wildflower grassland to be managed, along with the retained and created hedgerows, in accordance with a Landscape and Ecological Management Plan (LEMP) to be submitted to and approved in writing by the local planning authority prior to the commencement of works.

Environmental Health Officer (Odours)

30.03.15. Initial advice. The Applicant has submitted an odour impact assessment in line with the guidance set out in the NPPG regarding the adjacent chicken rearing sheds. Because of the concerns made below he does not feel that he is able to agree with the conclusions of the

Odour Impact Assessment. He advises that it may be possible to address these concerns if a further assessment is made based on the closer distances and not relying on the number of complaints received under the existing Environmental Permitting regime.

The Assessment concludes that “the odour effect at proposed receptors is likely to be “slight adverse”.” And the results of the sniff test carried out also indicated that “the likely odour effect at the development site would be “slight adverse”.”

The Assessment also concludes that because the farm is regulated by the Environment Agency under a Permit and there has only been one odour complaint attributable to Sutherland Farm in the last three years, the “Environmental Permitting pollution control regime is operating effectively and odour emissions are not generating significant impacts at existing residential locations” and consequently “the proposed development site is suitable for residential use.”

There are a number of points raised by the EHO:

1. The assessment has been based on a distance of 210m to the nearest residential property and for properties that fall within a 400m distance. The plan indicates that they have taken these measurements from the centre of the livestock buildings rather than the distance from the nearest intensively farmed buildings, which are ventilated along their length and which are less than 150m to the nearest proposed dwellings. The effect of distance on the dilution/dispersion of odours is significant and therefore this discrepancy is of concern.

The Odour Effects on the proposed residential development (for properties shown as between 210m and 400m) have been categorised as Low Risk of Exposure and Slight Adverse as the Likely Odour Effect. Using the criteria set out in the Odour Impact Assessment and considering the closer distances, I feel that these are more likely to be Medium Risk and Moderate Adverse Effect.

2. The ‘sniff test’ was carried out during week 3 of the poultry cycle as it was felt that this is the period when the farm would be most odorous. I do not accept that this is the most odorous part of the cycle, but would agree that from 3 weeks in to a cycle the odours start to become significant and can increase until the end of the cycle. It should also be noted that not only is the production odorous, but the cleaning of the sheds and transport of material will also create significant odours.

The reliance on the number of complaints received as an indication that the “Environmental Permitting pollution control regime is operating effectively and odour emissions are not generating significant impacts” is misleading in this context. The existing residential locations are at a much greater distance from the poultry unit than the new proposed dwellings, certainly outside the 400m that the assessment comments on. To bring a residential development so much closer to a poultry farm will mean that the residents will experience a greater degree of odour than the existing properties and is likely to result in complaints to the local authority. When complaints are received, they will have to be forwarded to the Environment Agency as the regulating authority and could not be dealt with under statutory nuisance legislation unless it constitutes a public nuisance.

Also, in terms of noise from construction the EHO advises that it may be advisable to control hours of operation for deliveries although any other noise issues could be dealt with by nuisance legislation.

15.05.15. The EHO has serious concerns regarding the approval of this planning application with regard to odours from the adjacent chicken farm. There are concerns with the methodology of the submitted odour assessment. The EHO considers that further odour

monitoring should be undertaken in conditions representing a worst case scenario: i.e. at the end of the chicken rearing cycle; when the wind direction is towards the development site; and monitoring should be undertaken from the nearest odours point.

Whilst we recognise odour is an issue which is regulated as part of the Environmental Permit, if the facility is using Best Available Technique in terms of odour control, there would be little that could be done (by the Council) if an odour nuisance was being caused, as this is an appropriate defence under the legislation. Obviously, this is not currently a significant issue due to the distance of the nearest receptors but with the distances proposed to housing, this could cause significant problems both for the farmer and the proposed residents. This is the regime working effectively and is why consideration should be given at the planning stage to identify whether the development is an acceptable use of the land. The IAQM guidance specifies that 'a lack of complaints does not necessarily prove that there is no annoyance or nuisance or loss of amenity'. We would also state that we are aware having worked in that location (Sherwood Lodge) for a number of years, there were numerous examples of when the odour could be detected at and around our offices during certain points in the cycle.

Whilst these may not have been at nuisance levels, it would indicate that there is likely to be a loss of amenity at the proposed development location.

I would also concur with the previous case officer view that the odour effect should be classed as moderate adverse and medium risk for the closest residents rather than low risk and slight adverse effect as the submitted odour assessment classes the odour as moderately offensive and the residents would be classed as high sensitivity receptors and the risk of odour potential is classed as medium based on the data provided within the odour assessment and the tables provided.

14.12.15 Further EHO advice following site visits and an additional odour assessment that has recently been carried out and submitted to provide further clarification with regard to the potential odour impact on the development from the adjacent chicken farm.

Advises that the additional odour assessment has been compiled in line with current guidance. However, the EHO has some concern that the revised assessment only considers the impact of the odour from the clearing out of the sheds and does not include the impact of the trucks that would be transporting the birds/waste from the site. There would be approximately 20 truck movements of chicken waste over the two days that the sheds were emptied. There was a clear odour from these movements that would be detectable at the nearest properties from this. In addition, the wind was relatively strong on both occasions that additional monitoring was undertaken which can underestimate the amount of odour the potential residents can be exposed to.

There is also no consideration of the odour from the thinning out of the birds at the midpoint of the cycle which would increase the amount of time that the residents may be affected by the odour.

We have also consulted the Environment Agency with respect to the poultry farm's A1 permit and they consider the farm to be well run in accordance with current Best Available Technique. This indicates that if there were to be an issue with respect to odour, there would be little that the farmer could alter to mitigate any potential issues.

I consider the overall assessment of this application to be borderline as to whether odour is considered to be significant or not due to the potential frequency that the odours will be experienced. I think that it has the potential to become significant, particularly if there are periods of very hot weather or very still weather conditions but for much of the year, the wind will be in the opposite direction. In addition, although the odour from the trucks will be

evident, this should only be for short intervals. It must be noted that even if complaints regarding odour are made by residents, there may be little that the Environment Agency can do if the poultry farm is operating in accordance with their permit conditions.

It is therefore our consideration that it is unlikely that the odour will reach levels where it would constitute a statutory nuisance due to the limited amount of days that the odour will be experienced (albeit the site is operated under a PPC permit). However, the odour will impact on the amenity for residents for a limited amount of time in year. This must be weighed against the need for development in this area.

There is also the potential for noise from the trucks to affect residents. It has been clarified during this process that the birds are moved in the early hours of the morning generally to minimise stress to the birds. Therefore, residents directly adjacent to the farm may be affected by these movements. We would therefore recommend that if planning permission is granted a condition requiring a scheme of noise assessment and sound insulation be attached.

Environmental Health Officer (Pollution Control)

31/03/15. A Phase 1/2 environmental assessment has been submitted to support the application but it is limited and is not considered to be sufficiently robust to fully categorise the site. Therefore, due to the proposed sensitive end use and the size of the site, we would recommend that the following planning condition be attached to any planning permission granted: Investigation of potential ground contamination and remediation if necessary.

Environment Agency

29/04/15 No objections.

23.10.2015. Whilst the EA has no objections they do have serious concerns regarding the reliability of the findings of the submitted Odour Impact Assessment:-

The operator has informed me that the birds at Sutherland Farm poultry unit were 14 days old on 5/11/14, which is the day that the sniff test odour assessment was carried out. We would not expect there to be any significant off-site odour when the birds are only 14 days old.

The Odour Impact Assessment report states that sniff testing was carried out on one day only. The Environment Agency's 'H4 Odour Management' guidance referred to in the report puts forward carrying out sniff testing over many days during the most odorous part of the cycle as well as during adverse weather conditions to assess 'worse case' scenarios and build up a picture of off-site odour over time. Therefore the reliability of the findings from only sniff testing on one day is also of concern.

Please note that Sutherland Farm has been regulated by the Environment Agency since the site was permitted in October 2007, and not since 2011 as stated in the Odour Impact Assessment report.

Yorkshire Water

24/03/15. Requests a condition:-

The development shall be carried out in accordance with the submitted Flooding and Drainage Assessment (reference 7160 revision A dated 04/02/2015), unless otherwise agreed in writing with the Local Planning Authority.

Urban Design Officer

5.5.15. Elements of the design of the indicative layout as currently shown are unacceptable. Although layout is not a formal consideration for this application, a number of issues have been identified that would need to be addressed at the reserved stages in the event that outline planning permission is granted. Ideally the submitted Masterplan layout should be revised as part of this application in order to form a sound basis for any reserved matters. Any permission should include an advisory note drawing the applicant's attention to the need for future detailed design work to be prepared in accordance with the Successful Places Interim SPD (Sustainable Housing Layout and Design) and regard to these comments.

Crime Prevention Design Advisor

10.3.15. Notes that there is no detail on what crime prevention measures are to be implemented into the design. Although there has only been an indicative layout submitted at this stage I would recommend that this detail is supplied by the applicant so that an early indication is given to what will be included in future submissions.

Coal Authority

27.2.15. No objections. Apply the standing advice advisory note.

DCC Planning (Strategic Infrastructure and Services)

23.03.15. The current and projected future number of pupils on roll shows that the normal area infant school could accommodate 1 of the additional 13 infant pupils generated by the proposed development. The normal area junior school would not have sufficient capacity to accommodate any of the 17 junior pupils generated by the proposed development. The normal area secondary school would have capacity to accommodate 17 of the 22 secondary pupils generated by the proposed development.

Seeks developer contributions by s106 for the following:

Access to high speed broadband services for future residents (in conjunction with service providers);

£136,788 towards 12 infant places at Bolsover Infant and Nursery School;

£193,783 towards 12 junior places at Bolsover C of E Junior School;

£85,881 towards 5 secondary places at The Bolsover School; and

New homes designed to Lifetime Homes standards.

NHS

17.3.15. Seeks a S106 contribution of £551 per dwelling for local doctors practices. A development of this nature would result in increased service demand which would not be easily accommodated within existing primary care resources. The local practices are in the process of assessing the options available to them due to the significant amount of houses being proposed in the area. Options available to the practices include increasing capacity at each premise by extending their existing premises or a new premise. Until all the options have been explored we are unable to give a definitive answer where the contribution will be spent however we will ensure that the solution provides the best value for money for all parties.

Leisure Services Officer

28.09.15. Seeks: On site LEAP standard play area plus public open space totalling 0.29ha.

Contribution to off-site formal sports provision, in this case $£898 \times 149 = £133,802$.

A 10 year commuted maintenance sum in the region of £41,000.

Confirms he is happy with the Applicants offer.

Arts Officer

10.3.15. Seeks a contribution to public art with Bolsover of 1% of development costs.

PUBLICITY

Advertised in the press, 3 site notices posted, 58 properties consulted. 1 letter in support. 81 objections received.

Grounds of objection raised on the following issues (main issues raised in representations are categorised):-

Highway Issues (residents concerns)

There is no direct access from the proposed estate onto Shuttlewood Road, which is the direct route leading to the M1 and Chesterfield from this area. This will result in significant increases in traffic using Limekiln Road and Mill Lane to gain access to Hill Top to get to the M1 and Chesterfield. These roads are not equipped to be through roads and were never built for that purpose. Some traffic from the proposed new estate may use Oxcroft Lane but as this road is heavily laden with 'sleeping policemen' plus a detour on a one way system and then having to go through the town centre, drivers would inevitably choose the access roads of Limekiln and Mill Lane as an easier exit out of the town.

The existing & presumably only road network available next to this land will not be fit for purpose, and this should be key reason to refuse this particular application.

Considerable increase in traffic using very narrow Lanes with on-street parking and lacking footways is dangerous for vehicles and pedestrians.

Already concerned about increased traffic on Mill Lane following the arrival of 2 new commercial tenants; this would be the tipping point.

Existing home owners on the local roads will become increasingly frustrated.

Mill Lane will need a serious traffic management review.

There is no foot way for part of Mill Lane, single lane and it is already dangerous near Shuttlewood Road.

Resident has provided photographs of property damage to their front boundary wall on Mill Lane caused by a vehicle squeezing through.

Mill Lane should be a one way system.

Mill Lane will become a rat run.

Oxcroft Lane to the North of the development is only a single track road with few passing places, the road is popular with cyclists, horse riders and walkers and would with an increase in traffic become dangerous. Horse riders and vehicles cannot pass without pulling onto the grass verge or reversing to find a passing point.

Oxcroft Lane should be made access only and a no through road to motor vehicles.

Longlands and Welbeck Road will become busier, this will be a hazard to the children attending Welbeck Road School and to the elderly residents who use Welbeck Roads GP practices.

Traffic Lights erected at Bolsover Town End a few years ago already cause considerable congestion which would be greatly increased.

Limekiln Fields Road is narrow with cars parked on the road effectively making this a single track road and could not take the extra traffic.

Already a nightmare trying to get through the towns one way system at busy times.

This development should access on to Shuttlewood road not through this very tight one way system along Oxcroft Lane.

Bearing in mind the proposed Welbeck Road development (Bolsover North) of hundreds more houses on the same one way it is crazy to have further development on Oxcroft Lane.

Construction traffic through the town.

The submitted Transport Assessment is very optimistic and not realistic.

More parking spaces needed in the town centre to cope.

Similar applications have been refused in the past on the grounds that they did not have sufficient or safe access to Shuttlewood Road.

Proposed new footpath link to Shuttlewood Road could be used by criminals to escape where the Police cannot follow. If it is an emergency access general traffic may use it. Not safe for general traffic.

Concern that a future access on Shuttlewood Road would be sought. Resident feels this would be dangerous.

The phase 2 development will bring more traffic as well as the Old Courtaulds site permission.

Concern that construction vehicles will use Mill Lane.

Concern that future access will be taken from Mill Walk.

Impact on the living conditions of existing residents.

These local roads are never gritted in snowy weather.

The resident refers to planned road improvements to be undertaken as a result of the Morrison permission relied upon in the TA but there is no sign of this scheme progressing.

Contrary to policy GEN1 with unsafe access and highway network.

Would cause congestion locally and within Bolsover.

Noise from the extra traffic.

Emissions and air pollution from extra traffic.

A representation received from an adjacent landowner states "I own the adjoining property Boleappleton Farm Shuttlewood Road north of the proposed development site and feel that my property and land provides the ability for a proper link for access off Shuttlewood Road to the proposed site. I would like you to know that I am willing to discuss with the applicants the possibility of joining up to allow vehicle access off Shuttlewood Road."

Odours (residents concerns)

Concern for the new residents living closer to the Chicken Rearing Farm/Sheds than the resident does (resident lives on Shuttlewood Road and reports the smells coming from them to be terrible).

The statement in the odour assessment about only one complaint about the smell from the chicken sheds is very unfair. We have all had to put up with the awful smell from there when there has been an easterly wind but have accepted it as part of living in the countryside near farms. The resident would not want to live any nearer to the sheds especially in warm weather when having windows and doors open is impossible.

Local residents formerly complained about the smell to the Council on numerous occasions but have given up complaining to the DOE now that it is their responsibility because nothing is done by them. Therefore resident questions the time frame used in the Odour Assessment which only records one odour complaint.

Sometimes the smell lasts for 2 days.

Resident recalls one occasion in 2013 when the smell was so bad that the Infant School was closed because so many of the children were made to feel sick by the stench from the chicken farm.

Resident of Shuttlewood Road 450m distant states that odours from the Chicken Farm can be overpowering on occasions.

The owner of the Chicken Farm is concerned that the new dwellings will be too close to his operation in terms of odours and future conflict with the new residents. Confirms only one complaint in the last 3 years but says this is because there is a suitable separation distance at present. Closer development will increase the number of complaints. The distance from the shed to the proposed dwellings is 100m not 210 as stated in the submitted odour report and this is not manageable. The sniff testing was only undertaken for one day. The Odour report states that odours will only be blown towards the site for 16% of the time in any year – nevertheless queries whether this is acceptable to the future of the Chicken rearing business and the lives of future residents.

Policy Issues (residents' concerns)

Outside settlement framework and not designated for residential, contrary to local plan policy. Contrary to ENV3 and HOU3 and GEN8.

Contrary to ENV2 re protection of high grade agricultural land (Not correct since the site is grade 4).

Contrary to NPPF - Part 7: Good Design "Planning permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions."

Should use brownfield land before greenfield such as the adjacent Courtaulds site which has been left half started for years; the old Council refuse lorry depot; Coalite site.

Loss of countryside.

Urban Sprawl.

Premature to the plan making process.

Contrary to the Council's own guidelines adopted 11/2/15:-

Does not meet the sustainability criteria i.e. too far away from schools, the town centre and employment opportunities. The site fails to comply with the Sustainability criteria set out by the Council resulting in the development in this location encouraging the use of the motor car rather than people walking, contrary to planning guidance.

The guidelines state that the applicant should submit with their application an assessment demonstrating the sites availability, suitability for development now and timescales for development (house numbers per year) etc. Further the assessment should show how the proposals perform against the relevant saved policies in the Local Plan. No such assessment has been provided with the application.

The applicant has provided little or no evidence to support the sites deliverability. The applicant should be required to demonstrate that the site has a realistic prospect of being delivered within five years.

Carbon emissions – no sustainability statement and Low Carbon Emissions statement has been submitted with the application.

One point of access is poor design and fails to create proper connections to integrate the development with the settlement to the detriment of sustainable development.

The council should consider reducing the 5 year supply required based on 2012 household projections.

To get to Chesterfield by bus from Shuttlewood Road a change of bus is required in Bolsover

which makes bus travel impractical for most.

Marketability constraints - odours from the adjacent chicken farm, lack of amenities and a bus service are reasons why housing on the site could remain unsold for a considerable time.

Greenbelt (this is not correct).

Loss of agricultural land.

Obviously unsuitable land for development.

No need for more housing land in Bolsover.

The existing planning approval on the old Prew Smith site that has never been developed.

Will add to global warming.

This application is in reality seeking permission for a much larger housing site including additional phase 2 land to the southwest this equates to a development site of approximately 10ha and 250 dwellings.

Service Capacity (residents' concerns)

Schools overloaded.

Capacity issues and time it takes to get a doctor's appointment.

Lack of local amenities nearby e.g. shops no bus route on Oxcroft Lane.

The number of affordable houses is not specified.

The proposed public open space is also to be used for sustainable drainage so may not be usable for recreation.

General Issues (residents' concerns)

Loss of wildlife.

Impacts on wildlife including birds, owls and bats. Future street lighting will affect them.

Loss of hedgerow.

Loss of habitat for newts and wildflowers.

Brockley Wood is a nature reserve.

Loss of biodiversity.

Disruption to insect habitat.

Council riding rough shod over local countryside for monetary gain.

Suggests moving the position of the proposed public open space to be adjacent to Shuttlewood Road.

Overlooking and loss of privacy made worse by levels difference.

Loss of view of the countryside.

Loss of property value.

There has been no public consultation carried out by the Applicant on this major application.

Query inclusion of Boleappleton Farm on a TA plan.

Objects to the proposed foul water pumping station being on the west side of the development: Noise and odours.

Concerns over maintenance of the public open space.

Resident queries what is proposed for phase 2.

Loss of archaeological interest.

Capacity of the sewers.

Ruin the character of the area.

Impact on the historic character of the Oxcroft Estate Land Settlements.

POLICY

Bolsover District Local Plan (BDLP)

GEN 1 – Minimum Requirements for Development

GEN 2 – Impact of Development on the Environment

GEN 3 – Development Affected by Adverse Impacts from Existing or Permitted Uses

GEN 4 -- Development on Contaminated Land

GEN 5 – Land Drainage

GEN 6 – Sewerage and Sewage Disposal

GEN 8 – Settlement Frameworks

GEN 11 – Development Adjoining the Settlement Framework Boundary

GEN 17 – Public Art

HOU 5 – Outdoor Recreation and Play Space Provision for New Housing Development

HOU 6 – Affordable Housing

TRA 1 – Location of New Development

TRA 7 – Design for Accessibility by Bus

TRA 10 – Traffic Management

TRA 13 – Provision for Cyclists

TRA 15 – Design of Roads and Paths to Serve New Development

ENV 3 – Development in the Countryside

ENV 5 – Nature Conservation Interests

ENV 8 – Development Affecting Trees and Hedgerows

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 47 footnote states that “To be considered deliverable, sites should be available now, offer a suitable location for development now, and be achievable with a realistic prospect that housing will be delivered on the site within five years and in particular that development of the site is viable.”

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 32 states that: “All developments that generate significant amounts of movement should be supported by a Transport Statement or Transport Assessment. Plans and decisions should take account of whether:....

- safe and suitable access to the site can be achieved for all people; and*
- improvements can be undertaken within the transport network that cost effectively limit the significant impacts of the development. Development should only be prevented or refused on transport grounds where the residual cumulative impacts of development are severe.”*

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 64 states that: “Planning permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions.”

Paragraph 66 states that: “Applicants will be expected to work closely with those directly affected by their proposals to evolve designs that take account of the views of the community.”

Paragraph 120 states that: “To prevent unacceptable risks from pollution and land instability, planning policies and decisions should ensure that new development is appropriate for its location. The effects (including cumulative effects) of pollution on health, the natural environment or general amenity, and the potential sensitivity of the area or proposed development to adverse effects from pollution, should be taken into account. Where a site is affected by contamination or land stability issues, responsibility for securing a safe development rests with the developer and/or landowner.”

Paragraph 187” Local planning authorities should work proactively with applicants to secure developments that improve the economic, social and environmental conditions of the area.”

Core Principles. 17 Planning should... not simply be about scrutiny, but instead be a creative exercise in finding ways to enhance and improve the places in which people live their lives; always seek to secure high quality design and a good standard of amenity for all existing and future occupants of land and buildings...

Other (specify)

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). 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 partially 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. 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 any other impacts/harms would not demonstrably outweigh the benefits.

The Council must 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. With regard to the assessment criteria in the Council's Guidelines:-

- There are two bus services within the 400m recommended on Oxcroft Lane i.e. 200m from the site centre although the pedestrian link route at the northern corner will increase this distance in practice.*
- Schools are within a reasonable walking distance Bolsover Infant and Nursery School and Bolsover C of E Junior Schools are approximately 1,100 metres away. The Bolsover School (Secondary) is approximately 1,600 metres away.*
- Bolsover Town Centre is approximately 1,100 metres walking distance of the site which is considered reasonable.*
- A Major employment site is within a reasonable distance with Markham Vale 2500m.*
- Odours associated with Sutherland Farm are noted to be a local concern from time to time and count against the sustainability of the site.*

Overall therefore it is considered that the proposed development would result in sustainable development due to its generally good proximity to town centre services and jobs and significant weight in favour arises from the NPPF policy.

Whilst not a specific requirement of NPPF policy there are concerns as to whether this site is deliverable and whether it will actually contribute to the Council's 5 year supply in the event that permission is granted.

The application is not accompanied by a viability appraisal to evidence that development on the site is viable, although a statement on deliverability has been provided.

The Applicant says that they believe the scheme to be viable, subject to detailed design work to be discussed with the LPA at the reserved matters stage. The Applicant may not be intending to build on this site themselves but they say that they have received expressions of interest from a number of national house builders and that a number of these have also stated an interest in purchasing and delivering the smaller adjacent site benefiting from extant

permission. Although for commercial reasons, they are unable to identify interested parties at this stage. They say that the site is known to be attractive to developers due to the sites setting and the dearth of new build housing in the local market.

The Applicant anticipates that the first housing completions would start in 2017 with a completion of works in 2021.

BDC Planning Policy Team has concerns whether this site if approved would contribute to the Council's 5 year supply of housing. These concerns are based on the lack of progress on the adjacent consented site owned by the same Applicant. They advise in relation to the adjacent that "this site initially featured within and contributed to the Council's 5-year supply of residential sites. However, following the continuing lack of houses being delivered this situation has been reviewed. Based on information provided by Ackroyd and Abbott in October 2014 that they had decided to not progress the site until the housing market had improved and that they were considering selling the site to a third party, this site (ref. 03/00730/FULMAJ) was removed from the Council's 5-year supply. Based on information provided by Ackroyd and Abbott this year for the 2015 update to the 5-year supply, Ackroyd and Abbott have reconfirmed this situation and as a result the site will stay outside and not contribute to the Council's 5-year supply."

On the face of it there seems little point in granting permission for new housing outside the settlement framework if it will not contribute towards achieving a 5 year supply. However this is not the test which must be satisfied in Government policy in the NPPF. The test is whether the development would be sustainable and whether any other impacts/harms would demonstrably outweigh the benefits. However if a site is not deliverable the weight that should be given to the presumption in favour of sustainable development set out in the NPPF might be reduced.

The Applicant (Ackroyd and Abbott) has not had a very good housing delivery record within Bolsover District over recent years and whilst this is a matter of some concern there has clearly been a recession which has contributed to delays in delivery. Ultimately this is a greenfield site with no obvious abnormal costs (but see Highway Issues) and so there is no particular reason at this stage to conclude that the site will not be deliverable.

There is also a concern as to whether or not the proposal would result in a well connected logical extension to the settlement framework in accordance with the Council's guidelines. The application site excludes two fields to its south west side (referred to as phase 2 on the indicative plan) which are adjacent to the settlement framework and so it is considered that the proposal would not result in a continuous or a very logical settlement extension. The concern is that by excluding these fields the proposal will extend further out into the countryside than is necessary to deliver the 149 dwellings proposed and so it could result in an inefficient use of land and a less sustainable form of development.

The BDC Planning Policy Team advise that "based on the submitted information, given the irregular shape of the site, the current inefficient use of land and the current lack of vehicular link to Shuttlewood Road, it is considered that the proposed development would not form a well connected extension to the settlement framework of Bolsover Town."

The form/shape of the application site should certainly be seen as also committing these

additional fields which it surrounds for future development. This is because approval of this application would also extend the settlement framework around the phase 2 land. This situation could only be acceptable if an access can be provided to serve this phase 2 land otherwise this land could be sterilised. The supporting Transport Assessment only assesses the impacts of 149 dwellings on the application site itself and does not consider the impacts of the additional traffic generated from development on the phase 2 land (perhaps an additional 100 dwellings could be accommodated). Hence we do not yet know whether the existing road system has capacity to take the phase 2 dwellings accessed from Oxcroft Lane. However even if later assessment proves that the road system does not have capacity, a new access could be provided to Shuttlewood Road and whilst this would involve the cost of demolition of a dwelling to achieve this, it is considered that the phase 2 site is likely to be large enough to stand the cost.

Therefore whilst the form of the settlement extension proposed by no means ideal, the phase 2 land need not be sterilised in the long run and so the inefficient use of land (which affects the sustainability of the proposal) that would result from the proposal should be seen as a temporary problem which would only exist until a later a development scheme comes forward for that land in future years. It should be noted that a similar situation occurred on land off Mansfield Road Clowne where the Ben Bailey development linked to the High Ash Farm permission enclosing two additional fields which did not form part of either proposal.

In summary, despite the conflict with the out of date policies of the local plan it is considered that the proposed development would result in sustainable development due to its generally good proximity to town centre services and jobs and so significant weight in favour arises from the NPPF policy. The weight in favour however is marginally tempered by concerns over delivery.

Issues and Impacts

The main issues to consider for this application are the impacts resulting from the additional traffic created both on highway safety and on amenity, and odour issues resulting from the proximity of the nearby Chicken Farm.

Highway Safety

There are concerns about the potential impacts on highway safety. Of note is that the additional traffic on the local road system is by far the greatest issue of concern to local residents. A relatively high level of objection has been made to this application (81 objections).

The existing local highway system serving this site is considered to be poor whichever route or direction is chosen. Oxcroft Lane to the North of the development is only a single track road for 3km with few passing places. Oxcroft Lane to the South is over speed humps and emerges at Welbeck Rd/Town End junction which has capacity problems. Mill Lane in particular has issues being narrow in many places and has a number of tortuous bends. On-street parking further restricts the carriageway in places and there is limited footway provision. Evidence of property damage caused by vehicles squeezing down Mill Lane is clear to see on the frontage walls with further photographic evidence submitted in representations. The junction with Shuttlewood Road also has restricted visibility. This route is currently very lightly trafficked and the percentage increase in vehicle movement resulting from the development is

consequently high; there are about 25 vehicle movements per peak hour at present and (depending on the time and section of Mill Lane concerned) the TA predicts an increase in traffic at peak times of between 40% and 150%. Perhaps a doubling to one car per minute at peak times.

Of note is that the Highway Authority, who advise on matters of highway safety, do not object (subject to conditions and s106 obligations requiring off-site highway improvements to the road network including Mill Lane). They advise that in overall terms the frequency of trips post development will still remain within the operational capacity of this route and that the Highway Authority would therefore not be in a position to offer a technical capacity based objection to the development due to the impact on Mill Lane. They advise that the Highway Authority also relies upon 3 year personal injury accident data to provide an evidence base for the safety of the local network. There have been no such events on Mill Lane or its immediate environs in this period and this would preclude a recommendation for refusal of planning permission on this particular issue.

This advice from the Highway Authority is a material consideration which must be taken into account. Having regard to it, it is considered that a refusal on highway safety grounds could not be successfully defended at appeal, even though it is accepted that there would be some adverse impacts. Government advice in the NPPF says that "Development should only be prevented or refused on transport grounds where the residual cumulative impacts of development are severe."

Traffic Impacts on Residential Amenity

In addition to impacts on highway safety the Council also needs to have regard to the impacts on the residential amenity of existing residents as a result of the increased traffic using the local road network.

It is considered that the main impacts would be on residents of Mill Lane and to a lesser extent Limekiln Fields Rd. Amenity impacts would include increased risk of damage to parked cars and property, increased vehicle/pedestrian conflict given the lack of footway on Mill Lane, increased fear of damage/harm, additional noise and disturbance, and potential loss of some on-street parking space if double yellow lines need to be extended to improve capacity for 2 way traffic. The level of public concern is also an indication that local residents believe that their amenity and safety will be adversely affected.

It is relatively rare for a material increase in traffic on the highway to result in overriding amenity concerns but in this particular case due to the very narrow road width once cars are parked on-street and the lack of footway the harm caused is considered to be material and should be weighed in the balance of issues.

Potential Road Link to Shuttlewood Road

As a result of the District Council's concerns over the increased use of the local highway system, the Applicant was encouraged at pre-application stage, to include in the proposals a road link from this site through to Shuttlewood Road. This would have allowed a more direct and better link to the M1 and Clowne via Shuttlewood Road without the use of other less suitable roads in Bolsover and would also have resulted in wider strategic benefits. Whilst the Applicant did try to agree the purchase of the land necessary these negotiations were not

ultimately successful. However provision of this road link is still considered to be a worthy goal and would potentially deal with all of the traffic concerns raised above to a satisfactory degree and dispense with the requirements for other off-site highway improvements. It is believed that land may still be available at Boleappleton Farm on the frontage of Shuttlewood Road which could allow the link to be provided. However that land is outside the current application site.

The Highway Authority would welcome the road link but do not go so far as to require it as being essential to make the current application acceptable in highway safety terms. As such it is not considered appropriate to require it by condition.

Under the circumstances the Applicant has agreed through negotiation and as a gesture of good will to a clause in a S106 obligation requiring them to use “reasonable endeavours” within the 6 months following a grant of planning permission to acquire Boleappleton Farm in order to provide the link. Committee Members should be aware that such a clause is by no means a guarantee that the road link would be provided since an agreement may not be reached with the owner, however it is hoped that it will and it is considered to be the best that can be achieved under this particular planning application. However since the delivery of the road link cannot be guaranteed the weight which can be given to this undertaking in the balance of issues is limited.

Paragraph 66 states that:- “Applicants will be expected to work closely with those directly affected by their proposals to evolve designs that take account of the views of the community.”

Also in seeking to secure a link to Shuttlewood Road it is accepted that there would be amenity impacts on the occupants of the dwellings either side of any new junction with Shuttlewood Road. The link would need to be designed to mitigate the impacts which would be assessed as part of a separate future planning application for the junction. However with the right design it is considered that any residual impacts would be capable of being outweighed by the wider environmental and strategic benefits of a road link at this point.

Summary of Highway Issues

In summary the existing road network which serves this site is quite poor whichever route is taken. Nevertheless the Highway Authority do not advise refusal on technical highway safety grounds as with mitigation and off-site road improvements (required by S106) the roads technically have capacity to deal with the additional traffic predicted. There would however be material adverse impacts on the amenity enjoyed at existing dwellings particularly on Mill Lane. It is possible that a road link from the application site to Shuttlewood Road could be provided which would deal with the highway and amenity concerns raised and whilst the Applicant will undertake to try and acquire the land necessary there is no guarantee in this application that the road link will be delivered. In that event the fall back position is the use of the existing road network with some improvements/alterations funded by S106 but some harm to residential amenity.

Odours

The second main issue to consider for this application is the proximity of an intensive chicken

rearing farm to the proposed dwellings. The living conditions of the residents of the proposed dwellings could be affected and that complaints about the Chicken Farm from the new residents could increase the costs of running that business. Para'120 of the NPPF requires such effects on health and general amenity to be taken in to account and core principle 17 of the NPPF says that planning should always seek a good standard of amenity for all existing and future occupants of land and buildings. Policy GEN3 of the local plan will not allow development of a kind likely to suffer materially harmful environmental impacts from existing permitted uses unless it can be demonstrated that the impacts can be reduced to an acceptable level. This is to ensure that adjacent uses are not incompatible.

The chicken rearing farm (Shutherland Farm) is comprised of 4 large sheds. This is located directly to the east of the application site. The application site is approximately 100m away from the closest shed (200m as measured from a central point between the 4 sheds). By comparison the closest shed is approximately 300m from existing dwellings on Oxcroft Lane and 400m from dwellings on Shuttlewood Road. The former Courtaulds site which has planning permission for 43 dwellings is approximately 200m away (although that site was brownfield and within the settlement framework). Hence the proposal would result in a significant quantity of new dwellings much closer to this odour source than currently exists.

Committee Members may recall that from time to time odours from the chicken farm could be detected outside the former Council Offices at Sherwood Lodge approximately 1km away. Also the issue of odours from the chicken farm has been raised in many of the representations to this application from neighbours, most commonly from residents of Shuttlewood Road.

An odour impact assessment has been submitted with the application. It concludes that: a qualitative risk assessment indicate that the odour effect at proposed receptors is likely to be slight adverse; the results of a sniff test also indicate that the odour effect at proposed receptors is likely to be slight adverse; and that the farm has been regulated by the Environment Agency with only one odour complaint received in the last 3 years which, it is argued, shows that the pollution control regime is operating effectively and odour emissions are not generating significant impacts at existing residential property. It concludes that the development site is suitable for residential use.

The Environmental Health Officer's comments are set out above (in consultations). The EHO does not agree with the conclusions of the initial odour assessment submitted. The EHO has concerns regarding: how distance between the chicken sheds and proposed dwellings has been measured; the early period in the poultry cycle when the sniff test was undertaken (not a worst case); reliance on lack of complaints from existing dwellings is unsound because existing dwellings are much further away (at least 3 times further away). The EHO advises that to bring a residential development so much closer to a poultry farm will mean that the residents will experience a greater degree of odour than the existing properties and is likely to result in complaints. The EHO considers that further odour monitoring should be undertaken in conditions representing a worst case scenario.

The EHO also advises that based on the work done so far in the submitted assessment the odour effect should be classed as moderate adverse and medium risk for the closest residents rather than low risk and slight adverse effect as it concludes.

The Environment Agency has also raised concerns regarding the reliability of the findings of the submitted odour assessment.

The Applicant has been asked to undertake further odour monitoring to address the shortcomings in the initial assessment. The Applicant did not initially agreed to this on the basis that such monitoring was not required by the EHO in relation to the Bolsover North planning application which is a very similar distance from the chicken farm and so it is argued that the Council should take a consistent approach.

However in order to inform the decision making process and the extent of the impact the EHO and Planning Officer have made visits the site together with the Applicant's Consultant who was invited to attend. These visits were when the chicken farm was at odorous points of the poultry cycle, including when the birds are taken to market and when the sheds are cleaned out. The Applicant's Consultant has now updated their odour impact assessment following the additional monitoring.

The results of the additional monitoring are set out above in "Amendments" and "Consultations – EHO". The additional odour monitoring and assessment undertaken and the EHO's advice on it show that odour will impact on the amenity for residents of the proposed dwellings. This will include substantial adverse effects but only for a very small percentage of the time when wind direction and the farm activity coincide (unlikely to exceed 1.5% of the time). There would not be material effects for the majority of the time. This must be weighed against the benefits of delivering additional housing.

The second issue to consider in respect of odours is the potential impact of additional complaints from the new residents on the existing chicken farm as a business. For example there could be additional costs incurred by the business if complaints are received and the business is not already using the best available techniques. i.e. the owner could be forced to upgrade with new equipment or practices. Whilst the Council is no longer responsible for monitoring this site after the Environment Agency became the consenting authority in 2007, this business is believed to be well run already with modern procedures. It is likely therefore that it will be operating with best available techniques, or very close to it. To that extent the level of risk to the business is likely to be limited. However this also means that there may be little that can be done to mitigate the adverse effects on the occupants of the new dwellings if they do complain about the level of odours.

Visual and Landscape

The main visual impacts on the landscape in terms of public views will be from Oxcroft Lane due to obvious urban extension along a lane of rural character. Also views from public footpath 45 to the north west of the site. More distant views of Bolsover from the north west will also be affected due to the slope aspect. However landscape impact is not considered to be unacceptably high.

Private views from existing dwellings on Shuttlewood Road will also be affected. However loss of view is rarely a material planning consideration unless the impacts are particularly overbearing. This is an issue to be assessed at reserved matters stage.

Heritage and Archaeology

A planning condition is considered necessary requiring further archaeological field evaluation to be undertaken in line with a written scheme of investigation before submission of a reserved matters application.

Material impacts on the setting of other above ground heritage assets are unlikely. The site may be visible from the roof/upper windows of Bolsover Castle (Grade 1 listed). However at that distance and angle of view the proposal would appear as a relatively minor settlement extension and is unlikely to harm the Castle's setting.

Ecology

Whilst some hedgerow removal on the site frontage is required for access, visibility and footway provision the existing hedge is closely cropped and is quite gappy. Replacement hedge planting can be required.

There are unlikely to be any significant protected species issues or high value habitats affected. A condition is considered to be appropriate to require the reserved matters of layout and landscaping to retain existing trees and hedgerows where possible and to provide replacement planting where not possible and to maximise biodiversity and habitat creation in line with policy ENV5 and ENV8 of the Bolsover District Local Plan.

Potential Ground Issues

Considered unlikely to be contamination problems, however given the sensitive end use of the site a condition requiring an investigation of potential ground contamination and remediation if necessary is considered to be necessary.

Unlikely to be any material coal mining legacy issues.

Drainage

No significant issues subject to appropriate planning conditions.

Infrastructure Issues and S106

The applicant has agreed to several developer contributions sought by consultees to address the additional pressures on local infrastructure that would be created by the development.

These include contributions to expand the schools (infant, junior and secondary), to mitigate highway safety impacts, to provide 10% affordable housing in line with policy HOU6, and to provide on-site play space and a contribution to formal adult leisure provision within Bolsover as requested by the Leisure Services Officer in accordance with policy HOU5.

The request from the NHS for a S106 contribution of £551 per dwelling for expanding capacity at local doctor's practices has been put to the Applicant. However this has not been agreed by the Applicant. They say that the NHS is unable to confirm where the requested contribution will be spent, there is no formal confirmation of the scale of services required and they consider that the NHS has failed to provide robust evidence to justify a financial contribution towards the alleged effect of the growth due to the proposed development. They say that the contribution being sought by NHS England fails the tests of being both precise and reasonable as it cannot be demonstrated that the requests are fairly and reasonably related in scale or that they are directly related to the development in accordance with Paragraph 204 of the Framework and Reg. 122 of the CIL regulations. Furthermore the Council does not have a

relevant policy on the issue. A relevant appeal case has also been supplied as an example of where the Secretary of State has supported this argument.

It is considered that the Applicants argument on this matter is sound and that a health care contribution cannot be justified on this occasion.

Overall however it is considered that the application accounts for the additional pressures that it will create on local infrastructure and services.

Other Matters

Conservation Area: N/A

Crime and Disorder: Can be dealt with at reserved matters stage

Equalities: No significant issues

Access for Disabled: No significant issues

Trees (Preservation and Planting): See report

SSSI Impacts: N/A

Human Rights: No significant issues

The availability of alternative brownfield sites does not affect the presumption in favour of sustainable development in the absence of a 5 year supply.

Prematurity to the plan making process is not a reason to refuse.

The site is grade 4 agricultural land and so is not protected by the Councils policies.

Impact on property value is not a material planning consideration.

Independent Consultant's Advice on Highway Impacts (13.01.16)

The consultant (BGH) reviewed the highway aspects of the proposal including the submitted Transport Assessment (TA) and the consultation response dated 11th September 2015 provided by Derbyshire County Council. A site visit was undertaken. Particular attention was given to Mill Lane impacts.

A few shortcomings were identified with the Applicant's TA most significantly:

- The potential under-estimation of the additional traffic on Mill Lane resulting from the development, due to the simplistic method of distributing the trips and from the omission of the former Courtaulds site from the committed developments; and
- The assumption that the Morrisons Link Road is in place in the assessment of the A632/Welbeck Road traffic signal junction.

The Consultant (BGH) also comments on the Highway consultation response:

- States that a link road between Shuttlewood Road and Oxcroft Lane would mitigate any impact on Mill Lane and it would be beneficial for its provision not to be prejudiced by the development.
- The proposed contribution to mitigate the impact at the A632/Welbeck Road junction is substantial and is considered to be a significant gain from the development.
- The existing deficiencies of Mill Lane (narrow width, tortuous bends, parked cars, limited footway provision, and restricted visibility at the Shuttlewood Road junction) and the concerns of the residents and the Planning Committee are recognised. The existing flows on Mill Lane are very low - the highest two-way flow is about 60

vehicles/hour, i.e. an average of one vehicle/minute, at its western end. Even if an additional 60 vehicles/hour use Mill Lane as result of the development i.e. three times the flow assumed in the TA, the two-way flow at its western end will only double to 120 vehicles/hour i.e. an average of one vehicle every 30 seconds. Despite its deficiencies, Mill Lane is more than capable of carrying this low volume of traffic and capacity or safety issues are unlikely to arise. BGH therefore concur with the DCC Highways view that it would not be possible to sustain a technical objection to the proposed development based on capacity or road safety grounds.

- Notes that there will be some impact on residential amenity and a package of measures is therefore proposed to address some of the concerns.

Concludes that:

Based on the review of the TA and DCC's highways consultation response, BGH consider that, despite the shortcomings in the TA, it would not be possible to sustain a highways objection to the proposed development. There will be some adverse impact on the highway network and BGH consider that it would be beneficial to identify the mitigation measures on Mill Lane as part of the planning process. Subject to the S106 Agreement and the highway conditions set out in the officer's report to Planning Committee, it is considered that the highway impacts would be acceptable.

Conclusion

Despite the conflict with the countryside protection policies within the out of date local plan it is considered that the proposed development would result in sustainable development due to its generally good proximity to town centre services and jobs and so significant weight in favour arises from the NPPF policy. The weight in favour however is marginally tempered by concerns over deliverability. There is some reliance on future development on adjacent land to improve connectivity, but this has been accepted elsewhere.

In line with the NPPF permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits. There are three significant impacts which have been identified in this case: impacts on highway safety; on residential amenity as a result of increased traffic; and odour amenity problems likely to arise from time to time caused by the proximity of the commercial chicken rearing farm.

The existing road network which serves this site is quite poor whichever route is taken. Nevertheless the Highway Authority do not advise refusal on technical highway safety grounds as with mitigation and off-site road improvements (can be required by S106) the roads technically have capacity to deal with the additional traffic predicted. This view has been examined and supported by independent consultants employed by the Council to review the impacts. The proposal therefore complies with GEN1. There would however be material adverse impacts on the amenity enjoyed at existing dwellings, particularly on Mill Lane, caused by the increased traffic. This could be contrary to policy GEN 2 unless the impacts are outweighed by the social or economic benefits to the community or by wider environmental benefits such as the supply of housing.

The proximity of the commercial chicken rearing farm is a cause for concern since core

principle 17 of the NPPF says that planning should always seek a good standard of amenity for all existing and future occupants of land and buildings. The amenity of the occupants of the proposed dwellings will be adversely affected from time to time, though the frequency is likely to be low and on balance acceptable.

The recommendation is therefore a balance. However to justify refusal the NPPF requires the adverse impacts to significantly and demonstrably outweigh the benefits. The conclusion is that the harms do not demonstrably outweigh the benefits and on balance the proposal is considered to comply with the relevant development plan policies and the policies of the NPPF.

RECOMMENDATION

Defer pending completion of a S106 obligation (regarding the developer contributions and obligations as set out in the proposals section of this report in respect of: Highway mitigation works including to Mill Lane, affordable housing, education, and public open space/leisure provision, reasonable endeavours to acquire Boleappleton Farm to provide a direct road link from the site to Shuttlewood Road) and delegate the decision to the Joint Assistant Director of Planning in consultation with Chair and Vice Chair of Planning.

Any approval would need planning conditions such as:

Conditions

Approval of reserved matters before commencement.

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

Archaeology Investigation.

Investigation of potential ground contamination and remediation if necessary.

Ground level detail to accompany reserved matters.

The development shall be carried out in accordance with the submitted Flooding and Drainage Assessment (reference 7160 revision A dated 04/02/2015), unless otherwise agreed in writing with the Local Planning Authority.

Reserved matters of layout and landscaping to retain existing trees and hedgerows where possible and to provide replacement planting where not possible and to maximise biodiversity and habitat creation.

The landscaping associated with the proposed area of public open space be designed to provide maximum benefits for biodiversity and include the creation of wildflower grassland to be managed, along with the retained and created hedgerows, in accordance with a Landscape and Ecological Management Plan (LEMP) to be submitted to and approved in writing by the local planning authority prior to the commencement of works.

Scheme of art works on site to be approved and implemented.

A scheme of noise assessment and sound insulation re properties closest to Oxcroft Lane.

Highway Conditions:

The reserved matters layout shall not prejudice the provision of a potential road link from the site to Shuttlewood Road.

Construction Management Plan.

Widening of Oxcroft Lane to 5.5m and 2m wide footway to west side.

The new accesses to Oxcroft Lane provided - width of 5.5m, with 2 x 2m footways, radii of 6m and visibility sightlines of 2.4m x 60. The area forward of the sightlines shall be levelled, constructed as footway and form part of the highway.

Access gradient not to exceed 1:30 for the first 10m and 1:20 after.

Approval of sw drainage detail.

Travel Plan to be submitted, approved and implemented.

Details of footpath link to Shuttlewood Road – treatment, Motor cycle barrier and boundaries.

Notes

Elements of the design of the submitted indicative layout are unacceptable. A number of issues have been identified that would need to be addressed at the reserved stages. The applicant's attention to the need for future detailed design work to be prepared in accordance with the Successful Places Interim SPD (Sustainable Housing Layout and Design), Building for Life and with regard to the Urban Design Officers comments dated 5.5.15.

Swept path details required with application for reserved matters

No removal of hedgerows, trees or shrubs shall take place between 1st March and 31st August inclusive, unless a competent ecologist has undertaken a careful, detailed check of vegetation for active birds' nests immediately before the vegetation is cleared and provided written confirmation that no birds will be harmed and/or that there are appropriate measures in place to protect nesting bird interest on site. Any such written confirmation should be submitted to the local planning authority.

An invasive non-native species protocol should be submitted to and approved by the Derbyshire Wildlife Trust, detailing the containment, control and removal of Indian Balsam on site. The measures shall be carried out strictly in accordance with the approved scheme.

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.

Bin stores at entrance to shared drives.
