

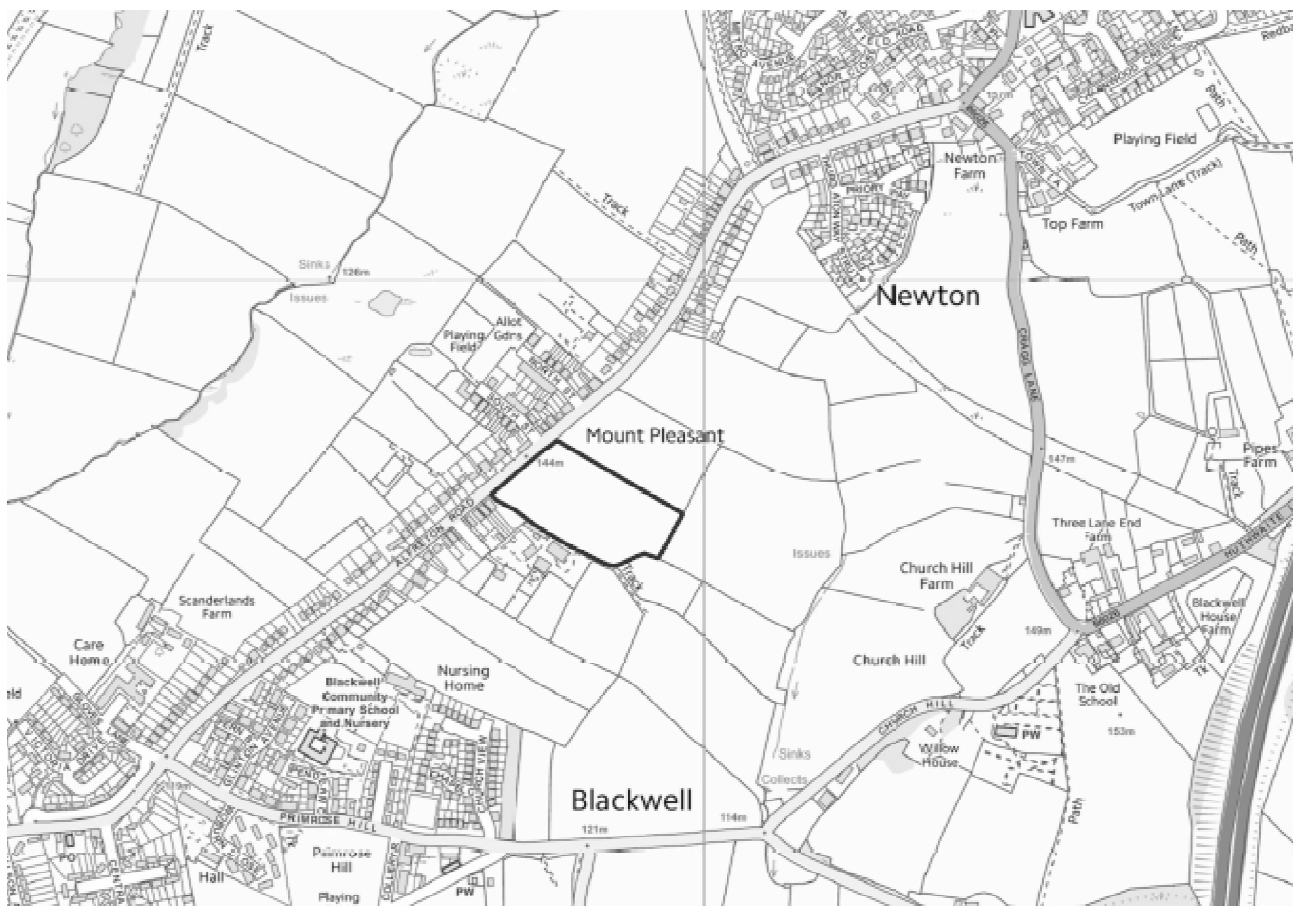
PARISH Blackwell

APPLICATION Residential Development of up to 40 Dwellings (all matters reserved)
LOCATION Land Opposite 132 Alfreton Road Newton
APPLICANT Mr Adrian Risdall c/o Agent
APPLICATION NO. 16/00363/OUT **FILE NO.** PP-05347140
CASE OFFICER Mr Steve Phillipson
DATE RECEIVED 27th July 2016

DELEGATED APPLICATION REFERRED TO COMMITTEE BY ASSISTANT DIRECTOR OF PLANNING. Reason: Balance of issues to consider.

SITE

Approximately 2.25 Ha open grass field in use for agricultural / horse grazing (grade 4 agricultural land). The site is the southern most of three fields which currently form an open break along the south side of Alfreton Road between Blackwell and Newton. Existing residential development on the opposite (northern) side of Alfreton Road and also adjacent to the west side frontage. Farm buildings adjacent to the southwest and open countryside to the southeast, east and northeast sides.



The field is largely bordered by existing hedgerow with the occasional hedgerow tree although a stretch of the southern boundary has only a post and wire fence. The site is relatively flat but sits on top of the west side of a valley with views to the east side of the valley across to St Werburgh's Church at Old Blackwell (Grade 2 listed) and its conservation area and there are also long views to the south along the valley towards South Normanton.

Newton conservation area lies to the north east with associated listed buildings.

There are bus stops adjacent to the site on Alfreton road.

PROPOSAL

Application for outline planning permission with all matters reserved for up to 40 market dwellings.

The application is accompanied by the following submitted **reports**:-

Planning Statement

The Applicant refers to the Council not having a 5 year supply of housing (*as was thought to be the case at the time the application was submitted*). The Applicant goes on to conclude, having regard to national and local planning policy and other material considerations that the proposed development represents sustainable development and on this basis there is a presumption in favour of approval. They say that planning permission should be granted unless the benefits are significantly and demonstrably outweighed by adverse impacts. The application is accompanied by a suite of supporting evidence which has not identified any significant and demonstrable adverse impacts that would suggest planning permission should be refused.

The Planning Statement includes a section on heritage impact which concludes that the influence of the proposed development on the Old Blackwell Conservation Area and St Werberghs Church is negligible. That there are no key views identified in the Conservation Area Appraisal and Management Plan which directly refer to the site. Intermittent views of the application site can be obtained from the approach roads within the Conservation Area but not so significant that the development would demonstrably effect the setting of either of these assets.

The site is beyond the apron of countryside surrounding the Conservation Area, which coupled with the topography of the area, ensures that the sense of remoteness within the Conservation Area is maintained. Residential development will not detract from the semi-rural character of the area. There is no conflict with local or national heritage protection policies. (Given the distance of the site away from Newton Conservation Area the applicant has not considered this impact).

Design and Access Statement

Indicative concept plan shows the housing concentrated on the northwest side of the site next to Alfreton Road with SuDS and landscaping and habitat creation to the southeast third of the site. Two storey scale is indicated and density of 27 dwellings per ha.

Landscape and Visual Impact Assessment

Concludes: No significant adverse impacts overall.

High impact anticipated for residents proximal to the development.

Views available from further east and south are already populated with houses at Blackwell, Newton and the ribbon development that connects the two.

Landscape impacts are predicted to be negligible with aspirations to create a slight beneficial effect in time through landscape mitigation and management.

A number of Listed Buildings and Conservation Areas lie within the study area. None of which are expected to experience significant impacts.

Visual amenity impacts are predicted to be slight adverse initially, with the potential for reduction to slight/ negligible or no adverse impacts with the implementation of the mitigation proposals.

Transport Statement

Concludes that a safe and suitable access can be achieved; the development site is accessible by a range of sustainable travel modes including walking, cycle and bus with 2 services per hour; the proposed development would generate approximately 29 vehicle trips in an average peak hour which would not result in a material increase in the exiting traffic flows; the development access would result in a loss of around 12m of hedgerow and 4 on-street parking spaces however suitable levels of on-street can be provided for the existing residential dwellings on Alfreton Road.

Ecology Appraisal

Concludes overall low ecological value. The Ash tree on site has low potential to support roosting bats.

The site has some potential to support reptiles.

The tree and hedges provide potential for nesting birds.

Precautions should be taken to prevent harm to nesting birds, reptiles, bats, badgers.

Enhancements suggested.

Coal Mining Risk Assessment

Concludes that there is no evidence to suggest that the site cannot be developed for residential use subject to appropriate investigation and mitigation which could be required by condition.

Flood Risk Assessment

No material risks identified either on site or increased risk off site. On site attenuation pond and swales recommended to ensure surface water run-off restriction rate can be achieved.

On site pumping station proposed for foul.

S106 obligations Agreed

- Informal open and play space £765 per dwelling policy HOU5.
- Outdoor sports facilities £910 per dwelling policy HOU5.
- Public Art 1% of costs policy GEN17.
- Tibshelf Community School expansion £103,057 (based on 40 dwellings).
- Affordable housing 10% on site - but waived provided delivery targets for market housing is met i.e. s.106 agreement which provides an undertaking to commence development and complete at least 10% of permitted dwellings within 3 years from the grant of outline 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 the required provision of affordable housing.

AMENDMENTS

e-mail 23/9/16 regarding concerns raised about loss of open space between Newton and Blackwell and impact on the conservation area. The Applicant states that:-

The site is not designated open space, nor is it subject to any environmental or landscape designations. Considering the urban morphology of Newton and Blackwell, it is clear that there has never been a local intention to maintain an area of separation between the two settlements. Notwithstanding this however, a sufficient area of open space is maintained to the north-east.

In terms of the impact of the development on the setting of the Conservation Area, the Applicant states that this site is located close to but outside of the setting of the heritage asset. There is remaining open land to the south east, creating a buffer between the site boundary and the Conservation Area. The topography of the site, the context of the built up area and the backdrop of existing housing along Alfreton Road further contribute to our assertion that any harm caused by the development will be less than substantial. The views of the site from the Conservation Area are not deliberate as evidenced by the fact that they are not referred to in the Old Blackwell Conservation Area Management Plan.

e-mail 18/10/16 confirms length of hedgerow removal for access is to be 12m.
Confirms agreement to S106 obligations as requested as set out above.

28/10/16 Revised Coal Mining Risk Assessment.

HISTORY (if relevant)

None on site.

12/00477/FULMAJ - Residential development of 49 dwellings off Thurgaton Way including associated garages and infrastructure (phase 1) approved 18/03/13.

14/00065/OUTMAJ Outline permission for residential off Thurgaton Way approved 2014 (phase 2) and 14/00474/REM Erection of 40 dwellings off Thurgaton Way approved (phase 2) to the North East of this site.

15/00653/OUT Outline application for residential development of up to 80 dwellings including means of access (from Cragg Lane Newton): refused 20.7.16. Due to impacts on heritage assets.

CONSULTATIONS

Conservation Officer

2/9/16 Objects. I have concerns about the potential impact upon various heritage assets. The development would be visible from within both Newton and Old Blackwell conservation areas. The proposal would be visible from the bottom of Church Hill in Old Blackwell (from the edge of the conservation area boundary), the farm buildings on the adjacent farm to the proposal site are visible but can easily be read as agricultural buildings. Residential buildings in this location would appear incongruous in this rural setting.

The proposal is also visible along various sections of Cragg Lane in Newton (within the conservation area). This visibility will increase during the winter months when there is less

leaf cover along the road boundary. The view across to the site from outside Top Farm (Grade II listed) and at other points along Cragg Lane, is across farmland towards the farm site and the adjacent fields (including the proposal site). Development on this site would involve the introduction of built form onto agricultural land set much further forward than the roadside where the predominant form of housing exists along Alfreton Road. This spread of housing into farmland would have a negative impact upon the rural views from Newton Conservation area towards Blackwell.

If the housing were in linear form along Alfreton Road as currently exists, this would be more acceptable and would be barely visible from within the conservation areas above.

DC Archaeologist

No objections

Derbyshire Wildlife Trust

We are aware of badgers and reptiles in the wider area.

We consider that the ecological report provides an accurate and up to date assessment of the habitat types present within and close to the development area. The assessment has addressed the potential for protected species during the walkover and the desktop and not identified any significant likelihood of impacts.

The conversion of the grassland to residential may affect nesting birds associated with hedgerow habitat and reptiles and badgers using the grassland itself. These impacts are likely to be fairly minor.

There is a possibility that bats could be affected if any mature trees were felled. Lighting across the site has the potential to affect foraging and commuting bats (as well as other fauna).

The extent of hedgerow removal on the northern boundary is unclear. It is recommended that the hedgerows are retained (except for the formation on an access road) on the boundaries, and located outside the curtilage of properties. We would expect the retention of the hedgerows wherever possible, with any removal compensated for by replacement planting.

Requests a conditions to secure:-

All retained habitats should be protected from damage by the erection of adequate temporary protective fencing for the duration of the works.

The provision of undeveloped areas of green infrastructure along the eastern boundary with a SuDs scheme and ecological landscaping and enhancements.

A lighting Strategy be approved to ensure bats are not affected.

A pre-commencement survey for any recently excavated badger setts on the site or within 30 metres of the site boundary.

To precautionary method works and enhancements for reptiles.

No site clearance work / construction shall take place between 1st March and 31st August unless a check for nesting birds has been made and protection measures put in place.

No development shall take place (including demolition, ground works, vegetation clearance) until a construction environmental management plan (CEMP: Biodiversity) has been submitted to and approved in writing by the local planning authority.

A landscape and ecological management plan (LEMP) detailing long-term design objectives for nature conservation, management responsibilities and maintenance schedules for all

landscape areas which are not in the ownership of individual properties to be approved in writing by the local planning authority. The LEMP should be carried out as approved. (a...i).

An advisory note, no works which include the creation of trenches or culverts or the presence of pipes shall commence until measures to protect badgers from being trapped in open excavations and/or pipe and culverts.

Environmental Health Officer

Recommends a condition requiring an investigation into potential ground contamination and mitigation where necessary.

DCC Flood Risk Team

Recommends conditions be attached to any consent:

Surface water drainage plan to include SuDS to be approved. The assessment for destination of surface water to accord with the hierarchy in part H of the Building Regs.

Coal Authority

The application site falls within the defined Development High Risk Area; therefore within the application site and surrounding area there are coal mining features and hazards which need to be considered in relation to the determination of this planning application.

It is a requirement of paragraphs 109 and 120-121 of the NPPF that the applicant demonstrates to the satisfaction of the LPA that the application site is safe, stable and suitable for development. In this case they have failed to do so, as such **if the applicant refuses to submit a revised Coal Mining Risk Assessment then we can only recommend that the LPA refuse the application due to lack of adequate information.**

(A revised Coal Mining Risk Assessment was submitted 28/10/16 and advice on it was awaited from the Coal Authority at the time this report was written).

County Highways

06/09/16 No objections in principle subject to conditions regarding:-

Provision of new estate street junction with visibility splays of 2.4m x 55m in the north east direction and 2.4m x 49m in the south west direction.

Provision of parking space.

Existing field access to be stopped up and dropped kerb removed.

Notes:-

The applicant must contact Derbyshire County Council's Public Transport Unit for advice should the development be approved and necessitate the re-siting of the bus stop fronting the site. Also there is street furniture and Statutory Undertakers apparatus fronting the site. Any necessary relocation, diversion or protection of such apparatus will be at the applicant's expense.

Any proposal should include the reconstruction of the footway fronting the site including bus boarder kerbs.

24/10/16 Requests a note in any consent informing the applicant that a scheme to amend the white lining on Alfreton Road in the vicinity of the proposed access will need to be included in any reserved matters application. This will give scope to ensure that the white

lined parking bays are cleared from the access and visibility splays. Whilst it will not prevent parking in the vicinity of the access, it should not encourage parking on that section of Alfreton Road.

Parish Council

Not approved.

Loss of open space between Newton and Blackwell

Increased traffic on to Alfreton Road

No space for additional students at Tibshelf Community School

Urban Design Officer

No objections on Urban Design Grounds.

In the event permission is recommended for approval, reserved matters should be prepared to accord with the contents of the Design and Access Statement and guidance contained within the Council's residential design guide Successful Places (2013).

In landscape terms the site is visible in distant views from Fordingbridge Lane (South Normanton) and some views from the east, as well as more directly from Alfreton Road itself. Development of this field will visibly close the gap between the settlements of Newton and Blackwell, where three open fields currently maintain a sense of separation between the two villages.

The relationship is described as 'co-joined' in the Design and Access Statement by virtue of the ribbon of development along the far side of Alfreton Road. However, notwithstanding the existing development along the northwest side of the road, both villages remain distinctly separate by reason of the intervening landscape which measures approximately 325m in width.

Leisure Services

Re informal open and play space. As the proposed development footprint is relatively small it would be difficult to provide informal green space of any meaningful size or recreational value within the development itself so it is recommended that a suitable commuted sum is negotiated in lieu of any on site requirement. Using the current policy formula I have calculated that the open space commuted sum should be **£30,600** (40 dwellings x £765 per dwelling). The commuted sum is to be invested in upgrading existing open spaces / children's play areas within Newton, particularly the play area located off South Street.

Re outdoor sports facilities. Seeks a commuted sum in lieu of any formal on site requirement of **£36,400** (40 dwellings x £910 per dwelling). This commuted sum is to be invested in upgrading built and outdoor sport and recreation facilities within the parish.

Should the developer wish to transfer ownership of any land within the development site to the district council, then a separate maintenance sum will need to be negotiated. However the Council does not normally adopt features associated with Sustainable Urban Drainage Systems (SuDS), including swales and balancing ponds / dry detention basins.

Also seeks "Per Cent for Art" under the Council's policy, costed at **1% of the total development costs** on developments of over £1 million.

Housing Strategy Officer

The 2013 Strategic Housing Market Assessment (SHMA) provides information relating to housing need in the District, and supports the need for affordable housing provision.

Under the Local Plan requirement for 10% of the total site capacity to be given to affordable housing, for the South Normanton sub-area we would be looking for new affordable homes to be two and three bed (50% mix) these units to be for Social Rent or Affordable Rent and delivered before 75% of market houses are occupied.

However the interim 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 permitted dwellings 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 the required provision of affordable housing as above.

DCC Strategic Infrastructure

The proposed development falls within the normal area of Blackwell Primary School which has sufficient capacity to accommodate the additional primary pupils generated by the proposed development.

The proposed development falls within the normal area of Tibshelf Community School. The proposed development of 40 dwellings would generate the need to provide for 6 secondary pupils. Tibshelf Community School has capacity for 750 pupils with 837 pupils currently on roll. The number of pupils on roll is projected to increase further to 861 during the next 5 years, taking the school over capacity by 111 pupils.

An analysis of recently approved major residential developments within the normal area of Tibshelf Community School shows development totalling 215 dwellings which would generate an additional 32 secondary pupils. This will result in the school being over capacity by 143 pupils.

Therefore the normal area secondary school would not have capacity to accommodate the 6 additional secondary pupils that would be generated by the proposed development.

There would be a need to mitigate the impact of the proposed development on school places in order to make the development acceptable in planning terms. Therefore DCC seeks a **S106 obligation of £103,057 for 6 secondary places at Tibshelf Community School**. This would be used to help deliver "Tibshelf Community School Project B: Additional teaching accommodation".

(Regarding pooling and the CIL reg's; since April 2010 no obligations have been secured towards Project B at Tibshelf Community School. The County Council has made one other request for a contribution to pool towards Project B (application 16/00661/FL in North East Derbyshire), which is pending determination.

(Also DCC Conveys Cllr Moesby's concerns regarding impacts on services in Blackwell and Newton including GP surgeries and healthcare facilities, the Children's Centre in Blackwell which is due to close at the end of the year, primary school places at Blackwell and Newton, and secondary school places at Tibshelf Community School which has other planned

developments within its normal (catchment) area and about the impact on preserving the gap between the villages of Newton and Blackwell).

NHS (CCG)

Consulted. Reminder sent. No response.

PUBLICITY

Site notice and press notice posted. 15 properties consulted. 9 objections received on the following grounds:-

Proximity to neighbouring farm buildings as the new householders may complain about noise, appearance of buildings and other farming activities carried out here for 100 years.

Risk of vandalism and fire to stored fodder, interference with animals, trespass on adjacent land.

Location of SuDS pond overflowing into adjacent land. No permission given for this. Also may make neighbouring land wet affecting crops.

Increased traffic will make neighbours exit more dangerous; already difficult due to on-street parking bays which impede vision up the road.

Traffic does not keep within the speed limit.

The Transport Statement includes inaccurate and misleading information regarding vehicle speeds, ownership, use and trip generation.

Existing traffic volume and parking problem made worse.

Local Roads not suitable for increased traffic.

Loss of on-street parking bays due to the site access.

Lack of facilities - the doctors and schools are full, Newton only has one general store/post office and a carpet shop.

Impact on landscape and views.

Impact on wildlife.

Loss of green fields.

Will merge Newton and Blackwell, impact on village community.

Individual villages will be lost forever.

Proposed route of HS2 may impact on development and put off potential buyers.

Newton has already seen a 13.3% increase of residential development. Another 40 houses would take this to an unacceptable level of 19.5%. This would result in an unsustainable development given the limited services and lack of employment centres.

The strategic plan does not include any more development for Newton in the future.

Capacity of the sewage system.

Loss of wildlife.

Impact on the conservation area.

Noise and disruption during construction.

Loss of property value.

POLICY

Bolsover District Local Plan (BDLP)

As the Bolsover Local Plan was prepared and adopted prior to 2004, 'due weight' rather than 'full weight' should be attached to its policies dependent upon the degree of consistency with the NPPF.

Between 2013 and 2016, the Council accepted that it did not have a 5 year housing supply and therefore defined an approach to considering planning application with limited weight being given to planning policies which controlled the development of housing, in accordance with the NPPF guidance.

In October 2016, the Council determined that they now do have a 5 year supply of housing and therefore saved planning policies related to the supply of housing can be given more weight.

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)

GEN17 (Public Art)

HOU9 (Essential New Dwellings in the Countryside)

HOU5 (Outdoor Recreation and Play Space Provision for New Housing developments)

HOU6 (Affordable Housing)

TRA1 (Location of New Development)

CON4 (Development Adjoining Conservation Areas)

CON10 (Development Affecting the Setting of Listed Buildings)

ENV3 (Development in the Countryside)

ENV5 (Nature Conservation Interests Throughout the District)

ENV8 (Development Affecting Trees and Hedgerows)

National Planning Policy Framework (NPPF)

Para 49: *“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 132 *“When considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset’s conservation. The more important the asset, the greater the weight should be. Significance can be harmed or lost through alteration or destruction of the heritage asset or development within its setting. As heritage assets are irreplaceable, any harm or loss should require clear and convincing justification. Substantial harm to or loss of a grade II listed building, park or garden should be exceptional. Substantial harm to or loss of designated heritage assets of the highest significance, notably scheduled monuments, protected wreck sites, battlefields, grade I and II* listed buildings, grade I and II* registered parks and gardens, and World Heritage Sites, should be wholly exceptional.”*

Paragraph 134. *“Where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public*

benefits of the proposal, including securing its optimum viable use.”

Other (specify)

Newton Conservation Area Appraisal and Management Plan 2010

Old Blackwell Conservation Area Appraisal and Management plan 2010

Statutory Duties

S38(6) of the Planning and Compulsory Purchase Act 2004, states :

“If regard is to be had to the development plan for the purpose of any determination to be made under the planning Acts the determination must be made in accordance with the plan unless material considerations indicate otherwise.”

Section 66 creates a duty with respect to planning applications affecting a Listed Building or its setting in that special regard shall be had to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.

Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990: In considering planning applications “special attention shall be paid to the desirability of preserving or enhancing the character or appearance of a conservation area.”

ASSESSMENT

The Principle of Development

For the last few years the Council accepted that it did not have a 5 year housing supply and in accordance with Government Guidance in the NPPF this meant that only very limited weight could be given to local plan policies which controlled the development of housing outside the settlement framework because the NPPF defined these policies as being “out of date”. However in October 2016, the Council determined that it does now have a 5 year supply of housing and therefore the saved planning policies of the local plan relating to the supply of housing can now be given more weight. The policies are no longer considered “out of date” but given the age of the local plan (2000) they are not considered to be “up-to-date” either. Hence ‘due weight’ rather than ‘full weight’ should be attached to local plan policies dependent upon the degree of consistency with the NPPF.

The site lies outside the settlement framework as defined in the Bolsover District Local Plan (2000). Therefore saved countryside protection policies, notably 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 the development plan. The decision must be made in accordance with the plan unless material considerations indicate otherwise. The policies of the NPPF are one such material consideration.

So whilst the proposal is clearly contrary to the local plan, given the presumption in favour of

sustainable development in the NPPF, consideration also needs to be given as to whether permission ought to be granted nevertheless, having regard to the merits and impacts of this particular proposal. Factors to consider include:-

Any social and economic or environmental benefits associated with the proposal and the delivery of additional housing (see later in report).

An assessment of how the proposals perform against relevant policies in the local plan (see later);

Whether the proposed development would form a logical and well connected extension to the settlement framework, would be compatible with the landscape character and settlement pattern of the area, would safeguard and enhance locally important features such as wildlife habitats, views, heritage interests, hedgerows, tree belts, etc. and would not create an abrupt or inappropriate new settlement edge that would detract from the visual appearance or character of the settlement or surrounding landscape (see later);

Whether the site is sustainable in respect of factors including (Officer comments in *italics*):-

- i. access to public transport (whether within 400 metres walking distance of access to public transport services e.g. bus stop or railway station, with a regular Public service) - *meets this criteria.*
- ii. proximity to schools (whether within 800 metres walking distance of a primary school – *meets criteria*, and 2000 metres walking distance of a secondary school – *exceeds criteria by about 500m*)
- iii. proximity to town/local centres (whether within 800 metres walking distance of a town centre or local centre) – *Exceeds criteria. Tibshelf centre is about 3000m although the limited facilities at Blackwell and Newton are within 800m.*
- iv. proximity to key employment sites or local jobs (whether within 2,000 metres walking distance of a major employment site or area of employment i.e. over 100 jobs) – *Marginal. The major employment sites are further than 2000m but there are several major industrial estates in the wider area a few km further.*
- v. contribute positively to reduced carbon emissions through design and/or enabling more sustainable lifestyles – *unknown at outline stage*; and
- vi. have or create no significant problems of contamination, flood risk, stability, water supply, harm to biodiversity or other significant physical or environmental issues. – *Coal mining legacy issues were still to be resolved at the time this report was written.*

Whether the site would be deliverable having regard to any known physical/environmental constraints or land ownership disputes. *No known land ownership issues.*

In summary the proposal is contrary to local plan countryside protection policies which must be given due weight in the determination of the application. However further consideration is given below as to whether permission ought to be granted nevertheless, having regard to the merits and impacts of this particular proposal.

Visual and Landscape Impacts

The findings of the Applicants landscape and visual impact assessment are summarised above (Proposal section of report).

It is considered that the main adverse impact that would result from this proposal is the significant erosion of the existing open break as experienced from Alfretton Road between

Blackwell and Newton and the effect that this would have on the character and identity of each village. It is accepted that there is existing, mainly ribbon residential development, along the north side of Alfreton Road between the two settlements. Nevertheless the current open break on the southern side of the road still forms an effective settlement break as seen from Alfreton Road where the character of the area becomes distinctly rural with long views to the south and east across the valley.

There are two other remaining fields beyond the north side of the application site which also form part of this open break and would not be directly affected by this proposal. However the Council has already received a request for pre-application advice for residential development on one of these other remaining fields to the north of the site and so its openness cannot be guaranteed in the future. Hence there is already development pressure to release more of the open break for housing. Whilst precedent is not normally a material planning consideration (because each application must be judged on its own merits) the Council should still make consistent decisions where the issues are very similar.

It should be noted that the open break is not specifically protected by an open break policy in the Local Plan (2000). However policy GEN2 states that *“In considering the environmental impact of every proposal for development regard will be given to the following factors wherever appropriate: 1)The appearance of the proposal will be assessed in relation to the appearance of the immediate locality and in relation to its setting in the general landscape.”* Concerns about this adverse impact have been raised by the Parish Council and in local representations and it is considered that this open break is locally important to the character of the area and that its loss would be harmful and contrary to policy GEN2. In terms of close landscape impacts therefore it is considered that the proposal would not result in an appropriate or desirable settlement extension.

Heritage Impacts

There are no physical heritage impacts predicted on below ground archaeology.

In terms of setting impacts the proposed development would be visible from parts of both Old Blackwell and Newton conservation areas. Views from Newton conservation area can be had from Cragg Lane close to Top Farm (Grade II listed), although intervening vegetation substantially filters the visibility. This visibility will increase during the winter months when there is less leaf cover along the road boundary. However it is considered that no important views identified in the Conservation Area Appraisal will be materially affected. The setting impact on Newton Conservation Area and in views from Top Farm are considered to be negative due to the urbanising effect on its rural character but are minor impacts and less than substantial.

With regard to Old Blackwell conservation area the development would be visible from identified important views within the conservation area. The view west from Cragg Lane and the view north west from Church Hill as shown in the photographs at 5.9 page 21 and listed at page 42 of the Conservation Area Appraisal copied below (site position marked by the arrow. Note that on the view from Church Hill the site is just out of shot):



View west from Cragg Lane



View north west from Church Hill

The views are across farmland towards the site and it is noted in the conservation area appraisal at 5.2 that *“Old Blackwell has an intrinsic historical association with the agricultural landscape within which it sits. The significance of the landscape component is critical in setting the overall context for the buildings of the conservation area.”* Development on the application site would involve the introduction of built form onto agricultural land set much further forward than the roadside where the predominant form of housing exists along Alfreton

Road. This spread of housing into farmland would have a negative impact upon the rural views from the conservation area.

The proposal would also be visible from the bottom of Church Hill in Old Blackwell (from the edge of the conservation area boundary). Whilst not identified as an important view in the conservation area appraisal, the farm buildings on the adjacent farm to the proposal site are visible but can easily be read as agricultural buildings. Residential buildings adjacent in this location would appear incongruous in this rural setting.

There is no intervisibility between the site and the St Werburgh's Church at Old Blackwell (Grade 2 listed) hence no significant setting impact.

Overall it is considered that the proposed development would have a moderate negative impact on the rural setting of Old Blackwell conservation area. The impact would be less than NPPF "substantial harm" but is still material to the decision.

The NPPF para'132 says that "when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's Conservation".... and that "any harm or loss should require clear and convincing justification". At NPPF para' 134 it advises that "Where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal".

In this case the main public benefits of the proposal are the temporary economic benefits resulting from the development as a result of construction and sales etc, and the social benefit of additional housing supply. However the Council now has a five year supply of housing. Furthermore a significant amount (in proportion to settlement size) of new housing has recently been approved nearby in Newton (89 dwellings) such that there is no particular local need for additional housing. None is proposed or allocated in the consultation draft local plan. Therefore it is considered that the weight which should be given to the benefit of the additional supply of housing and the economic benefits do not constitute the "clear and convincing justification" required to justify harm to the setting of a designated heritage asset. Approval would therefore be contrary to NPPF para'132 and 134 and policy CON4 of the Bolsover District Local Plan.

Highway Safety

The Applicants Transport Statement (TS) is summarised above. No significant highway safety issues are predicted. The concerns of the Parish Council and residents regarding the impacts of increased traffic are noted as are concerns about inaccuracy in the TS. However the County Highway Authority has no objections subject to conditions and on this basis it is considered that the road system has capacity to cope with the increased traffic and that a safe junction can be provided.

Access detail is a reserved matter and so we cannot be sure at this stage how much on-street parking space would be lost to accommodate a new estate road junction with Alfretton Road. In the TS the Applicant predicts the loss of 18m of the existing on-street parking area. This equates to 3 on-street parking spaces. However that assumes that it will be acceptable for cars to park within the visibility spays required. This is because Government advice in Manual

for Streets para' 7.8.5 states that *"Ideally, defined parking bays should be provided outside the visibility splay. However, in some circumstances, where speeds are low, some encroachment may be acceptable."* Taking a precautionary approach, if parked cars are to be substantially clear of the parking bays approximately 65m would be lost which equates to about 9 on-street spaces.

It states in the TS that there is currently 253m of on-street parking area and 16 dwellings fronting Alfreton Rd do not have private off-street parking. Assuming a requirement for 7.2m for an inline parking space then 35 spaces are available for 16 dwellings and so approx' 2.2 spaces per dwelling. This could fall to 1.6 spaces per dwelling with the new access in place. The Highway Authority has not raised objection to this on highway safety grounds and the remaining provision is considered to be adequate. However there would be some loss of amenity for residents due to increased competition for the remaining parking spaces. This reduction in amenity is not considered to be so significant as to constitute a reason for refusal.

Ecology and Biodiversity

The Applicants ecology survey results are summarised above. The Wildlife Trust's response is also set out above in some detail. In summary they are satisfied that the survey has been undertaken properly and agree that there is not a significant likelihood of impacts. No objections are raised subject to conditions (set out above). To clarify the extent of hedgerow removal at the access point the TS predicts 12m will need to be removed. This loss could easily be compensated for by new planting elsewhere on site. Hence it is considered that the proposal complies with policies GEN2, ENV5 and ENV8 of the local plan with regard to potential ecology impacts.

Coal Mining Risk

The application site is within an area classified as being at high risk from past mining activity. The Coal Authority has submitted a holding objection until a revised Coal Mining Risk Assessment has been provided. This has recently been received (28/10/16) but advice on its acceptability was awaited at the time this report was drafted. Committee Members will be updated on the matter before the committee meeting. In the event that the revised risk assessment is not adequate the Applicant will have failed to provide sufficient information to demonstrate that the site can be developed safely. Since this is a matter of principle it would constitute a reason for refusal, hence one is shown provisionally in the Recommendation section of this report.

If the Applicant is subsequently able to provide the information required to demonstrate that the site can be developed safely then that would address this reason for refusal in any later planning application submitted or in the event of an appeal being submitted.

If the Coal Authority withdraws their holding objection then reason 2 for refusal will not be needed. It is possible that the Coal Authority will request conditions instead.

Flood Risk.

The submitted flood risk assessment does not identify any material risks of either on site or to increased risk of off-site flooding and the DCC Flood Risk Team do not object subject to conditions.

Concerns have been raised by the neighbouring land owner regarding the risk of the surface water retention pond overflowing and causing damage to land and crops etc downhill. However the Applicant would need to have the design of the system approved and would need to demonstrate that it has sufficient capacity to accord with standards which should ensure that overflow is unlikely to occur (currently 1 in 100yr event plus 30%). If it did it would be a private legal matter between the landowner and management company/authority responsible for SuDS maintenance.

Social Infrastructure.

Concerns have been raised by the Parish Council and in representations about the lack of capacity at the local schools and doctor's practice and lack of local facilities and services generally.

The Applicant has in principle agreed to S106 contributions as set out above in the Proposal Section to deal with some of these issues i.e. to: increase capacity at the Secondary School (none is required for Blackwell Primary because it has capacity); for children's play; adult recreation; public art and affordable housing (only if delivery targets for market housing are not met). Also to expand the doctors practice if the NHS can establish a need for it. The NHS has been consulted and chased for a response but none had been received at the time this report was written. The Council does not have a policy to require an NHS contribution and no evidence of need or potential to expand has been provided, hence a contribution for the NHS cannot be justified at this time.

Blackwell and Newton have only limited service provision and facilities and this is reflected in the accessibility sustainability appraisal above (see Principle of Development). In summary the secondary school is further away than the recommended walking distance, as is the closest town or local shopping centre. However there are bus stops directly adjacent to the site. Accessibility to services and facilities is therefore considered to be just adequate and that the proposal generally complies with policy TRA1 in that it is accessible by means of transport other than the private car and that it complies with some but not all of the relevant criteria.

Neighbouring Land Use

Policy GEN3 (Development Affected by Adverse Environmental Impacts from Existing or Permitted Uses) is relevant in this case because the site is adjacent to a working farm along the southern boundary and the Farmer has raised concerns about potential complaints from new residents about his farming activities e.g. noise, odours appearance of buildings etc. However it is considered that these issues could be considered further at reserved matters stage. A condition could require a noise/odour survey to be submitted with reserved matters so that the layout proposed for reserved matters takes account of any requirement for separation distance from the boundary, screening and landscaping etc. Also to a point it is a matter of 'buyer beware' for new home owners in making a decision to move next to a working farm. As such it is considered that this issue would not be a reasonable reason to refuse planning permission.

Other Matters

There are various issues which can only be assessed properly at reserved matters stage and not at outline stage. These include:
impact on residential amenity, loss of privacy, loss of light, increased crime and antisocial

behaviour etc.

Dust, noise and disturbance of construction can be controlled to a degree by condition and environmental health legislation. Loss of view and devaluation of property are not normally material planning considerations.

With regard to loss of agricultural land, the is lower grade agricultural land (grade 4) and so does not involves the loss of grades 1, 2 and 3a agricultural land and so does not conflict with policy ENV2 designed to protect the best and most versatile agricultural land.

The potential route of HS2 is not yet an approved route and so has very little weight at this time in the determination of planning applications. In addition there is approximately 350m separation distance from the site.

Equalities: No significant issues

Access for Disabled: No significant issues

Trees (Preservation and Planting): No significant issues

SSSI Impacts: No significant issues

Human Rights: No significant issues.

The Planning Balance

The proposal is contrary to local plan countryside protection policies which must be given due weight in the determination of the application. Further consideration has been given as to whether permission ought to be granted nevertheless, having regard to the merits and impacts of this particular proposal. There would be economic and social benefits resulting from the provision of new housing and accessibility to local services would be just about adequate. However the NPPF describes the three dimensions to sustainable development: economic, social and environmental and it states that these roles should not be undertaken in isolation, because they are mutually dependent. In this case there would be harm to the appearance and character of the area as a result of the significant erosion of the existing open break between Blackwell and Newton and the effect that this would have on the character and identity of each village. Furthermore the proposed development would have a moderate negative impact on the rural setting of Old Blackwell conservation area in particular and to a lesser extent Newton Conservation area. In accordance with the NPPF any harm or loss should require clear and convincing justification and it is considered that the benefit of the additional supply of housing and the economic benefits do not, in this case, constitute the clear and convincing justification required. The proposal does not fulfil the environmental role essential for sustainable development described in the NPPF given that it would harm the built and historic environment. The proposal would not therefore result in sustainable development and the application should be determined in accordance with the development plan.

RECOMMENDATION

Refuse

1. The site lies outside the settlement framework as defined in the saved policies of the Bolsover District Local Plan (2000). Policies ENV3 and HOU9 apply which do not normally allow residential development except in special circumstances such as where dwellings are required for agricultural workers or where it results in a significant improvement to the rural environment, or it must benefit the local community through the reclamation or reuse of land. The proposal does not meet these criteria and the proposal is contrary to policies ENV3 and

HOU9 and approval would be a departure to the development plan.

There would be harm to the appearance and character of the area as a result of the significant erosion of the existing open break between Blackwell and Newton and the effect that this would have on the character and identity of each village. This would be contrary to policy GEN2 (1) of the local plan. Furthermore the proposed development would have a negative impact on the rural setting of Old Blackwell conservation area including identified important views and to a lesser extent Newton Conservation area. There is no clear and convincing justification for this harm and the public benefits associated with the additional supply of housing do not justify the harm nor justify an exception being made to policy in this case since the housing could be provided elsewhere. Approval would therefore be contrary to NPPF para'132 and 134 and policy CON4 of the Bolsover District Local Plan.

2. It has not been adequately demonstrated that the application site is safe, stable and suitable for development having regard to past coal mining activity. Approval of the application under these circumstances would be contrary to policy GEN1 (6) of the Bolsover District Local Plan and paragraphs 109 and 120-121 of the National Planning policy Framework.

(Reason 2 will not be needed if the Coal Authority withdraws its holding objection before Planning Committee following receipt of the revised coal mining risk assessment. An update will be provided before the meeting.)

Notes to Applicant

It is possible that reason 2 for refusal may be overcome in any subsequent application by the submission of a revised coal mining risk assessment as set out in the responses from the Coal Authority dated 31/8/16 and 23/9/16 available on the Council's website.
