

PARISH Langwith

APPLICATION LOCATION Residential development of 68 dwellings and ancillary works
Former Railway Land And Station Site Off Station Road Langwith Junction

APPLICANT Mr Matt Jackson 5 Europa Court Sheffield Business Park

APPLICATION NO. 16/00530/FUL

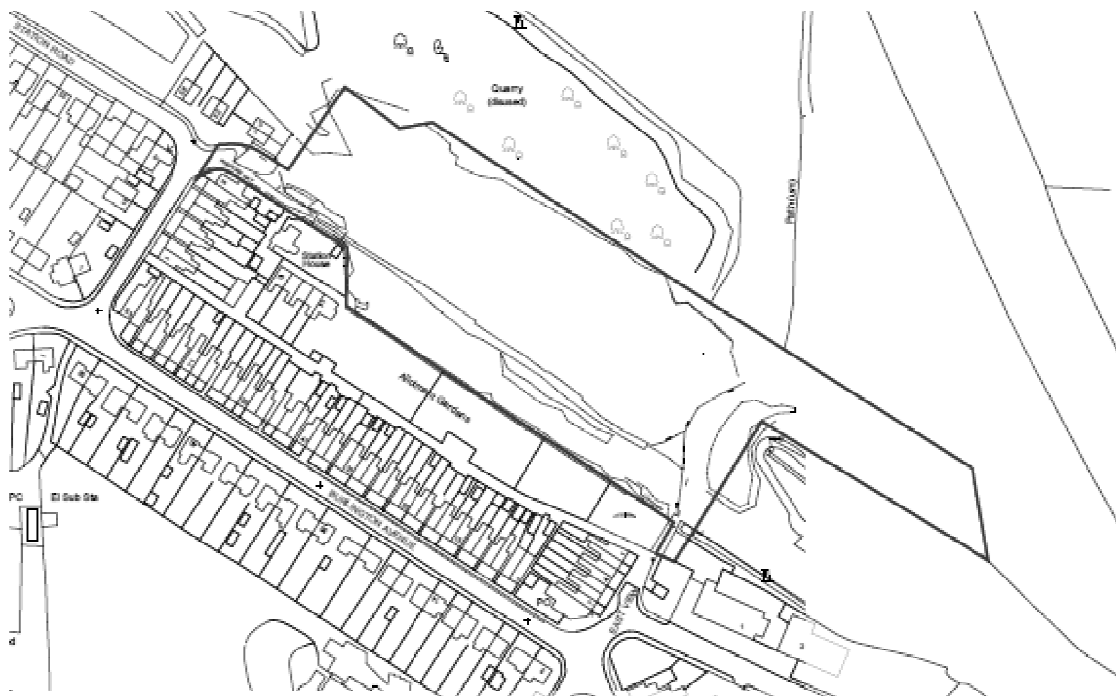
CASE OFFICER Mr Steve Phillipson

DATE RECEIVED 24th October 2016

DELEGATED APPLICATION REFERRED TO COMMITTEE BY: Assistant Director of Planning. **REASON:** Non-compliance with affordable housing policy and objection from the Wildlife Trust.

SITE

The site occupies the former railway station and sidings at Langwith Junction which has long been cleared. The site is approximately 2.2Ha in area. Mature hedges and a 1-2m step up in levels define the southern boundary and separate the site from the neighbouring allotments. The northern edge adjoins a former quarry area, which is now densely vegetated and forms a green backdrop to the site. The site intrudes into this vegetated area at its north east corner. Beyond the south eastern boundary lies an area of open track bed, which is slightly below the level of the main site. This area has evidently been subject to tipping of material around its edges adjacent to the application site. There is industrial estate beyond this area to the south east.



The former Station House now in residential use is located adjacent to the site entrance at the west end of the site and there are a few other existing dwellings adjacent to the site in this area.

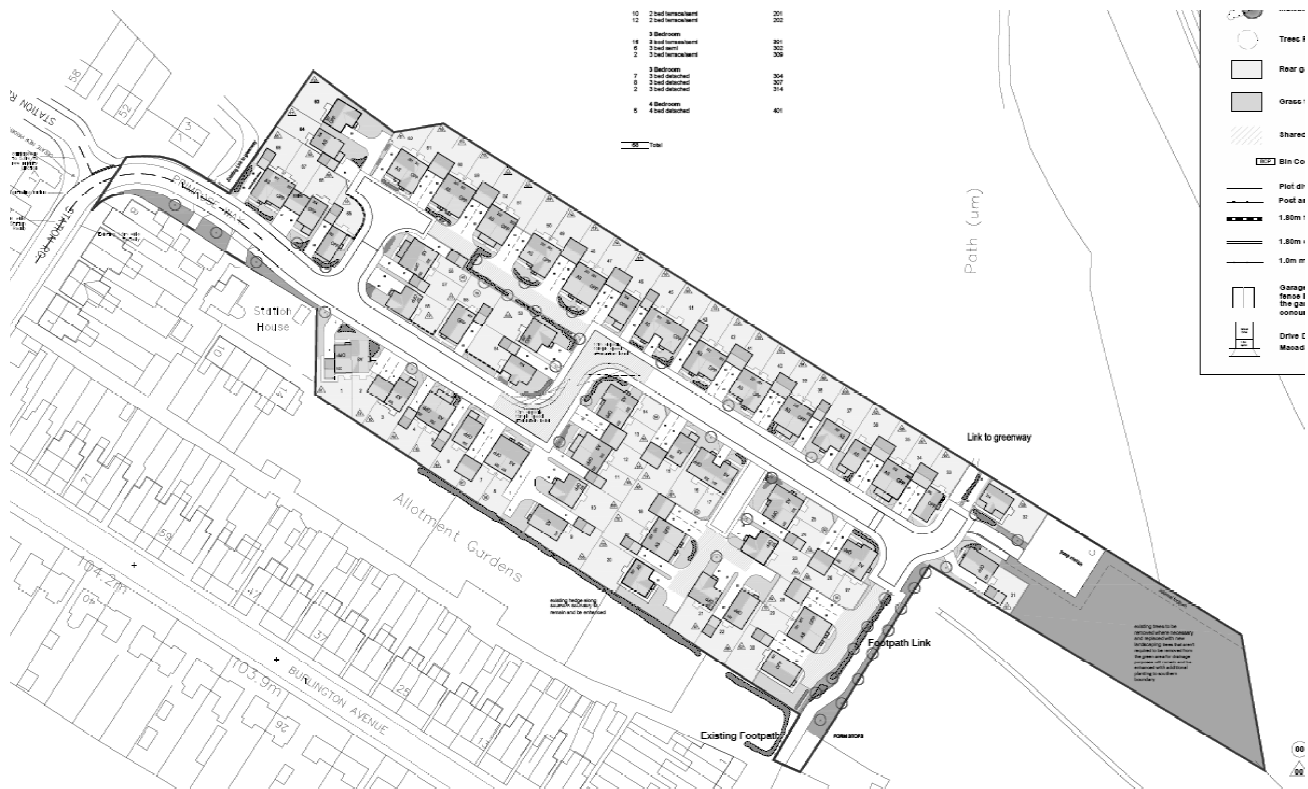
There is an existing greenway access adjacent to the north western corner of the site and a public footpath also crosses the eastern end of the site.

The site is adjacent to a Regionally Important Geological Site (RIGS), namely Bradshaw Wood Quarry, and a Local Wildlife Site, namely BO 189 Bradshaw Wood.

PROPOSAL

Application for full planning permission for the erection of 68 two storey dwellings comprised of 22 two bed units, 42 three bed and 4 four bed dwellings. These are mainly semi-detached or detached.

The site would be accessed from Primrose Way which is currently a small spur off Station Road. Access is to take the form of a cul-de-sac. Pedestrian access to the existing green way and to public footpath no 9 would be maintained (albeit footpath No 9 would be on slightly realigned route through the eastern end of the site).



The application is accompanied by the following reports:-

- Design and Access Statement;
- Flood Risk Assessment;
- Site Investigation Report incorporating contamination and coal mining information;

- Extended Phase 1 Habitat Survey Ecology Report;
- Transport Assessment;
- Sustainability Statement;
- Affordable Housing Statement.

A viability appraisal has been submitted with this application showing that it is not viable to provide affordable housing as part of the scheme. The Applicant states that Gleeson's homes are priced so that they can be afforded by 90% of local couples in full time employment.

A draft S106 obligation has been submitted agreeing to the following developer contributions:-
 Childrens Play Space Contribution: the sum of £52,000 towards improvements of the Langwith Recreation Ground.
 Health Care Contribution: the sum of £16,000 towards a scheme to increase capacity of the local GP practise in Langwith.

AMENDMENTS

07.12.16 Additional flood risk info

20.12.16. Response to Wildlife Trust/ revised ecology report.

20.12.16. Preliminary engineering /drainage plan 1075-1 Rev B and additional flood risk info.

25.01.17. Response to EHO re ground contamination.

27.01.17 Response to EA re piling.

02.02.17. Noise report

Based on the results of the baseline noise survey, it is demonstrated that an appropriate glazing solution can be employed to ensure that the recommended internal daytime and night-time noise limits are achieved. With reference to external daytime noise levels, the assessment results in LOAEL, whereby the measured daytime noise levels at the proposed development site are found to be between 50dB and 55dB LAeq.

21.02.17 Revised layout plan GH.202410. 101 H

22.02.17. Landscaping Scheme submitted.

28.02.17 Economic benefits paper. Lists the following benefits:-
 £6m spent on labour goods and services during construction.

102 Full time equivalent job/years

183 FTE job/years in the supply chain

£275,006 Financial assistance to purchasers

New Homes Bonus

Additional Council Tax

54 (estimated) rental homes vacated by those that move into the new homes.

Enhanced health and wellbeing through the Gleeson Community Matters Programme

(Includes: sports kit sponsorship; engagement with local schools; local jobs for local people; apprenticeships; Gleeson refuse to sell to Private Landlords and we will ensure that there is a

restrictive covenant on the properties sold in order to prevent properties on the site being let; neighbourhood watch; free disabled adaptations.

08.03.17 Agreed to £68,000 of developer contributions.

09.03.17 Revised layout plan GH.202410. 101 K

24.03.17 Revised layout plan GH.202410. 101 N (includes part retention of trees at eastern end of site and enhancement planting).

HISTORY (if relevant)

BOL1190/583 Erection of 75 dwellings, roads and footpaths. Approved 1991.

Only 6 dwellings were ever built under this permission and the on-site play space required in the associated S106 agreement was never triggered. Due to unauthorised level changes and changes to the building regulations since the time planning permission was granted this old permission is considered to be no longer capable of being implemented.

10/00425/DISCON - Discharge of Conditions 3 (landscaping) and Condition 4 (materials) of planning permission BOL.1190/583: Not discharged.

10/00612/MINAM - Substitution of hand drawn approved plans with digitally drafted plans which take account of changes to building regulations and technical sizes. Withdrawn.

13/00122/DCCON4 - DCC consultation on Construction of a greenway along the former railway line. Re modelling and upgrading the existing Poulter Country Park car parking facilities. Minor realignment of Whaley Road to improve sightline at Poulter Country Park car park entrance (CD5/0113/131)

CONSULTATIONS

DCC Flood Risk

17.02.17. It is noted that one plan is to utilise a surface water pumping station to assist in the disposal of surface water to the watercourse and another plan does not utilise this method. Surface water pumped systems should be an absolute last resort and all other potential solutions should be fully explored before pumps are proposed.

If the Local Planning Authority are mindful to grant planning consent for this application the LLFA would recommend the following condition. *"No development shall take place until a detailed design and associated management and maintenance plan of surface water drainage for the site, in accordance with DEFRA Non-statutory technical standards for sustainable drainage systems (March 2015), has been submitted to and approved in writing by the Local Planning Authority. The approved drainage system shall be implemented in accordance with the approved detailed design prior to the use of the building commencing."*

BDC Drainage Engineer

The developer should ensure that any temporary drainage arrangements during construction should prevent surface water run-off onto the highway or neighbouring properties.

Severn Trent Water

25.11.16. No objections subject to a pre-commencement condition requiring approval of drainage details.

Environment Agency

18.11.16. No objections subject to conditions regarding: submission of an amendment to the remediation strategy if unexpected contamination is discovered; and preventing the use of piled foundations unless it can be shown that there is no risk to groundwaters.

23.02.17. The Environment Agency are happy this method statement for piled foundations is satisfactory and as such piling at the site should be undertaken using the methods described.

DCC Highways

01.12.16. No objections in principle but raises several issues:

The footpath links will not form part of the adopted highway.

Bin collection areas will need to be provided at the entrance to private shared surfaces.

There is inadequate parking provision for property type 309. Currently one space is indicated unless there is an integrated garage in which case the minimum dimension should be 6m x 3m. These dimensions also apply to separate garages.

No vertical deflection is permitted within the carriageway. Any changes in surface should therefore be laid flush with the adjacent carriageway.

2m x 2m pedestrian intervisibility splays should be provided at each private driveway. The splays should be maintained free from obstruction. This will require relocating a number of the trees indicated on the planning layout.

The speed control bends will need to comply with the 6Cs design guide.

14.03.17. Comments following relocation on the revised layout Rev K.

Previous comments have been addressed. No objections subject to conditions:-

- Provision of new junction of Station Road with Primrose Way as approved plan K.
- Provision of car parking spaces
- Provision of site compound (*not considered necessary*)
- Provision of wheel cleaning facilities (*not necessary as covered by other legislation*)
- Drives to have 2m x 2m pedestrian visibility splays
- No gates within 5m of the highway (*not reasonable for security reasons*)
- Layout to accord with the 6Cs Design Guide (*Not necessary can be dealt with at adoption stage*)
- Vehicle accesses shall be no steeper than 1 in 20 for the first 5 metres from the nearside highway boundary.
- Approval of surface water drainage details.
- Plus advisory notes.

Urban Design Officer

05.01.17. The broad approach to the structure of the road layout is considered to be a generally acceptable, although the amount of development proposed results in a number of shortcomings with the layout in terms of urban design considerations. Concerns raised include inter alia: -

A dual aspect unit should be utilised on Plot 68. With railing to the side.

Garden sizes should be marked.

Amendments to boundary detail are sought.
Garages are too small to count as a parking space (less than 6mx3m).
Public Open Space area shown is not acceptable.
A dual aspect unit should be utilised on Plot 33.
Surface detail required to the public footpath
Stronger focal point required through design of plots 11-12.

10.03.17. Comments following re-consultation on revised plans (received 20.2.17):-
The submitted amendments have only responded to some of the issues previously identified. In number of instances these are only partially addressed or have not been discussed at all. As such, the design issues are not yet considered to be fully resolved. It is therefore recommended that the applicant is requested to further review these matters and amend the scheme in order to positively address the outstanding concerns. Main issues outstanding include:-

The layout is unable to achieve the minimum garden size requirements for 12 of the 68 Plots which equates to 17% of the development.

Boundary detail still inadequate for some plots where adjacent to public paths/highway (condition detail).

Landscaping details provided are too vague and insufficient to provide an acceptable basis to secure the landscaping of the development (condition detail).

As it stands the proposed POS raises concerns in respect of crime and design considerations and remains an unacceptable aspect of the layout.

Footpath hard surfaced threshold/apron is required for the first few metres of the path to limit loose material being carried onto the footways and highway (condition detail).

Access to rear gardens is restricted for a number of plots leading to bins being kept on the frontage.

Design and landscaping of focal point/key view plots (11 and 12) is plain in appearance.

Plots 48-60 face side gables and rear gardens in a tight overlooking relationship.

The use of buff brick is not generally a locally relevant material. It is recommended that the materials and details of any proposed houses respond to the character of the local context and support the local character.

Environmental Health Officer

23.12.16. Raises several concerns with the conclusions of the submitted site investigation report and recommends a pre-commencement condition to deal with potential ground contamination issues.

Also the site is located close to an industrial estate and a railway line but no sound assessment has been carried out. We would therefore request a pre-commencement condition requiring a noise survey and scheme of sound insulation to be approved.

EHO re-consulted following receipt of additional information relating to potential ground contamination and a noise report. Response awaited.

Derbyshire Wildlife Trust

23.11.16 The site itself falls within a potential Local Wildlife Site: Bradshaw Wood Quarry. The hedgerow should be retained.

The survey report details the site is unsuitable for roosting bats, badgers and great crested newts, but with low potential for reptiles. Due to the type of habitats present, and species

recorded, the site could be suitable for reptiles, dingy skipper and ground nesting birds. It is highly recommended the site is assessed against UKBAP Priority habitats, as the site from the description in the ecology report could potentially meet the "Open Mosaic Habitat on Previously Developed Land" criteria, a habitat of principal importance. It is considered that the site therefore has higher nature conservation interest than suggested in the ecology report. The proposed housing would lead to fragmentation of the green network, which has not been discussed within the ecology report. We would therefore advise that the application as currently submitted is contrary to the objectives of both national and local planning policies in respect of biodiversity as follows:

Paragraph 118 of the National Planning Policy Framework states:

"When determining planning applications, local planning authorities should aim to conserve and enhance biodiversity by applying the following principles:

- *If significant harm resulting from a development cannot be avoided (through locating on an alternative site with less harmful impacts), adequately mitigated, or, as a last result, compensated for, then planning permission should be refused."*

The site at present is 2ha and the proposed would result in a loss of 1.8ha, which is substantial loss and a net loss to biodiversity.

At present, it is considered the submitted information is lacking detailed information on:

- Vegetative interest on the site (including the hedgerow); and
- Reptile and invertebrate assemblage.

We would therefore expect to see further survey work and assessment to address the above concerns in full prior to the determination of the application. The findings of the additional work could have a bearing on the type, scale and layout of any development within this site as well as the range of measures that may be required to address biodiversity concerns. It is recommended, the application is withdrawn to allow for further surveys and a revised layout plan.

23.3.17 Following re-consultation on additional information submitted and following a site visit: We would disagree with the ecological assessment in regards to the habitats on site and the area covered. The ecology report has not fully encompassed the entire site boundary proposed for development omitting where the paddocks are proposed.

Following the site visit, the site was not considered to comprise the UK BAP Priority habitat of Open Mosaic Habitat.

Due to the usage of the site (general public, dog walkers and cats) it is unlikely for reptiles to be present in the area, however reasonable avoidance measures would be acceptable.

The proposed development at present comprises housing and paddocks, therefore based on the habitats present on site and the current proposals would equate to a 92% net loss of biodiversity_– this significant loss does not comply with the Bolsover Plan nor the NPPF.

However, if the proposals were to removed paddocks/open space etc. and retain and enhance the woodland would equate to 67% net loss of biodiversity – again this is still a significant loss and would not comply with the relevant local and national policies.

Ideally, if the woodland is retained and a suitable buffers to the existing woodland are incorporated, retained and enhanced would equate to 55% net loss of biodiversity.

If the entire hedgerow is removed would result in 100% net loss of UK BAP Priority Habitat: Hedgerow.

Therefore based on the above our recommendations are for the woodland to be retained and area excluded from development; a suitable buffer (dense/continuous under scrub along the north east boundary retained and enhanced and excluded from the residential gardens), ideally 5-10m buffer; retention of the hedgerow and enhancement to the hedgerow to include intact native hedgerow and off site compensation, ideally through managed/enhancement of the adjacent woodland to compensate for the loss.

If the development decides to adhere to the current proposed plans and are not willing to change the plans to incorporate biodiversity, then the only option available would be offsite compensation.

If these habitats cannot be retained and/or enhanced mitigation for invertebrates would be required.

At present, DWT still have a holding objection to the proposals until a revised plan and details on the above (no net loss of biodiversity) has been addressed.

DC Archaeologist

9.11.16. No objections.

BDC Planning Policy

11.01.17. In relation to the general location of the site, the proposal complies with policies GEN 8 – Settlement Frameworks and HOU 2 – Location of Housing Sites of the adopted Bolsover District Local Plan (February 2000). The development of the site would not adversely affect Shirebrook's fairly compact settlement form and it also has good access to public transport and good proximity to schools, local shops and employment opportunities. As a result, it is considered to represent a sustainable location for development.

However, whilst in all other matters the proposal appears to be acceptable, the crux of the decision in relation to this proposal appears to be that the applicants are unwilling or unable to meet the S106 requirements that are recommended to be placed upon the site, namely:

- a) Provision of 10% affordable housing
- b) commuted sum towards improved play provision on Langwith Junction Recreation Ground;
- c) Commuted sum towards improved sports provision on Langwith Junction Recreation;
- d) Commuted sum for 10 secondary places at Shirebrook Academy; and
- e) Commuted sum towards the Shirebrook GP Practice.

In terms of affordable housing, it is noted that the applicant has prepared their application in accordance with the now ceased Interim Affordable Housing Policy. Whilst this proposal departs from the Council's new policy, refusal of the application on the grounds of non-provision of affordable housing alone may be difficult to justify, albeit the application must be judged against the current planning policy position. It would be preferable for the applicant to commission a viability study to explore this issue.

In relation to requirements b) to e), paragraph 204 of the NPPF states that planning obligations should only be sought where they meet all of the following tests:

- necessary to make the development acceptable in planning terms;
- directly related to the development; and
- fairly and reasonably related in scale and kind to the development.

If it is considered that these requirements robustly meet all of the above tests, then the failure to provide for the infrastructure essentially makes the application unacceptable and the application should be refused.

Leisure Services Officer

8.11.16. For a development of this size, we would not normally expect an equipped play area (LEAP standard) to be included as part of the development. As there is an existing poorly equipped play area within 400m of the proposed development, on Langwith Junction Recreation Ground, it is recommended that a suitable commuted sum is negotiated of £52,020 (68 dwellings x £765 per dwelling) for the enhancement and improvement of the play area) in lieu of any on site requirement.

Secondly, it is recommended that a suitable commuted sum is negotiated in lieu of any formal on site requirement. Using the current policy formula I have calculated that the commuted sum should be £61,880 (68 dwellings x £804 per dwelling). The commuted sum is based on 2016 prices and should be index linked to the RPI in terms of timing of payment. This commuted sum is to be invested in the enhancement and improvement of the pitch and / or changing rooms at Langwith Junction Recreation Ground.

I note that the route of Scarcliffe FP9, that would have originally crossed the station footbridge, has been retained and will be enhanced as it crosses the site. With suitable access restrictions in place (e.g. A-frames), it may be possible to discourage and reduce the use of this footpath by motorised vehicles.

Housing Strategy Officer

29.11.16 Applies the interim policy which provides an undertaking to commence development and complete at least 10% of dwellings permitted within 3 years from the grant of planning permission, and at least 50 % within 5 years from grant of planning permission.

Now that the interim policy has come to an end (because the Council now has a 5 year housing supply) further discussions with the Housing Strategy Officer have been undertaken to review the requirement for affordable housing. She is of the view that, in this particular location and given the marginal viability of the proposal that a requirement for affordable housing is not necessary.

DCC Planning – Strategic Infrastructure.

22.11.16. Seeks £171,761 towards the provision of 10 secondary places at Shirebrook Academy via Project A: Additional teaching space. Also access to high speed broadband. The proposed development of 68 dwellings would generate the need to provide for an additional 10 secondary pupils. Shirebrook Academy has a net capacity of 960 pupils and currently has 758 pupils on roll. The latest projections are indicating a rise in the number of pupils on roll to 864 during the next 5 years. There are a number of recently approved

planning applications within the normal area totalling 865 dwellings amounting to an additional 130 secondary pupils, this and the analysis of the current and future projected number of pupils on roll shows that the normal area secondary school would not have sufficient capacity to accommodate the 10 secondary pupils from the proposed development.

NHS/CCG

10.11.16. Seeks a financial contribution to of £25,867 towards the cost of building a new surgery in Langwith. The practice has plans for a new building, the current building is insufficient for the provision of health care services to their population, based on current standards. Patient population would be increased by approx' 170.

Public Art Officer

28.11.16 Seeks a contribution of 1% of development costs to public art.

PUBLICITY

Advertised in the press, site notice posted, 58 properties consulted. 1 letter received querying how access and parking arrangements would be affected for existing properties on Station Road.

One letter of objection received on the grounds that the public footpath which crosses the site might disappear.

POLICY

Bolsover District Local Plan (BDLP)

The Bolsover District Local Plan (2000) planned for the period March 1995 to March 2005 and made sufficient allocations for development within this period and extended the settlement frameworks of the relevant settlements accordingly. The site in question was identified on the policies map as having planning permission at 31st March 1998 that was available or partially completed and therefore was considered to form part of the residential land supply in the adopted Local Plan. For this reason, the site was included within the settlement framework for Shirebrook.

Based on the latest published assessment of our 5 year supply of deliverable housing sites, at 31st March 2016 the Council had sufficient supply within the 5 year supply period for approximately 8 years of delivery. Therefore, the saved planning policies within the adopted Bolsover District Local Plan (February 2000) related to the supply of housing are no longer considered to be out of date and can be given due weight in the determination of planning applications.

Therefore, the following saved policies in the adopted Local Plan have relevance to this application:

GEN 1 – Minimum Requirements for Development

GEN 2 – Impact of Development on the Environment

GEN3 - Development Affected by Adverse Impacts from Existing Uses

GEN4 - Development on Contaminated Land

GEN 5 – Land Drainage

GEN 6 – Sewerage and Sewage Disposal

GEN 8 – Settlement Frameworks

GEN 17 – Public Art

HOU 2 – Location of Housing Sites
HOU 5 – Outdoor Recreation and Play Space Provision for New Housing Development
HOU 6 – Affordable Housing
CLT 11 – New Countryside Recreation Facilities
TRA 1 – Location of New Development
ENV 5 – Nature Conservation Interests Throughout the District
ENV 6 – Designated and Registered Nature Conservation Sites
ENV 8 – Development affecting Trees and Hedgerows

Emerging Local Plan for Bolsover District

The Consultation Draft Local Plan does not propose to alter the settlement framework in this part of Shirebrook but does also not allocate the site for residential development as part of its planned residential supply. Rather the plan recognises that the site has a partially implemented permission for residential development. Furthermore, the potential greenway / countryside trail allocated in the adopted Local Plan (ref. 13 - Pleasley to Whaley Thorns Railway Trail) that is shown to run through the site has not been carried forward into the emerging Local Plan as the greenway now referred to as the Archaeological Way follows a different route through Shirebrook.

National Planning Policy Framework

Paragraph 17 states that:- *“A set of core planning principles should underpin both plan-making and decision-taking, including being genuinely plan-led..., always seek to secure high quality design..., contribute to conserving and enhancing the natural environment..., actively manage patterns of growth to make the fullest possible use of public transport, walking and cycling, and focus significant development in locations which are or can be made sustainable.”*

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 173 states:- *“Pursuing sustainable development requires careful attention to viability and costs in plan-making and decision-taking. Plans should be deliverable. Therefore, the sites and the scale of development identified in the plan should not be subject to such a scale of obligations and policy burdens that their ability to be developed viably is threatened. To ensure viability, the costs of any requirements likely to be applied to development, such as requirements for affordable housing, standards, infrastructure contributions or other requirements should, when taking account of the normal cost of development and mitigation, provide competitive returns to a willing land owner and willing developer to enable the development to be deliverable”.*

Other

Green Space Strategy (approved in April 2012).

The Green Space Strategy is a material consideration in the determination of applications for planning permission. In relation to Shirebrook, the Green Space Strategy and its supporting factual information contained in Green Space Audit: Quantity and Accessibility report identify that the town currently has a shortfall in the quantity of semi-natural green space for its population. The strategy also identifies that the nearby Langwith Junction Recreation ground

does not meet the Strategy's quality standard and residents in this area lack access to equipped play areas.

ASSESSMENT

The Principle of Development

The site lies within the Settlement Framework Boundary as identified in the Bolsover Local Plan (2000) and the emerging replacement Bolsover Local Plan (October 2016). Both plans also identify the site as having received planning permission for residential development previously. Although partially greened over with time, the site is substantially a brownfield site and it is well located for access to public transport, jobs and services. Therefore residential development on this site is acceptable in principle and accords with local plan policies GEN8, HOU2 and TRA 1.

Although the delivery of additional housing and associated economic and social benefits are to be welcomed, it should be noted that the site was not counted as contributing to the current five year housing supply and so is not necessary to help meet this national requirement. This is a relevant consideration in the planning balance when weighing the benefits of the additional housing delivery against any harms or policy shortcomings. These are considered below.

Highway Safety and Footpath links

It should be noted that planning permission has previously been granted for the same means of access into the site which is now being proposed.

No significant highway safety concerns have been identified and the Highway Authority has no objections in principle subject to conditions (Not all of the conditions requested by DCC are considered to meet the necessary "test" for planning conditions and where this is the case it has been flagged up above in the 'Consultations' section).

Garaging would need to meet the minimum internal dimensions to qualify as off-street car parking space. The proposed internal dimensions for the garages fall below those within the design guidance and below the minimum 6m x 3m required by DCC in order to qualify as parking space. As such, garages cannot be counted as a parking space. Nevertheless most of the proposed dwellings include two outside spaces in addition to garages and therefore it is considered that the level of off-street car parking provision proposed is adequate.

The public footpath running through the east end of the site is to be maintained on a slightly diverted alignment and access to the green way at the west end will also be maintained. Access to informal/permissive paths to the east of the site is also to be preserved.

The previous policy objective in the old local plan to provide a countryside trail through the length of the site CLT11 (13) has not been carried forward into the emerging Local Plan as the route now follows a different path through Shirebrook. Hence it would be unreasonable to formally require it.

In summary no unacceptable highway safety impacts are likely and appropriate footpath links are being provided and maintained.

Drainage

Due to ground levels and the location of existing sewers this site has proved difficult to drain and this has been a constraint to development in the past. Because of potential contamination in made ground and hard bedrock beneath resulting in poor infiltration rates, the Applicant states that it is not suitable for surface water soakaways. A pumped system is proposed for both foul and surface water and surface water is to be attenuated by underground tanks before release to a watercourse/culvert at the eastern end of the site.

This solution is not ideal as it does not involve use of sustainable drainage systems. Furthermore surface water pumped systems are a last resort as they are at more risk of causing flooding if the pumps fail. However short of importing large quantities of material to increase ground levels the solution proposed appears to be the only one feasible and viable. Conditions will be necessary to ensure that the fine details of the proposals are acceptable to the drainage authority. DCC Flood Risk Team, Severn Trent Water and the Environment Agency do not object subject to conditions.

Potential Contamination

The Environmental Health Officer has raised several concerns with the conclusions of the site investigation report originally submitted and recommends a pre-commencement condition requiring further investigation to deal with potential ground contamination issues. Further information has since been submitted by the Applicant and advice on its adequacy is awaited from the EHO. The form of the condition required will depend on the EHO's comments. Committee Members will be updated on this prior to committee.

Noise from Industrial Property

In accordance with policy GEN3 of the local plan planning permission should only be granted for developments in the vicinity of existing uses which have adverse environmental impacts if it can be demonstrated that the impacts can be reduced to an acceptable level by mitigating measures. In this case the eastern end of the site is close to east view industrial estate which will produce some noise and disturbance.

The applicant has submitted a noise assessment in accordance with BS8233:2014. The report concludes that the sound reduction performance of the external building fabric has been assessed to ensure that the requirements of BS8233:2014 are achieved. Mitigation measures in the form of standard double glazed units have been suggested to reduce internal daytime noise levels to meet the recommended guideline values. Passive ventilation can be used.

For traditional external areas that are used for amenity space, such as gardens and patios, it is desirable that the external noise level does not exceed 50dB LAeq,T with an upper guideline value of 55dB LAeq,T which would be acceptable in noisier environments. The results of the noise monitoring show that for the part of the site closest to the industrial estate the noise levels experienced are between 50 and 55 LAeq. This is just within recommended limits. It is also worth noting that exiting residential properties on East View are closer to the

industrial estate than the proposed dwellings and appear to provide an acceptable living environment for those residents.

In summary it is considered that the noise environment in the vicinity of the site does not preclude residential development and that no further noise mitigation conditions are required.

Design and Layout

The Urban Design Officer has advised that the broad approach to the structure of the road layout is considered to be a generally acceptable, although the amount of development proposed results in a number of shortcomings with the layout in terms of urban design considerations. These are set out in more detail above in the 'Consultations' section of this report but in summary: a few of the gardens are smaller than set out in the Council's guidance; the quality of boundary treatments where adjacent to public areas could be improved; access to rear gardens is restricted for a number of plots; design and landscaping of focal point/key view plots (11 and 12) is plain in appearance; and the materials proposed do not best support the local character.

The Applicant has been asked to amend to the proposal to address the concerns raised by the Urban Design Officer and they have done so to a point. However the applicant has now said that they have amended the layout several times to accommodate as far as possible the requirements of the Urban Design Officer and other consultees and they believe that they have gone as far as they can and request the proposal be considered by Committee.

On balance and having regard to the viability of the site, the character of the area and that it is not within or adjacent to a conservation area or listed building, it is considered that the layout and designs and appearance of the proposed dwellings are adequate and that the remaining shortcomings identified would not in themselves justify the refusal of planning permission.

Impacts on Amenity

Impacts on amenity enjoyed at existing residential property will be limited because the site is only close to existing dwellings at its western end. Nos 1 and 3 Primrose Way face the side of plot 68 which has a side window at ground floor level. Whilst the separation distance between existing upstairs windows and proposed ground floor window is 19m, and the Council's Guidelines normally seek 21m separation for privacy, there is an existing public footpath between the two. Hence the distance where loss of privacy can occur will not be reduced because there is a closer public area. The side window to plot 68 is required for security purposes to provide passive surveillance over the public footpath.

There are windows facing Primrose Way within 8 Station Road and the Station House and so there will be some amenity impacts such as privacy and disturbance resulting from the increased use of the access road into the site. However this situation was approved in 1991 and it would be unreasonable for the Council to now take the view that these impacts would be unacceptable. There is a grass verge area to provide some separation to the highway but these impacts are inevitable if the site is to be developed.

It is noted from representations made that one resident is concerned about loss of on-street car parking. However the level of off-street parking proposed for the new dwellings is considered to be adequate and there is no right for residents to park in the existing rough

ground off Primrose Way.

Ecology and Biodiversity

The advice from Derbyshire Wildlife Trust is reported in some detail above (in Consultations). In summary they are objecting to the application on grounds of net loss of biodiversity unless the Applicant: retains the area of woodland to be removed at the eastern spur of the site; a 5-10m deep buffer of dense/continuous under scrub along the whole north east boundary (220m long equating to approximately one quarter of a hectare) be retained and enhanced and excluded from the residential gardens; the hedgerow is retained and enhanced with native species; and the adjacent woodland be enhanced as compensation for the loss; or a scheme of off-site compensation be agreed.

The Applicant has agreed to retain and enhance about half of the wooded spur at the eastern end of the site where it is not needed for the drainage system (pumping station and underground water tank) and has also agreed to retain and enhance the existing hedgerow. However the Applicant has not agreed to the scrub buffer along the northern boundary because this would significantly reduce the developable area of the site, the number of dwellings that could be provided and the sites viability.

The Applicant has therefore gone some of the way to meeting the Wildlife Trust's advice and whilst there would still be a net biodiversity loss on this site, none of the habitats affect are particular special or designated nor have significant impacts on protected species been identified (aside from ground nesting birds but these would be deterred by dog walkers). This is a brownfield site within the settlement framework the development of which has been stalled for about 20 years. It is just the sort of site that should be delivering new homes and that would benefit from development. Therefore it is considered that the biodiversity loss of unmanaged grassland and scrub and a small area of bushy woodland does not justify the refusal of planning permission in this case because the benefits of approval outweigh the loss.

S106 Developer Contributions

This application is accompanied by a viability appraisal which shows that the development of the site would be unviable taking into account any developer contributions. Profit margin is down to about 14%. This is very low with about 20%-22% being the norm. Where profit margin is low it becomes increasingly difficult for developers to finance the build since banks will no longer lend on risky schemes in case property values fall.

Developer contributions requested by consultees are set out above in 'Consultations' but in summary are as follows:-

- County Education seeks £171,761 towards the provision of 10 secondary places at Shirebrook Academy.
- Informal Leisure/children's play £52,020 for the enhancement and improvement of the nearest play area in lieu of any on site requirement.
- Formal adult sports £61,880 to be invested in the enhancement and improvement of the pitch and / or changing rooms at Langwith Junction Recreation Ground.
- NHS/CCG Seeks a financial contribution to of £25,867 towards the cost of building a new surgery in Langwith.

- Arts Officer seeks a contribution of 1% of development costs to public art.
- Affordable housing. No requirement in this case having regard to location and viability.

Government advice in the NPPF is that for allocated sites to ensure viability, the costs of any requirements likely to be applied to development, such as infrastructure contributions should, when taking account of the normal cost of development and mitigation, provide competitive returns to a willing land owner and willing developer to enable the development to be deliverable.

The Applicant was not originally prepared to offer any social infrastructure contributions due to the sites marginal viability, however the failure of a proposal to pay its way in terms of the additional pressures on social infrastructure can lead to development which is less sustainable and ultimately it may be deemed unacceptable, depending on the circumstances. In this case negotiations have resulted in an overall final offer from the Applicant of £68,000 to go some way to meeting the requests from consultees and to be split between priorities as the Council sees fit.

Taking the various contributions sought by consultees in turn, the Officer view on what is required and what the priorities should be is:-

Education

The proposed development of 68 dwellings would generate the need to provide for an additional 10 secondary pupils. Shirebrook Academy has a net capacity of 960 pupils and currently has 758 pupils on roll. So there is currently capacity to take the additional pupils. DCC say that the latest projections are indicating a rise in the number of pupils on roll to 864 during the next 5 years and there are a number of recently approved planning applications within the normal area totalling 865 dwellings amounting to an additional 130 secondary pupils. DCC say that this and the analysis of the current and future projected number of pupils on roll shows that the normal area secondary school would not have sufficient capacity to accommodate the 10 secondary pupils from the proposed development.

However the majority of the recently approved dwellings identified by DCC are on the South Shirebrook development, and a large sum of money and land for the funding of school expansion to account for that development has already been transferred to DCC. This requirement should not be double counted. Given that there is currently 202 spare places at the school and accounting for the 130 spaces needed (and paid for) for the south Shirebrook development there would still be 72 spare places. Under these circumstances it is considered that there is currently capacity to accommodate the additional 10 secondary pupils from this development and that the S106 contribution requested is not necessary to make the application acceptable in planning terms.

Play Facilities

There is an identified need for additional children's play space in this locality in the Council's Green Space Strategy. Hence it is considered that that this requirement is a priority and should be met in full i.e. £52,000.

Adult Sports Facilities

The Green Space Strategy states that the existing outdoor sports provision in Shirebrook (includes Langwith Junction) is not unreasonable. Policy HOU5 only requires a contribution where adequate provision does not already exist. Since it does in this case there is no need or justification for a contribution to sports recreation.

NHS/CCG

The CCG says that the current GP Practice building is insufficient for the provision of health care services to serve their population, based on current standards. This is a material consideration but because the Council does not currently have an adopted local plan policy to require this contribution and because there are alternative forms of funding available to the GP practice then this contribution sought is considered to be desirable but second in priority to play space provision. It is recommended that the rest of the balance of the sum offered (£16,000) be allocated towards meeting the £25,867 requested for the GP practice. (Note if the money is not spent by the CCG within 5 years it would need to be returned to the developer).

Public Art

Policy GEN17 seeks to negotiate a sum for public art at 1% of costs (approx £80,000). Whilst it is desirable to incorporate public art within a scheme it is rarely "necessary" to make the application acceptable in planning terms. Hence it is considered that the requirement does not meet the tests for conditions of S106 contributions in this case. As a result it is recommended that the limited S106 funds offered are not spent on public art.

Affordable Housing

The application was submitted at a time when the interim affordable housing policy waived the requirement for affordable housing. However now that the interim policy has come to an end (because the Council now has a 5 year housing supply) policy HOU6 requires 10% affordable housing on residential developments of more than 25 dwellings. The proposal does not include any affordable housing provision for viability reasons and so is contrary to HOU6. Therefore if the application is to be approved it must be a decision of the Planning Committee.

Discussions with the Housing Strategy Officer have been undertaken to review the requirement for affordable housing. She is of the view that, in this particular location and given the marginal viability of the proposal that we should not insist on a requirement for affordable housing in this case. Even if the whole £68,000 offered were put entirely towards affordable housing it may not be sufficient to realise any affordable off-site units.

In summary it is recommended that the £68,000 be split as follows:
£52,000 off-site children's play;
£16,000 GP practice in Langwith.

A draft S106 obligation has been completed to this effect. In the event that Committee Members take a different view on priorities for spending the £68,000 offered this should be agreed with the Applicant and the S106 amended as necessary before a decision is issued.

Other Matters

Listed Building: N/A

Conservation Area: N/A

Crime and Disorder: No significant issues subject to appropriate boundary detail being conditioned.

Equalities: No significant issues.

Access for Disabled: No significant issues.

Trees (Preservation and Planting): See report

SSSI Impacts: N/A

Biodiversity: See above

Human Rights: No significant issues.

Conclusions

The development of this stalled brownfield site which has an extant planning permission and which is within the settlement framework is wholly acceptable in principle and complies with local and national planning policy relating to the location of development. The delivery of 68 new dwellings and the associated economic and social benefits are to be welcomed.

It is recognised that that this is a constrained site and one which is difficult to develop profitably. Planning permission was granted in 1991 (26 years ago) and apart from 6 dwellings at the site entrance, the main part of the site has remained undeveloped. The Applicant has demonstrated that the viability of the development is marginal and that it cannot stand the cost of the provision of affordable housing or the full costs of other developer contributions sought for education, leisure, art and health. However a limited developer contribution has been agreed and it is recommended that it used to meet the full cost of play space improvements and the partial cost of the health contribution sought. It is considered that the remaining infrastructure capacity issues, to which there is no contribution, and the lack of affordable housing are not so material in this case as to warrant refusal.

The viability of the proposal has also resulted in some compromises being made in terms of urban design, however the layout and designs and appearance of the proposed dwellings are considered to be adequate.

There will be a net loss to biodiversity in this case as a result of the partial re-vegetation over time of this brownfield site. However the loss does not justify the refusal of planning permission in this case because the benefits of approval outweigh the loss.

RECOMMENDATION

Approve subject to the following conditions given in précis form (to be formulated in full by the Assistant Director of Planning/Planning Manager in consultation with the Chair and Vice Chair of Planning) and upon completion of a S106 obligation requiring:-

- **£52,000 for the improvement of play facilities at Langwith Junction Recreation Ground in lieu of any on site requirement; and**
- **£16,000 towards a scheme to increase GP practice capacity in Langwith;**

Conditions (in précis)

- 1. Start within 3 years.**
- 2. Fencing off and protection of areas of retained trees and hedgerow.**

- 3. Further investigation into potential ground contamination / or implementation of approved remediation scheme (subject to EHO advice) and validation report provided, unexpected contamination, importation of soil.**
 - 4. The development hereby permitted shall not commence until detail drainage plans for the disposal of surface water and foul sewage and the maintenance of the system have been submitted to and approved by the Local Planning Authority. The scheme shall be implemented in accordance with the approved details before the development is first brought into use.**
 - 5. Any foundation piling at the site shall be undertaken using the methods described in the letter from Eastwood & Partners dated 23 January 2017.**
 - 6. Prior to occupation submission of a detailed landscaping scheme to include: retention of trees/enhanced planting at eastern end of site; retention and enhancement of the hedgerow on the southern boundary; street tree planting.**
 - 7. Maintenance of the landscaping scheme for a period of 5 years.**
 - 8. Provision of new junction of Station Road with Primrose Way prior to occupation.**
 - 9. Provision of car parking spaces prior to occupation.**
 - 10. Access no steeper than 1 in 20 for the first 5m from the highway.**
 - 11. All accesses within the development provided with 2m x 2m x 45° pedestrian intervisibility splays.**
 - 12. External Building material to be approved.**
 - 13. Detailed drawings of boundary treatments prior to occupation.**
 - 14. Plot 68 to include side gable ground floor bay window.**
 - 15. No ground level raising unless details approved in writing.**
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