

The Arc  
High Street  
Clowne  
Derbyshire  
S43 4JY

Date: 3<sup>rd</sup> May 2017

Dear Sir or Madam

You are hereby summoned to attend a meeting of the Planning Committee of Bolsover District Council to be held in the Council Chamber, The Arc, Clowne, on Thursday 11<sup>th</sup> May 2017 at 1000 hours.

Register of Members' Interest - Members are reminded that a Member must within 28 days of becoming aware of any changes to their Disclosable Pecuniary Interests provide written notification to the Authority's Monitoring Officer.

You will find the contents of the agenda itemised on pages 2 and 3.


Yours faithfully



Assistant Director of Governance and Monitoring Officer  
To: Chairman and Members of the Planning Committee

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# PLANNING COMMITTEE

## AGENDA

**Thursday 11<sup>th</sup> May 2017 at 1000 hours in  
the Council Chamber, The Arc, Clowne**

Item No.		Page No.(s)
	<b>PART 1 – OPEN ITEMS</b>	
1.	<b><u>Apologies for Absence</u></b>	
2.	<b><u>Urgent Items of Business</u></b>	
	To note any urgent items of business which the Chairman has consented to being considered under the provisions of Section 100(B) 4(b) of the Local Government Act 1972	
3.	<b><u>Declarations of Interest</u></b>	
	Members should declare the existence and nature of any Disclosable Pecuniary Interest and Non Statutory Interest as defined by the Members' Code of Conduct in respect of:	
	a) any business on the agenda	
	b) any urgent additional items to be considered	
	c) any matters arising out of those items and if appropriate, withdraw from the meeting at the relevant time.	
4.	To approve the minutes of a meeting held on 5 <sup>th</sup> April 2017	4 to 8
5.	Notes of a Site Visit held on 3 <sup>rd</sup> March 2017	9
6.	Applications to be determined under the Town & Country Planning Acts.	
	(i) 16/00529/FUL - Residential development of 197 dwellings with associated roads and works accessed from Model Village including green buffer open space to the south of the Model Village at Land South Of Model Village, Creswell	10 to 32
	(ii) 14/00188/FULMAJ - Change of use to an Open Storage Yard (B8) with access from Berristow Lane, siting of portable building and gatehouse, erection of boundary fences and formation of screen mounds and associated works including improvements along access road at Former Blackwell Tip 500M North East Of Amber Park, Berristow Lane, Berristow Lane Industrial Estate, South Normanton	33 to 61

(iii) 17/00041/FUL - Construction of a drive thru kiosk and associated roadworks at Roadchef, Tibshelf Services, M1 Southbound, Newtonwood Lane, Tibshelf

62 to 66

## PLANNING COMMITTEE

Minutes of a meeting of the Planning Committee of the Bolsover District Council held in the Council Chamber, The Arc, Clowne on Wednesday 5<sup>th</sup> April 2017 at 1000 hours.

### PRESENT:-

Members:-

Councillor D. McGregor in the Chair

Councillors T. Alexander, P.M. Bowmer, J.A. Clifton, T. Connerton, C.P. Cooper, M.G. Crane, S.W. Fritchley, H.J. Gilmour, T. Munro, B.R. Murray-Carr, M.J. Ritchie, P. Smith, R. Turner, D.S. Watson and J. Wilson

Officers:-

C. Fridlington (Planning Manager (Development Control)), S. Phillipson (Principal Planning Officer) (until Minute No. 0806), A. Rhodes (Principal Planner), J. Fieldsend (Team Leader – Solicitor) (until Minute No. 0806) and A. Brownsword (Senior Governance Officer)

### 0800. APOLOGY

An apology for absence was received from Councillor B. Watson.

### 0801. URGENT ITEMS OF BUSINESS

There were no urgent items of business.

### 0802. DECLARATIONS OF INTEREST

The following Declaration of Interest was made:

Member	Agenda Item No.	Level of Interest
J. A. Clifton	6(i) 16/00530/FUL – Residential Development of 68 dwellings and ancillary works at Former Railway Land and Station Site off Station Road, Langwith Junction	Non Significant Non Statutory

## PLANNING COMMITTEE

### 0803. MINUTES – 8<sup>TH</sup> MARCH 2017

Moved by Councillor B.R. Murray-Carr and seconded by Councillor T. Munro  
**RESOLVED** that the minutes of a meeting of the Planning Committee held on 8<sup>th</sup> March 2017 be approved as a true and correct record.

### 0804. SITE VISIT NOTES – 3<sup>RD</sup> MARCH 2017

Moved by Councillor D. McGregor and seconded by Councillor T. Munro  
**RESOLVED** that the minutes of a site visit held on 3<sup>rd</sup> March 2017 be approved as a true and correct record.

### 0805. APPLICATIONS TO BE DETERMINED UNDER THE TOWN AND COUNTRY PLANNING ACTS

1. 16/00530/FUL – Residential development of 68 dwellings and ancillary works at Former Railway Land and Station Site off Station Road, Langwith Junction

Further details and an additional recommendation were included within the Supplementary Report.

The Planning Manager (Development Control) presented the report which gave details of the application and highlighted the key issues set out in the officer reports.

Mr. P.J. Needham attended the meeting and spoke against the application.

Mr. S. Gamble attended the meeting and spoke in support of the application.

The Committee considered the application having regard to the Bolsover District Local Plan, the Emerging Local Plan for Bolsover District, the National Planning Policy Framework and the Green Space Strategy.

Moved by Councillor T. Munro and seconded by Councillor D. McGregor  
**RESOLVED** that Application No. 16/00530/FUL be APPROVED 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:-

## PLANNING COMMITTEE

- £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.

(Planning Manager (Development Control))

### **0806. BEST PRACTICE APPROACH TOWARDS S106 FINANCIAL CONTRIBUTIONS**

The Planning Manager gave a presentation to Members which gave information on:

- The Key Issues
- Emerging Policy
- Infrastructure Requirements
- National Planning Policy
- Current Position within Bolsover District
- Member Involvement
- Next Steps

## PLANNING COMMITTEE

The Chair explained that it was hoped to include relevant Members at the pre application stage to give them the opportunity to make comment. A discussion took place regarding Members involvement.

Moved by Councillor B.R. Murray-Carr and seconded by Councillor M.J. Ritchie

**RESOLVED** that (1) Officers will invite appropriate Members to a pre-application meeting with the Chair and Vice Chair of the Planning committee for all major applications of 20+ dwellings and major employment schemes of 5000m<sup>2</sup> or more,

(2) Where appropriate, Officers will invite appropriate Members to a meeting with the Chair and Vice Chair of the Planning committee to discuss major applications of 20+ dwellings and major employment schemes of 5000m<sup>2</sup> or more, between week 6 and week 8 in the determination period following receipt of consultation responses.

(Planning Manager (Development Control))

The Team Leader – Solicitor and the Principal planning Officer left the meeting.

### **0807. FIRST AUTHORITY MONITORING REPORT (TWELFTH ANNUAL MONITORING REPORT)**

The Principal Planner presented the report which was the first of the new Authority Monitoring Reports (AMR) which was a transitional move from what would have been the twelfth Annual Planning Monitoring report.

The AMR provided a review of policies in the saved Bolsover District Local Plan against set indicators and targets. The monitoring process allowed an assessment to be made on how well policies were performing.

Bolsover District Council had met all milestones and the report showed continued high volumes of applications. 94% were approved and the Council now had a 5 year supply. There was also an increase in employment space in the monitoring year. There was no loss of retail floorspace. In line with trends in the previous two years, 6 pubs and clubs were converted to residential use. All of the targets in relation to both the historic and natural environment were met.

Members noted that it was a good report with a good ending.

Moved by Councillor S.W. Fritchley and seconded by Councillor D. McGregor

**RESOLVED** that (1) the content of the report be noted and the publication of the twelfth Annual Planning Monitoring Report on the Council's website be authorised,

(2) authority be delegated to the Joint Assistant Director of Planning and Environmental Health in consultations with the Chair and Vice

## **PLANNING COMMITTEE**

Chair of Planning Committee to make any minor textural changes prior to publication.

(Principal Planner)

The meeting concluded ay 1127 hours.



## **PLANNING SITE VISIT**

Notes of a Planning Site Visit held on Friday 31<sup>st</sup> March 2017 commencing at 10:00 hours.

### **PRESENT:-**

Members:-

Councillor D. McGregor in the Chair

Councillors T. Alexander, P.M. Bowmer, H.J. Gilmour, T. Munro, B.R. Murray-Carr, M.J. Ritchie, P. Smith, R. Turner, B. Watson, D. Watson, and J. Wilson.

Officers:-

C. Fridlington (Planning Manager – Development Control)

### **1. Apologies**

Councillors J.A. Clifton and M. Dooley.

### **2. SITE VISITED**

#### **Applications for determination by Committee:**

16/00530/FUL: Residential development of 68 dwellings and ancillary works on former Railway Land and Station Site off Station Road, Langwith Junction

The meeting concluded at 11:00am.

**PARISH** Elmton With Creswell

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**APPLICATION** Residential development of 197 dwellings with associated roads and works accessed from Model Village including green buffer open space to the south of the Model Village.  
**LOCATION** Land South Of Model Village Creswell  
**APPLICANT** Mr Matt Jackson Gleeson Developments Ltd, The Welbeck Estates Company Ltd, 5 Europa Court, Sheffield Business Park, Sheffield  
**APPLICATION NO.** 16/00529/FUL **FILE NO.**  
**CASE OFFICER** Mr Steve Phillipson  
**DATE RECEIVED** 24th October 2016

DELEGATED APPLICATION REFERRED TO COMMITTEE BY: Assistant Director of Planning. REASON: Consideration of policy issues and impact on conservation area.

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### **SITE**

Approximately 6ha site occupies an area of largely open level ground situated to the south of Creswell Model Village. This is enclosed to the west by an elevated railway embankment which is now a footpath. To the north is the SW edge of the model village. East is the model village cricket/sports pitch. The SE of the site is situated on land formerly used for employment uses (and before that former colliery) although this area is now cleared of buildings. The area to the south remains open and was once a colliery playing pitch. A public footpath No 10 passes along the southern boundary of the site on a west - east alignment. There are capped mine shafts adjacent to the south east side of the site.

Part of the northern end of the site including the site of the former Yorke House (now demolished) is within the conservation area. The site is mostly unused/derelict land partly brownfield and partly greenfield being covered in scrubby vegetation and a few trees. It is subject to fly tipping from time to time. Part of the site - the former Yorke House and land adjoining is owned by the District Council.

### **PROPOSAL**

The proposal seeks planning permission for 197 dwellings and associated works, comprising:

- 64 two bed units
- 118 three bed units
- 15 four bed units

128 of the dwellings are semi-detached and 69 are detached. The site measures 6 hectares in area and 197 dwellings would equate to a gross density of 32.8dph.

Vehicular access is to be gained from Elmton Road through the Model Village. An identified linear 'important open area' will be retained within the application site along the northern boundary adjacent to the Model Village. A second strong edge to the development will be created along the eastern boundary, where the site overlooks the adjacent cricket pitch.

The application is accompanied by the following reports:-

- Planning Statement

- Heritage Statement;
- Design and Access Statement;
- Flood Risk Assessment;
- Site Investigation Report incorporating coal mining information;
- Extended Phase 1 Habitat Survey Ecology Report;
- Transport Assessment;
- Sustainability Statement;
- Affordable Housing Statement.



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 viability appraisal has been submitted with the application showing that it is not viable to provide affordable housing as part of the scheme.

The layout of the road network, particularly along the southern and south eastern boundaries, enables future expansion into adjacent land should further residential development be required in Creswell.

## **AMENDMENTS**

14/11/16 Phase 2 site investigation report.

08/12/16 Response to the Councils query as to why Colliery Road is not being upgraded to use as a second access: The Applicant states that the reason why Colliery Road is not being upgraded is primarily down to cost. As you are aware it is a significant length of road which will need entirely relaying. This site is already marginal in terms of viability and that amount of additional 'dead' road is just not feasible. The extant permission on the site showed a single point of access which was approved and so the upgrading of Colliery Road at this stage we would argue is unnecessary.

20/12/16 Desk based archaeological report.

24/01/17 Response to Wildlife Trust Issues

25/01/17 Revised Coal Mining Risk Assessment

Concludes that there is no significant risk to the proposed development from the two shafts which are on or close to the site. If however, some development were proposed in the area closer to the shafts in the future, the risk from the shafts to that development should be reassessed.

13/02/17 Response to DCC Flood Risk. Additional info and plans provided. Includes 900sqm storage tank, controlled discharge sw discharge not exceeding 50l/s to STW combined sewer which is said to be a reduction of 30% compared with existing peak discharge rate.

23/02/17 Revisions including:-

Revised layout plan revision 16-200-01- B

Tracking detail

Highway revisions

Landscape proposals 2744/1 Rev B

Model Village Street Scenes and design/materials revisions

Economic Benefits Paper

The Applicant states that:-

The red line has been amended to the south east of the site – both mine shafts are now omitted from the application site.

We have altered the elevational treatment to the plots fronting the Model Village. These plots will now be built incorporating features of the houses opposite including;

Predominant red brick construction

Curved brick heads over windows

Imitation slate roofs (natural slate is far too expensive from a viability

stance and creates maintenance issues and costs for future occupants)

Cottage style windows and doors (uPVC windows to minimise future maintenance costs and preserve appearance for longer and steel doors for the same reasons plus security)

Feature gables on end plots

Build line has been formalised to present a standard stand-off distance to the Model Village and replicate its uniformity.

Formal landscaping has been introduced to the POS

knee rail fencing to separate the public and private areas

Bin collection points have been introduced

The junction priority outside plots 60/61 has been altered as requested

The footpath link outside plots 49-51 is proposed to be stoned and timber edged only in order to make it clear that a footpath link exists.

25/04/17 Revised Layout C (refuge removed)

25/04/17 Design amendments Model Village edge:-

1. Good quality red bricks
2. A good quality artificial slate
3. Contrasting red brick curved heads to ground floor on the front of the houses only unless the plot has a gable end to the front in which case any first floor window in the gable end will also have a curved head.
4. We won't have identical brick cills as the MV houses but we are happy to have a brick on edge detail to the front windows which will effectively look the same from a distance.
5. The use of timber windows in our opinion is unjustified on the basis that the windows to the MV houses are white painted and don't necessarily have the appearance of wooden windows. There is also the issue of future maintenance and appearance once the houses are occupied. We are therefore proposing a uPVC window design similar to the MV to the front windows only.
6. We are prepared to use barge boards to the gable end of the properties with gables on the frontage.
7. We are prepared to use cast effect guttering (front of plots only).
8. A uniform colour scheme for the barge board and RWG's is acceptable .
9. We are prepared to omit the canopies above the front doors.
10. Replacement of proposed knee rail fence with railings or picket fence not agreed.

### **HISTORY (if relevant)**

97/00365/OUT: Outline permission for residential development and use of land for leisure/amenity purposes; approved subject to conditions February 1999.

02/00015/FUL: Variation of condition 2 of 97/00365/OUT to extend the time period for submission of reserved matters to five years; approved May 2002.

03/00572/VAR: Variation of condition 2 of 97/00365/OUT extending the period for the submission of reserved matters to seven years; approved subject to conditions December 2003.

04/00079/REMAJ: Application for approval of reserved matters for the erection of 163 dwellings refused 24.08.06 due to impact on the conservation area; the design of the houses fronting onto the Model Village being poor; the design principles of the proposed development

not referencing those of the adjacent Model Village; unacceptable layout within the development.

06/00085/VARMAJ: Variation of condition 2 of 97/00365/OUT extending the period of submission of reserved matters to nine years; approved subject to conditions. 29.05.06

07/00326/REMMAJ Approval of reserved matters for erection of 190 dwellings and construction of roads, open space, parking and associated development without retention of existing allotment: approved 2007.

08/00053/VARMAJ Proposed variation of condition 10a of outline planning permission (06/00085/VARMAJ) in respect of the provision of the proposed junction modification of the Model Village with Elmton Road. Approved 2008.

08/00556/FUL Revised junction layout (crossroads to replace roundabouts) in the Model Village to serve new Housing Development (approved 06/00085/VARMAJ) approved 2008.

11/00346/VAR Extension of time for start of previously approved scheme 08/00556/FUL - revised junction layout.

15/00514/TCON Works to trees in conservation area including felling, crown lifting and trimming.

It should be noted that the planning permission granted to date included access through the Model Village with emergency access only via Colliery Road. The outline permission also included a conditional requirement for 5% of dwellings on site to be affordable and for a work of art. A S106 obligation was completed with the outline permission which required the contributions for leisure including the transfer of the cricket pitch land to public ownership on long term lease, a sum of money (£44,000) to cover the cost of its future maintenance and £10,000 towards a play area on the Model Village Green. These obligations have now been discharged.

## **CONSULTATIONS**

### Urban Design Officer

13/01/17 Revisions are recommended with regard to several issues including design and landscaping enhancements needed adjacent to the Model Village and improved design and layout within the development such as to key buildings, road priority, footpath links and surfacing, and clarification over use proposed for undefined areas of land within the site.

30/03/17 Comments on amended plans of 23/02/17:

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.

Outstanding issues include:-

Maintenance responsibilities for POS footpath link should be clarified.

Agrees with the Conservation Officer concerns re relationship with the Model Village. The proposed 'adaptations' remain a weak response to the setting of the Model Village.

Amendments to and more detail needed for the landscaping scheme including tree species within the POS – small leaved lime recommended (condition if needed).

Timber knee rail fence proposed to MV POS is inappropriate. Suggests metal railings but notes that the Conservation Officer has recommended the introduction of picket fencing to reflect that of the model village opposite. This could be introduced in lieu of the knee rails currently proposed.

Knee rails are also proposed to separate new footpath routes from private areas - they lack longevity and robustness and are unlikely to provide a sound distinction between public and private space in the longer term. A railing or picket style fence to reflect boundaries associated with the model village are recommended to a minimum height of 900mm.

More variation in corner turning house types is advised.

Key positions would benefit from slightly differentiated unit types, such as through the inclusion of greater height and/or contrasting materials.

#### Crime Prevention Design Advisor

21/11/16 Layout is accepted as proposed, with the reservation that there are a number of points on the site periphery where movement routes run out into open space without any indication of treatment to separate private from public areas.

As far as I can make out, excepting sketches for 1800mm high open boarded timber fencing and 600mm high post and rail fencing, there is no detail within the application of any other form of boundary treatment, nor any plans to show position.

All road hammerheads and private drives around the periphery of the site and adjacent to the southern footpath link need to be defined as semi private with clear and robust boundaries.

Post and rail fencing, if that is what's proposed will not be sustainable. I'd suggest some form of estate railing?

Hit and miss open boarded fencing I don't think is appropriate for privacy around gardens and again is less sustainable than close boarded.

I'd ask that these points are addressed and a comprehensive boundary treatment plan provided to support the application.

Where there are no formal routes, between plots 70 and 76 for example, the site boundary should be enclosed, and movement directed along formal planned routes.

Housing treatment is generally good.

There are a handful of plots types where a view of private side of plot in curtilage parking isn't provided within the house layout and treatment, where an additional side window could be added for this provision.

This would be for relevant type 303, 304, 309 and 314 plots.

It's acknowledged that the 314 is specifically designed to turn corners, but where drives are provided along rear elevations they are not in view.

06/03/17 Comments following re-consultation on the revised plans:

A knee rail would be a poor substitute for estate railings in respect of both definition and sustainability. I appreciate the Applicant's comments regarding viability, but value engineering should address the long term future of the development as well as short term construction costs.

#### Conservation Officer

27/01/17. The proposals as submitted are considered to not adequately preserve or enhance the special character and appearance of the Creswell Village and Model Village Conservation Area. Therefore, it is considered that the proposals do not meet the requirements of the

policies and statutory duties stated.

Whilst I would not necessarily disagree with a simple and undecorated modern design approach to this site, it is considered that the proposed house types are too stripped down and use the cheaper end of the available materials market. This is considered to be problematic, particularly when placed against the richer architectural Model Village background, resulting in a development that would be detrimental to the special character and appearance of the conservation area. There is no reference to the architectural style or materials of the Model Village houses in the Design Statement only references to the layout of the village.

To address these problems, it is considered firstly that the house types should be revisited to develop a higher quality house type that could be situated along the stretch by the Model Village. There should be reference to the Model Village houses with regard to materials, style and detailing.

The palette of materials fronting the Model Village should be revisited to include:

- brick walls,
- natural stone heads and cills or brick details (perhaps employing curved heads),
- slate or tiled (non-artificial) roofs,
- painted (seasoned and treated) softwood timber windows and doors (a more robust window option could be aluminium framed windows),
- metal gutters.

Thirdly, if the properties are to be grouped in pairs of semi-detached dwellings, it is considered that the pairs should be of the same house type. Where properties are proposed to stand alone, they should be of a design that will reflect their prominence.

The relatively recent improvements to the Model Village through the regeneration scheme using Heritage Lottery Fund money, the Creswell Townscape Heritage Initiative (Creswell THI), which secured considerable enhancements to the special character and appearance of the Model Village have transformed this part of the village. Therefore, for this site to not match these enhancements, given that it is adjacent to the Model Village, is of particular concern.

Therefore, in summary, it is considered that the proposed design and grouping of the house types requires revision to achieve the high quality development this site should be expected to deliver.

17/03/17 Comments on the amended plans:

The section of proposed housing which fronts the Model Village is my main concern and I feel it is still not of sufficient quality.

- Stronger references to the Model Village are required
- There should be a mixture of house types, not all semi detached, there should be blocks of terraced houses as in the model village
- No porches
- Picket fences not knee rails
- Barge boards , plain and substantial in depth
- A mixture of red toned bricks, buff bricks should not be used



### DC Archaeologist

27/01/17 Comments following re-consulting on the heritage impact assessment submitted in support of this application:

The submitted document provides a good overview of the archaeological baseline, including map regression and the results of a site walkover. There seems to be little potential for pre-modern archaeology because of significant ground disturbance across the site, and no remaining evidence of the colliery/model village features including the manager's house (Yorke House) and the tramway routed across the proposal site (although the route of the tramway can be followed in the northern part of the site).

On the basis of this information I conclude that the site retains little or no archaeological potential, and I advise that the policies at NPPF chapter 12 do not justify further archaeological work on the site.

In terms of design and layout, however, there is potential for a sense of historic connection to be retained (in line with NPPF para 131) – preserving a sense of open space to the south of the Model Village (as per the Conservation Area Appraisal), and channelling views toward the Model Village from the south. The currently proposed site plan offers a rather generic layout which – although preserving a strip of open land at its northern edge – does not link well with the Model Village to the north. A more appropriate layout could be guided by consideration of the historic linkages of the Model Village to the south (the tramway and other routes), identifying and attempting to preserve key views towards the Village from the south by channelling views through the development and a more creative use of open spaces, and preserving the historic sense of connectivity associated with the site by aligning key axes of movement through the development.

### County Highways

02/12/2016 Comments regarding the Travel Plan submitted.

In the event of a S106, DCC seeks a Travel Plan monitoring fee: £1,000 pa x 5 years, total £5,000. Also a Greenways contribution. A connecting Greenways route runs along the Western edge of the proposal site, which links Creswell to Shirebrook and Clowne.

07/12/2016 Queries several issues including:

Whether certain proposed roads are to be adopted if so design to 6C's standard with footways and service strips if not unacceptably long bin carry distances; bin collection points needed; bin collection points needed at entrance to shared drives; garages need to be min' 6x3m if parking space; turning head needed to Colliery Road; bend widening needs to be indicated in the carriageway fronting plot 7; 6m should be provided in front of driveways to aid manoeuvrability.

26/04/17 Subject to the inclusion of the following conditions in any consent given there are no objections from a highway point of view:

Formation of the new access

Provision of off-street parking space

Detail of site compound to be agreed

Provision of wheel cleaning facilities

All accesses to have pedestrian visibility splays

No gates within 5m of highway and to open inwards (*not considered reasonable on security grounds*).

Accordance with the Highway Authority Policy Document “6Cs Design Guide” (*not considered necessary*).

Accesses shall be no steeper than 1 in 20 for the first 5 metres

Approval of surface water drainage detail

#### Parish Council

Concern about the potential traffic if access is to be solely through the Model Village.

Consideration should be given to using Colliery Road as an additional access route.

#### Coal Authority

28/11/16 It is the view of The Coal Authority that the Phase 2 Geotechnical and Geo-Environmental Site Investigation Report does not adequately assess the risks to the safety and stability of this development proposal from coal mining legacy issues, specifically it fails to identify the risk posed by two recorded mine entries present within/adjacent to the site. The applicant should be advised of The Coal Authority’s objection and an updated Report required, which addresses this matter.

13/03/17 Notes from the re-consultation that the applicant has now submitted an amended Planning Layout drawing (Dwg. No. 16-200-01B). The amended drawing identifies the positions of the recorded mine entries and also shows a revised application site boundary. We note that land at the south eastern edge of the original application site has now been omitted. As a result, the recorded mine entries and their associated zones of influence/instability would now appear to be located entirely outside the application site.

As the amended application site no longer encroaches into the Development High Risk Area I can confirm that The Coal Authority is able to withdraw its objection to the planning application.

#### DCC Flood Risk Team

19/12/16 Whilst the applicant has produced a Flood Risk Assessment (FRA) and referred to a drainage strategy within the body of the FRA, it is felt there is insufficient information for the County Council Flood Risk Management (FRM) team to make informed comments.

Further information is required to demonstrate how the site is proposed to drain in a sustainable manner.

17/02/17 Comments following receipt of further information:

Sustainable drainage systems should seek to improve water quality, amenity and biodiversity. If below ground storage is the only option available to, or achievable by the developers then they should further investigate the feasibility to attain a greenfield rate of discharge by upsizing the storage volume. If part of the highway is modelled to retain water during the 1 in 100 yr (plus climate change) event this may have an impact on the adoptability of the network and over time increase the risk of internal flooding thus not complying with S8 of DEFRA’s Non-statutory technical standards for sustainable drainage systems.

A robust justification of the choice not to dispose of surface water offsite at the greenfield rate (if this is the case) should be supplied.

If a pumped surface water scheme was to go ahead it should be demonstrated to the Local Planning Authority that if the pump was to fail there would be no flood risk to any properties. Surface water pumped systems should be an absolute last resort.

To ensure adherence to DEFRA's Non-statutory technical standards for sustainable drainage systems the following condition is recommended.

1. *"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."*

25/04/17 Comments following receipt of further information:

The Applicant's consultant has confirmed to Severn Trent Water that there are existing hard paved areas draining to the existing sewer network. The applicant's consultant has estimated the current runoff to the sewer from the existing hard paved areas and proposed to reduce the runoff by 30 % and this has been agreed in principle by Severn Trent Water, albeit with an expectation of a further reduction with the implementation of infiltration where achievable. This is in line with DEFRA's Non-statutory technical standards for sustainable drainage systems concerning previously developed land.

The County Council Flood Risk Management team's recommendations remain as previous, we have no objection in principle to the proposals but recommend the condition as per our previous response.

#### Drainage Engineer

Seeks to ensure maintenance plan is in place for any SuDS; and to ensure that any temporary drainage arrangements during construction gives due consideration to the prevention of surface water runoff onto the neighbouring properties.

#### Environmental Health Officer

25/04/17 Recommends a contaminated land survey condition.

#### Wildlife Trust

12/12/16 It is important that the areas of ephemeral/short perennial vegetation and poor semi-improved grassland are assessed against the OMHPDL priority habitat descriptions and the local wildlife site selection criteria. Even if they are considered to be low value, nonetheless contribute to biodiversity. The National Planning Policy Framework (NPPF) aspires to "net gain" of biodiversity from development and expects "no net loss" at a minimum. Any net loss could therefore fail the NPPF's Sustainable Development principles and could constitute significant harm.

It is noted from the Planning Layout that there is no significant retention of or creation of new wildlife habitats as part of the development

Overall, if there is a net loss of biodiversity, we would advise that the proposal cannot be considered to constitute a sustainable form of development, as stated in the Design and Access Statement.

The survey identified areas of suitable reptile habitat within the site and the Trust is aware of recent grass snake records for the area, identified during surveys carried out in 2013 in

respect of the solar farm development to the south of the application site. We would therefore advise that a reptile survey is required to determine the presence or otherwise of reptiles on the site and the extent that they may be affected by the proposed development.

The report also identified the presence of several substantial water bodies less than 500m to the south of the application site. The report considered that the ponds could harbour great crested newts which therefore could potentially inhabit the site.

We would therefore recommend that a great crested newt survey is required to determine the presence or otherwise of this species in the vicinity of the site and the extent that they may be affected by the proposed development.

We would advise that the results of the protected species surveys (great crested newts and reptiles) need to be provided prior to the determination of the application.

Unfortunately insufficient information has been provided in the consultation documents to enable the Derbyshire Wildlife Trust to make an informed assessment of whether the proposal would have any adverse ecological impacts and to advise the local planning authority accordingly as to whether the proposal complies with relevant legislation and policies relating to biodiversity.

#### DCC Strategic Infrastructure and Education

12/01/17 Notes the reduced number of dwellings approved in the secondary catchment area compared with DCC's initial estimate but it does not change the requirement for a contribution as set in the initial response.

14/12/16 The following S106 contributions are sought:-

£ 250,778.22 for 22 junior places at Creswell Junior School

£ 515,285.10 for 30 secondary places at Heritage High School

Guidance notes are requested to be attached to planning permission regarding access to high speed broadband services for future residents (in conjunction with service providers).

DCC advises that the normal area infant school would have sufficient capacity to accommodate the 17 infant pupils arising from the proposed development.

The proposed development falls within, and directly relates to, the normal areas of Creswell Junior School. The proposed development of 197 dwellings would generate the need to provide for an additional 22 junior pupils. Creswell Junior School has a net capacity of 228 pupils and has 254 pupils on roll currently. The latest projections show the number of pupils to be 246 during the next 5 years. The junior school would not have sufficient capacity to accommodate the 22 junior pupils arising from the proposed development. The education contribution would be used towards delivering this scheme, to be known as Project A: Provision of additional three classroom block.

The proposed development would generate the need to provide for an additional 30 secondary pupils. The school has a net capacity of 1,019 pupils and currently has 728 pupils on roll. The latest projections are indicating a rise in the number of pupils on roll to 984 during the next 5 years. There are a number of recently approved planning applications within the normal area totalling 762 dwellings amounting to an additional 114 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 30 secondary

pupils from the proposed development. Any funding secured is likely to be pooled with a maximum of four other S106 funding contributions towards delivering Project A: Additional classroom accommodation.

### Housing Strategy

There is a need for affordable housing in the district, as demonstrated by the SHMA 2013 which estimated that 533 units of affordable housing would be required each year 2013-18 to fully meet housing need. In the Clowne sub market area alone, which includes Creswell, the estimated figure is 149 units each year.

The Local Plan stipulates that for housing development sites of 25 or more dwellings or 1 hectare or more in size the presumption in all cases will be that 10% of the total site capacity will be given to affordable housing provision.

If the interim policy is not followed then affordable housing would normally be required. However if, as stated by the applicant, the scheme is not viable with this requirement we will not ask for any affordable housing provision so that the site can be brought forward.

(Help to Buy: Equity Loan, as referred to by the applicant, is provided through a government scheme and does not meet the current definition of affordable housing in the NPPF. Nevertheless the scheme has proved popular with first time buyers and as such does provide an alternative route to market housing for those who are eligible, although it does not count as the affordable housing requirement).

### Arts Officer

Seeks a contribution of 1% of development costs for public art.

### NHS CCG

2/2/17 and 11/11/16 The proposal is likely to result in an increase in patient population of 493. The closest practices to this development are Creswell and Langwith Surgery and Crags Healthcare. The practice buildings are fully utilised, The practices have plans for a new shared building in Creswell, the current buildings is insufficient for the provision of health care services to their population, based on current standards and physical capacity constraints. A financial contribution of £75,015 is sought by means of S106 obligation.

### Liesure Services Officer

02/02/17 For a development of this size (197 properties), I would expect an area (or areas) of public open space to be provided within the development totalling at least 3,940m<sup>2</sup> / 0.394ha). In addition, I would also expect to see a NEAP standard play area suitable for children aged up to 14 years. A central location within the site is recommended. Alternatively seeks a commuted sum payment for informal open space, including play provision would be £123,648. However, as there has already been a contribution towards children's play provision from previous applications for this site and there is no suitable site within 400m of the development for the development of a new play area, we would look to enhance and improve the existing play area within Creswell Model Village Green, which was originally installed over 15 years ago. It is estimated that a commuted sum payment of circa £60,000 would be sufficient to replace the existing equipment.

Also seeks a commuted sum in lieu of any formal sports provision on site. Using the current policy formula the commuted sum should be £179,270 to be invested in upgrading built and outdoor sport facilities within the parish of Creswell. However, as noted above, a commuted sum payment for built and outdoor sports facilities has already been received from a previous application for this site, which was invested in the enhancement and improvement of the cricket pitch. As such, this should be taken into account when negotiating a contribution from the current application.

We would expect to receive a commuted sum for a period of 10 / 15 years following completion of the development for any land adopted by the district council if relevant (this would be subject to a separate agreement).

Although it has been acknowledged in the Design and Access Statement that pedestrian movement, permeability and access have been a key consideration in the design of this development, it is also noted that provision for cyclists is virtually non-existent and opportunities to provide improvements that would benefit both pedestrians and cyclists have been overlooked. Widening of proposed paths is recommended.

#### BDC Planning Policy

With regard to the Bolsover District Local Plan the site is largely covered by an allocation for residential development under policy HOU 3, although part of the site is identified on the policies map as having planning permission for employment uses at 31<sup>st</sup> March 1998 and another part is identified as a protected allotment. These uses have now ceased. So in relation to the general location of the site, the proposal is largely in accordance with policies GEN 8 – Settlement Frameworks, HOU 2 – Location of Housing Sites and HOU 3 – Housing Allocations. In light of the Council being able to demonstrate a 5 year supply of deliverable housing sites, these policies and others controlling the location of development should not be considered out of date.

Furthermore, the proposal is also largely in accordance with the policies and proposals of the emerging Local Plan for Bolsover District, in particular policies SS 3 – Spatial Strategy and Distribution of Development and LC1 – Housing Allocations (October 2016), although it should be noted that the application site is slightly different to the allocation and extends beyond the proposed allocation boundary and beyond the proposed new settlement framework boundary. The emerging Local Plan would provide a material consideration that supports the deviation from the adopted Local Plan position.

In terms of affordable housing provision, the application is contrary to policy. However, as the Council's policy predates the NPPF, should the submitted viability appraisal demonstrate that 5% affordable housing provision would make the development unviable, refusal of the application on the grounds of non-provision of affordable housing alone may be difficult to justify.

In terms of infrastructure provision, the proposal is expected to contribute to the provision of green space and equipped play areas but not education and health provision due to viability. This provision meets Local Plan policy requirements but will put additional pressure put on local infrastructure. However, provided the new permission will extinguish the extant permission and thus not increase the quantum of development that could come forward, the

proposal may be acceptable. The lack of infrastructure provision has to be balanced against the desire to see the delivery of this long standing allocation. As a result, whilst it is considered that the site represents a sustainable location for development, the impact of the development without the necessary infrastructure needs to be carefully considered. For the level of development currently proposed it is considered that the delivery of this long standing and stalled Local Plan allocation is to be welcomed.

## **PUBLICITY**

Advertised in the press and on site. 61 properties consulted.

Two letters in support in principle. 2 letters of objection. Grounds of concern raised includes:

Concern if accessed from Elmton Close during or after building work.

Access from Colliery Road would be better.

More traffic through the Model Village green and play area.

If routed through the Model Village additional speed restrictions should apply.

Queries whether footpath access to the greenway will be maintained.

Queries construction noise and disturbance and working time restrictions.

Queries air pollution during works.

Impact on nesting birds.

Gardens next to the old railway line should be adequate so buildings are not too close to birds' nests.

Concern regarding existing fly-tipping on the green buffer to the Model village and suggests it is provided with wooden bollards along its whole length.

The Council should serve the best interests of the community not the profits of Welbeck Estates.

Poor bus service in Creswell.

There is no modern surgery in Creswell.

One of the letters of objection is from the East Midlands Butterfly Conservation Group.

They say that they are aware of the presence in the immediate locality of the Local Biodiversity Action Plan species dingy skipper and small heath, and the increasingly uncommon, common blue, but the survey report includes no reference to these species and no recording appears to have been undertaken at the correct time of year to coincide with the flight periods of the key butterfly species. In their opinion the value of the site for these key butterflies has not been established despite the presence of what appears to be suitable habitat in the form of rough grassland and open mosaic. They recommend that the site is surveyed for butterflies and that this is conducted at the appropriate times of the year in the coming season.

## **POLICY**

### Bolsover District Local Plan (BDLP)

GEN 1 – Minimum Requirements for Development

GEN 2 – Impact of Development on the Environment

GEN 4 - Development on Contaminated Land

GEN 5 – Land Drainage

GEN 6 – Sewerage and Sewage Disposal

GEN 8 – Settlement Frameworks

GEN 11 – Development adjoining the Settlement Framework Boundary

- GEN 17 – Public Art
- HOU 3 – Housing Allocations
- HOU 5 – Outdoor Recreation and Play Space Provision for New Housing Development
- HOU 6 – Affordable Housing
- EMP 5 – Protection of Sites and Buildings in Employment Uses
- CLT 9 – Protection of Existing Allotments
- CLT 11 – New Countryside Recreation Facilities
- TRA 1 – Location of New Development
- TRA 13 – Provision for Cyclists
- CON 1 – Development in Conservation Areas
- CON 4 – Development Adjoining Conservation Areas
- ENV 5 – Nature Conservation Interests Throughout the District
- ENV 8 – Development affecting Trees and Hedgerows

Emerging Local Plan for Bolsover District

Policies SS 3 – Spatial Strategy and Distribution of Development and LC1 – Housing Allocations (October 2016)

National Planning Policy Framework

NPPF Paragraph 131

In determining planning applications, local planning authorities should take account of:-

- The desirability of sustaining and enhancing the significance of heritage assets and putting them into viable uses consistent with their conservation
- The positive contribution that conservation of heritage assets can make to sustainable communities including their economic vitality; and
- The desirability of new development making a positive contribution to local character and distinctiveness

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.



Paragraph 137 - Local Planning Authorities should look for opportunities for new development within conservation areas and world heritage sites and within the setting of heritage assets to enhance or better reveal their significance.

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”.*

Core Planning Principles & Requiring Good Design.

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.”

National Planning Practice Guidance (NPPG) – Design (ID: 26)

Other (specify)

The Historic Environment Supplementary Planning Document (2006)

Creswell Village and Model Village Conservation Area Appraisal and Management Plan (2006).

Planning (Listed Buildings and Conservation Areas) Act 1990 – section 72

A statutory duty that requires that

“special attention shall be paid to the desirability of preserving or enhancing the character or appearance of a conservation area.”

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

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

Green Space Strategy (approved in April 2012).

In relation to Creswell, the Green Space Strategy and its supporting factual information contained in Green Space Audit: Quantity and Accessibility report identify that the village currently has no shortfall in the quantity of formal or semi-natural green space for its population. However, the strategy also identifies that the nearby Coronation Garden green space does not meet the Strategy’s quality standard.

## ASSESSMENT

### The Principle of Development

The majority of this site already benefits from a planning permission for residential development that has been “commenced” and therefore remains extant. Although the application site boundary differs at the southern end from the current application boundary, this application seeks planning permission for a similar amount of development, albeit an additional 7 dwellings (190 previously approved 197 now sought).

The majority of the site is allocated for residential development in the adopted local plan (HOU3) or is otherwise within the settlement framework where residential development is acceptable in principle. Although a part of this site was recognised as being employment use in the 2000 local plan, that use has since ceased and the buildings demolished and so it is considered that it would not be appropriate to continue to protect part of the site for employment use under policy EMP5. Similarly the small area of the site that was in use for allotments in 2000 is no longer in allotment use and it is considered that it would not be appropriate to now try protect that former use under old local plan policy CLT9.

The majority of the site is also allocated for residential development in the emerging local plan. Therefore it is considered that the principle of residential development on this site has been established and that it accords with policy.

### Social Infrastructure and S106 Developer Contributions

In this case the requirement for contributions towards the various aspects of social infrastructure such as play space and schools is complicated by the extant planning permission for this site. The current permission does seek an additional 7 dwellings but this is not considered to be a material increase such as to warrant reopening negotiations on S106 obligations where they have already been established. If the current application were to be approved and implemented it would quickly extinguish the old planning permission because the layout is different and it would not be possible to comply with many of the conditions of the old permission. i.e. it would then not be possible to also build out the old planning permission at the southern end of the site where it extends beyond the current application site.

At the moment however, the extant permission could still be implemented without any further S106 contributions. Furthermore the obligations under the S106 associated with the extant planning permission have already been paid and discharged in advance of that development being delivered and it is considered that the Council should honour that position and not seek ‘two bites of the same cherry’ as this may not be reasonable.

This application is also accompanied by a viability appraisal which shows that the viability of the site is very limited due to its location and development costs. Profit margin is low. This position has resulted in brownfield land with planning permission which has been stalled for 17 years. Government policy in the NPPF is relevant i.e. that sites 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. Taking each of the aspects in turn:-

#### Leisure and Open Space:

The Leisure Services Officers response is out above. Whilst a request for provision is set out, the contributions which have resulted from the extant permission are recognised. It is

considered that obligations for formal adult leisure provision and informal play provision required by policy HOU5 of the local plan have already been established and secured through the extant planning permission and the associated S106 agreement. This includes the long term lease of the Cricket Pitch to public control (now by agreement the Parish Council) and money for maintenance of it and a sum of money paid to provide play equipment on the Model Village Green which has already been paid and spent on the Model Village Green. No further S106 contributions are therefore required. The provision of the green POS green buffer to the model Village (approximately 0.42 ha which exceeds the area sought by the Leisure Officer) and its future maintenance by management company and the improvement of the footpath link to the greenway are further leisure benefits of the proposal.

#### Education:

The County Education response above sets out a request for £ 250,778.22 for 22 junior places at Creswell Junior School, and £ 515,285.10 for 30 secondary places at Heritage High School. The Applicant has not agreed to these contributions. However there is no S106 requirement for education associated with the extant planning permission and that permission could still be implemented as an alternative to the current proposal. Given that this site has had planning permission since 1999 and has also been a housing allocation in the local plan since 2000, then it could be argued that the Education Authority should have been aware of and accounted/planned for the pupils generated from this site without further funding. Having regard to these issues and the viability situation it is considered that the Council is not in a position to insist on these education contributions in this case.

#### Health Care:

The CCG seeks a financial contribution of £75,015 due to surgery capacity issues. The Applicant has not agreed to this. However there is no S106 requirement for health associated with the extant planning permission and that permission could still be implemented. Neither does the Council have an adopted policy to require one. Having regard to these issues and the viability situation it is considered that the Council is not in a position to insist on the health contribution sought.

#### Affordable Housing

With regard to affordable housing, policy HOU6 applies and so failure to provide at least 5% affordable housing would be contrary to policy. The extant permission includes a conditional requirement for 5% of dwellings on site to be affordable.

Following discussions with the Housing Strategy Officer and with regard to delivering mixed communities in line with the NPPF it could be argued that the immediate locality already contains a high proportion of affordable housing and that the need to provide more in this location is low. Therefore given the viability case it is considered that it would not be appropriate to refuse solely on the grounds that no affordable housing is being delivered. It should also be noted that the former interim policy to waive the affordable requirement in return for meeting delivery targets was in force at the time the planning application was submitted.

#### Public Art:

The Council's policy GEN17 is to seek to negotiate a 1% cost contribution to public art. This has not been agreed by the Applicant. It is considered that the provision of art at this site is

not strictly “necessary” to make the application acceptable in planning terms neither is it necessary to deal with the impacts of the development. The legislative “tests” in the CIL regulations are not satisfied and therefore it is considered that a contribution to public art cannot be insisted upon.

Summary:

Having regard to the viability situation and that development on this largely brownfield site has been stalled for the last 17 years it is considered that no further S106 contributions are required over and above what has already been delivered for the extant planning permission on this site.

Layout and Design and Heritage

The site layout is comprises a connected loop leading to several cul-de-sacs spurs which provides a reasonably connected arrangement. Footpath connections are also accommodated to the existing adjacent footpaths. The development is generally comprised of a series of perimeter blocks with outward facing dwellings with corner turning units to overlook public land and reduce the risks of crime. The development proposes two-storey houses which is comparable with the scale of the model village and is considered to be appropriate.

The layout has been amended and improved during the course of the application and whilst there are a few additional improvement to the general layout which have not been fully resolved (see Unban Design Officers comments above) some of these relate to landscaping and materials which can in part be resolved by planning conditions.

The main focus of concern with this application has been the relationship of the proposed development with the Model Village, in particular the proposed dwellings facing it. To be acceptable the proposals must preserve or enhance the special character and appearance of the Creswell Village and Model Village Conservation Area; a nationally important heritage asset. As originally submitted this was not the case with concerns over both the layout lacking the continual frontage of the terraced dwellings of the Model Village opposite and standard the house types, with standard appearance and finishes.

As amended the Applicant has improved the designs and materials proposed to a degree. This includes the use of good quality artificial slate (not concrete tile) and good quality red brick, windows uPVC but higher spec design on the frontage (design to be agreed by condition), Omission of porches, barge boards to gables facing, uniform colour scheme, and cast effect guttering.

The Applicant is not prepared introduce any terraced blocks under any circumstances neither have they agreed to replace the proposed knee rail fence as the only boundary treatment to the Model Village and to other new footpaths proposed through the development.

Accepting that the Applicant will not agree to introduce some terraced blocks to the Model Village frontage, it is considered that the materials spec improvements agreed might just be sufficient to improve the quality of the design and to respond adequately to the identity of the model village but on the proviso that the low timber knee rail fence proposed to the open space is replaced by railings, preferable to match those which border the Model Village Green open space. It is recommended that this is required by condition. This is considered to be

important because:-

- The sections of private driveway fronting the space serves to reduce the sense of formality of the interface with the model village. A good landscape boundary treatment such as railing to this edge is necessary to improve formality and to preserve the character of the conservation area;
- It would strengthen the security for occupants by providing a definitive distinction between public and private space, reducing the risk of trespass and help reduce the likelihood of footballs, dogs etc straying from the public open space on to private gardens and vehicles;
- A knee rail fence would be too easily damaged and would be a maintenance liability and if damaged would detract from the amenity of the area;
- May result in amenity issues for residents bordering the POS if sat on, used for skate board tricks etc;
- The Conservation Officer, Urban Design officer and the Crime Prevention Officer all consider timber knee rail to be unacceptable.

In addition to the border of the proposed open space to the Model Village there are other locations which would also benefit from the proposed knee rail fence being replaced with railings. This includes the section of new footpath proposed at the side of the cricket pitch and the new section of footpath within the site linking with footpath 10 at the southern end of the site. However the justification for requiring railings in these locations would not include preservation of the character of the conservation area and given the restricted viability of the site the Committee could take the view that railings are only essential adjacent to the Model Village open space.

It should also be noted that the application site currently suffers from fly tipping and has a scrubby vegetation cover. These have a negative impact on the character of the conservation area and would be resolved by the development.

In summary the general layout is considered to be acceptable subject to conditions, and the proposals for the area which forms the interface with the Model Village are considered to be adequate subject to a series of conditions to cover materials and design details.

#### Access and Highway Safety

Vehicular access to the site would be through the Model Village. With only pedestrian access through Elmton Close and in theory emergency access would also be possible via Colliery Road. Access through the Model Village brings with it impacts on the character of the conservation area and highway safety concerns raised in representations and by the Parish due to the increase in intensity of use of the road through the Model Village Green with its play spaces.

The Applicant has been asked to consider including Colliery Road as a second means of access but has not agreed to this due to the viability of the site and the significant cost involved of bringing Colliery Road up to adoptable standard. Furthermore the Applicant correctly points out that the extant planning permission was approved with the same means of access which the Council has previously accepted.

The additional 7 dwellings now proposed would not materially increase traffic above levels for the development already approved and so it is considered that it would be extremely difficult to justify a requirement for a second access for the current application.

The County Highway Authority has no objections on highway safety grounds subject to the conditions summarised above in consultations (where conditions requested are not considered to be necessary or reasonable this has been indicated above).

#### Mining Risk

The application boundary has been amended to omit the mine shafts and the application site no longer encroaches into the Development High Risk Area. The Coal Authority has now withdrawn its initial objection.

#### Drainage

The drainage solution proposed is a pumped system with some permeable infiltration areas to assist with surface water drainage. This is not ideal but avoids the need to import large amounts of material and increases the viability of the site. The planning officer has double checked with the DCC Flood Risk Team that they are satisfied with this solution and they have confirmed that they have no objection in principle to the proposals subject to a condition requiring approval of the details of the surface water drainage system.

#### Ecology

The Wildlife Trust raised several issues with the proposal which are set out above in “consultations”. They advise that there is no significant retention of or creation of new wildlife habitats as part of the development and that if there is a net loss of biodiversity the proposal cannot be considered to constitute a sustainable form of development, as stated in the Design and Access Statement. They seek an assessment against the “Open Mosaic Priority Habitat on Previously Developed Land” description, a reptile survey and a GC newt survey prior to determination to enable the Derbyshire Wildlife Trust to make an informed assessment of whether the proposal would have any adverse ecological impacts.

The Applicant has sent a response regarding the Wildlife Trust advice. In summary the Applicant’s Ecological Consultant says that:-

- They deem the request to assess the site against the OMHPDL priority descriptions and LWS selection criteria unnecessary as certain of the areas of interest surveyed did not form part of the application site in the end.
- Despite no evidence of reptiles being found on the site at the time of the survey, some areas within the site were assessed as having a low potential for reptiles. Unless Area 1B and/or other areas off site to the immediate east and south east become part of any future development, we consider further surveys unnecessary. However, with the above in mind the application of a Precautionary Method of Working such as Passive Displacement could be applied at the site along the southern boundary.
- With regard to Great Crested Newts they say that it has now become apparent that further surveys of the ponds is totally unnecessary. The five original slurry ponds are no longer there. They were filled in because of safety concerns. According to Baker Consultants, the three other ‘balancing ponds’ within the same area were found to be saline in their chemical composition and assessed as being “*Highly unsuitable for GCN or any other amphibian.*” We were also made aware that these ponds too are to be

filled in within the next twelve months. Therefore, it is our opinion that further survey effort of this area is unnecessary in regard to this application.

The Wildlife Trust has been re-consulted (on 26/01/17) on the additional information received and a further reminder sent. No response yet received.

Given the response above from the ecological consultant, it is considered that the risks to protected species appear to be low. Furthermore there is an extant planning permission for the majority of this site which could still be implemented without any further survey work (as a planning requirement). The low risk of finding reptiles on site could be dealt with by condition as suggested although the Applicant is currently undertaking a reptile survey and the results are expected in early May. The Committee will be updated if this report is available before the meeting.

New tree planting will be undertaken within the open spaces as part of the landscaping of the site and this will go some way to off-setting the impacts of the existing scrub/habitat removal.

Therefore it is considered that the impacts of the proposal on biodiversity and ecology are not materially different to the extant permission and any impacts would not justify the refusal of planning permission.

### Conclusions

The development of this allocated, largely brownfield site, with an extant planning permission has been stalled for many years. The proposal is wholly acceptable in principle and complies with local and national planning policy relating to the location of development. The delivery of 197 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. 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 costs of other developer contributions sought for education, art and health. Leisure provision has already been secured for the development of this site through the extant planning permission. It is considered that the remaining infrastructure capacity issues, to which there is no contribution 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 as amended the layout and designs and appearance of the proposed dwellings are considered to be adequate, subject to conditions, to preserve the character of the conservation area.

### **Other Matters**

Listed Building: N/A

Equalities: No significant issues

Access for Disabled: No significant issues

SSSI Impacts: No significant issues

Human Rights: No significant issues

## 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)

### Conditions (in précis)

1. Start within 3 years.
  2. Fencing off and protection of areas of retained trees and hedgerow.
  3. Construction management plan including e.g. routing during construction to be agreed, times of construction work, wheel cleaning facilities if required etc.
  4. Precautionary Reptile Method Statement (unless survey complete).
  5. Further investigation into potential ground contamination and validation report provided, unexpected contamination, importation of soil.
  6. 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.
  7. Prior to progress above ground External Building materials to be approved
  8. In respect of Model Village facing properties materials to include:-
    - good quality red bricks
    - good quality artificial slate
    - contrasting red brick curved heads and cills
    - Design of uPVC windows and doors
    - Barge boards to gables facing
    - Cast effect guttering
    - Uniform colour scheme
    - Location/colour of meter boxes
  9. Omission of porches to MV fronting units
  10. Provision of railings to MV POS location and design to be approved.
  11. Prior to occupation submission of a detailed landscaping scheme to include: retention of trees; tree planting to the MV POS; street tree planting etc.
  12. Maintenance of the landscaping scheme for a period of 5 years.
  13. Provision of new junction with the Model Village prior to occupation.
  14. Provision of new estate road prior to occupation of related dwelling.
  15. Provision of car parking spaces prior to occupation.
  16. Access no steeper than 1 in 20 for the first 5m from the highway.
  17. All accesses within the development provided with 2m x 2m x 45° pedestrian intervisibility splays.
  18. Detailed drawings of boundary treatments prior to occupation.
  19. No ground level raising unless details approved in writing.
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**PARISH** Blackwell

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**APPLICATION** Change of use to an Open Storage Yard (B8) with access from Berristow Lane, siting of portable building and gatehouse, erection of boundary fences and formation of screen mounds and associated works including improvements along access road

**LOCATION** Former Blackwell Tip 500M North East Of Amber Park Berristow Lane Berristow Lane Industrial Estate South Normanton

**APPLICANT** Mr Paul Leverton

**APPLICATION NO.** 14/00188/FULMAJ **FILE NO.**

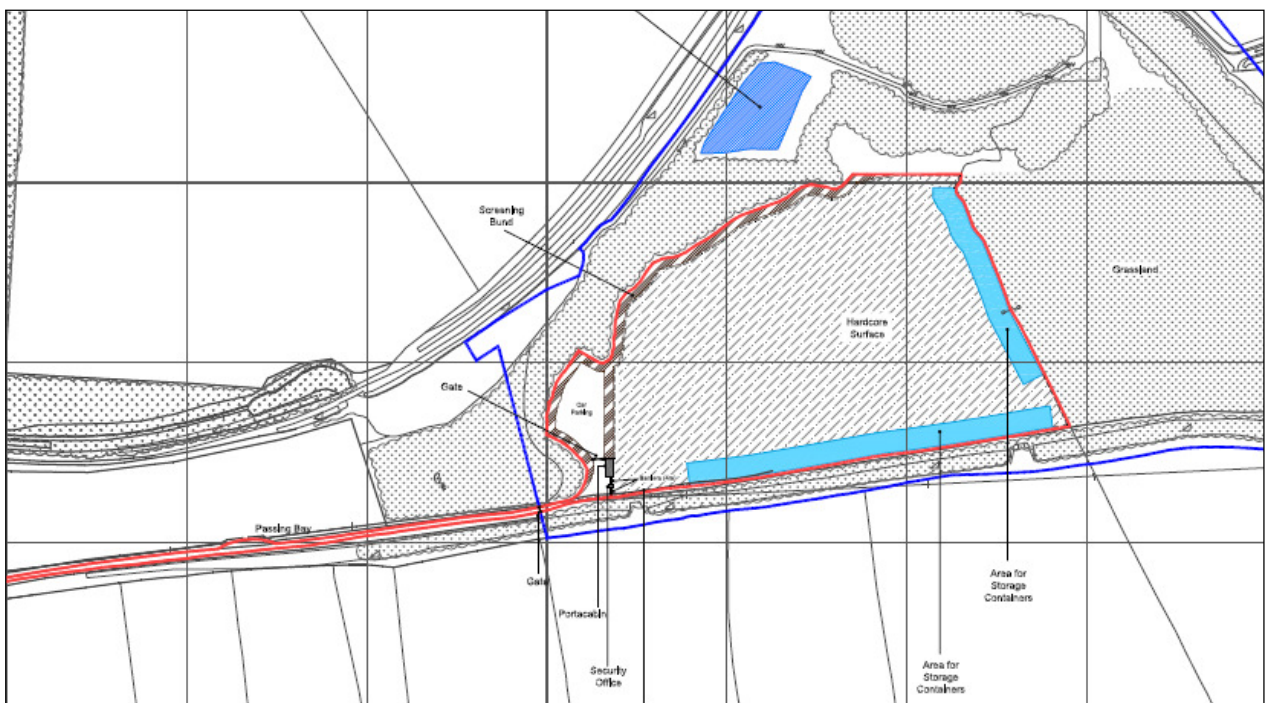
**CASE OFFICER** Chris Fridlington

**DATE RECEIVED** 4th April 2014

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### **Proposals**

The current application seeks planning permission for the surfacing and levelling of c.3.6 hectares of land at the 'former Blackwell Tip' near South Normanton. The application also seeks planning permission for the subsequent use of the site for the storage of caravans and 'lock and leave' style storage in shipping containers. The application form also refers to the site being used for the storage of goods similar to new vehicles and products manufactured in the local area.



### **Site Context**

Access to the application site is from Berristow Lane and the application site lies within a former railway clinker and ballast tip, which is bounded by open fields to the north and south, with existing industrial developments generally to the south west and east. The nearest residential development is 500m to the northwest. A Trail/Cycle path (former railway line), runs to the north west of the Application Site. The northern section of the main part of the application site is bordered largely by woodland and scrub.

## **Background**

This application has twice been recommended for refusal by officers but a decision on this application has subsequently been deferred by members of the Planning Committee to allow the applicant to submit additional information. Firstly, to address issues around access to the site and secondly, at the meeting in February 2017, to allow for the submission of further ecological work and a report on how land in the applicant's control might be secured to help address problems with anti-social behaviour. An ecological report and security report have now been submitted.

Therefore, this report should be read in conjunction with the previous officer reports (attached as Appendix 1) because this report is focused on whether the submission of this supplementary information addresses the reasons for refusal as set out in the officer report presented to the Planning Committee earlier this year.

## **Reasons for Refusal**

The reasons for the previous officer recommendation of refusal were as follows:

1. The proposal is contrary to adopted Bolsover District Local Plan Policy ENV3 (Development in the Countryside) which identifies that permission will only be given for appropriate development in the countryside and the proposal that are the subject of this planning application are not considered to satisfy those criteria.
2. The proposal would form an isolated and intrusive feature that would adversely affect the landscape, character and openness of the countryside and would not integrate with existing development forms and the form of the development is not considered to be good design, contrary to the requirements of policy GEN1(4) and GEN2(1) of the Bolsover District Local Plan and the National Planning Policy Framework Part 7 'Requiring Good Design', paragraph 58. It would also impact on the open area between settlements in both Derbyshire and Nottinghamshire, eroding their separate identities.
3. The proposal is contrary to be contrary to Bolsover District Local Plan Policy ENV5 in that there will be a net loss of biodiversity and adverse impacts to the proposed ecological network including across local authority boundaries. Insufficient survey information has been submitted to fully determine all impacts on biodiversity and the application does not demonstrate that alternative sites have been considered. The information that was submitted is now also considered to be out of date. Whilst some mitigation measures are proposed these do not address all the possible impacts that have been identified and are not considered to be robust, in particular given the

uncertainties over impact resulting from the inadequate and out of date nature of the studies that have been submitted. This is also considered to be contrary to Part 11 of the NPPF: 'Conserving and Enhancing the Natural Environment' paragraphs 109 & 118) by virtue of the failure to minimise impact on biodiversity.

4. The proposal is considered to conflict with the need to safeguard the proposed route for the Highspeed Two rail project on which the site lies. Whilst consideration has been given to the potential to grant a temporary consent for the development (notwithstanding reasons for refusal 1 – 3 above), it is not considered that the inclusion of such a condition restricting the development to 2023 would be reasonable, given the necessary financial outlay necessary to enable the implementation of the proposed development.

### **Appraisal of Supplementary Information**

Further to the resolution of the Planning Committee to defer a decision rather than refuse the application for the above reasons, additional information has been received including an updated security report. The updated security report makes it clear that the applicant considers the proposed development would, in its own right, address anti-social behaviour on land in the applicant's control for the following reasons:

*Once the site has been prepared and set up, the nuisance visitors to the tip will be fully prevented from gaining access to the level plateau on the top of the tip. It is this area that is attractive to motorcyclists, fly-tippers and other visitors. The steep tip slope to the north, which is heavily vegetated and contains much of the wildlife habitat that is of interest, has not suffered from unauthorised activities and thus it is not necessary to prevent access to it from the public footpath – Blackwell Trail - that runs along the line of the disused railway.*

*The presence of on-site 24 hour security for the Application Site should have a deterrent effect on the nuisance users of the remaining plateau land, which is in Ashfield District. Especially during the weekend and during light evenings in the late Spring, Summer and early Autumn, the security guard will be instructed to walk around this adjoining land to monitor its use, which should mean that any criminal or dangerous activities found to be going on can be immediately reported to the local police for action. Such a vigilant approach should have the effect of reducing unauthorised activities, as it becomes known in the community that the perpetrators are likely to be caught.*

*The steep slopes of the tip from the plateau area within Ashfield District are, like those in Bolsover, largely unaffected by nuisance activities, therefore they do not need any additional security.*

The updated ecology report contains a thorough assessment of the ecological value of land at the former Blackwell Tip and acknowledges that the proposed development will result in the loss of approximately 3.5 hectares of open mosaic habitat. However, land in the applicant's control extends to 13 hectares and an area of approximately 7.7 hectares of habitat could be brought into targeted biodiversity management as a result of the proposed development through agreement of the management plan proposed in the updated ecology report. The report goes on to say that it is considered that no net loss of biodiversity can be achieved

through implementation of this management plan and the key outcomes from the management plan are summarised below:

- *Diversity within and among species and vegetation types would be achieved through management works such as glade creation, coppicing of scrub to open areas of canopy to promote ground flora, diversification of marginal habitats along the stream and pond features, targeted management of grassland to control scrub and promote varied swards of higher diversity, introduction of wildlife boxes for bats and birds, etc;*
- *Long-term viability of species and vegetation types would be achieved through targeted management and monitoring as set out in the above plan. Key negative factors would also be addressed such as reduction of access of motorbikes/4X4 that would reduce damage to key habitat areas, control of invasive species such as Japanese knotweed and extensive areas of bramble scrub to provide open habitats of higher species diversity; and,*
- *Functioning of species assemblages and ecosystems, including ecological and evolutionary processes would be achieved through the positive and targeted management of circa 7.7 hectares of mixed habitats including open mosaic habitats, grassland transition zones, scrub, stream corridor, ponds and woodland providing a range of key habitat types and functioning corridors in the locality.*

### **Consultation on Supplementary Information**

Ashfield District Council – No response to date

Blackwell Parish Council – No overriding objections but seek a condition on any approval of this application whereby no HGV's would be allowed to pass through the adjoining village of Hilcote.

Derbyshire Constabulary – The Force Designing Out Crime Officer says the security report submitted and posted on the 30th of March would seem to address previous comments made during the determination of this application, and withdrawn application 13/00147. The Force Designing Out Crime Officer also says he would be happy to discuss with members [of the Planning Committee] if the report does not address their concerns.

Derbyshire County Council – No objections subject to conditions.

Derbyshire Wildlife Trust – No response to date

### **ASSESSMENT**

#### **Development in the Countryside**

Policy ENV 3 restricts development in the countryside and normally permission is refused for development outside of a settlement boundary unless it is 1) necessary in such a location; or 2) is required for the exploitation of sources of renewable energy; or 3) would result in a significant improvement to the rural environment; or 4) would benefit the local community

through the reclamation or re-use of land. The previous officer report concluded that the current application did not comply with this policy but the updated security report allows a different conclusion to be reached because the re-use of this land would benefit the local community and result in a significant improvement to the rural environment.

In reaching this conclusion, it is important to consider the background information supplied by the Council's Cabinet Member for Health and Wellbeing, which sets out how problems on the site include anti-social behaviour, nuisance vehicles particularly motor cycles, cars including burnt out vehicles and fly tipping and use of air guns from the Berristow lane entrance via County barrier on the West end, which at times has been damaged or left open. In addition, motor bikes, trikes and quads that access the site from the East end via the numerous paths on the embankment end on the Huthwaite side of the tip in Nottinghamshire. There have been numerous joint agency initiatives involving Notts and Derbys Police plus Bolsover District Council and County Council that have not been successful.

In these respects, the proposed 2.5M fence around the site will provide security regarding access from the road on the South side and East grassland. Planting around the perimeter of the storage area will over time discourage access and the 3.75M height of the containers present a challenge. The planted bund on the North and West sides will also overtime present a further deterrent. Although it is not clear why the bund does not cover the North East corner inside the fence, the overall development will have a positive effect on the site overall due to , the 24 hour presence and general activities particularly as currently other than dog walkers: the only visitors are primarily nuisance bikers.

Regarding the effects and possible benefits of the overall scheme relative to the remaining land in the applicants ownership the provisions of 24 X 7 presence, CCTV, sensors, floodlights plus the fence, bunding and gates will certainly provide a deterrent feature . Also restrictions of access points to the East and bunded areas North and West are practical features. The development will remove a large currently wide accessible area for vehicles tending to push ASB and bikes to the East end towards Huthwaite which is more challenging to access.

The Derbyshire Constabulary's Designing Out Crime Officer considers the above measures are represent a full and appropriate response to the issues on site. It is therefore concluded that subject to conditions securing the implementation of the security measures in the updated report and shown on the submitted plans; the proposals would deal with anti-social behavior on land within the application's control and this would give rise to sufficient benefits to the local community and a sufficient improvement to the amenities of the surrounding rural environment to be able to conclude the proposals are compliant with saved Local Plan policy ENV3.

### **Landscape and Visual Impact**

It has been acknowledged in the previous reports and the proposed boundary bunds and landscaping would mitigate the visual impacts of the proposed development to some extent. However, the nature of the proposal (storage containers, caravans, works to the driveway and bunds and security fencing and security lighting) would materially alter the character and appearance of this site that would still be visible in the wider landscape, especially from longer views from elevated positions generally to the north. In those views the development

would form an isolated and intrusive feature in the landscape contrary to the requirements of policy GEN1 and GEN2.

It is considered the supplementary information does not resolve this issue but the issues are now much more finely balanced taking into account the benefits of reducing anti-social behaviour and the management plan for land in the applicant's control, which taken together could result in an overall improvement in terms of the environmental quality of the local area. It also has to be taken into account that any permission for the current application will need to be subject to a temporary consent that would expire in 2023 because of the current HS2 proposals. This means that the visual impact of the proposals would be strictly time-limited if HS2 were to go ahead and this consideration helps to mitigate the impact of the development on the surrounding landscape.

### **Ecology**

The updated ecology report presents a management plan for land in the applicant's control that is considered by officers to provide a range of appropriate and highly beneficial outcomes in terms of conserving and enhancing biodiversity. Although around 3.6 hectares of species rich habitat would be lost, the updated ecology report presents a convincing case that there would be no net loss of biodiversity if the proposed management plan was implemented. There would also be positive and targeted management of circa 7.7 hectares of mixed habitats including open mosaic habitats, grassland transition zones, scrub, stream corridor, ponds and woodland providing a range of key habitat types and functioning corridors in the locality. It is therefore considered that officers previous concerns about the impact of the development on an important site for wildlife has been adequately addressed subject to securing implementation of a management plan by way of an appropriate planning condition.

### **HS2**

The site is located within the safeguarding corridor for HS2, which means that HS2 have no overriding objections to the proposals subject to any approval for the current application being limited to a temporary consent for seven years. Officers remain concerned that a temporary condition of this nature would be unreasonable because of the capital investment required to implement any permission for the current application for this limited time period. However, the applicant has confirmed that they are willing to accept the risk that any temporary consent granted for the current application might not be renewed. It is also considered that HS2 must also consider that the applicant would be implementing the permission at his own risk otherwise they would have recommended refusal.

Nonetheless, a temporary consent also gives the Council opportunity to give the development a 'trial run' insofar as the severity of landscape and visual impact of the proposed development is highly contended by the applicant. By granting a temporary consent, the impact of the development on the amenity of local area and the efficacy of the management plan can be reviewed in 2023 if the HS2 proposals did change in the future and the applicant wished to renew any approval for the current application. In summary, this means that the consent may not necessarily be renewed if the visual impact of the development was considered to result in unacceptable harm to the surrounding landscape, or additional mitigation measures could be sought if additional landscaping or a revised management plan

for ecology was required.

It is therefore considered that the condition required by HS2 restricting the development to 2023 would not necessarily mean that permission for the current application should be refused now that the issues of ecology and site security have been properly resolved.

### Other Matters

Based on a Coal Mining Risk Assessment submitted with the planning application, The Coal Authority has recommend the inclusion of a planning condition on any consent granted requiring the location of the mine entry on the northern edge of the site to be plotted and its resultant zone of influence identified. The mine entry zone of influence as it extends into the application site should be required to be fenced to prevent any encroachment into this area and no works, including storage or bunds, should be carried out and the fencing retained for the life of the development.

In respect of contamination, the Environmental Health Officer has advised that additional survey work is required over that already undertaken, but has raised no objection subject to the inclusion of a condition to require such additional work and any necessary mitigation in respect of any contamination identified. There are no other issues relating to flood risk or the risk of dirty water run-off providing the development is carried out in accordance with the submitted plans and details of surface water drainage are submitted to and approved by the Council.

In terms of highway safety, earlier this year, revised details were submitted clearly showing the extent of alterations to the junction and access track, including widening of the first 200m of the track, tapering from 10m at the junction down to 8.7m 200m into the site, reverting to the existing track after that. Two passing bays are proposed approximately 300m and 475m along the track. The additional access information has satisfied the concerns of the Highway Authority that has withdrawn its earlier objections and has recommended conditions accordingly. In this case, officers are satisfied a negatively worded condition would be appropriate to secure the necessary safe and suitable access arrangements noting that the ownership of some of the land affected by the proposals to alter the access and track from Berristow Lane continues to be disputed.

In terms of the potential impacts of additional traffic passing through Hilcote, officers would agree that further vehicular movements through the village would be undesirable in amenity terms and highway safety terms. In these respects, it is considered that submission and agreement on a travel plan with the objectives of directing large vehicles in the direction of the A38 should help address the concerns of the Parish Council and reduce the impact of the proposed development on the local community. In all other respects, the proposed development would have no significant impact on the amenities of the nearest residential properties, which are a minimum of 500m away from the application site.

In this case, it is not considered that there are any other relevant planning considerations that would otherwise indicate the current application should now be refused. The current application also does not give rise to any specific issues relating to equalities or human rights.

## **Conclusions**

In conclusion, it is considered that conditions securing implementation of the security measures highlighted in the updated security report and the mitigation measures set out in the ecology report would ensure that the proposals would comply with ENV3 and would not have led to a net loss of biodiversity. It is also considered that a temporary consent could be looked at more favourably with particular regard to the opportunity to give the proposed development a 'trial run' and re-evaluate mitigation measures if HS2 does not go ahead, or in view of the likelihood that any harmful impact of the proposed development would be relatively transient and short term. In these respects, the supplementary information submitted by the applicant had addressed the principal concerns raised by officers previously.

All other matters that might affect the acceptability of the proposed development can be dealt with by appropriate conditions including land stability issues, potential contamination of the land, surface water drainage, and access arrangements and transport impacts. It is not considered that there are any other relevant planning considerations that would otherwise indicate the current application should now be refused. Accordingly, the current application is recommended for conditional approval.

## **Recommendation:**

**The current application be APPROVED subject to the following conditions provided 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):**

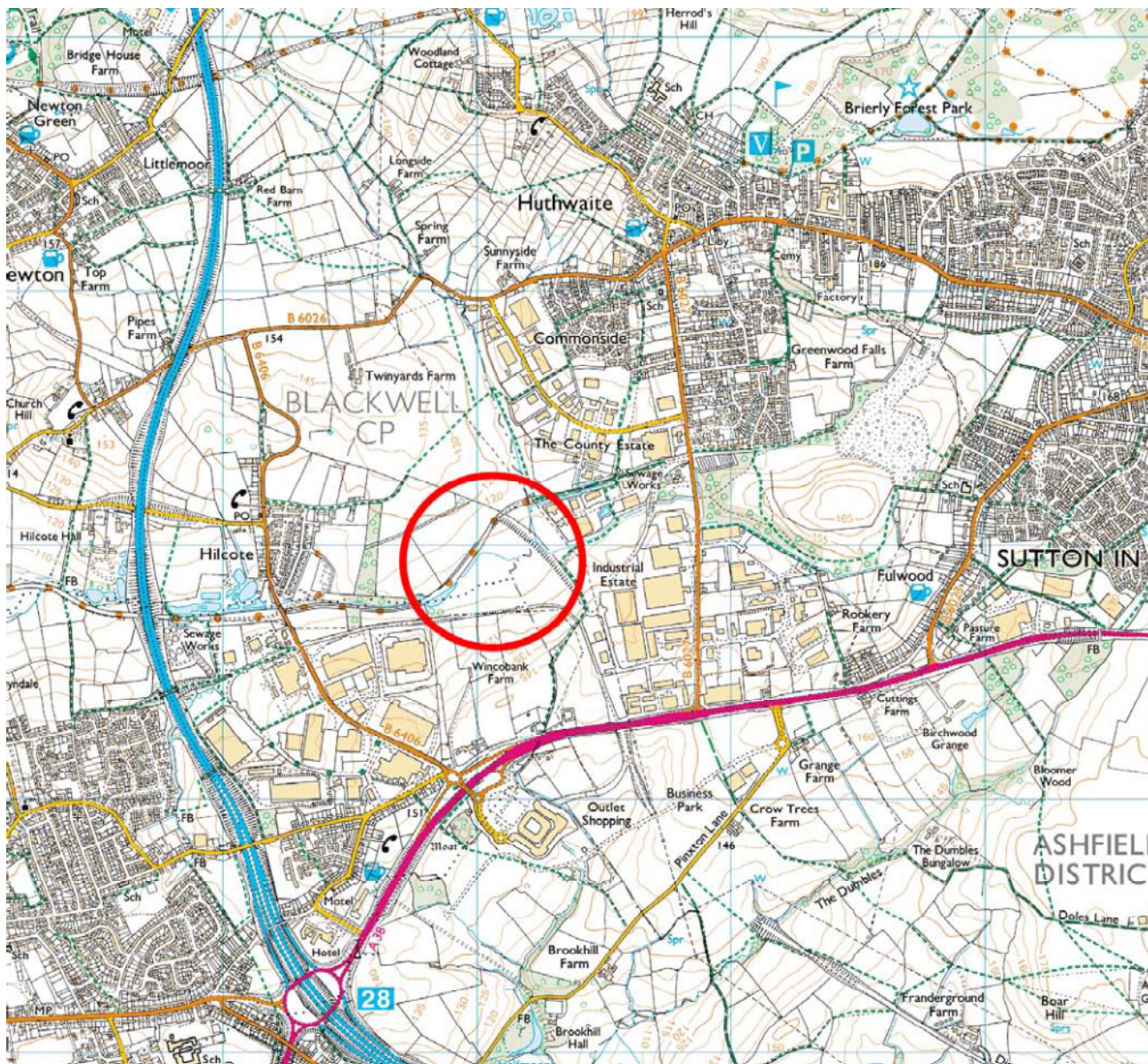
- 1. Temporary Consent (expiry 2023)**
- 2. To be carried out in accordance with submitted plans**
- 3. No development shall take place until precise details of coal mining risks and land contamination have been submitted to the local planning authority and all approved remediation measures to be implemented prior to commencement of the proposed use of the site.**
- 4. No development shall take place until precise details of surface water drainage and disposal of foul water has been submitted to the local planning authority and the approved scheme to be implemented prior to commencement of the proposed use of the site.**
- 5. No development shall take place until a landscape and ecology management plan has been submitted to the local planning authority and the approved plan to be implemented in accordance with agreed schedule thereafter.**
- 6. Prior to commencement of the proposed use of the site for storage, a transport plan shall be submitted, the approved plan to be implemented in accordance with an agreed schedule thereafter.**
- 7. Prior to commencement of the proposed use of the site for storage, all proposed security measures shall be carried out in accordance with the submitted details.**
- 8. Prior to commencement of the proposed use of the site for storage, all proposed access improvements shall be carried out in accordance with the submitted details.**

## **Statement of Decision Process**



The Council has worked positively and pro-actively with the applicant requesting the additional information and revisions to the application needed to ensure the proposals meet the requirements of the relevant policies in the Development Plan and the National Planning Policy Framework.

## Site Location Plan



**APPENDIX:  
OFFICER REPORT TO PLANNING COMMITTEE HELD ON 8 FEBRUARY 2017**

**PARISH** Blackwell

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**APPLICATION** Change of use to an Open Storage Yard (B8) with access from Berristow Lane, siting of portable building and gatehouse, erection of boundary fences and formation of screen mounds and associated works including improvements along access road

**LOCATION** Former Blackwell Tip 500M North East Of Amber Park Berristow Lane  
Berristow Lane Industrial Estate South Normanton

**APPLICANT** Mr Paul Leverton

**APPLICATION NO.** 14/00188/FULMAJ                      **FILE NO.**

**CASE OFFICER** Mr Peter Sawdon

**DATE RECEIVED** 4th April 2014

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This planning application was originally reported to the Planning Committee on the 14<sup>th</sup> January 2015 and recommended for refusal of planning permission. The matter was deferred by the Planning Committee pending exploration of access provisions to Berristow Lane, to include detailed surveyed drawings along the full length of the access road to the site and installation of the green route.

The original report is included in italics below, with details regarding additional submissions, additional publicity, and further assessment included below that, including the discussion of the planning considerations relating to the recently announced HS2 route that passes through this site.

**SITE** *The site area of the planning application extends to approximately 3.6hectares in size, including the access track. The site rises gently in an easterly direction; from its lowest point at the access the site rises by approx. 4m.*

*The Application Site sits within a former railway clinker and ballast tip, which is bounded by open fields to the north and south, with existing industrial developments generally to the south west and east. The nearest residential development is 500m to the northwest. A Trail/Cycle path (former railway line), runs to the north west of the Application Site. The northern section of the main part of the application site is bordered largely by woodland and scrub.*

*The site is generally a plateau of unmade ground formed by discarded railway materials. Along the plateau's northern, southern and western boundaries are steep slopes down to surrounding agricultural land. The eastern boundary of the Application Site is drawn along the Bolsover and Ashfield District Council's administrative boundary.*

*There is an existing rough access track that leads to the main site from Berristow Lane to the west. This is currently closed with a low metal gate.*

*The application indicates that the site is located on the non-statutory designated Cambro Tip and Lane Potential Wildlife Site (PWS). The New Hucknall Disused Railway Site of Interest*

for Nature Conservation (SINC) is located to the east of the application site. The proposed development will not extend over the area of the New Hucknall SINC. The sites are designated for their grassland, woodland, scrub and wetland habitats. Adjacent to the eastern boundary is New Hucknall Sidings (SINC). This area has also been designated for its grassland communities and watercourse (brook) and is separated from the Application Site by a large bank. The Brierly Forest Park site is the closest statutory designated site. The site is a designated Local Nature Reserve (LNR) and is designated for its habitat and wildlife value and is located 1.8 Km to the north of the Application Site.

**PROPOSAL** This is full planning application for the change of use of land from former railway tip to a (B8) open storage area. It is stated that the site would only be used for the storage of caravans and also 'lock and leave' style storage, in shipping style containers, that would have a permanent security presence. The application form also refers to the site being used for the storage of goods similar to new vehicles and products manufactured in the local area; the only machinery on site being a forklift truck. Whilst security would be present 24hours general operating times would be 8am to 6pm (Planning Statement) or 6am to 10pm (application form)

The proposed development primarily consists of the re-grading of the existing material on the site, the provision of a parking area, gatehouse and portacabin erection of secure boundary treatment (2.5m high), CCTV, low level LED lighting and drainage. A concrete area would be provided at the point where the main site is entered from the access track.

The surface is proposed to be re-graded so that appropriate drainage infrastructure and a level storage surface can be provided. The surface would be laid with the recovered hardcore material, which will be subject to screening and washing.

The LED lighting would be movement activated (by the breaking of a beam). The low-level and zonal manner of the lighting is stated to prevent light spill onto the surrounding area.

It is stated that the site will be separated from the surrounding land with ecological interest by a perimeter bund to be constructed around the northern and western boundaries. It will minimise visual impact of the development. The bund will be constructed from surplus material obtained after the re-grading of the surface, and will be 3m in height. The bund will be landscaped once constructed.

It is stated that it is anticipated that the majority of caravans will be delivered to the site by individual users. The estimated capacity is 700-800 caravans.

The 'lock and leave style' storage would comprise adapted steel shipping-style containers measuring 12m long by 3.5m wide by 3.75 m tall. It is stated that 100 containers would be transported to the site during set up operations for the proposed storage use that would be laid out around the perimeter of the site. It is stated that the side by side positioning of the containers will provide additional security as they, in conjunction with a mix of bunding, planting and security fencing, will form the Application Site boundary.

This application is the resubmission of planning application 13/00147/FULMAJ, which was withdrawn on 23rd July 2013. It is stated that the application now solely relates to the area

*within the administrative boundary of Bolsover District Council; the earlier withdrawn planning application formed part of a larger scheme that included land within Ashfield District Council. It is stated that there are no plans to develop the area of land that sits in Ashfield and that the reduced site area will enable valued biodiversity assets to be retained.*

*The access road will be retained as existing, in terms of its location and its junction with the B6406 Berristow Lane. The existing junction will be concreted for a 10m section along the access track in order to provide a durable surface to withstand HGV movements. The track will then be surfaced with grade 1 hardcore material along the remainder of its length to the concreted entrance point. The access track is shared with the existing bridleway. The track will be extended (widened) to the south through filling the adjacent ditch, to be provided with drainage and to provide space for segregation of traffic and bridleway users; to create this separation, railway sleepers will be laid along the length of the track.*

*It is indicated that ecological enhancements would be provided as follows: -*

- The development will incorporate ecological enhancements in the form of a Great Crested Newt pond, and a planted earth bund to be located to the north of the development area.*
- There will also be 10 Great Crested Newt hibernacula provided within the wider land ownership area.*
- The development will also enable the retention and management of the ecological assets at Blackwell Tip outside the Application Site.*

#### **AMENDMENTS**

- Highway Impact Statement Addendum submitted on 23rd June 2014;*
- Further Biodiversity information submitted on 14th July 2014;*
- Response to Highway Authority and Derbyshire Wildlife Trust comments submitted on 13th August 2014; and*
- Response to planning issues dated 25th November 2014.*

*For information, Members may wish to note that the applicants in their submission on the 14<sup>th</sup> July has indicated that “In the event that the site is sterilised due to its wildlife interest, the applicant will have no alternative but to serve a Purchase Notice under the Town and Country Planning Act 1990 on the basis that ‘the land is incapable of reasonably beneficial use’.”*

*The Purchase Notice regime is contained within the Town and Country Planning Act 1990 (As Amended), but is considered to be a separate process to the consideration of this planning application. For the Council to have to accept the notice, then the applicant would have to demonstrate that the land is incapable of beneficial use.*

#### **HISTORY**

- 13/00147/FULMAJ – This similar planning application for change of use to an Open Storage Yard (B8) was withdrawn on 22<sup>nd</sup> July 2014.*
- An associated planning application to 13/00147/FULMAJ within the adjacent Ashfield District Council (ADC Ref. (ref V/2013/0197) on the area to the east was refused planning permission by that Council on the basis of the development being contrary to policy EV2 ‘The Countryside, policy EV6 ‘Local Nature Reserves .....’ and general impact upon biodiversity.*
- 06/00622/DCCON4 – Bolsover District Council was consulted by the Mineral Planning Authority (Derbyshire County Council) on a proposal to change the use of a former railway tip*

to provide facility for the storage and shredding of biodegradable waste and storage and chipping timber waste, including the erection of a building (DCC reference CW5/1006/109). This application was not progressed through to a decision.

- 97/00131/DCCCON – Derbyshire County Council granted itself planning permission on 21<sup>st</sup> August 1997 to reclaim and change the use of the former mineral branch railway and sidings to enable the creation of a recreation route for pedestrian, pedal cycle, equestrian and disabled use by members of the public. Part of that approved line runs along the line of the proposed access that forms part of this planning application.

- There is no other apparent planning history relating to this site prior to this date, although it is understood that the land had been used as a landfill tip by British Railways from 1959-1986 where deposits of waste comprising of inert waste from construction/demolition operations was tipped.

**CONSULTATIONS** Natural England – No objection in respect of statutory nature conservation sites based on submitted information. Refers to its standing advice in respect of protected species and discusses consideration of the potential for biodiversity and landscape enhancements. 25/4 (N.B. Had previously stated on earlier withdrawn planning application that the development is likely to affect Great Crested Newts, but were satisfied that avoidance or mitigation measures proposed would be sufficient to maintain the favourable conservation status of the species and requested a condition)

Crime Prevention Design Advisor – Recommends amendments in the interests of crime prevention along with a condition requiring a security measures 8/5

Coal Authority – No objections subject to the imposition of a condition to locate a mine entry and its resultant zone of influence and to fence off that area to prevent encroachment and works within that area. 9/5

Archaeologist - Satisfied that the proposals will have no archaeological impact. 28/4

Environment Agency – No objections subject to conditions 23/5

Environmental Health Officer –Some concerns over the extent of the submitted information in respect of contamination, but raised no objections subject to conditions 7/7

Environmental Health Officer (Noise) – No objections in principle to the proposal in relation to noise issues 27/6

DCC (Highways) – Re-iterates its previous comments and again recommends refusal of planning permission 16/5 and 22/7; confirmation that the highway position hasn't changed as a result of further submissions made 30/9 Re-confirmation that the highway position hasn't changed as a result of further submissions made 27/11

Derbyshire County Council (Flood Risk Management Team) – Have not provided specific comments on this proposal but provide general advice on flood risk issues 12/5

Derbyshire County Council (Countryside Section) – Affects strategic link in the County's Greenway Network that connects the Blackwell Train with the Trail network in Nottinghamshire. Doesn't make provision for a safeguarded route for the development of the Greenway (segregated route). Would prevent future development of the Greenway network. 2/6

Blackwell Parish Council – Refused – Traffic issues – more HGV's on Berristow Lane

Ashfield District Council – Objects on the grounds of unacceptable encroachment into an important open break that is not considered to be outweighed by any economic benefits of the scheme, and harm to biodiversity interests. No consideration of ecological impact from surface water run-off. Greenfield run-off rate should be secured. Further detail on HGV routing should be provided. 2/6

Derbyshire Wildlife Trust – Object. Site supports substantive nature conservation interest, including at least 9 UK BAP priority species. Some areas of survey work are either limited or have not been carried out. Loss of UK BAP priority habitat, impacts on priority species and ecology network have not been sufficiently resolved. Consider application should be refused as it does not accord with NPPF paras 109 and 117-118, as there will be a net loss of biodiversity and adverse impacts to the proposed ecological network. Applicant has not presented evidence that alternative sites have been considered. 2/6 & 22/7

**PUBLICITY** By press advert, site notice and 2 neighbour letters. A letter of representation has been received from a nearby business, along with several letters that have been received from the owners of land adjoining the site to the north. These letters raise the following issues: -

The existing access road would seem inadequate to both the HGV's, required to develop the land, and also for any movements of caravans on and off the site. The writer would need assurances that any improvement to the access road would not have an impact on their property which lie on both sides of this road. The applicant suggests that there would be no need to straddle the centre of the road except during the development phase. The writer would suggest that the movement of caravans would also require the full width as they negotiate the entrance to the access road. The entrance is almost adjacent to the existing entry to the writer's site on Berristow Lane and they have concerns that this development could cause congestion on Berristow Lane.

Concerns regard the items to be stored on the site given the sensitive nature of the goods stored within writer's existing warehouses. Any suggestion that pollutants, either water or air borne, could spread to those premises would be catastrophic to the business. Concerns that the site could become any area where toxic goods are stored and then subsequently incinerated.

Access to the new storage yard would mean removal of security barriers at the end of the private track on to Berristow Lane; this could encourage fly tipping, access by travellers & general nuisance by motorised vehicles. Would Mr. Leverton take responsibility for any clean up or legal actions required?

It is our belief the land we own is grade 5 agricultural & only fit for grazing purposes, which is why the previous owner had cattle in the field & why we have put horses on it, so comments made by Mr. Leverton about increased pedestrians, horses etc. are quite tenuous as cattle have been moved up & down the lane since this change of use. Surely the most sensible option for Mr. Leverton would be to access his site from Export Drive at the Huthwaite end of his property, as the roadways are already in place from an industrial estate.

Two of the proposed "Passing Bays" look like they cross the boundary to the adjacent property that is owned by the writer who requires unobstructed access at all times; feel the position of this bay would interfere with this, along with the pedestrian & equestrian traffic which uses the trail. (Following confirmation that the land is owned by that writer and formal notice being served on them) the owner of that land has indicated that they do not give consent as landowners to the applicant to use their land for the purposes of the development and passing bays.

## **POLICY**

*Bolsover District Local Plan (BDLP): Policies GEN1 (Minimum Requirements for Development); GEN2 (Impact of Development on the Environment); GEN4 (Development on Contaminated Land); GEN5 (Land Drainage); GEN6 (Sewerage and Sewage Disposal); GEN8 (Settlement Frameworks); GEN11 (Development Adjoining the Settlement Framework Boundary); TRA1 (Location of New Development); TRA10 (Traffic Management); TRA12 (Protection Of Existing Footpaths and Bridleways); Policies CON13 (Archaeological Sites and Ancient Monuments); ENV3 (Development in the Countryside); ENV5 (Nature Conservation Interests throughout the District) and ENV8 (Development Affecting Trees and Hedgerows).*

*National Planning Policy Framework Paragraph 14 of the NPPF sets out a presumption in favour of sustainable development that for decision-taking where the development plan is absent, silent or relevant policies are out-of-date, granting permission unless: -*

*Any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the framework taken as a whole; or specific policies in the framework indicated development should be restricted.*

*Paragraph 17 lists several core planning principles, including that planning should: Proactively drive and support sustainable economic development to deliver the homes, business and industrial units, infrastructure and thriving local places that the country needs. Always seek to secure high quality design and a good standard of amenity for all existing and future occupants of land and buildings.*

*Contribute to conserving and enhancing the natural environment and reducing pollution.*

*Encourage the effective use of land by reusing land that has been previously development (brownfield land), provided that it is not of high environmental value.*

## **ASSESSMENT**

*The main considerations regarding this planning application are the principle of development outside of the defined settlement framework, the impacts on the character and appearance of the area, highway safety, ecology and amenity considerations.*

*In accordance with the National Planning Policy Framework paragraph 215, due weight can be given to relevant policies of the Bolsover District Local Plan, according to their degree of consistency with the National Planning Policy Framework. (The closer the policies in the Plan are to the policies in the Framework, the greater the weight that may be given).*

*The site is outside of the defined settlement framework where in accordance with policy GEN8 (Settlement Frameworks), general open countryside control policies will apply.*

## **PRINCIPLE OF DEVELOPMENT**

*Policy ENV3 states:*

*“Outside planning permission will only be granted for development which:*

- 1. Is necessary in such a location; or*
- 2. Is reused for the exploitation of sources of renewable energy; or*
- 3. Would result in a significant improvement to the rural environment; or*
- 4. Would benefit the local community through the reclamation of re-use of land.*

*Permission will only be granted in such cases provided it is demonstrated that:*

- A. The location of the development outside of the settlement framework is environmentally sustainable; and*

- B. *The proposed development, either individually or cumulatively with recently completed developments and outstanding planning permissions, would not seriously undermine the vitality and viability of existing town and local centres; and*
- C. *The proposed development would not materially harm the rural landscape and avoid unnecessary urbanisation and sprawl;*
- D. *the proposed development would avoid the coalescence of district settlements.*

*In respect of policy ENV3, the development:*

- *Is not considered to require a countryside location, such that it is not necessary to develop for this use in such a location.*
- *Is not for the exploitation of sources of renewable energy*
- *Whilst on brownfield land, has partially naturalised such that it does not form a particularly unsightly feature in the landscape, such that its development for business purposes will not result in a significant improvement to the rural environment*
- *Would result in the re-use of land, although with only limited employment created and no demonstrable need for additional industrial land in the immediate locality, it is not considered to be of any substantive benefit to the local community.*
- *Harm to biodiversity (see later assessment) would weight against environmental sustainability,*
- *Would clearly harm rural landscape by the introduction of built development that is not considered to be of a high quality visual appearance and would urbanise countryside and add to urban sprawl.*
- *Would erode open areas maintained between settlements and does not therefore avoid the coalescence of settlements across District and County Council boundaries.*

*For these reasons the development is considered to be contrary to policy ENV3. However, given the out of date nature of the Bolsover District Local Plan, it needs to be considered whether any adverse impacts of the development would significantly and demonstrably outweigh the benefits, when assessed against the policies in the National Planning Policy Framework taken as a whole; or specific policies in the Framework indicate development should be restricted.*

*In terms of the impacts on the countryside, the site has partly naturalised and in longer views of the site, it blends in to the overall countryside setting and appearance as a result. The NPPF at para.12, discusses recognising the intrinsic character and beauty of the countryside (and supporting thriving rural communities within it). Whilst the proposed boundary bunds and landscaping would mitigate the visual impacts to some extent, the nature of the proposal (storage containers, caravans, works to the driveway and bunds and security fencing and security lighting) would materially alter the character and appearance of this site that would still be visible in the wider landscape, especially from longer views from elevated positions generally to the north. In those views the development would form an isolated and intrusive feature in the landscape contrary to the requirements of policy GEN1 and GEN2. Bunds of sufficient size to adequately screen the size of items stored on the site would in themselves form an unnatural feature in the landscape. Whilst the applicants state that they consider that existing woodland will screen views of the site, this is not considered to be the case and views of the site exist. The applicant also indicates that the perimeter of storage containers could be painted Juniper Green that would contribute to screening the caravans. However, given the extent of the site and the views of it from elevated positions, it is not considered that these*



*features of the scheme would sufficiently mitigate the proposal. Whilst acknowledging the backdrop of industrial developments referred to in the applicants submissions, these do not relate comfortably with the application site and form distinctively separate features in their own right, clearly separated by intervening land that visually and physically separate those industrial areas, and thereby the settlements and district areas that the edges of those industrial areas demarcate.*

*It should also be noted that the proposal is for the use of the land for an open storage yard. As such there would be no limitation on what goods can be stored and the manner in which the site operated. The visual impact could be significantly different from the currently indicated storage units and caravans as could the traffic generated.*

*The nature of the proposals is not considered to demonstrate good design as advocated in planning policy and the NPPF.*

*Whilst the application documents indicate that the site is bounded by industrial developments, this is only the case to the south of the line of the proposed access track. Whilst land to the south of part of the main body of the site was included as a site for large scale industrial developments in the Bolsover District Local Plan, that policy (EMP9 – Employment Site for Large Firms) is not a saved policy. The land is therefore outside of the settlement framework and is open countryside protected from development except farming and forestry. As such, the development of the application site would in fact, form an isolated piece of development that would not relate well to the built form of the nearby industrial development.*

*Even assuming that development were to go ahead on that land formerly allocated for large scale industry, it should also be noted that alongside part of the southern boundary of the site is an area that is allocated as an important open break, designed to maintain an open area between the adjoining settlements to maintain their identities, and also maintain in this case a definable break between settlements adjacent to the County boundary as well. Given that the land on this application site is within open countryside in planning policy terms, there would have been no need to extend that open break designation at the time that the Bolsover District Local Plan was drafted and adopted. The need to retain settlement separation and identity is considered important and it is considered that this proposed scheme would not sufficiently achieve this given the amount of land proposed to be developed.*

*Whilst noting the proactive nature of the NPPF in terms of supporting sustainable economic growth, the proposal would not generate large employment levels and as such, the economic benefits of the scheme are limited. Given the large amount of consented land in the vicinity of the planning application site, most notably on the Castlewood Business area that is within both Bolsover and Ashfield District areas, the weight that can attributed to any economic activities associated with this proposal are considered to be limited.*

### **ECOLOGY/BIODIVERSITY**

*The application includes an Arboricultural and Ecological Assessment and the Derbyshire Wildlife Trust has provided advice in respect of those documents and has advised that in its opinion, planning permission should be refused in respect of this issue.*

*The Trust concludes that the site supports substantive nature conservation interest and*

*supports sufficient habitat diversity and floristic diversity to meet at least two selection guidelines (post-industrial grassland and open mosaic habitat). This has to some extent been recognised by the ecological report as they have also concluded that the site meets Local Wildlife Site (LWS) selection guidelines.*

*The site supports populations of at least nine UK BAP priority species including great crested newt, grass snake, dingy skipper, small heath, cinnabar, yellowhammer, linnet, song thrush and reed bunting. Other notable features include a significant population of narrow-leaved everlasting pea (*Lathyrus sylvestris*) a Derbyshire Red List plant classed as Locally Scarce. There are only two other possible sites in Derbyshire where this plant has been found since 1986. Whilst the ecological report has identified some of these species features (notably great crested newt and grass snake) it has not fully evaluated the value of the site for birds and invertebrates and as such the impact on these groups has not been fully assessed. These species features may also be a sound basis for LWS designation.*

*Much of the ecological focus at this site has been on great crested newt and the reports indicate that the mitigation strategy proposed for this species is acceptable to Natural England. The applicant will need to apply for a licence from Natural England to proceed with the work.*

*However, the outstanding issue that has not been fully resolved is the loss of 3.5 ha of UK BAP priority habitat (open mosaic habitat on previously developed land), impacts on the associated priority UK BAP and Red List bird species and impacts on the proposed ecological network in this part of Bolsover comprising an important green corridor and connection with Nottinghamshire.*

*Assumptions made in the ecological assessment and Biodiversity Planning Statement regarding impacts on other species including dingy skipper and birds are not substantiated by any data and in Derbyshire Wildlife Trust's view under-estimate the impacts.*

*The Trust do not consider that the semi-natural habitats in Nottinghamshire or the habitats found along the Blackwell Trail will support the same assemblage of species as the area that will be lost by the development. The Nottinghamshire habitats include areas of wetland, rough grassland and marsh and only small areas of open mosaic habitat.*

*The Trust note that on the Nottinghamshire side both of the Sites of Importance for Nature Conservation (equivalent to Local Wildlife Site in Derbyshire) have been reduced in size due to development in the past 10 years or so. New Hucknall Disused Railways has lost 5.29 ha (38%) and New Hucknall Sidings Grasslands has lost 10.69 ha (78%) respectively. Collectively almost 60% of these two sites have already been lost to development.*

*The additional loss of 4 ha of some of the best remaining habitat will severely reduce the overall value and linkages between these sites.*

*In conclusion The Trust advise that the application should be refused as it does not accord with NPPF (para 109, 117 – 118) as there will be a net loss of biodiversity and adverse impacts to the proposed ecological network including across local authority boundaries. In addition the applicant has not presented any evidence that alternative sites have been*

considered.

### **OTHER AMENITY IMPACTS**

*The nature of the proposal and proximity of the site to nearby residential properties is such that no harmful impacts are likely to result to the amenities of residents from the proposals. No objections have been raised by the Environmental Health Officer.*

### **HIGHWAY ISSUES**

*The Highway Authority has objected to the proposal. It refers to its objection to the previous withdrawn application and state that the current application involves a smaller area of land and the applicant encloses a letter referring to a previous use on the site. However, the land currently has no planning use, being described in the application as vacant on the application form and, as such, the Highway Authority consider that it would not generate any significant level of traffic movements. Approval of the proposal would result in the introduction of vehicular movements at the junction of the access track and Berristow Lane and an increase in the use of the track itself, all the detriment of highway safety. Therefore, for the reasons contained in the earlier letter dated 24 June 2013, refusal of the application is recommended. Those reasons included:*

- *the intensification in use of a junction, the geometry of which would result in inappropriate turning manoeuvres whereby left-turning vehicles entering or leaving the site would regularly cross the centre-line into the opposing carriageway on Berristow Lane and the bell mouth of High View Road prejudicial to the safe and free flow of traffic on a busy classified road and industrial estate road junction and the applicant is not in control of land at the junction on which to make the required improvements.*
- *The access is gated and vehicles would be forced to wait on the adjacent busy classified road causing an obstruction for overlong periods of time whilst awaiting the gates to be opened prejudicial to the safe and free flow of traffic on a busy classified road. The applicant is not in sole control of the gates (and the suggestion that they will be relocated back from the highway cannot be guaranteed- although in the Planning Statement para 3.6.18 it is stated that the applicant does have full control over the gates).*
- *The track is not wide enough for two-way traffic and a segregated route for pedestrian/cyclist/equestrian traffic along its entire length and the proposed passing places are too far apart leading to potential sudden braking manoeuvres within the public highway, vehicles reversing out onto Berristow Lane and/or overlong reversing manoeuvres within the track prejudicial to the safe and free flow of traffic on a busy classified road and leading to pedestrian/cyclist/equestrian and vehicular conflict within the track. The applicant is not in control of land at the junction or adjacent to the track on which to make the required improvements.*

*On the latter point it is worth noting the comments of the owner of the land over which consent would be needed to provide the proposed passing bays, who have stated that they are not prepared to agree to such a use of their land. Consideration could be given to a "Grampian" style condition to address this issue. In this case, however, it is considered that there appears to be little chance of the applicant being able to secure compliance and therefore such a condition would not be effective in delivering an acceptable scheme.*

*The supporting information (Planning Statement para 1.3.13) also states that an existing ditch*

would need to be culverted to form the segregated route; this appears to be outside of the application site (detailed plans of the whole length of the roadway and segregated path have not been requested in view of the other issues being raised).

Given the Highway Authority's concerns it is considered that the proposal would be harmful to highway safety interests, contrary to the requirements of policies GEN1 and GEN2 insofar as they relate to highway matters.

The Highway Authority has also drawn attention to the fact that the site is affected by the initial preferred route of the Birmingham to Leeds section of HS2. However, this has no weight in planning terms at the present time and is not therefore a material planning consideration in the determination of this planning application.

Derbyshire County Council Countryside section has raised comments in respect of the access track, including comments about that Council's ownership and its use by the public, despite it not being a designated right of way. It states that the proposal affect a Strategic Link in the County's Greenway Network that connects the Blackwell Trail with the Trail network in Nottinghamshire and that the proposed route of the link utilises the majority of the existing access track and through the applicant's landholding. It states that the application makes no provision for safeguarding the green way route. Notwithstanding this comment, the proposed Greenway has no planning policy basis and as such cannot be afforded any significant weight in the consideration of this application. An alternative route is currently available approximately 150m to the north of the application site track that links Berristow Lane to the industrial areas in Nottinghamshire. Also Derbyshire County Council has not secured any rights over the main body of the application site that is in the ownership and control of the applicant's, who have clearly indicated an unwillingness to permit such an access. On this basis it is not considered that this issue raises any material planning issues of weight in this case.

### **CRIME AND DISORDER**

The Crime Prevention Design Advisor has advised that having reviewed the above application and noted the comments made in the previous application 13/00147, he would support as earlier recommended security measures in relation to CCTV, lighting and a security plan which I would ask is made a condition if approval is granted. His one concern is that the site layout drawing shows the containers positioned against the boundary fence which not only provides cover for anyone attacking the site but also aids in breaching the boundary fences integrity by creating a natural ladder. He therefore recommends that the containers are positioned at least 5 metres away from the boundary to prevent security being breached. As this is a remote location he also recommends that the security fencing is at least to a standard of LPS 1175 level 3. The applicant indicated a willingness to comply with the requirements of the Crime Prevention Design Advisor and had indicated that a revised plan would be submitted, however, this has not been received. Notwithstanding that point, it is considered that if permission were to be given, conditions could be included to address this point, such that there are no objections to the proposal from a crime prevention perspective.

### **Other issues**

As the site is included in the Derbyshire Historic Environment Record, the Archaeological Advisor has been consulted who has stated that he is satisfied that the proposals will have no

archaeological impact. The proposal is therefore considered to comply with the requirements of policy CON13 (Archaeological Sites and Ancient Monuments) in this respect.

Based on a Coal Mining Risk Assessment submitted with the planning application, The Coal Authority has recommend the inclusion of a planning condition on any consent granted requiring the location of the mine entry on the northern edge of the site to be plotted and its resultant zone of influence identified. The mine entry zone of influence as it extends into the application site should be required to be fenced to prevent any encroachment into this area and no works, including storage or bunds, should be carried out and the fencing retained for the life of the development.

The Environment Agency has raised no objections to the proposal subject to conditions and advisory notes relating to the contamination identification and control where necessary.

Also in respect of contamination, the Environmental Health Officer has advised that additional survey work is required over that already undertaken, but has raised no objection subject to the inclusion of a condition to require such additional work and any necessary mitigation in respect of any contamination identified.

## **CONCLUSION**

On balance there are considered to be substantive reasons in terms of countryside impact, ecology impact and highway safety impact why this proposal fails to comply with policies of the adopted Bolsover District Local Plan and for the same reasons it is not considered to represent sustainable development in terms of national planning policy contained in the NPPF. In considering the NPPF regard has been had to the potential economic benefits of the scheme, but these are considered to be minor and do not outweigh the likely harm arising from this development. In view of this it is recommended that planning permission be refused.

## **Other Matters**

Listed Building: N/A

Conservation Area: N/A

Crime and Disorder: See assessment

Equalities: No significant issues arise

Access for Disabled: No significant issues arise

Trees (Preservation and Planting): See assessment

SSSI Impacts: N/A

Biodiversity: See assessment

Human Rights: No significant issues arise

**RECOMMENDATION** REFUSE permission for the following reasons:

1. The proposal is contrary to adopted Bolsover District Local Plan Policy ENV3 (Development in the Countryside) which identifies that permission will only be given for appropriate development in the countryside and the proposal that are the subject of this planning application are not considered to satisfy those criteria.
2. The proposal would form an isolated and intrusive feature that would adversely affect

*the landscape, character and openness of the countryside and would not integrate with existing development forms and the form of the development is not considered to be good design, contrary to the requirements of policy GEN1(4) and GEN2(1) of the Bolsover District Local Plan and the National Planning Policy Framework Part 7 'Requiring Good Design', paragraph 58. It would also impact on the open area between settlements in both Derbyshire and Nottinghamshire, eroding their separate identities.*

*3. The proposal is contrary to be contrary to Bolsover District Local Plan Policy ENV 5 in that there will be a net loss of biodiversity and adverse impacts to the proposed ecological network including across local authority boundaries. Insufficient survey information has been submitted to fully determine all impacts on biodiversity and the application does not demonstrate that alternative sites have been considered. Whilst some mitigation measures are proposed these do not address all the possible impacts identified. This is also considered to be contrary to Part 11 of the NPPF: 'Conserving and Enhancing the Natural Environment' paragraphs 109 & 118) by virtue of the failure to minimise impact on biodiversity.*

*4. Approval of the proposals would result in the intensification in use of a junction with the public highway (Berristow Lane), the geometry of which would result in inappropriate turning manoeuvres whereby left-turning vehicles entering or leaving the site would regularly cross the centre-line into the opposing carriageway on Berristow Lane and the bell mouth of High View Road prejudicial to the safe and free flow of traffic on a busy classified road and industrial estate road junction. The applicant is not in control of land at the junction on which to make the required improvements.*

*5. The access is gated and vehicles would be forced to wait on the adjacent busy classified road causing an obstruction for overlong periods of time whilst awaiting the gates to be opened prejudicial to the safe and free flow of traffic on a busy classified road. The applicant is not in sole control of the gates and therefore cannot guarantee that they could be set back sufficiently to address this issue or that they can be left open at all times the site is in operation.*

*6. Additionally the track is not wide enough for two-way traffic and a segregated route pedestrian/cyclist/equestrian traffic along its entire length and the proposed passing places are too far apart leading to potential sudden braking manoeuvres within the public highway, vehicles reversing out onto Berristow Lane and/or overlong reversing manoeuvres within the track prejudicial to the safe and free flow of traffic on a busy classified road and leading to pedestrian/cyclist/equestrian and vehicular conflict within the track. The applicant is not in control of land at the junction or adjacent to the track on which to make the required improvements.*

### **Statement of Decision Process**

*The Council has maintained a dialogue with the applicants and enabled the submission of additional information to seek to address concerns raised. Detailed plans of the access road alterations have not been sought in view of the likely concerns arising in relation to the proposal. The Council has considered the status of the Bolsover District Local Plan and considered whether any adverse impacts of the development would significantly and demonstrably outweigh the benefits, when assessed against the policies in the National Planning Policy Framework taken as a whole; or specific policies in the Framework indicated*

*development should be restricted. However, it was concluded that insufficient benefits arose to outweigh the concerns contained in the reasons for refusal.*

#### **ADDITIONAL INFORMATION RECEIVED SINCE THE CONSIDERATION OF THE PLANNING APPLICATION BY PLANNING COMMITTEE IN 2015:**

- E-mail dated 13<sup>th</sup> March 2015 showing measurements along the access track.
- E-mail dated 9th May 2016 and accompanying documents including: junction improvement plan; plans to demonstrate that the improvements are included on land either in the planning application site or within the public highway; and copies of deeds and conveyance to show that the applicant has a right to make the improvements on the Derbyshire County Council owned land.
- E-mail dated 4th July 2016 with an updated plan showing two proposed passing bays along the access track “of sufficient size to accommodate the HGV vehicles that will deliver the containers to the site and thus appropriate to service all aspects/phases of the development.”
- E-mail dated 10th November 2016 with revised site location plan; updated ownership certificate (including confirmation that land not owned by Derbyshire County Council had been omitted from the application site boundary); and access and track plan showing proposed widening and passing bays. Also confirmed that the applicant was declining a request to submit additional ecology information.

#### **CONSULTATIONS**

Derbyshire Wildlife Trust - The additional information does not alter our earlier comments on this application and the Trust still maintains an objection to the proposal due to the adverse impact it will have on wildlife and biodiversity as detailed in earlier correspondence 3/1/17  
Parish Council – Object to this planning application citing increased traffic on an already crowded Berristow Lane, South Normanton 13/12/16

HS2 Ltd. – Site is in the safeguarding area for HS2 and HS2 Ltd believes it would be inappropriate in planning terms for permission to be granted for this application on a permanent basis, but given that the land would not be required until at least 2023, recommend that permission could be granted on a temporary basis until that time. 21/12/16  
DCC (Highways) – Revisions to the proposed access are considered to be acceptable and provided that these can be achieved and controlled by appropriate conditions, raises no objections to the scheme as revised. Conditions and advisory notes are recommended. 12/01/2017

DCC Countryside Officer – The Estate Valuers have asked their property lawyer whether the deeds give the successors in title (the current applicant) the right to undertake the improvements or alterations to this track, as they do not believe that the applicant has that right; Countryside Officer would also like such a legal opinion. 20/12/2016

No further comments had been received at the time of preparing this report. Should any comments be received, these will be reported to the Planning Committee when it meets.

#### **ADDITIONAL PUBLICITY**

Additional publicity, including a further site notice and letters to the original neighbours notified, along with letters to those that had made representations on the original planning application has been carried out.

A further 4 letters of objection have been received since this matter was last considered by

Planning Committee, 3 of which were received prior to re-publicity with the one further letter being received in response to that publicity; these raise the following issues:

Will mean even more heavy goods vehicles using our Parish as a rat-run. Blackwell, Hilcote, Westhouses and Newton are already dangerous, groaning under the weight of HGV's which are ruining our communities by causing pollution to air quality, destroying road surfaces, having a detrimental effects to listed buildings in Conservation Areas, causing a hazard to pedestrians by mounting the curb on pavement corners not suitable for vast vehicles and litter which seems to be tossed out by some drivers (not all HGV it must be said) which is not only ugly but presents a hazard to farm and wild animals and field crops. It is well known that many facilities are built for their ease of access to M1 J28 but that stretch of the M1 is notorious for slow traffic issues so drivers use the Blackwell, Hilcote, Westhouse and Newton as rat-runs to avoid it.

High volume of traffic, including large lorries, at each hour, including at night.

The village is already subjected to the lorries and other traffic coming through from Fordbridge Lane, a situation the village is not designed to sustain. Trying to leave the village in the direction of the A38 can at times be extremely difficult as Berristow Lane becomes a bottle neck. To consider adding to this by another ten vehicles per hour in the vicinity of the High View Road junction is madness.

Understand the site is an anti-social behaviour black spot so some kind of development such as, for instance, offices would eradicate that. A constraint on HGV users travelling through Hilcote, as you mentioned, would very likely be flouted. Can see that some form of development could control this problem. Indeed if done with all due consideration it may have no further impact on the villagers and the site itself has already been spoilt from the wildlife haven it used to be.

Our Parish has a long history of agricultural and mining traditions; it would be heart-rending to see it destroyed by commerce with no history or connection to the place we call home. This is even more poignant when we read about the young men of our Parish who perished in the The Great War as detailed in Tony Mellors article in the Spring 2015 edition of the Blackwell Parish magazine.

Our views haven't changed on this application. We will not give permission to use our access point for a pull in bay and also lorries going up and down the lane would ruin our grazing from dust created by this. Not to mention the noise pollution and effects and wild life.

## **POLICY UPDATE**

### Emerging Replacement Local Plan

Although the emerging Local Plan only carries limited weight prior to publication, examination in public and subsequent adoption, it is relevant and material to the determination of this application. The site remains outside of the settlement framework limits and is not allocated as a development site. Draft policies of that plan are proposed to continue to protect open countryside from unnecessary developments not requiring a countryside location.

Of note is that land to the south west that was historically covered by a policy for large farms



(Policy EMP9), a policy that was unsaved in the local plan and so carried no weight, is proposed to be replaced as a general industrial allocation in the replacement local plan.

### Safeguarding the HS2 route

On 15th November 2016 the government formally announced the preferred route for Phase 2b of High Speed 2 (HS2) and simultaneously issued Safeguarding Directions in order to protect the preferred Phase 2b route of HS2 from conflicting development that and aims to ensure that new developments along the route do not impact on the ability to build or operate HS2 or lead to excessive additional costs. Under this direction, the Council is not bound by the advice of HS2 Ltd, but if the Council resolves to go against the advice received from HS2 Ltd, then the Council has to provide details of the application to the Department for Transport. On receipt of the requisite information, the Department for Transport will, within 21 days of that date, either notify authorities that there are no objections to permission being granted, or issue Directions restricting the granting of permission specifically for those applications.

### **FURTHER ASSESSMENT**

The change in the further submissions relates primarily to the access details, in response to the reasons for deferral, although mention of ecology is made in response to questions raised of the applicants by officers in this respect given the amended details and issues about the age of the ecology reports given the lengthy delays in submission of suitable information to address the Committees deferral reason; in this respect it was confirmed that no further information is to be submitted in respect of ecology/biodiversity considerations.

The revised details now clearly demonstrate the extent of alterations to the junction and access track, including widening of the first 200m of the track, tapering from 10m at the junction down to 8.7m 200m into the site, reverting to the existing track after that. Two passing bays are proposed approximately 300m and 475m along the track.

No further updated information has been submitted, including no updated ecology information that has been requested.

It can be seen from the summary of consultation responses that the additional access information has satisfied the concerns of the Highway Authority that has withdrawn its earlier objections and has recommended conditions accordingly.

It is noted that no resolution has been found to the difference of opinion between the applicant and Derbyshire County Council as landowner in respect of the rights of the applicant to undertake the improvement works. Whilst it has been indicated that further submissions in this respect may be made by Derbyshire County Council's Countryside Officer and/or Property Services, ultimately this is a private property matter to which little weight can be given in planning terms. If this was the only outstanding matter, it would be possible to include a 'Grampian' style condition that would prevent any development being undertaken until the highway improvements have been delivered.

In terms of the countryside impacts of the proposal, these remain unchanged from the assessment in the original report. Of note however, is that there is a proposed change in policy on land to the south west as an industrial allocation, as well as the current development of a solar farm on land to the north of the planning application site that will impact on the

openness and character of the countryside in this location.

Notwithstanding the construction of the solar farm, of note is the materially different requirements for the erection of a solar farm compared to that of other development types and the general policy thrust of facilitating green energy supply, such that the policy, such that the existence of the permission for that development does not change the general policy considerations that relate to the protection of the countryside for its intrinsic value, as advocated in paragraph 17 of the NPPF.

Additionally, the proposed policy change to allocate nearby land for industry still does not include this land in such an industrial allocation, proposing that it remains outside of the settlement frameworks where development would not normally be permitted without overriding justification; furthermore development does not currently exist on the site and whether the policy is ultimately adopted and/or the site developed remain unknown, such that it is considered that little weight can be afforded to that proposed policy amendment. The site also still extends east beyond the adjoining line of the area allocated as a protected open space that would erode the principle of maintaining settlement identities and still fails to relate well to settlement form.

On this basis, despite the acknowledged changes in circumstances, the amended application is still considered to result in harm to the countryside and conflict with the relevant policies in this regard.

Officers are aware from the original Planning Committee meeting that there have been issues relating to anti-social behaviour on this site. Whilst it is acknowledged that an alternative and active use for the site is likely to diminish or even remove such activity, it is not considered that this issue should be provided significant weight in the overall consideration of the planning application.

### **ECOLOGY/BIODIVERSITY**

Nothing further has been submitted in terms of addressing the earlier identified concerns of the Derbyshire Wildlife Trust in respect of ecology considerations. In this respect, the applicants were requested to update the submitted information to reflect the amendments to the application site boundary, but also to ensure that the survey data and associated reports are up to date given the length of time that has passed since the initial preparation; this is as the transitory nature of wildlife means that the content of such surveys will require update and amendment (the original survey was completed in February 2013) as the Council needs to ensure that the information it bases any decision on is suitably up to date to ensure that any decision is suitably robust.

Notwithstanding that request, the applicant has specifically declined to submit any additional information stating the following: -

“The applicant, at this point, will not be submitting any further ecological information in relation to the application. It is considered that there is sufficient information to show that the development will not have an adverse impact upon ecological species and habitats and that the ecological assets present at the site do not prevent the delivery of the development. Sufficient mitigation measures have been incorporated into the

scheme and amount to the delivery of a substantial amount of ecological protection and management. The extent of the ecological provision is set out below:

- The safeguarding and management of over 9.5 hectares of land with diverse habitat and ecological value (application site is 3.6 hectares). The development site is roughly 27.5% of the overall area of the Blackwell Tip.
- The provision of other ecological enhancements in the form of a Great Crested Newt pond, construction of a planted earth bund and 10 Great Crested Newt hibernacula
- The client has also committed to pre-construction surveys in relation to Badgers, Bats, reptiles and nesting birds to make sure that adverse impacts are avoided.

The potential impact of the additional passing bays, and their construction, on ecological assets should be considered in the context of the wider scheme and its delivery of the stated ecological provision. As stated, the ecological information submitted to date identifies that ecology is not a fundamental constraint to the delivery of the development as sufficient ecological management and mitigation can be provided to offset potential harm. Further to this, a pre-commencement condition can be included on any planning permission to require an Ecological Management Plan to be produced prior to the commencement of development and the clearance of the site to ensure that ecological assets are managed appropriately. The management plan can be written so that further survey work is carried so that construction operations are informed by the most recent ecological information. The development will also be subject to ecological licensing by Natural England due to the presence of protected species. This further raft of regulation will see that the development will not generate harm in this regard.”

Whilst noting the above comments, the Derbyshire Wildlife Trust as the Council’s advisor on such issues does not agree with this conclusion and considers that this “does not alter our earlier comments on this application and the Trust still maintains an objection to the proposal due to the adverse impact it will have on wildlife and biodiversity as detailed in earlier correspondence.”

The offer of a pre-commencement condition to further consider the nature conservation impacts and mitigation is noted, this does not however provide any certainty as to the nature of the impacts of the development, nor over the extent and nature of any potential mitigation, such that it cannot be properly considered whether this is considered to appropriately mitigate the impacts in question.

For these reasons it is not considered that the amended submission provides any additional information to address nature consideration considerations identified in the original report. Furthermore, The absence of up to date information also means that the Council is unable to demonstrate that it has adequate information on European Protected Species (i.e. Great Crested Newt) such that the Council would be unable to discharge its duties in respect of Regulation 5(9) of the Habitat Regulations that requires the impacts on such species to be understood in reaching its decisions.

**HS2**

HS2 Ltd has advised that it would be inappropriate in planning terms for permission to be granted for this application on a permanent basis. However, as the part of the site within the Safeguarded area may not be required until at least 2023 to deliver the proposed railway scheme in that location, HS2 Ltd proposes that only a temporary planning consent should be granted for the proposal and has requested the inclusion of a condition to require this in the event that planning permission is granted. HS2 Ltd considers that planning permission should be refused for the application in its present form if it is not granted for a temporary period.

As advised earlier, if the Council is minded to permanently approve the scheme against the advice of HS2, there is a formal notification procedure that must be followed.

From the overall assessment it is still considered that planning permission should be refused for this development, notwithstanding the advice of HS2.

However, if members are minded to approve the scheme, this raises the question as to whether it would be reasonable to make such consent temporary, given the necessary financial outlay to the applicants to implement the permission. Clearly the implementation of any development should planning permission be granted would necessitate a financial outlay in respect of the engineering operations to level the site, create bunds and necessary landscaping and ecology mitigation, to undertake the access improvements and to import the storage containers. Such costs are unlikely to be insignificant in respect of a planning permission that would last a little under 6 years. For this reason it is considered that the inclusion of such a condition would fail the test of reasonableness for the inclusion of such a condition, such that the issue of a temporary consent is not considered to be appropriate.

Where permission is refused due to a conflict with the HS2 project, the decision notice should include that conflict in the reasons for refusal.

## **CONCLUSIONS**

Members deferred a decision on this planning application to enable the applicants to better demonstrate their ability to deliver access improvements.

There have been significant delays in the submission of this material to the Council and it has been necessary to also re-consider some material planning issues given that time delay where physical and policy matters have changed.

Considering those issues, whilst the concerns of the Highway Authority have been satisfactorily addressed, it is not considered that other issues of concern highlighted in the original report have been impacted by the amended details, policy updates and/or local change in the physical surroundings of the proposed scheme. Delays in submission of the information have also meant that the ecology information submitted with the original planning application is now out of date and the applicants have not agreed to make further submissions to address this. Finally, the site is also directly affected by the proposed routing of HS2 and is subject to the related Safeguarding Directions for this site.

Balancing all of the issues in the original report and the updates discussed above, it is considered that the proposal would result in material harm to issues of acknowledged

importance.

Whilst this can be balanced against the social and economic benefits of the scheme, the economic benefits are considered to be limited and the social benefits of addressing the anti-social behaviour activities on the site are not considered sufficient to outweigh the objections in principle to carrying out this development in the open countryside and the ecology impacts that would also result from it. Additionally, the impacts of the HS2 safeguarding directions have also been considered and the development is proposed to conflict with the aims of safeguarding the proposed route for the new railway. On a balance of planning considerations, it is therefore considered that planning permission should be refused for this development.

**RECOMMENDATION REFUSE** permission for the following reasons:

1. The proposal is contrary to adopted Bolsover District Local Plan Policy ENV3 (Development in the Countryside) which identifies that permission will only be given for appropriate development in the countryside and the proposal that are the subject of this planning application are not considered to satisfy those criteria.
2. The proposal would form an isolated and intrusive feature that would adversely affect the landscape, character and openness of the countryside and would not integrate with existing development forms and the form of the development is not considered to be good design, contrary to the requirements of policy GEN1(4) and GEN2(1) of the Bolsover District Local Plan and the National Planning Policy Framework Part 7 'Requiring Good Design', paragraph 58. It would also impact on the open area between settlements in both Derbyshire and Nottinghamshire, eroding their separate identities.
3. The proposal is contrary to be contrary to Bolsover District Local Plan Policy ENV5 in that there will be a net loss of biodiversity and adverse impacts to the proposed ecological network including across local authority boundaries. Insufficient survey information has been submitted to fully determine all impacts on biodiversity and the application does not demonstrate that alternative sites have been considered. The information that was submitted is now also considered to be out of date. Whilst some mitigation measures are proposed these do not address all the possible impacts that have been identified and are not considered to be robust, in particular given the uncertainties over impact resulting from the inadequate and out of date nature of the studies that have been submitted. This is also considered to be contrary to Part 11 of the NPPF: 'Conserving and Enhancing the Natural Environment' paragraphs 109 & 118) by virtue of the failure to minimise impact on biodiversity.
4. The proposal is considered to conflict with the need to safeguard the proposed route for the Highspeed Two rail project on which the site lies. Whilst consideration has been given to the potential to grant a temporary consent for the development (notwithstanding reasons for refusal 1 – 3 above), it is not considered that the inclusion of such a condition restricting the development to 2023 would be reasonable, given the necessary financial outlay necessary to enable the implementation of the proposed development.

**PARISH** Tibshelf

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**APPLICATION LOCATION** Construction of a drive thru kiosk and associated roadworks.  
Roadchef, Tibshelf Services, M1 Southbound, Newtonwood Lane, Tibshelf

**APPLICANT** Dr Ian McKay, Roadchef Motorways Services Limited, Roadchef House, Betty's Lane, Norton Canes, Cannock, WS11 9UX, UK

**APPLICATION NO.** 17/00041/FUL **FILE NO.** PP-05791098

**CASE OFFICER** Rory Hillman

**DATE RECEIVED** 30.1.2017

**Delegated application referred to committee by:** Councillor Watson  
**Reason:** The proposals could give rise to unacceptable risk of hazards to highway users and potentially compromise the safety of other drivers and passengers on the M1.

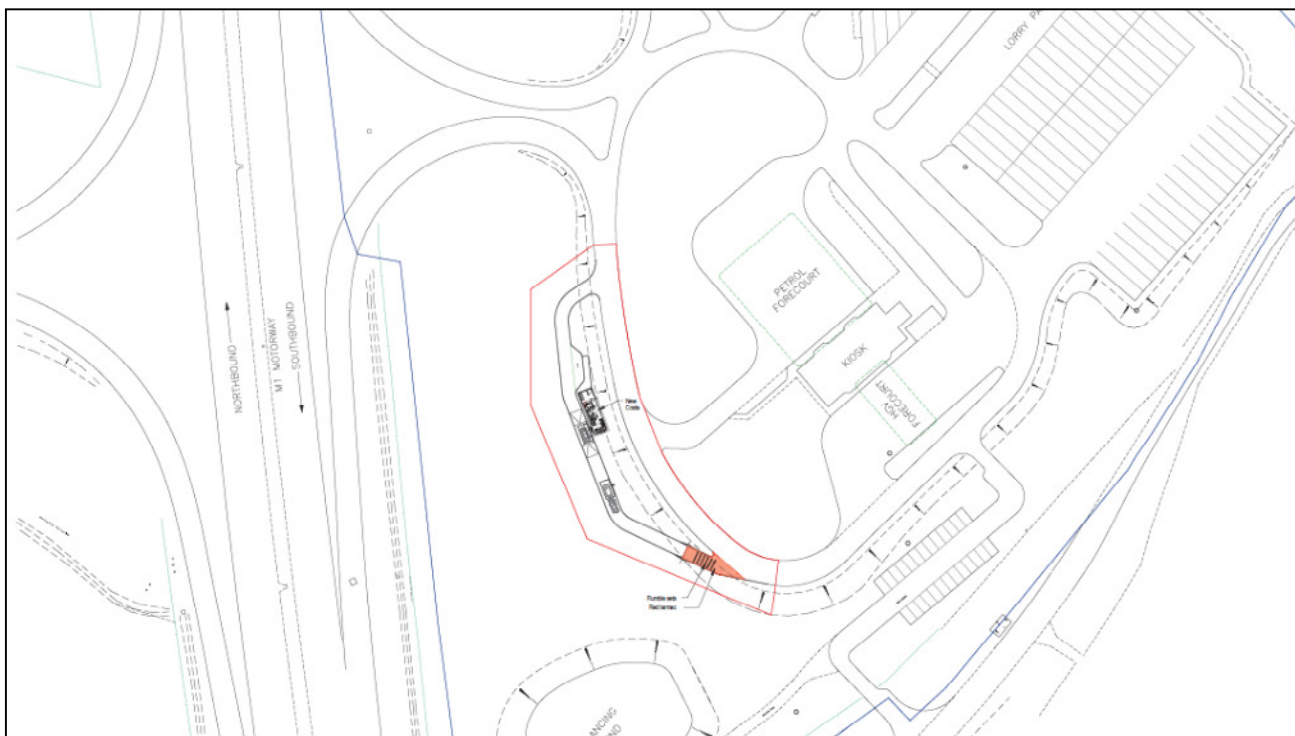
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**Site**

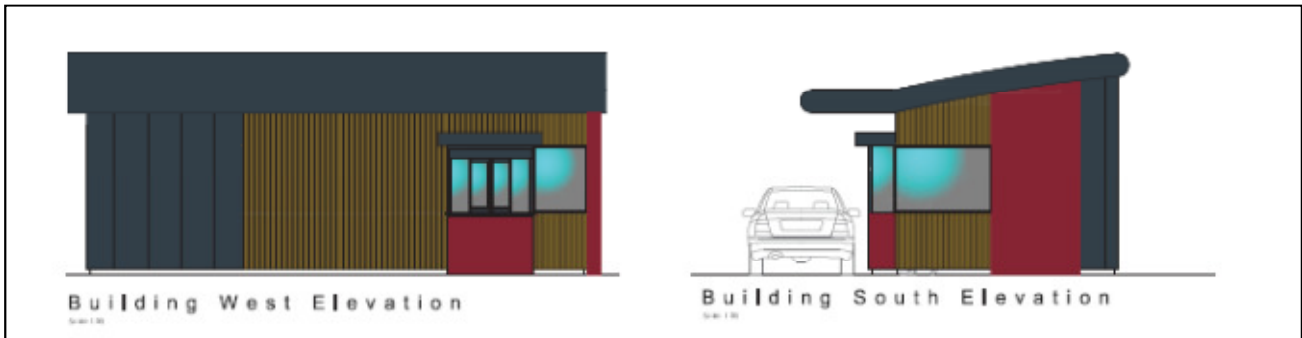
The application relates to Tibshelf motorway services to the east of the M1 motorway, which serves the southbound carriageway. The development is proposed to occupy a grassed strip of land to the south-west of the main motorway services, to the east of the main carriageway and immediately to the west of the circulation road which carries traffic from service area to the main carriageway of the motorway.

**Proposal**

Permission is sought for the erection of a drive-through retail kiosk to be operated by the coffee chain Costa in the location shown on the site layout plan, below.



The site layout plan shows that to access the kiosk, vehicles would leave the main service area as if heading for the motorway, leave the circulation road onto a dedicated access which would serve the kiosk. Vehicles would then rejoin the circulation road and either continue to the main service area or rejoin the motorway. There would also be a layby immediately to the north of the kiosk building.



The kiosk itself (shown above) would have a rectangular footprint of 36.8m<sup>2</sup>. It would have a monopitched roof metal roof with an eaves height of 3.2 metres rising to 4 metres at its apex. The walls would be finished in black metal and composite cladding. The building would accommodate a kitchen/preparation area, service window, storage area and toilet. A bin store would stand adjacent to the building's southern elevation.

### **Amendments**

None.

### **History**

The application is associated with a concurrent application which relates to a similar proposal on the opposite side of the motorway at Tibshelf Services northbound under reference 17/00040/FUL. However, this application has been determined because the Costa kiosk would be at the entrance to the northbound services rather than at the exit from the services as proposed in this application for the southbound services.

### **Consultations**

DCC Highway Authority – No objections, one condition recommended, see Informative Note, below.

Tibshelf Parish Council – No response to date.

Highways England – No objection.

Environmental Health Officer – No objection.

### **Publicity**

Site notice displayed. No representations have been received.

### **Policy**

Bolsover District Local Plan (BDLP)

GEN1 Minimum Requirements for Development  
GEN2 Impact of Development on the Environment  
TRA 10 Traffic Management  
SAC 13 Retail Development Outside Defined Town And Local Centres

### NPPF

Paragraph 31 supports the development of roadside facilities.

## **ASSESSMENT**

### **Amenity**

The building proposed would be visible from Newtonwood Lane to the south and Saw Pitt Lane to the north as they cross the motorway as well as from a variety of points within the main service area. The proposal would be clearly contained within the service area and would be appropriate in this context in terms of its location and design. Therefore, the impacts of the proposed development on the visual amenity of the local area would be negligible. There are no nearby residential dwellings that would otherwise be affected by these proposals.

### **Highway Safety**

In this particular case, traffic using the proposed kiosk would be moving directly from the services to the motorway in most instances. It is therefore likely that motorists using the kiosk will then rejoin the motorway immediately after buying hot beverages giving rise to the risk of a hot drink spilling on a driver and the driver losing control of the vehicle or the driver making dangerous manoeuvres. Therefore, the application is to be decided by committee because the proposals could give rise to unacceptable risk of hazards to highway users and potentially compromise the safety of other drivers and passengers on the M1.

Although, officers agree that this is a concern, one of the reasons that officers do not consider this constitutes a reason for refusal of the current application is because this scenario would not be significantly more or less likely as a result of this proposal. Officers have taken this view because motorists are currently able to buy food and drink elsewhere on the site and still join the motorway with a hot beverage. Furthermore, there is some opportunity for a motorist leaving the proposed kiosk to rejoin the main parking area via a service road at the exit from the Costa kiosk, which helps to mitigate the potential risks. Finally, neither Highways England nor Derbyshire County Council Highway Authority have raised any objection to the current proposals, which supports an officer view that any approval for the current application would not result in unacceptable risk in highway safety terms.

### **Implications for Local Centres**

Policy SAC13 the Bolsover District Local Plan sets the threshold for requiring an impact assessment for retail development at 2,500 square metres and the proposal falls significantly below this. Given the site's distance from local centres and the proposed kiosk's ancillary relationship to the main service area, it seems unlikely that the kiosk would have any significant implication for the vitality and viability of nearby centres.



## Conclusions

It is therefore concluded that approval of the current application would not give rise to any significant impacts on local centres or highway safety beyond those associated with the existing food and drink retail uses already established within the motorway service area. In all other respects, the proposed development would have little visual impact beyond the confines of the service area and the design of the kiosk is considered to be appropriate in the context of its setting. Therefore, the proposals are considered to comply with policies in the Development Plan and the current application is recommended for approval.

## Other Matters

Listed Building:	n/a
Conservation Area:	n/a
Crime and Disorder:	no known issues
Equalities:	no known issues
Access for Disabled:	no known issues
Trees (Preservation and Planting):	no significant issues
SSSI Impacts:	n/a
Biodiversity:	no significant issues
Human Rights:	no known issues

## RECOMMENDATION

Approve subject to the following conditions:

- 1) The development shall be begun before the expiration of three years from the date of this permission.

Reason:

- 1) To comply with the requirements of Section 51 of the Planning and Compulsory Purchase Act 2004.

## Statement of the Decision Process

The proposal complies with the policies and guidelines adopted by the Council and the decision has been taken in accordance with these guidelines and those of the National Planning Policy Framework

## Informative Note

- 1) Construction traffic should access the site from the M1 motorway where possible and avoid Newtonwood Lane.

## Site Location Plan

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**Roadchef Motorways Ltd, retail Units, Motorway Services Area,  
Tibshelf, Newtonwood Ln, Newton, Alfreton DE55 5TZ**

