

PARISH South Normanton

APPLICATION Outline application for Residential Development with Details of Access to be from Ball Hill (all other matters reserved for later approval)
LOCATION Site Of Highland Hurst Ball Hill South Normanton
APPLICANT Mr Robert Barnes Contact details as agent
APPLICATION NO. 16/00582/OUT **FILE NO.** PP-05625275
CASE OFFICER Mr Steve Phillipson
DATE RECEIVED 22nd November 2016

DELEGATED APPLICATION REFERRED TO COMMITTEE BY: Planning Manager
REASON: Level of objection and number of constraints

SITE

The site area measures 2.14 hectares. The site occupies an irregular shaped area of land aligned east-west on the north side of Ball Hill. The eastern end of the site includes a densely wooded finger of land and is protected by a Tree Preservation Order (TPO/BOL16) made in 1985.



The middle part of the site also contains a large number of trees protected by TPO/BOL/21 made in 1987 although there is central glade area in particular without trees. These protected wooded areas provide separation and screening between the existing residential properties on Ball Hill and the industrial area to the north of the trees and also the M1 to the west.

The western third of the site is adjacent to the wooded motorway embankment and footpath 18. It has trees/hedgerow along the Ball Hill frontage and behind that is a scrubby area where self set trees are beginning to establish. This area is not protected by tree preservation order.

Noise from the M1 is evident in this area. Ground levels here slope gently down to the west towards the M1 and beyond the site the motorway embankment slopes steeply down to the M1 several meters below.

There are 4 old mine shafts on or close to the site. Grade 2 listed building nearby on the south side of Ball Hill.



PROPOSAL

Outline planning application for residential development with details of access only submitted for approval. Access is proposed to be from Ball Hill close to the western end of the site near the motorway bridge. All other matters including the layout and the number of dwellings (as amended) are reserved for later approval.

S 106 heads of terms agreed

S106 obligation with requirements based on the number of dwellings approved at reserved matters. Contributions based on a per dwelling basis but only kicking in if triggers for various aspects are reached as follows:-

1. Education – In the event that more than 10 dwellings are provided on site a sum of £1,425 per dwelling be provided towards Glebe Junior School Via Project B: Provision of additional teaching spaces.
2. Leisure - In the event that more than 20 dwellings are provided on site informal play sum of £785 per dwelling and formal sports sum of £934 per dwelling.
3. Art – In the event that more than 20 dwellings are provided on site a scheme of works to provide public art be submitted for approval and the approved scheme implemented.

4. Affordable Housing - In the event that more than 25 dwellings are provided on site 10% of the number of dwellings on site shall be affordable housing provided in accordance with a scheme to be submitted and approved.

AMENDMENTS

E-mail 15/06/17 omitting the number of dwellings from the outline application and revised site location plan omitting the indicative layout 11227_BH_L03 Rev 1 submitted 15/06/17. (Originally the application proposed 40 dwellings with an indicative layout).

Proposed Access Site B Drawing No 2270-01 Rev B

HISTORY (if relevant)

The site has a history of applications for both residential and industrial developments. Residential development has previously been accepted on part of the current application site in 1986 (ref.BOL/786/315) and in 1997 on the basis of four dwellings (97/00444/FUL). Subsequent applications for housing on this land have been refused (refs. 01/00528/OUT and 03/00079/OUTMAJ) on the basis of unacceptable levels of noise, poor air quality and loss of protected trees:-

BOL 16 Tree Preservation Order made 1985 (Eastern spur of the site)

BOL 21 Tree Preservation Order made 1987 (mid part of the site)

BOL/786/281 – Residential development. Withdrawn 30.07.86.

BOL/786/315 – Residential development (outline). Approved 30.10.86.

BOL/287/41 – Erection of 6 dwellings & CoU and extension of existing dwelling to form 60-bed nursing home. Refused 15.06.87. Appeal Allowed 29.10.87.

BOL/687/265 – Erection of 10 retirement bungalows, garaging and access road. Refused 23.11.87. Allowed on Appeal 18.03.88.

BOL/689/250 – Residential development. Withdrawn 01.11.89.

BOL/192/8 – Office development with associated parking and garaging. Approved 04.03.92.

91/00517/OUT - Residential development for 12 starter units. Withdrawn 15.02.1999.

97/00444/FUL - Erection of four detached houses with access from the housing estate road and the detached house with access from Ball Hill and formation of an access and erection of garage to Hill Top Farm. Approved 20.04.1998.

99/00360/FUL – Erection of a detached 2-storey dwelling and creation of a new access adjoining Highland Hurst. Approved 02.11.99.

01/00528/OUT – Erection of 5 dwellings. Refused 14.02.02.

03/00079/OUTMAJ – Erection of 5 residential units. Refused 09.04.03.

03/00172/OUTMAJ - Light industrial (B1) & distribution (B8) development on the western most field. Approved 28.05.2003

05/00867/FULMAJ - Erection of 3 units for light industrial (Class B1) use and storage/distribution (Class B8) use with access from factory site off High View Road. Approved 11.04.2006

06/00505/FUL – Erection of a 2m high palisade fence to Ball Hill and Motorway/Footpath 18 boundaries Approved 20.09.2006

16/00453/SCREEN - Redevelopment of 5.9 ha of employment land including a single large employment building (B1C/B2/B8) approximately 23,040sqm plus ancillary office space, plus car parking accessed off High View Road . Residential development of approximately

1.5 ha accessed from Ball Hill approximately 45 dwellings. Screening opinion - Environmental Assessment not required 05.10.2016.

16/00583/FUL re adjacent industrial land to the north – permission granted 09/03/17 but not yet implemented for a larger replacement industrial building on the Englander site uses B1c, B2 and B8.

CONSULTATIONS

Urban Design Officer

10.02.17. Comments on original proposal for 40 dwellings. The amount of development is likely to adversely impact upon existing protected and unprotected trees to the detriment of the character and appearance of the site and its surroundings. Reference to the amount of the development proposed should be omitted from the submission and the density reduced having regard to the established sylvan character of the site. The proposed acoustic mitigation fence would serve to visually and physically isolate the FP18 and is a concerning aspect of the application. As such an alternative solution to this aspect of the proposals would be recommended.

DCC Highways

25.01.17. No objections subject to conditions:-

1. New estate street junction to be formed to Ball Hill with visibility splays of 2.4m x 50m in the easterly direction and 2.4m x 91 m in the westerly direction. The works shall also include the provision of a footway across the site frontage and reinstatement of any redundant access.
2. The access shall comprise a 5.5m carriageway with 2 No. 2.0 footways and 6m radii.
3. Compliance with 6c's design guide (*not considered necessary*).
4. Provision of a site compound (*not considered necessary*).
5. provision of turning space (*not considered necessary*).

Plus Notes re public footpath 18 and provision of off-street parking space.

Coal Authority

15.12.16. The Coal Authority concurs with the recommendations of the Phase I and Phase II Geo-Environmental Site Assessment; that coal mining legacy potentially poses a risk to the proposed development and that further intrusive site investigation works should be undertaken prior to development in order to establish the exact situation regarding coal mining legacy issues on the site.

The Coal Authority recommends that the LPA impose a Planning Condition requiring these further site investigation works and remedial works prior to commencement of development.

Environmental Health Officer - Noise 02.06.17.

The applicant has carried out an acoustic report and has proposed an acoustic barrier to achieve acceptable external sound levels from M1 Traffic. However, I am unclear whether the layout which is said to be indicative will be representative of the final layout as there are significant areas of the site which will still have elevated sound levels externally. Although we recognise that there is the potential for significant mitigation inside, this has not been clearly demonstrated within the report and leaves significant concern as to whether the external sound levels can be achieved even with an acoustic barrier.

In addition, there is considerable uncertainty with respect to the sound levels from the neighbouring industrial development which has recently been granted planning permission. The proposed houses are closer than the existing properties. The industrial unit also has permission to run 24 hours a day.

Whilst we have the option of suggesting a condition which requires further details to be submitted regarding a sound insulation scheme and sound levels to be achieved internally and externally, there is a significant risk that this condition could not be complied with depending on the layout and the noise levels produced by the industrial unit. Therefore, we would either recommend that the applicant withdraws this application and submits further information to demonstrate how they can achieve appropriate sound levels for the development or we would have to recommend a refusal of this application at this stage.

EHO Contamination

The site investigation undertaken has generally been carried out in line with current guidelines but the sampling is considered to be limited. Also ground gas monitoring is required, particularly considering the fact that this site is in a high risk coal mining area and is underlain by 2 faults. This should have been submitted at the time of the application as there is the potential for this to be significant. A cover system may be appropriate but we would require further details as to the system proposed and we are unlikely to agree that 300mm will be a sufficient depth to break any potential pollutant linkage.

We would therefore recommend that if the applicant is minded to withdraw this application, further information with respect to the potential contamination levels be provided with any subsequent resubmissions of the application. Otherwise, we will be recommending that a further investigation into the risks and remediation necessary re contaminated land be required by planning condition.

EHO Air Quality

The air quality report demonstrates that the site should not be impacted in terms of air quality. However, the latest air quality data that has been used from Bolsover dates from 2012 and we have not received a request for more up to date data. When the predicted air quality results are viewed, it would appear that a small proportion of the site may be affected in terms of air quality but in reality, there has been some improvement of air quality in that area in recent years. We would therefore recommend that if a revised application is made when a more detailed layout is known that further consideration and modelling is undertaken to confirm that there will be no issues in terms of air quality.

DC Archaeology

07.12.16. Because of the lack of clear archaeological indicators, the modest size of the site, and the likelihood of disturbance through previous episodes of landscaping, I conclude that the site has little or no potential for below-ground archaeology.

Crime Prevention Officer

16.12.16. No objections

Highways England

19.12.16. No objections

DCC Flood Risk Team

22.12.16. Requires clarification relating to the proposed method of surface water drainage of the site.

Surface water pumped systems should be an absolute last resort having the potential to cause a flood risk to the development. Evidence would have to be submitted to show that all other drainage options have been exhausted and that this drainage scheme is a last resort option. Mitigation would have to be submitted to the Local Planning Authority showing a modelled scenario to provide evidence that if the pump was to fail there would be no flood risk to any properties. Finally, it is likely that a detailed management and maintenance plan be submitted for the lifetime of the development, giving evidence of a contingency plan subject to the designed drainage system failing.

20.01.17. If infiltration proves to be unsuitable as predicted in the submitted assessment, it is proposed that surface water from is attenuated via cellular storage or oversized pipes before being discharged into the surface water sewer in Ball Hill. A surface water pumping scheme has been proposed, should the above drainage options prove unsuitable.

However, this is seen as the least favourable option and it is believed that the need for pumping is unlikely. Although reference is made to location, there are no details regarding maintenance and essential management of the drainage system for the lifetime of the development.

It has not been demonstrated that priority has been given to SuDS as per National Planning Policy Framework (NPPF) paragraph 103. At the detailed design stage of the application the applicant should consider other appropriate SuDS measures such as permeable paving or rainwater harvesting as forming part of the overall surface water drainage strategy.

If permission is granted conditions are recommended to require submission and approval of drainage details. Assessment should demonstrate with appropriate evidence that surface water runoff is discharged as high up as reasonably practicable in the following hierarchy:

- I. into the ground (infiltration);
- II. to a surface water body;
- III. to a surface water sewer, highway drain, or another drainage system;
- IV. to a combined sewer.

Wildlife Trust

04.01.17. Clarification on the habitat loss and gains is required prior to determination.

It is recommended that the trees proposed for removal and pruning with bat potential are subject to a tree climbing inspection and/or nocturnal survey, prior to determination.

Paragraph 118 of the National Planning Policy Framework states:

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

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

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.

07.02.17. The updated report with regards to the bat tree assessment is sufficient. However, the concern of the application is the loss of UK BAP Priority habitat and the net loss of habitats proposed which would be contrary to the Bolsover Local Plan Policies, the NPPF and Biodiversity 2020. The mitigation proposed does not equate for the loss.

It is still considered, that the development would lead and contribute to a net loss of habitats/biodiversity. The revised ecology report states "*It may also be beneficial to consider off-site ecological enhancement or biodiversity credits to fully mitigate for this*". However, if offsetting is to meet its potential for biodiversity conservation, it needs to be mandatory in situations where significant residual impact remains after avoidance and mitigation, and it must be accompanied by clear guidelines and regulations. It must remain clearly as a "**last resort**" in the mitigation hierarchy, after mitigation and compensation. The costs of the offsetting may not be considered viable for this proposed development.

The Trust are concerned that the application, at present cannot address the net loss and further detailed information to mitigate for loss is required. DWT therefore may object to the application due to the loss of UK BAP Priority Habitat.

At the current time the Trust is concerned that the proposed development has not considered the ecological impacts in sufficient depth and has not presented a set of measures aimed at reducing these impacts through avoiding, minimizing, mitigating or compensating for those impacts. As a result the development threatens a net loss of biodiversity in this area.

DCC Policy re Strategic Infrastructure

29.12.16. Financial contribution requested to be secured via Section 106 planning obligations:

- £56,995.05 for 5 junior places at Glebe Junior School Via Project B: Provision of additional teaching spaces.

Guidance to be provided via advisory notes attached to planning permission:

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

Glebe Junior School has a net capacity of 420 pupils and has 427 pupils on roll currently. The latest projections show the number of pupils to be 437 during the next 5 years. There are approved planning applications within the normal area totalling 42 dwellings, creating a demand for places for an additional 4 junior pupil places. The analysis of the current and future projected number of pupils on roll, together with the impact of approved housing developments, shows that the normal area junior school would not have sufficient capacity to accommodate the 5 junior pupils arising from the proposed development.

Housing Strategy - Affordable Housing

13.12.16. (Note the response was made on the assumption that the interim affordable policy was still in force to waive requirements if delivery targets are met. This no longer applies).

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 South Normanton sub market area alone the estimated figure is 104 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. However the interim policy is recognised.

NHS CCG

11.01.17. Seeks a S106 contribution of £15,216.

The closest practice to this development is Village Surgery, its main site is in Pinxton, with a branch site at South Normanton. The practice is based across two sites, both are fully utilised, and do not have sufficient spare capacity to manage increased patient demand on this scale at their current location. The contribution requested for this housing development would contribute towards the costs associated with either an extension of the building at Pinxton or the leasing of additional space at The Hub, South Normanton, depending which was more appropriate at the time the funding is available. The amount requested is proportionate to the scale of the housing development proposed.

Leisure Officer

(Verbal response 19/07/17) In the event that 20 dwellings or more are approved requests S106 commuted sums in lieu of informal play and formal sports in line with policy HOU5 and the standard sums per dwelling of £785 and £934.

PUBLICITY

Advertised in the press, site notice posted, 27 properties consulted. 12 letters of objection received on the following grounds:-

Visual impact

Loss of Trees

The trees have 2 tree preservation orders on them

Loss of sound barrier (trees) to M1 and industrial estate behind the trees

Already hear some noise from the industrial estate

Loss of visual barrier to M1 and Industrial estate

The tree barrier was planned to the industrial estate

Loss of greenery

Loss of rural area affecting amenity

Loss of habitat

Impact on wildlife – various species, birds, owls, grass snake

Bats feeding and roost in the area

Loss of wildlife corridor / oasis

Increased traffic on a busy road with speeding traffic

Access entrance location not ideal

Speed humps / cameras needed

Resident believes there to be inaccuracies in the traffic plan and assessment

Overdevelopment

Loss of light

Overbearing impact

Loss of privacy

Detrimental effect on the setting of a listed building.

Noise from the M1 is at the upper limit of acceptability and this was recorded in an easterly wind. Permission has been refused previously on noise grounds and the M1 has now been increased to 4 lanes.

There is a number of mine shafts on site that must question the suitability of land for housing. Strain on capacity for local schools and doctors practice.

Noise from the development affecting amenity

Disturbance of contaminated land potential hazard to local people

Loss of property value

Other brownfield sites available such as Jacques Brickyard.

POLICY

Bolsover District Local Plan (BDLP)

The Bolsover District Local Plan (2000) planned for the period March 1995 to March 2005.

Based on the latest assessment of our 5 year supply of deliverable housing sites, at 31st March 2017 the Council had sufficient supply within the 5 year supply period for approximately 9 years of delivery. Therefore, the saved planning policies within the adopted Bolsover District Local Plan (February 2000) related to the supply of housing are no longer considered to be out of date and can be given due weight in the determination of planning applications.

The western field of this site is shown on the proposals map as a site with planning permission for employment use. The mid and eastern sections of the site are unallocated but within the settlement framework.

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

GEN 1 – Minimum Requirements for Development

GEN 2 – Impact of Development on the Environment

GEN3 - Development Affected by Adverse Impacts from Existing Uses

GEN4 - Development on Contaminated Land

GEN 5 – Land Drainage

GEN 6 – Sewerage and Sewage Disposal

GEN7 - Land Stability

GEN 8 – Settlement Frameworks

GEN 17- Public Art

HOU 2 – Location of Housing Sites

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

HOU 6 – Affordable Housing

TRA 1 – Location of New Development

ENV 5 – Nature Conservation Interests Throughout the District

ENV 8 – Development affecting Trees and Hedgerows

Emerging Local Plan for Bolsover District

The Consultation Draft Local Plan does not propose to alter the settlement framework and does also not allocate the site for residential development as part of its planned residential

supply. The western field is no longer recognised as a site with planning permission for employment use.

National Planning Policy Framework

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

Paragraph 34 states that:- *“Plans and decisions should ensure developments that generate significant movement are located where the need to travel will be minimised and the use of sustainable transport modes can be maximised.”*

Other

Green Space Strategy (approved in April 2012).

The Green Space Strategy is a material consideration in the determination of applications for planning permission. In relation to South Normanton, the Green Space Strategy and its supporting factual information contained in Green Space Audit: Quantity and Accessibility report identify that there is a need for more equipped play areas and outdoor sports provision.

Other (specify)

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

ASSESSMENT

The site is within the settlement framework so residential development is acceptable in principle in this location. However there are multiple constraints to the development of this site which will significantly restrict the number of dwellings which can be accommodated acceptably. Consultee views on the various constraints are set out above.

These constraints include: two Tree Preservation Orders (TPO's) covering two thirds of the site; loss of habitat and wildlife impacts associated with tree loss; loss of existing screening to the industrial estate and M1; 4 mine shafts; noise from the adjacent M1 motorway; noise from the industrial estate adjacent to the north including a large building recently consented but not yet built (consider both amenity of new residents and also potential risk of complaints to the operations of the businesses on the industrial estate); coal mining high risk area; 2 fault lines; potential ground contamination; potential impacts on the setting of a listed building and an uncertain drainage solution.

The Applicant has attempted to demonstrate by means of a series of indicative layouts initially that 40 dwellings could be accommodated on site and then 24 dwellings. However it is considered that none of the indicative layouts submitted to date illustrated a proposal with acceptable impacts and that the actual number of dwellings that can be accommodated on this site will be considerably less than the amount initially sought and could be less than 10. Due the remaining uncertainty the Applicant has agreed to remove all reference to the number of dwellings to be approved as part of this outline application.

Provided that the Council is satisfied that at least one dwelling can be accommodated on site acceptably then it would be reasonable to grant outline planning permission for residential development.

Any reserved matters application for a specific layout will need to be accompanied by further technical reports which should be able to accurately quantify the impacts specific to that proposal.

When considering the benefits of increased housing supply from this site in the planning balance it should be noted that the Council does now have more than a 5 year supply of housing and so due weight should be given to the saved policies of the plan and there is no overriding need to release this site for housing if the impacts and constraints of the proposal indicate that permission ought not be granted.

The two main constraints and concerns relate to the uncertain level of tree removal required and noise from the motorway and industrial estate.

With regard to tree removal the Applicant does not propose any tree removal within the eastern third of the site which is covered by TPO. However, from the indicative layouts initially provided it is clear that the removal of significant areas of trees would be sought within the central area of the site. This area is also covered by TPO and the trees here are serving a useful purpose as a buffer to the industrial estate and the M1 and so are considered to be of considerable amenity value. The presumption should be that these trees should remain. Although there is a open glade area within the central section of the site to access this area it may be necessary to punch through the existing tree belt running north south. Given the very limited number of dwellings that might fit in this area it simply may not justify cutting through the tree belt.

The western third of the site near the M1 does contain some trees but these are not protected by TPO. Removal of some of these self set trees for residential development would not be unacceptable. However it is considered important to retain the frontage line of hedgerow and trees to Ball Hill which will provide established screening to the recently consented 18m high industrial building to the north. Some tree/hedge removal at the frontage will be accepted to accommodate the access into the site and to provide the footpath across the site frontage which would bring wider benefits.

Overall it is considered possible to accommodate some residential development, at least at the western end of the site, without unacceptable loss of trees and impacts on biodiversity (Policies GEN2, ENV5 and ENV8 apply).

With regard to noise impacts in the western section of the site, it is considered likely that subject to the provision of additional noise mitigation bund/fencing it is likely that some residential development could be accommodated. There is some uncertainty in the noise environment however due to the recently consented but as yet unbuilt industrial building adjacent to the north. The level of noise from the processes within that development are as yet unknown, however general industrial use is permitted and there are no restrictions on operating hours. Noise from this building and potential complaints regarding its use may

preclude development towards the northern boundary. In addition the new building will affect the transmission of noise from the M1 adding further uncertainty over the noise environment. However it is considered to be reasonable to assume that it is likely that some residential development, at least towards the Ball Hill frontage, could be accommodated on this part of the site without unacceptable impacts and achieving an acceptable living environment (Policy GEN2 and GEN 3 are relevant).

Other Matters

Public concerns regarding increased traffic on Ball Hill are noted. However there are no objections from the Highway Authority subject to conditions and it is considered that the increase in traffic from this proposal would not be material and could not justify the refusal of planning permission (GEN1 and GEN2).

Concerns raised in representations about impacts on privacy, light, overbearing impact and amenity are also noted. However these impacts can only be assessed with any certainty once the detailed layout and designs are known at reserved matters stage.

There is a grade 2 list farmhouse close to the south side of the site (94 Ball Hill). Provided that the trees are largely retained within the central and eastern sections of the site and the majority of the frontage, it is considered that the setting of the list building can be preserved.

Air Quality has been considered as part of the application. Although the data used is from 2012 and a more up-to-date data would have provided more certainty, the EHO has indicated that there has been some improvement in air quality in the area over recent years. It is considered unlikely that air quality concerns could justify refusal.

Given the complex constraints on this site and uncertainty over the limited number of dwellings which can be accommodated, the development may not trigger the need for any Section 106 infrastructure capacity payments. However, to cover the event that the Applicant is able to demonstrate that a higher number of dwellings can be accommodated on site, S106 heads of terms have been agreed as set out in the proposal section of this report. Payments would be made on a per dwelling basis and triggered at 10 dwellings (education), 20 dwellings leisure and art, and 25 dwellings affordable housing in line with policy. The GP practice request does not form part of the agreement given its limited value regarding the pooling restrictions in the CIL regs, lack of policy basis and the unlikely event that the 25 dwellings trigger would ever be reached.

Crime and Disorder: No significant issues

Equalities: No significant issues

Access for Disabled: No significant issues

SSSI Impacts: No significant issues

Human Rights: No significant issues

Loss of property value is not a material planning consideration.

Conclusion

Residential development is acceptable in principle in this location. A series of constraints will significantly restrict the number of dwellings which can be accommodated on site, most notably in the central and eastern areas of the site covered by protected trees of amenity

value which are serving a useful purpose as a buffer to the industrial estate and M1 adjacent . However it is considered likely that the site could accommodate a limited amount of residential development probably to the south west side of the site subject to careful layout and design to accommodate constraints including mine shafts and noise and frontage vegetation. Hence a conditional permission can be given.

Given the number of constraints to deal with on this site it is considered questionable whether in practice the site can be made viable to develop. However since the site is within settlement framework concerns over viability are not a reason to refuse planning permission.

RECOMMENDATION

Approve

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

- 1. Education – In the event that more than 10 dwellings are provided on site a sum of £1,425 per dwelling be provided towards Glebe Junior School Via Project B: Provision of additional teaching spaces.**
- 2. Leisure - In the event that more than 20 dwellings are provided on site informal play sum of £785 per dwelling and formal sports sum of £934 per dwelling.**
- 3. Art – In the event that more than 20 dwellings are provided on site a scheme of works to provide public art be submitted for approval and the approved scheme implemented.**
- 4. Affordable Housing - In the event that more than 25 dwellings are provided on site 10% of the number of dwellings on site shall be affordable housing provided in accordance with a scheme to be submitted and approved.**

Conditions

1. Approval of the details of the layout, scale, appearance, and landscaping of the site (hereinafter called "the reserved matters") shall be obtained from the Local Planning Authority in writing before any development is commenced.

R. To comply with the requirements of Section 51 of the Planning and Compulsory Purchase Act 2004.

2. Application for approval of the reserved matters shall be made to the Local Planning Authority before the expiration of three years from the date of this permission and the development to which this permission relates shall be begun either before the expiration of three years from the date of this permission, or before the expiration of two years from the date of approval of the last of the reserved matters to be approved, whichever is the later.

R. To comply with the requirements of Section 51 of the Planning and Compulsory Purchase Act 2004.

3. This permission relates to the following approved plans and documents: E-mail 15/06/17

omitting the number of dwellings from the outline application and revised site location plan omitting the indicative layout Ref No 11227_BH_L03 Rev 1 submitted 15/06/17; proposed access site B Ref No 2270-01 Rev B.

R. The approved documents are the basis of the grant of planning permission having regard to the policies of the development plan and all material planning considerations.

4. Application for approval of reserved matters shall be accompanied by the following technical reports to evidence that site constraints can be adequately dealt with for the specific development proposed:-

- Tree survey and condition report to include details of tree retention and protection during works, tree removal and replanting.
- Noise assessment and mitigation necessary from traffic and industrial sources.
- Updated ecology, habitat and protected species survey which must include an assessment of the net loss/gains to biodiversity. The mitigation hierarchy proposals must be ordered: avoidance harm, mitigation and then on site compensation prior to any compensatory off-setting proposals.
- The submission of a contaminated ground investigation with remedial measures.

R. To enable the level impacts of the proposal to be properly understood and mitigated in accordance with policies ENV8, ENV5, GEN1, GEN2, GEN3 and GEN4 of the Bolsover District Local Plan.

5 .

- A) Prior to the submission of application for approval of the reserved matters a scheme of intrusive site investigations for the mine entries on site and for shallow coal workings to include details of any works which may affect protected trees shall have been submitted to and approved in writing by the Local Planning Authority and the approved scheme shall have been implemented.
- B) Application for approval of reserved matters shall be accompanied by: the submission of a report of findings arising from both of the intrusive site investigations; and the submission of a layout plan which identifies appropriate zones of influence for the mine entries on site, and the definition of suitable 'no-build' zones and the location of the high wall, if found to be present; and the submission of a scheme of treatment for the mine entries on site for approval; and the submission of a scheme of remedial works for the shallow coal workings for approval.
- C) Prior to the commencement of development the approved remedial works shall have been undertaken.

R. To deal with the safety risks associated with the 4 mine shafts on site and shallow mine workings in the area and to accord with policy GEN1 and GEN7 of the Bolsover District Local Plan.

6. 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, 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.

To ensure that the principles of sustainable drainage are incorporated into this proposal where possible and sufficient detail of the construction, operation and maintenance of sustainable drainage systems is provided to the LPA and to accord with policies GEN2 and GEN5 of the Bolsover District Local Plan.

7. Before any dwelling is occupied, the new estate street junction shall be formed to Ball Hill located, designed, laid out, constructed and provided with visibility splays of 2.4m x 50m in the easterly direction and 2.4m x 91 m in the westerly direction, in accordance with the approved plans, the area in advance of the sightlines being levelled, forming part of the new street constructed as footway and not forming part of any plot or other sub-division of the site. The works shall also include the provision of a footway across the site frontage and reinstatement of any redundant access.

R. In the interests of highway safety to accord with policies GEN1 and GEN2 of the Bolsover District Local Plan.

Advisory Notes

1. In designing the reserved matters proposal the Applicant is advised that there are multiple constraints on this site including: two Tree Preservation Orders covering two thirds of the site; 4 mine shafts; noise from the adjacent M1 motorway; noise from the industrial estate adjacent to the north including a large building recently consented but not yet built; coal mining high risk area; 2 fault lines; potential ground contamination; and potential impacts on the setting of a listed building and an uncertain drainage solution. As a result, the number of dwellings which can be acceptably provided on this site is very restricted. The presumption is that the protected trees screening the industrial estate and M1 should remain.
2. S106 obligation summary.
3. Pursuant to Section 278 of the Highways Act 1980 and the provisions of the Traffic Management Act 2004, no works may commence within the limits of the public highway without the formal written Agreement of the County Council as Highway Authority. It must be ensured that public transport services in the vicinity of the site are not adversely affected by the development works.

Advice regarding the technical, legal, administrative and financial processes involved in Section 278 Agreements may be obtained from Mr K Barton in Development Control at County Hall, Matlock (tel: 01629 538658). The applicant is advised to allow approximately 12 weeks in any programme of works to obtain a Section 278 Agreement.

4. Pursuant to Sections 219/220 of the Highways Act 1980, relating to the Advance Payments Code, where development takes place fronting new estate streets the Highway Authority is obliged to serve notice on the developer, under the provisions of

the Act, to financially secure the cost of bringing up the estate streets up to adoptable standards at some future date. This takes the form of a cash deposit equal to the calculated construction costs and may be held indefinitely. The developer normally discharges his obligations under this Act by producing a layout suitable for adoption and entering into an Agreement under Section 38 of the Highways Act 1980.

5. Construction works are likely to require Traffic Management and advice regarding procedures should be sought from Dave Bailey, Traffic Management, 01629 538686. All road closure and temporary traffic signal applications will have to be submitted via the County Councils web-site; relevant forms are available via the following link - http://www.derbyshire.gov.uk/transport_roads/roads_traffic/roadworks/default.asp
 6. There is a Public Right of Way (Footpath 18 on the Definitive Map for the area). The route must remain unobstructed on its legal alignment at all times and the safety of the public using it must not be prejudiced either during or after development works take place. Further advice can be obtained by calling 01629 533262.
 - Please note that the granting of planning permission is not consent to divert or obstruct a public right of way.
 - If it is necessary to temporarily obstruct a right of way to undertake development works then a temporary closure is obtainable from the County Council. Please contact 08456 058 058 for further information and an application form.
 7. Car parking provision should be made on the basis of two spaces per two/three bedroom dwelling or three spaces per four/four plus bedroom dwelling. Each parking bay should measure 2.4m x 5.5m (larger in the case of spaces for use by disabled drivers) with adequate space behind each space for manoeuvring.
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