

The Arc  
High Street  
Clowne  
Derbyshire  
S43 4JY

Date: 19<sup>th</sup> September 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 Wednesday 27th September 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 page 2.


Yours faithfully



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

## ACCESS FOR ALL

If you need help understanding this document or require a larger print on translation, please contact us on the following telephone number:-

 **01246 242529**  
**Minicom: 01246 242450**

**Democratic Services**  
**Fax: 01246 242423**

**PLANNING COMMITTEE  
AGENDA**

**Wednesday 27<sup>th</sup> September 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 30 <sup>th</sup> August 2017	3 to 7
5.	Notes of a Site Visit held on 25 <sup>th</sup> August 2017	8
6.	Applications to be determined under the Town & Country Planning Acts.  (i) 17/00286/OUT - Residential development for 5 houses (all matters reserved) at Land To The Rear Of 74 Welbeck Road, Bolsover  (ii) 17/00376/FUL - Demolition of existing dwelling and erection of replacement dwelling and garage (Revised Scheme) at The Croft, Astwith Lane, Astwith, Chesterfield	9 to 16  17 to 30
7.	Procedure: Section 106 Agreements	31 to 43

## 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 30<sup>th</sup> August 2017 at 1000 hours.

### **PRESENT:-**

Members:-

Councillor D. McGregor in the Chair

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

Officers:-

J. Arnold (Assistant Director – Planning and Environmental Health), J. Fieldsend (Team Leader (Non Contentious) Solicitor), C. Fridlington (Planning Manager (Development Control)), S. Phillipson (Principle Planning Officer), C. McKinney (Principal Planner) and A. Brownsword (Senior Governance Officer)

### **0159. APOLOGIES**

Apologies for absence were received from Councillors P.M. Bowmer, B. Watson and D.S. Watson

### **0160. URGENT ITEMS OF BUSINESS**

There were no urgent items of business.

### **0161. DECLARATIONS OF INTEREST**

There were no declarations of interest.

### **0162. MINUTES – 2<sup>ND</sup> AUGUST 2017**

Moved by Councillor S.W. Fritchley and seconded by Councillor T. Munro

**RESOLVED** that the minutes of a Planning Committee of the Bolsover District Council held on Wednesday 2<sup>nd</sup> August 2017 be approved as a true and correct record.

## PLANNING COMMITTEE

### 0163. SITE VISIT NOTES – 29<sup>TH</sup> JULY 2017

Moved and seconded

**RESOLVED** that the notes of a Planning Site Visit held on 29<sup>th</sup> July 2017 be approved as a true and correct record.

### 0164. APPLICATIONS TO BE DETERMINED UNDER THE TOWN AND COUNTRY PLANNING ACTS

1. 17/00234/FUL - Residential Development comprising of a total of 212 homes comprising a mix of detached, semi-detached and terraced 2 & 2.5 storey houses with associated garaging, parking and infrastructure including the provision of public open spaces at Land off Langwith Road And Mooracre Lane, Bolsover

Further details 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.

Mrs. S. Jepson attended the meeting and spoke against the application. Mrs. Jepson also read out a statement against the application from Mr. K. Smith.

The Committee considered the application having regard to the Bolsover District Local Plan, Consultation Draft Local Plan for Bolsover District and the National Planning Policy Framework.

Moved by Councillor J.A. Clifton and seconded by Councillor D. McGregor

**RESOLVED** that Application No. 1700234/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:-

- Affordable Housing 19 dwellings (70% Affordable rent: 30% shared ownership);
- Bus Service Contribution @ £176.36/dwelling (£37,388);
- Education Contribution @ £2,422.05/dwelling (£513,475);
- Public Open Space and SuDS areas provided as plans;
- Maintenance/management of POS and SuDS to be provided;
- Road Network Contribution £441.96 per dwelling (£96,695);
- Traffic Monitoring @£13.62/dwelling (£2,887);
- Travel Plan @£34/dwelling;

## PLANNING COMMITTEE

- Play Area contribution of £53,120;
- No retention of ransom strips at potential highway links to the south; and
- Eastern SuDS area made available at no cost if needed in future to increase capacity to accommodate surface water from phase 2 development to the south.

### Conditions (in précis)

1. Start within 3 years.
2. List of approved plans.
3. Fencing off and protection of areas of retained hedgerow.
4. Archaeological investigation (pending further results may not be needed).
5. Further investigation into potential ground contamination.
6. The production and submission of a scheme design demonstrating full compliance with DEFRA's Non-statutory technical standards for sustainable drainage systems, to include details of location and design of the infiltration basins designed to have sides no steeper than 1 in 4.
7. Information to indicate that the surface water can, in principle, be disposed of sustainably (in compliance with Approved Document H of the Building Regulations 2000).
8. Submission and approval of foul drainage details to include pumping station.
9. Noise survey and recommendations to be approved regarding businesses to the south and the school to the west and any remedial measures necessary to be implemented.
10. Construction management plan be submitted for approval including: details how noise, dust and vibration will be managed and mitigated throughout the course of the development; to include hours such noise making activity can be undertaken and to provide temporary board fencing to suppress noise during the excavation of at least the northern basin closest to adjacent dwellings; construction traffic routing to be via temporary access from Rotherham Road.
11. Provision of temporary access to Rotherham Road in accordance with details to be approved.
12. Provision of new distributor road link and to be open for public use before 100 dwellings occupied with 2.4m x 120m splays at the Rotherham Road junction and right turn harbourage as per plan.
13. Scheme to be approved for stopping up of the section of Mooracre Lane between the new estate street and the spur adjacent to plot 173.
14. Scheme for temporary traffic management measures on the approaches to the Mooracre Lane/Rotherham Road junction in order to mitigate the increase in traffic at the junction.
15. Provision of new estate roads prior to occupation of related dwellings.
16. Provision of car parking spaces prior to occupation.
17. Provision of bin stores as plan.
18. Prior to occupation submission of a detailed hard and soft landscaping scheme to be approved and implemented to an agreed timetable to include: retention of hedgerows and replanting of hedge behind the visibility splays on Rotherham Road and street tree planting as plan; details of the treatment of the verge area adjacent to the junction on the main spine route (adjacent to Plots 10-13) and should include creative re-use of salvaged stone from derelict barn.

## PLANNING COMMITTEE

19. Maintenance of the landscaping scheme for a period of 5 years.
20. Boundary detail to be implemented (mainly to accord with approved plan 30597 04 C).
21. External Building material to be approved.
22. Porches and bay window roofs to be tiled not GRP
23. Implementation of the Travel Plan, monitored and reviewed.

(Planning Manager (Development Control))

2. 17/00374/FUL - Construction of single & two storey extension to rear/side (revised scheme of planning permission 17/00208/FUL) at 40 Brunner Avenue, Shirebrook, Mansfield, NG20 8RR

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.

Councillor A. Anderson, Mrs. P. Nussey and Ms. Z. Smith attended the meeting and spoke in support of the application.

The Committee considered the application having regard to the Bolsover District Local Plan and the National Planning Policy Framework.

Moved by Councillor J.A. Clifton and seconded by Councillor D. McGregor  
**RESOLVED** that Application No. 17/00374/FUL be REFUSED for the following reason:

1. The rear extension is within 1.5m of the boundary to the attached dwelling. The attached dwelling has a kitchen window facing the site, only 1.5m from the site boundary and a lounge window in the rear elevation immediately adjacent to the site boundary. The proposed extension is considered to result in a significant loss of daylight to these two principal rooms contrary to the requirements of the Councils Housing Layout and Design guidance and is considered to have a significant, overbearing, oppressive impact on the outlook from these two rooms. On this basis the proposal is considered to result in a significant loss of amenity for residents of the attached dwelling contrary to the requirements of Policy GEN 2 of the Bolsover District Local Plan and the BDC housing layout and design guidelines.

### Statement of the Decision Process

The proposal does not comply with the policies and guidelines adopted by the Council. The personal circumstances of the applicant and his neighbour have been considered but the loss of light and oppressive impact of the proposal which is contrary to the policies and guidelines adopted by the council cannot be ignored as a result of these circumstances. The required accommodation could be provided to the

## PLANNING COMMITTEE

side of the property which would provide for the personal circumstances whilst meeting the council's policies and guidelines. The decision has been taken in accord with the Policies of the Local Plan and the guidelines of the National Planning Policy Framework.

(Planning Manager (Development Control))

### 0165. FIVE YEAR HOUSING SUPPLY

The Principal Planning Officer (Planning Policy) presented the report which set out the latest assessment of the Council's five year supply deliverable housing and sought approval for the 2017 assessment and publication of the five year supply of deliverable sites for housing as required by paragraph 47 of the National Planning Policy Framework (NPPF) 2012.

It was noted that the adoption of a new Local Plan and achievement of a five year supply would give Members greater control over the location of new housing development in the District. A definitive account of the five year supply was included within the Appendices to the report.

The Principal Planning Officer (Planning Policy) advised that the matter had been considered by the Local Plan Steering Group at its meeting on 2<sup>nd</sup> August 2017 and that they had referred the matter to Planning Committee with the recommendations outlined in the report.

Moved by Councillor T. Munro and seconded by Councillor D. McGregor

**RESOLVED** that (1) the detailed issues set out in the report be noted,  
(2) the assessment of the Council's current five-year supply of deliverable housing sites as set out at Appendix A be approved,  
(3) the publication of the five Year Supply Assessment (Appendix A) and Schedule of Deliverable Sites in the five year supply (Appendix B) on the Council's website be approved,  
(4) delegated authority be given to the Joint Assistant Director of Planning and Environmental Health in consultation with the Chair, and Vice Chair of Planning Committee to make any minor changes to the text or information referred to in recommendation 6.1 III. prior to publication.

(Principal Planning Officer (Planning Policy))

The meeting concluded at 1056 hours.

## **PLANNING SITE VISIT**

Notes of a Planning Site Visit held on 25<sup>th</sup> August 2017 commencing at 1000 hours.

### **PRESENT:-**

Members:-

Councillor D. McGregor in the Chair

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

Officers: C. Fridlington (Planning Manager (Development Control))

### **1. APOLOGIES**

There were no apologies for absence.

### **2. SITE VISITED**

Applications for determination by Committee:

Item 6(i): 17/00234/FUL: Residential Development, Land Of Langwith Road And Mooracre Lane, Bolsover

Item 6(ii) 17/00374/FUL: Householder Extension, 40 Brunner Avenue, Shirebrook

The meeting concluded at 11:30am.



**PARISH** Old Bolsover

---

**APPLICATION** Residential development for 5 houses (all matters reserved)  
**LOCATION** Land To The Rear Of 74 Welbeck Road Bolsover  
**APPLICANT** Mr & Mrs K Walker Hodsock Croft Hodsock Lane S81 9AF  
**APPLICATION NO.** 17/00286/OUT **FILE NO.** PP-06145177  
**CASE OFFICER** Mrs Karen Wake (Mon, Tues, Wed)  
**DATE RECEIVED** 13th June 2017

Delegated application referred to committee by: Development Control Manager  
Reason: Policy Considerations

---

### **SITE**

Fairly level overgrown area of grassland which extends from the rear of two storey dwellings, fronts Welbeck Road, and extends to Steel Lane to the northwest of the site. There is a hedge approx 4m in height along this northwest boundary with Steel Lane and open land beyond. There is a 2m high hedge along part of the southern boundary with a dormer bungalow beyond which has a garage and outbuilding adjacent to the site boundary. The remainder of this southern boundary is a post and rail fence with a single storey dwelling beyond. On the northern boundary is a hedge and trees to approx 4m in height with a dwelling and garden beyond. Access to the site is via an unmade track drive in the southeast corner of the site.

### **PROPOSAL**

The application is for residential development on the site and has been made in outline with all matters reserved except access. The proposed access is from Welbeck Road between 74 Welbeck Road and 5 The Villas. The indicative plan submitted with the application shows 5 detached dwellings but this plan is only indicative as layout and scale are reserved matters.

### **AMENDMENTS**

Site location plan amended to include the visibility splays from the access within the red line application site.

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

The site forms the corner of the Bolsover North site, Planning Application no 14/00080/OUTEA: Outline planning application (with all matters except access reserved for later consideration) for residential development in the region of 950 dwellings, provision of an extra care facility (approx 70 units) and an Infant School together with vehicular access points from Marlpit Lane, Oxcroft Lane and Longlands (with associated demolition of dwellings on Longlands and Welbeck Road), cycle and pedestrian access, associated car parking spaces and open space provision which has been reported to Planning Committee and is has been resolved to approve the application subject to the signing of a S106 Agreement. The Section 106 Agreement has not yet been signed so the application has not yet been determined.

### **CONSULTATIONS**

DCC Highways: No objections provided the visibility splays can be provided and maintained and subject to conditions requiring access to be provided in accordance with the submitted

plans and provided and maintained with 2.4m x 36m in the critical direction and 2.4m x 35m in the non-critical direction, parking and manoeuvring to be provided on site before occupation of the dwellings in accordance with a plan which the LPA will have first agreed, before construction starts on site and area for the storage of plant and materials and parking of site operatives and visitors parking to be provided on site, no gates within 5m of the highway boundary and access/driveway to be no steeper than 1 in 14 over its entire length: 12/9/2017

DCC Archaeologist: Requires conditions to submit a written scheme of investigation for archaeological work has been submitted to and approved by the Local Planning Authority, no development to take place other than in accordance with the approved archaeological scheme and development not to be occupied until the site investigation and post investigation assessment has been completed in accordance with the programme set out in the approved archaeological written scheme of investigation and provision made for the analysis, publication and dissemination of results of archive deposition has been secured: 10/7/2017

Senior Engineer: The sewer records do not show a public combined sewer within the curtilage of the site however the applicant should be made aware of the possibility of unmapped public sewers which are not shown on the records but may cross the site. These could be shared pipes which were previously classed as private sewers and were transferred to the ownership of the Water Authorities in 2011. If any part of the proposed works involves connection to/diversion of/building over/building near to any public sewer the applicant should be advised to contact Yorkshire Water in order to determine their responsibilities under the relevant legislation. The applicant should be advised that all proposals regarding drainage will need to comply with Part H of the Building Regulations: 25/7/2017

Parish Council: No comments received

## **PUBLICITY**

Site notice and 16 neighbours notified. Two letters of objection received which raise the following issues:

1. Concern is expressed that building contractors will use the shared access between 76 and 78 Welbeck Road. This is not a public right of way and is not suitable to provide access to these houses. When trees were recently cleared from the site a tractor and trailer did exactly that. The area between the building plot and the shared area behind 78-84 Welbeck Road but there is a fence between the site and the bungalow to the rear of 74 Welbeck Road so contractors may take the easy route into the site.
2. The children who play in the shared space to the rear of 78-84 Welbeck Road would be at risk from site traffic during construction and is a safeguarding concern which will need to be addressed.
3. The proposal will result in disruption and interference for the neighbouring community.
4. There is a mature hedge and trees on the boundary between the site and the garden to the north of the site which provides privacy to the dwelling to the north and encourages and supports wildlife. Construction work on the adjacent site could have a detrimental impact on the wildlife and could also compromise or damage the boundary hedge and trees, damaging wildlife habitat.
5. The trees on the northern boundary of the site demarcate the boundary of the dwelling to the north and is an ancient boundary going back centuries and should not be disturbed, damaged or compromised by the building of the proposed houses.

## **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), GEN11 (Development Adjoining the Settlement Framework Boundary), HOU9 (Essential New Dwellings In The Countryside), TRA1 (Location of New Development), ENV3 (Development in the Countryside)

### Emerging Local Plan for Bolsover District (October 2014 onwards)

The Council has commenced work to replace the adopted Bolsover District Local Plan (2000) following adoption of its Local Development Scheme on the 15<sup>th</sup> October 2014.

Following public consultation on the Identified Strategic Options for the new Local Plan during October-December 2015, on the 10<sup>th</sup> February 2016 the Council selected its Preferred Strategic Options for the Local Plan for Bolsover District. These are:

- Housing Target – 3,600 dwellings over the plan period (240 dwellings per annum);
- Employment Target – a range between approximately 80 and approximately 100 hectares over the plan period;
- Strategic Sites – support for Bolsover North, former Coalite site, Clowne North and former Whitwell Colliery site;
- Spatial Strategy – Option A with elements of Options C and B for the Spatial Strategy Option, meaning:

This Preferred Spatial Strategy Option will direct additional growth to the District's more sustainable settlements in order to take advantage of their greater employment opportunities, better transport links and services and facilities, but ensuring that a larger share goes to settlements such as Clowne where viability is better and to Whitwell and Bolsover where key brownfield sites exist. This option will seek to take advantage of the preferred suggested strategic sites as the principal locations of growth in Bolsover, Clowne and Whitwell, with smaller sites being sought to deliver growth in the other more sustainable settlements of South Normanton and Pinxton and focussing on achieving the committed growth in the District's other settlements. Where no committed growth currently exists, major development would be resisted in order to support the Council's Preferred Spatial Strategy Option but minor infill development would be accepted.

### National Planning Policy Framework

Planning applications must be determined in accordance with the development plan unless material considerations indicate otherwise. The NPPF is a material consideration with a presumption in favour of sustainable development. As the Bolsover District Local Plan was adopted prior to 2004 due weight should be given to its policies according to their degree of consistency with the NPPF. LPA should be able to demonstrate a 5 year supply of deliverable housing otherwise should look to approve sustainable housing development.

Core principles include securing high quality design and a good standard of amenity for all existing and future occupants of land and buildings, taking account of the different roles and character of different areas recognising the intrinsic character and beauty of the countryside

within a presumption in favour of sustainable development, and managing patterns of growth to make the fullest possible use of public transport, walking and cycling and focusing significant development in locations which are or can be made sustainable, all within a presumption in favour of sustainable development with its three dimensions: economic, social and environmental.

Paragraph 14 – advises that permission should be granted for sustainable development. Where the development plan policies are out of date permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework.

Paragraph 49 states that:- “Housing applications should be considered in the context of the presumption in favour of sustainable development. Relevant policies for the supply of housing should not be considered up-to-date if the local planning authority cannot demonstrate a five-year supply of deliverable housing sites.”

Paragraph 55 states: To promote sustainable development in rural areas, housing should be located where it will enhance or maintain the vitality of rural communities. For example, where there are groups of smaller settlements, development in one village may support services in a village nearby. Local planning authorities should avoid new isolated homes in the countryside unless there are special circumstances such as:

- the essential need for a rural worker to live permanently at or near their place of work in the countryside; or
- where such development would represent the optimal viable use of a heritage asset or would be appropriate enabling development to secure the future of heritage assets; or
- where the development would re-use redundant or disused buildings and lead to an enhancement to the immediate setting; or
- the exceptional quality or innovative nature of the design of the dwelling. Such a design should:
  - be truly outstanding or innovative, helping to raise standards of design more generally in rural areas;
  - reflect the highest standards in architecture;
  - significantly enhance its immediate setting; and
  - be sensitive to the defining characteristics of the local area.

Paragraph 141

Local planning authorities should make information about the significance of the historic environment gathered as part of plan-making or development management publicly accessible. They should also require developers to record and advance understanding of the significance of any heritage assets to be lost (wholly or in part) in a manner proportionate to their importance and the impact, and to make this evidence (and any archive generated) publicly accessible.<sup>30</sup> However, the ability to record evidence of our past should not be a factor in deciding whether such loss should be permitted.

Other (specify)

Successful Places a Guide to Sustainable Housing Layout and Design

## **ASSESSMENT**

The main issues associated with this proposal are the principle of the development of this site for residential purposes, particularly considering its location (with the exception of the access) is outside of the settlement framework, the effects of the development on the character and appearance of the area, impacts on the amenities of neighbouring residents and the impact on highway safety.

In this case, most of the site lies outside of the settlement framework boundary where the open countryside policies apply. Policies for the protection of the countryside must be given due weight but regard must be had to the policies and guidance of the NPPF. The Council now has a five year supply of housing and as such the saved planning policies within the Local Plan relating to the supply of housing can be given more weight. However, the site forms the southern tip of the larger residential site (planning application 14/00080/OUTEA) known as the Bolsover North site. This site has been reported to Planning Committee where it was resolved to approve the application subject to the completion of a S106 agreement. This agreement has not yet been signed but expected to be signed soon. The principle of the development of this site for residential purposes as part of the larger site is therefore considered to be established.

The site is at the southern end of the larger Bolsover North site and the proposed access is outside the Bolsover North site. The site is capable of accommodating residential development without harming or impacting the future residential development of the larger site and as such the proposal is not considered to prejudice the larger development.

If for any reason the Bolsover North scheme is not developed, the site which is the subject of the application is itself already bounded by development to two sides, and whilst the development would clearly extend into land to which the countryside policies apply, the site contains no remarkable features, is currently overgrown and unused and shares boundaries with other gardens. Also to the northeast of the site, residential development extends out in linear form past the northern boundary of this site such that the proposal would not be a prominent intrusion of development into the open countryside.

The site is within walking distance of the shops and community facilities in Bolsover and bus stops giving access to larger towns and cities and as such, whilst it is outside the settlement framework it is immediately adjacent to the settlement in a sustainable location. The proposed development is therefore considered to be in line with the Policies of the emerging Local Plan and the guidance set out in the NPPF.

The application is in outline with all matters reserved apart from access such that the indicative plan submitted with the application does not form part of this consideration. It does however indicate that five dwellings can be provided on the site which provide adequate private open space and parking areas and which meet the council's housing layout and design guidance in terms of distances between windows of proposed and existing dwellings, distances between windows and adjacent private gardens etc. The site is therefore considered capable of accommodating residential development without resulting in a

significant loss of privacy or amenity for residents of adjacent dwellings and on this basis the proposal is considered to meet the requirements of Policy GEN 2 of the Bolsover District Local Plan.

The proposed access is of a suitable width and turning can be provided within the application site to allow vehicles to enter and leave the site in a forward gear. The proposed access can achieve adequate visibility splays in each direction but these visibility splays extend over land which is outside the applicant's control. The owner of the adjacent land has confirmed agreement to the visibility splays extending over his land and therefore subject to a condition requiring provision of the access prior to commencement of the development, it is considered that a safe access can be provided to the site and the applicant has confirmed agreement to a pre-commencement condition. Subject to such a condition the proposal is not considered to be detrimental to highway safety and is considered to meet the requirements of Policy GEN 1 of the Bolsover District Local plan.

The Highway Authority has asked for conditions relating to provision of parking and turning and storage of materials on site but these are issues to be considered in any reserved matters application. They have also asked for no gates within 5m of the highway and the access to be no steeper than 1 in 12. Such conditions are considered to be unnecessary as the access to the site is fairly level and if gates did not require planning permission it would be unreasonable to remove permitted development rights and if they were of a height that did require planning permission that would be the subject of a separate application or the reserved matters application.

A Geophysical survey at first stage of archaeological evaluation was carried out on the land to the north of the site as part of application no 14/00080/OUT. The survey identified the remains of a field system of probable later prehistoric date and the probable sites of lime kilns likely to be post-medieval in date. The extensive field system to the north of the site is likely to extend into the current site and it is therefore considered necessary to use planning conditions to secure archaeological investigation and recording before the site is developed. Subject to such conditions the proposal is considered to meet the requirements of Paragraph 141 of the NPPF

There appears to be an area of hardstanding on the site and it is therefore possible that there may be made ground present. The Environmental Health officer has asked for a condition requiring removal of made ground or a contamination report be carried out and if unexpected contamination is found it is reported and any soil imported to the site has been tested. Such conditions are considered sufficient to ensure the safety of the site in accordance with Policy GEN 4 of the Bolsover District Local Plan.

The issue of use of private access and associated disturbance and safety issues raised by local resident has not been considered as this is a private matter between the parties concerned and it is not indicated on the plans that this access forms any part of the proposal. Concern has been raised about the loss of trees, loss of the hedge/ damage to hedge and wildlife within this hedge has not been considered as the proposal indicates the retention of the hedge and trees and this will be covered at the reserved matters stage of the proposal.

## **Other Matters**

Listed Building: N/A  
Conservation Area: N/A  
Crime and Disorder: No known issues  
Equalities: N/A  
Access for Disabled: N/A  
Trees (Preservation and Planting): No known issues  
SSSI Impacts: N/A  
Biodiversity: No known issues  
Human Rights: No known issues

## **RECOMMENDATION**

Approve subject to the following conditions which are given in précis form to be formulated in full by the Planning Manager (Development Control) in liaison with the chair and vice chair of the Planning Committee:

1. Submission of reserved matter within 3 years
2. Submission of reserved matters for appearance, landscaping, layout and scale
3. Provision of access prior to commencement of development and maintenance of such thereafter
4. Archaeology written scheme of investigation
5. Development to take place in accordance with archaeology written scheme of investigation
6. Development not to be occupied until site investigation and post investigation has been completed in accordance with archaeology written scheme of investigation and results made available and archive deposition of results secured.
7. Prior to the commencement of construction of the dwelling hereby approved, the made ground on the site of the existing dwelling shall have been removed or a contamination investigation and risk assessment of that part of the site shall have been carried out by an appropriately qualified person in accordance with current guidance and in accordance with a scheme which has been approved by the Local Planning Authority to demonstrate that the site is suitable for the proposed development. If that investigation and risk assessment shows that contamination remediation is required, a remediation scheme shall be prepared and submitted to the Local Planning Authority for written approval; the approved remediation scheme shall be implemented as so approved and a full verification report shall have been submitted to demonstrate that remediation has been carried out successfully prior to the occupation of any of the dwellings hereby approved.
8. In the event that contamination is found at any time when carrying out the approved development that was not previously identified it must be reported in writing immediately to the Local Planning Authority and an investigation with risk assessment must be undertaken in accordance with current guidance and approved in writing by the Local Planning Authority and where remediation is necessary a remediation scheme must be prepared in accordance with current guidance which is subject to the approval in writing of the Local Planning Authority. Any approved remediation shall be implemented as approved and a full verification report shall have been submitted to demonstrate that remediation has been carried out successfully prior to the occupation of any dwelling.
9. In the event that it is proposed to import soil onto site in connection with the

development, the proposed soil shall be sampled at source and analysed in a laboratory that is accredited under the MCERTS Chemical testing of Soil Scheme for all parameters previously agreed in writing with the Local Planning Authority, the results of which shall be submitted to the Local Planning Authority for consideration. Only the soil approved in writing by the Local Planning Authority shall be used on site.

### Statement of Decision Process

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





**PARISH** Ault Hucknall

---

**APPLICATION** Demolition of existing dwelling and erection of replacement dwelling and garage (Revised Scheme)  
**LOCATION** The Croft Astwith Lane Astwith Chesterfield  
**APPLICANT** The Trustees of Jimi Kirk Julie Hardy 3 Wheatcroft Business Park  
Lanmere Lane Nottingham NG12 4DG UK  
**APPLICATION NO.** 17/00376/FUL **FILE NO.** PP-06262781  
**CASE OFFICER** Mrs Karen Wake (Mon, Tues, Wed)  
**DATE RECEIVED** 26th July 2017

Delegated application referred to committee by: Development Control Manager  
Reason: Level of public interest

---

### **SITE**

Stone-built dwelling with tiled roof and some timber, some upvc windows and a upvc conservatory to the side. The dwelling has first floor accommodation within the roof space with a front facing gable containing ground and first floor windows. The dwelling is set back from the site frontage and is set higher than the adjacent highway. There are mature hedges and trees around the side and rear boundaries of the site and a low hedge along the site frontage. There is an existing access and a long driveway with parking for several cars.

### **PROPOSAL**

The application is for the demolition of the existing dwelling and the construction of a new two storey dwelling (First floor accommodation in the roof space.) The proposed dwelling has 5 bedrooms, an open plan kitchen/dining/living room, a separate lounge and kitchen and a therapy/activity room. The proposed dwelling has a pitched roof double garage linked to the main dwelling by a store/entrance hall. The application is the re-submission of a previously refused scheme. The current proposal is the same design as the previously refused scheme but is slightly longer and narrower than the previously refused scheme. The footprint of the proposed dwelling has been reduced in size, the height of the dwelling has been reduced, the first floor accommodation above the entrance hall and garage has been removed and the dwelling is now set further away from the . The proposed dwelling is slightly closer to the western boundary than the original proposal and is further away from the southern boundary and closer to the northern boundary than the existing dwelling.

### **AMENDMENTS**

None

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

17/00097/FUL: Demolition of existing dwelling and construction of replacement dwelling and garage: Refused 26/04/2017  
BOL393/63: Erection of a porch: Approved 8/4/1993  
BOL891/387: Conversion of roof space into bedroom and construction of window in gable: Approved 18/10/1991  
BOL288/83: Rebuilding of demolished barn and extension to farm dwelling: Approved

31/03/1988

BOL984/359: Change of Use from agricultural building to residential: Approved

BOL680/387: Conversion of stone barn to residential unit: Approved 5/9/1980

BOL1179/618: Change of use from barn to dwelling: Refused 28/2/1980

BOL279/64: Erection of detached dwelling: Refused 4/5/1979

BOL175/12: Erection of bungalow: Refused 10/02/1975

## **CONSULTATIONS**

DCC Highways: No objections subject to conditions requiring provision of 2m x 30m visibility splays and space provided in the site for parking and manoeuvring of vehicles: 10/08/2017

Senior Engineer: The sewer records show a public sewer within the curtilage of the site (plan enclosed). The applicant should also be made aware of the possibility of unmapped public sewers which are not shown on the records but may cross the site of the proposed works. These could be shared pipes which were previously classed as private sewers and were transferred to the ownership of the Water Authorities in October 2011. If any part of the proposed works involves connection to / diversion of / building over / building near to any public sewer the applicant should be advised to contact Yorkshire Water in order to determine their responsibilities under the relevant legislation. All proposals regarding drainage will need to comply with Part H of the Building Regulations 2010: 5/09/2017

National Trust: The additional accommodation required would be better achieved through modest extensions rather than replacement with a much larger dwelling. The existing building's small scale and vernacular character allow it to perform a subordinate role within the settlement despite its elevated position. The proposed dwelling will be set forward and its increased height and mass will result in a more imposing, overbearing building which together with the large paved area, modern frontage and open outlook could result in significant urbanisation of the settlement which would detract from the character and appearance of the conservation area contrary to Policy CON 1 of the Bolsover District Local Plan. The Heritage Impact Assessment does not provide an adequate description of significance or assessment of impact. However the Design and Access Statement gives some information relating to historic significance and impact and therefore the information requirement of the NPPF is considered to have been met. The garage and link building appears oversized in relation to the main building. The position and height of this structure may obscure views from Astwith Lane towards Holly Cottage behind (an unlisted building of merit) and may also therefore impact on return views. It is possible that these effects could be lessened by reducing the extent of this structure, reducing its ridge height and/or turning the garage through 90 degrees to create a companion (though lesser) gable to the main dwelling. The design of the east elevation is not in keeping with the character of the conservation area or the local vernacular. The large amount of exposed glazing facing east towards Hardwick Hall and Park, Astwith Lane and adjacent buildings is of concern as the glazed gable end in particular is of a design not in keeping with the local character. The boundary wall is out of character with the local vernacular where boundary hedges are more characteristic. If the LPA are minded to approve suggest conditions relating to building in stone, design and specification of gate, details of windows and doors, roofing material and any hard surfacing/paving: 5/09/2017

Conservation Officer:

No objections. This revised scheme has reduced the scale of the new dwelling considerably

so that it now reflects the existing building better. The proposal has been extended in length so that it is now slightly longer than the refused scheme but this is acceptable as it enables the reduction in scale. Other amendments have been made which include the removal of numerous rooflights. Overall the design of the dwelling reflects the simple styling of an agricultural/barn building. This responds to the origins of the existing building which was once a barn that was converted to residential. The building was rebuilt during the conversion and was inappropriately extended and altered over the years so that it was no longer recognisable as a converted barn and is therefore not consider a heritage asset. The new dwelling will introduce timber windows and doors whilst the existing building has upvc, this will be more appropriate in the conservation area. Requires conditions in relation to samples of stone, pantiles and slate, sample panel of stone on site, large scale details of windows, doors and rooflights, details of hard and soft landscaping, details of rainwater goods on rise and fall brackets not fascia boards: 1/09/2017

Environmental Health Officer:

Environmental Health: No objections subject to a condition requiring removal of made ground or a contamination investigation risk assessment be carried out and in the event of any contamination being found whilst carrying out the development it must be reported to the LPA and a remediation scheme be approved and implemented and if soil is to be imported to the site it must be sampled at source and approved by the LPA before being brought to site:  
4/9/2017

**PUBLICITY**

Site notice, press notice and 11 neighbours notified. Nine letters of objection letters which raise the following issues:

1. The revised scheme has not met the criteria set by the previous refusal. It is only 15% smaller, still appears all roof and is still 260% bigger than the existing
2. The style of the building is designed around a timber frame method of construction more akin to a tree growing locality than predominantly stone constructed areas. Suggest the architect visits the area as the village was part of the Hardwick estate and the language needs to be maintained.
3. Clay pantile roofs are traditionally used on ancillary buildings not as the main roof.
4. There is no mention of coal measure sandstone which is the local stone and all but two buildings are constructed in it.
5. The proposed dwelling is too big for the surrounding hamlet. Astwith is a Conservation area and this proposal ignores the character and appearance of the conservation area. It will be imposing and out of character and set close to the historic road which runs through Astwith. It is in an elevated position and will dominate that part of the village and the landscape setting of Hardwick Hall and does not relate to the character of the village.
6. The proposed dwelling still has side windows and overlooks adjacent dwellings and gardens and causes a significant loss of privacy for residents of the adjacent dwellings, overpowers the adjacent properties resulting in loss of daylight and sunlight to those properties and removing views from these properties all of which is harmful to the amenity of the residents of the adjacent dwellings contrary to Policy GEN 2.
7. Allowing the hedge to grow higher or installing a screen fence on the Holly Cottage side of the boundary will not prevent overlooking from the proposed dwelling as it

would be sitting on a much higher finished floor level than the garage and garden area of Holly Cottage such that the height of the hedge would need to be at least 3m in height to achieve this.

8. The building looks more like a public care home and its size and modern appearance makes it out of keeping with the other properties in Astwith. It would be preferable for the existing building to be modestly extended on the northwest wing within the present constraints of height and width to accommodate the extra room.
9. The proposed amendments to the original application are very modest and the design is still incongruous in this rural setting. The roof line has been lowered but the building has been extended forwards to emphasise the bulk of the property which is not in keeping with a rural hamlet.
10. The hamlets of Stainsby, Astwith and Hardstoft are precious in these overcrowded times and are not the places for sharp angled, modern glass fronted creations.
11. The original proposal contravened policy HOU 8. This revised proposal still exceeds the scale of the original. It is 2m longer, remains in close proximity to neighbouring plots and is still not in keeping with the character of its surroundings.
12. The previous proposal was identified as contrary to Policy HOU 9 and still is as it is not essential for agriculture or forestry.
13. No evidence of the viability of this proposal has been submitted. The dwelling was purchased for approx £370k and was habitable and could be enlarged by a modest extension to provide an additional bedroom instead of squeezing a 2600ft<sup>2</sup> new build in there.
14. The applicant's submission states the Planning Manager indicate the council were now happy with the form and massing of the proposal which was untrue. Only one officer in the process felt the drawing was moving in the right direction which is not an overwhelming acceptance. If correspondence has taken place with the applicant and the proposal is a done deal then this documentation should be in the public domain.
15. Previous proposals in the village have had to be amended/reduced in size to conform with Conservation and National Trust requirements. This proposal should have to do the same.
16. It is upsetting for the community and the applicant that this planning consultancy has an agenda which completely disregards the community of Astwith which is leading to ill feeling and conflict. The community would like to welcome the new residents and suggest a meeting to come up with acceptable proposals for the dwelling which do not have such a detrimental effect on the village.
17. Demolishing a small bungalow and replacing it with a five bedroom dwelling of this scale will adversely affect the character of the village and the conservation area and will set a precedent for future unsuitable development when, to date, other dwellings in the village have been subject to constraints imposed by the conservation team to maintain the vernacular style of the area and this has been successful.
18. The proposal seems to be using The Croft as a building plot to build a property five times the size of the original of a design and size better suited to a suburban setting. The main building is still at least 2ft taller than the existing dwelling, the proposed eaves height is 3m rather than 2.4m as it is now and the garage is unnecessarily tall resulting in a negative impact on the street scene.
19. Paragraph 50 of the NPPF requires councils to plan for a mix of housing based on the needs of different groups within the community. The demolition of the croft and creation of a 5 bedroom property is unnecessary. The existing two bedroom habitable

- dwelling provides the mix required for a smaller and therefore cheaper property in the hamlet and is ideally suited to retired people. The majority of dwellings in Astwith are large enough for families but only this one is suitable for couples wishing to retire.
20. If the applicant wanted to buy a plot to erect an enormous tailor made property then it should not have bought a property in a conservation area.
  21. The building is of an ultra modern design and materials which insensitive and dismissive of the architecture found in this hamlet.
  22. The proportions of the building are out of character in the area creating a roof which is almost twice the height of the walls this is unbalanced and looks more like a swiss chalet such that its design is incongruous and does not comply with conservation area requirements or the recommendations of the Conservation Review and Management Plan for Astwith 2010.
  23. The mass of the proposed dwelling is such that it will totally dominate the plot and have a negative impact on the street scene and the hamlet.
  24. The building should be set lower in the ground or repositioned in the northwest corner of the site which is much lower and therefore issues of scale and mass wouldn't greatly impact on anyone
  25. The Design and Access statement suggests a tree protects the privacy of Rose Cottage. This tree is deciduous and is therefore no protection at all for 6 months of the year. If the tree is fundamental to the consent it should be given a Tree Preservation Order.
  26. The proposal is harmful to the setting of the conservation area and the setting of Hardwick Hall.
  27. The site is within the conservation area. It wasn't a conservation area at the time the barn was demolished and a bungalow was built but it is now and as result it has a right to be preserved in its current state and size.
  28. The existing bungalow was bought knowing the size of the building and knowing it was in a conservation area if it was unsuitable a more suitable property should have been purchased. There is another property for sale in the same village which is large enough for what is required.
  29. The existing building was built on the footprint of the original barn. The building is not an unlisted building of merit but is now well established enough to be in keeping with the character and appearance of Astwith.
  30. The proposal will harm views from adjacent properties.
  31. The proposal will block important views into and out from the conservation area and across the Hardwick estate which is an important feature to be preserved as set out in the Astwith Conservation Area Appraisal and Management Plan
  32. The removal of the mature hedgerows and erection of walls along the boundaries of the property will affect the existing landscaping, biodiversity and local wildlife and harm the character of the conservation area.
  33. Astwith Lane is single width and unsuitable for construction traffic. Such traffic will damage existing grassed open space and verges.
  34. The proposal is contrary to Policies GEN 2 and HOU 8 of the Bolsover District Local Plan and the guidance in the Astwith Conservation Area Appraisal and Management Plan.
  35. The position of Holly Cottage will not be enhanced through increasing the degree of separation as the height and size of the proposed dwelling will outweigh this.
  36. The proposed double garage is 5.65m wide and the link building is 3m wide but no

measurements are provided for the length of these buildings so the overall size of these rooms cannot be determined.

37. Astwith Conservation Area Appraisal states that “Where a decision relates to a site of building within the Astwith Conservation Area, special attention shall be paid to the desirability of preserving or enhancing the character or appearance of the area before reaching a decision.” “The council generally resist proposals to demolish buildings which make a positive contribution to the conservation area and will only grant planning permission where every alternative course of action has been properly investigated and discounted for sound and convincing reasons.” The revised proposal is still over twice the size of the original dwelling and is considerably higher and even more so than the original barn.
38. The dwelling will now be sited further forward than the the existing dwellings building line, towards the boundary of the adjacent dwelling, the measurements of which are not shown on the site plans and also extended some 7m further forward towards Astwith Lane, changing the juxtaposition with adjacent dwellings and Astwith Lane. The level of reduction to the footprint of the revised dwelling has merely been moved from the southeast elevation then added to the rear southwest elevation.
39. The proposal features a bold, glazed gable end with bi-fold doors facing Astwith Lane. This would not be in the architectural style of the area which is considered to have historical interest and a character which is conducive to the designation as a conservation area. This is contrary to the requirements of the Conservation area appraisal which states windows and doors are a key feature which influence the overall appearance of a building and make a significant contribution to the character and appearance of the conservation area.
40. The comparing images of the present dwelling and the proposed dwelling do not portray the size, scale or height that the new dwelling would actually aspire to. On the proposed dwelling image the main part of the dwelling looks very similar in size and height to the existing dwelling however it is in fact double the size and 1.6m higher and so does not give an overall informed view of the actual size and scale that the new dwelling will become. Comparable images have not been provided for the revised proposed dwelling.
41. It is stated that the main bulk of the revised dwelling will be moved away from Holly cottage and therefore will no longer be harmful yet this is replaced by the link building and double garage and as there are no length measurements of these buildings on the site plans, the scale, size and juxtaposition of them cannot be determined.
42. The revised dwelling is still of such large proportions that it seems to exceed the needs of such a small family. The dwelling has 5 bedrooms and in the future could house a much larger occupancy. The room sizes are such that in the future they could be scaled down with partition walls to create even more rooms.
43. Holly Cottage which is adjacent to the site is an unlisted building of merit. The proposal detracts Holly Cottage from its setting, not enhances it as stated in the application due to its height, scale and mass.
44. The revised dwelling’s total roof length will now be 22.36m which is 2.4m longer than the refused dwelling. This will introduce an alien element into the conservation area and impact on the relationship with the group of traditional buildings and harm the character and appearance of the conservation area and which are now sited 2m nearer to the boundaries of adjacent private gardens resulting in loss of privacy and amenity.

## **POLICY**

### Bolsover District Local Plan (BDLP)

Policies GEN 1 (Minimum Requirements for Development) GEN 2 (Impact of Development on the Environment) GEN 8 (Settlement Frameworks) HOU 8 (Replacement or Extension of Existing Dwellings in the Countryside) HOU 9 (Essential new Dwellings in the Countryside) CON 1 (Development in Conservation Areas.)

### National Planning Policy Framework

#### 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.

### Other (specify)

Successful Places: A Guide to Sustainable Housing Layout and Design  
Historic Environment Supplementary Planning Document

Astwith Conservation area Appraisal and Management Plan. The Appraisal and Management Plan sets out the key elements that contribute positively to the character and appearance of the Astwith Conservation Area as follows:

- picturesque rural setting on the edge of the sandstone plateau within a broader undulating agricultural landscape dotted with woodland
- a settlement and landscape character that reflects the historic and ongoing influence of the Hardwick estate
- low density development centred principally around traditional farmsteads with later infill development
- good examples of vernacular farmhouses, cottages and barns where traditional building materials and detailing have been retained
- prevalence of hedgerows and mature boundary trees adds to the scenic quality of the environment
- traditional stone boundary walls
- historic interest of the road network
- a number of important open spaces
- a network of public footpaths connect the settlement to the surrounding Countryside

The Astwith Conservation Area Appraisal and Management Plan also contains the following guidance:

#### Landscape Setting

Astwith has an intrinsic association with the agricultural landscape within which it sits. The significance of the landscape component is critical in setting the overall context for the buildings and other structures found in the conservation area. Intermittent views of Astwith sitting within this landscape and views from the conservation area of the surrounding landscape make an important contribution to the character and appearance of the area. Long distance views of Astwith can be obtained from a number of locations, particularly from the network of public footpaths which cross the local landscape. Because there is no church in Astwith it is the farm houses and larger outbuildings situated on the edge of the settlement that are most noticeable when viewed from more distant locations.

#### Key Element - Important Views, Open Spaces, Trees and Hedgerows

7.45 The nature of the local topography and position of Astwith on the edge of the sandstone escarpment overlooking the shallow valley of the River Doe Lea is conducive to some intermittent mid- and long distance views of the settlement, particularly from the north, east and southeast. Views of the mix of stone and red brick buildings clustered together with roofs comprising slate and red pantile add considerably to the character and appearance of Astwith. These views make an important contribution to the character and appearance of the area by framing the conservation area in the context of the wider surrounding landscape.

#### Important Views

The following views have been identified as important to the character and appearance of the conservation area:

- views in both directions along Branch Lane and Astwith Lane
- views to the north and north east across open landscape



- views to the east and south from the edges of the settlement
- views across the Doe Lea Valley towards the halls at Hardwick
- views of the settlement from surrounding footpaths
- internal views of the street-scene along Astwith Lane

## **ASSESSMENT**

### Background

In this case, the existing dwelling replaced a barn which was granted planning permission for conversion to a dwelling. The barn fell down during the works and resulted in planning permission being granted for a new dwelling on the same footprint. Since then it has been extended and altered several times which has resulted in a building that is not considered to contribute to the overall character of the conservation area. The existing dwelling is approximately 6m wide, 14m long and 6m high to the ridge at the highest point. The existing dwelling has a further single storey extension to the northern side and a conservatory to the southern side.

A planning application for a replacement dwelling was originally submitted in March this year. The application was refused as it was considered to be too large, was harmful to the character and appearance of the conservation area and was harmful to the privacy and amenity of residents of adjacent dwelling and as such was contrary to Policies HOU 8, HOU 9 CON 1 and GEN 2 of the Bolsover District Local Plan.

The previously refused replacement dwelling had 5 bedrooms, was 10m wide and 20m long and was 8.1m high, 5.4m of which was roof plane containing 20 roof lights. The dwelling had a pitched roof double garage linked to the main dwelling by a store/entrance hall and both the garage and entrance hall were designed to accommodate first floor extensions into the roof space.

### Current Proposal

The dwelling which is the subject of this application is approx 7.7m wide, 22.3m long and 6.8m high to the ridge at the highest point. The proposed dwelling also has a pitched roof double garage linked to the main dwelling by a store/entrance hall but does not propose rooms in the roofspace above the garage/link building.

### Principle of Replacement Dwelling

The site is within the hamlet of Astwith which is outside settlement frameworks in an area of open countryside but within the Conservation Area. Policy GEN 8 of the Bolsover District Local Plan states that outside the settlement frameworks general open countryside policies apply.

Policy HOU 8 of the Bolsover District Local Plan states that planning permission will be granted for replacement dwellings in the countryside provided the replacement dwelling is in keeping with the character of its surroundings and does not exceed the scale of the original and in all other cases a replacement dwelling will be treated as new residential development.

The policy goes on to state that extensions to existing dwellings will also be acceptable provided they are of a scale and design which is in keeping with the current scale and character of the dwelling and its surroundings.

The proposed new dwelling is larger than the existing dwelling. However, the existing dwelling could be significantly increased in size/scale by some extensions which would be permitted development as well as having the ability to apply for planning permission for extensions in accordance with Policy HOU 8. Therefore, the existing building could be increased in scale without permission or in accordance with HOU8. So, it is reasonable to consider that a replacement dwelling for an ordinary residential use might be acceptable in planning terms even though it would be bigger than the dwelling it replaced when the fall back positions available to the applicant might well result in a worse outcome than granting permission for a larger dwelling.

In these respects, whilst the proposed main part of the dwelling is of a larger footprint than that of the existing dwelling, it is less than 1m higher than the existing dwelling and is not considered to be significantly greater in scale than the existing dwelling as it could be extended. The proposed garage adds to the scale of the proposed dwelling, but if the proposed garage were detached from the dwelling and only reduced in height by 900mm then the garage would not require planning permission and could in fact be increased in footprint under permitted development rights.

On this basis it is considered reasonable to accept the scale of the proposed replacement dwelling as acceptable under Policy HOU 8 of the Bolsover District Local Plan. There is therefore no need for the proposed dwelling to be treated as a new dwelling (rather than a replacement) and as such Policy HOU 9 of the Bolsover District Local Plan does not apply and there is no need for an agricultural or forestry justification for the new dwelling.

### Impact on Conservation Area

The proposal site is elevated and is located next to several traditional buildings (which have been designated as unlisted buildings of merit in the Astwith Conservation area appraisal). There are views of this group of buildings at various points along Astwith Lane. The increase in scale and massing of the proposed dwelling would impact on the relationship within this group of traditional buildings and the views to and from this group of buildings. The proposed development will therefore clearly have an impact on the character and appearance of the conservation area.

However, the Conservation Officer has no objections to the proposal. The existing dwelling has been extended and altered several times which has resulted in a building that is not considered to contribute positively to the overall character of the conservation area. The previously refused scheme was considered to be overly dominant in relation to the scale of the existing building and the adjacent buildings in the conservation area. This revised scheme has reduced the scale of the new dwelling considerably so that it now reflects the existing building better. The proposal has been extended in plan so that it is now slightly longer than the refused scheme but the extension in length is considered acceptable as it enables the reduction in scale compared to the proposals that were refused planning permission earlier this year. Other amendments have been made which include the removal of a number of

rooflights and reducing the height of the building so that the roof slope is no longer considered to appear top heavy and the proportions of the proposed dwelling are considered more appropriate for its location.

On this basis, the proposed dwelling is removing a dwelling which does not contribute positively to the character and appearance of the conservation area and which could be altered and extended and where detached garages and outbuildings could be constructed to the side/rear without the need for planning permission. Permitted development rights could be removed from the proposed dwelling to prevent it being externally altered or extended to prevent any further additions to the building or any additional outbuildings and details of materials and detailing of the dwelling can be controlled by condition.

Subject to such conditions, the replacement dwelling whilst not ideal in design terms would preserve the character and appearance of the conservation area and its impact would not cause harm to the Conservation area over and above the existing situation. The proposal is therefore considered to meet the requirements of Policy CON 1 of the Bolsover District Local Plan and the guidance set out in the NPPF.

#### Impact on Residential Amenity

The proposed dwelling is close to the side and rear boundaries which it shares with the adjacent dwelling. The main part of the proposed dwelling is set further away from the southern boundary than the existing dwelling but is also larger and higher and the garage and link extension extends closer to the southern boundary. However, the adjacent dwelling is set higher than the site and does not directly face the proposed dwelling and there is some 20m between the two dwellings. On this basis, whilst the proposed dwelling will undoubtedly result in a loss of view from the adjacent dwelling this is not something which can be protected by the planning system.

The distance between the dwellings, the difference in heights and the angled position all mean that the proposal is not considered to result in a significant loss of daylight to or outlook from the adjacent dwelling. There are no windows proposed in the rear elevation but there are ground and first floor windows in the side elevation of the proposed dwelling. The first floor windows in the side elevations are rooflights but they have an internal cill height of 1.5m which is not considered to be high level and as such there ground floor windows within 9m and first floor windows within 11m. The ground floor windows on the south elevation area screened by the boundary hedge and the retention of a hedge can be required by condition. 11m from first floor windows to private gardens is considered sufficient to protect an adequate standard of privacy to the adjacent garden as it meets the requirements of the Housing Layout and Design guidance published by the Council.

The proposed dwelling is immediately adjacent to the northern site boundary and the garden of the adjacent dwelling extends round to the north of the site and the hedge along this northern boundary is only 1m in height. Some of the ground floor windows in this northern elevation are obscure glazed but some are clear and very close to the boundary. However, the erection of a 1.8m high screen fence (measured from the site level) would protect the privacy of the garden to the north from the ground floor windows and this can be required by condition. The rooflights in the northern elevation serve a hallway and a bedroom. The

rooflight in the bedroom is not the only rooflight to this room and therefore the one in the northern elevation and the ones serving the hallway can be conditioned to be fixed and obscure glazed or high level to prevent overlooking of the garden to the north of the site.

Subject to such conditions the proposal is not considered to result in a significant loss of privacy and amenity for residents of the adjacent dwellings and meet the requirements of Policy GEN 2 of the Bolsover District Local plan and the Successful Places Guide to Housing Layout and Design published by the council.

### Other Considerations

The proposed dwelling is larger than the existing dwelling and has separate facilities such that it could be occupied as two dwellings. However, on the basis that the application is for a single dwelling and its occupation can be controlled by condition to be a single dwelling, the proposal is not considered to result in an additional dwelling in the countryside and in highway terms the proposal replaces one dwelling with another. On this basis, the proposal utilises the existing access and provides parking and turning for several cars. The provision of parking and turning on site prior to occupation of the new dwelling can be required by condition. Subject to such a condition the proposal is not considered to be detrimental to highway safety and is considered to meet the requirements of Policy GEN 1 of the Bolsover District Local Plan.

The Highway Authority have also requested a condition relating to provision of visibility splays from the access but this is considered to be unreasonable since the proposal utilises the existing access and is replacing one dwelling for another. Local residents have raised issues about Astwith Lane being unsuitable for construction traffic but any such traffic would only be for a temporary period and must be reasonably expected unless no development is to be allowed in the hamlet at all.

The Environmental Health officer has asked for a condition requiring removal of made ground or a contamination report be carried out and if unexpected contamination is found it is reported and any soil imported to the site has been tested. Such conditions are considered sufficient to ensure the safety of the site in accordance with Policy GEN 4 of the Bolsover District Local Plan.

Most of the issues raised by local residents are covered in the above assessment. The issue of the existing dwelling being suitable for other people, the future conversion to a care home and the applicant buying a more suitable property available in the village has not been considered as this is not a material planning consideration and each application is considered on its individual merits.

### Conclusion

The determination of this proposal is finally balanced. The proposal increases the scale of the dwelling and will impact on the character on the character and appearance of the Conservation area. However, there are no objections to the proposal from the conservation officer and the existing dwelling is not considered a heritage asset and could be substantially altered without the need for planning permission. The proposed dwelling is not significantly

larger than the existing dwelling could be if it were to be extended under permitted development rights and the removal of permitted development rights will prevent the scale of the proposed dwelling increasing further than proposed in this application. Careful control over the materials and detail of the proposed dwelling will also help ensure the replacement dwelling harmonises with its surroundings.

Therefore, subject to appropriate planning conditions, it is not considered that the proposals would harm the conservation area over and above the existing situation and the character and appearance of the conservation area would be preserved. On this basis the proposal is considered to broadly meet the requirements of Policies HOU 8 and CON 1 of the Bolsover District Local Plan and the guidance set out in the NPPF.

### **Other Matters**

Listed Building: Covered in the above assessment

Conservation Area: Covered in the above assessment

Crime and Disorder: N/A

Equalities: N/A

Access for Disabled: The application is to provide a dwelling which can accommodate the needs of an occupier with disabilities and his carer. Given that the council cannot control future occupancy of the dwelling there has been no weight given to the individual needs of the applicant.

Trees (Preservation and Planting):N/A

SSSI Impacts: N/A

Biodiversity: No known issues

Human Rights: No known issues.

### **RECOMMENDATION**

Approve subject to the following conditions which are given in précis form to be formulated in full by the Planning Manager (Development Control) in liaison with chair and vice chair of the Planning Committee:

1. Start within 3 years
2. Submission of levels
3. Removal of permitted development rights.
4. Dwelling to be occupied as a single dwelling
5. Submission of sample materials
6. Sample panel of stonework
7. Timber windows and doors
8. Large scale details of glazed gable and windows and doors to be submitted
9. Rainwater goods to be on rise and fall brackets
- 10.No additional rooflights
- 11.Details of hard and soft landscaping to be submitted.
12. 1.8m high screen fence (from site level) along the northern boundary in the position shown on a plan
- 13.Rooflights in the northern elevation to be fixed and obscure glazed or have minimum internal cill level of 1.7m
14. Screen fence or hedge maintained along the southern side boundary to a minimum height of 2m.

- 15. Provision of parking and turning in accordance with approved plan prior to occupation.
- 16. Removal of made ground/ contamination investigation conditions

Statement of Decision Process

The proposal broadly complies with the policies and guidelines adopted by the Council. The impacts of the proposal are not considered to be so great as to justify refusal of the proposal and the decision has been taken in accord with the guidelines of the National Planning Policy Framework.

**Site Location Plan**



**Bolsover District Council**

**Planning Committee**

**27 September 2017**

**Procedure: Section 106 Agreements**

**Report of the Planning Manager (Development Control)**

**Purpose of the Report**

- To ensure that the District Council has a robust procedure for recording and monitoring Section 106 obligations.

**Report Details**

**1. Background**

- 1.1 Section 106 agreements are governed by the Town and Country Planning Act 1990. Amongst other things, they enable the District Council to secure contributions to services, infrastructure and amenities in order to support and facilitate proposed development. They work on the principle that developers should contribute towards any additional burden placed on the social and physical infrastructure of an area as a result of a development.
- 1.2 Therefore, developer contributions secured by a legal agreement often form reasons for planning approval for major development in the District. It is also more likely that a local community would be adversely affected by developments if obligations aren't met and the relevant contributions aren't made. This means if obligations required to make a development acceptable in planning terms aren't properly discharged then there is a risk of harm to the Council's reputation and public confidence in the Council's decision making.
- 1.3 Section 106 contributions received by the District Council are also subject to strict criteria on how and when they are spent. Expenditure must be relevant to a particular development and be spent within a set timescale (usually five years) otherwise the conditions of the agreement may have been breached, leaving the Authority open to legal claims from developers to recover contributions. Council departments must therefore be able to demonstrate how and when funds have been spent in order to reduce the risk of such claims against the Authority.
- 1.4 Consequently, it is important that the District Council has a robust procedure for recording and monitoring Section 106 obligations.

## **2. Procedure for Recording and Monitoring Section 106 Obligations**

- 2.1 In an audit report completed in 2016, it was noted that consideration should be given to updating the Council's procedures in terms of recording and monitoring Section 106 agreements. Officers have since updated the procedures and the current procedure notes are attached as Appendix 1. The procedure notes cross refer to a spreadsheet maintained by Finance, which is the main tool used by planning officers to monitor section 106 agreements.
- 2.2 The spreadsheet maintained within Finance ('the Finance spreadsheet') is used to record current and future legal agreements, monitor compliance with planning approvals and ensure that obligations are fulfilled where the 106 agreement requires financial contributions. Finance will also maintain an annex to the main spreadsheet that will be used to record current and future legal agreements where the 106 agreement requires provision of physical infrastructure such as affordable housing to be built on-site. The attached procedure notes cover:
- recording of Section 106 Agreements on the Finance spreadsheet;
  - responsibilities for monitoring the progress of agreements;
  - recording and accounting for financial contributions;
  - expenditure and budgetary control of financial contributions;
  - monitoring and recording delivery of infrastructure; and
  - management reporting systems.
- 2.3 The procedure notes are therefore organised around the key stages in the life of a s.106 agreement: (1) when a planning permission is issued; (2) quarterly review; (3) when triggers are reached; (4) when payments are received; and (5) when obligations have been discharged. It is considered the updated procedure notes will provide a robust framework, which will ensure that Section 106 legal agreements are discharged in accordance with planning approvals and that all obligations are met.

## **3. Current Position**

- 3.1 The current financial spreadsheet is attached for information. The spreadsheet shows that there are no current areas of concern in respects of payments received and the deadlines for expenditure.
- 3.2 The attached procedural notes have already been circulated and agreed by the relevant officers. Quarterly review meetings are ongoing and all the recommendations made in the 2016 audit report have been addressed. There are no current breaches of existing agreements or outstanding debts in respects of financial contributions owed to the Council.

## **4. Member Involvement**

- 4.1 The obligations contained in S.106 legal agreements are most commonly examined by members of the Planning Committee as part of the determination of a planning application. In terms of current practice, a final decision will always be made by members on applications where officers are recommending approval of development that is not sufficiently viable to make all the financial contributions requested by consultees (i.e. financial contributions towards health, education or



highways) or all the obligations required by adopted policy (i.e. affordable housing and recreation provision). Planning permission will only be granted by officers under delegated powers for developments that are able to meet all their obligations where obligations are required to make the development acceptable in planning terms.

- 4.2 It is therefore considered members currently have appropriate oversight with regard to the Council's acceptance of s.106 legal agreements within the existing decision making process.
- 4.3 Earlier this year, officers presented a report to the Planning Committee promoting early member engagement with major applications. The report was accepted by members and local members have since been invited to a number of pre-application meetings with developers to discuss forthcoming applications. It was agreed that this type of early engagement should improve the ability of members to influence development proposals and guide officer negotiations especially where priorities need to be agreed with developers in terms of what might be included in s.106 agreements. Therefore, members now have a better opportunity to raise issues that are of particular interest or concern to the local community at an early stage.
- 4.5 Where applications have not been subject to pre-application discussions, or where appropriate, officers propose inviting members from Wards likely to be affected by major development proposals to a meeting with officers and the Chair and Vice Chair of the Planning Committee once all consultation responses have been received to discuss the proposals and any proposed obligations and/or draft heads of terms. This would normally be anticipated to be around six to eight weeks after an application has been validated.
- 4.7 It is therefore considered that members currently have an appropriate degree of oversight in respects of the negotiation of s.106 legal agreements prior to an application being reported to the Planning Committee and where possible, prior to a formal submission through early engagement. In these respects, early engagement supplements the decision making process by allowing members to gain a better insight to how s.106 legal agreements are negotiated and influence what should be included in a s.106 legal agreement in the best interests of their local communities and the District as a whole.
- 4.8 This report and attached procedural notes are not intended to seek adoption of a new policy or protocol. They are intended to supplement the existing procedures and provide members an opportunity to review how obligations are monitored by officers and subsequently discharged once Section 106 agreements have been agreed and secured through early engagement, negotiation and the decision making process. Subject to acceptance of the recommendations in this report by members, officers will report on the status of s.106 agreements to Planning Committee on a quarterly basis from December 2017 giving members the opportunity to assess the effectiveness of the updated procedures.
- 4.9 Therefore, the recommendations of this report should ensure members continue to have adequate oversight over the recording and monitoring of s.106 legal agreements and the discharge of planning obligations. More generally, the recommendations in this report will also support the ability of members to engage with the 'end to end' planning process from early engagement at pre-application

stage through to decision making at Planning Committee and then on to ensuring that developers are meeting their obligations made in Section 106 legal agreements.

## **5. Recommendations**

### **5.1 That the Planning Committee:**

- i. notes this report;**
- ii. supports the introduction of the updated procedure notes; and**
- iii. accepts the officer recommendation of quarterly reporting on the status of current s.106 legal agreements from December 2017.**

## **6 Consultation and Equality Impact**

6.1 There has been no public consultation in respect of this report, and there are no negative equality impacts identified. Officers consider that increasing member involvement in the discharge of s.106 legal agreements should promote **equality** of opportunity for local residents through ensuring obligations are met. All relevant officers have agreed the procedure notes.

## **7 Alternative Options and Reasons for Rejection**

7.1 The updated procedure notes and reporting the status of current s.106 legal agreements to Planning Committee address recommendations made in the 2016 audit report. Therefore, officers have not considered alternative options.

## **8 Implications**

### **Finance and Risk Implications**

8.1 If obligations required to make a development acceptable in planning terms aren't properly discharged then there is a risk of harm to the Council's reputation and public confidence in the Council's decision making. If financial contributions are not spent within a defined period then the money has to be returned to the developer and normally returned with interest. Therefore, there are finance and risk implications if procedures for recording and monitoring s.106 legal agreements are not sufficiently robust.

### **Legal Implications including Data Protection**

8.2 There are no data protection implications insofar as s.106 legal agreements are part of the statutory planning register and are therefore public documents. S.106 of the 1990 Act provides the legal framework for the acceptance and discharge of s.106 legal obligations and the procedure notes address the key legislative provisions of this section of the 1990 Act.

### **Human Resources Implications**

8.3 None.



9 **Decision Information**

<p><b>Is the decision a Key Decision?</b>  A Key Decision is an executive decision which has a significant impact on two or more District wards or which results in income or expenditure to the Council above the following thresholds:</p> <p><i>BDC:</i>                      <i>Revenue</i>    £75,000      <input type="checkbox"/>    <i>Capital</i>    £150,000    <input type="checkbox"/></p> <p><i>NEDDC:</i>                    <i>Revenue</i>    £100,000    <input type="checkbox"/>    <i>Capital</i>    £250,000    <input type="checkbox"/></p> <p><input checked="" type="checkbox"/> <i>Please indicate which threshold applies</i></p>	No.
<b>District Wards Affected</b>	All
<b>Links to Corporate Plan priorities or Policy Framework</b>	<ul style="list-style-type: none"> <li>• Unlocking Our Growth Potential (main aim);</li> <li>• Providing our Customers with Excellent Services</li> <li>• Supporting Our Communities to be Healthier, Safer, Cleaner and Greener;</li> <li>• Transforming Our Organisation.</li> </ul>

10 **Document Information**

Appendix No	Title
1	<b>Procedure: Section 106 Agreements</b>
2	<b>Financial Spreadsheet</b>
<b>Background Papers</b> (These are unpublished works which have been relied on to a material extent when preparing the report. They must be listed in the section below. If the report is going to Cabinet (NEDDC) or Executive (BDC) you must provide copies of the background papers)	
n/a	
<b>Report Author</b>	<b>Contact Number</b>
Chris Fridlington	Ext 2265

## **Procedure: Section 106 Agreements (B011)**

### **Background**

Section 106 agreements are governed by the Town and Country Planning Act 1990. Amongst other things, they enable the District Council to secure contributions to services, infrastructure and amenities in order to support and facilitate proposed development. They work on the principle that developers should contribute towards any additional burden placed on the social and physical infrastructure of an area as a result of a development.

Therefore, developer contributions secured by a legal agreement often form reasons for planning approval for major development in the District. It is also more likely that a local community would be adversely affected by developments if obligations aren't met and the relevant contributions aren't made. This means if obligations required to make a development acceptable in planning terms aren't properly discharged then there is a risk of harm to the Council's reputation and public confidence in the Council's decision making.

Section 106 contributions received by the District Council are also subject to strict criteria on how and when they are spent. Expenditure must be relevant to a particular development and be spent within a set timescale (usually five years) otherwise the conditions of the agreement may have been breached, leaving the Authority open to legal claims from developers to recover contributions. Council departments must therefore be able to demonstrate how and when funds have been spent in order to reduce the risk of such claims against the Authority.

Consequently, it is important that the District Council has a robust procedure for recording and monitoring Section 106 obligations. The following procedures are intended to ensure that Section 106 legal agreements are discharged in accordance with planning approvals and that all obligations are met.

### **Procedure for Recording and Monitoring Section 106 Obligations**

The spreadsheet maintained within Finance ('the Finance spreadsheet') is used to record current and future legal agreements, monitor compliance with planning approvals and ensure that obligations are fulfilled where the 106 agreement requires financial contributions. Finance will also maintain an annex to the main spreadsheet that will be used to record current and future legal agreements where the 106 agreement requires provision of physical infrastructure such as affordable housing to be built on-site. The following procedures cover:

- recording of Section 106 Agreements on the Finance spreadsheet;
- responsibilities for monitoring the progress of agreements;
- recording and accounting for financial contributions;
- expenditure and budgetary control of financial contributions;
- monitoring and recording delivery of infrastructure; and
- management reporting systems.

The following procedures are organised around the key stages in the life of a s.106

agreement: (1) when a planning permission is issued; (2) quarterly review; (3) when triggers are reached; (4) when payments are received; and (5) when obligations have been discharged.

## **1 Planning Permission Issued**

Once planning permission has been granted subject to a completed legal agreement containing obligations made under s.106 of the 1990 Act, and the planning permission has been issued, the following actions are required by the named Service areas / officers:

### **(i) Planning**

(a) E-mail copies of the legal agreement to:

- Finance;
- all other departments at BDC that would benefit from obligations in the agreement (normally Outdoor Leisure; Housing Strategy and/or the Arts Officer); and
- any departments at Derbyshire County Council that would benefit from obligations in the agreement (normally Education and/or Highways)

(b) Provide Finance with a summary of the obligations in the legal agreement including relevant trigger points.

(c) Publish an electronic copy of the legal agreement on Public Access

(d) Retain original hard copy in S.106 Register

### **(ii) Finance**

(a) Update Finance spreadsheet and annex, as appropriate, with data from legal agreement forwarded from Planning.

### **(iii) Legal**

(a) Register the agreement as a Land Charge n.b. Land Charges do not need a copy of the whole agreement- they need:

1. names of the parties;
2. address of property;
3. date of agreement;
4. planning reference; and
5. a plan of the land.

## 2 Quarterly Reviews

The responsibility for monitoring compliance with legal agreements is shared by a number of officers within different Service areas across the Council. However, officers are individually responsible for spending the monies and / or procuring services or works secured by legal agreements that relate directly to their Service area and ensuring any expenditure or works are carried out strictly in accordance with the terms of the legal agreement. The relevant Service area will also be responsible for checking that monies are spent before any claw-back clause in the agreement is triggered.

To ensure efficient and effective monitoring of compliance with legal agreement across different Service areas, officers involved in the process attend a quarterly review meeting where the Finance spreadsheet is used to highlight any issues e.g. review whether triggers have been met, contributions where claw back clauses may become an issue etc. Action points should be agreed at quarterly reviews whenever there is a risk that monies will not be spent within the relevant timescale, and/or there is a risk development will not proceed in accordance with the planning approval, and/or there is a risk that an obligation will not be met. To ensure this monitoring process is robust, the following actions are required by the named Service areas / officers:

### (i) Planning

- (a) Arrange dates for the quarterly reviews for each financial year
- (b) Prepare agenda and minutes from previous meetings including action points in advance of quarterly review.
- (c) Report progress on any relevant action points from the previous meeting at the quarterly review.
- (d) Report developments where triggers have been met since the previous meeting at the quarterly review.
- (e) Prepare report for Planning Committee following quarterly review.
- (f) Progress any relevant action points arising in the quarterly review in advance of the next meeting.

### (ii) Finance

- (a) Finance spreadsheet and annex to be circulated at quarterly review to highlight any issues
- (b) Finance spreadsheet and annex to be updated in respects of officer updates following quarterly review.
- (c) Report action points that have not been progressed to relevant Joint Assistant Director/Director.

- (d) Request Accounts Department to issue invoice where developer has not responded to two written officer requests for payments to be made when required.

(iii) Arts Officer

- (a) Report progress on any relevant action points from the previous meeting.
- (b) Provide update on any expenditure of 'one per cent for art' monies since the previous meeting.
- (c) Provide update on any provision of additional public art since the previous meeting.
- (d) Progress any relevant action points arising in the quarterly review in advance of the next meeting.

(iv) Housing Strategy

- (a) Report progress on any relevant action points from the previous meeting.
- (b) Provide update on provision of on-site affordable housing since the previous meeting on sites where the relevant triggers have been met.
- (c) Provide update on any expenditure of commuted sums for affordable housing since the previous meeting.
- (d) Progress any relevant action points arising in the quarterly review in advance of the next meeting.

(v) Leisure Services

- (a) Report progress on any relevant action points from the previous meeting.
- (b) Provide update on any expenditure of any monies (open space/facilities/maintenance) since the previous meeting.
- (c) Provide update on any provision of additional infrastructure since the previous meeting.
- (d) Progress any relevant action points arising in the quarterly review in advance of the next meeting.

**3. Trigger Points**

Typically, legal agreements will have a 'trigger point' when payments are required to be made or when affordable housing or other infrastructure should be delivered. In many cases, a trigger point will be related to the number of new houses that have been built and/or occupied. Planning officers are



responsible for monitoring the trigger points for obligations including payments of commuted sums. To ensure this monitoring process is robust, the following actions are required by the named Service areas / officers:

(i) Planning

- (a) Planning officers will monitor all sites where 'trigger points' have not been previously met every six months.
- (b) Where a trigger point has been reached, planning officers will either:
- request discharge of the obligation from the developer and if necessary request Finance to instruct the Accounts Department to raise an invoice in respects of a financial contribution or commuted sum; or
  - e-mail the officer from the relevant Service area that a trigger point has been reached in respects of an obligation for delivery of infrastructure.

**4. Receipt of Payment**

Payment should be received once a request for payment or an invoice has been issued. Finance should be notified and provided with a receipt once payment is received by the Authority. The Accounts Department will be responsible for taking payment and for unpaid invoices. To ensure monies received is spent by the relevant Service area within the relevant time period, the following actions are required by the named Service areas / officers:

(i) Finance

- (a) Where financial contribution is to be made to Bolsover District Council, Finance to update Finance spreadsheet on a monthly basis.
- (b) Where financial contribution is to be transferred to Derbyshire County Council, Finance to update Finance spreadsheet on a monthly basis.
- (c) Finance to update monitoring group on payments received over the previous three months at the Quarterly Meeting.
- (d) Finance to maintain a record of annual receipts and payments on the Finance spreadsheet.

**5 Discharge of Obligations**

Officers are individually responsible for spending the monies and / or procuring services or works secured by legal agreements that relate directly to their Service area and ensuring any expenditure or works are carried out strictly in accordance with the terms of the legal agreement. The relevant Service area will also be responsible for ensuring that Finance are updated when obligations

have been discharged so the Authority can demonstrate that all obligations have been discharged within the relevant time period.

Officer updates on expenditure and delivery of infrastructure at quarterly reviews will provide a robust framework to monitor discharge of obligations. To ensure that the Finance spreadsheet provides an accurate record of current and discharged obligations and to ensure time limits are met, the following actions are required by the named Service areas / officers:

- (i) Finance
  - (a) Update Finance spreadsheet on receipt of confirmation an obligation has been discharged.
  - (b) Delete record of legal agreement from the Financial spreadsheet once all obligations attached to that particular legal agreement have been discharged, and all monies received have been spent seven years after the date all obligations were discharged.
  - (c) Record contributions where claw back clauses may become an issue as an Action Point to be monitored at the following quarterly review meetings.

### **Management Reporting**

The main management reporting of the Section 106 process is as follows:

- officers involved in the process attend the quarterly Section 106 monitoring group where the monitoring spreadsheets are reviewed.
- the budgetary position is reported the Quarterly Budget Monitoring Report which is prepared in Finance and presented to Executive
- from September 2017, summary/progress report taken to Planning Committee in respect of Section 106 agreements

### **Freedom of Information Requests**

Freedom of information requests relating to S106 financial information are dealt with by the Chief Accountant.

