

PARISH: Clowne

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**APPLICATION** Erection of up to 100 dwellings, public open space, landscaping and sustainable drainage system (SuDS) with vehicle access from Mansfield road. (All matters reserved except for means of access)

**LOCATION** Land To The South Of Ramper Avenue And Between Mansfield Road And Ringer Lane Clowne

**APPLICANT** Gladman Developments Ltd, Gladman House, Alexandria Way, Congleton CW12 1LB

**APPLICATION NO.** 17/00409/OUT

**CASE OFFICER** Mr David O'Connor

**DATE RECEIVED** 2nd August 2017

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## **EXECUTIVE SUMMARY**

In summary, the current application seeks outline planning permission for residential development of up to 100 dwellings on c. 4.25 hectares of land between Mansfield Road and Ringer Lane to the south of Clowne.

In principle, the proposed development is unacceptable because the site lies in countryside outside of the settlement framework and would materially harm the rural landscape and result in unnecessary urbanisation and sprawl. Therefore, the proposals are contrary to saved policies in the Bolsover District Local Plan. The proposals are also contrary to policies in the emerging Local Plan that seek to focus further growth in Clowne to more sustainable locations to the north of the settlement.

It is also considered the Council can demonstrate it has a five year supply of deliverable housing but the applicant has not demonstrated that the housing proposed in the current application is deliverable within the next five years in any event. Therefore, it is considered that the identified conflict with the Bolsover District Local Plan carries significant weight in the determination of the current application.

In this case, there is also insufficient information to demonstrate that the proposed development could deliver local infrastructure to mitigate the impact of the new housing on the local area and remain viable whilst the wider public benefits of granting planning permission for the current application appear to be limited to the generic benefits that might be associated with any form of residential development within the District. However, the significant adverse visual impact of the proposals on the locally distinctive character and appearance of the local area and the significant adverse impact of the scheme on local education provision would be demonstrable adverse impacts of granting planning permission for the scheme.

It is therefore considered that the adverse impacts of granting planning permission would significantly and demonstrably offset and outweigh the benefits of doing so and the proposed development cannot be considered to be a sustainable form of development when considered against national planning policies in the Framework as a whole. Consequently, there is no

presumption in favour of granting planning permission for the current application that is otherwise contrary to policies in the Development Plan because of the location of the application site in the countryside outside of the settlement framework. Therefore, even if the tilted balance in paragraph 14 of the Framework were to be engaged in this case, it would not lead to an approval of the current application.

Accordingly, officers recommend that planning permission is refused for the current application for the following reasons:

1. The proposed residential development would be located outside the settlement framework and it cannot be demonstrated that a housing scheme of up to 100 houses is necessary in the proposed location in the countryside. Therefore, the current application is contrary to saved Local Plan policies GEN8 and ENV3 and granting planning permission for the current application would constitute an unwarranted departure from the Development Plan and would conflict with the planned sustainable growth of the District as set out in the emerging Local Plan.
2. The proposed development would have a significant adverse impact on local education provision contrary to national planning policies that attach great importance to ensuring that a sufficient choice of school places is available to meet the needs of existing and new communities. In the absence of appropriate mitigation for the impact of the development on local schools, granting permission for the current application would not reflect the local community's needs or support its social well-being and would result in a consequential negative impact on the viability and vitality of the local area contrary to saved Local Plan policy ENV3.
3. The site is beyond the existing built edge of Clowne and would represent a further extension and encroachment of Clowne southwards into the surrounding countryside, which at this point begins to drop away opening up views of wider Magnesian Limestone landscape. The development proposals would have an adverse urbanising effect that would be harmful to the landscape setting of the settlement and would detract from the rural character and appearance of the surrounding landscape. The submitted plans also fail to demonstrate an appropriate landscape boundary could be achieved or that the scheme would otherwise improve the environmental quality of the local area also taking into account the proposals would result in the loss of Grade 2 agricultural land. Therefore, the proposals are contrary to the specific requirements of saved Local Plan policies ENV2, GEN2 and GEN11 and contrary to core planning principles in the National Planning policy Framework.
4. In the absence of any viability appraisal or evidence on delivery, there is no certainty that any benefits of granting planning could be achieved in a reasonable time frame or that the proposed development could make appropriate contributions towards local infrastructure. However, the proposed development would demonstrably harm the environmental quality of the local area and significantly detract from the social and economic well-being of the local community. Consequently, the current proposals constitute an unsustainable form of development and any benefits of granting planning permission for the current application would be demonstrably and significantly

outweighed by the adverse impacts of doing so when taking into account policies in the Development Plan and the National Planning Framework as a whole.

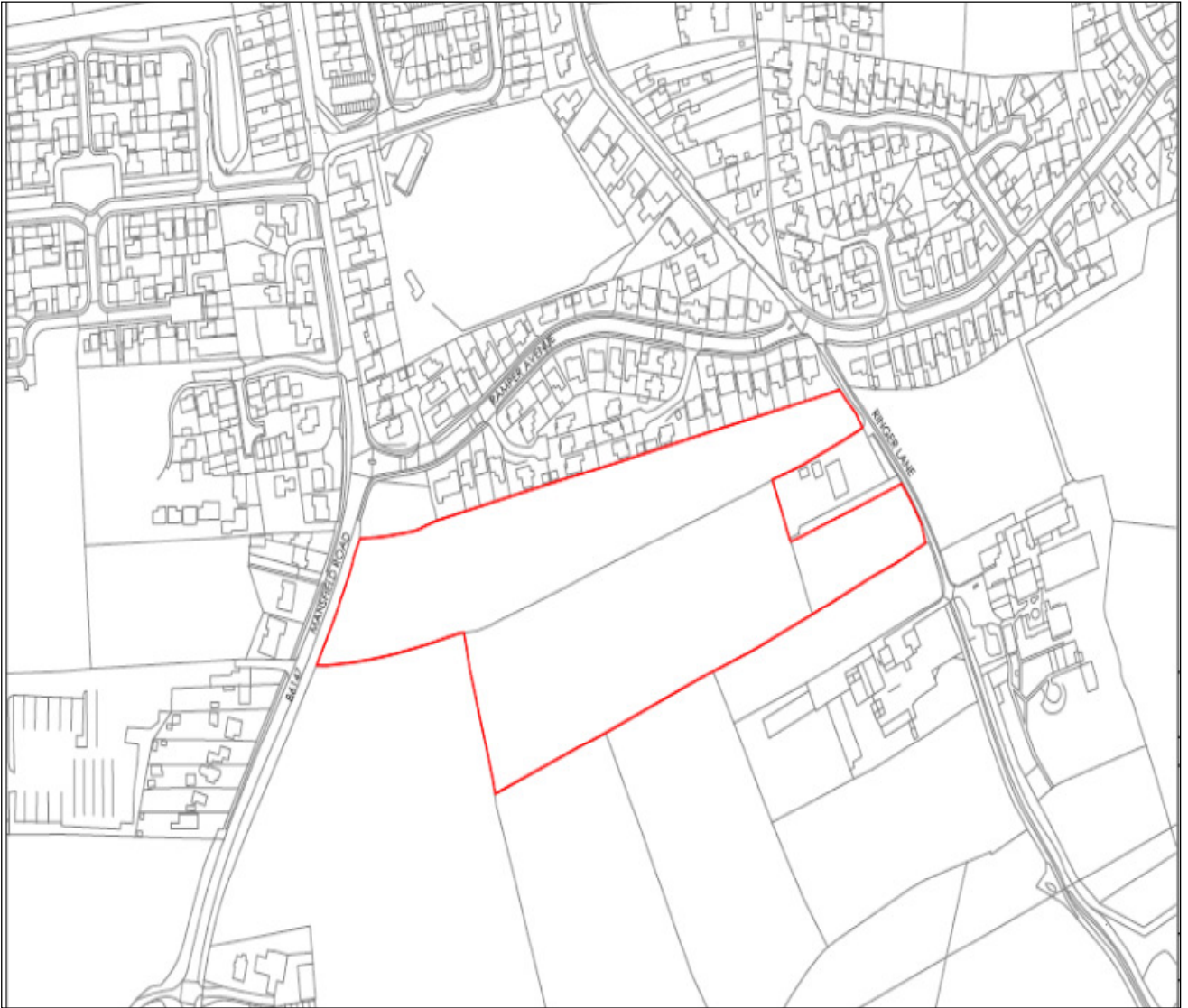
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**OFFICER REPORT: 17/00409/OUT**

**SITE**

The site is approximately 4.25 hectares in size, is irregular in shape and is situated adjacent to the settlement framework on the southern edge of Clowne. The existing use of the land is two agricultural fields, with hedgerows between them and on its northern, southern and western boundaries, with a more open western edge on to Ringer Lane. Mixed residential properties exist to the north of the development site fronting onto Ramper Avenue, Pitch Close and Pavilion Close. To the west of the site is Mansfield Road which has dwellings facing the site in the form of ribbon development opposite which gives way to open countryside further south. There is a field access to the site from Mansfield Road which breaks through the existing thorn hedge on the west boundary. The site is gently undulating but overall slopes from west to east. The site is Grade 2 agricultural land.

Site Location Plan



# PROPOSAL

The application is submitted in outline with all matters reserved except the means of access. The site area of the proposed development is 4.24ha and the proposed development will comprise up to 100 residential dwellings, with vehicular access off Mansfield Road, public open space, new landscaping, drainage and associated infrastructure. The applicant proposes to provide an associated play space and SUDS system to the eastern edge of the site adjacent to Ringer Lane.

## Indicative Layout



## **AMENDMENTS**

Further information in the form of an updated indicative layout plan (shown on previous page) has been provided in response to the Urban Designer comments on the development. Further archaeological information in the form of a Geo-physical survey has been provided in response to the County Archaeologist's comments on the application. The applicant has also demonstrated that an appropriate drainage scheme will be provided for the proposed development.

Following the receipt of consultation responses, the applicant has now confirmed the following offers in respect of contributions to local infrastructure:

1. 10% on-site affordable housing
2. Education (secondary) - formula based offer to accommodate number of pupils proportionate to house numbers coming forward at reserved matters stage.
3. Education (primary) – no offer.
4. Sport facilities – formula based offer to meet sum requested by Leisure Services proportionate to house numbers coming forward at reserved matters stage
5. Appropriate maintenance sum payable if open space to be adopted by council.
6. Public Art – happy to accept a condition requiring some form of public art strategy.
7. Health – no offer.

## **PLANNING HISTORY**

07/00772/OUTMAJ - Outline application for residential development with all matters reserved. An indicative layout and supporting information were provided showing a total of 59 dwellings on the 1.92Ha site. The application was refused by the Council for the following reasons:

- Development would be outside the defined settlement boundary
- The development would be an ad-hoc urban expansion in an unsatisfactory linear form that does not relate well to existing development
- The development is not of sufficient size to accommodate a children's play space of any meaningful size or play value despite the recognised shortage of play space in this part of Clowne
- The development will not result in the provision of an appropriate settlement edge treatment
- The development results in the loss of grade 2 agricultural land without sufficient justification

This application was the subject of a planning appeal in 2008. Much of the discussion within the Inspector's decision on the appeal related to 5 year housing supply at the time. However of relevance to the current application the following extracts are considered noteworthy:

*'The site is outside the defined Settlement Framework for Clowne as established in the LP, albeit adjacent. It is green-field and part of the open countryside about it. Here, reflecting Policy HOU 9, the dwellings proposed are not essential for the operation of agriculture and/or forestry. Further, the development relates to Grade 2 agricultural land where ENV 2 seeks to prevent development, and consistent with the general thrust of national planning guidance in Planning Policy Statement 7: Sustainable Development in Rural Areas (PPS7).'*

*'The development proposed is for a substantial number of properties. The site is linear and of limited depth. When assessed against the intent of Policy GEN 11, I am not persuaded that it would be able to result in an acceptable long-term boundary to the urban edge, notwithstanding the potential for a landscaping condition on any permission at the site boundary. While, the land is adjacent to the existing urban edge and with a limited projection south into the countryside - this does not represent a convincing justification for the development when assessed against the LP.'*

## **CONSULTATIONS**

**Bolsover District Council (Engineer):** No objections subject to conditions

Comments: The developer should submit a maintenance and management plan for any proposed SUDS.

**Bolsover District Council (Environmental Health):** No objections subject to conditions

Comments: The submitted Phase 1 report has been reviewed and the Council's Environmental Protection Officer is in agreement with the recommendations in this report to carry out a Phase 2 investigation to verify that the site is not significantly affected by land contamination including ground gases. The Council's Environmental Protection Officer recommends planning conditions are used to secure the Phase 2 investigation and any necessary remediation.

**Bolsover District Council (Housing Strategy):** No objections subject to securing the applicant's offer of 10% affordable housing provision on site.

Comments: The Council's Planning Policy provides for a 10% affordable housing requirement on sites over 25 units or 1 hectare where there is a proven need. The applicants have stated that they will provide 10% affordable units on the site. The preferred type and tenure would be 2 bed (4 person) houses and a lesser number of 3 bedroom houses for social or affordable rent, to be owned and managed by a Registered Provider.

**Bolsover District Council (Leisure Services):** No objections subject to contributions to maintenance of open space, off-site recreation facilities and public art.

Comments: The proposal includes 1.37ha of green infrastructure, which significantly exceeds the policy requirement for open space in HOU5, and therefore this aspect of the development is broadly supported. However, Leisure Services raise concerns over the indicative position of the proposed playground primarily because of the minimal natural surveillance provided by existing and proposed dwellings. Leisure Services also advise the proposed footpath in the north eastern corner of the site, which links the development to Ringer Lane, should be created as a shared pedestrian / cycle path with a width of at least 3m. In addition, using the current policy formula, Leisure Services have calculated that £93,400 (100 dwellings x £934 per dwelling) is required to contribute towards recreational facilities that cannot be provided on site. A maintenance sum is also required along with 1% of the development costs for art to allow the proposed development to meet all the relevant policy tests. Nonetheless, Leisure Services remain concerned about the connectivity of the site and the extent to which the open space and playground would be used by the local community.

**Bolsover District Council (Planning Policy Team):** Object

Comments: In light of the Council being able to demonstrate a 5 year supply of deliverable housing sites, policies ENV3, GEN8, HOU7, HOU8 and HOU9 should be considered up-to-date. The site in question is not allocated for housing within the adopted Local Plan and is situated in the countryside. This proposal is none of the very small scale residential development types mentioned in HOU7, HOU8 and HOU9 and is thus contrary to the adopted Local Plan.

In relation to the emerging new Local Plan, it is considered that the proposal is also contrary to the vision, policies and allocations of the Consultation Draft Local Plan which aims to foster sustainable development and regenerate the District's remaining large former industrial brownfield sites; plans for a co-ordinated, comprehensive approach to development in Clowne at the Clowne Garden Village strategic site to deliver sustainability benefits, particularly in terms of the provision of jobs and the necessary services and infrastructure to support growth; does not allocate the allocation site for residential development to meet the planned quantum of growth in the emerging town of Clowne. The emerging Local Plan would support a decision to refuse the proposal.

**Bolsover District Council (Regeneration):** No objections

Comments: The Council's Economic Development Officer considers that the proposed development will lead to the creation of local employment opportunities, skills and training and the new houses will also help support the vitality and viability of local town centres. A condition to secure scheme for local employment is recommended.



**Bolsover District Council (Senior Urban Designer):** Recommends revisions to the submitted scheme

Comments: The Council's Senior Urban Designer advises that the number of dwellings sought gives rise to relatively high density housing for its context given the edge of settlement location for the site. If the site were to be developed to the maximum amount proposed, this is likely to result in an unsatisfactory relationship with the settlement edge. However, a lesser amount of development would enable a more appropriate relationship to be achieved. As such, a reduction in the amount of development proposed is recommended.

The Council's Senior Urban Designer also advises that the submissions should be updated to fully acknowledge the site would form a new gateway to Clowne. Increased pedestrian accessibility is required and it is recognised that some of the pedestrian routes cited are not ideal and may discourage a proportion of walking trips. The cul-de-sac layout proposed is discouraged in favour of fuller circulation, a lower density and looser pattern of development should be encouraged.

**Coal Authority:** No objections

**Clinical Commissioning Group:** No objections subject to contribution of £38,040 towards extending The Springs Health Centre to accommodate an additional 250 patients generated by the proposed development.

**County Archaeologist:** No objections subject to conditions:

Comments: The applicant has submitted the results of a geophysical survey of the site, which shows some elements of probable and possible archaeology that will need to be investigated and recorded in line with the guidance in Paragraph 141 of the National Planning Policy Framework. The County Archaeologist therefore advises that further archaeological work should be secured by a planning condition. This work would be carried out after any approval for the current application and prior to the submission of a reserved matters application and would comprise trial trenching in the first instance, followed by further excavation to fully record any areas of identified and significant archaeological remains.

**Derbyshire Constabulary:** No objections

**Derbyshire County Council (Education):** Advise insufficient capacity to accommodate the 9 infant pupils, 11 junior pupils and 15 secondary pupils arising from the proposed development.

Primary Level:

It is clear from the school place analysis that the County Council will not be able to provide local school places for the junior aged pupils generated from this development (17/00405/FUL) at the existing school within Clowne. The existing school, within whose normal area the development lies, is projected to stay substantially full. The site and buildings at both the infant and junior school do not allow for further expansion and this would not be desirable given the already large size of the schools. Therefore from an education perspective the County Council is not able to accommodate the pupils arising from the proposed development in the existing primary level infrastructure and as such would only request contributions where additional school place provision could be made. As there is insufficient primary level capacity to accommodate the increase in pupils forecast to be generated by this proposed development and the development itself cannot enable the necessary provision, the County Council wishes to highlight that the proposed development is not a sustainable form of development.

#### Secondary Level:

An evaluation of recently approved residential developments of 11 or above units or over 1,000 square metres of floor space within the normal area of Heritage High School - A Mathematics & Computing Specialist College shows new development totalling 658 dwellings, which would result in demand for an additional 99 secondary pupils. Analysis of the current and future projected number of pupils on roll, together with impact of the approved planning applications shows that the normal area secondary school would not have sufficient capacity to accommodate 15 secondary pupils arising from the proposed development. However, the County Council advise the impacts of the proposed development can be mitigated by a requested contribution of £ 257,642.55 towards additional teaching accommodation.

**Derbyshire County Council (Flood Team):** No objections subject to conditions

**Derbyshire County Council (Highways):** No objections

Comments: The County Council in their capacity as the local highways authority has commented that they consider that a suitable access onto Mansfield Road can be achieved. The County Council has also advised that the submitted Transport Assessment indicates that various junctions in the vicinity of the development would continue to operate with reserve capacity and that no significant accident occurrence rates were apparent. Therefore, it is not suggested by the County Council that the proposed development would result in a severe adverse impact on the local road network.

**Derbyshire Wildlife Trust:** No objections subject to conditions

**Natural England:** No objections

Comments: Based on the submitted plans, Natural England considers that the proposed development will not have significant adverse impacts on designated sites and has no objections to the current application.

**Severn Trent Water:** No objections

Comments: For the use or reuse of sewer connections either direct or indirect to the public sewerage system the applicant will be required to make a formal application to the Company under Section 106 of the Water Industry Act 1991.

The full text of the above consultation responses can be found on the web page for the application via the planning application search function on the Council's website. All of the relevant planning considerations raised in these consultee responses are addressed in the following sections of this report.

## **PUBLICITY**

153 neighbour notification letters were sent out and the application has been advertised within the local newspaper and via site notice. In response a total of 279 letters of objection have been received raising the following issues.

### Principle of development

- The development is outside of the defined settlement framework associated with the local plan. The Emerging Local Plan under preparation does not consider the site as a preferred development option. Development outside settlement frameworks must align with the spatial strategy and evidence base documents published. The application does not align with these and would act in conflict with the approach proposed.
- Similar applications have consistently been refused, even on appeal. To allow an application now would set a precedent.
- The Council has adopted Clowne North as a strategic site. This site is more suited to accommodate the levels of industrial, commercial and residential growth appropriate to the town. A single strategic site of this nature will allow for the developer to deliver the infrastructure improvements required and has better connectivity to the M1 and A roads in the area.
- The sustainability evidence underpinning the Local Plan encourages the need to reduce the need to travel. This proposal is in conflict with this.
- The development will lead to a requirement for increased land fill waste capacity.
- There has been considerable development in Clowne already. Piecemeal development of this nature will prevent/impact planned development in the wider area such as the essential combined residential and employment site at Clowne North. These proposals would also saturate supply, depress house prices and extend selling times for existing residents.

### Character and Landscape

- Development on Greenfield land is not acceptable and will lead to loss of valued countryside. Brownfield sites should be developed before this site.
- The proposals will form an abrupt and inappropriate settlement edge

### Amenity

- Adverse amenity impacts through loss of privacy, noise, overlooking, overshadowing, smell, light pollution, air pollution, loss of daylight, dust, vibration and disturbance during the construction phase will result from the proposed development.
- Disturbance from the proposed play area and public footpaths will result for existing residents and will lead to increased crime and ASB

### Highway Matters

- The current road infrastructure within the area is already overcapacity. The access proposed is unsafe. The junction proposed will lead to major traffic hazards and increased congestion travelling north.
- Speeding motorists are already an issue and make it hazardous for pedestrians to cross.
- Increased air pollution and noise will result from the development.
- Public transport within Clowne has been reduced failing to provide sustainable transport
- Road and motorway connections to the north of Clowne are far superior and should be utilised to their fullest potential as proposed in the Emerging Local Plan.
- There is no public footpath on this side of the road.

### Infrastructure

- The current level of infant, junior and high school education provision in Clowne is already at full capacity. The development will make this situation worse
- The medical facilities such as dentists and GP's are already overcapacity. The development will exacerbate this further.
- Local shopping facilities and their associated parking will be significantly over capacity if the development is approved.
- Drainage capacity, utilities, gas, water, phone lines and water quality will all be adversely impacted by the increased burden resulting from the proposals.
- The development does not provide for adequate play space provision

### Ecological Implications

- The proposals will result in loss of habitat and impacts upon protected species such as Great Crested Newts, Black Pheasant, Hare, Sky Larks, Cuckoos, bats, owls, Yellowhammer,
- The proposals will damage drainage, hedges and trees.
- Local watercourses within the site feed into Markland Grips SSSI. Surface water run off from the site and construction process will cause a high risk of pollution to the SSSI and RIGS site.

### Flooding and Drainage

- The development will cause increased flooding risks.

- The SUDS ponds proposed will pose a health and safety risk to children. Algal blooms will pose a similar risk to health and safety.

### Other Matters

- Article 1 and Article 8 Human Rights of the occupants of neighbouring properties will be impacted by the proposed development.

The full text of the above third party representations can be found on the web page for the application via the planning application search function on the Council's website. All of the relevant planning considerations raised in these representations are addressed in the following sections of this report.

## **POLICY**

### Bolsover District Local Plan (February 2000)

Relevant saved policies in the Bolsover District Local Plan include:

- GEN 1 – Minimum Requirements for Development
- GEN 2 – Impact of Development on the Environment
- GEN 5 – Land Drainage
- GEN 6 – Sewerage and Sewage Disposal
- GEN 8 – Settlement Frameworks
- GEN 17 – Public Art
- HOU 5 – Outdoor Recreation and Play Space Provision for New Housing Development
- HOU 6 – Affordable Housing
- TRA 1 – Location of New Development
- TRA 13 – Provision for Cyclists
- ENV 3 – Development in the Countryside
- ENV 5 – Nature Conservation Interests Throughout the District
- ENV 8 – Development affecting Trees and Hedgerows

### National Planning Policy Framework (March 2012)

Relevant paragraphs in the National Planning Policy Framework ('the Framework') include:

- Paragraph 2: Status of Development Plan and National Planning Policy Framework
- Paragraphs 6-10: Achieving sustainable development
- Paragraphs 11-16: Presumption in favour of sustainable development
- Paragraph 17: Core planning principles
- Paragraph 32: Transport network
- Paragraph 47, 49 and 50: Housing
- Paragraphs 56- 66: Design
- Paragraphs 70, 72, 73 and 75: Promoting healthy communities
- Paragraphs 109 and 118: Conserving and enhancing the natural environment
- Paragraphs 120 and 121: Contamination and land stability

Paragraphs 128 – 134: Conserving and enhancing the historic environment  
Paragraph 159: Relevance of SHMA  
Paragraphs 173: Ensuring viability and deliverability  
Paragraph 196: Primacy of Development Plan  
Paragraphs 203-206: Planning conditions and obligations  
Paragraphs 215-216: Weight to be given to relevant policies in existing plans and relevant policies in emerging plans.

## **ASSESSMENT**

### **Conflict with Development Plan**

Paragraph 196 of the Framework says that the planning system is plan-led and planning law requires that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. The statutory development plan for Bolsover District comprises the Bolsover District Local Plan (adopted February 2000) and saved Local Plan policies form the starting point for a decision on this application.

In the first instance, Saved Local Plan policy GEN8 is particularly important to the application of policies in the Bolsover District Local Plan because it says that 'general urban area control policies' apply within a defined settlement framework and the area outside the settlement framework is considered to be countryside and is covered by the 'general open countryside control policies'. Saved Local Plan policy ENV3 is the general open countryside control policy that is most relevant to this application.

Saved Local Plan policy ENV3 places restraints on most forms of development, including housing, in the countryside not least because a rural setting is important to the identity of many settlements in the District, including Clowne. The undeveloped gaps between settlements or groups of buildings are also important to the distinctive rural character of the District and the locally distinctive character of settlements within the District. The supporting text to this policy says that in seeking to conserve the landscape, character and ecology of the countryside, the local planning authority will generally oppose aspects of new developments which have an urbanising or suburbanising influence or which lead to urban sprawl.

In this case, the proposals for housing are located outside of Clowne's settlement framework and do not comply with any of the housing policies that relate to residential development that might be permitted on an exceptional basis in the countryside (including HOU7 and HOU9). The proposals also fail to meet any of the criteria set out in ENV3 for development that might otherwise be acceptable in the countryside on an exceptional basis. Therefore, the proposals do not comply with GEN8 and ENV3 because the proposals are located in open countryside, outside of the settlement framework defined by policy GEN8, and located where ENV3 sets out a firm presumption against granting permission for open market housing of the scale proposed in this application.

When taken together, GEN8 and ENV3 seek to direct growth to sustainable locations that have adequate infrastructure and are close to existing services whilst protecting the locally distinctive character of settlements within the District and the intrinsic quality of their rural settings. In these respects, the proposed development would encroach into the open countryside beyond the existing limits of the main built-up area of Clowne. By virtue of the size and scale of the proposals; the proposed development would have a harmful urbanising effect on the rural setting of the settlement.

It is therefore considered that the proposals do not accord with the strategic objectives of policies GEN8 and ENV3 and are therefore contrary to the development plan. Consequently, the identified conflict with policies GEN8 and ENV3 forms a substantive objection to the current proposals that carries substantial weight in the determination of this application. Accordingly, officers consider the current application should be refused planning permission unless other material considerations indicate otherwise.

## **Housing Supply**

As the current application proposes residential development, the provisions of Paragraph 49 of the Framework are relevant because this paragraph says: *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.*

As reported elsewhere on this agenda, the Council's Annual Assessment of Five Year Supply of Deliverable Sites for Housing has been updated in light of the Council and its partners in the North Derbyshire and Bassetlaw Housing Market Area receiving the final version of the North Derbyshire and Bassetlaw SHMA – OAN Update. This update provides the following assessment of housing supply in the District:

- a basic requirement of 1,360 dwellings (5 x 272);
- a surplus since 2014 of 56 dwellings;
- utilising the Sedgfield approach, a NPPF requirement of 1,370 dwellings (when applying a 5% buffer across the 5-year period);
- a total supply of land that could deliver 5,790 dwellings;
- a deliverable supply of land that could deliver 2,109 dwellings during the 5-year period of 2017/18 to 2021/22 (739 dwellings more than the basic requirement);
- a deliverable supply of land that could deliver a further 309 dwellings during year 2022/23;
- a further supply of land that could deliver an additional 3,372 houses but which was assessed as being undeliverable within the 5-year supply period.

Based on this assessment, officers consider that the Council can demonstrate it has a robust supply of deliverable housing land that is equivalent to just under an 8 year supply. Therefore, the proposed housing is not needed to make up a shortfall in terms of meeting objectively

assessed housing need in the District and on this basis: any argument that the Council cannot demonstrate a five-year supply of deliverable housing sites should be afforded no weight in the determination of this application.

Equally, insofar as Policies GEN8 and ENV3 could be considered to be policies for housing supply, the Council's current position on housing supply, as set out above, means that they should not be considered to be out of date solely with reference to Paragraph 49 of the Framework. Furthermore, there is insufficient information in the application to demonstrate that the proposed housing would come forward within five years of granting any permission for this application.

Therefore, it has yet to be evidenced that the current proposals would address any shortfall in the Council's five year supply and in the absence of this information: only very limited weight could be attached to the benefits of granting planning permission for the current application *even if it could be demonstrated* the District does not have a five year supply of deliverable housing.

### **National Planning Policy Framework ('the Framework')**

Aside from consideration of housing supply, the wider range of policies in the National Planning Policy Framework also need to be taken into account in the determination of this application. Paragraph 215 of the Framework also says the weight to attach to saved Local Plan including policies GEN8 and ENV3 should reflect their degree of consistency with national planning policies (the closer the policies in the plan to the policies in the Framework, the greater the weight that may be given).

In the first instance, the objectives of Policies GEN8 and ENV8 to direct most development to existing settlements and safeguard the open countryside are consistent with the golden thread of sustainable development that runs through national planning policies. In particular, policies GEN8 and ENV3 reflect the emphasis within the Framework that is placed on promoting and encouraging development in sustainable locations with good accessibility, a range of services and infrastructure capable of accommodating growth.

The provisions of GEN8 and ENV3 are therefore also consistent with core planning principles set out in paragraph 17 of the Framework not least with regard to the fifth bullet of Paragraph 17, which says local planning authorities should: *take account of the different roles and character of different areas, promoting the vitality of our main urban areas, protecting the Green Belts around them, recognising the intrinsic character and beauty of the countryside and supporting thriving rural communities within it.*

Moreover, Paragraph 58 of the Framework talks about the 'quality of development' and how planning policies should be based on stated objectives for the future of the area and an understanding and evaluation of its defining characteristics. Amongst other things, Paragraph 58 goes on to say planning policies and decisions should aim to ensure that developments respond to local character and history, and reflect the identity of local surroundings and materials.



In addition, Paragraphs 126 and 131 of the Framework say local planning authorities and decisions on planning application should take into account the desirability of new development making a positive contribution to local character and distinctiveness in the context of conserving and enhancing the historic environment.

It is considered policies GEN8 and ENV3 are consistent with these national policies because they recognise that a rural setting is important to the identity of many settlements and the undeveloped gaps between settlements or groups of buildings are also important to the character of distinct places. Furthermore, the supporting text to policy ENV3 says that in seeking to conserve the landscape, character and ecology of the countryside, the local planning authority will generally oppose aspects of new developments which have an urbanising or suburbanising influence or which lead to urban sprawl.

It is therefore considered that the strategic objectives of policies GEN8 and ENV3 are consistent with national planning policies in the Framework, taken as a whole, because they work against the approval of unsustainable forms of development and promote high quality development that would conserve and enhance the locally distinctive character of the District. Therefore, it is appropriate that weight should be given to the identified conflict with GEN8 and ENV3 in the determination of the current application.

In any event, because the proposed development would extend Clowne beyond its existing settlement limits and have a significant urbanising effect on its predominantly rural setting, the current application also fails to accord with national planning policies in the Framework that seek to safeguard the locally distinctive character of the District. Therefore, it can be considered that the current application conflicts with core planning principles underpinning saved Local Plan policies in the Development Plan and core planning principles underpinning national planning policies in the Framework.

## **Emerging Local Plan**

Section 216 of the Framework says from the day of publication, decision-takers may also give weight to relevant policies in emerging plans according to:

- the stage of preparation of the emerging plan (the more advanced the preparation, the greater the weight that may be given);
- the extent to which there are unresolved objections to relevant policies (the less significant the unresolved objections, the greater the weight that may be given); and
- the degree of consistency of the relevant policies in the emerging plan to the policies in the Framework (the closer the policies in the emerging plan to the policies in the Framework, the greater the weight that may be given).

In October 2016, the Council published the Consultation Draft Local Plan and this emerging plan is relevant to the current application primarily because it takes forward the provisions of GEN8 and ENV3.

As noted above, the purpose of saved Local Plan policy GEN8 is to define the line within and outside which the adopted Local Plan's General Urban Area Control policies and General Open Countryside Control policies will apply. Appendix 10 of the adopted Local Plan sets out the policies which generally apply in these two parts of the District. Based on the definition provided by policy GEN8, the adopted Local Plan then directs development to sustainable and suitable locations through its site allocation policies and its criteria based policies. As above, the strategic purpose of this policy in defining urban and countryside land is considered to have a high degree of consistency with the Framework and its core planning principles.

This important policy tool has been continued into the Consultation Draft Local Plan in policies SC1: Development within the Settlement Framework and SS8: Development in the Countryside. Together, these policies fulfil a strategic purpose within the emerging Local Plan in defining urban and countryside land and in setting out how proposals in each type of land will be considered by the Council.

Notably, the current application site remains outside the settlement framework in the current version of the emerging Local Plan and the site has been assessed for its suitability for housing. The site was not selected as a preferred residential allocation as there were concerns on landscape grounds and in relation to the suitability over the ability to achieve satisfactory highway access, the impact on wider highway network capacity, landscape impacts, drainage infrastructure provision and the absence of viability information. Therefore, the emerging Local Plan offers no support for the current application.

In relation to policy ENV3, its purpose is to set out the criteria that will be used to determine whether a proposed form of development is acceptable in the countryside. As the policy's preceding explanatory text advises, the adopted Local Plan is based on a strategy where "new development in the countryside will generally be limited to those activities which are essential to the operation of an established rural business or which can be carried out satisfactorily in the countryside." Accompanying this, in relation to residential development the preceding explanatory text specifically states that "Housing development in the countryside will be strictly controlled." Again, as above, this purpose is considered to have a high degree of consistency with the Framework and its core planning principles.

This important policy statement and criteria based policy to clarify the Council's approach to what forms of development will be acceptable in the countryside has been continued into the Consultation Draft Local Plan in policy SS8: Development in the Countryside. This policy forms part of the strategic set of policies that guide development in accordance with the emerging Local Plan for Bolsover District's Preferred Spatial Strategy which guides new development to the District's most sustainable settlements.

To emphasise this point, the policy's preceding explanatory text advises: *"As a predominately rural area, Bolsover District has large swathes of countryside where urban forms of development would not be appropriate or sustainable and not in accordance with the Preferred Spatial Strategy. This restraint on the amount of land removed from the countryside for development also contributes to the delivery of the Local Plan Vision and Objectives regarding conserving and enhancing the quality and character of the countryside, its landscapes and villages."*

Therefore, the current proposals conflict with the spatial objectives of policies in the emerging Local Plan and by carrying forward the provisions of GEN8 and ENV3, the emerging Local Plan confirms that these policies continue to serve a proper planning purpose and are consistent with national planning policies. Consequently, whilst only very limited weight can be afforded to policies in the emerging Local Plan because it has yet to go to examination in public, these policies are relevant and support a conclusion that the identified conflict with GEN8 and ENV3 weighs heavily against granting planning permission for the current application.

### **Clowne Garden Village**

Clowne Garden Village (also referred to as 'Clowne North') is a strategic site in the emerging Local Plan. Clowne Garden Village is relevant to the current application insofar as this allocation moves the focus of recent rapid residential growth that has happened to the south of Clowne, northwards. Amongst other things, this is intended to limit the traffic congestion problems within the village that have grown through traffic from the south having to travel through the village to access the main highways network to the north. In addition, Clowne Garden Village is planned to be of a scale which would enable provision of a new school on the northern site whilst still ensuring the development as a whole remains viable and provides for the wider infrastructure required.

From the sustainability assessment that underpins these conclusions, it is clear that an approach that relies on meeting housing needs through piecemeal development of smaller sites to the south of Clowne, may not realise the same opportunities in terms of infrastructure and services provision. For an example, the scheme proposed in this application does not include any transport infrastructure improvements but the housing proposed would inevitably put more pressure on the local road network. Similarly, the proposed development will put more pressure on local schools and it is not clear this impact can be mitigated.

Therefore, 'speculative' proposals such as the current application for an ad-hoc development to the south of Clowne are not consistent with the planned for sustainable growth of the settlement. Therefore, the public benefits of granting planning permission for the development proposed in the current application are likely to be very limited. In this respect, any approval for the current application would be contrary to core planning principles in the Framework that require Local Planning Authorities to focus significant development in locations which are or can be made sustainable.

### **Benefits of Residential Development**

In summary, the proposals for residential development in open countryside outside of the settlement framework conflict with saved Local Plan policies and emerging policies in the Consultation Draft Local Plan and these policies are consistent with national planning policies in the Framework. Therefore, there is a strong presumption against granting planning permission for the current application because the proposals cannot be deemed to be acceptable in principle. The proposed development would also be located in a less

sustainable location where growth would be less easily accommodated compared to other edge of settlement sites to the north of Clowne.

However, Paragraph 49 (as noted above) and Paragraphs 47 and 50 of the Framework set out the Government's intentions for the planning system to significantly boost the supply of housing and to deliver a wide choice of high quality homes, widen opportunities for home ownership and create sustainable, inclusive and mixed communities within the context of a presumption in favour of sustainable development. The applicant argues that the proposed housing development would meet these objectives and would benefit Clowne contrary to the views expressed by officers in this report. It is also noted that objectively assessed need relates to the minimum number of houses needed in the District. Therefore, it is still appropriate to take into account the benefits of granting planning permission for additional housing in the District despite conflict with the current Local Plan and the emerging Local Plan, despite the identified conflict with national planning policies and even though the Council can demonstrate it has a five year supply of deliverable housing.

Firstly, it is acknowledged an approval of the current application could provide economic benefits in the short term through local employment opportunities during the construction phase of the proposed development. The newly-built housing would also help sustain and enhance existing services within Clowne and provide increased open space and public footpaths provision. However, these benefits are not locationally dependent on housing development on the application site and could be achieved by other planned for housing developments within the local area. Therefore, in their own right, the more generic benefits that might be associated with the proposed residential development would not offset or outweigh the identified conflict with GEN8 and ENV8 and the Development Plan and would not offset concerns about further housing development to the south of Clowne.

### **Presumption in favour of Sustainable Development**

Although the more generalised benefits associated with new housing do not warrant an approval of this application in their own right and the Council's position in respect a five year supply of housing means that there is not a compelling argument to accept the proposed housing to meet an identified need for more housing in the District: it is also appropriate to consider the development in the context of the 'tilted balance' in paragraph 14 of the Framework that sets out a presumption in favour of sustainable development. This means assessing whether the benefits of granting planning permission for the current application would be significantly and demonstrably offset or outweighed by the adverse impacts of doing so even though officers do not consider the 'tilted balance' is engaged in this case.

In this context, alongside the issues discussed in earlier sections of this report: the key issues that need to be considered in an assessment of the overall sustainability of the current proposals include the environmental impact of the proposed development, which is closely related to the landscape and visual impact of the proposed development in this case. The proposals would also result in the loss of Grade 2 agricultural land.

The socio-economic impacts of the proposed development are also important considerations and in particular, the extent to which the proposed development would have a positive or

negative impact on local infrastructure including provision of affordable housing, health and education provision and the capacity of the local road network to accommodate additional vehicular movements generated by the proposals, as noted above. Finally, it is important to consider the contribution the proposed development would make to place making in terms of the provision of open space, recreational facilities and public art when assessing the planning merits of the current application.

## **Landscape and Visual Impact**

It is clear that the proposals would inevitably change the character of the site from arable fields to a housing development, and therefore affect the character and appearance of the rural edge of Clowne. As noted in earlier sections of this report, the proposed development would encroach into the open countryside beyond the existing limits of the main built-up area of Clowne and by virtue of the size and scale of the proposals; the proposed development would have a harmful urbanising effect on the rural setting of the settlement. In many respects, a fuller assessment of the visual impacts of the proposed scheme on the wider landscape is not easy at this stage because the current application is for outline planning permission. In this case, the appearance of the proposed housing, landscaping, layout and scale are all reserved matters and therefore it is difficult to say more than housing on the application site would or would not be acceptable as a matter of principle.

However, the submitted Landscape and Visual Impact Assessment examines the wider landscape impacts associated with the proposals. The assessment suggests the most important landscape features on the application site are largely confined to the site boundaries in the form of the existing native and coniferous hedgerows. Tree cover on the site is restricted to the small group of deciduous trees to the northwestern site boundary (of around 4m in height) and two lines of coniferous trees of around 10m in height along the eastern boundary continuing into the Site. Overall the landscape character of the application site is said to reflect that of the wider Limestone Farmlands through its arable use, gentle topography, regular field pattern and hedgerow enclosure. There is no public access to the site, the housing located to the north and west exerts an urbanising influence upon the landscape character of the immediate area and act as a means of containment to the north and east. The applicant's landscape and visual impact assessment therefore suggests the landscape quality of the site is *medium* and the landscape sensitivity and value is *medium/low*.

The applicant's landscape and visual impact assessment also says the level of vegetation cover and built form surrounding the site provides a reasonable level of screening from much of its surroundings. The submissions point out that the new dwellings proposed would not extend any further south than the existing housing along Mansfield Road. It is recognised that development at the site will extend further south than the existing housing off Ridgeway West. The indicative plans illustrate how new areas of open space will occupy the eastern most parts of the site. The submissions suggest this ensures the development respects the existing rural character of the lane and overall would provide a proposal which is reflective of the existing settlement pattern, forming a logical, small scale extension. The applicant also notes that the site is not covered by any statutory or non-statutory designations for landscape character or quality.

In general terms, officers are in agreement that the site is relatively enclosed meaning that the visual impact of the proposed development would be mainly restricted to the near distance and the surrounding dwellings. In landscape terms, the visual impacts of the development are therefore considered to be likely to be relatively minor in terms of the wider area. Subject to compliance with the broad layout shown within the submitted plans, the site could be developed to provide an extension to the existing settlement which could be related to the existing pattern of development and would not have a significant impact on the wider landscape. The proposals would also provide new public open space in the east and south of the site providing a landscaped edge to the settlement seeking to minimise the impacts of the development on the wider countryside. These factors differ from the previous application that determined at appeal partially on the same site. In particular, the applicants confirm play space is to be accommodated; the site is larger and offers more flexibility in layout terms to provide a more appropriate settlement edge.

Therefore, the current proposals would be likely to have a limited visual impact on the character of the wider landscape but the submitted landscape and visual impact assessment does not demonstrate that the proposals would significantly improve the environmental quality of the local area. In particular, granting permission for the current application would not give rise to any significant environmental enhancements or socio-economic benefits in accordance with the intent of saved Local Plan policy GEN2 or create an improved settlement boundary in accordance with the intent of saved Local Plan policy GEN11.

In these respects, the landscape and visual impact assessment and the applicant's plans do not demonstrate that an approval of the current application would result in an acceptable long-term boundary to the urban edge because it cannot be demonstrated that a substantial landscape area can be provided to minimise the visual impact of the development on the countryside. Therefore, notwithstanding the potential for a landscaping condition on any permission at the site boundary, the proposals are unable to fully meet the requirements of saved Local Plan policy GEN11

Furthermore, while, the land is adjacent to the existing urban edge and with a limited projection south into the countryside - this does not represent a convincing justification for the development when it is considered that the proposals would have an adverse visual impact on the intrinsic quality of the countryside surrounding Clowne by virtue of the suburbanising effect of residential development on the rural setting of the town contrary to the provisions of saved Local Plan policy GEN2.

Consequently, the proposals do not comply with the requirements of saved policies GEN2 and GEN11 which seek to minimise the environmental impacts of proposed development in the District. Policies GEN2 and GEN11 are consistent with core planning principles in the Framework that seek to safeguard the intrinsic quality of the countryside and the locally distinctive character of the District. Therefore, the visual impact of the development on the character and appearance of the local area is an adverse impact that weighs heavily against granting planning permission for the current application. This conclusion also confirms that the 'in principle objection' to the proposed housing outside of the settlement framework contrary to GEN8 and ENV3, as set out in earlier sections of this report, relates to a significant and demonstrable adverse impact on the environmental quality of the local area.

## **Agricultural Land**

The development would be built out on Grade 2 agricultural land where saved Local Plan policy ENV 2 seeks to prevent development. Paragraph 112 of the Framework sets out more recent national policy and says that local planning authorities should take into account the economic and other benefits of the best and most versatile agricultural land. This paragraph goes on to say where significant development of agricultural land is demonstrated to be necessary, local planning authorities should seek to use areas of poorer quality land in preference to that of a higher quality.

In this case, it is considered the size and scale of the development does amount to significant development of agricultural land and therefore, the loss of agricultural land contrary to ENV3 would form a reason for refusal of the current application that is consistent with national planning policies. The loss of Grade 2 agricultural land is therefore a further adverse impact of the proposed development that diminishes the benefits of granting planning permission for the scheme and substantiates the conclusion that the proposed development would diminish the environmental quality of the local area.

## **Affordable Housing**

Saved Local Plan policy HOU6 seeks to ensure that larger housing developments (of 25 or more houses) provide an element of affordable housing that would be made available to people who cannot afford to rent or buy houses generally available on the open market. The Bolsover District Council Supplementary Planning Guidance: Affordable Housing (SPG) contains a presumption that 10% of the site capacity of larger housing developments shall be provided as affordable housing.

These policies are consistent with national planning policies set out in paragraph 50 of the Framework, which says local planning authorities should to deliver a wide choice of high quality homes, widen opportunities for home ownership and create sustainable, inclusive and mixed communities. Paragraph 50 goes on to say where local planning authorities have identified that affordable housing is needed, set policies for meeting this need on site, unless off-site provision or a financial contribution of broadly equivalent value can be robustly justified (for example to improve or make more effective use of the existing housing stock) and the agreed approach contributes to the objective of creating mixed and balanced communities.

At present, there is a need for affordable housing in the district, as demonstrated by the SHMA 2013 which estimated that 533 units of affordable housing would be required each year 2013-18 to fully meet housing need. In the Clowne sub market area alone the estimated figure is 149 units each year. Therefore, the applicant's offer to make 10% of the total number of houses on site affordable housing is therefore highly relevant.

However, whilst there would be clear social benefits resulting from granting planning permission for a scheme that would help to meet the proven need for more affordable housing

in the local area, the proposed affordable housing meets a policy requirement rather than forming a unique benefit that would result from granting permission for the current application. In other words, this offer enables the current application to meet the requirements of HOU6 rather than offer wider public benefits that would weigh heavily in favour of approving the current application.

Moreover, the offer of affordable housing would need to be secured by a planning obligation to be afforded any weight in the determination of the current application and a viability appraisal would be required to demonstrate that the scheme would still be deliverable with 10% on-site affordable housing.

## Health

A core planning principle set out at Paragraph 17 of the Framework is that Local Planning Authorities should take account of and support local strategies to improve health, social and cultural wellbeing for all, and deliver sufficient community and cultural facilities and services to meet local needs. Paragraph 69 of the Framework says: *The planning system can play an important role in facilitating social interaction and creating healthy, inclusive communities. Local planning authorities should create a shared vision with communities of the residential environment and facilities they wish to see.*

Paragraph 70 of the Framework goes on to say planning decisions should:

- ensure that established shops, facilities and services are able to develop and modernise in a way that is sustainable, and retained for the benefit of the community; and
- ensure an integrated approach to considering the location of housing, economic uses and community facilities and services.

In terms of health provision, this should mean ensuring local health centres have sufficient capacity to serve the existing needs of the local community and the future needs of occupants of proposed housing schemes.

In this case, the Clinical Commissioning Group considers that a commuted sum of £38,040 is required to mitigate the impact of the proposed development on Springs Health Centre in Clowne. The requested contribution would be used to extend the existing practice to meet the additional demand for services. At present, the applicant has not agreed to make this contribution.

Therefore, in the absence of appropriate mitigation for the impact of the proposed development, granting permission for the current application would have an adverse impact on the local community by putting additional pressure on the local GP surgery that has not got sufficient capacity to meet the increased demand that would be placed on it by the proposed development. However, this issue could be resolved if the applicant were to demonstrate the requested contribution could be made by way of a viability appraisal and the contribution was secured by a legal agreement.



## Education

As above, Paragraph 17 of the Framework requires Local Planning Authorities to take account of and support local strategies to improve health, social and cultural wellbeing for all, and deliver sufficient community and cultural facilities and services to meet local needs. Paragraph 72 of the Framework says the Government attaches great importance to ensuring that a sufficient choice of school places is available to meet the needs of existing and new communities. Local planning authorities should take a proactive, positive and collaborative approach to meeting this requirement, and to development that will widen choice in education.

However, an approval for the current application would conflict with these Government's objectives for education because the County Council advise that neither the nursery and infant school nor the junior school nor the secondary school in Clowne would have sufficient capacity to accommodate the additional pupils that would require school places if the proposed housing development was to go ahead for the following reasons:

*Primary Level Need:* An evaluation of recently approved residential developments of 11 or above units or over 1,000 square metres of floor space within the normal area of Clowne Infant and Nursery School shows new development totalling 188 dwellings, which would generate an additional 16 infant pupils. The analysis of the current and future projected number of pupils on roll, together with the impact of approved planning applications shows that the normal area primary school would have sufficient capacity to accommodate the 9 infant pupils arising from the proposed development.

Clowne Junior School has capacity for 360 pupils, with 365 pupils currently on roll. The number of pupils on roll is projected to decrease during the next five years to 348. An evaluation of recently approved residential developments of 11 or above units or over 1,000 square metres of floor space within the normal area of Clowne Infant and Nursery School Primary School shows new development totalling 188 dwellings, which would generate an additional 22 junior pupils. The analysis of the current and future projected number of pupils on roll, together with the impact of approved planning applications shows that the normal area primary school would not have sufficient capacity to accommodate the 11 junior pupils arising from the proposed development.

It is therefore clear from this school place analysis that the County Council will not be able to provide local school places for the junior aged pupils generated from this development (17/00405/FUL) at the existing school within Clowne. The existing school, within whose normal area the development lies, is projected to stay substantially full. The site and buildings at both the infant and junior school do not allow for further expansion and this would not be desirable given the already large size of the schools. Therefore from an education perspective the County Council is not able to accommodate the pupils arising from the proposed development in the existing primary level infrastructure and as such would only request contributions where additional school place provision could be made. The applicant has not otherwise suggested a contribution that might be pooled to make a larger developer contribution towards a new school.

*Secondary Level Need:* An evaluation of recently approved residential developments of 11 or above units or over 1,000 square metres of floor space within the normal area of Heritage High School - A Mathematics & Computing Specialist College shows new development totalling 658 dwellings, which would result in demand for an additional 99 secondary pupils. Analysis of the current and future projected number of pupils on roll, together with impact of the approved planning applications shows that the normal area secondary school would not have sufficient capacity to accommodate 15 secondary pupils arising from the proposed development.

Nonetheless, the County Council consider the impact of the development on secondary level education can be mitigated for by a commuted sum of £ 257,642.55 towards the provision of additional teaching accommodation. However, whilst the applicant has made an offer to pay the requested contribution with regard to the final numbers of dwellings that would be built out, there is no viability appraisal to demonstrate the proposed development would be sufficiently viable to meet this cost and no legal agreement has been drafted that would secure a proportionate contribution towards this cost. Therefore, in the absence of appropriate mitigation, the proposed development would have an adverse impact on secondary education in the local area.

Consequently, the proposed development would have a significant adverse impact on local education provision contrary to national planning policies that attach great importance to ensuring that a sufficient choice of school places is available to meet the needs of existing and new communities. In the absence of appropriate mitigation for the impact of the proposed development on local schools, granting permission for the current application would not reflect the local community's needs or support its social well-being and would result in a consequential negative impact on the viability and vitality of the local area contrary to saved Local Plan policy ENV3.

Furthermore, as there is insufficient primary level capacity to accommodate the increase in pupils forecast to be generated by this proposed development and the development itself cannot enable the necessary provision, it is considered that the proposed development cannot be considered to be a sustainable form of development.

## **Local Road Network**

Paragraph 32 of the Framework says development may be prevented or refused on transport grounds where the residual cumulative impacts of development are severe and all development that would generate large amounts of traffic should be provided with a safe and suitable access. Saved Local Plan policy GEN1 says the minimum requirement for all development is that the local highway network must be able to accommodate the vehicular, cycle and pedestrian traffic from the development site without causing material harm to highway safety or unacceptable congestion.

In this case, the Local Highway Authority agrees with the findings of the submitted Transport Statement and find that the proposed development would not have a severe impact on the local road network or cause material harm to highway safety. In reaching these conclusions, the Local Highway Authority has assessed the proposed access on to Mansfield Road and

have raised no objections on highway safety grounds. The Local Highway Authority also assessed the Transport Assessment which details the methodology used to predict the demand associated with the development and provides an assessment of the potential impact of the development on the highway network including existing committed developments.

The data analysis within the Transport Assessment calculates the differences between the committed traffic usage upto 2021 and contrasts this against the 'with development scenario'. The submitted report suggests the greatest increase in estimated flows associated with the development is at the B6418/B6417 junction, which is estimated to increase by 83 trips during the AM peak hour and 73 trips in the PM peak hour, equivalent to an increase of 6.0% and 4.3% respectively and less than two new trips every three minutes. The change in flows at the B6418/Boughton Lane/The Arc Access Road junction is expected to be lower, with the increase in traffic forecast to be 54 two-way trips in the AM peak hour and 47 trips in the PM peak hour, equivalent to only 4.5% and 3.2% respectively. When the capacity of these junctions is analysed in line with a robust form of data analysis (known as FLAT analysis), the modelling results indicate that both the B6418/B6417 and B6418/Boughton Lane/The Arc junctions would continue to operate within theoretical capacity.

The Local Highway Authority have considered the detailed methodology provided within the Transport Assessment and raise no concerns regarding the robustness of the modelling information or the conclusions within the submissions relating to trip generation or junction capacity assessment. The Highway Authority also confirms the proposed access arrangements shown within the submitted plans achieve suitable visibility for the speed of the road at that point along Mansfield Road. It is therefore concluded that the proposed development would not have a significant adverse effect on main junctions in the vicinity of the site or the wider road network and that the site can be provided with a safe and suitable access.

Consequently, the proposals are considered to meet the requirements of saved policy GEN1 and relevant national planning policy in these respects. However, the proposed development does not include any proposals that would provide any additional transport infrastructure. Therefore, there are no objections to the proposals on highways grounds but granting planning permission for the current application would not have any beneficial impact on the local road network through the provision of additional transport infrastructure, for example.

## **Place Making**

As the current application is for outline permission and all matters are reserved other than access, it is not appropriate to make a detailed assessment of the design and layout of the proposed housing development at this stage. However, it is important to assess the contribution the proposed development would make to place making in terms of the provision of open space, recreational facilities and public art when considering whether the proposed development would be acceptable in principle and when assessing the benefits of any approval for the current application.

Paragraph 73 of the Framework says access to high quality open spaces and opportunities for sport and recreation can make an important contribution to the health and well-being of

communities. Paragraph 75 on the Framework goes on to say planning policies should protect and enhance public rights of way and access. Local authorities should seek opportunities to provide better facilities for users, for example by adding links to existing rights of way networks including National Trails.

Saved Local Plan policy HOU5 reflects this guidance by saying that the provision of adequate public open space is an essential requisite of an acceptable urban environment, and that every new dwelling increases the demand for local public open space from children and adults for play, sports and general recreation and leisure use. With regard to HOU5, the minimum area of open space for this particular development would be 2,000m<sup>2</sup> (0.2ha) whereas the proposal includes 1.37ha of green infrastructure, which significantly exceeds this requirement.

Similarly, the proposals include a LEAP standard play area, which would be expected for a development of this size, but a more central / visible location would be preferable. As proposed, the play area appears to have been hidden in a corner of the site where there is limited natural surveillance from neighbouring properties and it appears to be surrounded (at least on one side) by vegetation.

As the proposed development isn't of sufficient scale to require any dedicated on site built and outdoor sports facilities it is recommended that a suitable commuted sum is negotiated in lieu of any formal on site requirement to achieve compliance with policy HOU5. Using the current policy formula, the commuted sum should be £93,400 (100 dwellings x £934 per dwelling). This commuted sum would be invested in upgrading built and outdoor sport facilities within the parish but to date, the applicant has offered to make a proportionate contribution towards off-site facilities and has offered a sum for maintenance for the open space and play area if it were anticipated the Council would adopt these aspects of the proposed development in the future. However, a legal agreement has not been provided that would secure these offers.

The creation of new footpaths is welcomed as these will provide improved access for residents of this development and those off Mansfield Road into the wider countryside. However, the proposed footpath in the north eastern corner of the site, which links the development to Ringer Lane, should be created as a shared pedestrian / cycle path with a width of at least 3m. As shown in the masterplan, there is currently only one access into the development off Mansfield Road and the development does not appear to have any relation / connection to the existing residential areas in the southern part of Clowne. A shared use pedestrian / cycle path would at least create a connection that would allow / encourage non-car access to Clowne town centre via the network of quiet residential roads between Ramper Avenue and the town centre.

Saved Local Plan policy GEN17 seeks a contribution towards public art of 1% of the total development costs on developments of over £1million. The applicant has stated they are not willing to make any offer to meet the specific requirements of this policy and there are no public art proposals included in the submitted application. However, the applicant has said they would be willing to accept a condition on any approval requiring provision of on-site public art.

Therefore, the proposals could provide some benefits to the local area through a revised scheme for the footpath links, relocation of the proposed play area and through the provision of open space that exceeds policy requirements. In contrast, the absence of a legal agreement securing a proportionate contribution towards upgrading built and outdoor sport facilities within the parish and the absence of a firm offer towards public art diminishes the wider public benefits of granting planning permission for the current application. Furthermore, a viability appraisal would be needed to demonstrate that the development could not only meet the costs of the proposed contributions but also remain deliverable.

Consequently, the current application does not fully meet expectations in respects of place making as set out in national planning policies and in HOU5 and GEN17 and it has not yet been demonstrated that these expectations could be met. This conclusion weighs against the proposed development in the planning balance.

### **The Planning Balance**

In summary, granting planning permission for the current application would give rise to some socio-economic benefits through the provision of new housing. Subject to prior entry into a s.106 legal agreement, the current application could meet policy requirements in respects of provision of on-site affordable housing. Subject to a viability appraisal that demonstrates the proposed housing could meet these costs and subject to prior entry into a s.106 legal agreement, the current application could meet policy requirements in respects of provision of off-site sports facilities and requested contributions towards health and secondary education. A planning condition could be used to secure provision of on-site public art and at this stage; there are no overriding objections to the proposals on highway safety grounds.

However, the absence of a viability assessment and agreed heads of terms for a legal agreement limits the weight that can be attached to the offer of contributions towards local infrastructure. Furthermore, the 'benefits' resulting from granting permission for the current application are mostly only sufficient to meet policy requirements or go little further than minimising the adverse impacts of the development. Finally, in the absence of a viability appraisal and any evidence that demonstrates the scheme is deliverable within the next five years: limited weight can be attached to the limited benefits of granting planning permission for the current application.

In contrast, the visual impact of the proposed housing on the rural setting of Clowne would have a significant and demonstrable adverse affect on the character of the local area that would not be mitigated for by an appropriate landscape buffer. There would be loss of Grade 2 agricultural land that would exacerbate further losses throughout the District where housing developments have been granted planning permission outside of settlement framework in exceptional circumstances that do not exist in this case.

Furthermore, if the proposed development was granted planning permission, there would not be sufficient capacity at primary school level to accommodate pupils from the new development and this would have a significant and demonstrable adverse impact on the town as a whole. In this respect, any approval for the current application in these circumstances would fail to meet the Government's objectives of ensuring that a sufficient choice of school

places is available to meet the needs of existing and new communities. In addition, the submitted plans and supporting information do not demonstrate that the proposed development would contribute positively to creating a sense of place or give rise to any significant benefits to the local community in terms of improving the environmental quality of the local area.

It is therefore considered that the adverse impacts of granting planning permission would significantly and demonstrably offset and outweigh the benefits of doing so and the proposed development cannot be considered to be a sustainable form of development when considered against national planning policies in the Framework as a whole. Consequently, there is no presumption in favour of granting planning permission for the current application that is otherwise contrary to policies in the Development Plan because of the location of the application site in the countryside outside of the settlement framework. Therefore, even if the tilted balance were to be engaged in this case, it would not lead to an approval of the current application. Accordingly, officers are recommending the current application should be refused planning permission for the following reasons:

1. The proposed residential development would be located outside the settlement framework and it cannot be demonstrated that a housing scheme of up to 100 houses is necessary in the proposed location in the countryside. Therefore, the current application is contrary to saved Local Plan policies GEN8 and ENV3 and granting planning permission for the current application would constitute an unwarranted departure from the Development Plan and would conflict with the planned sustainable growth of the District as set out in the emerging Local Plan.
2. The proposed development would have a significant adverse impact on local education provision contrary to national planning policies that attach great importance to ensuring that a sufficient choice of school places is available to meet the needs of existing and new communities. In the absence of appropriate mitigation for the impact of the development on local schools, granting permission for the current application would not reflect the local community's needs or support its social well-being and would result in a consequential negative impact on the viability and vitality of the local area contrary to saved Local Plan policy ENV3.
3. The site is beyond the existing built edge of Clowne and would represent a further extension and encroachment of Clowne southwards into the surrounding countryside, which at this point begins to drop away opening up views of wider Magnesian Limestone landscape. The development proposals would have an adverse urbanising effect that would be harmful to the landscape setting of the settlement and would detract from the rural character and appearance of the surrounding landscape. The submitted plans also fail to demonstrate an appropriate landscape boundary could be achieved or that the scheme would otherwise improve the environmental quality of the local area also taking into account the proposals would result in the loss of Grade 2 agricultural land. Therefore, the proposals are contrary to the specific requirements of saved Local Plan policies ENV2, GEN2 and GEN11 and contrary to core planning principles in the National Planning policy Framework.

4. In the absence of any viability appraisal or evidence on delivery, there is no certainty that any benefits of granting planning could be achieved in a reasonable time frame or that the proposed development could make appropriate contributions towards local infrastructure. However, the proposed development would demonstrably harm the environmental quality of the local area and detract from the social and economic well-being of the local community. Consequently, the current proposals constitute an unsustainable form of development and any benefits of granting planning permission for the current application would be demonstrably and significantly outweighed by the adverse impacts of doing so when taking into account policies in the Development Plan and the National Planning Framework as a whole.

In this case, there are no other material considerations that would weigh heavily in the determination of the current application for the following reasons:

### **Biodiversity**

The application includes an Ecological Report prepared by a Chartered Ecologist and included specific species surveys relating to habitat suitability, bats and reptiles. The submissions set out how the site is dominated by arable and improved grassland fields of limited ecological importance. Hedgerows which bound the site are of greater ecological interest. The majority of these hedgerows are intended to be retained as part of the development proposed. Low numbers of common bat species have been identified utilising the Site. Measures to minimise adverse effects on bats have been set out within the submitted report along with precautionary measures in respect to nesting birds during construction. No reptile population has been found at the site.

Hollinhill and Markland Grips SSSI is an area of unimproved grassland and woodland, located c. 1km east of the Site. To mitigate for the predicted on-going effects of increased recreational pressure from the development upon the SSSI, an area of public open space (POS) is proposed to be provided on-site. These measures are suggested to avoid potential adverse effects on the SSSI. Furthermore, a number of opportunities for ecological enhancement are also included within the report and seek to create habitats of importance within public open space, structural landscaping and drainage features. These include the creation of woodland/hedgerow edge, grassland, scrub and wetland habitats.

The Ecological submissions state that following the successful implementation of the mitigation measures set out, and subject to findings of ongoing surveys, no significant adverse ecological effects are predicted as a result of the proposed development. Subject to the delivery of proposed landscaping and ecological enhancement measures, it is anticipated that net gains for biodiversity are achievable and that such enhancement can be secured via appropriately worded planning conditions and control of detailed designs for the Site.

Natural England have been consulted owing to the presence of the SSSI in the vicinity of the site. No objections were raised in their formal response. In addition Derbyshire Wildlife Trust have considered the submitted details, survey work and mitigation proposed. No objections are raised to the methodology, conclusions or extent of mitigation proposed within the reports provided. Within their comments, the Wildlife Trusts response conditions relating specifically

to bat, bird and other species are recommended. Subject to these conditions, Officers would be satisfied there are no objections to the proposals on the basis of their ecological impacts.

However, the ecological enhancements that could be achieved are not sufficient to offset or outweigh the adverse impacts of the visual impact of the development or the lack of capacity in local schools and do not justify development in the countryside outside of the settlement framework.

### **Drainage and Flood Risk**

Originally concerns were raised by Derbyshire County Council Lead Local Flood Authority. The applicant sought to provide further information in the form of a flood risk assessment to address the concerns and formal comments from the Flood Authority consultee have since been provided. Although some words of caution still exist within the response, the response confirms the current plans for the use of Sustainable Drainage Systems to dispose of surface water from the proposed development are above ground and would be considered acceptable by the LLFA and appropriate conditions are recommended. Subject to such conditions Officers are satisfied that flood risk and surface water drainage for the site can be appropriately managed.

The Council has also consulted with Severn Trent Water to assess if there are any significant drainage infrastructure concerns. Severn Trent have confirmed that no significant foul or surface water drainage capacity concerns exist beyond those usually relevant to housing proposals i.e. ensuring surface water is controlled at source via a SUDS system. However, these conclusions relate solely to an aspect of the development that accords with policy rather than a benefit or benefits of the scheme that could form a reason for approval of the current application.

### **Ground Conditions**

Paragraph 120 of the Framework says that to prevent unacceptable risks from pollution and land instability, planning policies and decisions should ensure that new development is appropriate for its location. The effects (including cumulative effects) of pollution on health, the natural environment or general amenity, and the potential sensitivity of the area or proposed development to adverse effects from pollution, should be taken into account. Where a site is affected by contamination or land stability issues, responsibility for securing a safe development rests with the developer and/or landowner.

In this case, there are no land stability issues or coal mining legacy issues and no requirement for any significant remediation in respects of pollution. In this case, an appropriate condition would deal with the relatively limited potential for contaminated land within the application site. It is therefore considered that dealing with the prevailing on-site ground conditions does not constitute a key issue in the determination of the current application.



## **Historic Environment**

There are considered to be limited wider effects from the development in terms of historic character. The site borders a modern residential estate and does not exist in such close proximity to designated heritage assets as to have effects upon heritage significance.

The Archaeological Impacts associated with the development were the subject of discussion during the course of the application and further evidence in relation to the historic significance of the site has been submitted during the course of the application. In terms of buried remains, no significant recorded remains exist within the site area or its wider proximity. The map regression analysis carried out shows the site has remained largely undeveloped and geo-physical survey was carried out. The geophysical survey did not confirm any anomalies that might relate to early field enclosures or other significant interest.

Initially objections were received from the County Archaeologist that insufficient information had been received and that further archaeological work should be carried out prior to determination of this application. Following the provision of the above detail, the County Archaeologist remarks that the survey work provided does show some elements of probable and possible archaeology that will need to be investigated and recorded in line with Paragraph 141 of the Framework.

The survey results suggest a probable field system with other small areas of possible activity, as well as some 'ring' cropmarks not showing within in the geophysics which may be of natural origin but should be tested. The County Archaeologists therefore consider the most appropriate response would be for further archaeological work to take place post-consent, secured by a planning condition. This work would comprise trial trenching in the first instance, followed by further excavation to fully record any areas of significant archaeological remains thus identified. Subject to conditions to address these matters, Officers assess the effects of proposed development upon archaeological remains can be understood and can be protected or recorded proportionate to their significance in line with Paragraph 141 of the Framework.

Again, these conclusions relate solely to an aspect of the development that accords with policy rather than a benefit or benefits of the scheme that could form a reason for approval of the current application.

## **Neighbourliness**

The application is submitted in outline with only access details having been formally provided. An indicative site plan is provided showing a potential road and footpath arrangement. Concerns are raised that footpaths in the manner shown and play areas in the locations shown would result in loss of privacy and other amenity impacts to existing residents. As the application is outline only, the detailed layout of the site is not part of the application discussions at this time, and although some critique of the layout is made by the Council's Urban Designer, such matters would need to be considered further when the scale, layout and appearance of the proposed site is considered at the Reserved Matters stage when more precise detail would be provided.

Equally, the precise relationships between existing and proposed houses would need to be examined more closely at reserved matters stage if permission were to be granted for the current application. However, the nature of the proposals does not give rise to any overriding concerns that the proposed development would be unneighbourly as a matter of principle. The issues around the construction phase could otherwise be dealt with by planning conditions. Therefore, neighbourliness issues do not weigh heavily for or against an approval of the current application.

## **Conclusions:**

It is therefore concluded that when all relevant considerations are taken into account, there are no exceptional circumstances in this case that would warrant granting permission for the current application or that any benefits of granting planning permission for the current application would outweigh the adverse impacts of doing so. Therefore, as set out in the previous sections of this report, it is considered the current application proposes an unsustainable form of development that would not only be a departure from the Development Plan and conflict with the emerging Local Plan but the proposed development would also conflict with national planning policies in the Framework when taken as a whole. Accordingly, the current application is recommended for refusal.

## **RECOMMENDATION**

The current application be REFUSED for the following reasons:

5. The proposed residential development would be located outside the settlement framework and it cannot be demonstrated that a housing scheme of up to 100 houses is necessary in the proposed location in the countryside. Therefore, the current application is contrary to saved Local Plan policies GEN8 and ENV3 and granting planning permission for the current application would constitute an unwarranted departure from the Development Plan and would conflict with the planned sustainable growth of the District as set out in the emerging Local Plan.
6. The proposed development would have a significant adverse impact on local education provision contrary to national planning policies that attach great importance to ensuring that a sufficient choice of school places is available to meet the needs of existing and new communities. In the absence of appropriate mitigation for the impact of the development on local schools, granting permission for the current application would not reflect the local community's needs or support its social well-being and would result in a consequential negative impact on the viability and vitality of the local area contrary to saved Local Plan policy ENV3.
7. The site is beyond the existing built edge of Clowne and would represent a further extension and encroachment of Clowne southwards into the surrounding countryside, which at this point begins to drop away opening up views of wider Magnesian

Limestone landscape. The development proposals would have an adverse urbanising effect that would be harmful to the landscape setting of the settlement and would detract from the rural character and appearance of the surrounding landscape. The submitted plans also fail to demonstrate an appropriate landscape boundary could be achieved or that the scheme would otherwise improve the environmental quality of the local area also taking into account the proposals would result in the loss of Grade 2 agricultural land. Therefore, the proposals are contrary to the specific requirements of saved Local Plan policies ENV2, GEN2 and GEN11 and contrary to core planning principles in the National Planning policy Framework.

8. In the absence of any viability appraisal or evidence on delivery, there is no certainty that any benefits of granting planning could be achieved in a reasonable time frame or that the proposed development could make appropriate contributions towards local infrastructure. However, the proposed development would demonstrably harm the environmental quality of the local area and significantly detract from the social and economic well-being of the local community. Consequently, the current proposals constitute an unsustainable form of development and any benefits of granting planning permission for the current application would be demonstrably and significantly outweighed by the adverse impacts of doing so when taking into account policies in the Development Plan and the National Planning Framework as a whole.

## **Human Rights**

Any human rights issues have been considered and addressed in the preparation of this report.

## **EIA Screening Opinion**

The development is not Schedule I development but does comprise urban development as described in column one of Schedule II of the EIA Regulations 2017. The application site is not located in a sensitive location for the purpose of these regulations and the development does not exceed the thresholds set out in column 2 of Schedule II. Therefore, the proposed development is not EIA development.

## **Statement of Decision Process**

By virtue of the nature of the proposals and their location, it is not possible to address the fundamental objections to these proposals through revisions to the scheme. It is also not possible to mitigate for the adverse impact of the proposed development on education capacity in the local area. Nonetheless, the Council have worked positively and pro-actively with the applicant to seek to address all other planning issues prior to the determination of the current application.