

The Arc
High Street
Clowne
Derbyshire
S43 4JY

Date: 12th December 2017

Dear Sir or Madam

You are hereby summoned to attend a meeting of the Planning Committee of Bolsover District Council to be held in the Council Chamber, The Arc, Clowne, on Wednesday 20th December 2017 at 1000 hours.

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

You will find the contents of the agenda itemised on page 2.

Yours faithfully



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

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**PLANNING COMMITTEE
AGENDA**

**Wednesday 20th December 2017 at 1000 hours
in the Council Chamber, The Arc, Clowne**

Item No.		Page No.(s)
	PART 1 – OPEN ITEMS	
1.	<u>Apologies for Absence</u>	
2.	<u>Urgent Items of Business</u>	
	To note any urgent items of business which the Chairman has consented to being considered under the provisions of Section 100(B) 4(b) of the Local Government Act 1972	
3.	<u>Declarations of Interest</u>	
	Members should declare the existence and nature of any Disclosable Pecuniary Interest and Non Statutory Interest as defined by the Members' Code of Conduct in respect of:	
	a) any business on the agenda	
	b) any urgent additional items to be considered	
	c) any matters arising out of those items	
	and if appropriate, withdraw from the meeting at the relevant time.	
4.	To approve the minutes of a meeting held on 22 nd November 2017	4 to 11
5.	Notes of a Site Visit held on 17 th November 2017	12
6.	Applications to be determined under the Town & Country Planning Acts.	
	(i) 17/00566/VAR - Removal of condition 3 of application 15/00216/OUT (There shall be no commencement of development on the housing element of the proposals including site works until the building shell of phase 1a of the hotel development as shown on the concept plans) at Hotel Van Dyk and Land South Of Plantation on North Side of Worksop Road, Clowne	13 to 25

- | | | |
|-------|---|----------|
| (ii) | 16/00510/FUL - Erection of residential development comprising 32 two-bedroom dwellings (a mix of single storey and two storey) and associated access, car parking and landscaping at Jacques Brickyard, Water Lane, South Normanton, Alfreton | 26 to 41 |
| (iii) | 17/00357/FUL - Change of use of ground floor storage space to self contained flat at 156 Station Road, Shirebrook, Mansfield NG20 8UG | 42 to 47 |

PLANNING COMMITTEE

Minutes of a meeting of the Planning Committee of the Bolsover District Council held in the Council Chamber, The Arc, Clowne on Wednesday 22nd November 2017 at 1000 hours.

PRESENT:-

Members:-

Councillor D. McGregor in the Chair

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

Officers:-

J. Arnold (Assistant Director – Planning and Environmental Health), C. Fridlington (Planning Manager (Development Control)), R. Routledge (Interim Planning Policy Manager), C. McKinney (Principal Planning Officer (Policy)), D. O'Connor (Planning Officer), J. Owen (Legal Executive) and A. Brownsword (Senior Governance Officer)

0423. APOLOGIES

An apology for absence was received from Councillors T. Alexander, J.A. Clifton and R. Turner

0424. URGENT ITEMS OF BUSINESS

There were no urgent items of business.

0425. DECLARATIONS OF INTEREST

The following declaration of interest was made:

Agenda Item No.	Member	Nature of Interest
7(i)	J. Wilson	Significant Non Statutory Interest Family Member has interest in the Application site

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0426. MINUTES – 25TH OCTOBER 2017

Further to Minute No. 0337 – Applications to be determined under the Town and Country Planning Acts – 2 - 14/00080/OUTEA - Outline planning application (with all matters except access reserved for later consideration) for residential development in the region of 950 dwellings, provision of an extra care facility (approx 70 units) and an Infant School together with appropriate vehicular, cycle and pedestrian access, associated car parking spaces and open space provision at Land Between Welbeck Road And Oxcroft Lane, Bolsover, Councillor Crane noted that although he had voted in favour of the application, he wished his concerns regarding the highways issues to be noted.

Moved by Councillor T. Munro and seconded by Councillor M.J. Ritchie

RESOLVED that with the above amendment, the minutes of a meeting of the Planning Committee held on 25th October 2017 be approved as a true and correct record.

0427. SITE VISIT NOTES – 20TH OCTOBER 2017

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

RESOLVED that the notes of a site visit held on 20th October 2017 be approved as a true and correct record.

0428. FIVE YEAR HOUSING SUPPLY – UPDATED

The Principal Planning Officer (Policy) presented the report which set out and sought approval for an amendment to the annual assessment and publication of the five year supply of deliverable sites following the release of the North Derbyshire and Bassetlaw SHMA – Objectively Assessed Need (OAN) Update Report.

The Principal Planning Officer (Policy) explained that the OAN Update Report provided a new OAN of 272 dwellings per year based on updated population projections utilising the Government's existing methodology. He also advised that the Government were consulting on a revised methodology, which would see an OAN of 244 dwellings per year. The Principal Planning Officer (Policy) then explained how these two figures would affect the five year supply calculation.

Based on this, the Principal Planning Officer (Policy) advised that it was appropriate to use the OAN Update Report figure of 272 dwellings per year at this stage and that

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on this base the Council had just under 8 years of deliverable supply and now a track record of delivery against its OAN requirement.

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

RESOLVED that (1) the detailed issues set out in the report, be noted,

(2) the findings of the North Derbyshire and Bassetlaw SHMA – OAN Update' (October 2017), be agreed and utilised in the calculation of the 5 year supply,

(3) the assessment of the Council's current five-year supply of deliverable housing sites as set out at Appendix A of the report be approved,

(4) the publication of the five Year Supply Assessment (Appendix A of the report), the Schedule of Deliverable Sites in the five year supply (Appendix B of the report) and the final version of the North Derbyshire and Bassetlaw SHMA – OAN Update' on the Council's website be authorised,

(5) delegated authority be given to the Joint Assistant Director - Planning and Environmental Health in consultation with the Chair and Vice Chair of Planning Committee to make any minor changes to the text or information referred to in recommendation 4, prior to publication.

(Interim Planning Policy Manager)

0429. APPLICATIONS TO BE DETERMINED UNDER THE TOWN AND COUNTRY PLANNING ACTS

Having previously declared her Non Statutory Significant interest in the following item of business, Councillor J. Wilson left the meeting during the discussion and took no part in the voting thereon.

1. 17/00417/OUT - Residential development of up to 400 dwellings with the safeguarding of land for a primary school/nursery, a community hub to include a local shop, a large swathe of formal parkland, other public open space areas, associated landscaping, pedestrian/cycle links and vehicular access from Low Road and Cliff Hill at Land North South And East Of Stanfree Farm, Low Road, Clowne

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Further details were included within the Supplementary Report.

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

Councillor J.E. Smith (Bolsover District Council), Ms. M. Rose (Stanfree Valley Preservation Group), Ms. S. Goodwin and Mr. I. Sykes attended the meeting and spoke against the application.

Ms. A. Gilliver attended the meeting and spoke in support of the application.

The Committee considered the application having regard to the emerging Bolsover District Local Plan, Bolsover District Local Plan (February 2000), National Planning Policy Framework, and the updated 5 year housing supply.

Moved by Councillor S.W. Fritchley and seconded by Councillor D. McGregor
RESOLVED that Application No. 17/00417/OUT be REFUSED 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 400 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 not only constitute an unwarranted departure from the Development Plan, it would also conflict with the planned sustainable growth of the District as set out in the emerging Local Plan.
2. 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. Furthermore, the site is poorly related to the main built up area of Clowne and to the nearby village of Stanfree. Consequently, the proposed development would not appear to be a logical extension of either urban area and would detract from the distinctive character of both settlements. 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. Therefore, the proposals are contrary to the specific requirements of saved Local Plan policies GEN2 and GEN11 and contrary to core planning principles in the National Planning Policy Framework.
3. In the absence of adequate survey work, it cannot be demonstrated that the derogation tests in the Habitat Regulations can be met in respect of European Protected Species, it is not possible for this Council to approve this application

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and demonstrate that due regard has been paid to the purpose of conserving biodiversity in accordance with s.40 of the Natural Environment and Rural Communities Act 2006, and it is not possible to determine that there would be no net loss of biodiversity in accordance with national planning policies if permission were to be granted for the current application.

4. In the absence of adequate information on archaeology, it cannot be demonstrated that the proposals would not result in substantial harm to heritage assets contrary to the provisions of paragraphs 128, 135 and 139 of the Framework and contrary to core principles in the Framework that require local planning authorities to conserve heritage assets in a manner appropriate to their significance, so that they can be enjoyed for their contribution to the quality of life of this and future generations.
5. In the absence of adequate information on land stability, it cannot be demonstrated that the site is stable or can be made so and also that the proposals would not be likely to initiate landsliding on, or contribute to the instability of, the adjoining land. Consequently, it cannot be determined that the site is suitable for its new use taking account of ground conditions and land instability, and any approval for the current application would conflict with national planning policies set out at paragraphs 121 and 122 of the Framework
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. In the absence of a robust transport assessment, it cannot be demonstrated that the development would not have a severe adverse impact on the local road network contrary to paragraph 32 of the Framework because of the overall scale of development, the proposed location of the development and in the absence of appropriate mitigation. If planning permission were to be granted in these circumstances, the resulting traffic congestion would have subsequent negative impact on the environmental quality and the vitality and viability of the local area contrary to saved Local Plan policies GEN1 and ENV3. The submitted application also fails to demonstrate the proposed development can be provided with a safe and suitable access, which is also contrary to national planning policies set out in paragraph 32 of the Framework.
8. The public sewer is at capacity and drainage issues remain unresolved. There is a potential odour nuisance issue for future occupants of the proposed housing because of a combined sewer overflow on the site that also remains unresolved. Until these issues are addressed, it cannot be demonstrated that

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the proposed development would accord with core planning principles in the Framework that require a good standard of amenity for all existing and future occupants of land and buildings.

9. 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

(Planning Manager (Development Control))

Councillor J. Wilson returned to the meeting.

2. 17/00409/OUT - 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) at Land To The South Of Ramper Avenue And Between Mansfield Road And Ringer Lane Clowne

Further details were included within the Supplementary Report.

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

Councillor J.E. Smith (Bolsover District Council), Mr. M. Bond (Wickets Residents Association) and Mr. P. Hillman attended the meeting and spoke against the application.

The Committee considered the application having regard to the emerging Bolsover District Local Plan, Bolsover District Local Plan (February 2000), National Planning Policy Framework, and the updated 5 year housing supply.

Moved by Councillor S.W. Fritchley and seconded by Councillor .D. McGregor
RESOLVED that Application No. 17/00409/OUT be REFUSED for the following reasons:

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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

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

(Planning Manager (Development Control))

The meeting concluded at 1105 hours.

PLANNING SITE VISIT

Notes of a Planning Site Visit held on 17th November 2017 commencing at 1000 hours.

PRESENT:-

Members:-

Councillor D. McGregor in the Chair

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

Officers:-

C. Fridlington (Planning Manager (Development Control))

1. APOLOGY

An apology for absence was received from Councillor J. Wilson.

2. SITE VISITED

Applications for determination by Committee:

Item 7(i): 17/00417/OUT - Residential development of up to 400 dwellings with the safeguarding of land for a primary school/nursery, a community hub to include a local shop at Land North South And East Of Stanfree Farm Low Road Clowne

Item 7(ii) 17/00409/OUT 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) at Land To The South Of Ramper Avenue And Between Mansfield Road And Ringer Lane Clowne

The site visit concluded at 1030 hours.

PARISH Clowne

APPLICATION Removal of condition 3 of application 15/00216/OUT (There shall be no commencement of development on the housing element of the proposals including site works until the building shell of phase 1a of the hotel development as shown on the concept plans).

LOCATION Hotel Van Dyk and Land South Of Plantation on North Side of Worksop Road Clowne

APPLICANT Mr Peter Eyre & Van Dyk Country House Hotel Ltd

APPLICATION NO. 17/00566/VAR

CASE OFFICER Chris Fridlington

DATE RECEIVED 3 November 2017

BACKGROUND

In June 2016, outline planning permission was granted by the Council for an extension to the Grade II listed Van Dyk Hotel on Worksop Road to the east of Clowne. The same consent granted outline planning permission for residential development of 52 houses on land on the north side of Worksop Road opposite the existing hotel (15/00216/OUT). At the time of the decision, it was acknowledged that the proposed houses were contrary to saved policies in the Bolsover District Plan because of the location of the application of the application site in countryside outside of the settlement framework.

However, the housing was also considered to be enabling development that would help to fund the proposed extension to the hotel and the desirability of enabling the existing hotel business to expand weighed heavily in favour of granting planning permission for the housing. In particular, significant weight was attached to the economic benefits of the hotel development both to support and grow local business (including the hotel business itself), and to develop the tourism potential of the area by providing a high quality overnight destination.

Consequently, Condition 3 on the original outline planning permission and an obligation in the associated legal agreement placed restrictions on the phasing of the proposed development that required a new roundabout (providing a new access to both the housing site and the hotel) and the shell of the hotel extension to be completed before any works commenced on the consented housing scheme. At the time the decision was made, it was considered preventing the housing coming forward before the delivery of the hotel extension would be the best way to ensure that granting permission for the enabling development on a very exceptional basis would secure the economic benefits that could be achieved for the District by granting permission for both proposals.

In summary, the current application proposes replacing this condition and the existing planning obligations with a fresh s.106 legal agreement, which is intended to secure the delivery of the roundabout and the hotel extension but allow the housing to be commenced at the same time as the extension to the hotel. Information submitted with the application indicates that the extended hotel would be operational by December 2018 by which time it is

anticipated around four houses will have been completed on the opposite side of Worksop Road if permission were to be granted for the current application.

CURRENT PROPOSAL

The current application has been made under s.73 of the Town and Country Planning Act 1990 ('the 1990 Act'), as amended, and proposes the deletion of Condition 3 attached to Planning Decision Notice 15/00216/OUT.

Condition 3 attached to Planning Decision Notice 15/00216/OUT currently says:

There shall be no commencement of development on the housing element of the proposal including site works until the building shell of phase 1a of the hotel development as shown on the concept plans (Chris Carr reference 14/098 drawing nos. SK1B, SK2B & SK3B) submitted with the application, including external walls doors windows and roof, is complete together with the new roundabout providing access to both elements of the development.

The decision notice says this condition was imposed: *to ensure the hotel extension is commenced prior to the enabling residential development to ensure that the economic benefits from the hotel development are realised and in accordance with the principles of the National Planning Policy Framework which support growth and economic development.*

The applicant is also seeking to replace the existing s.106 legal agreement, which contains a planning obligation that says the housing will not commence until the shell of the hotel extension has been 'practically completed'. Therefore, a draft s.106 legal agreement accompanies the application and includes the following obligations:

No Commencement of Development of the Residential Property shall take place until:

- i. the Section 278 Agreement has been completed;*
- ii. a contract to carry out the Highway Works has been signed and dated;*
- iii. a contract to carry out the Hotel Extension Works has been signed and dated;
and*
- iv. the Owner has given at least 10 days written notice to the Council of the intended Commencement Date.*

A planning statement submitted with the application states that replacing Condition 3 with these planning obligations is required because a change in the proposed method of construction of the hotel extension means that funding from the sale of the land to the house builder is needed at an earlier stage of its construction. However, the house builder will not proceed with the purchase of the land until Condition 3 has been discharged or until it is deleted. In essence, the house builder does not want to go ahead with the purchase until they no longer have to rely on the actions of a 'third party' on land outside of their control before they can start on the proposed housing development.

In addition to these viability issues, the applicant also considers there are elements of the joint works that must be undertaken early in the process and cannot wait until completion of the hotel 'shell'. However, officers consider these works, which include the proposed roundabout giving access to both sites, could be carried out without releasing the condition or by way of a non-material minor amendment if the works went beyond the provision of services by any of the statutory undertakers.

Therefore, the key issues in the determination of this application are considered to be whether the proposed legal agreement would provide sufficient certainty that both the proposed roundabout and the hotel extension would be delivered within an appropriate timeframe compared to the simultaneous build out of the consented housing scheme now being proposed.

HISTORY

The planning history for the site is relatively long and complex but the most relevant applications to the current application are the following consents:

15/00216/OUT : Outline planning permission for hotel extension and erection of 52 residential properties granted June 2016

16/00623/REM: Reserved matters for the appearance of 52 dwellings approved September 2017

17/00310/REM : Reserved Matters (Appearance and Landscaping) for Hotel Extension (Phase 1A) approved August 2017

CONSULTATIONS

County Council – No response to date.

Parish Council – No response to date.

PUBLICITY

The application has been advertised by a site notice but no representations have been received to date.

ASSESSMENT

The current application has been made under s.73 of the 1990 Act, which applies to applications for planning permission for the development of land without complying with conditions subject to which a previous planning permission was granted. In particular, the

current application proposes the deletion of Condition 3 attached to Planning Decision Notice 15/00216/OUT, which requires the shell of the approved hotel extension and the new roundabout (providing a new access to both the hotel and housing site) to be completed prior to commencement of the approved housing development.

Section 73(2) of the 1990 Act says on such an application the local planning authority shall consider only the question of the conditions subject to which planning permission should be granted. Therefore, it should be noted that the consideration of this application does not involve re-assessing the acceptability of the proposed hotel extension, revisiting the principle of granting planning permission for the proposed housing scheme as enabling development, or require full consideration of all the issues raised in the determination of the original application.

What is actually required under s.73(2) of the 1990 Act is a more focussed assessment of whether Condition 3 should be varied or deleted (as requested by the applicant) with reference to the reason for its imposition as stated on the decision notice and with regard to relevant planning policies and other material considerations including the revised planning obligations offered in the draft legal agreement submitted by the applicant.

S.73(2) of the 1990 Act goes on to say this assessment should result in one of two outcomes:

- a) if the Council decides that planning permission should be granted subject to conditions differing from those subject to which the previous permission was granted – as proposed - then the Council should grant planning permission accordingly, but
- b) if the Council decide that planning permission should be granted subject to the same conditions as those subject to which the previous permission was granted, the Council should refuse the application.

Reasons for Condition 3

As noted immediately above, the starting point in the determination of this application is an assessment of the planning purpose behind Condition 3 and the reasons it was imposed at the time of the original decision. As stated on Planning Decision Notice 15/00216/OUT, the reasons for the imposition of Condition 3 was: *to ensure the hotel extension is commenced prior to the enabling residential development to ensure that the economic benefits from the hotel development are realised and in accordance with the principles of the National Planning Policy Framework which support growth and economic development.*

From this wording, it is reasonable to consider Condition 3 continues to serve a proper planning purpose by seeking to ensure the economic benefits resulting from the extension to the existing hotel would be realised by granting planning permission for the housing. It is also reasonable to consider that the delivery of the housing but not the extended hotel would be an undesirable outcome that would conflict with saved policies in the Bolsover District Local Plan and undermine the reasons for approving the housing as an exception to these policies not least because it was 'enabling development'.

Furthermore, the delivery of the hotel extension would continue to accord with policies in the National Planning Policy Framework that support sustainable economic growth in rural areas. Provision of the roundabout would otherwise facilitate the safe and efficient operation of the extended hotel and as such, its completion is equally consistent with the objectives of achieving sustainable economic growth. Therefore, there are good reasons to ensure that the proposed development proceeds in a certain sequence and in particular, good planning reasons to ensure that the roundabout is provided before either the extended hotel or the proposed housing is taken into use.

Consequently, it would be difficult to support the deletion of Condition 3 attached to Planning Decision Notice 15/00216/OUT if the proposed obligations would not offer similar controls on the phasing of the development. In the first instance, it is considered a variation to Condition 3 rather than its deletion may find a better balance between the applicant's desire to relax this condition and the need to secure the provision of the proposed roundabout to make the proposed development acceptable in planning terms.

Provision of the Roundabout

As noted above, the roundabout is required to provide both sites on either side of Worksop Road with a safe and suitable access. Condition 3 partly addresses this issue by requiring the provision of the roundabout before a start is made on the housing proposals. In comparison, the obligation proposed by the applicant to address this issue prevents commencement of the housing development until (i) a Section 278 Agreement has been completed; and (ii) a contract to carry out the Highway Works has been signed and dated.

The completed s.278 agreement will be a legally binding document between Derbyshire County Council and the developers to ensure that the roundabout would be completed to the standards and satisfaction of the County Council in their capacity as the Local Highway Authority. The completed s.278 agreement would also contain a bond that should allow the County Council to pay for the roundabout to be completed if it were not to be completed by the developer(s). However, a completed s.278 agreement would not in itself guarantee the completion of the roundabout and the District Council would not have any power to enforce against any breach of the s.278 agreement.

Consequently, it is considered the proposed obligation does not go far enough to secure delivery of the roundabout. However, it is acknowledged that it is not entirely necessary in planning terms to require the roundabout to be completed prior to any works starting on either site. Therefore, rather than delete Condition 3 in its entirety, it would be more appropriate to vary its existing terms and require the roundabout to be completed prior to the hotel being taken into use and/or prior to the first occupation of any of the approved houses if permission were to be granted for this application.

In this case, there are no obvious reasons why the existing access points to either site would not allow safe access to the sites during the construction phase of either development. Therefore, the change in the timing of the provision of the roundabout should be acceptable in highway safety terms. This variation to the condition would also appear to be acceptable to both developers and reasonable in planning terms in all other respects because it is stated

very clearly in the submitted application that both developers require the roundabout to be completed prior to 'starting works' on site in any event.

However, as set out on several occasions in earlier sections of this report, the varied condition would be necessary in planning terms to ensure both developments would be provided with a safe and suitable access in accordance with the requirements of national planning policies and saved Local Plan policy GEN2. In addition, acceptance of the proposed obligations in respect of the s.278 agreement would give the Council certainty that the development is sufficiently viable to pay for the proposed roundabout before any work begins on the housing development

Consequently, officers consider that a varied condition and acceptance of the obligations proposed by the applicant in respect of the roundabout would be acceptable in planning terms.

Delivery of the Extension to the Hotel

In principle, the part of Condition 3 relating to delivery of the hotel extension could also be varied in a similar manner to that proposed for the delivery of the roundabout. However, this would not necessarily work for the applicant because the house builder does not want to go ahead with the purchase until they no longer have to rely on the actions of a 'third party' on land outside of their control before they can start on the proposed housing. Therefore, because a variation to the timing of the delivery of the hotel extension prior to 'first occupation' is not sufficient to allow the sale of the housing land to go ahead; it would not achieve the applicant's objectives to open the extended hotel by the end of 2018.

As set out in earlier sections of this report, the current proposals have come forward because of the changed methods of construction now proposed by the applicant, which will mean the extension will be more expensive to build than originally anticipated. However, the revised approach to building the hotel is intended to 'fast track' completion of the hotel extension and it would be ready to open as soon as it was substantially completed - the applicant is intending to open the extended hotel in December 2018. To be able to do this, the applicant requires the release of the funds from the sale of the land for the housing proposals.

To facilitate the sale of the land to the house builder, the applicant proposes replacing Condition 3 with a s.106 legal agreement that would include a planning obligation that says, amongst other things: *No Commencement of Development of the Residential Property shall take place until a contract to carry out the Hotel Extension Works has been signed and dated.*

This obligation would prevent a start on the housing until a contract for the hotel works are signed and this contract will only be signed after 'due diligence' and amongst other things, only when the developer can provide proof of funds to cover the cost of the works. This means that the signed contract for the hotel works should secure the delivery of the extension other than in the event of an unexpected change to the current circumstances of the interested parties such as a sudden change in the financial standing of one of the signatories to the contract, for example.

The effect of the Council accepting this obligation and releasing the restriction condition 3 would be to allow both proposed developments to come forward at the same time. By allowing this to happen, the extended hotel could be operational by December 2018 and therefore the economic benefits associated with the extended hotel would be realised much sooner than was first expected also taking into account the applicant has reserved matters approval for the hotel extension. In addition, there would be some benefits to local residents and the extended hotel because there would be less noise and disturbance and potentially less traffic movements if the construction phase for the housing started at the same time as the hotel extension rather than after completion of the shell of the new building.

However, the benefits of releasing Condition 3 and accepting the proposed obligation have to be balanced against the fact the proposed obligation does not fully guarantee the delivery of the hotel extension. In these respects, there is the risk that releasing control over the phasing of the development would undermine public confidence in the Council's decision making if the housing was delivered but not the hotel extension. This risk is closely related to the prospect of being left with a housing development that would be an exception to current policy with very little supporting justification and the risk that the objectives of granting outline planning permission for the housing would not have been achieved if only the housing was built out.

Notwithstanding these points, it also has to be acknowledged that the requirements of Condition 3 and the provisions of the associated legal agreement when taken together only 'guarantee' the provision of a shell of a building not an operational hotel prior to commencement of the housing development.

In these respects, whilst it may be unlikely that a developer would build out the shell of the building if it wasn't intended to bring it into use, providing the shell of a building does not in itself guarantee that it would be put into its intended use or when it might be brought into use. In this case, the terms of the existing condition do not prevent the housing being built if the shell of the hotel extension is not brought into use. In contrast, the signed contract that would be required to discharge the proposed obligation would provide a realistic likelihood that the extended hotel would be operational before more than ten houses had been completed on the adjacent site.

Key Issues

Therefore, this application provides the Council with a choice of how much control it should seek to retain over the sequencing of the proposed development to achieve the best planning outcomes for the District. On one hand, it could see the benefits of granting planning permission for the extended hotel being realised more quickly than anticipated but at the risk of losing control over the commencement of the housing development if it were to relax the requirements of the existing condition. On the other, it could retain control over the housing development until the shell of the hotel extension is completed by retaining the existing condition at the risk of unnecessarily delaying both developments and with no guarantee the extended hotel will be operational before work starts on the housing scheme.

Technical Appraisal

In determining how much control to retain over the sequencing of the proposed developments, the Council must pay due regard to policies in the National Planning Policy Framework, which say pursuing sustainable development requires careful attention to viability and costs in plan-making and decision-taking. This includes careful consideration of how planning conditions and other obligations would impact on the delivery of development proposals.

This is an important consideration because the current application has come forward in relation to viability considerations and a decision to refuse this application would not be fully in accordance with national planning policies unless the Council could demonstrate how the requirements of Condition 3 and completion of the hotel shell prior to the commencement of the housing development continues to be reasonably necessary. To make a determination on this fundamental point, it is necessary to look at the supporting guidance in National Planning Practice Guidance and take a balanced view on whether Condition 3 remains the best way to ensure the economic benefits associated with the extended hotel will be realised.

Notably, National Planning Practice Guidance says that it is important that the local planning authority and the applicant discuss and seek to agree phasing conditions before planning permission is granted. This is in order to understand how the requirements would fit into the planned sequence for developing the site, impacts on viability, and whether the tests of reasonableness and necessity will be met. Planning Practice Guidance goes on to say phasing conditions which place unjustifiable and disproportionate financial burdens on an applicant will fail the test of reasonableness and conditions requiring a development to be carried out in its entirety will fail the test of necessity.

In this case, the applicant's plans for delivering the hotel extension have changed since the original decision was made so it is reasonable to look again at whether the sequencing of the development imposed by Condition 3 remains appropriate. In light of the changed circumstances and very much on balance, officers consider the above guidance in Planning Practice Guidance means the restrictions placed on the sequencing of the proposed development imposed by Condition 3 now fail the tests of reasonableness and necessity by requiring the 'practical completion' of the hotel extension prior to the commencement of the housing scheme.

Primarily, this is because it is considered that the proposed obligation would secure the delivery of the hotel extension with a sufficient degree of certainty to allow the release of the condition whilst the retention of the existing condition would otherwise fail to promote or encourage the delivery of either development. It is also considered the release of the condition would not only take into account the revised viability considerations that underpin the submission of the current application but would also be in line with the original purpose of the existing condition. This is because the signed contract needed to allow a start on the housing would be highly likely to deliver an extended hotel that would be fully operational within a reasonable timeframe compared to the build out of the proposed housing also taking into account the applicant has already secured reserved matters approval for the hotel extension.

Therefore, the proposed obligation is considered to be a better mechanism to ensure the economic benefits of the hotel extension are realised compared to the restrictive provisions of Condition 3, which could be considered to place an unduly onerous burden on both developers in light of the current viability considerations and in respect of the timely delivery of both schemes. Consequently, officers are able to recommend the part of condition 3 that prevents any site works and the housing development being started prior to completion of the shell of the housing extension may be deleted subject to prior entry into a legal agreement containing the planning obligations proposed by the applicant.

Conclusions

In conclusion, it is recommended that Condition 3 is varied to require the delivery of the proposed roundabout prior to any part of either development being taken into use but the restriction on the housing development starting prior to the commencement of the housing development should be deleted for the reasons set out in the above report. However, this recommendation is finally balanced and subject to prior entry into a s.106 legal agreement containing the planning obligations proposed by the applicant which says:

No Commencement of Development of the Residential Property shall take place until:

- i. the Section 278 Agreement has been completed;*
- ii. a contract to carry out the Highway Works has been signed and dated;*
- iii. a contract to carry out the Hotel Extension Works has been signed and dated;
and*
- iv. the Owner has given at least 10 days written notice to the Council of the intended Commencement Date.*

It is considered these obligations would be necessary to make the development acceptable in planning terms because they are required to give the Council sufficient certainty the roundabout and the hotel extension would be delivered if Condition 3 was varied as proposed.

In these respects, the obligations are also directly related to the development and fairly and reasonably related in scale and kind to the development because the roundabout is required to provide safe and suitable access to both developments and the housing element of the proposals would be unlikely to be acceptable if it was not enabling development that facilitated the expansion of the existing hotel. Therefore, they would meet the legal tests and policy tests for planning obligation set out in *the Community Infrastructure Levy Regulations 2010*, as amended and the National Planning Policy Framework.

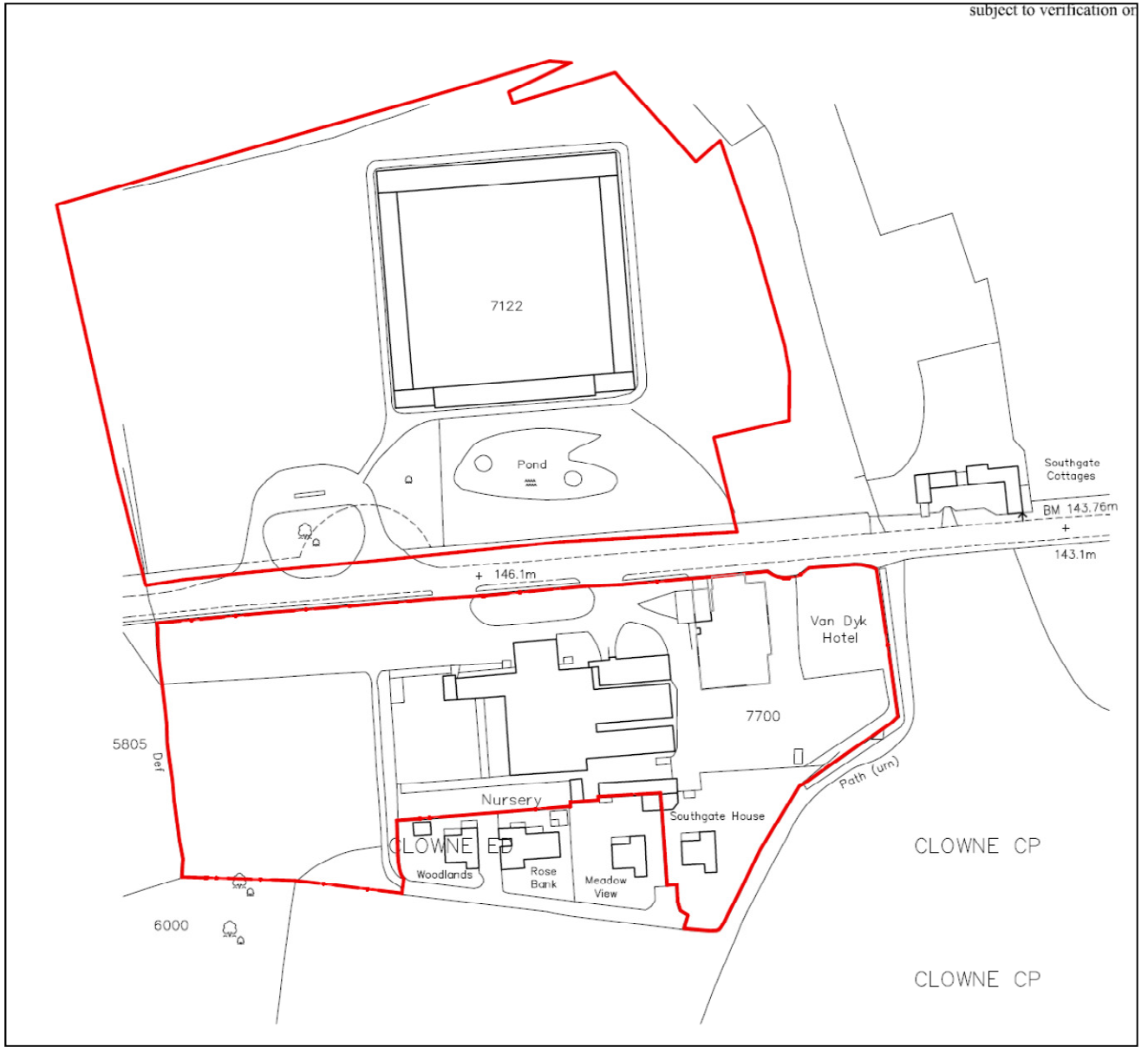
RECOMMENDATION

Accordingly, the current application is recommended for APPROVAL subject to prior entry into a s.106 legal agreement as discussed in the above report, the subsisting conditions attached to the original outline planning permission (as recommended by Planning Practice

Guidance), and the following variation of Condition 3 attached to 15/00216/OUT:

- The hotel extension hereby permitted shall not be taken into use and/or prior to the first occupation of any of the houses either permitted, the roundabout subject of Condition 5 attached to 15/00216/OUT shall be completed and fully available for its intended use to provide access to both the housing site and the hotel.

Site Location Plan



Housing Layout (reserved matters approved under 16/00623/REM)



Hotel Proposals (reserved matters approved under 17/00310/REM)



PARISH South Normanton

APPLICATION Erection of residential development comprising 32 two-bedroom dwellings (a mix of single storey and two storey) and associated access, car parking and landscaping.

LOCATION Jacques Brickyard Water Lane South Normanton Alfreton

APPLICANT The Yorkshire Big City Co Ltd Sterling House Maple Court Tankersley Barnsley S75 3DP

APPLICATION NO. 16/00510/FUL **FILE NO.** PP-05555466

CASE OFFICER Mr Steve Phillipson

DATE RECEIVED 14th October 2016

DELEGATED APPLICATION REFERRED TO COMMITTEE BY: Planning Manager

REASON: Failure to meet policy requirements for provision of affordable housing and to contribute to the expansion of school capacity.

SITE

Approximately 0.83 ha brownfield site within the settlement framework to the rear and north side of dwellings on Water lane, South Normanton. The site, known as the former Jacques Brickyard, is now disused with only the remnants of some of the old buildings remaining. It has been subject to fly tipping over the years with several piles of tipping evident. The site is mostly overgrown with bramble, elder, Goat Willow and some Birch. There are some sections of hedgerow around the boundary of the site. There is a small group of birch trees adjacent to the northern boundary and also a patch of Japanese knotweed (an invasive weed). There are some significant level changes on site and in relation to the adjacent land but generally levels fall from north west down to south east.

There is a derelict club/restaurant on the southern corner of the site where the main access would be taken for the proposal. There are bus stops in both directions close by on Water Lane.

There is residential development adjacent to all sides of the site although to the east side there is an intervening water course. The older dwellings on Water Lane are mostly finished in render or red brick but there are several gaps in the street scene due to demolition with undeveloped land fronting the street. Despite pockets of new development therefore the overall impression of the area is that it is somewhat run down and in need of investment and redevelopment.

A Parish recreation ground is located about 150m walk to the south west across Water Lane off South Street and Lansbury Drive which has children's and youth/adult facilities. Brigg Infants School is also close by some 200m from the site.

PROPOSAL

Application for full planning permission for demolition of the old club building, remodelling of ground levels and the erection of 32 two-bedroom dwellings comprising 23 single storey

bungalows and 9 two storey houses (some of these are split level over sloping ground). The dwellings would be accessed from a new junction with Water Lane leading to a cul-de-sac estate road.

Site Layout



The proposed dwellings on the Water Lane frontage would be two storey and proposed dwellings on the western boundary would be split level (two storey frontage facing into the site and then single storey rear). Otherwise proposed dwellings are to be single storey bungalows.

A viability report submitted during the course of the application predicts of developer profit of only 8.7% such that the scheme could not stand additional S106 contributions or the provision of affordable housing.

AMENDMENTS

24/03/17 Reptile Method Statement
27/04/17 Tree report
28/04/17 Gas Monitoring and Ground Investigation
05/06/17 Revised Site Location Plan 2505-016
04/09/17 Remediation Strategy and SI Risk Assessment
17/10/17 Assessment of Risk to Controlled Waters
30/11/17 Revised Layout 2505-001 Rev L (increased off-street parking provision to 225%).
30/11/17 Revised house type pack.
30/11/17 Viability Appraisal
30/11/17 Proposed Site Sections 2505-014D
01/12/17 Proposed Site Sections 2505-015E

HISTORY (if relevant)

07/00753/OUTMAJ Residential development approved for up to 39 houses with access off Water Lane.

08/00184/OUTMAJ Very similar application to 07/00753/OUTMAJ but with an alternative access point at the location of The Well and Castle Club/restaurant. Approved.

11/00335/VARMAJ Extension of time approved for start of previously approved scheme (07/00753/OUTMAJ - Residential development for up to 39 houses).

13/00024/FUL Demolition of club and erection of retail unit with apartments above and associated access and car parking. Approved 2013.

15/00541/OUT Outline application for residential development (up to 39 dwellings) with all matters reserved. Includes the demolition of the former working men's club building. Refused 05/01/2017 because:-

- 1. Approval of the application would result in a development which fails to provide any affordable housing to address the established need in the area or to ensure that market housing delivery targets are met in lieu of affordable housing provision on site in accordance with the Council's interim policy. Approval would therefore be contrary to policy HOU6 of the Bolsover District Local Plan without adequate viability justification being provided and would fail to create sustainable, inclusive and mixed communities in accordance with paragraph 50 of the National Planning Policy Framework.*
- 2. Approval of the application would result in a development which fails to provide adequate and proportionate open space, sports and recreation facilities to help meet the identified need in the Green Space Strategy and would fail to contribute to the health and well-being of the community in line with paragraph 73 of the NPPF. A condition is not an appropriate mechanism to deal with the formal recreation element of policy HOU5. Therefore approval would be contrary to policy HOU5 of the Bolsover District Local Plan and would fail to accord with Paragraph 73 of the National Planning Policy Framework.*

A note to Applicant advised that:

“In order to address the above reasons for refusal it would be necessary to enter into a S106 obligation (under the Town and Country Planning Act) in respect of affordable provision and contributions to upgrade nearby play and recreation facilities. In the event that such provision is not economically viable a full viability appraisal would be necessary to evidence the position. Further advice can be obtained from the Council’s Development Control Section of Planning.”

CONSULTATIONS

County Highway Authority

02/02/17 Initial comments. The Highway Authority considers that a satisfactory access into the site can be achieved into the site (shown on drawing 2505-001), having a 5.5m carriageway, 2 x 2m footways, 6m radii and visibility sightlines of 2.4m x 43m. Several technical issues identified which require amendment including shortage of parking space. Suggests that consideration should be given to a walking/cycling link to the public open space on the Bramble Close development to promote a link between Footpaths 22 (south of Water Lane) and 20 (off Sough Road).

05/05/17 Maintains that the level of off-street parking proposed is inadequate (this has since been improved to standard). Bus shelter relocation may affect the availability of off-street parking outside No’s 61-67 Water Lane. Some additional layout advice given including that the Highway Authority is unlikely to adopt the full extent of carriageway indicated.

05/12/17 The Highway Authority’s concerns regarding the number of parking spaces provided within the site has been addressed and there are now no objections to the proposal subject to the following conditions: relocation of the bus stop in accordance with a scheme to be approved, details of construction access to be approved, construction management plan, provision of new access junction with 2 x 47m splays, access gradient, provision of new estate street, reinstatement of Water Lane kerbs, provision of a sustainable drainage scheme, provision of off-street parking spaces, prior to the first occupation of Plot 31 the new access to Water Lane shall be provided.

08/12/17 (Public Transport Unit)

From a bus stop / operational point of view it would be possible to relocate the frontage bus stop to a position east of Thornhill Drive (subject to more detailed ground surveys). However, I do have concerns over visibility issues for vehicles approaching a stationary bus from behind due to the road bearing to the left. I have therefore asked our Highways Traffic & safety team to give their opinion.

Urban Design Officer

21/11/17 Notes that most of his recommended adjustments have been made to the layout.

Coal Authority

13/01/17 The Coal Authority concurs with the recommendations made within the Geo-Environmental Report; that coal mining legacy potentially poses a risk to the proposed

development and that intrusive site investigation works should be undertaken prior to development in order to establish the exact situation regarding coal mining legacy issues on the site.

The Coal Authority recommends that the LPA impose a Planning Condition should planning permission be granted for the proposed development requiring these site investigation works and any remediation necessary prior to commencement of development.

Severn Trent Water

No objections subject to a condition requiring submission and approval of drainage details.

BDC Drainage Engineer

25/01/17 Maintenance arrangements for any sustainable drainage systems should be secured. The developer must ensure any temporary drainage arrangements during construction gives due consideration to the prevention of surface water runoff onto the neighbouring properties.

DCC Flood Risk Team

17/01/2017 Holding Objection until further information is provided on:-

- Appropriate evidence to support how the site will drain.
- Basic calculations of the greenfield/brownfield runoff and discharge rates for the site.
- A quick storage estimate to show the required storage volume of surface water on site and an indication of the likely location.

These details are required at the early planning stage to demonstrate that the proposed site is able to drain and that due consideration has been given to the space required on site for surface water storage.

08/12/17 The applicant appears to have not addressed some of the points indicated in the Lead Local Flood Authorities (LLFA) initial response dated 17/01/17 recommending a holding objection.

- There are no calculations to support a restricted run-off rate of 5l/s.
- It is not clear if the applicant has provided any calculations supporting storage volume indicated.
- It is also not clear if the applicant has accounted for climate change and urban creep.
- No information has been provided indicating if discharge to a nearby ordinary watercourse is a viable discharge point as opposed to discharging to the a surface water sewer or if this is acceptable to STW.
- The applicant has not provided any information showing any consideration for any SuDS features or a robust statement discounting why SuDS are not viable.
- The LLFA also have concerns that the proposed oversized pipes and cellular attenuation storage which appears to have proposed dwellings built over them. This could present an increased flood risk to these properties.
- Parts of the attenuation features for the whole development appear to be in private ownership which could present maintenance issue in the future.

Whilst it could be physically feasible to implement the proposed attenuation features in this manor, it is not necessarily best practise and would go against the principles of NPPF to

replace poor design with better design.

Environment Agency

No objection in principle to the conclusions of the report from a “protection of controlled waters” point of view.

Environmental Health Officer

26/09/17 No objections to the remediation strategy proposed but as mentioned previously, some additional clarification is required, particularly with respect to the depth of cover proposed in the garden areas and the engineered cut and fill operation proposed. A condition is recommended requiring a detailed remediation scheme to bring the site to a condition suitable for the intended use by removing unacceptable risks to human health, buildings and other property.

Health and Safety Executive

16/01/17 No comments.

Derbyshire Wildlife Trust

24/01/17 Grass snakes records are present within the vicinity of the site. A Natterer's bat roost is present 300m north west of the site. The survey identified the site to potentially suitable for bats, birds and reptiles.

A detailed reptile method statement for the site and mitigation strategy should be produced to ensure that reptiles are not harmed during any works and that the site, is enhanced and managed for the benefit of reptiles.

An ecologist should check for breeding birds in season.

Regarding bats; a condition is recommended requiring sensitive lighting across the site.

Trees and hedgerows should be retained.

A condition is recommended to the effect that no development shall take place (including demolition, ground works, vegetation clearance) until a construction environmental management plan (CEMP: Biodiversity) has been submitted to and approved in writing by the local planning authority. A condition is also recommended requiring a landscape and ecological management plan (LEMP) (or equivalent) for all retained and created habitats.

03/05/17 The submitted reptile statement is satisfactory. However changes to the mitigation plan are recommended.

Senior Valuer

Comments on the submitted viability report: “The land value which they have included breaks down to around £150,000/acre which is not unreasonable. The asking prices for the properties are about right. The yield used for the ground rent I feel is a little on the high side for what is a fairly secure income. However I don't think that this will make a massive difference to the developer profit. As they aren't accounted for separately in the report I've assumed that the extra costs of the demolition and site remediation works have been included in the build costs. When the build costs are referenced to Spons (Architects and Builders Price Book) they do not seem unreasonable for what are supposed to be quality properties. All of the other associated fees and costs seem ok and they don't seem to be trying to hide anything or overstating any costs.”

Education Authority (DCC)

02/02/17 The normal area infant school, Brigg Infant School, would have sufficient capacity to accommodate the 3 infant pupils arising from the proposed development. The secondary school, Frederick Gent School, would have sufficient capacity to accommodate the 5 secondary pupils from the proposed development. However the normal area junior school (Glebe Junior School) would not have sufficient capacity to accommodate the 4 junior pupils arising from the proposed development.

Glebe Junior School which has a net capacity of 420 pupils and currently has 427 pupils on roll. The latest projections show the number of pupils to be 437 during the next 5 years. There are approved planning applications within the normal area totalling 42 dwellings, creating a demand for places for an additional 4 junior pupils. Hence the predicted situation is 441 pupils in a school with capacity for 420 (5% over capacity). The County Council requests a financial contribution of £45,596.04 towards the provision of 4 junior places at Glebe Junior School via Project B: Provision of additional teaching space.

Housing Strategy

There is a need for affordable housing in the district. 10% of the total site capacity should be given to affordable housing provision to meet policy HOU6. 2 bedroom houses would be suitable affordable housing provision on this site. There is a lack of suitable housing in the market sector for older persons, so the inclusion of bungalows on the site is positive.

Leisure Services Officer

10/11/16 seeks a contribution for public art at the level of 1% of development costs.
05/12/17 Verbally advised that in lieu of a play space on site a commuted sum of £785 per dwelling for informal recreation and children's play is sought, and a commuted sum of £934 per dwelling is sought for formal youth and adult recreation and sport.

NHS CCG

The closest practice to this development are the village surgery based in South Normanton and Pinxton. The practice is based across two sites, both are fully utilised and do not have sufficient spare capacity to manage increased patient demand on this scale at their current location. The proposal would increase patient population by 87 patients. A financial contribution towards expansion of one of these practices of £13,314 is requested.

PUBLICITY

Advertised in the press, site notice posted, 31 properties consulted. Objections from 3 residents received on the following grounds:-

- Overlooking of house and garden by proposed properties on the northern boundary at a higher level causing loss of privacy.
- Loss of trees serving as a buffer.
- Loss of daylight.
- Noise and disturbance.
- Concerns over structural damage due to higher ground level adjacent.
- Impact on wildlife: birds nesting, bats flying between fields, there may be reptiles.

- Loss of hedgerow and trees.
- Too many houses proposed (density too high).
- More planting to the borders should be provided.
- Concerns about surface water run-off into the brook causing flooding on Water Lane.
- Concerns about the width of the proposed footpath (*removed from revised plans*).
- Concerns about the maintenance of the land between the east end of the site and the Normanton Brook (*however this is outside the application site and applicants ownership*).
- Queries whether the land is suitable for construction as the land may settle.
- Reduction in property value (*not a material planning consideration*)

One resident says that the area has been in an abandoned state for over Ten years, there has been vandalism and arson and fly tipping. The proposed plans if revised could potentially enhance the site.

POLICY

Bolsover District Local Plan (BDLP)

Shows the site to be within the settlement framework. As the Bolsover Local Plan was prepared and adopted prior to 2004, paragraphs 214 and 215 of the NPPF mean that 'due weight' rather than 'full weight' should be attached to its saved policies depending on the degree of consistency with the NPPF.

Based on the latest published assessment of our 5 year supply of deliverable housing sites, the Council had sufficient supply within the 5 year supply period for approximately 8 years of delivery.

Relevant policies:-

GEN 1 – Minimum requirements for development
 GEN 2 – Impact of development on the environment
 GEN 4 – Development on Contaminated Land
 GEN 5 – Land Drainage
 GEN 6 – Sewerage
 GEN 8 – Settlement Frameworks
 GEN 17 - Public Art
 HOU2 – Location of Housing Sites
 HOU5 – Outdoor Recreation and Play Space Provision for New Housing Development
 HOU6 – Affordable Housing
 TRA1 – Location of new development
 TRA15 – Design of roads and paths
 ENV 5 – Nature Conservation Interests
 ENV8 – Development affecting trees and hedges

Emerging Local Plan for Bolsover District

The Consultation Draft Local Plan shows the site to be within the settlement framework although it does also not actually allocate the site for residential development as part of its planned residential supply due to concerns over deliverability.

National Planning Policy Framework

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

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

Para 50 Seeks delivery of a wide choice and mix of high quality homes, and the creation of sustainable, inclusive and mixed communities e.g. to include provision for families and older people and affordable housing where a need has been established

Para 58 Planning policies and decisions should aim to ensure that developments:- optimise the potential of the site to accommodate development, create and sustain an appropriate mix of uses (including incorporation of green and other public space as part of developments) and support local facilities and transport networks;

Paragraph 72 advises that 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.

Para' 173 – 174 Ensuring viability and deliverability.

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

Other (specify)

Green Space Strategy (approved in April 2012).

Identifies a deficiency in accessibility to local level green space on the Sough Road housing estate. South Normanton needs a town park and a significant increase in the amount of provision and also in quality of provision. Need for more equipped play areas, outdoor sports provision and allotments.

ASSESSMENT

The Principle of Development

The site is within the settlement framework where residential use is acceptable in principle. The area is predominantly residential and there are no nearby un-neighbourly commercial uses which might conflict with residential use on this site.

Although partially greened over with time, the site is substantially a brownfield site. The reuse and regeneration of this site is welcome since for many years it has been vacant, derelict, subject to fly tipping and its condition detracts badly from the character of the area.

The proposal would also contribute to the supply of housing and it is well located for access to public transport, jobs and services, the infants school and a local recreation ground. In principle therefore the proposal complies with both local and national planning policy (including GEN8, HOU2 and TRA1 of the local plan) and will result in material benefits in terms of the economic and physical regeneration of the area and social benefits of an enhanced environment, reducing the opportunities for crime and by further increasing housing supply.

There have been several planning permissions granted for this site over the last 10 years but none have been implemented. The most recent application was refused due to failure to provide for affordable housing or recreation or provide any justification as why this site should not provide such developer contributions. However this application is accompanied by a viability appraisal which predicts a profit of only 8.7% without making any S106 developer contributions. It is argued that this site is constrained by requirements to remediate contamination, deal with significant ground level changes and divert a main sewer amongst other issues. The Applicant therefore seeks permission for residential development which is a little compromised in some areas and without agreeing to contribute to enhancing infrastructure capacity.

This may be contrary to specific policies and to consultee advice and the sustainability of the proposal is reduced. Hence planning permission cannot be granted under delegated powers and Planning Committee's agreement is necessary for an approval of planning permission. The main issue to consider is whether the benefits of delivering development and regenerating this site warrant the compromises.

Infrastructure Capacity and S106 Issues

The viability appraisal submitted with the application predicts a developer profit of 8.7% which is very low; 20% being generally accepted as a reasonable/minimum return. The Council's Senior Valuer's advice is set out above in 'Consultations'. He considers that the costs and returns and assumptions set out in the viability appraisal are reasonable and it is therefore considered that the Applicant has demonstrated that there are genuine problems with developing this site viably and that the development could not stand any further significant costs associated with S106 requirements.

This does not necessarily mean that permission should be granted without any affordable housing or section 106 contributions. There is still a judgement to be made. But in this case it is considered that the benefits of economic and physical regeneration of the area and social benefits of an enhanced environment, reducing the opportunities for crime and an increased housing supply are significant material considerations which should be given a great deal of weight in the planning balance.

Taking each element in turn:-

Affordable Housing:

The Council's policy HOU6 and the associated SPG seeks 10% affordable housing provision on site i.e. 3 units in this case. This cannot be delivered for viability reasons and so approval would be contrary to policy. This situation has been discussed with the Housing Strategy and Growth Manager and he accepts that scheme cannot stand the cost of affordable housing provision and that there are regeneration and other benefits which the Council need to balance against the need for affordable housing.

Provision for Recreation and Open Space:

Policy HOU5 of the local plan requires either on-site provision for play, recreation and public open space or commuted sums in lieu for off-site provision. However this requirement has a caveat. "Unless adequate provision is made or already exists....."

In this case there is a reasonably well equipped recreation ground within a short walk (about 150m) to the south west of this site across Water Lane off South Street and Lansbury Drive. This has adequate children's and youth/adult recreation facilities. Therefore it is considered that failure to agree to a section 106 obligation requiring further provision is not contrary to policy HOU5 because adequate provision already exists.

Education:

Although there is capacity at the local infant school and secondary school, the Junior school is predicted to be over capacity by 5% in 5 years time. When the additional pupils from this 32 dwelling proposal are added (4 junior aged pupils predicted by DCC) the school would be 6% over capacity. Hence the Education Authority request that a contribution for expansion be secured by S106 of £45,596.

The Council does not currently have an adopted policy to require education contributions however the NPPF is clear at para' 72 that 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. Hence failure of the proposal to pay its way in terms of the additional demand on the capacity of the junior school is a material consideration which reduces the sustainability of the development and weights against approval.

However it should be noted that the number of additional pupils generated by this modest size proposal is quite small and given that 23 of the 32 dwellings proposed are 2 bed bungalows, which tend to be occupied by more elderly people, and none of the 2 bed houses are large family houses, there is a high likelihood that the number of additional junior school pupils

actually generated by this proposal is less than that predicted by DCC. Hence it seems likely that the additional capacity pressure would be less than 4 pupils and less than 1%.

Public Art:

Policy GEN17 seeks to negotiate a sum for public art at 1% of costs. Whilst it is desirable to incorporate public art within a scheme it is rarely “necessary” to make the application acceptable in planning terms (ref to CIL tests for planning obligations). Hence it is considered that an art requirement would not meet the tests for conditions or S106 contributions in this case.

NHS/CCG:

The CCG says that the current GP practice buildings do not have sufficient spare capacity to manage increased patient demand from this development. A contribution of £13,314 for expansion is sought. This is a material consideration but because the Council does not currently have an adopted local plan policy to require this contribution and because there are alternative forms of funding available to the GP practice then compliance with the CIL tests is in doubt and this contribution is considered to be desirable but not essential for approval.

Ground Conditions

The site requires remediation works to deal with contamination, further investigation into whether any works are necessary to deal with the risks of past mining activity and extensive ground level remodelling. However these issues can be dealt with by planning conditions to ensure that the site is safe and suitable for its intended use.

Drainage

Although water main realignment is required there are no objections to the means of foul or surface water disposal proposals from the Water Company or Environment Agency.

However the Lead Local Flood Authority (DCC) has submitted a holding objection regarding the means of surface water disposal pending submission of further information. The Applicant has been asked to respond to these issues and further information was awaited at the time this report was written. Committee Members will be updated on this issue before the meeting. However if the issues are not resolved by that time, and if Committee is minded to approve, then it may be necessary to defer issuing the decision until these issue have been resolved and delegate the decision to the Planning Manager.

Design and Layout

The number of dwellings proposed has been reduced from 35 to 32 and the designs and layout have been amended and improved during the course of the application to a level which is now considered to be acceptable.

The relationship between existing and proposed dwellings on the northern boundary was a particular concern because the existing houses are about 3m lower in ground level. This means that the risk of overlooking, loss of privacy and loss of light is increased. The application has been amended to reduce the ground level difference, provide bungalows only on the northern boundary, and to provide 1.8m fencing and a tree/shrub planted screen between the two sites where needed. It is considered that these measures will be adequate to mitigate the amenity impacts of the proposal on the dwellings to the north. The proposal complies with the Council's design guidance in terms of privacy and daylight and it is considered that it complies with policy GEN2 in this regard.

The amount off-street parking space has been increased to comply with policy although this has resulted in quite a car dominated street scene and the layout feels quite tight as a result. Some of the private garden sizes are also a little smaller than the 50sqm sought in the Council's design guidelines. The proposed layout is therefore a little compromised and is considered to be adequate rather than good, but it has been necessary to maintain the number of dwellings the site can accommodate to a level which could make the site viable/deliverable.

The high proportion of bungalows is welcome with few developers providing them over recent years. This will add to the mix of dwellings available in the area and accords with NPPF advice regarding the need to provide a wide choice and mix of high quality homes, and the creation of sustainable, inclusive and mixed communities.

Highway Issues

As amended with the increased parking provision there are no objections from the Highway Authority subject to conditions as set out above in 'Consultations'. Hence it is considered that there are no highway safety reasons that would constitute a reason to refuse planning permission.

As a side issue, there is need to relocate the bus stop on Water Lane because it is currently sited at the proposed access junction into the site. It should be noted that it would be highly unusual for issues surrounding the relocation of a bus stop to be such significant considerations as to influence the acceptability of development in principle. Furthermore access in this location has been approved previously.

Options are still being considered as to the preferred position to move it to. It could be moved a short distance to the west in front of proposed plots 1 – 5 but this is not ideal since waiting passengers could interfere with visibility splays for the new junction and a position here may also mean that the road markings in front of the bus stop (to allow the bus to pull in) would reduce the available on-street parking space for the existing terraced dwellings 61-67 Water Lane. This would have an adverse amenity impact on the occupants of those dwellings because they would then have to park more remotely. However there is at least some off-street visitor parking space within the proposed layout.

A bus stop relocation point just east of Thornhill Drive where there is a wide verge is also being considered. This is preferred from an amenity impact point of view, due to its reduced amenity impacts on parking but is subject to DCC Passenger Transport Unit approval and there are also concerns regarding visibility of on-coming traffic.

A final response from DCC was awaited at the time of writing this report, however it is considered that the matter can be dealt with by means of a Grampian type condition requiring an agreed scheme to secure the relocation of the bus stop to be in place before development commences.

Ecology and Biodiversity

Some of the existing hedgerows at the boundary of the site will be retained. However the scrubby vegetation on site and also the small group of birch trees towards the northern boundary will mostly be removed. The vegetation on site is not considered to be of high amenity or habitat value and because it is necessary to undertake extensive ground remediation works to deal with contamination, tipping, Japanese Knotweed, and ground level remodelling, it is not possible to retain the vegetation central to the site.

Bats and Reptiles have not been discovered on site but the site is potentially suitable for them and for birds. A condition is considered to be appropriate to help mitigate any potential impacts during construction and to help mitigate for any habitat loss.

Other Matters

Concerns over ground stability have been raised in representations. The proposals include the use of some retaining structures in places. However structural stability, liability and the need to ensure that works do not cause damage to neighbouring property or shared boundaries are matters for the developer. An advisory note to the Applicant regarding this matter would be appropriate.

Loss of property value is not a material planning consideration.

Listed Building: N/A

Conservation Area: N/A

Crime and Disorder: Benefits of reduced opportunities for crime.

Equalities: No significant issues.

Access for Disabled: Some units may not be fully accessible due to ground level changes although high proportion of bungalows is positive.

Trees (Preservation and Planting): See report

SSSI Impacts: N/A

Biodiversity: See above

Human Rights: No significant issues.

Conclusions

The development of this brownfield site which is within a residential area, within the settlement framework, and sustainably sited close to local facilities and jobs is wholly acceptable in principle and complies with local and national planning policy relating to the location of residential development.

Moreover for many years this site has been vacant, derelict, subject to numerous incidents of fly tipping and its condition detracts badly from the character of the area. The redevelopment of the site presents an opportunity to deal with these problems and will result in material benefits in terms of the economic and physical regeneration of the area and social benefits of an enhanced environment, reduced opportunities for crime and by further increasing housing supply. These benefits should be given significant weight in favour of approval in the planning balance.

Unfortunately the economic viability of the proposal is compromised. This has been evidenced and the position accepted. Further costs are likely to mean that the development is simply not worthwhile. As a result no infrastructure capacity obligations have been agreed. In particular no provision of affordable housing has been agreed which is contrary to policy HOU6 and no contribution to expand the capacity of the junior school have been agreed. The sustainability of the development is compromised as a result. Both of these matters are given weight in the NPPF.

If Committee Members feel that the benefits of approval would not outweigh these concerns then permission should be refused. However if refused it is difficult to see how the character of the area can be materially improved for the foreseeable future. The officer recommendation is to approve because it is considered the benefits of granting permission for this application are significant and the failure to provide 3 affordable houses and account for a 1% increase in junior school capacity do not outweigh these benefits.

RECOMMENDATION

If drainage issues have not been resolved defer and delegate the decision to the Head of Planning (in consultation with the Chair and Vice Chair of Planning) pending resolution of the outstanding drainage issues.

Subject to drainage issues having been resolved, APPROVE subject to the following conditions given in précis form (to be formulated in full by the Planning Manager in consultation with the Chair and Vice Chair of Planning).

Conditions

1. **Start within 3 years.**
2. **Development to take place in accordance with the list of approved plans xxx.**
3. **No development to commence until an agreed scheme to secure the relocation of the bus stop is in place.**
4. **No development to commence until fencing off and protection of areas of retained trees and hedgerow.**

5. The development shall be undertaken in accordance with the submitted biodiversity mitigation/compensation/enhancement plan dated *****and accounting for the recommendations within the consultation response from Derbyshire Wildlife Trust dated 03/05/2017.
6. No development to commence until further investigation into potential ground contamination and implementation of approved remediation scheme.
7. No development to commence until site investigation works into past mining activity has been undertaken and any remediation necessary to make the site safe has been implemented.
8. The development hereby permitted shall not commence until detail drainage plans for the disposal of surface water and foul sewage and the maintenance of the system have been submitted to and approved by the Local Planning Authority. The scheme shall be implemented in accordance with the approved details before the development is first brought into use.
9. Ground level changes to be implemented in accordance with the approved plans.
10. Prior to construction above foundation level the external building materials be approved.
11. Prior to occupation the new access road junction shall be provided to Water Lane with a 4.8m wide carriageway, 2 x 2m footways, 6m radii and visibility sightlines of 2.4m x 47m in each direction.
12. The gradient of the access shall not exceed 1:30 for the first 10m into the site from the existing highway boundary and no more than 1:20 thereafter.
13. Prior to occupation provision of the proposed new estate street, between each respective plot and the existing public highway.
14. Provision of car parking spaces prior to occupation.
15. Prior to occupation the fronting footway on Water Lane shall be reinstated as footway with full face kerbs.
16. Prior to occupation of Plot 31, the new access to Water Lane shall be constructed and the driveway and parking laid out.
17. Prior to occupation detailed drawings of boundary treatments and implementation (to include railings to front of plots 1 – 5 and side of plot 5.
18. Prior to occupation submission of a landscaping scheme for approval.
19. Maintenance of the landscaping scheme for a period of 5 years.

PARISH Shirebrook

APPLICATION Change of use of ground floor storage space to self contained flat.
LOCATION 156 Station Road, Shirebrook, Mansfield NG20 8UG
APPLICANT Mr Irenpal Singh, 28 Staindale Drive, Aspley, Notts NG8 5FU
APPLICATION NO. 17/00357/FUL
CASE OFFICER Rory Hillman
DATE RECEIVED 12th July 2017

DELEGATED ITEM REFERRED TO COMMITTEE

REASON: Potential for loss of retail unit and harm to the character of the host building.

SITE

156 Station Road is a three storey end terrace property which forms part of the Beehive, a Victorian terrace which has a shop frontage at ground floor level with residential uses on the floors above. The upper floors of the property in question have been converted into four flats with the benefit of planning permission granted by the Council in 2012. The premises are located within a predominantly residential area within walking distance of Shirebrook's town centre.

The building is constructed in brick with a tiled roof and the windows are a mix of timber and UPVC. There is currently no on-site parking. There is a small rear yard with a brick wall approx 2m high on the boundary. To east of the site is a small grassed area of open space with dwellings beyond.

PROPOSAL

The current application proposes the conversion of the rear part of ground floor of the premises (currently in use as the storage area of the retail unit) to a self contained flat. The flat would have an internal floor area of c.24.5m² including separate bedroom and small bathroom (1.8m²).

AMENDMENTS

Original proposal of two self-contained flats revised to retain the retail unit to the front of the building, with the existing rear storage area converted to residential use. Received 27.10.2017

HISTORY (if relevant)

98/00361/FUL: Change of Use from shop to office: Approved 24/09/1998

03/00793/FUL: Erection of security shutters to shop and new door: Approved 5/01/2004

12/00337/FUL: Conversion of flat to 4 self contained flats/bedsits: Approved 05/09/2012

CONSULTATIONS

Pollution Control Officer: No objections in principal to the development as long as all conversions comply with Building Regulations to minimise problems with potential noise nuisance between the individual flats. 19.9.2017

DCC Highways: No objections. 18.8.2017

Shirebrook Town Council: Object on the grounds that the historic character of the building would be harmed. Objection reiterated on consultation of amended plans. 12.9.2017 & 11.10.2017

PUBLICITY

Site notice and neighbours notified, 8 representations in objection received.

The objections received relate to:

- The implications of the proposal for the historic shopfront and the integrity of a building which is of historic interest and value as an example of Victorian retail architecture.
- Additional pressure on drainage, parking and litter resulting from a residential use.
- The loss of the retail unit, loss of storage available to the retail unit.

POLICY

Bolsover District Local Plan (BDLP)

GEN 1 (Minimum Requirements for Development)

GEN 2 (Impact of Development on the Environment)

National Planning Policy Framework

Makes a presumption in favour of sustainable development. Encourages quality design and a good standard of amenity for all existing and future occupants of land and buildings.

Other (specify)

Successful Places: Sustainable Housing Layout and Design (Supplementary Planning Document)

ASSESSMENT

The Beehive is a distinctive building within the settlement framework, adjacent to Shirebrook Town Centre in a predominantly residential area. Therefore, the proposals would normally be considered to be acceptable in principle and the current application should be looked at favourably provided that the proposed change of use would not prejudice the future operation of the retail unit that occupies the corner of the building or compromise the external appearance of the building itself. These issues are particularly important in this case because the Beehive is an unlisted building of merit and retention of the retail façade running along its road facing elevation is important to the retention of its locally distinctive character.

In this case, amended plans have been received that address concerns raised by officers that the flats originally proposed would lead to the loss of the retail unit and adversely affect the external appearance of the building. Subsequently, the application has been amended by omitting one of the proposed flats and the revised proposal is now mainly restricted to the internal conversion of the existing storage area at the rear of the building to a residential use. These changes would now involve minimal changes to the external appearance of the building and would not affect the main part of the existing ground floor shopfront.

The revised proposal is therefore unlikely to have a significantly adverse impact on the character of the building or the wider street-scene and it is considered the revised proposals strike a better balance between converting more of the building to residential use and the retention of the retail units on the ground floor of the building.

In terms of the quality of the proposed accommodation, reducing the number of proposed flats from two to one has addressed officers' concerns that two flats would be unduly cramped in the available space. The revised proposals also address concerns that one of the flats originally proposed would not be provided with sufficient natural light. Similarly, the first and second floors of the building are currently in residential use and it is likely that some level of noise would affect the flat proposed in the revised application. However, this is unlikely to be significant provided building regulations are adhered to, as stated by the Pollution Control officer consulted. Therefore, it is now considered the single flat proposed in the revised application should provide a sufficiently high level of amenity for future occupants.

In terms of neighbourliness, the proposal will not otherwise result in a significant loss of privacy or amenity for residents of adjacent/attached dwellings because of the nature of the proposals and the relationship between the proposed flat and the nearest neighbouring residential properties. The additional flat is likely to result in some increased requirement for parking and it is noted that there is no parking available on the site. However, given the fact that the proposed flat would be a small one, and likely to be low rent, it is possible that future occupants would not own cars. Nonetheless, the site is close to Shirebrook town centre and public transport links giving access to Chesterfield and Mansfield. As such the proposal is unlikely to result in a significant increase in on-street parking and allowing the proposal is not considered to be detrimental to highway safety by the Local Highway Authority.

Is therefore considered the revised proposals meet the requirements of Policy GEN 1 and Policy GEN 2 of the Bolsover District Local Plan because the revised proposals would provide an additional unit of accommodation with reasonable living conditions for future occupants in a relatively sustainable location. In addition, the revised proposals would have little impact on the character and appearance of the host building or the amenities of the local area. Therefore, the current application is recommended for approval subject to conditions requiring the development to start within three years and be completed in accordance with the amended drawings in the interests of the proper planning of the local area.

In this case, it is also considered necessary to impose conditions on any permission for the current application requiring prior approval of the design of the new door to be fitted in a bricked up door opening and the design of a new fire window to be inserted into an existing opening to ensure both items will reflect the more traditional character of the host building. Finally, a condition restricting the use of the remaining shop unit to an A1 retail use is recommended in the interests of safeguarding the retail façade, which is integral to the locally distinctive character of the host building.

Other Matters

Listed Building: None affected

Conservation Area: None affected

Crime and Disorder: No issues relating to this proposal

Equalities: No issues relating to this proposal

Access for Disabled: No issues relating to this proposal
Trees (Preservation and Planting): None affected
SSSI Impacts: None affected
Biodiversity: No issues relating to this proposal
Human Rights: No issues relating to this proposal

RECOMMENDATION

The current application be APPROVED subject to the following conditions:

- 1. The development shall be begun before the expiration of three years from the date of this permission.**
- 2. The development hereby permitted shall not be carried otherwise than in complete accordance with the amended plans received by the Local Planning Authority on 27 October 2017.**
- 3. Prior to the commencement of the development hereby permitted, detailed drawings of the new window and door shall be first submitted to and agreed in writing with the Local Planning Authority. Thereafter, the development shall be carried out in complete accordance with the agreed details.**
- 4. The retail shop floor shown on the approved plans shall be used for retail purposes and for no purpose other than an A1 retail use as described in the Schedule to the Town and Country Planning (Use Classes) Order 1987) (as amended) or any use equivalent to an A1 retail use in any statutory instrument revoking and re-enacting that order with or without modification.**

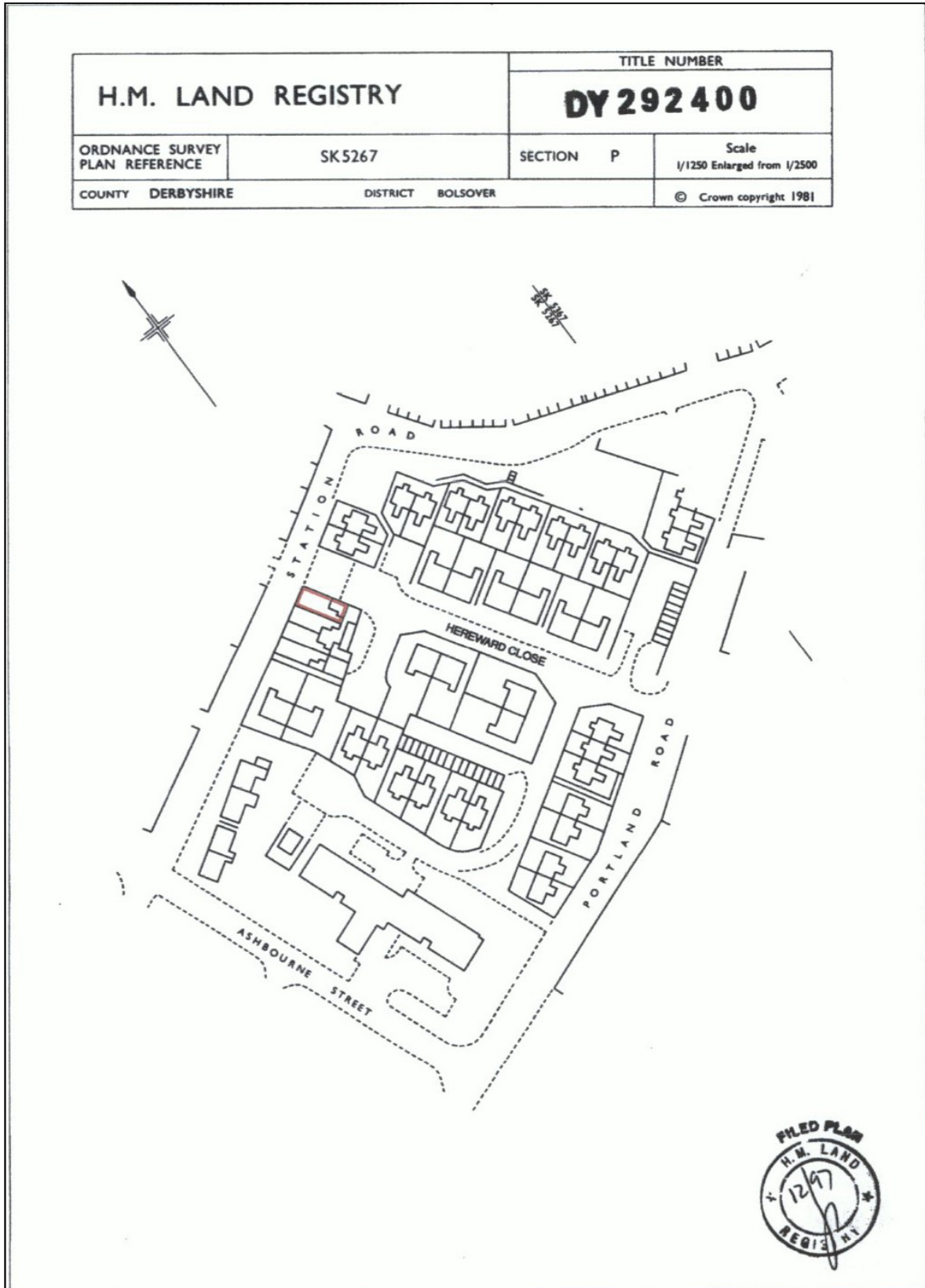
Reasons

1. In the interests of the proper planning of the local area
2. In the interests of the proper planning of the local area
3. To ensure an appropriately detailed design that reflects the locally distinctive character and appearance of the existing building.
4. To allow the Local Planning Authority to retain control over the use of the ground floor building in the interests of safeguarding the host building's locally distinctive character and appearance.

Summary of Decision Process

Revised plans have been sought by officers to improve the original proposals and to ensure the revised proposals would conserve the locally distinctive character and appearance of the host building and comply with relevant policies in the Bolsover District Local Plan.

Site Location Plan



Revised Proposals

