

**PARISH** South Normanton

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**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.

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## **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 to 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 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.