

The Arc
High Street
Clowne
Derbyshire
S43 4JY

Date: 30th April 2018

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 9th May 2018 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



Joint Head of Corporate Governance and Monitoring Officer
To: Chairman and Members of the Planning Committee

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**PLANNING COMMITTEE
AGENDA**

**Wednesday 9th May 2018 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 14 th March 2018	3 to 5
5.	Notes of a Site Visit held on 9 th March 2018	6
6.	Applications to be determined under the Town & Country Planning Acts. (i) 17/00615/FUL - Demolition of existing buildings and erection of foodstore and retail terrace, car parking and associated works at Sherwood Lodge, Oxcroft Lane, Bolsover, Chesterfield (ii) 18/00178/FUL - Additional Access and Amendments to the Bridge Improvement Measures (removal of the bridge) on Buttermilk Lane at Land Formerly Known as Coalite on North And South Side Of Buttermilk Lane, Bolsover (iii) 18/00026/FUL - Change of use to showman's site at Land Adjoining 7 Brookhill Road, Pinxton	7 to 29 30 to 45 46 to 55
7.	Update: Section 106 Agreements	56 to 61

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 14th March 2018 at 1000 hours.

PRESENT:-

Members:-

Councillor T. Munro in the Chair

Councillors:-

T. Alexander, P.M. Bowmer, J.A. Clifton, T. Connerton, C.P. Cooper, M.G. Crane, M. Dixey, S.W. Fritchley, H.J. Gilmour, P. Smith, R. Turner, D.S. Watson and J. Wilson

Officers:-

C.Fridlington (Planning Manager (Development Control)), R. Routledge (Interim Planning Policy Manager), J. Owen (Legal Executive) and A. Brownsword (Senior Governance Officer)

0693. APOLOGIES

Apologies for absence were received from Councillors D. McGregor, B.R. Murray-Carr, M.J. Ritchie and B. Watson

0694. URGENT ITEMS OF BUSINESS

There were no urgent items of business.

0695. DECLARATIONS OF INTEREST

There were no declarations of interest.

0696. MINUTES – 7TH FEBRUARY 2018

Moved by Councillor S.W. Fritchley and seconded by Councillor P. Smith

RESOLVED that the minutes of a meeting of the Planning Committee held on 7th February 2018 be approved as a true and correct record.

0697. SITE VISIT NOTES – 2ND FEBRUARY 2018

Moved by Councillor H.J. Gilmour and seconded by Councillor P.M. Bowmer

RESOLVED that the minutes of a Planning Site Visit held on 2nd February 2018 be approved as a true and correct record.

PLANNING COMMITTEE

0698. APPLICATIONS TO BE DETERMINED UNDER THE TOWN AND COUNTRY PLANNING ACTS

- (i) 17/00392/FUL - Proposed residential development for 15 dwellings with garaging at Land West Of Homelea And Tamarisk, Mansfield Road, Clowne

Further details and an amended recommendations were included within the Supplementary Report.

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

Mr. R. Whittaker attended the meeting and spoke against the application.

The Committee considered the application having regard to the Bolsover District Local plan, the National Planning Policy Framework, Supplementary Planning Document Successful Places: A Guide to Sustainable Housing Layout and Design and A Building for Life – The Sign of a Good Place to Live.

Moved by Councillor T. Munro and seconded by Councillor P. Smith

RESOLVED that Application No. 17/00392/FUL be DEFERRED and approval be delegated to the Planning Manager in consultation with Chairman and Vice-Chairman of Planning Committee subject to:

- A. Completion of S106 Planning Obligation to cover education contributions and phasing of development to facilitate self-builds; and
- B. Conditions deemed necessary including those set out in the original report with the following amendments:
 - a. Removal of the reference to the revised drainage layout in proposed condition 1 (list of approved plans); and
 - b. Inclusion of the following additional condition as advised by Derbyshire County Council's Flood Risk Management Team:
 - 16. No development shall take place until a detailed design and associated management and maintenance plan of surface water drainage for the site, in accordance with the principles outlined within:
 - a. Flood Risk Assessment Mansfield Road, Clowne (February 2017 by Eastwood & Partners)
 - b. And DEFRA Non-statutory technical standards for sustainable drainage systems (March 2015),have been submitted to and approved in writing by the Local Planning Authority. The approved drainage system shall be implemented in accordance with the approved detailed design prior to the use of any building commencing.

[REASON: To ensure that the proposed development does not increase flood risk and that principles of sustainable drainage are incorporated into this proposal where possible and sufficient detail of the construction, operation and maintenance of the drainage systems is provided, and in compliance with the requirements of policies GEN2(9) and GEN5 of the adopted Bolsover District Local Plan.]

(Planning Manager (Development Control))

PLANNING COMMITTEE

- (ii) 18/00084/OTHER - Variation of S106 Planning Obligation to remove the requirement to make a contribution to affordable housing in connection with original planning permission 14/00057/OUTMAJ at High Ash Farm, Mansfield Road, Clowne, Chesterfield

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 the key issues set out in the officer report.

Mr. A. Flatman attended the meeting and spoke in support of the application.

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

A discussion took place regarding the length of time of the extension of the timetable.

Moved by Councillor S.W. Fritchley and seconded by Councillor P. Smith

RESOLVED that Planning Committee agree to a relaxation of the affordable housing requirement contained within the original Unilateral Undertaking, subject to practical completion of 10% of the proposed dwellings by August 2019 and 50% by August 2022.

(Planning Manager (Development Control))

The Planning Manager (Development Control) left the meeting.

0699. REPORT ON LOCAL PLAN TIMETABLE

The Interim Planning Policy Manager presented the report and noted that the the Local Development Scheme had been approved by Planning Committee on 7th February 2018 and a two week consultation period had also been approved.

During the two week consultation period, only one representation had been received which made no mention of the new proposed timetable.

A discussion took place regarding staff capacity to meet the new Local Development Scheme as staffing had been identified as high risk within the Risk Assessment. It was noted that the risk was high due to the tightness of the timetable, but that the department was confident that the deadlines would be met. The Executive had also pledged any support necessary to assist the Planning Department to meet it's deadlines.

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

RESOLVED that the Planning Committee formally agree the Local Development Scheme and publish on the Council website.

(Interim Planning Policy Manager)

The meeting concluded at 1050 hours.

PLANNING SITE VISIT

Notes of a Planning Site Visits held on 9 March 2018 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, P. Smith, R. Turner, D.S. Watson and J. Wilson.

Officer: Chris Fridlington

1. APOLOGIES

Apologies were received from Councillor T. Munro

2. SITES VISITED

1) Land West Of Homelea And Tamarisk, Mansfield Road, Clowne

2) High Ash Farm, Mansfield Road, Clowne

The meeting concluded at 1030 hours.

PARISH

Old Bolsover

APPLICATION	Demolition of existing buildings and erection of foodstore and retail terrace, car parking and associated works		
LOCATION	Sherwood Lodge Oxcroft Lane Bolsover Chesterfield		
APPLICANT	Mr Mark Rothery Bramham		
APPLICATION NO.	17/00615/FUL	FILE NO.	PP-06561990
CASE OFFICER	Mr Chris Fridlington		
DATE RECEIVED	24th November 2017		

SITE

The Sherwood Lodge site lies adjacent to Bolsover town centre and was formerly the site of Bolsover District Council's main offices. The offices have since been vacant for over four years and site clearance works have started on site. However, the 'original' Sherwood Lodge building, which is a former mine-owner's house dating from 1897, still remains on site. This building is a non-designated heritage asset that would contribute positively to the special qualities of the surrounding designated Bolsover Conservation Area if it were to be repaired and restored following demolition of the modern extensions to the building that had previously detracted from its character and appearance.

The entire site is also within the designated Conservation Area and the length of 'intrenchment' earthworks at the site's north-eastern boundary is nationally important and should be treated as a scheduled monument. In addition, there are visible relics of the former parkland within the 1.2 hectares of the important open space surrounding Sherwood Lodge and a number of large mature trees along the boundary and to the south of the building. A formal memorial garden lies behind the Lodge but outside of the application site. The site is also crossed by a public right of way and a further right of way skirts its northern boundary.

BACKGROUND

This application concerns the redevelopment of the Sherwood Lodge site, which extends to around 3 hectares in area. The land was sold by the Council and planning permission was granted planning permission for a large food store on this site with associated petrol filling station in 2012.

This permission (12/00324/FULMAJ) has since been implemented and demolition of a number of buildings on the site has been carried out but a condition attached to the permission for the food store requires the retention of the 'original' Sherwood Lodge building until works started on building the large food store. This condition is why the original Sherwood Lodge building has been retained on site because significant changes in the retail market since 2012 mean the consented food store is no longer viable and will not be going ahead.

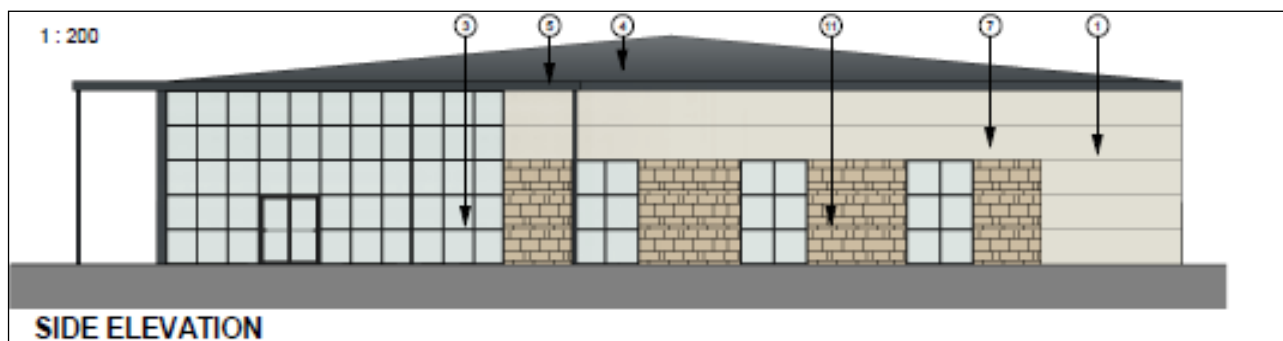
The current application now seeks full planning permission for alternative proposals for re-development of the site. The current proposals include a medium sized food store, a terrace

the proposed food store. A new network of footpaths would run through the site and are intended to improve links to the town centre and areas beyond the site to the north. Areas of new public open space would be introduced to the front of the site while the previous approval for removal of public open space behind Sherwood Lodge has been 'scaled back' to provide a greater separation distance between the proposed units and the nearest neighbouring residential properties.

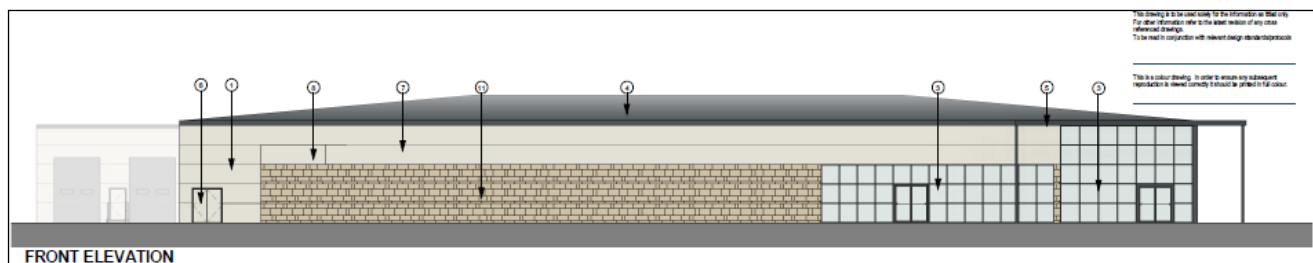
AMENDMENTS

The original submission has been amended and the changes to the scheme include revisions to the external appearance of the proposed retail units. The following extracts from the amended plans show the main elevations of the proposed units 'as amended':

Food Store – Elevation facing Town End



Food Store – Elevation facing Car Park



Retail Terrace – Elevation facing Car Park



The schedule of materials for these units includes horizontal metal cladding above a stone effect cladding at lower levels for the walls of the buildings, powder coated frames for doors and windows and a composite roof panel arrangement.

Further amendments were required to move the buildings away from the 'intrenchment' earthworks within the development site and improve the width of a corridor to the rear of the food store that would in effect be 'gifted' to the Council as part of the land required to provide a link road from Town End to Oxcroft Lane. The applicant has also made a further offer of a financial contribution of £150,000 towards highway improvements and suggested a further revision to the siting of the buildings.

KEY ISSUES

In respect of the Council's aspirations for the regeneration and redevelopment of Bolsover town centre, the Sherwood Lodge site, is allocated as an edge of town centre allocation within the emerging Local Plan.

Policy WC6: Bolsover Edge of Town Centre Allocation from the emerging Local Plan says that proposals for the development of this site will be permitted where they are comprehensive, guided by an approved masterplan for the site and:

- a) Provide for an acceptable two way vehicular access road between Town End and Oxcroft Lane;
- b) Ensure the provision of pedestrian access and linkage between Cavendish Walk and the site;
- c) Provide for at least one Convenience retail store in excess of 1,200m²;
- d) Provide for other town centre related uses which may include retail, leisure, employment, residential or community facilities;
- e) Ensure that a suitable level of public parking is made available as part of the scheme;
- f) Give special consideration to the historic grounds and remaining building on the western side of the site, as identified heritage assets;
- g) Contribute to the planned Bolsover town cycle network through the provision of cycling facilities within the site;
- h) Contribute towards place-making through the delivery of a high quality designed development that creates an attractive and locally distinctive new urban neighbourhood utilising public art as appropriate;
- i) Contribute towards the efforts to tackle climate change through its approach to sustainable construction, renewable energy and energy conservation within the site's

general layout, design and orientation;

- j) Mitigate the loss of the green space through a financial contribution to be towards the improvement of a green space within Bolsover Town.

Therefore, the extent to which the current proposals meet these criteria is one key issue in the determination of this application given that these criteria reflect the exceptional circumstances that warranted approval of the previous proposals for retail development on the Sherwood Lodge site. Retail development on the site was, and continues to be, contrary to saved policies in the current Local Plan.

Furthermore, the Bolsover Transport Study (2016) says the provision of a new link road through the Sherwood Lodge is required to provide relief to the Town End / Moor Lane / Welbeck Road junction ('the Town End junction'). The Addendum to this study completed October 2017 says without the Sherwood Lodge Link Road, the Town End junction will reach capacity and as the planned quantum of development in Bolsover comes forward, including the major residential development at Bolsover North, there will be significant increases of queuing traffic at this junction.

Consequently, if the current proposals do not provide for an acceptable two way vehicular access road between Town End and Oxcroft Lane in accordance with Policy WC6(a) in the emerging Local Plan: granting planning permission for this application may undermine the proper planning of the local area and the sustainable growth of the District as a whole because the link road is a fundamental requirement of the emerging Local Plan. It is therefore considered that WC6(a) must be afforded substantial weight in the determination of this application.

A further key issue in the determination of this application is the weight to be afforded to the benefits of granting planning permission for the current application, which the applicant says includes:

- The physical regeneration of a key landmark site within the town centre.
- The creation of around 200 new jobs
- Reducing the need to travel outside Bolsover to shop, ensuring more money is spent locally, whilst improving sustainability.
- Bringing more food shopping choice for local residents and visitors to the town.

RELEVANT PLANNING HISTORY

There is no record of planning permission having been granted for the previous use of the Sherwood Lodge site by the Council but there has been number of permissions granted for the extension of the original building to create more office space including:

BOL/173/4 - Outline planning permission 'to extend the existing Urban District Council Offices to form new headquarters' was granted on 23/03/73

BOL.184/7. Full planning permission for 'extensions to Sherwood Lodge office building' was granted on 15/2/84. This permission was implemented.

BOL.292/90 - A further outline planning permission 'for centralised offices, including link to Sherwood Lodge' was granted on 08/04/92

BOL.792/304 - Full planning permission 'for centralised offices, including link to Sherwood Lodge' was granted on 30/09/92. This permission was also implemented.

There have been other applications for minor developments on the site but the planning history that is more relevant to the current application includes the following approvals:

12/00324/FULMAJ – Full planning permission granted for demolition of existing council offices and dwelling houses and erection of foodstore, petrol filling station, service yard, car parking and associated works on 21/12/2012.

12/00325/CON – Conservation Area Consent granted for demolition of existing council offices and houses on 21/12/2012.

15/00545/DISCON – Partial discharge of pre-commencement Conditions 2 (Phasing of Works Programme), Condition 4 (Compound Details), Conditions 22 and 23 (Written Scheme of Archaeological Investigation), Condition 25 (Archaeological Method Statement), Condition 33 (Contamination) and Condition 34 (Drainage Details) of planning permission 12/00324/FULMAJ on 23/11/2015.

17/00117/DISCON – Partial discharge of pre-commencement Conditions 2 (Phasing of Works Programme); 4 (Compound Details); 22 and 23 (Written Scheme of Archaeological Investigation); 25 (Construction Management Plan); 33 (Contamination); and 34 (Drainage Details) of planning permission 12/00324/FULMAJ, to allow for the demolition of the former Council Offices (excluding the historic Sherwood Lodge) and of the former residential properties on 15 May 2017.

These approvals are relevant to the current application insofar as they establish the principle of allowing retail development on the Sherwood Lodge site subject to the criteria in policy SS7 in the emerging Local Plan. However, they do not establish a 'precedent' that would mean planning permission should be 'automatically' granted for the current proposals.

In this respect, the issue of precedent is rarely relevant to planning decisions in any event but in this case a 'precedent' does not exist because the previously approved proposals are substantially different from the current proposals in planning terms and give rise to materially different planning considerations.

Amongst other things, the current proposals do not include the provision or delivery of a link road through the site from Town End to Oxcroft Lane. Equally, the previous proposals included a food store and petrol filling station compared to the current proposals, which do not include a petrol filling station but do include additional retail units (around 2000m² for comparison goods) outside of the existing town centre and a medium sized food store as opposed to a large food store.

Furthermore, the emerging Local Plan is a relevant planning consideration that did not exist at the time of the previous approval.

CONSULTATIONS

Bolsover Civic Society – Support the future development of the Sherwood Lodge site but set out in some detail their reservations about the original submission. Revised plans have been submitted following discussions between the applicant and the Civic Society in response to their consultation response on the original application but the Civic Society have not yet made any detailed formal comments on the revised application.

Bolsover District Council (Community Arts Development Officer) – Requests contribution of 1% of development costs towards public arts

Bolsover District Council (Heritage Conservation Manager) - Objects to proposals in their current form and advises that the submitted heritage statement is inadequate suggesting that the submission of a more detailed statement and a comprehensively revised scheme that addresses these assets, the issues of harm, and looks at the whole context of the proposal within its setting would be needed to move the proposals forward in heritage conservation terms.

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

Bolsover District Council (Leisure Services) – Requests contributions towards compensatory open space in the town, which may be a contribution to the development of a skate park or similar facility within Hornscroft Park or at another suitable location. Concerns are also raised about the design of the development and the lack of facilities for cyclists.

Bolsover District Council (Senior Engineer) – No objections subject to conditions

County Archaeologist – Objects on the grounds of the potential impacts of the proposed development on the ‘internchments’ and raises significant concerns about the impact of the proposals on the surrounding Conservation Area and the loss of Sherwood Lodge.

DCC Flood Team – Object on the basis of insufficient information submitted with the application to allow proper assessment of the drainage strategy.

DCC Highways – No objections to the proposals on highway safety grounds, subject to conditions and a legal agreement securing the offer of a commuted sum.

Historic England – Object on the grounds of the potential impacts of the proposed development on the ‘internchments’ by virtue of the proximity of the development and raise significant concerns about the impact of the proposals on the surrounding Conservation Area and the loss of Sherwood Lodge.

Old Bolsover Town Council - fully support the application for the following reasons:

The Town Council have had concerns about the future of this site since hearing that the

original plans for the large superstore were not going to be delivered whilst the site was left to fall derelict and became a magnet for anti-social behaviour. Therefore, the Town Council see the scheme as having a major positive impact on the regeneration of the town and that a food store with competitive pricing will bring residents back to shopping where they live rather than travelling out to the supermarkets in surrounding towns such as Staveley, Clowne, Shirebrook and Mansfield.

The Town Council go on to say that further retail units will also enhance the area as the rest of the town cannot provide the larger modern units retailers require and these new retailers will add to the retail mix in the town as well as creating much needed employment opportunities. In addition, the Town Council notes that the scheme also provides additional car parking which is better connected to the Town Centre and shoppers returning to the town centre will also have a positive impact on other businesses in the town.

The Town Council also support the retention of the green area at the rear of the site providing good pedestrian access through the site connecting Hilltop to the retail units and Oxcroft but would like to see the addition of a small public toilet block within the development.

Peak and Northern Footpaths Society – Comment that the impact of a development on public rights of way, recorded or unrecorded, is a material consideration when deciding if planning consent is to be granted, and in what form.

Yorkshire Water – No objections subject to conditions

The above representations summarised in this report are also published in full on the Council's website.

PUBLICITY

The original application was publicised by way of a site notice, press advert and neighbour notification.

In response to this publicity, the Council received 61 representations in support of the current application. However, over half of these representations simply registered support for the application seemingly in response to a mail-out sent out on behalf of the applicant. Nonetheless, it is clear from a large number of these representations that there is significant public interest in re-development of the Sherwood Lodge site taking into account its current condition, there is also a clearly expressed need for a new food store in the town and that many residents go out of town for their food shopping. The extra jobs the scheme would create are also welcomed in many of these representations.

The Council also received 15 representations stating objections to the proposals although 8 of these objections were made using the same template letter. The key planning issues raised in these representations, including some very detailed observations, are as follows:

- the potential adverse impact on heritage assets including impacts on the surrounding Conservation Area and the intrenchment, and the demolition of Sherwood Lodge;

- inappropriate/inadequate design standards;
- potential for the development to be unneighbourly
- potential traffic impacts; and
- diminished amenity of footpath network.

Subsequently, amended plans were received and the revised application was re-publicised by way of a site notice, press advert and letters to all interested parties who had previously commented on the original application.

In response to this publicity, the Council received 37 representations in support of the current application. Again, over half of these representations simply registered support for the application seemingly in response to a mail-out sent out on behalf of the applicant. However, in these responses, there was a further clear expression of the need for an additional food store in Bolsover and it was again made clear that many residents go out of town for their food shopping.

POLICY

National Planning Policy Framework ('the Framework')

The following paragraphs from the Framework are considered to be the most relevant to the determination of the current application:

Paragraph 2: Status of Development Plan and National Planning Policy Framework

Paragraphs 6-10: Achieving sustainable development

Paragraphs 11-16: Presumption in favour of sustainable development

Paragraph 17: Core planning principles

Paragraphs 24-27: Ensuring the vitality of town centres

Paragraph 32: Transport network

Paragraphs 56- 66: Design

Paragraphs 70, 72, 73 and 75: Promoting healthy communities

Paragraphs 109 and 118: Conserving and enhancing the natural environment

Paragraphs 120 and 121: Contamination and land stability

Paragraphs 128 – 137: Conserving and enhancing the historic environment

Paragraphs 173: Ensuring viability and deliverability

Paragraph 196: Primacy of Development Plan

Paragraphs 203-206: Planning conditions and obligations

Paragraphs 215-216: Weight to be given to relevant policies in existing plans and relevant policies in emerging plans.

Bolsover District Local Plan ('the adopted Local Plan')

The following saved policies in the adopted Local Plan are relevant to this application:

GEN1 (Minimum Requirements for Development),

GEN2 (Impact of Development on the Environment)
 GEN4 (Development on Contaminated Land)
 GEN5 (Land Drainage)
 GEN6 (Sewerage and Sewage Disposal)
 GEN8 (Settlement Frameworks)
 GEN13 (Provision for People with Disability)
 GEN17 (Public Art)
 SAC12 (Retail Development on the Edge of Defined Town and Local Centres)
 CLT1 (Protection of Existing Buildings Which Serve the Community)
 CLT6 (Existing Outdoor Playing Space and Amenity Open Space)
 TRA1 (Location of New Development)
 TRA10 (Traffic Management)
 TRA12 (Protection of Existing Footpaths and Bridleways)
 TRA13 (Provision for Cyclists)
 TRA15 (Design of Roads and Paths to Serve New Development)
 CON1 (Development in Conservation Areas)
 CON2 (Demolition of Unlisted Buildings or Structures in Conservation Areas)
 CON3 (Important Open Areas within Conservation Areas)
 CON13 (Archaeological Sites and Ancient Monuments)
 CON14 (Bolsover Area of Archaeological Interest)
 ENV5 (Nature Conservation Interests throughout the District)
 ENV8 (Development Affecting Trees and Hedgerows)

Paragraph 215 of the Framework say due weight should be given to relevant policies in existing plans according to their degree of consistency with this framework (the closer the policies in the plan to the policies in the Framework, the greater the weight that may be given).

It is considered that these policies are generally consistent with Framework other than it is relevant to this application that Paragraph 134 of the Framework goes further than saved Local Plan policies CON1. CON2 and CON3 that are otherwise consistent with section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990, which says that “special attention shall be paid to the desirability of preserving or enhancing the character or appearance of a conservation area.”

Paragraph 134 of the Framework says where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal, including securing its optimum viable use.

Bolsover District Publication Local Plan ('the emerging Local Plan')

The most relevant policy in the emerging Local Plan is Policy WC6: Bolsover Edge of Town Centre Allocation, as set out above. Paragraph 216 of the Framework says from the day of publication, decision-takers may also give weight to relevant policies in emerging plans according to:

- the stage of preparation of the emerging plan (the more advanced the preparation, the greater the weight that may be given);

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

The emerging Local Plan is now at a very advanced stage of preparation but it is accepted that the applicant objects to policy WC6. However, the following sections of this report explain in more detail how the policy criteria in WC6 are consistent with policies in the Framework.

ASSESSMENT

Principle

In principle, the proposals are contrary to saved policies in the current Local Plan but the acceptability of re-development of the Sherwood Lodge site for retail uses has been established by the previous approval for a large food store on the site.

Nonetheless, the previous approval was based on the individual planning merits of those proposals and as the current proposals are materially different to the approved development; the existing outline consent does not create a precedent that means the current application should be 'automatically' granted planning permission. This is reflected by the subsequent site allocation in the emerging Local Plan for town centre uses as set out in Policy WC6 in the emerging Local Plan.

In these respects, Policy WC6 is permissive of retail development on the Sherwood Lodge site but also sets out ten criteria (a-j) based on the positive aspects of the previously approved scheme that provides a framework to assess the relative planning merits of the current application.

Of the criteria in Policy WC6, the current application complies with WC6(c), WC6(d), and WC6(e) because the current proposals provides for at least one convenience retail store in excess of 1,200m²; provides for other town centre related uses; and ensures that a suitable level of public parking is made available as part of the scheme. Therefore, the current proposals can be deemed to be 'acceptable in principle' with due regard to policies in the emerging Local Plan.

The proposals also meet the requirements of national planning policies in the Framework in terms of the proposed retail uses outside of Bolsover's town centre having passed the 'sequential test' and having been determined to be unlikely to have a significant adverse on the vitality and viability of the town centre. Therefore, an exception to the adopted Local Plan to allow retail units on a site adjacent to the town centre would also be acceptable in principle even in the absence of the emerging Local Plan policy.

However, representations on this application go further than this assessment insofar as it is generally considered that the proposals will actually have a beneficial impact on the town

centre not least by improving the current retail offer. The County Council's policy team also advise that the proposals would be unlikely to harm the vitality and viability of Bolsover town centre and would be more likely to maintain and enhance the health of the town centre overall.

Taken together, these factors would normally weigh heavily in favour of granting planning permission for the current application subject to further consideration of all other relevant planning considerations.

In this case, it is considered the most relevant planning considerations are (i) whether the proposals conserve or enhance the surrounding Conservation Area and accord with the key provisions of WC6 relating to the conservation and enhancement of on-site heritage assets (WC6(f)); and (ii) whether the redevelopment of the site would provide for an acceptable two way vehicular access road between Town End and Oxcroft Lane in accordance with WC6(a).

Heritage

In the first instance, saved Local Plan policies CON1 (Development in Conservation Areas); CON2 (Demolition of Unlisted Buildings or Structures in Conservation Areas); CON3 (Important Open Areas within Conservation Areas); CON13 (Archaeological Sites and Ancient Monuments) provide a framework to assess the impact of the current proposals on heritage assets.

These policies are consistent with core planning principles in the Framework and paragraphs 131, 132, 135 and 137 of the Framework because they seek 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.

These local and national planning policies also underpin the requirements of Policy WC6(f), which says that as identified heritage assets: special consideration should be given to the historic grounds and remaining building on the western side of the site (i.e. the original Sherwood Lodge building and relic parkland). The entire site is also within the designated Conservation Area and the length of 'intrenchment' earthwork at the site's north-eastern boundary is nationally important and should be treated as though it were a scheduled monument.

In terms of the 'intrenchment', amended plans have been received seeking to address the County Archaeologist's and Historic England's concerns about the potential impact of the proposals on this significant heritage asset because of the proximity of a service area to these earthworks. However, neither the County Archaeologist nor Historic England have yet confirmed that these changes are sufficient to avoid harm to the 'intrenchment'.

In addition, the County Archaeologist, Historic England and the Council's Heritage Conservation Manager have all raised concerns about the adequacy of the submitted Heritage Impact Assessment in terms of justifying the demolition of Sherwood Lodge and the impacts of the proposals on the character and appearance of the surrounding Conservation Area.

There are also some concerns raised about the impact of the proposals on the setting of Bolsover Castle but from an officer perspective; these impacts are highly likely to be negligible taking into account

- i. the intervening built development, topography and mature trees between the Castle and the application site;
- ii. the intervening built development, topography and mature trees between the site and viewpoints looking towards the Castle; and
- iii. the location of the site adjacent to the existing town centre, which would help the units merge with the existing built development when seen from the higher parts of the Castle.

Nonetheless, the demolition of Sherwood Lodge would fail to conserve the special qualities of this non-designated heritage asset as a matter of fact and by virtue of their form, massing and external appearance, the retail units do not fully reflect or respect the styles and traditions of the vernacular buildings within the surrounding Conservation Area. It is not considered the use of stone to provide an attractive entrance to the site would offset the impact of the use of the modern materials throughout the retail units by virtue of their relative size and scale and visual impact.

Unfortunately, the retail units will have a noticeable visual impact on the surrounding Conservation Area taking into account their size and scale and the fact that these buildings would be seen from a wide range of vantage points from within the Conservation Area. Therefore, officers consider the development proposals will detract from the significance of the Conservation Area and diminish its historic and architectural interest.

Consequently, whilst it is acknowledged that the redevelopment of the site would undoubtedly give rise to some immediate improvements to the environmental quality of the local area: over the lifetime of the development, the current proposals would not conserve or enhance the surrounding Conservation Area. In these respects, the current proposals would conflict with saved Local Plan CON1, CON2 and CON3. Insofar as it has not yet been demonstrated that the proposals would conserve the 'intrenchment', the proposals also conflict with saved Local Plan policy CON13.

However, with due regard to the specialist advice from the Council's conservation officer, the County Archaeologist and Historic England, these harmful impacts of the proposals are considered to amount to 'less than substantial harm' in terms of national planning policies. Therefore, it is necessary to weigh the identified harm to heritage assets against the public benefits of granting planning permission for the proposals in accordance with national planning policy set out in Paragraph 134 of the Framework.

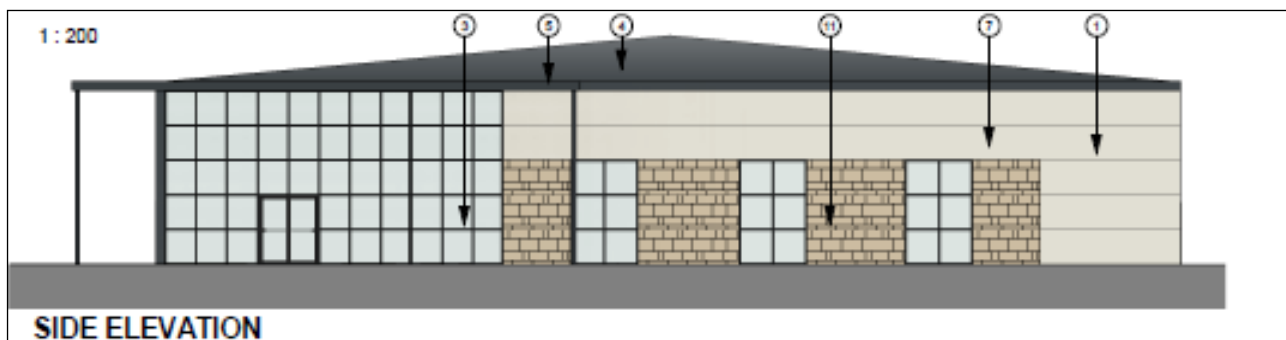
In this respect, if redeveloping the site resulted in a development of a high standard of contemporary design then the objections to the external appearance of the proposed buildings and the loss of Sherwood Lodge on conservation grounds might be better mitigated by the public benefits of granting planning permission for the current application.

Design

Policy criteria WC9(h) says that development proposals on the Sherwood Lodge site should contribute towards place-making through the delivery of a high quality designed development that creates an attractive and locally distinctive new urban neighbourhood utilising public art as appropriate. Paragraph 63 of the Framework also says in determining applications, great weight should be given to outstanding or innovative designs which help raise the standard of design more generally in the area.

In this case, it is acknowledged that revised plans have been submitted primarily in response to detailed comments made by the Bolsover Civic Society in respect of the original submission. It is also recognised that by introducing cladding reminiscent of traditional stone detailing for example (see below), the revised plans now show buildings with a better link to local distinctiveness. However, they are still not 'attractive' buildings and taken as whole, the current proposals might be acceptable for a retail park in a less sensitive location but they cannot be described as being of high quality contemporary design.

Food Store – Elevation facing Town End



The Council has not yet received any further representations from the Civic Society in respect of the revised proposals. Nonetheless, it should be noted that Paragraph 66 of the Framework says applicants will be expected to work closely with those directly affected by their proposals to evolve designs that take account of the views of the community. Paragraph 66 goes on to say proposals that can demonstrate this in developing the design of the new development should be looked on more favourably.

Therefore, any further comments received by the Civic Society on the revised submissions may not be a determining factor in the determination of this application but they would be a relevant planning consideration that could be balanced against an officer conclusion that

- (i) the proposed development fails to properly reflect or respect the locally distinctive character of the surrounding Conservation Area; and
- (ii) is not of a high enough design quality to otherwise make a positive contribution to the character and appearance of the local area and avoid harm to the Conservation Area.

Open Space and Public Art

The harm to the Conservation Area resulting from the current proposals would also be exacerbated by the loss of the original Sherwood Lodge building and some of the relic parkland. From an officer perspective, this harm would not be offset by the design of the development proposals, as noted above, or offset or outweighed by the approach to open space and public art that has been taken in this application even though the current proposals retain more open space on the Sherwood Lodge site than the previously approved scheme and the applicant has also offered to make a contribution towards public art.

Specifically, Old Bolsover Town Council will be gifted the retained green space area, which is 25% greater than the previous approved Morrison's, with 40 more trees retained. By way of a contribution towards public art: the applicant has agreed to pay the sum of £4,000 for the installation of a bespoke stone carved bench in honour of the local celebrated author Fred Kitchen, located in the public realm area between the Town End car park and proposed food store. Bolsover Civic Society have already designed and costed the art installation.

Therefore, granting planning permission for the current proposals would undoubtedly result in some additional public benefits in place making terms but the proposals would still result in a net loss of important open space on the site and there are shared concerns about the utility of the retained open space given its location to the rear of a service yard and lack of natural surveillance. The contribution towards public art would also fall short of 1% of development costs.

Consequently, the current proposals do not fully accord with the place-making aspirations of emerging policy WC9(h) and do not meet the normal requirements of saved Local Plan policy GEN17 in respect of public art. The current proposals also fail to meet the requirements of emerging policy WC6(j) and saved Local Plan policy CLT6 that require the loss of the existing open space to be mitigated through a financial contribution towards the improvement of a green space within Bolsover, which has not yet been offered by the applicant.

Consequently, the current proposals are also inconsistent with the provisions of paragraphs 73 and 74 of the Framework, which set out the value of providing open space within development proposals and a presumption against building on existing important open spaces. Unfortunately, these objections are not fully addressed by reference to the previous approval because a financial contribution towards replacement open space in Bolsover was secured by way of a legal agreement attached to the existing outline permission.

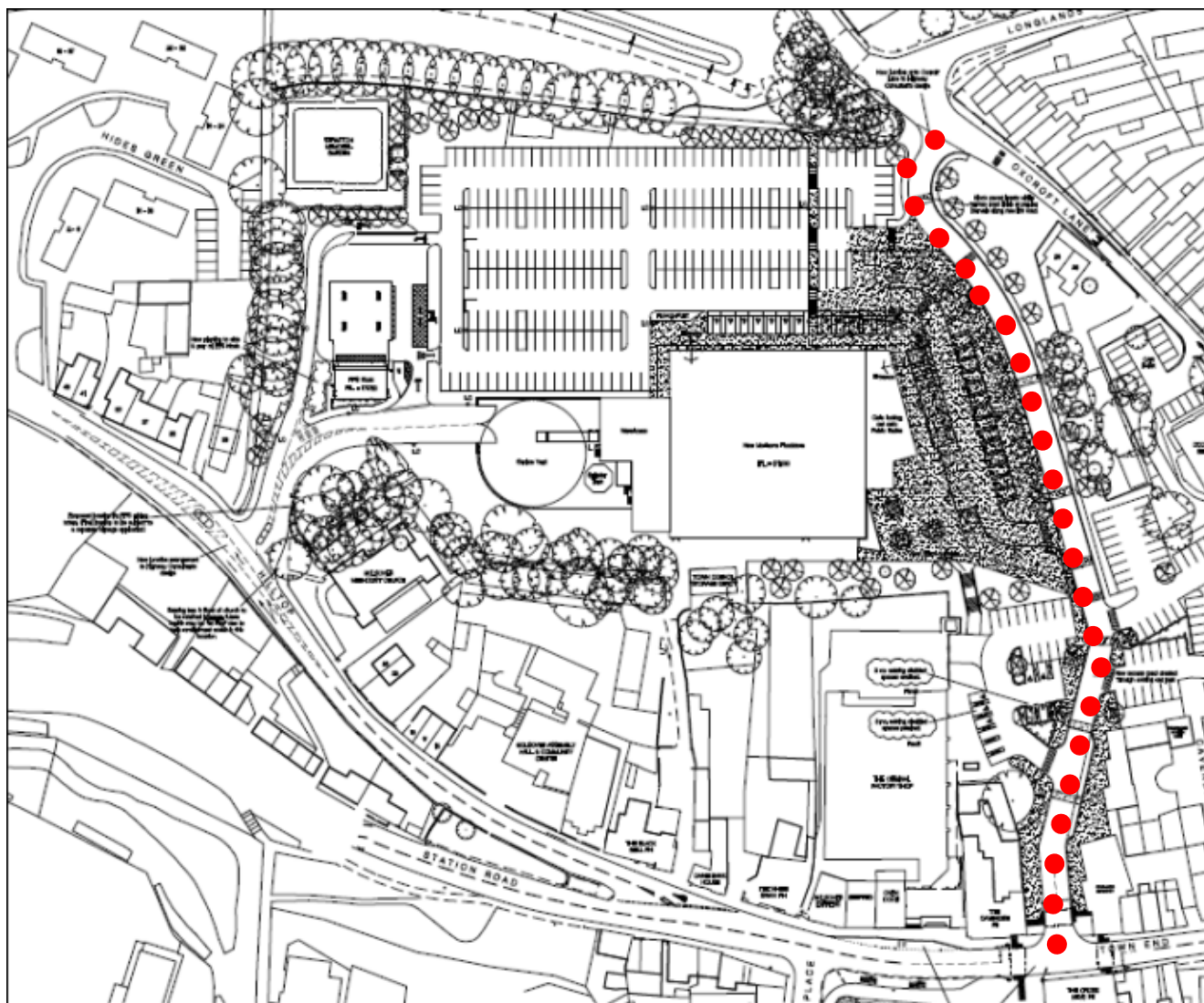
Therefore, the less than substantial harm to the Conservation Area resulting from these proposals as set out above would not be offset or outweighed through the retention of open space or the provision of public art as proposed in this application.

However, as explained in more detail in later sections of this report, the wider public benefits that might be achieved through any approval of the scheme could be judged to outweigh the identified 'less than substantial harm' to heritage assets with regard to paragraph 134 of the Framework. In this respect, the provision of a link road through the Sherwood Lodge site takes on particular significance because it would provide a substantial public benefit that

The 'Link Road'

Subsequently, the s.278 agreement has not been enforced because it was considered by all interested parties that there was no realistic likelihood that the large food store would come forward despite the original permission (12/00324/FULMAJ) having been implemented.

Approved 'Link Road' (12/00324/FULMAJ) - The dotted line shows the line of the 'link road'



In many respects, allowing the s.278 agreement to lapse gives rise to significant concern because the Bolsover Transport Study (2016) says the provision of a new link road through the Sherwood Lodge is required to provide relief to the Town End junction of Town End / Moor Lane / Welbeck Road. The Addendum to this study completed October 2017 says without the Sherwood Lodge Link Road, the Town End junction will reach capacity and as the planned quantum of development in Bolsover comes forward, including the major residential development at Bolsover North, there will be significant increases of queuing traffic at this junction.

However, Policy WC6(a) carries forward this requirement for a 'link road' and says that proposals for the development of this site will be permitted where they are comprehensive, guided by an approved masterplan for the site and provide for an acceptable two way vehicular access road between Town End and Oxcroft Lane.

This policy requirement is considered to be consistent with national planning policies in paragraph 32 of the Framework where it is said that to promote sustainable transport: local planning authorities should take account of whether improvements can be undertaken within the transport network that cost effectively limit the significant impacts of a development and development should only be prevented or refused on transport grounds where the residual cumulative impacts of development are severe.

In this case, the first set of amended plans (subject of the second round of publicity) did not show the provision of a two way vehicular access road between Town End and Oxcroft Lane. Instead the applicant proposed to effectively gift an area of land to the east of the food store to the Council. Unfortunately, this strip of land was not wide enough to accommodate a two way road, which normally has a carriageway width of between 7.1m and 7.5m. An additional 1.8m for a footway and/or 3m for a cycle way would also be required to provide adequate connectivity.

Therefore, whilst the land originally offered by the applicant may have some contributory use as part of a future route through the site, additional land would have been needed to provide a two way vehicular access road between Town End and Oxcroft Lane, which would require the acquisition of a significant area of third party land. In addition, the proposed development would not have fully met the requirements of WC6(g) because the provision of cycling facilities, as originally proposed, would not have made an especially positive contribution to the planned Bolsover town cycle network. This issue could be addressed by provision of a cycle way alongside a link road through the site.

Naturally, the applicant's further offer of a financial contribution of £150,000 towards highway improvements is welcomed and has allowed the Local Highway Authority to withdraw their objections to the current application. Nonetheless, this offer would not in itself be sufficient to allow the Council or the Local Highway Authority acquire additional third party land and pay for the link road. Therefore, officers were not able to conclude that the revised application would 'provide for' the link road that is required to mitigate for the impact of committed development in Bolsover.

This means that even though a link road is not required to deal with the traffic generated by

the proposed development: granting planning permission for the revised application would have had a severe adverse impact on the local road network. However, in light of these issues, the applicant has suggested a compromise that would allow for the transfer of sufficient land to the Council to safeguard a two way vehicular access road between Town End and Oxcroft Lane.

Indicative Site Layout



As this plan was submitted at the time of writing, there are still issues for both the Council and the applicant to consider, and the Council may also need to reconsult on the application, before this revised layout can be fully taken into account in the determination of this application.

However, in principle, this layout could be sufficient to allow officers to recommend approval of this application when taking into account that there are no other relevant planning considerations that otherwise carry as much weight in the determination of this application as the identified harm to conservation assets and the provision of the link road for the following reasons:

Accessibility and Connectivity

The indicative plans might provide the opportunity to implement a cycle link through the site, as noted above, and this link through the site might offset concerns that the character and amenity of the links through the site and the retained public rights of way would be adversely affected by the presence of the car park and service areas.

In all other respects, the revised plans show a scheme that would be accessible for all and the proposed development would not necessarily have a prejudicial impact on the existing public right of ways through the site. Pedestrian access to the site would be maintained from Hill Top, Oxcroft Lane and Town End and some consideration has been given to the provision of pedestrian access and linkage between Cavendish Walk and the site. The retained open space also helps to provide a 'greener' development than would have been achieved by the previously approved scheme.

Climate Change

Policy criteria WC6(i) says the current proposals should contribute towards the efforts to tackle climate change through its approach to sustainable construction, renewable energy and energy conservation within the site's general layout, design and orientation.

The submitted application does not appear to address this policy criteria and it remains of concern that the County Council are still not satisfied with the approach taken to sustainable drainage despite having site of the applicant's revised drainage strategy and despite Yorkshire Water and the Council's engineers having no overriding objections to the proposals in respect of drainage.

Therefore, the environmental credentials of the development do not weigh in favour of an approval of this application but these issues may be dealt with by an appropriate planning condition attached to any permission for the current application.

Ground Conditions

There is a significant change in levels across the Sherwood Lodge site but there are no land stability issues. The Council's environmental health protection officer is satisfied that an appropriate planning condition can be used to address any potential pollutants on the land. Therefore, these issues do not weigh heavily in the determination of this application.

Neighbourliness

There are some concerns about the impacts of the proposed development on the nearest neighbouring residential properties. However, the intervening distances between the proposed development and residential properties limits the extent to which the new units could be over bearing, impact on privacy, or affect the outlook of these properties. The Council's environmental health protection officer is also satisfied noise and air quality issues could be dealt with by appropriate planning conditions and the local highway authority is satisfied that the traffic generated by the proposed development would not in itself give rise to road safety issues. Therefore, the proposed development would not be unneighbourly and complies with policies GEN1 and GEN2 in this respect.

Wildlife

Other than the loss of trees from the site, it is considered unlikely that the proposals would have any other adverse impacts on any species or habitat of particular nature conservation value. A condition securing a landscaping and ecological construction and management should be use if permission were to be granted for the scheme to ensure that trees to be retained and bats and birds would be appropriately protected during the construction phase and to ensure that appropriate landscaping would be carried out prior to the proposed retail units being taken into use.

The Planning Balance

In light of the above technical assessment of the planning merits of the current proposals, it can be seen that there will be less than substantial harm to designated and non-designated heritage assets and that the proposed scheme does not fully accord with the Council's aspirations for redevelopment of the Sherwood Lodge site or the requirements of adopted planning policies.

However, the above assessment also finds that the proposed redevelopment of the site is not without merit and if the location of the buildings could be revised: the route of a link road through the site could be safeguarded and this link road is an essential pre-requisite of sustainable growth in Bolsover. There are also no other technical matters that would prevent permission being granted for the current application subject to appropriate conditions.

Therefore, a balanced decision has to be taken on this application with full regard to the wider public benefits that might be achieved by granting planning permission for this application. The applicant says the benefits of granting planning permission for the current application includes:

- The physical regeneration of a key landmark site within the town centre.
- The creation of around 200 new jobs
- Reducing the need to travel outside Bolsover to shop, ensuring more money is spent locally, whilst improving sustainability.

- Bringing more food shopping choice for local residents and visitors to the town.

In principle, officers agree with this assessment not least because it acknowledged there is significant public interest in re-development in the site and that there would be wider public benefits that would result from the grant of planning permission for this scheme. For example, regeneration of a disused site and the provision of local employment opportunities are clearly important to the local community and there is an equally clear 'qualitative need' for the proposed development if not a 'quantitative need' for the amount and type of retail uses proposed in this application.

In terms of qualitative need, it is considered that the provision of a medium-sized food store on the Sherwood Lodge site would improve Bolsover's retail offer and the introduction of a 'discounter' such as Lidl or Aldi, for example, and a wider range of choice of shops in the town would be of particular benefit to local residents.

In addition, the food store proposals plus the terrace of retail units would encourage more people to shop in the town reducing 'leakage' caused by people doing their shopping elsewhere. The proposals might also achieve a degree of 'clawback' by visitors to the town and local residents being more likely to shop locally and use other shops in the town centre. Therefore, the proposals have the capacity to enhance the vitality and viability of the town centre as a whole.

It is also considered by officers that the deteriorating condition of the site has resulted in a negative impact on the amenities of the local area whilst it has been vacant not least because the site has attracted anti-social behaviour and detracts from the character and appearance of the town. Therefore, granting planning permission for the current application would result in significant socio-economic and environmental benefits that should be afforded substantial weight in the planning balance.

In these respects, if the only key issue to determine in this application related to whether the less than substantial harm to the significance of designated and non-designated heritage asset resulting from the development proposals, as identified above, would be outweighed by the public benefits of granting planning permission: officers would be likely to recommend approval of this application given the qualitative need for the development and the potential for the scheme to enhance the vitality and viability of the town centre, as a whole.

However, this conclusion would be very finely balanced and the absence of a link road through the site would have posed a serious problem. To address this problem, indicative plans have been submitted showing how the food store building could be sited a further 3-4 metres to the west so the additional land to the east, which is intended to be offered to the Council, would be wide enough to accommodate a link road accommodating vehicular traffic in both direction and a foot way if not a cycle link.

If this plan can be agreed then it would significantly alter the decisional balance in the determination of this application because the route of the link road would be 'safeguarded' and whilst the proposals would not deliver a two way vehicular access road between Town End and Oxcroft Lane at least it could be 'provided for' by the Council (or others) without relying on acquisition of third party land.

At the time of writing, ongoing negotiations are taking place to achieve this compromise to get to a positive outcome and avoid a 'lose-lose' situation. In summary, refusing planning permission for the application will mean the socio-economic and environmental benefits of re-development of the site would not be realised and the applicant's development proposals will be stalled on a site that has already proven to be difficult to dispose of in any other way. The Council would also still have to find a way to 'provide for' a link road.

Therefore, officers consider if the current application were to provide for a link road as shown by the indicative plans then granting planning permission for the current application would achieve such substantial public benefits for the town and the District as whole, these benefits would significantly and demonstrably outweigh the adverse impacts of the proposed development on conservation interests and offset any residual concerns that the proposals do not fully accord with local and national policies as identified in the above report.

RECOMMENDATION

Accordingly, the current application is provisionally recommended for APPROVAL subject to confirmation and receipt of amended plans showing the revised siting of the proposed buildings and subject to a legal agreement related to the provision of public art and transfer of land, appropriate planning conditions and re-consultation on the revised plans showing relocation of the buildings.

Statement of Decision Process

The Council has sought to work positively and pro-actively with the applicant to find an appropriate compromise that better balances the respective aspirations of the Council and the developer in respects of the redevelopment of the site.

Human Rights

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

Equalities

It is not considered a decision on this application would have a direct or indirect impact on any particular group of people with a shared protected characteristic but it is recognised that the provision of an additional food store in the town may be of a particular advantage to people with disabilities and older local residents, for example. Similarly, a severe adverse impact on the local road network might affect people with the same or other protected characteristics. This analysis has been considered in the weight afforded to both the negative and positive aspects of the scheme in the above report.

EIA Screening Opinion

The development is not Schedule I development but does comprise urban development as described in column one of Schedule II of the EIA Regulations 2017. In this case, it is not

considered the impacts of the proposed development are of such magnitude or complexity that EIA is required to assess the environmental effects of the current proposals.

Site Location Plan



PARISH Old Bolsover

APPLICATION Additional Access and Amendments to the Bridge Improvement Measures (removal of the bridge) on Buttermilk Lane
LOCATION Land Formerly Known as Coalite on North And South Side Of Buttermilk Lane Bolsover
APPLICANT Mrs Sophie Watkin 10 Upper Berkeley Street London W1H 7PE
APPLICATION NO. 18/00178/FUL **FILE NO.** PP-06835124
CASE OFFICER Mr Chris Fridlington
DATE RECEIVED 22nd March 2018

BACKGROUND

This application proposes highway improvements to a length of Buttermilk Lane adjacent to part of a disused industrial site, which was formerly used for the production of the Coalite brand of smokeless fuel. Historically, the site has also been associated with dioxin emissions and pollution of the adjacent Doe Lea river and surrounding farmlands. The former Coalite site closed in 2004 leaving behind a derelict site and a legacy of land contamination issues.

Remediation of the site commenced in November 2016 and the clean-up of the site is part of a wider regeneration scheme including the provision of commercial buildings on land within Bolsover District. The regeneration scheme was granted outline permission in December 2015 (14/00089/OUTEA).

Extract from Masterplan attached to 14/00089/OUTEA



HIGHWAY IMPROVEMENTS

The existing outline planning permission includes consent for highway improvements to Buttermilk Lane (B6418) including replacement of the road bridge over the Doe Lea river, which is currently subject to a weight restriction. The details of this replacement bridge are subject of a separate application (18/00003/DISCON) which is currently pending consideration.

The existing permission also includes consent for highway improvements closer to what reads as the main access to the former Coalite site from Buttermilk Lane but these proposals did not include removing the 'railway bridge' which crosses over the disused railway line (the former Bolsover Branch Line) that passes under Buttermilk Lane.

These proposals included a 'shuttle system' shown on the plan below and it was intended that traffic signals would be used to control traffic flows and alternate the direction of traffic moving over the bridge. Two separate access points to the north of the proposed 'shuttle system' on Buttermilk Lane would then provide improved access to the re-developed site.

'The Shuttle System'

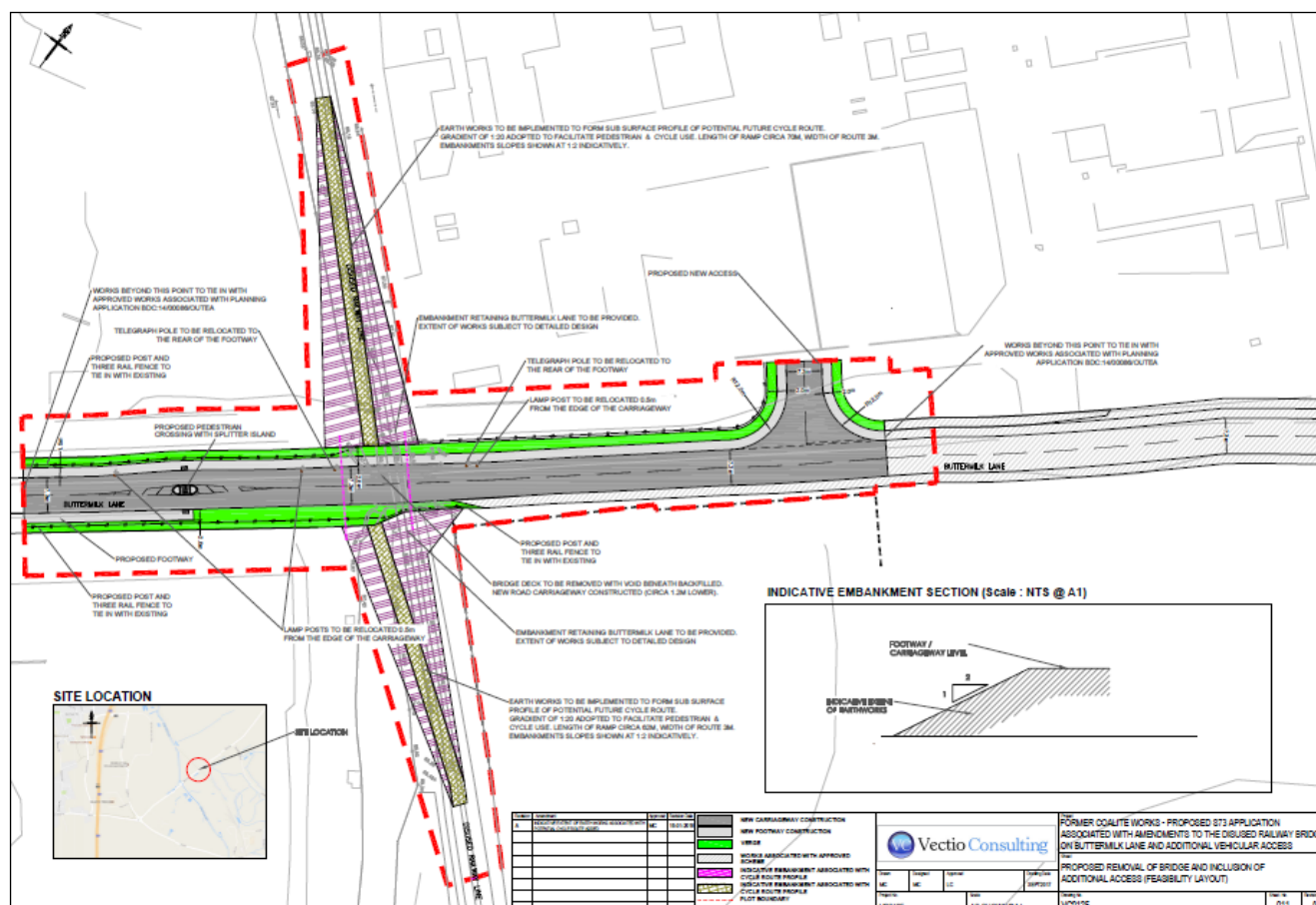


CURRENT PROPOSALS

The current application seeks full planning permission for a revised scheme of highway improvements including the removal of the railway bridge and road widening works to allow

for two-way traffic. These works will enhance visibility and road safety close to the existing access to the former Coalite site by removing the railway bridge and carrying out engineering works to backfill the void and reconstruct the road at a width of 7.3m to tie in with the approved works to the north and south. The removal of the bridge and the proposed alterations to Buttermilk Lane will also allow for the provision of an additional access into the site at a location where satisfactory levels of visibility could not have been achieved with the bridge in place. These proposals are shown on the plan below.

Current Proposals



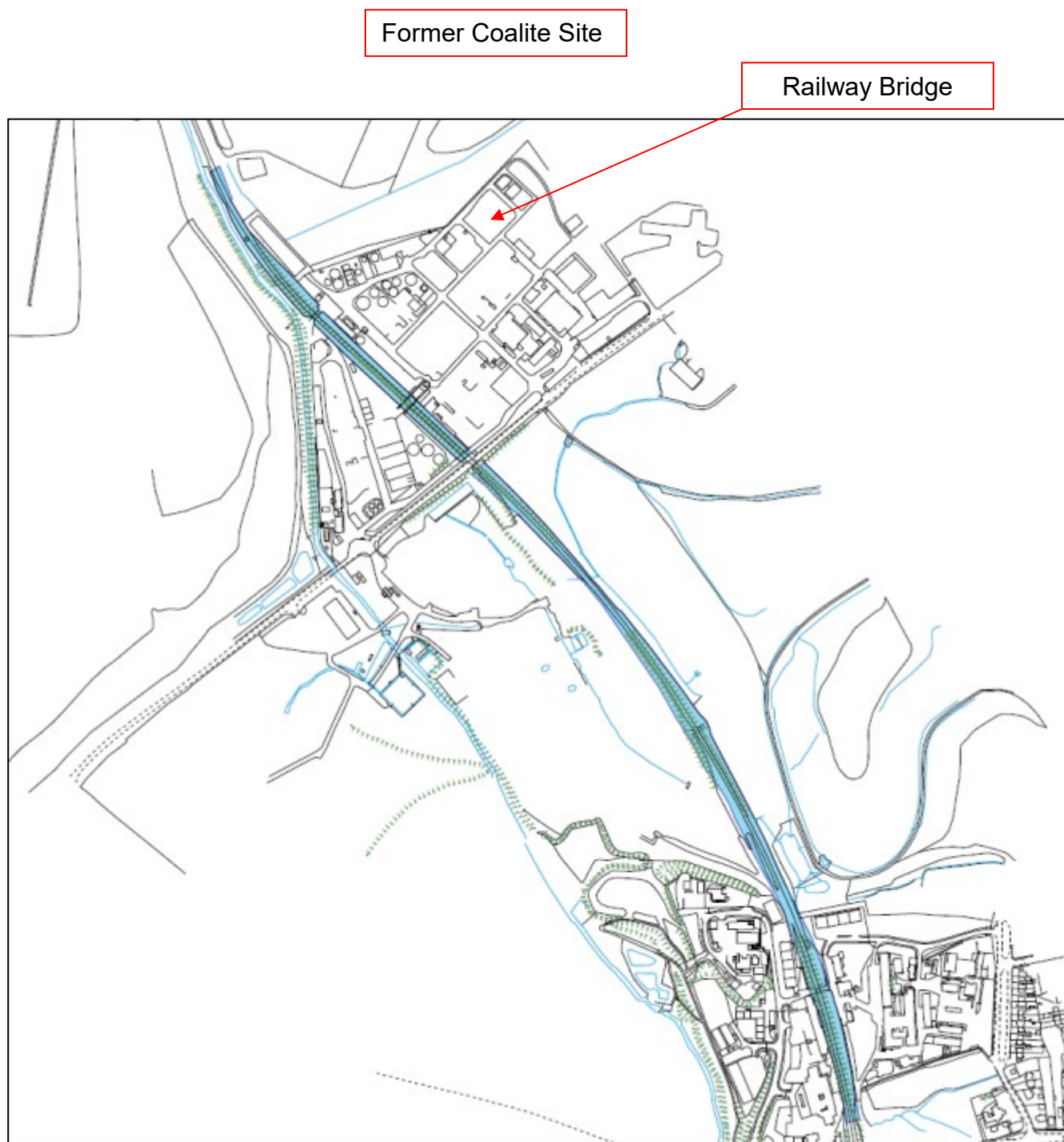
PROPOSED MULTI-USER ROUTE

Alongside the highway improvements, the current application proposes the creation of a ramped access from the disused railway line to the edge of Buttermilk Lane at its surface height as proposed in this application. The ramps are intended to safeguard the route of the proposed 'greenway' along the length of the disused railway line.

In planning terms, 'greenway' and 'multi-user route' have the same meaning – a traffic free route designed to be used by pedestrians, cyclists, horse riders and people with mobility aids (e.g. wheelchairs and mobility scooters). The emerging Local Plan does set out the Council's aspirations for a multi-user route through the former Coalite site (policy SS7), improvements to the cycle network in the Bolsover area (Policy ICTR9), and the creation of a multi-use route along the length of the former Bolsover Branch Line.

However, this application does not propose the creation of a greenway and the disused railway line has no rights of way along its length at the present time. There are also sections of the line that remain in the ownership of Network Rail as highlighted on the plan below. Therefore, the proposals for the creation of the greenway along the length of the disused railway line are outside of the scope of this application.

Section of Bolsover Branch Line in Network Rail's Ownership



KEY ISSUES

In light of the above conclusions on the scope of this application, it is considered one key issue in the determination of this application is whether the proposed improvements would

prejudice the future delivery of the proposed multi-user route along the former Bolsover Branch Line. However, this does not mean that the applicant is required to provide the necessary infrastructure to deliver a functional greenway or deliver on a preferred option; the applicant is simply required to ensure the greenway can still be delivered some time the future if permission were to be granted for the current application.

The other key issues in the determination of this application are highway safety and the potential impacts of the proposals on biodiversity. In this case, there are local concerns that Buttermilk Lane is unsafe in this location. The proposals will also result in the removal of trees along Buttermilk Lane and disrupt wildlife habitat along the section of the disused railway line within the application site.

AMENDMENTS

This application is a resubmission of a previously withdrawn application and includes an amended red-edged application site to include the proposals for tree removal and provision of the ramps up to Buttermilk Lane, which were not originally included in the previous application. No further revisions have been made to the current application

RELEVANT PLANNING HISTORY

02/00614/LAWEX: Application for Lawful Development Certificate approved November 2003 for various uses, principally B2 (General Industrial Use) but also including elements of B1 (Business Use – headquarters office), C3 (Dwelling houses – caretakers bungalow), agricultural use – land to rear of headquarters office complex) and woodland and marshland.

08/00755/OUTEA: Outline application for Industrial (Class B1 and B2) and Distribution Park (Class B8) Application disposed of (withdrawn) by the Local Planning Authorities (BDC and NEDDC) as various remediation issues needed resolution before determination of the application in October 2010.

13/00157/DETDEM Demolition of remaining buildings, structures and tanks by current applicant; approved July 2013.

14/00089/OUTEA Outline application for General Industrial (B2 uses), Warehousing (B8 uses), energy centre, a transport hub, open storage and a museum/visitor centre with details of access (all other matters reserved). The application was accompanied by an Environmental Statement. Approved December 2015.

16/00452/DISCON Discharge of Conditions 3 (Remediation & Phasing Strategy & Odour Management Plan), 4 (Remediation Targets), 6 (Independent Assessor), 8(i) (Remediation Implementation Plan & Method Statements), 8(ii) (Air Quality Management), 8(iii) (Noise & Vibration), 8(iv) (Ecological Management Plan), 19 (Asbestos in Soil Risk Assessment) of planning permission 14/00089/OUTEA for the remediation phase of the development. Conditions generally partially discharged October 2016.

17/00395/VAR – Application to delete condition 11 attached to planning permission

14/00089/OUTEA approved. The original condition required improvements to J.29A of the M1, which are no longer considered to be necessary.

17/00601/FUL – Application seeking full planning permission for highway improvements to Buttermilk Lane withdrawn prior to determination.

18/00002/DISCON - Discharge of Condition 15 (Design Framework) of planning permission 17/00395/VAR currently pending consideration.

18/00003/DISCON - Discharge of conditions 3 (odour assessment) and condition 12 (details of River Doe Lea bridge and Flood Corridor) of application currently pending consideration.

18/00186/DISCON - Discharge of conditions 8(i, ii, iii, iv) (environmental management) of planning application 17/00395/VAR currently pending consideration.

CONSULTATIONS

Bolsover Town Council – No response to date

Bolsover District Council (Environmental Health) – No response to date

Bolsover District Council (Leisure Services) – Objects to the proposals on the basis that the proposed ramp solution is unacceptable and an underpass solution should be agreed.

Bolsover District Council (Regeneration) – No response to date

Derbyshire County Council (Greenways) – No response to date

Network Rail - No observations to make

North East Derbyshire District Council – No response to date

PUBLICITY

The application has been publicised by site notice, press advert and neighbour notification. All interested parties that commented on the previous application (17/00601/FUL) have also been re-consulted. To date, the Council has received 16 letters of objection including representations from Chesterfield Cycle Campaign and a detailed letter submitted on behalf of Ride Bolsover.

The general thrust of many of these letters is that the ramped access is unacceptable for a range of different users and would prejudice the proposed greenway because users would have to cross a dangerous road to continue along the length of the trail. There are also concerns about the previous history of accidents along Buttermilk Lane and concerns that the ramp proposals do not meet the requirements of horse riders, cyclists or pedestrians. Taken together, the letters suggest the only appropriate solution would be the provision of an underpass, which reflects the advice offered by the Council's special project officer on behalf

of Leisure Services.

These representations are published in full on the Council's website.

POLICY

Bolsover District Local Plan

The most relevant saved policies in the 'adopted Local Plan' include:

GEN1: (Minimum requirements for development)

GEN2: (Impact of development on the environment)

ENV5: (Nature conservation interests throughout the District)

In summary, these policies require proper consideration of the potential impacts of development proposals on the local road network and on nature conservation interests throughout the District. They should also be afforded considerable weight in the determination in this application because they are consistent with national planning policies that promote delivery of sustainable development. However, the following policy is no longer relevant:

TRA 2: PROTECTION OF RAIL ROUTES

This policy would normally prevent planning permission being granted for development that would prejudice the re-use of the Bolsover branch line as a railway line. Network Rail have confirmed they are seeking to dispose of the section of line that remains in their ownership because the branch line is now severed from the remainder of the rail network. Therefore, policy TRA2 should be afforded no weight in the determination of this application.

Bolsover District Publication Local Plan

The most relevant policies in the 'emerging Local Plan' include:

SS7: Coalite Priority Regeneration Area

ITCR9: Local Transport Improvement Schemes

These policies set out the Council's aspirations for the creation of a multi-user track on the line of the disused railway line, which was formerly the Bolsover branch line. These policies should be afforded some weight because the emerging Local Plan now has Regulation 19 status because it is now out for public consultation prior to examination in public.

Other Guidance

East Derbyshire Greenways Strategy (1998)

This document shows the Bolsover Branch Line as a Tertiary Route (Route Partially Developed), which would be part of a proposed Staveley, Markham, Bolsover, Hardwick, Pleasley link.

Derbyshire Key Cycle Network (2017)

This document shows the Bolsover Branch Line as a proposed section of a 'Bolsover Loop' that links to the Archaeological Way.

National Planning Policy Framework

The most relevant national policies in the 'Framework' include Paragraphs 32 and 35: Promoting sustainable transport, which should be taken into account as relevant planning considerations.

Paragraph 32 of the Framework requires all development proposals to be provided with a safe and suitable access and for local planning authorities to consider refusing planning permission where development proposals would result in a severe adverse impact on the local road network.

Paragraph 34 of the Framework requires local planning authorities to 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.

ASSESSMENT

Principle

It is considered that the starting point for the determination of this application is recognising that the railway bridge in its current condition is an 'obstacle' that would prevent the regeneration of the former Coalite site coming forward. In this respect, the remediation of the site is clearly in the wider public interest taking into account that public funds were required to close a 'funding gap' to enable the clean-up of the site to commence after more than 10 years of dereliction.

It also has to be recognised that approval has already been granted for highway improvements to the railway bridge that involve a shuttle system that would include traffic lights controlling traffic flows. However, the current proposals offer a 'better solution' that would allow traffic to flow in both directions and better serve regeneration of the site in line with the aspirations of strategic policy SS7 in the emerging Local Plan. The regeneration of the site would achieve wider public benefits in terms of creating local job opportunities.

Therefore, officers consider the highway improvements proposed in this application to be acceptable in principle taking into account the proposals would help achieve the wider public benefits associated with the remediation and regeneration of the former Coalite site.

Highway Safety

The current proposals include removing the railway bridge and carrying out engineering works to backfill the void and to reconstruct the road at a width of 7.3m to tie in with the approved works to the north and south. The local highway authority have no objections to the proposals, subject to conditions, and officers consider that there would be a net gain in

highway safety terms by removing a feature that encourages dangerous driving i.e. the 'dip' after the railway bridge allows a vehicle to leave the ground if the vehicle is driven at sufficient speed and this type of driving has already resulted in at least one fatal road traffic accident at this location.

The removal of the bridge and the alterations to Buttermilk Lane will also allow for the provision of an additional access into the site at a location where satisfactory levels of visibility could not have been achieved with the bridge in place. The local highway authority are also satisfied that this new access would be safe and suitable. Therefore, the proposals do not give rise to any concerns on highway safety grounds but there remains significant local concerns about the potential road crossing linked to the proposals for a multi-user trail along the line of the disused railway track.

However, whilst it is considered these concerns are understandable, they are partly vested in concerns about the current situation rather than taking into account these proposals actually provide 'betterment' by improving road safety. From a planning perspective, these concerns are also offset and outweighed by the fact that the local highway authority have no objections to a road crossing for a multi-user trail in this location.

Therefore, there are no planning grounds to refuse planning permission for this application on highway safety grounds and in all other respects, there is no realistic likelihood that the current proposals would result in an adverse impact on the local road network. The current proposals would actually improve the safe and efficient movement of traffic along Buttermilk Lane compared to the current situation and the previously approved 'shuttle system'.

Consequently, officers consider that the proposals comply with the requirements of saved Local Plan policies GEN1 and GEN2 and national planning policies in the Framework because the proposals would improve road safety and the operation of the local road network whilst providing a safe and suitable access to development on the former Coalite site.

Wildlife

The current proposals will result in the removal of roadside trees along Buttermilk Lane to facilitate widening the road. The proposals also give rise to potential disturbance to bats and birds insofar as the railway bridge might provide roosting habitat and the removal of vegetation along the disused railway line to facilitate creation of the ramped access to Buttermilk Lane.

However, whilst the roadside trees have some value because they obscure views of the former Coalite site to a certain extent and some of the trees are reaching maturity, they are not protected by a tree preservation order and do not have any special ecological interest.

Therefore, it is unfortunate these trees will need to be removed if planning permission is granted for the current application but their loss is justified by the benefits of allowing the highway improvements to go ahead. Their loss would also be offset by a scheme of replacement planting that can be secured by way of a planning condition but the trees should be removed outside of the main bird nesting season (March - July) to avoid any other impacts on wildlife interests.

Similarly, the vegetation along the disused railway line should be removed outside of the main bird nesting season but the types of species along the railway line are generally self-seeding pioneer species that do not have any particular ecological value but would provide a potential habitat for other flora and fauna. However, the regeneration of the former Coalite site includes proposals for a substantial amount of green infrastructure that would offset concerns about the loss of a 'green corridor' and ensure the regeneration proposals, taken as a whole, would achieve a net gain in bio-diversity terms. Therefore, there are no overriding objections to this aspect of the proposals also noting that a similar loss of potential habitat would occur if a green way was to be created along the disused railway line.

Finally, the railway bridge has some potential to provide habitat for bats but when the bridge has been assessed previously; it did not support bat roosts. It was also found that bat activity along the railway line was generally low, with bats preferring the route provided by the Doe Lea river for foraging and commuting. Taking into account, there have been no significant changes since that survey work was undertaken, it is unlikely that the bridge would host roosting bats given that the nature of the bridge means it would appear to provide sub-optimal habitat for bats in any event. Therefore, it is appropriate in this case to rely on the provisions of the Wildlife Act, which would prevent any works taking place without appropriate mitigation in the unlikely event that bats were found to be present during the construction phase of the proposed development.

It is therefore considered the proposals would not have unacceptable adverse impact on wildlife with regard to saved Local Plan policy ENV5, subject to appropriate planning conditions and informatives. Furthermore, the proposals also need to be considered in the wider context of the proposed regeneration of the site, which will deliver a net gain in biodiversity. The net benefits of the wider regeneration of the site serves to further offset and outweigh any adverse impacts arising from the loss of the roadside trees, the railway bridge, and vegetation along the disused railway line.

Proposed Greenway

The main objection to the current proposals in representations on the application is the absence of an underpass to facilitate the proposed use of the disused railway line as a multi-user trail. In representations made on behalf of Ride Bolsover and by the Council's special project officer, a large amount of technical detail has also been provided which explains why the proposed ramp and crossing points would not meet 'best practice' standards and how and why an underpass could and should be provided.

However, it must also be recognised that this application does not seek planning permission for a multi-user track or infrastructure to support the proposed greenway. Equally, to avoid conflict with the emerging Local Plan, the application must not prejudice the aspirations to provide a multi-user track along the Bolsover branch line but this does not mean that the applicant is required to provide the necessary infrastructure to deliver a functional greenway or deliver on a preferred option. Therefore, much of what has been said in representations falls outside the scope of this application when also taking into account there is no immediate prospect of the proposed greenway being delivered at this time because of land ownership issues, amongst other things.

Nonetheless, Derbyshire County Council (who would be most likely to take forward the proposed greenway along that Bolsover Branch Line) have no objections to the proposals to provide a ramped access to Buttermilk Lane and, as noted above, have not expressed any objections to the principle of a road crossing in this location on highway safety grounds. The County Council's position therefore weighs heavily against insisting on the underpass proposed in representations as a condition of granting planning permission for the current application.

Although no costing or sectional details have been provided with the submitted application, the applicant also states that to provide a multi-user track under a bridge would require lowering the existing level of the disused railway line giving rise to drainage issues. Taken together, this means that the costs and ongoing liability associated with providing and maintaining an underpass including providing a drainage solution are not viable in the context of the development proposals and not viable from the perspective of the County Council if they were to take on the proposed greenway, which is the most likely outcome if the greenway is to be delivered.

In addition, whilst it is said in representations that public money has been received by the developer and this should mean the developer provides an underpass in the wider public interest: the 'public money' referred to was gap funding that has been used for its intended purpose to facilitate remediation of the site, which is otherwise considered to be of overriding public importance. It is therefore not considered reasonable to require the developer to provide an underpass when taking into account public funds do not exist to pay for its provision and the County Council are also satisfied the ramps proposed in this application would safeguard the route of the proposed greenway in accordance with the aspirations of the emerging Local Plan.

Therefore, the County Council's position adds weight to an officer conclusion that the current proposals do not otherwise conflict with national planning policy that requires this Council to 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. In particular, officers consider that the ramp solution provides for access to the proposed greenway including for people with a disability in a location that will promote opportunities to use the multi-user trail in accordance with national policy over and above what may be achieved by the proposed underpass solution.

Consequently, the absence of any proposals for an underpass in this case does not constitute a sustainable reason for refusal of the current application. However, officers consider that the conditions suggested by the local highway authority should be attached to any permission for the current application to ensure that the proposed ramps would meet the required standards in terms of width, gradient and landing strips for a multi-user trail, as far as is practicable.

Other Relevant Considerations

From the above sections of this report, it is considered that the current application adequately addresses the key issues in the determination of this application namely whether the proposed improvements would prejudice the future delivery of the proposed multi-user route

along the former Bolsover Branch Line, highway safety and the potential impacts of the proposals on biodiversity.

In this case, there are no other relevant planning considerations that would otherwise indicate planning permission should be refused for the current application given that the current proposals would have no other impacts on the local area that have not already been considered when outline planning permission was granted for the wider regeneration of the former Coalite site. However, it is also reasonable to conclude that by virtue of the location of the application site, the proposals would not be unneighbourly or have any significant impact on any designated or non-designated heritage assets including above and below-ground archaeology.

The proposals would also not generate any additional traffic beyond what would be anticipated from the regeneration proposals and would not give rise to any further issues around land contamination because the current proposals would be carried out within the existing schedule of remediation. The landscape and visual impact of the proposals would also be minimal in the context of the wider regeneration of the former Coalite site but in isolation, replacement tree planting as proposed earlier in this report would mitigate for the loss of the existing roadside trees.

Finally, reference has been made to HS2 but the application site is not within the safeguarded area for the high speed line and the mitigation for the HS2 proposals is a matter to be considered separately as the proposals for the high speed line are progressed. Therefore, no weight can be attached to the potential impact of the HS2 proposals in the determination of this application one way or another.

Conclusions

It is therefore concluded that there are no other planning considerations that indicate planning permission for the current application, which for the above reasons and subject to appropriate planning conditions, meets the requirements of saved Local Plan policies and national planning policies in the Framework and accords with the aspirations set out in the emerging Local Plan for a proposed greenway along the former Bolsover Branch Line. Accordingly, the current application is recommended for conditional approval.

Human Rights

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

EIA Screening Opinion

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

Statement of Decision Process

The Council's officers have worked positively and pro-actively with the applicant to work addressing concerns raised in respect of the previous application, which was withdrawn prior to determination.

RECOMMENDATION

The current application be APPROVED subject to the following conditions:

1. The development shall be carried out within a period of three years from the date of this decision.
2. The development hereby permitted shall be carried out in complete accordance with Drawing No. VC0125 Revision A subject to the following conditions:
3. No development shall take place until detailed drawings of a planting scheme which includes the number, size, species and position of trees and shrubs shall be submitted to and approved in writing by the local planning authority. Thereafter, the approved planting scheme shall be carried out within one planting season of completing the development. If any trees are removed or found to be dying, severely damaged or diseased within 5 years of being planted then they must be replaced with trees of a similar size and species within one planting season.
4. No development shall take place until a construction management plan or construction method statement has been submitted to and been approved in writing by the Local Planning Authority. The approved plan / statement shall be adhered to throughout the construction period. The statement shall provide for the storage of plant and materials, site accommodation, loading, unloading of goods' vehicles, parking of site operatives' and visitors' vehicles, routes for construction traffic, hours of operation, method of prevention of debris being carried onto highway and any proposed temporary traffic restrictions.
5. No development shall take place until a detailed design for the removal of the bridge and backfill of the void, layout, construction, drainage and lighting of the new road have been submitted and approved in writing by the Local Planning Authority in consultation with the County Highway Authority. For the avoidance of doubt, the applicant will need to enter into an Agreement with Derbyshire County Council under Section 278/72 of the Highways Act 1980.
6. Prior to being taken into use, the new access shall be laid out in accordance with application drawings VC0125/011 & 012, having a 7.3m carriageway, 2 x 2m footways, 12m radii and visibility sightlines of 4.5m x 160m in each direction. The area in advance of the sightlines shall be levelled, constructed as highway and not be included in any plot or other sub-division of the site.

INFORMATIVES

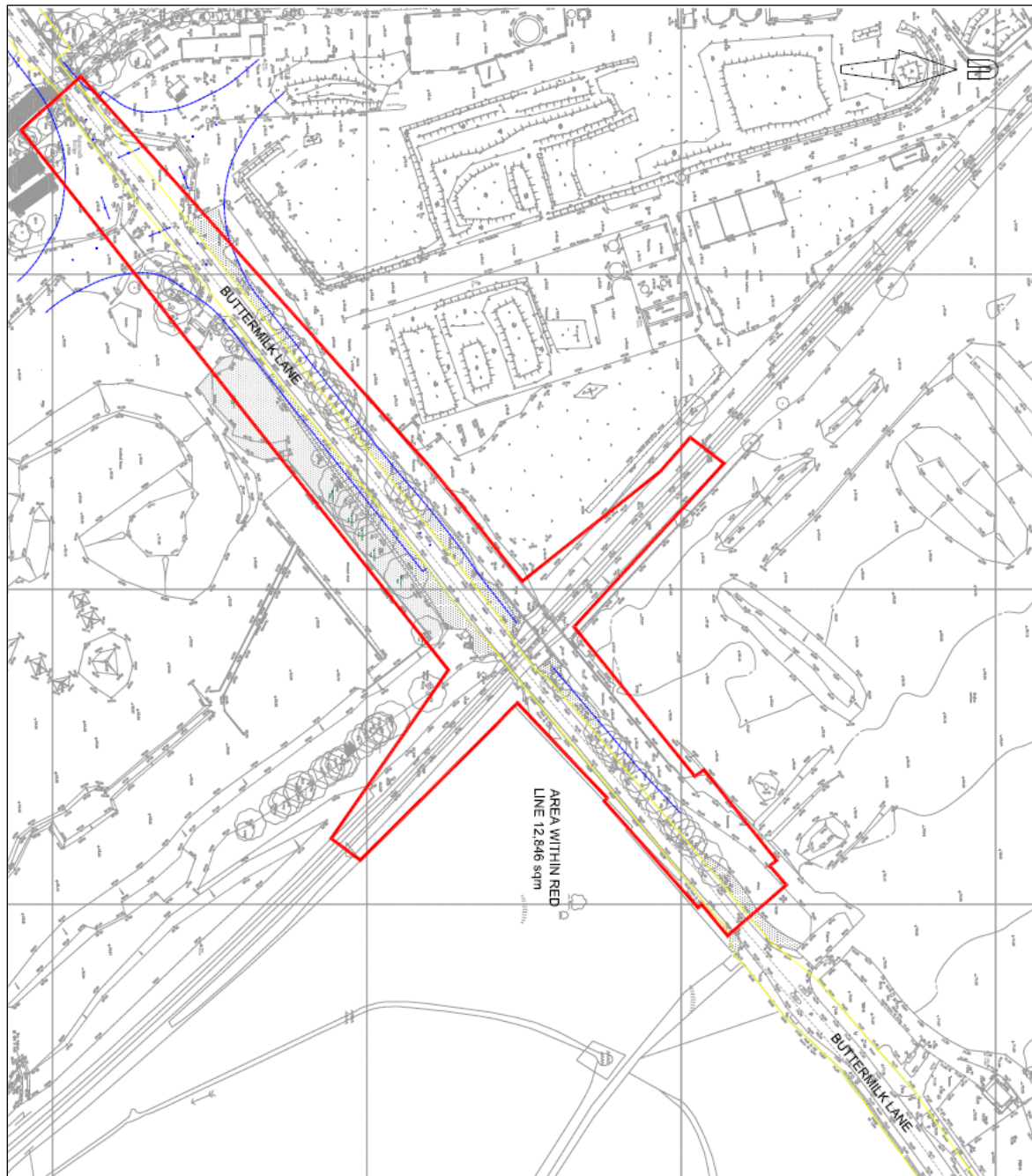
Highways

- a) Pursuant to Section 278 of the Highways Act 1980 and the provisions of the Traffic Management Act 2004, no works may commence within the limits of the public highway without the formal written Agreement of the County Council as Highway Authority. It must be ensured that public transport services in the vicinity of the site are not adversely affected by the development works. The appellant should be aware that this will be the subject of separate approval. Advice regarding the technical, legal, administrative and financial processes involved in Section 278 Agreements may be obtained from the Economy, Transport and Environment Department at County Hall, Matlock. The applicant is advised to allow at least 12 weeks in any programme of works to obtain a Section 278 Agreement.
- b) Construction works are likely to require Traffic Management. Advice regarding procedures should be sought from Derbyshire County Council's Traffic Management section (01629 538686). All road closure and temporary traffic signal applications will have to be submitted via the County Councils web-site; relevant forms are available via the following link -
http://www.derbyshire.gov.uk/transport_roads/roads_traffic/roadworks/default.asp

Wildlife

- a) When the development hereby permitted is carried out, any person on site must avoid taking, damaging or destroying the nest of any wild bird while it is being built or used, and avoid taking or destroying the egg of any wild bird. These would be offences (with certain exceptions) under the Wildlife and Countryside Act 1981, the Habitats Regulations 1994 and the Countryside and Rights of Way Act 2000. It is therefore recommended that any removal of habitat and/or works affecting trees should be carried out outside of the bird-nesting season (March to July) or under the supervision of a suitably qualified ecologist.
- b) When the development hereby permitted is commenced, any person on site must not intentionally kill, injure or take a bat, or intentionally or recklessly damage, destroy or block access to any structure or place that a bat uses for shelter. These would be offences under the Wildlife and Countryside Act 1981, the Habitats Regulations 1994 and the Countryside and Rights of Way Act 2000. Therefore, it is advised that works must stop immediately if bats are found to be present at any stage of the development and a suitably qualified ecologist should be instructed to advise on the appropriate action to take including advising whether a European Protected Species Licence is required prior to works re-commencing.

Site Location Plan



PARISH

Pinxton

APPLICATION	Change of use to showman's site
LOCATION	Land Adjoining 7 Brookhill Road, Pinxton
APPLICANT	Mr & Mrs Cox
APPLICATION NO.	18/00026/FUL
CASE OFFICER	Rory Hillman
DATE RECEIVED	10.01.2018

DELEGATED APPLICATION REFERRED TO COMMITTEE BY: CLLR DOOLEY

REASONS FOR REFERRAL: The potential cumulative adverse impacts of the proposals on the character, appearance and amenities of the local area.

SITE

The application relates to a rectangular parcel of land of approximately 0.25 hectares situated on a corner plot at the junction of Brookhill Road and Erewash Road. The site is located within an established employment area known as Brookhill Industrial Estate. The site's most recent use was as an overspill car park. At the time of the site visit the site had been cleared and underground services were being installed.

PROPOSAL

The application seeks planning consent for the change of use of the site from an overspill car park to use as a travelling showpersons' site to provide six residential caravans to serve as winter quarters, and including space for the storage and maintenance of fairground equipment and car parking.

AMENDMENTS

None

RELEVANT HISTORY

None

CONSULTATIONS

Bolsover District Council (Engineers): No objections

Bolsover District Council (Policy Team) – No objections for the following reasons:

It is considered that the proposal is compliant with policy GEN 8 – Settlement Frameworks, but not with EMP 5 – Protection of Sites and Buildings in Employment Uses, however, the

specific circumstances that apply regarding the type and nature of this proposed use make it an acceptable use in this location.

Therefore, a decision to approve the application would be acceptable from a policy perspective.

Derbyshire County Council (Highways): No objections subject to conditions

Parish Council: No response to date.

PUBLICITY

The application has been publicised by a site notice and neighbour notification. Two third party representations in objection have been received raising the following points:

- Locally identified need for travelling showpersons' sites is met and exceeded by existing planning permissions on other sites;
- The site is not capable of providing satisfactory living environment for future occupants;
- The site's location would mean any future occupants would have to travel through the surrounding industrial estate to reach local facilities, which could be dangerous;
- The availability of land for employment uses would be reduced.
-

POLICY

Bolsover District Local Plan ('the adopted Local Plan')

GEN 1 Minimum Requirements for Development
GEN 2 Impact of Development on the Environment
GEN 5 Land Drainage
GEN 6 Sewerage and Sewage Disposal
GEN 7 Land Stability
GEN 8 Settlement Frameworks
HOU 2 Location of Housing Sites
HOU 14 Residential caravans and mobile homes.
HOU 15 Sites for Gypsies and Travellers
EMP 5 Protection of Sites and Buildings in Employment Uses
TRA 1 Location of New Development
TRA 10 Traffic Management

Bolsover District Publication Draft Local Plan ('the emerging Local Plan')

LC6: Applications for Gypsies, Travellers and Travelling Showpeople

National Planning Policy Framework ('the Framework')

Paragraphs 14 and 17 with regard to the presumption in favour of sustainable development and core planning principles.

Planning Practice Guidance also offers further guidance on the application of national policies set out in the above paragraphs.

Planning Policy for Travellers Sites 2015

Paragraphs 24 and 26 are relevant in guiding the decision making process with regard to applications for planning permission for Travelling Showpeople sites.

ASSESSMENT

Evidence of Need

The Derby, Derbyshire, Peak District National Park Authority and East Staffordshire Gypsy and Traveller Accommodation Assessment 2015 (GTAA 2015) evidence document which has informed the approach being taken forward in the Emerging Local Plan establishes that the total accommodation need in Bolsover District is for 13 Travelling Showperson pitches up to 2034, of which there is an immediate need for 8 pitches up to 2019.

In common with Housing policies in the NPPF, a 5 year supply requirement exists in relation to Travelling Showpeople sites as set out within the Planning Policy for Traveller Sites (PPTS) document 2015. Where the Council cannot demonstrate 5 year supply, this should be a 'significant material consideration.'

The Council's GTAA evidence establishes that for the time period 2014 – 2019, 8 No. pitches would be required. A recent permission in Pinxton sought to permit 15 units and is therefore a commitment that could meet the identified need in its entirety if implemented. Although it is unclear if this consent has yet commenced (and contamination may be a barrier), in the view of the policy team, this consent is counted toward (and meets) the identified need at present. The weight that would be afforded in favour of the application if the Council could not demonstrate a five year supply of sites is therefore reduced correspondingly.

However, this does not automatically mean the proposal should be refused, only that it should be considered against the development plan and other material considerations without benefiting from the positive weighting that a lack of provision in this regard would provide.

Acceptability of Location

The development is within the settlement framework, close to local services and facilities and is considered to be a reasonable location for the use of large vehicles and maintenance and storage activity common to Travelling Showpeople's sites. It is also considered that a location that affords easy access to the motorway network away from residential areas but close to local amenities and services is appropriate for the proposed use given its mixed residential/industrial nature.

The site in question meets all these requirements. The conflict inherent in residential dwellings within a commercial/industrial area referred to in third party representations is acknowledged but is considered to be outweighed by these considerations.

In short: given that the proposal includes industrial and residential elements, an industrial/non-residential location within reach of local services is required. This site provides both. There are no overriding issues that would preclude a residential use in this location in conjunction with an industrial one, as is the case here. Discussion of amenity and highway safety impacts are included below.

Compliance with adopted Local Plan

The application site is small and within Pinxton's settlement framework. Local Plan Policy HOU 2 Location of Housing Sites states that, within settlement frameworks, planning permission will be granted for "applications for residential development on small sites... providing the proposals comply with the policies and proposals in this local plan". Therefore, the principle of residential development is accepted, subject to the proposals compliance with the Local Plan and other relevant material considerations.

Beyond those that establish the principle of residential development within settlement frameworks, the most pertinent Local Plan policies in this instance are: GEN 1, GEN 2, HOU 14 and EMP 5. Of these, GEN 1 and GEN 2 are addressed under Amenity and Highways matters below. Policy HOU 15 Sites for Gypsies and Travellers in the adopted Local Plan is not relevant to the application given that Travelling Showpeople do not meet the definition of Gypsies and Travellers that informs this policy.

Policy HOU 14 Residential Caravans and Mobile Homes is relevant to the application and states that planning permission will be granted for new caravan sites provided the amenity of neighbouring properties or land would not be materially harmed, and that the site would have adequate servicing and drainage arrangements. These considerations are discussed below.

Policy EMP 5 Protection of Sites and Buildings in Employment Uses precludes change of use of employment sites unless certain criteria are fulfilled, which in this case they would not be. Although the proposal would result in a reduction in available employment land, albeit slight, the nature of the use is such that there is an element of employment use within the proposal in that it would provide for the maintenance and storage of fairground equipment.

The conclusion of the policy team is therefore that although there is a superficial conflict with this policy, no objection would be justified in practice. The reduction in available employment land would be limited by the size of the site and qualified by the mix of uses proposed. It is also arguable that the use of the site as storage/maintenance facility provides more employment than the site's last recorded use as an overspill car park. The intentions of EMP 5 are therefore considered to be met and no significant harm to the available stock of land compatible with employment uses is anticipated.

Compliance with emerging Local Plan

The more recent policy in the emerging Local Plan takes into account the more up to date traveller site guidance. Policy LC6 Gypsies, Travellers and Travelling Showpeople sets out

that proposals will be supported where it is shown to meet an identified need. Although this need has been assessed as having been met by extant planning permissions elsewhere, the conclusion of the policy team in their consultation response on this application is that the proposal is consistent with the intentions of policy LC7.

Similar functional matters are raised to those within Policy HOU 14 with regard to the location relative to services and access to the road network. In addition the policy suggests at LC7(j) that S106 legal agreements should be used to secure the use by Travelling Showpeople meeting the definition. Such a matter could reasonably be conditioned and therefore, a S106 is not justified in this case.

Planning Policy for Traveller Sites (2015)

The Planning Policy for Traveller Sites document is a material consideration in the assessment of the proposal. Of particular relevance is paragraph 26 which sets out the criteria that should be afforded weight in the assessment of proposals for Travelling Showpeople sites. These promote:

- Use of brownfield land
- The enhancement of the environment and openness of the site
- Facilitation of healthy lifestyles
- To avoid excessive enclosure of the site

To take each consideration in turn: the site would provide an effective use of a brownfield site; the tree planting already undertaken is considered to enhance the local environment and avoid excessive enclosure simultaneously, a condition requiring the agreement of a landscaping scheme is recommended below; the site is within 300 metres of a recreation ground which provides the opportunity for physical exercise, given that this is a relatively small site and that only six dwellings are proposed, it would be inappropriate to require the provision of open space within the site.

Paragraph 24 states that the established level of need for traveller sites should be considered. This is addressed above.

Character and Appearance

Significant character or landscape implications are not anticipated as a consequence of the proposals given the location of the site within an established employment area. The static large units and rides being maintained on the site would be sited behind established palisade fencing which has also been supplemented by tree planting. Moreover the caravans and associated vehicles will be observed in close association with units of an industrial appearance and hence will not be viewed as isolated development in the street scene. As such it is considered the character and appearance implications as a consequence of the proposals will be minimal and the proposals would accord with Local Plan Policy GEN2.

Highways Matters

The access into the site is established. The Highway Authority raise no objection to the use of

the site for in this manner subject to the provision of one parking space per proposed caravan and restricting the provision of further gates to the site. Subject to these conditions, Officers consider the development would be in accordance with Local Plan policy GEN 1.

The issue of highway safety has been raised in third party representations received. It is true that occupants of the site would have to travel through the northern part of Brookhill Industrial Estate in order to access Pinxton's centre. However, there are footways on both sides of the route out of the industrial estate that would be most likely to be taken by occupants of the site to the centre of the village to the north, the total length of which is less than 250 metres. The presence of heavy goods vehicles is acknowledged but this is also true of several of the main routes through and within Pinxton, many of which also have residential dwellings on them. In light of these considerations and in the absence of any objection from the County Highway Authority, no significant increase in risk to highway safety as a result of the proposal is anticipated.

Amenity Impacts

In terms of the impact of a residential site on the use of nearby properties, the site proposed is relatively small scale and is unlikely to raise wider noise or disturbance impacts. In the reverse, whilst it is acknowledged that the provision of residential dwellings in the context of an industrial area will have implications for the residential amenity of future occupants of the site, these considerations are outweighed by the need for land uses such as this one to be located away from predominantly residential areas due to the partially industrial nature of the storage/maintenance element of the use and the requirement for a relatively large site for the same reason.

Moreover neighbouring units are not likely to have a significant effect on the use of the site given the hours of use will generally be outside the most sensitive hours that would affect use of the site. Tree planting already undertaken at the site's boundary with Brookhill Road will alleviate some of the noise and air quality impacts associated with the movements of heavy goods vehicles and a condition is recommended below to secure the submission of a landscaping scheme detailing the location of these trees and to ensure that they are retained.

Adopted policy HOU14 does require mains utilities to be provided. In discussions with the applicant it was confirmed that the site is to be provided with mains water and mains electricity, as well as connection to the sewer network. Conditions will require compliance with this approach. Taking the above matters into account, Officers are satisfied the site is designed to provide for a reasonable level of amenity for future occupants. On this basis the proposed development is considered to accord with the requirements of saved Local Plan policies GEN 1, GEN 2 and HOU 14.

Conclusions

It is therefore concluded that the proposals sufficiently accord with local and national policies and specific guidance in relation to Travelling Showpeople that a conditional approval is warranted in this case. Accordingly, it is recommended that planning permission be granted for the current application subject to appropriate planning conditions.

Other Matters

Listed Building: None affected;

Conservation Area: None affected;

Crime and Disorder: No crime and disorder implications are considered to result from the development proposals;

Equalities: The above report adequately covers the Council's responsibilities to respect the rights of the Traveller community in line with National Planning Policy;

Access for Disabled: The pitches proposed will have relatively level access;

SSSI Impacts: None affected;

Trees (Preservation and Planting): Condition recommended below to ensure the description and retention of trees already planted on site;

Biodiversity: No significant difference in potential habitat for flora or fauna from the previous land use;

Human Rights: The relevant provisions of the Human Rights Act, including the qualified right to the peaceful enjoyment of private property, are adequately considered in the above report.

RECOMMENDATION

The application be APPROVED subject to the following conditions:

1. The development hereby permitted shall be commenced within three years of the date of this decision.

Reason: Y101 in compliance with legislation

2. The proposed caravans shall not be occupied until such time as full details of soft landscape proposals have been submitted to and approved by the Local Planning Authority. These details shall include, as appropriate:
 - Planting plans
 - Written specifications (including cultivation and other operations associated with plant and grass establishment)
 - Schedules of plants, noting species, planting sizes and proposed numbers /
 - densities where appropriate

All soft landscape works shall be carried out in accordance with the approved details and to a reasonable standard in accordance with the relevant recommendations of appropriate British Standards or other recognised Codes of Good Practice. Any trees or plants that, within a period of five years after planting, are removed, die or become, in the opinion of the Local Planning Authority, seriously damaged or defective, shall be replaced as soon as is reasonably practicable with others of species, size and number as originally approved, unless the Local Planning Authority gives its written consent to any variation.

Reason: To ensure the provision, establishment and maintenance of a reasonable standard of landscape in the interests of visual amenity in accordance with policy GEN 2 of the Bolsover District Local Plan and paragraph 26 of the Planning Policy for Traveller Sites policy document 2015.

3. The proposed caravans shall not be occupied until such time as a suitable scale drawing has been submitted to and agreed, in writing, by the Local Planning Authority in consultation with the Highway Authority demonstrating a minimum of 6 off-street car parking spaces of minimum dimensions 2.4m x 5.5m clear of the access and manoeuvring space and the spaces have been provided on site. Once provided, they shall be maintained thereafter clear of any impediment to their designated use.

Reason: In the interests of highway safety in accordance with policy GEN 1 of the Bolsover District Local Plan.

4. In perpetuity all future occupants of the site hereby permitted shall meet the 'Travelling Showperson' definition within Annexe 1 of the Planning Policy for Traveller Sites Guidance 2015 (or any future guidance replacing or re-enacting this guidance).

Reason: The development hereby permitted is granted partially on the basis the site is appropriate for Travelling Showperson accommodation due to the specific site requirements associated with Travelling Showperson accommodation and equipment storage and maintenance. The condition is imposed to ensure that the site is not open to a purely residential caravan use which would be contrary to the development plan.

5. No more than 6 caravans and/or mobile homes (whether for storage or human habitation), as defined in the Caravan Sites and Control of Development Act (1960) and the Caravan and Sites Act 1968 (and any act or guidance supplementing, revoking or re-enacting those acts), other than those expressly approved by this consent, shall be placed on the land for temporary or permanent purposes. The agreement of the Local Planning Authority shall be issued in writing prior to the siting of any further caravans in addition to those expressly permitted.

Reason: In order to ensure the use of the site remains in line with the proportion of users proposed under the application to avoid additional uncontrolled highways and amenity impacts.

6. Within 1 month of the commencement of the use hereby permitted, mains drainage, mains water and mains electricity utility services shall be provided and made available for use on the site. Thereafter the utilities provided shall be retained for the life of the development.

Reason: In the interests of the amenity and living environment of future occupants and neighbouring properties.

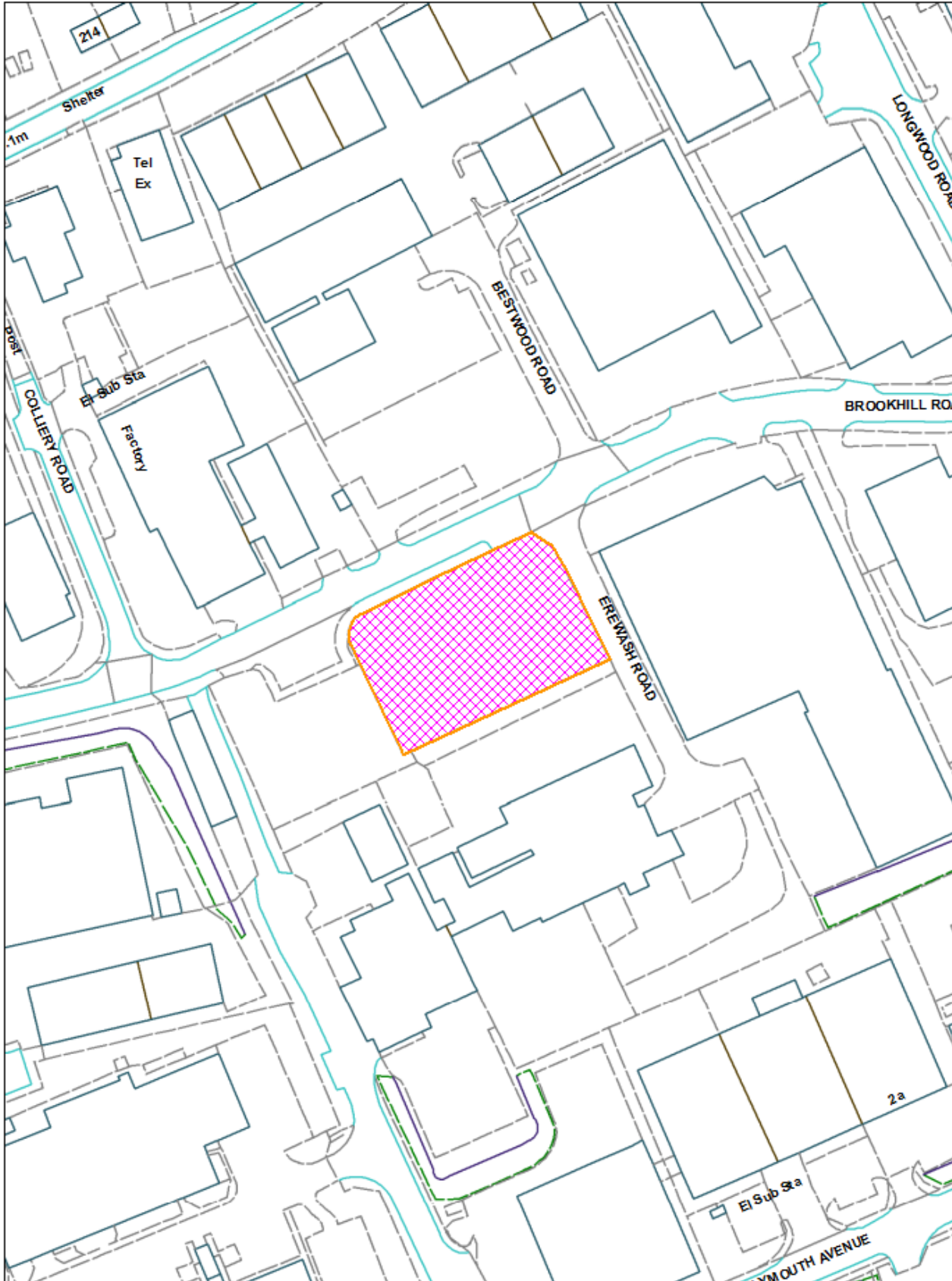
7. There shall be no gates other than those already installed and such gates shall open inwards only, unless otherwise agreed in writing by the Local Planning Authority.

Reason: In the interests of highway safety in accordance with policy GEN 1 of the Bolsover District Local Plan.

Informative Notes:

1. The sewer records do not show any public sewers within the curtilage of the site. However, the applicant should be made aware of the possibility of unmapped public sewers which are not shown on the records but may cross the site of the proposed works. These could be shared pipes which were previously classed as private sewers and were transferred to the ownership of the Water Authorities in October 2011. If any part of the proposed works involves connection to / diversion of / building over / building near to any public sewer the applicant should be advised to contact Severn Trent Water in order to determine their responsibilities under the relevant legislation.
2. All proposals regarding drainage will need to comply with Part H of the Building Regulations 2010.
3. The Highway Authority recommends that the first 5 metres of the proposed access should not be surfaced with a loose material (e.g. unbound chippings or gravel). In the event that loose material is transferred to the highway and is regarded as a hazard or nuisance to highway users, the Authority reserves the right to take any necessary action against the landowner.
4. Pursuant to Sections 149 and 151 of the Highways Act 1980, steps shall be taken to ensure that mud or extraneous material is not carried out of the site and deposited on the public highway. Should such deposits occur, it is the applicant's responsibility to ensure that all reasonable steps (e.g. street sweeping) are taken to maintain the roads in the vicinity of the site to a satisfactory level of cleanliness.

Not Set



Bolsover District Council

Planning Committee

9th May 2018

<u>Update: Section 106 Agreements</u>
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Report of the Planning Manager (Development Control)

Purpose of the Report

- To ensure that the Planning Committee retains appropriate oversight of the procedures for recording and monitoring Section 106 obligations and the appropriate discharge of these obligations.

Report Details

1. Background

- 1.1 In September 2017, members of the Planning Committee noted the new procedures for recording and monitoring Section 106 obligations proposed by officers. At the same meeting, members agreed with an officer recommendation that compliance with planning obligations in s.106 agreements should be reported to the Planning Committee on a quarterly basis. This report is the second of these 'status reports' following the first report on 10th Jan 2018, and this report is intended to give members the opportunity to assess the effectiveness of the updated procedures as well as receive up-to-date information on ongoing cases where planning obligations are involved.
- 1.2 It was agreed that it is important to provide this information to members for two key reasons: (i) if obligations required to make a development acceptable in planning terms aren't properly discharged then there is a risk of harm to the Council's reputation and public confidence in the Council's decision making; and (ii) there are strict criteria on how and when Section 106 contributions received by the District Council should be spent; if these criteria aren't met then there is a risk the proposed contribution will have to be returned to the developer and the associated infrastructure will not be provided.
- 1.3 Consequently, it is not only important that the District Council has a robust procedure for recording and monitoring Section 106 obligations, it is also important that there is appropriate oversight of how effectively these procedures work in practice: hence the purpose of this report.

2. Current Position

- 2.1 The current financial spreadsheet is attached as Appendix A. The spreadsheet shows that there is only one case where the deadline for spending S106 money received is approaching the 5 year deadline. This is at line 36 (Vale Croft, Carr Vale Bolsover). In this case, the Council has less than 5 months remaining to spend £8,067 after which time it will need to be returned to the developer if not spent. The account is for upgrading neighbourhood open space facilities within Old Bolsover Parish. The Council's Leisure Officer has assured the S106 monitoring group that he already in the process of appointing a contractor and that the remaining money in this account will be spent before the deadline.
- 2.2 There are no other areas of concern in respects of payments received and the deadlines for expenditure.
- 2.3 It was also reported in January that the only obligations that have been triggered and have not been received are in respect of Carter Lane West South Normanton (14/00551/FUL). These have now been received and all obligations discharged. Contributions include:-
- i. Education contribution £47,100.71 direct to DCC
 - ii. TRO £3,099 direct to DCC
 - iii. Art £5,165
 - iv. Play £32,409
 - v. Sport £38,527
- 2.4 In terms of current development sites, there are a number of sites where development has been commenced and officers are monitoring progress against S106 trigger points. The current monitoring list includes:
- The Edge, Clowne (12/00529). Permission for 149 dwellings now completed. £100,000 maintenance sum payable to BDC when Public Open Space adopted following resolution of snagging issues.
 - Creswell Road, Clowne (14/00603/FUL) permission for 28 dwellings. Now commenced but trigger not reached (20 occupations). Not imminent (only one dwelling completed). Development appears to have stalled at the moment.
 - Skinner Street Creswell (15/00368/FUL) permission for 82 dwellings. Recently started. The only requirements are for a School Link and footpath link to be delivered by 50th occupation.
 - Meridian Close, Bolsover (17/00314/FUL). Permission for 35 dwellings. Development has recently commenced. The Applicant has paid the following obligations in advance of the triggers being reached:-
£27,475 informal play in the vicinity of the site
£32,690 formal sport in the parish.
Also 3 affordable houses yet to be provided – trigger 16 occupations.
 - Mooracre Lane Bolsover (17/00234/FUL). Permission for 212 dwellings. Just started on site in April 2018 (although pre-start conditions not yet discharged so not yet formally or legally commenced).

Various S106 obligations with various phased triggers. Traffic monitoring sum due to DCC on commencement. Otherwise the first trigger due for BDC payments is at 60 occupations.

- Brookvale Shirebrook Keepmoat (14/00594) permission for first phase 153 dwellings. 127 completions at April 2018. Highways/GP surgery/Bus sum £879,000 received by BDC. £310,000 of this amount now transferred to DCC for Highway improvements. Remaining money for CCG (now complicated by multiple expansion options) and Bus Service incentive or further highway works.
- Station Road, Langwith Junction (16/00530/FUL). Permission for 68 dwellings. Approximately 10 dwellings constructed at April 2018. Trigger for payment is 34 dwellings occupied so not yet reached. Sums eventually due:-
£52,000 informal - to upgrade Langwith Rec
£16,000 health – GP practice at Langwith
- Mansfield Road Tibshelf (13/00182/OUT). Permission for 170 dwellings. At 65 occupations as at April 2018. First trigger now reached for payment of the first phase education payments. DCC has confirmed receipt of £145,171 and £167,274 in March 2018.
Next trigger is 85 occupations for: First stage payments for sports, NHS and play soon after.
- Doe Hill lane Tibshelf. Permission for 57 dwellings (15/00438/FUL). 6 dwellings occupied by April 2018. First Trigger is 28 dwellings- not yet reached.

2.5 Finally, other recent payments not already reported above: £11,000 paid directly to both Clowne and Barlborough Parish Council's associated with the Worksop Road Wind turbine community fund.

3. Recommendations

3.1 **That the Planning Committee notes this report.**

4 Consultation and Equality Impact

4.1 There has been no public consultation in respect of this report, and there are no negative equality impacts identified. Officers consider that increasing member oversight of compliance with s.106 legal agreements should promote **equality** of opportunity for local residents through ensuring obligations are met.

5 Alternative Options and Reasons for Rejection

5.1 Reporting the status of current s.106 legal agreements to Planning Committee address recommendations made in the 2016 audit report and has been agreed by members of the Planning Committee. Therefore, officers have not considered alternative options.

6 Implications

Finance and Risk Implications

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

Legal Implications including Data Protection

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

Human Resources Implications

- 6.3 None.

7 Decision Information

Is the decision a Key Decision? (A Key Decision is one which results in income or expenditure to the Council of £50,000 or more or which has a significant impact on two or more District wards)	No.
District Wards Affected	All
Links to Corporate Plan priorities or Policy Framework	<ul style="list-style-type: none"> • Unlocking Our Growth Potential (main aim); • Providing our Customers with Excellent Services • Supporting Our Communities to be Healthier, Safer, Cleaner and Greener; • Transforming Our Organisation.

10 Document Information

Appendix No	Title
1	Financial Spreadsheet
Background Papers (These are unpublished works which have been relied on to a material extent when preparing the report. They must be listed in the section below. If the report is going to Cabinet (NEDDC) or Executive (BDC) you must provide copies of the background papers)	

n/a	
Report Author	Contact Number
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