

PARISHOld Bolsover

APPLICATION OUTLINE PLANNING APPLICATION FOR REDEVELOPMENT OF WHALEY MOOR FARM (BOTTOM YARD) COMPRISING THE REMOVAL OF AGRICULTURAL BUILDINGS, CONVERSION OF EXISTING STONE BARNs AND NEW BUILD DEVELOPMENT TO PROVIDE 10 NO. DWELLINGS WITH ACCESS FROM WHALEY ROAD

LOCATION Land And Buildings South East Of The Old Cornmill Whaley Road Whaley

APPLICANT Chatsworth Settlement Trustees, The Estate Office, Bakewell, Derbyshire, DE451PJ

APPLICATION NO. 17/00546/OUT **FILE NO.** PP-05966857

CASE OFFICER Mr David O'Connor

DATE RECEIVED 19th October 2017

DELEGATED APPLICATION REFERRED TO COMMITTEE BY: Planning Manager
REASON: Potential departure from Local Plan / public interest in proposals

Executive Summary

The current application seeks outline planning permission for the re-development of Whaley Moor Farm. The proposals comprise the demolition of existing modern farm buildings, the erection of eight new houses and the conversion of two stone-built buildings to two new dwellings. Two of the newly-built dwellings are also intended to be affordable dwellings that would be sold at 80% of their market value. The application site lies in the countryside and within a designated Conservation Area

In principle, the proposed conversion of the two stone-built buildings is acceptable in the countryside under saved Local Plan policy ENV4. However, the newly-built dwellings would normally be contrary to saved Local Plan policies in this location outside of the settlement framework taking into account agricultural land and buildings are not classified as 'previously developed land' or 'brownfield sites' and when taking into account the affordable housing has not been proven to meet local need.

In this case, the applicant considers that the proposals would accord with national planning policies that amongst other things, allow residential development in the countryside:

- where such development would represent the optimal viable use of a heritage asset or would be appropriate enabling development to secure the future of heritage assets; and/or
- where the development would re-use redundant or disused buildings and lead to an enhancement to the immediate setting.

In these respects, the submitted design and access statement highlights the potential improvements to the environmental quality of the local area resulting from the removal of the modern farm buildings and the conversion of the more traditional stone buildings on the site that would enhance the special qualities of the surrounding Conservation Area. The applicant

considers the development will support services in villages in the vicinity of the site, provide short term economic benefits, highway safety benefits and improved flood resilience whilst the two affordable dwellings would exceed the normal requirements of planning policy HOU6. The applicant is also able to demonstrate that the proposals would not be viable without the eight newly-built dwellings and therefore, considers the proposals are compliant with national planning policies.

In contrast, officers are concerned that the newly-built dwellings would not reflect or respect the character and appearance of the surrounding Conservation Area and this view is shared by the Council's Conservation Officer. In particular, the design of the newly-built dwellings is not well related to the style and traditions of local buildings and the newly-built dwellings would be prominent in the street-scene. Whaley is also not a sustainable location for growth not least because of the absence of community facilities and existing residents are dependent on their car to access services, schools and employment.

In these respects, national planning policies say that 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 the optimum viable use of heritage assets. It is considered the proposals would cause less than substantial harm to the Conservation Area, which is a designated heritage asset, but this harm would not be outweighed by the limited public benefits of granting planning permission.

In this case, the public benefits of granting planning permission would be diminished by the fact Whaley is an isolated hamlet with little access to day to day services and therefore not a sustainable location for residential development of the scale proposed in this application. In addition, it cannot be demonstrated that the affordable housing will meet an evidenced local need or that the housing will meet a shortfall in housing supply more generally because the Council can demonstrate it has a 5 year supply of housing.

Accordingly, the current application is recommended for refusal for the following reasons:

- The development proposes a design not obviously well related to the local vernacular and the northern portion appears overly dense, prominent in the public realm and leads to an erosion of the perception of openness of this section of the Conservation Area. Such effects conflict with the requirements of Local Plan Policy GEN2, CON1 and CON4, the emphasis within NPPF para 132 and S72 of the Listed Buildings and Conservation Areas Act 1990 to ensure *'special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area.'*
- Whaley is an isolated hamlet with little access to day to day services. There are no education facilities within the settlement, users of the development will be highly car dependent and there is insufficient pedestrian access to other settlements nearby due to the absence of pavement and narrow, unlit roads. Consequently, the application site is not in a location that is suitable for the scale of residential development proposed in this location and there is no evidence that the proposed affordable housing would meet an identified local need. Moreover, the Council can demonstrate 5 years supply of deliverable housing sites and as such, the proposed housing is not needed to make up a shortfall in terms of meeting objectively assessed housing need in the District. Taking

all these factors into account, the current proposals constitute an unsustainable form of development situated within an unsustainable location and any benefits of granting planning permission for the current application would be demonstrably and significantly outweighed by the adverse impacts of doing so when taking into account policies in the Development Plan and the National Planning Framework as a whole.

FULL REPORT: 17/00546/OUT

SITE & SURROUNDINGS

The application site covers an area of 0.584 Ha and is located centrally within the village of Whaley. Whaley is located on an area of sloping land which falls from a shallow ridge towards a stream at the rear of the application site. The stream travels north-west to the south-east (where it joins the River Poulter) and runs on a similar alignment to Whaley Road, which is the main vehicular route through the village. The other entry point is from Mag Lane to the north-east, which provides access to the top yard. The T junction where the routes meet is in effect the centre of the settlement and is directly addressed by the bottom yard site.

Whaley



The village is entirely located within the Whaley Conservation Area. The conservation area contains no buildings with statutory listings, however a number of buildings are identified as having architectural/historical merit including the stone barn located on the frontage of the application site. Open spaces to the north-west and south-east of the site are also noted as being important to the character of the Conservation Area.

The late 19th century farm buildings on the site are all constructed from Magnesian Limestone. These consist of the former farm house shell (now used as a barn), the northern barn (an attractive traditional building) and a small building fronting Whaley Road to the south of the farm house. The conversion of the farm house during the 1960's is reported to have included removing the pitched roof, all of the interior and filling in most openings with stone. A sloping metal mono-pitch roof replaces the original. The former farmhouse now presents a disharmonious blank frontage to the junction of May Lane and Whaley Road and is cited in the Conservation Area Appraisal as a potential enhancement opportunity. A steel framed hay barn also exists on the site and is a relative modern addition clearly related to the function of the farmstead. The other buildings occupying the site are utilitarian in appearance and with little architectural merit. These later buildings are generally located to the rear of the site and are less visible from publicly accessible areas.

PROPOSAL

The application was originally submitted in outline with all matters reserved but the applicant has since confirmed Scale, Access, Appearance and Layout are now detailed matters for approval. In summary, the current application seeks outline planning permission for the redevelopment of Whaley Moor Farm. The proposals comprise the demolition of existing modern farm buildings, the erection of eight new houses and the conversion of two stone-built buildings to two new dwellings.

The layout for the site comprises a scheme of 10 dwellings, which includes a mix of detached family houses and smaller two and three bed cottages. Two of the ten dwellings are proposed to be affordable units. These dwellings are distributed into two main pockets of development, served via two separate access points off Whaley Road. The central / south eastern cluster contains 5 detached houses, comprising 3 new build units, the converted barn and the former farmhouse. These properties are served off a private drive to the south of the built development, which utilises the main point of access to the farm. The dwellings are laid out in a courtyard arrangement with parking provided for 14 spaces. The majority of the dwellings are two storeys in height although there is a single storey barn proposed adjacent to the entrance.

Site Layout



In the north-western part of the application site, it is proposed to build a row of properties facing on to Whaley Road with 5 units split either side of a central vehicular access. Ten car parking spaces and private amenity space for the cottages is provided at the rear. Pedestrian access is to the front, through individual openings in a stone wall. The cottages are proposed to be two storeys in height and will utilise stone walls, slate or tiled roofs and sliding sash timber windows.

The existing dry stone wall along Whaley Road varies in height along the frontage. In order to achieve appropriate visibility splays it is proposed to lower portions of the dry stone wall. It is also proposed to create a surface water retention basin to store water from the development during periods of high rainfall.

Plots 1-5



HISTORY

Pre-application Consultation by the Applicant:

An exhibition was held within one of the existing barns at the top yard site on Tuesday 16 August 2016 between 4.00pm and 8.00pm and was advertised two weeks before the event through leaflets and posters. Local Councillors and members of Langwith Parish Council were informed of the proposals (by telephone) and offered an opportunity to preview the exhibition material.

The applicant reports that at the event the proposals for the site were displayed on a series of exhibition boards and the team of consultants were on hand to answer any queries. Around 25 people visited in total and those in attendance were encouraged to fill out a questionnaire and comments form. The submissions report the majority of written comments were fairly negative, with residents generally opposed to the prospect of new housing within the village. Their main concerns were the impact of the scheme on the character of the conservation area, the increase in traffic and the strain placed on existing infrastructure and services within the village.

The submissions go on to suggest that some residents were more supportive of the proposals and accepted that parts of the site had become run down and were in need of maintenance and repair. The level of opposition it is suggested, meant that there were few constructive comments about the design and layout of the scheme although the need to reduce the overall number of dwellings and ensure that they were constructed from magnesium limestone were amongst the requests made by residents.

CONSULTATIONS

Bolsover District Council (Engineer): No objections.

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

Bolsover District Council (Housing Strategy): Comments that this is a very rural location that it is not suitable for affordable housing, being so far from amenities. Although the applicants are offering to provide two units of affordable housing as a benefit to the proposed scheme but unusually in this case they would also not be required.

In addition, it would be difficult to attract a Housing Association to purchase the units in this location as they are generally disposing of units in areas where management costs are high because of the dispersed nature of their stock, and they may be perceived as difficult to let because of their isolated rural location.

The inclusion of the semi-detached houses for sale would provide a broader range of choice than if all the units were 4 and 5 bedroom detached houses, so this would at least help the wider housing market.

Derbyshire County Archaeologist: No objections subject to conditions.

In light of the additional survey information submitted by the applicant, it is considered further archaeological matters can be dealt with through post-consent conditions. This would involve trial trenching of the farmyard site and any further works arising from this to record and understand archaeological remains, plus any works needed in the area of the palaeo-channel identified in the southern paddock.

Derbyshire County Council (Lead Local Flood Authority): No objection subject to conditions.

Originally queries were raised as to what drainage calculations had been carried out to assess the required surface water storage capacity within the site. The applicant has since provided this further information and more detail on the proposed drainage strategy.

Derbyshire County Council (Local Highway Authority): No objections subject to the inclusion of a number of conditions as set out within their consultation response.

It is not considered that highway issues would be significantly worse if the proposals were to go ahead than that which already exists plus the proposal includes improvements to existing visibility. On this basis, whilst not an ideal situation, it is not considered that a recommendation of refusal could be sustained on highway safety grounds.

It is noted that refuse vehicles will not enter the site. As such, the Highway Authority would look for the provision of a bin dwell area where prospective occupiers can leave their bins on collection days. This should be clear of the highway and access and of sufficient dimensions to accommodate the maximum number of bins on any one collection day.

Historic England: Advise the Council to seek the views of your specialist conservation and archaeological advisers, as relevant.

Old Bolsover Town Council: Object to the proposals for the following reasons:

- a) the development changes the character of the village layout, size and density of buildings not in keeping with surrounding properties;
- b) lack of local facilities such as shops, schools and community facilities;
- c) poor internet and mobile phone connectivity in the area;
- d) reliance on cars to access to local facilities, lack of public transport and no local centres accessible within a reasonable distance to be reached by cycle or foot.

However, the Town Council do support the protection of limestone farmlands and the farming communities more generally. Therefore, If the Council were minded to approve the development, Old Bolsover Town Council would like consideration be given to a s.106 contribution to provide a new community building at Whaley Common and also ask if conditions can be put on a local occupancy clause to prevent the properties being used as a second or holiday home and to maintain a resident population within the area and that occupiers have either lived in the given area for a period of time or coming to live and work permanently in the area.

Severn Trent Water Ltd: No objections subject to the inclusion of informatives advising the applicant of their duties under the Water Industry Act.

PUBLICITY

A total of 16 consultation responses have been received in relation to the development proposed. In summary these raise the following issues:

- The scale of the development proposed is inappropriate for the size of the village, increasing the number of properties by over 50%, from 17 to 27.
- Whaley is an isolated hamlet. To focus development in this location would not be sustainable. The development will be highly car dependent, has no access to services, education facilities or shops. Development in this area would not align with the carbon reduction ambitions from Government or similar ambitions within the existing and emerging Local Plans for Bolsover.
- The development will have an adverse impact on the character and appearance of the village, will adversely affect the valued characteristics highlighted within the Whaley Conservation Area Appraisal and will impact visitors to the village interested in the Archaeological Way that exists in the context of the site.
- The application does not sufficiently address impacts upon protected species such as birds, badger, bats, frogs, toads and newts known to exist in the context of the site. There are also concerns about water quality impacts during the course of the development.
- The roads into the village will not cope with the increased traffic resulting from the development. The roads are single track with blind corners, are not gritted and have sharp bends.
- The transportation utilised suggesting 100 return journeys in the harvest period are overstated and an attempt to dilute the uplift in vehicle movements resulting from the development
- Current utilities such as the Severn Trent Sewage Works will not cope with the increased resulting demand from the development

- Permitted development rights should be removed from the properties proposed
- The development will be a prestige development that will not be affordable nor aimed at the local community or local workers. Even the smallest houses will be beyond the means of local people.
- The Planning Authority recently turned down a much larger development at Glapwell (17/00598/OUT). This was not in a conservation area. Like that development, the proposed development at Whaley “is not allocated for housing within the adopted Local Plan and is situated in the countryside and therefore covered by the greater countryside policies in the plan.”

POLICY

Bolsover District Local Plan (February 2000)

Relevant saved policies in the Bolsover District Local Plan include:

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

National Planning Policy Framework (March 2012)

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

Paragraph 2: Status of Development Plan and National Planning Policy Framework
 Paragraphs 6-10: Achieving sustainable development
 Paragraphs 11-16: Presumption in favour of sustainable development
 Paragraph 17: Core planning principles
 Paragraph 32: Transport network
 Paragraph 47, 49 and 50: Housing
 Paragraphs 56- 66: Design
 Paragraphs 70, 72, 73 and 75: Promoting healthy communities
 Paragraphs 109 and 118: Conserving and enhancing the natural environment
 Paragraphs 120 and 121: Contamination and land stability
 Paragraphs 128 – 134: Conserving and enhancing the historic environment
 Paragraph 159: Relevance of SHMA
 Paragraphs 173: Ensuring viability and deliverability

Paragraph 196: Primacy of Development Plan

Paragraphs 203-206: Planning conditions and obligations

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

ASSESSMENT

1. Compliance with the Development Plan

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

In the first instance, the stated aims (para 2.4) of the Bolsover District Local Plan regarding environmental sustainability relate to encouraging energy efficiency, influencing the location and design of development to reduce energy wastage and seeks to ensure use of efficient means of transport alongside the aim of 'reducing the consumption of non-renewable resources.' In conjunction with Policies GEN8 and ENV3, Policy TRA1 seeks to guide development to areas which minimise the overall need to travel, are highly accessible by means of transport other than the private car and maximise the ability of users to walk or cycle to and from the site.

GEN8 and ENV3 – Settlement Frameworks

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

Within the extant and emerging Local Plans, Whaley is not a settlement with a defined development envelope. As such, for the purposes of the Local Plan the site is classed as open countryside where residential development can only be justified in line with the exceptions set out in extant Local Plan Policy ENV3 (e.g. agricultural workers dwellings, secures significant improvement to rural environment), ENV4 (Reuse of rural buildings) or the exceptions within paragraph 55 of the NPPF (considered further below).

Local Plan Policy ENV3 and ENV4

Local Plan Policy ENV3 allows for development outside settlement frameworks where it is necessary; or would result in a significant improvement to the rural environment; or would benefit the local community through the reclamation or reuse of land. In all instances that the

policy goes on to suggest that proposals nevertheless must be located in an environmentally sustainable location, avoid harm to the rural landscape and avoid unnecessary urbanisation.

Local Plan Policy ENV4 is also relevant to the development as a component of the development involves the reuse of rural buildings (albeit supplemented by New Build Development). This policy also reflects some of the criteria in ENV3 regarding ensuring locational environmental sustainability and minimising the effect on the rural landscape. ENV4 goes on to require proposals must enable the preservation of a building or buildings which are of architectural or historic interest and make a valuable contribution to the rural scene.

Officers consider that the conversion of the former farmhouse and the existing barn would comply with policy ENV3 or ENV4, if designed appropriately to respect the setting of the Conservation Area and subject to the consideration of the Environmental Sustainability of the location.

With regard to the new build elements of the proposals, the policy compliance is more complex. In the first instance, new build development of the scale proposed is considered to conflict with Local Plan Policy ENV3 as they are not obviously 'needed' in the location and in general terms, residential development of the scale proposed in this application is not normally acceptable in the countryside outside of the settlement framework.

Principle of Development

Therefore, the proposed conversion of two stone-built buildings is broadly acceptable in principle under the terms of ENV3 and ENV4. In contrast, the new build elements of the proposals conflict with ENV3 and GEN8 and would not normally be deemed to be acceptable in principle. However, the applicant considers the newly-built dwellings should be considered enabling development that is needed to secure the conversion of the heritage assets.

National planning policies offer further support for residential development in the countryside:

- where such development would represent the optimal viable use of a heritage asset or would be appropriate enabling development to secure the future of heritage assets; and/or
- where the development would re-use redundant or disused buildings and lead to an enhancement to the immediate setting.

Therefore, there may be other relevant considerations that indicate an exception to the existing Local Plan may be warranted in this case. However, the location of the proposed development and the overall sustainability of the proposals also weigh heavily against accepting the principle of redevelopment of Whaley Moor Farm in the manner proposed in this application.

2. Sustainability of Location

Whaley is a relatively isolated hamlet. It is reported that in recent years it has lost its pub, the nearby Henton Memorial Hall, its mobile library service and its telephone box. There are no education facilities within the settlement and it is reported that children have to travel to Cuckney, Shirebrook and Scarcliffe via car for schooling provision. The village is stated not be

on a gritting route and that pedestrian access to other settlements nearby is unsafe due to the absence of pavement and narrow, unlit roads. Respondents suggest, for most households the only viable access is via car from the B6417 over Bolsover Moor.

The Council has commenced work to replace the adopted Bolsover District Local Plan (2000) following adoption of its Local Development Scheme on the 15th October 2014. The aim of the emerging Local Plan is to foster sustainable development and this forms a core part of the Local Plan Vision. This Vision and the supporting spatial strategy direct development to the most sustainable settlements and locations, as well as seeking to regenerate the District's remaining large former industrial sites.

The approach taken to Whaley, one of the District's smallest and least sustainable settlements within the Publication Version of the new Local Plan (2018) has been to omit the settlement from those intended for planned growth and direct the majority of the planned growth towards the larger and more sustainable settlements. The assessment of the sustainability of settlements was informed by the objectively produced Settlement Hierarchy Study 2015 and is considered further below.

Settlement Hierarchy Study 2015

Paragraph 17 of the National Planning Policy Framework ('the Framework') suggests Authorities should 'Actively manage patterns of growth to make the fullest possible use of public transport, walking and cycling.' The purpose of the Settlement Hierarchy Study was to assess the existing sustainability of the District's settlements and rank them from the most sustainable to the least. The study is a component of the evidence underpinning the Publication Version of the new Local Plan (2018) which seeks to enact management of the pattern of growth within the district but is also stated to 'provide a benchmark when considering development proposals (Para 5.7).'

To assess the sustainability of settlements the study seeks to grade the following specified characteristics. These are given a weighting across the main areas to establish a wider 'sustainability score' thus allowing the settlements within the study area to be placed in rank order. The key assessment areas utilised related to:

- The number of people in the settlement
- The availability of employment
- The availability of shopping facilities, services and community facilities
- The availability of public transport

Whaley has a population of 46 according to the study. Owing to this low level of population, absence of public transport linkages, linkages to employment and absence of in settlement services such as schools, the settlement was not studied further as part of this study. This is indicative of the settlement being an unsustainable location. Hence in establishing whether it would align well with the aims of the Framework to expand the settlement further, at a spatial policy level the Council has taken the view in the emerging plan that it would not.

Although it is acknowledged that Whaley is not a substantial distance from other settlements such as Whaley Thorns and Langwith (approx. 2 miles), these settlements too scored poorly

within the study in relation to population, employment and settlement services albeit in the case of Langwith, good public transport links are available. It is also acknowledged that Bolsover is 3 miles from Whaley but does not display good linkages in terms of alternative means of transport other than the car. Therefore although the applicant seeks to suggest that services in one settlement could legitimately support populations in another (as is also articulated in the Framework), Officers do not foresee a strong case for this within this particular application.

Overall, taking account of the Settlement Hierarchy evidence, the absence of services in the settlement and the absence of good access to neighbouring settlements, this would suggest the site in question is not a sustainable location and to focus development in this area would not align with the wider carbon reduction ambitions cited within the Framework, the Council's emerging Local Plan and Policy TRA1 within the extant Local Plan. Therefore, it is difficult to conclude that the current proposals are a sustainable form of development also taking into account the housing is not required to meet unmet housing need within the District.

3. Housing Supply

As the current application proposes residential development, the provisions of Paragraph 49 of the Framework are relevant because this paragraph says: *Housing applications should be considered in the context of the presumption in favour of sustainable development. Relevant policies for the supply of housing should not be considered up-to-date if the local planning authority cannot demonstrate a five-year supply of deliverable housing sites.*

The Council's current 5-year supply position as of the 31st March 2018 and reported to Planning Committee on the 4th July 2018 is as follows:

- a basic requirement of 1,325 dwellings (5 x 265);
- utilising the Sedgefield approach, a NPPF requirement of 1,391 dwellings (when applying a 5% buffer across the 5-year period);
- a deliverable supply of land that could deliver 2,076 dwellings during the 5-year period of 2018/19 to 2022/23 (685 dwellings more than the basic requirement);

Taking this evidence into account, it is considered the Council can demonstrate 5 years supply of deliverable housing sites. This conclusion has been also been supported in several recent appeal decisions. Therefore, the housing proposed in this application is not needed to make up a shortfall in terms of meeting objectively assessed housing need in the District.

Therefore, insofar as saved Local Plan policies GEN8 and ENV3 could be considered to be policies for housing supply, the Council's current position on housing supply, as set out above, means that they should not be considered to be out of date solely with reference to Paragraph 49 of the Framework and, as above, the new build elements of the current proposals conflict with ENV3 and GEN8. However, saved Local Plan policies do not fully accord with national planning policies in Framework in respect of 'enabling development'.

4. National Planning Policy Framework ('the Framework')

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

- where such development would represent the optimal viable use of a heritage asset or would be appropriate enabling development to secure the future of heritage assets; or
- where the development would re-use redundant or disused buildings and lead to an enhancement to the immediate setting.

These provisions are not contained in saved Local Plan policies and therefore need to be taken into account in the determination of this application because the applicant considers the new houses are a form of enabling development that would lead to the re-use of an existing building and enhance the character and appearance of the surrounding Conservation Area, which is a designated heritage asset.

Furthermore, 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. This is a further provision of national planning policy that is not contained in the Council's saved Local Plan policies that also needs to be taken into account in the determination of this application.

Optimal Viable Use of Heritage Asset

The main barn in question is characterful and important to the character and appearance of the Conservation Area. The existing former farmhouse building is also cited in the Conservation Area Appraisal documentation prepared by the Council as a prominent building that represents an opportunity for enhancement of the Conservation Area. As such the conversion of the main barn and the former farmhouse to residential is considered to be an optimal viable use for the main barn and is supported. The other associated new development proposed would not fall within this exception category as it would not be a 'conversion' of a heritage asset.

Existing Farm Building



Former Farm House



Existing Street Scene



Enabling Development

In order to be considered appropriate enabling development, the income from the proposed development would need to be no more than what would be required to allow the developer and landowner to make a reasonable profit and to facilitate the conversion of the heritage assets. The Council has previously questioned whether 8 No. further units to 'support the delivery' of the converted barn and former house was justified and it was originally suggested that this would be over-development in the absence of further evidence.

The applicants have now provided a Viability Statement within their submissions that has been considered in detail by the Council's Surveyor. Although initially further questions were raised by the Surveyor, it has since been confirmed that the appraisal reflects a fair and reasoned assessment of the viability of the site. This shows that the potential income from the proposed development is proportionate to the proposed conversion scheme and that in the absence of the additional 8 No. dwellings proposed, the scheme for the delivery of the converted buildings would not be viable. The viability statement demonstrates this by considering an alternative option to the submitted scheme that omits the five new build units on the northern part of the site. The resulting scheme of 2 conversion units and 3 new build units would ultimately lead to a negative land value. It is therefore accepted that the evidence supplied shows the inclusion of five additional new build units on the northern half of the site makes the scheme viable.

Therefore the applicant is able to demonstrate that the 8 No. dwellings proposed would be 'enabling development' that is the minimum necessary to deliver the retention and conversion of the buildings in question.

Redundant Building Reuse and Enhancement

In terms of the final exception criterion, the development would need to reuse redundant buildings and lead to enhancement to the immediate setting. This criterion does not seek to permit new build development and relates to reuse of buildings alone. Officers note the large steel frame barn to the north of the site (granted permission in 2011) contained a number of hay or straw bales, appeared to be in use and that the remainder of the farmstead was in use. Although noting the applicant's submissions that Chatsworth Settlement Trustees are seeking to rationalise and potentially redevelop some farmsteads more widely, at present the comparatively recent capital investment in the site in the form of the agricultural building (in 2011) in addition to the seemingly continued use of the buildings leads Officers to conclude these buildings are not redundant at this time and in any event the full extent of the development (i.e. the new builds) would not be acceptable under this criterion. Officers would also question if the proposals would lead to substantial enhancement bearing in mind the agricultural origins of the settlement which mean agricultural barns and other farming buildings such as the steel barn proposed to be removed, are not readily out of keeping in this locality.

Summary

Officers consider the applicant is able to demonstrate that the development of the stone-built buildings on-site supported by additional new build development could meet the exceptional 'enabling development' criterion within para 55 of the Framework insofar as the newly-built dwellings would be isolated residential development in the countryside. This conclusion partly offsets the identified conflict with ENV3 and GEN8 and could support a recommendation of approval of the current application subject to consideration of all other relevant planning considerations including the effect of the proposals on the special qualities of the surrounding Conservation Area.

5. Relevant Planning Considerations

Character and Appearance

The application was originally submitted as an outline application with all matters except access reserved. Officers raised concerns that the effects of the development on the character and appearance of the Conservation Area could not be fully understood in the absence of more detailed information. As such Officers triggered Regulation 5(2) under the Development Management Procedure Order 2015 which required that full details of appearance, layout, landscaping and scale be provided before the Council can effectively determine the merits of the case. The applicants responded with further details accordingly and these are the subject of the current application.

Officers note that the wider landscape prominence of the site is high and that views are available of the land affected by the development from a number of vantage points, including public rights of way nearby. However Officers recognise that because the development replaces existing farm buildings on the site and is observed in close association to existing houses within the core of the village, there is no substantial wider landscape impact from the development.

It is also acknowledged that the development could contribute to the enhancement of the Conservation Area through the redevelopment of the former farmhouse which is identified as an opportunity site within the Conservation Area appraisal for Whaley. In particular the applicant highlights the following in relation to the former farmhouse which Officers do not dispute:

“The farmhouse is located at the focal point of the village, at the junction of Whaley Road and Mag Lane, directly opposite the former village pub. The works undertaken in the past in converting the house to a barn, which included replacing the roof and removing the rear wall. As a result the building is now structurally unsound. The former openings of the eastern elevation facing the street have been infilled and the wall is now completely featureless. Its appearance is of a derelict structure which detracts from the overall quality of the built environment within the village.”

However, the area where Officers raise concern relates to the layout, design and amount of development proposed and the effects of these factors on the short and medium distance views from within and towards the Conservation Area. In particular these concerns predominantly relate to the terraced and semi-detached pair of properties proposed to the north of the site (Plots 1-5). The housing proposed here is considered to be relatively dense, lacking variety in its design and is sited set back from the highway a considerable amount. The approach adopted in the submissions is unlike the more traditional dwellings in the historic core of the village to the south and the design fails to convincingly capture the design characteristics of these or other traditional dwellings in the area. These more traditional properties display a much more natural village centre arrangement, positioned hard up to the highway whilst at the same time displaying considerable variety in their appearance and form.

Plots 1-5



Officers also question the design of the proposed focal point property opposite the highway junction. This property as proposed displays unusual proportions, lacks symmetry (unlike similar properties in the area) and includes blank wall extents that are not characteristic of other traditional dwellings in the context. The imagery supplied (For example in the supporting imagery in the Design and Access Statement opposite figure 11) both the 'Farmhouse on Whaley Road – south of the application site' and the 'Looking Towards Red Brick House' image display symmetrical properties with the typical proportions of vernacular properties. Such design characteristics are not convincingly executed in the proposed focal point dwelling as shown on Drawing No (08)002 Rev P. Whilst Officers have considered the design justification provided carefully, this does not adequately evidence where this design approach has originated/evolved from.

With regard to the remainder of the development, Plots 6 and 7 will not be particularly prominent from the main road and together with the main barn, form an inward facing courtyard that is reflective of the agricultural origins of the holding. Plot 8 displays a barn like arrangement with the highway and subject to ensuring appropriate materials, could be executed well to appear reflective of development in the area.

Plots 6 - 10



Plots 6 – 10



Taking the above criticisms into account regarding Plots 1-5 and the unconvincing design of the focal point property proposed opposite Mag Lane, Officers do not consider the development sufficiently reflects or responds to the historic conservation interest of the settlement. Such development displays design not obviously well related to the local vernacular, the northern portion appears overly dense, prominent in the public realm and erodes the perception of openness of this section of the Conservation Area. Such factors conflict with the requirements of Local Plan Policy GEN2, CON1 and CON4. The development also conflicts with the emphasis within NPPF para 132 on giving 'great weight' to the conservation of designated heritage assets and requiring any harm to setting to require clear and convincing justification. Officers do not foresee such justification in this case. As such there would also be conflict with the emphasis within S72 of the Listed Buildings and Conservation Areas Act 1990 in that to permit development with the aforementioned Conservation not fulfil the Council's duty when exercising its planning function to ensure '*special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that [Conservation] area.*'

Benefits of Residential Development

As noted above, 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. The harmful impact of the proposals on the Conservation Area identified above would amount to less than substantial harm so it is necessary to consider the public benefits of the scheme in the determination of this application.

In relation to the sustainability of the location, the applicant suggests residents within the village rely on services and facilities within Bolsover or nearby Langwith, which contains several shops, a post office, a primary school, various community facilities and a train station. Additional housing in this location is therefore said to support these existing services and is a common arrangement in a number of smaller villages throughout the Council's administrative area.

With regard to paragraph 55, the applicant makes the case that the broad theme of the paragraph is to impose restrictions on the provision of new isolated homes in the open countryside and that this site is only categorised as such because there are no development limits for Whaley. The proposed units are set within the context of existing housing within the

village and will not be of an isolated nature. In addition, the provision of new build properties on the footprint of farm buildings and the restoration / re-use of prominent stone barns on the site's frontage it is said, will lead to a significant improvement in the built form within the village.

The applicant also makes the case the proposed development will bring direct economic benefits in terms of direct employment during the construction phase and in the longer term through the indirect economic benefits of expenditure by local residents in the local economy. The applicant suggests it will also help by providing homes near to areas of economic productivity such as Bolsover and Chesterfield.

Finally the applicant seeks to include 2 affordable dwellings within the proposals as part of the development package offered. Although these dwellings are not required within the terms of existing policy, the applicant nevertheless offers the two dwellings as a planning benefit that will be provided and secured for future purchasers at reduced market rates. The merits of this offer are considered in more detail below but as a whole, the proposals would not enhance the character and appearance of the Conservation Area for the reasons above and the economic benefits that could be associated with this scheme are not especially substantial or more than could be achieved from any residential development of a similar size and scale.

However, as set out in earlier sections of this report, the absence of services in the settlement and the absence of good access to neighbouring settlements suggest Whaley is not a sustainable location and to focus development in this area would not align with the wider carbon reduction ambitions cited within the Framework, the Council's emerging Local Plan and Policy TRA1 within the extant Local Plan. Therefore, it is difficult to conclude that the benefits of granting planning permission would not be offset and outweighed by the location of the proposed development. Consequently, it is equally difficult to consider the current proposals are a sustainable form of development also taking into account the housing is not required to meet unmet housing need within the local area.

Affordable Housing Offer

The development of 10 dwellings would not normally require the provision of affordable housing under the Council's extant policies. Affordable Housing would normally only be triggered on sites over 24 dwellings in line with the Council's adopted Local Plan Policy HOU6. Therefore this could be considered to be a material benefit over and above meeting normal policy requirements that could be given weight in the determination of this application.

However, Policy HOU6 does also suggest that in assessing the suitability of a site for providing affordable housing, the Local Planning Authority will take account of:

1. *The level of need in the area* – There is no identified need to the Council's knowledge and the applicant has not sought to identify a specific need
2. *Access to public transport* – As discussed above the site has relatively poor access to public transport and other services
3. *The economics of developing the site* – The applicants offer is over and above usual policy requirements and is a clear material benefit
4. *The proximity of the site to local service* – As above the village has relatively poor access to services relative to other settlements in the district

Further to the above observations, Bolsover Council Housing Strategy Officers were also consulted on these proposals. It can be seen from their comments that as the site is a rural location, it would not normally be considered suitable for affordable housing, being so far from amenities and public transport. It would also likely be difficult to attract a Housing Association to purchase the units in this location. Bolsover Housing Strategy suggest that in general, Housing Associations tend to be disposing of units in areas where management costs are high because of the dispersed nature of their stock. The units may also be perceived as difficult to let because of their isolated rural location.

Typically a Parish need survey for affordable housing may act as evidence in favour of need. However the Parish Council in this case do not support the proposals on the basis of the lack of local facilities and high reliance upon the car.

These observations were put to the applicant's agent who suggested that: The offer of affordable housing is on the basis that the units be sold at a discount of 80% to market value. This discount would be secured in perpetuity through a Section 106 Agreement. The eligibility of purchasers for those units would be assessed using the Council's or a Housing Association eligibility criteria.

Taking these factors into account, it is clear there would be a moderate material planning benefit from the development by providing discounted 'more affordable' housing. However this benefit is diminished by the lack of identified need, isolated location, poor public transport and lack of local services as required by affordable housing policy HOU6 and referenced by the Housing Strategy Consultee. Taking all the above into account, the offer of affordable dwellings carries some weight in the determination of the current application but does not offer any overriding justification for a recommendation of approval for the current application in this case.

Highway Considerations

The proposal utilises an existing access and proposes some improvement, slightly relocates another access leading to some improvement and would close another access to vehicular traffic which has severely substandard visibility in both directions. The type of traffic associated with the site would also change in that farming would cease, removing large slow moving vehicular movements and replacing them with more numerous car movements. There is some highway safety benefits as a consequence of the development.

It is noted that an adoptable road is not proposed and thus that refuse vehicles will not enter the site. As such, the Highway Authority seek the provision of a bin dwell area where prospective occupiers can leave their bins on collection days. A central location such as the area labelled 'Pedestrian and Cycle Access' would best serve the southern clutch of dwellings and would be relatively screened from the wider area. However it is unclear if there is sufficient room in this area to fully accommodate this. For the southern dwellings, a bin store located at the vehicular entrance to the site would be some distance from the furthest properties (60-70m) and would not be a desirable addition to the street scene at this location. Such a distance would also conflict with the advice in Manual for Streets (Para 6.4.9) regarding maximum bin carry distances of no more than 30m. However if Members were minded to approve the application, such an issue could be effectively conditioned and examined further.

Overall it is considered, there are no significant highway safety concerns with the proposals. Some net highway benefit is likely to be realised as a consequence of the development through the improvement to Highway Visibility and removal of larger farm related vehicles. As such the proposals would not have a severe effect on the highway network or safety at this location in line with NPPF para 32 but this in itself is not a reason to approve the current application.

Biodiversity

Habitats

The application is supported by a formal ecological appraisal and bat survey. These reports suggest the site predominantly consists of farm buildings and hardstanding with two improved grassland fields, patches of tall ruderal vegetation, scattered scrub, a patchy and overgrown hedgerow and scattered broad leaved trees. A small stream was present alongside the site boundary which flows south east. The stream was 30cm-40cm deep, culverted in places and 1m at its widest point. Areas of the stream that were partially shaded contained dense watercress and common nettle whilst other areas subject to heavy shade were devoid of vegetation. All habitats are common and widespread in the locality and are rated as 'negligible' in terms of ecological value within the submissions.

The impact of the development on habitats within the site is not reported to be ecologically significant. The affected habitats include loss of ephemeral vegetation and the improved Grassland field to the southeast of the site. All other habitats such the broad leaved trees, hedgerow and scrub will be retained. These habitats, although not particularly important individually, provide linear foraging features for bats. No direct impacts upon the watercourse in the site are proposed, however the potential for pollution of the watercourse does exist. In order to mitigate this risk, a 5m exclusion buffer from the watercourse (via fencing) is proposed alongside general watercourse mitigation such as fuelling of vehicles to be carried out in a designated area or fuel/oil to be stored in bunded tanks to 110% of the volume stored.

Fauna

In terms of particular species of interest (Fauna) the reports considers each species in turn, firstly examining known recordings of the species in the area and then considering if the habitat apparent was suitable for the species. The results were as follows:

- Badger – No records of badger were returned in the desk study and no evidence of badger was identified during the survey. The habitats were considered to be suboptimal for the species. Some foraging habitats were present in the area and the sites openness means the presence of badger cannot be ruled out. Mitigation is proposed in the form of prohibiting night working and covering or providing escape from any excavations so as to avoid trapping badger if present.
- Bats – A detailed inspection for bat inclusive of a day time survey, a dusk and dawn emergence survey and use of remote bat detectors was undertaken. The daytime inspections found evidence of a large number of droppings throughout the top level of Building B6b (the L shaped Barn) and concluded the barn held moderate potential

for crevice roosting and void roosting bats. DNA testing of the droppings by the University of Warwick confirms the droppings originate from Brown Long Eared bats (*Plecotus auritus*). The high number of droppings in building B6b indicates the potential presence of a breeding roost. No signs of bats were found in other buildings on the site.

Dusk Emergence survey on 12th August 2015 and Dawn Emergence on 3rd September 2015 revealed relatively low levels of bat activity. Species observed included Common Pipistrelle, Whiskered/Brandt's Bat and Soprano Pipistrelle. No bats were seen to enter or emerge any building within the site. Separate remote bat detector surveys also found the presence of Noctule bats in the area. No Brown Long Eared calls were recorded.

As the surveys were conducted towards the end of the maternity season, the exact status of the potential Brown Long Eared Breeding Roost is not known as it is possible the roost may have disbanded by this point in the season. The reports provided suggest that Brown Long Eared maternity roosts are often occupied from April to September and are often occupied over the whole summer period, which in turn suggests that a maternity roost would have been likely to be active at the time of the surveys if a roost was present, yet no calls attributable to that species were recorded. Overall the reports suggest that further survey is required in order to establish the status of the roost and devise an appropriate mitigation strategy. If a breeding roost is apparent, this is likely to be considered to have regional conservation significance.

- Breeding Birds – The scattered trees, hedge, ruderal vegetation and scrub hold potential for nesting birds (such as Robins, Wren) and the buildings on the site provide opportunities for crevice nesting birds such as House Sparrow. Evidence of a Kestrel nest was also apparent within building B6a with feathers and droppings having been observed. Timing or works to this building is recommended to reduce the risk to nesting Kestrel. In order to replace lost nesting habitat, bird boxes are recommended within the submitted Ecological Survey.
- Great Crested Newts – A small stream along with the south west site boundary links to a series of pools offsite. No records of Great Crested Newt were returned from the desk study, the nearest record was 7.4km northwest of the site. A small network of ponds link to the watercourse. The habitats on site were deemed suitable for terrestrial Newt and the presence of Great Crested Newt cannot be ruled out. It is recommended that a formal Habitat Assessment is undertaken on all ponds within the 250m of the site.
- Otter – No records of Otter were returned in the area around the site. There is a small stream to the south of the site but there are limited foraging opportunities and a lack of large prey items in the immediate area around the site. Habitat much more suited exists to the south near Scarcliffe Park, an ancient semi-natural Ash woodland. The River Poulter connects to the watercourse approximately 1.6km to the southeast of the site and provides suitable foraging and holt building opportunity such that it is unlikely Otter would look to progress up the watercourse to the site.

- Reptiles – A single reptile record was returned during the desk search, a Slow Worm located along a tributary of the River Poulter 0.8km to the southeast of the site dating from 1997. The site had some suitability for common reptiles such as Grass Snake, Slow Worm and Common Lizard. However frequent disturbance from agricultural practices reduce the likely use. Precautionary Mitigation in the form of appropriately timed site clearance and creation of exclusion areas.
- Water Vole – No records of Water Vole were returned in the desk study and no indicators such as burrows, latrines or feeding stations were observed on the site. The watercourse to the south was partially culverted and had areas of heavy shade resulting in a lack of suitable vegetation for foraging. Water Vole presence is considered unlikely.
- White Clawed Crayfish – The stream on site comprised a silty substrate which is unsuitable for White Clawed Crayfish. In addition no suitable refugia such as rocks or boulders were present within the stream. No records of the species exist in the area and thus it is highly unlikely to be present.

Derbyshire Wildlife Trust have considered the originally submitted ecological information. Their observations initially suggested that whilst the content of the report is very detailed and provides a good level of assessment, further information was required for Great Crested Newts and Bats. On 9 July 2018 the applicants provided further information.

Bats – Additional Information

'an update inspection and dusk emergence survey of building B6 was undertaken in June 2018. Small numbers of pipistrelle and brown long-eared droppings were found in both sections of the building along with brown long-eared feeding remains. A clear feeding perch was discovered in the northern section of B6a where approximately 15 brown long-eared droppings and a collection of butterfly and moth wings were discovered. During the activity survey four common pipistrelles and one brown long-eared bat emerged (as well as a potential emergence from B7). A brown long-eared bat was also seen foraging inside the building prior to emergence. Overall it is likely that a brown long eared breeding roost is still present.'

Great Crested Newts – Additional Information

'The terrestrial habitats present on site have the potential to support individual great crested newts during the terrestrial phase of their lifecycle although these are considered to be limited. Features such as hay bales, spoil piles, the hedgerow along the southern south boundary and tall ruderal vegetation and scrub could provide suitable refugia for these and other amphibian species. Due to the lack of known records and refusal of access to the survey nearby ponds, a precautionary method statement was seen as the most suitable way forward.'

Officers consulted Derbyshire Wildlife Trust about this additional information on 2nd July 2018 but at the time of the production of this report a formal response had not been received. Officers will provide an update report if this situation changes. Nevertheless, taking into account the

mitigation suggested it is likely the Wildlife Trust would conclude that there would be no significant impact on the bat and newt populations in the area. If this was the case, the Council could condition the inclusion of the mitigation measures as part of the development. However given the concerns and that the Officer recommendation is one of refusal, should Derbyshire Wildlife Trust offer criticism of the approach adopted in the reports, a further ecological reason for refusal could be formulated.

Conclusions on Ecology

Overall Officers accept that the majority of species considered are not significantly affected by the development and that subject to the ecological mitigation set out in the accompanying report and the proposed method statement, there would not be a significant impact upon protected species. However, Derbyshire Wildlife Trust comments were still pending at the date of this report. Therefore, subject to the Trust advising that suitable mitigation can be agreed, it is concluded the application as submitted would comply with Local Plan Policy ENV5 and the thrust of NPPF Para 118 and 9 in relation to ensuring no net biodiversity losses as part of development proposals. However, if the Trust were to respond negatively, the application may need to be refused on the grounds that it would have an unacceptable adverse impact on European Protected Species.

Drainage and Flood Risk

Upon submission there was originally insufficient information regarding the proposed surface water drainage strategy associated with the development and further information was requested by the Lead Local Flood Authority. Further information advising that the drainage strategy for the proposed development intends to discharge surface water into an ordinary watercourse approximately 10 metres to the south west of the site was received. The proposed discharge rate is stated in the Drainage Report to be restricted to 2.1 l/s and the Lead Local Flood Authority (LLFA) is satisfied that this rate is as close as is practicably possible to the Greenfield (pre-developed) runoff rate for the site; additionally representing a betterment on the brownfield rate. The applicant proposes to achieve this rate using a 'HydroBrake Optimum' flow control device and a detention basin in the south east of the site with a volume of 190m³, proposed to maintain this discharge up to and including the 1 in 100 year rainfall event.

The Lead Local Flood Authority (LLFA) accept that at this stage in the development design process the approach suggested is likely to be acceptable but that more detailed calculations will be required as the design progresses further to ensure that all surface water can be dealt appropriately within the drainage system, including sufficient storage to maintain the proposed discharge rate of 2.1l/s up to the 1 in 100 (+ Climate Change) flooding event including 10% for urban creep. The LLFA additionally welcome the significant betterment on the existing runoff rate proposed for the development, with a decrease in impermeable area and an increase in surface water storage on site.

The LLFA suggest that further details of how the on-site surface water drainage systems shall be maintained and managed after completion and for the lifetime of the development to ensure the features remain functional and the proposed discharge rate and storage volume can be maintained.

With regards foul sewage, although a number of respondents raise concern about the capacity of the reed bed system in the village, Severn Trent Water who manage the system raise no concerns with the proposed development subject to the inclusion of conditions to require the provision of detailed foul and surface water drainage information.

Officers assess that overall the proposals do make adequate provision to deal with surface water drainage on the site and result in moderate betterment given the removal of significant areas of impermeable roofs and hardstanding. As such the application, subject to required conditions, complies with Local Plan Policy GEN5 but the improved drainage resulting from granting permission for this application would not be such a significant benefit to the local area that this issue would weigh heavily in the determination of the current application.

Archaeology

Initially no archaeological field work had been carried out and this was raised as a concern by the County Archaeologist. Since the applicant has submitted the results of archaeological evaluation relating to the southern and a buildings appraisal/statement of significance in relation to built heritage on site. In response the County Archaeologist notes:

The archaeological evaluation did not find any evidence for early occupation on this part of the site, although some deposits of palaeo-environmental interest associated with a former stream course were identified in the south-western part of the site. These may be impacted by aspects of the proposed development in this area but further investigation could be undertaken through a conditioned scheme of archaeological work once a detailed scheme is approved. Archaeological evaluation of the farmyard area is also necessary but I accept that this is difficult within the confines of a working farm, and this also could be conditioned to take place postconsent, along with any further recording required under NPPF para 141 in the event of significant remains being identified.

The applicant has also provided a historic building appraisal for the site. This includes statements of significance, plans and elevations, internal and external photography and conservation principles for the buildings individually and as a group. The Archaeologist suggests there are some issues with this document which include that the map regression for example does not extend earlier than 1875, when there are earlier sources available (buildings are shown on site e.g. on the Enclosure Award plan for Old Bolsover dated 1780), and there is a rather narrow concern with what is original, when, the emphasis should be considering what best illustrates the story of the buildings (which might include features from different phases of use). Nevertheless, the Archaeologist is satisfied that the information supplied at present is sufficient to enable the application to be determined in archaeological terms in line with NPPF requirements and that subject to conditions, archaeological interest within the site can be suitably considered and mitigated for. However, there is no real argument that the proposals would be of significant benefit in terms of revealing or increasing appreciation of any archaeological interest on site.

Amenity Considerations

The application is submitted with details of the proposed layout, scale and appearance of the

buildings, albeit full floor plans do not appear to have been submitted at this time for each dwelling. Such plans could reasonably be secured by condition prior to commencement of any development.

Overall the layout of the properties proposed will sit relatively separately from neighbouring properties such that impacts upon the residential amenity of users within nearby properties is obviously significantly affected when considered against relevant standards. In this regard the closest affected property is the former Black Horse Public House and it is envisaged that the dwellings proposed in this location, in the main display oblique relationships to the windows associated with this property. The only potential windows that could affect this dwelling would be those in the gable end fronting the road within Unit 8. Conditions could reasonably ensure such windows are considered further as part of the final floor plans. Although concerns are raised from neighbouring properties such as the Old Cornmill, Officers do not see a significant impact upon this property through increased enclosure or overlooking that exceeds relevant standards. The arrangement of the properties is such that the outlook of the proposed properties does not affect this neighbouring dwelling.

With regard to overlooking of neighbouring gardens, it is noted the terrace of 3 No. properties proposed would have a degree of overlooking of the private garden associated with Rose Cottage on the opposite side of the highway. A distance of 9m would exist. Such a level of separation is less than the 10.5m level suggested in the Council's adopted Successful Places Design Guidance. However the garden affected is relatively extensive, functions as a front/side/rear garden that envelopes the property and the area is immediately adjacent the public highway (albeit behind a hedge) such that privacy is to some degree reduced. As such Officers judge there would not be a significant effect on the residential use of this property even if the terraced properties were provided as shown.

With regards to the amenity spaces accompanying the proposed dwellings and the disposition or relationship of the proposed dwellings to one another, the layout raises no cause for concern in amenity terms. Although full floor plans of the dwellings have not been provided, Officers consider such a matter could be fully considered by condition. Overall therefore, the site is considered to pay sufficient regard to the amenity of existing and future occupants in line with Local Plan Policy GEN2. However, these conclusions do not provide a reason to approve this application.

6. Planning Balance

In conclusion, there are a number of issues that do not weigh heavily in the determination of the application. These issues include the potential impacts of the scheme on archaeology, flood risk and drainage, neighbourliness and highway safety, which have all be found to be acceptable or could be made acceptable in planning terms subject to appropriate planning conditions. It also appears that the potential impacts of the scheme on ecology can be appropriately mitigated subject to further assessment by the Derbyshire Wildlife Trust. There are also elements of the scheme that weigh in favour of granting planning permission for the current application.

For example, the conversion of the traditional buildings within the site is acceptable under Local Plan Policy ENV4 in principle. With regard to the new build elements of the proposals, the

applicant is able to demonstrate that the conversion of the traditional buildings supported by additional new build development is necessary in viability terms and thus would meet the exceptional 'enabling development' criterion within NPPF para 55 in principle. Also in favour of the application, the applicant makes the case the proposals include development that is intended to align with the enhancement opportunity identified in the Conservation Area Appraisal for Whaley, that the development will support services in villages in the vicinity of the site, provide short term economic benefits, highway safety benefits, improved flood resilience and will include two affordable dwellings (80% market value) that go over and above the normal requirements of planning policy HOU6.

However, Whaley is a relatively isolated hamlet with little access to day to day services. There are no education facilities within the settlement and it is reported that children have to travel to Cuckney, Shirebrook and Scarcliffe via car for schooling provision. The village is stated as not being on a gritting route and that pedestrian access to other settlements nearby is unsafe due to the absence of pavement and narrow, unlit roads. Respondents suggest, for most households the only viable access is via car from the B6417 over Bolsover Moor. This assessment is reinforced by the Council's Settlement Hierarchy evidence that underpins the Emerging Local Plan. This evidence concludes the site in question is not a sustainable location and to focus development in this area would not align well with the wider carbon reduction ambitions cited within the NPPF, the Council's emerging Local Plan and Policy TRA1 within the extant Local Plan.

Moreover it is considered the Council can demonstrate 5 years supply of deliverable housing sites. As such, the proposed housing is not needed to make up a shortfall in terms of meeting objectively assessed housing need in the District. There is also a lack of evidence that demonstrates that the existing agricultural use of the land is unviable or that housing would be a more appropriate use of the land. Notably, it is said in the submitted application that the Council has accepted the applicant's need for farm rationalisation but this is not correct and each case is determined on its individual merits. In this case, there is no details of why the farm needs to be disposed of by the applicant and why it might not be sold on as a 'going concern'. It is also reasonable to say that the existing farm buildings do not look out of place within a small rural village within a 'farmed' landscape.

In addition, Officers remain concerned that the quantum of development proposed is too great for Whaley and would result in an adverse impact on the valued characteristics of the Conservation Area. In particular criticisms are raised regarding the design and disposition of Plots 1-5 and the unconvincing design rationale of the focal point property proposed opposite Mag Lane. Officers do not consider the development sufficiently reflects or responds to the historic conservation interest of the settlement and this view is shared by the Council's Conservation Officer. The development proposes a design not obviously well related to the local vernacular and the northern portion appears overly dense, prominent in the public realm and leads to an erosion of the perception of openness of this section of the Conservation Area. Such effects conflict with the requirements of Local Plan Policy GEN2, CON1 and the onus to conserve or enhance with the Listed Building and Conservation Areas Act 1990.

It is therefore considered the proposals would cause less than substantial harm to the Conservation Area, which is a designated heritage asset, but this harm would not be outweighed by the limited public benefits of granting planning permission set out above. In this

case, the public benefits of granting planning permission would also be diminished by the fact Whaley is an isolated hamlet with little access to day to day services and therefore not a sustainable location for residential development of the scale proposed in this application. In addition, it cannot be demonstrated that the affordable housing will meet an evidenced local need or that the housing will meet a shortfall in housing supply more generally because the Council can demonstrate it has a 5 year supply of housing.

Accordingly, the current application is recommended for refusal because the adverse impacts of granting planning permission significantly and demonstrably outweighs the benefits of doing so.

RECOMMENDATION

The current application be **REFUSED** for the following reasons:

- 1. The development proposes a design not obviously well related to the local vernacular and the northern portion appears overly dense, prominent in the public realm and leads to an erosion of the perception of openness of this section of the Conservation Area. Such effects conflict with the requirements of Local Plan Policy GEN2, CON1 and CON4, the emphasis within NPPF para 132 and S72 of the Listed Buildings and Conservation Areas Act 1990 to ensure *‘special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area.’***
- 2. Whaley is an isolated hamlet with little access to day to day services. There are no education facilities within the settlement, users of the development will be highly car dependent and there is insufficient pedestrian access to other settlements nearby due to the absence of pavement and narrow, unlit roads. Consequently, the application site is not in a location that is suitable for the scale of residential development proposed in this location and there is no evidence that the proposed affordable housing would meet an identified local need. Moreover, the Council can demonstrate 5 years supply of deliverable housing sites and as such, the proposed housing is not needed to make up a shortfall in terms of meeting objectively assessed housing need in the District. Taking all these factors into account, the current proposals constitute an unsustainable form of development situated within an unsustainable location and any benefits of granting planning permission for the current application would be demonstrably and significantly outweighed by the adverse impacts of doing so when taking into account policies in the Development Plan and the National Planning Framework as a whole.**

Human Rights

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

Site Location Plan

