

The Arc  
High Street  
Clowne  
Derbyshire  
S43 4JY

Date: 18<sup>th</sup> September 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 26<sup>th</sup> September 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 26<sup>th</sup> September 2018 at 1000 hours  
in the Council Chamber, The Arc, Clowne**

Item No.		Page No.(s)
	<b>PART 1 – OPEN ITEMS</b>	
1.	<b><u>Apologies for Absence</u></b>	
2.	<b><u>Urgent Items of Business</u></b> 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.	<b><u>Declarations of Interest</u></b> 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 1 <sup>st</sup> August 2018	3 to 8
5.	Notes of a Site Visit held on 27 <sup>th</sup> July 2018	9
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) 18/00238/FUL - Construction of a 3 bed dormer bungalow with double garage to the rear of 16 George Street, Pinxton at 16 George Street, Pinxton, Nottingham, NG16 6NP  (iii) 18/00043/FUL - Construction of new dwelling, construction of new barn, conversion of existing barn to microbrewery/ kitchen with associated office at Land to the West of Bridge Close, Hollin Hill Road, Clowne	10 to 53  54 to 63  64 to 77
7.	Draft Local Enforcement Plan	78 to 113
8.	Modifications to the Publication Local Plan for Bolsover District	114 to 118

## PLANNING COMMITTEE

Minutes of a Planning Committee of the Bolsover District Council held in the Council Chamber, The Arc, Clowne on Wednesday 1<sup>st</sup> August 2018 at 1000 hours.

### **PRESENT:-**

Members:-

Councillor T. Munro in the Chair

Councillors P.M. Bowmer, J.A. Clifton, C.P. Cooper, P.A. Cooper, M.G. Crane, S.W. Fritchley, D. McGregor, T. Munro, S. Peake, K. Reid, R. Turner, B. Watson, D. Watson and J. Wilson

Officers:-

C. Fridlington (Planning Manager (Development Control)), D. O'Connor (Planning Officer), J. Owen (Legal Executive) and A. Brownsword (Senior Governance Officer)

### **0220. APOLOGIES**

Apologies for absence were received from Councillors T. Alexander, P. Smith and B. Watson.

### **0221. URGENT ITEMS OF BUSINESS**

There were no urgent items of business.

### **0222. DECLARATIONS OF INTEREST**

There were no declarations of interest.

### **0223. EXTRAORDINARY MINUTES – 26<sup>TH</sup> JUNE 2018**

Moved by Councillor S.W. Fritchley and seconded by Councillor D. McGregor  
**RESOLVED** that the minutes of an Extraordinary meeting of the Planning Committee held on 26<sup>th</sup> June 2018 be approved as a true and correct record.

### **0224. MINUTES – 4<sup>TH</sup> JULY 2018**

Moved by Councillor K. Reid and seconded by Councillor J. Wilson  
**RESOLVED** that the minutes of a meeting of the Planning Committee held on 4<sup>th</sup> July 2018 be approved as a true and correct record.

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### 0225. SITE VISIT NOTES – 29<sup>TH</sup> JUNE 2018

Moved by Councillor T. Munro and seconded by Councillor P.M. Bowmer

**RESOLVED** that the notes of a Site Visit held on 29<sup>th</sup> June 2018 be approved as a true and correct record.

### 0226. APPLICATIONS TO BE DETERMINED UNDER THE TOWN AND COUNTRY PLANNING ACTS

1. 17/00546/OUT - 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 at Land And Buildings South East Of The Old Cornmill, Whaley Road, Whaley

Further details and an amended recommendation was included on the Supplementary Report.

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

Mrs J. Dixon attended the meeting and spoke against the application.

Mr. W. Kemp attended the meeting and spoke in support of the application.

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

Moved by Councillor D. McGregor and seconded by Councillor J.A. Clifton

**RESOLVED** that application no 17/00546/OUT 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 paragraph 193 of the revised Framework 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



## PLANNING COMMITTEE

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 revised National Planning Framework as a whole.

(Planning Manager (Development Control))

2. 17/00539/FUL - Commercial development comprising an office building, workshop and manufacturing facility and a HGV trailer park and associated works at Land Adjacent to Brick Yard Farm, Slayley Lane, Barlborough

Further details and amended conditions were included on the Supplementary Report.

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

Mr. Lindley attended the meeting and spoke against the application.

Mr. E. Senior 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 the Emerging Local Plan.

Moved by Councillor D. McGregor and seconded by Councillor J.A. Clifton

**RESOLVED** that application no. 17/00539/FUL be APPROVED subject to the following conditions given in precis form:

1. The development shall be begun before the expiration of three years from the date of this permission.
2. The development shall be carried out in complete accordance with the following approved plans, Drawing No.s:
  - P17-0895 09A Location Plan
  - P17-0895 13B Ground Floor
  - P17-0895 14B First Floor
  - P17-0895 15C Elevations
  - P17-0895 16B Sections
  - P17-0895 17B GF Perspective
  - P17-0895 18B FF Perspective
  - P17-0895 19 Floor Areas
  - P17-0895 23F Proposed Layout

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3. Before construction commences on the erection of any building beyond the construction of the foundations for that building, a schedule of wall and roof materials shall first have been submitted to and approved in writing by the Local Planning Authority.
4. Prior to the erection of the proposed retaining walls / introduction of gabions on site, precise details of site levels as existing and as proposed and sectional details of the gabions and retaining walls shall be submitted to and agreed in writing by the Local Planning Authority. Thereafter, the development shall be carried out as approved.
5. Prior to the erection of any fences, railings or other similar items, the details of these shall be submitted to and approved in writing by the local planning authority. Thereafter, these items shall be constructed as approved prior to the development hereby permitted being taken into use.
6. Prior to the development hereby permitted being brought into use, full details of soft landscape works, including a programme for implementation, measures to encourage biodiversity, tree and hedgerow planting, and suitable mitigation for birds and reptiles, shall be submitted to and approved in writing by the Local Planning Authority. Thereafter, the works shall be carried out as approved.
7. Prior to the installation of any external lighting except street lighting a detailed scheme shall have first been submitted to and approved in writing with the Local Planning Authority. The scheme shall be implemented as approved and shall be designed to minimise light spillage outside of the site, it is designed to serve and into the sky.
8. No goods, material or waste shall be stored outside the building(s) except in accordance with a scheme which shall have first been submitted to and approved in writing by the Local Planning Authority and implemented as agreed. The submitted scheme shall include details of the height of storage and measures to contain and screen the material.
9. Sound from the entire commercial development shall, not exceed the residual noise level of 49dB LAR (1hr) daytime (7:00-23:00) and 43dB LAR (15min) night-time (23:00-7:00) corrected for acoustic features, measured at or calculated to, a position representing any residential boundary which may suffer a loss of aural amenity from sound associated with the development. The measurements and assessment shall be made in accordance with BS4142: 2014 Methods for rating and assessing industrial and commercial sound.
10. The jet wash shall only be used during daytime hours 08:00-19:00 Monday to Saturday and not at all on Sundays or Bank Holidays.
11. Any external plant equipment must comply with the design criteria in Table 12 of the Noise Impact Assessment (Ref 12359.01.v2 April 2018).
12. The workshop building shall be constructed with sound insulation in accordance with the recommendations within sections 4.15 and 4.17 of the Noise Impact Assessment (Ref 12359.01.v2 April 2018).
13. Prior to the start of development, a dust management plan for the construction phase and prior to the buildings being brought into use, a dust management plan for the operational phases of the development must be submitted and approved in writing by the

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Local Planning Authority and then implemented in full during construction and whilst the site is operational.

14. Drainage systems on the site including:
  - i. The proposed separate systems of drainage on site and off site
  - ii. The proposed amount of domestic foul water to be discharged to the public foul sewer
  - iii. The proposed amount of curtilage surface water to be discharged to the public surface water sewer at a restricted rate of 14.6 (fourteen point six) litres/second
  - iv. The proposed use of the petrol/oil separator

shall be carried out broadly in accordance with the details submitted on drawing BARL - AWP - ZZ - XX - DR - C - 0200 (revision P3) dated 14/02/2018 that has been prepared by Alan Wood & Partners.

15. Before the site is taken into use, a new access junction shall be formed to Chesterfield Road broadly in accordance with application drawing number: LTP/2439/T2/01.02 Rev B, shall be laid out and constructed, lined, signed, drained and lit to adoptable criteria.
16. The premises, the subject of the application, shall not be taken into use until a footway has been provided between the application site access roundabout and the bus stop shelter on Chesterfield Road to the north east of the site, laid out and constructed in accordance Derbyshire County Council's specification for adopted roads.
17. The premises, the subject of the application, shall not be taken into use until space has been provided within the application site in accordance with the approved drawings for the parking and turning of domestic and commercial vehicles, laid out and surfaced in a solid, bound material and maintained throughout the life of the development free from any impediment to its designated use.
18. No part of the development permitted by this consent shall be occupied until a revised Travel Plan has been submitted to and approved in writing by the Local Planning Authority. The Travel Plan shall set out proposals (including a timetable) to promote travel by sustainable modes which are acceptable to the Local Planning Authority. The Travel Plan shall be implemented in accordance with the timetable set out in that plan unless otherwise agreed in writing by the Local Planning Authority. Reports demonstrating progress in promoting sustainable transport measures shall be submitted annually on each anniversary of the date of the planning consent to the Local Planning Authority for approval for a period of five years from first occupation of the development permitted by this consent.
19. No development within the application area shall be occupied or otherwise brought into use until the works to the A616/A619 roundabout as broadly indicated on drawing number LTP/2439/T1/05.02 Rev A, subject to detailed design, have been completed to the satisfaction of the Local Highway Authority through consultation with Highways England and open to traffic unless an alternative mechanism for facilitating improvements to this junction has been agreed with the Local Planning Authority through consultation with the Local Highway Authority and Highways England.

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20. A detailed remediation scheme to address ground contamination issues including landfill gas and its potential for migration beyond the site, including all works to be undertaken, proposed remediation objectives and remediation criteria, timetable of works and site management procedures shall be submitted to the Local Planning Authority prior to commencement of the development hereby permitted.
21. The remediation scheme approved in accordance with condition 20 above, must be carried out in accordance with its terms, unless otherwise agreed in writing by the Local Planning Authority. The Local Planning Authority must be given two weeks written notification of commencement of the remediation scheme works.

Following completion of measures identified in the approved remediation scheme, a verification report (referred to in PPS23 as a validation report) that demonstrates the effectiveness of the remediation carried out must be produced, and is subject to the approval in writing of the Local Planning Authority. The verification report will also provide for any long term monitoring of pollutant linkages, maintenance and arrangements for contingency action as approved in writing by the Local Planning Authority.

22. In the event that it is proposed to import soil onto site in connection with the development, the proposed soil shall be sampled at source and analysed in a laboratory that is accredited under the MCERTS Chemical testing of Soil Scheme for all parameters requested (where this is available), the results of which shall be submitted to the Local Planning Authority for approval. Only the soil approved in writing by the LPA shall be used on site.
23. Piling or any other foundation designs using penetrative methods shall not be permitted unless it has been demonstrated to the Local Planning Authority and agreed in writing, that there is no resultant unacceptable risk to groundwater.

(Planning Manager (Development Control))

### **0227. UPDATE: SECTION 106 AGREEMENTS**

The Planning Manager (Development Control) presented the report which gave information on Section 106 Agreements and their status. It was important for Members to monitor Section 106 Agreements as part of a robust procedure. There was only one agreement that was due and assurances were made that the monies would be spent before the deadline.

Members noted that the system seemed to be working well.

Moved by Councillor D. McGregor and seconded by Councillor K. Reid.  
**RESOLVED** that the report be noted.

The meeting concluded at 1112 hours.

## **PLANNING SITE VISIT**

Notes of a Planning Site Visit of Bolsover District Council held on 27<sup>th</sup> July 2018 commencing at 1000 hours.

### **PRESENT:-**

Members:-

Councillor R. Turner in the Chair

Councillors P.M. Bowmer, J.A. Clifton, P.A. Cooper, C.P. Cooper, D. McGregor, K.F. Walker, D.S. Watson and J. Wilson.

Officer:-

P. Sawdon (Principal Planner)

### **1. APOLOGIES**

Apologies for absence were received from Councillors T. Alexander, T. Munro, K. Reid and P. Smith.

### **SITES VISITED**

**1) Whaley Moor Farm (17/00546/OUT)**

**2) Brick Yard Farm, Slayley Lane, Barlborough (17/00539/FUL)**

The meeting concluded at 11:30 hours

**PARISH** Old Bolsover

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**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  
**APPLICATION NO.** 17/00615/FUL **FILE NO.** PP-06561990  
**CASE OFFICER** Mr Chris Fridlington  
**DATE RECEIVED** 24th November 2017

### **SUPPLEMENTARY REPORT**

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#### **BACKGROUND**

This application proposes demolition of existing buildings and erection of foodstore and retail terrace, car parking and associated works on the Sherwood Lodge site in Bolsover. In May 2018, the Planning Committee resolved to defer a decision and delegate APPROVAL of this application to the Planning Manager in consultation with Chairman and Vice-Chairman of the Planning Committee subject to:

- (1) consultation on amended plans and no new substantive issues arising in any representations on those plans;
- (2) priority entry into a s.106 legal agreement containing obligations related to:
  - a) commuted sum of £150,000 towards highways improvements;
  - b) commuted sum of £5,000 towards public art; and
  - c) the transfer of sufficient land and rights across land in the applicant's control to safeguard the route of a two-way link road between Town End and Oxcroft Lane; and
- (3) various planning conditions.

The reasoned justification for the resolution made in May 2018 is contained in the original officer report attached as Appendix A to this report.

#### **AMENDMENTS**

Following consultation on the amended plans (referred to in the resolution from May 2018 and showing the building moved further away from the site boundary to allow for a two-way link road through the site) the Council received a number of strong objections because the proposed link road would go through the 'intrenchments' in the north-east corner of the site.

Consequently, the plans have been amended to show the food store in its 'original' location (shown overleaf), which would not allow for the provision of a two-way link road through the

site.  
**Proposed Layout**



Other than the consequential withdrawal of the proposals to safeguard the route of a two-way link road between Town End and Oxcroft Lane, and some minor amendments to the external appearance of the food-store; there are no significant changes to any other aspect of the proposals considered by the Planning Committee in May 2018.

**PURPOSE OF THIS REPORT**

Therefore, the purpose of this supplementary report is to allow the Planning Committee to consider the absence of any provision for a link road through the site and whether this means that the proposals are no longer acceptable in planning terms. This report also takes into account policies in the revised National Planning Policy Framework that was published in July 2018.

For the following reasons, officers consider that it is still appropriate to recommend conditional approval of this application on the basis of the most recent amended plans that show the food store in its 'original' location.

## ASSESSMENT

### Policy

From a policy perspective, the proposals continue to be contrary to saved policies in the Local Plan because the site is outside of the town centre (regardless of the location of any particular building within the application site). Moreover, whilst the application site is allocated for retail uses in emerging Local Plan: the current proposals do not fully meet the criteria in the Sherwood Lodge site specific policy (WC6) that requires a link road through the site, amongst other things.

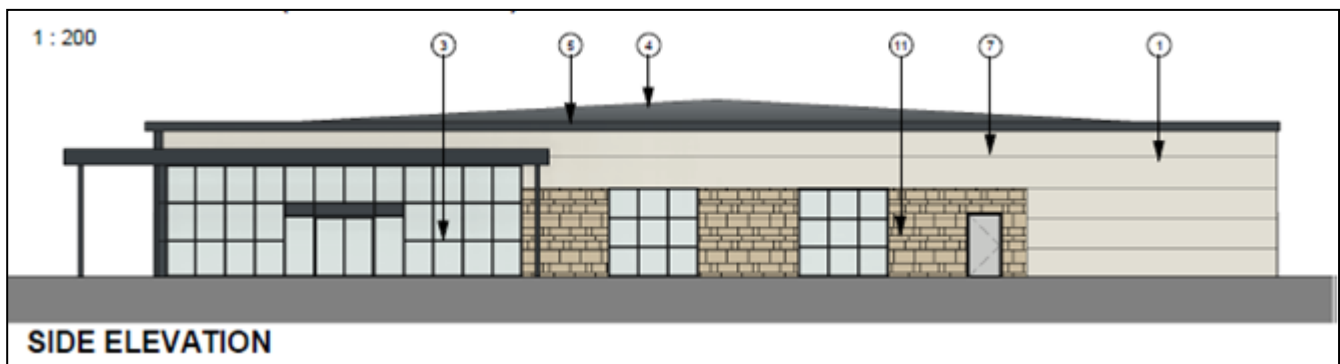
However, the proposals are compliant with policies in the revised National Planning Policy Framework (published July 2018) because the applicant is able to demonstrate that there is no alternative site available within the town centre and can also demonstrate that the proposals would not have an adverse impact on the vitality of the existing town centre. In consultation on the most recently amended plans, the County Council's policy team has confirmed that they still consider the proposed retail units and food store would be more likely to improve the health of Bolsover's town centre.

Therefore, there are no overriding objections to the principle of re-development of the Sherwood Lodge site for the retail uses proposed in this application, which comprises a medium-sized food store and a terrace of five retail units.

### Design Quality

The amended plans do not alter the original conclusions in the original officer report that the proposals do not have any particular architectural interest and fall below the place-making aspirations contained in the site specific policy WC6 in the emerging Local Plan. The revised National Planning Policy Framework also places greater emphasis on the importance of its design compared to its predecessor. However, it is still considered that the design of the proposals are in keeping with the proposed end-use of the site and some attempt has been made to reflect local distinctiveness by the introduction of stone-effect cladding.

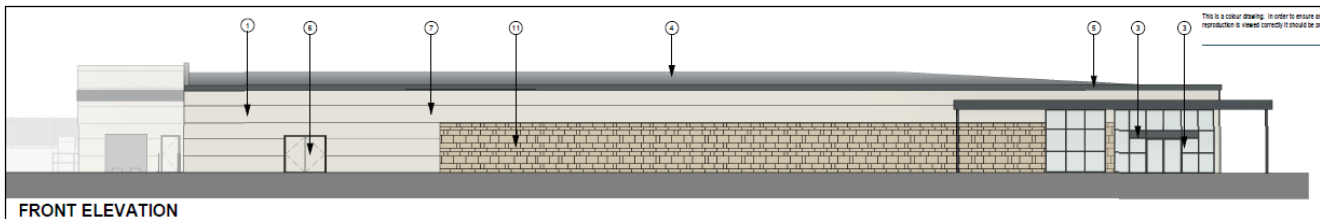
### Food Store (Elevation facing Town End)





Therefore, design quality remains a broadly neutral planning consideration in this case other than the Council’s Heritage Conservation Manager continues to object to these proposals on the basis that the loss of Sherwood Lodge combined with the form and massing and overall design quality of the proposed buildings (individually and collectively) would not adequately reflect or respect the special qualities of the surrounding Conservation Area. These views are repeated in similar terms in third party representations on this application.

Food Store (Facing Car Park)



Retail Terrace (Facing Car Park)



Heritage Conservation

In consultation on the most recently amended plans, two key issues have been raised by Historic England and the County Archaeologist.

Firstly, as most recently amended, it is considered that the proposals would not have an unacceptable impact on the ‘intrenchments’ in the north east corner of the application site subject to appropriate planning conditions. In this particular respect, Historic England consider the conservation of the intrenchments, which are part of the historic town defences, to be so important that Historic England’s officers were actively considering scheduling the intrenchments to effectively end any prospect of a ‘link road’ on the line proposed in May 2018.

As a consequence, the proposals for a link road have been withdrawn from this application and by virtue of the applicant’s commercial imperatives to develop the site as proposed on the most recent set of amended plans; there is now no prospect of a link road being provided for through the site. The implications of the absence of a link road are considered in more detail in later sections of this report but as amended; there are now no objections to this application based on its impact on the intrenchments.

## Intrenchments



Secondly, Historic England and the County Archaeologist still have concerns that the loss of the 'historic' Sherwood Lodge building would be harmful to the Conservation Area. As noted above, the Council's Heritage Conservation Manager and local residents continue to object to these proposals because it is considered that the loss of Sherwood Lodge combined with the form and massing and overall design quality of the proposals would not adequately reflect or respect the special qualities of the surrounding Conservation Area.

In these respects, it is considered that there would be "less than substantial harm" to designated heritage assets because of the loss of Sherwood Lodge and the visual impact of the scheme when seen in views to and from the Conservation Area. There would be no significant impact on the setting of Bolsover Castle but the loss of historic parkland, trees and open space would also be harmful to the appreciation and historical significance of the Sherwood Lodge site as a heritage asset in its own right.

The revised National Planning Policy Framework makes it clear that great weight should be given to the conservation of the heritage assets affected by these proposals. However, the revised National Planning Policy Framework also says 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, where appropriate, securing its optimum viable use.

The provision for a link road through the site and associated public benefits weighed heavily in this balancing exercise in May 2018, which is a key reason why this application has been returned to the Planning Committee for a final decision.

### Sherwood Lodge



### Highways

The issue of traffic generation and the provision of a secondary access on to Oxcroft Lane have previously resulted in objections from local residents to the current application. At the time of writing, no further comments have been received on highway matters from any third party on the most recently amended plans other than Derbyshire County Council have responded to this latest round of consultation by confirming that they have no objections to the proposals on highways grounds.

In the first instance, County Council consider that the proposals would not have a severe

adverse impact on the local road network through traffic generation despite previously stated local concerns. The proposals would also result in some betterment by providing a signalised junction, pedestrian crossing facilities and replacement bus stop and new shelter. Relocating the bus stops off Town End (sometimes also referred to as the 'market place') would relieve congestion in the centre of the town. In addition, the applicant will be making a financial contribution of £150,000 towards other highway improvements in the town centre but the applicant has left it to this Council (in consultation with the County Council) to specify what improvements this money will pay for.

Equally, the County Council consider that the access from Town End and from a secondary two-way access on to Oxcroft Lane site (shown on the plan, below) would be provided with a safe and suitable, again, despite previous concerns raised by local residents. In these respects, it is considered a condition prohibiting heavy goods vehicles from access the site from the Oxcroft Lane access should address the most pressing concerns raised in previous representations from local residents about highway safety issues. However, it would not be appropriate to consider making the Oxcroft Lane access 'exit only' even though this has also been requested by local residents.

### Access Points



In particular, a two way access point underpins various assumptions made in the transport assessment about how traffic will move to and from the site and how this would disaggregate additional traffic movements on the local road network rather than intensify vehicular movements at particular points such as at the Town End junction. A two-way access point also mitigates for the absence of provision for a link road through the site to a certain extent. For example, some 'linked trips' would mean that Oxcroft Lane is not as heavily trafficked by vehicles moving onwards to the Bolsover North site after visiting the site, and the Town End junction can be avoided by drivers visiting the site from the direction of the Bolsover North site.

This is important because the emerging Local Plan assumes that a link road through the site would mitigate for the impacts on the Town End junction of increasing traffic generation from the Bolsover North site (c.900 dwellings) and the Bolsover East site (c.350 dwellings) as they come forward. However, the mitigation from the ability to make linked trips 'through the site' does not fully compensate for the absence of a formal link road in plan-making terms. Therefore, an approval of this application does have implications for the emerging Local Plan even though there are no sound reasons to refuse this application on highways grounds on the basis of the individual planning merits of the current proposals.

### Emerging Local Plan

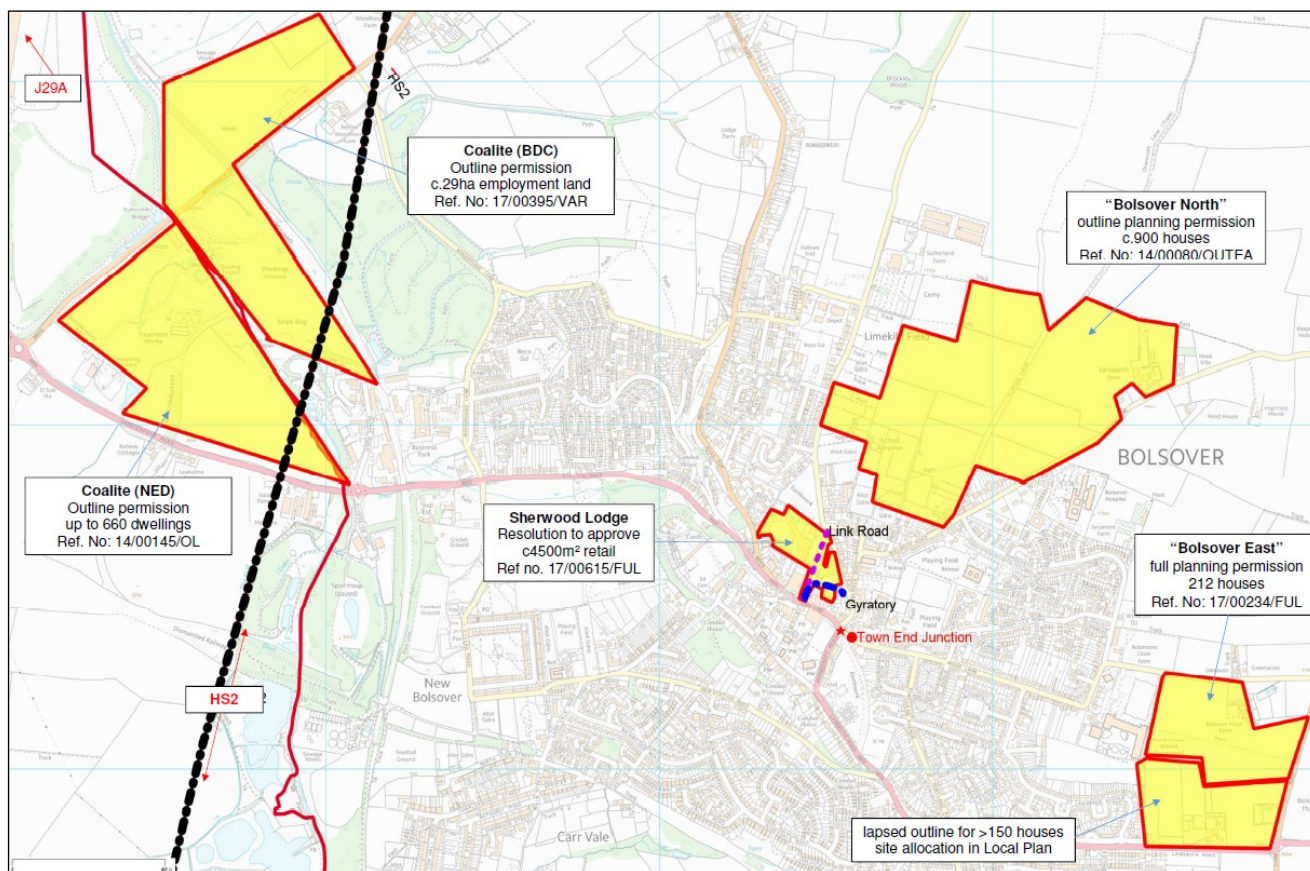
In a wider spatial context, the absence of the provision for a link road through the site is of concern to the local highway authority but the County Council have advised that there remain other alternatives which should be sufficient to avoid the County Council (as the local highway authority) having to withdraw its current positive stance in respect of the acceptability of the emerging Local Plan. These alternatives include other interventions contained in the Local Plan evidence base as well as options presented by other developers as part of their applications for other sites.

One option is looking at more significant junction improvement works at the A632/ Welbeck Road/ Moor Lane junction (the Town End junction, shown overleaf) potentially involving land control outside the limits of the public highway. The use of the proposed contributions from this development towards this intervention would need to be carefully considered (in conjunction with contributions already secured through other permissions) and a strategy formulated as part of the Local Plan which enabled the timely assembly of land and financial contributions, detailed design, procurement and physical delivery of a suitable improvement scheme. However, the 'gyratory' mentioned in the Local Plan evidence base is not considered to be an appropriate option by the County Council or any other interested party.

If permission were to be granted for this application, it would also be necessary to amend (or delete) the Sherwood Lodge site-specific policy WC6 taking into account this policy requires provision of a link road through the site. However, it is also reasonable to say that the current land owner / developer has no intention of delivering a scheme in accordance with WC6 and it seems likely that this policy will be challenged at examination in public regardless of the outcome of this application.



## Town End Junction



Furthermore, there is no realistic prospect of the approved scheme for redevelopment of the Sherwood Lodge site coming forward. This scheme (approved under 12/00324/FULMAJ) forms the basis for policy WC6 and was intended to provide for a link road through the site (as shown on the above plan) but changes in the retail market means this scheme is no longer a viable proposition and the legal agreements made with the County Council in respects of provision of the link road have since lapsed. Therefore, any refusal of this application would not necessarily guarantee WC6 would be retained in its current form and any refusal would not resolve the uncertainty about the provision of a link road or consequential risk to the emerging Local Plan.

For example, if this application were to be refused, all that could be said is that we have a policy proposal WC6 but there can be no realistic expectation that this policy proposal will come forward in the plan period without significant interventions such as compulsory purchase and without public sector funding for the link road. This funding is yet to be secured and it is clear there would be no support from the landowner or developer for an alternative scheme that includes provision of a link road through the site (without affecting the intrenchments).

In these respects, it should also be acknowledged that refusing planning permission frustrates the ability of the developer to start on site at the earliest opportunity but there is no realistic prospect of an alternative scheme coming forward; therefore

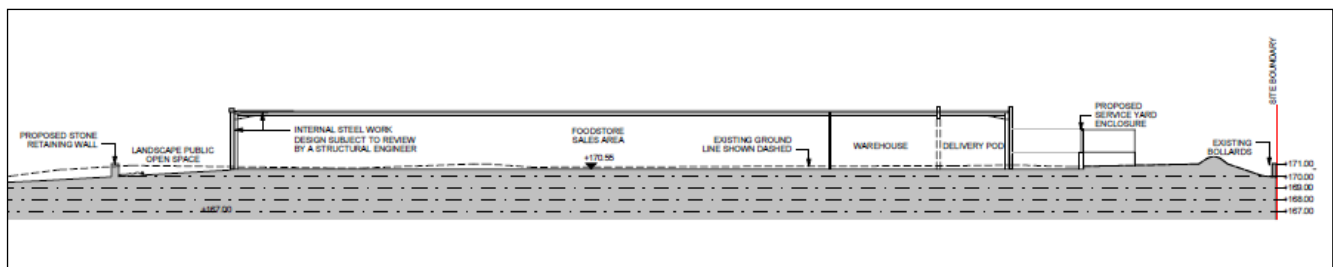
- Refusing planning permission may safeguard the future potential for provision of a link road but does not give rise to any realistic likelihood of the link road coming forward during the plan period;
- Refusing planning permission prolongs the negative impacts of the vacant site on the character and appearance of the Conservation Area;
- Refusing planning permission perpetuates the detrimental impact of the vacant site on the amenities of the local area;
- Refusing planning permission fails to take the opportunity to maintain and enhance the viability and vitality of Bolsover's town centres resulting from the proposed development of the site; and
- Refusing planning permission fails to take into account the clearly expressed views of the local community in terms of improving the retail offer in the town centre.

Therefore, in plan making terms, any approval of this application with no provision for a link road poses a significant risk that the emerging Local Plan (in its current form) would be found unsound. However, there are alternatives to the link road that could mitigate this risk and there is also a real risk that in decision making terms: refusing planning permission could cause greater harm to the social and economic welfare of the local community and the environmental quality of the local area. However, when considering the overall planning balance, the longer-term public benefits of approving this application are significantly diminished by the absence of provision for a link road through the site.

### Neighbourliness

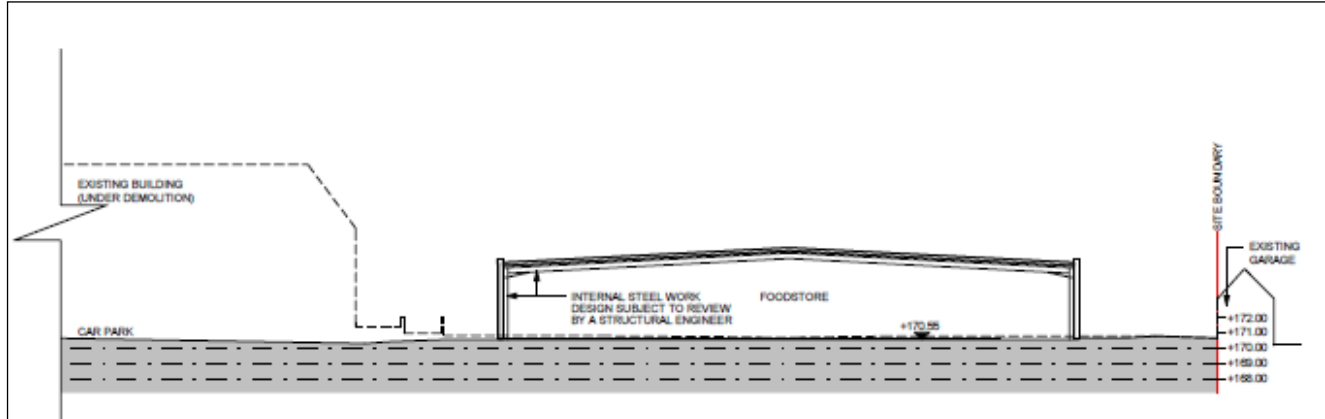
Although no representations have been received in response to notification of the most recently amended plans from owner/occupiers of the properties adjacent to the site at the time of writing; concerns about the impacts of the proposed development on the nearest neighbouring residential properties have been raised in previous rounds of consultation.

### Long Section through Food Store



The above drawing clarifies that the building would be slightly dug in and shows the eaves height at 6m above the finished floor level. The drawing below shows the height of the food store relative to the former offices on the Sherwood Lodge site and a domestic garage beyond the site boundary. The garage is within the curtilage of one of a pair of semi-detached houses, which are the two residential properties most affected by these proposals.

## Cross Section through Food Store



This drawing gives some sense of perspective (in terms of size and scale) and the nearest window in either property 'facing' is set back from the existing garage around 15m from the eaves of the proposed building (albeit at a slightly oblique angle and at first floor level). Existing site boundaries mean the outlook from the ground floor windows would not be affected significantly in either of the pair of semi-detached properties closest to the site and at a maximum height of around 8m, the food store would not block an unacceptable amount of light to either property.

Therefore, officers still consider the intervening distances between the proposed development and the two nearest residential properties limits the extent to which the new units (and the food store in particular) 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 subject to planning conditions including restrictions on trading hours and delivery times and constraints on the use of the secondary off Oxcroft Lane by large vehicles.

## Other Matters

The original officer's report (attached as Appendix A) concluded there were no other technical issues that would prevent an approval of this application and there is no reason to consider that policies in the revised National Planning Policy Framework changes this assessment. Therefore, the key issue in the determination of the application is whether the planning balance reached by the Planning Committee in May 2018 would now be different in the absence of a provision of a link road through the site.

In terms of consultation and publicity for this application, it should be noted that there has been four separate consultations with statutory consultees, four separate neighbour notifications, four separate press adverts and four separate site notices based on consultation



on the original plans and subsequent amendments. The fourth and final round of consultation on the plans now being considered gave rise to a single third party representation and consultation responses from the County Archaeologist, Historic England, this Council's Heritage Conservation Manager and the County Council's Flood Team and Highways Department. These responses have all been addressed in the above report other than the Flood Team's response can be addressed by planning conditions.

In previous rounds of consultation, objections to the proposals have been received on the following grounds:

- 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.

It is considered these matters have been adequately addressed in this report and the original officer report. Similarly, this report takes into account that over the previous rounds of consultation over 100 representations were made in support of this application which taken together expressed significant public interest in re-development of the Sherwood Lodge site taking into account its current condition, articulated a clearly expressed need for a new food store in the town and demonstrated that many residents go out of town for their food shopping. The extra jobs the scheme would create were also welcomed in many of these representations

### The Planning Balance

In conclusion, it can be seen from the above technical assessment of the planning merits of the current proposals 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. In addition, the proposals do not make provision for a link road through the site, which would have a consequential impact on the emerging Local Plan. These aspects of the proposals weigh against granting planning permission for the current application.

However, the Planning Committee has already acknowledged that granting planning permission for the current application would result in the following benefits:

- 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.

It has also been 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, officers still consider 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, officers still considered that the proposals have the capacity to enhance the vitality and viability of the town centre as a whole even without a link road. It is also considered by officers that the deteriorating condition of the site continues to have 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.

It is therefore concluded that granting planning permission for the current application would result in a number of substantial socio-economic and environmental benefits that should be afforded substantial weight in the planning balance. From a decision making perspective, it is also concluded that these public benefits of granting planning permission for the revised proposals significantly and demonstrably offset and outweigh concerns about the design of the proposals and the harm to heritage assets that would result from an approval for this application.

From a plan making perspective, this balancing exercise fails to take into account that the absence of a link road through the site poses a serious risk to the soundness of the emerging Local Plan in its current form. However, from a decision making perspective, an approval has the advantage of obtaining a further £150,000 towards highway improvements and there is also the alternative of pursuing more significant improvements to the Town End junction to mitigate the impacts of proposals coming forward in the town over the plan period.

In this respect, there is a reasonable alternative open to the plan-making function of the Council to allow the emerging Local Plan to go forward but there is no alternative option for re-development of the Sherwood Lodge site and no alternative funding for purchase of the site and provision of a link road. From a decision-making perspective, this means that safeguarding a route for a link road from the site by refusing planning permission for the current application would not safeguard the plan-making position or the site-specific policy WC6 but would prevent re-development of the site for the foreseeable future.

Consequently, in overall planning terms, it is considered that it would be the failure to allow the re-development of the site as proposed in this application rather than the absence of the

provision of a link road through the site that would cause greater harm to the social and economic welfare of the local community and the environmental quality of the local area.

Accordingly, the current application is recommended for approval.

## **RECOMMENDATION**

The current application be approved subject to (a) prior entry into a s.106 legal agreement requiring financial contributions of £5000 towards public art and £150,000 towards highways improvements and (b) subject to the following planning conditions:

### **Statutory Time Limit**

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.

**Reason:** In accordance with the provisions of s.91 of the Town and Country Planning Act 1990, as amended, and in the interests of the proper planning of the local area.

### **Amended Plans**

2. The development hereby permitted shall be carried out in complete accordance with the amended plans, Drawing No.s:

- 7177-SMR-00-ZZ-DR-A-2003-S3-P15 – Proposed Site Plan
- 7177-SMR-00-ZZ-DR-A-2004-S3-P6 – Proposed External works
- 7177-SMR-00-ZZ-DR-A-2005-S3-P8 - Site sections
  
- 7177-SMR-00-GF-DR-A-2101-S3-P5 – Proposed Ground Floor Plan - Foodstore
- 7177-SMR-00-ZZ-DR-A-2102-S3-P6 – Proposed Roof Plan – Foodstore
- 7177-SMR-00-ZZ-DR-A-2103-S3-P7 – Proposed Elevations – Foodstore
  
- 7177-SMR-00-GF-DR-A-2201-S4-P3 – Proposed Ground Floor Plan – Retail Units
- 7177-SMR-00-ZZ-DR-A-2202-S4-P3 – Proposed Roof Plan – Retail Units
- 7177-SMR-00-ZZ-DR-A-2203-S4-P3 – Proposed Elevations – Retail Units

**Reason:** For clarity and for avoidance of doubt and in the interests of the proper planning of the local area.

### **Archaeology**

3. No development shall take place until a Written Scheme of Investigation for archaeological work has been submitted to and approved by the Local Planning Authority in writing, and until any pre-start element of the approved scheme has

been completed to the written satisfaction of the Local Planning Authority. The scheme must include an assessment of significance and research questions; and:

- i. The programme and methodology of site investigation and recording
  - ii. The programme for post investigation assessment
  - iii. Provision to be made for analysis of the site investigation and recording
  - iv. Provision to be made for publication and dissemination of the analysis and records of the site investigation
  - v. Provision to be made for archive deposition of the analysis and records of the site investigation
  - vi. Nomination of a competent person or persons/organization to undertake the works set out within the Written Scheme of Investigation
4. No development shall take place other than in accordance with the archaeological Written Scheme of Investigation approved under condition 3 (above).
5. The development must not be occupied until the site investigation and post investigation assessment has been completed in accordance with the programme set out in the archaeological Written Scheme of Investigation approved under Condition 3 (above) and the provision to be made for analysis, publication and dissemination of results and archive deposition has been secured.

**Reasons:** In order to secure appropriate investigation of potential archaeological deposits in accordance with saved Local Plan policy CON13 and national planning policies in the Framework.

### **Drainage**

6. The site shall be developed with separate systems of drainage for foul and surface water on and off site. The development hereby permitted shall not commence until drainage plans for the disposal of surface water and foul sewage have been submitted to and approved by the Local Planning Authority. The scheme shall be implemented in accordance with the approved details before the development is first brought into use.

**Reason:** To ensure that the development is provided with a satisfactory means of drainage as well as reduce the risk of creating or exacerbating a flooding problem and to minimise the risk of pollution.

7. There shall be no piped discharge of surface water from the development prior to the completion of surface water drainage works in full accordance with details that have been submitted to and approved by the Local Planning Authority. No

development shall take place until details of the proposed means of disposal of surface water drainage , including but not exclusive to :-

- a) evidence to demonstrate that surface water disposal via infiltration or watercourse are not reasonably practical;
- b) evidence of existing positive drainage to public sewer and the current points of connection ; and
- c) the means of restricting the discharge to public sewer to the existing rate less a minimum 30% reduction, based on the existing peak discharge rate during a 1 in 1 year storm event, have been submitted to and approved by the Local Planning Authority .

Furthermore, Surface water run-off from hard-standing (equal to or greater than 800 square metres) and/or communal car parking area(s) of more than 49 spaces must pass through an oil , petrol and grit interceptor/separator of adequate design that has been submitted to and approved by the Local Planning Authority, prior to any discharge to an existing or prospectively adoptable sewer .

**Reason:** To ensure that the principles of sustainable drainage are incorporated into this proposal as far as is practicable and to ensure the sufficient detail of the construction, operation and maintenance of a sustainable drainage system is provided to the Local Planning Authority in accordance with saved Local Plan policies GEN5 and GEN6 and national planning policies in the Framework.

### **Biodiversity and Landscaping**

8. No removal of hedgerows, trees or shrubs shall take place between 1st March and 31st August inclusive, unless a competent ecologist has undertaken a careful, detailed check of vegetation for active birds' nests immediately before the vegetation is cleared and provided written confirmation that no birds will be harmed and/or that there are appropriate measures in place to protect nesting bird interest on site. Any such written confirmation should be submitted to the local planning authority prior to works commencing.

**Reason:** In the interests of safeguarding ecological interests in accordance with saved Local Plan policy ENV5 and national planning policies in the Framework.

9. Before preparation of any groundworks and foundations on site for the development hereby approved, a scheme of hard and soft landscaping shall be submitted to and approved in writing by the Local Planning Authority and these works shall be carried out in accordance with the approved details. These details shall include proposed boundary treatments, proposed finished levels and contours, hard surface finishes, including samples, details of any retaining walls, steps, railings, walls, gates or other supporting structures, car parking layouts, other vehicle and pedestrian access and circulation areas, minor artefacts and structures (e.g. street furniture, play equipment, refuse and other storage units).

The information shall also include indications of all existing trees and hedgerows on the land, including those to be retained, together with measures for their protection which shall comply in full with BS5837:2012 Trees in relation to design, demolition & construction – Recommendations, in the course of the development, together with a scheme for the subsequent maintenance of any trees, shrubs and hedges retained on the site and any proposed to be planted as part of the approved landscaping scheme. Soft landscape details shall include planting plans, written specifications, schedules of plants - noting species (which should be indigenous), planting sizes and proposed density.

**Reason:** To conserve the natural environment and enhance the character and appearance of the completed development, and to ensure the proposed development would not result in a net loss of biodiversity in accordance with saved Local Plan policies GEN 2 and ENV5 and national planning policies in the Framework.

## 10. Construction Method Statement

No development shall take place until a Construction Method Statement has been submitted to, and approved in writing by, the local planning authority. The approved Statement must be adhered to throughout the construction period. The Statement must provide for:

- a) The precise details of how construction phase vehicles will access the site from the public highway.
- b) The parking of vehicles of site operatives and visitors.
- c) Loading and unloading of plant and materials.
- d) Storage of plant and materials used in constructing the development and the provision of temporary offices.
- e) Wheel washing facilities.
- f) Measures to control the emission of dust and dirt during construction.
- g) Access and protection measures around the site for pedestrians, cyclists and other road users, including arrangements for diversions and the provision of associated directional signage if required.
- h) Measures to be taken to prevent pollution of the received ground and surface water.
- i) Hours that construction will take place on site.

- j) Details of the routes to be taken by construction traffic through the local road network to the site and any limitations on the times of vehicular movements to and from the site.

**Reason:** In the interests of highway safety and to safeguard residential amenity in accordance with saved Local Plan policy GEN2 and national planning policies in the Framework.

## Highways

11. Before any other operations are commenced, a scheme of phasing and works programme for the development shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall include temporary and permanent means of access to the site and temporary and permanent on-site parking and manoeuvring provision.
12. Prior to any operations commencing on site, a scheme shall be submitted to and approved in writing by the Local Planning Authority, in consultation with the County Highway Authority, for the proposed new junction into the site from Town End (A632). The scheme shall generally be in accordance with application drawing 17-2950SKHA-001 to provide a signalised junction, pedestrian crossing facilities and replacement bus stop and new shelter facilities. The approved scheme shall be implemented, laid out and constructed prior to the first occupation of any premises hereby permitted.

For the avoidance of doubt, the developer will be required to enter into an Agreement under Section 38/278 of the Highways Act 1980 and obtain appropriate Traffic Regulation Orders in order to comply with the requirements of this condition.

13. The premises, the subject of the application, shall not be taken into use until the access onto Oxcroft Lane has been laid out and constructed in accordance with a scheme first submitted to and approved in writing by the Local Planning Authority, generally in accordance with the approved application drawing. Thereafter, this access point shall not be used by any vehicle with a gross access weight greater than 3.5 tonnes. For the avoidance of doubt, the applicant will be required to enter into an Agreement under Section 278 of the Highways Act 1980 to comply with this condition.
14. The premises, the subject of the application, shall not be taken into use until the permanent on-site car parking and manoeuvring space for staff and visitors to the site, the loading and unloading of service/delivery vehicles has been provided within the site, laid out in accordance with the approved application drawing and maintained throughout the life of the development free of any impediment to its designated use.
15. The Approved Travel Plan shall be implemented in accordance with the timescales specified therein, to include those parts identified as being

implemented prior to occupation and following occupation, unless alternative timescales are agreed in writing with the Local Planning Authority. The Approved Travel Plan shall be monitored and reviewed in accordance with the agreed Travel Plan targets.

**Reasons:** In the interests of highway safety, efficient traffic movement and sustainable travel in accordance with saved Local Plan policies GEN1 and GEN2 and national planning policies in the Framework.

## Amenity

16. Notwithstanding the information already provided, the development hereby approved shall not be brought into use unless and until:
  - a) Further information has been submitted regarding the acoustic assessment dated 21st February 2018 along with an updated scheme specifying the provisions to be made for the control of sound emanating from the site has been submitted to and approved in writing by the Local Planning Authority. The assessment shall identify and quantify all sound sources from the development and shall assess the significance of the sound impact, taking into account the uncertainty of the assessment at the boundary of any neighbouring dwellings in accordance with the methodology described in the British Standard BS4142:2014 Methods for rating and assessing industrial and commercial sound. The scheme shall also include details of a delivery management scheme.
  - b) Upon completion of all works within the approved scheme a validation report shall be completed by a competent person and shall be submitted to and approved in writing by the Local Planning Authority.
  - c) The approved scheme has been implemented in full and retained thereafter.
17. A scheme to monitor and control noise and vibration generated during the construction phase of the development shall be submitted to and approved in writing by the local planning authority prior to work commencing. This should be included within a comprehensive Construction Environmental Management System
18. No floodlighting, security lighting or other external means of illumination of the site shall be provided, installed or operated in the development, except in accordance with a detailed scheme which shall provide for lighting that is low level, hooded and directional, and has been submitted to and approved in writing by the Local Planning Authority. The scheme shall be implemented in accordance with the approved details and retained thereafter.



**Reasons:** To avoid unacceptable levels of noise, light pollution and disturbance with particular regard to the residential amenities of the nearest neighbouring residential properties in accordance with saved Local Plan policies GEN1 and GEN2

### **External Facing Materials**

19. Before preparation of any foundations on site for the food store and retail units hereby approved, samples of materials to be used on the external surfaces of the approved buildings shall be made available for inspection on site and adequate notice given to the Local Planning Authority who will arrange inspection and thereafter approve in writing. The approved materials shall be used in the implementation of the development.

**Reasons:** In the interests of the character and appearance of the completed development in accordance with the requirements of saved Local Plan policy GEN2 with due regard to the location of the development within the designated Bolsover Conservation Area.

### **Operational Matters**

20. The premises hereby permitted shall not be open for customers outside the following hours:
- a) 07:00 - Midnight on Mondays to Saturdays other than on bank holidays;  
and
  - b) 08.00-22.00 on Sundays and Bank Holidays
21. The premises labelled food store on the approved plans shall be used for a convenience food store and for no other purpose including any other purpose in Class A of the Schedule to the Town and Country Planning (Use Classes) Order 1987) (as amended) or in any provision equivalent to that class in any statutory instrument revoking and re-enacting that order with or without modification.
22. The terrace of retail units (numbered 1-5 on the approved plans) shall be used for A1, A3, AA and D1 uses and for no other purposes including any other purpose in Classes A and D of the Schedule to the Town and Country Planning (Use Classes) Order 1987) (as amended) or in any provision equivalent to that class in any statutory instrument revoking and re-enacting that order with or without modification.

**Reason:** To enable the Local Planning Authority to regulate and control the development of land having regard to the exceptional circumstances that justified approval of the development.

## APPENDIX A: ORIGINAL OFFICER REPORT

**PARISH** Old Bolsover

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**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

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### 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 of four retail units and associated parking and access arrangements as shown on the amended plan, below.

## PROPOSALS

In summary, the current application proposes the provision for 4,400m<sup>2</sup> of retail space to be divided into two blocks on a north-south axis with car parking provision occupying a broadly central position within the site between the two blocks. The larger of the two blocks would accommodate a medium size food store with a floor area of 2,402m<sup>2</sup> that would face towards Town End. A smaller terrace of additional retail units would run parallel to the west of the food store.

### Proposed Site Layout

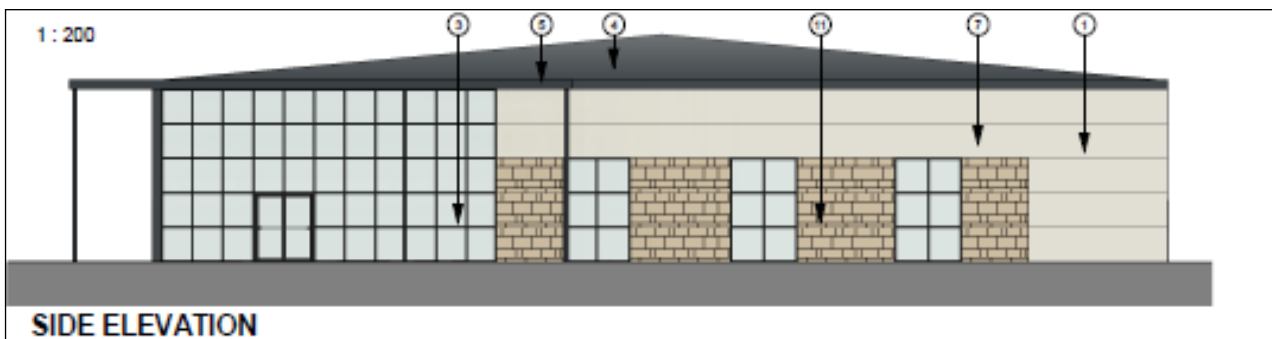


The main vehicular access to the site would be from Town End and a secondary access to the site would be provided on to Oxcroft Lane with each block having separate servicing configurations with service areas proposed to the rear of the retail terrace and to the side of the proposed food store. A new 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.

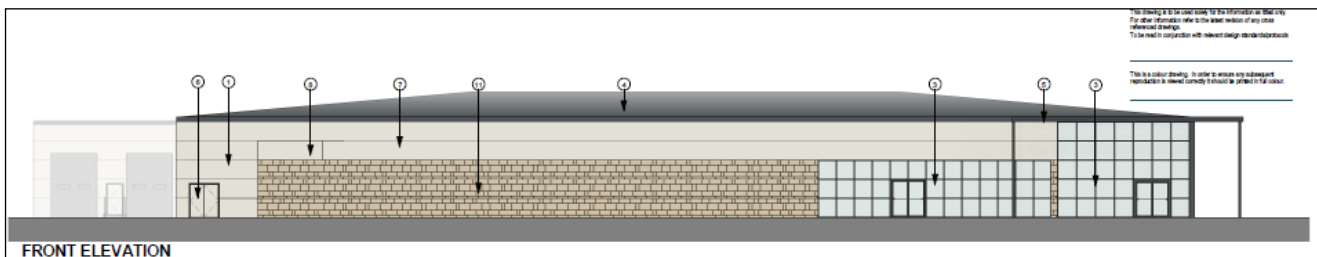
## AMENDMENTS

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 1,200m<sup>2</sup>;
- 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 2000m<sup>2</sup> 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 1,200m<sup>2</sup>; 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.

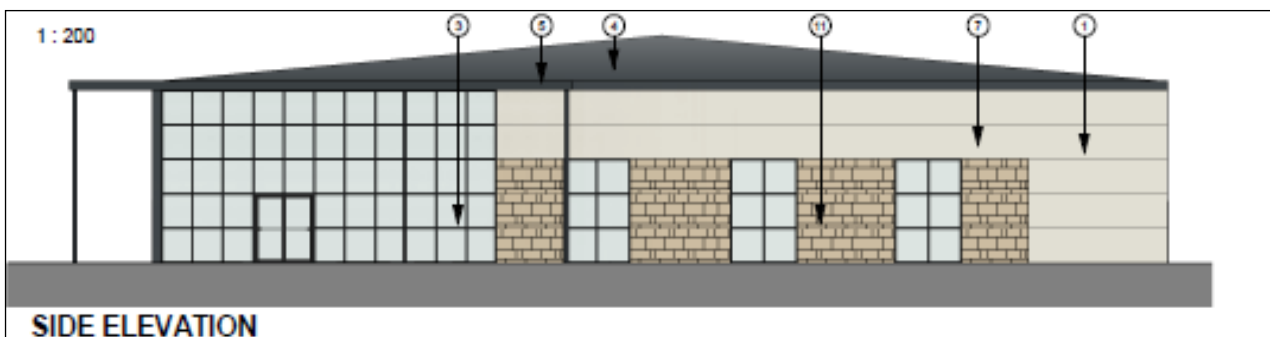
In this respect, if redeveloping the site resulted in a development of a high standard of contemporary design then the objections to the external appearance of the proposed buildings and the loss of Sherwood Lodge on conservation grounds might be better mitigated by the public benefits of granting planning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

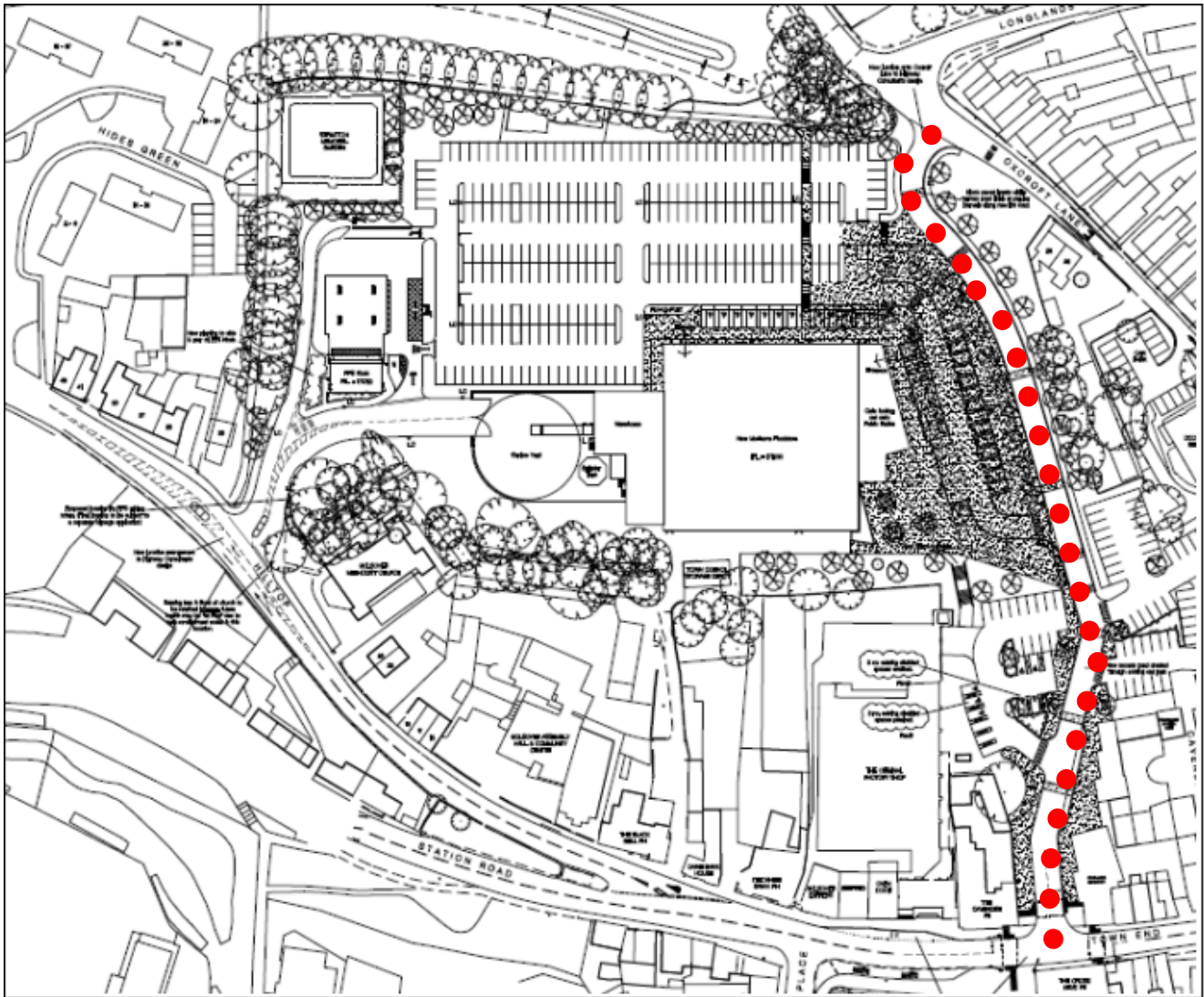
However, as explained in more detail in later sections of this report, the wider public benefits that might be achieved through any approval of the scheme could be judged to outweigh the identified 'less than substantial harm' to heritage assets with regard to paragraph 134 of the Framework. In this 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 would also weigh very heavily in the determination of this application.

### The 'Link Road'

The previous approval for a large food store on the Sherwood Lodge site included the provision of a link road through the site as shown by the 'dotted line' running north to south on the plan (below). As the delivery of this link road was secured by a s.278 agreement with the local highway authority, this link road was taken into account in the Bolsover Transport Study that was undertaken to understand how residential development coming forward in Bolsover over the next fifteen years would impact on the local road network.

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** Pinxton

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**APPLICATION** Construction of a 3 bed dormer bungalow with double garage to the rear of 16 George Street Pinxton

**LOCATION** 16 George Street Pinxton Nottingham NG16 6NP

**APPLICANT** Mr Paul Shipstone 16 George Street Pinxton Nottingham NG16 6NP

**APPLICATION NO.** 18/00238/FUL **FILE NO.** PP-06928559

**CASE OFFICER** Mrs Kay Crago (Tues, Fri)

**DATE RECEIVED** 30th April 2018

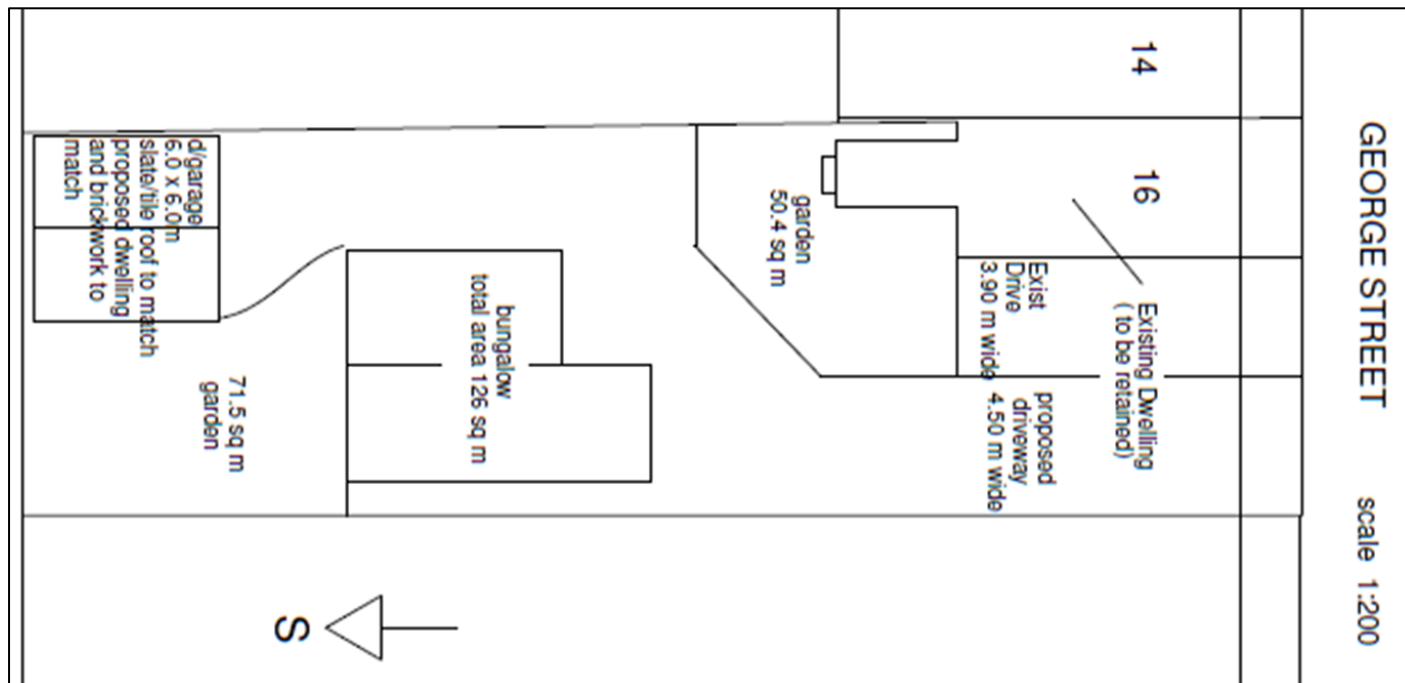
DELEGATED APPLICATION REFERRED TO COMMITTEE BY Councillor Dooley.  
REASON: Impact on the living conditions of the nearest neighbours and surrounding areas.

---

### SITE

The application site is part of the garden to 16 George Street. It is relatively level and overgrown in places. The ground level is approximately 50cm higher than the land immediately around 16 George Street. There is an outbuilding to the rear boundary of the site. Residential properties are to all sides. A 1.8m-2.0m high close boarded fence forms the boundary to the rear. 16 George St is one of a pair of semi-detached properties to the north west of the proposed development.

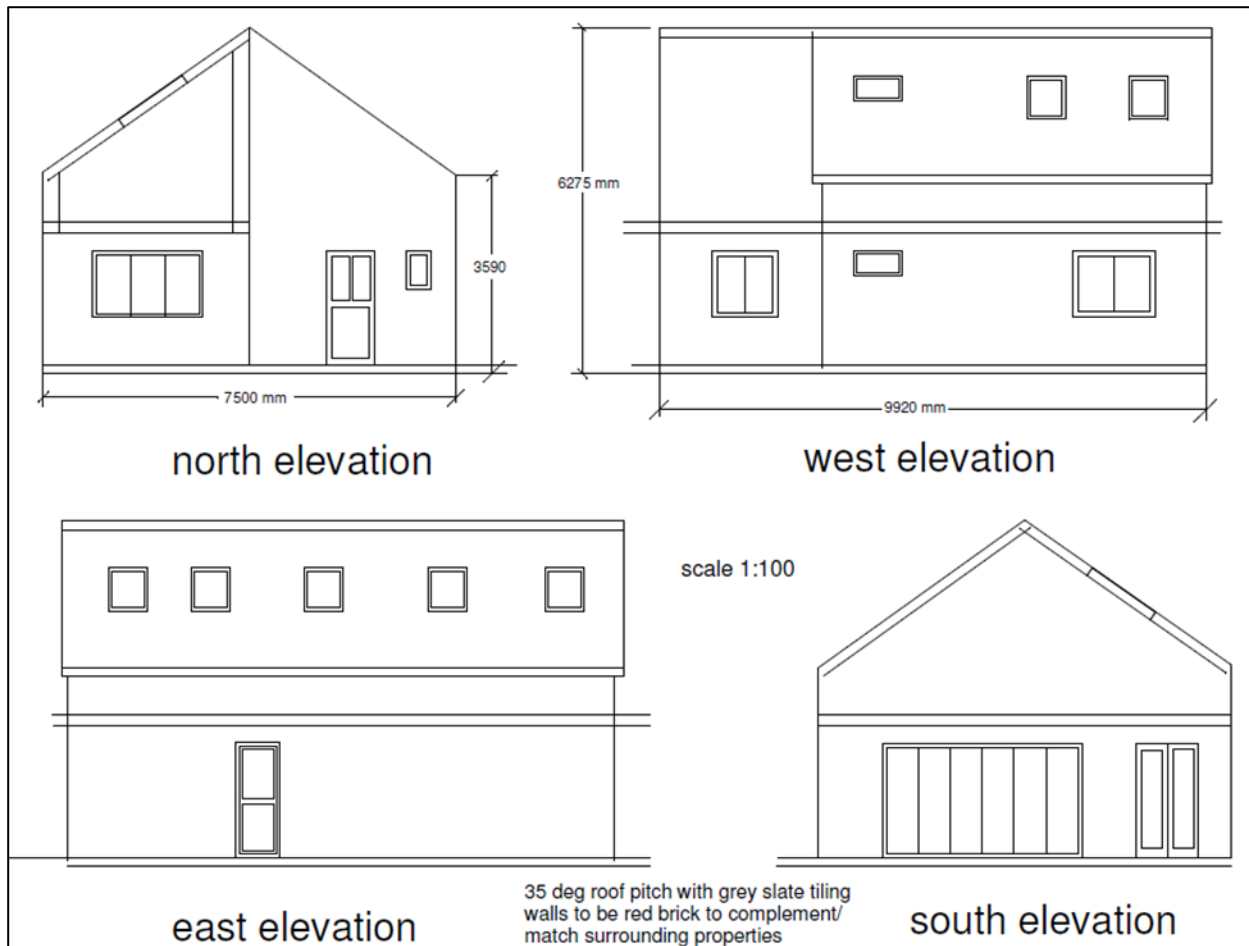
### Site Layout



## PROPOSAL

Erection of a three bedroom two storey detached house with rooms in the roof space. Height to the eaves 6.2m, height to the eaves 3.5m, width 7.5m and depth 9.92m. Rooflights are shown to both roofplanes to serve bathrooms and bedrooms. There are no first floor windows.

### Elevations

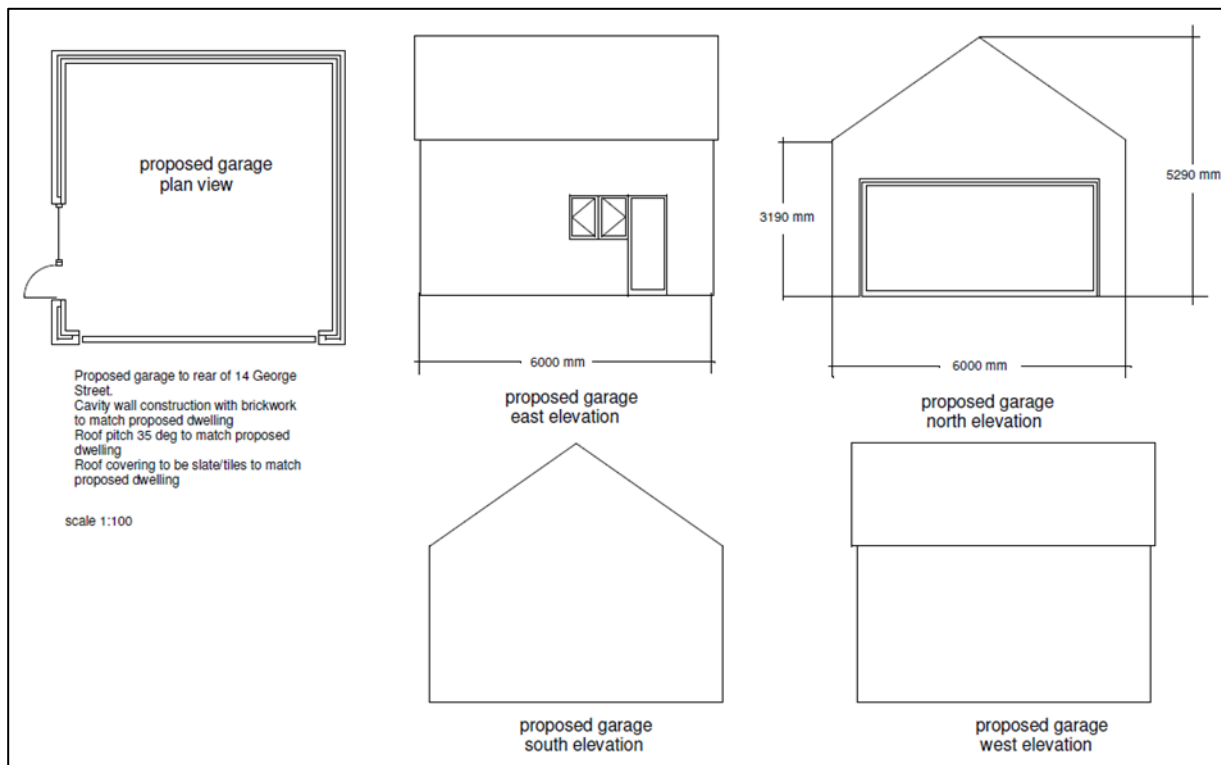


## AMENDMENTS

Email received 6<sup>th</sup> July 2018 stating that 750mm of soil has been removed from the ground level of the area of the proposal. This brings the outside ground level of the proposal within 200mm of the existing ground level of 16 George Street.

Additional plans submitted 15/06/18 removing a timber pergola to the front elevation and submission of details of the proposed garage (see overleaf).

## Proposed Garage



## HISTORY

Pre application advice was sought in respect of the development of the site. The applicant was given advice with regards to the requirements of Successful Places in respect of layout and design.

## CONSULTATIONS

Bolsover District Council (Engineer) – No objections

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

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

Parish Council - wish to object to the dormer bungalow proposed for 16 George Street. Pinxton on the grounds of building line, taking light and adverse effect on nearby residents.

## PUBLICITY

Site notice posted and 9 neighbouring properties notified. 5 letters of objection were received and the following concerns were raised:

- Loss of privacy
- Loss of daylight
- Loss of view

- Overlooking
- Design of bungalow out of keeping with local area
- Insufficient parking provision
- Garden grabbing / 'backland' development

## **POLICY**

### Bolsover District Local Plan (BDLP)

Relevant saved Local Plan policies include:

GEN 1 (Minimum requirements for development)  
 GEN 2 (Impact of Development on the environment)  
 GEN 4 (Development on Contaminated Land),  
 GEN 8 Settlement Frameworks, and  
 HOU 2 (Location of Housing Sites)

### National Planning Policy Framework

The revised NPPF (published July 2018) promotes high quality design and requires local planning authorities to ensure that a good standard of amenity would be maintained or achieved for all existing and future occupants of land and buildings when assessing development proposals.

### Other

The supplementary planning document *Successful Places: a Guide to Sustainable Housing Layout and Design* provides additional guidance on design issues.

## **ASSESSMENT**

The site is within the settlement framework in a predominantly residential area.

The site is within walking distance of the facilities available in Pinxton and the local school and is close to a bus route giving access to larger towns and cities such as Alfreton and Mansfield. The site is therefore considered to be in a sustainable location which meets the requirements of Policy HOU 2 of the Bolsover District Local Plan and the guidance set out in the NPPF.

### **Design and Layout**

The proposed dwelling is set further back on the plot than the existing dwellings on George Street but there is some variance in the building line in the existing street scene. The street scene is made up of a variety of types and style of dwelling and a variety of materials are evident. The proposed dwelling is therefore not considered to be of an inappropriate design. It has been designed to take cues from some of the large outbuildings that are evident within some rear gardens within Pinxton. Out of necessity the property has been designed to avoid impacting upon the amenities of neighbouring residents. It is not considered to be unduly

prominent and is not considered to have an adverse impact upon the street scene in terms of character, scale, design and materials.

The house has been designed to minimise the potential for overlooking of existing properties and gardens. There are no first floor windows. All first floor rooms are served by rooflights which are described as being a minimum 1.7m above floor level. No first floor windows are shown to the gables. Privacy to the rear is retained by the new boundary fence to the southern boundary. A 1.8m high close boarded fence is proposed to retain privacy to numbers 14 and 16 George Street.

The property is sited 10.5m away from the southern boundary and approximately 1m from the eastern boundary with 18 George Street. 18 George Street has a very large rear garden and the proposed development will lie to the east. It is not considered that the proposed development will have any significant impacts in respect of loss of privacy or shadowing to the garden. Similarly the distance between the proposed dwelling and number 42 West End to the south of the application site is sufficient to avoid significant impacts. The garage to the southern boundary would generally be positioned to the rear of an existing garage at 42 West End. The height of this garage has been reduced to lessen any impacts upon amenities of neighbouring residents. The garden to 14 George Street (currently vacant property) takes the form of a narrow strip of land and the development would result in some overshadowing during the mornings of parts of the garden.

The proposed development shows an area of garden to the rear of around 71sq.m which achieves compliance with Successful Places, adequate garden is retained for the existing house 16 George Street.

In view of the form of development if approved it would be appropriate to restrict permitted development rights to prevent extensions, new openings or alterations to the roof and to condition the minimum cill height of rooflights to be 1.7m.

There is a high level of objection to the proposed development. Concerns generally relate to the impacts upon the amenities of neighbouring residents. Planning considerations in respect of impact upon daylight, privacy and the scale of the development have been considered in the report. The height of the proposal seems to be a major concern and its impact upon the views of countryside from existing properties and its overbearing impact. The loss of a view is not a planning consideration and can be afforded little weight. Whether the proposal has an overbearing impact is a matter of judgement but is largely dictated by the height, mass and scale of a development and its relationship with surrounding properties.

As stated earlier in this report the proposed development is sited such that its impacts have been minimised. Good separation is achieved with properties to the south (10.5m between rear elevation of the proposal and the rear boundary) and whilst it is sited adjacent to the garden of 18 George Street its relationship is not considered to be oppressive. Adjacent and more distant properties have been visited by the case officer to adequately assess impacts. Negotiations with the applicant have resulted in the reduced ridge height of the garage to 5.29m and it has been confirmed that the ground levels of the proposed dwelling would be as per 16 George Street thereby further reducing the height above existing ground levels at the site.

## **Highway Considerations**

Off street parking is retained for 16 George Street and the proposed dwelling. The proposal will result in the loss of one on street car parking space. There are no objections raised by the local highway authority subject to the inclusion of conditions. Local residents object to the loss of on street parking.

## **Drainage considerations**

The site is not known to be affected by public sewers. The Council's engineer recommends the inclusion of an advisory note informing the applicant 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. Additionally all proposals regarding drainage would need to comply with Part H of the Building Regulations 2010.

## **Land contamination considerations**

The application site forms part of the garden to 16 George Street. At the time of the initial site visit the site was overgrown with some builder's rubble. In view of possible contamination it is recommended that a land contamination condition be included in any permission. Subject to the inclusion of the condition, the proposed development is considered to meet the requirements of policy GEN 4 of the Bolsover District Local Plan.

## **Summary**

The proposed development complies with policy and achieves general compliance with the Councils guidance contained within Successful Places. The Framework clearly states that Local Authorities should approve development proposals that accord with the development plan without delay.

The proposal will introduce a two storey building within an area which is currently vacant garden land and this will inevitably impact upon the outlook of neighbouring residents and alter the character of the area. These impacts have been assessed and it is considered that the impacts are not so significant as to warrant refusal. Conditions have been recommended to mitigate potential impacts.

## **Other Matters**

Listed Building: N/A

Conservation Area: N/A

Crime and Disorder: No specific issues identified.

Equalities: No specific issues identified.

Access for Disabled: Dwelling will need to meet the requirements of the Building Regulations

Trees (Preservation and Planting): None within the site.

SSSI Impacts: N/A

Biodiversity: No significant impacts

Human Rights: N/A

**RECOMMENDATION approve subject to conditions given in precis form below**

1. The development shall be begun before the expiration of three years from the date of this permission.
2. Prior to the construction of foundations, details of the finished ground levels and the proposed ground floor level(s) of the building(s) shall first have been submitted to and approved in writing by the local planning authority and the approved details shall be implemented.
3. Before the first occupation of the dwelling a new vehicular access shall be created to George Street in accordance with the application drawing, laid out and constructed in a hard bound material. The entire site frontage shall be cleared, and maintained thereafter clear, of any obstruction exceeding 1m in height relative to the road level for a distance of 2m into the site from the highway boundary in order to maximise the visibility available to drivers emerging onto the highway.
4. The premises, the subject of the application, shall not be occupied until space has been provided within the application site in accordance with the application drawings for the parking of residents' vehicles for the new dwelling and 16 George Street laid out, surfaced and maintained throughout the life of the development free from any impediment to its designated use.
5. The new parking and driveways hereby approved shall be made of porous materials or provision shall be made to direct surface water run-off from the hard surface to a permeable or porous area or surface within the curtilage of the dwellinghouse unless otherwise approved in writing by the Local Planning Authority.
6. Before construction commences on the erection of any building or wall representative samples of the materials to be used in all external wall and roof areas shall first have been submitted to and approved in writing by the Local Planning Authority.
7. Prior to first occupation a detailed scheme for the boundary treatment of the site, including position, design and materials, and to include all boundaries or divisions within the site, shall have been submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be maintained as approved.
8. Notwithstanding the provisions of Classes A, B and C of Parts 1 and 2 of Schedule 2, Article 3 of the Town and Country Planning (General Permitted Development) Order 2015 (or any Order revoking and re-enacting that Order)



the dwelling shall not be extended or altered externally including the creation of new openings or alterations to the roof without the prior grant of planning permission.

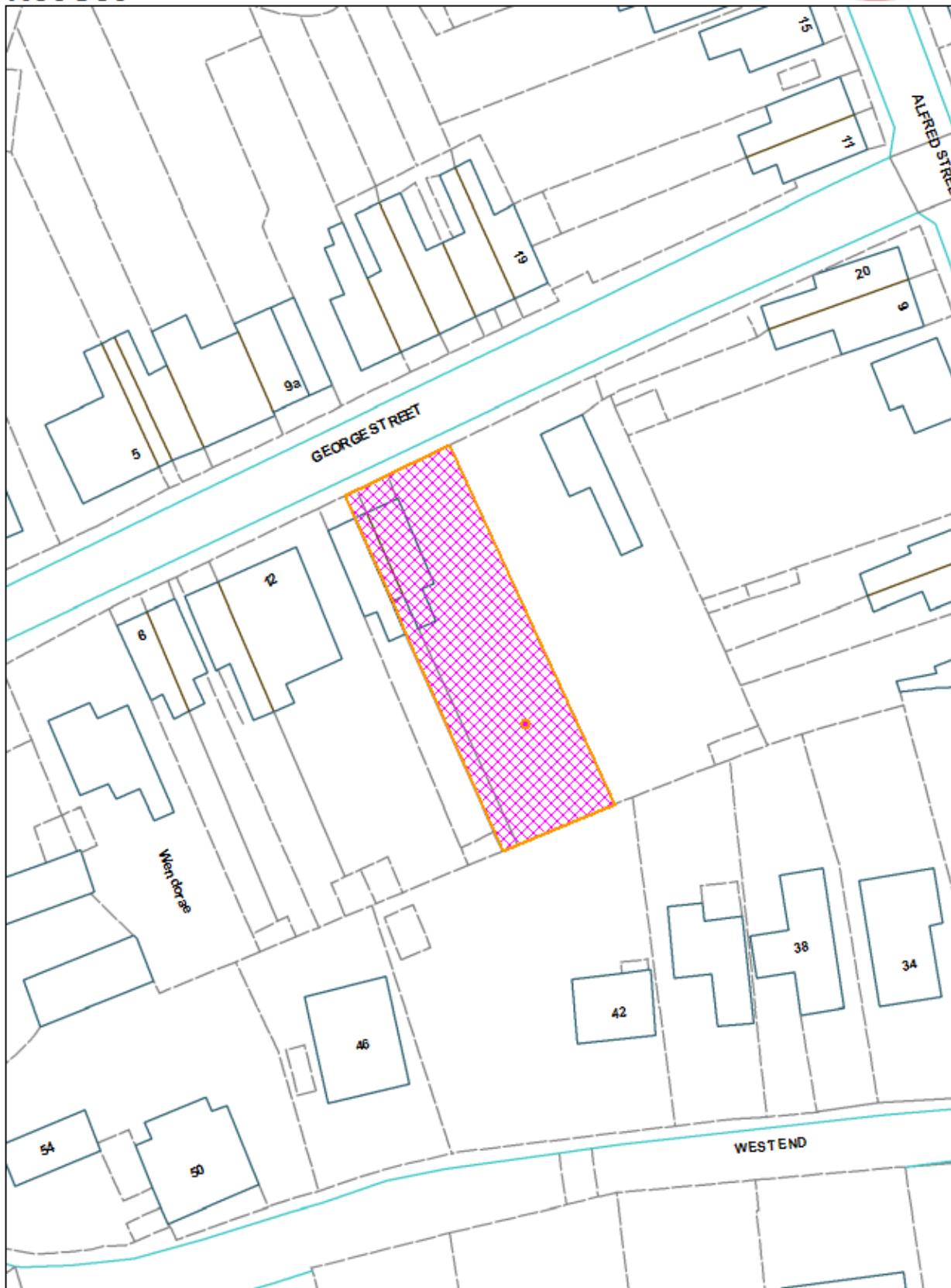
9. All roof lights shall have a minimum cill height of 1.7m above the finished floor level of the room to which they serve.
10. The development shall be undertaken entirely in accordance with the approved drawings:
  - 1/200 Revised block plan received 15/06/18
  - Revised elevation drawing received 15/06/18
  - Revised garage drawing received 15/06/18
  - Revised internal layout received 15/06/18
11. No part of the development hereby permitted shall take place until an assessment of the risks posed by any actual or potential land contamination, ground gas contamination or pollution of controlled waters has been carried out by a competent person in accordance with British Standard BS 10175:2011 Investigation of potentially contaminated sites - Code of Practice and the Environment Agency's Model Procedures for the Management of Land Contamination (CLR 11) (or equivalent British Standard and Model Procedures if replaced), submitted to and approved in writing by the local planning authority.
  - a. Where contamination is found which poses unacceptable risks to human health and/or the environment, a report specifying the measures to be taken, including the timescale, to remediate the site to render it suitable for the approved development shall be submitted to and approved in writing by the local planning authority prior to any remedial works being carried out.
  - b. Prior to occupation the site shall be remediated in accordance with the approved measures and timescale and a verification report shall be submitted to and approved in writing by the local planning authority
  - c. If, during the course of development, any contamination is found which has not been previously identified, work shall be suspended on the affected part of the site and additional measures for its remediation shall be submitted to and approved in writing by the local planning authority. The remediation of the site shall incorporate the approved additional measures and a verification report for the remediation works shall be submitted to and approved in writing by the local planning authority before any building/the related building on the affected part of the site is occupied or the affected part of the site is brought into the permitted use.

### **Reasons for Conditions**

1. To comply with the requirements of Section 51 of the Planning and Compulsory Purchase Act 2004.

2. To enable the Local Planning Authority to fully assess the development having regard to the ground levels on the site and/or the surrounding land in compliance with policy GEN 2 of the Bolsover District Local Plan.
3. In the interests of highway safety and in compliance with Policy GEN 1 of the Bolsover District Local Plan.
4. To ensure that adequate off-street parking is provided and retained for use to reduce the incidence of on-street parking and its attendant dangers and in compliance with policies GEN 1 and GEN 2 of the Bolsover District Local Plan.
5. To ensure satisfactory drainage of the development without flooding or pollution and in compliance with policy GEN5 of the Bolsover District Local Plan.
6. To ensure a satisfactory standard of external appearance and in compliance with policy GEN 2 of the Bolsover District Local Plan.
7. To preserve the amenities of the occupants of nearby properties and in the interests of the visual amenity of the area and in compliance with Policy GEN 2 of the Bolsover District Local Plan.
8. To enable the Local Planning Authority to retain control over future extensions and alterations in view of the form and density of the proposed development and in compliance with policy GEN 2 of the Bolsover District Local Plan.
9. To avoid the possibility of overlooking in the interests of preserving the amenities of residents and in compliance with policy GEN 2 of the Bolsover District Local Plan.
10. To ensure a satisfactory standard of development in the interests of amenity and for the avoidance of doubt and in compliance with Policy GEN 2 of the Bolsover District Local Plan.
11. To ensure that when developed the site is free from contamination, in the interests of health and safety and in compliance with policy GEN 4 of the Bolsover District Local Plan.

Site Location Plan



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Date: 06/08/2018  
Scale: 1:500

**PARISH**

Clowne

**APPLICATION** Construction of new dwelling, construction of new barn, conversion of existing barn to microbrewery/ kitchen with associated office.

**LOCATION** Land to the West of Bridge Close, Hollin Hill Road, Clowne

**APPLICANT** Mr & Mrs Salt 10 Church View Clowne Chesterfield S43 4LN

**APPLICATION NO.** 18/00043/FUL **FILE NO.** PP-06574992

**CASE OFFICER** Mr Chris Fridlington

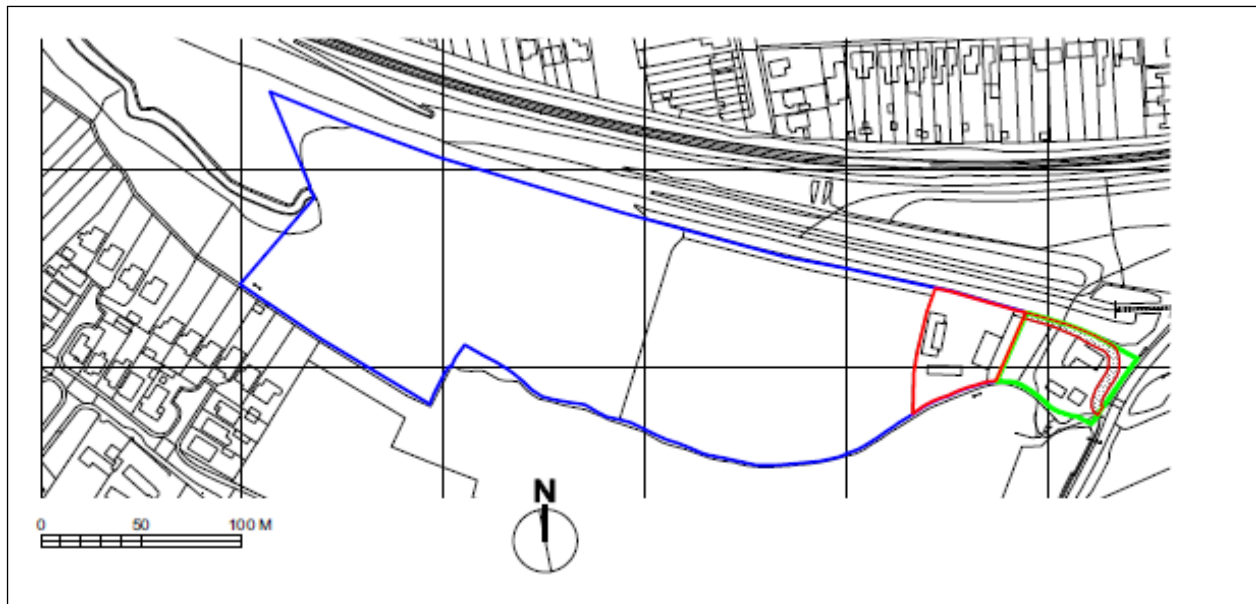
**DATE RECEIVED** 19th January 2018

DELEGATED APPLICATION REFERRED TO COMMITTEE BY: Planning Manager  
REASON: To ensure transparency in the department's decision taking into account the planning history attached to the site, the Heritage Conservation Manager's support for the design of the proposed development, and the potential support for these proposals in national planning policies in the revised National Planning Policy Framework.

**SITE**

The application site lies on land off Hollin Hill that lies outside of the settlement framework but adjacent to the designated Clowne Conservation Area. The site is accessed from a shared driveway that runs around the northern side of an existing dwelling known as Bridge Close. Clowne Linear Park runs parallel to part of this driveway and the northern boundary of the site and a small stream runs along the southern boundary of the application site. There is mature planting along both these boundaries and some planting between the site and Bridge Close, which is on land at a lower level to the application site.

Location Plan



The application site is currently occupied by three buildings: a 4 bay steel framed barn with blockwork and profiled sheet walls and roof; a timber framed and clad stable block for 8 horses (permission granted 2007 - 07/00295/FUL), and a single storey derelict barn.

Existing Barn



Stables



Derelict Barn

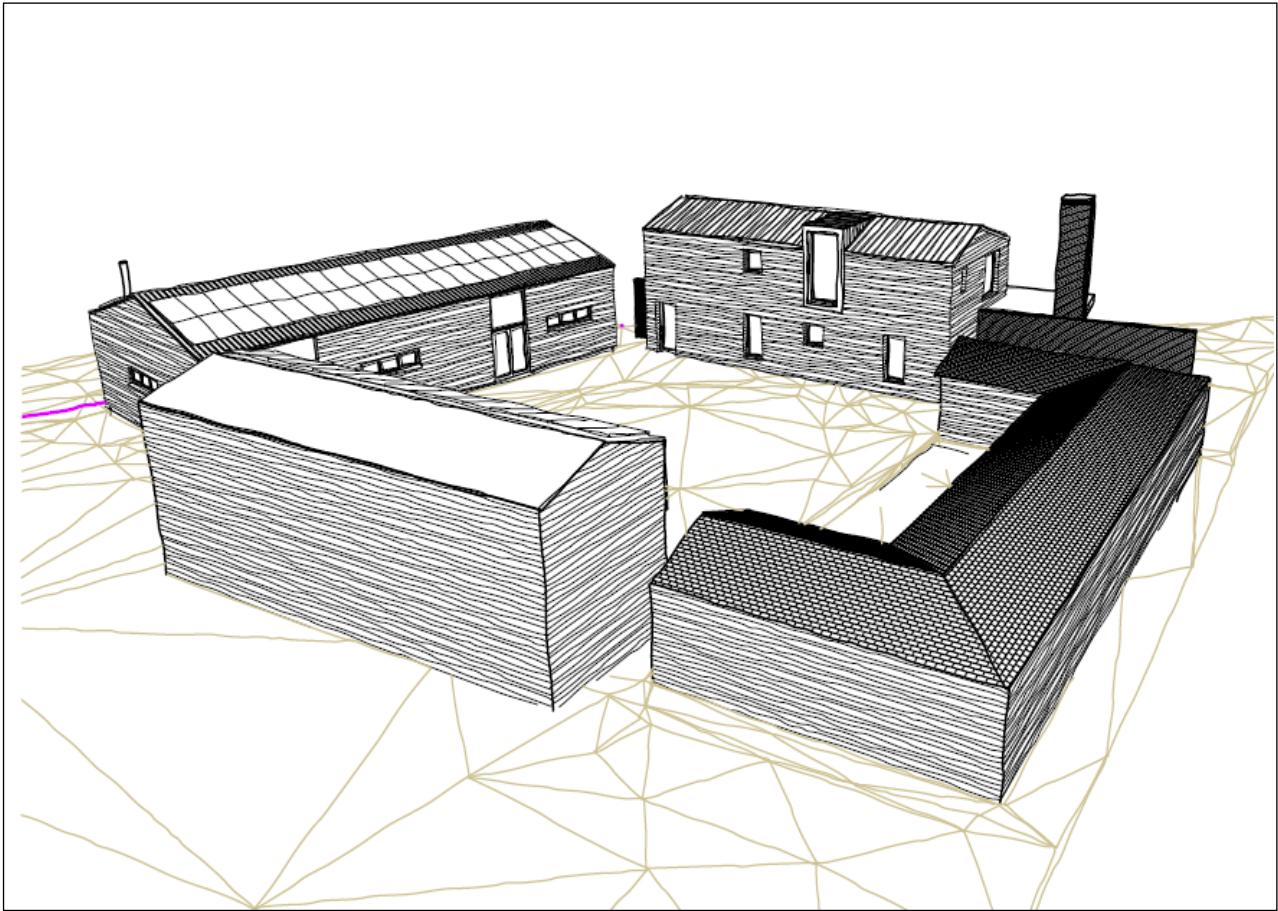


**PROPOSAL**

The current application proposes (1) construction of a new barn (2) conversion of the existing barn to microbrewery, and (3) the erection of a new house. The visualisation (overleaf) shows how the new house would be sited broadly on the footprint of the derelict barn adjacent to the southern boundary of the application site. The new barn would be sited between the existing stables and barn (opposite the new house) so the whole development would be arranged around a central courtyard.



## Visualisation of Proposals



### **AMENDMENTS**

Additional information has been submitted to support the application including an updated heritage statement and business case. There have been no amendments to the plans submitted with the original application.

### **HISTORY**

In May 2010, planning permission was refused for the demolition of an existing barn and erection of two storey dwelling (application no. 10/00072/FUL). The subsequent appeal was dismissed because the proposed dwelling was located outside of the settlement framework and because the proposal would cause harm to the rural character and appearance of the site and its surroundings and fail to preserve the character, appearance and setting of the Clowne Conservation Area by virtue of its siting and design.

In 2007, permission was granted for the erection of the existing stable block and a new barn to replace the derelict barn on the application site (07/00295/FUL).

### **CONSULTATIONS**

Bolsover District Council (Engineers) – No objections.

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

Bolsover District Council (Heritage Conservation Manager) - No objections but comments that the scheme is well considered and aims to convert existing agricultural buildings and introduce a new dwelling whilst referencing the character of the existing site and its buildings.

Clowne Parish Council – No response to date.

Derbyshire County Council (Flood Team) – No objections.

Derbyshire County Council (Highways) – No objections subject to conditions.

Environment Agency – No response to date.

Severn Trent Water – No response to date.

## **PUBLICITY**

The application has been publicised by site notice and neighbour notification and one representation has been received by the Council, which supports the proposals by saying that the development is innovative and would improve the site.

## **POLICY**

### Bolsover District Local Plan

Relevant saved Local Plan policies include:

- GEN 1 Minimum requirements for development)
- GEN 2 (Impact of the development on the countryside)
- GEN 4 (Development on contaminated land)
- GEN8 (Settlement Frameworks)
- ENV 3 (Development in the countryside)
- ENV4 (Reuse and adaptation of rural buildings)
- ENV 5 (Nature conservation interests throughout the district)
- HOU9 (Essential new dwellings in the countryside)
- CON 4 (Development adjoining conservation areas)
- CON 10 Development affecting the setting of listed buildings)

### Publication Version of the Local Plan

The Publication Version of the Local Plan has now been submitted to the Secretary of State but there are no emerging policies that are significantly different from the thrust of saved Local Plan policies in the existing Local Plan. Notably, the application site remains outside of the settlement framework and is not designated for residential development in the Publication Version of the Local Plan.

## National Planning Policy Framework

The National Planning Policy Framework was revised in July 2018. The paragraphs in the revised Framework that are most relevant to the current application include:

- Paragraph 8: Achieving sustainable development
- Paragraph 11: Presumption in favour of sustainable development
- Paragraph 34: Development contributions
- Paragraphs 47-50: Determining applications
- Paragraph 54-57: Planning conditions and obligations
- Paragraph 67: Identifying land for homes
- Paragraphs 73-74: Maintaining supply and delivery
- Paragraph 76: Timescales for commencement of permission
- Paragraphs 83 & 84: Supporting a prosperous rural economy
- Paragraph 92 & 94: Promoting healthy and safe communities
- Paragraph 127: Achieving well-designed places
- Paragraphs 184 & 189-193: Proposals affecting heritage assets

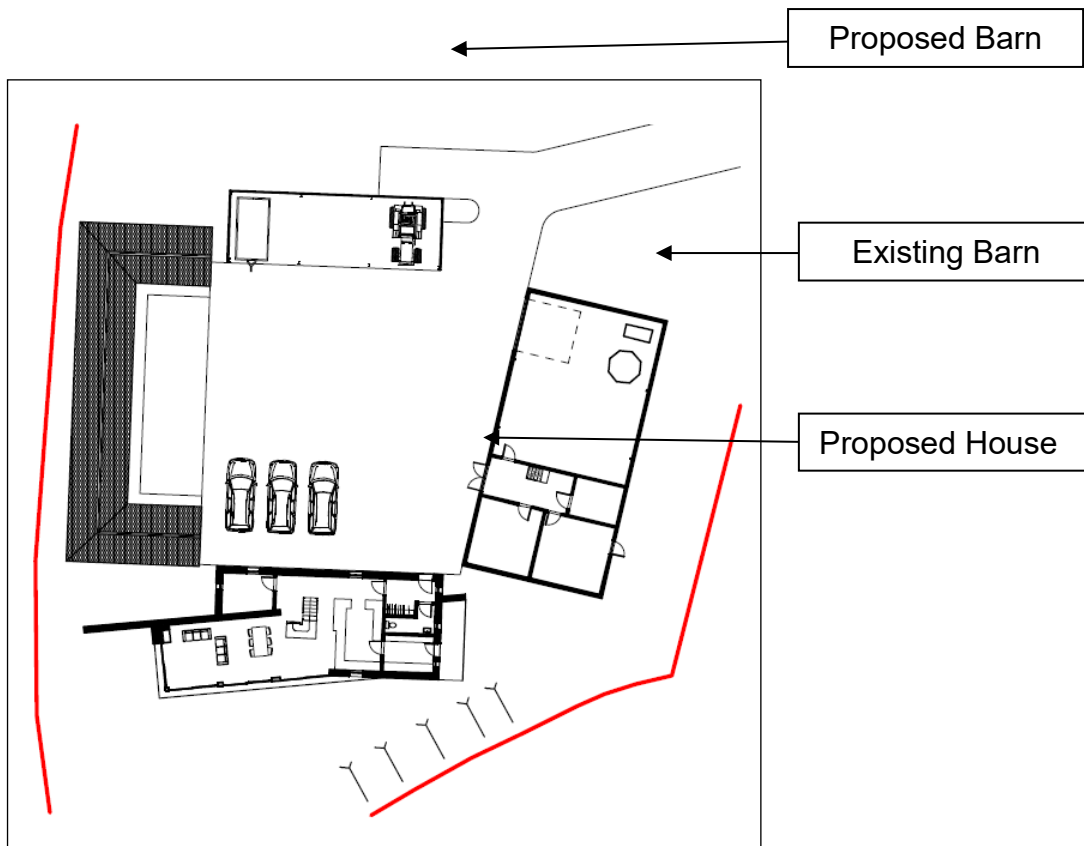
## **ASSESSMENT**

### Construction of a new barn

Previously, planning permission has been granted for a new barn on the application site (07/00295/FUL) and this permission remains extant because it was implemented when the existing stable block was built. However, this barn would have been located on the site proposed for the new house (see below).

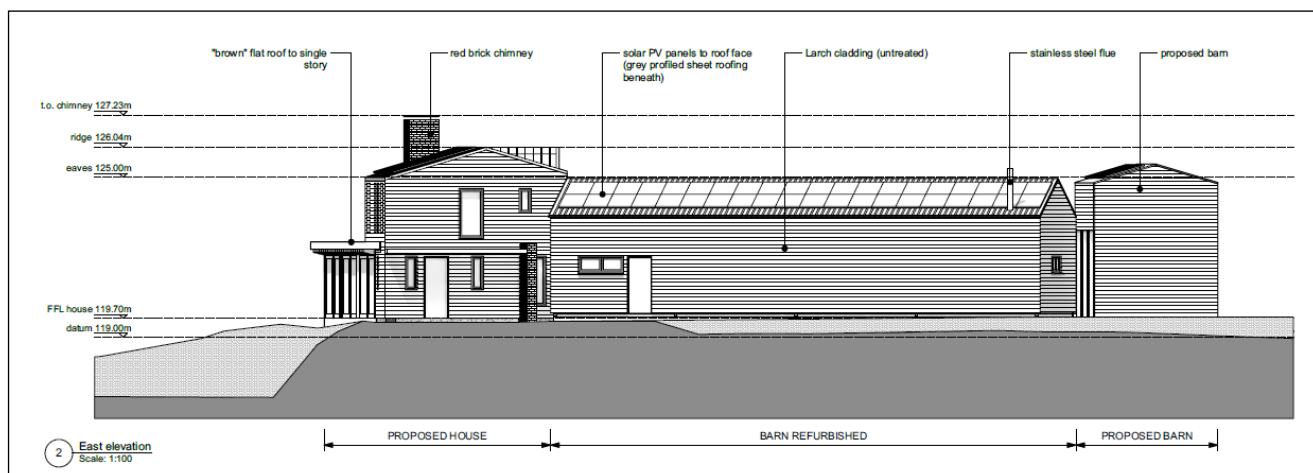


## Site Layout



The new barn (proposed in this application) is required for the dry storage of hay, the drying of hops, and the storage of implements and it would be a steel-framed building clad in horizontal open jointed timber. This type of building used in association with land management would normally be acceptable in the countryside under ENV3, which allows for development that is necessary in the countryside. However, as noted above, the new barn proposed in this application is only 'needed' because the new house would be constructed in the position of the new barn approved previously under application no. 07/00295/FUL.

## East-facing Elevation



Therefore, the acceptability of the new barn proposed in this application rests on the acceptability of the new house insofar as the consented barn would be located tighter to the southern boundary of the site where it would have less visual impact than the barn proposed in this application. In addition, there appears to be no obvious or essential requirement for two new barns on the application site and if the house was not consented; there is fall-back position that would allow the applicant to build the barn consented under the existing permission (07/00295/FUL).

## Conversion of the existing barn to microbrewery and commercial kitchen

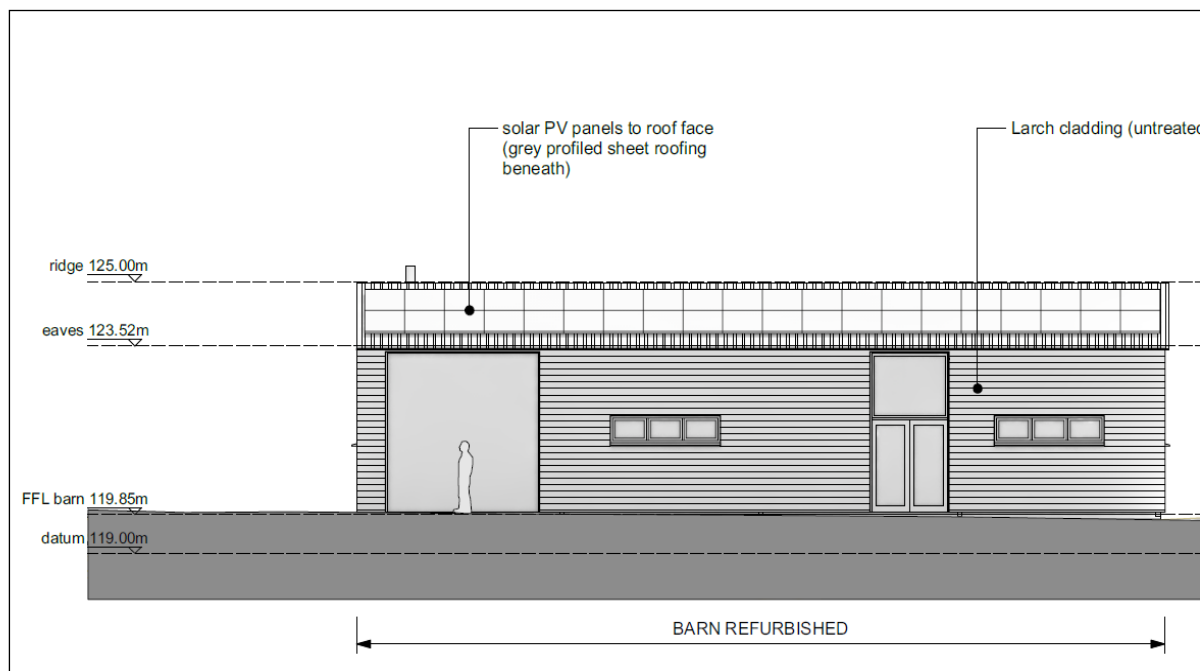
The current application proposes to convert and subdivide the existing barn on the site to form a microbrewery, a commercial grade kitchen and a small office. The office would be used for the administration of the adjacent land in ownership (currently partly-used for growing hops) and shared by the microbrewery business and the operator of the commercial kitchen. The commercial kitchen would be used for creating candles, soaps and similar scented products that would be made from natural ingredients.

The submitted plans (overleaf) show that the walls will be clad with timber boarding and the roof will be covered with new profiled sheeting, similar to the sheeting on the existing building. Solar photovoltaic panels are proposed to both roof faces whereas there would be a limited amount of new openings in the existing building. Overall, it is considered that the converted building would retain the appearance of a rural building and this helps to minimise the visual impact of these proposals on the surrounding Conservation Area, nearby listed St John the Baptist's church, and the wider landscape in accordance with saved Local Plan policies CON4, CON10 and GEN2.

Saved Local Plan policy ENV4 and national planning policies in the revised National Planning Policy Framework also support the proposed re-use and adaptation of the existing barn and there are no objections to the proposals to convert the existing barn on highway safety grounds. In addition, it is highly unlikely that the proposed use would be unneighbourly other than the Environmental Health Protection Officers are recommending conditions to deal with the potential for odour. Therefore, there are no overriding objections to the proposals for

conversion of the existing barn to microbrewery and commercial kitchen (when assessed in isolation) subject to appropriate planning conditions.

### External appearance of converted barn



### Erection of a new house

Saved Local Plan policies GEN8 and ENV3 only allow for residential development in the countryside outside of the settlement framework in very limited circumstances. The proposed house would be located outside of the settlement framework and therefore, must be carefully justified to meet the requirements of ENV3 that allow for development that 'needs' to be in the countryside. Saved Local Plan policy HOU9 or Paragraph 79 of the revised Framework both allow for new dwellings in the countryside to meet an essential need for a rural worker, including those taking majority control of a farm business, to live permanently at or near their place of work in the countryside.

The need for the house proposed in this application is related mostly to the above proposals for conversion of the existing barn to a commercial use and could allow both applicants to make a success of their respective business proposals. The business proposals are both related to the management of land in the applicants' control (c. 3 hectares) because it is intended to grow hops for the microbrewery and scented plants for use in the commercial kitchen on this land. The proposed house would also help prevention of crime because someone living on the site would provide more security for the site itself and the associated land holding.

However, the justification for the dwelling falls short of that required for a new house in the countryside for an occupational worker because there is no 'essential' requirement for either applicant to be on the site at most times during the night and day throughout the year to

manage the land or either business operating from the converted barn. Equally, whilst both the applicants' businesses would benefit from the marketing aspects (and practical aspects) of growing all or part of their product on their own land; it is also clear that neither business is dependent on being in the proposed location outside of the existing settlement framework to operate successfully.

Therefore, the proposals do not comply with saved Local Plan policy HOU9 or Paragraph 79 of the revised Framework in the absence of an 'essential need for the dwelling' and as such: the dwelling is not necessary to meet the needs of a rural-based rural business in this location contrary to the requirements of saved Local Plan policy ENV3.

However, there are other exceptions in Paragraph 79 of the revised Framework that might allow consent for a new house in the countryside to be granted including where the design of the new house would be of exceptional quality, in that its design would be:

- truly outstanding or innovative, reflecting the highest standards in architecture, and would help to raise standards of design more generally in rural areas; and
- would significantly enhance its immediate setting, and be sensitive to the defining characteristics of the local area.

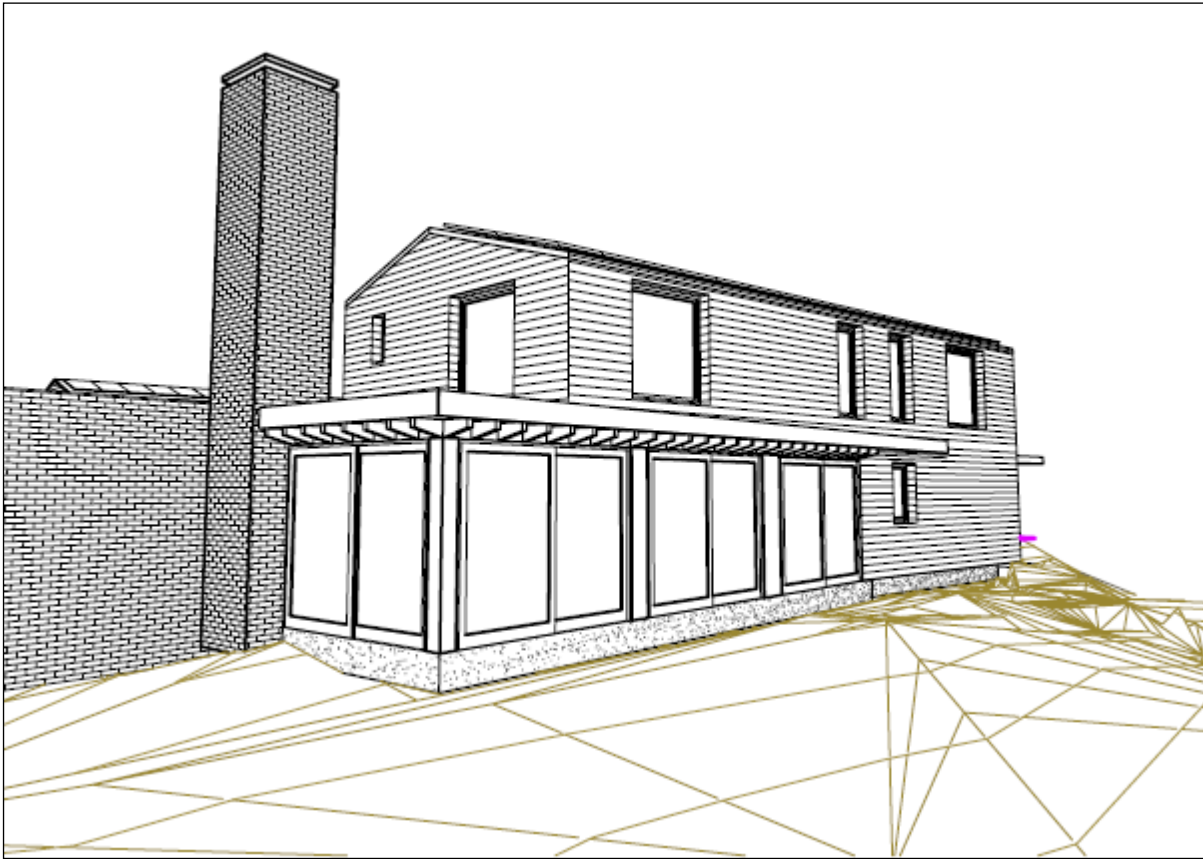
In this case, the Council's Heritage Conservation Manager considers that the scheme is well considered and aims to convert existing agricultural buildings and introduce a new dwelling whilst referencing the character of the existing site and its buildings.

### Design Quality

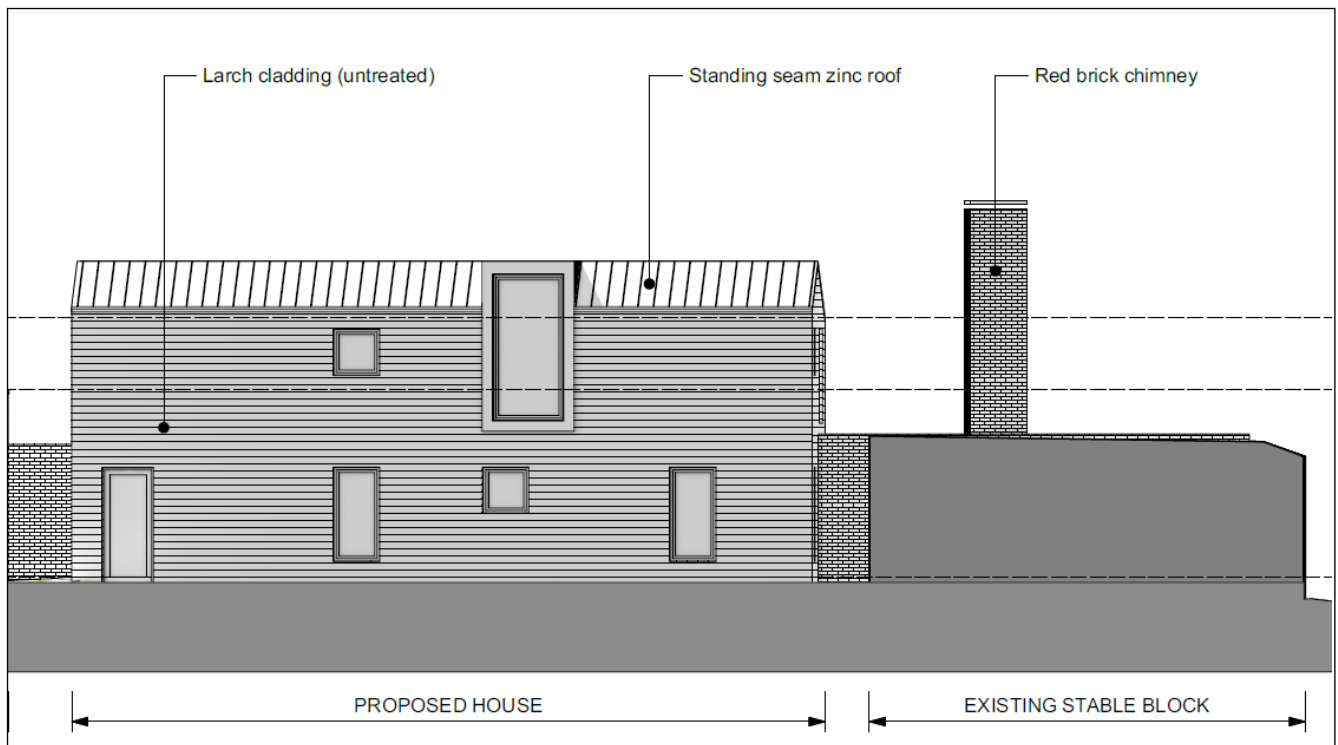
As shown on the submitted plans (overleaf), the proposed house is composed around a central building that has been designed to look like a farm building. The walls of this part of the new house would be clad in timber and would have a zinc-covered roof with solar photovoltaic panels to the south facing roof face. A glazed single-storey element forms an intersecting design feature linked to the south facing elevation of the main part of the building, which would have a 'brown' roof to encourage biodiversity and slow surface water runoff. This adds interest to the building as would a sheltering brick-built fin wall that would extend beyond either end of the house and a brick-built chimney. The use of red-brick and the presence of the chimney is intended to echo Clowne's industrial heritage.

The north facing elevation of the new house (also shown overleaf) is much plainer with only the irregular shaped windows adding interest and overall the new house would fall short of being a truly innovative design as described in national planning policies. Although it is acknowledged it would be distinctive, there is nothing truly ground-breaking in either the form and massing or the individual elements of the new house, the proposed construction materials or the environmental performance of the building.

South Facing Elevation



North-Facing Elevation



## Enabling Development

Although the dwelling might not be permissible because it is not of 'exceptional quality', for the above reasons, it should still be taken into account that the dwelling could otherwise be considered enabling development that could enhance the quality of the local area including the setting of the adjacent Conservation Area. Paragraph 79 of the revised Framework also says, amongst other things, isolated homes in the countryside will not be permissible unless:

- the development would represent the optimal viable use of a heritage asset or would be appropriate enabling development to secure the future of heritage assets;
- the development would re-use redundant or disused buildings and enhance its immediate setting;

In addition, Paragraph 202 of the revised Framework says local planning authorities should assess whether the benefits of a proposal for enabling development, which would otherwise conflict with planning policies but which would secure the future conservation of a heritage asset, outweigh the dis-benefits of departing from those policies. Saved Local Plan policy ENV3 also allows for development outside of the settlement framework where the development would result in a significant improvement to the rural environment or would benefit the local community through the reclamation or re-use of land.

In this case, it is reasonable to say the new house, and the development as a whole, would not have a negative impact on the surrounding Conservation Area partly because the main views into the site would be dominated by buildings that would be of a similar appearance to farm buildings. The buildings would also be sited in a relatively discrete location screened from most public vantage points by mature trees and the chimney would more likely be seen as a 'quirky feature' in the landscape rather than a particularly intrusive and alien development.

Furthermore, the proposed development would result in the existing buildings being improved and the derelict barn being removed. However, these enhancements would have a limited impact on the overall environmental quality of the local area partly because the buildings are, as above, sited in a relatively discrete location screened from most public vantage points by mature trees. In addition, the presence of farm buildings and stabling in a rural area is not unusual and a consent has already been granted for a replacement for the derelict barn. There is also no reason to consider that the site itself or the existing buildings are currently in a non-conforming use that would justify a new house to enable re-location of an existing unneighbourly business, for example.

Therefore, the new house cannot be justified as enabling development that would warrant an exception to saved Local Plan policies primarily because the value of a new open market house is not proportionate to the value of the enhancements to the public realm that could be achieved by granting permission for this application on an exceptional basis. The provision of a new open market house on the land is also not considered to be a proportionate way to offset the private costs of carrying out improvements to the buildings that would not be excessive compared to the 'normal' business costs of maintaining land and buildings on a small holding of land.

Consequently, whilst there are no overriding objections to the proposals on conservation grounds, the house does not meet the requirements of ENV3 or national policies in terms of being necessary enabling development that would give rise to significant public benefits or substantial enhancement to the special qualities of the adjacent Conservation Area and/or the environmental quality of the local area more generally.

### The Planning Balance

In light of the above assessment, it is considered that the current application does not meet the requirements of HOU9 because there is no essential need for the new house proposed in countryside outside of the settlement framework. Therefore, the proposals for a new house are considered to be contrary to relevant national planning policies and saved Local Plan policies GEN8 and ENV3 because the house is not necessary in this location.

It is also considered the proposals would not result in such a significant improvement to the rural environment or such a significant benefit to the local community through the reclamation or re-use of land that there are exceptional circumstances in which permission may be granted for a house in this location under the enhancement criteria in relevant national planning policies and ENV3.

The new barn proposed in this application is also difficult to accept insofar as the barn consented previously could be sited in a preferable location if permission were to be refused for the house proposed in this application.

However, it has to be acknowledged that the new barn, new house and converted building would have a limited visual impact on the surrounding Conservation Area and the wider landscape. Equally, the site is on the edge of Clowne in a reasonably sustainable location in terms of access to services and facilities and the applicants have completed and intend to carry out further environmental improvements on their land such as tree planting and habitat creation.

In addition, a new barn and conversion of the existing barn to allow for commercial uses on the site, as proposed in this application, would be acceptable in this location and the business uses that would be accommodated in the converted barn would provide some economic benefits. The business plans submitted with the application show that the microbrewery is a realistic business proposition that is likely to be successful. Similarly, the operations taking place in the commercial kitchen could expand into a larger market if the conversion of the existing barn were to be granted planning permission. In both cases, the respective businesses intend to emphasise their local connections and use locally produced hops and scented plants.

Therefore, although these businesses would not create a significant amount of jobs, they would still provide local employment opportunities and have some positive impacts on the local economy. Similarly, the actual development would give rise to some limited economic benefits for the local area during the construction period but the provision of one house cannot be said to meet any shortfall in housing supply in any meaningful way. There is also no case made out to say the new house would meet an identified need for affordable housing.

In addition, there is no compelling case that the house is required to accommodate a person with a registered disability and it is not considered that there is an essential need for the house insofar as it would allow the applicants to live closer to close relatives who might require their care.

It is therefore concluded that the personal circumstances of the applicants cannot be taken into account in the determination of this appeal but the proposals, as a whole would give rise to some wider public benefits along all three dimensions of sustainable development: i.e. the proposals would support the start-up and expansion of two locally-based businesses; give rise to some local employment opportunities; contribute positively to the local economy; and contribute to some localised environmental improvements including micro-generation of renewable energy.

However, it is also concluded that these benefits are not sufficient to offset or outweigh the identified conflict with national planning policies and saved Local Plan policies GEN8: HOU9 and ENV3 in the absence of an overriding need for the new house in this location outside of the settlement framework.

Accordingly, the current application is recommended for refusal.

## **RECOMMENDATION**

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

The current application does not meet the requirements of HOU9 because there is no essential need for the new house proposed in countryside outside of the settlement framework. Therefore, the proposals for a new house are considered to be contrary to relevant national planning policies and saved Local Plan policies GEN8 and ENV3 because the house is not necessary in this location.

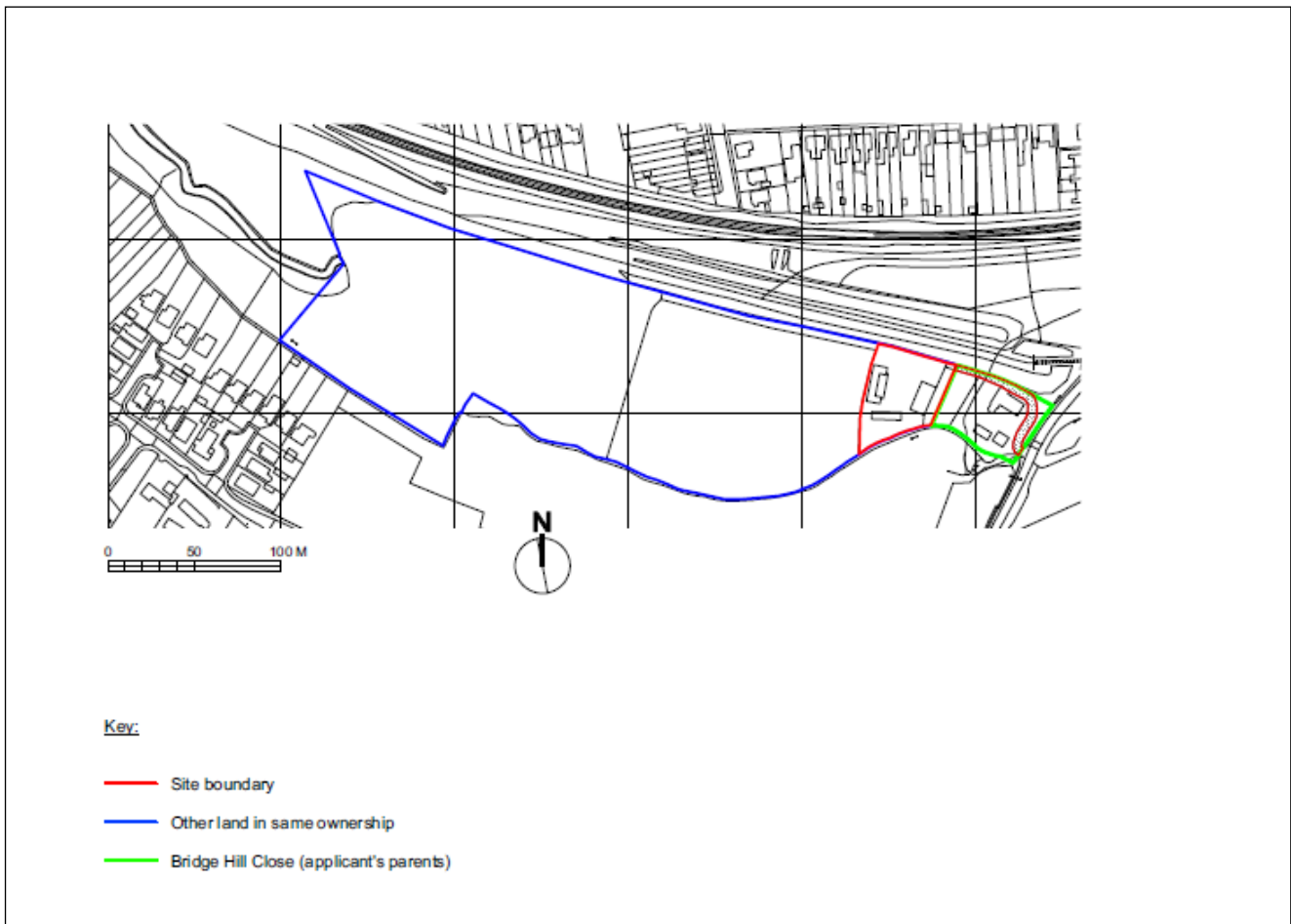
It is also considered the proposals would not result in such a significant improvement to the rural environment or such a significant benefit to the local community through the reclamation or re-use of land that there are exceptional circumstances in which permission may be granted for a house in this location under the enhancement criteria in relevant national planning policies and ENV3.

### Statement of Decision Process

Officers have sought to work positively and pro-actively with the applicants and their agent to address the policy issues set out in full in the officer report. However, amended plans would not address the fundamental reasons for refusal of this application.



## Site Location Plan



**Bolsover District Council**

**Planning Committee**

**26 September 2018**

**Draft Local Enforcement Plan**

**Report of the Planning Manager**

This report is public

**Purpose of the Report**

- To consider publication of a Local Enforcement Plan to provide information on how the Council will respond to suspected breaches of planning control, tackle unauthorised developments and monitor the implementation of planning permissions.

**1 Report Details**

**Background**

- 1.1 Paragraph 58 of the revised National Planning Policy Framework (published July 2018) says: effective enforcement is important as a means of maintaining public confidence in the planning system. Enforcement action is discretionary, and local planning authorities should act proportionately in responding to suspected breaches of planning control.
- 1.2 This paragraph goes on to say: local planning authorities should consider publishing a Local Enforcement Plan to manage enforcement proactively, in a way that is appropriate to their area. This should set out how they will monitor the implementation of planning permissions, investigate alleged cases of unauthorised development and take action where it is appropriate to do so.
- 1.3 Therefore, a Local Enforcement Plan is not a statutory requirement and would not form part of the Local Plan. However, publication of Local Enforcement Plan would be consistent with Government guidance on best practice in respects of planning enforcement. This report provides further analysis of the additional benefits arising from the Council publishing a Local Enforcement Plan.
- 1.4 A draft version of a Local Enforcement Plan for Bolsover District is included as Appendix A to this report.

**Assessment**

- 1.5 Firstly, it is not a criminal offence to carry out unauthorised development (unless an enforcement notice is in place) and there are many different ways that the

Council can tackle unauthorised development and other breaches of planning control including taking no further action because planning enforcement is discretionary.

- 1.6 The Government also says that the Council should act in a proportionate way when tackling breaches of planning control. This means the Council cannot normally justify taking formal enforcement action against minor breaches of planning control and formal enforcement action should be used as a last resort in most cases.
- 1.7 The Council also has to prioritise cases to ensure there are sufficient resources to make sure serious breaches of planning control are dealt with urgently and to ensure other cases are dealt with effectively and efficiently. This means cases will be dealt differently depending on the individual circumstances of the case but the Council still needs to demonstrate it takes a consistent approach to planning enforcement.
- 1.8 Therefore, the preparation and adoption of a Local Enforcement Plan is important because it:
  - allows engagement in the process of defining objectives and priorities which are tailored to local circumstances;
  - sets out the priorities for enforcement action, which will inform decisions about when to take enforcement action;
  - provides greater transparency and accountability about how the Council will decide if it is expedient to exercise its discretionary powers;
  - provides greater certainty for all parties engaged in the development process.
- 1.9 By achieving these objectives, a Local Enforcement Plan will also promote effective planning enforcement, which is important to:
  - tackle breaches of planning control which would otherwise have unacceptable impact on the amenity of the area;
  - maintain the integrity of the decision-making process; and
  - help ensure that public acceptance of the decision-making process is maintained.
- 1.10 Consequently, officers consider the publication of a Local Enforcement Plan is not only best practice from a planning perspective; publication of a Local Enforcement Plan is also closely aligned with the Council's priorities including promoting sustainable development and growth, transforming our organisation, promoting healthy and safe communities and delivering excellent customer service.

## Service Standards

- 1.11 The draft Local Enforcement Plan sets out
- how we will prioritise suspected breaches of planning controls;
  - how to report a suspected breach of planning controls;
  - how we will deal with suspected breaches of planning controls;
  - who is responsible for implementing these policies; and
  - how we will monitor planning enforcement.
- 1.12 The Local Enforcement Plan also introduces service standards even though the nature of planning enforcement means that it is not possible to target a timescale in which to close a case. For example, if an enforcement notice is served, officers have no control over how long the Planning Inspectorate will take to deal with any subsequent appeal against that enforcement notice and cannot guarantee the outcome of that appeal.
- 1.13 It is also not possible for officers to meaningfully control how many complaints the Planning Department receive about suspected breaches of planning controls or how many breaches occur within the District at any particular time although it is hoped publication of the Local Enforcement Plan will help reduce both.
- 1.14 However, the draft Local Enforcement Plan sets out the following service standards that officers consider are specific, measurable, achievable and realistic:
- The site of a high priority case will be visited in the same day the suspected breach of planning control has been identified, wherever possible, and a decision on what further action is required will be taken within 24 hours of that site visit.
  - A site visit will be undertaken within two weeks of identifying a suspected breach of planning controls that is likely to be a medium priority case. A decision on what further action to take will be made within four weeks of that site visit.
  - A site visit will be undertaken within four weeks of identifying a suspected breach of planning controls that is likely to be a low priority case. A decision on what further action to take will be made within eight weeks of that site visit.
- 1.15 These service standards have been designed to facilitate prompt investigation of suspected breaches of control and encourage making timely decisions on how to progress individual cases.

## **2 Conclusions and Reasons for Recommendation**

- 2.1 Planning enforcement is carried out across the District and is a front-line service that can have an impact on the reputation of the Council and public confidence in the planning system. It is therefore important that the wider Council is kept informed of proposals that directly affect how planning enforcement will be carried out within the District.
- 2.2 In these respects, oversight of planning enforcement falls most directly to members of the Planning Committee and it is considered publication of a Local Enforcement Plan will provide the Planning Committee with greater certainty of how officers will carry out this function within the District.
- 2.3 Finally, the publication of a Local Enforcement Plan is consistent with Government guidance on best practice and carrying out effective planning enforcement accords with the Council's corporate priorities and vision for the District.

## **3 Consultation and Equality Impact**

- 3.1 The draft Local Enforcement Plan has been developed by senior officers in this Council's Planning Department in liaison with the Planning Manager and Principal Enforcement Planner at North East Derbyshire to ensure that it is fit for purpose. Feedback from SAMT has also fed into the draft and the draft has been taken to the Growth Scrutiny Committee and Executive at Bolsover District Council. Following consideration of the draft Local Enforcement Plan attached to this report as Appendix A by the Council's Planning Committee, it is intended to carry out public consultation.
- 3.2 A formal Equality Impact Assessment on the Local Enforcement Plan is not considered to be necessary as it is legislation and national guidance led. Nonetheless, it is not considered that the publication of a Local Enforcement Plan would have any direct impacts on any person with a protected characteristic or any group of people that share a protected characteristic.
- 3.3 However, the Local Enforcement Plan is written in plain English to make our processes more accessible. The Local Enforcement Plan also explains how we will deal with enforcement cases fairly and consistently and how we will fulfil the public sector equality duty and comply with human rights legislation when we carry out planning enforcement. In these respects, officers have assessed the supporting procedures to ensure that there are no barriers to the service and support will be given to any person affected by enforcement issues if it is requested.

## **4 Alternative Options and Reasons for Rejection**

- 4.1 Members of the Planning Committee have oversight of planning enforcement and it is considered publication of a Local Enforcement Plan will provide the Planning Committee with greater certainty of how officers will carry out this function within the District. The publication of a Local Enforcement Plan is also consistent with Government guidance on best practice and carrying out effective planning enforcement accords with the Council's corporate priorities and vision for the District. Therefore, no alternative options were considered.

## 5 **Implications**

### Finance and Risk Implications

- 5.1 There are no significant cost implications involved with publication of a Local Enforcement Plan not least because it is intended to be a web-based resource.
- 5.2 Publication of a Local Enforcement Plan should also reduce the risk of complaints about planning enforcement and the risk of abortive action because it sets out clearly how we intend to carry out planning enforcement fairly and consistently across the District.

### Legal Implications including Data Protection

- 5.3 The Local Enforcement Plan would not contain any personal data and therefore does not raise any issues in respects of the GDPR. There are no particular legal implications in respects of a decision not to publish a Local Enforcement Plan because publication is discretionary. However, a publication version of a Local Enforcement Plan will need to be monitored and reviewed to ensure it remains consistent with case law and/or any subsequent changes in national guidance or legislation.

### Human Resources Implications

- 5.4 Publication of a Local Enforcement Plan does not give rise to any additional staffing costs but adoption of a Local Enforcement Plan should help officers make the most efficient and effective use of resources by setting clear priorities and establishing a clear framework to work within.

## 6 **Recommendations**

- **To note the proposals to publish a Local Enforcement Plan and provide feedback on the current draft; and**
- **To consult on the draft Local Enforcement Plan subject to any amendments agreed by the Planning Committee;**
- **To consider further amendments and approval of a publication version of the Local Enforcement Plan following public consultation on the draft attached as Appendix A.**

## 7 **Decision Information**

<b>Is the decision a Key Decision?</b> (A Key Decision is an executive decision 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
<b>Is the decision subject to Call-In?</b>	No

(Only Key Decisions are subject to Call-In)	
<b>District Wards Affected</b>	All
<b>Links to Corporate Plan priorities or Policy Framework</b>	Links to growth, transformation, customer service and healthy communities.

## 8 Document Information

Appendix No	Title
A	Draft Local Enforcement Plan
<b>Background Papers</b> (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
Chris Fridlington (Planning Manager)	EXT: 2265

Report Reference –

# **Local Enforcement Plan (Planning)**

**July 2018**







**We speak your language**

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**Polish**

**Mówimy Twoim językiem**

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**Slovak**

**Rozprávame Vaším jazykom**

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**Chinese**

**我们会说你的语言**

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**CONTROL SHEET FOR [policy title here]**

<b>Policy Details</b>	<b>Comments / Confirmation (To be updated as the document progresses)</b>
Policy title	Local Enforcement Plan
Current status – i.e. first draft, version 2 or final version	Publication Version
Policy author (post title only)	Chris Fridlington
Location of policy (whilst in development) – i.e. L-drive, shared drive	
Relevant Cabinet Member (if applicable)	
Equality Impact Assessment approval date	
Partnership involvement (if applicable)	
Final policy approval route i.e. Executive/ Council	
Date policy approved	
Date policy due for review (maximum three years)	Three years
Date policy forwarded to Improvement (to include on Intranet and Internet if applicable to the public)	

## 1.0 INTRODUCTION

### What is a local enforcement plan?

- 1.1 A local enforcement plan should provide information on how the Council will respond to suspected breaches of planning control, tackle unauthorised developments, and monitor the implementation of planning permissions.

### What is a breach of planning control?

- 1.2 There are many different types of breaches of planning control, including:

- the development of a building without the correct planning permission;
- changes to the external appearance of a building without the correct planning permission;
- changes of the use of the land or buildings without the correct planning permission;
- engineering operations that change the existing levels of land or create new land forms that are carried out without the correct planning permission; and,
- the demolition of a non-listed building within a Conservation Area.

- 1.3 We normally refer to these types of breaches of planning control as 'unauthorised development' because they are dealt with under powers in the Town and Country Planning Act 1990, as amended ('the 1990 Act').

- 1.4 The 1990 Act also covers other breaches of planning control, including:

- non-compliance with conditions attached to a planning permission, which is normally referred to as a 'breach of condition';
- non-compliance with a planning obligation contained in a s.106 legal agreement attached to a planning permission; and
- untidy land or buildings that has an unacceptable impact on the character and appearance of the local area.

- 1.5 In addition to unauthorised developments, there are other types of breaches of planning control that are normally dealt with under powers in different legislation, including:

- unauthorised alterations to a listed building or demolition of a listed building;
- unauthorised works to trees in a designated Conservation Area

- unauthorised works to or removal of a tree protected by a Tree Preservation Order, or trees located in a conservation area; and
- unauthorised removal of important hedgerows.

### **Why is a local enforcement plan important?**

- 1.6 It is not a criminal offence to carry out unauthorised development (unless an enforcement notice is in place), and there are many different ways that the Council can tackle unauthorised development and other breaches of planning control. The National Planning Policy Framework also states that the Council should act in a proportionate way when tackling breaches of planning control and formal enforcement action should be used as a last resort.
- 1.7 This means the Council cannot normally justify taking formal enforcement action against minor breaches of planning control but in other cases the Council may take formal enforcement action to resolve a breach of planning control. In some cases, the Council may seek a retrospective planning application to resolve a breach of planning control instead of taking action whilst in others the Council might determine not to take any further action.
- 1.8 The Council also has to prioritise cases to ensure there are sufficient resources to make sure serious breaches of planning control are dealt with urgently and to ensure other cases are dealt with effectively and efficiently. This means that whilst we will take a consistent approach to planning enforcement: different cases may well be dealt with differently depending on the individual circumstances of the case.
- 1.9 Therefore, the preparation and adoption of a local enforcement plan is important because it:
- allows engagement in the process of defining objectives and priorities which are tailored to local circumstances;
  - sets out the priorities for enforcement action, which will inform decisions about when to take enforcement action;
  - provides greater transparency and accountability about how the local planning authority will decide if it is expedient to exercise its discretionary powers; and,
  - provides greater certainty for all parties engaged in the development process.

### **What is the scope of this Local Enforcement Plan?**

- 1.10 The following sections of this document will set out:
- how we will prioritise suspected breaches of planning control;

- how to report a suspected breach of planning control;
- how we will investigate suspected breaches of planning control;
- how we will take formal enforcement action against breaches of planning control; and,
- who is responsible for implementing and monitoring these policies.

## **2. PRIORITIES**

### **How will the Council prioritise planning enforcement?**

- 2.1 For planning enforcement to work effectively and efficiently it is important to prioritise cases so we have sufficient resources available to tackle the most serious cases quickly. It is also important that we have sufficient resources to properly investigate suspected breaches of planning control to make sure we take the most appropriate action in the most reasonable amount of time.
- 2.2 Therefore, the first thing we will normally do when we identify a breach of planning control is decide whether the case is classed as high, medium or low priority to make sure planning enforcement is carried out effectively within the District.

### **Why is effective planning enforcement important?**

- 2.3 Effective planning enforcement is important to:
- tackle breaches of planning control that have an unacceptable adverse impact on the character and appearance of the local area, or have an unacceptable adverse impact on the living conditions of local residents;
  - maintain the integrity of the decision-making process by tackling unauthorised development that would not normally be granted planning approval; and
  - maintain public confidence in the Council's decision-making processes by ensuring planning conditions and planning obligations needed to make development acceptable in planning terms are complied with.

### **What is a high priority case?**

- 2.4 High priority cases are cases of severe importance. We will aim to investigate these cases on the same day that they are reported to the Council. We will then decide what further action to take, if any, within 24 hours. Examples of high priority cases are as follows:
- Demolition in a Conservation Area;
  - Destruction of an important hedgerow;
  - Hazardous substances;
  - Unauthorised works to protected trees; and,
  - Unauthorised works to listed buildings.
  - Unauthorised development in Green Belt

### **What is a medium priority case?**

2.5 Medium priority cases will not normally require immediate action to prevent serious harm. They will include suspected breaches of planning control that would not normally get planning permission because they are contrary to local planning policies, and have a harmful impact on the amenity of the area.

2.6 We will aim to start investigating cases that are likely to be a medium priority by visiting the site within two weeks of receiving a complaint. We will then decide what further action to take, if any, within four weeks of the site visit. Examples of medium priority cases are as follows:

- Unauthorised development that contravenes local planning policy;
- Unauthorised development that significantly impacts on local amenity and public safety;
- Unauthorised development that results in harm to the character of a Conservation Area; and
- Unauthorised development that results in harm to the setting of a listed building.

### **What is a low priority case?**

2.7 Low priority cases will be minor breaches of planning control. We will aim to start investigating cases that are likely to be a low priority by visiting the site within four weeks of receiving a complaint. We will then decide what further action to take, if any, within eight weeks of the site visit. Examples of low priority cases are as follows:

- Running a small business from a residential property;
- Unauthorised advertisements;
- Unauthorised fences and walls;
- Unauthorised householder developments; and,
- Untidy land and buildings.

### **How will we monitor implementation of planning permissions?**

2.8 The Council does not have sufficient resources to monitor every planning permission that is implemented across the District. Some ad-hoc monitoring of development by case officers may take place but we will normally need to rely on reports of suspected breaches of planning conditions to be able to identify problems.



- 2.9 When we receive a report of a suspected breach of planning conditions or we identify a breach of planning conditions on a development site, we will approach the case in the same way as other breaches of planning control depending on whether the breach of condition is considered to be a high, medium or low priority case.
- 2.10 However, we will monitor sites where permission has been granted subject to a s.106 legal agreement. Typically, these types of legal agreements will have a 'trigger point' when payments are required to be made or when affordable housing or other infrastructure should be delivered.
- 2.11 In many cases, a trigger point will be related to the number of new houses that have been built and/or occupied. Planning officers are responsible for monitoring the trigger points for obligations including payments of commuted sums.

### **3. REPORTING A SUSPECTED BREACH OF PLANNING CONTROL**

#### **How should a suspected breach of planning control be reported?**

- 3.1 We publish a form on the Council's website that asks for all the information we need to allow us to investigate a suspected breach of planning control. We have also included a copy of this form in this document (see appendix A), which can also be used to report a suspected breach of planning control. If the form is incomplete or missing some information this may delay our investigation.
- 3.2 To report a suspected breach of planning control the form should be completed and emailed to [dev.control@bolsover.gov.uk](mailto:dev.control@bolsover.gov.uk) or posted to the Planning Department at Bolsover District Council, The Arc, High Street, Clowne S43 3JY.
- 3.3 Once we have received a completed form we will send an acknowledgement. At the conclusion of our investigations we will let the person who has reported a suspected breach know what action we have taken. We will not normally provide any other updates on our investigations but we will aim to work to the timescales we have set out in Section 2 of this document for high, medium and low priority cases.
- 3.4 We do not normally need photographs to be submitted with a completed form because we cannot use these photographs as evidence. However, we do need the address of the person reporting a suspected breach of planning control and that person's contact details. We do not accept anonymous complaints and we may need to discuss the case with the person who has reported it as part of our investigations.

#### **How will we use personal data included on a completed form?**

- 3.5 We will only share the address and private contact details of a person reporting a suspected breach of planning control with officers dealing with the case, unless the case involves a matter that cannot be dealt with by planning enforcement.
- 3.6 If a case should be dealt with by another department in the Council, we will share the details of the case with relevant officers in that department so they can take appropriate action. However, the Council will not share personal contact details with any external third parties without that person's consent.
- 3.7 We do not publish your personal contact details and we treat these details in confidence because we recognise many people will not have the confidence to report a suspected breach of planning control if their identity were to be made public.
- 3.8 For these reasons, the Council would not normally provide information about the details of a person who has reported a suspected breach of planning control if we receive a request for this information made under

the freedom of information act or the environmental information regulations.

- 3.9 However, we may have to share your personal details with the police or the courts if, in very exceptional circumstances, the suspected breach of planning control actually amounted to a criminal offence subject to prosecution.

### **What types of complaints cannot be dealt with by planning enforcement?**

- 3.10 Before reporting a suspected breach of planning control, it is important to check that the matter is for the Council's Planning Department to deal with so we can avoid any unnecessary work or delay in taking the most appropriate action. The most common issues that are incorrectly reported to the Council's Planning Department are listed below:

#### **Approved development or works**

- 3.11 In some cases, we receive reports of suspected breaches of planning control about development or works that have been granted planning permission. We publish details of most planning applications on the Council's website including details of approved plans, planning conditions and planning obligations.
- 3.12 If it is found that works or a development has already got consent and is being carried out in accordance with the permission, then we will not take planning enforcement action. However, a complaint can still be made to the Council's Complaints Department about the way we dealt with an application for planning permission but not about the decision itself.

#### **Boundary disputes**

- 3.13 The planning department cannot deal with boundary disputes. These types of problems should normally be dealt with as a private matter by the individuals concerned, which may involve instructing a solicitor or other suitably qualified professional to deal with the matter. We may be able to provide extracts from plans or details of application site boundaries on request but these details will also normally be available on the Council's website.

#### **Damage to private property**

- 3.14 Similar to the above, the planning department cannot deal with reports about damage to private property. These types of problems should normally be dealt with as a private matter by the individuals concerned, which may involve instructing a solicitor or other suitably qualified professional to deal with the matter or the matter may need to be reported to the police.

## **Dangerous Structures**

- 3.15 The Planning Department cannot deal with reports of dangerous structures, which should be reported to Derbyshire Building Control Partnership who can be contacted on 0333 880 2000 or by email at [info@dbcp.co.uk](mailto:info@dbcp.co.uk)

## **Empty Properties**

- 3.16 The Planning Department cannot deal with empty properties, which should normally be reported to the Council's Empty Property Officer by telephoning 01246 242424.

## **Fly-tipping**

- 3.17 The planning department cannot deal with reports of fly-tipping, which should be reported to the Council's Environmental Health Department by telephoning 01246 242424 or by emailing [EnvironmentalHealthAdmin@ne-derbyshire.gov.uk](mailto:EnvironmentalHealthAdmin@ne-derbyshire.gov.uk)

## **Fracking**

- 3.18 All issues related to fracking should be discussed with Derbyshire County Council who can be contacted on 01629 580000.

## **Highways Land**

- 3.19 The planning department cannot deal with complaints about any structures, advertisements, A-boards or any other operations, such as cars sales for example, that have taken place on land within the boundaries of a highway, which will normally include grass verges, footpaths and pavements and other highway infrastructure like barriers, lampposts and bridges, as well as the road itself.
- 3.20 Complaints about activities taking place on highways land that is connected to the local road network should be reported to the Highways Department at Derbyshire County Council by telephoning 01629 580000. Complaints about activities taking place on highways land connected to the strategic road network should be reported to Highways England by telephoning 0300 123 5000.

## **Invasive non-native plants and harmful weeds**

- 3.21 Unless a breach of a planning condition has been identified, complaints about non-native invasive species or harmful weeds cannot be dealt with by the Planning Department and should be reported to the Council's Streetscene Department on 01246 242424 if the land belongs to the Council. In all other cases, complaints about non-native invasive species or harmful weeds should be referred to the Environment Agency and more information can be found on their website at [www.gov.uk/government/organisations/environment-agency](http://www.gov.uk/government/organisations/environment-agency)

### **Light Pollution**

- 3.22 Unless a breach of a planning condition has been identified, complaints about light pollution cannot be dealt with by the Planning Department and should be reported to the Council's Environmental Health Department by telephoning 01246 242424 or by emailing [EnvironmentalHealthAdmin@ne-derbyshire.gov.uk](mailto:EnvironmentalHealthAdmin@ne-derbyshire.gov.uk)

### **Noise Nuisance**

- 3.23 Unless a breach of a planning condition has been identified, complaints about noise nuisance cannot be dealt with by the Planning Department and should be reported to the Council's Environmental Health Department by telephoning 01246 242424 or by emailing [EnvironmentalHealthAdmin@ne-derbyshire.gov.uk](mailto:EnvironmentalHealthAdmin@ne-derbyshire.gov.uk)

### **Odour Nuisance**

- 3.24 Unless a breach of a planning condition has been identified, complaints about odour nuisance cannot be dealt with by the Planning Department and should be reported to the Council's Environmental Health Department by telephoning 01246 242424 or by emailing [EnvironmentalHealthAdmin@ne-derbyshire.gov.uk](mailto:EnvironmentalHealthAdmin@ne-derbyshire.gov.uk)

### **Quarry Sites and active Mineral Extraction**

- 3.25 All issues related to quarrying or mineral extraction should be discussed with Derbyshire County Council who can be contacted on 01629 580000.

### **Trespass**

- 3.26 Reports about private individuals trespassing cannot be dealt with by the Planning Department and these types of problems should normally be dealt with as a private matter by the individuals concerned, which may involve instructing a solicitor or other suitably qualified professional to deal with the matter or reporting the matter to the police.

### **Vermin**

- 3.27 The planning department cannot deal with reports of vermin or other types of infestation, which should be reported to the Council's Environmental Health Department by telephoning 01246 242424 or by emailing [EnvironmentalHealthAdmin@ne-derbyshire.gov.uk](mailto:EnvironmentalHealthAdmin@ne-derbyshire.gov.uk)

### **Waste sites.**

- 3.28 Any complaints about the operation of a waste transfer site including public amenity waste disposal sites and scrapyards should be directed to Derbyshire County Council who can be contacted on 01629 580000.

## 4. Investigating suspected breaches of Planning Control

### How will we investigate suspected breaches of planning control?

- 4.1 Effective enforcement action relies on the Council having accurate information about a suspected breach of planning control. This means that the first part of our investigation is arranging a site visit. This can often involve contacting the owner of the land where the suspected breach of planning control has taken place and/or the person that appears to be responsible for the breach to arrange a site meeting.
- 4.2 We prefer to organise a site meeting because this gives us the opportunity to discuss the case with the people involved and it will help us with our investigations if we have a better understanding of what has happened and why. In addition, a breach of planning control may be the result of a genuine mistake where, once the breach is identified, the person responsible may take immediate action to remedy it.
- 4.3 However, we will not delay starting our investigations if we are not able to arrange a site meeting or are refused entry to a site. If we are unable to arrange a site visit or are refused entry to the site then we will consider using our rights of entry. If we use our rights of entry, we will inform anybody on site who we are and the purpose of our visit. Our officers will also be carrying their staff cards as proof of identity.

### Rights of Entry

- 4.4 The Council can authorise named officers to enter land specifically for enforcement purposes (sections 196A, 196B and section 196C of the Town and Country Planning 1990 Act). This right of entry is limited to what is regarded as essential, in the particular circumstances, for effective enforcement of planning control. The Act specifies the purposes for which entry to land may be authorised (section 196A(1) of the 1990 Act), namely:
- to ascertain whether there is or has been any breach of planning control on the land or any other land;
  - to determine whether any of the local planning authority's enforcement powers should be exercised in relation to the land, or any other land;
  - to determine how any such power should be exercised; and
  - to ascertain whether there has been compliance with any requirement arising from earlier enforcement action in relation to the land, or any other land.
- 4.5 The phrase "or any other land" means that, if necessary, neighboring land can be entered, whether or not it is in the same ownership or is being occupied by the person whose land is being investigated.

- 4.6 Section 196A of the 1990 Act state there must be reasonable grounds for entering the land for the purpose in question. This is interpreted to mean that entering the land is the logical means of obtaining the information required by the local planning authority when investigating a suspected breach of planning control. It is also an offence to willfully obstruct an authorised person acting in exercise of a right of entry under section 196C(2) of the 1990 Act.
- 4.7 Where there are reasonable grounds for entering land for enforcement purposes, and a right of entry is refused or is reasonably likely to be refused, or there is a need for urgency, then it is possible for a Justice of the Peace to issue a warrant to allow entry (section 196B(1) of the 1990 Act). However, entry to a building used as a dwelling house cannot be demanded as of right unless 24 hours advanced notice of intended entry has been given to the occupier.

### **Assessing the Evidence**

- 4.8 In many cases, we can collect enough relevant information from our historic records of the site, as well as information collected on a site visit and other publicly available information to be able to properly assess whether an actual breach of planning control has taken place and what further action we need to take.
- 4.9 On some occasions we might need to obtain further information to make an assessment of whether there are any legal grounds that mean we cannot take formal enforcement action. In these circumstances, a planning contravention notice may be issued under section 171C of the 1990 Act and can be used to do the following:
- allow officers to request any information they need for enforcement purposes about any operations being carried out; any use of; or any activities being carried out on the land; and
  - invite its recipient to provide officers with constructive suggestions about how any suspected breach of planning control may be remedied satisfactorily.
- 4.10 A proportionate way to tackle suspected breaches of planning control is to negotiate an acceptable solution with interested parties. Issuing a planning contravention notice can be one way to achieve this, allowing officers to collect the information they need to help progress a case. However, it is an offence not to return a planning contravention notice within the time specified for its return and it is an offence for a recipient to provide false information when completing a planning contravention notice.

## **When might the Council be unable to take formal enforcement action?**

- 4.11 One reason the Council may not be able to take formal enforcement action is when an investigation of a suspected breach of planning control reveals that a breach of planning control has not actually taken place.
- 4.12 For example, we will not take any further action if we find that development or works taking place or completed on a site already has the appropriate planning permission and is being carried out or has been completed in accordance with the permission
- 4.13 We will also not take any further action if we find that development or works taking place or completed on a site benefits from 'deemed consent' because it is permitted development under the Town and Country (General Permitted Development)(England) Order 2015, as amended, or when we find that a sign or advertisement has 'deemed consent' under the Town and Country Planning (Control of Advertisements) (England) Regulations 2007.
- 4.14 In addition, the 1990 Act and Town and Country Planning (Use Classes) Order 1987 (as amended) set out various activities and operations that cannot be considered to be development and does not require planning permission as a matter of law. We will not take any further action if we find that a suspected breach of planning control falls within these statutory provisions and is not development that requires planning permission.

## **Time limits for enforcement**

- 4.15 In most cases, development becomes immune from enforcement if no action is taken:
- within 4 years of substantial completion for a breach of planning control consisting of operational development;
  - within 4 years for an unauthorised change of use to a single dwellinghouse;
  - within 10 years for any other breach of planning control (essentially other changes of use or breaches).
- 4.16 These time limits are set out in section 171B of the 1990 Act and we will not normally take any further action if we find out that an unauthorised development is immune from enforcement because we are too late to take action.
- 4.17 However, these statutory time limits do not prevent enforcement action after the relevant dates where there has been deliberate concealment of a breach of planning control.
- 4.18 Deliberate concealment may be considered to have occurred when deliberate attempts have been made to hide or disguise a breach of planning control to prevent its discovery, or deliberately misleading statements or information



have been provided to the Council to prevent a breach of planning control being discovered.

- 4.19 In cases of deliberate concealment, officers may decide to proceed with formal enforcement action that would normally be considered 'out of time' or apply for a planning enforcement order to gain more time to consider whether formal enforcement action should be taken.

#### **When might formal enforcement action not be appropriate?**

- 4.20 Addressing breaches of planning control without formal enforcement action can often be the quickest and most cost effective way of achieving a satisfactory and lasting remedy. For example, a breach of planning control may be the result of a genuine mistake where, once the breach is identified, the person responsible will take immediate action to remedy it.

- 4.21 We will generally not take further formal enforcement action when action is taken to remedy a breach of planning control within 3-6 months of that action being agreed. The amount of time needed to put things right will depend on what actions are required to remedy the identified breach of planning control, but officers will not normally agree to a period longer than 6 months unless there are exceptional circumstances.

- 4.22 In deciding, in each case, what is the most appropriate way forward, the Council should also usually avoid taking formal enforcement action where:

- there is a trivial or technical breach of planning control which causes no material harm or adverse impact on the amenity of the site or the surrounding area;
- development is acceptable on its planning merits and formal enforcement action would solely be to regularise the development;
- the submission of a formal planning application is the appropriate way forward to regularise the situation, for example where planning conditions may need to be imposed to make an unauthorised development acceptable in planning terms.

- 4.23 In most cases, only a minor breach of planning control will fall within the above criteria and these types of breaches will normally be low priority cases. However, if the Council decides not to take further action when it has completed its investigation of a low priority case this should not be taken as condoning a willful breach of planning law.

- 4.24 A decision to take no further action will be a proportionate response when the retention of an unauthorised development or works will not result in any demonstrable harm. Nonetheless, it is in the landowner's own best interests to regularise unauthorised development even when the Council decides not to take any further action.

- 4.25 We will always invite the submission of a retrospective application for low priority cases and other minor breaches of planning control because it is likely these types of applications will be granted permission. The right planning permission will normally be needed by the landowner when it comes to selling the property to reduce any conveyancing and legal issues.
- 4.26 We will also normally invite a retrospective planning application for some medium priority cases where planning conditions could be used to make the unauthorised development or works acceptable in planning terms and the person responsible for the breach of planning control has expressed a willingness to submit a retrospective application within 3 months of the breach being identified.
- 4.27 However, it is highly unlikely that we will invite an application if the breach of planning control we are investigating is significantly contrary to planning policies and/or has resulted in or continues to significantly detract from the living conditions of local residents or the character and appearance of the local area in a way that cannot be dealt with satisfactorily by planning conditions or amendments to the development.
- 4.28 In these circumstances, we will consider taking further action and this will normally involve commencing formal enforcement action to tackle some medium priority cases and all high priority cases.

## **5. Formal Enforcement Action**

### **When will we start formal enforcement action?**

- 5.1 Formal enforcement action should only be taken where the Council is satisfied that there has been a breach of planning control and it is expedient to take enforcement action, taking into account the provisions of the development plan and any other material considerations. Formal enforcement action should only be taken as a last resort.
- 5.2 Therefore, we will normally only start formal enforcement proceedings when we have thoroughly investigated the suspected breach of planning control and explored and exhausted every opportunity to agree a timely resolution to a breach of planning control with the person responsible for that breach and/or the landowner if they are not the person who has carried out the breach of planning control.
- 5.3 However, we cannot defer enforcement action indefinitely and some breaches of planning control require immediate action. So, we will consider taking formal enforcement action without giving further notice when we are tackling the most serious breaches of planning control, when the time limits for enforcement are close to running out, or when we cannot negotiate an acceptable solution or actions to remedy a breach of planning control have not been carried out in an agreed timescale.
- 5.4 It is therefore important that any person contacted by the Council about a suspected breach of planning control that they are responsible for, or that has been carried out on their land gets in contact with officers to discuss the case as a matter of urgency. It is also important that if a way to put things right has been agreed with officers to prevent further enforcement action being taken by the Council then it is important the actions needed to put things right are completed within the agreed timescale.

### **What types of formal enforcement action can the Council take?**

- 5.5 There is a range of ways of tackling breaches of planning control available to the Council through formal enforcement action. In each case officers not only have to determine which of the options would be the most effective way of dealing with the breach but also which would be the most proportionate way of securing a resolution.
- 5.6 In these terms, in most medium priority cases and in some high priority cases, issuing an enforcement notice will normally be the right approach for officers to take when it appears to them that there has been a breach of planning control and it is expedient to take formal enforcement action when taking into account the provisions of the development plan and any other material considerations (including the guidance in this document).

### **Enforcement Notices**

- 5.7 An enforcement notice should enable every person who receives a copy to know:
- exactly what, in the local planning authority's view, constitutes the breach of planning control; and
  - what steps the local planning authority require to be taken, or what activities are required to cease to remedy the breach of planning control.
- 5.8 There is a right of appeal against an enforcement notice, however it is an offence not to comply with an enforcement notice once the period for compliance has lapsed.
- 5.9 Therefore, it is important that the recipient of an enforcement notice takes immediate action to lodge an appeal against the notice if they think there are good grounds to do so or take immediate steps to comply with the notice.

### **Stop Notices**

- 5.10 A stop notice can prohibit any or all of the activities which comprise the alleged breach(es) of planning control specified in a related enforcement notice, ahead of the deadline for compliance in that enforcement notice. Therefore, a stop notice might be issued shortly after an enforcement notice because it is important to prevent a development from continuing before the enforcement notice comes into effect.
- 5.11 There are very strict limitations on the use of a stop notice so it is unlikely officers will consider issuing a stop notice unless there are very serious risks of irreparable harm from on-going development. For example, a stop notice may be considered where an unauthorised development involves the demolition of an unlisted building in a designated Conservation Area and an agreement to stop demolition with immediate effect has not been reached.

### **Temporary Stop Notices**

- 5.12 A temporary stop notice requires that an activity which is a breach of planning control should stop immediately. A temporary stop notice must state the date the temporary stop notice has been served, the activity that has to cease, and that any person contravening it may be prosecuted for an offence.
- 5.13 The Council does not need to have served an enforcement notice before it issues a temporary stop notice and officers may consider issuing a temporary stop notices in some high and medium priority cases when it is essential to take immediate action to safeguard amenity or public safety in the neighbourhood; or to prevent serious or irreversible harm to the environment in the surrounding area.
- 5.14 A temporary stop notice expires after 28 days, so officers will consider what further action is required within this period if an alternative way of dealing with the breach which would overcome the objections to it in an environmentally and

legally acceptable way cannot be agreed with the recipient of the temporary stop notice.

### **Breach of Condition Notice**

- 5.15 A breach of condition notice is mainly intended as an alternative to an enforcement notice for remedying a breach of condition. Officers will consider issuing a breach of condition in addition to an enforcement notice, as an alternative to a stop notice, where officers consider it is expedient to stop the breach of conditions quickly and before any appeal against the enforcement notice is determined.
- 5.16 A breach of condition notice is therefore most likely to be used in some high or medium priority cases when immediate action is required to stop a continuing breach of conditions in the interests of safeguarding amenity or public safety in the neighbourhood; or to prevent serious or irreversible harm to the environment in the surrounding area. There is no right of appeal to the Planning Inspectorate against a breach of condition notice.

### **Injunction**

- 5.17 The Council can apply for an injunction whether or not it has exercised, or proposes to exercise, any of their other powers to enforce planning control. However, starting proceedings for an injunction is one of the most serious types of enforcement action that the Council can take because if a person fails to comply with an injunction (once it has been granted) they may be committed to prison for contempt of court. Additionally, once an injunction has been granted, it cannot be discharged except where there has been a significant change of circumstances since the order was made.
- 5.18 Therefore, officers will only consider applying for an injunction if there have been persistent breaches of planning control such as failure to comply with the requirements of an enforcement notice over a long period and/or other enforcement options have been, or would be, ineffective in the event of a serious breach of planning control that would cause substantial and/or immediate harm to the local area.

### **Prosecution**

- 5.19 When officers are dealing with high priority cases, many of the breaches of planning control may constitute a criminal offence subject to prosecution including unauthorised works to protected trees, removal of important hedgerows, unauthorised works to listed buildings and where hazardous substances are involved.
- 5.20 Officers will take further legal advice in these cases with a view to pursuing a prosecution in the event of a serious breach of planning control that has resulted in substantial harm to the local area. It is therefore important that a person that is contacted by officers about a high priority case makes every effort to stop any unauthorised works or activities on site immediately.

- 5.21 Officers will also take further legal advice with a view to pursuing a prosecution in the event of non-compliance with the requirements of an enforcement notice, breach of conditions notice, stop notice, temporary stop notice, listed building notice, community protection order or a section 215 notice.

### **Listed Building Enforcement Notice**

- 5.22 Although broadly similar, there are a number of important differences between planning enforcement notices and listed building enforcement notices including the fact that there are no time-limits for issuing listed building enforcement notices.
- 5.23 Officers will consider issuing a listed building enforcement notice in medium and high priority cases where works have been carried out without the necessary listed building consent, or a condition attached to that consent has not been complied with when such works materially detract from the historic or architectural significance of the building and there is no agreement to put those works right in any other way.

### **Community Protection Notices**

- 5.24 Officers have the power to issue a Community Protection Notice under the Anti-Social Behaviour, Crime and Policing Act 2014 and these Notices can be used to tackle a wide range of issues including:
- untidy land / buildings;
  - unauthorised use of land; and
  - unauthorised buildings / structures.
- 5.25 Where any of the above problems are causing ongoing detrimental effects to the living conditions of the local community, a Community Protection Notice can contain reasonable requirements:
- to stop doing specified things;
  - to do specified things; or,
  - to take reasonable steps to achieve specified results.
- 5.26 Officers will consider issuing a Community Protection Notice if an earlier written warning that a Notice may be issued has been ignored and may be used as an alternative to a section 215 Notice.

### **Section 215 Notices (Requiring proper maintenance of land)**

- 5.27 Section 215 of the 1990 Act provides the Council with the power, in certain circumstances, to take steps requiring land to be cleaned up when its condition adversely affects the amenity of the area. If it appears to officers that

the public amenity of part of the District is being adversely affected by the condition of neighbouring land and buildings, they may consider serving a section 215 notice on the owner requiring that the situation be remedied.

- 5.28 These notices will set out the steps that need to be taken, and the time within which they must be carried out. The Council also have powers under s219 of the 1990 Act to undertake the clean-up works itself and to recover the costs from the landowner.

### **Other default powers**

- 5.29 The Council can prosecute for a failure to comply with an enforcement notice but it can also consider using its default powers under s.178 of the 1990 Act to enter enforcement notice land and carry out the requirements of the notice itself.
- 5.30 It is an offence to willfully obstruct anyone who is exercising those powers on the Council's behalf and Council can recover from the person who is then the owner of the land any expenses reasonably incurred by them in undertaking this work.
- 5.31 Officers will only consider using these default powers when all other methods to persuade the owner or occupier of land to carry out any steps required by an enforcement notice have failed.

### **Advertisements and fly-posting**

- 5.32 The Council will not take action against any adverts or fly-postings on the local road network, which would normally be dealt with by the local highway authority (Derbyshire County Council). Highways England would be expected to deal with adverts and fly-posting on the strategic road network.
- 5.33 In other cases, where signs, adverts or fly-posting are unauthorised and is damaging the character and appearance of the local area, officers will normally serve advance written notice to anyone who can be identified as the person responsible, that:
- in the Council's opinion the advert or sign is displayed illegally; and
  - the Council intends to remove it after the expiry of a period specified in the notice.

Officers can then remove the sign or adverts 2 clear days after the notice was served.

- 5.34 However, the Council need not give any notice to remove fly-posters where a placard or poster does not give the address of the person displaying it and officers do not know that address and are unable to ascertain the relevant address after making reasonable enquiries.

### **How will human rights be taken into account in planning enforcement?**

- 5.35 The provisions of the European Convention on Human Rights such as Article 1 of the First Protocol, Article 8 and Article 14 are relevant when considering enforcement action. There is a clear public interest in enforcing planning law and planning regulation in a proportionate way. In deciding whether enforcement action should be taken, officers, where relevant, will have regard to the potential impact on the health, housing needs and welfare of those affected by the proposed action, and those who are affected by a breach of planning control.
- 5.36 When considering commencing formal enforcement action, officers must be satisfied that there has been a breach of planning control and that the activity which amounts to the breach must be stopped within the time limits set for compliance or by action to be taken through the courts in the wider public interest. In compliance with Article 6 of the Human Rights Act 1998, a recipient of a formal enforcement notice will also have the right of appeal or the right to a fair trial in the event of non-compliance with a formal enforcement notice or on receipt of a summons.

#### **How will the public sector equality duty be taken into account in planning enforcement?**

- 5.37 In deciding whether enforcement action should be taken, officers, when the relevant information is publically available or has been made available to officers, will have regard to the potential impact on any person with a protected characteristic or group of persons that share a protected characteristic that are either likely to be affected by the proposed action or likely to be affected by a breach of planning control.
- 5.38 Officers will also make any reasonable adjustments that have been requested and in particular, will make the process of planning enforcement as accessible as possible by ensuring all written communication is in plain English, can be produced in bigger text or different languages if appropriate, and where necessary, by visiting people at their home to discuss any breach of planning control that directly affects their living conditions or any action that will have a material effect on their quality of life.

#### **Unauthorised Encampments**

- 5.39 An absence of authorised sites does not mean that the Council cannot take enforcement action against unauthorised encampments. There are also extensive powers available to help the Council deal with illegal and unauthorised sites.
- 5.40 However, officers will only proceed with action against unauthorised encampments following liaison with the Council's Corporate Enforcement Officer Group, the equalities officer and other interested parties including the police, particularly because of the need to balance the potential of taking urgent action to remedy a serious breach of planning control whilst dealing with sensitive issues around human rights and compliance with public sector equality policy.



## **6. Implementation and Monitoring**

### **Who will be responsible for implementing the Local Enforcement Plan?**

- 6.1 The Joint Head of Planning, the Planning Manager and the Principal Enforcement Officer will be responsible for implementing the plan and ensuring the guidelines in this document are followed by officers.
- 6.2 The Principal Enforcement Officer, Enforcement Officers and Planning Officers, where appropriate, will be responsible for a pro-active approach to reporting suspected breaches of planning control, investigating suspected breaches of planning control, and monitoring large housing sites.
- 6.3 The Joint Head of Planning, the Planning Manager and the Principal Enforcement Officer will assist, where appropriate, with deciding what action should be taken when an investigation into a suspected breach of planning control has been completed, and the Council's solicitors will be consulted before any formal enforcement action is commenced.
- 6.4 The Council's solicitors will also be consulted before any legal action is commenced and the Council's solicitors will assist with any legal proceedings including instructing a QC to represent the Council in any court proceedings.
- 6.5 The Planning Manager and/or the Principal Enforcement Officer will normally be expected to prepare a statement of case and/or represent the Council at an informal hearing or public enquiry in the event of an appeal to the Planning Inspectorate where an enforcement notice has been served in particularly complex or high profile enforcement cases
- 6.6 The Planning Manager and the Principal Enforcement Officer will assist the Enforcement Officer or other Planning Officers to prepare a statement of case in other more straightforward cases.
- 6.7 The Council's Corporate Enforcement Officer Group will also have a role to play in planning enforcement if a case requires joint working across Council departments. Unauthorised encampments will therefore always be referred to this Group before any decisions are made on how to progress these cases.

### **How will District Councilors be involved?**

- 6.8 Ward Councilors will normally be informed before officers take formal action in respects of any suspected breach of planning control in their local area where the case is sensitive or contentious.
- 6.9 On a quarterly basis, District Councilors will also receive a list of suspected breaches of planning control that have been reported to the Council or that have been identified by officers over the last three months so they have the

opportunity to discuss these cases or check progress with officers if necessary. A half yearly report will also be produced, giving reference to performance standards associated with the varying case priority levels (see section 6.13).

### **What service standards will be monitored?**

- 6.10 The nature of planning enforcement means that it is not possible to target a timescale in which to close a case. For example, if an enforcement notice is served, officers have no control over how long the Planning Inspectorate will take to deal with any subsequent appeal against that enforcement notice and cannot guarantee the outcome of that appeal.
- 6.11 It is also not possible for officers to meaningfully control how many complaints the Planning Department receive about suspected breaches of planning control or how many breaches occur within the District at any particular time, although it is hoped this document will help reduce both.
- 6.12 However, as previously highlighted, this document sets out the following service standards that officers consider are specific, measurable, achievable and realistic:
- The site of a high priority case will be visited in the same day the suspected breach of planning control has been clearly identified. Wherever possible, a decision on what further action is required will be taken within 24 hours of that site visit. Investigations will not take place over the weekends or Bank Holidays
  - A site visit will be undertaken within two weeks of identifying a suspected breach of planning control that is likely to be a medium priority case. A decision on what further action to take will be made within four weeks of that site visit.
  - A site visit will be undertaken within four weeks of identifying a suspected breach of planning control that is likely to be a low priority case. A decision on what further action to take will be made within eight weeks of that site visit.
- 6.13 We will monitor our performance against these standards and publish the results on a half-yearly basis. These results will be assessed to see whether this Plan is working or needs to be reviewed. Achieving a culture of compliance would be one key measure of whether the Plan has been successful.
- 6.14 The Local Enforcement Plan will also be reviewed if there are any substantial changes to relevant legislation, national policy or national guidance or within three years after publication depending on whichever is the sooner.
- 6.15 Planning officers will attend regular training events to ensure that their continuing professional development is appropriate to endorse the principles of this Enforcement Plan.

Appendix A:

**Planning Enforcement Enquiry Form**

Please note that Bolsover District Council does not normally accept anonymous complaints. Therefore, all fields of the Enquiry Form should be completed. If insufficient details are provided the information will be placed on file and the matter will not be investigated.

Your details are kept confidential at all times and are protected by the Data Protection Act 1998. This information is required so that we can contact you if we need further information and to let you know what progress we are making with your enquiry. We will not use your personal information for any other purpose.

Once you have completed the form please send it to us via email; you can also print off the form and post it to us or put it in an envelope addressed to 'Planning Department' and hand it in at one of our contact centres.

**Contact details:**

Planning Enforcement  
Bolsover District Council  
The Arc  
High Street  
Clowne  
Chesterfield  
Derbyshire  
S43 4JY

Telephone: 01246 242424  
E-mail: [dev.control@bolsover.gov.uk](mailto:dev.control@bolsover.gov.uk)

**Your details:**

Name:

Address:

Postcode:

Telephone Number (Day):

Telephone Number (Mobile):

E-mail address:

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### **Details of the alleged breach**

Please give full details of the development you are reporting. The more information you provide at this stage the sooner we can investigate and take any necessary action.

Address/location of site:

Name of the owner or occupier (if known) or any other useful contact:

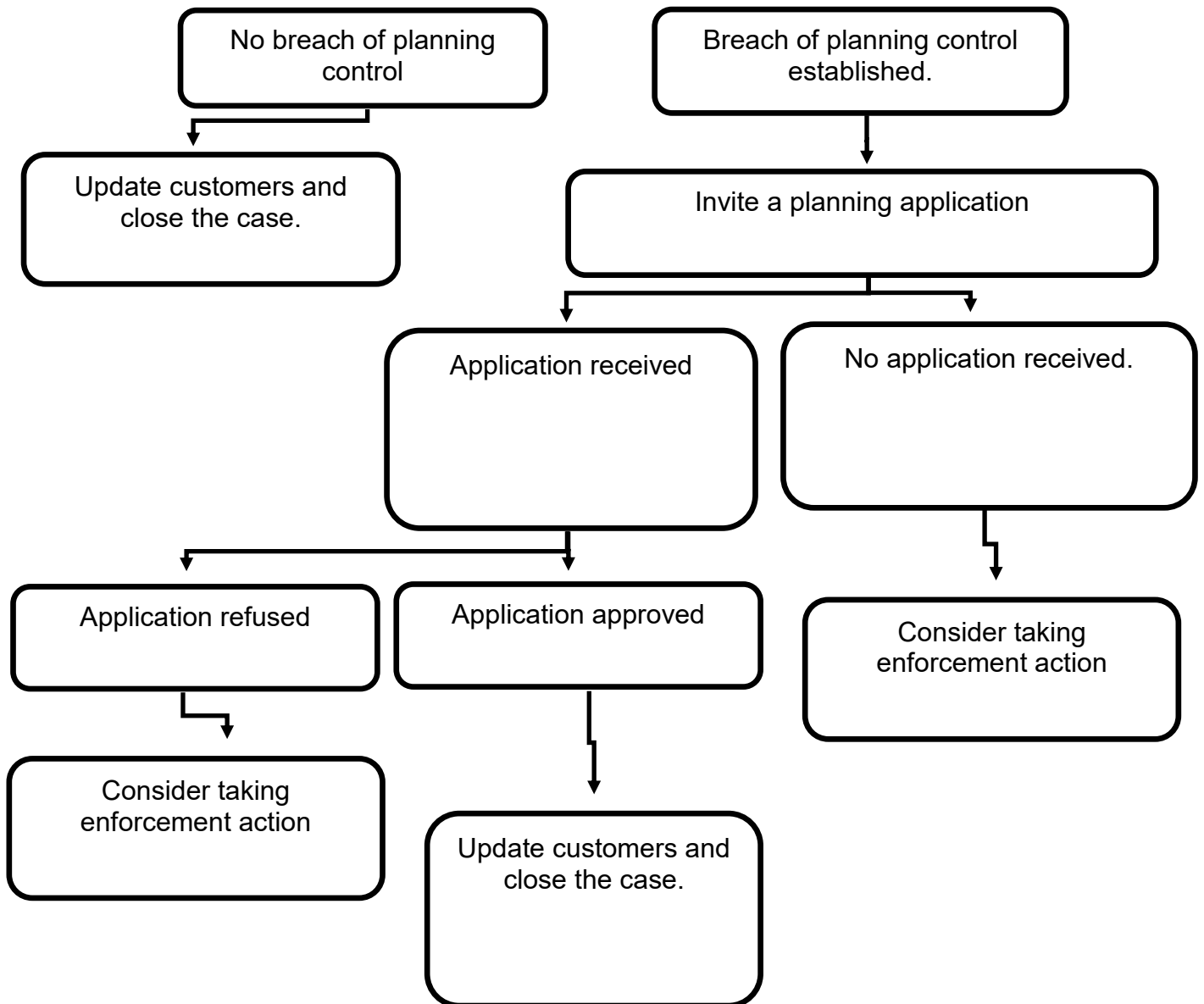
Please describe in as much detail as possible the nature of the development being carried out, including approximate dimensions, dates and times of activity and when development began.

Please explain what problem this is causing you.

### **Using your personal information**

Your personal information will be used to progress your enquiry and to keep you informed. It may be shared with other council departments as necessary. It will not be shared with

any external third parties without your consent unless required to do so by law. For more information on how we use personal data please see the Planning Privacy Statement on our website [www.bolsover.gov.uk](http://www.bolsover.gov.uk).



**Bolsover District Council**

**Planning Committee**

**26<sup>th</sup> September 2018**

<b>Modifications to the Publication Local Plan for Bolsover District</b>
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**Report of the Interim Planning Policy Manager**

This report is public

**Purpose of the Report**

- To update members in relation to Local Plan progress and the issues associated with its development;
- To delegate Authority to the Chief Executive Officer to approve Modifications to the Publication Local Plan for Bolsover District in consultation with the Leader and Deputy Leader of the Council and the Chair of Planning Committee.

**1. Report Details**

**Background**

- 1.1. Planning Committee on 18<sup>th</sup> April 2018, approved the Publication Local Plan, for a six week public consultation (2<sup>nd</sup> May -15<sup>th</sup> June). Members also agreed that following the Publication and Consultation period the Plan be submitted to the Secretary of State in accordance with regulation 22 of Town and Country Planning (Local Plan) (England) Regulations 2012.
- 1.2. The Plan was submitted on 31<sup>st</sup> August 2018, without any further amendments taking place. In essence the Examination period has now started although we are still awaiting details of the Inspector and when the Hearing sessions will be held.

**2. Issues for Consideration**

- 2.1 In order to progress toward formal adoption, a local plan must be examined by an independent inspector whose role is to assess whether the plan has been prepared in accordance with the Duty to Cooperate, legal and procedural requirements, and whether it is 'sound'. A local planning authority should only submit a plan for examination which it considers is 'sound'. Paragraph 182 of the National Planning Policy Framework specifies that in order to be considered sound a plan must be:

- 1) **positively prepared** - based on a strategy that seeks to meet objectively assessed development and infrastructure requirements, including unmet

requirements from neighbouring authorities where it is reasonable to do so and consistent with achieving sustainable development;

- 2) **justified** - the most appropriate strategy when considered against the reasonable alternatives, based on proportionate evidence;
- 3) **effective** - deliverable over its period and based on effective joint working on cross-boundary strategic priorities; and
- 4) **consistent with national policy** - enabling the delivery of sustainable development in accordance with the policies in the Framework.

2.2 Whilst it is considered that the Plan is sound, there are issues that may arise where 'modifications' to the Plan could be considered to make the Plan more 'sound'. These modifications could be quite minor in nature, such as slight amendments to wording for clarity or to rectify typographical errors, or significant in terms of adding in sites or fundamentally changing policies.

2.3 Generally, these modifications will come about in one of three ways:

- 1) on review of representations received we can come to an agreement with the objector that some changes to the Plan can be agreed that will remove their objections. This may often be with statutory undertakers where they want a specific set of wording that they are promoting, but really it makes little difference in Local Plan terms;
- 2) during the hearings where discussions clearly indicate that the Inspector believes that the Plan would be more sound with alterations to policies that we may not have wished to do, but we should accept. This especially applies to when it brings the Plan more in line with the new NPPF, which although this Plan will not be tested against, it will have to operate alongside in the future;
- 3) significant changes to policies and allocations that we may not wish to make, but may have to accept if we are to see an adoptable Plan. Normally this will be at the strong guidance of the Inspector.

2.4 In all of these cases, officers representing the Council will need to be able to quickly consider a way forward, discuss the options and receive authority to amend the Plan in the proposed way, and then be able to confirm the Council's intention to modify the Plan with the Inspector.

2.5 It is therefore considered that delegated authority is required so that possible changes to the Plan can be approved, at short notice, to give officers the authority to propose modifications to the Inspector.

2.6 Towards the end of the Examination, all of the Modifications agreed will need to be consulted on and any responses shared with the Inspector who will consider whether additional sessions are required to address those issues.

2.7 Following the close of the Examination and agreement to all modifications, it will remain a decision for the full Council to adopt the Plan or not. However, it is clearly important that any modifications agreed as part of the process are supported by the Council to allow for the adoption of the Plan.

### **3. Conclusions and Reasons for Recommendation**

- 3.1 Following several years of work, evidence collection and consultation the Plan has reached the last stage before adoption of the Plan.
- 3.2 Developing the Plan has required a lot of difficult decisions to be taken and it is recognised that the Publication Local Plan will still face a significant level of objection from those with specific interests during the Examination. Further difficult decisions may be faced during the Examination.
- 3.3 Therefore it is recommended that the Planning Committee note the contents of this report and agrees the recommendations to delegate authority for modifying the Local Plan as set out above.

### **4. Consultation and Equality Impact**

- 4.1. An Equality Impact Assessment was carried out as part of publishing the Publication Local Plan, and will be completed in relation to the Pre-adoption version of the Plan.

### **5. Alternative Options and Reasons for Rejection**

- 5.1. There are three potential approaches:
  - 1) the Council could decide to progress with the Local Plan in its current form and not agree to any alterations to the Plan, however this is unlikely to lead to a successful outcome as nearly all Plans face some degree of modification;
  - 2) all potential modifications could be formally agreed with Planning Committee, however this may lead to significant delays in the process and the normal Planning Committee structure may not provide the best vehicle for the detailed discussion of options and alternatives;
  - 3) officers could propose amendments as we progress, without Member support, but this creates a democratic deficit and would also lead to possible significant delays at the end of the process if any Modifications are rejected by Members. This could lead to the Examination having to be re-opened.
- 5.2. It is considered that none of these options strike the right balance between accountability based on authority, and being able to propose suitable and supported modifications quickly to the Inspector, which the recommended approach would enable.

### **6. Implications**

#### **Finance and Risk Implications**

- 6.1. In terms of finance this is part of the existing work plan and is budgeted for. The approach minimises the finance and risk implications by ensuring that the



examination can proceed in a timely manner with modifications that the Council will support.

### **Legal Implications including Data Protection**

- 6.2. All modifications proposed would be subject to consultation and the ability for individuals to comment at the end of the examination.

### **Human Resources Implications**

- 6.3. None.

## **7. Recommendations**

- 7.1. That the Planning Committee:
- i. Delegate Authority to the Chief Executive Officer to approve Modifications to the Local Plan for Bolsover District policy and text prior to and during the Local Plan Examination Hearings (including but is not limited to the insertion or amendment of maps and illustrations within the document) in consultation with the Leader and Deputy Leader of the Council and the Chair of Planning Committee.

## **8 Decision Information**

<p>Is the decision a Key Decision?  A Key Decision is an executive decision which has a significant impact on two or more District wards or which results in income or expenditure to the Council above the following thresholds:</p> <p>BDC: Revenue - £75,000 <input type="checkbox"/>  Capital - £150,000 <input type="checkbox"/>  NEDDC: Revenue - £100,000 <input type="checkbox"/>  Capital - £250,000 <input type="checkbox"/></p> <p><input type="checkbox"/> Please indicate which threshold applies</p>	No
<b>District Wards Affected</b>	All

<b>Links to Corporate Plan priorities or Policy Framework</b>	<p>The new Local Plan will identify suitable areas for development to help to deliver the Council's Growth Agenda. It will assist both developers and local residents by providing certainty about the way the district will develop over the Plan period. It therefore contributes to the following Corporate Aims and their identified priority actions:</p> <ul style="list-style-type: none"> <li>• Unlocking Our Growth Potential (main aim);</li> <li>• Supporting Our Communities to be Healthier, Safer, Cleaner and Greener.</li> </ul>
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**9 Document Information**

Appendix No	Title
None	
<b>Background Papers</b> (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)	
Local Plan Evidence Base Documents	
Report Author	Contact Number
Rob Routledge	Ext 2299

## **COMMITTEE UPDATE SHEET**

### **SUPPLEMENTARY REPORT OF THE PLANNING MANAGER**

This sheet is to be read in conjunction with the main report.

#### **Agenda Item No: 6 Planning Applications to be determined**

Planning Site Visits held on 21 September 2018 commencing at 10:00hours.

#### **PRESENT:-**

Members: Councillors T Alexander, T Munro (Chair), P Smith, KF Walker, D Watson and J Wilson

Officer: Chris Fridlington

#### **APOLOGIES**

Apologies were received from Councillors PM Bowmer, J Clifton, D McGregor and R Turner (Vice Chair).

#### **SITES VISITED**

- 1) 16 George Street, Pinxton (18/00238/FUL)**
- 2) Sherwood Lodge, Bolsover (17/00615/FUL)**
- 3) Land off Hollin Hill, Clowne (18/00043/FUL)**

The meeting concluded at 12:00 hours

#### **Summary of representations received after the preparation of the original main Committee Report and any recommendation based thereon.**

##### **Agenda item No: 6.1: Sherwood Lodge, Bolsover (17/00615/FUL)**

No further representations to report but the legal agreement containing the obligations set out in the officer report has now been completed. However, with regard to the weight to be afforded to the site-specific policy WC6 in the emerging Local Plan, it is important for members to note the relevant policy in the revised National Planning Policy Framework is now at Paragraph 48, which says:

Local planning authorities may give weight to relevant policies in emerging plans according to:

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

- b) 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
- c) the degree of consistency of the relevant policies in the emerging plan to this Framework (the closer the policies in the emerging plan to the policies in the Framework, the greater the weight that may be given).

Paragraph 49 goes on to say:

However in the context of the Framework – and in particular the presumption in favour of sustainable development – arguments that an application is premature are unlikely to justify a refusal of planning permission other than in the limited circumstances where both:

- a) the development proposed is so substantial, or its cumulative effect would be so significant, that to grant permission would undermine the plan-making process by predetermining decisions about the scale, location or phasing of new development that are central to an emerging plan; and
- b) the emerging plan is at an advanced stage but is not yet formally part of the development plan for the area.

Finally, Paragraph 50 says where planning permission is refused on grounds of prematurity, the local planning authority will need to indicate clearly how granting permission for the development concerned would prejudice the outcome of the plan-making process.

In this case, the County Council have not recommended refusal for the current application on the basis of prematurity or on the basis that to grant permission for the current application would undermine the plan-making process.

Notwithstanding these points, the County Council have advised in the event that this Council was minded to resist the current application due to its inability to provide or allow for the provision of a link road in the future, they “would be happy to provide further evidence in connection with the relative merits of the two schemes, being mindful that the link road option was secured as part of a previous consent at a time when the land fell under the control of the District Council”.

In terms of WC6, the Local Plan has been submitted for examination in public so it is relatively well advanced and the policy itself is consistent with the aims and objective of the National Planning Policy Framework. Therefore, the policy carries some weight and an approval would undoubtedly give rise to a risk of the Local Plan being found unsound due to unresolved concerns about the transportation issues created by the development in the wider strategic planning context if there were no longer any provision for a link road through the site.

However, the unresolved objections to policy WC6 are considered to be the key issue in this case because without a willing landowner or willing developer, and in the absence of public funding for compulsory purchase of the site and infrastructure costs, it still cannot be demonstrated that WC6 would deliver a link road through the site if this application were to be refused.

Therefore, the officer recommendation of approval remains unchanged.

**Agenda item No: 6.1: 16 George Street, Pinxton (18/00238/FUL) -**

No updates or further representations to report.

**Agenda item No: 6.3: Land off Hollin Hill, Clowne (18/00043/FUL) –**

The applicants have submitted further medical information relating to their two sons from 2013 and 2016 but this information is not directly relevant to the merits of the current application.

No updates or further representations to report.