

The Arc
High Street
Clowne
Derbyshire
S43 4JY

Date: 11th December 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 19th December 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 pages 2 and 3.

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 19th December 2018 at 1000 hours
in the Council Chamber, The Arc, Clowne**

Item No.		Page No.(s)
	PART 1 – OPEN ITEMS	
1.	<u>Apologies for Absence</u>	
2.	<u>Urgent Items of Business</u> To note any urgent items of business which the Chairman has consented to being considered under the provisions of Section 100(B) 4(b) of the Local Government Act 1972	
3.	<u>Declarations of Interest</u> Members should declare the existence and nature of any Disclosable Pecuniary Interest and Non Statutory Interest as defined by the Members' Code of Conduct in respect of: <ul style="list-style-type: none"> 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 21 st November 2018	4 to 17
5.	Notes of a Site Visit held on 16 th November 2018	18
6.	Applications to be determined under the Town & Country Planning Acts.	
	(i) 18/00372/FUL - The stationing of a log cabin as a temporary occupational dwelling for a period of three years associated with the farming operation at Cedar Farm, to be occupied by an agricultural worker and family at Cedar Farm, Chesterfield Road, Tibshelf, Alfreton	19 to 32
	(ii) 17/00657/FUL - Site remodelling and remediation; development of accommodation for employment uses (use classes B1c / B2 / B8); car parking; access and landscaping; associated works at Land East Of M1 Motorway And North Of Ball Hill, South Normanton	33 to 48
	(iii) 18/00493/VAR - Application for the variation of Condition 4 of Planning Permission 17/00153/FUL (to remove trading hours of between 0600hrs and	49 to 60

2300hrs to allow 24 hour trading) at 2 Tallys End,
Barlborough, Chesterfield, S43 4WP

- | | | |
|------|--|----------|
| (iv) | 18/00087/OUT - Outline planning application (all matters reserved except for access) for the residential led, mixed-use redevelopment of land to the south of Colliery Road, Creswell. Comprising of circa 300 dwellings, circa 0.8 hectares of employment land, convenience retail, community scale leisure facility, medical centre (including demolition of vacant church building) and the upgrade of Colliery Road to adoptable standard at Land South Of Model Village, Creswell | 61 to 82 |
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PLANNING COMMITTEE

Minutes of a meeting of the Planning Committee of the Bolsover District Council held in the Council Chamber, The Arc, Clowne on Wednesday 21st November 2018 at 1000 hours.

PRESENT:-

Members:-

Councillor T. Munro in the Chair

Councillors T. Alexander, P.M. Bowmer, J.A. Clifton, T. Connerton, P.A. Cooper, C.P. Cooper, M.G. Crane, S.W. Fritchley, D. McGregor, B.R. Murray-Carr, K. Reid, P. Smith (from Agenda Item No.0478(1)), B. Watson, D.S. Watson and J. Wilson.

Officers:-

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

0473. APOLOGIES

Apologies for absence were received from Councillors S. Peake and R. Turner.

0474. URGENT ITEMS OF BUSINESS

There were no urgent items of business.

0475. DECLARATIONS OF INTEREST

There were no declarations of interest.

0476. MINUTES – 24TH OCTOBER 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 24th October 2018 be approved as a true and correct record.

0477. SITE VISIT NOTES – 19TH OCTOBER 2018

Moved by Councillor J. Wilson and seconded by Councillor D. McGregor

RESOLVED that with the addition of apologies from Councillor B.R. Murray-Carr, the notes of a site visit held on 19th October 2018 be approved as a true and correct record.

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Councillor P. Smith entered the meeting during the following item of business.

0478. APPLICATIONS TO BE DETERMINED UNDER THE TOWN AND COUNTRY PLANNING ACTS

1. 17/00396/OUT - Residential development of up to 65 dwellings with public open space and a cycle/pedestrian link to Storth Lane including access at Land to The Rear of 17 to 95 Alfreton Road, Pinxton

Further details were included within the Supplementary Report.

The Planning Manager (Development Control) presented the report and reminded Members that the application had been deferred at the last meeting for further consultations to take place regarding air quality, highway safety and school capacity.

Councillor M. Dooley, Ms D. Wilson and Mr. J. Coyle attended the meeting and spoke against the application.

Mr. B. Hunt attended the meeting and spoke in support of the application.

The Committee considered the application having regard to the updated consultations, the Bolsover District Local Plan, the Emerging Local Plan (at Publication Stage), the National Planning Policy Framework and the Adopted Design Guide 'Successful Places'.

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

RESOLVED that Application No. 17/00396/OUT be DEFERRED and DELEGATED to Planning Manager in consultation with Chairman and Vice-Chairman of Planning Committee subject to:

A. Completion of S106 Planning Obligation to cover the heads of terms listed below;

B. Conditions deemed necessary including those set out below in draft form to be formulated in full by the Planning Manager

A. S106 Heads of Terms:

- 10% affordable housing;
- Education (£79,793.07 for 7 junior places at Kirkstead Junior School);
- Public art £10,000; and
- Off-site leisure (£51,025 [65 dwellings x £785 per dwelling]).

B. Conditions

1. Approval of the details of the layout, scale, appearance, means of access (except for the main access point to Alfreton Road) and landscaping (hereinafter called "the reserved matters") must be obtained from the Local Planning Authority in writing before any development is commenced.

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2. Application for approval of the reserved matters shall be made to the Local Planning Authority before the expiration of three years from the date of this permission and the development to which this permission relates shall be begun either before the expiration of three years from the date of this permission, or before the expiration of two years from the date of approval of the last of the reserved matters to be approved, whichever is the later.
3. This planning permission is for a maximum of 65 dwellings to be located generally in the location shown on the submitted Land Use Framework Drawing ref. BH172-01 rev. A, submitted on 12/10/18, and any reserved matters must demonstrate a layout and design that accords with the Council's adopted Housing Design Guide 'Successful Places: A Guide to Sustainable Housing Layout and Design'.
4. No development will take place until a detailed design and associated management and maintenance plan of surface water drainage for the site has been submitted to and approved in writing by the Local Planning Authority in accordance with:
 - a) Residential Development at Pinxton, Derbyshire Flood Risk Assessment and Outline Drainage Strategy, Reference: V-R6466/FRADS01 - Issue 1 (August, 2017) and,
 - b) DEFRA's Non-statutory technical standards for sustainable drainage systems (March 2015).

The approved drainage system must be implemented in accordance with the approved detailed design prior to the use of the building commencing.

5. Prior to commencement of the development, the applicant must submit for approval to the Local Planning Authority, details indicating how additional surface water run-off from the site will be avoided during the construction phase. The applicant may be required to provide collection, balancing and/or settlement systems for these flows. The approved system must be operating to the satisfaction of the Local Planning Authority, before the commencement of any works leading to increased surface water run-off from site, during the construction phase.
6. Prior to the submission of any reserved matters planning application, a scheme of intrusive site investigations for the shallow coal workings and highwall must have been submitted to and approved in writing by the Local Planning Authority that must be carried out as approved. Any subsequent Reserved Matters Planning Application must include:
 - * the submission of a report of findings arising from both of the intrusive site investigations;
 - * a layout plan which identifies an appropriate 'no build' zone for the highwall, if necessary;
 - * a scheme of remedial works and mitigation measures, if necessary, for the shallow coal workings and highwall for approval;

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Any approved remedial works and mitigation measures must be implemented in full prior to the commencement of development, unless an alternative timescale for their implementation has previously been submitted to and approved in writing by the Local Planning Authority.

7. Unless otherwise agreed by the Local Planning Authority, development other than that required to be carried out as part of an approved scheme of remediation must not commence until parts A - C of this condition have been complied with. If unexpected contamination is found after development has begun, development must be halted on that part of the site affected by the unexpected contamination to the extent specified by the Local Planning Authority in writing until part D of this condition has been complied with in relation to that contamination.

A. Site Characterisation - An investigation and risk assessment, in addition to any assessment provided with the planning application, must be completed in accordance with a scheme to assess the nature and extent of any contamination on the site, whether or not it originates on the site. The contents of the scheme are subject to the approval in writing of the Local Planning Authority. The investigation and risk assessment must be undertaken by competent persons and a written report of the findings must be produced. The written report is subject to the approval in writing of the Local Planning Authority. The report of the findings must include:

- (i) a survey of the extent, scale and nature of contamination;
- (ii) an assessment of the potential risks to:
 - o human health,
 - o property (existing or proposed) including buildings, crops, livestock, pets, woodland and service lines and pipes,
 - o adjoining land,
 - o groundwaters and surface waters,
 - o ecological systems,
 - o archaeological sites and ancient monuments;
- (iii) an appraisal of remedial options, and proposal of the preferred option(s).

This must be conducted in accordance with DEFRA and the Environment Agency's 'Model Procedures for the Management of Land Contamination, CLR 11'.

B. Submission of Remediation Scheme - A detailed remediation scheme to bring the site to a condition suitable for the intended use by removing unacceptable risks to human health, buildings and other property and the natural and historical environment must be prepared, and is subject to the approval in writing of the Local Planning Authority. The scheme must include all works to be undertaken, proposed remediation objectives and remediation criteria, timetable of works and site management procedures. The scheme must ensure that the site will not qualify as contaminated land under Part 2A of the

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Environmental Protection Act 1990 in relation to the intended use of the land after remediation.

C. Implementation of Approved Remediation Scheme - The approved remediation scheme must be carried out in accordance with its terms prior to the commencement of development other than that required to carry out remediation, 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 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.

D. Reporting of Unexpected Contamination - In the event that contamination is found at any time when carrying out the approved development that was not previously identified it must be reported in writing immediately to the Local Planning Authority. An investigation and risk assessment must be undertaken in accordance with the requirements of part a, and where remediation is necessary a remediation scheme must be prepared in accordance with the requirements of part b, which is subject to the approval in writing of the Local Planning Authority.

Following completion of measures identified in the approved remediation scheme a verification report must be prepared, which is subject to the approval in writing of the Local Planning Authority in accordance with part c.

E. Importation of soil - In the event that it is proposed to import soil onto site in connection with the development, the proposed soil must 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 must be submitted to the LPA for consideration. Only the soil approved in writing by the LPA will be used on site.

8. Prior to the first occupation of the any dwelling hereby approved a scheme of sound insulation must have been submitted to and approved in writing the Local Planning Authority. The scheme must be designed following the completion of a sound survey undertaken by a competent person. The scheme must take account of the need to provide adequate ventilation, which will be by mechanical means where an open window would not achieve the following criteria. The scheme must be designed to achieve the following criteria with the ventilation operating:

- Bedrooms: 30 dB LAeq (15 Minutes) (2300 hrs - 0700 hrs)
- Living/Bedrooms: 35 dB LAeq (15 Minutes) (0700 hrs - 2300 hrs)
- All Other Habitable Rooms: 40 dB LAeq (15 Minutes) (0700 hrs - 2300 hrs)
- All Habitable Rooms: 45 dB L_{Amax} to occur no more than 6 times per hour
- Any outdoor amenity areas: 55 dB LAeq (1 hour) (0700 hrs - 2300 hrs)

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Prior to the first occupation of any dwelling hereby approved the scheme as approved, insofar as it relates to that dwelling, must have been validated by a competent person and a validation report submitted to and approved in writing by the local planning authority.

9. Prior to the commencement of development a Biodiversity Enhancement Strategy as outlined in the submitted ecology report must have been submitted to and approved in writing by the Local Planning Authority. Such approved measures must be implemented in full and maintained at all times thereafter. The Strategy should include as a minimum:
 - Provision of bat and bird boxes,
 - Ecologically beneficial landscaping and SuDS design, and
 - Maintenance of connectivity for hedgehogs throughout gardens and public open space, including permeable boundary treatments and fencing gaps.
10. Any reserved matters application must include details of the location and layout of an area of play space to be provided at a rate of at least 20m² per property as per policy HOU5 of the Bolsover District Local Plan and its supporting text (paragraph 3.47). The details must include timescales for the provision of that facility and details for the long term management and maintenance for the space. The open space must be provided in accordance with any details and timescales approved under this condition and be maintained thereafter in accordance with the agreed management and maintenance document.
11. Prior to the occupation of any dwelling, a scheme of management and maintenance for the lifetime of the development of any areas that do not form part of the individual curtilage of any dwelling, or part of any adopted highway or adopted drainage features, must have been submitted to and approved in writing by the Local Planning Authority. The scheme must be implemented as approved.
12. Any reserved matters application must include a construction management plan or construction method statement for approval by the Local Planning Authority. The approved plan/statement must be adhered to throughout the construction period. The statement must provide for the storage of plant and materials, site accommodation, loading, unloading of goods' vehicles, parking of site operatives' and visitors' vehicles, routes for construction traffic, hours of operation, method of prevention of debris being carried onto highway and any proposed temporary traffic restrictions.
13. No development will commence on site until the new access onto Alfreton Road has been constructed. The access must be laid out generally in accordance with application drawing ADC1559/02 revP3, having a carriageway width of 5.5m, 2 x 2m footways, be constructed to base, provided with a 6m radii and visibility sightlines of 2.4m x 43m in each direction, the area forward of which must be constructed as footway and taken into the highway.

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14. Prior to the first occupation of any dwelling, the Alfreton Road footway along the entire site frontage must be reconstructed with a width of 2m, laid out and constructed in accordance with Derbyshire County Council's specifications for adopted highways.
15. Prior to the first occupation of any dwelling, the existing access onto West End must be permanently closed in accordance with details submitted and approved as part of any full or reserved matters application.
16. The new access onto Alfred Street must be restricted to pedestrians and cyclists only with no means of vehicular access between the new housing estate roads and the existing Alfred Street highway.
17. Any reserved matters application must include full details for the proposed new pedestrian/cycleway between the new housing estate roads and Storth Lane that must be laid out generally in the manner shown on drawing ref. ADC1559/004 Rev. P4 and which must be constructed in accordance Derbyshire County Council's specifications for adopted highways. That footpath link must be provided in accordance with the details granted reserved matters approval not later than the occupation of 50% of the dwellings for which reserved matters approval is granted.
18. The gradients of any footpath or footpath/cycleway must not exceed 1 in 20.
19. Notwithstanding the submitted information, a subsequent reserved matters application must include detailed design of the internal layout, including gradients, within the site in accordance with the guidance contained in the 6Cs' Design Guide and the "Manual for Streets" document issued by the Departments for Transport and Environment and Local Government.
20. No dwelling will be occupied until the proposed new estate street, between it and the existing public highway, has been laid out in accordance with the approved application drawings, constructed to base level, drained and lit in accordance with the County Council's specification for new housing development roads.
21. Any full or reserved matters application should be accompanied by a swept path analysis to demonstrate that service and emergency vehicles can successfully enter and manoeuvre within the site.
22. Prior to the first occupation of any dwelling, the Mansfield Road/Pinxton Lane highway mitigation must be completed generally in accordance with application drawing ADC1559/003 rev P2.
23. No development shall be carried out until the precise details of foul water drainage have been submitted to and approved in writing by the local planning authority. Thereafter, the approved scheme shall be carried out in complete accordance with agreed details prior to the first occupation of any dwelling hereby permitted.

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24. A schedule for monitoring compliance with the submitted travel plan shall be submitted to and approved in writing by the local planning authority prior to the occupation of any dwelling hereby permitted.

Reasons for Conditions

1. To comply with the requirements of Section 51 of the Planning and Compulsory Purchase Act 2004.
2. To comply with the requirements of Section 51 of the Planning and Compulsory Purchase Act 2004.
3. To ensure that the development is carried out in accordance with the terms of the planning application documents and the Council's adopted design guide in order to ensure a development of appropriate scale and high quality design and in accordance with the objectives of policies GEN1 and GEN2 of the adopted Bolsover District Council Local Plan and the National Planning Policy Framework.
4. To ensure that the proposed development does not increase onsite or offsite flood risk, ensure that the principles of sustainable drainage are incorporated into this proposal and sufficient detail of the construction, operation and maintenance of sustainable drainage systems is provided to the Local Planning Authority in advance of full planning consent being granted and in compliance with the requirements of policy GEN5 of the adopted Bolsover District Local Plan.
5. To ensure surface water is managed appropriately during the construction phase of the development, so as not to increase the flood risk to adjacent land/properties or occupied properties within the development and in compliance with policy GEN5 of the adopted Bolsover District Local Plan.
6. To ensure the site is suitable for its intended use, to protect the quality of the water environment and in compliance with Policy GEN4 of the Bolsover District Local Plan.
7. In order to protect public health and ecology and in compliance with Policies GEN1(6), GEN2(11 and 14), GEN4 and ENV5 of the Bolsover District Local Plan.
8. To protect the amenity of future residents from airborne noise and in accordance with Policies GEN1(6) and GEN3 of the adopted Bolsover District Local Plan.
9. In order to mitigate the biodiversity impacts of the development and in accordance with Policies GEN2(11) and ENV5 of the Bolsover District Local Plan, having regard to appearance issues under Policies GEN1(4) and GEN2(1) of that plan.

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10. To ensure a satisfactory standard of informal recreation space is provided within a reasonable period in the interests of the amenity of future residents and in compliance with Policy HOU5 of the Bolsover District Local Plan.
11. To ensure that any areas of incidental space are provided and maintained to a satisfactory standard for the lifetime of the development in the interests of the character and appearance of the development and the amenity of its residents and in compliance with Policies GEN1 and GEN2 of the Bolsover District Local Plan.
12. To ensure protection of the Principal Aquifer, public health, highway safety and ecology and in compliance with Policies GEN1, GEN2, GEN4, ENV5 and ENV6 of the Bolsover District Local Plan.
13. In the interests of highway safety and in compliance with Policies GEN1, GEN2 of the Bolsover District Local Plan.
14. In the interests of highway safety and in compliance with Policies GEN1, GEN2 of the Bolsover District Local Plan.
15. In the interests of highway safety and in compliance with Policies GEN1, GEN2 of the Bolsover District Local Plan.
16. In the interests of highway safety and in compliance with Policies GEN1, GEN2 of the Bolsover District Local Plan.
17. In the interests of highway safety and in compliance with Policies GEN1, GEN2 of the Bolsover District Local Plan.
18. In the interests of highway safety and in compliance with Policies GEN1, GEN2 of the Bolsover District Local Plan.
19. In the interests of highway safety and in compliance with Policies GEN1, GEN2 of the Bolsover District Local Plan.
20. In the interests of highway safety and in compliance with Policies GEN1, GEN2 of the Bolsover District Local Plan.
21. In the interests of highway safety and in compliance with Policies GEN1, GEN2 of the Bolsover District Local Plan.
22. In the interests of highway safety and in compliance with Policies GEN1, GEN2 of the Bolsover District Local Plan.

(Planning Manager (Development Control))

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2. 18/00273/FUL - Erection of a 3 and 4 storey residential block comprising 18 residential units and ancillary works at Land to the West of Ash Close, Barlborough

Further details were included within the Supplementary Report.

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

The Committee considered the application having regard to the Bolsover District Local Plan, the National Planning Policy Framework and Successful Places: A Guide to Sustainable Housing Layout and Design.

Moved by Councillor J.A. Clifton and seconded by Councillor T. Connerton

RESOLVED that Application No. 18/00273/FUL be APPROVED subject to the following conditions:

1. The development shall be begun before the expiration of three years from the date of this permission.
2. The development must be carried out in accordance with the plan numbers: 2018_542_001_E, 2018_542_007_C, 2018_542_002_F, 2018_542_003_F
3. Before construction commences on the erection of any building or wall a schedule and samples of all 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. The building shall be constructed using the approved materials.
4. The balconies hereby approved shall have obscure glazed privacy screens at a height of 1.8m to each side of the balcony. These screens shall be installed prior to first occupation of each flat and shall be maintained as such thereafter.
5. Before any flat hereby approved is first occupied, a scheme for the boundary treatment of the site shall be submitted to and approved in writing by the Local Planning Authority. The boundary treatments shall be provided on site in accordance with the approved details and shall be maintained as such thereafter.
6. No flat shall be occupied until full details of both hard and soft landscape works including a programme for implementation have been submitted to and approved in writing by the Local Planning Authority and the works shall be carried out as approved before any flat is first occupied.
7. A landscape management plan, including long term design objectives, management responsibilities and maintenance schedules for all landscape areas, shall be submitted to and approved in writing by the Local Planning Authority prior to the first occupation of the development. The landscape management plan shall be carried out as approved.
8. Before any flat is first occupied, an external lighting strategy shall be submitted

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to and approved in writing by the Local Planning Authority. The lighting strategy shall be implemented in accordance with the approved scheme before any flat is first occupied and shall be maintained as such thereafter.

9. Before the dwelling hereby approved is first occupied, the access, parking and turning area shown on the approved plan shall be provided on site and shall be maintained as such thereafter
10. Before the proposed dwelling is first occupied, a scheme of sound insulation shall be submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be implemented in full on site. 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. For the avoidance of doubt the validation report shall demonstrate the design criteria for sound reduction as detailed in the approved scheme have been achieved. The insulation scheme shall be retained on site in accordance with the approved details thereafter unless otherwise agreed in writing by the Local Planning Authority.
11. Unless otherwise agreed by the Local Planning Authority, development other than that required to be carried out as part of an approved scheme of remediation must not commence until parts a - c have been complied with. If unexpected contamination is found after development has begun, development must be halted on that part of the site affected by the unexpected contamination to the extent specified by the Local Planning Authority in writing until part d has been complied with in relation to that contamination.
 - a. Site Characterisation - An investigation and risk assessment, in addition to any assessment provided with the planning application, must be completed in accordance with a scheme to assess the nature and extent of any contamination on the site, whether or not it originates on the site. The contents of the scheme are subject to the approval in writing of the Local Planning Authority. The investigation and risk assessment must be undertaken by competent persons and a written report of the findings must be produced. The written report is subject to the approval in writing of the Local Planning Authority. The report of the findings must include:
 - (i) a survey of the extent, scale and nature of contamination;
 - (ii) an assessment of the potential risks to:
 - * human health,
 - * property (existing or proposed) including buildings, crops, livestock, pets, woodland and service lines and pipes,
 - * adjoining land,
 - * groundwaters and surface waters,
 - * ecological systems,
 - * archaeological sites and ancient monuments;
 - (iii) an appraisal of remedial options, and proposal of the preferred option(s).

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This must be conducted in accordance with DEFRA and the Environment Agency's 'Model Procedures for the Management of Land Contamination, CLR 11'.

b. Submission of Remediation Scheme - A detailed remediation scheme to bring the site to a condition suitable for the intended use by removing unacceptable risks to human health, buildings and other property and the natural and historical environment must be prepared, and is subject to the approval in writing of the Local Planning Authority. The scheme must include all works to be undertaken, proposed remediation objectives and remediation criteria, timetable of works and site management procedures. The scheme must ensure that the site will not qualify as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land after remediation.

c. Implementation of Approved Remediation Scheme - The approved remediation scheme must be carried out in accordance with its terms prior to the commencement of development other than that required to carry out remediation, 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.

d. Reporting of Unexpected Contamination - In the event that contamination is found at any time when carrying out the approved development that was not previously identified it must be reported in writing immediately to the Local Planning Authority. An investigation and risk assessment must be undertaken in accordance with the requirements of condition (a), and where remediation is necessary a remediation scheme must be prepared in accordance with the requirements of condition (b), which is subject to the approval in writing of the Local Planning Authority.

Following completion of measures identified in the approved remediation scheme a verification report must be prepared, which is subject to the approval in writing of the Local Planning Authority in accordance with part (c).

e. Importation of soil - 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 LPA for consideration. Only the soil approved in writing by the LPA shall be used on site

(Planning Manager (Development Control))

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3. 18/00508/FUL - Retention of and alterations and revisions to proposed stable block on the same footprint as the (recently) previously demolished stables at The Laurels, Ruthyn Avenue, Barlborough, Chesterfield

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.

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

Moved by Councillor D. McGregor and seconded by Councillor B.R. Murray-Carr
RESOLVED that Application No. 18/00508/FUL be REFUSED for the following reasons:

The building proposed in this application does not comply with any of the descriptions of appropriate development in the Green Belt set out in paragraph 145 of the Framework or saved Local Plan Policy GEN9. Consequently, the building proposed in this application constitutes inappropriate development in the Green Belt as defined in the Framework and the adopted Bolsover District Local Plan.

By virtue of its design and its location visible from public vantage points, the building would not be visually attractive and would not be sympathetic to character and appearance of the surrounding countryside. There is also no evidence to demonstrate that retention of the building in its altered state is necessary in this location. Therefore, the current application is contrary to saved Local Plan policies ENV3 and GEN2 and contrary to national policies in the Framework.

In this case, there is no evidence of very special circumstances that would otherwise justify approval for this application and in all other respects; the adverse impacts of granting planning permission for this application would significantly and demonstrably outweigh the benefits of doing so.

(Planning Manager (Development Control))

The Planning Manager (Development Control) left the meeting.

0479. PARKING STANDARDS SUPPLEMENTARY PLANNING DOCUMENT

The Interim Planning Policy Manager presented the report which updated Committee in relation to progress on the Parking Standards. The report also sought approval for a four week consultation to obtain the views of interested parties

It was noted that there had been some confusion between advice from Derbyshire County Council and the '6 C's' approach. Therefore it had been felt necessary that

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the Council produce its own Supplementary Planning Document (SPD). If agreed, the SPD would form part of the Local Plan.

Moved by Councillor D. McGregor and seconded by Councillor K. Reid

RESOLVED that a consultation on the draft Parking Standards SPD be approved for a period of four weeks, to allow the progression of the document and its availability in advance of the Local Plan Examination in Public hearing sessions.

(Interim Planning Policy Manager)

0480. AFFORDABLE HOUSING ISSUES

The Interim Planning Policy Manager submitted a report to update Members with regard to the changing circumstances around affordable housing issues. The report also advised Committee of the approach to be taken in relation to the changing circumstances and Local Plan Policy.

It was noted that the Planning Inspector would be testing the Local Plan against the 2012 National Planning Policy Framework (NPPF), but where possible the Council would also address the new requirements of the 2018 NPPF approaches.

In relation to affordable housing, the 2018 NPPF emphasises the provision of affordable market at 10% of those built, this would mean that the Council's entire requirement would be for affordable home ownership. There were exceptions to the approach where the ability to meet the identified affordable housing needs of specific groups may be significantly prejudiced. The report looked at the need for affordable housing in Bolsover District and it was felt that the needs of the District were for affordable social housing.

Members noted that the affordable housing for home ownership only benefitted the first buyer and that the District needed good quality, affordable rental accommodation.

Moved by Councillor S.W. Fritchley and seconded by Councillor K. Reid.

RESOLVED that the report and the intended actions to seek modifications to the Plan be noted

(Interim Planning Policy Manager)

The meeting concluded at 1146 hours.

PLANNING SITE VISIT

Notes of a Planning Site Visit held on 16th November 2018 commencing at 1000 hours.

PRESENT:-

Members:-

Councillor T. Munro in the chair

Councillors T. Alexander, P.M. Bowmer, P.A. Cooper, C.P. Cooper, P. Smith, D.S. Watson and J. Wilson.

Officers:

R. Scott (Enforcement Officer)

1. APOLOGIES

Apologies for absence were received from Councillors J.A. Clifton, D. McGregor, S. Peake, K. Reid, R. Turner and B. Watson.

2. SITES VISITED

1) Land to the West of Ash Close, Barlborough (18/00273/FUL).

2) The Laurels, Ruthyn Avenue, Barlborough (18/00508/FUL)

The meeting concluded at 11:10 hours

PARISH

Tibshelf

APPLICATION

The stationing of a log cabin as a temporary occupational dwelling for a period of three years associated with the farming operation at Cedar Farm, to be occupied by an agricultural worker and family.

LOCATION

Cedar Farm Chesterfield Road Tibshelf Alfreton

APPLICANT

Mr Ian Rowe Cedar Farm Chesterfield Road Tibshelf Alfreton DE55 5NP

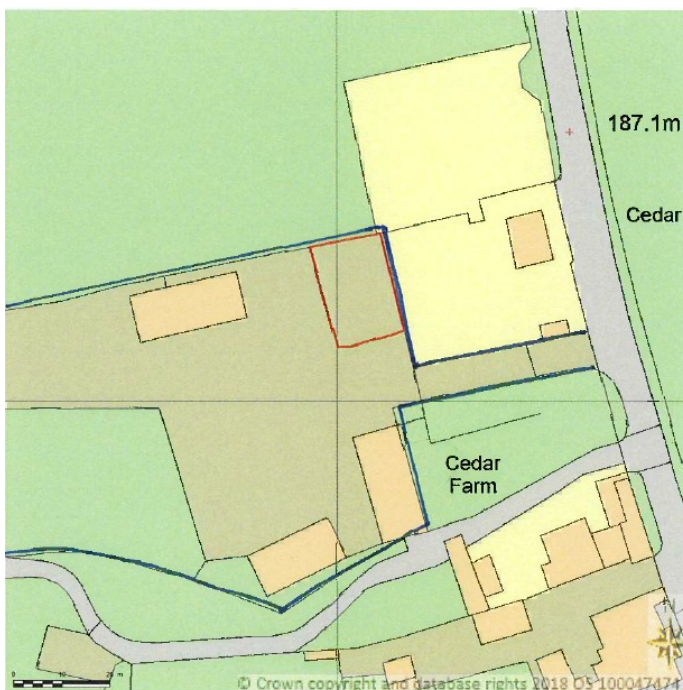
APPLICATION NO. 18/00372/FUL**FILE NO.** PP-07117493**CASE OFFICER** Mr Chris Fridlington**DATE RECEIVED** 11th July 2018

DELEGATED APPLICATION REFERRED TO COMMITTEE BY: Planning Manager

REASON: Policy implications arising from any approval

SITE

Cedar Farm is an existing farm holding that is centred on 2.43ha (c.6 acres) of land in the applicant's ownership located off Chesterfield Road (the B6039) to the north of Tibshelf. There are four existing farm buildings on this land one of which is used to accommodate cattle. The number of cattle kept by the applicant at Cedar Farm has ranged from 26 head of cattle up to as many as 56 animals as reported earlier this year when the applicant's herd included 32 breeding cows, 5 breed bulls and 19 young stock. In addition, a further 90 hectares (c. 224 acres) of agricultural land is being farmed by the applicant under various tenancy agreements.

Site Location Plan

Notably, the land at Cedar Farm was originally associated with a nearby house that is now in separate ownership. The original farm house is understood to be the southernmost property of the residential dwellings that front onto Chesterfield Road either side of the access to the land at Cedar Farm. The property known as Cedar Cottage is located on the northern side of the access. A certified caravan site lies to the south west of Cedar Farm but open countryside lies beyond the caravan site. There are also agricultural fields to the west and the north of the main group of buildings at Cedar Farm and the application site lies in countryside outside of the settlement framework for the purposes of the Bolsover District Local Plan.

PROPOSAL

The current application seeks a temporary consent for the stationing of a log cabin at Cedar Farm adjacent to the rear boundary of a neighbouring residential property known as Cedar Cottage. The log cabin is intended to provide living accommodation for the applicant for a three year period to allow the applicant to expand the existing farm business by living at Cedar Farm.

AMENDMENTS

An additional planning report submitted by the applicant was published on 4 December 2018 to allow more details of the farm business operated by the applicant to be made publically available to interested parties.

PLANNING HISTORY

In 2001, permission was granted for the erection of an agricultural building and the creation of the now existing access off Chesterfield Road to the land at Cedar Farm (00/00163/FUL). It appears from the planning history for the site, this approval arises from the subdivision of the land from the original farm house (an adjacent property now in separate ownership) and it appears that the current applicant first acquired an interest in the land around this time. Notes on other case files suggest the applicant started keeping cattle in 1999.

In 2012, planning permission was granted for construction of grain store and cattle shed at Cedar Farm and both these buildings have since been erected and are currently in use for their designated purposes (12/00163/FUL).

However, in the same year, outline planning permission was refused for a new four bedroomed dwelling house to be formed at western end of existing agricultural farm yard (12/00362/OUT). This application was refused because there was insufficient agricultural justification for a permanent new dwelling in the countryside, which was also likely to be unacceptable in landscape terms in its proposed location.

In 2013, a second application for outline planning permission for a new house at Cedar Farm was refused also on the grounds of insufficient agricultural justification for a permanent new dwelling in open countryside outside of the settlement framework (13/00035/OUT). In 2014, planning permission was granted to extend the cattle shed consented in 2012 (14/00233/FUL). At the time this application was determined, the case officer reported that

there was 35 head of cattle kept at Cedar Farm and that the applicant was now leasing a further 72 hectares of land within the District. The case officer also confirmed that the applicant continued to be a beef and arable farmer, having bought his first beef cattle in June 2009. This permission has since been commenced.

In 2016, two separate applications for conversion of agricultural barn and store to a single open market house was refused consent (16/00115/DETA2R and 16/00428/DETA2R). The refusal of the second of these applications was appealed but this subsequent appeal was dismissed on the grounds that the converted building would not provide sufficient amenities for future occupants unless they worked on the farm. Taking into account these applications sought prior approval rather than full planning permission for the proposed house; it was not possible to address these concerns by way of an agricultural occupancy condition, for example.

However, the planning history for the land does show that a significant investment in new farm buildings made by the applicant over time whilst the numbers of stock kept by the applicant has steadily increased since 1999, which in general terms is a good indication of the applicant's intentions to develop the farm business. It is also clear from the planning history that in 2012/2013 the applicant was twice unable to demonstrate that a permanent dwelling was justified and twice in 2016; the applicant unsuccessfully sought to use permitted development rights to secure an open market house.

On these points, it should be noted that the justification required for a temporary accommodation farm worker's dwelling is different to that required for a permanent dwelling and the tests applied to the acceptability of an open market house that might be consented under permitted development rights are materially different to the relevant planning considerations that should be taken into account in the determination of this application.

CONSULTATIONS

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

Derbyshire County Council (Highways) – No objections subject to retention of existing access to Chesterfield Road.

National Trust – No response to date.

Severn Trent Water – No objections with regard to foul drainage.

Tibshelf Parish Council - objects to the proposed log cabin for the following reasons:

1. There is no agricultural justification for the proposal.
2. The application site lies beyond the edge of the settlement framework and is therefore contrary to the policies of the Local Plan.
3. Approval of the proposal would create a precedent for such development in similar locations.

PUBLICITY

The application was publicised by way of a site notice and neighbour notification. At the time of reporting, the Council had received one letter of objection to the application from the owner/occupant of a neighbouring property. The main planning issues raised in this letter include concerns about whether there is sufficient justification for the temporary dwelling and objections to its location. This letter of objection concludes by saying:

- *This is a speculative application made without any supporting evidence at all to satisfy the stringent relevant tests the Council must apply. There is no essential requirement for temporary accommodation on this field.*
- *At the moment - the Council could not credibly even make a decision in the Applicant's favour as no evidence whatsoever has been filed in support.*
- *Cedar Cottage in the open countryside. The Applicant's plans to create a "Cedar Park" of numerous dwellings as evidenced by the last application have not changed.*
- *Factually, legally, objectively - this application as with his previous 4 applications for housing must be rejected and if not rejected is susceptible to judicial review.*

This letter can be read in full on the Council's website via the planning application search function but its contents are also referred to in more detail in the following sections of this report.

POLICY

Bolsover District Local Plan (BDLP)

The saved Local Plan policies most relevant to the current application include:

GEN 1 (Minimum requirements for development)
GEN 2 (Impact of the development on the countryside)
GEN8 (Settlement Frameworks)
ENV 3 (Development in the countryside)
HOU9 (Essential new dwellings in the countryside)

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
- Paragraphs 47-50: Determining applications
- Paragraph 54-57: Planning conditions and obligations
- Paragraph 79: New homes in open countryside

- Paragraphs 83 & 84: Supporting a prosperous rural economy

Publication Version of the Bolsover District Local Plan

Policy LC8 in the emerging Local Plan sets out a range of criteria for assessing new dwellings in open countryside.

ASSESSMENT

Planning Policy

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 and 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. These policies recognise that occasionally the nature of agricultural and other rural businesses make it essential for someone to live on, or in close proximity to the business.

Saved Local Plan policy HOU9 also allows for temporary accommodation to be provided for new farms and in cases where there is a fledgling business that needs on-site accommodation to be able to expand but has not yet reached a position where a permanent dwelling can be justified. This approach is consistent with national planning policies and the Bolsover District Local Plan, which promote and encourage support for rural-based enterprises and recognise the important contribution rural-based enterprises make to the rural economy. However, HOU9 falls short of setting out a basis for assessing ‘essential need’ and there are no other current tests in national policy or guidance to make this assessment.

Therefore, it is considered an assessment of the case for a temporary dwelling at Cedar Farm should be made with reference to policy LC8 in the emerging Local Plan, which says:

Planning permission for a new dwelling in the countryside based upon the essential needs of agriculture and forestry shall only be granted planning permission for a temporary dwelling where all of the following criteria are met:

- a) An independent appraisal is submitted with the application demonstrating that there is a functional need for the proposed dwelling which cannot be met by existing suitable accommodation available in the area, or by rearranging duties and responsibilities between workers;*
- b) The size of the proposed dwelling is appropriate to its functional need;*
- c) In all cases a financial test is also submitted to demonstrate the viability of the business proposed or as proposed to be expanded;*

- d) *The dwelling cannot be provided by adapting or converting an existing building on the holding;*
- e) *The proposed dwelling is located within or adjacent to the existing farm buildings or other dwellings on the holding;*
- f) *The proposed dwelling does not involve replacing a dwelling disposed of as general market housing*
- g) *The design of the proposed dwelling is in harmony with the landscape character type and appearance of the countryside*
- h) *Agricultural occupancy is limited by way of a planning condition*

Policy LC8 goes on to say that if, within three years, the authority remains satisfied that a dwelling is justified permission will be granted for a permanent dwelling and that successive temporary permissions will generally not be granted. These closing points in LC8 are important because if the applicant is unable to demonstrate that a permanent dwelling can be justified at the end of any three year consent; it is highly unlikely any forthcoming planning application for a permanent dwelling could be approved and the log cabin would need to be permanently removed from the site.

In other words, the provision of temporary accommodation would allow the long-term sustainability of the farm business to be proven one way or another and at the end of three years; the Council would be better placed to determine whether or not there is a case for a permanent farm worker's dwelling on the land at Cedar Farm for the following reasons:

Functional Tests

In the first instance, it is common practice to assess planning applications for new agricultural dwellings with reference to a functional test i.e. whether there is a requirement for a farm worker to live on or close to the farm most of the time and whether the need for a new house could be met in any other way. These types of tests are set out in policy LC8 (a), LC8 (b), LC8 (d) and LC8 (f). In representations on this application, several 'functional tests' were set out as follows:

- *Is there a special essential requirement to justify a temporary dwelling house on site?*
- *Is there an agricultural holding and business in operation?*
- *Is there an essential requirement to be located on site 24/7?*

In this case, the application is supported by an independent agricultural appraisal of the farm business operated at Cedar Farm, which has been completed by a suitably qualified and experienced land agent. Having visited Cedar Farm and having reviewed this appraisal and supporting documents, officers agree with the conclusions drawn in the agricultural appraisal that there is an agricultural holding operating from Cedar Farm and there is a genuine farming

business operating from the premises. Officers also agree that there is a realistic and reasonable likelihood the business will generate sufficient work for at least one full-time equivalent (1 x FTE) farm worker over the three years that the log cabin will be on site, and that the presence of a farm worker on the site will allow the existing farm business to expand.

The current farm business comprises a mixture of arable farming, which would not generate the need for a new dwelling, and cattle farming, which could. In this case, the applicant's cattle business has a particular focus on an embryo transfer process that accelerates the process of improving the genetic quality of the livestock, which then produces more valuable animals that can then be sold on at market. The applicant currently runs this process around five times a year, which means that for around fifteen weeks of the year there is a need for a farm worker to be within 'sight and sound' of the cattle from when they are close to calving until the calves have been produced and are deemed to be healthy.

The forward planning for the farm business indicates that the embryo transfer process will be carried out more frequently, which means that there would be an increasing need for a farm worker to be on site in the interests of animal welfare and to allow the applicant's plans for the business to be realised. In these respects, officers consider it is reasonable to say that this would generate an 'essential need' for a farm worker to live on the site for much of the year but temporary accommodation would be appropriate because the business has not yet been proven to be sustainable over the longer term.

Equally, only a very limited amount of land associated with Cedar Farm is actually within the applicant's control and the applicant does not own sufficient land to be certain that the existing farm business would not fail if the various leases on other land were not renewed. Nonetheless, there is sufficient evidence to suggest that the applicant would retain sufficient land over the next three years to make the business work.

A further issue with the current application is that the applicant already owns a house albeit this is located in North Wingfield. LC8(a) and LC8(f) suggest a new house at Cedar Farm would not be supported if there is existing suitable accommodation available in the area or if the application involved replacing a dwelling disposed of as general market housing. In representations, it is also said that there are houses available to buy nearby. However, it is reasonable to say that the applicant's house and the nearby houses for sale are not close enough to Cedar Farm to properly manage calving (i.e. they are not within sight and sound of the animals) and therefore cannot be deemed to be 'suitable' to meet the needs of the business. Similarly, it cannot be said that the applicant is seeking to replace an existing house that would have otherwise met the needs of the business.

Similarly, it would not be reasonable to insist the applicant adapts or converts an existing building on the holding in compliance with LC8 (d) not least because of the potential abortive costs of converting a building to living accommodation, if in three years' time, the applicant cannot provide justification for the permanent retention of that accommodation. However, despite concerns about the potential cost of the log cabin currently proposed by the applicant, it is considered that a log cabin having a floor area of around 90m², as proposed, would be of an appropriate size and scale to meet the functional needs of the farm business.

It is therefore concluded that there would be a requirement for a farm worker to live close to

the cattle kept at Cedar Farm most of the time and at this time; the need for a new house could not be met in any other way than through the provision of on-site accommodation. However, the applicant has not yet demonstrated that this relates to an essential need for a farm worker to live at Cedar Farm on a permanent basis because this essential need would only be generated by the planned expansion of the existing farm business, which in turn relies on a farm worker living on the farm. There is also some uncertainty about the applicant's current tenancy agreements and the limited amount of land in the applicant's ownership, which are issues that should be resolved if the business were to be given the opportunity to expand.

Therefore, it is considered that a three year consent for a temporary log cabin would be appropriate with due regard to the functional tests set out in emerging policy LC8 also taking into account national policies and saved Local Plan policies support the appropriate expansion of rural-based enterprises including farming. Nonetheless, failure to buy additional land during the three years following the grant of any temporary consent could mean it would be difficult to consider an application for a permanent house favourably once any temporary consent had expired. In particular, the applicant would not be able to demonstrate that his stated intentions to continue to expand the farming business at Cedar Farm were genuine; were reasonably likely to materialise; or capable of being sustained for a reasonable period of time after any temporary consent had expired.

Financial Tests

Alongside functional tests, applications for new farm workers dwellings are normally assessed against financial tests i.e. whether the farm business would be profitable and sustainable over the longer term. Policy LC8(c) says that it is necessary to demonstrate the viability of the business proposed or as proposed to be expanded before consent is granted. In representations on this application; the following questions have also been posed:

1. Is the applicants business financially viable?
2. If the applicants business is financially viable, why not apply for permanent accommodation and satisfy this test?

In this case, officers have seen sight of the applicant's accounts and they show that the farm business operated by the applicant is profitable but not yet sufficiently profitable in its own right to be able to provide a reasonable income for the applicant (or any other farm worker) without compromising the agricultural unit's ability to meet all normal outgoings including the interest on capital invested and the setting aside of an amount for necessary reinvestment. In this respect, officers are also aware of allegations of a plant hire business being operated from Cedar Farm but have not been provided with any evidence of this or found any evidence of a plant hire business being operated from Cedar Farm during various visits to the site over a number of years.

However, it is also clear from the accounts seen by officers that the applicant's different business interests have 'cross-subsidised' the expansion of the applicant's farm business over several years to allow the farm business to get to its current position whereby if it can expand further because there is a farm worker living on the site; the applicant can build a

more profitable farm business that is likely to be viable in its own right over the longer term.

Therefore, a similar conclusion to that reached on the functional tests, as set out above, can be reached on the financial tests applicable to this application i.e. the applicant has not yet demonstrated that the business would be viable over the longer term but this test would only be met by the planned expansion of the existing farm business, which in turn relies on a farm worker living on the farm. Therefore, it is considered that a three year consent for a temporary log cabin would be appropriate with due regard to the financial tests set out in emerging policy LC8, again, taking into account national policies and saved Local Plan policies support the appropriate expansion of rural-based enterprises including farming.

Other Relevant Planning Considerations

Although officers are satisfied that the current proposals would meet the applicable functional and financial tests, as set out above, it also has to be determined whether the log cabin is acceptable in planning terms with reference to all other relevant planning considerations. In this case, there are no issues relating to the impact of the proposed log cabin on ecology or archaeology and there is no reason to consider that the proposed development would have any impact on the significance of any designated or non-designated heritage asset by virtue of its location. The local highway authority have also confirmed that the site has a safe and suitable access.

Therefore, the additional planning issues to consider in the determination of this application are the design and siting of the log cabin, its potential visual impact and whether the log cabin would be unneighbourly by virtue of its siting. In these respects, saved Local plan policies GEN1 and GEN2 and national planning policies say that due regard should be paid to conserving and enhancing the intrinsic beauty of the countryside and particular attention should be paid to the amenities of existing and future occupants of land and buildings.

An assessment of these issues should also be made with reference to emerging policy LC8 (e) which requires the proposed dwelling to be located within or adjacent to the existing farm buildings or other dwellings on the holding. In addition, LC8 (g) requires the design of the proposed dwelling to be in harmony with the landscape character type and appearance of the countryside. Aside from these policy considerations, objections to the proposals have been made in representations on this application because of its potential location adjacent to the boundary of a neighbouring residential property.

Design and Siting

By virtue of the fact that the applicant is only seeking temporary consent, in design terms, it is not reasonable for the Council to expect the temporary accommodation to be anything other than a 'caravan' or 'mobile home' that meets the following statutory definitions:

Size Test

Less than 20m x 6.8m. Less than 3.05m when measured from internal floor to internal ceiling.

Mobility Test

All caravans must be movable in one whole unit when assembled. It is not necessary for a caravan to be towed, only that it is capable of being moved by road. It is the structure that must possess the necessary qualities, not the means of access to any particular road.

Construction Test Twin Units

There should be two sections separately constructed. The act of joining the two sections together should be the final act of assembly. No requirement that the process of creating the two separate sections must take place away from the site.

The log cabin proposed in this application should be able to meet these tests and there are no other reasons to consider that the log cabin would not be suitable for human habitation for a three year period despite concerns raised in the objection to this application. From visiting the site, it is also clear that any flammable substances on site could be kept far away enough away from the log cabin to avoid any fire risk. In addition, taking into account that temporary accommodation is being proposed, it is reasonable to accept that electricity and gas supplies may need to be provided by gas cylinders or generators rather than from a connection to the mains.

Similarly, whilst the amenities provided by the log cabin may not be suitable for a person or family unconnected to the farm business, they would be suitable for the applicant if he has an essential need to live close to or on the farm for operational purposes. Furthermore, LC8 (e) actually requires the proposed log cabin to be located within or adjacent to the existing farm buildings on the holding.

In terms of siting, the log cabin would be sited in a relatively discreet location mostly screened from view by the existing buildings and the existing hedgerow boundaries. It is also screened from view from the adjacent residential property by a high hedge. However, officers and the applicant agree that this location adjacent to the neighbouring property may not be the most appropriate place for the log cabin when there are other suitable parts of the land it could be sited with an equally minimal visual impact on its surroundings.

Nonetheless, officers have no overriding objections to the external appearance of the log cabin – as proposed – but a recessive external paint or stain finish should be required by a condition if a temporary consent is to be granted so the log cabin would be, as far as practicable, in harmony with the landscape character type and appearance of the countryside in accordance with LC8 (g). Officers also have no overriding concerns about the living conditions of future occupants of a temporary log cabin on the site provided those occupants are involved with the farming operations taking place at Cedar Farm.

However, it would be necessary to confirm the precise details of the log cabin to be stationed at Cedar Farm (and its method of construction) to ensure that it would be genuinely temporary accommodation that could be easily removed after three years.

Neighbourliness

It is said in representations that the log cabin will significantly impact the amenities of the

adjacent Cedar Cottage but the log cabin would not be visible from Cedar Cottage if the high hedge on the adjacent boundary was retained. It is considered the use of the log cabin as temporary accommodation would not create any additional substantial demand on water supplies in the local area as suggested in objections to this application and appropriate disposal of foul water drainage, which has been raised as cause for concern, can be dealt with by the way of a planning condition.

It is also considered that the ordinary use of the log cabin for temporary living accommodation for a three year period would not normally give rise to unacceptable levels of noise and disturbance or any other nuisance. Moreover, it is considered that the proposed use of the log cabin would not give rise to any impacts on the living conditions of the occupants of Cedar Cottage over and above the level of 'disturbance' that would ordinarily be expected and/or experienced from living next to a working farm. Therefore, the siting of the log cabin 'as proposed' would not be unneighbourly as a matter of principle.

Suggested Conditions

For the above reasons, it is considered that the current application could be approved subject to conditions given that officers consider the proposals comply with the relevant parts of saved Local Plan policies HOU9, GEN1 and GEN2 and the emerging Local Plan policy LC8.

In this case, the precise siting of the log cabin, along with precise details of its design and external finishes, could be reserved for approval if consent was to be granted for this application. Relocation of the log cabin would be appropriate given that the retention of the high hedge is actually outside of the applicant's control and relocating the log cabin may help to address some of the concerns raised in representations on this application. The external finishes of the log cabin would help it harmonise more effectively with its surroundings.

Similarly, the precise details of the disposal of foul drainage would need to be submitted to and agreed in writing by the Council if a temporary consent were to be granted for the current application to ensure that the most appropriate solution is found both from the perspective of safeguarding the residential amenities of existing properties and the future occupants of the log cabin and from the perspective of safeguarding the environmental quality of the local area.

In addition, a planning condition would also be required to ensure the access would be retained in a safe and suitable condition. An agricultural occupancy condition would also be required by LC8(h) and in this case would be necessary because the log cabin would only be suitable for occupation by individuals working on the farm and their immediate dependents. Similarly, as the case for a permanent dwelling has not yet been made out and the log cabin would not be of a suitable design for a permanent dwelling with reference to the criteria in LC8; a condition requiring occupation to cease and the log cabin to be removed within three years of the date of any temporary consent would also be reasonable and necessary.

Conclusions

In conclusion, officers consider the temporary siting of the log cabin on the land for a three year period would be acceptable in planning terms subject to the suggested planning conditions set out in the previous section of this report. Officers also consider that the

proposals for temporary accommodation at Cedar Farm would meet the relevant financial and functional tests applicable to this application. Accordingly, officers are able to recommend that the current application is approved subject to appropriate planning conditions.

In making this recommendation, officers have afforded substantial weight to the explicit provisions of saved Local Plan policy HOU8 and emerging Local Plan policy LC8 that are relatively permissive of temporary accommodation for farm workers. It is considered, these policies legitimately allow for a 'trial run' of on-site accommodation where it can be justified to allow an existing farm business to operate more effectively and/or expand its operations as in this case where there is uncertainty about the long term viability or sustainability of the farm business.

However, neither policy indicates that a permanent dwelling would 'automatically' be granted planning permission after three years unless the business case for a permanent dwelling can be made out once any temporary consent has expired. In these respects, whilst officers consider the land at Cedar Farm could be a suitable location for a permanent farm worker's dwelling if an 'essential need' can be demonstrated; the applicant may be unable to demonstrate an 'essential need' or pass the financial and functional tests for a permanent dwelling in three years' time if, amongst other things, he is unable to provide:

- Three years of audited accounts relating solely to the farm business that demonstrate that the farm business has been sufficiently profitable to pay at least a living wage to one full-time equivalent farm worker in year three;
- Proof that there is enough employment for one FTE farm worker at Cedar Farm and sufficient evidence that it is essential for that farm worker to live on the site to meet the operational needs of the farm business with reference to a formal agricultural appraisal;
- An agricultural appraisal produced by an independent and suitably qualified land agent that shows how the farm business has been developed over three years and how the business will remain viable and sustainable over the long term including reference to a formal business plan for the following five years; and
- Proof that a minimum of 50 acres of land is owned by the applicant and associated with the farm business at Cedar Farm alongside a s.106 legal agreement preventing the separate sale of any new permanent dwelling from the land and buildings in the applicant's ownership at Cedar Farm.

Other Matters

Finally, there have been issues raised in representations that are not necessarily relevant planning considerations but do require a response insofar as they are related to the planning merits of the current application. For example, it is said in representations that an approval for this application would 'create a dangerous precedent' and 'wedge open the floodgates' albeit it might also be said that 'precedent' is a legal concept that is hardly relevant to decision making on planning applications because each case is determined on its individual merits..

However, the Council has previously approved temporary dwellings for rural based enterprises on the individual merits of those cases so it would be difficult to argue that an approval of this application would in fact form a 'precedent' for others to follow in any event. Equally, the policy provision for temporary accommodation in HOU9 has been in the Local Plan since its date of publication in 2000 and officers are unaware of any significant numbers of applications since 2000 for temporary farm worker's dwellings so it is difficult to agree any approval for this application would 'wedge open the floodgates'.

As such, it is considered the issue of 'precedent' does not warrant any further consideration in the determination of this application.

It has also been said in representations that any decision to approve this application could be subject to judicial review; and to paraphrase; it is said it would be irrational and Wednesbury unreasonable to decide in the applicant's favour without reference to an appropriate agricultural appraisal or relevant financial information, amongst other things.

Notably, a similar 'challenge' was considered in *R (Embleton PC) v. Northumberland CC* [2013] EWHC 3631 (Admin) where it was said that it was no doubt open to the relevant Planning Committee to reject the planning application in front of them for a temporary agricultural worker's dwelling but it was also open to the Committee to hold that there was an essential need for a rural worker near a livestock building based on the information provided to the Committee in the officer report.

In the same case, the judge agreed that the evidence was that there was a need for a rural worker to take care of livestock once calf rearing commenced. In the judge's view the Committee were entitled to accept that evidence and it was not an irrational decision to grant a temporary permission lasting for only 3 years on this basis. In addition, the objector (making the legal challenge) criticised a report produced by an expert and these submissions were put to the Committee at the time the decision was made. However, the judge found the Committee were nevertheless entitled to reject the objector's submissions in making a planning judgement on the application and plainly did so. The objector's legal challenge was subsequently dismissed.

Therefore, in the absence of a formal pre-action letter properly setting out the precise grounds of a potential legal challenge by way of judicial review, and given that the letter of objection containing a 'threat' of judicial review does not go further than raising issues very similar to those considered in *R (Embleton PC) v. Northumberland CC*, officers do not consider it is necessary to obtain a further legal opinion from the Council's solicitors at this time. As such, the 'threat' of judicial review made in representations also does not alter an officer recommendation of conditional approval based on the individual planning merits of this case as set out in the previous sections of this report.

RECOMMENDATION

The current application be **APPROVED** subject to the following conditions:

1. No development shall take place until the precise details of the disposal of foul water drainage and the precise details of the design and siting of the log cabin, and the

method of its construction, have been submitted to and agreed in writing by the local planning authority. Thereafter, the development must be carried out in complete accordance with the approved details.

2. The log cabin hereby permitted must not have external dimensions greater than 20m x 6.8m and must not be higher than 3.05m when measured from internal floor to internal ceiling.
3. At all times during the lifetime of the development hereby permitted, the log cabin stationed at Cedar Farm for human habitation must be maintained so it is capable of being removed by road either as a single unit or in the event a twin unit is provided; it remains capable of being removed by road in two separate pieces.
4. Prior to the first occupation of the log cabin hereby permitted, the external cladding for the log cabin must be provided with external finishes first submitted to and agreed in writing by the local planning authority.
5. The existing access must remain unaltered other than any works required to provide visibility sightlines of 2.4m x 149m in both directions measured to the nearside carriageway edge prior to the first occupation of the log cabin hereby permitted. The land in advance of the visibility sightlines must thereafter be retained throughout the life of the development free of any object greater than 1m in height (0.6m in the case of vegetation) relative to the adjoining nearside carriageway channel level.
6. The log cabin hereby permitted to be stationed on Cedar Farm must not be occupied other than by a person occupied solely in agriculture and their immediate dependants.
7. The use of the log cabin for human habitation, as hereby permitted, must cease within three years of the date of this permission. Thereafter, the log cabin provided for the purposes of human habitation under the terms of this permission shall be permanently removed from Cedar Farm no later than three years and three months after the date of this permission.

PARISH

South Normanton

APPLICATION Site remodelling and remediation; development of accommodation for employment uses (use classes B1c / B2 / B8); car parking; access and landscaping; associated works

LOCATION Land East Of M1 Motorway And North Of Ball Hill South Normanton

APPLICANT Ball Hill Employment Contact details as agent

APPLICATION NO. 17/00657/FUL **FILE NO.** PP-06587571

CASE OFFICER Mr Steve Phillipson

DATE RECEIVED 21st December 2017

DELEGATED APPLICATION REFERRED TO COMMITTEE BY: Planning Manager
REASON: Level of public concern

SITE

Approximately 0.76 ha rectangular site to the north side of Ball Hill, and to the east side of the M1 motorway South Normanton.



The site has been previously used in the past and has three old mine shafts within it. The site had begun to regenerate over time with self-set trees and bushes. However these have recently been removed and some earth works have recently been undertaken such that the site has the appearance of a cleared development site. The recent removal of trees and hedgerow along the frontage of the site to Ball Hill has left the site quite exposed to public view.

Levels slope gently from east down to west and also down to Ball Hill.

Public footpath No 18 and then the M1 motorway and its tree covered embankment and are adjacent to the west side of the site at a lower ground level. Large and high industrial building adjacent to the north which is accessed from High View Road. Tree covered area to the eastern boundary which is protected by Tree Preservation Order.

Noise from the M1 is evident on site.

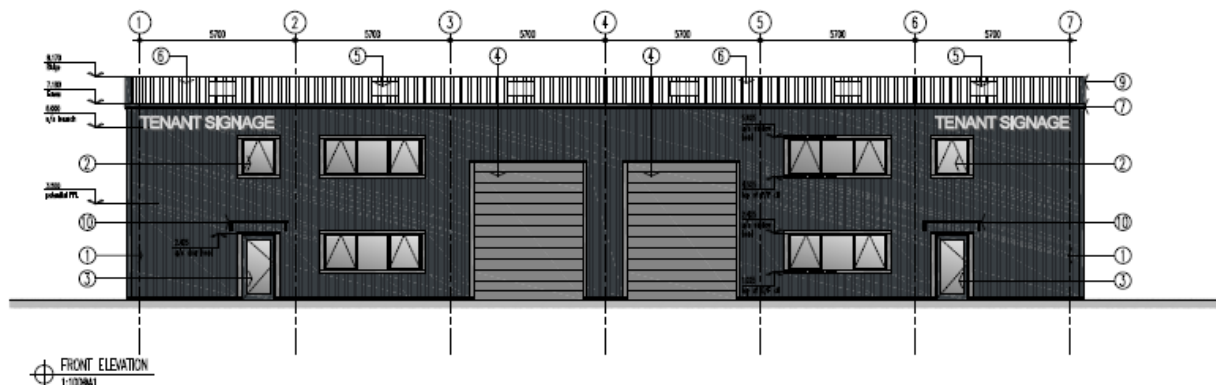
Grade 2 listed building sited about 100m to the east of the site on the south side of Ball Hill.

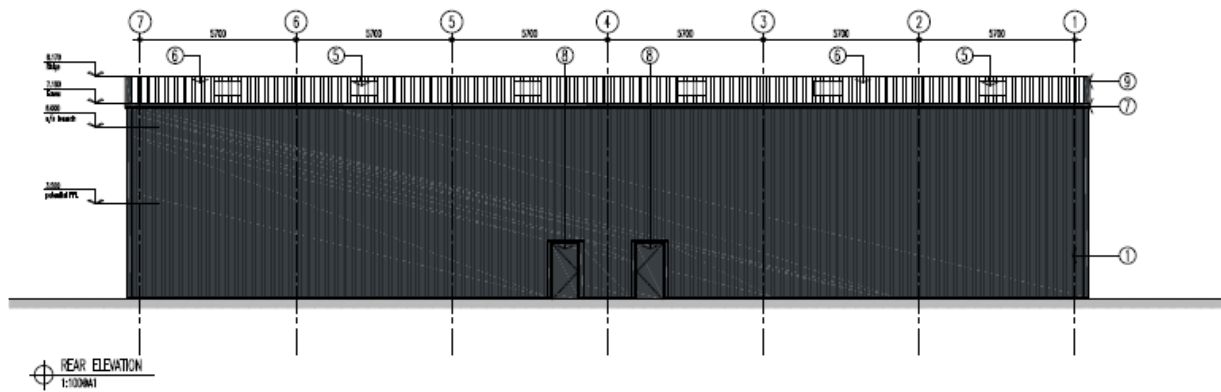
Ball Hill has no public footpath along its northern side fronting the site. The path currently starts outside No 81 Ball Hill and runs east from there. There is footpath on the opposite (south) side of Ball Hill although it becomes quite narrow further east of the site. The Highway rises to the east side of the site such that there is a crest in the road about 100m east of the proposed access point.

PROPOSAL

Erection of 2 buildings for employment uses including general industrial processes, storage or distribution (use classes B1c / B2 / B8). The Applicant expects that one building would be split into 2 units, the other into three (5 in total). The buildings would measure 34.2m x 17.3m x 7.2 high to eaves 8.2m to ridge; the second building would be 54m x 25.8m x 8.2m to eaves and 9.6m to ridge level.

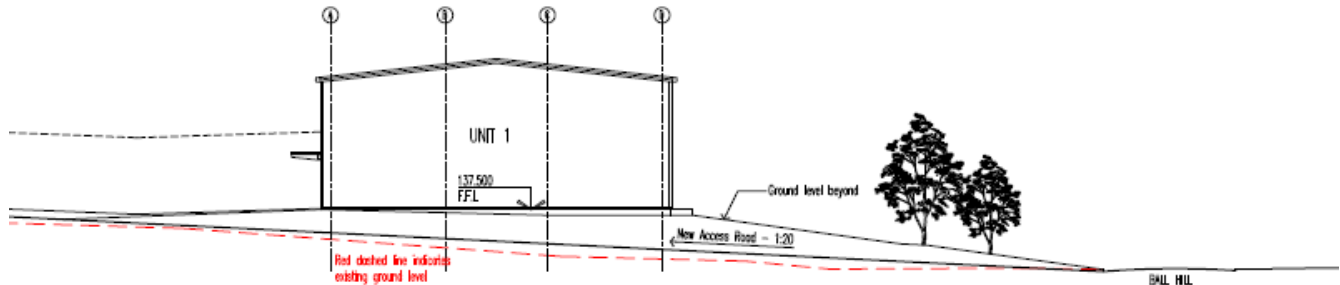
The buildings would face inward towards each other over a central service yard and parking area with 31 car parking spaces, HGV and cycle parking. The frontages of the building would include windows and doors and loading bays but the rear sides of the buildings, including that facing Ball Hill would be a blank elevation as shown below. External materials proposed is profile sheeting in anthracite (dark grey) for the walls. Light grey for the roof panels.





The proposal includes a new vehicular access to the west side of the site frontage and a 4m high acoustic fence along the central part of the eastern site boundary to mitigate against noise from the service yard area.

Ground level remodelling proposed includes increasing ground levels on site for both buildings proposed such that the frontage building would be raised up by about 2m. See below.



The application is accompanied by the following reports to address the impacts:-

Design and Access Statement

Planning Statement

Arboriculture Report

Geo-environmental assessment including coal mining risk

Ecological Assessment

Noise Assessment

Transport Statement

AMENDMENTS

Layout Plan AS596 03- Rev L 18-05-18

The amended layout sought to reduce impact on trees: to the east boundary by changing the proposed 2m bund plus 2m noise fence for 4m high noise fence; and fronting the former Highland Hurts site on Ball Hill by omitting the proposed frontage footpath which was likely to have led to the removal of 5 further trees and opening up further views of the industrial building to the north.

Site Sections Rev G 20-03-18

HISTORY (if relevant)

TPO/BOL 21 made 1987 (relates to the tree belt adjacent to the east of the site).

05/00867/FULMAJ Approved. Erection of 3 units for light industrial (Class B1) use and storage/distribution (Class B8) use with access from factory site off High View Road.

16/00582/OUT Refused at Committee but appeal allowed. Outline Permission for residential development with access from Ball Hill in the same place as currently proposed.

CONSULTATIONS

DCC Highway Authority [Note that several responses are reported below at some length from DCC due to the level of public interest in this particular issue]

24/01/18 Asks whether the level of parking proposed accords with BDC standards.

Swept path detail for large vehicle turning within the site is requested. Otherwise requests conditions if permission is granted re:

Approval of construction compound details;

Provision of new access and visibility splays;

Provision of parking and turning space;

No gates or barriers within 10m of highway and gates to open inwards;

Access gradient to be no steeper than 1 in 20 for first 15m, 1 in 12 thereafter.

13/02/18 Confirms that:-

Access visibility is acceptable and in line with vehicle speeds;

The proposal will not result in material harm to the highway network;

Unless restricted to B8 use only there would be an under provision of parking space.

27/03/18 DCC letter to SoNAR.

Amongst other things DCC confirm that:-

The site has been visited; the local highway network functions well within capacity; the development is envisaged to add about 82 vehicle trips per day 17 of which are likely to be goods vehicles - this equates to 2% and 5% increase respectively; the likelihood of additional conflict between goods vehicles on the network is very small; in some locations the existing carriageway width is less than the desirable 7.3m but it is comfortably cable of allowing all goods vehicles to pass cars and light goods vehicles and even the very small number of larger goods vehicles to pass each other.

Existing on street parking is does not raise material concern; consideration of collision data does not underpin a reason for refusal on safety grounds; access visibility is fully compliant with technical guidance based on measured approach speed, horizontal and vertical alignment.

27/03/18 In respect of the proposed section of footpath fronting the Highland Hurst site:-

The proposed footpath construction allowing for tree retention does not meet our standard specification.

Even if construction method were to be accepted it will have commuted sum and statutory undertakers repercussions.

The proposals involve raising the level of the highway margin/ footway relative to the carriageway which will have safety and accessibility implications.

A traditional footway constructed at kerb height (the acceptable default option) will inevitably impact upon all of the trees on or adjacent to the site boundary requiring their removal.

The pedestrian demand for commercial development is unlikely to be significant.

The footpath on the opposite side of the road provides a safe alternative route.

20/04/18 In response to further info and swept paths:-

The use of the units should be restricted to B8 and that any other use should require the submission of a further planning application and a redesign of parking arrangement. This could perhaps involve the loss of lorry space and it being replaced by standard parking spaces if the unit is to be used for other than B8.

Subject to the above, no objections subject to conditions.

24/04/18 In response to BDC view that the DCC suggested condition restriction to B8 is unreasonable (since it would be fundamentally change the nature of the application), and seeking clarification on whether DCC wish to object or not:-

DCC advise that it would be difficult to sustain an objection in the absence of formal policy relating to level of parking provision. A revised wording to allow a review of the parking layout is recommended.

07/06/18 Adds that "With regard to accommodating additional parking, it may be that if a use class other than B8 is proposed for any of the units the lorry parking/loading space may not be required and additional car parking could be accommodated.

The omission of the footpath on the north side of Ball Hill is noted. The Highway Authority recommends a condition for inclusion of such a provision for the safety of pedestrians (notes this will result in the loss of further protected trees on the Highland Hurts frontage).

27/11/18 Following receipt of additional traffic count and speed survey data:

Confirms that the new data does not change the Highway Authorities view on the level of impact on the road network or on highway safety.

Proposed junction swept paths have been submitted and considered the radius curves proposed are acceptable for turning HGVs and oncoming traffic.

The frontage footpath was necessary for residential development which generates greater pedestrian movement than employment use. It is desirable for employment development [note not essential].

Subject to conditions and notes already provided it is not considered that the application will have either a severe impact on the road network or an unacceptable impact on highway safety.

BDC Drainage Engineer

No objections subject to informative notes.

Coal Authority

26/01/18 Required further information.

27/02/18 Concurs with the recommendations made in the Phase I and Phase II Geo-Environmental Site Assessment; that coal mining legacy poses a risk to the proposed development and that further intrusive site investigation works should be undertaken prior to development in order to establish the exact situation regarding coal mining legacy issues on the site. The condition should require implementation of remedial measures necessary.

Environmental Health Officer

14/02/18 Required further work on noise assessment.

In the event that planning permission is granted a condition is recommended requiring a ground contamination investigation and risk assessment and remediation proposals.

17/04/18 Required further work on noise assessment.

27/11/18 In response to the revised noise assessment submitted a noise limiting condition is recommended in the event that planning permission is granted.

Parish Council

15/02/18 Strong objection.

Industrial units in a residential area; volume of traffic especially HGVs entering and leaving the site close to the brow of a hill; increase noise at unsociable hours; disused mine shafts.

Derbyshire Wildlife Trust

24/07/18 It is understood that the application area has been largely cleared prior to planning approval, resulting in the loss of trees and grassland. Any tree and scrub removal during March – August should have been preceded by a nesting bird check. Clearance at this time shows a disregard for the recommendations in the Ecological Appraisal and wildlife legislation.

The application area falls within a 'Wildlife Corridor and Stepping Stone' as identified on the Draft Local Plan. As such, we would expect a presumption against development in this area or else expect a meaningful level of habitat retention or creation as part of the development to ensure that the wildlife corridor is maintained. Currently the proposed scheme is likely to result in a net loss to biodiversity contrary to the NPPF.

PUBLICITY

Advertised in the press, site notice posted, 12 properties consulted. Objections from 100 different residents received on the following grounds by topic (includes concerns raised by the local residents Action Group SoNAR):-

Highway Safety

Speeding traffic on Ball Hill, proximity of the brow of the hill limiting visibility and proposed junction radii insufficient to allow HGV's to exit onto Ball Hill without encroaching onto the opposite side of the road into the line of traffic approaching, all combine causing traffic hazard.

50% of traffic on Ball Hill exceeds the speed limit

It takes longer to stop downhill in wet/icy conditions

Danger to pedestrians – narrow footpath on one side of road too narrow for wheel chairs, no path on other side leads to walking in the road.

Turning too tight for HGVs at Ball Hill/ Carter Lane junction.

Existing on street parking on Ball Hill and Carter Lane.

Lack of width on Ball Hill for HGV traffic; resident believes it needs to be 7.3m wide as recommended on HSE website. Ball Hill is less in places.

Local Roads not suitable for HGV traffic

Queries whether adequate car parking is proposed, potential on street parking.

Lack of HGV parking space and turning area on site.

Children walking to school

Accident history on Ball Hill

The previous permission on this site required access from High View Road.

Should be accessed from High View Rd [*not possible due to new industrial building*]

The site is next to the M1 road bridge and a crash barrier would need to be removed which prevents vehicles crashing down the M1 in the event of an accident.

If HGVs are not allowed in the site at night (to mitigate noise) that will lead to HGSs parking on the Highway.

lack of HGV on site parking space and access road length will lead to vehicles waiting in the road.

Would encourage HGV drivers to ignore the weight limit on Cater Lane East

Tight corner at McArthur Glenn Island

Additional damage to highways

Security gates not far back enough to stop HGVs overhanging highway

Access is too close to dwellings

Road network Capacity

Congestion at Ball Hill Carter Lane East Junction

Increased traffic on Ball Hill

Increased HGV traffic

More traffic on Carter Lane

When the M1 and A38 are at a standstill commuters cut through South Normanton.

Noise

Increased noise during the day

Increased noise at night

No noise barrier for properties to the south

Noise from extra traffic and HGVs

Noise from the business units

Noise from loading and unloading in service yard

Loss of trees will remove the natural barrier to M1 noise and pollution

Increased vibration from traffic

Within 50 m of dwellings

The tenants are unknown and so noise levels can't be predicted.

Wind direction affects noise results

Concerned re 24 hour operation

Queries accuracy and methodology of noise report

Increased engine revs needed for the incline into the site

Visual Impact

Instead of a view of trees will be looking at buildings designed to be on an industrial estate.

Light Pollution

Light nuisance at night from security lighting.

Ecology

Loss of trees and habitat.

Impact on wildlife

Owls and bats living in the woodland

Impact on birds

The site is part of the local wildlife corridor in the consultation version of local plan

Ground clearance and loss of habitat has already taken place in advance of planning permission.

Further TPO tree removal required along Ball Hill for footpath.

Heritage

Adverse effect on setting of grade 2 listed building (94 Ball Hill)

Damage from the vibration from additional HGV traffic

Other

There is already an industrial estate with no need to build here so close to homes.

Loss of property value [*not a material planning consideration*]

Loss of privacy

Increased fumes and pollution

Effect on air quality

Disturbance of groundwater in mineshafts affecting M1.

Loss of greenfield infiltration and more surface water run-off

Site should be used as countryside amenity

Loss of green space

Disturbance during construction

Litter left by HGV drivers

POLICY

Bolsover District Local Plan (BDLP)

The adopted Bolsover District Local Plan (Feb 2000). This site is recognised as a site with planning permission for employment use although as part of a larger employment estate to the north. The site is also within the settlement framework.

Saved planning policies within the adopted Local Plan:-

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)

TRA13 (Provision for Cyclists)

ENV8 (Development Affecting Trees and Hedgerows)

Publication Version Local Plan May 2018

SC2 Sustainable Design and Construction

SC3 High Quality Development

SC9 Biodiversity and Geodiversity

National Planning Policy Framework (NPPF)

80. Planning policies and decisions should help create the conditions in which businesses can invest, expand and adapt. Significant weight should be placed on the need to support economic growth and productivity, taking into account both local business needs and wider opportunities for development.

109. Development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.

118. Planning policies and decisions should:

- a) encourage multiple benefits from both urban and rural land, including through mixed use schemes and taking opportunities to achieve net environmental gains – such as developments that would enable new habitat creation or improve public access to the countryside;
- b) recognise that some undeveloped land can perform many functions, such as for wildlife, recreation, flood risk mitigation, cooling/shading, carbon storage or food production;
- c) give substantial weight to the value of using suitable brownfield land within settlements for homes and other identified needs, and support appropriate opportunities to remediate despoiled, degraded, derelict, contaminated or unstable land;...

124. The creation of high quality buildings and places is fundamental to what the planning and development process should achieve. Good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities...(see 124-132 on achieving well-designed places).

130. Permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions,...

170. Planning policies and decisions should contribute to and enhance the natural and local environment by:

- ...d) minimising impacts on and providing net gains for biodiversity, including by establishing coherent ecological networks that are more resilient to current and future pressures;...
- f) remediating and mitigating despoiled, degraded, derelict, contaminated and unstable land, where appropriate.

Other (specify)

Statutory Duties

Planning applications affecting listed buildings:

Section 66 creates a duty with respect to planning applications affecting a Listed Building or its setting in that special regard shall be had to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses

ASSESSMENT

The application site is recognised in the adopted local plan as a site with permission for employment use although as part of a larger employment site to the north off High View Road. It is not allocated for employment as such. It is also within the settlement framework. The proposed use is therefore acceptable in principle and is compliant with local and national planning policy subject to there being no other unacceptable impacts. The impacts are considered below. The proposal is expected to generate about 50 jobs which would result in significant economic and social benefit benefits.

Although it is argued in representations that industrial development should only be allowed on an industrial estate and not within a residential area, mix use developments can be appropriate and seen as contributing to sustainable solutions by reducing the distance between places that people live and work.

Highway Issues

The overriding thrust of public objection to this application relates to concerns over increased traffic particularly HGV's using local roads through a residential area. The reasons for the public objections are set out in detail above, but mostly centre on tight bends, road width and reported speeding traffic on Ball Hill, the proximity of the brow of the hill to the proposed access limiting visibility and whether the proposed junction radii are sufficient to allow HGV's to exit onto Ball Hill without encroaching onto the opposite side of the road into the line of approaching traffic.

The level of public concern has led to protracted discussions with the Highway Authority as well as site visits and various issues being checked and double checked with Highways Officers. Their advice is set out in more detail above but of note the development would not result in a material increase in traffic using the roads; about 2% increase in cars and 5% increase in HGVs. They advise that, subject to conditions and advisory notes, they do not think that the development will have either a severe impact on the road network capacity or an unacceptable impact on highway safety.

The proposal is therefore compliant with local and national planning policy in terms of highway impacts and it would not be appropriate to refuse the application on highway grounds.

However if Committee members are minded to approve the application there is one highway issue that requires further consideration. The application originally included a new footpath on the north side of Ball Hill. This would have been beneficial to pedestrian safety, especially given the narrowing width of the existing footpath on the south side of Ball Hill further east of

the site. However given that the proposed provision of the path across the adjacent former Highland Hurst site was likely to result in the removal of 5 additional protected trees fronting Ball Hill and the associated street scene impacts and potentially setting impacts on the listed building at 94 Ball Hill, and given the Highway Authority advice that the new path was not strictly “necessary” for the employment application, a decision was taken to omit the new footpath from the proposal.

Given the level of public concern over the highway impacts Committee Members may prefer to have the footpath along the north side of Ball Hill replaced on the proposed plans. This would be appropriate if Committee Members believe that the benefits of the new path outweigh the harms to amenity from the loss of trees, street scene and setting of listed building. It is also worth noting that once the frontage trees are removed this would remove a constraint to the provision of a direct access into the Highland Hurst site and so better open the development potential of that site.

Noise

The proposal includes B2 use (general industrial use) and together with traffic, loading and service yard activity will result in some additional noise. Public objection has been raised to this impact given the proximity to existing dwelling is about 50m away.

However given the relatively high background noise within the area due to the M1 adjacent and the method of calculating industrial noise (BS4142) which rates noise relative to background levels, the Applicant has been able to demonstrate that the level of noise resulting from the proposal can be adequately controlled by planning condition. This includes the provision of a 4m noise fence to the east boundary and a scheme to mitigate and restrict day and night-time noise levels once the tenants/occupiers of the buildings are known. The Environmental Health Officer agrees and does not object subject to the inclusion of a condition if permission is granted. Therefore it is considered that noise impacts would not justify a reason for refusal.

Light Pollution

Can be adequately controlled by condition to minimise impacts on bats and amenity.

Design and Street Scene

The buildings proposed are relatively standard smaller scale industrial shed type buildings finished in grey profile sheeting. The designs are appropriate for an industrial estate but are not considered to be of sufficient design quality as to contribute positively to a residential area.

The proposal was submitted with a Design and Access Statement which states that:

“The site does however benefit from generous soft landscaping strips to all boundaries along with sections of retained mature vegetation and tree’s which will ensure the site is of negligible visual impact upon the surrounding area.”

Had this still been the case the design of the buildings would not have been such a significant concern. However, contrary to planning officer advice and contrary to the Design and Access Statement, the frontage trees and hedgerow across the site frontage have largely been

removed recently (not TPO protected) and the three trees which have been retained to the west side of the frontage (left hand side of the picture) will also need to be removed to create and use the proposed access into the site. This would leave only one tree at the east (right hand side) side of the frontage. This does not provide sufficient screening by itself. Photo's of the frontage before and after tree/hedge removal are shown below.





The site frontage is now essential open to public view from the street in a residential area and as such new development should be designed to contribute positively to the street scene and the character of the area.

The proposal is for the plain rear elevation of unit 1 to face the street. By virtue of its plain industrial character and design, materials of construction and lack of detail, the design of the building proposed facing Ball Hill is considered to be harmful to the street scene. The building will also be increased in prominence because it is proposed to raise ground levels on site and the frontage building will sit about 3m higher than the highway.

The Applicant says that the building is set back 20m from the highway, there is room for landscaping which can be conditioned, and external materials can also be conditioned with different options.

Whilst the building would be set back about 20m from the highway, and there is room to plant new landscaping, it would take perhaps 20years for such landscaping to grow up to the point where it would screen the development adequately. This is would be a significant period of time when the development would be harmful to the character of the street.

A change in materials would not adequately deal with the harm. The design of the building is lacks interest and design quality given its location.

The NPPF advises that permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area and

the way it functions.

Ecology and Biodiversity

Unfortunately the ecological interest on site and habitat value has largely been wiped out since the site has been recently cleared of self-set trees and shrubs and the frontage trees and hedge substantially cut down. This did not require consent from the Council. In addition a layer of earth has been spread over the site.

Therefore although the NPPF seeks no net loss to biodiversity, there is now little biodiversity interest to protect on site. That said there is a hedgerow which runs across the back (northern boundary) of the site with a 5m wide strip of land which could at least go some way to maintaining a wildlife corridor link between the vegetated M1 verge and the woodland to the east of the site. The maintenance of this corridor could be required by condition.

Ground Conditions

Investigation and remedial treatment of the 2 possibly 3 mineshafts on site can be required by condition. The making safe of old mineshafts should be treated as a benefit of the proposal.

Investigation into ground contamination and any remediation necessary can also be required by condition.

Heritage

It is considered that the proposal would not have a material effect on the significance of the grade 2 listed Farmhouse at 94 Ball Hill which is about 100m east of the site. Its rural setting has already been substantially altered over the years and is now surrounded by residential development. This was recognised by the Planning Inspector who allowed the appeal for residential development on this site and the closer adjacent site to the east.

Whilst the provision of the new footpath to Ball Hill would result in changes within the street which are closer to 94 Ball Hill the path has already been approved as a result of the appeal decision for the residential scheme.

Comments in representations are noted. However it would be impossible to prove that a 5% increase in HGVs on Ball Hill would result in vibrations such as to cause harm to the listed building. It would not be reasonable to give weight to this matter.

Air Quality

The development is relatively small scale and is unlikely to have a material effect on air quality. Environmental Health legislation and the HSE are able to deal with fumes from industrial processes.

Other Matters

It is considered that there are no other matters which are material to the decision.

Listed Building: See above

Conservation Area: N/A

Crime and Disorder: No significant issues

Equalities: No significant issues
Access for Disabled: No significant issues
Trees (Preservation and Planting): See above
SSSI Impacts: No significant issues
Biodiversity: See above
Human Rights: No significant issues

Summary

The applicant has been able to demonstrate that impacts on highway safety, road capacity, residential amenity, and on biodiversity would not be such as to justify the refusal of planning permission.

However, following the removal of established trees and hedgerow fronting the site, a re-design of the development is considered necessary so that the development can properly address the street and contribute positively to the character of the area. The Applicant is not willing to redesign the proposal.

Whilst the building would be set back about 20m from the highway, and there is room to plant new landscaping, it would take perhaps 20years for such landscaping to grow up to the point where it would screen a development which is not designed to be seen. This is would be a significant period of time when the development would be harmful to the character of the street.

It is considered that the benefits of the proposal do not outweigh the harms under these circumstances.

RECOMMENDATION

The current application be REFUSED for the following reasons:

The development is of poor design given its prominence within the street scene and location within a residential area. It fails to take the opportunities available for improving the character and quality of an area.

The blank rear elevation of unit 1 would face the street. By virtue of its plain industrial character and design, materials of construction and lack of detail, the appearance of this building would be harmful to the street scene.

Approval of the proposed development would therefore be contrary to policy GEN2 (1) of the Bolsover District Local Plan and to policy SC3 of the Publication version of the Local Plan for Bolsover District and to paragraph 130 of the National Planning Policy Framework.

PARISH

Barlborough

APPLICATION Application for the variation of Condition 4 of Planning Permission 17/00153/FUL (to remove trading hours of between 0600hrs and 2300hrs to allow 24 hour trading)
LOCATION 2 Tallys End Barlborough Chesterfield S43 4WP
APPLICANT McDonald's Restaurant Ltd
APPLICATION NO. 18/00493/VAR **FILE NO.** PP-07272719
CASE OFFICER Mr T Ball
DATE RECEIVED 1st October 2018

DELEGATED APPLICATION REFERRED TO COMMITTEE BY: Planning Manager
REASON: Level of public interest

SITE

Existing McDonald's restaurant with drive through situated at the junction of Tally's End with Chesterfield Road (A619). KFC (Kentucky Fried Chicken) restaurant and drive through and Costa Coffee unit adjoin to the south-western side. All these units have the same trading hours restriction of between 06.00hrs and 23.00hrs daily.

Beyond the restaurant/take-away units, to the south west are offices. Across Tally's End to the south east a single storey office with, further east, the Ibis Hotel and Treble Bob Public House. All these commercial units are accessed off Tally's End.

Across Chesterfield Road are residential properties, the closest of which is approximately 44m away (building to building).

PROPOSAL

This application is to vary condition 4 of planning permission 17/00153/FUL by deleting the reference to trading hours to allow 24 hour opening/trading while retaining the restriction on deliveries and other service functions (only between 06.30hrs and 23.00hrs daily).

Condition 4 of 17/00153/FUL states:

The trading hours of the restaurant/hot food takeaway shall only be between 06.00hrs and 23.00hrs daily. Deliveries and other service functions (such as refuse collection) shall only take place between 06.30hrs and 23.00hrs daily.

The reason for the condition is:

For the avoidance of doubt and to be consistent with extant planning permissions for the site, to protect the amenity of occupants of nearby dwellings and in compliance with policy GEN2 (Impact of Development on the Environment) of the Bolsover District Local Plan.

The application is accompanied by:

- Community Consultation Statement;
- Noise Impact Assessment.

AMENDMENTS

08 & 12.10.18 Correction and clarification of application description: relates to condition 4 on application No. 17/00153/FUL (not condition 1 of 11/00145/VAR as originally applied for) and seeks only to remove trading hours restriction with no change to deliveries and other service functions restrictions.

Community Consultation Statement removed from consideration with the application by BDC following consideration of comments made by members of the public and councillors due to alleged misleading statements.

In relation to issues raised by Environmental Health, further information submitted (19.11.18):
People/pedestrians – no impact, and controls in place in case this was ever going to be the case.
Vehicles - Ambient noise levels are dominated by traffic, and therefore car noise from around the store will not change the noise in character, this source would not be audible at the residential properties – no impact.
Customer Order Display (drive through order point) noise levels and settings provided.
Plant – worst case scenario gives a rating of 2dB below background, therefore not audible at the residential properties – no impact.
Overall impact is none when considering all sources together.

HISTORY

99/00309/FUL	GC	Erection of a restaurant & hot food takeaway with a drive through facility & formation of a car park & creation of a new access
99/00310/FUL	GC	Erection of a restaurant & hot food takeaway with a drive through facility & formation of a car park & creation of a new access
08/00510/VAR	WDN	To trade between 6am - 11.00pm, seven days a week (Vary condition 9 of planning permission 99/00309/FUL & 99/00310/FUL which limited hours to 0730-2300 daily)
08/00720/VAR	GC	To extend opening hours (vary condition 9 of planning permission 99/00309/FUL and 99/00310/FUL which limited hours to 0730-2300 daily). [Revised hours of 06.30 to 23.00 approved for temporary 6 month period].
09/00628/VAR	GC	Variation of condition 9 of planning permissions 99/00309/FUL & 99/00310/FUL to allow restaurant to open between the hours of 6.30am - 11.00pm
10/00456/FUL	GC	External alterations including doors, windows and cladding and alterations to car parking and landscaping
11/00145/VAR	GC	Extend opening hours of restaurant from 0630hrs to start 0600hrs (Variation of Condition 9 of planning permission 99/00309/FUL and condition 1 of 09/00628/FUL)

13/00144/FUL	GC	Reconfiguration of the exit and car park to allow side-by-side drive through order point
17/00153/FUL	GC	Refurbishment of the restaurant with alterations to elevations to include the installation of a new "Folded Roof" concept, comprising of aluminium cladding to the roof (increasing overall height of roof by 0.3m), the construction of extensions totalling 47.23 sq m (Revised plans submitted 28th April 2017).
17/00280/MINAM	GU	Minor amendment to planning application 17/00153/FUL - Erection of 7.5ft fence (Drawing No. 6925_AEW_1027_004 Ref F)

CONSULTATIONS

Local Highway Authority (DCC): No objections 04.10.18

Parish Council: Object (No reasons given). 23.10.18

Environmental Health: Has some concerns regarding the extension of hours at this location in view of the other neighbouring businesses that are also likely to request similar hours if this application is granted. However, this application must be assessed on the information submitted in the first instance. The acoustic report that has been submitted includes monitoring that has been carried out during the week of the August Bank holiday and we would concur with some of the residents' comments that this may not fully reflect the background noise although is likely to make the background level lower than is actually the case.

The assessment has identified a range of noise sources and then considered each one separately against background noise levels, there is no cumulative assessment for the overall noise levels. We would not be supportive of a scheme that increases the overall background noise levels in the area and therefore would be expecting an assessment that looks at the cumulative impact of the noise sources. Welcome the inclusion of a premises noise management plan for night-time activities. Currently it is not felt that a full evaluation of the potential amenity impact can be made based on the information provided. 05.11.18

Additional comments following consideration of additional information:

"We have reviewed the additional clarification submitted via email on the 19th November 2018 which has helped in our understanding of the assessment. We have also visited the site during the evening to get a better idea of the potential impact.

Due to the relatively high noise environment, it is likely that we would like rating levels of between -5 to -10dB to be achieved to ensure that there is no overall noise increase in the area. From the information that has been submitted, it is not clear that that would be possible. The acoustic report does demonstrate that most of the noise sources would not be readily discernible but they would contribute to an accumulation of noise which then leads to the ambient background levels gradually creeping up.

In addition, following our visit, it would appear that a potentially significant source of

noise is from vehicles pulling away from the junction on Tallys End to turn right towards the Treble Bob roundabout. This is difficult to assess within this type of acoustic report. Although there will always be some vehicles in this area at night, the presence of a 24hr McDonalds will increase the traffic flow. Due to the intermittency of this noise, it can potentially be more disruptive to local residents than if it was happening constantly.

The assessment of noise also relies on a limited number of customers using McDonalds during the night time hours. Whilst it is not disputed that there will be less customers at night, there is no way to condition a maximum level of customers so the impact could increase if the site becomes popular with shift workers etc. If that were the case, the noise level could potentially increase which could significantly affect the overall impact and I am unclear what, if any, additional mitigation could be provided, particularly if the main impact is from the vehicle noise entering or leaving the site as this is outside the control of McDonalds. The data for the projected customers both for the drive thru and using the restaurant demonstrates that for some nights of the week, there are very few customers throughout the night expected with the main impact over the weekends. The majority of customers are expected to arrive between 11pm-1am and I do have concerns that this could be disruptive for local residents.

This is a difficult decision as whilst there is a limited discernible impact from the operations specifically at McDonalds, the current situation is that there is a high noise environment, mainly from the road traffic along the main road. This does not allow for much flexibility in terms of additional noise sources and whilst there will be a limited impact during much of the night, the additional vehicles predominantly between the hours of 11pm-1am have the potential to affect the amenity of the residents nearest the junction. I note that there are a number of concerns from local residents about noise levels currently in the area and unfortunately do not feel that McDonalds would be able to mitigate their impact any further via any planning condition that could be imposed. Therefore, I feel that we have to recommend a refusal of the planning application.”

05.12.18

PUBLICITY

Site notice posted. 36 neighbours notified.

Objection, submitted on behalf of residents, in relation to the content of the Community Consultation Statement:

Community consultation not as positive as made out. Three residents represented Chesterfield Road residents, others felt the venue (the restaurant) was unsettling and intimidating. Many reasons given for objection to the proposal of which noise was only one (but significant) factor. A619 does not experience high levels of traffic through the night, it is relatively quiet, residents get undisturbed sleep with windows open, currently no vehicle manoeuvring into and out of Tallys End after 11pm, disturbance becomes significant again after 6am when McDonalds opens. Consensus at the end of the meeting was that the residents unanimously rejected the plans to extend the opening hours.

Copy of correspondence with applicant submitted for information.

20 further letters of objection [number indicates address on Chesterfield Road unless otherwise stated]:

Live opposite, area to front constantly littered with discarded food and litter; has become a parking area for people to sit and eat with engines running late at night. [16a]

This is a residential area, already suffer from negative environmental impacts, proposal will add further noise and traffic throughout the night, additional pollution in an already highly polluted area, increased lighting throughout the night, already suffer from rubbish, invitation to anti-social behaviour, will be detrimental to residents health and wellbeing, established 24hr fast food facilities on M1, no need for 24hour provision in this area. [50]

Not for locals who actually sleep at night. Foul odour currently discharged during opening hours is objectionable enough, unacceptable for it to continue for 24hours. Other problems from this establishment: increase in road traffic accidents and near misses; decrease in air quality, light pollution, litter. [24]

Object on grounds of noise, light pollution and air pollution. Bedroom directly opposite Tallys End, noise and traffic leaving McDonalds makes sleep difficult, but as everything shuts at 11pm can accept. All night opening would change this. Need window open in summer due to asthma, additional exhaust fumes from car turning out of Tallys End would impact on health. [24 another occupier]

Objection on grounds of anti-social behaviour, litter, noise, light pollution, atmospheric pollution and risk of crime. Some existing customers have no respect or consideration for the local community by dropping litter. Will become a magnet for youth and criminals with greater risk of crime for the whole village. Noise assessment should be taken from residential properties involving all types of vehicle noise. [24 another occupier]

Object as will cause more anti-social behaviour throughout the night, more congestion, and cars racing back and forth. [30]

Objection based on experiences of similar restaurant on an estate with 24 hour opening: attracts groups of kids in cars with door slamming, playing loud music, shouting, fighting, and some crime; meeting place for boy racers who race on nearby roads. Bedroom window faces Barlborough McDonalds, proposal will harm everyone living in the area as a result of the antisocial behaviour, noise and crime. [24 another occupier]

No change in circumstances since last application to change hours, so should stay as they are. Jobs are important but not at the expense of the right to quiet enjoyment such as a good nights sleep. Could set a precedent for KFC and other businesses throughout Barlborough. Will compound existing traffic problems in the area. [5 Old Quarry Close]

Noise assessment is flawed and scientifically unsound. Should be based on information from existing 24 hour McDonalds in the area, commercially little benefit in opening if it is not going to be busy. Extended hours (until midnight) has been previously refused on the grounds that it is a residential area; this has not changed. Tallys End cannot accommodate existing vehicles, vehicles queue on Tallys End with parking on the road as the car park is full. Will

therefore impact on pedestrian safety and further damage amenity. Litter continues to be a problem, one sack full of McDonalds litter every morning from Clowne Road, Oxcroft Way, Barlborough Road, North Road. Burden is being born disproportionately by the local community who have to pick it up. Problem of anti-social behaviour, previous application refused on such grounds. Revised noise assessment should take into account potential for KFC to similarly extend their hours. [No address given]

Since McDonald's opened massive increase in litter, noise and unruly behaviour. McDonalds gives such people somewhere to collect. Giving access to 24hour fast food will not help the young be healthier and fitter. [79 Slayley View Road]

Will significantly increase foot traffic and vehicles to the area affecting noise levels and increase litter . [No address given]

Increase in noise due to traffic and people; increase in litter; increase in light pollution from vehicles pulling out of Tally's End; increase traffic hazard. [24]

The traffic pulling out of Tallys End during the night time hours will generate extra noise and light on houses across from the junction. Already find it hard to settle to sleep mainly due to car headlights. [24 another occupier]

Area has enough litter and noise. Will be a target for nuisance gatherings of cars and youth. [No address given]

Severe impact on residential amenities of local dwellings and impact on Human Rights (right to enjoy your home peacefully). Original permission was granted with restricted hours to protect the amenity of local residents, residents are still present, the applicant knows of these restrictions when taking over the restaurant. Applicant may be able to control impacts on the property but cannot exert any influence on customer behaviour off the premises. Anti-social behaviour of customers who sit in cars with engines revving, music playing in lay by at front of house as they consume products then throw litter out of car. The Noise Management Plan with the application states that noisy customers will be moved on but they will only be displaced to nearby lay-by outside residents houses. Noise Report does not consider the impact of such behaviour on local residents, it only considers noise originating at the site. Numbers of customers predicated in the report do not appear to be congruent with the number of staff to be employed. [18]

Its noisy enough, wouldn't want any more traffic noise when I stay at relatives. [Worksop resident]

Residential area, increase in noise, light pollution and traffic not acceptable to people living so close. Will impact on Tallys End, insufficient parking and rubbish. More litter picking is required by McDonalds. Noise and traffic assessment flawed, should use data from existing 24hr operations. Will increase air pollution. [17 Slayley View Road]

Increase in litter which is already a problem; extra traffic at the Tallys End junction; extra noise for traffic especially when accelerating from junction late at night; light pollution from signage and vehicle lights when exiting the junction. [20]

Already have noise from horn blowing as well as noise generated by engines and people. Suffer light pollution from vehicles exiting during the hours of darkness. Litter problem is unacceptable. Potential for KFC and Costa to extend their hours if approved. Existing 24hr McDonalds nearby (J29a and Woodall Services). [26]

Exit road is dangerous either with queueing traffic or fast traffic. [No address given]

POLICY

National Planning Policy Framework ('The Framework')

Planning applications must be determined in accordance with the development plan unless material considerations indicate otherwise. The Framework is a material consideration with a presumption in favour of sustainable development, decisions should secure development which will improve the economic, social and environmental conditions of the area. As the Bolsover District Local Plan was adopted prior to 2004 due weight should be given to its policies according to their degree of consistency with the Framework.

Development should make effective use of land while safeguarding and improving the environment and ensuring safe and healthy living conditions. Good design is a key aspect of sustainable development. Development should optimise the potential of the site; and, create places that are safe, inclusive, and accessible, with a high standard of amenity for existing and future users.

Bolsover District Local Plan

Shows as within settlement framework, general urban area policies apply, of particular relevance will be policies GEN1 (Minimum Requirements for Development), GEN2 (Impact of Development on the Environment).

It is considered that the general aims of these policies have a degree of consistency with the principles and policies of the National Planning Policy Framework.

Emerging Local Plan:

Publication Version of the Local Plan for Bolsover District (May 2018) submitted to the Secretary of State 31st August 2018 for independent examination, following the statutory (Regulation 19) consultation period.

This shows the site as within the development envelope for Barlborough within which urban forms of development will generally be acceptable (Policy SS3) and allows development which is appropriate in scale, design and location; is compatible with and does not prejudice existing or intended use of adjacent sites; accords with other policies of the Plan, and would not have an unacceptable environmental impact (Policy SC1).)

ASSESSMENT

This is an established McDonald's restaurant with 'drive through' on the north western edge of Barlborough Links. The building backs onto Chesterfield Road with the drive through lane and collection booths on this north-western elevation. It is at a lower ground level than the main road, with a 2.3m (7ft 6in) high close boarded fence at road level, which effectively screens the restaurant, drive through lane and restaurant windows which face this side.

There are no illuminated advertisements on this elevation although there are lights illuminating the drive through lane. There is a residential area across Chesterfield Road with a mixture of house and bungalows. The front elevation of the nearest dwellings are 44m to 47m from the McDonalds building.

The application is to allow 24 hour trading of the restaurant and drive through. Currently it is closed between 11pm and 6am. The main issues are therefore the impact on residential amenity and on the amenities of the area as a result of the extended opening hours.

The Noise Impact Assessment (NIA) predicts customer numbers being on average 60 between 11pm and 6am in the restaurant with the majority being between 11pm and 1am (37 on average), Sunday being the busiest time. The NIA using these figures, with an assumption of an average of 3 passengers per car, equates this to an average of 20 cars per night. In addition the NIA assumes the drive through outlet would generate an average of 68 customers per night, again with the majority between 11pm and 1 am the busiest days being Friday, Saturday and Sunday. Combining restaurant and drive through figures this equates to an average of 88 vehicles per night.

It is generally accepted, including by some of the objectors, that the building and drive through lane are well screened from impacts on the residential properties across Chesterfield Road. The main concerns to this current application relate to

- the increased activity at night from people visiting the premises causing noise and nuisance,
- from the additional traffic visiting the premises causing noise from engines and from headlights, particularly when exiting from the junction of Tallys End with Chesterfield Road to turn towards the Treble Bob roundabout,
- as a result of the increase in trade, the consequential increase in litter, and
- potential use of the lay-by/access way across Chesterfield Road serving nos 16 - 28 for parking and consuming McDonald's products (possibly with vehicle windows open, music playing and engines running).

It was noted on a site visit by the Case Officer during the hours of darkness that the dipped headlights of vehicles leaving Tally's End and turning right towards the Treble Bob roundabout can be seen tracking the movement of the vehicle on the walls of the houses opposite the junction at about first floor cill level. It is therefore accepted that there could potentially be disturbance from the extra vehicles leaving McDonald's and turning onto Chesterfield Road during the night impacting on people sleeping in the first floor front facing rooms. Due to the camber of the road and boundary treatments along the frontage of the dwellings the impact on ground floor windows is much less.

Environmental Health have considered the submitted Noise Impact Assessment and additional information. They have concerns about the impact of the proposal. Most of the noise sources from the increased use of the premises would not be discernible but they would contribute to the accumulation of noise which then leads to an increase in the ambient background levels.

Background noise levels are already high in the area and it is therefore considered that any addition to background noise is not acceptable as this would worsen an already poor

situation.

Environmental Health consider following a night time site visit that a potentially significant source of noise is from vehicles pulling out of Tallys End and turning right towards the Treble Bob roundabout. The presence of a 24 hour McDonalds will increase the traffic flow. Due to the intermittent nature of the noise it can potentially be more disruptive to local residents than if the flow and movement of traffic were constant.

The saved policies of the Bolsover District Local Plan show the site as within the settlement framework where the general urban development policies apply, in particular policy GEN2 (Impact of Development on the Environment) which resists development that creates materially harmful impacts on the local environment with a list of criteria to consider in this assessment. These include the extent of the generation of noise, vibration, smells etc., the hours of operation of any activities proposed and the amount of road and pedestrian traffic generated.

It is clear that the 24hour operation of restaurants such as McDonald's can take place in business park or road side service station locations, i.e. in locations where they do not abut residential areas. This is not the case at Barlborough where residential dwellings are located across the main road from the restaurant. The many objections received outline amenity problems already experienced by local residents which could potentially be extended into the quieter night time period when impacts can be more closely felt. These impacts relate to the additional road traffic that could be attracted to the area causing noise disturbance and related activity potentially of an anti-social nature. Combined with the noise generated by plant and equipment which would need to operate during the proposed extended hours, and their impact on background noise levels (as explained in the response of the Council's Environmental Protection Officer) it is considered that the development would create a harmful material impact on nearby residents contrary to policy GEN2 (Impact of Development on the Environment) of the Bolsover District Local Plan.

The emerging Local Plan for Bolsover District similarly has policies to ensure development does not have an unacceptable environmental impact (policy SC1) and that development ensures a good standard of amenity is maintained for the occupants of existing neighbouring properties. The proposal would therefore also be contrary to the submitted policies of the Local Plan for Bolsover District although due to the stage of preparation of the emerging Local Plan only limited weight can be given to its policies.

The Framework also supports development which creates places that are safe, inclusive, and accessible, with a high standard of amenity for existing and future users and where crime and disorder, and the fear of crime do not undermine the quality of life or community cohesion and resilience. (policy 127/f). In addition planning decisions should also ensure that development is appropriate for its location taking into account the likely effects of pollution on health and living conditions, and avoid noise giving rise to significant impacts on health and the quality of life (policy 180).

It has been recorded above that the proposal will add to already high night time background noise levels, this could impact on health and the quality of life with the higher background levels and the addition of sporadic additional vehicle movements.

The applicant has stated in his application that the proposal will generate 15 new jobs (Statement of Community Involvement) and that custom will largely be drawn from passing traffic (supporting letter). In addition the applicant states that a high proportion of customers would be taxi drivers, shift workers, delivery vehicle drivers, and emergency service crews, none of whom are prone to causing anti-social behaviour or significant noise. While this may be so it would not be possible to limit trade to such people nor is the statement necessarily true.

The applicant has submitted a Premises Noise Management Plan with the NIA. This sets out that the trained members of the management team should challenge vehicle, anti-social behaviour noise and people noise and log incidents for reporting to the authorities when appropriate. This can be required by condition.

It would be appropriate, if the application were to be approved to review the litter management plan to include an increase in frequency of litter patrols to reflect the increased custom.

Other Matters

Listed Building:	N/A
Conservation Area:	N/A
Crime and Disorder:	Discussed in report
Equalities:	No issues raised
Access for Disabled:	No issues raised
Trees (Preservation and Planting):	N/A
SSSI Impacts:	N/A
Biodiversity:	N/A
Human Rights:	A potential breach of Human Rights has also been raised.

However it is accepted that the planning system by its very nature respects the rights of the individual whilst acting in the interest of the wider community. It is an inherent part of the decision-making process to assess the effects that a proposal will have on individuals and weigh these against the wider public interest in determining whether development should be allowed to proceed.

Conclusion

In summary, the proposal is within an established business area, although where it adjoins a residential area, and within the settlement framework where development is generally acceptable subject to no adverse impacts. While there may be economic benefits from the proposal, through increased employment and provision of a food service at a time of day when there is no similar provision in the immediate area, it is considered that the amenity impacts outweigh any economic and employment benefits. The proposal will add to background noise levels at a sensitive time of day and there is potential for additional disturbance and anti-social behaviour from the additional pedestrian and vehicular traffic visiting the premises to the detriment of the amenities of nearby residents.

The proposal is therefore contrary to saved policy GEN2 (Impact of Development on the Environment) of the Bolsover District Local Plan and to policies of the Framework which

seeks to ensure that development is appropriate for its location. In view of the impacts of the development the proposal is not considered to be sustainable development within the terms of the Framework.

RECOMMENDATION

REFUSE

For the following reason:

While there may be economic benefits from the proposal, through increased employment and provision of a food service at a time of day when there is no similar provision in the immediate area, it is considered that the amenity impacts outweigh any economic and employment benefits. The proposal will add to background noise levels at a sensitive time of day and there is potential for additional disturbance and anti-social behaviour from the additional pedestrian and vehicular traffic visiting the premises to the detriment of the amenities of nearby residents. The many objections received outline amenity problems already experienced by local residents which could potentially be extended into the quieter night time period when impacts can be more closely felt.

The proposal is therefore contrary to saved policy GEN2 (Impact of Development on the Environment) of the Bolsover District Local Plan and to policies of the Framework which seeks to ensure that development is appropriate for its location. In view of the impacts of the development the proposal is not considered to be sustainable development within the terms of the Framework.

Statement of Decision Process

Discussions have taken place with the applicant to clarify aspects of the proposal. The proposal has been considered against the policies and guidelines adopted by the Council and the decision has been taken in accordance with the guidelines of the Framework. In view of the impacts of the proposal and the location of the site the proposal is not considered to be sustainable development; it is not considered that these issues can be overcome.



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PARISHElmton with Creswell

APPLICATION

Outline planning application (all matters reserved except for access) for the residential led, mixed-use redevelopment of land to the south of Colliery Road, Creswell. Comprising of circa 300 dwellings, circa 0.8 hectares of employment land, convenience retail, community scale leisure facility, medical centre (including demolition of vacant church building) and the upgrade of Colliery Road to adoptable standard.

LOCATION

Land South Of Model Village Creswell

APPLICANT

Mr Darren Ridout c/o agent.

APPLICATION NO.

18/00087/OUT

FILE NO. PP-06706973**CASE OFFICER**

Mr Steve Phillipson

DATE RECEIVED13th February 2018

SITE

Former Creswell Colliery site which is to the south side of Creswell, to the south side the Model Village Conservation Area and to the south of a recently consented site for residential development (197 dwellings currently being developed by Gleeson Homes). It can be accessed from Colliery Road and also through the Model Village.

The western boundary is defined by a raised former railway line, now a greenway with open countryside beyond. The eastern boundary is contained by the Robin Hood railway line, and to the south is a belt of trees with the former colliery lagoons lying beyond the southern boundary.

The site amounts to about 14.8ha of mostly brownfield land which is now cleared of buildings but contains two deep mine shafts. One of these has a very prominent concrete raft covering about 1m thick contained within a palisade fence compound. The site is beginning to regenerate into rough grassland and appears to be used informally by dog walkers with several well-worn paths evident. Trees/hedges/scrub have established primarily around the west south and east boundaries.



The northern end of the site includes a lesser used part of the recreation ground to the south of the Model Village but excludes the cricket ground and is adjacent to a small business park to the east side of Colliery Rd. The former Methodist Chapel off Colliery Rd and Elmton Road is also contained within the application site.

The site's topography is broadly level and benefits from partial visual enclosure. This relates to the lower height profile of the site in comparison to the former, now matured, colliery tip to the east and the banked hedgerows to the west which mark the former colliery rail line route. The topography of the site changes very gradually to the south where it raises slightly in gradient before reaching the plateau containing the former colliery lagoon area. To the north the level topography of the site generally continues before meeting the existing cricket pitch area and the southern extent of the Model Village's boundary.

Despite the partial enclosure of the site there is some intervisibility between the central and eastern area of the application site with Creswell Crag (Scheduled Monument, Conservation Area and is also a candidate World Heritage Site). Creswell Crag is about 1km to the north east and intervisibility is in the context of views over and across Morven Street Industrial estate.



Definitive footpath No 10 passes through the site linking to Frithwood Lane to the west and passing over the railway bridge to the east of the site linking to Morven Street and Welbeck Street which provides an alternative pedestrian route into Creswell centre, and the railway station further north.

The site is within walking distance of a range of community services and facilities, the majority

of which are within 0.5 to 1.0km. The majority of Creswell's services are centrally located along Elmtun Road. Creswell's services include a range of convenience retail stores, primary schools, a train station, bus links, medical services, pharmacy, dentist, library, community spaces and recreation areas.

PROPOSAL

Application for outline planning permission with all matters reserved except for access detail. Consent is sought for circa 300 dwellings, circa 0.8 hectares of employment land, convenience retail, community scale leisure facility, medical centre and the upgrade of Colliery Road to adoptable standard.

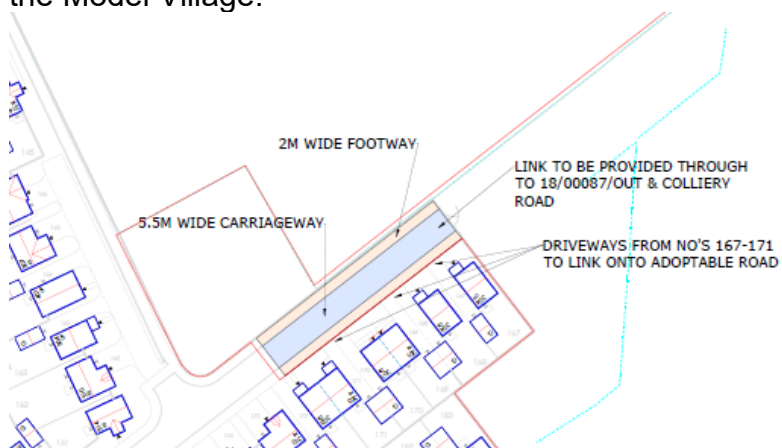
The anticipated spatial distribution of the various uses for which permission is sought is shown below on the illustrative masterplan.

The following supporting documents have been submitted:-

- Supporting Planning Statement
- Design and Access Statement
- Statement of Community Involvement
- Heritage Appraisal
- Transport Assessment
- Travel Plan
- Flood Risk Assessment and Drainage Strategy (inc. Addendum)
- Preliminary Ecology Report
- Topographical Survey
- Noise Assessment
- Utilities Assessment
- Landscape and Visual Appraisal
- Landscape Strategy
- Arboricultural Report
- Phase 1 Geo-Environmental Assessment (inc. Coal Authority Report)
- Phase 1 Geo-Environmental Factual Report
- Coal Mining Review Report
- Archaeological Desk Based Assessment



Primary vehicular access is to be gained from Elmton Road via an upgraded and adoptable Colliery Road and a link will be created with the Gleeson Homes site to the west to also facilitate vehicular access from that site to Colliery Road as an alternative to access through the Model Village.



The medical centre is proposed on the site of the former Methodist Chapel, the demolition for which has received relevant consent (ref: 18/00164/RELDDEM). An expansion contribution is proposed by means of S106 obligation.

A contribution to the community scale leisure facility will be available by means of S.106 monies contributed through the development of this site and in partnership with other relevant agencies.

The Applicant states that the site will, as a whole, provide a regenerative link through to the former colliery lagoon area to the south which is subject to wider restoration.

The applicant expects that there will be ecological benefits through improved management, retention and strengthening of existing significant hedgerows, or green 'buffer' areas, alongside the creation of green linkages.

The proposal includes sustainable drainage in the design solution for surface water disposal.

The Applicant states that design cues will be taken from the surrounding area and in particular the Model Village to the north of the site given its heritage status and distinctiveness within the Conservation Area. This is in order to maintain a sense of identity with Creswell and draw on local character.

The precise format and layout of the development will be the subject of a future Reserved Matters application. However, the overall principle of the development described is to focus on a balanced mix of housing types, styles and sizes. The development is envisaged to deliver predominantly two storey dwellings. This is with opportunities to include single storey dwellings in order to meet local demand. Some two and a half storey dwellings may also be appropriate in this setting, adding interest and variety in suitable areas of the development. The residential layout will include a mix of two to four bedroom, detached and semi-detached properties.

The employment provision will likely be single storey, small scale units, in B1, B2 and B8 use classes, intended for both start-up businesses and existing firms in the area.

S106

The following S106 social infrastructure obligations have been agreed by the Applicant:-

- Medical Centre - fund/undertake extension works to the value of £30,000 to upgrade the proposed Medical Centre.
- Creswell Junior School - £45,596.
- Secondary School, Heritage, Clowne - £618,342.
- Travel Plan Monitoring - £5,000.
- Children's on-site play space – 0.6ha area to include provision of play equipment to the value of £100,000, or £100,000 (plus maintenance fee to be agreed) if adopted by Bolsover District Council.
- Adult Recreation and Sports provision within the Parish - £201,062 contribution toward the proposed Community Leisure Facility or to upgrade leisure facilities in the Parish.
- Affordable Housing – 5% affordable rent or £600,000 sum.

AMENDMENTS

Colliery Road 'General Arrangement' drawing ref: WIE 13853 – A04 (This has been confirmed as suitable for a S.38 purposes).

A minor amendment was made to the site's redline boundary (ref: 14.057/03f) with regard to access detail to allow facilitation of access through to the Gleesons Homes site and to assure that an adoptable highway link can be secured at this outline stage.

Road Link to Gleeson's site 06 024 A01

Illustrative Masterplan also was updated accordingly (ref: 14.057/02U).

An Archaeological Desk Based Assessment was submitted during the application at the request of DCC's archaeology department, the assessment satisfied queries raised and allowed for conditions to be drafted.

An addendum to the Flood Risk and Drainage Strategy was submitted during the application through discussions with the Lead Local Flood Authority in relation to the existing culvert to the east of the site, this addendum allowed for conditions to be drafted.

A Threshold Viability Appraisal was submitted indicating lower site viability given location and necessary infrastructure costs associated with the upgrade of Colliery Road.

A Coal Mining Review report was submitted during the application in relation to the two mine shafts located on site at the request of The Coal Authority, this review allowed for the initial objection of The Coal Authority to be removed and for conditions to be drafted.

Position Statement 17.026, Colliery Road, Creswell 6

RELEVANT PLANNING HISTORY

Creswell Colliery ceased works in 1991, since then part of the site had been used for a number of years as an industrial estate but the site has now been cleared and is vacant.

There have been a number of planning permissions for residential development on the North West corner of this site (about 20% of this site) the first dating back to 1997. However that permission is no longer capable of further implementation since a substantial part of that permission has been overlapped by the later Gleeson's permission which has now been implemented and lies adjacent to the north west of this site.

16/00529/FUL GC Residential development 197 dwellings – on adjacent site to the north.

18/00164/RELEM GC Demolition of Methodist Chapel

18/00522/TCON Determined not to make a Tree Preservation Order

PUBLICITY

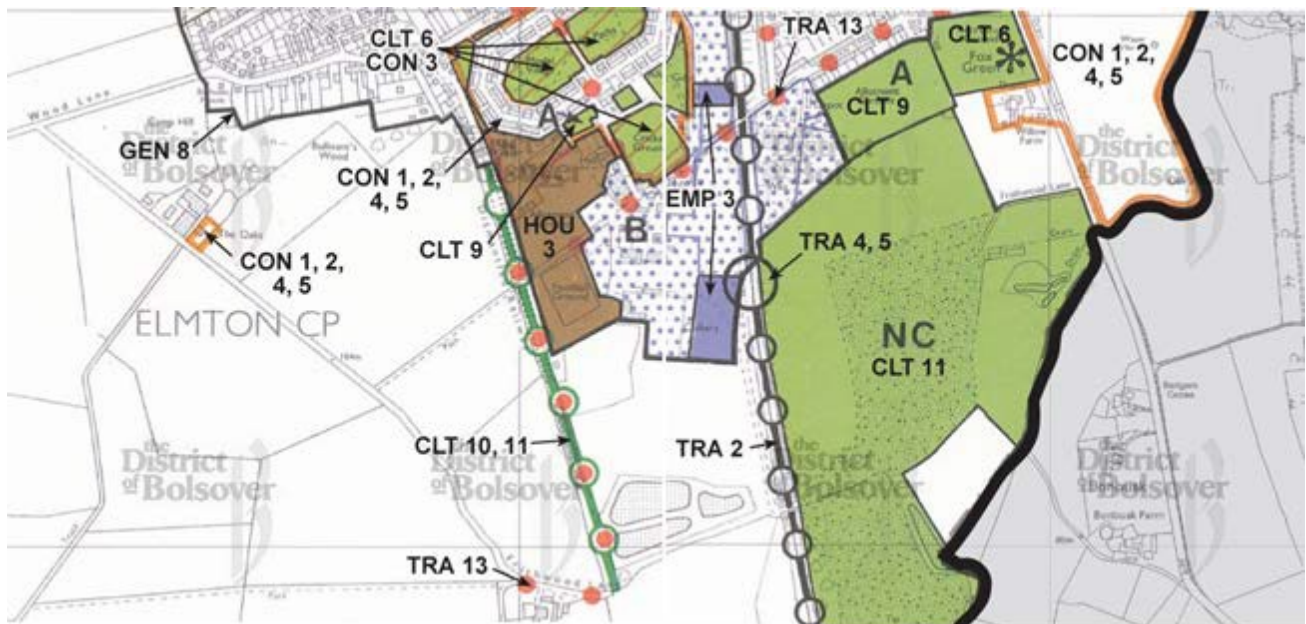
Advertised in the press, 2x site notices posted. 117 properties consulted. No representations received.

POLICY

Bolsover District Local Plan Feb 2000 (BDLP)

The site is predominantly within the settlement framework for Creswell, with the most southern part of the site, about one quarter of the site by area, being located beyond the settlement framework and thus located in the Countryside. The area of the site within the settlement framework is covered by several allocations within the Local Plan, these being:

- 1) A portion covers the remaining part of one of the housing allocations (HOU3);
- 2) two local employment site allocations (EMP3);
- 3) a large portion of the site is on an employment site / buildings commitment (EMP5);
- 4) part of an open space and recreation allocation (CLT6).



The key saved policies in the adopted Local Plan that have relevance to this application are:

- GEN 1 – Minimum Requirements for Development
- GEN 2 – Impact of Development on the Environment
- GEN 4 – Development on Contaminated Land
- GEN 5 – Land Drainage
- GEN 6 – Sewerage and Sewage Disposal
- GEN 8 – Settlement Frameworks
- GEN 17 – Public Art
- HOU 2 – Location of Housing Sites
- HOU 3 – Housing Allocations
- HOU 5 – Outdoor Recreation and Play Space Provision for New Housing Development

- HOU 6 – Affordable Housing
- EMP 3 – Local Employment Sites
- EMP 5 – Protection of Sites and Buildings in Employment Uses
- CLT 2 – New Community Facilities
- CLT 4 – Indoor Sport and Recreation Facilities
- CLT 6 – Existing Outdoor Playing Space and Amenity Open Space
- TRA 1 – Location of New Development
- TRA 12 – Protection of Existing Paths and Bridleways
- TRA 15 – Design of Roads and Paths to Serve New development
- ENV 3 – Development in the Countryside

Local Plan for Bolsover District - Publication Version May 2018

The majority of the site is unallocated in the emerging local plan and so countryside protection policies apply.

National Planning Policy Framework

8. Achieving sustainable development means that the planning system has three overarching objectives: economic, social and environmental which are interdependent and need to be pursued in mutually supportive ways (so that opportunities can be taken to secure net gains across each of the different objectives).

12. The presumption in favour of sustainable development does not change the statutory status of the development plan as the starting point for decision making. Where a planning application conflicts with an up-to-date development plan (including any neighbourhood plans that form part of the development plan), permission should not usually be granted. Local planning authorities may take decisions that depart from an up-to-date development plan, but only if material considerations in a particular case indicate that the plan should not be followed.

38. Local planning authorities should approach decisions on proposed development in a positive and creative way. They should use the full range of planning tools available, including brownfield registers and permission in principle, and work proactively with applicants to secure developments that will improve the economic, social and environmental conditions of the area. Decision-makers at every level should seek to approve applications for sustainable development where possible.

47. Planning law requires that applications for planning permission be determined in accordance with the development plan, unless material considerations indicate otherwise.

57. Where up-to-date policies have set out the contributions expected from development, planning applications that comply with them should be assumed to be viable. It is up to the applicant to demonstrate whether particular circumstances justify the need for a viability assessment at the application stage. The weight to be given to a viability assessment is a matter for the decision maker, having regard to all the circumstances in the case, including whether the plan and the viability evidence underpinning it is up to date, and any change in site circumstances since the plan was brought into force. All viability assessments, including any undertaken at the plan-making stage, should reflect the recommended approach in

national planning guidance, including standardised inputs, and should be made publicly available.

Delivering a sufficient supply of homes

61. Within this context, the size, type and tenure of housing needed for different groups in the community should be assessed and reflected in planning policies (including, but not limited to, those who require affordable housing, families with children, older people, students, people with disabilities, service families, travellers, people who rent their homes and people wishing to commission or build their own homes).

62. Where a need for affordable housing is identified, planning policies should specify the type of affordable housing required (Applying the definition in Annex 2 to this Framework) and expect it to be met on-site unless:

a) off-site provision or an appropriate financial contribution in lieu can be robustly justified; and b) the agreed approach contributes to the objective of creating mixed and balanced communities.

64. Where major development involving the provision of housing is proposed, planning policies and decisions should expect at least 10% of the homes to be available for affordable home ownership as part of the overall affordable housing contribution from the site, unless this would exceed the level of affordable housing required in the area, or significantly prejudice the ability to meet the identified affordable housing needs of specific groups.

80. Planning policies and decisions should help create the conditions in which businesses can invest, expand and adapt. Significant weight should be placed on the need to support economic growth and productivity, taking into account both local business needs and wider opportunities for development.

94. It is important that a sufficient choice of school places is available to meet the needs of existing and new communities. Local planning authorities should take a proactive, positive and collaborative approach to meeting this requirement, and to development that will widen choice in education. They should: a) give great weight to the need to create, expand or alter schools through the preparation of plans and decisions on applications;

95. Planning policies and decisions should promote public safety and take into account wider security and defence requirements by: anticipating and addressing possible malicious threats and natural hazards...

96. Access to a network of high quality open spaces and opportunities for sport and physical activity is important for the health and well-being of communities. Planning policies should be based on robust and up-to-date assessments of the need for open space, sport and recreation facilities (including quantitative or qualitative deficits or surpluses) and opportunities for new provision.

98. Planning policies and decisions should protect and enhance public rights of way and access, including taking opportunities to provide better facilities for users, for example by adding links to existing rights of way networks including National Trails.

103 Significant development should be focused on locations which are or can be made sustainable.

109. Development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.

117. Planning policies and decisions should promote an effective use of land in meeting the need for homes and other uses, while safeguarding and improving the environment and ensuring safe and healthy living conditions. Strategic policies should set out a clear strategy for accommodating objectively assessed needs, in a way that makes as much use as possible of previously-developed or 'brownfield' land...

118. Planning policies and decisions should:

- a) encourage multiple benefits from both urban and rural land, including through mixed use schemes and taking opportunities to achieve net environmental gains – such as developments that would enable new habitat creation or improve public access to the countryside;
- b) recognise that some undeveloped land can perform many functions, such as for wildlife, recreation, flood risk mitigation, cooling/shading, carbon storage or food production;
- c) **give substantial weight to the value of using suitable brownfield land within settlements for homes and other identified needs, and support appropriate opportunities to remediate despoiled, degraded, derelict, contaminated or unstable land;..**

178. Planning policies and decisions should ensure that:

- a) a site is suitable for its proposed use taking account of ground conditions and any risks arising from land instability and contamination. This includes risks arising from natural hazards or former activities such as mining, and any proposals for mitigation including land remediation (as well as potential impacts on the natural environment arising from that remediation)...

179. Where a site is affected by contamination or land stability issues, responsibility for securing a safe development rests with the developer and/or landowner.

193. When considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation (and the more important the asset, the greater the weight should be). This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance.

Other

Affordable Housing SPD

The Historic Environment Supplementary Planning Document (2006)

Creswell Village and Model Village Conservation Area Appraisal and Management Plan (2006).

Planning (Listed Buildings and Conservation Areas) Act 1990 – section 72

A statutory duty that requires that “special attention shall be paid to the desirability of preserving or enhancing the character or appearance of a conservation area.”

ASSESSMENT

The Principle of Development

Although the site is unallocated in the publication version of local plan (May 2018) and so the development proposed does not accord with that plan, it can only be given limited weight at this stage. The saved policies of the adopted Bolsover District Local Plan 2000 still carry more weight at present.

There are various saved policies and allocations which apply to the site as detailed above in this report (see policy section with extract of the proposals map). These include employment, residential, and recreation ground allocations. All of these areas are within the settlement framework except for the southern end of the application site (about a fifth by area) which falls outside the settlement framework.

Of the allocations the proposal fully complies with the residential allocation and recreation ground allocation. Policy EMP5 aims to keep land in employment use unless one of the exception criteria is satisfied. These include that the site is no longer capable of providing an acceptable standard of accommodation for employment use, or that the benefits to the community would be greater than the potential benefits from its employment use. These criteria are deemed to be satisfied because the road connections to this site are restricted in width and by a low bridge (too low for large lorries) such as to make the site unsuitable for large scale industrial and employment related development. The smaller scale employment development now proposed in this application adjacent to the existing business park is policy compliant and considered to be appropriate in scale.

Policy EMP5 being satisfied, that leaves the remaining employment land being treated as land within the settlement framework where residential development is acceptable in principle.

Although the southern section of the site falls beyond the settlement framework where countryside protection policies apply, in this case what we are left with is a strip of brownfield land between this site and the former colliery lagoon area. It makes little sense to preserve it as countryside for its own sake. Notwithstanding that part of the site is currently outside the defined Creswell settlement framework, policy ENV3 in the adopted local plan supports development in the countryside where it will ‘benefit the local community through the reclamation or re-use of land.’ So logically it is considered that this part of the site ought to form part of the current development proposal.

The NPPF adopts a clear pro-growth principle alongside the presumption in favour of sustainable development in the interests of delivering growth that the county needs. The proposal aims to positively work within this context in the interest of delivering sustainable development in that it helps address local housing and employment land requirements whilst providing substantial site regeneration benefits.

Development that is sustainable should be approved without delay. The NPPF reinforces that housing applications should be considered in the context of this presumption, unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits.

Importantly the current principle for development allows for the regeneration of a long-standing brownfield site. After the closure the colliery on the site in 1991, and subsequent remediation works, the land retains a visually unattractive, industrial character.

The re-use of brownfield land is actively encouraged through national planning policy and guidance. It is a core principle of the NPPF to assure that previously developed land is effectively re-used through the planning system. This is in the interests of pursuing a sequentially preferable approach to development that minimises the impact of growth on the wider countryside and assures brownfield sites are regenerated.

The NPPF advises that planning authorities should give substantial weight to the value of using suitable brownfield land within settlements for homes and other identified needs, and support appropriate opportunities to remediate despoiled, degraded, derelict, contaminated or unstable land.

Therefore it is considered that the proposal is acceptable in principle complying with the saved policies of the local plan and could be approved providing the scheme is acceptable in planning terms with regard to all other relevant planning considerations.

Review of Specific Matters and Consultations

Highways, Access and Colliery Road

A Transport Assessment ('TA') and Travel Plan ('TP') have been submitted in support of the planning application. The TA concludes that there are no road safety issues associated with the local highway network and that additional trips generated by the development are not considered to have a detrimental impact on the operation of the local highway network. Also the TA concludes that the site:

- is well located to encourage walking journeys to local facilities, encouraged by existing and enhanced pedestrian infrastructure;
- allows for sustainable cycle access to local facilities, nearby villages and towns;
- enjoys good proximity to regular bus services and Creswell railway station, which in turn provides excellent links through to Nottingham, Worksop and Mansfield; and
- is well located in relation to education, health care, leisure and retail services.

The supporting TP further outlines the sustainable travel opportunities available in the vicinity of the proposed development, alongside the implementation of measures and initiatives to further promote sustainable transport options upon occupation of the scheme.

On basis of the assessments undertaken, no junction improvements connecting the site (including at Colliery Road and Elmtun Road) are considered necessary in order to mitigate additional trips generated from the proposed development.

Highway capacity assessments conclude that the proposals would have a negligible impact on the local highway network in relation to associated development traffic; the residual cumulative impacts would not be 'severe' when considered against such principles of the NPPF.

The Highway Authority has confirmed that the access proposals shown in the amended General Arrangements drawing rev A04 is suitable for adoption purposes. They also confirm that the Applicant has evidenced that they have the right to deliver the proposed road link to the Gleeson development so as to provide residents of that development with a road link to Elmton Road without having to pass through the Model Village. This is considered to be a wider public benefit of the scheme which weighs in favour of the proposal in the planning balance.

It should be noted however that there will need to be a temporary period during re-construction of Colliery Road and for cash flow reasons when traffic to this site and the Gleeson's site will have to use the Model Village for access. The link to Gleeson's site is to be delivered prior to commencement, the Colliery Road upgrade is to be undertaken in accordance with a phasing plan, completed and reopened prior to 80 dwellings being completed.

The Highway Authority have no objections subject to conditions (appropriate conditions listed below) and it is considered that there are no highway safety reasons or highway capacity reasons to refuse planning permission.

Archaeology

An Archaeological Desk Based Assessment prepared by Arc Heritage has been submitted with the application. Derbyshire County Council's Archaeologist has concluded it provides a thorough assessment of the development of the site through time, along with an analysis of the available information on past land use and exploitation.

It is considered that there is a high archaeological potential for prehistoric remains in the south-western sector of the site on the basis of finds of extensive flint scatters on land immediately to the west. It is suggested also that medieval and later agricultural evidence may survive in both the areas of high potential. It also confirms that remains of industrial archaeological interest may also occur in these areas.

Field evaluation will be needed to assess this potential, however it would be appropriate for this to be undertaken following a grant of outline planning but prior to any reserved matters decisions. On the basis of the results of field evaluation more extensive archaeological recording (excavation) may be required in order to record these remains – as required under paragraph 141 of the NPPF. A planning condition is considered to be necessary to require this work to be undertaken.

Landscape and Visual Impact

A Landscape and Visual Impact Appraisal (LVIA), has been submitted in support of the application. The LVIA concludes that no adverse impacts are predicted on the immediate or surrounding landscape character as a result of the proposed development. The appraisal

considers a range of visual perspectives as a part of this, defining the site as a 'transition area' between Creswell and the existing lagoon area to the south.

The appraisal confirms that the site benefits from relative visual enclosure. This is because of the site's related topography, prominent built form of Creswell to the north and existing mature vegetation surrounding the site. As such longer distance views of the site are often broken and only partial, with the proposed development having a limited visual impact.

The proposal is not considered to be of a scale to have any impact on the Southern Magnesian Limestone national character area.

Any loss of grassland or plantation as a result of the development can be mitigated through suitable planting and habitat re-creation within the scheme.

Limited impact is expected on landscape or nature designations in the locality as a result of the development proposal.

Heritage

Below ground heritage interest is dealt with above in archaeology.

Potential visual impacts on the Model Village Conservation area are recognised. However, this can be addressed through the sympathetic design, chosen materials and vernacular adopted as a part of the development design at reserved matters stage. Therefore it is considered that the character of the conservation area will be preserved.

The southern and western parts of the development will not be visible from Creswell Crags. However despite the partial enclosure of the site there is some intervisibility between the central and eastern area of the application site with Creswell Crags (Scheduled Monument, Conservation Area and is also a candidate World Heritage Site) about 1km to the north east. However intervisibility is in the context of views over and across Morven Street Industrial estate. As such any views that can be had from the Crags already include development in the same arc of view and whilst the development would increase the amount of development that can be seen, at 1km distance the any setting impact is considered likely to be very slight at worst and not significant in the balance.

The Conservation Officer has not objected to the proposal.

Ecology, Trees and Biodiversity

A Preliminary Ecological Appraisal has been submitted. It shows that the habitat of the site falls into a 'mosaic' of open habitats including scrub land, limited woodland, grassland and bare ground within a previously developed context. The trees on site are mainly young birch and lower quality with no higher grade trees of particular amenity value. No overall barriers to development are identified in the appraisal.

The scrub and woodland habitat across the site is predominantly of low ecological interest. Some boundary vegetation and open habitats were considered to be of limited ecological value. The loss of, or adverse impact on, any areas of on-site (or relevant adjacent) ecological

value can be mitigated for and offset during the subsequent scheme design and development process.

Given the relative isolation of the site and distance from both the Creswell Crags or Holinhill and Markland Grips SSSI land, no adverse ecological impact is anticipated during the development of the site on these protected areas.

No immediate record of badgers, badger setts, bat roosts, amphibians, reptiles or invasive vegetation were noted on-site as a part of the preliminary investigation. Limited records of non-protected birds and invertebrates were noted. A low potential for bat roosting was observed.

The Wildlife Trust advised that additional further surveys for protected species are needed and underlined the particular need for a bat survey of the former Methodist Chapel prior to determination of the application. A further bat survey has been. The Wildlife Trust advise that the building has been assessed as having low potential to support roosting bats. No roosting bats were recorded during the survey hence bats are not a constraint to demolition (providing this is undertaken within 2 years of the survey). Demolition should occur outside the bird nesting season i.e. avoiding March to August, or be preceded by a nesting bird check.

Whilst it would have been preferable for additional detailed surveys to have been provided at this stage to be certain that adequate mitigation will be achievable, the Applicant has not agreed to this. The Applicant's ecologist believes that the scope of the study undertaken has been sufficient to identify species and habitats that are likely to be affected by the proposed development. They argue that further detailed survey work at this stage would be abortive given the time delay to development occurring and so would be an unnecessary financial burden. They argue that pre-commencement conditions would be adequate requiring the submission of a Construction and Environmental Management Plan and a Biodiversity Enhancement and Management Plan.

Given that this brownfield site is predominantly of low ecological interest and much of that relates to boundary vegetation which can more easily be incorporated into landscaped green spaces and so retained, the Officer view is that, on this occasion the requirement for the remaining detailed ecological survey work can be conditioned. However not pre-commencement as suggested. The additional survey work will be needed to accompany application for approval of reserved matters so it can be demonstrated that the layout and landscaping of the development has been designed to avoid impacts on areas of higher biodiversity value and otherwise adequately mitigate and compensate to ensure that overall there is no net loss of biodiversity. Given the extent of mitigation and green space required for biodiversity is not known at present it is possible that the achievement of an acceptable solution will affect the amount of development and the number of dwellings that can be fitted onto the site.

The regeneration of the site presents an opportunity for habit and biodiversity enhancements working in tandem with the landscape proposals. The provision of integrated green space and enhancement of on-site vegetation could support existing and new habitats and improve the ecological value of the site.

Flood Risk and Drainage

A Flood Risk Assessment and Drainage Strategy has been produced in support of the planning application. The assessment of flood risk has surveyed the site and the wider context, in response to the request of the local planning authority at pre-application stage. The assessment concludes that the site is in Flood Zone1 and therefore is at a very low risk of flooding from all sources. Developing the site would not result in an increased flood risk to neighbouring or surrounding areas.

Surface water drainage can be accommodated on-site through a combination of integrated SuDS (Sustainable Drainage Systems) and attenuation to allow for a controlled rate of discharge into the adjacent watercourse and public sewer network. The addendum (April 2018) clarified ability to discharge under existing culvert beneath the Robin Hood line into the lagoons east of the site (in the ownership of The Welbeck Estate) at a controlled rate - including any necessary on-site attenuation to achieve the controlled rate which was agreed with the DCC Flood Risk Team. The LLFA therefore has no objections subject to conditions requiring:-

1. A detailed design and associated management and maintenance plan of the surface water drainage for the site to have been approved prior to commencement.
2. Surface water destination to accord with the hierarchy:
 - I. into the ground (infiltration);
 - II. to a surface water body;
 - III. to a surface water sewer, highway drain, or another drainage system;
 - IV. to a combined sewer.
3. Details of how surface water run-off from the site will be avoided during the construction phase.

However, given that the provision of SuDS will affect the layout of the development (because ponds and swales take up land area), it is considered that it will be necessary to require details for conditions 1 and 2 with application for approval of reserved matters.

Coal Mining Risk

The application site falls partly within the defined Development High Risk Area. There are two recorded deep mine shafts present within the application site.

In response to concerns previously raised by the Coal Authority, the Applicant has now submitted a Coal Mining Review Report (Jul 2018, prepared by WYG). Based on a review of appropriate sources of information, the report indicates that both shafts have been previously treated and capped.

The report authors are satisfied that the catastrophic collapse/failure of the shaft cap is unlikely and, as a result, the risk of collapse is considered to be very low.

The Coal Authority notes and welcomes the recommendation contained within the report for the incorporation of development standoffs (radii) of 25m around each shaft position. The Coal Authority does not object but a condition is recommended to ensure that any reserved matters submission proposing details of layout incorporates development standoff of 25m around each mine shaft position.

Furthermore given the risks associated with the former mine shafts and the appearance of the concrete capped shaft (see image below) the development and the associated landscaping proposals will need to be carefully designed to exclude these areas from the public and from public view.



Ground Contamination

Given the previous use of the site as a colliery the land will need to be remediated before it can be safely reused for residential purposes. This will need to be undertaken carefully to ensure that any pollutants are not mobilised into the ground waters and aquifer.

The Environment Agency does not object subject to conditions requiring a scheme of further investigations for contamination being undertaken and remediation proposals to be approved and implemented. The EHO has requested a similar condition.

The Agency also seeks a restriction on piled foundations unless it has been

demonstrated that there is no resultant unacceptable risk to groundwater.

Noise

A Noise Assessment has been submitted to establish both daytime and night-time noise levels that may impact upon the proposed development.

The report identifies the Craggs Industrial Estate, to the north east of the site, as presenting the most significant risk area to noise related amenity in relevant areas of the proposal. Also intermittent rail traffic presents a low risk of adverse noise impact.

A range of mitigation options are proposed to most effectively address noise impact. These include the installation of a 3m high acoustic sound barrier to the east of the site in the form of a fence or bund, careful consideration of residential layout and appropriate residential positioning and glazing.

For these sources of noise it is considered that the extent of any acoustic barrier and its design can be determined at Reserved Matters stage and the other mitigation measures can be accommodated within the site and should assure recommended internal and external sound level criteria for new dwellings.

There is also the potential for a further source of noise that could affect amenity on site. This is works associated with the restoration of the former Colliery Lagoons area to the south of the site. However since the Applicant also owns that adjacent site, it is considered that it would not be unreasonable to impose a planning condition to mitigate noise from that site as well; in the event that those works have not been completed by the time dwellings on the application site are occupied. This may need to include a temporary noise fence along the northern boundary of the lagoon site.

The Environmental Health Officer has confirmed the need for a condition to mitigate noise.

Utilities

The supporting Utilities Report concludes that foul water, clean water, gas, electricity and telecommunications (including broadband) can all be accommodated on site in order to service the proposed development. This is subject to clean water and gas reinforcement works and the provision of an on-site electric sub-station. Sewer modelling works may also be required. Appropriate costs, evidenced in the Utilities Report, have been considered and factored into the development proposals.

Social Infrastructure (S106)

The Applicant has submitted a viability appraisal which shows the economic viability of the scheme to be low such that scheme cannot afford to pay for all policy requirements and requests resulting from other material considerations that indicate that contributions for social infrastructure might be necessary.

The Council's Senior Valuer has reviewed the appraisal and has advised that the various development costs and sales values quoted appear to be reasonable. Although sales income

will depend on the quality of the houses.

The obligations agreed, amounting to approximately £1.6 million are set out above in the proposals section of this report. The amounts would be payable on a per dwelling pro-rata basis. The obligations listed above are as requested by consultees and should be considered policy compliant with the following exceptions:-

Children play

The area agreed is policy compliant however the amount agreed for equipment at £100,000 is about half that normally required for a development of this size. However this amount is still able to provide a reasonably well equipped facility and the Applicant has expressed a preference for providing a higher offer towards the planning community leisure facility (for adult leisure) as an alternative. The amount agreed for that £201,062 is considered to be a good outcome. The Leisure Officer does not object.

Sport England also has no objections subject to conditions and S106 to secure the Leisure offer in the application. This includes the land to be added to the southern corner of the cricket pitch and otherwise on the recreation ground to be conditioned to leisure use.

Affordable Housing

Initially no affordable housing was offered as part of this application for viability reasons. However following the Housing Strategy request for 10% affordable housing on site and further to negotiations the Applicant has eventually agreed to 5% affordable rent being provided on site. This equates to 15 affordable rent units, and on the basis that 300 are provided. In the event that a housing association is not willing to take on the units provided then a commuted sum of £600,000 has been agreed as a fall-back position for the Council to acquire affordable housing.

The Council's policy requirement for affordable housing is set out in HOU6 of the Local Plan and the associated supplementary planning document on affordable housing requires 10%. However the SPD will allow a reduction in the level of provision down to 5% as a minimum where viability does not allow more. Given the viability case made it is considered that the proposal should now be seen as policy compliant.

The Applicant also draws attention to the 11 affordable rent units which have recently been provided in the former Creswell Miners Welfare building on the basis that this scheme will have helped to reduce the demand for affordable housing in the locality.

Public Art

Policy GEN17 of the local plan states that the Council will seek to negotiate a contribution for public art at a level of 1% of development costs. On a scheme this size that equates to an estimated £500,000. This request has been put to the Applicant but not agreed. A much lower request of £30,000 has since put to the Applicant given the scheme viability but this has also been rejected, although the Applicant does not rule out the provision of some sort of mining related art work being provided given the former use of the site. On this basis a condition is an option to require a scheme of art work to be agreed. However it should be noted that a condition cannot secure art work to the values referred to above.

The Council's Public Art Officer is very disappointed with the position. Unfortunately it is extremely difficult to defend a refusal of planning permission on the basis of a low provision or no provision for public art. This is because it is not strictly "necessary" on this occasion to make the development acceptable in planning terms.

Railway Station

Network Rail have requested funding to expand the station car park and to upgrade footpaths and lighting on route to it. However this has not been agreed and it is considered that Network Rail have not been able to evidence the need for it. However the reserved matters application will deal with footpath connections and surfacing up to the railway bridge which will at least upgrade the stretch of public footpath within the application site including illumination where necessary. The footpath to the east side of the railway bridge is already lit.

Retail

The illustrative plans show the potential for a convenience store and provided the floor area of this retail unit is limited by condition, there are no overriding objections to this aspect of the proposals. A small convenience store can be justified in this location as it would provide a useful facility for the future occupants of the housing schemes to the south of the model village without compromising the vitality or viability of the existing shops on the high street,

The Planning Balance

In conclusion, having reviewed the technical considerations, and infrastructure requirements of the proposal, none are considered to weigh so heavily as to indicate that permission ought not to be granted. Conditions can be applied where needed to deal with the technical issues raised. Furthermore the proposal is considered to be policy compliant in principle and granting consent for this application will achieve the following benefits:

- Regeneration of brownfield land known to require remediation.
- Additional supply of housing.
- Long term economic benefits from the employment aspect.
- Shorter term local economic benefits during construction.
- Helping to deliver a new community leisure facility and GP practice.
- Upgrading of Colliery Road and links to Gleeson's site to help reduce traffic through the Model Village (social and conservation area benefits).
- Potential retail offer from convenience store on site.

It is considered by officers that the regeneration of brownfield land, and the economic benefits and social benefits that might be achieved by granting permission for this application also weigh heavily in favour of approval. Accordingly, the current application is recommended for approval subject to conditions.

Other Matters

Listed Building: No significant issues

Conservation Area: see above

Crime and Disorder: No significant issues
Equalities: No significant issues
Access for Disabled: No significant issues
Trees (Preservation and Planting): See above
SSSI Impacts: See above
Biodiversity: See above
Human Rights: No significant issues

RECOMMENDATION

The current application be approved pending completion of a S106 obligation regarding the developer contributions and obligations as set out in the proposals section of this report in respect of:

- **affordable housing,**
- **education,**
- **play space, recreation facilities and leisure provision,**
- **Travel Plan and**
- **GP practice**

And subject to conditions including the following given in precis form below to be formulated in full by the Head of Planning/Planning Manager in liaison with chair and vice chair of the Planning Committee:-

Conditions

Approval of reserved matters before commencement.

Application for reserved matters to be made within 3 years and commencement triggers.

Permission relates to amended drawings:-

- Site Location redline boundary ref: 14.057/03f
- Colliery Road 'General Arrangement' drawing ref: WIE 13853 – A04
- Road Link to Gleeson's site 06 024 A01
- Illustrative Masterplan ref: 14.057/02U.

Application for approval of reserved matters to be accompanied by the results of an archaeological field evaluation.

Reserved Matters application to be accompanied by (a) Construction and Environmental Management Plan and (b) Biodiversity Enhancement and Management Plan.

Reserved Matters application to be accompanied by a detailed design and associated management and maintenance plan of the surface water drainage for the site to have been approved prior to commencement.

Surface water destination to accord with the hierarchy:

- I. into the ground (infiltration);
- II. to a surface water body;

- III. to a surface water sewer, highway drain, or another drainage system;
- IV. to a combined sewer.

Application for approval of reserved matters shall be designed to exclude any development or land uses to which the public have access within 25m of each of the deep mine shafts on site. In addition the development shall be designed to screen public views of the mine shaft caps.

Application for approval of reserved matters shall be designed to include any noise mitigation required to mitigate noise to achieve recommended internal and external sound level criteria for new dwellings. To address noise sources from industrial estates, railway line, and lagoon restoration scheme.

Prior to commencement, details of how surface water run-off from the site will be avoided/dealt with during the construction phase.

Ground contamination investigation and remediation.

No piled foundations unless demonstrated safe to ground water.

The link to Gleeson's site is to be delivered prior to commencement, the Colliery Road upgrade is to be undertaken in accordance with a phasing plan and completed at least to base course level and reopened prior to 80 dwellings being completed.

Land to the southern corner of the cricket pitch and otherwise within the recreation ground to be conditioned to leisure use.

Scheme of public art provision on site to be agreed.

Scale/floor area of retail uses to be limited to 500m²

Appropriate Highway Authority Conditions:-

Provision of highways to base course to link to public highway prior to occupation.

The gradient of the new road shall not exceed 1:30 for the first 10m into the site from the existing highway boundary and 1:20 thereafter.

Scheme for maintenance of the streets until S38 adoption agreement in place.

Provision of off-street parking space.

Bin stores shall be provided within private land at the entrance to shared private accesses.

Revised Travel plan.

(Informative Notes to include

Any subsequent reserved matters application will need to include design of the internal layout of the site in accordance with the guidance contained in the Manual for Streets document and the 6Cs Design Guide.

Reserved matters application should be accompanied by a swept path analysis to demonstrate that service and emergency vehicles can successfully enter and manoeuvre within the site.)

PARISH

Pinxton

APPLICATION Residential development of up to 65 dwellings with public open space and a cycle/pedestrian link to Storth Lane including access
LOCATION Land to The Rear Of 17 To 95 Alfreton Road, Pinxton
APPLICANT Hardwick Nominees Ltd
APPLICATION NO. 17/00396/OUT **FILE NO.** PP-06269155
CASE OFFICER Mr Peter Sawdon
DATE RECEIVED 3rd August 2017

DELEGATED APPLICATION REFERRED TO COMMITTEE BY: Councillor Mary Dooley
REASON: Concerns regarding highway safety and environmental impacts from additional traffic on already congested roads that carry large numbers of lorries.

BACKGROUND

Planning Committee resolved to grant planning permission for this development at its meeting on the 21st November 2018.

The resolution was that the application be deferred and delegated to Planning Manager in consultation with Chairman and Vice-Chairman of Planning Committee subject to:

- A. Completion of S106 Planning Obligation to cover the heads of terms listed below;
 - ☐ 10% affordable housing;
 - ☐ Education (£79,793.07 for 7 junior places at Kirkstead Junior School);
 - ☐ Public art £10,000; and
 - ☐ Off-site leisure (£51,025 [65 dwellings x £785 per dwelling]).
- B. Conditions deemed necessary (as listed in the draft minutes of that meeting at pages 5 – 11 of the main agenda).

The legal agreement is not yet complete and the decision on this matter is not yet issued.

ADDITIONAL CONSULTEE RESPONSE

Since the resolution was made a late representation has been received from the NHS Hardwick Clinical Commissioning Group (CCG).

This letter states that the GP practice at Pinxton does not have any spare capacity to manage increased patient demand at their current location. Space restrictions mean that the practice cannot provide the number of appointments to meet current demand. The contribution is sought towards the development of an extension to the existing GP surgery to provide additional patient space to meet the demands of the patients that will arise from this development. It is stated that the amount requested is proportionate to the scale of the housing development proposed.

The CCG has advised that the indicative size of the premises requirements has been calculated based on current typical sizes of new surgery projects factoring in a range of list

sizes recognising economies of scale in larger practices. The cost per sq m has been identified by a quantity surveyor experienced in health care projects.

This is the cost of providing additional accommodation for 163 patients (based on 2.5 patients per dwelling):

(B) Additional patients to be accommodated	x	(D) Standard area m ² /person Based on total list size of approx. 0.08 m ²	x	(E) Cost of extension including fees £/m ² £ 1,902	=	Total cost (B) x (D) x (E) £24,802
163						

CONSIDERATIONS

The applicant has agreed to the requested contribution.

The information provided by the CCG provides sufficient information to demonstrate that the contribution is needed as a result of the development, given the need to provide expanded facilities to deal with the increase in patients that will result from the proposal.

This also shows that the sum directly relates to that impact. However, given that the sum is based on 65 dwellings, as this is an outline planning application the final number of dwellings may change and as such the sum should be expressed as a per dwelling contribution (£381.57 per dwelling).

In view of the above it is considered that the additional contribution is necessary, directly related, and fairly and reasonably related in scale and kind to the development in line with the requirements of the National Planning Policy Framework (NPPF).

RECOMMENDATION:

Defer decision and delegate approval to Planning Manager in consultation with Chairman and Vice-Chairman of Planning Committee subject to:

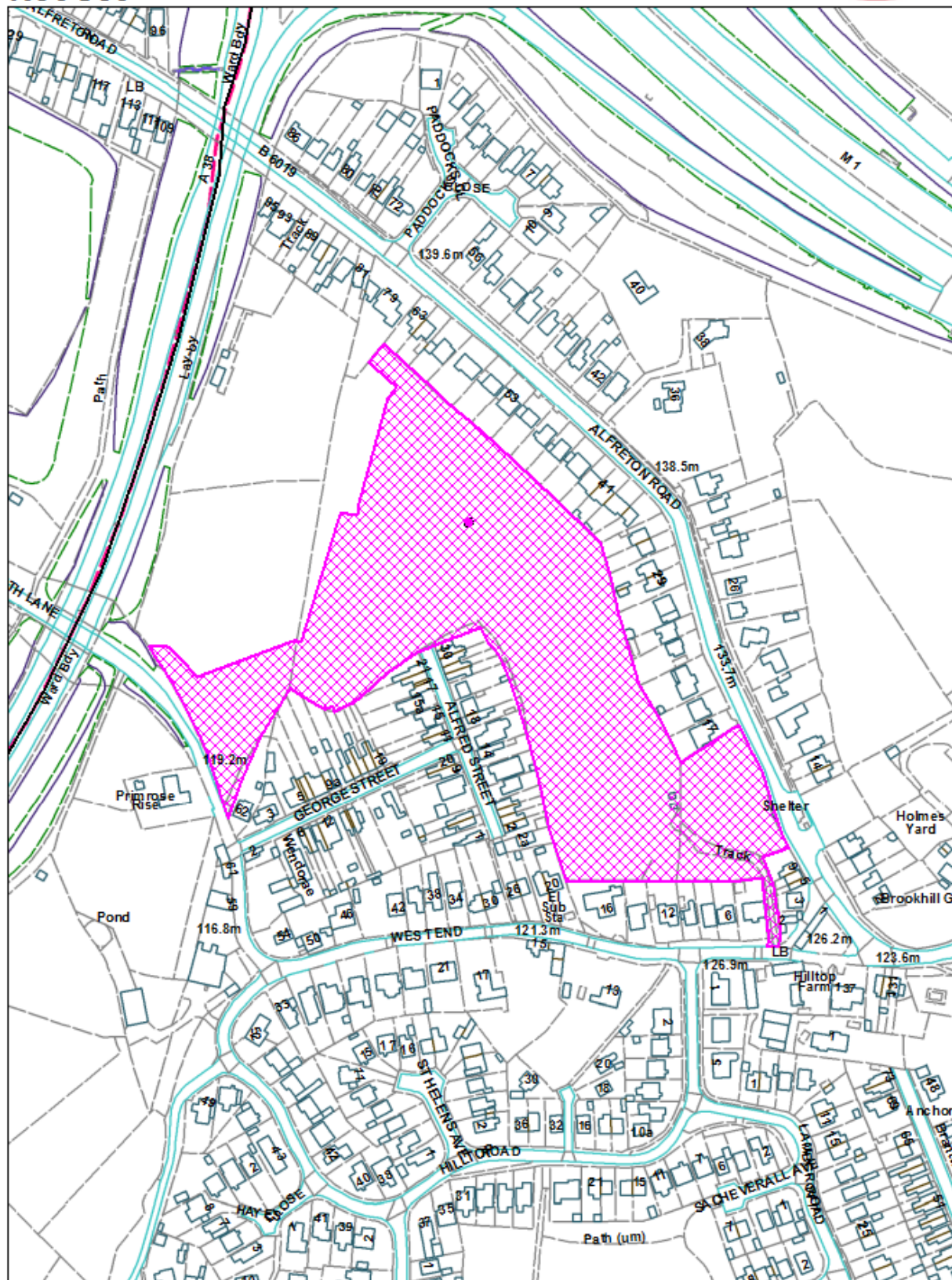
A. Completion of S106 Planning Obligation to cover the amended heads of terms listed below;

B. Conditions deemed necessary including those set out in draft form in the draft minutes of the Planning Committee meeting at pages 5 – 11 of the main agenda for this meeting, to be formulated in full by the Planning Manager

A. S106 Heads of Terms:

- 10% affordable housing;
- Public art £10,000; and
- Off-site leisure £51,025 [65 dwellings x £785 per dwelling].
- Health contributions of £381.57 per dwelling.

Not Set



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 14 December 2018 commencing at 10:00hours.

PRESENT:-

Members: Councillors T Alexander, P. Cooper, P. Cooper, D McGregor, T Munro (Chair), P Smith, R Turner (Vice Chair), D Watson and J Wilson.

Officer: Steve Phillipson

APOLOGIES

Apologies were received from Councillors PM Bowmer, J Clifton, S Peake, K Reid, and B Watson.

SITES VISITED

1) McDonalds, Tally's End, Barlborough (18/00493/VAR)

2) Cedar Farm, Tibshelf (18/00372/FUL)

3) Land south of Creswell Model Village (18/00087/OUT)

The meeting concluded at 11:10 hours

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

Agenda item No: 6 (i): Cedar Farm, Tibshelf (18/00372/FUL).

Information from Agent

In response to three specific questions arising in representations on this application, the agent has supplied the following information

- The sheet showing Mr Holling as living at Ian & Suzanne Rowe's address is a typo by the agent, Fisher German. Neither of us had spotted it – many apologies. I attach the front page of the tenancy agreement as confirmation of the landlord's address [Twinyard's Farm].

- The mobile home (or log cabin) is shown as costing £35,000 in the Planning Report, at paragraph 31. Installation costs are shown to cost an extra £10,000, making a total of £45,000.
- Mr Rowe currently has 24 suckler cows (it was 21 in June) and 12 in-calf heifers (11 in June). In total there are exactly 50 female cattle on the farm as at today, including all youngstock. They are all either at Cedar Farm, or in temporary accommodation at GW Hollings' farm at Twinyards Farm until the building work is complete at Cedar Farm, which should be by 23rd December.

Additional Letters of Representation

Since completion of the report, two additional letters of representation have been received from two local residents: one primarily re-affirming the author's reported objections to the scheme; the second restates concerns about the previous failed applications, the long term viability of the business and whether the business can be classed as a new business - albeit it is said in the same letter that the applicant *is now embarking on a new and very specialised business*.

The second letter concludes by noting: *the boundary hedge which is purportedly protecting our privacy has been intentionally left too high by the applicant and is completely out of control and clearly this was in anticipation of the assertion that any permission would not impact on us this is a very long term project, not at all novel in nature*.

Pre-action Letter

The Council has also received a letter which has been described as a formal pre-action letter by the author threatening judicial review of any approval of this application. This letter does not raise any substantive new grounds for a legal challenge not already discussed in the original officer report and the Councillor's solicitor having read this letter has confirmed that in their view; the letter does not contain any clear grounds for judicial review.

Notably, one of the key points made in the pre-action letter is that the applicant is not running a new business and therefore cannot benefit from the policy provisions of HOU9. The actual wording of HOU9 is:

OUTSIDE SETTLEMENT FRAMEWORKS NEW DWELLINGS WILL BE PERMITTED ONLY WHERE ESSENTIAL TO THE OPERATION OF AGRICULTURE AND/OR FORESTRY. THIS MUST BE JUSTIFIED BY A FUNCTIONAL AND FINANCIAL TEST. WHERE THE DWELLING IS REQUIRED TO SUPPORT A NEW FARMING ACTIVITY ON EITHER A NEW OR ESTABLISHED AGRICULTURAL UNIT PERMISSION WILL ONLY BE GRANTED FOR A TEMPORARY DWELLING. IF, AFTER UP TO 3 YEARS, THE AUTHORITY REMAINS SATISFIED THAT A DWELLING IS JUSTIFIED PERMISSION WILL BE GRANTED FOR A PERMANENT DWELLING. SUCCESSIVE TEMPORARY PERMISSIONS WILL NOT BE GRANTED.

The Council's solicitor has advised that this policy adequately provides the opportunity to grant permission for a temporary dwelling with regard to the applicant's current situation if members were to choose to do so with regard to all relevant planning considerations. In addition, in one of the two representations received after the report was published, it is said

that the applicant *is now embarking on a new and very specialised business*. So, it would appear that one occupant of a nearby dwelling considers this application concerns a 'new business' despite the threat of a legal challenge from the other on the basis that the applicant's business is not a 'new business', amongst other things.

Finally, Paragraph 79 (a) of the Framework says planning policies and decisions should avoid the development of isolated homes in the countryside unless there is 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. HOU9 is consistent with this policy but provides for temporary accommodation where it is required to establish whether there is an essential need for a permanent new dwelling.

There are no other national policies or current planning practice guidance that set out how essential need should be assessed and the citation provided by the author of the pre-action letter asserting that *"applications need to be scrutinised thoroughly with the aim of detecting attempts to abuse the planning system and indeed that approval for temporary accommodation should not be granted in locations where a permanent dwelling would not be granted (as is the case with the history of this site)"*.

Parish Council

Tibshelf Parish Council wish to submit the following comments in respect of the above application:

- *We refer to the Officers Report from Chris Fridlington and the previous representations made by neighbours in respect of the application for temporary accommodation on the field next to Cedar Farm.*
- *We maintain our full objection to the Application based on the facts that this is a green field outside the settlement boundary; this is not an application linked to a new business and Mr Rowe has previously applied 4 times for a permanent house which have not been granted by BDC.*
- *We state that we believe it is clear that Mr Rowe wants to develop the site and we are not in favour of this, as we believe this would open the floodgate for further application.*
- *That should Planning Committee deem to approve the application (which we oppose in principle), we make the point that we do not believe there is a need for a 3 bedroom log cabin of the dimension applied for within the application for someone to be on site for a few days a year.*
- *We further suggest that a caravan or static caravan situated in an appropriate area (ideally away from Cedar Cottage and the barns, at the bottom of Mr Rowe's field) would be more suitable for the needs of the business and a sensible compromise.*

- *Finally stating that we believe that the cost of a log cabin and the necessary infrastructure would be disproportionate for a business as described in the application, and query if this has any relevance to the fact that on 4 occasions Mr Rowe has tried to gain permission for a permanent house.*

Conclusions

It is considered by officers that the points raised by the Parish Council have already been addressed in the original officer report but it is open to members to consider whether the more recent advice that the hedge is in the applicant's ownership would mean that the cabin can be sited adjacent to the boundary as proposed or relocated as suggested in the original officer report. Similarly, officers do not consider that the recent representations from two local residents and/or the pre-action letter (reported above) do not change the recommendation of conditional approval made in the original officer report also taking into account the advice offered by the Council's solicitor.

Agenda item No: 6 (ii): Ball Hill, South Normanton (17/00657/FUL).

Since the publication of the officer report, this application has been formally withdrawn by the applicant. Therefore, this application is no longer pending consideration and no longer needs to be determined by the Planning Committee.

Agenda item No: 6 (iii): McDonalds, Tally's End, Barlborough (18/00493/VAR).

This application has also now been formally withdrawn by the applicant. Therefore, this application is no longer pending consideration and no longer needs to be determined by the Planning Committee.

Agenda item No: 6 (vi) – Land south of Creswell Model Village (18/00087/OUT)

No updates to report.