

**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.

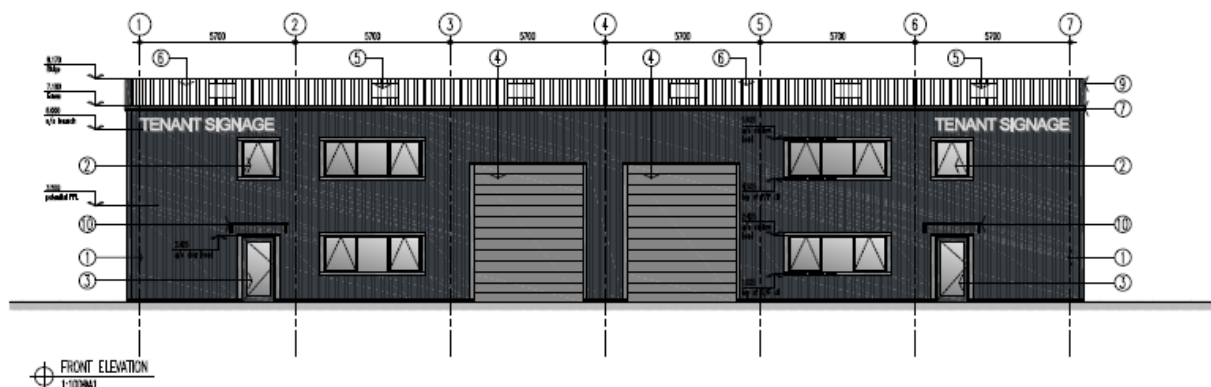
Grade 2 listed building sited about 100m to the east of the site on the south side of Ball Hill.

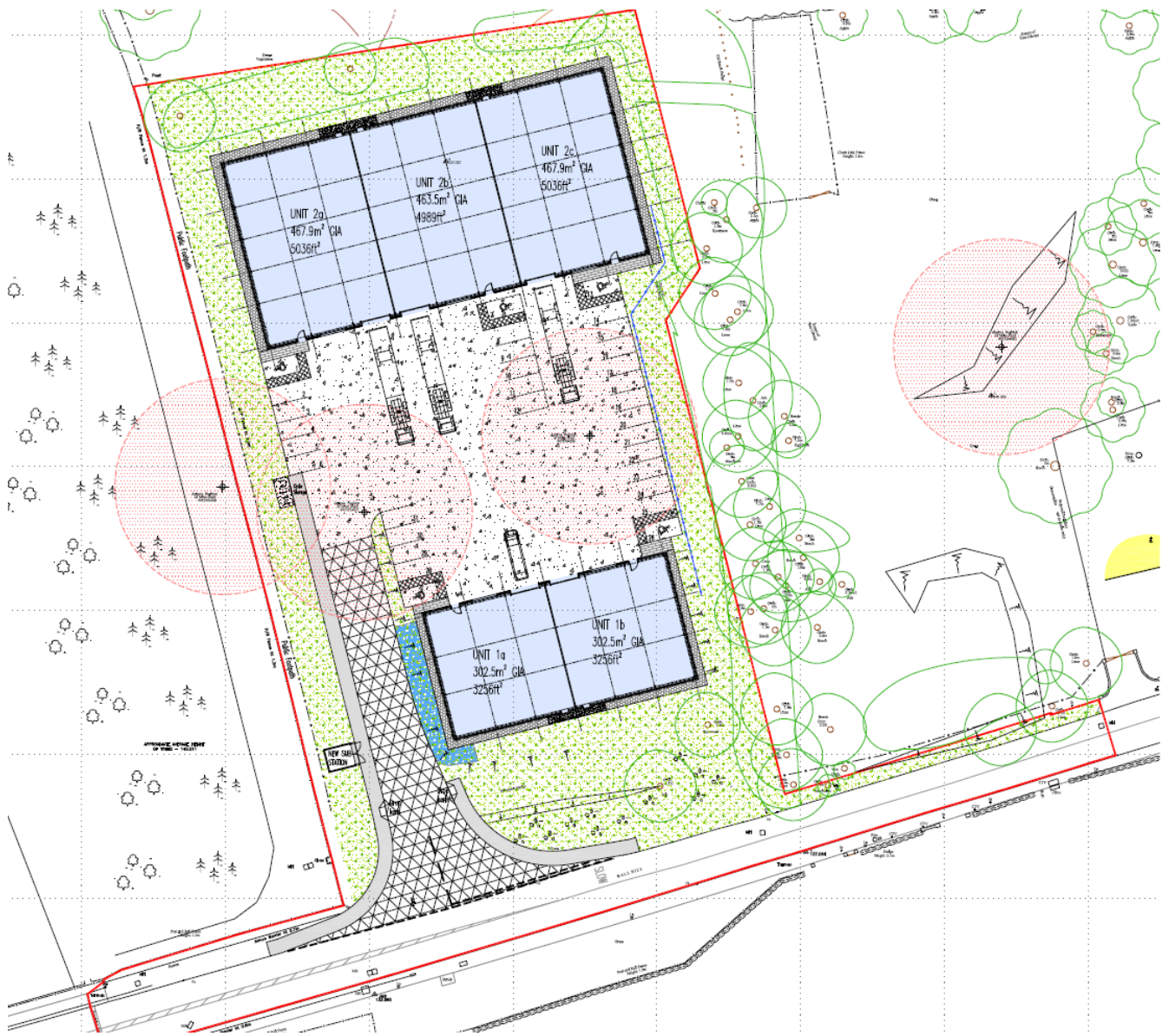
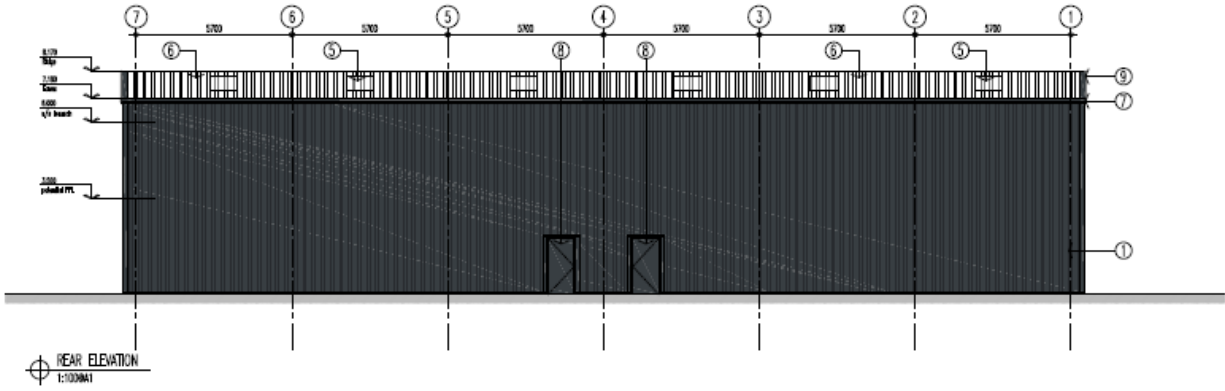
Ball Hill has no public footpath along its northern side fronting the site. The path currently starts outside No 81 Ball Hill and runs east from there. There is footpath on the opposite (south) side of Ball Hill although it becomes quite narrow further east of the site. The Highway rises to the east 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.

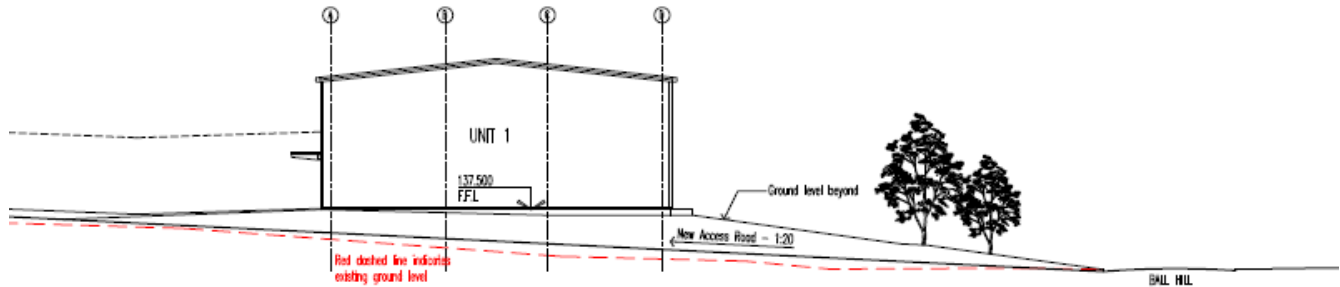
The buildings would face inward towards each other over a central service yard and parking area with 31 car parking spaces, HGV and cycle parking. The frontages of the building would include windows and doors and loading bays but the rear sides of the buildings, including that facing Ball Hill would 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 HGVs 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.