

To: Chair and Members of the Planning Committee

The Arc  
High Street  
Clowne  
S43 4JY

**Please note that there will be a Planning Briefing at 1000 hours before the start of the meeting.**

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23<sup>rd</sup> July 2019

Dear Councillor

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 31<sup>st</sup> July 2019 at 1100 hours.**

Register of Members' Interest - Members are reminded that a Member must within 28 days of becoming aware of any changes to their Disclosable Pecuniary Interests provide written notification to the Authority's Monitoring Officer.

You will find the contents of the agenda itemised on page 2.

Yours sincerely



Joint Head of Corporate Governance & Monitoring Officer



**We speak your language**  
Polish **Mówimy Twoim językiem**  
Slovak **Rozprávame Vaším jazykom**  
Chinese **我们会说你的语言**

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If you require an adjustment to enable you to participate in or access the meeting please contact the Governance Team at least 72 hours before the meeting starts.

**PLANNING COMMITTEE  
AGENDA**

**Wednesday 31<sup>st</sup> July 2019 at 1100 hours  
in the Council Chamber, The Arc, Clowne**

<b>Item No.</b>		<b>Page No.(s)</b>
	<b>PART 1 – OPEN ITEMS</b>	
1.	<b><u>Apologies for Absence</u></b>	
2.	<b><u>Urgent Items of Business</u></b> To note any urgent items of business which the Chairman has consented to being considered under the provisions of Section 100(B) 4(b) of the Local Government Act 1972	
3.	<b><u>Declarations of Interest</u></b> Members should declare the existence and nature of any Disclosable Pecuniary Interest and Non Statutory Interest as defined by the Members' Code of Conduct in respect of:  a) any business on the agenda b) any urgent additional items to be considered c) any matters arising out of those items and if appropriate, withdraw from the meeting at the relevant time.	
4.	To approve the minutes of a meeting held on 3 <sup>rd</sup> July 2019  <i>Site Visits scheduled for 26<sup>th</sup> July 2019 were cancelled.</i>	3 to 8
5.	Applications to be determined under the Town & Country Planning Acts.  (i) 19/00083/FUL - Residential development of 78 dwellings on Field adjacent To Pattison Street off Bolsover Road, Shuttlewood	9 to 43
6.	Local Development Order to support the Shop Front Repairs Grants Scheme	44 to 50
7.	Local Enforcement Plan (Planning)	51 to 59

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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 3<sup>rd</sup> July 2019 at 1000 hours.

### **PRESENT:-**

Members:-

Councillor Tom Munro in the Chair

Councillors Derek Adams, Allan Bailey, Anne Clarke, Nick Clarke, Jim Clifton, Paul Cooper, Steve Fritchley, Natalie Hoy, Duncan McGregor, Liz Smyth, Janet Tait, Graham Parkin, Deborah Watson and Jen Wilson.

Officers:-

Chris Fridlington (Planning Manager (Development Control)), Kay Gregory (Principal Planner), Jim Fieldsend (Team Manager – Solicitor (Non-Contentious)) and Donna Cairns (Senior Governance Officer).

### **0115. APOLOGIES**

Apologies for absence were received on behalf of Councillor Chis Kane.

### **0116. URGENT ITEMS OF BUSINESS**

There were no urgent items of business to consider.

### **0117. DECLARATIONS OF INTEREST**

No declarations of interest were made at the meeting.

### **0118. MINUTES – 5TH JUNE 2019**

It was noted that at Minute 25 (ii), Councillor Dexter Bullock was incorrectly listed as a South Normanton Parish Councillor when he was in fact Blackwell Parish Councillor.

It was further noted that Councillor Steve Fritchley and Councillor Paul Cooper were in attendance at the meeting but were not included in the Minutes.

Moved by Councillor Fritchley and seconded by Councillor Paul Cooper

**RESOLVED** that, subject to the above amendments, the minutes of a meeting of the Planning Committee held on 5<sup>th</sup> June 2019 be approved as a true and correct record.

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### 0119. SITE VISIT NOTES – 31<sup>ST</sup> MAY 2019

Moved by Councillor Nick Clarke and seconded by Councillor Jen Wilson

**RESOLVED** that the notes of the site visit held on 31<sup>st</sup> May 2019 be approved as a true and correct record.

### 0120. SITE VISIT NOTES – 28<sup>TH</sup> JUNE 2019

It was noted that Councillor Deborah Watson was recorded as being in attendance but had in fact submitted her apologies to these site visits.

Moved by Councillor Jen Wilson and seconded by Councillor Nick Clarke

**RESOLVED** that, subject to the above amendment, the notes of the site visit held on 28<sup>th</sup> June 2019 be approved as a true and correct record.

### 0121. APPLICATIONS TO BE DETERMINED UNDER THE TOWN AND COUNTRY PLANNING ACTS

- (i) 18/00481/REM – Reserved Matters application for appearance, landscaping, layout and scale of Outline Planning Permission 16/00463/OUT – Land adjoining North side of Blind Lane, Bolsover

Further details relating to the application were included in the Supplementary Report.

The Planning Manager (Development Control) presented the report which gave details of the application and highlighted the location and features of the site and key issues.

Mr. Matthew Jackson (applicant) attended the meeting and spoke in support of the application.

This application was submitted solely for approval of reserved matters which included scale, layout, appearance and landscaping.

Committee considered the application having regard to whether the application demonstrated that the residential development would be of a sufficiently high quality of design to meet the requirements of the Council's adopted planning policies and guidance and the requirements of national planning policies in the Framework with regard to the reserved matters.

Regard was given to the potential impact on Bolsover's designated Conservation Area because of the relationship between the site and the Conservation Area. The application was also assessed with due regard to the impact of the proposed development on the

## PLANNING COMMITTEE

setting of Bolsover Castle taking into account its potential visual impact on the surrounding landscape.

Members also consider two amendments to the existing legal agreement accepting deletion of a commuted sum towards affordable housing, which would be replaced by a commitment to 30% on-site provision of affordable housing. Members also accepted an offer of a commuted sum for improvements to Blind Lane.

Moved by Councillor Duncan McGregor and seconded by Councillor Derek Adams  
**RESOLVED** that outline planning permission for application 18/00481/REM be approved subject to:

- (i) a **VARIATION** to the existing s.106 legal agreement deleting the obligation requiring a commuted sum of £1,025,000 towards affordable housing and inserting an obligation on-site provision of 30% affordable housing to be offered for sale at a price 20% lower than market value to first time buyers under the age of 40; and
- (ii) the addition of a **PLANNING OBLIGATION** to the existing s.106 legal agreement requiring a commuted sum towards improvements to Blind Lane or a **PLANNING CONDITION** requiring an agreed schedule of works to Blind Lane to be completed prior to the first occupation of more than 100 dwellings; and
- (iii) subject to the following **PLANNING CONDITIONS** requiring the development to be:
  - commenced within two years,
  - carried out in accordance with the revised plans;
  - carried out in accordance with approved drainage strategy;
  - carried out in compliance with the recommendations in the revised land stability and land contamination reports;
  - carried out in accordance with revised Landscape and Ecological Management Plan and the detailed landscape proposals;
  - carried out in accordance with relevant highways conditions; and if not fixed prior to the issue of a decision:
  - finished floor levels must be submitted to and agreed in writing prior to construction; and
  - samples of external facing materials must be submitted to and agreed in writing prior to construction.

(Planning Manager (Development Control))

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(ii) 19/00083/FUL - Residential development of 78 dwellings on Field adjacent To Pattison Street off Bolsover Road, Shuttlewood

Further details relating to the application were included in the Supplementary Report.

The Planning Manager (Development Control) presented the report which gave details of the application and highlighted the location and features of the site and key issues.

Mr. Chris Dwan (agent) attended the meeting and spoke in support of the application. Committee considered the application having regard to the adopted Local Plan, noting that this application was contrary to it. Regard was had to the lawful implementation of the earlier planning permission on this site that was considered to weigh against the normal policy principles regarding development in the countryside. There had been negotiated improvements to the proposed development in the interests of the character and appearance of the area, highway safety, the privacy and amenity of neighbours and biodiversity to bring the proposal in-line with other policy requirements, the Council's published design guidance and the NPPF (2019). A S106 Agreement to address affordable housing need had been proposed.

Concerns were expressed in relation to the S106 contributions proposed, particularly in relation to education. It was therefore proposed that the application be deferred to enable further negotiations to take place with the applicant following submission and assessment of the applicant's viability appraisal.

Moved by Councillor Duncan McGregor and seconded by Councillor Liz Smyth  
**RESOLVED** that outline planning permission for application 18/00481/REM be deferred in order for the Council to assess the viability appraisal and for further negotiations regarding the S106 Contributions to take place.

(Planning Manager (Development Control))

(iii) 19/00181/VAR - Variation of condition 4 (trading hours) of planning permission 17/00153/FUL to trade between 05:00 and 00:00, with deliveries and other service functions only between 06:30 and 23:00, 2 Tallys End, Barlborough, Chesterfield

Further details relating to the application were included in the Supplementary Report.

The Planning Manager (Development Control) presented the report which gave details of the application and highlighted the location and features of the site and key issues.

Councillor Maxine Dixon, Ward Member, attended the meeting and spoke against the application.

Councillor Hilary Gilmour, representing Barlborough Parish Council, attended the meeting and spoke against the application.

Mr John Harrison also attended the meeting and spoke against the application.

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Committee considered the application with regard 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.

Committee noted that the proposal was within an established business area, although it adjoined a residential area, and was within the settlement framework where development is generally acceptable, subject to no adverse impacts.

Consideration was given to the potential 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. Weight was also given to the amenity impacts from background noise levels at sensitive times of the day and the 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.

Moved by Councillor Steve Fritchley and seconded by Councillor Duncan McGregor  
**RESOLVED** that outline planning permission for application 19/00181/VAR be refused for the following reasons:

While there may be economic benefits from the proposal, through increased employment and provision of a food service at times 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 sensitive times 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 and it has not been demonstrated that the social and economic benefits of granting planning for the current application would demonstrably or significantly offset or outweigh the adverse impacts of doing so.

(Planning Manager (Development Control))

### **0122. Appeal Decisions: January 2019 – June 2019**

Committee considered the report of the Planning Manager (Development Control) on the Planning Service's performance against the Government's quality of decision making targets.

It was noted that in the 6 months since the last monitoring period ended (from January 2019 to the end of June 2019), the Council had won 100% of appeals on major planning

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applications, 100% of appeals on non-major applications and 100% of appeals against enforcement notices.

The Council was therefore exceeding its appeal decision targets and this indicated that the Council decision-making on planning applications and enforcement issues continued to be sound.

Moved by Councillor Steve Fritchley and seconded by Councillor Duncan McGregor  
**RESOLVED** that the report be noted and that appeal decisions continue to be reported to Committee every 6 months.

(Planning Manager (Development Control))

The meeting concluded at 11.05 hours.



**Bolsover District Council**

**Planning Committee**

**31<sup>st</sup> July 2019**

**PARISH** Old Bolsover

**APPLICATION** Residential development of 78 dwellings

**LOCATION** Field Adjacent To Pattison Street Off Bolsover Road Shuttlewood

**APPLICANT** 2 Midland Court Barlborough ChesterfieldS43 4UL

**APPLICATION NO.** 19/00083/FUL

**CASE OFFICER** Mr Peter Sawdon

**DATE RECEIVED** 7<sup>th</sup> February 2019

**Report of the Planning Manager**

This report is public

**Purpose of the Report**

- To enable the Planning Committee to make a determination on application no. 19/00083/FUL following deferral of a decision at the meeting of the Planning Committee on 3<sup>rd</sup> July 2019.

**1 Report Details**

- 1.1 A decision on application no. 19/00083/FUL was deferred at the last meeting of the Planning Committee to allow for the submission of a viability report. The original officer report (attached as Appendix A) explains how the proposals for 78 houses on land off Bolsover Road, Shuttlewood would be acceptable in planning terms other than the developer was not able or willing to pay a contribution of £292,700 towards secondary education requested by the County Council in their capacity as the local education authority.
- 1.2 At the heart of the issue is the fact that outline planning permission has been granted in 2013 for 80 houses on the same site, reserved matters have since been approved and the outline permission has been implemented. At outline stage, this Council agreed to 'waiver' various requests for contributions including a request from the County Council for £182,384 towards secondary education.
- 1.3 Subsequently, this application has been submitted because the developer requires amendments to the existing reserved matters approval. As this application is a fresh application for full permission then the issue of local infrastructure contributions needs to be considered afresh.
- 1.4 However, it was being argued that due regard should be paid to what was agreed in 2012 prior to the original outline planning permission being granted in 2013 and therefore, developer contributions should be waived again when considering the current application.

- 1.5 The table below shows the obligations proposed by the applicant compared to the requests from the relevant consultees in respects of the current application. It can be seen that the applicant was only proposing affordable housing when this application first came before the Planning Committee earlier this month.

Consultee	Request	Need	Agreed
Affordable Housing	8 houses = 10% of total	2 bed (4 person) social rented	✓
CCG	£29,671	Existing medical practice at capacity	✗
Education	£292,700	12 secondary places at Bolsover School	✗
Leisure	£63,648	Towards improving nearby playground – no space on site for on-site provision	✗
Leisure	£75,738	Towards off-site outdoor / built sports facilities	✗
Public Art	1% of development costs	Policy requirement	✗

- 1.6 Of the missing contributions, officers consider the missing education contribution was the biggest problem because the shortfall in provision was identified in 2012/13 and still exists. The developer has since submitted a viability appraisal and revised the s.106 offer accordingly.

- 1.7 The table below shows the obligations agreed in 2012 and those now proposed by the developer in respect of the current application compared to the requests from the relevant consultees. It can be seen that the applicant is still proposing 10% affordable housing as originally agreed in 2012 but in addition, has agreed to the make the contribution towards education originally requested by the County Council in 2012.

Consultee	Original Request	Agreed (2012)	Current Request	Agreed by developer (2019)
Affordable Housing	8 houses = 10% of total	8 houses = 10% of total	8 houses = 10% of total	8 houses = 10% of total
CCG	£0 – sufficient capacity	No contribution	£29,671	£0
Education	£182,384	No contribution	£292,700	£182,384
Leisure	£56,320	No contribution	£63,648	£0
Leisure	£66,880	No contribution	£75,738	£0

Public Art	1% of development costs	No contribution	1% of development costs	£0
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- 1.8 On one hand, the above table shows that the current application is only fully policy compliant in respect of affordable housing and only makes some but not all of the requested contribution towards education.
- 1.9 On the other hand, it might be said that the Clinical Commissioning Group (CCG) could or should have factored in the contribution now requested from this development (as it was an existing commitment) over the intervening years and requested this funding from other developments that have come forward over that time.
- 1.10 There is also no under provision of recreation facilities in Shuttlewood (based on the evidence base for the new Local Plan) and Policy HOU5 says the commuted sums requested for leisure would be reasonably required unless there is adequate provision already. In this case, it is not considered that the public art contribution is necessary to make the development acceptable in planning terms.
- 1.11 Therefore, the key issue is whether the offer of £182,384 towards secondary education is adequate mitigation for the proposed development.
- 1.12 In terms of viability, making this contribution results in the development making a profit margin of 15.37% when taking into account the gross development value (i.e. the value of the proposed housing) and the total cost of the development.
- 1.13 The Council's Senior Valuer has agreed that the viability appraisal offers a fair assessment of the development and officers agree that the 15.37% margin to be achieved by the developer is only fractionally within the lower end of the 15 – 20% range that is deemed as acceptable, as outlined in Para 018 of the Planning Policy Guidance for Viability.
- 1.14 Consequently, paying the full amount requested by the County Council would render this project unviable and the developer may choose to revert to the approved scheme, which is of lesser design quality than the scheme proposed in the current application.
- 1.15 Although it only carries limited weight in the determination of this application, it is also relevant that the developer is a small-medium sized local house builder based in the Bolsover District and if the housing scheme goes ahead, it will provide 15 jobs for locally based employees.
- 1.16 In addition, the offer of £182,384 puts the County Council back in to an equitable position based on what they requested originally (in 2012/13) also taking into account the original outline permission should have been treated as an existing commitment. Furthermore, if the developer reverted to the outline permission there would be 80 houses built on the site and no education contribution.
- 1.17 Therefore, officers are now recommending approval of this application based on this revised offer of 10% affordable housing and a contribution of £182,384 towards secondary education with the trigger points for payment of the education contribution

weighted to require 50% payment at 50% occupation, with the remainder due at 75% occupation.

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

- 2.1 In conclusion, officers consider that the proposed development is generally acceptable in planning terms for the reasons set out in the original officer report (attached as Appendix A) and subject to the planning conditions also set out in the original officer report and repeated in the officer recommendation below.
- 2.2 A legal agreement securing 10% affordable housing and a contribution of £182,384 towards secondary education will mean that the impacts of the development on local infrastructure and the local community will now be adequately mitigated.
- 2.3 Therefore, officers are recommending granting full planning permission for 78 houses on land off Bolsover Road, Shuttlewood as proposed in application no. 19/00083/FUL subject to planning conditions and prior entry into a s.106 legal agreement.

## **3 Consultation and Equality Impact**

- 3.1 The original officer report sets out the consultation and publicity undertaken in respect of this application and addresses the responses from all third parties including statutory consultees.
- 3.2 The Council's Senior Valuer has been consulted on the submitted viability appraisal.
- 3.3 The proposals do not give rise to any specific equality concerns but the revised offer of a contribution towards education reduces any likelihood that the development would directly or indirectly affect a person with a protected characteristic or group of people with a shared protected characteristic.

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

- 4.1 The alternative options would be to approve this application without a contribution towards education but this would be undesirable because of the identified pressure on school places within the local area.
- 4.2 Or, the application could be refused because the full request towards education is not being met but this option would be undesirable because the proposed development may not go ahead and instead, the developer could revert back to the original consent meaning 80 houses would be built on the site but there would be no contribution towards education.

## **5 Implications**

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

- 5.1.1 There are no particular risks to the Council arising from the recommendation of approval made in this report albeit there would be a risk of additional costs incurred defending an appeal if the application were refused.

5.1.2 Approving this application on the basis of payment of the 2012 request means the County Council would be in a better position than they were but would receive less income from this development than they are requesting in respect of the current application.

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

5.2.1 It is considered that the proposed 106 contributions towards education and affordable housing meet the relevant legal tests and having been agreed by the developer, there is no likelihood of a legal challenge that might arise if, for example, the Council insisted on full payment of the £292,700 requested by the County Council.

## **5.3 Human Resources Implications**

5.3.1 There are no human resources arising from any decision on this application because dealing with planning applications (and any subsequent appeal) and S106 legal agreements is respectively part of the Council's Planning and Legal Service's normal workloads.

5.3.2 In the event of a refusal of planning permission and/or requirement for full payment of the £292,700 requested by the County Council, both departments may require additional resource to deal with any forthcoming legal challenge.

## **6 Recommendations**

6.1 The current application be APPROVED subject to prior entry in to a s.106 legal agreement containing the following obligations:

**A:** on-site provision of 10% affordable housing; and

**B:** a contribution of £182,384 towards secondary education with the trigger points for payment of the education contribution weighted to require 50% payment at 50% occupation, with the remainder due at 75% occupation.

**AND** subject to the following planning conditions:

1. The development hereby permitted must be carried out in accordance with the following approved drawings and documents:-

- C00 – Site location plan submitted 07/02/19
- C01 – Topographical survey submitted 07/02/19
- C02 Rev C - Street Elevations submitted 24/05/19
- C03 Rev C - Site Plan East submitted 24/05/19
- C04 Rev E - Site Plan West submitted 18/06/19
- C05 Rev A - Petworth submitted 30/04/19
- C06 Rev A - Petworth submitted 30/04/19
- C07 Rev A - Petworth submitted 30/04/19
- C08 Rev A - Petworth submitted 30/04/19
- C09 Rev A - Lindisfarne submitted 30/04/19
- C10 Rev A - Lindisfarne submitted 30/04/19
- C11 Rev A - Lindisfarne submitted 30/04/19
- C12 Rev A - Lindisfarne submitted 30/04/19

- C13 Rev A - Lindisfarne submitted 30/04/19
- C14 Rev A - Lindisfarne submitted 30/04/19
- C15 Rev A - Lindisfarne submitted 30/04/19
- C16 Rev A - Kingston submitted 30/04/19
- C17 Rev B - Kingston submitted 24/05/19
- C18 Rev A - Hardwick semi submitted 30/04/19
- C19 Rev A - Hardwick semi submitted 30/04/19
- C20 Rev A - Hardwick semi submitted 30/04/19
- C21 Rev A - Hardwick det submitted 30/04/19
- C22 Rev A - Hardwick det submitted 30/04/19
- C23 Rev A - Hardwick det submitted 30/04/19
- C24 Rev A - Hardwick det submitted 30/04/19
- C25 Rev A - Rosedene submitted 30/04/19
- C26 Rev A - Rosedene submitted 30/04/19
- C27 Rev A - Rosedene submitted 30/04/19
- C28 Rev A - Rosedene submitted 30/04/19
- C29 Rev A - Wycombe submitted 30/04/19
- C30 Rev A - Wycombe submitted 30/04/19
- C31 Rev A - Westbury submitted 30/04/19
- C32 Rev A - Westbury submitted 30/04/19
- C33 Rev A - Westbury submitted 30/04/19
- C34 Rev A - Buckingham submitted 30/04/19
- C35 Rev A - Danbury submitted 30/04/19
- C36 Rev A - Sudbury submitted 30/04/19
- C37 Rev A - Claydon submitted 30/04/19
- C38 Rev A - Claydon submitted 30/04/19
- C39 - 2.5 storey Hardwick Plans submitted 24/05/19
- C40 Rev A - 2.5 storey Hardwick Elevations submitted 30/04/19 (only approved in respect of plots 12 – 18)
- C41 Rev A - 2 bed Affordable House submitted 30/04/19
- C42 – Garages – single and combined submitted 07/02/19
- C43 Rev A - Garages- paired submitted 30/04/19
- C44 Rev A - Plot materials Schedule submitted 30/04/19
- C45 Rev D - Site Plan 1/500 submitted 18/06/19
- C46A – Kingston submitted 24/05/19
- P47 – 2 bed affordable house for Plots 10 – 11

REASON: For the avoidance of doubt having regard to the amended and additional drawings submitted during the application in order to define the planning permission.

2. The fencing erected to protect retained trees and hedgerows, as approved under application ref. 18/00407/DISCON, must be maintained as approved at all times during the development of this site. Nothing will be stored or placed within the fenced area around any retained tree or hedgerow and the ground levels within the fenced area must not be altered, and no any excavation will take place, without the written consent of the Local Planning Authority.

REASON: To ensure that adequate protection is given to trees and hedgerows that are to be retained on the site or which abut the site in the interests of the visual amenity of the area and biodiversity interests, and in compliance with Policies GEN1, ENV5 and ENV8 of the adopted Bolsover District Local Plan.

3. Building works must not commence above foundation level on more than 10 new dwellings unless a Biodiversity Enhancement Strategy has been submitted to and approved in writing by the Local Planning Authority to achieve a net gain in biodiversity in accordance with the NPPF 2019. Such approved measures should be implemented in full and maintained thereafter. Measures must include (but are not limited to):
- the provision of compensatory hedgerow planting for the hedgerow lost as part of the development;
  - details of bird and bat boxes to be clearly shown on a plan (positions / specification / numbers).
  - hedgehog connectivity measures to be clearly shown on a plan, such as small fencing gaps (130 mm x 130 mm), railings or hedgerows; and
  - a summary of ecologically beneficial landscaping (full details to be provided in Landscape Plans).

REASON: To provide for an enhancement of the ecological/biodiversity interest of the site in accordance with the policy of the National Planning Policy Framework and policy ENV5 of the adopted Bolsover District Local Plan.

4. Notwithstanding the submitted details, prior to building works commencing above foundation level on more than 10 dwellings, details of both hard and soft landscape works, including all means of enclosure and a programme for implementation, must have been submitted to and approved in writing by the Local Planning Authority and the works must be carried out as approved. The soft landscaping details must take account of the need to provide for biodiversity enhancement under the requirements of condition 3 above.

REASON: To ensure that satisfactory landscaping is provided within a reasonable period in the interests of visual amenity and biodiversity and in compliance with Policies GEN1, GEN2 and ENV5 of the adopted Bolsover District Local Plan

5. A landscape management plan, including long term design objectives, management responsibilities and maintenance schedules for all landscape areas including the open space- footpath route along the southern edge of the site, other than small, privately owned, domestic gardens, must be submitted to and approved in writing by the Local Planning Authority prior to the occupation of any dwelling . The landscape management plan must be carried out as approved.

REASON. To ensure that landscaped areas are effectively maintained in the interests of biodiversity and the visual amenity of the area and in compliance with policies GEN1, GEN2 and ENV5 of the adopted Bolsover District Local Plan.

6. If within a period of five years from the date of the planting of any tree or shrub that tree or shrub may die, be removed, uprooted or become seriously damaged it must be replaced by another of the same species during the first available planting season,

unless a variation of the landscaping scheme is approved in writing with the Local Planning Authority.

REASON: To provide a reasonable period for the replacement of trees and shrubs in the interests of biodiversity and the visual amenity of the area and in compliance with policies GEN1, GEN2 and ENV5 of the adopted Bolsover District Local Plan.

7. The Hall windows in the rear elevation of plots 4, 25 and 75 must be fitted with obscured glass that must be maintained as such at all times thereafter for the lifetime of the development.

REASON: In the interests of the privacy and amenity of occupants of the adjoining dwellings and in compliance with Policy GEN2 of the adopted Bolsover District Local Plan

8. Notwithstanding the provisions of Parts 1 and 2 of Schedule 2, Article 3 of the Town and Country Planning (General Permitted Development) Order 1995 (or any Order revoking and re-enacting that Order) there will be no alterations resulting in the installation of any windows (including roof-lights) above the ground floor of the proposed dwelling on plot 36 without the prior grant of planning permission.

REASON: In the interests of the privacy and amenity of occupants of the adjoining dwellings and in compliance with Policy GEN2 of the adopted Bolsover District Local Plan.

9. Prior to the occupation of the approved dwelling on plot 36, a 1.8m high solid screen fence must have been erected on that plots rear boundary that must be maintained at all times thereafter for the lifetime of the development.

REASON: In the interests of the privacy and amenity of occupants of the adjoining dwellings and in compliance with Policy GEN2 of the adopted Bolsover District Local Plan.

10. Prior to building works commencing above foundation level on more than 10 dwellings, full details of foul and surface water drainage to include a scheme of implementation and arrangements for the lifetime management and maintenance of the drainage works, based on the principles established by the drainage details previously approved under planning consent ref. 18/00406/DISCON, must have been submitted to and approved in writing by the Local Planning Authority, which must be implemented in accordance with the approved timetable. The scheme will provide for separate foul and surface water systems on and off the site.

REASON: To ensure that satisfactory provision is made at the appropriate time for the disposal of foul and surface water and in compliance with policy GEN5 and GEN6 of the adopted Bolsover District Local Plan.



11. There shall be no piped discharge of surface water from the application site until works to provide the outfall for surface water, as approved under planning consent ref. 18/00407/DISCON, have been completed.

REASON: To ensure that the site is properly drained and surface water is not discharged to the foul sewerage system which will prevent overloading and in accordance with the requirements of policy GEN5 of the adopted Bolsover District Local Plan.

12. The construction management plan previously approved under application reference number 18/00407/DISCON shall be adhered to throughout the construction period.

REASON: In the interests of highway safety and residential amenity and in compliance with policies GEN1 and GEN2 of the Bolsover District Local Plan.

13. The construction access must be provided and maintained in accordance with the details previously approved under planning consent ref. 18/00407/DISCON. The access shall be retained in accordance with that approved scheme throughout the construction period, or such other period of time as may be agreed in writing by the Local Planning Authority, free from any impediment to its designated use.

REASON: In the interests of highway safety and in compliance with Policy GEN1 of the Bolsover District Local Plan.

14. The construction compound within the site for the storage of plant and materials, site accommodation, loading, unloading and manoeuvring of goods vehicles, parking and manoeuvring of employees and visitors vehicles must be provided and maintained in accordance with the details previously approved under planning consent ref. 18/00407/DISCON free from any impediment to its designated use throughout the construction period.

REASON: In the interests of highway safety and in compliance with Policy GEN1 of the Bolsover District Local Plan.

15. No dwelling will be occupied unless and until it is served by an access road which has been surfaced at least to base course level and there is a level surfaced footway suitable for use by wheelchairs and pushchairs between that dwelling and the public highway.

REASON: In the interests of highway safety and in compliance with Policy GEN1 of the Bolsover District Local Plan.

16. No part of the development shall be occupied until a new estate street junction has been formed to Bolsover Road in accordance with the application drawing Nos 18-560-SH-C03, and provided with visibility sightlines extending from a point 2,4m from the carriageway edge, measured along the centreline of the access, for a distance of 47m in each direction measured along the nearside carriageway edge. The land in

advance of the visibility sightlines being levelled, constructed as footway and not being included in any plot or other sub-division of the site.

REASON: In the interests of highway safety and in compliance with Policy GEN1 of the Bolsover District Local Plan.

17. No dwelling will be occupied until its new vehicular access has been formed to the new estate street in accordance with the approved application drawings. The accesses serving plot numbers 7 to 41, 46, 49 to 59 and 73 to 76 must be provided with visibility sightlines extending from a point 2.4 metres from the carriageway edge, measured along the centreline of the accesses, for a distance of 25m in each direction measured along the nearside carriageway edge, with the accesses serving plot numbers 3, 42, 47, 48, 59, 60, 70, 71 and 77 to 79 being provided with visibility sightlines extending from a point 2.4 metres from the carriageway edge, measured along the centreline of the accesses, for a distance of 17m in each direction measured along the nearside carriageway edge. The land in advance of the visibility sightlines must be retained throughout the life of the development free of any object greater than 1m in height relative to adjoining nearside carriageway channel level.

REASON: In the interests of highway safety and in compliance with Policy GEN1 of the Bolsover District Local Plan.

18. Individual and shared private vehicular accesses shall not be taken into use until 2m x 2m x 45° pedestrian intervisibility splays have been provided on either side of the accesses at the back of the footways/margins, the splay areas being maintained throughout the life of the development clear of any object greater than 1m in height relative to footway level.

REASON: In the interests of highway safety and in compliance with Policy GEN1 of the Bolsover District Local Plan.

19. No dwelling shall be occupied until space has been laid in accordance with the approved application drawings for the parking of that dwelling's resident's vehicles.

REASON: To enable a vehicle to be parked clear of the highway in the interests of safety and in compliance with Policy GEN1 of the Bolsover District Local Plan

20. The garages / car parking spaces to be provided shall be kept available for the parking of motor vehicles at all times. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any Order revoking and/or re-enacting that Order) the garage / car parking spaces hereby permitted shall be retained as such and shall not be used for any purpose other than the garaging of private motor vehicles associated with the residential occupation of the property without the grant of further specific planning permission from the Local Planning Authority.

REASON: To enable a vehicle to be parked clear of the highway in the interests of safety and in compliance with Policy GEN1 of the Bolsover District Local Plan.

21. The proposed access driveways to the new estate street shall be no steeper than 1 in 14 for the first 5m from the nearside highway boundary and 1 in 10 thereafter.

REASON: In the interests of highway safety and in compliance with Policy GEN1 of the Bolsover District Local Plan.

### **Statement of Decision Process**

1. Whilst being contrary to the adopted Local Plan, the Local Planning Authority has had regard to the lawful implementation of an earlier planning permission on this site that is considered to weigh against the normal policy principles regarding development in the countryside. The Local Planning Authority has negotiated improvements to the proposed development in the interests of the character and appearance of the area, highway safety, the privacy and amenity of neighbours and biodiversity to bring the proposal in-line with other policy requirements, the Council's published design guidance and the NPPF (2019). A S106 Agreement to address affordable housing need and the demand for school places arising from this development has been agreed. It is therefore considered that there are no outstanding matters that would indicate that planning permission should not be granted.

### **Notes**

Advisory notes to cover the following issues are proposed: -

- S106;
- Use of open boundary treatments adjacent existing hedgerows;
- Soft landscaping, especially the use of native species;
- Reminder about obligations under the Wildlife and Countryside Act;
- Noise and Dust mitigation;
- Temporary arrangements for surface water run-off;
- Local Employment;
- Derbyshire County Council highways advisory notes;
- Encouragement for provision of high speed broadband.

**7 Decision Information**

<p><b>Is the decision a Key Decision?</b>  A Key Decision is an executive decision which has a significant impact on two or more District wards or which results in income or expenditure to the Council above the following thresholds:  <i>BDC: Revenue - £75,000</i> <input type="checkbox"/>  <i>Capital - £150,000</i> <input type="checkbox"/>  <i>NEDDC: Revenue - £100,000</i> <input type="checkbox"/>  <i>Capital - £250,000</i> <input type="checkbox"/>  <input checked="" type="checkbox"/> <i>Please indicate which threshold applies</i></p>	No
<p><b>Is the decision subject to Call-In?</b>  (Only Key Decisions are subject to Call-In)</p>	No
<p><b>Has the relevant Portfolio Holder been informed</b></p>	Yes
<p><b>District Wards Affected</b></p>	All
<p><b>Links to Corporate Plan priorities or Policy Framework</b></p>	All

**8 Document Information**

Appendix No	Title	
A	Original officer report on application no. 19/00083/FUL	
<b>Background Papers</b>		
n/a		
<b>Report Author</b>		<b>Contact Number</b>
Chris Fridlington		Extension 2265

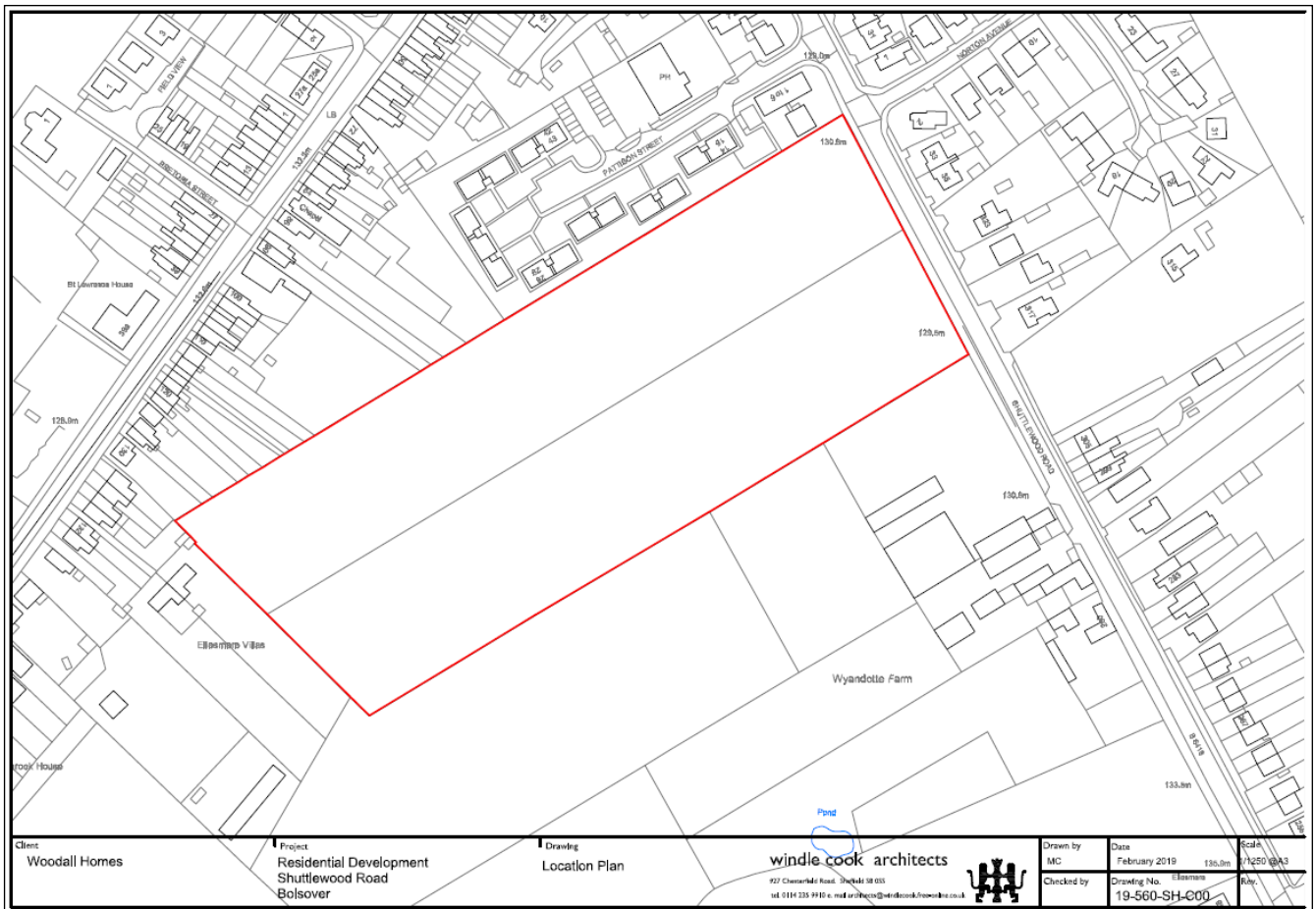
**APPENDIX A: Original Officer Report on Application No. 19/00083/FUL**

**PARISH** Old Bolsover

**APPLICATION** Residential development of 78 dwellings  
**LOCATION** Field Adjacent To Pattison Street Off Bolsover Road Shuttlewood  
**APPLICANT** 2 Midland Court Barlborough Chesterfield S43 4UL  
**APPLICATION NO.** 19/00083/FUL **FILE NO.**  
**CASE OFFICER** Mr Peter Sawdon  
**DATE RECEIVED** 7th February 2019

**SITE**

The site the subject of this application comprises some 2.95 hectares of land fronting Shuttlewood Road that sloped down by around 9 metres from its northern corner adjacent Shuttlewood Road to its south west corner. The site is a rectangular shaped piece of land that currently comprises two narrow fields which are approximately equal in size; each field is bounded to all sides by existing hedgerows.



The site is surrounded by existing residential development to the north, west and east. To the south is Wynacotte Farm and its farm buildings. An overhead line crosses the site towards the western edge of the area and also runs along the majority of the central boundary hedge that separates the two fields to which this application relates.

*Development has commenced on the site under an extant planning permission for this site.*

*This includes the formation of the access, part of the access road and implementation of drainage works.*

*Following the lawful implementation of the planning permission, some further works, including the erection of one dwelling, have also been carried but these are not in accordance with the earlier approved details and these works are included for consideration with this current planning application.*

## **PROPOSAL**

*This full planning application is for the erection of 78 dwellings.*



*All dwellings would be served from a single point of vehicular access to Shuttlewood Road; this is as approved at the time of the earlier planning permission's granted on this site and works to implement that approved access has been carried out. The dwellings would comprise 55 detached, 20 semi-detached (8 of which would be affordable) and 3 apartments (located over garages).*

*A separate pedestrian access into the site would be provided at the eastern corner of the site, which would pass along an informal footpath that is proposed to run through an area of linear semi-natural open space proposed to run alongside the southern boundary of the site.*

*The applicant initially approached the Council to amend just the approved house types and some layout issues, but due to the date of the original outline planning permission it was not possible for them to submit a revised reserved matters application and as such have opted to make a full planning application that if granted would in effect replace the earlier consents.*

## **AMENDMENTS**

*Documents submitted 19/06/19: -*

- *Phase 1 & 2 Environmental Assessment Vol 1 Rev. C*
- *Phase 1 & 2 Environmental Assessment Report and Appendix A – F Rev. A*
- *Revised Vehicle Tracking*

*Documents submitted 18/06/19: -*

- *C04E – Site Plan West*
- *C45D – Site Plan*
- *P47 – 2 bed affordable house for Plots 10 – 11*
- *Tracking overlay*

*Documents submitted 12/06/19: -*

- *C04D – Site Plan West (Now Superseded)*
- *C45C – Site Plan (Now Superseded)*

*03/06/19:*

- *Response to drainage Authority including copies of drainage details previously approved by earlier planning applications.*

*Documents submitted 24/05/19: -*

- *Supporting letter responding to layout comments, comments of consultees, including requests for S106 contributions.*
- *C02C - Street Elevation*
- *C03C - Site Plan East*
- *C04C - Site Plan West (Now superseded)*
- *C17B - Kingston Type B*
- *C39 - Hardwick 2 ½ Storey Type*
- *C45 B - Site Plan (Superseded)*
- *C46A - Kingston*
- *Shut Track 1*
- *Shut Track 2*

*Documents submitted 30/04/19: -*

- *C02 rev A - Street Elevations (now superseded)*
- *C03 Rev B - Site Plan East (now superseded)*
- *C04 Rev B - Site Plan West (now superseded)*
- *C05 Rev A - Petworth*
- *C06 Rev A - Petworth*
- *C07 Rev A - Petworth*
- *C08 Rev A - Petworth*
- *C09 Rev A - Lindisfarne*
- *C10 Rev A - Lindisfarne*
- *C11 Rev A - Lindisfarne*
- *C12 Rev A - Lindisfarne*
- *C13 Rev A - Lindisfarne*
- *C14 Rev A - Lindisfarne*
- *C15 Rev A - Lindisfarne*
- *C16 Rev A - Kingston*
- *C17 Rev A - Kingston*

- C18 Rev A - Hardwick semi
- C19 Rev A - Hardwick semi
- C20 Rev A - Hardwick semi
- C21 Rev A - Hardwick det
- C22 Rev A - Hardwick det
- C23 Rev A - Hardwick det
- C24 Rev A - Hardwick det
- C25 Rev A - Rosedene
- C26 Rev A - Rosedene
- C27 Rev A - Rosedene
- C28 Rev A - Rosedene
- C29 Rev A - Wycombe
- C30 Rev A - Wycombe
- C31 Rev A - Westbury
- C32 Rev A - Westbury
- C33 Rev A - Westbury
- C34 Rev A - Buckingham
- C35 Rev A - Danbury
- C36 Rev A - Sudbury
- C37 Rev A - Claydon
- C38 Rev A - Claydon
- C40 Rev A - 2.5 storey Hardwick Elevations
- C41 Rev A - 2 bed Affordable House (now partially Superseded by P47 in respect of Plots 10 and 11)
- C43 Rev A - Garages- paired
- C44 Rev A - Plot materials Schedule
- C45 Rev A - Site Plan 1/500 (now superseded)

**HISTORY (if relevant)**

12/00269/OUTMAJ	Granted Conditionally	Outline residential development including means of access (80 dwellings)
16/00207/REM	Granted Conditionally	Erection of 80 dwellings
18/00406/DISCON	Conditions discharged	Discharge of Conditions 4 (Survey to establish the presence of badgers and ground nesting birds), Conditions 8 (Disposal of foul and service water) of Planning Permission 12/00269/OUTMAJ
18/00407/DISCON	Conditions discharged	Discharge of conditions 1 (levels), condition 4 (fencing to protect trees/hedgerows), condition 5 (construction access/haul road), condition 6 (site compound), condition 7 (construction management plan) and condition 11 (surface water outfall) of planning permission 16/00207/REM.
18/00537/DISCON	Conditions discharged	Discharge of Condition 1 (Application of Reserved Matters) of Planning Permission 12/00269/OUTMAJ



## **CONSULTATIONS:**

Housing Strategy – Previously approved provision of 8 2-bed semi's is still acceptable as the affordable housing provision for this development 20/02/19

Natural England – No comments, but refers to its published Standing Advice 21/02/19

Bolsover District Council Engineer –

1. Subject to acceptance of the SuDS design by DCC (LLFA), we must ensure the developer submits an Operation and Maintenance Plan (in accordance with section 32 of the SuDS Manual) which provides details of the arrangements for the lifetime management and maintenance of the SuDS features together with contact details. (a copy to be kept by Engineering Services )

2. The developer must ensure any temporary drainage arrangements during construction gives due consideration to the prevention of surface water runoff onto the public highway and neighbouring properties.

NHS Hardwick CCG – existing medical practices already working at capacity, so is seeking a financial contribution of £29,671 to provide additional capacity to accommodate additional demand from the development 7/3/19

Force Designing Out Crime Officer – Seeking amendments to improve crime prevention 8/3/19.

Further comments - note some improvements but still requires clarification of some details 7/5/19

Further comments - I think that the matters raised in our previous comments have been resolved, and have nothing further to add. 05/06/19

Derbyshire Wildlife Trust – Additional information sought regarding provision of biodiversity enhancements prior to determination of the planning application. Recommends conditions and notes 8/3/19.

Further comments - Re-iterated their earlier comments 13/5/19 and 13/6/19

Yorkshire Water – No objections subject to conditions. 8/3/19

Economic Development - The proposed scheme meets the relevant thresholds set out in the Bolsover Draft Local Plan Policy II2: Employment and Skills, so request inclusion of a condition regarding local employment 11/3/19

Derbyshire County Council Developer Contributions – Seeking £292,700.76 for the provision of 12 secondary places at The Bolsover School, along with an advisory note regarding the provision of high speed broadband 13/3/19

DCC (Highways) – Seeking clarification regarding swept paths and alterations to provide sufficient visibility splays and parking provision. Also recommends revisions to the width of some proposed highways. Includes recommended conditions and advisory notes in the event that the Council is minded to grant planning permission. 13/03/19

Further comment - Seeking further minor amendment regarding visibility splay provision along with the swept path plan previously requested. 17/05/19

*Further comment – Visibility splays and one turning head now acceptable, but further improvements required to one remaining turning head 18/06/19*

*Further comment – Revised detail still not appropriate and seek further amendment to one turning head 18/06/19*

*Further comment – The revised tracking drawing is acceptable from a highway viewpoint 19/06/19*

*Derbyshire County Council (Flood Risk Management) – Request for additional information 14/3/19*

*Further comment - The LLFA are aware of the previous planning application for 80 houses on the same site as concluded from the outline application initiated in 2012, discharged in September 2018. As the new application for 78 homes is considered under the changes to the National Planning Policy Framework (NPPF) published in July 2018 can the applicant provide, in accordance with NPPF (2018), clear evidence why sustainable drainage (that provides multi-functional benefits) would be inappropriate for the new full application 10/06/19*

*Conservation Officer - I am of the view that the proposed development would not harm the setting of Bolsover Castle and would therefore not impact on its significance as a heritage asset of national importance. 15/03/19*

*Leisure – Normal expectation for on-site play provision on a development of this size, but earlier application provided for off-site financial contribution that would be acceptable on the nearby Shuttlewood Recreation Ground; using 2018 index linked costs this would be £63,648 (78 x £816 per dwelling). A financial contribution is also sought to off-site built and outdoor sports facilities; using 2018 prices this would be £75,738 (78 dwellings x £971 per dwelling). 21/03/19*

*Public Art Officer – Seeking contribution to public art provision 21/03/19*

*Environmental Protection Officer – Have reviewed the submitted Phase 1 & 2 Environmental Assessment. The document is missing some appendices and relates to investigations carried out 6 years ago or to ongoing gas investigations, so will require updating and the submission of additional details. Request the inclusion of conditions to deal with these issues and an advisory note in respect of noise and dust emissions. 28/03/19*

*Further comment – Whilst there are some shortcomings in the amount and quality of testing that has been carried out for both ground contamination and gas monitoring, even accounting for this, no significant contamination was identified and so the previous recommendation for a condition can be removed.*

*Since the previous consent there have been complaints about dust and a condition for a construction environmental management plan to control dust and noise is requested. 20/06/19*

*Urban Design Officer – repetitive linear street scheme lacking variety of space, vistas and strong focal points, with dwellings not relating well to each other. Poor frontage to*

*Shuttlewood Road worsened by the loss of hedgerow. High incidence of screen walls viewed from access road that would benefit from being reduced and landscaped. Areas of parking domination and poor outlook onto boundary treatment in some areas. Would benefit from softening of curve in the road. Appearance of pumping station could be softened through landscaping. More details on landscaping would be beneficial and provision; there is a need to ensure tree planting on the edge of the development to settle the development into the wider landscape. 12/04/19*

*Further comment – Notes improvements to the scheme, but still considers some additional changes necessary including: the relationship of dwellings to the highways, landscaping, repetitive nature of the street layout, incidence and dominance of screen walls and parking areas. 15/05*

*Further comment – Notes further improvements to the scheme through the inclusion of additional hedgerows on the site frontage and around the pumping station, but still recommends previously suggested changes 15/05*

*Environment Agency – No formal comment to make and Local Planning Authority should ensure consultation with Lead Local Flood Authority 7/5/19*

## **PUBLICITY**

*By site notice, press advert and 69 neighbour letters. 2 letters of representation have been received.*

*One letter is in support of the proposals stating “I fully support the proposal to invest in the local community with quality residential housing. Local amenities such as the primary school will benefit and hopefully local transport links such as the poor bus service will need to improve.”*

*The second letter accepts that the site is being developed but raises some concerns:*

*Loss of privacy to conservatory and garden; maintaining our house and gardens Privacy and amenity is paramount to maintaining our current lifestyle. Specific mention is made of a conservatory on the rear of the property with side windows. Happy to see bungalows but concerned at overlooking from upper floor windows in some dwellings – writer suggests fencing to the boundary to ensure no overlooking.*

*Loss of security and possible light pollution through existing hedge as this is very old and has many gaps both at the base and in sections that the writer has tried to reinforce but which has failed. As the hedge is deciduous it is bare in the winter.*

*It is proposed to plant a new hedge where there is currently a picket fence that would take up space where cars are parked reducing amenity.*

*New residents may wish to remove hedge or cut to different heights which would ruin the appearance of the hedge. Would like the hedge to be protected and maintained to a uniform height; the hedge is difficult to maintain, normally requiring the farmer to use special equipment to trim the top and sides.*

*There is a slight height / level difference between development side and our property.*

*We would propose that a new 1.8m timber fence is installed on the development side to*

*maintain privacy, reduce light pollution, improve security, improve appearance for new residents, help protect and maintain uniformity of the hedge by keeping hedge between 1.8m and 2.0m due to protection of fence, reduce maintenance for the new residents by restricting growth to their side, and the use of fence plinths to retain soil due to different levels. Writer would like a fence putting up soon to provide privacy during building works.*

*Existing chicken coop / livestock close to new residents that may be an issue.*

*I understand that the where plots 39 42 are situated (approx.) there are plans to significantly raise the height of the ground level. Although we can't see this on the proposals. Assume a suitable system will be installed to retain the new soil and that any new fence / hedge will be between 1.8 and 2.0 m measured from the new soil level to maintain privacy and amenity.*

*In the future would it be possible the bungalows would be extended within the roofs and Dorma windows installed, and hence losing my privacy?*

*Building close to a boundary will restrict access to maintain property.*

*Access to the writer's dwelling is restricted, including for access for emergency vehicles; is there any way to gain a different vehicle access point to our property via the proposed development site in the future.*

*Would like the applicant to engage with us directly on any of the issues raised above and to keep us informed of any works close to our boundary.*

## **POLICY**

### *Bolsover District Local Plan (BDLP) Policies:*

*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),  
GEN11 (Development Adjoining the Settlement Framework Boundary),  
CON10 (Development Affecting the Setting of Listed Buildings)  
TRA10 (Traffic Management),  
TRA13 (Provision For Cyclists),  
TRA15 (Design of Roads and Paths To Serve New Development),  
ENV5 (Nature Conservation Interests throughout the District).*

### *Submitted Local Plan for Bolsover District:*

*The plan has progressed through examination and so its policies should be given weight depending on the level of object to specific policies.*

*Policy SS1: Sustainable Development*

*Policy SS2: Scale of Development*

*Policy SS3: Spatial Strategy and Scale of Development*

*Policy SS9: Development In The Countryside*

*Policy LC2: Affordable Housing Through Market Housing*

*Policy LC3: Type and Mix of Housing*

*Policy SC2: Sustainable Design and Construction*

*Policy SC3: High Quality Development*

*Policy SC7: Flood Risk*  
*Policy SC8: Landscape Character*  
*Policy SC9: Biodiversity and Geodiversity*  
*Policy SC10: Trees, Woodland and Hedgerows*  
*Policy SC11: Environmental Quality (Amenity)*  
*Policy SC12: Air Quality*  
*Policy SC13: Water Quality*  
*Policy SC14: Contaminated and Unstable Land*  
*Policy SC17: Development Affecting Listed Buildings and their Settings*  
*Policy ITCR5: Green Space and Play Provision*  
*Policy ITCR7: Playing Pitches*  
*Policy ITCR10: Supporting Sustainable Transport Patterns*  
*Policy ITCR11: Parking Provision*  
*Policy II11: Plan Delivery and the Role of Developer Contributions*  
*Policy II2: Employment and Skills*

#### *National Planning Policy Framework*

*Paragraph 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).*

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

*Paragraph 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.*

#### *Paragraph 94. School Places*

*It is important that a sufficient choice of school places is available to meet the needs of existing and new communities.... give great weight to the need to create, expand or alter schools through the preparation of plans and decisions on applications.*

#### *Paragraphs 96-101. Open Space and Recreation*

*Paragraph 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.*

*Paragraph 122. Planning policies and decisions should support development that makes efficient use of land, taking into account:*

- a) the identified need for different types of housing and other forms of development, and the availability of land suitable for accommodating it;*
- b) local market conditions and viability;*
- c) the availability and capacity of infrastructure and services – both existing and proposed – as well as their potential for further improvement and the scope to promote sustainable travel modes that limit future car use;*
- d) the desirability of maintaining an area's prevailing character and setting (including*

residential gardens), or of promoting regeneration and change; and  
e) the importance of securing well-designed, attractive and healthy places.

*Paragraph 123. Where there is an existing or anticipated shortage of land for meeting identified housing needs, it is especially important that planning policies and decisions avoid homes being built at low densities, and ensure that developments make optimal use of the potential of each site. In these circumstances.....*

*c). local planning authorities should refuse applications which they consider fail to make efficient use of land, taking into account the policies in this Framework.*

*Paragraph 127. Planning policies and decisions should ensure that developments....*

*e) optimise the potential of the site to accommodate and sustain an appropriate amount and mix of development (including green and other public space) and support local facilities and transport networks; and...*

*Paragraph 170. Conservation of the Natural Environment*

*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...*

*Paragraph 190. Identification of heritage assets.*

*Local planning authorities should identify and assess the particular significance of any heritage asset that may be affected by a proposal.*

*Paragraph 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 (specify)*

*Adopted Housing Layout and Design Guidance.*

## **ASSESSMENT**

### *The Principle of Development*

*The site lies outside the settlement framework for Bolsover as defined in the current Bolsover District Local Plan (2000) and outside of the settlement envelope as defined in the Publication Local Plan and there are no exception criteria, such as agricultural need, to satisfy other requirements in those plans. The application must be treated therefore as a departure from the Local Plan.*

*Notwithstanding this, the site has an extant and partially implemented planning permission and this is considered to be a material consideration that weighs against that normal policy position. The site is shown as an unallocated site with planning permission on the proposals map in the publication Local Plan.*

*The established principle of residential development on this site is due to the lawful start to an earlier planning permission for 80 dwellings; this means that the remainder of that development can be undertaken without any additional planning permission. Indeed, work is ongoing in respect of that approved development (implementation of the road and*

*drainage works, albeit other works have now also been carried out that are subject to this planning application.*

*Given the presence of that existing planning permission it is considered that in principle the proposed development is not materially different to the development that can still be lawfully implemented. As a development of a similar quantum of housing with a broadly similar layout, the wider impacts of this development will have a neutral impact on the locality and open countryside compared to that already approved. On this basis, a different approach in respect of that established principle would be unreasonable.*

#### *Heritage Assets*

*Whilst 2km away from Bolsover Castle, the site is in views from that heritage asset and so the Conservation Officer has considered the impacts on the Castle and its setting. She is of the view that the development of this site would not result in the loss of a significant surviving component of the traditional Wooded Landscape setting of the Castle and would not be unduly prominent in the landscape as viewed from the Castle and would in fact provide the opportunity for softening the urban edge at this location. The proposed development would not therefore harm the setting of Bolsover Castle and would not impact on its Significance as a heritage asset of national importance. The development is considered therefore to comply with the requirements of the NPPF, Policy CON10 (Development Affecting the Setting of Listed Buildings) of the adopted Bolsover District Local Plan and Policy SC17: Development Affecting Listed Buildings and their Settings of the emerging Local Plan.*

#### *Proposed Layout, design and amenity considerations*

*The overall layout comprises a series of cul-de-sacs served by single road together with a footpath corridor proposed to run parallel with the southern boundary and which connects back to Bolsover Road.*

*The applicants have submitted a number of revisions seeking to address issues raised with them, in particular those of the Urban Design Officer. That officer has acknowledged the improvements made, but considers that further changes could still be made to improve the scheme in lines with his earlier suggestions.*

*Notwithstanding that further request for more change, it is acknowledged that several amendments have already been made. The site is a relatively narrow site that is constrained by the close proximity of the flats off Pattison Street to the north and this limits the scope for substantive layout change. The layout proposes lower densities, including the incorporation of bungalows, towards the south west corner of the site which, together with the linear open space proposed on the southern boundary, act as a transition between the adjacent countryside and the urban areas to the north and there is variation in street layouts and dwelling types with the use of properties to act as focal points at key viewpoints within the development. Whilst there is room for improvement, as there are with most schemes, it is considered that the layout provides a reasonable layout that is in general compliance with the Council's adopted Design Guide and the principles contained in the NPPF. As such, subject to control over detailed elements including landscaping and materials, it is considered that the latest iteration of the layout is acceptable and is in compliance with the requirements of saved Policy GEN2 in this respect and the requirements of Policy SC3: High Quality Development of the emerging Local Plan.*

*There are a few instances where the layout doesn't fully meet the Council's adopted guidelines for garden lengths and distances between windows; for the most part these are*

*very close to the published guidelines, with the exception of some garden lengths that fall around 1m short of that normally required. Within and between the new houses proposed in the development these are not considered to raise any harm to the privacy of occupants of the new units and a reasonable standard of privacy, amenity and garden space would be provided to the future occupants and are considered acceptable.*

*To control overlooking of adjoining plots, the dwellings on plots 4, 25 and 75 (all Flats over garages) either have a hall window (non-habitable) or a hall window and a high level kitchen window. In order to secure the privacy and amenity of existing neighbours, both existing and proposed, it is recommended that a condition be included requiring the hall window to be obscurely glazed. As flats have no permitted development rights for the alteration or installation of windows and this would be sufficient to protect the privacy of neighbouring properties.*

*In terms of the neighbouring dwelling to the west:*

- This property would have 5 of the new dwellings facing onto its side boundary.*
- The 2.5 storey dwellings specifically mentioned in the neighbours' representation meet Council guidelines in terms of offset positions from the rear boundary and do not directly overlook windows in the neighbouring dwelling.*
- This property has a side facing ground floor window in a recently constructed extension to it; at 16.5m, less than the normally 21m would be available between that window and the proposed windows in the rear of the proposed bungalow on plot 36. However, there is a hedgerow on the field boundary and a 1.8m high timber fence is proposed on the boundary that would screen any overlooking given the single storey dwelling proposed on that plot; a condition requiring the erection and maintenance of a fence here would be needed to ensure adequate privacy for both dwellings is provided and maintained. Permitted development rights should also be removed for this plot to control the future installation of upper floor windows that may otherwise harm the privacy of residents of the existing property.*
- Whilst several plots on this boundary meet the Council's normally required 10.5m rear garden distance adjacent to the neighbours rear curtilage, some fall below this, with the minimum measuring approx. 8.95m (plot 40). Additionally, proposed ground levels towards the south west corner of the planning application site would be raised relative to the current field level and the level of the garden of the adjacent dwelling (plots 39 @1m higher than at the boundary, plot 40 @1.7m and plot 41 @2.5m). Where 10.5m garden length is not provided the dwelling types are all bungalows. There is a mature hedgerow along the majority of that boundary, although there are some gaps in it and several species of hedgerow are deciduous and will not therefore provide year round screening and the increased ground levels would may also provide views over that hedgerow. Notwithstanding this, that property has a very long rear garden (@ 80m long) and there is no breach of the guideline for the first 35m of that garden length. It is considered that to ensure 10.5m rear gardens to all the new dwellings proposed along the entire length of that garden would be disproportionate in terms of securing a reasonable level of privacy and amenity for the residents of this neighbour's garden. Whilst some overlooking may occur from windows at less than the normally required 10.5m offset distance, given the generally single storey nature of the dwellings where there is a nominal breach of the guideline, the length of the neighbours garden and the existence of the hedgerow, that could be supplemented if needed by the neighbour or occupants of the new dwellings, it is not considered that the amenity of the neighbouring occupants would be materially harmed to a degree requiring a refusal of planning permission or any additional controls or amendments to the design and layout of*



*these plots.*

*In respect of crime prevention, the Force Designing Out Crime Officer made suggestions for improvements to the original scheme that have been included in the layout and design drawings and is now content with the proposal with no recommendations for any further changes or conditions.*

*Overall it is considered that the layout provides an appropriate level of privacy and amenity subject to the conditions suggested above and the proposal is considered to accord with the general principles of the Council's adopted housing layout and design guidelines and with the requirements of saved Policy GEN2 and the requirements of Policy SC3: High Quality Development of the emerging Local Plan.*

### Highways

*In respect of highway safety, the amendments submitted by the developer have included alterations to address initial comments made by the Highway Authority and that Authority considers the proposal acceptable from a highway safety perspective.*

*Suggested conditions of the Highway Authority have been considered, but not all are considered reasonable or necessary. As the access is already implemented there is no need to approve a temporary means of access to the site. There has been a request for two conditions, one for a construction management plan (CMP) and one for a wheel washing facility; these issues are already contained in an approved CMP under the existing planning permission's and it is recommended that compliance with that document be conditioned. Construction details of the highway is controlled under highways legislation. Several conditions have been suggested that were not included on the earlier planning permission's and their inclusion here would not be reasonable in this circumstance This includes: secure cycle parking; means of preventing discharge of water from private drives; use of loose materials for driveways (although this is controlled under the recommended hard landscape details condition); the widening of Bolsover Road and 2m wide footway on the site frontage; and the provision of gates to driveways.*

### Ecology/Biodiversity

*Derbyshire Wildlife Trust has advised stated: -*

*"This application comprises a revised site layout to that previously commented on by the Trust under earlier applications. Initial ecological survey work (Phase 1 habitat survey and GCN survey) was undertaken at the site in 2012, with updates in 2018 (badger and breeding bird survey). The two badger setts previously recorded were no longer considered active. We do not consider update survey work to be necessary at this time, although a precautionary badger survey prior to commencement on site would be prudent to avoid any future offences*

*The proposals will result in the net loss of approx. 280 m of the central hedge and approx. 100 m roadside hedge. This significant net loss of a habitat of principal importance contradicts the aims of the local Biodiversity Action Plan and the NPPF 2019. Compensatory measures for hedgerow should be provided prior to determination.*

*Biodiversity enhancements could be secured through a planning condition."*

*Conditions suggested include control over vegetation removal during bird nesting season and an updated badger survey. As development has already commenced and hedgerow and vegetation has already been removed (as approved by the earlier permissions), it is*

*not considered necessary to include such conditions in respect of this proposal. An advisory note reminding the developer of their obligations under separate legislation to protect wildlife is proposed.*

*Although the request for compensatory measure is noted, these were not required prior to the determination of the earlier permissions and as the earlier approved development has already commenced, it is considered unreasonable to delay the determination of this planning application pending agreement of such detail. As with the earlier permission, this can be included within any condition requiring Biodiversity enhancements.*

*Conditions requiring the ongoing protection of the boundary hedgerows on site, in line with the earlier permission on this site should also be included.*

*In respect of biodiversity protection and mitigation, the submitted layout plan makes provision for large amounts of 1.8m high solid timber fencing alongside the retained boundary hedgerows. Such fencing is against the best interests of biodiversity in that it precludes light and access by wildlife to that hedgerow and therefore has a negative impact on its biodiversity interest. On this basis, except where this is needed to secure privacy to the rear of plot 36, as discussed earlier, alternative fencing should be required by condition.*

*Subject to the inclusion of conditions as outlined above, it is considered that the proposal accords with the requirements of saved policy ENV5 of the adopted Bolsover District Local Plan and the requirements of Policy SC9: Biodiversity and Geodiversity of the emerging Local Plan.*

#### Drainage

*Yorkshire Water has commented that the Flooding & Drainage Assessment prepared by CoDa Structures (Report 6920 dated 18 May 2012) is acceptable. In summary, the report states that foul water will discharge via pumping to the 300mm diameter public combined water sewer in Shuttlewood Road and surface water to will discharge to the watercourse to the south west of the site; this is as approved under the earlier consent and works to implement this approved scheme have already commenced. Yorkshire Water recommends the inclusion of conditions relating to the provision of separate systems of foul and surface water drainage and provision of a satisfactory outfall for surface water.*

*The Lead Local Flood Authority (Derbyshire County Council) has sought additional information to demonstrate that options for Sustainable Urban Drainage Systems (SUDS) have been considered.*

*Notwithstanding this request, given the existing approval of the principles of the drainage scheme (recently approved in consultation with the Flood Authority), to require a different approach to that previously approved and part implemented scheme would be unreasonable. A revision to the layout of that approved scheme will be need to be included by condition to take account of the new dwelling and highway layout on parts of the site, and this is proposed to be included as a conditional requirement.*

*Subject to inclusion of such a condition, the proposal is considered to accord with the requirements of saved policies GEN5 (Land Drainage) and GEN6 (Sewerage and Sewage Disposal) of the adopted Bolsover District Local Plan and the requirements of Policies SC7 and SC13 of the emerging Local Plan.*

### Pollution

*The Environmental Protection Officer has reviewed the submitted Phase 1 & 2 Environmental Assessment and additional information that was submitted in response to the Environmental Protection Officer's initial comments.*

*She has advised that whilst there are some shortcomings in the amount and quality of testing that has been carried out for both ground contamination and gas monitoring, even accounting for this, no significant contamination was identified and so that there is no requirement for any conditions to control any additional investigation or mitigation.*

*In respect of the Environmental Protection Officer's request for a condition for a Constructional Environmental Management Plan (CEMP), no such requirement was previously requested, and no control made, in terms of noise and dust on the earlier and implemented consents. Nevertheless, a CEMP was completed under a condition of the earlier planning permission's as a response to a request for this from the Highway Authority; it is proposed to require compliance with that document in any event. The issues of dust and noise are discussed in that document with proposals for mitigation, but the Environmental Protection Officer would wish to see this extended. However, to alter the requirement of that document would be unreasonable given the earlier permissions and approval of that document. Nevertheless, it is also worth noting that separate controls exist under Environmental Health legislation to control statutory nuisance from noise and dust to give protection to local residents in the event of incidents in this respect.*

### Affordable Housing

*The Strategic Housing Officer has advised that there is an identified need for affordable housing in the district and that the previously agreed provision of 8 x 2 bed (4 person) houses for rent is still acceptable as the affordable housing contribution; the affordable units should be owned and managed by a Housing Association with stock in the district, or in that of a neighbouring Local Authority. Nomination rights should be given to the council.*

*The applicant has agreed to this provision and this will need to be dealt with by the completion of a section 106 Planning Obligation to secure the delivery of those dwellings prior to the issue of any planning permission. Such provision will accord with the requirements of policy HOU6 (Affordable Housing) of the adopted Bolsover District Local Plan and the requirements of Policy LC2: 'Affordable Housing Through Market Housing' of the emerging Local Plan.*

### Other S106 Matters

*In addition to the affordable housing request, there have been further requests for contributions from the Leisure Officer, Public Arts Officer, the Education Authority and the NHS Hardwick CCG.*

*Whilst those requests have been put to the applicant they no additional offers have been made over and above the affordable housing, which was the only requirement of the earlier planning permission's.*

*In a supporting letter, the agent correctly summarises the fact that that at the time of that earlier decision there had been requests for 16 primary school places and a public art contribution. It was however demonstrated at the time of the submission that the public art contribution would not meet the tests for S106, whilst the Education Authority could not release the relevant information to justify the school place requirement it had requested.*

*Additionally in respect of that earlier decision it is worth noting that:*

- Due to the proximity of existing play facilities and sports pitches, additional leisure contributions could not be justified at that time. This was based on the Council's updated open space audit that has been unchanged since then and there has been no material change in circumstance in respect of leisure provision within Shuttlewood since that date; and*
- The Derbyshire County Primary Care Trust (the predecessor to the current CCG) stated that no contributions to health provision were required as capacity existed at local practices.*

*The agent indicates that:*

- Future planning with respect to infrastructure and school place requirements going forward should therefore already take into account the additional housing numbers and population increase anticipated from the site; and*
- As the current plot substitution application represents a reduction in quantum by 2 plots but no other substantial changes, no review of the S106 requirements is deemed necessary. Therefore, it should be possible to rely on the existing S106 Heads of Terms.*

*It is considered that this interpretation is correct in these circumstances given the 'fall back' position relating to the prospect of implementation of the approved scheme for 80 dwellings, which is 2 more dwellings than is now proposed.*

*As one of the tests for S106 contributions is that the requirement should be reasonable in all other respects, it is considered that to seek to impose additional S106 requirements at this stage would be unreasonable and would fail this test of lawfulness.*

*On this basis it is considered that in the event that planning permission is granted, this should be made subject to a Section 106 Planning Obligation to secure solely the provision of the proposed affordable housing.*

*In addition to the above, the agent has also indicated that to provide additional funding to S106 matters would negatively impact on the viability of the scheme. Whilst viability is a matter that can be considered in more detail if considered necessary, given the acceptance of the status of the earlier permission and S106, no further consideration of this issue is required.*

#### *Other matters*

*The Council's Economic Development team has noted that the proposed scheme meets the relevant thresholds set out in the emerging Bolsover Local Plan Policy II2: Employment and Skills, so request inclusion of a condition regarding the provision of local employment. In line with other issues raised in this report, such a condition was not included on the earlier planning permission's for this development and development has already been commenced and is ongoing and clearly contracts let given that ongoing work. Additionally, whilst the Local Plan is relatively advanced this is still not adopted policy and on this basis, the inclusion of such a condition is not considered to be reasonable in this case.*

*The above report has dealt directly with a number of comments raised in the submitted letter of representation. In respect of the further comments raised: -*

- It is not considered that the introduction of dwellings on the boundary of the*

*neighbours' property will increase security risk given the current boundary is onto an open field. There will be no highway access to that boundary and any access to the boundary would have to be through the grounds of the new dwellings.*

- Whilst lighting may be introduced onto properties this is not unreasonable on dwellings or in urban locations and this is not considered to be harmful in planning terms.*
- Hedge and other property maintenance is a private matter. Should any hedgerow encroach onto adjoining land this is also a private matter.*
- The extent of fencing and boundary works suggested by the writer is not considered reasonable or necessary in planning terms.*
- It is not unusual for livestock to be kept in gardens and it is not considered that this raises any material issues that would weigh against the proposals.*
- There is no planning reason to provide an improved vehicular access to the writer's property.*

### Conclusion

*Whilst being contrary to the adopted Local Plan, regard must be had to the lawful implementation of the earlier planning permission on this site that is considered to weigh against the normal policy principles regarding development in the countryside. There have been negotiated improvements to the proposed development in the interests of the character and appearance of the area, highway safety, the privacy and amenity of neighbours and biodiversity to bring the proposal in-line with other policy requirements, the Council's published design guidance and the NPPF (2019). A S106 Agreement to address affordable housing need has been agreed. On balance it is considered that there are no outstanding matters that would indicate that planning permission should not be granted in this case.*

### **Other Matters**

*Listed Building: See assessment*

*Conservation Area: N/A*

*Crime and Disorder: See assessment above*

*Equalities: No significant issues arise*

*Access for Disabled: No significant issues arise*

*Trees (Preservation and Planting): See assessment*

*SSSI Impacts: N/A*

*Biodiversity: See assessment above.*

*Human Rights: No significant issues arise*

**RECOMMENDATION**     *The current application be approved pending completion of a S106 obligation in respect of affordable housing.*

**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:-

1.     *The development hereby permitted must be carried out in accordance with the following approved drawings and documents:-*

- C00 – Site location plan submitted 07/02/19*
- C01 – Topographical survey submitted 07/02/19*
- C02 Rev C - Street Elevations submitted 24/05/19*
- C03 Rev C - Site Plan East submitted 24/05/19*
- C04 Rev E - Site Plan West submitted 18/06/19*

- C05 Rev A - Petworth submitted 30/04/19
- C06 Rev A - Petworth submitted 30/04/19
- C07 Rev A - Petworth submitted 30/04/19
- C08 Rev A - Petworth submitted 30/04/19
- C09 Rev A - Lindisfarne submitted 30/04/19
- C10 Rev A - Lindisfarne submitted 30/04/19
- C11 Rev A - Lindisfarne submitted 30/04/19
- C12 Rev A - Lindisfarne submitted 30/04/19
- C13 Rev A - Lindisfarne submitted 30/04/19
- C14 Rev A - Lindisfarne submitted 30/04/19
- C15 Rev A - Lindisfarne submitted 30/04/19
- C16 Rev A - Kingston submitted 30/04/19
- C17 Rev B - Kingston submitted 24/05/19
- C18 Rev A - Hardwick semi submitted 30/04/19
- C19 Rev A - Hardwick semi submitted 30/04/19
- C20 Rev A - Hardwick semi submitted 30/04/19
- C21 Rev A - Hardwick det submitted 30/04/19
- C22 Rev A - Hardwick det submitted 30/04/19
- C23 Rev A - Hardwick det submitted 30/04/19
- C24 Rev A - Hardwick det submitted 30/04/19
- C25 Rev A - Rosedene submitted 30/04/19
- C26 Rev A - Rosedene submitted 30/04/19
- C27 Rev A - Rosedene submitted 30/04/19
- C28 Rev A - Rosedene submitted 30/04/19
- C29 Rev A - Wycombe submitted 30/04/19
- C30 Rev A - Wycombe submitted 30/04/19
- C31 Rev A - Westbury submitted 30/04/19
- C32 Rev A - Westbury submitted 30/04/19
- C33 Rev A - Westbury submitted 30/04/19
- C34 Rev A - Buckingham submitted 30/04/19
- C35 Rev A - Danbury submitted 30/04/19
- C36 Rev A - Sudbury submitted 30/04/19
- C37 Rev A - Claydon submitted 30/04/19
- C38 Rev A - Claydon submitted 30/04/19
- C39 - 2.5 storey Hardwick Plans submitted 24/05/19
- C40 Rev A - 2.5 storey Hardwick Elevations submitted 30/04/19 (only approved in respect of plots 12 – 18)
- C41 Rev A - 2 bed Affordable House submitted 30/04/19
- C42 – Garages – single and combined submitted 07/02/19
- C43 Rev A - Garages- paired submitted 30/04/19
- C44 Rev A - Plot materials Schedule submitted 30/04/19
- C45 Rev D - Site Plan 1/500 submitted 18/06/19
- C46A – Kingston submitted 24/05/19
- P47 – 2 bed affordable house for Plots 10 – 11

*REASON: For the avoidance of doubt having regard to the amended and additional drawings submitted during the application in order to define the planning permission.*

2. *The fencing erected to protect retained trees and hedgerows, as approved under application ref. 18/00407/DISCON, must be maintained as approved at all times during the development of this site. Nothing will be stored or placed within the fenced area around*

*any retained tree or hedgerow and the ground levels within the fenced area must not be altered, and no any excavation will take place, without the written consent of the Local Planning Authority.*

*REASON: To ensure that adequate protection is given to trees and hedgerows that are to be retained on the site or which abut the site in the interests of the visual amenity of the area and biodiversity interests, and in compliance with Policies GEN1, ENV5 and ENV8 of the adopted Bolsover District Local Plan.*

*3. Building works must not commence above foundation level on more than 10 new dwellings unless a Biodiversity Enhancement Strategy has been submitted to and approved in writing by the Local Planning Authority to achieve a net gain in biodiversity in accordance with the NPPF 2019. Such approved measures should be implemented in full and maintained thereafter. Measures must include (but are not limited to):*

- the provision of compensatory hedgerow planting for the hedgerow lost as part of the development;*
- details of bird and bat boxes to be clearly shown on a plan (positions / specification / numbers).*
- hedgehog connectivity measures to be clearly shown on a plan, such as small fencing gaps (130 mm x 130 mm), railings or hedgerows; and*
- a summary of ecologically beneficial landscaping (full details to be provided in Landscape Plans).*

*REASON: To provide for an enhancement of the ecological/biodiversity interest of the site in accordance with the policy of the National Planning Policy Framework and policy ENV5 of the adopted Bolsover District Local Plan.*

*4. Notwithstanding the submitted details, prior to building works commencing above foundation level on more than 10 dwellings, details of both hard and soft landscape works, including all means of enclosure and a programme for implementation, must have been submitted to and approved in writing by the Local Planning Authority and the works must be carried out as approved. The soft landscaping details must take account of the need to provide for biodiversity enhancement under the requirements of condition 3 above.*

*REASON: To ensure that satisfactory landscaping is provided within a reasonable period in the interests of visual amenity and biodiversity and in compliance with Policies GEN1, GEN2 and ENV5 of the adopted Bolsover District Local Plan*

*5. A landscape management plan, including long term design objectives, management responsibilities and maintenance schedules for all landscape areas including the open space- footpath route along the southern edge of the site, other than small, privately owned, domestic gardens, must be submitted to and approved in writing by the Local Planning Authority prior to the occupation of any dwelling . The landscape management plan must be carried out as approved.*

*REASON. To ensure that landscaped areas are effectively maintained in the interests of biodiversity and the visual amenity of the area and in compliance with policies GEN1, GEN2 and ENV5 of the adopted Bolsover District Local Plan.*

6. *If within a period of five years from the date of the planting of any tree or shrub that tree or shrub may die, be removed, uprooted or become seriously damaged it must be replaced by another of the same species during the first available planting season, unless a variation of the landscaping scheme is approved in writing with the Local Planning Authority.*

*REASON: To provide a reasonable period for the replacement of trees and shrubs in the interests of biodiversity and the visual amenity of the area and in compliance with policies GEN1, GEN2 and ENV5 of the adopted Bolsover District Local Plan.*

7. *The Hall windows in the rear elevation of plots 4, 25 and 75 must be fitted with obscured glass that must be maintained as such at all times thereafter for the lifetime of the development.*

*REASON: In the interests of the privacy and amenity of occupants of the adjoining dwellings and in compliance with Policy GEN2 of the adopted Bolsover District Local Plan*

8. *Notwithstanding the provisions of Parts 1 and 2 of Schedule 2, Article 3 of the Town and Country Planning (General Permitted Development) Order 1995 (or any Order revoking and re-enacting that Order) there will be no alterations resulting in the installation of any windows (including roof-lights) above the ground floor of the proposed dwelling on plot 36 without the prior grant of planning permission.*

*REASON: In the interests of the privacy and amenity of occupants of the adjoining dwellings and in compliance with Policy GEN2 of the adopted Bolsover District Local Plan.*

9. *Prior to the occupation of the approved dwelling on plot 36, a 1.8m high solid screen fence must have been erected on that plots rear boundary that must be maintained at all times thereafter for the lifetime of the development.*

*REASON: In the interests of the privacy and amenity of occupants of the adjoining dwellings and in compliance with Policy GEN2 of the adopted Bolsover District Local Plan.*

10. *Prior to building works commencing above foundation level on more than 10 dwellings, full details of foul and surface water drainage to include a scheme of implementation and arrangements for the lifetime management and maintenance of the drainage works, based on the principles established by the drainage details previously approved under planning consent ref. 18/00406/DISCON, must have been submitted to and approved in writing by the Local Planning Authority, which must be implemented in accordance with the approved timetable. The scheme will provide for separate foul and surface water systems on and off the site.*

*REASON: To ensure that satisfactory provision is made at the appropriate time for the disposal of foul and surface water and in compliance with policy GEN5 and GEN6 of the adopted Bolsover District Local Plan.*



11. *There shall be no piped discharge of surface water from the application site until works to provide the outfall for surface water, as approved under planning consent ref. 18/00407/DISCON, have been completed.*

*REASON: To ensure that the site is properly drained and surface water is not discharged to the foul sewerage system which will prevent overloading and in accordance with the requirements of policy GEN5 of the adopted Bolsover District Local Plan.*

12. *The construction management plan previously approved under application reference number 18/00407/DISCON shall be adhered to throughout the construction period.*

*REASON: In the interests of highway safety and residential amenity and in compliance with policies GEN1 and GEN2 of the Bolsover District Local Plan.*

13. *The construction access must be provided and maintained in accordance with the details previously approved under planning consent ref. 18/00407/DISCON. The access shall be retained in accordance with that approved scheme throughout the construction period, or such other period of time as may be agreed in writing by the Local Planning Authority, free from any impediment to its designated use.*

*REASON: In the interests of highway safety and in compliance with Policy GEN1 of the Bolsover District Local Plan.*

14. *The construction compound within the site for the storage of plant and materials, site accommodation, loading, unloading and manoeuvring of goods vehicles, parking and manoeuvring of employees and visitors vehicles must be provided and maintained in accordance with the details previously approved under planning consent ref. 18/00407/DISCON free from any impediment to its designated use throughout the construction period.*

*REASON: In the interests of highway safety and in compliance with Policy GEN1 of the Bolsover District Local Plan.*

15. *No dwelling will be occupied unless and until it is served by an access road which has been surfaced at least to base course level and there is a level surfaced footway suitable for use by wheelchairs and pushchairs between that dwelling and the public highway.*

*REASON: In the interests of highway safety and in compliance with Policy GEN1 of the Bolsover District Local Plan.*

16. *No part of the development shall be occupied until a new estate street junction has been formed to Bolsover Road in accordance with the application drawing Nos 18-560-SH-C03, and provided with visibility sightlines extending from a point 2,4m from the carriageway edge, measured along the centreline of the access, for a distance of 47m in each direction measured along the nearside carriageway edge. The land in advance of the*

*visibility sightlines being levelled, constructed as footway and not being included in any plot or other sub-division of the site.*

*REASON: In the interests of highway safety and in compliance with Policy GEN1 of the Bolsover District Local Plan.*

*17. No dwelling will be occupied until its new vehicular access has been formed to the new estate street in accordance with the approved application drawings. The accesses serving plot numbers 7 to 41, 46, 49 to 59 and 73 to 76 must be provided with visibility sightlines extending from a point 2.4 metres from the carriageway edge, measured along the centreline of the accesses, for a distance of 25m in each direction measured along the nearside carriageway edge, with the accesses serving plot numbers 3, 42, 47, 48, 59, 60, 70, 71 and 77 to 79 being provided with visibility sightlines extending from a point 2.4 metres from the carriageway edge, measured along the centreline of the accesses, for a distance of 17m in each direction measured along the nearside carriageway edge. The land in advance of the visibility sightlines must be retained throughout the life of the development free of any object greater than 1m in height relative to adjoining nearside carriageway channel level.*

*REASON: In the interests of highway safety and in compliance with Policy GEN1 of the Bolsover District Local Plan.*

*18. Individual and shared private vehicular accesses shall not be taken into use until 2m x 2m x 45° pedestrian intervisibility splays have been provided on either side of the accesses at the back of the footways/margins, the splay areas being maintained throughout the life of the development clear of any object greater than 1m in height relative to footway level.*

*REASON: In the interests of highway safety and in compliance with Policy GEN1 of the Bolsover District Local Plan.*

*19. No dwelling shall be occupied until space has been laid in accordance with the approved application drawings for the parking of that dwelling's resident's vehicles.*

*REASON: To enable a vehicle to be parked clear of the highway in the interests of safety and in compliance with Policy GEN1 of the Bolsover District Local Plan*

*20. The garages / car parking spaces to be provided shall be kept available for the parking of motor vehicles at all times. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any Order revoking and/or re-enacting that Order) the garage / car parking spaces hereby permitted shall be retained as such and shall not be used for any purpose other than the garaging of private motor vehicles associated with the residential occupation of the property without the grant of further specific planning permission from the Local Planning Authority.*

*REASON: To enable a vehicle to be parked clear of the highway in the interests of safety and in compliance with Policy GEN1 of the Bolsover District Local Plan.*

21. *The proposed access driveways to the new estate street shall be no steeper than 1 in 14 for the first 5m from the nearside highway boundary and 1 in 10 thereafter.*

*REASON: In the interests of highway safety and in compliance with Policy GEN1 of the Bolsover District Local Plan.*

### **Statement of Decision Process**

1. *Whilst being contrary to the adopted Local Plan, the Local Planning Authority has had regard to the lawful implementation of an earlier planning permission on this site that is considered to weight against the normal policy principles regarding development in the countryside. The Local Planning Authority has negotiated improvements to the proposed development in the interests of the character and appearance of the area, highway safety, the privacy and amenity of neighbours and biodiversity to bring the proposal in-line with other policy requirements, the Council's published design guidance and the NPPF (2019). A S106 Agreement to address affordable housing need has been agreed. On balance it is considered that there are no outstanding matters that would indicate that planning permission should not be granted.*

### **Notes**

*Advisory notes to cover the following issues are proposed: -*

- *S106;*
- *Use of open boundary treatments adjacent existing hedgerows;*
- *Soft landscaping, especially the use of native species;*
- *Reminder about obligations under the Wildlife and Countryside Act;*
- *Noise and Dust mitigation;*
- *Temporary arrangements for surface water run-off;*
- *Local Employment;*
- *Derbyshire County Council highways advisory notes;*
- *Encouragement for provision of high speed broadband*

**Bolsover District Council**

**Planning Committee**

**31<sup>st</sup> July 2019**

**Local Development Order to support the Shop Front Repairs Grants Scheme**

**Report of the Planning Manager**

This report is public

**Purpose of the Report**

- To seek approval for a Local Development Order to grant planning permission for alterations and improvements to shop frontages in Shirebrook covered by the Shop Front Repairs Grants Scheme.

**1 Report Details**

- 1.1 In April 2017 the Partnership Team secured £167,212 through the Ministry for Housing Communities and Local Government (MHCLG) Controlling Migration Fund to improve the visual appearance of the shop fronts on Shirebrook Market Square as part of the Building Resilience programme, a £1.26m programme for Shirebrook.
- 1.2 A condition survey of the properties was carried out In May 2018 and confirmed that the building stock is of poor quality (all rated C or D overall where C=poor, operational but in need of repair or replacement; and D=bad, non-operational and about to fail).
- 1.3 Based on the poor condition of the properties, the Partnership Team allocated a further £90,000 to a Shop Front Repairs Grants Scheme from programme underspends, targeting physical improvements to the front elevations and shop fronts of independent retail properties, to encourage further investment by the owner/occupiers and to maximise the benefit of other improvement projects taking place on the Market Square.
- 1.4 In April 2019, Economic Development secured a further £375,000 through the Business Rates Pooling Pilot for a Phase Two of the scheme.
- 1.5 The Shop Front Repairs Grants Scheme forms an important part of a wider Market Square Enlivenment project. Working with a range of stakeholders, including MHCLG, Bolsover Partnership, Shirebrook Forward NG20, Shirebrook Academy, Junction Arts, and Chesterfield College a range of activities have been identified as part of the project which have the capacity to:
  - Reduce anti-social behaviour through a market square that looks better and that the community have been a part of improving
  - Improve public perceptions of safety

- Inspire community engagement and social inclusion
- Build community pride and identity
- Support a resilient local economy

- 1.6 To assist delivery of the Shop Front Repairs Grants Scheme, officers consider a Local Development Order (“an LDO”) could be made by the Council (in its capacity as the local planning authority) to give a grant of planning permission to alterations and improvements to shop fronts on Market Square in line with the Shop Front Design Guide produced as part of the Building Resilience programme.
- 1.7 This type of LDO would streamline the planning process by removing the need for the owner / occupier of the affected premises to make a formal planning application to the Council.
- 1.8 Instead, the LDO would allow applicants to seek prior approval of their proposed alterations at the same time as they make a grant application using the same plans they would submit at that time.
- 1.9 Therefore, the Council would be able to offer a ‘one-stop’ service and be able to issue a decision on the grant funding and the planning issues at the same time. Currently, applicants for grant-funding have to apply separately for planning permission once grant funding has been agreed because all alterations to shop frontage require planning permission other than ‘like for like’ repairs.
- 1.10 However, public consultation will need to be carried out before an LDO is adopted and it is intended to publicise the LDO by way of a press advert, site notices (in and around the Market Square) and by notifying the affected premises.
- 1.11 It is also intended to allow a period of 28 days for comments to be made.

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

- 2.1 In summary, the LDO would support the significant investment being made in the Market Square by removing red tape: granting planning permission for the works that the Shop Front Repairs Grants Scheme is targeting, avoiding the need for individual properties to gain planning permission, with the time and expense that is involved with that process.
- 2.2 The LDO would be an effective tool to make the planning process easier, thereby encouraging participation in the Shop Front Repairs Grants Scheme. In addition the LDO would encourage desirable improvements within the scope of the design guide. This would ensure the LDO delivered a consistent high quality design across the Market Square and help achieve the social aims of the Market Square Enlivenment project.
- 2.3 The fact that the LDO applies regardless of whether the improvements are being carried out as part of the scheme means that if a property owner decides to improve their shop front independently, they still would not need specific planning permission as long as the works are within the scope of the design guide, leaving a legacy beyond the life of the funding.

- 2.4 Finally, planning fees are eligible expenditure under the scheme, therefore removing the expense would increase the amount of grant funding available for improvements. The streamlined process will also reduce officer time on dealing with applications through the formal process.

### **3 Consultation and Equality Impact**

- 3.1 If the proposals for an LDO to support the Shop Front Repairs Grants Scheme is approved, it will need to be subject to formal consultation before it is put into place. However, public consultation is unlikely to give rise to any major issues because of the nature of the proposals.
- 3.2 Similarly, the proposals are unlikely to have any negative impact on any person with a protected characteristic or group of people with a shared protected characteristics because the proposals are designed to improve the environmental quality of the Market Place for everybody.
- 3.3 In the alternative, specific improvements for accessibility improvements can be proposed under the LDO process and the LDO process would make the planning system more accessible for those wishing to make an application for grant funding or carry out improvements to their premises privately.

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

- 4.1 Alternative options include 'do nothing' or 'widen the scope' of the proposed LDO. The do nothing option was rejected because this would simply maintain the status quo and do nothing to support the Shop Front Repairs Grants Scheme.
- 4.2 The option to widen the scope of the LDO has been deferred rather than rejected because it is considered that it would be useful to understand how effective this LDO has been to be able to review and if necessary; then refine any additional LDOs.
- 4.3 In addition, funding for shop front repairs to other premises off Market Street have not yet been agreed under the terms of Phase Two of the scheme that is being funded from Business Rates Pooling Pilot.

### **5 Implications**

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

- 5.1.1 If the Council were to accept applications of prior approval under the LDO without an application fee then there would be some loss of income. The normal fee for an application for planning permission for shop front alterations would be £234.
- 5.1.2 Therefore, there would be a potential loss of fee income of c. £10,000 if there was a significant uptake in premises seeking prior approval through the LDO process albeit these applications may not have come forward in the first place if an LDO was not in place.

- 5.1.3 Equally, the saving made by applicants on the application fee and associated costs of making a formal application would help to maximise the amount of grant funding available to facilitate shop front improvements.

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

- 5.2.1 The LDO process is regulated through the planning acts and if agreed will need to be subject to public consultation prior to being put into place. Once it is in place, the LDO would grant planning permission for prescribed works to shop frontages subject to conditions.
- 5.2.2 The LDO would not grant advertisement consent for new signage because adverts are considered under a different regulatory regime. However, many of the premises involved will have 'deemed consent' for new signage and therefore, will not have to make a separate application for advertisement consent by virtue of the presence of existing signage.
- 5.2.3 The proposed LDO would not otherwise grant planning permission for EIA development because the site is not in a sensitive area (as defined by the EIA regulations) and the types of development that would be granted planning permission by the LDO would be highly unlikely to have any significant effects on the environmental quality of the local area (from an EIA perspective).
- 5.2.4 The LDO process does not give rise to any specific data protection issues other than the personal details of any consultees responding to consultation on the LDO would be dealt with in accordance with the Planning Service's existing privacy statement.

## **5.3 Human Resources Implications**

- 5.3.1 These proposals do not give rise to any significant increase in existing workloads but the Planning Service has sought a limited amount of funding from the Business Rates Pooling Pilot to cover officer time on putting in place an LDO and offset loss of fee income to cover officer time spent on dealing with prior approvals.

## **6 Recommendations**

- 6.1 Subject to further public consultation (as set out in paras 1.10 & 1.11), a Local Development Order is put in place to support the Shop Front Repairs Grants Scheme for the following reason:

The reason for the Local Development Order is to support the significant investment being made in improving the environmental quality of the Market Square in Shirebrook by (i) streamlining the planning process for the works that the Shop Front Repairs Grants Scheme is targeting, (ii) speeding up the delivery of grant money and subsequent improvements to the Market Square, and (iii) ensuring a consistent high quality of design is achieved that provides a long-lasting legacy that will benefit the local community, improve the character and appearance of the local area and improve the local economy.

- 6.2 The Local Development Order shall grant planning permission for alterations and improvements to shop frontages, including replacement windows and doors, new or

replacement canopies, new or replacement cladding, new or replacement fascia, new or replacement shutters and similar items, for all premises located within the areas edged red on the plan attached as Appendix A.1 operating either an A1 Use (retail), A2 Use (professional offices), A3 Use (cafes), A4 Use (drinking establishments) or A5 Use (hot food takeaway) at street level, subject to the following conditions:

- Prior approval of the external appearance of the altered frontage and external facing materials to be used in any proposed alterations must be obtained from the Local Planning Authority prior to the commencement of any development;
- The design of the proposed alterations and the final external appearance of the shop frontage must be in accordance with the design principles set out in the Shop Front Design Guide.
- There must be no alterations to the shape to the main roof over the existing premises.
- Any alterations approved under this Order must be completed within two years of approval
- This Order will expire and no longer take effect after 31 December 2022.

6.3 The Order shall take effect following public consultation subject to no adverse comments being received on substantive planning grounds as a result of this consultation, in which case the matter would be brought back to Planning Committee for further consideration.

## 7 Decision Information

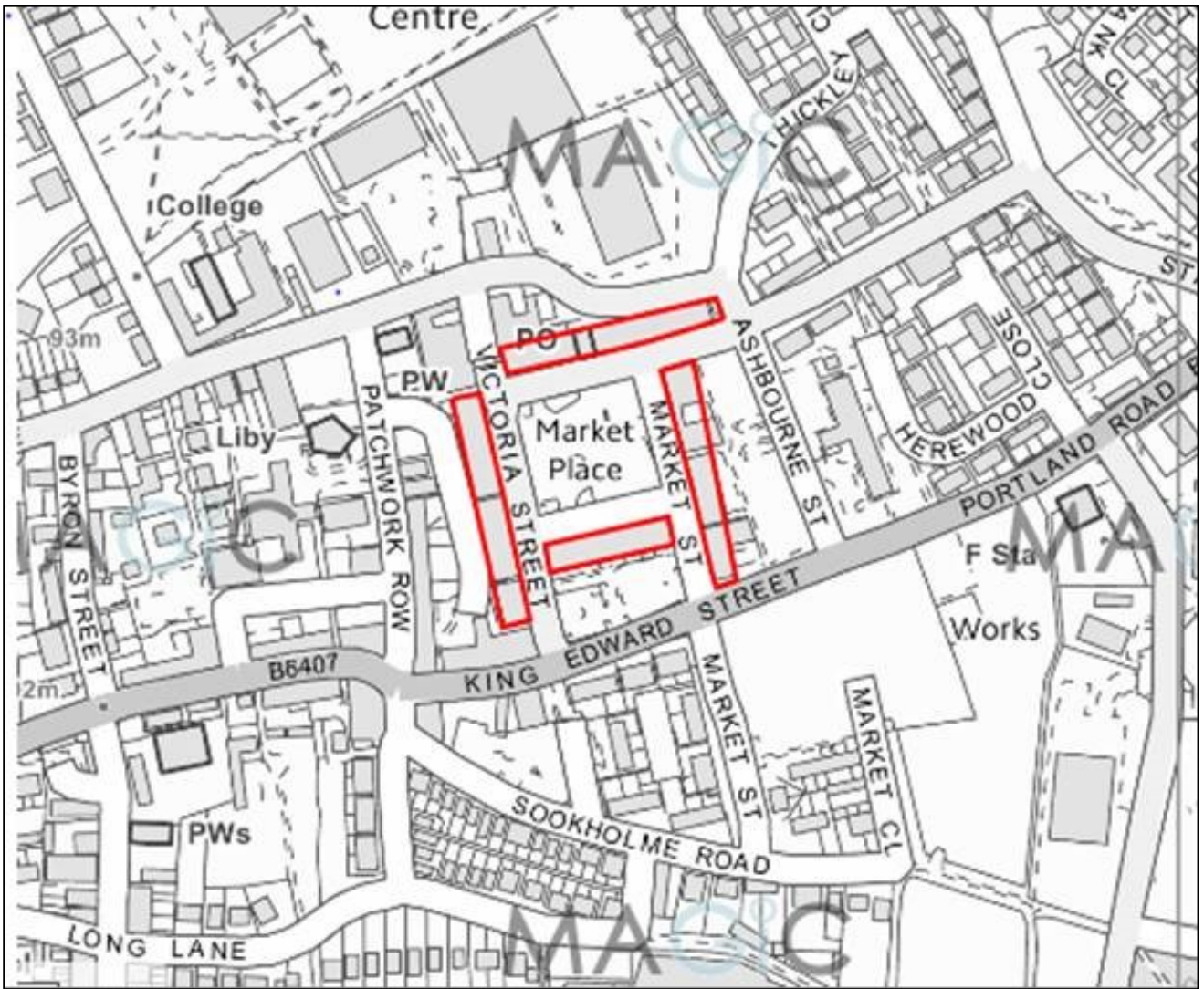
<p><b>Is the decision a Key Decision?</b>  A Key Decision is an executive decision which has a significant impact on two or more District wards or which results in income or expenditure to the Council above the following thresholds:  BDC: Revenue - £75,000 <input type="checkbox"/>  Capital - £150,000 <input type="checkbox"/>  NEDDC: Revenue - £100,000 <input type="checkbox"/>  Capital - £250,000 <input type="checkbox"/>  <input checked="" type="checkbox"/> Please indicate which threshold applies</p>	No
<p><b>Is the decision subject to Call-In?</b>  (Only Key Decisions are subject to Call-In)</p>	No
<p><b>Has the relevant Portfolio Holder been informed</b></p>	Yes
<p><b>District Wards Affected</b></p>	All
<p><b>Links to Corporate Plan priorities or Policy Framework</b></p>	All



8 **Document Information**

Appendix No	Title	
1	Plan of Market Place	
<b>Background Papers</b> (These are unpublished works which have been relied on to a material extent when preparing the report. They must be listed in the section below. If the report is going to Cabinet (NEDDC) or Executive (BDC) you must provide copies of the background papers)		
Shop Front Design Guide		
Report Author		Contact Number
Chris Fridlington		EXT2265

Appendix 1: Site Location Plan



**Bolsover District Council**

**Planning Committee**

**31<sup>st</sup> July 2019**

**Local Enforcement Plan (Planning)**

**Report of the Planning Manager**

This report is public

**Purpose of the Report**

- To report progress on the service targets set out in the Local Enforcement Plan.

**1 Report Details**

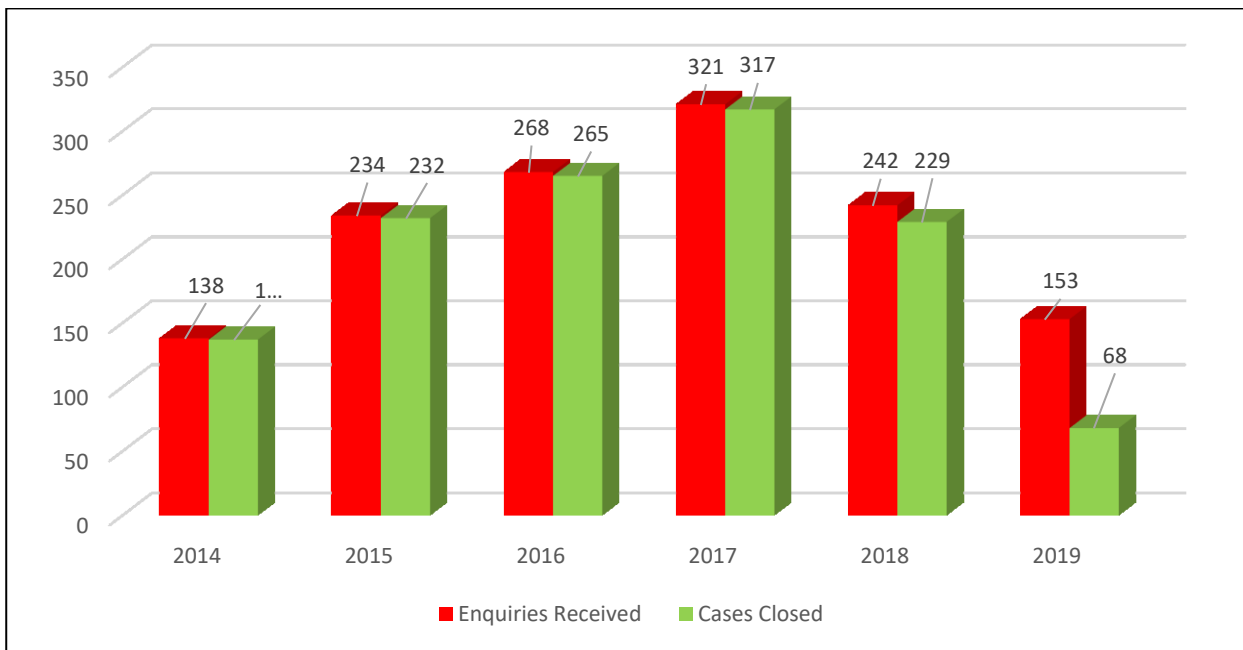
**Background**

- 1.1 The Local Enforcement Plan was adopted by the Planning Committee earlier this year and sets out the following service standards that officers consider are specific, measurable, achievable and realistic:
- The site of a high priority case will be visited in the same day the suspected breach of planning control has been identified, wherever possible, and a decision on what further action is required will be taken within 24 hours of that site visit.
  - A site visit will be undertaken within two weeks of identifying a suspected breach of planning controls that is likely to be a medium priority case. A decision on what further action to take will be made within four weeks of that site visit.
  - A site visit will be undertaken within six weeks of identifying a suspected breach of planning controls that is likely to be a low priority case. A decision on what further action to take will be made within six weeks of that site visit.
- 1.2 These service standards have been designed to facilitate prompt investigation of suspected breaches of control and encourage making timely decisions on how to progress individual cases.
- 1.3 The purpose of this report is to evaluate the performance of the Planning Service against these service standards for the first six months of 2019 (i.e. from January 2019 – June 2019).

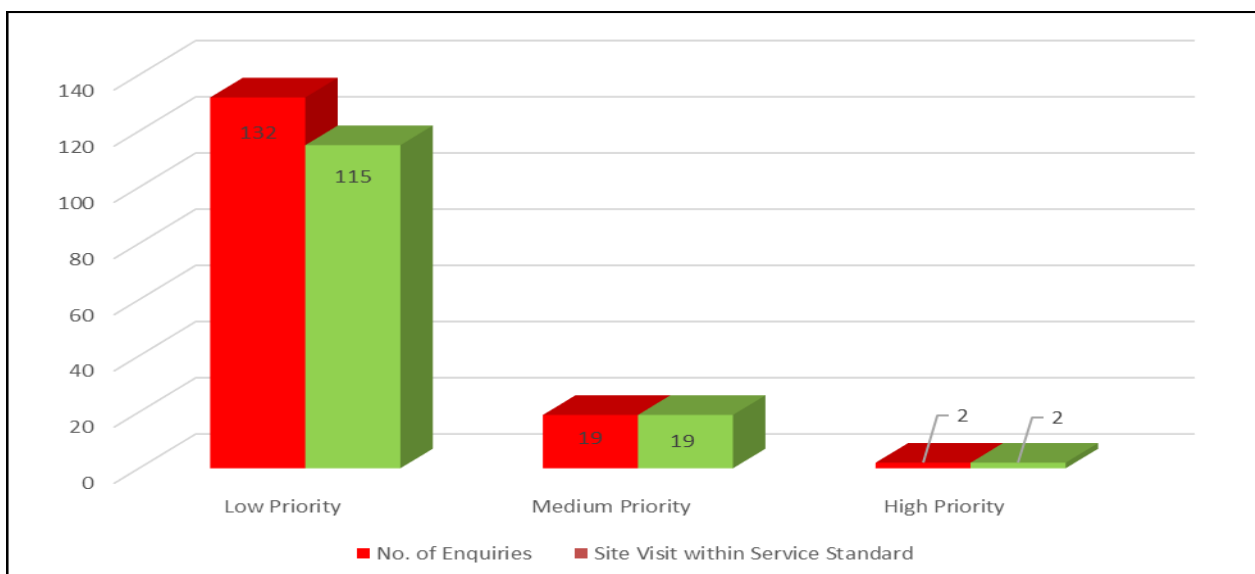
## Performance

- 1.4 The following graphic show workflows over the last five calendar years and the first six months of 2019. Over this period, the enforcement team operated with an establishment of 2 Full Time Equivalent (FTE) employees but for 18 months (2016-2017) there was only 1 FTE dealing with unauthorised developments. The department is now fully resourced again after one of the team recently left the Council for other employment.
- 1.5 The graphic below helps to show that 2 FTE are needed because the Planning Service has received 153 new complaints and closed 68 cases over the last 6 months so workload pressures continue to place a high demand on the team.

## Workflows



## 2019 Site Visits within Service Targets



- 1.6 The graphic immediately above shows that during the first six months of 2019, despite other workload pressures, the enforcement team still managed to visit 100% of high and medium priorities within the service standard i.e. the team visited both high priority cases the same day as the initial enquiry was received and all 19 reported medium priority cases within two weeks of the initial enquiry.
- 1.7 Over the last six months, the team also managed to visit 115 out of 138 low priority cases within six weeks of the initial enquiry i.e. the team managed to visit 87% of all new low priority cases within the service standard.
- 1.8 It is considered this represents good performance against the service targets taking into account the volume of new enquiries, the disruption to the team caused by having to replace one of the team members and other workload pressures.
- 1.9 For example, workflows have been affected by two ongoing high priority cases and two new high priority cases, which means the table below shows that more lower priority cases are pending further action at the time of writing than might have been anticipated.

2019 Status of new Enquiries

<b>2019</b>	<b>No. of Enquiries</b>	<b>Closed Cases</b>		<b>Cases Pending</b>	
<b>Total</b>	<b>153</b>	<b>68</b>	<b>44%</b>	<b>85</b>	<b>56%</b>
<b>Low Priority</b>	<b>132</b>	<b>65</b>	<b>49%</b>	<b>67</b>	<b>51%</b>
<b>Medium Priority</b>	<b>19</b>	<b>3</b>	<b>16%</b>	<b>16</b>	<b>84%</b>
<b>High Priority</b>	<b>2</b>	<b>0</b>	<b>-</b>	<b>2</b>	<b>100%</b>

- 1.10 The other major factor affecting current workloads is dealing with the legacy of historic cases, which has partially arisen due to the enforcement team being 1 FTE down for a significant period of time, as noted above. The table below shows the number of long-standing cases we still have 'on the books'.
- 1.11 In summary, there are 23 long-standing 'pending' cases of which 13 were first reported last year. However, compared to other authorities, this represents exceptionally good performance based on the recent localised benchmarking carried out by officers.

### Historic Cases

<b>Year</b>	<b>No. of Enquiries</b>	<b>Closed Cases</b>	<b>Cases Pending</b>
<b>2014</b>	138	137	1
<b>2015</b>	234	232	2
<b>2016</b>	268	265	3
<b>2017</b>	321	317	4
<b>2018</b>	242	229	13

1.12 The following table show the current status of the longest-running cases still pending (as noted in the above table) and it can be seen that even when formal action has been taken, it can take a period of several years before some cases can be brought to a satisfactory conclusion.

### Status of Historic Cases

<b>Reference</b>	<b>Location</b>	<b>Allegation</b>	<b>Status</b>
E14/081	27 High Street Whitwell	External insulation and render applied to the property	Notice served and subsequent appeal dismissed. Landowner currently removing render
E15/120	Grade II Listed Building	Alleged unauthorised works to listed building	Potential action pending outcome of structural survey
E15/232	The Laurels Barlborough	Stable block erected in Green Belt without planning permission	Notice served but awaiting outcome of appeal against refusal of planning permission for retention of a 'smaller' building.
E16/211	Property in Conservation Area	Unauthorised alterations to the property and boundaries.	Awaiting outcome of appeal against refusal of planning permission.

E16/220	Commercial Premises in Conservation Area	Installation of UPVC windows without planning permission.	Further action pending due to recent change of ownership
E16/233	Domestic property outside settlement framework	Unauthorised use of land for tree surgery business	Use ceased but ongoing monitoring
E17/086	Grade II Listed Building	Alleged hard-landscaping, front extension and erection of walls.	Pending consideration following refusal of planning application.
E17/117	Grade II listed Building	Erection of a stainless steel chimney on existing garage and erection of an outbuilding.	Pending consideration following refusal of planning application.
E17/178	Commercial Premises within residential area	Change of use of carpet warehouse to tyre fitting unit.	Pending consideration following refusal of planning application.

- 1.13 In many of the above cases, it can also be seen that the main delays are caused by the process of dealing with the submission of retrospective applications and subsequent appeal of refusal of planning permission for that application.
- 1.14 This is a process that is repeated in a very similar manner when a formal enforcement notice is issued following a dismissed planning appeal and then the formal notice is subsequently appealed - often on almost identical grounds as the first appeal.
- 1.15 Therefore, officers are considering 'fast-tracking' the process by issuing an enforcement notice at the time of a refusal so the issues can be dealt with by way of a 'single' appeal.
- 1.16 It is also notable that many of the long-standing cases relate to high priority cases including unauthorised development within a Conservation Area and unauthorised works to listed buildings, which often take up a significant amount of officer time.
- 1.17 For example, the team has recently served a formal notice in respects of unauthorised works to a Grade II Listed Building in Pinxton, which was a case first reported last year. A significant amount of resource was required to serve this notice because of the nature of the works and the technicalities of drafting up the notice, which required the input of a principal planner, principal enforcement officer, planning manager and the Council's heritage conservation specialist.

- 1.18 The notice has now been served and requires the owner to put a historic concert room partially converted into living space and other architectural features (damaged by the associated works) back to their original condition - as far as is practicable. However, the suspected offender now has the right of appeal, which may require further work preparing for a hearing.
- 1.19 As noted above, the planning service are awaiting the outcome of a structural survey of a Grade II listed building, which may also result in the need for further action. In addition, the planning service have two recently reported high priority cases involving unauthorised developments in Conservation Areas, which may require further action to resolve.
- 1.20 Consequently, if the Planning Service continues to receive a large volume of new enquiries about low priority cases while we are dealing with these high priority cases, there may continue to be some slippage against service standards for the initial visit to low priority cases, which might then mean these cases take longer to bring to a conclusion than the Planning Service would prefer to see.
- 1.21 However, as the analysis of the last five years shows, the Planning Service have previously been able to 'catch up' with pending cases by following the principles in the Local Enforcement Plan and in particular, by using formal enforcement action as a last resort in most low and some medium priority cases.
- 1.22 Equally, by dealing expeditiously with minor breaches of planning control, the Planning Service can give more resource to tackling breaches of planning control that have an unacceptable adverse impact on the character and appearance of the local area and/or have an unacceptable adverse impact on the living conditions of local residents.

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

- 2.1 Officers consider that the Local Enforcement Plan is working insofar as it is allowing the enforcement team to ensure there are sufficient resources to make sure serious breaches of planning control are dealt with urgently and to ensure other cases are dealt with effectively and efficiently.
- 2.2 It is also considered that the enforcement team is performing well against the service standards with regard to promptly visiting sites where cases have been reported to the Planning Service and making first contact with the suspected offender.
- 2.3 However, it is too early at this stage to properly determine whether the amount of pending cases currently on hand is down to whether we have sufficient resource to deal with the nature of the work we are dealing with and the current volume of enquiries within the relevant service standards for low priority cases.
- 2.4 Consequently, officers would recommend that this report is noted and further monitoring reports are submitted to the Planning Committee on a half-yearly basis to allow Members to retain appropriate oversight of these issues and the effectiveness of the Council's planning enforcement.



2.5 In these respects, Members will already be aware effective planning enforcement is important to:

- tackle breaches of planning control which would otherwise have unacceptable impact on the amenity of the area;
- maintain the integrity of the decision-making process by tackling unauthorised development that would not normally get planning permission; and
- maintain public confidence in the Council's decision-making processes by ensuring conditions and planning obligations needed to make development acceptable in planning terms are complied with.

### **3 Consultation and Equality Impact**

3.1 This report has not been subject to consultation because it is mainly for information rather than for the purposes of policy making or decision making. For the same reasons, it not considered that the above report gives rise to any issues under the public sector duty set out in the Equality Act 2010.

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

4.1 Members of the Planning Committee have oversight of planning enforcement and it is considered appropriate to report on performance against the Local Enforcement Plan and highlight issues within planning enforcement on a regular basis. Therefore, options other than producing this type of report for Members on a half-yearly basis have not been considered in any detail.

### **5 Implications**

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

5.1.1 There are no significant cost implications involved with reporting performance against the Local Enforcement Plan but as noted below, this monitoring report may give rise to further consideration of the resources required by the enforcement team to work effectively.

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

5.2.1 Producing this type of monitoring report is consistent with the Local Enforcement Plan that says the Plan will be monitored and reviewed to ensure it remains consistent with case law and/or any subsequent changes in national guidance or legislation and continues to enable planning enforcement to be carried out effectively within the District. However, there is no legal requirement to produce a monitoring report.

5.2.2 This report does not contain any personal data other than some details of the addresses of properties where there are ongoing enforcement issues.

5.2.3 Where the case is still pending consideration, the property address has been anonymised to provide a reasonable amount of privacy for the landowners involved. Where the property is subject to formal action, the presence of an enforcement notice is a matter of public record and that information is publically available.

5.2.4 Therefore, the way property addresses have been reported in this report is considered to be consistent with the key principles in the GDPR.

### 5.3 Human Resources Implications

5.3.1 The adoption of a Local Enforcement Plan should help officers make the most efficient and effective use of resources by setting clear priorities and establishing a clear framework to work within. However, monitoring progress against service standards in the Plan may identify additional resource is needed to enable planning enforcement to be carried out effectively within the District.

## 6 Recommendations

6.1 That this report be noted.

6.2 That the planning department's performance against the Service Standards in the Local Enforcement Plan and updates on planning enforcement continue to be reported to Planning Committee on a half-yearly basis.

## 7 Decision Information

<p><b>Is the decision a Key Decision?</b>  A Key Decision is an executive decision which has a significant impact on two or more District wards or which results in income or expenditure to the Council above the following thresholds:  <i>BDC: Revenue - £75,000</i> <input type="checkbox"/>  <i>Capital - £150,000</i> <input type="checkbox"/>  <i>NEDDC: Revenue - £100,000</i> <input type="checkbox"/>  <i>Capital - £250,000</i> <input type="checkbox"/>  <input checked="" type="checkbox"/> <i>Please indicate which threshold applies</i></p>	No
<p><b>Is the decision subject to Call-In?</b>  (Only Key Decisions are subject to Call-In)</p>	No
<p><b>Has the relevant Portfolio Holder been informed</b></p>	Yes
<p><b>District Wards Affected</b></p>	All
<p><b>Links to Corporate Plan priorities or Policy Framework</b></p>	All

**8 Document Information**

Appendix No	Title
n/a	
<b>Background Papers</b> (These are unpublished works which have been relied on to a material extent when preparing the report. They must be listed in the section below. If the report is going to Cabinet (NEDDC) or Executive (BDC) you must provide copies of the background papers)	
n/a	
Report Author	Contact Number
Chris Fridlington	EXT: 2265

## **COMMITTEE UPDATE SHEET**

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

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

#### **Agenda Item No: 5 Planning Applications to be determined**

Planning Site Visits that were on to be held on 26<sup>th</sup> July 2019 were cancelled because Members have already visited the site of the only application to be determined, in the previous month.

#### **Updates:**

##### **Agenda Item 5.1: Bolsover Road, Shuttlewood (19/00083/FUL)**

No updates to report.

##### **Agenda Item 6: Shirebrook Market Place**

There are no further updates since the publication of the original officer report but for clarity, officers are intending to publicise the Local Development Order for a period of 28 days from 5 August 2019 if members were to accept the officer recommendation.

The LDO would be publicised by direct notification of the affected properties, site notices and advert in the local newspaper.

The Town Council and DCC Highways will also be consulted.

If there are no adverse comments made on planning grounds, the Local Development Order would be issued and become effective mid-September following the 28 day consultation period again assuming members accept the officer recommendation.

This would mean that the Local Development Order would be in place for the launch of the 'second round' of Shop Fronts Repairs Grants Scheme in October 2019.

##### **Agenda Item 7: Update on the Local Enforcement Plan**

No updates to report.



## Shirebrook Shop Front Repairs Grants Scheme

# Shop Front Design Guide



*The Building Resilience Programme is funded by the  
Ministry of Housing, Communities & Local Government*

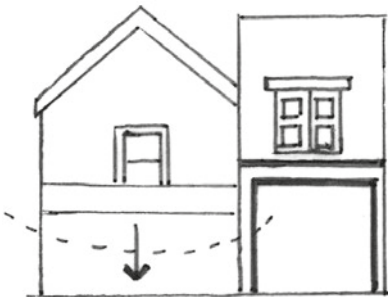


# Respecting the Buildings and Streetscape

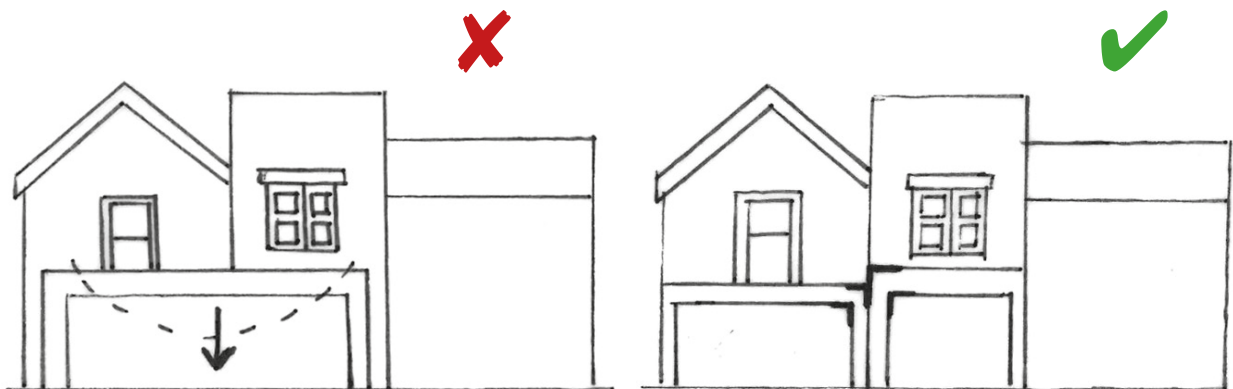
Every effort should be made to make sure that the shop front integrates with the proportions and design of the building within which it sits. Continuous fascia signs across several buildings impose horizontal emphasis on the streetscape and appear out of scale with the buildings. Subdividing the individual shop fronts and varying their height and depth reinstates the vertical rhythm and appropriate proportions of the buildings and street.



Ground floors should look well supported. A shop front with a lot of glass, thin window frames and no pilasters makes the building look weak. A strong frame overcomes this problem and provides visual support to the building.

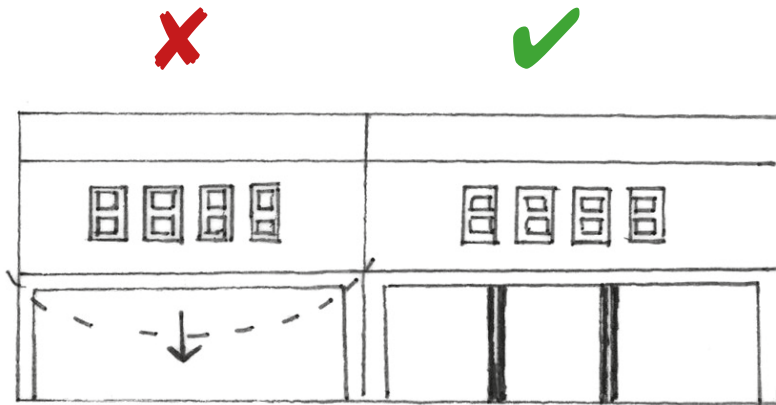


This principle should also apply across two or more buildings. Lack of support under the left hand image makes the two buildings look unstable and the scale of the shop front appears out proportion. In the right hand image, two separate shop fronts overcome this problem and reinstate the vertical rhythm of the buildings.

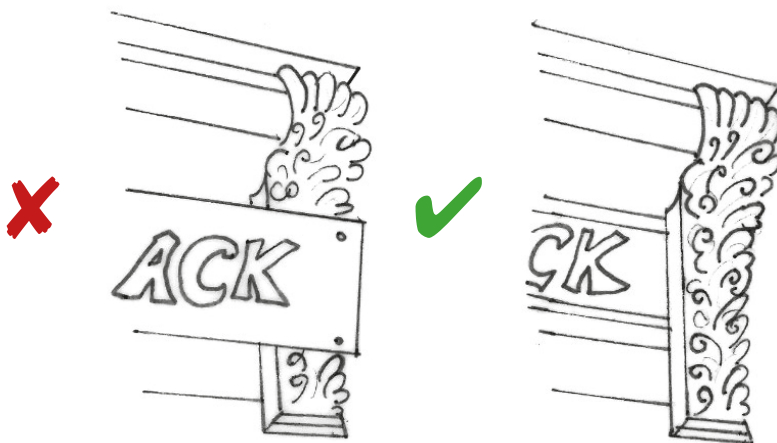




A wide building can still look weak even if there is a frame. Introducing mullions (right hand image) will provide visual support.



Thought should be given to any interesting features or architectural details. Alterations and signs should avoid covering or obscuring such features.



## Fascia and Signs

The fascia should be in keeping with the building and fascia should be of a scale and design in proportion to the whole shop front and height of the building as a whole. They should be positioned well below first floor window cills and not encroach on any architectural features.

Large fascia signs that obscure the first floor windows and important architectural details should be avoided.

Modern factory produced box signs will rarely be supported unless sited on modern buildings, provided they can be appropriately integrated.





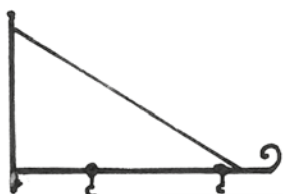
Businesses are encouraged to replace existing plastic, neon and printed signs with good quality signs that complement the design of the shop and building as a whole.

Careful consideration should be given to contrasting colours to ensure signs are easy to read. Clear, well-spaced letters are as easy to read as larger letters. The content of signs should be restricted to the shop name. Don't include product images or offers on the fascia.

New signs of timber construction are preferred. Raised lettering on existing fascia will also be considered. Ideally, plastic, sheet metal and neon should be avoided.

The content of signs should be kept to a minimum; any lettering and/or graphics should be in proportion to the dimensions of the fascia board. Oversized letters (in garish colours or materials) will not be supported and should be avoided, as should the repetition of a name on a single fascia.

## Projecting and Upper Floor Signs



Projecting signs are traditionally positioned to be level with the first floor windows. Projecting signs should be positioned, with care, usually to one side, having regard to the architectural design of the building and its shop front. In some circumstances it may be appropriate to position the sign centrally where maintaining the symmetry of the façade is desirable.

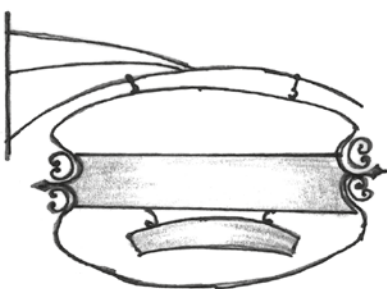


Hanging signs and their supporting brackets must be carefully thought out to ensure the size, materials and detailing are appropriate in terms of scale and design.



Signs should not be located on the pilasters, fascias or other architectural elements of the shop front itself.

There should not normally be more than one projecting sign per shop. Signs should normally be hung below a bracket and the design coordinated with the associated shop front.



As a general rule a minimum clearance of 2.3m must be provided between the base of the sign and the pavement. The projection of the sign may vary, but must not extend closer than 450mm from the edge of the pavement to avoid damage from high-sided vehicles.



## Shop Window Displays

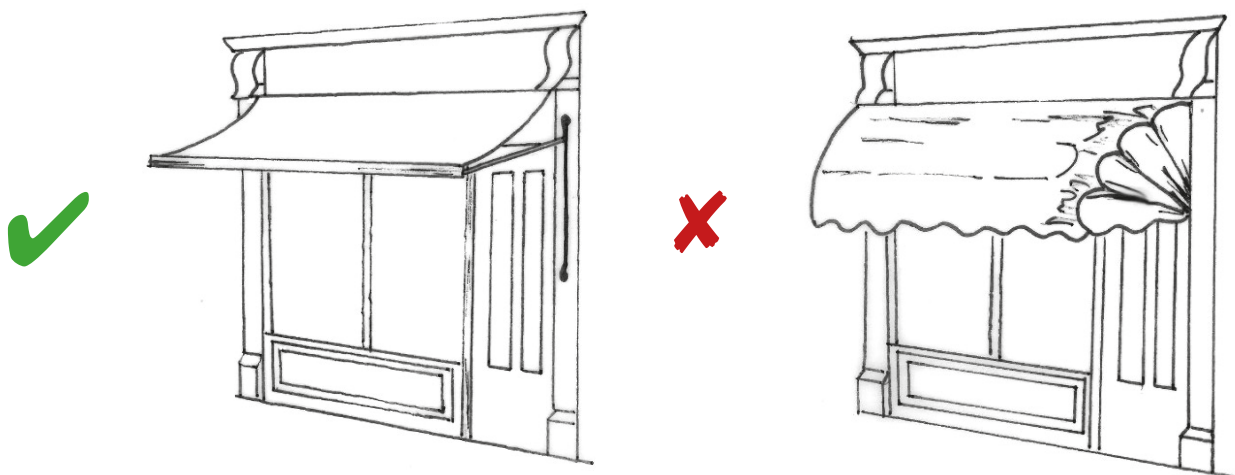
Small changes to the shop window can have a big impact! Avoid window stickers, posters and sales banners on upper floors and on windows. Stickers and other advertisements on windows obstruct views into the shop and create a confusing and cluttered look that can detract from the quality of the market place. Un-obstructed shop windows are more inviting and encourage customers into the store.

Banners on upper floors have an untidy appearance and should be avoided. Satellite dishes, alarm boxes and aerials can also add visual clutter to a facade. If such fixtures are required, they should be discretely located so to appear and as unobtrusive as possible.



## Canopies and Awnings

Improvements should consider replacing balloon or plastic canopies with fabric roller blinds. Roller blinds should be retractable and ideally located in a recessed box below the fascia. Dutch or balloon canopies should be avoided. These are often made from shiny plastic that fades and quickly becomes tired looking.



## Stallrisers

A stallriser gives protection to a shop window and creates a pleasing, visually solid base to a building. Stallrisers that consist of panelled timber or brick, forming a deep moulded skirting which is painted are preferred. Other materials (e.g. tile and stone) will be acceptable where this is shown to respect and enhance the materials of the whole building and shop front.

Contemporary designs should also incorporate some form of stallriser. These can be reinforced to provide additional security, can allow the display of goods at a more visible height and can help to create a horizontal link between adjoining buildings.

## Lighting

Highlighting buildings and pedestrian spaces makes for a lively and safe night time environment. Lighting should be discreet, minimal and in keeping with the overall design of shopfront and building and add to the surrounding environment. Bulky or prominent projecting light fittings should be avoided.

Keeping window displays illuminated through back lighting and internal illumination at night adds to the interest and attractiveness of the street.

It is possible to successfully incorporate external lighting into a shop front design by the use of concealed trough lights with a hood finish to match the background colour of the fascia. The use of large spotlights, swan-necks or heavy canopy lights should be avoided.

Internally illuminated fascia box signs and projecting signs are not in character with most retail areas and will not be an acceptable form of illumination.

The use of intermittent light sources, moving features, exposed cathode tubing or reflective materials are not considered acceptable lighting solutions.

On hanging signs if illumination is proposed it should be very discreet and ideally attached to the bracket.

## Security Shutters

External security shutters tend to require bulky box fittings that detract from the look of the building. When closed, shutters also create a deadening effect on the street, which both individually and collectively harms the appearance of the streetscene and can add to a sense of insecurity.

Any improved or replacement shop front proposing to include security shutters, should ensure that these are internal to the shop front and integrated as part of the overall design, as opposed to external fixtures.

Shutter screens should comprise open mesh or similar open design to ensure a high degree of transparency and openness to prevent a closed look to the premises when shutters are closed.

## Painting and Rendering

Shop front frames, door and window should all be painted in the same colour. An accent colour can be used to pick out detail and features but should be kept to a minimum.

The front façade of the building can be painted in a complementary colour to maximise the visual appeal of the shop front. Ideally the building should be painted in a lighter complementary colour and the shop front in a darker shade to draw attention to the shop front on the lower level.

Upper floor windows can be painted in a complementary colour to add variation of colour.

Where gutters are to be painted, these should be in black or white to contribute to a coherent and consistent look and feel.

Applications that take into account the look of the whole front façade, including painting and rendering of the façade to replace existing poor quality paint finishes or blown render, will be favourably considered.



## Proposed Colour Scheme

A colour palette has been provided to encourage vibrancy. The aim is to achieve a coherent and visually attractive variation of colours throughout the market square.

Applicants should have regard to the attached palette at Appendix 1 but may propose other colours. Any proposed colours will need to be agreed with Economic Development prior to carrying out any works.

## Access for all

Access to shops has to be given special consideration, as required by the Disability Discrimination Act 1995. Every opportunity must be taken to ensure that access to and circulation within shops is possible for all members of the public.

All designs should conform to current standards of the Building Regulations where applicable.

Any solutions to conform to these requirements may need a creative and flexible approach, necessitating detailed discussions between the applicant and the Planning department.





# Examples of good shop fronts



# Appendix 1

## Shopfronts

Shop front frames, fascia, door and window all to be the same colour.

If there is an existing externally mounted security shutter, then shutter box and guide rails to be powder coated in same colour as shop front to minimise the impact.



RAL 1020 Olive yellow



RAL 3033 Ruby red



RAL 3005 Wine red



RAL 4007 Purple violet



RAL 5008 Grey blue



RAL 5011 Steel blue



RAL 5014 Pigeon blue



RAL 6003 Olive green



RAL 6006 Grey olive



RAL 6012 Black green



RAL 6020 Chrome green



RAL 7008 Khaki grey



RAL 7012 Basalt grey



Ral 7026 Granite grey



RAL 8014 Sepia brown



RAL 8019 Grey brown



RAL 9011 Graphite black

## Gutters, fixtures and fittings (i.e. hanging brackets)

To be painted in black or white.



## Walls

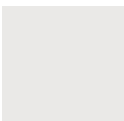
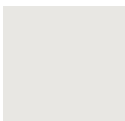
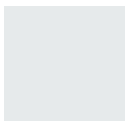
The palette for the walls has been restricted so as to maintain a level of variation in colours throughout the market square.

Colours taken from the Dulux Heritage range of colours (all available in masonry/Weathershield finish).

	Linen White		Fennel White		Blue Ribbon
	Powder Colour		Cream		Lavender Grey
	DH Linen Colour		DH Pearl Colour		DH Blossom
	Pale Nutmeg		Green Oxide		Golden Ivory
	Potters Pink		Clear Skies		Pale Olivine
	DH Stone		Copenhagen Blue		Rosemary Leaf
	DH White		Light French Grey		Light Teal
	Silver Fern		Country Sky		

## Windows, window sills and window reveals

To be painted in a complementary white.

	Wiltshire White		Wishbone White		Swedish White
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