

**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

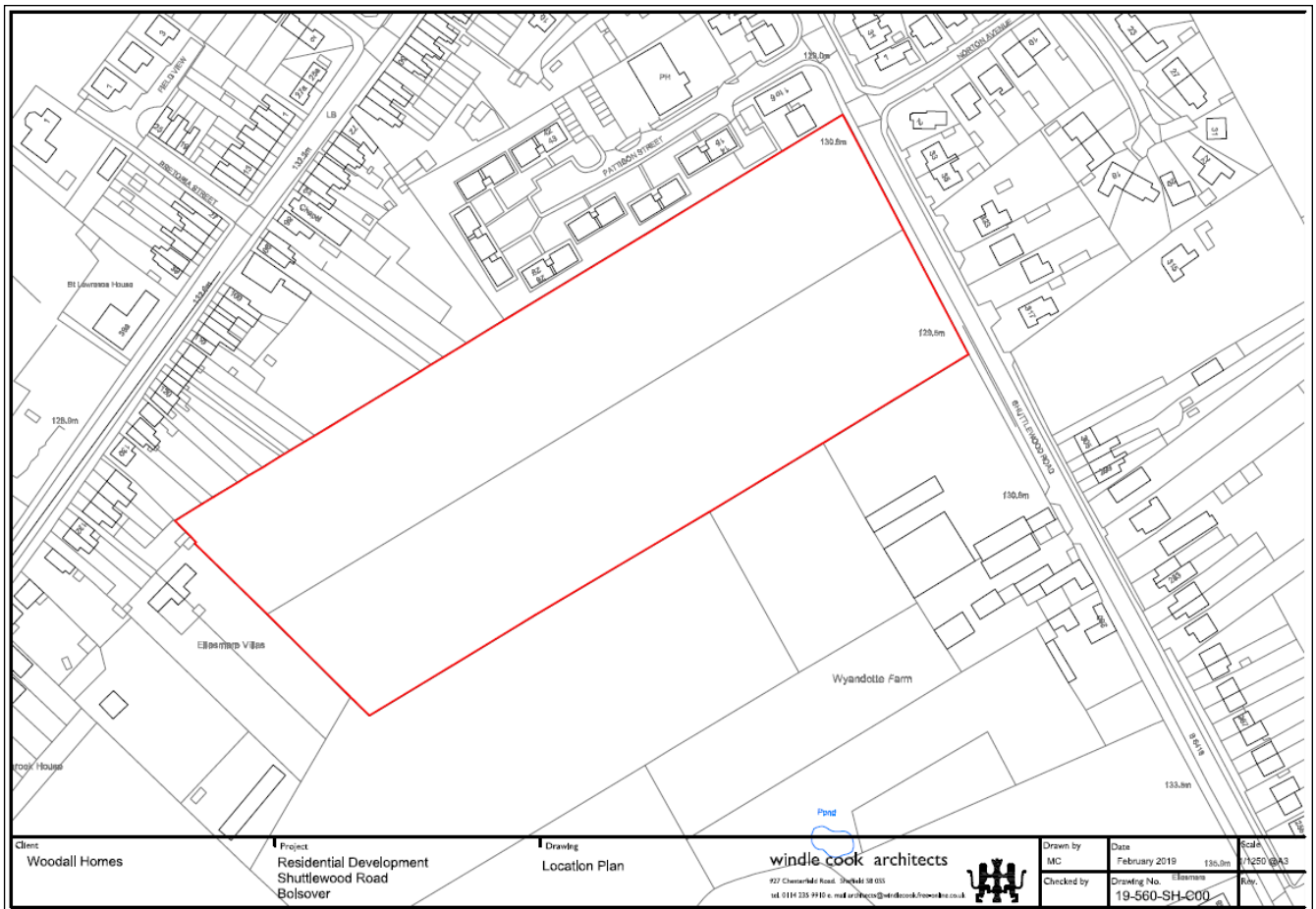
**APPENDIX A: Original Officer Report on Application No. 19/00083/FUL**

**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*