

To: Chair & Members of the Planning  
Committee

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Tuesday, 13 April 2021

Dear Councillor

**PLANNING COMMITTEE**

You are hereby summoned to attend a meeting of the Planning Committee of the Bolsover District Council to be held as a Virtual Meeting and in the Council Chamber (if required) on Wednesday, 21st April, 2021 at 10:00 hours.

Members will be sent the details on how to access the Virtual Meeting by email.

Virtual Attendance and Hybrid Meetings

I have provided the Leader and Deputy Leader with advice on the holding of “hybrid” meetings outlining the risks including to employees dealing with the Chamber and to Members. Hybrid meetings are those where some attendance is in person in the Council Chamber and some is virtual.

I would encourage you all to attend virtually.

Accordingly if you attend in person you will be deemed to have accepted the following disclaimer (overleaf) as applying.



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

**If you require this agenda in large print  
or another format please call us on 01246 217753**

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.

## Risk Assessment Disclaimer

When attending this meeting in person, I confirm that I have read and understood the contents of each of the following risk assessments and agree to act in line with its content.

- Covid-19 ARC RTW RA001
- Working in Offices At The Arc During Covid-19 Pandemic Guidance – ARC – SSW001
- Meetings – EM001 - Committee and Council Meetings during the Covid-19 pandemic

*These documents have been emailed to Members and are available on the Modern.Gov App library.*

The same advice is given to officers who are also encouraged to participate in the meeting remotely.

Register of Members' Interests - 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 from page 3 onwards.

Yours faithfully

A handwritten signature in black ink that reads "Sarah Steenberg". The signature is written in a cursive, flowing style.

Solicitor to the Council & Monitoring Officer

**PLANNING COMMITTEE  
AGENDA**

***Wednesday, 21st April, 2021 at 10:00 hours taking place as a Virtual Meeting and in the Council Chamber (if required)***

| <b>Item No.</b> | <b>PART 1 – OPEN ITEMS</b>   | <b>Page No.(s)</b> |
|-----------------|--|--------------------|
| 1.              | <b>Apologies For Absence</b>   |                    |
| 2.              | <b>Urgent Items of Business</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>Declarations of Interest</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.              | <b>Minutes</b>   | 4 - 5              |
|                 | To consider the minutes of the last meeting held on 10 March 2021.   |                    |
|                 | <b><u>APPLICATIONS TO BE DETERMINED UNDER THE TOWN &amp; COUNTRY PLANNING ACTS</u></b>   |                    |
| 5.              | <b>20/00166/FUL - Primrose Residential Development: 16 units (Use Class C3) - Amberleigh Manor, Primrose Hill, Blackwell</b>   | 6 - 37             |
| 6.              | <b>20/00586/FUL - Creation of a vehicular access - 81 Alfreton Road, Westhouses, Alfreton</b>  | 38 - 50            |
| 7.              | <b>20/00465/OUT - Outline application (all matters reserved) for the erection of 5 detached dwellings - Land on the North side of 28 Church Road, Stanfree</b>             | 51 - 70            |

## PLANNING COMMITTEE

Minutes of a meeting of the Planning Committee of the Bolsover District Council held as a Virtual Meeting on Wednesday, 10 March 2021 at 11:00 hours.

### **PRESENT:-**

Members:-

Councillor Tom Munro in the Chair

Councillors Chris Kane (Vice-Chair), Derek Adams, Allan Bailey, Anne Clarke, Nick Clarke, Paul Cooper, Maxine Dixon, Natalie Hoy, Duncan McGregor, Graham Parkin, Liz Smyth, Janet Tait, Deborah Watson and Jen Wilson.

Officers:- Chris Fridlington (Assistant Director of Development and Planning), Chris McKinney (Principal Planning Officer), Steve Phillipson (Principal Planning Officer), Jenny Owen (Legal Executive), Nicola Calver (Governance Manager) and Amy Bryan (Senior Governance Officer).

### **PL23-20/21 APOLOGIES FOR ABSENCE**

Apologies for absence were received from Councillor Jim Clifton.

### **PL24-20/21 URGENT ITEMS OF BUSINESS**

There was no urgent business to be considered at the meeting.

### **PL25-20/21 DECLARATIONS OF INTEREST**

Members were requested to declare the existence and nature of any disclosable pecuniary interests and/or other interests, not already on their register of interests, in any item on the agenda and withdraw from the meeting at the appropriate time.

There were no declarations made at the meeting.

### **PL26-20/21 MINUTES**

Moved by Councillor Duncan McGregor and seconded by Councillor Nick Clarke  
**RESOLVED** that the minutes of a meeting of the Planning Committee held on 13<sup>th</sup> January 2021 be approved as a true and correct record.

### **PL27-20/21 20/00166/FUL - PRIMROSE RESIDENTIAL DEVELOPMENT: 16 UNITS (USE CLASS C3) - AMBERLEIGH MANOR, PRIMROSE HILL, BLACKWELL**

The Assistant Director of Development and Planning presented the report which gave details of the application and highlighted the location and features of the site and key issues. Further details relating to the application were included in the Supplementary

## PLANNING COMMITTEE

Report, which included further comments from neighbours to the application site.

The agent on behalf of the applicant attended the meeting and spoke in support of the application.

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

Committee discussed the application, in particular the access to the site and the maintenance of trees on the site as well as the viability of the development and the possible second phase of the development.

The Chair proposed that consideration of the application be deferred to enable planning officers to enter into discussions with the applicant about the possibility of bringing forward their application for Phase 2 (the possible conversion of Amberleigh Manor into flats). The reason being that if both proposals were in front of the Committee it would be better able to make an informed assessment on issues such as viability, S106 contribution requirements and gain more certainty that the former nursing home would be brought back into use. It would also enable the developer an opportunity to comply with Local Plan policy SC4.

Moved by Councillor Tom Munro and seconded by Councillor Duncan McGregor  
**RESOLVED** that consideration of the application be deferred to enable planning officers to enter into discussions with the applicant about the possibility of bringing forward an application for Phase 2 (the possible conversion of Amberleigh Manor into a number of flats).

(Planning Manager (Development Control))

### **PL28-20/21          UPDATE ON SECTION 106 AGREEMENT MONITORING**

Committee considered a report which provided a quarterly update on Section 106 agreements and their status. This quarterly update ensured that the Council had a robust procedure for recording and monitoring S106 obligations.

The report detailed the S106 money that had been received and the S106 obligations soon due on active development sites.

The report highlighted two cases where the deadline for spending the S106 money was within one year of the five year spending deadline.

Moved by Councillor Tom Munro and seconded by Councillor Graham Parkin  
**RESOLVED** that the report be noted.

The meeting concluded at 11:56 hours.

**PARISH** Blackwell Parish

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**APPLICATION LOCATION** Primrose Residential development: 16 units (Use Class C3)  
**APPLICANT** Amberleigh Manor, Primrose Hill Blackwell DE55 5JF  
**APPLICANT** Mr S Kelly  
**APPLICATION NO.** 20/00166/FUL **FILE NO.** PP-08647400  
**CASE OFFICER** Mrs Sarah Kay  
**DATE RECEIVED** 22nd April 2020

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## **BACKGROUND**

On the 10<sup>th</sup> March 2021 Planning Committee Members considered a report for the application detailed above, for a development of 16 new dwellings, which was recommended for approval.

The original officer report and recommendation for this application is attached as Appendix A. This should read in conjunction with this update report and the recommendations contained therein.

At the Planning Committee meeting Members formally resolved that the application should be deferred for a decision, *'to enable planning officers to enter into discussions with the applicant about the possibility of bringing forward their application for Phase 2 (the possible conversion of Amberleigh Manor into flats). The reason being that if both proposals were in front of the Committee it would be better able to make an informed assessment on issues such as viability, S106 contribution requirements and gain more certainty that the former nursing home would be brought back into use. It would also enable the developer an opportunity to comply with Local Plan policy SC4'*.

## **ADDITIONAL INFORMATION**

Since the last Planning Committee meeting the applicant has sought to provide additional information to address the queries which were raised by Members of the committee during the last meeting and ultimately the reason for the application being deferred.

These details include:

- Feasibility details for the conversion of the former Nursing Home into 10 units and the erection of 2 new units adjacent to the current building footprint (referred to as Phase 2) – prepared by Halas PBC dated 16<sup>th</sup> March 2021.
- 1445-02 Rev N Site Layout – an amended site layout plan has been prepared which shows the incorporation of a footpath and lighting details along the shared access / driveway, and the applicant / developer has also confirmed that electric vehicle charging points will be provided for each dwelling.
- 0233 Drawing No 1 Rev B Refuse Vehicle Tracking Layout – a tracking layout has been submitted which shows that a refuse vehicle will be able to enter the site to service the 16 no. dwellings and turn in the driveway turning head.

- Statements from the Developer and Landowner have also been submitted setting out their commitments to the delivery of the development proposals.

In addition to the above CP Viability were again independently instructed by the Council to undertake a further viability appraisal to consider whether comprehensively the scheme incorporating both Phase 1 (the 16 dwellings as proposed under app. 20/00166/FUL) and Phase 2 (the development of the former Amberleigh Nursing Home inc. conversion of the existing building into 10 units and 2 no. new build units) could comply with S106 contribution policies of the Local Plan.

- 2nd Viability Appraisal was issued by CP Viability dated 30<sup>th</sup> March 2021.

All of the additional information which has been submitted are available for public inspection on the Council's website / public access system.

Following on from the concerns raised by the Planning Committee, the applicant / developer has confirmed that they are committed to delivering both Phases 1 and 2 of the development, however they have confirmed that for commercial reasons they are not in a position to prepare and submit the proposals for Phases 1 and 2 as a new single planning application, or submit a supplementary planning application for Phase 2.

Whilst the commercial reasoning for not being able to submit further applications are not a matter which can be questioned through the planning process, it is accepted that progression of a detailed planning application of Phase 2 is likely to incur additional expenses associated with the preparation of a full planning application for this Phase.

It is acknowledged that the piecemeal nature of potentially there being separate planning applications / permissions was a concern of planning committee, however it is not considered that the applicant / developer can be forced to make a second / new application. Particularly as it is considered that the development the subject of this specific application could be compatible with either the re-opening of the former Nursing Home as it stands or conversion of the building into separate residential units at a later date.

Notwithstanding this however, the applicant / developer did appreciate the concerns of the committee and subsequently undertook some initial feasibility work to understand the scope of converting the existing building on site which could potentially form part of the Phase 2 of development.

That feasibility / scoping exercise indicates that the former Nursing Home building could be converted into 10 residential units alongside a small element of new build comprising 2 units (as per the following schedule):

- Unit 1 - 3 bed (two storey) mews*
- Unit 2 - 3 bed (two storey) mews*
- Unit 3 - 3 bed (two storey) mews*
- Unit 4 - 3 bed (two storey) mews*
- Unit 5 - 2 bed (two storey) mews*
- Unit 6 - 2 bed (two storey) mews*
- Unit 7 - 2 bed (two storey) mews*

*Unit 8 - 4 bed (two storey) mews*  
*Unit 9 - 2 bed (two storey) mews*  
*Unit 10 - 3 bed (three storey) mews*  
*Unit 11 - 2 bed (two storey) mews (new build)*  
*Unit 12 - 2 bed (two storey) mews (new build)*

With the indication of the type of accommodation Phase 2 could deliver this has allowed the viability of this component of the development proposals to also be tested / appraised, to establish an understanding whether (as a comprehensive development) the scheme could realise a greater % of profit and allow for S106 contributions to be secured.

The findings of this viability appraisal and the implications of any prospective phasing are discussed in more detail below.

#### Viability Appraisal / Developer Contributions

In a similar way to how the viability was appraised for Phase 1, the applicant / developer agreed with the Council to appoint an independent assessor to appraise the viability of Phase 2. Commensurate to this, the viability of Phase 1 and 2 combined was also considered.

These appraisals have subsequently been undertaken by David Newham of CP Viability, whose findings were reported in a second appraisal report dated 30<sup>th</sup> March 2021.

What is now presented in the latest viability appraisal is a clearer picture of the schemes limitations / constraints associated with S106 contributions, taking into account potential returns from Phase 1, Phase 2 and both Phases together.

In addition to the conclusion previously reported that Phase 1 was already unable to make any S106 contributions as a standalone development, the conclusions reached in the latest appraisal are that the scheme of development for Phase 2 alone or both Phases 1 and 2 combined are also so finely balanced in terms of viability that they too would be unable to afford to make any S106 contributions as applications together or individually.

Therefore despite there not being a second planning application for Phase 2 for planning committee to consider, the viability appraisal conclusions (which are independent and are based on a reasonable amount of feasibility work to understand what development value may be realised from Phase 2) continue to advise that viability is still an issue across the entire site and no S106 contributions can be viably sought on this development site.

Under the provisions of policy SC4 of the Local Plan, it is acknowledged that the policy states that comprehensive development should be sought where it appears that a development site may be being proposed to be developed in a piecemeal way (salami sliced) to avoid triggering planning contributions. However in this case it is now clear from the additional viability appraisal undertaken that this will make no difference to the overall development value that can be realised from this site (comprising Phase 1, Phase 2 or a combination of both). Therefore any potential concerns about conflict with policy SC4 of the Local which were identified by planning committee previously in their decision to defer have now been addressed.

In bring this development forward on a phased basis, sufficient evidence now exists to show





driveway / access. The applicant / developer has also committed to the provision of EVC points at each new dwelling.

Furthermore a vehicle tracking plan has also been submitted to show that the geometry of the driveway / access and turning head will allow a refuse vehicle to enter and turn within the site (subject to indemnity agreement with the refuse collection service) negating the need for occupants to carry waste bins for collection at the site entrance on Primrose Hill.



These additional details seek to give Members some clarity / assurance that the provisions are achievable but it should be noted that all of these details can be cross referenced with the requirements of conditions 13 and 17 that were put forward in the original officer report which looked to address these points and these conditions would secure the requirements if permission was granted. EVC points were not addressed in the previous recommendation however and therefore an additional condition would need to be imposed to secure the EVC points as follows:

20. *An electric vehicle recharging point shall be provided within the garage or on the exterior of each dwelling before the dwelling to which the recharging point relates is first occupied. All recharging points shall thereafter be retained. Cable and circuitry ratings shall be of adequate size to ensure a minimum continuous current demand of 16 Amps.*

*REASON: To promote high standards of low carbon and energy efficient design, to improve*

*air quality and in compliance with the requirements of Policy SS1(d), SC2(d) and SC3(k) of the Local Plan for Bolsover District.*

## **CONCLUSION**

It is considered that sufficient information has now been submitted to allow Members of the committee to fully understand the constraints and implications of viability across the site of both this application (Phase 1) and also Phase 2 of the wider Amberleigh Manor site, to allow for an informed decision to be taken as to whether the development the subject of this application can be accepted without securing the necessary developer contributions.

The recommendation remains that despite the development proposals not being able to meet S106 contributions required by policy ITCR5, ITCR7 and II1 of the Local Plan (open space / play provision and education) it is considered that it is in the public interest to approve the application proposals. The former nursing home building remains vacant and it is clear from the application submission and through subsequent discussions with the applicant / developer that the site owner is not in a position to re-open the business without substantial investment. Therefore the site poses a risk of falling into disrepair and attracting anti-social behaviour if a new use or redevelopment is not secured.

Clearly there are constraints affecting the site which limit the scale and amount of development which can be accommodated and therefore naturally there is a demonstrable knock on effect on viability. An independent viability appraisal of both phases of development have now been undertaken which show that the development would not be economically viable, if S106 contributions are to be secured. It is considered to be appropriate to grant planning permission without open space / play provision and education contribution) on this occasion so that that this development can still be brought forward in line with the local plan.

In all other respects, the application is for the most part considered to be acceptable in planning terms for the reasons set out in the report and although there are some minor technical issues outstanding, these are very likely resolvable subject to conditions and are unlikely therefore to weigh negatively in the overall balance of considerations, such that a recommendation to grant permission is proposed.

## **RECOMMENDATION**

The current application be **APPROVED** subject to the conditions as set out in Appendix A of the original officer report, and the addition of condition 20 as detailed in the supplementary report above.

## APPENDIX A – COMMITTEE REPORT FROM 10<sup>TH</sup> MARCH 2021 FOR 20/00166/FUL

**PARISH** Blackwell Parish

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**APPLICATION** Primrose Residential development: 16 units (Use Class C3)  
**LOCATION** Amberleigh Manor, Primrose Hill Blackwell DE55 5JF  
**APPLICANT** Mr S Kelly  
**APPLICATION NO.** 20/00166/FUL **FILE NO.** PP-08647400  
**CASE OFFICER** Mrs Sarah Kay  
**DATE RECEIVED** 22nd April 2020

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### **SUMMARY**

This application has been referred to the Planning Committee because the development is unable to comply with S106 contribution policies for viability reasons.

Notwithstanding the above, the application is recommended for approval. The proposals are considered to represent sustainable development and accord in all other respects with policy requirements. The report presents a balanced planning argument why it is considered that the benefits of the proposals outweigh non-compliance with infrastructure contribution policies, inc. consideration of appropriate scales of redevelopment which bring a vacant site back into use, address on site constraints (protected trees) and maintain neighbouring amenity.

### **Site Location Plan**



## SITE & SURROUNDINGS

The site lies within the development envelope of Blackwell and comprises of the foreground garden area of the former nursing home known locally as Amberleigh Manor, which is located in the north eastern part of the village.

The group of buildings to the immediate north of the application site are those which comprise a two storey detached property that were formerly used as the nursing home, but they are all now vacant.

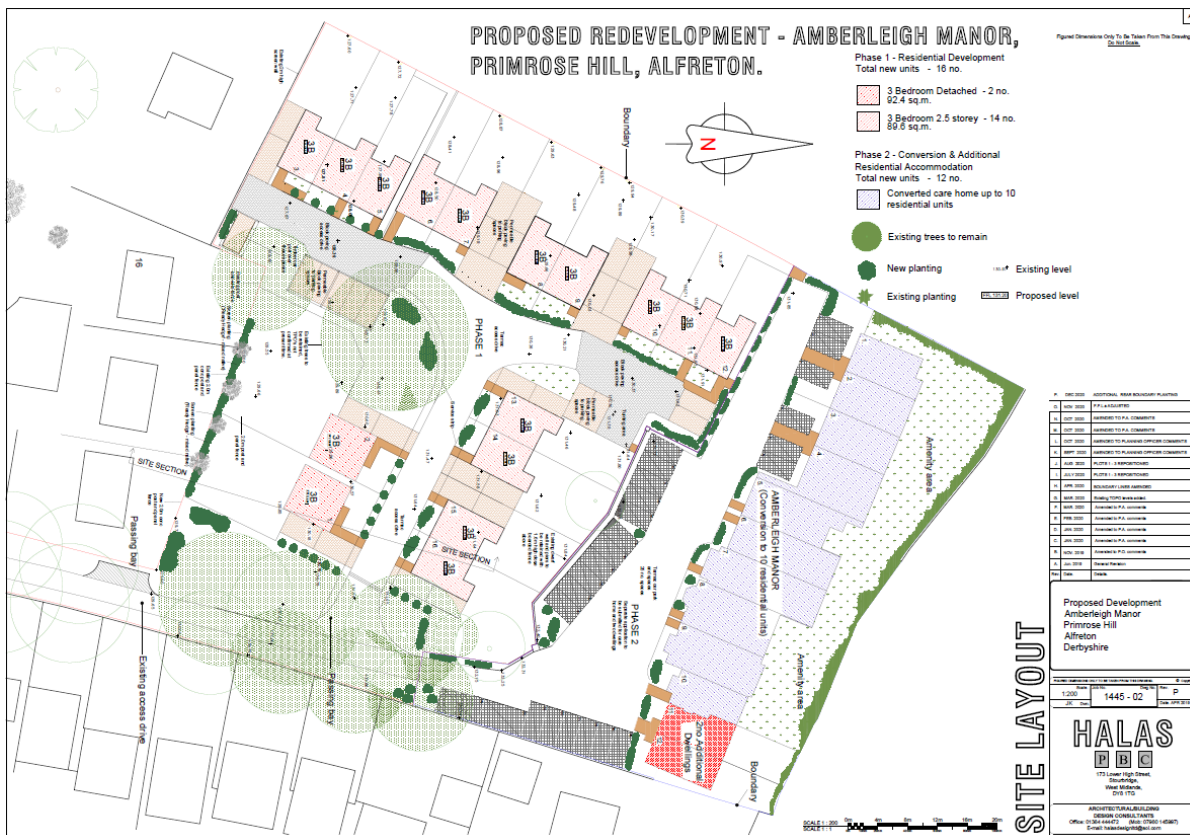
The application relates to land within the fore grounds of the former nursing home but does not include the buildings and is approx. 0.54ha in area.

The site has undulating topography across the site. The south west corner sits lower than the rest of the site which rises towards the nursing home building. Ground levels to the boundary with residential properties on The Paddock are higher than the gardens of these properties. There are numerous trees within the site and either side of the access drive some of which are covered by Tree Preservation Order (BOL/27). Residential properties lie to the west, east and south. Open countryside lies to the north.

## PROPOSAL

This is a full planning application for a development comprising the erection of 16 dwellings with access taken via the existing tree lined driveway off Primrose Hill running to the east of The Paddock and opposite Colliery Road in Blackwell.

The development comprises a mixture of 2 bed and 3 bed properties which are detached, semi-detached and terraced in nature.



The application submission is accompanied by the following plans / documents:

1445-11 – Location Plan  
~~1445-07 Rev F Block / Location Plan~~  
~~1445-03 – 2 Bed Type (Elevations and Floor Plans)~~  
1445-04 – 3 Bed Type (Elevations and Floor Plans)  
1445-08 Rev A Streetscenes  
1445-02 Rev P – Site Layout  
1445-04 Rev A – Streetscene / Car Ports / Sections  
1445-18 - 3 Bed Type – Detached (Elevations and Floor Plans)

Supporting Documents

Design and Access Statement  
Planning Statement  
Coal Mining Risk Assessment  
Land Survey  
Tree Survey  
Arboricultural Method Statement & Tree Protection Plan (2020-08-02 Project No. 200)  
Biodiversity Survey & Report / Arborist and Ecological Services Ltd Supplementary Statement  
Drainage Strategy  
Viability Appraisal – prepared by CP Viability Feb 2021

**AMENDMENTS** (N.B. Plans shown crossed out have been superseded by later plans)

14/08/2020

~~Arboricultural Method Statement & Tree Protection Plan (2020-08-02 Project No. 200)~~  
~~Drainage Strategy~~  
~~1445-02 Rev D – Site Layout~~

15/10/2020

~~1445-02 Rev K – Site Layout~~

26/10/2020

~~1445-02 Rev N – Site Layout~~  
~~1445-07 Rev I Block / Location Plan~~

18/10/2020

~~1445-02 Rev O – Site Layout~~  
~~1445-04 – Streetscene / Car Ports / Sections~~

07/12/2020

Arborist and Ecological Services Ltd Supplementary Statement

14/01/2021

1445-02 Rev P – Site Layout  
1445-04 Rev A – Streetscene / Car Ports / Sections  
1445-18 - 3 Bed Type – Detached (Elevations and Floor Plans)

27/01/2021

Viability Appraisal – prepared by CP Viability Jan 2021

## **EIA SCREENING OPINION**

The proposals that are the subject of this application are not Schedule 1 development but they are an urban development project as described in criteria 10b of Schedule 2 of The Town and Country Planning (Environmental Impact Assessment) Regulations 2017

However, the proposals are not in a sensitive location as defined by Regulation 2 and by virtue of their size and scale, they do not exceed the threshold for EIA development set out in Schedule 2.

Therefore, the proposals that are the subject of this application are not EIA development.

## **HISTORY**

00/00383/TPO – Crown and prune TPO BOL/40 (Lime) – GRANTED CONDITIONALLY

01/00475/FUL - Erection of a conservatory to front, two storey extension to side, and a detached two storey dwelling – GRANTED CONDITIONALLY

02/00577/TPO - To prune trees running along the drive (Trees T8, T10, T12, T14, T16 and T18 of TPO BOL/27) - GRANTED CONDITIONALLY

05/00134/FULMAJ - Two storey nursing home, with basement parking and plant room (revised scheme) - GRANTED CONDITIONALLY

07/00717/TPO - Pruning works to trees T13, T11, T9, T7, T5 and T3 (TPO 27) – GRANTED CONDITIONALLY

08/00183/FUL - Two storey extension to side and rear – REFUSED

08/00590/TPO - Pruning works (T1- Lime) – GRANTED CONDITIONALLY

10/00112/VARMAJ - Two storey residential nursing home with basement parking and plant room (extension of time period for start of previously approved scheme ref 05/00134/FULMAJ) - GRANTED CONDITIONALLY

14/00410/TPO - Crown reduction to two trees by 25% (T8 and T10- BOL/27) – GRANTED CONDITIONALLY

## **CONSULTATIONS**

### **BDC Engineer (Drainage) – 05/05/2020**

Comments received from the Engineers confirming that 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. The developer must also ensure any temporary drainage arrangements during construction gives due consideration to the prevention of surface water runoff onto the public highway and neighbouring properties.

## **BDC Housing**

No comments received.

#### **BDC Leisure – 16/06/2020**

Comments received from Leisure Services confirming that the development proposals meet the trigger requirements for policy ITCR5 of the Local Plan in respect of securing green space and play provision in the district. Contributions have been calculated based upon the scale of the development proposals for a commuted sum contribution towards Gloves Lane Recreation Ground for Equipped Play of £836 per dwelling; and towards Gloves Lane Recreation Ground and Westhouses Recreation Ground for improving playing pitches / ancillary facilities of £1022 per dwelling. A maintenance sum for a period of 10 to 15 years will also need to be negotiated.

#### **BDC Streetscene Manager – 23/04/2020**

Comments received advise that the access roads will need to be constructed to a specification capable of taking a Refuse Collection Vehicle with a GVW of 32 tonnes. If the carriageway is not to be adopted as public highway then we would also need an indemnity agreement regarding vehicular damage. Alternatively a presentation point would need to be constructed near the adopted highway.

#### **Coal Authority – 05/05/2020**

Comments received confirming that the Coal Authority concurs with the conclusion / recommendations of the Coal Mining Risk Assessment, 29 January 2020 based on the professional opinion of EnviroSolution Ltd that there is currently a risk to the proposed development from coal mining legacy. In order to confirm the exact ground conditions present beneath this site, to inform the extent of remedial / mitigatory measures that may be required to ensure that the development is safe and stable, intrusive site investigations (Section 4) should be undertaken prior to commencement of development.

#### **Community Arts Development Officer**

No comments received.

#### **DCC Highways – 16/05/2020**

The Highway Authority recommends that a more suitable drawing (ideally a topographical survey), clearly dimensioned, is submitted to demonstrate the full extent of achievable visibility from a 2.4m set-back distance to the carriageway channel and at 1.0 m into the carriageway. The currently recommended distance of 2.4m x 54m is based on Primrose Hill being a classified road subject to a 30mph speed limit with a general lack of side friction in the immediate vicinity. Any lesser provision will need to be supported by the results of a traffic speed survey with the sightlines being commensurate with 85<sup>th</sup> percentile wet weather speeds and taking into account approach gradient.

The provision of passing places, which should be intervisible, would be considered acceptable in principle and the dimensions of these should accommodate the largest vehicle likely to frequently enter the site. As previously mentioned it is currently not possible to print plans to scale to determine the dimensions of what is indicated.

The development proposals will be likely to result in an increase in vehicular activity associated with the site, especially in the event of Phase 2 being brought forward, therefore, it's recommended that the applicant is given further opportunity to submit details to



satisfactorily address the above exit visibility concerns. In the event that sightlines meeting current design guidance can't be provided, the applicant should be requested to submit further details demonstrating that predicted vehicle trips generated by the proposed would be less than, or equitable with, those generated by the extant use of the site.

### **DCC Developer Contributions – 14/05/2020**

Comments received advising on primary and secondary education projections as follows:

Primary level education - Analysis of the current and future projected number of pupils on roll, together with the impact of approved planning applications shows that the normal area primary school would have sufficient capacity to accommodate the 3 primary pupils arising from the proposed development.

Secondary level education - An evaluation of recently approved residential developments of 11 or above units or over 1,000 square metres of floorspace within the normal area of Tibshelf Community School shows new development totalling 17 dwellings, which would result in demand for 3 secondary places. Analysis of the current and future projected number of pupils on roll, together with the impact of approved planning applications shows that the normal area secondary school would not have sufficient capacity to accommodate the 3 secondary arising from the proposed development.

Mitigation - The above analysis indicates that there would be a need to mitigate the impact of the proposed development on school places in order to make the development acceptable in planning terms as the normal area secondary school would not have sufficient capacity to accommodate the additional pupils generated by the proposed development. The County Council therefore requests financial contributions as follows:

£77,645.70 for 3 secondary places at Tibshelf Community School towards additional education facilities.

### **Derbyshire Constabulary – 29/04/2020**

Comments received confirming that there are no objections to the principle of residential development at this location. The detail of phase 1 is broadly acceptable from a community safety perspective, with reservations about boundaries and lighting. There is no detail available online regarding boundary specification, so this will need to be considered / agreed having regard to crime prevention design specifications. Noting there is no provision for communal lighting shown with the application submission and as the access road is not to be adopted comments suggest that the application should make provision for a landlord supply and present a suitable public lighting scheme for communal areas of the site.

### **Derbyshire Wildlife Trust – 20/05/2020, 26/01/2021 and 28/01/2021**

Comments were received advising that additional bat and reptile survey work was undertaken (building 3 - bats; and slow worm / grass snake were potential target species), and consideration was also given to potential impacts on breeding birds. Further comments / advice was offered in due course alongside recommendations regarding suitable mitigation and biodiversity enhancements for the development as a whole.

Additional information was subsequently provided which led DWT to offer detailed comments / suggestions for conditions to address:

Protection of breeding birds during construction - To ensure that breeding birds are protected from harm we advise that a condition should be imposed requiring that "No removal of hedgerows, trees, shrubs or brambles shall take place between 1st March and 31st August

inclusive, unless a recent survey has been undertaken by a competent ecologist to assess the nesting bird activity on site during this period, and details of measures to protect the nesting bird interest on the site, have first been submitted to and approved in writing by the local planning authority and then implemented as approved.”

Trees - Development should be implemented in accordance with the measures set out in the Arboricultural Method Statement and Tree Protection Plan (Crawshaw Arborcare Ltd, August 2020).

Landscape and Biodiversity Enhancement and Management Plan (LBEMP) - A LBEMP shall be submitted to, and be approved in writing by, the LPA prior to the commencement of the development. The LBEMP should combine both the ecology and landscape disciplines and include the following:-

- a) Description and location of native tree and shrub planting.
- b) Locations of 5 integrated swift bricks, hedgehog access gaps between gardens holes
- c) Appropriate management aims, methods and practices to maintain enhancement features.
- d) Prescriptions for management actions.
- e) Preparation of a work schedule (including an annual work plan capable of being rolled forward over a ten-year period).
- f) Details of the body or organization responsible for implementation of the plan.
- g) Ongoing monitoring visits, targets and remedial measures when conservation aims and objectives of the plan are not being met.

The LBEMP shall also include details of the legal and funding mechanism(s) by which the long-term implementation of the plan will be secured by the developer with the management body(ies) responsible for its delivery. The approved plan will be implemented in accordance with the approved details.

In addition it was agreed with DWT that bat survey work of the building identified could not be reasonably requested / required, as the building lay outside of the application site boundary and was not affected by these specific development proposals.

#### **Environmental Health / Protection – 11/09/2020**

Comments received confirming they have reviewed the application documents and the coal mining risk assessment. This has shown that there is the potential for mine gas and made ground to be present on the site. Therefore, in the event that planning permission is granted for this site, we would recommend that the standard pre-commencement contaminated land planning condition is imposed.

#### **Health & Safety Executive – 28/04/2020**

Response received advises that the proposed development site identified does not currently lie within the consultation distance (CD) of a major hazard site or major accident hazard pipeline; therefore at present HSE does not need to be consulted on any developments on this site.

#### **Lead Local Flood Authority – 14/05/2020**

As a statutory consultee for surface water the minimum details required on all major planning applications are as follows:

- Site plan and impermeable area
- Topographic survey of the site

- Appropriate evidence to support how the site will drain, including confirmation of where the surface water will outfall to (photographs / maps / a confirmation letter from a water company)
- Basic calculations of the greenfield/brownfield runoff and discharge rates, (refer to Point J in the Advisory Notes)
- A quick storage estimate to show the required storage volume of surface water on site and an indication of the likely location
- Calculations should include allowances for the current Environment Agency guidance for climate change and urban creep (Refer to Point J in the Advisory Notes)
- Basic ground investigation (desktop survey as a minimum)
- Major developments should incorporate sustainable drainage systems unless there is clear evidence that this would be inappropriate (as per National Planning Policy Framework 165).

These details are required at the early planning stage to demonstrate that the proposed site is able to drain and that due consideration has been given to the space required on site for surface water storage.

### **Parish Council – 29/04/2020**

Comments received asking that thorough checks for Bats are carried out. Also comments raise concerns that flooding is a continuous problem on this site, and measures to alleviate this problem will need to be addressed. In their view the current sewage pipes will not be sufficient to sustain the proposed development. There are also concerns raised that the narrow access to the site for the number of cars there could be on a development of this size is a concern, along with parking.

### **Severn Trent Water**

No comments received.

### **Urban Design Officer – 15/05/2020**

Comments were received from the UDO offering feedback on the initial application submission and site layout iteration as follows:

Design and Access Statement - The design statement is relatively brief and although it identifies the main constraints, such as protected trees, topography, coal mining legacy, restricted entrance lane and the presence of neighbouring dwellings. However, these are only addressed in a relatively superficial manner and no design principles are identified as a result, that should then inform the approach to the subsequent design. The long distance view to the south and the relationship of the site to the countryside to the north and not identified. Consequently, the proposed design and layout does not then necessarily take account of the site constraints. For example the location of some plots to the adjacent bungalows results in an unneighbourly relationship that would appear dominant and overbearing to the outlook of some residents. This would be exacerbated by the use of tall house types and the DAS does not identify the presence of short neighbour gardens or change in levels between the proposals and the adjacent properties. The use of tall house types throughout much of the site also increases the scale and presence of the development as seen from Primrose Hill (as seen along The Paddock).

Importantly, the primary characteristic of the site is its mature landscape defined by large established trees, which create a strong sylvan quality and an attractive skyline.

Although tree maintenance and remedial works are required to many, the trees themselves have the potential to provide a fine focus to the development, particularly within the central part of the site. However, the DAS does not appear to recognise this opportunity in terms of

creating a 'vision' or sense of place for the development. The layout seeks to remove several key trees or fit closely around them, rather than fully incorporating them into the heart of layout.

The proximity of trees to some plots will dominate gardens and is likely to lead to pressure to remove them in the future.

Development is shown to occupy the low point of the site (SW corner) and it is currently unclear how the site would be drained. For example is this areas required to accommodate a SuDS pond or would a pumping station be required. If so, sufficient space would be required to accommodate this infrastructure together with an associated easement. As such, a clearer indication of drainage proposals should be provided.

The site lies adjacent to open countryside along its northern boundary (currently shown as blue land) and this presents a potential opportunity for a design to address the landscape and benefit from an outlook over towards the fields (see Phasing below).

Guidance in Successful Places (2013) recommends that a site analysis should inform the site design principles and the subsequent layout. The site analysis is not considered to be robust and it is unclear how the resulting layout has taken into account the constraints and opportunities.

Existing trees - The tree report accompanying the application makes a number of recommendations, although it is unclear whether the proposed layout has responded to these. For example the internal road through the centre of the site would necessitate the removal of two Category A Trees (T19 and T21). The arborists suggestion to rotate Plot 1-3 away from the Lime trees has not been implemented etc.

Phasing - Splitting the site into two phases (Phase 2 currently shown as conversion and extension of the existing empty building) limits options for the internal layout of the site and results in a number of negative impacts, such as the removal of a number of high quality trees in order to accommodate the internal road. If the site could be developed in a comprehensive manner this would open up the possibility of extending the access road towards the northern edge of the site, orienting dwellings to achieve an outlook over the adjacent countryside and avoiding the need to remove trees to facilitate access and circulation arrangements.

Density - At the pre-application stage the applicant was advised to reduce the amount of development in order to achieve a more appropriate layout on the site. However, the development density remains unchanged and the application raises a number of design concerns. A lower density development in a more generous landscape setting would assist in easing a number of the above issues in relation to the layout and is likely to facilitate a more a more appropriate layout.

Appearance - The proposed elevations are very plain and would benefit from the introduction of additional architectural details, such as brick band or raised corner details, dentil courses to verges and eaves lines etc. Notwithstanding this, the standard approach to the design and appearance of the houses and the repetitious use of the same house types does not respond particularly to the sylvan character of the site and a more considered architectural response to the character of the site is strongly encouraged.

Conclusion - Overall, the layout remains very similar to that submitted for pre-application comments. Although the application has only made some relatively minor adjustments to the design, the proposals are not considered to have responded positively to pre-application advice. The site appraisal is superficial and the opportunities and constraints do not appear to have necessarily informed the resulting layout, which lacks generosity and has a negative impact on a number of trees. In its current form the application is not considered meet the requirements of Policy SC3 High Quality Development or guidance contained within Successful Places (2013).

**All consultation responses are available to view in full on the Council's website.**

## **PUBLICITY**

The application has been advertised in the local press (30/04/2020), by site notice posted (19/05/2020) and 19 neighbouring properties notified by letter (12/05/2020).

In total there have been 8 representations received, with a summary of issues raised as follows:

*Will boundary walls be retained including walls to outhouses along the boundary?  
Proposed dwellings in phase 2 will impact on daylight and will create feeling of being closed in.*

*Potential impact from lighting within the development.*

*Will noise and dust be controlled during construction?*

*Bats regularly seen at the site and have roosted at the property.*

*Flood risk to SW corner due to underground stream.*

*Plans do not accurately show Glen Vine.*

*No drainage details provided for foul or surface water.*

*No local resident consultation has been undertaken as stated in the design and access statement.*

*Brick boundary wall to western boundary is in poor condition and has partially collapsed. Will this wall be repaired?*

*Problems with tracking the application and reading comments via the Council's website.*

*Poor maintenance of the trees along the access drive has led to residents paying for works to be undertaken. Who will be responsible for maintaining the trees and open space in the future? Enforceable maintenance schedule needed.*

*Impact of more vehicles using access drive to rear of houses on Dodgewell Close, increased noise and pollution and general disturbance.*

*Broadly supportive of the development as site is derelict.*

*Concerns re: volume of traffic that will use the access road and position of passing places close to neighbouring boundaries.*

It should be noted that this application was originally submitted in March 2020, when the first national lockdown was announced and enforced. Bolsover District Council took a decision at that time to delay undertaking planning application publicity (inc. sending out neighbour notification letters) and planning committee meetings were temporarily postponed. This decision was lifted in May 2020 and meetings resumed in September 2020. The application has subsequently been publicised according to the DMPO.

- *A number of representations received initially received raised the absence of neighbour notification as an issue, but this matter was resolved.*

**All neighbour representations are available to view in full on the Council's website.**

## **POLICY**

*Bolsover District Local Plan ("the adopted Local Plan")*

Planning law requires that applications for planning permission be determined in accordance with policies in the adopted Local Plan, unless material considerations indicate otherwise. In this case, the most relevant Local Plan policies include:

Policy SS1: Sustainable Development  
Policy SS2: Scale of Development  
Policy SS3: Spatial Strategy and Distribution of Development  
Policy LC3: Type and Mix of Housing  
Policy SC1: Development within the Development Envelope  
Policy SC2: Sustainable Design and Construction  
Policy SC3: High Quality Development  
Policy SC7: Flood Risk  
Policy SC9: Biodiversity and Geodiversity  
Policy SC10: Trees, Woodlands and Hedgerows  
Policy SC11: Environmental Quality (Amenity)  
Policy SC13: Water Quality  
Policy SC14: Contaminated / Unstable Land  
Policy SC15: Hazardous Installations  
Policy ITCR5: Green Space and Play Provision  
Policy ITCR7: Playing Pitches  
Policy ITCR10: Supporting Sustainable Transport Patterns  
Policy ITCR11: Parking Provision  
Policy II1: Plan Delivery and the Role of Developer Contributions

#### National Planning Policy Framework (“the Framework”)

The National Planning Policy Framework sets out the Government’s planning policies for England and how these should be applied. The Framework is therefore a material consideration in the determination of this application and policies in the Framework most relevant to this application include:

Paragraphs 7-10: Achieving sustainable development  
Paragraphs 47-48: Determining applications  
Paragraphs 54-57: Planning conditions and obligations  
Paragraphs 91, 92 and 94: Promoting healthy and safe communities  
Paragraphs 96 and 98: Open space and recreation  
Paragraphs 108-111: Promoting sustainable transport  
Paragraph 118: Making effective use of land  
Paragraphs 124-128: Achieving well-designed places  
Paragraph 153: Meeting the challenge of climate change  
Paragraph 165: Sustainable Drainage Systems  
Paragraphs 170 and 175: Conserving and enhancing the natural environment  
Paragraphs 178-181: Ground conditions and pollution  
Paragraphs 184 and 189-197: Conserving and enhancing the historic environment

#### Supplementary Planning Documents

Successful Places: A Guide to Sustainable Housing Layout and Design – Supplementary Planning Document.  
Parking Standards – Consultation Draft Supplementary Planning Document.

#### **ASSESSMENT**

It is considered that the main issues in the determination of this application are:

- the principle of the development;
- highway safety considerations, including whether the development would be provided

with a safe and suitable access and the impact of the development on the local road network;

- landscape and visual impact of the development;
- whether the development can deliver a suitable design and layout and provides sufficient residential amenity;
- the ecology impacts of the development (inc. trees and wildlife);
- potential contamination risks / land stability;
- drainage requirements; and
- impacts on infrastructure, including recreation and leisure, education and health facilities.

These issues are addressed in turn in the following sections of this report

### **Principle of the Development**

The application site lies within the development envelope of Blackwell, as defined under Policy SC1 of the Local Plan, where the principle of development is supported subject to the development proposals being regarded appropriate in terms of scale, design and location to the character and function of the area.

Furthermore under the provisions of Policies SS2 and SS3 of the Local Plan it is acknowledged that the village of Blackwell, albeit a small rural village, is capable of supporting some modest urban forms of development, such as that being proposed. The village is served by a convenience store, local community facilities and several bus services (Chesterfield, Mansfield and Alfreton).

In the context of the above the development proposals lie within the development envelope and are a component phase of a former nursing home / vacant site's redevelopment. Strictly speaking these development proposals are concentrated on a site that forms the grounds of the former nursing home (rather than the built footprint of the nursing home itself) so are greenfield in nature; however it is anticipated that the conversion of the existing building will proceed as a second phase of development in due course.

Overall the principle of housing development on the site is considered to be acceptable.

### **Highway Safety / Access**

The Local Highways Authority (LHA) commented on the original application submission seeking the provision / demonstration of visibility splays measuring 2.4m x 54m in each direction, based upon the 30mph speed limit of Primrose Hill (which is classified). The LHA acknowledged that the development proposals would likely increase traffic activity at the site, so the need to secure demonstration of appropriate visibility splays was necessary. It was noted that any lesser provision would need to be supported by the results of a traffic speed survey with the sightlines being commensurate with 85th percentile wet weather speeds and taking into account approach gradient. The LHA also acknowledged that the extant use of the site as a nursing home was a fall-back position in terms of traffic activity associated with the site access, which could be considered.

Various iterations of the application proposals have been prepared since the receipt of the

original comments from the LHA, however these have not been accompanied by any speed survey data. The site does however have an extant permission to operate as a nursing home and in 2010 a much larger extension to the nursing home was also permitted but not implemented.

On site it is acknowledged that exit visibility from the site access is better in the critical direction than the non-critical direction (see photographs taken below). The presence of double yellow lines in this particular locality ensure that views are not restricted by the presence of on street parking.



Previous topographical surveys undertaken at the site demonstrate that exit visibility measuring 2.4m x 43m is achievable from the site access, and this has previously been accepted by the LHA. Therefore whilst it is noted that the LHA continue to request the demonstration of visibility splays measuring 2.4m x 54m (without speed surveys), it is considered on balance that the likely traffic generation from the development proposals compared to the extant nursing home permission are comparable. Exit visibility splays of 2.4m x 43m are therefore considered to be acceptable.

Looking in more detail at the layout of the development proposals, each unit is shown to be provided with 2 no. dedicated off street parking spaces which accords with the parking standards set in Appendix 8.2 of the Local Plan.

Overall therefore, subject to the imposition of appropriate and necessary planning conditions requiring the implementation / provision of the visibility splays and plot parking the development proposals are considered to be acceptable.

### **Landscape and Visual Impact**

The application site is enclosed with existing development from bungalows on The Paddocks and Blackwell Primary School / Glen Vine off Pendean Close to the south; two storey dwellings off Dodgewell Close and Church view to the east; the built footprint of the former nursing home building lies to the immediate north; and the playing fields to Blackwell Primary School lie to the west.



In terms of landscape / visual impact there are glimpses of the development site from Primrose Hill ascertained between the houses which surround the site, however any development seen from these perspectives are likely to be against the backdrop of the current nursing home property which sits on a tier that is elevated above the levels of the application site. Levels across the site generally increase south to north.

In the context of Policy SC8 of the Local Plan it is considered that the development proposals will assimilate with its surroundings and will not cause any significant harm to the character, quality, distinctiveness or sensitivity of landscape, or to important features. In respect of landscape and visual impact the development proposals are considered to be acceptable.

### **Design and Layout (inc. Residential Amenity)**

Alongside consideration of advice contained in the Council's adopted Supplementary Planning Document 'Successful Places' - Housing Layout and Design Guide and Policy SC2 and SC3 of the Local Plan the details of the proposed site layout have undergone a number of variations / iterations since submission. These changes also respond to the receipt of the Urban Design Officer initial comments and other site constraints, leading to the latest site layout proposed (Rev P) being prepared for consideration.

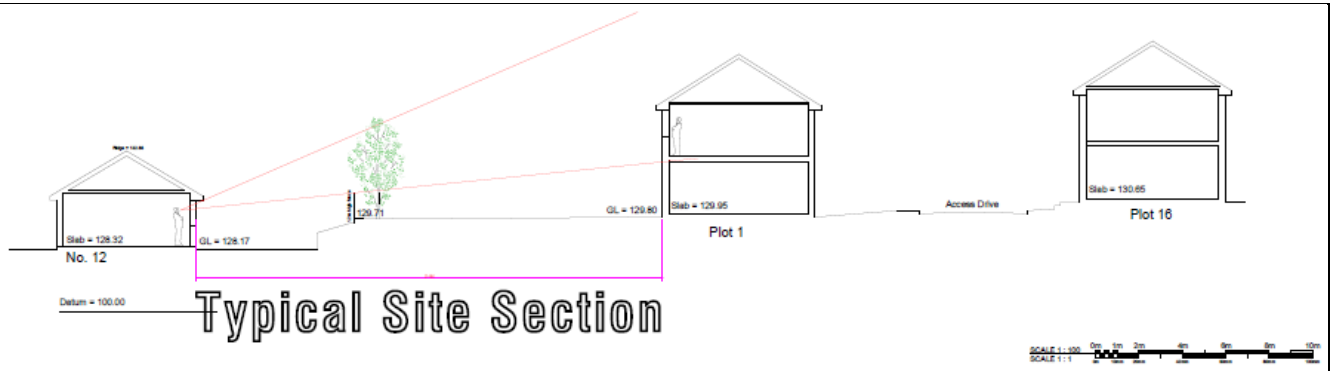
As amended the scheme now proposes a development of 16 no. dwellings 3 bed units which are either semi-detached or detached in nature. The layout has been amended to address concerns relating to the relationship of the new development proposals to existing neighbouring properties, having regard to separation distances and levels; as well as the relationship of the new dwellings to protected trees. The driveway layout and access / servicing details have also been amended.



Having regard to the relative separation distances achieved between plots and existing neighbouring properties (inc. the nursing home building) all units achieve minimum distances sought between facing windows and garden boundaries guided by the adopted SPD. Furthermore the smallest private garden areas of the overall development proposal (plots 5 and 6) measure approximately 55sqm in area, which are considered to be at the lower end of the minimum threshold but are acceptable. These units also adjoin the playing field of the school to the west so these areas are unobstructed beyond their own private garden areas created, which also improves amenity.

The mixture of terraced, semi-detached and detached properties proposed is considered appropriate in this location and is considered to be generally reflective of the surrounding

area. It is acknowledged that the initial layout did not relate well to its surroundings in terms of the earlier distribution and location of the proposed two storey dwellings that were close to bungalows on adjoining sites, but this has been suitably addressed through submitted amendments. Plot 1 and 2 (which are detached) now sit more comfortably with the neighbouring bungalows to the south (The Paddocks).



Materials, finishes and a boundary treatments will all need to be agreed subject to planning condition as these details do not accompany the current submission. In addition conditions to control the final hard and soft landscaping treatment of the site are also recommended and these will address the comments made by the Crime Prevention Design Advisor relating to boundary treatments and external lighting details to all communal driveways / access points.

Overall it is considered that the revised layout has satisfied the concerns of the Urban Design Officer and on balance, the design and layout of the overall scheme is considered to be acceptable. By virtue of the presence of mature protected trees and the variance in levels across the site, the layout submitted achieved an appropriate design compromise.

### **Ecology / Biodiversity (inc. Trees and Wildlife)**

The Derbyshire Wildlife Trust (DWT) has considered the submitted ecology information and consider that the impact of the development has for the most part now been satisfactorily assessed.

Where there are any outstanding matters of detail, DWT has advised that these can be covered by the imposition of appropriate planning conditions which require works to take place in accordance with the Arboricultural Method Statement (AMS) and Tree Protection Plan (TPP), and further details to be drawn up and submitted for later approval relating to new landscaping detail and ecological enhancement / mitigation measures.

The access driveway leading up to the parcel of land where the 16 no. dwelling are proposed is lined with mature trees which are protected by Tree Preservation Order (TPO) BOL/27 and an addition number of trees close to the southern boundary of the development parcel are also protected separately by TPO BOL/40.



The trees are in need of some management / maintenance works but the majority of them are capable of retention alongside the layout of the proposed development. The AMS and TPP submitted demonstrates that above ground construction measures can be incorporated where there is a requirement to form any hard surfaces that fall within the protected trees root protection areas (RPAs) to create driveways or extend the access road, and the footprint of all the buildings have been moved outside of any RPAs illustrated with the exception of an Ash tree located in G1 of BOL/40 which will have to be removed (but is identified as a category U tree (with a poor life expectancy) in the AMS anyway).

It is noted that there are a number of trees on site that are not specifically covered by the TPO, whose retention therefore cannot be insisted upon, but the AMS and TPP demonstrates which trees are worthy of retention and protection and in general it is considered that an appropriate compromise is achieved to enable the development to come forward without constraint to the future health / wellbeing of the retained TPO trees.

Regardless of this planning application, a separate TPO tree works application will be necessary to cover the specific works deemed necessary to facilitate the development proposals and remove the category U trees as set out in the supporting AMS. Replacement trees will be secured where necessary as part of this application process.

It will be necessary to impose a series of planning conditions to ensure that the final details of the above ground construction measures and root protection areas / measure, in line with the

latest site layout iteration (as the AMS and TPP is based on an earlier layout plan), are agreed in writing before development commences but it is considered that there is sufficient information supporting this application to conclude that the development proposals are capable of being accommodated alongside the retention of the majority of the protected trees on site in accordance with Policy SC10 of the Local Plan.

Furthermore in accordance with the requirements of Policy SC9 of the Local Plan conditions securing a Landscape and Biodiversity Enhancement and Management Plan (LBEMP) will deliver the appropriate landscaping and biodiversity enhancement measures deemed necessary by DWT and are recommended for inclusion in the event of planning permission being granted.

### **Contamination / Land Stability**

Under the provisions of Policy SC14 of the Local Plan both the Environmental Protection Officer (EPO) and the Coal Authority have reviewed the application submission and historical files, having regard to the nature of the development proposals.

Both have confirmed that whilst there is potential former land contamination and coal mining legacy issues which may affect the development site, these issues can be investigated and appropriately remediated (as detailed in the Coal Mining Risk Assessment and Land Survey). A condition can be included in the event that planning permission is granted for this site, for further assessment of the site to be undertaken in respect of contamination / coal mining risk and where that assessment shows it to be necessary to carry out appropriate mitigation to deal with that contamination.

### **Drainage**

#### **Foul Water**

No consultation response has been received from the water company in respect of foul drainage and it must be assumed therefore that they do not have any objections to the proposal; the final design and provision of foul drainage is also a matter dealt with under the Building Regulations.

#### **Surface Water**

Following the submission of additional information in response to their initial comments, the LLFA has not provided any further response in respect of surface water drainage. It is therefore assumed that the principle of incorporating a satisfactory drainage solution on site is achievable subject to the final design being agreed as a pre-commencement condition requirement alongside details of an implementation and management of any drainage scheme, including details for surface water management during the construction period. These recommended conditions also cover the comments raised by the Council's Drainage Engineer and are recommended for inclusion in the event of planning permission being granted.

### **Infrastructure Provision (inc. recreation, leisure, education and health facilities)**

*Green Space and Play Provision* - Policy ITCR5: Green Space and Play Provision, does not require open space provision for sites of this size (less than 25 dwellings) but does expect

new residential developments of more than 10 units to make reasonable financial contributions, either for new green spaces, or to improve green spaces, falling within the following walking distances:

- Equipped Play Areas within 400 metres
- Amenity Green Space within 500 metres
- Recreation Grounds or Semi-Natural Green Space within 800 metres

Blackwell has an under provision of open space – 1.73ha of additional green space is required to meet the minimum standard.

As the proposed development exceeds 10 units but is less than 25 dwellings, a s106 commuted sum contribution has been requested to improve the following areas of green space, all of which fall below the 60% quality standard referred to in the local plan (as advised by the Leisure Officer):

- Equipped Play Area: Gloves Lane Recreation Ground
- Recreation Ground / Semi-Natural Green Space: Gloves Lane (Blackwell Bridleway 31 / Tibshelf Bridleway 4, which provides access for pedestrians, cyclists and horse riders from Blackwell to Doe Hill Country Park / Silverhill Trail / Five Pits Trail).

Using the current policy formula the commuted sum would be £13,728 (16 dwellings x £858 per dwelling)<sup>1</sup>.

Built & Outdoor Sports Facilities - Policy ITCR7 requires that if quality improvements are needed to playing pitches, new residential development of more than 10 dwellings will be expected to make financial contributions to the improvement of those playing pitches and/or their ancillary facilities; The Leisure Officer has advised that quality improvements are required to the Gloves Lane Recreation Ground and Westhouses Recreation Ground.

Using the current policy formula the commuted sum would be £16,352 (16 dwellings x £1022 per dwelling)<sup>2</sup>.

Education - Derbyshire County Council as Education Authority has advised that Blackwell Community Primary & Nursery School have sufficient available capacity to accommodate the number of pupils projected to arise out of this development, unlike Tibshelf Community School that is already at capacity, such that a financial contribution of £77,645.70 for 3 secondary places at Tibshelf Community School towards additional education facilities.

Health Facilities - No comments have been received from the North Derbyshire CCG in response to this planning application consultation and no request received for any contribution towards primary / secondary care services arising from the development proposals.

Having regard to the contributions which have been sought to address infrastructure demand / provision arising from the development proposals these are noted to total £107,725.70 and

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<sup>1</sup> Please note this figure has been adjusted from the original consultee response from Leisure to reflect the reduction in units from 17 to 16 and the RPI applied to 2019 figures.

<sup>2</sup> Please note this figure has been adjusted from the original consultee response from Leisure to reflect the reduction in units from 17 to 16.

contribute towards education and open space / play provision. As part of the application process the applicant has raised the issue of viability, advising that the S106 contributions requested would adversely impact upon the viability and deliverability of the development proposals.

Under the provisions of Policy II1 of the Local Plan the applicant agreed to appoint an independent viability consultant to undertake an appraisal of the scheme to explore the potential impacts upon viability, if the full suite of S106 contributions were to be secured. The applicant and the Council agreed to the appointment of CP Viability to undertake this appraisal, which was finalised and reported in January 2021.

The Viability Appraisal (VA) confirms that the scheme is not viable, if the associated S106 contributions are secured against planning permission for the development proposals, and therefore it was necessary to consider whether there are over-riding public benefits to the scheme to recommend that planning permission is granted without full development plan compliance. Without any contributions being secured the developer profit margin is still calculated as low as 4.4% (which is significantly short of the minimum 15% target profit set in Planning Practice Guidance), but the advice contained in the VA recommends that to ensure the best possible chance of the scheme coming forward there is justification to remove all planning policy contributions.

In this regard it is therefore accepted that the development proposals are severely constrained by viability. Noting that the site is currently vacant, there is a risk that if development cannot be facilitated through a positive planning permission it will fall further into disrepair and potentially create anti-social behaviour issues.

It is acknowledged that the site is constrained due to other material planning constraints (protected trees) which naturally impact upon the scale and scope of development density achievable on site. It is considered that the latest site layout submission achieves an appropriate balance in respect of these constraints and therefore it is considered on balance that it is in the public interest to support the development proposals despite the contribution shortfall.

## **CONCLUSION / PLANNING BALANCE**

In conclusion, despite the development proposals not being able to meet S106 contributions required by policy ITCR5, ITCR7 and II1 of the Local Plan (open space / play provision and education) it is considered that it is in the public interest to approve the application proposals. The former nursing home is currently vacant and it is clear from the application submission that the site owner does not intend to re-open the business, therefore the site poses a risk of falling into disrepair and attracting Anti-social behaviour if a new use or redevelopment is not secured.

Clearly there are constraints affecting the site which limit the scale and amount of development which can be accommodated and therefore naturally there is a demonstrable knock on effect on viability. An independent viability appraisal has been undertaken which shows that the development would not be economically viable. It is considered to be appropriate to grant planning permission without open space / play provision and education contribution) on this occasion so that that this development can still be brought forward in line with the local plan.

In all other respects, the application is for the most part considered to be acceptable in planning terms for the reasons set out in the above report and although there are some minor technical issues outstanding, these are very likely resolvable subject to conditions and are unlikely therefore to weigh negatively in the overall balance of considerations, such that a recommendation to grant permission is proposed.

## **RECOMMENDATION**

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

### **Conditions**

1. The development shall be begun before the expiration of three years from the date of this permission.
2. The development hereby permitted shall be carried out in accordance with the following approved drawings and documents unless specifically stated otherwise in the conditions below:  
*1445-11 – Location Plan*  
*1445-04 – 3 Bed Type (Elevations and Floor Plans)*  
*1445-02 Rev P – Site Layout*  
*1445-04 Rev A – Streetscene / Car Ports / Sections*  
*1445-18 - 3 Bed Type – Detached (Elevations and Floor Plans)*  
*Arboricultural Method Statement & Tree Protection Plan (2020-08-02 Project No. 200)*

### **Drainage**

3. No development shall take place, other than site clearance works, until a detailed design and associated management and maintenance plan of the surface water drainage for the site have been submitted to and approved in writing by the Local Planning Authority.
4. No development, other than site clearance works, shall take place until a detailed assessment has been provided to and approved in writing by the Local Planning Authority, to demonstrate that the proposed destination for surface water accords with the drainage hierarchy as set out in paragraph 80 reference ID: 7-080-20150323 of the planning practice guidance.
5. Prior to commencement of the development, other than site clearance works, the applicant shall submit for approval to the Local Planning Authority details indicating how additional surface water run-off from the site will be avoided during the construction phase. The applicant may be required to provide collection, balancing and/or settlement systems for these flows. The approved system shall be operating to the satisfaction of the Local Planning Authority, before the commencement of any works, which would lead to increased surface water run-off from site during the construction phase.
6. Prior to the first occupation of the development, a verification report carried out by a qualified drainage engineer must be submitted to and approved by the Local Planning Authority. This must demonstrate that the drainage system has been constructed as per the agreed scheme (or detail any minor variations), provide the details of any management

company and state the national grid reference of any key drainage elements (surface water attenuation devices/areas, flow restriction devices and outfalls).

### Coal Authority

7. No development shall commence until intrusive site investigations have been carried out on site to establish the exact situation in respect of coal mining legacy features. The findings of the intrusive site investigations shall be submitted to the Local Planning Authority for consideration and approval in writing. The intrusive site investigations shall be carried out in accordance with authoritative UK guidance.

Where the findings of the intrusive site investigations (required by the condition above) identify that coal mining legacy on the site poses a risk to surface stability, no development shall commence until a detailed remediation scheme to protect the development from the effects of such land instability has been submitted to the Local Planning Authority for consideration and approval in writing. Following approval, the remedial works shall be implemented on site in complete accordance with the approved details.

### Contamination

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

#### **A. Site Characterisation**

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

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



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

## **B. Submission of Remediation Scheme**

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

## **C. Implementation of Approved Remediation Scheme**

The approved remediation scheme must be carried out in accordance with its terms prior to the commencement of development other than that required to carry out remediation, unless otherwise agreed in writing by the Local Planning Authority. The Local Planning Authority must be given two weeks written notification of commencement of the remediation scheme works.

Following completion of measures identified in the approved remediation scheme, a verification report (referred to in PPS23 as a validation report) that demonstrates the effectiveness of the remediation carried out must be produced, and is subject to the approval in writing of the Local Planning Authority.

## **D. Reporting of Unexpected Contamination**

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

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

## **E. Importation of soil**

In the event that it is proposed to import soil onto site in connection with the development, the proposed soil shall be sampled at source and analysed in a laboratory that is accredited under the MCERTS Chemical testing of Soil Scheme for all parameters requested (where this is available), the results of which shall be submitted to the LPA for consideration. Only the soil approved in writing by the LPA shall be used on site.

This memorandum in no way indicates that this site is currently considered to be contaminated, merely that the potential for contamination exists on this site. We do not currently have any entries on our register of contaminated land as we are presently at the stage of inspecting the District and identifying potentially contaminated sites. If any of these sites warrants regulatory action, an entry will be made on the public register.

As the whole of Bolsover district is considered to be a radon affected area we would advise the applicant obtains a Radon Risk report for the site. A report may be obtained from Public Health England <http://www.ukradon.org/>

## Ecology

9. No removal of vegetation or work to buildings will take place between 1st February and 31st September inclusive, unless a recent survey has been undertaken by a competent ecologist to assess the nesting bird activity on site during this period, and details of measures to protect the nesting bird interest on the site, have first been submitted to and approved in writing by the local planning authority and then implemented as approved.

10. No development shall take place (including demolition, ground works, vegetation clearance) until a construction environmental management plan (CEMP: Biodiversity) has been submitted to and approved in writing by the local planning authority. The CEMP (Biodiversity) shall include the following:

- a) Risk assessment of potentially damaging construction activities.
- b) Identification and demarcation of "biodiversity protection zones" (to include hedgerows and trees).
- c) Practical measures (both physical measures and sensitive working practices) to avoid or reduce impacts during construction (may be provided as a set of method statements and should include a badger working method statement).
- d) The location and timing of sensitive works to avoid harm to biodiversity features.
- e) The times during construction when specialist ecologists need to be present on site to oversee works.
- f) Responsible persons and lines of communication.
- g) The role and responsibilities on site of an ecological clerk of works (ECoW) or similarly competent person (as necessary).
- h) Use of protective fences, exclusion barriers and warning signs.

11. A landscape and biodiversity enhancement and management plan (LBEMP) must be submitted to, and be approved in writing by, the Local Planning Authority prior to the commencement of the development. The LBEMP must combine both the ecology and landscape disciplines and ensure that there is no net loss of biodiversity and ideally providing a measurable net gain. It should include the following:-

- a) Description and location of habitat and species features to be created, planted, enhanced and managed including type and locations of bird boxes (c.25 integrated swift boxes), integrated measures for swallow, Barn Owl mitigation (based on section 4 of the Barn Owl Report prepared by TEP July 2020), hedgehog access gaps in gardens and details of habitat creation.
- b) Aims and objectives of management for species and habitat.
- c) Appropriate management methods and practices to achieve aims and objectives.

- d) Prescriptions for management actions.
- e) Preparation of a work schedule (including an annual work plan capable of being rolled forward over a ten-year period).
- f) Details of the body or organization responsible for implementation of the plan.
- g) Ongoing monitoring visits, targets and remedial measures when conservation aims and objectives of the plan are not being met.

The LBEMP will also include details of the legal and funding mechanism(s) by which the long-term (25 years) implementation of the plan will be secured by the developer with the management body(ies) responsible for its delivery. The approved plan will be implemented in accordance with the approved details.

12. Prior to the occupation of any dwelling, a bat friendly lighting scheme for the access road / driveway shall have been submitted to and approved in writing by the Local Planning Authority; that scheme shall include details of implementation timescales and the approved scheme shall be implemented as approved.

### Highways

13. Before any other operations are commenced the site access shall be modified, laid out and constructed in accordance with a detailed design first submitted to, and approved in writing by the Local Planning Authority. The access shall include proposed passing places as detailed in the application submission, be constructed to base level and be provided with visibility sightlines of 2.4m x 43m in both directions. Prior to the first occupation of any dwelling on site, the permanent new access shall be laid out as approved and the land in advance of the visibility sightlines shall be retained throughout the life of the development free of any object greater than 1m in height relative to the adjoining nearside carriageway channel level.

14. At the commencement of operations on site, space shall be provided within the site curtilage for storage of plant and materials, site accommodation, loading and unloading of goods vehicles, parking and manoeuvring of site operatives and visitors vehicles, laid out and constructed in accordance with detailed designs to be submitted in advance to the Local Planning Authority for written approval and maintained throughout the contract period in accordance with the approved designs free from any impediment to its designated use.

15. No development consisting of highway construction shall take place until either confirmation has been provided that a Section 38 adoption agreement with the Highway Authority will be completed; or details of the construction and future maintenance of the residential access driveway(s) and footway(s) (including layout, levels, gradients, construction, surfacing, means of surface water drainage and street lighting) have been submitted to and approved in writing by the Local Planning Authority. Any such details approved shall be implemented before the first occupation of any dwelling on site and the driveway shall thereafter be maintained in accordance with the approved details.

16. No dwelling shall be occupied until space has been provided within the site curtilage/ plot for the parking of residents and visitors vehicles associated with that dwelling, all to be laid out and constructed in accordance with the approved drawings. The facilities shall be retained throughout the life of the development free from any impediment to their designated use, for the parking of motor vehicles at all times.

17. No dwelling shall be occupied until further details for the arrangements of waste collection from the new dwellings have been submitted to and approved in writing by the Local Planning Authority. Details required shall demonstrate that a Refuse Collection Vehicle with a GVW of 32 tonnes is capable of accessing and turning within the site; or alternatively the design of a presentation / collection point positioned at the site entrance. Details shall be implemented as approved prior to occupation of any dwelling and shall be retained throughout the life of the development free from any impediment to their designated use.

### Trees

18. No development shall commence until the Arboricultural Method Statement and Tree Protection Plan (Crawshaw Arborcare Ltd, August 2020) have been revised to reflect drawing no. 1445-02 Site Layout Rev P and submitted to the Local Planning Authority for written approval. Thereafter development shall only be implemented in accordance with the measures set out in the approved Arboricultural Method Statement and Tree Protection Plan.

### Materials

19. Before construction commences on the erection of any building or wall, specifications or representative samples of the materials to be used in all external wall and roof areas shall first have been submitted to and approved in writing by the Local Planning Authority.

### **Statement of Decision Process**

Officers have worked positively and pro-actively with the applicant to address issues raised during the consideration of the application. The proposal has been considered against the policies and guidelines adopted by the Council and the decision has been taken in accordance with the guidelines of the Framework.

### **Equalities Statement**

Section 149 of the Equality Act 2010 places a statutory duty on public authorities in the exercise of their functions to have due regard to the need to eliminate discrimination and advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it (i.e. “the Public Sector Equality Duty”).

In this case, there is no evidence to suggest that the development proposals would have any direct or indirect negative impacts on any person with a protected characteristic or any group of people with a shared protected characteristic

### **Human Rights Statement**

The specific Articles of the European Commission on Human Rights (“the ECHR”) relevant to planning include Article 6 (Right to a fair and public trial within a reasonable time), Article 8 (Right to respect for private and family life, home and correspondence), Article 14 (Prohibition of discrimination) and Article 1 of Protocol 1 (Right to peaceful enjoyment of possessions and protection of property).

It is considered that assessing the effects that a proposal will have on individuals and weighing these against the wider public interest in determining whether development should be allowed to proceed is an inherent part of the decision-making process. In carrying out this

'balancing exercise' in the above report, officers are satisfied that the potential for these proposals to affect any individual's (or any group of individuals') human rights has been addressed proportionately and in accordance with the requirements of the ECHR.

**PARISH** Blackwell Parish

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**APPLICATION** Creation of a vehicular access  
**LOCATION** 81 Alfreton Road Westhouses Alfreton DE55 5AJ  
**APPLICANT** Mr Frank DeLamotte  
**APPLICATION NO.** 20/00586/FUL  
**CASE OFFICER** Miss Kay Gregory  
**DATE RECEIVED** 22nd December 2020

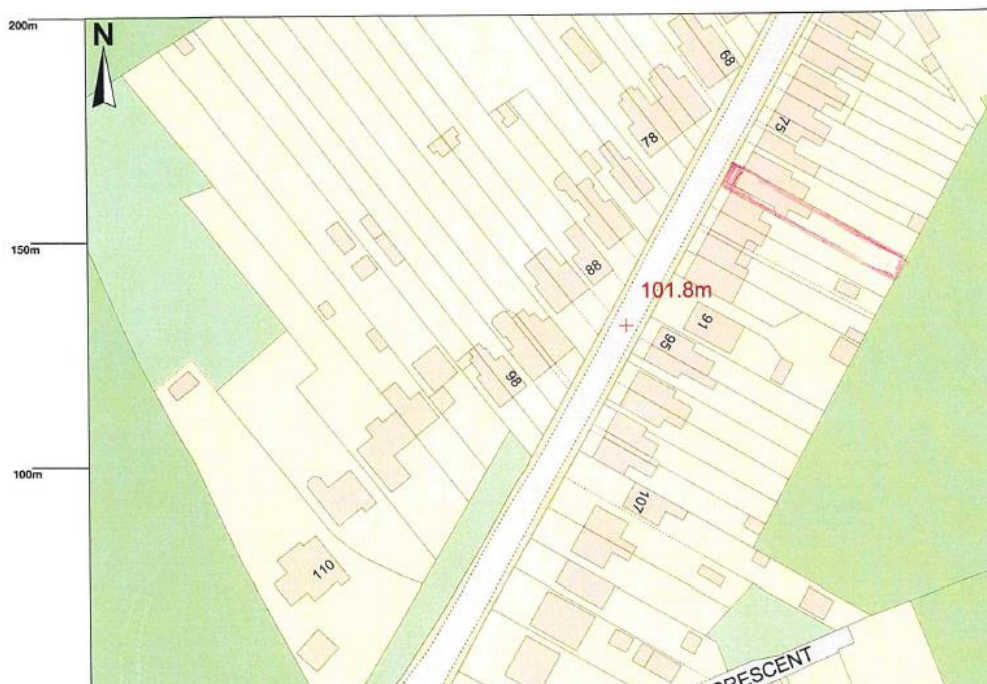
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## **SUMMARY**

This application has been called into Planning Committee by Councillor Clive Moesby on the grounds of *consistency surrounding similar applications and the need to get cars parked off the road.*

In accordance with the Highway Authority comments, and officer recommendation, it is considered that the proposed vehicular access fails to meet minimum standards for off road parking spaces and would present manoeuvring and visibility problems when entering and leaving the site, causing potential risks to highway safety, and as such the application is recommended for refusal.

## **Site Location Plan**



## **SITE & SURROUNDINGS**

The application site is within the settlement of Westhouses, where the street pattern comprises a row of terrace properties fronting onto a 'B' classified road. The majority of the properties on the east side of Alfreton Road, have small front gardens measuring approximately 2.5m in depth and up to 6m in width.

On the opposite side of the road are semi-detached properties, with front gardens between 4m and 7m in length.

The application site is fronted by a brick wall. The property has a bow window to the front. At the side is a gennel providing pedestrian access to the rear of the applicant's property only. The applicant confirmed on site that there are no other rights of access down the gennel.

The applicant's front garden has a depth of 2.5m. The entire width is 5.9m, including the area in front of the gennel.

The majority of properties on the applicant's (East) side of Alfreton Road benefit from on-street parking provision, which will, during some times of the day result in a cramped row of vehicles parked on the roadside in front of each property. There are some exceptions to this which shall be explained below.

Properties on the opposite side of Alfreton Road have parking restrictions on the highway, in the form of double yellow lines in front of each property. Some of these properties have therefore converted front gardens into hard surfaced parking spaces. These front gardens are between 4m and 7m in length, and approximately 2.5m in width, although some are laid out at an angle from the adopted highway which provides an irregular length. The majority of frontages are laid out in such a way that vehicles can drive relatively easily onto the site, or reverse from within the highway.

## **BACKGROUND**

Whilst there have been a number of historic planning applications approved along both sides of Alfreton Road, the applications listed below were all approved against officer, or highway authority recommendations, on the grounds that the need to get parked vehicles off the highway outweighed issues of poor visibility and/or insufficient parking dimensions.

- **59 Alfreton Rd – BOL/1996/0397** – approved under delegated powers even though the parking space failed to meet recommended dimensions. In this instance, the officer report identified that discussions were held with the Highways officer who indicated that within this location it would be preferable for cars to be parked off the road.



- **65 Alfreton Rd – BOL/1973/0010** – approved. No details on file to confirm whether it was at committee or delegated. Parking space failed to meet minimum standards.



- **77 Alfreton Rd – 07/00023/FUL** – approved under delegated powers, against the highway authority advice, by reason that it was for the parking of a motorised Trike vehicle and not a full sized vehicle. The removal of the front wall provided a gap measuring only 3m in width. This would not have been considered sufficient to park a car, and as such, because the application was submitted for a Trike only, a 3m width was considered to be sufficient, and the application was approved.



- **85 Alfreton Rd – 01/00025/FUL** – approved by the planning committee, against officer and highway authority recommendation. The application was originally deferred to allow for an assessment of off-road parking provision along Alfreton Road, where it was identified that there had been some approvals for the creation of vehicular accesses. Other vehicular accesses had been formed without planning approval. The reason for the approval at no. 85 was that it was considered by the Planning Committee to be more beneficial, in the interests of highway safety, to allow vehicles to park off the road, even if the parking space didn't meet recommended size requirements. It should be noted that number 85 has a wider frontage than the application site by reason that the front door is sited on the front elevation, and not on the side or rear elevation, as is with number 81. This provides a slightly wider space at



the front of the property.



- **103 Alfreton Rd – 04/00512/FUL** - approved by the planning committee, in accordance with the officer recommendation, on the grounds that the benefits of providing off-street parking outweigh the impacts of the resultant manoeuvring. This was against highway authority recommendation to refuse on the grounds that the parking space was too small and there was insufficient manoeuvring space.
- **109 Alfreton Rd – 05/00202/FUL** - approved by the planning committee, in line with the officer recommendation, on the grounds that other properties, immediately adjacent to 109 (numbers 99,101, 103, 107, 111 and 113) had vehicular accesses to the property frontage. The length of the driveway provided was 9m. The highway authority recommended refusal due to substandard visibility and the lack of a turning facility, but the case officer and planning committee agreed that the benefit of off-road parking on a busy section of a classified road outweighed the substandard visibility and difficulties in manoeuvring.





Notwithstanding the above, all planning applications are determined on their own merits. The previous approvals were all more than 15 years ago. Since that time, there have been changes to planning policy, highway parking standards, and the number and size of vehicles using the highway has increased.

### **PROPOSAL**

This application is seeking planning permission for the creation of a vehicular access onto Alfreton Road, which is a 'B' classified road.



The development shall involve the removal of the front boundary wall. The front of the property is already hard surfaced. However, the front garden is approximately 200mm lower than the highway and path leading down the gennel and as such, the land will need to be levelled off within the site to aid access and egress.



Also included would be engineering works within the adopted highway, consisting on the lowering of kerb stones.

Within a covering letter submitted by the applicant, they have stated that they require the kerb to be lowered so that they can park their car onto the front yard of the property.

Two site visits were carried out, one was accompanied by the applicant. They stated during the visit that they require the parking space as they want to purchase an electric vehicle, which will require a charging point within their garden.

During the meeting, the highway authority comments were discussed, particularly with regard to the required visibility splays. This shall be discussed in greater detail within the Highway considerations section, below.

## **AMENDMENTS**

None.

## **EIA SCREENING OPINION**

Not EIA development.

## **HISTORY**

There is no planning history on this site.

## **CONSULTATIONS**

### BDC Engineers

- Require the two standard drainage notes to be included.

### DCC Highways

- No detailed plans have been submitted demonstrating the proposed vehicular access, the application site is located on Alfreton Road (B6025) which is subject to a 30mph speed limit and is part of a bus route, therefore, the applicant should be providing emerging visibility splays of 2.4m x 47m in both directions, the area in advance of the sightlines being over controlled land and maintained throughout the life of the development clear of any object greater than 1m in height (0.6m in the case of vegetation) relative to adjoining nearside carriageway channel level.

- There appears to be limited space within the site to accommodate the parking of one vehicle, any under provision may result in a vehicle being parked part on the footway of Alfreton Road, a situation against the best interests of the safe operation of the public highway.
- The applicant should be clearly demonstrating the proposed parking bay by dimension i.e. each parking bay should measure a minimum of 2.4m x 5.5m with an additional 0.5m of width to any side adjacent to a physical barrier e.g. wall, hedge, fence, etc.
- Therefore, unless the applicant is able to submit details demonstrating measures to satisfactorily address the above access and parking space issues, it's recommended that the proposal is refused.

## **PUBLICITY**

The application has been publicised by way of a site notice, and letters sent to 5 adjacent properties. There have been no representations received as a result of the publicity.

## **POLICY**

### Local Plan for Bolsover District ("the adopted Local Plan")

Planning law requires that applications for planning permission be determined in accordance with policies in the adopted Local Plan, unless material considerations indicate otherwise. In this case, the most relevant Local Plan policies include:

- SS1 – Sustainable development
- SC1 – Development within the development envelope
- SC3 – High quality design
- ITCR10 – Supporting sustainable transport patterns
- ITCR11 – Parking provision
- Appendix 8.2 – Parking standards for residential development

### National Planning Policy Framework ("the Framework")

The National Planning Policy Framework sets out the Government's planning policies for England and how these should be applied. The Framework is therefore a material consideration in the determination of this application and policies in the Framework most relevant to this application include:

- Paragraphs 7-10: Achieving sustainable development
- Paragraphs 47-48: Determining applications
- Paragraphs 54-57: Planning conditions and obligations
- Paragraphs 91, 92 and 94: Promoting healthy and safe communities
- Paragraphs 108-111: Promoting sustainable transport
- Paragraph 118: Making effective use of land
- Paragraphs 124-128: Achieving well-designed places

## **ASSESSMENT**

### ***Key issues***

It is considered that the key issues in the determination of this application are:

- Principle of development
- Visual impact of the development
- Impact of the development on residential amenity
- Whether the development would be provided with a safe and suitable access;

- The impact of the development on the local road network

*These issues are addressed in turn in the following sections of this report*

### Principle

The application site is within the development envelope of Westhouses where the principle of development is generally acceptable, subject to the full consideration of all relevant, material planning considerations. In this particular case, the material planning consideration which requires careful acknowledgement and consideration is whether the development provides a safe and suitable access, and whether the development has an impact on the local road network.

### Visual impact of the proposed development

This application is seeking planning permission for the creation of a vehicular access to the front of 81 Alfreton Road. The development shall consist of the lowering of kerb stones within the adopted highway, removal of the front boundary wall and raising of land levels within the site to level off the driveway.

There are other properties along both sides of Alfreton Road which have opened up the front gardens, some of which have been hard surfaced and used for parking. The area immediately around the application site, within the adopted highway is also heavily used for the parking of vehicles.

It is therefore considered that the proposed development will cause no detriment to the visual amenity of the area, which is heavily influenced by parked vehicles, in compliance with policies SS1 and SC3 of the adopted Local Plan.

### Residential Amenity

The development would enable easier access to the property for the applicant whose wife is disabled, as they would be able to park a vehicle within their curtilage, or to the front of their property, as opposed to finding a parking space on the highway or using a nearby garage.

The proposed development will cause no detriment to the amenity of neighbouring residents, in compliance with policies SC3 and SC11 of the adopted Local Plan.

### Highways and Access Considerations

The proposal will provide a parallel parking space to the front of the property measuring 5.9m x 2.8m.

The Bolsover District Council parking standards for parallel parking spaces, contained within Appendix 8.2 of the adopted Local Plan require minimum dimensions of 6.2m x 2m for a standard space and 6.8m x 2.9m (minimum) for a disabled parking space.

The County Highway Authority was consulted and raised objections on the grounds that without the benefit of detailed plans, the applicant had not adequately demonstrated that the vehicular access would be safe. They commented that, '*the application site is located on Alfreton Road (B6025) which is subject to a 30mph speed limit and is part of a bus route. Therefore, the applicant should be providing emerging visibility splays of 2.4m x 47m in both directions, the area in advance of the sightlines being over controlled land and maintained*

*throughout the life of the development clear of any object greater than 1m in height (0.6m in the case of vegetation) relative to adjoining nearside carriageway channel level’.*

*They went on to say that, ‘there appears to be limited space within the site to accommodate the parking of one vehicle, any under provision may result in a vehicle being parked part on the footway of Alfreton Road, a situation against the best interests of the safe operation of the public highway. The applicant should be clearly demonstrating the proposed parking bay by dimension i.e. each parking bay should measure a minimum of 2.4m x 5.5m with an additional 0.5m of width to any side adjacent to a physical barrier e.g. wall, hedge, fence, etc. Therefore, unless the applicant is able to submit details demonstrating measures to satisfactorily address the above access and parking space issues, it’s recommended that the proposal is refused’.*

The applicant’s grounds for requiring the proposed vehicular access is that his wife is disabled and at present they have to park their vehicle within a garage further along Alfreton Road. They can only park at the front of their property if there are no other cars parked there.

During the site visit, the applicant was asked whether they would consider applying to the County Council to have a disabled bay parking bay marked out on the highway in front of their property. The applicant stated that they are wanting to buy an electric vehicle in the near future and as such required the ability to park within the curtilage of the their property, so that the vehicle could be charged. At the time of this application the applicant had not purchased an electric car.

During the site visit, discussions were held with the applicant to explain the issues that had been identified. The highway authority recommendations were also discussed at length.

The applicant was advised that the proposed parking space fails to meet Bolsover District Councils adopted parking dimensions for a parallel spaces, and failed to satisfy the County Council’s parking dimensions, which consider the need to provide sufficient space to allow for the opening of car doors.

It was explained to the applicant that there would likely be regular instances of vehicles parked on the adopted highway on both sides of his ‘driveway’ and as such manoeuvring into and out of the parking space would be extremely difficult. The footway in front of the property is only 2.1m in width, which is relatively narrow for pedestrians, as identified on the photo below.



Alfreton Road is also a busy 'B' classified road and a bus route, and despite having parking restrictions on the opposite side of Alfreton Road (yellow lines), vehicles travelling along Alfreton Road have to frequently manoeuvre between parked vehicles. There are therefore instances where vehicles have to stop for vehicles travelling in the opposite direction.

It is considered that the time it would take the applicant to manoeuvre onto the site, between parked vehicles, would occasionally cause moving vehicles to have to wait until the road is clear. This may cause detriment to highway safety, and to pedestrians using the footway.

Concern was also given to the substandard visibility when exiting the driveway. The County Council require emerging visibility splays of 2.4m x 47m in both directions, with the area in advance of the sightlines being over controlled land and maintained throughout the life of the development clear of any object greater than 1m in height (0.6m in the case of vegetation) relative to adjoining nearside carriageway channel level.

The front and side wall of the adjacent property (83 Alfreton Road) is 1.2m in height and as such is in excess of the required amount, see photo below. The wall is also outside of the applicant's control. The applicant indicated that this neighbour would likely agree to reduce the height of the wall to 1m although at the time of the application this had not been done or agreed.



The applicant, in an email dated the 19<sup>th</sup> February stated that, *“As to the height of my neighbours wall, I will hope to overcome the spec by paving the entire frontage with block paving, thus raising the level to be able to lose the offending 2 cm”*. However on the basis that the neighbouring wall is 1.2m high, there would need to be a reduction in the wall height by 20cm, not 2cm as stated by the applicant.

Notwithstanding the above discrepancy, whilst any reduction in the neighbouring wall may improve visibility immediately adjacent to the site, there would be a further obstruction at number 85 where approval has been given for a vehicle to park on the property frontage, as indicated on the photograph below. This vehicle is over 1m in height, and would if parked, impede visibility to some extent when exiting the site.



There would also be likely visibility issues resulting from the parked cars within the adopted highway, as a clear view along the road would be impeded by these vehicles when trying to exit the site. This may result in the applicant having to enter the highway, and then stop, in order to check for vehicles travelling in either direction. This could also obstruct access along the pedestrian footway.

Whilst the Council acknowledge that there have been previous applications approved within vicinity of the site, each application has to be determined on its own merits. The proposed parking space fails to meet the Councils parking dimensions as stated in the adopted Local Plan, and there does not appear to be adequate visibility outside of land controlled by the applicant, in order to safely exit the site.

It is therefore considered that the proposal is likely to cause detriment to highway safety, and fails to provide sufficient parking, contrary to policy ITCR10, which requires *development proposals to provide convenient, safe and attractive access*, and policy ITCR11 which requires that *parking provision should relate well to the proposed development, be well designed, taking account of the characteristics of the site and locality, minimise conflict with pedestrians and cyclists, and provide appropriate provision as set out within Appendix 8.2 of the adopted Local Plan.*

## **CONCLUSION**

The Council acknowledge that in previous applications, a balanced judgement was taken, whereby it was considered that the need to remove parked vehicles off the road outweighed any potential harm to highway safety arising from poor visibility and insufficient parking space dimensions.

The applicant, when discussing the issues considered that because other applications had been approved in the past that his application should be treated favourably. It was explained that each application was determined on its own merits, and the case officer processed each application with the details provided, and in accordance with the adopted Local Plan policies of Bolsover District Council. The applicant was advised to discuss his application with a locally elected Councillor and request it be called into Planning Committee, in the interests of consistency with dealing with similar planning applications along this part of Alfreton Road.

Whilst the Council acknowledge the applicant's desire to have an electric vehicle, this does not give rise to allow the provision of a substandard vehicular access from a 'B' classified road.



The Council also acknowledge that the applicant's wife is disabled, and so an accessible parking space at the front of the property would benefit their health. However, this issue may be overcome by applying to the County Council for a marked disabled parking bay to the front of the property.

The last planning application approved for a vehicular access within the vicinity of the application site was approximately 15 years ago. Since that time, parking space dimensions have been increased to take into account the fact that many households have larger, family vehicles. There are also more vehicles on the road network than 15 years ago, and there is also the growing reliance on large delivery vehicles that use the local road network to deliver to domestic premises.

It is therefore considered that despite previous approvals, in this particular instance the proposed parking space fails to meet the minimum dimensions as required by the District Councils and County Councils adopted parking standards, and the applicant has failed to accurately demonstrate how they will be able to enter and leave the site in a safe manner, or without causing obstructions within the adopted highway.

It is therefore considered that the proposed development is likely to cause detriment to highway and pedestrian safety, and it is recommended that the application is refused for the reasons provided below.

### **RECOMMENDATION – Refuse planning permission.**

#### **Reasons for refusal:**

1. The application does not include sufficient detail to demonstrate that an access provided with adequate visibility splays to the Highway Authority's minimum standards can be created to Alfreton Road (B6025) without the use of land which, as far as can be ascertained from available information, lies outside the applicant's control. The development therefore fails to provide a safe access and egress and is contrary to policy ITCR 10 of the adopted Local Plan for Bolsover District (March 2020).
2. The application details do not demonstrate adequate provision for the parking of resident's vehicles clear of the public highway. Any under provision would likely to result in parked vehicles obstructing the fronting footway, a situation against the best interests of highway safety. The development therefore fails to provide appropriate off-road parking provision and is therefore contrary to policy ITCR11 and Appendix 8.2 of the adopted Local Plan for Bolsover District (March 2020).

#### **Statement of Decision Process**

The proposal is contrary to policies of the adopted Local Plan, and issues relating to visibility and parking space standards could not be overcome by amendments to the scheme. The Council has worked proactively with the applicant to ensure that a consistent approach has been taken when providing a recommendation on the application, giving full regard to similar proposals within the immediate vicinity.

The decision has been taken in accordance with the adopted policies and guidance of Bolsover District Council, and the objectives of The Framework.

### **Equalities Statement**

Section 149 of the Equality Act 2010 places a statutory duty on public authorities in the exercise of their functions to have due regard to the need to eliminate discrimination and advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it (i.e. “the Public Sector Equality Duty”).

In this case, there is no evidence to suggest that the development proposals would have any direct or indirect negative impacts on any person with a protected characteristic or any group of people with a shared protected characteristic

### **Human Rights Statement**

The specific Articles of the European Commission on Human Rights (‘the ECHR’) relevant to planning include Article 6 (Right to a fair and public trial within a reasonable time), Article 8 (Right to respect for private and family life, home and correspondence), Article 14 (Prohibition of discrimination) and Article 1 of Protocol 1 (Right to peaceful enjoyment of possessions and protection of property).

It is considered that assessing the effects that a proposal will have on individuals and weighing these against the wider public interest in determining whether development should be allowed to proceed is an inherent part of the decision-making process. In carrying out this ‘balancing exercise’ in the above report, officers are satisfied that the potential for these proposals to affect any individual’s (or any group of individuals’) human rights has been addressed proportionately and in accordance with the requirements of the ECHR.

**PARISH** Old Bolsover Parish

**APPLICATION** Outline application (all matters reserved) for the erection of 5 detached dwellings

**LOCATION** Land On The North Side Of 28 Church Road, Stanfree

**APPLICANT** Castle Homes (Chesterfield) Ltd, 10 Corner Pin Close, Netherthorpe, Staveley, Chesterfield, Derbyshire

**APPLICATION NO.** 20/00465/OUT

**CASE OFFICER** Mrs Sarah Kay

**DATE RECEIVED** 21st October 2020

## SUMMARY

This application has been referred to the Planning Committee because the development proposed does not strictly comply with the provisions of policy SS9 of the Local Plan for Bolsover District and is therefore a departure to the Local Plan.

Notwithstanding the above, the application is recommended for approval. The proposals are considered on balance of all other material considerations (including a fall-back position of the site already benefiting from an extant planning permission) to be acceptable. The report presents a balanced planning argument why it is considered that the benefits of the proposals outweigh non-compliance with policy SS9 of the Local Plan.

Site Location Plan



## SITE & SURROUNDINGS

The application site is currently an area of open land (approx. 0.26ha in area) located to the north of Oak House Farm and to the east of No's 20 – 30 Church Road, on the fringe of the rural village of Stanfree.

No's 26a, 26b, 30a and 30 Church Road are a recent development of four large two storey

detached dwellings which now form frontage development to Church Road. Central to No 30a, 30 and Oak House Farm is a driveway access which leads from Church Road between No 26b and 30a that leads to the main body of application site. No 26a and 26b take direct driveway access from Church Road.

Beyond the shared driveway surfacing the site is unkempt and in areas overgrown / inaccessible (particularly the northern section). There is a mix of builders / commercial paraphernalia deposited around the site which extends into the field to the east of the application site boundary. Levels are relatively consistent across the southern half of the application site and the site access, but there is a distinct change in site level from the centre of the site and the northern half, where levels drop off quite significantly to the north eastern corner.

There is a mix of hedgerows and trees positioned around the perimeter of the application site, and a concentration of more mature trees in the northern half of the site.

## **PROPOSALS**

The application submitted seeks outline planning permission for residential development of up to 5 dwellings, with all matters reserved.

The application submission is accompanied by an indicative site layout / block plan (drawing no. 21/825/1) which shows how a potential layout of 5 detached dwellings on the site would be achieved taking access from the existing access road / driveway located between 26b and 30A Church Road, Stanfree.

In addition to the above the following drawings / documents has also been submitted:

Location Plan

21/825/1 – Site Layout

21/825/2A – Sections

21/825/3 – Topographical Survey

21/825/4 – Block Plan and Levels

Design & Access Statement

Coal Mining Risk Assessment

## **EIA SCREENING OPINION**

The proposals that are the subject of this application are not Schedule 1 development but they are an urban development project as described in criteria 10b of Schedule 2 of The Town and Country Planning (Environmental Impact Assessment) Regulations 2017

However, the proposals are not in a sensitive location as defined by Regulation 2 and by virtue of their size and scale, they do not exceed the threshold for EIA development set out in Schedule 2.

Therefore, the proposals that are the subject of this application are not EIA development.

## **AMENDMENTS**

23/11/2020 – Coal Mining Risk Assessment

16/12/2020 – Visibility Splay Plan (26228\_08\_020\_01.1) and ~~Tracking Plan~~

~~(26228\_08\_020\_01.2)~~

16/02/2021 – Site Layout Plan (21/825/1), Topographical Survey (21/825/3), ~~Site Sections (21/825/2)~~

17/02/2021 – Block Plan and Levels (21/825/04), Site Sections (21/825/2A)

*\* drawings which are ~~struck through~~ have been superseded.*

## **HISTORY (if relevant)**

- 06/00124/OUT – Residential development
  - Granted Conditionally
  
- 08/00449/REM - Erection of 1 two storey dwelling and associated access (Site A) and detached garage
  - Granted Conditionally
  
- 16/00317/DISCON - Discharge of Conditions 2 (Two Off Street Parking), 4 (Front Boundary Treatment), 7 (Samples of Materials), 8 (Sample Panel of Stonework), 9 (Foul and Surface Water) of planning permission 08/00449/REM
  - Condition 2, 4, 7 and 8 agreed 08/08/2016.
  - Condition 9 agreed 22/08/2016.
  
- 16/00076/OUT – Erection of 7 dwellings
  - Refused 29/04/2016
  - Appeal (APP/R1010/W/16/3155405) dismissed on 25/11/2016.

## **CONSULTATIONS**

### **Coal Authority**

- 03/11/2020 – holding objection received as CMRA needed.
- 30/11/2020 – objection withdrawn following consideration of CMRA submitted. Comments received confirming CA concurs with the recommendations of the CMRA, that coal mining legacy potentially poses a risk to the proposed development and that investigations are required, along with possible remedial measures, in order to ensure the safety and stability of the proposed development. Should permission be granted a pre-commencement condition should be imposed requiring site investigations to be undertaken and follow up condition requiring the works to be validated prior to occupation.

### **Environmental Protection Officer**

- 06/11/2020 – no objections in principle with condition recommended to deal with any made ground / potential site contaminants prior to occupation of any dwelling.

### **DCC Highways**

- 12/11/2020 – holding referral to officers.
- 30/11/2020 – comments received acknowledging the sites previous planning history (inc. extant permissions) and seeking confirmation that the access can

achieve an appropriate width, area of turning (commensurate with the size of vehicle likely to use the access), exit visibility (measuring 2.4m x 43m) and clarity of waste collection arrangements / emergency access. It is also commented that parking should be provided in accordance with adopted parking standards / dimensions.

#### **Lead Local Flood Authority**

- 16/11/2020 – no comments to make / standard advisory notes recommended.

#### **Steve Chapman (BDC Drainage)**

- 20/11/2020 – comments received raising no objections in principle, confirming there were no public sewers recorded to cross the site but gives advice about the potential presence of unmapped public sewers being present. Further advice is offered relating to Part H of Building Regs and any new drainage needing to meet these requirements and its design to be agreed (by planning condition); in addition to the encouragement of the use of SuDS where appropriate (and subject to future maintenance arrangements).

#### **Bolsover Town Council**

- no comments received.

#### **Derbyshire Wildlife Trust**

- 17/12/2020 – comments received advising that the application was not accompanied by any ecological or biodiversity assessment so it was not possible to know the details of the extent and type of habitats that will be affected. From aerial imagery it would appear that there is likely to be a minor loss of biodiversity due to clearance of vegetation including shrubs, under scrub and possibly trees. DWT advised the LPA to request a Preliminary Ecological Appraisal so that a full understanding of the impact on biodiversity could be understood and any impacts can be mitigated in order to ensure there is not a net loss of biodiversity.

#### **Yorkshire Water**

- no comments received.

***All consultation responses are available to view in full on the Council's website.***

#### **PUBLICITY**

A site notice was displayed on site (27/10/2020) and 9 neighbours were notified by letter (26/10/2020). Following the receipt of revised plans neighbours were re-consulted by letter (23/02/2021).

- There have been ten representations received which are summarised as follows:

Object on the grounds of over development;

Stanfree is designated as a "Small settlement in the Countryside" so the Council should not support any type of urban development;

Whilst sympathetic to the planning proposals of this site, the current application of up to 5 dwellings is too ambiguous and the resulting impact varies considerably;

The development is described as a continuance of the recent development however this still

remains unfinished (inc. the access road which is in a state of disrepair);  
As built the access road does not have the capacity to serve additional dwellings;  
Stanfree has no immediate public facilities or services so it is not conducive to a larger population (residents will be car dependant as there is only 1 infrequent bus service);  
The site lies outside of the settlement development limit of Bolsover;  
The presumption in favour of sustainable development is not met or justified by the application which has been submitted;  
The submission argues that substantial weight should be given to the extant permission present on site, however it is argued that substantial weight should also be given to the scheme of 7 dwellings which was refused and dismissed at appeal;  
The development will not create attractive and comfortable places to live or create safe environments which are visually attractive for new and/or existing residents;  
Proposals will adversely impact upon the privacy of immediate adjoining neighbouring by virtue of overlooking and overshadowing  
Adverse impacts of noise and disturbance during construction works;  
The shared access road is narrow and is certainly too narrow for construction vehicles to use. Existing residents already experience problems with bin collections and larger vehicles gaining access;  
There is insufficient parking proposed;  
The road layout and infrastructure of Stanfree cannot safely support further development or vehicle movements;  
The single track road adjacent to the site which leads up to Oxcroft will not cope with additional traffic and is dangerous (blind bends / drainage ditch);  
The site adjoins Oxcroft Estate Land Settlement, where no building is allowed and it is currently being considered as a conservation area;  
The site is immediately adjoined by open land with is used by wildlife and the destruction of their habitat should not be allowed;  
The site is occupied by trees, hedgerows and fresh water springs from the limestone escarpment nearby, the development of the site will inevitably have an impact upon local drainage which may adversely impact nearby residents;  
The recent development of the site took a long time to complete and were only offered for sale about 4 years ago. There isn't the demand in the local area for more houses and the builder has yet to complete the stone walls and make good the access road;  
The home proposed will not be affordable or sustainable;  
Will the houses be desirable located next to a scaffolding yard and rubbish dump?;  
Even though the houses have been re-orientated they are still outside the settlement framework; and  
The site has recently been cleared without undertaking the preliminary ecological appraisal as advised by DWT in their comments.

***All neighbour representations are available to view in full on the Council's website.***

## **POLICY**

### **Bolsover District Local Plan ("the adopted Local Plan")**

Planning law requires that applications for planning permission be determined in accordance with policies in the adopted Local Plan, unless material considerations indicate otherwise. In this case, the most relevant Local Plan policies include:

Policy SS1: Sustainable Development

Policy SS2: Scale of Development  
Policy SS3: Spatial Strategy and Distribution of Development  
Policy SC1: Development within the Development Envelope  
Policy SC2: Sustainable Design and Construction  
Policy SC3: High Quality Development  
Policy SC7: Flood Risk  
Policy SC9: Biodiversity and Geodiversity  
Policy SC10: Trees, Woodlands and Hedgerows  
Policy SC11: Environmental Quality (Amenity)  
Policy SC13: Water Quality  
Policy SC14: Contaminated / Unstable Land  
Policy ITCR10: Supporting Sustainable Transport Patterns  
Policy ITCR11: Parking Provision

### National Planning Policy Framework (“the Framework”)

The National Planning Policy Framework sets out the Government’s planning policies for England and how these should be applied. The Framework is therefore a material consideration in the determination of this application and policies in the Framework most relevant to this application include:

Paragraphs 7-10: Achieving sustainable development  
Paragraphs 47-48: Determining applications  
Paragraphs 54-57: Planning conditions and obligations  
Paragraphs 108-111: Promoting sustainable transport  
Paragraph 118: Making effective use of land  
Paragraphs 124-128: Achieving well-designed places  
Paragraph 153: Meeting the challenge of climate change  
Paragraph 165: Sustainable Drainage Systems  
Paragraphs 170 and 175: Conserving and enhancing the natural environment  
Paragraphs 178-181: Ground conditions and pollution

### Supplementary Planning Documents

Successful Places: A Guide to Sustainable Housing Layout and Design – Supplementary Planning Document.

Parking Standards – Consultation Draft Supplementary Planning Document.

### **ASSESSMENT**

It is considered that the main issues in the determination of this application are:

- the principle of the development;
- highway safety considerations, including whether the development would be provided with a safe and suitable access and the impact of the development on the local road network;
- landscape and visual impact of the development;
- whether the development can deliver a suitable design and layout and provides sufficient residential amenity;
- the ecology impacts of the development (inc. trees and wildlife);
- potential contamination risks / land stability;
- drainage requirements; and
- impacts on infrastructure, including recreation and leisure, education and health



facilities.

These issues are addressed in turn in the following sections of this report

### **Principle of the Development**

In the Local Plan for Bolsover District (March 2020) the village of Stanfree is identified as a small settlement in the countryside, which in terms of the settlement hierarchy and the distribution of development steered by the local plan it would be placed at the lower end of meeting the criteria of sustainable development (policy SS3). As a village without a defined development envelope, Stanfree is considered to lie in the open countryside where development proposals should be considered against policy SS9 of the Local Plan.

Policy SS9 states that development will only be granted planning permission where it can be demonstrated that the proposals fall within one or more of the policy categories. In this instance the development the subject of this application does not meet any of that policy criteria. Notwithstanding the however, whilst it is accepted that the development proposals do not meet the provisions of the development plan in regard to policy SS9, planning decisions can be taken contrary to the development plan if there are material circumstances which dictate otherwise.

In 2008 planning permission was granted for a large two storey detached dwelling on the site the subject of this application, which was latterly confirmed by the Planning Enforcement team (in 2014) to have been implemented. This planning permission is therefore an extant permission, which means that the redevelopment of this site is established by that permission as a fall-back position.

**08/00449/REM – Approved Site Layout**

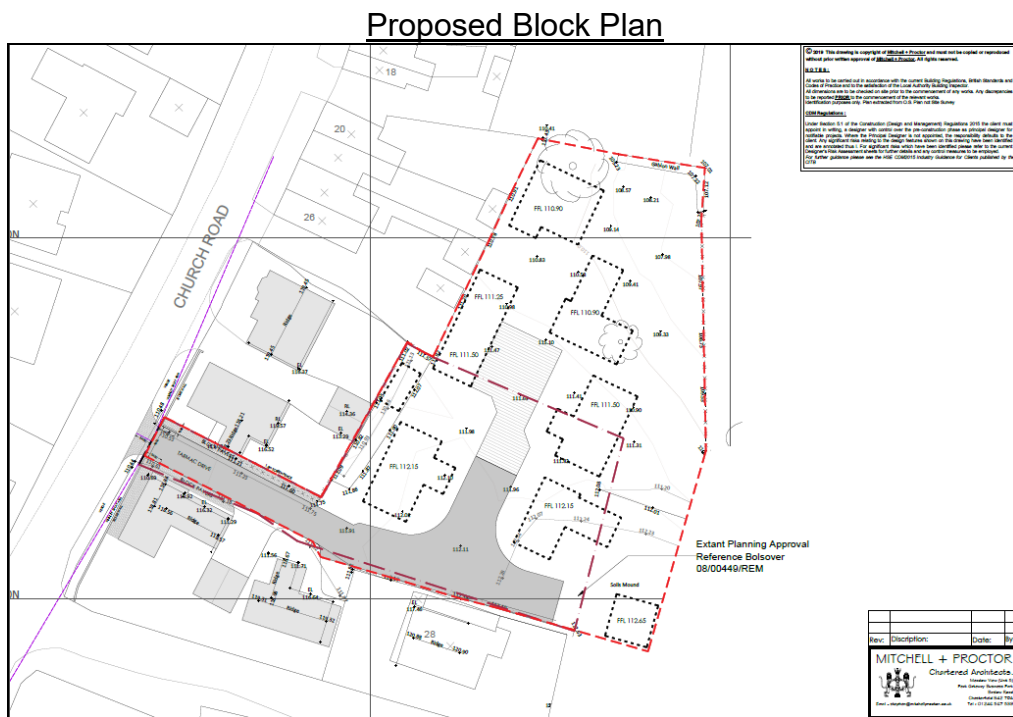


Therefore notwithstanding the fact that policy SS9 states permission for new dwellings should not be granted in the countryside unless the qualifying criteria of that policy is met, this site already has a permission for a very large dwelling and therefore it is necessary to consider whether, if permitted, the development the subject of this application would be significantly

different in its impacts to that which forms the fall-back position in this case.

It is accepted that the extent of the red line boundary the subject of this latest application extends beyond that established by the 2008 consent to include the parcel of land to the immediate north which was an orchard. Bi-folding doors approved in the 2008 permission opened out onto this parcel of land and therefore it is likely this would have formed part of the extended curtilage of this dwelling had it been completed.

The indicative site layout plan submitted with this application show a potential redevelopment of the site (which includes the orchard parcel of land) to create up to 5 detached dwellings. Topographical survey work had revealed that without significant level engineering the development would need to be concentrated away from the eastern boundary where levels drop (see block plan below).



Comparing the both the extant permission and the latest block plan (above) it is clear that there would be an encroachment of new development beyond what has been previously permitted, however it will be necessary to consider further whether this has any significantly greater impact upon the character / appearance of the surrounding area. This is considered in more detail in the landscaping / visual impact section below.

Overall however it is not considered that simply because the principle of the latest development is contrary to the provisions of policy SS9 of the Local Plan this development should be automatically refused.

These latest development proposals will allow for up to 5 new dwellings to be created in the village of Stanfree, which is accepted as not being the most preferable location for new growth in terms of is accessibility / sustainability however despite this the village has continued to see pockets on appropriate infill growth in recent years. In part this development

site does include some previously developed land and the existence of the extant planning permission is a significant fall-back position in this case which is considered to carry great weight in the planning balance. It is accepted that the scale of development proposed is necessary to realise the potential of this site for this development and on balance the principle of development (subject to the parameters considered in greater detail below) can be regarded as being acceptable.

### **Highway Safety / Access**

The Local Highways Authority (LHA) commented on the original application submission making a number of observations about the application detail and seeking confirmation that the access can achieve an appropriate width, area of turning (commensurate with the size of vehicle likely to use the access), exit visibility (measuring 2.4m x 43m) and clarity of waste collection arrangements / emergency access. The LHA also commented that parking should be provided in accordance with adopted parking standards / dimensions.

*A number of the comments made by the LHA were given in the absence of them actually undertaking a site visit to the application site (due to covid restrictions).*

Taking each of the points made by the LHA in turn the shared access / driveway is already in situ as it serves No's 26b, 30a and 30b as well as providing access to the land the subject of this application. As can be seen in the photographs taken below, there is a footway / margin on either side of the access / driveway and it is wide enough for two vehicles to pass each other. If the LHA had visited the site they would have been able to observe this situation negating the need to query the width of the access or its suitability to serve the scale of development being proposed.



In respect of on-site turning detailed site layout plans have been submitted to demonstrate that there is adequate exit visibility and available on site turning (Visibility Splay Plan (26228\_08\_020\_01.1) and Tracking Plan (26228\_08\_020\_01.2) - detailed received 16.12.2020). The visibility plan clearly shows that exit visibility is achievable as per the LHA's requirements / recommendations; however the vehicle turning plan was superseded following a later revision to the site layout / block plan submitted in February 2021.

Notwithstanding this, it is clear that the latest site layout plan detailed also includes adequate space for on-site turning and the development would not cause unacceptable impact on

highway safety and the proposed access would be suitable. In a similar way to which the currently dwellings served off the access are serviced for waste collection, this development would be no different.

Looking in more detail at the layout of the development proposals, each unit is shown to be provided with 2 no. dedicated off street parking spaces which accords with the parking standards set in Appendix 8.2 of the Local Plan, however this is a layout matter that would be considered in more detail at the reserved matters stage if outline permission was granted.

In addition to the above, given that the development does lie in a small village in the open countryside it has to be accepted that future occupiers of the development are likely to own cars and therefore the development should (under the provisions of policy SS1 of the Local Plan) include for the provision of electric vehicle charging points at each dwelling.

Overall therefore, subject to the imposition of appropriate and necessary planning conditions requiring the implementation / provision of the visibility splays and plot parking the development proposals are considered to be acceptable.

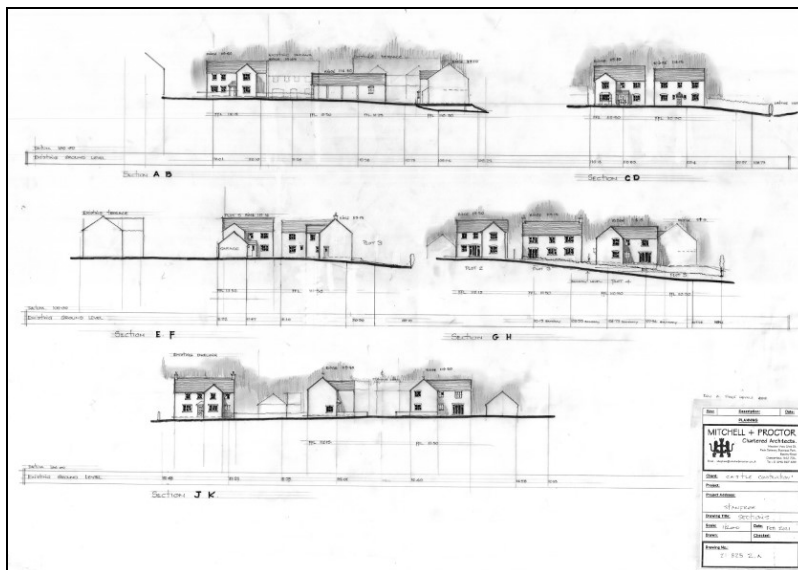
### **Landscape and Visual Impact**

The application site sits on the fringe of the built up settlement of Stanfree, where the application site shares its western and southern boundaries with neighbouring dwellings and its eastern and northern boundaries with open countryside.

As described in the principle of development section above, the land level characteristics extending across the application site decrease towards the north eastern corner of the site where there is a natural land form transition into the open countryside.

To reflect the change in levels the applicant / development undertook topographical survey work to establish the scope / extent of the site developable area and this led to the submission of the indicative site sections and block plan layout detailed below.





The streetscene and site sections drawing above demonstrates that the development would need to respond to the decrease in levels across the site, but the development could assimilate with the backdrop of the existing development along Church Road with ridgelines of the new dwellings not extending above those of the existing built form. The site layout plan submitted also shows how the development could be laid out to retain the open fringe of the development edge to the eastern and northern boundary, and alongside more nature forms of boundary treatments this would assist in lessening the impact of the developments appearance on the settlement edge. The position of the detached garage shown to serve plot 2 would however not be acceptable as this extends beyond the natural edge of the built form created by existing development patterns. Given this is an outline proposal though, this points would need to be addressed at the reserved matters stage if outline permission is granted.

In the context of Policy SC8 of the Local Plan it is considered that if the development proposals came forward (subject to reserved matters approval) in line with the site levels and finished floor levels indicated on the latest levels and block plan submitted they will assimilate with their surroundings and will not cause any significant harm to the character, quality, distinctiveness or sensitivity of landscape, or to important features. In respect of landscape and visual impact the development proposals would be considered to be acceptable.

### **Design and Layout (inc. Residential Amenity)**

In the context of design and layout considerations regard should be had to the advice contained in the Council's adopted Supplementary Planning Document 'Successful Places' - Housing Layout and Design Guide and Policy SC2 and SC3 of the Local Plan.

Albeit that the application is submitted in outline, with matters of appearance, scale, layout and landscaping reserved for later approval, the submission does include details showing how the site could be laid out to provide a development of up to 5 dwellings on site. Amongst these details is information relating specifically to levels, which shows how the development takes account of the fact the site does have sloping land levels towards its north eastern corner and that it is on the settlement edge of Stanfree.

It is clear that the application site and its surrounding area has undergone a degree of change to its character and appearance as a result of the development of No's 26a, 26b, 30a and 30b which are all large two storey detached dwellings. Further encroachment of built development into the southern half of the site the subject of this application has also already been accepted by the planning permission for a large two storey 5 bedroom dwelling (with guest annex) that was granted under application ref. 08/00449/REM and confirmed extant in 2014.

The indicative site layout plan that has been submitted demonstrates that adequate separation distances can be achieved between the footprint and position of windows in the boundary sharing neighbouring properties and the development site (based upon the position of the indicative dwellings shown). As this is an outline application the final design of any dwellings would be determined at reserved matters stage (if outline permission was granted) but the indicative plan shows this can feasibly be achieved in accordance with the guidelines of the adopted SPD.

Having regard to the relative separation distances achieved between plots and overall private amenity space per dwelling, the indicative site layout plan also shows that all units can achieve minimum distances sought between facing windows and garden areas / boundaries guided by the adopted SPD.

Materials, finishes and a boundary treatments will all need to be agreed as part of any reserved matters submission concerning appearance and landscape as these details do not accompany the current submission. It would be expected that these details reflect the materials and finishes that are prevalent in the surrounding local area.

Subject to controls over final design as discussed above, it is considered that a proposal can be designed at reserved matters stage that satisfies policies of the Local Plan in terms of design, layout and amenity considerations.

### **Ecology / Biodiversity (inc. Trees and Wildlife)**

At the time of the original application submission the site was undeveloped and had been used in part commensurate with the construction of the adjoining new dwellings for the storage of materials / plant / equipment. The upper / northern half of the site was overgrown with brambles and included some mature tree specimens.

The site was however cleared in early 2021 to allow the applicant / developer to undertake a topographical survey of the site to inform amendments and provide additional information in support of these application proposals. None of the vegetation or trees on site were protected and the works completed as part of the site clearance did not require planning permission in their own right and were undertaken outside of the nesting season.

As part of application process Derbyshire Wildlife Trust (DWT) were consulted on the application and it is noted that in their comments received late Dec 2020 that they recommended a preliminary ecological survey would assist the local planning authority in understanding any potential impact the development would have on biodiversity, so it could mitigated to secure no net loss.

It is therefore unfortunate that the site was cleared without this survey being undertaken however the works fell outside of planning control for the reasons explained above.

Notwithstanding this, site photographs taken by the case officer in November 2020 show the condition of the site and the habitat characteristics it provided. The site was likely to be used primarily by small mammals and birds for transient habitat and foraging and therefore mitigation of these features can be incorporated into the design and fabric of the development to compensate for the loss of these features. Bird boxes, bat bricks, small mammal gaps in boundary treatments are all common measures which are encouraged; alongside new native tree planting and soft landscaping that encourage fruits, berries and pollinators.

Under the provisions of Policy SC9 of the Local Plan planning conditions securing a Landscape and Biodiversity Enhancement and Management Plan (LBEMP) will ensure that appropriate levels of mitigation are secured and deliver the appropriate landscaping and biodiversity enhancement measures deemed necessary as compensation. These details could also be included the submission of any reserved matters approval concerning landscaping and appearance.

### **Contamination / Land Stability**

Under the provisions of Policy SC14 of the Local Plan both the Environmental Protection Officer (EPO) and the Coal Authority (CA) have reviewed the application submission and historical files, having regard to the nature of the development proposals.

Both have confirmed that whilst there is potential former land contamination and coal mining legacy issues which may affect the development site, these issues can be investigated and appropriately remediated (as detailed in the Coal Mining Risk Assessment and comments made by the CA). A condition can be included in the event that planning permission is granted for this site, for further assessment of the site to be undertaken in respect of contamination / coal mining risk and where that assessment shows it to be necessary to carry out appropriate mitigation to deal with that contamination.

### **Drainage**

#### **Foul Water**

No consultation response has been received from the water company in respect of foul drainage and it must be assumed therefore that they do not have any objections to the proposal; the final design and provision of foul drainage is also a matter dealt with under the Building Regulations.

#### **Surface Water**

It is considered that the principle of incorporating a satisfactory drainage solution on site is achievable subject to the final design being agreed as a pre-commencement condition requirement alongside details of an implementation and management of any drainage scheme, including details for surface water management during the construction period. These recommended conditions also cover the comments raised by the Council's Drainage Engineer and are recommended for inclusion in the event of planning permission being granted.

### **Infrastructure Provision (inc. recreation, leisure, education and health facilities)**

Having regard to the proposed scale of development (up to 5 dwellings) none of the trigger points that would seek S106 planning contributions associated with Education, Health, Green

Space / Play Provision and / or Playing Pitches are met.

## **CONCLUSION / PLANNING BALANCE**

In conclusion, it is acknowledged that the principle of development does not accord with the provisions of policy SS9 of the Local Plan as the proposals would allow new dwellings in open countryside contrary the criteria based in this policy.

However as is set out in this report, the site in part benefits from an extant planning permission for a large detached dwelling that creates a fall-back position which is a material planning consideration in this instance.

On balance therefore, having regard to all other material considerations which have been considered, it is accepted that development of this site for up to 5 dwellings can be accepted.

Through the detailed consideration of all other matters it is considered that the development can achieve an appropriate design, scale and appearance which is complimentary to the fact the site sits on the fringe of a small village settlement. The development would provide additional housing that is perhaps more akin to that needed across the Borough (as opposed to a large detached dwelling of the scale and form which exists alongside the extant permission) and in other respects (including technical considerations) the development has been considered to be acceptable.

## **RECOMMENDATION**

**That the application be APPROVED subject to the following conditions:**

### **Conditions**

01. Approval of the details of the layout, scale, appearance, landscaping and those remaining access details beyond the main entry point into the site off Church Road (hereinafter called "the reserved matters") shall be obtained from the Local Planning Authority in writing before any development is commenced.
02. Application for approval of the reserved matters shall be made to the Local Planning Authority before the expiration of three years from the date of this permission and the development to which this permission relates shall be begun either before the expiration of three years from the date of this permission, or before the expiration of two years from the date of approval of the last of the reserved matters to be approved, whichever is the later.
03. The development hereby permitted shall be carried out in accordance with the following approved drawings and documents unless specifically stated otherwise in the conditions below:
  - 21/825/1 – Site Layout
  - 21/825/2A – Sections
  - 21/825/3 – Topographical Survey
  - 21/825/4 – Block Plan and Levels
  - Design & Access Statement
  - Coal Mining Risk Assessment



## Drainage

04. No development shall take place, other than site clearance works, until a detailed design and associated management and maintenance plan of the surface water drainage for the site have been submitted to and approved in writing by the Local Planning Authority.
05. No development, other than site clearance works, shall take place until a detailed assessment has been provided to and approved in writing by the Local Planning Authority, to demonstrate that the proposed destination for surface water accords with the drainage hierarchy as set out in paragraph 80 reference ID: 7-080-20150323 of the planning practice guidance.
06. Prior to commencement of the development, other than site clearance works, the applicant shall submit for approval to the Local Planning Authority details indicating how additional surface water run-off from the site will be avoided during the construction phase. The applicant may be required to provide collection, balancing and/or settlement systems for these flows. The approved system shall be operating to the satisfaction of the Local Planning Authority, before the commencement of any works, which would lead to increased surface water run-off from site during the construction phase.
07. Prior to the first occupation of the development, a verification report carried out by a qualified drainage engineer must be submitted to and approved by the Local Planning Authority. This must demonstrate that the drainage system has been constructed as per the agreed scheme (or detail any minor variations), provide the details of any management company and state the national grid reference of any key drainage elements (surface water attenuation devices/areas, flow restriction devices and outfalls).

## Coal Authority

08. No development shall commence (excluding the demolition of existing structures) until;
  - a) a scheme of intrusive investigations has been carried out on site to establish the risks posed to the development by past shallow coal mining activity; and
  - b) any remediation works and/or mitigation measures to address land instability arising from coal mining legacy, as may be necessary, have been implemented on site in full in order to ensure that the site is made safe and stable for the development proposed.The intrusive site investigations and remedial works shall be carried out in accordance with authoritative UK guidance.
09. Prior to the occupation of the development, or it being taken into beneficial use, a signed statement or declaration prepared by a suitably competent person confirming that the site is, or has been made, safe and stable for the approved development shall be submitted to the Local Planning Authority for approval in writing. This document shall confirm the methods and findings of the intrusive site investigations and the completion of any remedial works and/or mitigation necessary to address the risks posed by past coal mining activity.

## Contamination

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

### **A. Site Characterisation**

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

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

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

### **B. Submission of Remediation Scheme**

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

### **C. Implementation of Approved Remediation Scheme**

The approved remediation scheme must be carried out in accordance with its terms prior to the commencement of development other than that required to carry out remediation, unless otherwise agreed in writing by the Local Planning Authority. The Local Planning Authority must be given two weeks written notification of commencement of the remediation scheme works.

Following completion of measures identified in the approved remediation scheme, a verification report (referred to in PPS23 as a validation report) that demonstrates the effectiveness of the remediation carried out must be produced, and is subject to the approval in writing of the Local Planning Authority.

### **D. Reporting of Unexpected Contamination**

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

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

### **E. Importation of soil**

In the event that it is proposed to import soil onto site in connection with the development, the proposed soil shall be sampled at source and analysed in a laboratory that is accredited under the MCERTS Chemical testing of Soil Scheme for all parameters requested (where this is available), the results of which shall be submitted to the LPA for consideration. Only the soil approved in writing by the LPA shall be used on site.

This memorandum in no way indicates that this site is currently considered to be contaminated, merely that the potential for contamination exists on this site. We do not currently have any entries on our register of contaminated land as we are presently at the stage of inspecting the District and identifying potentially contaminated sites. If any of these sites warrants regulatory action, an entry will be made on the public register.

As the whole of Bolsover district is considered to be a radon affected area we would advise the applicant obtains a Radon Risk report for the site. A report may be obtained from Public Health England <http://www.ukradon.org/>

### Ecology

11. No removal of vegetation or work to buildings will take place between 1st February and

31st September inclusive, unless a recent survey has been undertaken by a competent ecologist to assess the nesting bird activity on site during this period, and details of measures to protect the nesting bird interest on the site, have first been submitted to and approved in writing by the local planning authority and then implemented as approved.

12. A landscape and biodiversity enhancement and management plan (LBEMP) must be submitted to, and be approved in writing by, the Local Planning Authority prior to the commencement of the development. The LBEMP must combine both the ecology and landscape disciplines and ensure that there is no net loss of biodiversity and ideally providing a measurable net gain. It should include the following:-
- a) Description and location of habitat and species features to be created, planted, enhanced and managed including type and locations of bird boxes, bat boxes / bricks, hedgehog access gaps in gardens and details of habitat creation.
  - b) Aims and objectives of management for species and habitat.
  - c) Appropriate management methods and practices to achieve aims and objectives.
  - d) Prescriptions for management actions.
  - e) Preparation of a work schedule (including an annual work plan capable of being rolled forward over a ten-year period).
  - f) Details of the body or organization responsible for implementation of the plan.
  - g) Ongoing monitoring visits, targets and remedial measures when conservation aims and objectives of the plan are not being met.

The LBEMP will also include details of the legal and funding mechanism(s) by which the long-term (25 years) implementation of the plan will be secured by the developer with the management body(ies) responsible for its delivery. The approved plan will be implemented in accordance with the approved details.

### Highways

13. Before any other operations are commenced the site access shall be modified, laid out and constructed in accordance with a detailed design first submitted to, and approved in writing by the Local Planning Authority. The access shall be constructed to base level and be provided with visibility sightlines of 2.4m x 43m in both directions. Prior to the first occupation of any dwelling on site, the permanent new access shall be laid out as approved and the land in advance of the visibility sightlines shall be retained throughout the life of the development free of any object greater than 1m in height relative to the adjoining nearside carriageway channel level.
14. At the commencement of operations on site, space shall be provided within the site curtilage for storage of plant and materials, site accommodation, loading and unloading of goods vehicles, parking and manoeuvring of site operatives and visitors vehicles, laid out and constructed in accordance with detailed designs to be submitted in advance to the Local Planning Authority for written approval and maintained throughout the contract period in accordance with the approved designs free from any impediment to its designated use.
15. No development consisting of highway construction shall take place until either

confirmation has been provided that a Section 38 adoption agreement with the Highway Authority will be completed; or details of the construction and future maintenance of the residential access driveway(s) and footway(s) (including layout, levels, gradients, construction, surfacing, means of surface water drainage and street lighting) have been submitted to and approved in writing by the Local Planning Authority. Any such details approved shall be implemented before the first occupation of any dwelling on site and the driveway shall thereafter be maintained in accordance with the approved details.

16. No dwelling shall be occupied until space has been provided within the site curtilage/ plot for the parking of residents and visitors vehicles associated with that dwelling, all to be laid out and constructed in accordance with the approved drawings. The facilities shall be retained throughout the life of the development free from any impediment to their designated use, for the parking of motor vehicles at all times.
17. No dwelling shall be occupied until further details for the arrangements of waste collection from the new dwellings have been submitted to and approved in writing by the Local Planning Authority. Details required shall demonstrate that a Refuse Collection Vehicle with a GVW of 32 tonnes is capable of accessing and turning within the site; or alternatively the design of a presentation / collection point positioned at the site entrance. Details shall be implemented as approved prior to occupation of any dwelling and shall be retained throughout the life of the development free from any impediment to their designated use.
18. An electric vehicle recharging point shall be provided within the garage or on the exterior of each dwelling before the dwelling to which the recharging point relates is first occupied. All recharging points shall thereafter be retained. Cable and circuitry ratings shall be of adequate size to ensure a minimum continuous current demand of 16 Amps.

### **Statement of Decision Process**

Officers have worked positively and pro-actively with the applicant to address issues raised during the consideration of the application. The proposal has been considered against the policies and guidelines adopted by the Council and the decision has been taken in accordance with the guidelines of the Framework.

### **Equalities Statement**

Section 149 of the Equality Act 2010 places a statutory duty on public authorities in the exercise of their functions to have due regard to the need to eliminate discrimination and advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it (i.e. "the Public Sector Equality Duty").

In this case, there is no evidence to suggest that the development proposals would have any direct or indirect negative impacts on any person with a protected characteristic or any group of people with a shared protected characteristic

### **Human Rights Statement**

The specific Articles of the European Commission on Human Rights ('the ECHR') relevant to planning include Article 6 (Right to a fair and public trial within a reasonable time), Article 8

(Right to respect for private and family life, home and correspondence), Article 14 (Prohibition of discrimination) and Article 1 of Protocol 1 (Right to peaceful enjoyment of possessions and protection of property).

It is considered that assessing the effects that a proposal will have on individuals and weighing these against the wider public interest in determining whether development should be allowed to proceed is an inherent part of the decision-making process. In carrying out this 'balancing exercise' in the above report, officers are satisfied that the potential for these proposals to affect any individual's (or any group of individuals') human rights has been addressed proportionately and in accordance with the requirements of the ECHR.