



To: Chair & Members of the Planning Committee

The Arc
High Street
Clowne
S43 4JY

Monday 6th September 2021

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Dear Councillor

PLANNING COMMITTEE

You are hereby summoned to attend a meeting of the Planning Committee of the Bolsover District Council to be held in the Council Chamber, The Arc, Clowne on Wednesday, 15th September, 2021 at 10:00 hours.

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 2 onwards.

Yours faithfully

A handwritten signature in black ink that reads "Sarah Steenberg".

Solicitor to the Council & Monitoring Officer

The logo for Bolsover District Council, featuring the word "Bolsover" in a large, blue, serif font, with "District Council" in a smaller, blue, sans-serif font below it, and a red swoosh underline.

We speak your language

Polish **Mówimy Twoim językiem**

Slovak **Rozprávame Vaším jazykom**

Chinese **我们会说你的语言**

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**PLANNING COMMITTEE
AGENDA**

**Wednesday, 15th September, 2021 at 10:00 hours to be held in the Council Chamber,
The Arc, Clowne**

Item No.		Page No.(s)
1.	Apologies For Absence	
2.	Urgent Items of Business	
	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.	Declarations of Interest	
	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.	Minutes	4 - 7
	To consider the minutes of the last meeting held on 30 th June 2021.	
5.	Notes of a Site Visit held on 10th September 2021.	To Follow
	<u>APPLICATIONS TO BE DETERMINED UNDER THE TOWN & COUNTRY PLANNING ACTS</u>	
6.	Application no. 21/00350/FUL	8 - 33
	21/00350/FUL - Conversion of the existing playing field with an artificial grass surface with associated fencing, floodlighting, access paths, and a landscaped earth bund. Land South East Of The Arc, High Street, Clowne.	
7.	Application no. 21/00301/FUL	34 - 57
	21/00301/FUL - Construction of 19 dwellings, Land Rear Of 39 To 59 The Woodlands, Whaley Thorns.	

**REPORTS OF THE ASSISTANT DIRECTOR OF DEVELOPMENT
AND PLANNING**

- | | | |
|----|---|---------|
| 8. | Appeal Decisions - January 2021 to June 2021. | 58 - 64 |
| 9. | Update on Section 106 Agreement Monitoring. | 65 - 70 |

PLANNING COMMITTEE

Minutes of a meeting of the Planning Committee of the Bolsover District Council held in the Council Chamber, The Arc, Clowne on Wednesday 30th June 2021 at 1000 hours.

PRESENT:-

Members:-

Councillor Chris Kane in the Chair

Councillors Derek Adams, Allan Bailey, Jim Clifton, Paul Cooper and Duncan McGregor.

Officers:- Sarah Kay (Planning Manager), Chris McKinney (Principal Planning Officer), Jenny Owen (Legal Executive), Alison Bluff (Governance Officer).

. APOLOGIES

Apologies for absence were received on behalf of Councillors Tom Munro and Natalie Hoy.

. URGENT ITEMS OF BUSINESS

There were no urgent items of business.

. DECLARATIONS OF INTEREST

There were no declarations of interest.

. MINUTES – 21st APRIL 2021

Moved by Councillor Duncan McGregor and seconded by Councillor Derek Adams
RESOLVED that the Minutes of a Planning Committee held on 21st April 2021 be approved as a correct record.

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

21/00098/FUL – 47 Main Street, Scarcliffe, Chesterfield, S44 6TD

Committee considered a detailed report presented by the Planning Manager in relation to an application to replace 5 top floor and 5 ground floor rotten wooden single pane sash windows with UPVC sash windows at the above property.

The application had been referred to Planning Committee for a decision because the

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applicant was a Bolsover District Councillor.

The Old Post Office was a substantial red brick property dating from the late 19thC which occupied a prominent position in the Scarcliffe Conservation Area. The property had been identified as an unlisted building of merit in the conservation area.

Given the prominence of the building there would normally be an expectation that the windows would be replaced with traditional timber windows. However, the original sash windows were replaced with like for like timber sometime around 2004 and they were starting to decay.

The proposal was to replace the existing timber windows with a sliding sash window to the same design but constructed in UPVC. The proposed upvc sash windows were a quality timber alternative and details had been submitted and a sample window provided which showed how the windows replicated closely the appearance of timber sash windows. These windows were considered to preserve the character and appearance of the building and the conservation area in accordance with policy SC16 of the Local Plan for Bolsover District and the application was recommended for approval.

Moved by Councillor Duncan McGregor and seconded by Councillor Derek Adams
RESOLVED that the application be **APPROVED** subject to the following conditions:

Condition(s)

1. The development shall be begun before the expiration of three years from the date of this permission.
2. The proposed replacement windows must be the same type, texture and colour as those hereby approved by the Local Planning Authority (Quick Slide - Off Set Three Light Style in White Grain).

Reasons for Condition(s)

1. To comply with the requirements of Section 51 of the Planning and Compulsory Purchase Act 2004.
2. To ensure a satisfactory standard of external appearance and in compliance with Policies SC16 and SC21 of the Local Plan for Bolsover District.

(Planning Manager)

REPORTS OF THE ASSISTANT DIRECTOR OF DEVELOPMENT AND PLANNING

Update on Section 106 Agreement Monitoring

Committee considered a report, presented by the Principal Planning Officer, which provided progress in respect of the monitoring of Section 106 Agreements.

S106 agreements were a type of legal agreement between the Council and landowners / developers, often completed alongside applications for planning permission for major

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developments. They were needed to deal with the additional pressures on infrastructure that resulted from the new development. They were only required where the effects of the development would otherwise be unacceptable in planning terms and where they could not be dealt with by conditions of the planning permission.

If the Council failed to spend monies provided through the Section 106 Agreement within a set period, there was a risk to the Council that the developer would be entitled to request the money back and this could be with interest.

To manage and mitigate this risk, the Council had approved a procedure for recording and monitoring Section 106 Agreements, which governed the work of the Council's cross-departmental Section 106 Monitoring Group.

The report was the quarterly progress report following the meeting of the Section 106 Monitoring Group held on 27th April 2021 and highlighted sums at risk of clawback that needed spending within 12 months. The report also gave Members the opportunity to assess the effectiveness of the Council's monitoring procedures.

Members' attention was drawn to three sums which remained unspent and their details were set out in the report. Actions had been progressed with regard to these and the Principal Planning Officer provided these updates to the meeting.

A Member noted that it was important that the Section 106 monies were monitored in this way.

Moved by Councillor Duncan McGregor and seconded by Councillor Derek Adams
RESOLVED that the report be noted.

Local Enforcement Plan Update

Committee considered a report which provided an update on enforcement enquiries that were received and progressed to the period ending December 2020.

The Local Enforcement Plan set out service standards that Planning Enforcement Officers considered were specific, measurable, achievable and realistic. The service standards had been designed to facilitate prompt investigation of suspected breaches of planning control and encouraged making timely decisions on how to progress individual cases.

The report also provided information regarding the number of enquires received by the planning department in the previous 5 calendar years, the number of historic cases that had been closed over the last 5 years, as well as the number of cases that officers continued to process.

329 enquires were received in 2020 with the enforcement team making 100% of visits. Eight cases were of high priority and 27 cases were of medium priority. However, of the 243 low priority cases, 14 were not inspected within the 42 day target. The implication of the Coronavirus Pandemic was a factor in the failure of this target as officers continued to progress High and Medium cases from 2019/2020.

Members were reminded that a review of the Local Enforcement Plan was due to take place before March 2022.

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Members welcomed the report and were pleased at the achieved number of cases closed and commended the enforcement officers involved.

Moved by Councillor Duncan McGregor and seconded by Councillor Derek Adams
RESOLVED that the report be noted.

The meeting concluded at 1025 hours.

PARISH

Clowne Parish

APPLICATION	Conversion of the existing playing field with an artificial grass surface with associated fencing, floodlighting, access paths, and a landscaped earth bund.
LOCATION	Land South East Of The Arc, High Street, Clowne
APPLICANT	Matthew Connley (BDC)
APPLICATION NO.	21/00350/FUL
CASE OFFICER	Miss Kay Gregory
DATE RECEIVED	11th June 2021

SUMMARY

This application is a 'Major' development proposal, submitted by Bolsover District Council. Given there have been a small number of representations received from adjacent residents, it is considered to be in the public interest and for the purposes of transparency that the application is determined by Planning Committee.

The key issues for determination are:

- the principle of the development
- the landscape and visual impact of the proposed development
- impact on residential amenity
- whether the development would be provided with a safe and suitable access and impacts on highway safety;
- biodiversity matters
- land stability and surface water drainage

At the time of report submission, there are potential, outstanding issues relating to surface water drainage and land stability, by reason of the sites proximity to the edge of the escarpment. The relevant consultee's have been consulted and their comments are pending.

The applicant may be required to describe and analyse issues relevant to surface water drainage and ground instability, and if relevant identify how issues will be overcome.

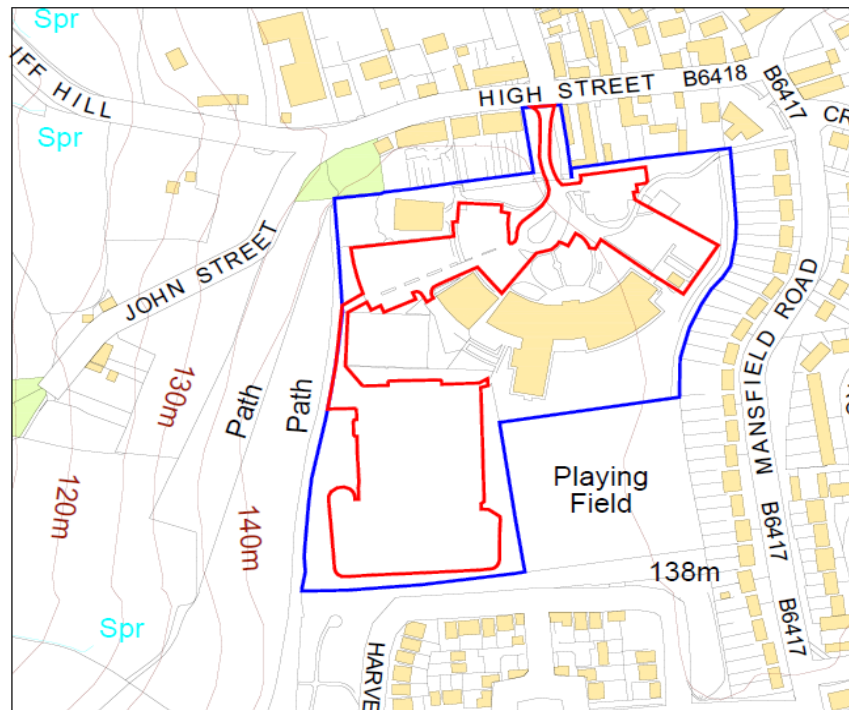
The application is also out to re-consultation, based on the submission of the amended plans received on the 23rd August 2021. Residents were provided with 14 days to comment on the amendments, the expiry date for any comments is the 6th September and as such any late representations will be reported at Planning Committee.

As such it is recommended that Members resolve to approve the application, but to defer the issuing of the decision notice until such time that all outstanding matters have been resolved to the satisfaction of the Local Planning Authority.

Site Location Plan

The image below indicates the red line boundary of the application site and also blue land which indicates land beyond the application site, but within the control of the applicant.

The submitted site location plan was amended on the 24th June 2021, to include the point of vehicular access from the adopted highway, and areas allocated for parking associated with the proposal.



SITE & SURROUNDINGS

The application site adjoins, but is outside the development envelope of Clowne, and as such is within the Countryside, as defined by the Bolsover District Local Plan (adopted March 2020).

The site forms part of the wider Arc Leisure Complex, which comprises a leisure centre with gym, pool and other facilities. Bolsover District Council also operates from the building.

To the rear (south) of The Arc complex are operational plant and service facilities. There is also a Multi-use Games Area on artificial turf, with fenced enclosure.

To the south of these, and which forms the basis of this application, are two turfed playing fields, both formally protected as allocated Green Space and Playing Pitches under the provisions of the adopted Local Plan.



To the south of the pitches are recently constructed residential properties (see above). Immediately to the west of the site, land levels drop providing unobstructed views out over open countryside (see below).



Immediately to the east of the site is a County Council owned playing pitch, which is currently not in use and has overgrown to some extent. Beyond this, to the east are a row of houses which front onto Mansfield Road.

There is a public right of way (B5/20/1) adjacent to the west boundary of the site, although this does not encroach at any point into the application site and is well screened by hedgerows.

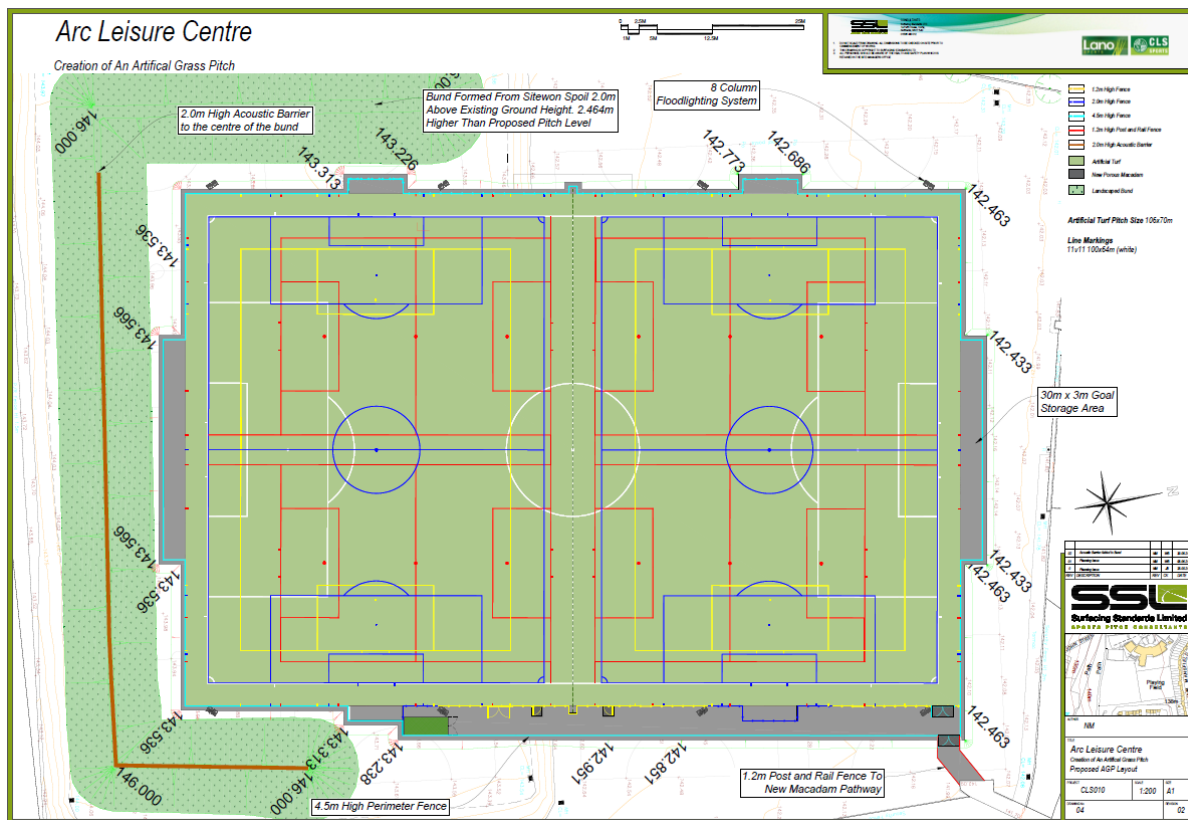
PROPOSAL

This application is seeking Full planning permission for the conversion of an existing turfed playing field into an artificial grass surface. Operational works include engineering works to lay the surface with necessary surface water drainage, formation of a landscape bund, fencing around the perimeter of the pitches, and the erection of acoustic fencing, floodlighting and landscaping. The project has been partially funded by The Football Foundation and the remainder by Bolsover District Council.

The application is a Major development proposal by reason of its total site area – 9873m². The area of land to be covered with artificial turf and enclosed by perimeter fencing has dimensions of 107m x 75m.

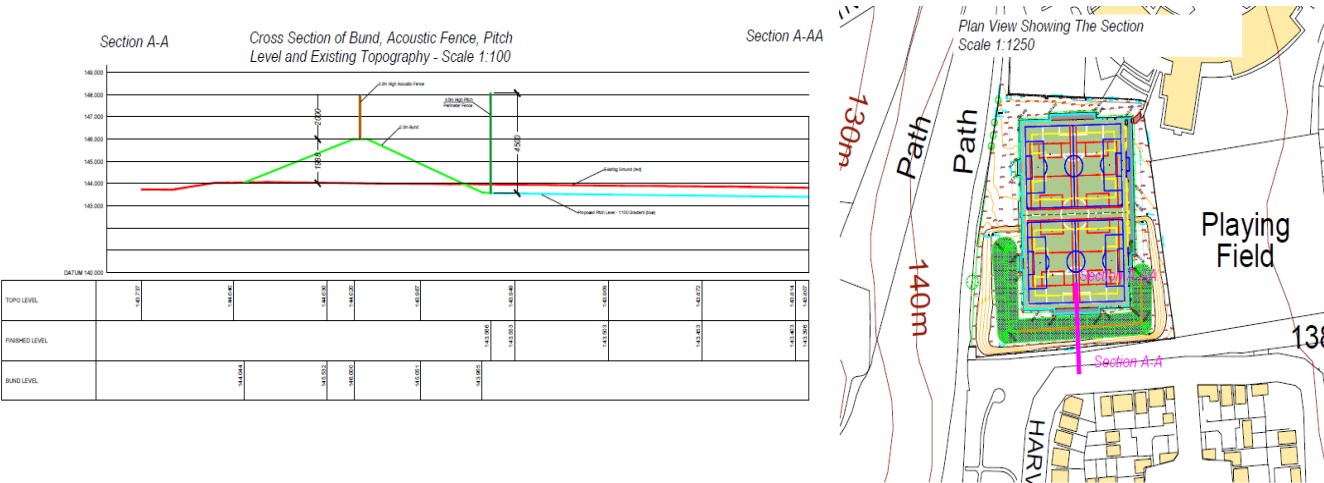
The plans inserted below are revisions following negotiations during the processing of the application, and will form the basis of the Council's recommendation.

The appearance of the playing surface will comprise a 3G artificial turf coloured grass green. 3G turf is designed to look like natural turf unlike older sand filled 'Astroturf' type surfaces.

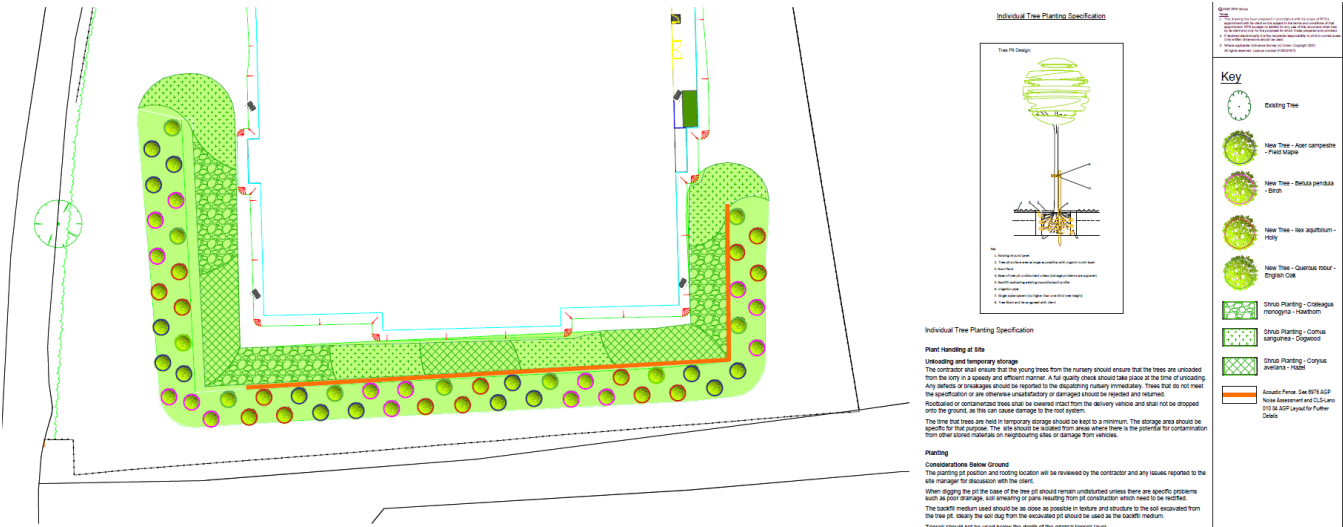


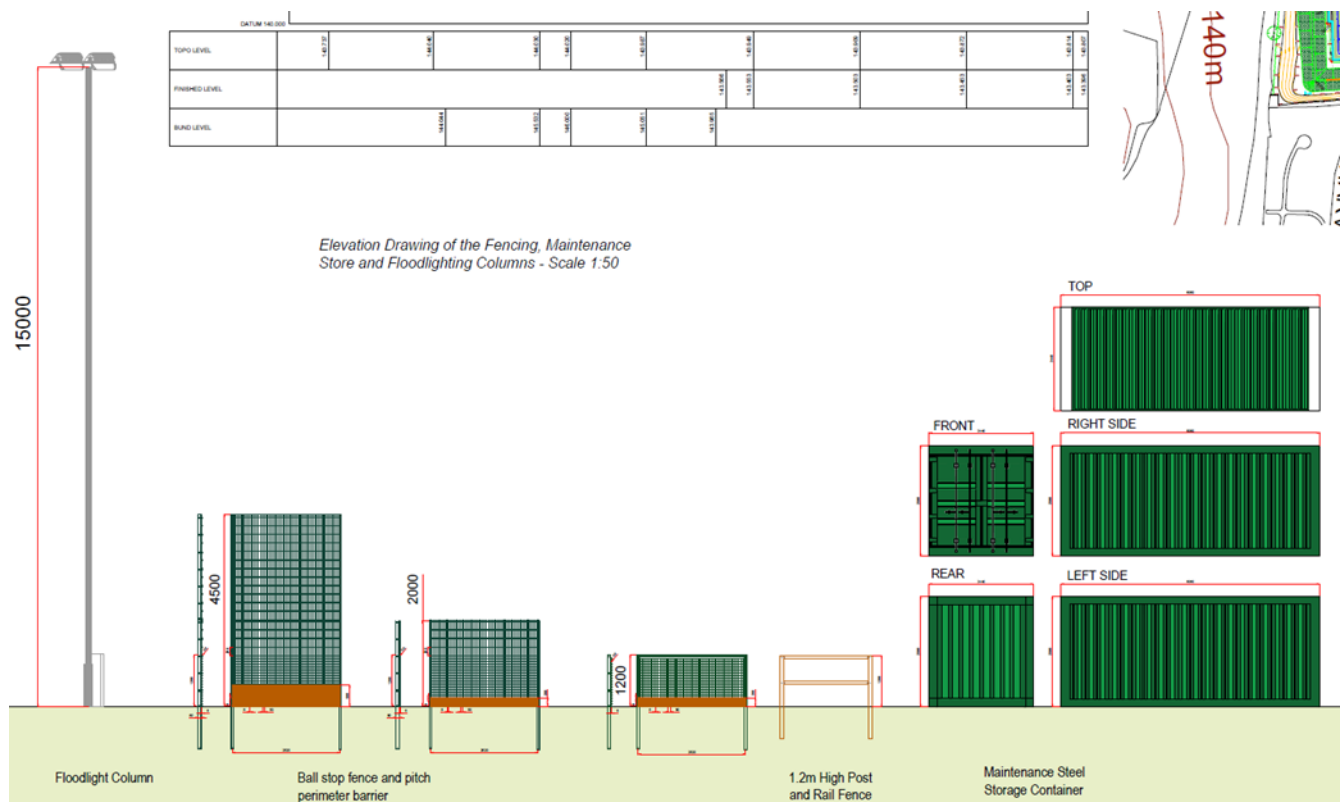
In accordance with environmental health recommendations, and in order to protect the amenity of adjacent residents from potential noise and disturbance, amendments have been received to install a 2m high acoustic fence on top of the proposed landscape bund, providing a screen to the south, and part of the eastern boundary of the proposed pitches. The fence shall have a total length of 110m.

The proposed landscape bund will be constructed around the southern boundary of the pitches, and will wraparound part of the east and west boundaries. It will be 2m above the ground level as existing, and 2.464m above the proposed pitch level. It shall have a length of 100m along the southern boundary.



A landscaping plan and planting specification has been submitted (see below) to confirm the location and species of shrub and tree planting around and on top of the bund.





Surrounding the entire perimeter of the artificial pitches will be 4.5m high ball stop fencing, and there will be a 1.2m pitch perimeter barrier along part of the eastern side of the pitch, the appearance of which are identified on the plan above. A dark green, steel maintenance storage container will be built adjacent to the pitch, inside of the perimeter fencing.

The ball stop fences will be polyester powder coated RAL6005 Moss Green, all supported with an intermediate post system and entrance gates of matching colour. The fencing type will be steel open mesh fencing containing a general 200x50mm aperture (and 66 x 50mm rebound aperture to the internal pitch perimeter barrier). Fence panels are insulated from the posts using neoprene washers to be fitted to every fence post / mesh fixing point to aid noise reduction and acoustic attenuation by reducing rattle and vibration from ball impacts. The proposed type and quality of ball-stop fencing is consistent with current Football Association (FA) technical requirements for fencing to enclose artificial grass sports pitches.

The installed appearance of the new artificial lighting system (as identified below) will include eight (8 no.) slim-line 15m high sectional hinged steel masts finished galvanised (Z275) self-coloured, mounted with sixteen (16no.) slim-line LED luminaires and fittings finished raw aluminium.

The installed appearance of the new maintenance storage container will be steel, powder coated RAL 6005 moss green to match the perimeter fence.

It is expected that users of the proposed development will park within the existing car park at the front of The Arc, where there are 187 parking spaces.

The hours of use originally proposed was 8am to 10pm Monday to Sunday (including bank holidays), but these hours have been reduced to 9am to 9pm Monday to Friday and 9am to 6pm Saturday, Sunday and Public / Bank Holidays, following discussions between environmental health and the applicant.

Summary of Submissions

There have been a number of plans and documents submitted during the processing of the application. The approved plans are listed below for ease of reference.

- ****To be submitted prior to determination**** - revised site levels plan.
- Proposed drainage – 07 Rev 00; received on the 26th August 2021
- Revised proposed site layout – 03 Rev 01; received on the 23rd August 2021
- Revised proposed AGP layout – 04 Rev 02; received on the 23rd August 2021
- Revised proposed AGP Elevations – 06 Rev 02; received on the 23rd August 2021
- Landscaping planting plan – 780 Rev P03; received on the 23rd August 2021
- Construction Phase Health and Safety Plan – Compiled for: Football Foundation (28/7/21); received on the 28th July 2021
- Revised site location plan – 01 Rev 02; received on the 24th June 2021
- Appendix D – Proposed materials and appearance – Surfacing Standards Ltd; received on the 11th June 2021
- Floodlighting system – Philips OptiVision LED gen 3.5; received on the 11th June 2021
- Existing site plan – 02; received on the 11th June 2021.
- Attenuation calculations; received 11th June 2021
- Lighting Assessment – CLS010 21-05-2021, designed by Nick McLaren; received on the 11th June 2021.
- Noise Impact Assessment – Ref: 8976/DO May 21; received on the 11th June 2021
- Preliminary Ecological Appraisal – BJ Collins (June 2021); received on the 11th June 2021
- Soakaway Test Report – Project no. EAL.178.20; received on the 11th June 2021.

HISTORY

There are a number of planning applications identified within the planning history for The Arc, however many of these have not been included below by reason that they have no relevance to the application currently under consideration.

05/00215/VARMAJ	Grant conditionally	Variation of condition 3 of planning permission 03/00635/FULMAJ to allow access without installing traffic light scheme.
11/00483/FUL	Grant conditionally	Change of use of main building from Further Education College to mixed use as Council Offices, General Offices (Class B1a) and Leisure Centre, and use of Workshop building for light industrial (Class B1 b and c), training and storage (Class B8) use.
15/00154/FUL	Grant conditionally	Rear two storey extension to provide 6 lane 25 x 13m swimming pool, 12 x 5m baby pool, feature water flume, children's play area, wet village change and toilets for

male and female, disabled change facilities, cafeteria and viewing area and plant room at ground floor level. Extension to existing fitness suite, 2 No. dance studios, spinning studio and office accommodation at first floor level. Extension to car park. (as amended by revised drawings 1521-08 Rev B Ground Floor Plan, 1521-10 Rev C Elevations and 1521-12 Roof Plan submitted on 2nd June 2015)

16/00117/FUL	Grant conditionally	External plant compound area 8m x 5m to rear of building with 2.1m high galvanised fencing around.
16/00253/FUL	Grant conditionally	Extension to existing car park to create 52 additional car parking spaces.

CONSULTATIONS

BDC Environmental Health

- 19th August - I can confirm that following further mitigation proposed by the applicant, I do not object to the proposals, on the provision that conditions are imposed regarding the installation of the acoustic fence, hours of use, and the submission of a noise management plan.
- 8th July – With regards to lighting, I recommend a condition for verification to be submitted to confirm that the lighting installation complies with the limits stated in Guidance Notes for the Reduction of Obtrusive Light GN01:2011

BDC Refuse

- No comments received.

DCC Highways

- No highway safety comments to make.

DCC Lead Local Flood Authority

- No comments received at the time of report submission.

Derbyshire Wildlife Trust

- The Preliminary Ecological Appraisal prepared by B.J Collins Protected Species Surveyors Ltd June 2021 has been produced to an acceptable standard and it provides the LPA with reasonable confidence regarding impacts on biodiversity that could occur because of the development.
- Whilst biodiversity impacts are confined mostly to the loss of amenity grassland there are concerns around the lighting and the effect this could have on bats and other nocturnal animals. The information provided in the PEA indicates that this issue can be addressed and provided lighting is in line with the details set out in the PEA and with the Guidance Note 08/18 - Bats and Artificial Lighting in the UK (BCT and ILP, 2018) it should be feasible to minimise and avoid impacts.
- In order to address the loss of the amenity grassland we advise that the landscaping of the bund should include measures to benefit biodiversity in particular butterflies and

pollinating insects. A species rich grassland mix has been provided.

- We advise the LPA to attach a condition that ensures the development is carried out in strict accordance with the recommendations set out section 6 of the Preliminary Ecological Appraisal.
- We also recommend that the bund which will be created at the western end of the pitch should be landscaped using a species rich wildflower mix and that the final details of this should be secured via a landscaping condition.
- The establishment of a more diverse grassland on the bund will help to offset the loss of the amenity grassland and should be beneficial for a variety of plants, insects, bats and birds
- Hedgerows and trees on site should be retained.

Eastwoods

- No objections in principle but require clarification regarding land levels to the south and west.
- Verbally confirmed that they are happy for the application to be recommended for approval as they are satisfied that the development will not present a risk to land stability, but they do require the land levels detail submitted extending further to the south and west.

Parish Council

- No comments received.

PUBLICITY

The application has been publicised by way of a site and press notice, and letters sent to 14 adjacent properties.

At the time of report submission, the application is still within a 14 day re-consultation period (until 6th September), in respect of amendments (acoustic fence details). Any late representations will be reported to Planning Committee.

In response to the initial neighbour consultation period there had been three representations received. A further representation was received as a result of the re-consultation in respect of the amended plans. Their comments are summarised below.

- Object to the proposal
- There will be disruption, light pollution and noise which will affect everyday life on the estate
- The existing view of the playing field has helped well-being during pandemic, while working from home.
- I can clearly see that the floodlighting on the current pitches on the far side of the grounds are on and it is only 13:30 in the day, even with the proposed bund and planting, that the intended lighting will impose on the front of the houses on our road. If that is the case then it will be more severe in the winter months
- Noise from the junior teams on a Saturday morning during the football season is acceptable but we are assuming that older and more boisterous teams will be playing much more often.
- Properties look out towards the current grass football pitch with the existing artificial

pitch in the distance.

- Concerns over noise levels and foul language particularly on warm evenings with windows open.
- Potential for sleep disturbance resulting in difficulty in getting to sleep, premature awakening and difficulty in getting back to sleep.
- Quality of life diminished due to change in acoustic character of the area.
- Light pollution from flood lights
- The current green fields are enjoyed by a number of grass roots clubs with no issues.
- The proposed development is clearly a revenue earner for the sports centre and this is why it's been favoured over the grass pitch.
- Restrict day light entering property
- Feels like we all live next to an industrial estate
- Wildlife concerns. The existing field provides a home for lots of different insects and acts as a feeding area for birds and associated wildlife. Replacing the grass with an 'artificial' surface will have an adverse effect on the surrounding wildlife.
- Hedgehogs are in abundance.
- There are nesting colonies of pipistrelle bats in nest boxes on the adjacent residential area and also in boxes in the large tree, both less than 100 metres from the proposed site.
- No confidence in the environmental noise assessment carried out by Acoustic Consultants Ltd. A key factor used for estimating the potential noise levels in my opinion is flawed, I also have little faith that the true remit was fully understood
- I use the Leisure facilities at the Arc and before Covid I had difficulty parking (particularly on wet days). My husband who attends classes at the Arc has a blue badge but constantly finds drivers parking in the disabled bays without a blue badge. We can see no plans for additional parking, which to my mind will create more tension.
- During our first few years living here we were constantly asking people not to park, damage or cross private land so that they could take a short cut to the leisure centre fields. As the estate to date has not been adopted by the council, it would mean that any damage would have to be paid for by us.
- It has taken five years for wildlife to return to the area. To have their habitats totally destroyed again would be very damaging.
- The trees and bund will not be tall enough to block light from floodlights.

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
- SS9 – Development within the countryside
- SC2 – Sustainable design and construction
- SC3 – High quality design
- SC8 – Landscape character?
- SC9 – Biodiversity and geodiversity
- SC10 – Trees and hedges
- SC11 – Environmental quality (Amenity)

- SC14 – Contamination and unstable land
- ITCR5 – Green space and play provision
- ITCR6 – Protection of green space
- ITCR7 – Playing pitches
- 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 91, 92 and 94: Promoting healthy and safe communities
- Paragraphs 96 and 98: Open space and recreation
- Paragraph 118: Making effective use of land
- Paragraphs 124-128: Achieving well-designed places
- Paragraphs 170 and 175: Conserving and enhancing the natural environment

ASSESSMENT

The application has been processed in accordance with all submitted documents and plans. The Council’s recommendation is based on relevant policies of the adopted Local Plan and the objectives of The Framework, as identified above, along with recommendations and observations from consultees and neighbouring land occupiers.

Key issues

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

- the principle of the development
- the landscape and visual impact of the proposed development
- impact on residential amenity
- whether the development would be provided with a safe and suitable access and impacts on highway safety;
- biodiversity matters
- land stability and surface water drainage

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

Principle of Development

Development in the countryside

The application site is within the countryside as defined by policy SS9 of the adopted Local Plan. Where relevant to this proposal, the policy states:

“Development proposals in the countryside outside development envelopes will only be granted planning permission where it can be demonstrated that they fall within one or more of the following categories:

d) Secure the retention and / or enhancement of a community facility

In all cases, where development is considered acceptable it will be required to respect the form, scale and character of the landscape, through careful location, design and use of materials.”

The proposal, which seeks to make improvements to an allocated playing pitch and protected green space, allowing it to be used during winter months when weather is poor and daylight is restricted, will through its continued use, make enhancements to leisure facilities at The Arc, which is a ‘Community Facility’. It is therefore considered that the proposal complies with part d) of policy SS9.

Green Space protection

The site is part of a wider ‘Protected Green Space’ allocation as defined by policy ITCR6 of the Local Plan, which also includes a County owned playing field adjoining the eastern boundary of the site, the existing multi-use games area adjoining part of the north boundary, and the area of open space and children’s play facilities adjoining the south-west corner of the site.

This policy states that:

“Development proposals will be permitted where they do not result in the loss of existing green spaces, as identified on the Policies.

Proposals resulting in a loss will need to provide a satisfactory replacement facility, unless the proposal was of greater overall benefit to the local community than existing or realistic potential uses of the greenspace.”

Whilst the proposal will see the removal of a natural grass surface, replacing with artificial turf and fencing, the resultant form will provide an enhancement to an existing play pitch, providing facilities for year round use. It is therefore considered that the proposal will provide a greater overall benefit to the local community than the existing provision and as such the proposal complies with policy ITCR6 of the adopted Local Plan.

Playing pitch protection

The site is also identified in the adopted Local Plan as a ‘Protected Playing Pitch’ as defined by policy ITCR7. This policy states that:

“Existing Playing Pitches -

Development proposals will be supported where they do not have an adverse effect upon or result in the loss of Playing Pitches or Playing Field Land, as identified on the Policies Map.

Need for new Playing Pitches -

When considering development proposals the Council will use the Playing Pitch Strategy and Assessment to consider whether improvements to existing pitches will be needed.”

The background text to this policy identifies that:

“The NPPF requires robust and up-to-date assessments of the needs for open space, sports and recreation facilities and opportunities for new provision. Specific needs and quantitative or qualitative deficiencies or surpluses in local areas should also be identified. This information should be used to inform what provision is required in an area.

The Playing Pitch Strategy and Assessment (2017) found that growth within settlements in the Clowne / Northern District analysis area would generate the need for one adult football pitch

between them. However, these identified needs would be met through intensifying use on existing pitches in their respective areas with no new playing pitch provision being needed.

The assessment confirms that there are also no surpluses of playing pitches in the District. Even though some pitches are disused they should still be protected as a strategic reserve. The study recommends that the Local Plan should protect all playing pitches. Playing pitch quality assessments were carried out and pitches were categorised as being good, standard or poor.”

The Football Foundation, who are funding part of the development has compiled a Local Football Facility Plan (LFFP) for Bolsover District Council, to identify priority projects for potential investment in Bolsover. This has been submitted as part of the application.

The LFFP identifies that:

“Local assets and opportunities have been reviewed in line with four investment priorities:

- 1. 3G FTPs*
- 2. Improved grass pitches*
- 3. Changing room pavilions / clubhouses*
- 4. Small-sided facilities*

To ensure a consistent and high quality approach, each local area has been reviewed applying a standard approach, supplemented by input from consultation with local partners and stakeholder organisations.

While each investment priority is reviewed individually, it is understood that they can be inter-reliant; account is, thus, taken of these potential connections.”

The proposal is for a 3G Football Turf Pitch (FTP). These are described by the Football Foundation as:

“High quality and indispensable part of modern football facilities; their impact cannot be underestimated. In recent years the industry has seen major innovations and improvements to artificial surfaces (and sports lighting). This has created playing surfaces that replicate a good standard natural turf pitch whilst significantly increasing levels of use (x20). All FTPs must have sports lighting to achieve this.”

An assessment was carried out to ascertain where there was a shortfall in FTP's within the District. A full size FTP was identified at Shirebrook Academy, and a small (5 a side) FTP in Tibshelf.

The shortfall was assessed using training demand modelling. The Council's adopted Playing Pitch Strategy (PPS) states *“there are 75 football teams currently playing in Bolsover meaning there is demand for 1.8 full size 3G pitches. In practice, there is a definite need for one pitch (which there is in Shirebrook); however, the excess demand beyond this single pitch (0.8 full size 3G pitches) could potentially be accommodated on either a second full size 3G pitch or an increase in provision of smaller sized pitches”. The PPS demand modelling was based on 75 teams (2015/2016 affiliation data) registered in Bolsover.”*

The Plan identified that there are gaps in provision within Clowne, and it was recommended that this be addressed. The Playing Pitch Strategy identifies that a pitch located in either Clowne or South Normanton would address the shortfall in 3G provision.

The Local Football Facilities Plan put forward a specific priority project for potential investment. The site was selected by local partners based on a rationale of good access, high population, geographical spread, success and quality of existing facilities. The site put forward forms the basis of this proposal, and identifies the following:

“Clowne Sports Centre (The Arc) - new 11v11 floodlit 3G FTP.

Existing facilities: two full sized grass pitches, small sand based AGP (50m x 35), leisure centre with swimming pool and sports hall. There are good changing facilities on site.

Existing Users: two teams from Reinshaw Rangers use the grass pitches. AGP and sports hall are used for recreational football.

Rationale: participation growth in; junior football, BAME participation, informal/recreational football, senior football, women and girls, over 50's participation.

It is therefore considered that the applicant has adequately demonstrated that the Council's adopted Playing Pitch Strategy and Assessment (2017) has been given due consideration, and that this specific site allocated for pitch enhancements was chosen following a detailed assessment of pitch provision within the District, provided within the Local Football Facility Plan, compiled by the Football Association and Football Foundation.

It is therefore considered that the provisions of policy ITCR7 where relevant to this proposal, have been complied with.

As such, subject to full consideration of all other relevant material planning considerations, assessed in detail below, the principle of development is deemed to be acceptable.

Landscape and visual impact of the proposed development

Policy SS1 of the adopted Local Plan states that development proposals *should protect and enhance the character, quality and settings of towns through an appropriate mix of good quality, well-designed developments.*

Policy SS9 states that development *will be required to respect the form, scale and character of the landscape, through careful location, design and use of materials.*

Policy SC3 states that development proposals *will create good quality, attractive, durable and connected places through well designed locally distinctive development that will integrate into its setting; and accord with and respond to the established character and local distinctiveness of the surrounding landscape.*

There are residential properties to the south of the site, approximately 50m away from the proposed perimeter fence which is to be erected around the pitches. The front elevation of the dwellings have an outlook towards the site (see image below), and between these and the

proposed pitch is an estate road, and a fenced off paddock with grazing horses.



The proposal includes the formation of a landscape bund and acoustic fence along the southern boundary of the site, which will have a maximum height of 4.5m.

Properties to the east of the site have intervening land between them and the site, and are screened by an established hedge and planting. As such these properties have no views into the application site.

There is an established hedge along the west boundary, between the development site and public footpath, and land levels then drop providing clear unobstructed views towards the M1 and beyond (see image below). The proposal will not be visible when viewed from the west.



Whilst it is acknowledged that the site is currently undeveloped green space, and the proposal will be to erect a 4.5m high green mesh fence around an artificial playing field, consideration has also been given to the current, authorised use of the land, which is a protected playing field. The proposal has also been considered within the wider context of the adjacent leisure centre which this playing field is a functional part of.

As such, it is not considered that the proposal will cause such detriment to the character of surrounding landscape or visual amenity to warrant a reason for refusal, in compliance with policies SS1, SS9, and SC3 of the adopted Local Plan.

Impact on residential amenity

Policy SC3 of the adopted Local Plan states that *development proposals should ensure that a good standard of amenity is maintained for occupants of existing properties*. Policy SC11 then goes on to identify that *development likely to cause, or experience, a loss of residential amenity as a result of light, noise, dust, odour or vibration, or a loss of privacy must be supported by a relevant assessment. If necessary, appropriate mitigation must be put in place. Applicants will need to demonstrate that a significant loss of amenity would not occur as a result of the development or throughout its construction and operation*.

There are a row of recently constructed residential properties on Harvester Way, which have front facing windows which overlook the application site. There is an estate road and paddock between the properties and application site.

Consideration has been given during processing of the application to the fact that the site is an existing playing pitch, in use at various times of the week, with no restrictions on hours or days of use; although it is noted that currently there is no artificial lighting on site, which restricts the use of the pitches to daylight/summer hours.

Three representations have been received, objecting to the proposal on grounds related to noise, disturbance and floodlighting (among other issues). The environmental health section has also been consulted, and initially raised concerns about predicted noise levels and proposed floodlighting.

The responding environmental health officer has been in negotiations with the applicant, during processing of the application, to overcome issues relating to residential amenity.

The submitted application includes a landscape bund along the southern boundary of the site, which partially wraps around the east and west boundary. This bund will be 2.464m higher than the proposed pitch level. On top of this will be a 2m high acoustic fence, included as a revision to the proposal, following concerns from residents and environmental health about potential noise and disturbance. The applicant has indicated that the fence will manage to reduce predicted noise levels to no greater than 45dB LAeq, 1 hr and 60dB L_{Amax,F} at first floor facades, which equates to an internal level of 30dB LAeq, 1hr and 45dB L_{Amax,F} with a partially open window.

A re-consultation has been sent to residents advising them of the proposed acoustic fence, no comments have been received at the time of the report submission, but given that the expiry date for comments is the 6th September, any late representations will be reported at Planning Committee.

The bund and fencing will be the same height as the perimeter fencing (4.5m), and it is considered by the environmental health officer to satisfactorily address potential noise issues associated with the proposal. A condition will be included for the bund and fence to be constructed prior to the development being brought into use, and to be retained for the life of the development.

The application originally submitted proposed that the use of the pitches would be until 10pm, 7 days a week. This raised concerns for residents and environmental health over potential noise and light disturbance, and subsequently the hours have been reduced to between 9am to 9pm Monday to Friday, and 9am to 6pm Saturday, Sunday and bank holidays, in accordance with an email submitted by the applicant on the 9th July 2021. A condition will be included in respect of this.

The environmental health officer has also requested that a condition be included for a noise mitigation plan to be submitted and agreed prior to the development being brought into use. The Plan will include measures to ensure that the amenity of nearby residents will not be compromised as a result of the development, such as the whistle only being used for matches and not training, and measures to tackle instances of anti-social behaviour around the pitches (swearing and shouting etc).

With regards to potential light pollution from the flood lights, the environmental health officer has requested a condition requiring that verification is provided to confirm that the floodlights comply with the limits imposed in the guidance "Guidance Notes for the Reduction of Obtrusive Light GN01:2011" produced by the Institution of Lighting Professionals. Specifically, the validation should demonstrate compliance with the requirement of table 3: Maximum values of vertical illuminance on premises and table 4: Limits for the luminous intensity of bright luminaires for environmental zone E3.

It is therefore considered that the amenity of neighbouring residents has been given due regard during processing of the application, and amendments have been received to ensure that the proposed development mitigates against adverse noise and disturbance which may be generated from the proposal. As such, subject to the full implementation of all relevant and appropriate conditions, the proposal will cause no significant detriment to residential amenity, in compliance with policies SC3 and SC11 of the adopted Local Plan.

Access and Highways

Policy ITCR10 of the adopted Local Plan identifies that development proposals *should provide convenient and safe access*, and ITCR11 identifies that *adequate provision for vehicle and cycle parking should be provided and should relate well to the development, be well-designed, safe, minimise conflict with pedestrians and ensure that access for emergency services is provided*.

The Arc Leisure centre has 187 existing parking spaces. Some of these are used by Council staff and the adjacent day nursery during working hours in the week, but in the evenings and weekends the car park is in use solely by the leisure centre. Given that the existing playing pitches are presently in use by football clubs, it is not expected that there will be such an intensification in visitors to the site to warrant a reason for refusal on highway safety grounds, or to require additional parking to serve the development, or to make improvements to the existing point of access from the highway.

It is therefore considered that the proposal provides a safe and suitable access, and provides sufficient on-site parking to serve the development, in the interests of highway safety and in compliance with policies SC3, ITCR10 and ITCR11 of the adopted Local Plan.

Biodiversity Matters

Policy SC3 of the adopted Local Plan states *that new development should address opportunities for biodiversity, conservation, and enhancement ensuring that local semi-natural features including watercourses are created or enhanced as integral parts of development*.

Policy SC9 of the adopted Local Plan states that *development proposals should seek to conserve and enhance biodiversity of the District and to provide net gains where possible. Proposals for development must include adequate and proportionate information to enable a proper assessment of the implications for biodiversity*.

A Preliminary Ecological Appraisal (PEA) prepared by B.J Collins Protected Species Surveyors Ltd has been submitted as part of the application process. The Wildlife Trust has been consulted and confirmed that the report is generally acceptable, although a condition should be included on any decision notice to ensure that the mitigation recommendations outlined in section 6 of the PEA are fully implemented.

Mitigation measures include the retention of trees and hedges. If any works are required they will be carried out outside of bird nesting season and if that isn't possible, then a nesting bird survey will need to be submitted. If a nest is discovered within 5m of the works, the area will be cordoned off until the young have hatched, have fledged and left the nest. With regards to

hedgehogs, excavation works/trenches will be covered over at night, and will have a ramp to allow for escape, if required. With regard to bat protection, the proposed flood lighting will be directed so there is no illumination hitting either the east or west hedgerow.

The proposed development will see the removal of amenity grassland and the engineering works associated with the laying of artificial turf.

Whilst potential biodiversity impacts are confined mostly to the loss of this grassland, the Wildlife Trust has highlighted that there could be potential biodiversity impacts by reason of the proposed flood lighting, and the effect this could have on bats and other nocturnal animals.

The information provided in the PEA indicates that this issue can be addressed, and therefore provided the lighting is in line with the details set out in the PEA, and with the Guidance Note 08/18 - Bats and Artificial Lighting in the UK (BCT and ILP, 2018) it should be feasible to minimise and avoid impacts.

In order to address the loss of the amenity grassland the Wildlife Trust has advised that the landscaping of the bund should include measures to benefit biodiversity in particular butterflies and pollinating insects.

A landscaping plan has been submitted for consideration dated the 23rd August and is still out for consultation. If the Wildlife Trust do not provide additional comment on the submitted plan, it is considered reasonable that the landscape plan is included as an approved document, rather than requesting the submission of a further landscaping scheme by condition. An advisory note will be included to recommend that some of the species rich grassland, as recommended by the Wildlife Trust in their comments, is implemented into the landscape bund as this will help to off-set the loss of amenity grassland and should be beneficial for a variety of plants, insects, bats and birds.

The list of species rich grassland is as follows:

Fine-leaved grasses

- Common bent
- Red fescue
- Crested dog's-tail
- Quaking grass
- Sweet vernal grass

Herbs

- Common bird's-foot-trefoil
- Common stork's-bill
- Germander speedwell
- Thyme-leaved speedwell
- Red clover
- White clover
- Common cat's-ear
- Oxeye daisy
- Selfheal
- Black medick

- Wild strawberry
- Yarrow
- Lady's bedstraw
- Lesser stitchwort
- Pignut
- Burnet-saxifrage

It is therefore considered that sufficient information has been submitted during processing of the application, to give consideration to any potential biodiversity impacts associated with the proposal, and subject to the full implementation of the approved landscaping scheme, and compliance with section 6 of the PEA, the proposal will cause no overriding loss to biodiversity that cannot be off-set through mitigation, in compliance with policies SS1, SC3 and SC9 of the adopted Local Plan.

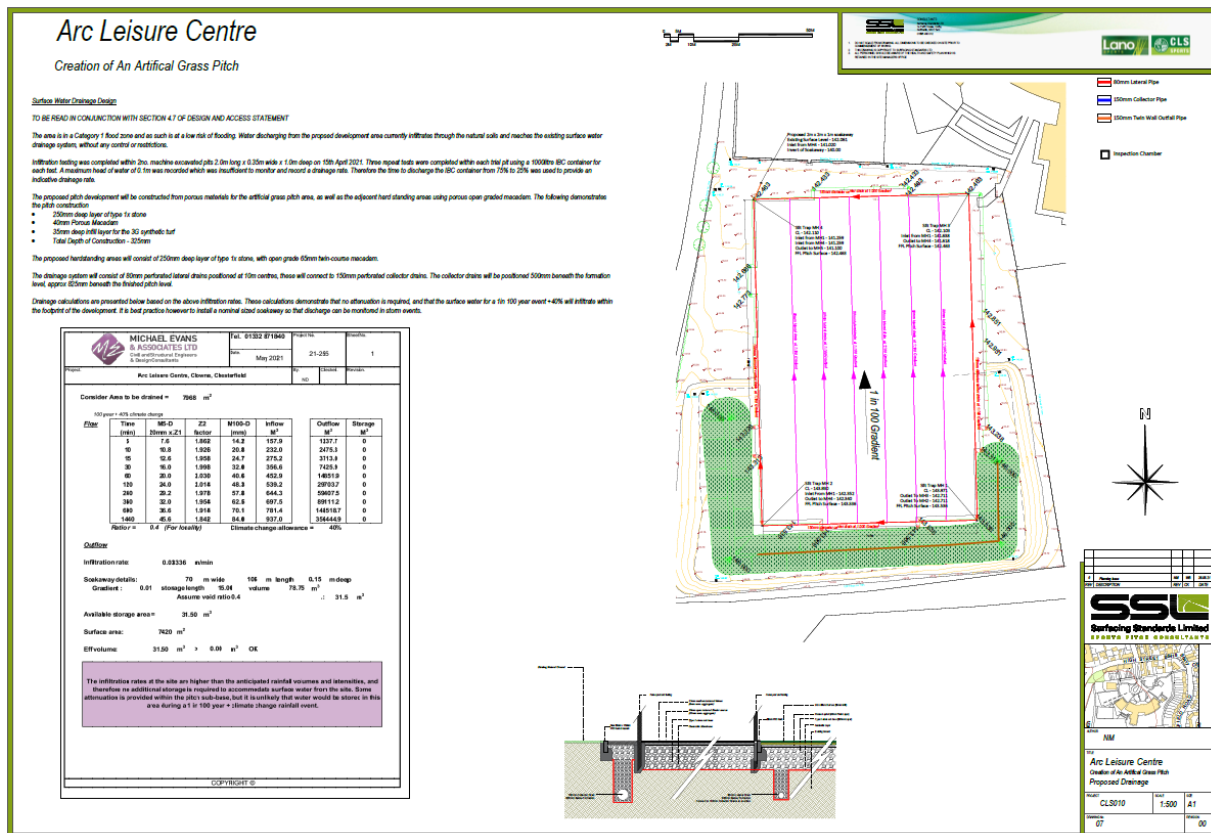
Drainage and land stability

Policy SC2 states that new developments should adopt *“sustainable drainage principles and avoid detrimental changes to the characteristics of groundwater drainage and surface water run-off, and protects the capacity of natural surface water drainage systems and access to them for maintenance and improvement. Generally, the aim should be to discharge surface run off as high up the following hierarchy of drainage options as reasonably practicable; into the ground (infiltration); to a surface water body; to a surface water sewer, highway drain, or another drainage system; to a combined sewer.”*

Policy SC14 of the adopted Local Plan states that, *“development proposals will not be permitted unless it can be demonstrated that any unstable land issues will be addressed by appropriate mitigation measures to ensure that the site is suitable for the proposed use, and does not result in unacceptable risks which would adversely impact upon human health, and the built and natural environment. Development proposals should also demonstrate that they will not cause the site, or the surrounding environment, to become contaminated and/or unstable.”*

The Lead Local Flood Authority has been consulted by reason that the application is a 'Major' proposal. Comments have not been received by them during the processing of the application.

The application site is partially located within Instability Zone 4. The Council's land stability consultant, Eastwood and Partners has been consulted, and sent a copy of the proposed drainage scheme (see below), received 26th August 2021.



The agent has stated in an email dated the 26th August that, “In summary the entire footprint of the development is constructed from porous materials. The pitch surface, underlying macadam and aggregate are all designed to allow water to infiltrate through the subsequent layers, with a porosity rate of 500mm/hr or greater. I have shown the underlying perforated drainage pipes on the plan drawing and cross section. The laterals will connect into the collector drain at the low end of the pipe using a rigid junction.

The pitch is designed with a 1 in 100 gradient heading along the length of the pitch from south to north (north being the lowest end). We can therefore move the soakaway across to the north east of the pitch but the space here is less than on the north-west side. Due to the infiltration rates of the site, it is highly unlikely that the soakaway will be required, as demonstrated by the drainage calculations, and that surface water will infiltrate through the entire formation into the underlying ground.”

Eastwoods have formally responded on the 1st September, and advised that there are no objections in principle as the application site is sufficiently far from the edge of the escarpment, but they require further clarification in the form of an amended site levels plan to include the area to the south and west of the site, as they were not able to accurately scale from the submitted plan.

The agent has been sent a copy of the comments from Eastwoods and asked to submit the plan.

Eastwoods has confirmed in their response that the site lies partly in zone 4 and partly in zone 5 of the Landslide Zonation Hazard Report.

Typically a Landslide Report would normally be required for developments within Zone 4, however, a drawing CLS010/002(00) has been submitted that shows existing levels on the site and it also shows the positions of the 130m, 135m and 140m contours.

The 140m contour is at a minimum distance of 37m west of the site boundary, and the maximum level on the boundary is 143.03. Eastwoods have concluded that there is an area of land separating the site from the escarpment that is at least 25m wide and less steep than 1 in 10 (typically shallower than 3.03m in 37m).

Levels to the south of the site have not been specified, and where they have, it has not been possible to scale accurately from the submitted plan. Eastwoods have used Google Earth as a rough guide and surmise that adjoining land to the south appears to be level. For accuracy they have recommended that the level survey should be extended a minimum of 25m beyond the site boundary, and to the top of the escarpment on the western side where this is further, to an accuracy that can be scaled. If this demonstrates that their assumptions are correct, they would have no concerns about slope stability.

The northern half of the site is at the same level as the surrounding ground and is almost flat with slopes in the order of 1 in 100. The southern half is elevated by 1-1.5m above general ground level all round, but also has only very shallow slopes, both at the top of the elevated area and across its base. The proposed site layout CLS010/003(01) shows that the levels in the northern half of the site are being raised by about 300mm, and the elevated platform is being lowered by about 400mm.

Eastwoods consider that the escarpment is at least 35m beyond the western boundary, the gradients between the western boundary and the top of the escarpment are comfortably shallower than 1 in 10 (of the order of 1 in 15) and the land to the south is essentially flat. They go on to say that they consider the site to be in zone 5, where no planning constraints would be required.

Eastwoods have identified that if levels around the site are as expected and the position of the escarpment is represented correctly, the bund will be sufficiently far away from the escarpment to be of no consequence.

All materials to be used for the construction of the pitch are porous in nature, and soakaway tests have indicated the ground to be highly permeable with infiltration rates of about 5×10^{-4} m/s. Eastwoods consider that infiltration will be similar to the undeveloped condition, and they expect the quantity of water discharging to a soakaway to be fairly small. The soakaway shown on the drainage drawing appears to be approximately 16m inside the boundary of the site and more than 50m from the top of the escarpment. Therefore, if levels around the site are as expected and the position of the escarpment is represented correctly, they do not consider that a soakaway in the position shown will have any significant detriment on the stability of the escarpment.

It is therefore considered that on submission and consideration of the amended site levels plan, Eastwoods are likely to be satisfied that the proposal poses no land stability risks to the integrity of the escarpment, and it is not anticipated that they will require any conditions.

CONCLUSION

The application as submitted has been assessed in accordance with the adopted Local Plan (2020) policies of Bolsover District Council, and has given due regard to the adopted Playing Pitch Strategy Assessment (2017).

The proposal is to make enhancements to an existing playing pitch which is a protected playing pitch site, under the provisions of the adopted Local Plan, and has been allocated for enhancements based on an identified need for improvements to existing pitches within the north of the District.

Whilst the Council fully acknowledge concerns raised by adjacent residents, the proposal is not to create a 'new' pitch within a residential area, it is to enhance an existing pitch which is already in use ancillary to an established leisure centre. The pitch has been afforded formal protection through the Local Plan process, which was subject to thorough examination prior to adoption.

It is considered that the agreed reduction in hours of operation, and the installation of a bund with acoustic fencing on top will adequately mitigate against potential, adverse levels of noise that may be generated from the proposal. Residents have been consulted on the proposed acoustic fence, with comments due back by the 6th September. Any late representations in respect of the amendments will be reported to Planning Committee on the 15th September. Notwithstanding that, it is considered that the applicant has taken reasonable steps to protect the amenity of adjacent residents from noise and disturbance associated with the use of the land.

The Council fully acknowledge that the application site is within a zone of land instability and as such the necessary consultations have been sent to the Council's land stability consultant and Lead Local Flood Authority. Eastwoods have confirmed that while they have no objections in principle, they do require an amended plan to accurately show land levels to the south and west. It is expected that this plan will be submitted and considered before the 15th September, but in the event that it is still outstanding, Members will be requested to approve the application, but to defer the decision until these matters have been resolved. The consultees will either confirm that the submitted information is satisfactory, or recommend conditions, or may request additional information for formal consideration prior to determination of the application.

Subject to the requirements of any late comments and representations made in respect of the proposal, it is considered that subject to the full implementation of all appropriately worded conditions, the proposal complies with the provisions of the adopted Local Plan and as such it is recommended that the application is approved subject to conditions, but that the date of determination is deferred until all outstanding matters have been resolved.

RECOMMENDATION – Resolve to grant planning permission but to defer the decision to the Planning Manager (Development Control) in consultation with the Chair / Vice Chair of Planning Committee; subject to all outstanding issues associated with land stability and drainage being resolved.

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 plans and documents and shall be retained as such for the life of the development:
 - Proposed drainage - 07 Rev 00; received on the 26th August 2021
 - Revised proposed site layout - 03 Rev 01; received on the 23rd August 2021
 - Revised proposed AGP layout - 04 Rev 02; received on the 23rd August 2021
 - Revised proposed AGP Elevations - 06 Rev 02; received on the 23rd August 2021
 - Landscaping planting plan - 780 Rev P03; received on the 23rd August 2021
 - Construction Phase Health and Safety Plan - Compiled for: Football Foundation (28/7/21); received on the 28th July 2021
 - Revised site location plan - 01 Rev 02; received on the 24th June 2021
 - Appendix D - Proposed materials and appearance - Surfacing Standards Ltd; received on the 11th June 2021
 - Floodlighting system - Philips OptiVision LED gen 3.5; received on the 11th June 2021
 - Existing site plan - 02; received on the 11th June 2021.
 - Attenuation calculations; received 11th June 2021
 - Lighting Assessment - CLS010 21-05-2021, designed by Nick McLaren; received on the 11th June 2021.
 - Noise Impact Assessment - Ref: 8976/DO May 21; received on the 11th June 2021
 - Preliminary Ecological Appraisal - BJ Collins (June 2021); received on the 11th June 2021
 - Soakaway Test Report - Project no. EAL.178.20; received on the 11th June 2021.
3. The materials and finishes to be used on the approved fencing and storage container shall be as stated on the submitted application form and plans.
4. Prior to the development hereby permitted being brought into use, a scheme of noise mitigation shall be submitted to and approved in writing by the Local Planning Authority. The approved mitigation shall be implemented in accordance with the agreed document and maintained as such throughout the life of the development.
5. The hereby approved landscape bund and acoustic fence shall be constructed in accordance with the approved details, prior to the development being brought into use and shall be retained and maintained for the life of the development.
6. The hours of use for the playing pitches hereby permitted shall be between the hours of 9am to 9pm Monday to Friday, and 9am to 6pm on Saturdays, Sundays and Bank Holidays.
7. Prior to the development hereby permitted being brought into use, the applicant shall

provide verification that the lighting installation complies with the limits provided in the guidance "Guidance Notes for the Reduction of Obtrusive Light GN01:2011" produced by the Institution of Lighting Professionals. Specifically, the validation should demonstrate compliance with the requirement of table 3: Maximum values of vertical illuminance on premises and table 4: Limits for the luminous intensity of bright luminaires for environmental zone E3 .

8. The development hereby permitted shall be carried out in strict accordance with the recommendations set out in Section 6 of the Preliminary Ecological Appraisal.

9. The development hereby permitted shall be carried out in accordance with the proposed landscaping plan, submitted on the 23rd August 2021. The bund shall be planted using a species rich wildflower mix, and shall contain a mix of the fine leaved grasses and herbs as identified in advisory note 1. The landscaping shall be provided within the first planting season following completion of the development and shall be retained as such in accordance with the approved details.

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

Reasons for Conditions

1. To comply with the requirements of Section 51 of the Planning and Compulsory Purchase Act 2004.

2. To ensure that the development takes the form as envisaged by the Local Planning Authority.

3. To ensure a satisfactory appearance of the completed development. In the interests of visual amenity and in compliance with policies SS1 and SC3 of the adopted Local Plan.

4. To protect the amenity of residents living to the south of the site. In the interests of residential amenity and in compliance with policies SC3 and SC11 of the adopted Local Plan.

5. To protect the amenity of residents living to the south of the site. In the interests of residential amenity and in compliance with policies SC3 and SC11 of the adopted Local Plan.

6. To protect the amenity of residents living to the south of the site. In the interests of residential amenity and in compliance with policies SC3 and SC11 of the adopted Local Plan.

7. To protect the amenity of residents living to the south of the site. In the interests of residential amenity and in compliance with policies SC3 and SC11 of the adopted Local Plan.

8. To ensure that adequate mitigation is provided to ensure that protected species are afforded adequate protection, and to off-set against the loss of amenity grassland, in the interests of biodiversity and in compliance with policies SS1, SC3 and SC9 of the adopted Local Plan.

9. To ensure that the site is landscaped in accordance with the approved details, and is retained as such, In the interests of visual amenity and biodiversity, and in compliance with policies SS1, SC3 and SC9 of the adopted Local Plan.

Notes

1. In accordance with condition 9 above, Derbyshire Wildlife Trust has recommended the following species for inclusion in the bund planting: Fine-leaved grasses - Common bent, Red fescue, Crested dog's-tail, Quaking grass, Sweet vernal grass; Herbs - Common bird's-foot-trefoil, Common stork's-bill, Germander speedwell, Thyme-leaved speedwell, Red clover, White clover, Common cat's-ear, Oxeye daisy, Selfheal, Black medick, Wild strawberry, Yarrow, Lady's bedstraw, Lesser stitchwort, Pignut, Burnet-saxifrage.

Statement of Decision Process

The case officer has 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

Langwith Parish

APPLICATION

Construction of 19 dwellings

LOCATION

Land Rear Of 39 To 59 The Woodlands, Whaley Thorns

APPLICANT

Bolsover District Council, The Arc, High Street, Clowne

APPLICATION NO.

21/00301/FUL

FILE NO.

CASE OFFICER

Mr Peter Sawdon

DATE RECEIVED

20th May 2021

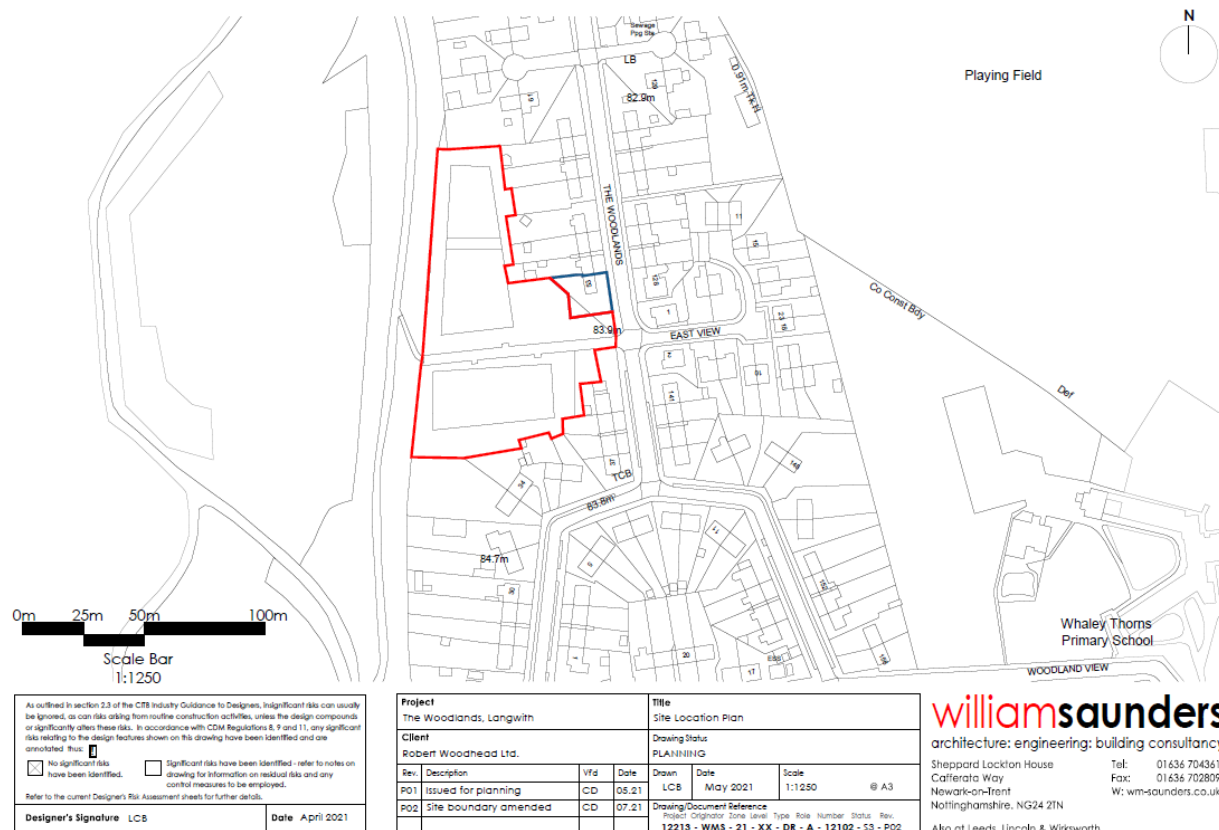
SUMMARY

This application has been referred to the Planning Committee given the financial viability issues raised in the submission, meaning normal S106 contributions towards recreation and leisure provisions are not being made.

In summary, the application is recommended for approval. This is a previously developed site that is considered to represent sustainable development and accord with most policy requirements.

Whilst the normally required leisure contributions are not being provided, it is considered that the public benefit that is provided through the delivery of this fully affordable housing scheme outweighs the requirement in this case, evidenced by suitable financial viability assessment.

Site Location Plan



SITE & SURROUNDINGS



The application site is approximately 0.65 hectares land to the west side of The Woodlands at Whaley Thorns. The site is fairly level with little height variation. A small part of the existing domestic garden to the adjacent plot of 53 The Woodlands is also included.

Historically, there were 12 dwellings on part of the site, built during the 1920's, however these were demolished in the 1990's. The site became unmanaged and overgrown with substantive vegetation, but this has recently been removed pending the submission of this application. Prior to clearance the site was identified to comprise modified grassland and poor quality broadleaved woodland, as detailed in the submitted biodiversity assessment.

The site is bound by existing two storey dwellings to the east, north and south, and by Poulter Country Park to the west that can be accessed through the site. A narrow road crosses the site from The Woodlands and is a remnant from previous cul-de-sac on site; this has a dropped kerb onto The Woodlands carriageway.

Land to the west comprises a raised embankment of the former mineral railway line which is now a footpath; that embankment contains mature landscaping and is separated from the site by a post and wire fence. A narrow path provides access between the site and the top of the embankment.

To the north, east and south existing residential properties back onto the site that are bounded by mainly timber fencing around 1.8m in height in a variety of styles. There is also a post and rail fence to either side of the footpath link that runs through the site.

PROPOSAL

This is a full application for the erection of 19 dwellings comprising:

- 4 two storey 1-bedroom semi-detached dwellings;
- 8 two storey 2-bedroom semi-detached dwellings;
- 2 semi-detached 2-bedroom bungalows;
- 4 two storey 3-bedroom semi-detached dwellings; and
- 1 detached 4-bedroom two storey dwelling.

The plan below shows the latest amend site layout.

Vehicles would all enter the site from a single widened access point that would be taken from The Woodlands to the east. The new access road would facilitate the continued use of the site as a pedestrian access to the connecting footpath at the western end of the site that links to the adjoining trail and Country Park.

To facilitate the widening of the existing access, a land swap is proposed with the adjoining house to the north that would take in part of the site to form an extended rear garden area to that property.

To the front of the site, either side of the proposed access would be two areas of incidental open space that would contain trees to form an entrance feature. The dwellings would then be located alongside the single access road and private drive; that highway and drive would be only be developed to one side at the rear of the site, which will maintain views of the existing landscaped embankment to the west.

This scheme is stated to form part of Bolsover District Council's 'Bolsover Homes' project to build new council houses for affordable rents across the district using under-utilised land, whilst benefiting the district's economy through training, skills development and local supply chain.

As this scheme is for 100% affordable housing, the local housing need for this area has been used when identifying the best unit types and mix of sizes and the mix of dwellings is based on discussions with housing officers and the assessed housing need of the area.

The dwellings will remain in the ownership of Bolsover District Council with the construction of the properties managed by Property Services and tenancies managed by the council's Housing department.

It is stated that the development will be constructed to meet quality standards such as the Code for Sustainable Homes Level 3, Lifetimes Homes, Building for Life 12 and Secured by Design.

The Woodlands development is also being constructed to offer a reduction of carbon emissions, by utilising timber frame and low carbon heat sources in line with the Government's vision for the Future Homes Standard. It has been confirmed verbally that all dwellings will include electric car charging point.

In order to address an identified biodiversity net loss that would have resulted from this development, off site habitat improvements are being proposed to secure biodiversity net gain, that is proposed to include a 30 year management and monitoring plan. The land where this mitigation is proposed is off Cockshut Lane, approximately 250m to the north east of the site, to the south of an existing graveyard.

AMENDMENTS

01/06/2021 – additional drainage information

14/06/2021 – ecology survey

02/07/2021 – additional drainage information

28/07/2021 – revision to 4 bed house type, vehicle tracking information, and revised site and layout plans

16/08/2021 – additional drainage and levels information

27/08/2021 – biodiversity information

31/08/2021 – financial viability 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.

HISTORY

01/00455/FUL	Granted	Landscaping works, creation of an entrance to Poulter
	Conditionally	Country Park

CONSULTATIONS

Bolsover District Council Drainage Engineer

Proposals for drainage need to:

- Make provision for the lifetime management and maintenance of any SuDS schemes;
- Comply with Part H of the Building Regulations 2010.
- Not detrimentally alter the structure or surface of the ground and increase or alter the natural flow of water to cause flooding to neighbouring properties.
- Ensure any temporary drainage arrangements during construction gives due consideration to the prevention of surface water runoff onto the public highway and neighbouring. 18/06/21

Derbyshire County Council Countryside Services

Detailing the opportunities available in the adjacent Poulter Country Park for recreation and biodiversity enhancements should such off-site provision be required. 16/06/2021

Derbyshire County Council Flood Risk Team

Following the submission of revisions to address previous comments, the Lead Local Flood Authority has raised no objections subject to the inclusion of conditions regarding further approval for the final detailed designs for surface water drainage, including agreement over the final destination for any surface water and its implementation, along with a scheme for surface water control during the construction phase of the development. Advisory notes are also recommended. 28/07/2021

Derbyshire County Council Highways Following the submission of revisions to address previous comments, the Highway Authority has raised no objections to the proposal and has recommended the inclusion of conditions and advisory notes 01/09/2021

Derbyshire County Council Minerals Team

Whilst there are underlying Magnesian Limestone reserves, given the relatively small size of this particular site and the proximity to existing dwellings, it is not considered likely that it would be either viable or practicable to remove the underlying mineral as part of the development. Under those circumstances, the proposal would not adversely affect the mineral safeguarding interest and there are no objections to the proposal in this respect. 10/06/2021

Derbyshire County Council Strategic Planning (S106 contributions)

Sufficient capacity exists at local schools to accommodate the projected additional pupils generated by this development and so no financial contributions are sought.

The inclusion of an advisory note relating to high speed broadband is recommended. Additional comments are made, but without any specific requests, in respect of waste disposal and employment and skills. 14/06/2021

Derbyshire Wildlife Trust

Whilst conditions can be included to deal with protected species, further information is required to be able to assess the potential biodiversity net loss/gain of the proposals. 29/06/2021

Environmental Health

No objections in principle subject to conditions requiring the identification of any potential contamination and mitigation for such contamination where found, along with controls over dust during the construction period. 28/05/2021

Force Designing Out Crime Officer

As the developer has satisfactorily addressed initial comments that were provided, has no further comment to make. 09/08/2021

Langwith Parish Council

No comments received.

Leisure Officer

Advice provided on detailed requirements under policy ITCR5 and in respect of Formal Green Space, Semi-natural Green Space and would expect a reasonable index linked financial contribution of £16,530 (19 dwellings x £870 per dwelling) to improve green spaces to improve quality standards under that policy.

Similarly an index linked commuted sum of £20,140 (19 dwellings x £1060 per dwelling) would be sought towards built and outdoor sports facilities (Policy ITCR7). 25/07/21

NHS / Clinical Commissioning Group

Chesterfield Royal Hospital - Section 106 impact on health to be considered.

Clinical Commissioning Group – no comments received.

Strategic Housing Officer

The North Derbyshire and Bassetlaw Strategic Housing Market Assessment - Objectively Assessed Need Update 2017 estimated that 126 affordable homes should be brought forward each year to 2035 in order to meet all affordable housing need in the District.

As these properties are all proposed to be for affordable housing, this will help to meet the need in the District. In line with the Council's local plan, the properties should be designated as affordable housing for rent.

The properties should be owned and managed by the Council or a registered provider who has stock in the district or that of a neighbouring Local Authority, with nomination rights to the council for applicants from the Housing Register. 17/06/2021

Urban Design Officer

Recommended some amendments to the scheme as originally submitted. 09/07/21

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

PUBLICITY

By site notice, press advert and 20 neighbour letters.

No representations have been received.

POLICY

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

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

- SS1: Sustainable Development
- SS2: Scale of Development
- SS3: Spatial Strategy and Scale of Development
- LC3: Type and Mix of Housing
- SC1: Development within the Development Envelope
- SC2: Sustainable Design and Construction
- SC3: High Quality Development
- SC7: Flood Risk
- SC8: Landscape Character
- SC9: Biodiversity and Geodiversity
- SC10: Trees, Woodland and Hedgerows
- SC11: Environmental Quality (Amenity)
- SC12: Air Quality
- SC13: Water Quality
- SC14: Contaminated and Unstable Land
- ITCR3: Protection of Public Footpaths and Bridleways
- ITCR5: Green Space and Play Provision
- ITCR7: Playing Pitches
- ITCR10: Supporting Sustainable Transport Patterns
- ITCR11: Parking Provision

- 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:

- Chapter 2: Achieving sustainable development
- Paragraphs 47-48: Determining applications
- Paragraphs 55-58: Planning conditions and obligations
- Paragraphs 92, 93, 95 and 97: Promoting healthy and safe communities
- Paragraph 100: Protect and Enhance Public Rights of Way and Access
- Paragraphs 104-108: Promoting sustainable transport
- Paragraph 119, 120, 122 and 123: Making effective use of land
- Paragraph 124 and 125: Achieving appropriate densities
- Paragraphs 126-132 and 134: Achieving well-designed places
- Paragraph 152, 154 and 157: Meeting the challenge of climate change
- Paragraph 159 167 and 169: Planning and Flood Risk
- Paragraphs 174, 180 and 182: Conserving and enhancing the natural environment
- Paragraphs 183-188: Ground conditions and pollution
- Paragraphs 194, 195 and 199-208: Conserving and enhancing the historic environment

Supplementary Planning Documents

Successful Places: A Guide to Sustainable Housing Layout and Design, Adopted 2013:

The purpose of the Successful Places guide is to promote and achieve high quality residential development within the District by providing practical advice to all those involved in the design, planning and development of housing schemes. The guide is applicable to all new proposals for residential development, including mixed-use schemes that include an element of housing.

Planning Practice Guidance

National Planning Practice Guidance offers advice on assessing the viability of development proposals.

ASSESSMENT

Issues

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

- the principle of the development;
- access and 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 has a suitable design and layout and provides sufficient residential amenity;
- the ecology impacts of the development;
- potential contamination risks;

- drainage and flood risk requirements;
- impacts on infrastructure, including recreation and leisure, education and health facilities; and

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

Principle

Policy SS2: Scale of Development defines Whaley Thorns within the settlement hierarchy as a 'Small Village', and Policy SS3 (Spatial Strategy and Distribution of Development) indicates that the village will deliver 11 dwellings over the current plan period.

At 19 dwellings, the proposal represents a modest infill form of development and the scale of development is considered to be compatible with the locale and scale of the settlement generally.

The submitted Design and Access Statement includes an assessment of the proposals against policy SS1: Sustainable Development that is considered sufficient to meet the requirements of that policy; this indicates that the dwellings are being constructed with a high level of insulation and are proposed to be fitted with air source heat pumps as an alternative to traditional gas heating, which offers a reduction of energy consumption and carbon emissions; it has also been verbally confirmed that the dwellings are to be provided with electric car charging points.

This is a previously developed site within the development envelope and as such is well located to existing local facilities and services, including close access to the train station located on the western edge of the village.

In view of the above, the principle of housing development on this site is considered to be acceptable.

Access and Highway Safety

The development proposes a single point of vehicular access to the site in the location of the existing access onto this previously developed site.

A suitable pedestrian link is maintained through the site to the existing link at the rear of the site to the adjoining trail and Poulter Country Park for the benefit of existing and proposed residents to access the recreation and leisure opportunities that those facilities provide, in compliance with policy ITCR3.

Parking provision on site is being made in accordance with normal standards and as such complies with policy ITCR11.

Following the submission of revisions and additional information to address their initial comments, the Highway Authority has confirmed that it has no objections to the proposal and has made suggestions for the inclusion of conditions and advisory notes.

Landscape and visual impact of the proposed development

Whilst this is presently a parcel of open and cleared land, it does not form part of any distinctive or sensitive landscape. It is not important to features or views or other particular

qualities and such the development is considered to accord with Policy SC8 in this regard. Given the site is bounded by existing housing developments the proposal will assimilate within those in terms of its general landscape and wider visual impacts.

Design and Layout

The proposals comprise a mix of bungalows (x2 units) and two-storey houses (x17 houses) which is consistent with the scale of development surrounding the site and is acceptable.

The dwellings themselves have a relatively plain appearance but would not be obtrusive or adversely impact on the character of the area, subject to the agreement of suitable materials by condition. Given air source heat pumps are normally externally fitted and as no detail of these has been included with the application, it is also recommended that a condition is included to control their final details.

The layout proposes dwellings that front onto the proposed highway and private drives, including an amended dwelling on the internal corner plot (plot 13) to better address its two frontages. This also suitably addresses concerns initially raised regarding crime prevention, by providing natural surveillance of both the proposed highways, but also the existing pedestrian link at the rear of the site.

The amount of frontage parking proposed somewhat detracts from the appearance of the streetscene, but in discussions with the applicant it has been accepted that this has been minimised as far as is practicable, taking into account the delivery of a suitable density of development to ensure that the scheme is deliverable and the need to maintain appropriate separation distances to existing dwellings bounding the site to comply with normal privacy requirements. Frontage landscaping is also indicated that will help to soften the overall appearance of that parking on the development as a whole.

Green edges are indicated on the approach into the site, together with some tree planting, including a tree lined entrance approach, which would enhance the main entrance. Only indicative details of the on site landscaping and boundary treatments are included on the plan and the development would benefit from the provision of defensible edges between the footways and the edge of front gardens; the final detail of these can be secured by appropriate conditions.

Generally the site provides good provision for privacy and amenity. The only location where a degree of overlooking is likely to occur is between the existing neighbouring house (No. 43 The Woodlands at the SE corner) and the rear garden of Plot 1. This is due to the exceptionally short rear garden of that adjacent property (circa 5m depth), although it is noted that Plot 1 has been set back and provided with a generous rear garden area (128m²) such that whilst some areas of that garden space is less than the separation distances normally recommended in design guidance, sufficient areas of the garden are provided that meet the guideline such that this relationship is considered appropriate.

Overall therefore the design of the scheme is considered appropriate, subject to the inclusion of conditions to control detailed finishes and landscaping on the development.

Ecology

An initial ecology assessment was submitted along with a subsequent biodiversity

assessment to further consider mitigation to address identified impacts.

The Derbyshire Wildlife Trust indicated some limitations with the initially submitted report in terms of the identification of species, but considered any impacts to be either unlikely or limited such that that conditions should be included to ensure that clearance works are undertaken in an suitable manner, and methods to deal with the unlikely event that any protected species are found when clearance work is being undertaken are appropriately dealt with.

In general terms the submissions indicate that the site comprised mainly poor quality woodland and some grassland prior to its recent clearance and the proposals indicate that none of these existing habitats on site will be retained. This means that despite some on site mitigation proposals, comprising hedgerow and tree planting, there will be an overall net loss of biodiversity as a result of the development, contrary to the aims and objectives of both national and local planning policy that seek to secure biodiversity net gains where possible.

In order to address this net loss to biodiversity interests, the applicant has put forward, in addition to on-site landscaping, additional off-site ecology mitigation. The off-site proposals would comprise enhancement of grassland, coupled with a 30 year management and monitoring plan, on land around 200m to the north east of the application site, to the south of the existing graveyard off Cockshut Lane. It is stated that these proposals have been drawn up in consultation with the Derbyshire Wildlife Trust.

At the time of drafting this report, the mitigation proposals had only just been submitted and the necessary consultation with the Derbyshire Wildlife Trust had only just been undertaken. Because of this, their response is still awaited, although given their involvement in the development of the mitigation proposals it is hoped that this will be satisfactory to them. An update on this issue will be provided to the planning committee meeting.

Assuming that the mitigation is demonstrated to be satisfactory it will be necessary to include conditions to secure the delivery of both on and off-site mitigation measures to ensure that the development is compliant with policy requirements, as well as approval of a method statement for site clearance works.

Contamination

The Environmental Health Officer has stated that there are no objections in principle to the development, subject to conditions requiring the identification of any potential contamination and mitigation for such contamination where found, along with controls over dust during the construction period.

Given the fact that the site has previously been developed, that may result in sources of potential contamination, along with the need to protect the amenity of existing residents during the period of construction, both these recommended conditions are considered reasonable and are proposed for inclusion.

Drainage and Flood Risk

A drainage strategy has been included with the application that demonstrates appropriate consideration of Sustainable Drainage Systems (SuDS). Based on this Derbyshire County Council's Flood Risk Team has advised that the revised drainage details submitted are

satisfactory to address its initial comments to the planning application and so raises no objections subject to the inclusion of conditions regarding further approval of the final detailed designs for surface water drainage, including agreement over the final destination for any surface water and its implementation, along with a scheme for surface water control during the construction phase of the development. Advisory notes are also recommended. The conditions and notes recommended also deal with issues raised by Bolsover District Council's Drainage Engineer

Subject to the inclusion of the recommended planning conditions and advisory notes, the proposal is considered to accord with national and local policy in this regard

S106 issues, including impacts on infrastructure, including recreation and leisure, education and health facilities

Affordable Housing

Whilst this site is below the threshold of 25 dwellings where affordable housing would normally be sought (under policy LC2: Affordable Housing Through Market Housing), this proposal is noted as being put forward for 100% social housing for affordable rent.

In this respect the Strategic Housing Officer has commented that, 'The Strategic Housing Market Assessment considers the future housing need in the district, including for affordable housing. The North Derbyshire and Bassetlaw Strategic Housing Market Assessment - Objectively Assessed Need Update 2017 estimated that 126 affordable homes should be brought forward each year to 2035 in order to meet all affordable housing need in the District'.

- He notes that as these properties are all proposed to be for affordable housing, this will help to meet the need in the District. In line with the Council's local plan, the properties should be designated as affordable housing for rent.
- The properties should be owned and managed by the Council or a registered provider who has stock in the district or that of a neighbouring Local Authority, with nomination rights to the council for applicants from the Housing Register.

Recreation and Leisure

Policy ITCR5 expects residential developments of more than 10 units to make reasonable financial contributions either for new green spaces, or to improve green spaces, falling within specified walking distances of a site, with a view to achieving a 60% quality standard for green spaces.

In line with policy ITCR5, the Leisure Officer has requested financial contribution towards either new space or the improvement of nearby spaces that are identified as being at less than the 60% standard.

Policy ITCR7 seeks a financial contribution to existing playing pitches where improvements to them are needed from developments of 10 or more dwellings, to achieve an 'average' standard for playing pitches.

Leisure Officer has requested a financial contribution under policy ITCR7 towards

enhancements of the Cockshut Lane Recreation Ground, although he does acknowledge that the site has not been assessed in the Bolsover Playing Pitch Strategy Assessment Report, such that it is not stated in that response that the site is less than the 'average' standard that would enable contributions under this policy.

There is no proposal to provide contributions to recreation and leisure facilities under either ITCR5 or ITCR7 due to the financial viability of the scheme, which is discussed later in this report.

Education

Derbyshire County Council has stated that sufficient capacity exists at local schools to accommodate the projected additional pupils generated by this development and so no financial contributions are sought.

Health

There has been no request from the Clinical Commissioning Group for any contributions towards local health care provision.

Chesterfield Royal Hospital (CRH) has commented that Section 106 impact on health [should] be considered. In this respect, policy II1 states that "...planning obligations will be sought where...development would create a need for additional or improved infrastructure...on a case by case basis...guided by the latest version of the Council's Infrastructure Study and Delivery Plan." Whilst the policy does provide for 'necessary and relevant' contributions to both primary and secondary healthcare, it is not accepted that this, and other requests that have been received from CRH, meet the necessary legal tests for contributions; in this respect there is ongoing engagement with CRH through infrastructure meeting groups where this issue is being discussed further, including the opportunity for the CRH to provide additional evidence to support its requests, although this has not been provided to date. On this basis the request is not considered to be supported by sufficient evidence to show that it directly relates to the development or is fairly and reasonably related in scale and kind to the development.

Viability

As highlighted in the above report, there are policy requirements for S106 contributions towards recreation and leisure facilities. In response to this a viability assessment has been submitted to demonstrate that the scheme would be unable to afford the contributions sought.

National Planning Policy Guidance states that where there is an up to date Local Plan, developments would normally be expected to meet Local Plan S106 requirements, given that these policy requirements will have been viability tested on a plan wide basis. Nevertheless it does note that there may be some exceptions to this and specifically mentions build to rent schemes as one, due to this type of development differing from the standard financial model of dwellings for sale.

The submitted viability assessment has been produced in accordance with the requirements of the PPG and demonstrates that the scheme is unable to afford the requested S106 contributions and demonstrates that there is no identifiable surplus to finance any contributions.

In view of this, the proposal is unable to demonstrate the ability to comply with policies ITCR5 and ITCR7 and it will be necessary to consider whether any other material planning considerations outweigh this.

In this respect, an important consideration is the fact that this scheme is for 100% social housing for rent, for which there is an identified need for this type of property as identified by the Strategic Housing Officer, such that this scheme will contribute to the Council's efforts to meet identified local housing need. This is considered to be a significant weighting factor.

Whilst these additional dwellings will increase demands on local play and recreation facilities, the number of dwellings proposed is relatively small such that the impacts of there being no financial contribution is not expected to significantly impact on the ability for existing facilities in the area to cope with the limited increased demand.

In view of the above, on balance it is considered that the public benefit of providing this 100% affordable housing scheme outweighs the limited policy conflict that would arise from there being no financial contribution to recreation and leisure facilities.

On this basis, it is recommended that no financial contributions are sought from this development.

Given that the justification for not requiring contributions is the delivery of the affordable housing scheme, it will be necessary to condition that this is such a scheme.

CONCLUSION / PLANNING BALANCE

This is considered to be a generally sustainable form of development within an existing settlement that is mainly in compliance with adopted planning policy. Updates on outstanding consultations will need to be prepared for the Planning Committee when it meets, but subject to these not showing any new or unresolved issues, these are considered unlikely to change the overall planning balance relating to this proposal.

It is acknowledged that the policy requirement for contributions to recreation and leisure facilities is not being met for financial viability reasons, but nevertheless, the benefits of this proposal, from the delivery of 100% affordable dwellings for which there is a demonstrable need, is considered to outweigh the normal requirements for the contributions that would otherwise be sought from a housing scheme of this scale. The planning balance in this case is therefore considered to be appropriate in terms of the ability to grant permission for the development as proposed, subject to the satisfactory resolution of the outstanding issues identified in the report and the inclusion of suitable conditions to ensure compliance with adopted policy.

RECOMMENDATION

Subject to satisfactorily resolving the outstanding issue in respect of ecology mitigation, that the application be APPROVED subject to the following conditions:

1. The development shall be begun before the expiration of three years from the date of this permission.

Reason: To comply with the requirements of Section 51 of the Planning and Compulsory Purchase Act 2004.

2. The development hereby permitted shall be carried out in accordance with the following approved drawings and documents, unless otherwise required and/or approved under other conditions of this planning permission:
- 12213-WMS-21-ZZ-DR-A-12100-S3-P02 - Proposed Site Plan
 - 12213-WMS-21-ZZ-DR-A-12120-S3-P01 - Proposed 1B2P House Type Plans
 - 12213-WMS-21-ZZ-DR-A-12121-S3-P01 - Proposed 2B3P Narrow Bungalow Plans
 - 12213-WMS-21-ZZ-DR-A-12122-S3-P01 - Proposed 2B4P House Type Plans
 - 12213-WMS-21-ZZ-DR-A-12123-S3-P01 - Proposed 3B5P House Type Plans
 - 12213-WMS-21-ZZ-DR-A-12124-S3-P02 - Proposed 4B7P House Type Plans
 - 12213-WMS-21-ZZ-DR-A-12130-S3-P01 - Proposed 1B2P House Type Elevations
 - 12213-WMS-21-ZZ-DR-A-12131-S3-P01 - Proposed 2B3P Narrow Bungalow Elevations
 - 12213-WMS-21-ZZ-DR-A-12132-S3-P01 - Proposed 2B4P House Type Elevations
 - 12213-WMS-21-ZZ-DR-A-12133-S3-P02 - Proposed 3B5P House Type Elevations
 - 12213-WMS-21-ZZ-DR-A-12134-S3-P02 - Proposed 4B7P House Type Elevations

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

3. The scheme shall only be developed as a 100% affordable rented housing scheme to be owned and managed by Bolsover District Council, as detailed in the submitted Design and Access Statement.

Reason: To ensure that this development is not constructed for open market housing or other form of affordable housing mix, without the proper re-consideration of infrastructure requirements that may otherwise be required in line with policy contained in the adopted Local Plan for Bolsover District.

4. Prior to their installation, details of the location and appearance of any externally fitted air source heat pumps shall have been submitted to and approved in writing by the Local Planning Authority. Only those approved under this conditions shall be installed as part of the development.

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.

5. 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.

Reason: To promote high standards of low carbon and energy efficient design, to improve air quality and to ensure a satisfactory standard of external appearance, in compliance with the requirements of Policy SS1(d & h), SC1, SC2(d & i) and SC3(a, b, e & k) of the Local Plan for Bolsover District.

6. Before the commencement of the development hereby approved:

The site investigation strategy as identified in the Desk Study report Ref 12213-WMS-ZZ-XX-RP-C-32101-S8-P1 submitted with the application shall be undertaken by a competent person in accordance with the current UK requirements for sampling and analysis.

Where the site investigation identifies unacceptable levels of contamination, 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 shall be submitted to and approved in writing by the local planning authority. The submitted scheme shall have regard to relevant current guidance. The approved scheme shall include all works to be undertaken, proposed remediation objectives and remediation criteria and site management procedures. The scheme shall 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.

The developer shall give at least 14 days notice to the Local Planning Authority (Environmental Health Division) prior to commencing works in connection with the remediation scheme.

REASON: To protect future occupiers of the development, buildings, structures/services, ecosystems and controlled waters, including deep and shallow ground water and in compliance with Policies SS1(m&n), SC1(e), SC2(d,m,n&o), SC13 and SC14 of the Local Plan for Bolsover District.

7. No [dwellings/buildings] hereby approved shall be occupied until:

- a) The approved remediation works required by 1 above have been carried out in full in compliance with the approved methodology and best practice.
- b) If during the construction and/or demolition works associated with the development hereby approved any suspected areas of contamination are discovered, then all works shall be suspended until the nature and extent of the contamination is assessed and a report submitted and approved in writing by the local planning authority and the local planning authority shall be notified as soon as is reasonably practicable of the discovery of any suspected areas of contamination. The suspect material shall be re-evaluated through the process described in the Phase I contaminated land assessment (desk-study) ref 12213-WMS-ZZ-XX-RP-C-32101-S8-P1 submitted with the application and through the process described in 1 above.

c) Upon completion of the remediation works required by 1 above a validation report prepared by a competent person shall be submitted to and approved in writing by the local planning authority. The validation report shall include details of the remediation works and Quality Assurance/Quality Control results to show that the works have been carried out in full and in accordance with the approved methodology. Details of any validation sampling and analysis to show the site has achieved the approved remediation standard, together with the necessary waste management documentation shall be included.

REASON: To protect future occupiers of the development, buildings, structures/services, ecosystems and controlled waters, including deep and shallow ground water and in compliance with Policies SS1(m&n), SC1(e), SC2(d,m,n&o), SC13 and SC14 of the Local Plan for Bolsover District.

8. No development shall take place until a scheme of dust mitigation measures and the control of noise emanating from the site during the construction period has been submitted to and approved in writing by the Local Planning Authority. The approved measures shall be implemented throughout the construction period.

REASON: To protect the amenity of occupiers of nearby residential properties and in compliance with Policies SS1(n), SC1(e), SC2(d), Policy SC3: High Quality Development(n), and SC11 of the Local Plan for Bolsover District.

9. Before construction commences on the erection of any building or wall full details 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. The scheme must only be developed using the materials approved by this condition.

Reason: To ensure a satisfactory standard of external appearance and in compliance with Policies SS1(h), SC1, SC2(g and i), and SC3(a, b and e) of the Local Plan for Bolsover District

10. Notwithstanding the submitted details, no building will be occupied until full details of both hard and soft landscape works, to include details of all proposed means of enclosure, along with a programme for implementation, has been submitted to and approved in writing by the Local Planning Authority and the works and implementation programme must be carried out as approved.

Reason: To ensure that satisfactory landscaping is provided within a reasonable period in the interests of visual amenity and biodiversity interests and in compliance with Policies SS1(h and i), SC2(d, h and i), SC3(a, b, e, f and i), SC9 and SC10 of the Local Plan for Bolsover District.

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

Reason: To ensure that any soft landscaping is suitably maintained in the interests of visual amenity and biodiversity and in compliance with Policies SS1(i), SC2(d, h and i), SC3(a, b, e, and i), SC9 and SC10 of the Local Plan for Bolsover District.

12. 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.

Reason: In order to mitigate the biodiversity impacts of the development and in accordance with Policies SS1(i), SC2(d), SC3(i) and SC9 of the Local Plan for Bolsover District.

13. A landscape and biodiversity enhancement and management plan (LBEMP) shall be submitted to, and be approved in writing by, the Local Planning Authority prior to the commencement of the development to cover landscape biodiversity enhancement and management both on site and off site at the location off Cockshut Lane, as identified in the Biodiversity Assessment (by CGC Ecology August 2021) submitted to accompany the planning application on the 27th August 2021. The LBEMP should combine both the ecology and landscape disciplines and include the following:-
- a) Description and location of features to be created, planted, enhanced and managed to include wetland habitat associated with the swale, species rich grassland habitat, scrub creation and tree planting.
 - b) Details of the type and locations of 20 integrated swift nest boxes/bricks,
 - c) Details of hedgehog access throughout the development to include type and location of access gates/holes.
 - d) Aims and objectives of management (retained hedgerows and green infrastructure)
 - e) Appropriate management methods and practices to achieve aims and objectives.
 - f) Prescriptions for management actions.
 - g) Preparation of a work schedule (including an annual work plan capable of being rolled forward over a ten-year period).
 - h) Details of the body or organization responsible for implementation of the plan.
 - i) 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.

Reason: In order to mitigate the biodiversity impacts of the development and in accordance with Policies SS1(i), SC2(d), SC3(i) and SC9 of the Local Plan for Bolsover District.

14. Prior to the occupation of any dwelling, a bat friendly lighting scheme for the access roads and footways 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.

Reason: In order to mitigate the biodiversity impacts of the development and in accordance with Policies SS1(i), SC2(d), SC3(i) and SC9 of the Local Plan for Bolsover District.

15. No development shall take place until a detailed design and associated management and maintenance plan of the surface water drainage for the site, in accordance with the principles outlined within:

a. Drainage Strategy, The Woodlands, Langwith, Mansfield Revision by William Saunders building consultancy 12213-WMS-ZZ-XX-RP-C-32101-S2-P4 dated July 2021 Revision P4 and also including any subsequent amendments or updates to those documents as approved by the Local Planning Authority,

b. And DEFRA's Non-statutory technical standards for sustainable drainage systems (March 2015), have been submitted to and approved in writing by the Local Planning Authority."

Reason: To ensure that the proposed development does not increase flood risk and that the principles of sustainable drainage are incorporated into this proposal, and sufficient detail of the construction, operation and maintenance/management of the sustainable drainage systems are agreed prior to their installation on site and in accordance with the requirements of Policies SS1(l and n), SC2(b, c, d, e, and f), SC3(i), and SC7 of the Local Plan for Bolsover District.

16. No development 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.

Reason: To ensure that surface water from the development is directed towards the most appropriate waterbody in terms of flood risk and practicality by utilising the highest possible priority destination on the hierarchy of drainage options. The assessment should demonstrate with appropriate evidence that surface water runoff is discharged as high up as reasonably practicable in the following hierarchy:
1. into the ground (infiltration);

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

And in accordance with the requirements of Policies SS1(l and n), SC2(b, c, d, e, and f), SC3(i), and SC7 of the Local Plan for Bolsover District.

17. Prior to commencement of the development, 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 LPA, before the commencement of any works, which would lead to increased surface water run-off from site during the construction phase.

Reason: To ensure surface water is managed appropriately during the construction phase of the development, so as not to increase the flood risk to adjacent land/properties or occupied properties within the development and in accordance with the requirements of Policies SS1(l and n), SC2(b, c, d, e, and f), SC3(i), and SC7 of the Local Plan for Bolsover District..

18. 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).

Reason: To ensure that the drainage system is constructed to the national Non-statutory technical standards for sustainable drainage and CIRIA standards C753 and in accordance with the requirements of Policies SS1(l and n), SC2(b, c, d, e, and f), SC3(i), and SC7 of the Local Plan for Bolsover District.

19. Before any other operations are commenced, space shall be provided within the site for storage of plant and materials, site accommodation, loading, unloading and manoeuvring of goods vehicles, parking and manoeuvring of employees and visitors vehicles, laid out and constructed in accordance with detailed designs first submitted to and approved in writing by the Local Planning Authority. Once implemented the facilities shall be retained free from any impediment to their designated use throughout the construction period.

Reason: In the interests of highway safety and in accordance with the requirements of Policy SC3(e) of the Local Plan for Bolsover District.

20. Throughout the period of development vehicle wheel cleaning facilities shall be provided and retained within the site. All construction vehicles shall have their wheels cleaned before leaving the site in order to prevent the deposition of mud and other extraneous material on the public highway.

Reason: In the interests of highway safety and in accordance with the requirements of Policy SC3(e) of the Local Plan for Bolsover District.

21. No development shall be commenced until full engineering, drainage, street lighting and constructional details of the streets proposed for adoption have been submitted to and approved in writing by the Local Planning Authority. The development shall, thereafter, be constructed in accordance with the approved details, unless otherwise agreed in writing with the Local Planning Authority (for the avoidance of doubt, the carriageway shall be a minimum 5.5m and the footways a minimum 2.0m).

Reason: In the interests of highway safety and in accordance with the requirements of Policy SC3(e) of the Local Plan for Bolsover District.

22. The carriageway of the proposed estate road shall be constructed in accordance with Condition 21 above up to and including at least road base level, prior to the commencement of the erection of any dwelling intended to take access from that road. The carriageways and footways shall be constructed up to and including base course surfacing to ensure that each dwelling prior to occupation has a properly consolidated and surfaced carriageway and footway, between the dwelling and the existing highway. Until final surfacing is completed, the footway base course shall be provided in a manner to avoid any upstands to gullies, covers, kerbs or other such obstructions within or abutting the footway. The carriageways, footways and footpaths in front of each dwelling shall be completed with final surface course within twelve months (or three months in the case of a shared surface road) from the occupation of such dwelling, unless otherwise agreed in writing by the Local Planning Authority.

Reason: In the interests of highway safety and in accordance with the requirements of Policy SC3(e) of the Local Plan for Bolsover District.

23. Before any other operations are commenced, a new estate street junction shall be formed to The Woodlands in accordance with the revised application drawings, laid out, constructed to base level and provided with visibility splays of 2.4m x 43m in both directions, the area in advance of the sightlines being levelled, constructed as footway and not being included in any plot or other sub-division of the site.

Reason: In the interests of highway safety and in accordance with the requirements of Policy SC3(e) of the Local Plan for Bolsover District.

24. The premises, the subject of the application, shall not be occupied until the proposed new estate streets between each respective plot and the existing public highway have been laid out in accordance with the revised application drawings to conform to this Authority's Guidance Delivering Streets and Places which can be accessed at <https://www.derbyshire.gov.uk/transport-roads/roads-traffic/development-control/highways-development-control.aspx> constructed to base level, drained and lit in accordance with the County Council's specification for new [housing/ industrial] development roads (see above link).

Reason: In the interests of highway safety and in accordance with the requirements of Policy SC3(e) of the Local Plan for Bolsover District.

25. No dwelling shall be occupied until space has been laid out within the site in accordance with the revised application drawing for cars to be parked and for vehicles to turn so that they may enter and leave the site in a forward gear. Once provided, such spaces shall be maintained free from any impediment to their designated use for the life of the development.

Reason: In the interests of highway safety and in accordance with the requirements of Policy SC3(e) of the Local Plan for Bolsover District.

26. The proposed access to The Woodlands shall be no steeper than 1:30 for the first 10m from the nearside highway boundary. Private driveways shall not exceed a maximum longitudinal gradient of 1:14.

Reason: In the interests of highway safety and in accordance with the requirements of Policy SC3(e) of the Local Plan for Bolsover District.

27. No development shall be commenced until details of the proposed arrangements for future management and maintenance of the proposed streets within the development have been submitted to and approved by the local planning authority. The streets shall thereafter be maintained in accordance with the approved management and maintenance details until such time as an agreement has been entered into under section 38 of the Highways Act 1980 or a private management and maintenance company has been established.

Reason: In the interests of highway safety and in accordance with the requirements of Policy SC3(e) of the Local Plan for Bolsover District.

Notes

1. In respect of the further drainage details required to be submitted under conditions of this permission, the developer must have regard to the advisory/informative notes of the Lead Local Flood Authority (Derbyshire County Council) that accompanied its consultation response dated 28th July 2021; this can be viewed by searching this planning application reference number on the application pages of the Bolsover District Council website at www.bolsover.gov.uk. Additionally, that authority advised that to date only 2 infiltration tests have been carried out and it would be prudent for the developer to carry out further testing to ensure soakaways are an appropriate method of surface water disposal prior to discharge of conditions. The additional infiltration tests should cover the extent of where the proposed soakaways will be located. Additionally, the developer should consider 'comment E' in the advisory notes already referred to as there is no current plan to treat the surface runoff from the roads into the combined sewer.
2. All proposals regarding drainage will need to comply with Part H of the Building Regulations 2010.

3. It is essential that any work carried out does not detrimentally alter the structure or surface of the ground and increase or alter the natural flow of water to cause flooding to neighbouring properties. 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.
4. Any developer is requested to ensure that appropriate provision is made for Next Generation Access (NGA) broadband infrastructure and services as part of the design of their development schemes at the outset. If it can be shown that this would not be possible, practical or economically viable, in such circumstances, suitable ducting should be provided within the site and to the property to facilitate future installation. Guidance on the characteristics of qualifying NGA technologies is available from The Department for Digital, Culture, Media and Sport.
5. The proposed development is situated within a Smoke Control Area. This has legal implications for the type of solid fuel appliance which may be installed in the proposed development and types of solid fuel which may be burnt in these appliances. Further information is available at <https://www.gov.uk/smoke-control-area-rules>
6. Attention is drawn to the advisory notes of the Highway Authority (Derbyshire County Council) that accompanied its consultation response dated 1st September 2021; this can be viewed by searching this planning application reference number on the application pages of the Bolsover District Council website at www.bolsover.gov.uk

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 National Planning Policy 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.

BOLSOVER DISTRICT COUNCIL

PLANNING COMMITTEE

15TH SEPTEMBER 2021

REPORT: APPEAL DECISIONS: JANUARY 2021 – JUNE 2021

REPORT OF THE PLANNING MANAGER (DEVELOPMENT CONTROL)

Purpose of the Report

- To report the Planning Service's performance against the Government's quality of decision making targets; and
- To report any issues or lessons learnt from the appeal decisions.

1 Report Details

Background

- 1.1 In November 2016 The Department for Communities and Local Government produced guidance entitled "Improving Planning Performance" which included guidance on speed of planning decisions and quality of planning decisions. This report relates to the quality of decision making targets.
- 1.2 The measure to be used is the percentage of the total number of decisions made by the authority on applications that are then subsequently overturned at appeal.
- 1.3 The threshold or designation on applications for both major and non-major development, above which a local planning authority is eligible for designation, is **10 per cent** of an authority's total number of decisions on applications made during the assessment period being overturned at appeal.
- 1.4 During the first appeal monitoring period the council won 100% of appeals on Major planning applications and 99.6% of appeals on non-major applications. During the second monitoring period the council won 96.5% of appeals on Major planning applications and 98.8% of appeals on non-major applications. During the third monitoring period the council had no appeals on major planning applications and won 100% of appeals on non-major applications. During the fourth monitoring period the council had only one appeal on a non-major application and this appeal was allowed. However, this only equated to only 0.54% of the number of non-major applications determined within that period. The council was therefore still exceeding its appeal decision targets.
- 1.5 Following the first report of appeal decisions to Planning Committee in January 2019 it was agreed that appeal decisions should continue to be reported to Committee members every 6 months.

2 Conclusions and Reasons for Recommendation

- 2.1 During the 6 months since the last monitoring period the council has had no appeals on Major planning applications determined. The council has had only two appeals on non-major applications, one of which included an application for costs. Each of these appeals were allowed. However, this only equates to 0.9% of the number of non-major applications determined within that period. The council is therefore still exceeding its appeal decision targets. One appeal against an enforcement notice was also determined during this period. This appeal was allowed and the enforcement notice quashed.
- 2.2 Notwithstanding the fact that the last three appeal decisions have been allowed, overall the low number of appeals against decisions indicates current decision making is still sound.
- 2.3 When/if appeals are lost the reporting of decisions provides an opportunity to learn from these decisions.

3 Consultation and Equality Impact

- 3.1 Consultations are carried out with each application and appeal. Consultations on this report of appeal decisions is not necessary.
- 3.2 Appeal decisions do not need an equality impact assessment in their own right but by monitoring appeal decisions it allows us to check that equalities are considered correctly in every application. There have been no appeal decisions reporting equalities have been incorrectly addressed.

4 Alternative Options and Reasons for Rejection

- 4.1 An alternative option would be to not publish appeal decisions to members. It is however considered useful to report decisions due to the threat of intervention if the council does not meet the nationally set targets. Members of Planning Committee should understand the soundness of decision making and soundness of Planning Policies.
- 4.2 In the latest June 2021 internal audit the process of reporting appeal decisions to Planning Committee and reflecting on decisions taken was reported. The process supported the Planning Department achieving 'substantial' reassurance in the latest internal audit of 'Planning Processes and Appeals'.

5 Implications

5.1 Finance and Risk Implications

- 5.1.1 Costs can be awarded against the council if an appeal is lost and the council has acted unreasonably.
- 5.1.2 The council can be put into special measures if it does not meet its targets

5.2 Legal Implications including Data Protection

- 5.2.1 Appeal documents are publicly available to view online. Responsibility for data is with PINS during the appeal process.
- 5.2.2 Decisions are open to challenge but only on procedural matters.

5.3 Human Resources Implications

- 5.3.1 Factored into normal officer workload and if original application report is thorough it reduces the additional work created by a written representations appeal. Additional workload created if the appeal is a hearing or public enquiry.

6 Recommendations

- 6.1 This report be noted. Recommend appeal decisions continue to be reported to Committee members every 6 months.

7 Decision Information

Is the decision a Key Decision? (A Key Decision is an executive decision which results in income or expenditure to the Council of £50,000 or more or which has a significant impact on two or more District wards)	No
Is the decision subject to Call-In? (Only Key Decisions are subject to Call-In)	No
District Wards Affected	No
Links to Corporate Plan priorities or Policy Framework	All

8 Document Information

Appendix No	Title
1.	Planning Appeal Decisions Period 1 st January 2021 - 30 th June 2021
Background Papers (These are unpublished works which have been relied on to a material extent when preparing the report. They must be listed in the section below. If the report is going to Cabinet (NEDDC) or Executive (BDC) you must provide copies of the background papers)	
None.	
Report Author	Contact Number
Sarah Kay / Karen Wake	Ext 2265 / 2266

Appendix 1: Planning Appeal Decisions Period 1st January 2021 - 30th June 2021

APP/R1010/W/20/3265080: Church Hill Farm, Cragg Lane, Blackwell, DE55 5HZ: Erection of Steel Portal Framed Agricultural Building

Main Issues

The application was granted subject to 5 conditions. The appeal was against the imposition of each these conditions. A costs application was also submitted by the appellant

The main issue was:

- Schedule 2, Part 6, Class A of the 2015 GPDO establishes permitted development rights for agricultural development on units of 5 hectares or more. This includes the erection of a building which is reasonably necessary for the purposes of agriculture within the agricultural unit. Paragraph A.2 enables consideration to be given to the siting, design, and external appearance of any proposed structure. Having regard to these matters, the Council determined that the siting was acceptable, but subject to a condition relating to archaeological considerations. It is the use of this condition, as well as others, that was disputed and as such the main issue was whether the conditions imposed were of sound planning merit when assessed against the provisions of the 2015 GPDO.

Conclusion

The Inspector concluded that in the context of the National Planning Policy Framework (the Framework) the site was located within a designated heritage asset with archaeological interest. However, although the Framework provides clear advice in relation to the determination of planning applications, the proposal did not seek planning permission. Instead, it sought prior approval, the consequence of which is that the principle of development has already been established by the 2015 GPDO.

As part of the prior approval process, regard can be given to siting, design, and external appearance and consequently, in light of the sensitivity of the site, the siting had been scrutinised from an archaeological perspective. In this regard, the Council's advisor had no objection to the location of the proposed building. However, despite this, a condition was attached requiring a written scheme of investigation for archaeological monitoring to be approved in writing before development commenced.

Within Part 6 of the 2015 GPDO, there is no express provision for Council's to attach conditions to control development. The Inspector considered that although the Council was acting responsibly and cautiously in this regard, case law (*Murrell v SSCLG [2010] EWCA Civ 1367*) confirmed that the prior approval process required the minimum of formalities, a matter embedded within the Planning Practice Guidance (PPG) which states that 'prior approval is a light-touch process which applies where the principle of the development has already been established.'

The Council accepted the siting of the proposed building. Therefore, having regard to case law and guidance within the PPG, it follows that a light-touch approach to the decision should have been taken. Accordingly, despite the sensitivities of the site, the Inspector concluded that the archaeological condition represented an unduly onerous restriction on the proposed development which was not indicative of a light-touch approach and should therefore not have been imposed. It was also concluded that there was no specific justification for the other conditions to be imposed as their requirements were already set

out within Part 6 of the GPDO and need not be repeated as conditions on the prior approval notice.

The appeal was allowed, and the prior approval varied accordingly. But, as described within the GPDO, the development must still be carried out within a period of 5 years from the date of this decision, and within 7 days of the date on which the building is substantially completed, the developer must notify the Council in writing of that fact. The requirements in relation to cessation of use were also applicable.

With regard to the costs claim, the Inspector considered that the condition required by the Council in relation to the archaeological sensitivity of the site strayed beyond the 'light-touch' approach expected by the prior approval process and that although the Council had sound intentions, the condition imposed did not have a basis within the 2015 GPDO. It was therefore considered that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, had been demonstrated and that an award of costs was justified. The council was ordered to pay the appellant the costs of the appeal proceedings.

Recommendations

The appeal decision clarified the prior approval procedure. The council's internal procedure for determination of prior approval applications has been amended and the conditions set out in the GPDO are now pointed out in the notes to the applicant rather than being required by condition and additional conditions are not imposed.

APP/R1010/W/19/3241373: Barlborough Springs Fishery, Ward Lane, Barlborough: Siting and Personal Residential Use of Two Temporary Static Residential Caravans (Retrospective) for a two year period

Main Issues

The main issues were:

- Whether the proposal would be inappropriate development in the Green Belt, including any impact on openness, having regard to the National Planning Policy Framework (the Framework) and any relevant development plan policies; and,
- The effect of the proposal on heritage assets or their settings, including the Grade I, Grade II* and II listed buildings including Barlborough Hall, The Stable Block, and Gazebo, the Grade II Registered Park and Gardens of Barlborough Hall, and the Barlborough Conservation Area; and,
- The effect on the living conditions of occupiers of the development with regards to noise from the surrounding area; and,
- Would the harm by reason of inappropriateness, and any other harm, be clearly outweighed by other considerations so as to amount to the very special circumstances required to justify the proposal.

Conclusion

The Inspector concluded that the site was within the Green Belt. Policy SS10 of the Local Plan for Bolsover District and Chapter 13 of the National Planning Policy Framework (the Framework) set out that Green Belt serves five purpose, including to assist in safeguarding the countryside from encroachment and that both local and national policy set out that the construction of new buildings in the Green Belt should be regarded as inappropriate development, unless it falls within one of the types of development listed as an exception.

The Inspector considered that the two residential static caravans did not fall within one of the types of development listed as an exception and even if they did they would reduce the openness of the Green Belt as a result of their overall size and height. In addition the Inspector considered that the caravans encroached on the countryside and had an urbanising impact and even if they were re-sited and screened with planting they would still erode the openness of Green Belt and encroach into the countryside.

He concluded that the caravans represented inappropriate development which by definition is harmful to the Green Belt and should not be approved except in very special circumstances.

The Inspector acknowledged that the site is located within the grounds of the Grade II Registered Park and Gardens of Barlborough Hall and the Barlborough Conservation Area and was located close to the Grade I, Grade II* and II Listed buildings including Barlborough Hall, The stable block and gazebo.

The Inspector concluded that the proposal would result in less than substantial harm but that as set out in Paragraph 196 of Framework but that less than substantial harm did not equate to less than substantial planning objection and considerable importance and weight should be given to the desire to conserve heritage assets in a manner appropriate to their significance. Less than substantial harm should be weighed against the public benefits of the proposal.

The Inspector considered that, in the absence of a noise assessment, given the thin walls of a caravan and the proximity of the caravans to the M1 that it was highly likely that the occupiers of the caravans would be adversely affected by noise from the motorway and as such the proposal would be contrary to Policy SC11 of the Local Plan which aims to ensure a loss of amenity would not occur as a result of the development and contrary to Paragraph 127 of the Framework which requires planning decisions to create places which promote health and well-being with a high standard of amenity for users.

The Inspector considered the appellants reasons for needing to live on site but considered the security issues could be addressed by the installation of CCTV and considered there to be insufficient evidence of the need for the caravans to support the creation of the business on site.

The Inspector also gave modest weight to the personal circumstances of the appellant and considered there was little evidence to support the claim that the appellant has sought council housing or that, having given up their previous accommodation to move to the site five years ago, they do not have the financial resources to get back on the property ladder. However he also considered there to be an acute housing shortage in England and the council hadn't provided evidence that it was any different locally.

The Inspector concluded that if planning permission were refused the appellant and family would lose their home which would be an interference with their Human Rights. If planning permission for a temporary two year period was to be granted it would avoid the family being homeless and give them an opportunity to find alternative accommodation. He considered this to be a proportionate approach to the aim of protecting the environment and granting a temporary permission would have no greater impact on the appellant and his family than would be necessary to address the wider public interest. The Inspector afforded this factor substantial weight in favour of a temporary grant of permission.

The Inspector concluded that this clearly outweighed the harm identified to the Green Belt, Conservation area and Listed Buildings and considered that very special circumstances existed to justify the development for a temporary period.

The appeal was allowed.

Recommendations

None.

The decision was a judgement about the impact of a proposal on the openness of the Green Belt, the character and appearance of the Conservation Area and the setting of Adjacent Listed Buildings balanced against the personal special circumstances of the appellant rather than testing a Local Plan policy.

Enforcement Appeals

APP/R1010/F/20/3236163: The Coach House, Brookhill Lane, Pinxton: Alterations to a Listed Building

Main Issues

- Unauthorised works had been carried out to the interior of the Grade II Listed building. The enforcement notice sought to the removal of a number of these alterations and required any consequential damage to be restored and repaired. The period for compliance given was two years.

Conclusion

The Inspector considered that none of the works carried out effected the exterior of the building. The Listing description refers to the exterior fabric of the building and does not mention the interior other than to say this is “all C20”.

The Inspector acknowledged that a listing description is not exhaustive and that the council maintained the historical significance of the coach house related to the family who owned the Brookhill Hall estate for 300years up to 1950. The building’s interior was inspected at the time of listing in 1966 but the existence of the interior was not considered to have historic significance because the features were not documented. The Inspector concluded that the works carried out had not effected the historic interest significance of The Coach House and as such paragraphs 195 and 196 of the National Planning Policy Framework were therefore not engaged and the works that had been carried out therefore didn’t conflict with the policies in the Local Plan.

The appeal was allowed and Listed Building Consent granted for the retention of the alterations carried out.

Recommendations

Careful consideration needs to be given to which elements of a Listed Building contribute to the historic interest and significance of that building when assessing applications for Listed Building Consent including reference to that significance in the List description.

Bolsover District Council

Planning Committee

15th September 2021

Update on Section 106 Agreement Monitoring

Report of the Assistant Director: Development and Planning

Classification: This report is public

Report By: Principal Planning Officer (Planning Policy)

Contact Officer: Chris McKinney

PURPOSE / SUMMARY

To provide a progress report in respect of the monitoring of Section 106 Agreements in order to give members the opportunity to assess the effectiveness of the Council's monitoring procedures.

RECOMMENDATIONS

1. That Planning Committee note the contents of the report and highlight any concerns about the implementation of the Section 106 Agreements listed.

Approved by the Portfolio Holder – Corporate Governance

IMPLICATIONS

Finance and Risk: Yes ☒ No ☐

Details:

If obligations required to make a development acceptable in planning terms aren't properly discharged then there is a risk of harm to the Council's reputation and public confidence in the Council's decision taking. If financial contributions are not spent within a defined period then the money has to be returned to the developer and normally returned with interest. Therefore, there are finance and risk implications if procedures for recording and monitoring Section 106 Agreements are not sufficiently robust.

On Behalf of the Section 151 Officer

Legal (including Data Protection):

Yes ☒

No ☐

Details:

There are no data protection implications insofar as Section 106 Agreements are part of the statutory planning register and are therefore public documents. Section 106 of the Town and Country Planning Act 1990 provides the legal framework for the acceptance and discharge of the Section 106 Agreements and the Council's approved procedure addresses the key legislative provisions of this section of the 1990 Act.

On Behalf of the Solicitor to the Council

Staffing:

Yes ☐

No ☒

Details:

None.

On behalf of the Head of Paid Service

DECISION INFORMATION

Decision Information	
Is the decision a Key Decision? A Key Decision is an executive decision which has a significant impact on two or more District wards or which results in income or expenditure to the Council above the following thresholds: BDC: Revenue - £75,000 <input type="checkbox"/> Capital - £150,000 <input checked="" type="checkbox"/> NEDDC: Revenue - £100,000 <input type="checkbox"/> Capital - £250,000 <input type="checkbox"/> <input checked="" type="checkbox"/> <i>Please indicate which threshold applies</i>	No
Is the decision subject to Call-In? (Only Key Decisions are subject to Call-In)	No
District Wards Significantly Affected	All
Consultation: Leader / Deputy Leader <input type="checkbox"/> Cabinet / Executive <input checked="" type="checkbox"/> SAMT <input type="checkbox"/> Relevant Service Manager <input type="checkbox"/> Members <input type="checkbox"/> Public <input type="checkbox"/> Other <input checked="" type="checkbox"/>	Yes Details: Chair of Planning Committee

Links to Council Ambition (BDC)/Council Plan (NED) priorities or Policy Framework including Climate Change, Equalities, and Economics and Health implications.

- Enabling housing growth;
- Developing attractive neighbourhoods;
- Increasing customers satisfaction with our services.

REPORT DETAILS

1 Background *(reasons for bringing the report)*

- 1.1 S106 agreements are a type of legal agreement between the Council and landowners / developers that are often completed alongside applications for planning permission for major developments. They are needed to deal with the additional pressures on infrastructure that result from the new development. They are only required where the effects of the development would otherwise be unacceptable in planning terms and where they cannot be dealt with by conditions of the planning permission.
- 1.2 As can be observed, implementation of these Section 106 Agreements in a timely manner alongside the build-out of the approved developments is important as failure to achieve this will mean important infrastructure improvements lag behind the impact of the development.
- 1.3 Furthermore, if the Council fails to spend monies provided through the Section 106 Agreement within a set period, often within 5-years of entering into the agreement, there is a risk to the Council that the developer would be entitled to request the money back. This risk is thankfully relatively low but it is one that the Council must take seriously due to both the negative impact on the affected local community and the consequential reputational impact on the Council.
- 1.4 To manage and mitigate this serious risk the Council has approved a procedure for recording and monitoring Section 106 Agreements and this was most recently approved by Planning Committee at its meeting in January 2019. This governs the work of the Council's cross-departmental Section 106 Monitoring Group.
- 1.5 In accordance with this approved procedure, following the quarterly Section 106 Monitoring Group meeting officers provide a progress report to the Planning Committee in respect of the monitoring of Section 106 Agreements. This progress report is required by the procedure to highlight any sums at risk of clawback that need spending within 12 months.
- 1.6 This report is the quarterly progress report following the meeting of the Section 106 Monitoring Group held on 27th July 2021.

2. Details of Proposal or Information

- 2.1 Members will recall that three sums were identified in the report to Members in June 2021 as being at risk of clawback that need spending within 12 months, namely:
 - a. The Brambles, Doe Lea - Art £4,361.11 (spend by date expired)
 - b. Sterry House Farm - Informal POS £12,107 by 06.02.22
 - c. Sterry House Farm - Art £3,045 by 18.04.22
- 2.2 The updates for these three sums recorded at the Section 106 Monitoring Group are as follows:

<p>Art work underspend at The Brambles, Doe Lea (Financial spreadsheet line 47)</p> <p><u>Previous Action</u> DO to develop the Orchestras Live Partnership project proposal and write it up and circulate it to SP and CM by Friday 14th May to enable it to be put to Gleeson Homes for their sign off.</p> <p><u>July Update</u> CM advised the group that he had sent DO's Orchestras Live Partnership project proposal to Gleeson Homes on 15th June 2021, adding that they had confirmed that the underspend could be used to deliver this proposal on 16th June 2021.</p> <p><u>New Actions</u> DO to develop the Orchestras Live Partnership project plan and deliver it by March 2022.</p>	<p>Action owners</p> <p>DO</p>
<p>Sterry House Farm - Informal POS £12,107 by 06.02.22 (Financial spreadsheet line 75)</p> <p><u>Previous Action</u> MC email a timetable for progressing this S106 contribution by Friday 21st May.</p> <p><u>July Update</u> MC advised that he was working with Clowne Parish Council to deliver the project that will use this S106 contribution. He added that the contract had now been let and he and the Parish Council would be meeting with the selected contractor 28th July 2021 to agree site details. The work should be completed Autumn 2021.</p>	<p>Action owners</p>

DOCUMENT INFORMATION

Appendix No	Title
Background Papers (These are unpublished works which have been relied on to a material extent when preparing the report. They must be listed in the section below. If the report is going to Cabinet (NEDDC) or Executive (BDC) you must provide copies of the background papers)	