



To: Chair & Members of the Planning Committee

The Arc  
High Street  
Clowne  
S43 4JY

Tuesday 11<sup>th</sup> January 2022

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Dear Councillor

**\*\*PLEASE NOTE THAT THE PLANNING TRAINING SCHEDULED TO TAKE PLACE BEFORE THE START OF THIS PLANNING COMMITTEE MEETING HAS BEEN POSTPONED AND WILL NOW TAKE PLACE BEFORE THE START OF THE FEBRUARY MEETING\*\***

**PLANNING COMMITTEE – WEDNESDAY 19<sup>TH</sup> JANUARY 2022**

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, 19th January, 2022 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 sincerely

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, all under a red swoosh.

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

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

# PLANNING COMMITTEE

## AGENDA

**Wednesday, 19th January, 2022 at 10:00 hours taking place in the Council Chamber,  
The Arc, Clowne**

Item No.	PART 1 – OPEN ITEMS	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	
	To consider the minutes of the last meeting held on 17 <sup>th</sup> November 2021.	3 - 12
	<b><u>APPLICATIONS TO BE DETERMINED UNDER THE TOWN &amp; COUNTRY PLANNING ACTS</u></b>	
5.	Application No. - 21/00619/OUT - Land East Of 22 Appletree Road Stanfree.	13 - 41
6.	Conservation Area Appraisals - Elmtun with Creswell Farmsteads.	42 - 47
	<b><u>REPORTS OF THE ASSISTANT DIRECTOR OF DEVELOPMENT AND PLANNING</u></b>	
7.	Update on Section 106 Agreement Monitoring.	48 - 54
8.	Appeal Decisions: July 2021 - December 2021.	55 - 60
9.	Local Enforcement Plan Update.	61 - 68

## 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 17<sup>th</sup> November 2021 at 1100 hours.

### **PRESENT:-**

Members:-

Councillor Tom Munro in the Chair

Councillors Chris Kane, Derek Adams, Allan Bailey, Jim Clifton, Paul Cooper, Natalie Hoy and Duncan McGregor.

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

### **PL20-21/22          APOLOGIES FOR ABSENCE**

There were no apologies for absence.

### **PL21-21/22          URGENT ITEMS OF BUSINESS**

There were no urgent items of business to consider.

### **PL22-21/22          DECLARATIONS OF INTEREST**

There were no declarations of interest made.

### **PL23-21/22          MINUTES**

Councillor Natalie Hoy noted that she had been in attendance at the meeting but her name had been omitted from Members Present in the Minutes.

Moved by Councillor Derek Adams and seconded by Councillor Chris Kane

**RESOLVED** that subject to Councillor Natalie Hoy being noted as present at the meeting, the Minutes of a Planning Committee meeting held on 13<sup>th</sup> October 2021 be approved as a correct record.

### **PL24-21/22          APPLICATION NO. 21/00306/FUL - DEMOLITION OF EXISTING INDUSTRIAL BUILDINGS AND PROPOSAL FOR 32 DWELLINGS (MILL LANE OXCROFT LANE JUNCTION), BOLSOVER**

Committee considered a report presented by the Planning Manager in relation to the

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above application.

The application had been called in to Planning Committee by Councillor Nick Clarke, and there were 14 public objections to the proposal due to concerns centred on the substandard nature of Mill Lane, and fears that the proposal would increase traffic without mitigating the effects.

The report noted that accounting for the established industrial/depot use, which could restart if permission was not granted for residential, the amount of increased traffic predicted was very low (1 vehicle every 30 minutes at peak times) and did not justify refusal.

Some betterment to the existing highway system would be delivered in the form of a footpath link from Mill Lane to Oxcroft Lane and the opportunity to stop up Mill Lane in the future (should it prove to be appropriate) is being safeguarded for a period of 20 years by S106 agreement. There were no other highway safety reasons to withhold planning permission and the County Highway Authority did not object.

Further information was contained in the Supplementary Report previously circulated to Members.

The Planning Manager advised the meeting that comments from Yorkshire Water (YW) had been received the day prior to the meeting. Their comments confirmed that they had no objections to the proposals, subject to the imposition of suggested conditions to deal with drainage details and their approval. The Planning Manager confirmed that the conditions already suggested in the Supplementary Report addressed the conditional requirements YW were seeking.

District Councillor Nick Clarke, spoke against the application.

Derbyshire County Councillor Mick Yates, spoke against the application.

Jamie Brown, agent for the applicant spoke for the application.

Councillor Tom Munro queried if there were any provision in the plans for alternative forms of heating in the properties as per District Councillor Nick Clarke's comments. Jamie Brown advised that the buildings would be a fabric at first approach and were looking at high levels of insulation. The developer had not yet stipulated how they wanted to heat the houses but this could be looked at.

Councillor Duncan McGregor agreed that the site in question was an eyesore. He noted that as the site was previously a commercial site, it could be sold to any commercial developer at any time. However, as it was in a housing setting, it lent itself to housing. He noted that the depot used to accommodate 200 staff with a number of services delivered from it. The number of vehicles arriving, leaving and returning to the depot when it was in use outweighed the number of vehicles doing the same from the homes which were now there. He added that Derbyshire County Council was required to address the pinch point on Mill Lane not the District Council. He noted that there were 23 points in the report that accorded with policy of the Council and the application was a strong case for development.

Councillor Tom Munro added that the site was identified in the Council's Local Plan and

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clarified as urban land. He agreed with Councillor McGregor's comments that Derbyshire County Council needed to address alternative highways schemes for Mill Lane.

Moved by Councillor Duncan McGregor and seconded by Councillor Derek Adams

**RESOLVED** that the current application be APPROVED subject to prior entry into a S.106 legal agreement containing the following planning obligations:-

- Mill Lane turning head land shown outlined in red on plan 2747(08) G02 Rev A to be set aside for 20 years.
- Provision of 3 two bed affordable houses for rent.
- £27,840 for Open Space: Improvements to recreation ground at King George's Field, Quarry Road.
- £33,920 Quality Improvements to Playing Pitches: Invested in improving playing pitches and their ancillary facilities at Moor Lane and or Castle Leisure Park.
- £51,217.47 towards the provision of 3 infant places at Bolsover Infant and Nursery School + additional education facilities.
- £85,362.45 towards the provision of 5 junior places at Bolsover C of E Junior School + additional education facilities.
- £154,350.24 towards the provision of 6 Secondary places at The Bolsover School + additional education facilities.
- £15,360 towards increasing capacity at one or more of the following GP practices: Welbeck Road Health Centre; Castle Street Medical Centre; The Friendly Family Surgery).
- S106 Agreement monitoring £70 per trigger.

And subject to conditions as detailed in full below:

### Conditions

#### 1. Time Period

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. Approved Plans

The development hereby permitted shall be carried out in accordance with the following approved drawings and documents unless specifically stated otherwise in the conditions below:-

[List of approved documents]

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

#### 3. Contamination

i) Before the commencement of the development hereby approved:-

Works identified in the Remediation Strategy submitted with the application Report ref MAN.1788.001.GE.R.003 shall be undertaken in accordance with the scheme in that report. The Remediation works shall ensure that the site development will not qualify

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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.

ii) No dwellings hereby approved shall be occupied until:-

(a) The approved remediation works required by (i) 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 submitted with the application and through the process described in (i) above and;

(c) Upon completion of the remediation works required by (i) 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. In the interests of health and safety and to prevent the mobilisation of potential pollution to ground waters and to accord with policy SC14 of the local plan for Bolsover District.*

### 4. Biodiversity Enhancement Plan

Prior to building works commencing above foundation level, a Biodiversity Enhancement Plan shall be submitted to and approved in writing by the Local Planning Authority to plan to achieve a net gain in biodiversity. Such approved measures shall be implemented in full and maintained thereafter, with photographs of the measures in situ submitted to the LPA to fully discharge the condition. The plan shall clearly show positions, specifications and numbers of features, which should include (but are not limited to) the following:

- integrated bat boxes in 25% of dwellings.
- integrated swift boxes in 25% of dwellings.
- bee bricks in 25% of dwellings.
- fencing gaps 130 mm x 130 mm to maintain connectivity for hedgehogs between gardens.
- summary of ecologically beneficial landscaping (full details to be provided in

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Landscape Plans).

*REASON. In the interests of biodiversity and to accord with policies SS1 (i), SC2(d), SC9 and SC10 of the Local Plan for Bolsover District.*

### 5. Local Employment

Before the development hereby approved commences, an Employment Scheme to enhance and maximise employment and training opportunities during the construction phase of the project shall be submitted to and approved in writing by the Local Planning Authority. The approved Scheme shall then be implemented in full unless in accordance with any such subsequent variations as shall have been formally submitted to and approved in writing by the Local Planning Authority.

*REASON. To maximise potential skills, training and employment opportunities and in accordance with Local Plan Policy II2 of the Local Plan for Bolsover District.*

### 6. Drainage Conditions

6(a) Notwithstanding the details submitted with and during the planning application, no development shall commence on site until provision has been made for the satisfactory disposal of surface water from the site or that part of the site in accordance with a scheme which shall first have been submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be implemented before any dwelling served by that drainage is occupied.

*REASON. To ensure provision of satisfactory and sustainable surface water drainage and in compliance with the requirements of Policies SS1(k and n), SC2(c, d, e, f and k), and SC13 of the Local Plan for Bolsover District.*

6(b) Prior to any of the dwellings hereby approved being brought into use an Operation and Maintenance Plan in accordance with section 32 of the Sustainable Drainage Systems (SuDS) Manual which provides details of the arrangements for the lifetime management and maintenance of the SuDS features together with contact details for the body responsible for maintenance shall have been submitted to and approved in writing by the Local Planning Authority.

*REASON. To ensure satisfactory maintenance of surface water drainage and in compliance with the requirements of Policies SS1(k and n), SC2(c, d, e, f and k), and SC13 of the Local Plan for Bolsover District.*

6(c) No development shall commence on site until provision has been made for the satisfactory disposal of foul water from the site or that part of the site in accordance with a scheme which shall first have been submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be implemented before any dwelling served by that drainage is occupied.

*REASON. To ensure provision of satisfactory and sustainable foul water drainage and in compliance with the requirements of Policy SC13 of the Local Plan for Bolsover District.*

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### 7. Noise

Prior to the occupation of plots 6, 7, 27, 28 and 29 a scheme for uprated acoustic ventilation of windows to habitable rooms (bedrooms and living rooms) to facades facing the commercial property adjacent to the west side of the site, shall have been submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be implemented prior to occupation.

*REASON. In order to ensure adequate ventilation without needing to open windows during warm weather, to protect the amenity of occupiers of the dwellings and to protect the existing business from noise complaints and to accord with policy SC1(c) and SC11 of the Local Plan for Bolsover District.*

### 8. Materials

Notwithstanding the detail shown on the submitted drawings before construction progresses above foundation level on any building or wall, a materials plan and schedule for all external wall and roof areas, together with representative samples of the materials, shall first have been submitted to and approved in writing by the Local Planning Authority. The development shall then be carried out in accordance with the approved details and samples.

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

### 9. Landscaping

9(a) No building shall be occupied until full details of both hard and soft landscape works including a programme for implementation (a landscaping scheme) have been submitted to and approved in writing by the Local Planning Authority. The landscaping scheme shall include retention of the trees and hedges as shown on the approved layout plan. The landscaping works shall be carried out as approved no later than the occupation of each related dwelling.

*REASON. To ensure that landscaping is provided 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.*

9(b) 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.*

9(c) Prior to the occupation of any dwelling its associated boundary detail shall have been provided in accordance with details which beforehand have been submitted to and approved in writing by the Local Planning Authority. The boundary details shall be generally in accordance with the approved layout plan but shall include elevations to include appearance, materials and finishes to each treatment.



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*REASON. To ensure that satisfactory boundary treatments are provided within a reasonable period in the interests of amenity and in compliance with policies SS1(h and i), SC2(g, h and i), SC3(a, b e, f and i). SC9 and SC10 and SC11 of the Local Plan for Bolsover District.*

9(d) All approved front boundary treatments, side boundary treatments facing public highways and boundary treatments to the recreation ground, shall be retained (kept in place, maintained and replaced as necessary) as per the boundary detail approved for the above condition. Furthermore, and notwithstanding the provisions of Part 2 of Schedule 2, Article 3 of the General Permitted Development (England) Order 2015 (as amended) no fences gates or walls shall be constructed in front or behind the approved boundary features.

*REASON. To prevent the erection of ad-hoc boundary enclosures to the public realm where a common approach to the treatment of these areas has been agreed to achieve an attractive and consistent appearance in accordance with policy SS1(h), SC1, SC2(g, h and i), and SC3(a, b and e) of the Local Plan for Bolsover District.*

### 10. Highway Conditions

10(a) No development shall take place including any works of demolition until a construction management plan or construction method statement has been submitted to and been approved in writing by the Local Planning Authority. The approved plan/statement shall be adhered to throughout the construction period. The statement shall provide for but not necessarily be restricted to the following as appropriate.

Parking of vehicles of site operatives and visitors

Routes for construction traffic which shall exclude the use of Mill Lane to Shuttlewood Road and consideration of routing for abnormal loads/cranes etc.

Hours of operation

Measures to control noise

Measures to control dust

Measures to prevent surface water run-off during construction

Method of prevention of debris being carried onto highway

Pedestrian and cyclist protection

Proposed temporary traffic restrictions

Arrangements for turning vehicles

*REASON. In the interests of highway safety and residential amenity and to accord with policies SC3 and SC2 and SC11 of the local plan for Bolsover District.*

10(b) 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 as necessary in order to prevent the deposition of mud and other extraneous material on the public highway.

*REASON. In the interests of highway safety and residential amenity and to accord with policies SC3 and SC2 and SC11 of the Local plan for Bolsover District.*

10(c) Unless otherwise approved in writing by the Local Planning Authority, the development shall not be commenced until a detailed scheme of highway improvement works for the junction of Mill Lane with Oxcroft Lane including provision of a pedestrian footpath link to the site from Oxcroft Lane (in general accordance with the approved

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layout plan 2747(08)G01 REV J) has been submitted to and approved in writing by the Local Planning Authority. No dwelling shall be occupied until the approved highway improvement works have been constructed (please note the developer will be required to enter into a 1980 Highways Act S278 Agreement with the Highway Authority in order to comply with the requirements of this condition).

*REASON. In the interests of highway safety and residential amenity and to accord with policies SC3 and SC2 and SC11 of the Local Plan for Bolsover District.*

10(d) No development shall take place until construction details of the residential estate road and footways (including layout, levels, gradients, surfacing and means of surface water drainage) have been submitted to and approved in writing by the Local Planning Authority.

*REASON. In the interests of highway safety in case the road is not offered for public adoption and to accord with policies SC3 and SC2 and SC11 of the Local Plan for Bolsover District.*

10(e) The carriageway of the proposed estate road shall be constructed in accordance with Condition (d) 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 residential amenity and to accord with policies SC3 and SC2 and SC11 of the Local Plan for Bolsover District.*

10(f) Before any other operations are commenced a new vehicular and pedestrian junction shall be formed to Mill Lane in accordance with the revised application drawing 2747(08)G01 Rev J and provided with visibility sightlines extending from a point 2.4 metres from the carriageway edge, measured along the centreline of the access, for a distance of 43 metres towards the Oxcroft Road junction and maximum achievable over land the subject of the application/highway in the non-critical direction. The land in advance of the visibility sightlines shall be retained throughout the life of the development free of any object greater than 1m in height (0.6m in the case of vegetation) [above ground level in case of junction] relative to adjoining nearside carriageway channel level.

*REASON. In the interests of highway safety and to accord with policies SC3 of the Local Plan for Bolsover District.*

10(g) No dwelling shall be occupied until space has been laid out within the site curtilage in accordance with the 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.

*REASON. In the interests of highway safety and residential amenity and to accord with*

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*policies SC3 and ITCR11 and SC11 of the Local plan for Bolsover District.*

10(h) Notwithstanding the provisions of the Town and County Planning General Permitted Development (England) Order 2015 (as amended) (or any Order revoking and/or re-enacting that Order) the car parking space(s) hereby permitted shall be retained as such and shall not be used for any purpose other than the parking of private motor vehicles associated with the residential occupation of the property without the grant of further specific planning permission from the Local Planning Authority.

*REASON. To reduce on-street parking in the interests of highway safety and residential amenity and to accord with policies SC3, ITCR11 and SC11 of the Local plan for Bolsover District.*

10(i) The proposed driveways to the access off Mill Lane shall be no steeper than 1:14.

*REASON. In the interests of highway safety and to accord with policies SC3 of the Local Plan for Bolsover District.*

10(j) 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 in case the road is not offered for public adoption and to accord with policies SC3 and SC2 and SC11 of the Local Plan for Bolsover District.*

10(k) Prior to the occupation of any of the dwellings a revised travel plan which accounts for the advice of Derbyshire County Council (DCC response of 13/08/2021) shall have been submitted to and approved in writing by the Local Planning Authority. Thereafter the approved travel plan shall be implemented and reviewed in accordance with the agreed travel plan measures.

*REASON. In order to promote sustainable means of travel as an alternative to single occupancy car journeys and to accord with policy ITCR10 of the local plan for Bolsover District.*

(Planning Manager)

## PL25-21/22      CONSERVATION AREA APPRAISALS

Committee considered a report which sought Members approval for the adoption of the following Conservation Area Appraisals;

- Elmton Village
- *Elmton with Creswell\*\**
- Hardwick & Rowthorne
- Southgate House

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- Stainsby
- Upper Langwith
- Whitwell
- Tibshelf

In relation to the Elmtun with Creswell\*\* document, Members were requested to approve the document but not adopt it. This was because a further public consultation was necessary regarding two more farmsteads to be added into the Elmtun and Creswell Farmstead\*\* conservation area appraisal. This would then be presented to a future meeting of Planning Committee.

Members' approval was also sought for the proposed amendments to the Conservation Area boundary at Tibshelf. Additionally, a conservation area appraisal document in relation to the Oxcroft Settlement, would be presented for approval at the next meeting of Planning Committee.

Moved by Councillor Duncan McGregor and seconded by Councillor Derek Adams

**RESOLVED** that (1) the following Conservation Area Appraisals be adopted, and delegated authority be given to the Planning Manager (Development Control) and Heritage Conservation Manager, to make any minor amendments to the documents;

- Elmtun Village
- Hardwick & Rowthorne
- Southgate House,
- Stainsby
- Tibshelf
- Upper Langwith
- Whitwell

(2) the Elmtun with Creswell Conservation Area Appraisal document be approved, and a further public consultation be carried out in relation to the 2 additional farmsteads to be included in the Elmtun with Creswell Farmstead Conservation Area Appraisal,

(3) the proposed amendments to the Conservation Area of Tibshelf be designated as a Conservation Area, as an extension to the Tibshelf Conservation Area to be known as Extension Number 1,

(3) a conservation area appraisal document in relation to the Oxcroft Settlement, be presented for approval at the next meeting of Planning Committee.

(Planning Manager (Development Control)/Heritage Conservation Manager/Governance Manager)

The meeting concluded at 1145 hours.

**PARISH** Old Bolsover Parish

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**APPLICATION** Two new dwellings  
**LOCATION** Land East Of 22 Appletree Road Stanfree  
**APPLICANT** Chapman Developments Ltd  
**APPLICATION NO.** 21/00619/OUT  
**CASE OFFICER** Miss Kay Gregory  
**DATE RECEIVED** 12th October 2021

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## SUMMARY

This application has been referred to Planning Committee on the basis that the application site is co-owned by Cllr Cooper, although it should be noted that he is not the applicant.

The proposal is for Outline planning permission, with all matters reserved, for the construction of two detached dwellings.

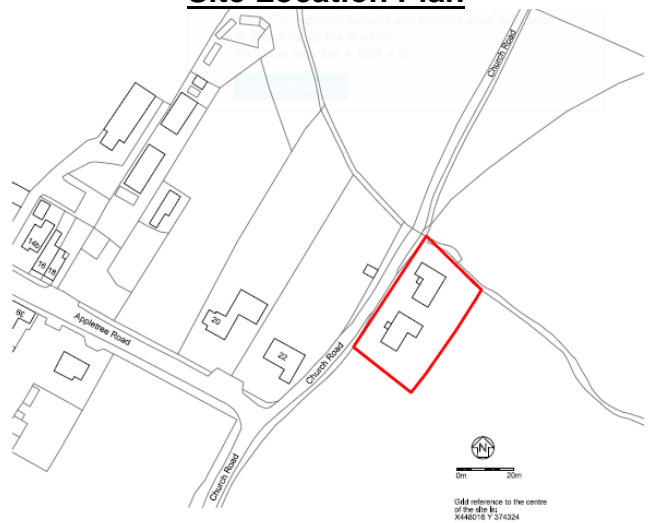
The application has been submitted with indicative plans (elevations and layout as amended). A site location plan and Design and Access Statement, along with a Historical Site Investigation Report has also been submitted.

The main issues under consideration are:

- Whether the principle of developing two dwellings in the countryside is acceptable by reason of the applicant's submitted statement that the site is previously developed land.
- The sustainability of Stanfree as a settlement within the countryside.
- Whether the site can be provided with a safe and suitable access.

Other issues under consideration relate to visual impact on the character of the countryside, biodiversity and coal mining legacy. All matters will be discussed in the relevant sections below.

### Site Location Plan



## **SITE & SURROUNDINGS**

The application site is within the village of Stanfree, which is a small settlement in the countryside as defined by policy SS2 of the adopted Local Plan.

The site is towards the north east edge of the village, and has an area of approximately 1,200m<sup>2</sup>. It is sited adjacent to an unsurfaced section of Church Road, which has no vehicular through route and terminates to vehicular traffic at the entrance to Stanfree Cottage.

This unsurfaced section of Church Road provides pedestrian access past the site frontage, and then through the grounds of Stanfree Cottage, providing designated footpaths northwards, out of the settlement.

The site is accessed along an unsurfaced section of Church Road, formed at the junction of Church Road and Appletree Road, leading in a northerly direction, on land levels which slope downhill towards the north.

This section of Church Road is publicly maintained highway for a distance of approximately 35m along the lane, terminating at the south west corner of the application site. It then becomes a private road with vehicular access to Stanfree Cottage.

The Lane, along its adopted and privately maintained length is rural in appearance and is sunken in part. It is bound by grass verges on the eastern side and the boundary of 22 Appletree Road on the west side. It is laid with compacted stone, with grass growing in the middle of vehicle tracks.

Opposite the site is the rear garden to 22 Appletree Road. This property has a gated, vehicular access on the side boundary, onto Church Road. It is understood that it is at this point the publicly maintained highway ends. It does not appear that this access is in frequent use as the grass beneath the gate is undisturbed.

The site is rectangular in shape, bordered by hedgerows and trees, and appears to have a defined curtilage. A small wooded area of trees along the eastern boundary of the site are predominantly self-set cherry, with a mature cherry within the group and a mature, prominently sited ash tree, on the south-east corner of the site boundary.

Land levels on site drop towards the north. On the southern end of the site, at its highest point, is a dilapidated static caravan, mounted on bricks. There are areas of hard standing beneath and around the caravan. There are no records of planning permission being sought to site this caravan, so it is unclear how long it has been on site, although it is evident that it has been in place for a number of years and has not been in any recent use, given its poor condition.

There is also evidence of previous building/s within this area, with the floor and foundations visible. The applicant has submitted some photographic evidence with the application, providing images of a hearth, and evidence of burning.

The applicant claims that there was a residential cottage previously on the site. A search of historic maps does suggest that there were buildings on the site up until around 1970. The presence of a burnt hearth also suggests that the buildings were residential in nature, rather

than agricultural/animal buildings. This will be discussed in greater depth below.

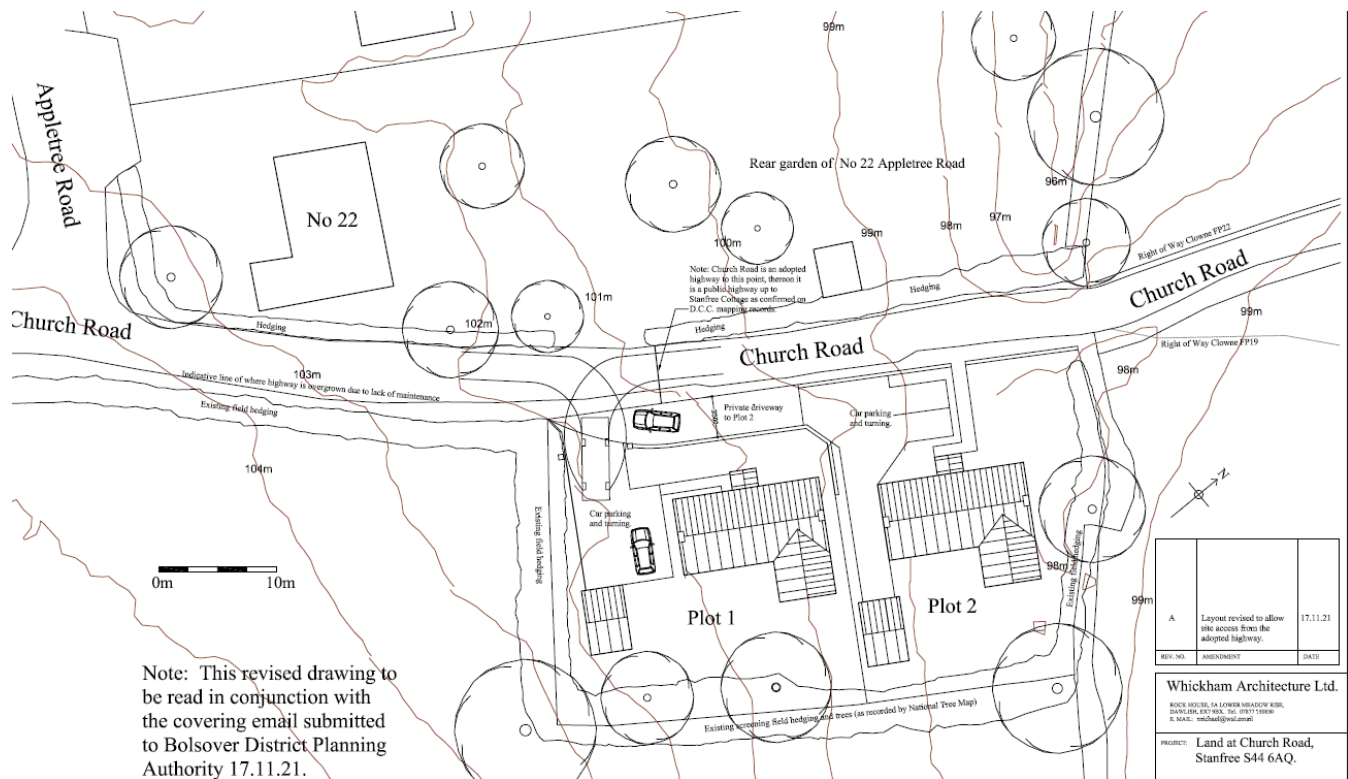
There is agricultural land adjoining the east and southern boundary of the site. There is a gap of approximately 100m between the southern boundary of the site and further built development along the same side of Church Road, comprising Calow Farm house and buildings, and then other residential development.

The grounds of Stanfree cottage are to the north of the site. A shallow brook runs along the northern boundary.

## PROPOSAL

This application is seeking Outline planning permission, with all matters reserved, for the erection of two detached dwellings.

The plan below is an indicative layout, and is an amendment to the originally submitted plan, to provide details of how the site will be accessed from the adopted part of Church Road, on request of the highway authority.



The applicant has submitted an indicative elevation plan (see below) which also depicts the land levels on site. This plan is purely indicative at this stage. Design, appearance, scale, layout and landscaping are reserved matters and as such would be subject to further negotiations at the reserved matters stage.



Indicative street elevation.

0m 10m

## AMENDMENTS

- Preliminary Ecological Appraisal – Arbtech; received on the 16<sup>th</sup> December 2021.
- Indicative site layout – 12.20.04 Rev A; received on the 18/11/21.

## 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

None.

## CONSULTATIONS

### BDC Engineers

- No objections – recommend 5 advisory notes.

### BDC Environmental health

- The site is within influencing distance of a former landfill, and has also been used for agricultural purposes.
- No objections subject to conditions.

### BDC Planning policy

The Councils' planning policy section was invited to comment on the application but did not provide a response in time for the agenda publication. Should their comments be submitted they will be presented as a late item to the Planning Committee.

### DCC Highways



1<sup>st</sup> November 2021

- It is noted that the extent of the 'adopted' section of Church Road does not extend across the whole frontage of the area the subject of the application and is not indicated as being the applicant's ownership/control. Access may, therefore, be an issue.
- Although the frontage section of Church Road is partly indicated as publicly maintainable highway, it is maintained to standard of user given that it basically gives access to Stanfree Cottage. It is single width with no separate pedestrian provision and potentially limited passing opportunities.
- Assuming the land has no use in planning terms that would generate vehicular movements comparable with two dwellings without the need for planning permission then the proposal would intensify the use of this section of Church Road.
- On the basis of the above, the Highway Authority would recommend refusal of the proposal for the following reasons.

6<sup>th</sup> January 2022

- It is understood from additional information submitted by the agent that in the event of development proceeding some improvements could be offered to the access from Appletree Road to the site.
- It is also understood that as the Local Planning Authority you would wish to see the rural nature of the 'road' retained.
- Taking this into account, it is considered that improvements should consist of improvement works and surfacing to the junction with Appletree Road say for a distance of 10m with a minimum distance of 5m being of a width whereby two vehicles travelling in opposite directions can pass.
- In addition, intervisible passing place(s) should be provided between the site and the junction with Appletree Road. It should be noted that these works would need to be carried out under a Section 278 Agreement under the Highways Act 1980.
- Subject to the above being able to be provided, the Highway Authority would be willing to withdraw its objection to the proposal and recommend conditions be included in the event planning permission is granted.

Derbyshire Wildlife Trust – see biodiversity section.

- No objections subject to conditions.

The Coal Authority – see section on Coal Mining Legacy

- No objections subject to conditions.

## **PUBLICITY**

The application has been publicised by way of a site notice, and letters sent to 15 adjacent properties. There have been 16 representations received as a result of the publicity, two of which were submitted from the re-consultation of the revised layout. Their comments are summarised below:

- It is noted that the Councillor Paul Cooper who is part owner of the land proposed for development is still not registered in the documentation as having an interest. This should be amended promptly to comply with the planning committee's transparency requirements, especially as the Councillor is on the Planning Committee.
- Support - Excellent to see this kind of independent small scale development in our

area, much needed.

- Object. The lane only serves one access which is that of Stanfree Cottage Farm. Existing use does not include vehicular access to the side of 22 Appletree Road. For the applicant to use this unofficial entrance as evidence that the lane is already serving multiple properties is fallacious.
- The lane geometrically is adequate for current use and the Highway Authority meet their responsibilities associated with this adopted highway. The short section of adopted highway is part of DCC's yearly inspection route and continues to be monitored and inspected. We use the adopted highway several times a day to access Stanfree Cottage Farm and have never had any complaints with the Highway Authority's maintenance, it is wholly adequate for existing use.
- Beneath the build-up of detritus materials and overgrown verges there does not exist the structure of a road!
- Derbyshire County Council have stated that the only part adopted by themselves is the most southerly part, just as far as the entrance to the proposed site. It should also be noted that DCC do not maintain their part of the lane either. Every year, for at least 50 years, our family has filled in the ruts and pot-holes, cut the grass, and hedges on the lane, and generally kept maintained the access for both ourselves and walkers who use the two public footpaths that merge on the lane.
- There is no right of access, other than to footpath users and Stanfree Cottage Farm, which has been the sole purpose of this lane for centuries.
- I am a joint owner of Stanfree Cottage Farm. I strongly object. The planning application drawings depict the lane to Stanfree Cottage Farm and Land as being part of the Queens Highway "Church Road". This is incorrect.
- The owners of the land for the proposal have no private rights of access to the remaining lane after the adopted highway ends.
- Any works carried out on the adopted highway directly affects access to Stanfree Cottage Farm. Therefore we have a right to know exactly what is happening to the only access to the property. It appears that the agent wishes to liaise directly with the Highways Authority which may hinder transparency. To ensure transparency, please ensure that all consultations are readily and publicly available and published on the planning portal.
- The lane from the junction of Appletree Road and Church Road down towards the proposed development is made up of compacted stone and dirt with a grass centre and is not wide enough to get a vehicle and pedestrian side by side without the pedestrian having to get in the hedge bottom.
- The remaining lane is not a public highway, it is a track. The only right of access over the remaining lane is the public footpath. The new drawing supplied by the applicant depicts an entrance path from the proposed dwelling leading directly onto the lane which is not part of the adopted highway.
- The applicant has no private rights of access on the lower section of the lane and no permissions have been sought or granted, therefore there can be no footpath from the bottom of the field onto the lane.
- The lane suffers from erosion due to weather, land drainage (as it is a downward slope to the main watercourse bordering Stanfree Cottage Farm's property) and light traffic use. The increase in traffic, construction machinery (tracked excavators, Dumpers, Delivery HGVs with building materials, Concrete mixers, pumps etc) would result in severe deterioration to the lane and increased risk to pedestrian safety due to

deterioration of the lane and increased traffic.

- The bottom of the lane is prone to flooding and erosion. The lane acts as a land drain for excess surface water off Church Road and fields above and adjacent, taking the water to the watercourse that flows under the farm gate and along Stanfree Cottage's property.
- Anyone who takes a look at the top of the lane (southern end) can see that Church Road is adequate. There is a steep bank on the east side that falls at about 45 degrees until it meets the stone part of the lane, and it is unlikely that this could be widened without undermining the stability of the adjoining field.
- Construction traffic would cause visibility problems as Church Road is on a blind bend.
- The applicant's claim is that the lane is substantially wide enough to fit multiple vehicles down, because refuse collection has taken place at Stanfree Cottage. Due to the nature of the lane, a smaller lorry makes the collection rather than the standard sized one. No collections have been made from the property in the last 5 years, so it seems unlikely that the tyre tracks they unearthed were those of a bin lorry, and are more likely to be those of our ride-on lawn mower that we use to cut the verges of the lane.
- The revised indicative plan that has been submitted shows where they believe adopted highway ends, and then it states that the rest of the lane is a "public highway". This is not the case. It is an access road to Stanfree Cottage with no private rights of use other than as a public footpath.
- I note at this time that there are two further emails relating to the planning application that are unavailable. I therefore reserve the right to make further comments once these are publicly available.
- In the evening there is almost no light pollution, which has a negative impact on wildlife because it alters how animals perceive the daylight and night-time, disrupting their natural behaviour. If further lighting is introduced to improve safety on the lane for pedestrians and vehicles, it would overall have a negative effect on all species.
- I have seen lots of wildlife there including bats, owls, foxes, deer, rabbits, hares, and weasels / stoats.
- Traffic will increase down the lane putting the public at more risk of getting injured by a vehicle. Furthermore, the lane is not designed to cater for this high level of traffic.
- My concerns are for the safety of road users and pedestrians using both Apple tree and Church Road, particularly during the construction phase.
- The lower section of the lane (to the north) has a proposed access onto it, meaning hedgerows would need to be removed. The proposal is requesting two access points onto the lane, changing its use, which is currently a public footpath and single use farm access only.
- There will not be enough parking for the properties and they will end up parking on the lane.
- The dwellings proposed for this site are inappropriate for the location and are detrimental to the local community. The site is located in open countryside and is not identified for development as part of the Local Plan.
- Strongly object – the site is in open countryside and would change the views of the landscape and its character.
- The lane is narrow and difficult underfoot in bad weather which would deteriorate further with increased traffic.
- Insufficient width on lane to provide passing place for cars.

- The lane has sole access to a farm and the footpaths which run across it. The lane is part of a more extended series of footpaths through Stanfree which is a small rural settlement that has had its fair share of large new houses.
- The proposed development is totally unsuitable to the location, dwellings of that stature would totally ruin the outlook of the land.
- For at least half a century, this has been open land, primarily left to nature. Development such as this would change the character of the landscape significantly.
- In the report it mentioned the development would help reduction of fly tipping on the lane. I find this hard to believe as there have never been any incidents of fly tipping
- In the report it describes the site as being brownfield. The site has been overgrown with greenery for several decades and has required heavy machinery to unearth some old footings from a bygone time. Seems like they are plucking at straws to give a valid reason for the development to be granted. Nothing to benefit the community whose access to local footways and views from them would be spoilt.
- There is nothing in the local plan about developing this area, as this area has had enough development. The area does not need any more unaffordable housing, there are plenty of large houses already.
- The proposed development will cause issues to the footpath and its surroundings as it will reduce the open space and views which give you a sense of wellbeing in these uncertain times.
- Stanfree is a self-contained historical settlement which has in recent years had several large dwellings built around the Village. Manor Close, Oxcroft view and the development on the corner of Church Road and Blackbanks are in far more appropriate locations due to access etc.
- Stanfree will soon lose its identity if further large properties are given the go ahead, there is a large development planned on Buttermilk Lane a couple of miles away and there will be ample choice of housing on this development.
- The application has no information relating to the size of the former buildings, what they were used for, building materials, date when it was demolished, or the reasons why it was demolished.
- The application describes the location as a brown field site, this gives further cause for concern. The location has been allowed to become overgrown for decades, and has sat unattended allowing for nature to take over. In order to unearth any foundations, they have had to bring in heavy machinery to excavate. Therefore, this suggests it has been some time since any type of building was previously sited here. The site and watercourse adjacent have been overgrown for decades, providing habitat for wildlife. Therefore, I believe the site has to be considered a green field site.
- The footpath past the site is known as Miner's Way, the development would ruin the final part of this walk.
- Due to the size of these properties, it is highly likely that each of these dwellings would have at least two / three cars each. Stanfree's bus service is virtually non-existent, therefore, meaning traffic use on the lane and roads would increase. Therefore, this site is unsustainable.
- In my opinion, the plot of land is situated in a flood risk area, particularly during extreme wet events, located next to a watercourse and downhill from the limestone escarpment.
- Would the proposed dwellings be built green? Many new houses are thrown up without any consideration for sustainability. It would be nice to see solar roofs, water

harvesting systems, thermal insulation and much more in new builds today.

## **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
- SS2 – Scale of development
- SS3 – Spatial strategy and distribution of development
- SS9 – Development in the countryside
- LC3 – Type and mix of housing
- SC2 – Sustainable design and construction
- SC3 – High quality development
- SC5 – Change of use and conversions in the countryside
- SC9 – Biodiversity and geodiversity
- SC10 – Trees and hedges
- SC11 – Environmental quality (Amenity)
- SC14 - Contaminated and unstable land
- ITCR10 – Supporting sustainable transport patterns
- ITCR11 – Parking provision
- Appendix 8.2 – Parking standards

### 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
- 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
- Paragraphs 174, 180 and 182: Conserving and enhancing the natural environment
- Paragraphs 183-188: Ground conditions and pollution

### 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.

## **ASSESSMENT**

### 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
- Residential amenity
- Whether the development would be provided with a safe and suitable access;
- The impact of the development on the local road network; and
- Biodiversity considerations
- Coal mining legacies

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

### Principle

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

Policy SS9 states that development will only be granted planning permission where it can be demonstrated that the proposals fall within one or more of the policy categories, as identified below.

### ***Policy SS9: Development in the Countryside***

*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*

- a)** *Involve a change of use or the re-use of previously developed land, provided the proposed use is sustainable and appropriate to the location*
- b)** *Are necessary for the efficient or viable operation of agriculture, horticulture, forestry or other appropriate land based businesses, including the diversification of activities on an existing farm unit*
- c)** *Are small scale employment uses related to local farming, forestry, recreation or tourism*
- d)** *Secure the retention and / or enhancement of a community facility*
- e)** *Secure the retention and / or enhancement of a vacant or redundant building that makes a positive contribution to the character or appearance of the area and can be converted without complete or substantial reconstruction*
- f)** *Are in accordance with a made Neighbourhood Development Plan*
- g)** *The building is of exceptional quality or innovative design*

*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 applicant claims in their submitted documents that the site is 'previously developed land' as defined under part (a) of policy SS9.

The adopted Local Plan defines Previously Developed Land as "Land which is or was

*occupied by a permanent structure. This excludes land that is or has been occupied by agricultural or forestry buildings, land that has been developed for minerals extraction or waste disposal where provision has been made for restoration.”*

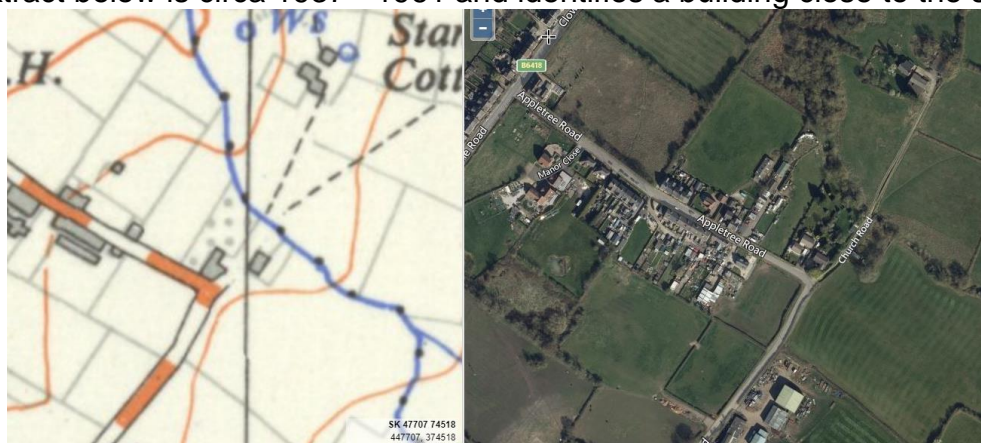
The National Planning Policy framework (2021) defines Previously Developed Land as, “*Land which is or was occupied by a permanent structure, including the curtilage of the developed land (although it should not be assumed that the whole of the curtilage should be developed) and any associated fixed surface infrastructure. This excludes: land that is or was last occupied by agricultural or forestry buildings; land that has been developed for minerals extraction or waste disposal by landfill, where provision for restoration has been made through development management procedures; land in built-up areas such as residential gardens, parks, recreation grounds and allotments; and land that was previously developed but where the remains of the permanent structure or fixed surface structure have blended into the landscape.*”

The application site has a defined curtilage, which does not appear to have been altered for over 100 years.

Historic maps, circa 1888-1913 (National Library of Scotland – Map Finder – Georeferenced Maps) identify a building on the site (see below), which is hatched in a similar way to surrounding buildings which would have been, and still are in some circumstances in residential use. The extract below also evidences that the curtilage to the application site has not changed since the start of the 20<sup>th</sup> century.



The map extract below is circa 1937 - 1961 and identifies a building close to the site frontage





The map below, circa 1949 – 1970 identifies that the site had at that time been cleared of buildings, but still retained the rectangular curtilage.



Whilst the Council acknowledge that the site is currently free of permanent buildings, it is evident that there was a building on the site, up until a timeframe between 1949 and 1970 and it is highly likely that this was residential in nature.

The applicant, whilst carrying out preliminary ground investigations uncovered remnants of a permanent building, with foundations and a hearth area that had evidence of use (soot and burning).

The images below form part of the application submission and have been provided by the applicant.

The applicant also submitted a detailed, historical investigation document and site investigation plan, concluding that their investigations demonstrate the historical presence of residential buildings on the site.



Substructure masonry



Northeast facing image indicating later-day adjacent oversite floor slab

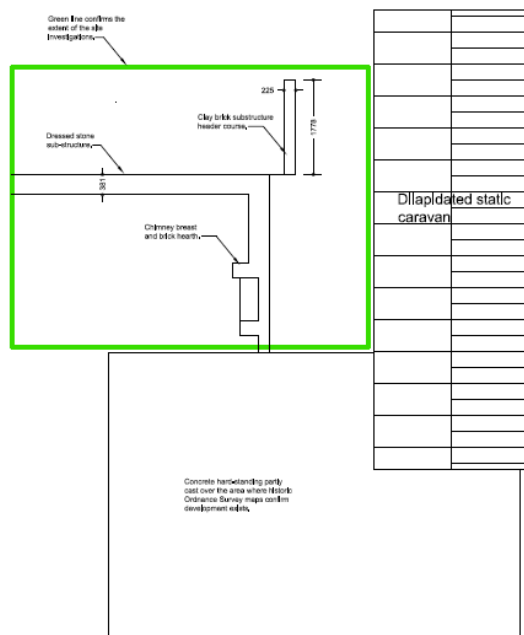




Chimney breast and fire hearth structure – confirming human occupation of the building.



Carbonised chimney and hearth structure



Whilst it is acknowledged that these remnants of buildings were uncovered following some ground excavations, the submitted images demonstrate that that the findings were only marginally below ground level.

A further site visit was carried out with the development control manager where it was evident that there were remnants of former buildings on site that were barely covered with foliage. There were also areas of hard standing beneath and around the dilapidated, static caravan. Images of these have been provided in the Landscape and visual impact section of the report.

The Framework (2021) Glossary for Previously Developed Land identifies that development sites where the remains of the permanent structure or fixed surface structure have *blended into the landscape*, do not meet the definition of 'previously developed land'.

Whilst overgrowth on site had covered over remnants of former buildings (until the applicant's

investigations), the ground foliage has been identified as mainly nettle and bramble, which has low ecological value, and which was easily removed to uncover the areas of hard standing and stone/brick foundations.

The general overgrown appearance and dilapidated nature of the site does not reflect or respect surrounding land uses which are agricultural in their appearance, and as such it is not considered that the remains of previous structures or the historic use of the site have blended into the landscape.

The Council therefore considers that the applicant has submitted sufficient information to demonstrate that the site is previously developed land.

Where this has been demonstrated, policy SS9 requires that it is only on the basis that the proposed use is '*sustainable and appropriate to the location*'.

As identified above, policy SS3 of the adopted Local Plan defines the village of Stanfree as a small settlement in the countryside, which has limited access to services and facilities.

The proposal will be to allow two new dwellings to be created in the village of Stanfree, which is accepted as not being the most preferable location for new growth in terms of accessibility / sustainability. However, despite this, the village has continued to see small pockets of appropriate infill growth in recent years.

The application site is 370m away from bus stops on Clowne Road, providing a bus service into Clowne and Bolsover. Whilst the bus route is relatively limited and is not 24hours, it does provide access into the nearby towns at various times during normal working/daytime hours.

There are a small number of employment uses within walking distance of the site, but the bus service provides access to employment in nearby towns and the Barlborough Links employment area.

There is no direct access to services such as doctors or dentists but these are located within the nearby towns that are accessible on the bus route.

There are playing fields located approximately 1.2km away and a primary school in Shuttlewood, located 1.9km away. There is secondary school provision within the towns of Clowne and Bolsover which are accessible by bus.

There is a small convenience shop/post office in Shuttlewood which is approximately 2.2km from the site.

Whilst the Council acknowledge that Stanfree has limited access to services and facilities, there is access to these by bus, with Clowne only 2km to the north.

The site is not within a sustainable settlement, but given that it is proposing only two additional dwellings, adjoining the built up area of Stanfree, and given that there have been recent approvals for limited infill developments within the village, it is considered that the location is acceptable and would not warrant a reason for refusal on sustainability grounds.

On balance, the principle of development, subject to the key issues considered in greater detail below, can be regarded as acceptable, in compliance with the policies provided above.

#### Landscape and visual impact of the proposed development

The site is not visible from the junction of Church Road and Appletree Road as it slopes downhill towards the north and there is a bend in the alignment of the lane. The southern part of the site is also screened by mature hedges.

The Lane itself, leading down to the site has an attractive rural appearance as depicted on the image below, although it is accepted that some engineering works will be required at the junction to facilitate the development. Improvements at the junction should be sympathetically carried out so that the rural appearance of the Lane is retained as much as possible.



The application site is visible from pedestrian viewpoints around the site, given that there are two designated footpaths (B5/19/2 and B5/22/1) running in a northerly direction from Stanfree Cottage.

Whilst the northern end of Church road is unadopted, and terminates at the entrance to Stanfree cottage, there is a pedestrian through route along the site frontage, onto the designated footpaths, therefore affording the application site some visibility from within the public domain.

The existing condition of the site is relatively poor and is of low ecological value. Whilst the site is enclosed by hedges, the predominant vegetation within the site are nettles and brambles.

There is also a dilapidated static caravan in the southern part of the site which would require removal to facilitate the development

(see below).





The caravan is mounted on bricks and appears to have been on site for a number of years. There appears to be hard surfacing beneath the caravan and it has not recently been in any sort of use. There has never been any planning permission sought for the siting of this caravan and so its original purpose is unknown. The removal of this caravan would be welcomed by the Local Planning Authority.



There are also other areas of hardstanding within the site, which were previously covered over with foliage.



The visual condition of the application site, as existing, does not reflect the appearance of the surrounding landscape, which is visually attractive agricultural land to the north, east and south.

Whilst the natural site boundaries of the site (hedges and trees) have some value within the landscape, the site itself comprises areas of hardstanding and brick/stone foundations that have been covered with brambles and nettles, providing no visual value to the character of the surrounding land.

The majority of the boundaries could be retained as part of a reserved matters application, and improved through an appropriate landscaping scheme.

Whilst some of the self-set cherry trees on the eastern boundary would need to be removed to facilitate the development, these trees are currently growing in cramped conditions and do require arboricultural management. The other, larger trees are to be retained to assist with the integration of the development into the surrounding area.

The existing static caravan causes visual detriment to the appearance of the site, and it appears that it has been on site in excess of ten years, therefore becoming immune from enforcement action. Approval of the development would see the removal of this structure. It should be noted however that its removal and the condition of the land could potentially be improved through the Section 215 process (untidy land).

Concerns were raised about the possibility of precedent, permitting additional dwellings in the future to be built within the 100m wide gap between the southern boundary of the site and Calow Farm. This has been discounted however, as the 100m gap does not constitute as previously developed land and does not share any of the visual characteristics associated with the application site. Proposals to develop this area would therefore be resisted as they would fail to comply with the provisions of policy SS9.

Whilst it is accepted that the site has become overgrown with foliage, it retains an untidy appearance and does not respect the appearance of the surrounding rural landscape. Given that the application site is adjacent to other forms of residential development, it is not considered that the proposal will cause any detriment to the visual amenity of the area, or

appearance of the surrounding landscape, sufficient to warrant a reason for refusal.

Subject to approval of matters relating to scale, layout and design, which should take account of its semi-rural location, and the drop in land levels, it is considered that two dwellings could be constructed, in negotiation with the Local Planning Authority, which respect the form, scale and character of the landscape, through careful location, design and use of materials; in compliance with policies SS1, SS9 and SC3 of the adopted Local Plan.

#### Residential amenity

The application currently under consideration is to establish the principle of development only. Design and layout are therefore reserved for future consideration, although it is noted that full consideration will be given to the semi-rural character of the surrounding landscape.

The applicant has submitted a revised indicative layout which would provide a distance of 13m from the front of the dwellings onto the side boundary of 22 Appletree Road. There is however pedestrian access past the garden, onto Stanfree cottage and the designated footpaths, and as such this garden is already exposed to some extent. There is scope however, to site the two new dwellings slightly further into the site which would increase the separation distance.

Having regard to the relative separation distances achieved between plots and overall private amenity space per dwelling, the indicative site layout plan shows that the units can achieve satisfactory distances, as guided by the adopted guidance document, Successful Places.

It is considered that the site is of sufficient size to accommodate two dwellings without causing detriment to the amenity of surrounding residents, and which can provide a sufficient level of outdoor amenity space for the enjoyment of new residents, in compliance with policies SC3 and SC11 of the adopted Local Plan.

#### Highway considerations

The extent of Church Road leading down to the site is adopted for a distance of approximately 35m, after which it becomes privately maintained, providing vehicular access to Stanfree Cottage only.

The existing gated access into the rear garden of 22 Appletree Road would not have required planning permission and despite its obvious infrequent use appears to have been in place for a number of years.

The submitted location plan does not include any part of Church Road within the red line boundary. The highway authority were consulted and originally objected to the proposal on the ground that the 'adopted' section of Church Road does not extend across the whole frontage of the area the subject of the application and is not indicated as being the applicant's ownership/control. Access may, therefore, be an issue. Although the frontage section of Church Road is partly indicated as publicly maintainable highway, it is maintained to standard of user, given that it basically gives access to Stanfree Cottage. It is single width with no separate pedestrian provision and potentially limited passing opportunities. Assuming the land has no use in planning terms that would generate vehicular movements comparable with two dwellings without the need for planning permission then the proposal would intensify the use of this section of Church Road.



This was put to the applicant who submitted a revised indicative plan which demonstrates the provision of vehicular access into the site to serve both dwellings, from within the adopted highway boundary at the south-west corner of the site. They also confirmed that if the site can be developed, they would be willing to liaise with the Highways Authority to investigate exactly what was originally adopted and to seek permission to rebuild this to a current adopted highway standard.

Whilst the layout identifies that vehicles serving plot 1 may have to reverse onto the private section of Church Road, it is considered that the reserved matters application could site the dwellings further into the site, to allow for vehicle movements to be contained within the application site boundary.

The revised plan was discussed with the highway authority prior to submission of their final comments. It was explained to them that the provision of two additional dwellings in addition to the existing use of the lane by Stanfree Cottage and less frequent use by 22 Appletree Road would not cause such an intensification in the vehicular use of the lane to warrant a reason for refusal on highway safety grounds.

The highway authority explained that some improvements would be required to the lane to improve access, in the form of a Section 278 agreement, although they acknowledged that the works would need to be kept to the bare minimum in order to retain the rural appearance of the land. Their final comments were received on the 6<sup>th</sup> January, advising that it is their understanding that in the event of permission being granted, some improvements could be offered to the Lane.

They also understood that the rural nature of the Lane should be retained as much as possible. Taking this into account, they considered that improvements should consist of works and surfacing at the junction with Appletree Road for a distance of 10m with a minimum distance of 5m being of a width whereby two vehicles travelling in opposite directions can pass. It should be noted that these works would need to be carried out under a Section 278 Agreement under the Highways Act 1980.

In addition, they also requested that an intervisible passing place should be provided between the site and the junction with Appletree Road. This additional passing place, in addition to the 5m wide junction is not considered to be necessary given that Church Road has no vehicular through route and only serves Stanfree Cottage, the two new dwellings and occasional use by 22 Appletree Road as a secondary access.

Subject to the above being able to be provided, the Highway Authority would be willing to withdraw its objection to the proposal and recommend that conditions are included in the event planning permission is granted.

With regards to on-site parking provision, it is considered that there will be, subject to detailed approval of the residential scale and layout, sufficient space for resident's vehicles to park and manoeuvre within the site.

It is therefore considered subject to the full implementation of appropriately worded conditions which require proportionate works to sections of the publicly maintained Church Road, that the

applicant has adequately demonstrated that the site can be accessed in a safe and suitable manner, and that there is sufficient space on the site for the parking of resident's vehicles, allowing space for safe manoeuvring within the site boundary without encroaching into the private section of Church Road and without causing detriment to highway safety, in compliance with policies SS1, ITCR10 and ITCR11 of the adopted Local Plan.

### Biodiversity and Trees

The site is bound on all sides by existing hedgerows. Along the eastern boundary are a group of self-set Cherry trees, growing in cramped conditions, resulting in poor individual form; although they do have some group value.

There is a mature ash tree on and overhanging the eastern boundary of the site.

It is accepted that part of the hedgerow fronting the site will need to be removed to facilitate the access, although this will be kept to a minimum as only one access is required to serve both dwellings. Some of the cherry trees will also need to be removed as they will be in the rear garden to the new dwellings.

The application as submitted did not include any ecological information. On request of Derbyshire Wildlife Trust, a preliminary Ecological Appraisal was submitted.

The report identified the following habitat areas:

- Tall ruderal – mainly nettle and bramble
- Scattered Scrubs – mainly snowberry, small patches of dog rose in the hedges.
- Scattered Trees – along the eastern boundary. Large cherry and ash, along with self-seeded cherry.
- Self-seeded saplings – cherry on the eastern boundary.
- Log, brash and rubble piles
- Hardstanding – concrete, rubble, bricks. Potential to support habitat, will require removal. Have nettles and brambles covering them.
- Buildings – dilapidated static caravan
- Small brook (outside site) – fast flowing, extremely shallow with no channel as such. Ivy clad hawthorn growing in middle. Waterbody overgrown with bramble and shrub, creating a dark understorey with no vegetation growing along the waterbody.

There were no protected species or species of nature conservation interest identified during the assessment although it is accepted that there is habitat potential for some species, mainly around the periphery and outside the site boundary.

The Assessment provides a series of recommendations and mitigation, which were sent to the Wildlife Trust for comment.

The Trust were pleased to see that the two largest trees on/adjacent to the site will be retained (along with others). Root Protection Zones of these trees should be adequately protected during construction.

Other habitats on site are considered of low ecological value, with the majority of the onsite scrub comprising the non-native invasive species snowberry.



Protected species constraints are limited to nesting birds and potential use by small mammals and Herpetofauna.

The recommendations summarised in the Executive Summary and detailed in Section 5 are considered appropriate and proportionate to the site and these can be secured through planning conditions.

It is therefore considered that the applicant has submitted sufficient information at the Outline stage to assess for the presence of biodiversity, and recommendations for mitigation. Subject to the full implementation of appropriately worded conditions, as requested by the Wildlife Trust, it is considered that the proposal complies with policies SS1, SC3, and SC9 of the adopted Local Plan.

#### Coal Mining Legacies

The application site is within a Coal Authority High Risk area and as such the Coal Authority were consulted.

The applicant had supplied a Coal Mining Report with the application.

The Coal Authority initially responded advising that their records indicate the application site to lie in an area where coal mining has taken place at shallow depth. Voids and broken ground associated with such workings can pose a risk of ground instability and may give rise to the emission of mine gases.

They noted that the applicant had submitted some coal mining information to accompany the planning application; such as a Coal Mining Report, Consultants Report or Enviro All in One Report. However, they considered the reports to be factual only and did not provide any proper assessment of the potential risks posed to the development proposal by past coal mining activity. The Coal Authority therefore objected until such time that a Coal Mining Risk Assessment was submitted.

This was put to the applicant, who disputed the need to submit a full risk assessment at this stage.

The Coal Authority later confirmed they have acknowledged that the applicant is aware that the site is within an area where coal mining has taken place at shallow depth and they have confirmed that a borehole investigation will be carried out to investigate the risk posed by coal mining legacy.

Given the outline nature of the In this case, whilst a risk assessment has not been submitted, given the shallow depth and the thickness of the recorded workings, they acknowledge that it is unlikely a desk-based Coal Mining Risk Assessment would be able to discount a risk of instability at the site. As such, it is likely that intrusive site investigations would be still recommended in any case.

Whilst the Coal Authority maintain the view that outline planning applications should be supported by a Risk Assessment, they agreed to withdraw their objection to the application

subject to the imposition of a condition requiring the undertaking of suitable intrusive site investigations and any necessary remedial works, prior to commencement of development.

Therefore, subject to the full implementation of any appropriately worded conditions to ensure that the stability of the land is safe for new development, it is considered that the applicant has submitted sufficient information during processing of the Outline, in compliance with policies SS1, SC2 and SC14 of the adopted Local Plan.

## **CONCLUSION**

The Local Planning Authority agrees with the applicant's assertion that the site is previously developed land, as defined by both the Local Plan and National Planning Policy Framework, and whilst Stanfree is not a sustainable settlement in terms of its service provision, there is direct access to nearby towns without full reliance on privately owned motorised vehicles.

The provision of two additional dwellings, on the edge of the built area, and taking into account other recent approvals in the village for small infill developments, it is felt that the proposal is acceptable in principle and will not set a precedent for further residential development within the vicinity of the site; although it is acknowledged and accepted that every application is determined on its own merits.

On balance therefore, having regard to all other material factors which have been considered during processing of the application, it is accepted that development of this site for two dwellings is acceptable, subject to the full implementation of all necessary and appropriately worded conditions.

It is considered that the development can achieve an appropriate design, scale and appearance which respects the sites semi-rural location of the fringe of a small village settlement, in compliance with the adopted policies and guidance of Bolsover District Council and as such it is recommended that the application is approved.

## **RECOMMENDATION – grant with conditions.**

### **Conditions**

1. Approval of the details of the Appearance, Landscaping, Layout, and Scale (hereinafter called "the reserved matters") shall be obtained from the Local Planning Authority in writing before any development is commenced.
2. Application for approval of the reserved matters shall be made to the Local Planning Authority before the expiration of three years from the date of this permission and the development to which this permission relates shall be begun either before the expiration of three years from the date of this permission, or before the expiration of two years from the date of approval of the last of the reserved matters to be approved, whichever is the later.
3. Prior to the commencement of any development above foundation level, full details or samples of the facing and roofing materials to be used in the development hereby permitted shall be submitted to and approved by the Local Planning Authority. The development shall then be carried out in accordance with the approved details.
4. The reserved matters application shall include a detailed scheme for the proposed, and

retention of existing (where possible) boundary treatments of the site, including position, design and materials, and to include all boundaries or divisions within the site. The approved scheme shall be completed before the buildings are first occupied or such other timetable as may first have been approved in writing with the Local Planning Authority.

5. 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:

- Risk assessment of potentially damaging construction activities.
- Identification of "biodiversity protection zones". This shall include retained trees and the adjacent Brook.
- Practical measures (both physical measures and sensitive working practices) to avoid or reduce impacts during construction. This shall include the precautionary working methods detailed in Section 5 of the Preliminary Ecological Assessment (Arbtech, December 2021) to safeguard amphibians, reptiles, hedgehogs, badgers and birds.
- The location and timing of sensitive works to avoid harm to biodiversity features (as above).
- The times during construction when specialist ecologists need to be present on site to oversee works.
- Responsible persons and lines of communication.
- The role and responsibilities on site of an ecological clerk of works (ECoW) or similarly competent person.
- Use of protective fences, exclusion barriers and warning signs.

The approved CEMP shall be adhered to and implemented throughout the construction period strictly in accordance with the approved details, unless otherwise agreed in writing by the local planning authority.

6. Prior to the installation of lighting fixtures, a detailed lighting strategy shall be submitted to and approved in writing by the LPA to safeguard bats and other nocturnal wildlife. This should consider advice provided in Section 5 of the Preliminary Ecological Assessment (Arbtech, December 2021) and provide details of the chosen luminaires, their locations and any mitigating features such as dimmers, PIR sensors and timers. Guidelines can be found in Guidance Note 08/18 - Bats and Artificial Lighting in the UK (BCT and ILP, 2018). Such approved measures will be implemented in full.

7. Prior to building works commencing above slab level, a Biodiversity Enhancement Plan shall be submitted to and approved in writing by the Local Planning Authority. This shall include enhancements for a range of species, as detailed in Section 5 of the Preliminary Ecological Assessment (Arbtech, December 2021). The plan shall clearly show positions, specifications and numbers of features. Such approved measures shall be implemented in full and maintained thereafter, with photographs of the measures in situ submitted to the LPA to fully discharge the condition.

8. Any reserved matters application shall include full details of improvements to the junction of the access route with Appletree Road whereby a distance of 10m back from Appletree Road shall be constructed and surfaced to an adoptable standard, with a minimum depth of 5m

comprising a minimum width of 5m, to allow two vehicles travelling in opposite directions to pass. Such works shall be completed prior to occupation of any dwelling.

9. No development shall take place other than site clearance until a construction management plan or construction method statement has been submitted to and been approved in writing by the Local Planning Authority. The approved plan/statement shall be adhered to throughout the construction period. The statement shall provide for but not necessarily be restricted to the following as appropriate.

- Parking of vehicles of site operatives and visitors
- Routes for construction traffic, including abnormal loads/cranes etc
- Hours of operation
- Method of prevention of debris being carried onto highway
- Pedestrian and cyclist protection
- Proposed temporary traffic restrictions
- Arrangements for turning vehicles

10. Before any other operations are commenced, a new vehicular and pedestrian access shall be formed to Church Road located, designed, laid out, constructed and provided with maximum achievable visibility splays from a distance of 2.4m back across the site frontage, all as agreed in writing with the Local Planning Authority, the area in advance of the sightlines being maintained throughout the life of the development clear of any object greater than 1 metre in height relative to adjoining nearside carriageway channel level.

11. The premises, the subject of the application, shall not be occupied until space has been provided within the site curtilage for the parking and manoeuvring of vehicles, designed, laid out and constructed all as may be agreed with the Local Planning Authority and maintained thereafter free from any impediment to its designated use.

12. No development shall commence until;

- a) a scheme of intrusive investigations has been carried out on site to establish the risks posed to the development by past shallow coal mining activity; and
- b) any remediation works and/or mitigation measures to address land instability arising from coal mining legacy, as may be necessary, have been implemented on site in full in order to ensure that the site is made safe and stable for the development proposed.

The intrusive site investigations and remedial works shall be carried out in accordance with authoritative UK guidance.

13. Prior to the occupation of the development, or it being taken into beneficial use, a signed statement or declaration prepared by a suitably competent person confirming that the site is, or has been made, safe and stable for the approved development shall be submitted to the Local Planning Authority for approval in writing. This document shall confirm the methods and findings of the intrusive site investigations and the completion of any remedial works and/or mitigation necessary to address the risks posed by past coal mining activity.

14. Before the commencement of the development hereby approved:

- a. A Phase I contaminated land assessment (desk-study) shall be undertaken and approved in

writing by the local planning authority.

b. The contaminated land assessment shall include a desk-study with details of the history of the site use including:

- the likely presence of potentially hazardous materials and substances,
- their likely nature, extent and scale,
- whether or not they originated from the site,
- a conceptual model of pollutant-receptor linkages,
- an assessment of the potential risks to human health, property (existing or proposed) including buildings, crops, livestock, pets, woodland and service lines and pipes, adjoining land, ground waters and surface waters, ecological systems, archaeological sites and ancient monuments,
- details of a site investigation strategy (if potential contamination is identified) to effectively characterise the site based on the relevant information discovered by the desk study and justification for the use or not of appropriate guidance. The site investigation strategy shall, where necessary, include relevant soil, ground gas, surface and groundwater sampling/monitoring as identified by the desk-study strategy

The site investigation shall be carried out by a competent person in accordance with the current U.K. requirements for sampling and analysis. A report of the site investigation shall be submitted to the local planning authority for approval.

15. Before the commencement of the development hereby approved:

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.

16. No dwellings hereby approved shall be occupied until:

- a. The approved remediation works required by condition 15 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, which have not previously been identified, 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 14b to 15 above and satisfy 16a above.
- c. Upon completion of the remediation works required by 16 and 16a 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.

### **Reasons for Conditions**

1. To comply with the requirements of Section 51 of the Planning and Compulsory Purchase Act 2004.
2. To comply with the requirements of Section 51 of the Planning and Compulsory Purchase Act 2004.
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 ensure a satisfactory appearance of the completed development, and to ensure adequate visibility for motorists exiting the site, in the interests of visual amenity and highway safety, and in compliance with policies SS1, SS9, SC3, SC9 and ITCR10 of the adopted Local Plan.
5. To ensure the provision of a no loss, and/or net gain in biodiversity, in compliance with policies SS1, SS9, SC3 and SC9 of the adopted Local Plan
6. In the interests of ensuring the protection of any protected species or other species of nature conservation interest, in compliance with policies SS1, SS9, SC3 and SC9 of the adopted Local Plan.
7. To ensure the provision of a no loss, and/or net gain in biodiversity, in compliance with policies SS1, SS9, SC3 and SC9 of the adopted Local Plan
8. In the interests of providing a safe and suitable access to the site. In accordance with highway safety and in compliance with policies SS1, SC3 and ITCR10 of the adopted Local Plan.
9. To ensure that construction plant and materials can be safely stored within the application site, clear of the adopted highway, in the interests of highway safety and in compliance with policies SS1, SC3 and ITCR10 of the adopted Local Plan.
10. To ensure the provision of a safe and suitable vehicular access, in the interests of highway safety and in compliance with policies SC3 and ITCR10 of the adopted Local Plan.
11. To ensure the provision of satisfactory resident parking within the application site, in the interests of highway safety and in compliance with policies SC3 and ITCR11 of the adopted Local Plan.
12. To ensure that the stability of land within the site is capable of supporting built form, in the interests of land stability and coal mining legacies, and in compliance with policies SS1,

SC2 and SC14 of the adopted Local Plan.

13. To confirm that sufficient investigations have been carried out to establish the stability of the site, in the interests of coal mining legacies, and in compliance with policies SS1, SC2 and SC14 of the adopted Local Plan.

14. To protect future occupiers of the development, buildings, structures/services, ecosystems and controlled waters, including deep and shallow ground water and to ensure that matters relating to potential contamination on site have been properly assessed, in compliance with policies SS1, SC2 and SC14 of the adopted Local Plan.

15. To protect future occupiers of the development, buildings, structures/services, ecosystems and controlled waters, including deep and shallow ground water and to ensure that matters relating to potential contamination on site have been properly assessed, in compliance with policies SS1, SC2 and SC14 of the adopted Local Plan.

16. To protect future occupiers of the development, buildings, structures/services, ecosystems and controlled waters, including deep and shallow ground water and to ensure that matters relating to potential contamination on site have been properly assessed, in compliance with policies SS1, SC2 and SC14 of the adopted Local Plan.

### **Notes**

1. Pursuant to Section 184 of the Highways Act 1980 and Section 86(4) of the New Roads and Streetworks Act 1991 prior notification shall be given to the Department - Place at County Hall, Matlock regarding access works within the highway. Information, and relevant application forms, regarding the undertaking of access works within highway limits is available via the County Council's website <https://www.derbyshire.gov.uk/transport-roads/roads-traffic/licences-enforcements/vehicular-access/vehicle-accesses-crossovers-and-dropped-kerbs.aspx> E-mail [highways.hub@derbyshire.gov.uk](mailto:highways.hub@derbyshire.gov.uk) or Telephone Call Derbyshire on 01629 533190.

2. The Highway Authority recommends that the first 5m of the proposed access/driveway should not be surfaced with a loose material (i.e. unbound chippings or gravel etc.). In the event that loose material is transferred to the highway and is regarded as a hazard or nuisance to highway users, the Authority reserves the right to take any necessary action against the householder.

3. Pursuant to Sections 149 and 151 of the Highways Act 1980, steps shall be taken to ensure that mud or other extraneous material is not carried out of the site and deposited on the public highway. Should such deposits occur, it is the applicant's responsibility to ensure that all reasonable steps (e.g. street sweeping) are taken to maintain the roads in the vicinity of the site to a satisfactory level of cleanliness.

4. There is a Public Right of Way (Footpath 22 on the Derbyshire Definitive Map). The route must remain unobstructed on its legal alignment at all times and the safety of the public using it must not be prejudiced either during or after development works take place. Further advice can be obtained by calling 01629 533190.

Please note that the granting of planning permission is not consent to divert or obstruct a public right of way.

If it is necessary to temporarily obstruct a right of way to undertake development works then a temporary closure is obtainable from the County Council. Please contact 01629 533190 for further information and an application form

If a right of way is required to be permanently diverted then the Council that determines the planning application (The Planning Authority) has the necessary powers to make a diversion order.

Any development insofar as it will permanently affect a public right of way must not commence until a diversion order (obtainable from the planning authority) has been confirmed. A temporary closure of the public right of way to facilitate public safety during the works may then be granted by the County Council.

To avoid delays, where there is reasonable expectation that planning permission will be forthcoming, the proposals for any permanent stopping up or diversion of a public right of way can be considered concurrently with the application for proposed development rather than await the granting of permission.

5. Pursuant to Section 278 of the Highways Act 1980 and the provisions of the Traffic Management Act 2004, no works may commence within the limits of the public highway without the formal written Agreement of the County Council as Highway Authority. It must be ensured that public transport services in the vicinity of the site are not adversely affected by the development works.

Advice regarding the technical, legal, administrative and financial processes involved in Section 278 Agreements may be obtained from Mr K Barton in Development Control at County Hall, Matlock (tel: 01629 538658). The applicant is advised to allow approximately 12 weeks in any programme of works to obtain a Section 278 Agreement.

6. The applicant is reminded that the scale, layout and design (including use of material) will need to give full consideration and respect to the site's location in the countryside. The topography of the land should be utilised to ensure that the dwellings are sympathetically sited within the plot to ensure the retention of the rural character of the area. The Local Planning Authority encourage pre-application discussions prior to the formal submission of Reserved Matters.

7. Certain plant and animal species, including all wild birds, are protected under the Wildlife and Countryside Act 1981. It is an offence to ill-treat any animal; to kill, injure, sell or take protected species (with certain exceptions); or intentionally to damage, destroy or obstruct their places of shelter. It is thus an offence to take, damage or destroy a wild birds nest whilst in use or being built. Hedgerows or trees containing nests should therefore not be removed, lopped or topped during the nesting season. Bats enjoy additional protection. It is an offence to kill, injure or disturb bats found in the non-living areas of a dwelling house (that is, in the loft) or in any other place without first notifying English Nature. Some other animals are protected under their own legislation (e.g. the Protection of Badgers Act 1992).

### **Statement of Decision Process**

Officers have worked positively and pro-actively with the applicant to address issues raised during the consideration of the application. The proposal has been considered against the



policies and guidelines adopted by the Council and the decision has been taken in accordance with the guidelines of the Framework.

### **Equalities Statement**

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

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

### **Human Rights Statement**

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

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## **Bolsover District Council**

### **Planning Committee**

**19th January 2022**

#### **Conservation Area Appraisals**

#### **Report of the Planning Manager (Development Control)**

**Classification:** This report is public

**Report By:** Julie-Anne Middleditch

**Contact Officer:** 01246 242342

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#### **PURPOSE / SUMMARY**

- To notify members of the outcome of the owner and occupier consultation for the proposed extensions to the Elmtun with Creswell Farmsteads Conservation Area

#### **RECOMMENDATIONS**

1. That the proposed additions to the Conservation Area of Elmtun with Creswell Farmsteads be designated as a Conservation Area, to be included in the Elmtun with Creswell Conservation Area to be known as Extension Number 1.

Approved by the Portfolio Holder – **Corporate Governance**

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#### **IMPLICATIONS**

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**Finance and Risk:** Yes ☒ No ☐

#### **Details:**

The main cost arising from these proposals is the cost of officer time. There are no other significant financial implications.

There is a reputational risk if the Council does not actively monitor and evaluate its designated Conservation Areas and the effectiveness of the associated Article 4 Directions.

There is a risk of harm to the special qualities of the District's Conservation Areas if they are not actively monitored and up to date Conservation Area Appraisals are not in place.

On Behalf of the Section 151 Officer

**Legal (including Data Protection):**

Yes ☒

No ☐

**Details:**

The Council is placed under a statutory duty by the Planning (Listed Buildings and Conservation Areas) Act 1990 to undertake periodic reviews of Conservation Area Appraisals, which are also required by national planning policies set out in the National Planning Policy Framework.

There are no data protection issues arising from these proposals and all third party representations on these proposals will be dealt with in accordance with the Planning Service's privacy statement.

On Behalf of the Solicitor to the Council

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**Staffing:**

Yes ☒

No ☐

**Details:**

The Planning Service has been funding additional resource to carry out these appraisals through the appointment of a 2nd Heritage Conservation Manager (0.8FTE – until March 2022) because the established post holder (0.6FTE) has insufficient capacity to carry out this work.

On behalf of the Head of Paid Service

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**DECISION INFORMATION**

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

<b>Links to Council Ambition (BDC)/Council Plan (NED) priorities or Policy Framework including Climate Change, Equalities, and Economics and Health implications.</b>
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All.
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## REPORT DETAILS

### 1. Background

- 1.1 Bolsover District Council has a duty under section 69(2) of the Planning (Listed Buildings and Conservation Area) Act 1990 to review its designated Conservation Areas from time to time and assess the suitability of further areas for designation.
- 1.2 The National Planning Policy Framework advises that heritage assets should be conserved in a manner appropriate to their significance (paragraph 189). The guidance goes on to state that local planning authorities should ensure that a conservation area justifies such status because of its special architectural or historic interest, and that the concept of conservation is not devalued through the designation of areas that lack special interest.

### Conservation Area Appraisals

- 1.3 A Conservation Area appraisal is a statement of significance that provides the supporting justification for a Conservation Area designation. It is a statement of what defines the character and appearance of a Conservation Area, identifying those elements in particular which are significant.
- 1.4 An appraisal gives a conservation area designation greater weight in appeals. It informs the Local Plan, providing the necessary detail to support Conservation policies. In providing an understanding of the particular significance of an area, an appraisal supports the Council in its obligation to 'preserve or enhance' when making decisions on development proposals.

### Appraisal Coverage

- 1.5 There are 27 Conservation Areas in Bolsover District, 17 of which have formally adopted appraisals. It is intended that all of the District's conservation areas will have a formal written appraisal.
- 1.6 In November 2019, 6 appraisals were reported to Planning Committee including Barlborough, Bolsover, Palterton, Pleasley Village, Tibshelf and Clowne. That report also included a recommendation to amend the boundary of the Barlborough and Tibshelf; the carrying out of an appraisal of the suitability of the Oxcroft settlement for Conservation Area status; and a commitment that 6 further appraisals covering Hardwick & Rowthorne, Upper Langwith, Southgate House, Stainsby, Elmtun, and Elmtun with Creswell Farmsteads would follow this work stream alongside a review of Whitwell.
- 1.7 The further 6 appraisals were presented to Planning Committee on 17<sup>th</sup> November 2021.

- 1.8 Within the Elmton with Creswell Conservation Area, there were two proposed boundary changes considered; at Highwood Farm near Whitwell and at Frithwood Farmstead. The proposed boundary changes have come forward following an assessment of the local townscape as part of the work on the Elmton and Creswell Farmsteads Conservation Area Character Appraisal. Both boundary changes are to include additional historic farmsteads as Character Areas; the former Frithwood Farmstead for its historic completeness and Highwood Farmstead for its architectural and historic completeness. The proposed changes will result in the Elmton and Creswell Farmsteads having 8 character areas (Appendix 1).
- 1.9 Following the resolution of the Planning Committee of 17<sup>th</sup> November 2021 those property owners affected by the proposed boundary changes were consulted. A letter was sent out on 1<sup>st</sup> December inviting responses by 17<sup>th</sup> December. No objections have been received.

### Promotion

- 1.10 It is proposed to publicise the appraisal documents through the individual Parish Councils. The Parish Councils will be advised to promote the documents by way of a notification on the Parish Notice board/the Parish Council web page, directing residents to the Bolsover District Council website where electronic copies of the document(s) are posted.

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

- 2.1 The appraisal review was prioritised because these Conservation Area are considered to be under most development pressure and where further development is likely to cause most harm to the special qualities of the respective designated Conservation Areas. The draft appraisals can be viewed online.
- 2.2 In defining the significance of each Conservation Area, the appraisals will enable prospective applicants and other agencies to understand the aims of the Council in designating the individual conservation areas and will act as a guide as to how this should be reflected in their approach to potential development proposals.
- 2.3 When assessing development proposals against conservation policies in the Local Plan, the appraisals will enable the Council to have a detailed understanding of the particular significance of each conservation area as a heritage asset against which a proposal is considered.
- 2.4 The proposed amendments to the Elmton with Creswell Conservation Area are considered to better reflect the special architectural or historic interest of the Conservation Area as a whole and will afford these additional areas the additional protection that designation brings.

## **3. Recommendation**

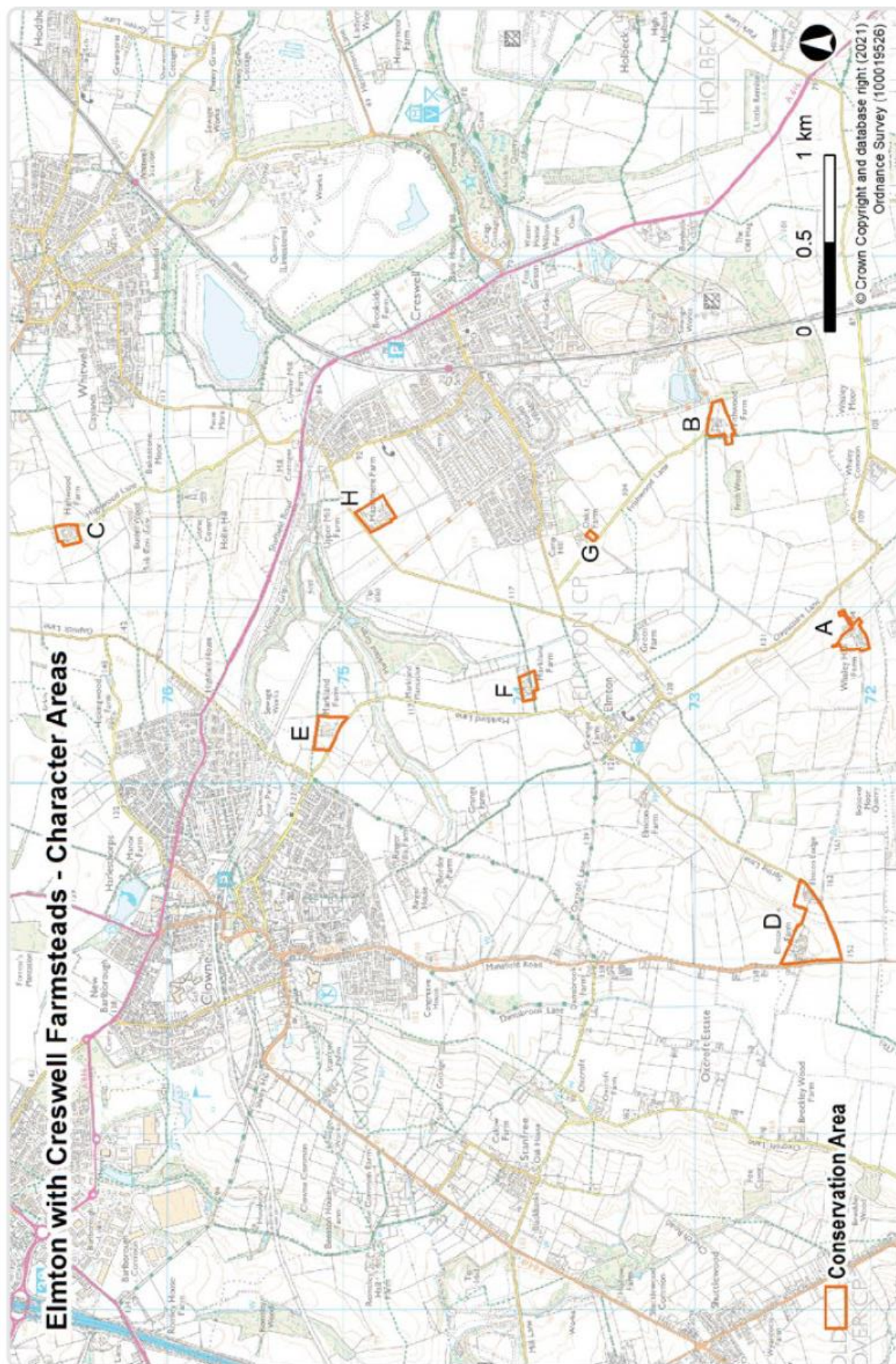
- 3.1 That the Committee approves the proposed amendments to the Conservation Area of Elmton with Creswell Farmsteads as shown be designated as a

conservation area, as an extension to the Elmtown with Creswell Farmsteads Conservation Area to be known as Extension Number 1.

## DOCUMENT INFORMATION

Appendix No	Title
1.	Elmtown with Creswell Farmsteads Map (inc. Extension)
<b>Background Papers</b> (These are unpublished works which have been relied on to a material extent when preparing the report. They must be listed in the section below. If the report is going to Cabinet (NEDDC) or Executive (BDC) you must provide copies of the background papers)	
N/A	

## APPENDIX 1: ELMTON WITH CRESWELL FARMSTEADS MAP





## **Bolsover District Council**

### **Planning Committee**

**19th January 2022**

#### **Update on Section 106 Agreement Monitoring**

#### **Report of the Assistant Director: Development and Planning**

**Classification:** This report is public

**Report By:** Interim Planning Policy Manager

**Contact Officer:** Chris McKinney

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#### **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.

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#### **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

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#### **IMPLICATIONS**

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**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

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**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

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**Staffing:**

**Yes** ☐

**No** ☒

**Details:**

None.

On behalf of the Head of Paid Service

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## DECISION INFORMATION

Decision Information	
<b>Is the decision a Key Decision?</b> A Key Decision is an executive decision which has a significant impact on two or more District wards or which results in income or expenditure to the Council above the following thresholds:  <b>BDC:</b> <b>Revenue - £75,000</b> <input type="checkbox"/> <b>Capital - £150,000</b> <input checked="" type="checkbox"/> <b>NEDDC:</b> <b>Revenue - £100,000</b> <input type="checkbox"/> <b>Capital - £250,000</b> <input type="checkbox"/> <input checked="" type="checkbox"/> <i>Please indicate which threshold applies</i>	No
<b>Is the decision subject to Call-In?</b> (Only Key Decisions are subject to Call-In)	No
<b>District Wards Significantly Affected</b>	All
<b>Consultation:</b> <b>Leader / Deputy Leader</b> <input type="checkbox"/> <b>Cabinet / Executive</b> <input checked="" type="checkbox"/> <b>SAMT</b> <input type="checkbox"/> <b>Relevant Service Manager</b> <input type="checkbox"/> <b>Members</b> <input type="checkbox"/> <b>Public</b> <input type="checkbox"/> <b>Other</b> <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 26<sup>th</sup> October 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 This sum is now joined by the following sum that was highlighted at the Section 106 Monitoring Group as needing to be spent within 12 months.
- d. Thurgaton Way P2 - Health £30,132 by 01.08.22
- 2.3 The updates for these four sums recorded at the Section 106 Monitoring Group are as follows:

	<p><b>Art work underspend at The Brambles, Doe Lea (Financial spreadsheet line 47)</b></p> <p>DO to develop the Orchestras Live Partnership project plan and deliver it by March 2022.</p> <p><u>Update</u> DO advised that he met with Orchestras Live Partnership last week to progress the development of the project plan and that the intention is to install lighting around artwork prior to Christmas and hold the final celebration event prior to end of March 2022.</p> <p><u>New Actions</u> DO to deliver the Orchestras Live Partnership project by end of March 2022.</p>	<p><b>Action owners</b></p> <p>DO</p>
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<p><b>Sterry House Farm - Informal POS £12,107 by 06.02.22 (Financial spreadsheet line 75)</b></p>	<p><b>Action owners</b></p>
<p>MC to progress and ensure works are delivered and S106 monies are spent prior to 6<sup>th</sup> February 2022 deadline.</p>	
<p><u>Update</u></p>	
<p>MC advised that works are now being delivered by Clowne Parish Council under the Clowne Gateway Environmental Improvement Scheme and that the funds have been transferred to the Parish Council. A completion event is being planned.</p>	

	<p><u>New Actions</u> MC to seek a date for when this work would be completed by the end of the week (Friday 29<sup>th</sup> October 2021).</p>	MC
	<p><b>Sterry House Farm - Art £3,045 by 18.04.22 (Financial spreadsheet line 79)</b></p> <p>DO to progress and ensure works are delivered and S106 monies are spent prior to 18<sup>th</sup> April 2022 deadline.</p> <p><u>Update</u> DO advised that the Clowne Linear Park signage design work is being scheduled in order to enable delivery alongside the planned completion event for the Clowne Gateway Environmental Improvement Scheme discussed above.</p> <p><u>New Actions</u> DO to progress and ensure works are delivered and S106 monies are spent prior to 18<sup>th</sup> April 2022 deadline.</p>	<p><b>Action owners</b></p> <p>DO</p>
	<p><b>Thurgaton Way P2 - Health £30,132 by 01.08.22 (Financial spreadsheet lines 73 and 83)</b></p> <p>JF to pursue progress with the legal agreement to enable the transfer of the S106 monies from BDC to NHS England by 31<sup>st</sup> August 2021.</p> <p><u>Update</u> CM advised the group that JF had tried to secure progress in this matter but that no response had been received. CM advised that he had emailed Rachael Preston at NHS England on Friday to ask for an update prior to the meeting and had phoned her 3 times yesterday, all to no avail.</p> <p>The group noted that the first tranche of the allocated S106 money was due to be returned to the developers in August 2022 and that if a response could not be achieved within the week this matter should be escalated, ideally to the Leader of the Council.</p> <p><u>New Actions</u> CM to continue to chase progress and if no response to escalate the matter.</p>	<p><b>Action owners</b></p> <p>CM</p>

- 2.4 As can be seen, the Sterry House Farm sum of £12,107 for Informal Public Open Space (POS) has now been transferred to Clowne Parish Council and spent on the Clowne Gateway Environmental Improvement Scheme in advance of the 6<sup>th</sup> February 2022 deadline. Related to this, the Sterry House Farm sum of £3,045 for Public Art should be spent soon and in advance of the 18<sup>th</sup> April 2022 deadline also.
- 2.5 In relation to the new sum at Thurgaton Way Phase 2 sum of £30,132, at the time of writing this sum is yet to be transferred to the NHS for Primary Health Care improvements at the Staffa GP Practice in Tibshelf. Discussions are ongoing with the various NHS organisations involved and the urgency of the situation is being communicated to them and a timeframe that would see the money transferred to the relevant NHS organisation in April 2022 for spending commitment prior to the 1<sup>st</sup> August date is possible. As per the Section 106 Monitoring Group notes, this situation was escalated to the Leader of the Council prior to Christmas 2021 to establish the degree of concern that should be directed at the Staffa GP Practice from the Council. In light of the increasing pressure on GP surgeries to facilitate the accelerated roll out of the Covid-19 vaccination booster programme, the Leader understandably decided that it would be inappropriate to add to the pressure on the Staffa GP surgery at this time but that officers should continue to work to ensure the money is transferred in a timely manner and to keep him informed of the situation.
- 2.6 Beyond these two cases, progress continues to be made but officers will continue to monitor and pursue the implementation of the Section 106 Agreements.

### **3 Reasons for Recommendation**

- 3.1 The implementation of Section 106 Agreements in a timely manner is essential to achieving sustainable growth across the District and protecting the quality of life for the District's residents and businesses.
- 3.2 As a result, it is important that Members receive information about the progress being made by the various Council departments to deliver Section 106 Agreements and to give Members the opportunity to assess the effectiveness of the monitoring procedures.
- 3.3 Therefore, it is recommended that Members note the contents of the report and highlight any concerns about the implementation of the Section 106 Agreements listed.

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

- 4.1 Providing a progress report in respect of the monitoring of Section 106 Agreements to Planning Committee address recommendations made in the 2016 Audit report and has been agreed by members of the Planning Committee as part of the procedure for recording and monitoring Section 106 Agreements. Therefore, officers have not considered alternative options.

## DOCUMENT INFORMATION

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



## **Bolsover District Council**

### **Planning Committee**

**19<sup>th</sup> January 2022**

<b><u>Report: Appeal Decisions: July 2021 – December 2021</u></b>
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**This report is public**

### **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.
- To report any issues or lessons learnt from the appeal decisions.

#### **1. 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. During the fifth monitoring period the council had no appeals on Major planning applications determined. The council 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 equated to 0.9% 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 continue to be reported to Committee members every 6 months.

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

- 1.6 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 one appeal on non-major applications. This appeal was dismissed. The council has therefore won 100% of the appeals determined within that period. The council is therefore still exceeding its appeal decision targets.
- 2.2 The lack of appeals against decisions indicates current decision making is 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 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

<b>Is the decision a Key Decision?</b> (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
<b>Is the decision subject to Call-In?</b> (Only Key Decisions are subject to Call-In)	No
<b>District Wards Affected</b>	No
<b>Links to Corporate Plan priorities or Policy Framework</b>	All

## 8. Document Information

Appendix No	Title
1.	<b>Planning Appeal Decisions Period 1<sup>st</sup> July 2021-31<sup>st</sup> December 2021</b>
<b>Background Papers</b> (These are unpublished works which have been relied on to a material extent when preparing the report. They must be listed in the section below. If the report is going to Cabinet (NEDDC) or Executive (BDC) you must provide copies of the background papers)	
<b>Report Author</b>	<b>Contact Number</b>
Sarah Kay	2265

## **Appendix 1: Planning Appeal Decisions Period 1<sup>st</sup> July 2021-31<sup>st</sup> December 2021**

### **APP/R1010/X/21/3272149: 2 Oakdale Road, Broadmeadows, Pinxton: Application for a Certificate of Lawful Use or Development for the use of the dwelling as a care home for children and alterations to the existing garage.**

#### **Main Issues**

The main issue is whether the Council's decision to refuse to issue a Lawful Development Certificate (LDC) was well-founded.

This hangs on whether:

- The use proposed falls within Use Class C3 of the Use Classes Order; and
- If the use does not fall within Class C3, whether the change from the pre-existing Class C3 dwellinghouse use to the care home use proposed is a material change.

#### **Conclusion**

With regard to use class of the proposal the Inspector concluded that the proposed use did not fall within Use Class C3 of the Use Classes Order and was therefore a change to the existing use which did not fall within the same use. The Inspector used previous court judgements to back this decision.

With regard to whether the change of use was considered to be "material" depended on whether there would be a change in the character of the use of the site. The Inspector concluded that there were no obvious physical features that distinguished the property from a normal family dwelling but considered that there would be other notable differences in its use. These differences included staff change-over twice a day, early in the morning and late in the evening, weekdays and weekends. This would be very noticeable to neighbouring occupiers, marking the property as something other than a dwellinghouse. It may also result in a number of vehicles being parked at the property at any one time including carers, a manager and other professionals visiting the site. Even if this number of vehicles could be accommodated on site, the extent of parking means that the character of the use would be materially different from a dwellinghouse.

The Inspector therefore concluded that the proposal amounted to a material change of use for which planning permission is required and the council's refusal to grant a certificate of lawful use or development was well-founded.

The appeal was dismissed.

#### **Recommendations**

None

The Council's interpretation of the Use Classes Order and what constitutes a material change of use was well-founded and the Inspector concurred with the Council's decision on both points.

## **Bolsover District Council**

### **Planning Committee**

**19<sup>th</sup> January 2022**

#### **Local Enforcement Plan Update**

#### **Report of the Planning Manager**

This report is public

#### **Purpose of the Report**

- To update the planning committee on the service targets set out in the Local Enforcement Plan.

#### **1.0 Report Details**

##### **1.1 Background**

- 1.2 The Local Enforcement Plan was adopted by the Planning Committee in 2019. The Plan sets out the following service standards that Planning Enforcement Officers consider are specific, measurable, achievable and realistic:

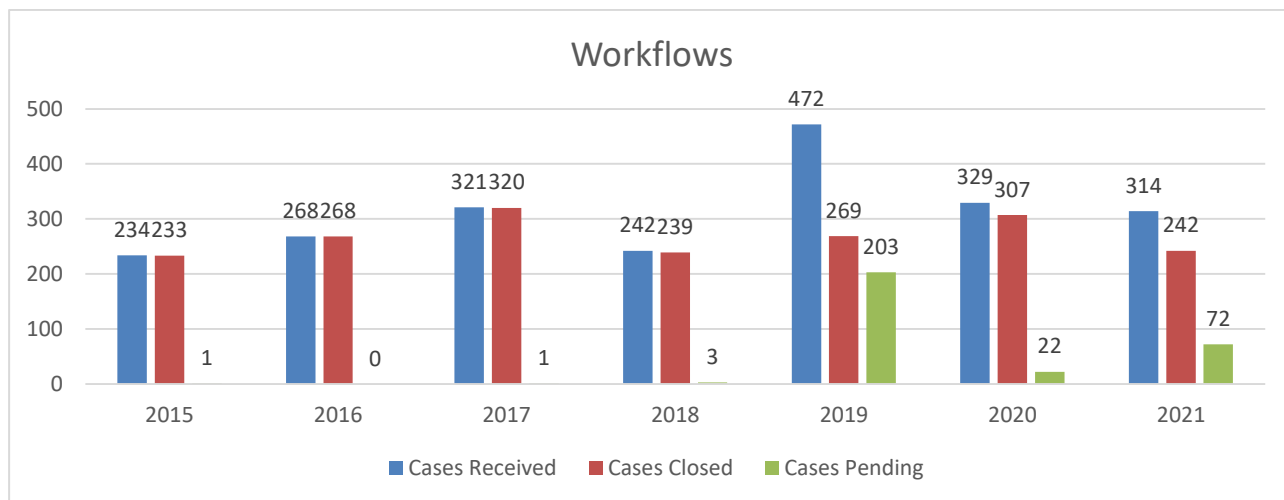
- The site of a high priority case will be visited on the same day the suspected breach of planning control has been identified, wherever possible, and a decision on what further action is required will be taken within **24 hours** of that site visit. By way of an example a high priority case includes unauthorised works to a listed building, arboriculture on protected trees or demolition in a conservation area.
- The site of a medium priority case will be visited within **two weeks** of identifying a suspected breach of planning control. A decision on what further action to take will be made within four weeks of that site visit.
- The site of a low priority case will be visited within **six weeks** of identifying a suspected breach of planning controls. A decision on what further action to take will be made within six weeks of that site visit.

- 1.3 These service standards have been designed to facilitate prompt investigation of suspected breaches of planning control and encourage making timely decisions on how to progress individual cases.
- 1.4 The purpose of this report is to update the planning committee with regards the enforcement enquiries that are being received and progressed to the period ending December 2021.

## 1.5 Performance

1.6 Graph One (Workflows) below shows the number of enquires received by the planning department over the last seven calendar years.

Graph One: Workflows



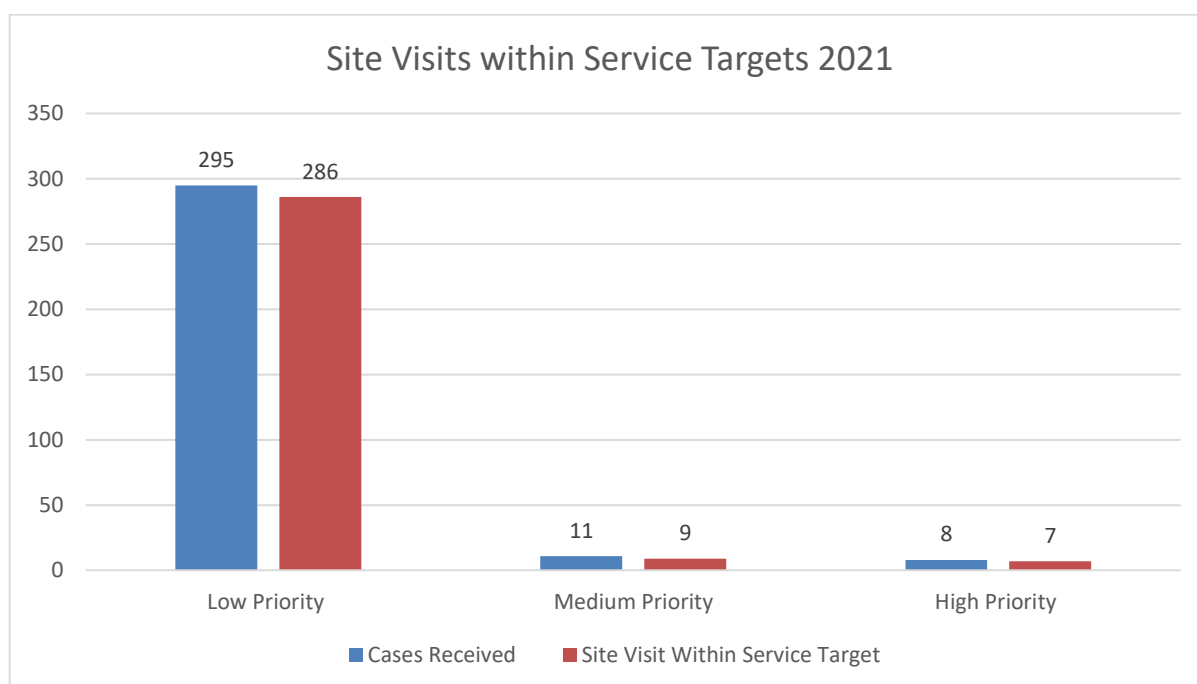
1.7 Table One below shows the number of historic cases that have been closed over the last seven years as well as the number of cases that officers continue to process.

Table One Historic Cases:

Year	Cases Received	Cases Closed	Cases Pending
2015	234	233	1
2016	268	268	0
2017	321	320	1
2018	242	239	3
2019 (Excluding Creswell Model Village)	278	269	9
2020	329	307	22
2021	314	242	72

- 1.8 The 2019 increase in unauthorised enquiries relate to an ongoing project at the Creswell Model Village. The breaches of planning control that are not lawful are being progressed. This project will be reported to the Planning Committee under a separate report.
- 1.9 Graph Two below shows that of the 314 actual enquires that were received in 2021 the enforcement team managed to visit 84% of high and medium priorities (19 cases) within the service target. Of the 295 low priority cases 9 cases were not inspected within the 42 day target (3%). Given the implications of the coronavirus over the past 12 months, this is considered to be a factor in the shortcomings in meeting the targets.

Graph Two: Site Visits within Service Targets 2021



- 1.10 Table Two below shows the numbers of cases and the number of cases by priority that have been closed in 2020 and 2021, as well as the number that remain pending consideration.

Table Two Workflows: 2020 and 2021

	2020					2021				
	Cases Received	Cases Closed		Cases Pending		Cases Received	Cases Closed		Cases Pending	
<b>Total</b>	<b>329</b>	<b>307</b>	<b>93.5%</b>	<b>22</b>	<b>6.5%</b>	<b>314</b>	<b>242</b>	<b>77%</b>	<b>72</b>	<b>23%</b>
<b>Low Priority</b>	<b>293</b>	<b>273</b>	<b>93%</b>	<b>20</b>	<b>7%</b>	<b>295</b>	<b>228</b>	<b>77%</b>	<b>67</b>	<b>23%</b>
<b>Medium Priority</b>	<b>24</b>	<b>22</b>	<b>91.5%</b>	<b>2</b>	<b>8.5%</b>	<b>11</b>	<b>8</b>	<b>73%</b>	<b>3</b>	<b>7%</b>



<b>High Priority</b>	<b>12</b>	<b>12</b>	<b>100%</b>	<b>0</b>	<b>Nil</b>	<b>8</b>	<b>6</b>	<b>75%</b>	<b>2</b>	<b>25%</b>
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1.11 Table Three below shows the oldest cases that are still pending or have progressed to enforcement action.

Table Three: Status of Historic Cases (up to end of 2019)

<b>Reference</b>	<b>Location Allegation</b>	<b>Status</b>
E15/232 High Priority	Barlborough  Development of Stables	Extant enforcement notice.  Working with landowner to ascertain potential use.
E17/086 Medium priority	Clowne  Alleged hard-landscaping, front extension and erection of walls.	Monitoring site following recent negotiations with Conservation Officers.
E17/178 Medium priority	South Normanton  Change of use of carpet warehouse to tyre fitting unit.	Planning Enforcement Notice Issued  Notice currently being complied with.
E18/061 Medium priority	Shirebrook  Alleged unauthorised change of use to a C3 dwelling house Shirebrook.	Pending consideration: Working with landowner to regularise the use of the building.
E18/069 Low priority	South Normanton  Land On Corner Of Duke Street And, Main Street.	Issued S215 Notice to tidy land.  Notice not complied with so works to progress in default by BDC and recharge to land.
E18/092 Medium priority	Barlborough  Siting and permanent residential use of static caravans.	Planning Inspectorate Decision issued 14 <sup>th</sup> June '21 granting temp 2 year permission.

E18/145 Low priority	Clowne  Untidy land / building / residential use of static caravans.	Pending consideration.
E18/163 Low priority	Bolsover  High Hedges complaint.	Remedial Notice re-issued end '21, compliance required by Feb '22.
E19/015 Medium priority	Barlborough  Allegation of mobile home used for residential purposes.	Pending consideration.
E19/016 Low priority	South Normanton  Allegation of untidy land.	Proceed to serve a Community Protection Warning Notice.
E19/074 Medium priority	Clowne  COU of land to store trailers / park LGVS and associated development.	Enforcement Notice issued and Appeal pending.
E19/092 Low priority	Stanfree  Alleged erection of stable block and paddocks fenced into sections.	Pending consideration.  Working with landowner to ascertain potential permission.
E19/152 Low priority	Pinxton  Alleged erection of large shed.	Pending consideration.  PCN served.
E19/160 Low priority	Clowne  Allegation of outbuilding.	Pending consideration.  PCN served.
E19/163 Low priority	Tibshelf  Alleged change of use (storage).	Pending consideration, officers to proceed to serve an Enforcement Notice.
E19/209 Low priority	Pinxton  Alleged development of bungalow.	Pending consideration.

E19/371 Low priority	Stainsby  Alleged building works.	Pending consideration.
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- 1.12 Resolution of these outstanding / historic cases will be prioritised over the next 6-12 months.

## **2.0 Conclusions and Reasons for Recommendation**

- 2.1 Officers consider that the Local Enforcement Plan is working, insofar as it is allowing the enforcement team to ensure there are sufficient resources to make sure breaches of planning control are dealt with effectively and efficiently, it is also considered that the enforcement team is performing well against the service standards with regard to promptly visiting sites where cases have been reported to the Planning Service and making first contact with the suspected offender.
- 2.2 Officers recommend that this report is noted and further monitoring reports continue to be submitted to the Planning Committee on a half-yearly basis to allow members to retain appropriate oversight of these issues and the effectiveness of the Council's planning enforcement function.
- 2.3 Members are reminded that a review of the Local Enforcement Plan is due to take place before March 2022 and therefore a separate review report is to follow this update at the next available committee.

## **3.0 Consultation and Equality Impact**

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

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

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

## **5.0 Implications**

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

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

## **6.0 Legal Implications including Data Protection**

- 6.1 Producing this type of monitoring report is consistent with advice in the Local Enforcement Plan that says the Plan will be monitored and reviewed to ensure it remains consistent with case law and/or any subsequent changes in national guidance or legislation and continues to enable planning enforcement to be carried out effectively within the District. However, there is no legal requirement to produce a monitoring report.
- 6.2 The above report does not contain any personal data.
- 6.3 Where the case is still pending consideration, the property address has been anonymised to provide a reasonable amount of privacy for the landowners involved. Where the property is subject to formal action, the presence of an Enforcement Notice is a matter of public record and that information is publically available.
- 6.4 Therefore, the way property addresses have been reported in the above report is considered to be consistent with the key principles in the GDPR.

## **7.0 Human Resources Implications**

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

## **8.0 Recommendations**

- 8.1 This report is noted.
- 8.2 The planning department's performance against the Service Standards in the Local Enforcement Plan and updates on planning enforcement continue to be reported to Planning Committee on a half-yearly basis.

## **9.0 Decision Information**

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

#### 10.0 Document Information

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