



The Arc  
High Street  
Clowne  
S43 4JY

To: Chair & Members of the Planning  
Committee

Contact: Alison Bluff  
Telephone: 01246 242528  
Email: [alison.bluff@bolsover.gov.uk](mailto:alison.bluff@bolsover.gov.uk)

Monday 14<sup>th</sup> February 2022

Dear Councillor

### **PLANNING COMMITTEE**

You are hereby summoned to attend a meeting of the Planning Committee of the Bolsover District Council to be held in the Council Chamber on Wednesday, 23rd February, 2022 at 10:00 hours.

### **Risk Assessment Disclaimer**

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

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

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



**Bolsover**  
District Council

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

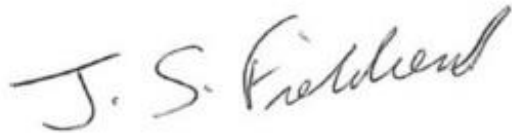
**If you require this agenda in large print  
or another format please call us on 01246 217753**

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

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

You will find the contents of the agenda itemised from page 3 onwards.

Yours sincerely

A handwritten signature in dark ink, appearing to read 'J. S. Fielden'. The signature is written in a cursive style with a large, sweeping 'J' and 'F'.

Interim Monitoring Officer

**PLANNING COMMITTEE  
AGENDA**

**Wednesday, 23rd February, 2022 at 10:00 hours taking place in the Council Chamber,  
The Arc, Clowne**

<b>Item No.</b>	<b>PART 1 – OPEN ITEMS</b>	<b>Page No.(s)</b>
<b>1.</b>	<b>Apologies For Absence</b>	
<b>2.</b>	<b>Urgent Items of Business</b>	
	To note any urgent items of business which the Chairman has consented to being considered under the provisions of Section 100(B) 4(b) of the Local Government Act 1972.	
<b>3.</b>	<b>Declarations of Interest</b>	
	Members should declare the existence and nature of any Disclosable Pecuniary Interest and Non Statutory Interest as defined by the Members' Code of Conduct in respect of:	
	a) any business on the agenda	
	b) any urgent additional items to be considered	
	c) any matters arising out of those items	
	and if appropriate, withdraw from the meeting at the relevant time.	
<b>4.</b>	<b>Minutes</b>	
	To consider the minutes of the last meeting held on 19 <sup>th</sup> January 2022	5 - 15
	<b><u>APPLICATIONS TO BE DETERMINED UNDER THE TOWN &amp; COUNTRY PLANNING ACTS</u></b>	
<b>5.</b>	<b>Application no.21/00762/FUL - Change of Use from Drinking Establishment (A4) to Convenience Store (E) - additional of pedestrian access ramp to front entrance. Change of window to door on rear elevation - The Plug And Feathers The Hill Glapwell Chesterfield</b>	16 - 26
<b>6.</b>	<b>Application no. 21/00421/FUL - Construction of 24no single storey dwellings - Land East Of Market Close Shirebrook</b>	27 - 58
<b>7.</b>	<b>Application no.22/00029/FUL - First floor extension over existing ground floor extensions to side &amp; rear elevations, single storey extension to front of existing garage, replace remaining garage roof, insert bathroom window and additional single storey extension to rear elevation - 89 Ball Hill South Normanton Alfreton DE55 2EB</b>	59 - 69

- |    |  |         |
|----|--|---------|
| 8. | <b>Application no.21/00051/FUL - The demolition of the existing buildings on site, the removal of existing contamination, re-configuration of the land and the construction of 36 residential units with parking served off an associated access road - Builders Yard/Former Scrap Yard Pit Hill Whaley Thorns</b> | 70 - 94 |
|----|--|---------|

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

- |    |  |          |
|----|--|----------|
| 9. | <b>Preparation of a new local development scheme and the preparation of growth plans</b> | 95 - 107 |
|----|--|----------|

## 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 19<sup>th</sup> January 2022 at 1000 hours.

### **PRESENT:-**

Members:-

Councillor Tom Munro in the Chair

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

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

### **PL25-21/22. APOLOGIES**

There were no apologies for absence submitted.

### **PL26-21/22. URGENT ITEMS OF BUSINESS**

There were no urgent items of business to consider.

### **PL27-21/22. DECLARATIONS OF INTEREST**

Councillor Paul Cooper declared a Disclosable Pecuniary Interest in Agenda Item 5 - 21/00619/OUT – Land East of 22 Appletree Road, Stanfree – Two new dwellings, and would leave the meeting at the relevant time.

### **PL28-21/22. MINUTES – 17<sup>TH</sup> NOVEMBER 2021**

Moved by Councillor Tom Munro and seconded by Councillor Derek Adams

**RESOLVED** that the Minutes of a Planning Committee meeting held on 17<sup>th</sup> November 2021 be approved as a correct record.

Councillor Paul Cooper having previously declared a Disclosable Pecuniary Interest in the following item, left the meeting.

### **PL29-21/22. APPLICATION TO BE DETERMINED UNDER THE TOWN AND COUNTRY PLANNING ACTS - 21/00619/OUT – LAND EAST OF 22 APPLETREE ROAD, STANFREE – TWO NEW DWELLINGS**

Committee considered a detailed report presented by the Planning Manager in relation to the above application.

The proposal was for Outline planning permission, with all matters reserved, for the construction of two detached dwellings to be created in the village of Stanfree.

## PLANNING COMMITTEE

The main issues for Committee to consider were whether the principle of developing two dwellings in the countryside was acceptable by reason of the applicant's submitted statement that the site was previously developed land, the sustainability of Stanfree as a settlement within the countryside, and whether the site could be provided with a safe and suitable access.

The applicant had submitted some photographic evidence with the application, providing images of a hearth, and evidence of burning, and the applicant has claimed that there was a residential cottage previously on the site. A search of historic maps suggested that there were buildings on the site up until around 1970 and the presence of a burnt hearth also suggested that the buildings were residential in nature, rather than agricultural/animal buildings. 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.

Whilst the Council acknowledged that the site was currently free of permanent buildings, it was evident that there had been a building on the site up until a timeframe of between 1949 and 1970, and it was highly likely that this was residential in nature. The Council therefore considered that the applicant had submitted sufficient information to demonstrate that the site was previously developed land.

Where this had been demonstrated, policy SS9 required that it was only on the basis that the proposed use was '*sustainable and appropriate to the location*'. The site was not within a sustainable settlement but given that it was proposing only two additional dwellings adjoining the built up area of Stanfree, and given that there had been recent approvals for limited infill developments within the village, it was considered that the location was acceptable and would not warrant a reason for refusal on sustainability grounds.

In relation to a safe and suitable access, the highway authority, DCC, had 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 2022, advising that it was their understanding that in the event of permission being granted, some improvements could be offered to the Lane.

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

Moved by Councillor Tom Munro and seconded by Councillor Derek Adams  
**RESOLVED** that the application be granted with the following 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

## PLANNING COMMITTEE

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,

## **PLANNING COMMITTEE**

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



## PLANNING COMMITTEE

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

## **PLANNING COMMITTEE**

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

## **PLANNING COMMITTEE**

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

## PLANNING COMMITTEE

<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.

## PLANNING COMMITTEE

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).

(Planning Manager)

Councillor Paul Cooper returned to the meeting.

### **PL30-21/22. CONSERVATION AREA APPRAISALS – ELMTON WITH CRESWELL FARMSTEADS**

At the Planning Committee meeting held on 17<sup>th</sup> November 2021, Members had resolved to adopt a number of Conservation Area Appraisals with the exception of Elmton with Creswell. This was because a further public consultation was necessary regarding two more farmsteads to be added into the Elmton and Creswell Farmstead conservation area appraisal.

On 1<sup>st</sup> December 2021, a letter was sent to those property owners affected by the proposed boundary changes, inviting their responses to be received by 17<sup>th</sup> December 2021 – No objections were received.

The proposed amendments to the Elmton with Creswell Conservation Area were considered to better reflect the special architectural or historic interest of the Conservation Area as a whole and would afford those additional areas the additional protection that designation brings.

Moved by Councillor Duncan McGregor and seconded by Councillor Tom Munro  
**RESOLVED** that the proposed additions to the Conservation Area of Elmton with Creswell Farmsteads be designated as a Conservation Area, to be included in the Elmton with Creswell Conservation Area, to be known as Extension Number 1.

(Planning Manager)

## **PLANNING COMMITTEE**

### **REPORTS OF THE ASSISTANT DIRECTOR OF DEVELOPMENT & PLANNING**

#### **PL31-21/22. UPDATE ON SECTION 106 AGREEMENT MONITORING**

Committee considered a report which provided progress in respect of the monitoring of Section 106 Agreements. The report was a quarterly progress report following a meeting of the Section 106 Monitoring Group held on 26<sup>th</sup> October 2021.

S106 agreements were a type of legal agreement between the Council and landowners / developers, often completed alongside applications for planning permission for major developments. They were needed to deal with the additional pressures on infrastructure that resulted from the new development. They were only required where the effects of the development would otherwise be unacceptable in planning terms and where they could not be dealt with by conditions of the planning permission.

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

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

Members would recall that three sums which remained unspent were identified in the report presented to Committee at its meeting held in June 2021. At the Section 106 Monitoring Group, a further sum had been highlighted also needing to be spent within 12 months.

Further updates for the four sums and their details were set out in the report and the actions which had been progressed with regard to these

Moved by Councillor Duncan McGregor and seconded by Councillor Chris Kane  
**RESOLVED** that the report be noted.

#### **PL32-21/22. APPEAL DECISIONS: JULY 2021 – DECEMBER 2021**

Committee considered a report which set out the performance of the Planning Service against the Government's quality of decision making targets.

During the 6 month period since the last monitoring period ending June 2021, the Council had no appeals on major planning applications determined, and only one appeal on non-major applications which was dismissed. Therefore, the Council was still exceeding its appeal decision targets. The lack of appeals against decisions indicate that current decision making was sound. This was supported by Internal Audit who reported 'substantial' reassurance in the latest internal audit of 'Planning Processes and Appeals'.

Members welcomed the report and the Chair requested that the Planning Manager pass on Committee's thanks to planning staff who carried out their duties diligently.

## **PLANNING COMMITTEE**

Moved by Councillor Tom Munro and seconded by Councillor Duncan McGregor  
**RESOLVED** that the report be noted.

### **PL33-21/22. LOCAL ENFORCEMENT PLAN UPDATE**

Committee considered a report which provided an update on enforcement service targets set out in the Local Enforcement Plan for the period ending December 2021.

The service standards had been designed to facilitate prompt investigation of suspected breaches of planning control and to encourage making timely decisions on how to progress individual cases.

A graph in the report showed that out of 314 enquires received in 2021, the enforcement team had visited 84% of high and medium priorities (19 cases), within the service target. Of the 295 low priority cases, 9 were not inspected within the 42 day target (3%).

A table in the report provided the number of historic cases that had been closed over the last seven years, and also the number of cases that officers continued to process. A second table provided the number of cases, and also by low and medium priority, that had been closed in 2020 and 2021 and the number that remained pending consideration. A third table in the report provided the oldest cases up to end of 2019 that were pending or had progressed to enforcement action.

A Member commented that the report highlighted and underpinned the excellent work of the planning department.

Moved by Councillor Duncan McGregor and seconded by Councillor Tom Munro  
**RESOLVED** that the report be noted.

The meeting concluded at 1035 hours.

**PARISH** Glapwell Parish

---

**APPLICATION** Change of Use from Drinking Establishment (A4) to Convenience Store (E) - additional of pedestrian access ramp to front entrance. Change of window to door on rear elevation

**LOCATION** The Plug And Feathers The Hill Glapwell Chesterfield

**APPLICANT** Mr Daren Burney c/o Dovetail Architects 5th Floor, Unex Tower, Stratford E15 1DA London

**APPLICATION NO.** 21/00762/FUL **FILE NO.** PP-10483596

**CASE OFFICER** Mrs Karen Wake (Mon, Tues, Wed)

**DATE RECEIVED** 20th December 2021

---

## SUMMARY

This application has been referred to the Planning Committee by Councillor Kirkham given the concerns of local residents about the impact of the development on road safety in the area.

In summary, the application is recommended for approval. This is considered to represent a sustainable community facility which accords with most policy requirements, subject to the inclusion of suitable conditions.

## Site Location Plan





## **SITE & SURROUNDINGS**

The site is currently vacant. The site contains a substantial two storey stone built building with a slate roof which was last used as a public house. To the side/rear of the building is a detached, pitched roof outbuilding. The remainder of the site is a tarmac car park. There are detached dwellings to each side, front and rear of the site.

## **PROPOSAL**

The application is for the change of use from a public house to a convenience store. The proposal includes the creation of a one way system on site such the two accesses are restricted to one for entry and one for exit and an amendment to the site frontage layout to provide three parking space on the site frontage. The only alteration proposed to the building is the addition of an external ramp/staircase to the front door. And the replacement of a window with a door on the rear elevation.

## **AMENDMENTS**

None

## **HISTORY**

02/00242/FUL	Granted Conditionally	Change of use of first floor to hotel and two storey extension to side, conversion of outbuilding to managers flat and hotel bedrooms and extension to car park
98/00179/ADV	Granted Conditionally	Erection of illuminated signs
05/00651/ADV	Granted Conditionally	Erection of 2 externally illuminated signs, 1 non illuminated sign and an internally illuminated double sided totem sign
09/00052/RETRO	Granted Conditionally	Retention of timber decking with balustrading
11/00240/FUL	Granted Conditionally	Change of use of part of first floor to form four guest rooms
12/00265/FUL	Granted Conditionally	Alterations to front & side elevation (ground floor) & internal alterations for refit
12/00336/ADV	Granted Conditionally	Various signage including 1 Post and 1 Logo sign (internally illuminated), 1 fascia sign (internally & externally illuminated), 2 amenities and 1 post signs (non illuminated) and 4 lanterns (as amended by email received on the 13th August 2012 from the agent)

BOLADV/1994/007	Granted Conditionally	Re-signage at The Glapwell Inn (BOL 9406/AD07)
BOLADV/1989/004	Granted Conditionally	Two static externally illuminated fascia signs and one externally illuminated pole sign at The Glapwell Hotel (BOL 289/A4)
BLA/1973/0042	Granted Conditionally	Alterations at The Glapwell Hotel (BLA 373/42)
21/00353/LAWPRO	Withdrawn	Change of use of the existing public house (A4) to food and drink/restaurant and cafes (A3)
21/00506/FUL	Pending Consideration	Change of use to drive thru coffee shop, part demolition of single storey extensions, addition of drive thru window and drive through lane.
21/00507/ADV	Pending Consideration	1 No fascia sign, 1 No totem pole sign, 2 No directional signs, and 2 No menu boards

## CONSULTATIONS

### Derbyshire County Council (Highways)

The on-site manoeuvring is tight but is an improvement to the original layout. No objections to amended layout, recommends conditions details of parking and storage space during construction be submitted for approval, parking on site to be laid out in accordance with the amended plans before the first use of the site and no gates or barriers to be added to the access.

### Derbyshire Wildlife Trust

Require a condition that due to the presence of confirmed bat roosts in the main building and moderate roost potential in the outbuilding, the following must be strictly adhered to:

1. There shall be no work of any kind to the roof or eaves of the main building, internally or externally.
2. There shall be no work of any kind to the roof or eaves of the outbuilding and the outbuilding will remain open-fronted.
3. There shall be no demolition work on site.
4. There shall be no additional external lighting over and above that previously present on site.
5. Signage shall be installed on the loft hatch/entry point(s) in the main building clearly marked 'Out of bounds' or words to that effect. It will state that a bat roost is present and that disturbance is prohibited by law.
6. An Ecological Clerk of Works shall be engaged to brief contractors at the start of works, approve works to be undertaken during the breeding season and be available for general guidance throughout the renovations.

If any of the above cannot be complied with, an ecologist must be contacted for advice before works commence to discuss the requirements for nocturnal bat surveys and a European Species Licence. A short statement of compliance must be submitted upon completion of

works to discharge the condition.

#### Environmental Health Officer

Request a condition that before the development is first brought into use, details of the lighting scheme proposed on site be submitted for approval. The submitted scheme should have regard to the “Guidance Notes for the Reduction of Obtrusive Light GN01:2011” produced by the Institution of Lighting Professionals. The approved lighting scheme should be implemented in full before the lighting is first used and retained thereafter to prevent light causing a loss of amenity to adjacent dwellings.

Request a condition that before the development is first brought into use an assessment of sound has been undertaken and a scheme specifying the provisions to be made for the control of sound emanating from the building has been submitted to the local planning authority for approval. The assessment should identify and quantify all sound sources from the development and assess the significance of the sound impact, taking into account the uncertainty of the assessment at any neighbouring dwellings in accordance with the methodology described in the British Standard BS4142:2014 Methods for rating and assessing industrial and commercial sound. After the completion of all works within the approved scheme a validation report should be completed by a competent person and submitted the local planning authority for approval and the approved scheme retained thereafter to protect the amenity of the locality.

#### **PUBLICITY**

The application was publicised by way of a site notice and 36 neighbour letters.

22 Letters of objection and a 247 name petition were received which raise the following issues:

1. There is already a convenience store in Bramley Vale and one in Glapwell they work very hard to serve the community. The additional competition will hurt this business.
2. It would be detrimental to traffic and congestion on an already extremely busy road.
3. The site is close to Bramley Vale School and children walk past the site daily from the bus stop to the school and the proposal will be a danger to them and other pedestrians.
4. The site is adjacent to the Stockley Trail which is well used by all age groups and the proposal could affect its use and the pollution levels on it and be a danger to its users due to the increased use of the access.
5. A hot food take-away, café, restaurant, youth centre or community hub, training facility B7B, childcare facility or a pub would be a better option.
6. The hours of opening will mean traffic uses the site all day including rush hours when the pub was not open or not busy. The shop will increase congestion and cause obstruction when entering and exiting the site.
7. There is no adequate crossing point to support children or the elderly being able to visit the store safely.
8. The shop with its deliveries unloading all hours would be a disturbance to local residents.
9. An additional shop will be very harmful to existing shops and the health and wellbeing of the people running them who are trying to make a living. Existing local businesses

should have been notified of this proposal directly and they haven't been.

7 Letters of support were received which raise the following points:

1. The area would benefit from a convenience store. There are very few shops in the area and there are more houses going to be built and so the shop will be much needed and wouldn't cause too much disruption to the road or the surrounding area.
2. An additional shop would offer more choice locally and reduce the need to travel to shops. It would also create jobs in the village which would be welcome in what is otherwise predominantly a commuter village.
3. The traffic using the site as a store would be no different than traffic using the site as a pub and a convenience store is welcomed but consideration should be given to litter which is a significant issue in the area.

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

## **POLICY**

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

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

- SS1 (Sustainable Development)
- SC1 (Development within the Development Envelope)
- SC2 (Sustainable Design and Construction)
- SC3 (High Quality Development)
- SC9 (Biodiversity and Geodiversity)
- SC11 (Environmental Quality (Amenity))
- ITCR4 (Local Shops and Community Facilities)
- ITCR11 (Parking Provision)

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

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

- Chapter 2: Achieving sustainable development
- Paragraphs 47-48: Determining applications
- Paragraphs 55-58: Planning conditions and obligations
- Paragraphs 104-108: Promoting sustainable transport
- Paragraph 119, 120, 122 and 123: Making effective use of land
- Paragraphs 174, 180 and 182: Conserving and enhancing the natural environment
- Paragraphs 183-188: Ground conditions and pollution.

## **ASSESSMENT**

### **Key issues**

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

- the principle of the development
- the impact on the character and appearance of the area
- the impact on residential amenity
- whether the development would be provided with a safe and suitable access and the impact of the development on the local road network
- biodiversity
- issues raised by local residents

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

### **Principle**

The site is within the development envelope of Glapwell village in a predominantly residential area. The previous use of the building was a public house and as such is a community use protected by Policy ITCR4 of the Local Plan for Bolsover District. However, the proposed use as a convenience store is also classed as a community facility and as such the proposal complies with the requirements of Policy ITCR4. The principle of the proposed change of use is therefore acceptable.

The building has been vacant for some time and the re-use of the building is considered to be an efficient use of previously developed land. The site is within walking distance for local residents and is on a main commuter route such that it will be a convenient drop in for people and on this basis the site is considered to represent a sustainable use of the building which would meet the requirements of Policy SS1 and as such is considered to be acceptable in principle subject to compliance with the other relevant policies in the Local Plan.

A convenience store falls within Class E of the planning use classes order. Approval of the change of use of the building to a convenience store would therefore allow the future change of the use of the building from a convenience store to one of the other uses within Class E without the need for planning permission. Some of these uses are not community facilities and as such the change of use of another use within Class E would result in the loss of the building as a community facility without any assessment of local need. It is therefore considered necessary to remove permitted development rights to prevent the future change of use of the building without the prior granting of planning permission which would allow for the loss of the community facility to be addressed at that time.

### The impact on the character and appearance of the area

The proposal utilises the existing building with the only change to the external appearance of the building being the introduction of a ramped access to the front. There are also some alterations proposed to the car park layout but the proposal will not result in material alterations to the appearance of the site. The re-use of the vacant building is considered to bring vitality of the area and to enhance the character and appearance of the building by bringing a new community facility to the area.

### Residential Amenity

The site is immediately adjacent to residential dwellings and as such the use of the building

as a convenience store is likely to result in some level of noise and disturbance for residents of adjacent dwellings. However, the building could be re-used as a public house at any time without the need for planning permission and the use of the site as a convenience store is not considered to result in a material increase in noise and disturbance for local residents over and above a public house use.

The Environmental Health Officer has requested conditions relating to submission of details of any lighting scheme to be installed on site for approval prior to its installation to prevent any obtrusive light from the site causing a loss of amenity for adjacent residents.

The Environment Health Officer has also requested submission of a noise assessment to assess the noise created from the building and any mitigation measures necessary to prevent noise and disturbance for residents of adjacent dwellings. Both of the conditions suggested are pre-commencement conditions to ensure these issues are addressed prior to the commencement of the approved use and the applicant has agreed to the use of these conditions.

Subject to such conditions the proposal is not considered to be detrimental to residential amenity and the proposal is considered to meet the requirements of Policy SC11 of the Local Plan for Bolsover District.

As set out above, if approved, it would be possible for the future change of the use of the building from a convenience store to one of the other uses within Class E without the need for planning permission. Some of these uses may result in noise and disturbance to residents of adjacent dwellings. The removal of permitted development rights to prevent the future change of use of the building without the prior granting of planning permission would allow for the impact on residential amenity to be addressed at that time.

#### Access/Highways

A transport statement has been submitted with the application which has been carried out by a transport planning specialist consultant. The statement includes a traffic count and an assessment of the number of vehicular trips generated by the proposal and then assess the likely impact of the proposal. The conclusion of that assessment is that the proposal is acceptable in terms of its highways impacts.

Unlike a larger scale convenience superstore, local convenience stores do not generate a comparable pattern of traffic or visitor behaviour. Generally people visit these kind of local convenience stores as passing trade, rather than a destination for a 'big' shop. This associated pattern of behaviour therefore does not result in a significant material impact or increase in traffic arising from the use proposed (in comparison with the current extant use).

The site currently has two accesses, one at each end of the site frontage and these are to be retained and utilised in this proposal. The proposal removes some of the car parking spaces on the site frontage but these spaces are partially located on highway land and as such were unauthorised as part of the use of the site by the pub. The floor area of the building which could be used for retail purposes extends to approx. 300sqm which gives a requirement for 12 parking spaces in accordance with the council's parking standards set out in the Local Plan. The proposal actually provides 17 parking spaces and as such provides sufficient parking on site and there are no objections to the proposal from the Highway Authority.

Subject to a condition requiring the provision of the parking and turning areas on site to be provided in accordance with the approved plan, the proposal is therefore not considered to be detrimental to highway safety and is considered to meet the requirements of Policies SC3 and ITCR11 of the Local Plan for Bolsover District.

Highway Authority have also asked for a condition to require details of on-site storage of plant and materials to be provided. Given the modest scale of the development and the works proposed and the large area of parking available, such a condition is considered unnecessary particularly as should storage take place outside the site on the footpath or highway this would be controlled under the Highways Act.

The Highway Authority have also asked for no gates or barriers to the accesses to the site. This is considered unnecessary and unreasonable as the application does not include the provision of new boundary treatment. Any boundary treatments/gates under 1m in height would not require planning permission. Gates/boundary treatments over 1m in height would need to be the subject of a separate planning application. Should gates be installed they would be very unlikely to be closed during the shops opening hours as this would deter customers. If fences/gates were required for security purposes it would be unreasonable to prevent this unnecessarily.

#### Biodiversity

Preliminary bat survey work undertaken identified the use of the main building by three species of bats and concluded that a maternity roost was likely in the roof void, along with roosts of individual bats associated with the roof void and coverings. The proposal does not include any works to the roof of the main building and as such the report submitted with the application advises that further surveys are not necessary as impacts to roosting bats will be avoided. Derbyshire Wildlife Trust agree with this approach subject to the inclusion of a strict condition relating to works/alterations to the building, signage and lighting to prevent the disturbance to the bat roosts on site. The applicant has confirmed agreement to this condition and subject to such a condition the proposal is not considered to have an adverse impact on the protected species on site and is considered to have a neutral impact for biodiversity. Subject to such a condition the proposal is therefore considered to meet the requirements of Policy SC9 of the Local Plan for Bolsover District.

### **OTHER PLANNING CONSIDERATIONS**

#### Issues raised by local residents

Most of the issues raised by local residents are covered in the above assessment.

The issue of the need for an additional convenience store and its impact on existing businesses has not been considered, as the issue of competition is not a material planning consideration which could be taken into account as part of the planning application process.

The suggested alternative uses for the site have also not been considered, as these uses do not form part of the proposal and the application as submitted for the proposed use has to be considered on its individual merits, it is not for the council to suggest alternative uses if the use proposed is acceptable in planning terms.

The highway safety issues relating to the proposal have been covered in the above assessment.

## **CONCLUSION**

The proposal provides a community facility in a sustainable location which is considered to preserve the character and appearance of the area and which is not considered harmful to the amenity of local residents or to highway safety.

Subject to the conditions set out in the above assessment the proposal meets the requirements of the relevant Policies in the Local Plan for Bolsover District and the National Planning Policy Framework.

## **RECOMMENDATION**

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

1. The development shall be begun before the expiration of three years from the date of this permission.
2. The development must be carried out in accordance with the plan numbers:  
4167\_PL105A  
4167\_PL106A  
4167\_PL107A  
4167\_PL109
3. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development)(England) Order 2015, the use of the building hereby approved must be used for purposes falling within Class E(a) of the Town and Country Planning (Use Classes)(Amendment)(England) Regulations 2020 only and for no other use without the prior granting of planning permission.
4. Due to the presence of confirmed bat roosts in the main building and moderate roost potential in the outbuilding, the following must be strictly adhered to:
  - There must be no work of any kind to the roof or eaves of the main building, internally or externally.
  - There must be no work of any kind to the roof or eaves of the outbuilding and the outbuilding will remain open-fronted.
  - There must be no demolition work on site.
  - There must be no additional external lighting over and above that previously present on site.
  - Signage must be installed on the loft hatch/entry point(s) in the main building clearly marked 'Out of bounds' or words to that effect. It will state that a bat roost is present and that disturbance is prohibited by law.
  - An Ecological Clerk of Works must be engaged to brief contractors at the start of works, approve works to be undertaken during the breeding season and be available for general guidance throughout the renovations.



If any of the above cannot be complied with, an ecologist must be contacted for advice before works commence to discuss the requirements for nocturnal bat surveys and a European Species Licence. A short statement of compliance must be submitted to the Local Planning Authority upon completion of works to discharge this condition.

5. Before the development hereby approved is first brought into use, details of any lighting scheme must be submitted to and approved in writing by the Local Planning Authority. The scheme must have regard to the “Guidance Notes for the Reduction of Obtrusive Light GN01:2011” produced by the Institution of Lighting Professionals. The approved lighting scheme must be implemented in full before the lighting is first used and must be maintained as such thereafter.
6. Before the development hereby approved is first brought into use, an assessment of sound must be undertaken and a scheme specifying the provisions to be made for the control of sound emanating from the building has been submitted to and approved in writing by the local planning authority. The assessment must identify and quantify all sound sources from the development and must assess the significance of the sound impact, taking into account the uncertainty of the assessment at any neighbouring dwellings in accordance with the methodology described in the British Standard BS4142:2014 Methods for rating and assessing industrial and commercial sound. Upon completion of all works within the approved scheme a validation report must be completed by a competent person and must be submitted to and approved in writing by the local planning authority. The approved scheme must be implemented in full and retained as such thereafter.
7. The car parking layout shown on the approved plan must be provided on site, marked out on site in accordance with the approved plans before the use hereby approved is first brought into use and must be maintained as such thereafter.

### **Statement of Decision Process**

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

### **Equalities Statement**

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

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

## **Human Rights Statement**

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

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

**PARISH** Shirebrook Parish

---

**APPLICATION** Construction of 24no single storey dwellings  
**LOCATION** Land East Of Market Close Shirebrook Derbyshire  
**APPLICANT** Miss Katie Walters, Bolsover District Council  
**APPLICATION NO.** 21/00421/FUL **FILE NO.**  
**CASE OFFICER** Mr Peter Sawdon  
**DATE RECEIVED** 15th July 2021

---

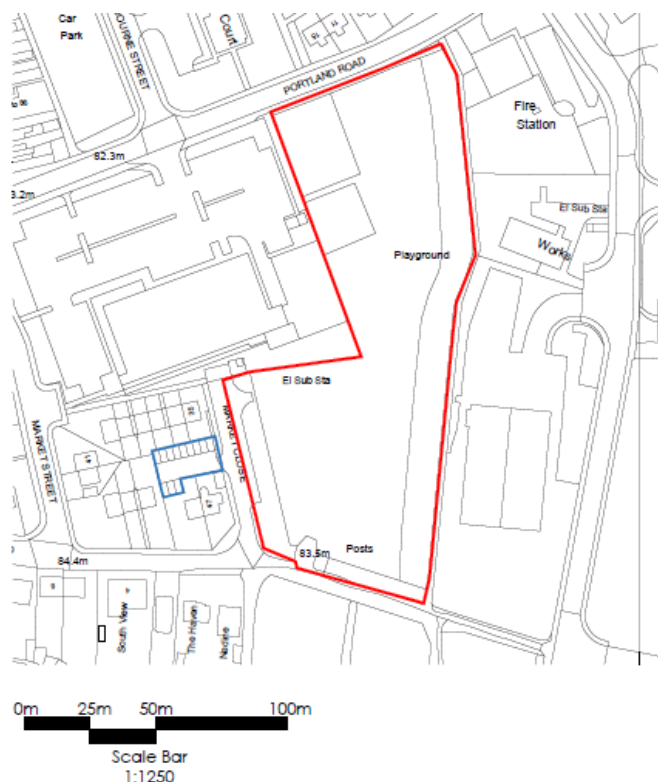
## SUMMARY

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

In summary, the application is recommended for approval. This is considered to represent sustainable development and accord with most policy requirements, subject to the inclusion of suitable conditions.

Whilst the not all policy requirements are met in full, including the inability to make leisure contributions, it is considered that the public benefit that is provided through the delivery of this fully affordable rented housing scheme outweighs these requirements in this case, evidenced by suitable financial viability assessment.

## Site Location Plan



## SITE & SURROUNDINGS



**View from south west corner of site (from Market Cl/Sookholme Rd junction – rear of Lidl store to the left of the image)**

The application site is an area of approximately 1.2 ha of mainly grassed parkland that contains the remnants of now disused play equipment on a hard surfaced area located to its north western corner; the site is mainly bounded by metal railings. It is located on the edge of the town centre, to the south side of Portland Road in Shirebrook. Pedestrian access is available from both that highway and from Market Close to its west, with vehicular access (via a locked gate) provided from Sookholme Road to the site south western corner.

The submitted Design and Access Statement indicates that historically, the site was host to a greyhound racing track on the southern part and a public paddling pool on the northern part between 1930's and 1970's. Prior to this, in the 14th century, the site was host to a moated manor which later became part of the Ashbourne farm.

The site contains several mature trees that in the main are located along its northern and eastern boundaries, with a further large mature tree located centrally.

The site is bound by a Lidl store to the west of its northern portion, to the south of which are dwellings that are located on the opposite side of the site to the Market Close highway that extends to the rear of the Lidl store.

Further dwellings are located beyond Portland Road to the north. A public footpath runs alongside the eastern boundary, separated from the site by the boundary railings, with industrial units beyond. That path connects to a further public footpath that runs alongside the southern boundary of the site, beyond which are allotments; this footpath connects to Sookholme Road to the west and Portland Drive to the east, along with a further path that runs to the south around the adjacent allotments.

The footpath that runs down to the south of the site along Sookholme Road forms part of the Archaeological Way multi-user trail; this is a developing long-distance tourist route that currently connects this part of Shirebrook to Creswell Crags, and is proposed to run south to

Pleasley Vale as its next stage of development.

The residential areas to the north and west are predominantly two storey, although there are bungalows to the west side of the Lidl store. The industrial and Lidl store are all single storey warehouse type buildings.

The site is crossed by a culverted stream that runs diagonally across the site, with further gas, water, electrical and sewer services running both east/west and north/south through it, which will impact on the layout of any development.

## PROPOSAL

*The plan below shows the latest amended site layout.*





*Example elevations:*



This full planning application is for the construction of 24 single storey dwellings.

Access to the dwellings would be taken from two adjoining highways: -

- Portland Road to the north, complete with the formation of a new highway and turning head, from which individual access to 11 dwellings would be provided;
- Market Close to the south west, including:
  - One dwelling with direct access onto that highway; and
  - The formation of two shared surface private driveways to access 7 and 5 dwellings respectively.

Part of the development would involve the stopping up and reconfiguration of the current extent of the adopted highway of Market Close.

In order to facilitate the various easements and the retention of trees on site, parts of the site to its eastern side will be retained without development; it is proposed that this area would be fenced with a 1.4m high railing to control access in the interests of crime prevention and maintaining the privacy and amenity of occupants of the new dwellings.

This scheme is part of the Council's 'Bolsover Homes' project which is aimed at building new council houses for affordable rents across the district. The scheme brings back into use the Council's under-utilised land whilst benefiting the district's economy through training, skills development and local supply chain.

It is stated that "As the intention is for this site to be delivered as 100% affordable housing, the local housing need for this area has been used when identifying the best unit types and mix of sizes. The mix of dwellings is based on discussions with housing officers and the

assessed housing need of the area. The design of the units is based on a series previously developed house types within other Bolsover Housing Revenue Account (HRA) sites.

The dwellings will remain in the ownership of Bolsover District Council with the construction of the properties managed by Property Services and tenancies managed by Bolsover District Council's Housing department. The development of all the sites in the four year Bolsover Homes programme will reclaim underused space in the local communities whilst meeting significant housing needs. It will also address potential anti-social behaviour issues and create well designed developments to contribute positively to the surrounding neighbourhood.

Developments brought forward through the programme will be constructed to meet quality standards such as the Code for Sustainable Homes Level 3, Lifetimes Homes, Building for Healthy Life 12 and Secured by Design. The house types brought forward through the development have been matched with the local affordable housing need which ensures strong demand for the tenancies whilst meeting the needs of the locality."

It has been confirmed that the dwellings will all be provided with electric car charging points.

## **SUPPORTING DOCUMENTS SUBMITTED WITH THE ORIGINAL APPLICATION**

- Application form and certificates
- Note to correct application form to confirm development is for social rent dwellings and not market housing dwellings
- Phase 1 Geo-Environmental Report 12213-WMS-ZZ-XX-RP-C-30201-S8-P1
- Design and Access Statement
- Coal Mining Risk Assessment
- 12213-WMS-02-XX-DR-A-10234-S3-P01 - Semi-Detached Bungalow – Elevations
- 12213-WMS-02-00-DR-A-10224-S3-P01 - Semi-Detached Bungalow - Floor Plan
- 12213-WMS-02-00-DR-A-10220-S3-P01 - Detached Bungalow A - Floor Plans
- 12213-WMS-02-XX-DR-A-10202-S3-P01 - Proposed Block Plan
- 12213-WMS-02-XX-DR-A-10236-S3-P01 - L-Shape Semi-Detached Bungalow – Elevations
- 12213-WMS-02-XX-DR-A-10233-S3-P02 - 3B6P Detached Bungalow – Elevations
- 12213-WMS-02-XX-DR-A-10231-S3-P02 - Detached Bungalow B – Elevations
- 12213-WMS-02-XX-DR-A-10230-S3-P01 - Detached Bungalow A – Elevations
- 12213-WMS-02-00-DR-A-10226-S3-P01 - L-Shape Semi-Detached Bungalow - Floor Plan
- 12213-WMS-02-XX-DR-A-10235-S3-P01 - Narrow Front Semi-Detached Bungalow – Elevations
- 12213-WMS-02-XX-DR-A-10232-S3-P02 - Narrow Front Detached Bungalow – Elevations
- 12213-WMS-02-XX-DR-A-10201-S2-P01 - Market Close Site 1 Proposed Site Plan
- 12213-WMS-02-00-DR-A-10225-S3-P01 - Narrow Front Semi-Detached Bungalow - Floor Plan
- 12213-WMS-02-00-DR-A-10223-S3-P02 - 3B6P Detached Bungalow - Floor Plan
- 12213-WMS-02-00-DR-A-10222-S3-P02 - Narrow Front Detached Bungalow - Floor Plan

- 12213-WMS-02-00-DR-A-10221-S3-P01 - Detached Bungalow B - Floor Plan
- 12213-WMS-02-XX-DR-A-10201-S3-P02 - Site Location Plan

## AMENDMENTS

29/07/2021 – Ecology Survey and Code for Sustainable Homes Assessment

02/09/2021 – Ground Gas Risk Assessment Report

05/10/2021 – Financial viability assessment

11/10/2021 –

- Noise Assessment ref. 9131/BL
- Phase 2 Pre-development Arboricultural Report
- Amended Design and Access Statement
- Drainage Statement ref. 12213-WMS-ZZ-XX-RP-C-32101-S3-P1
- 12213-WMS-02-ZZ-XX-DR-C-39204-S3-P1 - General Arrangement plan
- 12213-WMS-02-ZZ-XX-DR-C-39203-S3-P2 - Proposed Levels Layout
- 12213-WMS-02-ZZ-XX-DR-C-39201-S3-P3 - Proposed Drainage Design
- 12213-WMS-02-XX-DR-A-10238-S3-P01 - Detached Bungalow C – Elevations
- 12213-WMS-02-XX-DR-A-10231-S3-P03 - Detached Bungalow B – Elevations
- 12213-WMS-02-00-DR-A-10228-S3-P01 - Detached Bungalow C - Floor Plan
- 12213-WMS-02-00-DR-A-10221-S3-P02 - Detached Bungalow B - Floor Plan
- 12213-WMS-02-XX-DR-A-10200-S2-P03 - Market Close Site 1 Proposed Site Plan

03/11/2021 – Confirmation that electric car charging points to be used, along with gas fired boilers for space and water heating.

12/11/2021 –

- 12213-WMS-02-00-DR-A-10224-S3-P02 - Semi-Detached Bungalow - Floor Plan
- 12213-WMS-02-00-DR-A-10226-S3-P02 - L-Shape Semi-Detached Bungalow - Floor Plan
- 12213-WMS-02-00-DR-A-10229-S3-P01 - L-Shape Semi-Detached Bungalow - Floor Plan - Plots 17-18
- 12213-WMS-02-XX-DR-A-10236-S3-P02 - L-Shape Semi-Detached Bungalow – Elevations
- 12213-WMS-02-XX-DR-A-10239-S3-P01 - Semi-Detached Bungalow Elevations - Plots 1 & 2
- 12213-WMS-02-XX-DR-A-10240-S3-P01 - L Shape Semi-Detached Bungalow Elevations - Plots 17-18
- 12213-WMS-02-XX-DR-A-10241-S3-P01 - L Shape Semi-Detached Bungalow Elevations - Plots 12-13
- 12213-WMS-02-XX-DR-A-10200-S2-P04 - Market Close Site 1 Proposed Site Plan
- Phase 2 Pre-development Arboricultural Report (Rev. 1) for Market Close. Shirebrook (Site 1) 08 11 2

29/11/2021 –



- Revised Noise assessment (Rev. E)

01/12/2021 –

- 12213-WMS-02-XX-DR-A-10200-S2-P05 - Market Close Site 1 Proposed Site Plan with vehicle tracking

07/12/2021. Additional drainage information comprising: –

- 12213-WMS-02-ZZ-XX-DR-C-39201-S3-P4 Proposed Drainage Design
- 12213-WMS-ZZ-XX-RP-C-32101-S3-P3 – Drainage Strategy
- 12213\_02-WMS-ZZ-XX-RP-39301-S8-P1 – Flood Risk Assessment
- 38374\_MARKET CL\_CCTV REV 1 – CCTV Survey
- CCTV Drainage Survey Report

07/02/2022.

- 12213-WMS-02-XX-DR-A-10200-S2-P06 - Amended Site Plan

10/02/2022

- Additional Noise Assessment

## **EIA SCREENING OPINION**

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

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

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

## **HISTORY**

10/00234/OUTMAJ	Granted with conditions	Erection of A1 retail food store and additional non-food retail units (on a larger site including additional land to the north and west)
11/00262/FULMAJ	Granted with conditions	Erection of A1 retail food store and additional non-food retail units (on a larger site including additional land to the north and west)

Both of these now expired permissions permitted the development of this site as a car parking associated with a proposed Tesco supermarket.

## **CONSULTATIONS**

Derbyshire County Council Archaeologist –

30/07/2021 - Given the known archaeological interest on this site, recommend inclusion of pre-commencement conditions regarding agreement of a scheme of investigation,

assessment and recording of the archaeological features.

Derbyshire County Council Flood Risk Team –

3/08/21, 29/10/2021 and 21/12/2021 - Additional information is required to consider the proposed surface water drainage proposals further.

25/1/2022 - Following the submission of additional information, has no objections to the proposal subject to the inclusion of recommended conditions.

Derbyshire County Council Highways –

25/08/2021, 02/11/2021 and 24/11/2021 - Amendments and further information requested.

23/12/2021 – Following revisions no objections, subject to inclusion of recommended conditions and advisory notes.

Derbyshire County Council Strategic Planning –

14/06/2021 - No financial contributions sought to education given sufficient capacity in local primary and secondary schools. Recommends an advisory note regarding broadband infrastructure.

Derbyshire Wildlife Trust –

06/09/2021 - If around 0.25ha to 0.35ha of the site along the eastern side (due to the presence of a gas main). If around 0.25 ha is used to create species rich grassland and the other enhancement measures proposed in the ecology report are implemented we consider that a net loss of biodiversity can be avoided. Conditions are recommended.

29/10/2021 - Whilst not all issues fully responded to and resolved, it should be possible to deal with these through conditions.

Drainage Engineer –

12/08/21 - Recommends inclusion of advisory notes regarding management of any SuDS, location of known and possible public sewers and a culverted watercourse.

Environmental Health Officer (EHO) –

04/08/2021 - Recommended submission of a noise assessment.

01/11/2021 - In terms of noise:

- Consider an over reliance on a closed window scenario and other options should be considered;
- Recognise that external noise levels are above or near the limits for a good standard of external amenity and frequency of monitoring is only limited so a significant degree of uncertainty regarding the confidence in the submitted measurements and consider possibility of further noise sources that have not been monitored;
- A tonal noise at around 100Hz has been identified at measurement location B, so how will the fabric of the structure ensure that this will not be clearly audible inside the proposed property?

In respect of contamination conditions are recommended relating to carrying out the recommended further investigations and implantation of mitigation if this is needed

03/11/2021 - Despite response to comments made on 01/11/2021, still consider that there are issues that still need resolving in respect of the potential for noise disturbance and do not consider the submitted statements to robustly respond to those.

06/12/2021 – Latest submission has not responded to advice agreed with EHO re necessary parameters of any revised report.

10/02/2021 – Now satisfied with the conclusion of the additional noise monitoring survey, and providing the recommended conditions can be included, the original concerns are addressed satisfactorily.

#### Force Designing Out Crime Officer -

03/08/2021 - Seeking amendments to improve crime prevention in a location that has previously been subject to anti-social behaviour activities.

01/11/2021 - Updates have not addressed all the concerns previously raised, but suggests that conditions could be used to address the outstanding matters.

06/12/2021 – Revisions generally OK. Means to open up sight lines of the existing public footpath to the east of the site is a positive move. Main unresolved matter is the boundary with Lidl car park; the enclosed corridor the new development will cause around this existing seat of anti-social behaviour and the probable risk to new residents – Is there potential for absorbing this land into residential garden and planting the strip with more dense and thorny shrubbery than at present/adding an engineered trellis above rear garden boundaries for climbing plants to add to security/privacy/outlook for these two plots, these, or a combination of these to help reduce the risk. Street lighting to be fleshed out by condition/s38 agreement?

10/02/2021 – Noted the proposed amendments in respect of the enclosure of the open space, and notes the limitations to delivering improvements alongside the Lidl boundary, and hopes previous suggestions regarding crime prevention that would include this land could be agreed in partnership between the developer and Lidl.

#### Leisure Services –

20/09/2021 - Seeking financial contributions to recreation and leisure facilities under policies ITCR5 (Green Space and Play Provision) (£20,880 - 24 dwellings x £870 per dwelling) and Policy ITCR7 (Playing Pitches) (£25,440 - 24 dwellings x £1060 per dwelling).

Also requests / suggests that Footpath 7, which runs along the eastern boundary of the site is widened and resurfaced to allow the Archaeological Way (walking and cycling route) to be redirected on a different / better alignment through Shirebrook. The current alignment is rather convoluted and involves a number of suboptimal road crossings. Derbyshire County Council have already carried out some highway works further along the proposed alternative route, so FP7 is essentially the key to opening this up.

#### NHS –

##### Chesterfield Royal Hospital –

27/08/2021 - Section 106 impact on health to be considered.

Clinical Commissioning Group –

No request received for contributions to healthcare services.

Peak and Northern Footpaths Society –

20/07/21 - can find no reference to providing a link or links between the three proposed cul de sac estate roads and the public footpath (No.7) running along the eastern boundary of the application site.

The public footpath from memory is enclosed between boundaries. Gaps would need to be created with secure furniture. Preferably a solid surface footpath or footpaths so that pedestrians going to/from other facilities or work can use them in ordinary footwear. Some work might be necessary to make Footpath 7 more usable to those in ordinary footwear. The applicant can be asked to contribute to that additional cost. Better connectivity for non-motorised users should be a priority.

Planning Policy Team –

21/09/2021 - Additional information to address policies of the Local Plan needed.

2/11/2021 - following receipt of additional information consider that the proposal is compliant with policies WC7: Shirebrook Edge of Town Centre Allocations, ITCR5: Green Space and Play Provision and ITCR7: Playing Pitches and therefore no objection is raised to the proposal on policy grounds.

Ramblers Association –

26/07/21 - see no reason why RoW Shirebrook footpath (FP), 7 should be adversely affected. Accordingly we would be minded to offer no formal objection to the proposal as it appertains to Shirebrook FP 7.

Shirebrook FP 7 is a totally enclosed footpath with metal fencing to both sides. The proposals, as presented, offer no indication of intention to provide direct access from the housing development to the said footpath. We would consider this to be in contention with respect to both National and Local Government guidelines as they relate to promoting a healthier life style through physical exercise. Additionally, footpath 7 does provide a fairly direct link to “The Archaeological Way” which runs through and is promoted as an attribute of the area. This in turn provides access to the much wider footpath network of paths present in the area. We would suggest that the whole of the metal fence on the east side of the path should be removed to allow unhindered access to the path.

Alternatively, if the fence is to be retained, we would recommend that at least 2 and preferably 3 access points, to the path, should be provided.

The development is to be sited on what can only be described as a pleasant and important green space, complete with play area, surrounded on two sides by mature trees, in what is a large village. We appreciate that the majority of the trees are to be retained, however, notwithstanding this point we would suggest that this also appears to be in contention with government policy in relation to providing Green Spaces for all.

Finally, we would suggest that removing green spaces from an area in the process of recovering from its industrial past is not conducive to promoting a much deserved healthier

life style.

Bolsover District Council Refuse Team –  
No response received.

Severn Trent Water –  
10/08/2021 - Recommend condition regarding the submission and approval of foul and surface water drainage schemes.

Shirebrook Town Council –  
02/09/2021 - No objections raised.

Strategic Housing –  
10/08/2021 - The Strategic Housing Market Assessment considers the future housing need in the district, including for affordable housing. The North Derbyshire and Bassetlaw Strategic Housing Market Assessment - Objectively Assessed Need Update 2017 estimated that 126 affordable homes should be brought forward each year to 2035 in order to meet all affordable housing need in the District.

The proposal for a scheme of 24 bungalows (all of which are affordable rent) helps to meet the District's need. There is a demand for 2 and 3 bedroom bungalows and a lack of this type of accommodation in the District.

The properties will be owned and managed by the Council and should be allocated to suitable applicants from the Council's housing register.

Urban Design –  
10/09/2021 - In its present form the application should be reviewed and amended on the basis that a number of areas remain unsatisfactory in terms of urban design considerations. The application should be revised taking account of these comments.

25/10/2021 - Comments re-iterated in later response, as not all issues satisfactorily resolved. Further review and amendments are therefore sought.

20/12/2021 – Some design improvements, but issues remain regarding defensible space and relationship to on-site open space that requires further clarification in the interests of privacy, amenity and crime prevention. Justification for proposed tree felling and works to trees is accepted, subject to implementing suitable controls over such work. Accept need for the pumping station where located, but details should be submitted and approved. Materials are not considered to be acceptable.

*NB A further consultation has been carried out with the Urban Design Officer on the latest revised plan that was received close the deadline for the submission of this report and so a response has not been received at the time of writing; any further response will be reported to the Planning Committee when it meets.*

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

## **PUBLICITY**

By site notice, press advert and 12 neighbour letters. No representations have been received as a result of the publicity that has been carried out.

## **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 Scale of Development
- LC3: Type and Mix of Housing
- WC7: Shirebrook Edge of Town Centre Allocations
- SC1: Development within the Development Envelope
- SC2: Sustainable Design and Construction
- SC3: High Quality Development
- SC7: Flood Risk
- SC8: Landscape Character
- SC9: Biodiversity and Geodiversity
- SC10: Trees, Woodland and Hedgerows
- SC11: Environmental Quality (Amenity)
- SC12: Air Quality
- SC13: Water Quality
- SC14: Contaminated and Unstable Land
- SC18: Scheduled Monuments and Archaeology
- ITCR3: Protection of Public Footpaths and Bridleways
- ITCR5: Green Space and Play Provision
- ITCR7: Playing Pitches
- ITCR10: Supporting Sustainable Transport Patterns
- ITCR11: Parking Provision
- II1 Plan Delivery and the Role of Developer Contributions

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

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

- Chapter 2: Achieving sustainable development
- Paragraphs 47-48: Determining applications
- Paragraphs 55-58: Planning conditions and obligations
- Paragraphs 92, 93, 95 and 97: Promoting healthy and safe communities
- Paragraph 100: Protect and Enhance Public Rights of Way and Access
- Paragraphs 104-108: Promoting sustainable transport
- Paragraph 119, 120, 122 and 123: Making effective use of land

- Paragraph 124 and 125: Achieving appropriate densities
- Paragraphs 126-132 and 134: Achieving well-designed places
- Paragraph 152, 154 and 157: Meeting the challenge of climate change
- Paragraph 159 167 and 169: Planning and Flood Risk
- Paragraphs 174, 180 and 182: Conserving and enhancing the natural environment
- Paragraphs 183-188: Ground conditions and pollution
- Paragraphs 194, 195 and 199-208: Conserving and enhancing the historic environment

### Supplementary Planning Documents

The Council's supplementary planning guidance on affordable housing is relevant to this application stating that the Council will normally expect 10% affordable housing on a scheme of the size. However, this guidance also says the Council will accept a minimum of 5% affordable where the reduced number is justified by the viability of the proposed development.

## **ASSESSMENT**

### **Issues**

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

- the principle of the development;
- landscape and visual impact of the development;
- access and highway safety considerations, including whether the development would be provided with a safe and suitable access and the impact of the development on the local road network;
- whether the development has a suitable design and layout and provides sufficient residential amenity;
- potential contamination risks;
- the ecology impacts of the development;
- impacts on archaeology;
- drainage and flood risk requirements;
- S106 issues, including affordable housing provision and the impacts on infrastructure, including recreation and leisure, education and health facilities; and

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

### **Principle**

Policy SS3: Spatial Strategy and Distribution of Development, defines Shirebrook as a 'Small Town' within the settlement hierarchy and indicates that the town will deliver 786 dwellings over the current plan period.

Policy WC7 allocates the site as part a Shirebrook Edge of Town Centre Allocation (Site B: Portland Road East) to facilitate the growth of the town centre and to accommodate a range of town centre uses; as background, Site A (Portland Road West) was allocated for retail development and has since been developed with a Lidl convenience store. The Council has not started work on the proposed Supplementary Planning Document referred to in policy WC7.

As the proposal is for residential use, this will comply with policy WC7 provided it can demonstrate sufficiently that it:

- a) Contributes towards place-making through the delivery of a high quality designed development that creates an attractive and locally distinctive new urban neighbourhood utilising as appropriate public art;
- b) Contributes towards the efforts to tackle climate change through its approach to sustainable construction, renewable energy and energy conservation within the site's general layout, design and orientation;
- c) Be able to clearly demonstrate their active contribution to the regeneration agendas set out in the Regeneration Framework;
- d) Provide for a replacement play area or provide a commuted sum to be agreed with the Council for alternative recreational facilities.

In respect of point c, the supporting text to policy WC7 advises that the Regeneration Framework for Shirebrook identifies the following issues as being important to the Council's regeneration agenda:

- a) Remodel and enliven Market Place;
- b) New pedestrian routes;
- c) Development of the Portland Road site;
- d) New and enhanced connections;
- e) Main Street and King Edwards Street improvements;
- f) Bring forward development of infill sites;
- g) Pleasley Vale Tourist Loop.

In response to criteria a- d of policy WC7, the revised Design and Access Statement comments as follows: -

*A. Contribute towards place-making through the delivery of a high quality designed development that creates an attractive and locally distinctive new urban neighbourhood utilising as appropriate public art.*

The proposed development creates a new neighbourhood of bungalows, utilising a contemporary material palette that compliments the surrounding area. Green space has been incorporated and trees retained to maintain the existing character of the area, whilst providing amenity space and ecological value.

*B. Contribute towards the efforts to tackle climate change through its approach to sustainable construction, renewable energy and energy conservation within the sites general layout, design and orientation.*

The construction of the development will be completed using local companies and trades, aiming for 80% spend within 20 miles of the site, and 97% spend within 40 miles. The proposals will adopt a fabric first design philosophy, including u-values which exceed the notional specification in Building Regulations Part L. They will meet or exceed the carbon emission standards as set out in the Building Regulations.

*C. Be able to clearly demonstrate their active contribution to the regeneration agendas set out in the regeneration framework.*

The site is identified in the regeneration framework and local plan as a site for development. The location provides sustainable connectivity, with existing walking routes, access to amenities, and access to public transport networks. The proposal infills a previously developed town centre location, contributing to the sustainable growth of the area whilst complimenting the existing character and urban grain.



*D. Provide for a replacement play area or provide a commuted sum to be agreed with the Council for alternative recreational facilities.*

The proposal is for 24no proposed bungalows, including 1no. Part M (3) wheel-chair user bungalow, predominantly for elderly residents. Therefore, there is no scope to provide a play area due to the potential noise nuisance it may cause. A viability assessment has been submitted which demonstrates that no financial contributions can be made.

Based on this updated information, it is considered that the use of this edge-of-centre town centre allocation for the residential use proposed is policy compliant and will help meet local housing needs, albeit making limited contributions to the improvement and regeneration of Shirebrook town centre and to the specific Regeneration Framework proposals set out in the Local Plan, such as enhancing connections around the Archaeological Way.

In relation to the policy requirement to provide a replacement play area or a commuted sum for alternative recreational facilities, it is noted that the updated Design and Access Statement advises that the proposed type of housing is for elderly residents and as such a play area may become a noise nuisance. However, notwithstanding this, it adds that the submitted viability assessment demonstrates that no financial contribution can be made; this viability assessment is also discussed later in respect of recreation and leisure requirements.

At 24 dwellings, the proposal represents a modest form of development, but is appropriate given the level of constraints on site, including mature trees and multiple easements. The scale of development is considered to be compatible with the locale and scale of the settlement generally.

The submitted Design and Access Statement includes an assessment of the proposals against policy SS1: Sustainable Development that is considered sufficient to meet the requirements of that policy. This indicates that:

- The development will be completed using local companies and trades and providing local employment opportunities to support local business and the local economy.
- At 20 dwellings to the hectare, the development efficiently re-uses previously developed land, and provides well-needed housing within the development envelope.
- The site is located within a highly sustainable town centre location, with easy access to amenities, including a Lidl food store neighbouring the site, alongside Shirebrook train station and bus services that are within a 10 minute walk so providing access to further amenity by more sustainable modes of transport.
- The proposals will adopt a fabric first design philosophy, including u-values which exceed the notional specification in Building Regulations Part L. They will meet or exceed the carbon emission standards as set out in the Building Regulations.
- High rate of construction waste recycling (contractor generally achieves @97%) and all dwellings have been set out to brick dimensions to reduce the amount of wastage.
- The development is 100% social housing, owned and operated by Bolsover District Council, providing quality housing to those identified as in need. The standards employed in the housing design, including the Lifetime Homes Standard and National Space Standards, ensures quality housing fit for a growing and aging population, adaptable throughout their lifetime.
- Proposals have been brought forward by Bolsover District Council and have been based on an assessed housing need in the area. The development has been designed

in line with 'Successful Places' in order to create well designed places that meet policy criteria.

- The scale of the development is in keeping with the character and urban grain of the local area and meets an identified housing need.
- The proposals are to retain the vast majority of trees along the east and north boundaries of the site, which are important to the character of the towns local landscape. Further tree planting and landscaping enhancement is proposed as part of the proposals.
- The development has no impact on agricultural land.
- The public infrastructure around the site, including the pedestrian routes are being maintained or enhanced where possible. The footpath along the edge will benefit from the increased surveillance by passive overlooking, improving the safety and security of the area.
- The site is in a very low risk of flooding and will not contribute to increasing flood risk elsewhere. A drainage strategy has been included alongside this application, demonstrating appropriate design and management measures that will ensure no risk to the development itself or any neighbouring areas. The development will utilise initiatives to reduce the amount of water used by residents (e.g. dual flush cisterns, low flow taps etc.). Water butts will also be provided to collect rainwater.
- Former mine workings in the area should not impact on the development as ground movements associated with them should have ceased, so no mitigation measures are required.
- The development will have no significant impact on water or air quality.

Given all of the above issues, it is considered that the proposal represents a sustainable form of development that is acceptable in principle under adopted policies of the adopted Local Plan.

#### Landscape impact of the proposed development

Whilst this is presently a readily visible parcel of open land, it does not form part of any distinctive or sensitive landscape. It is not important to wider landscape features or views or other particular qualities and such the development is considered to accord with Policy SC8 in this regard. Given the site is bounded by existing housing developments the proposal will assimilate within those in terms of its general landscape and wider visual impacts.

Whilst the site currently forms an area of open amenity space, the loss of the majority of that space to development is accepted in principle through policy WC7, subject to meeting criteria contained in that policy. Key landscaping features in the form of the mature trees on site are proposed to be largely retained to aid with its final appearance.

#### Access and Highway Safety

The development proposes a point of vehicular access from Portland Road for 11 dwellings and two further shared access points from Market Close, one for 5 dwellings and one for 7, with the remaining plot being proposed with an individual drive access direct from Market Close, coupled with a re-configuration of the current extent of adoption of Market Close, that will in due course require a formal stopping up order.

Parking provision on site is being made in accordance with normal standards and as such

complies with policy ITCR11.

Following the submission of revisions and additional information to address their initial comments, the Highway Authority has confirmed that it has no objections to the proposal and has made suggestions for the inclusion of conditions and advisory notes; conditions to restrict any development on the part of the development area that will need to be subject to a formal Stopping Up Order have been requested, but given such works will not be permissible in any event under separate legislation, such a condition would duplicate existing controls and would not therefore be reasonable or necessary and an advisory note is proposed as an alternative.

Comments have been made by footpaths societies regarding the provision of direct links, as well as to the potential to provide improvements to, the adjoining footpaths; the leisure officer also requests / suggests that Footpath 7, which runs along the eastern boundary of the site is widened and resurfaced to allow the Archaeological Way (walking and cycling route) to be redirected on a different / better alignment through Shirebrook.

Due to crime prevention concerns, that are discussed in more detail in the Design and Layout section of the report below, no direct links to those paths are proposed and it is not proposed to facilitate access through the site between Portland Road and Market Close/Sookholme Road; pedestrian access to the adjoining highway network for new residents would be via the proposed accesses onto Portland Road and Market Close. However, given the alternative linkages available to the local footpath network, access to them would still be convenient such that provision of direct access to the paths or across the site are not considered to be necessary.

The Leisure Officer has suggested that the opportunity could be taken to widen and re-surface footpath 7 to the east of the site to allow the Archaeological Way (walking and cycling route) to be redirected on a different / better alignment through Shirebrook, given the current alignment is rather convoluted and involves a number of suboptimal road crossings. Notwithstanding this request, there is no planning policy basis for this request; by not adversely affecting footpaths and not prejudicing the identified multi-use trail network, the proposal complies with policies ITCR 2 and 3. Furthermore, this has the potential to conflict with the objective of maintaining the mature trees along the site's eastern boundary should this necessitate works within the root protection zone for those trees. Given these works do not directly relate to this development proposal, this is not considered reasonable in planning terms and has not been pursued. Additionally, due to financial viability issues that are discussed later, there is no capacity for such an improvement to be funded by this scheme.

Improvements to the quality and usability of the footpath to the east will be provided due to the proposed management works to crown lift the trees. Additionally there will be an increase in natural surveillance of the adjacent footpaths from windows in the new dwellings that will face them. These details should improve the attractiveness and safety of those paths for their users.

#### Design and Layout, including the provision of sufficient residential amenity.

The scheme would comprise all single storey dwellings.

Whilst the density of the site at 20 dwellings per hectare is relatively low, this is due to several constraints to the development, including several mature trees and numerous underground

utilities, such that this density is appropriate given the nature of the development for bungalows.

The applicant has responded positively to comments of officers of the Council and design features have been incorporated into the scheme to improve its overall design and appearance. Additional feature windows have been included in locations that both improve the appearance of the development, but which also provide natural supervision to the surrounding area as a designing out crime feature.

All dwellings are single storey that represents a low scale and density for a town centre location. Nevertheless, it is not necessarily inconsistent with other nearby streets as the scale of development in the surrounding area is generally a mix of one and two storey accommodation rising to the three storeys around the Market Square. The design of the bungalows is a generally conventional form with some contemporary details, such as floor to ceiling windows, timber effect weatherboard feature panels, anthracite porch canopies and feature windows expressed by dark aluminium surrounds. This achieves a blend of traditional scale and form but with a modern appearance and is appropriate. External materials have been amended to red brick and grey tiles to reflect the wider characteristic of Shirebrook's primarily red brick and slate tones (with some local stone in older or public buildings), which are acceptable in principle; final details are proposed to be secured by a condition.

Crime prevention issues have influenced the design and layout of the scheme in consultation with The Force Designing Out Crime Officer (FDOCO) and Urban Design Officer. The FDOCO has identified that there is a history of anti-social behaviour on the adjacent footpaths and at the Lidl store site and advised against the inclusion of footpath access to the adjacent paths and links through the site for this reason and access to the retained open space around the development would also be management to deter anti-social behaviour as well as secure the privacy and amenity of residents of the development; this would be by a combination of the retention of some existing railings and provision of new railings around that space, with a gated access to it for management and maintenance purposes. The space also provides biodiversity mitigation that is discussed later.

Although further details of the final location and finishes are needed, for the most part there is sufficient and suitable boundary treatments and defensible space provided for the new dwellings. In respect of the western boundary, the FDOCC and Urban Design Officer have raised some concerns over the retained landscape strip alongside the sites western boundary and the Lidl store, including a set of steps that was formed as part of that development as a future link to this site that would become redundant following this development, given this area has previously been subject to anti-social behaviour activity, and so improvements to this area were suggested. Notwithstanding this, that area is not part of this application site and is not in the ownership and/or control of the applicant, which is acknowledged by the FDOCC, such that other than providing suitably designed secure boundary treatments, to potentially include additional trellis atop the fencing shown on the western side of the site adjacent to the Lidl Car Park for added security, any other intervention to this area is outside of the applicant's control. Conditions to control the final details of the means of enclosure are proposed.

The mature trees on this site provide a particularly attractive feature and their retention has been a key issue in considering the design of this site. 4 trees are proposed for removal,

which are limited to the loss of:

- 3 mature Swedish Whitebeams on the site frontage, that need to be removed to facilitate the access; and
- A large Hybrid Poplar located centrally within the site that has a presence of decay fungus that in time will cause instability in the tree as decay advances, making it unsuitable for retention as part of a proposed housing scheme.

A suitable arboricultural report has been submitted to demonstrate that the development will not impact on the retention and long term health of the remaining trees, subject to controls over how the development is undertaken, including any works that need to be undertaken within the root protection areas. Such controls are recommended by condition. Suitable replacement tree planting is proposed as part of the submitted landscaping proposals.

Generally the site provides good provision for privacy and amenity for existing and proposed residents in terms of spacing around dwellings and provision of reasonable areas of private amenity space and car parking provision that accords with normal requirements.

Given the sites position in a central location in close proximity to potential noise sources, including the Lidl store to the west and industrial units to the east, a noise assessment was submitted during the application process that identified potential for levels of noise disturbance to future residents of the development. Following initial concerns from the Environmental Health Officer with regard to the extent of survey work and associated assessment that had been undertaken in that initial assessment and a further noise report was commissioned and submitted to address this.

The amended report identifies existing and predicted noise levels and identifies that with suitable mitigation in the form of acoustic glazing and mechanical ventilation, suitable internal noise levels for future residents can be achieved.

In respect of outdoor amenity areas, the report identifies that there will be limited exceedance of noise levels on an infrequent basis, limited to a small number of plots during daytime that would not be fully mitigated by the proposed 2m high brick walls to the affected garden areas. However, in line with BS guidance on the issue, limited exceedances may be acceptable in certain circumstances, including in central locations such as this where some additional noise could reasonably be expected.

Consideration has also been had to the 'Agent of Change Principle'; this is detailed in the NPPF and indicates that a new development should not result in 'unreasonable restrictions' being placed on existing business and any new development should include 'suitable mitigation' to avoid this; the mitigation measures that are proposed include to the dwellings, with walls to garden boundaries facing the industrial units and the report concludes that the development would not therefore place 'unreasonable restrictions' on existing businesses.

In the light of the amended assessment, the Environmental Health Officer has stated that he is satisfied with the conclusion of the additional noise monitoring survey, and has provided suggested conditions to ensure that his original concerns are addressed satisfactorily mitigated.

#### *Conclusion on design and amenity considerations*

Overall, it is considered that a reasonable balance has been struck between maintaining the

most important natural features on site whilst facilitating the sites development and that an appropriate response to this very constrained site has been secured. Overall therefore the design of the scheme is considered appropriate, subject to the inclusion of conditions to control detailed finishes, landscaping and noise mitigation.

### Contamination

A desk study was included with the application and The Environmental Health Officer has stated that there are no objections in principle to the development in this respect, subject to conditions requiring the identification of any potential contamination and mitigation for such contamination where found. The conditions are proposed for inclusion

### Ecology

As noted earlier in the report, it is proposed to retain the majority of the mature trees that are on site.

An ecology survey and code for sustainable homes assessment has been submitted. The Derbyshire Wildlife Trust has reviewed this document and advised that there do not appear to be impacts on any protected species or habitats or species of principal importance or any impacts on any designated nature conservation sites (statutory or non-statutory). However, the application will result in the loss of an estimated 0.8 ha of semi-improved grassland and have some localised impacts on birds, foraging bats and a range of common insects.

With a few minor changes, The Wildlife Trust support the range of biodiversity enhancements in the submitted study that can be secured by conditions, including control over any works to a Maple Tree on site that is moderately suitable for roosting bats where further survey work would be needed.

Additionally, the report identifies that there is an area of Japanese Knotweed on site that will need to be suitably treated and eradicated and again a further conditions is recommended to secure this.

Subject to the inclusion of the conditions recommended above, it is considered that the development can be made compliant with planning policy in this respect.

### Archaeology

The Council's archaeologist has advised that the proposals will impact a site on the Derbyshire Historic Environment Record (HER 12510) relating to the location of medieval moated site, with a farmhouse on the central platform by the 19th century. The moat is depicted on early Ordnance Survey plans, with the 25" 2nd edition of around 1900 showing that the eastern side of the rectangular moat is within the footprint of the proposed development area.

An evaluation carried out in 2014 exposed three sections of the moat in as many trenches. The ditch measured between 5.8-6.25m wide and 1.1m at its greatest depth. It contained fills from which 19th and 20th century finds were derived. This work was done in advance of a proposal to develop land to the west of the current application as a supermarket. The northern block of housing in the proposed development is directly over the eastern return of the moat. The work carried out in 2014 revealed that the moat in that area was very truncated, with only c. 1.1 metre depth of the ditch remaining beneath substantial modern

overburden. As the proposed development is likely to remove the remaining archaeological evidence of the moat, the archaeologist has recommended that this area be the subject of archaeological evaluation by means of trial trenching. The results of this work will enable the archaeologist to advise on any further recording of the features (preservation by recording) or whether it may be possible to preserve the remaining deposits in-situ.

Subject to the inclusion of the recommended condition from the archaeologist to secure the above investigations and reporting, the proposal is considered to comply with the requirements of Policy SC18 of the adopted Local Plan.

#### Drainage and Flood Risk

A drainage strategy has been included with the application, and additional information submitted in response to the Lead Local Flood Authority's (LLFA) comments, that demonstrates appropriate consideration of Sustainable Drainage Systems (SuDS). The LLFA has advised that the revised drainage details are satisfactory and raises no objections subject to the inclusion of conditions regarding further approval of the final detailed designs for surface water drainage, including agreement over the final destination for any surface water and its implementation, along with a scheme for surface water control during the construction phase of the development. Advisory notes are also recommended. The conditions and notes recommended also deal with issues raised by Bolsover District Council's Drainage Engineer

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

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

##### Affordable Housing

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

The Strategic Housing Officer has advised that there is an identified need for affordable housing for rent such as these in the district, which is material to the consideration of this case.

##### Recreation and Leisure

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

In line with policy ITCR5, the Leisure Officer has requested financial contribution towards either new space or the improvement of nearby spaces that are identified as being at less than the 60% standard. He has also sought financial contributions under the terms of Policy ITCR7 to existing playing pitches where improvements to them are needed from developments of 10 or more dwellings, to achieve an 'average' standard for playing pitches.

There is no proposal to provide contributions to recreation and leisure facilities under either

ITCR5 or ITCR7 due to the financial viability of the scheme, which is discussed later in this report.

### Education

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

### Health

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

Chesterfield Royal Hospital (CRH) has commented that Section 106 impact on health [should] be considered.

In this respect, policy II1 states that "...planning obligations will be sought where ...development would create a need for additional or improved infrastructure...on a case by case basis...guided by the latest version of the Council's Infrastructure Study and Delivery Plan."

Whilst the policy does provide for 'necessary and relevant' contributions to both primary and secondary healthcare, it is not accepted that this, and other requests that have been received from CRH, meet the necessary legal tests for contributions; there is ongoing engagement with CRH through infrastructure meeting groups where this issue is being discussed further, including the opportunity for the CRH to provide additional evidence to support its requests, although this has not been provided to date. On this basis the request is not considered to be supported by sufficient evidence to show that it directly relates to the development or is fairly and reasonably related in scale and kind to the development.

### Viability

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

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

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

In view of this, the proposal is unable to demonstrate the ability to comply with policies ITCR5 and ITCR7 and parts of policy WC7, relating to replacement open space, and it will be necessary to consider whether any other material planning considerations outweigh this.



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

The nature of these additional dwellings is such that they are unlikely to pose a significant additional demand on local play and recreation facilities, but some limited impact may occur; nevertheless the number of dwellings proposed is also relatively small such that the impacts of there being no financial contribution is not expected to significantly impact on the ability for existing facilities in the area to cope with any limited increased demand.

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

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

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

## **CONCLUSION / PLANNING BALANCE**

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

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

## **RECOMMENDATION**

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

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

2. The development hereby permitted shall be carried out in accordance with the following approved drawings and documents, unless otherwise required and/or approved under other conditions of this planning permission:

DOCUMENTS SUBMITTED WITH THE ORIGINAL APPLICATION:

- 12213-WMS-02-00-DR-A-10220-S3-P01 - Detached Bungalow A - Floor Plans – Plots 22 & 24
- 12213-WMS-02-ZZ-DR-A-10230-S3-P1 – Proposed Elevations – Plots 22 & 24
- 12213-WMS-02-XX-DR-A-10233-S3-P02 - 3B6P Detached Bungalow – Elevations – Plot 16
- 12213-WMS-02-XX-DR-A-10230-S3-P01 - Detached Bungalow A – Elevations (Plots 3-4 – superseded for plots 1-2 with later drawing submitted 12/11/21)
- 12213-WMS-02-XX-DR-A-10235-S3-P01 - Narrow Front Semi-Detached Bungalow – Elevations – Plots 8-9
- 12213-WMS-02-XX-DR-A-10232-S3-P02 - Narrow Front Detached Bungalow – Elevations Plots 5-7, 11, 23
- 12213-WMS-02-00-DR-A-10225-S3-P01 - Narrow Front Semi-Detached Bungalow - Floor Plan – Plots 8-9
- 12213-WMS-02-00-DR-A-10223-S3-P02 - 3B6P Detached Bungalow - Floor Plan – Plot 16
- 12213-WMS-02-00-DR-A-10222-S3-P02 - Narrow Front Detached Bungalow - Floor Plan – Plots 5-7, 11, 23

PLANS SUBMITTED ON 11/10/2021 –

- 12213-WMS-02-ZZ-XX-DR-C-39203-S3-P2 - Proposed Levels
- 12213-WMS-02-XX-DR-A-10238-S3-P01 - Detached Bungalow C (Plot 10) – Elevations
- 12213-WMS-02-XX-DR-A-10231-S3-P03 - Detached Bungalow B (Plot 21) – Elevations
- 12213-WMS-02-00-DR-A-10228-S3-P01 - Detached Bungalow C (Plot 10) - Floor Plan
- 12213-WMS-02-00-DR-A-10221-S3-P02 - Detached Bungalow B (Plot 21) - Floor Plan

PLANS SUBMITTED ON 12/11/2021: -

- 12213-WMS-02-00-DR-A-10224-S3-P02 - Semi-Detached Bungalow - Floor Plan – Plots 1-4
- 12213-WMS-02-00-DR-A-10226-S3-P02 - L-Shape Semi-Detached Bungalow - Floor Plan - Plots 12-15, 19-20
- 12213-WMS-02-00-DR-A-10229-S3-P01 - L-Shape Semi-Detached Bungalow - Floor Plan - Plots 17-18
- 12213-WMS-02-XX-DR-A-10236-S3-P02 - L-Shape Semi-Detached Bungalow – Elevations – Plots 14-15, 19-20
- 12213-WMS-02-XX-DR-A-10239-S3-P01 - Semi-Detached Bungalow Elevations - Plots 1 & 2
- 12213-WMS-02-XX-DR-A-10240-S3-P01 - L Shape Semi-Detached Bungalow Elevations - Plots 17-18
- 12213-WMS-02-XX-DR-A-10241-S3-P01 - L Shape Semi-Detached Bungalow

## Elevations - Plots 12-13

PLAN SUBMITTED ON 07/02/2022: -

- 12213-WMS-02-XX-DR-A-10200-S2-P06 - Amended Site Plan

3. The scheme shall only be developed as a 100% affordable rented housing scheme to be owned and managed by Bolsover District Council, as detailed in the submitted Design and Access Statement.
4. Before construction commences on the erection of any building or wall, details of the materials to be used in all external wall and roof areas shall first have been submitted to and approved in writing by the Local Planning Authority.
5. The proposed electric vehicle recharging point shall be provided on the exterior of each dwelling before the dwelling to which the recharging point relates is first occupied.
6. Notwithstanding the submitted details, no building will be occupied until full details of both hard and soft landscape works, to include details of all proposed means of enclosure, along with a programme for implementation, has been submitted to and approved in writing by the Local Planning Authority and the works and implementation programme must be carried out as approved.
7. 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.
8. No removal of hedgerows, trees, shrubs or brambles shall take place between 1st March and 31st August inclusive, unless a recent survey has been undertaken by a competent ecologist to assess the nesting bird activity on site during this period, and details of measures to protect the nesting bird interest on the site, have first been submitted to and approved in writing by the local planning authority and then implemented as approved.
9. No works should be undertaken to the field maple tree identified within the ecology report as T1 unless bat emergence surveys have been undertaken to determine whether or not the tree is being used as a roost by bats.
10. Landscape and Biodiversity Enhancement and Management Plan (LBEMP)

A Landscape and Biodiversity Enhancement and Management Plan (LBEMP) shall be submitted to, and be approved in writing by, the Local Planning Authority prior to the commencement of the development. The aim of the LBEMP is to maximise the biodiversity value of onsite habitats and should combine both the ecology and landscape disciplines. It shall be suitable to provide to the management body responsible for the site and shall include the following:-

- a) Details of the creation of 0.25 ha of species rich grassland in addition to establishment of flower rich grassland within gardens;
- b) Details of a tree and shrub planting scheme;
- c) Details of aftercare management for a period of no less than 30 years from the commencement of the development;
- d) Details of the body or organization responsible for implementation of the plan;
- e) Ongoing monitoring visits, targets and remedial measures when conservation aims and objectives of the plan are not being met;
- f) Details of installation of bat and bird boxes to include 13 x integral bat boxes and 20 integrated swift bricks and 5 x integral bee bricks on site;
- g) Details and a plan showing hedgehog access gaps within the development;
- h) Requirement for a statement of compliance upon completion of planting and enhancement works.

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

11. Prior to building works commencing above foundation level, a detailed lighting strategy shall be submitted to and approved in writing by the Local Planning Authority to safeguard bats and other nocturnal wildlife. This should provide details of the chosen luminaires and any mitigating features such as dimmers, PIR sensors and timers. A lux contour plan shall be provided to demonstrate acceptable levels of lightspill to any sensitive ecological zones/features. 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.
12. Prior to the commencement of development, an invasive non-native species protocol shall be submitted to and approved by the local planning authority, detailing the containment, control and removal of Japanese Knotweed on site. The measures shall be carried out strictly in accordance with the approved scheme.
13. In this condition "retained tree" means an existing tree which is to be retained to comply with the approved plans and particulars and as defined in the pre-development Arboricultural Report by Wharnccliffe Trees and Woodland Consultancy dated 8<sup>th</sup> November 2021; and paragraphs (a) and (b) below shall apply for five years after the occupation of the last dwelling on the development.
  - (a) No retained tree shall be cut down, uprooted or destroyed, or topped or lopped, other than in accordance with the approved plans and particulars, without the written approval of the Local Planning Authority.

(b) If any retained tree is removed, uprooted or destroyed or dies, another tree shall be planted at the same place and that tree shall be of such size and species, and shall be planted at such time, as approved in writing by the Local Planning Authority.

(c) Before any equipment, machinery or materials are brought on to the site fencing shall be erected to protect the retained tree in accordance with the specification contained in the pre-development Arboricultural Report by Wharnccliffe Trees and Woodland Consultancy dated 8<sup>th</sup> November 2021, and the fencing shall be maintained until all equipment, machinery and surplus materials have been removed from the site. Except where carried out in accordance with the details contained in that arboricultural report, nothing shall be stored or placed within the fenced area around a retained tree and the ground levels within the fenced area shall not be altered, and no any excavation shall take place, without the written consent of the Local Planning Authority.

14. No development shall take place until a detailed design and associated management and maintenance plan of the surface water drainage for the site, in accordance with the principles outlined within:
  - a. William Saunders. November 2021. Flood Risk Assessment. Version P1. 2213/02- WMS-ZZ-XX-RP-39301-S8-P1.
  - b. William Saunders. November 2021. Drainage Statement. Version P3. 12213- WMSZZ- XX-RP-C-32101-S3-P3. Including any subsequent amendments or updates to those documents as approved by the Flood Risk Management Team; and
  - c. DEFRA's Non-statutory technical standards for sustainable drainage systems (March 2015).
15. No development shall take place until a detailed assessment has been provided to and approved in writing by the Local Planning Authority, to demonstrate that the proposed destination for surface water accords with the drainage hierarchy as set out in paragraph 80 reference ID: 7-080-20150323 of the planning practice guidance.
16. Prior to commencement of the development, the applicant shall submit for approval to the Local Planning Authority details indicating how additional surface water run-off from the site will be avoided during the construction phase. The applicant may be required to provide collection, balancing and/or settlement systems for these flows. The approved system shall be operating to the satisfaction of the Local Planning Authority, before the commencement of any works, which would lead to increased surface water run-off from site during the construction phase.
17. Prior to the first occupation of the development, a verification report carried out by a qualified drainage engineer must be submitted to and approved by the Local Planning Authority. This must demonstrate that the drainage system has been constructed as per the approved scheme (or detail any minor variations), provide the details of any management company and state the national grid reference of any key drainage elements (surface water attenuation devices/areas, flow restriction devices and outfalls).

18. The development hereby permitted shall not commence until drainage plans for the disposal of foul sewage have been submitted to and approved by the Local Planning Authority. The scheme shall be implemented in accordance with the approved details before the development is first brought into use.
19. a) No development shall take place until a Written Scheme of Investigation for archaeological work has been submitted to and approved by the local planning authority in writing, and until any pre-start element of the approved scheme has been completed to the written satisfaction of the local planning authority. The scheme shall include an assessment of significance and research questions; and
1. The programme and methodology of site investigation and recording
  2. The programme for post investigation assessment
  3. Provision to be made for analysis of the site investigation and recording
  4. Provision to be made for publication and dissemination of the analysis and records of the site investigation
  5. Provision to be made for archive deposition of the analysis and records of the site investigation
  6. Nomination of a competent person or persons/organization to undertake the works set out within the Written Scheme of Investigation
- b) No development shall take place other than in accordance with the archaeological Written Scheme of Investigation approved under condition (a).
- c) The development shall not be occupied until the site investigation and post investigation assessment has been completed in accordance with the programme set out in the archaeological Written Scheme of Investigation approved under condition (a) and the provision to be made for analysis, publication and dissemination of results and archive deposition has been secured.
20. Before the commencement of the development hereby approved:  
The site investigation strategy as identified in the Desk Study report Ref 12213-WMS-ZZ-XX-RP-C-30201-S8-P1 dated November 2020 submitted with the application shall be undertaken by a competent person in accordance with the current UK requirements for sampling and analysis.

Where the site investigation identifies unacceptable levels of contamination, a detailed remediation scheme to bring the site to a condition suitable for the intended use by removing unacceptable risks to human health, buildings and other property and the natural and historical environment shall be submitted to and approved in writing by the local planning authority. The submitted scheme shall have regard to relevant current guidance. The approved scheme shall include all works to be undertaken, proposed remediation objectives and remediation criteria and site management procedures. The scheme shall ensure that the site will not qualify as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land after remediation.

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

21. No dwellings hereby approved shall be occupied until:

- a) The approved remediation works required by 20 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 ref 12213-WMS-ZZ-XX-RP-C-30201-S8-P1 submitted with the application and through the process described in 1 above.
- c) Upon completion of the remediation works required by 20 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.

22. No development shall commence until a Construction Management Statement/Plan has been submitted to and approved in writing by the Local Planning Authority. The statement/plan shall include details specifically relating to, but not limited to, arrangements for the following in respect of each phase of the work:

- a) Details of temporary construction access, including geometry, construction within highway limits and visibility sightlines and also arrangements for the removal of any temporary access arrangements on completion of construction activities,
- b) parking for vehicles of site personnel, operatives and visitors,
- c) site accommodation,
- d) storage of plant and materials clear of the highway,
- e) routes for construction traffic to and from the site and measures to ensure adherence to the approved routing plan for vehicles under the applicant's / developer's control,
- f) wheel washing facilities on site to ensure that mud and debris is not spread onto the adjacent public highway,
- g) provision of roadside boundary hoarding behind any visibility zones and
- h) any proposed temporary traffic management,
- i) a programme of measures to minimise the spread of airborne dust from the site during construction periods,
- j) A limit to construction works on the site and deliveries to the site of between the hours of 07.30am to 6pm Monday to Friday and 7.30am to 1pm on Saturday, with no work undertaken on site or deliveries to the site on Sundays or public holidays.

Only the approved details shall be implemented, which shall be maintained throughout

the construction period.

23. The scheme of noise mitigation in report reference 403.10138.00001 v.2 should be implemented in full prior to the development being brought into first use and retained thereafter. The scheme shall be validated by a competent person and a validation report submitted to and approved in writing by the local planning authority.
24. A scheme of ventilation must be submitted to and approved with the Local Planning Authority. The scheme shall take account of the need to provide adequate ventilation, which will be by mechanical means where an open window would not achieve the following criteria. The scheme shall be designed to achieve the following criteria with the ventilation operating:
- Bedrooms  
30 dB LAeq (15 Minutes) (2300 hrs – 0700 hrs)  
Living/Bedrooms 35 dB LAeq (15 Minutes) (0700 hrs – 2300 hrs)  
All Other Habitable Rooms 40 dB LAeq (15 Minutes) (0700 hrs – 2300 hrs)
- All Habitable Rooms 45 dB LAmax to occur no more than 6 times per night (2300 hrs – 0700 hrs)
- The scheme as approved must be validated by a competent person and a validation report submitted to and approved in writing by the local planning authority. The approved scheme shall be implemented in full and retained thereafter.
25. Prior to occupation of any dwelling deriving access to or from Portland Road the permanent access arrangements shall be laid out in accordance with the application drawing (drawing / document reference 12213-WMS-02-XX-DR-A-10200-S2-P05 – Proposed Site Plan Site 1), fully constructed within highway limits, drained, lit, provided with white lining and tactile paving (where appropriate), and provided with visibility splays of 2.4m x 47m in each direction, both measured to the nearside edge of the carriageway. The area in advance of the sightlines being laid out as an extension of the existing footway and constructed in a solid bound material and not forming part of any adjoining plot, or other sub-division of the site.
26. Prior to occupation of any dwelling deriving access to or from Market Close, the permanent access arrangements shall be laid out in accordance with the application drawing (drawing / document reference 12213-WMS-02-XX-DR-A-10200-S2-P05 – Proposed Site Plan Site 1), fully constructed within highway limits, drained, lit, provided with white lining and tactile paving (where appropriate), and provided with visibility splays of 2.4m x 43m in each direction, both measured to the nearside edge of the carriageway. The area in advance of the sightlines being laid out as an extension of the existing footway and constructed in a solid bound material and not forming part of any adjoining plot, or other sub-division of the site.
27. Prior to the first occupation of each dwelling, space shall be provided for the parking of vehicles associated with that dwelling, in accordance with the approved plans (drawing / document reference 12213-WMS-02-XX-DR-A-10200-S2-P05 – Proposed Site Plan



Site 1), such space shall be maintained thereafter free of any impediment to its designated use.

28. The premises, the subject of the application, shall not be occupied until the estate streets have been provided with suitable turning arrangements to enable service and delivery vehicles to turn, generally in accordance with details shown on drawing / document reference 12213-WMS-02-XX-DR-A-10200-S2-P05 – Proposed Site Plan Site 1. In the case where interim turning arrangements are constructed these must remain available until any permanent estate street turning is available, in accordance with the approved estate street designs.
29. Before works to create a new estate street take place, construction details of the residential estate streets and footways (including layout, levels, gradients, surfacing and means of surface water drainage via a positive gravity-fed system discharging to a public sewer, highway drain or watercourse) shall be submitted to and approved in writing by the Local Planning Authority. The development shall proceed in accordance with the approved details. For the avoidance of doubt the applicant is advised to agree the construction details with the Highway Authority prior to discharging this condition.
30. Prior to the first occupation of each dwelling hereby permitted, the new street between each respective plot and the existing public highway shall be laid out in accordance with the plans approved under the above condition, constructed to at least base level, drained and lit. 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 carriageway and footways in front of each respective plot shall be completed with the final surface course within 12 months (or 3 months in the case of a shared surface road) from the first occupation of that plot.
31. No gates, including any part of their opening arc, shall be permitted to open outwards over the adjoining footway areas / highway. Any gates shall be set-back into the site an appropriate distance or shall open inwards only.
32. No dwelling shall be occupied until details of the proposed arrangements for future management and maintenance of the proposed streets within the development have been submitted to and approved in writing by the Local Planning Authority. The streets shall thereafter be maintained in accordance with the approved management and maintenance details or until such time as an agreement has been entered into under Section 38 of the Highways Act (1980).

### **Statement of Decision Process**

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

### **Equalities Statement**

Section 149 of the Equality Act 2010 places a statutory duty on public authorities in the exercise of their functions to have due regard to the need to eliminate discrimination and advance equality of opportunity between persons who share a relevant protected

characteristic and persons who do not share it (i.e. “the Public Sector Equality Duty”).

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

### **Human Rights Statement**

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

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

**PARISH** South Normanton Parish

---

**APPLICATION** First floor extension over existing ground floor extensions to side & rear elevations, single storey extension to front of existing garage, replace remaining garage roof, insert bathroom window and additional single storey extension to rear elevation  
**LOCATION** 89 Ball Hill South Normanton Alfreton DE55 2EB  
**APPLICANT** Mr. & Mrs. M. Bridges c/o Agents England  
**APPLICATION NO.** 22/00029/FUL **FILE NO.** PP-10545318  
**CASE OFFICER** Amelia Carter  
**DATE RECEIVED** 17th January 2022

---

## SUMMARY

This application has been called in to planning committee by Councillor Tracey Cannon for the following reasons:

- Impact on 85 Ball Hill
- Impact on the Grade II listed farmhouse 94 Ball Hill

The application is recommended for approval by planning committee.

The application is acceptable in principle being located within the defined development envelope of South Normanton. The extensions and alterations proposed to the dwelling are considered to be appropriate additions to the dwelling in terms of character, scale, design and materials. There are considered to be no significant impacts on residential amenity as a result of the development in terms of overlooking, privacy or resulting overbearing development.

Whilst the setting of the listed building is impacted marginally by the proposed development to the front elevation it is not considered to harm the significance of the heritage asset. In any event, the changes proposed to the front elevation have already received consent under the previous application 21/00526/FUL. The additional single storey extension on the rear of the dwelling which is proposed in this application is considered to have no impact on the listed building opposite.

There are considered to be no highway safety implications as a result of the development and there is sufficient parking on site to meet the demand created by the accommodation on site.

## SITE & SURROUNDINGS

A detached two storey dwelling located on a large plot on a residential street with a garden and off street parking for at least 3 vehicles to the front. There is a 1.5m hedge to the front and side boundaries and a garden to the rear which slopes away from the highway. There is a pair of attached garages to the side of the dwelling and a single storey extension to the rear. The dwelling is located in a relatively built up area, on a road comprised of ribbon development; to the south and south west is newer residential development. To the north of the site are a range of industrial units and directly north of the site is a Tree Preservation Order Area. Directly to the south of the site there is 94 Ball Hill a Grade II listed farmhouse.

## **Site Location Plan**



## **BACKGROUND**

This application is a re submission of a revised scheme which was granted permission under application 21/00526/FUL. The only difference between the current application and that which has already been approved is the addition of a single storey extension to the rear. There are no changes to the front elevation of the dwelling which differ from the alterations which have been already approved.

## **PROPOSAL**

The application is for a two storey extension to the side and to the rear and a single storey extension to the rear. The development will create a new study and sun room at ground floor level and larger bedrooms at first floor (with 2 new bathrooms), plus 1 new bedroom, to create a 4 bedroom house.

From the front elevation the extension projects to the side by 4m. The roof will be hipped and tie in with the roof of the main dwelling. The front elevation of the double garages will be brought forward by around 2.5m. The garages have a combination of a single pitch and a flat roof with a maximum height of 4m.

The two storey side extension will extend the depth of the house (6.6m). The two storey rear extension will extend the width of the house and protrude to the rear by 3.1m.

The single storey extension to the rear will project an additional 3.15m. It will have a maximum height of 4.10m. It will be 6m in width. The rear elevation will have bi-fold doors and Velux windows in the roof space.

The materials proposed include:

- Replacement tiles to the roof in Forticrete Gemini slate grey tiles
- Cover existing external walls in smooth coloured render (off-white ivory or cream)
- News extensions constructed in red/orange facing brick
- Windows in slim section Irish oak upvc
- Bi-fold doors in powder coated aluminium to match the windows
- GRP garage doors and replacement upvc front door in Farrow & Ball 'green smoke'

### Supporting Documents

A heritage statement has been submitted with the application. The submitted heritage statement states that 'The proposed extension will not impact on any of the physical elements that contribute to the significance of the listed building. The main issue with respect to harm of its significance is indirect impact of its setting.

'The impact of the proposed extension on the setting of the listed building will be marginal and that the significance of the farmhouse will not be harmed.'

### **AMENDMENTS**

None.

### **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**

A larger two storey side extension was refused by the Council in 2003. The applicant appealed the decision and the appeal was dismissed by the Planning Inspectorate. In 2009 an application for a replacement garage with a pitched roof was approved.

03/00023/FUL	Refused	Porch to side and erection of first floor extension to rear and side and two storey extension to front of garage
03/00480/FUL	Refused	Porch to side and erection of first floor extension to rear and side (above garage) and two storey extension to front of garage. Appeal Dismissed.

09/00200/FUL	Granted Conditionally	Pitched roof to existing garage, conversion of part garage to study/playroom and installation of 2 roof lights to rear
21/00526/FUL	Granted Conditionally	First floor extension over existing ground floor extensions to side & rear elevations, single storey extension to front of existing garage, replace remaining garage flat roof, and insert bathroom window

To the north (to the rear of houses fronting Alfreton Road) and north-west of the site there has been an outline planning permission for residential development (16/00582/OUT) which was granted on appeal in 2018 but which has now lapsed (As this was an outline permission the layout and details had not been considered or agreed).

To the north of the site a large industrial building was approved where Eurocell Nickel now operate (16/00583/FUL).

## CONSULTATIONS

Derbyshire County Council Highway Authority  
Standing advice.

South Normanton Parish Council  
No comments received.

Bolsover District Council Conservation Officer  
*The heritage consideration in this case is the impact on the significance of Hilltop Farmhouse. As discussed at length in response to the previous submission for front and side extensions, the significance of the farmhouse sits mainly with its historic fabric, as the contribution of its traditional farmland setting has long since been eroded as regards the Ball Hill frontage. Given this and the location of the proposed additional extension being at the rear, there is no impact from the proposal on the designated heritage asset of Hilltop Farmhouse. Therefore no conservation objection.*

## PUBLICITY

Site notice and 3 neighbours have been individually notified. Two representations have been received which are summarised below:

- Overshadowing/ impact on daylight to windows
- Overlooking from rear windows
- Overbearing development
- Loss of light
- Loss of privacy
- Sense of enclosure

### Other Matters

One of the representations also contains opinions relating to how the legislation and the development plan should be used to consider and determine planning applications.

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

## **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)
- SS3 (Spatial Strategy and Distribution of Development)
- SC11 (Environmental Quality (Amenity))
- SC1 (Development within the Development Envelope)
- SC2 (Sustainable Design and Construction)
- SC3 (High Quality Development)
- SC17 Development affecting Listed Buildings and their Settings
- ITCR11: Parking Provision

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

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

- Chapter 2: Achieving sustainable development
- Paragraphs 47-48: Determining applications
- Paragraphs 55-56: Planning conditions
- Chapter 12 (Paras. 126 – 136): Achieving well-designed places
- Paragraphs 194 -208: Conserving and enhancing the historic environment

### Supplementary Planning Documents

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

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

## **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
- the impact on a listed building
- whether the development would be provided with a safe and suitable access and impacts on highway safety;

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

### Principle

The development is acceptable in principle given it is located within the development envelope of South Normanton as set out in the Policies Map in the Local Plan for Bolsover District.

### Landscape and visual impact of the proposed development

The two storey extension to the side of the dwelling is considered to be an appropriate addition to the dwelling in terms of character scale design and materials. Subservient extensions are preferred in design terms for extensions. The proposed roof height is not subservient to the host building, however, it is considered to be acceptable given that the hipped roof ties in well with the roof plan to the main dwelling. Similarly, the extension is stepped in from the garage such that it has a subservient element in terms of width. The proposed extensions are also considered to be well proportioned resulting in a front elevation which has a positive impact on the dwelling.

The proposed extension to the rear will be mostly out of public view but is considered to have an acceptable visual impact from vantage points on Ball Hill.

The proposed use of an off white render on the existing dwelling will be a departure from the character of the area which is characterised by mostly red bricks. However, red bricks will be utilised on the new extension leaving the original dwelling to be rendered in an off white colour. Given the variety of styles and designs of dwellings on Ball Hill the proposed use of materials is considered to be acceptable and is not considered to have a negative impact on the street scene. The proposed off white render will soften the overall impact particularly with oak style windows. Overall, the proposals are considered to have an acceptable appearance in accordance with policy SC3 in the local plan.

### Residential Amenity

One of the reasons for calling this application to be determined at planning committee was due to the impact on 85 Ball Hill. This property is two doors down from the application site and there are considered to be no impacts to this dwelling arising from the development.

The dwelling directly to the east of the site (87 Ball Hill) is on a slightly lower land level to the application site. On this neighbouring dwelling there is an existing single storey side extension adjacent to the common boundary. The extension has high level windows which serve a WC and a utility room (05/00425/FUL). Whilst the proposed two storey extension may impact on the light entering these windows, this is not considered to have a significant impact by virtue of the rooms affected not being habitable (thereby having less protection in planning terms). There are no side facing windows proposed in this side elevation of the extension and therefore there is no potential for overlooking.

The two storey extension is not considered to result in an overbearing development for 87 Ball Hill. The proposed two storey extension is stepped in from the common boundary by 3.4m. The front elevations of both the application site and the neighbouring dwelling are in line and the orientation of the buildings are at 90 degrees to each other such that the development is unlikely to have a significant impact on the neighbouring dwelling. A representation submitted by 87 Ball Hill has said the rear windows will overlook their rear garden. There could be some overlooking from the rear windows given the extension



protrudes out to the rear, however this is not considered to be significant overlooking given the common boundary is at roughly a 90degree angle between both dwellings therefore the principle outlook from the windows will be the applicant's own rear garden.

To the east of the site is a two storey detached dwelling (91 Ball Hill). There are no windows in the side elevation of this dwelling but there are some side facing windows in their conservatory to the rear. The first floor windows proposed in the side elevation of the application site both serve bathrooms. The windows are located in excess of 10.5m to the rear garden of No 91 such that they are not considered to result in overlooking to the garden. They may result in some overlooking to the neighbours conservatory and for this reason it is necessary to control these side facing windows to be obscure glazed.

The additional single storey extension proposed in this application is not considered to impact on the occupiers of 87 Ball Hill any more so than the two storey extension discussed previously. The single storey extension to the rear is not considered to result in a loss of light, overlooking, or an overbearing development. The single storey extension is stepped in from the common boundary by 3.4m and is limited to a single storey such that the impacts will be minimal for 87 Ball Hill.

There are side facing windows proposed in the single storey extension which overlook 91 Ball Hill. 91 Ball Hill has a single storey extension/conservatory to the rear with some glazing on the side elevation serving their living space. There is a 1.5m approx. hedgerow on the common boundary at this point. The windows as proposed could contribute to overlooking of the neighbours conservatory and garden and for this reason it is necessary to ensure that the glazing in these windows is obscure to prevent overlooking.

The dwelling opposite (No 94) has said they consider the development to negatively impact on their light, privacy and result in a sense of enclosure. No 94 is some 29m away from the dwelling which is more than double the minimum standards set out in 'Successful Places' the Council's adopted design guidance such that the impacts of the proposed extension would be minimal for No 94.

On this basis, and subject to the conditions controlling obscure glazing in the side facing windows, the proposals are not considered to unduly impact on neighbouring dwellings and are considered to be compliant with policy SC3 in the local plan.

#### Heritage and Conservation

A first floor extension above the existing garage on the front elevation has already been approved under application 21/00526/FUL which is the same as that proposed in this application. It is noted the planning history of this site where a larger first floor extension was refused by the local planning authority in 2003. The applicant appealed the decision which was upheld by the planning inspectorate. This application is considering different proposals in a different context. In short, the proposals to this application are reduced in scale from what was previously refused. Similarly, since the time of the appeal Central Government Guidance on the Historic Built Environment has moved on. The National Planning Policy Framework (2021) considers that, as designated heritage assets, listed buildings have many facets which combine to give the building its unique Significance. It is the overall contribution of the many facets that has to be understood in order to make an assessment of whether a development proposal causes Harm to that Significance.

The policy relevant to this section includes SC17 Development affecting Listed Buildings and their Settings (Local Plan for Bolsover District 2020) and Paragraphs 194 -208: Conserving and enhancing the historic environment (National Planning Policy Framework 2021).

The main concern is that the proposed first floor extension over the garage will be visible from the living room of 94 Ball Hill. This will impact on views from the listed building in the living room when stood directly in front of the window from inside the building, where currently there are open views to the trees behind. Therefore, the development will have some negative impact on the setting of the listed building.

However, there are already views of 89 Ball Hill from certain vantage points within the living room which impact the setting of the listed building. Further, the setting of the listed building has been further comprised from its historic former use as a farmhouse as a result of the deterioration of the farmstead and by existing 20<sup>th</sup> century development. The result is that there are already compromised views from the listed building to the north to 89 Ball Hill and to new development to the south (Newyln Drive). The proposed development will compromise views further but this is not considered to be a reason for a refusal individually given that the setting has already been compromised comprehensively and given that views in and out of the listed building do not cause Harm to the Significance of the listed building.



Image 1. Existing views from the living room of the listed building to 89 Ball Hill.



Image 2. Views from the curtilage of the listed building to new development to the south of the site (Newlyn Drive).

In reaching this view, it is noted the Conservation Officer's consultation response from application 21/00526/FUL and the heritage statement submitted by the applicant which detail how the impact of development on listed buildings is assessed (i.e. Harm to the Significance of the listed building). In this case, within the listing of 94 Ball Hill there is particular focus on the interior significance of the building as opposed to its setting, it is stated that the farmhouse is:

*"...a multi-phase vernacular house, altered and re-fronted in the early 19<sup>th</sup> century, but with substantial surviving fabric from all phases, and retaining clear evidence of the evolution of the present plan".* The proposed development is therefore not considered to impact on the significance of the listed building (in respect of the listing) by virtue of the fabric of the multi-phase vernacular house being unaltered.

The additional single storey extension to the rear which is proposed in this application will not have any visual impacts on the setting of the listed building given that the extension is located to the rear outside of public view. This accords with the consultation response submitted by the Council's conservation officer who has said that they have no objection on the grounds that the location of the extension to the rear results in *'no impact from the proposal on the designated heritage asset of Hilltop Farmhouse'*.

In conclusion, my assessment accords with the heritage statement submitted by the applicant and the consultation response submitted by the conservation officer in both the previous application 21/00526/FUL and this current application. Whilst the setting of the listed building is impacted marginally by the proposed development to the front elevation it is not considered to *harm the significance* of the heritage asset. This is based on the assessment that the setting of the listed building does not make a substantial contribution to the historic significance of the building. It is not considered to significantly impact on the character, architectural merit or historic interest of the building in accordance with policy SC17 in the

local plan. The proposed development is considered to be compliant with the national planning policy framework in terms of assessing the potential impact of the proposal on the significance of listed buildings.

#### Access/Highways

The development will result in the creation of a 4 bedroom house. The Local Plan advises that there should be 3 off street parking spaces for a 4+ bed dwelling. The dwelling already has off street parking space for at least 3 vehicles and so no further information is needed from the applicant. The development is not considered to impact on highway safety and meets the standing advice from the highway authority. On this basis, the development is considered to be in accordance with the local plan and the framework.

#### Conclusions on the Key Issues

The application is acceptable in principle being located within the defined development envelope of South Normanton. The extensions and alterations proposed to the dwelling are considered to be appropriate additions to the dwelling in terms of character, scale, design and materials. There are considered to be no significant impacts on residential amenity as a result of the development in terms of overlooking, privacy or resulting overbearing development. Whilst the setting of the listed building is impacted marginally by the proposed development to the front elevation it is not considered to *harm the significance* of the heritage asset. This is based on the assessment that the setting of the listed building does not make a substantial contribution to the historic significance of the building. In any event, the changes proposed to the front elevation have already received consent under the previous application 21/00526/FUL. The additional single storey extension on the rear of the dwelling which is proposed in this application is considered to have no impact on the listed building opposite. Overall, the extensions and alterations are not considered to significantly impact on the character, architectural merit or historic interest of the listed building. There are considered to be no highway safety implications as a result of the development and there is sufficient parking on site to meet the demand created by the accommodation on site. For these reasons the application is recommended for approval by planning committee.

### **RECOMMENDATION**

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

1. The development shall be begun before the expiration of three years from the date of this permission.
2. The development must be carried out in accordance with the approved plans submitted with the application.
3. The external wall and roof materials used in the development must be of the same type, texture and colour as those detailed in the application: off white render, red/orange facing bricks, Irish oak upvc windows and Foricrete slate grey tiles.
4. The side facing windows on the eastern elevation of the dwelling must be obscure glazed to a level to adequate to prevent overlooking and must be retained for the lifetime of the development.

## **Statement of Decision Process**

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

## **Equalities Statement**

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

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

## **Human Rights Statement**

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

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

---

**PARISH** Langwith Parish

---

**APPLICATION** The demolition of the existing buildings on site, the removal of existing contamination, re-configuration of the land and the construction of 36 residential units with parking served off an associated access road.

**LOCATION** Builders Yard/Former Scrap Yard Pit Hill Whaley Thorns

**APPLICANT** Mr Ama Mandeir Oak View Lodge Newstead Abbey Park Nottingham NG15 8GE

**APPLICATION NO.** 21/00051/FUL **FILE NO.** PP-09377487

**CASE OFFICER** Mr Steve Phillipson

**DATE RECEIVED** 28th January 2021

---

## SUMMARY

This is an application for the demolition of the old pithead baths buildings, the removal of contamination on that site and the former scrap yard to the south of it, re-profiling of the land and the construction of 36 dwellings.

This is a site within the development envelope where residential development is generally acceptable but consideration needs to be given to the loss of the pithead baths buildings and in particular whether permission should be granted without any S106 contributions for local infrastructure. Without S106 contributions the development does not fully comply with local plan policy and so it has been necessary to refer the application to Planning Committee.

In this case the viability of the development is challenged such that it cannot pay its way in terms of S106 contributions. However, in this case the capacity shortfalls identified are not considered to be critical. There is no shortage of school places and there is no identified need for affordable housing in the locality of the site (notwithstanding the districtwide need) and the existing leisure provision in the vicinity of the site is generally adequate. This means that even without S106 contributions the development is relatively sustainable.

Additional factors weighing in favour of approval include the redevelopment and restoration of a polluted brownfield site the condition of which adversely affects the character of the area at an entrance point into the village of Whaley Thorns; removal of pollution and potential harm to ground water quality; the removal of potentially non-conforming nuisance uses within a residential area; and the additional housing supply offered.

In this case it is considered that harms identified do not outweigh the benefits and so the application is recommended for approval subject to conditions.

## SITE & SURROUNDINGS



Ordnance Survey © Crown Copyright 2020 all rights reserved.  
Licence number 100047962. Copies by licensed bodies only.

### Application Site

Site of the former pithead baths building (now commercial units) and the adjacent yard space formerly occupied by A J S Autos with previous uses include the vehicle dismantlers and salvage, and a builder's yard. The site is located at the southern extent of Whaley Thorns. A mini-roundabout is located at NW corner of the site at the junction of Pit Hill, Kitchener Terrace and Bathurst Terrace and represents the de-facto gateway into the village.

The pithead baths building is parallel to Kitchener Terrace with terraced dwellings facing the site along the northern boundary. The land to the east is allotment gardens and to the south the boundary is marked by the party boundary with Scarcliffe House, a large detached red brick house within extensive grounds and several trees subject to a tree preservation order. To the west on the opposite side of the highway (Pit Hill) is Poulter Country Park and also the remains of the former colliery with the old shaft and pumping station. There are bus stops adjacent to the site on the Pit Hill frontage and a train station close by to the north.



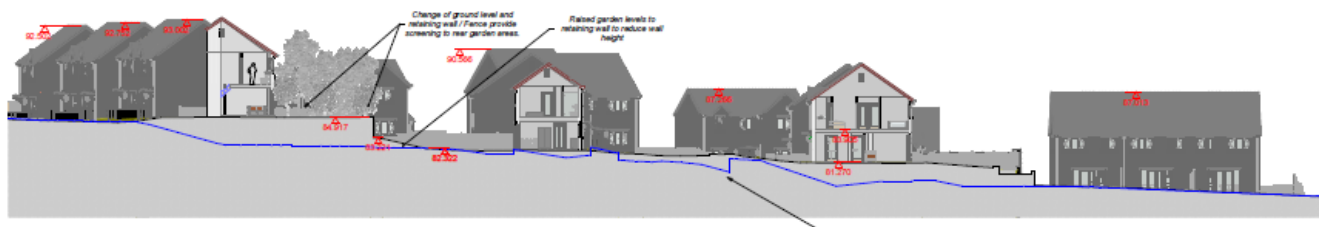








The proposed dwellings on Kitchener Terrace will be at a higher ground level. The step down in levels to the next row will be supported by a retaining structure and there will also be some other retaining structures required across the site. Section below looking east from Pit Hill:



The application is supported by the following documents:-

- Coal Mining Risk Assessment
- Ecological Appraisal
- Tree Report
- Biodiversity Net Gain Assessment
- Biodiversity survey and report
- Planning and Design and Access Statement
- Geo-Environmental Report
- Transport Statement
- Viability Report (notably concludes that the development would not be viable if S106 contributions or affordable housing are required).

## AMENDMENTS

Amendments secured during the application process include revisions to design, a reduced number of dwellings (39 to 36) to meet standards, separation distance to retained trees, highway revisions and additional technical details.

A viability report has also been submitted.

## HISTORY

08/00102/OUTMAJ Outline permission was granted for residential development in 2008 with S106 obligation to cover affordable housing, public open space and public art. This was never implemented. In resolving to grant permission on that occasion it was concluded that:-

*“While the development involves the loss of an employment site, the proposal removes a use which causes materially harmful environmental problems in particular to the visual character of the area at this important entrance to the village of Whaley Thorns. There is vacant employment land available elsewhere in Whaley Thorns. It has been shown through the Design and Access Statement submitted with the planning application and the agreement to a S106 Planning Obligation to cover affordable housing, public open space and public art that a development which is sustainable both in its location, and design and layout can be accommodated on the site. The proposal for the residential development of the site therefore accords with the policies of the development plan and the local guidelines for the release of land for residential development in accordance with the provisions of PPS3. The risk of land contamination from past and present uses at the site are understood and can be dealt with by conditions. Other issues raised can be dealt with by condition or are issues of detail to be addressed with the Reserved Matters submissions.”*

21/00024/FUL (relating to the large house adjacent to the south side of the site) Permission granted for change of use to Children’s Home.

## **CONSULTATIONS**

### Environment Agency

No objections subject to conditions requiring submission and approval of a ground remediation strategy.

The EA notes that there has been a number of previous uses that have the potential to have caused contamination of the site. Notable previous uses include the vehicle dismantlers and salvage, and a builder’s yard. States that controlled waters are particularly sensitive in this location because the proposed development site is located on the Cadeby Dolostone Principal aquifer and lies within source protection zone 3.

A remediation scheme has been proposed which includes removing all made ground from the site. The EA expects additional investigation to be completed to test for contamination beneath the made ground and risks to groundwater should be assessed from any identified contamination.

### BDC Environmental Health Officer

No objections subject to a condition requiring further ground investigation and a remediation strategy to be agreed and implemented.

The EHO has reviewed the submitted Geo-Environmental Assessment. She advises that a remediation strategy has been proposed which advises made ground will be removed from the site and a capping layer of 600mm will be provided for any areas where made ground remains in site. Gas protection measures are also to be installed. Whilst not objecting to these proposals, the EHO advises that the sampling carried out is quite limited considering the previous uses of the site and general condition of the site. Therefore further information or clarification is required before we are able to agree the remediation strategy proposed as there is a possibility that the hydrocarbon contamination may be more extensive than that currently considered and the proposals may not be suitably protective of the future residents if there is a significant vapour pathway. Hence a condition is needed to require further ground

investigation and a remediation strategy to be agreed and implemented.

BDC Urban Design Officer

No objections to the revised plans subject to conditions.

Given the challenging site constraints, the revised proposals respond positively to the design issues raised previously and now achieve a more resolved layout, improved amenity standards and relate better to the surrounding context. Subject to conditions to manage materials, landscape and details for the salvage, storage and re-use of the existing stone wall, together with a sample panel of stone wall to be constructed on-site agreed with the LPA prior to construction, there are no urban design objections to the revised submission.

Force Designing Out Crime Officer

No objections to the principle of residential development at this site. The layout is acceptable with the minor amendments regarding corner turning units and passive surveillance. A full boundary detail schedule should be required by condition to include a securable garden access gate for each plot.

BDC Economic Development Officer

No objections subject to a condition to secure local opportunities for skills, training and employment in the District.

BDC Conservation Officer

Pithead Baths building is not worthy of listing (i.e. making it a listed building).

The pithead baths buildings are imposing buildings on the Pit Hill townscape. The baths are all that remains of Langwith Colliery following its closure in 1980. As it is, being the only remaining building, the former pithead baths have lost their historic and visual context. Due to their subsequent use as industrial units the interior of the baths is also gone. The character of the buildings from within and without is of light industrial units. Given the above, my view is that the former pithead baths would not be a candidate for listing.

DCC Archaeologist

No objections subject to conditions requiring a record be made of the former Pithead Baths Buildings.

There are no Historic Environment Records which directly relate to this site, however it is of some industrial archaeological interest. The red brick structures which are proposed for demolition are the former pithead baths of Langwith Colliery. They first appear on OS mapping of the area in 1938. No demolition should occur on the site until the required building recording has been undertaken.

BDC Drainage Engineer

Advisory Information. A maintenance plan for any SuDS proposed is required.

There is a public sewer within the proposed work area so the Applicant needs to contact Severn Trent to determine their responsibilities under the relevant legislation.

Compliance with Part H of Building Reg's.

Measures to prevent surface water run-off or flooding to neighbouring properties should be put in place.

#### DCC Flood Risk

No objections subject to conditions as set out below in Recommendations.

#### Severn Trent Water

Confirms that drainage conditions can be discharged. So has no objections.

Foul is proposed to connect into the public combined water sewer, which would be subject to a formal section 106 sewer connection approval. Surface Water is proposed to connect into the public surface water sewer, which would also be subject to a formal section 106 sewer connection approval. Informative Notes provided.

#### Coal Authority

The application site does not fall within the defined Development High Risk Area and is located instead within the defined Development Low Risk Area. Standing advice.

#### DCC (Highways)

No objections to the revised plan Rev J provided that the parking spaces are of sufficient dimensions (2.4m x 5.5m), and subject to conditions.

#### Parish Councils

No response.

#### Bassetlaw DC

No response.

### **Consultee Comments on Infra-Structure and S106 Obligations:**

#### BDC Housing Strategy Officer

Notes the policy requirement for 10% affordable housing. If affordable housing is provided on site it should be 2 bedroom (4 person) or 3 bedroom (5 person) houses for Affordable or Social Rent. The homes should be transferred to a Registered Provider, with nominations for lettings taken from the Council through their Housing Register and choice - based lettings system. She also advises that if the developer is agreeable a commuted sum could be paid in lieu of providing affordable housing on site. She has calculated the financial equivalent of providing on-site affordable housing in this case to be £201,232.

#### BDC Leisure Services Officer

Requests commuted sums for improving:

- Equipped Play Area(s): West Street Play Area / former play area, Poulter County Park
- Semi-Natural Green Space: Poulter Country Park £33,930; and
- Playing pitches and their ancillary facilities at Cockshutt Lane Recreation Ground, Whaley Thorns £40,404.

#### BDC Arts Officer

The 2020 local plan for Bolsover District (policy SC3: P105) states that "All proposals in excess of 10,000 sq. metres floor space, or 100 dwellings, or 3 hectares in land area should make provision for new works of public art..." This proposed development is smaller than the trigger threshold.

### DCC Education

No mitigation sought with local schools having adequate capacity.

Whaley Thorns Community Primary has a net capacity of 158 with 100 currently on roll and projected numbers showing 108 within the next 5 years indicating no pressure at this school. Shirebrook Academy has a net capacity for 960 pupils with 839 pupils currently on roll. The number of pupils on roll is projected to increase to 863 during the next five years.

### CCG Primary Health Care (NHS)

The CCG has requested a contribution is made towards capacity at the local GP practices. They have requested a commuted sum of £18,816.

Chesterfield Royal Hospital – Not a formal consultee but have provided the following representation:

Requests that impact on secondary health be considered and requests a S106 contribution to mitigate impact on health.

### DCC (Countryside Services)

Would welcome a S106 contribution to off-site recreation. Suggests Poulter Country Park would benefit from enhancements to: equestrian facilities; play equipment; cycle trail improvements; or footpath access enhancements.

### CPV (Independent Viability Consultant appointed by the Council)

Concludes that even with no planning policy S106 contributions the scheme only shows a residual land value of £384,633. As this is still below the benchmark land value\* of £450,000 this is showing an unviable outcome. Therefore CPV concur with the Applicant's findings that there is a reasonable justification here to remove all of the planning policy requirements in order to give this scheme the best chance of being delivered.

*(\* Benchmark Land Value is the minimum price that a hypothetical landowner would accept and a hypothetical developer would pay for the scheme to be delivered. If the residual site value is above this "benchmark" then the scheme is viable. If the residual site value falls below this figure then the scheme is deemed to be unviable).*

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

## **PUBLICITY**

Site Notice and press notice posted. 30 properties have been consulted. Three representations received including two objections on the following grounds:-

The occupier of business unit 12 (Normans DIY and Firewood) objects to the loss of the business unit building. There are no other work units around and so nowhere to relocate to. If this goes ahead it will finish the business off.

Impact on local businesses which run from the old baths, loss of essential local services and employment they provide.

Loss of the pit head baths which were the first ones to be built in Derbyshire and therefore

should have historical and social interest to the local and wider community.

Requests consideration be made for single storey and adaptive accommodation. The plan currently has no single storey bungalows or apartments and no open plan living spaces. Provision of both would offer more flexible accommodation for an aging population.

Control of surface water flow should be a condition of this application. The site is a sloping one, rain water will run down the site and continue in a southerly direction until meeting the River Poulter alongside the A632. This river flows east into Nether Langwith where it divides to flow either side of properties on Queens Walk before emerging on the Village Green. In spate conditions there is already flood risk to properties along this route.

## **POLICY**

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:-

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

SC1: Development within the Development Envelope  
SS1 Sustainable Development  
SS2 Scale of Development  
SS3 Spatial Strategy and Distribution of Development  
WC2 General Principles for Economic Development  
LC2 Affordable Housing  
LC3 Type and Mix of Housing  
SC2 Sustainable Design and Construction  
SC3 High Quality Development  
SC7 Flood Risk  
SC9 Biodiversity and Geodiversity  
SC10 Trees, Woodland and Hedgerows  
SC11 Environmental Quality (Amenity)  
SC13 Water Quality  
SC14 Contaminated and Unstable Land  
ITCR10 Supporting Sustainable Transport Patterns  
ITCR11 Parking Provision  
ITCR II1 Plan Delivery and the Role of Developer Contributions

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

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

- Paragraphs 7-10: Achieving sustainable development
- Paragraphs 47-48: Determining applications
- Paragraphs 54-57: Planning conditions and obligations
- Paragraphs 91, 92 and 94: Promoting healthy and safe communities
- Paragraphs 96 and 98: Open space and recreation

- Paragraphs 108-111: Promoting sustainable transport
- Paragraph 118: Making effective use of land
- Paragraphs 124-128: Achieving well-designed places
- Paragraph 153: Meeting the challenge of climate change
- Paragraph 165: Sustainable Drainage Systems
- Paragraphs 170 and 175: Conserving and enhancing the natural environment
- Paragraphs 178-181: Ground conditions and pollution
- Paragraphs 203-205: Conserving and enhancing the historic environment

### Supplementary Planning Documents

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

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

## **ASSESSMENT**

### **Key issues**

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

- the principle of the development
  - Planning Policy
  - Loss of non-designated heritage asset
  - Loss of employment units
  - Site reclamation of brownfield land
  - Housing supply
  - S106 and infrastructure matters
- the design and visual impact of the proposed development
- residential amenity
- whether the development would be provided with a safe and suitable access and impacts on highway safety;
- impacts of trees, ecology and biodiversity
- contamination
- drainage

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

### **The Principle of Development**

#### Planning Policy

Policy SC1 of the local plan (Development within the Development Envelope) permits development proposals on sites within a development envelope, provided that the proposed development is appropriate in scale, design and location to the character and function of the area, is compatible with adjacent uses and does not result in an unacceptable environmental impact. As such residential use would be acceptable in principle in this location.

Although the land is located within the settlement envelope where development is generally

considered to be acceptable in principle, Whaley Thorns is defined as a small village in the local plan and as such is only considered suitable to support a limited amount of development under local plan policy SS3. This policy only anticipates 11 dwellings within the planned housing figure for the settlement. The amount of development proposed exceeds the amount expected within the Local Plan (2020) for this settlement. Nevertheless, bus stops and Whaley Thorns Station are situated nearby and the site is within a short walking distance of a range of services to support day to day needs, including a village school, medical centre and other amenities. The location of the site is therefore considered to be reasonably sustainable and it is considered that the provision of a number of dwellings in excess of the anticipated quantity is not in itself a reason to refuse planning permission.

However, in this case consideration also needs to be given to the loss of the former pit head baths buildings and the loss of employment units that are currently housed within these buildings and the ability of the proposal to meet infrastructure S106 policy requirements; all of which affect the sustainability of the proposal.

#### Loss of a non-designated Heritage Asset

The proposed development includes the demolition of the former Pit Head Baths buildings.



These buildings have no formal protection being neither listed nor within a conservation area and the Council has previously granted planning permission in 2008 for their demolition as part of the redevelopment of the site for residential use. However, that permission was never implemented and as is recognised in the consultation responses from the Conservation Officer and the County Archaeologist and in a public representation, the buildings are of some local historic interest.

The Conservation Officer has been asked to consider whether or not these buildings should be listed to protect them from demolition but she has concluded, having regard to the architectural and historic interest of the buildings that these buildings are not a suitable candidate for listing. She advises that the former pithead baths have lost their historic and visual context and the character of the buildings from within and without is of light industrial units.





The NPPF advises (para'203-205) that:

*“The effect of an application on the significance of a non-designated heritage asset should be taken into account in determining the application. In weighing applications that directly or indirectly affect non-designated heritage assets, a balanced judgement will be required having regard to the scale of any harm or loss and the significance of the heritage asset.*

*Local planning authorities should not permit the loss of the whole or part of a heritage asset without taking all reasonable steps to ensure the new development will proceed after the loss has occurred.*

*Local planning authorities should require developers to record and advance understanding of the significance of any heritage assets to be lost (wholly or in part) in a manner proportionate to their importance and the impact, and to make this evidence (and any archive generated) publicly accessible. However, the ability to record evidence of our past should not be a factor in deciding whether such loss should be permitted. “*

Having regard to the advice of the Conservation Officer and the County Archaeologist it is considered that the remaining context and character of these buildings does not warrant listing and retention of the buildings and that the condition and appearance of these buildings does not contribute positively to the character and appearance of the area at the entrance point to the village. The planning condition recommended by the County Archaeologist to require a public photographic record be made would necessary to record their remaining historic interests.

### Loss of Employment Units

The demolition of the buildings on site would also result in the loss of the employment units which they accommodate. It is understood that there are 15 employment units on site. However, the Applicant states that at present the equivalent of 5 full time employees work on site.

The building is poorly insulated, is structurally inadequate, and has asbestos sheeting on the roof. The building has been adapted over many years for different industrial uses but does not meet modern standards for commercial/industrial development.



5.View of part of the existing interior of the Pithead Baths

Two objections to their loss have been received in response to publicity on this application. However, the Council's Economic Development Officer has no objections subject to a condition to secure local opportunities for skills, training and employment during construction.

The relevant local plan policy which protects employment sites is policy WC2. However employment sites are only protected by WC2 as specifically allocated on the policies map of the local plan. This application site is not so protected. The only employment site which is allocated and protected in Whaley Thorns is a site at Park View approximately 380m north of this site.

It should also be noted that the auto salvage use has now ceased and so the majority of the site is unused and contaminated brownfield land. Hence the use which is being made of the

site is not currently very efficient.

Furthermore, the Council has previously granted planning permission in 2008 for the loss of these employment units even though the local plan policy at that time was to protect all sites in employment use. The main reason why that decision was reached was because the existing industrial type uses which are permitted on this site were creating complaints from existing residents living adjacent to the site. i.e. the existing industrial and motor salvage uses were seen as a non-conforming uses within a residential area. Although Planning Officers are not aware of any recent complaints, the site is no longer fully used and the auto salvage business has ceased. These uses could however recommence or be undertaken in a less considerate manner by future occupants of the site. As such it is considered that the removal of non-conforming uses should still be taken into consideration in the balance.

Ultimately the buildings are privately owned and so the Council has no control over the future of the business units even if a decision was made to refuse planning permission to protect the businesses i.e. there is probably nothing to stop the current owner evicting the tenants or not renewing the leases if planning permission became an obstacle to the redevelopment proposals for the site.

In summary, the proposal would result in the loss of the existing employment units on site but they are not protected by local plan policy, are of poor quality and could be extinguished by the current owner regardless of the outcome of this application. Furthermore the redevelopment of the site for residential use would prevent any future nuisance problems associated with non-conforming uses and would allow the site to be fully remediated and the visual appearance of the area to be improved.

Given that the remaining tenants of business units will need to find alternative premises the Council's Economic Development Team will be asked to provide assistance with this search.

#### Reclamation of Brownfield Land

The site has been quite heavily contaminated as a result of its former uses, particularly the auto-salvage use. In addition the site lies over a groundwater aquifer where controlled waters are particularly sensitive (as advised by the Environment Agency). Therefore the redevelopment of a scheme which can provide for the reclamation of the site and the removal of contamination weighs positively in the planning balance.

#### Housing Supply

Although the Council has identified a five year supply of housing, the provision of additional housing can be seen as a benefit of the scheme if the location of the site is deemed to be sustainable.

#### S106 and local Infrastructure

The following S106 obligations have been sought to enable the proposal to fully comply with local plan policy:-

£185,753 Affordable Housing – commuted sum for off-site provision

£31,320 Play facilities off-site

£37,296 Leisure off-site

£17,369 Primary Health GP capacity increase

(note: No mitigation sought with local schools having adequate capacity)

Total S106 request = **£271,738**.

Whilst initially agreeing to the S106 obligations requested the Applicant later took advice on the scheme's viability and submitted a consultants viability report (by S106 Management 02/12/2021). It was concluded in this report that the development cannot viably provide any S106 contributions.

The findings of this report have been tested and reviewed by the Council by appointing a second independent viability assessor (CPV Viability). Accounting for the cost of ground remediation in this case CPV came to the same conclusion.

The test of viability is whether the residual price left for the land is above the Benchmark Land Value or not. This has been assessed as being £450,000. However, the residual value of the land has been calculated to be £348,633 which is below £450,000. This shows an unviable outcome.

Therefore the Planning Officer view is that the proposal is that the scheme is technically unviable without any S106 contributions and that there is a reasonable justification here to remove all of the planning policy requirements in order to give this scheme the best chance of being delivered.

However this does not necessarily mean that planning permission should be granted. There is still a decision to make for the Council as to whether it ought to grant permission for an unviable development which cannot meet all of its policy obligations. A scheme which cannot contribute to the additional pressures that it creates on local infra-structure and services is less sustainable and in some cases could cause harm to the quality of life for others in the area. Therefore it is important to consider what the consequences/harms would be in this particular case if permission is granted without the normal S106 obligations:-

- Education  
No impact since there is excess capacity in the local schools already. In fact the number of pupils at Whaley Thorns Community Primary (100) is way below a net capacity of 158. Therefore the additional pupils created would actually help with the efficient and continued operation of the school.
- Affordable Housing  
Slight impact. The NPPF states at para'65 that "*where major development involving the provision of housing is proposed, planning policies and decisions should expect at least 10% of the total number of homes to be available for affordable home ownership unless this would exceed the level of affordable housing required in the area*".

The Council's policy LC2 is to seek 10% on site provision. However the Housing Strategy Officer did not think on site provision was necessary in this case because Whaley Thorns is a settlement with low demand for affordable housing, partly due to the relatively low house prices and also the availability of reasonably priced private rented accommodation there. Whilst there is an overall affordable housing need in Bolsover district she doesn't consider this to be a suitable site. She advised that, subject to viability, it may be a case where a commuted sum would be more appropriate so that we could provide affordable housing in a larger settlement nearby

where the need and demand is higher.

Given a viable case has been proven and the affordable need on this site is low, it is considered that it would not be appropriate to refuse planning permission for lack of affordable housing provision.

- **Leisure**  
Slight impact. There is an existing play facility within Whaley Thorns and significant open space provision nearby at Poulter Country Park opposite the application site, as well as Cockshutt Lane recreation ground and West Street recreation ground. Residents of the new development would therefore have good access to these facilities.

The Leisure Officer has advised that although Langwith as a parish meets the standards in terms of quantity of formal and semi-natural green space for the current population, there are a number of sites in Langwith that do not achieve the minimum quality standard and so has sought contributions for improvements.

Hence whilst the absence of a S106 contribution to improve leisure facilities is unfortunate it is considered that there is existing provision which will meet the needs of existing and proposed residents of this site. As such it is considered that a leisure obligation in this case is not essential to make the development acceptable in planning terms.

- **Primary Health GP Capacity**  
Slight impact. The CCG have said that they would like to increase clinical capacity for Whaley Thorns and the surrounding area, since anticipated growth within the next 6-15 years will require additional capacity in the area. Hence there is a need to increase capacity but it is not yet an immediate need with some short term capacity remaining. The funding sought for this relatively small development, £17,369 whilst proportionate, is quite a small amount and in truth is unlikely to allow significant capacity improvements to be made. Hence it is considered that the lack of this S106 contribution would not justify refusal of planning permission.

In summary, a viability case has been proven and tested by the Council and it is accepted that the development cannot pay for the S106 obligations sought. Since the development will not pay its way in terms of additional pressures on local infrastructure its sustainability as a site for housing is reduced. But on this occasion not by much because there are no critical infrastructure capacity problems and in respect of primary education the additional pupils will assist with the current low number of pupils on roll. The consequences of the additional pressures on local infrastructure should be taken into account in the planning balance.

#### Conclusions on Principle of Development

This is a site within the development envelope where residential development is generally acceptable. However factors weighing against approval in this particular case are that:

A non-designated heritage asset of limited quality would be lost; the employment space that it provides would also be lost although much of the site outside the buildings is now unused; and the viability of the development is challenged such that it cannot pay its way in terms of



S106 contributions to increase capacity of local infrastructure although in this case the capacity shortfalls identified are not considered to be significant.

Factors weighing in favour of approval include the redevelopment and restoration of a polluted brownfield site the condition of which adversely affects the character of the area at an entrance point into the village of Whaley Thorns; removal of a potential harm to ground water quality; the removal of potentially non-conforming nuisance uses within a residential area; and the additional housing supply offered.

In this case it is considered that harms identified do not outweigh the initial policy position of accepting residential development within the development envelope especially considering the factors weighing in favour of approval. Therefore provided that there are no other unacceptable environmental impacts or technical reasons for refusal it is considered that permission should be granted.

### **Other Matters**

#### **Design and Visual Appearance**

The application has been revised to address the concerns of consultees including the Urban Design Officer, Police and County Highways. The ground level changes on site are a particular constraint with some notable retaining structures necessary. The revisions have included a reduction in the number of dwellings from 39 to 36 in order to meet the Council's standards of space about dwellings, privacy, parking space and stand-off distance to retained trees. The revised proposal are now considered to meet standards and are considered to be acceptable.

The request in representations to alter the mix of housing to include single storey and adaptive accommodation is noted. However it is considered that the proposed mix of two and three bed, two storey dwellings is not inappropriate and single storey units are generally more expensive to deliver in terms of the land they take up. Given that viability is already challenged it is not considered to be reasonable to require further changes which may harm the viability of the proposal.

#### **Residential Amenity**

As amended the level of amenity on site at the proposed development should generally meet the Council's guidance in Successful Places. There is one instance where there may be some overlooking of the rear garden of plot 36 from the upper side windows of the existing dwelling (with permission for conversion to children's home) adjacent to the south side of the site. A separation distance of 10.5m is sought whereas about 8m is available. The existing large Aspen Tree which currently provides some screening here is to be removed because it has a significant lean and is considered to be dangerous. However some replacement tree planting at this point would both provide screening and offset the loss of the existing tree. This requirement can be included within the landscaping scheme to be approved by condition. It is considered that any remaining overlooking issue from existing property is a matter of buyer beware since the new purchasers of plot 36 will be aware of the existing situation when they buy the property.

#### **Access/Highways**

As amended the County Highways Officer has no objections to the proposal subject to

conditions. Conditions are recommended as set out below in the recommendation section of this report with the following exceptions:-

The separate site compound details and wheel cleaning conditions sought can be covered by a more general construction management condition which is considered necessary because of the potential amenity impacts on adjacent residential property from ground works required. Also some of the compliance trigger timings have been altered in order to avoid unnecessary pre-commencement conditions as recommended in national planning guidance.

Subject to these conditions it is considered that there are no highway safety issues that are a constraint to development and that the site can be provided with a safe and suitable access.

### **Trees, Ecology and Biodiversity**

The Applicant has provided the following assessments:-

Arboricultural Impact Assessment and Root Protection Area Plan:

Concludes that the site is industrial which has received little maintenance over the last few years resulting in the establishment of young trees in several areas on the site. There is a small variety of species, age range and conditions. All trees within the site have been categorised as category C.

Ecology Appraisal:

Concludes that the site was of low to moderate wildlife interest. This was due to the site being dominated by buildings and areas of hard standing, with only marginal pockets of vegetation. No rare vascular plants were found, and all species recorded were common and widespread; the trees, scrub and buildings provided potential for nesting birds; there was no evidence or signs of bat occupation; however, some of the buildings had external gaps and cavities, along with numerous potential access points. The buildings were classified as having moderate suitability for roosting and/or hibernating bats. As such, it is recommended in the ecology report that a minimum of two nocturnal emergence surveys are undertaken within the optimum period (May- September inclusive) with one of the surveys comprising a dawn re-entry survey.

There is no potential for amphibians, poor habitat for reptiles and no suitable habitat for mammals. Habitat for invertebrates is poor.

Tree root protection measures should be put in place; wildlife friendly planting used in landscaping and bat and bird boxes provided.

Biodiversity Net Gain Assessment:

The on-site mitigation proposals to off-set habitat loss associated with the proposed development is sufficient to achieve an overall predicted net gain of 76% in biodiversity units. The benefits accrue from the additional tree and shrub planting to be undertaken within the proposed private garden areas.

The Officer view is that the biodiversity interests on this site are generally low. The most significant trees in the vicinity are actually adjacent to the site on the south and southwest sides of the site. They are protected by tree preservation order and, as amended, are not materially affected by the proposed development. As mentioned above a large Aspen Tree which is leaning quite badly needs to be removed from the site because it is dangerous but its

replacement can be required by condition.

There is a scrappy hedgerow which runs through the centre of the site which will need to be removed in order to properly remediate the site and deal with the step in ground levels along its line. However it is not considered to be an important hedgerow neither is it in very good condition and given the site constraints its removal is considered to be necessary. Replacement planting and landscaping should adequately mitigate for the loss.

Whilst the ecological interest on site is generally low and no evidence of bat roosts has been found, there is potential for bat roosts within the buildings and the recommended bat emergence surveys have not yet been undertaken. These will be necessary before the buildings are demolished. The bat emergence surveys and mitigation for the loss of potential roosting habitat can be required by condition.

### **Ground Contamination**

The study submitted with the application shows that the site is quite heavily contaminated from its former uses. Remediation will be required as a condition of planning permission. The removal of this contamination to facilitate the proposed development is considered to be a benefit and should also reduce the risks to the ground water aquifer.

### **Drainage**

Severn Trent Water have no objections to the proposals for disposal of foul and surface waters. However conditions will be required as recommended by the Lead Local Flood Authority and BDC Drainage Engineer to control surface waters during and post construction. Subject to conditions it is considered that there are no technical drainage reasons why planning permission should not be granted.

### **Conclusions on Technical Matters**

Subject to conditions there are no design or technical reasons why planning permission should not be granted.

### **Overall Conclusions**

This is a site within the development envelope where residential development is generally acceptable. A non-designated heritage asset of limited quality would be lost; the employment space that it provides would also be lost although it is now a poor quality building for employment use and much of the wider site is now unused; and the viability of the development is challenged such that it cannot pay its way in terms of S106 contributions to increase capacity of local infrastructure. However, in this case the capacity shortfalls identified are not considered to be critical. There is no shortage of school places and there is no identified need for affordable housing in the locality of the site and the existing leisure provision in the vicinity of the site is adequate. This means that even without S106 contributions the development is relatively sustainable.

Factors weighing in favour of approval include the redevelopment and restoration of a polluted brownfield site the condition of which adversely affects the character of the area at an entrance point into the village of Whaley Thorns; removal of a potential harm to ground water quality; the removal of potentially non-conforming nuisance uses within a residential area; and the additional housing supply offered.



In this case it is considered that harms identified do not outweigh the benefits or the initial policy position of accepting residential development within the development envelop.

There are no other unacceptable environmental impacts or technical reasons to withhold planning permission.

## **RECOMMENDATION**

**The application be APPROVED subject to the following conditions (in precis form to be formulated in full by the Head of Planning):-**

### Time Period

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

### 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]

### Construction Management Plan

Prior to the commencement of development a construction management plan shall have been submitted to and approved in writing by the Local Planning Authority. The plan shall include (amongst other things) details of how noise, dust and vibration will be managed and mitigated throughout the course of the development including: hours of the day such noise making activity can be undertaken; provision of wheel wash facilities where necessary to avoid mud and stones on the public highway; means to prevent surface water run-off to adjacent property or the highway and site compound location and any screening. The approved construction management plan shall be implemented throughout the course of the development.

### Bat Surveys

Before any demolition of any of the former Pithead Baths buildings takes place, a minimum of two nocturnal emergence surveys for bats within the optimum survey period (May-September inclusive) with one of the surveys comprising a dawn re-entry survey, shall have been undertaken by an appropriately qualified body and the results of the surveys together with any mitigation/licencing measures recommended shall have been submitted to and approved in writing by the Local Planning Authority. Any mitigation/licencing measures approved shall be implemented.

### Tree/Hedge Protection

Before the development is commenced and before any equipment, machinery or materials are brought on to the site to implement this planning permission, temporary fencing must be erected to protect the existing hedgerows and trees along the southern and southeast site boundaries and the trees to be retained as shown on the approved layout plan (S120/1057/2 Rev J).

The fencing shall be retained and maintained until all equipment, machinery and surplus

materials have been removed from the site. The fencing shall be at least 1.2m high, sited at least 2m from the bole of the hedge-line, strong enough to resist impacts and shall include intermittent signage along its length warning site operatives that the 'Hedge/trees are to be retained and are protected by condition of planning permission' and also advising that nothing can be stored or placed within the fenced area and the ground levels within the fenced area must not be altered nor any excavation take place, without the written consent of the Local Planning Authority.

In the event that any hedgerow or tree is removed which should have been retained in accordance with this condition, it shall be replaced in accordance with planting details submitted to and approved in writing by the Local Planning Authority within the next available planting season.

#### Employment Scheme

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.

#### Historic Building Recording

No development shall take place until a Written Scheme of Investigation for historic building recording has been submitted to and approved by the local planning authority in writing, until all on-site elements of the approved scheme have been completed to the written satisfaction of the local planning authority, and until the provision to be made for analysis, reporting, publication and dissemination of the results and archive deposition has been secured. The Written Scheme of Investigation shall include an assessment of significance and research questions; and

1. The programme and methodology of site investigation and recording
2. The programme and provision for post-investigation analysis and reporting
3. Provision to be made for publication and dissemination of the analysis and records of the site investigation
4. Provision to be made for archive deposition of the analysis and records of the site investigation
5. Nomination of a competent person or persons/organization to undertake the works set out within the Written Scheme of Investigation"

"b) No development shall take place other than in accordance with the Written Scheme of Investigation for historic building recording approved under condition (a)."

"c) The development shall not be occupied until the site investigation and post investigation assessment has been completed in accordance with the programme set out in the Written Scheme of Investigation for historic building recording approved under condition (a) and the provision to be made for analysis, publication and dissemination of results and archive deposition has been secured.

#### Ecology

The ecological mitigation and enhancement proposals set out at section 4 of the approved Preliminary Ecological Appraisal (ML-Ecology 25/06/2019 including amongst other things the provision of 6 nesting boxes for birds and 6 built in bat tubes) shall be implemented, before,

during the construction phase of development and prior to the occupation of any of the dwellings in accordance with the timing set out in the approved document. A validation statement, prepared by a qualified ecologist, confirming that the ecological mitigation and enhancement proposals have been fully implemented shall then be submitted to the local planning authority on completion of the development.

#### Ground Remediation

Prior to each phase of development approved by this planning permission no development shall commence until a remediation strategy to deal with the risks associated with contamination of the site in respect of the development hereby permitted, has been submitted to, and approved in writing by, the local planning authority. This strategy will include the following components:

1. A preliminary risk assessment which has identified:
  - all previous uses
  - potential contaminants associated with those uses
  - a conceptual model of the site indicating sources, pathways and receptors
  - potentially unacceptable risks arising from contamination at the site
1. A site investigation scheme, based on (1) to provide information for a detailed assessment of the risk to all receptors that may be affected, including those off-site.
2. The results of the site investigation and the detailed risk assessment referred to in (2) and, based on these, an options appraisal and remediation strategy giving full details of the remediation measures required and how they are to be undertaken.
3. A verification plan providing details of the data that will be collected in order to demonstrate that the works set out in the remediation strategy in (3) are complete and identifying any requirements for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action.

Any changes to these components require the written consent of the local planning authority. The scheme shall be implemented as approved.

Prior to any part of the permitted development being brought into use, a verification report demonstrating the completion of works set out in the approved remediation strategy and the effectiveness of the remediation shall be submitted to, and approved in writing, by the local planning authority. The report shall include results of sampling and monitoring carried out in accordance with the approved verification plan to demonstrate that the site remediation criteria have been met.

If, during development, contamination not previously identified is found to be present at the site then no further development (unless otherwise agreed in writing with the local planning authority) shall be carried out until a remediation strategy detailing how this contamination will be dealt with has been submitted to, and approved in writing by, the local planning authority. The remediation strategy shall be implemented as approved.

#### Drainage Conditions

Prior to the commencement of development a scheme to prevent surface water run-off adversely affecting neighbouring property or the highway during the construction phase of development shall have been submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be implemented prior to commencement.

No development shall take place until a detailed design and associated management and

maintenance plan of the surface water drainage for the site, subject to approval by Severn Trent Water Limited and in accordance with the principles outlined within:

- a) The approved documents (FRA, Drainage Strategy) Rennard Consulting Limited (30/09/2021). Pit Hill Residential Development Flood Risk Assessment and Drainage Strategy. Revision B, including any subsequent amendments or updates to that document as approved by the Flood Risk Management Team; and
  - b) DEFRA's Non-statutory technical standards for sustainable drainage systems (March 2015),
- have been submitted to and approved in writing by the Local Planning Authority.

### Highway Conditions

Before any of the dwellings are occupied a new vehicular and pedestrian junction shall be formed to Pit Hill in accordance with the revised application drawing (S120/1057/2 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 in both directions measured along the nearside carriageway edge. 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) relative to adjoining nearside carriageway channel level.

Before the construction of the new access and estate road commences, details of the proposed arrangements for future management and maintenance of the proposed streets shall 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].

Unless the new street is to be publically adopted under section 38 of the Highways Act 1980, before the construction of the new access and estate road commences full engineering, drainage, street lighting and constructional details of the streets proposed for adoption shall be submitted to and approved in writing by the Local Planning Authority. The development shall, thereafter, be constructed in accordance with the approved details, unless otherwise agreed in writing with the Local Planning Authority.

The carriageways of the proposed estate roads shall be constructed in accordance with Condition XXX above up to and including at least road base level, prior to the occupation 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.

No dwelling shall be occupied until space has been laid out within the site in accordance with the revised application drawing (S120/1057/2 Rev J) for cars to be parked. Once provided,

such spaces shall be maintained free from any impediment to their designated use for the life of the development.

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

The proposed individual driveways to the road off Pit Hill shall be no steeper than 1:14 and shall be constructed via means of a dropped kerbed access with a continuous footway across the frontage.

Before any dwelling fronting Pit Hill is occupied, the existing vehicular (and pedestrian) access to Pit Hill shall be permanently closed with a physical barrier and the existing vehicle crossover reinstated as footway (or verge) in accordance with a scheme first submitted to and approved in writing by the Local Planning Authority.

#### Landscaping and Boundaries

No building shall be occupied until a scheme of both hard and soft landscape works (to include specific species proposed and to include replacement boundary tree planting for those removed at plot 36) and including a programme for implementation have been submitted to and approved in writing by the Local Planning Authority. The works shall be carried out as approved before each relevant dwelling is occupied and site wide no later than the first planting season following the completion of development.

If within a period of five years from the date of the planting of any tree or shrub (or their planned retention in accordance with the landscaping scheme) 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.

No building shall be occupied until a scheme of boundary treatments has been submitted to and approved in writing by the Local Planning Authority. The scheme shall include a securable garden access gate for each plot; and in accordance with the approved layout plan the scheme shall include stone walls to Kitchener Terrace to consist of existing stone reclaimed from the existing stone walls removed as part of the development of the site. A representative sample panel of the stone wall shall be made up for approval before its general provision. The scheme of boundary treatments shall be carried out as approved before each relevant dwelling is occupied.

#### Materials

Notwithstanding the detail shown on the submitted drawings and documents, 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.

### **Equalities Statement**

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

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

### **Human Rights Statement**

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

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

---

## **Bolsover District Council**

### **Meeting of the Planning Committee on 23<sup>rd</sup> February 2022**

### **Preparation of a new Local Development Scheme and the preparation of Growth Plans**

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

<b>Classification</b>	This report is Public
<b>Report By</b>	Chris McKinney Interim Planning Policy Manager
<b>Contact Details</b>	01246 242292 <a href="mailto:chris.mckinney@bolsover.gov.uk">chris.mckinney@bolsover.gov.uk</a>

## **PURPOSE / SUMMARY OF REPORT**

- To seek approval to formally commence the preparation of a series of new Growth Plans to complement the growth planned through the Local Plan for Bolsover District (March 2020).
- To advise Planning Committee of the proposed timetable for the production of the first of these new Growth Plans and the content of the Council's new Local Development Scheme.
- To seek approval to adopt the new Local Development Scheme, that it should take effect on 25<sup>th</sup> February 2022, and that it should be publicised on the Council's website.
- To seek approval to commence an Initial Consultation Exercise for a Shirebrook Growth Plan that would commence on 1<sup>st</sup> March 2022.

---

## **REPORT DETAILS**

### **1. Background**

- 1.1 The Local Development Scheme (LDS) is a timetable for the production of the Council's planning documents and it is intended that it will assist the community's understanding and involvement in the plan-making process and enable the development industry, infrastructure providers and other key stakeholders to coordinate their investment programmes.

- 1.2 The Council last published a LDS in March 2018 and this was an updated version of an earlier document that outlined the timetable for the preparation and publication of the Local Plan for Bolsover District. Following adoption of the Local Plan for Bolsover District in March 2020, the Council has focussed on the delivery and implementation of the Local Plan through a number of environmental and town centre projects and as a result has not felt the need to publish a new LDS.
- 1.3 However, at the meeting of the Local Plan Implementation Advisory Group in December 2021 the Group advised that Members would like to pursue Growth Plans for a number of settlements to support the Council's Vision Bolsover, namely for Shirebrook and Creswell. In light of this advice, bringing forward a new LDS to set out the timetable for preparing these documents is necessary.

## **2. Details of Proposal or Information**

### Growth Plans and proposed timetables

- 2.1 The Council has a recently adopted Local Plan and the review of whether this Local Plan and its evidence base remain up-to-date does not need to be completed until March 2025. Furthermore, the Council is in a strong position in relation to housing supply and housing delivery and also has a good delivery track record of planned employment and retail developments. As a result, the Council has no need to re-open its Local Plan and commence all of the work that it would entail.
- 2.2 As part of its general evidence base work, the Council has been ensuring that its Land Availability Assessments are up-to-date and a 'Call for Sites' was issued in July 2021. This exercise closed in October 2021 and the initial findings were reported to the Local Plan Implementation Advisory Group at its meeting in December 2021. At this meeting, it was noted that additional land was available and that some of these provided opportunities that could respond to the Council's Vision Bolsover prospectus and its Shirebrook Growth Corridor key project.
- 2.3 In view of the recent adoption of the Local Plan for Bolsover District, it is considered that the most appropriate way for the Council to shape additional growth would be through the preparation of Growth Plans, a non-statutory type of planning document that would sit on top of the Local Plan for Bolsover District and direct where additional growth would be acceptable to the Council.
- 2.4 These Growth Plans would not technically be able to 'allocate' land for development, but would be able to influence decisions on planning applications by adopting the Growth Plans as material considerations in the planning process. Furthermore, this non-statutory route would enable the Council to move more swiftly given the regulatory plan-making processes would not need to be complied with, although certain steps such as public consultation and infrastructure capacity studies would still be required.
- 2.5 As stated above, the Local Plan Implementation Advisory Group has advised that Members would like to pursue Growth Plans for a number of settlements to support the Council's Vision Bolsover, namely for Shirebrook and Creswell. In light of this advice, it is considered that the timetable for preparing these documents would be as follows:



#### *Shirebrook Growth Plan*

- March 2022 – Initial consultation exercise (focussing on interested party's thoughts on Shirebrook)
- July 2022 – Second stage consultation (potentially focussing on draft growth and masterplanning proposals)
- November 2022 – Consultation on draft Shirebrook Growth Plan
- March 2023 – Adoption of Shirebrook Growth Plan

#### *Creswell Growth Plan*

- May 2022 – Initial consultation exercise (focussing on interested party's thoughts on Creswell)
- September 2022 – Second stage consultation (potentially focussing on draft growth and masterplanning proposals)
- January 2023 – Consultation on draft Creswell Growth Plan
- April 2023 – Adoption of Creswell Growth Plan

2.6 The Local Plan Implementation Advisory Group has advised that Growth Plans should not be prepared at this stage for the District's other settlements, although this will be reviewed in light of further potential opportunities and available resources.

2.7 Therefore, at this stage it is considered that only these two timetables are included in the Council's new LDS in relation to Growth Plans.

#### General LDS contents

2.8 In addition to the above, the LDS sets out the timetable for the review of whether the Local Plan for Bolsover District and its evidence base remain up-to-date. It is planned that this work would start from late 2023 to early 2024 to enable the review to be completed by March 2025.

2.9 The LDS also sets out the timetables for the following other policy work:

- Statement of Community Involvement (SCI)
- Supplementary Planning Documents (SPDs)
- Neighbourhood Plans (where known)

2.10 The SCI needs to be updated by October 2022 and work has started on this work. It is intended that a draft will be brought to Planning Committee after Easter for approval for public consultation and then brought back to Planning Committee for adoption in advance of October 2022.

2.11 The Local Plan for Bolsover District advises that the Council will prepare the following SPDs:

- Developer Contributions (including affordable housing)
- Successful Places
- Historic Environment
- Local Parking Standards

- 2.12 At present, work has been stalled on the update of these SPDs. In light of the priority on work on the preparation of the Growth Plans for Shirebrook and Creswell, it is intended that work on the SPDs will recommence in 2023/24.
- 2.13 Finally, preparation of a Neighbourhood Plan by Tibshelf Parish Council is at an advanced stage and Neighbourhood Areas have been designated following requests from Whitwell Parish Council, Hodthorpe and Belfrith Parish Council, Ault Hucknall Parish Council and Glapwell Parish Council. As Neighbourhood Plans are prepared by and the responsibility of Parish or Town Councils, the District Council cannot specify or influence the Parish or Town Council's timetable for their Neighbourhood Plans. However, where timetables are known for neighbourhood planning work these will be reported in the LDS for information.
- 2.14 A copy of the prepared Local Development Scheme is attached at Appendix A.

#### Consultation proposals

- 2.15 As the planned Growth Plans are a non-statutory type of planning document, they do not fall within the remit of the Town and Country Planning (Local Planning) (England) Regulations 2012 or the Council's Statement of Community Involvement. However, the principles for public consultation set out in these 'rule books' are considered to be well established and appropriate as a starting basis for public consultation on the planned Growth Plans.
- 2.16 Despite this, experience of public consultation on the Local Plan for Bolsover District has shown that whilst a significant number of representations are received during the process they tend to be from older members of the community and that the voices of younger members of the community are not often heard. The exact reasons for this are not fully understood but it is felt that more can be done by the Council to reach out to younger people.
- 2.17 Reflecting this ambition, the Council has been selected as one of the pilot authorities under the Department for Levelling Up, Housing and Communities' PropTech Engagement Fund and has secured £100,000 for plan-making work. To help deliver this opportunity, the Council has procured a suitable PropTech software provider to test a new and innovative method of public engagement on plan-making, including a sizeable social media advert campaign that would encourage greater numbers of people getting involved in how their settlement could grow. The intention is that this new software will be used to record responses, although traditional methods will also be used to ensure less technology experienced people are not disenfranchised.
- 2.18 Therefore, it is proposed that an Initial Consultation Exercise is carried out along the lines described above and commences on Tuesday 1<sup>st</sup> March and runs through to Thursday 31<sup>st</sup> March 2022.

### **3. Reasons for Recommendation**

- 3.1 The report outlines the steer from the Local Plan Implementation Advisory Group in relation to a new planning policy work area on Growth Plans for certain settlements to support the Council's Vision Bolsover. It is envisaged that the preparation of Growth Plans for Shirebrook and Creswell will build upon the

success of the planned growth through its Local Plan and will help the Council maximise the benefits of its growth agenda.

- 3.2 On this basis, the report seeks approval to progress this work area as described and to produce a new Local Development Scheme that outlines the timetables for the preparation of the two planned Growth Plans and other key planning policy work. The report also seeks approval to commence an Initial Consultation Exercise for a Shirebrook Growth Plan that would commence on 1<sup>st</sup> March and run through to 31<sup>st</sup> March 2022.
- 3.3 Finally, it is proposed that the detailed arrangements for the content of the consultation material will be finalised in consultation with the Chair and Vice Chair of the Planning Committee.

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

- 4.1 In view of the proposed recommendations, Members could choose to not pursue additional growth over and above that planned for within the Local Plan for Bolsover District as discussed in this report but this has been rejected as it would not maximise the benefits of the Council's growth agenda. The Council will retain control over this process and that will enable the Council to be responsive to any changes in circumstances.

---

### **RECOMMENDATION(S)**

**That Planning Committee:**

- 1. approve commencement of the preparation of a series of new Growth Plans to complement the growth planned through the Local Plan for Bolsover District (March 2020) based on the proposed timetables and consultation arrangements;**
- 2. approve the adoption of the new Local Development Scheme (as attached at Appendix A) so that it takes effect on 25<sup>th</sup> February 2022 and be publicised on the Council's website;**
- 3. delegates authority to the Assistant Director: Development, in consultation with the Chair and Vice Chair of Planning Committee, to agree the detailed arrangements for the final content of consultation material.**

Approved by the Portfolio Holder for Corporate Governance

**IMPLICATIONS:****Finance and Risk:** Yes ☐ No ☒**Details:** There are no specific finance or risk issues arising from this report.

On behalf of the Section 151 Officer

**Legal (including Data Protection):** Yes ☐ No ☒**Details:** There are no specific legal or data protection issues arising from this report

On behalf of the Solicitor to the Council

**Staffing:** Yes ☐ No ☒**Details:** There are no human resources implications arising from this report.  
Decisions around staffing levels within the Planning Policy team will be raised in the report to the Employment and Personnel Committee.

On behalf of the Head of Paid Service

**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>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>	Shirebrook and Creswell
<b>Consultation:</b> <b>Leader / Deputy Leader</b> <input checked="" type="checkbox"/> <b>Cabinet / Executive</b> <input type="checkbox"/> <b>SLT</b> <input type="checkbox"/> <b>Relevant Service Manager</b> <input type="checkbox"/> <b>Members</b> <input checked="" type="checkbox"/> <b>Public</b> <input type="checkbox"/> <b>Other</b> <input type="checkbox"/>	Yes  Details:

<b>Links to Council Ambition: Customers, Economy and Environment.</b>
---

Focusing on Our Economy Focusing on Our Environment
--

<b>DOCUMENT INFORMATION</b>
-----------------------------

<b>Appendix No</b>	<b>Title</b>
------------------------	--------------

A	Prepared Local Development Scheme
---	-----------------------------------

<b>Background Papers</b>
--------------------------

<i>(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)</i>
--

## Bolsover District Council

### LOCAL DEVELOPMENT SCHEME

February 2022 – March 2025

<b>CONTENTS</b>	<b>Page</b>
<b>Introduction</b>	2
<b>Current Development Plan</b>	2
<b>Review of the Local Plan for Bolsover District</b>	2
<b>Other Council Policy Documents</b>	3
• Statement of Community Involvement	3
• Growth Plans	3
• Supplementary Planning Documents	3
<b>Neighbourhood Plans</b>	4
<b>APPENDIX 1: Map showing geographical area</b>	5
<b>APPENDIX 2: Block chart of timetable showing key milestones</b>	6

## **INTRODUCTION**

- 1.1 This is the seventh Local Development Scheme that Bolsover District Council has formally produced and the first since the adoption of the Local Plan for Bolsover District in March 2020. This document will replace the sixth LDS that was approved in March 2018.
- 1.2 The Planning & Compulsory Purchase Act 2004 Act, as amended, requires the Council to prepare and maintain a Local Development Scheme. This provides a public statement of the Council's programme for producing Development Plan documents and for their review. Local planning authorities are also encouraged to include details of other documents being prepared that may guide development in their area.
- 1.3 The Localism Act 2012 and associated regulations made additional changes to the requirements for Local Plans. The National Planning Policy Framework (NPPF) and National Planning Practice Guidance also guide the preparation and implementation of Local Plans.
- 1.4 It is proposed that this Local Development Scheme will take effect on 25<sup>th</sup> February 2022.

## **CURRENT DEVELOPMENT PLAN**

- 2.1 The current development plan for Bolsover District is comprised of the following documents:
  - Local Plan for Bolsover District (adopted March 2020);
  - saved policies of Derby and Derbyshire Waste Local Plan (March 2005);
  - saved policies of Derby and Derbyshire Minerals Local Plan (April 2000) (as altered in November 2002).
- 2.2 There are currently no made Neighbourhood Plans covering any areas within Bolsover District.

## **REVIEW OF THE LOCAL PLAN FOR BOLSOVER DISTRICT**

- 3.1 As the Local Plan for Bolsover District was adopted in March 2020, the review of whether the Local Plan for Bolsover District and its evidence base remain up-to-date needs to be completed by March 2025.
- 3.2 As a result, it is planned that the work on the review will start from late 2023 to early 2024 to enable the review to be completed by March 2025. More details on how the review will be carried out will be published when work commences on the review.

## **OTHER COUNCIL POLICY DOCUMENTS**

### **Statement of Community Involvement**

- 4.1 This document sets out the Council's approach to involving the community in the preparation, alteration and review of planning policy documents and in the consideration of planning applications.
- 4.2 The Council's current Statement of Community Involvement was adopted in October 2017 and needs to be updated by October 2022. The timetable for carrying out this update is as follows:
- February 2022 – Commencement of updating work
  - April 2022 – Public consultation on draft Statement of Community Involvement
  - October 2022 – Adoption

### **Growth Plans**

- 4.3 These non-statutory planning documents sit on top of the Local Plan for Bolsover District and direct where additional growth would be acceptable to the Council. The Council will adopt prepared Growth Plans as material considerations in the planning process.
- 4.4 The Council has decided that it will prepare Growth Plans for a number of settlements to support the Council's Vision Bolsover, namely for Shirebrook and Creswell. The timetables for these Growth Plans are as follows:

#### *Shirebrook Growth Plan*

- March 2022 – Initial consultation exercise (focussing on interested party's thoughts on Shirebrook)
- July 2022 – Second stage consultation (potentially focussing on draft growth and masterplanning proposals)
- November 2022 – Consultation on draft Shirebrook Growth Plan
- March 2023 – Adoption of Shirebrook Growth Plan

#### *Creswell Growth Plan*

- May 2022 – Initial consultation exercise (focussing on interested party's thoughts on Creswell)
- September 2022 – Second stage consultation (potentially focussing on draft growth and masterplanning proposals)
- January 2023 – Consultation on draft Creswell Growth Plan
- April 2023 – Adoption of Creswell Growth Plan

- 4.5 The Council has also decided that Growth Plans will not be prepared at this stage for the District's other settlements, although this will be reviewed in light of further potential opportunities and available resources.

### **Supplementary Planning Documents**

- 4.6 Supplementary Planning Documents add further detail to the policies in the Local Plan. They can be used to provide further guidance for development on specific sites, or on particular issues, such as design. Supplementary Planning Documents are capable of being a material consideration in planning decisions but are not part of the development plan.



- 4.7 The Local Plan for Bolsover District advises that the Council will prepare the following SPDs:
- Section 106 Planning Contributions (covering affordable housing provision and green space and play provision);
  - Successful Places;
  - Historic Environment;
  - Local Parking Standards.
- 4.8 At present, work has been stalled on the update of these SPDs. In light of the priority on work on the preparation of the Growth Plans for Shirebrook and Creswell, it is intended that work on the SPDs will recommence in 2023/24.

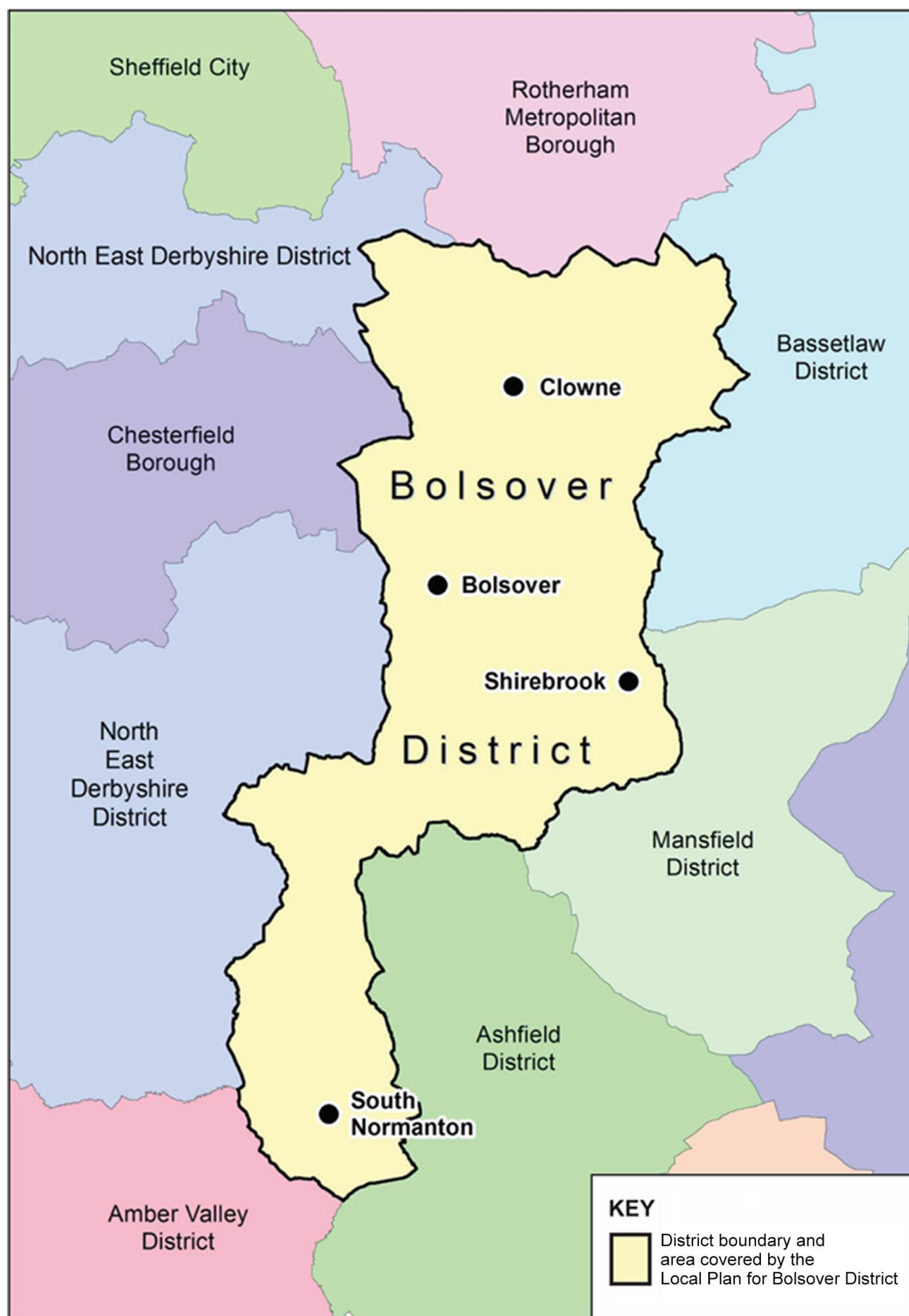
## **NEIGHBOURHOOD PLANS**

- 5.1 Neighbourhood Plans are plans prepared by a Parish or Town Council for a particular designated neighbourhood area. The timetable for the preparation of a Neighbourhood Plan is set by the relevant Parish or Town Council.
- 5.2 In Bolsover District, the preparation of a Neighbourhood Plan by Tibshelf Parish Council is at an advanced stage and the timetable for its final stages of preparation is as follows:

### *Tibshelf Neighbourhood Plan*

- February 2022 – Commencement of Regulation 14: Pre-submission consultation and publicity
  - April / May 2022 – Commencement of Regulation 16: Publicising a plan proposal
  - July 2022 – Neighbourhood Plan examination
  - October 2022 – Neighbourhood Plan Referendum
  - November 2022 – Final Decision Statement
- 5.3 More information can be found on <https://tibshelfneighbourhoodplan.org/>
- 5.4 Neighbourhood Areas have also been designated following requests from Whitwell Parish Council, Hodthorpe and Belparish Parish Council, Ault Hucknall Parish Council and Glapwell Parish Council. At present, timetables are not known for these Neighbourhood Plans and enquiries should be directed to the relevant Parish Councils.

## APPENDIX 1: MAP SHOWING GEOGRAPHICAL AREA



## APPENDIX 2: BLOCK CHART OF TIMETABLES SHOWING KEY MILESTONES

[illegible][illegible][illegible][illegible][illegible][illegible]

Key: S - start, R - review complete; C - consultation, A - adoption, E - examination; D - decision statement