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To: Chair & Members of the Planning
Committee

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Tuesday, 18th October 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, 26th October, 2022 at 10:00 hours.

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

You will find the contents of the agenda itemised on page 3.

Yours faithfully



Solicitor to the Council & Monitoring Officer

Equalities Statement

Bolsover District Council is committed to equalities as an employer and when delivering the services it provides to all sections of the community.

The Council believes that no person should be treated unfairly and is committed to eliminating all forms of discrimination, advancing equality and fostering good relations between all groups in society.

Access for All statement

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- Call with [Relay UK](#) - a free phone service provided by BT for anyone who has difficulty hearing or speaking. It's a way to have a real-time conversation with us by text.
- **Visiting** one of our [offices](#) at Clowne, Bolsover, Shirebrook and South Normanton

**PLANNING COMMITTEE
AGENDA**

***Wednesday, 26th October 2022 at 10:00 hours taking place in the Council Chamber,
The Arc, Clowne***

Item No.		Page No.(s)
1.	Apologies For Absence	
2.	Urgent Items of Business	
	To note any urgent items of business which the Chairman has consented to being considered under the provisions of Section 100(B) 4(b) of the Local Government Act 1972.	
3.	Declarations of Interest	
	Members should declare the existence and nature of any Disclosable Pecuniary Interest and Non Statutory Interest as defined by the Members' Code of Conduct in respect of:	
	a) any business on the agenda	
	b) any urgent additional items to be considered	
	c) any matters arising out of those items	
	and if appropriate, withdraw from the meeting at the relevant time.	
4.	Minutes	TO FOLLOW
	To consider the minutes of the last meeting held on 28 th September 2022.	
	<u>APPLICATIONS TO BE DETERMINED UNDER THE TOWN & COUNTRY PLANNING ACTS</u>	
5.	21/00560/FUL - Demolition of agricultural buildings, conversion of existing stone barns and outbuildings to create 3 dwellings and 4 new build dwellings - Whaley Moor Farm, Whaley Road	4 - 29
6.	22/00241/OUT - Outline application for the construction of two drive-thru restaurants with takeaway facility and associated car parking - 73 Mansfield Road, South Normanton	30 - 56

PARISH Old Bolsover Parish

APPLICATION Demolition of agricultural buildings, conversion of existing stone barns and outbuildings to create 3 dwellings and 4 new build dwellings with new public greenspace with access from Whaley Road

LOCATION Whaley Moor Farm, Whaley Road, Whaley, Mansfield

APPLICANT Chatsworth Settlement Trustees, The Estate Office, Edensor, Bakewell, DE45 1PJ

APPLICATION NO. 21/00560/FUL

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

DATE RECEIVED 20th September 2021

SUMMARY

This application has been referred to the Planning Committee by the Planning Manager given the concerns of local residents about the impact of the development and the fact that the previous application on the site was determined by Planning Committee.

In summary, the application is recommended for refusal. The development is considered to result in harm to the conservation area and the threshing barn as heritage assets. This harm is classed as less than substantial harm which is not outweighed by the public benefits of the proposal.

The public benefits which are provided could be provided by the conversion of the site frontage buildings without the new build element of the scheme. An independent viability appraisal has found that the conversion of these buildings does not result in a conservation deficit to trigger the need for enabling development.

Officers have sought to negotiate with the applicant to remove the new build element of the development and progress the application with the conversion of the frontage buildings only. The applicant maintains the conversion of the buildings is unviable and therefore declined to amend the application.

In addition, Whaley is a small settlement in the countryside and as such is not a sustainable location and to focus development in this area would not align well with the wider carbon reduction ambitions cited within the NPPF, and the Council's Local Plan.

Site Location Plan



SITE & SURROUNDINGS

The application site covers an area of 0.584 Ha and is located centrally within the village of Whaley. Whaley is located on an area of sloping land which falls from a shallow ridge towards a stream at the rear of the application site. The stream travels north-west to the south-east (where it joins the River Poulter) and runs on a similar alignment to Whaley Road, which is the main vehicular route through the village. The other entry point is from Mag Lane to the north-east, which provides access to the top yard. The T junction where the routes meet is in effect the centre of the settlement and is directly addressed by the bottom yard site.

The village is entirely located within the Whaley Conservation Area designation. The conservation area contains no buildings with statutory listings, however a number of buildings are identified as having architectural/historical merit including the stone barn located on the frontage of the application site. Open spaces to the north-west and south-east of the site are also noted as being important to the character of the Conservation Area.

The late 19th century farm buildings on the site are all constructed from Magnesian Limestone. These consist of the former farm house shell (now used as a barn), the northern barn (an attractive traditional building) and a small building fronting Whaley Road to the south of the farm house. The conversion of the farm house during the 1960's is reported to have included removing the pitched roof, all of the interior and filling in most openings with stone. A sloping metal mono-pitch roof replaces the original. A steel framed hay barn also exists on the site and is a relative modern addition clearly related to the function of the farmstead. The other buildings occupying the site are utilitarian in appearance and with little architectural merit. These later buildings are generally located to the rear of the site and are less visible from publicly accessible areas.

BACKGROUND

An outline application for conversion of the barns to two dwellings and the construction of 8 new dwellings on the site has previously been refused on the site in 2018 (app. ref 17/00546/OUT).

The latest application is a resubmission of that previously refused application, but it has been amended to a full application to include full details of the application proposals rather than being an outline application.

The original outline application (17/00546/OUT) was refused for the following reasons:

1. The development proposes a design not obviously well related to the local vernacular and the northern portion appears overly dense, prominent in the public realm and leads to an erosion of the perception of openness of this section of the Conservation Area. Such effects conflict with the requirements of Local Plan Policy GEN2, CON1 and CON4, the emphasis within NPPF para 132 and S72 of the Listed Buildings and Conservation Areas Act 1990 to ensure 'special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area.'
2. Whaley is an isolated hamlet with little access to day to day services. There are no education facilities within the settlement, users of the development will be highly car

dependent and there is insufficient pedestrian access to other settlements nearby due to the absence of pavement and narrow, unlit roads. Consequently, the application site is not in a location that is suitable for the scale of residential development proposed in this location and there is no evidence that the proposed affordable housing would meet an identified local need. Moreover, the Council can demonstrate 5 years supply of deliverable housing sites and as such, the proposed housing is not needed to make up a shortfall in terms of meeting objectively assessed housing need in the District. Taking all these factors into account, the current proposals constitute an unsustainable form of development situated within an unsustainable location and any benefits of granting planning permission for the current application would be demonstrably and significantly outweighed by the adverse impacts of doing so when taking into account policies in the Development Plan and the National Planning Framework as a whole.

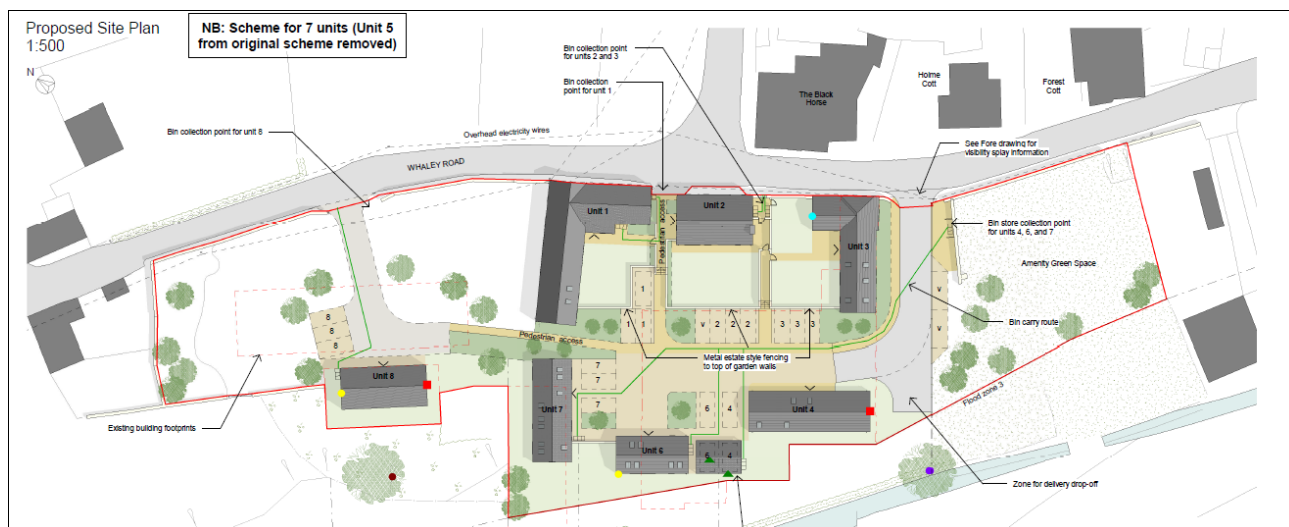
PROPOSAL

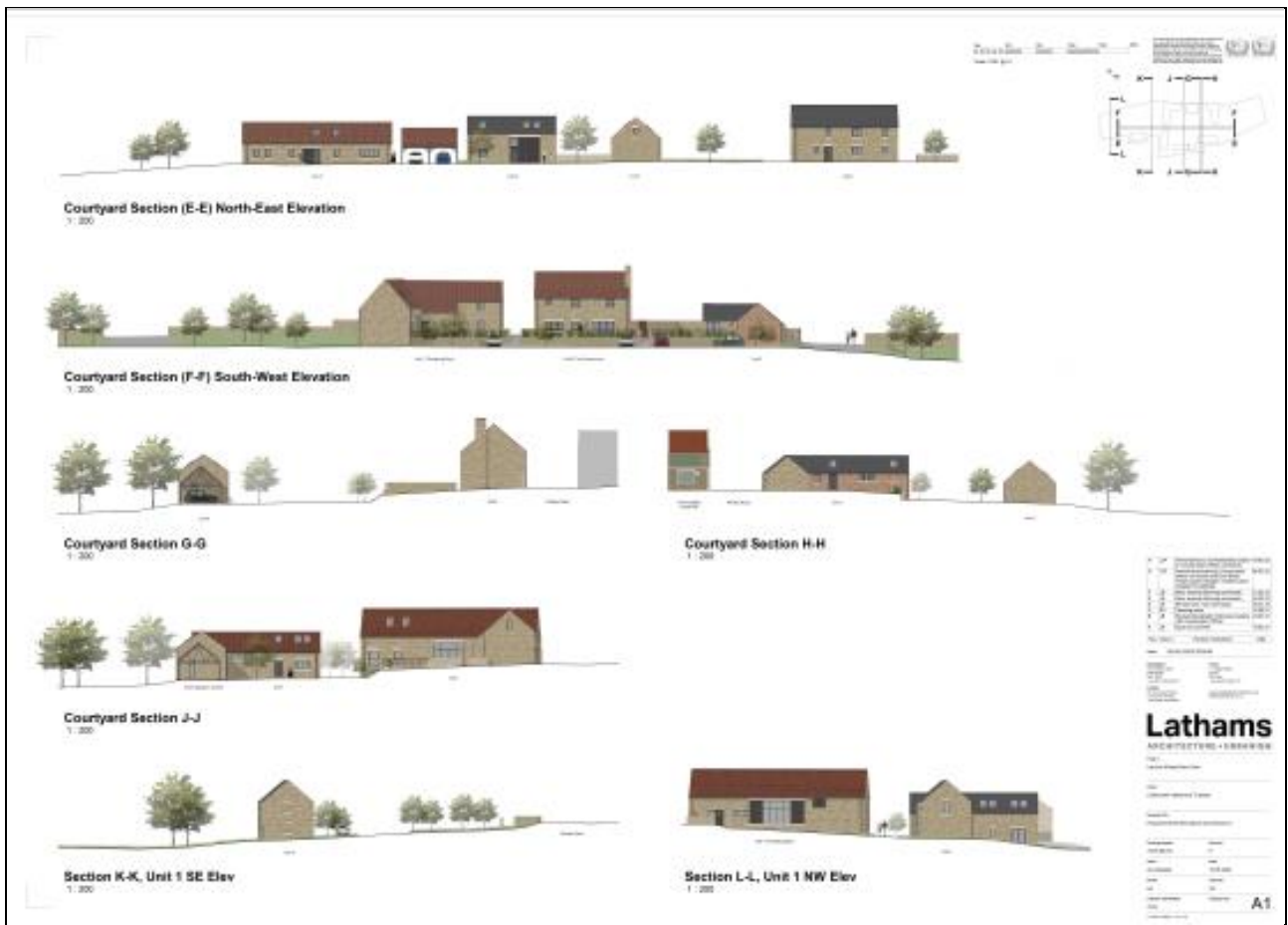
The application comprises the demolition of existing modern farm buildings, the erection of four new houses and the conversion of three traditional farm buildings into three new dwellings.

The layout for the site comprises a scheme of 4 new dwellings, two conversions of traditional buildings and one conversion/re-build of a traditional building. Three of the new dwellings are located to the rear (southwest) of the conversions. With the exception of Unit 8, the development will be served off a private drive directly to the south of the built development, which utilises the existing main point of access to the farm. The dwellings are laid out in a courtyard arrangement. Unit 8, set to the northwest of the courtyard arrangement, is to be served by a separate access.

The proposed dwellings are a mix of 3, 4 and 5 bed detached dwellings with off street parking. Two of the dwellings also have a detached garage. The majority of the dwellings are two storeys in height, with one single storey dwelling at unit 4.

Site Layout





AMENDMENTS

There have been numerous amendments to the proposal including reducing the number of new build dwellings from 5 to 4, amendments to the layout and amendments to the design and detailing of each unit.

The latest set of drawings for units 6 and 8 were received on 20th September 2022

Drawing no. 7275 (08) 57 Rev A: Unit 8

Drawing no. 7275 (08) 55 Rev B: Unit 6

The latest set of drawings for units 1,2,3,4, 7 and the street scene elevations and sections were received on 14th June 2022

Drawing no. 7275 (08) 50 Rev A: Unit 1

Drawing no. 7275 (08) 51 Rev D: Unit 2

Drawing no. 7275 (08) 52 Rev D: Unit 3

Drawing no. 7275 (08) 58 Rev C: Unit 4

Drawing no. 7275 (08) 56 Rev C: Unit 7

Drawing no. 7275 (08) 04 Rev H: Street elevations and sections 1

Drawing no. 7275 (08) 05 Rev H: Street elevations and sections 2

The latest proposed site plan was received on 4th March 2022

Drawing no. 7275 (08) 09 Rev N: Proposed site layout

EIA SCREENING OPINION

This proposal does not fall within Schedule 1 or 2 of the Environmental Impact Regulations.

HISTORY

BOL/1966/0906	Granted Conditionally	Petrol tank and pump at Whaley Moor Farm (BOL 666/9)
BOL/1967/0301	Granted Conditionally	Replace existing farmhouse (BOL 167/3)
BOL/1970/0505	Refused	Petrol tank and pump (BOL 570/5)
BOL/1991/0107	Refused	Development of a new farmstead, conversion of farm building to form 2 dwellings and erection of 15 dwellings (BOL 391/107)
01/00041/TCON	No TPO	Fell 7 willow trees, 1 ash and 1 sycamore
02/00060/TCON	No TPO	Fell 2 lime trees
11/00226/FUL	Granted Conditionally	Erection of a 6 bay barn to replace existing building
11/00227/CON	Granted	Demolition of dutch barn

	Conditionally	
13/00300/FUL	Granted Conditionally	Replacement agricultural building to store implements
17/00546/OUT	Refused	Outline planning application for redevelopment of Whaley Moor Farm comprising the removal of agricultural buildings, conversion of existing stone barns to 2 dwellings and new build development to provide 8 new dwellings with access from Whaley Road.

CONSULTATIONS

Bolsover District Council Conservation Manager – 09/11/2021, 26/11/2021, 11/04/2022, 21/04/2022, 16/06/2022 and 21/09/2022

Objects to the proposal. The impact of the development is considered to be harmful to the significance of the Conservation Area as a designated asset and Threshing Barn as a non-designated heritage asset, with the level of harm being less than substantial.

Bolsover District Council Senior Engineer – 08/10/2021

The sewer records do not show a public sewers within the curtilage of the site however the applicant should be made aware of the possibility of unmapped public sewers which are not shown on the records but may cross the site. These could be shared pipes which were previously classed as private sewers and were transferred to the ownership of the Water Authorities in 2011. If any part of the proposed works involves connection to/diversion of/building over/building near to any public sewer the applicant should be advised to contact Severn Trent Water in order to determine their responsibilities under the relevant legislation. The applicant should be advised that all proposals regarding drainage will need to comply with Part H of the Building Regulations 2010. In addition, any connections or alterations to a watercourse will need prior approval from the Derbyshire County Council Flood Team, who are the Lead Local Flood Authority.

Any work carried must not detrimentally alter the structure or surface of the ground and increase or alter the natural flow of water to cause flooding to neighbouring properties. The developer must also ensure any temporary drainage arrangements during construction gives due consideration to the prevention of surface water runoff onto the public highway and neighbouring properties.

The developer should provide detailed proposals of the disposal of foul and surface water from the site and give due consideration to the use of SUDS, which should be employed whenever possible.

Where SuDS features are incorporated into the drainage design for developments of between 2 and 9 properties it is strongly recommended that the developer provides the new owners of these features with sufficient details for their future maintenance.

Derbyshire County Council (Archaeology) – 05/10/2021

The proposals will not have any significant archaeological impact. The BDC Conservation Manager should advise about the impact of the proposal on the significance of Whaley

Conservation Area.

Derbyshire County Council (Lead Local Flood Authority) – 18/11/2021

No formal comments to make as this is not a major application. Advise informative notes relating to surface water and flood risk and advise that units 4 and 5 are adjacent to the edge of flood zones 2 and 3 and as such the applicant should ensure the floor levels of these units are set at an appropriate level to mitigate flood risk.

Derbyshire County Council (Highways) – 22/10/2021 and 18/03/2022

No objections to the amended proposal. Request conditions requiring submission of a scheme for storage of plant, materials and vehicles during construction, wheel washing facilities to be provided during construction period, vehicular access to be provided in accordance with approved plans, access opposite former public house to be changed to pedestrian access only, parking and manoeuvring to be provided in accordance with approved plans, no gates on the access and accesses to be no steeper than 1 in 14.

Derbyshire Wildlife Trust – 29/11/2021

All survey work provided is current. Advise conditions be attached to any planning permission requiring the amphibian, reptile, badger and bird method statement be implemented in full and a statement of compliance submitted, works to buildings 6 and 7 not to be undertaken until a European Protected Species licence has been obtained from Natural England and works carried out in accordance with the approved mitigation and prior to installation of any lighting a lighting strategy be submitted for approval and implemented in full.

Environmental Health Officer – 07/10/2021

Given the previous commercial/agricultural uses of the land and the presence of hardstandings which are likely to be removed exposing potentially contaminated fill material, removal of all made ground or a phased contaminated land investigation and risk assessment condition should be included on any permission.

Severn Trent Water – 14/10/2021

Foul drainage is proposed to connect into the public foul water sewer, which will be subject to a formal section 106 sewer connection approval. As a pumped solution is being proposed, a sewer modelling study may be required to determine the impact this development will have on the existing system and if flows can be accommodated. Severn Trent may need to undertake a more comprehensive study of the catchment to determine if capital improvements are required. If Severn Trent needs to undertake capital improvements, a reasonable amount of time will need to be determined to allow these works to be completed before any additional flows are connected.

Surface water is proposed to discharge into a watercourse about which there is no comment. It is advised that the Lead Local Flood Authority are consulted for their requirements or recommendations regarding acceptable disposal methods or flow rates.

For the use or reuse of sewer connections either direct or indirect to the public sewerage system the applicant will be required to make a formal application to the Company under Section 106 of the Water Industry Act 1991.

Suggest an Informative note that although statutory sewer records do not show any public

sewers within the area you have specified, there may be sewers that have been recently adopted under, The Transfer of Sewer Regulations 2011. Public sewers have statutory protection and may not be built close to, directly over or be diverted without consent and the applicant is advised to contact Severn Trent Water to discuss the proposals and Severn Trent will seek to assist in obtaining a solution which protects both the public sewer and the buildings.

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

PUBLICITY

Site notice posted 28/09/2021, press notice printed 07/10/2021 and 13 neighbours notified 23/09/2021 (re-consulted 07/03/2022). Letters of objection received from 10 local residents from 7 households which raised the following issues:

1. The application is contrary to the Policies in the Local Plan and has already been refused on that basis
2. The scale of the development proposed is inappropriate for the size of the village, increasing the size of the village by 47%
3. Whaley is an isolated hamlet. To focus development in this location would not be sustainable. The development will be highly car dependent, has no access to services, education facilities or shops, poor broadband, poor phone signal, no mains sewers and no gas supply. Development in this area would not align with the carbon reduction ambitions from Government or similar ambitions within the existing and emerging Local Plans for Bolsover.
4. The development will have an adverse impact on the character and appearance of the village, will adversely affect the valued characteristics highlighted within the Whaley Conservation Area Appraisal and will impact visitors to the village interested in the Archaeological Way that exists in the context of the site. The public benefits listed to justify this are all inaccurate
5. The application does not sufficiently address impacts upon protected species such as birds, badger, bats, frogs, toads and newts known to exist in the context of the site. There are also concerns about water quality impacts during the course of the development.
6. The roads into the village will not cope with the increased traffic resulting from the development. The roads are single track with blind corners, are not gritted and have sharp bends. There are already numerous accidents on these roads than the development will make this worse. The development will make the roads unsafe for car drivers and pedestrians
7. The claim by the applicant that the proposal will benefit the village by a reduction in current vehicle movements to and from the site are overstated and an attempt to dilute the uplift in vehicle movements resulting from the development. No evidence has been submitted to back their statement
8. Current utilities such as the Severn Trent Sewage Works will not cope with the increased resulting demand from the development. The existing septic tank and reed bed that serve the hamlet was designed for the existing buildings at the time with no spare capacity
9. Permitted development rights should be removed from the properties proposed
10. The development will be a prestige development that will not be affordable nor aimed

at the local community or local workers. Even the smallest houses will be beyond the means of local people.

11. The proposed development at Whaley “is not allocated for housing within the adopted Local Plan and is situated in the countryside and therefore covered by the greater countryside policies in the plan.” Bolsover has lots of new housing and is meeting its housing targets and needs and therefore there is no need for additional housing in this sensitive location.
12. There is a clear intent by the applicant. It is not to preserve and enhance the conservation area as stated, it is to make a profit. There are a number of flaws/errors in the viability report submitted
13. There may be a small benefit to the appearance at the T-Junction where the Blackhorse is located and removal of the fire damaged barn (which should have been removed immediately afterwards) however, the positives for the village are greatly outweighed by the negatives, policy breaches and unknown aftermath caused by the development.
14. Reducing the total footprint of the development is irrelevant. By removing the farm it will damage this historic agricultural village
15. There are an abundance of trees and shrubs within the village and it is surrounded by fields and woodland. Additional planting is not going to enhance the village character and is unnecessary
16. A viability report has been submitted. This is irrelevant in the decision making process. The profit of the developer will or will not make has nothing to do with planning policy and should be given no weight
17. If the application is successful it will set a precedent for further development within the village on other land owned by the applicant
18. Any development should be restricted to the conversion of the stone barns
19. The damaged barn can be repaired it does not need to be removed
20. The applicant has deliberately not maintained the site whilst promoting this development over the last 5 years. They have let a roadside wall collapse, have fenced the barn with unsightly fencing to make it look worse and although the barn was damaged by two unexplained fires, it was still being used for storage up until the planning application was submitted. The application contains a veiled threat that if it isn't approved the site will be left to deteriorate until such time an application can be pushed through.
21. It should be noted that of the 19 households in the village, 7 are directly or indirectly dependant on the applicant for their tenancy or livelihood and therefore feel unable to comment on the development.
22. As the applicants are responsible for any lack of maintenance of the site this should not be used as an argument for approving the proposal.
23. At the moment Whaley is an agrarian community with at least five of the 19 homes working in the farming industry surrounding the settlement. Both farms are viable, and the work undertaken by them helps sustain the agricultural nature of the community.
24. Whilst the application seeks via the redevelopment to restore some of these assets, it will also change the nature of the village from a farming settlement to a commuting village, as aside from farming and the garage, there is no other employment in the village. The proposed development goes beyond renovating existing historic structures, but also proposes completely new dwellings. These are not essential for the viability of the scheme and will not make the communities more sustainable, nor improve their economic vitality. Comments made by the applicant about the

development adding to the sustainability of services in Langwith and Whaley Thorns are inaccurate. The poor pedestrian and cycle access from Whaley to the A632 at Langwith as well as the narrow road to the same means that the residents of Whaley use the services, shops and amenities in the larger towns of Bolsover and Clowne.

25. The proposed development will not make a positive contribution to local character and distinctiveness. Whaley is probably the last example of an agrarian village that has been undeveloped on the limestone plateau in Bolsover district. Historic maps produced by the developer show that the footprint of the village has been largely unchanged since the Enclosure Map of 1780. Apart from a small number of houses that were built in the 20th Century to accommodate farm workers and the family who owned the garage, there has been little development and that development has met the needs of workers directly linked to work in Whaley. Since becoming a Conservation area in 1978, there has been no development in the village.
26. Planners at Bolsover District Council have been rigorous in ensuring that no changes are made which would further deteriorate the heritage assets of the village. In general, the Conservation area in Whaley has been well protected and, indeed, residents have contributed to the improvement of its heritage assets in recent years and take an immense pride in protecting its character and distinctiveness. The proposed development, particularly the addition of new build, threatens that progress. With the addition of an urban style courtyard. The houses in the village have an organic character that reflects their development at different times and for different uses. The plans submitted look highly regimented, in a modern style, more consistent with estate developments. Though there is a limited use of brick and slate in the village, there seems to be an inordinate amount of the development using these materials rather than the dominant Magnesian limestone with terracotta pantiles. There is also reference to modern elements such as wooden cladding which are not present currently and the use of car ports. These will be to the detriment of the Conservation area.

POLICY

Local Plan for Bolsover District (“the adopted Local Plan”)

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

- SS1 Sustainable Development
- SS2 Scale of Development
- SS3 Spatial Strategy and Distribution of Development
- SS9 Development in the Countryside
- SC2 Sustainable Design and Construction
- SC3 High Quality Development
- SC5 Change of Use and Conversions in the Countryside
- SC9 Biodiversity and Geodiversity
- SC11 Environmental Quality (Amenity)
- SC14 Contaminated and Unstable Land
- SC16 Development Within or Impacting upon Conservation Areas
- SC21 Non-Designated Local Heritage Assets
- ITCR10 Supporting Sustainable Transport Patterns

- IRCR11 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
- Paragraph 78-80: Rural Housing
- Paragraphs 104-113: Promoting sustainable transport
- Chapter 12 (Paras. 126 – 136): Achieving well-designed places
- Paragraph 152, 154: Meeting the challenge of climate change
- Paragraph 174: Conserving and enhancing the natural environment
- Paragraph 180: Habitats and biodiversity
- Paragraphs 183-188: Ground conditions and pollution
- Paragraphs 194 -208: Conserving and enhancing the historic environment

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.

Whaley Conservation Area Appraisal and Management Plan December 2008

ASSESSMENT

Key issues

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

- the principle of the development
- the impact of the proposed development on the character and appearance of the conservation area
- sustainability of development
- 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 and ecology
- visual impacts and landscaping
- drainage
- archaeology
- contamination

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

Principle of Development

Planning law requires that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. The statutory development plan for Bolsover District is the Local Plan for Bolsover District (adopted March 2020) and Local Plan policies form the starting point for a decision on this application. The council has more than a five year supply of deliverable housing and as such full weight should be given to these policies.

The site occupies a prominent and central location in the small rural village of Whaley. Reflecting this rural nature, Whaley has no Development Envelope (policy SC1) and the whole village is in the Countryside. The site is also within the designated Whaley Conservation Area.

Policy SS3: Spatial Strategy and Distribution of Development is the adopted Local Plan's strategic policy that establishes the District's spatial hierarchy of its settlements. This policy advises that to achieve sustainable development, development will be directed first to the District's Small Towns and Emerging Towns, then to the District's Large Villages. Beyond these more sustainable settlements, the Local Plan will support limited development in a small number of identified Small Villages. The policy then allocates an amount of residential and employment growth to each of the relevant settlements and advises that these settlements have a Development Envelope defined on the Policies Map. Whaley is not identified amongst these relevant settlements.

Settlements not identified in the categories above are termed as Small Settlements in the Countryside and policy SS3 advises that they are considered to not be sustainable settlements and that the Local Plan will not support urban forms of development beyond infill development and conversion of agricultural buildings where appropriate.

Policy SS3 is supported by policy SS9: Development in the Countryside, which is the adopted Local Plan's strategic policy that seeks to restrict urban forms of development in the countryside where these would not be appropriate or sustainable and not in accordance with the Local Plan's Spatial Strategy. As such, policy SS9 states that development proposals in the countryside outside development envelopes will only be granted planning permission where it can be demonstrated that they fall within a number of stated categories, such as the re-use of previously developed land or the re-use of redundant buildings that make a positive contribution to the local area.

Policy SC5: Change of Use and Conversions in the Countryside continues this support and says that proposals will be permitted provided they comply with all of the criteria of the policy.

In light of this policy framework, the conversion and re-use of redundant buildings that make a positive contribution to the local area and the character and appearance of the Whaley Conservation Area may comply with the requirements of policies SS9 and SC5. However, the new build residential units would be contrary to the requirements of Policies SS3 and SS9 of the Local Plan as land that is occupied or was last occupied by agricultural buildings is excluded from the definition of previously developed land.

The Planning Statement submitted with the application advises that the new build units should be considered as enabling development to secure the future of the heritage assets within the farm complex.

The Local Plan for Bolsover District does not make provision for enabling development within its policy framework and so no Local Plan policy support is provided for proposals of this kind. However, paragraph 208 of the NPPF states that “Local planning authorities should assess whether the benefits of a proposal for enabling development, which would otherwise conflict with planning policies but which would secure the future conservation of a heritage asset, outweigh the disbenefits of departing from those policies”.

Therefore, it is necessary to reach a judgement on this matter. To enable this to be done, the planning application as originally submitted was accompanied by a Viability Assessment of the proposal (Viability Assessment for Whaley Moor Farm, Chatsworth Settlement Trustees supplied by BE Group dated September 2021). This report reached the conclusion that a conversion scheme converting the traditional farm buildings into dwellings would lead to a conservation deficit which would be unviable and that a minimum of 5 new dwellings would be necessary to facilitate the conversion of the three traditional barns and make the overall scheme viable.

The applicant’s Viability Assessment was reviewed by an independent viability expert (David Newham of CP Viability Ltd on 25th November 2021) and a report produced setting out their assessment of the submitted information. This report concludes the conversion of the 3 traditional properties part of the proposal was viable with no conservation deficit demonstrated and as a result there was no need for any enabling development in this case.

The application was subsequently amended to the scheme currently being considered and one new dwelling was removed from the proposal such that the proposal now includes four new dwellings as well as the three conversions. The applicant’s viability assessment was amended to reflect the amended scheme (Whaley Moor Farm Revised Appraisal produced by BE Group dated 16th March 2022) and this time concluded that the 4 new dwellings proposed were necessary to make the scheme viable.

A further independent assessment of the applicant’s amended viability assessment was carried out again by David Newham of CP Viability Ltd on 31st March 2022. This independent assessment still concluded that the conversion of the traditional buildings to three dwellings was viable in its own right and that there was no need for enabling development in this case.

In light of this independent assessment of the development viability issue, it is considered that there is no case for the proposed enabling development to outweigh the disbenefits of departing from the Council’s policy framework governing the general location of new development and it is considered that the proposal does not comply with Local Plan policies SS3 and SS9.

It is considered possible to achieve an acceptable proposal if the new build units are deleted from the application and the proposed conversion element of the proposal would secure the re-use of redundant buildings that make a positive contribution to the local area and may comply with policy SC5 of the Local Plan. The applicant has been advised of this and it was requested that the new build dwellings be removed from the proposal to allow the application

to be considered purely on the conversion of the three traditional buildings. The applicant declined to amend the proposal maintaining that it needed the new build to be viable.

The impact of the proposed development on the character and appearance of the Conservation Area

Farming has been central to the character of Whaley for centuries. Whilst the number of farms has dwindled, farming remains an integral part of the character of the village not only due to the agricultural landscape in which Whaley sits, but also because it has a strong presence in the village itself.

The Whaley Conservation Area Appraisal (2008) identifies Whaley's agrarian origins as underpinning its special character. Whaley Moor Farm is one of two surviving farms, both of which are in prominent locations; Whaley Moor Farm lies in the centre of the village and Whaley Farm abuts the road on the approach to the village. The traditional farm buildings that remain make an important contribution to the character of the conservation area. Both farms are in the ownership of the Chatsworth Settlement Trustees and are operated by tenant farmers.

The Conservation Area has a strong rural character due largely to the interrelationship between the built environment and the wider landscape, and the survival of many of the buildings which comprised the 18th and 19th century farming village. Whaley Moor Farm, dating from the 18th century, is at its centre. The farm remains in agricultural use, with a large modern cattle shed alongside traditional agricultural buildings.

Although added to and altered over the centuries, the Whaley Moor farmstead retains its threshing barn, which although under-used is relatively unaltered. Enclosing the farmyard at its south eastern extent is a small range of traditional single storey brick outbuildings much altered. The site also retains what remains of the two former farm workers cottages fronting Whaley Road. The cottages were combined to form a farmhouse in the mid 20th century and then later gutted to provide for storage. The resulting building has a negative impact on the Whaley Road frontage and blights an otherwise very attractive historic village. The building is highly prominent, particularly at its entrance from the north, where it closes the view at the T junction in the village centre.

Whaley Conservation Area is a designated heritage asset and the 19th century threshing barn, the only fully surviving traditional building on the site is a non-designated heritage asset. The contribution of Whaley Moor Farm and its threshing barn to the significance of the Conservation Area is of some note. Their particular contribution can be defined as follows;

- As an historic farmstead at the historic core of the village Whaley Moor Farm is an integral part of the character of the Conservation Area
- As one of only two surviving farms in an historic agrarian settlement the rarity of Whaley Moor Farm contributes to its significance
- The prominent location of Whaley Moor Farm and the threshing barn contributes to their visual impact
- The preservation and vernacular character of the threshing barn makes an important contribution to the historic townscape, acknowledged in its status as a non-designated heritage asset.

- The surviving traditional farmstead buildings though few, demonstrate the variety in scale, roofs and materials that convey the particular character of a farmstead of its time which was developed and redeveloped over a number of years.

The heritage sensitivity of the site has been a key consideration throughout the planning process. The following advice was given at the pre application stage in February 2019.

“The northern end of the site is particularly sensitive to change. The proposed terrace and garages would impact on the setting of the barn and mill as non-listed buildings of merit and also the farmyard as a key characteristic of the farmstead. This would in turn result in harm to the Conservation Area as a heritage asset. There is possibly the potential for accommodating one unit at the back of the site that, subject to a high quality of design, could enhance the setting of the conservation area. The lower part of the site has potential for accommodating a range of new development. The layout as presented is loosely based on a courtyard arrangement but would need to reflect this more so if it was to preserve or enhance the intrinsic character of the farmstead. In particular, opening up the farmyard to view from the main street undermines the enclosure that is a key character component and the internal layout with individual residential units marked by a broken building line has a (sub) urban character that is not appropriate in this context.

With the quality and sensitivity of the setting in this location there is the scope and the need to do something outstanding; a bespoke high quality scheme which would significantly enhance its immediate setting and be sensitive to the defining characteristics of the local area.”

Since that time, in response to ongoing advice from the Conservation Officer, the scheme design has undergone a number of iterations. Notwithstanding this, the final design does not have the support of the Conservation Officer.

The amended proposal for 7 dwellings comprises the conversion of the 19th century threshing barn and the reconstruction of the former farmhouse/ workers cottages. At the eastern end of the road frontage the brick and stone single-storey range is to be converted/re-built, albeit on a similar footprint. Preserving and enhancing the character of the site as an historic farmstead in a conservation area therefore relies significantly on the overall impact of the new dwellings; their number, the relative size of the individual units and the quality and attention to detail of the new build components.

Unit 1: Conversion of the Threshing Barn

As the key building of a traditional farmsteads, the threshing barn at Whaley Moor Farm has heritage significance due to its age, its level of survival and its size, the key feature of the building type. It is the only building on the site that has aesthetic value. The submitted scheme for one dwelling within the barn retains the full height of the threshing space and threshing door opening, a significant characteristic of the building type. In providing for one dwelling, the new openings are minimal and the layout is acceptable; the conversion retains the character and appearance of the barn as a traditional agricultural building. The design scheme as submitted responds to the need to maintain its traditional character notwithstanding its conversion to a new use and the impact on its significance is thereby reduced. The conversion of this traditional building as proposed accords with conservation objectives.

Unit 2: Reconstruction of the former farmhouse/workers cottages

The present building has nothing to commend it in terms of its physical presence. It does not contribute to the heritage value of the conservation area or the threshing barn. That it sits at the historic core of the village increases its negative impact. Although previously a farmhouse it was formerly two cottages combined into one dwelling in the mid to late 20th century. The proposal is for the reconstruction of a dwelling. The scheme as submitted is neither a reproduction of the previous cottages nor the farmhouse that followed them, although the proposed frontage to Whaley Moor Road has the presence of a traditional dwelling. The proposed reconstruction of this building into a dwelling would enhance the character and appearance of the Conservation Area.

Unit 3: Redevelopment of the buildings at the eastern end of the frontage

This is presently an ad hoc arrangement of outbuildings comprising the remnant of a traditional stone building. Their overall contribution to the heritage significance of the conservation area rests in their traditional materials of construction and traditional scale and proportion. The proposed replacement building reflects the subordinate nature of a traditional range in terms of scale and roof height. It has a greater presence than what is presently there as viewed when approached along Whaley Road from the east. However, the attention to scale and traditional proportion means that this new building sits well alongside the threshing barn and reconstructed farmhouse as a traditional group in an historic setting. The proposal retains the integral boundary wall as a component of the Whaley Road elevation. Overall this proposal preserves the character and appearance of the Conservation Area.

Units 4 to 7: New-build

This part of the site includes the former cattle yard. It has experienced the most change over the centuries. The contribution of this part of the site is in that it embodies the continuation of its use as a farm. In this it contributes to the significance of the conservation area as a designated heritage asset. The proposal is for the removal of the cattle shed and the development of 3 houses around the perimeter of the former cattle yard. The houses are built of stone and are generally 1.5 storey and 1 storey in height. Roofs are a combination of slate and pantile. Although numbered 4-7, there are only 3 buildings proposed as Unit 5 was removed in response to Conservation Officer comments. The contribution of this part of the site to the heritage significance of the conservation area and threshing barn is not in the cattle building per se, but in that it represents and enables the continuation of its use as a farm. It is in this that this part of the site and the modern cattle building contributes historic and communal value to the significance of the conservation area as a designated heritage asset. The scheme for units 4-7 has sought to address the requirement for the building blocks to reflect the scale and proportion more usually associated with traditional farm buildings to move towards a farmstead character.

Unit 8: new build

This proposed unit sits on the former stack yard, a part of the site that has experienced the least change over the centuries. The characteristic openness of the yard contributes to the heritage significance of the conservation area and threshing barn as part of its wider historic setting. Unit 8 is a standalone building at the back of the site. It is of a narrow proportion and has a variety of opening sizes. In conservation terms the 'glazed threshing door' detail is not acceptable as a design feature as it compromises the adjacent surviving

threshing barn in term of its unique contribution to the character of the group. Given the prominence of the location and the heritage sensitivity of the site overall, a building of high design quality is needed. As it is, the design of this building does not meet the threshold.

It is acknowledged that the former farmhouse is currently an eyesore and that its reinstatement would constitute a significant enhancement. However, this should not be at the expense of permanent harm to the significance of the Conservation Area and threshing barn as heritage assets.

Although the overall aesthetic value of Whaley Moor Farm to the significance of the Conservation Area is low, this is balanced by the contribution of the evidential, historic and communal value of the farmstead. The impact of the change of use from agriculture to residential on these three values is a key consideration as they will be significantly reduced and in some ways lost altogether, which impacts on the significance of the Conservation Area as a designated heritage asset.

The site is a sensitive location with regard to heritage significance and therefore any development introduces the possibility of 'harm'. The heritage significance of the Conservation Area as a designated historic asset is high, with that of the Threshing barn (a non-designated heritage asset) likely to be considered low. In accordance with the NPPF (*para 199 NPPF 2021*) the consideration is whether there is total loss, substantial harm, 'less than substantial harm or no harm. The following summary points highlight the positive, negative and marginal impacts.

Major positive impact: The proposal for the former farmhouse is classed as having a major impact due to it constituting a change to a key historic building element, such that it is totally altered. In the case of this proposal this is a major positive alteration.

Major negative impacts: The comprehensive changes to the setting of the Conservation Area and Threshing Barn brought about by the development constitute a major negative impact. Similarly the fundamental change in the use of Whaley Moor Farm from a farmstead to a residential development is a major negative change to its agrarian character at the heart of the Conservation Area.

Marginal Impact: the alterations to the Threshing Barn as a key historic building with its conversion will result in it being altered, but due to the sensitivity of the scheme this is considered to have a marginal impact.

On the basis of the above, the impact of the development overall would be considered to be 'less than substantial harm'.

Conclusion on the impact on heritage assets

The loss of a working farmstead at the core of an agrarian settlement has a major negative impact on the significance of the Conservation Area as a designated heritage asset. To compensate for this, the design quality of the residential development that replaces it has to be substantial if the overall impact of the development on the significance of the Conservation Area is to be a positive one.

To achieve such a visually successful scheme for this particular site requires a design approach that puts at its centre the importance of historic setting. Such a scheme was previously agreed (Ref: July 2020) with a development comprising the proposals for Units

1, 2 and 3 only (conversions) but the applicant has stated that such a scheme would be unviable.

The unit numbers and scale of the individual new build units in this present submission has been reduced following amendments which has resulted in the impact of the new build components being reduced. However, although this final design amounts to less of a visual impact than previous iterations with more units, it does not overall constitute the preservation or enhancement of either the Conservation Area or the threshing barn as heritage assets. Critically, the design approach to Unit 8, a highly prominent building, reduces the overall architectural quality of the scheme.

The Conservation Officer has submitted an objection to the scheme. The impact of the development is considered to be harmful to the significance of the Conservation Area as a designated asset and Threshing barn as a non-designated heritage asset with the level of harm being less than substantial.

The NPPF (para 202) states that 'where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use.'

The harmful impact of the proposals on the Conservation Area identified above would amount to less than substantial harm, so it is necessary to consider the public benefits of the scheme in the determination of this application.

The applicant suggests that the public benefits are securing the long term future of heritage assets; the removal of a major eyesore (blank wall of former farmhouse) in heart of village & replacement with an attractive homestead; and the retention & restoration of traditional agricultural buildings & local heritage assets (threshing barn & former farmhouse) to respect & enhance former farmyard & setting of threshing barn. These benefits are not disputed but the independent viability assessment of the scheme finds that they can be provided without the new build element of the scheme as the conversion element of the proposal is viable in its own right and as such there is no conservation deficit to trigger the need for enabling development.

The applicant states that public benefits also include enhancement of the character & appearance of the Conservation Area with a traditional farmstead layout to reflect quality, scale & character of historic farming settlement and replacement of dilapidated outbuildings & rationalisation of redundant/under-used land. As set out above, the proposal is not considered to enhance the conservation area as it results in less than substantial harm and as such this cannot be considered to be a public benefit.

The applicant lists a reduction of 2 homes from the 2017 scheme, the provision of at least 2 parking spaces per home & 4 visitor spaces to avoid potential for on-street parking along main roads, protection of key views in & out of village, varied elevations, scale & mass of new buildings to reflect character of built form on site & in the settlement as public benefits. These are not considered to be public benefits and are merely references to what is included in the design of the development.

The applicant considers that the proposal will result in a net reduction in built development footprint & decrease in rate of surface water and therefore this is considered to be a further benefit but (as set out in the drainage section of this report) it would not be such a significant benefit to the local area that this issue would carry significant weight in the determination of the current application.

The applicant also suggests that a public benefit would be the provision of an amenity greenspace in heart of village. However, whilst the application form refers to this space being public space, there is no reference to this in the rest of the plans and proposals and no unilateral undertaking has been offered to suggest how this could be provided / retained / maintained as public open space and the space would therefore become space for residents of the proposed development rather than a public open space and as such cannot be considered to be a public benefit.

The applicant suggests residents within the village rely on services and facilities within Bolsover or nearby Langwith and Whaley Thorns, which contains several shops, a post office, a primary school, various community facilities and a train station. Additional housing in this location is therefore said to support these existing services and is a common arrangement in a number of smaller villages throughout the Council's administrative area and that this is a public benefit and complies with Paragraph 79 of the NPPF

The applicant also makes the case the proposed development will bring direct economic benefits in terms of direct employment during the construction phase and in the longer term through the indirect economic benefits of expenditure by local residents in the local economy. The applicant suggests it will also help by providing homes near to areas of economic productivity such as Bolsover and Chesterfield and will lead to a contribution under the New Homes Bonus scheme paid by central government to councils to incentivise housing growth in their areas, thus increasing the Council's tax revenue.

Whilst this support for nearby services and economic benefits could be considered to be public benefits, these benefits are not considered to be substantial given the proposal only results in a total of seven dwellings and are not considered to be more than could be achieved from any residential development of a similar size and scale within development envelopes. As such it is not considered that the proposal provides sufficient public benefits to outweigh the less than substantial harm caused to the heritage assets.

In addition as set out in earlier sections of this report, the absence of services in the settlement and the absence of good access to neighbouring settlements suggest Whaley is not a sustainable location and to focus development in this area would not align with the wider carbon reduction ambitions cited within the Framework and the Council's Local Plan. Therefore, it is difficult to conclude that the benefits of granting planning permission would not be offset and outweighed by the location of the proposed development. Consequently, it is equally difficult to consider the current proposals are a sustainable form of development also taking into account the housing is not required to meet unmet housing need within the local area.

Sustainability of Location

Whaley is a relatively isolated hamlet. It is reported that in fairly recent years it has lost its pub, the nearby Henton Memorial Hall, its mobile library service and its telephone box. There

are no education facilities within the settlement and it is reported that children have to travel to Cuckney, Shirebrook and Scarcliffe via car for schooling provision. The village is stated not be on a gritting route and that pedestrian access to other settlements nearby is unsafe due to the absence of pavement and narrow, unlit roads. Residents suggest, for most households the only viable access is via car.

Owing to this low level of population, absence of public transport linkages, linkages to employment and absence of in settlement services such as schools Whaley is classed as a Small Settlement in the Countryside and policy SS3 advises that it is considered to not be sustainable settlements.

Although it is acknowledged that Whaley is not a substantial distance from other settlements such as Whaley Thorns and Langwith (approx. 2 miles), these settlements also score poorly in relation to population, employment and settlement services (albeit in the case of Langwith, good public transport links are available). These settlements are also only categorised as rural, small villages. It is also acknowledged that Bolsover, which is categorised as a small town, is 3 miles from Whaley but linkages in terms of alternative means of transport other than the car are poor. Therefore although the applicant seeks to suggest that services in one settlement could legitimately support populations in another (as is also articulated in the Framework), it is not considered that this argument supports a case for acceptance of this scheme, against all other material considerations.

Overall, taking account of the Settlement Hierarchy evidence, the absence of services in the settlement and the absence of good access to neighbouring settlements, this would suggest the site in question is not a sustainable location and to focus development in this area would not align with the wider carbon reduction ambitions cited within the Framework, the Council's Local Plan Policies SS1 and SS3 and objectives A, B and H. Therefore, it is difficult to conclude that the current proposal is a sustainable form of development also taking into account the housing provided is not required to meet unmet housing need within the District.

Residential Amenity

The proposal introduces dwellings on the site frontage with windows in the front elevations. These windows are offset to the windows in adjacent dwellings and are on the opposite side of a public highway where distances between windows can be reduced given that the intervening land is not private.

The residents of adjacent dwellings will experience some noise and disturbance during the construction of the development but this will only be for a temporary period and once the development is completed the proposal is not considered to result in any additional noise or disturbance for residents of adjacent dwellings over and above what would be experienced if the site were to remain as a working farm. The proposal is therefore not considered to result in a significant loss of privacy or amenity for residents of adjacent dwellings.

The proposed development incorporates garden areas/open space for each of the proposed dwellings. Whilst the courtyard arrangement and rural design of the development may mean that some of these open spaces are not considered completely private, as screen fences etc would not want to be incorporated into the scheme to define private curtilage, the proposal is considered to provide an adequate standard of privacy and amenity for any future residents of the dwellings.

On this basis the proposal is not considered to result in a significant loss of privacy or amenity for residents of adjacent dwellings and is considered to be able to provide an adequate standard of amenity for future residents. The proposal is considered to meet the requirements of Policy SC11 of the Local Plan for Bolsover District and the guidance set out in the Successful Places, a Guide to Sustainable Housing Layout and Design published by the council in this respect.

Access/Highways

The proposal utilises an existing access and proposes some improvement, slightly relocates another access leading to some improvement and would close another access to vehicular traffic which has severely substandard visibility in both directions. The type of traffic associated with the site would also change in that farming would cease, removing large slow moving vehicular movements and replacing them with more numerous car movements. A transport assessment (Chatsworth Settlement Trustees Whaley Moor Farm Bottom Yard Transport Statement , 16 September 2021, Version 1.0) has been submitted with the application which concludes that the proposal can be safely accommodated in the local highway network without any detriment to existing road users, traffic would quickly disperse along local routes and that compared with day-to-day fluctuations in traffic, the impact of the development is likely to be negligible. There are also no objections, subject to conditions, from the Highway Authority.

Overall it is considered, there are no significant highway safety concerns with the proposals. Some net highway benefit is likely to be realised as a consequence of the development through the improvement to highway visibility and removal of larger farm related vehicles. As such the proposals would not have a severe effect on the highway network or an unacceptable impact on highway safety at this location in line with NPPF para 111.

Biodiversity and Ecology

A preliminary ecological appraisal and bat survey was submitted as part of the original application (application no 17/00546/OUT). This report has been updated to take into account the amended proposal and additional surveys have been carried out to ensure the appraisal is up to date (Preliminary Ecological Appraisal and Bat Survey Reference: 0107_15/RE03 version 6 dated 16.09.2021)

Derbyshire Wildlife Trust have confirmed that all survey work is current and that additional updated bat surveys may be required by Natural England depending on when a licence application is submitted. The proposed mitigation for bats and other wildlife is considered acceptable, although Derbyshire Wildlife Trust advise that the bat loft should be created as soon as practicable in the development programme and that sparrow terraces should be swapped for swift boxes due to recent research showing higher uptake by a range of bird species. They also recommend a swift box in each dwelling, in line with the guide Designing for Biodiversity.

Derbyshire Wildlife Trust have suggested a number of conditions if the application is to be approved which include the amphibian, reptile, badger and bird method statement be implemented in full and a statement of compliance submitted, works to buildings 6 and 7 not being undertaken until a European Protected Species licence has been obtained from Natural England and works carried out in accordance with the approved mitigation and prior to

installation of any lighting a lighting strategy be submitted for approval and implemented in full. Subject to such conditions the proposal is considered to protect biodiversity and ecology interests on the site in accordance with Policy SC9 of the Local Plan for Bolsover District.

Drainage

A flood risk and drainage strategy report has been submitted with the application (Flood Risk and Drainage Strategy Report Ref: 21052-PWA-00-XX-DR-C-1000(P05) dated September 2021).

In order to comply with Building Regulations Part H, surface water must drain to soakaways in the first instance, if not viable to watercourse and then to sewer as last resort. In this instance the bedrock geology is thought to be impermeable in nature and unsuitable for infiltration because of nearby colliery workings. There is a watercourse very close to the site which is reasonably practicable to get to (subject to land drainage consent) therefore in accordance with the hierarchy, surface water disposal is proposed to be made to the unnamed ordinary watercourse to the south-west of the site. The report concludes that the proposal results in less impermeable surface area than the existing site and as such the proposal will result in a betterment when compared with the existing surface water drainage regime.

The report also concludes that the topography of the land to the rear of properties 4-6 should not be amended from the existing levels to ensure no increased flood risk to residents downstream and floor areas in these properties should be appropriate to mitigate flood risk as they are adjacent to the flood zone. The Lead Local Flood Authority advise informative notes on any planning permission in this respect.

Foul drainage is proposed to a public sewer via a foul pumping station. Although a number of residents raise concern about the capacity of the existing drainage system, Severn Trent Water who manage the system raise no concerns with the proposed development subject to the applicant making a formal application to the Company under Section 106 of the Water Industry Act 1991.

Subject to conditions relating to levels and notes suggested by the Lead Local Flood Authority, the proposal is not considered to increase flood risk on or adjacent to the site and may in fact reduce flood risk adjacent to the site in accordance with SC7 of the Local Plan for Bolsover District. However, the improved flood risk resulting from granting permission for this application would not be such a significant benefit to the local area that this issue would carry significant weight in the determination of the current application.

Archaeology

No archaeological information has been submitted as part of this application but the results of an archaeological evaluation and a buildings appraisal/statement of significance in relation to built heritage on site was submitted with the earlier application on the site. Based on the previously submitted information, the County Archaeologist was satisfied that the proposals will not have a significant archaeological impact and the proposal is therefore considered to meet the requirements of SC18 of the Local Plan for Bolsover District.

Contamination

Given the previous commercial/agricultural uses of the land and the presence of hardstanding which are likely to be removed exposing potentially contaminated fill material, a condition

requiring removal of all made ground or a phased contaminated land investigation and risk assessment condition should be included on any permission to make sure the site is safe for residential use. Subject to such a condition the proposal is likely to be capable of developed safely and is considered to meet the requirements of policy SC14 of the Local Plan for Bolsover District.

Issues raised by Local Residents

It is considered that the issues raised by local residents in their representations are covered in the above assessment.

CONCLUSION / PLANNING BALANCE

In conclusion, there are a number of issues that do not weigh heavily in the determination of the application. These issues include the potential impacts of the scheme on archaeology, flood risk and drainage, residential amenity, highway safety and potential contamination which have all been found to be acceptable or could be made acceptable in planning terms subject to appropriate planning conditions. The potential impacts of the scheme on biodiversity/ecology can also be appropriately mitigated.

There are also elements of the scheme which may be acceptable. For example, the conversion of the traditional buildings within the site is acceptable in principle under Local Plan Policy SC5 and would represent an enhancement to the character and appearance of the conservation area in accordance with policy SC16

With regard to the new build elements of the proposals however, the independent assessment of the viability of the scheme demonstrated that the conversion of the traditional buildings is viable without the need for any additional new build development being necessary as enabling development. Any new dwellings in this countryside location are therefore considered contrary to Policy SS9 of the Local Plan.

In addition with regard to the new build elements of the proposal, the Conservation Manager considers that the design approach to Unit 8, a highly prominent building, reduces the overall architectural quality of the scheme and the impact of the development is harmful to the significance of the Conservation Area as a designated asset and threshing barn as a non-designated heritage asset, with the level of harm being less than substantial.

In the context of para. 201 of the Framework the less than substantial harm identified is not outweighed by any public benefits.

Whaley is a relatively isolated hamlet with little access to day to day services. There are no education facilities within the settlement and it is reported that children have to travel to Cuckney, Shirebrook and Scarcliffe via car for schooling provision. Pedestrian access to other settlements nearby is unsafe due to the absence of pavement and narrow, unlit roads. Residents suggest, for most households the only viable access is via car. This assessment is reinforced by the Council's Settlement Hierarchy evidence that concludes Whaley is a small settlement in the countryside and as such is not a sustainable location and to focus development in this area would not align well with the wider carbon reduction ambitions cited within the NPPF, and the Council's Local Plan.

Moreover it is considered the Council can demonstrate 5 years supply of deliverable housing sites. As such, the proposed housing is not needed to make up a shortfall in terms of meeting objectively assessed housing need in the District. There is also a lack of evidence that demonstrates that the existing agricultural use of the land is unviable or that housing would be a more appropriate use of the land. In this case, there is no details of why the farm needs to be disposed of by the applicant and why it might not be sold on as a 'going concern'. It is also reasonable to say that the existing farm buildings do not look out of place within a small rural village within a 'farmed' landscape.

Accordingly, the application is recommended for refusal because the adverse impacts of granting planning permission are considered to significantly outweigh the benefits of doing so.

RECOMMENDATION

The current application be REFUSED for the following reasons:

1. The proposed development will result in an adverse impact to both designated and non-designated heritage assets, which is considered in context of the National Planning Policy Framework (NPPF) to amount to less than substantial harm. This harm is not outweighed by the demonstration of wider over-riding public benefits, nor is it justified by the demonstration of a need to consider enabling development to address a conservation deficit. The proposals are therefore contrary to Policies SC16 and SS9 of the Local Plan for Bolsover District and the wider NPPF.
2. Whaley is an isolated hamlet with little access to day to day services. There are no education facilities within the settlement, users of the development will be highly car dependent and there is insufficient pedestrian access to other settlements nearby due to the absence of pavement and narrow, unlit roads. Consequently, the application site is not in a location that is suitable for the new residential development proposed in this location. Moreover, the Council can demonstrate 5 years supply of deliverable housing sites and as such, the proposed housing is not needed to make up a shortfall in terms of meeting objectively assessed housing need in the District. Taking all these factors into account, the current proposals constitute an unsustainable form of development situated within an unsustainable location and any benefits of granting planning permission for the current application would be demonstrably and significantly outweighed by the adverse impacts of doing so when taking into account policies in the Development Plan and the National Planning Policy Framework as a whole.

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 Outline application for the construction of two drive-thru restaurants with takeaway facility and associated car parking, with the reserved matters being appearance and landscaping (details of access, layout and scale submitted for approval).

LOCATION 73 Mansfield Road, South Normanton, Alfreton, DE55 2EF

APPLICANT Mr Marcus Jolly, Limes House, Middle Street, Burton Park, Lincoln, LN1 2RB

APPLICATION NO. 22/00241/OUT **FILE NO.** PP-11233071

CASE OFFICER Mr Steve Phillipson

DATE RECEIVED 10th May 2022

SUMMARY

This is an application for outline planning permission for the erection of two drive-thru restaurants with takeaway facility to the north side of the roundabout at the junction of the A38/Berristow Lane/Carter Lane East/Cartwright Lane, South Normanton.

The key issues to consider are:-

- The principle of the development including the local plan allocation and impacts on the town centre;
- Whether the development would be provided with a safe and suitable access;
- The impact of the development traffic on the busy road network;
- Impacts on trees hedges and biodiversity;
- Amenity impacts (noise, odour, traffic disturbance, litter or hours of operation)
- Air quality
- Visual impacts on the character of the area

Whilst there are aspects of local plan policy which the proposal does not align with it is considered that the proposal does comply with local plan policy as a whole. It is therefore considered that the Council should take a pragmatic view on the use now proposed in order to allow for the completion of development on the employment allocation and make efficient use of this mainly brownfield site.

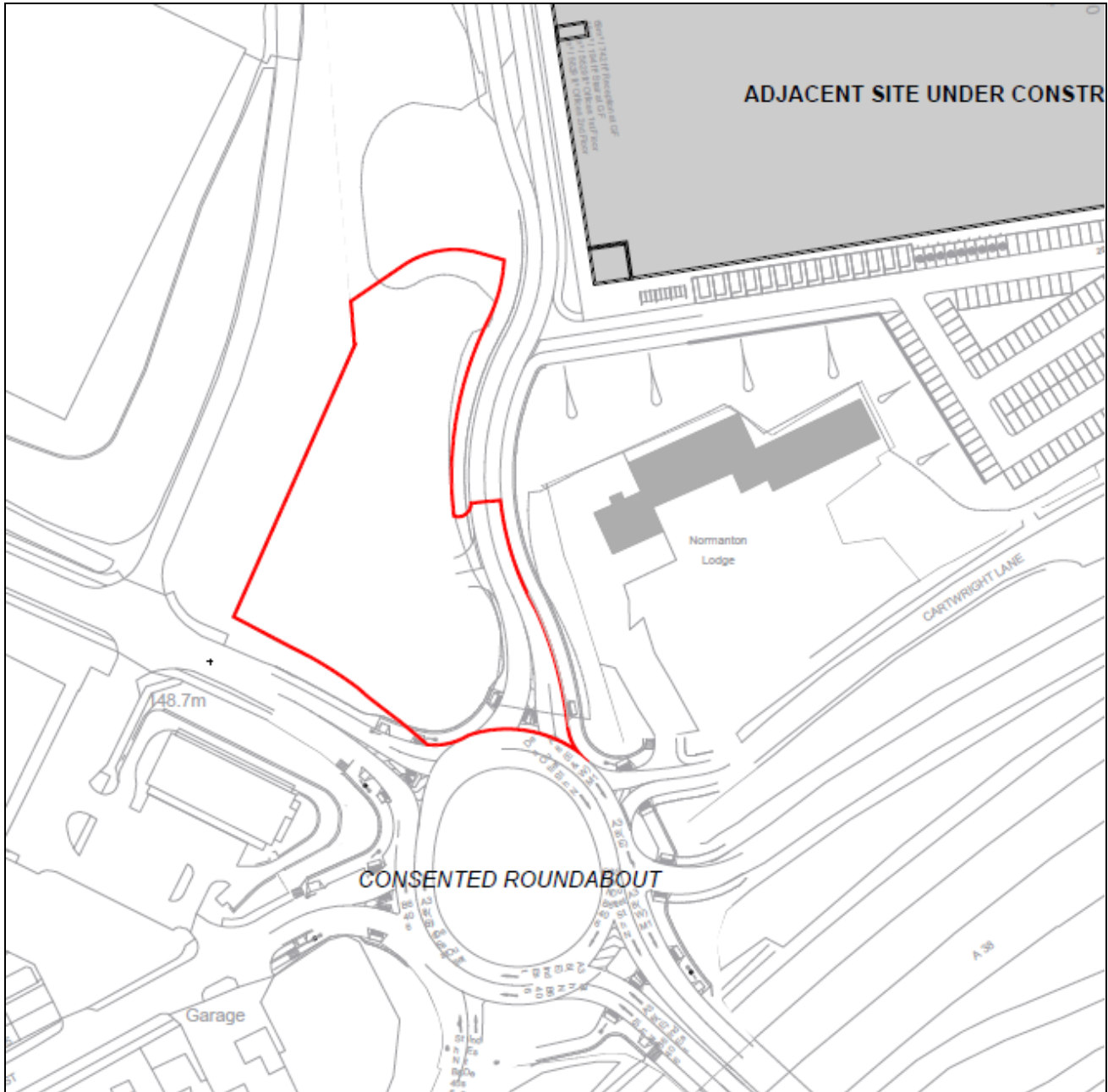
Loss of existing vegetation on site would be high but mitigation has been proposed to compensate for the loss.

Amenity impacts are not expected to be significant and there are no highway safety, traffic, air quality or other technical reasons that would justify the refusal of planning permission.

The application is recommended for approval.

The application has been called in for a committee decision by Cllr Tracey Cannon, due to concerns over noise, amenity impacts, traffic congestion, contrary to local plan, and the number of takeaways already in the village, impact on shops on the local town centre.

Site Location Plan



SITE & SURROUNDINGS

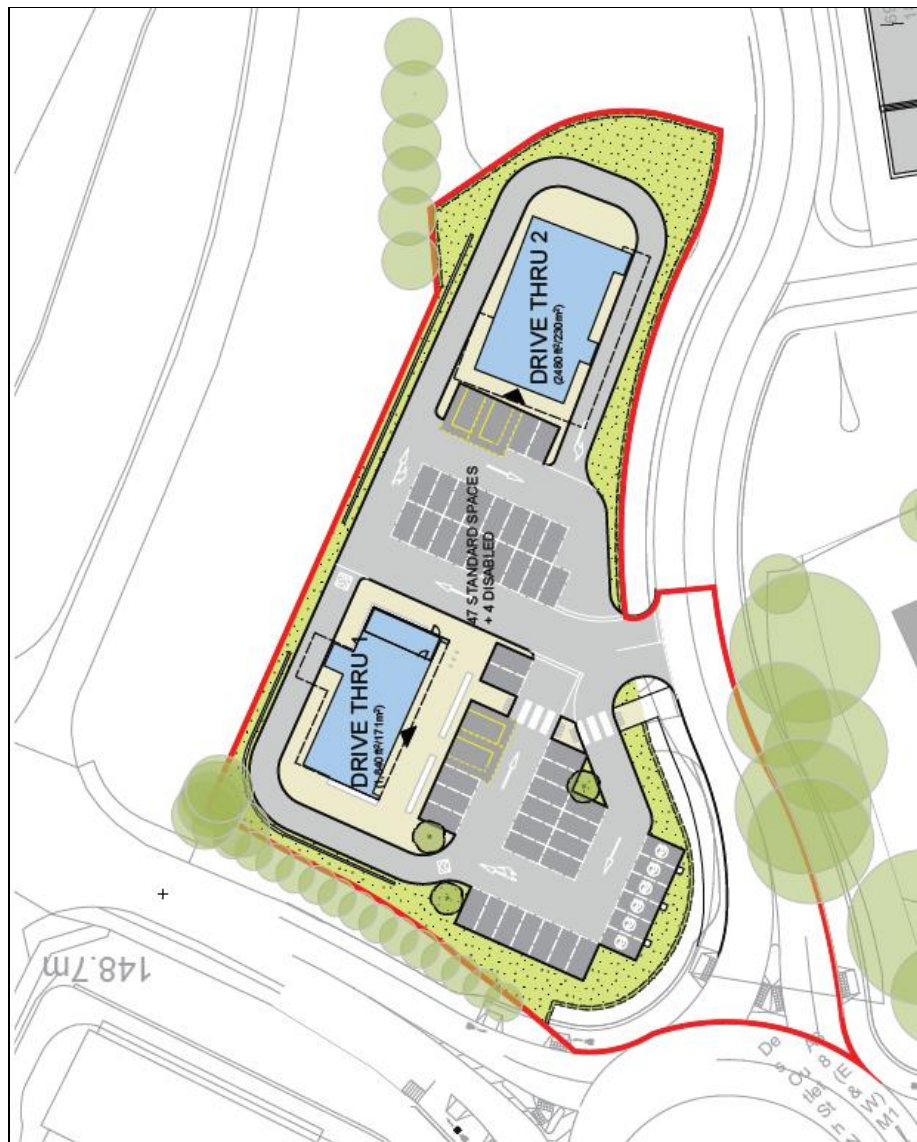
Site of the former dwelling at 73 Mansfield Road approximately 0.5ha in area, derelict for a number of years and now demolished as part of the adjacent development and its associated roundabout and access works. The site is currently being used as a construction compound associated with the adjacent development. Some trees and hedgerows remain predominantly

on the northwest and southwest boundaries.

The site is adjacent to the north side of the roundabout junction serving the A38/Berristow Lane/Carter Lane East/Cartwright Lane. Adjacent to the east side of the site is the proposed access road to serve the warehouse development currently under construction, and beyond that Normanton Lodge Care Home. To the southwest on the opposite side of Berristow Lane is McDonalds and to the west and north is commercial development within Berristow Lane Industrial Estate. There are bus stops close by on Berristow Lane and also Carter Lane East. To the southeast across the A38 is The East Midlands Designer Outlet Site. South Normanton Town centre is about 1.7km to the west of the site.

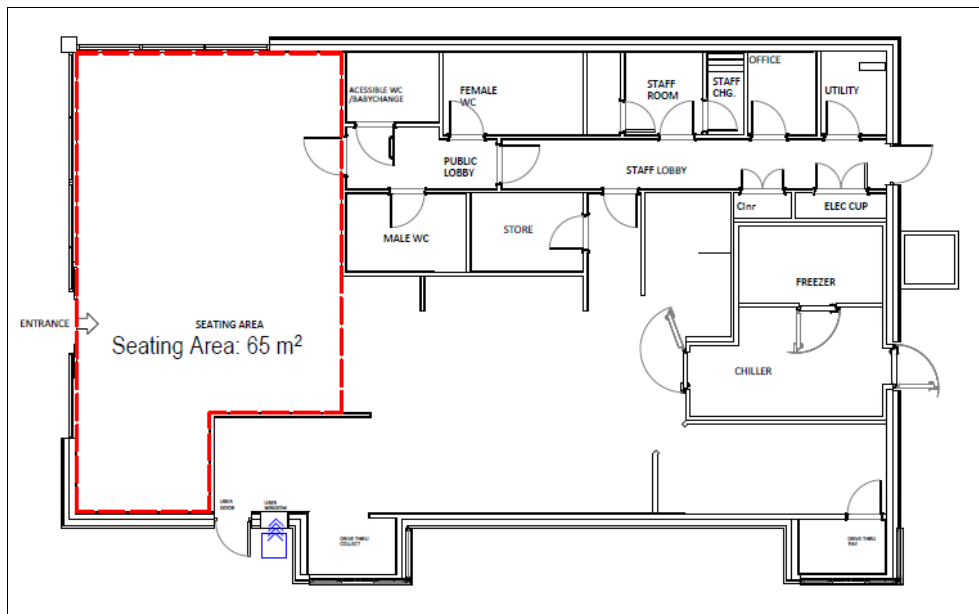
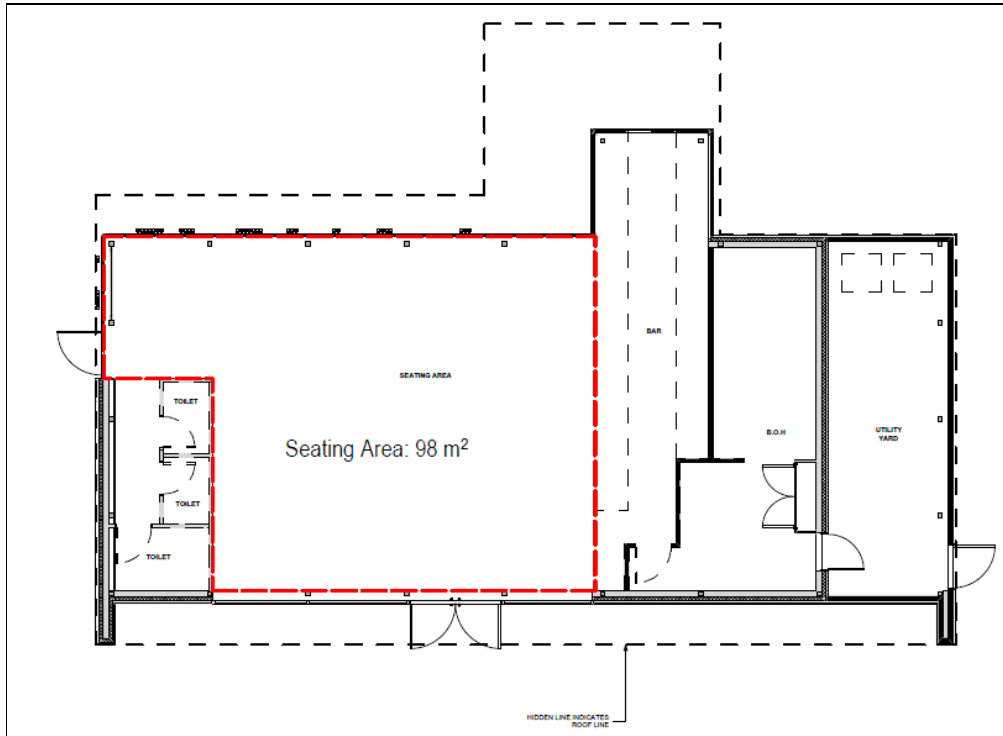
PROPOSAL

Outline application for the construction of two drive-thru restaurants with takeaway facility (total gross internal floor space of 401 sq.m) and associated car parking (51 spaces), with the reserved matters being appearance and landscaping. The details of access, layout and scale submitted for approval now. The proposed site layout plan is shown below:



To create a more level site it is proposed to cut in to ground levels on the western sides and raise ground levels at the northern end of the site. All existing vegetation on site would be removed.

The internal floor layout plans for the units are shown below:



Access would be via the new industrial estate road off the Berristow Lane/Carter Lane East/A38 roundabout.

Scale proposed is a maximum height of 7m and so the buildings proposed are expected to be single storey but could potentially have 2 storey elements, subject to the maximum floorspace proposed.

There are no named operators at this stage but Unit 1 is proposed to be operated by a national multiple coffee chain. The potential operator of Unit 2 is a fast-food chain.

The Applicant claims that the proposal will result in benefits including:-

- the high-quality redevelopment of a vacant and derelict site;
- the provision of additional leisure (food and drink) facilities to serve the users of the existing and forthcoming employment development in the vicinity of the application site;
- the enhancement of local consumer choice through the introduction of new operators not currently represented in South Normanton;
- the promotion of sustainable economic growth through the re-use of a brownfield site that is located close to significant retail and employment destinations, helping to create sustainable patterns of travel;
- creation of new jobs and staff training/development opportunities;
- forming part of proposals on a key site that was first allocated for employment uses over 20 years ago, and where development remains an important Council objective;
- provision of facilities which will add to the overall attractiveness of the wider employment development, and which will assist in the marketing and letting of the B8 units on adjoining land to high-quality occupiers; and
- provision of a facility that will be available to local residents and which will assist in the Council's objectives of providing new facilities for visitors, both for business trips and tourism related visits, and particularly where they are located close to the District's largest settlements.

Supporting Documents

Planning Statement

Design and Access Statement

Transport Statement

Noise Assessment

Flood Risk Assessment

Drainage Strategy

Ecological Appraisal and Biodiversity Net Gain Assessment

Coal Mining Risk Assessment

AMENDMENTS

Additional information submitted during the course of the application on ecology, biodiversity, planting, drainage, noise, ground levels, transport impact, electric vehicle charging added.
Revised site layout plan 21788-302-P-01.

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

20/00296/FUL	Withdrawn	Erection of hotel (Class C1) and pub/restaurant on ground floor (Class Sui Generis and Class E) with associated access, parking, landscaping and lighting.
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CONSULTATIONS

Ashfield DC – 09/06/2022, 01/07/2022 and 05/09/2022

Objects on the following grounds.

Mistakes in the Transport Assessment and questions some of the assumptions:-

- that 70% of traffic will be passing on the road rather than make a specific trip;
- at para 5.2 it references a hotel approved on the site and in section 4 uses the hotel to argue that there will be a decrease in net change in comparison to what has already received permission on the site. However the hotel application was withdrawn.
- the TA cannot therefore indicate accurately whether there will be an increase impact on highways due to trip generation.

An air quality assessment has not been provided.

Impact on Town Centres:-

- With the introduction of two new drive-thru restaurants out of town centres it is likely to operate as a destination in its own right competing with adjacent towns such as Sutton in Ashfield, Kirkby in Ashfield and potentially other towns in other districts including towns and shopping centres within Bolsover.
- Lack of a sequential test or retail impact assessment (an appeal case is cited).

Requests that the proposal contribute towards a transport hub in the area.

05/09/2022 - Confirmed that the additional information provided by the applicant does not alleviate the concerns raised by ADC.

BDC Drainage Engineer – 08/06/2022

No objections subject to conditions re: maintenance plan for SuDS; management of surface water during construction.

Coal Authority – 26/05/2022

No objections subject to conditions.

The Coal Authority concurs with the recommendations of the Report on a Coal Mining Risk Assessment that coalmining legacy potentially poses a risk to the proposed development and that intrusive site investigation works should be undertaken prior to development in order to establish the exact situation regarding coal mining legacy issues on the site.

DCC Highways Authority – 05/08/2022

No objections subject to a condition requiring the provision and maintenance of the parking and manoeuvring areas as shown on the layout plan.

Permission has recently been granted for alterations to the roundabout which include the realignment of the roundabout and the provision of a new arm serving the application site and land beyond. The individual access to the proposed restaurants will be via the non-publicly maintained road off the new arm of the roundabout.

The application includes a Transport Assessment which has been assessed by the Highway Authority's Transportation Officer and found no objectionable issues relating to the proposed vehicular traffic generated by the proposed restaurants on the highway network.

The proposed on-site parking provision and internal layout is considered acceptable to serve the proposed units.

National Highways (formerly Highways England) – 07/06/2022

No objections.

DCC Flood Risk Team – 03/10/2022

No objections subject to conditions requiring a detailed design of surface water drainage to be approved and implemented and control of surface water during construction.

Derbyshire Wildlife Trust – 05/07/2022

No objections subject to conditions:-

- Protection of breeding birds during construction;
- Badger Survey;
- Restrictions on operations involving invasive non-native species;
- Construction environmental management plans (Biodiversity);
- Landscape and Biodiversity Enhancement and Management Plan (LBEMP);
- Lighting Strategy to safeguard bats and other nocturnal wildlife.

The ecology appraisal is considered to have been undertaken in accordance with best practice and guidance. It includes a Biodiversity Net Gain summary based on use of Defra's Biodiversity Metric 3.0. The appraisal has set out a range of mitigation, enhancement and Biodiversity net gain measures and provided these are implemented in full and are successful the development should be able to demonstrate a small gain overall in terms of both habitats and hedgerows (linear features).

Environmental Health Officer – 26/05/2022 and 05/09/2022

No objections re noise or odours following receipt of additional information.

South Normanton Parish Council – 15/06/2022

Objects. Increase in traffic; congestion; air pollution; health and obesity with more than enough take-away restaurants already.

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

PUBLICITY

Site notice posted, 45 properties consulted. 14 objections received, including an objection from a South Normanton Community Group and from the East Midlands Designer Outlet, on the following grounds:-

- More traffic on busy roads and roundabouts
- Speeding traffic
- Congestion around the village
- Pedestrian safety crossing the roads
- Queuing takeaway traffic causing obstruction of the access to the industrial estate back to the roundabout.
- Traffic noise
- Air pollution
- Noise pollution for residents at the care home, especially if 24 hour operation.
- Light Pollution
- Illuminated signage
- Litter
- Reduced quality of life for residents
- Impact on small businesses in the area
- Will attract teenagers and antisocial behaviour
- Health and obesity
- Contrary to local plan policy allocation -should be B2 and B8 use which excludes takeaways.
- The applicant has not demonstrated whether the subject land has been suitably marketed for B2 or B8 use.
- No retail impact assessment or sequential test has been undertaken
- Negative impact on the vitality of similar businesses within South Normanton
- Negative effect on the East Midlands Designer Outlet which is recognised for its employment role and tourism roles in Bolsover – EMDO should be considered a sequentially preferable location.
- The argument that the drive-thrus will serve a ‘very substantial proportion of its trade’ from the employees and visitors of the employment development is weak and not backed by any empirical evidence.
- Mistakes in the application documents re planning history – the hotel application was never approved affecting vehicle trip generation figures used in the Transport Assessment.
- No need for more takeaways - South Normanton already has 12 food/takeaway restaurants not including those food outlets at East Midlands Designer Outlet, approximately 13.

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:

WC1: Employment Land Allocations (the site is allocated for B2/B8 uses)
WC5: Retail, Town Centre and Local Centre Development
WC9 Hot Food Takeaways
SS1: Sustainable Development
SC1: Development within the Development Envelope
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)
SC12: Air Quality
SC14: Contaminated and Unstable Land
ITCR10: Supporting Sustainable Transport Patterns
ITCR11: Parking Provision (41 parking spaces required to meet BDC standards)

National Planning Policy Framework (“the Framework”)

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

- Chapter 2: Achieving sustainable development
- Paragraphs 47-48: Determining applications
- Paragraphs 55-58: Planning conditions and obligations
- Paragraphs 81-83: Building a strong, competitive economy
- Paragraphs 86-91: Ensuring the vitality of town centres
- Paragraphs 92, 93, 95 and 97: Promoting healthy and safe communities
- Paragraphs 104-108: Promoting sustainable transport
- Paragraph 119, 120, 122 and 123: Making effective use of land
- 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

ASSESSMENT

Key issues

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

- the principle of the development
- whether the development would be provided with a safe and suitable access;
- the impact of the development on the road network;
- impacts on trees hedges and biodiversity;
- amenity impacts (noise, vibration, odour, traffic disturbance, litter or hours of operation)

- air quality
- visual impacts on the character of the area

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

Principle of Development

The planning uses of the proposed development, as currently defined, fall between use class E (b) for the sale of food and drink principally to visiting members of the public where consumption of that food and drink is mostly undertaken on the premises; and Sui Generis (r) as a hot food takeaway for the sale of hot food where consumption of that food is mostly undertaken off the premises.

Policy WC1 (Employment Land Allocations – Wincobank Farm, South Normanton).

This application site forms a small part of a much larger local plan allocation. Local plan policy WC1 allocates the site for B1 (light industrial/office use – now re-classified as class E(g)) and B8 (storage and distribution) uses only. The proposed use does not in itself comply with WC1.

An extract of the proposals map is shown below. The current application site is the roughly triangular section at the very southwest tip of the allocation marked by an arrow.



The majority of the allocation is currently being developed for two large B8/B1 units (as formerly classified) which is fully compliant with policy WC1.

Although the proposed use does not itself comply with policy WC1 it is noted that the preamble to policy WC1 indicates that other uses might also be acceptable on parts of the allocation. It states at para' 6.18:

“Wincobank Farm, South Normanton -

A well located site to the strategic highway network, and the remaining part of a site that was allocated in the Bolsover District Local Plan (February 2000) as a reserve site for large firms. It is suitable for a variety of employment uses, or could be suitable for a large single occupier. There is currently a proposal for a retail park on the front part of the site.”

Paragraph 6.18 is silent on whether or not retail use would have been acceptable on part of the allocation but it does imply that some other employment uses could be acceptable on part of the site. Given that the current application site is only a small left over section of the allocation, separated from the main allocation site by the care home and site access road, it is considered that permission could be granted for the proposal without conflicting with the overall aims of policy WC1. It is therefore recommended that the Council should take a pragmatic view on the use now proposed in order to allow for the completion of development on the allocation and make efficient use of this mainly brownfield site.

Policy WC5 (Retail, Town Centre and Local Centre Development) states that support will be given to proposals which maintain or enhance the vitality and viability of town and local centres (including South Normanton). It aims to locate retail and leisure development within town centres so that it assists in maintaining the centres retail and service functions. WC5 states that retail development must demonstrate that it is:

- a) Located and designed to minimise its impact on the amenity of adjoining or nearby properties and that any impact will be at an acceptable level (*see later in this report for the assessment of amenity impacts – concluding no unacceptable impacts*);
- b) Accessible by an appropriate level of public transport (*bus stops are close by on Carter Lane East and Berristow Lane*);

Also WC5 requires that a sequential test and retail or leisure impact assessment will be required for applications for sites more than 500m away from a town or local centre which are more than 500 sq.m in area of net retail or leisure floor space (*the application is for 401 sq,m of gross internal floorspace and so is not significant enough to trigger the policy requirement for a sequential test or retail impact test on town centres*).

It is noted in the 'Publicity' section of this report that a representation for East Midlands Designer Outlet is of the view that the EMDO should itself be considered a town or local centre. However it is not defined as such in policy WC5 and instead is considered to be an out of town shopping centre. Hence the application site is more than 500m from a town centre for the purposes of compliance with the criteria of WC5.

It is also noted that both Ashfield DC and the EMDO representation cite what is described as a similar case in Ashfield which was refused and dismissed at appeal. However every planning application must be determined on its own merits and there were differences from the current proposal. That application was for a drive thru restaurant, 3 retail units and a lorry fuelling and EV station. The application site was larger at 0.85 ha (vs 0.5ha currently) and the

net amount of retail floorspace proposed for that application exceeded the 500sqm threshold set out in the local plan and so was contrary to policy where as the current proposal does not exceed the threshold in the local plan.

Therefore it is considered that the circumstances of the appeal case referred to are materially different and do not set a precedent that Bolsover should follow.

Therefore whilst a town centre location would have been preferred, it is considered that the proposal does not conflict with policy WC5.

Policy WC9 (Hot Food Takeaways) states that permission will be granted for takeaways provided that:

- a) They would not harm residential amenity (noise, vibration, odour, traffic disturbance, litter or hours of operation (*see later in this report for the assessment of amenity impacts – concluding no unacceptable impacts*));
- b) They address any concerns relating to crime and anti-social behaviour (*See later in this report –concluding anti-social behaviour is unlikely to be a significant issue at this site*);
- c) Within town centres it can be demonstrated that the proposal will have a positive impact on daytime and evening economies (*not a relevant criteria as the site is not within a town centre*).

In conclusion it is considered that the proposal does not conflict with policy WC9.

Policy SS1 (Sustainable Development) states that development proposals should....Support the local economy by providing employment opportunities; Promote the re-use of previously developed land in sustainable locations; Support the hierarchy of centres as a focus for new services and facilities.

The proposal does not (criterion g) support the hierarchy of centres as a focus for new services and facilities because it is an out of centre location. Therefore the proposal does not fully accord with policy SS1. However it is able meet, or not conflict with, the other criteria of that policy including the provision of employment opportunities and the re-use of brownfield land in a sustainable location and so it is considered to partially comply with SS1.

Policy SC1 (Development within the Development Envelope) states that proposals on sites within the development envelope will be permitted subject to compliance with the policy criteria. This site is within the development envelope. The relevant criteria are provided that the proposal:-

- a) Is appropriate in scale and design and location to the function of the area;
- b) N/A
- c) is compatible with the use of adjacent sites;
- d) accords with the other policies of the plan;
- e) would not have an unacceptable environmental impact

With regard to criterion (a) of SC1 the proposal is for relatively small scale buildings - maximum height proposed for the buildings at 7m is less than nearby industrial buildings and commercial buildings and similar to the McDonald's building opposite and care home to the east. Scale proposed is therefore considered to be appropriate. Design is a reserved matter

and so not to be considered with this outline application. The function of the area is mixed including the existing McDonald's drive thru restaurant opposite on Berristow Lane, and given the relatively small size of the proposal with correspondingly low impacts on the town centre it could be accepted in this out of town location – see above.

With regard to criterion (c), the main issue to consider is whether the proposed use is compatible with the use of the adjacent care home. Amenity impacts are considered later in this report concluding that there are no unacceptable impacts.

Criteria (d) and (e) are dealt with elsewhere in this report but it is concluded that there are no unacceptable environmental impacts.

In conclusion it is considered that the proposal does not conflict with policy SC1.

Policy ITCR10 (Supporting Sustainable Transport Patterns) will allow development where located so as to support sustainable transport patterns and the use of the District's sustainable transport modes. In this case the western side of the carriageway (abutting the site) will provide a shared footway/cycleway adjacent to the roundabout and then into the site. This would lead to zebra crossings within the car park providing access into the main part of the site and to the cycle storage areas. In addition the site is well served by bus stops on Berristow Lane and Carter Lane East. The proposal is therefore considered to be compliant with policy ITCR10.

Conclusions on the Principle of Development

Whilst the proposed use of the application site for two drive thru's is not one of the employment uses specifically sought in the local plan allocation it is considered that the proposal does not conflict with the overall aims of policy WC1 because the vast majority of the allocation is being developed for its intended purpose and the policy does not rule out other employment uses on this remaining part of the allocation.

Whilst a town centre site is preferred for retail and leisure uses to help support the vitality and viability of South Normanton the proposal is modest in size and falls below the threshold that would trigger the need for tests to be undertaken to find sequentially preferable locations within or closer to the town centre or the need for an impact study on the town centre trade. It follows that the level of impact from this scale of development would not be significant and the proposal does not conflict with policy WC5 or WC9.

The proposal would allow for the completion of development on this remaining part of an allocated site which is partially separated from the main development site and so could not easily have formed part of the adjacent large scale warehouse development. Hence some flexibility in the consideration of alternative employment uses on this left over land parcel is considered reasonable.

The proposal would result in the re-use of what is mostly brownfield land and what was a derelict site subject to fly tipping in a prominent location. It will provide the opportunity to redevelop the site with forward facing development that can help to deliver a more vibrant street scene at a nodal location in this part of South Normanton. It would also help support the local economy by providing for employment opportunities.

Overall it is considered that the proposal complies with local plan policy and is acceptable in principle.

Whether the development would be provided with a safe and suitable access

The Highway Authority has not raised any objections to the proposed means of access subject to a condition requiring the provision of the parking and manoeuvring areas. There are no objections to the use of the realigned roundabout and access road which has already gained planning permission with the adjacent warehouse development. There is also a signed legal agreement in place with the Highway Authority for the S278 works required to realign the roundabout.

It is noted that representations have been received raising concerns that queuing cars could back up to the access road and block access for HGVs leaving the roundabout but this is not a concern shared with the Highway Authority.

Parking provision and servicing arrangements are shown to be in excess of local policy requirements, with a total of 51 car parking spaces proposed and 41 required to meet standards.

Therefore it is considered that there are no highway safety issues relating to the proposed access or parking provision that could justify a refusal of planning permission.

The impact of the development on the road network

A transport statement (TS) has been undertaken to assess the impacts of the proposal on the road network. In addition an addendum response has been provided to address identified issues with it.

The TS notes that large-scale development on the wider Park 38 site, involving major infrastructure upgrade works to the roundabout and the creation of a seventh arm to serve the application site, has already been assessed and accepted by both Derbyshire County Council and National Highways. Hence, substantial work has already been undertaken to assess and mitigate the impacts of a number of development options at the site and wider area.

The TS concludes that the proposed development is forecast to generate 49 and 61 movements in the morning and evening peak hours respectively, the vast majority of which would comprise secondary 'diverted' trips. Hence, there would be no significant impacts on the surrounding highway network.

The Applicant states that the TS has demonstrated how the proposed development would not lead to any significant traffic impacts.

In the addendum a response to points raised by Ashfield DC is given. Ashfield DC queried whether it is accurate to assume that 70% of traffic to the fast food restaurants would already be on the network passing by the site. ADC consider that a higher proportion of visitors will travel to the proposed drive thru restaurants directly and hence the traffic impacts could have been underestimated.

In response the Applicant's transport consultant has said that,

"the 70% weighting to secondary trips is standard for drive thru facilities across the country

and is often higher where there are a greater number of vehicles travelling past a site, rather than being influenced by urban/rural locations. The A38/Berristow Lane/Carter Lane/Cartwright Lane roundabout, located adjacent to the site, accommodates circa 2,000 movements during each peak hour period and on this basis the 70% weighting is considered accurate.”

DCC Highways have not raised any objections in their response to Bolsover DC Planning and so it is assumed that the 70% passing traffic assumption is reasonable.

The second point raised by Ashfield DC is that the TS offsets development traffic from a hotel that was assumed to have been approved previously at the site. However, application reference 20/00295/OUT, quoted in the TS does not include a hotel and hence this may also be underestimating the traffic impacts further. This point was also raised in a representation for McArthurGlen which has been specifically sent on to the Highway Authority for comment.

In response the Applicant’s transport consultant has said that:

“In terms of the hotel, we acknowledge that the 20/00295/OUT application does not reference this use. However, the supporting Transport Assessment did consider a hotel on the site and the traffic generation from it was included in the design of the approved improvement scheme at the A38/Berristow Lane/Carter Lane/Cartwright Lane roundabout. Therefore, when considering the net impacts on the approved roundabout layout, it should be acceptable to off-set the hotel traffic. Therefore, we are of the opinion that the Transport Statement accurately assesses the traffic impacts of the proposed development.”

DCC Highways have not raised any objections in their response to Bolsover DC Planning. It is therefore assumed that the assumptions used in the TS area reasonable.

DCC Highways have said that the TS has been assessed by the Highway Authority’s Transportation Officer and found no objectionable issues relating to the proposed vehicular traffic generated by the proposed restaurants on the highway network, either via the existing or realigned roundabout.

National Highways also have no objections to the traffic impacts of the proposal on the A38 or M1.

Para’ 111 of the Framework states that:

“Development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.”

The provision of facilities where drivers can take a break may also be of some benefit to highway safety.

So whilst comments in representations about highway safety and congestion on the local roads are noted, given that no unacceptable impacts on highway safety, or severe residual cumulative impacts on the road network have been identified by expert consultees, it is considered that there is no justification to refuse planning permission on these ground. The proposal meets the requirements of the Framework paragraphs 110 and 111 and complies with relevant development plan policy, including Policies SC3, and ITCR10 and the Council

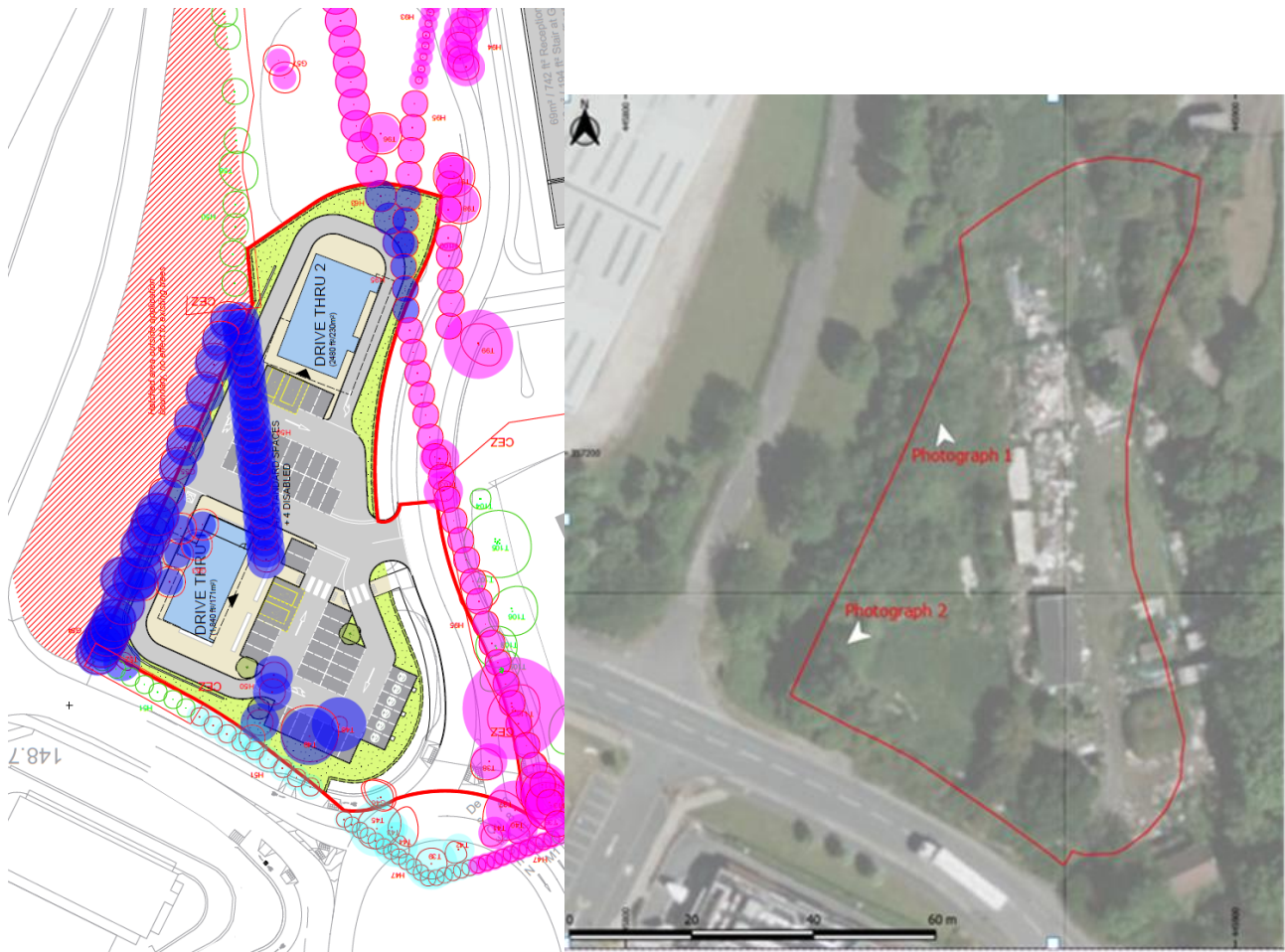
Parking Standards).

The suggestion from Ashfield DC that the proposal contribute towards a transport hub in the area is noted however there is no local plan policy to support such a requirement and so it is considered that a condition to this effect would be unreasonable.

Impacts on Trees Hedges and Biodiversity

The proposed development would result in the removal of all remaining trees and hedgerows on site.

The plan below shows existing trees and hedges to be removed as a result of the current application in dark blue. Those shown light blue are to be removed anyway as part of the S278 highway works already approved; those shown in pink are to be removed anyway as part of the access and works approved for the adjacent warehouse development; and those shown in green are outside the application site and unaffected.





Policy SC10 states that *“trees woodland and hedgerows will be protected from damage and retained, unless it can be demonstrated that approval is necessary and appropriate mitigation can be achieved”*.

Policy SC9 states that *“Development proposals will be supported where significant harm to biodiversity and/or geodiversity resulting from a development can be avoided or, if that is not possible, adequately mitigated....”*

The Planning Officer has requested that the scheme be amended to allow for the retention of more of the existing trees, including the medium sized oak tree at the southern end of the site and where possible the line of trees on the north-west boundary. However the Applicant has not agreed to this because they wish to maximise and provide the amount of development proposed and alter ground levels achieve a level development platform for functional reasons and traffic circulation within the site. Due to existing levels this means cutting in at the southern side of the site next to Berristow Lane and filling in to the northern end of the site.

The application is accompanied by an Ecological Appraisal by BSG Ecology, which notes that the development will result in the permanent loss of hedgerow, scrub, modified grassland, scattered trees and ephemeral vegetation, although it notes the poor condition of these features at the application site. The Appraisal recommends a number of mitigation and compensation measures within the site, such as the creation of new hedgerows and the retention of trees wherever possible.

The Ecological Appraisal also recommends a Construction Environmental Management Plan and identifies a number of measures to minimise or avert any potential impact on badgers, bats, nesting birds, or non-native invasive species. However, none of these species have been recorded or sighted at the application site itself.

BSB Ecology has used the Defra Biodiversity Metric to quantify the biodiversity value of the application proposal. With the incorporation of its recommended habitat creation and enhancement measures, BSB calculates that the proposal will result in a post-development

outcome of 0.79 habitat units and 1.07 hedgerow units over the existing site baseline. This is equivalent to a biodiversity net gain of 1.66% and 40.75% respectively.

Derbyshire Wildlife Trust have been consulted and have no objections subject to conditions. Derbyshire Wildlife Trust advise that: the BSG ecology appraisal is considered to have been undertaken in accordance with best practice and guidance; It includes a Biodiversity Net Gain (BNG) summary based on use of Defra's Biodiversity Metric 3.0. Impacts on protected species are unlikely; there are no statutory or non-statutory designations at the site or on any adjacent land; the hedgerows present around the site meet the definition for Habitat of Principal Importance; other habitats present are considered to be of localised value only; the appraisal has set out a range of mitigation, enhancement and Biodiversity net gain measures and provided these are implemented in full and are successful the development should be able to demonstrate a small gain overall in terms of both habitats and hedgerows (linear features). DWT advise that there is an interim impact and it may be some time before newly planted hedgerows establish and mature, but this has been factored into the metric evaluation.

The Planning Officer has checked with DWT that the Biodiversity Net Gain calculations have been undertaken correctly given that a line of mature trees is given the same value as hedgerow and DWT has confirmed that this is the correct methodology in the BNG calculations. Planning Officer has also checked with DWT over concerns about how successful the proposed mitigation hedgerow planting will be because much of it is proposed on engineered 1:3 embankments at the edges of the proposed plateaux area. However in response, special planting measures have been specified by the Applicant's Landscape Architect including provision of a minimum soil depth of 300mm and the use of geotextile membrane for soil stability on 1:3 slopes.

Whilst it is a little disappointing that more of the existing mature vegetation on site cannot be retained, subject to conditions, including the implementation of the BNG proposals and planting methods it is considered that adequate mitigation can be provided and that the proposals comply with policies SC9 and 10 of the local plan.

Amenity Impacts

The closest residential property to the application site and the only one that could be materially affected by the proposal is Normanton Lodge Care Home which is about 50m away from the proposed drive thru buildings and 40m from the proposed car parks.

The main impacts to consider are: noise, traffic disturbance (hours of operation), odour and litter.

It should be noted that the site is adjacent to a number of busy and noisy roads including the A38 dual carriageway, Berristow Lane, Carter Lane East and the roundabout junction. Other noisy commercial buildings are close by including industrial and warehouse buildings, the access to the warehouse buildings, a car garage and tyre fitting business and the 24 hour McDonalds drive thru restaurant opposite. Therefore the area is already within a high noise environment. Since noise assessments are normally undertaken using background noise as a reference point, starting with a noisy background means that it is less likely that noise generated on new operation would reach unacceptable levels, effectively because it is less likely to be heard above the background noise. Of course the roads will be quieter at night and so 24 hour operation needs to be considered.

The Applicant has provided a Noise Assessment which concludes that the proposal is unlikely to give rise to an adverse noise impact on the Normanton Lodge Care Home for both daytime and night time scenarios. It is predicted that there will be no materially adverse noise impacts resulting from HGV trip movements, deliveries, drive-through and car park usage, fixed plant, any intercom system to be used by the restaurant operators, or any other factor arising from the development.

The Environmental Health Officer (EHO) has been consulted on the proposals and noise assessment and following the receipt of additional information requested on the proposed intercom system the EHO has confirmed that he has no objections to the proposals. No conditions are requested.

Therefore it is considered that neither operational or traffic noise is a constraint to the proposal and that no condition is needed to limit operating hours.

The EHO has not raised any concerns about odours. Odours and noise are, in any event, covered by other legislation outside the planning system.

With regard to litter, it is considered that it would be appropriate to require the provision of litter bins within the grounds of both proposed drive thru's.

Visual Impacts on the Character of the Area

The appearance and design of the buildings is a reserved matter and so will be considered as part of a reserved matters application. However, Committee Members do need to be satisfied in principle that two drive thru restaurants could have an acceptable appearance in this location having regard to their general character, format appearance and need for illuminated signage etc. Given that the site is directly opposite a McDonald's drive thru and that the use of the area is mixed commercial and residential and the site is close to a major road network and out of town shopping facility it is considered that the proposed use and buildings would not be out of character with the area.

The scale of the buildings proposed (single storey with maximum height of 7m) is considered to be acceptable in this location.

Landscaping details for the site are also a reserved matter. However if the proposed layout is approved landscaping opportunities will be limited because most of the site will be hard surfaced and much of the surrounding verge areas proposed will be quite steep embankments. Indicative drawings submitted now show only three trees planted within the car park and some boundary hedgerow planting. A less intense form of development would have allowed for better landscaping proposals to be submitted. However a decision must be made on the proposed layout and on balance it considered to be acceptable.

Air Quality

Policy SC12 of the local plan requires consideration of the impacts that new development will have on air quality. There is a small air quality management area in South Normanton next to the east side of the M1. However an air quality impact assessment has not been requested for this development. The reasons for this are that impacts are air quality are not expected to be significant. No assessment has been requested by the EHO; an assessment was

undertaken for the main development site adjacent and this site is only a minor planning application in size; this site is allocated in the local plan and so some traffic impact on air quality must be expected; the transport assessment provided shows that the additional traffic generated would not be significant; the proposal includes at least 6 electric vehicle charging points which would be likely to have been deemed to be a proportionate mitigation proposal had an air quality assessment been undertaken.

Other Planning Considerations

Drainage

Foul sewage is to be disposed of to the mains sewers. Surface water will be disposed of to a sustainable drainage system in accordance with national and local planning policies. The DCC Flood Risk Team and BDC Drainage Engineer have no objections to this subject to conditions. Drainage issues are not considered to be a constraint to development.

Coal Mining Risks

The Coal Authority has no objections to the proposals but recommends that conditions are imposed to require investigation into the risks of past mining activities and mitigation works in the event that risks are found to be present. The suggested conditions are deemed to be necessary and reasonable.

Crime and antisocial behaviour

Concerns have been expressed in representations that the proposal could lead to incidents of antisocial behaviour. However the location of the site, adjacent to a busy roundabout and highway system seems unlikely to be a place where youths might want to congregate and it is considered that there are no particular characteristics about this proposal that would give rise to concerns about a material increase in anti-social behaviour.

Heritage

It is considered that there would not be any adverse heritage impacts on the setting of the Pinxton Castle scheduled monument site which lies across the A38.

Health and Obesity

It is noted that concerns have been raised in representations about the impacts of the proposal on health and obesity. The local plan does contain a specific policy which deals with hot food takeaways (WC9), however it does not require consideration of impacts on health and obesity. Moreover the pre-ambule to the policy discusses the issue but concludes that no action is justified at present because Bolsover District does not have a higher density of hot food outlets per head than the average in England. Therefore in the absence of a relevant local plan policy it is considered that a refusal of permission could not be justified on this basis.

Proliferation of Takeaways

Competition between takeaway businesses is not a material consideration. Neither is the lack of need for more takeaways in South Normanton a material planning consideration.

Proliferation of takeaways can be a material consideration if it can be demonstrated that there are so many takeaways in a town centre that it is having an adverse effect on the town centre daytime or evening economy, adversely affecting its function and character. However

that is not the case here, the site being outside the town centre and so the proposal cannot be contrary to policy WC9 in this regard. Therefore it is considered that a refusal on this basis could not be justified.

CONCLUSION

Whilst there are aspects of local plan policy which the proposal does not align with it is considered that the proposal does comply with local plan policy as a whole. The aims of policy WC1 are being met because the vast majority of the allocation is being developed for the warehouse and office development specified in the allocation policy. However the policy accepts that the site would be suitable for a variety of employment uses and this part of the allocation site is only a small part of the wider site which is partially separated from it and so could not have easily been incorporated as part of the proposals for the large operator units currently under construction. It is therefore considered that the Council should take a pragmatic view on the use now proposed in order to allow for the completion of development on the employment allocation and make efficient use of this mainly brownfield site which had become derelict and was subject to fly tipping.

It will provide the opportunity to redevelop the site with development that can help to provide a more vibrant street scene at a nodal location in this part of South Normanton. It would also help support the local economy by providing for employment opportunities.

Whilst a town centre site is preferred for retail and leisure uses to help support the vitality and viability of town centres, the proposal is modest in size and falls below the threshold size set out in the local plan that would trigger the need for tests to be undertaken to find sequentially preferable locations within or closer to the town centre or the need for an impact study on the town centre trade. It follows that the level of impact from this scale of development would not be significant and the proposal does not conflict with policy WC5 or WC9 of the local plan.

Overall it is considered that the proposal complies with local plan policy and is acceptable in principle.

Loss of existing vegetation and biodiversity on site is a high impact but mitigation proposals have been proposed to compensate for the loss and subject to conditions the Wildlife Trust does not object.

Amenity impacts are not expected to be significant and there are no highway safety, traffic, air quality or other technical reasons that would justify the refusal of planning permission.

RECOMMENDATION

The application be APPROVED subject to conditions stated below (and any minor revisions to the condition wording be delegated to the Planning Manager (Development Control)):

1. Reserved Matters

Details of the appearance and landscaping (hereinafter called "the reserved matters") shall be submitted to and approved in writing by the local planning authority before any development takes place and the development shall be carried out as approved.

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

2. Time Period for Submission of Reserved Matters

Application for approval of the reserved matters shall be made to the local planning authority not later than 3 years from the date of this permission.

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

3. Time Periods for Commencement

The development hereby permitted shall commence within 3 years from the date of this permission or not later than 2 years from the date of approval of the last of the reserved matters, whichever is the later.

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

4. Approved Plans

Except where specifically stated otherwise in the conditions below, the development hereby permitted shall be carried out in accordance with the following approved drawings and documents received on:-

[list of approved plans]

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

5. Protection of breeding birds during construction

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.

Reason. To ensure that breeding birds are protected from harm and to accord with policy SC9 of the Local Plan for Bolsover District.

6. Badger

A survey for any recently excavated badger setts on the site or within 30 metres of the site boundary shall be undertaken by a competent ecologist prior to the commencement of any groundworks on the site and submitted to the Local Planning Authority for approval together with a mitigation scheme if any activity is detected. Any approved mitigation shall be implemented in accordance with the approved scheme.

Reason. To ensure that badgers are protected from harm and to accord with policy SC9 of the Local Plan for Bolsover District.

7. Restrictions on operations involving invasive non-native species

Prior to the commencement of development, an invasive species protocol shall be submitted to and approved by the local planning authority, detailing the containment, control and removal of all non-native invasive species on the site as determined by a pre-commencement site survey. The measures shall be carried out strictly in accordance with the approved scheme.

Reason. To prevent the spread of any invasive species on site and to accord with policy SC9 of the Local Plan for Bolsover District.

8. Construction environmental management plans (Biodiversity)

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

- a) Risk assessment of potentially damaging construction activities.
- b) Identification of “biodiversity protection zones”.
- c) Practical measures (both physical measures and sensitive working practices) to avoid or reduce impacts during construction (may be provided as a set of species method statements as needed).
- d) The location and timing of sensitive works to avoid harm to biodiversity features.
- e) The times during construction when specialist ecologists need to be present on site to oversee works.
- f) Responsible persons and lines of communication.
- g) The role and responsibilities on site of an ecological clerk of works (ECoW) or similarly competent person.
- h) 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 a variation to it is agreed in writing by the local planning authority.

Reason. To mitigate harms to biodiversity and to accord with policy SC9 of the Local Plan for Bolsover District.

9. 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 (LPA) prior to the commencement of the development. The aim of the LBEMP is to deliver a net gain for biodiversity value of onsite habitats and it should combine both the ecology and landscape disciplines. The plan should be in accordance with the details set out in the Ecological Appraisal (BSG Ecology April 2022) and provide a net gain for biodiversity. It shall be suitable to provide to the management body responsible for the site and shall include the following:-

- a) Description and location of features to be retained, created, enhanced and managed.
- b) Details for the creation of species rich neutral grassland.
- c) Details of the location and species of at least three native broadleaf trees to be planted in accordance with the submitted Tree Planting Detail Drwg No’s 990-01 and 990-02 dated 07.09.2022.
- d) Details for the creation of 154m of native hedgerow habitat and the use of fruit and berry bearing species which shall be planted in accordance with Drwg No 990-03 07.09.2022 to

include 300mm minimum soil depth and geotextile membrane for soil stability on 1:3 slopes or steeper.

e) Aims and objectives of management.

f) Appropriate management methods and practices to achieve aims and objectives.

g) Prescriptions for management actions.

h) Preparation of a work schedule (including a five-year work plan capable of being rolled forward in perpetuity).

i) Details of the body or organization responsible for implementation of the plan.

j) A monitoring schedule to assess the success of the enhancement measures

k) A set of remedial measures to be applied if conservation aims and objectives of the plan are not being met.

l) 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 shall be implemented in accordance with the approved details.

Reason. To mitigate and compensate harms to biodiversity and to accord with policy SC9 of the Local Plan for Bolsover District.

10. Lighting Strategy

Prior to building works commencing above foundation level, a detailed lighting strategy shall be submitted to and approved in writing by the LPA 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 shall be implemented in full.

Reason. To mitigate the impacts of any external lighting on Bats and nocturnal wildlife and to accord with policy SC9 of the Local Plan for Bolsover District.

11. Coal Mining Risks

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 coal mining activity, and;

b) any remediation works and/or mitigation measures to address land instability arising from coal mining legacy, as may be necessary, have been implemented on site in full in order to ensure that the site is safe and stable for the development proposed.

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

Reason. The undertaking of intrusive site investigations, prior to the commencement of development, is considered to be necessary to ensure that adequate information pertaining to ground conditions and coal mining legacy is available to enable appropriate remedial and

mitigatory measures to be identified and carried out before building works commence on site. This is in order to ensure the safety and stability of the development, in accordance with paragraphs 183 and 184 of the National Planning Policy Framework and policy SC14 of the local plan for Bolsover District.

12. Coal Mining Risks -Verification

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.

Reason. The undertaking of intrusive site investigations, prior to the commencement of development, is considered to be necessary to ensure that adequate information pertaining to ground conditions and coal mining legacy is available to enable appropriate remedial and mitigatory measures to be identified and carried out before building works commence on site. This is in order to ensure the safety and stability of the development, in accordance with paragraphs 183 and 184 of the National Planning Policy Framework and policy SC14 of the local plan for Bolsover District.

13. Surface Water Drainage

“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. BWB. 06/04/2022. Flood Risk Assessment. REF. P38DT-BWB-ZZ-XX-RP-YE-0001_FRA.
- b. BWB. 06/04/2022.Sustainable Drainage Statement. REF. P38DT-BWB-ZZ-XX-RP-CD-0001_SDS. Including any subsequent amendments or updates to those documents as approved by the Flood Risk Management Team”
- c. And DEFRA’s Non-statutory technical standards for sustainable drainage systems (March 2015),

have been submitted to and approved in writing by the Local Planning Authority.”

Reason: To ensure that the proposed development does not increase flood risk and that the principles of sustainable drainage are incorporated into this proposal, and sufficient detail of the construction, operation and maintenance/management of the sustainable drainage systems are provided to the Local Planning Authority, in advance of full planning consent being granted and to accord with policy SC7 of the Local Plan for Bolsover District.

14. Surface Water Drainage during Construction

Prior to commencement of the development, the applicant shall submit for approval to the local planning authority details indicating how additional surface water run-off from the site will be avoided during the construction phase. The applicant may be required to provide collection, balancing and/or settlement systems for these flows. The approved system shall be operating to the satisfaction of the LPA, before the commencement of any works, which would lead to increased surface water run-off from site during the construction phase.

Reason: To ensure surface water is managed appropriately during the construction phase of

the development, so as not to increase the flood risk to adjacent land/properties or sensitive wildlife sites and to accord with policies SC7 and SC9 of the local plan for Bolsover District.

15. Surface Water Drainage - Verification

Prior to the first occupation of the development, a verification report carried out by a qualified drainage engineer must be submitted to and approved by the Local Planning Authority. This must demonstrate that the drainage system has been constructed as per the agreed scheme (or detail any minor variations), provide the details of any management company and state the national grid reference of any key drainage elements (surface water attenuation devices/areas, flow restriction devices and outfalls).

Reason: To ensure that the drainage system is constructed to the national Non-statutory technical standards for sustainable drainage and CIRIA standards C753 and to accord with policy SC7 of the local plan for Bolsover District.

16. Parking and EV-Charging

The premises, the subject of the application, shall not be taken into use until space has been provided within the application site in accordance with the revised layout plan 21788-302-P-01 for the parking and manoeuvring of staff, customers' and service and delivery vehicles, and until the charging facilities for electric vehicles has been provided, and until it has all been laid out, surfaced and equipped. Thereafter the parking, charging and manoeuvring facilities shall be maintained throughout the life of the development free from any impediment to its designated use.

Reason. In the interests of highway safety and to encourage the use of electric vehicles as a lower carbon and emissions form of transport and to accord with policies ITCR11, SS1, SC3 and SC12 of the local plan for Bolsover District.

17. Litter Bins

Prior to each drive thru restaurant being brought into use at least one external litter bin shall be provided to serve each restaurant.

Reason. To reduce the incidence of littering to and to reduce the impacts of the proposal on the character and amenity of the area and to accord with policy WC9 and SC11 of the local plan for Bolsover District.

18. Commercial Waste Bins

Prior to each drive thru restaurant being brought into use details of the location and screening of any commercial waste bins shall have been submitted to and approved in writing by the Local Planning Authority. No other external storage shall be undertaken on site without the written approval of the Local Planning Authority.

Reason. To ensure that large commercial waste bins do not adversely affect the street scene, to preserve the amenity and appearance of the area and to accord with policies WC9 and SC11 of the local plan for Bolsover District.

19. Details of External Flues and Plant

Application for approval of reserved matters of appearance shall be accompanied by details of the appearance and position of any external flues and plant.

Reason. In the interests of the amenity and appearance of the area and to accord with policies SC2, SC3 and SC11 of the local plan for Bolsover District.

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.

Informative Notes

The Applicants attention is drawn to the need to consider the full contents of the following consultation responses which include important advisory and statutory information concerning the proposed development. Copies of all responses are available on the Councils’ website:

- The Coal Authority response dated 9th June 2022.
- Derbyshire County Council Flood Risk Management Team response 3rd October 2022.
- BDC Drainage Engineer 8th June 2022.