

The Arc
High Street
Clowne
S43 4JY

To: Chair & Members of the
Planning Committee

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Monday, 16th January 2023

Dear Councillor

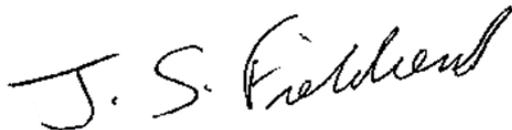
PLANNING COMMITTEE

You are hereby summoned to attend a meeting of the Planning Committee of the Bolsover District Council to be held in the Council Chamber, The Arc, Clowne on Wednesday, 25th January, 2023 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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- **Phone:** [01246 242424](tel:01246242424)
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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, 25th January 2023 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	4 - 8
	To consider the minutes of the last meeting held on 21 st December 2022.	
	<u>APPLICATIONS TO BE DETERMINED UNDER THE TOWN & COUNTRY PLANNING ACTS</u>	
5.	22/00380/FUL - Demolition of existing bungalows, assisted living building and community centre; and replacement with 22 no. new dwellings, comprising 4 no. houses and 18 no. bungalows, a 20 no. flat independent living building and a new community centre - Development Site at Woburn Close, Blackwell	9 - 41
	<u>REPORTS OF THE PLANNING MANAGER</u>	
6.	Planning Appeal Decisions July 2022 - December 2022	42 - 49

PLANNING COMMITTEE

Minutes of a meeting of the Planning Committee of the Bolsover District Council held in the Council Chamber, The Arc, Clowne on Wednesday 21st December 2022 at 10:00 hours.

PRESENT:-

Members:-

Councillor Tom Munro in the Chair

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

Officers:- Sarah Kay (Planning Manager – Development Control), Jim Fieldsend (Assistant Director – Monitoring Officer), Chris McKinney (Interim Planning Policy Manager) Julie-Ann Middleditch (Principal Planning Policy Officer), Jon Hendy (Senior Planning Officer), Matthew Connley (Leisure Special Projects Officer (from minute number PL41-22/23)), Daniel Oakley (Community Arts Development Officer (from minute number PL41-22/23)) and Hannah Douthwaite (Governance and Civic Officer).

PL34-22/23. APOLOGIES FOR ABSENCE

No apologies for absence had been received.

PL35-22/23. URGENT ITEMS OF BUSINESS

There were no urgent items of business to consider.

PL36-22/23. DECLARATIONS OF INTEREST

There were no declarations of interest made at the meeting.

PL37-22/23. MINUTES – 26TH OCTOBER 2022

Moved by Councillor Nick Clarke and seconded by Councillor Duncan McGregor **RESOLVED** that the Minutes of a Planning Committee held on 26th October 2022 be approved as a true and correct record.

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PL38-22/23. 22/00333/FUL - ERECTION OF 2 MARQUEE'S AND TOILETS RE-SURFACING OF EXISTING ACCESS LANE IN ASSOCIATION WITH MIXED USE OF THE SITE AND AN EXTENSION OF THE FAMILY FARM FOR THE KEEPING OF ANIMALS - WILLOW TREE FARM, LANGWITH ROAD, SHIREBROOK

The Planning Manager presented a detailed report in relation to the above application. The application had been referred to the Planning Committee by the Planning Manager as the Environmental Health Officer had recommended that the application be refused.

Due to the nature of the application a temporary, two year planning permission had been recommended for approval to allow the impacts of the proposal to be fully assessed.

Letters of both support and objection had been received following public consultation and were detailed within the report.

The Environmental Health Officer had recommended that the application be refused, even if acoustic linings were installed in the marquee, additional mitigation measures would mean that the music levels would still need to be low and would not be suitable for the intended use.

Sports England had also objected to the application as it does not accord with any of the exceptions set out in Sports England's playing fields policy, paragraph 99 of the National Planning Policy Framework or Policy ITCR7 of the Local Plan as the proposal would result in the loss of a playing field.

The Highway Authority had submitted no objections for the application to be granted for the temporary two year period as this would allow them to fully assess any highway concerns that may arise.

Mr Adam Hind (applicant) attended the meeting and spoke for the application.

Councillor Brian Murray-Carr attended the meeting and spoke against the application.

Mr Andrew hay attended the meeting and spoke against the application on behalf of Mr Basil Hill.

Moved by Councillor Duncan McGregor and seconded by Councillor Natalie Hoy
RESOLVED that the application be **REFUSED**

Reasons for Refusal

1. The proposal does not accord with any of the exceptions to Sport England's playing fields policy or with paragraph 99 of the National Planning Policy Framework or Policy ITCR7 (Playing Pitches) in the Local Plan for Bolsover District (2020). As a result the proposal will lead to the loss of an allocated

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playing field known as the Shirebrook Recreation Ground, contrary to the provisions of the development plan.

2. The noise report submitted with the application recognises there could be issues if the event plays music at the levels found typically with this sort of venue, and it proposes very low internal maximum noise limits, which are unlikely to make the venue viable for the proposed use. There is also no consideration of the noise levels from guests singing and shouting at the venue, only raised voices has been assessed. This is a significant source of noise at entertainment venues, and it is one that is not possible to reasonably mitigate given the nature of the venue. It is not considered possible to use reasonable and enforceable planning conditions that would safeguard neighbouring amenity and the proposal is therefore contrary to the requirements of Policy SC1 of the Local Plan for Bolsover District.

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 policies of the National Planning Policy Framework. The issues were balanced and the application was referred for a decision by Planning Committee as a result of the outstanding objections of Sport England and the Environmental Health Officer. The application was recommended for approval but Planning Committee determined that the harm to amenity from potential noise nuisance arising from the use of the marque structures and the loss of the allocated playing pitches were not outweighed by other material considerations. Therefore Planning Committee resolved to refuse planning permission in accordance with the development plan and national planning policy.

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).

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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.

PL39-22/23. PROPOSED CONSERVATION AREA FOR OXCROFT SETTLEMENT

The Planning Manager presented a detailed report in relation to the proposed Conservation Area for the Oxcroft Settlement.

The Oxcroft Settlers Association submitted a proposal for a designated conservation area for Oxcroft Settlement to the Council. An appraisal of the area/proposal was subsequently undertaken by the Conservation Manager and details of this were detailed within the report and associated appendices.

The proposed area included the original 18th and 19th century farmsteads, the Oxcroft Settlers' cottages from the 1930's and 40's and the areas of land that were the Settlement allotments. Although much of the fabric of the Settlement had changed over the years, Oxcroft has historic significance as a national heritage asset.

Members thanked the officers for the work they had undertaken so far on the proposal.

Moved by Councillor and seconded by Councillor

RESOLVED that the draft Conservation Area Appraisal for Oxcroft Settlement as detailed in Appendix 1 to the report be approved for public consultation.

PL40-22/23. STATEMENT OF COMMUNITY INVOLVEMENT

The Senior Planning Officer presented the report which was seeking approval of the Council's Statement of Community Involvement.

Work commenced on the review of the Statement of Community Involvement in February 2022 and at its meeting in April the Planning Committee approved a 6 week public consultation exercise on a prepared draft Statement of Community Involvement.

During the consultation exercise 209 responses were received, 201 of which were made using the prepared online survey with a further 8 written submissions. The full set of responses were detailed within Appendix A to the report.

Moved by Councillor Duncan McGregor and seconded by Councillor Tom Munro

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RESOLVED that the new Statement of Community Involvement as attached at Appendix B to the report be approved and subsequently published.

PL41-22/23. QUARTERLY UPDATE ON SECTION 106 AGREEMENT MONITORING

The Community Arts Development Officer and the Leisure Special Projects Officer entered the meeting.

The Principal Planning Policy Officer presented the quarterly progress report in respect of the monitoring of Section 106 Agreements. In line with the approved Procedure the progress report is required to highlight any sums at risk of clawback that need spending within 24 months.

In the last update to the Planning Committee it was identified that there were 6 sums within the 12 month spend period, since this meeting that number had now reduced to 5 as the Thurgaton Way project had now been handed over to the CCG.

It was noted that a hand over event was currently being planned for the 31st March 2023 for the Art work project at The Brambles Doe Lea. Currently, the Parish Council had advised that they were in discussions with high level management at several energy companies to push the agenda for the unmetered supply to the site. It was expected that the Council may end up taking on the supply and would then invoice the Parish Council.

The Carter Lane West project had progressed and officers were currently waiting for invoices to be received.

A Working Group meeting had been scheduled for early 2023 to progress the Spa Croft project further so more information would be provided within the next update.

The report also detailed the 9 sums that were within their 24 month spend period and a detailed breakdown was provided for each, with Members given the opportunity to ask the lead officer questions.

Moved by Councillor Duncan McGregor and seconded by Councillor Natalie Hoy **RESOLVED** that the update report be noted.

The meeting closed at 11:12 hours.

PARISH Blackwell Parish

APPLICATION Demolition of existing bungalows, assisted living building and community centre; and replacement with 22 no. new dwellings, comprising 4 no. houses and 18 no. bungalows, a 20 no. flat independent living building and a new community centre

LOCATION Development Site at Woburn Close, Blackwell

APPLICANT Bolsover District Council and Blackwell Parish Council, The Arc, High Street, Clowne, S43 4JY

APPLICATION NO. 22/00380/FUL

CASE OFFICER Mrs Sarah Kay

DATE RECEIVED 22nd July 2022

SUMMARY

The application proposes demolition of the existing bungalows, assisted living building and community centre; and redevelopment of the site with 22 no. new dwellings, comprising of 4 no. houses and 18 no. bungalows, a 20 no. flat independent living building and a new community centre.

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

The application has been referred to Planning Committee because the applicant is Bolsover District Council and Blackwell Parish Council.



SITE & SURROUNDINGS

The application site is approximately 1.4ha in area, located in Blackwell south of Primrose Hill. Woburn Close, which is an access road from Primrose Hill, lies entirely within the application site area. It is an adopted highway.



Within the site there are 20 no. existing semi-bungalows (located in the eastern half of the site), Woburn House (which is an assisted living building), and the Blackwell Community Centre. Both Woburn House and the Community Centre are located in the western half of the site).

The site adjoined to the south by allotment gardens (allocated / protected). To the west are the rear garden boundaries of properties fronting on Alfretton Road and Central Drive. To the north the site faced by the frontages of residential properties on Primrose Hill. And to the east are playing fields (allocated / protected) associated with Blackwell Miners Welfare.



Rear view of Woburn House



View of existing Community Centre



View west along Primrose Hill



View into Woburn Close



Views within Woburn Close of existing bungalows



BACKGROUND

None.

PROPOSAL

The application, which is submitted in full, proposes demolition of the existing bungalows, community centre and assisted living block; and redevelopment of the site comprising:

- 22 no. new dwellings (1, 2, 3 and 4 bed);
- A new independent living building (comprising of 20 no. 1 and 2 bed flats); and
- A new community centre building (480 sqm).

The 22 no. new dwellings will comprise of 4 different house types proposed as follows:

- 3 x 1B2P Bungalow - 1 no. detached and 2 no. semi-detached (plots 6, 7 and 19)
- 15 x 2B3P Bungalow – 1 no. detached and 14 no. semi-detached (plots 2, 3, 4, 5, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17 and 18)
- 3 x 3B5P House – 1 no. detached and 2 no. semi-detached (plots 20, 21 and 22)
- 1 x 4B7P House – detached (plot 1)



The new Independent Living Scheme (ILS) will be sited adjacent to the eastern boundary of the application site, will be a modern two storey design with accommodation laid out over two levels (GF and FF). There will be 15 no. 1 bed flats and 5 no. two bed flats laid out across the development, with complimentary operational spaces on the ground floor including a communal room and kitchen.



Proposed External 3D View - Front



Proposed External 3D View - Rear



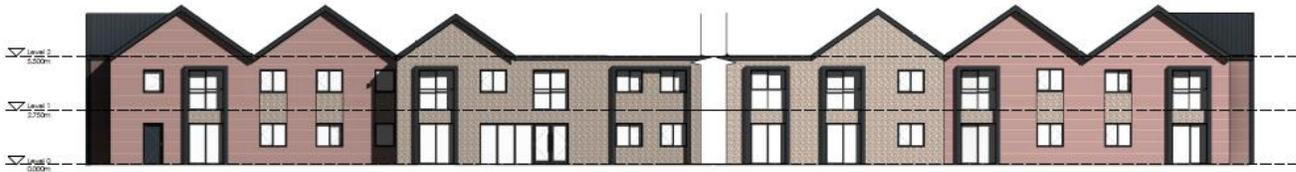
North Elevation
1:100



South Elevation
1:100



Front Elevation
1:100

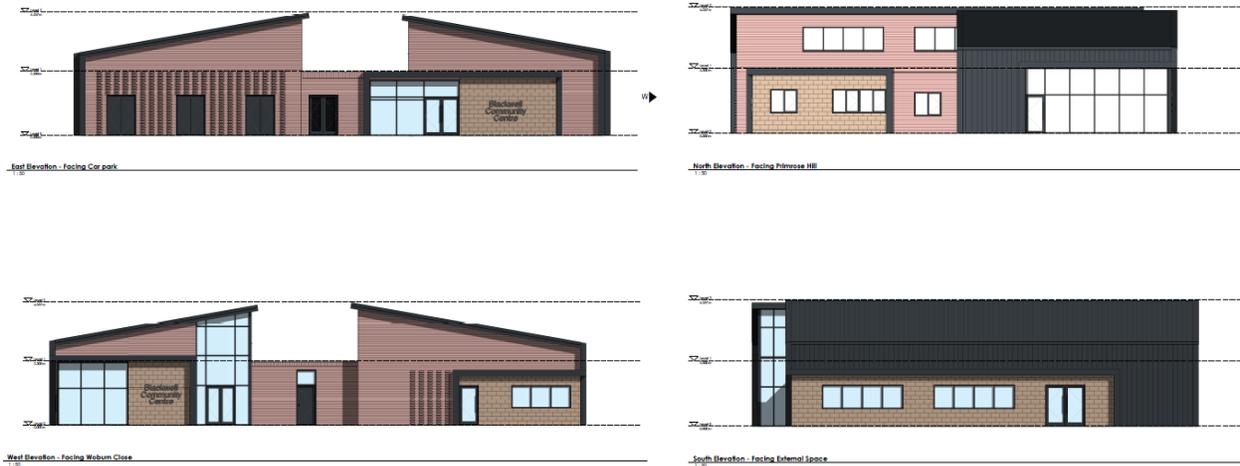


Rear Elevation
1:100

The new Community Centre (CC) will be centrally located within the scheme, comprising of 480 sqm of new floor space across the new building.



3D View 1



Site Plans:

- 12213-WMS-30-ZZ-DR-A-00007-S2-P09 - Woburn Close Proposed Site Plan
- 12213-WMS-30-ZZ-DR-A-13001-S8-P01 - Site Location Plan
- 12213-WMS-30-ZZ-DR-A-13002-S8-P02 - Proposed Block Plan

Dwellings:

- 12213-WMS-30-00-DR-A-13020-S8-P01 - Proposed 1B2P Detached Floor Plans
- 12213-WMS-30-00-DR-A-13040-S8-P01 - Proposed 1B2P Detached Elevations
- 12213-WMS-30-00-DR-A-13021-S8-P01 - Proposed 1B2P Semi-Detached Floor Plans
- 12213-WMS-30-00-DR-A-13041-S8-P01 - Proposed 1B2P Semi-Detached Elevations
- 12213-WMS-30-00-DR-A-13022-S8-P01 - Proposed 2B3P Semi-Detached Bungalow Floor Plans
- 12213-WMS-30-00-DR-A-13042-S8-P01 - Proposed 2B3P Semi-Detached Elevations
- 12213-WMS-30-00-DR-A-13023-S8-P01 - Proposed 2B3P Semi-Detached Bungalow with Bay Window - Floor Plans
- 12213-WMS-30-00-DR-A-13043-S8-P01 - Proposed 2B3P Semi-Detached Bungalow with Bay Window - Elevations
- 12213-WMS-30-00-DR-A-13024-S8-P01 - Proposed 2B3P L-Shape Semi-Detached Bungalow - Floor Plans
- 12213-WMS-30-00-DR-A-13044-S8-P01 - Proposed 2B3P L-Shape Semi-Detached Bungalow - Elevations
- 12213-WMS-30-00-DR-A-13025-S8-P01 - Proposed 2B3P Narrow Front Detached Bungalow - Floor Plans
- 12213-WMS-30-00-DR-A-13045-S8-P01 - Proposed 2B3P Narrow Front Detached Bungalow - Elevations
- 12213-WMS-30-00-DR-A-13026-S8-P01 - Proposed 2B3P Narrow Front Semi-Detached Bungalow - Floor Plans
- 12213-WMS-30-00-DR-A-13046-S8-P01 - Proposed 2B3P Narrow Front Semi-Detached Bungalow - Elevations
- 12213-WMS-30-00-DR-A-13027-S8-P01 - Proposed 3B5P Semi-Detached House - Floor Plans

12213-WMS-30-00-DR-A-13047-S8-P01 - Proposed 3B5P Semi-Detached House - Elevations
12213-WMS-30-00-DR-A-13028-S8-P01 - Proposed 3B5P Detached House - Floor Plans
12213-WMS-30-00-DR-A-13048-S8-P01 - Proposed 3B5P Detached House - Elevations
12213-WMS-30-00-DR-A-13029-S8-P01 - Proposed 4B7P Detached House - Floor Plans
12213-WMS-30-00-DR-A-13049-S8-P01 - Proposed 4B7P Detached House - Elevations

Community Centre:

12213-WMS-30-00-DR-A-13030-S2-P06 - Proposed Community Centre Plan
12213-WMS-30-XX-DR-A-13050-S2-P04 - Proposed Community Centre Elevations
12213-WMS-30-XX-DR-A-13078-S2-P04 - Proposed Community Centre 3D Views

Independent Living Scheme:

12213-WMS-30-00-DR-A-13032-S8-P01 - Proposed ILS - Ground Floor Plan
12213-WMS-30-01-DR-A-13033-S8-P01 - Proposed ILS - First Floor Plan
12213-WMS-30-XX-DR-A-13034-S8-P01 - Proposed ILS - 1B2P Flat Types
12213-WMS-30-XX-DR-A-13035-S8-P01 - Proposed ILS - 2B3P Flat Types
12213-WMS-30-XX-DR-A-13051-S8-P05 - Proposed ILS – Elevations
12213-WMS-30-XX-DR-A-13079-S8-P02 - Proposed ILS - 3D Views

Engineering:

12213-WMS-30-XX-DR-C-39201-S3-P1 - DRAINAGE_TO_BE_ABANDONED - 22.08.16
12213-WMS-30-XX-DR-C-39202-S3-P2 - DRAINAGE_LAYOUT - 23.01.05
12213-WMS-30-XX-DR-C-39203-S3-P2 - EXISTING_IMPERMEABLE_AREAS- 22.12.20
12213-WMS-30-XX-DR-C-39204-S3-P1 - PROPOSED_IMPERMEABLE_AREAS - 22.12.23
12213-WMS-30-XX-DR-C-39205-S3-P1 - FLOOD_FLOW_ROUTES - 23.01.05
12213-WMS-30-XX-DR-C-39001-S3-P1 - LEVELS_LAYOUT - 23.01.05
12213-WMS-30-XX-DR-C-39501-S3-P2 - STOPPING_UP - 22.12.23
12213-WMS-30-XX-DR-C-39502-S3-P3 - VISIBILITY_SPLAYS - 23.01.06
12213-WMS-30-XX-T-C-32101-S8-P2 - DRAINAGE_STATEMENT

Supporting Documents:

- Design and Access Statement
- Phase I Geo-Environmental Report and Ground Investigation Report (Revised)
- Coal Mining Risk Assessment
- Ecology Survey
- Bat Survey
- Code for Sustainable Homes Assessment
- Drainage Statement
- Viability Assessment

AMENDMENTS

08/08/2022 – Email from agent with phase 2 report.

09/08/2022 – Email from agent with info / rebuttal to HSE comments.

23/08/2022 – Email from agent with info / rebuttal to DCC Planning Policy comments

23/08/2022 – Email from agent with drainage statement.

30/08/2022 – Email from agent with Woburn House bat report.

16/11/2022 – Email from agent with details of highway maintainable at public expense.

16/12/2022 – Email from agent with revised plans and viability assessment / information.

19/12/2022 – Email from agent with amended plans.

20/12/2022 – Email from agent with amended plan.

09/01/2023 – Email from agent with amended plans.

EIA SCREENING OPINION

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

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

08/00275/FUL	Granted Conditionally	Alteration to window to form new entrance doorway.
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CONSULTATIONS

BDC Engineers – 11/08/2022

- comments received advise that SuDS design should be accepted by LLFA and an Operation and Maintenance Plan be required to ensure details on lifetime management and maintenance are acceptable.
- note the presence of a public sewer which crosses the site, and applicant should be made aware of potential for unmapped sewers to also exist.
- all proposals need to comply with Part H of Building Regs.
- developer to be made aware that works should not alter structure or surface of the ground and temporary drainage arrangements should be in place throughout the construction phase to prevent surface water runoff to neighbours and highway.

BDC Leisure

- no comments received.

BDC Environmental Health – 05/08/2022, 17/08/2022 and 03/01/2023

- following review of the phase 2 report they noted that it recommended further delineation to est. the extent of TPH's. They advised that this should be done alongside additional sampling after demolition works on site. A ground gas assessment was also outstanding.
- The EHO then confirmed that following receipt of the ground gas results and exchanges with the agent regarding the timing of the addition SI's (post demolition) he was happy to recommend a series of conditions to deal with any outstanding site investigations and remedial works that might be needed.

Blackwell Parish Council

- no comments received.

Chesterfield Royal Hospital – 10/10/2022

- request that S106 impact on health be considered, as their initial modelling suggests that the impact of this development is up to £56k.

Coal Authority – 15/08/2022

- confirm that the application is supported by a coal mining risk assessment that correctly identifies risk posed by potential unrecorded mine workings;
- the CMRA recommends borehole testing on site (to be conditioned as pre-commencement requirements and follow up validation) and provides further advice on potential mine gas and the effective operation of SuDS alongside the development proposals.

DCC Highways (Local Highways Authority) – 04/08/2022 (referral), 18/08/2022, 05/01/2023, 09/01/2023 and 12/01/2023

- initial comments were made by the LHA seeking clarification whether the access would be sought for S38 adoption, as the plan did not show the extent of this. They also commented that no visibility splays were marked on plans internally or to Primrose Hill. Road widths, parking bays and servicing arrangements all seemed to be acceptable to the LHA, but they required vehicle turning / tracking to be demonstrated.
- Further detailed were submitted by the applicant. The LHA commented:
 - an application for the Stopping up of the existing Highway Maintainable at Public Expanse (HM@PE) will need to be made under Section 247 of the Town and Country Planning Act (T&CPA).
 - Only splays of 2.4m x 19m have been shown on drawing 39502-S3-P1, please explain the reduction from the requested 2.4m x 43m.
 - Carriageway and footway measurement should be annotated on plans.
 - Refuse tracking appears to show reliance on land not being put forward for adoption by the LHA.
- Amended details were provided by the applicant to address the comments made above. A stopping up application will be made in due course. And the reliance upon some of the private driveway is accepted as the refuse collection service will be

undertaken by BDC, where the site and the development being served will also be owned by BDC, so no third party liability issues are raised.

DCC Flood (Lead Local Flood Authority) – 07/12/2022 and 14/12/2022

- initial comments made by the LLFA sought further information from the applicant in respect of the proposed restriction of run off rates (inc. storage volumes and hydraulic calculations), greenfield run off calculations, intensions for dealing with current run off conditions and proof of connection agreement to existing infrastructure.

- Further correspondence then took place between the applicant and the LLFA, who confirmed they were happy to agree a compromise with a reduction of 50% of existing discharge rate. They asked the applicant to provide the following further information:
 - Approval from STW required for the connection and proposed discharge rate into existing surface water public sewer.
 - A plan of the existing drainage system showing catchment areas, impermeable areas and details of the depth, size and gradient of all pipes which control the existing flow rate from the site. To include CCTV survey.
 - Assessment and calculation for 1 in 1yr, 30yr and 100yr critical storm events showing the existing peak flow rates from the existing system pipes which control discharge from the site – note these may not be the last pipes if upstream features control.
 - There is a risk of surface water flows entering the site from primrose Hill, surface water could flow down and through the site, there are currently bungalows proposed in the current flow route. Information to be provided on how this will be mitigated against the risk of surface water flows.

- Further details in response to the comments above were received on 09/01/2023 and the LLFA were re-consulted. At the time of writing this report no further comments had been received but these will be reported with the committee update.

DCC Planning Policy – 23/08/2022 and 12/01/2023

- Initial comments made by DCC Planning included a request for secondary education provision amounting to £136,860.35 towards the provision of 5 secondary places at Tibshelf Community School + additional education facilities.

- A rebuttal to this request was made by the agent on the basis that the request did not account for the fact that the contributions have been calculated based on 24 dwellings (42-18no. 1 bed). However as this is a 100% social housing scheme for affordable rent properties, in the control of the local authority, we know that all of the flats and bungalows are reserved for older residents or those with mobility issues. These dwelling types will not be for families and therefore would have no impact on the educational facilities in the area. There are a total of 4no. family houses included within the scheme. In this instance, considering the factors above, could the contributions please be calculated based on the family houses rather than all dwellings on the scheme? It should also be noted that this scheme is replacing existing facilities, and actually demonstrates a loss of accommodation overall, reducing from 32 flats and 20 bungalows (52no. total) to 20 flats and 22 dwellings (42no. total). Therefore, the development of this site should place no additional burden on the local infrastructure.

- Further comments and consideration of the above rebuttal were sought from DCC who subsequently confirmed that on the basis of the net additional dwellings across the site not exceeding 10 no. dwellings, no DCC Education contribution is to be sought.

Derbyshire Wildlife Trust – 27/09/2022

- confirm that sufficient information has been submitted to determine the application;
- ack. that no biodiversity metric has been submitted, but consider that a resultant net gain is to be expected providing there is not loss of hedgerow and flowering lawn turf is used;
- demolition should follow method statement for bungalows 13 and 14 (with compliance cert. required by condition);
- appropriate mitigation for nesting birds 1st March – 31st Aug is required by condition alongside a fully detailed lighting strategy; and
- prior to any works above foundation level, an ecological enhancement plan shall be submitted for approval.

Derbyshire Swift Conservation Project – 10/10/2022

- note the intended provision of 6 no. sparrow boxes, 6 no. starling boxes and 10 no swift boxes – as per the ecological proposals detailed in the application;
- however request that if 22 no. nest units are to be provided, they are of a universal design to optimize their usage by all declining urban species and are ideally bricks not boxes; and
- furthermore suggest that nesting units should be increased as per best practice and further enhancement and be provided on 1:1 ratio – so the provision should be increased to 42 no. units altogether.

Designing Out Crime Officer (Derbyshire Constabulary) – 15/08/2022

- support the proposed redevelopment of the site, as an opportunity to deal with historical ASB issues around the CC;
- note the general layout, treatments and boundaries generally accord with designing out crime principles, but had some queries:
 - what is proposed boundary treatment behind ILS adj to playing field (plans does not show).
 - will there be a new gate to the path between plots 10 and 11 to lock the allotments out of hours?
 - 1m high rails should be post and bar, not post and chain – and clarify what will happen around plot 2.
 - enclosure around ILS garden should be more robust.
 - any flat roof elements of the building design should inc. some feature to discourage climbing (an ASB issue in local area).
- response from agent dated 16/12/2022 clarified all boundary treatments, inc post and bar usage and gate to allotments. Also commented that new central location of CC will hopefully deter any ASB or climbing as all elevations of building are now overlooked.

Health & Safety Executive (Explosives) – 08/08/2022

- note that the site falls within the SD3 distance to the nearby licensed explosive site, but outside SD2; and

- have no comments to make provide that the development is not a ‘vulnerable building’¹.
- The applicant confirmed 09/08/2022 that their development did not meet any of the HSE criteria.

NHS Derby and Derbyshire Integrated Care Board / Joined Up Care Derbyshire – 10/08/2022

- Confirmed they will not be requesting a contribution as the development falls under their threshold.

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

PUBLICITY

The application has been advertised in the local press, site notices have been posted, and 74 neighbouring properties were consulted.

As a result of the applications publicity there has been one representation received as follows:

- Concerns re: overlooking from plot 1, and loss of privacy to adj garden due to application site being elevated above adj garden level;
- A large 4 bed 7 person property will not be in keeping with all the other proposed 1 and 2 bed properties;
- The junction of Primrose Hill and Alfreton Road is dangerous and more development will make it worse (both during and after constriction);
- The demolition works will cause significant noise and disturbance to existing surrounding residents; and
- Landscaping on site is already poorly maintained (by the Council) and has caused significant damage to adjoining fences. Assurance is sought that this would be rectified if development were to go ahead.

All public responses are available to view in full on the Council’s website.

POLICY

Local Plan for Bolsover District 2020 (“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:

¹

(a) a building of more than 3 storeys above ground or 12m in height constructed with continuous non-load bearing curtain walling with individual glazed or frangible panels larger than 1.5m² and extending over more than 50% or 120m² of the surface of any elevation;

(b) a building of more than 3 storeys above ground or 12m in height with solid walls and individual glass panes or frangible panels larger than 1.5m² and extending over at least 50% of any elevation;

(c) a building of more than 400m² plan area with continuous or individual glazing panes larger than 1.5m² extending over at least 50% or 120m² of the plan area; or

(d) any other structure that, in consequence of an event such as an explosion, may be susceptible to disproportionate damage such as progressive collapse.

- SS1 Sustainable Development
- SS3 Spatial Strategy and Distribution of Development
- LC2 Affordable Housing
- LC3 Type and Mix of Housing
- 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)
- SC13 Water Quality
- SC14 Contaminated and Unstable Land
- ITCR3 Protection of Footpaths and Bridleways
- ITCR5 Green Space and Play Provision
- ITCR7 Playing Pitches
- ITCR9 Local Transport Improvement Schemes (a) Development of cycle network
- ITCR10 Supporting Sustainable Transport Patterns
- ITCR11 Parking Provision
- II1 Plan Delivery and the Role of Developer Contributions
- II2 Employment and Skills

National Planning Policy Framework (“the Framework”)

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

- Chapter 2: Achieving sustainable development
- Paragraphs 47-48: Determining applications
- Paragraphs 55-58: Planning conditions and obligations
- Paragraphs 92, 93, 95 and 97: Promoting healthy and safe communities
- Paragraphs 104-108: Promoting sustainable transport
- Paragraphs 110- 113: Considering proposals – traffic impacts
- Paragraph 119, 120, 122 and 123: Making effective use of land
- Paragraph 124 and 125: Achieving appropriate densities
- Paragraphs 126-132 and 134: Achieving well-designed places
- Paragraph 152, 154 and 157: Meeting the challenge of climate change
- Paragraph 159 167 and 169: Planning and Flood Risk
- Paragraphs 174, 180 and 182: Conserving and enhancing the natural environment
- Paragraphs 183-188: Ground conditions and pollution

Supplementary Planning Documents

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

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

of housing.

ASSESSMENT

Key issues

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

- the principle of the development
- the visual impact of the proposed development inc. residential amenity
- whether the development would be provided with a safe / suitable access and impacts on highway safety
- drainage / flood risk
- land condition / contamination
- biodiversity
- impacts upon local infrastructure

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

Principle

The application site is located entirely within the development envelope of Blackwell and given the nature of the application proposals (which include demolition and redevelopment) the application site can also be regarded as previously developed land (PDL).

Blackwell is identified in the adopted Local Plan as a Rural: Small Village, where limited infill development is considered to be acceptable. In addition the redevelopment of PDL for housing (in particular the provision of housing for older people and specialist housing provision – such as an ILS) and a replacement Community Centre are to be regarded as entirely appropriate in principle – this is supported in the context of policies LC3 and ITCR4 of the Local Plan.

As a Rural: Small Village Blackwell is served by some local amenities and public transport connections, so in the context of policy SS1 of the Local Plan the principle of development is further supported.

Visual impact of the proposed development inc. residential amenity

Alongside the applications detailed design drawings, the submission is accompanied by a Design and Access Statement (DAS) which sets out the evolution of the application proposals design and the considerations of the evolving design and appearance of the development to meet the Applicant / Operator's needs and address local character / distinctiveness. The applicant engaged in pre-application discussions prior to the formal submission of this application.

Alongside consideration of advice contained in the Council's adopted Supplementary Planning Document 'Successful Places' - Housing Layout and Design Guide and Policy SC2 and SC3 of the Local Plan the details of the proposed site layout have undergone a number of variations / iterations since submission. These changes respond to various consultee comments and other site constraints, leading to the latest site layout proposed (Rev P09)

being prepared for consideration.

A series of artist impressions appear throughout the DAS which illustrate the selected materials, finishes and landscaping ambitions for the scheme. These illustrate the choice of red brick, dark grey cladding and tiles across the site for the residential dwellings and feature sandstone sections are also incorporated to both the ILS and Community Centre building.



View of the bungalows, with retained and proposed landscaping.



View of Development from Primrose Hill



View of Independent Living Scheme Building



View of Dwellings



4 Bed Dwelling from the junction of Primrose Hill and Alfreton Road.



Bungalows from Public Footpath

The use of a cohesive palette of materials will ensure that the development as a whole establishes its own identity, the colour / palette of materials is complimentary to the wider character of Primrose Hill and Alfreton Road. The final specification of walling / roofing materials can be agreed by planning condition.

The scale and architectural style of the house types which are proposed are all in general considered to be acceptable, having regard to the fact there is a varying character to Primrose Hill and Blackwell in general. The more contemporary designs of both the ILS and Community Centre are considered to be appropriate in terms of scale, siting and appearance.

It is noted that the proposals look to retain some of the mature landscaping on site, alongside a complimentary new soft landscaping scheme (the final details of which will need to be agreed by way of planning condition).

The site layout indicates that all individual dwellings will be provided with private amenity gardens that are all in excess of the minimum recommended standards set out in the SPD Housing Layout and Design Guide. Similarly the ILS facility will have a private courtyard and garden area that will available for communal use by the occupants of these units.

Overall it is considered in the context of policies SC2 and SC3 of the Local Plan that the design and layout of the revised scheme is considered to be acceptable.

Access and highway safety

As submitted the application proposals seek to maintain the access junction between Woburn Close and Primrose Hill, but the internal layout of the site and the highway will be amended to take account of the site redevelopment.

Woburn Close is an adopted public highway, and therefore its current alignment cannot be altered with sections of the adopted highway being abandoned or built over, without the Applicant seeking a Stopping up Order for the sections of highway affected by the proposal. As the proposals include new sections of highway as well, the proposals also rely upon the new parts of the highway being adopted under S38 of the Highways Act.

The plan below illustrates the various components of the new scheme that will be affected by the above requirements.



The Local Highways Authority (LHA) have been consulted on the application proposals, and they have sought assurances how the Stopping up Order can be required through the planning process if the application is determined without the Order being in place.

The Applicant has confirmed that the development will be progressed in phases, as the sequence of demolition aims to avoid wherever possible displacing any current residents. The Applicant has indicated that they need some degree of flexibility to allow demolition and

site clearance works to commence, and alongside this they will progress seeking the relevant Stopping up Order to the adopted highway.

Ultimately the Applicant will not be able to implement the development as approved without the Stopping up Order being agreed (for example the southern gable end of the ILS building overlays the extent of the current adopted highway), so whilst the LHA are still uneasy about a permission being issued that might not be implementable (if the Stopping up Order isn't agreed) this risk lies entirely with the Applicant – which they accept. Appropriate planning conditions can be imposed on any decision issued to this affect.

Turning to the layout and geometric design of the new estate road as detailed, the carriageway and footways appear to meet the LHA required dimensions – but these will be confirmed alongside any S278 / S38 agreement needed from the LHA under the Highways Act. For the purposes of highway / public safety the dimensions are adequate and the drawings submitted illustrate that adequate visibility splays are maintained to Primrose Hill and provided within the new estate road layout.

The overall site layout shows that the estate road provides for sufficient refuse vehicle turning (tracking is provided) and each individual dwelling has its own dedicated off street parking (each plot has 2 no. parking spaces). The ILS and CC will share a communal car parking area that includes 28 no. car parking spaces. This provision is considered to generally accord with parameters set in Appendix 8 of the Local Plan. Appropriate conditions will be imposed on any decision issued to secure respective parking, turning and manoeuvring spaces as described above.

Overall it is considered that the impacts of the development proposals upon the wider highway network are acceptable, and there is no reason to suggest the development will result in a detriment to local highway safety. Furthermore the proposed site layout is laid out to meet with the carriageway standards of the Local Highways Authority such that the site will be served by a safe access.

Drainage and flood risk

The application is accompanied by a Drainage Statement and detailed drawings illustrating the proposed redevelopment of the site will be connected to mains foul and surface water infrastructure. Owing to the fact the proposals include demolition of existing buildings and the entire sites redevelopment, the proposals will include abandoning existing sewer lines and incorporating new sewer lines across the site. These works will be completed under a S106 agreement with the relevant Water Authority.

The Drainage Statement accompanying the application confirms that SuDS cannot be delivered across the site due to the required stand off for any soakaway infrastructure from built development or highway infrastructure. In addition (in line with the H3 Building Regs hierarchy) the nearest watercourse connection is some distance from the site and relies upon intervening third party land, so this type of connection has also been discounted.

Discharge to public sewer is therefore the proposed solution, which has undergone a series of iterations in consultation with the LLFA and Water Authority. These iterations have been amended to take account of an agreed discharge run off rate.

It is considered that the rationale proposed in the Statement suggest that a drainage solution across the site can be achieved, however the latest proposals are still with the LLFA for final comment, therefore it is proposed that the final recommendation set out in this report seeks delegated authority from committee to the Planning Manger to agree the final drainage solution and any necessary conditions required to be imposed on the final decision.

This solution would ensure the drainage proposals and their detailed specification are accepted (subject to conditions recommend by several consultees), and therefore in this regard it is considered that the development proposals can be adequately drained and manage potential surface water flood risk in accordance with the provisions of policy SC7 of the Local Plan.

Land condition / contamination

The application is supported by a Phase I Geo-Environmental Report and Ground Investigation Report (Revised) which have been considered by colleagues in Environmental Health having regard to the sites former / historic use and the nature of the proposed development.

The conclusions of the Report are that the site does not pose any threat or harm to existing residents or future uses arising from site contamination that cannot be mitigated through adequate site preparatory works. Environmental Health colleagues (EHO) have confirmed that they would like to see further investigations results post demolition and subject to a condition requiring works to proceed on the basis of the Report recommendations and the further finding of these additional SI's they are happy the development can proceed.

The Applicant has indicated that the development will proceed in phases (to avoid displacement of any occupiers of current bungalows and assisted living units where possible), and therefore the EHO has agreed that a phasing plan and phased site remediation strategy with sign off prior to occupation is acceptable.

Overall subject to a condition to ensure that the requirements of the EHO are achieved, it is considered that the requirements of policy SC14 of the Local Plan will be met.

Biodiversity

In order to consider the impacts of the development proposals upon biodiversity the application submission is supported by an Ecology Survey (inc. Bat Survey). These reports establish the baseline conditions of the application site in respect of biodiversity and in the context of Policy SC9 of the Local Plan developments are required across the district to demonstrate that there will be no overall loss of biodiversity.

The Survey works undertaken has been reviewed by Derbyshire Wildlife Trust (DWT). They have confirmed that ecological constraints at the site are limited and advise that sufficient information has been submitted to determine the application.

They advise that Whilst a biodiversity metric has not been completed for this site to formally quantify losses and gains, existing habitats are of low value and they consider that the

recommendations provided in Section 5.5.2 of the Survey are likely to result in a net gain, providing there is no net loss of hedgerow and that a flowering lawn turf is used (at least in communal areas).

Section 5.5.2 recommends the installation of bird and bat boxes, a hedgehog highway, and habitat enhancement measures inc. native trees / hedgerows, wild flower seeding to public / communal areas where possible. On this basis DWT have recommended a series of conditions that can be imposed on the final decision in accordance with the wider provisions of the NPPF and policy SC9 of the Local plan.

S106 / Local infrastructure demands

Affordable Housing

Under the provisions of policy LC2 of the Local Plan a contribution towards affordable housing shall be sought for schemes delivering 25 or more dwellings. This scheme does deliver 22 no. new dwellings and 20 no. flats within the ILS, but taking into account the relative no. of units to be demolished across the site there is fact a comparative net loss of 12 no. flats and a net gain of 2 no. dwellings overall. In addition the Applicant is the Local Authority, who have confirmed that the scheme will be a 100% social housing development.

Having regard to the above, it is considered that the scheme is considered policy compliant under the provisions of policy LC2 of the Local Plan. Furthermore policy LC3 encourages development of a ranging type and mix of housing – which this scheme achieves across its delivery of new dwellings and a new ILS development.

Recreation and Leisure

Policy ITCR5 expects residential developments of more than 10 units to make reasonable financial contributions either for new green spaces, or to improve green spaces, falling within specified walking distances of a site, with a view to achieving a 60% quality standard for green spaces. Policy ITCR7 also seeks contributions to existing playing pitches where improvements to them are needed from developments of 10 or more dwellings, to achieve an 'average' standard for playing pitches.

The Leisure Officer was consulted on these applications proposals, but no formal request for any contributions were made. This is likely to be owing to the fact the scheme involves demolition and replacement development that is unlikely to generate a greater demand in the local area for either facility (as it results in less development overall).

Education

Derbyshire County Council had originally stated that there would be an anticipated education demand arising from the development proposals. Their analysis of the current and future projected number of pupils on roll, together with the impact of approved planning applications shows that the normal area primary school would have sufficient capacity to accommodate the 6 primary pupils arising from the proposed development; however the normal area secondary school would not have sufficient capacity to accommodate the 5 secondary pupils arising from the proposed development. The County Council therefore requested a financial

contribution of £136,860.35 towards the provision of 5 secondary places at Tibshelf Community School + additional education facilities.

Notwithstanding the above, it didn't appear clear from the initial comment made by DCC Education that they had taken into account the net loss of dwellings no's across the site bought about by the sites demolition / clearance proposals.

DCC Education were invited to reconsider their comments and request on this basis. They responded to confirm they had reconsidered the application and would not be seeking an Education contribution.

Health

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

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

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

Whilst the policy does provide for 'necessary and relevant' contributions to both primary and secondary healthcare, it is not accepted that this request meets the necessary legal tests for contributions. This is because the CRH request doesn't appear to have taken into account the net loss of dwellings no's across the site bought about by the sites demolition / clearance proposals.

CONCLUSION

The proposal is considered to be acceptable in principle given that the site is located in the development envelope and constitutes redevelopment of PDL.

The residential designs proposed are considered to be good and compliant with Successful Places design guide. The provision of additional housing is welcome and there are no significant amenity impacts likely that cannot be dealt with by condition.

No other environmental impacts have been identified that would warrant the refusal of planning permission.

The proposed development therefore accords with the policies of the local plan as well as the National Planning Policy Framework.

RECOMMENDATION

The current application be APPROVED subject to the following conditions:

(inc. the final wording of any subsequent drainage and highways conditions required by the Lead Local Flood Authority and Local Highways Authority being agreed by the Planning Manager):

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

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

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

Site Plans:

12213-WMS-30-ZZ-DR-A-00007-S2-P09 - Woburn Close Proposed Site Plan
12213-WMS-30-ZZ-DR-A-13001-S8-P01 - Site Location Plan
12213-WMS-30-ZZ-DR-A-13002-S8-P02 - Proposed Block Plan

Dwellings:

12213-WMS-30-00-DR-A-13020-S8-P01 - Proposed 1B2P Detached Floor Plans
12213-WMS-30-00-DR-A-13040-S8-P01 - Proposed 1B2P Detached Elevations
12213-WMS-30-00-DR-A-13021-S8-P01 - Proposed 1B2P Semi-Detached Floor Plans
12213-WMS-30-00-DR-A-13041-S8-P01 - Proposed 1B2P Semi-Detached Elevations
12213-WMS-30-00-DR-A-13022-S8-P01 - Proposed 2B3P Semi-Detached Bungalow Floor Plans
12213-WMS-30-00-DR-A-13042-S8-P01 - Proposed 2B3P Semi-Detached Elevations
12213-WMS-30-00-DR-A-13023-S8-P01 - Proposed 2B3P Semi-Detached Bungalow with Bay Window - Floor Plans
12213-WMS-30-00-DR-A-13043-S8-P01 - Proposed 2B3P Semi-Detached Bungalow with Bay Window - Elevations
12213-WMS-30-00-DR-A-13024-S8-P01 - Proposed 2B3P L-Shape Semi-Detached Bungalow - Floor Plans
12213-WMS-30-00-DR-A-13044-S8-P01 - Proposed 2B3P L-Shape Semi-Detached Bungalow - Elevations
12213-WMS-30-00-DR-A-13025-S8-P01 - Proposed 2B3P Narrow Front Detached Bungalow - Floor Plans
12213-WMS-30-00-DR-A-13045-S8-P01 - Proposed 2B3P Narrow Front Detached Bungalow - Elevations
12213-WMS-30-00-DR-A-13026-S8-P01 - Proposed 2B3P Narrow Front Semi-Detached Bungalow - Floor Plans
12213-WMS-30-00-DR-A-13046-S8-P01 - Proposed 2B3P Narrow Front Semi-Detached Bungalow - Elevations
12213-WMS-30-00-DR-A-13027-S8-P01 - Proposed 3B5P Semi-Detached House - Floor Plans
12213-WMS-30-00-DR-A-13047-S8-P01 - Proposed 3B5P Semi-Detached House - Elevations

12213-WMS-30-00-DR-A-13028-S8-P01 - Proposed 3B5P Detached House - Floor Plans
12213-WMS-30-00-DR-A-13048-S8-P01 - Proposed 3B5P Detached House - Elevations
12213-WMS-30-00-DR-A-13029-S8-P01 - Proposed 4B7P Detached House - Floor Plans
12213-WMS-30-00-DR-A-13049-S8-P01 - Proposed 4B7P Detached House - Elevations

Community Centre:

12213-WMS-30-00-DR-A-13030-S2-P06 - Proposed Community Centre Plan
12213-WMS-30-XX-DR-A-13050-S2-P04 - Proposed Community Centre Elevations
12213-WMS-30-XX-DR-A-13078-S2-P04 - Proposed Community Centre 3D Views

Independent Living Scheme:

12213-WMS-30-00-DR-A-13032-S8-P01 - Proposed ILS - Ground Floor Plan
12213-WMS-30-01-DR-A-13033-S8-P01 - Proposed ILS - First Floor Plan
12213-WMS-30-XX-DR-A-13034-S8-P01 - Proposed ILS - 1B2P Flat Types
12213-WMS-30-XX-DR-A-13035-S8-P01 - Proposed ILS - 2B3P Flat Types
12213-WMS-30-XX-DR-A-13051-S8-P05 - Proposed ILS – Elevations
12213-WMS-30-XX-DR-A-13079-S8-P02 - Proposed ILS - 3D Views

Engineering:

12213-WMS-30-XX-DR-C-39201-S3-P1 - DRAINAGE_TO_BE_ABANDONED - 22.08.16
12213-WMS-30-XX-DR-C-39202-S3-P2 - DRAINAGE_LAYOUT - 23.01.05
12213-WMS-30-XX-DR-C-39203-S3-P2 - EXISTING_IMPERMEABLE_AREAS- 22.12.20
12213-WMS-30-XX-DR-C-39204-S3-P1 - PROPOSED_IMPERMEABLE_AREAS - 22.12.23
12213-WMS-30-XX-DR-C-39205-S3-P1 - FLOOD_FLOW_ROUTES - 23.01.05
12213-WMS-30-XX-DR-C-39001-S3-P1 - LEVELS_LAYOUT - 23.01.05
12213-WMS-30-XX-DR-C-39501-S3-P2 - STOPPING_UP - 22.12.23
12213-WMS-30-XX-DR-C-39502-S3-P3 - VISIBILITY_SPLAYS - 23.01.06
12213-WMS-30-XX-T-C-32101-S8-P2 - DRAINAGE_STATEMENT

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

03. Before the construction of the development above foundation level commences on site, samples of the exterior wall and roof materials must be submitted to and approved in writing by the Local Planning Authority. The development must be constructed using the approved materials and must be maintained as such thereafter.

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

Land Contamination / Condition

04. Prior to the occupation of the development hereby approved the additional site investigation works as identified in report Ref NE4057A submitted with the application shall be undertaken by a competent person in accordance with the current UK requirements for sampling and analysis.

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

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

Reason: To protect future occupiers of the development, buildings, structures/services, ecosystems and controlled waters, including deep and shallow ground water.

05. No dwellings or buildings hereby approved shall be occupied until:
- a) The approved remediation works required by 1 above have been carried out in full in compliance with the approved methodology and best practice.
 - b) If during the construction and/or demolition works associated with the development hereby approved any suspected areas of contamination are discovered, then all works shall be suspended until the nature and extent of the contamination is assessed and a report submitted and approved in writing by the local planning authority and the local planning authority shall be notified as soon as is reasonably practicable of the discovery of any suspected areas of contamination. The suspect material shall be re-evaluated to the satisfaction of the LPA and through the process described in 1 above.
 - c) Upon completion of the remediation works required by 1 above a validation report prepared by a competent person shall be submitted to and approved in writing by the local planning authority. The validation report shall include details of the remediation works and Quality Assurance/Quality Control results to show that the works have been carried out in full and in accordance with the approved methodology. Details of any validation sampling and analysis to show the site has

achieved the approved remediation standard, together with the necessary waste management documentation shall be included.

Reason: To protect future occupiers of the development, buildings, structures/services, ecosystems and controlled waters, including deep and shallow ground water.

Biodiversity

06. The Method Statement detailed in Section 5.2.2 of the Ecology Survey and Code for Sustainable Homes report (CGC Ecology, February 2022) shall be implemented in full during demolition of Bungalows 13 and 14. A short statement of compliance shall be submitted to the LPA upon completion of works to discharge this condition.

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

07. No stripping, demolition works or vegetation clearance shall take place between 1st March and 31st August inclusive, unless preceded by a nesting bird survey undertaken by a competent ecologist no more than 48 hours prior to clearance. If nesting birds are present, an appropriate exclusion zone will be implemented and monitored until the chicks have fledged. No works shall be undertaken within exclusion zones whilst nesting birds are present.

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

08. Prior to the installation of lighting fixtures, a detailed lighting strategy shall be submitted to and approved in writing by the LPA to safeguard bats and other nocturnal wildlife. Lightspill to trees, hedgerows, bat boxes and adjacent offsite habitats shall be avoided. The Strategy shall provide details of the chosen luminaires, their locations and any mitigating features such as dimmers, PIR sensors and timers. Guidelines can be found in Guidance Note 08/18 - Bats and Artificial Lighting in the UK (BCT and ILP, 2018). Such approved measures will be implemented in full.

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

09. Prior to building works commencing above foundation level, an Ecological Enhancement Plan shall be submitted to the LPA for approval. This shall expand upon the recommendations in Section 5.5.2 of Ecology Survey and Code for Sustainable Homes report (CGC Ecology, February 2022) and provide sufficient information to ensure these enhancements are implemented during construction. The approved Plan shall be implemented in full and features maintained in perpetuity.

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

Drainage

10. No development shall take place until a detailed design and associated management and maintenance plan of the surface water drainage for the site, in accordance with the principles outlined within:
 - a. William Saunders. January 2023. Drainage Statement. 12213-WMS-30-XX-T-C-32101-S8-P2. Including any subsequent amendments or updates to those documents as approved by the Flood Risk Management Team; and
 - b. DEFRA's Non-statutory technical standards for sustainable drainage systems (March 2015).

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 SC2 and SC7 of the Local Plan for Bolsover District.

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

Reason: To ensure surface water is managed appropriately during the construction phase of the development, so as not to increase the flood risk to adjacent land/properties or occupied properties within the development and to accord with policy SC2 and SC7 of the Local Plan for Bolsover District.

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

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 SC2 and SC7 of the Local Plan for Bolsover District.

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

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

Reason: To ensure that satisfactory landscaping is provided within a reasonable period in the interests of visual amenity and in compliance with policy SC9 and SC3 of the Bolsover District Local Plan.

Highways

14. No development shall commence until a Construction Management Statement/Plan has been submitted to and approved in writing by the Local Planning Authority. The statement/plan shall include details specifically relating to, but not limited to, arrangements for the following in respect of each phase of the work:
- a. Details of temporary construction access, including geometry, construction within highway limits and visibility sightlines and also arrangements for the removal of any temporary access arrangements on completion of construction activities,
 - b. parking for vehicles of site personnel, operatives and visitors,
 - c. site accommodation,
 - d. storage of plant and materials clear of the highway,
 - e. routes for construction traffic to and from the site and measures to ensure adherence to the approved routing plan for vehicles under the applicant's / developer's control,
 - f. wheel washing facilities on site to ensure that mud and debris is not spread onto the adjacent public highway,
 - g. provision of roadside boundary hoarding behind any visibility zones and
 - h. any proposed temporary traffic management,
 - i. a programme of measures to minimise the spread of airborne dust from the site during construction periods,
 - j. A limit to construction works on the site and deliveries to the site of between the hours of 7.30am to 6pm Monday to Friday and 7.30am to 1pm on Saturday, with no work undertaken on site or deliveries to the site on Sundays or public holidays.
- Only the approved details shall be implemented, which shall be maintained throughout the construction period.

Reason: To ensure that the proposed development does not prejudice the free flow of traffic or the conditions of general safety along the neighbouring highway and to accord with policy SC3 of the Local Plan for Bolsover District.

15. Prior to occupation of any dwelling or building deriving access to or from Woburn Close, the permanent access arrangements shall be laid out (in accordance with the

application drawing no. 12213-WMS-30-ZZ-DR-A-00007-S2-P09 - Woburn Close Proposed Site Plan), fully constructed within highway limits (which may require relevant Stopping up Orders and S38 agreements to be in place), drained, lit, provided with white lining and tactile paving (where appropriate), and provided with visibility splays of 2.4m x 43m in each direction, both measured to the nearside edge of the carriageway. The area in advance of the sightlines being laid out as an extension of the existing footway and constructed in a solid bound material and not forming part of any adjoining plot, or other sub-division of the site.

Reason: In the interests of highway safety and to accord with policy SC3 of the Local Plan for Bolsover District.

16. Prior to the first occupation of each dwelling, space shall be provided for the parking of vehicles associated with that dwelling, in accordance with the approved plans (in accordance with the application drawing no. 12213-WMS-30-ZZ-DR-A-00007-S2-P09 - Woburn Close Proposed Site Plan), and such space shall be maintained thereafter free of any impediment to its designated use.

Reason: In the interests of highway safety and to accord with policy SC3 of the Local Plan for Bolsover District.

17. Before works to create a new estate street take place, construction details of the residential estate streets and footways (including layout, levels, gradients, surfacing and means of surface water drainage via a positive gravity-fed system discharging to a public sewer, highway drain or watercourse) shall be submitted to and approved in writing by the Local Planning Authority. The development shall proceed in accordance with the approved details. For the avoidance of doubt the applicant is advised to agree the construction details with the Highway Authority prior to discharging this condition.

Reason: In the interests of highway safety and to accord with policy SC3 of the Local Plan for Bolsover District.

18. Prior to the first occupation of each dwelling hereby permitted, the new street between each respective plot and the existing public highway shall be laid out in accordance with the plans approved under the above condition, constructed to at least base level, drained and lit. Until final surfacing is completed, the footway base course shall be provided in a manner to avoid any upstands to gullies, covers, kerbs or other such obstructions within or abutting the footway. The carriageway and footways in front of each respective plot shall be completed with the final surface course within 12 months (or 3 months in the case of a shared surface road) from the first occupation of that plot.

Reason: In the interests of highway safety and to accord with policy SC3 of the Local Plan for Bolsover District.

19. No gates, including any part of their opening arc, shall be permitted to open outwards over the adjoining footway areas / highway. Any gates shall be set-back into the site an appropriate distance or shall open inwards only.

Reason: In the interests of highway safety and to accord with policy SC3 of the Local Plan for Bolsover District.

20. No dwelling shall be occupied until details of the proposed arrangements for future management and maintenance of the proposed streets within the development have been submitted to and approved in writing by the Local Planning Authority. The streets shall thereafter be maintained in accordance with the approved management and maintenance details or until such time as an agreement has been entered into under Section 38 of the Highways Act (1980).

Reason: In the interests of highway safety and to accord with policy SC3 of the Local Plan for Bolsover District.

21. An electric vehicle charging point shall be provided on the exterior of each dwelling hereby approved, before the dwelling is first occupied.

Reason: To promote high standards of low carbon and energy efficient design, to improve air quality and in compliance with the requirements of Policy SS1(d), SC2(d) and SC3(k) of the adopted Local Plan for Bolsover District.

Advisory/Informative Notes

01. Local Highways Authority

1. Section 184 Licence. Planning permission does not give you approval to work on the public highway. To carry works associated with this planning permission, separate approval must first be obtained from Derbyshire County Council as Highway Authority - this will take the form of a section 184 licence Highways Act 1980). It is strongly recommended that you make contact with the County Council at the earliest opportunity to allow time for the process to be completed. Information and relevant application forms, regarding the undertaking of access works within highway limits, are available via the County Council's website www.derbyshire.gov.uk, email highways.hub@derbyshire.gov.uk or telephone 01629 533190.
2. Where the site curtilage slopes down towards the public highway provisions within Section 163 of the Highways Act 1980 requires measures to be taken to ensure that surface water run-off from within the site is not permitted to discharge across the footway margin. This usually takes the form of a dished channel or gulley laid across the access immediately behind the back edge of the highway, discharging to a drain or soakaway within the site.
3. Pursuant to Sections 149 and 151 of the Highways Act 1980, steps shall be taken to ensure that mud or other extraneous material is not carried out of the site and deposited on the public highway. Should such deposits occur, it is the applicant's responsibility to ensure that all reasonable steps (e.g. street sweeping) are taken to maintain the roads in the vicinity of the site to a satisfactory level of cleanliness.

4. If construction works are likely to require Traffic Management, advice regarding procedures should be sought from Mr J Adams, Traffic Management, 01629 538628. All road closure and temporary traffic signal applications will have to be submitted via the County Councils web-site; relevant forms are available via the following link - http://www.derbyshire.gov.uk/transport_roads/roads_traffic/roadworks/default.asp

02. Lead Local Flood Authority

- A. The County Council does not adopt any SuDS schemes at present (although may consider ones which are served by highway drainage only). As such, it should be confirmed prior to commencement of works who will be responsible for SuDS maintenance/management once the development is completed.
- B. Any works in or nearby an ordinary watercourse may require consent under the Land Drainage Act (1991) from the County Council. For further advice, or to make an application please contact Flood.Team@derbyshire.gov.uk.
- C. No part of the proposed development shall be constructed within 5-8m of an ordinary watercourse and a minimum 3 m for a culverted watercourse (increases with size of culvert). It should be noted that DCC have an anti-culverting policy.
- D. The applicant should be mindful to obtain all the relevant information pertaining to proposed discharge in land that is not within their control, which is fundamental to allow the drainage of the proposed development site.
- E. The applicant should demonstrate, to the satisfaction of the Local Planning Authority, the appropriate level of treatment stages from the resultant surface water discharge, in line with Table 4.3 of the CIRIA SuDS Manual C753.
- F. The County Council would prefer the applicant to utilise existing landform to manage surface water in mini/sub-catchments. The applicant is advised to contact the County Council's Flood Risk Management team should any guidance on the drainage strategy for the proposed development be required.
- G. Flood resilience should be duly considered in the design of the new building(s) or renovation. Guidance may be found in BRE Digest 532 Parts 1 and 2, 2012 and BRE Good Building Guide 84.
- H. Surface water drainage plans should include the following:
- Rainwater pipes, gullies and drainage channels including cover levels.
 - Inspection chambers, manholes and silt traps including cover and invert levels.
 - Pipe sizes, pipe materials, gradients, flow directions and pipe numbers.
 - Soakaways, including size and material.
 - Typical inspection chamber / soakaway / silt trap and SW attenuation details.
 - Site ground levels and finished floor levels.
- I. On Site Surface Water Management;
- The site is required to accommodate rainfall volumes up to the 1% probability annual rainfall event (plus climate change) whilst ensuring no flooding to buildings or adjacent land.
 - The applicant will need to provide details and calculations including any below ground storage, overflow paths (flood routes), surface detention and infiltration areas, etc, to demonstrate how the 100 year + 40% Climate Change rainfall volumes will be controlled and accommodated. In addition, an appropriate allowance should be made for urban creep throughout the lifetime of the

development as per 'BS 8582:2013 Code of Practice for Surface Water Management for Developed Sites' (to be agreed with the LLFA).

- Production of a plan showing above ground flood pathways (where relevant) for events in excess of the 1% probability annual rainfall event, to ensure exceedance routes can be safely managed.
- A plan detailing the impermeable area attributed to each drainage asset (pipes, swales, etc), attenuation basins/balancing ponds are to be treated as an impermeable area.

Peak Flow Control

- For greenfield developments, the peak run-off rate from the development to any highway drain, sewer or surface water body for the 1 in 1 year rainfall event and the 1 in 100 years rainfall event, should never exceed the peak greenfield run-off rate for the same event.
- For developments which were previously developed, the peak run-off rate from the development to any drain, sewer or surface water body for the 100% probability annual rainfall event and the 1% probability annual rainfall event must be as close as reasonably practicable to the greenfield run-off rate from the development for the same rainfall event but should never exceed the rate of discharge from the development, prior to redevelopment for that event.

Volume Control

- For greenfield developments, the runoff volume from the development to any highway drain, sewer or surface water body in the 6 hours 1% probability annual rainfall event must not exceed the greenfield runoff volume for the same event.
- For developments which have been previously developed, the runoff volume from the development to any highway drain, sewer or surface water body in the 6 hours 1% probability annual rainfall event must be constrained to a value as close as is reasonably practicable to the greenfield runoff volume for the same event, but must not exceed the runoff volume for the development site prior to redevelopment for that event.

Note:- If the greenfield run-off for a site is calculated at less than 2 l/s, then a minimum of 2 l/s could be used (subject to approval from the LLFA).

- Details of how the on-site surface water drainage systems shall be maintained and managed after completion and for the lifetime of the development to ensure the features remain functional.
- Where cellular storage is proposed and is within areas where it may be susceptible to damage by excavation by other utility contractors, warning signage should be provided to inform of its presence. Cellular storage and infiltration systems should not be positioned within the highway.
- Guidance on flood pathways can be found in BS EN 752.
- The Greenfield runoff rate which is to be used for assessing the requirements for limiting discharge flow rates and attenuation storage for a site should be calculated for the whole development area (paved and pervious surfaces - houses, gardens, roads, and other open space) that is within the area served by the drainage network, whatever the size of the site and type of drainage system. Significant green areas such as recreation parks, general public open space, etc., which are not served by the drainage system and do not play a part in the runoff management for the site, and which can be assumed to have a runoff response which is similar to that prior to the development taking place, may be excluded from the greenfield analysis.

J. If infiltration systems are to be used for surface water disposal, the following information must be provided:

- Ground percolation tests to BRE 365.
- Ground water levels records. Minimum 1m clearance from maximum assessment of relevant groundwater borehole records, maps and on-site monitoring in wells.
- Soil / rock descriptions in accordance with BS EN ISO 14688-1:2002 or BS EN ISO 14689-1:2003.
- Volume design calculations to 1% probability annual rainfall event + 40% climate change standard. An appropriate factor of safety should be applied to the design in accordance with CIRIA C753 – Table 25.2.
- Location plans indicating position (soakaways serving more than one property must be located in an accessible position for maintenance). Soakaways should not be used within 5m of buildings or the highway or any other structure.
- Drawing details including sizes and material.
- Details of a sedimentation chamber (silt trap) upstream of the inlet should be included.

Soakaway detailed design guidance is given in CIRIA Report 753, CIRIA Report 156 and BRE Digest 365.

K. All Micro Drainage calculations and results must be submitted in .MDX format, to the LPA. (Other methods of drainage calculations are acceptable.)

L. The applicant should submit a comprehensive management plan detailing how surface water shall be managed on site during the construction phase of the development ensuring there is no increase in flood risk off site or to occupied buildings within the development.

03. Wildlife

- a. The applicant is reminded that, under the Wildlife and Countryside Act 1981, as amended (section 1), it is an offence to remove, damage or destroy the nest of any wild bird while that nest is in use or being built. Planning consent for a development does not provide a defence against prosecution under this act.

04. Coal Authority

- a. The proposed development lies within a coal mining area which may contain unrecorded coal mining related hazards. If any coal mining feature is encountered during development, this should be reported immediately to the Coal Authority on 0345 762 6848.

Further information is also available on the Coal Authority website at:

www.gov.uk/government/organisations/the-coal-authority

Statement of Decision Process

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

Equalities Statement

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

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

Human Rights Statement

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

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



Bolsover District Council

Meeting of the Planning Committee on 25th January 2023

Appeal Decisions: July 2022 – December 2022

Classification	This report is Public
Report By	Sarah Kay – Planning Manager (Development Control) 01246 242265 sarah.kay@bolsover.gov.uk
Contact Officer	Karen Wake – Planner 01246 242266 karen.wake@bolsover.gov.uk

PURPOSE/SUMMARY OF REPORT

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

REPORT DETAILS

1. Background

- 1.1 Since November 2016 Local Planning Authorities have been performance monitored against their speed and quality of decision making. Guidance produced in 2016 entitled “Improving Planning Performance”, which was updated in 2020, set out how their performance was going to be monitored.
- 1.2 This report relates specifically to the quality of decision making, and it details the Council’s most recent appeal decisions – which are the measure for the quality of decision making based on the latest guidance.
- 1.3 The measure used is the percentage of the total number of decisions made by the Council on applications that are then subsequently overturned at appeal.
- 1.4 The percentage threshold on applications for both major and non-major development, above which a local planning authority is eligible for designation, is **10 per cent** of an authority’s total number of decisions on applications made during the assessment period being overturned at appeal.

1.5 Since January 2019 appeal decisions have been reported to Planning Committee every 6 months, as a way of updating members on our 'qualitative' performance; but also as a way of reflecting on the appeal decisions for ongoing learning and improvement.

2. Information

2.1 During the first appeal monitoring period (January 2019 – June 2019) the council won 100% of appeals on major planning applications and 99.6% of appeals on non-major applications.

2.2 During the second monitoring period (July 2019 – December 2019) the council won 96.5% of appeals on major planning applications and 98.8% of appeals on non-major applications.

2.3 During the third monitoring period (January 2020– June 2020) the council had no appeals on major planning applications and won 100% of appeals on non-major applications.

2.4 During the fourth monitoring period (July 2020 – December 2020) the council had only one appeal on a non-major application and this appeal was allowed. However, this only equated to only 0.54% of the number of non-major applications determined within that period.

2.5 During the fifth monitoring period (January 2021 – June 2021) the council had no appeals on major planning applications determined. The council had only two appeals on non-major applications, one of which included an application for costs. Each of these appeals were allowed. However, this only equated to 0.9% of the number of non-major applications determined within that period.

2.6 During the sixth monitoring period (June 2021 – December 2021) the council had no appeals on major planning applications determined. The council had only one appeal on non-major applications. This appeal was dismissed. The council therefore won 100% of the appeals determined within that period and was therefore still exceeding its appeal decision targets.

2.7 During the seventh monitoring period (January 2022 – June 2022) the council had no appeals on major planning applications determined. The council had two appeal decisions on non-major applications. One of these appeals was dismissed, the other was allowed. However, this only equated to 0.53% of the number of non-major applications determined within that period.

2.8 We have now entered the eighth monitoring period and during the 6 months since the last monitoring period (July 2022 – December 2022) the council has had no appeals on major planning applications determined. The council had three appeal decisions on non-major applications. Two appeals were allowed and one was dismissed. The council therefore only won 33% of appeals determined within this period. However this only equated to 1.14% of the number of non-major applications determined within that period and the council is therefore still exceeding its appeal decision targets.

- 2.9 The council had no appeal decisions against the issue of an enforcement notice. The performance of Local Authorities in relation to the outcome of enforcement appeals is not being measured in the same way as planning appeals. However it is considered useful to report the enforcement appeals within the same time period to address any issues or lessons learnt from these appeal decisions.
- 2.10 The lack of appeals against decisions indicates current decision making is sound.
- 2.11 When/if appeals are lost the reporting of decisions provides an opportunity to learn from these decisions.

3. Reasons for Recommendation

- 3.1 An opportunity for the Council to review and reflect upon the appeal decisions received in the last 6 month ensures that the Council is well placed to react to any concerns arising about the quality of decisions being taken.
- 3.2 The lack of appeals against decisions overall indicates that current decision making is sound.
- 3.3 When/if appeals are lost the reporting of decisions provides an opportunity to learn from these decisions.

4 Alternative Options and Reasons for Rejection

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

RECOMMENDATION(S)

1. That this 6 monthly report be noted; and
2. Recommend that we continue to report appeal decisions to Planning Committee every 6 months.

IMPLICATIONS:

Finance and Risk: Yes No

Details:

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

On behalf of the Section 151 Officer

Legal (including Data Protection): Yes No

Details:

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

On behalf of the Solicitor to the Council

Staffing: Yes No

Details:

This is factored into normal officer workload and if the original application report is thorough it reduces the additional work created by a written representations appeal. Additional workload is created if the appeal is a hearing or public inquiry.

On behalf of the Head of Paid Service

DECISION INFORMATION

<p>Is the decision a Key Decision? A Key Decision is an executive decision which has a significant impact on two or more District wards or which results in income or expenditure to the Council above the following thresholds:</p> <p>BDC: Revenue - £75,000 <input type="checkbox"/> Capital - £150,000 <input type="checkbox"/></p> <p>NEDDC: Revenue - £100,000 <input type="checkbox"/> Capital - £250,000 <input type="checkbox"/></p> <p><input checked="" type="checkbox"/> Please indicate which threshold applies</p>	<p>No</p>
<p>Is the decision subject to Call-In? (Only Key Decisions are subject to Call-In)</p>	<p>No</p>

District Wards Significantly Affected	None
Consultation: Leader / Deputy Leader <input type="checkbox"/> Cabinet / Executive <input type="checkbox"/> SAMT <input type="checkbox"/> Relevant Service Manager <input type="checkbox"/> Members <input type="checkbox"/> Public <input type="checkbox"/> Other <input type="checkbox"/>	Details:

DOCUMENT INFORMATION	
Appendix No	Title
1.	Planning Appeal Decision - APP/R1010/D/22/3294811: Claylands Road, Whitwell, S80 4SZ
2.	Planning Appeal Decision - APP/R1010/W/21/3289346: 183 Shuttlewood Road, Bolsover
3.	Planning Appeal Decision - APP/R1010/W/22/3299172: Marios's Motors, Unit 1 Shuttlewood Road, Shirebrook

Appendix 1: Planning Appeal Decision

APP/R1010/D/22/3294811: Claylands Road, Whitwell, S80 4SZ

The planning application was for a first floor extension and alterations. The proposal was an amendment to a previously approved scheme which included a glazed gable in the northwest elevation which was not included in the original scheme. The application was refused.

Main Issues

The main issue was the impact upon the residential amenities of the occupants of 2, Claylands Farm by overlooking from the first-floor windows on the rear elevation of the proposed development.

The proposed extension included a north-western elevation with fully glazed bi-fold doors. The appeal property is not parallel with its boundary with the adjacent dwelling at 2 Claylands Farm. Rather than the first-floor extension being set at 90 degrees to the boundary it is set at approximately 75 degrees to it, which means that there is a greater degree of overlooking of part of the garden of the adjacent property.

The angle of the proposed extension to the boundary means that much of the glazing would be within about 5 metres or less of the boundary with 2 Claylands Farm. The Council's Development Guidance and Requirements: Supplementary Planning Document 2015 (SPD) states that 'habitable room windows that overlook neighbouring garden space should normally be at least 10 metres from the boundary. Where a new property overlooks an existing garden, these distances may need to be increased.

Oblique or obscured outlook from habitable room windows within 10m of the boundary may be allowed at the discretion of the case officer dependent upon site specific considerations’.

Conclusion

The Inspector concluded that in this instance, while there would be more overlooking of the neighbouring garden than if the proposed extension were set at 90 degrees to the boundary, which would be a more normal situation in terms of any overlooking, the extra degree of overlooking would not be so additionally significant. The Inspector also noted that planting had been undertaken along the boundary with the appeal property in order to reduce any overlooking and that this was largely achieving that effect.

The Inspector concluded that, while there would be some conflict with the SPD, the overlooking would be oblique, and the SPD allowed some latitude in such circumstances. In addition, the proposed development would accord with policy SC3 of the Council’s Local Plan 2020(LP) which requires high quality development.

The appeal was allowed.

Recommendations

None.

The decision was a judgement about the impact of a proposal on residential amenity rather than testing a Local Plan Policy.

This was the judgement of one Inspector and does not have to change the judgement of the council on this case or on other cases requiring a balance of issues to be considered and a judgement made.

Appendix 2: Planning Appeal Decision

APP/R1010/W/21/3289346: 183 Shuttlewood Road, Bolsover

The application was for the demolition of the existing dwelling and construction of a larger replacement dwelling in the countryside. The application was approved subject to conditions. One of these conditions stated that:

Notwithstanding the provisions of Parts 1 and 2 of Schedule 2, Article 3 of the Town and Country Planning (General Permitted Development) Order 2015 (or any Order revoking and re-enacting that Order) the dwelling must not be extended without the prior grant of planning permission.

The appeal was made against the inclusion of this condition.

Main Issues

The main issue was whether or not the condition was necessary and reasonable in the interests of protecting the countryside

Conclusion

Policy SS9 of the Local Plan for Bolsover District restricts development in countryside areas. This reflects the approach of the National Planning Policy Framework (the Framework). The aim is to achieve the sustainable distribution of development, to avoid isolated homes in the countryside and protect its intrinsic character and beauty.

Although the policy does not explicitly refer to replacement dwellings, the site would constitute previously developed land. Exception a) of Policy SS9 allows for the change of use or the re-use of previously developed land, provided that the proposed use is sustainable and appropriate to the location. It states that 'In all cases, where development is considered acceptable it will be required to respect the form, scale and character of the landscape, through careful location, design and use of materials'.

The Inspector concluded that in carrying out the assessment of the building's scale, the Council have referred to the test of whether the proposed building would be materially larger than the existing building/s. This is a test normally reserved for development in the Green Belt but the Inspector concluded that the scale of the proposed building was a relevant consideration but although a measure of the scale of development against that of the existing building may assist in this, it would not necessarily encompass consideration of the wider effects required by the policy and that is not therefore a reliable measure of the effect of a proposed development on the character and appearance of a location.

The Inspector recognised that the scale of the proposed building was compared to the cumulative size of the existing buildings on the site and the degree to which the dwelling could be theoretically extended under the terms of the GPDO. However, it was nevertheless found to be acceptable having regard to the character of development in the vicinity. Furthermore, in the context of its location close to other houses and residential plots, no harm to the landscape or wider countryside character was envisaged.

The Inspector considered that Paragraph 54 of the Framework states that planning conditions should not be used to restrict national permitted development rights unless there is clear justification to do so and The Planning Practice Guidance (the PPG) states that restricting the future of development by the use of permitted development rights may not pass the test of reasonableness or necessity.

The Inspector went on to say that although the proposed house would be larger than the one it would replace and be located behind the main row, as others are, it would not have a high degree of prominence in the landscape. It would be on lower ground compared to the nearest properties south of Featherbed Lane. It would be largely screened by, or seen against, the row of development along Shuttlewood Road and an extension to the dwelling within the restrictions of the GPDO would not change this. In addition, the site lies alongside other houses which would likely benefit from the provisions within the GPDO. Any increase in scale arising from extensions to the proposed dwelling under the terms of the GPDO would be commensurate with extensions which could be undertaken at neighbouring sites. They would not therefore appear at odds with similar sized increases in the nearby houses or, in turn, the characteristic form and scale of development in the locality.

For these reasons the Inspector concluded that the necessary justification for the removal of permitted development rights for extensions to the proposed dwelling does

not exist. The condition was therefore unreasonable and unnecessary, and as such failed the tests as set out in Paragraph 57 of the Framework and the advice in the PPG.

The appeal was allowed and the condition was removed from the planning permission

Recommendation

None.

Conditions to remove permitted development rights must be very specific and the reason for the condition more detailed in the future. The council has already noted this and has started using the format set out by the inspector for conditions removing permitted development rights since this appeal decision was received.

Appendix 3: Planning Appeal Decision

APP/R1010/W/22/3299172: Marios's Motors, Unit 1 Shuttlewood Road, Shirebrook

The planning application was for the retention of the change of use from storage space above the reception office into a bedsit for the sole use of the owner of the garage. The application was refused.

Main Issues

The main issue was whether there would be acceptable living conditions for future occupiers of the bedsit with regard to noise and disturbance.

Conclusion

The Inspector concluded that the development would not provide acceptable living conditions for future occupiers with regard to noise and disturbance and that it would therefore be contrary to the Local Plan for Bolsover Policies SC3 and SC11 which require development to demonstrate and ensure there would be a good standard of amenity for occupants. The Inspector also concluded that it would also be contrary to the advice in paragraph 187 of the Framework to ensure that new development can be integrated effectively with existing businesses.

Recommendation

None.

The existing policies relating to amenity for future and adjacent occupiers of properties are in line with the Guidance in the NPPF.