The Arc
High Street
Clowne
S43 4JY

To: Chair & Members of the Planning Committee

Contact: Hannah Douthwaite
Telephone: 01246 242473
Email: hannah.douthwaite@bolsover.gov.uk

Friday, 17th February 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, 1st March, 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 pages 3 and 4.

Yours faithfully

J. S. Fielding

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

You can request this document or information in another format such as large print or **language** or contact us by:

- **Phone:** 01246 242424
- **Email:** enquiries@bolsover.gov.uk
- **BSL Video Call:** A three-way video call with us and a BSL interpreter. It is free to call Bolsover District Council with Sign Solutions, you just need WiFi or mobile data to make the video call, or call into one of our Contact Centres.
- 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, 1st March, 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** To consider the minutes of the last meeting held on 25th January 2023.	5 - 6
	APPLICATIONS TO BE DETERMINED UNDER THE TOWN & COUNTRY PLANNING ACTS	
5.	**21/00424/OUT - Outline planning application (with details of access, layout, scale and landscaping submitted) for erection of 2 warehouse units (Class B2/B8) up to 68,000 sq. m gross, with ancillary office accommodation; construction of new access road; provision of service yards and internal vehicle circulation and parking areas; erection of covered cycle parking areas, pump house and sprinkler tank, gate houses and perimeter fencing; associated drainage works, site levelling and landscaping; and realignment of existing public right of way - Land to the North of the M1 and South West of Oxcroft Junction Woodthorpe Road Shuttlewood**	7 - 44
6.	**22/00389/FUL - Extension to Stable Building to Provide Ancillary Facilities - The Stables, Featherbed Lane, Bolsover, Chesterfield**	45 - 53

REPORTS OF THE PLANNING MANAGER

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 25th January 2023 at 1000 hours.

PRESENT:-

Members:-

Councillor Tom Munro in the Chair

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

Officers:- Sarah Kay (Planning Manager – Development Control), Jenny Owen (Legal Executive) and Hannah Douthwaite (Governance and Civic Officer).

PL42 – 22/23. APOLOGIES FOR ABSENCE

No apologies for absence had been received.

PL43 – 22/23. URGENT ITEMS OF BUSINESS

There were no urgent items of business to consider.

PL44 – 22/23. DECLARATIONS OF INTEREST

There were no declarations of interest made at the meeting.

PL45 – 22/23. MINUTES – 21ST DECEMBER 2022

Moved by Councillor Derek Adams and seconded by Councillor Nick Clarke
RESOLVED that the Minutes of a Planning Committee meeting held on 21st December 2022 be approved as a correct record.

PL46 – 22/23. 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

The Planning Manager advised the Committee that a request had been received from the applicant to defer this application to a future meeting of the Planning Committee.

There was currently some uncertainty regarding the Community Centre which was proposed on the site and further discussions needed to be undertaken between the applicant and the Parish Council. It was anticipated that revised plans may be submitted at a later date.

Moved by Councillor Derek Adams and seconded by Councillor Duncan McGregor
RESOLVED that the application be deferred to a future meeting of the Planning Committee.

PL47 – 22/23. PLANNING APPEAL DECISIONS JULY 2022 - DECEMBER 2022

The Planning Manager presented the 6 month update in relation to planning appeals.

Since the last update there had been no appeals on major planning applications and three appeal decisions on non-major applications. Of these, two appeals had been allowed and one had been dismissed.

The Planning Manager gave a breakdown of the three applications that had been appealed and the conclusions received from the Inspector which was detailed within the report.

It was noted that appendix 3 to the report had an incorrect address and should have read Portland Avenue opposed to Shuttlewood Road.

Moved by Councillor Duncan McGregor and seconded by Councillor Nick Clarke
RESOLVED that (1) the 6 monthly report be noted; and

(2) the Planning Department continue to report appeal decisions to the Planning Committee every 6 months.

(Planning Manager)

The meeting concluded at 10:15 hours.

PARISH Old Bolsover Parish

APPLICATION Outline planning application (with details of access, layout, scale and landscaping submitted) for erection of 2 warehouse units (Class B2/B8) up to 68,000 sq. m gross, with ancillary office accommodation; construction of new access road; provision of service yards and internal vehicle circulation and parking areas; erection of covered cycle parking areas, pump house and sprinkler tank, gate houses and perimeter fencing; associated drainage works, site levelling and landscaping; and realignment of existing public right of way.

LOCATION Land to the North of the M1 and South West of Oxcroft Junction Woodthorpe Road Shuttlewood

APPLICANT MVNE LLP and Devonshire Property (M Vale) Limited C/O Agent Peacock+Smith Leeds LS3 1AB

APPLICATION NO. 21/00424/OUT **FILE NO.** PP-09659105

CASE OFFICER Mr Steve Phillipson

DATE RECEIVED 16th July 2021

SUMMARY

This an application for 2 large mainly warehouse use buildings located outside the development envelope defined in the local plan but next to the northern extent of the Markham Vale Employment Site positioned between Woodthorpe and Shuttlewood. The application site straddles the administrative boundaries between Chesterfield BC and Bolsover DC and so the same planning application has been submitted to both local planning authorities. Unit A is located within Bolsover District and Unit B is located in Chesterfield Borough. However slightly more of the application site area falls within Chesterfield Borough and so Chesterfield BC has considered the application first at its planning committee meeting of 12th December 2022 when it resolved to grant planning permission subject to the completion of a S106 obligation.

The proposal will result in harms including: landscape impact given the elevated landform adjacent to the M1 and the large scale of the proposed buildings; less than substantial harm to setting of heritage assets; and harm to biodiversity on site, the proposal being reliant of off-site compensation.

Weighing in favour, the proposal is anticipated to bring forward up to 880 jobs within the area with associated economic and social benefits and the site is well located to take advantage of the adjacent strategic road network.

The finely balanced recommendation is that the benefits outweigh the harms and the application is recommended for approval subject to conditions and S106 obligations.

Since approval would be a departure to local plan policy a decision by Planning Committee is required.

Site Location Plan

SITE & SURROUNDINGS

The site is an elevated parcel of land between the M1 to the south east, Bolsover Road to the north, the Clowne Branch Line Greenway to the north west and Seymour Link Road with associated commercial developments to the south west. The site is large, approximately 27.6 hectares in area and is open green field agricultural land with some wooded areas and wildlife corridors. The Hawk Brook marks the administrative boundary between Chesterfield and Bolsover which runs east west through the centre of the site forming a valley feature. The partially tree lined route of the Oxcroft Branch Line forms a second wildlife corridor which runs east west though the northern half of the site.

Footpath route Staveley Footpath 29 crosses the site north/south.

The site gradient of the land changes and inclines steeply from the proposed Seymour Link Road access point which helps to define the current extent of the Markham Vale Employment Site and the transition to countryside.

Aerial image: taken from Google Earth

Above: Taken from the elevated land area of Building A looking south west to the step down in ground level to the proposed access adjacent 'Gist Building and Seymour Link Road beyond. M1 to south (left of shot).

From the area of Building A to West

From the area of Building A to north west and the Hawk Brook valley then area of Building B

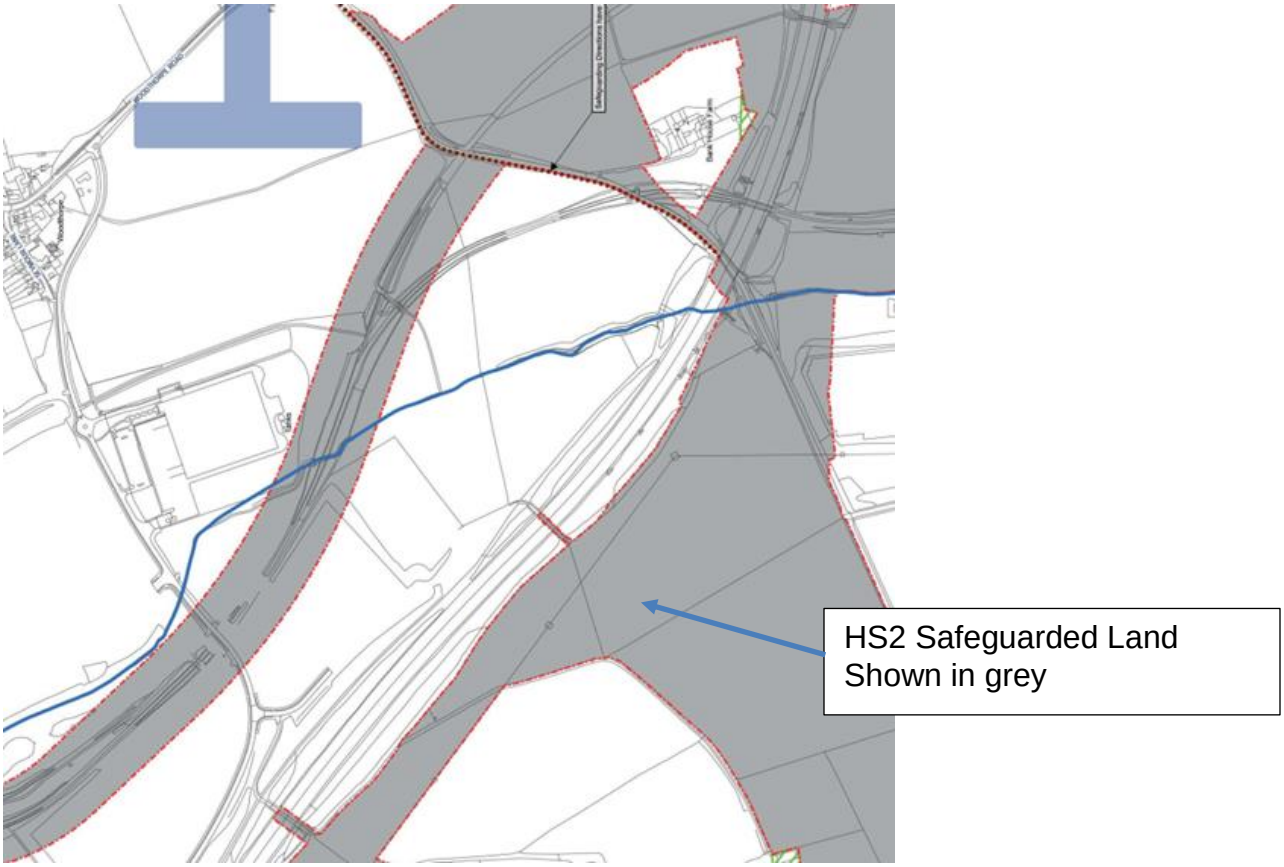
From area of Building A looking north to Hawk Brook then Oxcroft Branch Line

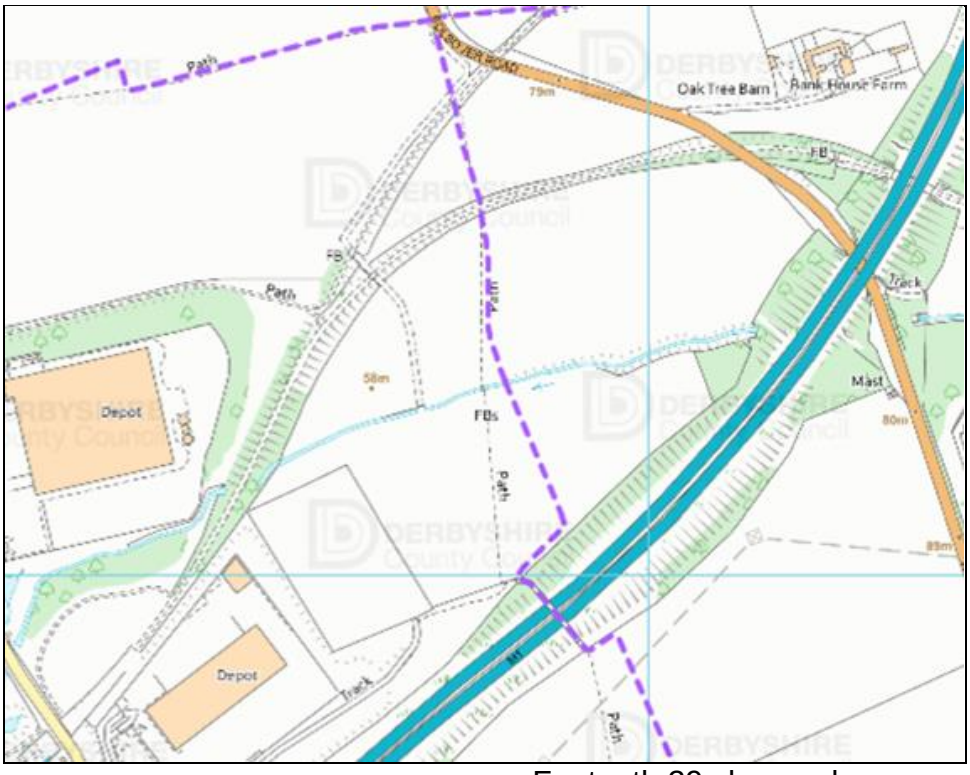
From the northern point of the site looking south across the Oxcroft Branch Line (foreground), then Hawk Brook river corridor valley, then site of Building A site raised above the level of the 'Gist' building (far right), then tree line to the M1 as horizon.

The Clowne Greenway –

The Clowne Greenway –

The former mineral railway line now dismantled and used as a recreational route for walking and cycling is to the north-west. This area is safeguarded for HS2:



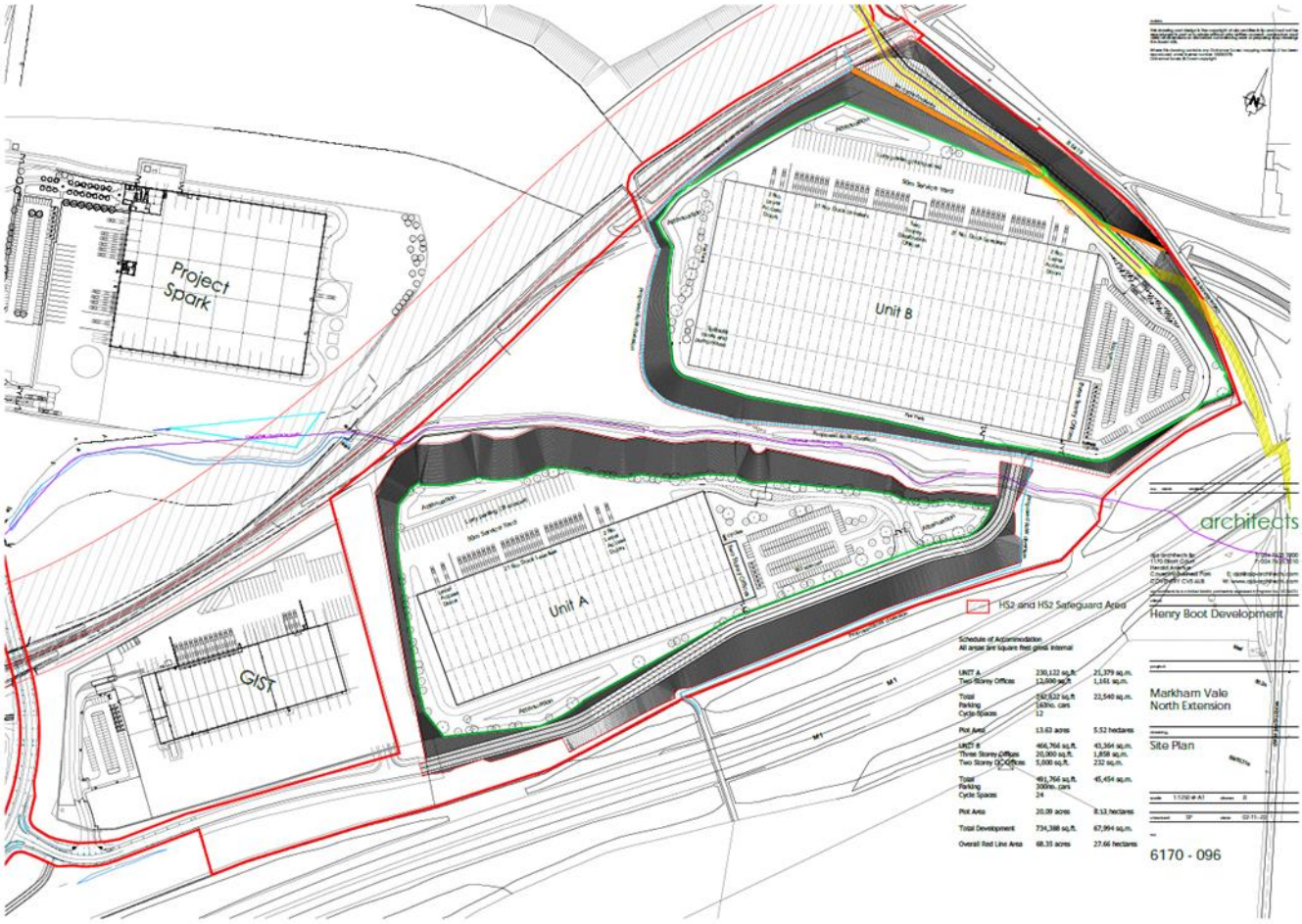


Footpath 29 shown above crossing the site.

PROPOSAL

The application is for the erection of two large commercial units noted as buildings A and B. These building are proposed alongside access and parking and circulation areas, with the provision of large service yards and associated structures; which is proposed to be constructed on the greenfield site. This is an outline application considering access, landscaping, layout and scale at this outline stage with 'appearance' being the only reserved matter left for future consideration. This is a speculative development and therefore the final user is unknown.

The application includes the access route from the existing road serving Gist Ltd off the Seymour Link Road (within Bolsover District) and seeks flexibility between B2 (General Industrial) and B8 (Storage and distribution) uses, it is not anticipated that B2 floorspace will exceed 35% of the total hence the units are expected to be mainly warehousing.



The size of the potential units are:

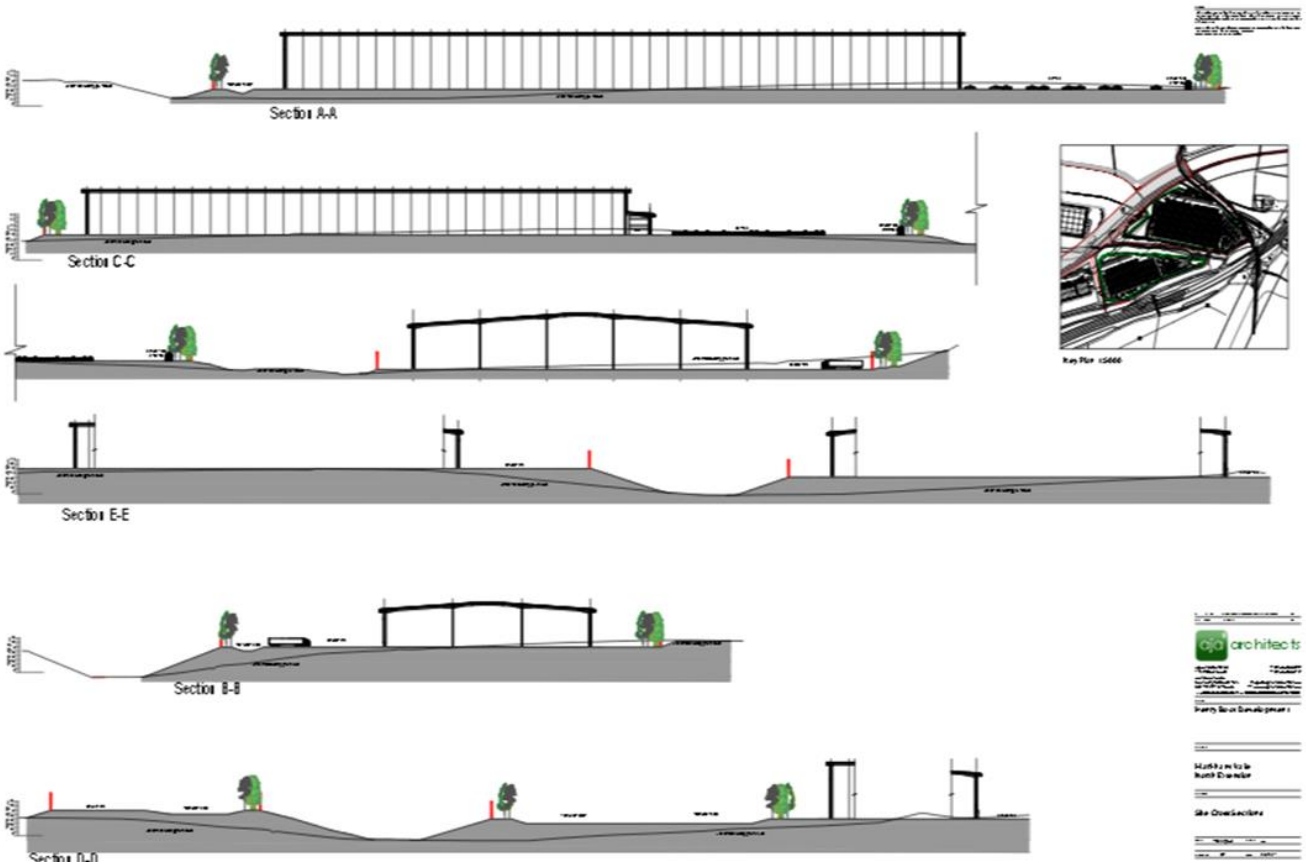
Unit A –
Approx' 237m x 90m x up to 20m high
22,540 sq. m warehouse (which includes ancillary offices with a floorspace of 1,161 sq.m (provided over two storeys)
35 lorry parking spaces

163 parking spaces including 6 disabled spaces

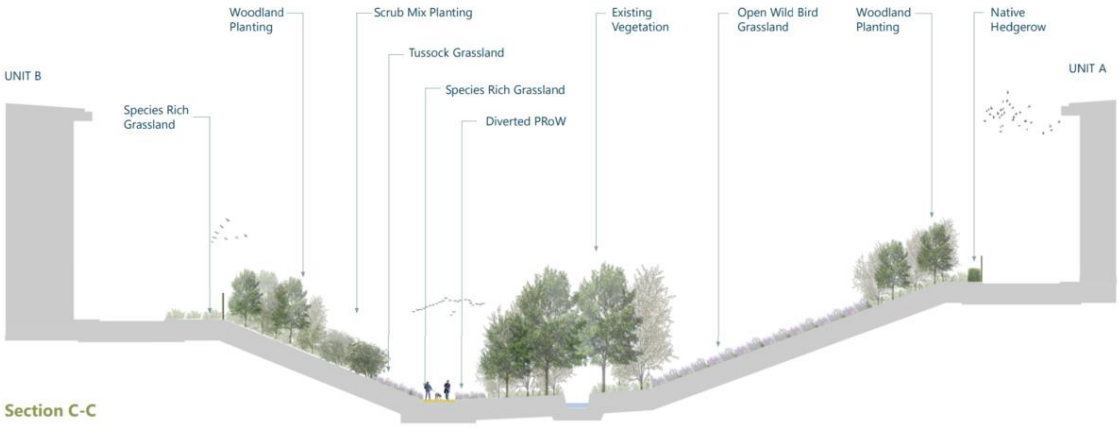
Unit B –
Approx' 297m x 147m x up to 25m high
45,454 sq.m. warehouse (which includes ancillary offices with a floorspace of 2,090 sq.m provided over two storeys.
49 lorry parking spaces
300 parking spaces including 12 disabled spaces

To enable the development it is proposed that the route of the existing public right of way across the site will be diverted in a zig-zag around and between the units following a path along the Hawk Brook.

Due to the topography of the land substantial movement of earth and cut and fill (up to 8m level changes) would be necessary to create development platforms for the construction of the substantial buildings and associated external parking and manoeuvring areas as is shown in these sections:



The central corridor with water course is also detailed with the re-routed footpath:



In support of the application the Applicant states that:

- All units at Markham Vale are under offer or occupied.
- There are no remaining areas of land within the allocated employment sites that provide opportunities for further expansion or units in excess of 50,000 sq. ft.
- Without additional land being made available for development, the potential for Markham Vale to continue contributing towards economic growth will be extremely limited, with the only areas of land left undeveloped being limited in size and only capable of providing for a relatively small area of the market, particularly in the industrial and logistics sectors.
- Demand is highest for units between 50,000sq. ft to 500,000sq. ft range, which require correspondingly large site areas which the allocated sites at Markham Vale are no longer able to provide for.
- Demand for space in this sector remains strong.
- A limited and specific expansion of the existing employment site would therefore represent a unique opportunity to capitalise on the success of Markham Vale, and provide additional space for prospective occupiers, particularly those with requirements for larger units.
- Without the proposed expansion of the existing employment site, there is every prospect that potential investment in the economy of Bolsover and Chesterfield may end up locating elsewhere.
- As has been demonstrated in the Built Heritage Assessment which forms part of this application, the indicative development would not result in significant impacts on designated or non-designated heritage assets, while the Archaeological Desk Based Assessment and the subsequent Geophysical Survey and Trial Trenching measures have provided an assessment and recording of the archaeological value of the site.
- The supply of larger units in the wider region is now particularly constrained with only four known sites providing units of the requisite size currently, none of which in chesterfield or Bolsover and there is evidence of an unmet need for larger sites.
- The Applicant further claims that based on the comparable evidence from recent developments of a similar scale and nature in the area, it is anticipated that the indicative development would result in the creation of between 650-880 jobs.

The Applicant has agreed to the following S106 obligations to mitigate some of the impacts of the proposal:-

- The DCC Local Bus Team has advised to secure £20k financial contribution for the improvements of two bus stops along Seymour Link Road via S106.
- The DCC Sustainable Transport Team has advised to secure £5,075 financial for travel plan monitoring contribution.
- Contribution of £478,200 (based on a cost of £30,018.08 per habitat unit) for off-site Biodiversity Net Gain, in regard to habitat creation and long-term management and monitoring in line with DWT's Biodiversity Design and Access Strategy for the land at Old Whittington dated November 2022. (Including: A 30-year management plan for the compensation site including aims, objectives, prescriptions and actions together with a schedule of works for a five-year period that can be rolled forward throughout the 30-year management period. Ongoing monitoring and remedial measures including benchmarking of the site creation/enhancement areas against the DEFRA conditions sheets reportable to the authority at 2, 5, 10-, 15-, 20- and 30-years post creation. Monitoring of small heath butterfly and farmland birds at 2, 5 and 10 years.)
- Employment and Skills Strategy with 10-year monitoring.

AMENDMENTS

Various amendments agreed during the course of the application including the inclusion of "Layout" as a reserved matter to be determined at this stage, revisions to the layout and landscaping, footpath line, SuDS and biodiversity proposals.

EIA SCREENING OPINION

The Applicant has previously applied to BDC and CBC for screening opinions as to whether an environmental impact assessment is required for this proposal under the Town and Country Planning (Environmental Impact Assessment) (England) Regulations 2017. Both Councils determined that an environmental impact assessment was not required.

HISTORY

CHE/20/00688/EIA - Screening opinion: EIA not required

20/00401/SCREEN - Screening opinion: EIA not required

CONSULTATIONS

<u>BDC Planning Policy</u>
Informal advice provided which is incorporated within the Assessment section of this report. In summary: it is considered that the proposal would be contrary to the policies of the Local Plan for Bolsover District.

Therefore, the Policy Team recommend that the proposal should be refused unless:

a) the economic benefits of the proposal are judged to outweigh the loss of further

countryside to development over and above that planned through the Local Plan site allocations; and
b) the impact of the release of further greenfield land is judged to not undermine the Council's priority for the brownfield Coalite site successfully brought forward into beneficial use; and
c) the proposal is able to demonstrate a high degree of performance against the factors set out in Policy SS1: Sustainable Development.

BDC Environmental Health
12/07/2021. Confirms that the conclusions of the air quality assessment are accepted. Queries noise impacts to the north side of the site (however these are impacts for CBC to consider). A phase 2 contamination risk assessment should be required by condition.
13/08/2021. Noise impacts from HGV's on local access routes should be considered.

BDC Drainage Engineer
07/07/2021 SuDS maintenance details are required.
The development must not increase the risks of flooding from surface water runoff.

BDC Economic Development
9/08/2021. Notes the Applicants Planning Statement says that "The majority of the 650 – 880 additional jobs that would be provided would be expected to be made available to people living in the local area".

A pre-commencement condition is requested requiring approval of a scheme for local opportunities for skills, training and employment in the District.

BDC Conservation Manager
31/01/2023. In heritage terms the main issue for consideration is the impact of the proposed development on the significance and setting of the designated heritage assets.

Listed buildings – Bolsover Castle (GI), Sutton Scarsdale Hall (GI)
Scheduled Ancient Monument – Bolsover castle
Historic Park and Garden – Bolsover Castle GI registered park and garden
Bolsover Conservation Area

The site is a sensitive location with regard to heritage significance and therefore any development introduces the possibility of 'harm'.

Whilst setting impacts on views from Bolsover Castle in particular are a concern, the Conservation Officer advises that the level of harm caused to the significance and setting of the heritage assets will be less than substantial. In accordance with NPPF guidance paragraph 202 this harm needs should be weighed against the public benefits of the proposal.

Coal Authority
24/07/2021. No objections.

DCC Highways
25/11/2022. No objections subject to conditions and £20k financial contributions: for the improvements of two bus stops along Seymour Link Road via S106; and £5,075 financial for

travel plan monitoring contribution via S106.

DCC Travel Plan
03/11/2021. Advice and recommendations provided for improvements to the Travel Plan and measures to encourage sustainable means of transport including cycle storage, e-v charging points, pedestrian routes, bus stops, etc.

DCC Rights of Way
21/03/2022. The development would make the footpath experience less rural, the views more closed-in and the route less direct. However, if the current use of the route is predominantly for leisure rather than utility travel, the loss of directness may not be a significant factor. If the development went ahead the urbanisation of the route would be mitigated to some extent by the proposed tree planting to screen the buildings, and the provision of a surfaced path for the diverted route could also potentially represent an improvement. The proposed diversion would most likely provide a valuable amenity for future employees at the site during breaks and possibly as routes to and from work, also maintaining a link to the adjacent greenway. Notwithstanding the considerations outlined above, the proposed diversion appears to provide the most practical route through the site as proposed, with other options being to the south, west and north of Unit A, and to the south, east and north of Unit B. Both of these lack the streamside amenity of the existing proposal, and the eastern option may be impractical due to insufficient space.

DCC Flood Risk
31/08/2022. No objections to the revised proposals and flood risk assessment subject to conditions.

DCC Planning, Landscape and Heritage
18/10/2021. Concerns raised re:
Failure to accord with local and national planning policies designed to protect the open countryside form harmful development and to restrict development that would impact on the open character of the countryside;
Significant adverse landscape effects on both the character of the site and its immediate area and on those visual receptors (people) closest to the site including residents and the users of local footpaths and the local road network (in addition the Landscape and Visual Impact assessment lacks robustness);
Less than substantial harm to the setting of Bolsover Castle and Sutton Scarsdale Hall, both of which are Grade I listed buildings, and Church of St Peter, a Grade II listed building.

12/04/2022. LVIA suggests that there would be moderate to substantial visual effects (which would be significant) from a number of locations. In this context, officers consider that with regard the submission, their comments have not significantly changed from their previous comments. There would be less than substantial harm to built heritage.

DCC Archaeology
23/09/2021. The geophysical survey identified what is clearly an archaeological landscape of the Iron Age or Roman-British period – a rectilinear enclosure with internal house gullies and other features is at the SW of the site. A condition is recommended requiring archaeological excavation and recording before the commencement of development.

Derbyshire Wildlife Trust
15/11/2022. No objections subject to conditions and S106 obligation re payment of off-site compensation sum to off-set the on-site harms to biodiversity.

Designing Out Crime Officer
27/09/2021. Some concerns raised about the potential increase in use of the public footpath bridge over the M1 and the increase in suicide risk during the Covid lockdown.

HS2
No objections.

National Highways
No objections subject to conditions.

Ramblers
11/0/2021. We note that this proposal has the potential to significantly affect Staveley footpath, (FP), 29 and Bolsover FP 34. Effectively the proposals to divert these paths will more than double the distance of the existing FP's between points A to G. The potential to create a pleasant walking section along the Hawk Brook is noted, it is considered that this will, to some extent, offset the inconvenience of the increased distances. With specific respect to the subject of the re-routing of the footpaths, we can see no obvious alternatives to the proposal as drawn.

Peak & Northern Footpaths Society
07/08/2021. The circuitous nature of the suggested diversion is unfortunate. The layout of Units A and B seems designed to impose the maximum detour necessary to reunite the unaffected lengths of this public footpath. Mitigating this, is the corridor along the Hawke Brook which has the potential to be a pleasant section but this only partially mitigates the problem. Therefore, we reserve our right to object to any Public Path Diversion Order published as a consequence of planning consent being granted.

PUBLICITY

Advertised in the press and on site. Three properties consulted. No representations received by BDC.

It should be noted that residential properties closest to this site are within Chesterfield Borough.

In response to Chesterfield BC consultation on this planning application 7 representations were received. The grounds of concern raised are summaries below but are addressed in more detail in Section 6 of the CBC Committee report:-

- *There are 2 empty warehouses already on the Seymour Link Road (these are now thought to be under offer of occupied).*
- *They are struggling to fill the existing vacancies at warehouses*
- *Light pollution affecting amenity and wildlife.*
- *Additional noise.*
- *More traffic as workers won't be local*

- *No need for these warehouses on greenfield land since brownfield land is available e.g. at Coalite.*
- *Impact on wildlife and habitat.*
- *Urban creep*
- *Loss of gap between settlements*
- *Air pollution*
- *Impact on leisure use of the area*
- *Loss of agricultural land*
- *Visual impact of massive warehouses close to Bolsover Road*
- *Loss of view*
- *They state that 65 individual businesses employ just over 2,000 people and yet 2 new buildings could generate up to 40% more? (CBC Response – the Council's Economic Development Unit have considered the suggested job creation and consider it to be a cautious estimate).*
- *Questions the economic benefits.*
- *PV provision should be a requirement on the roof of these huge units. It will relieve green fields of having to provide this.*

POLICY

Local Plan for Bolsover District ("the adopted Local Plan")
That part of the application site within the District of Bolsover and so relevant to the decision which Bolsover District Council must take is the 'Local Plan for Bolsover District'.

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

- SS1 – Sustainable Development
- SS2 – Scale of Development
- SS7 – Coalite Priority Regeneration Area
- SS9 – Development in the Countryside
- SC2 – Sustainable Design and Construction
- SC3 – High Quality Development
- SC7 – Flood Risk
- SC8 – Landscape Character
- SC9 – Biodiversity and Geodiversity
- SC10 – Trees, Woodland and Hedgerows
- SC11 – Environmental Quality (Amenity)
- SC12 – Air Quality
- SC13 – Water Quality
- SC14 – Contaminated Land
- SC16 – Development within or Impacting on Conservation Areas
- SC17 – Development affecting Listed Buildings and their Settings
- SC18 – Scheduled Monuments and Archaeology
- ITCR3 – Protection of Footpaths and Bridleways
- ITCR10 – Supporting Sustainable Transport Patterns
- ITCR11 – Parking Provision

- II1 – Developer Contributions
- II2 – Employment 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 81-83: Building a strong, competitive economy
- Paragraphs 92, 93, 95 and 97: Promoting healthy and safe communities
- Paragraphs 104-108: Promoting sustainable transport
- Paragraph 119, 120, 122 and 123: Making effective use of land
- Paragraphs 126-132 and 134: Achieving well-designed places
- Paragraph 152, 154 and 157: Meeting the challenge of climate change
- Paragraph 159 167 and 169: Planning and Flood Risk
- Paragraphs 174, 180 and 182: Conserving and enhancing the natural environment
- Paragraphs 183-188: Ground conditions and pollution
- Paragraphs 194, 195 and 199-208: Conserving and enhancing the historic environment

Other
Statutory duties under the Planning (Listed Buildings and Conservation Areas) Act 1990
S66(1) Pl (LBCA) Act 1990 – "In considering whether to grant planning permission for development which affects a listed building or its setting, the local planning authority or, as the case may be, the Secretary of State shall have ***special regard*** to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses"

Section 72 Pl (LBCA) Act 1990 - requires that "special attention shall be paid to the desirability of preserving or enhancing the character or appearance of a conservation area."

ASSESSMENT

Key issues

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

- The principle of the development
- Chesterfield Borough Council's decision
- Impact on Heritage Assets
- The landscape and visual impact of the proposed development
- Impact on residential amenity
- Highway safety
- Biodiversity
- HS2

- Ground conditions
- Drainage

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

Principle of Development

Location Outside the Development Envelope
The application site is adjacent to, but beyond, the northern extent of Markham Vale Industrial estate and adjacent to an employment allocation and the development envelope on its western side only. The site is greenfield, agricultural land and is outside the development envelop and so it is within the countryside as relevant to the application of the adopted Bolsover District local plan policy SS9. The northern half of the site within Chesterfield is also within the countryside as defined by the policies of the Chesterfield Borough Local Plan 2018 – 2035.

Policy SS9: Development in the Countryside is the adopted Local Plan's strategic policy that seeks to restrict urban forms of development in the countryside where these would not be appropriate or sustainable and not in accordance with the Local Plan's Spatial Strategy. It states that development proposals in the countryside outside development envelopes will only be granted planning permission where it can be demonstrated that they fall within one of the exception criteria, such as the re-use of brownfield land or are necessary for the purposes of agriculture. 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. None of the policy exceptions criteria apply in this case and so approval would be contrary to local plan policy SS9 and the application should only be approved if material considerations indicate otherwise.

National policies for development in the countryside are set out in the Framework, particularly Paragraph 174 which states that:

'Planning policies and decisions should contribute to and enhance the natural and local environment by:..
b) recognising the intrinsic character and beauty of the countryside, and the wider benefits from natural capital and ecosystem services – including the economic and other benefits of the best and most versatile agricultural land, and of trees and woodland'.

It is clear from the above, that the planning application site is not located within a defined development envelop of either the CBLP or BDLP and furthermore is not allocated for any specific form of development. The site is also a greenfield site. Accordingly, the planning application should be considered as development in the countryside. National and local planning policies in the CBLP and BDLP seek to protect the open countryside form harmful development and to restrict development that would impact on the open character of the countryside. Only smaller-scale uses and development are generally considered appropriate in the countryside particularly related to agriculture, forestry, recreation or tourism. Larger developments are only generally considered acceptable on former brownfield land.

It is considered that the large scale of development proposed would be likely to have a

significant urbanising impact on the site and be likely to harm the open nature of the site and wider area, contrary to national and local planning policies which seek to protect the open character of the countryside.

Notwithstanding the policy position, a key consideration is whether the economic benefits of the development outweigh the general presumption against development outside of the defined limits of the development envelope. It is considered that this could be the case in principle if there is a need for additional employment land to be allocated.

However, the Local Plan plans positively for a strong and competitive economy. The Economic Development Needs Assessment (EDNA) (October 2015) identified the need for employment land (B use classes only) for Bolsover District as being between 65 and 100 hectares of land for the period 2015 to 2033. Based on the availability of suitable and achievable sites, the Local Plan set a target at the higher end of the range and so allocated sufficient new land for B use classes to provide for 92 hectares of employment land.

At this relatively early stage of the monitoring of the delivery of the Local Plan's employment land target, there is no compelling case to justify the release of further greenfield land to help the Local Plan meet its target.

With regard to the size of plots of the existing available provision the units on this proposed Markham Vale expansion site are generally larger than the majority of the units being offered on the former Coalite site but that Unit A (within Bolsover District) is comparable with Units 4B, 1 and 2 on the former Coalite site. Alternative existing sites for the development proposed within Bolsover is therefore available.

Even though there is no "need" from a planning policy point of view to release additional land for employment use, it is considered that there would nevertheless be economic benefits of doing so.

The application site is located adjacent to a well-established employment location. The proximity of Junction 29A of the M1 Motorway provides the opportunity to connect the site to the local, regional and national road network, offering the potential of an employment development of strategic importance.

The proposed development is likely to support large numbers of permanent and temporary jobs both in the construction and employment phase. Given the nature of the proposal, it is likely there will be sizeable employment, training and supply chain opportunities created during the construction phase and during the operational phase of the development. Therefore if Committee is minded to approve the planning application, it is recommended that a local labour/skills condition or S106 obligation is applied in line with local plan policy SS1 and II2.

Hence, from an employment and economic development perspective, there are likely to be significant positive benefits for the local area from the proposed development with the creation of significant numbers of new full and part-time jobs, the potential for training and supply chain opportunities and creation of modern B2 and B8 floorspace. Although the proposed development is speculative, the market report submitted in support of the planning application suggests that the market for warehouse and logistics floorspace in the northern

East Midlands and Yorkshire is strong and that there is likely to be high levels of occupier interest in the scheme.

Coalite Priority Regeneration Area

Another factor to consider if the proposal were to be allowed is whether the release of additional greenfield land could undermine the Council's priority to see the regeneration of the brownfield former Coalite site successfully brought forward into beneficial use (See policy SS7 Coalite Priority Regeneration Area).

However market analysis suggests (Applicant's commissioned work from JLL, a leading Real Estate Consultancy, into the market for new warehouse accommodation) that while the proposed Markham Vale expansion units would compete with and most likely be favoured over the former Coalite site units, market demand for warehouse units remains so strong that units on both sites will get taken up by the market.

Progress with the regeneration of the former Coalite site is going quite well with several units now under construction, one end user established and 2 other end users in discussions. Demand for warehouse sites remains strong and therefore it is considered unlikely that the release of the current application site for development would materially undermine the success of nearby employment development on the former Coalite site.

Demonstration of Sustainable Development

Policy SS1: Sustainable Development sets out the factors that will inform the assessment of whether a development contributes to sustainable development or not.

The Applicant's submitted Planning Statement provides a commentary on how the development proposal has responded to all of the factors of policy SS1. This is supported by other documents, such as a Travel Plan and an Energy and Sustainability Statement.

The Extent to which the proposed development is considered to meet the relevant criteria of policy SS1 is set out below:-

a) Provide for employment opportunities and local skills – this can be required by condition or S106 obligation;

b) The proposal is not on Brownfield Land and so fails to meet this criterion;

c) Locating in close proximity to trip generators to reduce the need to travel by non-sustainable modes of transport (Policy ITCR10 also seeks to locate new development so as to support sustainable modes).

It is noted that the Travel Plan seeks to promote and encourage walking, cycling, public transport and car sharing as means of sustainable modes of travel to the site. However, it is noted that the nearest bus stops to the application site are approximately 1km and 1.5km distance on Woodthorpe Road and Erin Road respectively. Beyond the suggested improvements to these bus stops, it is considered that the distances involved are beyond what is likely to encourage meaningful take-up of public transport commuting journeys.

The site is not within a reasonable walking distance of facilities and services, they would only be realistically accessible to employees on this site by car.

d) Low carbon and energy efficient design.

It would appear that the energy and carbon reduction strategy proposed seeks to meet regulatory standards but not go beyond these. This is in part explained in the Energy and Sustainability Statement being due to the proposed development's energy demand pattern.

i) Protect, create and enhance green infra-structure – see later in this report.
j) The proposal does not affect best quality agricultural land.

Whilst the proposal can claim to address and support some of the factors under policy SS1: Sustainable Development, for example supporting the local economy (provided sufficient local employment opportunities and skills development is demonstrated), based on the information provided it is considered that the proposal as submitted does not yet demonstrate a high degree of performance against the factors set out in Policy SS1: Sustainable Development. Most notably the site is greenfield rather than brownfield, it is not currently in a location well placed to be served by means of transport other than the private car, and the proposal would not preserve the existing biodiversity assets on site (but see later in this report for biodiversity impacts).

Further consideration of Sustainable Transport Modes

The proposals as set out rely largely on existing public transport and connections. It is noted that the application includes a new route for the Oxcroft Branch line to meet with the Clowne Branch line greenway, and re-direct the existing footpath route through the site. The nearest residential area is Woodthorpe, approximately a kilometre away on foot via the Seymour Link Road, with any other areas significantly further away. The bus stops on Woodthorpe Road, are over a kilometre away from the nearest point of the site, and served only by the number 80/81 service, which runs approximately hourly during the day and provides no services at night between 11pm and 8am. The same service runs along Bolsover Road which has limited footpath access. The majority of these services do not serve Chesterfield (only a very few services operating between 8:30pm and 10:30pm), providing links primarily between Bolsover and Sheffield. For connections to Brimington and Chesterfield Town centre employees would need to walk to stops on the A619 for services 74 and 77, approximately 2km away.

It is noted that the Highway Authority has requested £20K for bus stops on Seymour Link Road. However, Stagecoach have confirmed that they would be unwilling to reroute the 90 and 74 Services, and DCC have confirmed that service 81 also could not be re-routed. It is noted that DCC have recommended that the developer should provide bus 'taster' tickets as part of their Travel Plan, and the Travel Plan recommends information on public transport and loans for bus tickets. However, in the absence of any bus services within a reasonable distance on which these could be used, none of these measures would achieve the policy objectives of prioritising walking and the use of public transport.

The lack of suitable access is also likely to harm the economic performance of the site. It is noted that employers on the adjacent existing employment site have raised concerns over the lack of bus services hampering their ability to secure employees, as set out in a recent newspaper article.

The applicant has submitted a report on connectivity which sets out the connected cycle route from the site into Staveley, the cycle network being along the route of the former Midland Railway Clowne Branch Line from Creswell via Clowne to the former Seymour Colliery site (currently Markham Vale North) for 7.4km.

The report also notes that The Chartered Institution of Highways and Transportation (CIHT) publication 'Guidelines for Providing for Journeys on Foot' (2000) describes what are

considered acceptable walking distances for pedestrians without mobility impairment. The Guidance suggests that for commuting, up to 0.5km is the desirable walking distance, up to 1km is an acceptable walking distance, and 2km is the preferred maximum walking distance. The 2km maximum catchment shows that three residential areas are within walking distance from the Site, Woodthorpe, Shuttlewood and Mastin Moor.

In relation to cycling, it is generally accepted that cycling has the potential to substitute short car trips, particularly those under 5km, and to form part of a longer journey by public transport. There is a sizeable residential catchment area within cycling distance using existing infrastructure.

Despite the information provided in the connectivity report the development is considered to fall short of what would be considered good walking and public transport provision. However, in line with the connectivity report it is acknowledged that the existing cycle connections to Seymour Link Road including the Clowne Branch Line Greenway will connect into the site and a diversion of the Oxcroft Branch Line which runs towards Stanfree will be provided through the site from the Clowne Branch line green way. There are also cycle connections into Staveley.

It is also worth noting that the proposed housing development at Mastin Moor will include cycle connections and will therefore create additional routes into the northern part of Mastin Moor. It is also hoped, but not guaranteed, that the housing development will also lead to better connectivity in terms of bus provision. It will inevitably bring the proposed development closer to the local population which will grow substantially as part of the proposed Mastin Moor housing development.

From the above it is clear there is some conflict with policies SS1c and ITCR10. However, it is noted that the Travel Plan could be improved to include such measures as direct financial support for improved bus services, car clubs, provision of or loans for bikes and e-bikes, or support for ‘wheels to work’ programme, and this can be secured as part of a S106 legal agreement, to which the agent has noted agreement.

National Planning Policy

In addition to looking at local plan policy it is also necessary to consider national policy as this scheme is in effect a departure from the local plan.

Para 82 of the NPPF states: “Planning policies should… be flexible enough to accommodate needs not anticipated in the plan, allow for new and flexible working practices (such as live-work accommodation), and to enable a rapid response to changes in economic circumstances.

Para 83 of the NPPF states “Planning policies and decisions should recognise and address the specific locational requirements of different sectors. This includes making provision for clusters or networks of knowledge and data-driven, creative or high technology industries; and for storage and distribution operations at a variety of scales and in suitably accessible locations.”

Whether a logical extension to the industrial estate.

Although the application site is not allocated for employment use and sits outside the

development envelope, consideration should be given to whether or not this site would be a logical extension to the Markham Vale Industrial Estate. i.e. is this site likely to be one which is or should be selected for allocation in the next review of the local plan.

Whilst to a large degree this is a matter properly dealt with through the local plan site selection process it is considered that the following factors are relevant:-

Factors weighing in favour include the sites position adjacent to an existing industrial estate; appropriate access with good connection to the strategic road network; and the fact that the site is contained by the M1 to the east, existing industrial estate to the south west, and land currently safeguarded for HS2 to the west and north. So by overview on a map the selection of this site seems spatially reasonable.

Factors against include that HS2 is now seems unlikely to proceed in this area; the site is greenfield agricultural land whereas most of Markham Vale is brownfield; it is not well served by public transport; it has two wildlife corridors which cross through it, one lost the other adversely affected; the distinct change in ground levels from the Gist building as it steps up to this site helps to mark and define perhaps what should be the existing logical extent of Markham Industrial Estate in this direction; and the higher ground levels relative to the rest of Markham Vale will result in particularly prominent large scale buildings. The latter means that it is doubtful whether the proposal can fully accord with the criteria of policy SS9… *"In all cases, where development is considered acceptable it will be required to respect the form, scale and character of the landscape".*

<u>The Chesterfield Borough Council (CBC) Decision</u>
Bolsover District Council is responsible for determining this planning application, having regard to the policies of the District of Bolsover Local Plan, in relation to the part of the application site which is within the District of Bolsover. This includes the access into the site from the Seymour Link Road and proposed building (A) and its associated parking and service areas.

CBC are responsible for determining the proposals relating to building (B) in accordance with their local plan. Their part of the site is larger and so in accordance with the regulations CBC receives the planning application fee and is the lead authority in the application process.

CBC have now determined the application relating to their area. Their decision does not bind BDC but is considered to be material consideration of minor weight. This is because a reasonable authority has reached a decision on the application under a similar policy regime and with similar material considerations. Also it should be noted that if BDC refuse permission for building (A) (and if this decision were supported at appeal) then the CBC permission for building (B) could not be implemented because the access to it is from Bolsover through site (A).

CBC considered this application at their Planning Committee meeting on 12th December 2022, when it was resolved to approve the application subject to the completion of a S106 obligation which secures obligations for bus stops, travel plan monitoring, off-site biodiversity compensation, and an employment skills strategy.

In reaching this decision it is recognised in the CBC Planning Officer's report that the decision

was finely balanced. The site is not allocated in Chesterfield's local plan and harm was recognised to landscape, biodiversity and heritage and it was accepted that connectivity of the site for public transport is weak with elongated walking and cycling routes necessary to access local areas.

However off-site biodiversity mitigation proposals, and travel plan improvements were considered to be adequate to allow the significant economic benefits of the scheme to outweigh the harms.

"On-going action is required to build a more resilient local economy that can create and sustain a range of employment opportunities that are accessible to local people. Key regeneration initiatives have not yet delivered the scale of jobs anticipated, meaning that additional interventions need to be considered if new employment is to be secured. The growth of on-line retail and service delivery is driving structural change in key business sectors and the local area needs to be better placed to secure a share of this growth in future, rather than just experience the related down-side of declining retail employment in its town centres." (CBC Economic Development Unit)

"…the scheme will bring much needed investment into the Borough and will provide for a scale of commercial unit which in the short to medium term is unlikely to be available for development elsewhere in the Borough and for which demand is extremely high following the Covid pandemic. The proposal is also anticipated to bring forward up to 880 jobs within the Borough which is considered an appropriate approximation of job growth by the Council's Economic development team. The proposal would also be subject to an employment and skills strategy monitored over a 10 year period to ensure jobs and skills in the local area. These are considered to be substantial positives of the development".

Conclusion on the Principle of Development

The site is greenfield, agricultural land and is outside the development envelop and so it is within the countryside. None of the policy exception criteria apply and so approval would be contrary to local plan policy SS9. The large scale of development proposed would be likely to have a significant urbanising impact on the site and be likely to harm the open nature of the site and wider area, contrary to national and local planning policies which seek to protect the open character of the countryside.

There is no "need" (within Bolsover District) for the release of further greenfield land to help the Local Plan meet its target and other regenerated brownfield employment land is available nearby at the former Coalite site which could accommodate unit (A).

In terms of sustainability the proposal is only able to satisfy some of the criteria set out in policy SS1 and falls short in terms of the site being greenfield rather than brownfield, it does not have good walking or public transport provision and so is not currently in a location well placed to be served by means of transport other than the private car, and the proposal would not preserve the existing biodiversity assets on site. However, it is possible to mitigate the lack of connectivity to a degree through the travel plan and there are reasonably good cycling routes to the site and to which the development will provide improvements; through funding and the provision of the sites Oxcroft Branch line route.

The distinct change in ground levels from the Gist building adjacent to the south of the site

helps to mark and define perhaps what should be the existing logical extent Markham Industrial Estate in this direction; and the higher ground levels on site relative to the rest of Markham Vale will result in particularly prominent large scale buildings with significant landscape impacts.

However there would be significant economic benefits of approval including an estimated 880 new jobs and sizeable employment, training and supply chain opportunities created and secured by S106 obligation.

Although the site is not allocated in the local plan there are aspects of the sites geographical position weighing in favour of releasing it including the sites position adjacent to an existing industrial estate; appropriate road access with good connection to the strategic road network; and the fact that the site is contained by the M1 to the east, existing industrial estate to the south west, and land currently safeguarded for HS2 to the west and north.

The other impacts arising from the development are considered in detail in the remainder of the report including; impact on heritage assets, landscape impacts, impact on residential amenity, impacts on highway safety and impacts in terms of biodiversity. As set out in the report below and in the conclusion there are competing issues to consider in regard to this proposal. There are substantial disbenefits arising from the scheme from the loss of biodiversity and harm to landscape setting but also benefits from financial investment and job creation. The report considers these conflicting issues concluding that, on balance, in regard to the principle of development it is considered that the development is acceptable in principle.

Impacts on Heritage Assets

Policies SC16 and SC17 of the local plan seek to protect the setting of conservation areas and listed buildings. Policy SC18 deals with Scheduled Monuments and Archaeology.

Furthermore there are statutory duties on planning authorities set out at S72 and S66 (LBCA) Act 1990 to preserve the appearance of conservation areas, and in respect of listed buildings a LPA must have special regard to the desirability of preserving a listed building or its setting.

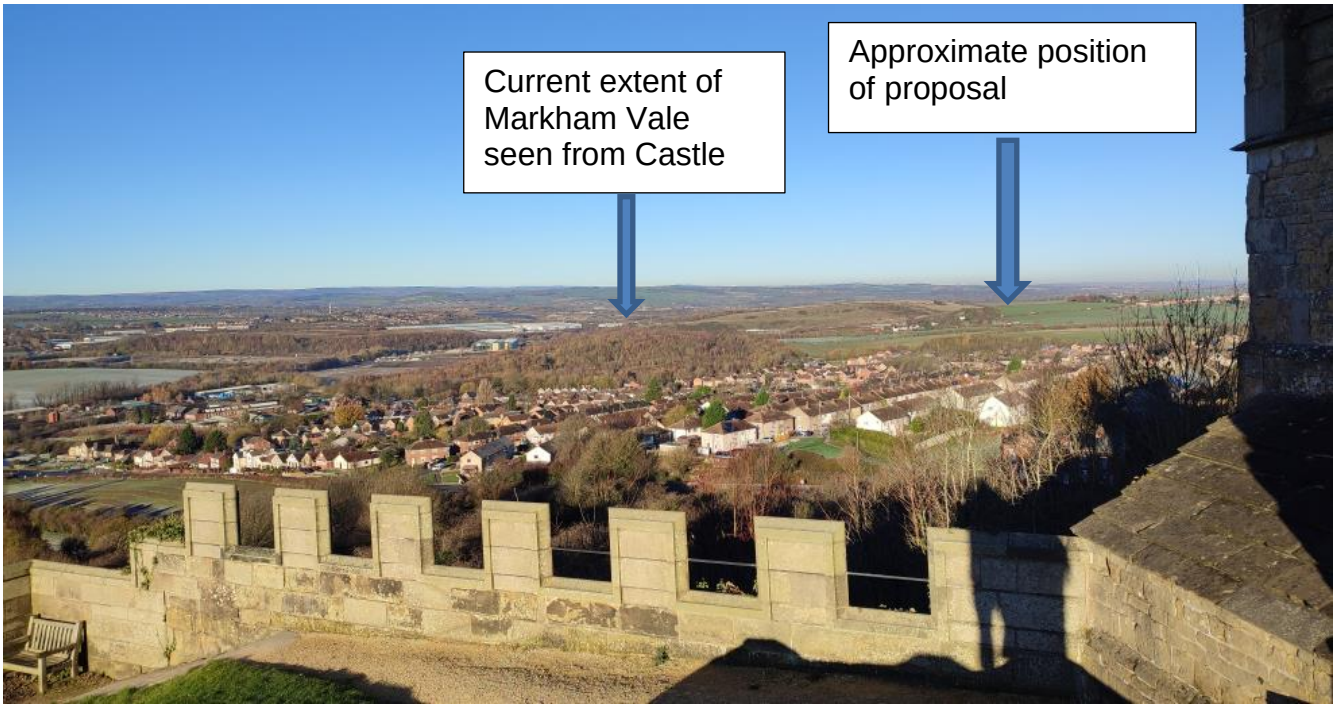
Potential harm to the setting of Bolsover Castle is a particular concern. Located 3.5km south east of the site. It is a grade 1 listed building, a Scheduled Monument, has a Historic Park and Garden and is within the conservation area.

What matters in assessing whether a proposal might cause harm is the impact on the significance of the heritage asset affected by the proposal.

Bolsover Castle stands prominently on a limestone spur overlooking the Doe Lea Valley. There can be no doubt that given the strategic position, the building was designed to be seen and take advantage of the extensive long views across the valley and so they are an important aspect of its setting.

The landscape setting of the Castle has changed dramatically over the centuries but currently the landscape character comprises a mix of predominantly rural landscape looking west from the Castle Terrace but with more modern urban development in views to the north west. The

proposed development site is to the north west but currently forms part of a green break between built development at Shuttlewood and Markham Vale Industrial Estate. A former colliery tip screens the northern extent of Markham Vale Estate from current views from the Castle Terrace but the proposed development will extend the view of that industrial estate to beyond the other (northern) side of the former colliery tip. So it will result in an extension of the built form within the current open break and so it will have some impact on view and so the setting of Bolsover Castle.



The submitted Heritage Impact Statement states that the:-

> *The roofline to Unit A will be visible although this will be set well below the skyline within the view and seen against the backdrop of rising ground and woodland to the west/north-west of the site. The use of a grey tone to the roof cladding of the building will reduce visual impact and the new building will only affect a small element of the overall vista available from the Castle (LVIA Figure 14 Representative Viewpoint 3 Proposed).*

The Conservation Manager advises that the development will have an impact on the existing open views to the north west but that the level of harm caused to the significance and setting of the heritage assets will be less than substantial. In accordance with NPPF guidance paragraph 202 this harm needs should be weighed against the public benefits.

DCC Heritage advises that the rural landscape setting of the Castle contributes greatly to its significance as, a commanding historic building in what is still largely a rural landscape. A significant amount of harm to setting has already been caused through the effects of the introduction of the M1, and, in more recent years, it has been further harmed by developments within the Markham Vale area. The proposed development is likely to have a further cumulative urbanising impact on the landscape setting but, under the current NPPF, this level of harm should be considered as less than substantial harm.

It is considered that the introduction of a substantial industrial building in what is currently a green break in the landscape will extend the urbanisation and industrial nature of the landscape and will impact on the views from the Castle. However within the context of the wider Markham Vale / Coalite development, it is considered that the visual impact of the development could be minimal (with appropriate cladding) and will amount to less than substantial harm.

Sutton Scarsdale Hall is also a Grade 1 listed building which lies slightly further away from the application site (about 5km south). However it is a comparable distance to Bolsover Castle and sits within the same landscape. DCC Heritage advise that the harm to setting resulting from the development will be of the same order as for Bolsover Castle. i.e. less than substantial.

The Grade II listed Church of St Peter at Woodthorpe (CBC area) will also be affected. DCC Heritage note that the Church of St Peter is much closer, within 350m, of the development site. However the significant of the rural setting of the Church has been reduced by through the introduction of surrounding residential developments. The building's significance has been further impacted through its de-consecration and conversion to residential use. As a result the harm likely to be caused to setting is considered to be at the lower end of the scale of less than substantial harm.

However, large, light, reflective buildings are highly visible from a distance, breaking the gradual undulations and range of natural colours and character of the landscape. It will be important therefore that the external appearance of the buildings (to be fully considered at reserved matters stage) is carefully designed to minimise their visual impact, including in views from Bolsover Castle. Appropriate measures would include a range of darker green, brown or dark grey coloured matt cladding designed to break up the mass of the buildings and to reduce the visual prominence of the buildings.

Although "appearance" is a reserved matter, the visual prominence of the buildings could go to the heart of the acceptability of the proposed development. Therefore a condition is recommended to require application for approval of reserved matters to be accompanied by a design statement which shows the use of an external cladding system designed to minimise the visual prominence of the buildings including in views from Bolsover Castle and Sutton Scarsdale Hall.

Subject to this condition it is considered that whilst there is "less than substantial harm" to the identified heritage assets, as this is low level harm in line with Para 202 of the NPPF this is considered to be outweighed by the public benefits of additional jobs and investment arising from the development.

<u>Archaeology</u>
The DCC Archaeologist advises that the applicant has undertaken geophysical survey and trial trenching evaluation in order to establish archaeological significance in line with NPPF para 189. The geophysical survey identified what is clearly an archaeological landscape of the Iron Age or Roman-British period – a rectilinear enclosure with internal house gullies and other features at the SW of the site (Field 5). Trial trenching uncovered a Romano-British field system with a small but significant pottery assemblage.

The area of archaeological interest in the southern half of the site should therefore be subject to archaeological excavation and recording before the commencement of development, in line with NPPF para 199. This should be required by condition and is likely to comprise a full area strip, followed by open area excavation of significant remains.

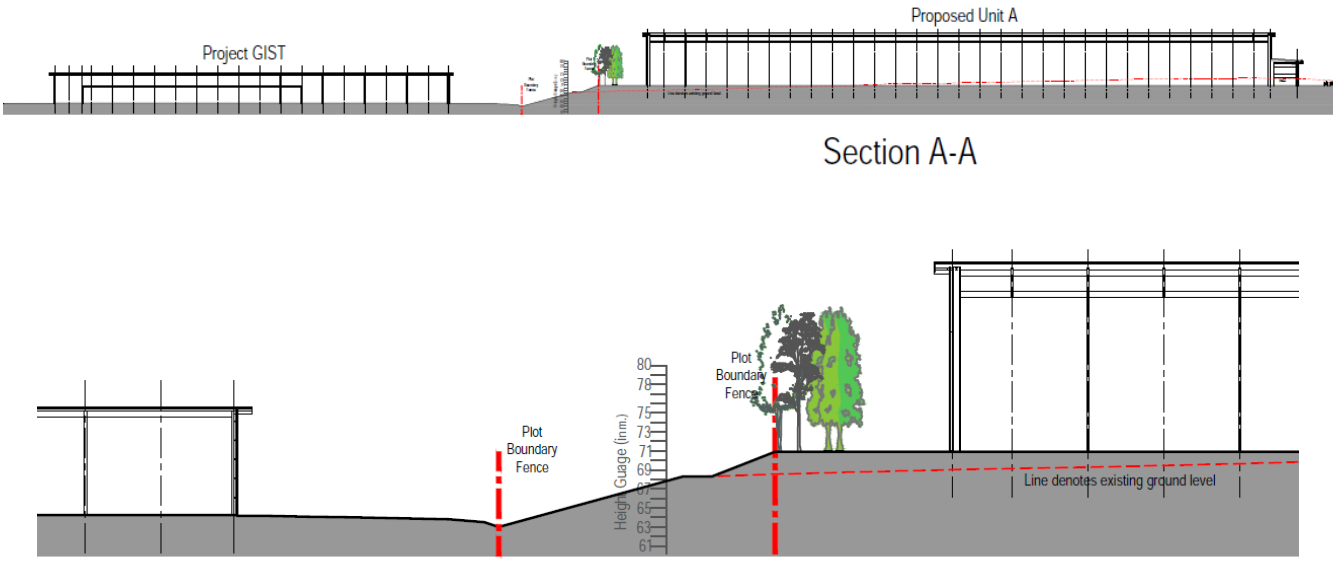
Accordingly a condition has been recommended below to secure the archaeological works advised by the DCC Archaeologist. Subject to this condition it is considered that the archaeological interests on site are not a constraint to development.

Landscape and Visual Impacts

Policy SS9 states that 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. Policy SC8 will only allow proposals that would not cause significant harm to the character, quality, distinctiveness or sensitivity of the landscape; and policy SS3 has similar requirements.

As the application is outline with appearance being considered at a later reserved matters stage the issue to consider in terms of design and appearance is the scale of the building and the overall visual impact of this within the landscape setting.

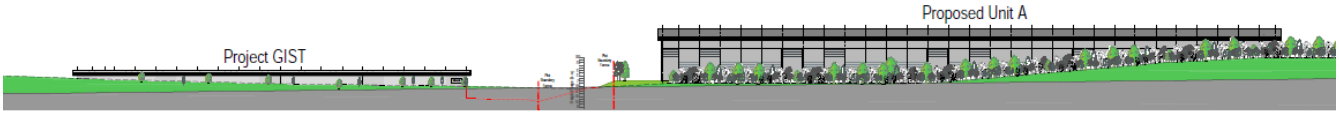
Proposed Unit A within Bolsover District is a large scale and high warehouse type unit approx' 237m x 90m x up to 20m high. Furthermore it is to be sited on land which is elevated by about 7m above the floor level of the adjacent existing Gist building. The Gist building has a ridge height of 10.76m whereas proposed Unit A has a height of 20m. So there will be a relative height difference of 16m between the roofs of the two buildings.



Therefore as viewed from Bolsover District (the east) and also the M1 this is likely to be a highly prominent building sited relatively close to the M1 corridor (about 100m from the

carriageway).

When seen behind the motorway embankment and existing and proposed vegetation its visual prominence will screened to a degree but it will still be a highly prominent building.



Context Elevation from Motorway

A landscape and visual impact assessment has been submitted and DCC Landscape Officers have advised that:

"Overall, the LVIA adequately assesses both the landscape and visual context for the development site to generally conclude that there will be significant adverse effects on both the character of the site and its immediate area, and on those visual receptors (people) closest to the site including residents and the users of local footpaths and the local road network. Officers would generally concur with that judgement and in that regard, it is difficult to see how this development proposal would be considered acceptable with regard to the relevant planning policies."

However DCC advises that *"more distant vantage points don't appear to have been particularly considered in the final viewpoint selection, so it is difficult to determine how far reaching the landscape and visual effects of this development might be without this evidence. The fact that this application relies on the Markham Vale Design Framework is worrying. The existence of the Markham Vale development is seen as a mitigating factor to this proposed development when in reality it should have been assessed as part of the cumulative impacts…"*

"This feels like a highly speculative planning application and as such has not had the robustness of assessment that it merits to fully understand the full extent of potential impacts and in this context it is difficult to appreciate how the relevant policies affecting this site can be found to be acceptable particularly those relating to development in the countryside, landscape character and design quality."

Given the topography of the site and the need to create development platforms for these substantial buildings, it is clear that the proposal will result in harm to the immediate landscape character and appearance of the site.

More views and details on how the proposal affects Bolsover District have been requested from the Agent and whilst photomontages have not been provided, the above additional sections have in order to help to demonstrate the potential visual impacts of the proposals as viewed from the Bolsover direction.

The likely impacts are apparent with such large scale buildings on an elevated site and only partial screening afforded by existing vegetation bordering the M1. Hence it is considered that the scheme will result in visual and landscape harm.

The Applicant has proposed some additional tree planting to help reinforce the natural screening available at the more exposed southern end of the site. This will help to a degree and can be required as part of the landscaping scheme required by condition.

It is also noted as set out by DCC that there are cumulative landscape impacts arising from the existing Markham Vale development along with the proposed development. This is the correct approach to assessment. However (the setting of heritage assets aside) there are no special landscape designations which protect the area and the extent of the existing industrial development at Markham Vale does inevitably mean that the additional development proposed would be an incremental addition.

The position of the site also has to be considered, which is the context of the site being bound by Bolsover Road, the M1 and the existing Markham Vale development with only the north westerly view being the open fields providing the strategic separation between the site and Woodthorpe and this is primarily where the landscape harm will be.

This context is considered to reduce to a minor extent the visual harm in terms of landscape character, albeit there will still be a substantial visual change locally and further cumulative harm to the landscape character when viewed from a distance.

Conditions can be included regarding hard and soft landscaping along with contouring of the site. Whilst “appearance” and materials will be considered under the future reserved matters application, measures reduce the visual impact of the development are considered to be fundamental to its acceptability. Therefore, as set out in the ‘Heritage’ section above, it is considered that an outline condition is necessary to require application for approval of reserved matters to be accompanied by a design statement which includes the use of an external cladding and roofing system specially designed to minimise the visual prominence of the buildings in the landscape (including in views from Bolsover Castle and Sutton Scarsdale Hall - to also address setting impacts on heritage assets).

However despite the imposition of planning conditions, the visual harm resulting from the development is recognised as a negative of the scheme to be considered in the overall planning balance.

Impacts on Residential Amenity

No public representations have been received by BDC. This is not surprising since the closest dwellings are within Chesterfield Borough and the closest proposed building to those dwellings (Unit B) is also within Chesterfield. CBC have considered the amenity impacts of noise and lighting and are seeking to impose conditions where necessary.

The conditions proposed by Chesterfield could be applied on any BDC permission for consistency and on a precautionary basis. However the closest residential dwellings are some 600m distant from Building A and they are within a relatively high background noise environment (close to the M1 and an existing industrial estate) such that noise limiting conditions will be less essential for build A. This could afford more flexibility in the condition wording.

In summary there are no amenity issues that would be a constraint to development.

Highway and Transport Issues

National Highways have been consulted regarding potential impacts on the M1. They have considered the traffic modelling undertaken and are now content that the development traffic will not result in capacity issues on the roundabouts which serve the M1 slip roads at junction 29a.

The County Highway Authority has confirmed that, with regard to impacts on the local highways, they have no objections to the amended proposals. However a series of conditions are recommended to address potential impacts, as set out below. These include a condition to limit the amount of B2 floor space (as oppose to B8) to no more than 35% of the total (68,000 sq.m) permitted across the whole site unless off-site highway mitigation works are implemented to the M1 Junction 29A Slip Roads and A6192 Erin Road/A6192 Markham Lane/Enterprise Way/Markham Road.

County Highways also seek a £20k financial contribution for the improvements of two bus stops along Seymour Link Road via S106; and £5,075 financial contribution for travel plan monitoring contribution via S106.

With regard to the requested £20k financial contribution for the improvements of two bus stops along Seymour Link Road it has been acknowledged through discussions with the local bus company that it has not been possible to agree a diversion of existing services to the development site due to; reduced patronage, bus driver shortages, reduced services, pending bus service improvements plan and funding uncertainty and the speculative nature of the development where shift patterns are unknown.

Despite there being no bus route along this road at present, the £20K S106 contribution has been agreed to future proof the route should a bus service in this area be feasible in the future.

Therefore, subject to necessary conditions and the S106 requirements relating to the travel plan and bus stop provision, it is considered that there are no highway safety issues that would justify the refusal of planning permission under policy SC3 of the local plan.

<u>Footpaths</u>
The scheme involves the diversion of a public footpath which currently runs diagonally through the site in a north / south direction. The proposed development would interrupt that route and therefore the footpath would be diverted to turn from the main access, via Building A along the water course then along the north western edge of Building B linking into the Oxcroft Branch Line cycle route. The proposed route would be a longer and less direct route.

However the existing route of the footpath is not well signposted or easy to follow other than where it leads over the fields where the route is more visible. There are numerous hazards on the existing footpath route including a narrow route around the culverted area to the top of the site and the lack of appropriate access to the embankments of the Oxcroft Branch Line where the steps seems to have disintegrated over time.

Rights of Way have commented on the scheme:

Footpath no. 29 in Staveley parish passes from north to south through the site, continuing over the Borough boundary as Bolsover footpath no. 34. The line of the two footpaths passes through the sites of the two proposed industrial units. The impact of the development on the footpaths is a material consideration when deciding whether to grant planning consent. Relevant factors include the extent and type of use the footpaths currently receive and are expected to receive in future if the development does not proceed; the usefulness of the route for utility travel; the amenity value of the route (views, wildlife, heritage etc), and whether the proposed alternative routes would offer suitable compensation.
The development would make the footpath experience less rural, the views more closed-in and the route less direct. However, if the current use of the route is predominantly for leisure rather than utility travel, the loss of directness may not be a significant factor. If the development went ahead the urbanisation of the route would be mitigated to some extent by the proposed tree planting to screen the buildings, and the provision of a surfaced path for the diverted route could also potentially represent an improvement.
The proposed diversion would most likely provide a valuable amenity for future employees at the site during breaks and possibly as routes to and from work, also maintaining a link to the adjacent greenway.

Notwithstanding the considerations outlined above, the proposed diversion appears to provide the most practical route through the site as proposed, with other options being to the south, west and north of Unit A, and to the south, east and north of Unit B. Both of these lack the streamside amenity of the existing proposal, and the eastern option may be impractical due to insufficient space.

Both the Ramblers Association and Peak and Northern Footpaths have commented on the scheme and the proposed footpath diversion. Both raise concerns that the proposed new route will more than double the length of the existing footpath. Whilst they recognise the potential to create a pleasant walking section along the Hawk Brook, they reserve their right to object to any Diversion Order published as a consequence of an unchanged application being granted consent. However, The Ramblers say that they can see no obvious alternatives to the route proposal as drawn.

In conclusion, it is clear from the comments above that the changes to the route of the footpath will result in a more circuitous footpath route through the site due to the need to divert around the buildings. Also the buildings will result in a more urban environment for this section of footpath. This is a negative of the scheme. However, the route itself is intended to be an attractive tree lined route along the water course, it will also be a surfaced route rather than walking across the centre of the field, and the existing hazards will be addressed. Therefore, there is considered to be sufficient mitigation and enhancement of the footpath route arising from the proposal sufficient to ensure the diversion is an appropriate route in line with policy ITCR3 of the local Plan.

Biodiversity

Policy SC9 of the local plan states that:
“development proposals will be supported where significant harm to biodiversity… resulting from a development can be avoided, or if that is not possible, adequately mitigated…..” and *“where development proposals do not comply with the above they will only be supported if it has been clearly demonstrated that there is an overriding public need for the proposal which*

outweighs the need to safeguard biodiversity…and there is no satisfactory alternative with less or no harmful impacts."

The NPPF policy at paragraph 180 states:
"When determining planning applications, local planning authorities should apply the following principles:
a) if significant harm to biodiversity resulting from a development cannot be avoided (through locating on an alternative site with less harmful impacts), adequately mitigated, or, as a last resort, compensated for, then planning permission should be refused;

Hence there is a clear mitigation hierarchy set out on local and national planning policy which requires: that harm to biodiversity on site should be avoided; or mitigated on site; or as a last resort, compensated for by off-site enhancement works elsewhere.

The current proposal for development of this green field site for large scale commercial buildings with the land level changes needed for the large platform levels and engineering works required will result in a loss of biodiversity on the site.

In terms of the mitigation hierarchy the amended proposal have managed to account for 87% of the biodiversity impacts on site through habitat creation on-site. i.e. there is a net loss of biodiversity on site of 13%. Impacts affecting habitats and species including:-

Hawke Brook – impacts reduced through amendments and construction exclusion zone. Partial tree cover and vegetation removal needed for the construction of the proposed access road bridge needed from unit A to unit B.

Former railway corridor – removed and trees/hedge removed.

Bats - Loss of foraging habitat and commuting routes particularly the disused railway line which will impact 5 species of bat, and through construction works will lead to an adverse impact on bat activity across the site. Mitigated includes new landscaping and a sensitive scheme for construction works agreed through a construction environment management plan condition.

Breeding Birds - The loss of arable land, hedgerows and the railway line are likely to have an adverse impact on red list farmland birds such as skylark, yellow hammer, grey partridge and linnet.

Badgers - Detailed badger surveys have been undertaken and precautionary approach is required along with an immediate pre commencement survey.

Brown Hare - Precautionary working methods will be required.

Small Heath Butterfly - Habitat will be lost. Both on site mitigation and off-site compensation deemed necessary.

However it is proposed that the remainder of the biodiversity net loss necessary is compensated for by off-site biodiversity enhancements secured by S106 obligation. The proposals, at the scale proposed, therefore rely in part on the last resort option of the

biodiversity mitigation hierarchy. Whilst this weighs negatively in the planning balance it is noted that the Applicant is also proposing that the amount of off-site compensation they have agreed to equates to a 10% net gain to biodiversity overall.

The Agent has been in detailed discussion regarding the extent of off-site compensation and the location of this. It has been concluded that the off-site works needed will take place on land within the ownership and control of DWT as part of their offsetting strategy. The developer has agreed a scheme of off-setting on a site within fields north of Woodmere Drive, Old Whittington in Chesterfield which is owned and will be managed by Derbyshire Wildlife Trust in accordance with a scheme for habitat creation drawn up by the Trust specifically to provide appropriate mitigation for the on-site loss of biodiversity.

The contribution to Derbyshire Wildlife Trust for the creation and long term management of the off-site habitat as compensation has been calculated by the Trust at £478,200. This would be secured by S106 obligation.

The on-site habitat creation measures as illustrated on the Landscape plans (LAP- 20-P101 1001 and 1002) are considered to be acceptable by the Trust and do try to address some of the habitat as well as species impacts at the site. The proposed habitats primarily include wetlands, species rich grassland, open wild bird grassland mix, open ground for colonisation, amenity grassland, hedgerow margins, shrubs, scrub, woodland and hedgerows. A condition is recommended to secure the on-site enhancement and management.

Derbyshire Wildlife Trust has also acted as consultee for the Council on the biodiversity impacts of the proposals. They have been involved in detailed discussions and revisions throughout the application process. As now amended DWT do not object to the application subject to a series of conditions. They advise that the Applicant has managed to account for 87% of the on-site impacts through habitat creation on-site and that 10% net gain has also been agreed through off-site compensation even though it is not yet mandatory. So on balance DWT advises that this is probably as good as it can be without a reduction in the size of the warehouses.

In summary, it is considered that it would have been preferable and more sustainable, if the proposal was able to deal with at least 100% of the biodiversity harms on the site itself through avoidance and mitigation, landscaping and habitat creation. However that would require smaller scale proposals which have not been agreed by the Applicant.

Although the application proposals rely, in part, on off-site biodiversity compensation and this is the NPPF *“last resort”* option of the biodiversity mitigation hierarchy, it is considered that this negative consideration is balanced out by the amount of off-site compensation agreed. This not only compensates for the 13% biodiversity loss on site but extends to a 10% biodiversity net gain overall (before there is a requirement to do so in planning legislation – which is expected end of 2023). Furthermore the Wildlife Trust does not object to the amended proposals subject to conditions and a legal obligation. Therefore on balance it is consider that the mitigation and compensation measures proposed are sufficient to deal with the biodiversity impacts of the proposed development in line with policy SC9 of the local plan.

HS2

Although areas of the red line boundary fall within land safeguarded for HS2 East which are required for utility works no part of the of the built development will extend into safeguarded land. HS2 has confirmed they have no objections and so HS2 proposals are not a constraint to this development.

Ground Conditions

The Coal Authority notes the supporting Coal Mining Risk Assessment & Shallow Mine Workings Investigation Report (June 2021, prepared by BWB Consulting Ltd). The Coal Authority advises that the results of an intrusive site investigation undertaken confirm that the high wall of the former surface extraction does not affect the development area and that there is sufficient competent rock cover above the shallow coal mine workings. The Coal Authority is satisfied the site is safe and stable to accommodate the proposed development and has no objections to this planning application.

The Environmental Health Officer has advised that a phase 2 contamination risk assessment should be required by condition. This is considered to be reasonable and necessary given the mining history in the area.

Drainage

It is proposed to dispose of foul water to the mains sewer. With regard to surface water considerations a sustainable drainage system is proposed.

It was noted that, as a result of the proposed ground level changes on site to create the large platform levels needed, the land either side of the banks of the Hawke Brook would be raised significantly effectively resulting in a more contained environment for the Brook and reducing the potential for flood water during storms to wash out onto what is currently farmland. This could have increased the risk of flooding downstream. Therefore revisions have been sought.

This has resulted in a revised flood risk assessment and revised sustainable drainage strategy together with a revised layout in order to demonstrate that the revised proposals would not increase the risk of flooding downstream. The DCC Flood Risk Team have been re-consulted on this an no longer have any objections to the proposals subject to the imposition of a series of conditions including that a detailed design and maintenance plan of the surface water drainage for the site, and a scheme for compensatory flood plain storage, be submitted before development commences and a verification report submitted post development to prove that the approved scheme has been implemented.

Therefore, subject to these conditions it is considered that the drainage proposals for the site are acceptable in principle.

CONCLUSION / PLANNING BALANCE

This application is for the construction of two substantial commercial units on greenfield land which is unallocated in the local plan and at this stage there is no compelling case for the need to release additional greenfield land within Bolsover District. The proposal will result in harms in terms of: landscape impact given the elevated landform adjacent to the M1 and the scale of the proposed buildings; less than substantial harm to setting of heritage assets; and

harm to biodiversity on site, the proposal being reliant of off-site compensation. The connectivity of the site for public transport is weak with elongated walking and cycling routes necessary to access local areas. The proposal would also require the diversion of the existing footpath at the site. These are considered to be the negatives of the scheme.

However the landscape is not protected by any special designation and the extent of the existing industrial development at Markham Vale does inevitably mean that the additional development proposed would be an incremental addition. The site is bound by Bolsover Road, the M1 and the existing Markham Vale development with only the north westerly view being the open fields. A limited amount of additional tree screening and recessive external cladding colours can be required by condition to help mitigate landscape and heritage impacts such that harms to heritage assets are considered to be outweighed by the benefits arising from the development.

Whilst the proposal cannot mitigate all of its biodiversity harms on site, the off-site compensation scheme agreed goes beyond the current requirement (of no less loss to biodiversity) to an overall 10% net gain and this is considered to adequately address the on-site site harms to biodiversity. The footpath diversion will be more circuitous but surfaced and located within a landscaped context and the scheme will include the provision of the Oxcroft branch line cycle link. Therefore, some of the negatives of the development will be mitigated, nevertheless harms will remain.

There are other technical matters considered above which are not considered to be a constraint to development but conditions will be necessary to ensure that the any harms are adequately controlled and mitigated.

Although speculative, the scheme will bring much needed investment into the District and will provide for a scale of commercial unit for which demand is extremely high. The proposal is also anticipated to bring forward up to 880 jobs within the area with associated economic and social benefits and would be subject to an employment and skills strategy monitored over a 10 year period to ensure jobs and skills are secured in the local area. These are considered to be substantial positives of the development.

The case is therefore considered to be very finely balanced but when considering the adverse impacts against the benefits of the scheme it is considered that the harms are outweighed by the economic benefits which will arise from the development.

On this basis when considering all matters the development is considered, on balance, to meet the wider policy objectives of the local plan and national guidance which promotes economic growth and is therefore recommended for approval.

RECOMMENDATION

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

- **£20,000 financial contribution to be made available for the improvements of two bus stops along Seymour Link Road via S106.**
- **£5,075 financial for travel plan monitoring.**

- **£478,200 (based on a cost of £30,018.08 per habitat unit) for off-site Biodiversity Compensation and 10% Net Gain, in regard to habitat creation and long-term management and monitoring in line with DWT's Biodiversity Design and Access Strategy for the land at Old Whittington dated November 2022. (Including: A 30-year management plan for the compensation site including aims, objectives, prescriptions and actions together with a schedule of works for a five-year period that can be rolled forward throughout the 30-year management period. Ongoing monitoring and remedial measures including benchmarking of the site creation/enhancement areas against the DEFRA conditions sheets reportable to the authority at 2, 5, 10-, 15-, 20- and 30-years post creation. Monitoring of small heath butterfly and farmland birds at 2, 5 and 10 years.)**
- **Employment and Skills Strategy with 10-year monitoring**

AND subject to the following conditions which are listed below in precis form only (whilst condition wording is discussed and agreed with Chesterfield Borough), the final wording to be delegated to the Planning Manager of Development Control:-

(For consistency and ease of reference condition numbers are as per Chesterfield BC committee report and draft conditions)

1. Time period for commencement
2. Approval of reserved matters
3. List of approved plans
4. Protection of nesting birds
5. Further hibernation survey for bats
6. Lighting strategy for bats and nocturnal wildlife
7. Pre-commencement survey for badger
8. Construction environmental management plan (CEMP: Biodiversity)
9. Landscape and Biodiversity Enhancement and Management Plan (LBEMP)
10. Biodiversity Enhancement Plan (BEP)
11. Grassland Translocation Plan (GTP) *(clarify whether necessary with CBC)*
12. Detailed scheme of hard and soft landscaping
13. Tree protection measures
14. Scheme detailing the contours of the finished land levels including the attenuation basins *(clarify whether necessary/appropriate with CBC).*
15. Ground contamination investigation and remediation.
16. 5m sewer easement
17. Separate systems of drainage for foul and surface water *(clarify whether necessary with CBC).*
18. Surface water disposal
19. The development shall be carried out in accordance with the submitted Flood Risk Assessment BWB. 07/07/2022. Flood Risk Assessment. Rev P05. *(CBC to note version 2 is superseded and conflict with Con30).*
20. Construction management plan
21. Wheel wash during construction
22. Implementation of parking spaces
23. Unit A parking layout and B2 use *(BDC pp only –clarify with CBC)*
24. Scheme for the disposal of highway surface water

25. Travel Plan
26. Off-site road improvements implemented if more than 35% of floorspace is B2 use.
27. Cycle storage
28. Works not to affect M1 integrity
29. Details of boundary treatment adjacent to the M1 motorway boundary
30. Detailed design and maintenance of surface water drainage in accordance with revised Flood Risk Assessment Rev P05 and Sustainable Drainage Statement. Rev P02. 07/07/2022.
31. Flood plain storage compensation
32. Demonstrate that the proposed destination for surface water accords with the drainage hierarchy.
33. Evidence that the proposed destination for surface water accords with the drainage hierarchy.
34. SW drainage verification report.
35. Scheme for provision of electric vehicle charging points *(clarify wording re trigger with CBC).*
36. Restriction on delivery times *(discuss with CBC)*
37. No commencement unit archaeology WSI is approved and implemented.
38. Scheme for mitigating noise and nuisance from the site including managing the movement of vehicles on the site during night-time hours.
39. A sustainability statement to be submitted with reserved matters
40. Prior to any tree removal taking place on site a scheme shall be submitted to and approved in writing by the Local Planning Authority to seek to reduce the speed of the carbon release *(CBC only. BDC does not have a policy or SPD to support this requirement).*
41. Details showing how the cycle and pedestrian routes will link into existing pedestrian and cycle routes.
42. In association with condition 42 above, the cycle link and diverted footpath route as shown on plan 6170-069 received 07.11.2022 shall be fully implemented on site and available for use prior to first occupation.
43. Application for approval of reserved matters must be accompanied by a design statement and associated drawings which includes the use of an external cladding and roofing system specially designed to minimise the visual prominence of the buildings and to break up the mass of the building as they appear in the landscape (including in views from Bolsover Castle and Sutton Scarsdale Hall so as to also reduce the setting impacts on these heritage assets).

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.

The decision contains several pre-commencement conditions which are so fundamental to the development permitted that:

- *it would have been otherwise necessary to refuse the whole permission; or*
- *are necessary to address issues that require information to show that the development will or can be made safe, or*
- *address other impacts which need to be assessed to make the development acceptable to minimise and mitigate adverse impacts from the development.*

Equalities Statement

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

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

Human Rights Statement

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

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

PARISH Old Bolsover Parish

APPLICATION Extension to Stable Building to Provide Ancillary Facilities

LOCATION The Stables Featherbed Lane Bolsover Chesterfield

APPLICANT Mr D McAlister West of Featherbed Lane Derbyshire Bolsover S44 6JY

APPLICATION NO. 22/00389/FUL **FILE NO.** PP-11430124

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

DATE RECEIVED 27th July 2022

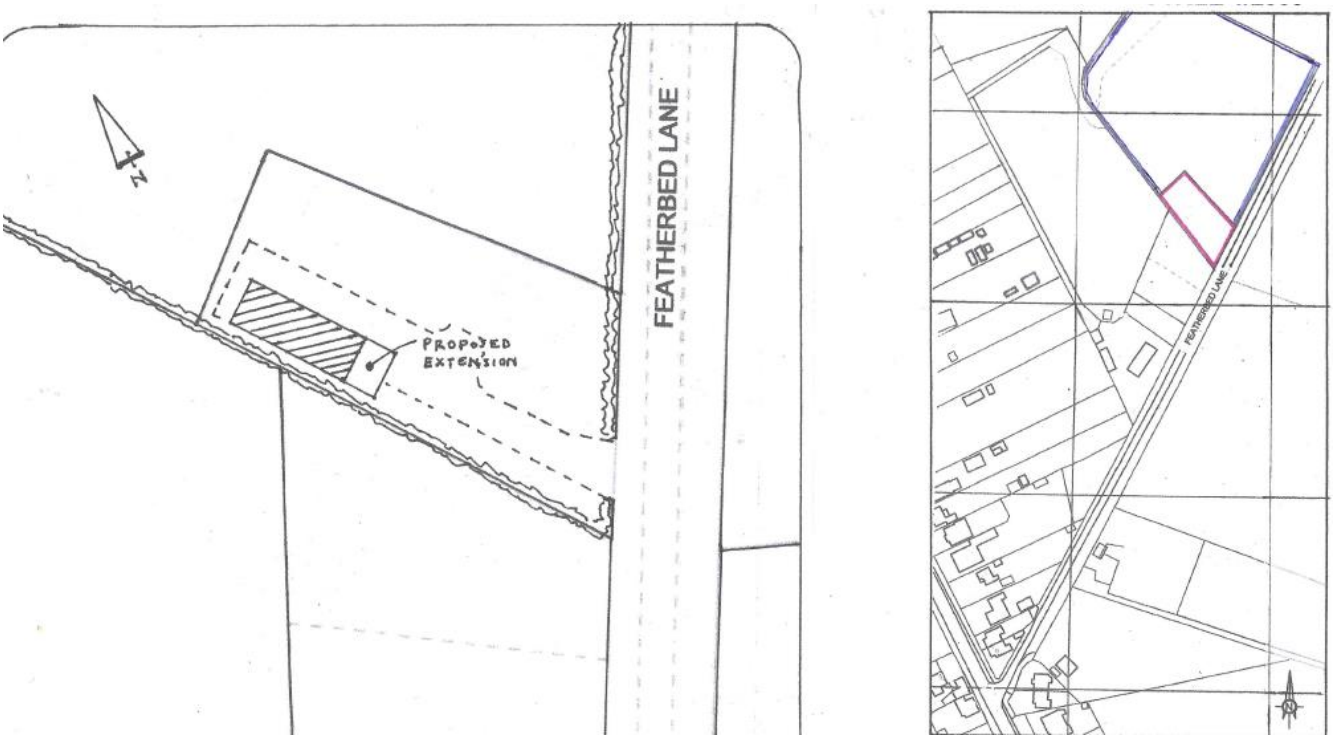
SUMMARY

This application has been referred to the Planning Committee by Cllr Donna Hales given the concerns of local residents about the impact of the development.

In summary, the application is recommended for approval.

The application is for an extension to a previously approved stable block. The proposal is considered to accord with most policy requirements, subject to the inclusion of suitable conditions.

Site Location Plan



OFFICER REPORT ON APPLICATION NO. 22/00389/FUL

SITE & SURROUNDINGS

The site forms part of a larger grassed field. The site has been partially hard surfaced and the construction of the building has commenced on site. On the southeast boundary of the site is a hedge approx 3m high with a new access gate and planters at the site entrance. Beyond that hedge is the access lane with fields beyond that. On the southwest boundary there is a hedge approx 2m in height and mature trees with a bungalow and garden beyond. The remainder of the field, of which the site forms part, has mature hedges and trees around the boundaries with fields beyond.

BACKGROUND

The extension was previously refused by the council in 2016 but an appeal against that decision was allowed and the Planning Inspectorate granted planning permission for the extension to the stable block. That permission hasn't been implemented and the time for its implementation has expired. The only difference between the extension approved by the Planning Inspectorate and the current proposal is the window in the gable which the Inspector removed from the original proposal by condition.

PROPOSAL

The application is for an extension to a previously approved stable block to provide a mess room consisting of a wash basin, seating area and ancillary storage areas, together with a toilet. The exterior materials of the extension are proposed to be timber boarding with a pre-coloured steel sheet roof.

AMENDMENTS

The site layout was amended to include access to a turning area proposed within the field.

HISTORY

13/00276/FUL	Granted Conditionally	Erection of stables and hard standing
15/00052/FUL	Granted Conditionally	Erection of stable and tack room building including site entrance details, fence details, parking and turning area details, removal of hardcore and change of use to keeping of horses (application site area as clarified in e-mail dated 27th January 2015)
16/00472/FUL	Refused, allowed at appeal	Extension to stable building to provide ancillary facilities
22/00425/FUL	Pending consideration	Traveller site with 3 pitches

CONSULTATIONS

Coal Authority
08/08/2022 – Confirmed no objections. Advise an informative note be added to any planning permission to advise the applicant that the site lies within a coal mining area which may contain unrecorded coal mining related hazards. If any coal mining feature is encountered during development it should be reported immediately to the Coal Authority.

Derbyshire County Council Highways
No objections.

Environmental Health Officer
04/08/2022 – Confirmed they had no comments to make.

Parish Council
No comments received.

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

PUBLICITY

Site notice posted and 6 neighbours notified. Objections received from 19 residents which raise the following issues:

1. This is leading to the future development for residential use.
2. The works being undertaken bear no relation to the plans and suggest a much bigger plan is envisaged.
3. The proposal has led to a significant increase in noise from the site as a result of use of machinery and tractors and loud music. The noise will disturb animals kept near the site and local residents.
4. The proposal will increase traffic on Featherbed Lane which is single width and unsuitable. The proposal is harmful to other lane users including pedestrians. The speed at which traffic travels is dangerous. Traffic often queues on Shuttlewood Road, waiting to turn into the lane as it is single width. Visibility from the lane onto Shuttlewood Road is inadequate.
5. Additional traffic will make the footpath unsafe.
6. The volume of traffic is eroding the lane and is now only usable by 4 x 4's. This particularly affects the bungalow on the lane who could not receive visitors in a normal car.
7. Water run-off and pollution is a concern. There is a watercourse towards the bottom of the hill. Water runs-off from Shuttlewood Road through this area to the water course. If the run-off is blocked it may cause fields to waterlog. There is also potential impacts on the watercourse as a result of increasing the quantity of sewage.
8. This is a Greenfield site and if the development is allowed a valuable asset for nature will be lost, reducing the biodiversity of the region and increasing demands on already stretched local resources.
9. Three cesspits have been delivered which is excessive for one toilet to be used occasionally when at the stables and why is a window necessary. The long term plan is to make it residential.

10. The site owner is living on site in a caravan and operating business vehicles and machinery from the site.
11. The building is double skin with a cavity and it should be single skin and clad in timber.
12. Up to four caravans are parked at various times contrary to previous permissions granted under Policy SS9.
13. No proper waste facilities have been installed or provision made for disposal of animal waste.
14. The lane has been dug up to get utilities to the site illegally.
15. Planning permission was refused in 2019 for a dwelling accessed off the lane. One of the reasons for refusal was highways issues.
16. The lane is used by many walkers and people have spoken about being intimidated whilst using the lane and have witnessed people defecating and disposing of waste in neighbouring fields.
17. The proposal is damaging to the countryside and the wildlife within it.
18. The applicants have no control over Featherbed Lane.
19. The stables have had a 1m canopy added which was not included in the original application.
20. The site should be used for the keeping of horses and no trade or business carried out but the site is being used for a logging and landscaping business.
21. A window has been included in the proposal and the Inspector previously dismissed the installation of the window.
22. The proposal is the first step to developing a traveller site.
23. The proposal is contrary to Local Plan policies.
24. Trees forming part of the boundary hedge have already been cut down on the site without permission of the owner of the adjacent property.

POLICY

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

- SS9 Development in the Countryside
- SC2 Sustainable Design and Construction
- SC3 High Quality Development
- SC9 Biodiversity and Geodiversity
- SC11 Environmental Quality (Amenity)

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

- Paragraphs 47-48: Determining applications
- Paragraphs 55-58: Planning conditions and obligations
- Paragraphs 174, 180 and 182: Conserving and enhancing the natural environment

ASSESSMENT

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

- The principle of the development in a rural location and the impact on the character of the countryside
- The impact on residential amenity
- Whether the development would be provided with a safe and suitable access

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

Principle of the Development in a Rural Location and Impact on the Character and Appearance of the Area

The site is outside the development envelope in an area of open countryside.

A stable block has already been approved on site and has been partially constructed. The openings in the building currently under construction are not in accordance with the approved plan but the applicant has confirmed at a site meeting that these openings will be inserted as approved. The building is currently single skin blockwork but the applicant has confirmed the building is to be timber clad blockwork as previously approved. The current proposal is for an extension to that stable block to provide a mess room for the previously approved stable block consisting of a wash basin, seating area and ancillary storage areas, together with a toilet.

Policy SS9: Development in the Countryside is the adopted Local Plan's strategic policy that seeks to restrict urban forms of development in the countryside where these would not be appropriate or sustainable and not in accordance with the Local Plan's Spatial Strategy.

As such, it states that development proposals in the countryside outside development envelopes will only be granted planning permission where it can be demonstrated that they fall within a number of stated categories, such as the re-use of previously developed land or the re-use of redundant buildings that make a positive contribution to the local area.

It is noted that the stated categories do not include extensions to existing buildings located in the countryside and that this could be interpreted as meaning that proposals for extensions to existing stables would not comply with policy SS9. However, this is not the strategic purpose of policy SS9 as stated above.

Whilst policy SS9 is silent on the matter of extensions to existing buildings located in the countryside, it is considered that limited and proportionate extensions or alterations to an existing building can be treated as being compliant with the strategic purpose of policy SS9.

In reaching this view, it is noted that policy SS10: Development in the Green Belt treats limited and proportionate extensions or alterations to an existing building in the Green Belt as being acceptable. In light of this, it is considered that taking a different approach for extensions to existing buildings in the countryside would be illogical.

Finally, as to whether the proposed extensions are proportionate, it is noted that policy SS9

requires all cases where development is considered acceptable to respect the form, scale and character of the landscape, through careful location, design and use of materials.

In this instance, the extension itself has already been previously approved by the Planning Inspectorate at appeal but construction of the extension hadn't commenced within conditioned timescales and as such it was deemed that permission had expired. The extension would have been considered against the adopted Local Plan at the time, rather than the currently adopted Local Plan and as such the proposal must now be considered against Policy SS9.

However, the fact that the extension was previously approved remains a material consideration when considering the current proposal and the Inspector considered the extension to be in keeping with the scale, mass and design of the stable block originally approved and felt it did not harm the rural character of the area. It would be considered unreasonable to take a different view to the Inspector in this respect and as such the proposed extension is considered to be acceptable in principle.

In the previously approved application the Inspector considered that it was reasonable that the users of the stables and paddock would visit the site often and for significant periods of time to both exercise the horses and attend to their welfare. In such circumstances, basic washing facilities and a toilet were amenities that were reasonably necessary to support the use of the stables and ensure appropriate welfare and standards of hygiene. The Inspector also considered that the mess room was of a scale commensurate to the ancillary facilities being provided and would afford an appropriate area of shelter in inclement weather and would reduce the need to travel to and from the site by providing modest facilities for users of the stables and paddock such that there would be potential benefits to the environmental sustainability of the building in that respect.

The only difference between the extension previously approved and the one currently being considered is the addition of a window in the gable end of the extension. The same window was proposed in the extension previously approved but the Inspector conditioned the removal of this window from the proposal. This was because the Inspector considered that a window did not minimise the opportunity for crime which was required by Policy GEN1 of the Bolsover District Local Plan which was the adopted Local Plan at the time. Policy GEN1 is no longer applicable as development is to be considered against the current adopted local plan. Policy SC3 of the adopted local plan requires development to take account of the need to reduce opportunities for crime and as such the window could be removed by condition from the current proposal if it was considered to be necessary in order to comply with the requirements of this policy. However, this policy is referring to high quality design in terms of place making including promoting safe living environments. It is not considered that this policy can necessarily be strictly applied to ensure the security of an extension to an existing building. This is because the building could be kept secure by other means such as internal bars to the window, CCTV, alarms etc. It is therefore considered unreasonable to require the removal of the window purely to ensure the security of the building.

Subject to conditions requiring a suitable finish for the new building the proposal is considered to be an appropriate use for a countryside location and the extension is considered to be an appropriate scale and design for the use proposed and the proposal is not considered harmful to the rural character of the area. On this basis the proposal is considered to meet the requirements of Policy SS9 of the Local Plan for Bolsover District.

Residential Amenity

The proposed extension is set away from adjacent dwellings and is partially screened by the boundary hedges. The proposal is for private use and this can be controlled by condition. Subject to such a condition the proposal is not considered to result in a significant increase in noise or disturbance to residents of adjacent dwellings over and above an agricultural use of the land. The proposal is therefore not considered to result in a significant loss of privacy or amenity for residents of adjacent dwellings and is considered to meet the requirements of Policies SC2, SC3 and SC11 of the Local Plan for Bolsover District.

Access/Highways

The proposal utilises an original field access. Subject to a condition requiring the equestrian use to be private use, the proposal is not considered to result in a significant increase in vehicle movements to and from the site over and above what could have been expected from an agricultural use of the site such as the keeping of sheep or pigs. There are no objections to the proposal from the Highway Authority on this basis.

There is hard-surfacing providing on-site parking and turning allowing vehicles to enter and leave the site in a forward direction. Given that the proposal is not considered to result in a material intensification of the use of the access this is considered sufficient to support the proposed use and the proposal is not considered to be detrimental to highway safety and is considered to meet the requirements of Policy SC3 of the Local Plan for Bolsover District.

Issues Raised by Local Residents

Most of the issues raised by local residents are covered in the above assessment where they are relevant to this application which is for an extension to the previously approved stable block.

The issues raised in relation to the change of use of part of the site to a traveller site have not been considered as they relate to a separate proposal which is the subject of a separate planning application.

The issue of potential future uses of the site cannot be considered. The application is for an extension to a stable block to provide a mess room and the application is to be considered on this basis. Future uses of the building would need to be the subject of a separate application for a change of use.

The issue of a business use of the extension to the stables can be prevented by condition.

The issues of works to trees and hedgerows and impact on wildlife and biodiversity are covered under the separate application for a change of use of part of the site to a traveller site.

CONCLUSION / PLANNING BALANCE

The proposed extension is considered to be in keeping with the scale, mass and design of the

stable block originally approved and is not considered to harm the rural character of the area. The only difference between the extension proposed and the extension previously approved is the addition of a window. The extension is to provide a mess room which is ancillary to the equestrian use of the building and it is not unreasonable for such facilities to have natural light. Any concern about the potential for the window to be a security issue for the building can be addressed with other security measures. On this basis the proposal broadly meets the requirements of Policies SS9, SC2 and SC3 of the Local Plan for Bolsover District and whilst the concerns of local residents are noted, they do not raise issues which would justify the refusal of the extension to a stable block, particularly given the previous appeal decision.

RECOMMENDATION

The application be APPROVED subject to the following conditions:

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

2. The development hereby approved must only be used for private use by the occupier of the land and must not be used for any trade or business use without the prior granting of planning permission by the Local Planning Authority.

3. The extension to the stables and store room hereby approved must be clad in timber and painted dark brown or dark green and the pre-coloured steel roof must be finished in dark brown, dark green or black and must be maintained as such thereafter

Statement of the Decision Process

The proposal complies with the policies and guidelines adopted by the Council and the decision has been taken in accord with the Policies of the National Planning Policy Framework.

Equalities Statement

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

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

Human Rights Statement

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

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

PARISH Old Bolsover Parish

APPLICATION Traveller site with 3 pitches

LOCATION The Stables Featherbed Lane Bolsover Chesterfield

APPLICANT Mr D McAlister The Stables Featherbed Lane Bolsover S44 6JY

APPLICATION NO. 22/00425/FUL **FILE NO.** PP-11490955

CASE OFFICER Mrs Karen Wake (Mon-Thur)

DATE RECEIVED 20th August 2022

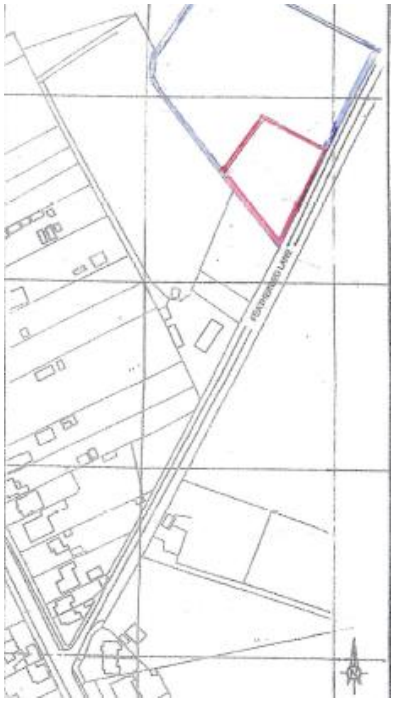
SUMMARY

This application has been referred to the Planning Committee by Cllr Donna Hales given the concerns of local residents about the impact of the development.

In summary, the application is recommended for approval. The application is for the change of use of land to a traveller site.

The proposal is outside the development envelope within an area of open countryside. The proposed use is not compliant with Policy SS9 (Development in the Countryside) but meets an identified need for traveller sites within the district in compliance with Policy LC5 (Applications for Gypsies, Travellers and Travelling Show People.)

Site Location Plan



OFFICER REPORT ON APPLICATION NO. 22/00425/FUL

SITE & SURROUNDINGS

The site is a small area of land (0.15 ha) which forms part of a larger grassed field. The site has been partially hard surfaced and the construction of a stable building has commenced on site. On the southeast boundary of the site is a hedge approximately 3m high with an access gate and planters at the site entrance. Beyond that hedge is the access lane with fields beyond that. On the southwest boundary there is a hedge approximately 2m in height and mature trees with a bungalow and garden beyond. The remainder of the field, of which the site forms part, has mature hedges and trees around the boundaries with fields beyond.

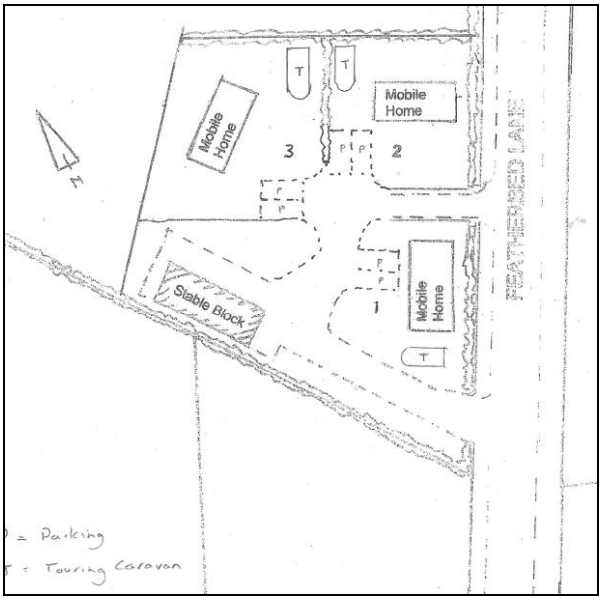
BACKGROUND

The stable block which is currently being constructed has previously been granted planning permission. An extension to the stable block was previously refused by the council in 2016 but an appeal against that decision was allowed and the Planning Inspectorate granted planning permission for the extension to the stable block. That permission hasn't been implemented and the time for its implementation has expired. A subsequent application for an extension to the stable block is currently being considered.

The applicant has moved a mobile home onto the site and is currently living there without planning permission. A large part of the site has already been hard surfaced, the access to the site has been re-surfaced and utilities installed along the access lane.

PROPOSAL

The application is for the change of use of land to a traveller site. The proposal is for three pitches, each of which may contain a mobile home, one touring caravan and two parking spaces to facilitate the occupant's travelling lifestyle. The proposal includes the hard surfacing of the site to facilitate year round access.



AMENDMENTS

An amended block plan has been submitted and a biodiversity net gain assessment submitted during the consideration of the application.

The design and access statement submitted with the application referred to up to two touring caravans being sited on each pitch but the agent confirmed that most of the time there would only be one tourer. An amended block plan showing one mobile home and one tourer on each pitch has been submitted and following discussions with the agent it was agreed that a condition restricting each pitch to contain one mobile home and one tourer would be acceptable.

HISTORY

13/00276/FUL	Granted Conditionally	Erection of stables and hard standing
15/00052/FUL	Granted Conditionally	Erection of stable and tack room building including site entrance details, fence details, parking and turning area details, removal of hardcore and change of use to keeping of horses (application site area as clarified in e-mail dated 27th January 2015)
16/00472/FUL	Refused, allowed on appeal	Extension to stable building to provide ancillary facilities
22/00389/FUL	Pending consideration	Extension to Stable Building to Provide Ancillary Facilities

CONSULTATIONS

Coal Authority
10/02/2023 - No objections. Advise an informative note be added to any planning permission to advise the applicant that the site lies within a coal mining area which may contain unrecorded coal mining related hazards. If any coal mining feature is encountered during development it should be reported immediately to the Coal Authority.

Derbyshire County Council Highways
09/01/2023, 22/09/2022 and 01/09/2022 - No objections. A site visit showed that the access to Shuttlewood Road has acceptable emerging visibility in either direction, whilst there is a slight crest when emerging and turning left oncoming vehicles could be clearly seen without obstruction. It was also apparent that the access is wide enough for the first 5 metres from the carriageway edge so that two vehicles can pass. Request conditions that the site is not taken into use/occupied until space has been provided on site in accordance with the revised application drawings for the parking and manoeuvring of residents vehicles, laid out, surfaced and maintained and details of arrangements for storage of bins and collection of waste have been submitted and approved.

Derbyshire County Council Rights of Way
02/09/2022 - Bolsover Public Footpath No. 44 runs adjacent to the proposed development site, along Featherbed Lane. The Rights of Way Section has no objection to the proposals as it appears that the route will be ultimately unaffected by the proposal. The applicant should be advised that the footpath must remain open, unobstructed and on its legal alignment, there should be no disturbance to the path surface without prior authorisation from the Rights of Way Section and there should be no encroachment of the path, and no fencing should be installed without consulting the Rights of Way Section. It has been confirmed that these comments are based on the amended plans.

Derbyshire Gypsy Liaison Group
No comments received.

Derbyshire Wildlife Trust
01/02/2023 and 31/10/2022 - Advise condition requiring submission of a Landscape and Biodiversity Enhancement and Management Plan (LBEMP) to be submitted to provide specifications for habitat creation in line with the proposals reflected in the submitted Biodiversity Net Gain report.

Environmental Health Officer
08/09/2022 - The site although small in nature should be constructed in accordance with the current government guidance which covers the specifications for the density and spacing of caravans and pitches as well as for water supply/drainage. Some sites may also require licensing via their local authority. Recommend a condition that from the first use of the development, there shall be no work or associated activities including deliveries/collections, loading/unloading/filling of bulk tanks or silos/servicing/parking or manoeuvring of vehicles by staff and visitors carried out on the premises subject to this permission on any Sunday or Bank Holiday nor before 0800hrs or after 1800hrs on Monday – Friday nor before 0800hrs or after 1300hrs on Saturday. Detailed assessments should be completed to minimise dust, noise and traffic movement/s upon local residents to mitigate the risk of statutory nuisance.

Parish Council
No comments received.

Planning Policy
14/09/2022 - Consider that the development would be contrary to policy SS9: Development in the Countryside. However, in view of the existing need for additional residential pitches it is considered that policy LC5: Applications for Gypsies, Travellers and Travelling Showpeople provides justification for looking at a countryside location, provided that the other more site specific or local amenity considerations are met.

PUBLICITY

Site notice posted and 13 neighbours notified. Objections received from 19 residents which raise the following issues:

1. This is leading to the future development for residential use as a bungalow in addition to the pitches.
2. The proposal could result in 30/40 people living there which is unacceptable.

3. Is there going to be any stipulation that there can only be three pitches occupied at the same time whether these are caravans or mobile homes. At the moment the planning application is still so vague that there could be three mobile homes and 6 caravans on site at any one time. The traveller site in Duckmanton has so many more stipulations and is much more precise on what is and what isn't acceptable than the current proposal.
4. The other planning application for the site to develop the stable block is already not keeping to plan, will this application for the traveller site be the same and be developed more than the plan, the site has already had 100s of tons of gravel delivered and multiple caravans have set up on the site even before planning has been granted.
5. This would be the third site within 2 miles and would be 'overloading' the local area.
6. There has not been a public consultation regarding the change of use of the site which should have been undertaken by the council.
7. The works being undertaken bear no relation to the plans and suggest a much bigger plan is envisaged.
8. The proposal has led to a significant increase in noise from the site as a result of use of machinery and tractors and loud music. The noise will disturb animals kept near the site and local residents.
9. The proposal will increase traffic on Featherbed Lane which is single width and unsuitable. The proposal is harmful to other lane users including pedestrians and horse riders. The speed at which traffic travels is dangerous. Traffic often queues on Shuttlewood Lane, waiting to turn into the lane as it is single width. Visibility from the lane onto Shuttlewood Road is inadequate, there is insufficient room for vehicles to pass.
10. Additional traffic will make the footpath unsafe and will result in an accident.
11. The volume of traffic is eroding the lane and is now only usable by 4 x 4's. This particularly affects the bungalow on the lane who could not receive visitors in a normal car.
12. Water run-off and pollution is a concern. There is a watercourse towards the bottom of the hill. Water runs-off from Shuttlewood Road through this area to the water course. If the run-off is blocked it may cause fields to waterlog. There is also potential impacts on the watercourse as a result of increasing the quantity of sewage.
13. This is a Greenfield site in the countryside and if the development is allowed a valuable asset for nature will be lost, reducing the biodiversity of the region and increasing demands on already stretched local resources.
14. The site owner is living on site in a caravan and operating business vehicles and machinery from the site.
15. Up to four caravans are parked at various times contrary to previous permissions granted under Policy SS9.
16. No proper waste facilities have been installed or provision made for disposal of animal waste.
17. The lane has been dug up to get utilities to the site illegally.
18. Planning permission was refused in 2019 for a dwelling accessed off the Lane. The reasons for refusal included highways issues and the fact it was unnecessary development in the countryside and not essential for agriculture. The same applies to this application and the council should be consistent in their decision making.
19. The lane is used by many walkers and people have spoken about being intimidated whilst using the lane and have witnessed people defecating and disposing of waste in neighbouring fields.

20. The proposal is damaging to the countryside and the wildlife within it.
21. The applicants have no control over Featherbed Lane.
22. The site should be used for the keeping of horses and no trade or business carried out but the site is being used for a logging and landscaping business.
23. The proposal is contrary to Local Plan policies in particular SS9.
24. Trees forming part of the boundary hedge have already been cut down on the site without permission of the owner of the adjacent property.
25. The red line site boundary should include access to the main road.
26. Policy LC5 is quoted as a possible reason for allowing the camp however the rule of one kilometre to amenities and schools has been wrongly quoted, from the travellers site to the school it's 1.35 kilometres away as measured on google earth, it's .49 kilometres from the site to the bus stop so the school is not within 1 kilometre the site. The school is only a junior school so older children will have to travel several miles to senior school. Other amenities such as doctors and dentist are also several miles away.
27. The application form states waste from the facilities will go to existing septic tank. There should not be a septic tank fitted as no application has been submitted to install one. Three septic tanks have been delivered to site but only one is visible now, a treatment plant will have to be installed as per environmental guidelines, but no application has been submitted. The site could hold potentially 30 to 40 people where is all the waste from the static caravans and the touring vans going to go? As well as all the waste from possibly 4 horses.
28. There are no passing places on the lane so anyone on horseback has a real problem because vehicles will not slow down or wait. Access drives at the top of the lane are being eroded away at a significant rate since the increase in traffic and business use has started and vehicles parked at the top of the lane are being sprayed with gravel from speeding vehicles causing damage to paintwork and windscreens.
29. The council's response to the planning infringements taking place is disappointing. No action has been taken to stop the applicant living there illegally, running a business without permission, and damaging the lane. The council have the powers to stop all development but have sat back and let the works proceed even though government guidelines urge all councils to act swiftly.
30. Several other families are watching this application closely as they own land adjoining Featherbed Lane, they are semi living and running business down Featherbed Lane. This has been reported but no action has been taken. If this application is successful, further applications to build dwellings will follow and the council would be hard pressed to refuse as it would look like discrimination against non-travelling people.
31. Electricity and water is being run the full length of Featherbed Lane in preparation for the extra buildings which equates to urban sprawl.
32. The additional traffic and works related to the site are resulting in clouds of dust.
33. The surface of the footpath is being damaged and will result in it being unusable for walkers.
34. Numerous development have already taken place without planning permission and at considerable expense. The applicant must have been reassured, presumably at the initial advisory stage, that the application would be approved even before it was submitted. A senior member of the planning department stated that this is "an application that I would have to say, under oath, has a good chance of an approval" This statement was made at the same time that the application was made public ie. before any public objections were raised. This suggests that the planning department had already reached a favourable conclusion to the application. Is this a case of pre-

determination? That statement goes on to say " you're right to say the applicant should have waited for a decision on their application and in particular, waited for planning permission to be granted before work started on the site" and " It is our understanding that no further development will take place on site until a decision is made on the application following further dialogue with the developer " However work has continued on site with only one site visit from the planning department.

The planning procedures followed by Bolsover District Council appear to be a much weaker format than those followed be North East Derbyshire District Council which basically states that no spade should be put in the ground until planning permission is granted – a much more defined stance than that of BDC and far more acceptable to the public.

The statement further states "I completely agree with you that the way this development has been carried out so far is not the right way to do things." The statements of the planning department are incompatible with its actions. This planning application and its handling by the planning department is so flawed that any further progress should be halted immediately and the application rejected.

35. The site is adjacent to ancient woodland, with dwindling wildlife such as bats, badgers and deer. Such development will reduce their habitat.

POLICY

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

- SS9 Development in the Countryside
- SC2 Sustainable Design and Construction
- SC3 High Quality Development
- SC9 Biodiversity and Geodiversity
- SC14 Contaminated and Unstable Land
- SC11 Environmental Quality (Amenity)

National Planning Policy Framework (“the Framework”)

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

- Paragraphs 47-48: Determining applications
- Paragraphs 55-58: Planning conditions and obligations
- Paragraphs 61-62: Delivering a Sufficient Supply of Homes
- Paragraphs 174, 180 and 182: Conserving and enhancing the natural environment
- Chapter 2: Achieving sustainable development

Other

Planning Policy for Traveller Sites 2015

Gypsy and Traveller Accommodation Assessment 2015

ASSESSMENT

Key issues

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

- The principle of the development
- The impact on the character of the countryside and the local area
- The impact on residential amenity
- Whether the development would be provided with a safe and suitable access
- Biodiversity

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

The principle of the development

The site is outside the development envelope in an area allocated as open countryside in the Local Plan for Bolsover District.

Policy SS9: Development in the Countryside is the adopted Local Plan's strategic policy that seeks to restrict urban forms of development in the countryside where these would not be appropriate or sustainable and not in accordance with the Local Plan's Spatial Strategy.

Policy SS9 states that development proposals in the countryside outside development envelopes will only be granted planning permission where it can be demonstrated that they fall within a number of stated categories, such as the re-use of previously developed land or the re-use of redundant buildings that make a positive contribution to the local area.

The stated categories do not include the creation of new sites or pitches for Gypsies, Travellers and Travelling Showpeople and so the proposal is considered to be contrary to the requirements of Policy SS9 of the Local Plan, unless other policies provide grounds for approval.

Policy LC5: Applications for Gypsies, Travellers and Travelling Showpeople advises that planning permission for new sites will be granted planning permission if the proposed development meets a number of site based criteria, the majority of which relate to site specific or local amenity considerations. However, criteria a) c) and h) relate more to the general location of new development and advise as follows:
a) proposals should be within development envelopes or on other suitable development land as provided for within the Plan unless they can be shown to meet a need identified in an independent assessment.
c) is located within one kilometre of a convenience food store, a primary school, and a doctor's surgery, or of access to public transport.
h) is not within Green Belt or in areas at high risk of flooding.

In relation to criterion a), the site is not within a development envelope and is not considered to be on other suitable development land (the issue of need is discussed below).

In relation to criterion c), the site is not within the specified distances of a convenience food store, a primary school or a doctor's surgery. However, as shown on the map below, the site is within 1 km of access of public transport by virtue of the bus stops used by the 53 and 81 services along Shuttlewood Road and therefore criterion c) is met.

In relation to criterion h) the site is not within the Green Belt and is not located in an area at high risk of flooding such that criterion h) is met.

Paragraphs 61 and 62 of the Framework state that "To determine the minimum number of homes needed, strategic policies should be informed by a local housing need assessment, conducted using the standard method in national planning guidance – unless exceptional circumstances justify an alternative approach which also reflects current and future demographic trends and market signals. In addition to the local housing need figure, any needs that cannot be met within neighbouring areas should also be taken into account in establishing the amount of housing to be planned for.

Within this context, the size, type and tenure of housing needed for different groups in the community should be assessed and reflected in planning policies (including, but not limited to, those who require affordable housing, families with children, older people, students, people with disabilities, service families, travellers, people who rent their homes and people wishing to commission or build their own homes). "

The Local Plan for Bolsover District sets out the need for Gypsy and Traveller Accommodation sites as identified within the Gypsy and Traveller Accommodation Assessment (GTAA) (September 2015). The identified need for Bolsover District during the period 2014 -2034 as set out in the GTAA is 17 pitches. The Local Plan seeks to make

provision to meet this need through site allocations. However, the Local Plan also advises that the Council was unable to meet its identified need through allocated sites and as a result it will rely on the criteria based policy LC5: Applications for Gypsies, Travellers and Travelling Showpeople to meet the need where it might arise.

Out of the identified need for 17 residential pitches for gypsies and travellers, 7 pitches were provided for through site allocations within the Local Plan, leaving a further 10 pitches still to be found through planning applications.

A further 6 pitches have been granted planning permission (details below):-

- 1 additional pitch has been granted planning permission at the allocated site at 255A Shuttlewood Road over and above those pitches allocated in the Local Plan for Bolsover District (application ref. 20/00221/FUL)
- 1 additional pitch has been granted planning permission at The Pines Caravan Site, Hilcote Lane, Hilcote (application ref. 21/00455/FUL)
- 4 additional pitches have been granted planning permission at Land to Northwest of 3A Brookhill Lane Pinxton (application ref. 21/00678/FUL)

This leaves an identified need of 4 pitches and so the 3 pitches proposed in this planning application would therefore help to meet that identified need.

The Council is also party to a Derbyshire-wide commission to prepare a new independent GTAA to cover the period 2020 to 2040 and so update the Council's evidence in this policy area. Whilst this new independent assessment is yet to be finalised and signed off by the Council, based on the work to date it is considered likely that the new GTAA will identify an additional need for yet further pitches in Bolsover District rather than a reduction in the number of pitches needed.

On this basis it is considered that the development would be contrary to policy SS9 of the Local Plan, However, in view of the existing need for additional residential pitches it is considered that policy LC5 provides justification for looking at this countryside location and the proposal is considered to be acceptable in principle, provided that the other more site specific and local amenity considerations are met.

It is however considered necessary to restrict the occupation of the site to three pitches and restrict the number of units to be permanently occupied to one mobile home per pitch with the touring caravan only being used for touring not living in on site. This is to prevent additional permanent occupation of the site which does not meet an identified need and as such does not justify the rural location for the additional residences.

<u>The impact on the character of the countryside and the local area</u>

The site is within an area of open countryside but is adjacent to residential development and existing equestrian developments in the form of stables and barns along Featherbed Lane. The proposal is for three pitches which will each contain a mobile home, a touring caravan and two parking spaces. The modest scale of the proposal is considered to be appropriate for this open countryside/edge of settlement site and is not considered to harm the services and infrastructure provided by the adjacent settlement in accordance with part f) of Policy LC5.

The proposal includes a new access on to Featherbed Lane which involves the removal of a section of hedgerow. There is also an existing access to the stable building being constructed on site. The site is otherwise partially screened from general views by the hedgerow to the site frontage and around the wider field within which the site sits. It is also proposed to enhance the hedgerows around the site with additional planting and this can be required by condition. The proposal is therefore not considered to significantly detract from the character of the area and can be sufficiently enclosed by appropriate boundary treatment to prevent encroachment into adjoining land and this can be required by condition.

There are no permanent buildings proposed as part of this application and if subsequent permanent structures are proposed at a later date they will need to be considered by further planning applications which would be considered on their individual merits. It is however considered necessary to restrict the number of mobile homes and caravans on the site to minimise the impact on the rural character of the area.

It is also considered necessary to require some form of boundary treatment to be provided to prevent the proposed use spreading into the wider field and to restrict future boundary treatments, external lighting and buildings or structures which may be required by the caravan licence for the site which may also harm the rural character of the area in the future. Subject to such conditions, the proposal is considered to meet the requirements of part e) of Policy LC5 of the Local Plan for Bolsover District and is not considered that there will be undue harm to the rural character of the area.

Residential Amenity

The site is set away from adjacent dwellings with partial screening form the hedgerows around the site. The site is considered capable of providing an adequate standard of amenity for future occupiers without causing harm to the privacy and amenity of adjacent residents. The proposal is likely to result in some increase in noise and disturbance for residents of adjacent dwellings during the construction phase of the development when hard surfacing and amenities etc. are being installed but once this is completed the proposal is considered to be a use which is compatible with the existing residential uses adjacent to the site. It is however considered necessary to restrict the occupation of the site to three pitches and restrict the number of mobile homes and caravans to be permanently occupied to one mobile home per pitch with the touring caravan only being used for touring. This is to prevent additional permanent occupation of the site which would potentially result in additional noise and disturbance for residents of adjacent dwellings, the impact of which would not have been considered as part of this application.

The Environmental Health Officer has asked for a condition requiring the hours of operation from the site for deliveries, visitors etc. to protect the amenity of adjacent residents. However, once the use is established, the use will be a residential use and such restrictions on residential development is considered unreasonable. It is however considered reasonable to restrict the use of the site to prevent any trade or business being carried out from the site as this may result in noise and disturbance for residents of adjacent dwellings over and above what would be reasonable expected adjacent to a residential area. On this basis is considered to meet the requirements of criterions b) and g) of Policy LC5 as well as Policies SC3 and SC11 in terms of its impact on the amenity of existing and future occupiers

Access/Highways

The site utilises an existing access to the field which is served off Featherbed Lane. Featherbed Lane which is an un-adopted road/track which also makes up part of a public right of way (Footpath 44 Bolsover). Featherbed Lane is served by an existing vehicular access off Shuttlewood Road. Whilst the proposal will increase vehicle movements associated with the access, emerging visibility is acceptable in either direction and it is unlikely that the proposal would result in any safety issues associated with the access.

The internal layout proposed for the site has been amended on the advice of the Highway Authority and there is now adequate room for the parking and turning of vehicles on site in association with proposed use of the site. The site can be required by condition to be laid out in accordance with the approved plans and maintained as such thereafter.

The Highway Authority have visited the site and confirmed that, subject to the above condition and a condition relating to submission of details for the storage and collection of bins, they have no objections to the proposal and on this basis the proposal is not considered to be detrimental to highway safety in accordance with Policy SC3 of the Local Plan for Bolsover District.

A public footpath runs along Featherbed Lane (Bolsover Footpath No. 44). The DCC Right of Way Officer has confirmed no objections to the proposal as ultimately the route of the footpath will be unaffected by the proposal and only notes advising the applicant of their responsibilities in relation to the right of way were requested.

Concerns have been raised by residents that the Rights of Way Officer made comment on the proposal before the submission of the amended plan and has therefore not appreciated that the proposal was for three static caravans plus tourers and parking and as such the intensification of the use had not been clear. The Rights of Way Officer has confirmed that they have seen the amended plan and the clarification of the use provided by the agent for the application and have confirmed their understanding of the use proposed and the fact that this does not change their advice.

The restriction of the use of the site to prevent trade or business use of the site is also considered appropriate to ensure that vehicular movements to and from the site are ancillary to the residential use of the site which is what has been considered as part of this application as a trade or business operating from the site may be detrimental to highway safety.

It is also considered necessary to restrict the occupation of the site to three pitches and restrict the number of mobile homes and caravans to be permanently occupied to one mobile home per pitch with the touring caravan only being used for touring. This is to prevent additional vehicular movements to and from the site should the site be more intensively occupied which would potentially result in highway and pedestrian safety concerns, the impact of which would not have been considered as part of this application.

Biodiversity

The proposal will result in a fairly large area of hardstanding formed which has previously

been part of a grass field. The proposal will therefore impact on habitats and biodiversity.

Local Plan Policy SC9 requires developments to result in no net loss for biodiversity. A biodiversity net gain assessment has therefore been requested and provided as part of the application process.

The report assesses the onsite grassland to be 'modified' grassland and not of any significant botanical interest. The metric calculation predicts a small net gain of 0.01 habitat unit (4.33%) and 0.12 hedgerow units (18.81%), which will be delivered through sowing a flower-rich seed mix in the adjacent field to create 'other neutral grassland' and a species-rich native hedge along the northern boundary of the application area. This habitat creation can be secured by condition and, subject to such a condition, the proposal provides a net gain for biodiversity and complies with the requirements of Policy SC9 of the Local Plan for Bolsover District.

Land Stability

Part of the site falls within the defined Development High Risk Area. The Coal Authority records indicate that within that part of the application site and surrounding area there are coal mining features and hazards, which should be considered as part of development proposals. The Coal Authority's general approach where development is proposed within the Development High Risk Area is to require the submission of a Coal Mining Risk Assessment to support the planning application.

However, in this case, the specific parts of the site where the pitches are proposed actually falls outside the defined Development High Risk Area. Therefore the Coal Authority did not consider that a Coal Mining Risk Assessment was necessary for this proposal and did not object to the application subject to an advisory note advising the applicant that the site lies within a coal mining area which may contain unrecorded coal mining related hazards and if any coal mining feature is encountered during development it should be reported immediately to the Coal Authority.

Subject to such a note the proposal is not considered to result in issues for stability on or adjacent to the site and is considered to meet the requirements of Policy SC14 of the Local Plan for Bolsover District.

Drainage

The site is within Flood Zone 1, which has a low probability of flooding. The application forms states that the surface water would be disposed of via a soakaway and foul via a septic tank. No other details have been provided and it is therefore considered necessary to require further details of the proposed drainage by condition.

Issues raised by Local Residents

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

The issue of the site being developed in the future for a bungalow has not been considered as this does not form part of the current application and would require separate planning permission.

The issue of setting precedent for future development has not been considered as any planning application has to be considered on its individual merits.

The issue of public consultation has not been considered as the application has been subject to consultation in the form of a site notice and neighbour letters in accordance with the council's policy and the wider provisions of the General Development Management Procedure Order.

The issue of the red line including Featherbed Lane has not been considered as the Highway Authority have confirmed that Featherbed Lane is an unadopted highway and as such the red line does go to the highway.

The issue of the development being unauthorised has not been considered because there is scope within the planning legislation for an applicant to apply retrospectively for any works carried out and the applicant has been advised that any unauthorised works carried out are done so at his own risk.

CONCLUSION / PLANNING BALANCE

The development is contrary to Policy SS9 of the Local Plan, however, in view of the existing need for additional residential pitches it is considered that Paragraph 62 of the Framework and Policy LC5 of the Local Plan provides justification for looking at this countryside location and the proposal is considered to be acceptable in principle, provided that the other more site specific and local amenity considerations are met.

The proposal meets the criteria set out in Policy LC5 and is considered to be a suitable site for the use applied for and is not considered harmful to the rural character of the area or to residential amenity or highway safety, subject to the conditions suggested in the above assessment.

RECOMMENDATION

The current application be APPROVED subject the following conditions:

1. Within 56 days of the date of this permission, the parking and turning area must be provided on site in accordance with the amended block plan submitted via email to the Local Planning Authority on 03/11/2022 and must be maintained available for parking and turning thereafter.

2. The development hereby approved is for three mobile home pitches only, laid out in accordance with the amended site plan submitted via email to the Local Planning Authority on 03/01/2022. Each pitch must only be used for the residential use of one mobile home, located as shown on the approved plan, and for the storage of one touring caravan. No residential occupation of any touring caravan is permitted within the site at any time.

3. The mobile homes on site must be single storey only

4. The development hereby approved is for three pitches which must solely be occupied by travellers as defined as defined in “Planning Policy for Traveller Sites (2015)”.

5. The development hereby approved is for residential occupation only and no trade or business must be carried out from the site.

6. Within 56 days of the date of this permission, full details of the septic tank and soakaway, together with the results of percolation tests which substantiate the soakaway design, must be submitted to the Local Planning Authority and approved in writing. The septic tank and soakaway must be installed as approved and must be maintained in accordance with the approved details. Final effluent from the septic tank must not connect directly to any watercourse or land drainage system and no part of the soakaway shall be sited within 10m of any ditch or watercourse.

7. Within 56 days of the date of this permission, a Landscape and Biodiversity Enhancement and Management Plan (LBEMP) must be submitted to, and be approved in writing by, the Local Planning Authority. The LBEMP will provide specifications for habitat creation in line with the proposals reflected in the submitted Biodiversity Net Gain report (JM Ecology, December 2022) and to achieve a gain of no less than +0.01 habitat units (4.33%) and +0.12 hedgerow units (18.81%). The LBEMP should combine both the ecology and landscape disciplines and must be suitable to provide to the management body responsible for the site. It must include the following:-
   a) Description and location of features to be retained, created, enhanced and managed, as per the approved biodiversity metric.
   b) Aims and objectives of management, in line with desired habitat conditions detailed in the metric.
   c) Appropriate management methods and practices to achieve aims and objectives.
   d) Prescriptions for management actions.
   e) Preparation of a work schedule (including a 30-year work plan capable of being rolled forward in perpetuity).
   f) Details of the body or organization responsible for implementation of the plan.
   g) A monitoring schedule to assess the success of the habitat creation and enhancement measures
   h) A set of remedial measures to be applied if conservation aims and objectives of the plan are not being met.
   i) Requirement for a statement of compliance upon completion of planting and enhancement works.
   The LBEMP must also include details of the legal and funding mechanism(s) by which the long-term implementation of the plan will be secured by the developer with the management body(ies) responsible for its delivery. The approved plan will be implemented in accordance with the approved details.

8. Within 56 days of the date of this permission, details of the boundary treatment to be provided around the edge of the site hereby approved for three pitches, together with any boundary treatment details required to divide the pitches must be submitted to and approved in writing by the Local Planning Authority. The approved boundary treatments must be provided on site in accordance with approved details within 28 days of their approval and must be maintained as such thereafter.

9. Notwithstanding the provisions of Classes A and B of Part 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 with or without modification), no new accesses or boundary treatments must be installed on site unless authorised by an express grant of planning permission.

10. Notwithstanding the provisions of Article 3(1) of the Town and Country Planning (General Permitted Development) Order 2015, (or any Order revoking and re-enacting that Order) no development otherwise permitted by Part 5 Class B of the Order must be erected/constructed/undertaken without first obtaining planning permission.

11. Within 56 days of the date of this permission, details of arrangements for storage of bins and collection of waste must be submitted to and approved by the Local Planning Authority. The approved details must be implemented within 28 days of their approval and must be maintained as such thereafter.

12. There must be no external lighting installed on the site without the prior submission of a detailed lighting strategy for the site having been first submitted to and approved in writing by the Local Planning Authority.

Advisory notes

1. In legislation 'mobile home' and 'caravan' are synonymous and defined as 'any structure designed or adapted for human habitation which is capable of being moved from one place to another whether by being towed, or by being transported on a motor vehicle or trailer, and any motor vehicle so designed or adapted'.
   The definition excludes railway stock on rails forming part of the railway system, and tents.
   The definition includes:
   - conventional caravans and mobile homes
   - dormobiles
   - touring caravanettes
   - adapted railway carriages

2. A large, twin-unit caravan may come within the definition if it is:
   - composed of not more than two separately made sections
   - physically capable of being transported by road when assembled (even if it cannot lawfully be transported)
   - does not exceed 65.616 feet (20 metres) in length, 22.309 feet (6.8 metres) in width, and 10.006 feet (3.05 metres) from the floor to the ceiling internally

3. Public Right of Way, Bolsover Footpath No.44, as shown on the Derbyshire Definitive Map, must remain open, unobstructed and on its legal alignment at all times. There should be no disturbance to the surface of the route without prior authorisation from the Rights of Way Inspector for the area. Consideration should be given to members of the public using the route at all times. A temporary closure of the route may be granted to facilitate public safety subject to certain conditions. Further information may be obtained by contacting the Rights of Way Section – ETE.PROW@derbyshire.gov.uk. If

a structure is to be erected adjacent to the right of way, it should be installed within the site boundary so that the width of the right of way is not encroached upon.

4. A caravan licence will need to be obtained from Bolsover District Council.

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 1st March 2023

Enforcement Update Report

Report of the Planning Manager (Development Control)

Classification	This report is Public
Report By	Sarah Kay – Planning Manager (Development Control) 01246 242265 sarah.kay@bolsover.gov.uk
Contact Officer	Jonathan Gaynor – Principal Enforcement Officer 01246 242296 jonathan.gaynor@bolsover.gov.uk

PURPOSE/SUMMARY OF REPORT

- To update the planning committee on the service targets set out in the Local Enforcement Plan (Planning) from 1st July 2022 – 31st December 2022, as well as provide an update on ongoing historic cases.

REPORT DETAILS

1 Background

1.1 The Local Enforcement Plan was adopted by the Planning Committee in 2019 and refreshed in May 2022. The Plan sets out the following service standards that Planning Enforcement Officers consider are specific, measurable, achievable and realistic:

- The site of a high priority case will be visited on the same day the suspected breach of planning control has been identified wherever possible, but within one working day, and a decision on what further action is required will be taken within **24 hours** of that site visit. By way of example a high priority case includes unauthorised works to a listed building, arboriculture on protected trees or demolition in a conservation area.
- The site of a medium priority case will be visited within **two weeks** of identifying a suspected breach of planning control. A decision on what further action to take will be made within four weeks of that site visit. By way of example a medium priority case includes unauthorised development that contravenes local planning policy, significantly impacts on local amenity or public safety, or results in harm to the character of a Conservation Area or setting of a listed building.

- The site of a low priority case will be visited within **six weeks** of identifying a suspected breach of planning control. A decision on what further action to take will be made within six weeks of that site visit. By way of example a low priority case includes unauthorised householder development, running small businesses from residential properties, unauthorised advertisements, and untidy land and buildings.

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

1.3 The purpose of this report is to update the planning committee with regard to the enforcement enquiries that have been received and were being progressed during the period July 2022 – December 2022 inclusive, and provide an update on ongoing historic cases.

2 Performance

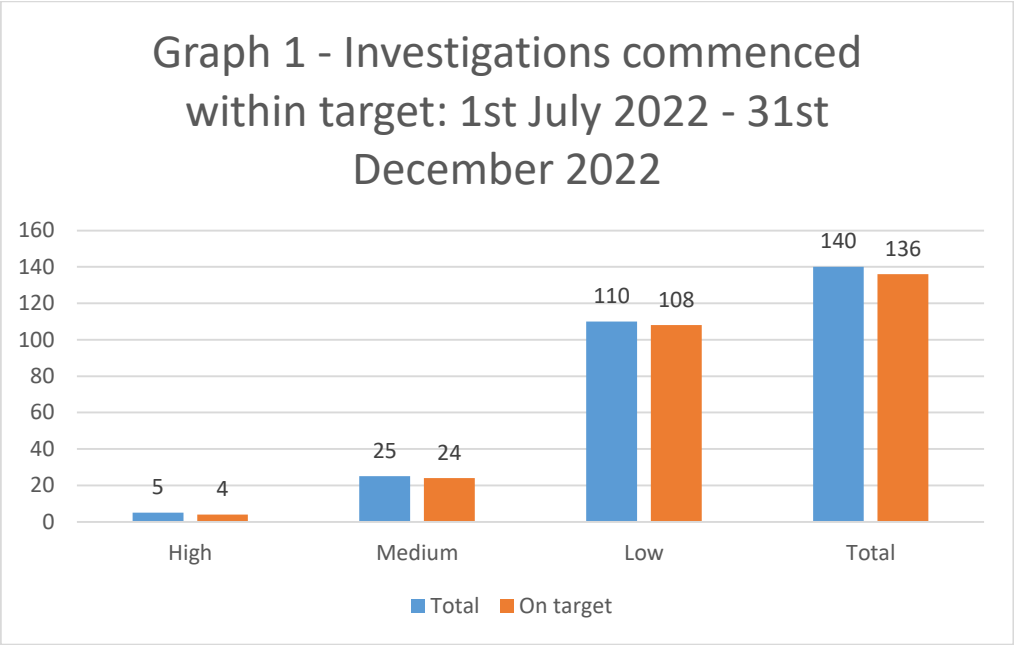
2.1 During the period 1st July 2022 – 31st December 2022, 140 unauthorised activity enquiries were received. Out of these, 5 were considered high priority, 25 medium priority and 110 low priority. As a total, 97% of cases began investigation within the target time, which is the same figure as in the last reporting period.

2.2 Out of the 5 high priority cases, 3 are currently pending consideration and 2 have been closed. Investigations began on 4 out of the 5 within 1 working day (80%).

2.3 Out of the 25 medium priority cases, 8 are currently pending consideration and 17 have been closed. Investigations began on 24 out of the 25 within two weeks (96%).

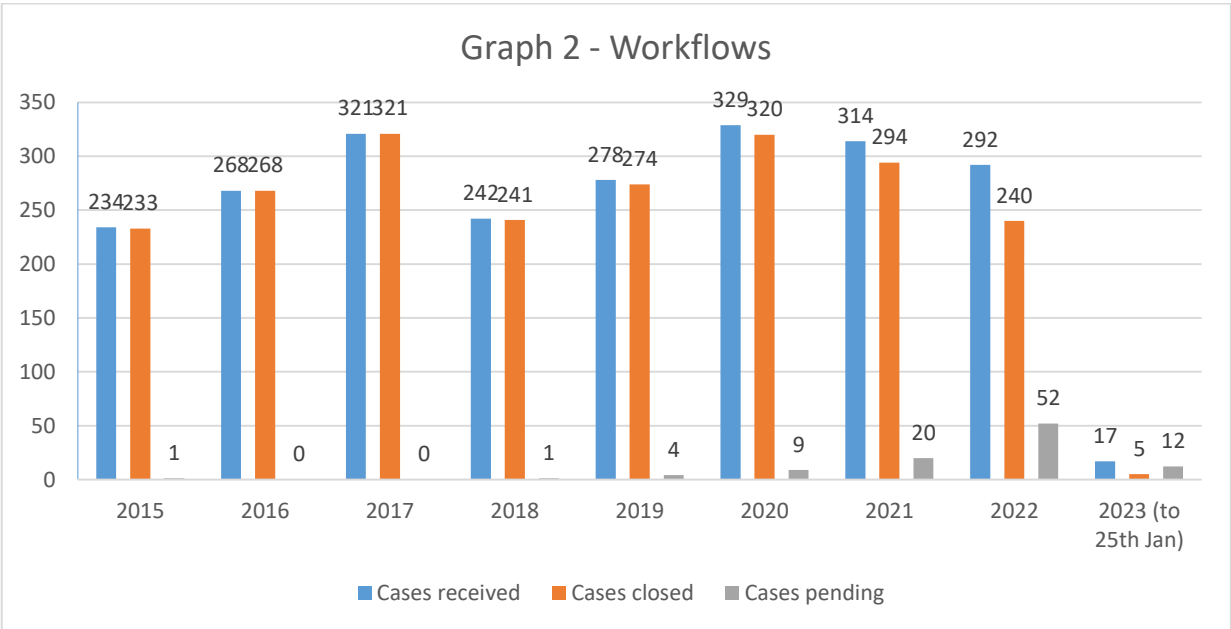
2.4 Out of the 110 low priority cases, 27 are currently pending consideration and 83 have been closed. Investigations began on 108 out of the 110 cases within six weeks (98%).

2.5 Graph 1 below shows the number of cases commenced within target per priority and as a total:



2.6 Since the end of 2021, the Planning Enforcement function has operated with two dedicated officers instead of three. The remaining officers have worked hard to maintain high standards of service, with regard to both meeting the expectations of its 'customers' (including Members and the perceived quality of service) and working efficiently and effectively to manage the workload with reduced staffing.

2.7 The oldest enforcement case still open is from 2015. Graph 2 below therefore shows the amount of cases still pending consideration broken down per year starting from 2015. Historic cases continue to make up a very small proportion of the overall open cases, which is of course very positive (now only 6% before 2020). In 2019, we undertook a research project on Creswell Model Village and have more recently began to look at New Bolsover following significant investment in the site. The cases generated from these projects are being dealt with separately and so have been excluded from the figures below:



2.8 Table 1 below provides a summary of historic cases (considered to be those received up until the end of 2019). In the last report at considering until the end of June 2022, there were 14 cases on this list. Eight of those have now been closed (shaded below) leaving only six cases open. This means that officers have worked to more than halve the number of historic cases in the last six months.

Table One: Historic Cases (up to end of 2019)

Reference	**Location Allegation**	**Status**
E15/232 High Priority	Barlborough Development of Stables	Extant Enforcement Notice.
E17/086 Medium priority	Clowne Alleged hard-landscaping, front extension and erection of walls.	Agreed works completed.
E18/061 Medium priority	Shirebrook Alleged unauthorised change of use to a C3 dwelling house.	C3 use deemed acceptable.
E18/092 Medium priority	Barlborough Siting and permanent residential use of static caravans.	Temporary use issued by Planning Inspectorate so monitoring situation on different case.
E18/163 Low priority	Bolsover High Hedges complaint.	Remedial Notice requirements believed to be now fully complied with but need to evidence before closing.
E19/015 Medium priority	Barlborough Allegation of mobile home used for residential purposes.	Certificate of Lawful Development issued.
E19/016 Low priority	South Normanton Allegation of untidy land.	Land cleared.
E19/074 Medium priority	Clowne	Appeal upheld but checking all conditions

	COU of land to store trailers / park LGVS and associated development.	complied with before closing.
E19/092 Low priority	Stanfree Alleged erection of stable block and paddocks fenced into sections.	Stables now not being built and not considered expedient to enforce against the remaining personal equestrian use.
E19/152 Low priority	Pinxton Alleged erection of large shed.	Planning Contravention Notice served but not returned. This is being pursued with Legal.
E19/160 Low priority	Clowne Allegation of outbuilding.	Planning Contravention Notice served but not returned. This is being pursued with Legal.
E19/163 Low priority	Tibshelf Alleged change of use (storage).	Retrospective planning permission granted and conditions met.
E19/209 Low priority	Pinxton Alleged development of bungalow.	Development considered acceptable so not expedient to pursue further enforcement action.
E19/371 Low priority	Stainsby Alleged engineering works.	Works ceased but pursuing remedial works.

2.9 Work continues to resolve the oldest open cases but this is balanced against the priority of newer and often more urgent matters, alongside project work and other areas of Planning that enforcement officers are involved with.

3 Reasons for Recommendation

3.1 Mirroring the conclusions of the last report, officers consider that the Local Enforcement Plan continues to be working well, insofar as it continues to allow the enforcement team to ensure there are sufficient resources to make sure breaches of planning control are dealt with effectively and efficiently, and in a transparent way. It also continues to help officers manage expectations by referring people to the formally adopted process and standards. It is considered that the enforcement team is performing well against the service standards with regard to promptly visiting sites where cases have been reported to the Planning Service and making first contact with the suspected offender.

3.2 It is recommended that this report is noted and further monitoring reports continue to be submitted to the Planning Committee on a half–yearly basis to

allow members to retain appropriate oversight of these issues and the effectiveness of the Council's planning enforcement function.

4 Alternative Options and Reasons for Rejection

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

RECOMMENDATION(S)

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

IMPLICATIONS;

Finance and Risk: **Yes☐** **No ☒**
Details:
There are no significant cost implications involved with reporting performance against the Local Enforcement Plan but as noted below, this monitoring report may give rise to further consideration of the resources required by the enforcement team to work effectively.

On behalf of the Section 151 Officer

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

On behalf of the Solicitor to the Council

Staffing: **Yes☐** **No ☒**
Details:
The adoption of a Local Enforcement Plan should help officers make the most efficient and effective use of resources by setting clear priorities and establishing a clear framework to work within. However, monitoring progress against service

standards in the Plan may identify additional resource is needed to enable planning enforcement to be carried out effectively within the District. On behalf of the Head of Paid Service

DECISION INFORMATION

Is the decision a Key Decision? A Key Decision is an executive decision which has a significant impact on two or more District wards or which results in income or expenditure to the Council above the following thresholds: **BDC:** **Revenue - £75,000 ☐ Capital - £150,000 ☐** ☒ *Please indicate which threshold applies*	No
Is the decision subject to Call-In? (*Only Key Decisions are subject to Call-In*)	No

District Wards Significantly Affected	All
Consultation: **Leader / Deputy Leader ☐ Cabinet / Executive ☐** **SAMT ☐ Relevant Service Manager ☒** **Members ☐ Public ☐ Other ☐**	Details:

DOCUMENT INFORMATION	
Appendix No	**Title**
N/A	