

The Arc
High Street
Clowne
S43 4JY

To: Chair & Members of the
Planning Committee

Contact: Hannah Douthwaite
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Thursday, 24th August 2023

Dear Councillor

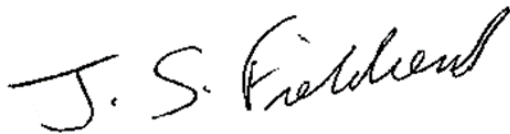
PLANNING COMMITTEE

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, 6th September, 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



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](tel:01246242424)
- **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, 6th September, 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	5 - 8
	To consider the minutes of the last meeting held on 5 th July 2023.	
	<u>APPLICATIONS TO BE DETERMINED UNDER THE TOWN & COUNTRY PLANNING ACTS</u>	
5.	23/00356/FUL - 21m long x 2m wide x 2m high ground mounted solar array. single row of 18 panels in portrait, roughly south facing along line of garden fence, back edge 3m from fence. 2m from existing shed. 6m from bottom boundary - 18 West View, Hillstown, Bolsover, Chesterfield	9 - 14
6.	23/00365/FUL - Replacement of existing shop front - 160 Station Road, Shirebrook, Mansfield, NG20 8UG	15 - 19
7.	23/00122/FUL - Raise the roof by 3m, cladding to elevations and solar panels to south-east side of roof - 46 Brookhill Road, Pinxton, Nottingham, NG16 6LE	20 - 34

REPORTS OF THE INTERIM HEAD OF PLANNING DEVELOPMENT

- | | | |
|----|---------------------------------------|---------|
| 8. | Appeal Decisions: January - June 2023 | 35 - 41 |
| 9. | Enforcement Update | 42 - 47 |

REPORT OF THE INTERIM HEAD OF PLANNING POLICY

- | | | |
|-----|--|---------|
| 10. | Quarterly Update on Section 106 Agreement Monitoring | 48 - 57 |
|-----|--|---------|

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 5th July 2023 at 1000 hours.

PRESENT:-

Members:-

Councillor Tom Munro in the Chair

Councillors Justin Gilbody, Rob Hiney-Saunders, Chris Kane, Duncan McGregor, John Ritchie, Phil Smith, Janet Tait and Carol Wood.

Officers:- Sarah Kay (Interim Head of Development Management), Jenny Owen (Chartered Legal Executive) and Hannah Douthwaite (Governance and Civic Officer).

PL8 – 23/24. APOLOGIES FOR ABSENCE

An apology for absence was received on behalf of Councillor Lisa Powell.

PL9 – 23/24. URGENT ITEM OF BUSINESS

As set out in the Supplementary Update report, since the publication of the agenda, the Planning Inspectorate had notified the Council of a planning appeal relating to Willow Tree Family Farm, Langwith Road, Shirebrook (application number 22/00333/FUL).

At the Planning Committee held on 21st December 2022, this application had been refused contrary to officer recommendations.

The Appeal was to be heard via written representations and the start date was the 28th June 2023.

The timetable for the submission of the Council's appeal questionnaire and case was set by the Planning Inspectorate as follows:

5th July 2023 – completion / submission of the appeal questionnaire and notification to all interested parties.

2nd August 2023 – submission of the Council's statement of case.

16th August 2023 – submission of any final comments.

Given the tight timescale this meeting was the only one scheduled before the deadline for the submission of the Council's statement of case. It was therefore requested that Members delegate authority to the Interim Head of Planning Development to produce the wording for the documentation in order to meet the deadlines set by the Planning Inspectorate.

Members agreed that as some new Councillors were not on the Planning Committee at the time the application was heard, the final wording should be signed off by the Chair and Vice Chair of the Committee.

PLANNING COMMITTEE

Moved by Councillor Duncan McGregor and seconded by Councillor Phil Smith

RESOLVED that the final wording for the Council's statement of case be produced by the Interim Head of Development Management in consultation with the Chair and Vice Chair prior to submission.

(Interim Head of Development Management)

PL10 – 23/24. **DECLARATIONS OF INTEREST**

Councillor John Ritchie advised the meeting that he had been previously contacted directly by the applicant, therefore, he would take no part in discussing the application but would remain in the meeting.

PL11 – 23/24. **MINUTES – 7th JUNE 2023**

Moved by Councillor Duncan McGregor and seconded by Councillor John Ritchie

RESOLVED that the Minutes of a Planning Committee held on 7th June 2023 be approved as a correct record.

PL12 – 23/24. **23/00210/FUL - RETENTION OF STATIC CARAVAN FOR RESIDENTIAL PURPOSES AND INSTALLATION OF TIMBER CLADDING - HORSE AND HOUND FARM MANSFIELD ROAD, SCARCLIFFE, S44 6SU**

Committee considered a detailed report in relation to the above application.

The application had been referred to Planning Committee by Councillor John Ritchie on the basis that it was being made retrospectively, and he wanted the planning considerations for this specific case (development in the open countryside / sustainable development) to be discussed at committee level.

The Supplementary Update report noted two corrections to the main report being;

*The recommendation is to refuse the application because the site is within the open countryside and the proposal does not meet the requirements of Local Plan Policies SS9 (Development in the Countryside,) LC7 (Agricultural, Forestry and Other Occupational Dwellings in the Countryside) and **SS1** (Sustainable Development).*

The speed limit on Mansfield Road was 50mph and not 60mph.

The proposed site location was set slightly lower than the road and formed part of a larger grass field, rising very slightly to the east, with a mature hedge along the northern site boundary.

Previous planning permission had been granted in 2021, to change the use of the site from agricultural to equestrian. It was also noted that the access to the site was substandard in terms of visibility.

PLANNING COMMITTEE

The application was seeking permission for the siting of a three-bedroom, static caravan to be occupied as a dwelling. The location of the caravan was proposed to be sited in the northwest corner of the site, adjacent to Mansfield Road.

Derbyshire County Council Highways had submitted concerns relating to the severely restricted visibility when emerging from the site, and the increase in vehicular movement in and out due to the remote location. Overall, the highways department recommended that the application be refused.

The site was outside the development envelope for Scarcliffe within an area of open countryside where new development was restricted by the requirements of Policy SS9 of the Local Plan for Bolsover District. The Officer recommendation as detailed in the report, was for the application to be refused.

Danielle Hobson (applicant) attended the meeting and spoke for the application.

Members were reminded that the issue of the applicant's personal circumstances and financial position should not be considered as this was not a material planning consideration.

Moved by Councillor Duncan McGregor and seconded by Councillor Phil Smith.
RESOLVED that the application be REFUSED for the following reasons:

1. The site is outside the development envelope for Scarcliffe within an area of open countryside where new development is restricted by the requirements of Policy SS9 of the Local Plan for Bolsover District. This policy states that development in the countryside will only be granted where it meets one of a number of criteria. The proposal is not considered to fall within any of the criteria set out in this policy and as such the proposal is contrary to the requirements of Policy SS9 of the Local Plan.
2. Policy LC7 of the Local Plan for Bolsover District makes allowance for new dwellings in the countryside based on the essential needs of agriculture, forestry or other rural business provided the proposal meets a number of criteria. In this instance, the use of the site is restricted by condition on the original planning permission to be for a personal use only and no trade or business to be carried out from the site. As such the use of the site is not for a rural business requiring a functional need for a dwelling and the proposal would therefore not comply with the requirements of Policy LC7 of the Local Plan.
3. The site is outside the development envelope in an area of open countryside which does not have accessible links to the nearest village, Scarcliffe. There is no footpath along Mansfield Road and as such walking along Mansfield Road which is subject to a 50mph speed limit, to the village would be considered dangerous. In addition, Scarcliffe is identified as a small rural village in the settlement hierarchy as it is not considered to be a sustainable location. The site is adjacent to bus stops but there are only two bus routes which include Scarcliffe, one runs every two hours and one every hour giving access to Sheffield, Mansfield or Shirebrook. The location of the site is therefore not considered to be sustainable for new residential development and any future occupiers would be wholly dependent on the use of a car. On this basis the proposal would be considered to represent unsustainable development which is contrary to the requirements of Policy SS1 of the Local Plan for Bolsover District.

PLANNING COMMITTEE

4. The proposed development would lead to the intensification in use of an existing substandard access to Mansfield Road, where emerging visibility is severely restricted due to the proximity of the boundary hedge thereby leading to potential danger and inconvenience to other highway users and interference with the safe and efficient movement of traffic on the adjoining highway, contrary to the requirements of Policy SC3 of the Local Plan for Bolsover District.

Statement of Decision Process

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.

The meeting concluded at 10:24 hours.

PARISH Scarcliffe Parish

APPLICATION 21m long x 2m wide x 2m high ground mounted solar array. single row of 18 panels in portrait, roughly south facing along line of garden fence, back edge 3m from fence. 2m from existing shed. 6m from bottom boundary

LOCATION 18 West View Hillstown Bolsover Chesterfield

APPLICANT Ms Carol Wood, 18 West View, Hillstown, Bolsover, S44 6LJ

APPLICATION NO. 23/00356/FUL **FILE NO.** PP-12288446

CASE OFFICER Mr Mitchel Smith

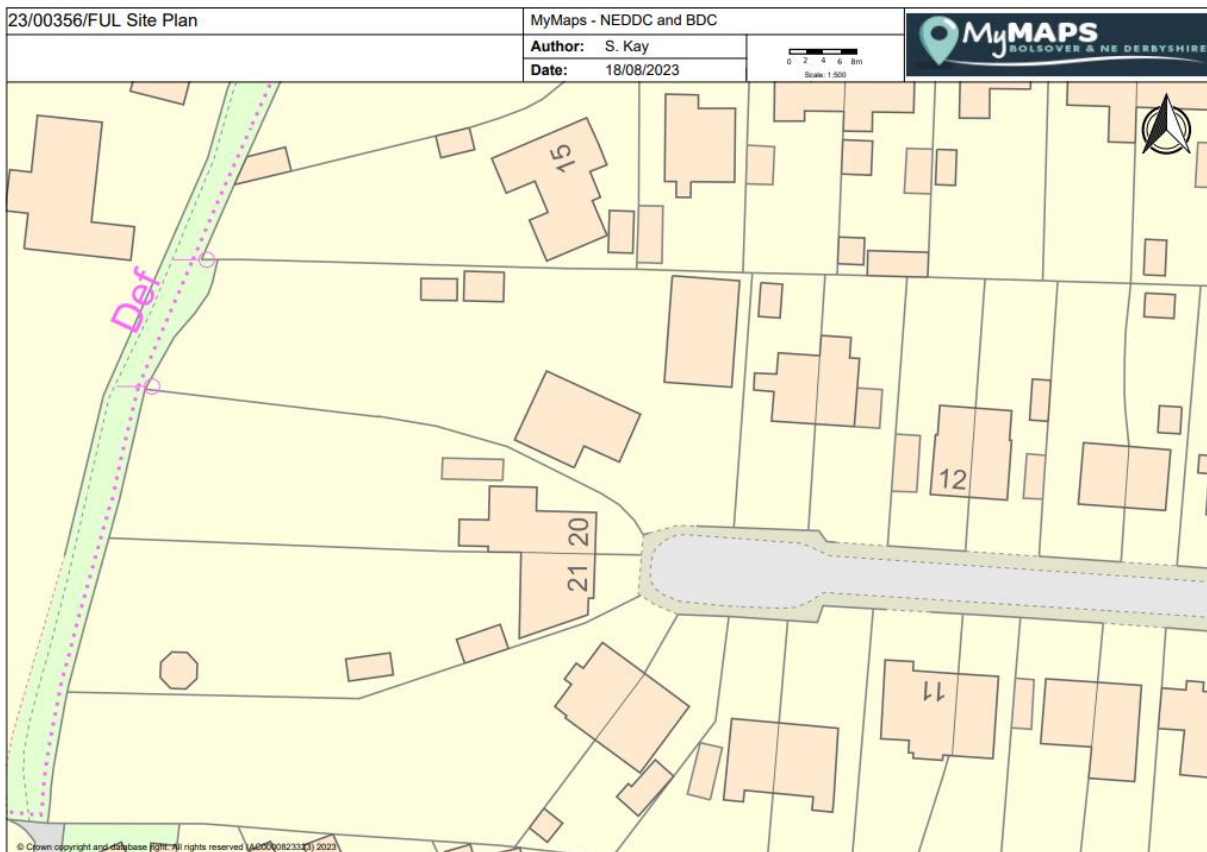
DATE RECEIVED 5th July 2023

SUMMARY

A householder application for the erection of a ground mounted solar array consisting of eighteen panels. The main issues for consideration are the principle of the development, the visual appearance, and any impacts on the residential amenity and highway safety.

The application is to be determined at planning committee due to the applicant being a Councillor for Bolsover District Council.

Location Plan



OFFICER REPORT ON APPLICATION NO. 23/00356/FUL

SITE & SURROUNDINGS

The site is located at the western end of a cul-de-sac which is predominantly made up of semi-detached dwellings.

The application site comprises a detached dwelling finished in brick. Fronting the dwelling is a hardstanding and gravelled area, to the north-east of the property is a detached outbuilding. The rear of the dwelling consists of a large, soft landscaped garden space and two additional timber outbuildings. The rear amenity space is contained by timber fencing and hedgerows.



BACKGROUND

None.

PROPOSAL

The proposal includes a ground mounted solar array, consisting of eighteen panels which measure 2.06m in height and 2m in width. The cumulative length of the array is 21m and will be located toward the northern boundary of the rear amenity space. The panels will have a 30° tilt facing the south of the site.

AMENDMENTS

None.

EIA SCREENING OPINION

The proposals that are the subject of this application are not Schedule 1 of the Town and Country Planning (Environmental Impact Assessment) Regulations 2017. The proposals are

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

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

HISTORY

99/00505/FUL	Granted Conditionally	Two storey rear extension and extension and pitched roof to existing garage
10/00404/FUL	Granted Conditionally	Extension to existing garage and new garden store
BLA/1969/0107	Granted Conditionally	Extension
BLA/1963/0009	Granted Unconditionally	Extension

CONSULTATIONS

Derbyshire County Council Highways
Standing Advice applies.

Scarcliffe Parish Council

The Parish Council will not be meeting prior to the consultation deadline of this application, as no Scarcliffe Parish Councillors requested a meeting to discuss the application or requested any objections be submitted there have been no comments or objections raised.

PUBLICITY

The application has been advertised through a site notice and six neighbours have been individually notified. No comments or objections have been received.

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:

- Policy SS1 (Sustainable Development)
- SC1 (Development within the Development Envelope)
- SC2 (Sustainable Design and Construction)
- SC3 High Quality Development
- SC11 (Environmental Quality (Amenity))
- ITCR11 (Parking Provision)

National Planning Policy Framework (“the Framework”)

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

- Chapter 2: Achieving sustainable development
- Paragraphs 47-48: Determining applications
- Paragraphs 55-58: Planning conditions and obligations
- Paragraph 119, 120, 122 and 123: Making effective use of land
- Paragraphs 126-132 and 134: Achieving well-designed places

Supplementary Planning Documents

Successful Places: A guide to Sustainable Housing Layout and Design, adopted 2013: The purpose of the Successful Places guide is to promote and achieve high quality residential development within the District by providing practical advice to all those involved in the design, planning and development of housing schemes. The guide is applicable to all new proposals for residential development, including mixed-use schemes that include an element of housing.

ASSESSMENT

Key issues

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

- the principle of the development
- the landscape and visual impact of the proposed development
- whether the development would be provided with a safe and suitable access;
- the impact of the development on the local road network; and
- the ‘over-provision’ of public open space vs the under-provision of formal sports facilities.

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

Principle

The development is acceptable in principle given that it is situated within the development envelope of Bolsover as set out in the Policies Map of the Local Plan for Bolsover District therefore the proposal is compliant with policy SC1 (Development within the Development Envelope).

Landscape and visual impact of the proposed development

The streetscene of West View is predominantly made up of semi-detached dwellings which vary in design and appearance. Similar developments as that of this application are not common within the locality however, the proposed ground mounted solar panels are located to the rear of the property and therefore will not be visible from public spaces. On this basis,

the impact on the character and appearance of the streetscene will be minimal and the proposal is considered compliant with policy SC2 (Sustainable Design and Construction) of the Local Plan and the 'Achieving well-designed places' section of the Framework.

Residential Amenity

To the west of the application site is a property named Polyfields, to the north are nos. 11, 11A and 15 Sutton View and to the east is no.16 West View. Located to the south of the site is no.20 West View.

The proposed solar array is located closely to the boundary of no.15 to the north, notwithstanding this, the amenity impact on the respective property will be minimal as a result of the existing boundary treatments which will screen the majority of the development. No.20, to the south, have a relatively open outlook into the amenity space of the application site but given the distance between the development and this dwelling the impact on the amenity is minimal. As a result of the location of the solar panel array, the differing land levels surrounding the site and the existing boundary treatments, no other properties will be in-view of the development and therefore the impact on the amenity is minimal and acceptable.

On this basis, it is considered that a harmful relationship between the solar array and the neighbouring properties will not be introduced with regard to potential overshadowing and overbearing impacts and therefore the proposal is compliant with policy SC3 (High Quality Development) and SC11 (Environmental Quality (Amenity)) of the Local Plan.

Access/Highways

The proposed development is situated to the rear of the dwelling and therefore will not impact on the safety and access to the highway. Given the nature of the proposal no alterations to the parking provision are required. As such the proposal is compliant with the provisions of the highways' Standing Advice and policy ITCR11 (Parking Provision) of the Local Plan.

CONCLUSION

The development is acceptable in principle due to its location within the development envelope of Bolsover. The development will not cause undue visual harm to the character and appearance of the streetscene and the impact on the neighbouring amenity will be acceptable. Therefore, the application should be considered for approval taking into account its compliance with the required policies and provisions of the Local Plan and Framework.

RECOMMENDATION

The current application be APPROVED subject to the following conditions:

1. The development shall be begun before the expiration of three years from the date of this permission.
2. The development must be carried out in accordance with the plans ('new plan' & 1199-RWA-001) received on the 6th July 2023.

Statement of Decision Process

1. The proposal complies with the policies and guidelines adopted by the Council and the decision has been taken in accord with the guidelines 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 Shirebrook Parish

APPLICATION Replacement of existing shop front
LOCATION 160 Station Road Shirebrook Mansfield NG20 8UG
APPLICANT Mr Steve Fritchley, 160 Station Road, Shirebrook, Mansfield, NG20 8UG

APPLICATION NO. 23/00365/FUL **FILE NO.**
CASE OFFICER Amelia Carter
DATE RECEIVED 14th July 2023

SUMMARY

The application is to be determined at planning committee as the application relates to a site which is owned by Cllr Steve Fritchley, the Leader of the Council.

It is considered that the key issue in the determination of this application is the visual impact of the proposed development. The proposed development is considered to have an acceptable appearance which will improve the design of the shop front and is recommended for approval.

Site Location Plan



OFFICER REPORT ON APPLICATION NO. 23/00365/FUL

SITE & SURROUNDINGS

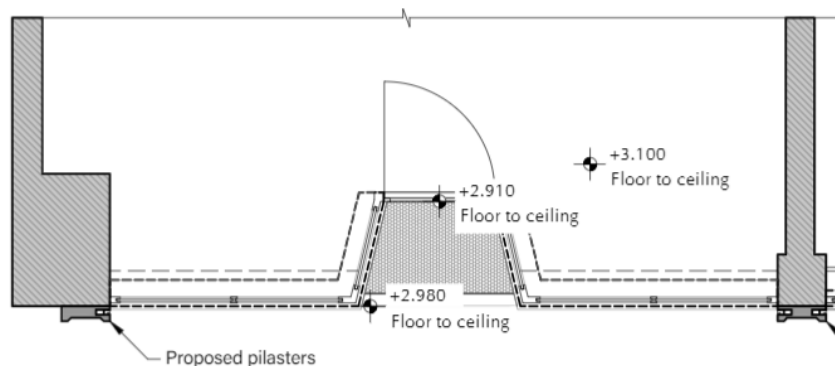
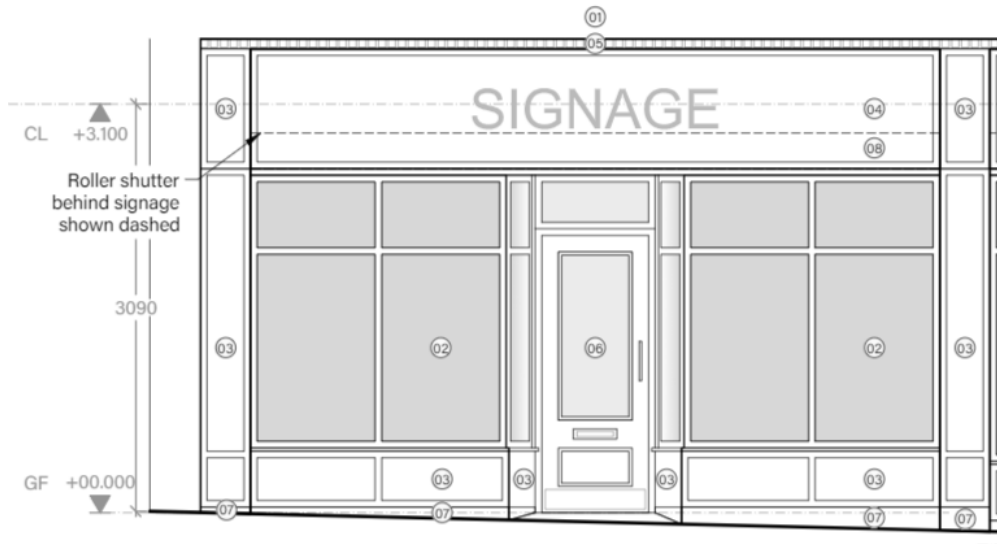
The application site is a ground floor shop premises within a red brick three storey terrace. There are a number of other ground floor shops within the block. The upper floors of the building appear to be storage/office/accommodation.

The shop front has black roller shutters mounted on an external box on the front elevation of the building. The existing shop front which was not visible on the site visit due to the roller shutter being down, has windows with multiple window bars.

PROPOSAL

The application is for a replacement shop front.

Proposed materials include: aluminium windows, painted timber pilasters and stall rises, timber shop signage, dentil timber detailing, glazed timber doors all in colour RAL 6012 Black Green. Exterior grade wall tiles will be black.



AMENDMENTS

None.

EIA SCREENING OPINION

The development by virtue of its characteristics, location and the characteristics of the potential impact does not require an Environmental Impact Assessment

HISTORY

07/00128/FUL	Granted Conditionally	Installation of security shutters
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CONSULTATIONS

Shirebrook Town Council
No comments received.

Highways Authority
Standing advice is applicable.

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

PUBLICITY

Site notice and 7 neighbours have been notified. No representations have been received.

POLICY

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

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

- SS1 (Sustainable Development)
- SC1 (Development within the Development Envelope)
- SC3 (High Quality Development)

National Planning Policy Framework ("the Framework")

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

- Chapter 2: Achieving sustainable development

- Paragraphs 47-48: Determining applications
- Paragraphs 55-56: Planning conditions
- Chapter 12 (Paras. 126 – 136): Achieving well-designed places

ASSESSMENT

The site is located outside of the defined town centre of Shirebrook but is located a short walk away (approximately 100m). It is considered that the key issue in the determination of this application is the visual impact of the proposed development.

The proposed shopfront is of a traditional design which upgrades the existing shop front. The proposed roller shutter to the building will be recessed behind the signage and pilaster which will result in a more attractive shop front design.

Overall, the design of the shop front and the materials proposed are considered to be a high-quality finish and will substantially improve the visual appearance of the shop. The development is considered to comply with the Council's design policy SC3.

It is also possible that the larger panels of glass proposed in the shop front will appeal to a greater variety of businesses thereby encouraging a wider range of businesses to the premises. Similarly, due to the upgrades to the building's appearance the proposals will assist the wider service role of Shirebrook and the viability and vitality of the town centre.

There are considered to be no impacts relating to residential amenity or highway safety given the proposals consist of upgrades to the appearance of the shopfront already in situ.

RECOMMENDATION

The current application be APPROVED subject to the following conditions:

1. The development shall be begun before the expiration of three years from the date of this permission.
2. The development must be carried out in accordance with the approved plans submitted with the application.
3. The development must be finished in accordance with the schedule of materials submitted with the application unless otherwise approved in writing by the Local Planning Authority.

Statement of Decision Process

1. The proposal complies with the policies and guidelines adopted by the Council and the decision has been taken in accord with the guidelines 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 characteristics.

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 Pinxton Parish

APPLICATION Raise the roof by 3m, cladding to elevations and solar panels to south-east side of roof.

LOCATION 46 Brookhill Road, Pinxton, Nottingham, NG16 6LE

APPLICANT Mr Nicolas Smith, 73 Dalestorth Road, Sutton in Ashfield, Nottinghamshire, NG17 3AG

APPLICATION NO. 23/00122/FUL **FILE NO.** PP-11993577

CASE OFFICER Mr Mark Penford

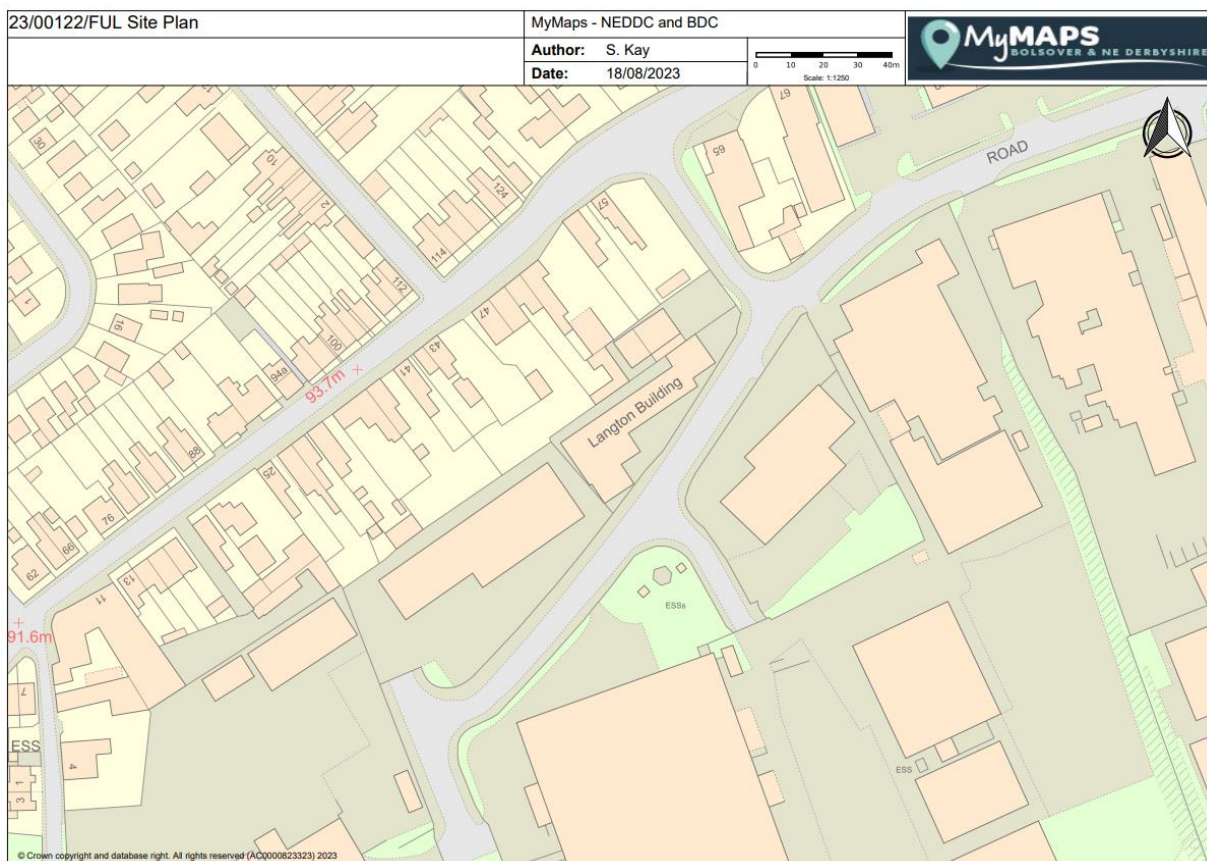
DATE RECEIVED 9th March 2023

SUMMARY

This is a full planning application which is recommended for conditional approval to replace and raise the roof of an industrial building at 46 Brookhill Road, Pinxton. The primary purpose of the application is to replace the dated asbestos roof and create additional internal storage space without the need for any additional floor space. The key planning issues are the principle of development, visual amenity, residential amenity, highway safety, trees and ecology.

The application has been called-in for a planning committee decision by Councillor Dooley.

Site Location Plan



OFFICER REPORT ON APPLICATION NO. 23/00122/FUL

SITE & SURROUNDINGS

The application site consists of a part single storey part two storey B2/B8 (general industry/storage and distribution) unit which is owned by applicant Swift Precision Ltd. The applicant currently operates from their adjacent premises shown in the blue line and specialise in manufacturing parts for the aviation industry.

The application site building is currently occupied by four entities. Swift Precision Ltd occupy one unit for manufacturing purposes. Lynx is a textile business occupying a unit for storage and offices. IMH Team Wear is another textile business who occupy a unit with sewing machines, embroidery and storage. Nicholas Holdings occupy the final unit for storage purposes.

The site is located within Brookhill Road Industrial Estate in Pinxton. The building is constructed in brick with a corrugated roof. A flat roofed section links to the two-storey part of the building which is flat roofed and has the first floor covered in vertically installed tiling. The character of the locality is predominantly industrial with various cladded sheds which surround the site and palisade fencing adjacent the public highway. The land levels are relatively flat.

To the north of the site is Wharf Road, a mixed-use retail and residential area which consists of some commercial premises including a micro pub and beauty business to the ground floor together with some residential dwellings including flats. There are some residential gardens of a substantial length which back onto the boundary of the site and the beer garden of the micro pub also extends down to the northern boundary. Also to the north of the building is Amber Valley water treatment services.



BACKGROUND

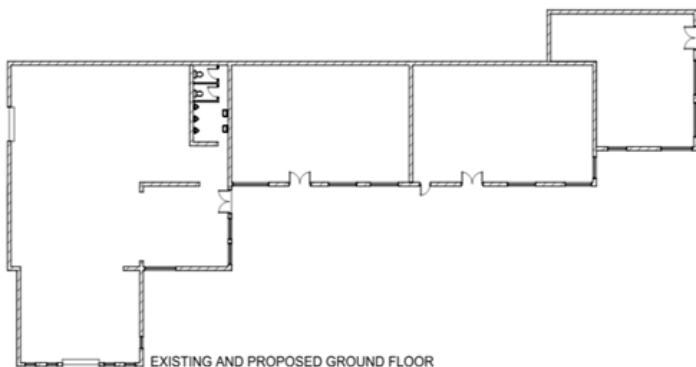
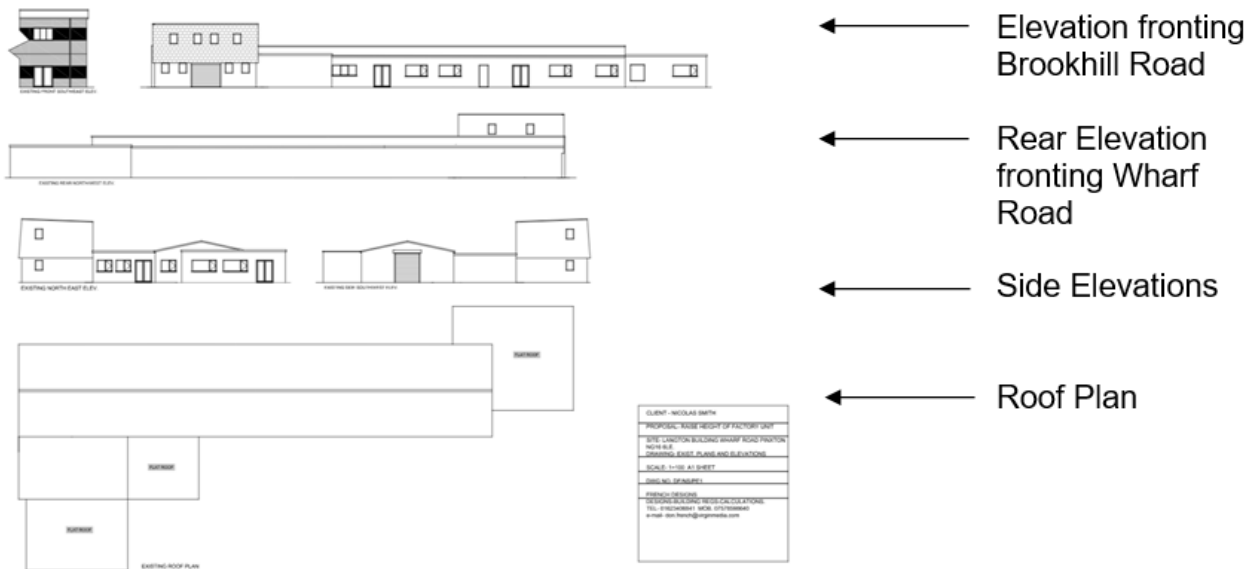
The applicant's adjacent site, from which they primarily operate, was granted planning permission under office code 18/00254/FUL for the demolition of the existing building and erection of a new B1, B2, B8 building on 13/08/2018. The new steel framed building has been completed in accordance with the planning permission and is in operation.

PROPOSAL

The application is proposing to raise the height of the single storey building by 3m (when measured from the ridge of the single storey element of the building) to create a maximum ridge height of 7.2m. The proposed principal elevation is south-east facing into the industrial estate and incorporates the main elements of window and door openings together with the north-east elevation that also looks into the industrial estate onto the highway. The proposed north-western elevation is blank and is set in from the neighbouring garden/outbuildings and beer garden boundaries by 3m. Some existing single storey flat roofed elements are proposed to remain.

It is the applicant's intention to clad the external elevations and roof to match their premises approved under office code 18/00254/FUL so that the development is in keeping in design terms. The applicant has confirmed the extension is not proposed to create any additional storey. Therefore, this proposal does not incorporate any additional floorspace and no changes are proposed to the internal layouts of the four individual units within the building. The application also proposes a number of solar panels which front the industrial estate on the south east facing roof plane.

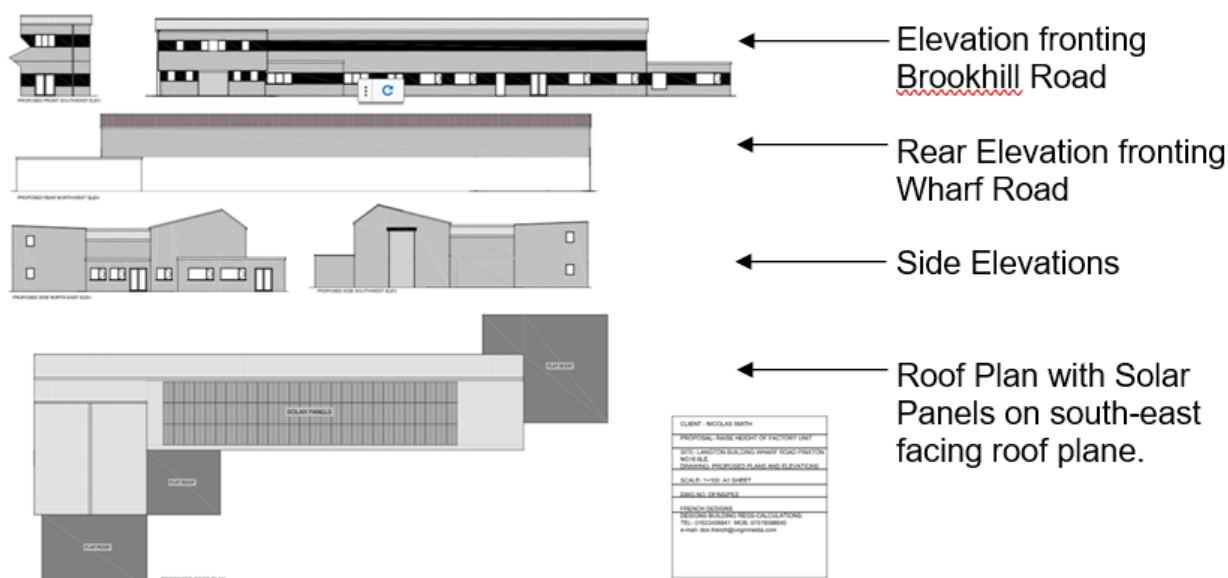
Existing Elevations



Existing and Proposed Floor Plan

No change is proposed to the floorspace of the four units.

Proposed Elevations



AMENDMENTS / ADDITIONAL INFORMATION

Revised Proposed Elevations and Roof Plan with Solar Panels – drawing DF/NS/PE2 received 20th April 2023.

Cladding and Solar Panel Specification received 20th April 2023.

Arboricultural Implication Study incorporating Method Statement received 9th June 2023
Preliminary Bat Roost Assessment received 15th July 2023.

PLANNING HISTORY

18/00254/FUL	Granted	Erection of industrial unit and offices (B1, B2 and B8 use). Demolition of existing building <i>(Adjacent Site within Applicants Ownership)</i>
06/00299/FUL	Granted	Erection of 2.4m high galvanised palisade fencing and three gates

CONSULTATIONS

Derbyshire County Council – Highway Authority

Confirms the proposal will have no detrimental highway impact and raises no objections.

Derbyshire Wildlife Trust

1st response

Confirms the building has hanging tiles with the potential to support roosting bats. A Preliminary Bat Roost Assessment should be completed and submitted prior to determination of the application.

2nd response

Having reviewed the submitted Preliminary Roost Assessment the building has negligible potential to support roosting bats. No further surveys for bats are required. As there are two loose slats a precautionary informative is recommended regarding a sensitive strip of tiles and contacting an ecologist, if necessary. Advises an integrated or external universal bird box/brick is provided to secure biodiversity enhancement.

Bolsover District Council - Principal Environmental Health Officer

Confirms no objection. The replacement roof could actually offer a betterment in terms of noise breakout, on the basis of a modern structure which meets current Building Regulations which would include insulation to better contain noise and reduce impacts on neighbours.

Pinxton Parish Council

No comments received.

PUBLICITY

A site notice was posted 21st March 2023 with comments required by 11th April 2023.

Neighbour notification letters were posted 20th March 2023 with comments required by 10th April 2023.

Neighbouring residents/commercial units were re-consulted on 17th April 2023 in respect of a revised site description with any further comments required by 1st May 2023.

REPRESENTATIONS

One representation has been received objecting to the development. Comments are summarised as follows:

- Incorrect description of the proposal.
- The plans are inadequate as they do not have dimensions.
- A detrimental visual impact on our visual amenity from the plain clad walls.
- Removing the original roof and new walls and cladding will add to noise pollution from the industrial area.
- We can always hear the noise from the machinery including from radio and employees singing along.
- It is particularly loud in warm weather when the doors are open.
- Increasing the building volume without an additional floor will create a larger area at a time when we are encouraged to reduce power usage to save the environment.
- The solar panels might cause electromagnetic compatibility interference with wi-fi, and hobby or amateur radio. Will the proposal comply with UK and EU standards.
- The cladding will block the view of the moon impeding on EMI and radio experiments.

COUNCILLOR CALL-IN

Councillor Mary Dooley has requested that the application be referred to the Planning Committee due to concerns regarding noise impacts on residential amenity day and night and lack of screening.

POLICY

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

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

- SS1 – Sustainable Development
- SS3 – Spatial Strategy and Distribution of Development
- WC2 – General Principles for Economic Development
- SC1 – Development within the Development Envelope
- SC2 – Sustainable Design and Construction
- SC3 – High Quality Development
- SC9 – Biodiversity and Geodiversity
- SC10 – Trees, Woodland and Hedgerows
- SC11 – Environmental Quality (Amenity)
- ITCR11 – Parking Provision

National Planning Policy Framework (“the Framework”)

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

- Chapter 2: Achieving sustainable development.
- Paragraphs 47-48: Determining applications.
- Paragraphs 55-56: Planning conditions
- Paragraphs 92, 93 and 97: Promoting healthy and safe communities.
- Paragraphs 104-113: Promoting sustainable transport.
- Paragraph 119: Making effective use of land.
- Chapter 12 (Paras. 126 – 136): Achieving well-designed places.
- Paragraph 152, 157: Meeting the challenge of climate change.
- Paragraph 180: Habitats and biodiversity
- Paragraphs 183-188: Ground conditions and pollution

ASSESSMENT

Key issues

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

- principle of the development
- design and character
- impact on trees
- residential amenity
- highway safety
- biodiversity
- other matters

- sustainability considerations

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

Principle of Development

In order to achieve sustainable development Policy SS3 of the Adopted Local Plan sets out a settlement hierarchy where development is firstly directed to the four main towns of the district followed by the larger villages. Pinxton is defined as a large village under Policy SS3 where limited development is supported. Each of the settlements in the hierarchy has a development envelope defined in the policies map in which urban forms of development will generally be acceptable in principle. The application site lies within the development envelope of Pinxton where Policy SC1 states development proposals within the development envelope will be permitted subject to meeting criteria (a) to (e).

The application site is located within an existing employment site which is allocated on the policies map under Policy WC2 (xxvi) of the Adopted Local Plan. These sites are recognised as comprising key economic drivers for the district for employment purposes and are therefore protected for employment. Policy WC2 requires the employment protection to be sustained unless it can be shown that the land or building is no longer physically suitable for employment uses and there is no realistic prospect of re-use or redevelopment for such uses by providing marketing evidence and viability data. The policy requires proposals for alternative employment generating uses at existing employment areas and allocated employment land to be treated on their own merits. This application is for storage purposes which will support the sustainable economic growth of the District in accordance with Policy WC2.

Paragraph 81 of the NPPF states planning policies and decisions should help create the conditions in which businesses can invest, expand and adapt. Significant weight should be placed on the need to support economic growth and productivity, taking into account both local business needs and wider opportunities for development. The approach taken should allow each area to build on its strengths, counter any weaknesses and address the challenges of the future. This is particularly important where Britain can be a global leader in driving innovation, and in areas with high levels of productivity, which should be able to capitalise on their performance and potential.

The development is therefore acceptable in principle in accordance with Policies SS3, WC2 and SC1 subject to application of all relevant policies of the Adopted Local Plan, the National Planning Policy Framework and any material planning considerations.

Design and Character

Policy SC3 (a) of the Adopted Local Plan requires development proposals to create good quality, attractive and connected places through well-designed locally distinctive development that will integrate into its setting. Criteria (b) requires proposals to respond positively to site context, contribute to local identity and heritage in terms of height, scale, massing, density, layout and materials. Paragraph 130 of the framework states development should function well and add to the quality of the area, be visually attractive as a result of good architecture, layout and appropriate and effective landscaping.

The proposal will increase the scale of the building by raising the height of the building to 7.2m, however there are many industrial buildings of a similar height and scale in the

industrial area and so the proposal would not form a prominent or incongruous addition in the context of the industrial site. In design terms the final building would resemble a commercial building in keeping with the applicant's adjacent unit, which has reached completion. In terms of external materials, it is the applicant's full intention to replicate the appearance of their existing adjacent premises to the south-west of the site using Trimapanel cladding in black and white for the front elevation and off-white for the side and rear elevations.



The adjacent unit which demonstrates the proposed steel cladding and colour of the proposed development for its elevations and roof.

Visually the residents in the dwellings beyond the north-western boundary would be looking at a 7.2m high cladded blank wall. However, the development is distanced some 34m away from the dwellings due to the substantial length of rear gardens and although residents would be looking at this wall, it remains appropriate within the industrial area and the visual impact is not considered to be harmful to the character of the residential area outside of the industrial site due to the distance from the dwellings. It is therefore considered that there would be no harm to visual amenity from the residential side of the development and that further screening would not be necessary.

Revised plans have been requested to define where the solar panels would be installed on the roof. The solar panels are proposed on the south-east facing roof plane, where they may only be viewed from the industrial estate. The Q Cells are a high-performance module. Policy SC6 of the Adopted Local Plan 'Renewable Energy and Low Carbon Energy' supports development which includes renewable energy provided there would not be significant visual harm to the area. The solar panels would front an industrial context which is not sensitive in nature. The panels are considered to cause no harm to the character of the industrial estate and do not conflict with Policy SC6 of the Adopted Local Plan.



View showing the existing northern elevation of the application site building from Wharf Road micro pub beer garden.

The scale and design of the development is therefore appropriate to the character of the industrial estate and wider area, in keeping with the adjacent unit, and its function, in accordance with SC1 (a), represents good quality design in accordance with Policy SC3 (a) and responds positively to the industrial context. The proposal is well-designed for its intended purposes which is not considered to conflict with Paragraph 130 of the framework.

Impact on Trees

Policy SC10 of the Adopted Local Plan states development should contribute to the protection, enhancement, and where possible, expansion of woodlands, trees and hedgerows in the area. Paragraph 180 (c) of the framework states that development resulting in the loss or deterioration of irreplaceable habitats (such as ancient woodland or veteran trees) should be refused unless there are wholly exceptional reasons, and a suitable compensation strategy exists.

During the case officer's site visit a mature Ash tree was identified to the rear of the building and on land outside of the applicant's control. As the tree makes a positive contribution to the visual amenity of the area, the applicant has been advised that the application should be accompanied by a tree report in order to establish the impacts of the development on the tree.

The submitted Arboricultural Implication Study, which incorporates a Method Statement, Tree Constraints and Protection Plan prepared by J.A.G. Arboricultural Consultancy advises the tree is in a good structural condition with some wounding and evidence of historic branch failure.

The report confirms that although the development is within the root protection area of the tree, it will not have a negative impact as the roots will be protected by the existing hard standing surface, boundary fence and the existing building. Protective fencing is proposed with a weld mesh framework as recommended in the report's tree protection plan until completion of the development and the use of special precautions in the vicinity of the tree, such as hand tools and use of scaffolding. These measures would ensure no harm to the tree during the development process and is recommended to be secured by planning condition.

The Arboricultural Report has established the development can proceed without causing significant harm to the tree, which would maintain an acceptable spatial relationship with the development in accordance with Policy SC10 of the Adopted Local Plan and Paragraph 180 (a) of the framework.

Residential Amenity

Policy SC3 (n) of the Adopted Local Plan states proposals for development will be permitted provided a good standard of amenity is maintained for occupants of existing neighbouring properties as well as the future occupants of new developments, including levels of privacy and light, position and avoiding overbearing relationships and the provision of adequate amenity space.

Policy SC11 of the Adopted Local Plan states development likely to cause, or experience, a loss of residential amenity as a result of light, noise, dust, odour or vibration, or a loss of privacy must be supported by a relevant assessment. If necessary, appropriate mitigation must be put in place. Applicants will need to demonstrate that a significant loss of amenity would not occur as a result of the development or throughout its construction and operation.

Paragraph 130 (f) of the framework states, amongst others, that planning decisions should secure a high standard of amenity for existing and future users.

To the north-east, south and south-west are additional commercial buildings in the industrial estate which raises no amenity issues. The primary amenity consideration is the impact to the mixed used residential and commercial area beyond the north-western boundary. Beyond this boundary are some long residential gardens and a beer garden to a micro pub. There are some timber outbuildings towards the back end of these curtilages. It appears that some of these outdoor amenity areas are shared between first floor flats which have rear windows that provide outlook towards the application site.

The proposed extension is set in 3m from the north-western boundary. No rear windows or doors are proposed, which prevents overlooking and loss of privacy to the residents. The upper extension will create an eaves height of 6.1m and ridge height of 7.2m. This is less than the height of an average two storey dwelling. The District Council does not have any adopted minimum separation standards between commercial and residential uses. A judgement is therefore necessary, with each application being considered on its own merits, in order to ensure no adverse impacts through massing or overshadowing.

There is a separation distance of up to 34m between the north-western boundary of the proposed building and the rear habitable room windows of the flats. A height of 7.2m is not considered excessive to cause any adverse overshadowing or massing along the boundaries of the gardens given the set back of the development by 3m from the boundary. In addition, the gardens and micro pub garden are of such a substantial length that it is not considered the extension would adversely impact on the enjoyment of the gardens in this location. Whilst the residents would be looking at a cladded wall, there are no planning grounds on which to refuse the application due to this impact.

A resident has raised concerns about noise from applicant's premises and has requested whether further restrictions could be put in place in order to protect living conditions. The District Council's Principal Environmental Health Officer has been consulted in order to

establish whether the proposal is acceptable in terms of impacts through noise and disturbance.

The Environmental Health Officer has confirmed no objections to this development and has stated that the development could in fact represent a betterment as the new roof, to replace the existing corrugated one, would likely be better insulated against the breakout of noise in accordance with the Building Regulations. In the absence of an objection from the Environmental Health Officer it is not considered that there are any planning grounds on which to recommend that the application be refused on noise grounds. The applicant has confirmed that there will be no material increase in the scale of business operations as a result of the development as the existing companies are proposed to remain in the building post development operating on their current footprint.

It should be noted that if a statutory nuisance did occur as a result of the development the Environmental Health team can use other legislation outside the planning system to assist residents under the Environmental Protection Act 1990. The application raises no amenity concerns and is considered in accordance with policies SC3 (n) and SC11 of the Adopted Local Plan and with Paragraph 130 (f) of the framework.

Highway Safety

Policy ITCR11 of the Adopted Local Plan states planning permission will be granted where there is appropriate provision for vehicle and cycle parking as set out within Appendix 8.2 – Parking Standards. Parking provision should

- a) Relate well to the proposed development
- b) Be well designed, taking account of the characteristics of the site and the locality
- c) Provide a safe and secure environment
- d) Minimise conflict with pedestrians and / or cyclists
- e) Make provision for service and emergency access

Paragraph 110 (b) of the framework states that in applications for development safe and suitable access to the site should be achieved for all users. Paragraph 111 of the framework states development should only be refused on highways grounds if there would be an unacceptable impact on highway safety or the residual cumulative impacts on the road network would be severe.

The application site benefits from existing vehicular access from Brookhill Road with some off-road parking provision. Applicant Swift Precision Ltd has available parking for the company at its adjacent unit to the south-west. For B2 uses the Appendix to ITCR11 seeks to provide 1 car parking space per additional 40m² footprint being proposed. However, this development is not proposing any additional floorspace. The existing and proposed floor plans demonstrate a maintained single ground floor level. The planning agent has confirmed that the development would not result in an increase in employment at the site.

The Highway Authority has also confirmed that the application will have no detrimental highway impact and raises no objection to approval of the application. In the absence of any additional floor space being proposed and support from the Highway Authority, it is considered that the development has acceptable impacts on highway safety and provides for a safe form of development in accordance with Policy SC3 the Adopted Local Plan and Paragraphs 110 and 111 of the framework. In relation parking standards, it is not considered that there can be any conflict in these circumstances in the absence of any additional footprint

being created.

Biodiversity

Policy SC9 of the Adopted Local Plan states development proposals should seek to conserve and enhance the biodiversity of the district and to provide net-gains where possible. Proposals for development must include adequate and proportionate information to enable a proper assessment of the implications for biodiversity.

Paragraph 174 (d) of the framework states that planning decisions should contribute to and enhance the natural environment by minimising impacts on and providing net-gains for biodiversity. Paragraph 180 (a) of the framework states that if significant harm to biodiversity resulting from a development cannot be avoided, planning permission should be refused.

Derbyshire Wildlife Trust has confirmed that the building might be suitable to support roosting bats and that a Preliminary Bat Roost Assessment should be provided for the two-storey part of the building prior to determination. The applicant has submitted the necessary report and Derbyshire Wildlife Trust has confirmed the building has negligible potential to support roosting bats. Therefore, no further protected species are necessary.

As the building has two loose tiles, the Trust recommends an advisory note which informs a precautionary approach to construction, including a sensitive strip of tiles, the possible need to cease work and a suitable ecologist contacted for advice in the event of unexpected bat presence.

A planning condition is recommended to secure biodiversity enhancement in the form of a bird box, which is attached to this recommendation. The proposal has demonstrated no harm/net loss to biodiversity, appropriate enhancement can be secured in accordance with Policy SC9 of the Adopted Local Plan and Paragraphs 174 (d) and 180 (a) of the framework.

Other Matters

A resident is concerned that the description is inaccurate and that residents have been inaccurately informed of the proposal. In terms of the cladding, the revised description, which residents have been notified of, covers all elevations of the building. As such, the description is considered to be accurate.

The objector is concerned the plans are insufficient as they do not have dimensions. The plans do not have dimensions, but this is not necessary as the plans are to scale and meet national planning validation requirements.

The same resident is concerned the solar panels will cause electromagnetic interference to their house and home, to their wi-fi and hobby of amateur radio. It is not a requirement of the planning system to check that the new installation complies with any relevant UK standards regarding EMC/EMI or the European Directive 2014/30/EU and protection against electromagnetic disturbance.

The concerns regarding loss of a view to the moon at low elevation and how this may hinder the resident's EME experiments is not a material planning consideration. There is no right to a view. It is not considered that approval of the application would be in breach of the resident's human rights to enjoy their hobby and, in the overall planning balance, this does not give justification to refuse the development.

Sustainability Considerations

Paragraph 8 of the framework states achieving sustainable development means that the planning system has three overarching objectives, which are interdependent and need to be pursued in mutually supportive ways so that opportunities can be taken to secure net-gains across each of the different objectives. The proposal has been considered in relation to the different objectives as follows:

a) an economic objective – to help build a strong, responsive and competitive economy, by ensuring that sufficient land of the right types is available in the right places and at the right time to support growth, innovation and improved productivity; and by identifying and coordinating the provision of infrastructure;

The proposals will benefit the applicant's business enterprise by securing an improvement to the building, which could help to retain jobs and employment. The construction process would benefit the local economy and create temporary jobs throughout this period. The economic objective is considered as met.

b) a social objective – to support strong, vibrant and healthy communities, by ensuring that a sufficient number and range of homes can be provided to meet the needs of present and future generations; and by fostering well-designed, beautiful and safe places, with accessible services and open spaces that reflect current and future needs and support communities' health, social and cultural well-being;

The proposal is considered to be well designed for its intended purposes and is appropriate to its industrial context. With no objection raised from the Principal Environmental Health Officer it is considered the development would not harm the local community's health, social and cultural well-being. The social objective is considered met.

c) an environmental objective – to protect and enhance our natural, built and historic environment; including making effective use of land, improving biodiversity, using natural resources prudently, minimising waste and pollution, and mitigating and adapting to climate change, including moving to a low carbon economy

The application has demonstrated no harm to biodiversity and no harm would be caused to natural features such as the mature tree to the rear following the submission of reports necessary to consider these impacts. The proposed solar panels are a contribution towards mitigating and adapting to climate change. No harm is caused to the natural and built environment. The environmental objective is regarded met.

RECOMMENDATION

The application be approved subject to the following planning conditions:

1. The development shall be begun before the expiration of three years from the date of this permission.
2. The development hereby permitted shall be carried out in accordance with the following approved drawings and documents unless specifically stated otherwise in the conditions of this consent:

Site Location Plan and Block Plan received 9th March 2023
Revised Proposed Elevations and Roof Plan with area of Solar Panels - drg no DF/NS/PE2 received 20th April 2023
Existing and Proposed Ground Floor Plan - drg no DF/NS/F1
Proposed Ground Floor - drg DF/NS/PF2
Solar Panel Specification by QCells received 20th April 2023
Cladding Specification received 20th April 2023

3. The external elevations and roof of the development shall be clad with the cladding specification by Tata steel in black and off-white and with the solar modules specification received 20th April 2023. Any variation to the external materials shall be first submitted to and approved in writing by the Local Planning Authority prior to installation and then installed fully in accordance with the approved details. Once installed the external materials shall be maintained in perpetuity.

4. Prior to commencement of use of the hereby approved development, evidence that an integrated or external universal bird box / brick has been provided as a form of biodiversity enhancement shall be submitted to and approved in writing by the Local Planning Authority. Once installed the approved bird box / brick shall be maintained in perpetuity.

5. The hereby approved development shall be undertaken fully in accordance with the tree protection measures contained in the Arboricultural Implication Study and Method Statement, Tree Constraints and Protection Plan prepared by J.A.G. Arboricultural Consultancy dated June 2023.

Statement of Decision Process

1. Officers have worked positively and pro-actively with the applicant which has been demonstrated through agreeing necessary extension of time agreements to secure amended plans and enabling the submission of additional information including an arboricultural report and preliminary roost assessment. The proposal has been considered against the policies and guidelines adopted by the Council in the Adopted Local Plan 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 6th September 2023

Appeal Decisions: January – June 2023

Classification	This report is Public
Report By	Sarah Kay – Interim Head of Development Management
Contact Officer	Karen Wake – Planner

PURPOSE/SUMMARY OF REPORT

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

REPORT DETAILS

1. Background

- 1.1 Since November 2016 Local Planning Authorities have been performance monitored against their speed and quality of decision making. Guidance produced in 2016 entitled “Improving Planning Performance”, which was updated in 2020, set out how their performance was going to be monitored.
- 1.2 This report relates specifically to the quality of decision making, and it details the Council’s most recent appeal decisions – which are the measure for the quality of decision making based on the latest guidance.
- 1.3 The measure used is the percentage of the total number of decisions made by the Council on applications that are then subsequently overturned at appeal.
- 1.4 The percentage threshold on applications for both major and non-major development, above which a local planning authority is eligible for designation, is **10 per cent** of an authority’s total number of decisions on applications made during the assessment period being overturned at appeal.
- 1.5 Since January 2019 appeal decisions have been reported to Planning Committee every 6 months, as a way of updating members on our ‘qualitative’ performance;

but also as a way of reflecting on the appeal decisions for ongoing learning and improvement.

2. Information

- 2.1 During the first appeal monitoring period (January 2019 – June 2019) the council won 100% of appeals on major planning applications and 99.6% of appeals on non-major applications.
- 2.2 During the second monitoring period (July 2019 – December 2019) the council won 96.5% of appeals on major planning applications and 98.8% of appeals on non-major applications.
- 2.3 During the third monitoring period (January 2020– June 2020) the council had no appeals on major planning applications and won 100% of appeals on non-major applications.
- 2.4 During the fourth monitoring period (July 2020 – December 2020) the council had only one appeal on a non-major application and this appeal was allowed. However, this only equated to only 0.54% of the number of non-major applications determined within that period.
- 2.5 During the fifth monitoring period (January 2021 – June 2021) the council had no appeals on major planning applications determined. The council had only two appeals on non-major applications, one of which included an application for costs. Each of these appeals were allowed. However, this only equated to 0.9% of the number of non-major applications determined within that period.
- 2.6 During the sixth monitoring period (June 2021 – December 2021) the council had no appeals on major planning applications determined. The council had only one appeal on non-major applications. This appeal was dismissed. The council therefore won 100% of the appeals determined within that period and was therefore still exceeding its appeal decision targets.
- 2.7 During the seventh monitoring period (January 2022 – June 2022) the council had no appeals on major planning applications determined. The council had two appeal decisions on non-major applications. One of these appeals was dismissed, the other was allowed. However, this only equated to 0.53% of the number of non-major applications determined within that period.
- 2.8 During the eighth monitoring period (July 2022 – December 2022) the council had no appeals on major planning applications determined. The council had three appeal decisions on non-major applications. Two appeals were allowed and one was dismissed. The council therefore only won 33% of appeals determined within this period. However this only equated to 1.14% of the number of non-major applications determined within that period.
- 2.9 We have now entered the nineth monitoring period and during the 6 months since the last monitoring period (January 2023 – June 2023) the council has had no appeals on major planning applications determined. The council had two appeal decisions on non-major applications and both appeals were allowed. However this only equated to 1.17% of the number of non-major applications

determined within that period and the council is therefore still exceeding its appeal decision targets.

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

3. Reasons for Recommendation

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

4 Alternative Options and Reasons for Rejection

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

RECOMMENDATION(S)

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

IMPLICATIONS:

Finance and Risk: Yes No

Details:

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

On behalf of the Section 151 Officer

Legal (including Data Protection): Yes No

Details:

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

On behalf of the Solicitor to the Council

Staffing: Yes No

Details:

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

On behalf of the Head of Paid Service

DECISION INFORMATION

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

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

DOCUMENT INFORMATION	
Appendix No	Title
1.	Planning Appeal Decision - APP/R1010/D/22/3310301: 12 Park Street, Barlborough, Chesterfield S43 4ES
2.	Planning Appeal Decision - APP/R1010/W/22/3303169: 183 Shuttlewood Road, Bolsover, S44 6NX

Appendix 1: Planning Appeal Decision - APP/R1010/D/22/3310301: 12 Park Street, Barlborough, Chesterfield S43 4ES

The planning application was for the retention of the widening the existing driveway opening from 2m to 4m, increasing the wall height using existing materials and fit new electric double gates and a pedestrian gate. The application was refused.

Main Issues

The main issue was the effect of the development upon designated heritage assets, and more specifically whether it preserved or enhanced the character or appearance of the Barlborough Conservation Area (BCA) and its effects on the setting of several heritage assets located in the wider area.

Conclusion

The Inspector concluded that in this instance, the development preserved the character and appearance of the BCA, all the relevant listed buildings referred to and their settings and the special historic landscape character and interest of the registered park and garden including its setting. The significance of the BCA, the listed buildings and the registered park and garden had not been harmed.

The Inspector considered that the scheme adheres to the expectations of sections 66 and 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 and did not conflict with Policies SC16, SC17 and SC20 of the Local Plan for Bolsover District or the designated heritage asset protection policies in the National Planning Policy Framework.

The Inspector concluded that the scheme had enhanced the quality of life for the occupiers of the property as it had created a more secure front boundary, offered greater privacy to the dwelling and garden and improved the vehicular access. The Inspector considered these were material considerations that weighed in favour of granting planning permission, as was the absence of objections from any residents or organisations.

The appeal was allowed.

Recommendations

None.

The decision was a judgement about the impact of a proposal on the character of the conservation area and the setting of Listed Buildings rather than testing a Local Plan Policy.

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

Appendix 2: Planning Appeal Decision - APP/R1010/W/22/3303169: 183 Shuttlewood Road, Bolsover, S44 6NX

The application was for the demolition of the existing dwelling and construction of a larger replacement dwelling in the countryside. The application was to vary the approved plans condition on the original planning application to allow a different position for the replacement dwelling. The application to vary the plans was approved subject to conditions. One of these conditions stated that:

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

The appeal was made against the inclusion of this condition.

Main Issues

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

Conclusion

The reason provided for attaching the condition referred to Policy SS9 of the Local Plan for Bolsover District [2020] ('BLP'). This policy seeks to restrict development in countryside areas and reflects the approach of the National Planning Policy Framework ('the Framework') in this respect. In applying BLP Policy SS9, the Council considered whether the proposed dwelling would be materially larger than the existing buildings on the site. However, this test goes beyond that set out within the policy and instead relates to development in the Green Belt. BLP Policy SS9 itself states that where development is considered to be acceptable with regards to the appropriateness of its location, that it should respect the form, scale and character of the landscape.

The Inspector considered that whilst the relative scale of the proposed dwelling when considered against existing structures was a matter that can assist in considering the effect that the proposed development would have upon the countryside, it was not the sole consideration. The Inspector considered that the proposed development would not have a high degree of prominence in the landscape and that this would not be changed by the extension of the dwelling within the terms of the GPDO. Additionally, the Inspector considered that any increase in the scale of the development as a result of the exercising of permitted development rights would not appear at odds with the characteristic form and scale of development in the locality.

The Inspector considered that Paragraph 54 of the Framework states that unless there is clear justification for doing so, that permitted development rights should not be restricted by the use of planning conditions. Planning Practice Guidance ('the PPG') states that restricting the future use of permitted development rights may not be reasonable or necessary.

As BLP Policy SS9 makes no reference to a requirement for new development in the countryside to not be materially larger than structures that may be replaced, the Inspector concluded that the removal of permitted development rights for extensions to the proposed dwelling on this basis was not justified. Therefore, the condition was both unreasonable and unnecessary, and accordingly fails the tests as set out in the Framework and advice within PPG.

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

Recommendation

None.

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

Bolsover District Council

Meeting of the Planning Committee on 6th September 2023

Report of the Interim Head of Development Management

Enforcement Update

Classification	This report is Public
Report By	Sarah Kay – Interim Head of Development Management
Contact Officer	Jonathan Gaynor – Principal Enforcement Officer (Development Control)

PURPOSE/SUMMARY OF REPORT

- To update the planning committee on the service targets set out in the Local Enforcement Plan (Planning) from 1st January 2023 – 30th June 2023, 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 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, while allowing for best direction of resource given the limited resource available.

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 January 2023 – June 2023 inclusive and provide an update on ongoing historic cases.

2. Performance

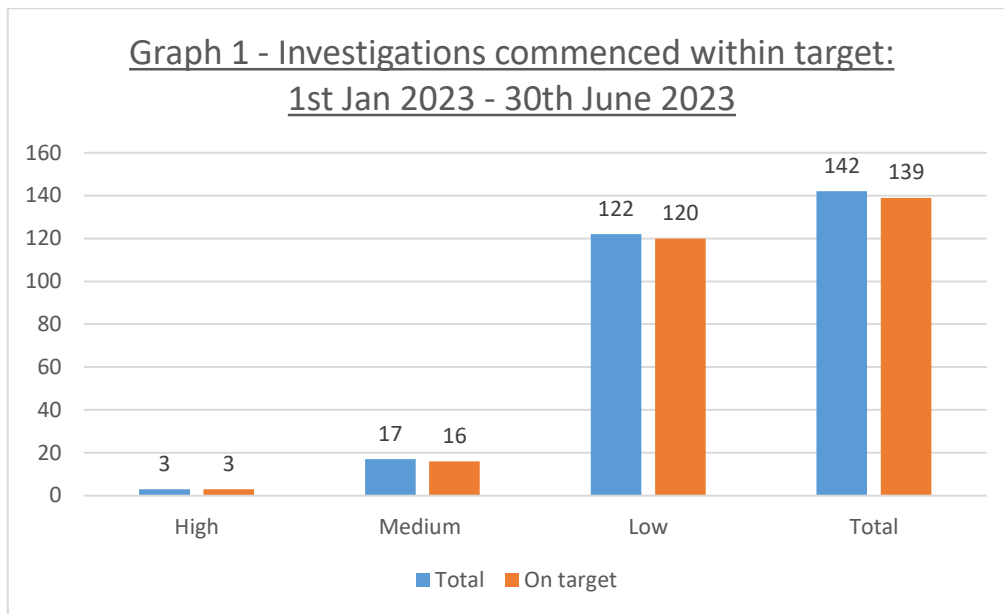
2.1 During the period 1st January 2023 – 30th June 2023, 142 unauthorised activity enquiries were received. Out of these, 3 were considered high priority, 17 medium priority and 122 low priority. As a total, 98% of cases began investigation within the target time.

2.2 Out of the 3 high priority cases, 2 are currently pending consideration and 1 has been closed. Investigations began on all 3 within 1 working day (100%).

2.3 Out of the 17 medium priority cases, 6 are currently pending consideration and 11 have been closed. Investigations began on 16 out of the 17 within two weeks (94%).

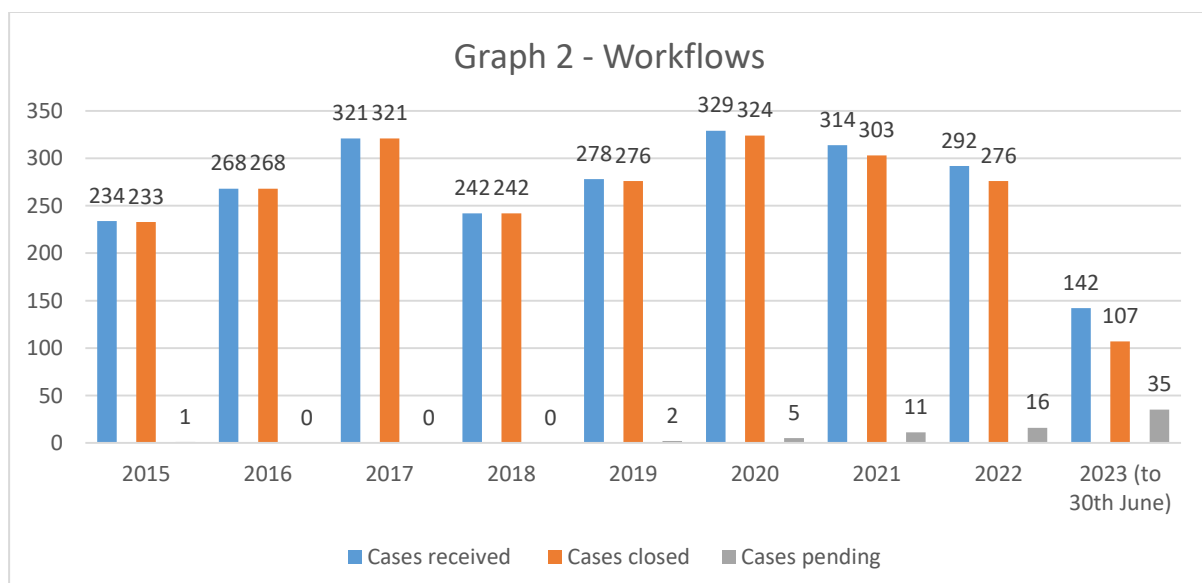
2.4 Out of the 122 low priority cases, 32 are currently pending consideration and 90 have been closed. Investigations began on 120 out of the 122 cases within six weeks (98%).

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 4.3% before 2020). Since 2019, we have also undertaken a number of research projects on historically important sites to understand what has been happening on the sites following significant investment on renovations. 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 considering up until the end of December 2022, there were 6 cases on this list. Three of those have now been closed (shaded below) leaving only three cases open:

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

Reference	Location Allegation	Status
E15/232 High Priority	Barlborough Development of Stables	Extant Enforcement Notice. All other routes now exhausted and subject understands the building must be demolished to avoid prosecution.
E18/163 Low priority	Bolsover High Hedges complaint.	Requirements of Remedial Notice complied with so case closed.
E19/074 Medium priority	Clowne COU of land to store trailers / park LGVS and associated development.	Appeal upheld and all conditions complied with so case closed.
E19/152 Low priority	Pinxton Erection of large shed.	Successful prosecution for non-return of Planning Contravention Notice and Enforcement Notice now served.
E19/160 Low priority	Clowne Erection of outbuilding.	Successful prosecution for non-return of Planning Contravention Notice. Not considered expedient to take further action against the outbuilding so case closed.
E19/371 Low priority	Stainsby Engineering works.	Works ceased and prosecution commenced for non-return of planning Contravention Notice.

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 previous recent reports, 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 publicly 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

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

<p>District Wards Significantly Affected</p>	<p>All</p>
<p>Consultation: Leader / Deputy Leader <input type="checkbox"/> Cabinet / Executive <input type="checkbox"/> SAMT <input type="checkbox"/> Relevant Service Manager <input checked="" type="checkbox"/> Members <input type="checkbox"/> Public <input type="checkbox"/> Other <input type="checkbox"/></p>	<p>Details:</p>

DOCUMENT INFORMATION	
Appendix No	Title
N/A	



Bolsover District Council

Meeting of the Planning Committee on 6th September 2023

Report of the Interim Head of Planning Policy

QUARTERLY UPDATE ON SECTION 106 AGREEMENT MONITORING

Classification	This report is Public
Report By	Julie-Anne Middleditch Principle Planning Policy Officer
Contact Details	As above

PURPOSE / SUMMARY OF REPORT

- To provide a progress report in respect of the monitoring of Section 106 Agreements in order to give members the opportunity to assess the effectiveness of the Council's monitoring procedures.

REPORT DETAILS

1. Background

- 1.1 Section 106 agreements are a type of legal agreement between the Council and landowners / developers that are often completed alongside applications for planning permission for major developments. They are needed to deal with the additional pressures on infrastructure that result from the new development. They are only required where the effects of the development would otherwise be unacceptable in planning terms and where they cannot be dealt with by conditions of the planning permission.
- 1.2 As can be observed, implementation of these Section 106 Agreements in a timely manner alongside the build-out of the approved developments is important as failure to achieve this will mean important infrastructure improvements lag behind the impact of the development.
- 1.3 Furthermore, if the Council fails to spend monies provided through the Section 106 Agreement within a set period, often within 5-years of entering into the agreement, there is a risk to the Council that the developer would be entitled to request the money back. This risk is thankfully relatively low but it is one that the Council must take seriously due to both the negative impact on the affected local community and the consequential reputational impact on the Council.

- 1.4 To manage and mitigate this serious risk the Council has approved a procedure for recording and monitoring Section 106 Agreements. The most recent version of this was approved by Planning Committee in September 2022 and it governs the work of the Council's cross-departmental Section 106 Monitoring Group.
- 1.5 Following the quarterly Section 106 Monitoring Group meeting, officers provide a progress report to the Planning Committee in respect of the monitoring of Section 106 Agreements. In line with the approved Procedure this progress report is required to highlight any sums at risk of clawback that need spending within 24 months, as well as a summary of the sums being held by infrastructure type that are in years three, four and five. Accordingly, this report is the quarterly progress report following the meeting of the Section 106 Monitoring Group held on 7th August 2023.

2. Details of Proposal or Information

- 2.1 The Council's Section 106 Agreement Monitoring Procedure requires sums within 24 months of their deadline to be highlighted for Member's attention.
- 2.2 Members will recall that in the report provided in June, eight sums were identified as being within their 24-month deadline as at 17th April 2023.
- 2.3 As of the Monitoring Group meeting on 7th August 2023 there are eight sums within their 24-month deadlines (details below).

Spend Date within 12 months (by 6th August 2024)

Action Plan	Finance Spreadsheet	Site	Infrastructure and amount	Amount remaining	Date
Item 6	Line 84	Spa Croft Tibshelf	Art (£10,176.20)	£10,176.20	22.03.24
Item 9	Line 85	Rosewood Lodge Farm South Normanton	Outdoor Sport (£34,584.85)	£34,584.85	21.05.24
Item 10	Line 85	Rosewood Lodge Farm South Normanton	Health (£80,141.59)	£80,141.59	21.05.24

Spend Date within 2 years (by 6th August 2025)

Action Plan	Finance Spreadsheet	Site	Infrastructure and amount	Amount remaining	Date
17	Line 83	Mansfield Road, Tibshelf	Outdoor Sport (£164,153)	£164,153	20.12.24
19	Line 89	Oxcroft Lane, Bolsover	Outdoor Sport (£125,336.69)	£125,336.69	10.03.25
20	Line 87	Station Road, Langwith Junction	Open Space (£52,000)	£64.23	30.01.25
21	Line 91	High Ash Farm, Clowne	Open Space (£10,184.39)	£10,184.39	19.03.25
22	Line 88	Station Road, Langwith Junction	Health (£16,000)	£16,000	30.01.25

- 2.4 In terms of progress since the quarterly update report presented to June's meeting of the Planning Committee, Members will note that the £3,360 sum for Outdoor Sport from the Meridian Close development in Bolsover town has now been spent and thus no longer features on the tables above.
- 2.5 In addition, there has been significant progress with regard to the £52,000 sum for Open Space from the Station Road development in Langwith Junction, with the majority of the sum now spent with plans for the remaining £64.23 to be put towards park benches. Other than this, the amounts remaining are the same as reported to June's meeting.
- 2.6 Finally, one new item has been added to the 12 months to 24 months spending threshold window which was excluded in error from the quarterly update report in June, namely an allocation for Health from the Station Road development in Langwith Junction.
- 2.7 The updates for the above items as recorded at the Section 106 Monitoring Group are set out below for Member's information.

(CADO = Community Arts Development Officer; LSPO = Leisure Special Projects Officer; PPPO = Principal Planning Policy Officer; IHPP = Interim Head of Planning

Policy; CLE = Chartered Legal Executive; PPDM = Principal Planner Development Management)

Item	Development site, relevant S106 sum and spend by date	Responsible officer
6	<p>Spa Croft, Tibshelf – Art £10,176.20 (22.03.24)</p> <p><u>Action from previous quarterly meeting</u> CLE to look at original agreement as starting point and send proforma for seeking to extend the S106 spend date to CADO.</p> <p><u>Updates between and at meeting</u> 2.8.23 CADO emailed PPPO to advise that the relevant Community Arts Group has created an initial sketch and all groups / councillors / officer involved plan to meet in September to outline next steps and timeframe going forward. To facilitate this timeframe, discussions have taken place with the developer and the CADO has advised that they are in agreement with the proposed extension, subject to their legal fees being paid by the Council's Leisure Services. The CLE is currently preparing the S106 extension documents for formal agreement.</p> <p><u>Agreed Action</u> CADO to provide monthly updates on progress to PPPO.</p>	<p>CADO</p> <p>CLE/CADO</p> <p>CADO</p> <p>CADO/PPPO</p>
9	<p>Rosewood Lodge Farm – Outdoor Sport £34,584.85 (21.05.25)</p> <p><u>Action from previous quarterly meeting</u> LSPO to provide monthly updates on progress to PPPO.</p> <p><u>Updates between and at meeting</u> 31.07.23 LSPO emailed PPPO to advise that additional drainage works to the value of £3,910 have been carried out on Common Meadows Football pitch. A contribution of £3,210 has been paid to the cost of crowd barriers for the football pitch at Common Meadows (a league requirement). The remainder of the allocation is to be a contribution to the cost of a canopy at Market Street Recreation Ground as an improvement / enhancement of a recreational space used for outdoor sports.</p>	<p>LSPO</p> <p>LSPO/PPPO</p> <p>LSPO</p>

	<p>The remaining monies, in the region of £24,000 are thereby likely to be spent. However, there are ongoing issues in respect of vandalism, with the structure that was recently erected needing to be replaced. The Parish Council has requested the S106 contribution from the District Council.</p> <p><u>Action going forward</u> LSPO to contact Legal Services for advice on impact of vandalism on contractual positions.</p>	LSPO/CLE
10	<p>Rosewood Lodge Farm – Health £80,141.59 (21.05.24)</p> <p><u>Action from previous quarterly meeting</u> IHPP to provide update at next meeting.</p> <p><u>Updates between and at meeting</u> IHPP advised at the meeting that the Integrated Care Board (ICB) contacted them about this allocation in October 2022 to advise that they were formulating a detailed plan to provide additional health facilities in the vicinity of the development. The IHPP added that they have been chased routinely for updates since the spend for this item came within the 2-year spending threshold and that they have been notified of reaching the 1-year spending threshold. A request for an update prior to the meeting of Planning Committee has been made.</p> <p><u>Action going forward</u> IHPP / PPPO to continue to chase progress from the ICB.</p>	<p>IHPP</p> <p>IHPP</p> <p>IHPP</p> <p>IHPP/PPPO</p>
17	<p>Mansfield Road, Tibshelf – Outdoor Sport £164,153 (20.12.24)</p> <p><u>Action from previous quarterly meeting</u> LSPO to provide monthly updates on progress to PPPO.</p> <p><u>Updates between and at meeting</u> 31.7.23 LSPO emailed PPPO to advise that there hasn't been significant progress with the 3G FTP proposal for Shetland Road and there is an issue with proving ownership of the site (the land is unregistered).</p> <p>Looking at potential alternative projects. LSPO has been invited to attend the Parish Council meeting on 8 August to discuss. One option on the table is a multi-use games area (MUGA) (also at Shetland</p>	<p>LSPO</p> <p>LSPO/PPPO</p> <p>LSPO</p>

	<p>Road) as Tibshelf is one of the few settlements without one.</p> <p><u>Action going forward</u> LSPO to provide monthly updates on progress to PPPO.</p>	LSPO/PPPO
19	<p>Oxcroft Lane, Bolsover – Outdoor Sport £125,336.69 (10.03.25)</p> <p><u>Action from Previous Quarterly Meeting</u> LSPO to provide update at next meeting.</p> <p><u>Updates between and at meeting</u> 1.8.23 LSPO emailed PPPO to advise that the funds are to be used as a contribution to new skatepark at Hornscroft Park, which is currently in development in conjunction with Old Bolsover Town Council.</p> <p><u>Action going forward</u> LSPO to provide monthly updates on progress to PPPO.</p>	<p>LSPO</p> <p>LSPO</p> <p>LSPO</p> <p>LSPO/PPPO</p>
20	<p>Station Road, Langwith Junction – Open Space £52,000 (30.01.25)</p> <p><u>Action from Previous Quarterly Meeting</u> LSPO to provide update at next meeting.</p> <p><u>Updates between and at meeting</u> 1.8.23 LSPO emailed PPPO to advise that new play area installed at Langwith Junction Recreation Ground (opened on 21 July 2023), leaving a residual amount of £64.23 outstanding. This left-over sum to be used towards benches.</p> <p><u>Action going forward</u> LSPO to provide update at next meeting.</p>	<p>LSPO</p> <p>LSPO</p> <p>LSPO</p> <p>LSPO</p>
21	<p>High Ash Farm, Clowne – Open Space £10,184.39 (19.03.25)</p> <p><u>Action from Previous Quarterly Meeting</u> LSPO to provide update at the next meeting.</p> <p><u>Updates between and at meeting</u> 1.8.23 LSPO emailed PPPO to advise that they have a meeting with Clowne Parish Council on 9th August to discuss potential projects. Looking at land in front of Ashgate Hospice premises.</p>	<p>LSPO</p> <p>LSPO</p> <p>LSPO</p>

	<u>Action going forward</u> LSPO to provide monthly updates on progress to PPPO.	LSPO
22	Station Road, Langwith Junction – Health £16,000 (30.01.25)	IHPP
	<u>Action from Previous Quarterly Meeting</u> New item.	
	<u>Updates between and at meeting</u> IHPP advised at the meeting that the Integrated Care Board (ICB) have been notified of reaching the 2-year spending threshold and a request for an update has been made.	IHHP
	<u>Agreed Action</u> IHPP / PPPO to chase progress from the ICB.	IHPP/PPPO

2.8 These updates demonstrate the monitoring carried out by Planning Officers and the progress being made by Spending Officers to ensure that S106 monies are spent in a timely manner alongside the build-out of the approved developments. However, in line with the Council's S106 Agreement Monitoring Procedure the relevant Spending Officers will be in attendance at the Committee to answer any questions to Members on the above Action Plan items.

2.9 In addition to these time sensitive items, the Procedure requires that Members are provided with summary information in relation to Section 106 Agreement monies held with deadlines beyond the 24-month period. Based on the position at the end of Quarter 1 (30th June 2023), the following 'summary of sums' can be provided for years three, four and five.

Infrastructure type	Amounts in later years		
	Year 3	Year 4	Year 5 and beyond
Art	£10,757.25	£12,695.12	£1,477.46 (no clawback)
Outdoor Sport	£37,882.90	£48,723.75	£183,483.02 (of which, no clawback against £36,076.02)
Informal Open Space	£56,606.98	£116,794.50	£36,916.00
Health	£11,784.56	£0	£60,316.90 (of which, no clawback against £12,277.20)
Highways	£0	£0	£569,000.00 (no clawback)
Biodiversity	£0	£0	£8,029.96
	£117,031.69	£178,213.37	£859,223.34

2.10 The spend profiles for Art and Biodiversity remain the same as for the previous financial quarter. There are new contributions against Outdoor Sport from the development at locations throughout the District including South Normanton, Pinxton and Bolsover. Elsewhere the sums have moved into different years with the passage of time.

3. Reasons for Recommendation

3.1 The implementation of Section 106 Agreements in a timely manner is essential to achieving sustainable growth across the District and protecting the quality of life for the District's residents and businesses.

3.2 As a result, it is important that Members receive information about the progress being made by the various Council departments to deliver Section 106 Agreements and to give Members the opportunity to assess the effectiveness of the monitoring procedures.

3.3 It is recommended that Members note the contents of the latest monitoring report and highlight any concerns about the implementation of the Section 106 Agreements listed.

4 Alternative Options and Reasons for Rejection

4.1 Providing a progress report in respect of the monitoring of Section 106 Agreements to Planning Committee addresses recommendations made in recent Audit reports and recommendations of Members of the Planning Committee as set out in the Council's procedure for recording and monitoring Section 106 Agreements. Therefore, officers have not considered alternative options.

RECOMMENDATION(S)

That Planning Committee note the contents of the report and highlight any concerns about the implementation of the Section 106 Agreements listed.

Approved by Council McGregor, Portfolio Holder – Corporate Governance

IMPLICATIONS:

Finance and Risk: Yes No

Details: If obligations required to make a development acceptable in planning terms aren't properly discharged then there is a risk of harm to the Council's reputation and public confidence in the Council's decision taking. If financial contributions are not spent within a defined period then the money has to be returned to the developer and normally returned with interest. Therefore, there are finance and risk implications if procedures for recording and monitoring Section 106 Agreements are not sufficiently robust.

On behalf of the Section 151 Officer

Legal (including Data Protection):

Yes

No

Details: There are no data protection implications insofar as Section 106 Agreements are part of the statutory planning register and are therefore public documents. Section 106 of the Town and Country Planning Act 1990 provides the legal framework for the acceptance and discharge of the Section 106 Agreements and the Council's approved procedure addresses the key legislative provisions of this section of the 1990 Act.

On behalf of the Solicitor to the Council

Environment:

Yes

No

Please identify (if applicable) how this proposal / report will help the Authority meet its carbon neutral target or enhance the environment.

Details: Section 106 Agreements cover a range of policy and infrastructure requirements, albeit they do not specifically contribute to this subject.

Staffing:

Yes

No

Details: There are no human resources implications arising from this report.

On behalf of the Head of Paid Service

DECISION INFORMATION

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

<p>District Wards Significantly Affected</p>	All
<p>Consultation: Leader / Deputy Leader <input checked="" type="checkbox"/> Executive <input type="checkbox"/> SLT <input type="checkbox"/> Relevant Service Manager <input type="checkbox"/> Members <input type="checkbox"/> Public <input type="checkbox"/> Other <input type="checkbox"/></p>	No

<p>Links to Council Ambition: Customers, Economy and Environment.</p>
<ul style="list-style-type: none"> • Enabling housing growth; • Developing attractive neighbourhoods; • Increasing customers satisfaction with our services.

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