

The Arc
High Street
Clowne
S43 4JY

To: Chair & Members of the
Planning Committee

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Monday, 23rd October 2023

Dear Councillor

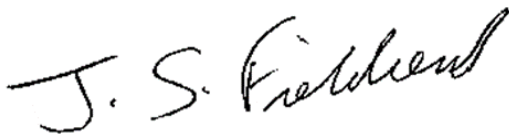
PLANNING COMMITTEE

You are hereby summoned to attend a meeting of the Planning Committee of the Bolsover District Council to be held in the Council Chamber, The Arc, Clowne on Wednesday, 1st November, 2023 at 10:00 hours.

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

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

Yours faithfully



Solicitor to the Council & Monitoring Officer

Equalities Statement

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

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

Access for All statement

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, 1st November, 2023 at 10:00 hours taking place in the Council Chamber,
The Arc, Clowne***

Item No.		Page No.(s)
1.	Apologies For Absence	
2.	Urgent Items of Business	
	To note any urgent items of business which the Chairman has consented to being considered under the provisions of Section 100(B) 4(b) of the Local Government Act 1972.	
3.	Declarations of Interest	
	Members should declare the existence and nature of any Disclosable Pecuniary Interest and Non Statutory Interest as defined by the Members' Code of Conduct in respect of:	
	a) any business on the agenda	
	b) any urgent additional items to be considered	
	c) any matters arising out of those items	
	and if appropriate, withdraw from the meeting at the relevant time.	
4.	Minutes	4 - 5
	To consider the minutes of the last meeting held on 4 th October 2023.	
	<u>APPLICATIONS TO BE DETERMINED UNDER THE TOWN & COUNTRY PLANNING ACTS</u>	
5.	22/00229/FUL - Change of use of former care home to 10 residential units and erection of two further residential units and associated development - total of 12 residential units (Use Class C3) - Amberleigh Manor, Primrose Hill, Blackwell, Alfreton	6 - 42
6.	22/00485/FUL - Residential development comprising 52 no dwellings, with associated access, infrastructure, amenity space, boundary treatments, landscaping and external works - Land to the rear of 1 To 35 Red Lane, South Normanton	43 - 82

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 4th October 2023 at 1000 hours.

PRESENT:-

Members:-

Councillor Tom Munro in the Chair

Councillors Rob Hiney-Saunders, Duncan McGregor and John Ritchie.

Officers:- Sarah Kay (Interim Head of Development Management), Chris McKinney (Interim Head of Planning Policy), Julie-Ann Middleditch (Principal Planning Policy Officer), Jon Hendy (Senior Policy Planner) and Hannah Douthwaite (Governance and Civic Officer).

PL23 – 23/24. APOLOGIES FOR ABSENCE

Apologies for absence were received on behalf of Councillors Justin Gilbody, Chris Kane, Phil Smith, Janet Tait and Carol Wood.

PL24 – 23/24. URGENT ITEMS OF BUSINESS

There were no urgent items of business to consider.

PL25 – 23/24. DECLARATIONS OF INTEREST

There were no declarations of interest made.

PL26 – 23/24. MINUTES – 6TH SEPTEMBER

Moved by Councillor Duncan McGregor and seconded by Councillor John Ritchie
RESOLVED that the Minutes of a Planning Committee held on 6th September 2023 be approved as a correct record.

PL27 – 23/24. ANNUAL INFRASTRUCTURE FUNDING STATEMENT 2022/23

The Principal Planning Policy Officer presented the Annual Infrastructure Funding Statement for 2022/23.

It was noted that during 2022/23 the total amount secured through new Section 106 agreements was £1,063,521.50. The total amount of Section 106 monies held from previous years was £1,466,946.75. Of these funds already held by the Council, the main spending on infrastructure in the monitoring year was on Sports Provision, totalling £132,989.28. Spending on Health infrastructure followed with £97,188 committed to improvements in primary health care in Tibshelf. The provision of Green Space infrastructure using S106 funding totalled £29,861.

PLANNING COMMITTEE

Members noted the importance of Section 106 monitoring to ensure that the money was spent in the allotted time and wasn't at risk of being clawed back by developers.

It was queried whether the Annual Infrastructure Funding Statement document would be sent to Parish Councils. The Principal Planning Policy Officer confirmed that the document would be published on the Councils website so that local ward members could advise Parish Clerks how to access it.

Moved by Councillor Duncan McGregor and seconded by Councillor John Ritchie
RESOLVED that the requirements of the Community Infrastructure Levy (Amendment) (England) (No. 2) Regulations 2019 in relation to Annual Infrastructure Funding Statements and be noted,

2) the format and content of the Annual Infrastructure Funding Statement 2022/23, and the decision to publish it to comply with the regulations be approved.

The meeting concluded at 10:15 hours.

PARISH Blackwell Parish

APPLICATION Change of use of former care home to 10 residential units and erection of two further residential units and associated development - total of 12 residential units (Use Class C3)

LOCATION Amberleigh Manor Primrose Hill Blackwell Alfreton

APPLICANT Mr S Kelly Amberleigh Manor, Primrose Hill Blackwell DE55 5JF

APPLICATION NO. 22/00229/FUL **FILE NO.** PP-11226466

CASE OFFICER Mr Mark Penford

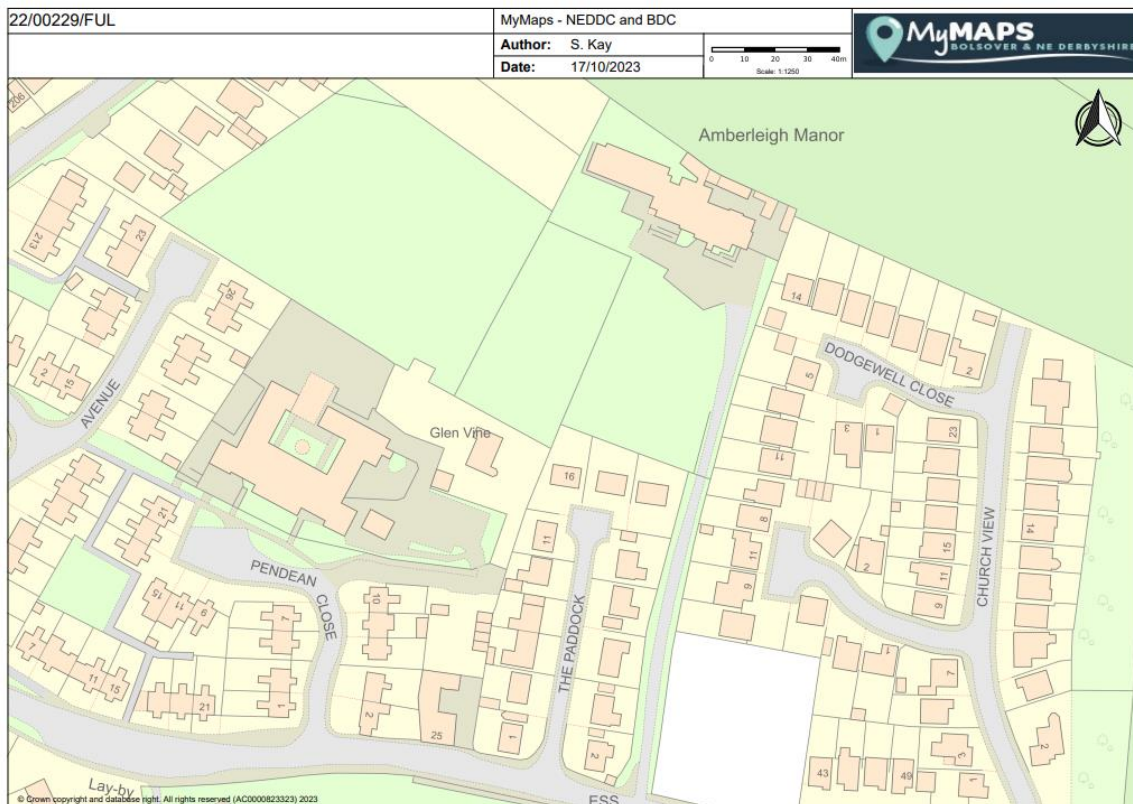
DATE RECEIVED 4th May 2022

SUMMARY

This is a full planning application for the change of use of the vacant Amberleigh Manor Care Home (C2), with external alterations to create 10 no. two storey residential dwellings and the erection of two no. two storey residential dwellings attached to the eastern side of the building (C3). Some single storey outbuildings to the rear are proposed to be demolished. The proposed development is known as Phase II for the re-development of the care home site. It is the applicant's intention that the submission of this phase would complete the site's development for residential dwellinghouse purposes. The proposal includes the provision of private rear garden areas and off-road parking spaces with electric vehicle charging points.

The application has been referred to the Planning Committee for determination because the development is unable to comply with S106 contribution policies for viability reasons.

Site Location Plan



SITE & SURROUNDINGS

The application site consists of the Amberleigh Manor Care Home on the north side of Primrose Hill, Blackwell. The two-storey former care home has been vacant for a number of years and has attracted vandalism, anti-social behaviour and is subsequently in a boarded up and dilapidated condition. The building is accessed via an unadopted tree lined track from Primrose Hill. The trees are subject to a Tree Preservation Order and make a positive visual amenity contribution to the locality. The site is previously developed brownfield land.

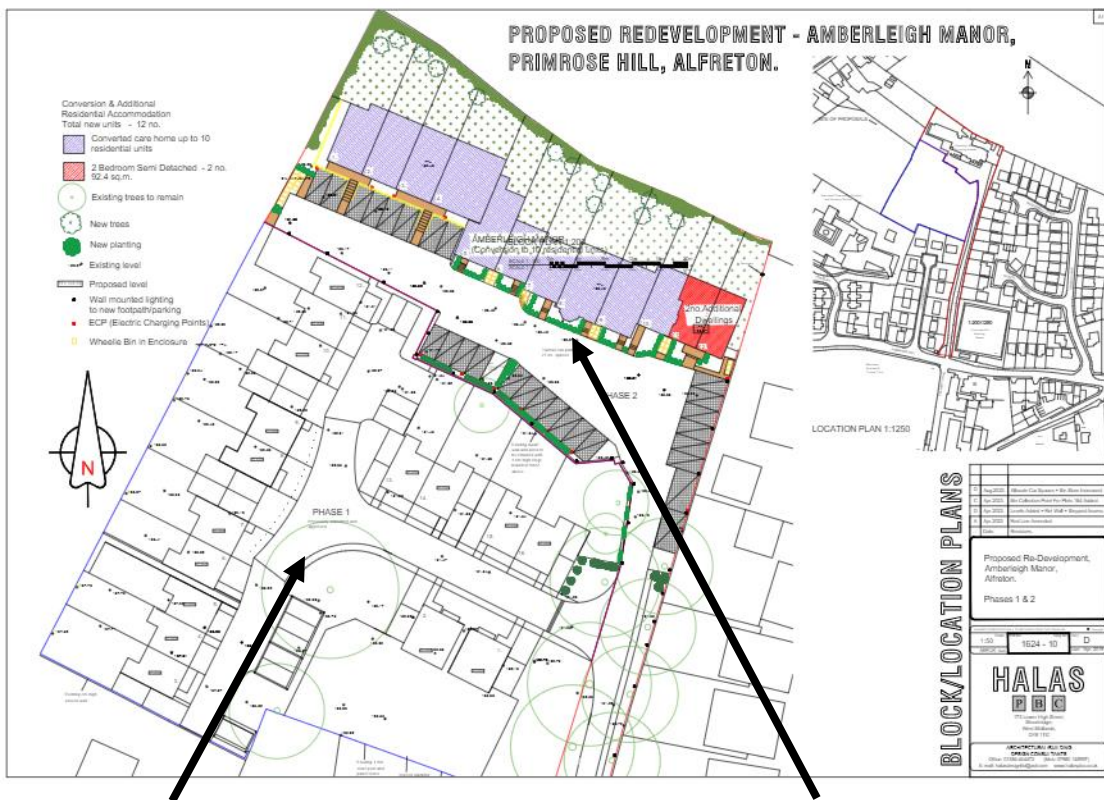
To the north of the existing care home is an important open break which is protected under Policy SS11 of the Adopted Local Plan. The application site and proposed development does not impact on this open break. To the south-west of the site is the Green Space to Blackwell Community Primary and Nursery School, which is protected by Policy ITCR6 of the Adopted Local Plan. The application site and proposed development does not impact on the protected Green Space. The site is located within Flood Zone 1, defined as an area at least likelihood of flooding, does not impact on any Conservation Area and is not within the setting of any Listed Buildings.

The existing building proposed for conversion.



BACKGROUND

To the south of the care home planning permission was granted for the development of 16 new build residential dwellinghouses on 21st April 2021 under office code 20/00166/FUL. The planning permission, known as Phase 1 of the redevelopment of the care home site, remains extant and could still be implemented. The total site area of the care home is 0.8ha with the application site boundary area 0.266ha. This includes the care home, hard-standing and amenity space areas at the northern boundary area.



Phase 1 Approved Site Layout

Phase 2 Proposed Site Layout

SUPPORTING DOCUMENTS

- Arboricultural Report, Impact Assessment & Protection Method Statement dated 1st May 2023.
- Revised Design & Access Statement prepared by Agility Planning & Design Revised September 2023
- Mining Investigation Report prepared by Spilman Associated dated January 2022.
- Tree Constraints Plan dated 01/05/2023 – Project No 200
- Tree Protection Plan – dated 01/05/2023 – Project No 200
- Planning Statement prepared by Agility Planning & Design dated April 2022.
- Preliminary Ecological Appraisal prepared by Arborist & Ecological Services Ltd dated 25.10.2021.
- Viability Assessment prepared by David Newham MRICS Director CP Viability Ltd dated 30th March 2021.
- Viability Appraisal prepared by David Newham MRICS Director CP Viability Ltd dated 7th June 2023.

AMENDMENTS

- Revised Site Location and Block Plan – drg no 1624-10 Rev D dated April 2019
- Revised Site Location Plan and Block Plan - drg no 1624-10 Revision B dated April 2019
- Revised Front Elevations Plots 1- 12- drg no 1624-08 Revision A dated November 2021
- Revised Front, Rear and Side Elevations Plots 1- 12 - drg no 1624-07 Revision A dated November 2021
- Revised Floor Plans (plots 8-12) drg no 1624-05 dated August 2021
- Revised Floor Plans (plots 5-7) drg no 1624-04 dated August 2021

Revised Floor Plans (plots 1-4) drg no 1624-03 dated August 2021
Refuse Vehicle Tracking Layout - drawing 1D dated 24/02/2021.
Site Access General Arrangement Layout - drawing 2A dated 24/02/2021.
Revised Elevations (plots 1-12) drg no 1624-04 Rev A dated December 2021
Revised Floor Plans (plots 1-12) drg no 1624-03 Rev A dated December 2021

PLANNING HISTORY

01/00475/FUL	Granted	Erection of a conservatory to front, two storey extension to side, and a detached two storey dwelling – Granted 06/02/2002
08/00183/FUL	Refused	Two storey extension to side and rear – Refused 14/05/2008
20/00166/FUL	Granted	Primrose residential development: 16 units (Use Class C3) – Granted 21/04/2021

CONSULTATIONS

Blackwell Parish Council

The council had expressed concerns regarding:

- the trees being cut down, but it is now understood that most of them are subject to a Tree Preservation Order.
- about the possibility of flooding, but that this would be investigated by the Lead Local Flood Authority and an application to Sever Trent; and
- whether the school wall would be rebuilt, and it is now understood that the boundaries would be determined by way of planning condition.

Bolsover District Council – Leisure

Having regard to Policy ITCR5 of the Local Plan, confirms Blackwell has an under provision of open space – 1.73ha of additional green space is required to meet the minimum standard. As the proposed development exceeds 10 units but is less than 25 dwellings, a S106 commuted sum contribution is sought to improve the following areas of green space, all of which fall below the 60% quality standard: Equipped Play Area: Gloves Lane Recreation Ground. Recreation Ground / Semi-Natural Green Space: Gloves Lane (Blackwell Bridleway 31 / Tibshelf Bridleway 4, which provides access for pedestrians, cyclists and horse riders from Blackwell to Doe Hill Country Park / Silverhill Trail / Five Pits Trail). Using the current policy formula, the commuted sum would be £11,256.00 (12 dwellings x £938 per dwelling).

As the proposed development is not of sufficient scale to require any dedicated-on site built / outdoor sports facilities, it is recommended that a suitable commuted sum is negotiated in lieu of any formal on-site requirement. Using the current policy formula, the commuted sum would be £13,716.00 (12 dwellings x £1143 per dwelling). This amount is based on 2022 prices and should be index linked to the RPI in terms of timing of payment. The commuted sum would be invested in improving playing pitches and their ancillary facilities at Gloves Lane Recreation Ground and Westhouses Recreation Ground. Maintenance sums are not usually enforceable on payments made in lieu of on-site provision. It should be expected to receive a commuted sum for a period of 10 / 15 years following completion of the development for any land

adopted by the District Council. This would be index linked in accordance with the current Local Plan policy and will cover grounds maintenance and the ongoing management and maintenance of any play equipment, fencing, etc. provided by the developer. The exact level of commuted sum will need to be negotiated once the nature, size and form of the land to be adopted has been agreed and approved.

Bolsover District Council – Senior Engineer

Confirms sewer records do not show any public sewers within the site curtilage. The applicant could be made aware of possible unmapped public sewers not shown on the records that may cross the proposed works. Shared pipes previously classed as private sewers could have been transferred to the Water Authorities in 2022. The applicant may need separate approval from Severn Trent Water to connect to, divert, build over or near to public sewers. All drainage proposals will need to comply with Part H of the Building Regulations. Any connection or alteration to a watercourse will need Prior Approval from the Lead Local Flood Authority at Derbyshire County Council.

Bolsover District Council – Assistant Director Streetscene

1st response

Streetscene has a duty to collection household waste (S45 Environmental Protection Act) from this development and are committed to undertaking this duty; however, it has to be ensured that there is suitable vehicular access to avoid having to issue designated collection\presentation points to householders. Streetscene need to understand whether the estate\access roads will be adopted by the Highway Authority for maintenance at public expense; and if not, that they will be constructed to a minimum Highways 6C standard to facilitate operation of the District Council's large goods (refuse) vehicles. An indemnity agreement needs to be in place to safeguard liability of the Council; in particular, as Council refuse vehicles (32tonne) will have need to undertake turning manoeuvres at cul-de-sac and/or junction heads which increase physical wear on metalled surfacing. Due to the road not being adopted, it would not normally receive street sweeping\litter picking; however, if the Council has an indemnity agreement in place, street sweeping arrangements would be undertaken.

2nd response

Following receipt of a draft indemnity agreement, advises that the document now needs to be agreed in conjunction with Streetscene and the District Council's legal colleagues.

Bolsover District Council – Urban Design Officer

Advises the design quality of the scheme is improved by reducing the height of plots 11 & 12, introducing a hipped/half hipped roof to reduce the scale and presence of plot 12 and improve impacts on amenity on the adjacent garden. The rear gardens have no separate garden access meaning garden waste would need to be carried through plots. Although unappealing, this may have to be accepted given the limitations of the building conversion.

Derbyshire County Council – Highway Authority

Following consideration of additional information confirms, no objection and recommends planning conditions as follows:

- Pre-commencement condition to secure a new vehicular and pedestrian access to Primrose Hill of 43m visibility in each direction.
- Off-road parking for each dwelling provided prior to occupation.
- Notwithstanding the provisions of the GPDO 2015 parking spaces shall be maintained

- free of any impediment to their designated use.
- Pre-commencement condition to secure a site construction compound throughout the construction phase.
- Notwithstanding the provisions of the GPDO 2015, no gates, bollards, chains or other means of obstruction shall be erected across the approved access road.
- Pre-commencement condition to agree details of the proposed arrangements for future management and maintenance of the streets within the development (which are to remain private).
- Pre-commencement condition to ensure the internal access drives are to the 6C's design guide standards.

Advisory notes recommended:

- Means to prevent mud or material onto the highway
- Prevention of surface water run-off onto the highway
- Requirement for separate approval from DCC for any works on the public highway.
- A clause should be incorporated into the deeds of the dwellings to ensure at no time will adoption of the road be sought.
- In order to discharge details of the management and maintenance of streets, the LPA will require details of a completed agreement with details of a private management and maintenance company.
- If construction works require traffic management, advice should be sought from DCC's Traffic Management Team.

Confirms that in relation to ongoing future management and maintenance of streets, that va Section 106 Agreement would not be necessary.

Derbyshire County Council – Lead Local Flood Authority

1st response

Raises a holding objection until such time that further information is provided relating to the proposed surface water drainage strategy for the development, in order to demonstrate the site is able to drain and that due consideration has been given to the space required on site for surface water storage.

2nd response

Confirms additional information is necessary prior to determination. This includes evidence of approval from Severn Trent Water for a connection to the sewer system. The developer needs to provide a quick storage estimate for the underground surface water storage.

3rd response

Seeks an update on the proposed drainage plan to including the numbers of each pipe and ensure they correspond with the drainage calculations, evidence why the greenfield runoff rate cannot be met within the brownfield area of the site and why a discharge rate of 3l/s for each discharge point has been proposed, rather than the greenfield runoff rate for each rainfall event.

4th response

Having reviewed the additional information received 29th August 2023, confirms no objections subject to planning conditions to secure:

- a) A detailed design and associated management and maintenance plan of the surface water drainage of the site.
- b) A detailed assessment to demonstrate the proposed destination for surface water accords with the drainage hierarchy set out in paragraph 80 of the planning practice guidance.
- c) Details demonstrating how additional surface water run-off from the site will be avoided

- during the construction process.
- d) A verification report to demonstrate the implemented drainage system has been constructed as per the approved scheme, including any minor variations, any management company.

Derbyshire County Council – Developer Contributions

Primary Level

The proposed development falls within the normal area of Blackwell Community Primary and Nursery School. The proposed development would generate the need to provide for an additional 3 primary pupils. Analysis of current and future projected number of pupils on role together with the impact of approved planning applications show the normal area Blackwell Community and Nursery School would have sufficient capacity to accommodate the 3 primary pupils arising from the development.

Secondary Level

The proposed development falls within the normal area of Tibshelf Community School. The proposed development generates the need to provide for an additional 2 secondary pupils. Tibshelf Community School has a net capacity for 750 pupils with 830 pupils currently on roll. The number of pupils on roll is projected to decrease to 785 during the next five years. An evaluation of recently approved major residential developments within the normal area Community School shows new development totalling 251 dwellings, amounting to an additional 50 secondary pupils. Analysis of the current and future projected number of pupils on roll, together with the impact of approved planning applications shows that the normal area secondary school would not have sufficient capacity to accommodate the 2 secondary pupils arising from the proposed development. There is a need to mitigate the proposed development on secondary school places to make the development acceptable in planning terms and a financial contribution of £54,744.14 is required towards 2 secondary places at Tibshelf Community School.

Broadband

With regards to fibre-based broadband confirms the County Council would not require this to be provided to make a development acceptable in planning terms.

Waste

Advice provided on the need for developments to be provided with a convenient means of waste management and access to a household waste recycling centre. No objection is raised based on access to such facilities for the proposed development site.

Employment and Skills

Highlights the County Council wishes to work collaboratively with District/Borough Councils to support and identify financial contributions to deliver employment and skills development. A request for such a contribution has not been made for this development.

Derbyshire Constabulary - Force Designing Out Crime Officer

1st response

No objection raised. Requests clarification on some elements of the scheme in relation to a lack of lighting for safety and security of the parking area, no garden access for the plots other than the end units and practicality for disposal of garden waste. As an informative matter the scheme will need to comply with Part Q of the Building Regulations in respect of resistance to forced entry as it is likely the existing and windows and doors could not be retained.

2nd response

In respect of lighting confirms, in the absence of type, height and specification a planning condition could be used to agree a lighting scheme. If no garden access provision for all

central plots is part of the approved scheme this matter is one of practicality, not crime related, so does not attract adverse comments from the police. Notes the District Council's Urban Design Officer has commented that this may have to be accepted.

Derbyshire Wildlife Trust

Following review of the Preliminary Ecological Appraisal prepared by Arborist and Ecological Services Ltd dated October 2021, confirms the report provides the Council with a reasonable level of confidence that protected species will not be affected by the development. DWT is not aware of any other features of nature conservation value and there are no records of protected species close to the site. Advises the Council to attach a condition requesting details of biodiversity enhancement in the form of the type and location of 2 external Schwegler bat and 2 bird boxes to achieve a net biodiversity gain.

Health and Safety Executive

It appears the development falls within the SD3 distance of the nearby licensed explosives site but outside the SD2 distance. Raises no objection on the basis that the development is not a vulnerable building.

Health and Safety Executive (Web Based App Check)

Confirms the application site does not cross any consultation zones of a major hazard site or major accident hazard pipeline and the HSE does not need to be consulted on any developments on this site.

NHSDCG

Confirms a financial contribution towards health will not be required as it falls under the threshold.

Environmental Health – Principal Pollution Officer

Confirms no objections to the application in principle and recommends the following planning conditions:

1. Control construction works to be between 07:30am and 6pm Monday to Friday and 7:30am to 1pm Saturday. No works on site or deliveries to the site on Sundays or Public Holidays.
2. Prior to occupation removal of any made ground or submission of a contamination investigation and risk assessment together with remediation and verification, if necessary.
3. Where any other areas are suspected of contamination the above process for site investigation and risk assessment should be followed.
4. Any imported soils to be tested for contamination prior to importation.

Severn Trent Water

Advises a pre-commencement of development condition is necessary to agree a surface water and foul sewage disposal scheme. Advice provided on compliance with Part H of the Building Regulations, Planning Practice Guidance. Advisory note in relation to the possible presence of sewers, which have statutory protection and may not be built over, close to or diverted without the consent of Severn Trent Water.

Confirms there is a 3in water main within the site and the applicant needs to make a Diversion Application (S185) to Severn Trent Water. No build over is permitted by Severn Trent Water.

Severn Trent would require detailed plans of the construction depths of the works and for the applicant to confirm the level and line of the water main through trial dug holes.

The Coal Authority

1st response

Confirms the site lies within the defined Coal Mining High Risk Referral Area and raises an objection in the absence of a Coal Mining Risk Assessment.

2nd response

Following consideration of a Mining Investigation Report, confirms that following the drilling of boreholes on the site, the report confirms only intact coal seams were encountered with no evidence of any shallow workings. Withdraws the objection to the application as the potential for coal mining legacy to affect the development has been adequately investigated. No planning conditions recommended.

PUBLICITY

A Press Notice was published 30th June 2022 with comments required by 14/07/2022.

A Site Notice was posted 21/06/2022 with comments required by 12/07/2022.

Neighbour notification letters were sent on 21/06/2022 with comments required by 12/07/2022.

The neighbours were re-consulted in respect of amended plans on 23rd May 2023 with comments required by 6th June 2023.

Neighbouring residents were re-consulted in respect of amended plans on 21st June 2023 with comments required by 12th July 2023.

Neighbour residents were re-consulted for the final time in respect of amended plans on 6th September 2023 with comments required by 20th September 2023.

RESIDENT REPRESENTATIONS

Nine letters of representation have been received. Comments are summarised as follows:

- Queries who the market housing will be for.
- Windows will cause loss of privacy from overlooking.
- Concerns raised regarding collapse of a wall and its current state.
- Trees and shrubs have been removed with no consideration for birds.
- Two years on from phase 1 clarification is still awaited on what will be done with the wall.
- Will there be a meeting to discuss resident concerns.
- Requests the Council revisits the condition of trees. Suspects a professional report is in place but simple pruning is not appropriate.
- Lime trees are far too big and dangerous to properties along the track. They need to be severely reduced and maintained at that.
- Bungalows especially are threatened by overgrown condition of the trees.
- The Council should take this opportunity to eliminate a serious tree problem which will only get worse despite the good intentions for maintenance.
- Two additional dwellings will be very close, imposing a side boundary, block out light, and be oppressive.

- Concerns for damage to property.
- Trees may be damaged from the development.
- There are no other houses on the building line which have houses as close to their boundary.
- Detrimental effect on use of gardens.
- Bin stores and parking on the boundary are not acceptable.
- Lights from houses or the street may shine into gardens.
- Construction activity will cause dust, noise and debris.
- Construction activity will cause scaffolding and overlooking from builders.
- A negative impact on our day to day lives.
- The original manor house was built with a brick walled garden and some parts of the original brick wall remains adjacent properties and the school field.
- Concerns for health and safety if the manor house brick wall collapses further.
- Phase 2 is not even recognising there is a wall.
- The trees are too large and causing damage to property. Although they have a Preservation Order on them, the trees should be kept in order.
- Concerns over impacts to boundary wall and trees.
- No account has been taken of previous comments on plots 11 and 12 and the impacts on quality of life, affecting property value, scaffolding and dust up to the boundary.
- It is evidence that more consideration has been given to trees than it has to neighbours. Maintains objection.
- Concerns the trees are unsafe for children, the applicant has not maintained them, residents have had to pay for tree works but these are not our trees or responsibility, who will be responsible for maintenance in the future.

POLICY

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

Section 38 (6) of the Planning & Compulsory Purchase Act 2004 requires that applications for planning permission are determined in accordance with policies in the adopted Local Plan, unless any material considerations indicate otherwise. In this case, the most relevant Local Plan policies include:

- SS1 – Sustainable Development
- SS2 – Scale of Development
- SS3 - Spatial Strategy and Distribution of Development
- LC3 – Type and Mix of Housing
- SC1 – Development Envelopes
- SC2 – Sustainable Design and Construction
- SC3 – High Quality Development
- SC4 – Comprehensive Development
- SC5 – Changes of Use and Countryside Conversions
- SC6 – Renewable and Low Carbon Energy
- SC7 – Flood Risk
- SC9 – Biodiversity and Geodiversity
- SC10 – Trees, Woodlands and Hedgerows
- SC11 – Environmental Quality (Amenity)

- SC13 – Water Quality
- SC14 – Contaminated and Unstable Land.
- SC15 – Hazardous Installations
- ITCR4 – Local Shops and Community Facilities
- ITCR5 – Green Space and Play Provision
- ITCR10 – Supporting Sustainable Transport Patterns
- ITCR11 – Parking Provision
- II1 – Plan Delivery and the Role of Developer Contributions.
- WC4 – Rough Close Works Explosive Safeguarding Zones

National Planning Policy Framework (“the Framework”)

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

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

Supplementary Planning Documents

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

ASSESSMENT

Key issues

The key issues in the determination of this application are:

- the principle of development
- viability considerations
- design and character
- trees
- residential amenity
- highway safety & refuse collection.
- biodiversity
- flooding and drainage
- ground contamination and land stability
- Rough Close Works hazardous explosives site
- sustainability considerations

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

Principle of Development

To achieve sustainable development Policy SS3 of the Adopted Local Plan sets out a settlement hierarchy where new development is firstly directed to the small towns of Bolsover and Shirebrook, followed by the emerging towns of South Normanton and Clowne. Following the towns, the Local Plan directs development to the defined larger villages and finally to the defined smaller villages. Blackwell is defined as one of the smaller villages where limited urban forms of development are also supported in principle. This is an urban form of development which is primarily re-using the fabric of an empty building to facilitate housing. Blackwell, although a small village, is capable of supporting housing development in accordance with spatial strategy Policy SS3 of the Adopted Local Plan.

The application site is located within the defined development envelope of Blackwell where the proposed development is supported in principle in accordance with Policy SC1 of the Adopted Local Plan. Policy SC1 of the Adopted Local Plan states to contribute to sustainable development in the Bolsover District, development proposals should meet a range of criteria. This application is supported directly by Policy SS1 (b) and SC2 (a) of the Adopted Local Plan by promoting the efficient use of land and the re-use of previously developed vacant land and buildings. In accordance with the requirement of Policy SC1 (b), the development does not result in the loss of the settlement's last remaining community facility of this type because Blackwell Care Home is still in operation within the settlement envelope.

Policy ITCR4 of the Adopted Local Plan safeguards against the loss of local shops and community facilities, specifically recognising care homes as such facilities. The loss of the care home, which was for the aged, is supported by Policy ITCR4 provided one of the criteria to the policy is met. The first of the criteria is where the loss would not create, or add to, a shortfall in the provision or quality of such facilities within the locality. The policy criteria applies a rule check of a 400m radius around the proposal for similar facilities, based on a 10-minute walking time.

Blackwell Care Home, for the over 65's, is approximately 300 metres from the application site. The development is therefore considered in accordance with Policy ITCR4 (a) as there is another facility within a 400m radius. In this situation there are no planning grounds on which to retain the building for care uses. A significant material planning consideration is that the care home has not been in operation for a number of years and the application represents the efficient re-use of the existing building's fabric with two additional dwellings utilising a brownfield site. It should also be noted that District Council's Viability Consultant has advised that this is not the strongest property for a care home use and upon considering the application for Phase 1, a future application for conversion to residential was anticipated.

Paragraph 60 of the framework sets out the Government's objective of significantly boosting the supply of homes. Paragraph 120 (c) of the framework states planning decisions should give substantial weight to the value of using suitable brownfield land within settlements for homes. These are significant material planning considerations which weigh in favour of the development.

The development is considered in accordance with Policy SC5 of the Adopted Local Plan which supports the change of use of existing buildings. This is since the building is considered worthy of retention, with design alterations proposed to enhance the building in design terms. These considerations are discussed in the 'design and character' section of this report.

Viability Considerations

The extant planning permission for 16 new-build dwellings to the south of the care home was considered by Members on 10th March 2021. Members resolved that the application should be deferred for a decision to enable Officers to enter into discussions with the developer about the possibility of bringing forward their application for Phase 2 (conversion of the care home to dwellinghouses). This was in order to understand the viability of the site as a whole, to establish S.106 requirements and because Members wanted to gain more certainty that the former nursing home might be brought back into use.

The applicant provided additional information to address the queries raised by Members and a 2nd Viability Appraisal dated 30th March 2021 was considered by the District Council's viability consultant, CP Viability. The applicant/developer confirmed a commitment to the development of both phases 1 and 2, but for commercial reasons were not in a position to submit a combined application for both phases at the time. Although Officers understood the piecemeal nature of the development was a concern for Members, it was explained that the applicant/developer could not be made to submit a second application. It was noted in the Committee Report for Phase 1 that the development subject to Phase 1 could be compatible with Phase 2 for a future application to convert the care home.

The applicant/developer appreciated the concerns of the Committee and undertook some feasibility work to understand the scope of converting the building prior to submitting their application. The feasibility/scoping exercise was for the conversion of the building to 10. No. dwellings and 2 no. new build dwellings and was therefore commensurate to the proposals currently under consideration. The Committee Report set out to Members that, in addition to the previous report that Phase 1 was unable to make any S.106 contributions as a standalone development, the conclusions reached in the updated appraisal was that the scheme of development for phases 1 and 2 combined were finely balanced in terms of viability so that they too would be unable to afford any S.106 contributions as applications together or individually.

The report therefore concluded that viability was an issue across the entire site, irrespective of whether the development was brought forward under phases 1 and 2 separately or combined and no S.106 contributions could be viably sought for the phases. In respect of Policy SC4, which seeks to prevent piecemeal development to avoid triggering S.106 contributions, the Case Officer's report set out that the potential concerns of Members regarding the conflict with Policy SC4 had been addressed through the additional information. The report prepared to Members concluded that the development would not be avoiding S.106 contributions through piecemeal permissions, as viability was an issue across the entire site. Furthermore, it was stated that acceptability of a separate two-phase development would not have prejudiced the delivering of one phase or another by issuing separate permissions. The previous case officer's report therefore set out that it was anticipated that the conversion of Amberleigh Care Home would proceed as a second phase of development in due course. Members resolved to grant the planning permission for Phase 1, which is still

capable of implementation.

Following the validation of the current application, consultation has identified financial contributions towards education and improvements to off-site open space, as confirmed by the District Council's Special Projects Officer and Derbyshire County Council. Although the previous viability assessment set out that both phases of development would be unviable, due to the length of time between the approval of Phase 1 and the submission of Phase 2, Officer's have considered it necessary that the viability of the development is re-visited in the interests of ensuring that the financial contributions identified through consultation remain unviable. The District Council's Viability Consultant, CP Viability, has therefore re-considered the viability of the pending application through an updated Viability Assessment as at 7th June 2023.

A capital value of 2.258 million has been adopted following evidence of sale prices within a 2 mile radius. Considering the UK House Price Index and the Nationwide Index this suggests values has risen by 15% since CP Viability's last assessment in March 2021. The Bank of England base rate has consistently been raised and this has had a knock on effect on the cost of mortgages, which in turn, due combined with the cost of the living/energy crisis, there is a greater pressure on affordability. A lack of affordability is causing a reduction in property prices. It is therefore predicted values will stagnate through 2023 and 2024. However early predictions of prolonged value stagnation are therefore by no means guaranteed and the continued imbalance between supply and demand may continue to drive sales price inflation. To account for inflation CP Viability considers a cautious uplift of 15% to be reasonable. With this value gives a predicted value of 2.596 million.

In terms of development costs, the March 2021 assessment was based on plot construction costs on the "Build Cost Information Service ("BCIS") data, using the default Derbyshire 'new build generally' median figure of £1,230 per sqm. For the refurbishment units the 'estate housing rehabilitation / conversion' median rate of the BCIS was used, which at the time equated to £838 per sqm. For the updated assessment the same BCIS data has been applied. - New build median generally £1,474 per sqm. - Rehabilitation / conversion median £1,030 per sqm. The assessment has factored in external costs to 15% of BCIS rate, contingency to 3% of BCIS rate, marketing of 2% on revenue plus £750 per dwelling for legal costs, professional fees of 6.75%, for finance 7.5% plus £30,000 to cover arrangement fees and exit charges and for developer profit a rate of 15% on revenue.

Benchmark Land Value ("BLV") attempts to identify the minimum price that a hypothetical landowner would accept in the prevalent market conditions to release the land for development. CP Viability has had to establish the existing use value of the property. Given the age and vacant nature of the property, CP Viability advises capital expenditure would be required to bring the property back up to a modern standard for care purposes. This has to be factored into the existing use value. Comparable evidence has been drawn from three care homes in Alfreton, Sutton-in-Ashfield and Jacksdale, which had capital expenditure of between 10.4 and 14 thousand per bedroom. For the subject scheme, CP Viability has considered an allowance of £10,500 per bedroom to be appropriate, which equates to £420,000. From this CP Viability has made an allowance of £50,000 for capital expenditure to arrive at an existing use value of £370,000.

In the case of the subject property, CP Viability advises this remains a location and facility which could still be used as a care home facility going forward, however equally the fact that the property has been vacant suggests to CP Viability this is not the strongest property for a care home use. On balance, having considered these factors, CP Viability previously considered a 10% premium uplift to be a reasonable incentive for the landowner to release the property for residential development. This equates to a benchmark land value of £407,000.

With what is outlined above this generates a residual land value of £317,636. This is below the adopted benchmark land value of £407,000 and therefore CP Viability advises that the development can be described, at best, as being marginally viable (before any planning policies are factored in for S106 contributions). If planning policies were to be introduced, CP Viability advises the District Council that this would reduce the residual land value (in other words make the scheme more unviable). The conclusion is therefore the same as the outcome in March 2021 for Phase 1, that the scheme is still unable to support any planning policy contributions across the entire site.

Overriding Public Interest

It has therefore been necessary to consider whether there are any overriding public benefits of accepting the scheme, without meeting its necessary planning obligations, which is whether the public benefit overrides the policy conflict.

It is considered that the following factors equate to overriding public interest:

- The building has been empty for several years, is boarded up and dilapidated. The site has been unmanaged, and this has detracted from the character of the settlement. Approval of the application would visually enhance the building and the wider site, which would be a public benefit to the residents living in proximity of the site.
- The applicant has maintained they are not in a position to re-open the care home, a case supported by the updated Viability Assessment. The site has no security and without being brought back into use for market housing would be likely to fall into further disrepair, of detriment to visual amenity and public safety.
- The revised Design & Access Statement explains the applicant undertook pre-application engagement with local residents and a number raised concerns relating to safety and security. In one case a property had been burgled and access was through the application site. Bringing the site back into use would minimise these incidents and public fear of crime.
- The building has attracted attention whilst being empty. There have been attempted burglaries of the care home on three occasions during the time it has remained unoccupied, which led to police presence and arrest of an intruder, who also attempted to steal from residential property. Neighbours are currently having to be vigilant and notify police when necessary. The layout provides optimum natural surveillance from all 12 units, which would deter crime.
- The applicant represents the efficient re-cycling and re-use of a large building inside the development envelope, which would provide 12 new family homes for the local community using brownfield land.
- It is logical for this development to proceed following the approval of Phase 1 as it would complete the development of the site for 28 dwellings in total, with a compatible

land use in the best interests of residential amenity and visual amenity.

- Residents are concerned that the trees subject to the Tree Preservation Order are unmanaged and there are health and safety concerns from falling branches and collapse. Bringing the site back into use would enable the trees to be more effectively managed into the future, in the best interests of the health and safety of local residents. The application is also proposing tree works in accordance with the advice of an Arboriculturalist.



The rear of the dilapidated building boarded up in part, with dispersed litter and fly tipping.

Conclusion to Principle of Development

Following the above assessment, the principle of development is considered acceptable without the need for any financial contributions, given the overriding public interest which has been demonstrated. This is subject to application of all other relevant planning policies of the Adopted Local Plan, the framework and any material planning considerations.

Design and Character

The existing care home is a two-storey pitched roofed building. The eastern side has been rendered and the western side is in brickwork. In its present condition the building and wider site harms the character and appearance of the settlement. To facilitate the proposed development external alterations have been proposed to enhance the design character of the building, provide a better residential appearance and sense of conformity. The alterations include new principal entrance doorways with roof canopies and new openings to the rear onto dedicated private gardens. The part of the building in brickwork is proposed to be rendered to match the existing render and the 2 no. new builds would also be rendered. To the frontage of the dwellings planting is proposed including hedging and scrubs. Parking areas are proposed in permeable block paving.

The District Council's Urban Design Officer has considered the design approach and not raised any particular concerns over visual appearance with some changes primarily being proposed for reasons of residential amenity and bin storage. Amendments to the application have included setting down the height of new build units 11 and 12 and hipping the roof so that it slopes away from the adjacent dwelling on Dodgwell Close. The development is considered in scale and character with the existing building as a whole and with its

surroundings, represents good quality design in planning terms and a sustainable form of development by recycling the existing fabric of the building.

Planning conditions are recommended to agree the external materials used in the construction of the development, a scheme of boundary treatment and to agree a sympathetic hard and soft landscaping scheme.

In terms of the site boundaries, a resident has commented about the original brick wall of a former manor house/school which has partially collapsed. A red brick wall of some character can be seen on site. Although its condition has deteriorated in parts, there might be scope for this to be retained, as part of a boundary treatment scheme, which can be agreed by planning condition. An advisory note is recommended to encourage the applicant to retain the boundary wall, wherever possible, provided residential amenity and visual amenity is protected.

Careful consideration has been given to Phases 1 and 2 for the redevelopment of this site and it is considered that both phases integrate well together and could be brought forward as a comprehensive scheme through separate planning applications. The case officer's Committee Report for Phase 1 explained that the piecemeal nature of the applications could not have been avoided, and that Phase 1 would be compatible with a future application for the conversion of the former care home to separate residential units, at a later date.



The application has demonstrated the proposal is appropriate in scale, design, location and to the character and function of the area, by respecting the scale and form of the original building in accordance with Policy SC1 (a) of the Adopted Local Plan. The development

represents a good quality, attractive and durable place in accordance with Policy SC3 (a) of the Adopted Local Plan. The proposal is considered to conform to the framework and its emphasis on high quality design by adding to the quality of the area, being visually attractive as a result of good architecture, layout and appropriate landscaping, in accordance with Paragraph 130 of the framework.

Trees

The primary consideration for impacts on landscape features in respect of this development are mature trees which are subject to a Tree Preservation Order. The mature trees form an avenue of Lime and other trees leading from Primrose Hill to the redundant care home.



The tree lined unadopted access road serving the site.

In accordance with Policy WC10 development proposals should contribute to the protection, enhancement, and where possible expansion of woodlands, trees and hedgerows in the area. The loss of woodland, healthy trees and hedgerows with visual, historic or wildlife importance will be resisted.

Paragraph 180 (c) of the NPPF states that development resulting in the loss or deterioration of irreplaceable habitats (such as ancient woodland and ancient or veteran trees) should be refused, unless there are wholly exceptional reasons, and a suitable compensation strategy exists.

During processing of the application concerns were raised with the applicant that insufficient information was initially provided to understand the impacts of the development on the protected trees throughout the site. In response an up-to-date Arboricultural Impact Assessment has been submitted in May 2023 which includes appropriate tree protection and method statements. The report prepared by Crawshore Arborcare Ltd dated 1st May 2023 includes a full assessment of the trees on site and recommends tree protection.

The report has identified 41 trees on the site. The majority of the trees are proposed to be retained. Five trees are proposed to be removed (T22, T23, T24, T26, T35) as these trees are defined as Category U trees. These are all trees which, in the view of the Arboriculturalist, have a serious, irremediable structural defect such that their early loss would be expected due to collapse, are showing signs of significant decline or are trees infected with pathogens of significance of such which are of detriment to the health and safety of other trees. As the trees are identified by the qualified Arborist as being Category U, their removal is justified in this instance.

In terms of the remaining lime trees along the avenue, the removal of epicormic growth would take place around the bases and strategic crown lifting take place to allow access for construction traffic to a height of 4m by pruning the limbs back to the main stem in line with current British Standards for pruning. The Arboriculturalist is to make site visits to check works throughout the construction phase, in the interests of protecting the trees throughout.

As a large number of trees are proposed to remain, the site would retain its character associated with these positive landscape features and there would subsequently be no harm to the group value of the Tree Preservation Order.

The tree report includes details of tree protection throughout the construction process, which includes protective fencing of the root protection areas and 'no dig' confinement systems within the root protection areas. The application has therefore demonstrated that the trees can be effectively integrated with the development, resulting in the loss of 5 trees which are identified as not suitable for retention, can prevent damage to root systems and to the trees in general and the layout of the development is such that it avoids any conflict between trees and development, by excluding trees in private garden areas.

Local residents are concerned that the trees are too large due to a lack of management and that they could cause a health and safety issue. It is clear that tree works are necessary as part of the application process. It is the applicant/land-owners responsibility to maintain the trees on their private land and these concerns are a civil matter. However, it is likely that bringing the site back into habitable use would better facilitate the ongoing management and maintenance of the trees into the future, which is in the best interests of local residents and the long-term health of the trees.

It is considered that a condition to secure a detailed landscaping scheme is necessary to include appropriate replacement tree planting and sufficient mitigation for the loss of the 5 no. trees, due to their maturity, on site together with a condition to ensure that the recommendations of the Arboricultural Impact Assessment for tree protection and monitoring by the Arborist are adhered to throughout the construction phase. The application is therefore in accordance with Policy SC10 of the Adopted Local Plan and Paragraph 180 (c) of the NPPF.

Residential Amenity

Successful Places 'A Guide to Sustainable Housing Layout and Design' (SPD) sets out the Council's minimum separation distances between dwellings in Table 3, which are in the interests of preventing massing, overshadowing, and overlooking to neighbouring residents. As a guide 21m should be provided between rear elevations, 12m front to front and 12m rear to a side wall.

To the south of the site is vacant land which has consent to implement Phase 1 of the development. To the east are residential properties on Dodgewell Close. To the north-west the site borders long residential gardens of properties fronting Alfreton Road.

The separation between proposed plots 1-3 and the side elevation of plot 12 of Phase 1 stands at 14m, in excess of the Good Practice Guidance note in Successful Places. Due to the length of the substantial gardens to numbers 191, 193 & 199 Alfreton Road, the relationship between the development and these existing dwellings is also in excess of the guidance criteria. To the north is open countryside.

Residents on Dodgewell Close have raised concerns regarding adverse impacts through loss of light and overshadowing to their property by virtue of the new build attached plots 11 and 12. The nearest property to the eastern side of the care home is no 14. The site layout plan

demonstrates all existing outlook from the habitable room windows of no 14 are uninterrupted. The dwelling does not have any windows serving habitable rooms on the side elevation. In accordance with advice from the Urban Design Officer, the design of these new build dwellings has been altered to reduce the eaves and ridge and hip the roof plane so that it slopes away from Dodgwell Close, which has further minimised impacts to the adjacent dwelling and the north facing garden.

In addition, the ground levels of the site are below those of Dodgwell Close, plot 12 is set in from the boundary and its eaves height is relatively shallow at 6m. It is therefore considered that the relationship between plot 12 and number 14 Dodgwell Close is acceptable and that the position of plot 12 would not cause harm to amenity through massing or overbearing impacts to the dwelling and its garden. In the event of an appeal situation it is not considered that this situation could be adequately defended.

The SPD advises on minimum outdoor amenity spaces per dwelling depending on the number of bedrooms. One to two bed houses should be provided with 50sqm of private garden area, 3 bed houses with 70 square metres and 4 bed houses with 90 square metres. The guidance is that garden areas should be applied reasonably having regard to site conditions and context. This application needs to work with constraints associated with the existing building and its position to existing site boundaries.

The following rear garden areas are proposed:

Plot 1 – 3 beds - 102 sqm

Plot 2 – 3 beds - 63 sqm

Plot 3 – 3 beds – 55sqm

Plot 4 – 3 beds – 62sqm

Plot 5 – 3 beds – 55sqm

Plot 6 – 2 beds – 63sqm

Plot 7 – 2 beds – 64sqm

Plot 8 – 4 beds – 73sqm

Plot 9 – 2 beds – 63sqm

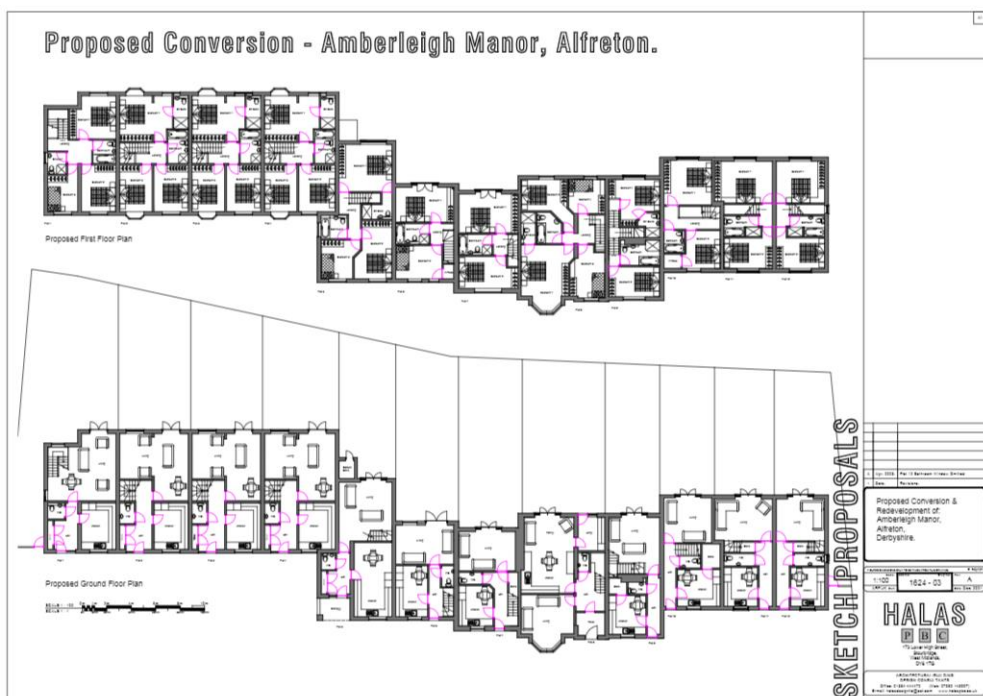
Plot 10 – 2 beds – 40sqm

Plot 11 – 2 beds - 46 sqm

Plot 12 – 2 beds – 51sqm.

Although the garden areas do not all fully meet the guidance criteria, a pragmatic and flexible approach is considered necessary given that the scheme is primarily a change of use. It is necessary to work with the constraints of the existing building and its position to the northern boundary. The SPD recognises that it is necessary to work with local context. All of the private rear gardens would have excellent outlook over open countryside to the north. On balance, the gardens would be private, usable, and not of detriment to the living conditions of future occupants. The gardens are therefore considered acceptable.

Plot 12 has a first-floor east landing window and Plot 1 has a first floor west facing shower room window. In the absence of obscure glazing these windows would overlook the gardens of number 14 Dodgwell Close and 191, 193 & 199 Alfreton Road. A planning condition is therefore recommended to ensure these windows are obscurely glazed and to ensure any opening is at least 1.7m above internal finished floor level of these plots.



Proposed Floor Plans demonstrating 12. No. two-storey terraced dwellings and private rear gardens.

Given the sub-standard garden areas it is recommended that permitted development rights are removed under Part 1 of the Schedule 2 of the GPDO in relation to extensions and outbuildings and other alterations such as porches and roof alterations. This is in the interests of preventing overdevelopment of the gardens, protecting residential amenity and also in the interests of protecting the design character of the building as a whole from different alterations which might otherwise be undertaken by individual occupants without the benefit of planning permission.

The development is considered to have acceptable impacts on residential amenity in accordance with Policy SC3 (n) of the Adopted Local Plan, which seeks to ensure a good standard of amenity is maintained for occupants of existing neighbouring properties and future occupants, including levels of privacy and light, position and avoiding overbearing relationships and adequate provision of amenity space. The proposal is also considered in accordance with Paragraph 130 (f) of the framework, which requires a high standard of amenity for existing and future users.

In respect of noise impacts, the proposal is for a residential use which would be compatible with its residential surroundings. The District Council's Principal Pollution Officer has raised no objection to the development subject to a condition to control construction hours to between 7:30am and 6pm Monday to Friday and between 7:30am and 1pm Saturday. The condition is attached to this recommendation in the interests of protecting local residents from adverse noise during the construction process. The development is considered in accordance with Policy SC11 of the Adopted Local Plan, which requires development proposals to ensure a significant loss of amenity would not occur as a result of development or throughout its construction and operation.

Highway Safety including Refuse Collection

The twelve dwellings are all served by an unadopted track leading from Primrose Hill, the same unadopted track which is approved to serve the 16 dwellings approved under phase 1, and which always served the care home.

The Highway Authority has confirmed no objections to this planning application after considering additional information including refuse vehicle tracking analysis and a site access general arrangement layout, which includes passing places and a footpath. A number of planning conditions have been requested. These ensure that adequate highway visibility splays are provided of 43m in each direction of the vehicular and pedestrian access to Primrose Hill; that parking provision within the development is provide prior to occupation of the development and then retained in perpetuity; a site compound to be created throughout the construction period; and to ensure no bollards or other means of obstruction are installed to the site access. These conditions are attached to this recommendation being necessary in the interests of highway safety.

A condition has been recommended to ensure arrangements for the management and maintenance of the streets within the development will be agreed until such time that a private management company is agreed. This is because the Highway Authority confirms the site will remain private and unadopted. As part of this process the Highway Authority commented that a legal agreement might be necessary to discharge the condition. Officers consider a Section 106 Agreement would not be necessary and that a condition could appropriately deal with this matter. The condition attached to this recommendation requires an approved management and maintenance scheme to be maintained in perpetuity for the lifetime of the development.

A further condition is also necessary to ensure that the internal specification of the access road is improved in accordance with Derbyshire County Council's 6c's Design Guide, and in accordance with a scheme submitted to and approved in writing by the Local Planning Authority. This condition would ensure the private roads within the site are of an acceptable standard to serve the residential development.

Policy ITCR11 of the Adopted Local Plan sets out in Appendix 8.2 the Council's minimum parking standards. Two-three bed dwellings require 2 spaces and four and above bed dwellings require three spaces. A total of twenty-seven car parking spaces are provided within a communal car park area which would be established forward of the principal elevations of the dwellings, together with turning areas. Plots 1-4 have parking directly in front of these units, plots 5-12 would park in a courtyard parking areas. The parking allocation is shown on revised drawing 1624-10 Rev D with two additional visitor spaces also being provided. The proposed parking provision is fully in accordance with and exceeds the requirements of Policy ITCR11, by providing additional visitor parking spaces.

The District Council's Streetscene team has been consulted in respect of refuse collection. Following consideration of swept path analysis, which demonstrates how refuse vehicles could access, turn and enter the site for Phases 1 and 2, no concerns have been raised in terms of the District Council's refuse vehicles being able to access the site. The care home received refuse collection from the building for several years and this would continue for the proposed dwellings.

The District Council's Streetscene team have had some concerns regarding the District Council being liable for any damage caused by the Council's heavy goods vehicles to the

private road. The applicant has therefore agreed to enter into an Indemnity Agreement with the District Council, where the owner gives consent for the Council to access the site and carry out waste collection and Streetscene services. The agreement would ensure that the any damage caused to access roads will be at no fault of the District Council. The layout plan has been revised to ensure each dwelling is provided with 3 bin storage areas, fully in accordance with the District Council's 3-bin collection system and a bin collection point is also provided within the parking courtyard.

In terms of garden collection, with the exception of residential plots 1 and 12, the plots do not benefit from a separate outside pedestrian access between rear and front curtilages, meaning future residents would need to take garden waste through their properties. However, the District Council's Urban Design Officer has commented that it would be reasonable to accept this due to the constraints and nature of the development proposed. The establishment of a long and narrow rear access pathway at the end of gardens is not considered to be the correct answer from a public safety perspective and it is noted that the Force Designing Out Crime Officer has noted the absence of outdoor access to gardens and has not requested a footpath to be provided through consultation. This is an issue of practicality for future residents, who would be aware of the situation prior to purchase, and is not a material reason to recommend refusal. The application has therefore demonstrated that residents could have their bins appropriately collected from the frontage of the properties.

Each plot would benefit from one electric vehicle charging point, the locations of which are shown on revised site layout 1624-10 Rev D. This is in accordance with Policy SC6 of the Adopted Local Plan which supports developments for renewable energy supplies.

With support of the application from the Highway Authority the application has demonstrated a well-designed street/place within the development, which is safe for future users, in accordance with Policy SC3 (e) of the Adopted Local Plan. The development is considered in accordance with paragraph 110 of the framework, which requires safe and suitable access to be achieved to sites for all users.

Biodiversity

The application is supported by a Preliminary Ecological Appraisal prepared by Arborist and Ecological Services Ltd dated 25th October 2021, which has been considered by Derbyshire Wildlife Trust. The report provides the Council with a reasonable level of confidence that protected species will not be affected by the development. Derbyshire Wildlife Trust are not aware of any other features of nature conservation value directly associated with the site or immediately adjacent and there are no records of any protected species.

Derbyshire Wildlife Trust therefore confirms support for the recommendations made in the Preliminary Ecological Appraisal, which is to attach a condition to secure details of biodiversity enhancements for approval. In this instance the condition suggested is to secure the type and location of 2 external Schwegler bat and 2 bird boxes for approval, in order to secure a net biodiversity gain. The condition is attached to this recommendation.

With the requested condition the development would meet the requirements of Policy SC9 of the Adopted Local Plan by providing a net-gain for biodiversity and is in accordance with Paragraph 174 (d) of the framework by minimising impacts on and providing net-gains for

biodiversity.

Flooding and Drainage

The application site is located within Flood Zone 1, an area defined by the Environment Agency as the least likely to flood. As the application site area is less than 1ha (0.26ha), a Flood Risk Assessment is not necessary. This is acceptable as per the advice in footnote 55 of the NPPF. However, as a major planning application the Lead Local Flood Authority (LLFA) has been consulted as a statutory consultee, in order to ensure the development has properly considered its impact on flood risk. Severn Trent Water Ltd has also been consulted in respect of foul sewage connections and surface water disposal considerations.

The LLFA initially raised a holding objection to the development as it was not possible to provide an informed comment until the applicant provided further information on the surface water drainage strategy for the site, in order to demonstrate the site is able to drain and consideration given to space on site required for surface water storage. Over the course of several months the applicant has provided additional information and re-consultation with the LLFA has been undertaken.

Following submission of further information, the LLFA sought confirmation of approval from Severn Trent Water for a connection to the sewer system and a quick storage estimate for underground surface water storage. The applicant's consultant has confirmed that as the site is brownfield, it is likely to have connection to existing sewers and it might be possible to utilise the existing connection. Surface water drainage calculations, including flow controls and attenuation, have also been provided. The consultant also advises that the discharge rates proposed for the site are suitable as the guidance requires a 30% betterment, which the development is providing and exceeding. Following that information, the LLFA has considered that site's drainage plan, and has requested amendments to the drainage design, evidence as to why the greenfield runoff rate cannot be met and why a discharge rate of 3l/s for each discharge point is proposed rather than the greenfield runoff rate for each rainfall event.

Following receipt of the drainage strategy the LLFA confirms no objections to the development subject to planning conditions to secure a management and maintenance plan of the surface water drainage of the site, an assessment to demonstrate that the destination for surface water accords with paragraph 80 of the planning practice guidance, a scheme to demonstrate how surface water run-off will be avoided during construction, and verification that the drainage scheme has been constructed as per the approved scheme. These conditions are attached to this recommendation.

Severn Trent Water Ltd raises no objection to the development and recommends a condition which requires the applicant to submit a foul sewage and surface water disposal scheme. This is in order to ensure the development is provided with a satisfactory means of drainage, to reduce the risk of a flooding problem and to minimise risk of pollution. The condition is attached to this recommendation.

In a separate Clean Water Asset Protection Response, Severn Trent Water advises that there is a 3in water main within the application site and no build over is permitted. In this situation, the applicant/developer are required to submit a Diversion Application for Severn Trent Water Ltd to assess. Severn Trent Water Ltd provides an advisory note on this for the applicant,

which is outside the planning permission process.

The District Council's Drainage Engineer has checked sewer records and confirms no public sewers are within the curtilage of the site and comments that the application should be made aware of the possibility of unmapped public sewers. Advice from Severn Trent Water has been repeated in that the applicant should contact Severn Trent Water to determine any responsibilities in relation to relevant legislation, as a separate matter outside of the planning system.

There is no planning requirement for the applicant to obtain approval of a diversion application prior to any planning permission being granted. Severn Trent Water Ltd has full control over its assets and separate consent would be necessary from Severn Trent Water to build over, near-to or to divert any of its apparatus within the application site. An advisory note is recommended to make the applicant aware of this necessary process.

With no objection raised from the Lead Local Flood Authority and Severn Trent Water Ltd the application is considered to have appropriately considered the effect on flood risk, surface water run-off and foul connections. This is in accordance with Policy SC7 of the Adopted, which states all development proposals will be required to consider the effect of the proposed development on flood risk, both on-site and off-site, commensurate with the scale and impact of the development. The proposals are also considered in accordance with paragraph 167 of the framework, which states that when determining any planning applications, local planning authorities should ensure that flood risk is not increased elsewhere.

Contamination and Unstable Land

As the site is previously developed land and could give rise to land contamination, and since the site lies within the defined Coal Mining Risk Referral Area, the Council's Principal Environmental Health Officer and The Coal Authority have been consulted.

In respect of ground contamination, the Principal Environmental Health Officer raises no objection subject to a conditioned approach to ensure that either any made ground is removed, or a contamination investigation and risk assessment together with remediation and verification is undertaken, if necessary. Further conditions have been recommended by the Principal Environmental Health Officer to ensure that any other areas which are suspected of contamination should be subject to the same process for site investigation, risk assessment and remediation. A final condition is necessary to ensure that any imported soils are tested for contamination prior to importation and only imported in accordance with agreed details. The conditions are attached to this recommendation.

With regards to land stability, the Coal Authority has considered a submitted Mining Investigation Report dated January 2022 from Spilman Associates Ltd. The report confirms boreholes have been drilled. The results are that only thin intact coal seams were encountered, with no evidence of any shallow workings. Following the borehole investigations, the Coal Authority confirms that the issue for coal mining legacy to affect the development has been adequately investigated and raises no objection to the application. In this instance no planning conditions are necessary to secure further site investigations to check the site can be made safe and stable for the development proposed.

The proposals are therefore in accordance with policy SC14 of the Adopted Local Plan, which states development proposals will not be permitted unless it can be demonstrated that any contaminated or unstable land issues will be addressed by appropriate mitigation measures to ensure that the site is suitable for the proposed use and does not result in unacceptable risks which would adversely impact upon human health, and the built and natural environment.

The development is also in accordance with paragraph 183 of the framework, which states planning should ensure that a site is suitable for its proposed use taking account of ground conditions and any risks arising from land instability and contamination. This includes risks arising from natural hazards or former activities such as mining, and any proposals for mitigation including land remediation (as well as potential impacts on the natural environment arising from that remediation).

Rough Close Works Hazard Site

The application site is within the outer consultation zone of the Rough Close Works, South Normanton Hazardous Site, where Policy WC4 requires developments to be in accordance with the Health and Safety Executives land use planning guidance restrictions. The outer consultation zone does not restrict new residential developments, but new buildings should be designed to ensure they are not vulnerable to blast.

The Health and Safety Executive has confirmed through consultation that the proposed development falls within the SD3 distance of the nearby licensed explosives site, but outside the SD2 distance. HSE therefore has no comment to make on the planning application provided that the development is not a vulnerable building. A vulnerable building means a building or structure of vulnerable construction comprising the following:

- (a) a building of more than three storeys above ground or 12m in height constructed with continuous non-load bearing curtain walling with individual glazed or frangible panels larger than 1.5m² and extending over more than 50% or 120m² of the surface of any elevation;
- (b) a building of more than three storeys above ground or 12m in height with solid walls and individual glass panes or frangible panels larger than 1.5m² and extending over at least 50% of any elevation;
- (c) a building of more than 400m² plan area with continuous or individual glazing panes larger than 1.5m² extending over at least 50% or 120m² of the plan area; or
- (d) any other structure that, in consequence of an event such as an explosion, may be susceptible to disproportionate damage such as progressive collapse.

The proposed development does not fall within any of the above categories of vulnerable development. The building is of substantial brick construction, as would the 2 no new build units, and its authorised use is already for living accommodation, albeit for care purposes. The application is therefore considered to be in accordance with Policy WC4 of the Adopted Local Plan and is an appropriate form of development within the outer consultation zone of the Rough Close Works explosives site.

Sustainability Considerations

Paragraph 11 of the framework requires planning decisions to apply a presumption in favour of sustainable development.

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 three sustainability 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 construction phase would benefit the local economy and create jobs. Future occupants would spend in the local economy, benefitting local businesses in the district. The economic objective is 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 locality has a number of services and facilities including a bus service, railway station, convenience store, primary school, medical centre, nursery, care home, church, community centre and country club, which all contribute to the sustainability of the settlement. Blackwell also has good connections to the district's larger settlements, which provide a greater range of amenities and services for future occupants. Twelve well-designed family homes would be provided through the development benefitting future occupants' health, social and cultural well-being. The social objective is 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 development represents the efficient re-use of a vacant and dilapidated building on a brownfield site causing no harm to the built or natural environment, and has no adverse impact on biodiversity, or pollution. The courtyard parking areas would be provided with electric vehicle charging. The environmental objective is met.

Conclusion

The principle of development is acceptable as a housing development contained within the defined development envelope of the settlement of Blackwell in accordance with Policy SC1 of the Adopted Local Plan. Although the proposal will result in the loss of a community facility, there is an alternative care home within a 400m radius of the site, which meets the requirements of Policy ITCR4 of the Adopted Local Plan.

This application has been subject to an up-to-date Viability Assessment which concludes that it would be unviable to provide financial contributions towards education, open space & sport facilities for Phase 2. This is fully consistent with an earlier detailed viability assessment undertaken for Phase 1, which concluded that a development of Phase 2 alone, or a development of Phases 1 and 2 combined, are so finely balanced in terms of viability that they would be unable to afford to make any S106 contributions as applications together or individually – such contributions are simply not viable across the entire site. In this case, it is considered that it is in the public interest to approve the proposals.

The application raises no concerns in terms of the impacts on design and character, trees, residential amenity, highway safety and refuse collection, biodiversity, flooding and drainage, ground contamination and land stability and the Rough Close Works explosives site.

When taking into account with the approval of Phase 1 (20/00166/FUL) a total of 28 dwellings would be delivered on this site. The application therefore represents a sustainable form of development.

RECOMMENDATION

The current application be conditionally approved subject to 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 below:

Revised Site Location Plan and Block Plan - drg no 1624-10 Revision D dated April 2019 (Revised August 2023)

Refuse Vehicle Tracking Layout - drawing 1D dated 24/02/2021

Site Access General Arrangement Layout - drawing 2A dated 24/02/2021

Revised Elevations (plots 1-12) drg no 1624-04 Rev A dated December 2021 (Revised March 2023)

Revised Floor Plans (plots 1-12) drg no 1624-03 Rev A dated December 2021 (Revised April 2023)

Tree Constraints Plan dated 01/05/2023 - Project No 200

Tree Protection Plan - dated 01/05/2023 - Project No 200

Proposed Drainage Strategy - Drawing Number DS001 Rev D dated 06.07.2020 (Revised August 2023)

Land Survey - Drg no 19-1618-1A dated October 2020

3. No development shall commence until drainage plans for the disposal of surface water and foul sewage have been submitted to and approved in writing by the Local Planning Authority. The agreed drainage scheme shall then be implemented fully in accordance with the approved details prior to the first occupation of the development and be maintained in perpetuity thereafter.

4. All construction works must be undertaken only between 07:30am and 6pm Monday to Friday and between 7:30am to 1pm Saturday. No construction work activity on site or deliveries to or from the site shall take place on Sundays and Public Holidays.
5. Before any other operations are commenced the site access shall be modified, laid out and constructed in accordance with a detailed design first submitted to, and approved in writing by the Local Planning Authority. The access shall include proposed passing places as detailed in the application submission, be constructed to base level and be provided with visibility sightlines of 2.4m x 43m in both directions. Prior to the first occupation of any dwelling on site, the permanent new access shall be laid out as approved and the land in advance of the visibility sightlines shall be retained throughout the life of the development free of any object greater than 1m in height relative to the adjoining nearside carriageway channel level.
6. Prior to the first occupation of each dwelling, space shall be provided for the parking of vehicles associated with that dwelling fully in accordance with the approved plans. Once provided the car parking spaces shall be maintained in perpetuity for the lifetime of the development free from any impediment to their designated parking uses.
7. At the commencement of operations on site, space shall be provided within the site curtilage for storage of plant and materials, site accommodation, loading and unloading of goods vehicles, parking and manoeuvring of site operatives and visitors vehicles, laid out and constructed fully in accordance with detailed designs to be first submitted in advance to the Local Planning Authority for written approval. The site compound shall be maintained throughout the entire contract period in accordance with the approved designs free from any impediment to its designated use.
8. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015, or any statutory instrument amending, revoking and/or replacing that Order, the parking spaces to be provided in connection with the development shall not be used other than for the parking of vehicles.
9. Notwithstanding the provision of the Town and Country Planning (General Permitted Development) Order (2015), (or any Order revoking, amending or re-enacting that Order) no gates / bollards / chains / other means of obstruction shall be erected across the approved access unless details have first been submitted to and approved in writing by the Local Planning Authority.
10. No development shall be commenced until details of the future maintenance of the residential access driveways and any footways (including maintenance and management of layout, levels, gradients, construction, surfacing, means of surface water drainage and street lighting) have been submitted to and approved in writing by the Local Planning Authority. The driveways shall thereafter be managed and maintained fully in accordance with the approved management and maintenance details for the lifetime of the development.
11. Prior to first occupation of the development, two no. Schwegler bat boxes and two no. bird boxes must be installed in accordance with a scheme that has first been submitted to and approved in writing by the Local Planning Authority, with photographs of the boxes in situ provided to the Local Planning Authority to discharge the condition. The agreed bat and bird

boxes shall then be maintained in perpetuity.

12. Prior to the first occupation of the hereby approved development any made ground on the site shall be removed, or a contamination investigation and risk assessment of that part of the site shall be undertaken by a competent person in accordance with current guidance and in accordance with a scheme which has been first submitted to and approved in writing by the Local Planning Authority. Where the site investigation and risk assessment shows that contamination remediation is required, a remediation scheme shall be submitted to and approved in writing by the Local Planning Authority. Any approved remediation scheme shall be implemented fully in accordance with the approved scheme and a verification report shall be submitted to and approved in writing demonstrating that the remediation has been carried out successfully prior to the first occupation of the dwellings hereby approved.

13. Where any further suspected areas of contamination are discovered during the development process of the site, the process of site investigation and risk assessment, remediation and verification as described in condition 12 above shall be carried out by a competent person fully in accordance with current guidance and in accordance with a scheme which has first been submitted to and approved in writing by the Local Planning Authority.

14. In the event that it is necessary to import soil onto the application site in connection with the development, prior to any importation soil shall be sampled at source; analysed in a laboratory which is accredited under the MCERTS Chemical Testing of Soil Scheme and the results submitted to and approved in writing by the Local Planning Authority. Any soil imported into the application site shall then be fully in accordance with the agreed soil scheme.

15. Prior to first occupation of plots 1 and 12, the east facing first-floor secondary windows serving plot 12 and the west facing first-floor secondary windows serving plot 1 shall be glazed with highly obscure non-opening glass and any opening shall be top-only and a minimum of 1.7m above internal finished floor level. Once installed the obscure glazing and opening method shall be maintained in perpetuity.

16. Notwithstanding the provisions of Part 1 Class A, AA, B, C, D, E of Schedule 2 of the Town and Country Planning (General Permitted Development) Order 2015 as amended (or any Order revoking and re-enacting that Order) no development as may otherwise be permitted by Class A, AA, B, C, D, E of the Order shall be carried out on the dwellinghouses hereby permitted.

17. Prior to occupation of the development, a lighting scheme, to include details of location, type, height and specification, shall be submitted to and approved in writing by the Local Planning Authority. The agreed lighting scheme shall then be implemented on site fully in accordance with the approved scheme and made available for use prior to occupation of the first dwelling.

18. Prior to any works taking place to the external elevations and roof of the development, the precise external materials to be used in the construction of the development shall be first submitted to and approved in writing by the Local Planning Authority. The development shall then proceed fully in accordance with the agreed external materials and then maintained in perpetuity.

19. Prior to first occupation of the development a scheme of hard and soft landscaping, to include proposed trees within the development, shall be submitted to and approved in writing by the Local Planning Authority. All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the occupation of the dwellings or the completion of the development, whichever is the sooner; and any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.

20. Prior to first occupation, a detailed scheme of boundary treatment shall be installed fully in accordance with a scheme which has first been submitted to and approved in writing by the Local Planning Authority. The agreed boundary treatment scheme shall then be maintained in perpetuity.

21. Prior to the first occupation of the development, details confirming arrangements to allow access on to the new estate road for refuse vehicles (bin lorries), to enable properties to have their bins collected from within the site, shall be first submitted to and approved in writing by the Local Planning Authority. The approved details shall be implemented in full prior to occupation of the first dwelling and be maintained in perpetuity.

22. Before works commence on site details to upgrade the private access road from Primrose Hill to the application building, to bring the private access road in accordance with the Derbyshire County Council's Design 6C's Guide, shall be submitted to and approved in writing by the Local Planning Authority. The agreed private access road improvement scheme shall be completed in full prior to occupation of the first dwelling and be maintained in perpetuity thereafter.

23. No development shall take place until a detailed design and associated management and maintenance plan of the surface water drainage for the site, in accordance with the principles outlined within:

a. Halas Design Ltd. (August 2023). Block/Location Plans. Rev. D.

b. HSP Consulting. (21.08.2023). Drainage Strategy. Rev. D. Drawing No. DS001

c. HSP Consulting. (25.11.2022). Drainage strategy Technical Memorandum. Rev. C. Ref. C3352/TM001.

Including any subsequent amendments or updates to those documents as approved by the Flood Risk Management Team.

d. And DEFRA's Non-statutory technical standards for sustainable drainage systems (March 2015),

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

24. No development shall take place until a detailed assessment has been submitted to and approved in writing by the Local Planning Authority, to demonstrate that the proposed destination for surface water accords with the drainage hierarchy as set out in paragraph 80 reference ID: 7-080-20150323 of the planning practice guidance. The assessment must demonstrate, with appropriate evidence, that surface water runoff is discharged as high up as reasonably practicable in the following hierarchy:

I. into the ground (infiltration);

- II. to a surface water body;
- III. to a surface water sewer, highway drain, or another drainage system;
- IV. to a combined sewer.

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

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

27. The hereby approved development shall be undertaken fully in accordance with the Arboricultural Report, Impact Assessment & Protection Method Statement, Tree Protection Plan and Tree Constraints Plan prepared by Crawshore Arborcare Ltd dated Monday 1st May 2023.

Reasons for Conditions

1. To comply with the requirements of Section 51 of the Planning and Compulsory Purchase Act 2004.
2. For the avoidance of doubt and having regard to the amended and additional documents submitted during the application, in order to define the planning permission.
3. This is a pre-commencement of development condition necessary to ensure that the development is provided with a satisfactory means of drainage as well as to reduce the risk of creating or exacerbating a flooding problem and to minimise the risk of pollution in accordance with Policy SC2 (f) and SC7 of the Local Plan for Bolsover District.
4. In the interests of protecting residential amenity in accordance with the requirements of Policy SC11 of the Local Plan for Bolsover District.
5. This is a pre-commencement of development condition necessary in the interests of highway safety and in accordance with the requirements of Policy SC3 (e) of the Local Plan for Bolsover District.
6. In the interests of highway safety and in accordance with the requirements of Policy SC3 (e) of the Local Plan for Bolsover District.
7. In the interests of highway safety and in accordance with the requirements of Policy

SC3 (e) of the Local Plan for Bolsover District.

8. In the interests of highway safety and in accordance with the requirements of Policy SC3 (e) of the Local Plan for Bolsover District.

9. In the interests of highway safety and in accordance with the requirements of Policy SC3 (e) of the Local Plan for Bolsover District.

10. This is a pre-commencement of development condition necessary in the interests of highway safety and in accordance with the requirements of Policy SC3 (e) of the Local Plan for Bolsover District.

11. To ensure a net-gain for biodiversity, in the interests of protecting biodiversity, in accordance with Policy SC9 of the Local Plan for Bolsover District.

12. To ensure the site is developed free from unacceptable levels of land contamination in accordance with Policy SC14 of the Adopted Local Plan for Bolsover District.

13. To ensure the site is developed free from unacceptable levels of land contamination that might be discovered during the development process in accordance with Policy SC14 of the Adopted Local Plan for Bolsover District.

14. To ensure the site is developed free from unacceptable levels of land contamination from imported soil in accordance with Policy SC14 of the Adopted Local Plan for Bolsover District.

15. To prevent overlooking to the adjacent residential gardens and protect residential amenity in accordance with Policy SC3 of the Local Plan for Bolsover District.

16. To protect the character and appearance of the development and residential amenity from proposals which could otherwise be undertaken without the benefit of planning permission in accordance with Policy SC3 of the Local Plan for Bolsover District.

17. In order to reduce opportunities for crime, fear of crime, disorder and anti-social behaviour in accordance with Policy SC3 (f) of the Adopted Local Plan for Bolsover District.

18. To ensure the satisfactory appearance of the development in accordance with Policy SC3 of the Adopted Local Plan for Bolsover District.

19. To ensure the satisfactory appearance of the development and to provide mitigation for the loss of some trees within the site in accordance with Policies SC3 and SC10 of the Adopted Local Plan for Bolsover District.

20. To ensure the satisfactory appearance of the development and to protect residential amenity in accordance with Policy SC3 of the Adopted Local Plan for Bolsover District.

21. To ensure the dwellings can have their bins collected appropriately, in the best interests of health and highway safety, in accordance with Policy SC3 (e) of the Adopted Local Plan for Bolsover District.

22. This is a pre-commencement of development condition necessary in the best interests of highway safety to ensure the private access road is up to standard to serve the dwellings, in accordance with Policy SC3 (e) of the Adopted Local Plan for Bolsover District.
23. This is a pre-commencement of development condition to ensure that the proposed development does not increase flood risk and that the principles of sustainable drainage are incorporated into this proposal, and sufficient detail of the construction, operation and maintenance / management of the sustainable drainage systems are provided in accordance with Policy SC7 of the Adopted Local Plan for Bolsover District.
24. To ensure that surface water from the development is directed towards the most appropriate waterbody in terms of flood risk and practicality by utilising the highest possible priority destination on the hierarchy of drainage options, in accordance with Policy SC7 of the Adopted Local Plan for Bolsover District.
25. This is a pre-commencement of development condition necessary to ensure surface water is managed appropriately during the construction phase of the development, so as not to increase the flood risk to adjacent land/properties or occupied properties within the development, in accordance with Policy SC7 of the Adopted Local Plan for Bolsover District.
26. To ensure that the drainage system is constructed to the national non-statutory technical standards for sustainable drainage and CIRIA standards C753 in accordance with Policy SC7 of the Adopted Local Plan for Bolsover District.
27. To ensure no harm to trees of significance within the site in accordance with Policy SC10 of the Adopted Local Plan for Bolsover District.

Notes

1. Derbyshire Constabulary's Force Designing Out Crime Officer advises that the approved scheme would need to comply with Building Regulations Approved Document Q in respect of resistance to forced entry. Accordingly, it's unlikely that any of the existing buildings external doors or windows will be able to be retained for future use.

2. In relation to Condition 3, Severn Trent Water advises Planning Practice Guidance and Section H of the Building Regulations 2010 detail surface water disposal hierarchy. The disposal of surface water by means of soakaways should be considered as the primary method. If this is not practical and there is no watercourse available as an alternative other sustainable methods should also be explored. If these are found unsuitable, satisfactory evidence will need to be submitted, before a discharge to the public sewerage system is considered.

Severn Trent Water also advises there is a 3in water main in the application site. No build over is permitted. The applicant, developer or site agent will need to submit a Diversion Application (S185) along with the proposed plans for STW to assess. To request a water map please follow the link:

<https://www.stwater.co.uk/building-and-developing/estimators-and-maps/request-a-water-sewer-map/> scroll down the page to view the link:

Please visit www.digdat.co.uk. You will need to register on the website and then be able to search for your chosen location and get an instant quote online. For more information you can view Digdat's user guide (opens in a new window). Please look at the district area supply plan (PDF) (opens in a new window) to check that your site is within the Severn Trent boundary before requesting an underground asset map. Any correspondence and diversion applications are to be submitted through New Connections. The relevant form can be found on the Severn Trent website, please complete the form as fully as possible.

https://www.stwater.co.uk/content/dam/stw/stw_buildinganddeveloping/Diversion-of-a-Severn-Trent-Water-main.pdf

Information on diversion application charges can be found at:

https://www.stwater.co.uk/content/dam/stw/stw_buildinganddeveloping/new-connections/2020/new-connections-charging-arrangement-20-21.pdf Scroll down the "New Connections Charging" document - 1 April 2020 to 31 March 2021 go to Page 24 Diversion of a Water Asset.

3. Bolsover District Council's Senior Engineer advises sewer records do not show any public sewers within the curtilage of the site. However, the applicant should be made aware of the possibility of unmapped public sewers which are not shown on the records but may cross the site of the proposed works. These could be shared pipes which were previously classed as private sewers and were transferred to the ownership of the Water Authorities in October 2011. All proposals regarding drainage will need to comply with Part H of the Building Regulations 2010. In addition, any connections or alterations to a watercourse will need prior approval from the Derbyshire County Council Flood Team, who are the Lead Local Flood Authority. In addition, any connections or alterations to a watercourse will need prior approval from the Derbyshire County Council Flood Team, who are the Lead Local Flood Authority.

4. Derbyshire County Council Highway Authority advises:

Under provisions within Sections 149 and 151 of the Highways Act 1980, the developer should take all necessary action to ensure that mud or other extraneous material is not carried out of the site and deposited on the public highway. Should such deposits occur, it is the developer's responsibility to ensure that all reasonable steps (e.g. street sweeping) are taken to maintain the roads in the vicinity of the site to a satisfactory level of cleanliness.

Where the site curtilage slopes down towards the public highway provisions within Section 163 of the Highways Act 1980 requires measures to be taken to ensure that surface water run-off from within the site is not permitted to discharge across the footway margin. This usually takes the form of a dished channel or gulley laid across the access immediately behind the back edge of the highway, discharging to a drain or soakaway within the site.

Planning permission does not give you approval to work on the public highway. To carry works associated with this planning permission, separate approval must first be obtained from Derbyshire County Council as Highway Authority - this will take the form of a section 184 licence (Highways Act 1980). It is strongly recommended that you make contact with the County Council at the earliest opportunity to allow time for the process to be completed. Information and relevant application forms, regarding the undertaking of access works within highway limits, are available via the County Council's website www.derbyshire.gov.uk, email

highways.hub@derbyshire.gov.uk or telephone 01629 533190.

The following clause should be included in the deeds of the dwellings to ensure that at no time will adoption of any part of the access road be sought: "The lessee or purchaser shall not at any time, either alone or jointly with others, seek adoption of any part of the driveway intended to serve the development as a highway maintainable at the public expense, it being the intention that same shall at all times remain private up to the point where the same abuts the publicly maintainable highway.

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

5. Derbyshire County Council advises developers should work with broadband providers to ensure NGA broadband services are incorporated as part of the design of new development. However, if it can be shown that this would not be possible, practical or economically viable, in such circumstances, suitable ducting should be provided within the site and to the development in order to facilitate future installation. Guidance on the characteristics of qualifying NGA technologies is available from The Department for Digital, Culture, Media and Sport.

6. In respect of conditions 23 to 26, the applicant/developer is referred to the substantial advisory note contained within the Lead Local Flood Authority's consultation response dated 3rd October 2023.

7. With regards to Condition 20 and a proposed scheme of boundary treatment for the site, the applicant/developer is strongly encouraged to consider the retention and repair of the historic former school wall, wherever possible.

Statement of Decision Process

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

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

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

The pre-commencement of development conditions have been agreed with the applicant's planning agent.

Equalities Statement

Section 149 of the Equality Act 2010 places a statutory duty on public authorities in the exercise of their functions to have due regard to the need to eliminate discrimination and advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it (i.e. “the Public Sector Equality Duty”). In this case, there is no evidence to suggest that the development proposals would have any direct or indirect negative impacts on any person with a protected characteristic or any group of people with a shared protected characteristic

Human Rights Statement

The specific Articles of the European Commission on Human Rights (‘the ECHR’) relevant to planning include Article 6 (Right to a fair and public trial within a reasonable time), Article 8 (Right to respect for private and family life, home and correspondence), Article 14 (Prohibition of discrimination) and Article 1 of Protocol 1 (Right to peaceful enjoyment of possessions and protection of property). It is considered that assessing the effects that a proposal will have on individuals and weighing these against the wider public interest in determining whether development should be allowed to proceed is an inherent part of the decision-making process. In carrying out this ‘balancing exercise’ in the above report, officers are satisfied that the potential for these proposals to affect any individual’s (or any group of individuals’) human rights has been addressed proportionately and in accordance with the requirements of the ECHR.

PARISH South Normanton Parish

APPLICATION Residential development comprising 52 no dwellings, with associated access, infrastructure, amenity space, boundary treatments, landscaping and external works.

LOCATION Land to the rear of 1 To 35 Red Lane South Normanton

APPLICANT The East Midlands Housing Group working with Village Partnerships Ltd

APPLICATION NO. 22/00485/FUL **FILE NO.** PP-11458953

CASE OFFICER Mr Peter Sawdon

DATE RECEIVED 16th September 2022

SUMMARY

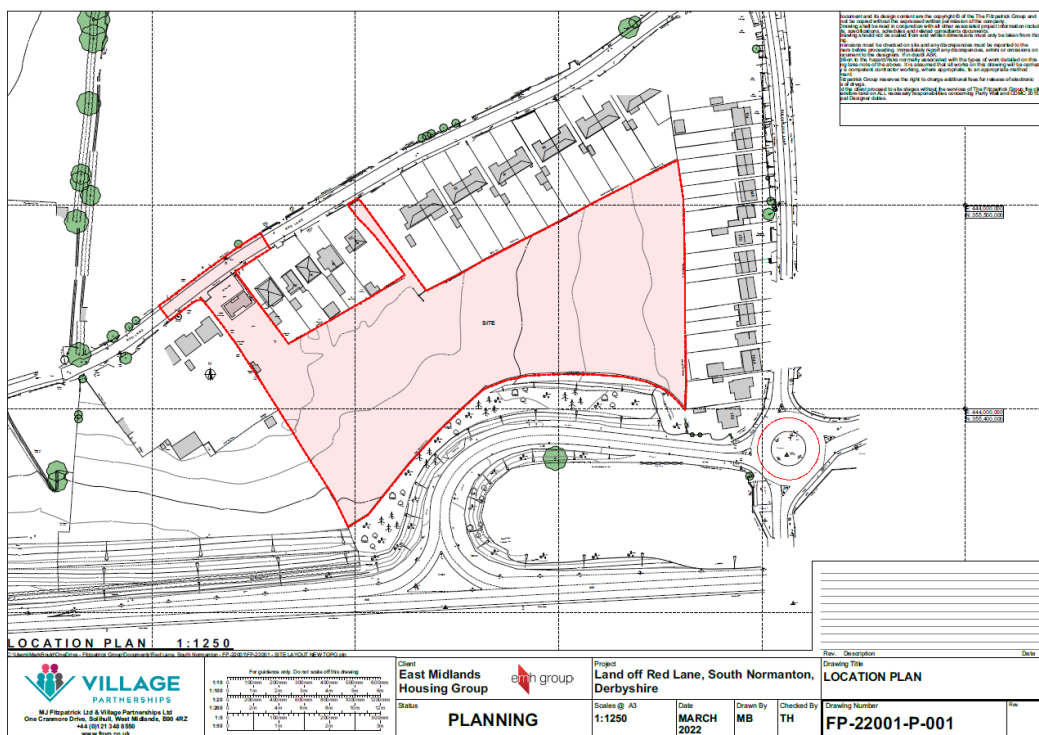
This application has been referred to the Planning Committee for two reasons: -

- The number of representations received; and
- financial viability issues, meaning full S106 contributions are not able to be offered.

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

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

Site Location Plan



SITE & SURROUNDINGS

Approximately 11.822ha Greenfield site that is mostly within the development envelope that is to the south of Red Lane, west of Birchwood Lane and to the north of the A38 slip road. A triangular section to the southwestern tip of the site, which is approx. 2.29ha in size, is located outside of the development envelope. The parts of the site within the development envelope form a housing allocation that has been subject of previous planning permissions.

The site has recently been used as horse paddock (no horses at time of site visit) and is crossed north-south by public footpath No 7 which has been unofficially blocked off for several years at both ends of the site. The line of the path is marked by a hedgerow to one side and is a single width farm track with a farm gate to Red Lane and to the paddock.

There is a mix of dwelling types adjacent to the site although predominantly single storey dwellings along Red Lane and 2-storey dwellings on Birchwood Lane. The area is characterised by red brick with grey roofing tiles, although some roofs are topped with orange/red clay or concrete roof tiles. Windows tend to be white and installed using either timber or white uPVC frames.

Existing trees and vegetation are located on the southern boundary to the A38 slip road which provides a visual screen. Ground levels drop to the southwest of the site and whilst there is a significant embankment to the A38, road noise is still quite noticeable from this direction beyond the site. There are dwellings located between the slip road and the A38 and beyond the A38 is existing employment land. There are fields/paddock to the south-west.

Access to the site is currently available via two dropped crossings: -

1. A grass track on the line of the public footpath; this access is currently gated and locked; and
2. A dropped crossing on the site of a former dwelling at no 35 Red Lane, which has been demolished; this access is currently closed using temporary 'Herras' fencing.



PUBLIC FOOTPATH LEADING INTO THE SITE FROM RED LANE.



SITE OF FORMER 35 RED LANE WHERE VEHICULAR ACCESS IS PROPOSED.



VIEW FROM POINT WHERE PUBLIC FOOTPATH ENTERS MAIN SITE LOOKING SOUTHEAST AND SHOWING REAR OF DWELLINGS FRONTING BIRCHWOOD LANE TO THE LEFT AND TREES ALONGSIDE A38 TO THE RIGHT.

PROPOSAL

The development will offer the provision of 52 general needs properties comprising 8 no. 1B2P* walk-up apartments, 18no. 2B4P*, 24no 3B5P* and 2no 4B8P* houses. All the units will be offered as affordable accommodation, with a broadly equal mix of both intermediate tenure (shared ownership) and affordable rent.

**B = bed; P = person*



The development will come forward with the assistance of Homes England Grant Funding. In terms of viability, in view of the limited sales income, and ongoing need to recycle these funds, no Section 106 developer contributions are envisaged to be payable by the applicant, except for maintenance sums for the proposed play space that is intended to be offered for adoption.

The Design and Access Statement states that the development has been designed to respond to the surrounding context, creating a modern infill residential development within its location and established context.

Access to the site is proposed from where 35 Red Lane once stood (now demolished).



EXAMPLE HOUSE TYPES



PROPOSED APARTMENT BLOCK

Supporting Documents

The following documents were submitted to support the application at the time of submission:

- Completed Planning Application Forms and Certificates.
- Full suite of architectural drawings (prepared by Village Partnerships Ltd): -
 - FP-22001-P-001 – Location Plan
 - FP-22001-P-002 – Site Layout as Proposed (1:500th scale at A1)
 - FP-22001-P-003 – Enlarged Site Layout as Proposed (1:200 – 1 of 3)
 - FP-22001-P-004 – Enlarged Site Layout as Proposed (1:200 – 2 of 3)
 - FP-22001-P-005 – Enlarged Site Layout as Proposed (1:200 – 3 of 3)
 - FP-22001-P-006 – Indicative Street Scene 1
 - FP-22001-P-007 – Indicative Street Scene 2
 - FP-22001-P-008 – Indicative Street Scene 3
 - FP-22001-P-009 – Indicative Street Scene 4
 - FP-22001-P-010 – Indicative Street Scene 5
 - FP-22001-P-011 – Indicative Street Scene 6
 - FP-22001-P-012 – Indicative Street Scene 7
 - FP-22001-P-013 – Indicative Street Scene 8
 - FP-22001-P-014 – Site Appraisal/Concept Layout 1
 - FP-22001-P-015 – Site Appraisal/Concept Layout 2
 - FP-22001-P-016 – Site Appraisal/Concept Layout 3
 - FP-22001-P-200 – House Type 1A (1B2P - Walk up Apartments)
 - FP-22001-P-201 – House Types 1A, 2B and 2B
 - FP-22001-P-202 – House Type 2B
 - FP-22001-P-203 – House Type 2C
 - FP-22001-P-204 – House Type 2D
 - FP-22001-P-205 – House Type 2E
 - FP-22001-P-206 – House Types 2A and 2D
 - FP-22001-P-207 – House Type 3A

- FP-22001-P-208 – House Type 3B
- FP-22001-P-209 – House Type 3B (1)
- FP-22001-P-210 – House Type 3B (2)
- FP-22001-P-211 – House Type 3C – 3 Block
- FP-22001-P-212 – House Type 3C
- FP-22001-P-213 – House Type 3D
- FP-22001-P-214 – House Type 3D – Feature Building
- FP-22001-P-215 – House Types 3B and 3C
- FP-22001 – Design and Access Statement (incorporating Planning Statement)
- Greenhatch Group – Drawing No. 43815_T - Topographical Survey (A1).
- Banners Gate – 22105-BGC-Sk-100 – Schematic Drainage Layout.
- Banners Gate – 22105-BGC-Sk-101 – External Levels & Features Plan (1 of 2).
- Banners Gate – 22105-BGC-Sk-102 – External Levels & Features Plan (2 of 2).
- Banners Gate – 22105-Single Plot Soakaway Calculations 2022.08.18.
- Banners Gate – 22105-Surface Water Network 2022.08.18.
- Phase 1 Preliminary Ecological Assessment (SouthNorm0622-PEA) – as prepared by Dr Stefan Bodnar BSc (Hons) PhD MCIEEM.
- Pre-development Tree Survey to BS 5837:2012 – as prepared by Dr Stefan Bodnar BSc (Hons) PhD MCIEEM (May '22).
- Arena Geo – Phase 1 & 2 Preliminary Ground Investigation – Report Reference 211043/1 – July 2022.
- BEA Landscape Design Ltd – 22-088-Sk-01@A0 – Landscape Strategy Proposals.
- Transport Assessment – as prepared by Hub Transport Planning (Aug '22).
- Flood Map for Planning – as downloaded from the EA website and accompanying FRA Report as prepared by Banners Gate.

AMENDMENTS/UPDATES

23/09/2022 –

- Permeability testing

26/06/2023 –

- Revised suite of architectural drawings
 - 001 REV C Revised Proposed Site Access Layout
 - 002 REV C Revised Proposed Site Access Swept Path analysis
 - 004 Revised Proposed Site Access Swept Path analysis
 - 22-088-P-01 Revised Detailed Soft Landscape Proposals (SHEET 1 OF 3)
 - 22-088-P-02 Revised Detailed Soft Landscape Proposals (Sheet 2 OF 3)
 - 22-088-P-03 Revised Detailed Soft Landscape Proposals (Sheet 3 OF 3)
 - 22105-BGC-D-SK-100C Revised Schematic Drainage Strategy Plan
 - 22105-BGC-D-SK-101B Revised External Levels & Features Layout Plan Sheet 1 Of 2
 - 22105-BGC-D-SK-102B Revised External Levels & Features Layout Plan Sheet 2 Of 2
 - 22105-BGC-D-SK-221B Revised Schematic Infiltration Basin Cross Sections
 - 1172 4 Revised Landscape & Ecological Enhancement Scheme
 - FP-22001-P-101 REV P16 Revised Site Layout as Proposed (52 No. Dwellings)

- FP-22001-P-117 REV P0 Revised Walk-Up Apartments (Plot No's 34-41 Inclusive) - Elevations & Floor Plans
- FP-22001-P-204 REV P0 Revised 2b4p House Types 2d - Elevations & Floor Plans
- FP-22001-P-206 REV P0 Revised 2b4p House Types 2a & 2d - Elevations & Floor Plans
- FP-22001-P-207 Revised House Types 3a - Elevations & Floor Plans
- FP-22001-P-209 Revised House Types 3b(1) - Elevations & Floor Plans
- FP-22001-P-212 Revised House Types 3c - Elevations & Floor Plans
- FP-22001-P-214 Revised House Types 3d Feature Building - Elevations & Floor Plans
- FP-22001-P-215 Revised House Types 3b & 3c - Elevations & Floor Plans
- Revised Design and Access Statement
- Revised Flood Risk Assessment
- Revised baseline noise assessment
- Revised Biological Impact Assessment
- Revised Biodiversity Metric Calculation
- Revised Surface Water Network
- Response to Environmental Health Officer comments
- Revised Rambler Association Overlay
- VRP1526 - RSA 1 Revised Section 38 Highways Works Stage 1 Road Safety Audit Report

29/06/2023

- Revised house type drawings
 - FP-22001-P-111 REV P0 Revised 2B4P House Type 2B & 2A* - Elevation and floor plans
 - FP-22001-P-118 REV P0 Revised 4B8P Detached Houses Type 4A* & 4A (Plots 14 & 52) - Elevations & Floor plans
 - FP-22001-P211 House Type 3a* & 3a - Elevations & Floor Plans

17/08/2023

- 22-088-P-01-B Soft Landscape & Play - Sheet 1
- 22-088-P-02-C Soft Landscape & Play - Sheet 2
- 22-088-P-03-B Soft Landscape & Play - Sheet 3
- 1172BIA Rev 1 Biological Impact Assessment 29th June 2023 Revised 16th August 2023
- 1172.4 Rev 1 Landscape and Ecological Enhancement Scheme
- Biodiversity Metric 4.0 Calculation Tool
- Acoustics Design Note

12/10/2023

- FP-22001-P101 revised layout proposals (N.B. this plan is submitted to correct a typo and contains no further amendments to the previous submission)

BACKGROUND PAPERS

- Viability assessment by CPV Viability Ltd, commissioned by Bolsover District Council, dated ref. DN-0898, dated 6th October 2023.

EIA SCREENING OPINION

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

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

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

HISTORY

02/00639/OUTMAJ	Refused	Demolition of bungalow and erection of dwellings with new roads
04/00195/OUTMAJ	Withdrawn	Residential Development (including demolition of no 35 Red Lane for access)
06/00789/OUTMAJ	Granted Conditionally	Residential development (including demolition of no. 35 Red Lane for access road)
10/00169/VARMAJ	Granted Conditionally	Residential development (extension of time period for start of previously approved scheme 06/00789/OUTMAJ)
13/00162/VARMAJ	Granted Conditionally	Extension of time for start of previously approved application for Residential development- 10/00169/VARMAJ
14/00397/OTHER	Granted Conditionally	Application for modification of S106 Agreement regarding affordable housing provision
16/00003/REM	Granted Conditionally	Erection of 50 dwellings and associated estate roads and access from Red Lane (Layout, Scale, Appearance, Landscaping and Access).
16/00231/OTHER	Permitted	Variation of S106

CONSULTATIONS

Bolsover District Council Drainage Engineer

07/10/2022 –

1. Subject to acceptance of the SuDS design by DCC (LLFA), we must ensure the developer submits an Operation and Maintenance Plan (in accordance with section 32 of the SuDS Manual) which provides details of the arrangements for the lifetime management and maintenance of the SuDS features together with contact details (a copy to be kept by Engineering Services).
2. The sewer records show a public sewer within the curtilage of the site (plan enclosed). The applicant should also be made aware of the possibility of unmapped public sewers which are not shown on the records but may cross the site of the proposed works. These could be

shared pipes which were previously classed as private sewers and were transferred to the ownership of the Water Authorities in October 2011. If any part of the proposed works involves connection to / diversion of / building over / building near to any public sewer the applicant will need to contact Severn Trent Water in order to determine their responsibilities under the relevant legislation.

3. All proposals regarding drainage will need to comply with Part H of the Building Regulations 2010.

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

Bolsover District Council Environmental Health

28/09/2022 –

- Results of further gas testing needed to be submitted for further consideration;
- Further submissions needed in respect of noise controls; and
- Conditions recommended regarding construction controls including hours of operation and noise and dust mitigation.

14/12/2022 – Submitted gas testing results are considered to be acceptable and recommends conditions to ensure submission and implementation of appropriate mitigation measures for the contamination risks identified in the submitted documentation (amended condition wording 22/12/2022)

04/07/2023 – I would advise that the noise report is updated to reflect the further layout changes.

I would also like to see assessment of the LMAX levels upon the existing property to the north of the site adjacent to the main site access. I would advise that further information is submitted in regards overheating strategies in properties where windows cannot be left open (habitable rooms overlooking the dual carriageway).

18/09/2023 (2 responses) –

- 7.3.1 of the original noise report confirmed that habitable rooms overlooking the A38 will require an overheating risk assessment, on the basis that windows overlooking the A38 will need to be closed to achieve reasonable internal levels.
- In regards the proposed barrier, in the absence of any detail relating to the barrier height and relative source/receptor locations, I would advise that a 1.8 m acoustic fence is installed along this boundary, and then my concerns will be addressed.
- Recommends a condition to deal with the above issues.

Bolsover District Council Leisure Services

21/10/2022 - Amendments and/or contributions will be required to ensure adequate provision is made. Green Space and play provision under the requirements of policy ITCR5. Contributions towards built and outdoor sports facilities are also required under policy ITCR7. Comments are also made regarding the potential to improve footpath and cycle usage, including the improvement to the line of Public Footpath 7 that crosses the site.

10/08/2023 - There appear to be two slightly different designs, both of which have their merits. Prefer the play area design v1 (February 2023) but note that there is an additional path on the eastern side of the play area on v2 (June 2023). The link path through the play area on the original design provides better access to the play area, but only from one side.

However, on balance I would go with the first version with a few caveats:

1. Fencing to the boundary should be bowtop, 1m or 1.2m high.
2. All paths should be tarmac
3. FP7 should be connected to Berristow Lane via the detention basin (again, ideally as a tarmac path)
4. I would be happy to comment on a final design for the play area – ideally metal equipment rather than wooden.

12/09/2023 – Would need any paths that would be adopted by the Council to be tarmac and not gravel. Adoption would be subject to a suitable maintenance sum being agreed as part of any S106 Planning Obligation.

Derbyshire County Council (Flood Risk Management)

26/10/2022 - Holding objection pending submission of further information to enable an informed comment to be made.

18/09/2023 – no objections subject to conditions relating to:

- Approval of detailed designs and management and maintenance plan for surface water drainage.
- Approval of final destination for surface water.
- Approval of avoidance measures for surface water run-off during the construction phase.
- Validation of any installed drainage scheme, to ensure that it meets its design objectives.

Guidance notes to inform the above conditions are also recommended.

Derbyshire County Council (Highways)

18/10/2022 – Suggested alterations to the proposed site access and internal layout.

11/08/2023 – Now considered that the development site as a whole is acceptable to the highway authority and the road is suitable for potential future adoption.

It is noted that an existing PRow (footpath no. 7 on the Definitive Map) runs through the application site up to the southern boundary of the site. This footpath is severed from its legal alignment at the southern site boundary due to the construction of the A38 slip roads some years ago. The application does refer to an option to divert the alignment of the footpath through the site and to end the path at the furthest south easterly point of the site boundary. Whilst this is welcomed, the realignment footpath route, as shown on the latest site layout plan (FP – 22001 -P101 Rev P16) indicates that the path would come to a dead end where the site meets the publicly maintainable highway. It is requested that the applicant modify the application site boundary (red line plan) to include a link from the south-eastern corner of the site to the verge adjacent to the slip road and then easterly to meet the existing footway

network at the roundabout with Birchwood Lane and for a new path to be constructed along that alignment to provide a continuous link through the site and on to the existing footway network. This work would require the applicant to enter into a legal agreement with Derbyshire County Council under S278 of the Highways Act 1980 to construct the path within highway limits. The internal realigned footpath can be included within the extents of the future adoptable publicly maintainable highway covered within the S38 agreement.

The internal footpath shall be constructed to adoptable standards and be included within the S38 agreement for the future adoption of the internal roads/footways. It is also requested that the applicant waive all rights to compensation from the highway authority for the provision of the public footpath within the applicant's land; a suitable legal mechanism can be agreed but it is suggested that this is achieved via a S106 agreement.

It is requested that the diversion of footpath no.7 is undertaken under the relevant powers within the Town and Country Planning Act 1990.

Derbyshire County Council (Planning Policy)

07/10/2022 -

- There is sufficient capacity in the local schools, so no education contribution is sought.
- Recommend advisory note regarding the provision of high-speed broadband connection for future residents.
- Is seeking a contribution of £4,280 towards stock at the local library equivalent to the extra demand on that service from the development (with additional monitoring fees).
- Encourage dwellings with high standards of amenity and flexibility for existing and future users and having a proportion of dwellings built on one level (stacked or bungalow) and ensuring this type of provision is located near public transport routes and/or urban centres.

Derbyshire County Council (Rights of Way Officer)

13/10/2022 – Site is crossed by Public Footpath No. 7 that appears to have become a cul-de-sac in the later 1960's when the A38 was built and has been obstructed for many years. Would welcome reinstatement of the path and recognises the potential for the creation of a connection to Birchwood Lane. Possible diversion shows path alongside roads; a preference for paths to be through landscaped or open areas away from vehicular traffic is stated. Advisory notes suggested.

28/07/2023 – Question as to whether this Authority would be prepared to use S257 of the Town and Country Planning Act 1990 (As amended) to divert footpath 7.

10/08/2023 - The revised layout is much improved from the point of view of South Normanton Public Footpath No. 7. However, the details of boundary crossings, the width and surfacing of the length of footpath 7 through the site, and suitable safety mitigation measures where footpath 7 crosses the spine road, must be agreed with the Rights of Way Section prior to works commencing, as a condition of any permission.

With regards to the proposed path which would run from footpath 7 at the southern site boundary, to the south-east corner of the site, the applicant must enter into an agreement to make this path a public right of way, also as a condition of any permission. This is to ensure

that linking footpath 7 to Birchwood Lane remains a possibility, as the new public path would join highway land at the south-eastern boundary of the site. The details of the proposed path, such as precise location, width and surfacing would be agreed as part of the creation agreement.

Derbyshire Wildlife Trust

24/10/2022 - Additional information is needed as sufficient regarding biodiversity has not been provided at this stage including the submission of a biodiversity net gain matrix.

07/08/2023 – Changes required to bring the submitted biodiversity metric in line with latest guidance.

25/09/2023 – No objections subject to conditions.

Force Designing Out Crime Officer

05/10/2022 – Concerns about treatment of retained footpath, including a preference to retain this on its existing route due to concerns with the alternative route. Suggestions for other layout improvements to improve crime prevention.

10/07/2023 - Generally the revised detail is acceptable.

Still has reservations about the proximity of a potentially realigned footpath 7 route to 166 and 168 Birchwood Lane, also concerning the added link into the cul-de-sac between apartment block 34-31 and plots 30-33, which I expect will weaken residential ownership of this semi-private space.

Effective boundaries will go some way to lessen this, and as none are included with the application, I'd ask that this should be set as a condition of approval for details to be agreed subsequently.

Health and Safety Executive (HSE)

23/09/2022 - The site does not currently lie within the consultation distance of a major hazard site or major accident hazard pipeline.

7/10/2022 – The HSE Explosives Directorate has stated “that the proposed development falls within the SD3 distance of the nearby licensed explosives site, but outside SD2 distance. HSE therefore has no comment to make on the planning application provided that the development is not a vulnerable building.

“Vulnerable building” means a building or structure of vulnerable construction, that is to say—

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

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

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

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

National Highways

12/10/2022 - recommend that planning permission not be granted pending submission of additional details to enable further consideration of the impacts on the adjoining trunk road.

20/12/2022 - No objections, subject to advisory note.

05/06/2023 – No objections; general comment made regarding national objectives to support modal shift away from car travel by promoting genuine choice of transport modes and promotion of walking, cycling, and public transport. Recommends advisory note re drainage and comments regarding ensuring proposed acoustic/boundary fence.

05/07/2023 – No objections subject advisory note regarding drainage; comments made that the submitted and levels boundary treatments accord with their requirements and general advice relating to the need to encourage modal shift from cars.

NHS

10/10/2022 –

[CCG] – Local practice facilities are collectively fully utilised and so seeking a contribution of £55,080 towards increased capacity at local surgeries in local catchment area: -

- The Village Surgery South Normanton and Pinxton
- Blackwell Medical Centre
- Limes Medical Centre
- Parkside Surgery
- Jessop Medical Centre
- Somercoates Medical Centre

12/07/2023 –

[Chesterfield Royal Hospital] - Section 106 impact on health to be considered. Initial modelling suggests that the impact of this development is up to £81k.

Ramblers Association

26/09/2022 - We note that South Normanton FP 7, (part), runs approximately north south through the area of proposed development. We further note the comment in the Design and Access Statement purporting to the fact that this footpath has been effectively closed for an indeterminate period. Additionally, the ongoing section of the Footpath South Normanton 7 has been built over at some time in the past where it passes through the buildings of the residence referred to as Little Orchard.

Our organisation would welcome the reinstatement of the footpath including rerouting of the southern section of the path around the southern edge of the levelling pond. It is suggested that this would provide access to the wider footpath network and thus encourage a healthy lifestyle for all future residents of the development. Should this option be taken then a DMMO would be required to effect the change and complete the reinstatement of the path from the point where it leaves the curtilage of the development. We would request that wherever possible the character of the footpath be maintained and the use of tarmac surfaced path be kept to a minimum.

Should the option to divert the path be taken then we would request that we be given chance to comment further. Please note, we would be minded to strongly object to any proposal to extinguish South Normanton FP 7.

03/07/2023 - revised drawing does not detail how the path will be preserved or the nature of its immediate surroundings. Also concerned as to how the path would be linked to the wider footpath network. We further appreciate that the developer is only able to control that section of the footpath that crosses the site and that the problems associated with the ongoing section of the path is the responsibility of others. The fact remains that the current plans require an access road to be built over a short section of the path. Provisions should be made to ensure walkers using the path may cross this road safely. Basically our comments remain as for the original submission. We would endorse fully the comprehensive suggestions as presented by the RoW submission.

Severn Trent Water

12/10/2022 – Foul and surface water are proposed to connect to public sewers; these will need to be subject to connection agreements with the water company. Under Planning Practice Guidance and Building Regulations sustainable alternatives for surface water drainage should be considered before a discharge to the public sewer system is considered.

Although re-consulted further to later amendments, no further responses have been received.

South Normanton Parish Council No comments received.

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

PUBLICITY

Initial publicity was undertaken by site notice, press advert and 47 neighbour letters. 35 individual representations were received (3 of which were from the same resident)

Following the submission of revised plans, further re-publicity by site notice and neighbour letters was carried out which resulted in the receipt of a further 15 letters; 10 of these were further letters from individuals had previously commented and 5 were from additional residents.

The representations received have raised the issues included in the following summary: -

Principle

- Two writers state that it is accepted that development will go ahead or that they accept housing behind them, but there are specific concerns about the submitted plans (listed separately).
- See the need for new housing, but this should go on brownfield sites.
- Do not need any more new houses in our once village but now more like a town.
- Loss of countryside/rural character of the area. Surely with other developments in the area, enough green land has already been lost. Will affect the essential character of this rural lane. south Normanton is already over developed.
- Brownfield sites should be preferable.
- Is the local infrastructure (schools, doctors and dentists) going to be able to cope with the extra load? Doctors, dentists and Kings Mill hospital already oversubscribed. Dentist list is often closed to new NHS customers. School has previously had to rely on portable buildings; increased population has not led to an increase in space at the

school. Secondary School already claims to be 'oversubscribed' so children may be forced to travel elsewhere for education. Shortage of play areas.

- Capacity for BT Openreach is already stretched due to old infrastructure and the current refusal of BT Openreach to upgrade the network cable.
- "Affordable housing" is a very subjective term, and the fact that the area is so close to the commuter-friendly M1 seems to make it quite desirable - and perhaps "affordable" only to more affluent clients.
- Concerns regarding crime prevention – area is virtually crime and anti-social behaviour free. Including a footpath off Red Lane would encourage anti-social behaviour and crime by providing an easy escape/access route either into or from the new estate. Presume cannot guarantee this will not change. Residents should be compensated for any additional security measures that will be needed.
- Concern at the lack of fencing or lighting on the line of the public Right of Way.
- Take issue with the inclusion of a dead end with the sole intention of using this as a future access point to another development to the west of the ménage.
- Poor access to local public transport.
- Don't consider the reduction in dwellings in the revised plans to be sufficient and there should be a further sizeable reduction.
- Concerned about the accuracy of descriptions of the housing in the locality in the Design and Access Statement submitted with the application (refers to late sixties housing, whereas those bordering the site were built between 1926 and 1939).

Amenity

- Overlooking and loss of light from proposed dwellings and users of proposed footpaths.
- Noise and pollution impacts. Including fumes from extra vehicles. Air quality will be harmed.
- 2/3 storey houses overlooking single storey bungalows means loss of privacy.
- HGVs constantly in and out of the site.
- Residents will suffer during and after the development is completed.
- An annexe on an adjoining property (that is 1m from the boundary with windows overlooking the site) has not been shown on the submitted drawings; concerns about impacts of the development on the structure from the adjoining balancing pond; who will be responsible should damage occur. Amenity path around the pond would allow people to walk no more than two metres away from bedroom windows; is this allowed under planning regulations?
- Noise and fumes for residents of the new dwellings due to proximity to A38 will expose people to danger. On previous application houses couldn't have opening windows and outdoor space could have noise and hazardous pollution levels.
- Loss of outlook/view.
- Increase in stress for residents and resultant impacts on health.
- What protection will be given to an Oak tree on the border of 43 Red Lane. How will building a road over its roots preserve this tree?
- Loss of ambience. The area is semi-rural with nearby stables with regular use by horses on Red Lane; conflict will arise between cars and horses. We whole essence and friendly ambience will be lost. Impact on peace and tranquillity currently enjoyed. Will impact on health and wellbeing.
- Concerned at the prospect of diverting the public footpath adjacent to existing

residential properties in terms of both amenity and crime prevention considerations.

Ecology

- Concerns for wildlife in the area. Impacts on wildlife including protected species. Affected species include grass snakes, great crested newts, birds, rabbits, foxes, buzzards, sparrow hawks, kestrels, foxes, partridge, and bats; either inhabiting the site and/or using the site for foraging/hunting.
- Fifth major housing project nearby since we bought our property; development will displace/reduce wildlife and hedgerows further.
- Once wildlife is lost it will not be able to be restored as the permanent damage will be irreparable.
- Bolsover Council website says that 2023 is “the year when we prioritise Local Nature Recovery”. In the Biological Impact Assessment (June 2023) of this application, biodiversity actions including bat roost boxes, wildlife pond, & hibernacula environments for amphibians & reptiles are mentioned as desirable but are they mandatory requirements? If not, why not? What happens to that wildlife if the development is built & these things do not happen? What if there is now no room for the wildlife pond etc? Too late then. Grass snakes, bats, & great crested newts are mentioned but what about the environment of birds, foxes, & rabbits? They deserve somewhere to live too. Priority for wildlife in remaining land should be mandatory – almost all the fields there were around Birchwood Lane have been built on over the years – leaving some land for nature is the least we can do.
- Concern as to whether the proposed ecological enhancements will be properly delivered, managed, and maintained.

Highway Safety

- The traffic on Birchwood Lane is shocking a lot of the time due to access to the nearby motorway, trunk road and industrial estates. Will add to existing congestion on Red Lane and Birchwood Lane.
- Red Lane is a narrow cul-de-sac. Development will result in a large increase in traffic on it, increasing vehicle pollution (fumes and noise). Traffic is in addition to smaller developer that has recently been undertaken. As a lane and bridle foot path it is not built to cope with a possible extra 120 cars plus delivery and service vehicles etc.
- The existing road is improperly surfaced, country style lane. Doesn't have a suitable turning head. Concern generally at the quality of maintenance of the existing highway.
- Extra traffic will be a hazard to horse riders that use the lane.
- Conflict with pedestrians (dog walkers, family groups).
- All fire, police and ambulance and emergency vehicles would have to go up to top of Red Lane and then down into the bottom of the development.
- Road surface on Red Lane is not great and the development will damage this further.
- Junction of Red Lane with Birchwood Lane is a bottle neck that would not support the amount of traffic. This junction is already an accident waiting to happen. It's location between two roundabouts makes adds to safety issues with traffic speeding up as vehicles turn onto the lane.
- Existing issue with parked cars at the junction of Red Lane forcing vehicles into the middle of the road near to the junction (parking from nearby houses with no off-road parking)
- Far too many houses for the Lane and an alternative access needs to be found that is

not taken from Red Lane.

- Can't believe access road is suitable.
- The top of Birchwood Lane is a known black spot and dangerous for children crossing the roads.
- Already difficult for vehicles exiting private drives.
- Priority emergency services route and very near to junction 28 of the M1 which is already very congested far too often, with very long delays (problems have been subject to various televised reports etc.). This could cause serious problems if emergency vehicles are affected any more.
- Question the estimates for journeys that are made in the Transport Assessment.
- Existing problems with lorries and delivery vehicles unable to turn on Red Lane; they often use Michael's Meadow at the end of the lane, but this is a private road that gets damaged as a result.
- New access arrangements would be difficult for large vehicles to navigate.
- Mud on the highway.
- Concerns also that the construction traffic will have an impact on the underground services given that building material delivery vehicles are typically in excess of the 7.5-ton weight limit.
- Problem for emergency services accessing the single access road into the site; alternative access arrangements should be considered.
- Forecasts of vehicular movements in the Transport statement (one car every two minutes between peak times) are conservative and unrealistic.
- Consider that the images used in the submitted documents do not show the correct situation with existing on-street car parking.
- Do not consider diversion of the public footpath alongside the A38 slip road to be appropriate given the nature and volume of traffic on that highway.

Water Supply and Drainage

- Water Supply and sewers aren't sufficient to take anymore dwellings.
- Existing problems with water pressure and air pockets, along with dirty water in the system that Severn Trent are aware of but haven't yet sorted; development will only make issues worse.
- Ground is basically clay and in heavy rain, does not drain well.
- Existing sewerage problems with individual properties and alongside Birchwood Lane near the development site. At least one part of the sewer is slightly collapsed.
- Flooding issues.
- Loss of natural rain absorption on the site will increase flooding risk.
- Gardens have flooded in past heavy rainstorms. Development of the field would result in additional water run-off onto neighbouring property.
- Concern relating to sewage outflow potentially connecting into a 6" sewer pipe that extends at the rear of houses from the A38 slip road to an outlet at the bottom of Red Lane; foresee this creating major problems for residents on Birchwood Lane.
- Historic issues with site owners being unable to buy rights to access sewers overcome by purchasing rights in advance, but this will cause problems for future residents of that dwellings, as well as its neighbours.
- Existing issue with surface water runoff will be worsened due to shallow soils overlaying clay; developer off Lonwood Hall Rise had to install additional drains in the

highway to eliminate some of the problem.

- Additional traffic will result in damage to sewers in the road.
- Concern about connections on private property where there are existing foul sewerage issues.
- Who will pay for any damage that may result?

Other

- Animal welfare from access road alongside horse paddocks and arena, especially during the construction period.
- A hedgerow on boundary is owned by an adjoining neighbour, this will not be removed. Writer would like to be informed/consulted on any alterations to the hedge row on the border & of any fencing/sound barrier which will be erected.
- Loss of property value.
- Concern about ongoing maintenance of properties following development, with concerns about media reports that social housing are often built cheaply, not maintained or repaired promptly and are problematic for both residents and neighbours.

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 Scale of Development.
- LC1: Housing Allocations.
- LC2: Affordable Housing Through Market Housing.
- LC3: Type and Mix of Housing.
- WC4: Rough Close Works, South Normanton.
- SC1: Development within the Development Envelope.
- SC2: Sustainable Design and Construction.
- SC3: High Quality Development.
- SC7: Flood Risk.
- SC8: Landscape Character.
- SC9: Biodiversity and Geodiversity.
- SC10: Trees, Woodland, and Hedgerows.
- SC11: Environmental Quality (Amenity).
- SC12: Air Quality.
- SC13: Water Quality.
- SC14: Contaminated and Unstable Land
- ITCR5: Green Space and Play Provision.
- ITCR10: Supporting Sustainable Transport Patterns.
- ITCR11: Parking Provision.
- II1 Plan Delivery and the Role of Developer Contributions.
- II2: Employment and Skills England and how these should be applied.

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 7 - 10: Achieving sustainable development.
- Paragraphs 47 - 50: Determining applications.
- Paragraphs 55 - 58: Planning conditions and obligations.
- Paragraphs 60 - 67: Delivering a sufficient supply of homes.
- Paragraphs 92 - 103: Promoting healthy and safe communities.
- Paragraphs 104 -113: Promoting sustainable transport.
- Paragraph 119 - 125: Making effective use of land.
- Paragraphs 126 - 136: Achieving well-designed places.
- Paragraph 152 - 169: Meeting the challenge of climate change, flooding and coastal change.
- Paragraphs 174, 180 and 182: Conserving and enhancing the natural environment.
- Paragraphs 183 -188: Ground conditions and pollution.

Supplementary Planning Documents

- Successful Places: A Guide to Sustainable Housing Layout and Design - adopted Interim Supplementary Planning Document
- Parking Standards - Consultation Draft Supplementary Planning Document

ASSESSMENT

Key issues

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

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

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

Principle

Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires planning applications to be determined in accordance with the development plan unless material considerations indicate otherwise.

Policy SS3 of the Adopted Local Plan sets out a settlement hierarchy which seeks to distribute development firstly to the District's larger towns, that includes South Normanton.

Most of the site, approx. 1.6ha, is an allocated site by virtue of Policy LC1: Housing Allocations. This states that to achieve sustainable development, we will impose conditions on planning permissions or seek to enter in to a S106 Planning Obligation to secure the expected requirements for allocated sites; for this site these are: -

- Contributions to increasing the capacity of local schools.
- To provide sufficient green space within the site.

A significant material planning consideration are the previous planning approvals for development on the allocated parts of the site.

A smaller part of the site to its south-western corner, whilst forming part of a field that is otherwise allocated for housing, is omitted from the allocated site and settlement boundary, and is classed as countryside. Policy SS9 would normally only seek to grant permission of sites in the countryside if detailed tests within that policy are met; none of those tests are satisfied by this proposal.

Notwithstanding this, the NPPF does not preclude additional development outside of settlements where this can be shown to be sustainable.

In this instance, it is understood that this omission of this land from the Local Plan allocation was not due to any concerns regarding landscape harm, land supply or highway safety issues, but by virtue of concerns at that time regarding noise implications from the adjoining A38; this means that retaining this area as part of any proposed site meant that the site could not be demonstrated as a deliverable site and would therefore have failed the delivery test for inclusion as an allocation in the adopted Local Plan.

Whilst noting the above, in considering this application, the Environmental Health Officer is satisfied that dwellings can be provided on this site that maintaining suitable levels of amenity for potential residents.

Given the site otherwise follows the existing field parcel boundary, it would be illogical in the absence of unacceptable to resist the development of the remainder of that parcel, unless there are identifiable planning issues; these will all be discussed later in the report in more detail, but no identifiable planning harm is identified, and it is not considered that the development of this additional corner of the site should be resisted in principle.

Subject to the consideration of other detailed considerations below, the principle of the development of this site is considered to be acceptable.

Access and Highway Safety

The development proposes a single point of access from Red Lane. This is as envisaged by the Local Plan allocation and was the basis of the previous permissions that were granted for

the development of the allocated portions of this site. There are no material differences in planning circumstances to justify a change from this previously approved position.

Whilst noting that concerns have been raised in representations regarding highway safety, the Highway Authority has confirmed that it has no objections to the proposal in terms of either its layout and design or impacts on the local highway network, including impacts on Red Lane itself. It is also noted that the layout would meet that Authority's requirements for adoption.

National Highways has also confirmed it has no objections in terms of impacts on the A38, noting the applicant's proposals for site drainage and noise controls.

Parking provision on site is being made in accordance with normal standards and as such complies with policy ITCR11.

Public footpath issues on site

The site is crossed by public footpath no. 7 on the definitive footpaths map that runs generally north to south through the site. It runs from Red Lane from a point between nos. 23 and 25 Red Lane and its first section is along a track between those two dwellings, before it enters the main body of the site, and then currently terminates on the site's southern boundary adjacent to the A38 slip road.

That footpath is proposed to be retained on its lawful line as part of this development but would be crossed by the proposed highway within the development. Adaptions to the layout have been incorporated to improve the relationship of the footpath route with the proposed development, including its incorporation into the proposed public open space area instead of running it between long rows of houses, to try to maintain the amenity for users of that path as far as practical within its new residential setting.

Final designs for the crossing point can be secured by conditions on any planning permission.

The Ramblers Associated have expressed a desire for the path to not be tarmacked, but this conflicts with the potential adoption of the path either by this Council's Leisure team, who would like a tarmac finish, or by the Highway Authority, if this was to form part of adoption by that Authority. There are pros and cons with both finishes, but this is a detail that can be agreed and finalised under a condition of any planning permission; in principle though, it is generally considered that adoption by a responsible public authority is likely to be the optimum solution in terms of ensuring the long-term retention, management, and maintenance of any such pathways.

Public footpath issues off site

The legal definitive line of the footpath should continue further south beyond the site, by approx. another 100m before turning east and joining Birchwood Lane, but the path has been blocked off and unusable for several years and currently terminates at the site boundary. Of note is that off site, the definitive line would then involve crossing the A38 slip road, and in part has been developed upon and cannot in fact be utilised under current circumstances without substantive intervention and diversion.

It is unclear how long the footpath has been inaccessible beyond the site, but indications are that this has been for several decades.

Notwithstanding the above, requests have been received from the Highway Authority, including Derbyshire County Council's Rights of Way officer, to seek to secure the diversion of that footpath, including modifications to the application site boundary to include land off site to facilitate a diversion through the site to the south-eastern corner of the site, to then run alongside the A38 slip road to emerge onto Birchwood Lane alongside No. 168 Birchwood Lane (NB the occupants of that dwelling have objected to the footpath running alongside their dwelling).

Whilst the principle of diverting the footpath is appreciated to resolve a longstanding issue, with its current line having been effectively cut off, the fact the path has been cut off beyond this application site is not because of any actions of the landowner and is not something that any relevant Authority has sought to formally resolve over many years. For this reason, whilst acknowledging the desirability to re-instigate a footpath link to Birchwood Lane, it is not considered that this would meet the tests of being fairly and reasonably related to the development proposal and would therefore, fail the necessary legal tests for the inclusion of either a condition or legal agreement to secure this. The Council's solicitor has also confirmed that the ability to divert the footpath under S257 of the Town and Country Planning Acts (as requested by the footpaths officer at Derbyshire County Council) is also not permissible given the fact that S257 states that a competent authority may by order authorise the stopping up or diversion of any footpath if they are satisfied that it is necessary to do so ... to enable development to be carried out. Other than a temporary diversion order to enable construction works to be undertaken across its legal alignment, that will otherwise be retained upon its existing alignment, it is not necessary to divert the footpath to enable development, such that S257 is not usable.

Notwithstanding the above, the applicants have agreed to make appropriate provisions within the site that would facilitate a future diversion, should any relevant Authority seek to undertake the necessary diversion and off-site development works to facilitate this. This includes a route through the site to its south-eastern corner. Further sections of footpath would have to be provided beyond that point over the planted area and verges alongside the A38 slip road; this land is in the ownership and control of Derbyshire County Council.

It is not considered that anything other than the retention of the existing path on its existing alignment (that is also provided for) can be required in planning policy terms and for this reason, the design put forward is considered to be a satisfactory outcome as this presents a site layout that can facilitate a potential future footpath diversion should this become a possibility in the future.

The Highway Authority has made suggestions for the inclusion of conditions and advisory notes relating to:

- the provision of the access, parking and turning facilities,
- submission and implementation of a construction management plan for the demolition and construction period.
- Construction of the estate streets leading any new dwelling prior to its occupation; and
- Provision of an improved gate at the entrance of footpath no. 7 off Red Lane.

All these conditions are considered to be reasonable and necessary and are proposed for

inclusion.

The comments received in representations have been considered, but for the reasons outlined above and subject to the inclusion of the suggested conditions, the proposal is considered to be acceptable in respect of highway safety considerations.

Landscape and visual impact of the proposed development

For the most part views of this site are limited to views through gaps in frontage properties from Red Lane, or if viewed from the public footpath that crosses the site, although that path currently isn't a through route (see later assessment of footpath issues) and so presumably is little used. Existing landscaping means there no views of the site from the A38 to the south and west.

The development would effectively infill the gap created between existing housing on Red Lane to the north, Birchwood Lane to the east, and the A38 to the south.

The land does not form part of any distinctive or sensitive landscape and is not important to wider landscape features or views or other qualities. On this basis, the development is considered to accord with Policy SC8 in this regard.

Design, Layout and Amenity

The proposals comprise an appropriate mix of dwelling types to ensure that varying requirements for housing of differing sizes can be met and is acceptable.

For the most part, the development will comprise two storey dwellings of a traditional appearance. There are some limited instances of three storey properties, although the third floor is contained in the roof-space, such that these maintain a general two storey appearance and are still in keeping with the overall character and appearance of the area; these are located at key nodal points and offer a design feature that is considered to enhance the character and appearance of the development.

Concerns have been raised in representations about the inclusion of the three storey properties, particularly where these are located at the rear of existing single storey properties, but these are suitably sized and distant from existing properties to be acceptable in planning terms with the amended layout meeting the Council's adopted design guide 'Successful Places' in terms of separation distances and garden provision.

In terms of the amenities of the residents of the proposed dwellings, noise reports have been submitted in view of the proximity of the development to the A38 and its associated slip road to the south. Subject to the inclusion of a condition to require the agreement of noise control measures based on the findings of the noise assessment, the Environmental Health Officer has raised no objections to the proposal.

The proposed dwellings would be constructed in brick and tile; details of materials to be used have not been submitted, but these can be controlled by condition to ensure materials are used that are appropriate to the character and appearance of the area.

Car parking is sensitively designed, with large parts of the parking alongside dwellings to avoid large amounts of frontage parking that would otherwise dominate streetscenes. Where

larger areas of shared parking courts are proposed, the appearance of these is softened by trees and additional landscaping.

Despite financial viability considerations that are discussed later, the development will include the provision of on-site open space including play facilities; this was considered a necessity to ensure the sustainability of the development given that there is no alternative provision within the normally required 400m of the site and an overall lack of green space within the town. Whilst some details of the open space need refining to meet the requirements of the Leisure Officer, especially given the intention that the space be offered to the Council for adoption, the play areas and open space areas generally are suitably location to provide sufficient offset distances to the proposed dwellings to protect privacy and amenity, but in a position that also allows natural surveillance of these areas as a crime prevention measure.

In terms of crime prevention, the Force Designing Out Crime Officer, whilst generally happy with the layout, has reservations about the proximity of a potentially realigned footpath 7 route to 166 and 168 Birchwood Lane, also concerning the added link into the cul-de-sac between apartment block 34-31 and plots 30-33, which I expect will weaken residential ownership of this semi-private space.

Whilst noting these comments, it is considered that the intention of the path links to and around the open space is to facilitate ease of access to the open space areas to residents and has been designed to ensure that these are overlooked from adjoining properties, and it is considered that a suitable compromise position between crime prevention and accessibility has been achieved.

As stated earlier, this proposal does not include the formal diversion of the public footpath but does look to provide a potential route through the site to facilitate the diversion and re-instatement of footpath 7 should such a diversion go ahead, but this would have to be subject to separate authorisation. For this reason, the only sections of path under consideration as part of this application are those within the red line application site boundary. In order to provide separation from the rear of the dwellings that front Birchwood Lane, the footpath has been moved to the west and provision is being made to provide intervening landscaping to provide physical separation from those dwellings and again this is considered to be an appropriate response to the competing objectives of facilitating the potential to re-instate the public footpath as a public benefit and taking appropriate measures to improve crime prevention through appropriate design. Conditions to control final boundary treatments, in line with the further comments of the Force Designing Out Crime Officer, are proposed.

On balance, the design of the scheme is considered appropriate, subject to the inclusion of conditions to control details as discussed above.

Potential contamination risks.

Following the submission of additional gas testing results, the Environmental Health Officer has recommended the inclusion of conditions to ensure the implementation of the necessary mitigation measures to ensure that contamination risks are suitably mitigated.

Subject to the inclusion of such conditions, the proposal will accord with the requirements of Policy SC14 of the adopted Local Plan.

Health and Safety

The HSE Explosives Directorate has stated “that the proposed development falls within the SD3 distance of the nearby licensed explosives site, but outside SD2 distance. On this basis, the HSE therefore has no comment to make provided that the development is not a ‘vulnerable building’.

The following definition of “Vulnerable building” has been provided by the HSE and it is considered that the proposals do not meet with the definitions / criteria below: -

- (a) a building of more than three storeys above ground or 12m in height constructed with continuous non-load bearing curtain walling with individual glazed or frangible panels larger than 1.5m² and extending over more than 50% or 120m² of the surface of any elevation;
- (b) a building of more than three storeys above ground or 12m in height with solid walls and individual glass panes or frangible panels larger than 1.5m² and extending over at least 50% of any elevation;
- (c) a building of more than 400m² plan area with continuous or individual glazing panes larger than 1.5m² extending over at least 50% or 120m² of the plan area; or
- (d) any other structure that, in consequence of an event such as an explosion, may be susceptible to disproportionate damage such as progressive collapse.

In view of the above, the proposal is considered to be compliant with Policy WC4: ‘Rough Close Works’ of the adopted Local Plan.

Ecology/Biodiversity

Whilst noting the concerns raised in representations, Derbyshire Wildlife Trust has reviewed the submitted information and following the submission of additional details to clarify the proposal in biodiversity terms, have noted that the submitted biodiversity metric, that has been revised to address the Trust’s initial comments, predicts a net gain of +0.44 habitat units (12.53%) and +0.50 hedgerow units (78.57%).

The trust also recommends that whilst some minor changes are needed to the mitigation proposals, it is appropriate to secure these via conditions on any permission that may be granted, along with conditions to secure the appropriate implementation and management of the biodiversity measures, including controls over any lighting.

These suggested conditions are considered to be acceptable and subject to their inclusion it is considered that the proposal accords with the requirements of Policy SC9 of the adopted Local Plan.

Drainage and Flood Risk

Foul Water

Severn Trent Water are the statutory undertaker for the mains sewers within the local area and have been consulted on this application. Severn Trent Water has not raised any objections to the proposals.

The District Council’s drainage engineer has noted a public sewer within the curtilage of the site and recommends an advisory note to draw this to any developer’s attention.

Surface Water

In order to deliver a Sustainable Drainage Systems (SuDS) solution, a drainage retention pond on site for surface water attenuation is proposed. Additional information has been submitted at the request of the Lead Local Flood Authority (LLFA) to demonstrate that this is appropriate, and that Authority has stated that it considers that the drainage proposals are acceptable in principle, subject to conditions requiring further design modifications and details of management and maintenance plans. The recommended conditions, that are proposed to be included, also cover the related comments of this Council's Drainage Engineer.

S106 Considerations.

Affordable Housing

Whilst 10% affordable housing would normally be sought (under policy LC2: Affordable Housing Through Market Housing), this proposal is noted as being put forward for 100% social housing.

The Interim Head of Planning Policy has verbally advised that there is an identified need for affordable housing in the district, which is material to the consideration of this case.

The mix of affordable units is proposed to be in the region of 24 Shared ownership units and 28 social rented units. Both these types of affordable dwelling accord with the definition of affordable dwellings in national planning policy and guidance and the mix is considered to be appropriate, especially given the mix is weighted to social rented which is in line with the main identified need within the district.

Public Open Space

As already mentioned earlier, provision is being made on site as part of the development for sufficient on-site open space and play equipment that will satisfy the requirements of Policy ITCR5.

As the proposal is being put forward for adoption by the Council, a S106 planning obligation will be required to secure the hand-over, and a commuted sum for the ongoing management and maintenance, of that space.

Playing Pitches

The Leisure Officer has sought financial contributions of £1143 per dwelling under the terms of Policy ITCR7 towards improving green space, playing pitches and their ancillary facilities at Common Meadows Recreation Ground and Broadmeadows Open Space, South Normanton.

Notwithstanding this request, there is no proposal to provide contributions to playing pitches under ITCR7 due to the financial viability of the scheme, which is discussed later in this report.

Health

There has been a request from the Clinical Commissioning Group for any contributions towards local health care provision.

Chesterfield Royal Hospital (CRH) has commented that Section 106 impact on health should be considered, stating that initial modelling suggests that the impact of this development is up to £81k.

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

Whilst the policy does provide for 'necessary and relevant' contributions to both primary and secondary healthcare, the Planning Policy team is in ongoing discussions to establish whether the requests made by CRH meet the necessary legal tests for contributions, including the opportunity for the CRH to provide additional evidence to support its requests. The current opinion on this based on the work done to date is that the requests may not meet those tests and that current evidence and information provided to date is not considered to be sufficient to show that it directly relates to the development or is fairly and reasonably related in scale and kind to it.

Whilst additional contributions are not being offered in any event for viability reasons to be discussed below, for the reasons stated, the requested contribution is unlikely to have been sought.

Education

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

Library stock

Derbyshire County Council are seeking a contribution of £4,280 towards stock at the local library, equivalent to the extra demand on that service from the development (with additional monitoring fees).

Viability

As highlighted in the above report, there are policy requirements for S106 contributions in addition to the on-site recreation facilities that form part of the proposals. In response to this a viability assessment has been submitted to demonstrate that the scheme would be unable to afford the contributions sought.

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

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

In view of this, the proposal is unable to demonstrate full compliance with the relevant policies relating to those contributions and it will be necessary to consider whether any other material

planning considerations outweigh this.

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

Whilst these additional dwellings will increase demands on local facilities, the number of dwellings proposed is relatively small when considered against the settlement as a whole, such that the impacts of there being no additional financial contributions is not expected to significantly impact on the ability for existing facilities in the area to cope with the limited increased demand.

In view of the above, on balance it is considered that the public benefit of providing this 100% affordable housing scheme outweighs the limited policy conflict that would arise from there being no financial contribution to respond to the additional infrastructure requests.

On this basis, it is recommended that no additional financial contributions are sought from this development, other than those identified to cover the cost of ongoing management and maintenance of the proposed open space and play facilities.

Given that the justification for not requiring contributions is the delivery of the affordable housing scheme, it will be necessary to also cover this requirement as part of the proposed S106 planning obligation to maintain that identified public benefit.

CONCLUSION / PLANNING BALANCE

This is considered to be a generally sustainable form of development that is contained mainly within the existing settlement that is mainly in compliance with adopted planning policy.

Whilst a small section of the site extends outside of the development envelope, there are considered to be identified and justifiable grounds for this.

It is acknowledged that the policy requirement for contributions infrastructure requirements is not being met for financial viability reasons, but nevertheless, the benefits of this proposal, from the delivery of 100% affordable dwellings for which there is a demonstrable need, is considered to outweigh the normal requirements for the contributions that would otherwise be sought from a housing scheme of this scale. The planning balance in this case is therefore considered to be appropriate in terms of the ability to grant permission for the development as proposed, subject to the completion of a S106 regarding the future management and maintenance of the proposed open space and play equipment and the inclusion of suitable conditions to otherwise ensure compliance with adopted policy.

RECOMMENDATION

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

- A. Limitation over the occupation of the dwellings to affordable housing,**
- B. Procedures for the transfer and adoption of open areas and play space,**

C. Maintenance sums for open areas and play space.

AND subject to the following conditions:

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

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

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

- Revised drawings submitted 26/06/2023:
 - FP-22001-P-117 REV P0 Revised Walk-Up Apartments (Plot No's 34-41 Inclusive) - Elevations & Floor Plans
 - FP-22001-P-204 REV P0 Revised 2b4p House Types 2d - Elevations & Floor Plans
 - FP-22001-P-206 REV P0 Revised 2b4p House Types 2a & 2d - Elevations & Floor Plans
 - FP-22001-P-207 Revised House Types 3a - Elevations & Floor Plans
 - FP-22001-P-209 Revised House Types 3b(1) - Elevations & Floor Plans
 - FP-22001-P-212 Revised House Types 3c - Elevations & Floor Plans
 - FP-22001-P-214 Revised House Types 3d Feature Building - Elevations & Floor Plans
 - FP-22001-P-215 Revised House Types 3b & 3c - Elevations & Floor Plans
- Revised house type drawings submitted 29/06/2023:
 - FP-22001-P-111 REV P0 Revised 2B4P House Type 2B & 2A* - Elevation and floor plans
 - FP-22001-P-118 REV P0 Revised 4B8P Detached Houses Type 4A* & 4A (Plots 14 & 52) - Elevations & Floor plans
 - FP-22001-P211 House Type 3a* & 3a - Elevations & Floor Plans
- Revised drawings submitted 26/06/2023:
 - FP-22001-P101 revised site layout as proposed (52 No. Dwellings)

To clarify the extent of the planning permission in the light of guidance set out in "Greater Flexibility for planning permissions" by the Department for Communities and Local Government, November 2009.

3. Before construction commences on the erection of any building or wall, details of the materials to be used in all external wall and roof areas shall first have been submitted to and approved in writing by the Local Planning Authority.

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

4. Notwithstanding the submitted details, no building will be occupied until full details of both hard and soft landscape works, to include details of all proposed means of enclosure, proposed formal and informal footpaths, including details for the crossing point for the public footpath where it crosses the proposed highway, public open space and the proposed play facilities, along with a programme for implementation, has been submitted to and approved in writing by the Local Planning Authority and the works and implementation programme must be carried out as approved.

To ensure that satisfactory landscaping is provided within a reasonable period, including appropriate provision for the treatment and safety for users of the public footpath crossing the site, in the interests of visual amenity, public safety and biodiversity interests, and in compliance with Policies SS1(h an i), SC1(a and c), SC2(a, d and i), SC3(a, b, e, f, i, l and n), Policy SC9, SC10 and SC11 of the adopted Local Plan for Bolsover District.

5. A Landscape and Biodiversity Enhancement and Management Plan (LBEMP) shall be submitted to, and be approved in writing by, the Local Planning Authority prior to the commencement of any development above foundation level. The aim of the LBEMP is to provide details for the creation, enhancement and management of habitats and species on the site post development, in accordance with the proposals set out in the approved Biodiversity Metric and to achieve no less than a +12.53 % habitat net gain and a +78.57 % hedgerow net gain. The LBEMP should combine both the ecology and landscape disciplines and shall be suitable to provide to the management body responsible for the site. It shall include the following: -
 - a) Description and location of features to be retained, created, enhanced and managed, as per the approved biodiversity metric.
 - b) Aims and objectives of management, in line with desired habitat conditions detailed in the metric.
 - c) Appropriate management methods and practices to achieve aims and objectives.
 - d) Prescriptions for management actions.
 - e) Preparation of a work schedule (including a 30-year work plan capable of being rolled forward in perpetuity).
 - f) Details of the body or organization responsible for implementation of the plan.
 - g) A monitoring schedule to assess the success of the habitat creation and enhancement measures at intervals of 1, 2, 3, 4, 5, 10, 15, 20, 25 and 30 years.
 - h) Monitoring reports to be sent to the Council at each of the intervals above
 - i) A set of remedial measures to be applied if conservation aims and objectives of the plan are not being met.
 - j) Detailed habitat enhancements for wildlife, in line with British Standard BS 42021:2022.
 - k) Details of offset gullies and drop kerbs in the road network to safeguard amphibians.
 - l) Detailed specifications for flood attenuation basins to provide biodiversity benefits.

- m) Requirement for a statement of compliance upon completion of planting and enhancement works.

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

To mitigate the biodiversity impacts of the development and in accordance with Policies SS1(i), SC2(d), SC3(i) and SC9 of the adopted Local Plan for Bolsover District.

- 6. No development shall take place (including demolition, ground works, vegetation clearance and movement of plant, machinery and materials) until a Construction Environmental Management Plan (CEMP: Biodiversity) has been submitted to and approved in writing by the local planning authority. The CEMP (Biodiversity) shall include the following.
 - a) Risk assessment of potentially damaging construction activities.
 - b) Identification of “biodiversity protection zones”.
 - c) Practical measures (both physical measures and sensitive working practices) to avoid or reduce impacts during construction. These shall especially consider reptiles, amphibians and badgers.
 - d) The location and timing of sensitive works to avoid harm to biodiversity features.
 - e) The times during construction when specialist ecologists need to be present on site to oversee works.
 - f) Responsible persons and lines of communication.
 - g) The role and responsibilities on site of an ecological clerk of works (ECoW) or similarly competent person.
 - h) Use of protective fences, exclusion barriers and warning signs.

The approved CEMP shall be adhered to and implemented throughout the construction period strictly in accordance with the approved details, unless otherwise agreed in writing by the local planning authority.

To mitigate the biodiversity impacts of the development and in accordance with Policies SS1(i), SC2(d), SC3(i) and SC9 of the adopted Local Plan for Bolsover District.

- 7. Prior to the installation of lighting fixtures, a detailed lighting strategy shall be submitted to and approved in writing by the Local Planning Authority to safeguard bats and other nocturnal wildlife. This should provide details of the chosen luminaires, their locations, and any mitigating features such as dimmers, PIR sensors and timers. Dependent on the scale of proposed lighting, a lux contour plan may be required to demonstrate acceptable levels of lightspill to any sensitive ecological zones/features. Guidelines can be found in Guidance Note 08/23 - Bats and Artificial Lighting at Night (BCT and ILP, 2023). Such approved measures will be implemented in full.

To mitigate the biodiversity impacts of the development and in accordance with Policies SS1(i), SC2(d), SC3(i) and SC9 of the adopted Local Plan for Bolsover District.

8. No dwelling hereby approved shall be occupied until the access, parking and turning facilities to serve that dwelling have been provided as shown on drawing FP – 22001 - P101 Rev P16.

To ensure conformity with submitted details and in the interests of highway safety and in accordance with the requirements of Policy SC3(e) of the adopted Local Plan for Bolsover District.

9. Prior to commencement of the development hereby permitted details of a highways construction management plan shall be submitted to and approved in writing by the Local Planning Authority. The approved plan shall be adhered to throughout the demolition/construction period. The plan/statement shall include but not be restricted to:
- Parking of vehicle of site operatives and visitors (including measures taken to ensure satisfactory access and movement for existing occupiers of neighbouring properties during construction);
 - Advisory routes for construction traffic;
 - Any temporary access to the site;
 - Locations for loading/unloading and storage of plant, waste and construction materials;
 - Method of preventing mud and dust being carried onto the highway;
 - Arrangements for turning vehicles;
 - Arrangements to receive abnormal loads or unusually large vehicles;
 - Highway Condition survey;
 - Methods of communicating the Construction Management Plan to staff, visitors and neighbouring residents and businesses.

In the interests of safe operation of the adopted highway in the lead into development both during the demolition and construction phase of the development and in the interests of highway safety and in accordance with the requirements of Policy SC3(e) of the adopted Local Plan for Bolsover District.

10. The premises, the subject of the application, shall not be occupied until the proposed new estate streets between each respective plot and the existing public highway have been laid out in accordance with the application drawings to conform to this Authority's Guidance Delivering Streets and Places which can be accessed at http://www.derbyshire.gov.uk/transport_roads/roads_traffic/development_control constructed to base level, drained and lit in accordance with the County Council's specification for new housing development roads.

In the interests of highway safety and in accordance with the requirements of Policy SC3(e) of the adopted Local Plan for Bolsover District.

11. The development hereby approved shall not commence above foundation level on any dwelling until details of the improvements to the gate at the start of public footpath no.7 at its junction with Red Lane have been submitted to and approved in writing by the Local Planning Authority; and the dwellings shall not be occupied until those works have been constructed in accordance with the approved details.

In the interests of highway safety and the function and use of the public footpath, and in accordance with the requirements of Policies SC3(e) and ITCTR3 of the adopted Local Plan for Bolsover District.

12. Construction works on the site and deliveries to the site shall be undertaken only between the hours of 07.30am to 6pm Monday to Friday and 7.30am to 1pm on Saturday. There shall be no work undertaken on site or deliveries to the site outside of these hours, including no work on Sundays or public holidays.

To minimise detrimental effects to the neighbouring amenities, the amenities of the area in general and dangers to highway safety, during the construction phase and in accordance with the requirements of Policies SC1(c), SC2(a, d), SC3(e, l and n) and SC11 of the adopted Local Plan for Bolsover District.

13. Before the commencement of construction works including any demolition in connection with the development hereby approved, a programme of measures to control noise and dust from the site during development shall be submitted to and approved in writing by the Local Planning Authority. The development shall be undertaken in accordance with the approved scheme.

To minimise detrimental effects to the neighbouring amenities, the amenities of the area in general and dangers to highway safety, during the construction phase and in accordance with the requirements of Policies SC1(c), SC2(a, d), SC3(e, l and n) and SC11 of the adopted Local Plan for Bolsover District.

14. Prior to any development commencing above the foundation level of any dwelling hereby approved, a scheme of sound insulation shall be submitted to and approved in writing the Local Planning Authority. The scheme shall be designed following the completion of a sound survey undertaken by a competent person. The scheme shall take account of the need to provide adequate ventilation, which will be by mechanical means where an open window would not achieve the following criteria. Unless otherwise agreed, the scheme shall be designed to achieve the following criteria with the ventilation operating:

Bedrooms	30 dB LAeq (15 Minutes) (2300 hrs – 0700 hrs)
Living/Bedrooms	35 dB LAeq (15 Minutes) (0700 hrs – 2300 hrs)

All Other Habitable Rooms 40 dB LAeq (15 Minutes) (0700 hrs – 2300 hrs)

All Habitable Rooms 45 dB LAm_{ax} to occur no more than 6 times per night (2300 hrs – 0700 hrs)

Any outdoor amenity areas 55 dB LAeq (1 hour) (0700 hrs – 2300 hrs)

The scheme as approved must be validated by a competent person and a validation report submitted to and approved in writing by the local planning authority for each dwelling prior to its occupation. The approved scheme must be implemented in full and retained thereafter.

To protect the aural amenity of future occupiers of the proposed dwellings and in compliance with Policies SS1(h), SC1(a and c), SC2(a and d), SC3(a, l and n), and SC11 of the adopted Local Plan for Bolsover District.

15. Before the commencement of the development hereby approved:

As site investigation reference 211043/1 identifies unacceptable levels of risk from ground gas, a detailed remediation scheme to bring the site to a condition suitable for the intended use by removing unacceptable risks to human health, buildings and other property and the natural and historical environment shall be submitted to and approved in writing by the Local Planning Authority. The submitted scheme shall have regard to LCRM and other relevant current guidance. The approved scheme shall include all works to be undertaken, proposed remediation objectives and remediation criteria and site management procedures. The scheme shall ensure that the site will not qualify as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land after remediation.

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

To protect future occupiers of the development, buildings, structures/services, ecosystems and controlled waters, including deep and shallow ground water and in compliance with Policies SS1(m&n), SC1(e), SC2(d,m,n&o), SC13 and SC14 of the adopted Local Plan for Bolsover District.

16. No dwellings hereby approved shall be occupied until:

a) The approved remediation works required by 1 above have been carried out in full in compliance with the approved methodology and best practice.

b) If during the construction and/or demolition works associated with the development hereby approved any suspected areas of contamination are discovered, which have not previously been identified, then all works shall be suspended until the

nature and extent of the contamination is assessed and a report submitted and approved in writing by the local planning authority and the local planning authority shall be notified as soon as is reasonably practicable of the discovery of any suspected areas of contamination. The suspect material shall be re-evaluated through the process followed in site investigation reference 211043/1.

c) Upon completion of the remediation works required by 2a a validation report prepared by a competent person shall be submitted to and approved in writing by the local planning authority. The validation report shall include details of the remediation works and Quality Assurance/Quality Control results to show that the works have been carried out in full and in accordance with the approved methodology. Details of any validation sampling and analysis to show the site has achieved the approved remediation standard, together with the necessary waste management documentation shall be included.

To protect future occupiers of the development, buildings, structures/services, ecosystems and controlled waters, including deep and shallow ground water and in compliance with Policies SS1(m&n), SC1(e), SC2(d,m,n&o), SC13 and SC14 of the adopted Local Plan for Bolsover District.

17. No development shall take place, except for site clearance and enabling works (that must exclude any excavation or concrete works), until a detailed design and associated management and maintenance plan of the surface water drainage for the site, in accordance with the principles outlined within:

- a. Banners Gate. (Jun 2023). Land off Red Lane, South Normanton – Flood Risk Assessment. 22105 rev 02. “including any subsequent amendments or updates to those documents as approved by the Flood Risk Management Team”
- b. And DEFRA’s Non-statutory technical standards for sustainable drainage systems (March 2015), have been submitted to and approved in writing by the Local Planning Authority.

To ensure that the proposed development does not increase flood risk and that the principles of sustainable drainage are incorporated into this proposal, and sufficient detail of the construction, operation and maintenance/management of the sustainable drainage systems are agreed prior to their installation on site and in accordance with the requirements of Policies SS1(l and n), SC2(b, c, d, e, and f), SC3(i), and SC7 of the adopted Local Plan for Bolsover District.

18. No development shall take place, except for site clearance and enabling works (that must exclude any excavation or concrete works), until a detailed assessment has been provided to and approved in writing by the Local Planning Authority, to demonstrate that the proposed destination for surface water accords with the drainage hierarchy as set out in paragraph 80 reference ID: 7-080-20150323 of the planning practice guidance.

To ensure that surface water from the development is directed towards the most appropriate waterbody in terms of flood risk and practicality by utilising the highest

possible priority destination on the hierarchy of drainage options. The assessment should demonstrate with appropriate evidence that surface water runoff is discharged as high up as reasonably practicable in the following hierarchy:

- I. into the ground (infiltration);*
- II. to a surface water body;*
- III. to a surface water sewer, highway drain, or another drainage system;*
- IV. to a combined sewer.*

And in accordance with the requirements of Policies SS1(l and n), SC2(b, c, d, e, and f), SC3(i), and SC7 of the adopted Local Plan for Bolsover District

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

To ensure surface water is managed appropriately during the construction phase of the development, so as not to increase the flood risk to adjacent land/properties or occupied properties within the development and in accordance with the requirements of Policies SS1(l and n), SC2(b, c, d, e, and f), SC3(i), and SC7 of the adopted Local Plan for Bolsover District.

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

To ensure that the drainage system is constructed to the national non-statutory technical standards for sustainable drainage and CIRIA standards C753 and in accordance with the requirements of Policies SS1(l and n), SC2(b, c, d, e, and f), SC3(i), and SC7 of the adopted Local Plan for Bolsover District.

ADVISORY NOTES

1. This site is subject to a Planning Obligation under the terms of S106 of the Town and Country Planning Act 1990 (As amended), and any developer should be aware of the content of that agreement and the need to meet its requirements in addition to the conditions attached to this permission.
2. The development hereby approved includes the construction of new highway. To be considered for adoption and ongoing maintenance at the public expense it must be constructed to the Highway Authority's standards and terms for the phasing of the

development. You are advised that you must enter into a highway agreement under Section 38 of the Highways Act 1980. The development will be bound by Sections 219 to 225 (the Advance Payments Code) of the Highways Act 1980.

Contact the Highway Authority's Implementation Team at development.implementation@derbyshire.gov.uk. You will be required to pay fees to cover the Council's costs in undertaking the following actions:

- Drafting the Agreement
- Set up costs
- Approving the highway details
- Inspecting the highway works

You should enter into discussions with statutory undertakers as soon as possible to coordinate the laying of services under any new highways to be adopted by the Highway Authority.

The Highway Authority's technical approval inspection fees must be paid before any drawings will be considered and approved. Once technical approval has been granted a Highway Agreement under Section 38 of the Highways Act 1980 must be completed and the bond secured.

3. The development hereby approved and any associated highway works required, is likely to impact on the operation of the highway network during its construction (and any demolition required). You are advised to contact the Highway Authorities Network Management Team at www.derbyshire.gov.uk/transport-roads/roads-traffic/roadworks/roadworks.aspx before undertaking any work, to discuss any temporary traffic management measures required, such as footway, Public Right of Way, carriageway closures or temporary parking restrictions a minimum of eight weeks prior to any activity on site to enable Temporary Traffic Regulation Orders to be prepared and a programme of Temporary Traffic Management measures to be agreed.
4. The application site is affected by the route of a public right of way (public footpath no. 7 in South Normanton Parish) on the Derbyshire Definitive Map. The statutory route of the footpath must be safeguarded at all time to allow the safe and unfettered passage of pedestrians. Any diversions to facilitate the construction of the development will need to be subject to the necessary temporary closure and/or diversion applications/orders.
5. National Highways has advised that in accordance with paragraph 50 of Circular 02/2013, no water run-off that may arise due to any change of use will be accepted into the highway drainage systems, and there shall be no new connections into those systems from third party development and drainage systems. Any change of use to the

existing connections to the Highways drainage will be classed as a new connection and therefore will be refused in the first instance as stated within the Circular.

6. The Council's drainage engineer has advised the following: -

a. The sewer records show a public sewer within the curtilage of the site (see plan with original consultation response on the Council's website). The applicant should also be made aware of the possibility of unmapped public sewers which are not shown on the records but may cross the site of the proposed works. These could be shared pipes which were previously classed as private sewers and were transferred to the ownership of the Water Authorities in October 2011. If any part of the proposed works involves connection to / diversion of / building over / building near to any public sewer the applicant will need to contact Severn Trent Water in order to determine their responsibilities under the relevant legislation.

b. All proposals regarding drainage will need to comply with Part H of the Building Regulations 2010.

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

7. In respect of any future submissions under the terms of conditions 17 – 20, the developers must take into account the guidance notes contained in the consultation response from the Lead Local Flood Authority (Derbyshire County Council), received by Bolsover District Council on the 18th September 2023, which can be viewed with the planning application record on the Council's website.

8. The HSE Explosives Directorate has drawn attention to the fact "that the proposed development falls within the SD3 distance of the nearby licensed explosives site, such that buildings should not be a 'vulnerable building'. The following definition of "Vulnerable building" has been provided and it is considered that the proposal complies with these requirements, but this definition is included as an advisory note for the attention of any developer.

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

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

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

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

9. The developer is encouraged to make separate enquiries with broadband providers to ensure that future occupants have access to sustainable communications infrastructure, and that appropriate thought is given to the choice and availability of providers which can offer high speed data connections. Any new development should be served by a superfast broadband connection unless it can be demonstrated through consultation with the network providers that this would not be possible, practical, or economically viable.

More information on how to incorporate broadband services as part of the design of new development is available by following the link below:

<https://www.gov.uk/government/publications/better-connected-a-practical-guide-to-utilities-for-home-builders>

Statement of Decision Process

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

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

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

Equalities Statement

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

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

Human Rights Statement

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

It is considered that assessing the effects that a proposal will have on individuals and weighing these against the wider public interest in determining whether development should

be allowed to proceed is an inherent part of the decision-making process. In carrying out this 'balancing exercise' in the above report, officers are satisfied that the potential for these proposals to affect any individual's (or any group of individuals') human rights has been addressed proportionately and in accordance with the requirements of the ECHR.