

The Arc  
High Street  
Clowne  
S43 4JY

To: Chair & Members of the  
Planning Committee

Contact: Hannah Douthwaite  
Telephone: 01246 242473  
Email: [hannah.douthwaite@bolsover.gov.uk](mailto:hannah.douthwaite@bolsover.gov.uk)

Monday 20<sup>th</sup> November 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, 29th 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 pages 3 and 4.

Yours faithfully



Solicitor to the Council & Monitoring Officer

## **Equalities Statement**

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

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

### **Access for All statement**

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

- **Phone:** [01246 242424](tel:01246242424)
- **Email:** [enquiries@bolsover.gov.uk](mailto: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, 29th November, 2023 at 10:00 hours taking place in the Council Chamber,  
The Arc, Clowne*

<b>Item No.</b>		<b>Page No.(s)</b>
<b>1.</b>	<b>Apologies For Absence</b>	
<b>2.</b>	<b>Urgent Items of Business</b>	
	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.	
<b>3.</b>	<b>Declarations of Interest</b>	
	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.	
<b>4.</b>	<b>Minutes</b>	TO FOLLOW
	To consider the minutes of the last meeting held on 1 <sup>st</sup> November 2023.	
	<b><u>APPLICATIONS TO BE DETERMINED UNDER THE TOWN &amp; COUNTRY PLANNING ACTS</u></b>	
<b>5.</b>	<b>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</b>	5 - 41
<b>6.</b>	<b>22/00583/FUL - Installation and operation of a solar farm renewable energy generating station comprising: ground-mounted photovoltaic solar arrays, substation, inverter/transformer units, site access, internal access tracks, security measures, access gates, other ancillary infrastructure and landscaping and biodiversity enhancements - Land To South Of Frithwood Farm Cottage, Frithwood Lane, Elmton</b>	42 - 90

**REPORTS OF THE PLANNING POLICY AND HOUSING STRATEGY MANAGER**

7.	Local Planning Authority Monitoring Report 2022/23	91 - 144
8.	Five-Year Housing Land Supply - Annual Position Statement 2023	145 - 158
9.	Quarterly update on Section 106 Agreement Monitoring	159 - 169

**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

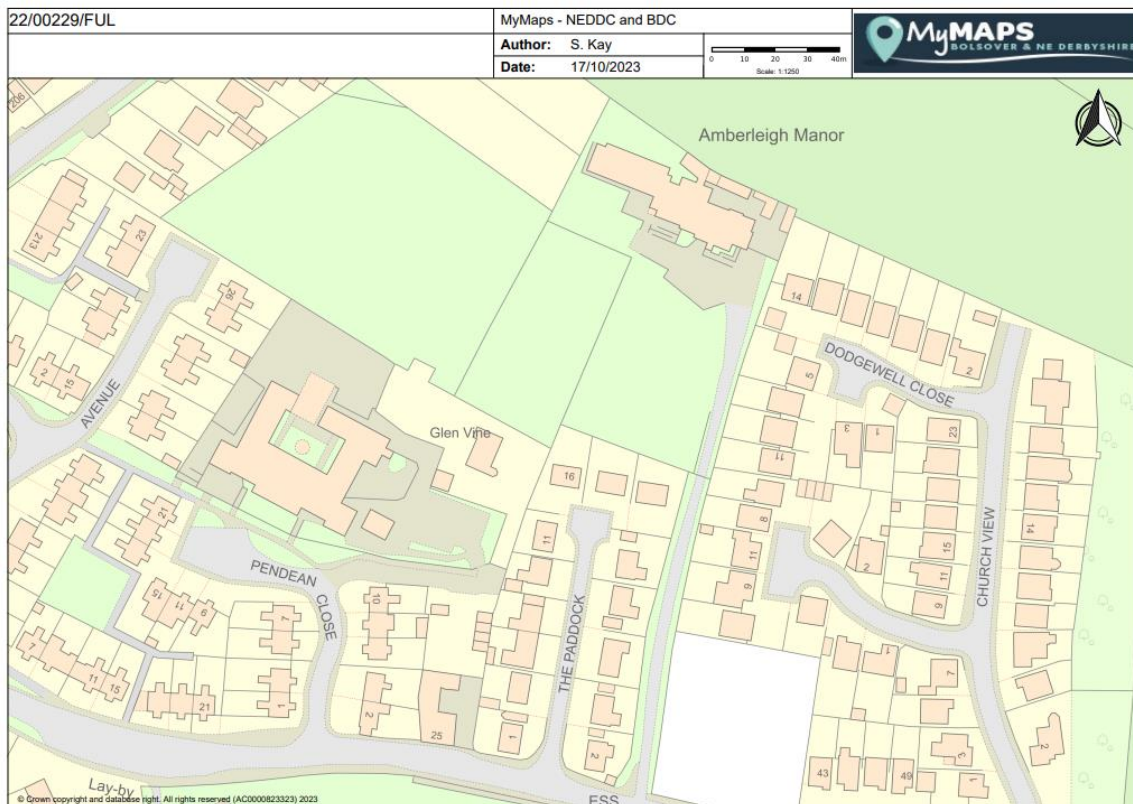
**DATE RECEIVED**        4th May 2022

## 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.

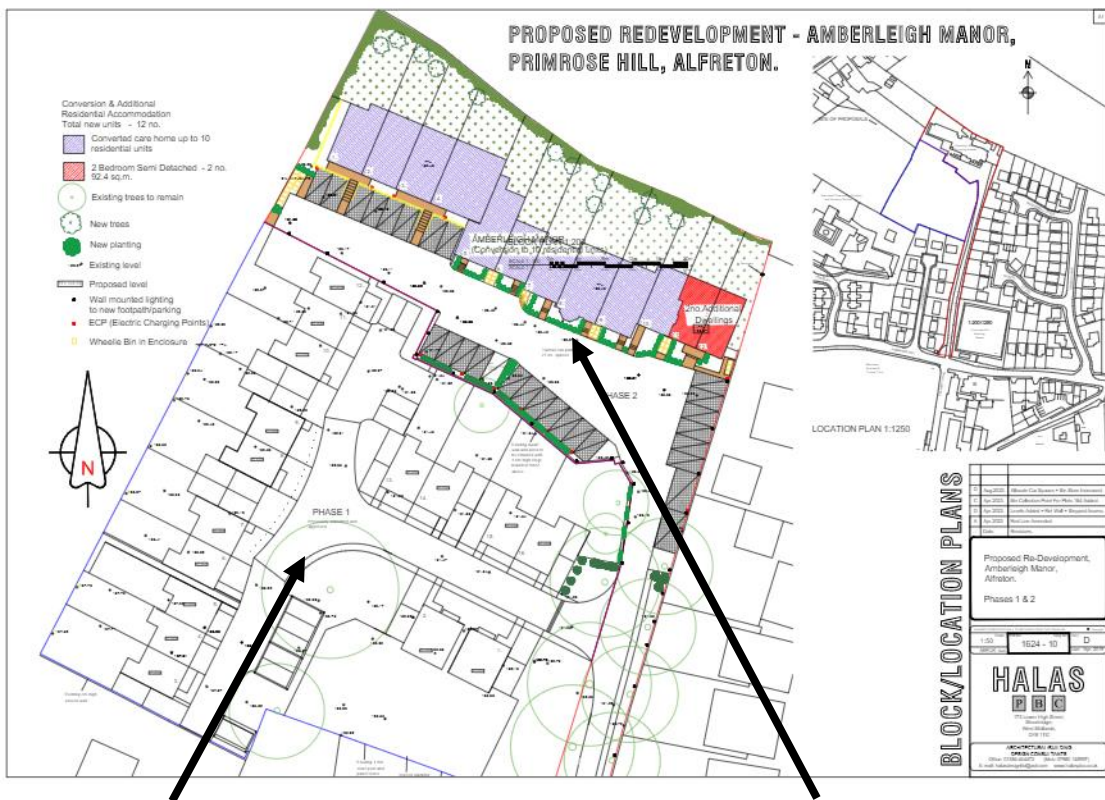
To the north of the existing care home is an important open break which is protected under Policy SS11 of the Adopted Local Plan. The application site and proposed development does not impact on this open break. To the south-west of the site is the Green Space to Blackwell Community Primary and Nursery 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 21<sup>st</sup> 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 1<sup>st</sup> 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 30<sup>th</sup> March 2021.
- Viability Appraisal prepared by David Newham MRICS Director CP Viability Ltd dated 7<sup>th</sup> 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**

#### 1<sup>st</sup> 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.

#### 2<sup>nd</sup> 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**

### 1<sup>st</sup> 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.

### 2<sup>nd</sup> 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.

### 3<sup>rd</sup> 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.

### 4<sup>th</sup> response

Having reviewed the additional information received 29<sup>th</sup> 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**

### 1<sup>st</sup> 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 windows and doors could not be retained.

### 2<sup>nd</sup> 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**

### 1<sup>st</sup> 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.

### 2<sup>nd</sup> 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 30<sup>th</sup> 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 23<sup>rd</sup> May 2023 with comments required by 6<sup>th</sup> June 2023.

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

Neighbour residents were re-consulted for the final time in respect of amended plans on 6<sup>th</sup> September 2023 with comments required by 20<sup>th</sup> 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 10<sup>th</sup> 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 2<sup>nd</sup> Viability Appraisal dated 30<sup>th</sup> 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 7<sup>th</sup> 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 1<sup>st</sup> 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

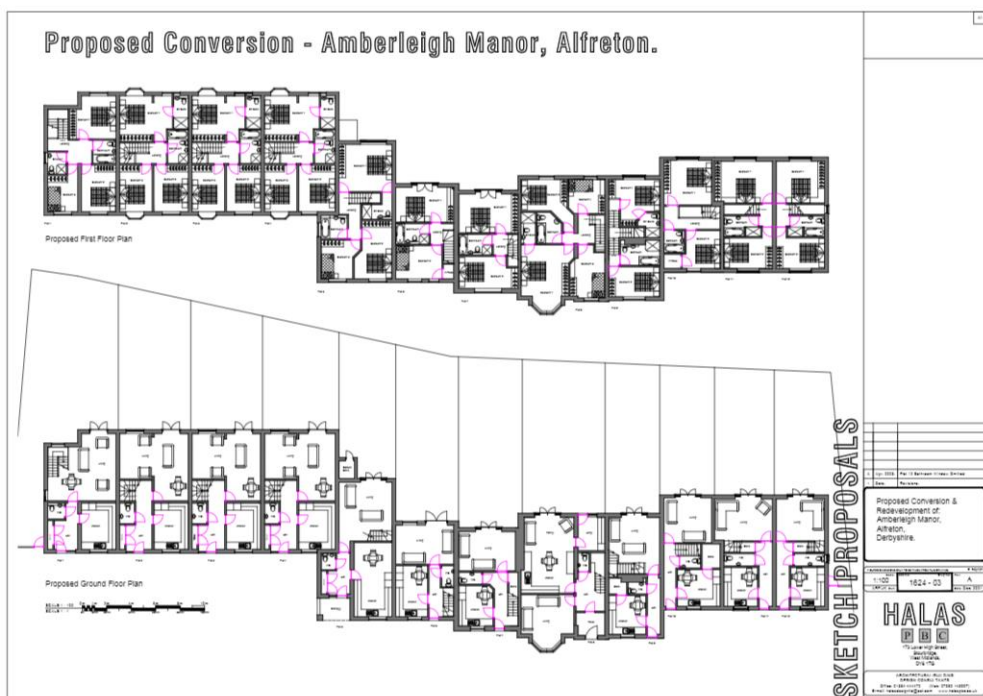
Plot 11 – 2 beds - 46 sqm

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 25<sup>th</sup> 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 1.5m<sup>2</sup> and extending over more than 50% or 120m<sup>2</sup> 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 1.5m<sup>2</sup> and extending over at least 50% of any elevation;
- (c) a building of more than 400m<sup>2</sup> plan area with continuous or individual glazing panes larger than 1.5m<sup>2</sup> extending over at least 50% or 120m<sup>2</sup> 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](http://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](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](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](http://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](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** Elmton With Creswell Parish  
**APPLICATION** Installation and operation of a solar farm renewable energy generating station comprising: ground-mounted photovoltaic solar arrays, substation, inverter/transformer units, site access, internal access tracks, security measures, access gates, other ancillary infrastructure and landscaping and biodiversity enhancements

**LOCATION** Land To South Of Frithwood Farm Cottage Frithwood Lane Elmton  
**APPLICANT** Ms Michelle Howley C/o Agent C/o Agent OX14 4SH  
**APPLICATION NO.** 22/00583/FUL **FILE NO.** PP-10572833  
**CASE OFFICER** Mr Steve Phillipson  
**DATE RECEIVED** 9th November 2022

---

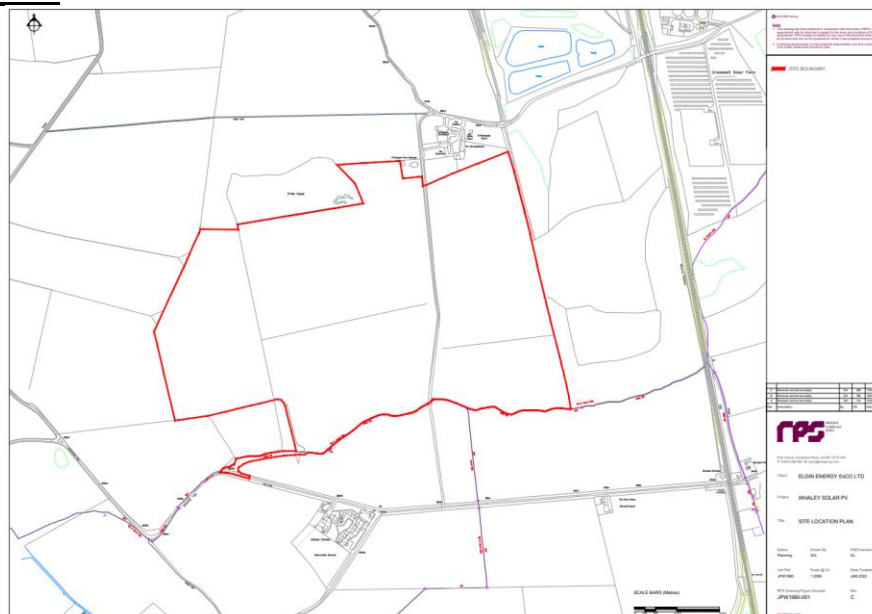
## SUMMARY

This is an application for a relatively large scale solar farm between Whaley and Creswell. Whilst the application has been significantly amended by negotiation to omit the area which contained the highest concentration of best and most versatile agricultural land (BVAL) it still contains about 10ha of it.

Local plan policy SC6 'Renewable Energy and Low Carbon Energy' is fundamental to this decision. SC6 allows solar farm development on agricultural land, but only allows large scale solar farms (BVAL) under 'exceptional circumstances'. The application comes before Planning Committee as there is a need to decide whether or not this bar has been met and so whether or not this proposal complies with the local plan.

The officer recommendation is that it has, due to the lack of alternative grid connection points in the District with capacity for this scale of solar farm and because most of the land within range of the connection point is also BVAL. Other impacts have been assessed but none of these warrant the refusal of planning permission because the harms identified are outweighed by the benefits of renewable energy and the need to tackle the climate emergency.

## Site Location Plan



## **SITE & SURROUNDINGS**

The site is comprised of approximately 46ha of arable agricultural land. It is located approximately 1 kilometre (km) to the south of Creswell, 500 metres (m) to the northeast of the village of Whaley, and around 800m northwest of the village of Whaley Thorns. The site is within the Parish of Elmton with Creswell.

The closest dwellings to the site are the small group of properties associated with the former Frithwood Farm and Frithwood Farm Cottage adjacent to the northern site boundary. The hamlet of Whaley Common is approximately 130m south of the site.

The land adjacent to the east is reclaimed pit tip and beyond that is Creswell Solar Farm, but otherwise the site is surrounded by agricultural land with two small woodlands adjacent at the southwest and northwest corners of the site.

The area of the site proposed to be developed with solar panels has been reduced during the course of the planning application to omit the two fields at the east side of the site. However, the original application site is comprised of 5 large fields separated by hedgerows. A well-used public footpath and bridleway known as the Archaeological Way (PROW No 9) which also serves as a farm access track, runs north south through the site.

The topography of the proposed site is gently sloping from west to east with undulations including a high point just to the south of Frith Wood.

A survey of the site has shown that the site comprises a mixture of grades 2, 3a and 3b agricultural land. The areas of higher quality grade 2 land are situated mainly on the eastern side of the site, on areas of higher land, and the lower quality areas are concentrated on the central and western part of the site.

All of the proposed development falls within Flood Zone 1 – land with the least potential for flooding. Land surrounding the site also falls within Flood Zone 1.

With regard to heritage designations, the site itself is not covered by any heritage designations. However, Frithwood Farm character area, part of the Elmton with Creswell Farmstead Conservation Area, is immediately adjacent to the north side of the site. Whaley conservation area is around 370m from the south-eastern boundary of the site.

In terms of ecological designations, there are none on the site itself, but there are several within close proximity to the site. Poulter Country Park lies approximately 0.75km to the south of the site at its closest point. It is designated as a Local Wildlife Site and protected green space. An area of ancient woodland ('Frith Wood') abuts the northern boundary of the site. There are three wildlife corridors in close proximity to the site. This includes the area of woodland immediately adjacent to the northern boundary of the site, the woodland immediately adjacent to the south-western corner of the site and the field parcel adjacent to the eastern boundary of the site.

Overall the site has a very quiet and pleasant rural character with open views of large hedgerow lined fields interspersed with occasional stands of woodland.

## PROPOSAL

Installation and operation of a solar farm renewable energy generating station.

The proposal as originally submitted was expected to have an export capacity of up to 25 Megawatts (MW) of renewable energy. Enough electricity to meet the demand of approximately 7000 average family homes. The reduction in scale and area agreed during the course of the application has reduced the estimated generating capacity to between 18-20MW.

The layout proposed for the application site is shown below, firstly as originally proposed, and secondly as amended by negotiation during the course of the application. The developable site area for the arrays has been reduced by about one third from approximately 46ha originally to approximately 31ha. This has been necessary in order to better meet local plan policy regarding renewable energy and the need to avoid the loss of best value agricultural land. Also to reduce impacts on the adjacent conservation area.

### Layout Originally Proposed



Layout Now Proposed as Amended - solar arrays restricted to west side of Bridleway.



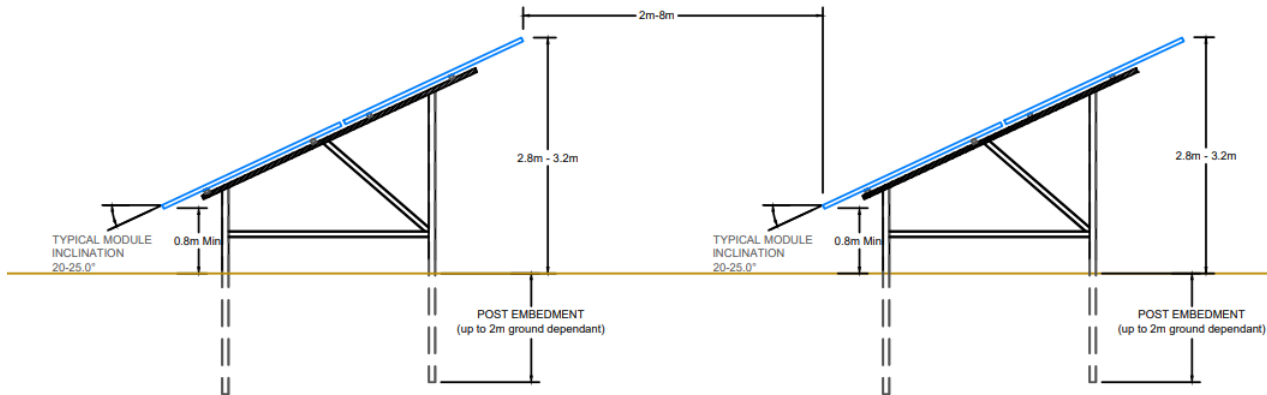
**The proposals also include the following elements:**

Ground-mounted photovoltaic solar arrays

These are 3.2m high with 2m-8m between arrays (the preferred mounting option is pile driven poles as show below, alternative is concrete pad).

The arrays would be oriented east-west across the Site, with the facades of the panels facing south. The positioning of the arrays responds to existing physical features such as ditches, trees and hedgerows with panels set back appropriate buffer distances as informed by technical guidance.

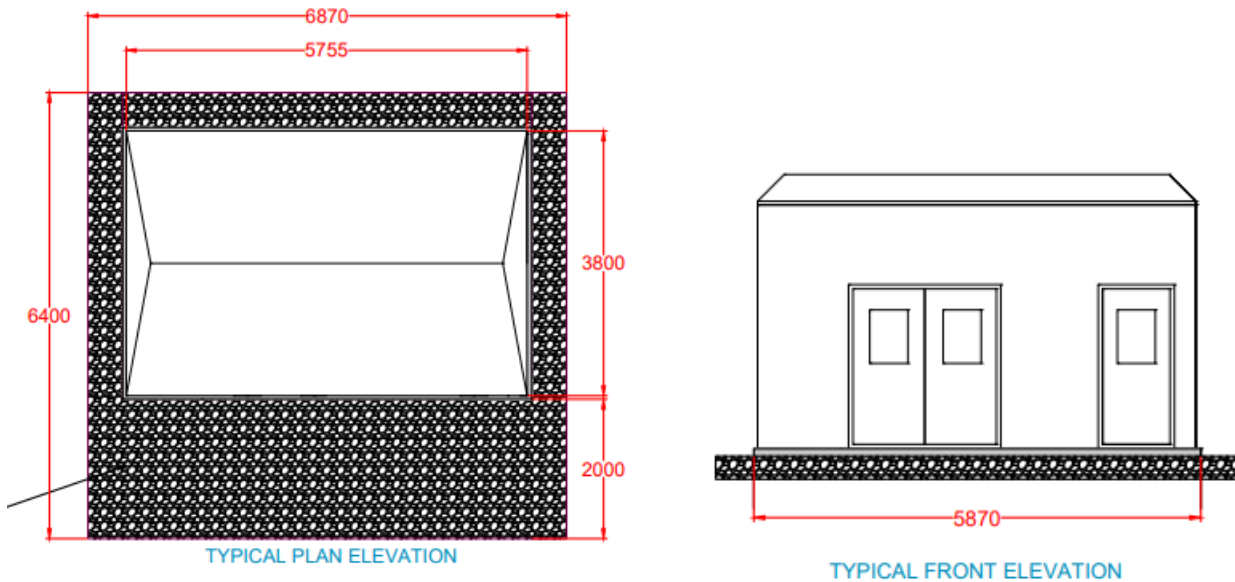
No earth moving or ground levelling will be required.



## Substation

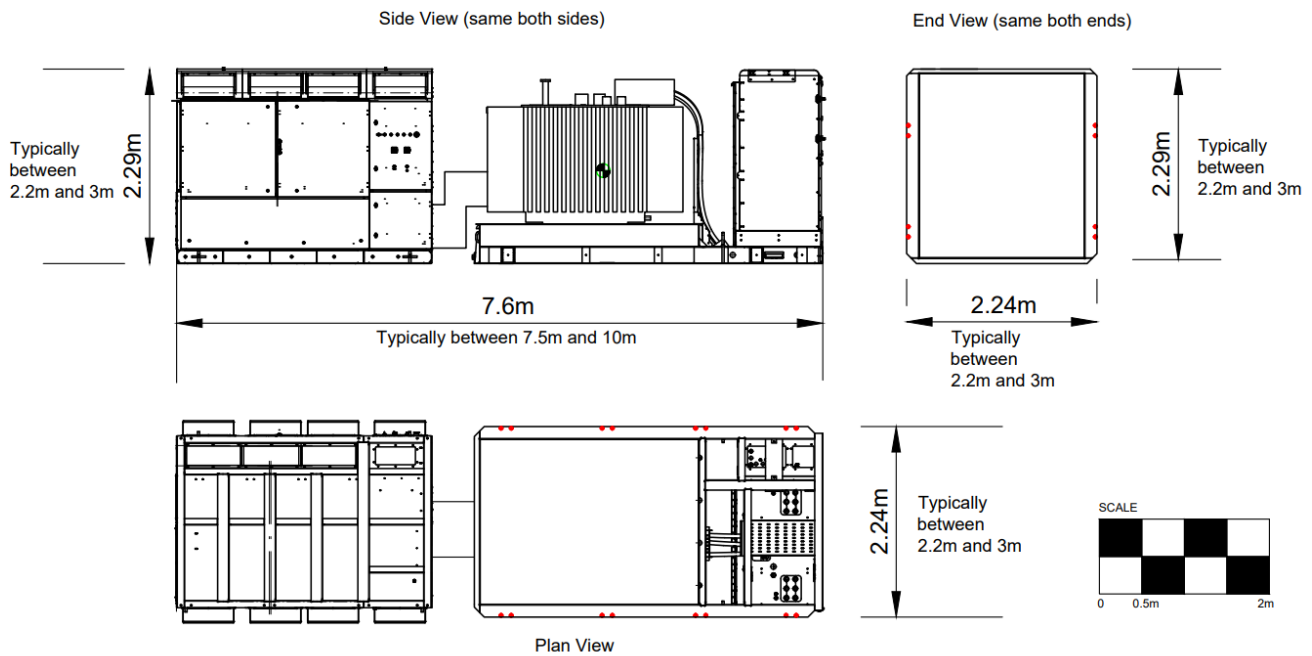
One Substation with compound (compound size approx. 20mx 20m) located behind (to the north side) of the woodland near to Mag Lane. An example detail of a substation unit is shown below 5.7m x 3.8m x 3.7 high. This would be a pre-fabricated metal container, typically finished in a grey or green colour.

The DNO Substation is designed and built by an Independent Connection Provider (IPC) on behalf of the DNO and is built to their specification and as such there are no confirmed details or dimensions available.



## Inverter/transformer units

5 Inverter/transformer units distributed across the solar farm. Inverters convert direct current (DC) generated by the PV panels into alternating current (AC). Transformers then convert low voltage output from the inverters to high voltage suitable for feeding into the network. Transformers are located next to the inverters inside the containerised solution.



Inverters are housed within pre-fabricated metal containers that are typically finished in a grey or green colour. Each unit measures c. 7.5m to 10.0m x 2.2 to 3.0m x 2.2 to 3.0m. (LxWxH). Inverters would be positioned on a gravel base atop blocks, leaving a gap of up to 500mm off ground level. This gives a total elevation of up to 3.57m. Inverter units have been located away from potential noise sensitive receptors.

### Other Cable Connections

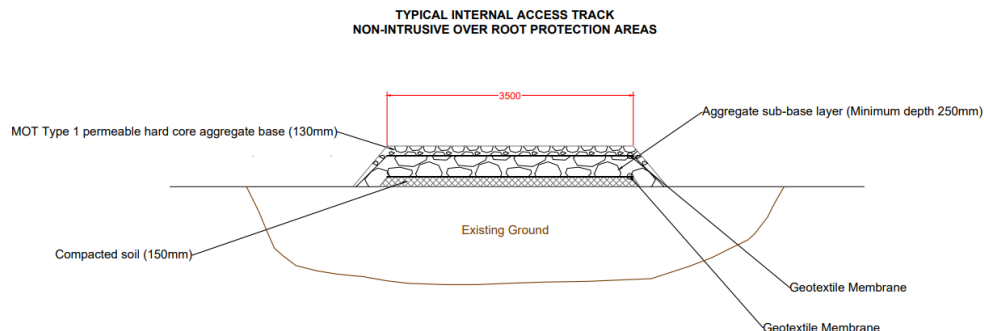
String Combiner Boxes are proposed to combine multiple strings of PV panels;

Underground and cable tray cabling to connect the panels and inverters to the proposed onsite customer switchgear units;

Connection to the national grid will be via underground cables on site. There will be no new overhead lines required to support the generating station.

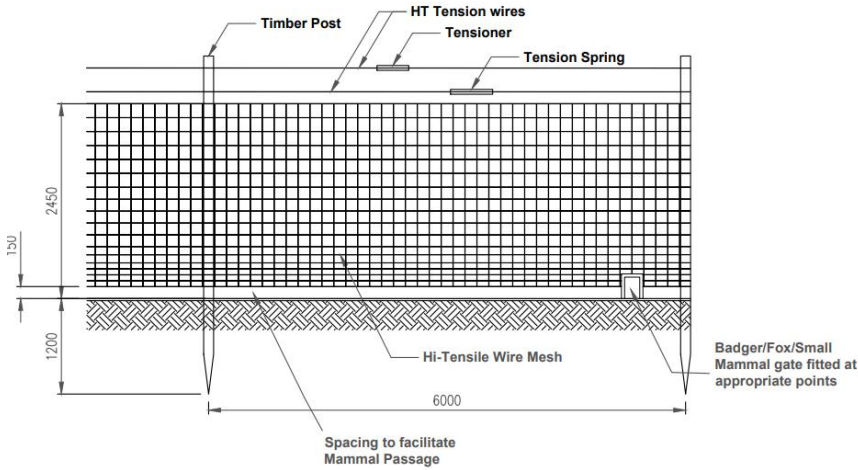
### Site Access Tracks

Compacted internal crushed stone tracks, rolled in layers to allow vehicular access from the highway and around the Site between field parcels. (The Root Protection version shown below)



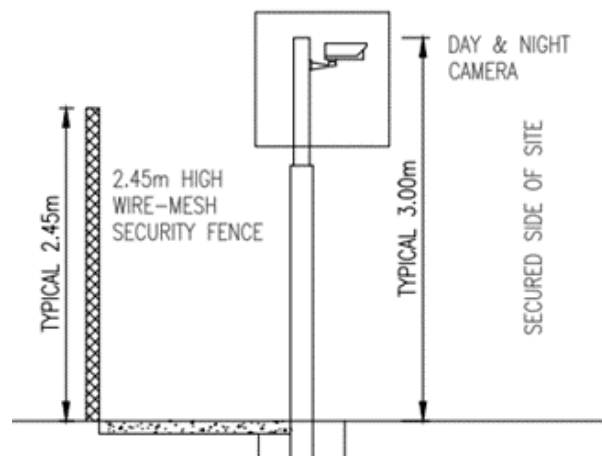
## Fencing

Approx' 3m high Wire Mesh Security Fencing (deer fencing) with Badger/Fox gates fitted.



## CCTV

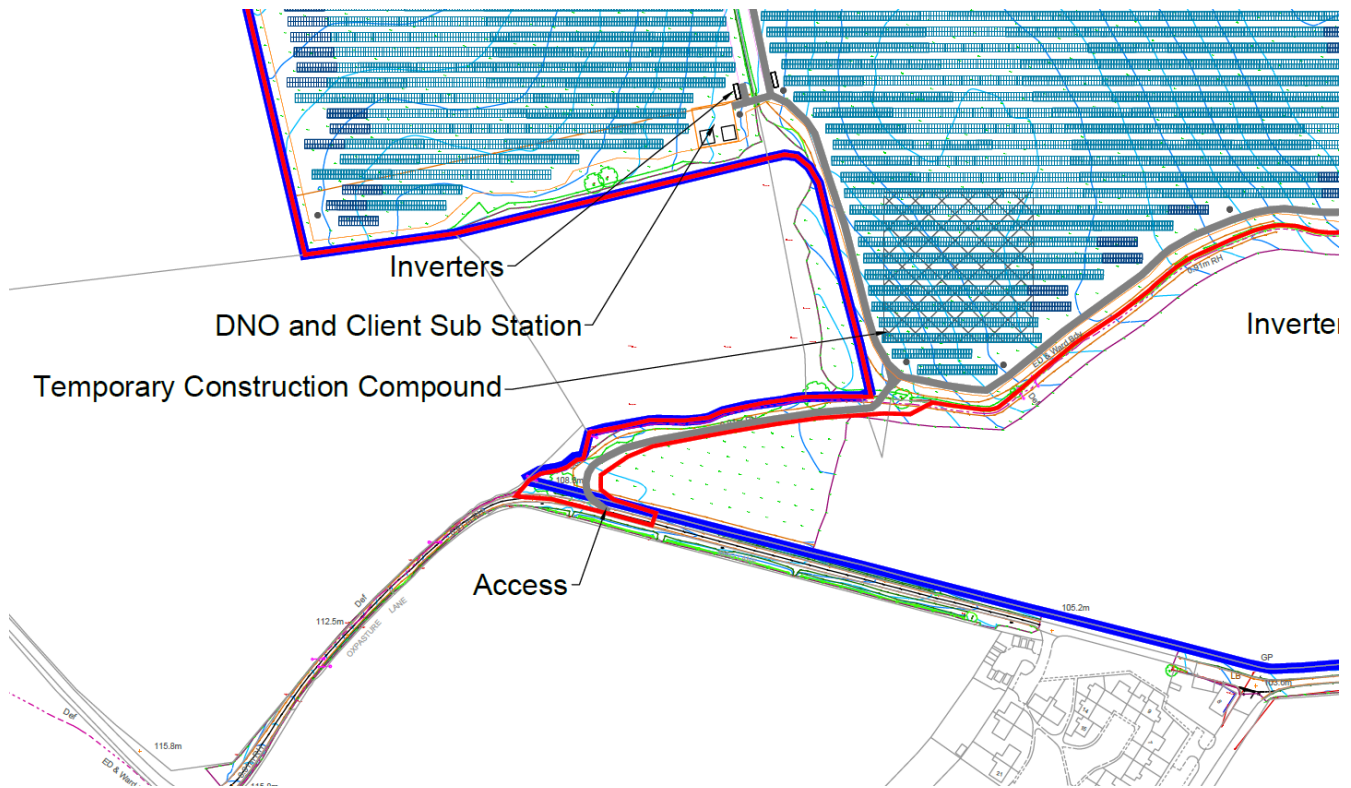
3m high CCTV day and night security and monitoring CCTV/infra-red cameras mounted on poles along the site perimeter. Cameras would be inward facing on poles of up to approximately 3m high, spaced at intervals along the fence line. Cameras would only monitor inside the site and not record any public or private land outside the perimeter. An intelligent sensor management system would manage the cameras. There would be no lighting within the site at night-time.



## Construction Compound

A temporary construction compound located at the southern extent of the site near the access point to avoid a requirement for HGV traffic to travel further into the Site.

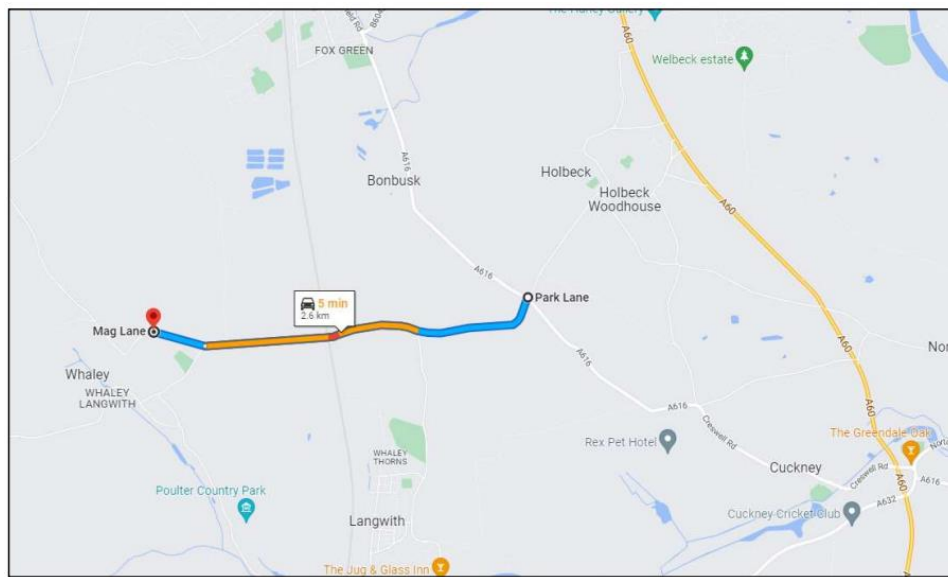




**Access and Routing**

Site access will be taken from an existing access track at the south-western end of Mag Lane (see plan above). Access tracks will be provided within the layout to provide all weather access for maintenance purposes.

The designated routes for all construction vehicles associated with the construction period and traffic management measures are set out in in the submitted Construction Traffic Management Plan. An extract of this is shown below. All construction traffic will use the A619, A60, A616 and Mag Lane.



Visitors, delivery drivers and contractors will be advised of the route in advance of driving to the site. It is proposed that temporary signage is used to direct construction traffic to the site along the proposed construction traffic route utilising existing street furniture where available.

Appropriate mitigation measures will be provided throughout the construction phase in order to manage the arrival and departures of HGVs at the Site. The Applicant states that no construction traffic will be allowed to wait on the local highway network outside the Site. No construction worker vehicles will be allowed to park on verges outside the Site.

The applicant expects between 30 – 60 two way construction staff trips per day plus an average of 3 deliveries per day over a 16 -24 week construction period.

### Landscaping and Biodiversity Enhancements

The Applicant states that the landscaping scheme includes measures to avoid, reduce, or remedy significant adverse impacts and measures that would reduce the visual prominence of the solar arrays in local views through new and enhanced field boundary screen planting.

This includes hedge and tree retention, a minimum of 5m ecological buffer planting to the site perimeter and hedgerows with increased buffer separation at ecologically sensitive locations. New tree and hedge planting and species rich grassland and wildflower meadows. A short section of new landscape screening to the south side of Frithwood Farm Cottage is proposed.

The submitted Ecology Appraisal and Biodiversity Net Gain Assessment indicate that the proposed measures will secure the scheme's +230.83% for habitats and +32.75% for hedgerows net biodiversity benefit.

### Construction Phase Works

It is anticipated that the construction phase will last for approximately 16 - 24 weeks. Construction activities and deliveries will be carried out Monday to Friday 08:00-18:00 and between 08:00 and 13:00 on Saturdays. No construction activities or deliveries are proposed to occur on Sunday or Public Holidays. The Applicant states that where possible, construction deliveries will be coordinated to avoid construction vehicle movements during the traditional AM peak hour (08:00-09:00) and PM peak hour (17:00-18:00).

The Applicant states that deliveries will vary in amount per day during the construction period with an average of three deliveries (three inbound plus three outbound movements) per day over the 24-week period. The Applicant estimates that there may be up to a maximum of 60 staff on site per day. The Applicant's experience of similar developments elsewhere suggests that car sharing can reduce the number of cars on site to 30.

There will be sufficient space within the curtilage of the Site to ensure that no vehicles would have to wait on the surrounding highway network. No diversion of pedestrian routes, parking suspensions or closure of lanes are expected. Although final details related to the access may be subject to LCC Highways requirements outside of the planning process.

A temporary construction compound is proposed at the southern side of the site (See plan

above). It is likely to include the following:

- Temporary portable buildings to be used for offices, welfare and toilet facilities;
- Containerised storage areas;
- Parking for construction vehicles and workers vehicles;
- Temporary hardcore/gravel hardstanding;
- Temporary gated compound; and
- Wheel washing facilities.

### Maintenance

Solar farms require little maintenance, with activity limited to occasional visits to clean (using only distilled water), check and test the installation, with personnel using small vehicles (4x4 or transit van type) and to replace any defective components, should any equipment fail during the lifetime of the farm.

The ground around and beneath the arrays will be seeded with a species rich grass mix. The Applicant States that this will be managed by occasional mowing and/or grazing by sheep. Pesticide treatments will not be used as part of a grounds-keeping regime.

### Operational Life and Decommissioning

Permission is sought for a 40 year operating period. The Applicant states that if at any time during this 40 year period the owner decides to decommission, replace or refit the modules, or if required to by condition following a period of 12 months of non-continuous generation, an appropriate method statement for decommissioning will be prepared and submitted to LPA for consideration and agreement. The proposed development including the ground fixings are fully reversible and all structures can be removed from the site and the land fully returned to sole agricultural use.

Once operational, the site will no longer be capable of being utilised for arable farming but the Applicant states that it could be used for grazing and as such could retain an agricultural use, albeit less intensive than the current arable cropping regime. It is also argued that less intensive agricultural use will allow for recovery and soil condition improvement.

During operational use the development will be monitored remotely and will not require any permanent staff to be located on site. It is expected that quarterly visits will be required for cleaning of the solar panels and other routine maintenance, as well as potential call outs for remedial works when required. Once operational there would typically be up to two maintenance visit per month comprising a small van or car.

### Supporting Documents with the Application

- Planning Supporting Statement
- Agricultural Land Classification Assessment
- Arboricultural Impact Assessment
- Ecological Assessment (Phase 1 and Phase 2 Surveys)
- Biodiversity Net Gain Assessment.
- Flood Risk Assessment and Surface Water Drainage Strategy
- Geophysical Survey
- Heritage Statement

- Landscape and Visual Impact Assessment, Landscape Strategy Plan and Photomontages
- Noise Impact Assessment
- Topographical Survey
- Transport Statement and Construction Traffic Management Plan
- Design & Access Statement
- Statement of Community Involvement

## **AMENDMENTS**

The layout has been amended by negotiation during the course of the application. The developable site area for the arrays has been reduced by about one third from approximately 46ha originally to approximately 31ha. This has been necessary in order to better meet local plan policy regarding renewable energy and the need to avoid the loss of best value agricultural land. Also to reduce impacts on the adjacent conservation area.

## **EIA SCREENING OPINION**

A list of projects for which EIA may be required is set out in Schedules 1 and 2 of the EIA Regulations. Schedule 1 developments require EIA to be undertaken in all cases. The proposed development does not fall within Schedule 1 of the EIA Regulations and would not be classified as Schedule 1 development.

However, the proposed Development would be of a type that would fall under Schedule 2 Part 3 'Energy industry' (a) 'Industrial installations for the production of electricity, steam and hot water'. Also the relevant threshold for industrial installations for the production of electricity listed in Part 3(a) of Schedule 2 is the area of the development exceeds 0.5 ha. The proposed development would exceed this threshold.

Therefore, it is considered that the Proposed Development constitutes Schedule 2 development under the EIA Regulations.

A Schedule 2 development does not require EIA to be undertaken in all cases but must be considered against the criteria provided in Schedule 3 of the Regulations to determine whether significant effects on the environment are likely. Schedule 3 considers the characteristics and location of the development and the characteristics of the potential impact.

Taking in to account the following aspects of the development, as required in Schedule 3:-

- The size and design of the whole development;
- Cumulation with other existing development and/or approved projects;
- The use of natural resources, in particular land, soil, water and biodiversity;
- The production of waste;
- Pollution and nuisances;
- The risk of major accidents and/or disasters which are relevant to the project concerned, including those caused by climate change, in accordance with scientific knowledge; and
- The risks to human health (for example due to water contamination or air pollution);

It is considered that significant effects on the environment are unlikely.

In reaching this conclusion regard has been had for the characteristics of the potential impacts and potential mitigations in respect of:

The risk of flooding;  
Ground conditions;  
Loss of best value agricultural land;  
Traffic impacts and highway safety;  
Construction safety;  
Landscape and visual impacts;  
Impacts on ecology and biodiversity;  
Heritage, above and below ground;  
Noise and vibration;  
Air quality;  
Public amenity and use of PRow

The Proposed Development is not subject to any statutory designations and the proposed development site is not subject to any statutory or non-statutory ecological designations.

In conclusion, significant effects on the environment are unlikely and therefore it is not considered that this development is EIA development and so the production of an Environmental Statement is not required.

The planning application is nevertheless supported by detailed technical and environmental reports to address the likely impacts and mitigation required.

## **HISTORY**

None.

## **CONSULTATIONS**

### BDC Conservation Officer

10/11/2023 Comments on revised layout: Previous concerns raised have been partially addressed. The development in such close proximity to the conservation area will result in harm (considered to be less than substantial, at the lower end of the scale of harm).

My previous comments raised concerns about the harm caused to the character and appearance and wider landscape setting of the Frithwood Farm conservation and recommended that the area covered should be reduced.

The revised application has gone some way to addressing these concerns by omitting the land to the east side of the footpath and this is welcomed. However, there has been no amendment to the layout and location of solar arrays on the land to the south and west of the Farm Cottages.

It has been brought to my attention that planning permission was granted for the extension of the original garden around the cottages which has provided, to a small degree, a larger buffer zone around the cottages.

Conclusion: The removal of the fields to east of the footpath and immediately south of the traditional farmstead has removed some of the harm to the setting but it is still considered that

the scale and concentration of development in such close proximity to the designated asset will result in harm (considered to be less than substantial, at the lower end of the scale of harm). In accordance with NPPF guidance paragraph 202 this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use.

14/06/2023 The following Conservation Officer comments relate to the original layout. Concerns raised.

There are no designated heritage assets within the proposal site. The Conservation Officer concurs with the conclusions of the Heritage Impact Statement that due to the local topography, presence of mature trees and intervening landform there will be no harm caused to the following designated assets: -

- Whaley Farm and The Oaks character area of the Elmton with Creswell Farmstead Conservation Area
- Creswell Conservation Area
- Whaley Conservation Area

However, she advises that there will be an impact on the character and appearance and setting of the Frithwood Farm Conservation Area.

*“The open landscape setting is considered to be an integral component of the significance of the Frithwood Farm complex and the wider Farmstead Conservation Area will be severely compromised by the proposed development. The impact is exacerbated by the sheer size and volume of the proposed solar farm and associated paraphernalia including 2.4 high fencing and cctv mounted on 3m poles.*

*Views to and from the Conservation Area will be affected by the development.*

*At present there are extensive views towards the conservation area from the public right of way (viewpoint 7 and 8). In these views the isolated farm complex sits nestled in the landscape surrounded by gently rolling agricultural fields with fragmented hedgerows and the established woodland area to the northwest of the site.*

*Given the close proximity of the application site to the former farm complex and farm cottages, there are clear and extensive views across the rolling agricultural fields from the former farmstead and the semi-detached farm cottages to the south and west. These open views will be fundamentally altered by the proposed development.*

*It is considered that the proposed development would represent a harmful intrusion into the landscape setting of the conservation area and as a direct result would have an impact on the character and appearance of the conservation area.*

*In accordance with paragraph 199 the NPPF, therefore, great weight should be given to the asset’s conservation (and the more important the asset, the greater the weight should be). In this instance, as the asset is a Conservation Area, which is of high significance, the weight should be considerable. Under section 72 of the Planning (LBCA) Act 1990 the decision maker must pay special attention in the exercise of planning functions to the desirability of*

*preserving or enhancing the character or appearance of a conservation area.*

*In my view, the proposed development will not preserve or enhance the character of the Conservation Area. It will cause moderate harm which is considered to be less than substantial. Where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal.*

*In terms of mitigating the harm caused to the setting consideration should be given to the reduction in the area covered by the application site, in particular the fields immediately to the south of the former farmstead and the area to the south and west of the Farm cottages. “*

The Conservation Officer concludes that the development will have an impact on the character and appearance and setting of the Frithwood Farm Conservation Area but that the level of harm caused to the significance and setting of the heritage asset will be NPPF “less than substantial”. In accordance with NPPF guidance paragraph 202 this harm should be weighed against the public benefits of the proposal.

#### BDC Urban Design and Landscape Officer

15/06/2023 Comments relate to the original layout:

Overall, it is considered that the solar farm is located within a landscape which has an intrinsic character associated with the Limestone Farmlands character area which is relatively rural. It is not a designated valued landscape and does not have strong conservation or historical significance. There are local recreational and pockets of tranquillity within the landscape. It is considered that this solar farm does not significantly affect the intrinsic quality of the area to an extent that is could not be accommodated within the landscape. My assessment is that provided improvements are made in the detailed layout and additional attempts to soften the edges are made, that the solar farm can be mitigated within the landscape.

#### BDC Environmental Health Officer

23/10/2023 Confirms that previous comments 17/01/2023 still apply.

17/01/2023 More information requested.

“The noise assessment makes the assumption that the inverters will run at at -16dB below typical levels during the noise sensitive early morning period 5-7am as they will be under less load, based on noise data from similar installations. We don’t know if this is representative in the case of the units under consideration here, and unless the claim can be backed up by manufacturers data, I suggest the modelling should be reworked to include a worse-case scenario assuming that the devices can in fact reach their peak noise levels at 6am.”

#### Council for the Protection of Rural England CPRE (unofficial consultee)

11/05/2023 Objects (Comments relate to the original layout)

CPRE say that there are committed to supporting solar energy but will always oppose harmful developments. They say that solar photovoltaics are an important part of our energy supply in

the climate emergency, but huge greenfield sites which damage our countryside ignore the huge potential of roof-mounted solar.

They support schemes that minimise landscape impacts, secure real nature recovery opportunities and enjoy the support of local communities. But they believe that schemes that fail to meet these expectations must be refused.

CPRE are opposed to building solar farms on good farmland. They do not believe that there are sufficient “exceptional” circumstances to justify the building of this solar farm, which they believe, goes against Bolsover Planning Policy on Renewable Energy “Policy SC6 Renewable and Low Carbon Energy.

They believe that the size of the proposed Solar farm of 45 hectares (*original size*), would significantly industrialise this very quiet and rural area and would have a significant impact on the landscape to both residents and users of the countryside in this area and of the Archaeological Way.

They also object due to proximity to 5 conservation areas.

#### DCC Archaeology

24/10/2023. No objections to the revised layout subject to conditions.

Notes that the revision reduces the amount of archaeological work necessary. He would prefer evaluation trenching to be undertaken pre-determination but has accepted that evaluation trenching and subsequent mitigation could be conditioned into any planning consent under para 205.

A condition is recommended requiring a tiered approach to further archaeological works. This should include:-

- Correlation of previous fieldwalking data and artefact scatters to the existing survey of the site.
- Metal detector survey of the proposed development area and recording.
- Archaeological evaluation trenching/geoarch prospection.
- Archaeological mitigation, where and if required.

12/04/2023. Second comments on the Original Layout:

The County Archaeologist advised that the site quite clearly contains archaeological remains the inference being that these could include Mesolithic through to Roman remains. Experience has shown that the archaeology of these field systems elsewhere can be complex and multiperiod producing archaeology from the Mesolithic. Neolithic, pre-Roman Iron Age, Roman period and also, importantly, the hitherto elusive early medieval period (6th and 7th cent AD). To my mind the significance and sensitivity of the archaeology has not in reality been fully addressed and the archaeological resource not sufficiently characterised (nature, dating, function). There is also the possibility that mitigation measures may include large scale open area excavations with appropriate analysis and appropriate publication. Evaluation trenching pre-determination would certainly help the applicants scope out likely costs ranges for mitigation, better allowing appropriate resources and timescales to be identified in a calm and measured manor. While it is unlikely that palaeolithic and Mesolithic areas of occupation



will be identified their presence cannot be discounted.

However, if the applicant is so minded in terms of risk, DCC advise that there is no reason why archaeological works and the resulting mitigation cannot be conditioned into any planning consent.

17/01/2023 First comments on original layout:

The DCC Archaeologist advised that the site encompasses an area of considerable archaeological interest and potential and so requested additional evaluation trenching works be undertaken under Para 194 of NPPF, to supplement the desk based assessment and geophysical survey, and that this work be undertaken pre-determination.

### DCC Flood Risk Team

29/06/2023 No objections subject to conditions.

Conditions advised include the agreement of a detailed design and associated management and maintenance plan of the surface water drainage for the site including during construction phase; a soil management plan which must demonstrate how damage to soil horizons and ground cover will be mitigated and remediated during and after construction and for future decommissioning; and a verification report to prove construction in accordance with the approved scheme.

### DCC Highways

10/11/2023 No objections subject to conditions regarding the provision of the approved access, parking and turning facilities; and HGV routing to be as per route one identified in the Construction Traffic Management Plan (CTMP).

This was a response to the additional highways technical information note provided by the Applicant in response to the initial concerns raised by the Highway Authority. DCC has now confirmed that they consider that the measures identified in the CTMP will be sufficient to mitigate the concerns raised previously and that the proposed development will not be contrary to paragraphs 110 and 111 of the NPPF such that it would warrant an objection.

01/06/2023 Previously required further clarification required on the Transport Assessment. Clarification on the locations of passing places and their suitability in terms of forward visibility and the ability of the verge to accommodate vehicular traffic on Mag Lane.

### DCC Public Rights of Way

12/01/2023 Comments made regarding the original layout and informative notes advised.

Elmton Public Bridleway No. 9 runs through the proposed development site, with Bolsover Public Bridleway No. 38 connecting to it at the boundary of the site. Elmton Public Footpath No. 6 and Bolsover Public Footpath No. 49 are also close enough to be affected by the proposals from a visual perspective.

The visual impact of the proposed development on the users of these routes must be

seriously considered when making a decision on these proposals. For Elmtun BW 9, there would, at the very least, be a change from seeing open fields through gaps in the hedgerow, or over the top of the hedgerow, to only really seeing hedgerow with some views of solar panels. A less open perspective from the bridleway may affect users' enjoyment of the route.

Informative notes are requested regarding the need to keep Elmtun BW 9 open, unobstructed and on its legal alignment and there should be no disturbance to the path surface without prior authorisation from the Rights of Way Section.

DCC Landscape Officer

24/05/2023 Unable to provide comments.

Derbyshire Wildlife Trust

01/03/2023 Comments relate to the original layout proposed.

We have reviewed the Ecological Appraisal (RPS, June 2022), Biodiversity Net Gain Assessment (RPS, November 2022 and the Illustrative Landscape Masterplan No. 100 A. (RPS, May 2022).

Protected Species:

We advise that a sufficient level of protected species survey has been undertaken, in accordance with standard guidelines.

Farmland bird species that use hedgerow, tree and scrub habitat are unlikely to be adversely impacted due to retention and enhancement proposals, however there will be a net loss of area for ground nesting birds. Breeding bird surveys recorded seven skylark territories on site, all of which will support solar panel arrays based on current proposals. Whilst this number of birds is of no more than local importance in geographical terms, we advise that a best practice approach should be taken to mitigating for skylarks. In the case of solar farms, it is reasonable to expect skylark plots to be accommodated between panels to retain some breeding opportunity on site. In addition, the ecological buffer zone could incorporate some areas of specific planting / wild bird mixtures for foraging farmland birds. Given that this seems to be the only outstanding area where adequate mitigation / compensation has not been provided and that it can be easily accommodated, we would seek to see these measures incorporated within proposals.

Bats are unlikely to be adversely affected due to retention and enhancement proposals for onsite habitats, including hedgerows, trees, woodland edge and species-rich grassland. If the offsite woodland blocks are within the same ownership as the application area, bat boxes could be installed at the woodland edge to provide further enhancements. There is also no net loss of habitat predicted for common amphibians or reptiles and these species can be safeguarded during construction through implementation of a Construction Environmental Management Plan (CEMP: Biodiversity).

Badger setts are present on and adjacent to the application area. These can be retained within proposals. We welcome the provision for gaps beneath perimeter fencing to maintain connectivity across the site for badgers and retain the setts in situ. Brown hare are also likely

to use gaps suitable for badger and can therefore continue to use onsite habitats around the solar arrays. It is essential that sufficient gaps are provided and that they are located on existing badger paths, in addition to other places around the boundary.

#### Habitats:

Frith Wood comprises a Plantation on an Ancient Woodland Site (PAWS). In accordance with Natural England advice, a 15 m boundary should be maintained between the woodland edge and any development to safeguard to woodland. Currently it appears that the ecological buffer zone adjacent to the woodland is only 5 m, as proposed for the rest of the site boundaries. There is opportunity to achieve net gains in hedgerow habitat as the existing hedgerow network onsite is recorded as gappy and regularly flailed. A relaxation in management and gapping up existing hedges would provide significant benefits. We welcome the proposals to seed the majority of the site with tussock mix beneath the panels and wildflower mix within the ecological buffer zone. This is likely to benefit pollinators and other wildlife.

#### Biodiversity Net Gain:

DEFRA Biodiversity Metric 3.1 has been used to calculate net losses / gains at the site, based on current proposals. A gain of +230.83% for habitat and +32.75 % for hedgerows is currently predicted, with all trading rules satisfied. This is largely due to the change from arable land to tussocky grassland with wildflower margins, along with other enhancements.

Conditions are recommended requiring:

An updated badger survey;

A Construction Environmental Management Plan (CEMP: Biodiversity); and

A Landscape and Biodiversity Enhancement and Management Plan (LBEMP) to manage the biodiversity value of onsite habitats.

#### Natural England

02/11/2023 Comments relate to the revised layout. No objections as amended, subject to conditions.

Following re-consultation on the revised layout Natural England considers that the proposed development will not have significant adverse impacts on statutorily protected nature conservation sites or landscapes.

Biodiversity Net Gain Natural England welcomes the proposed biodiversity enhancement stated within the submitted application documents, particular within chapter 3 of the Biodiversity Net Gain Assessment document. The inclusion of a wildlife buffer around the perimeter of the proposed development will enable the creation of a nature corridor which will be beneficial for many flora and fauna species. Resultantly, reducing the likelihood of isolated and fragmented habitats. Indeed, this planning buffer will be extremely valuable to provide a biodiversity pathway to the nearby areas of existing woodland. Also, the planting of additional trees as well as species rich grassland and wildflower meadows throughout the site will also provide a valued resource for flora and fauna.

07/07/2023 Initial comments. Whilst NE did not object on ecology grounds it was noted that the application would lead to the temporary loss of over 24ha of best and most versatile agricultural land. NE advised that the Council should consider whether this is an effective use

of land in line with planning practice guidance which encourages the siting of large-scale solar farms on previously developed and non-agricultural land. Then areas of poorer quality land should be preferred to those of a higher quality. NE also point to Planning Practice Guidance for Renewable and Low Carbon Energy (March 2015) (in particular paragraph 013) and advise the Council to fully consider best and most versatile land issues in accordance with that guidance.

Conditions are recommended to safeguard soil quality and agricultural land including a required commitment for the preparation of reinstatement, restoration and aftercare plans; normally this will include the return to the former agricultural land quality.

Advises that general guidance for protecting soils during development is also available in Defra's Construction Code of Practice for the Sustainable Use of Soils on Construction Sites, and should the development proceed, we recommend that relevant parts of this guidance are followed, e.g. in relation to handling or trafficking on soils in wet weather.

### Police Designing Out Crime Officer

19/10/2023 Following re-consultation on the revised layout, confirms that the reduction in scale does not alter views expressed in their previous response on the 11th of January.

11/01/2023 No objections subject to a condition requiring a scheme of security measures to be agreed.

Thefts from solar farms nationally are on the increase, with the scale of offending suggesting the work of organised crime groups on an industrial scale. A recent example occurred not too far from the application site, in Nottinghamshire, where panels were removed from a farm which was under construction, and a security guard held under duress whilst the theft took place.

Consequently, its important to provide a risk commensurate security provision for sites, both during and post construction.

Security will be very much reliant upon the suggested CCTV system, which on the face of details submitted is deficient in certain areas.

### Ramblers Association

21/10/2023 No change to previous comments following re-consultation on the revised layout.

08/01/2023 Objects to the proposal from an aesthetic public enjoyment point of view.

"We note with concern that this proposal will have a direct detrimental effect on Elmton BW 9 and Bolsover BW 38. From the drawings provided it is perceived that the definitive line and general character of the previously mentioned bridleways will be preserved locally by providing the corridor as indicated on the drawing. Whilst this will preserve the bridleways from a convenience point of view, the proposal fails when the aspect of aesthetics is considered. Essentially the site will obscure what is currently a large expanse of open agricultural farmland. Additionally, and due to the fairly flat nature of the land in this area, the

solar farm will severely detract from the views from the previously mentioned bridleways and a number of other footpaths in the area.”

## **PUBLICITY**

Advertised in the press and 2 site notices posted. 28 properties consulted and 17 objections received on the following grounds:

### Principal:

- Brownfield sites should be used instead of taking farmland out of food production.
- The site should be located on lower quality agricultural land not best value land.
- Solar farms should not be at the expense of food production.
- The large scale of the proposal.
- Contrary to Local Plan Policies (SC16 Conservation Areas; SC6 Renewable and Low Carbon Energy; SC9 Biodiversity and Geodiversity).

### Residential Amenity:

- Visual impacts and detrimental effect on property, its rural location and character.
- Frithwood Farm will be almost surrounded by solar panels.
- The solar site will abut directly on two sides of our property changing the views from their current aspects of open countryside and replacing these views with an industrial view of large photovoltaic cells, a number of substations, chain link fencing and potentially intrusive CCTV cameras; all causing substantial detriment to rural amenity.
- The inhabitants of Whaley Common will be directly affected as the farm is on their doorstep.
- Effecting people’s mental health and quality of life.
- Noise from construction, inverters and operation.

### Landscape:

- Impact on the landscape in general.
- Impact on views from Poulter Country Park.
- Will completely ruin the outlook and view both from Mag Lane and all along the Archaeological Way.
- Negative visual impact of 2.4 metre fencing and the industrial solar panels on the aesthetics of the environment for those living in and enjoying the rural area.

### Noise:

- Potential for noise from the substations.
- Currently a very quiet rural area.
- Disturbance during construction.
- Impact on health and well being of residents nearby.

### Impact on Bridleway/Footpath:

- Adverse effect on use of Bridleway/footpath/cycle path.
- Currently this is a pleasurable ride but a solar farm would make the route feel industrial and would create more hazards for horses.

### Highway Impacts

- Additional Traffic on narrow country lanes dangerous to walkers and horse riders.
- Danger of construction traffic on roads which are not suitable for such traffic and the irreparable damage caused to verges and hedge ways.
- Lack of passing places on Frithwood Lane.
- Horse rides would be forced to use more dangerous alternative roads.
- The proposed access point is on a bend presenting safety risk.
- The local roads around this site are used by many local horse riders and cyclists to access miles of safe off road tracks at poulter park.

### Heritage:

- Impact on underground archaeology.
- Impact on Conservation areas.

### Biodiversity:

- Disruption to wildlife.
- Impacts on Owls, Buzzards, Brown Hares, Yellow Hammer, Skylark, Green Woodpecker, deer, Lapwings, Red Kites.
- Close proximity to ancient woodland and archaeological way.
- Fences obstructing wildlife corridors.

### Light

- If the site requires permanent floodlights to facilitate 24 hour CCTV to deter criminal activity this will cause further disturbance and light pollution to the local communities [*It should be noted that floodlights are not currently proposed; infra-red CCTV cameras are proposed*].

### Flooding

- It is unclear whether the damage caused to the soil substructure by the construction of this development would negatively impact on the local water table and increase the flooding risks.

### Other:

- Potential increase of crime associated with solar farms.
- Impact on property values.
- The location of solar farm sites must be carefully thought about as it has to include the approval of local residents so that they do not begin to resent the initiatives that will hugely affect global warming and climate change. We have to take everyone with us and make it a positive action for all.
- Norwood Farm will have its CL camping site spoiled.
- Insufficient consultation on the application.
- To describe a 40 year permission as “temporary” is ridiculous.
- There will be no job opportunities.

### Comments After Re-consultation on Reduced Site Area:

One representation explains that the reduced site area of the proposal has not changed the

impacts on the resident's property [*as summarised above*], which will still be surrounded on two sides by the panels. Given the amount of land in possession of the land owner the resident feels that other sites must be available with no impact on local residents.

A second representation notes the overall size has reduced but cannot see how that has changed the concerns previously raised.

Notes the comments of The Police that the proposal will increase the risk of Crime in the locality and so raises concerns that if normal security lights need to be used [*as oppose to the infra-red CCTV system proposed*] potential light pollution from security lights would adversely affect the environment and nocturnal wildlife e.g. bats and owls.

## **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'
- SS9: 'Development in the Countryside'
- SC2: 'Sustainable Design and Construction'
- SC3: 'High-quality development'
- SC6: 'Renewable and Low Carbon Energy'
- SC7: 'Flood Risk'
- SC8: 'Landscape Character'
- SC9: 'Biodiversity and Geodiversity' - Policy Map includes identification of Wildlife Corridors and Stepping Stones allocation for the two woodlands.
- SC10: 'Trees, Woodland and Hedgerows'
- SC11: 'Environmental Quality'
- SC13: 'Water Quality'
- SC16: 'Development Impacting Upon Conservation Areas'
- SC18: 'Scheduled Monuments and Archaeology'
- ITCR1: 'Strategic Green Infrastructure Network'
- ITCR2: 'The Multi-User Trails Network' (Protected Trail 'k')
- ITCR3: 'Protection of Footpaths and Bridleways'
- ITCR10: 'Supporting Sustainable Transport Patterns'
- II2: 'Employment and Skills'

### National Planning Policy Framework ("the Framework")

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

- Chapter 2: - Achieving sustainable development.

- Paragraphs 7 - 10: Achieving sustainable development.
- Paragraphs 47 - 50: Determining applications.
- Paragraphs 55 - 58: Planning conditions and obligations.
- Paragraphs 92 - 103: Promoting healthy and safe communities.
- Paragraphs 104 - 113: Promoting sustainable transport.
- Paragraph 152, 154, 157 and 158: Meeting the challenge of climate change.
- Paragraph 159 - 169: Planning and Flood Risk.
- Paragraphs 174, 180 and 182: Conserving and enhancing the natural environment.
- Paragraphs 183-188: Ground conditions and pollution.
- Paragraphs 194 - 208: Conserving and enhancing the historic environment.

### Supplementary Planning Documents

Elmton with Creswell Farmsteads Conservation Area Appraisal March 2020

### Planning Practice Guidance

Renewable and Low Carbon Energy 18/06/2015

This Government Guidance sets out what the particular planning considerations are for large scale ground mounted solar photovoltaic farms. An extract of this is copied below:

*“The deployment of large-scale solar farms can have a negative impact on the rural environment, particularly in undulating landscapes. However, the visual impact of a well-planned and well-screened solar farm can be properly addressed within the landscape if planned sensitively.*

*Particular factors a local planning authority will need to consider include:*

- *encouraging the effective use of land by focussing large scale solar farms on previously developed and non agricultural land, provided that it is not of high environmental value;*
- *where a proposal involves greenfield land, whether (i) the proposed use of any agricultural land has been shown to be necessary and poorer quality land has been used in preference to higher quality land; and (ii) the proposal allows for continued agricultural use where applicable and/or encourages biodiversity improvements around arrays.....*
- *that solar farms are normally temporary structures and planning conditions can be used to ensure that the installations are removed when no longer in use and the land is restored to its previous use;*
- *the proposal’s visual impact, the effect on landscape of glint and glare .... and on neighbouring uses and aircraft safety;*
- *the extent to which there may be additional impacts if solar arrays follow the daily movement of the sun;*
- *the need for, and impact of, security measures such as lights and fencing;*
- *great care should be taken to ensure heritage assets are conserved in a manner appropriate to their significance, including the impact of proposals on views important to their setting. As the significance of a heritage asset derives not only from its physical presence, but also from its setting, careful consideration should be given to the impact of large scale solar farms on such assets. Depending on their scale, design and prominence, a large scale solar farm within the setting of a heritage asset may cause*



- *substantial harm to the significance of the asset;*
- *the potential to mitigate landscape and visual impacts through, for example, screening with native hedges;*
- *the energy generating potential, which can vary for a number of reasons including, latitude and aspect....”*

(Paragraph: 013 Reference ID: 5-013-20150327

Revision date: 27 03 2015)

### Statutory Duties

Planning (Listed Buildings and Conservation Areas) Act 1990.

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

### Other Guidance and Material Considerations

Historic England 2021 *Commercial renewable energy development and the historic environment Historic England Advice Note 15*. Swindon. Historic England (CD10.7).

The Setting of Heritage Assets Historic Environment Good Practice Advice in Planning Note 3 (Second Edition) 2017

National Policy Statements (NPS) EN1 and EN3 for the delivery of major energy infrastructure are also material considerations.

The NPSs recognise that large scale energy generating projects will inevitably have impacts, particularly if sited in rural areas. Whilst NPSs EN-1 and EN-3 do not specifically refer to solar generated power they reiterate the urgent need for renewable energy electricity projects to be brought forward. Draft updates to NPSs EN-1 and 3 identify that, as part of the strategy for the low-cost decarbonisation of the energy sector, solar farming provides a clean, low cost and secure source of electricity. Notwithstanding the replacement EN-3 is in draft consultation form and therefore the draft carries limited weight.

The draft for Renewable Energy Infrastructure (EN-3) begins by stating that ‘Electricity generation from renewable sources of energy is an essential element of the transition to net zero’. It also contains a section dedicated to solar which details factors that influence site selection by applicants, these are:

- Irradiance and site topography
- Proximity of a site to dwellings
- Capacity of a site
- Grid connection
- Agricultural land classification and land type
- Accessibility

With specific regard to agricultural land classification and land type the draft NPS states that although ground mounted Solar PV projects should aim to utilise previously developed land, or agricultural land preferably of classification 3b, 4, and 5, land type should not be a predominating factor in determining the suitability of the site location.

Government’s Net Zero Strategy: Build Back Greener (2021) which also has relevance. It

explains that subject to security of supply, the UK will be powered entirely by clean electricity through, amongst other things, the accelerated deployment of low-cost renewable energy generation such as solar.

The Government's British Energy Security Strategy (April 2022)

The Government published the British Energy Security Strategy on 6 April 2022. The Strategy demonstrates the Government's support for renewable energy in general and solar energy in particular. The strategy states a fivefold increase in deployment of solar generating capacity is expected by 2035. The Government will consult on amending planning rules to strengthen policy in favour of development on non-protected land, while ensuring communities continue to have a say and environmental protections remain in place, and will continue supporting the effective use of land by encouraging large scale projects to locate on previously developed, or lower value land, where possible, and ensure projects are designed to avoid, mitigate, and where necessary, compensate for the impacts of using greenfield sites.

Vision Bolsover

The plan sets out the Council's ambitions to help secure partnership and investment across the Bolsover District. A key priority listed in the plan is to reduce the District's carbon footprint.

BDC Carbon Reduction Plan (2019-2030)

The plan sets out the Council's ambitions for reducing carbon emissions up to 2030. It states: *'We need to reduce our reliance on climate damaging energy... We need to access renewable power such as solar... Our council is committed to this challenge and the principle of carbon reduction.'*

## **ASSESSMENT**

### **Key issues**

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

- the principle of the development including loss or agricultural land and benefits of renewable energy
- the impacts on the conservation area and heritage assets
- the landscape and visual impact of the proposed development
- impacts on the amenity of users of public footpaths/bridleways
- the impacts on residential amenity
- traffic impacts and highway safety;
- impacts on biodiversity

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

### **The Principle of Development**

Planning law requires that applications for planning permission be determined in accordance with policies in the adopted Local Plan, unless material considerations indicate otherwise. Relevant Local Plan policies are listed above in the policy section of this report. However, the most relevant policy regarding the principle of development is policy SC6 'Renewable Energy and Low Carbon Energy'.

Policy SC6 states that development proposals for the generation of renewable energy (except large wind turbines) will be granted unless either individually or cumulatively with other renewable energy development, there would be significant harm to factors including:

- a) the visual appearance and character of the area;
- b) the amenity of local residents, either individually or cumulatively with other renewable energy development particularly from noise, dust, odour, traffic or visual intrusion;
- c) ecology, protected species, sites of biodiversity value, ancient woodland and veteran trees;
- d) harm to the historic environment;
- e) airport radar and telecommunication systems.

SC6 gives significant weight to the wider environmental and economic benefits. However, it states that proposals for large scale photovoltaic solar panels on Grades 1, 2 and 3a agricultural Land will only be permitted under exceptional circumstances. The local plan introduction policy SC6 makes it clear that the Council will support solar farms on lower grade agricultural land, as oppose to policy SS9 'Development in the Countryside' which is silent on the matter.

Criteria a – e of SC6 will be considered below in the relevant sections of this report.

What is important to note at this stage in the assessment, is that whilst significant weight must be given to the wider environmental and economic benefits of renewable energy, it is clear policy SC6 will only allow large scale photovoltaic solar panels on Grades 1, 2 and 3a. Agricultural Land in exceptional circumstances.

Since there will always be wider environmental and economic benefits of renewable energy with every application for a solar farm, it follows that these renewable energy benefits alone cannot be deemed to be exceptional circumstances that would justify a decision to be made contrary to policy. Other material considerations must come into play.

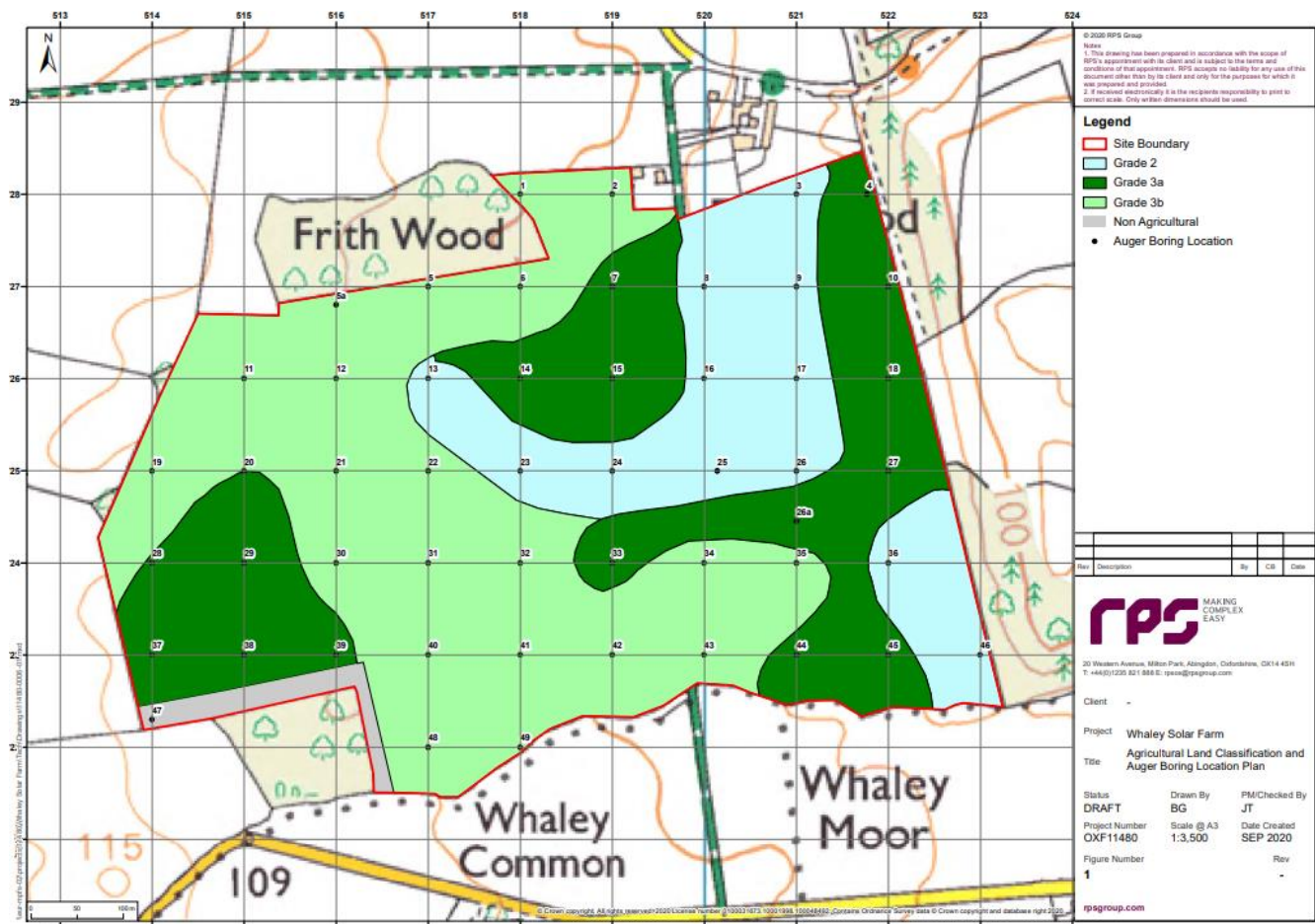
This proposal does require the use of grades 2 and 3a agricultural land and so, on the face of it, the proposal is contrary to policy SC6 unless there are exceptional circumstances. Therefore, this application must be determined by Planning Committee in accordance with the Council's procedures.

With regard to Government planning guidance and policy. The National Planning Practice Guidance (NPPG) explains that where a proposal involves greenfield land, consideration should be given to whether the use of any agricultural land has been shown to be necessary, whether poorer quality land has been used in preference to higher quality land and to whether the proposal allows for continued agricultural use where applicable and/or encourages biodiversity improvements around arrays. This approach is also reflected in the Framework, which states where significant development of agricultural land is demonstrated to be necessary, areas of poorer quality land should be preferred to those of a higher quality. Framework paragraph 174 requires the economic and other benefits of the best and most versatile land to be recognised in planning decisions. The NPPG also provides a link to the Written Ministerial Statement (WMS) of 25 March 2015 regarding unjustified use of agricultural land and expects any proposal for a solar farm involving BMV to be justified by the most compelling evidence.

Loss of Best and most Versatile Agricultural Land (BVAL)

The site is not brownfield which is the preferred choice for solar farms. It is almost all agricultural land, and whilst the proposals do, in theory, allow sheep grazing to be undertaken and so prevent the total loss to agriculture, this may not happen, and even if it did it would be significantly less productive agriculture than the arable land use now present on site.

The national agricultural land classification map, which is at a very large scale (1:250,000) and produced in the 1960's and 70's shows all of the site to be grade 2 agricultural land. However, the Applicant has submitted a consultant's report which has examined this site in much more detail. It concludes, in relation to the original site area proposed, that 21% of the site is grade 2, 32% of the site is grade 3a and 47% is lower grade land. Hence the original proposal would have involved the loss 53% BVAL or 24.4ha. A plan showing the agricultural land classification is copied below. BVAL is shown blue (grade 2) and dark green (3a). The light green area is not classed as BVAL. This plan shows that the highest concentration of BVAL is situated at the east side of the site.



In order to reduce the loss of BVAL in the proposal the application has been amended by negotiation, to omit all of that land to the east side of the bridleway which crosses north-south through the site.

This amendment has reduced the area of BVAL which would be lost, from approximately 24.4ha to 11ha (by area a reduction from 53% to 24%). Although it should be noted that by

the Applicant's measurements, the new layout results in the partial temporary loss of 8.6 ha (18.6% by area).

Whilst there is a little discrepancy in the measurement of the area of BVAL affected (taking a mid point we could assume that approximately 10ha of BVAL would be affected), the amendment has resulted in a significant reduction in the scale of the impact. However, 10ha is still a significant area of BVAL and so Committee Members must also be satisfied that there are exceptional circumstances to justify approval of the amended proposal.

The Applicant argues that the reasons why it is necessary to use some BVAL are:-

#### Lack of Options for Grid Capacity

The Applicant states that only some sites prove viable from a grid connection perspective. Solar farms require a viable grid connection with sufficient export capacity to export the electricity generated by the solar farm to the wider grid networks. The grid has approximately 300 major substations, but only perhaps some 10% of these are suitable for Solar PV development.

Through discussions with the grid network operator (western power networks) it was determined that the Whitwell, located 3km north of the proposed solar farm, has 25MW of available capacity. Furthermore, a connection date of 2024 is achievable for the proposed solar farm. Other new connections planned for this area of the grid will not be able to export to the grid until beyond 2032 as to facilitate new connections will require planning and upgrading of the grid network.

Other connection options were also considered. Shirebrook Substation (5.5km to the south – see attached file) was ruled out as it had no available connection capacity. The Applicant also looked into the possibility of connecting straight into the 33kv line 2km to the west of the proposed solar farm but they were advised by the Network Operator that the overhead lines in this area had reached their thermal capacity rating allowance (meaning they have reached the allowed number of generators i.e. solar farms connected directly to the overhead line).

The cost of the connecting cable relative to the power generated, and the reduction in efficiency of the scheme due to losses associated with increased cable length are both significant commercial constraints. A radius of 5km from the Whitwell Substation Point of Connection (POC) has been considered in this instance.

#### Land Ownership and Availability

The Applicant states that sites of this scale, are rarely if ever promoted on the open market. Developers and landowners are brought together through complex networks of land agents and direct contacts. In this case, the landowner in question (Chatsworth Estates) controls a lot of land within the 5km radius of the Whitwell connection point. Of the sites that did not have long term tenancies or other legal impediments, the site at Frithwood farm was assessed as having the least environmental impact.

## Other Planning Constraints

The Applicant says that most of the land within the 5km POC is covered by planning constraints restricting opportunities. Of note most of the search area is grade 2 agricultural land.

The Applicant concludes that other sites within 5km of the POC are not known to be available for large scale solar development, and very few areas are free from the usual planning constraints. Those that are not considered to be suitable would have a high visual impact or would impact other receptors in a detrimental way. In this context, the choice and use of the site at Frithwood Farm to utilise the spare capacity at Whitwell Substation can be considered to be SC6 'exceptional'.

## Planning Officer Comments on Agricultural Land

An officer review of spare grid capacity using the National Grid web site for Bolsover District has been undertaken but this search did not locate an alternative point of grid connection which currently has adequate capacity for this scale of solar farm. Only much smaller ones.

If the Council wishes to play a positive role in enabling larger scale renewable solar energy in the District, then until grid connection capacity is improved elsewhere, it is likely that the site will need to be within a reasonable distance from the Whitwell sub-station, which also means the loss of some BVAL is inevitable. This is because all of the land within the District to the east side of the limestone ridge is classed as BVAL on the national agricultural land classification map. It is considered that this could amount to SC6 "exceptional circumstances" to allow large scale solar on a site which partially contains BVAL.

There have been quite a few planning appeal decisions over recent years regarding solar farms and the impact on BVAL. The vast majority (but not all) of these decisions have allowed solar farms on sites where some BVAL has been used.

In the Parsonage Road appeal decision (S62A/22/0000004) 76% of the site is classified as BMV.

Minchens Lane appeal APP/H1705/W/22/3304561 where 53% of the site is classified as BVAL.

Berden Hall Farm appeal (S62A/22/0006), approximately 72% was BVAL

Gunthorpe Road appeal (APP/A2525/W/22/3295140) 100% grade 1 BVAL

Hence the majority of Planning Inspectorate decisions tend to allow the benefits of renewable energy and the need to deal with the climate emergency (as declared by UK Government May 2019) to outweigh the loss of BVAL.

Whilst local plan policy SC6 is very strongly worded in favour of the protection of BVAL (more so than the relevant policies in the appeals referred to above), it is considered that the revisions agreed to the proposal, reducing the amount of BVAL affected to about 20% by site area, are enough to reduce the conflict with policy to a point where the benefits of renewable energy can outweigh the harm and that a refusal on this ground is unlikely to be supported at appeal.

Furthermore, the local plan does not identify any suitable preferred sites for the location of large scale solar farms in the District.

### Other Relevant Policy

Policy SS1 d) of the local plan says that in order to contribute to sustainable development in Bolsover District development proposals should.....promote high standards of low carbon and energy efficient design and renewable energy production where possible and appropriate.

Policy SC2 c) of the local plan says that the Council will permit proposals for new development where it ....supports and promotes the efficient use of energy and resources including renewable energy schemes...

### Conclusions on The Principle of Development and Agricultural Land

Given the proposed connection to the intended substation, and lack of alternatives with grid capacity, it is considered unlikely that a proposal of this size could be located on previously developed land within the search area or entirely avoid the use of some BVAL (without resorting to a contrived site shape that would make parts of the remaining fields difficult to farm practically). To stick rigidly to the wording of policy SC6 could effectively rule out opportunities for large scale solar within the District at present. This would significantly limit the contribution that Bolsover District is able to make towards the Climate Emergency.

Given that one of the overarching aims of the local plan is to encourage renewable energy to help tackle climate change and that the application has been amended to omit the highest concentration of best value land in favour of lower value agricultural land, it is considered that the circumstances summarised above could amount to SC6 "exceptional circumstances" that would allow the development to be acceptable in principle.

### **Impacts on Heritage Assets**

#### Archaeology

It can be seen from the County Archaeologists comments above that the site has significant potential to contain important archaeology. The reduced site area has omitted an area of particular interest and the amount of further investigation work necessary. Although the County Archaeologist would prefer evaluation trenching to be undertaken pre-determination he has accepted that evaluation trenching and subsequent mitigation could be conditioned into any planning consent under para 205.

Given the uncertain planning policy position set out above regarding the loss of BVAL and the uncertain outcome of this application, it is considered that it would be unreasonable to insist that further evaluation trenching is undertaken before a decision is made, since this may incur abortive costs to the Applicant. Therefore it is considered to be appropriate to require that further evaluation trenching is required by condition if planning permission is granted. This work must be done prior to commencement and so may delay the start of work on site.

## Above Ground Heritage Assets

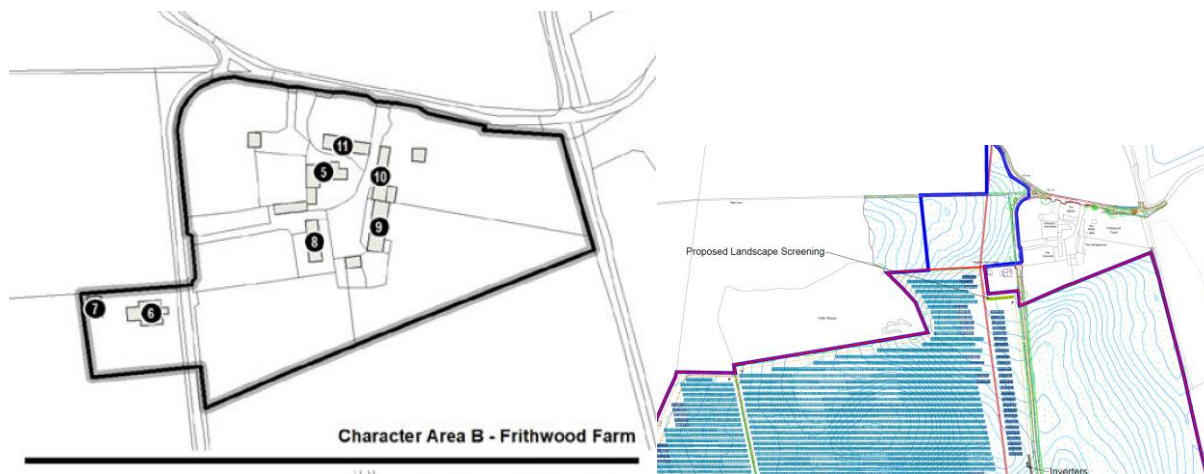
No listed buildings are materially affected by the proposal.

The Applicant has submitted a Heritage Statement which concludes that no designated heritage assets would be physically impacted by any part of the proposed development. There would be 'less than substantial' harm to the significance of a conservation Area as a result of change within its setting, although the harm would be fully reversible due to the time-limited nature of the proposal.

Following consultation with the Conservation Officer the following heritage assets are within the vicinity of the site but are not considered to be affected by the proposals:

- Whaley Farm and The Oaks character area of the Elmton with Creswell Farmstead Conservation Area
- Creswell Conservation Area
- Whaley Conservation Area

However, she advises that there will be an impact on the character and appearance and setting of the Frithwood Farm Conservation Area. This conservation area is located adjacent to the north east side of the site. See plans below.



The amended layout has removed all of the arrays from the south east boundary of the conservation area which has significantly reduced the setting impact that would have resulted from the original proposal. However, the part of the conservation area which extends around Frithwood Farm Cottage at the southwest corner of the conservation is still adjacent to it. The rural setting of Frithwood Farm conservation area will be adversely affected by the urbanising appearance of the large-scale solar farm adjacent to it.

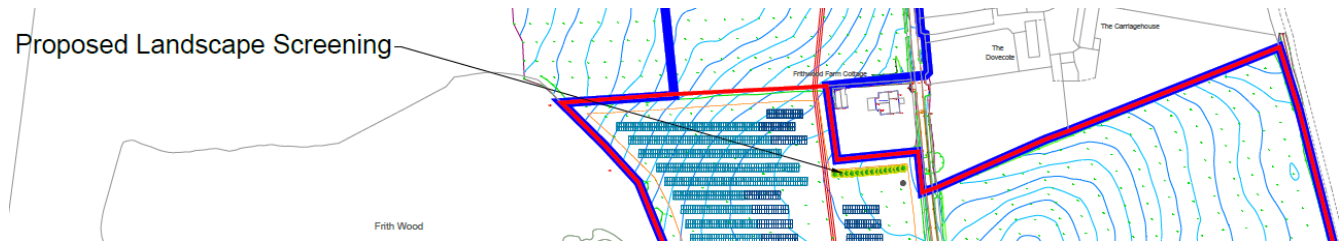
Policy SC16 will allow proposals where they preserve or enhance the character and appearance of the area and its setting. Therefore there is some conflict with policy SC16.

The Conservation Officer advises that the scale and concentration of development in such close proximity to the designated asset will result in harm (considered to be less than substantial, and at the lower end of the scale of harm). In accordance with NPPF guidance



paragraph 202 this harm should be weighed against the public benefits of the proposal.

A small amount of mitigation is proposed by means of screen planting close to the southern side boundary of Frithwood Farm Cottage. This would take some years to mature but would eventually restrict intervisibility between the two sites. This can be required by condition.



Also, the southern boundary of Frithwood Farm Cottages is not its historic boundary. This is because the residential garden boundary was moved southwards (with planning permission) into the adjacent field some years ago i.e. the garden to the south side of the Cottages is larger than it originally and historically was.

### Conclusions on Heritage Impacts

Underground archaeology can be further investigated and recorded by pre-commencement condition.

The proposal will result in harm (considered to be less than substantial, and at the lower end of the scale of harm) to Frithwood Farm Conservation Area. In accordance with NPPF guidance paragraph 202 this harm should be weighed against the public benefits of the proposal.

Whilst there is a statutory duty which requires that “special attention shall be paid to the desirability of preserving or enhancing the character or appearance of a conservation area”, it is considered that the benefits of large scale renewable energy production must be given very significant weight which is a public benefit capable of outweighing the potential harm caused.

### **Landscape and Visual Impact of the Proposed Development**

The application is accompanied by landscape and visual impact assessment (LVIA). It relates to the layout as originally proposed rather than the reduced site area as amended, and so the impacts reported in that assessment will now also be reduced.

The following landscape character effects of the initial layout proposed are predicted in the LVIA:-

*“The proposed solar park will be located within the Limestone Farmlands LCT. The host LCTs is considered to have Low to Medium sensitivity to the Proposed Development.*

*Construction of the Proposed Development will involve negligible intrusive works for a relatively short period (about 24 weeks although not at the same intensity for the entire time); no large cranes or plant will be required. The magnitude of direct, temporary impact on*

*landscape character attributable to construction is assessed as Small. The significance of temporary construction effects on the host LCT is judged to be Negligible to Minor adverse, which is not significant.*

*During operation the magnitude of direct impact on the Limestone Farmlands LCT is assessed as Negligible beneficial and reversible, which taking account of the LCT Low sensitivity will result in Neutral to Minor beneficial / positive significance of landscape character effects, which is not significant.*

*Regarding the Application Site's physical features, bearing in mind that the Low sensitivity hedgerows and trees will be retained and enhanced, and the intensively farmed arable land below the solar panels converted to species rich / wildflower grassland, the direct landscape impact will be Small beneficial magnitude and positive for the duration of operation of the Proposed Development and potentially beyond. The significance of the landscape effects is judged to be Minor beneficial / positive (not significant) in the long term."*

The following visual effects are predicted in the submitted LVIA from representative viewpoints:-

*Viewpoints 7 and 8, are located along the PRow that runs within the Proposed Development. Viewpoints 1, 2, 4 and 9, located within 245 m of the Application Site and Viewpoints 3, 5 and 10 that are slightly more distant (within 470 m). Viewpoints 6 and 11 are located within 700 m from the Application Site.*

*Views obtained by high sensitivity recreational users of PRow Bolsover BW38 and Elmton BW9, located immediately to the south and within the Proposed Development respectively will largely have views of the Proposed Development screened by existing hedgerows. Views obtained by users of close proximity PRow's Elmoton BW6 and Bolsover FP49 will be affected by construction to varying degrees. Effects on all of the above PRow's during construction would be Minor to Moderate adverse which is not significant.*

*At winter Year 1, views of the Proposed Development will have a slightly reduced visual impacts than during construction, however the magnitude of change would remain Small for all four of the PRow's (detailed above) at completion. Effects will be reduced to Negligible by summer Year 10 and effects would be Minor adverse which is not significant for all four of the PRow's.*

*Views obtained by vehicle users on Mag Lane, the lane (unnamed) located to the south of Mag Lane and Oxpasture Lane will be affected by construction to varying degrees. Given the fleeting nature of views available in combination with partial screening of low-level views and Low receptor sensitivity, effects would be Negligible to Minor adverse at construction, winter Year 1 and summer Year 10 which is not significant.*

*Medium sensitivity cyclists traveling along the Poulther Greenway (running through the Application Site and along Mag Lane) will experience Moderate adverse effects during construction. By summer Year 10 effects will be Negligible to Minor which will be not significant. In addition, medium sensitivity cyclists traveling along the Creswell Frithwood Trail and Archaeological Way will experience Negligible to Minor adverse effects during construction, winter Year 1 and summer Year 10.*

*Representative Viewpoints 1, 2 and 4, located on Mag Lane include Low sensitivity vehicle users and Medium sensitivity cyclists that will experience Minor and Moderate adverse temporary effect during construction, which is not significant. The establishment of the proposed landscape mitigation will significantly reduce adverse visual impacts and on balance, by summer Year 10 the residual visual effects will be Minor and negligible to Minor adverse which is not significant in the long term.*

*Representative Viewpoint 3, located on Oxpasture Lane includes Low sensitivity vehicle users and Medium sensitivity cyclists that will experience Minor and Moderate adverse temporary effect, during construction, which is not Significant. The establishment of the proposed landscape mitigation will significantly reduce adverse visual impacts and on balance, by summer Year 10 the residual visual effect will be Minor adverse which is not Significant in the long term.*

*Representative Viewpoint 5, is located on elevated ground to the south-west of the Application Site along PRow Elmton BW9. High sensitivity users of PRow will experience Minor to Moderate adverse effect, during construction, which is not significant. The establishment of the proposed landscape mitigation will significantly reduce adverse visual impacts and on balance, by summer Year 10 the residual visual effect will be Minor adverse which is not significant in the long term.*

*Representative Viewpoints 6, located on Whaley Road includes Low sensitivity vehicle users and Medium sensitivity cyclists that will experience Negligible to Minor and Minor adverse temporary effect, during construction, which is not significant. The establishment of the proposed landscape mitigation will slightly reduce adverse visual impacts and on balance, by summer Year 10 the residual visual effect will be Negligible to Minor adverse which is not significant in the long term.*

*Representative Viewpoints 7 and 8, located within the Proposed Development and along PRow Elmton BW9 include High sensitivity recreational users of the PRow and Medium sensitivity cyclists. PRow users will experience Major adverse visual effects which is significant and cyclists Moderate adverse effects, which is not significant during construction. The establishment of the proposed landscape mitigation will significantly reduce adverse visual impacts associated with the visibility of the solar panels for receptors at Viewpoint 7 and on balance, by summer Year 10 the residual visual effect will be Minor adverse visual effects for PRow users and cyclists which is not significant. However, receptors at Viewpoint 8 will only experience slightly reduce visual impacts by summer Year 10 as this viewpoint is located at a field gate where views will remain more open, on balance, by year 10 the residual visual effect will be Moderate adverse visual effects for PRow users and cyclists which is not significant in the long term.*

*Representative Viewpoints 9 and 11, located along Cresswell Frithwood Trail and Archaeological Way include Medium sensitivity cyclists that will experience Minor adverse temporary effect during construction, which is not Significant. The establishment of the proposed landscape mitigation will reduced adverse visual impacts and on balance, by summer Year 10 the residual visual effect will be Negligible to Minor adverse which is not significant in the long term.*

*Representative Viewpoint 10, located to the north-west of the Application Site along PRow Elmton BW6 will experience Minor to Moderate adverse temporary effect during construction, which is not significant. The establishment of the proposed landscape mitigation reduced adverse visual impacts. On balance, by summer Year 10 the residual visual effect will be Minor adverse which is not significant in the long term.”*

No significant cumulative visual effects with other planned solar farms are predicted in the LVIA.

The submitted LVIA and the proposal itself has been reviewed by the Urban Design Officer (who also has a Landscape Architecture qualification). Her comments relate to the scheme as originally submitted. She advises that the LVIA has been undertaken in accordance with the Landscape Institutes ‘Guidelines for Landscape and Visual Impact Assessment’ (GLVIA3), April 2013, and that, in broad terms, she agrees with its findings.

However, she makes several recommendations to further reduce the visual impacts. These include:-

- Widening scrub planting to woodland edges up to 15m around ancient woodland.
- Creating a wider buffer to the northern edge of woodland. 15m rather than 5m in line with ecology officers’ comments.
- Widen hedge/scrub planting offset slightly from fence to reduce magnitude of views and soften edge to settlement boundary.
- Provide more tree groups on south side of the central E-W hedgerow to reduce impact on views of upper slope and ridge.
- Soften vertical up and down runs of hard-edge lines of Arrays.
- Widen and improve the link between the two woodlands to create habitat/wildlife links.
- Review opportunity to relocate inverters away from public right of way to reduce impact on users of PROW and multiuser trail.
- Check root protection zone around existing mature trees on southern boundary where track lies close to hedge.

She advises that, in her view, provided improvements are made in the detailed layout and additional attempts to soften the edges are made, that the solar farm can be mitigated within the landscape. The design is sensitive to existing field patterns and enhances the existing hedges and trees within the area.

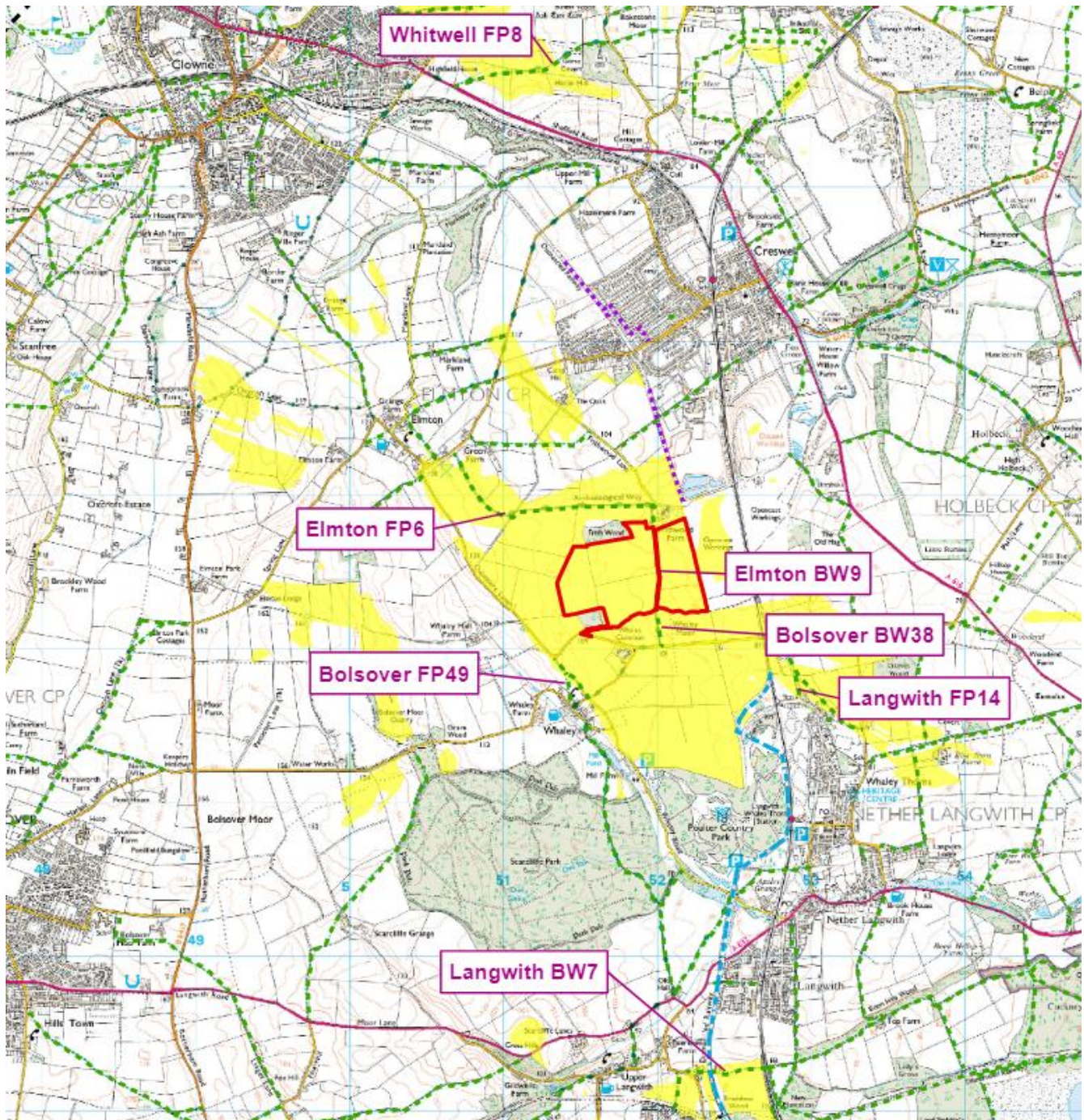
The Applicant has indicated that the suggested changes are acceptable in principle, however, at the time of writing this committee report, a detailed response from the Applicant and a revised landscape masterplan, was awaited on the extent to which the changes sought above are agreed.

Committee Members will be updated on this issue on the supplementary update report.

### **Impacts on Rights of Way**

A plan showing public rights of way (green dashed lines) and the zone of theoretical visibility (shaded yellow) is shown below. The zone of theoretical visibility accounts for landform but not topographical features such as trees, hedges, houses etc so in practice the true zone of

visibility will be much less.



Elmonton BW9 Bridleway/Bolsover BW 38 runs north/south through centre of the site. This is also part of the Poulter Greenway a key cycle route which runs along the Bridleway. The path links with Elmonton FR6 which continues northwest from Frithwood Farm to Elmonton. Bolsover BW 49 runs from Whaley to Mag Lane south of the site. The Frithwood trail also links in from Creswell to Frithwood Farm and links to public footpaths through the site.

The bridleway transecting the site is also part the Archaeological way an 11-mile trail between Pleasley Pit Country Park and Creswell Crags. This section of the Archaeological way is a

key diversion into open countryside between Nether Langwith and Creswell.

An photo of hedgerow lined BW9 heading south is shown below.



The Ramblers Association accept that the routes of the existing paths will not be affected by the proposal but they object to the proposal from an aesthetic public enjoyment point of view.

The DCC Rights of Way Officer does not object as such but advises that the visual impact of the proposed development on the users of these routes must be seriously considered when making a decision on these proposals. For Elmton BW 9, there would, at the very least, be a change from seeing open fields through gaps in the hedgerow, or over the top of the hedgerow, to only really seeing hedgerow with some views of solar panels. The proposal to allow the hedges at the side BW9 to grow and be maintained at 3m height means a less open perspective from the bridleway which may affect users' enjoyment of the route.

Council for the Protection of Rural England also object on grounds including impact on users of the rights of way.

The Urban Design/Landscape Officer considers that the proposed solar farm will have limited effect on views from surrounding footpaths, except for the direct and very instantaneous views through the occasional gap and field gate in the hedges at the side of the bridleway.

These hedges are mature and high enough to screen views in general.

### Conclusions on Rights of Way

The proposal does not interfere with the route of any of the existing rights of way which are all retained. As such it is considered that the proposal complies with policy ITCR3.

Impacts on views from more distant routes are not considered to be significant.

Now that the proposed layout has been amended, and all of the proposed solar arrays removed from the fields to the east side of the bridleway, it is considered that the amenity impacts on users of the adjacent route will be significantly reduced. Instead of passing through a solar farm, RoW users will pass adjacent to it. Given the presence of existing mature boundary hedgerows, the remaining visual/amenity impact on walkers and cyclists will be limited to glimpses through field gates and gaps in the hedgerow. The solar arrays may be more visible over the top of hedges to riders on horseback, but proposals to allow the hedgerows to grow to 3m should also limit the visual impact on horse riders.

The downside to raising the height of the hedge from 2m to 3m is greater enclosure which will have some impact on the character of the route but on balance it is considered that this suggested mitigation is preferred.

The area is currently very tranquil at present and the location of one of the inverters half way down the site and adjacent to BW9, will be noticeable because they make some noise during the day (although much less than wind turbines). This will also have some adverse impact on the pleasant tranquillity of the route. However, the amended proposal has reduced the number of inverters adjacent to BW9 from 4 to 1. And so this effect should only be temporary when passing the one inverter.

Overall, the adverse visual and noise impacts on rights of way users is considered to be moderately adverse but outweighed by the benefits of renewable energy.

### **Residential Amenity**

Policy SC6 states that development proposals for the generation of renewable energy (except large wind turbines) will be granted unless either individually or cumulatively with other renewable energy development, there would be significant harm to factors including.....  
b) the amenity of local residents, either individually or cumulatively with other renewable energy development particularly from noise, dust, odour, traffic or visual intrusion.

Policy SC11 'Environmental Quality (Amenity)', states that developments likely to cause loss of amenity through light, noise, dust, odour or vibration, or loss of privacy must be supported by a relevant assessment. If necessary, mitigation must be put in place. A significant loss of amenity must not occur through the construction or operation of the development.

### Noise

Noise will occur during construction (up to 24 weeks but likely to be less due to the reduced site area as amended), and during the operational phase.

Noise sources during operation of the solar farm result from the inverters, transformers and sub-station.

However, as amended, the closest inverter to Frithwood Farm Cottage is 280m away, and the closest to dwellings at Whaley Common 300m away.

The Applicant has submitted a Noise Impact Assessment. It concludes that the BS4142 estimate of impact indicates that no adverse impacts are likely to occur at any of the noise sensitive receptors (dwellings) considered within the assessment. The operation of the solar farm would result in low specific sound levels at noise sensitive receptors and the rating levels would not exceed the background sound level at all times.

The Environmental Health Officer has been consulted on the noise assessment and, at the time of writing this report, additional information was awaited from the Applicant regarding noise from the inverters, in particular the amount of noise they make early in the morning when light levels are low.

Committee members will be updated on this issue in the supplementary update report.

Also, the submitted noise assessment doesn't address noise during construction. This will only be temporary but given the presence of bedrock close to the surface there is potential for temporary noise impacts from construction and pole driving activities for the panel mounts. Therefore, a condition requiring a construction management plan, including the submission of a noise report and mitigation methods to cover the construction phase, is considered to be necessary.

#### Dust

It is considered that dust is unlikely to be a material factor to this decision. Dust during construction can be dealt with in the construction management plan to be required by condition. Otherwise for 40years the proposed use is likely to result in a reduction in dust relative to arable farming.

#### Odour

No impact likely.

#### Traffic

See the Traffic and Highway Safety section of this report below.

Traffic impacts on amenity enjoyed at individual dwellings is considered to be very unlikely to be material.

#### Visual Intrusion

It is considered that the main, impact on residential amenity caused by the visual impact of the proposal would occur at Frithwood Farm Cottage. Solar arrays would be sited on two sides of it and the residents of that dwelling object.

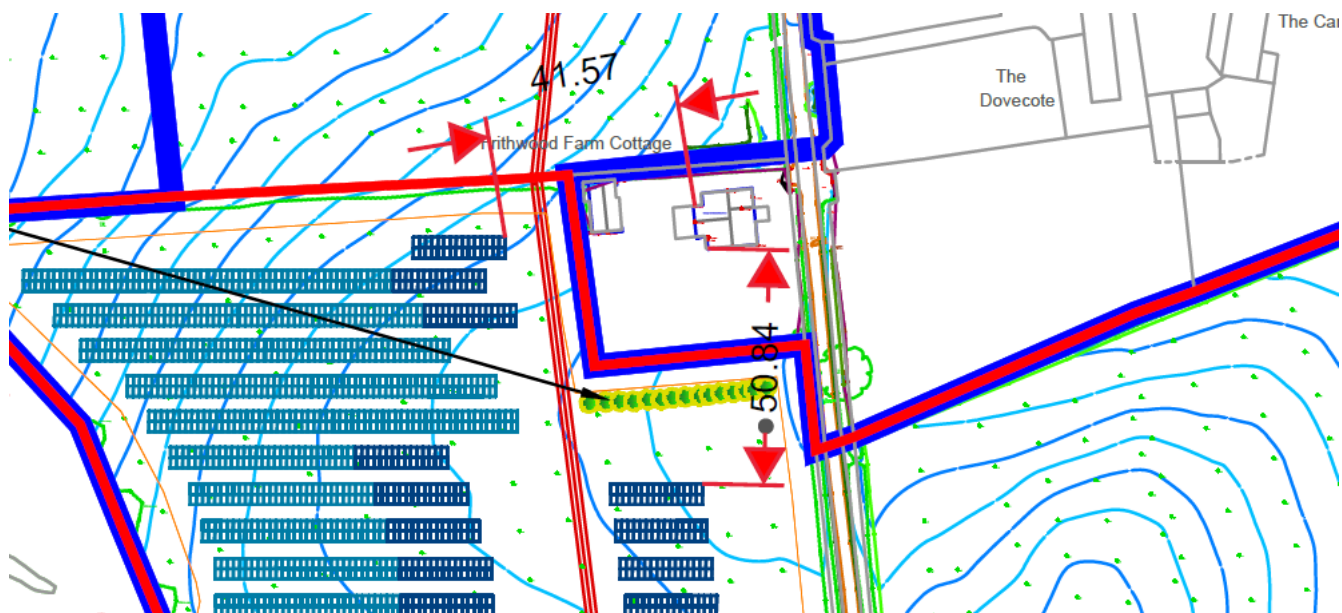
They say that:

*"The solar site will abut directly on two sides of our property changing the views from their current aspects of open countryside and replacing these views with an industrial view of large*



*photovoltaic cells, a number of substations, chain link fencing and potentially intrusive CCTV cameras; all causing substantial detriment to rural amenity.”*

It is considered that the proposal will have an impact on the rural character of the land adjacent to this property to the south and west sides. However, there will not be any overbearing or loss of light impacts because the arrays are only 3.2m high and are proposed to be sited approximately 40m distant to the west of that dwelling and 50m to the south.



The garden to Frithwood Farm Cottage is relatively large and additional screen planting by way of a new hedge with hedgerow trees is proposed to the side of it which will reduce intervisibility.

There is no such thing as a right to a view and as far as material planning considerations go impacts on views from private property is not a significant issue because it is a private matter rather than a matter of public interest. Planning decisions must be made in the public interest.

It is only where amenity and living conditions would also be affected in some other more direct way, such as loss of light, overlooking or where a development is overbearing (not the case here) that significant weight can be given to the visual impacts.

With regard to privacy any CCTV cameras will need to point away from dwellings. This can be controlled by condition.

For similar reasons any impact on views from other private dwellings on the former Frithwood Farm complex and impact on view from private dwellings at Whaley Common are not material planning considerations.

#### Conclusions of Residential Amenity

No impacts have been identified on amenity enjoyed at existing dwellings that could warrant the refusal of planning permission. (Provisional, subject to noise info update)

## **Traffic Impacts and Highway Safety**

As set out above in the Proposal section of this report the site access will be taken from an existing access track at the south-western end of Mag Lane and the designated routes for all construction vehicles associated with the construction period is to turn east along Mag Lane, over the Norwood Crossing, A616, A60, A619.

The applicant expects between 30 – 60 two way construction staff trips per day plus an average of 3 deliveries per day over the construction period. This has been estimated to range between 16-24 weeks.

Traffic during the operational period is not significant. This would typically be up to two maintenance visit per month comprising a small van or car.

The County Highways Officer has no objections subject to conditions regarding the provision of the approved access, parking and turning facilities on site; and HGV routing and management to be as per route one identified in the Construction Traffic Management Plan (CMTP).

Subject to the conditions as recommended, it is considered that there are no highway safety or traffic capacity issues such as to warrant the refusal of planning permission.

## **Biodiversity and Ecology**

The submitted Ecology Appraisal and Biodiversity Net Gain Assessment indicate that the proposed landscaping and biodiversity enhancement measures will secure the scheme's +230.83% for habitats and +32.75% for hedgerows net biodiversity benefit.

These supporting documents relate to the application as originally proposed. The reduced site area, as amended, means that the above estimates will not be accurate and the biodiversity net gain will probably be less than stated because there is less site area to enhance. However, the amendment development will have less impact on badgers as more activity was recorded on the eastern half of the site.

Natural England has largely welcomed the proposals from a biodiversity point of view. They welcome the proposed biodiversity enhancements proposed. They advise that the inclusion of a wildlife buffer around the perimeter of the proposed development will enable the creation of a nature corridor which will be beneficial for many flora and fauna species. Resultantly, reducing the likelihood of isolated and fragmented habitats and provide a biodiversity pathway to the nearby areas of existing woodland. The planting of additional trees as well as species rich grassland and wildflower meadows throughout the site will also provide a valued resource for flora and fauna.

Derbyshire Wildlife Trust are also happy with the proposals in general, although they have requested that some revision to the proposals is made to mitigating for skylarks.

It is considered that this can be incorporated into the requirements of a condition requiring a Landscape and Biodiversity Enhancement and Management Plan.

The Wildlife Trust also advise that a 15m boundary should be maintained between the Ancient Woodland edge and any development to safeguard the woodland, and that currently, it appears that the ecological buffer zone adjacent to the woodland is only 5m.

At the time of writing this report a response from the Applicant was awaited on the issue of the size of the buffer needed to the Ancient Woodland. Committee members will be updated on this issue in the supplementary update report.

## **OTHER PLANNING CONSIDERATIONS**

### **Impacts on airport radar**

Policy SC6 e) requires that for proposals for the generation of renewable energy, consideration be given to any significant impact on airport radar systems. No such impacts are expected in this case.

It is possible that reflections of the sun causing glint could be noticeable to aircraft pilots, but the proposed panels are to have an anti-reflective coating which should mitigate the effect on aircraft.

### **Glint and Glare**

It is considered to be appropriate to require a glint and glare assessment and mitigation scheme by planning condition. This is to ensure that no unacceptable reflections adversely affect amenity.

### **Surface Water Drainage**

The DCC Flood Risk Team has no objections subject to conditions. Therefore, it is considered that disposal of surface water does not constitute a significant constrain to the proposed development.

### **Soil Management**

The DCC Flood Risk Team and Natural England advise that procedures should be put in place to manage soil quality. This will aid drainage and prevent a deterioration in the quality of the land such that it can be fully restored to agriculture on decommissioning. A condition to this effect is recommended.

A consequence of this is the site compound is proposed to be on the southern boundary. This is because it is close to the access point so that HGVs don't have to travel further into the site causing unnecessary soil compaction. This does mean that the construction compound will be on the southern boundary and visible from Whaley Common. The separation distance from the proposed compound to Whaley Common is approximately 160m. Noise impacts can be mitigated by means of a condition controlling construction management.

### **Crime**

The Police recommend a condition requiring a scheme of security measures to be agreed. They advise that thefts from solar farms nationally are on the increase. A condition is recommended below.

### **Property Value**

Comments in representations about loss of property value are noted. However, this is not a

material planning consideration and so cannot be taken into account.

## **CONCLUSION / PLANNING BALANCE**

Consideration has been given to the key issues affecting the acceptability of this proposal for a solar farm. These include:-

- the principle of the development including loss or agricultural land and benefits of renewable energy
- the impacts on the conservation area and heritage assets
- the landscape and visual impact of the proposed development
- impacts on the amenity of users of public footpaths/bridleways
- the impacts on residential amenity
- traffic impacts and highway safety;
- impacts on biodiversity

Local plan policy SC6 'Renewable Energy and Low Carbon Energy' is fundamental to this decision. SC6 allows solar farm development on agricultural land, but only allows large scale solar farms on Grades 1, 2 and 3a agricultural Land (BVAL) under exceptional circumstances. This application has been significantly amended to omit the area of the site with the highest concentration of higher grade (2 and 3a) agricultural land, but the proposal still includes about 20% by area (about 10ha) of BVAL. Therefore, Committee Members should be satisfied that there are exceptional circumstances to justify approval.

Given the proposed connection to the intended substation, and lack of alternative substations in the District with grid capacity, it is considered unlikely that a proposal of this size could be located on previously developed land within the search area or entirely avoid the use of at least some BVAL. The majority of land in range of the grid connection point is BVAL and so to stick rigidly to the wording of policy SC6 could effectively rule out opportunities for large scale solar within the District at present. This would significantly limit the contribution that Bolsover District is able to make towards the Climate Emergency.

Given the lack of grid connection options and that one of the overarching aims of the local plan is to encourage renewable energy to help tackle climate change, and that the application has been amended to omit the highest concentration of BVAL, it is considered that these circumstances could amount to SC6 "exceptional circumstances" that would allow the development to be acceptable in principle.

The level of potential impacts identified in the key issues listed above and other technical issues are not so harmful as to justify the refusal of planning permission because the public benefits associated with large scale renewable energy production are considered to outweigh the harms.

Conditions are recommended to mitigate the impacts where appropriate.

## **RECOMMENDATION**

**The application be APPROVED subject to the following conditions (subject to minor wording revision being delegated to the Assistant Director of Planning and Planning**

## **Policy):-**

### **1. Time Period for Commencement**

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

### **2. List of approved plans**

including, inter alia, Revised Site Layout Plan 1146 - WHALEY 004 REV A

### **3. Temporary Permission**

Within 1 month of the date of first export of electricity, confirmation shall be given in writing to the local planning authority of the date of first export to the Grid. The development hereby permitted shall cease on or before the expiry of a 40-year period from the date of the first export of electricity and the local planning authority shall be notified of the cessation of electricity generation and storage in writing no later than 5 working days after the event. The land shall thereafter be restored to its former condition in accordance with a scheme of decommissioning work (the Decommissioning Scheme).

### **4. Decommissioning Scheme**

A Decommissioning Scheme shall be submitted to and approved in writing by the local planning authority no later than 6 months prior to decommissioning and shall include provision for the dismantling and removal from the site of the solar PV panels, frames, any foundations, inverter housings and all associated structures, underground cabling, storage facilities and fencing and security measures. The decommissioning shall be carried out strictly in accordance with the approved scheme.

### **5. Early Decommissioning**

In the event the site ceases to generate and store electricity for supply to the electricity grid network for a period of 12 months, an Early Decommissioning Scheme shall be submitted to and approved in writing by the local planning authority, no later than 3 months from the end of the 12-month period. The scheme shall include the same provisions referred to in Condition 4 and the decommissioning shall be carried out strictly in accordance with the approved scheme.

### **6. Updated Badger Survey**

Prior to the commencement of development, including other intrusive site surveys and preparatory site clearance, a detailed badger survey for any recently excavated badger setts on the site or within 30 metres of the site boundary shall be undertaken and the results and any appropriate mitigation/licensing requirements and programme of implementation shall be submitted to the Local Planning Authority for consideration and approval. Such approved measures must be implemented in full.

### **7. Construction Environmental Management Plan (CEMP: Biodiversity)**

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 be based on the recommendations in the Ecological Appraisal (RPS, June 2022 - but as relevant to the amended development area on the revised site layout plan 1146 - WHALEY 004 REV A) and 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 and cable laying to habitats and protected species, including trees, hedgerows, badger, bats, brown hare, nesting birds and herpetofauna.
- 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.

#### 8. LBEMP

A Landscape and Biodiversity Enhancement and Management Plan (LBEMP) shall be submitted to, and be approved in writing by, the LPA prior to the commencement of the development. The aim of the LBEMP is to enhance and sympathetically manage the biodiversity value of onsite habitats, in accordance with the proposals set out in the submitted Biodiversity Metric (RPS 21/11/22 - but as relevant to the amended development area on the revised site layout plan 1146 - WHALEY 004 REV A) and to achieve no less than a +230.83 % net gain (*subject to amendment for revised site area*). The LBEMP shall 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 40-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, 7, 10, 15, 20, 25, 30, 35 and 40 years.
- h) A set of remedial measures to be applied if conservation aims and objectives of the plan are not being met.
- i) Details of habitat enhancements for wildlife, including bat and bird boxes.
- j) A clear plan of fencing gaps for badger and brown hare.
- k) A clear plan of skylark plots and mitigation measures.
- l) Requirement for a statement of compliance upon completion of initial 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 must be implemented in accordance with the approved details.

#### 9. Archaeology

a) No development shall take place until a Written Scheme of Investigation for archaeological work has been submitted to and approved by the local planning authority in writing, and until any pre-start element of the approved scheme has been completed to the written satisfaction of the local planning authority. The scheme shall include an assessment of significance and research questions; and

1. The programme and methodology of site investigation and recording

2. The programme for post investigation assessment

3. Provision to be made for analysis of the site investigation and recording

4. Provision to be made for publication and dissemination of the analysis and records of the site investigation

5. Provision to be made for archive deposition of the analysis and records of the site investigation

6. Nomination of a competent person or persons/organisation to undertake the works set out within the Written Scheme of Investigation.

b) No development shall take place other than in accordance with the archaeological Written Scheme of Investigation approved under condition (a).

c) The development shall not be brought into use until the site investigation and post investigation assessment has been completed in accordance with the programme set out in the archaeological Written Scheme of Investigation approved under condition (a) and the provision to be made for analysis, publication and dissemination of results and archive deposition has been secured.

#### 10. Glint and Glare

Prior to the commencement of development, a Glint and Glare Assessment shall be undertaken by an appropriately qualified/experienced person, to assess the impacts of solar glint and glare on the amenity of nearby dwellings and on aircraft, and shall have been submitted to the local planning authority for consideration and approval. The assessment shall include any mitigation measures necessary to deal with any unacceptable adverse impacts identified. Any mitigation measures included in the approved assessment shall be implemented prior to installation of the relevant arrays and shall thereafter be maintained.

#### 11. Construction Management Plan (Amenity)

Prior to the start of construction, a construction management plan must have been submitted to and approved in writing by the Local Planning Authority. This must address:-

- Noise, dust and vibration management (with appropriate mitigation measures and monitoring regime;
- Working hours for noise generating activities;
- Locations of any stockpiles, storage compounds, unloading areas and areas for parking of site operatives;
- Method of prevention of debris being carried onto highway including wheel wash facility;

The approved plan must then be implemented throughout the construction of the development.

### 12. Construction Working Hours

For the duration of the construction and decommissioning periods, noise generating construction and deconstruction activities and deliveries received at or despatched from the site, shall only occur between the hours of 0800- and 1800-hours Monday to Friday, 0800- and 1330-hours on Saturday and not at all on Sundays and Bank Holidays other than with the prior written approval of the local planning authority.

### 13. Drainage Conditions

1. 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. RPS, Revised FRA and Sustainable Drainage Strategy, ref: HLEF82417, ver-3, 27- March 2023 and 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.

14. No development shall take place 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.

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

16. Prior to the commencement of the development, a soil management plan must be submitted to and approved by the Local Planning Authority. Soil infiltration rates can vary widely depending on ground conditions such as soil compaction and ground cover. A soil management plan must demonstrate how damage to soil horizons and ground cover will be mitigated and remediated during and after construction and for future decommissioning.

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

### 18. Highways

The development hereby approved shall not be brought into use until the site access, access track, parking and turning facilities have been provided, all as shown on the approved drawings contained within the Transport Assessment and the Construction Traffic



Management Plan.

#### 19. Construction Traffic

All construction traffic shall use the agreed route 1 option identified in the Construction Traffic Management Plan and Transport Assessment and all measures identified within the Construction Traffic Management Plan to mitigate the impact of construction traffic on the highway network shall be implemented. Written records must be kept to evidence compliance with the Construction Traffic Management Plan which must be made available to the Local Planning Authority on request.

#### 20. External Materials

Unless a dark green external finish is proposed, prior to their provision on site, the details of the external colour(s) of all buildings including the inverter/transformer stations, substation, string combiner boxes and any storage units and other any ancillary equipment, shall be submitted to and approved in writing by the Local Planning Authority. The approved detail shall be implemented and maintained.

#### 21. CCTV and Security

Fully details of the CCTV cameras and security measures for the site shall have been submitted to and approved in writing by the Local Planning Authority before the solar farm is brought into use. Thereafter the approved security measures shall be implemented. The CCTV security cameras to be used on site must be infra-red cameras as proposed and there must be no standard lighting within the site at night-time unless an exception to this has been approved in writing by the local planning authority and fully justified by details of luminance and fields of illumination.

#### 22. Screen Planting

Before the development is brought into use, the screen planting shown on the approved site layout plan 1146-WHALEY-004 Rev A, shall have been implemented and shall be maintained thereafter for the life of the development.

#### 23. Cabling

All cabling (with the exception of that connecting between solar arrays) shall be installed underground.

### **Equalities Statement**

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

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

### **Human Rights Statement**

*The specific Articles of the European Commission on Human Rights (‘the ECHR’) relevant to*

*planning include Article 6 (Right to a fair and public trial within a reasonable time), Article 8 (Right to respect for private and family life, home and correspondence), Article 14 (Prohibition of discrimination) and Article 1 of Protocol 1 (Right to peaceful enjoyment of possessions and protection of property).*

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

---

## Bolsover District Council

### Meeting of the Planning Committee on 29<sup>th</sup> November 2023

#### Local Planning Authority Monitoring Report 2022/23

#### Report of the Portfolio Holder for Growth

<b>Classification</b>	This report is Public
<b>Contact Details</b>	Julie-Anne Middleditch Principal Planning Officer

### PURPOSE / SUMMARY OF REPORT

- To update Members on the Local Planning Authority Monitoring Reports

### REPORT DETAILS

#### **1. Background**

- 1.1 The Town and County Planning (Local Planning) (England) Regulations 2012 (as amended) require local planning authorities to publish information about progress with local plan preparation, housing targets, made neighbourhood development plans and orders, any activity relating to the duty to cooperate and any information collected which relates to indicators in the development plan.
- 1.2 This statutory duty recognises the fact that monitoring has a key role in the planning process and informs the Council and others on whether its Local Plan is being delivered and can identify where policies are effective or if they need changing. It can also show trends over time and highlight potential challenges to the delivery of the Council's spatial strategy. They will also be used to inform the now commenced Local Plan Review process and are therefore an important tool in the Council's understanding of its authority area and whether its Vision for Bolsover District is being achieved.
- 1.3 This information is generally published annually as Local Planning Authority Monitoring Reports and following the adoption of the Local Plan for Bolsover District in March 2020, the Council has published Monitoring Reports for the first two monitoring periods of 1<sup>st</sup> April 2020 to 31<sup>st</sup> March 2021 and 1<sup>st</sup> April 2021 to 31<sup>st</sup> March 2022.

## 2. Details of Proposal or Information

- 2.1 The Monitoring Report 2022/23 covers the period 1<sup>st</sup> April 2022 to 31<sup>st</sup> March 2023 and is attached as an Appendix to this report.
- 2.2 As can be seen, the Monitoring Report both measures contextual indicators on the general performance of the Council's planning department and Local Plan policy indicators set out in Appendix 10.2 of the Local Plan for Bolsover District. The following findings are highlighted for Member's attention:
- the Councils Plan-Making and Development Management performance is generally excellent;
  - the Local Plan's spatial strategy is being delivered, is largely on track to meet targets and its Spatial Strategy policies are working well;
  - the Local Plan's housing targets and site allocations are being delivered, are on track to meet requirements and its Living Communities policies are working well;
  - the Local Plan's employment land targets and site allocations are being delivered, are on track to meet requirements and its Working Communities policies are working well;
  - the Local Plan's Sustainable Communities policies are generally working well, although the third indicator for policy SC17: Development affecting Listed Buildings and their Settings – *No. of buildings on the Buildings at Risk Register* – has identified that two new listed buildings, the lodges at Pleasley Vale, have been added by Historic England to the register so indicating that this indicator is not performing as intended;
  - the Local Plan's Infrastructure, Transport, Community and Recreation Provision policies are working well;
  - the Local Plan's Implementation and Infrastructure Delivery policies appear to be working well but a new monitoring system is required to better understand how the new requirement for Employment and Skills Plans is contributing to ensuring that local people are provided with training and employment opportunities.
- 2.3 Overall, this Monitoring Report finds that the Council's Local Plan for Bolsover District is performing well with few areas of concern. Where indicators have been found to not be performing as intended, this is largely due to circumstances outside the Council's control and beyond the general policy steer of the Council's Local Plan. However, areas of concern will be followed up to establish what action, if any, can be taken to correct undesirable trends.
- 2.4 Following the meeting of the Planning Committee, the Monitoring Report will be published on the Council's website.

### **3 Reasons for Recommendation**

- 3.1 The report updates Members on the Local Planning Authority Monitoring Report for the period 1<sup>st</sup> April 2022 to 31<sup>st</sup> March 2023 and it is recommended that Members note the contents of the Monitoring Report 2022/23 and endorse its publication.

### **4 Alternative Options and Reasons for Rejection**

- 4.1 Providing a report in respect of the latest Monitoring Report to Planning Committee is an important part of understanding the performance of the Council's Local Plan for Bolsover District. Therefore, officers have not considered alternative options.

---

## **RECOMMENDATION**

**That Planning Committee note the contents of the Monitoring Report 2022/23 and endorse its publication.**

**Approved by Councillor Ritchie, Portfolio Holder – Growth**

### **IMPLICATIONS:**

**Finance and Risk:**            Yes             No

**Details:** There are no specific finance or risk issues arising from this report.

On behalf of the Section 151 Officer

**Legal (including Data Protection):**            Yes             No

**Details:** There are no specific legal or data protection issues arising from this report

On behalf of the Solicitor to the Council

**Environment:**            Yes             No

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

**Details:** The Local Plan for Bolsover District seeks to support sustainable growth and the prudent use of resources, to mitigate against and adapt to the impacts of climate change and to conserve and enhance the quality and character of the countryside, its landscapes and wildlife. As such, the Local Planning Authority Monitoring Reports will record how well this is being achieved and so make a notable contribution to this subject.

**Staffing:**            Yes             No

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

On behalf of the Head of Paid Service

## DECISION INFORMATION

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

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

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

<b>DOCUMENT INFORMATION</b>	
<b>Appendix No</b>	<b>Title</b>
	Local Planning Authority Monitoring Report 2022/23
<b>Background Papers</b>	
<i>(These are unpublished works which have been relied on to a material extent when preparing the report. They must be listed in the section below. If the report is going to Executive you must provide copies of the background papers).</i>	

# Authority Monitoring Report

1<sup>st</sup> April 2022 – 31<sup>st</sup> March 2023



November 2023

## Equalities Statement

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

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

## Access for All statement

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

- **Phone** – 01246 242424
- **Email** – [enquiries@bolsover.gov.uk](mailto: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** via textphone or app on 0800 500 888 – 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.



# 1 Introduction




- 1.1 Welcome to the Bolsover District Council 2022/23 Monitoring Report. This edition marks the third of this annual publication that relates to the adopted Local Plan for Bolsover District (March 2020).
- 1.2 Monitoring has a key role in the planning process; it can highlight if the Council's Local Plan is being delivered and identify where policies are effective or if they need changing. It can also show trends over time. It is therefore an important tool in the Council's understanding of its authority area and whether it's Vision for Bolsover District is being achieved.




## Scope of this Monitoring Report

- 1.3 This Monitoring Report assesses the monitoring year from 1st April 2022 up to the 31st March 2023.
- 1.4 Following first year's focus on the Spatial Strategy and Housing matters within the Local Plan and the focus of the second Monitoring Report upon the Spatial Strategy and Employment matters, this Monitoring Report and all monitoring reports going forward cover all the policies of the Local Plan alongside the more standard monitoring information.

# 2 Methodology

- 2.1 This Monitoring Report draws upon the available evidence sources, such as annual land use surveys and planning application records, presented in a focussed and engaging way.
- 2.2 As a result, the following two types of indicators are being used:
  - Contextual indicators – these seek to focus on the general performance of the Council's planning department in terms of its plan-making and planning applications work.
  - Local Plan policy indicators – these follow the suite of monitoring indicators and targets set out in Appendix 10.2 of the Local Plan for Bolsover District (March 2020) as relevant to each Monitoring Report.
- 2.3 To enable an immediate impression of a policy's performance, the symbols below have been used to indicate whether a target has been met. As the majority of policies run for the life of the Plan, it is not expected that targets will be altogether 'met' and so 'on track to meet target' will be the positive performance outcome for most.
- 2.4 Policy performance that is 'improving' or 'deteriorating' is relative to its performance in the previous year(s). However, at this stage the 'improving', 'deteriorating' and 'no change' symbols have not been used to enable a further year's data to be accumulated.

-  = On track to meet target
-  = Ongoing behind target
-  = Not performing as intended

-  = Improving
-  = Deteriorating
-  = No change



## 3 Plan-Making and Development Management performance

- 3.1 The performance of a local planning authority in relation to plan-making centres on two key areas, namely whether it has an up-to-date Development Plan and whether it is making good progress on keeping it up to date by ongoing review.
- 3.2 Local Plan Review for the Bolsover District Local Plan (2020) is embodied within the Local Development Scheme No.7 – 25 February 2022 to 31 March 2025. This document sets out the review of the Local Plan's evidence base. In addition, the Local Development Scheme sets out the timetable for work on a number of other Council planning policy documents, namely: Statement of Community Involvement, Growth Plans for Shirebrook and Creswell, Supplementary Planning Documents and finally, the timetable for the preparation of the Tibshelf Neighbourhood Plan.
- 3.3 As a result, the following indicators for 2022/23 are provided:

### Plan Making

#### Development Plan status

- **Target:** To have an up-to-date Development Plan.
- **Performance:** Local Plan for Bolsover District adopted in March 2020.
- **Comment:** Local Plan is up to date.

On track to meet target ✓

#### Plan-Making status

- **Target:** To meet milestones in the Local Development Scheme.
- **Performance:** Relevant Local Plan preparation timetables.
- **Comment:** Review of recently adopted Local Plan not due to be completed until March 2025.

On track to meet target ✓

#### Statement of Community Involvement

- **Target:** April 2022: Consultation on draft. Oct 2022: Adoption.
- **Performance:** May 2022: Consultation on draft. Dec 2022: Adoption.
- **Comment:** Completed

On track to meet target ✓

## Shirebrook Growth Plan

- **Target:** March 2022: second stage consultation. Nov 2022: consultation on Growth Plan. March 2023: Adoption of Growth Plan.
- **Performance:** Sept 2022: second stage consultation.
- **Comment:** Ongoing, behind target milestones. Revised milestones. Jan/Feb 2024: consultation on Growth Plan. April 2024: Adoption of Growth Plan.

Ongoing behind target ✓

## Creswell Growth Plan

- **Target:** April 2022: Start. May 2022: First stage Consultation. September 2022: Second stage consultation. Jan 2023: Consultation on the Growth Plan. April 2023: Adoption of Growth Plan.
- **Performance:** May 2022: Start. June 2022: First stage Consultation. Nov/Dec 2022: Second stage consultation.
- **Comment:** Ongoing, behind target milestones. Revised milestones. Feb 2023: Consultation on the Growth Plan. May 2024: Adoption of Growth Plan.

Ongoing behind target ✓

## Tibshelf Neighbourhood Plan

- **Target:** April-May 2022: Consultation. July 2022: Examination. October 2022: Review Complete. December 2022: Decision Statement.
- **Performance:** Nov-Dec 2022: Consultation. Jan-Feb 2023: Examination. February 2023: Review Complete. February 2023: Decision Statement.

Ongoing behind target ✓



3.4 The performance of a local planning authority in relation to development management centres on two key areas, namely the speed of how it determines planning applications and the quality of its decisions.

3.5 As a result, the following two indicators are provided:

## Development Management

### Planning Applications considered in-time

- **Target:** The Government's targets are for 60% or more of major applications, and 80% of minor applications, to be determined in-time
- **Performance:** 99% across 377 planning decisions (It should be noted that this number does not include some types of legal determinations, such as screening opinions; hazardous substances consents; Tree Preservation Orders; some types of amendments; and discharges of conditions.) 100% majors (21). 97% minors (113). 99% others (243 of which 161 are householder).
- **Comment:** Excellent performance

On track to meet target ✓

### Quality of decisions taken

- **Target:** Less than 10% of total decisions taken subsequently overturned/allowed at appeal.
- **Performance:** 377 decisions. 3 appeals allowed and 1 dismissed (non were majors). 0% of major decisions overturned/allowed on appeal. Less than 1% of minor decisions overturned/allowed on appeal.
- **Comment:** Excellent

On track to meet target ✓

Based on these two sets of performance indicators, it is considered that the performance of the Council is generally excellent.





## 4 Policy Performance Data: the Spatial Strategy

- 4.1 The Council's Spatial Strategy has a strong focus on sustainable development with an appropriate balance between achieving more difficult regeneration aims and securing immediately viable developments in order to contribute to the delivery of the Local Plan Vision and Objectives regarding sustainable growth.

### Policy SS1: Sustainable Development

**Policy Aim:** Policy SS1 sets out the criteria against which the Council will consider the sustainability of a proposal. The Policy does not require any proposal to achieve a benefit against all 14 criteria but seeks to provide a basis on which to recognise the various sustainability costs and benefits of a proposal, which will then be considered by the Council in the overall 'Planning Balance'.

**Contribution towards Strategic Policy Objectives:** All Objectives.

#### Progress generally indicated by success of other policies combined

- **Local Plan Target:** N/A
- **Performance Data:** The Performance Data of the Policies monitored in this monitoring year.
- **Comment:** Growth has been in line with the Local Plan's overall strategy in terms of quantity and location and actually above the target requirements. This, together with few not performing as intended, indicates a positive situation.

On track to meet target ✓

### Policy SS2: Scale of Development

**Policy Aim:** Policy SS2 sets out the scale of employment and housing land provision. To significantly boost the supply of housing the Local Plan for Bolsover District Local Plan sets out a minimum of 5,168 dwellings for the period 2014 to 2033. Similarly, the policies in the Local Plan aim for a strong, competitive economy. On this basis, the plan puts forward 92 hectares of employment land for the period 2015 to 2033.

**Contribution towards Strategic Policy Objectives:** A, E and L-P.

#### Number of housing permissions

- **Local Plan Target:** No target
- **Performance Data:** 209 permissions
- **Comment:** The 209 housing permissions during the year include both minor and major developments. Whilst there is no target for the number of permissions, the number of dwellings they provide indicate that there is substantial interest in and a future pipeline for new housing in Bolsover District.

No Target

## Number of housing units completed

- **Local Plan Target:** 272 housing units delivered per year.
- **Performance Data:** 514 net (491 gross) new housing units completed.
- **Comment:** The number of housing completions in this third year of monitoring continues to surpass both the Local Plan Target of 272 units per year and the Housing Trajectory prediction of 358 units.

**On track to meet target** ✓

## Number of employment permissions

- **Local Plan Target:** No target
- **Performance Data:** 29 Permissions 91.6ha
- **Comment:** The employment permissions cover a range of employment uses across 11 settlements, from large buildings to provide industrial floorspace and warehouse accommodation, to changes of use to create small business enterprises and enhanced community facilities.

Employment permissions have been given on two former Council garage sites, comprising a new manufacturing facility and a general industrial site alongside two converted barns. A major development by the District Council of a crematorium at Shirebrook was also approved in the monitoring year.

**No Target**

## Amount of employment land completed

- **Local Plan Target:** 5.1 ha of employment land delivered over the year.
- **Performance Data:** 6.8 ha employment land delivered.
- **Comment:** The employment completions in the monitoring year exceed the annual target. The employment sites developed were on windfall sites located across the plan area.

**On track to meet target** ✓





## Policy SS3: Spatial Strategy and Distribution of Development

**Policy Aim:** To set out the Local Plan for Bolsover District's Spatial Strategy and distribute the housing and employment land required across the district in accordance with the Spatial Strategy.

**Contribution towards Strategic Policy Objectives:** A-C, E, H, J and L-P.

### Number of allocated housing units completed

- **Local Plan Target:** 358 completions across 23 sites
- **Performance Data:** 256 completions across 23 sites.
- **Comment:** The total number of housing completions on allocated sites is less than that forecast in the Local Plan, however the underlying trend is one of improvement. Across the 23 allocation sites, 8 are completed, 6 are above their expected delivery, 7 are behind their expected delivery with 2 sites anticipated to come forward later in the life of the Plan. (Appendix 1: Table of Allocated Housing Sites and Completions). Of note in the monitoring year is the increase in the rate of delivery across sites with 5 sites ahead of both the forecast for the monitoring year and also ahead of their overall trajectory having experienced a delay in commencement. Two sites; 145 houses at Rosewood Farm at South Normanton and 28 houses on land to the rear of Creswell Road Clowne were completed in the monitoring year with both ahead of their Local Plan Trajectory. Of those sites that are behind their trajectory, development has commenced on 4 of the 7 sites.

On track to meet target ✓

### Amount of allocated employment land completed (ha)

- **Local Plan Target:** 5.5 ha. employment land across 14 allocated sites
- **Performance Data:** Zero hectares of employment land delivered on allocated sites. Development has commenced on the Wincobank Farm allocation at South Normanton.
- **Comment:** The total amount of employment land completed on allocated sites is significantly above target, notwithstanding that in this monitoring year the completion of employment land does not meet the forecast threshold.

Across the 14 allocation sites 6 are now completed. The remaining 8 sites are available for future years (Appendix 2: Table of Allocated Employment Sites and Completions).

As there is no Employment Land Trajectory set out in the Local Plan it is not possible to state the percentage of allocated sites that are not meeting the expected delivery. However, the significant delivery of employment land on allocated sites suggests that progress is on track to meet the target.

The commencement of development at Wincobank Farm, a 14-hectare employment site, indicates that the overall forecast remains robust.

On track to meet target ✓

## Policy SS4: Strategic Site Allocation – Bolsover North

**Policy Aim:** The Bolsover North site is approximately 38 hectares in size and is situated at the north of Bolsover town centre. The aim of the Policy is to inform how the site will contribute toward the growth requirement for Bolsover as set out in Policy SS3. Policy SS4 sets out 16 criteria for the development of Bolsover North as defined on the Policies Map and guided by the approved masterplan for the site.

**Contribution towards Strategic Policy Objectives:** A, B, G, H, N, O.

### Numbers of housing units completed

- **Local Plan Target:** 70 units 2022/23
- **Performance Data:** 17 units 2022/23

**Comment:** Development commenced in 2022/23, two years behind the Local Plan Housing Trajectory.

Ongoing behind target ✓

### Required infrastructure delivered

- **Local Plan Target:** Infrastructure delivered in line with agreed development programme
- **Performance Data:** Triggers not yet reached

On track to meet target ✓



## Policy SS5: Strategic Site Allocation: Clowne Garden Village

**Policy Aim:** The Clowne Garden Village site is approximately 140 hectares in size and is situated to the north of Clowne. The aim of the Policy is to inform how the site will contribute toward the growth requirement for Clowne as set out in Policy SS3. Policy SS5 sets out 16 criteria for the development of Clowne Garden Village as defined on the Policies Map and guided by the indicative masterplan for the site (fig. 4C Local Plan for Bolsover District).

**Contribution towards Strategic Policy Objectives:** A, B, G, H and L-O.

### Numbers of housing units completed

- **Local Plan Target:** 90 units in 2022/23
- **Performance Data:** Site not yet commenced.

Ongoing behind target ✓

### Amount of employment land completed

- **Local Plan Target:** 0ha
- **Performance Data:** Site not yet commenced.

Ongoing behind target ✓

### Required infrastructure delivered

- **Local Plan Target:** Infrastructure delivered in line with agreed development programme
- **Performance Data:** Site not yet commenced.

Ongoing behind target ✓

**Comment:** The Local Plan Housing Trajectory anticipated that development would commence in 2021/22, but planning application still being considered and is it yet to be determined (ref. 17/00640/OUT).

## Policy SS6: Strategic Site Allocation – Former Whitwell Colliery Site

**Policy Aim:** The former Whitwell Colliery site is approximately 47 hectares in size and is situated to the south of the village. The aim of the Policy is to deliver the growth requirement for Whitwell as set out in Policy SS3. Policy SS6 sets out 15 criteria for the development of the Site as defined on the Policies Map and guided by the indicative masterplan for the site.

**Contribution towards Strategic Policy Objectives:** A-C, E, H, I and L-O.

## Numbers of housing units completed

- **Local Plan Target:** 0 units in 2022/23
- **Performance Data:** Site not yet commenced.

On track to meet target ✓

## Amount of employment land completed

- **Local Plan Target:** 0ha in 2022/23
- **Performance Data:** Site not yet commenced.

On track to meet target ✓

## Required infrastructure delivered

- **Local Plan Target:** 90 units in 2022/23
- **Performance Data:** Site not yet commenced.

On track to meet target ✓

**Comment:** The Local Plan Housing Trajectory anticipates that development will commence in 2026/27.

Outline planning permission granted (9.12.22) for the mixed-use redevelopment of the former Whitwell Colliery site, comprising in the region of 450 dwellings, 6 hectares of employment, public open space, convenience retail store and offices (ref. 18/00452/OUT)

Permission granted by Derbyshire County Council (7.12.2022) for the reclamation, cut and fill, of the site to facilitate its mixed-use redevelopment, together with landscaping, ecology, and drainage (ref.18/00622/DCCON4).

The approvals that have been given show that the policy to promote housing and employment growth on this Strategic Site is working.

## Policy SS7: Coalite Priority Regeneration Area

**Policy Aim:** The Regeneration Area comprises the 61-hectare former Coalite Chemical Works site to the west of Bolsover near Junction 29A of the M1 motorway. The aim of the Policy is to safeguard the Area from development that would jeopardise the comprehensive remediation, reclamation and redevelopment of the whole site. Proposals for the development of the site will be guided by the approved masterplan or any subsequent approved document.

**Contribution towards Strategic Policy Objectives:** A, C, E, H, L, M and O.

- **Performance Data:** Development started 2023.
- **Comment:** This policy is performing but a target was not set against which to measure this.

Development commenced on site although two years behind the trajectory of 2020/21. In the monitoring year 1 hectare of land was forecast for development.

## Policy SS8: Pleasley Vale Regeneration Area

**Policy Aim:** Pleasley Vale provides a high-quality environment with a strong character and identity. The regeneration area is a Nature Conservation site and forms part of the Pleasley Park and Vale Conservation area. The current under use of the three mills at its centre is a threat to its environmental quality. The aim of Policy SS8 is to encourage development proposals for the Area which address the particular characteristics of the natural and historic built environment together with flooding and access issues.

**Contribution towards Strategic Policy Objectives:** A, C-F, L, M and O.

- **Performance Data:** A Project Officer was appointed in November 2022 to evaluate and take forward potential development proposals for the Pleasley Vale Regeneration Area.
- **Comment:** This policy is performing as anticipated but a target was not set against which to measure this.

**No Target**

## Policy SS9: Development in the Countryside

**Policy Aim:** This policy supports the Spatial Strategy (SS3) and the complementary Vision and Objective of the Local Plan to conserve and enhance the quality and character of the countryside, its landscape and villages. In this way Policy SS9 set out categories against which the acceptability of a proposed development in the Countryside will be assessed.

**Contribution towards Strategic Policy Objectives:** A, C, E and J.

### Number of planning permissions granted outside of development frameworks

- **Performance Data:** 10 residential approvals. 7 employment approvals.
- **Comment:** The residential approvals in the countryside fell within the policy categories to be considered acceptable. The majority were for the change of use of existing buildings, or for replacement dwellings. New dwellings were the subject of two applications including one to accommodate an agricultural worker. In the case of two applications Policy LC5 Applications for Gypsies, Travellers and Travelling Show people took precedent over the requirements of SS9.

The majority of employment approvals in the countryside were within the category of farm diversification.

**On track to meet target** ✓

## Number of planning permissions granted outside of development frameworks that do not accord with the categories listed in the policy

- **Local Plan Target:** Zero planning permissions contrary to the policy
- **Performance Data:** Zero planning permissions contrary to the policy

On track to meet target ✓

## Number of applications refused against this policy

- **Performance Data:** 1 planning applications refused.
- **Comment:** The application was refused on a number of grounds including its harmful urbanising impact on the countryside and its location being unsustainable (Ref. 22/00486/FUL). A subsequent appeal was dismissed and Policy SS9 found to be sound as a basis for the refusal alongside other local plan policies.

On track to meet target ✓

## Policy SS10: Development in the Green Belt

**Policy Aim:** This Policy takes forward the national policy as it applies to the North-East Derbyshire Green Belt with the aim to maintain openness around the large conurbations of Sheffield and Rotherham. Within the aim of not permitting development, the policy sets out exceptions where development may be considered acceptable.

**Contribution towards Strategic Policy Objectives:** A, C, E and I.

## Number of planning permissions in the Green Belt that do not accord with the categories listed in the policy

- **Local Plan Target:** Zero planning permissions contrary to the policy.
- **Performance Data:** Zero planning permissions contrary to policy.
- **Comment:** 2 applications were considered for replacement buildings and another for a new sports facility. All accord with the categories within the policy.

On track to meet target ✓

## Number of applications refused against this policy

- **Performance Data:** Zero applications refused
- **Comment:** This policy is performing well, and the lack of cases is a sign that the protection of the Green Belt is working well.

On track to meet target ✓

## Policy SS11: Development in Important Open Breaks

**Policy Aim:** This policy aims to maintain openness around certain villages. The aim is to prevent 18 named settlements coalescing with a neighbour and to maintain their settlement character. Within the overall aim of not permitting development, the policy states that development would only be permitted where it does not detract from maintaining an open character.

**Contribution towards Strategic Policy Objectives:** A, C and O.

### Number of planning permissions granted in Important Open Breaks that do not provide mitigation to keep the development in accordance with policy

- **Local Plan Target:** Zero planning permissions contrary to the policy
- **Performance Data:** Zero permission contrary to policy.
- **Comment:** This policy is performing well, and the low number of cases is a sign that the protection of Important Open Breaks is working well.

### Number of applications refused against this policy, that were lost on appeal

On track to meet target ✓







## 5 Policy Performance Data: Living Communities

- 5.1 The policies in this chapter set out the Council’s approach to meeting its housing requirements and needs by allocating a series of housing site allocations and setting out how other housing needs will be met.

### Policy LC1: Housing Allocations

**Policy Aim:** This policy lists the sites that are in addition to the 5 Strategic Sites (SS4-SS8) that have been allocated in order to provide the supply of sites needed to meet the housing land requirement during the plan period 2020-2033. Within the aim of achieving sustainable development under the Spatial Strategy, the policy states the policy also sets out the requirements to enter into S.106 planning obligations to secure the supporting infrastructure.

#### Number of allocated housing units completed

- **Local Plan Target:** 358 completions across 23 sites.
- **Performance Data:** 256 completions across 23 sites.
- **Comment:** The total number of housing completions on allocated sites is less than that forecast in the Local Plan, however the underlying trend is one of improvement. Across the 23 allocation sites, 8 are completed, 6 are above their expected delivery, 7 are behind their expected delivery with 2 sites anticipated to come forward later in the life of the Plan. (Appendix 1: Table of Allocated Housing Sites and Completions).

Of note in the monitoring year is the increase in the rate of delivery across sites with 5 sites ahead of both the forecast for the monitoring year and also ahead of their overall trajectory having experienced a delay in commencement. Two sites; 145 houses at Rosewood Farm at South Normanton and 28 houses on land to the rear of Creswell Road Clowne were completed in the monitoring year with both ahead of their Local Plan Trajectory. Of those sites that are behind their trajectory, development has commenced on 4 of the 7 sites.

That a number of sites are now ahead of their trajectory indicates that house building on allocated sites is increasingly in line with the overall trajectory following the impact of the pandemic.

On track to meet target 

### Policy LC2: Affordable Housing Through Market Housing

**Policy Aim:** This policy states a threshold of residential development site of 25 or more dwellings to provide 10% Affordable Housing for rent. Any reduction in this requirement is to be supported by a detailed viability assessment.

## Number of affordable houses built

- **Local Plan Target:** All developments of 25 or more dwellings provide affordable homes unless a detailed viability study demonstrates that this would make the development unviable.
- **Performance Data:** Zero developments securing below 10% affordable homes due to viability. 78 affordable houses completed.
- **Comment:** The numbers of affordable houses built exceeds the annual target of 41 affordable houses (see Table 49 SHMA 2017 update), principally due to public sector delivery. See Appendix 3: Affordable Housing Completions for full details.

On track to meet target ✓

## Policy LC3: Type and Mix of Housing

**Policy Aim:** This policy aims to encourage the type of housing the district needs whilst helping to create inclusive mixed communities. The District is characterised by an aging population with a higher than average percentage of retired households. Households with poor health is a significant issue in the district. Although there is not currently concrete demand for Custom and Self Build homes in the District, the Council maintains a register of those looking for serviced plots and will encourage developers of larger schemes to include them as part of their proposal.

### Number of dwellings delivered by type

- **Local Plan Target:** The SHMA recommends that the mix for new market housing should comprise:
  - a) 0-5% 1 bedroom homes
  - b) 30-35% 2 bedroom homes
  - c) 40-45% 3 bedroom homes
  - d) 20-25% 4 bedroom homes
- **Performance Data:** Housing completion data shows that the mix delivered during the year as:
  - a) 8% 1 bedroom homes
  - b) 20% 2 bedroom homes
  - c) 51% 3 bedroom homes
  - d) 18% 4 bedroom homes
  - e) 3% 5 bedroom homes
- **Comment:** The SHMA recommendations are guidance and not a mandatory requirement on applications for development. Based on this year's data it is clear that the broad mix is largely in line with the guidance, however, 2 bedroom homes are under-represented in terms of the housing mix with 3 bedroom homes similarly over-represented.

On track to meet target ✓

## Number of custom and self-build plots delivered

- **Local Plan Target:** Number of delivered custom and self-build plots exceeds the number on the Council's interest register
- **Performance Data:** 3 new entries in the monitoring year (37 people and 2 groups on the Council's interest register which is 8 less individuals than last time).  
Zero annual completions of custom and self-build plots delivered.

Ongoing behind target ✓

## Policy LC4: Site Allocation for Gypsies Travellers and Travelling Show People

**Policy Aim:** This policy sets out 4 site locations for Gypsy and Traveller pitches.

### Number of applications for pitches / plots granted planning permission on allocated sites

- **Local Plan Target:** All 4 allocated sites developed within 5 years
- **Performance Data:** No applications submitted.
- **Comment:** Three years into the Plan and only one allocated site has the benefit of planning permission (below) with no other applications coming forward.

Ongoing behind target ✓

### Number of pitches/plots developed on allocation sites

- **Local Plan Target:** All 4 allocated sites developed within 5 years
- **Comment:** Although development commenced for 14 plots on the allocated site at Beaufit Lane Pinxton in 2019, this is by way of the creation of an access thereby implementing the permission. No pitches/plots yet delivered.

On track to meet target ✓

## Policy LC5: Applications for Gypsies, Travellers and Travelling Show People

**Policy Aim:** This policy sets out the criteria against which applications for new sites for gypsies, traveller and travelling show people will be assessed.

### Number of application for pitches/plots granted planning permission

- **Local Plan Target:** No appeals upheld on the basis of this policy.
- **Performance Data:** Two applications approved. No appeals.
- **Comment:** 4 travellers pitches on land adjacent to the allocated Gypsies Travellers and Travelling Show People site at Brookhill Lane, Pinxton, (ref. 21/00678/FUL) and 3 travellers pitches at the Stables, Featherbed Lane, Bolsover (ref. 22/00425/FUL)

On track to meet target ✓

## Policy LC6: Safeguarding Sites for Gypsies, Travellers and Travelling Show People

**Policy Aim:** This policy aims to safeguard 7 existing permanent sites against their redevelopment for traditional dwellings.

### Number of site lost to other uses

- **Local Plan Target:** No sites lost to other uses
- **Performance Data:** No applications made
- **Comment:** That there are no sites lost to other uses indicates that this policy is performing well.

On track to meet target ✓

## Policy LC7: Agriculture, Forestry and Other Occupational Dwellings in the Countryside

**Policy Aim:** This policy aims to ensure that the housing needs of people working in essential rural occupations are met. The policy sets out 7 criteria applied to such applications with the approach of a temporary permission for a 3 year assessment of proven need before a permanent dwelling can be permitted.

### Number of individual new dwellings delivered in the countryside

- **Local Plan Target:** Zero dwellings in the countryside that are delivered that are contrary to this policy
- **Performance Data:** Zero dwellings approved
- **Comment:** One application was approved for a permanent agricultural worker dwelling (ref 22/00015/FUL) so in accordance with this policy.

On track to meet target ✓

## Policy LC8: Removal of Agricultural and Other Occupancy Conditions

**Policy Aim:** The aim of this policy is to avoid the proliferation of new dwellings in unsustainable locations and in this way sets out the criteria whereby a restrictive occupancy condition can be considered for removal.

### Number of conditions removed

- **Local Plan Target:** No target
- **Performance Data:** No applications received.
- **Comment:** This policy is performing well and the lack of cases is a sign that safeguarding existing agricultural, forestry or other similar worker dwellings is working well.

On track to meet target ✓





## 6 Local Plan Policy Indicators: Working Communities

- 6.1 Unlocking the capacity of major sites is a key element in supporting the delivery of the Council's ambitions for economic growth and a balanced housing market. The Economic Needs Assessment 2015 recommends that the Council should allocate a target of between 65 and 100 hectares of B class employment land.

### Policy WC1: Employment Land Allocations

**Policy Aim:** This policy provides an indication of the likely B class use for 14 sites. The sites include those allocated in the Local Plan, those already under construction at the time the Local Plan was being written and those sites with the benefit of planning permission.

#### Amount of allocated employment land delivered

- **Local Plan Target:** 5.5 ha of employment land delivered on allocated sites
- **Performance Data:** Zero hectares of employment land delivered on allocated sites. Development has commenced on the Wincobank Farm allocation at South Normanton.
- **Comment:** The total amount of employment land completed on allocated sites is significantly above target, notwithstanding that in this monitoring year the completion of employment land does not meet the forecast threshold.

Across the 14 allocation sites 6 are now completed. The remaining 8 sites are available for future years (Appendix 2: Table of Allocated Employment Sites and Completions). As there is no Employment Land Trajectory set out in the Local Plan it is not possible to state the percentage of allocated sites that are not meeting the expected delivery. However, the significant delivery of employment land on allocated sites suggests that progress is on track to meet the target.

The commencement of development at Wincobank Farm, a 14-hectare employment site, indicates that the overall forecast remains robust.

**On track to meet target** ✓

## Policy WC2: General Principles for Economic Development

**Policy Aim:** This policy aims to promote the sustainable growth of the District economy and to protect existing employment sites from changes of use, particularly residential use, should any existing businesses cease to operate. The policy sets out 27 Existing Employment Sites that are protected with marketing and viability assessment a prerequisite for a change of use to be considered.

### Amount of protected employment land lost to non-employment uses (ha)

- **Local Plan Target:** Zero protected employment land lost to non-employment uses
- **Performance Data:** Zero protected employment land lost to non-employment uses.
- **Comment:** This policy is performing well, and the low number of cases indicates that the protection of employment land is working.

On track to meet target ✓

## Policy WC3: Supporting the Rural Economy

**Policy Aim:** This policy aims to promote the sustainable growth of the rural economy in villages and rural areas with 5 criteria against which such proposals will be required to satisfy at least one.

### Number of small-scale employment related developments built/converted in rural locations

- **Local Plan Target:** No target.
- **Performance Data:** 4 small-scale employment related developments built/converted in rural locations with a total site area of 1.29ha. (1.13)
- **Comment:** The completed developments comprise a range of employment related developments and comprise; the extension of an existing garage business at Creswell (ref 21/00234/FUL), the erection of a cattery (ref 21/00232/FUL), and an internet-based car business both at Stoney Houghton (22/00667/LAW) and in Blackwell, the change of use of a former agricultural building for commercial storage for farm diversification (ref 22/00642/FUL).

This policy of promoting the sustainable growth of the rural economy in villages and rural areas is working well.

No Target

## Policy WC4: Rough Close Works, South Normanton

**Policy Aim:** This site-specific policy for Rough Close Works in South Normanton, a site that is designated as a hazardous substance site and an explosives site with two Explosive Safeguard Zones. The aim of the policy is to support the existing use on this site and protect the public in the event of a major accident. The site is divided into 4 areas, each with a different policy approach to development.



## Number of planning applications approved in association with EPC-UK

- **Local Plan Target:** No target.
- **Performance Data:** 6 planning applications approved

**No Target**

## Number of planning applications refused due to HSE advice

- **Local Plan Target:** No target.
- **Performance Data:** Zero planning applications refused due to HSE advice

**No Target**

**Comment:** The approvals include the erection of a new storage magazine and the replacement of existing process and production buildings, with an increase in the size of the production building. A new laboratory with the associated refurbishment of the existing on-site laboratory and additional on-site staff welfare facilities.

This policy of supporting the existing use on the site is working well.

## Policy WC5: Retail, Town Centre and Local Centre Development

**Policy Aim:** The aim of the policy is to maintain and enhance the vitality and viability of the existing town and local centres by supporting appropriate retail development within them and requiring those development proposals in an edge of centre or out of centre location to demonstrate that their presence will not unduly impact on them. In smaller settlements, local shops that are compatible in scale, within the defined development envelopes and that do not challenge the vitality and viability of the nearby local centre, will be approved.



## Number of town centre uses developed within town and local centres

- **Local Plan Target:** 140 sqm. of retail floorspace developed within town centres and edge of centre allocations per year (on average) (2100 sqm. over the plan period)
- **Performance Data:** In the monitoring year there has been 415 sqm of retail floorspace developed and 142 sqm. retail floorspace lost within town centres, meaning that there has been an overall net increase of 273 sqm of commercial floorspace.
- **Comment:** This policy seeks to encourage retail development in existing town and local centres.

Of the 4 town centre developments in the monitoring year, there is a significant development of 415 sqm of commercial floorspace at South Normanton with the conversion of the Zion Methodist Church to provide premises for a printing company. Two developments in Bolsover relate to changes of use within business classes and so no new floorspace was created.

There has been a loss of commercial floorspace in Whitwell where 142 sqm. has been lost to residential use (ref.BOL/1222/640).

Two developments in Old Bolsover relate to changes of use within business classes and so no new floorspace was created.

**On track to meet target** ✓

## Policy WC6: Bolsover Edge of Town Centre Allocation

**Policy Aim:** This policy is one of a group of policies with the aim of encouraging community-led district wide regeneration focusing in and around the four main centres of Bolsover, Shirebrook, Clowne and South Normanton. Each is supported by a framework. Policy WC6 is a site-based policy for the former Sherwood Lodge site. The aim is to guide its redevelopment in a way that benefits the wider town centre. Since the formal adoption of the Local Plan its redevelopment has been completed.

### Amount of town centre use floor space developed per year on the site

- **Local Plan Target:** Site redevelopment completed in plan period.
- **Performance Data:** Site redeveloped, completed during 2019/20
- **Comment:** The Bolsover Edge of Town Centre Allocation has been delivered.

**On track to meet target** ✓

## Policy WC7: Shirebrook Edge of Town Centre Allocation

**Policy Aim:** This policy is one of a group of policies with the aim of encouraging community-led district wide regeneration focusing in and around the four main centres of Bolsover, Shirebrook, Clowne and South Normanton. Policy WC7 is a site-based policy. It is based on two sites: Portland Road West and Portland Road East (Fig 6B) at the edge of the Shirebrook Town Centre. The aim is to guide their redevelopment in a way that benefits the wider town centre.

### Amount of town centre use floor space developed per year within the site

- **Local Plan Target:** Site redevelopment completed within the plan period
- **Performance Data:** Site under construction as of 31st March 2023.
- **Comment:** Development underway by the close of the current monitoring year for 24 affordable bungalows (21/00421/FUL).

It is considered that the use of this edge-of-centre town centre allocation for the residential use will help meet local housing needs. It complies with the policy albeit making limited contributions to the specific Regeneration Framework proposals set out in the Local Plan.

**On track to meet target** ✓

## Policy WC8: South Normanton Edge of Town Centre Allocation

**Policy Aim:** This policy is one of a group of policies with the aim of encouraging community-led district wide regeneration focusing in and around the four main centres of Bolsover, Shirebrook, Clowne and South Normanton. Policy WC8 is a site-based policy based on two sites at the edge of the South Normanton Town Centre (Fig 6C). The aim is to guide the redevelopment of the sites in a way that benefits the wider town centre.

### Amount of town centre use floor space developed per year within the site

- **Local Plan Target:** Site redevelopment completed within the plan period
- **Performance Data:** No permissions or completions
- **Comment:** The South Normanton Edge of Town Centre Allocation is still available.

**On track to meet target** ✓

## Policy WC9: Hot Food Takeaways

**Policy Aim:** The aim of this policy is to ensure that the approval for hot food takeaways does not harm residential amenity, does not contribute toward anti-social behaviour and if within a town centre contributes positively to the day and night-time economy.

### Number of hot food takeaways granted per year

- **Local Plan Target:** Zero planning permissions contrary to policy
- **Performance Data:** 1 hot food takeaway
- **Comment:** The approval was in Shirebrook town centre (ref 21/00609/FUL) and resulted in a vacant ground floor premises being brought into use.

**On track to meet target** ✓

## Policy WC10: Tourism and the Visitor Economy

**Policy Aim:** The aim of this policy is to support, protect and enhance existing tourist facilities in the District and promote none destination based new facilities in the four main towns, emerging towns and large villages. The policy sets out three criteria; regeneration potential, appropriate scale and character to the area and being accessible by a range of transport types particularly non-car modes.

### Number of tourist facilities including visitor accommodation developed within, towns, emerging towns and large villages

- **Local Plan Target:** No target.
- **Performance Data:** Two new tourist facilities.
- **Comment:** A new camping site at Clowne comprising glamping pods, touring tents, and touring caravan pitches, toilets and shower with a new office & farm shop (ref 22/00377/FUL). The proposal represented a diversification of use on an existing working farm. The site is located on a bus route and within walking distance of the shops and facilities in Clowne town centre such that the site is considered to be a relatively sustainable site for a tourism use.

Holiday accommodation at New Houghton with the change of use of a Coach House Annex to a short-term holiday-let (ref 23/00169/FUL)

**No Target**

## 7 Local Plan Policy Indicators: Sustainable Communities

- 7.1 The Local Plan is about changing things for the better. In this the issue of sustainability is central and this chapter sets out the Council's (says proposed in 7.1) policies in relation to; sustainable new development and design, climate change, and the district's natural and historic assets.

### Policy SC1: Development within the Development Envelope

**Policy Aim:** The aim of this policy is to encourage suitable small-scale development in existing urban areas.

#### Number of dwellings completed on unallocated sites outside of settlement envelopes

- **Local Plan Target:** Only dwellings in accordance with policies LC3, LC7 and LC8 delivered
- **Performance Data:** 10 residential approvals
- **Comment:** The residential approvals in the countryside fell within the policy categories to be considered acceptable. The majority were for the change of use of existing buildings, or for replacement dwellings. New dwellings were the subject of two applications including one to accommodate an agricultural worker. In the case of two applications Policy LC5 Applications for Gypsies, Travellers and Travelling Show people took precedent over the requirements of SS9.

### Policy SC2: Sustainable Design and Construction

**Policy Aim:** The aim of this policy is to help deliver sustainable design in terms of materials used, the resources required and the way in which the development will meet the challenges of climate change.

#### Number of applications granted contrary to the advice of the urban designer.

- **Local Plan Target:** No applications granted contrary to the advice of the urban designer.
- **Performance Data:** Zero approvals that contravene advice of urban designer
- **Comment:** Based on this indicator this policy is working well.

On track to meet target ✓

## Policy SC3: High Quality Development

**Policy Aim:** The aim of this policy is to promote the key objectives of design to ensure a high quality sustainable built environment in terms of place making, buildings and landscape.

### Number of applications granted contrary to the advice of the urban designer.

- **Local Plan Target:** No applications granted contrary to the advice of the urban designer.
- **Performance Data:** Zero approvals that contravene the advice of the urban designer
- **Comment:** Based on this indicator this policy is working well.

On track to meet target ✓

## Policy SC4: Comprehensive Development

**Policy Aim:** The aim of this policy is to ensure a comprehensive approach to the development of large sites to avoid piecemeal development and ensure that the required levels of necessary infrastructure and a balance of uses are maintained and enhanced.

### Number of applicable schemes (3ha+) not completed in line with an approved masterplan

- **Local Plan Target:** Zero applicable schemes completed contrary to an approved masterplan
- **Performance Data:** Zero approvals that contravene policy
- **Comment:** No schemes of 3+ hectares approved in the monitoring year

On track to meet target ✓

### Number of applicable schemes avoiding S106 Agreements

- **Local Plan Target:** Zero application schemes avoiding S106 Agreements
- **Performance Data:** Zero approvals that contravene policy
- **Comment:** No schemes of 3 hectares or above approved in the monitoring year

On track to meet target ✓

## Policy SC5: Change of Use and Conversions in the Countryside

**Policy Aim:** The aim of this policy is to support changes of use that are easily assimilated to the surroundings.

### Number of planning permissions granted for conversion or change of use

- **Local Plan Target:** No target
- **Performance Data:** No trend of planning permissions granted contrary to policy.
- **Comment:** There were 6 planning permissions granted for conversion/change of use. Three of the applications related to agricultural buildings with approved conversions to provide commercial storage, a sports facility and a holiday let. Community buildings were the subject of two applications, both for conversion to residential use. Another approval was for the change of use of a residential property to the employment use of market gardening including parking. All permissions complied with the policy.

**No Target**



## Policy SC6: Renewable and Low Carbon Energy

**Policy Aim:** The aim of this policy is to support the development of renewable energy within the requirement of there being no significant harm or adverse effects on the natural or historic environment.

### Number of renewable and low carbon energy applications granted and number of renewable and low carbon energy applications developed

- **Local Plan Target:** An increase in energy produced from renewable low carbon energy methods after five years of adoption.
- **Performance Data:** One application for renewable and low carbon energy proposal.
- **Comment:** Proposal for a battery storage facility at Newton (ref 21/00161/VAR). The application was to vary conditions on the original planning permission due to a reduction in the number of units required as a result of the improved technology available. The layout was amended to use less space on the land.

On track to meet target ✓

## Policy SC7: Flood Risk

**Policy Aim:** The aim of this policy is to ensure that all development proposals appropriately manage flood risk from all sources and to encourage the use of SUDS to help achieve this.

### Number of applications granted contrary to Environment Agency (EA) advice.

- **Local Plan Target:** Zero applications granted contrary to EA advice.
- **Performance Data:** Zero applications contrary to Policy
- **Comment:** This policy is performing well.

On track to meet target ✓





## Policy SC8: Landscape Character

**Policy Aim:** The aim of this policy is to ensure new development does not cause significant harm to its landscape setting.

### Number of applications granted where a material consideration has been deemed to outweigh policy

- **Local Plan Target:** No applications granted contrary to policy
- **Performance Data:** No applications granted contrary to policy
- **Comment:** This policy is performing well.

On track to meet target ✓

## Policy SC9: Biodiversity and Geodiversity

**Policy Aim:** The aim of this policy is to conserve and enhance the biodiversity and features of Bolsover District and to provide net gain where possible.

### Loss/creation of wildlife designations

- **Local Plan Target:** No loss of wildlife designations.
- **Performance Data:** No new designations or losses of SSSIs or Local Nature Reserves but three changes to the LWS Register, comprising one new Local Wildlife Site at Birch Hill Plantation and two extensions at Poulter Country Park East and Tibshelf Ponds.
- **Comment:** The Policy is working well with an increase in designated sites and no losses of existing designated sites.

On track to meet target ✓

## Policy SC10: Trees, Woodland and Hedgerows

**Policy Aim:** The aim of this policy is to retain trees and hedgerows and where possible enhance and expand their networks.

### Loss/creation of TPO's, woodland and hedgerows unless deemed to have negligible ecological benefit

- **Local Plan Target:** No loss/creation of TPO's, woodland and hedgerows unless a detailed ecology study shows that the feature provides negligible ecological benefit.
- **Performance Data:** 1 new TPO Chesterfield Road, Barlborough (Oct 2022) Numbers of woodland and hedgerows lost/created not known.
- **Comment:** This policy is working well.

On track to meet target ✓

## Policy SC11: Environmental Quality (Amenity)

**Policy Aim:** The aim of this policy is to avoid promoting situations where a statutory nuisance is created.

### Number of planning applications requiring relevant assessments

- **Local Plan Target:** Zero planning applications granted without satisfactory mitigation to potential nuisances
- **Performance Data:** Less than 5% of applications approved contrary to policy.
- **Comment:** Where a potential amenity nuisance was identified, in these cases the decision was made on the basis that the level of harm would be minimal/negligible.

On track to meet target ✓

## Policy SC12: Air Quality

**Policy Aim:** The aim of this policy is to ensure that development does not, on its own or cumulatively, exacerbate identified air quality concerns.

### Designation/revocation of air quality management areas (AQMAs)

- **Local Plan Target:** No new AQMAs designated.
- **Performance Data:** Air quality monitoring for Nitrogen Dioxide (Nox) was carried out at various location across the Bolsover District during the monitoring year. The results from this have demonstrated that none of the monitoring locations have levels above the national prescribes amounts. Therefore there have been no designation of Air Quality Monitoring Areas (AQMAs).
- **Comment:** This policy is working well.

On track to meet target ✓

## Policy SC13: Water Quality

**Policy Aim:** The aim of the policy is to ensure that development does not have a negative impact on water quality.

### Number of applications granted contrary to Environment Agency advice

- **Local Plan Target:** Zero applications granted contrary to Environment Agency advice
- **Performance Data:** Zero applications approved contrary to policy.
- **Comment:** This policy is working well.

On track to meet target ✓

## Policy SC14: Contaminated and Unstable Land

**Policy Aim:** The aim of this policy is to ensure that contamination and instability are appropriately mitigated.

### Number of applications granted contrary to Environment Agency/Coal Authority advice

- **Local Plan Target:** Zero applications granted contrary to Environment Agency/Coal Authority advice.
- **Performance Data:** Zero applications approved contrary to policy.
- **Comment:** This policy is working well.

On track to meet target ✓



## Policy SC15: Hazardous Installations

**Policy Aim:** The aim of this policy is to ensure that the risks arising from the four Hazardous Substances Consent Consultation Zones are considered in relevant development proposals and deemed to be acceptable.

### Number of applications ranted that are contrary to Health and Safety Executive advice

- **Local Plan Target:** Zero applications granted that are contrary to Health and Safety Executive advice.
- **Performance Data:** Zero applications approved contrary to policy.
- **Comment:** This policy is working well.

On track to meet target ✓

## Policy SC16: Development Within or Impacting upon Conservation Areas

**Policy Aim:** The aim of this policy is to ensure that new development does not undermine the heritage significance of historic townscapes and areas.

### Number of applications granted contrary to Conservation Officer advice

- **Local Plan Target:** Zero applications granted contrary to Conservation Office advice
- **Performance Data:** Zero applications granted contrary to Conservation Office advice
- **Comment:** This Policy is working well.

On track to meet target ✓

## Policy SC17: Development Affecting Listed Buildings and their Settings

**Policy Aim:** The aim of this policy is to ensure that new development does not undermine the heritage significance of listed buildings.

### Number of planning applications affecting listed buildings and/or their settings

- **Local Plan Target:** No target.
- **Performance Data:** Not available.
- **Comment:** It is not yet possible to monitor this indicator, but a system is being developed.

No Target

## Number of listed buildings lost.

- **Local Plan Target:** No decrease in the number of listed buildings.
- **Performance Data:** No decrease in the number of listed buildings.
- **Comment:** This would indicate the policy is working well.

On track to meet target ✓

## Number of buildings on the Buildings at Risk Register

- **Local Plan Target:** No increase in the number of buildings on the Buildings at Risk Register.
- **Performance Data:** The number of buildings on the Buildings at Risk Register has increased by 2. The lodges at Pleasley Vale have been added.
- **Comment:** Whilst not affected by the Local Plan policy, this performance data would indicate that more proactive work is required to tackle Heritage at Risk.

Not performing as intended ✗



## Policy SC18: Scheduled Monuments and Archaeology

**Policy Aim:** The aim of this policy is to ensure the preservation and potential enhancement of settlements identified to have potential for medieval archaeology and all other archaeological sites.

### Number of scheduled monuments

- **Local Plan Target:** No decrease in the number of scheduled ancient monuments
- **Performance Data:** No monuments de-scheduled
- **Comment:** This policy is working well.

On track to meet target ✓

### Number of applications granted contrary to Conservation/Archaeologist Officer advice

- **Local Plan Target:** Zero applications granted contrary to Conservation/Archaeologist Officer advice
- **Performance Data:** None
- **Comment:** This policy is working well.

On track to meet target ✓

## Policy SC19: Bolsover Area of Archaeological Interest

**Policy Aim:** The aim of this policy is to protect the archaeology within Bolsover Town.

### Number of applications granted contrary to policy

- **Local Plan Target:** No applications granted contrary to the policy unless material considerations outweigh the policy
- **Performance Data:** No applications granted contrary to policy
- **Comment:** This policy is working well.

On track to meet target ✓

## Policy SC20: Registered Parks and Gardens

**Policy Aim:** The aim of this policy is to conserve and enhance the special historic landscape and interest of registered historic parks and gardens.

### Number of registered parks and gardens

- **Local Plan Target:** No target.
- **Performance Data:** No Registered Park and Garden de-listed.
- **Comment:** Whilst there is no target it would appear that this policy is working well.

No Target

## Policy SC21: Non-Designated Local Heritage Assets

**Policy Aim:** The aim of this policy is to conserve and enhance non-designated local heritage assets.

### Number of non-listed buildings of merit

- **Local Plan Target:** No target.
- **Performance Data:** No non-listed buildings removed from the list.
- **Comment:** Whilst there is no target it would appear that this policy is working well.

**No Target**







## 8 Local Plan Policy Indicators: Infrastructure, Transport, Community and Recreation Provision

8.1 The policies in this chapter set out the Council’s approach to ensuring that planned growth is accompanied with the necessary infrastructure to deliver sustainable development.

### Policy ITCR1: Strategic Green Infrastructure Network

**Policy Aim:** The aim of this policy is to ensure the preservation of the Strategic Green Structure Network whilst supporting appropriate development.

#### Number of planning permissions that add/remove green infrastructure

- **Local Plan Target:** Zero loss of green infrastructure.
- **Performance Data:** Number of planning permissions that add green infrastructure.  
Number of planning permissions that remove green infrastructure.
- **Comment:** This policy is working well.

On track to meet target ✓

### Policy ITCR2: The Multi–User Trails Network

**Policy Aim:** The aim of this policy is to ensure that the Multi-Use Trails Network is protected and enhanced.

#### Amount of identified greenway lost/gained each year (ha)

- **Local Plan Target:** Zero loss of identified greenway. Newly proposed greenway locations not prevented by granting of planning permission.
- **Performance Data:** Zero Greenway lost. 3km x 3m length of Greenway gained
- **Comment:** This policy is working well.  
The creation of just under 1 km long and 3m wide cycle path from Doe Lee to Stainsby. (ref: 22/00036/FUL) A joint endeavour with NEDDC, of which 500 metres of greenway is in Bolsover District.  
The upgrading of existing informal and formal footpaths to allow their use by pedestrians, cyclists and horse riders complies with policy.

On track to meet target ✓

## Policy ITCR3: Protection of Footpaths and Bridleways

**Policy Aim:** The aim of this policy is to ensure the retention of the existing footpaths and bridleways across the district

### Number of footpaths/bridleways lost/gained

- **Local Plan Target:** Zero loss of footpaths/bridleways
- **Performance Data:** Zero applications impacting on a footpath/bridleway. Zero footpaths/bridleways lost.
- **Comment:** This policy is working well.

On track to meet target ✓

## Policy ITCR4: Local Shops and Community Facilities

**Policy Aim:** The aim of this policy is to avoid the loss of local shops and community facilities through planning permissions.

### Number of local shops/facilities gained/lost

- **Local Plan Target:** Zero loss of local shops/facilities unless there is a demonstrated lack of use/no demand.
- **Performance Data:** 1 local shop and community facility lost but demonstrated lack of use.  
No local shops and community facilities gained.
- **Comment:** The change of use of the Zion Methodist Church, South Normanton. The existing use was no longer viable. The church had been vacant for some time due to a drop in congregation numbers with the remaining congregation attending either Pinxton Methodist Church or Alfreton Wesley Methodist Church. On this basis it was considered that the application demonstrated compliance with policy ITCR4.

On track to meet target ✓



## Policy ITCR5: Green Space and Play Provision

**Policy Aim:** The aim of this policy is to ensure that the quantity and quality of green space and play provision facilities in the District keeps up with planned growth.

### Number of new green spaces/play areas provided

- **Local Plan Target:** Zero residential sites over 25 dwellings not contributing to green space/play area provision
- **Performance Data:** 1 new green space/ play area provided. Meadow Lane, Shirebrook comprising a play area and Multi Use Games Area.
- **Comment:** The policy is working well.

On track to meet target ✓

### Amount of new green spaces play areas provided

- **Local Plan Target:** No target.
- **Performance Data:** 1.6ha of new green space/play area.
- **Comment:** Whilst there is no target it would appear that this policy is working well.

No Target

### Number of residential sites over 25 dwellings not contributing to green space/play area provision

- **Local Plan Target:** No target.
- **Performance Data:** None.
- **Comment:** Whilst there is no target it would appear that this policy is working well.

No Target

## Policy ITCR6: Protection of Green Space

**Policy Aim:** The aim of this policy is to protect the existing recreational green space in the district.

### Identified loss of green space

- **Local Plan Target:** No loss of green space
- **Performance Data:** Zero ha green space lost.
- **Comment:** This policy is working well.

On track to meet target ✓

## Policy ITCR7: Playing Pitches

**Policy Aim:** The aim of this policy is to encourage new provision, protection and maintenance of playing pitches.

### Numbers of replacement playing pitches provided in place of existing playing pitches that have been lost and numbers of playing pitches lost without replacement

- **Local Plan Target:** No playing pitches lost
- **Performance Data:** No playing pitches lost.
- **Comment:** This policy is performing well.

**On track to meet target** ✓

## Policy ITCR8: New and Existing Indoor Sports Facilities

**Policy Aim:** The aim of this policy is to encourage new provision and protect existing sports facilities.

### Number of new indoor sports facilities granted permission

- **Local Plan Target:** Number of new indoor sports facilities granted permission.
- **Performance Data:** No new indoor sports facilities granted planning permission.
- **Comment:** This policy is performing well.

**No Target**

### Number of existing indoor sports facilities lost to other uses

- **Local Plan Target:** Number of existing indoor sports facilities lost to other uses.
- **Performance Data:** No existing indoor sports facilities lost to other uses.
- **Comment:** This policy is performing well.

**On track to meet target** ✓



## Policy ITCR9: Local transport Improvement Schemes

**Policy Aim:** The aim of this policy is to support and protect the delivery of identified local transport improvement schemes.

### Number of identified schemes completed

- **Local Plan Target:** 33% of identified schemes delivered within 3 years (2023)
- **Performance Data:** Number of identified schemes completed
- **Comment:** The majority of the identified local transport improvement schemes are dependant on the delivery of the three strategic sites, which at present are behind schedule.

On track to meet target ✓

## Policy ITCR10: Supporting Sustainable Transport Patterns

**Policy Aim:** The aim of this policy is to ensure that significant sustainable transport opportunities are not compromised by new developments support sustainable transport patterns and the use of the District's sustainable transport modes.

### Number of applications granted contrary to this policy

- **Local Plan Target:** No applications granted contrary to this policy
- **Performance Data:** Zero proposed development proposals challenging the requirement for a Travel Plan/Transport Statement/ Transport Assessment. Zero applications granted contrary to this policy.
- **Comment:** This policy is working well.

On track to meet target ✓

## Policy ITCR11: Parking Provision

**Policy aim:** The aim of this policy is to ensure that development proposals include an appropriate provision for vehicle and cycle parking.

### Number of applications granted contrary to the policy

- **Local Plan Target:** No applications granted contrary to the policy.
- **Performance Data:** 337 planning applications of which less than 5% were approved contrary to Policy.
- **Comment:** Where lesser parking was considered acceptable, this was on a case by case basis.

Ongoing behind target ✓

## Policy ITCR12: Information Communication Technology and Telecommunications

**Policy Aim:** The aim of this policy to provide a thorough assessment for all telecommunications proposals.

### Number of ICT and telecommunications planning applications submitted

- **Local Plan Target:** No target.
- **Performance Data:** 1 prior approval application received (23/00069/DETT56) and approved.
- **Comment:** An application in the Green Belt for the removal of the existing 17m telecommunications mast and its replacement with a 21m tower.

**No Target**

### Number of ICT and telecommunications planning applications granted

- **Performance Data:** No planning applications approved contrary to policy.
- **Comment:** The proposed siting and appearance of the telecommunications mast approved under (23/00069/DETT56) conforms with the requirements of policy ITCR12.

**On track to meet target** ✓



## 9 Local Plan Policy Indicators: Implementation and Infrastructure Delivery

- 9.1 The need to bring forward substantial development across the district will put extra pressure on the existing infrastructure, such as green infrastructure and green space, services like schools and doctor's practices and the transport system. This pressure needs to be carefully managed and additional capacity planned to ensure that growth truly represents sustainable development.

### Policy II1: Plan Delivery and the Role of Developer Contributions

**Policy aim:** The aim of this policy is to provide a policy basis to secure necessary infrastructure and other policy objectives.

#### Number of applicable planning applications avoiding the need to provide necessary infrastructure

- **Local Plan Target:** No target
- **Performance Data:** No appeals lodged against requirement to deliver necessary infrastructure or requests to vary agreed S106 Agreements.
- **Comment:** This policy is performing well, and the lack of appeals and requests to vary S106 Agreements is a sign that the aim of securing the necessary infrastructure alongside planned growth is working.

**No Target**

### Policy II2: Employment and Skills

**Policy Aim:** The aim of this policy is to ensure that maximum benefit is gained from new development by ensuring that local people are provided with training and employment opportunities.

#### Number of people benefitting from an Employment and Skills Plan

- **Local Plan Target:** At least 10 people benefitting from an Employment and Skills Plan
- **Performance Data:** Not available.
- **Comment:** It is not yet possible to monitor this indicator but a system is being developed.

**Unknown**

## 10 Appendices



## Bolsover District Council

### Meeting of the Planning Committee on 29<sup>th</sup> November 2023

#### Five-Year Housing Land Supply – Annual Position Statement 2023

#### Report of the Portfolio Holder for Growth

<b>Classification</b>	This report is Public
<b>Contact Details</b>	Neil Oxby Principal Planning Policy Officer

#### **PURPOSE / SUMMARY OF REPORT**

- To update Members on housing land supply and to approve the publication of the Council’s Annual Position Statement on the Five-Year Housing Land Supply for 2023.

#### **REPORT DETAILS**

##### **1. Background**

- 1.1 To support the Government’s objective of significantly boosting the supply of homes, Councils are required to plan to meet their local housing need through their local plans and to monitor the delivery of their housing land supply. As set out in paragraph 74 of the National Planning Policy Framework (NPPF) (September 2023), local planning authorities should identify and update annually a supply of specific deliverable sites sufficient to provide a minimum of five years’ worth of housing against the housing requirement set out in their local plan. This is commonly described as a Council’s Five-Year Housing Land Supply.
- 1.2 Members will be aware that where a Council cannot demonstrate a Five-Year Housing Land Supply, by virtue of paragraph 11 of the NPPF planning applications for housing fall to be considered in the context of ‘the presumption in favour of sustainable development’ as relevant local plan policies for the supply of housing may not be considered up to date. Whilst the absence of a Five-Year Housing Land Supply is not conclusive in favour of the grant of planning permission, the Secretary of State and their Inspectors place significant to great weight on the need to demonstrate a Five-Year Housing Land Supply when considering appeals against the refusal of planning applications for housing developments.
- 1.3 This information is generally published annually but due to the Council’s strong supply position Annual Statements have not been published since 2020. However, as the Council commences work on the ‘fact finding’ Stage 1

of the Local Plan Review a new Annual Statement has been prepared covering the position for period the 1<sup>st</sup> April 2023 to 31<sup>st</sup> March 2028.

## **2. Details of Proposal or Information**

- 2.1 The core components of a Council's Five-Year Housing Land Supply calculation are the number of homes needed per annum, the amount of any historic shortfall and the amount of future deliverable housing supply. These components are discussed below.

### Local housing need

- 2.2 Local housing need is defined in the NPPF as being "The number of homes identified as being needed through the application of the standard method set out in national planning guidance." This standard method is calculated on an annual basis by the Government and is published through its findings of the national Housing Delivery Test.
- 2.3 In recent years, the local housing need identified by the Government for Bolsover District has been approximately 200 new homes a year. This is lower than the recommended annual housing target within the Local Plan evidence base as provided by the North Derbyshire and Bassetlaw Objectively Assessed Need Update report (October 2017), which states that the most appropriate figure for Bolsover District is 272 new homes a year. This difference is largely due to the October 2017 report recommending an inflated figure to increase housing land supply to aid with affordable housing delivery, although the Government's assessment also draws upon more up-to-date population and migration data.
- 2.4 Notwithstanding these slightly different figures, the Local Plan for Bolsover District sets out the 272 new homes a year figure and the NPPF confirms that this is the appropriate annual housing requirement on which to base the Council's Five-Year Housing Land Supply.

### Housing delivery

- 2.5 The Local Plan for Bolsover District has a base date of 2014 for housing delivery and, as a result, any shortfall in housing delivery against the 272 annual housing requirement from this date need to be identified and addressed going forward.
- 2.6 Table 1 below identifies that between the 1<sup>st</sup> April 2014 and the 31<sup>st</sup> March 2023, the number of housing completions, i.e. those that have reached the 'ready for occupation' stage, has exceeded the annual requirement by 912 dwellings.

**Table 1: The position to 31<sup>st</sup> March 2023 against the Local Plan annual requirement of 272 new homes a year**

<b>Year</b>	<b>Annual Requirement</b>	<b>Completions (Net)</b>	<b>Variance</b>
2014/15	272	253	-19
2015/16	272	325	+53
2016/17	272	290	+18
2017/18	272	248	-24
2018/19	272	289	+17
2019/20	272	439 *	+167
2020/21	272	446	+174
2021/22	272	556	+284
2022/23	272	514	+242
<b>Total</b>	<b>2,448</b>	<b>3,360</b>	<b>+912</b>

\* Note: Due to the Covid-19 national lockdown measures, the annual site survey to determine the number of completions was carried out in mid-July 2020 rather than at the beginning of April as in normal years. The recorded figure has not been adjusted in recognition that a large number of housing sites experienced either shutdowns in construction or slower rates of building during the period April to July 2020. However, whilst it may include dwellings completed after April 2020 which otherwise would have been recorded in the period 2020/21, the uplift in the number of completions is principally considered to reflect the greater number of sites currently under construction across the District than in previous years.

- 2.7 This trend of completions being greater than the annual requirement, particularly over recent years, indicates that the District’s housing market is performing strongly and is in good health. It also reflects the fact that the Council has pursued a growth agenda in recent years and this has seen additional housing coming forward through ‘windfall’ sites alongside the Local Plan for Bolsover District’s planned housing site allocations. In addition, this trend should also have the intended effect of depressing any growing unaffordability in house prices as supply is on the face of it outstripping demand, albeit recent increases in the rate of inflation and interest rates are likely to lead to a downward trend in the number of new houses built in the short-term.
- 2.8 Therefore, the Council has no record of under delivery over the monitoring period. Furthermore, the Council has passed the Housing Delivery Test each year since its introduction in 2018 and consequently, in accordance with existing Government guidance, the Council only need apply a 5% buffer to its housing requirement to ensure choice and competition in the market for land.

#### Housing supply

- 2.9 Paragraph 74 of the NPPF requires the Council to only include ‘deliverable’ sites within its Five-Year Housing Supply. Deliverable is defined in Annex 2 of the NPPF as follows:

“To be considered deliverable, sites for housing should be available now, offer a suitable location for development now, and be achievable with a

realistic prospect that housing will be delivered on the site within five years. In particular:

- a) sites which do not involve major development and have planning permission, and all sites with detailed planning permission, should be considered deliverable until permission expires, unless there is clear evidence that homes will not be delivered within five years (for example because they are no longer viable, there is no longer as demand for the types of units or sites have long term phasing plans);
- b) where a site has outline planning permission for major development, has been allocated in a development plan, has a grant of permission in principle, or is identified on a brownfield register, it should only be considered deliverable where there is clear evidence that housing completions will begin on site within five years.”

2.10 In determining whether sites within the housing supply are deliverable or not, the above NPPF definition and guidance set out in Planning Practice Guidance has been followed. This has included surveying the promoters of major sites with both detailed and outline planning permission and sites allocated in the Local Plan to understand where possible their intentions for the site and to seek clear evidence on whether housing completions will begin on site within five years.

2.11 The Council has taken a robust approach in relation to considering what elements of our housing land supply can be considered to be deliverable over the next five years. This has seen sites that we consider are unlikely to deliver within the five-year period to be excluded. In addition, the later years of provision from larger sites that will take more than five years to build out are also excluded.

Assessment of the Five-Year Housing Land Supply

2.12 The Council has consistently followed the Sedgfield method when assessing its Five-Year Housing Land Supply and so has always planned to meet any shortfall within 5 years rather than across the whole of the Plan period (the Liverpool method). In addition, as it can demonstrate that it has met its housing requirements, the Council only need apply a 5% buffer to its housing requirement to ensure choice and competition in the market for land.

2.13 Table 2 below shows the requirements set against the deliverable supply and the NPPF requirements in future years.

**Table 2: Deliverable supply set against the housing requirement and NPPF buffer.**

Year	Housing Requirement Figure pa.	Deliverable Supply pa.	Cumulative Housing Requirement	Cumulative Deliverable Supply	NPPF buffer requirement (+5%)
2023/24	272	484	272	484	

2024/25	272	522	544	1,006	
2025/26	272	654	816	2,146	
2026/27	272	486	1,088	1,833	
2027/28	272	407	1,360	2,553	1,428 dwellings

2.14 This table clearly shows that the potential deliverable supply exceeds the requirement throughout the five-year period. The Council anticipates that 2,553 deliverable dwellings will come forward, 1,125 dwellings in excess of the NPPF buffer requirement of 1,428 dwellings, meaning the Council can demonstrate that it has in excess of a 5-year deliverable supply.

2.15 To calculate the extent of the Council’s deliverable supply, if one were to divide the cumulative deliverable supply (2,553 dwellings) by our annual requirement with a 5% buffer (286 dwellings pa.) the Council can show just over 8.92 years of deliverable supply for the period 2023/24 to 2027/28.

2.16 Appendix A sets out the Council’s annual position statement of its Five-Year Housing Land Supply. Appendix B sets out a full list of major development sites and their contribution to the Council’s Five-Year Housing Land Supply.

### **3 Conclusions and Reasons for Recommendation**

3.1 The Council’s Five-Year Housing Land Supply is a consideration of the amount of housing that is deliverable on housing sites within the District at the 31<sup>st</sup> March 2023 for a period of the next five years.

3.2 The assessment of the Five-Year Housing Land Supply is a technical exercise. Based on the above assessment the Council can demonstrate that it has a Five-Year Housing Land Supply as required by the NPPF.

3.3 Following the meeting of the Planning Committee, the Annual Position Statement will be published on the Council’s website.

### **4 Alternative Options and Reasons for Rejection**

4.1 There is a requirement under national planning policy to carry out the assessment of the five-year supply of deliverable housing sites. As such there is no alternative course of action.

## RECOMMENDATION

That the Planning Committee:

- 1) Notes the detailed issues set out in the report;
- 2) Approves the assessment of the Council's Annual Position Statement of Five-Year Housing Land Supply 2023 as set out at Appendix A;
- 3) Authorises the publication of the Annual Position Statement of Five-Year Housing Land Supply (Appendix A) and List of Major Development Sites and their contribution to the Council's Five-Year Housing Land Supply (Appendix B) on the Council's website; and
- 4) Gives delegated authority to the Assistant Director of Planning and Planning Policy in consultation with the Chair and Vice Chair of Planning Committee to make any minor changes to the text or information referred to in recommendation 3) prior to publication.

**Approved by Portfolio Holder – Growth**

### **IMPLICATIONS:**

**Finance and Risk:**            Yes             No

**Details:** The assessment of the Council's Five-Year Housing Land Supply is part of its annual monitoring work. As such it can be funded from existing budgets. However, it is important that this budget is maintained in future years.

On behalf of the Section 151 Officer

**Legal (including Data Protection):**            Yes             No

**Details:** The Council has a statutory duty to keep under review the matters which may be expected to affect the development of their area. The development of land for housing is a key issue that affects the growth of the district. There are no specific legal or data protection issues arising from this report.

On behalf of the Solicitor to the Council

**Environment:**            Yes             No

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

**Details:** Housing development is brought forward under the policies set out in the Local Plan, which seeks to support sustainable growth and the prudent use of resources, to mitigate against and adapt to the impacts of climate change and to enhance biodiversity.

**Staffing:**            Yes             No

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

On behalf of the Head of Paid Service

## DECISION INFORMATION

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

<b>District Wards Significantly Affected</b>	All
<p><b>Consultation:</b>  <b>Leader / Deputy Leader</b> <input type="checkbox"/> <b>Executive</b> <input type="checkbox"/>  <b>SLT</b> <input type="checkbox"/> <b>Relevant Service Manager</b> <input type="checkbox"/>  <b>Members</b> <input type="checkbox"/> <b>Public</b> <input type="checkbox"/> <b>Other</b> <input type="checkbox"/></p>	<p>Yes</p> <p>Details:  Chair of Planning Committee</p>

<b>Links to Council Ambition: Customers, Economy and Environment</b>
<ul style="list-style-type: none"> <li>• Enabling housing growth.</li> <li>• Developing attractive neighbourhoods.</li> </ul>

<b>DOCUMENT INFORMATION</b>	
<b>Appendix No</b>	<b>Title</b>
Appendix A	Assessment of Five-Year Supply
Appendix B	List of Major Development Sites and their contribution to the Council's Five-Year Housing Land Supply
<b>Background Papers</b>	
<i>(These are unpublished works which have been relied on to a material extent when preparing the report. They must be listed in the section below. If the report is going to Executive you must provide copies of the background papers).</i>	
<ul style="list-style-type: none"> <li>• Monitoring of the completions of major and minor housing sites.</li> <li>• Evidence regarding deliverability of major sites.</li> </ul>	

**Bolsover District Council**

**Annual Position Statement of Five-Year Housing Land Supply  
(November 2023)**

**A. The Annual Position Statement**

1. The Council has a Five-Year Housing Land Supply.
2. The Council's Five-Year Housing Land Supply position was reviewed and updated in November 2023, based on data available for the year ended 31<sup>st</sup> March 2023.
3. Summary of Five-Year supply of deliverable housing sites.

**Table 1: Deliverable supply set against the housing requirement and NPPF buffer.**

Year	Housing Requirement Figure pa.	Deliverable Supply pa.	Cumulative Housing Requirement	Cumulative Deliverable Supply	NPPF buffer requirement (+5%)
2023/24	272	484	272	484	
2024/25	272	522	544	1,006	
2025/26	272	654	816	2,146	
2026/27	272	486	1,088	1,833	
2027/28	272	407	1,360	2,553	1,428 dwellings

4. Based on this assessment, the Council currently has a greater cumulative deliverable supply than the cumulative housing requirement (plus 5% buffer). In 2027/28 we will exceed the requirement and buffer by 1,125 dwellings.
5. To calculate the extent of the Council's deliverable supply, if one were to divide the cumulative deliverable supply (2,553 dwellings) by our annual requirement with a 5% buffer (286 dwellings pa.) the Council can show just over 8.92 years of deliverable supply for the period 2023/24 to 2027/28.

**B. Background to the Annual Position Statement (2023)**

Housing Requirement Figure

6. The Housing Requirement Figure is based on the assessment of Objectively Assessed Need set out in the North Derbyshire and Bassetlaw Objectively Assessed Need Update report (October 2017), which identifies an OAN of 272 dwellings a year from the base date of 1<sup>st</sup> April 2014.



7. The Housing Requirement Figure outlined is contained within the Local Plan for Bolsover District (adopted March 2020), following testing through the Local Plan Examination and being found sound by the Local Plan Inspector.
8. Where a Local Plan was adopted in the last five years, or where strategic housing policies have been reviewed and found to be up to date, the housing requirements reflect the figures set out in the Local Plan, that is a requirement for the delivery of at least 272 homes per annum.

#### NPPF Buffer Requirement

9. Paragraph 74 of the NPPF advises that the supply of specific deliverable sites should include an appropriate buffer (moved forward from later in the plan period). To determine the appropriate buffer, an authority's past performance in terms of housing delivery against its housing requirement is considered.
10. To understand the Council's past performance in terms of housing delivery against its housing requirement, the following information is available:
  - a) housing completions measured against the Housing Requirement Figure since the base date of the Local Plan for Bolsover District, i.e. 1<sup>st</sup> April 2014 (see Table 2 below);
  - b) housing completions measured under the Housing Delivery Test (published 14<sup>th</sup> January 2022) (see Table 3 below).

**Table 2: The position to date against the Local Plan annual requirement of 272 new homes a year**

Monitoring Year	Completions	Target	Over/under delivery
2014/15	253	272	-19
2015/16	326	272	+54
2016/17	293	272	+21
2017/18	251	272	-21
2018/19	291	272	+19
2019/20	439	272	+167
2020/21	446	272	+174
2021/22	556	272	+284
2022/23	514	272	+242
<b>Total</b>	<b>2,448</b>	<b>3,360</b>	<b>+912</b>

**Table 3: Housing completions measured under the Housing Delivery Test 2021**

Monitoring Year	Homes Required	Completions (net)	Over/under delivery
2018/19	240	291	+51
2019/20	211	439	+228
2020/21	149	446	+297
<b>Total</b>	<b>600</b>	<b>1,176</b>	<b>+576</b>

11. Based on the information in Tables 2 and 3, the Council's past performance in terms of housing delivery against its housing requirement is positive, with surpluses being achieved whichever method of assessment is used. There is no significant under delivery over the previous 3 years or since the base date of the Local Plan for Bolsover District. Therefore, in accordance with the NPPF the Council need only apply a 5% buffer to its housing requirement to ensure choice and competition in the market for land.

#### Supply of Deliverable Housing Sites

12. The amount of deliverable supply is based on:
- a) a record of all live outline and detailed planning permissions on sites within Bolsover District at the 1<sup>st</sup> April 2023;
  - b) an assessment of the deliverability of these live permissions in accordance with the definition of 'deliverable' contained in Annex 2: Glossary of the National Planning Policy Framework (September 2023), which includes:
    - i. for sites which do not involve major development and have permission, and all sites with detailed planning permission, an assessment of whether clear evidence exists that homes will not be delivered within five years (for example because they are no longer viable, there is no longer a demand for the type of units or where homes are not programmed to come forward until years outside the current five year period);
    - ii. for sites which involve major development but only have outline planning permission, or have been allocated in a development plan, or have a grant of permission in principle or feature on the Council's brownfield register, an assessment of whether clear evidence exists that housing completions will begin on site within the current five-year period.

Note: In accordance with paragraph 007 of the guidance on Housing Supply and Delivery in the Planning Practice Guidance (Reference ID: 68-007-20190722), the assessment of whether clear evidence exists draws upon the following:

- current planning status – for example, on larger scale sites with outline or hybrid permission how much progress has been made towards approving reserved matters, or whether these link to a planning performance agreement that sets out the timescale for approval of reserved matters applications and discharge of conditions;
- firm progress being made towards the submission of an application – for example, a written agreement between the local planning authority and the site developer(s) which confirms the developers' delivery intentions and anticipated start and build-out rates;
- firm progress with site assessment work; or

- clear relevant information about site viability, ownership constraints or infrastructure provision, such as successful participation in bids for large-scale infrastructure funding or other similar projects.

### General

13. Annual net housing completions are determined by a survey of housing completions and demolitions on each site with a live planning permission carried out as soon as possible after 31 March each year. The Council considers a house to be completed once it has reached the 'ready for occupation' stage or is clearly occupied at the time of the survey.
14. The Annual Position Statement of Five-Year Housing Land Supply will be available on the Council's website alongside the List of Major Development Sites and their contribution to the supply.
15. The assessment, assumptions and process may be revised as necessary to take account of new Government guidance, case law, best practice and valid stakeholder comments, by the Assistant Director of Planning and Planning Policy in consultation with the Chair and Vice Chair of the Council's Planning Committee.

## Appendix B

### List of Major Development Sites and their contribution to the Council's Five Year Housing Land Supply

Site	Permission Reference	Address	Status	Commitments & LP Allocations at 1st April 2023	5 year assessment period					Not deliverable within 5 years
					2023/24	2024/25	2025/26	2026/27	2027/28	
<b>Bolsover</b>										
B2005	18/00419/FUL	Land south of 97 Moor Lane	U/C	12	12	0	0	0	0	0
B2192	18/00481/REM	Land off Blind Lane	U/C	138	40	40	40	18	0	0
B2276	17/00234/FUL	Land off Langwith Road and Mooracre Lane (phase 1)	U/C	9	9	0	0	0	0	0
LPfBD	Allocation	Land off Langwith Road and Mooracre Lane (phase 2)	Alloc	227	0	30	30	30	30	107
B2387	18/00403/REM	Land between Shuttlewood Road & Oxcroft Lane (phase 1)	U/C	57	21	22	14	0	0	0
LPfBD	Allocation	Land between Shuttlewood Road & Oxcroft Lane (phase 2)	Alloc	70	0	0	15	26	29	0
B2400	14/00080/OUTEA & 19/00005/REM	Land between Welbeck Road and Oxcroft Lane (phase 1)	U/C	221	70	70	70	11	0	0
LPfBD	14/00080/OUTEA	Land between Welbeck Road and Oxcroft Lane (later phases)	Alloc	712	0	5	90	90	90	437
B2679	21/00640/FUL	Land South of 69 Oxcroft Lane	U/C	25	25	0	0	0	0	0
B2695	21/00306/FUL	Former Direct Services Depot Unit 2, Mill Lane	N/S	32	0	0	16	16	0	0
B2652	21/464/FUL	Former Bolsover Hospital Site, Welbeck Road	N/S	58	0	30	28	0	0	0
<b>Totals</b>				<b>1,561</b>	<b>177</b>	<b>197</b>	<b>303</b>	<b>191</b>	<b>149</b>	<b>544</b>
<b>Shirebrook</b>										
B2322	18/00304/REM	Land at Brookvale (phase 1b)	U/C	9	9	0	0	0	0	0
B2322	22/00283/REM	Land at Brookvale (phase 1c)	N/S	265	0	45	45	45	45	85
B2678	21/00421/FUL	Land east of Market Close	N/S	24	24	0	0	0	0	0
<b>Totals</b>				<b>298</b>	<b>33</b>	<b>45</b>	<b>45</b>	<b>45</b>	<b>45</b>	<b>85</b>
<b>South Normanton</b>										
B2656	20/00259/FUL	5, Leamington Drive	N/S	11	11	0	0	0	0	0
B2638	20/00185/OUT & 22/00668/REM	Townend Farm, Lees Lane	N/S	48	0	30	18	0	0	0
LPfBD	Allocation	Land to the Rear of 1 to 35 Red Lane	Alloc	50	0	0	30	20	0	0
<b>Totals</b>				<b>109</b>	<b>11</b>	<b>30</b>	<b>48</b>	<b>20</b>	<b>0</b>	<b>0</b>
<b>Clowne</b>										
B2389	16/00623 & 18/00569/FUL	Hotel Van Dyk and Land South of Plantation on North side of Worksop Road	U/C	18	15	3	0	0	0	0
B2705	21/00078/FUL	Sacred Heart and Our Lady of Victors Church, Creswell Road	N/S	12	0	12	0	0	0	0
LPfBD	Allocation	Clowne Garden Village	Alloc	1,500	0	0	60	90	90	1,260
<b>Totals</b>				<b>1,530</b>	<b>15</b>	<b>15</b>	<b>60</b>	<b>90</b>	<b>90</b>	<b>1,260</b>

Site	Permission Reference	Address	Status	Commitments & LP Allocations at 1st April 2023	5 year assessment period					Not deliverable within 5 years
					2023/24	2024/25	2025/26	2026/27	2027/28	
<b>Barlborough</b>										
B2155	16/00187/REM	Land north of Chesterfield Road	U/C	49	25	24	0	0	0	0
B2523	18/00273/FUL	Land to the West of Ash Close	U/C	18	18	0	0	0	0	0
<b>Totals</b>				<b>67</b>	<b>43</b>	<b>24</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>
<b>Blackwell</b>										
B2640	20/00166/FUL	Amberleigh Manor, Primrose Hill, Blackwell	N/S	16	0	16	0	0	0	0
<b>Totals</b>				<b>16</b>	<b>0</b>	<b>16</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>
<b>Creswell</b>										
B1577	16/00529/FUL	Land South of Model Village	U/C	37	37	0	0	0	0	0
B2590	18/00087/OUT	Land to the south of Model Village	N/S	297	0	33	50	50	50	114
<b>Totals</b>				<b>334</b>	<b>37</b>	<b>33</b>	<b>50</b>	<b>50</b>	<b>50</b>	<b>114</b>
<b>Pinxton</b>										
B2545	17/00396/OUT & 21/00395/REM	Land to the rear of 17 to 95, Alfreton Road	N/S	68	32	36	0	0	0	0
<b>Totals</b>				<b>68</b>	<b>32</b>	<b>36</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>
<b>Tibshelf</b>										
B2641	22/00485/FUL	King Edward Public House, High Street	N/S	12	12	0	0	0	0	0
<b>Totals</b>				<b>12</b>	<b>12</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>
<b>Whitwell</b>										
B2528	17/00104/FUL	Land along railway north east of Southfield Lane	N/S	19	0	0	19	0	0	0
B2713	18/00452/OUT	Former Whitwell Colliery site	N/S	450	0	0	0	40	40	370
<b>Totals</b>				<b>469</b>	<b>0</b>	<b>0</b>	<b>19</b>	<b>40</b>	<b>40</b>	<b>370</b>
<b>Glapwell</b>										
B1947	17/00598/OUT 21/00273	Glapwell Nurseries site, Glapwell Lane	N/S	64	0	30	30	4	0	0
B2608	19/00583/OUT 23/00086/REM	Land off Blacksmiths Close and Park Avenue to the rear of 7 Mansfield Road	N/S	50	0	0	0	0	0	50
<b>Totals</b>				<b>114</b>	<b>0</b>	<b>30</b>	<b>30</b>	<b>4</b>	<b>0</b>	<b>50</b>
<b>Hodthorpe</b>										
B2612	19/00455/FUL	Land at Queens Road Allotments	N/S	46	0	33	13	0	0	0
B2385	19/00113/REM	Land north-west of Broad Lane	N/S	21	21	0	0	0	0	0
<b>Totals</b>				<b>67</b>	<b>21</b>	<b>33</b>	<b>13</b>	<b>0</b>	<b>0</b>	<b>0</b>
<b>Langwith</b>										
B280	21/00051/FUL	Builders Yard, Pit Hill, Whaley Thorns	N/S	36	0	20	16	0	0	0
<b>Totals</b>				<b>36</b>	<b>0</b>	<b>20</b>	<b>16</b>	<b>0</b>	<b>0</b>	<b>0</b>
<b>Palterton</b>										
B2433	19/00706/REM	Land between 11 and 19 Back Lane	N/S	6	6	0	0	0	0	0
<b>Totals</b>				<b>6</b>	<b>6</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>

<b>Major subtotals</b>				<b>4,687</b>	<b>387</b>	<b>479</b>	<b>584</b>	<b>440</b>	<b>374</b>	<b>2,423</b>
<b>All Settlements – Minor</b>				<b>281</b>	<b>89</b>	<b>43</b>	<b>70</b>	<b>46</b>	<b>33</b>	<b>0</b>
<b>Permitted development</b>				<b>5</b>	<b>5</b>					
<b>Care Homes</b>				<b>3</b>	<b>3</b>					
<b>Final Totals</b>				<b>4,976</b>	<b>484</b>	<b>522</b>	<b>654</b>	<b>486</b>	<b>407</b>	<b>2,423</b>

Deliverable total for current year (23/24) = 484 (estimated)

Deliverable total for the full 5 years = 2,553 (estimated)

**Bolsover District Council**

**Meeting of the Planning Committee on 29<sup>th</sup> November 2023**

**Quarterly update on Section 106 Agreement Monitoring**

**Report of the Portfolio Holder for Corporate Governance**

<b>Classification</b>	This report is Public
<b>Contact Details</b>	Julie-Anne Middleditch Principle Planning Policy Officer

**PURPOSE / SUMMARY OF REPORT**

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

**REPORT DETAILS**

**1. Background**

- 1.1 Section 106 agreements are a legal agreement between the Council and landowners / developers that are often completed alongside applications for planning permission for major developments. They are needed to deal with the additional pressures on infrastructure that result from the new development. They are only required where the effects of the development would otherwise be unacceptable in planning terms and where they cannot be dealt with by conditions of the planning permission.
- 1.2 As can be observed, implementation of these Section 106 Agreements in a timely manner alongside the build-out of the approved developments is important as failure to achieve this will mean important infrastructure improvements lag behind the impact of the development.
- 1.3 Furthermore, if the Council fails to spend monies provided through the Section 106 Agreement within a set period, often within 5-years of entering into the agreement, there is a risk to the Council that the developer would be entitled to request the money back. This risk is thankfully relatively low but it is one that the Council must take seriously due to both the negative impact on the affected local community and the consequential reputational impact on the Council.
- 1.4 To manage and mitigate this serious risk the Council has approved a procedure for recording and monitoring Section 106 Agreements. The most recent version of this was approved by Planning Committee in September 2022 and it governs the work of the Council’s cross-departmental Section 106 Monitoring Group.

1.5 Following the quarterly Section 106 Monitoring Group meeting, officers provide a progress report to the Planning Committee in respect of the monitoring of Section 106 Agreements. In line with the approved Procedure this progress report is required to highlight any sums at risk of clawback that need spending within 24 months, as well as a summary of the sums being held by infrastructure type that are in years three, four and five. Accordingly, this report is the quarterly progress report following the meeting of the Section 106 Monitoring Group held on 24<sup>th</sup> October 2023.

## **2. Details of Proposal or Information**

2.1 The Council's Section 106 Agreement Monitoring Procedure requires sums within 24 months of their deadline to be highlighted for Member's attention.

2.2 Members will recall that in the report provided in September, eight sums were identified as being within their 24-month deadline as of 6<sup>th</sup> August 2023.

2.3 As of the Monitoring Group meeting on 24<sup>th</sup> October 2023 eight sums within their 24-month deadlines (details below).

### **Spend Date within 12 months (by 24<sup>th</sup> October 2024)**

<b>Action Plan</b>	<b>Finance Spreadsheet</b>	<b>Site</b>	<b>Infrastructure and amount</b>	<b>Amount Remaining</b>	<b>Date</b>
<b>Item 4</b>	Line 84	Spa Croft, Tibshelf	Art (£10,176.20)	£10,176.20 <b>Now removed (see below)</b>	22.03.24
<b>Item 6</b>	Line 85	Rosewood Lodge Farm, South Normanton	Outdoor Sport (£34,584.85)	£20,460.85 <b>No change since last quarter</b>	21.05.24
<b>Item 7</b>	Line 85	Rosewood Lodge Farm, South Normanton	Health (£80,141.59)	£80,141.59 <b>No change since last quarter</b>	21.05.24



### Spend Date within 2 years (by 24<sup>th</sup> October 2025)

Action Plan	Finance Spreadsheet	Site	Infrastructure and amount	Amount	Date
<b>Item 12</b>	Line 83	Mansfield Road, Tibshelf	Outdoor Sport (£164,153)	£164,153 <b>No change since last quarter</b>	20.12.24
<b>Item 14</b>	Line 89	Oxcroft Lane, Bolsover	Outdoor Sport (£125,336.69)	£124,441.61 <b>Reduced since last quarter</b>	10.03.25
<b>Item 15</b>	Line 87	Station Road, Langwith Junction	Open Space (£52,000)	£64.23 <b>No change since last quarter</b>	30.01.25
<b>Item 16</b>	Line 91	High Ash Farm, Clowne	Open Space (£10,184.39)	£10,184.39 <b>No change since last quarter</b>	19.3.25
<b>Item 17</b>	Line 88	Station Road, Langwith Junction	Health (£16,000)	£16,000 <b>No change since last quarter</b>	30.1.25

- 2.4 In terms of progress since the quarterly update report presented to September's meeting of the Planning Committee, the sum of £10,176.20 for Art from the Spa Croft, Tibshelf allocation is now removed from the sums at risk of clawback following formal agreement of a Variation to the Section 106 Agreement. The Variation extends the spending deadline of this allocation to 31<sup>st</sup> March 2026.
- 2.5 In addition, there has been progress with regard to the £125,336.69 sum for Outdoor Sport from the Oxcroft Lane, Bolsover allocation, with £895 spent. Beyond this, the other previously reported on allocations remain the same but there are no new allocations that have come within the 2-year threshold.
- 2.6 The updates for the above items as recorded at the Section 106 Monitoring Group are set out below for Member's information.

*(CADO = Community Arts Development Officer; LSPO = Leisure Special Projects Officer; PPPO = Principal Planning Policy Officer; PPHSM = Planning Policy and*

Housing Strategy Manager; CLE = Chartered Legal Executive; PPDM = Principal Planner Development Management; HoL = Head of Leisure; DMCO= Development Management Case Officer)

Item	Development site, relevant S106 sum and spend by date	Responsible Officer
4	<p><b>Spa Croft, Tibshelf – Art £10,176.20 (22.03.24)</b></p> <p><u>Action from previous quarterly meeting</u> CADO to provide monthly updates on progress to PPPO.</p> <p><u>Updates between and at meeting</u> It was reported to the last meeting that the developer was open to a proposed 2-year extension of the spending timeframe. Following that meeting the HoL contacted the property development company and was notified that their new Managing Director will be looking at the legal request and be in touch. The Variation Agreement was prepared by CLE in consultation with CADO. Confirmed at the Monitoring Group meeting that the draft Agreement had been sent by the CLE on 23<sup>rd</sup> October to the Developer's Solicitor for review.</p> <p><u>Update since meeting</u> 6.11.23 email CLE to PPPO confirming that response being chased and as yet not received. 14.11.23 email CLE to PPPO confirming that that the draft Deed of Variation has been agreed by both Rippon Homes' Solicitor and the County Council's Solicitor.</p> <p><u>Action going forward</u> Monthly updates</p>	<p><b>CADO</b></p> <p>CLE/CADO</p> <p>CADO/HoL/CLE</p> <p>CADO/CLE/ PPPO</p>
6	<p><b>Rosewood Lodge Farm – Outdoor Sport £34,584.85 (21.05.25)</b></p> <p><u>Action from previous quarterly meeting</u> LSPO to contact CLE for advice on impact of vandalism on contractual positions.</p> <p><u>Updates between and at meeting</u> It was reported at the last meeting that a canopy structure that was to be part funded under the S106 was irreparably damaged by fire soon after it was installed.</p>	<p><b>LSPO</b></p> <p>LSPO/CLE</p> <p>LSPO/CLE</p>

	<p>A decision as to how to proceed was to be taken after the Parish Council met in September. The Parish Council confirmed to the LSPO their intention of a replacement structure through their insurance company.</p> <p><u>Update since meeting</u>  <b>31.10.23</b> email from CLE to All: Advice to transfer the financial sum to the Parish Council to secure the contribution. The Parish Council could sign a side agreement on similar terms as when BDC makes payments to the ICB in respect of Health Care Contributions. Views of the Group requested.</p> <p><b>8.11.23</b> email from LSPO to PPPO: the Parish Council have been contacted regarding the advice of the CLE. The next meeting of the Parish Council on 9<sup>th</sup> November 2023.</p> <p><b>9.11.23</b> email from LSPO to PPPO: confirming spend to date comprising a shipping container for the Rugby Club, drainage works to Common Meadows Recreation Ground and a contribution to crowd barriers for Common Meadows Recreation Ground.</p> <p><u>Action going forward</u>  Revisit S106 Agreement  Two weekly updates  Request legal documentation and confirmation from the Parish Council that they are taking it through insurance process.</p>	<p>CLE (done)  LSPO/PPPO  LSPO</p>
<p><b>7</b></p>	<p><b>Rosewood Lodge Farm – Health £80,141.59 (21.05.24)</b></p> <p><u>Action from previous quarterly meeting</u>  PPHSM/PPPO to continue to chase progress from the Integrated Care Board.</p> <p><u>Updates between and at meeting</u>  PPHSM advised that the Integrated Care Board (ICB) have agreed to utilise this allocation (together with the allocation of £11,784.56 from Thornhill Drive, South Normanton to be spent by 24.6.26) to pay for an internal reconfiguration of the Limes Medical Centre in nearby Alfreton that would create capacity for a wider range of medical appointments. The ICB will prepare the Project Implementation Document and submit this</p>	<p><b>PPHSM</b></p> <p>PPHSM</p> <p>PPHSM</p>

	<p>to the Council before Christmas 2023, so drawing down the relevant S106 sums.</p> <p><u>Action going forward</u> Report to next meeting</p>	PPHSM
<b>12</b>	<p><b>Mansfield Road, Tibshelf – Outdoor Sport £164,153 (20.12.24)</b></p> <p><u>Action from previous quarterly meeting</u> LSPO to provide monthly updates on progress to PPPO.</p> <p><u>Updates between and at meeting</u> At the last meeting LSPO was due to meet with the Parish Council. Three projects were discussed as possibilities (all at Shetland Road Recreation Ground):</p> <ul style="list-style-type: none"> <li>• An extension of the existing pavilion,</li> <li>• Pitch improvements, and the</li> <li>• Installation of a multi-use games area (MUGA)</li> </ul> <p>Of these, the pavilion extension is the most complicated, whereas the MUGA proposal potentially has the most community benefit. LSPO is having regular meetings with Tibshelf Parish Council to pin down a project or projects to deliver with the available funding. There will be some community consultation this month on the potential projects. A final decision is due in November with suggestions now including additional play equipment.</p> <p><u>Update since Meeting</u> <b>8.11.23</b> email from LSPO to PPPO with the results of the consultation undertaken by the Parish Council. An open-ended consultation. 79 responses were counted with a Skatepark getting the majority of the votes (17). LSPO will be meeting the Parish Council on November 14<sup>th</sup>. The recommendation from this meeting will be taken to the full Parish Council for ratification on November 21<sup>st</sup>.</p> <p><u>Action going forward</u> Monthly updates</p>	<p><b>LSPO</b></p> <p>LSPO/PPPO</p> <p>LSPO</p> <p>LSPO/PPPO</p>

<p><b>14</b></p>	<p><b>Oxcroft Lane, Bolsover – Outdoor Sport £125,336.69 (10.03.25)</b></p> <p><u>Action from Previous Quarterly Meeting</u> LSPO to provide monthly updates on progress to PPPO.</p> <p><u>Updates between and at meeting</u> As previously reported the allocation will contribute to new skatepark at Hornscroft Park, which is currently in development. Since the last meeting a contractor has been appointed and a planning application was due to be submitted in late October or early November. Subject to planning permission, work should start on site in early 2024.</p> <p><u>Update since the meeting</u> A planning application was submitted w/s 6<sup>th</sup> November (23/00572/FUL).</p> <p><u>Action going forward</u> Report to next meeting</p>	<p>LSPO</p> <p>LSPO/PPPO</p> <p>LSPO</p> <p>LSPO</p>
<p><b>15</b></p>	<p><b>Station Road, Langwith Junction – Open Space £52,000 (30.01.25)</b></p> <p><u>Action from Previous Quarterly Meeting</u> LSPO to provide an update at the next meeting.</p> <p><u>Updates between and at meeting</u> This item is still on the Action Plan pending the spending of a residual amount of £64.23 left over from the installation of the playground, towards a bench. LSPO informed the group that he is awaiting an invoice from the Parish Council for the money.</p> <p><u>Update since the meeting</u> <b>9.11.23</b> email LSPO to PPPO confirming intention to contact Parish Council to submit an invoice.</p> <p><u>Action going forward</u> If residual monies spent before the next meeting this item is to be removed from the Action Plan.</p>	<p>LSPO</p> <p>LSPO</p> <p>LSPO</p> <p>ALL</p>
<p><b>16</b></p>	<p><b>High Ash Farm, Clowne – Open Space £10,184.39 (19.03.25)</b></p> <p><u>Action from Previous Quarterly Meeting</u> LSPO to provide monthly updates on progress to PPPO</p>	<p>LSPO</p> <p>LSPO</p>

	<p><u>Updates between and at meeting</u> At the last meeting it was reported that LSPO was meeting with Clowne Parish Council to discuss potential projects that week. Since the last meeting a number of options were discussed with the Parish Clerk including land off North Road adjacent to Dominos/Ashgate Hospice Shop and the Villa Park play area.</p> <p>Also looking at the possibility of replacing a bridge on Clowne Linear Park which is now life expired. However, local members and the Parish Council favour the improvement of the grassed area in front of Dominoes/Ashgate Café, so still under discussion.</p> <p><u>Action going forward</u> Monthly update</p>	<p>LSPO</p> <p>LSPO/PPPO</p>
<b>17</b>	<p><b>Station Road, Langwith Junction – Health £16,000 (30.01.25)</b></p> <p><u>Action from Previous Quarterly Meeting</u> PPHSM / PPPO to chase progress from the ICB.</p> <p><u>Updates between and at meeting</u> PPHSM advised that the Integrated Care Board (ICB) have been in contact about this allocation on 25<sup>th</sup> September 2023 to advise that they were in discussions with the Langwith Medical Centre to develop a suitable scheme to deliver this obligation. On this basis, the ICB confirmed that they will be able to spend the £16,000 well before the January 2025 deadline.</p> <p><u>Action going forward</u> Report to the next meeting</p>	<p><b>PPHSM</b></p> <p>PPHSM</p> <p>PPHSM</p> <p>PPHSM</p>

- 2.7 These updates demonstrate the monitoring carried out by Planning Officers and the progress being made by Spending Officers to ensure that S106 monies are spent in a timely manner alongside the build-out of the approved developments. However, in line with the Council's S106 Agreement Monitoring Procedure the relevant Spending Officers will be in attendance at the Committee to answer any questions to Members on the above Action Plan items.
- 2.8 In addition to these time sensitive items, the Procedure requires that Members are provided with summary information in relation to Section 106 Agreement monies held with deadlines beyond the 24-month period. Based on the position at the end of Quarter 1 (30<sup>th</sup> June 2023), the following 'summary of sums' can be provided for years three, four and five.

Infrastructure type	Amounts in later years		
	Year 3	Year 4	Year 5 and beyond
Art	£10,757.25	£12,695.12	£1,477.46 (no clawback)
Outdoor Sport	£64,089.90	£48,723.75	£183,483.02 (of which, no clawback against £36,076.02)
Informal Open Space	£30,399.98	£116,794.50	£36,916.00
Health	£11,784.56	£0	£60,316.90 (of which, no clawback against £12,277.20)
Highways	£0	£0	£569,000.00 (no clawback)
Biodiversity	£0	£0	£8,029.96
	<b>£117,031.69</b>	<b>£178,213.37</b>	<b>£859,223.34</b>

2.9 The spend profiles remain the same as for the previous financial quarter. There are no new contributions. The only change this quarter is a movement in Year 3 between Outdoor Sport and Open Space due to one being categorised incorrectly.

### **3. Reasons for Recommendation**

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

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

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

### **4 Alternative Options and Reasons for Rejection**

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

## **RECOMMENDATION(S)**

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

Approved by Council McGregor, Portfolio Holder – Corporate Governance

### **IMPLICATIONS:**

**Finance and Risk:**            Yes             No

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

On behalf of the Section 151 Officer

**Legal (including Data Protection):**            Yes             No

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

On behalf of the Solicitor to the Council

**Environment:**            Yes             No

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

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

**Staffing:**            Yes             No

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

On behalf of the Head of Paid Service



## DECISION INFORMATION

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

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

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

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