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To: Chair & Members of the
Planning Committee

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Monday 5th February 2024

Dear Councillor

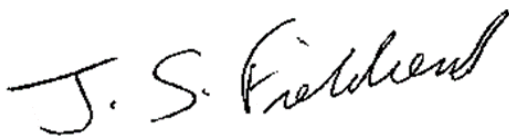
PLANNING COMMITTEE

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, 14th February, 2024 at 10:00 hours.

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

You will find the contents of the agenda itemised on pages 3 and 4.

Yours faithfully



Solicitor to the Council & Monitoring Officer

Equalities Statement

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

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

Access for All statement

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

- **Phone:** [01246 242424](tel:01246242424)
- **Email:** enquiries@bolsover.gov.uk
- **BSL Video Call:** A three-way video call with us and a BSL interpreter. It is free to call Bolsover District Council with Sign Solutions, you just need WiFi or mobile data to make the video call, or call into one of our Contact Centres.
- Call with [Relay UK](#) - a free phone service provided by BT for anyone who has difficulty hearing or speaking. It's a way to have a real-time conversation with us by text.
- **Visiting** one of our [offices](#) at Clowne, Bolsover, Shirebrook and South Normanton

**PLANNING COMMITTEE
AGENDA**

***Wednesday, 14th February, 2024 at 10:00 hours taking place in the Council Chamber,
The Arc, Clowne***

Item No.		Page No.(s)
1.	Apologies For Absence	
2.	Urgent Items of Business	
	To note any urgent items of business which the Chairman has consented to being considered under the provisions of Section 100(B) 4(b) of the Local Government Act 1972.	
3.	Declarations of Interest	
	Members should declare the existence and nature of any Disclosable Pecuniary Interest and Non Statutory Interest as defined by the Members' Code of Conduct in respect of:	
	a) any business on the agenda	
	b) any urgent additional items to be considered	
	c) any matters arising out of those items	
	and if appropriate, withdraw from the meeting at the relevant time.	
4.	Minutes	5 - 20
	To consider the minutes of the last meeting held on 17 th January 2024.	
	<u>APPLICATIONS TO BE DETERMINED UNDER THE TOWN & COUNTRY PLANNING ACTS</u>	
5.	23/00538/FUL - Partial demolition of garden outbuilding and erection of five, two storey dwellings with associated infrastructure, private driveway, parking and gardens - Land to The Rear Of 44 Mitchell Street Clowne	21 - 32
6.	23/00526/FUL - Conversion of stable block to amenity building - The Stables Featherbed Lane Bolsover Chesterfield	33 - 42
7.	23/00609/FUL - Extension to Traveller site to create 4 additional pitches and revision of layout to Plot 3 of previously approved planning application 22/00425/FUL - The Stables Featherbed Lane Bolsover Chesterfield	43 - 57

8. **23/00599/FUL - Change the use of a (C3a) dwelling to a children's home (C2) for a maximum of three children - 2 Castle View Palterton Chesterfield S44 6UQ** 58 - 76

REPORTS OF THE ASSISTANT DIRECTOR OF PLANNING AND PLANNING POLICY

9. **Appeal Decisions: July 2023 - December 2023** 77 - 87
10. **Quarterly Update on S106 Agreement Monitoring** 88 - 99

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Minutes of a meeting of the Planning Committee of the Bolsover District Council held in the Council Chamber, The Arc, Clowne, on Wednesday 17th January 2024 at 1000 hours.

PRESENT:-

Members:-

Councillor Tom Munro in the Chair

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

Officers:- Sarah Kay (Assistant Director of Planning and Planning Policy), Jenny Owen (Chartered Legal Executive), Peter Sawdon (Principal Planner), Neil Oxby (Principal Planning Policy Officer), Chris McKinney (Senior Devolution Lead for Planning Policy, Strategic Growth and Housing), Mary McGuire (Senior Urban Design Officer), Julie-Anne Middleditch (Principal Planning Officer) and Hannah Douthwaite (Governance and Civic Officer).

PL43 – 23/24. APOLOGIES FOR ABSENCE

Apologies for absence had been received on behalf of Councillors Phil Smith and Carol Wood.

PL44 – 23/24. URGENT ITEM OF BUSINESS

There were no urgent items of business to consider.

PL45 – 23/24. DECLARATIONS OF INTEREST

There were no declarations of interest made.

PL46 – 23/24. MINUTES – 29TH NOVEMBER 2023

Moved by Councillor Duncan McGregor and seconded by Councillor John Ritchie
RESOLVED that the Minutes of a Planning Committee held on 29th November 2023 be approved as a correct record.

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PL47 – 23/24. 22/00485/FUL - RESIDENTIAL DEVELOPMENT COMPRISING 52 NO DWELLINGS, WITH ASSOCIATED ACCESS, INFRASTRUCTURE, AMENITY SPACE, BOUNDARY TREATMENTS, LANDSCAPING AND EXTERNAL WORKS - LAND TO THE REAR OF 1 TO 35 RED LANE, SOUTH NORMANTON

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

The application was previously reported to Planning Committee on 1st November 2023, when it was resolved to grant planning permission subject to the completion of a S106 Planning Obligation; the S106 agreement had not yet been completed.

It was noted that contributors to the planning application were not given the opportunity to address Planning Committee due to a procedural error.

In light of this, it was necessary for invitations to contributors to address the Planning Committee be offered and in order to do this, it was also necessary for the Planning Committee to reconsider the application.

The original report was included at Appendix 1 to the report with the relevant extract from the supplementary update report included at Appendix 2. The Officer recommendation remained unchanged.

Mark Fitzpatrick (agent) attended the meeting and spoke for the application.

Simon Jaggs attended the meeting and spoke against the application on behalf of local residents.

A Member raised several concerns, one due to pollution from the nearby A38, and highway safety. The Principal Planner advised Committee that both Environmental Health and Derbyshire County Council Highways had been consulted and had not raised any concerns with the proposed development.

Referring to the site visit undertaken by Committee Members on Friday 27th October 2023, a Member raised his concern that the site had been found to be water logged, and he questioned what measures would be put in place to prevent flooding if the application was approved. The Principal Planner advised Committee that currently the site was unmanaged and therefore no measures were in place, however, subject to approval this would be managed under the conditions as set out in the report.

Moved by Councillor Duncan McGregor and seconded by Councillor Rob Hiney-Saunders

RESOLVED that the application be APPROVED subject to prior entry into a Section106 legal agreement containing the following planning obligations:

- 1) Limitation over the occupation of the dwellings to affordable housing,
- 2) Procedures for the transfer and adoption of open areas and play space,
- 3) Maintenance sums for open areas and play space.

AND subject to the following conditions:

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

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

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

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

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

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

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

4. Notwithstanding the submitted details, no building will be occupied until full details of both hard and soft landscape works, to include details of all proposed means of enclosure, proposed formal and informal footpaths, including details for the crossing point for the public footpath where it crosses the proposed highway, public open space and the proposed play facilities,

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along with a programme for implementation, has been submitted to and approved in writing by the Local Planning Authority and the works and implementation programme must be carried out as approved.

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

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

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

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

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

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

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

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

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

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

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

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9. Prior to commencement of the development hereby permitted details of a highways construction management plan shall be submitted to and approved in writing by the Local Planning Authority. The approved plan shall be adhered to throughout the demolition/construction period. The plan/statement shall include but not be restricted to:

- Parking of vehicle of site operatives and visitors (including measures taken to ensure satisfactory access and movement for existing occupiers of neighbouring properties during construction);
- Advisory routes for construction traffic;
- Any temporary access to the site;
- Locations for loading/unloading and storage of plant, waste, and construction materials;
- Method of preventing mud and dust being carried onto the highway;
- Arrangements for turning vehicles;
- Arrangements to receive abnormal loads or unusually large vehicles;
- Highway Condition survey;
- Methods of communicating the Construction Management Plan to staff, visitors and neighbouring residents and businesses.

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

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

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

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

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

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

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the site outside of these hours, including no work on Sundays or public holidays.

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

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

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

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

Bedrooms	30 dB LAeq (15 Minutes) (2300 hrs – 0700 hrs)
Living/Bedrooms	35 dB LAeq (15 Minutes) (0700 hrs – 2300 hrs)
All Other Habitable Rooms	40 dB LAeq (15 Minutes) (0700 hrs – 2300 hrs)
All Habitable Rooms	45 dB L _{Amax} to occur no more than 6 times per night (2300 hrs – 0700 hrs)
Any outdoor amenity areas	55 dB LAeq (1 hour) (0700 hrs – 2300 hrs)

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

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

15. Before the commencement of the development hereby approved:
As site investigation reference 211043/1 identifies unacceptable levels of risk from ground gas, a detailed remediation scheme to bring the site to a condition suitable for the intended use by removing unacceptable risks to human health, buildings and other property and the natural and historical environment shall be submitted to and approved in writing by the Local Planning Authority. The submitted scheme shall have regard to LCRM and other relevant current

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guidance. The approved scheme shall include all works to be undertaken, proposed remediation objectives and remediation criteria and site management procedures. The scheme shall ensure that the site will not qualify as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land after remediation.

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

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

16. No dwellings hereby approved shall be occupied until:
- a. The approved remediation works required by 1 above have been carried out in full in compliance with the approved methodology and best practice.
 - b. If during the construction and/or demolition works associated with the development hereby approved any suspected areas of contamination are discovered, which have not previously been identified, then all works shall be suspended until the nature and extent of the contamination is assessed and a report submitted and approved in writing by the local planning authority and the local planning authority shall be notified as soon as is reasonably practicable of the discovery of any suspected areas of contamination. The suspect material shall be re-evaluated through the process followed in site investigation reference 211043/1.
 - c. Upon completion of the remediation works required by 2a a validation report prepared by a competent person shall be submitted to and approved in writing by the local planning authority. The validation report shall include details of the remediation works and Quality Assurance/Quality Control results to show that the works have been carried out in full and in accordance with the approved methodology. Details of any validation sampling and analysis to show the site has achieved the approved remediation standard, together with the necessary waste management documentation shall be included.

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

17. No development shall take place, except for site clearance and enabling works (that must exclude any excavation or concrete works), until a detailed design and associated management and maintenance plan of the surface water drainage for the site, in accordance with the principles outlined within:
- a. Banners Gate. (Jun 2023). Land off Red Lane, South Normanton – Flood Risk Assessment. 22105 rev 02. “including any subsequent amendments or updates to those documents as approved by the Flood Risk Management Team”

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- b. And DEFRA's Non-statutory technical standards for sustainable drainage systems (March 2015), have been submitted to and approved in writing by the Local Planning Authority.

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

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

To ensure that surface water from the development is directed towards the most appropriate waterbody in terms of flood risk and practicality by utilising the highest possible priority destination on the hierarchy of drainage options. The assessment should demonstrate with appropriate evidence that surface water runoff is discharged as high up as reasonably practicable in the following hierarchy:

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

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

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

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

20. Prior to the first occupation of the development, a verification report carried out by a suitably qualified independent drainage engineer must be submitted to and approved by the Local Planning Authority. This must demonstrate that the drainage system has been constructed as per the agreed scheme (or

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detail any minor variations), provide the details of any management company, and state the national grid reference of any key drainage elements (surface water attenuation devices/areas, flow restriction devices and outfalls).

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

ADVISORY NOTES

1. This site is subject to a Planning Obligation under the terms of S106 of the Town and Country Planning Act 1990 (As amended), and any developer should be aware of the content of that agreement and the need to meet its requirements in addition to the conditions attached to this permission.
2. The development hereby approved includes the construction of new highway. To be considered for adoption and ongoing maintenance at the public expense it must be constructed to the Highway Authority's standards and terms for the phasing of the development. You are advised that you must enter into a highway agreement under Section 38 of the Highways Act 1980. The development will be bound by Sections 219 to 225 (the Advance Payments Code) of the Highways Act 1980.

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

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

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

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

3. The development hereby approved, and any associated highway works required, is likely to impact on the operation of the highway network during its construction (and any demolition required). You are advised to contact the Highway Authorities Network Management Team at www.derbyshire.gov.uk/transport-roads/roads-traffic/roadworks/roadworks.aspx before undertaking any work, to discuss any temporary traffic management measures required, such as footway, Public Right of Way, carriageway closures or temporary parking restrictions a minimum of eight weeks prior to any activity on site to enable Temporary Traffic Regulation Orders to be prepared and a programme of Temporary Traffic Management measures to be agreed.

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4. The application site is affected by the route of a public right of way (public footpath no. 7 in South Normanton Parish) on the Derbyshire Definitive Map. The statutory route of the footpath must be safeguarded at all times to allow the safe and unfettered passage of pedestrians. Any diversions to facilitate the construction of the development will need to be subject to the necessary temporary closure and/or diversion applications/orders.
5. National Highways has advised that in accordance with paragraph 50 of Circular 02/2013, no water run-off that may arise due to any change of use will be accepted into the highway drainage systems, and there shall be no new connections into those systems from third party development and drainage systems. Any change of use to the existing connections to the Highways drainage will be classed as a new connection and therefore will be refused in the first instance as stated within the Circular.
6. The Council's drainage engineer has advised the following: -
 - a. The sewer records show a public sewer within the curtilage of the site (see plan with original consultation response on the Council's website). The applicant should also be made aware of the possibility of unmapped public sewers which are not shown on the records but may cross the site of the proposed works. These could be shared pipes which were previously classed as private sewers and were transferred to the ownership of the Water Authorities in October 2011. If any part of the proposed works involves connection to / diversion of / building over / building near to any public sewer the applicant will need to contact Severn Trent Water in order to determine their responsibilities under the relevant legislation.
 - b. All proposals regarding drainage will need to comply with Part H of the Building Regulations 2010.
 - c. It is essential that any work carried out does not detrimentally alter the structure or surface of the ground and increase or alter the natural flow of water to cause flooding to neighbouring properties. The developer must also ensure any temporary drainage arrangements during construction gives due consideration to the prevention of surface water runoff onto the public highway and neighbouring properties.
7. In respect of any future submissions under the terms of conditions 17 – 20, the developers must take into account the guidance notes contained in the consultation response from the Lead Local Flood Authority (Derbyshire County Council), received by Bolsover District Council on the 18th September 2023, which can be viewed with the planning application record on the Council's website.
8. The HSE Explosives Directorate has drawn attention to the fact "that the proposed development falls within the SD3 distance of the nearby licensed explosives site, such that buildings should not be a 'vulnerable building'. The following definition of "Vulnerable building" has been provided and it is considered that the proposal complies with these requirements, but this definition is included as an advisory note for the attention of any developer.
 - (a) a building of more than three storeys above ground or 12m in height constructed with continuous non-load bearing curtain walling with individual

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glazed or frangible panels larger than 1.5m² and extending over more than 50% or 120m² of the surface of any elevation;

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

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

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

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

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

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

Statement of Decision Process

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

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

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

Equalities Statement

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

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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.

PL48 – 23/24. ENFORCEMENT UPDATE REPORT (JULY-DEC 2023)

The Assistant Director of Planning and Planning Policy updated the Committee on the service targets set out in the Local Enforcement Plan (Planning) from 1st July 2023 – 31st December 2023, and also provided an update on historic enforcement cases that were still ongoing.

Wherever possible, all high priority cases would be visited on the same day that a suspected breach of planning control had been identified, and if not, within one working day. Following this, a decision of what action would be taken next would be required within 24 hours of a visit being undertaken.

A medium priority case would be visited within two weeks of the suspected breach being identified, and a further decision of what action to be taken would be provided in the following four weeks. An example of a medium priority case would be an unauthorised development that significantly impacted on public safety or resulted in the harm of a conservation area or setting of a listed building.

Low priority cases would be visited within six weeks and a decision on action would be made within a further six weeks. An example of this would be someone running a small business from a residential property or unauthorised advertisements.

During the period 1st July 2023 – 31st December 2023, 110 unauthorised activity enquiries were received. Out of these, 1 was considered high priority, 18 medium priority and 90 low priority. As a total, 96% of cases began investigation within the target time.

The 1 high priority case was currently pending consideration. Investigations began within 1 working day (100%). Out of the 18 medium priority cases, 10 were currently pending consideration and 8 had been closed. Investigations began on 18 out of the 18

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within two weeks (100%). Out of the 90 low priority cases, 43 were currently pending consideration and 47 had been closed. Investigations began on 86 out of the 90 cases within six weeks (96%).

Moved by Councillor Duncan McGregor and seconded by Councillor Tom Munro

RESOLVED that (1) the report be noted; and

- (2) the Planning department's performance against the Service Standards in the Local Enforcement Plan and updates on planning enforcement continue to be reported to Planning Committee on a half-yearly basis.

PL49 – 23/24. SHIREBROOK GROWTH PLAN - CONSULTATION DRAFT

Committee was advised that in March 2022, work had commenced on the preparation of a Growth Plan for Shirebrook. Growth Plans were non-statutory planning documents that sat on top of the Local Plan for Bolsover District and directed where additional growth would be acceptable to the Council over and above that planned in the Local Plan.

The preparation of the Shirebrook Growth Plan had undergone two stages of public consultation - the initial consultation exercise in March 2022, and a masterplanning consultation exercise in September 2022.

The draft Shirebrook Growth Plan identified three realistic options for the quantum of growth that could be pursued, and identified the potential development sites that had been promoted to the Council that could deliver these potential options, namely:

- Option A – Limited additional growth
- Option B – Medium additional growth
- Option C – High additional growth

The draft Shirebrook Growth Plan document was contained in Appendix 1 to the report and the next step was to publish it for public consultation.

Subject to approval, it was planned that the 4 week consultation exercise would commence on Friday 1st March 2024 and end on Friday 5th April 2024. The dates were subject to change dependent on the time taken to transfer the document from Microsoft Word into a web-based, accessible document on the new consultation website portal using the secured external funding through the Government's PropTech Innovation Fund.

Moved by Councillor John Ritchie and seconded by Councillor Duncan McGregor

RESOLVED that (1) the contents of the proposed draft Shirebrook Growth Plan as detailed in the report and as set out in full at Appendix 1, be approved; and

- (2) delegated authority is given to the Assistant Director of Planning and Planning Policy, in consultation with the Chair and Vice Chair of Planning Committee, to agree the final arrangements of the proposed consultation exercise on the draft Shirebrook Growth Plan.

(Assistant Director of Planning and Planning Policy)

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PL50 – 23/24. LOCAL PARKING STANDARDS SUPPLEMENTARY PLANNING DOCUMENT - CONSULTATION FEEDBACK AND PROPOSED DOCUMENT FOR ADOPTION

Committee considered a report which provided an update to Members on the outcome of the consultation exercise on the draft Local Parking Standards Supplementary Planning Document.

The prepared Local Parking Standards Supplementary Planning Document had been reported to the Local Plan Implementation Advisory Group (LPIAG) on 18th October 2023. The document was then subject to a targeted consultation exercise with statutory consultees, as well as developers and agents and other consultation bodies registered on the Council's Local Plan database. Copies of the document and representation forms were also made available at local libraries and contact centres.

The consultation exercise ran for 4 weeks between Monday 30th October 2023 to 5pm on Monday 27th November 2023.

The Council received four submissions during the consultation period and a further late submission.

Appendix 1 to the report detailed the representations received during the consultation and the Council's response. The main points raised were in relation to the following:

- Parking in conservation areas
- Landscape strip between driveways
- Use of garages as a parking space
- On street parking
- Acceptability of gravel driveways

Revisions were made to the Local Parking Standards Supplementary Planning Document (SPD) following consultation as set out in Appendix 1 to the report. The final document was attached as Appendix 2 to the report.

A Member raised concern relating to the use of gravel for driveways and the health and safety implications. It was noted that while gravel was discouraged each application would be taken on a case by case basis and the Supplementary Planning Document allowed for flexibility so other factors such as gradient, type of gravel chip and size could all be taken into consideration.

It was noted that grass verges added to the aesthetics of a development and were good for wildlife, however, there were issues with people driving over them and the maintenance and upkeep of them.

A Member queried if it was typical for new build houses to have two off street parking spaces as standard. The Assistant Director of Planning and Planning Policy advised that it was done on a sliding scale dependent on the number of bedrooms in the property.

PLANNING COMMITTEE

It was also noted that there was only so much that could be done through planning as some properties had the spaces available, but people still chose to park on the street.

Members wished to note their thanks to the officers for their hard work on producing the Supplementary Planning Document.

Moved by Councillor John Ritchie and seconded by Councillor Duncan McGregor **RESOLVED** that (1) the outcome of the consultation exercise as set out in the report and Appendix 1 be noted;

(2) the proposed responses to the main points and the consequential revisions to the proposed Supplementary Planning Document as set out in the report and at Appendix 2 be approved; and

(3) the Local Parking Standards Supplementary Planning Document be recommended to Council for adoption as a material consideration in planning decisions.

The meeting closed at 11:31 hours

PARISH Clowne Parish

APPLICATION Partial demolition of garden outbuilding and erection of five, two storey dwellings with associated infrastructure, private driveway, parking and gardens.

LOCATION Land to The Rear Of 44 Mitchell Street Clowne

APPLICANT Mr Robert Davidson 85 Moor Lane, Bolsover Chesterfield Derbyshire S44 6EP

APPLICATION NO. 23/00538/FUL **FILE NO.** PP-12527586

CASE OFFICER Mrs Karen Wake (Mon-Thur)

DATE RECEIVED 25th October 2023

SUMMARY

The application has been referred to Planning Committee by Cllr Bennett because of concerns about the impact the additional traffic resulting from five additional dwellings would have on an already overcrowded street.

Site Location Plan



SITE & SURROUNDINGS

The site is currently the extended garden area for the existing two storey dwelling on site. The land is surrounded on three sides (north, east and west) by other residential properties whilst to the south beyond a boundary of shrubs and trees is the Clowne Linear Park, a former

railway line which is now informal open space.

The land slopes down from the highway to the south, with a drop of approx. 2m from the existing dwelling to the rear of the site. The existing dwelling on site is a two storey property brick built with partly rendered walls. The eastern boundary is mainly built of brick wall which varies in height being approx. 3m high close to the house stepping down to approx. 1m towards the rear of the site. Part of this eastern boundary is formed by rear walls of outbuildings to adjacent properties. The majority of the western site boundary is hedges which are approx. 3m high.

The rear curtilage of 44 Mitchell Street is hard landscaped with various outbuilding with the remainder of the site being grassed.

BACKGROUND

The site has previously been granted outline planning permission for residential development. The outline applications had all matters reserved and as such no details of the residential development have been submitted or approved previously.

PROPOSAL

The application is a full application for the construction of five, two storey dwellings. The development includes one pair of three bed, semi-detached dwellings, one pair of two bed, semi-detached dwellings and one detached three bed dwelling. The proposal includes a shared access off Mitchell Street with a shared, on-site turning area and each of the dwellings proposed has two parking spaces. The proposal also includes the retention of two parking spaces for the existing dwelling at 44 Mitchell Street.



House type C Plot 1 Front view



House type C Plot 1 Rear view



House type A Plots 2 & 3 Front view



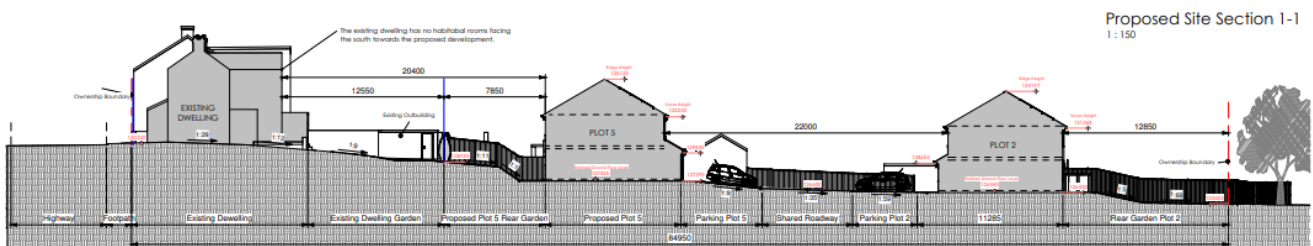
House type A Plots 2 & 3 Rear view



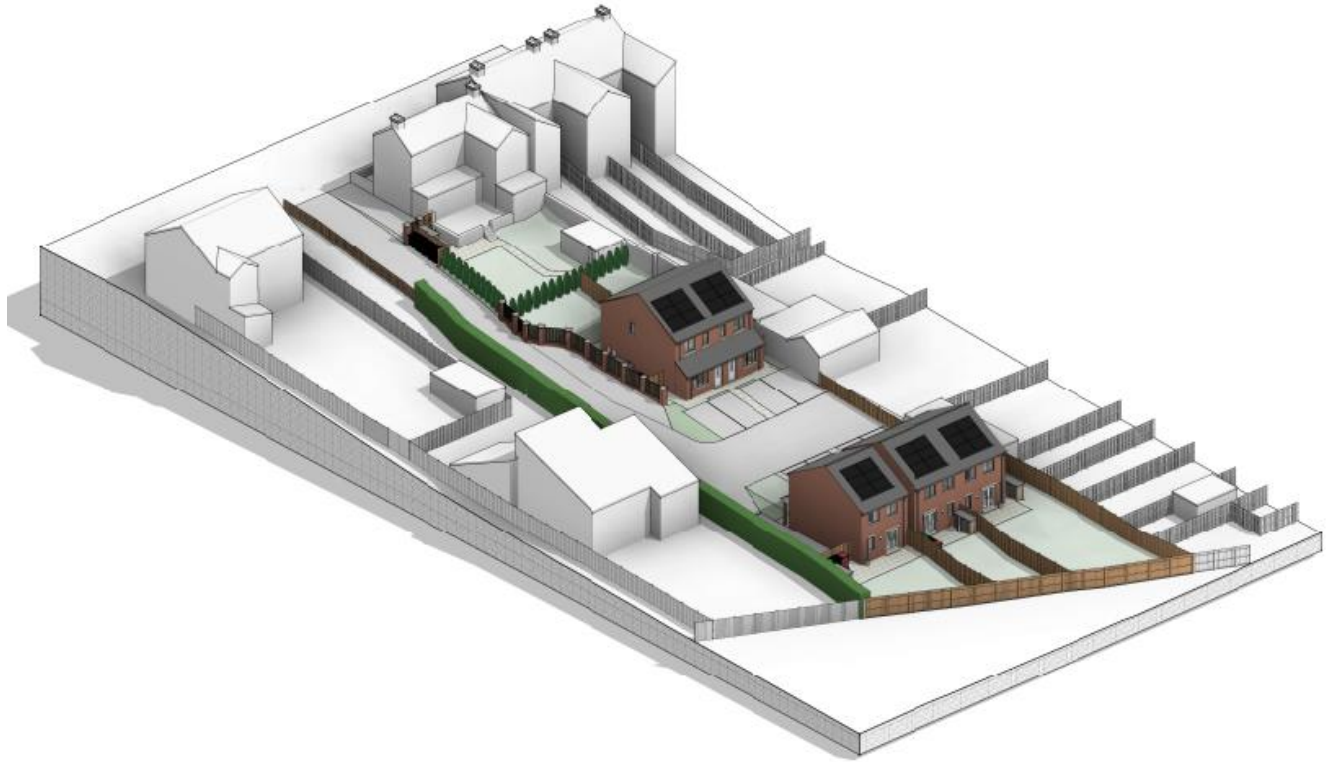
House type B Plots 4 & 5 Front view



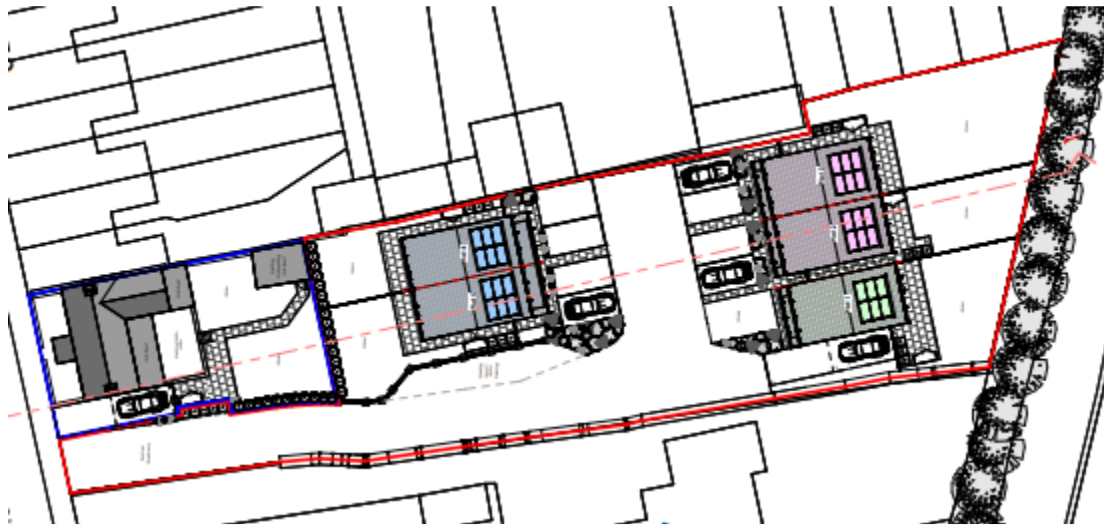
House type B Plots 4 & 5 Rear view



Proposed site section



Site layout 3D view



Proposed site layout plan

AMENDMENTS

Amended plans received which show the proposed biodiversity enhancement measures and a lighting scheme following on from the submission of the biodiversity net gain assessment.

HISTORY

10/00405/OUT	Granted Conditionally	Residential development (all matters reserved)
13/00510/OUT	Granted Conditionally	Residential development
17/00032/OUT	Granted Conditionally	Residential development (all matters reserved)

CONSULTATIONS

Derbyshire County Council (Highways)

No highway objections subject to conditions requiring access, parking and turning to be provided on site in accordance with the approved plan before the development is occupied, entire site frontage to be maintained clear of boundary treatment over 1m in height to maximise visibility, details of sheltered, secure and accessible bicycle parking to be submitted for approval and implemented and maintained on site and the construction phase of the development shall be carried out in accordance with the drawing number A(PL) 008 at all times during the construction phase.

Environmental Health Officer

No objection in principle. Recommends a condition requiring construction works and deliveries to the site to only take place between the hours of 07.30am to 6pm Monday to Friday, 7.30am to 1pm on Saturday and no work or deliveries to the site on Sundays or public holidays.

Parish Council

No comments received.

Bolsover District Council Senior Engineer

The 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. If any part of the proposed works involves connection to / diversion of / building over / building near to any public sewer the applicant will need to contact Severn Trent Water in order to determine their responsibilities under the relevant legislation.

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. The developer should provide detailed proposals of the disposal of foul and surface water from the site and give due consideration to the use of SUDS, which should be employed whenever possible. Where SuDS features are incorporated into the drainage design for developments of between 2 and 9 properties it is strongly recommended that the developer provides the new owners of these features with sufficient details for their future maintenance. It is essential that any work carried out does not detrimentally alter the structure or surface of the ground and increase or alter the natural flow of water to cause flooding to neighbouring properties. The developer must also ensure any temporary drainage arrangements during

construction gives due consideration to the prevention of surface water runoff onto the public highway and neighbouring properties.

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

PUBLICITY

Site notice and 23 neighbours notified. Letters of objection received from 4 neighbours which raise the following issues:

1. The proposal overlooks the gardens and habitable rooms of adjacent dwellings. The difference in levels between adjacent dwellings and the site makes this loss of privacy worse and this has not been considered in the submission.
2. The Planning Statement submitted with the application states that full compliance is provided with Successful Places Design Guidance with no significant loss of privacy or amenity for neighbouring properties. This is not accurate. The privacy to bedrooms and living space to the rear of adjacent dwellings is affected given the sight lines created by the site topography.
3. The Successful Places Design Guidance is a guide, and under section "3.11 Amenity" the document states that specific site conditions such as topography may need to be considered when increasing guidelines. The design needs to be revisited for plots 4 and 5 to further consider the privacy of adjacent dwellings, either by careful further design or omission of these plots.
4. The land to the rear of 44 Mitchell Street is an opportunity for development but 5 houses is excessive. This is because it results in a loss of some of the parking for the existing dwelling and the proposal will result in additional traffic on a street which is already congested because many houses do not have off street parking so cars park each side of the road making it almost one car width and needs to be approached with caution.
5. The additional vehicle movements created will result in increased exhaust emissions, known to be detrimental to health and an increase in noise pollution.
6. The photographs on the planning document do not fully represent the street when homes are occupied. A site visit at this time would show the difference.
7. The area has an ageing sewage infrastructure which may not cope with such an increase in demand. Sewage from 5 homes being pumped into no 44 to join an existing system will put extra strain on that.
8. The existing parking problem means that people with drives often get blocked in and additional cars and additional requirement for parking from the proposal will make this problem worse.

POLICY

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

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

- SS1 Sustainable Development
- SC1 Development within the Development Envelope
- SC2 Sustainable Design and Construction
- SC3 High Quality Development

- SC11 Environmental Quality (Amenity)
- ITCR11 Parking Provision

National Planning Policy Framework (“the Framework”)

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

- Chapter 2: - Achieving sustainable development.
- Paragraphs 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 119 - 125: Making effective use of land.
- Paragraphs 126 – 136: Achieving well-designed places.
- Paragraph 180: Habitats and biodiversity

Supplementary Planning Documents

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

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

ASSESSMENT

Key issues

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

- The principle of the development
- The impact on the character and appearance of the area
- Residential amenity
- Whether the development would be provided with a safe and suitable access and the impact on the local road network
- Biodiversity
- Issues raised by residents.

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

Principle

The site is within the development envelope, within a predominantly residential area. The principle of residential development on the site is considered to have been established by the previous outline permissions on the site.

The site is within walking distance of the shops and facilities within the town centre and is close to bus stops giving access to larger towns and cities such as Chesterfield and Sheffield. The site is therefore considered to be in a sustainable location where residential development is considered acceptable in accordance with policy subject to compliance with the other

relevant development plan policies.

The impact on the character and appearance of the area

The street scene is made up of a variety of scale, type and style of dwelling, constructed in various materials. The principle of residential development to the rear of dwellings which front Mitchell Street has already been established by development of the adjacent sites which have two storey dwellings constructed in what was originally back gardens. The proposed development, subject to the use of appropriate materials, which can be controlled by condition, is considered to be in keeping with the street scene in terms of scale and design and is not considered to appear unduly prominent or out of character in the area in compliance with Policies SC2 and SC3 of the Local Plan for Bolsover District.

Residential Amenity

The proposed dwellings each have gardens which meet the size requirements set out in the council's Successful Places Supplementary Planning Document for two and three bed dwellings. Four of the dwellings do not have side facing windows. The two that do, only have small, side facing bathroom windows which can be required by condition to be obscurely glazed such that the proposed dwellings are not considered to result in overlooking of dwellings and gardens to the sides of the site. There are no dwellings to the rear of the site.

The dwellings which front Mitchell Street are set higher and have ground and first floor windows facing the site. The Council's Supplementary Planning Document requires 21m between directly facing principle room windows and the proposal meets this with regard to the distance between windows and the existing dwelling on site and exceeds this requirement in respect of the dwellings to each side of the site which also front Mitchell street.

The supplementary planning document also requires 10.5m between first floor windows and the boundaries to private gardens which they directly face. In this instance, plots 4 and 5 have first floor windows which are approx. 8m from the boundary to the rear garden of the existing dwelling at 44 Mitchell Street. However, the existing dwelling is within the applicant's ownership and the view of the rear garden of the existing dwelling from plot 4 is partially screened by the existing outbuilding which is adjacent to the site boundary. In addition, the garden to the existing dwelling is some 14m long such that only the very rear 2.5m of the garden is considered to be overlooked by the proposed dwellings with the remaining 11.5m of the garden being the required 10.5m from the first floor windows of the proposed dwellings. On this basis whilst the proposal falls slightly short of the requirements of the council's supplementary planning document in terms of the distance between first floor windows and the boundary to the garden of the existing dwelling, in this instance, this would not result in a material loss of privacy to the rear garden of that dwelling.

For the above reasons the proposal is considered to provide an adequate standard of amenity for future residents of the proposed dwellings and is not considered to result in a significant loss of daylight to or outlook from adjacent dwellings or result in a significant loss of privacy or amenity for residents of those dwellings. On this basis the proposal is considered to meet the requirements of Policies SC2, SC3 and SC11 of the Local Plan for Bolsover District and the guidance set out in the Successful Places, a Guide to Sustainable Housing Layout and Design published by the council.

The Environmental Health Officer has asked for an hours of operation condition during

construction works to be included on any planning permission. Given that this is such a small site and construction will therefore only be for a temporary period, it is not considered to restrict hours of construction in this instance. If construction becomes a nuisance it can be controlled under the Environmental Protection Act.

Access/Highways

The site utilises the existing access onto Mitchell Street. The proposal retains two parking spaces to the side of the existing dwelling at 44 Mitchell Street. Each of the dwellings proposed have two parking spaces which meets the councils parking requirements which are set out in the Local Plan. Each of the dwellings proposed also has its own secure cycle store. The proposal includes a shared, on-site turning area which will allow vehicles to enter and leave the site in a forward direction and a passing place on the driveway to prevent the need for vehicles to reverse onto or off from the highway should two vehicles need to pass on the driveway.

The addition of five dwellings to Mitchell Street is not considered to result in a material increase in vehicular movements on highway network over and above the existing situation and given that the proposal meets the council's parking standards, it is not considered to result in a significant increase in on-street parking. The proposal will result in some large vehicles and additional parking requirements during construction, but a construction site layout plan has been submitted and can be required by condition to prevent unnecessary on-street parking and the construction period will only be temporary.

Subject to conditions requiring the construction parking/storage layout to be adhered to during construction and the provision of the access, passing place, turning area, parking spaces and cycle parking to be provided and maintained on site in accordance with the approved plans before the dwellings are first occupied, the proposal is not considered to be detrimental to highway safety and is considered to meet the requirements of Policy SC3 of the Local Plan for Bolsover District.

Biodiversity

The site is an existing garden which, with the exception of the boundary hedges is considered to be of little ecological value. A preliminary ecological survey, a nocturnal bat survey and a biodiversity enhancement net gain assessment have been submitted with the application. Based on the information provided, Derbyshire Wildlife Trust have confirmed the proposal results in a net gain for habitat and hedgerow units subject to conditions requiring the development to be carried out in accordance with the biodiversity enhancement measures submitted. It is also considered necessary to condition external lighting to be in accordance with the submitted plans to minimise the impact of light spillage on wildlife. Subject to such conditions the proposal is considered to meet the requirements of Policy SC9 of the Local Plan for Bolsover District

Derbyshire Wildlife Trust have also requested a condition that no demolition or site clearance takes place within the bird nesting season. Given that nesting birds are protected under other legislation, such a condition is not considered necessary but an advisory note can be added to any planning permission to advise the applicant of this requirement.

Issues raised by residents

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

The issue of additional noise and fumes caused by five additional dwellings on Mitchell Street has not been considered as the noise and fumes created by an additional five dwellings is not considered to materially alter the existing situation in a residential area adjacent to the town centre.

The issue of the capacity of the existing drainage system has not been considered as the applicant has confirmed he will be using soakaways for surface water drainage if percolation tests show this to be suitable and the issue of drainage from a minor site such as this is covered under Building Regulations.

Site visits are carried out for every planning application and reliance is not on photographs submitted with the application or by neighbours for an assessment of the site and its surroundings.

CONCLUSION / PLANNING BALANCE

The site is in a sustainable location where new residential development is acceptable in principle subject to compliance with the relevant policies in the development plan. The proposal is considered to be in keeping with the character of the street scene and provides a net gain for biodiversity. Whilst some impact on residential amenity and highway safety is acknowledged, this impact is not considered to be so material as to justify refusal of the proposal when the proposal meets the requirements of Policies SS1, SC2, SC3, SC9, SC11 and ITCR11 and the Council's Successful Places, supplementary planning document.

RECOMMENDATION

The application be APPROVED subject to the following conditions:

1. The development must be begun before the expiration of three years from the date of this permission.
2. The development must be carried out in accordance with plan numbers:
 - 23-001 A(PL) 001 Site location plan
 - 23-001 A(PL) 003 Block plan
 - 23-001 A(PL) 005 Rev B Landscaping and Biodiversity measures
 - 23-001 A(PL) 006 Street scene context 3D
 - 23-001 A(PL) 007 Proposed Sections and street scene
 - 23-001 A(PL) 008 Proposed site compound layout
 - 23-001 A(PL) 009 Proposed site levels and gradients
 - 23-001 A(PL) 011 Proposed external lighting
 - 23-001 A(PL)-HTC Plans and elevations Plot 1
 - 23-001 A(PL)-HTA Plans and elevations Plots 2 and 3
 - 23-001 A(PL)-HTB Plans and elevations Plots 4 and 5
3. The external wall and roof materials must be Red Vandersanden Alexia Facing Brick and Marley modern dark grey roof tiles as set out in the application form unless otherwise agreed in writing by the Local Planning Authority.

4. Before the development hereby approved is first occupied, two parking spaces for the existing dwelling at 44 Mitchell Street must be provided on site in accordance with the approved plans and must be maintained available for parking thereafter.
5. Before the development hereby approved is first occupied, the access, passing place, turning area, parking spaces and cycle parking must be provided on site in accordance with the approved plans and must be maintained as such thereafter.
6. The first floor side facing windows serving the bathrooms in Plots 4 and 5 hereby approved must be obscurely glazed and must be maintained as such thereafter.
7. Before the dwellings hereby approved are first occupied, the boundary treatment details shown on the approved plan must be provided on site in accordance with the approved plan and must be maintained as such thereafter.
8. Before construction commences on site, the site compound must be provided on site in accordance with plan no. 23-001 A(PL)008 and must be maintained on site in accordance with these details throughout the period of construction.
9. Before the dwellings hereby approved are first occupied, the landscaping and biodiversity enhancement measures shown on plan no. 23-001 A(PL)005 Rev B must be provided on site in accordance with the approved plans and must be maintained as such thereafter.
10. Before the dwellings hereby approved are first occupied, the external lighting scheme shown on plan no. 23-001 A(PL)0011 must be provided on site in accordance with the approved plans and must be maintained as such thereafter.

Statement of Decision Process

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

Equalities Statement

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

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

Human Rights Statement

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

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

PARISH Old Bolsover Parish

APPLICATION Conversion of stable block to amenity building
LOCATION The Stables Featherbed Lane Bolsover Chesterfield
APPLICANT Mr D McAlister The Stables Featherbed Lane Bolsover Derbyshire S44 6JY
APPLICATION NO. 23/00526/FUL **FILE NO.** PP-12534135
CASE OFFICER Mrs Karen Wake (Mon-Thur)
DATE RECEIVED 16th October 2023

SUMMARY

This application has been referred to Planning Committee by Cllr Hales because the application is for an ancillary room for stables, there are no stables on the site and because other conditions of previous applications have not been met i.e. replacement hedgerows. There are also concerns that the gateway to the stables is not in keeping with the countryside.

In summary, the application is recommended for approval. The application is for an amenity block to serve the existing traveller site. The proposal is outside the development envelope within an area of open countryside. The proposed use is not compliant with Policy SS9 (Development in the Countryside) but provides ancillary facilities to support the approved use as a traveller site. Such facilities are identified as essential in the Designing Gypsy and Traveller Sites Good Practice Guide and as such are considered to be in compliance with Policy LC5 (Applications for Gypsies, Travellers and Travelling Show People.)

Site Location Plan



SITE & SURROUNDINGS

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

BACKGROUND

A stable block has previously been granted planning permission, together with an extension to the stable block. The construction of the stable block was commenced but not completed. Instead, an amenity block was constructed without planning permission.

A traveller site for three pitches each of which may contain a mobile home, one touring caravan and two parking spaces has also been approved. Two of these pitches are immediately to the southeast of this site and one of those pitches is included in the current application as an amendment is sought to this third pitch. An area of hard standing has been laid on site which is bigger than approved and which now forms part of a separate planning application for the creation of four additional pitches and an amendment to the layout of one of the pitches already approved.

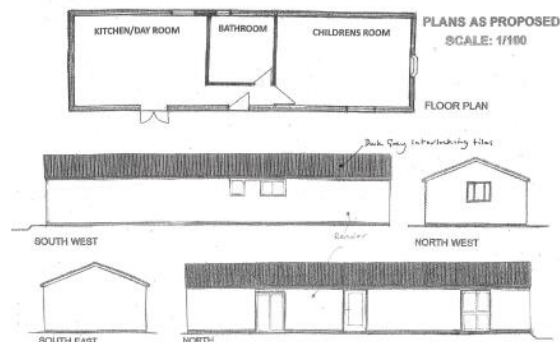
The applicant has moved a mobile home and a touring caravan onto the site and is currently living there but the pitches have not yet been laid out in accordance with the approved plan. The access to the site has been re-surfaced and utilities installed along the access lane.

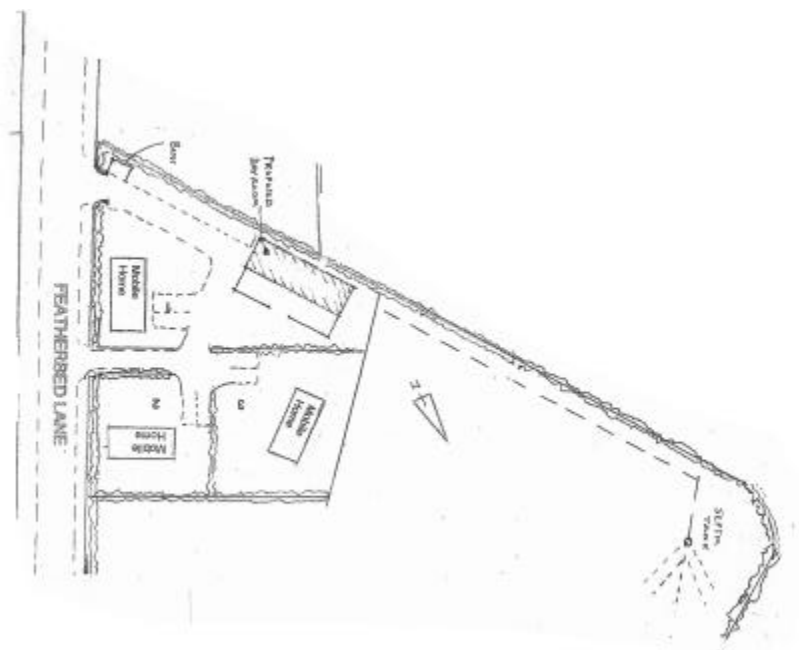
Access gates, gate pillars and a wall have been constructed at the site entrance without planning permission. These do not form part of the current application.

PROPOSAL

The application is for the retention of the amenity block which has been constructed on site. The building is single storey and is finished in render with a tiled roof and upvc windows and doors. The building contains a dayroom with kitchen and dining area, a bathroom and a children's room.

The application does not involve the conversion of a stable block as described in the application and should be considered as a new building, albeit on the footprint of the stable block previously approved and utilising the walls of the stable block which had commenced construction.





AMENDMENTS

None.

HISTORY

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

CONSULTATIONS

Parish Council:

Object for the following reason: The proposal will increase traffic on a public right of way causing a safety issue for pedestrians and damaging the surface. There are potential drainage problems and the request for additional information made by the Environmental Health Officer is supported. The number of pitches exceeds the amount required by Policy LC5 of the Local Plan. The site is greenfield and the addition of further pitches will be contrary to Policy SS9 of the Local Plan.

Coal Authority:

No comments received.

Derbyshire Gypsy Liaison Group:

No comments received.

Environmental Health Officer:

Further details are requested in regards the capacity of the existing septic tank and its ability to manage the extra loading placed upon in. This should include full details of the original design, and current versus proposed flow rates.

Derbyshire County Council Right of Way:

Bolsover Public Footpath No. 44 runs along Featherbed Lane, the access to the proposed development site, as shown on the attached plan. No objections as it is expected that the proposal will not increase traffic (which could impact the surface and safety of path users) and it appears that the route will be ultimately unaffected by the proposed works. The applicant should be advised that the footpath must remain open, unobstructed and on its legal alignment, there should be no disturbance to the path surface without prior authorisation from the Rights of Way Section, any increase in passes of vehicles crossing the path would inevitably damage the path surface. Were this the case, any significant damage to the path surface caused by vehicles must be repaired by the applicant to the satisfaction of DCC, consideration should be given to the safety of members of the public using the path during and after the works. A temporary closure of paths will be permitted on application to DCC where the path remains unaffected on completion of the development, private rights must not derogate the public's right to use the footpath, there should be no encroachment of the path, and no fencing should be installed without consulting the Rights of Way section.

Derbyshire County Council Highways:

It is not expected that the proposed building will generate any vehicular traffic over and above that generated by occupiers of the mobile homes and with the building replacing the stables, traffic associated with the stables will be removed. On those grounds there are no highway authority objections to the application. It is recommended that the building remains ancillary to the mobile homes located on the site and that this is conditioned accordingly.

Derbyshire Wildlife Trust:

Although no habitats of importance or protected species appear to be affected, it is recommended that a condition to require biodiversity enhancement measures is included on any permission to ensure a biodiversity net gain is achieved. Biodiversity enhancement measures should include 1No. bat box on a retained mature tree on site (favouring southern elevation,) 1No. owl box located on site on a mature tree along the western edge of the site, 1No. universal bird box on a retained tree or the building at eaves level (avoiding southern elevations) Evidence that these measures have been implemented should be submitted to the Local Planning Authority.

Planning Policy:

The development would be contrary to policy SS9 (Development in the Countryside) however, given that the application site forms part of a residential traveller site and that amenity blocks

are included within the design guidelines for Gypsy and Traveller sites as detailed in National Guidance and so can be considered part of establishing an acceptable living environment for its residents, it is considered that policy LC5 (Applications for Gypsies, Travellers and Travelling Showpeople) provides justification for looking at a countryside location for this ancillary amenity block. In view of the retrospective nature of this application, it is considered necessary to ensure thorough carefully worded conditions that the amenity block is used and retained for that use and not subsequently used for a different planning use that would not be acceptable in this countryside location.

PUBLICITY

Site notice and 13 neighbours notified. No comments received.

POLICY

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

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

- SS9 Development in the Countryside
- LC5 Applications for Gypsies, Travellers and Travelling Showpeople
- SC2 Sustainable Design and Construction
- SC3 High Quality Development
- SC9 Biodiversity and Geodiversity
- SC11 Environmental Quality (Amenity)
- SC13 Water Quality
- SC14 Contaminated and Unstable Land

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 55-56: Planning conditions
- Paragraphs 61-63: Delivering a Sufficient Supply of Homes
- Paragraphs 180, 186 and 188: Conserving and enhancing the natural environment.
- Paragraphs 189 - 194: Ground conditions and pollution.

Other

Planning Policy for Traveller Sites updated 19th December 2023
Gypsy and Traveller Accommodation Assessment 2015
Designing Gypsy and Traveller Sites Good Practice Guide

ASSESSMENT

Key issues

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

- The principle of the development
- The impact on the character of the countryside and the local area
- The impact on residential amenity
- Whether the development would be provided with a safe and suitable access
- Biodiversity
- Land stability
- Drainage
- Issues raised by residents.

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

ASSESSMENT

The principle of the development

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

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

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

The stated categories do not include the creation of new sites or pitches and ancillary structures such as amenity buildings for Gypsies, Travellers and Travelling Showpeople and so the proposal will be contrary to the Local Plan unless other policies provide grounds for approval. In this case, the application site forms part of a residential traveller site which already has planning permission. Amenity blocks are included within the design guidelines for Gypsy and Traveller sites as detailed in the National Guidance, Designing Gypsy and Traveller Sites Good Practice Guide. In light of this National Guidance, it is considered that amenity blocks form part of establishing an acceptable living environment for its residents as required by criterion b) of policy LC5: Applications for Gypsies, Travellers and Travelling Showpeople.

It is considered that the development would be contrary to policy SS9 (Development in the Countryside.) However, given that the application site forms part of a residential traveller site and that ancillary amenity blocks are considered part of establishing an acceptable living environment for its residents, it is considered that policy LC5 provides justification for its countryside location. The proposal is therefore considered to be acceptable in principle, in accordance with this policy, provided that the other more site specific and local amenity considerations are met.

It is however considered necessary to condition the building only be used as an amenity block in connection with the use of the traveller site to ensure the building is not subsequently used for a different planning use that would not be acceptable in this countryside location.

The impact on the character of the countryside and the local area

The site is within an area of open countryside but is adjacent to residential development and existing equestrian developments in the form of stables and barns along Featherbed Lane. The amenity block is considered to be more visually intrusive than the previously approved stables as a result of the materials used. The light coloured render stands out clearly against existing vegetation whereas a timber clad stable block would appear much more recessive. However, the site is adjacent to existing dwellings and outbuildings and, once the previously approved travellers pitches are in place, it will also be seen alongside mobile homes and touring caravans. In addition there is partial screening from the boundary hedges. On this basis, the building is not considered to be so harmful to the rural landscape in this location as to justify refusal of the proposal.

The proposal utilises the existing access. The gates and wall/gate posts at this access do not benefit from planning permission and do not form part of this planning application. However, the access itself has been in place for many years and serves as a field access.

Residential Amenity

The site is set away from adjacent dwellings with partial screening from the hedgerows around the site. The proposed amenity block is to serve the previously approved traveller site and will help provide an adequate standard of amenity for future occupiers of the site in accordance with the Designing Gypsy and Traveller Sites Good Practice Guide, without causing harm to the privacy and amenity of adjacent residents. The proposal is considered to be a use which is compatible with the existing residential uses adjacent to the site. On this basis, the proposal is considered to meet the requirements of criteria b) and g) of Policy LC5 as well as Policies SC3 and SC11 in terms of its impact on the amenity of existing and future occupiers.

Access/Highways

The site utilises an existing access to the field which is served off Featherbed Lane. Featherbed Lane which is an un-adopted road/track which also makes up part of a public right of way (Footpath 44 Bolsover). Featherbed Lane is served by an existing vehicular access off Shuttlewood Road. The proposal is to enhance the facilities to serve the traveller site rather than create a new or additional use on site provided it remains ancillary to the use of the site for travellers pitches. This can be required by condition and subject to such a condition the proposal is not considered to result in an increase in vehicular movements to and from the site over and above the existing situation. The proposal is therefore not considered to be detrimental to highway or pedestrian safety and is considered to meet the requirements of Policy SC3 of the Local plan in this respect.

Biodiversity

Derbyshire Wildlife Trust have confirmed no habitats or protected species are affected by the proposal but have suggested a condition requiring biodiversity enhancements to ensure a biodiversity net gain is achieved. However, given that achieving a biodiversity net gain on non-major sites is not yet mandatory and Policy SC9 of the Local Plan only requires development to provide no net loss to biodiversity, such a condition is considered unreasonable in this instance.

Land Stability (Mining Legacy)

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

However, in this case, the specific part of the site where the building is falls outside the defined Development High Risk Area. On this basis, an advisory note advising the applicant that the site lies within a coal mining area which may contain unrecorded coal mining related hazards and if any coal mining feature is encountered during development it should be reported immediately to the Coal Authority is considered sufficient. Subject to such a note the proposal is not considered to result in issues for stability on or adjacent to the site and is considered to meet the requirements of Policy SC14 of the Local Plan for Bolsover District.

Drainage

The site is within Flood Zone 1, which has a low probability of flooding. The application forms states that the surface water would be disposed of via a soakaway and foul via a septic tank. No other details have been provided. The Environmental Health Officer has requested further detail be submitted in regards the septic tank and its ability to manage the extra loading placed upon in and these details should include full details of the original design, and current versus proposed flow rates.

This information has been requested but has not yet been provided. However, given there is no objection to the proposal in principle from the Environmental Health Officer, these details can be required by condition to ensure the septic tank proposed is suitable for the disposal of foul waste from the amenity block. Subject to such a condition, the proposal is considered to meet the requirements of Policy SC13 of the Local Plan for Bolsover District.

CONCLUSION / PLANNING BALANCE

It is considered that the development would be contrary to policy SS9: Development in the Countryside. However, the impact on the rural character of the area is not considered to be so harmful as to justify refusal of the proposal and given that the application site forms part of a residential traveller site and amenity blocks are included within the national design guidelines for Gypsy and Traveller sites, the amenity block is considered part of establishing an acceptable living environment for its residents, it is considered that policy LC5 of the Local Plan provides justification for the location for this ancillary amenity block to serve the approved traveller site.

RECOMMENDATION

The current application be APPROVED subject the following conditions:

1. The amenity block hereby permitted must not be occupied at any time other than for purposes of an amenity block, ancillary to the use of the site as a traveller site (travellers as defined as defined in "Planning Policy for Traveller Sites (updated 19th December 2023).)
2. Within 56 days of the date of this permission, full details of the septic tank and

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

Advisory notes

1. Public Right of Way, Bolsover Footpath No.44, as shown on the Derbyshire Definitive Map, must remain open, unobstructed and on its legal alignment at all times. There should be no disturbance to the surface of the route without prior authorisation from the Rights of Way Inspector for the area. Consideration should be given to members of the public using the route at all times. A temporary closure of the route may be granted to facilitate public safety subject to certain conditions. Further information may be obtained by contacting the Rights of Way Section – ETE.PROW@derbyshire.gov.uk. If a structure is to be erected adjacent to the right of way, it should be installed within the site boundary so that the width of the right of way is not encroached upon.

Statement of Decision Process

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

Equalities Statement

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

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

However, if these protected characteristics were not taken into account and sufficient sites provided within the district to meet an identified need in accordance with Policy LC5 of the Local Plan for Bolsover District then it may be considered that such regard had not been exercised.

Human Rights Statement

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

It is considered that assessing the effects that a proposal will have on individuals and weighing these against the wider public interest in determining whether development should be allowed to proceed is an inherent part of the decision-making process. In carrying out this

'balancing exercise' in the above report, officers are satisfied that the potential for these proposals to affect any individual's (or any group of individuals') human rights has been addressed proportionately and in accordance with the requirements of the ECHR.

PARISH Old Bolsover Parish

APPLICATION Extension to Traveller site to create 4 additional pitches and revision of layout to Plot 3 of previously approved planning application 22/00425/FUL

LOCATION The Stables Featherbed Lane Bolsover Chesterfield

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

APPLICATION NO. 23/00609/FUL **FILE NO.** PP-12640987

CASE OFFICER Mrs Karen Wake (Mon-Thur)

DATE RECEIVED 29th November 2023

SUMMARY

This application has been referred to the Planning Committee by the Assistant Director of Planning as the original application for the traveller site was determined by Committee.

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

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

Site Location Plan



SITE & SURROUNDING

The site is a small area of land (0.3 ha) which forms part of a larger grassed field. The site has been partially hard surfaced and the level raised in parts to create a level surface. On the southeast boundary of the site is a hedge approximately 3m high with an access gate and planters at the site entrance. Beyond that hedge is the access lane with fields beyond that. On the southwest boundary there is a hedge approximately 2m in height and mature trees with a bungalow and garden beyond. The remainder of the field, of which the site forms part, has mature hedges and trees around the boundaries with fields beyond.

BACKGROUND

A stable block has previously been granted planning permission, together with an extension to the stable block. The construction of the stable block was commenced but not completed. Instead, an amenity block was constructed without planning permission, and this is currently the subject of a separate planning application.

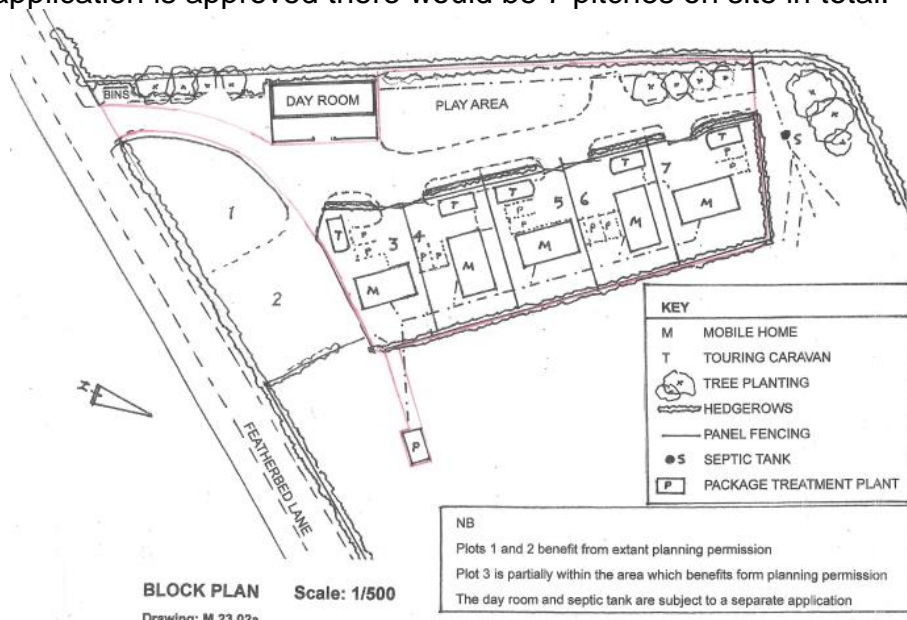
A traveller site for three pitches each of which may contain a mobile home, one touring caravan and two parking spaces has also been approved. Two of these pitches are immediately to the southeast of this site and one of those pitches is included in the current application as an amendment is sought to this third pitch.

The applicant has moved a mobile home and a touring caravan onto the site and is currently living there but the pitches have not yet been laid out in accordance with the approved plan. The access to the site has been re-surfaced and utilities installed along the access lane.

PROPOSAL

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

If the current application is approved there would be 7 pitches on site in total.



AMENDMENT

None

HISTORY

13/00276/FUL	Granted Conditionally	Erection of stables and hard standing
15/00052/FUL	Granted Conditionally	Erection of stable and tack room building including site entrance details, fence details, parking and turning area details, removal of hardcore and change of use to keeping of horses (application site area as clarified in e-mail dated 27th January 2015)
16/00472/FUL	Refused, allowed on appeal	Extension to stable building to provide ancillary facilities
22/00425/FUL	Granted Conditionally	Traveller site with 3 pitches
23/00357/DISCON	Partially discharged	Discharge of Condition 6 (Septic tank & soakaway), 7 (Landscape and Biodiversity Enhancement and Management Plan), 8 (Boundary Treatment), 11 (Bin storage) of Planning Permission 22/00425/FUL

CONSULTATIONS

Parish Council:

Object for the following reason: The proposal will increase traffic on a public right of way causing a safety issue for pedestrians and damaging the surface. There are potential drainage problems and the request for additional information made by the Environmental Health Officer is supported. The number of pitches exceeds the amount required by Policy LC5 of the Local Plan. The site is greenfield and the addition of further pitches will be contrary to Policy SS9 of the Local Plan.

Coal Authority:

No objections, the area where the development is falls outside the defined development high risk area.

Derbyshire Gypsy Liaison Group:

Supports the extension to the site and would like to make the council aware that the Gypsy and Traveller needs Assessment figures could be on the low side due to the changes to the definition of gypsies and travellers set out in the Governments Planning Policies for Traveller sites. This extension will assist in providing much needed pitches.

Environmental Health Officer:

No objections in principle. Advises further detail should be submitted in regards the drainage

provision. The proposal is for a Harlequin HydroClear HC50 packaged treatment plant to be fitted. Treatment plants often require a minimum flow rate through them to work effectively, and the capacity of this system seems somewhat at odds with the number of proposed occupants. The applicant should provide supporting information from the manufacturer to confirm that the system will operate effectively with regards to the typical numbers of occupants likely to be on site at any one time. Further detail is also required with regard to the design of the outfall for the treatment plant, specifically whether it is to ground via a soakaway or to a water course, with supporting detail in regards the suitability of the proposed discharge method.

Derbyshire County Council Right of Way:

Bolsover Public Footpath No. 44 runs adjacent to the development site, along Featherbed Lane, which is the access road to the site. Objections were not raised to the previous proposals, as the number of additional vehicle journeys along Featherbed Lane would not have a significant effect on path users' experience of the footpath. However, this proposal will be likely to more than double the number of additional vehicle journeys along the lane. This increase will be noticeable by path users, and their experience along the footpath may be negatively impacted by the proposals and pedestrians will need to stand to the side to allow vehicles to pass, which can become a problem with increased frequency. In addition, Featherbed Lane only has footpath status, and will therefore only be maintained by Derbyshire County Council to a level appropriate for a footpath. Any vehicle journeys along the lane will, over time, cause damage to the surface, and too many additional vehicle journeys will have this effect over a much shorter period. These concerns should be taken into consideration during the decision making process.

The applicant must be advised that the footpath must remain open, unobstructed and on its legal alignment, there should be no disturbance to the path surface without prior authorisation from the Rights of Way Section and there should be no encroachment of the path, and no fencing should be installed without consulting the Rights of Way Section.

Derbyshire County Council Highways:

Concerns raised about potential conflict between additional vehicle movements on the public footpath and the users of the path; however, this is not something which is considered sufficient to warrant an objection.

Planning Policy:

The development would be contrary to policy SS9 (Development in the Countryside.) However, in view of the remaining existing need for additional residential pitches and likely future need for further additional pitches, it is considered that policy LC5 (Applications for Gypsies, Travellers and Travelling Showpeople) provides justification for looking at a countryside location, provided that the other more site specific or local amenity considerations, such as providing an acceptable living environment and not causing unacceptable nuisance to existing neighbours, are met.

PUBLICITY

Site notice and 13 neighbours notified. Objections received from 2 residents which raise the following issues:

1. The lane is supposed to be a footpath but is clearly used as an access road to the site and beyond. The amount of traffic generated by this site already means walkers must step aside to allow passage of lorries/vans /cars at least once each direction. This is

- made difficult for a walker as there is no real spaces to step. Increasing the number of pitches will increase the amount of traffic using the lane and make this issue worse.
2. The surface of the lane has been improved by the applicant, but it is now rutted by the use of heavier vehicles which makes it more uneven for walking down.
 3. The noise impact must be considered with the vehicles using this lane especially when they are driven at speed and empty.
 4. This requirement for additional pitches should have been seen when the original application was submitted. The objectors foresaw it but were not listened to. It was naive to think that this was not pre-planned. The application will undoubtedly be approved because the first application was and objectors will be ignored again.
 5. The hedgerows are likely to be uprooted despite what it says in the application form.
 6. What was a lovely green valley is gradually being destroyed. Nature needs a home too.

POLICY

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

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

- SS9 Development in the Countryside
- LC5 Applications for Gypsies, Travellers and Travelling Showpeople
- SC2 Sustainable Design and Construction
- SC3 High Quality Development
- SC9 Biodiversity and Geodiversity
- SC11 Environmental Quality (Amenity)
- SC13 Water Quality
- SC14 Contaminated and Unstable Land

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 55-56: Planning conditions
- Paragraphs 61-63: Delivering a Sufficient Supply of Homes
- Paragraphs 180, 186 and 188: Conserving and enhancing the natural environment.
- Paragraphs 189 - 194: Ground conditions and pollution.

Other

Planning Policy for Traveller Sites 2015

Gypsy and Traveller Accommodation Assessment 2015

Designing Gypsy and Traveller Sites Good Practice Guide

ASSESSMENT

Key issues

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

- The principle of the development
- The impact on the character of the countryside and the local area
- The impact on residential amenity
- Whether the development would be provided with a safe and suitable access
- Biodiversity
- Land stability
- Drainage
- Issues raised by residents.

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

The principle of the development

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

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

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

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

Policy LC5: Applications for Gypsies, Travellers and Travelling Showpeople advises that planning permission for new sites will be granted planning permission if the proposed development meets a number of site based criteria, the majority of which relate to site specific or local amenity considerations. However, criteria a) c) and h) relate more to the general location of new development and advise as follows:

- a) proposals should be within development envelopes or on other suitable development land as provided for within the Plan unless they can be shown to meet a need identified in an independent assessment.
- c) is located within one kilometre of a convenience food store, a primary school, and a doctor's surgery, or of access to public transport.
- h) is not within Green Belt or in areas at high risk of flooding.

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

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



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

Paragraphs 61 and 63 of the Framework state that “To determine the minimum number of homes needed, strategic policies should be informed by a local housing need assessment, conducted using the standard method in national planning guidance – unless exceptional circumstances justify an alternative approach which also reflects current and future demographic trends and market signals. In addition to the local housing need figure, any needs that cannot be met within neighbouring areas should also be taken into account in establishing the amount of housing to be planned for.

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

The Local Plan for Bolsover District sets out the need for Gypsy and Traveller Accommodation sites as identified within the Gypsy and Traveller Accommodation Assessment (GTAA) (September 2015). The identified need for Bolsover District during the period 2014 -2034 as set out in the GTAA is 17 pitches. The Local Plan seeks to make provision to meet this need through site allocations. However, the Local Plan also advises that the Council was unable to meet its identified need through allocated sites and as a result it will rely on the criteria based policy LC5: Applications for Gypsies, Travellers and Travelling Showpeople to meet the need where it might arise.

Out of the identified need for 17 residential pitches for gypsies and travellers, 7 pitches were

provided for through site allocations within the Local Plan, leaving a further 10 pitches still to be found through planning applications.

At the time of writing, a further 8 pitches have been granted planning permission (details below):-

- 1 additional pitch has been granted planning permission at The Pines Caravan Site, Hilcote Lane, Hilcote (application ref. 21/00455/FUL) – this site is yet to be delivered at March 2022.
- 4 additional pitches have been granted planning permission at Land to North-West Of 3A Brookhill Lane Pinxton (application ref. 21/00678/FUL) – this site is yet to be delivered at March 2022.
- 3 additional pitches have been granted planning permission at The Stables, Featherbed Lane, 22/00425/FUL (adjacent to this site)

(Please note that 1 additional pitch that had been granted planning permission at the allocated site at 255A Shuttlewood Road over and above those pitches allocated in the Local Plan for Bolsover District (application ref. 20/00221/FUL) has not been implemented and the permission has now lapsed, meaning this pitch can no longer be counted.)

This leaves an identified need of 2 pitches and so the 4 pitches proposed in this planning application would therefore help to meet that identified need and provide 2 pitches over and above that identified in the Local Plan.

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

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

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

The impact on the character of the countryside and the local area

The site is within an area of open countryside but is adjacent to residential development and existing equestrian developments in the form of stables and barns along Featherbed Lane. The proposal is for four additional pitches, as well as an amendment to one of the pitches previously approved. Each pitch will contain a mobile home, a touring caravan and two parking spaces. The additional pitches will extend the amount of built development on site,

but the overall development is of a scale which is not considered to materially harm the character of the area, given that this site is within the open countryside but is adjacent to the edge of the development envelope and forms a slight addition to the adjacent built form. In addition, the proposal is not considered to harm the services and infrastructure provided by the adjacent settlement in accordance with part f) of Policy LC5.

The proposal utilises the existing access. The gates and wall/gate posts at this access do not benefit from planning permission and do not form part of this planning application. However, the access itself has been in place for many years and serves as a field access. The application previously approved included an additional new access on to Featherbed Lane which involved the removal of a section of hedgerow. This access does not form part of the current application and is no longer required so in that respect the impact on the rural landscape is lessened. Other than at the point of access, the site is partially screened from general views by the hedgerow to the site frontage and around the wider field within which the site sits. It is also proposed to enhance the hedgerows around the site with additional planting and includes a hedgerow on the boundary to the area proposed for the pitches and this can be required by condition. The proposal is therefore not considered to significantly detract from the character of the area and can be sufficiently enclosed by appropriate boundary treatment to prevent encroachment into adjoining land and this can be required by condition.

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

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

Residential Amenity

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

It is also considered reasonable to restrict the use of the site to prevent any trade or business being carried out from the site as this may result in noise and disturbance for residents of adjacent dwellings over and above what would be reasonable expected adjacent to a residential area. Subject to the suggested conditions the proposal is considered to meet the requirements of criteria b) and g) of Policy LC5 as well as Policies SC3 and SC11 in terms of its impact on the amenity of existing and future occupiers.

Access/Highways

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

The internal layout of the site provides adequate room for the parking and turning of vehicles on site in association with proposed use of the site. The site can be required by condition to be laid out in accordance with the approved plans and maintained as such thereafter.

The Highway Authority have confirmed that, subject to the above condition they have no objections to the proposal in highway safety terms and on this basis the proposal is not considered to be detrimental to highway safety in accordance with Policy SC3 of the Local Plan for Bolsover District.

A public footpath runs along Featherbed Lane (Bolsover Footpath No. 44). The DCC (Highways) have concerns about conflict between vehicles and pedestrians using the lane but do not consider this to be sufficient to warrant an objection to the proposal.

The DCC Right of Way Officer has not objected to the proposal but has raised concern that this proposal will increase the number of vehicle journeys along the lane and this increase will be noticeable by path users and may negatively impact peoples experience of using the footpath because pedestrians will need to stand to the side to allow vehicles to pass, which can become a problem with increased frequency. In addition, Featherbed Lane only has footpath status, and they have expressed concern that it will only be maintained by Derbyshire County Council to a level appropriate for a footpath. Any vehicle journeys along the lane will, over time, cause damage to the surface, and too many additional vehicle journeys will have this effect over a much shorter period. The Rights of Way Officer has requested notes advising the applicant of their responsibilities in relation to the right of way.

Whilst the proposal more than doubles the number of pitches proposed, this is not considered to result in such an increase in vehicular movements on the lane as to justify the refusal of the proposal given that a refusal on this basis would not be supported by the Highway Authority.

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

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

Biodiversity

The proposal will result in a large area of hardstanding formed which has previously been part of a grass field. The proposal will therefore impact on habitats and biodiversity.

Local Plan Policy SC9 requires developments to result in no net loss for biodiversity. A biodiversity net gain assessment was provided as part of the previous application on the site. An additional assessment hasn't been provided as part of this application and the current proposal includes additional hard surfacing of the field than was proposed in the original application. However, the report previously submitted assessed the onsite grassland to be 'modified' grassland and not of any significant botanical interest. In addition the original proposal included removal of a section of hedgerow which is not now proposed and the current proposal includes a hedge along the boundary to the extended site which can be required by condition. Subject to such a condition, the proposal is not considered to result in a net loss for biodiversity and complies with the requirements of Policy SC9 of the Local Plan for Bolsover District.

The small sites metric submitted with the original application predicted a small net gain of 0.01 habitat unit (4.33%) and 0.12 hedgerow units (18.81%), which was to be delivered through sowing a flower-rich seed mix in the adjacent field to create 'other neutral grassland' and a species-rich native hedge along the northern boundary of the application area. These biodiversity enhancements are unaffected by the current proposal and are secured by a condition on the original permission and do not need to be repeated on this application should the application be granted.

Land Stability (Mining Legacy)

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

However, in this case, the specific parts of the site where the pitches are proposed falls outside the defined Development High Risk Area. Therefore, the Coal Authority did not consider that a Coal Mining Risk Assessment was necessary for this proposal and did not object to the application.

On this basis, an advisory note advising the applicant that the site lies within a coal mining area which may contain unrecorded coal mining related hazards and if any coal mining feature is encountered during development it should be reported immediately to the Coal Authority is considered sufficient. Subject to such a note the proposal is not considered to

result in issues for stability on or adjacent to the site and is considered to meet the requirements of Policy SC14 of the Local Plan for Bolsover District.

Drainage

The site is within Flood Zone 1, which has a low probability of flooding. The application forms states that the surface water would be disposed of via a soakaway and foul via a package treatment plant. The type and size of package treatment has been provided but no other details. The Environmental Health Officer has requested further detail be submitted in regards the drainage provision. This is because treatment plants often require a minimum flow rate through them to work effectively, and the capacity of this system referred to in the documents submitted seems at odds with the number of proposed occupants. The Environmental Health Officer requested supporting information be provided from the manufacturer to confirm that the system will operate effectively with regards to the typical numbers of occupants likely to be on site at any one time. He also requested further detail be provided with regard to the design of the outfall for the treatment plant, specifically whether it is to ground via a soakaway or to a water course, as well as supporting detail in regards the suitability of the proposed discharge method.

This information has been requested but has not yet been provided. However, given there is no objection to the proposal in principle from the Environmental Health Officer, these details can be required by condition to ensure the system installed is suitable for the disposal of foul waste from the site. Subject to such a condition, the proposal is considered to meet the requirements of Policy SC13 of the Local Plan for Bolsover District.

Issues raised by Local Residents

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

The issue of the requirement for additional pitches being foreseen when the original application was submitted has not been considered because every application must be considered on its individual merits.

The issue of the hedgerows being uprooted has not been considered as no hedgerows are proposed to be uprooted, additional hedgerow planting is proposed.

CONCLUSION / PLANNING BALANCE

The development is contrary to Policy SS9 of the Local Plan, however, in view of the existing and future need for additional residential pitches it is considered that Paragraph 63 of the Framework and Policy LC5 of the Local Plan provides justification for looking at this countryside location and the proposal is considered to be acceptable in principle, provided that the other more site specific and local amenity considerations are met.

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

RECOMMENDATION

The current application be APPROVED subject the following conditions:

1. Before the pitches hereby approved are first occupied, the parking and turning area must be provided on site in accordance with the block plan no M.23.02a submitted via email to the Local Planning Authority on 01/12/2023 and must be maintained available for parking and turning thereafter.
2. The development hereby approved is for 4 additional pitches and revision of layout to Plot 3 of previously approved planning application 22/00425/FUL. The pitches must be laid out in accordance with the block plan no M.23.02a submitted via email to the Local Planning Authority on 01/12/2023. Each pitch must only be used for the residential use of one mobile home, located as shown on the approved plan, and for the storage of one touring caravan. No residential occupation of any touring caravan is permitted within the site at any time.
3. The mobile homes on site must be single storey only.
4. The development hereby approved must solely be occupied by travellers as defined as defined in "Planning Policy for Traveller Sites (updated 19th December 2023)".
5. The development hereby approved is for residential occupation only and no trade or business must be carried out from the site.
6. Notwithstanding the submitted details, before the package treatment plant is installed on site and before the pitches hereby approved are first occupied, full details of the package treatment plant, including details of whether it is to ground via a soakaway or to a water course, with supporting detail in regard to the suitability of the proposed discharge method must be submitted to the Local Planning Authority and approved in writing. The package treatment plant must be installed as approved and must be maintained in accordance with the approved details thereafter.
7. Before the pitches hereby approved are first occupied full details of the hedge proposed to be planted around the edge of the site as shown on the approved plans, must be submitted to and approved in writing by the Local Planning Authority. The hedge must be planted in accordance with the approved details in the first available planting season after the details are approved and must be maintained as such thereafter.
8. Notwithstanding the submitted details, before the pitches hereby approved are first occupied, details of the 1.2m high fences proposed to divide the pitches hereby approved must be submitted to and approved in writing by the Local Planning Authority. The approved boundary treatments must be provided on site in accordance with approved details before the pitches hereby approved are first occupied and must be maintained as such thereafter.
9. Notwithstanding the provisions of Classes A and B of Part 2 of Schedule 2, Article 3 of the Town and Country Planning (General Permitted Development) Order 2015 (or any Order revoking and re-enacting that Order with or without modification), no new accesses or boundary treatments must be installed on site unless authorised by an express grant of planning permission.

10. Notwithstanding the provisions of Article 3(1) of the Town and Country Planning (General Permitted Development) Order 2015, (or any Order revoking and re-enacting that Order) no development otherwise permitted by Part 5 Class B of the Order must be erected/constructed/undertaken without first obtaining planning permission.
11. There must be no external lighting installed on the site without the prior submission of a detailed lighting strategy for the site having been first submitted to and approved in writing by the Local Planning Authority.

Advisory notes

1. In legislation 'mobile home' and 'caravan' are synonymous and defined as 'any structure designed or adapted for human habitation which is capable of being moved from one place to another whether by being towed, or by being transported on a motor vehicle or trailer, and any motor vehicle so designed or adapted'.
The definition excludes railway stock on rails forming part of the railway system, and tents.
The definition includes:
 - conventional caravans and mobile homes
 - dormobiles
 - touring caravanettes
 - adapted railway carriages
2. A large, twin-unit caravan may come within the definition if it is:
 - composed of not more than two separately made sections
 - physically capable of being transported by road when assembled (even if it cannot lawfully be transported)
 - does not exceed 65.616 feet (20 metres) in length, 22.309 feet (6.8 metres) in width, and 10.006 feet (3.05 metres) from the floor to the ceiling internally
3. Public Right of Way, Bolsover Footpath No.44, as shown on the Derbyshire Definitive Map, must remain open, unobstructed and on its legal alignment at all times. There should be no disturbance to the surface of the route without prior authorisation from the Rights of Way Inspector for the area. Consideration should be given to members of the public using the route at all times. A temporary closure of the route may be granted to facilitate public safety subject to certain conditions. Further information may be obtained by contacting the Rights of Way Section – ETE.PROW@derbyshire.gov.uk. If a structure is to be erected adjacent to the right of way, it should be installed within the site boundary so that the width of the right of way is not encroached upon.
4. A caravan licence will need to be obtained from Bolsover District Council.

Statement of Decision Process

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

Equalities Statement

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

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

However, if these protected characteristics were not taken into account and sufficient sites provided within the district to meet an identified need in accordance with Policy LC5 of the Local Plan for Bolsover District then it may be considered that such regard had not been exercised.

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 Scarcliffe Parish

APPLICATION Change the use of a (C3a) dwelling to a children's home (C2) for a maximum of three children

LOCATION 2 Castle View Palterton Chesterfield S44 6UQ

APPLICANT David Fungai Dozwa Courtwood House, Silver Street Head Sheffield S1 2DD United Kingdom

APPLICATION NO. 23/00599/FUL **FILE NO.** PP-12625702

CASE OFFICER Mrs Karen Wake (Mon-Thur)

DATE RECEIVED 23rd November 2023

SUMMARY

The application has been referred to Planning Committee due to the number of objections received. The council's delegation scheme requires applications with more than 20 objections to be referred to Committee for determination.

Site Location Plan



SITE & SURROUNDINGS

Two storey detached dwelling constructed in brick with a tiled roof occupying a prominent corner position. The dwelling is L-shaped such that there is no boundary treatment on the northern elevation. There is a low stone wall and mature hedge along the east side boundary to the rear garden. The side wall of the dwelling to the south of the site forms the southern side boundary and the dwelling on site forms the west and northern boundaries to the rear garden. A driveway runs under an arch to provide parking for two cars to the rear of the dwelling. The building which would originally have been a garage has been converted to additional living accommodation.

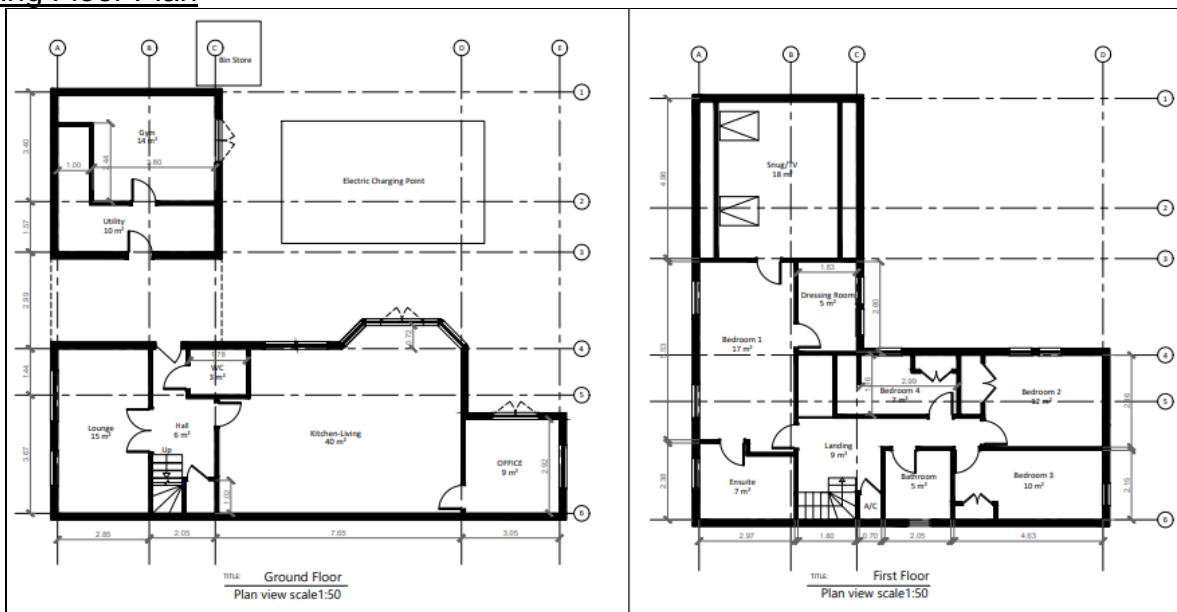
PROPOSAL

The application is for the change of use from a dwelling (Use class C3) to a care home for

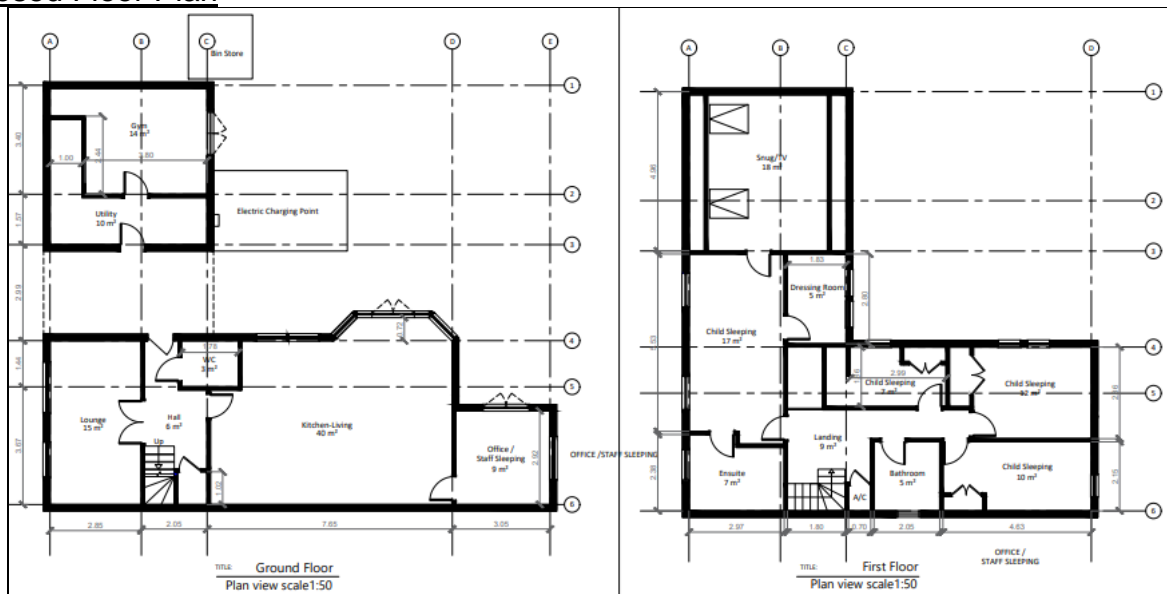
children (Use Class C2.) It is intended to be a specialist care home for up to three children aged from 7 -18 years with emotional and/or behavioural difficulties. The children are proposed to be looked after by a maximum of three carers at any one time, two of whom would sleep overnight, working on a rota basis. Six carers in total would operate on a shift pattern of 48 hours on, 60 hours off. A manager, also a carer, would usually visit the site each weekday between 9am and 5pm. Other than changeover times, it is proposed there will no more than three staff on the premises at any one time. There would be one changeover of the overnight care staff per day, usually 9.30am each morning, which would last for around ten minutes. It is proposed to provide an electric car on site to take children to appointments etc.

No physical external alterations are proposed to the property. The existing and proposed floor plans are set out below.

Existing Floor Plan



Proposed Floor Plan



AMENDMENTS

The application has been amended to provide care for a maximum of three children rather than four as it was originally submitted, the internal layout proposed has been amended and a plan showing two parking spaces provided on site has also been submitted. Additional information has also been provided in response to questions raised during the course of the planning application.

EIA SCREENING OPINION

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

HISTORY

00/00298/FUL	Granted Conditionally	8 new 2 storey dwellings, 3 barn conversions, conversion of farmhouse to 2 dwellings
03/00628/RETRO	Refused	Retention of vehicular access to Back Lane
98/00258/FUL	Granted Conditionally	Conversion of farmhouse, stables and barn to provide 6 dwellings and erection of 11 dwellings
98/00259/CON	Permitted	Demolition of former nissen sheds, dutch barns, byre, covered yard and incidental lean-to buildings
04/00161/FUL	Granted Conditionally	First floor extension to side and conservatory to rear
08/00203/FUL	Granted Conditionally	Alterations to conservatory windows including bricking up and to conservatory roof
15/00513/FUL	Granted Conditionally	Raise garage roof to create room

CONSULTATIONS

Conservation Manager:

No comments. From a heritage viewpoint, there are no external alterations proposed to the building and as a result, the impact on the character and appearance of the conservation area will be neutral.

DCC Highways:

No objections. Suggests a condition requiring retention of three parking spaces on site.

Environmental Health Officer:

As an Environmental Health Officer I have experience of trying to resolve noise complaints arising from these businesses and confirm that, whilst there may be similarities, they are not the same as a typical home environment. These are private facilities that care for children who often have a wide range of challenging behaviour and complex needs. This can result in significantly higher levels of noise and aggressive behaviour.

The fact that staff at the care homes are well trained to look after children is not in doubt, however the primary focus of the service and the management systems that are in place are (a). To make money and, (b) To ensure the welfare needs of the children are met. The noise

impacts of the business upon the wider community are not considered a priority for care providers or the placing authorities, and these impacts can be significant and very difficult to control retrospectively. Problems can arise for a variety of reasons, for example where the assessment of the care needs results in unsuitable placements, or changes in the circumstances of those being cared for which are not readily accounted for.

Environmental Health departments have to try and resolve these issues. The impacts can be significant, and can as a worse case include nightly antisocial behaviour and noise nuisance, on the property or outside, which care home staff are not able to prevent (Staff cannot prevent those being cared for leaving the property, at any time of day or night)

I have experience of several cases where regular calls are made to the Police by concerned members of the public, however they are often unable to address the issues sufficiently.

Environmental Health can investigate and serve noise abatement notices under statutory powers available to them, however in practice, this is a protracted process that requires the engagement of various agencies. The outcomes are usually far from satisfactory.

As a result, there are significant concerns that the introduction of a private care home into a quiet semi-rural location will introduce excessive noise, that will be incongruent with the local area, arising from regular visits from residential care home staff, and other associated support workers. Some of this will be during antisocial hours, which will be largely dictated to by the needs of those being cared for and from regular episodes of shouting, screaming and other antisocial behaviour

The applicant has provided some information in regards how noise will be controlled, however the level of detail is quite limited, and they have not satisfied me that sufficiently robust controls are in place.

I am aware of the ministerial statement issued last year by the Minister of State Department for Levelling up, Housing and Communities that confirmed '*that the planning system should not be a barrier to providing homes to the most vulnerable children in society*'. The statement does not however state that the imposition of appropriate conditions is unreasonable. It is therefore recommended that to address the above concerns, consideration should be given to the granting of a 2 year temporary permission, so that the impacts of the proposals upon the community can be fully evaluated. It is also recommended that a condition is included on any permission requiring that before the development is brought into first use, a noise management plan must be submitted to the LPA and approved in writing. The management plan must be implemented in full thereafter.

Force Designing Out Crime Officer:

There are no reasons from a safeguarding perspective, which would make the site unsuitable for the proposed use.

Scarcliffe Parish Council:

Objects for the following reasons:

1. Insufficient parking and staff and visitors will need to come by car as the bus service is so infrequent.
2. The entry to Castle View is tight where on-street parking will restrict access.
3. The property is on a bend which is already tight for large vehicles and any on-street parking will make this worse.
4. The site is opposite the village hall which already uses Back Lane as overspill parking.
5. Noise levels are likely to be higher than would be expected from a normal family home. What procedures are in place to ensure noise is controlled.
6. There are safeguarding issues resulting from the proposed layout, the shared

office/staff sleeping area, one of the bedrooms is only 7sqm, made even smaller by the wardrobe, the children's snug/tv room is accessed via a bedroom meaning the bedroom has no privacy, there is a long way between the office/staff sleeping areas and the exits which means children could abscond without staff hearing or having time to stop them.

Supported Accommodation Review Team:

Outside the remit of supported accommodation as the residents are under 18.

Derbyshire County Council Children's Services:

Confirm that as a county, there are fewer children's homes in the area than in other authorities and some children have to be placed at a distance and therefore any new provision from private organisations could be useful to increase supply in a more local area. When assessing location every residential home, when it is registered with Ofsted, would have to issue a 'statement of purpose' which outlines their key type of home and cohort of children they would want to place there. Sometimes, it is great to be well connected, and sometimes, it is better to have limited access, to allow focussed work with the children without distraction. This should all become apparent with Ofsted and they would assess the suitability of the property against their desired statement of purpose.

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

PUBLICITY

Site notice, Press notice and neighbours notified.

Objections received from 42 households as well as two councillors and Palterton Residents Association. A petition has also been received which has been signed by 67 residents. Mark Fletcher MP has confirmed he has received a number of objections from residents and has asked that the legitimate concerns of the community be considered during the application process.

The objections raise the following issues:

1. The proposal breaches a restrictive covenant on the property which prevents it from being used for business purposes or from causing noise or nuisance or parking problems.
2. There is a mortgage on the property which prevents it being used for business purposes.
3. The isolated village location makes it difficult to safeguard children as they could easily disappear into the countryside or onto until roads and areas of the village.
4. Children would have nothing to do as there are little or no facilities in the village.
5. The potential risk children in the proposed home pose to younger children in the village means resident's children would not be allowed to walk to see their friends and family which would have a negative impact on the children's well being and ability to exercise.
6. The location of the home would prevent children using the village park and football pitches with equipment designed for young children, restricting their ability to exercise and mature independently. This area is an extended hub of the village school used for children to socialise with each other and this would inevitably stop.
7. The village streets are poorly lit and the potential risk posed by older teenagers living in

- the home would prevent people walking in the village at night making them prisoners in their own homes in their own village which is not fair.
8. The footpath out of the village towards Bolsover which starts right next to the site is frequently used by children to walk back from school or to visit friends, dog walkers and people generally taking exercise. The risk of the residents from the home would stop this which is unfair.
 9. There is a potential and high risk to the children's wellbeing of the home if they were to enter the field next to the site when being grazed by cattle with young calves or bulls if they did not understand the countryside code of conduct and how to conduct themselves if approached by livestock.
 10. There is a potential risk to the welfare of the animals that graze the field next to the site.
 11. Potential negatives to the village primary school and safety to the children
 12. The amount of vehicles from staff, changing of staff and visitors would exceed the normal amount of vehicles from a family home, causing danger to pedestrians in a small cul-de-sac. Staff would not be able to use public transport as there is only one bus every 2 hours, they would have to use their own transport.
 13. Noise potentially 24 hours a day with neighbours meters away would be over and above an acceptable level in a residential area.
 14. The site is within a conservation area and the proposal would not preserve or enhance the character of the conservation area.
 15. The application should have been more widely publicised.
 16. There is little detail in the application about the proposal or the care provider who appears to have no experience in children's services and has financial difficulties. The council should provide the residents of Palterton with proof that the applicant is suitable, experienced and has the funds for running a home for children with behavioural issues. The government states an individual may only carry on a children's home if the individual is financially fit to carry on the home.
 17. There could be more staff required than the applicant is stating. The ratio of staff to children depends on the needs of the children and it could be much higher than stated and if it is it will exacerbate parking problems in the area and cause problems adjacent to an existing junction which is restricted in width where buses and large vehicles including emergency vehicles, already have problems and where there is already issues of overspill parking from the village hall.
 18. The severity of the problems of the children to be cared for is not known so the safety of other residents, some with young children cannot be assessed.
 19. The rear garden is proposed for parking so there will be nowhere for children living on site to play.
 20. With the exception of the playing field which has limited play equipment designed for small children only, the village currently has no amenities for children or teenagers. Therefore, any recreational activities will need to be found outside the village necessitating transporting the children by car as many parents of children currently living in the village need to do. Although there are bus services these are also very limited and unlikely to prove a viable option for such journeys.
 21. The village is accessed by three busy roads which are largely unlit with no pavements. Alternatively, the route to Hillstown is across three agricultural fields which leads on to a busy main road. If a child were to leave the premises unsupervised, they could come to serious harm. This would be extremely dangerous, even in daylight hours and the chances of being seriously injured are high. This is further exacerbated as these

- children are unlikely to have a level of cognitive ability to keep themselves safe.
22. Concern is expressed about the fear or intimidation that could be felt by anyone passing the property if any disturbance were taking place. The nature of the difficulties of the children who may become resident has not been disclosed but the general term 'emotional and behavioural issues' suggests that noisy outbursts could occur should a child be experiencing a difficult time. The application is to provide a long-term home to children with behavioural and emotional needs. This is a broad definition but issues that may arise include anti-social behaviour (ASB), noise disturbance and nuisance. Additionally, behavioural issues may include criminality which collectively would have a negative impact on the community.
 23. Concern is expressed for residents of Palterton who would feel vulnerable should this application be granted. The premises are next to a public footpath which leads to Hillstown. People walk their dogs past the house to access the footpath, many of whom are lone females who would feel intimidated if they were to face teenagers who were displaying anti-social behaviour. The premises are opposite a park where young children play. Again, they would be intimidated should any instances occur whereby they were put at risk of harm. Can the applicant be more specific as to the behaviours of the residents he intends to place there. Also, given there are only three carers to four residents how do they intend to control the noise or ASB?
 24. The layout of the building is unsuitable with the office/staff quarters well away from exit points children could easily leave unnoticed and the childrens tv room/snug is accessed through one of the bedrooms giving the child sleeping in that room no privacy, one of the bedrooms is very small, there is insufficient communal space either inside or outside, rooflights allow access onto the roof and front windows are a means of escape etc.
 25. The application itself is inaccurate. The tick box for whether there is conservation importance is ticked as no; under proposed employees it states 2 full time people, 0 part time but 3 full time equivalents, which is it? The applicant states that there is a shop close by. The nearest corner shop is a mile away and, if walking, is only accessible by foot over three fields. The applicant states work has not started on the premises, but office furniture has been moved in and CCTV has been installed. This is quite worrying as it feels that this application is a foregone conclusion.
 26. Palterton is a small village. In terms of community amenities, it has a village hall, a primary school, a church and a small children's playground. It does not have any key amenities within walking distance. This is not the right location for this application, there is nothing for these children to do.
 27. There are inadequacies and inaccuracies in the Design & Access Statement, which appears to have been cut and pasted from other statements submitted to other Authorities and is not specific to this site. For example:
 - 'in the right places' good schools and community support: - its apparent this community does not and will not support this use.
 - "planning authorities supporting applications that reflect local needs" residents agree there is no 'need' for such a development in Palterton & other towns locally are easily more suited
 - 'fear of crime and anti-social behaviour' - is a planning consideration and given Palterton has, absolutely NO anti-social behaviour, given the background of the proposed residents, the current residential harmony will inevitably be affected.
 - 'viability and market considerations' - Palterton housing 'stock' is too expensive

for such consideration, surely there is better economic housing in & around the local area? (ie Bolsover/Shirebrook which in turn have better facilities within the town?)

- “close to services/facilities” Palterton doesn’t offer any facilities for the proposed age range
- “significant contribution to the wellbeing of the community” - how does this development provide any contribution to the Palterton community
- “not materially different from a typical residential household” - A typical residential household would be 2 adults with 2/3 children with separate age ranges not 2/3 adult carers and 4 children of similar age range. Additionally, as a residential property, the house isn’t fit for purpose as a care home.
- ‘there would be one changeover of the overnight care staff per day, usually 9.30am each morning, which would last for around 10 minutes’. From a safeguarding perspective this is completely unachievable. Staff will be not be able to effectively and safely feedback the events and actions of up to four children with complex needs in 10 minutes. During this time they will potentially have to put in place new risk assessments to meet the needs of the residents. If these meetings do go on for longer, this will result in further vehicles being parked up on the cul-de-sac for prolonged periods of time posing a safety risk to pedestrians and other road users.
- “Under the requirements of OFSTED, such care homes must be run as closely as possible to a typical family household” This is false. The term family household is not found in OFSTED policy, regulatory, or guideline documents. This shows a lack of understanding for what is involved and the type of care they are providing.
- “there is room for off-street parking for 3 cars.” this is false .
- “Parental Support” to the children. OFSTED policy and guidelines exhaustively explain what the roles of the carers are and nowhere does it mention that they provide parental support.
- “The table in the DAS used to show the comings and goings is the same table used in a previous DAS with respect to 2 and 3 children residences. It has not been adjusted to reflect the number of trips that will be required for a 4 child residence.
- The DAS references 3 appeals to dismiss any concerns regarding noise, traffic, crime, and anti-social behavior, however these references were from appeals related to Lawful Development Certificates all involving the same Agent and did not involve a material development. They are therefore inappropriate.
- The agent makes reference to LC3 in the BDC Development Plan to justify the need for the children’s home, however the reference was inappropriate as LC3 makes no mention of children’s homes.
- The DAS uses words like hopefully, usually, expects to, and aims to, which are vague and non-committal, and prevent the council from being able to measure if the applicant is abiding by what they have proposed.
- The DAS states the purpose of the home is for children with emotional and/or behavioral difficulties in 1 paragraph then states that the company’s (GCOM) model is to provide accommodation to children with a range of learning difficulties, other needs, and challenges. Given these two different descriptions, the council cannot know what the actual use will be.

- The DAS states that the comings and goings would not be materially different from a typical residence. This is false. If they were nor materially different from a typical residence then the proposal would not be classified as a material development and would not need planning permission. Four children close to the same age with emotional and behavioral problems and numerous carers cannot be compared to a typical residence, especially a residence that is typical to Palterton.
28. The DAS is missing any detail in explaining how Amenity issues such as noise, traffic, crime, and anti-social behavior will be mitigated to demonstrate that the applicant has a firm command of these issues. Instead the Agent mistakenly uses the comparison to a “normal family home” to dismiss any concerns. These are legitimate arguments when applying for Lawful Development Certificate to house only 2 or 3 children, but the Agent failed to remove these to change the context of this DAS to reflect that as a “Material Development” where they are not sufficient.
 29. The access to the parking area is through a tight archway which is difficult to access and there is limited room on site for three cars and no turning area unless all of the amenity space is removed. It is likely that vehicles will not use this difficult on-site parking and will park on the road instead.
 30. Vehicles parking on the pavement near the site will result in pedestrians having to walk in the road which is dangerous.
 31. The proposal includes little or no plans in place for the education of vulnerable children and young people who would live on site and falls short on explaining how these children will be fed/cared for etc in this environment.
 32. The proposal will result in significant harm to the amenity of adjacent residents as a result of noise, disturbance, fear of crime etc.
 33. The lack of facilities in the village means this is not a sustainable location for such a use.
 34. Palterton is a village primarily populated by a more mature population. Young people living in more isolated areas without easy access to age-appropriate social activities can become bored and un-challenged. This can lead to reckless and anti-social behaviour.
 35. Palterton is a close knit community with no anti-social behaviour. If this use is interested residents may move out of the village, destroying that community.
 36. Studies show young people "felt that they lived in 'nowhere land' and the lack of opportunities to meet with other people like them led to a decline in their mental health due to social isolation". Palterton, has nothing to offer young people by way of recreation and to that end, is NOT a suitable location for a children's home.
 37. Bolsover is the nearest town and this also has little to offer by way of social pursuits for young people and is indeed becoming more troubled with fighting and aggressive behaviour and is therefore not an area to be introducing young people to who have complex emotional needs. This proposed children's home should be sited in an area with easier and safer access to appropriate social diversions and also in an area where there is a wider support network of professional healthcare support.
 38. The potential residents of this proposed children's home are ripe to be exploited for 'county lines' drug running. This has been a repeated problem for Palterton over the years. The property in question directly overlooks the playing field where witnesses regularly see cars parked on the playing field and car park in the early hours of the morning. This makes these young people dangerously situated to exposure to exploitation.

39. Young people living in rural areas appear to have been disproportionately affected by unemployment following the recent financial crisis. There is no joined up thinking about the future of the residents of this proposed children's home. Such young people face a number of uniquely rural barriers, particularly concerning access to transport, careers advice and employment.
40. The application breaks Article 8 of the Human Rights Act 1998: the right to respect for your family and private life and your home. The homes of those in the area closest to the named property will be seriously affected by noise nuisance such as shouting, screaming and fist pounding when heightened emotional outbursts arise. The village of Palterton is one of a rural nature and occupants of the village have a right to go about their lives in peace, free from fear and anxiety.
41. Staff in such homes are not allowed to restrain children so if there is anti-social behaviour or disruption the police will need to be called every time which is distressing for local residents.
42. The location will not help or provide for the children it is proposed to home. There are no services and facilities in Palterton. There are no youth groups for them to engage in and the local park is only suitable for younger children. The bus service is very limited which would restrict the amount of freedom and independence given to these children/young adults. This could result in severe feelings of isolation which can have a very negative impact on mental health, wellbeing and self-esteem. These are three very important factors which should be top priority for the applicant in regard to the children/young adults entrusted into their care.
43. There are no Local Strategies or policies within the Development Plan justifying this type of development. The BDC development plan does not identify any development objectives with regard to the need for children's residential homes as is proposed in the application. NPPF 3.16(d) states that "Plans should... contain policies that are clearly written and unambiguous, so it is evident how a decision maker should react to development proposals." Without any plans for children's homes the Council has nothing to reference in making an informed decision, or anything to measure success in meeting objectives against. Given the absence of any such direction in the BCD development plan NPPF 2.11(d) states that "where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, granting permission unless:
 - i. the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or
 - ii. any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.
44. The village is often cut off by snowfall and it will not be possible to provide care at the home when this happens.
45. The location does not fit the description in the ministerial statement by Rachael Maclean (Minister of State Department for Levelling up, Housing and Communities) in March 2023 which stated "it is important that the care system provides stable, loving homes close to children's communities. These need to be the right homes, in the right places with access to good schools and community support. It is not acceptable that some children are living far from where they would call home (without a clear child protection reason for this), separated from the people they know and love".
46. The property overlooks adjacent dwellings and will result in a loss of privacy for adjacent dwellings and gardens.
47. The extension at the property has not been built in accordance with the approved plans

and results in people hanging out of the rooflights, overlooking adjacent dwellings/gardens.

48. Concern is expressed for the safety of ladies attending the exercise classes in the village hall if the residents of the home display anti-social behaviour.
49. The bathroom windows of the adjacent dwelling will look into the bedrooms of the children when they are open which is inappropriate.
50. Changing the application from four children to three children does not overcome any of the objections raised.

Letters of support have been received from five households which make the following points:

1. Palterton is a safe, welcoming village which prides itself on family at the heart of it. The welcoming of the children's home for those who have not had these early life experiences is commendable and provides an opportunity to show vulnerable children how great community life is.
2. Although there is not a great deal for children to do in the village, the outdoor space will allow these children opportunities to thrive, focussing on their independence and allowing them a safe space they can adjust to. Minimising city life and distractions allows these children to start a new life for themselves and to show them how amazing the world can be.
3. There should be no assumptions about the children who will be living there and they should be welcomed into the community.
4. There is no proof that the proposal will not de-value the surrounding properties, there are no plans to alter the property at all and having them living there is no different than having a large family living there.
5. This proposed children's home in Palterton could potentially alter the course of the young people's lives who access the services. There is no reason why this home should not be given the go ahead.
6. The village has a village hall which is often used and often has a full carpark. Additionally, footballers make ample use of the pitch adjacent to the village hall. Often they park on the road as the car park is too full. Nobody complains about this matter. Likewise, the primary school makes use of the village hall, the car park and the football pitch. Again, this is not a problem. Why then should this small positive children's home?
7. Palterton will soon have a small village pub. People are not campaigning against this.
8. It is society's civic duty to care for the less well-off and disadvantaged. This proposal could make all the difference to the trajectory of a young person's life.

POLICY

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

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

- SS1 – Sustainable Development
- SS3 – Spatial Strategy and Distribution of Development
- LC3 – Type and Mix of Housing

- SC1 – Development within the Development Envelope
- SC3 – High Quality Development
- SC11 – Environmental Quality (Amenity)
- SC16 – Development Within and Impacting Upon Conservation Areas
- ITCR11 – Parking Provision

National Planning Policy Framework (“the Framework”)

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

- Chapter 2: - Achieving sustainable development.
- Paragraphs 7 - 10: Achieving sustainable development.
- Paragraphs 47 - 50: Determining applications.
- Paragraphs 55 - 58: Planning conditions and obligations.
- Paragraphs 96 - 107: Promoting healthy and safe communities.
- Paragraphs 108 - 117: Promoting sustainable transport.
- Paragraphs 123 - 127: Making effective use of land.
- Paragraph 191: Ground conditions and pollution.
- Paragraphs 200 - 214: Conserving and enhancing the historic environment.

Supplementary Planning Documents

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

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

ASSESSMENT

Key issues

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

- The principle of the development
- The impact on the character and appearance of the conservation area
- The impact on residential amenity
- Whether the development would be provided with adequate parking and a safe and suitable access

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

Principle

The site is within the development envelope within a predominantly residential area. To ensure the Local Plan for Bolsover District contributes to achieving sustainable development, the council has produced a Settlement Hierarchy Study which assessed the sustainability of existing settlements and ranked them accordingly. This study finds the largest settlements within the district tend to be the most sustainable. The council’s spatial strategy has a strong focus on sustainable development and on this basis, growth will be directed to the district’s more sustainable settlements such as Bolsover and Shirebrook.

Within this hierarchy, Palterton is identified as a small rural village. These small settlements in the countryside are considered to be unsustainable settlements where Policy SS3 of the Local Plan will only support limited development, infill development and conversion of agricultural buildings where appropriate.

The current proposal is considered to be small scale development which involves the change of use of an existing dwelling to the use as a children's home within the development envelope of the village and as such the proposal is considered to meet the requirements of Policy SS3 of the Local plan for Bolsover District.

Recent Government advice emphasises the provision set out in paragraph 62 of the NPPF, which notes that local planning authorities should assess the size, type and tenure of housing needed for different groups in the community and reflect this in planning policies and decisions. Paragraph 62 says the different groups include but are not limited to "those who require affordable housing, families with children, older people, students, people with disabilities, service families, travellers, people who rent their homes and people wishing to commission or build their own homes". In her statement the Housing and Planning Minister said councils should consider whether it is appropriate to include accommodation for children in need of social services as part of the NPPF assessment. She went on to say that "Local planning authorities should give due weight to and be supportive of applications, where appropriate, for all types of accommodation for looked after children in their area that reflect local needs and all parties in the development process should work together closely to facilitate the timely delivery of such vital accommodation for children across the country.

In addition, Policy LC3 of the Local Plan for Bolsover District states that the council will support the provision of housing for older people and specialist housing provision across all tenures including extra care schemes in appropriate locations, close to services and facilities. DCC Childrens Service have confirmed there is a lack of children's homes in the county and that the provision of homes by private providers would help to address this shortfall. DCC have also confirmed that in some instances a quieter location is more suitable for some children, and it would be for Ofsted to consider this issue when assessing where to appropriately locate a child.

It is acknowledged that Palterton is small rural village with very limited facilities. It has no shop, no secondary school, and no activities for older children/teenagers. It is also acknowledged that the village also has a very limited bus service. This means that the proposed use will require residents to be taken to and from school, activities, appointments etc by car. However, Bolsover, which is the nearest small town, is only 2miles away and the secondary school is only 1.7miles away. Whilst the need to travel by car to nearby towns for facilities is not ideal, this is already the case for existing Palterton residents and would be the case for residents of the site if the property remained a single dwelling. On this basis, given the identified need for children's homes in all areas in the county, the proposed use is not considered to represent development which would be so unsustainable as to justify refusal of the proposal on this ground.

The impact on the character and appearance of the conservation area

The development utilises an existing dwelling within the development envelope and the conservation area. The development does not propose any external alterations to the building

and there are no objections to the proposal from the Conservation Manager. The development is therefore not considered to be harmful to the character and appearance of the conservation area and is considered to meet the requirements of Policy SC16 of the Local Plan for Bolsover District.

Residential Amenity

Impact on residential amenity for existing residents

The property is a detached, two storey dwelling with a rear garden/parking area positioned at the entrance to a small cul-de-sac. The rear garden/ parking area is enclosed by the dwelling on site on one side and by a neighbouring dwelling to the rear. There is also a further dwelling immediately to the west of the site. This means that although the property is detached, it is very close to neighbouring properties.

The proposal does not include any external alterations to the building and as such no new windows are being introduced. The proposed use is therefore not considered to result in any additional overlooking of adjacent dwellings over and above the existing use of the property as a dwelling and as such the proposal is not considered to result in a loss of privacy for adjacent residents.

The proposed use of the site is to home children. These children could need homing for many reasons and may suffer from learning difficulties, emotional difficulties and/or behavioural issues and these issues cannot be specified at this stage as the children would be allocated to the home by Ofsted based on the provision available and the suitability for the child. If planning permission was to be granted for the change of use of the property, the children living there now or in the future could not be controlled by planning condition. As such the use of the property as a children's home needs to be considered in general terms, rather than trying to focus on the specific problems suffered by the potential future occupiers as this would be controlled by Ofsted.

As a worst case scenario, the home could be occupied by three children, all of whom could have extremely challenging behavioural issues, if Ofsted deemed that this was an appropriate placement of these children. If this was the case, there is potential for noise and disturbance from the property on a regular basis and potential for aggressive or anti-social behaviour. This would potentially be detrimental to the amenity of local residents and the Environmental Health Officer has expressed concern about this based on his experience from dealing with these situations.

However, if the residents of the home cause noise and disturbance for adjacent residents this could be investigated and controlled by an abatement notice. The Environmental Health Officer advises this is a protracted process, but they do have the statutory powers to control this issue. In addition, if residents are showing aggressive or anti-social behaviour, this is a matter to be controlled by the police, not by planning legislation.

That said, Policy SC11 of the Local Plan for Bolsover District states that development likely to cause a loss of residential amenity as a result of, amongst other things, noise, must be supported by a relevant assessment. In addition, paragraph 191 of the NPPF states that planning decisions should mitigate and reduce to a minimum, potential adverse impacts resulting from noise from new development and avoid noise giving rise to significant adverse impacts on health and the quality of life.

In this case a noise assessment has not been submitted with the application. However, the existing property can continue to be used as a four-bedroom dwelling without the need for planning permission. There is nothing to say that the occupiers of the dwelling would not have children with challenging behaviours or wouldn't foster children with challenging behaviours and this would not require any planning permission at all. On this basis, it could be argued that the use of the property as a children's home may not be materially different from its occupation as a dwelling in this respect and as such this is not considered to be a reason to justify refusal of the proposal. However, the probability of this happening is unlikely, and it is the Environmental Health Officer's advice that whilst the two uses are similar, they are not the same and it is therefore considered reasonable and necessary to condition the submission and implementation of a noise management plan which addressed how the potential for noise issues arising from the site are to be managed should the application be approved.

As set out above, the use of the property as a children's home could increase the potential for anti-social/aggressive behaviour in the area. Policy SC3 of the Local Plan for Bolsover District requires development to take account of the need to reduce the opportunities for crime and the fear of crime, disorder and anti-social behaviour, and promote safe living environments. In addition, paragraph 96 of the NPPF states planning decisions should aim to achieve healthy, inclusive and safe places and beautiful buildings which, amongst other things, are safe and accessible, so that crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion. Whilst this policy is aimed primarily at larger, new built development, it is clear that these issues are considered to be material planning issues which need to be taken into account.

The details of the children who are potentially occupying the property are not known, nor is their reason for being in care and as such the challenges presented by these children is unknown because this is a matter for Ofsted who allocate children to suitable homes. Even if the details of the children were known, the children occupying the property could change at any time without any need for planning permission. There is therefore no evidence that the use of this property will result in an increase in crime or anti-social behaviour and whilst there is potential for this to happen in some cases there are also many cases where small scale children's homes operate successfully in residential areas with children settling into community life. In addition there is always the possibility for the property to be occupied by residents who may bring crime and/or anti-social behaviour to the area and again this cannot be controlled by planning legislation. For this reason, the proposal is not considered to represent a use which would result in an unsafe living environment for existing residents.

The Environmental Health Officer has suggested a temporary consent be issued to allow the full extent of the impact of the proposed use to be assessed. However, as set out above, given that the residents of the home can change should Ofsted deem fit and this cannot be controlled by planning condition, a temporary consent would not address the concern raised. The success of the home's residents to integrate into the community will, to a large extent, depend on the children living there at the time and the management of the home itself and both of these matters are controlled by Ofsted. In addition, the home is intended to provide a stable home for children to stay for the time they are in care. A temporary consent would therefore potentially jeopardise the ability of the home to do this.

The issue of the impact of the home in terms of noise and disturbance for residents is not

restricted to noise and disturbance from residents of the home. It could also be as result from the comings and goings associated with the use of the property as a children's home in terms of staff, visitors etc.

A design and access statement has been submitted with the application which details how the home will operate in terms of staff, visitors etc. Further information on these matters has also been requested and provided by the applicant, as has a locality assessment which is to be submitted to Ofsted. There are a number of discrepancies in these documents about the details of the staffing arrangements, how staff will access the site, how the children would be taken to activities, visitor numbers to the property etc. This makes the assessment of the impact of these comings and goings very difficult. However, these discrepancies are likely to be as a result of the fact that exact figures cannot be produced because this will partly be dependent on the needs and requirements of the residents and their families at the time of occupation and the staff who are employed at any one and each of these things can vary.

For example, some children would have more family visitors than others, children will have different needs in terms of care and assessment, for example the need for medical attention or psychologist/health and well-being support. Most carers and managers are likely to travel to work by car but on occasion may travel by taxi. Children may be taken to appointments in the electric car provided by the home or in the carers' cars or by taxi. The precise details of the number and timings of these movements therefore cannot be quantified or qualified and are likely to vary on a regular basis. The impact of any noise and disturbance from such comings and goings would also therefore vary.

It is considered likely that the comings and goings from the property as a result of it's use as a care home could be greater than if the property was a single dwelling. However, if the dwelling was occupied by a family with grown up children/dependant relatives/foster children/occupiers working shift patterns etc this would require no planning permission at all. Such a family would also result in numerous comings and goings and would also have visits from friends/relatives/carers/support workers etc. Such the comings and goings would also be difficult to quantify. On this basis it is considered that the proposed use would not result in such an increase in comings and goings from the site over and above what could be reasonable expected in a residential area that it would result in noise and disturbance to residents of adjacent dwelling of a level that would cause harm to their residential amenity.

Residential amenity for future residents

The home is proposed to accommodate up to three children aged 7-18 years old. There is a primary school in Palterton but no secondary school and no facilities or organised activities for older children in the village. The dwelling on site has an enclosed private open space but this is restricted in size by the use of part of the area as a parking area. Concern has been expressed by residents that such an environment is not suitable for older children and could be damaging to their mental health and well-being. However, many residents have raised and are raising families in this environment because they feel the village is a safe and healthy environment in which to raise children. In addition, DCC Children's services have confirmed that such a quiet location may be suited to some children and that Ofsted will consider this when determining the appropriate location to home a child. On this basis, the site is considered to be capable of providing an adequate standard of amenity for its future residents.

Access/parking/highways issues

As set out earlier in the report, in terms of staff change over patterns, visitors to the home, vehicular movements to and from the home etc is not wholly quantifiable or predictable and will be dependent upon the needs to individual children in occupation at any one time.

The site is capable of accommodating two cars which could enter and leave the site in a forward direction and these spaces could be required to be provided and maintained by condition. These parking spaces could accommodate the electric car provided by the home and the managers car. This would result in the cars of carers and any visitors to the site to park on the road. It is proposed that there will be two carers working on site at any time with a 48hr shift pattern such that one of the carers changes over each day. This would potentially result in two carers parking on the road for extended periods of time with three carers parked during the handover period. There would also be additional on-street parking by any visitors.

This is not an ideal situation, particularly given the narrowness of the cul-de-sac and the proximity of the site to the entrance to the cul-de-sac which is on a 90 degree bend on Back Lane and the position of the bus stop. However, the existing dwelling could feasibly be occupied by two parents with three grown up children who all drive, resulting in the need for three cars to park on-street on a regular basis, not counting any visitors that dwelling may attract. For this reason, subject to a condition requiring no more than three children with two carers plus one manager based on site, the proposal is not considered to have a materially greater impact on street parking or highway safety than its occupation as a dwelling. On this basis the proposal is not considered to be harmful to highway safety and is considered to comply with the requirements of Policy SC3 of the Local Plan for Bolsover District and paragraph 115 of the NPPF in this respect.

Issues raised by residents

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

The issue of the solvency of the applicant and the ability of the company to manage the home have not been considered as these are matters covered by Ofsted.

The issue of covenants and mortgages on the property have not been considered as these are private matters for the parties concerned and are not material planning issues which can be taken into account.

The issue of safety for children and animals in respect of the proximity of the site to fields and unlit roads has not been taken into account as this is not considered to be any different whether the children living on site were in care or in a family environment.

The issue of the children being a target for "drug running" has not been taken into account this is not a material planning issue which could be taken into account and is a matter for Ofsted when choosing a location for homing a child and for the police.

The issue of carers not being able to attend during bad weather such as snow has not been considered. The home will offer 24hour care and as such care will always be on site. How this care will be managed in bad weather is a matter for the management of the home and Ofsted and is not a material planning issue which can be taken into account.

The issue of discrepancies in the application form and design and access statement mean that the application should be refused has not been considered as it is not possible to do that. The application was accompanied by the documents necessary to make it valid and as such the application has to be considered on its individual merits.

The issue of the appeals quoted in the design and access statement relating to applications for Lawful Development Certificates not planning applications is noted but this does not make the application invalid. These decisions have not been considered as part of the application process. The application has been considered on its individual merits and in accordance with the development plan.

CONCLUSION / PLANNING BALANCE

There is an identified need for the provision of care homes for children within the county. It is acknowledged that Palterton is not the most sustainable location for such a home, but DCC Children's Services have confirmed that a quiet location may be required for some children and it is a matter of Ofsted to home children to an appropriate location. The proposed development is therefore considered to help contribute towards this need.

There is potential for the proposal to result in noise and disturbance for adjacent residents but, subject to an appropriate noise management plan being put in place, this impact is not considered to be materially greater than could occur from the continued use of the site as a dwelling.

The potential for anti-social behaviour and the fear of crime as a result of the development is acknowledged but equally the home may provide much needed accommodation for children who would benefit and thrive within a close knit community, and it is a matter for Ofsted to ensure that children are homed in an appropriate location to suit their needs where they can learn to be part of a community.

The proposal will result in some on street parking but this is not considered to be significantly greater than if the property remains a dwelling and as such the proposal is not considered to be detrimental to highway safety.

RECOMMENDATION

The current application be APPROVED subject to the following conditions:

1. The development must be begun before the expiration of three years from the date of this permission.
2. Before the use hereby approved is first implemented, a noise management plan must be submitted to and approved in writing by the Local Planning Authority. The approved noise management plan must be implemented in full concurrent with the first occupation of the site and must continue to be implemented in accordance with the approved scheme thereafter.
3. Before the development hereby approved is first implemented, two parking spaces must be provided on site in accordance with the block plan no. 2CV-DRA-01 Rev A submitted to the Local Planning Authority via email on 23rd January 2024 and must be maintained available for parking thereafter.
4. Notwithstanding the Town and Country Planning (Use Classes) Order 1987 (or any

order revoking and re-enacting that order with or without modification) the premises must be used only as a children's care home for up to 3 children and for no other purpose (including any other use falling within Class C2 of the Order).

5. There must be no more than three members of staff on shift at the premises at any time unless otherwise agreed in writing by the Local Planning Authority

Notes

1. The three members of staff on shift must include the manager and carers on site.

Statement of Decision Process

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

Equalities Statement

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

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

Human Rights Statement

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

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

Bolsover District Council

Meeting of the Planning Committee on 14th February 2024

Appeal Decisions: July 2023 - December 2023

Classification	This report is Public
Contact Officer	Karen Wake – Planner

PURPOSE/SUMMARY OF REPORT

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

REPORT DETAILS

1. Background

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

2. Information

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

- 2.10 We have now entered the tenth monitoring period (July – December 2023) During this period the council had no appeals on major planning applications and three appeal decisions on non-major applications. Two of these appeals was dismissed and one was allowed. The appeal which was allowed was refused by Planning Committee, contrary to the officer recommendation. However, this only equated to 0.57% of the number of non-major applications determined within that period.
- 2.11 The council had no appeal decisions against the issue of an enforcement notice. The performance of Local Authorities in relation to the outcome of enforcement appeals is not being measured in the same way as planning appeals. However it is considered useful to report the enforcement appeals within the same time period to address any issues or lessons learnt from these appeal decisions.

3. Reasons for Recommendation

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

4 Alternative Options and Reasons for Rejection

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

RECOMMENDATION(S)

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

IMPLICATIONS:

Finance and Risk: Yes No

Details:

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

On behalf of the Section 151 Officer

Legal (including Data Protection): Yes No

Details:

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

On behalf of the Solicitor to the Council

Staffing: Yes No

Details:

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

On behalf of the Head of Paid Service

DECISION INFORMATION

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

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

DOCUMENT INFORMATION	
Appendix No	Title
1.	APP/R1010/W/22/331175: Clayton Farm, Green Lane, Stony Houghton, NG19 8TR
2.	APP/R1010/W/23/3317479: St Bernadettes Catholic Church, 59 High Street, Bolsover, Derbyshire S44 6HF
3.	APP/R1010/W/23/3320946: Willow Tree Family Farm, Langwith Road, Shirebrook, Mansfield, Nottinghamshire NG20 8TF

Appendix 1: APP/R1010/W/22/331175: Clayton Farm, Green Lane, Stony Houghton, NG19 8TR

The planning application was for a gravel drive to serve a touring caravan park, the creation of 5 caravan hard standings, toilet block for 10 tent pitches and dog run area. The application was refused.

Main Issues

The main issues were:

- Whether the site would be a suitable location taking account of relevant local and national policies; including having particular regard to its effect on the character and appearance of the area, the proximity of the site to the services and facilities visitors would require access to in order meet day-to-day needs, and the opportunities that would be available for transport options other than the private motor vehicle,
- The effect on the living conditions of occupiers of existing dwellings within proximity of the site, and
- The effect of the proposed development on wildlife and biodiversity.

Conclusion

The Inspector concluded that the proposal would significantly harm the rural character and appearance of the area, would have an unacceptable, detrimental effect on the living conditions of existing residents, and it had not been demonstrated that protected species would be conserved/protected and/or there would be a net gain in biodiversity. On this basis the Inspector considered that the proposal did not accord with policies SS9, WC3, WC10, S11, SC3, and SC9 of the Local Plan for Bolsover District. The Inspector considered the fact that some permitted development rights existing for touring caravans and tents and considered the policies in the National Planning Policy Framework (NPPF) but felt that they did not outweigh the harm he had identified. The Inspector therefore found no reason to determine the application other than in accordance with the development plan.

The appeal was dismissed.

Recommendations

None

The decision was made in accordance with Local plan policies. The Inspector agreed with the interpretation of these policies and that the Local Plan policies relating to development in the countryside and residential amenity are in line with the NPPF.

Appendix 2: APP/R1010/W/23/3317479: St Bernadettes Catholic Church, 59 High Street, Bolsover, Derbyshire S44 6HF

The application was for the conversion of St Bernadettes Church into a private dwelling, including alterations to the building. The application was refused.

Main Issues

The main issue for consideration was the effect of the proposed development on the character and appearance of the surrounding area, including the Bolsover Conservation Area ('the CA') and the setting of Non-Designated Heritage Assets ('NDHAs').

Conclusion

The Inspector considered the conversion included substantial alterations to the existing building. These alterations proposed would involve the loss of the asymmetrical roof, the row of high-level windows within the side elevation, and the irregularly arranged windows within the front elevation which were features that gave the building its characteristic design. The alterations included a garage door, Juliet balcony with floor-to-ceiling windows, anthracite coloured fenestration, modern exterior doors, and full height glazing within the front elevation would be incongruous and the Inspector considered that, except for the garage door, the alterations would not reflect the local context.

The Inspector went on to say that existing building was set behind a stone wall and therefore unlike the adjacent buildings, did not abut the back edge of the pavement. However, the building was close to the pavement and, together with the stone wall, they added to the sense of enclosure along this part of the road. The Inspector considered that the proposed demolition of the front façade, part of the side elevation and the porch would erode the sense of enclosure by setting the building significantly back from the pavement and the proposed hard surfacing to the front and side of the building, proposed to be used for parking and turning would detract from the strong enclosure along this part of the road.

The Inspector also considered the proposed materials to be used in the conversion could result in a pastiche design that could harm the significance of the Conservation area. The Inspector accepted that a condition requiring submission of materials for approval could be imposed but agreed with the council that the materials should be considered prior to determination to ensure they would be acceptable.

For the above reasons, The Inspector concluded that the proposal would detract from the character and appearance of the surrounding area, contrary to the requirements of Policy SC3 of the Local Plan for Bolsover District which, amongst other things, seeks to ensure that developments respond positively to their context and contribute to local identity and heritage. The Inspector also concluded it would be contrary to the Successful Places supplementary planning document and paragraph 126 of the Framework that seeks to create high quality, beautiful and sustainable buildings and places.

The Inspector considered that the proposal would significantly change the contribution the appeal site provided to the significance of the Conservation area and the setting of the non-designated heritage assets and would result in harm to these heritage assets. The harm would be less than substantial harm to the character and appearance of the Conservation area and therefore in accordance with paragraph 202 of the Framework, it was necessary to weigh the harm against the public benefits of the proposal including, where appropriate, securing its optimum viable use. In doing so, paragraph 199 of the Framework explains that great weight should be given to the conservation of the designated heritage assets. Furthermore, in weighing developments that indirectly affect Non designated heritage assets, paragraph 203 of the Framework requires a balanced judgement having regard to the scale of any harm or loss and the significance of the heritage asset.

The Inspector considered the provision of one dwelling would make a contribution, albeit small, to the Government's objective of boosting the supply of new homes, there would be some short-term employment through the construction phase of the development and some modest public benefits would result from the additional support to the local community and its services from future occupiers of the dwelling. The Inspector also considered there would be some public benefits associated with bringing the building back into use but concluded that the alterations proposed were not necessary to secure the future use of the building.

The Inspector concluded that the harm the proposal would cause to the significance of the Conservation area and the significance of the setting of the non-designated heritage assets would not be outweighed by the modest public benefits provided by the proposal. On this basis the Inspector found that the development would conflict with Policies SC16 and SC21 of the Local Plan and the requirements of the Framework in terms of conserving heritage assets in a manner appropriate to their significance.

The appeal was dismissed.

Recommendation

None

The decision was made in accordance with Local plan policies. The Inspector agreed with the interpretation of these policies and that the existing policies relating to development in the Conservation area and adjacent to non-designated heritage assets are in line with the NPPF.

Appendix 3: Appeal Ref: APP/R1010/W/23/3320946: Willow Tree Family Farm, Langwith Road, Shirebrook, Mansfield, Nottinghamshire NG20 8TF

The application was for the erection of 2 marquees and toilets, re-surfacing of existing access lane in association with mixed use of the site and an extension of the family farm for the keeping of animals.

The application was reported to Planning Committee with the following recommendation:

The current application be referred to the Secretary of State via the National Planning Casework Unit with a recommendation that the application be APPROVED subject to the following conditions:

1. The use of the former playing pitch as an extension to the town farm and the use of the marquees for functions which do not directly form part of the use of the site as a town farm must be discontinued and the land restored to its former condition on or before 21st December 2024 in accordance with a scheme of work submitted at least two months before the expiry of the permission and approved in writing by the Local Planning Authority.
2. The use of the former playing pitch must be for the keeping of animals and occasional parking of vehicles in connection with the use of the site and there must be no permanent structures, buildings or fences erected on the site without the prior grant of planning permission.
3. Within 28 days of the date of this decision the noise management plan set out on page 19 of the Noise Impact Assessment (Nova Acoustics 20.10.2022) submitted to the Local Planning Authority on 20th October 2022 must be implemented on site in full and must remain in place for the length of this permission unless otherwise agreed in writing by the Local Planning Authority.

Planning Committee disagreed with the officer recommendation and refused the application for the following reasons:

1. The proposal does not accord with any of the exceptions to Sport England's playing fields policy or with Paragraph 99 of the National Planning Policy Framework or Policy ITCR7 (Playing Pitches) in the Local Plan for Bolsover District (2020). As a result the proposal will lead to the loss of an allocated playing field known as Shirebrook Recreation Ground, contrary to the provisions of the development plan.
2. The noise report submitted with the application recognises there could be issues if the event plays music at the levels found typically with this sort of venue, and it proposes very low internal maximum noise limits, which are unlikely to make the venue viable for the proposed use. There is also no consideration of the noise levels from guests singing and shouting at the venue, only raised voices has been assessed. This is a significant source of noise at entertainment venues, and it is one that is not possible to reasonably mitigate given the nature of the venue. It is not considered possible to use reasonable and enforceable planning conditions that would safeguard neighbouring amenity and the proposal is therefore contrary to the requirements of Policy SC11 of the Local Plan for Bolsover District.

Main Issues

The main issues for consideration were:

- whether the location of the development complies with the development plan, with particular regard to the provision of playing fields; and,
- the effect of noise and disturbance from the development on the living conditions of nearby residents.

Conclusion

The Inspector considered that the proposed marquees, toilets and access track were located within the development envelope for the settlement and supported the local economy by providing accessible employment opportunities suitable for local people.

The inspector concluded that these elements of the proposal were therefore in accordance with the Local Plan and were acceptable in principle.

The playing pitches are located outside the development envelope, within the countryside where development is strictly controlled. However, development that is necessary for the efficient or viable operation of agriculture and agricultural diversification, such as the keeping of animals and occasional parking, is supported in the countryside by policy SS9 of the Local Plan. As the use of the playing pitches for the keeping of animals and parking associated with the farm park and marquees helps to support the farm, the Inspector considered that development also complied with this policy.

The Inspector acknowledged that playing pitches within the district are protected from development by policy ITCR7 of the Local Plan. This protection extends to disused playing pitches such as those on site, which have not been used for sports since at least August 2017. The National Planning Policy Framework also advises that existing sports land, including playing fields, should not be built on unless they have been shown to be surplus to requirements, or the land would be replaced by equivalent or better provision.

The Inspector also acknowledged that Sport England opposed the application because the locality had a high demand for football pitches and the Bolsover Playing Pitch Strategy Assessment Report (2017) found no surplus of playing field provision. With no replacement of the playing pitches proposed, the development was not supported by Sport England's Playing Field Policy.

However, the Inspector considered that in this case, the application was for a temporary permission for use of the playing pitches, and it would not involve the erection of any permanent structures. As a result, the land would still be available to return to playing pitches if the ongoing review of the Local Plan and associated playing field strategy, action plan and assessment identify that the land needed to continue to be reserved for sports use in the future.

The Inspector concluded that whilst the development did not comply with policy ITCR7 of the Local Plan, in that it resulted in the loss of playing fields, the loss would be temporary and there was currently no demand for the pitches to be brought back into use. Therefore, the harm that would be caused to playing field provision should the appeal be allowed was limited.

The Inspector acknowledged that the appellant holds a licence from the Council which allows the marquees and outdoor area to be used for events such as weddings and the sale of alcohol in relation to such events, between 10am and 11pm on any day of the week, with the venue closing no later than midnight. As the nearest houses are approximately 60m to the west and 125m to the south, the potential for noise from the events to cause disturbance exists.

The Inspector considered that as the venue has been operating for some time it was possible to assess the noise it creates, and a noise impact assessment had identified a need for a suitable noise management plan to avoid justified complaints. Given that, during the 2 year period the venue has been in use, approximately 150 events have taken place and only 2 complaints have occurred, the Inspector concluded that the implementation of an appropriate noise management plan should protect residents from

noise and disturbance, and this could be secured by a condition. If the management plan was not adhered to, and noise disturbed neighbours, the Inspector felt the council could remedy this through its planning enforcement, noise nuisance and licensing powers.

The Inspector concluded that noise from the development would not have a material adverse effect on the living conditions of nearby residents. As a result, the development complied with policy SC11 of the Local Plan which seeks to prevent harm in this regard.

Access to and from Willow Tree Family Farm and the appeal site is via the grounds of the former education centre. The owner of the education centre stated that the farm has no right to use parking facilities within the site of the former centre and that the proposed parking facilities are inadequate. The Inspector considered that access and use of parking on land that is owned by another party was a matter of civil law and was not relevant to the consideration of the planning merits of the appeal.

The Inspector considered that the parking facilities that had been provided, the parking available on the playing fields, in conjunction with the agreement with a neighbouring sports social club to provide additional spaces, was sufficient to provide adequate off road parking.

The conclusion reached by the Inspector was that the change of use of the playing fields was contrary to policy ITCR7 of the Local Plan. However, the harm caused would be limited as the temporary permission meant that the fields would be retained and returned to playing pitches should they be required to be in the future. Furthermore, the appeal scheme supported the development of Willow Tree Family Farm which is a valued local charity. This benefit was considered significant and in conjunction with the temporary nature of the permission was sufficient to outweigh the conflict that exists with the Local Plan. The Inspector concluded that material considerations indicated that the scheme should be determined other than in accordance with the development plan.

The appeal was allowed subject to the following conditions which were set out in the committee report:

1. The use of the former playing pitch as an extension to the town farm and the use of the marquees for functions which do not directly form part of the use of the site as a town farm must be discontinued and the land restored to its former condition on or before 21st December 2024 in accordance with a scheme of work submitted at least two months before the expiry of the permission and approved in writing by the Local Planning Authority.
2. The use of the former playing pitch must be for the keeping of animals and occasional parking of vehicles in connection with the use of the site and there must be no permanent structures, buildings or fences erected on the site without the prior grant of planning permission.
3. Within 28 days of the date of this decision the noise management plan set out on page 19 of the Noise Impact Assessment (Nova Acoustics 20.10.2022) submitted to the Local Planning Authority on 20th October 2022 must be implemented on site in full and must remain in place for the length of this permission unless otherwise agreed in writing by the Local Planning Authority.

Recommendation

Committee members should ensure that if they determine an application contrary to an officer recommendation, that decision should be restricted to planning considerations and should be made in accordance with the Policies in the local plan unless the report advises of material planning considerations which indicate otherwise.



Bolsover District Council

Meeting of the Planning Committee on 14th February 2024

Quarterly Update on Section 106 Agreement Monitoring

Report of the Portfolio Holder for Corporate Governance

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

of this was approved by Planning Committee in September 2022 and it governs the work of the Council's cross-departmental Section 106 Monitoring Group.

- 1.5 Following the quarterly Section 106 Monitoring Group meeting, officers provide a progress report to the Planning Committee in respect of the monitoring of Section 106 Agreements. In line with the approved Procedure this progress report is required to highlight any sums at risk of clawback that need spending within 24 months, as well as a summary of the sums being held by infrastructure type that are in years three, four and five. Accordingly, this report is the quarterly progress report following the meeting of the Section 106 Monitoring Group held on 18th January 2024.

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 November, eight sums were identified as being within their 24-month deadline as of 24th October 2023.
- 2.3 As of the Monitoring Group meeting on 18th January 2024 there are seven sums within their 24-month deadlines (details below).

Spend Date within 12 months (by 18th January 2024)

Action Plan	Finance Spreadsheet	Site	Infrastructure and amount	Amount remaining	Date
Item 9	Line 85	Rosewood Lodge Farm South Normanton	Outdoor Sport (£43,548.85)	£20,460.85 No change	21.05.24
Item 10	Line 85	Rosewood Lodge Farm South Normanton	Health (£80,141.59)	£80,141.59 No change	21.05.24
Item 17	Line 83	Mansfield Road, Tibshelf	Outdoor Sport (£164,153)	£163,003 Reduced	20.12.24

Spend Date within 2 years (by 18th January 2025)

Action Plan	Finance Spreadsheet	Site	Infrastructure and amount	Amount remaining	Date
19	Line 89	Oxcroft Lane , Bolsover	Outdoor Sport (£125,336.69)	£123,614.19 Reduced	10.03.25
20	Line 87	Station Road, Langwith Junction	Open Space (£52,000)	£64.23 Committed	30.01.25
21	Line 91	High Ash Farm, Clowne	Open Space (£10,184.39)	£10,184.39 No change	19.3.25
22	Line 88	Station Road, Langwith Junction	Health (£16,000)	£16,000 No change	30.1.25

- 2.4 Members will note that since the quarterly update report presented to October's meeting of the Planning Committee the Outdoor Sport allocation from Mansfield Road Tibshelf has now come within the 12-month spending threshold. The allocation has however been reduced with the spend of £1,150 towards the cost of a topographic survey.
- 2.5 Since the last Planning Committee there has been further spending against the Outdoor Sport allocation from the development at Oxcroft Lane Bolsover to provide a Skatepark at Hornscroft Park. A further £827.50 has been spent comprising £474 on additional planning fee (uplift from outline to full application) and £353.50 for earthworks modelling. To date a total of £1,722.50 has been spent from this allocation.
- 2.6 At the time of the Monitoring Group meeting in January the residual sum from the Open Space allocation at Station Road Langwith junction was committed. Since the meeting this has been paid. This item is therefore now removed from the Action plan.
- 2.7 Other than this, the amounts remaining are the same as reported to October's meeting. There are no further allocations that have come within the 2-year threshold.
- 2.8 The updates for the above items as recorded at the Section 106 Monitoring Group are set out below for Member's information.

(CADO = Community Arts Development Officer; LSPO = Leisure Special Projects Officer; PPPO = Principal Planning Policy Officer; IHPP = Interim Head of Planning Policy; CLE = Chartered Legal Executive; PPDM = Principal Planner Development Management; PA= Principal Accountant; HOL = Head of Leisure; DMCO = Development Management Case Officer); P&SM = Partnership and Strategy Manager)

Item	Development site, relevant S106 sum and spend by date	Responsible officer
6	<p>Rosewood Lodge Farm – Outdoor Sport £34,584.85 (21.05.25)</p> <p><u>Action from previous quarterly meeting</u> Revisit S106 Agreement Two weekly updates Further Action under item 3 Finance Monitoring</p> <p><u>Updates since the last meeting</u> With under 12 months left to spend, the discussion at the last meeting related to the fire damage of the canopy that was to be part funded by the S106 monies. Since that meeting, the Parish Council confirmed their intention to replace the canopy under their insurance. The canopy is to be taken down during 18th and 19th January and a new canopy will be installed at around the end of February.</p> <p><u>Meeting update</u> Once the new canopy is installed, the transfer of monies to the Parish Council will be undertaken. The monies will come from this S106 and from remaining monies from Thornhill Drive Sports allocation.</p> <p><u>Agreed Action.</u> LSPO to confirm to PPPO the amounts of monies from each source. Item to be removed from Action Plan once payment made to the Parish Council</p>	<p>LSPO</p> <p>CLE LSPO/PPPO LSPO</p> <p>LSPO</p> <p>LSPO</p> <p>PPPO/LSPO ALL</p>
7	<p>Rosewood Lodge Farm – Health £80,141.59 (21.05.24)</p> <p><u>Action from previous quarterly meeting</u> Report to the next meeting</p> <p><u>Updates since the last meeting</u> There is 4 months remaining to the spending deadline. At the last meeting it was reported that the Integrated Care Board had agreed to utilise the allocation from this and the allocation from</p>	<p>SDLPPSG&H</p> <p>SDLPPSG&H</p> <p>SDLPPSG&H</p>

	<p>Thornhill Drive, South Normanton to pay for an internal reconfiguration of the Limes Medical Centre in nearby Alfreton.</p> <p>At the reporting of the previous update to Planning Committee, Members expressed concern that the infrastructure improvements were not within Bolsover District. The Integrated Care Board have since confirmed that the residents of both South Normanton and Pinxton are patients of the Alfreton surgery.</p> <p>The ICB are going to revisit the potential for improvements to the surgery at Pinxton, before submitting the Project Implementation Document.</p> <p><u>Meeting update</u> Written update from SDLPPSG&H about correspondence with the Integrated Care Board (ICB) to investigate the point around whether the improvements to the Limes Medical Centre in Alfreton would satisfactorily provide the capacity needed for South Normanton residents, and whether it would be possible to direct the S106 sums to improvements at the Village Surgery in Pinxton at this late stage.</p> <p>In relation to the first point, data provided by the ICB shows:</p> <ul style="list-style-type: none"> • Limes Medical Centre has 2,136 S Normanton and 231 Pinxton residents registered on its patient list; • Village Surgery in South Normanton has 3,754 S Normanton and 3,238 Pinxton residents registered on its patient list. <p>This is considered to demonstrate that improvements at the Limes Medical Centre would significantly support the needs of South Normanton residents.</p> <p>Despite this, the ICB advised that they would have a second look at options for the Village Surgery in Pinxton before progressing the Project Implementation Document and submitting this to the Council to draw down the S106 sum.</p> <p><u>Agreed Action.</u> CLE to check the terms of the S106 as a priority and discuss with PPPO.</p>	<p>CLE</p> <p>SDLPPSG&H</p> <p>CLE</p>
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	<p><u>Update.</u> CLE confirmation that the S106 wording is “to provide additional health facilities in the vicinity of the Development as required as a consequence of the Development”. CLE of the view that this is wide enough to cover surrounding areas as necessary.</p> <p>The ICB has confirmed that the potential for improvements to the surgery at Pinxton is not unfortunately possible at this time and so the internal reconfiguration of the Limes Medical Centre to provide additional capacity will need to proceed. On this basis, the Project Implementation Document will shortly be submitted to draw down the funds and get them committed before the spend deadline.</p>	<p>CLE</p> <p>SDLPPSG&H</p>
<p>12</p>	<p>Mansfield Road, Tibshelf – Outdoor Sport £164,153 (20.12.24)</p> <p><u>Action from previous quarterly meeting</u> LSPO to provide monthly updates on progress to PPPO.</p> <p><u>Updates since last meeting</u> There has been significant progress by LSPO on this since the last meeting, when LSPO was due to meet with the Parish Council to discuss three potential projects. At that time these were’</p> <ul style="list-style-type: none"> • an extension of the existing pavilion, • pitch improvements, and • the Installation of a multi-use games area (MUGA) <p>In the time after this meeting the Parish Council broadened the consideration on going out to public consultation. The final project agreed by the Parish Council comprises a number of pieces of play equipment:</p> <ul style="list-style-type: none"> • A Zip wire, • A Small skate park/ramp, • An improved play area for younger children • Youth shelters • An extra basketball/football net facility • A climbing net web • And a path extension, to access the facilities. <p>LSPO has since met with suppliers and is due to go out to tender by the end of the month.</p>	<p>LSPO</p> <p>LSPO/PPPO</p> <p>LSPO</p>

	<p><u>Meeting update</u> The Parish Council have further extended the works that they wish to be undertaken to include enhancing existing paths and other minor improvements. These works will be put out to tender separately. With progress to date, it is anticipated that the spending of the allocation sum will fall within the spending deadline.</p> <p><u>Agreed Action</u> Monthly updates</p>	<p>LSPO</p> <p>LSPO/PPPO</p>
14	<p>Oxcroft Lane, Bolsover – Outdoor Sport £125,336.69 (10.03.25)</p> <p><u>Action from previous quarterly meeting</u> LSPO to report to next meeting.</p> <p><u>Updates since last meeting</u> An allocation that will contribute to new skatepark at Hornscroft Park. Since the meeting the planning application has been approved. Work should start on site as anticipated in early 2024.</p> <p><u>Meeting update</u> Archaeological recording required by Derbyshire County Council. Archaeologist will be on site in February. Contractor is lined up for 25th March. Construction should be underway or thereabouts by the time of the next Monitoring Group meeting.</p> <p><u>Agreed Action</u> LSPO to report to next meeting.</p>	<p>LSPO</p> <p>LSPO</p> <p>LSPO</p> <p>LSPO</p> <p>LSPO</p>
16	<p>High Ash Farm, Clowne – Open Space £10,184.39 (19.03.25)</p> <p><u>Action from Previous Quarterly Meeting</u> LSPO to provide monthly updates on progress to PPPO.</p> <p><u>Updates since last meeting</u> Since the last Monitoring group meeting LSPO has had a further meeting with Clowne Parish Council to discuss the area in front of Dominos on North Road. The discussion centred around the possibility of a community consultation, with a request for design ideas. It is planned that this will take place in the next couple of months.</p>	<p>LSPO</p> <p>LSPO/PPPO</p> <p>LSPO</p>

	<p><u>Meeting update</u> LSPO met with the Parish Council in November and discussed a community consultation, possibly a design competition. LSPO to work with the PC in progressing this over the next couple of months.</p> <p><u>Agreed Action</u> Monthly update</p>	<p>LSPO</p> <p>LSPO/PPPO</p>
16	<p>High Ash Farm, Clowne – Open Space £10,184.39 (19.03.25)</p> <p><u>Action from Previous Quarterly Meeting</u> LSPO to provide monthly updates on progress to PPPO.</p> <p><u>Updates since last meeting</u> Since the last Monitoring group meeting LSPO has had a further meeting with Clowne Parish Council to discuss the area in front of Dominos on North Road. The discussion centred around the possibility of a community consultation, with a request for design ideas. It is planned that this will take place in the next couple of months.</p> <p><u>Meeting update</u> LSPO met with the PC in November and discussed a community consultation, possibly a design competition. LSPO to work with the Parish Council in progressing this over the next couple of months.</p> <p><u>Agreed Action</u> Monthly update</p>	<p>LSPO</p> <p>LSPO/PPPO</p> <p>LSPO</p> <p>LSPO</p> <p>LSPO/PPPO</p>
17	<p>Station Road, Langwith Junction – Health £16,000 (30.01.25)</p> <p><u>Action from Previous Quarterly Meeting</u> SDLPPSG&H / PPPO to chase progress from the ICB.</p> <p><u>Updates since last meeting</u> No further update from previous last meeting when SDLPPSG&H advised that the Integrated Care Board (ICB) were in contact to advise that they were in discussions with the Langwith Medical Centre to develop a scheme. On this basis, the ICB confirmed that they would be able to spend the £16,000 well before the January 2025 deadline.</p>	<p>SDLPPSG&H</p> <p>SDLPPSG&H</p> <p>SDLPPSG&H</p>

<u>Update at meeting</u> No further update.	
<u>Agreed Action</u> Report to the next meeting	SDLPPSG&H

2.9 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.

2.10 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 3 (31st December 2023), the following 'summary of sums' can be provided for years three, four and five.

Infrastructure type	Amount in later years		
	Year 3	Year 4	Year 5 and beyond
Art	£20,933.45	£12,695.12	£477.46 (no clawback)
Outdoor Sport	£64,089.90	£48,723.75	£220,025.69 (of which, no clawback against £32,867.69)
Informal Open Space	£30,400.07	£116,794.50	£109,359.00
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
	£127,207.98	£178,213.37	£967,209.01

2.11 The spend profiles for Health, Highways and Biodiversity remain the same as for the previous financial quarter. Sums against Outdoor Sport in year 5 have increased with the allocation received from the development at Glapwell Nurseries. Sums against Open Space in year 5 have also increased with the allocation received from the development at Mooracre Lane, Bolsover.

3. Reasons for Recommendation

- 3.1 The implementation of Section 106 Agreements in a timely manner is essential to achieving sustainable growth across the District and protecting the quality of life for the District's residents and businesses.
- 3.2 As a result, it is important that Members receive information about the progress being made by the various Council departments to deliver Section 106 Agreements and to give Members the opportunity to assess the effectiveness of the monitoring procedures.
- 3.3 It is recommended that Members note the contents of the latest monitoring report and highlight any concerns about the implementation of the Section 106 Agreements listed.

4 Alternative Options and Reasons for Rejection

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

RECOMMENDATION(S)

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

Approved by Council McGregor, Portfolio Holder – Corporate Governance

IMPLICATIONS:

Finance and Risk: Yes No

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

On behalf of the Section 151 Officer

Legal (including Data Protection): Yes No

Details: There are no data protection implications insofar as Section 106 Agreements are part of the statutory planning register and are therefore public documents. Section 106 of the Town and Country Planning Act 1990 provides the legal framework for the acceptance and discharge of the Section 106 Agreements

and the Council's approved procedure addresses the key legislative provisions of this section of the 1990 Act.

On behalf of the Solicitor to the Council

Environment: Yes No

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

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

Staffing: Yes No

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

On behalf of the Head of Paid Service

DECISION INFORMATION

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

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

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

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