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To: Chair & Members of the  
Planning Committee

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Wednesday 27<sup>th</sup> March 2024

Dear Councillor

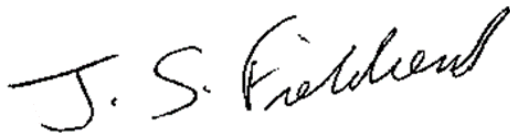
**PLANNING COMMITTEE**

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 10th April 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 page 3.

Yours faithfully



Solicitor to the Council & Monitoring Officer

## **Equalities Statement**

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

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

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- 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 10th April 2024 at 10:00 hours taking place in the Council Chamber,  
The Arc, Clowne*

<b>Item No.</b>		<b>Page No.(s)</b>
1.	<b>Apologies For Absence</b>	
2.	<b>Urgent Items of Business</b>	
	To note any urgent items of business which the Chairman has consented to being considered under the provisions of Section 100(B) 4(b) of the Local Government Act 1972.	
3.	<b>Declarations of Interest</b>	
	Members should declare the existence and nature of any Disclosable Pecuniary Interest and Non Statutory Interest as defined by the Members' Code of Conduct in respect of:	
	a) any business on the agenda	
	b) any urgent additional items to be considered	
	c) any matters arising out of those items	
	and if appropriate, withdraw from the meeting at the relevant time.	
4.	<b>Minutes</b>	4 - 18
	To consider the minutes of the last meeting held on 13 <sup>th</sup> March 2024.	
	<b><u>APPLICATIONS TO BE DETERMINED UNDER THE TOWN &amp; COUNTRY PLANNING ACTS</u></b>	
5.	<b>21/00331/FUL - Full Planning Application for Residential Development - Open Space East of Dahlia Avenue South Normanton</b>	19 - 49

## PLANNING COMMITTEE

Minutes of a meeting of the Planning Committee of the Bolsover District Council held in the Council Chamber, The Arc, Clowne, on Wednesday, 13 March 2024 at 10:00 hours.

### **PRESENT:-**

Members:-

Councillor Tom Munro in the Chair

Councillors Justin Gilbody, Chris Kane, Duncan McGregor, John Ritchie, Phil Smith and Carol Wood.

Officers:- Sarah Kay (Assistant Director of Planning and Planning Policy), Jenny Owen (Chartered Legal Executive), Steve Phillipson (Principal Planner), Julie-Anne Middleditch (Principle Planning Policy Officer), Matt Connley (Special Projects Officer) (for item PL67-23/24 only), Amy Bryan (Governance and Civic Manager) and Matthew Kerry (Governance and Civic Officer).

### **PL61-23/24 APOLOGIES FOR ABSENCE**

Apologies for absence had been received on behalf of Councillors Robert Hiney-Saunders and Janet Tait.

### **PL62-23/24 URGENT ITEMS OF BUSINESS**

There were no urgent items of business to consider.

### **PL63-23/24 DECLARATIONS OF INTEREST**

Members were requested to declare the existence and nature of any disclosable pecuniary interests and/or other interests, not already on their register of interests, in any item on the agenda and withdraw from the meeting at the appropriate time.

There were no declarations of interest made.

### **PL64-23/24 MINUTES**

Moved by Councillor Duncan McGregor and seconded by Councillor John Ritchie  
**RESOLVED** that the Minutes of a Planning Committee held on 14<sup>th</sup> February 2024 be approved as a correct record.

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**PL65-23/24            22/00402/FUL - FULL PLANNING APPLICATION COMPRISING PROPOSED LINK ROAD BETWEEN SHUTTLEWOOD ROAD AND OXCROFT LANE, INCLUDING DEMOLITION OF BOLEAPPLETON FARM AND ASSOCIATED OUTBUILDINGS, GROUND LEVEL CHANGES, AND CONSTRUCTION OF 161 DWELLINGS WITH PUBLIC OPEN SPACES, ACCESS ROUTES, LANDSCAPING AND ASSOCIATED WORKS - LAND SOUTH WEST OF BROCKLEY WOOD OXCROFT LANE BOLSOVER**

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

The application site was partially outside the settlement framework and so the proposal was contrary to the countryside protection policy SS9 of the local plan. However, the application was recommended for approval. Therefore, the decision had to be made by Planning Committee.

The application had also been referred to Planning Committee by Councillor Donna Hales.

The proposed application offered a means to deliver a distributor road to link Shuttlewood Road through the site to connect to Oxcroft Lane in accordance with the requirement of local plan policy LC1. A goal which otherwise was unlikely to be delivered for the foreseeable future. The key issue to consider was whether this benefit, together with the other benefits of the development, outweighed the harm caused by approving the application contrary to SS9 and any other harms with consideration given to issues including:

- the principle of the development and link road
- highway safety and the local road network
- the landscape and visual impact of the proposed development
- biodiversity
- design and housing layout
- local infrastructure capacity
- other technical issues: stability; archaeology; drainage; telecom mast; noise.

The application was a full planning application comprising proposed link road between Shuttlewood Road and Oxcroft Lane, including the demolition of Boleappleton Farm and associated outbuildings, ground level changes, and construction of 161 dwellings with public open space, access routes, landscaping and associated works. An extract of the proposed layout plan was set out in the report.

The application was recommended for approval subject to prior entry into a s.106 legal agreement and subject to conditions.

36 objections had been received (plus an additional 6 representations following re-consultation, from people who had already objected following initial consultation). The majority of objections had been received from residents of Shuttlewood Road. 1 resident had said that they would support the new link road. Details of the objections were set out

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in the report.

The Supplementary Update Report provided comments from the Leisure Services Officer, further information on the timing of the link road provision and affordable housing. The report also set out updated recommendations (A, G and an additional recommendation H) and amended wording for conditions 20 and 21.

Councillor Cathy Jeffery, on behalf of Councillor Donna Hales, attended the meeting and spoke against the application.

Nick Clarke attended the meeting and spoke against the application.

Raymond Ford attended the meeting and spoke against the application.

Darren Abbott (Applicant) attended the meeting and spoke for the application.

Members of the Committee asked the applicant a number of questions regarding the construction of the link road, training for local labour, removal of hedgerows and the feasibility of the scheme.

Moved by Councillor Duncan McGregor and seconded by Councillor Phil Smith

**RESOLVED** that the application be APPROVED subject to prior entry into a s.106 legal agreement containing the following planning obligations (listed in precis form only):-

Provision and maintenance of off-site biodiversity compensation including a requirement for the submission and approval of a Habitat Management and Monitoring Plan (HMMP) prior to commencement of development, along with sufficient funding for management and monitoring for a period of at least 30 years.

A. Affordable Housing 10% on site – (tenure mix of 7.5% Affordable rent, 2.5% First Homes).

B. Education:

- Infant: £39,454.10 for 2 infant places.
- Secondary: £59,449.94 for 2 secondary places.
- SEND: £119,316.42 for 1.41 SEND places of arising from a development (Special Schools as well as Enhanced Resources within mainstream schools).

C. Library - Stock contribution of £11,400.

D. Travel Plan - Monitoring contribution sum of £1,265 per annum for 5 years (£6,325).

E. Health £146,880 Local GP practices.

F. S.106 Monitoring Fee of £77 per S.106 payment trigger.

G. Leisure

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- Playing Pitch Contribution- £208,656

(The onsite aspects including amenity green space, semi-natural green space and equipped play area being required in a scheme to be approved by conditions).

- H. Provision of the proposed link road between Oxcroft Lane and Shuttlewood Road to at least base course level (in accordance with drawing 600512-HEX-XX-XX-DR-TP-0111 Rev PO7) before 40 dwellings have been occupied or within 2.5 years (30 months) of commencement, whichever is sooner.

AND subject to the following planning conditions (in precis form only with final wording and list of conditions delegated to the Assistant Director of Planning and Planning Policy):

### Conditions

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

\*Final list of approved plans to be inserted\*

3. Nesting Birds

No stripping, demolition works or vegetation clearance shall take place between 1<sup>st</sup> March and 31<sup>st</sup> August inclusive, unless preceded by a nesting bird survey undertaken by a competent ecologist no more than 48 hours prior to clearance. If nesting birds were present, an appropriate exclusion zone must be implemented and monitored until the chicks have fledged. No works shall be undertaken within exclusion zones whilst nesting birds are present.

4. Construction Environmental Management Plan (CEMP: Biodiversity)

No development shall take place (including demolition, ground works, vegetation clearance and movement of plant, machinery and materials) until a Construction Environmental Management Plan (CEMP: Biodiversity) has been submitted to and approved in writing by the local planning authority. The CEMP (Biodiversity) shall reflect the measures set out in Section 4 the Preliminary Ecological Appraisal (FPCR, March 2023) and 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.
- d) The location and timing of sensitive works to avoid harm to biodiversity features.

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- 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.

### 5. Archaeology

- a) "No development shall take place until a Written Scheme of Investigation for archaeological work has been submitted to and approved by the local planning authority in writing, and until any pre-start element of the approved scheme has been completed to the written satisfaction of the local planning authority. The scheme shall include an assessment of significance and research questions; and
  - 1) The programme and methodology of site investigation and recording;
  - 2) The programme for post investigation assessment;
  - 3) Provision to be made for analysis of the site investigation and recording;
  - 4) Provision to be made for publication and dissemination of the analysis and records of the site investigation;
  - 5) Provision to be made for archive deposition of the analysis and records of the site investigation;
  - 6) Nomination of a competent person or persons/organization to undertake the works set out within the Written Scheme of Investigation".
- b) "No development shall take place other than in accordance with the archaeological Written Scheme of Investigation approved under condition (a)."
- c) "The development shall not be occupied until the site investigation and post investigation reporting has been completed in accordance with the programme set out in the archaeological Written Scheme of Investigation approved under condition (a) and the provision to be made for publication and dissemination of results and archive deposition has been secured."

### 6. Slope Stabilisation Measures

Prior to the commencement of development, detailed engineering drawings and information showing the provision of appropriate slope stability measures



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for the site shall have been submitted to and approved in writing by the Local Planning Authority. The slope stability measures shall accord with the following requirements and shall be implemented as approved:-

- 1) No reduction in ground levels shall be permitted at the bottom of the valley.
- 2) No increase in ground levels shall be permitted at the crest of the slope.
- 3) The slope of any part of the site shall not be steeper than 1 in 6 unless appropriate slope stabilisation measures are incorporated.
- 4) The slope of parts of the site to be occupied by houses shall not exceed 1 in 10 (or 1 in 8 if appropriate land drainage is used) unless other suitable slope stabilisation measures are incorporated.
- 5) Should there be a need for retaining walls where the ground slopes at more than 1 in 10, the maximum retaining wall height shall be 3.0m and there shall be a slope of no steeper than 1 in 40 for a zone 3.5 times the retained height in front of and behind the retaining wall. This zone should not overlap a similar zone from another retaining wall. (That is the width of level ground between two retaining walls should be no less than seven times the average of their retained heights. This gives an overall slope of 1 in 6.)
- 6) Land drainage running perpendicular to the site contours shall be provided where ground with a gradient of between 1 in 8 and 1 in 10 is to be developed with housing or roads or where any springs are encountered.
- 7) Soakaways shall not be used for this development.
- 8) No trench more than 1m deep and 10m long shall be dug approximately parallel to the site contours in the steeper sections.
- 9) No spoil heaps over 1.5m high shall be placed on any part of the slope where the gradient measured over a width extending 20m from the stockpile, or each side of it, is steeper than 1 in 10.

### 7. Surface Water Drainage Details

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

- a) Flood Risk Assessment and Drainage Strategy prepared by Hexa Consulting Engineers, Ref: 600152, Dated 21<sup>st</sup> March 2023, Revision V06 and “including any No objections in principle Conditions Recommended X Objection Recommended PUBLIC subsequent amendments or updates to those documents as approved by the Flood Risk Management Team”;
- b) And DEFRA’s Non-statutory technical standards for sustainable drainage systems (March 2015), have been submitted to and approved

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in writing by the Local Planning Authority.”

### 8. Surface Water Management During Construction

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

### 9. Surface Water Drainage System Verification Report

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

### 10. Foul Drainage Details

No development shall take place until details of the proposed means of disposal of foul water drainage for the whole site, including details of any balancing works, off-site works and phasing of the necessary infrastructure, have been submitted to and approved by the local planning authority. If sewage pumping is required from any part of the site, the peak pumped foul water discharge must not exceed 6.7 (six point seven) litres per second.

Furthermore, unless otherwise approved in writing by the local planning authority, no buildings shall be occupied or brought into use prior to completion of the approved foul drainage works that would service that building.

The site shall be developed with separate systems of drainage for foul and surface water on and off site. The separate systems shall extend to the points of discharge to be agreed.

### 11. No piped discharge of surface water from the application site shall take place until works to provide a satisfactory outfall, other than the existing local public sewerage, for surface water have been completed in accordance with details submitted to and approved by the Local Planning Authority.

### 12. Ground Contamination

#### 1) Before the commencement of the development hereby approved:

Works identified in the Remediation Strategy submitted with the application Report ref KE/GCB/JRH/47129-003 shall be undertaken in accordance with the scheme in that report. The Remediation works shall ensure that the [site] [development] 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.

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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.

- 2) No [dwellings/buildings] 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, 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 described in the Phase I contaminated land assessment (desk-study) ref [ ] submitted with the application and through the process described in 1 above and;
  - c) Upon completion of the remediation works required by 1 above 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.

### 13. Habitat Management and Monitoring Plan (HMMP)

A Habitat Management and Monitoring Plan (HMMP) shall be submitted to, and be approved in writing by, the LPA prior to the commencement of the development. This shall identify the habitats to be retained, created and / or enhanced on the site and specify the appropriate management prescriptions and responsibilities for 30 years from the date of this permission, to secure the predicted condition targets, as per the approved biodiversity metric for the application. The HMMP shall also set out a monitoring schedule to ensure targets are met and remedial actions to take if not.

### 14. Species Enhancement Plan

Prior to building works commencing above foundation level, a Species Enhancement Plan shall be submitted to and approved in writing by the Local Planning Authority. Approved measures shall be implemented in full and maintained thereafter. The Plan shall clearly show positions, specifications and numbers of features, which will include (but are not limited to) the following:

- universal nest boxes at ratio of 1:1, in line with British Standard

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- owl box(es) in suitable location close to Brockley Wood
- integrated bat boxes in 30% of dwellings
- insect bricks in 30% dwellings and / or towers in public open space.
- fencing gaps 130 mm x 130 mm to maintain connectivity for hedgehogs in all gardens.

### 15. Lighting

Prior to the installation of lighting fixtures, a detailed lighting strategy shall be submitted to and approved in writing by the LPA 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.

### 16. Street Trees

Street trees shall be provided and maintained in accordance with a scheme to be submitted to and approved in writing by the local planning authority.

All proposed street trees must be suitable for transport corridors as defined by Trees and Design Action Group (TDAG). Details must be provided of what management systems are to be included, this includes root protections, watering and ongoing management responsibilities and contact details.

17. Landscaping Scheme to be submitted for approval and implemented.

18. Maintenance of landscaping scheme.

### 19. Noise Mitigation

Prior to the first occupation of plots 1-4, 161, 44-46, 135-141 and 96-102 of the dwellings hereby approved a scheme of sound insulation shall be submitted to and approved in writing by the Local Planning Authority in respect of these plots. 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 agreed with the local planning authority the scheme shall be designed to achieve the following criteria with the ventilation operating:

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Bedrooms	30 dB LAeq (15 Minutes) (2300 hrs – 0700 hrs).
Living/Bedrooms	35 dB LAeq (15 Minutes) (0700 hrs – 2300 hrs).
All Other Habitable Rooms	40 dB LAeq (15 Minutes) (0700 hrs – 2300 hrs).
All Habitable Rooms	45 dB LAm <sub>ax</sub> 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 shall be validated by a competent person and a validation report submitted to and approved in writing by the local planning authority prior to occupation of the relevant plots. The approved scheme shall be implemented in full and retained thereafter.

### Highway Safety

20. Before the proposed Shuttlewood Road junction can be used during construction phase of development, Shuttlewood Road shall be realigned and the new junction shall be provided in accordance with drawing 600152 HEX XX XX DR TP 0106 Rev P04.
21. Before any dwelling is occupied the access junction, estate roads, turning and parking facilities necessary to serve that dwelling shall have been provided to at least base course level in accordance with the following drawings:
  - Oxcroft Lane Access 600152 HEX XX XX DR TP 0105 rev P03
  - Shuttlewood Road Access 600152 HEX XX XX DR TP 0106 Rev P04
  - Highways Layout 600512 HEX XX XX DR TP 1111 Rev PO7
  - Planning Layout N2023 008N
22. The Development hereby approved shall not be occupied until the highway improvements works comprising:
 

Works A as shown on drawing DR-0105-P03.  
Works B as shown on drawing DR-0106-P04.  
Have been constructed and completed.
23. No individual dwelling in the Development hereby approved shall not be occupied until sheltered, secure and accessible bicycle parking has been provided in accordance with details which shall first be submitted to and approved in writing by the Local Planning Authority. The storage area shall be maintained for this purpose thereafter.
24. The Development hereby approved shall not be brought into use until an updated Travel Plan has been submitted to and approved in writing by the Local Planning Authority that promotes sustainable forms of travel to/from the

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development site. The submitted details shall use Modeshift STARS Business (or an alternative that has been agreed by the LPA) to carry out this process and shall include mechanisms for monitoring and review over the life of the development and timescales for implementation. The approved Travel Plan shall be implemented, monitored and reviewed in accordance with the approved details.

25. Prior to commencement of the development hereby permitted details of a 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 being carried onto the highway;
- Arrangements for turning vehicles;
- Arrangements to receive abnormal loads or unusually large vehicles;
- Highway Condition survey;
- Working hours/days for noise generating activities;
- Methods of dust suppression during demolition and construction;
- Methods to prevent damage from surface water run-off during construction;
- Methods of communicating the Construction Management Plan to staff, visitors and neighbouring residents and businesses.
- Complaint recording and contact details of persons responsible for implementing the Construction Management Plan.

26. Prior to the occupation of any dwelling a detailed play space scheme shall have been submitted to and approved in writing by the local planning authority. The scheme shall be implemented before any more than 75% of market dwellings have been occupied. The scheme shall include:-

- 1) Access – all paths leading to the play area shall be tarmac and at least 1.5m wide with a gradient of no steeper than 1:12 (ideally 1:20).
- 2) There shall be at least 5 pieces of equipment suitable for children up to the age of 12 years, which should be predominantly metal in construction.

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- 3) The play area shall be fenced with 2 self-closing gates to restrict access by dogs, with sufficient benches and bins (including dog bins) within the play area and surrounding open space.
  - 4) The play area must be located such that it benefits from informal surveillance from nearby dwellings and / or pathways, with an adequate buffer zone of at least 20m to the nearest dwelling.
  - 5) Planting should be arranged so that it allows open views into and out of the play area.
27. Notwithstanding the submitted planting/landscape drawings, where the existing hedgerow fronting Oxcroft Lane is to be removed at, and to the south of the proposed access point, it shall be replaced in the first available planting season, behind the proposed footway by a native mix hedgerow planted in a double staggered row at 30 cm centres. Thereafter it shall be retained and maintained.
28. External Building materials to be submitted for approval and implemented as approved.

Notes to Applicant including:

### Bat Licence

The demolition of Buildings 1, 4 and 5 must not take place until all necessary update surveys have been completed and an appropriate bat licence has been obtained. Confirmation of this should be submitted to the LPA. Upon receipt of a licence from Natural England / site registration, works shall proceed strictly in accordance with the approved mitigation. Such approved mitigation must be implemented in full in accordance with a timetable of works included within the licence and followed thereafter.

### Right of Way

Bolsover Public Footpath No. 45 is directly affected by these proposals and so a footpath diversion order must be completed before its legal alignment can be affected.

- The footpath must remain open, unobstructed and on its legal alignment, as shown on the attached plan, or on its currently used alignment on the ground.
- There should be no disturbance to the path surface without prior authorisation from the County Council's Rights of Way Section.
- Consideration should be given to the safety of members of the public using the path during any works. A temporary closure of paths will be permitted on application to DCC where the path(s) remain unaffected on completion of the development.
- There should be no encroachment of the path, and no fencing should be installed without consulting the Rights of Way Section.

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### Working Hours

Further to the above condition requiring a construction management plan to be approved which, in turn, requires working hours to be agreed, the Council's Environmental Health Officer has advised that construction works on the site and deliveries to the site must be undertaken only between the hours of 07.30am to 6pm Monday to Friday and 7.30am to 1pm on Saturday. There shall be no work undertaken on site or deliveries to the site on Sundays or public holidays.

### Other Advisory Responses to Note

DCC Flood Risk Group 10/08/2023.

DCC Rights of Way 21/04/2023.

Eastwoods Consulting Engineers 21/07/2023

Yorkshire Water 21/04/2023

BDC Drainage Eng 13/09/2022.

### 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.

**PL66-23/24**

**APPEAL DECISIONS: JULY 2023 - DECEMBER 2023**

The Assistant Director of Planning and Planning Policy presented a report, which set out the Planning Service's performance against the Government's quality of decision-making targets.

From July to December 2023 the Council had had no appeals on major planning applications and three appeal decisions on non-major applications. Two of these appeals had been dismissed and one had been allowed. The appeal that had been allowed had



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been 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. Details of the three appeals were attached to the report at Appendices 1, 2 and 3.

The Council had had no appeal decisions against the issue of an enforcement notice.

Moved by Councillor Tom Munro and seconded by Councillor Duncan McGregor  
**RESOLVED** that (1) the six-monthly report be noted;

(2) the Planning Service continue to report appeal decisions to Planning Committee every six months.

### **PL67-23/24          QUARTERLY UPDATE ON S106 AGREEMENT MONITORING**

Committee considered a report which provided progress 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.

The Principal Planning Policy Officer provided a further update to the report. As of the Section 106 Monitoring Group meeting held on 18<sup>th</sup> January 2024, there were seven sums within their 24-month deadline and details of these had been provided in the report. With respect to the sums within a 12-month deadline, there was an additional item which was the Outdoor Sport allocation for Mansfield Road, Tibshelf.

The Open Space allocation at Station Road, Langwith Junction was now completely spent and had been removed from the Action Plan.

The latest information for those sums that fell within the 24-month spend threshold included the following:

#### Rosewood Lodge Farm – Outdoor Sport

On the 15<sup>th</sup> February 2024, the contribution had been paid in full to the Parish Council.

#### Rosewood Lodge Farm – Health

There was around two months left until the money needed to be spent. The Integrated Care Board had confirmed that the potential for improvements at the surgery at Pinxton was not possible at this time and the internal reconfiguration of the Limes Medical Centre, to provide additional capacity would need to proceed. The Integrated Care Board had confirmed that residents of both South Normanton and Pinxton were patients of the Medical Centre.

#### Mansfield Road, Tibshelf – Outdoor Sport

The Parish Council had extended the works that they wished to be undertaken but expected it to be completed in July 2024. With progress to date, it was anticipated that the spending of the allocation sum would fall within the spending deadline.

#### Oxcroft Lane – Outdoor Sport

## PLANNING COMMITTEE

This allocation would contribute to a new skatepark in Hornscroft Park and construction was due to start in March 2024 and completion of works was expected in July 2024.

### High Ash Farm, Clowne – Open Space

The Parish Council wished to improve the grassed area in from of Dominoes/the Ashgate Café and would be running a public consultation and request for design ideas. This was planned to take place in the next few months, with works being completed in early Autumn.

### Station Road, Langwith Junction – Health

The Integrated Care Board had advised that they were in discussions with Langwith Medical Centre to agree a suitable scheme and had agreed that they would be able to spend the monies before the January 2025 deadline.

In relation of agreement monies held for years three, four and five, there were two new contributions that were now included in year five, with the allocation received from the development at Glapwell Nurseries for Outdoor Sport and the allocation for Open Space received from the development at Mooracre Lane, Bolsover. In terms of Health, Highways and Biodiversity the spend profiles remained the same as for the previous financial quarter.

Moved by Councillor Duncan McGregor and seconded by Councillor Justin Gilbody  
**RESOLVED** that the report be noted.

The Chair, on behalf of the Committee, wished to place on record its thanks for Steve Phillipson, Principal Planner, who was retiring. The Chair expressed his thanks for Steve's excellent technical advice and professionalism. The Committee wished Steve a long and happy retirement.

The meeting concluded at 11:34 hours.

**PARISH** South Normanton Parish

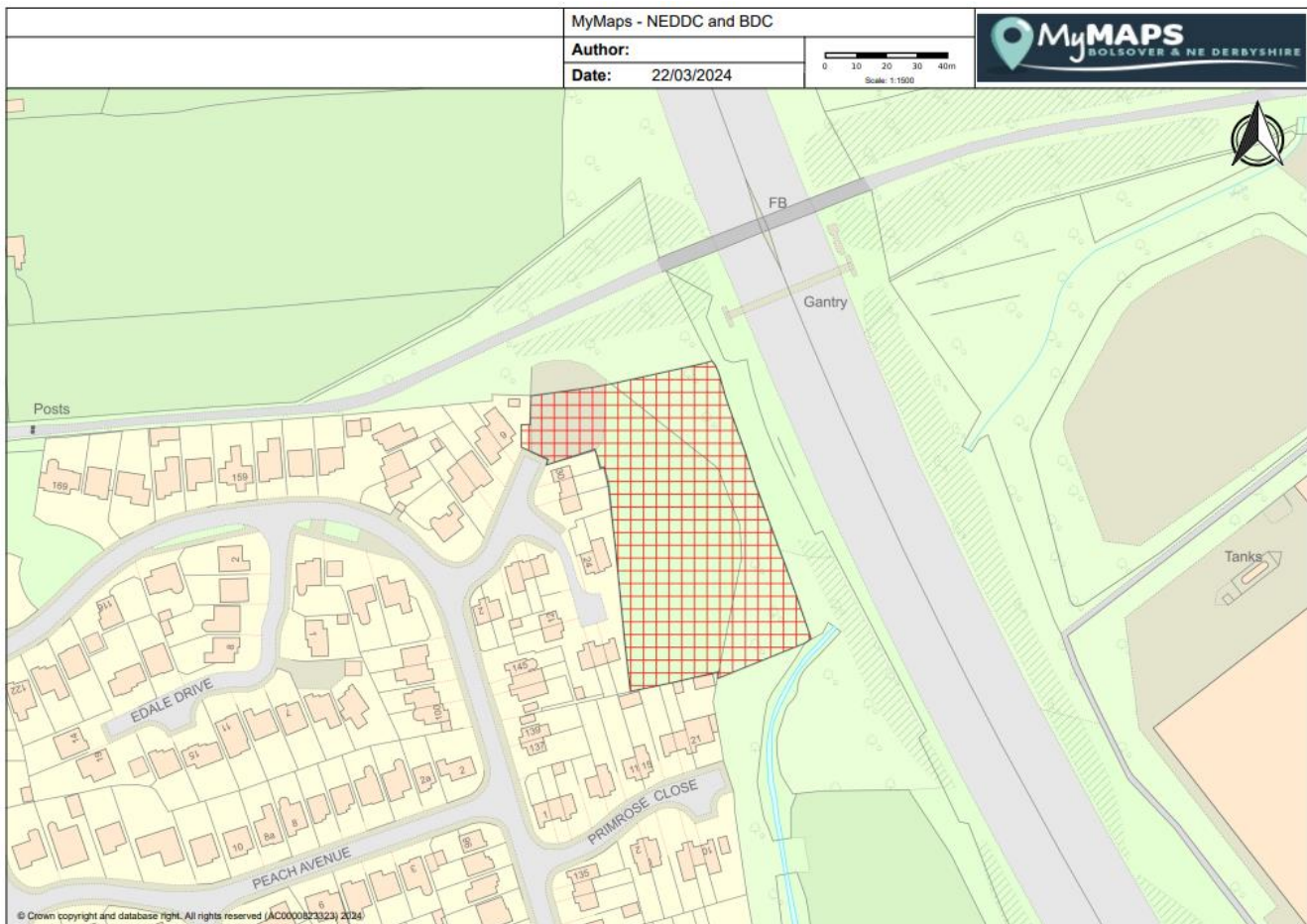
**APPLICATION** Full Planning Application for Residential Development  
**LOCATION** Open Space East of Dahlia Avenue South Normanton  
**APPLICANT** Dukeries Homes  
**APPLICATION NO.** 21/00331/FUL **FILE NO.** PP-09874542  
**CASE OFFICER** Mr Peter Sawdon  
**DATE RECEIVED** 3rd June 2021

## SUMMARY

This application has been referred to the Planning Committee due to financial viability issues, meaning normal S106 contributions are not able to be offered.

These will be discussed in more detail within the report.

## SITE & SURROUNDINGS



The site is 0.56ha in size and is broadly rectangular in shape with access via Dahlia Avenue from the northwest corner of the site. The access has been gated and a hard standing has been laid on the northwest part of the site.

The site is bounded to the east by the M1 motorway and its associated embankment and adjacent hedgerow. Woodland adjoins the northern and south-eastern edges. Dwellings on Dahlia Avenue are located to the west and dwellings on Primrose Close are located to the southwest.

At the time the application was made, a large mound of rubble and soil was piled in the centre of the site, but this has subsequently been removed.

## PROPOSAL

This full planning application seeks planning permission for 21 new homes (reduced from 25 as proposed in the originally submitted scheme) with access extended from the adjacent cul-de-sac (Dahlia Avenue). The applicant states that the scheme will be for affordable homes, and the following is a tenure breakdown of the proposal:

- 10 x two storey (2 bed) properties (4 single story and 6 two storeys)
- 9 x two storey (3 bed) properties
- 2 x flats (1 bed) (in 1no. two storey unit)

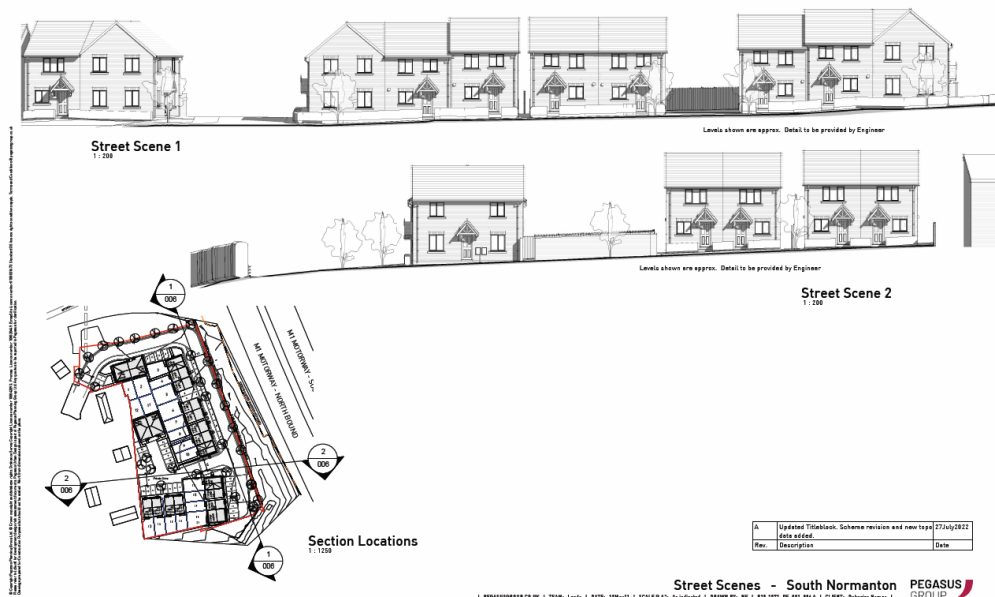
The submitted layout indicates a bund of approximately 6m in height and 2m in width along the site's eastern boundary. A further acoustic barrier (3m) would be included to the top of this bund that is adjacent to the M1. The following is the layout as proposed:



The soil piles on the site at the time the application was made appear to have been placed on the land at the time of earlier adjoining housing developments. Whilst this planning application proposes the removal of those soil piles, these have already been removed from the site, such that retrospective approval for their removal also needs to be considered in the determination of this planning application.

This unauthorised work to remove the soil piles was reported to the Council at the time it was being undertaken and was investigated by the Council’s Enforcement Officer. In considering this matter, given any remedial action to rectify the unauthorised works would be to re-instate the removed mounds, that would result in additional vehicle movements which in turn had the potential to impact amenities, it was not considered expedient to take any further action against that part of the development at that time, given the planning merits of that work can be considered in detail as part of the determination of this application (this issue will be discussed in respect of highway safety, appearance and residential amenities later in the report).

The following are images of the proposed street scenes and house types that shows the proposed housing levels following the removal of the soil piles referred to above:



### Supporting Documents

- Planning Statement
- Design & Access Statement
- Arboricultural Impact Assessment
- Transport Statement
- Biodiversity Net Gain Assessment
- Flood Risk Assessment & Drainage Strategy
- Air Quality Assessment
- Noise Assessment
- Land Contamination Assessment
- Preliminary Ecological Appraisal

### **AMENDMENTS**

17/11/2022 – Revised scheme:

- P20-1071.01G - Revised Layout
- P20-1071.07A - Garden Sizes
- SC128/100A/P - Proposed Drainage

- Flood Risk Assessment and Drainage Strategy Report
- BG20.315.1 - Arboricultural Impact Assessment Report - Rev1
- P20-1071.08 - Baseline Biodiversity Impact Assessment - V1
- Biodiversity Metric
- Transport Statement Nov 2022

06/02/2023 – Response to issues raised by the Lead Local Flood Authority (Derbyshire County Council) and National Highways.

07/03/2023 – Revised drawings:

- P20-1071.01H - Revised Layout
- P20-1071.07B - Garden Sizes

28/03/2023 – Revised drawings:

- P20-1071.04A - Site Levels and Sections
- P20-1071.06A - Street Scenes

29/03/2023 – Consultant response to Flood Authority comments

25/08/2023 – Viability Assessment (publicly accessible redacted version available from 01/02/2024)

25/01/2024 – Suite of finalised documents (some re-submitted and some new/replacement documents):

- P20-1071.01H - Revised Layout
- P20-1071.04A - Site Levels and Sections
- P20-1071.06A - Street Scenes
- P20-1071.07B - Garden Sizes
- P20-1071.08 - 3D Site Renders
- P20-1071.020 - TYPE B-TYPE B – SEMI
- P20-1071.021 - TYPE B-TYPE D – SEMI
- P20-1071.022 - TYPE C-TYPE C - SEMI
- P20-1071.023 - TYPE D-TYPE C-TYPE C - 3 TERRACE (Sheet 1)
- P20-1071.024 - TYPE D-TYPE C-TYPE C - 3 TERRACE (Sheet 2)
- P20-1071.025 - TYPE C-TYPE C-TYPE D - 3 TERRACE (Sheet 1)
- P20-1071.026 - TYPE C-TYPE C-TYPE D - 3 TERRACE (Sheet 2)
- P20-1071.027 - TYPE F-TYPE B – SEMI
- P20-1071.028 - BUNGALOW 1 – SEMI
- P20-1071.029 - BUNGALOW 2 - SEMI

29/01/2024 –

- Baseline Biodiversity Impact Assessment Rev. 1
- Revised Ecological Impact Assessment
- Revised Biodiversity Metric

## **EIA SCREENING OPINION**

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

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

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

## **HISTORY**

- BOL/579/245 – Outline planning permission for residential development Granted Conditionally on 24.07.1979.
- BOL/1183/523 – Renewal of outline planning permission for residential development Granted Conditionally on 16.02.1984.
- BOL/592/208 – Full planning permission for estate road and sewers granted condition planning permission on 25.06.1993.
- BOL/992/358 – existing houses on Dahlia Avenue were granted full planning permission on 16<sup>th</sup> August 1993.

## **CONSULTATIONS**

### Bolsover District Council Drainage Engineer

02/07/21 - Records show that a public sewer is located within the area of the proposed works. Proposals for drainage need to:

- Make provision for the lifetime management and maintenance of any SuDS schemes.
- Comply with Part H of the Building Regulations 2010.
- 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.
- Ensure any temporary drainage arrangements during construction gives due consideration to the prevention of surface water runoff onto the public highway and neighbouring properties.

### Bolsover District Council Head of Regeneration

No comments received.

### Bolsover District Council (Leisure)

20/07/2021 - Contribution of £21,750 (25 dwellings x £870 per dwelling) sought towards improvement of existing nearby green spaces (Policy ITCR5) and £26,500 (25 dwellings x £1060 per dwelling) towards improvement to existing built and outdoor sports facilities (Policy ITCR7). Further comment is also made about the prospect of formalising the link path through the site to the Blackwell Trail

*N.B. The figures quoted in the Leisure Officer consultation response above relates to sums calculated in 2021 based on the contribution fee at that time for the originally proposed 25 houses. The reduction in numbers does not alter the policy position on this issue, but if sought, the sums would need to be updated for 21 houses based on inflated 2024 sums as follows: -*

- £23,436 (21 dwellings x £1116 per dwelling) for improvement of existing nearby green spaces (Policy ITCR5).
- £28,560 (21 dwellings x £1360 per dwelling) for improving existing built and outdoor sports facilities (Policy ITCR7).

#### Bolsover District Council (Strategic Housing)

01/07/21 - The proposal to provide 25 affordable homes for rent and affordable home ownership will help to meet the affordable housing need, although the provision of more 3 bed houses would help meet identified demand.

#### Coal Authority

16/07/21 - Following the submission of a Coal Mining Risk Assessment in response to an initial objection from the Coal Authority on the 22/06/21, that organisation now recommends the inclusion of conditions to require further intrusive investigations and were shown to be necessary, appropriate mitigation to deal with the Coal Mining Legacy relating to the site.

#### Derbyshire County Council (Highways)

19/07/21 - Further information required.

15/12/2022 - Parking and swept path analysis are now acceptable. Further alterations required in terms of highway design, maintenance margins, and location of plots within the public highway and position of street trees.

24/11/2023 - Re-iterate comments about the desire to see connections to a nearby footpath (acknowledging that this would involve crossing third party land outside of the control of the applicant), but otherwise, based on the revised site layout plan, it is considered that the proposed development will have no detrimental highway impact. Conditions and advisory notes recommended.

22/02/2024 - Acknowledge limitations to providing improved links to the adjoining footpath, including ownership and viability issues, and confirm no further challenges to the scheme in this respect. Previous comments on other issues and previously recommended conditions still apply.

#### Derbyshire County Council (Flood Risk Management)

22/06/2021 - Further information is needed to inform the consideration of surface water drainage.

19/12/2022 - Further information is still needed to inform the consideration of surface water drainage.

28/03/2023 - Concerned over the potential flood risk to properties in the proposed development and requests further information.

28/07/2023 - No objections subject to conditions (based on additional submitted information).



### Derbyshire County Council (Strategic Planning)

06/07/21 - Sufficient capacity exists at local schools to accommodate the projected additional pupils generated by this development and so no financial contributions are sought. The inclusion of an advisory note relating to high-speed broadband is recommended. Additional comments are made, but without any specific requests, in respect of waste disposal and employment and skills.

26/03/2024 – Further comment provided to confirm that capacity still exists in local schools and no contributions are therefore sought.

Derbyshire Swift Conservation *(NB this organisation is not a consultee, but their comments are included here as they relate to biodiversity considerations also addressed by the comments of the Derbyshire Wildlife Trust that are included below)*

14/03/2024 – request a condition requiring up to 25 internal nest bricks (i.e., 1 brick per dwelling) designed for Swifts as a universal biodiversity enhancement for urban bird species and that photographic evidence of installation is made available upon completion.

Note that best practice indicates that integrated swift boxes are more appropriate than other types of bird box, given these are suitable for multiple bird species and addresses the specific need to address issues relating Swifts. Reference to NPPF requirements to promote and enhance biodiversity and geodiversity.

### Derbyshire Wildlife Trust

15/07/2021 - Preliminary Ecological Appraisal shows that numerous protected species surveys are recommended, but these have not been done and need to be before the application can be progressed. Also concerns regarding habitat loss and that the scheme will result in a net biodiversity net loss; advise that a Biodiversity Net Gain assessment also needs to be submitted to enable this issue to be considered further.

25/01/2023 - Recommended additional ecology assessments have not been undertaken and are still needed. Submitted biodiversity metric has not been completed correctly and demonstrates a net loss, so needs amending and mitigation for the losses need to be proposed. At present scheme does not comply with local or national planning policies and guidance.

22/02/2024 - Have reviewed additional documents dated November 2023. The application is accompanied by sufficient information for the Council to proceed with its determination. A biodiversity net gain is achievable using a combination of on-site and off-site habitat creation and enhancement measures. No further survey or assessment is required at this time. Conditions are recommended and a legal agreement is needed to secure the provision and long-term management and maintenance of off-site biodiversity measures.

### Environmental Health

14/06/21 and 14/07/21 - No objections in principle subject to conditions requiring the identification of any potential contamination and mitigation for such contamination where found, along with a requirement to implement the scheme of sound mitigation.

### Force Designing Out Crime Officer

29/06/21 - Alterations suggested to better deal with crime prevention.

06/12/2022 - Comments regarding:

- control over boundary treatments, including the introduction of gates and management of proposed hedges;
- ensuring that the portion of a footpath link to Sporton Lane (if provided or retained) within the site is left with an open aspect;
- inclusion of lighting to the parking court (Solar powered columns will be acceptable).

### Health and Safety Executive

18/06/2021 - No comment to make on the planning application provided that the development is not a vulnerable building.

### National Highways (formerly Highways England)

08/06/21 and 14/06/2023 - More information requested regarding cross sections (to demonstrate existing and proposed noise bunds), drainage and lighting details; re-iterated those comments 20/09/2021, 13/12/2021, 10/03/2022, 14/06/2022.

04/04/2023 - Satisfied that the proposal will not adversely impact the adjacent highway assets and recommend that conditions should be attached to any planning permission that may be granted.

### NHS / Clinical Commissioning Group

CCG - No contributions are sought as the size of the development is below their threshold for contribution requests. 16/06/21.

08/07/2021 - Chesterfield Royal Hospital - Section 106 impact on health to be considered. Please advise of the appropriate process to follow. Further request received 12/03/2024.

### Urban Design

Amendments to the scheme are needed to make it acceptable in design terms and to comply with the Council's adopted housing design guidance. 09/07/21.

Whilst further written response was not provided the former Urban Design Officer had verbally confirmed that the revised scheme is acceptable and had appropriately responded to his earlier comments.

*The above is a summary of consultations; all consultation responses are available to view in full on the Council's website.*

### **PUBLICITY**

The application was initially advertised in the local press, site notices were posted, and 20 neighbouring properties were consulted. This resulted in the receipt of eight representations.

Further publicity (by site notices and neighbour letters) was carried out in February 2022, to notify of amendments to the scheme. No additional representations were received from residents as a result of this.

The representations received raised (in summary) the following issues: -

### Principle

- Concerns over the density of the development with around 80 people living in this small area; will cause environmental problems.
- The Council should consider local factors and residents' concerns in conjunction with planning applications and not just policies and targets.
- New houses will further stretch amenities in the area; schools are already stretched with most over-subscribed.
- Already large number of properties in the area and there are other plans to build elsewhere in South Normanton.

### Highway Safety

- Increased traffic and parked cars will be present (both during and after construction), which will cause increased risk to pedestrians and road users alike and make it more difficult for emergency service vehicles to have necessary access.
- Existing issues at the junction of Sporton Lane and Church Street due to parked cars; increased traffic will increase the hazard.
- Church Street is used as a rat run so emerging from Sporton Lane will be impacted leading to tailbacks.
- Parking on local roads has gotten worse over the years.
- Traffic speeds on local roads is a concern.
- Damage to highway from construction works.

### Amenity

- Concern at previous land clearance; lack of notification for the works and increase in noise and light pollution as a result.
- Loss of this land as a buffer between existing dwellings and the M1.
- Inconvenience during the construction period.
- Proposed properties are too near to the M1; existing houses are less than 300 yards from it.
- Can't see how another proposed new sound fence will help the situation, there's already one in place on the motorway.
- Risk to new residents of pollution from the adjacent motorway.
- Hope there will be some protection for new dwellings from the motorway barrier.
- New build houses unfortunately have very thin walls.
- Impact on privacy with proximity of new houses to gardens.

### Biodiversity

- Impacts on biodiversity from clearance works that have already been carried out that will remain if the development is carried out.
- A wildlife survey was not carried out before trees were felled.

## Other

- Impact on property values.  
*Officer comment: - It should be noted that potential impacts to the value of existing properties because of development is not a material planning consideration, and therefore, will not be considered any further in this report.*

## **POLICY**

### Development Plan for Bolsover District (“the Development Plan”)

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

- SS1: Sustainable Development.
- SS3: Spatial Strategy and Scale of Development.
- LC1: Housing Allocations.
- LC2: Affordable Housing Through Market Housing.
- LC3: Type and Mix of Housing.
- WC4: Rough Close Works, South Normanton.
- SC1: Development within the Development Envelope.
- SC2: Sustainable Design and Construction.
- SC3: High Quality Development.
- SC7: Flood Risk.
- SC8: Landscape Character.
- SC9: Biodiversity and Geodiversity.
- SC10: Trees, Woodland, and Hedgerows.
- SC11: Environmental Quality (Amenity).
- SC12: Air Quality.
- SC13: Water Quality.
- SC14: Contaminated and Unstable Land
- SC15: Hazardous Installations
- ITCR5: Green Space and Play Provision.
- ITCR10: Supporting Sustainable Transport Patterns.
- ITCR11: Parking Provision.
- II1 Plan Delivery and the Role of Developer Contributions.
- II2: Employment and Skills England and how these should be applied.

### National Planning Policy Framework (“the Framework”)

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

- Chapter 2: - Achieving sustainable development.
- Paragraphs 7 - 10: Achieving sustainable development.
- Paragraphs 47 - 50: Determining applications.
- Paragraphs 55 - 58: Planning conditions and obligations.
- Paragraphs 96 - 107: Promoting healthy and safe communities.
- Paragraphs 108 - 117: Promoting sustainable transport.
- Paragraphs 123 - 127: Making effective use of land.

- Paragraphs 131 – 136: Achieving well-designed and beautiful places.
- Paragraph 157, 159 and 162: Meeting the challenge of climate change.
- Paragraph 165 - 175: Planning and Flood Risk.
- Paragraphs 180, 186 and 188: Conserving and enhancing the natural environment.
- Paragraphs 189 - 194: Ground conditions and pollution.

#### Supplementary Planning Documents

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

## **ASSESSMENT**

### ***Key issues***

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

- Principle of Development
- Affordable Housing
- Access and Highway Safety
- Landscape and Visual Impacts
- Design, layout, and residential amenity
- Biodiversity & Trees
- Drainage & Flood Risk
- Ground Conditions
- Noise
- Air Quality
- Hazardous Installations
- S106 & Viability

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

#### Principle of Development

The land is designated in the Development Plan as being within the defined Development Envelope boundary for South Normanton. The principle of development is accepted for proposals that are situated within the Development Envelope Boundary.

South Normanton is identified as an ‘Emerging Town’ in the Development Plan. Development Plan Policy SS2 (Spatial Strategy and Distribution of Development) states that the settlement can accommodate up to 380 dwellings over the current plan period. Development Plan Policy SS2 also states that provision of development will be directed to small towns and emerging towns in the first instance. Based on the above, it is concluded that the principle of residential development is acceptable to the site.

#### *Response to representations*

For the reasons set out above the principle of residential development is acceptable when assessed against the relevant policies in the Development Plan. Whilst there are strategic sites that are allocated for residential development in the Development Plan, the NPPF at paragraph 69 also states that medium sized sites can make an important contribution to meeting the housing requirement of an area and are often built out relatively quickly. Overall,

these types of developments do contribute to the Council maintaining a healthy housing land supply position.

#### Affordable Housing

Development Plan Policy LC2 relates to affordable housing and states that the Council will require applications for residential development comprising 25 or more dwellings (or which form part of a larger development site with a potential capacity of 25 or more dwellings) to provide 10% as affordable housing on site.

Given this development is for 21 houses, the application does not trigger any requirement under policy LC2.

Notwithstanding this, the proposed development is for 100% affordable housing, and the latest evidence base identifies a need for additional affordable housing in the district, which is material to the consideration of this case.

For this reason the development exceeds the zero requirements set out in Development Plan Policy LC2, and this weighs in favour of the development in the planning balance given the identified need for affordable dwellings.

#### Access and Highway Safety

Development Plan Policy ITCR10 states in summary that development proposals which are likely to have significant amounts of movements will need to be supported by a Transport Statement or Transport Assessment to understand their impact on existing transport networks. Development Plan Policy ITCR 11 relates to parking and states that planning permission will be granted where there is appropriate provision for vehicle and cycle parking as set out within the parking standards at Appendix 8.2 of the Development Plan.

Development Plan Policy SC3 (part K) states that development should create conditions for active travel choices through provision of connected places that are easy to move around, integrated with their surroundings and which facilitate access through sustainable forms of transport including walking, cycling, and bus and rail public transport.

The applicant has submitted a Transport Statement ("TS"), which was undertaken by Armstrong Stokes & Clayton Ltd. The TS has been reviewed by Derbyshire County Council Highways ("DCC Highways") and no objections have been raised to the information submitted. DCC Highways conclude that the level of trips that would be generated by the development can be accommodated comfortably on the existing highway network. Therefore, it is not considered that the proposal would result in significant adverse impacts to the existing highway network.

It should be noted that the proposed highway within the scheme does not satisfy Derbyshire County Council's usual adoption criteria and so will become a privately owned and maintained highway.

The Highway Authority has recommended conditions and advisory notes.

Whilst that Authority noted a desire to improve connectivity through the site for pedestrians and cyclists onto an adjoining footpath to the north of the site, that Authority has acknowledged that: -

- this would entail crossing third party land not under the ownership or control of the applicant,
- significant engineering operations would be needed to cross the intervening embankment that would result in loss of existing mature landscaping further harming biodiversity interests, and
- the costs of any works would impact further on the viability and therefore, deliverability of the development.

In view of the above the Highway Authority accepted that such a footpath link would not be deliverable in respect of this development.

Given the location of the development alongside the M1 motorway, National Highways (“NH”) have been consulted. NH do not object to the scheme and are satisfied that the proposed development will not adversely impact the M1. NH recommend a condition that seeks to minimise any potential glint and glare from vehicle movements and street lighting on to the M1 from the development site. This condition is considered necessary in the interests of the safety of users of the motorway.

Overall, for the reasons set out above, it is considered that the development complies with Development Plan Policies ICTR10, 11 and SC3, and no objections are raised on highways grounds. The compliance with the above policies in relation to highway matters would be neutral in the planning balance.

### *Response to representations*

Concerns have been raised in relation to increased traffic during construction, which will cause dangers to both car users and pedestrians, this includes the works to remove the existing soil mounds that have already been undertaken.

Given the soil mounds have already been removed, this work is already completed and so no additional impacts from this element of the development proposal will arise.

The construction phase of the remainder of the development can be effectively controlled through the submission of a Construction Traffic Management Plan. Such a condition has been recommended by the Highway Authority and is proposed for inclusion.

Increased levels of traffic and parking have also been raised as a potential issue with this development. As stated above, the applicant has submitted a Transport Statement, which considers what the potential impacts of the development would be on the existing highway network, and this has been assessed by the Highway Authority who has raised no objections.

In view of the above, there is no reasonable basis to refuse the application on highway safety grounds.

### Landscape and Visual Impact

Development Plan Policy SC8 relates to landscape character and states that proposals for new development will only be permitted where they would not cause significant harm to the character, quality, distinctiveness, or sensitivity of the landscape, or to important features or views, or other perceptual qualities such as tranquillity unless the benefits of the development clearly outweigh the impacts.

There would not be any unacceptable landscape or visual impacts from the development. The development represents an urban extension to the existing built development that surrounds the site. The site is visually contained to the north and south by heavy tree growth. To east is the M1 motorway, which sits lower than the site, but again the site is heavily screened from the motorway by tree growth and a large bund. Given the urban nature of the site and surroundings, and its visual containment, it is not considered that the development will have any adverse impacts on the existing landscape.

Whilst noting the removal of the existing soil mounds, the mounds themselves were unauthorised but would have become lawful in planning terms due to the passage of time; their physical form was clearly at odds with their surroundings such that their removal has returned land levels to those similar to the original ground levels of the site prior to the deposit of the soils, which in turn relates better to adjacent dwellings.

On that basis, the development is considered to comply with Development Plan Policy SC8. This is considered to be neutral in the planning balance.

### Design, Layout & Residential Amenity

Development Plan Policy SC3 states that development will be required to achieve a high quality of design in terms of place making, building, and landscaping. Proposals for development will be permitted provided they (in summary): create good quality, attractive, durable places through good design, respond positively to the local context in terms of height, scale, massing, density layout and materials, protect important views, promote a vibrant mixture of proposals that supports communities, provides a sense of place.

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

The development will comprise one and two storey dwellings of a traditional appearance that are in keeping with the overall character and appearance of the area. Appropriate designs of dwellings on corner plots have been incorporated to ensure that the dwellings on these plots appropriately deal with both frontages to these properties to improve natural surveillance and to enhance the character and appearance that will be created by the development.

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

Car parking is sensitively designed, with large parts of the parking located either alongside dwellings or sensitively integrated parallel to the proposed streets, between intervening street trees and other landscaped areas. Where larger areas of shared parking are proposed, the appearance of these is also softened by trees and additional landscaping.



Conditions to deal with other detailed matters, including boundary treatments and detailed landscaping specifications, are recommended for inclusion.

In terms of amenities for existing adjoining developments, as previously mentioned the removal of the soil mounds on site has returned site levels to those similar to those on adjoining land, enabling the proposed dwellings to be constructed at similar levels to those adjoining, which in planning terms is preferable to building on the former higher ground levels in respect of any resulting relationships between existing and proposed dwellings. So, whilst the removal of the soils previously on site was unauthorised, in respect of the wider planning considerations associated with this planning application, this is considered beneficial to delivering a final development that is better integrated with its surroundings.

The development accords with the Council's published guidelines in terms of separation distances from existing adjoining properties, such that a reasonable level of amenity for the occupiers of existing dwellings can be maintained.

In terms of occupants of the proposed dwellings, appropriate garden provision is being made.

Noise reports have been submitted in view of the proximity of the development to the M1 and, subject to the inclusion of a condition to require the agreement of noise control measures based on the findings of the noise assessment, the Environmental Health Officer has raised no objections to the proposal.

Amendments have been included to address points raised by the Force Designing Out Crime Officer; lighting to the parking court can be required by conditions to address this issue that he has raised.

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

### Biodiversity & Trees

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

Development Plan Policy SC10 states that Trees, woodlands, and hedgerows are important visual and ecological assets. To help retain local distinctiveness, trees, woodland, and hedgerows will be protected from damage and retained, unless it can be demonstrated that removal is necessary and appropriate mitigation can be achieved. Potential long-term conflict between retained trees, hedgerows, and buildings should be designed out at the planning stage.

Following the submission of additional biodiversity information to address issues raised by the Derbyshire Wildlife Trust, the Trust has confirmed that the application is accompanied by sufficient information for the Council to proceed with its determination. A biodiversity net gain of more than 10% is achievable using a combination of on-site and off-site habitat creation and enhancement measures, and no further surveys or assessments are required at this time. It has been identified through discussions with the Planning Policy offer, as part of ongoing

nature recovery work, that land is available to undertake offsite biodiversity improvements on Council owned land at Pinxton. In view of this, in order to secure the provision and long-term management and maintenance of the proposed biodiversity measures, conditions are recommended for the on-site elements, and a legal agreement is proposed to secure the off-site biodiversity measures; the agreement would need to include either the direct provision of the works by the developer or a contribution to the Council to carry out the works, along with suitable measures to secure the long term management of that provision, that may necessitate an appropriate financial sum if necessary.

The comments of Derbyshire Swift Conservation organisation are noted and these make reference to best practice for mitigation measures. In this respect, in line with the advice of the Derbyshire Wildlife Trust, a condition is recommended for inclusion that would secure a Biodiversity Habitat Enhancement and Management Plan. On submission of any scheme, in accordance with the Council's normal practice, the Derbyshire Wildlife Trust will advise on the suitability of that document as part of the consideration and determination of the relevant application at that time.

Considering the above, the proposal is considered to meet the requirements of adopted Local Plan policies SC9 and 10.

#### Drainage and flood risk

Development Plan Policy SC7 states that all development proposals will be required to consider the effect of the proposed development on flood risk, both on-site and off-site, commensurate with the scale and impact of the development. All developments shall have regard to Environment Agency standing advice for flood risk assessment. This should be demonstrated through a Flood Risk Assessment (FRA). Part d of the policy also states that there should be no net increase in surface water runoff for the lifetime of the development on all new development. Run off rates for development on greenfield sites should not be exceeded, and where possible should be reduced from existing. Run off rates for development on previously developed land should be reduced from the current rate of surface water runoff where feasible. Surface water runoff should be managed at source wherever possible, avoiding disposal to combined sewers.

In terms of flood risk, the site is designated as being within Flood Zone 1, which is an area considered to be at the lowest risk of flooding. The applicant has submitted a Flood Risk Assessment ("FRA") with the application, which concludes that there is no evidence of flooding at the site from fluvial or groundwater flooding. However, the FRA also states that the site is vulnerable in part to surface water flooding from an unnamed watercourse to the south of the site and an open drainage channel associated with the embankment of the M1.

The FRA recommends that the open channels and culvert are inspected and cleaned, removing all debris and obstructions. A long-term maintenance plan should also be established by the applicant for these assets (for the areas the applicant can control)

In terms of the proposed drainage strategy for this site, a cellular crate is proposed on the eastern boundary of the site, with a hydro brake to control the runoff rate. DCC Flood Risk have reviewed the submission and do not object subject to the inclusion of appropriate conditions that are proposed for inclusion.

### Ground Conditions

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

The applicant has submitted a Phase I Desk Study Report Geo Environmental Assessment. This document has been reviewed by Environmental Health (“EH”), and no objections have been raised in relation to contamination risks. EH have recommended planning conditions that set out a requirement to submit a remediation strategy that will need to be agreed. Therefore, subject to conditions, the development will comply with Development Plan Policy SC14.

### Noise

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

The applicant has submitted a Noise Impact Assessment (“NIA”) with the application, which was undertaken by Environmental Noise Solutions Limited. The site itself already benefits from a 3m high acoustic barrier on the eastern boundary of the site facing the M1. The noise measurements taken for the NIA were taken with this barrier still in place. Following an assessment of the existing noise conditions, the NIA then sets out some mitigation measures. These include enhanced glazing and mechanical ventilation, and acoustic trickle vents that would need to be installed in the proposed homes that are situated up to 20m from the eastern site boundary. For the homes that would be set back further than 20m from the eastern boundary, standard rated glazing and acoustic trickle vents are recommended.

EH have reviewed the submitted Noise Impact Assessment, and are satisfied with the mitigation proposed, and do not have any objections to the development. EH have requested a condition, to ensure that the mitigation proposed is implemented and maintained at all times thereafter. On that basis, subject to condition, the development will comply with Development Plan Policy SC11.

### Air Quality

Development Plan Policy SC12 is relevant to the assessment of air quality and states that the assessment of new development will include a consideration of the potential impact of new development and increased traffic on air quality, particularly in relation to development close to the M1, the existing Air Quality Management Areas (AQMA) and other major highways or transport corridors. Development that, on its own or cumulatively, would be likely to exacerbate air quality problems in existing and potential AQMAs will only be permitted if the potential adverse effects would be mitigated to an acceptable level by other environmental controls, or by measures included in the proposals.

The applicant has submitted an Air Quality Assessment (“AQA”) which was undertaken by Redmore Environmental. The report concluded that the development has the potential to

cause air quality impacts through the construction phase of the development. The report states that good practice control measures would provide suitable mitigation for a development of the scale proposed. In addition, the report also concludes that there is the potential for future residents to be exposed to poor air quality due to the site's proximity to the M1. To understand whether this would be the case, a dispersion modelling assessment was undertaken as part of the AQA. This assessment indicated that the predicted pollutant levels were below the relevant criteria, and on that basis, no mitigation was needed.

Environmental Health have reviewed the AQA and do not object to the findings and have no further comments to make. Therefore, based on the information submitted, it is concluded that the development meets Development Plan Policy SC12.

### Hazardous Installations

The site is located within the outer Explosive Safeguarding Zone for Rough Close Works at South Normanton. Development Plan Policy WC4 permits development in this zone if it is within current Health and Safety Executive ("HSE") land use planning guidance. Development Plan Policy SC15 also permits developments in such consultation zones provided that the risks arising from the hazardous substance are acceptable in relation to the nature of the proposal.

The HSE have been consulted, and do not object to the development, and have no comments to make providing that the development is not a 'vulnerable Building'. The HSE defines a 'Vulnerable building' as follows:

- (a) a building of more than three storeys above ground or 12m in height constructed with continuous non-load bearing curtain walling with individual glazed or frangible panels larger than 1.5m<sup>2</sup> and extending over more than 50% or 120m<sup>2</sup> of the surface of any elevation;
- (b) a building of more than three storeys above ground or 12m in height with solid walls and individual glass panes or frangible panels larger than 1.5m<sup>2</sup> and extending over at least 50% of any elevation;
- (c) a building of more than 400m<sup>2</sup> plan area with continuous or individual glazing panes larger than 1.5m<sup>2</sup> extending over at least 50% or 120m<sup>2</sup> of the plan area; or
- (d) any other structure that, in consequence of an event such as an explosion, may be susceptible to disproportionate damage such as progressive collapse.

As the proposed development is for new homes of traditional construction that do not include any of the above characteristics, the proposal is not considered to represent a 'Vulnerable Building' as defined above. Therefore, the development is considered to comply with Development Plan Policies WC4 and SC15.

### S106 Requirements & Viability

#### Affordable Housing

There is no requirement for the scheme to deliver affordable homes based on the thresholds set out in Development Plan Policy LC2. Notwithstanding this, the scheme delivers 21 new homes, and all of these will be affordable homes, which is a benefit in the planning balance.

### Recreation and Leisure

Development Plan Policy ITCR5 expects residential developments of more than 10 units to make reasonable financial contributions either for new green spaces, or to improve green spaces, falling within specified walking distances of a site, with a view to achieving a 60% quality standard for green spaces. Policy ITCR7 also seeks contributions to existing playing pitches where improvements to them are needed from developments of 10 or more dwellings, to achieve an 'average' standard for playing pitches.

#### *Green space*

South Normanton has an under provision of open space, and 1.73ha of additional green space is required to meet the minimum standard. BDC's Leisure Officer has reviewed the application, and states that provision of Formal Green Space and Semi natural Green Space should be provided.

A commuted sum contribution of £23,436 would normally be sought to improve local areas of existing green space.

Notwithstanding this normal requirement, there is no proposal to make such provisions under ITCR5 due to the financial viability of the scheme, which is discussed later in this report.

In this respect it is noted that there are existing accessible play facilities approx. 170m to the west of the site that would provide recreation provision for occupants of this development should no provision be possible from this development due to viability.

#### *Built & Outdoor Sports Facilities*

New residential development of more than 10 dwellings will be expected to make financial contributions to the improvement of playing pitches and / or their ancillary facilities. The Playing Pitch strategy and assessment will be used to consider the most appropriate site for enhancements.

A commuted sum contribution of £28,560 would normally be sought to improve local playing pitches and their ancillary facilities.

Notwithstanding this normal requirement, there is no proposal to make such provisions under ITCR7 due to the financial viability of the scheme, which is discussed later in this report.

### Education

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

### Health

There has been no request from the Clinical Commissioning Group for any contributions towards local health care provision as the size of the scheme is below its threshold where it would seek contributions.

Chesterfield Royal Hospital (CRH) has commented that Section 106 impact on health [should] be considered, stating that initial modelling suggests that the impact of this development is £32,995.

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

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

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

#### Viability

As highlighted in the above report, there are policy requirements for S106 contributions. In response to this a viability assessment has been commissioned by the Council that demonstrates that the scheme would be unable to afford additional contributions.

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

The submitted viability assessment has been produced in accordance with the requirements of the PPG and demonstrates that the scheme is unable to afford the requested additional S106 contributions and demonstrates that there is no identifiable surplus to finance any contributions, this would also relate to any additional contributions that may be received due to recent re-consultations.

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

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

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

increased demand.

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

On this basis, it is recommended that no additional financial contributions are sought from this development, other than those identified to cover the provision of off-site Biodiversity features and its on-going management.

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

## **CONCLUSION**

The proposal is acceptable in principle given that the site is located in the development envelope. The residential designs proposed are considered to be good and compliant with Successful Places design guide. The provision of additional affordable housing is welcome and there are no significant amenity impacts likely that cannot be dealt with by condition. No other environmental impacts have been identified that would warrant the refusal of planning permission. The proposed development therefore accords with the policies of the local plan as well as the National Planning Policy Framework.

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

## **RECOMMENDATION**

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

- A. Limitation over the occupation of the dwellings to affordable housing.**
- B. Provision for off-site biodiversity mitigation measures, including mechanisms for initial provision as well as on-going long-term management and maintenance.**

**AND subject to the following conditions:**

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

Documents submitted 25/01/2024: -

- P20-1071.01H - Revised Layout
- P20-1071.04A - Site Levels and Sections
- P20-1071.06A - Street Scenes
- P20-1071.07B - Garden Sizes
- P20-1071.08 - 3D Site Renders
- P20-1071.020 - TYPE B-TYPE B – SEMI
- P20-1071.021 - TYPE B-TYPE D – SEMI
- P20-1071.022 - TYPE C-TYPE C - SEMI
- P20-1071.023 - TYPE D-TYPE C-TYPE C - 3 TERRACE (Sheet 1)
- P20-1071.024 - TYPE D-TYPE C-TYPE C - 3 TERRACE (Sheet 2)
- P20-1071.025 - TYPE C-TYPE C-TYPE D - 3 TERRACE (Sheet 1)
- P20-1071.026 - TYPE C-TYPE C-TYPE D - 3 TERRACE (Sheet 2)
- P20-1071.027 - TYPE F-TYPE B – SEMI
- P20-1071.028 - BUNGALOW 1 – SEMI
- P20-1071.029 - BUNGALOW 2 – SEMI

3. No development comprising the erection of any external walls shall take place until samples of the materials to be used in the construction of the external surfaces of the development, including the roof, have been submitted to and approved in writing by the Local Planning Authority. The Development shall be carried out in accordance with the approved details. The materials to be used throughout the development shall be consistent in terms of colour, size, and texture with the approved details.
4. No development shall take place until full details of both hard and soft landscape work with an associated implementation plan, have been submitted to and approved in writing by the Local Planning Authority. The hard landscape details shall include proposed finished levels or contours; means of enclosure; hard surfacing materials and street furniture, where relevant. The soft landscaping works shall include planting plans; written specifications (including cultivation and other operations associated with plant and grass establishment); schedules of plants and trees, noting species, plant/tree sizes and proposed numbers/densities and the implementation programme.

All planting shall be implemented in accordance with the approved details in the first available planting season following the completion of the development, or such longer period which has previously been approved in writing by the Local Planning Authority and shall be maintained for a period of 5 years from the agreed date of planting. Any trees or plants which die, become diseased, or are removed during the maintenance period shall be replaced with specimens of an equivalent species and size.

5. Prior to the commencement of any development hereby approved, a scheme in the form of a Construction Environmental Management Plan (CEMP) shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall include details for the methods to be employed to control and monitor noise, dust, and vibration impacts. The approved scheme shall be implemented to the full written satisfaction of the Local Planning Authority before the construction works are



commenced, which shall be maintained for the duration of the construction works.

6. Before the commencement of the development hereby approved, a site investigation must be carried out by a competent person in accordance with the current U.K. requirements for sampling and analysis and a report of the site investigation must have been submitted to, and approved in writing by, the Local Planning Authority.
7. Before the commencement of the development hereby approved: Where the site investigation required by condition 6 identifies unacceptable levels of contamination, 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, must have been submitted to and approved in writing by the Local Planning Authority. The submitted scheme shall have regard to CLR 11 and other relevant current guidance. The approved scheme shall include all works to be undertaken, proposed remediation objectives and remediation criteria and site management procedures. The scheme shall ensure that the site will not qualify as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land after remediation. The developer shall give at least 14 days' notice to the Local Planning Authority (Environmental Health Division) prior to commencing works in connection with the remediation scheme.
8. No dwelling hereby approved will be occupied until:
  - a) Any approved remediation works required by 7 above have been carried out in full in compliance with the approved methodology and best practice in respect of that dwelling and its plot.
  - 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 described in 1 and 2 above and satisfy 3a above.
  - c) Upon completion of the remediation works required by 2 and 3a above, 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.
9. No development shall commence until:
  - a) a scheme of intrusive investigations has been carried out on site to establish the risks posed to the development by past shallow coal mining activity; and

- b) any remediation works and/or mitigation measures to address land instability arising from coal mining legacy, as may be necessary, have been implemented on site in full in order to ensure that the site is made safe and stable for the development proposed.

The intrusive site investigations and remedial works shall be carried out in accordance with authoritative UK guidance.

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

- a. ASC, Ltd. (Oct 2022), Flood Risk Assessment and Drainage Strategy Report, ref: SC128/FRA, including any subsequent amendments or updates as approved by the Flood Risk Management Team; and
- b. 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.

11. No development will take place until a detailed assessment has been provided to and approved in writing by the Local Planning Authority, to demonstrate that the proposed destination for surface water accords with the drainage hierarchy as set out in paragraph 80 reference ID: 7-080-20150323 of the planning practice guidance.

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

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

14. No part of the development hereby permitted shall commence until an assessment of the risk to motorists using the M1 motorway as a result of glint and glare emitting from vehicle movements within the development or the proposed street lighting layout, has been carried out and any necessary mitigation scheme identified and has been approved in writing by the Local Planning Authority in consultation with Highways England. The approved mitigation scheme shall thereafter be constructed in accordance with the approved plans prior to first occupation of the development and

maintained in perpetuity.

15. Prior to the occupation of the development, or it being taken into beneficial use, a signed statement or declaration prepared by a suitably competent person confirming that the site is, or has been made, safe and stable for the approved development shall be submitted to the Local Planning Authority for approval in writing. This document shall confirm the methods and findings of the intrusive site investigations and the completion of any remedial works and/or mitigation necessary to address the risks posed by past coal mining activity.
16. No dwellings hereby approved will be occupied until:
  - a. The approved remediation works required by condition 15 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 described in 1 and 2 above and satisfy 3a above.
  - c. Upon completion of the remediation works required by 2 and 3a above 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.
17. Prior to the occupation of any dwellings, street lighting and lighting for the proposed shared parking court serving plots 8 to 16, must have been provided and be made operational in accordance with details that must have previously been submitted to and approved in writing by the Local Planning Authority, that shall be maintained and operational, as approved, at all times thereafter.
18. The scheme of sound mitigation included in the submitted Noise Impact Assessment dated 4th February 2021, carried out by Environmental Noise Solutions must have been implemented as part of this development prior to the occupation of any dwelling and must be retained, as approved, at all times thereafter.
19. The development hereby approved shall not be occupied until the access, parking and turning facilities have been provided as shown on drawing P20- 1071 – DE\_001\_01 G.
20. The development hereby approved shall not be occupied until sheltered, secure and

accessible bicycle parking has been provided in accordance with details which shall first be submitted to and approved in writing by the Local Planning Authority. The storage area shall be maintained for this purpose thereafter.

21. Prior to commencement of the development hereby permitted details of a 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);
  - 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;
  - Methods of communicating the Construction Management Plan to staff, visitors and neighbouring residents and businesses.
22. Prior to the commencement of development, including preparatory site clearance, a detailed badger survey for any recently excavated badger setts on the site or within 30 metres of the site boundary should be undertaken. The results and any appropriate mitigation/licensing requirements shall be submitted to the Local Planning Authority for approval. Such approved measures must be implemented in full.
23. Due to the presence of Japanese knotweed on adjacent land, prior to the commencement of the development, including preparatory site clearance, a survey for any recent establishment of this species within the site or along the site boundary should be undertaken. The results and any appropriate mitigation requirements shall be submitted to the Local Planning Authority for approval. Such approved measures must be implemented in full.
24. No development shall take place (including demolition, ground works, vegetation clearance and movement of plant, machinery and materials) until a Biodiversity 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 on protected species and sensitive habitats during construction.
  - 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 (Biodiversity) 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.

25. Prior to building works commencing above foundation level, a Species Enhancement Plan shall be submitted to and approved in writing by the Local Planning Authority. Approved measures shall be implemented in full and maintained thereafter. The Plan shall clearly show positions, specifications and numbers of features, which will include (but are not limited to) the following:

- 21 integrated swift bricks (universal nest box) at ratio of 1:1, in line with British Standard 42021:2022. Bricks should be integrated into the fabric of the dwellings.
- 3 external or internal bat boxes
- fencing gaps 130 mm x 130 mm to maintain connectivity for hedgehogs in all gardens.

26. A Landscape Enhancement and Management Plan (LEMP) shall be submitted to, and be approved in writing by, the LPA prior to the commencement of the development. The aim of the LEMP is to provide details for the creation, enhancement and management of habitats and species on the site post development. These should be in accordance with the proposals set out in the submitted Biodiversity Metric 4.0 prepared by Brindle and Green 2nd November 2023. The LEMP 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, 5, 10, 15, 20 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) Requirement for a statement of compliance upon completion of planting and enhancement works.

The LEMP 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.

27. A Biodiversity Habitat Enhancement and Management Plan (BHEMP) shall be submitted to, and be approved in writing by, the LPA prior to the commencement of the development. The aim of the plan 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 Biodiversity Metric 4.0 prepared by Brindle and Green 2nd November 2023. The plan 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) Details for the enhancement of modified grassland to lowland calcareous grassland including the results of soil analysis.
- c) Aims and objectives of management, in line with desired habitat conditions detailed in the metric.
- d) Appropriate management methods and practices to achieve aims and objectives.
- e) Prescriptions for management actions.
- f) Preparation of a work schedule (including a 30-year work plan capable of being rolled forward in perpetuity).
- g) Details of the body or organization responsible for implementation of the plan.
- h) A monitoring schedule to assess the success of the habitat creation and enhancement measures at intervals of 1, 2, 5, 10, 15, 20, 25 and 30 years.
- i) Monitoring reports to be sent to the Council at each of the intervals above.
- j) A set of remedial measures to be applied if conservation aims and objectives of the plan are not being met.
- k) 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.

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

## **NOTES**

1. National Highways has advised that as indicated on the site sections drawing relating to the soil to be removed, the applicant should provide actual revised ground levels at detailed design stage so that they can be assured and confirm there is no additional risk from any change in levels alongside our boundary.
2. Subject to acceptance of the SuDS design by DCC (LLFA), we must ensure the developer submits an Operation and Maintenance Plan (in accordance with section 32 of the SuDS Manual) which provides details of the arrangements for the lifetime management and maintenance of the SuDS features together with contact details. ( a copy to be kept by Engineering Services)
3. The sewer records show a public sewer within the area of the proposed work (plan available to view on the planning application record of 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 should be advised to contact Severn Trent Water in order to determine their responsibilities under the relevant legislation.
4. All proposals regarding drainage will need to comply with Part H of the Building Regulations 2010.
5. 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.
6. Any developer is requested to ensure that appropriate provision is made for NGA broadband infrastructure and services as part of the design of their development schemes at the outset. If it can be shown that this would not be possible, practical or economically viable, in such circumstances, suitable ducting should be provided within the site and to the property to facilitate future installation. Guidance on the characteristics of qualifying NGA technologies is available from The Department for Digital, Culture, Media and Sport
7. The Highway Authority (Derbyshire County Council) has advised the following: -
  - The development hereby approved includes the carrying out of work on the adopted highway. You are advised that before undertaking work on the adopted highway you must enter into a highway agreement under Section 278 of the Highways Act 1980 with the County Council, which would specify the works and the terms and conditions under which they are to be carried out.  
Contact the Highway Authority's Implementation team at [development.implementation@derbyshire.gov.uk](mailto:development.implementation@derbyshire.gov.uk) allowing sufficient time for the preparation and signing of the Agreement. You will be required to pay fees to cover the Councils costs in undertaking the following actions:

Drafting the Agreement  
A Monitoring Fee  
Approving the highway details  
Inspecting the highway works

Planning permission is not permission to work in the highway. A Highway Agreement under Section 278 of the Highways Act 1980 must be completed, the bond secured and the Highway Authority's technical approval and inspection fees paid before any drawings will be considered and approved.

- Drainage arrangements shall be provided to ensure that surface water from the development site does not discharge on to the public highway. No drainage or effluent from the proposed development shall be allowed to discharge into any highway drain or over any part of the public highway.

### **Statement of Decision Process**

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

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

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

### **Equalities Statement**

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

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

### **Human Rights Statement**

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

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



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