

The Arc  
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To: Chair & Members of the  
Planning Committee

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Monday 10<sup>th</sup> June 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 19th June 2024 at 10:00 hours.

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

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

Yours faithfully

A handwritten signature in black ink, appearing to read "J. S. Fielden".

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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**PLANNING COMMITTEE  
AGENDA**

***Wednesday 19th June 2024 at 10:00 hours taking place in the Council Chamber,  
The Arc, Clowne***

<b>Item No.</b>		<b>Page No.(s)</b>
<b>1.</b>	<b>Apologies For Absence</b>	
<b>2.</b>	<b>Urgent Items of Business</b>	
	To note any urgent items of business which the Chairman has consented to being considered under the provisions of Section 100(B) 4(b) of the Local Government Act 1972.	
<b>3.</b>	<b>Declarations of Interest</b>	
	Members should declare the existence and nature of any Disclosable Pecuniary Interest and Non Statutory Interest as defined by the Members' Code of Conduct in respect of:	
	a) any business on the agenda	
	b) any urgent additional items to be considered	
	c) any matters arising out of those items	
	and if appropriate, withdraw from the meeting at the relevant time.	
<b>4.</b>	<b>Minutes</b>	<b>5 - 14</b>
	To consider the minutes of the last meeting held on 10 <sup>th</sup> April 2024.	
	<b><u>APPLICATIONS TO BE DETERMINED UNDER THE TOWN &amp; COUNTRY PLANNING ACTS</u></b>	
<b>5.</b>	<b>24/00144/VAR - Variation of Condition 2 (relocation of temporary access road) of application 22/00168/FUL - Land North West Of 1 Barn Cottages Farm Lane Hardstoft</b>	<b>15 - 32</b>
<b>6.</b>	<b>23/00644/FUL - Conversion of public house to general convenience store with additional storage and conversion of 1st and 2nd floors to provide 2 self-contained flats and 10 bedroom HMO - The New Victoria Inn Acreage Lane Shirebrook Mansfield</b>	<b>33 - 61</b>
<b>7.</b>	<b>24/00102/FUL - Change of Use of Existing Dwellinghouse (C3 Use) to Children's Care Home for up to 3no. Children (C2 Use). Minor facilitating works comprising widening of driveway and vehicle access - 16 The Chine Broadmeadows Pinxton Nottingham</b>	<b>62 - 95</b>

- |    |  |           |
|----|--|-----------|
| 8. | <b>23/00573/OTHER - Application Under S106A to modify the legal agreement completed with planning permission 21/00464/TDC to omit infrastructure obligations for viability reasons for: affordable housing, leisure, schools, health and highways - Forge New Homes Development Site Welbeck Road Bolsover</b>   | 96 - 113  |
| 9. | <b>23/00640/VAR - Application to vary condition 2 (approved plans) of application 22/00323/FUL to make amendments to the scheme - amendments inc. changes to roof lights and doors (inc. omitting some openings); increased floor areas to accommodate toilets, new openings and lights; increased hall and plant room floor area; and revisions to landscaping and drainage scheme - Shirebrook Cemetery, Common Lane, Shirebrook</b> | 114 - 142 |

**REPORTS OF THE ASSISTANT DIRECTOR OF DEVELOPMENT AND PLANNING**

- |     |   |           |
|-----|---|-----------|
| 10. | <b>Creswell Growth Plan - Consultation Draft</b>            | 143 - 193 |
| 11. | <b>Quarterly Update on Section 106 Agreement Monitoring</b> | 194 - 203 |



## PLANNING COMMITTEE

Minutes of a meeting of the Planning Committee of the Bolsover District Council held in the Council Chamber on Wednesday, 10<sup>th</sup> April 2024 at 10:00 hours.

### **PRESENT:-**

Members:-

Councillor Tom Munro in the Chair

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

Officers:- Steve Brunt (Strategic Director of Services), Jim Fieldsend (Monitoring Officer), Peter Sawdon (Principal Planner), Chris Whitmore (Development Management and Land Charges Manager), Alison Bluff (Governance) and Matthew Kerry (Governance and Civic Officer).

### **PL68-23/24          APOLOGIES FOR ABSENCE**

An apology for absence was received on behalf of Councillor Carol Wood.

### **PL69-23/24          URGENT ITEMS OF BUSINESS**

There were no urgent items of business.

### **PL70-23/24          DECLARATIONS OF INTEREST**

There were no declarations of interest made.

### **PL71-23/24          MINUTES – 13<sup>TH</sup> MARCH 2024**

Moved by Councillor Duncan McGregor and seconded by Councillor John Ritchie  
**RESOLVED** that the Minutes of a meeting of a Planning Committee held on 13<sup>th</sup> March 2024 be approved as a correct record.

The Chair introduced and welcomed Chris Whitmore to the meeting. Chris was the newly appointed Development Management and Land Charges Manager.

### **PL72-23/24          21/00331/FUL - FULL PLANNING APPLICATION FOR RESIDENTIAL DEVELOPMENT - OPEN SPACE EAST OF DAHLIA AVENUE SOUTH NORMANTON**

Committee considered a detailed report in relation to the above application which had been referred to Committee due to financial viability issues meaning normal section 106 contributions were not able to be offered.

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Permission was sought for 21 affordable homes, reduced from 25 originally submitted, and consisted of the following:

- 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 1 no. two storey unit).

Retrospective approval was also sought for soil piles generated from earlier adjoining housing developments, which had already been removed.

The viability of the proposal had been tested with an assessment commissioned by the Council and paid for by the applicant, but due to the different financial arrangement of schemes like the proposal, (the applicant was an RSL/Housing Authority), the typical s.106 requirements could not be met.

The balanced conclusion, with the need for more affordable housing and given the limited impact of the proposal due to its limited size, was that the proposal be approved subject to conditions.

Further information was contained in the supplementary update report which noted that the applicant had requested an amendment to the recommended conditions to:

- Merge the requirements of conditions 5 and 21 as a single condition, given the similar nature of these two conditions to control construction management; and,
- Merge the requirements of conditions 6 and 7 to create a new two-part condition, given these both dealt with the identification and treatment of any contamination, should any be identified.

The Principal Planner noted there were no planning objections to these amended conditions.

Additionally, it had been noted that the draft conditions included the following drafting errors that required correction:

- Condition 16 was a duplication of condition 8 that has been included in error and so condition 16 was proposed to be deleted as it is unnecessary; and
- Condition 8 is incorrectly cross-referenced to other conditions and so amendments to the condition are also proposed (following re-numbering this will become condition 7).

Publicity of the application; local press, site notices, and 20 neighbouring properties consulted, had resulted in the receipt of eight representations. Further publicity carried out in February 2022, to notify of amendments to the scheme had resulted in no additional representations.

Councillor Emma Stevenson, a Ward Member for South Normanton, who had been elected after the original submission and proposals of the application had been notified and publicised, had discussed concerns with planning officers that related to other issues raised in previous representations concerning spoil removal, the lack of section 106 financial contributions to the area, the impact on wildlife, the footpath connections, and a children's play space. The Principal Planner had spoken with the Leisure Officer

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responsible for this final concern, who was satisfied the existing play space was fit for purpose despite its age.

In relation to noise, an error in the report was noted as the original submitted noise assessment had not been updated with the later revised layout of the site. The Environmental Health Officer had been contacted and had confirmed that there were no significant issues with the scheme that could not be overcome. The original noise assessment had recognised the major noise source of the M1 Motorway, and that the closed windows and mechanical ventilation would likely control the issue of noise for future residents; a revised condition (to amend condition 16 as contained on the update report) will be needed to address this. The Environmental Health Officer had also advised the air quality assessment had been carried out appropriately with no unacceptable impact.

A Member noted the M1 Motorway was currently receiving alterations with new passing/parking places installed and he queried if these changes had been considered in the noise and air quality assessments. The Principal Planner explained the revised noise condition had been designed to carry out refreshed noise assessments and these would include the current alterations being made to the M1 Motorway. These reports would be adjusted to consider the revised assessments and then be put forward for recommendations including necessary technical enhancements of the dwellings to ensure the developer could meet appropriate and reasonable amenity levels for residents.

It was noted that Chesterfield Royal Hospital had made a request for financial contributions and a Member queried the Council's response to this. The Principal Planner advised that all the Council's s.106 requirements were subject to a separate supplementary document which was reviewed regularly. Part of the review involved liaising with local health bodies and until the Policy team reviewed the s.106 supplementary document, ongoing discussions with Chesterfield Royal Hospital would continue.

In response to a Member's comment regarding affordable housing in the District, the Principal Planner confirmed that while s.106 contributions were reduced, the quantity of affordable housing being 100% of the proposal offset this reduction.

In response to a Member's query regarding the future management and maintenance of the open space and play equipment, the Principal Planner noted this was an error in the report and the future management and maintenance referred to the offsite biodiversity.

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:

- 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.

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**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.

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5. Prior to the commencement of any development hereby approved, a scheme in the form of a Construction Management Plan (CMP) must be submitted to and approved in writing by the Local Planning Authority. The submitted plan must include, but is not 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;
- details for the methods to be employed to control and monitor noise, dust, and vibration impacts
- Methods of communicating the Construction Management Plan to staff, visitors and neighbouring residents and businesses; and
- timescales for the implementation of the scheme.

The approved scheme shall be implemented and adhered to in full accordance with the scheme as approved under this condition.

6. Before the commencement of the development hereby approved

- i. 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.
- ii. Only where the site investigation required by 6i above 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.

7. o dwelling hereby approved will be occupied until:

- a) Any approved remediation works required by 6 above have been carried out in full in compliance with the approved methodology and best practice in respect of that dwelling and its plot.

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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 6 above and satisfy 7a above.

c) Upon completion of the remediation works required by 6 and 7a 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.

8. 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.

9. 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.

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.

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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 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.
16. An updated acoustic assessment shall be submitted to the Local Planning Authority for approval in writing prior to the commencement of the development. A scheme of mitigation, as necessary in light of the results of the assessment, [covering façade, glazing and ventilation specifications] shall achieve levels not exceeding 30dB LAeq (night) and 45dB LAmx (measured with F time weighting) for bedrooms, 35dB LAeq (day) for other habitable rooms, with window shut and other means of ventilation provided. External amenity areas shall be designed to meet the requirements of BS8233:2014. Once approved the mitigation shall be installed fully in accordance with the approved scheme and permanently maintained thereafter.
17. 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.

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18. 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.
19. 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.
20. 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.
21. 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.

22. 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:



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- 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.

23. 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.

24. 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

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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.

25. 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.

The meeting concluded at 10:28 hours.

**PARISH** Ault Hucknall Parish

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**APPLICATION** Variation of Condition 2 (relocation of temporary access road) of application 22/00168/FUL  
**LOCATION** Land North West Of 1 Barn Cottages Farm Lane Hardstoft  
**APPLICANT** Mr Rye Mansfield Road Tibshelf Derbyshire DE55 5NF  
**APPLICATION NO.** 24/00144/VAR **FILE NO.** PP-12848172  
**CASE OFFICER** Mrs Karen Wake  
**DATE RECEIVED** 2nd April 2024

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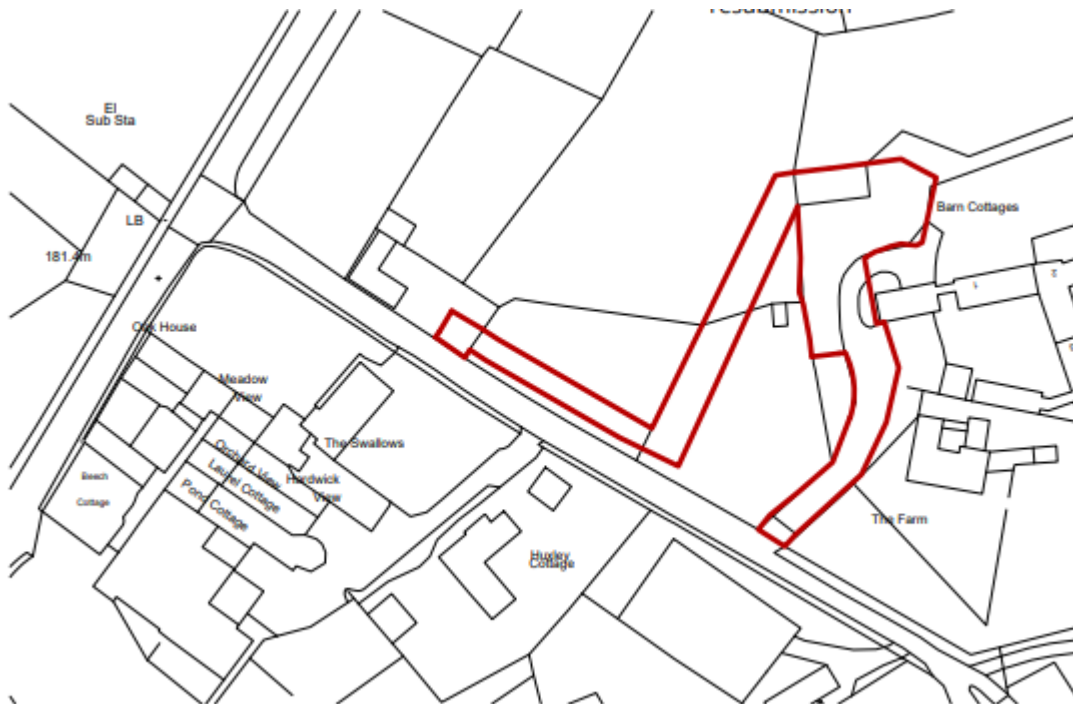
## SUMMARY

The application has been referred to Planning Committee because the application proposes to vary a planning permission that was originally determined by Planning Committee and involves more than non-material minor amendments.

The original planning application included a temporary access for construction vehicles. The amendment which is being considered in this application is the line of the proposed temporary access within the site.

The application is recommended for approval subject to conditions.

## Site Location Plan



## **OFFICER REPORT ON APPLICATION NO. 24/00144/VAR**

### **SITE & SURROUNDINGS**

The outbuilding proposed for conversion is sited in the north-west corner of a complex of three barn conversions (Barn Cottages) which were approved for conversion in the 1990's with original farmhouse retained fronting Farm Lane. The original farmhouse is an unlisted building of merit.

The outbuilding is constructed from random coursed Sandstone (gables and rear elevation) with a relatively modern corrugated sheet roof. There are 4 sets of double timber doors to the front elevation with a variety of timber / concrete and infill columns. The northern elevation of the building forms part of the rear boundary to the site.

The site is accessed from a shared private drive, leading from Farm Lane. The drive is used to access four residential properties. Three of which are part of a barn conversion development, arranged in a 'U' shape, with the original detached farmhouse to the south.

On the opposite side of Farm Lane are a row of residential dwellings, varying in their age and form, sited within spacious gardens. Directly opposite the entrance to the site is a menage. Both sides of Farm Lane are bound with established hedgerows.

To the side and front of the building, the land surface comprises unmanaged grass. Land levels drop to a hard surfaced driveway, used for parking and access to the rear of Barn 1. This driveway where it curves around the rear of the garage block is not part of the application site and is not within the red line boundary. Directly opposite the building is the rear elevation of the garage block serving two of the barn conversions. There are no windows in the rear of the garage block. To the southeast of the building is the rear elevation and private amenity space serving Barn 1. There is an existing 1.2m high stone wall along this boundary.

Within the application site, to the front of the building and adjacent to the driveway is an area of immature trees and shrubs.

To the west and southwest of the building is a paddock used for grazing of horses and is separated from the site by an established hedge and stone wall. There is an established hedge between the paddock and Farm Lane, and an existing gated access into the paddock.

### **BACKGROUND**

The current application is for an amendment to a previously approved scheme. The original application was for full planning permission for the change of use and conversion of a redundant barn into a three-bedroom dwelling to use as a holiday let, including a lean-to timber extension for Plant on the side, and internal works to create habitable rooms and a first floor mezzanine for a third bedroom. External works included the formation of a landscaped garden and parking area to the front, with a lowering of land levels to create a paved outdoor amenity area, and construction of a stone wall.

A temporary access road for use during construction was also proposed across the existing paddock which used the existing access onto Farm Lane. This temporary access road was approved as part of the original scheme.

A subsequent application was submitted to vary the line of the temporary access road (application no. 23/00613/VAR.) In this application the temporary access track also included a new access onto Farm Lane which involved the removal of a large section of mature hedgerow. This application was refused for the following reason:

“The proposed access is not necessary to serve the development approved under application 22/00168/FUL. That planning permission includes the provision of a temporary access for construction traffic. The need to move some sections of temporary electric fence and posts to facilitate the approved access is not considered to be justification to approve an amended access when the amended access is harmful to the rural character of the area, causes harm (less than substantial) to heritage assets without any public benefits, and for which the impact on biodiversity cannot be fully assessed due to the lack of information provided. For these reasons the proposal, as amended is contrary to Policies SS9, SC16, SC21 and SC9 of the Local Plan for Bolsover District.”

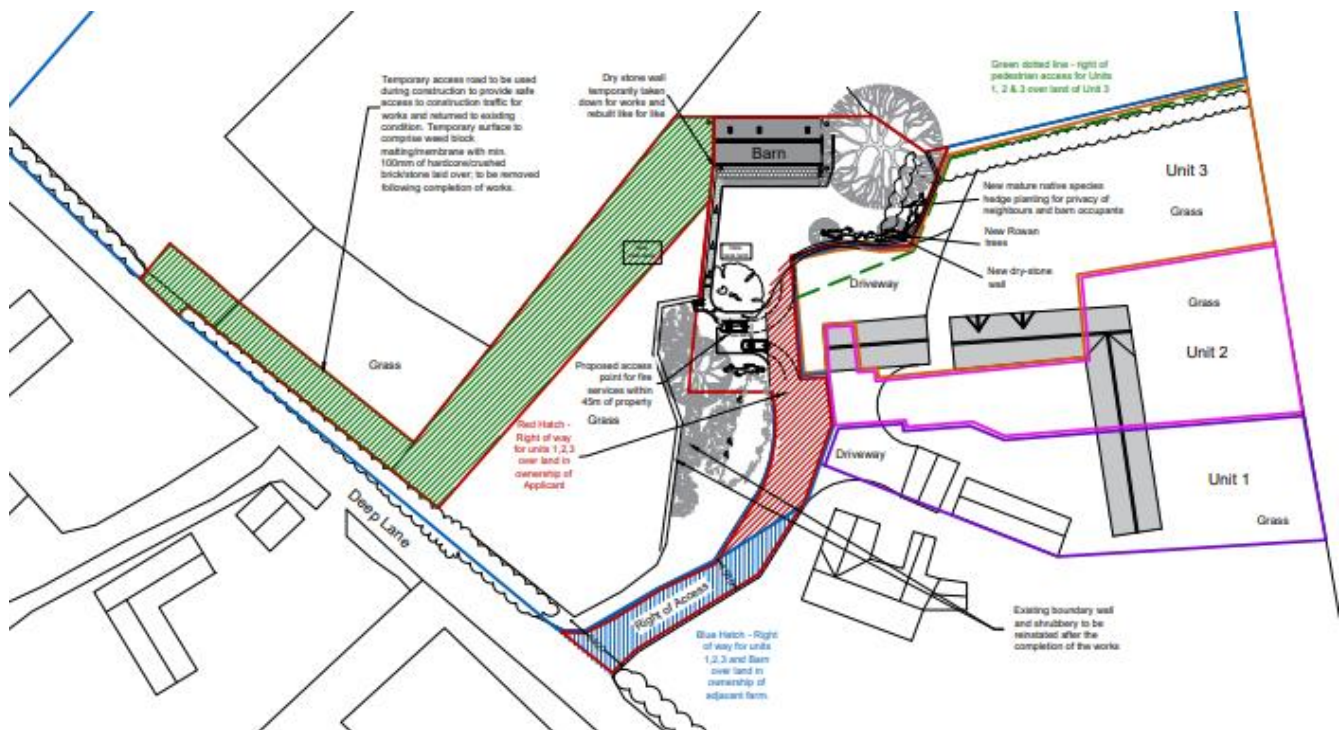
## **PROPOSAL**

The current application is to vary condition 2 (approved plans) of planning permission 22/00168/FUL to allow for the relocation of the site access during the construction period. The access track currently proposed utilises the same access as previously approved, but the current proposal is to move the temporary access track within the site such that it runs directly to the rear of the boundary hedge before running across the field to the barn.

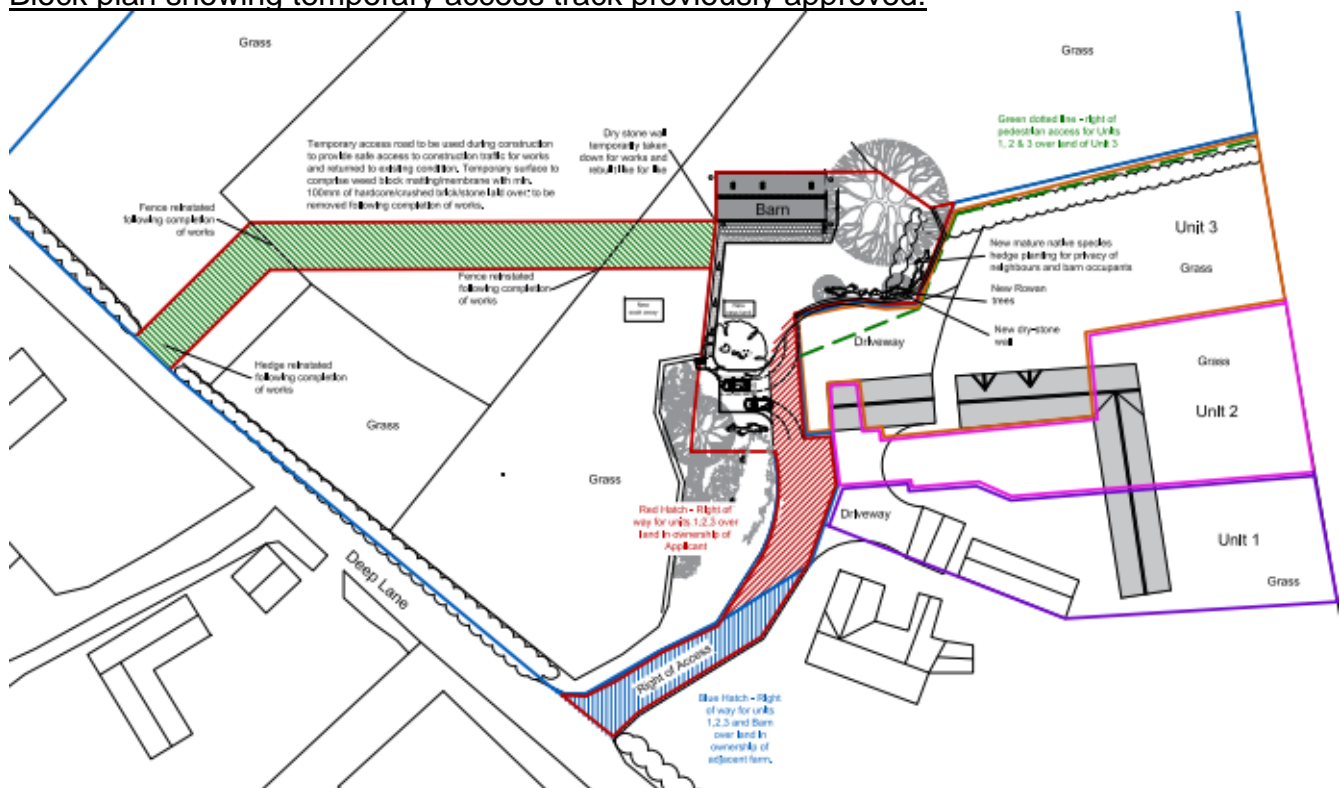
It is proposed that the land will be restored to its natural state following completion of the development and any hedge and boundary walls reinstated. The temporary surface road is proposed to comprise weed block matting/membrane with min. 100mm of hard core/crushed brick/stone laid over.

The only issue for consideration is therefore the line of the temporary access track within the paddock. There are no other alterations to the previously approved scheme.

Block plan showing temporary access track currently proposed:



Block plan showing temporary access track previously approved:



## AMENDMENTS

None

## 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.

## HISTORY

22/00168/FUL	Granted Conditionally	Change of use from disused barn into a 3-bedroom residential dwelling for use as a holiday let
23/00245/DISCON	Discharged	Discharge of Conditions 3 (Structural Report), 4 (Roof Materials & Verge Details), 16 (Coal Mining Intrusive Investigations) and 19 (Contaminated Land Assessment) of planning permission 22/00168/FUL
23/00613/VAR	Refused	Variation of Condition 2 (relocating the site access during the duration of the works to take advantage of an existing gate) of Planning Application 22/00168/FUL
23/00614/DISCON	Partially discharged	Discharge of Conditions 6 (Window Details (Drawings & Data sheets), 7 (Samples and Method of Construction), 8 (Landscaping Works), 9 (Specification of Works), 13 (Detailed Lighting Strategy), 15 (Details of Collection of Waste) of planning permission 22/00168/FUL

## CONSULTATIONS

Parish Council: Objects. The proposal appears to create a major break in hedging which is unacceptable and unnecessary in this conservation area and is detrimental to wildlife.

National Trust: No comments received.

DCC Highways: The ability for vehicles to manoeuvre through the proposed realigned temporary access would be restricted to some degree due to the 90-degree bend at the junction location with Deep Lane and the similar bend further along. However, the access is to be temporary and would not be expected to generate a significant number of vehicle movements. Whilst the realigned access track is not ideal, it is considered that it would not have such a detrimental highway impact which would warrant an objection to the application. There are therefore no Highway Authority objections to the application.

Coal Authority: No objections.

Environmental Health Officer: No comments

Derbyshire Wildlife Trust: The proposal will not have any additional impact on biodiversity.

Conservation Manager: No objections. The revised scheme does not involve the removal of a section of hedge and is considered to be no more visually intrusive than the approved access which cut diagonally across the field. Given the temporary nature of the access it is considered to be an acceptable amendment to the approved scheme subject to conditions requiring the re-instatement of the field after construction works are completed.

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

## **PUBLICITY**

Site notice, press notice and 8 neighbours notified. Two letters of objection received which raise the following issues:

1. The site drawing remains incorrect with respect to boundaries. This was raised at the original planning approval committee and despite very clear evidence being presented that this was incorrect the plans were approved. This should be addressed with the applicant given this dispute and the word of the applicant should not just be taken as fact when the council have seen evidence already that the plans are wrong. This is extremely negligent behaviour from all parties.
2. The applicant has maintained the position that the green dotted line is for pedestrian access. This is incorrect and is for vehicular access which further demonstrates the inaccuracies on the red line boundary.
3. Local Plan for Bolsover Policy WC10 states that "Development is at a scale which is in keeping with local character and which preserves or enhances the quality of the natural and built environment." The above boundary alteration clearly goes against the Bolsover Development Plan as well as the deeds for the properties 1, 2 and 3 which states that access is for vehicles during daylight hours and not simply a footpath.
4. The dry-stone wall on the drawing is placed on land owned by Barn number 3 – this should not be allowed and impacts the conditions of the approval.
5. Given the land of 3 Barn Cottages has been included within the application and also within the original application without the owner of Barn 3 being notified verbally or in writing of this intension, all planning approvals on this proposed development are unlawful and should be rescinded.
6. There are significant inaccuracies in the application which should result in rejection as follows:
  - a. The applicant states the condition should be removed or changed because they wish to "relocate the proposed (approved) temporary access road to run around the perimeter of one of the field demarcations to avoid dissection of the multiple enclosures.". As stated on the last revision request this is a somewhat spurious remark. There are not multiple field enclosures – this is occupied by a single tenant with horses and other animals on site. This is not split into formal enclosures. The council will note the area in question is on one title deed. If the council were to visit, they will see this for themselves. As stated previously also, the field is owned by the applicant so why wouldn't they have known this on the first application and submitted this correctly then?
  - b. The proposed relocation of the temporary access road does not detail any such changes to the proposed utilities that were also approved to cross the field in the original approval. As this has not been included in the amendment the applicant would have to comply with the original plan and therefore would have to dig up the field diagonally in line with the original approval and also dig up the field for the new road location. From the councils' previous remarks on this road relocation this should not be accepted. The field is a protected area and should not have actually been approved in the first place but certainly should not be approved for additional topography disturbance in two locations as per the proposed revision.
  - c. The proposed change to the temporary access road more than doubles the area of the field that is being disturbed. The width of the road after the right angle is nearly



double the single-track road that was approved previously by the council. Again, I highlight the point that this land is owned by the applicant and why was this not proposed correctly first time round. There is no need to double the width of the road.

- d. As stated in the original application objections, there is no consideration for flood risk concerns. This is detailed in Policy SC5 of the Local Plan for Bolsover. This proposal does increase flood risk. The temporary road would increase surface water run off as stated in the original application which was ignored by the council. Doubling the size of the road would only increase this due to compacted hard core and vehicles crossing the field. This has not been addressed or considered in any way from reviewing this application. This is further highlighted in Policy "There is no net increase in surface water runoff for the lifetime of the development on all new development. Run off rates for development on green field 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.". For the reasons stated above this variation will increase the surface water run-off and as this has been highlighted to the council and is detailed in their own plan. It would be negligent if this was not investigated further, and a suitable flood diversion programme put in place by the applicant. Conclusion Given the points made above on this application:
- No mention of relocation to the utilities through the field
  - Doubling the surface area of the proposed road and doubles that damage to the topography.
7. The application is an unnecessary amendment to the original application that could and should have been proposed at the time if it was relevant. On this basis it should be refused for further information as a minimum or alternatively this should be called into full planning review committee.

## **POLICY**

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

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

- SS1 – Sustainable development
- SS3 – Spatial strategy and distribution of development
- SS9 – Development in the countryside
- WC10 – Tourism and the visitor economy
- SC2 – Sustainable design and construction
- SC3 – High quality development
- SC5 – Change of use and conversions in the countryside
- SC9 – Biodiversity
- SC10 – Trees and hedges
- SC11 – Environmental quality (Amenity)
- SC14 – Contaminated and unstable land
- SC16 - Development Within or Impacting upon Conservation Areas
- SC21 - Non-Designated Local Heritage Assets
- ITCR10 – Supporting sustainable transport

- ITCR11 – Parking provision

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

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

- Chapter 2: - Achieving sustainable development.
- Paragraphs 7 - 10: Achieving sustainable development.
- Paragraphs 47 - 50: Determining applications.
- Paragraphs 55 - 56: Planning conditions.
- Paragraphs 123 - 127: Making effective use of land.
- Paragraphs 131 – 136: Achieving well-designed and beautiful places.
- Paragraphs 180, 186 and 188: Conserving and enhancing the natural environment.
- Paragraphs 189 - 194: Ground conditions and pollution.
- Paragraphs 200 - 214: Conserving and enhancing the historic environment. *Any harm to significance requires clear and convincing justification and must be weighed against the public benefits of a scheme (NPPF 207 and 208).*

### Supplementary Planning Documents

Hardstoft Conservation Appraisal and Management Plan – October 2009

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

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

## **ASSESSMENT**

### **Key issues**

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

- the principle of the development in the countryside and the impact on the rural character of the area.
- the impact on the character and appearance of the Conservation area and the setting of heritage assets.
- residential amenity.
- whether the development would be provided with a safe and suitable access and impacts on highway safety.
- Biodiversity

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

### Principle of the development in the countryside and the impact on the rural character of the area.

The principle of the barn conversion, the proposed access and the installation of the temporary access during construction is established by the existing planning conversion.

The only issue for consideration as part of this application is the amended temporary access during the construction period.

The site is outside development envelopes within an area of open countryside. Policy SS9 of the Local Plan for Bolsover District states that development proposals within the countryside will only be granted planning permission where it can be demonstrated that they fall within one or more of the following criteria:

- a) Involve a change of use or the re-use of previously developed land, provided the proposed use is sustainable and appropriate to the location.
- b) Are necessary for the efficient or viable operation of agriculture, horticulture, forestry or other appropriate land-based businesses, including the diversification of activities on an existing farm unit.
- c) Are small scale employment uses related to local farming, forestry, recreation or tourism.
- d) Secure the retention and/or enhancement of a community facility.
- e) Secure the retention and / or enhancement of a vacant or redundant building that makes a positive contribution to the character or appearance of the area and can be converted without complete or substantial reconstruction.
- f) Are in accordance with a made Neighbourhood Development Plan.
- g) The building is of exceptional quality or innovative design.

In all cases, where development is considered acceptable it will be required to respect the form, scale and character of the landscape, through careful location, design and use of materials.

The proposed temporary access does not fall within any of these criteria and as such is considered contrary to the requirements of Policy SS9 of the Local Plan for Bolsover District.

The temporary access is required for construction traffic to serve the approved barn conversion, and a temporary access has already been granted planning permission for this purpose. The temporary access already approved required the removal and re-instatement of a small section of stone wall and that would also be the case with the proposed access. The approved access utilised an existing gateway and only required a very small section of hedgerow (approx. 3m) to be removed to widen the access slightly and that is also the same with the proposed access.

The access track previously approved was proposed to be constructed with weed block matting and crushed stone and was to be removed once construction was completed. This is the same with the current proposal.

The proposed access track is in a different position to the one previously approved and is significantly wider. However, the wider track only results in the loss of extensively grazed grassland and is proposed to be returned to grassland once construction is completed.

The line of the access track previously approved went straight across the field. The access track currently proposed runs adjacent to mature hedgerows and as such is offered partial screening which means the current proposal is considered to have less of an urbanising impact on the rural character of the area than the track previously approved.

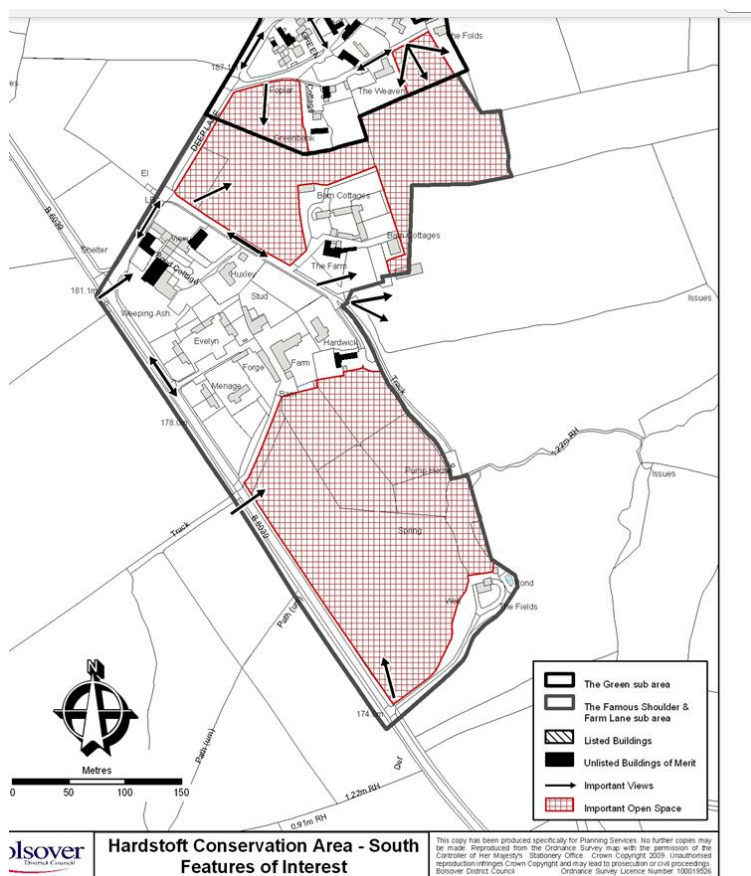
The only justification for this revised access is that it will be less intrusive on the sub plots adjacent to the site. The proposed location of the access track and the previously approved location of the access are both on land within the applicant's control and both cross existing paddocks. The only sub-division of plots is in the form of smaller paddocks created within the same field which are created by temporary, push in electric fence posts and tape. This is not considered to be sufficient justification to approve an access if that access had a more harmful impact on the rural character of the area than the previously approved access. However, in this instance, the line of the proposed access is considered to have less of an impact on the rural character of the area than that previously approved. It is therefore not considered necessary for the amended line of the access track to be justified by the applicant.

Impact on the character and appearance of the Conservation area and the setting of heritage assets.

The site lies within the Hardstoft Conservation Area and the farmhouse to the front of the site has been identified as an unlisted building of merit in the Hardstoft Conservation Area Appraisal and Management Plan (CAAMP). The fields to the north and west of the site have also been identified as Important Open Areas in the CAAMP. Views along Farm Lane in both directions and views from Farm Lane across the site to Hardwick Estate have also been identified in the appraisal as being significant, serving as a reminder of the historical connection between the hamlet and the Hardwick Estate.

The CAAMP clearly defines the character of the area surrounding the proposal site (the site lies within sub area 2 known as The Famous Shoulder and Farm Lane). This sub-area comprises the cluster of buildings sandwiched between Chesterfield Road and Farm Lane, The Farm and its converted outbuildings, and extends to the southeast across a large open space to the fields on the southern boundary of the conservation area. The area is encircled by agricultural fields and undeveloped open spaces which form part of the area's rural setting and provides opportunities for views across them.

The fields to the north and west of the application site have been identified as an important open space and the long range view from the corner of Farm Lane has been identified as an important view.



Clearly the landscape setting, long range views and the interrelationship with the built environment is an important element in defining the significance of the conservation area.

At the time the original application was being considered the Conservation Manager expressed concerns about the impact of the temporary access on the landscape setting and made reference to the fact that it would not be suitable as a permanent access.

The current scheme is utilising the existing field gate entrance as approved and then continuing at right angles along the existing southwest hedge boundary. The revised scheme does not involve the removal of a section of hedge and is considered to be no more visually intrusive than the approved access which cut diagonally across the field. Given the temporary nature of the access it is considered to be an acceptable amendment to the approved scheme in terms of its impact on heritage assets, subject to conditions requiring the re-instatement of the field after construction works are completed. Subject to such a condition, the proposal is considered to meet the requirements of Policies SC16 and SC21 of the Local Plan for Bolsover District and paragraphs 207 and 208 of the NPPF.

### Residential Amenity

The site is accessed off a narrow lane which serves a number of dwellings. The proposal utilises the access point already approved but moves the position of the temporary construction access such that it runs behind the hedge along Farm Lane. This means the construction vehicles will run in front of the residential properties on Farm Lane, whereas the access already approved crosses the field much further away from these properties.

The development as a whole will have some impact on existing residents over and above that currently experienced, particularly during construction but the amended location of the temporary access is not considered to exacerbate noise, disturbance or cause such detriment to the amenity of existing residents over and above the previously approved temporary access to warrant a reason for refusal. The proposal therefore complies with policies SC3 and SC11 of the adopted Local Plan in this respect.

#### Access/Highways

The site is accessed via a narrow lane. The current proposal does not change the access position of the temporary construction access, only its position within the field. The proposed line of the access track has two sharp corners, one of which is immediately inside the access point, and as such the access may be more difficult to manoeuvre into and out from than the previously approved access. However, the proposed access is wider than that previously approved, possibly in part to compensate for the difficulty in accessing the site from the line of the track as proposed.

The Highway Authority have acknowledged that the ability for vehicles to manoeuvre through the proposed realigned temporary access would be restricted to some degree due to the 90 degree bend at the junction and the similar bend further along, but consider that as the access is temporary, and would not be expected to generate a significant number of vehicle movements and as such they do not consider it to have such an impact on highway safety as to justify an objection to the proposal. On this basis the proposal is not considered to be materially harmful to highway safety and the proposal is therefore not considered to be detrimental to highway safety and is considered to meet the requirements of Policy SC3 of the Local Plan for Bolsover District in this respect.

#### Biodiversity

Policy SC2 (d) of the Local Plan identifies that development proposals should protect and enhance the quality of natural resources including biodiversity.

Policy SC3 (i) identifies that development proposals should address opportunities for biodiversity, conservation, and enhancement.

Policy SC9 of the adopted Local Plan relates specifically to biodiversity and identifies that development proposals should seek to conserve and enhance the biodiversity of the district and to provide net gains where possible.

The relocation of the temporary access does not involve the removal of a larger section of mature hedgerow than the previously approved scheme. The access itself is the same as previously approved. The access track is on a different line to that previously approved and involves the loss of a larger area of grassland. Derbyshire Wildlife Trust commented on the original application in terms of the loss of the grassland and did not object as it had been extensively grazed and was likely to be of low ecological value. Derbyshire Wildlife Trust have also raised no objection to the current application.

Given that an existing temporary access for construction vehicles has already been approved, and the current proposal utilises the approved access and does not result in the loss of additional hedgerow, only the loss of additional grazed grassland, the current proposal is not

considered to result in a net loss for biodiversity and as such is considered to meet the requirements of Policy SC9 of the Local plan for Bolsover District and paragraph 186 of the NPPF.

#### Issues raised by residents

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

The Issue of land ownership, boundaries and access rights have not been considered as these were raised at the original application stage and remain unchanged by this application and in any event, they are private matters between the parties concerned.

The issue of removal of part of the stone wall has also not been considered as this formed part of the original application.

The issue of utilities running across the field has also not been considered as the utilities will be underground and the land returned to grass and are a matter for Building Regulations and the relevant utility companies.

The issue of mud on the road has not been considered as this would be covered under the Highways Act and could be prevented by wheel washing facilities or a management plan for keeping the road clean had it been recommended for approval.

The issue of increase in surface water flooding is not considered to be a material planning issue in this instance because the access track is temporary, and the surface of the track is permeable.

#### **CONCLUSION / PLANNING BALANCE**

The amended proposal is not considered to have any greater impact on the character and appearance of the area or on biodiversity, residential amenity or highway safety than the previously approved scheme. For these reasons, the proposal is not considered to be contrary to the requirements of Policies SS9, SC16, SC21 and SC9 of the Local Plan for Bolsover District.

#### **RECOMMENDATION**

**The application be APPROVED subject to the following conditions:**

1. The development shall be begun before 9<sup>th</sup> August 2025
2. The development hereby permitted must be carried out in accordance with the following plans and documents:
  - Site Block Ownership Plan & Site Location Plan as Proposed - L/01 Rev J received 2<sup>nd</sup> April 2024
  - Proposed block plan - L/02 Rev B; received 20th June 2022
  - Proposed ground floor plan - P/01 Rev B; received 20th June 2022
  - Mezzanine floor and roof plan - P/02 Rev B; received 20th June 2022
  - South and East Elevations - P/03 Rev B; received 20th June 2022
  - North and West Elevations - P/04 Rev B; received 20th June 2022
  - Section A-A as Proposed - P/05 Rev B; received 20th June 2022
  - M-Ecology - Bat Activity Survey Report (30th May 2022); received 20th June 2022.

- Coal Mining Risk Assessment report (G22227) prepared by Geo-Investigate Ltd;
  - received 20th June 2022.
3. Prior to commencement of development, the Structural Report, prepared by Nashmean Limited and received on the 23rd March 2022 shall be updated to correspond with the approved plans, submitted to and approved in writing by the Local Planning Authority. The development shall then be carried out in accordance with the approved details.
  4. No development shall commence on the building conversion until details of the roofing materials and details of the verge have been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the agreed details and retained as such for the life of the development.
  5. The rainwater goods shall be cast metal on rise and fall brackets.
  6. Prior to the installation of any doors or windows, the following information must be submitted to and approved in writing by the Local Planning Authority:
    - Details of all new windows, including rooflights, in the form of 1:20 scaled plans.
    - Details of all new external doors, in the form of 1:20 scaled plans.
    - Details and treatment of the timber shutters in the form of 1:20 plans.
    - Details of the appearance and materials for the proposed cill and lintel treatments.
 The development shall then be carried out in accordance with the agreed details and retained as such for the life of the development.
  7. The dry stone wall must be constructed in accordance with the details submitted under discharge of condition application 23/00614/DISCON, a sample panel of which must be constructed and approved prior to the wall being constructed. The wall must be constructed in accordance with the approved details before the first occupation of the dwelling hereby approved and must be maintained as such thereafter.
  8. No building shall be occupied until the hard and soft landscape works approved under discharge of conditions application no 23/00614/DISCON have been implemented on site.
  9. Prior to any works being carried out to trees within the application site, a specification of works shall be submitted to and approved in writing. Where development takes place within any identified root protection areas of trees to be retained, the ground excavations shall be carried out using hand dig technology only. All tree works shall be carried out in accordance with the appropriate recommendations contained in British Standard 3998: 2010 (Tree Work) and in general shall in no way prejudice the health, balance and natural appearance of the trees to be retained.
  10. Prior to occupation of the dwelling hereby permitted, the temporary access track must be removed and the field must be restored to its previous condition through suitable ground preparation and the sowing of an appropriate seed mix. The section of hedgerow removed for access shall be reinstated using appropriate native species. The establishment of the hedgerow plants shall be monitored by the applicant for the next five years and any failed plants shall be replaced like for like. The stone wall along the western boundary shall be restored back to its current condition.
  11. Prior to occupation of the dwelling, an integrated or surface-mounted bat box shall be incorporated at the apex of the western gable. A photograph of the box in situ shall be submitted to and approved by the Local Planning Authority. The box shall be maintained in the agreed form for the life of the development.
  12. The removal of the hedgerow to create the temporary site access shall avoid the nesting season, which falls between 1st March and 31st 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 are present, an appropriate exclusion zone will be implemented and monitored until the chicks have fledged. No works shall be undertaken within exclusion zones whilst nesting birds are present.
13. The lighting strategy approved under discharge of conditions application no 23/00614/DISCON must be provided on site before first occupation of the dwelling hereby approved and must be maintained as such thereafter.
  14. The premises, the subject of the application, shall not be taken into use until space has been provided within the application site for the parking of visitors/resident's vehicles (measuring a minimum of 2.4m x 5.5m), generally in accordance with the application drawings, constructed, laid out, surfaced and maintained throughout the life of the development free from any impediment to its designated use.
  15. No part of the development shall be taken into use until details of arrangements for the collection of waste have been submitted to and approved by the Local Planning Authority. The development shall be carried out in accordance with the agreed details and the facilities retained for their designated purposes at all times thereafter.
  16. 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.
  17. 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.
  18. Notwithstanding the provisions of Classes A, B, C, D, E, and F of Part 1, and Classes A, B and C of Part 2 of Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that Order with or without modification), no extension, enlargement, alteration or the provision of incidental or ancillary buildings, surfaces or boundary treatments to the dwellinghouse hereby permitted and its curtilage shall take place, other than those approved under the terms of this permission, unless authorised by an express grant of planning permission.
  19. Before the commencement of the development hereby approved:
    - a) A Phase I contaminated land assessment (desk-study) must be undertaken and approved in writing by the local planning authority.
    - b) The contaminated land assessment must include a desk-study with details of the history of the site use including:
      - the likely presence of potentially hazardous materials and substances, their likely nature, extent and scale,
      - whether or not they originated from the site,
      - a conceptual model of pollutant-receptor linkages,
      - an assessment of the potential risks to human health, property (existing or

- proposed) including buildings, crops, livestock, pets, woodland and service lines and pipes, adjoining land, ground waters and surface waters, ecological systems,
- archaeological sites and ancient monuments,
- details of a site investigation strategy (if potential contamination is identified) to
- effectively characterise the site based on the relevant information discovered by the desk study and justification for the use or not of appropriate guidance. The site investigation strategy shall, where necessary, include relevant soil, ground gas, surface and groundwater sampling/monitoring as identified by the desk-study strategy

The site investigation must be carried out by a competent person in accordance with the current U.K. requirements for sampling and analysis. A report of the site investigation must be submitted to the local planning authority for written approval.

### **Reasons for Condition(s)**

1. To comply with the requirements of Section 51 of the Planning and Compulsory Purchase Act 2004.
2. To ensure that the development takes the form as envisaged by the Local Planning Authority.
3. To define the terms of this permission and to ensure a satisfactory appearance of the completed development, in the interests of visual amenity and in compliance with policies SS1, SS9, SC3, and SC5 of the adopted Local Plan.
4. To ensure a satisfactory appearance of the completed development. In the interests of visual amenity and in compliance with policies SS1, SS9, SC3 and SC16 of the adopted Local Plan.
5. To ensure a satisfactory appearance of the completed development. In the interests of visual amenity and in compliance with policies SS1, SS9, SC3 and SC16 of the adopted Local Plan.
6. To ensure a satisfactory appearance of the completed development. In the interests of visual amenity and in compliance with policies SS1, SS9, SC3 and SC16 of the adopted Local Plan.
7. To ensure a satisfactory appearance of the completed development. In the interests of visual amenity and in compliance with policies SS1, SS9, SC3 and SC16 of the adopted Local Plan.
8. To ensure a satisfactory appearance of the completed development. In the interests of visual amenity and in compliance with policies SS1, SS9, SC3 and SC16 of the adopted Local Plan.
9. For the avoidance of doubt, and in the interests of visual amenity, good arboricultural management and in compliance with policies SS1, SC3, and SC10 of the adopted Local Plan.
10. To define the terms of this permission, and in the interests of visual amenity, biodiversity, and highway safety, in compliance with policies SS1, SS9, SC3, SC9, SC10 and ITCR10 of the adopted Local Plan.
11. In the interests of biodiversity and in compliance with policies SS1, SC3, and SC9 of the adopted Local Plan.
12. In the interests of biodiversity and in compliance with policies SS1, SC3, and SC9 of the adopted Local Plan.
13. In the interests of biodiversity and in compliance with policies SS1, SC3, and SC9 of the adopted Local Plan.

14. To ensure the provision of on-site parking to serve the development. In the interests of highway safety and in compliance with policies SC3 and ITCR11 of the adopted Local Plan.
15. In the interests of highway safety and in compliance with policies Sc3 and ITCR10 of the adopted Local Plan.
16. The undertaking of intrusive site investigations, prior to the commencement of development, is considered to be necessary to ensure that adequate information pertaining to ground conditions and coal mining legacy is available to enable appropriate remedial and mitigatory measures to be identified and carried out before building works commence on site. This is in order to ensure the safety and stability of the development, in accordance with paragraphs 183 and 184 of the National Planning Policy Framework.
17. The undertaking of intrusive site investigations, prior to the commencement of development, is considered to be necessary to ensure that adequate information pertaining to ground conditions and coal mining legacy is available to enable appropriate remedial and mitigatory measures to be identified and carried out before building works commence on site. This is in order to ensure the safety and stability of the development, in accordance with paragraphs 183 and 184 of the National Planning Policy Framework.
18. To enable the Local Planning Authority to retain control over future extensions, alterations and the erection of outbuildings, giving the simple form of the extended dwelling, and location within the countryside and conservation area; in compliance with policies SS1, SS9, SC3 and SC16 of the Bolsover District Local Plan.
19. To ensure that the site is free from contamination, in compliance with policies SS1, SC2 and SC14 of the adopted Local Plan.

### **Statement of Decision Process**

The proposal complies with the policies and guidelines adopted by the Council and the decision has been taken in accord with the Policies of the National Planning Policy Framework.

### **Notes**

1. Under provisions within Sections 149 and 151 of the Highways Act 1980, the developer must take all necessary action to ensure that mud or other extraneous material is not carried out of the site and deposited on the public highway. Should such deposits occur, it is the developer's responsibility to ensure that all reasonable steps (e.g. street sweeping) are taken to maintain the roads in the vicinity of the site to a satisfactory level of cleanliness.
2. The sewer records do not show any public sewers within the curtilage of the site. However, the applicant should be made aware of the possibility of unmapped public sewers which are not shown on the records but may cross the site of the proposed works. These could be shared pipes which were previously classed as private sewers and were transferred to the ownership of the Water Authorities in October 2011. If any part of the proposed works involves connection to / diversion of / building over / building near to any public sewer the applicant will need to contact Yorkshire Water in order to determine their responsibilities under the relevant legislation.
3. All proposals regarding drainage will need to comply with Part H of the Building Regulations 2010. In addition, any connections or alterations to a watercourse will

need prior approval from the Derbyshire County Council Flood Team, who are the Lead Local Flood Authority.

4. 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.
5. In the interests of maintaining good relationships with surrounding land users, the applicant is requested to provide a scheme of noise management for customers using the holiday let.
6. Certain plant and animal species, including all wild birds, are protected under the Wildlife and Countryside Act 1981. It is an offence to ill-treat any animal; to kill, injure, sell or take protected species (with certain exceptions); or intentionally to damage, destroy or obstruct their places of shelter. It is thus an offence to take, damage or destroy a wild birds nest whilst in use or being built. Hedgerows or trees containing nests should therefore not be removed, lopped or topped during the nesting season. Bats enjoy additional protection. It is an offence to kill, injure or disturb bats found in the non-living areas of a dwelling house (that is, in the loft) or in any other place without first notifying English Nature. Some other animals are protected under their own legislation (e.g. the Protection of Badgers Act 1992).
7. The applicant is reminded that any amendment to the approved red line boundary or land owned by the applicant, following any dispute over land ownership may result in an amended planning application being required.

### **Equalities Statement**

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

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

### **Human Rights Statement**

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

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

**PARISH** Shirebrook Parish

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<b>APPLICATION</b>	Conversion of public house to general convenience store with additional storage and conversion of 1st and 2nd floors to provide 2 self-contained flats and 10 bedroom HMO.	
<b>LOCATION</b>	The New Victoria Inn Acreage Lane Shirebrook Mansfield	
<b>APPLICANT</b>	Mrs R Padda 1 The Summit, Carter Lane Shirebrook, MansfieldNG20 8NA	
<b>APPLICATION NO.</b>	23/00644/FUL	<b>FILE NO.</b> PP-12674770
<b>CASE OFFICER</b>	Mr Mark Penford	
<b>DATE RECEIVED</b>	18th December 2023	

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## SUMMARY / PROPOSAL

This is a full planning application at the New Victoria Inn, Acreage Lane, Shirebrook (Sui Generis) for the change of use of the building from a public house and above residential and office accommodation to a convenience store to the ground floor, two self-contained flats and a 10-bedroom House in Multiple Occupation (HMO) to the first and second floors for a maximum of 10 persons. The application includes internal and external alterations involving a rear extension for commercial storage, alterations to a side facing dormer, deliveries from Acreage Lane, a shared secure amenity area for future occupants and parking for both residents and customers.

The application originally proposed a large flat roofed rear extension which spanned Acreage Lane and an amenity area surrounded by commercial access for delivery purposes. Other alterations were proposed to the façade of the building and the site's boundaries which were not considered to respect its design character and caused harm to the visual amenity of the locality and residential amenity. The application has therefore been formally amended to address these issues and increase off-road parking within the site.

## Member Call In

Cllr Janes Yates has requested the application be referred to Planning Committee because there are 15 licensed HMOs in the Bolsover District, all within Shirebrook South, Shirebrook North and Langwith Wards and 8 of these are within Shirebrook South wards where the Victoria Inn is located. Cllr Yates states there have been multiple issues within HMOs in this area, for example at the former Station Hotel in Shirebrook North Ward and the former King of Diamonds in Langwith Ward. These are not on the list of licensed sites on the BDC Website.

The application is recommended for conditional approval.



## SITE & SURROUNDINGS

The New Victoria Inn is a large and prominent building of attractive design character which is located at the junctions of Field Drive, Acreage Lane and Recreation Drive. Whilst the site is located predominantly in a residential dwelling area, to the south of the site is The Grange Nursing and Residential Home and to the west of the site is a row of commercial shops which include a grocery store, fish and chips shop, hair & beauty salon and a newsagent. The land levels are flat, and the site is hard surfaced to the front and rear representing a brownfield site. The premises is currently closed.



## BACKGROUND

The earliest known planning history for the site dates back to 1961 when the building was known as the Victoria Hotel. The historic plans for the application show a public bar, separate lounge and concert room with stage to the ground floor and bedrooms to the first floor. It is not known when the use as a hotel ceased, but its authorised planning use as a public house has been for many decades up until the present day.



**Side elevation to Acreage Lane**

**(feature wall to be extended)**



**Rear of the site to Recreation Drive**

**(feature wall to be retained)**

## AMENDMENTS

Revised Proposed Block Plan received 09/05/2024 ref VI-AL-111 Issue A

Revised Proposed Elevations received 09/05/2024 ref VI-AL-108 Issue B

Revised Proposed Elevations received 09/05/2024 ref VI-AL-107 Issue B

Revised Proposed First Floor and Second Floor received 09/05/2024 ref VI-AL-106 Issue B

Revised Proposed Ground Floor Plan with Site Layout received 09/05/2024 ref VI-AL-105 Issue F

## PLANNING HISTORY

00/00084/FUL	Granted	Change of use to public house and community room and workspace
01/00383/FUL	Refused	Conversion of outbuilding to two hot food takeaways (Class A3)
08/00076/FUL	Granted	Kitchen ventilation ductwork to rear
BLA/1961/1710	Granted	Internal alterations and car park (BLA 1061/17)

## CONSULTATIONS

### Bolsover District Council – Environmental Health Officer

#### 1<sup>st</sup> comments

Advises Housing and Public Health have reviewed the information submitted to support the application together with records and comments on the need to consider fire safety, amenity standards and compliance with the Council's adopted amenity standards, bedroom sizes and the need for a HMO licence if the property is occupied by 5 or more people.



## 2<sup>nd</sup> comments

Cannot see that an objection would be raised. The plans are very detailed, and the applicant knows what is required for the HMO element. The applicant would need to make contact with Environmental Health for licensing and the team would ensure that room and amenity standards are met, in addition to fire safety. The management plan covers everything Environmental Health would expect as part of the management regulations.

### **Bolsover District Council – Planning Policy**

Regarding the proposed use as a convenience store, given the location and retail floor area proposed there is no requirement for a sequential test or impact test. There are no policy objections to the principle of the use as a convenience store subject to the other policy aspects set out under both Policy WC5 and Policy SC1 being met. As a public house, the property is subject to Policy ITCR4: Local Shops and Community Facilities. The Policy is intended to help avoid the loss of important facilities where planning permission is required including public houses. The applicant needs to demonstrate that their application meets at least one of the four criteria in the Policy, through evidence submitted with the planning application. No information has been submitted with the application in relation to these criteria. However, it is not considered that the proposal meets criteria a), b) or d) of Policy ITCR4.

This becomes more complex as the proposed use of the ground floor of the premises is a convenience store which is also classed as a community asset. However, in relation to criteria c) there is a lack of any supporting information in relation to the application to demonstrate that the existing use of the public house is not viable through marketing. Neither the Local Plan nor the NPPF has specific policies relating to HMOs. The application must be considered against the Local Plan Policies SC1: Development within the Development Envelope, Policy SC3: High Quality Development and Policy SC11: Environmental Quality (Amenity). Development in relation to the impact on the character of the area and aspects such as living conditions. Any conclusions would need to be supported by evidence. Parking provisions do not meet the standards set out for retail and residential accommodation in the Local Plan, Appendix 8.2 and the Car Parking SPD. Under NPPF Paragraph 115, if there is a material deficiency of parking it needs to be identified that it would not have a harmful effect on highway safety. Advice from the Highway Authority should be sought on this aspect.

### **Bolsover District Council - Principal Environmental Health Officer**

Advises no objections in principle. As the application proposes to bring commercial and residential uses to the same building, a noise condition is recommended to protect future occupants by securing a scheme of sound insulation, taking into account the need to provide adequate ventilation, and for this to be by mechanical means where any windows would not achieve minimum noise level criteria. A validation report shall be required for compliance purposes. Agrees to the operating hours of the store and deliveries to be controlled by condition.

### **Derbyshire Constabulary - Force Designing out Crime Officer**

#### 1<sup>st</sup> comments

Notes community concerns and has notified the local police Safer Neighbourhood Team for contextual opinion. The locality has a significantly higher HMO element than the norm. Some are associated with raised levels of drug & alcohol abuse, anti-social behaviour and crime. There are a number of HMO's which are well managed and problem free. The difference between the two lies in the behaviour of tenants, effective management and maintenance by



landlords, neither of which would be seen as material in planning terms. The transient nature of the HMO tenancy would not bring the community cohesion or guardianship of owner occupancy. This is a chaotic lifestyle of some HMO tenants. There is no inevitability of any such element for this proposal, but provisions should be made to strengthen community safety, if a recommendation to approve is made, on balance.

Planning Conditions could be used commensurate to the risk. These include:

- Boundary treatment including a secure enclosure specification for the private ground and bicycle lockers and separation of the grounds from the nursing home.
- Control of communal door entry to the communal space areas within the building
- CCTV coverage to the main communal entrance, for shared car parking areas and external communal grounds.
- Details for secure mail delivery for each tenant.

The residential portion of the building would need to comply with Building Regulations Approved Document Q, concerning resistance against forced entrance. To comply with this, communal doors and individual apartments or private room doors would need to meet this element of the standards.

#### 2<sup>nd</sup> comments

In respect of the amended plans, accepts that issues relating to security, lighting, cctv could be dealt with by planning condition. Maintains concerns regarding the integrated delivery and amenity area and open cycle storage to the rear of the site. The private shared garden space, storage and cycle storage should all be secure. Opening up the site to allow for parking removes the secure enclosure previously provided for the rear of the building and should be reintroduced.

#### 3<sup>rd</sup> comments

Accepts the cycle storage can be relocated back into the enclosed amenity area and this together with all remaining matters could be dealt with by planning condition. Acknowledged the need to provide more parking and highlights the potential for a sliding or swing gate to secure the rear section of the car park if viable/possible. This might not be financially viable, but it would secure more private land and help reduce the likelihood of malicious rubbish fires, car interference, and free up the garden space.

### **Derbyshire County Council - Highway Authority**

#### 1<sup>st</sup> comments

The proposal is likely to result in an intensification in use of the vehicular access from Field Drive, however the existing access demonstrates satisfactory visibility splays and therefore the increase in traffic would be unlikely to result in any highway safety concerns. Eleven additional parking bays are proposed for the site with 18 spaces in total. Although this falls below the Council's parking standards, which require 35 spaces, it is considered the existing roads are capable of managing potential overspill from the proposal without causing any detriment to highway safety. Confirms no objections subject to conditions to ensure the development is not brought into use until the access, parking and turning is provided in accordance with drawing VI-AL-105 and to ensure the existing vehicular access to Acreage Lane is permanently closed. Advisory note recommended in relation to Section 127 of the Highways Act 1980 and the need for separate consent from the Highway Authority for works on the adopted highway.

#### 2<sup>nd</sup> comments

In response to the revised plans is aware that on-site parking has been increased and confirms there is no objection subject to conditions to ensure the site is not brought into use until the access, parking and turning is provided and the existing access to Acreage Lane is permanently closed.

## **Derbyshire County Council – Licensing Authority**

Response not received.

## **Derbyshire Wildlife Trust**

Response not received.

## **Shirebrook Town Council**

Shirebrook as a whole has accommodated more than its fair share of HMO's. The transient nature delivers a lack of community cohesion and decreased sense of security among long term residents. The Town Council is invested into improving our community but more of this type of development would be detrimental to our vision to improve lives and well-being of our community, they deserve to expect more. With such a development comes excess noise, traffic, activity, pollution and reduced privacy. A Councillor is familiar with the internal layout and has concerns for the safety of future tenants. With many tenants there is potential for overcrowding, fire hazards and other safety risks. There are already major parking issues in the area and the proposal would exacerbate them. Property owners have concerns about devaluation of property and does not serve to sustain a comfortable safe environment. Urges the planning team to carefully reconsider approval of the application and to explore alternative solutions.

## **The Coal Authority**

Confirms that although part of the site lies within the Development High Risk Area, the application relates primarily to a change of use which falls under Part B of the Coal Authority's published exemptions list. The proposed extension is acknowledged, but this part of the development falls outside the Development High Risk Area. No objection confirmed. Advisory note recommended regarding potential hazards from coal mining activity.

## **PUBLICITY**

Site Notice was posted 09.01.2024 with comments required by 30.01.2024.

Press Notice was published 01.05.2024. Comments required by 15.05.2024.

Neighbour notification letters posted 09.01.2024. Comments required by 30.01.2024.

Neighbour notification letters posted 13.05.2024. Comments required 27.05.2024.

## **REPRESENTATIONS**

Eight resident representations have been received. Comments are summarised by topic area as follows:

### Principle of Development

- In the last 20/25 years 7 public houses have closed in Shirebrook.
- This will kill the village; the Victoria was the heart and soul of our community.
- The Model Village Residence Association no longer has a base to plan activities for our local community.
- This would break the community and the Victoria should stand as a community building for everyone.
- The site was our polling station.
- Where do you expect our community to go.
- Many generations have used the public house up until closure.
- So many pubs have already been demolished or converted into shops.
- The community does not need any more shops.

- What the community needs is places to socialise.
- The Victoria would be better off staying as it is to bring something into Shirebrook.
- Strongly oppose another HMO especially adjacent a care home and close to a junior school.
- Changes of Use of The Shire, King of Diamonds and Great Northern has had a negative impact on the village and are notorious for drug use with long term benefit claimants who are unknown to the village residents.
- This pub is still a viable business and much needed by the community.
- Perhaps the ground floor could remain a pub and the upstairs be converted into flats.

#### Residential Amenity and Community Safety

- Future occupants would cause the village to not be a safe place for our children.
- Please consider the community on this outrageous proposal.
- Another HMO is not what the village needs, it will bring unwanted anti-social behaviour.
- The Victoria is a family environment and should stay that way.

#### Highway Safety

- Infrastructure is not suitable for a HMO of this size.

#### Other comments

- It is disappointing the owners don't want to invest and keep it as a pub.
- The previous owners, given their retirement, lacked enthusiasm but had experience to enable the pub to be a viable business.

#### **Cllr Tait**

Wishes to register opposition to the HMO element of the above application. This application sits in the heart of the community Cllr Tait and Cllr Yates represent. The community feeling is very strong and palpable regarding the HMO element. The residents have valid reasons for not wanting a further HMO in their community, these reasons will be explained to the Planning Committee by some of the residents when the application goes before them to be considered.

#### **POLICY**

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

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

- Policy SS1: Sustainable Development.
- Policy SS3: Spatial Strategy and Distribution of Development
- Policy SC1: Development Within the Development Envelope.
- Policy SC2: Sustainable Design and Construction.
- Policy SC3: High Quality Development.
- Policy SC5: Changes of Use
- Policy SC11: Environmental Quality (Amenity).
- Policy SC14: Land Contamination and Land Stability
- Policy WC5: Retail Town Centre and Local Centre Development.
- Policy ITCR4: Local Shops and Community Facilities.
- Policy ITCR11: Parking Provision.

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

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

- Chapter 2: - Achieving sustainable development.
- Paragraphs 7 - 10: Achieving sustainable development.
- Paragraphs 47 - 50: Determining applications.
- Paragraphs 55 - 58: Planning conditions and obligations.
- Paragraphs 85 - 87: Building a strong, competitive economy.
- 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.
- Paragraphs 189 - 194: Ground conditions and pollution.

## Supplementary Planning Documents

Successful Places – Adopted 2013

Local Parking Standards – Adopted 2024

## **ASSESSMENT**

### **Key issues**

The key issues are:

- The Principle of Development
- Visual Amenity
- Residential Amenity
- Highway Safety
- Land Stability
- Sustainability Considerations

### **Principle of Development**

The most important policies for considering the principle of development are SS3, SC1 (b), ITCR4 (a) to (d) and WC5 of the Adopted Local Plan.

## Site Location

To achieve sustainable development Policy SS3 of the Adopted Local Plan sets out a spatial strategy for the distribution of development, firstly to the four main towns, followed by the defined larger villages. The larger settlements are the most sustainable and capable of accommodating urban forms of development such as that proposed through this application. Shirebrook is one of the district’s main towns and therefore the distribution of this development to Shirebrook is supported by Policy SS3 in principle. The application site is located within the settlement development envelope of Shirebrook defined under Policy SC1 of the Adopted Local Plan where development is also acceptable subject to meeting criteria (a) to (e).

## Community Facilities

Criteria (b) of Policy SC1 requires that the development does not result in the loss of a settlement's last remaining community building or facility of that type unless it can be demonstrated that it is no longer viable. The Gate Inn is still operating within Shirebrook Town Centre on King Edwards Street. Therefore, the application would not result in the loss of the last public house in Shirebrook and meets Policy SC1 (b).

Policy ITCR4 of the Adopted Local plan seeks to maintain and improve the provision of local community services and facilities and help avoid the loss of important facilities, where planning permission is required. This is reflected in paragraph 97 of the framework. Public Houses are specifically listed under Policy ITCR4 and the framework as being community facilities worthy of some protection.

Policy ITCR4 states planning permission for development that involves the loss of local convenience shops which serve the daily needs of the local community, or community facilities including community / village halls, post offices, schools, nurseries, places of worship, health services, care homes, libraries, leisure centres, youth centres, cultural facilities and public houses will be granted only where it can be demonstrated that one of the following criteria are met:

- a) *The loss of the specific facility would not create, or add to, a shortfall in the provision or quality of such facilities within the locality \**
- b) *Appropriate replacement facilities are provided in a suitable alternative location.*
- c) *The facility is no longer viable, and this can be proven through adequate marketing of the premises for its current use which has failed to produce a viable offer \*\**
- d) *The facility can be enhanced or reinstated as part of any redevelopment of the building or site.*

*\*400m radius around the proposal - based on an approximate ten-minute walking time*

*\*\* Marketing should be through an appropriate agent as well as through the council's regeneration service facility. The applicant should agree the marketing strategy, including any marketing period (with a rent or sale price for the existing use of the facility), with the Local Planning Authority in advance. Evidence of the results of the sustained marketing strategy will need to be submitted with any planning application. Marketing should not be restricted to the buildings last use but also other potential community uses.*

The glossary to the Local Plan defines community facilities as facilities which provide for the health and wellbeing, social, educational, spiritual, recreational, leisure, or cultural needs of the community.

In terms of criteria (a) the nearest functioning community facility of this kind is the Shirebrook Miner's Welfare, which is approximately 500m from the application site. Whilst known as a Miner's Welfare rather than a public house, the Miner's Welfare is understood to be open to the general public and is regarded as a public house in this regard. The test of criteria (a) is for there to be the same or similar facility within a 400m radius based on a 10-minute walking time. Technically this policy criteria is not met as the Miners Welfare is 100m beyond the 400m radius search for similar facilities.

With regards to criteria (c) a supporting letter has been provided from Guy Simmonds Leading National Licensed Property Agents dated 10<sup>th</sup> May 2024. This advises the property has been marketed for sale from July 2023 until the property sold in January 2024. Detailed sales particulars were produced and sent to all of Guy Simmonds registered users of their website [www.guysimmonds.co.uk](http://www.guysimmonds.co.uk) . At the time of Officer recommendation, the Victoria Inn could be seen as for sale online for £395,000.00. Guy Simmonds have advised only six viewings were undertaken during the period and only one viewing was from a person experienced in the pub trade and ultimately, they decided not to take it any further. All of the other interest was from persons looking to change the use of the building. Guy Simmonds advises:

*“The market situation has not been helped over the past few years by the UK’s economic position as a result of the EU Referendum / Brexit and the subsequent uncertainty throughout the licensed and commercial property markets. The recent coronavirus pandemic has seriously affected the market since late February/early March 2020 and will have ongoing ramifications for the foreseeable future, with pubs having been forced to close for long periods. Pubs and restaurants have been allowed to reopen since summer 2021 but initially with limited capacity and safety restrictions due to Covid-19. A lot of licensed businesses have not reopened. A lot of businesses are no longer be viable and the future is very uncertain. Pubs and restaurants which have reopened but with the inevitably smaller customer base, rising unemployment and larger cost base has, on a statistical basis, resulted in the further demise and permanent closure of many more licensed businesses. The hospitality sector is also facing severe staffing issues. The current situation is not helped by the difficulty in raising finance within the hospitality sector during these challenging times. The increase in the cost of living with utility bills and cost of food increasing is also reducing the viability of businesses.”*

Marketing since July 2023 to January 2024 has been undertaken with no interest for continued public house purposes. Whilst an offer was made by the applicant and accepted, this was not to a person who had any interest in operating a public house. The marketing exercise has demonstrated a level of lack of demand for the continued operation of the public house. Officers are required to act in good faith that the information provided by Guy Simmonds is honest and truthful.

Whilst the intention of Policy ITCR4 was never to allow free movement between different types of community facilities, a significant material planning consideration, which weighs in favour of supporting the application, is that the application is proposing to replace the community facility with another kind of community facility. Policy ITCR4 also recognises that marketing strategies may consider other community facility uses before considering non-community facility uses. Policy ITCR4 specifically defines convenience shops as such facilities. Neither local nor national policy attributes more weight to public houses over convenience stores. This application therefore carries the benefit of keeping part of the building within appropriate community use falling within Class E.

It is appreciated that an alternative community facility would be provided and this needs to be given weight in the overall planning balance. Furthermore, the nearest public house is only 100m outside of the 400m radius check zone of other public house uses around the site and therefore it is considered to be an extremely weak case to refuse the application based on the loss of the public house. In an appeal situation, it is not considered that refusal could be adequately defended.

In coming to this view, it needs to be factored into the overall assessment that a different community facility will be provided (which is recommended to be protected by planning condition as part of this recommendation), the proposal provides housing in a sustainable location within walking distance of Shirebrook Town Centre and the development would refurbish and preserve an attractive building which is presently in some state of decline.

### Impact on the Town Centre

As the ground floor is proposed as a general convenience store, Policy WC5 of the Adopted Local Plan applies. This states support will be given to proposals which maintain or enhance the vitality and viability of the following hierarchy of town and local centres as defined on the Policies Map. The Policy requires a sequential test or leisure impact assessment for applications in edge-of-centre or out-of-centre locations which include:

- a) Over 200m<sup>2</sup> of net retail or leisure floorspace within 500m of local centres
- b) Over 280m<sup>2</sup> of net retail or leisure floorspace within 500 metres of the town centre boundaries
- c) Over 500m<sup>2</sup> of net retail and leisure floorspace across the remainder of the district

The District Council's Planning Policy team confirms that a retail sequential and impact test won't be necessary because the site is more than 500m from the town centre boundary and the floorspace is less than 500m<sup>2</sup> net retail floorspace. In this situation the development does not conflict with Policy WC5 and there are no planning grounds on which to refuse the development based on its impact upon the vitality and viability of Shirebrook Town Centre.

### The number of HMOs in Shirebrook

Policy SS1 of the Adopted Local Plan provides that development proposals should promote the social and economic wellbeing of Bolsover District's communities, contributing to reducing social advantages and inequalities and create a positive image for the district. Policy LC3 'Type and Mix of Housing' identifies that the Council will support the provision of housing for older people and specialist housing provision across all tenures, including level access flats, houses, bungalows, and sheltered housing or extra care schemes, in appropriate locations, close to services and facilities.

The framework sets out the objective of significantly boosting the supply of homes. It identifies that the needs of groups with specific housing requirements should be addressed. The overall aim should be to meet as much of the area's identified housing needs as possible, including with an appropriate mix of housing types for local communities.

The Council's HMO Register at 22nd January 2024 identifies 12 properties with an HMO licence in Shirebrook. As many changes of use to smaller HMO's do not require planning consent, there is no record in planning of the number of smaller HMOs within the locality. Local concerns from residents, elected Members and the Town Council are noted regarding the number of HMO's within Shirebrook. Proposed uses of land and buildings within the district are frequently led by the submission of planning applications where planning permission is necessary. Officers have no means by which to prevent applications of this nature coming forward in one particular part of the district, such as Shirebrook. Similarly, there is no planning mechanism to direct HMO uses to the district's other sustainable towns and settlements.

The planning system does not discriminate against future occupant backgrounds or how they might behave to cause any crime or anti-social behaviour. These are not material planning considerations because, in planning terms, this is for residential accommodation in a residential area and individual user profiles cannot be taken into account. Other regimes exist outside of the planning system to deal with such issues, like Derbyshire Constabulary. There is however a need to minimise crime and disorder through the planning process by effectively designing out crime wherever possible; and in turn strengthening community safety. These considerations are discussed later in this report. Each planning application must be considered on its own merits and there are no planning grounds on which to refuse this application based on the number of HMOs within the settlement or due to the type of living accommodation in principle.

### Conclusion to Principle of Development

The principle of development is considered acceptable subject to consideration of all relevant local and national policy and any material planning considerations.

### **Visual Amenity**

Policy SC3 of the Adopted Local Plan requires development to achieve a high quality of design, including through creating good quality, attractive, durable and connected places through well designed locally distinctive development that will integrate into its setting; and also, by responding positively to local context, contributing to local identity and heritage in terms of appropriate height, scale, massing, density, layout and materials.

Policy SC5 of the Local Plan supports the conversion of buildings to new use provided they meet criteria (a) to (e). These include ensuring buildings are worthy of retention, being in keeping with original character, ensuring density is appropriate to the location, that there is an existing curtilage with no harm to landscape character; utilities can be provided, adequate access to a metalled road.

Paragraph 135 of the framework states decisions should ensure proposals add to quality of areas, are visually attractive as a result of good architecture, layout and effective landscaping; in addition to being sympathetic to local character and history.

The New Victoria Inn is a large attractive building located in a prominent position within the town. Its character includes retention of its original brickwork, mock Tudor beams and cladding, a slate roof, its chimneys and a prominent feature wall to Recreation Drive at the back of the building. The land levels are flat and the site is hard surfaced to the front and rear. The building is currently in a somewhat state of decline and there is clearly the potential for it to become more dilapidated in the future unless it is brought back into use. This, in turn, would detract from the visual amenity of the area to the detriment of the residents who live in the locality.

Officers originally raised concerns in relation to the extent of the external changes proposed to the building and a resulting adverse impact on the design character of the building and wider locality. A significantly long flat roofed extension was proposed directly abutting the boundary to Acreage Lane's footway, which failed to present good quality design and would have been in view from the public domain. Alterations were also initially proposed to the frontage to alter bay windows and create a new opening for the convenience store, bricking



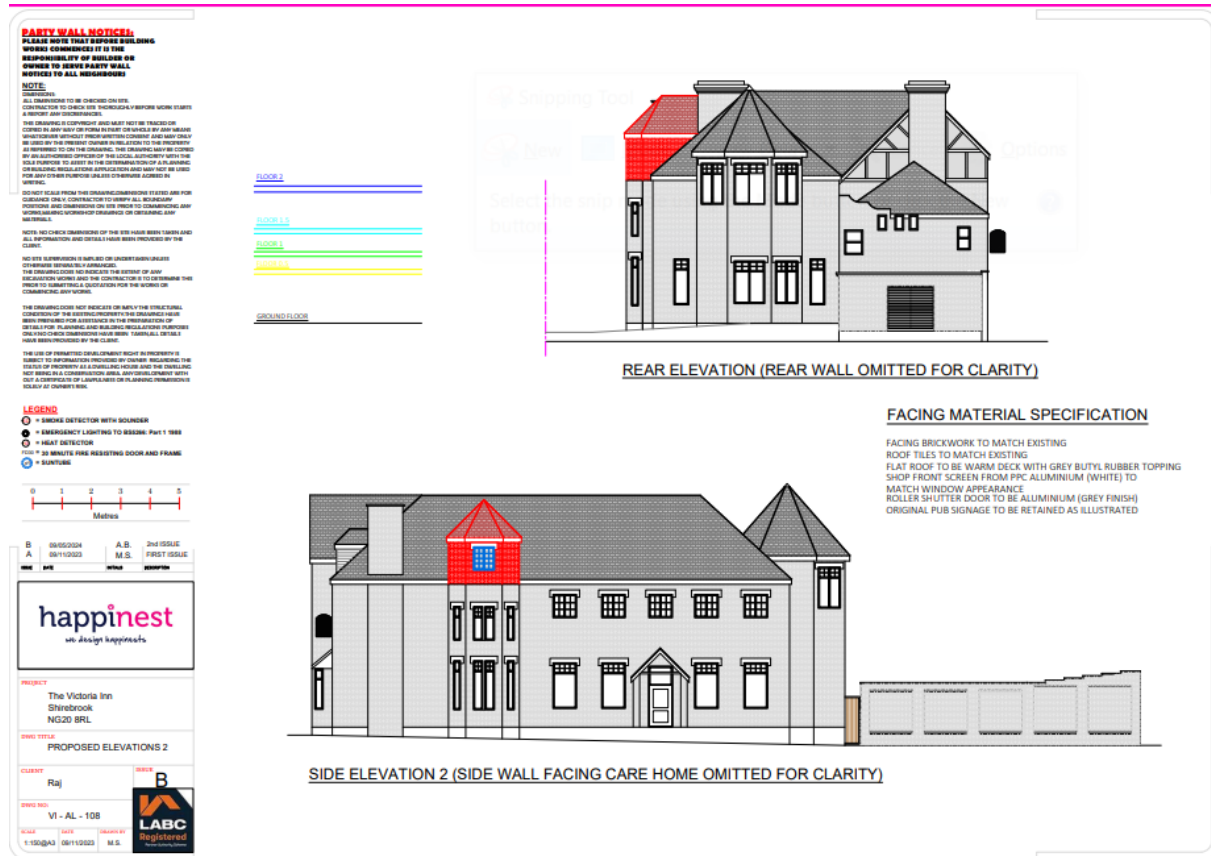
up the original main entrance. Hanging signs were proposed to be removed and it was not clear what the applicants intentions were for the high-quality feature wall abutting Recreation Drive, which is an important visual feature.

Amended plans have been successfully secured to improve the proposal significantly in design terms. The rear extension to provide a storage area for the commercial unit has been significantly reduced in length. The existing feature wall facing Recreation Drive will be retained and a new high-quality feature wall has been negotiated to the boundary with Acreage Lane, to be of the same quality as the current feature wall. This high-quality side wall will screen the storage area extension from the public highway.

The original pub entrance is now amended so that it would no longer be blocked off and would continue to serve the commercial unit. The bay window on the buildings frontage will remain. Two hanging signs have also been retained following request, to respect the history of the buildings historic use as a public house. A high-quality facing brick wall has also been negotiated to the boundary shared with the adjacent Care Home.



Proposed front elevation and side elevation to Acreage Lane



### Proposed Side Elevation facing the care home and the rear elevation.

It is considered that the proposal, in its revised form, has respected and preserved the established design character of the building and locality. Planning Conditions are recommended to agree the external elevational and roofing materials used for the development, details of any replacement windows and doors, the refurbishment and retention of retained hanging boards, boundary treatment, and a scheme of hard and soft landscaping. With these conditions the development is considered to represent high quality design in accordance with Policy SC3 and SC5 of the Local Plan and Paragraph 135 of the framework.

## Residential Amenity

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

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

**GROUND FLOOR PLAN**

**TEMP DELIVERY ZONE**

**ELEVATION 1'**

**ELEVATION 2'**

**BAST WALL OPENING**

**PROPOSED GRID-FLOOR PLAN**

**happinest**  
an ingshops

**PROJECT:** The Victoria Inn  
Site: Old Dock, Brixton, London

**DATE:** 10/10/2018

**GRID:** 1-10

**SCALE:** 1:100

**DATE:** 10/10/2018

**BY:** [Signature]

**FOR:** [Signature]

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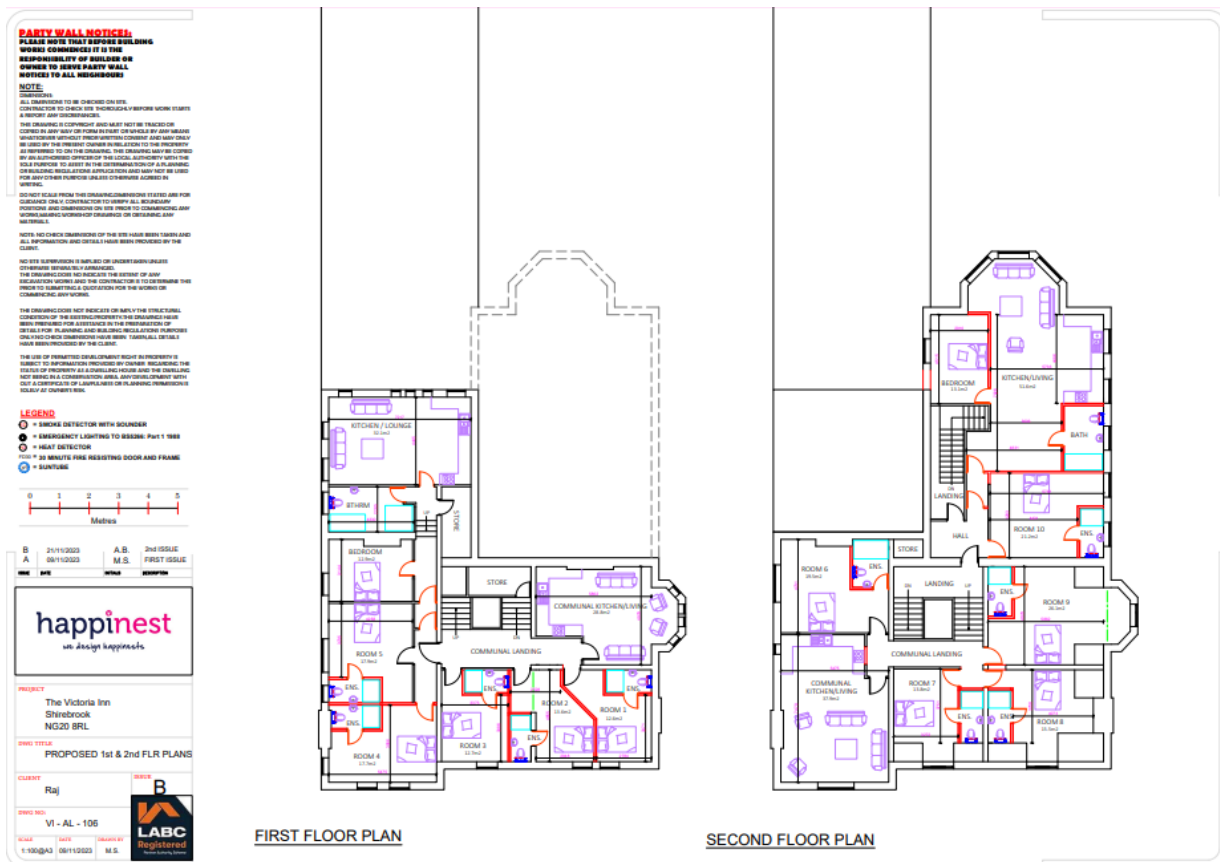
**DATE:** 10/10/2018

**BY:** [Signature]

**FOR:** [Signature]

The living accommodation is contained to within the existing building footprint only over the first and second floors. The HMO incorporates 10 double bedrooms all en-suite, the smallest with a footprint of 12.6sqm going up to 26sqm. The HMO also has two separate communal kitchen and living areas, one on each floor, which are accessible by all tenants. All of the bedrooms and living areas utilise existing fenestration providing a good level of natural light and outlook for future occupants. In the interests of ensuring a satisfactory form of living accommodation for future occupants, a condition is considered necessary to ensure no more than 10 persons occupy the HMO, which would be on the basis of a single bedroom per occupant. This is considered necessary to ensure an acceptable standard of living accommodation for future residents; and also in the interests of preventing further demand for off-road parking as a result of more occupants per bedroom.

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**Proposed first and second floors incorporating two no. self-contained flats and a 10-bedroom house in multiple occupation.**

A Local Authority HMO license would be required because the HMO would be occupied by 5 or more people. This is a separate procedure to planning where there is another layer of control over the standard of living accommodation having regard to bedroom sizes. Under this process separate conditions may be applied to ensure the HMO is fit for purpose relating to anti-social behaviour and prevention of overcrowding. The conditions, at the discretion of the Licensing Authority, might ensure facilities and equipment are kept in good working order and meet prescribed standards, ensure any repairs are made within a particular time; and for the license holder or manager to attend training courses for effective management, where relevant.

The proposed single storey extension, in its considerably reduced form, would not cause any massing, overshadowing or overlooking issues to neighbouring residents. Outlook from the existing fenestration is not considered to be materially any different to the upper floor use as residential accommodation associated with the public house.

The application has not identified any conflict with the adopted Supplementary Planning Document 'Successful Places' separation criteria in this regard. Successful Places advises that 25m<sup>2</sup> of amenity area is provided per flat, which can be on a shared basis. This generates a need for 50sqm for the two self-contained flats that are proposed. The SPD does not define amenity space provision for HMO's and therefore a judgement is necessary with each application required to be considered on its own merits. The SPD is clear that there may be times when guidance criteria cannot be followed in full and applications should work with local context, such as change of use applications and constraints associated with existing buildings and their defined curtilages.

During the course of processing the application, Officers have raised concerns regarding the outdoor amenity space proposed by virtue of its proximity to storage areas associated with the business use and given that vehicular access to the storage area was wrapped around a shared amenity area for residential occupants. A request has been made to reconfigure the rear of the site in the interests of protecting residential amenity by separating the commercial use from the residential.

The revised ground floor layout no longer integrates a service area with the residential amenity area as deliveries would take place from Acreage Lane to a dedicated service area. This prevents shop deliveries from taking place by the main entrance to the HMO and will prevent disturbance. The enclosed private amenity area for future occupants is approximately 99.3sqm, which is considered to be acceptable. The application therefore raises no amenity concerns in terms of massing, overshadowing, overlooking and the standard of living accommodation for future occupants is also acceptable in planning terms.

### Noise

The District Council's Principal Environmental Health Officer (PEHO) has been consulted because of the mixed-use nature of the application. Given that the application is proposing residential and commercial uses into the same building, the application has needed to demonstrate acceptable noise levels for future occupants.

For this application the PEHO has not raised a formal objection. A planning condition has been recommended to provide a scheme of sound insulation prior to first occupation of the residential accommodation. This will protect occupants from noise from the commercial use on the floor below. The scheme needs to ensure adequate ventilation is provided. If windows cannot be opened because of inadequate noise levels, a means of mechanical ventilation would be necessary. The following noise criteria could not be exceeded:

Bedrooms 30 dB LAeq (15 Minutes) (2300 hrs – 0700 hrs)  
Living/Bedrooms 35 dB LAeq (15 Minutes) (0700 hrs – 2300 hrs)  
All Other Habitable Rooms 40 dB LAeq (15 Minutes) (0700 hrs – 2300 hrs)

All Habitable Rooms 45 dB L<sub>A</sub>max 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 recommended condition also requires a validation report to ensure the scheme is implemented in accordance with the approved details. The condition is attached to this recommendation.

In the interests of protecting residential amenity details of hours of operation and deliveries for the convenience store have also been agreed. The Principal Environmental Health Officer has no objection to the store operating daily between 6am and 11pm provided deliveries do not take place outside the hours of 7am and 9pm Monday to Saturday and 9am to 9pm Sunday, with the exception of newspapers. An exception for newspapers is necessary because these deliveries take place 4:30-5:30am. These conditions will prevent HGV movements associated with the business from taking place during unduly late or early periods when residents would be likely to be sleeping. With the attached conditions that form part of this recommendation the application does not raise any noise related concerns.

### Community Safety

As set out above, who the individual persons are that occupy the proposed residential accommodation is not a material planning consideration. In planning terms this is residential accommodation which could be accommodated by any person of any background regardless of their age, sex, sexual orientation, race or nationality as their permanent place of residence. The planning system does not discriminate against a person's background and experiences or how this might affect their behaviour to cause crime or other anti-social behaviour issues to a local community. The planning system cannot look at why the occupants might need to live within a HMO. In addition, in planning terms, there are no means to control the number of HMO's within a particular area.

Derbyshire Constabulary's Force Designing Out Crime Officer (FDCO) has confirmed the area does have a higher HMO element than the norm, some of which are associated with raised levels of drug use, anti-social behaviour and crime. However, some HMOs are confirmed to be in operation which are well managed and problem free. The FDCO acknowledges the difference between problem sites and problem free sites lies in the behaviour of tenants and effective management, neither of which are expected by the FDCO to be seen as material in planning terms.

The FDCO comments there is no inevitability that the proposal would not bring community cohesion, as sought by paragraph 96 of the framework, or that the occupants would lead chaotic lifestyles. However, provisions should be made where possible to strengthen community safety by use of planning conditions that meet the tests and by designing out crime, where that is possible.

Areas of concerns of the FDCO which can be addressed in this instance are to secure an appropriate form of boundary treatments, to provide a secure enclosure for the private amenity space and to ensure bicycle storage lockers are secure and in an enclosed location. There has also been a need to separate the grounds adequately from the nursing home by a robust form of boundary. In addition, the FDCO has commented that CCTV would be necessary to the external communal entrance, shared parking areas and the external communal grounds. Planning Conditions are attached to this recommendation to agree a CCTV scheme, external lighting, a secure bicycle storage scheme and secure forms of boundary treatment to the delivery area, amenity area and care home, in the interests of strengthening community safety by increasing surveillance, adequate lighting for users and

separation of the site from the care home adjacent.

The FDCO has stated it is important that entry to and from the HMO is controlled but this is not considered to fall within the remit of planning. Although the HMO will have a communal access point, internal landing corridors and communal living/kitchen areas, there will be a need to provide private living accommodation for future residents in the form of secure bedrooms and presumably tenants would have controlled access to the main external entrance door, which should prevent any person from randomly gaining access. Like any residential accommodation, occupants might let other people inside the premises when receiving visitors. If any issue arose as a result unauthorised entry which constituted anti-social behaviour or crime, the police would be able to deal with this issue under a separate regime. The District Council's Environmental Health team also has separate powers to assist if any statutory nuisance occurred under the Environmental Protection Act 1990.

The FDCO has also requested that a scheme for the controlled delivery of mail is agreed. Similar to door entry, this is not considered to be within the remit of planning. The applicant/operator of the HMO would have to agree an effective mail delivery system. To attach these conditions to any planning permission would be unnecessary, unreasonable and not meet the tests of planning conditions.

Officers have negotiated improvements to strengthen community safety as far as possible by separating deliveries from the main entrance point to the HMO. In its revised form deliveries would take place from Acreage Lane, to a dedicated enclosed delivery yard, fully separating deliveries from the residential access to the HMO and its associated amenity space from the commercial deliveries.

It is therefore considered that the application has demonstrated acceptable impacts on residential amenity and to strengthen community safety by designing out crime as far as possible by appropriately addressing the sensitive part of the site at its rear through the use of carefully worded planning conditions and secure site layout.

The application does not raise any amenity concerns and is considered in accordance with policy SC3 of the Local Plan and Paragraph 135 of the framework.

### **Highway Safety**

Policy ITCR11: Parking Provision of the Local Plan states that planning permission will be granted where there is appropriate provision for vehicle and cycling parking as set out in the Local Plan for Bolsover District's Appendix 8.2. The Parking Standards reflect a residential use with spaces required based on the number of bedrooms. There are no specific parking standards for HMOs.

A Local Parking Standards Supplementary Planning Document, January 2024, has been adopted by Bolsover DC which supplements Policy ITCR11. Paragraph 9.2 sets out the required cycle parking provision for various uses including retail and dwellings.

The District Council's Planning Policy team advises the development proposal involves the conversion of the public house to 10 no. 1 bed units and a general convenience store. On this basis it is anticipated that:



- The residential element is identified as 12 number 1 bed units. The requirement is therefore 1 space per unit plus one space per 2 units for visitors. That is 18 spaces.
- As the convenience store is less than 1,000 sqm the requirement is 1 space per 25m, giving a requirement of 22 spaces.

Officers have negotiated improvements to the site layout to increase off road parking for future occupants. In its revised form the application proposes 2 staff parking spaces, 7 customer parking spaces and 16 resident parking spaces providing 25 in total. Initially the application proposed 17 off-road spaces.

Although this still is a deficiency to ITCR11, the policy recognises there may be circumstances where a departure from the standards is justified, provided there is no adverse impact on highway safety. As part of these considerations is the need to consider the impact on highway safety in consultation with the Highway Authority.

The framework in Paragraph 115 identifies that development should only be prevented or refused on highway grounds if there would be an unacceptable impact on highway safety, or where the residual cumulative impacts on the road network would be severe. This should also be seen in the context of the framework in paragraph 116 and the need to create places which are safe, and which minimises conflict between pedestrians, cyclists and pedestrians.

In this case the Highway Authority confirms that whilst parking is below the District Council's parking standards, it is considered that the existing roads in the vicinity are capable of managing any overspill from the proposal without causing any detriment to highway safety. The Highway Authority therefore supports the application based on the level of parking provided, with conditions recommended to ensure the access, parking and turning are provided, and to ensure the existing vehicular access to Acreage Lane is closed and reinstated as footway. The conditions are attached to this recommendation in the best interests of highway safety.

There is a requirement for 12 secured and covered cycle parking spaces for the residential element of the proposal and 5.5 short stay cycle spaces for the retail element. The application is providing 6 spaces for the retail element and 12 for the residential element in accordance with the standards. In this case it is recommended that the precise scheme is agreed by planning condition, to facilitate the correct re-location of these facilities for private residential use into the enclosed amenity area for security purposes.

In the absence of an objection from the Highway Authority, it has been established that the level of parking would not harm public safety of users of the highway network. Therefore, the application raises no highway safety issues and there are no planning grounds on which to refuse the application based on the parking provision provided.

## **Land Stability**

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



Paragraph 189 of the framework requires planning decisions to ensure that a site is suitable for its proposed use taking into account of ground conditions and any risks arising from land instability and contamination.

In relation to land stability, the application site lies partly within the Development High Risk Referral Area due to the former coal mining legacy in the area. The Coal Authority has been consulted and raised no objection as the change of use falls within one of the Coal Authority's exemptions criteria and the proposed extension lies outside of the High-Risk Area. In this situation a Coal Mining Risk Assessment is not necessary, the application raises no land stability concerns and is in accordance with both Policy SC14 of the Local Plan and Paragraph 189 of the framework.

## **Biodiversity**

Policy SC9 of the Adopted Local Plan states 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.

Paragraph 180 (c) of the framework states planning decisions should contribute to and enhance the natural and local environment by minimising impacts on and providing net gains for biodiversity. Paragraph 186 (a) of the framework states that planning applications which cause significant harm to biodiversity cannot be avoided, planning permission should be refused.

This is a small site submitted prior 2<sup>nd</sup> April 2024. As such there is no mandatory requirement to provide a 10% net gain for biodiversity as the development meets one of the temporary exemptions approved by the Government. However, the application should still follow local and national policy by providing at least some form of net-gain, where possible.

Derbyshire Wildlife Trust has been consulted for comment; however, a response has not been received. This is a brownfield site which is entirely hard surfaced. The biodiversity value of the site is considered to be low as there would be no loss of habitat through the proposed change of use and only a small-scale extension is proposed on the hard surfaced site. It should be noted the applicant/owner/developer is responsible for complying with separate legislation that protects wildlife and protected species under the Wildlife & Countryside Act 1981.

In this situation, a planning condition to secure biodiversity enhancement measures is considered appropriate to secure some form of net-gain. This might take the form of bird and bat boxes and native planting. With this condition it is considered that the development is in accordance with Policy SC9 of the Adopted Local Plan and Paragraphs 180 (c) and 186 (a) of the framework.

## **Sustainability Considerations**

Paragraph 7 of the framework states the purposes of the planning system is to contribute to the achievement of sustainable development. The means to achieving sustainable development is set out in Paragraph 8 of the framework, including the need to meet three overarching objectives, which are interdependent and need to be pursued in mutually

supportive ways (so that opportunities can be taken to secure net gains across each of the different objectives. These are as follows:

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

The construction process will benefit the local economy and create or maintain jobs. The proposal provides a new commercial business for the applicant, providing a means of income and job generation. Future resident occupants would spend in the local economy, which would benefit local businesses. The economic objective is met.

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

The application results in the loss of a recognised community facility, but this is to be replaced with another recognised community facility of a different kind and this needs to be recognised in the overall planning balance. Neither local or national planning policy attributes greater weight to one community facility above the other. The application will provide housing accommodation which carries a social benefit. The amendments which have been secured have prevented harm to the design character of the building from which was previously poor quality design and would have initially formed a reason for refusal.

Whilst concerns about a lack of social cohesion and a fear of crime and disorder are noted, these are not material planning considerations as the planning system cannot focus on who the individuals might be that live within the accommodation and judge how they might behave. In planning terms this is residential accommodation for any person. Other regimes exist to deal with crime, anti-social behaviour or any statutory nuisance relating to noise. Officers have worked successfully with the applicant to design out crime as far as possible by securing amendments to site layout and strengthen community safety through the use of appropriate planning conditions.

The site is within walking distance of Shirebrook Town Centre where future occupants would have access to a good range of social amenities and services found on the Market Place to meet their daily needs. The social objective is met.

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

The application causes no harm to the natural, built or historic environment or to biodiversity. The Principal Environmental Health Officer has not raised any pollution related concerns. The environmental objective is considered met.

## **Conclusion**

The application does not result in the loss of the last public house within the settlement in accordance with Policy SC1 of the Local Plan. Policy ITCR4 requires a 400m radius check rule of other facilities within a 400m radius of the site when considering planning applications which cause the loss of community facilities. Whilst the nearest public house is not within 400m of the site (it is distanced approximately 500m away) there are significant material planning considerations associated with this application, including that ITCR4 also defines local convenience stores as community facilities.

Therefore, the building will remain in a community use within Class E. In addition, a marketing letter from Guy Simmonds confirms a lack of interest in the continued operation of the public house during a marketing period. In this situation it is not considered that refusal of the application based on the loss of the public house could be defended at a subsequent planning appeal. The application will bring an attractive and prominent building back into use, preventing further decay and decline.

The site and building is considered capable of accommodating the commercial unit, two self-contained flats and a 10 bed HMO without causing overdevelopment of the site. As described above, issues relating to the number of HMO's in the area cannot be controlled through the planning system. How future occupants might cause anti-social behaviour, crime or nuisance are not material. Efforts have been successfully made to strengthen community safety by designing out crime. The application raises no concerns in relation to design and character, residential amenity, highway safety, land stability, biodiversity and sustainability. It is therefore considered that the application represents a sustainable form of development in accordance with the Local Plan and the National Planning Policy Framework.

## **RECOMMENDATION**

**The current application be APPROVED subject to the following conditions:**

### **Condition(s)**

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:

Site Location Plan received 18/12/2023

Revised Proposed Block Plan received 09/05/2024 ref VI-AL-111 Issue A

Revised Proposed Elevations received 09/05/2024 ref VI-AL-108 Issue B

Revised Proposed Elevations received 09/05/2024 ref VI-AL-107 Issue B

Revised Proposed First Floor and Second Floor received 09/05/2024 ref VI-AL-106 Issue B

Revised Proposed Ground Floor Plan with Site Layout received 09/05/2024 ref VI-AL-105 Issue F

3. The development hereby approved shall not be brought into use until the access, parking and turning facilities have been provided as shown on drawing VI - AL - 105F. Once provided the access, parking and turning facilities shall be maintained thereafter free from any impediment to use for access, parking and turning purposes.

4. Before the hereby approved commercial unit and residential accommodation are first taken into use, the existing vehicular access to Acreage Lane shall be permanently closed with a physical barrier and the existing vehicle crossover reinstated as footway fully in accordance with a scheme which has first been submitted to and approved in writing by the Local Planning Authority.

5. Notwithstanding the Town and Country Planning (Use Classes) Order 1987 (or any order revoking and re-enacting that order with or without modification) the ground floor of the premises must be used only for Class E, a, b, d, e, f purposes (and for no other use falling within Class E, c and g of the Order).

6. The hereby approved 10 bedroomed house in multiple occupation shall be for a maximum of 10 occupants.

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

Bedrooms 30 dB LAeq (15 Minutes) (2300 hrs - 0700 hrs)

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

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

All Habitable Rooms 45 dB L<sub>Amax</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 before first occupation. The approved scheme shall be implemented in full and retained thereafter.

8. Prior to the commencement of use of the commercial unit and first occupation of the residential accommodation, a scheme of CCTV shall be installed covering the main communal entrances, shared parking areas and external communal grounds fully in accordance with a detailed scheme which has first been submitted to and approved in writing by the Local Planning Authority. Once provided the CCTV scheme shall be continually operated and maintained thereafter.

9. Prior to the commencement of use of the commercial unit and first occupation of the residential accommodation, a lighting scheme covering the main communal entrances, shared parking areas and external communal grounds shall be installed fully in accordance with a detailed scheme which has first been submitted to and approved in writing by the Local Planning Authority. Once provided the lighting scheme shall be continually operated and maintained thereafter.

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

11. Prior to the commencement of use of the commercial unit and first occupation of the residential accommodation, a precise detailed scheme of boundary treatment, to include a feature wall to Acreage Lane and the Care Home, and a secure means of enclosure to the private amenity area and the delivery area, shall be installed fully in accordance with a scheme which has first been submitted to and approved in writing by the Local Planning Authority. The agreed boundary treatment scheme shall then be maintained thereafter.

12. Prior to the commencement of use of the commercial unit and first occupation of the residential accommodation, a hard and soft landscaping scheme shall be submitted to and be approved by the Local Planning Authority. Any trees or plants shall be planted in accordance with the agreed landscaping scheme in the first planting season and any trees/plants which within a period of five years from the completion of the development die, are removed, or become seriously damaged or diseased, shall be replaced in the next planting season with others of similar size and species, unless the Local Planning Authority gives written consent to any variation.

13. Notwithstanding the submitted details shown on drawing VI-AL-105 Rev F, prior to commencement of use of the commercial unit and residential accommodation the precise details and location of the secure cycle storages areas to the rear of the site shall be submitted to and approved in writing by the Local Planning Authority and provided prior to commencement of use. Once provided the revised location and specification for the cycle storage scheme shall be maintained thereafter.

14. Prior to the commencement of use of the commercial unit and first occupation of the residential accommodation, a scheme of biodiversity enhancement measures shall be provided on site fully in accordance with a scheme which has first been submitted to and approved in writing by the Local Planning Authority. Once provided the biodiversity enhancement measures shall be maintained thereafter.

15. The roller shutter box for the main customer entrance to the commercial unit shall be an internally fitted mechanism only.

16. Prior to the installation of any replacement windows and doors, precise details shall be first submitted to and approved in writing by the Local Planning Authority. The agreed replacement windows and doors shall then be implemented fully in accordance with the approved details prior to commencement of use of the commercial unit and residential accommodation and maintained thereafter.

17. The two hanging signs on the building shall be retained, repaired or replaced and re-installed in accordance with a scheme which has first been submitted to and approved in writing by the Local Planning Authority prior to commencement of use of the ground floor commercial unit. Once provided the hanging boards shall be maintained thereafter.

18. The hereby approved ground floor commercial premises shall be open for trade or business only between 6am and 11pm daily.

19. There shall be no commercial deliveries for the ground floor unit outside of the hours of 7am and 9pm Monday to Saturday and 9am to 9pm Sunday, with the exception of newspapers.

### **Reasons for Conditions**

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

2. For the avoidance of doubt and in order to define the planning permission.

3. In the interests of ensuring sufficient access, parking and turning is provided in the best interests of highway safety in accordance with policy SC3 and ITCR11 of the Adopted Local Plan for Bolsover District.

4. In the best interests of highway safety in accordance with policy SC3 of the Adopted Local Plan for Bolsover District.

5. In the interests of ensuring the ground floor unit is maintained with an appropriate form of replacement community facility under permitted development within Class E in accordance with Policy ITCR4 of the Adopted Local Plan for Bolsover District.

6. In the interests of protecting residential amenity by providing adequate living accommodation for future occupants and an appropriate scale of housing development and resulting demand on parking, in accordance with policies SC3 and ITCR11 of the Adopted Local Plan for Bolsover District.

7. To protect future occupants from adverse noise from the commercial use within the ground floor of the building, in accordance with Policy SC3 (n) of the Adopted Local Plan for Bolsover District.

8. As a means to strengthen community safety and create safe places in accordance with Policy SC3 (e) of the Adopted Local Plan for Bolsover District.

9. As a means to strengthen community safety and create safe places in accordance with Policy SC3 (e) of the Adopted Local Plan for Bolsover District.

10. To ensure the satisfactory appearance of the development and safeguard the amenity of residents in accordance with Policy SC3 of the Adopted Local Plan for Bolsover District.

11. To ensure the satisfactory appearance of the development, safeguard the amenity of residents and to strengthen community safety by providing a secure means of boundary treatment where necessary, in accordance with Policy SC3 of the Adopted Local Plan for

Bolsover District.

12. To ensure the satisfactory appearance of the development in accordance with Policy SC3 of the Adopted Local Plan for Bolsover District.
13. To provide an alternative means of sustainable travel for future occupants and to ensure such facilities are provided in an enclosed location to strengthen community safety, in accordance with Policy SC3 of the Adopted Local Plan for Bolsover District.
14. To provide a form of biodiversity net gain for the development in accordance with Policy SC9 of the Adopted Local Plan for Bolsover District.
15. To ensure the satisfactory appearance of the development in accordance with Policy SC3 of the Adopted Local Plan for Bolsover District.
16. To ensure the satisfactory appearance of the development in accordance with Policy SC3 of the Adopted Local Plan for Bolsover District.
17. To ensure the satisfactory appearance of the development and to respect the design character of the building as a former public house, in accordance with Policy SC3 of the Adopted Local Plan for Bolsover District.
18. To ensure acceptable impacts on residential amenity in accordance with Policy SC3 of the Adopted Local Plan for Bolsover District.
19. To ensure acceptable impacts on residential amenity in accordance with Policy SC3 of the Adopted Local Plan for Bolsover District.

### **Statement of Decision Process**

1. Officers have worked positively and pro-actively with the applicant which has been demonstrated through securing amended plans, additional information and allowing a significant extension of time to overcome the issues which have been identified. The proposal has been considered against the policies and guidelines adopted by the Council in the Adopted Local Plan and the decision has been taken in accordance with the guidelines of the Framework.

### **Notes**

1. No tree, scrub or hedgerow clearance should take place between 1st March and 31st 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 are present, an appropriate exclusion zone should be implemented and monitored until the chicks have fledged. No works should be undertaken within exclusion zones whilst nesting birds are present.
2. The Coal Authority advises that the proposed development lies within an area that has been defined by the Coal Authority as containing potential hazards arising from former coal mining activity at the surface or shallow depth. These hazards can include: mine entries (shafts and adits); shallow coal workings; geological features (fissures and break lines); mine

gas and former surface mining sites. Although such hazards are seldom readily visible, they can often be present and problems can occur in the future, particularly as a result of new development taking place. Under the Coal Industry Act 1994 any intrusive activities which disturb or enter any coal seams, coal mine workings or coal mine entries (shafts and adits) require the prior written permission of the Coal Authority since these activities can have serious public health and safety implications.

Such activities could include site investigation boreholes, excavations for foundations, piling activities, other ground works and any subsequent treatment of coal mine workings and coal mine entries for ground stability purposes. Failure to obtain permission to enter or disturb our property will result in the potential for court action. Application forms for Coal Authority permission and further guidance can be obtained from The Coal Authority's website at:

[www.gov.uk/get-a-permit-to-deal-with-a-coal-mine-on-your-property](http://www.gov.uk/get-a-permit-to-deal-with-a-coal-mine-on-your-property)

If any suspected coal mining feature is encountered on site, this should be reported immediately to the Coal Authority on 0800 288 4242. Further information is available on the Coal Authority website at: [www.gov.uk/government/organisations/the-coal-authority](http://www.gov.uk/government/organisations/the-coal-authority).

3. The Highway Authority advises pursuant to Section 127 of the Highways Act 1980, no work may commence within the limits of the public highway to close any redundant accesses and to reinstate the footway without the formal written Agreement of the County Council as Highway Authority. It must be ensured that public transport services in the vicinity of the site are not adversely affected by the development works. Advice regarding the technical, legal, administrative and financial processes involved in Section 127 Agreements may be obtained by contacting this Authority via email - [highways.hub@derbyshire.gov.uk](mailto:highways.hub@derbyshire.gov.uk). The applicant is advised to allow approximately 12 weeks in any programme of works to obtain a Section 127 Agreement.

4. The Coal Authority advises the proposed development lies within an area that has been defined by the Coal Authority as containing potential hazards arising from former coal mining activity at the surface or shallow depth. These hazards can include: mine entries (shafts and adits); shallow coal workings; geological features (fissures and break lines); mine gas and former surface mining sites.

Although such hazards are seldom readily visible, they can often be present and problems can occur in the future, particularly as a result of new development taking place. Under the Coal Industry Act 1994 any intrusive activities which disturb or enter any coal seams, coal mine workings or coal mine entries (shafts and adits) require the prior written permission of the Coal Authority since these activities can have serious public health and safety implications.

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### **Equalities Statement**

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

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

### **Human Rights Statement**

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

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

**PARISH** Pinxton Parish

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<b>APPLICATION</b>	Change of Use of Existing Dwellinghouse (C3 Use) to Children's Care Home for up to 3no. Children (C2 Use). Minor facilitating works comprising widening of driveway and vehicle access.		
<b>LOCATION</b>	16 The Chine Broadmeadows Pinxton Nottingham		
<b>APPLICANT</b>	Mr D Price Burley Heyes Arley Road Appleton Warrington WA4 4RS		
<b>APPLICATION NO.</b>	24/00102/FUL	<b>FILE NO.</b>	PP-12857133
<b>CASE OFFICER</b>	Mr Mark Penford		
<b>DATE RECEIVED</b>	8th March 2024		

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## SUMMARY / PROPOSAL

This is a full planning application proposing to change the of use of 16 The Chine, Breadmeadows Pinxton (C3a - dwellinghouse) to a Children's Care Home (C2 - residential institutions) for a maximum of 3 children with 24-hour care supervision undertaken by the applicant One Home Property UK Ltd. The use would see 3 no. young people under 18 having unrestricted access to the property with the aim to replicate a family household where children and staff members eat and live together, albeit on a rota basis where staff do not live within the property as their full-time residence.

The statement of purpose submitted with the application explains the property would be used for children at risk of CCE/CSE, drug/alcohol abuse, self-injurious behaviours, criminal behaviours and complex needs. The statement explains the team have experience of working with a range of young people with various complex needs who might come from homes/family breakdowns, fostering breakdown or from residential children's homes.

The staff required to look after children would work to a register and weekly staff rota. A registered manager would be on site 9am to 4pm Monday to Friday and a team of support workers would be on the site on a rota basis with a maximum of 4 care staff at a time. Other visitors would include Social Services once every 6 weeks, an Ofsted visit taking place every 12 months. At Least one member of staff would be required to sleep at the property overnight.

Internally the annex to the property would be used in part as a staff office and bedroom. The main dining room, lounge and kitchen would remain unchanged for those purposes. All three children would have separate bedrooms on the first-floor where there would also be a staff bedroom. No external changes are proposed to the appearance of the building. The only minor operational development associated with this application is a proposal to widen the vehicular access and driveway hardstanding to facilitate additional off-road parking and turning for the proposed use. The second floor of the building would not be in use.

## CALL-IN TO PLANNING COMMITTEE

The application has been referred to the Planning Committee for determination due to significant resident objection.

Cllr Louise Fox has also requested that the application be called in to the Planning Committee for the following reasons:

- Inaccurate/misleading information between the planning, design & access statement and statement of purpose regarding the ages of the children. It is intended to be 16-18 years and age of children being cared for is misleading.

- Inaccuracies regarding location of the highway boundary to the application site and neighbouring property.
- The property accommodates 3 vehicles, there is not enough space for vehicle turning.
- Questions the suitability of the location on grounds of anti-social behaviour levels in the area having worked closely with PCC on an ASB project on Broadmeadows.
- County lines are high in the local area, which is problematic in school, particularly Frederick Gent School.

### **Site Location Plan**



### **SITE & SURROUNDINGS**

No 16 The Chine is a two and a half storey detached dwelling located at the junction of The Chine and The Pemberton. The dwelling benefits from an existing vehicular access with off-road parking. To the ground floor is a dining room, kitchen, lounge, utility and W.C in addition to a separate attached annex which consists of a dining room and kitchen, lounge, bedroom and en-suite W.C. To the first floor are four bedrooms and a bathroom. The first floor also incorporates an en-suite to the master bedroom and a walk-in wardrobe. To the second floor, within the roof space are two further bedrooms and an additional W.C. The dwelling has seven bedrooms in total and represents a large family home. To the rear is a private enclosed residential garden. The front curtilage is open plan to the street scene with the absence of boundary treatment to the highway and with the boundary to 18 The Chine.



***Front Elevation of 16 The Chine***

The site is located in a built-up residential area to the north of the A38, separated by an area of woodland. The dwellings in the locality are of mixed house types which generally sit in spacious curtilages with off-road parking.

## **BACKGROUND**

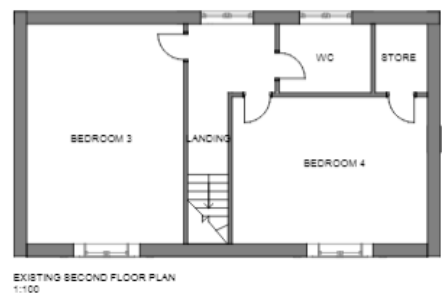
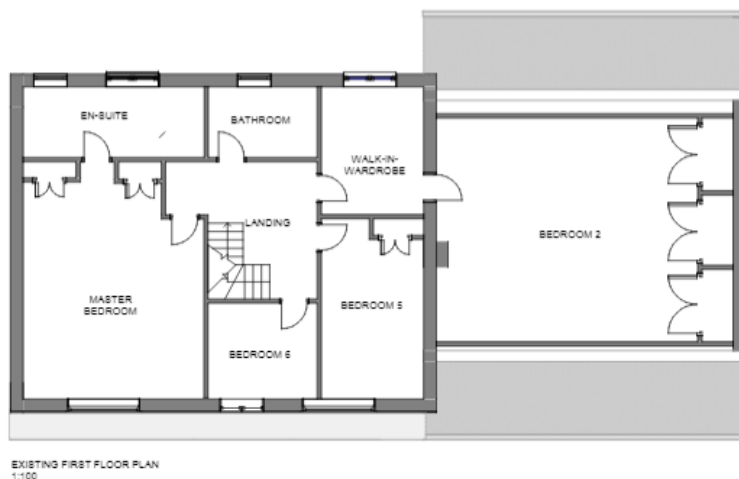
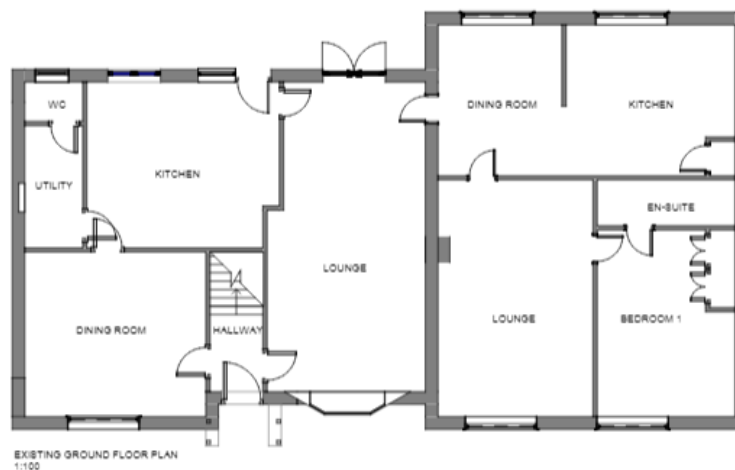
Planning Permission has previously been granted to extend the dwelling in the form of dormer windows to the front and rear and a two-storey side extension under office codes 01/00384/FUL and 03/00553/FUL. A former attached double garage has also been converted into living accommodation to provide a residential annex in accordance with Permitted Development Rights. In December 2023 One Home Property UK Ltd applied to the District Council for a Lawful Development Certificate for the proposed use of the dwelling as a Children's Care Home for 3 no. Children. The purpose of the application was to establish whether the dwellinghouse could be used as a children's home lawfully without the benefit of planning permission, as a result of there not being a material change of use.



***The frontage with established parking***

Officer's refused the application on 12<sup>th</sup> February 2024 on grounds that the use of the dwellinghouse as an institution looking after children would amount to a material change of use of the property. Refusal of the application for the Lawful Development Certificate has resulted in submission of this application now under consideration. It is important to note that refusal of the previous application is not a material planning consideration for the current proposal. The previous application was entirely focusing on whether or not a material change of use would take place, not the acceptability of a care facility in planning terms. Therefore, the Development Plan and the framework were in no capacity engaged for the Lawful Development Certificate application.

### ***Existing Floor Plans***



## Proposed Floor Plans



## Supporting Documents

Statement of Purposes prepared by Manager: Abbi Davenport.

Planning, Design & Access Statement prepared by JS Planning Services

Appendix 1: Weekly Staff Rota

Appendix 3: Public Transport & Car Sharing Incentive Scheme

## Amendments

A306 Proposed Site Plan Revision 2 defining parking and swept paths for turning.

Planning, Design & Access Statement Revision A prepared by JS Planning Services

Appendix 3: Weekly Staff Rota Revision A.

## PLANNING HISTORY

01/00384/FUL	Granted	Erection of two storey extension to side
03/00553/FUL	Granted	Formation of dormer windows to front and rear elevations and two storey side extension

23/00647/LAWPRO Not  
Certified  
Lawful

Application for a Lawful Development Certificate: Change of Use of existing 7no. bedroom dwellinghouse (C3 Use) to Children's Care Home for 3no. Children (C2 Use)

## CONSULTATIONS

### **Bolsover District Council – Principal Environmental Health Officer**

25/04/2024

Raises some concerns in relation to potential noise impacts that could arise. Section 7.11 of the design & access statement states the change of use will not be 'materially different' to the use as dwellinghouse, however sections 4.5 and 4.6 confirm the children will have 'social, emotional and behavioural difficulties' and 'a range of complex individual needs'. Advises that this is significantly and materially different to the existing use as a family house, with regards to overall disturbance to the residential amenity of neighbouring properties. As a District Council Environmental Health Officer, there is experience of trying to resolve noise complaints arising from these businesses and confirms that, whilst there may be similarities, there are not the same as a typical home environment. Challenging behaviours and complex needs can result in significantly higher levels of both noise and aggressive behaviour.

The fact that staff at the homes are well trained to look after residents is not in doubt, however the primary focus of the service, and the management systems that are in place, are (a) to make money and (b) to ensure the welfare needs of the residents are met. The noise impacts of the business upon the wider community are not considered a priority for care providers or the placing authorities, and these impacts can be significant and very difficult to control retrospectively. Problems can arise for a variety of reasons, for example where the assessment of the care needs results in unsuitable placements, or changes in the circumstances of those being cared for which are not readily accounted for.

Environmental Health departments have to try and resolve the issues that arise from residents who do not adjust well to a care home setting. The impacts can be significant, and as a worse-case, include nightly anti-social behaviour and noise nuisance, on the property or outside, which care home staff are not able to prevent (as, unlike in a domestic property staff cannot prevent those being cared for leaving the property, at any time of day or night) there is experience of several cases where regular calls are made to the Police by concerned members of the public, however they are often unable to address the issues sufficiently. Environmental Health can investigate and serve noise abatement notices under statutory powers available to them, however in practice, this is a protracted process that requires the engagement of various agencies. The outcomes are usually far from satisfactory. The design and access statement suggests that the company are experienced in managing any problems that might arise, however according to the entry in Companies House the company was incorporated on 25 September 2023, so it is considered they are relatively inexperienced as a company in managing children's care homes.

There are significant concerns regarding the introduction of a care facility into the residential location and introduction of excessive noise, that would be incongruent with the local area arising from regular visits from care home staff and other associated support workers not accounted for in the design and access statement. Some will be during anti-social hours, which will be dictated by the needs of those being cared for; and intermittent but potentially regular episodes of shouting, screaming and other anti-social behaviour. Is aware of the ministerial statement issued last year by the Minister of State Department for Levelling up,



Housing and Communities that confirmed 'that the planning system should not be a barrier to providing homes to the most vulnerable children in society'. The statement does not however state that the imposition of appropriate conditions is unreasonable. Therefore, recommends consideration is given to a 2-year temporary permission, so that the impacts of the proposals on the community can be fully evaluated. Also recommends a condition to secure a noise management plan for approval in writing before the care home is taken into use.

#### **Bolsover District Council – Senior Engineer**

No objection raised. Advisory notes recommended in relation a public sewer and the possibility of unmapped public sewers and the need to contact Severn Trent Water if any part of the works involve connection to/diversion of/building over/near to any public sewer. All proposals should comply with Part H of the Building Regulations. Any connection or alteration to a watercourse would need prior approval from the Lead Local Flood Authority at Derbyshire County Council.

#### **Derbyshire Constabulary – Force Designing Out Crime Officer**

A number of safeguarding checks are undertaken for any new care provision for children or vulnerable adults. There looks to be conflicting information in respect of occupant profile within supporting documents. The application description has no stated ages; the design and access statement sets out up to 3 children between 7 and 17 years and the statement of purpose presents them as a specialist service catering for young adults between 16 and 18 years with a variety of behavioural problems. These anomalies, a perceived lack of community consultation by residents and the prior application to have to have the use certified lawful have not helped settle any perceptions of a disruption to residential amenity.

If the application form is correct, it would seem the applicants may be operating outside of their area of expertise as set out in the picture of their 4 existing care homes in the north-west of the country. Mention is made to a company capacity of 18 which looks to have been reached in operations elsewhere. It is not clear where the restrictions originate from, but it is appreciated expansion is possible.

Results of safeguarding checks are that there are no concerns regarding child sexual exploitation in the locality or any specific relevant situational problems. There are significant concerns connected to child criminal exploitation from a current county lines operation from close to the site, with links across the locality and should be taken into account in the placement of children who would be at risk from CCE. This situation may clearly be subject to change but at present should be seen as undesirable in subsequent OFSTED processes. The number of resident objections and the reasons presented are noted, many of which there is sympathy with.

There is no inevitability of nuisance associated with children's homes or even likelihood it would occur, but it is a possibility. It is understood that policy guidance may dictate otherwise, but in reality, there have been a small proportion of a growing number of children's homes in the County which have unsettled community cohesion. This is usually seated in the behaviour of some residents, the apparent lack of appropriate management, or a combination of the two where weak management practices have led to inappropriate placements and an inability to tackle unacceptable behaviour. It is understood through, that these matters may not necessarily be seen as material in the deliberations of the application.



## **Derbyshire County Council – Adult Social Care and Health**

30<sup>th</sup> April 2024

Confirms no comments to make.

## **Derbyshire County Council – Children’s Services**

10<sup>th</sup> May 2024

Confirms that as a County we have fewer children’s homes across our footprint than other Authority’s. We do have children placed at a distance and therefore any new provision from private organisations could be useful to increase supply in a more local area. It is important to note that every residential home, when it is registered with Ofsted, would have to issue a ‘statement of purpose’ which outlines their key type of home and cohort of children they would want to place there. This should all become apparent with Ofsted, and they would assess the suitability of the property against their desired statement of purpose. Advises finding out the type of residential home, for example, it may focus on emotional and behavioural difficulties or learning and disabilities. The types of home and types of children placed can vary a lot based on this. As stated, as a Council we have limited provision across our footprint.

## **Derbyshire County Council – Highway Authority**

25<sup>th</sup> March 2024

The Highway Authority will not be in a position to issue formal comments within the consultation period due to refused application 23/00647/LAWPRO where the Highway Authority notes the officer’s report mentions an issue with travel to work and there is a need to see if the submitted Design & Access Statement and Appendix 3 addresses the Officers report for 23/00647/LAWPRO.

18<sup>th</sup> April 2024

It is considered the concerns in the Officer’s report for 23/00467/LAWPRO remain in terms of underestimating vehicle movements, number of staff, start and finish times, distance from stops with frequent bus services, mitigation against car share or public transport use. From a desktop survey, it is understood four vehicles could access and park on site, but it is unclear how these could manoeuvre and leave the site in a forward gear. This could raise road safety concerns around vehicles reversing onto the highway.

29<sup>th</sup> April 2024

Further to previous Highway Authority comments the application has been reassessed in terms of its potential impact on the highway safety network and in particular the relevant transport relates paragraphs in the NPPF. It is concluded that the likely vehicle movements generated by the proposed care home would be similar if not reduced, particularly when taking into account the proposed ‘Public Transport and Car Sharing Incentive Scheme’ to those generated by existing of the property as a large residential dwelling. The submitted site plan does indicate that sufficient space is available for onsite parking and manoeuvring to allow vehicles to enter and exit in a forward gear and it is recognised the proposal to widen the access will assist in the ability for vehicles to turn within the site and it is recommended the access widening is conditioned accordingly. Some additional roadside parking may be generated, however this is likely to be the case for the existing dwelling on occasion, and for neighbouring dwellings, and in all likelihood the two uses are predicted to be very similar in this regard. There are no grounds for a Highway Authority objection to the application. Planning Conditions are recommended to ensure the site is not taken into use until the access, parking and turning facilities are provided in accordance with the submitted drawings. Advisory note recommended regarding any access works on the highway and prior notification required to the County Council.

**North-East Derbyshire District Council – Supported Accommodation Review Team**  
26.04.2024

Confirms no comments at this point but it appears young people may be taken in preparation for leaving care and we would only become involved once an applicant turns 18, is in receipt of child benefit and if housing benefit deem the tenancy related support to be more than minimal.

**Pinxton Parish Council**

Response not received.

**PUBLICITY**

Site Notice posted 26.03.2024. Comments required by 16.04.2024.

Neighbour letters posted 26.03.2024. Comments required by 16.04.2024.

Neighbour letters posted 19.04.2024. Comments required by 10.05.2024.

Neighbour letters posted 08.05.2024. Comments required by 22.05.2024.

**REPRESENTATIONS**

Eighty-six individual resident representations have been received. Comments are summarised by topic area as follows:

Principle of Development

1. The residential area is inappropriate for a children's care facility.
2. It is understood all children should be given opportunity to progress in life but a more appropriate establishment could be found.
3. Paragraph 60 of the NPPF explains the Government's objectives to boost the supply of homes, including the needs of groups with specific housing requirements.
4. A care home for three young persons does not align with national policy to boost housing as set out in paragraph 63 of the framework.
5. There is no identified need for such provision in this locality.
6. Overall local and national policy seeks to prevent loss of family housing and provide housing for older people.
7. The proposal is contrary to the intentions of local and national policy and there are compelling reasons why it should be refused.
8. Contrary policies SC3 (n) and SC11 which protect amenity.
9. The practical text is significant conflict with local and framework policies, S12 of the framework which seeks to create better places to live, protection of amenity.
10. As the proposal is in significant conflict with policy there are no countervailing considerations of greater weight. In accordance with S38(6) of the PCPA 2004 planning permission should be refused, copper bottomed by the clear conclusion the development is unsustainable as defined by the framework.
11. Contrary to Policy SC1 of the Local Plan due to scale and nature and function with the area.
12. Does not align with national policy to provide housing and accommodation for older people.
13. Contrary paragraph 135 of the framework.
14. Contrary paragraphs 60, 63, 96 and 97 of the NPPF.
15. Contrary policy SC10 due to impacts on trees.
16. Conflicts with local and national framework policy resident rights to amenities, disturbance, control of noise and road safety.

17. No means to control the C2 use.

### Sustainability

1. Limited transport links to other nearby towns within easy walking distance.
2. Unsuitable use for teenagers due to a lack of amenities and services.
3. There is no job centre or education facilities in the village.
4. There is no access to shops for the residents only houses.
5. Not an ideal location as no colleges or clubs.
6. No bus service and never has been.
7. There is nothing for young people to occupy themselves with.
8. There is no real infrastructure to make Breadmeadows suitable for young people.
9. No sports clubs, cinemas, theatres, cadets or youth clubs – a vehicle would be needed.
10. No dentist places.
11. Local schools may not be able to support the children.
12. A 100% ludicrous idea which needs to be in an area with shops and youth clubs.
13. There is nothing for children around here.
14. The proposed car share scheme or contribution to cycle purchases is appreciated but the circumstances mean staff will drive.
15. There is no 16 plus education available in South Normanton or Pinxton.
16. It is unfair for the children to have false expectations of their access to recreation, sport and cultural activities.
17. Reference to the access to public transport is misleading in the supporting documents.
18. Private taxi or pool car would have to be the private method of transport.
19. The proposal does not comprise sustainable development and meets its objectives.
20. As a consequence of the unsustainable argument the proposal is akin to a single family, the proposal will be far greater in terms of trips, noise, disturbance, light pollution, highway safety, inadequate onsite capacity, come to bear and warrant significant weight in the planning balance.
21. Isolation for the children being housed there and the site won't provide the necessary resources and life skills needed for vulnerable children.
22. Significant burden on road infrastructure from existing approved development.
23. Contrary paragraphs 7 and 8 of the framework and paragraph 11 and the presumption in favour of sustainable development.

### Residential Amenity

1. The urgent need for care homes is understood but not the place for an upmarket residential district.
2. This is not the right area; it will degrade the area.
3. The children would have emotional and sexual behavioural difficulties, autism spectrum disorder and Aspergers, mental health issues, drug and alcohol abuse, self-injurious behaviours, CCE and CSE risk factors, criminalised behaviours.
4. Residents don't want more dysfunctional people in the area.
5. Where are these children coming from, are they coming from large cities?
6. Unsuitability of the applicant, their experience and the property.
7. A company barely six months old doesn't have experience or financial capital to run a care home.
8. The need for these facilities is understood but the facility would be better suited

- elsewhere and not in a residential area.
9. Children play on The Pemberton and The Brunnen: safety concerns.
  10. Anti-social behaviour will be caused in a respectable area.
  11. None of the comments in the application for the Lawful Development Certificate have been addressed.
  12. Concern the proposal is for older children and older children would cause more harm to amenity and public safety.
  13. The area will be tarnished.
  14. People's attitudes to using the nearby park would change.
  15. Inappropriate commercial/business operation in a residential area.
  16. Harm to the ambiance of the area.
  17. There are already people in the area causing anti-social behaviour and intoxicated – too many dysfunctional people.
  18. Disruption to amenity from staff rotation and vehicle movements.
  19. Children should not be stereotyped but there is limited information to alleviate resident concerns.
  20. Limited impact assessment demonstrating how other areas have been affected by the same care provider.
  21. Concerns regarding experience and capacity of the provider and how anti-social behaviour would be dealt with or prevented.
  22. Concern that the building can accommodate more than 3 children as currently proposed.
  23. An increase in noise levels not associated with a dwelling use.
  24. Behavioural issues will manifest causing conflicts and complaints within the community.
  25. Safety concerns for children and the community using parks and roads.
  26. Concern for unsupervised child occupants.
  27. Will the care providers do a good job, they are not parents.
  28. How would the community handle hostile or irrational behaviour?
  29. How effective would the police be in responding to incidents?.
  30. Residents are fearful.
  31. There would be even greater adverse impacts on the elderly.
  32. The proposal is even having a negative effect before approval, from fears.
  33. Derbyshire Police has already highlighted the area has high anti-social behaviour, ASB is listed as a priority as well as drug dealing.
  34. Additional deliveries and commercial waste will cause disruption.
  35. Fears are just going to escalate.
  36. Although care homes are needed this is a residential area not a business park.
  37. Cause of social anxiety.
  38. The occupants will be targets of County Line gangs who target disadvantaged children.
  39. The location close to the M1 makes it easy for gangs to operate.
  40. Residents feel in the dark about the proposal.
  41. Concerns about security from overlooking of gardens and a 1ft wall separating driveways.
  42. The applicant has no track record of providing care and looking after the community.
  43. Contrary paragraph 135 of the framework which protects amenity.
  44. Contrary Policy SC11 of the local plan which protects amenity.
  45. The development is unfair on the current residents and for the ones intended to live there.

46. There area is safe with low levels of crime, which may go up as a result of the care facility.
47. Strangers will park and be around the place.
48. The local neighbourhood won't be able to cope with the impacts.
49. The losers will yet again be those who work hard, pay taxes and want a quiet life.
50. There will be an unavoidable onslaught of drugs, gangs and offensive behaviour and hypodermic needles.
51. We residents have experience of living in torture next to such a property elsewhere and nobody cared.
52. Once these homes are in place the battle is already lost.
53. The ramifications will be felt more than those neighbouring but by all those on the Broadmeadows Estate.
54. Promises will be made by the applicant to get what they want but they will be broken.
55. Comments made by case officer Amelia Carter are valid, pertinent and factual.
56. The quality of resident future lives is in your hands.
57. 16–18-year-olds are not children they are young adults.
58. Movement of vehicles at unsociable times causing noise and pollution.
59. Disruption of harmony between older and young residents.
60. Extending the driveway as proposed will be disruptive to residents.
61. Highly trained staff are needed for complex needs, will they have sufficient training to protect the local residents.
62. Given the size of the property we cannot see it remaining for 3 children.
63. Negative impacts on quality of life and community cohesion.
64. The number of carers is inadequate to manage the impacts.
65. It is hard to be assured that there would be no harm by a new applicant company.
66. This is more like a House in Multiple Occupation for young adults.
67. Concerns for the safety and well-being of the staff working there from how the children might behave.
68. Concerns regarding the directors of the company, lack of accounts, finances and experience.
69. Linked in profiles for the applicant appear to show no experience of the care industry.
70. Where people associated with the company live raises doubts on how they will be visitors to the property effectively and have a vested interest.
71. A waste of space of a large home and the accommodation is excessive for the children.
72. The house has no garden that a child would find fun.
73. Staff change overs will create the noise problem.
74. The troubled young adults are going to be disruptive.
75. Concerns for knife crime.
76. Fears for lack of supervision as a lack of a permanent residing adult at the property.
77. Residents are angry in reality about the proposed home and have no support.
78. If this is approved there would be animosity from residents towards those housed.
79. Our children won't be able to play outside anymore.
80. Local children living in the area will be frightened.
81. Concerns that the children living in the care home are going to be exploited and

- could be preyed upon.
82. Concerns the children/young adults living in the care home might have inappropriate sexual behaviours.
  83. Adverse impact on people's human rights to quiet enjoyment of property.
  84. Negative experiences from other similar facilities elsewhere, cannot be ignored.
  85. Loss of community spirit due to removing permanent populations with transient ones.
  86. A Noise Impact Assessment has not been provided.
  87. How will residents be supervised at weekends, evenings and during school holidays.
  88. Intensification in use of a residential dwelling.
  89. Lack of detail on where the young persons will come from and what trauma they have been subjected to.
  90. Infringement on right to private family life and home under Article 8 of the Human Rights Act 1998.
  91. The Council cannot be satisfied that the impacts will be insignificant, children are admitted to having behavioural issues.
  92. The scale and intensity of the use is not acceptable in the residential area.
  93. A distinct loss of community spirit will be caused.
  94. Significant increase in occupation is not commensurate with neighbouring uses.
  95. The lifestyles of the carers will adversely impact residential amenity.
  96. The carers will likely have a poor attitude to care and looking after neighbours.
  97. Concerns for a lack of staff at certain types and accuracy of the staff rota.
  98. Increase in drug and alcohol use.
  99. The use will not function in the same way as a dwellinghouse.
  100. Particular concerns for noise pollution during the night.
  101. There are other childrens homes nearby causing issues.
  102. Can you limit how many childrens homes can be put into a residential estate?.
  103. Other childrens homes have had children escape.
  104. The police are frequently called out to disturbances of other facilities.
  105. We don't want our children subjected to these problems.
  106. The local neighbourhood is not intended for this and will cause a negative impact.
  107. If permission is granted it should be for not more than 3 children.
  108. Permitted Development Rights should be removed to protect amenity.
  109. The tenants could interact with other vulnerable members of the community and children.
  110. Residents would not choose to live next to a care home so this should not be enforced on them.

### Visual Amenity

1. There has already been infill development in the area, originally Broadmeadows provided an open area.
2. A change in material character to commercial and demise of a beautiful village.
3. Would cause more of a business appearance than residential.
4. Changing to a front tarmacked area would be mismatched to other dwellings.
5. The house is already on the borderline of being overdeveloped due to previous extensions and alterations.

6. The introduction of signage is inappropriate and not in keeping with the quiet residential area.
7. An increase in use of the outdoors areas which will alter the make-up of the area and how it visually appears.
8. There is no detail on how the external communal areas will be cleaned, upkeeped and maintenance of the property undertaken.
9. Concerns for loss of trees and establishment of a car park contrary policy SC10.
10. Concerns for removal of grass verge and plants.

### Highway Safety

1. Concerns about the number of vehicles that may be parked at the property.
2. Concerns about the number of vehicles parked on the road.
3. There are limited transport links.
4. The policy on car sharing is unlikely to be of any value.
5. Vehicular movements will be above a normal property.
6. Significant burden on road infrastructure.
7. There are already enough cars on The Pemberton and commercial vans.
8. Additional danger to pedestrians, cyclists and motorists.
9. The Chine already needs repairs which the Council are failing to keep up with.
10. The Chine is already a very busy road being a main throughfare.
11. There is a build-up of traffic and congestion.
12. Parking is insufficient for carers and other visitors.
13. Widening the access will not eliminate the issue of lack of parking.
14. Car sharing is very unlikely due to where staff would travel from.
15. The rat run needs traffic calming.
16. A main pedestrian route to local schools.
17. Contradicts Bolsover's Safer Routes to Schools strategy.
18. Refuse collections will be different.
19. Residents will apply for provisional driver licences increasing demand for parking.
20. If there is an accident on the A38/M1 the area is totally gridlocked.
21. Public transport is not appropriate for sensory needs and occupiers would be encouraged to apply to drive.
22. Overspill of cars onto the road would be dangerous.
23. Vehicles reversing on and off the drive will result in higher risk of collision.
24. Cars speed way too fast.
25. Cleaners, maintenance staff and deliveries contribute to traffic hazards.
26. Visibility is poor for entering and exiting 16 The Chine due to a blind corner.
27. The number of cars is grossly underestimated.
28. Crash map data demonstrates a number of highway related incidents.
29. The car site plan is ambiguous.
30. Amelia Carter's comments in her report already expressed concern on impacts on comings and goings, safety and parking, a variety of factors and planning considerations.
31. Paragraph 114 states it should be ensured adequate opportunities to sustainable transport modes have been taken up.
32. Development should only be refused on highway grounds if there would be unacceptable impacts on highway safety or the residual impacts are severe.
33. The applicant is silent on the number of daily visits.

34. Occupants will start learning to drive and create further demand for parking.
35. Challenges the comments made by the Highway Authority regarding vehicular movements and a lack of objection.
36. Concerns regarding opposing views between highways Officers.
37. The car sharing policy wont be enforced or effective and should be disregarded in consideration of vehicular movements.
38. Contrary paragraph 114 of the NPPF and highway safety.
39. The staff rota and subsequent number of vehicles are inaccurate.
40. Vehicles reversing out will have to use the public footpath.
41. Widening the drop kerb takes the access closer to Pemberton junction which is very busy and requires good visibility and turning will be hazardous.
42. Vehicles take wrong turns and turn around at the junction all the time and will cause problems.
43. Crashmap data shows incidents in the locality.
44. When winter arrives, the area will become an ice rink.
45. The property was not built for business purposes.
46. Proximity to the M1/A38 will increase risks for the children.
47. Swept Paths inaccurate.
48. An electrical post obstructs the turning area.

#### Other Matters

1. There has been a lack of community consultation and more residents should have been made aware.
2. The children have had a hard life but are not welcome and it is unfair.
3. This is an upmarket area and will cause a deep class divide.
4. Unsatisfactory delay posting the site notice and unsatisfactory notification.
5. It seems the Council was hoping few people were informed to create fewer objections.
6. Devaluation of property.
7. The statement of purpose and planning, design and access statement are contradictory regarding ages of children.
8. The children's best interests are not at heart.
9. What impact will it have on insurance rates if the area is a high-risk zone.
10. The people wanting to do this live a long way away and are not bothered.
11. The applicant has never contacted neighbours, which indicates they have little concern or respect.
12. This will damage the integrity of this area.
13. Meetings should have been undertaken with local residents to ensure the community is part of the democratic process.
14. Doubts there is sufficient capital to acquire the home.
15. Why doesn't the applicant have an operational website in order.
16. Which company is running the care home?
17. Who will own the care home?
18. There has been a lack in professionalism putting the application together.
19. Reference is made to other sites across the country in Warrington, Padiham and Morecambe with no record of planning permission in the north bought for a fraction of the price of The Chine.
20. The house needs to have its council tax band increased after this application is refused.
21. Previous applications for similar facilities have been refused.



22. Breadmeadows is an affluent area and introducing a care home as social housing is not fitting.
23. The idea a Council would spend an obscene amount of money on this would be scandalous.
24. This is a business use intended to profiteer out of vulnerable children.
25. What is happening now, the previous application was considered unlawful.
26. Why should the tax-payer have to pay for these young people's driving licences and passports.
27. Life is about lessons and hard work not being given these things/homes by the tax-payer.
28. Has the Council undertaken relevant and detailed risk assessments as part of its duty of care to residents.
29. Setting of precedence for further commercialisation and additional care homes.
30. Inaccurate and misleading information.
31. Concerns for suitability of the care provider, the director being director of six other companies.
32. Reference made to DCC comments about care providers making profits on the backs of vulnerable children.
33. The application is considered flawed following professional examination of supporting documents, inaccuracies & misleading information.
34. It is understood there are already enough childrens homes to satisfy need.
35. How are the communal areas going to be cleaned and responsibility taken for outside areas.
36. Inaccuracies between the statement of purpose and the staff rota in terms of staff sleeping overnight, number of bedrooms and capacity for more bedrooms being used.
37. Inaccuracies between the application form and statement of purposes in terms of staff.
38. The introduction in the supporting statement contradicts the Council's recent S192 LDC determination alleging no material change of use.
39. It is alleged this is a family home, it is not.
40. The statement disputes the findings of the case officer of 23/00647/LAWPRO which is unreasonable. Consistency in decision making is a crucial legal principle in order to command public confidence.
41. It is not unreasonable for the Council to question that there will be more than 3 children.
42. It is not considered that the Council could resist a larger number in future if a condition were imposed to limit the number of children.
43. The suggestion that there are three children may be considered irrelevant and it must be assumed the number of children will be at least 6-9, probably more.
44. Little weight can be given to the applicants claims.
45. Some might regard this proposal as a "stalking horse".
46. It is requested the application be reported to Planning Committee.
47. Loss of a family home.
48. Concerns for pressure on the police force and intimidation, complaints and conflicts for them.
49. The applicant has no track record for running a successful care home or caring about the community.
50. Objects to closure of Council run homes in favour of outsourcing to unsuitable places and more cost involved.
51. The Council is obliged to find a different suitable care home.
52. Taxpayers money is going to enhance the profits of private individuals.
53. Objects to the number of properties needed to house the displaced children.

54. What will happen to the children when the company takes their profit and sells up.
55. A money-making scheme with no remorse or consideration for Broadmeadows residents.
56. Residents have worked hard to live here and achieve this.
57. Is Broadmeadows now going to be the hub for facilities of this kind.
58. There are title deed restrictions preventing nuisance and other development.
59. Harm to bees and butterflies who can't feed from tarmac.
60. Rainwater won't seep into tarmac.

### **Mark Fletcher MP–**

I have been contacted by a number of my constituents regarding this application. Following a meeting with some of the constituents in question and a number of emails and calls I am requesting the concerns are shared with the Planning Officer. These issues are as follows:

- The children's home will likely have a major impact on traffic in the area. The number of staff, visitors, third parties etc. will bring more cars around this area and, with the limited parking available at 16 The Chine, will also cause parking issues which will affect other residents,
- The children in this home may have any number of issues which could increase noise and other disruptions coming from the house. It could, in the view of some residents, bring about more anti-social behaviour which will impact upon other residents,
- There is a concern about the proximity of this building to major roads – the M1, the A38 – which could increase the risk for these children to be exploited in criminal activities and poses a safety risk in that the children can access dangerous roads quickly and potentially be injured on them. Constituents are concerned this has not been adequately risk-assessed,
- Residents are worried that there is a lack of activity provision in the area for young people, and a lack of post-16 education provision. This is coupled with a lack of public transport and will result in further increased car use and a negative experience for the children at the home,
- There are also concerns about the nature of the business which has made the planning application and the information they have provided regarding this project. The documents submitted list the company under four different names and is listed on Companies House as a property developer, not a care home provider.
- Some of the residents have also raised concerns that only a few of the nearby residents were actively informed about this application, while everyone else had to find out from their neighbours. One of the residents in question, Mrs Swann, has shared a document with me which elaborates on the concerns of residents about this application, and I have attached the latest version to this email. I trust the planning officers will take these residents' concerns into account when evaluating this planning application and I would be grateful for an update when a decision is made.

### **POLICY**

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

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

- SS1 – Sustainable Development
- SS3 – Spatial Strategy and Distribution of Development
- LC3 – Type and Mix of Housing
- SC1 – Development within the Development Envelope
- SC3 – High Quality Development
- SC5 – Changes of Use
- SC9 – Biodiversity and Geodiversity
- SC10 – Trees and Woodland
- SC11 – Environmental Quality (Amenity)
- ITCR11 – Parking Provision

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

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

- Chapter 2: - Achieving sustainable development.
- Paragraphs 7 - 10: Achieving sustainable development.
- Paragraphs 47 - 50: Determining applications.
- Paragraphs 55 - 58: Planning conditions and obligations.
- Paragraphs 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.

### Supplementary Planning Documents

*Successful Places*

*Local Parking Standards*

## **ASSESSMENT**

### ***Key issues***

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

- The Principle of Development
- Residential Amenity
- Highway Safety and Parking
- Design and Character
- Biodiversity and trees
- Sustainability Considerations.

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

## **The Principle of Development**

To achieve sustainable development Policy SS3 of the Local Plan sets out a spatial strategy for the distribution of development in accordance with a Settlement Hierarchy Study which has assessed the sustainability of the district's settlements and ranked them accordingly. Firstly, development is directed to the main towns of Bolsover, Shirebrook followed by the emerging towns of South Normanton and Clowne. These settlements are regarded as the most sustainable.

The site falls within the South Normanton West Ward and within the Parish of Pinxton. Pinxton is defined as a larger village within the established hierarchy. The larger villages are defined in Policy SS3 and as more sustainable settlements alongside the main and emerging towns, where urban forms of development are supported in principle.

Although within the Pinxton Parish, the site is located within the defined development envelope of South Normanton where the principle of development is acceptable as defined under Policy SC1, subject to all material planning considerations. This is a small-scale development in planning terms which involves the change of use of an existing dwelling to a children's home within the development envelope of one of the district's main towns and as such the proposal meets the requirements of Policy SS3 of the Local Plan by distributing the proposed use to within the main towns and/or larger villages.

Recent Government advice emphasises the provision set out in Paragraph 60 of the framework which states to support the Government's objective of significantly boosting the supply of homes, it is important that a sufficient amount and variety of land can come forward where it is needed, that the needs of groups with specific housing requirements are addressed and that land with permission is developed without unnecessary delay. The overall aim should be to meet as much of an area's identified housing need as possible, including with an appropriate mix of housing types for the local community.

Paragraph 63 of the framework states within the context of establishing need, the size, type and tenure of housing needed for different groups in the community should be assessed and reflected in planning policies. These groups should include (but are not limited to) those who require affordable housing; families with children; older people (including those who require retirement housing, housing-with-care and care homes); students; people with disabilities; service families; travellers; people who rent their homes and people wishing to commission or build their own homes.

In her statement dated 23/05/2023 the Housing and Planning Minister set out the Government's commitment to support for the development of accommodation for looked after children, and its delivery through the planning system. She went on to state that the planning system should not be a barrier to providing homes for the most vulnerable children in society in right places with access to schools and community support. The statement was used to remind Local Planning Authority's that "as set out in paragraph 62 of the National Planning Policy Framework, Local Planning Authority's should assess the size, type and tenure of housing needed for different groups in the community and reflect this in planning policies and decisions. Local planning authorities should consider whether it is appropriate to include accommodation for children in need of social services care as part of that assessment".

She went on to say that "Local planning authorities should give due weight to and be supportive of applications, where appropriate, for all types of accommodation for looked after children in their area that reflect local needs and all parties in the development process should work together closely to facilitate the timely delivery of such vital accommodation for children across the country."

The County Council's Childrens' Services department has confirmed that there is a limited provision of children's homes within the County, compared to other Authority's and that, as a result, children have needed to be displaced at a distance. Provision from private organisations is confirmed by Childrens Services to be useful in increasing supply in a more local area.

Policy LC3 of the Local Plan for Bolsover District states that the council will support the provision of housing for older people and specialist housing provision across all tenures including extra care schemes in appropriate locations, close to services and facilities. Policy LC3 is therefore supportive of the proposed use.

In planning terms, whilst it is appreciated that the proposal is materially a different use to C3a, and is a business C2 use, the nature of the business is such that the building would remain in residential use within a residential area. There are no planning policies which restrict, in principle, such care homes from being provided within existing residential areas, subject to all material planning considerations. Nor is there any planning mechanism to locate care facilities away from existing residents who might be opposed to them or to control the number of care homes in one area. Each planning application is required to be considered on its own merits.

The principle of development is therefore acceptable in principle subject to assessment of relevant local and national planning policy and consideration of any relevant material planning considerations.

### **Residential Amenity**

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

Policy SC3 (f) of the Local Plan requires development to take account of the need to reduce the opportunities for crime and the fear of crime, disorder and anti-social behaviour, and to promote safe living environments.

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

The above is reflected in paragraph 135 (f) of the framework, which seeks to secure a high standard of amenity for existing and future users. Paragraph 96 of the framework states planning decisions should aim to achieve healthy, inclusive and safe places which, promote social interaction, are safe and accessible, so that crime and disorder, and the fear of crime, do not undermine the quality of life of community cohesion; whilst ensuring an integrated approach to considering the location of housing, economic uses and community facilities and services.

This application has generated significant resident objection as summarised above in this report, primarily on the grounds of how the children might behave, cause noise, crime and anti-social behaviour and adversely impact on the local community's residential amenity and safety as a result. There is also significant objection surrounding the adequacy of the care provider, the experience of staff and organisation as a whole as a business in the area could adversely impact on the efficiency of the care home and adversely impact on residential amenity and public safety.

In planning terms, the application is to accommodate three children for any age below 18 and for a maximum of three children. The ages of the children cannot be controlled through the planning system. It is not appropriate or reasonable to stereotype these children through the planning application process or to judge how they might behave as a result of their background, upbringing or any past trauma. This is discriminatory.

Who these children are and their requirement for care is unknown. It is an Ofsted matter, who allocates children to suitable homes depending on their individual needs and following prior assessment per child, care provider and location. Even if details of the individual user profiles of the under 18's had been provided with the application, the occupying children could change without the need for planning permission, subject to Ofsted approval, and it would not form a material planning consideration.

Each child/young person could need a home for many reasons. They might have had very different or difficult upbringings and experiences, which in turn might have resulted in them suffering from learning difficulties, emotional difficulties or behavioural issues described in the applicant's statement of purpose and which the local residential community area very much concerned about. However, in planning terms these are children/young people under 18 who require care and who should not be further discriminated against because of the likelihood that they will be teenagers, and how, as young people, that might cause more disruption to the community, when compared to small children. The planning system does not judge the potential behaviour of individual children as a result of their ages.

The experience of the individual applicant care provider, their finances, how the children will be cared for, the ratio of staff to children, the qualifications of the carers, their responsibilities, background, level of expertise, personal attitude to management and care, their recruitment method, means of training, turnover of staff, or where they live in relation to their place of work, are all similarly not material planning considerations because other regimes exist to ensure for the appropriate care and management of children.

Therefore, in planning terms this application is required to be considered in general terms and the numerous objections which focus on the specific problems that children might suffer from, and public fear about how this might affect how they behave to cause the amenity/safety issues summarised above in this report, are not material planning considerations.

The Force Designing Out Crime Officer (FDCO) has set out a number of concerns in the consultation response but has acknowledged, in accordance with comments summarised above, that the Force's comments may not necessarily be material in planning terms. The FDCO has confirmed that there is no inevitability of a nuisance occurring, or even a likelihood that this will occur, but it does remain a possibility.

The FDCO refers to discrepancies in the submission documents relating to the age of the children (age 7-17 in the design & access statement and age 16-18 in the statement of purpose), a lack of pre-application engagement with the community and the applicants attempts to obtain a Lawful Development Certificate for the use. These factors combined are considered by the FDCO to have not helped to settle public fear of disruption to amenity. Officer's encourage applicants to carry out pre-application community engagement but cannot insist that applicants do so. Whilst residents feel the publicity for the application is inadequate, it has been undertaken fully in accordance with the Development Management Procedure Order. The refused application for a Lawful Development Certificate was an appropriate method for the applicant to determine whether or not the proposed use would be lawful, and the applicant was entitled to submit an application of this nature.

The FDCO's comments about the applicant appearing to be operating outside of their area of expertise, and appearing to currently operating at full staff capacity, are similarly not material in planning terms. The Care Quality Commission is responsible for regulating all health and social care in England, to ensure adequate quality and safety of care, including at care homes. In planning terms, the proposal could be from any applicant. The planning system has to have good faith that these separate regimes are effective in the interests of protecting child welfare.

The FDCO confirms there are no concerns relating to child sexual exploitation in the locality, or any specific relevant situational problems but there are concerns about child criminal exploitation from county lines operation close to the site and considers that that this should be taken into account in the placement of children which are at risk from CCE. As stated above, it is Ofsted's responsibility for allocation; and any criminal activity would be for the police to control. These matters are, similarly, not within the remit of the planning system.

It is recognised that there could be a worse-case scenario where three children within the property might have extremely challenging behaviours and that Ofsted might consider the application site to be an appropriate location for such children. In that situation there is the potential for noise, disturbance, aggression or even crime and disorder. In turn, this impact would be detrimental to residential amenity.

It is noted that the applicant's Statement of Purpose explains the goal is to reduce inappropriate, damaging and destructive behaviour and to develop healthy and socially acceptable behaviour by setting out reasonable expectations, rewarding positive behaviour, implementing programmes to encourage positive behaviour and providing general encouragement and support.

The District Council's Principal Environmental Health Officer (PEHO), who specialises in statutory nuisance such as noise, has been consulted for comment. The PEHO has experience in dealing with care facilities of this nature. For this application the PEHO does have concerns regarding the potential for adverse noise impacts and a statutory nuisance occurring, but an outright objection has not been raised to the application and therefore the PEHO is not recommending refusal. There are powers under the Environmental Protection Act 1990 for Environmental Health to serve an abatement notice if a statutory nuisance situation to control any noise impacts, but in the experience of Environmental Health, the outcome is usually unsatisfactory.

In this case the PEHO has quoted the Ministerial Statement issued in 2023 by the Minister of State Department for Levelling Up, which confirmed "the planning system should not be a barrier to providing homes of the most vulnerable children in society. As the statement does not state appropriate conditions would be unreasonable, the PEHO has recommended a two-year temporary planning permission to enable any possible adverse impact on amenity to be monitored and evaluated during this period.

If a condition of this nature was attached, at the end of the two-year time period, the C2 use would be required to cease, unless a further planning application was made to the Local Planning Authority to extend the C2 use. Any such application would be subject to resident consultation and necessary consultation.

To be consistent with previous Officer recommendations for similar planning applications of this nature, it is not considered that a temporary planning consent would address the concerns raised because children within the home could change if Ofsted deemed fit and this cannot be controlled by condition. The success of the residents of the home and their successful integration with the community and level of cohesion, would largely depend on who the children are at the time and the effective management of the home. These are, again, both matters controlled by Ofsted (as stated in the design & access statement there is a 28-day assessment to see how residents settle into their surroundings and identify any risks that might previously have been unknown).

Whilst noise is a material planning consideration, there are no planning grounds on which to refuse the application on this basis because the scale of business operation is limited to 3 children and because the noise concerns stem primarily from concerns about the actions of certain individuals as a result of their backgrounds. Although the framework states planning decisions should not undermine quality of life or community cohesion, the unknown behaviours of the occupants are not a material reason on which to identify conflict with the framework in this regard. A further planning condition has been recommended by the PEHO to secure a Noise Management Plan prior to the development being brought into use. A condition of this nature is reasonable and would meet the six tests of conditions.

Other potential impacts on residential amenity via noise and disturbance might be through comings and goings as a result of the use as a children's home (staffing and other visitors). The revised design & access statement explains, with a supporting weekly rota, that staff would arrive at the earliest from 7:30am and the latest leave by 21:00 with other occasional journeys for social activities in early evenings and weekends. The weekly staff rota shows a manager present Monday to Friday 9am to 4pm. There would be two Senior Registered Support Workers and two Registered Support workers who would work shifts to allow a 24 hours presence and no more than 4 carers on site at any one time and the manager. Other visitors would include Social Services, Ofsted. The rota is coordinated to allow a 30-minute



gap between a staff member leaving and a member of staff arriving in order to minimise staff on site during crossover of shift patterns.

It is considered that the use of the property as a care home would be likely to cause comings and goings above those associated with the use as a dwellinghouse. However, it should be noted that this large seven bedroomed dwelling could equally be occupied by a very large family, with adult children or dependant relatives, foster children and different occupiers who might also equally work shift patterns and generate comings and goings without the benefit of any planning permission. It is also possible that the dwelling could be used as a House in Multiple Occupation for up to six unrelated individuals without the benefit of planning permission. The comings and goings associated with a C3a dwellinghouse use at full capacity are difficult to quantify.

Ultimately, given the proposal is for a maximum of 3 children and 4 care staff with one manager, to be controlled by condition, this would control the scale of the care operation in the locality. It is not considered that the comings and goings would be over what would be reasonably expected in a residential area to result in noise and disturbance to residential amenity. Whilst the dwelling has more bedrooms, with some not even being used, and the community has concerns about future expansion, this is not a material planning consideration because this application is required to be considered on its own merits and the scale of business activity can be controlled by condition. Any breach of planning control would be investigated by the District Council's Planning Enforcement team.

The dwelling has an established private enclosed rear garden, and no changes are proposed to existing fenestration. Therefore, there are no concerns in relation to overlooking or loss of privacy to the residents living around the site's boundaries.

As part of the planning process there is the need to consider the amenity of future occupiers in addition to existing residents. Each under 18 would have a private bedroom and access to a large domestic living space to the ground floor and the use of a private garden. Carers would also have access to separate bedrooms for overnight stays. The large home would provide a good standard of living conditions for future occupants.



***The rear garden.***

It is considered that the material change of use, by virtue of being limited to 3 children, results in a business-related residential use which is appropriate in scale, location and would function with and be compatible with the residential area in accordance with Policy SC1 (a) and (c) of the Local Plan.

The proposal represents the efficient re-use of a brownfield site and existing building with an appropriate mix of residential uses, by still representing a residential use in a residential area, in accordance with Policy SC2 (a) and LC3, which supports all types of housing, including specialist housing provision.

As a result of consultation with the Force Designing Out Crime Officer it has been established that there is no inevitability of crime or other adverse impacts arising from the proposed use. The process through planning is to reduce opportunities for crime and fear of crime, disorder and to promote safe living environments by designing out these issues (where possible) and to protect community safety through the use of planning conditions, where appropriate.

This applies when considering any residential accommodation through the planning process, not restricted to childrens care homes, because an application for a new dwellinghouse could be occupied by any individual from any background. The same would apply to a House in Multiple Occupation for up to six unrelated individuals.

For this application there has been no identified opportunity to improve impacts on community safety by designing out crime. The use of planning conditions to control the number of children, and care staff/manager will control the scale of business activity to a level which is considered appropriate and acceptable within the residential area. A further condition is necessary to ensure the facility is not used for any other purposes within Use Class C2, meaning it would need to remain as a children's care facility. On this basis the development is considered in accordance with Policy SC3 (f) and (n) and SC11 in this regard.

In conclusion to considering residential amenity, Officers understand the significant residential objection raised, but the majority of the issues do not fall within the jurisdiction of planning. The planning system might be the first stage in allowing the proposed use to operate, but the use is subject to other legislation checks, requirements and approval and therefore planning cannot be used to control matters dealt with under these separate regimes that relate to care, quality of care and the management and/or control of, noise, nuisance, crime and anti-social behaviour.

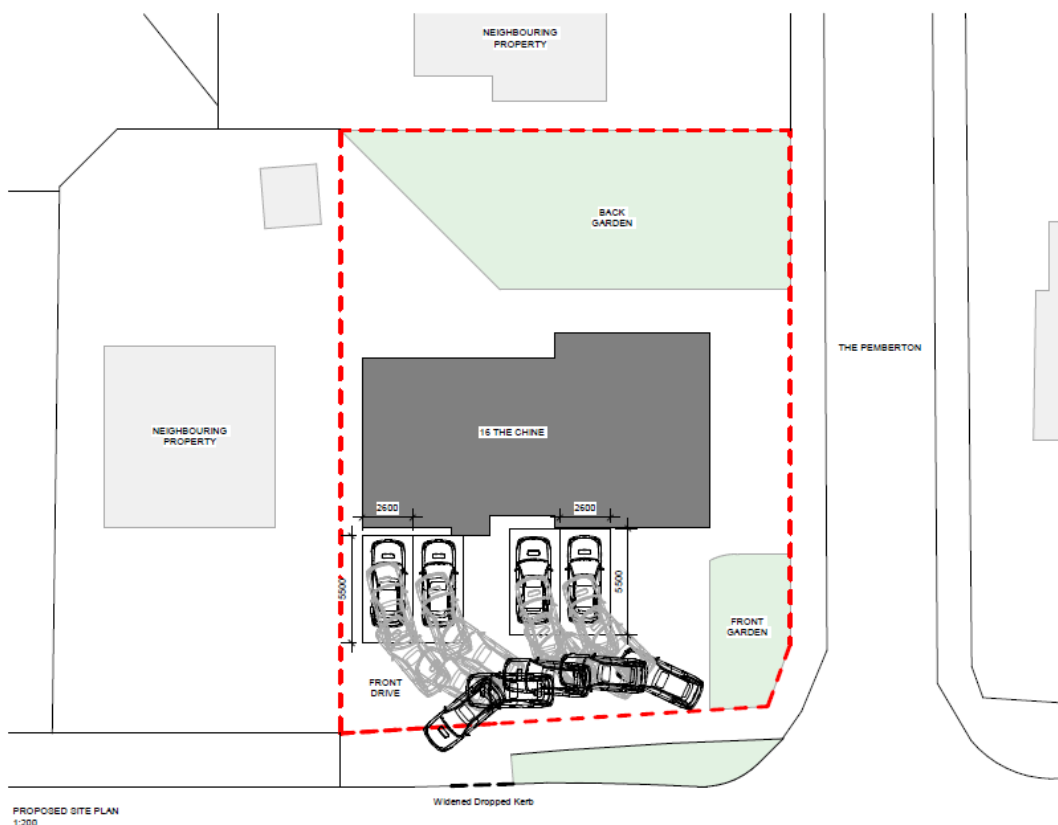
### **Highway Safety and Parking**

Policy ITCR11 of the Adopted Local Plan and its Appendix 8.2 of the Local Plan sets out the Council's minimum parking standards as a means to create a safe and secure environment. Minimum Standards exist for Residential Institutions in Appendix 8.2, but children's homes are not defined and therefore parking provision for this application needs to be considered individually in consultation with the Highway Authority.

The SPD 'Local Parking Standards' was adopted in January 2024. The SPD cannot change the statutory requirements of Appendix 8.2m but provided further clarification on application of the policy.

Paragraph 114 of the framework states that in considering applications for development it should be ensured that safe and suitable access to sites can be achieved for all users.

Paragraph 115 of the framework makes it clear that development should only be refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.



***Proposed Parking Area and widening of vehicular access.***



***Application site on the left.***



***Application site on the right.***

The application has generated objection from the community regarding a lack of parking, the impacts of on road parking, congestion, poor visibility, accidents, comings and goings being underestimated, and ineffectiveness of a proposed car share scheme, set out above in this report.

The Highway Authority initially raised concern in relation to this application due to the comments made on the refused application for the Lawful Development Certificate for the proposed use and also in relation to parking and turning. It has therefore been explained to the Highway Authority that the comments on the Officer report for that application are not relevant. Those comments related to the materiality of the change of use and whether or not a care home could be certified as lawful.

Following receipt of the initial highway comments, a parking plan has been provided which defines four off-road parking spaces and includes swept path analysis.

The Highway Authority has therefore re-assessed the application on its highway safety impacts and the relevant transported related paragraphs of the framework. It is the conclusion of the Highway Authority that vehicle movements generated by the C2 use would be similar if not reduced, particularly when taking into account the applicant's proposed Public Transport and Care Sharing Incentive Scheme. The car parking plan is confirmed to provide sufficient space for available on-site parking and manoeuvring to allow vehicles to enter and exit the site in a forward gear.

The proposal to widen the access and increase the hardstanding will assist vehicles to turn within the site. The Highway Authority recognises that roadside parking may be generated by the care home, but that this could be the case for the existing dwelling on occasion and for neighbouring dwellings; and in all likelihood the two uses are predicted to be similar by the Highway Authority. The Highway Authority concludes with no objection requesting conditions to secure widening of the access and provision and retention of the four parking spaces. The four car parking spaces each measure 2.6m x 5m in accordance with the District Council's minimum parking standards.

With regard to staff changeover patterns, visitors and vehicular movements to and from the site and resulting vehicles, this is not fully quantifiable or predictable and will be dependent on the needs of individual children in occupation at any one time. However the Highway Authority has raised no objection as the road network is considered capable of accommodating any overspill.

The applicant has adopted a Public Transport and Car Sharing Incentive Scheme shown in Appendix 4 which encourages and provides financial incentives for staff members to utilise public transport or to cycle to work. Based on this the Planning, Design & Access Statement advises trips generated by staff are anticipated to be below those anticipated by the staff rota. A pool car is proposed to be used by the staff on shift for shared journeys, such as days out, which would be collaborated in the same way as a household to minimise number of trips. The total number of trips anticipated are 25 trips across a 7-day week, amounting to an average 3.57 ~ (4) trips per day and less at the weekend.

Although resident objection is noted, there are no defined adopted minimum parking standards for the childrens care homes in the Local Plan. In the absence of a Highway Authority objection to the development there is no material reason to recommend refusal on highway safety grounds due to the number of spaces which are provided, because no objection is raised to on-road parking in this instance.

The large dwelling could feasibly be occupied at full capacity by a large family with several children who also drive. This might create a demand for on-road parking on a regular basis, not including any other visitors to a family home. Therefore, with conditions to control the number of children and staff, the scale of the business activity can be sufficiently controlled to a point where it would not be considered to have a materially greater impact on parking and on highway safety than the continued use as a dwellinghouse, or other uses which would not require planning permission, such as a House in Multiple Occupation.

Therefore, the proposal is not considered harmful to highway safety and would comply with the requirements of Policy SC3 of the Local Plan. With no objection from the Highway Authority there can be no confirmed adverse impacts on highway safety. Furthermore, the impacts from a care home use of a scale controlled by condition, could not demonstrate severe impacts on the road network. The proposal is therefore in accordance with paragraphs 114 and 115 of the framework.

### **Design and Character**

Policy SC3 of the Adopted Local Plan requires development to achieve a high quality of design, including through creating good quality, attractive, durable and connected places through well designed locally distinctive development that will integrate into its setting; and also, by responding positively to local context, contributing to local identity and heritage in terms of appropriate height, scale, massing, density, layout and materials.

Policy SC5 supports changes of use of buildings which are worthy of retention, which are in keeping with the fabric and character of any adjacent buildings, and where the density of the development is appropriate to location.



Paragraph 135 of the framework states decisions should ensure proposals add to quality of areas, are visually attractive as a result of good architecture, layout and effective landscaping; in addition to being sympathetic to local character and history.

The application proposes to widen the vehicular access by dropping the kerb to the site frontage and to remove some low-cut grassland to increase the parking area and allow turning. This extends the parking area down to the public footway. However, this is not considered to cause any harm to the residential character of the neighbourhood. No other changes are proposed to the site and building, which is worthy of retention.

Therefore, the application is considered in accordance with Policies SC3 and SC5 of the Local Plan because the visual appearance of the site is considered to remain domestic in nature, therefore responding positively to the defined residential context of the locality.

### **Biodiversity and Trees**

Policy SC9 of the Local Plan states development proposals should seek to conserve and enhance the biodiversity of the district and to provide net gains where possible. Policy SC10 seeks to protect trees during the development process. Paragraph 180 (d) of the framework states planning decisions should minimise impacts on and providing net-gain for biodiversity. Paragraph 186 states development resulting in the loss or deterioration of irreplaceable habitats (such as ancient woodlands or veteran trees) should be refused.

As the application was submitted prior 2<sup>nd</sup> April 2024 it is exempt from 10% mandatory biodiversity net-gain. However, the application should still provide at least no net loss, and ideally some form of net-gain to comply with local and national policy. It is recognised this application is proposing to remove an area of maintained grassland in between the existing car parking area and the public footway in order to facilitate car turning. The applicant has confirmed the conifer trees on the corner of the site will be retained, there may need to cut back the vegetation to create hard standing directly forward of the residential annex.

The ecological value of the grassland is considered to be extremely low such that its loss would not cause harm to biodiversity. To ensure a form of biodiversity net-gain is achieved the applicant has agreed to a condition to provide a form of biodiversity enhancement measures, which might include details such as bird and bat boxes to be installed on the property prior to the use being first taken into use. With this condition, the development would provide a form biodiversity net gain in accordance with Policy SC9 of the Local Plan and Paragraph 174 (d) of the framework.

The trees are not considered to be of any significance, being conifers at the corner of the site, which are to be retained. The development is therefore considered in accordance with Policy SC10 of the Local Plan.

### **Sustainability Considerations**

Paragraph 7 of the framework states the purpose of the planning system is to contribute to the achievement of sustainable development.

Paragraph 8 sets out that achieving sustainable development means the planning system has three overarching objectives, which are interdependent and need to be pursued in mutually supportive ways. These objectives are as follows:

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

It is recognised that the proposal is a business venture for the applicant and will provide a means of employment and therefore income for individuals involved in the care provision. Occupants would spend in the local economy, benefitting local business and amenities. The economic objective is met.

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

There would not be any significant material change to the physical appearance of the building other than minor alterations to the front curtilage and therefore the material change of use protects local character by a continued domestic appearance.

The use would provide a contribution to the shortage of regulated children's social care at a local and national level, as confirmed by County Council Children's Services team. Children's homes should not be excluded from residential neighbourhoods where the scale and nature of the development is considered compatible with the neighbourhood in accordance with local plan policy. Residential neighbourhoods are sometimes needed to meet the day to day needs of vulnerable children and to create a household environment in residential localities, which is less institutionalised in character.

In terms of site location and access to local amenities and services, every residential home when registered with Ofsted would have to issue a 'statement of purpose' which would outline their key type of home and cohort of children they want to place there. The County Council's Children's Services team has previously commented that sometimes it is better to have sites well connected to amenities and services and sometimes limited access is better, to allow focused work with children without distraction. This is a process which would become apparent with Ofsted who would assess the suitability of number 16 The Chine against their desired statement of purposes.

Therefore, whilst the community consider the site to be unsustainable due to its distance from amenities and services, this is not always a mechanism to refuse care homes as a quieter and more remote location can sometimes better facilitate children's needs. Ofsted would allocate children according to their individual needs.

However, generally in this case the application site is not considered to be in an unsustainable location by Officers. The site is in a built-up residential area, which is not isolated. Future occupants are not considered to find it challenging to access amenities and services which would benefit their social, health and well-being of their age group. This is a very large residential estate which will already accommodate a number of existing under 18's

who currently have the same access provision to amenities and services as the future occupants of the care home. The applicant's statement of purpose explains care staff would transfer children to amenities necessary for their health, social and cultural well-being.

In terms of the impacts on the health, social and cultural well-being of the current residents, the amenity section of this report sets out other regimes exist to protect residents from crime, anti-social behaviour and noise and how this is not material to the application. The social objective is met.

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

The application has identified no harm to the natural and built environment, to biodiversity, waste or pollution or adverse impact on climate changes. The environmental objective is met.

## **CONCLUSION AND PLANNING BALANCE**

As referenced in the Minister of State's for Housing and Planning's Statement, the planning system should not be a barrier to providing homes for the most vulnerable children in society. Derbyshire County Council's Children's Services has confirmed the County has a shortage in children's homes, which demonstrates a need for this facility.

The planning system does not discriminate against occupant age, sex, sexual orientation, ethnicity or background and how different backgrounds, trauma and experiences might affect an individual to behave. Other regimes exist for the effective care of children, to regulate the adequacy of the care provider, for the management and control of crime and anti-social behaviour and statutory nuisances outside of the planning system.

In planning terms, the proposal is for residential accommodation in a residential area, albeit for care purposes and as a business enterprise. There are no planning policies which prevent such uses from coming within residential neighbourhoods. In this case the scale of business activity can be controlled by conditions so that it is considered appropriate and compatible with the residential area. It is considered that the proposal complies with relevant policies of the Local Plan and the framework and represents a sustainable form of development.

## **RECOMMENDATION**

**The current application be APPROVED subject to the following conditions:**

### **Conditions**

1. The development must be begun before the expiration of three years from the date of this permission.
2. There must be no more than three children living within the hereby approved care facility at any one time.



3. There must be no more than four members of care staff and one manager on shift at the premises at any time.
4. Notwithstanding the Town and Country Planning (Use Classes) Order 1987 (or any order revoking and re-enacting that order with or without modification) the premises must be used only as a children's care home for up to 3 children and for no other purpose (including any other use falling within Class C2 of the Order).
5. Prior to commencement of use the widened vehicular access to the site, off-road parking provision of four spaces and turning facilities shown on revised drawing number 'A306 Proposed Site Plan' Revision 2 dated 19/04/2024 shall be provided in full. Once provided the vehicular access and off-road parking provision shall be maintained in perpetuity.
6. Prior to commencement of use, a noise management plan must be submitted to and approved in writing by the Local Planning Authority. The approved noise management plan must be implemented in full concurrent with the first occupation of the site and must continue to be implemented in accordance with the approved scheme thereafter.
7. A scheme of biodiversity enhancement measures shall be implemented fully in accordance with a scheme which has first been submitted to and approved in writing by the Local Planning Authority prior to commencement of use of the hereby approved children's care facility. Once provided the scheme shall be maintained in perpetuity.

### **Reasons for Conditions**

1. To comply with the requirements of Section 51 of the Planning and Compulsory Purchase Act 2004.
2. To control the scale of the business operations in the residential area and standard of living accommodation within the dwelling in accordance with Policy SC3 of the Adopted Local Plan for Bolsover District.
3. In the interest of highway safety and residential amenity in accordance with policy SC3 of the Local Plan for Bolsover District.
4. In the interest of residential amenity and highway safety in accordance with policies SC3 and SC11 of the Local Plan for Bolsover District.
5. In the interests of highway safety in accordance with Policy SC3 of the Adopted Local Plan for Bolsover District.
6. In the interests of residential amenity in accordance with Policies SC3 and SC11 of the Adopted Local Plan for Bolsover District.
7. To secure a form of biodiversity net-gain in accordance with Policy SC9 of the Adopted Local Plan for Bolsover District.

## **Statement of Decision Process**

1. Officers have worked positively and pro-actively with the applicant. 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.

## **Notes**

1. Derbyshire County Council as Highway Authority advises pursuant to Section 184 of the Highways Act 1980 and Section 86(4) of the New Roads and Streetworks Act 1991 that prior notification shall be given to the Place Department at County Hall, Matlock regarding access works within the highway. Information, and relevant application forms, regarding the undertaking of access works within highway limits is available via the County Council's website:  
[http://www.derbyshire.gov.uk/transport\\_roads/roads\\_traffic/development\\_control/vehicular\\_access/default.asp](http://www.derbyshire.gov.uk/transport_roads/roads_traffic/development_control/vehicular_access/default.asp)  
e-mail [highways.hub@derbyshire.gov.uk](mailto:highways.hub@derbyshire.gov.uk) or telephone Call Derbyshire on 01629 533190.

2. Bolsover District Council's Senior Engineer advises as follows:  
a) The sewer records show a public sewer within the area of the proposed work (plan enclosed). The applicant should also be made aware of the possibility of unmapped public sewers which are not shown on the records but may cross the site of the proposed works. These could be shared pipes which were previously classed as private sewers and were transferred to the ownership of the Water Authorities in October 2011. If any part of the proposed works involves connection to / diversion of / building over / building near to any public sewer the applicant will need to contact Severn Trent Water in order to determine their responsibilities under the relevant legislation.  
b) All proposals regarding drainage will need to comply with Part H of the Building Regulations 2010. In addition, any connections or alterations to a watercourse will need prior approval from the Derbyshire County Council Flood Team, who are the Lead Local Flood Authority.

## **Equalities Statement**

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

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

## **Human Rights Statement**

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

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

**PARISH** Old Bolsover Parish

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<b>APPLICATION</b>	Application Under S106A to modify the legal agreement completed with planning permission 21/00464/TDC to omit infrastructure obligations for viability reasons for: affordable housing, leisure, schools, health and highways.
<b>LOCATION</b>	Forge New Homes Development Site Welbeck Road Bolsover
<b>APPLICANT</b>	Andy Beattie
<b>APPLICATION NO.</b>	23/00573/OTHER
<b>CASE OFFICER</b>	Kay Gregory
<b>DATE RECEIVED</b>	8th November 2023

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## SUMMARY

This application requires a determination by Planning Committee, as it would be contrary to policies contained within the Bolsover District Local Plan, where they relate to developer contributions.

This report relates to an application to vary planning obligations and the wording of the Affordable Housing clause within a completed Section 106 legal agreement (dated 19 May 2022), attached to planning permission 21/00464/TDC, comprising 58 dwellings.

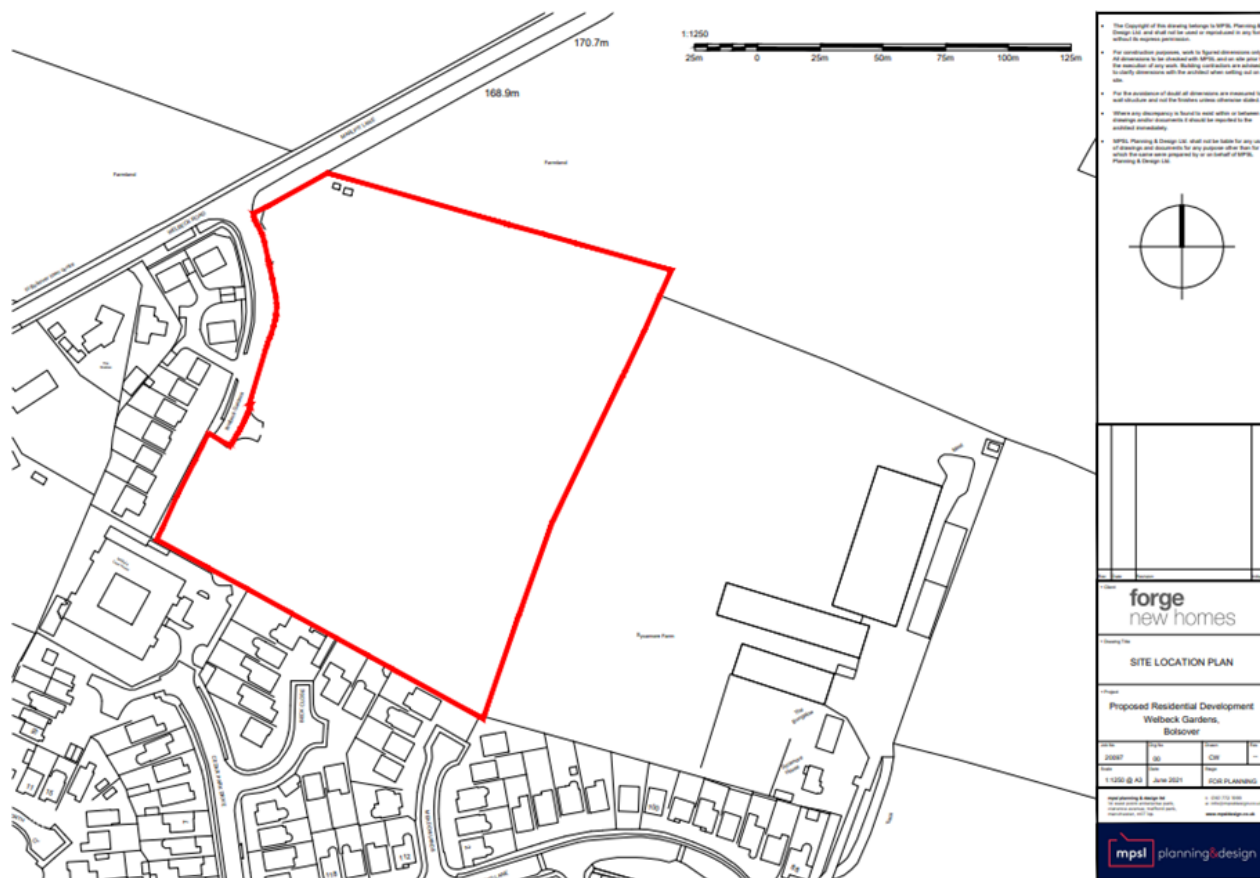
The application was accompanied by a Viability Assessment undertaken by Aspinall Verdi dated October 2023. Their Assessment concluded *that “the scheme is unable to provide any of the non-housing S106 contributions included within the signed s106 agreement. The applicant has confirmed that the 6 affordable units will be transferred to the Together Housing Group upon completion but in order to receive the Affordable Housing Grant from Homes England, the units must be outside the S106 agreement. The financial appraisal clearly demonstrated that even with the grant funding the viability of the scheme is challenging.”*

The application has since been subject to an independent viability review on behalf of Bolsover District Council.

The independent review recommends that a reduced amount of £485,000 from the original £693,591 (£722,000 with indexation) is the total amount that the applicant can pay to deliver the scheme. This has been agreed by the applicant and consultees, and has been distributed across the obligations.

The proposed amendments to the Affordable Housing provision (6 units) are to insert a definition of ‘Homes England’, and to define the term ‘Registered Provider’ to allow for ‘Together Housing’ as developer of the affordable housing units, and who are a sub-company of Forge New Homes, or any other registered provider who is registered with Homes England, to enable grant funding to deliver social rented housing on site.

### Site location plan



## OFFICER REPORT ON APPLICATION NO: 23/00573/OTHER

### SITE & SURROUNDINGS

The application site comprises vacant and cleared brownfield land located immediately to the east of Welbeck Gardens and south of Marlpit Lane, circa 0.5 miles north-east of Bolsover town centre, and extends to 2.65Ha.



The site was formerly a community hospital operated by the NHS. The hospital was constructed in the mid-1980s and ceased operating in January 2019 when it was transferred to Homes England under the Public Sector Land for Housing Programme.

Bus stops on Welbeck Road and Marlpit Lane provide direct services to Clowne to the north and Bolsover to the southwest. Bolsover town centre is within walking distance of the application site and offers a range of shops and services, including further direct buses to Mansfield, Chesterfield, and Markham Vale.

The application site rises gently from west to east, with elevated areas in the southwest, southeast, and northeast corners of the site.

Immediately to the south and west of the site is existing housing and Millfield Care Home. Mostly 2 storey in scale but with single storey at the northern end of Welbeck Gardens. There is open countryside to the east. On the opposite side of Welbeck Lane, the Bolsover North residential development is currently underway.

There is a dense hedgerow to the north of the site, bordering Marlpit Lane, which extends along the entirety of the northern and eastern boundary of the application site. There are clusters of mature trees located along or close to the southern boundary. At the southwest corner the trees are growing on a raised area of land.

## **BACKGROUND**

The application site originally contained Bolsover Hospital, but following closure and dilapidation of the site, it was demolished in 2019 (19/00264/DETDEM) via a Prior Notification application from Homes England.

In 2019, an application for Permission in Principle was submitted for entry onto the Brownfield Lane Register, supported by a Development Brief commission by Homes England. The Brief *established that the site presented an excellent brownfield redevelopment opportunity with strong planning certainty for a scheme of 50 to 70 units.* (Homes England Development Brief)

Permission In Principle was granted on the 29 July 2020 and the site was entered into Part 2 of the Brownfield Land Register.

A formal application for the approval of technical details for 58 dwellings was submitted in July 2021 (21/00464/TDC), by Forge New Homes.

The application was revised during processing to secure improvements to better accord with planning policy.

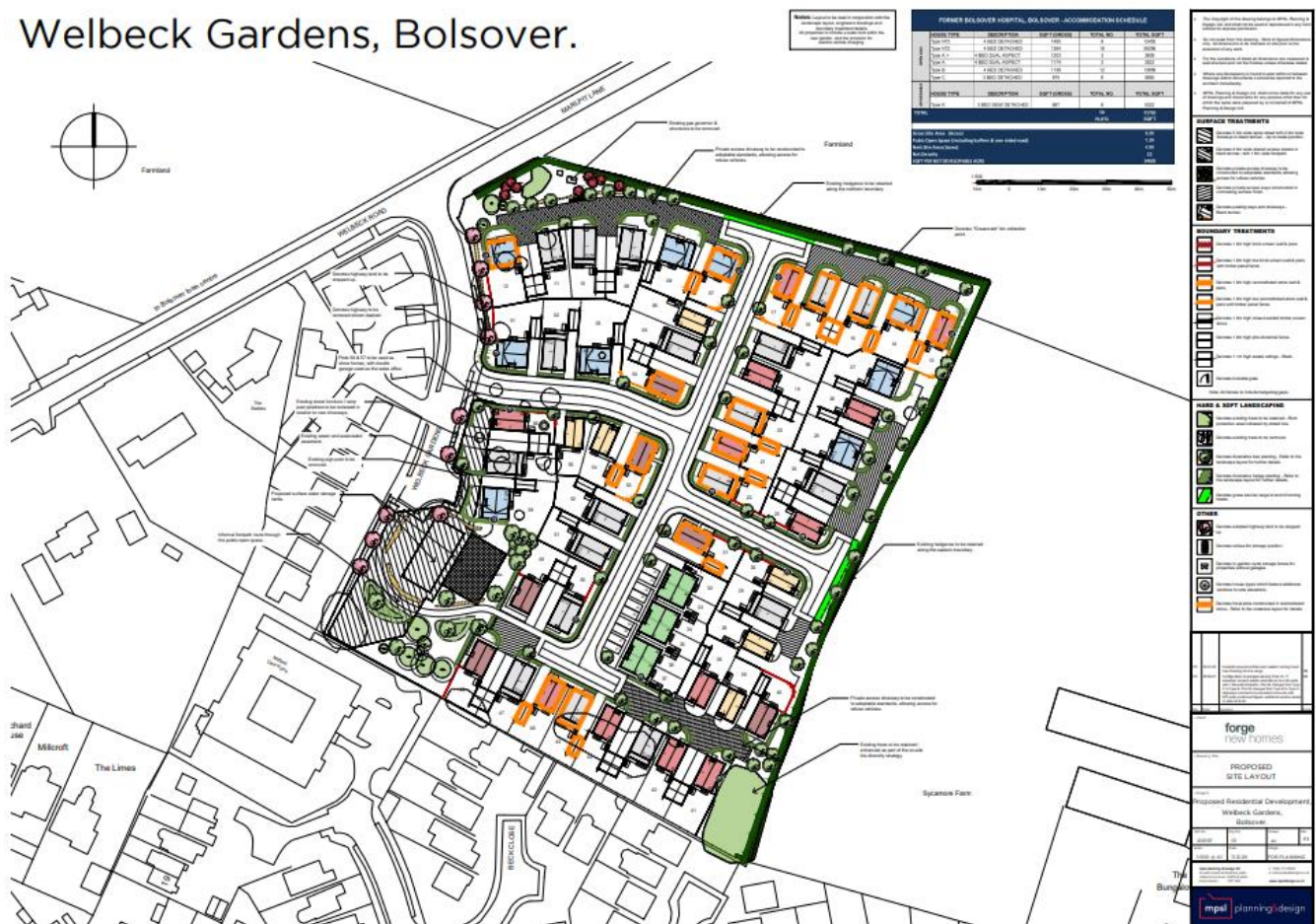
With regard to design and layout, overall, it was considered that the amended proposals would result in a good standard of design, contemporary in nature but not inappropriate to the location subject to the use of appropriate materials.

There were no adverse impacts identified with regard to landscape, biodiversity, highway safety, amenity or other technical matters, and the application was recommended for approval, subject to conditions.



The approved layout is provided below:

## Welbeck Gardens, Bolsover.



A factor to be considered when assessing the sustainability of a site for development is whether there is sufficient local and social infrastructure to support the extra demands from the new development. If not, whether any infrastructure issues or shortfall in services can be resolved by a S106 agreement, such that the development will pay for the necessary expansion of services and infrastructure.

A legal agreement (S106 of the Town and County Planning Act 1990) was entered into, to secure a proportionate increase in capacity of local infrastructure and services as necessary for leisure, affordable housing, primary health, education, and travel such that the development will not result in the capacity of local services being exceeded. This was signed on the 19 May 2022 and required the following contributions:



<b>Provider</b>	<b>Amount</b>	<b>Allocated</b>
Health care	£27,840	To enhance existing practices at the Welbeck Road Health Centre, Castle Street Medical Centre and The Family Friendly Surgery.
Infant education	£102,434.94	Towards the provision of educational facilities at Bolsover Infant and Nursery School
Junior education	£136,579.92	Towards the provision of additional education facilities at Bolsover C of E Junior school.
Secondary education	£308,700.48	Towards the provision of education facilities at The Bolsover School.
Playing pitches	£61,480	Towards playing pitches and ancillary facilities at Moor Lane and Castle Leisure Park
Public open space	£50,460	Towards the provision and/or improvement of the existing equipped play areas and amenity green spaces located at Horsehead Lane, Laburnum Close Recreation Ground and Hornscroft Park.
Travel Plan	£3,596 and £2,500 monitoring fee	Towards the provision of bus taster tickets for the first occupier of each dwelling.

Regarding Affordable Housing, the agreement required 6 dwellings to be provided for social rent.

The S106 had a clause relating to indexing linking in line with inflation, for payment of the obligations.

## **PROPOSAL**

This application has been submitted under Section 106A of the Town and Country Planning Act 1990, to vary the terms of the Section 106 Agreement.

The original S106 Agreement, signed on the 19 May 2022 required the provision of £693,591.34 towards education, leisure, health, and highways, and 6 affordable housing units comprising 100% social rent. At the time of the application submission, this amount had been subject to indexation and had risen to £722,000.

The application originally submitted proposed to omit all infrastructure obligations contained within the S106 Agreement, and this was supported by a viability assessment, and letter of support from the CEO of Together Housing Group were originally submitted.

*The applicant's justification was due to rising build costs, compliance with new Building Regulations, a new substation, finance costs and rising consultancy fees. However, even with Homes England's land price reduction, inflation coupled with the cost increases highlighted means Forge is still unable to deliver the S106 contributions agreed. This has necessitated the requirement and reluctance to submit a viability assessment to seek a variation to the S106 Agreement (covering letter).*

The Affordable Housing element was also proposed for removal from the Agreement on the basis that Homes England would not provide grant funding for homes which are secured by planning conditions or through a unilateral undertaking. The submitted viability assessment in section 4.21 stated, *Together Housing Association have agreed to take all 6 units for £750,000 (£125,000 per unit). This figure has been included in our financial appraisals. The transfer price is based on Together Housing utilising grant to fund this acquisition. We understand that the proposed 6 units can attract a grant of £300,000, on the basis that the affordable units are provided outside the S106 agreement.*

## **AMENDMENTS**

Amended viability assessment.

## **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 were screened as part of the technical details application, 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**

Whilst the site has an extensive planning history, the majority of applications relate specifically to operations at the former hospital, so have not been included. Relevant planning history is provided below:

19/00246/DETDEM    Prior Approval    Demolition of Bolsover Hospital  
not required

19/00434/OTHER    Environmental    EIA Screening Opinion Request  
Impact  
Assessment  
not required

19/00617/OTHER	Grant conditionally	Permission in principle for residential development - part 1 and 2 brownfield register entry
21/00464/TDC	Grant conditionally	Application for Technical Details Consent (following Permission in Principle Ref: 19/00617/OTHER) for residential development of 58 dwellings (This application is the equivalent of an application for full planning permission).

## CONSULTATIONS

### BDC Leisure Service

20/11/2023 – I have no alternative but to object. The signed S106 includes a POS contribution for the improvement of existing play areas / amenity green space at Horsehead Lane and Laburnum Close. If this is not provided, then an on-site play area will be required.

03/05/2024 - The new town park will be located just to the west of Elnton Lane, so is just over 400m walking distance from the Bolsover Hospital site. However, given that it is a larger site which fits the definition of either 'Amenity Green Space' or 'Recreation Grounds or Semi-Natural Green Space' in Policy ICTR5: Green Space and Play Provision, even though it is a park, this extends the walking distance to 500m to 800m, which it definitely falls within. This then opens up the question of what constitutes a 'reasonable financial contribution' under Quality Improvements to Green Spaces? The other site in the vicinity is the play area off Horsehead Lane which is about 300m away as the crow flies (but a much longer walking distance). This was installed about 15 years ago, so is reaching the end of its useful life – the roundabout certainly needs replacing.

In terms of an actual contribution, there is some flexibility. It could be argued that there are no sites with playing pitches that are 'well related to the development' (Policy ICTR7: Playing Pitches) and that the proposed town park is the better fit with existing policies than other sites that fall outside the 400m walking distance catchment. With that in mind, a reduced contribution should be sought towards development of the new town park, which should be deliverable within 5 years of receipt of payment (depending on the trigger point). What the exact contribution should be is open to discussion, but as a starting point I would suggest a minimum of £50,000. The Playing Pitch contribution could potentially be omitted if the open space contribution were increased.

With no particular logic 50% of the original total amount requested for both playing pitches and open space would be £55,970. If this was identified as the 'reasonable financial contribution for a new green space' (under Policy ICTR5) and earmarked for the new town park, that would be a useful contribution to the scheme and potentially an acceptable compromise. This would be some £22,309 less than the amended amount suggested below.

### BDC Planning Policy

No formal comments received.

**CCG (Health Authority)**

24/11/2023 - I would like more information before submitting our comments. Please could you advise what figure they are able to contribute and if they have stated a percentage of which they would like to cut their contribution down for the other local services.

09/05/2024 - I can confirm we would accept the lower figure.

**Derbyshire County Council (Education and Highways)**

28/11/2023 - In light of the S106A application, the County Council has sought to prioritise the contributions and can offer the following comments. These comments are, however, dependent on the corroboration of the applicant's viability assessment by independent appraisal. Should any level of contribution be available for education, it is requested that secondary education is prioritised due to significant pressure in this sector. It would be unfortunate if the Travel Plan monitoring contributions were omitted, and there may be some scope to renegotiate these figures. However should significant reductions be necessary, it is requested that contributions towards bus taster tickets are prioritised. If the development is unlikely to support the full planning policy requirement following receipt of the viability appraisal, Derbyshire County Council will work with Bolsover District Council to prioritise and apportion the level of contribution which can be tolerated by the site.

15/02/2024 - should the development be proved to be unable to support the full policy and S106 ask, in light of the viability appraisal conclusions that the site can bear the full S106 contributions, the County Council would therefore request that the contributions as contained within the S106 on 21/00464/TDC dated 19/05/2022 and necessary to make the development acceptable in planning terms, are retained.

24/04/2024 - It is unfortunate that following signing of the original S106, viability issues have arisen. To enable the application to progress, Derbyshire County Council (DCC) is happy to vary the contributions in the existing s106 as follows:

- Infant, Junior and secondary education – please could you proportion the amount identified as available for education based on a percentage split as per the amount in the existing s106 (infant 18.70%, junior 24.94% and secondary 56.36%)
- The County Council are also prepared to waive the travel plan monitoring fee but would request that the travel plan contribution (bus taster tickets) remains in full (£33,596.00), with an additional £500 DCC administration fee for the delivery of the bus taster tickets in lieu of the foregone Travel Plan monitoring fee..

03/05/2024 – Many thanks for the calculations. I have liaised with both my education and travel plan colleagues, and they are happy with this approach, and the contributions.

13/05/2024 - Please can these additional funds be apportioned based on a percentage split as per the amount in the existing s106 (infant 18.70%, junior 24.94% and secondary 56.36%).

**Old Bolsover Town Council**

23/11/2024 – Object. The Council feel the omission of these obligations would have a detrimental impact upon the health and wellbeing of residents. The application goes against policy ITCR5 as it does not contribute to green spaces/pay area provision.

## **PUBLICITY**

A site notice has been posted and two neighbours consulted on the proposal. There have been no representations received as a result of the publicity.

## **POLICY**

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

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

- Policy SS1 – Sustainable development.
- Policy LC2 – Affordable housing through market housing.
- Policy ITCR5 – Green space and play provision.
- Policy ITCR7 – Playing pitches.
- Policy ITCR10 – Supporting sustainable transport patterns.
- Policy IL2 – Plan delivery and the role of developer contributions

### 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:

#### **Sustainable Development**

- NPPF Paragraph 8 sets out that ‘achieve sustainable development means that economic, social and environmental gains should be sought jointly and simultaneously through the planning system’.

#### **Affordable Homes**

- NPPF Paragraph 66 states that, “where major development involving the provision of housing is proposed, planning policies and decisions should expect at least 10% of the total number of homes to be available for affordable ownership, unless this would exceed the level of affordable housing required in the area, or significantly prejudice the ability to meet the identified affordable housing needs of specific groups...”
- Annex 2: Glossary set out a definition of affordable housing.

#### **Infrastructure**

- NPPF Paragraph 34 states that, “Plans should set out the contributions expected from development. This should include setting out the levels and types of affordable housing provision required, along with other infrastructure (such as that needed for education, health, transport, flood and water management, green and digital infrastructure) ...”
- NPPF Paragraph 99 states “It is important that a sufficient choice of school places is available to meet the needs of existing and new communities. Local planning authorities should take a proactive, positive, and collaborative approach to meeting this requirement, and to development that will widen choice in education. They should:

- a) give great weight to the need to create, expand or alter schools through the preparation of plans and decisions on applications; and
- b) work with school promoters, delivery partners and statutory bodies to identify and resolve key planning issues before applications are submitted.”

### **Viability**

- NPPF paragraph 58 “It is up to the applicant to demonstrate whether particular circumstances justify the need for a viability assessment at the application stage. The weight to be given to a viability assessment is a matter for the decision maker, having regard to all the circumstances in the case, including whether the plan and the viability evidence underpinning it is up to date, and any change in site circumstances since the plan was brought into force. All viability assessments..... should reflect the recommended approach in national planning guidance, including standardised inputs, and should be made publicly available.”

### Other policy considerations

- **Planning Practice Guidance Healthy and safe communities** - Includes “Supporting the delivery of sufficient school places to meet the needs of existing and new communities” with reference to The Department for Education has published the ‘Securing developer contributions for education’ Paragraph: 007 Reference ID:53-007-20190722 Revision date: 22 07 2019.
- **Planning Practice Guidance – Planning Obligations**  
Includes “What contributions are required towards education?” Plan makers and decision makers should consider existing or planned/committed school capacity and whether it is sufficient to accommodate proposed development within the relevant school place planning areas. Developer contributions towards additional capacity may be required and if so this requirement should be set out in the plan. Requirements should include all school phases age 0-19 years, special educational needs (which could involve greater travel distances), and both temporary and permanent needs where relevant (such as school transport costs and temporary school provision before a permanent new school opens). Paragraph: 008 Reference ID: 23b-008-20190315 Revision date: 15 03 2019
- **Planning Practice Guidance Viability**  
Includes standard inputs to viability assessment and any viability assessment should reflect the government’s recommended approach to defining key inputs as set out in National Planning Guidance. Sets out that the weight to be given to a viability assessment is a matter for the decision maker, having regard to all the circumstances in the case, including whether the plan and viability evidence underpinning the plan is up to date, and site circumstances including any changes since the plan was brought into force, and the transparency of assumptions behind evidence submitted as part of the viability assessment.” Paragraph: 008 Reference ID: 10-008-20190509. Revision date: 09 05 2019.

### **ASSESSMENT**

With regard to procedure, there is no formal requirement for the Council to accept an application to change the wording of a section 106 obligation which is less than 5 years old. However, under S106A of the Town and Country Planning Act 1990, a planning obligation may be modified by agreement with the Council. So, whilst the Council does not have to

agree to the modification proposed, being a responsible public authority, it should at least consider the application because it is important to ensure that the Council's decisions are reasonable.

On the basis of the information submitted with the application, the Council commissioned an independent viability assessment, carried out by David Newham (CP Viability Ltd).

The initial assessment from CPV, as of the 13 December 2023, concluded that the scheme remained viable with full obligations, including the provision of 6 affordable housing units in the form stated in the signed S106.

Viability appraisals have to be viewed in the context that they are not a precise science as there are number of variables to consider when determining the values and costs associated with development.

The applicant initially refuted CPV's response, claiming that there were areas of difference between their appraisal and the one carried out by CPV, relating to build costs, building regulation costs, contingency allowance, finance rates, NHBC costs and the benchmark land value, and they provided a table to outline each of the costs which would be applicable to deliver the scheme. They subsequently updated their appraisal to provide the following information:

- *"Hard Build Cost – increased to £1,505psm for the market units and £1,317 psm for the affordable units.*
- *Part L Costs – we have not included this cost item in our updated financial appraisal.*
- *Contingency Allowance – we have reduced this from 5% to 3%.*
- *Finance Rate – we have included a 7% interest rate; the total cost is now similar to the cost in CPV's appraisal. NHBC Costs - we have not included this cost item in our updated financial appraisal.*
- *Benchmark Land Value – we have prepared an updated appraisal based on a fixed land cost of £930,000. We have also included a non-housing s106 contribution of £140,000 in our appraisal."*

CPV was asked to revisit the updated appraisal, but maintained the view that the scheme could viably support the S106 obligations provided in the signed Agreement.

The applicant provided additional information on the 21 February to justify their reasoning. They explained the set up of Forge new Homes, as an SME developer, *"owned by 5 Registered Providers, so all our profits will be reinvested into affordable housing by our Members...(we) reached out to you explaining viability was extremely challenging [in the current climate before being obligated to buy the site from Homes England. We have always wanted to deliver the 6 affordable plots and pay some financial contributions; we just can't afford to pay £720k...at the moment cannot secure build rates that plc house builders use. The fact that CPV strongly argues the case that all residential viabilities must be assessed on the basis that the applicant is able to secure plc type build rates because the site is of a certain size has no factual backing...The development is currently not even achieving a 11.5% margin in real terms and that was assuming the Council would support us being able to use grant to deliver the affordable housing and a reduction in the contributions...CPV's*

*response has knocked £700k off the revenue (loss of grant and no reduction in contributions)...We're not working in the world of 20-25% margins that the plc do. As a way of being transparent, attached are Forge's golden rules, the board is prepared to operate at margins as low as 12% for sites over 50 dwellings because our primary objective is housing delivery."*

The applicant was emailed on the 22 February 2024, to advise that the Council found the response from CPV to be sound and that the application would be recommended for refusal in its current form.

The case officer did invite a conversation with the applicant to discuss the wording of the affordable housing clause only if it both retained the obligation to deliver 100% affordable rent housing and allowed for grant monies to be applied for from Homes England.

The additional information submitted by the applicant was subsequently tested by CPV through a revised appraisal, received on the 4 April 2024. A summary of the appraisal outlined the reasoning behind CPV's latest assessment.

*"In terms of where we got to with this previously, the "Bolsover Viability Letter 23.02.24" provided by the applicant in their email is a good summary of the position. Essentially, there were 2 key differences between the respective viability appraisals (i) build costs and (ii) benchmark land value.*

*It appears that the applicant is willing to accept my point on the benchmark land value but has proposed a different approach on the build costs.*

*Taking each in turn:*

- Build costs: previously the applicant suggested using the BCIS median rate, whereas I favoured the BCIS Lower Quartile. What the applicant is now proposing is following the approach as set out in the Local Plan viability testing. This involves adopting the BCIS median rate but allowing a 5% deduction from this figure. Having reconsidered this and given that this was the method used in the Local Plan viability testing, I agree that this is a reasonable approach here. I am therefore willing to adjust my appraisal to include the amended build cost of £1,416 per2 m.*
- Benchmark land value ('BLV'): in this case, the BLV was established through a residual appraisal that reflected the existing Permission in Principle. We previously challenged the applicant's approach to this (as presented by their advisor Aspinall Verdi) because they adopted lower build costs in the BLV residual, but higher build costs in the viability appraisal. This was an incorrect approach, as the level of build costs needed to be consistent across both appraisals. The applicant now appears to accept this principle. Therefore, if we are applying the uplifted build costs above of £1,416 per2 m, this needs to be applied to both the viability appraisal and also the BLV appraisal. Having re-run the BLV appraisal with the build costs at £1,416 per2m, but also 'stepping back' from the figures to deem what is a realistic sum in the market place, we are of the view that a revised BLV of £650,000 is appropriate for the subject scheme (reduced from £930,000 as previously shown in the modelling).*

*I've subsequently updated my appraisal (attached) to reflect the higher build cost of £1,416 per square metre and the reduced BLV of £650,000.*



***The result is that the scheme can provide 6 onsite affordable dwellings, but only with a reduced total S106 contribution of £485,000.”***

CPV later confirmed that this would be the total amount that Forge New Homes could afford and that it would not be subject to further indexation.

The applicant confirmed on the 15 April 2024 that they would commit to the revised contributions and agreed to a rewording of the affordable housing clause, rather than removal of the Affordable Housing clause, as originally proposed, to allow for Homes England grant funding to deliver the affordable housing.

The Affordable Housing amendment does not alter the terms of the original agreement in so far that the 6 units will be provided for social rent. The amendment is to include and amend definitions to ensure that the affordable housing provider (likely to be Together Housing Ltd) is registered with Homes England for the purpose of funding applications.

Once the final financial obligations were agreed, the Health Authority, County Education and Highways, and Councils Leisure officer were contacted to confirm whether firstly they agreed to the reduced amount and whether they considered the readjusted amounts could be divided fairly between the parties, based on the original percentage allocated to each obligation. All parties agreed to the reduced amount.

The adopted Local Plan for Bolsover District is supported by an evidence base including the Infrastructure Study and Delivery Plan, March 2018 (currently being updated). The Delivery Plan identifies that some types of infrastructure appear to be more critical than others over the short term, while others are more necessary over the plan period. In addition, others are required to complement development in order to maximise the benefits of sustainable growth for local communities. The Table below is extracted from the Infrastructure Study and Delivery Plan and identifies critical, necessary, and complementary infrastructure.

Importance to the Local Plan Strategy	Type of Infrastructure Project
Critical	<ul style="list-style-type: none"><li>• Road capacity</li><li>• Utilities</li><li>• Water</li><li>• Education - Primary Phase</li></ul>
Necessary	<ul style="list-style-type: none"><li>• Cycling and Walking</li><li>• Green Space - Town Parks</li><li>• Green Space - Quantitative improvements</li><li>• Education - Secondary Phase</li><li>• Health</li></ul>
Complementary	<ul style="list-style-type: none"><li>• Green Space - Qualitative improvements</li><li>• Strategic Green Infrastructure</li></ul>

The original education contribution in the signed S106 Agreement amounted to 78.97% of the total amount (£547,715). Clearly, this extends well beyond the current ‘total’ viable contribution of £485,000. Given that education provision is seen to be of critical importance within the Infrastructure Study, the Leisure officer was asked to consider whether their

obligations could be reduced further. They agreed to some flexibility, confirming that, *“It could be argued that there are no sites with playing pitches that are ‘well related to the development’ (Policy ICTR7: Playing Pitches) and that the proposed town park would be a better fit with existing policies than other sites that fall outside the 400m walking distance catchment. With that in mind, a reduced contribution should be sought towards development of the new town park, which should be deliverable within 5 years of receipt of payment (depending on the trigger point). 50% of the original total amount requested for both playing pitches and open space would be £55,970. If this was identified as the ‘reasonable financial contribution for a new green space’ (under Policy ICTR5) and earmarked for the new town park, that would be a useful contribution to the scheme and potentially an acceptable compromise.”*

This resulted in a surplus of £22,309 to allocate towards education provision. The County education officer was contacted to see how the funds would be split across the provision, and they confirmed *these additional funds be apportioned based on a percentage split as per the amounts in the existing s106 (infant 18.70%, junior 24.94% and secondary 56.36%)”*.

The revised contributions have been divided into the respective obligations, and a draft Deed of Variation has been submitted to the Council.

The Deed of Variation proposes the following amendments:

1. New definitions shall be inserted at Clause 1 of the Original Agreement as follows:  
*“Homes England” means Homes England or any bodies undertaking the existing functions of Homes England within the meaning of Part 1 of the Housing and Regeneration Act 2008 (or as redefined by any amendment, replacement or re-enactment of such Act);*
2. The definition of "Registered Provider" in Clause 1 of the Original Agreement shall be deleted and replaced with a new definition as follows:  
*“means the Developer or any other Registered Provider as defined in part 1 of the Housing Act 1996 (or as redefined by any amendment, replacement, or re-enactment of such Act) who is registered with Homes England pursuant to section 3 of that Act and has not been removed from the register pursuant to Section 4 of that Act or any company or other body approved by Homes England for receipt of social housing grant.”*
3. The definition of “Developer” in the Recitals of the Original Agreement shall be deleted and a new definition shall be inserted at Clause 1 of the Original Agreement as follows:  
*“Developer” means Together Housing Association Ltd the registered society registered by the Financial Conduct Authority under registration number 28687 R of Bull Green House, Halifax, HX1 2EB which intends to acquire the Affordable Housing Units on the Site.*
4. The definition of Healthcare Contribution in Clause 1 of the Original Agreement shall be deleted and replaced with a new definition as follows:  
 £19,448.50
5. The definition of Infant Education Contribution in Clause 1 of the Original Agreement

shall be deleted and replaced with a new definition as follows:  
£76,080.62

6. The definition of Junior Education Contribution in Clause 1 of the Original Agreement shall be deleted and replaced with a new definition as follows:  
£101,406.57
7. The definition of Public Open Space Commuted Sum in Clause 1 of the Original Agreement shall be deleted and replaced with a new definition as follows:  
£55,970
8. The definition Secondary Education Contribution in Clause 1 of the Original Agreement shall be deleted and replaced with a new definition as follows:  
£227,998.29
9. The definition of Travel Plan Contribution in Clause 1 of the Original Agreement shall be deleted and replaced with a new definition as follows:  
£4,096 (inc. £500 admin)

It is expected that the revised financial contributions provided above will be distributed in accordance with the original agreement, as defined in Schedule 2, 3, 4 and 5.

The applicant was asked whether they would agree to a clawback clause, should Members request this, which would mean entering into a viability review later into the development process. Any uplift in market conditions which result in greater profit margins for the applicant would be factored into a revised viability appraisal. It was suggested that the clause would require a review if only less than 90% of the dwellings were occupied after three years following the date of the Deed of Variation. They have agreed in principle to this, in writing, but given that they intend to start on site as soon as the planning conditions are discharged, and that the development is only for 58 units, and so could realistically be completed within 18 months, a later review may not be necessary. They have provided a statement of why they consider a clawback clause may be unnecessary. *“Forge New Homes LLP is a joint venture of five housing associations (The Members) which was established in September 2019 to deliver new family homes in South Yorkshire to help play a part in alleviating the pressure on the housing market. As a result of build cost and labour inflation; compliance with the new building regulations and finance costs increasing following significant interest rate increases by the Bank of England this development is delivering a return to the Members of less than 10% which is significantly less than a typical return of 15-20% required by most developers and house builders. Although Forge is making modest returns, Forge is also delivering 6 affordable rent homes and £485,000 in s106 contributions whilst delivering high quality new homes using modern methods of construction and a fully electric development using Air Source Heat Pumps.*

*Not only are the Members prepared to accept lower returns than other developers to deliver new housing, 100% of any returns made are returned to the Members to reinvest in their respective affordable housing programmes and community led schemes – Forge New Homes is a profit for purpose business.*

*Based on our projected modest returns combined with the delivery of 6 affordable rent homes, £485k in s106 contributions and 100% of any profits made being invested in affordable housing developments by our Members we feel a clawback clause is unnecessary.”*

## **CONCLUSION**

It is considered that sufficient information has been submitted to confirm that the scheme as originally approved cannot be viably delivered. Despite the original proposal to omit all infrastructure obligations and remove the Affordable Housing from the terms of the signed Section 106, negotiations have been successfully undertaken to provide reduced contributions and retain the Affordable Housing clause, while still being able to deliver a sustainable and viable housing development.

As such, Members are requested to approve the application and agree to the revised Deed of Variation, in accordance with the following recommendation.

## **RECOMMENDATION**

It is recommended that by reason of the independent viability review carried out by CPV on behalf of Bolsover District Council, that the revised contributions totalling no more than £485,000, and the proposed amendments to the Affordable Housing clause are acceptable, and the deed of variation can be signed and completed by the Council with the effect of:

- A. Revising the commuted sum towards Education, Leisure, Health and Highways from £722,000 to £485,000.
- B. Omitting the Playing Pitch contribution to afford additional obligations towards Public Open Space, and Education provision.
- C. Rewording the Affordable Housing clause to allow for Together Housing Ltd, or any other registered provider registered by Homes England to deliver 100% social housing for rent, through securing Homes England funding.

## **Equalities Statement**

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

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

## **Human Rights Statement**

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

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

**PARISH** Shirebrook Parish

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**APPLICATION** Application to vary condition 2 (approved plans) of application 22/00323/FUL to make amendments to the scheme - amendments inc. changes to roof lights and doors (inc. omitting some openings); increased floor areas to accommodate toilets, new openings and lights; increased hall and plant room floor area; and revisions to landscaping and drainage scheme.

**LOCATION** Shirebrook Cemetery, Common Lane, Shirebrook

**APPLICANT** Mrs Natalie Etches, The Arc, High Street, Clowne, Chesterfield, S43 4JY

**APPLICATION NO.** 23/00640/VAR **FILE NO.** PP-12572205

**CASE OFFICER** Mr Chris Whitmore

**DATE RECEIVED** 12th December 2023

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## SUMMARY

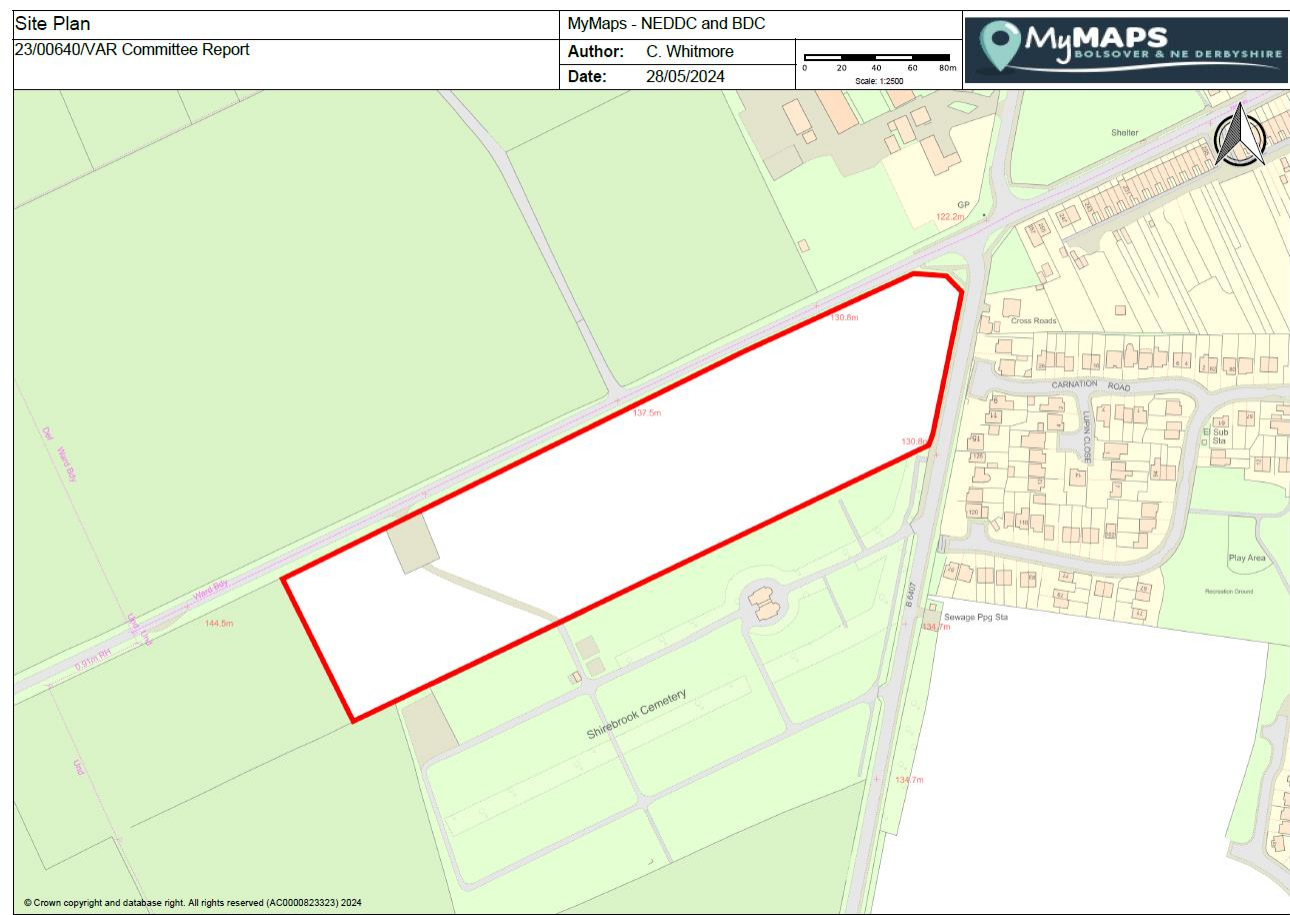
This application seeks permission under section 73 of the Town and Country Planning Act (1990) to make a material amendment to planning application code ref. 22/00323/FUL by varying condition 2 (approved plans) to allow the changes to be made to a new crematorium development that is under construction off Common Lane, Shirebrook as set out in the description of development.

The application requires planning committee consideration as it relates to Bolsover District Council development and proposes the variation of conditions imposed on a permission granted by the Planning Committee that comprise more than non-material amendments.

For reasons set out in the assessment section of this report, the proposed changes are considered to be acceptable having regard to the consultation responses received and relevant provisions of the development plan and national policy. A recommendation of approval is put forward on this basis.

As any permission granted will take effect as a new, independent permission to carry out the same development as previously permitted and will sit alongside the original permission, which will remain intact and unamended, in addition to amending condition 2 it will be necessary to restate the conditions imposed on the earlier permission that continue to have effect and to make amendments to other conditions, where the previously approved details have been superseded by the amended plans.

Site Location Plan





## OFFICER REPORT ON APPLICATION NO. 23/00640/VAR

### SITE & SURROUNDINGS

The application site lies to the west of Shirebrook and measures approx. 3.27ha in area. It is located south of the B6407 and north of Shirebrook Town Council's Cemetery (off Common Lane).



The site comprised arable land and a cemetery car park accessed off the B6407 with a well-trodden path to the cemetery to the south, prior to the commencement of development associated with the construction of a crematorium and wake facility buildings on the land. The land is currently a live construction site. The wake facility building has been partly constructed and the steel frame of the crematorium building has been erected on site and a construction compound for vehicle parking, a site office and welfare area has been formed on site which utilise the original access.

The application site is not within the Green Belt. The site is within a Coal Authority 'Low Risk Coalfield Area'. The site lies within Flood Zone 1 (lowest probability of flooding). It is not within or close to a Conservation Area and there are no Listed Buildings within the site or affected by the proposed development.





## BACKGROUND

The application follows the approval of planning application code ref. 22/00323/FUL at planning committee on the 28<sup>th</sup> September 2022 for a new crematorium, including a wake facility, administration space, memorial garden, car park and landscaping. At the technical design stage a number of changes to the development have been identified, which has necessitated the submission of this application. The application also addresses changes to foul drainage connections and landscaping.

## PROPOSALS

This application seeks permission under section 73 of the Town and Country Planning Act (1990) to make the following changes to the previously approved scheme.

- Changes to roof lights and doors (inc. omitting some openings);
- Increase floor areas to accommodate toilets, new openings and lights; increased hall and plant room floor area, and;
- Revisions to landscaping and drainage.

### **Changes to roof lights and door (inc. omitting some openings)**

These changes relate mainly to the wake facility building. It is proposed to introduce a row of four rooflights above the main function / dining room space on the north west facing roof slope and 3 no. banks of four rooflights to the south east facing roof slope to comply with BREAM

requirements (an assessment of sustainability).

It is also proposed to omit a door in the south west elevation and introduce a new door on the return (south east elevation) to a toilet lobby area. It is also proposed to introduce a further toilet in this area, increasing the footprint of the building slightly under the overhanging section of roof. Further changes to fenestration are proposed, including the replacement of bifold doors with sets of double doors to provide means for fire escape and the omission of a window in the north west elevation serving the function room. Finally, it is proposed to omit two slit openings in the boundary wall enclosure and a beam above the courtyard access.

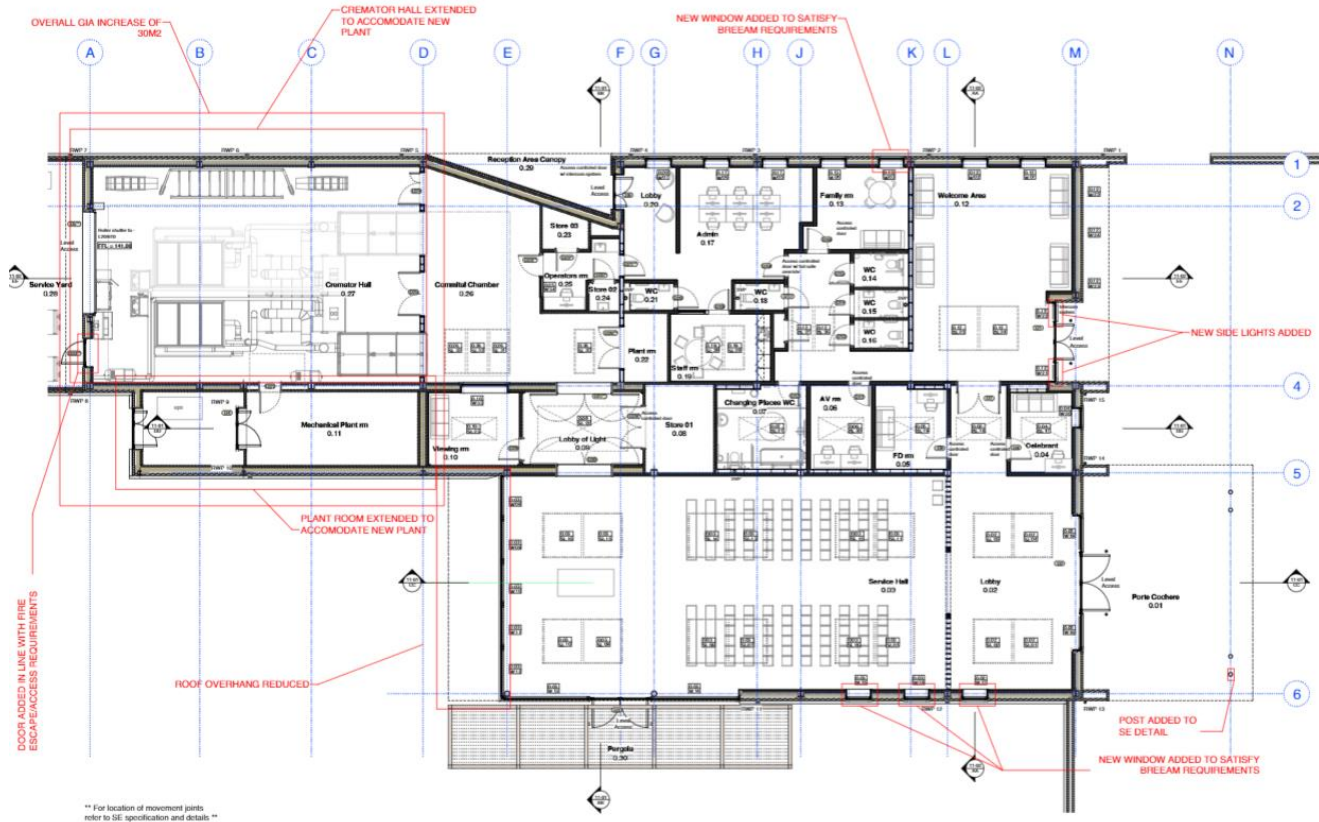
The full extent of the changes to this building are illustrated in the plan below:



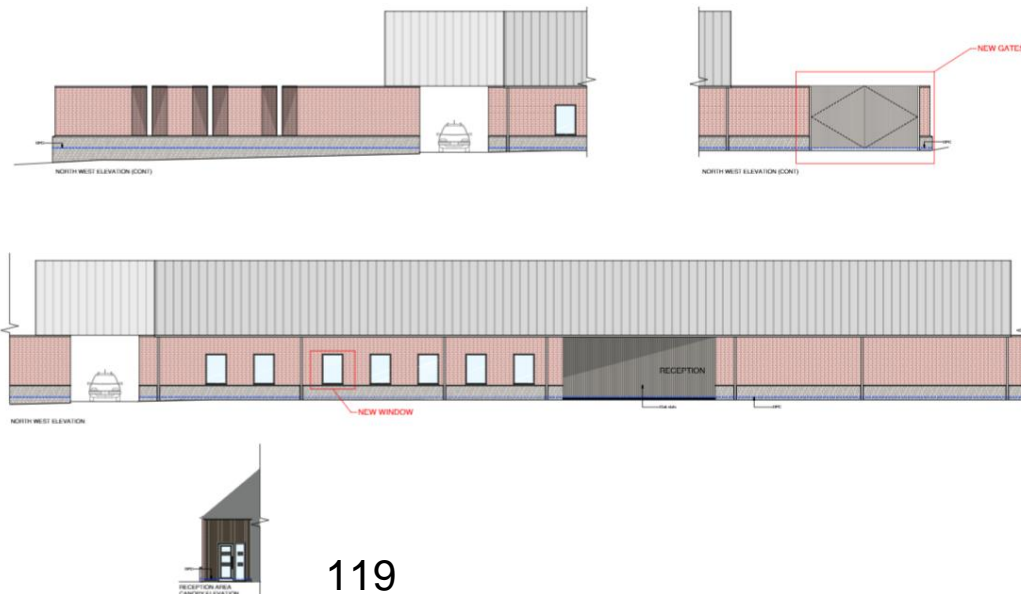
### **Increase floor areas to accommodate toilets, new openings and lights; increased hall and plant room floor area**

The increase in the floor area to accommodate toilets relates to the wake building as set out above. The proposals also seek to increase the floor area of the plant room and cremator hall within the crematorium building. The plant room and cremator hall will be elongated slightly, increasing the size of the cremator hall by 30m<sup>2</sup> and the plant room at the south east corner of the building will be extended slightly lengthways to accommodate larger plant.

The changes to the floor plan of the building are set out below:



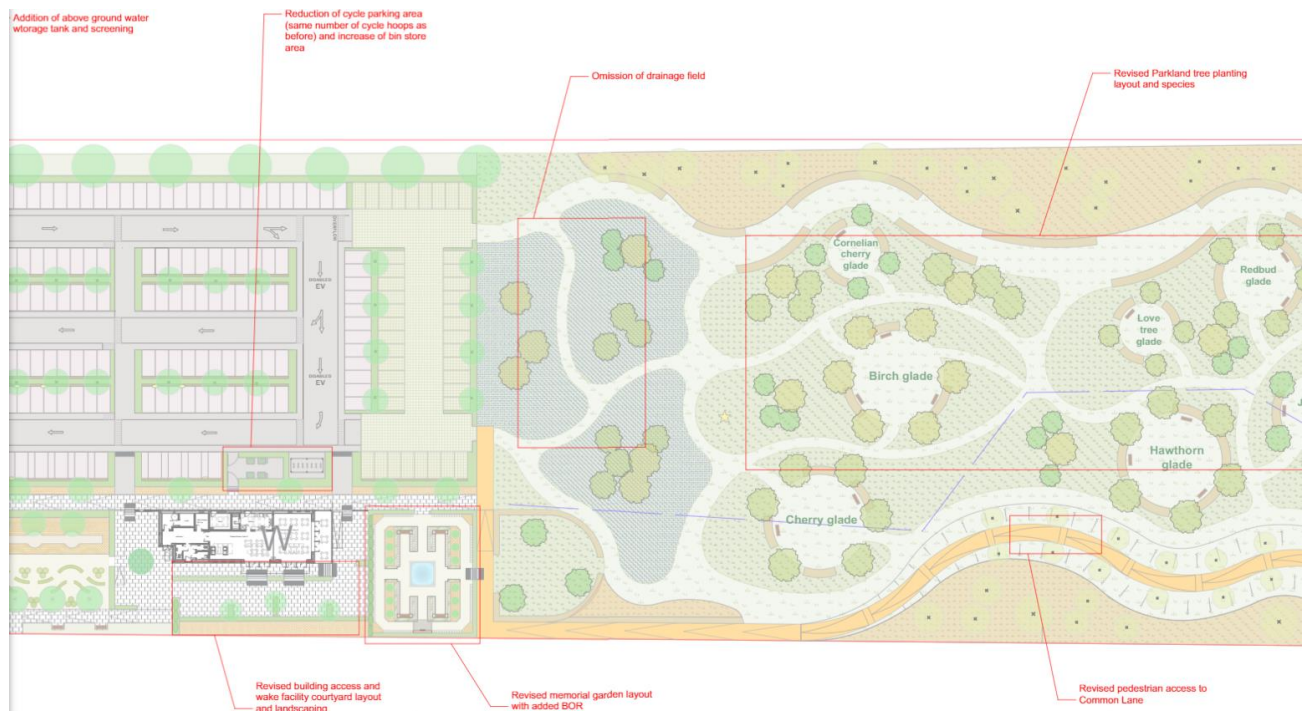
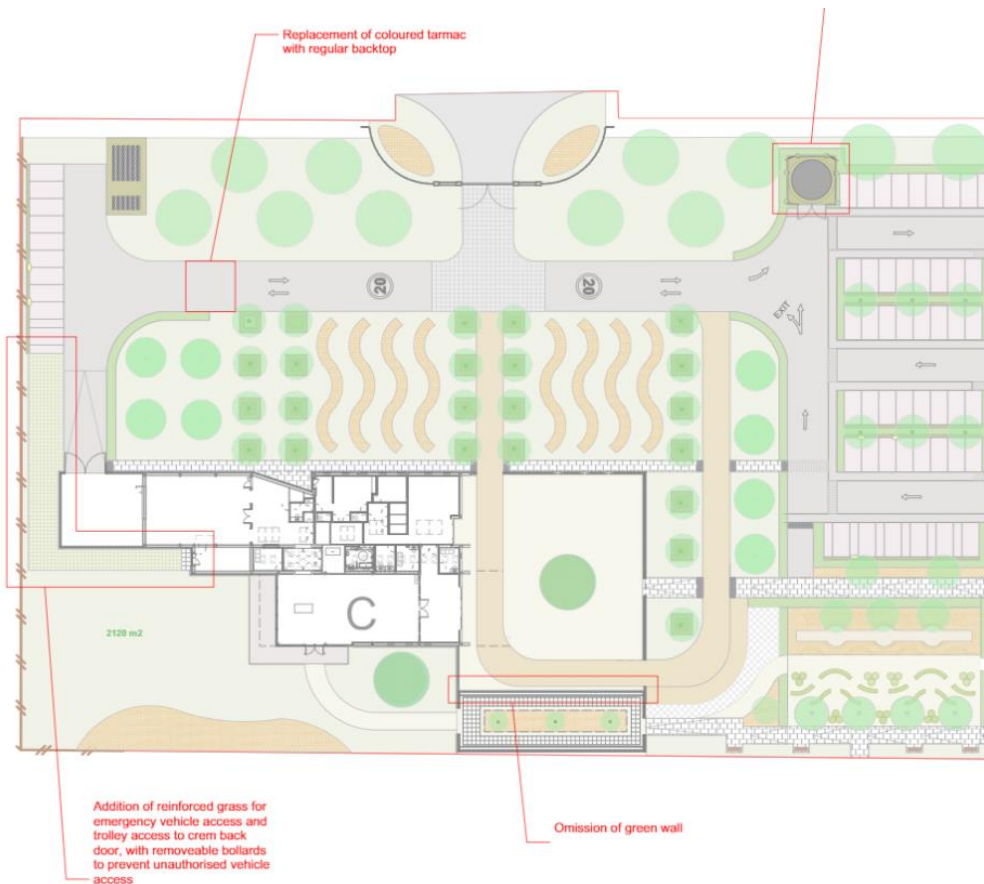
The changes to the crematorium building also include the insertion of new windows to the north west and south east elevations, to again meet BREEM requirements. It is also proposed to insert gates to the yard area, introduce exterior lights to the side of the welcome area entrance doors, add a support post to the Porte Cochere and to reduce the extent of overhanging roof to the rear of the service hall. The submitted plans also show areas for signage, changes to the fully glazed opening design in the south east elevation of the service hall (oak louvre design) and a larger / wider chimney. These changes are shown on the elevation plans below:







The changes to the landscaping and drainage are set out on the plan below:



## Supporting Documents

The following plans and documents have been submitted with the application:

- Application Form
- Ground floor crematorium plan numbered 1481-A-10-01
- Ground Arrangement Plan – Tranquillity and Flower Court Plan numbered 1481-A-10-02
- Crematorium Roof Plan numbered 1481-A-10-03
- Crematorium Elevations Plans numbered 1481-A-12-01, 02, and 03
- Wake Facility Building General Arrangement Plan numbered 1481-A-50-01
- Wake Facility Building Roof Plan numbered 1481-A-50-02
- Wake Facility Elevations Plan numbered 1481-A-52-01
- Boundary Treatment Plan numbered D200020\_CDS\_EN\_ZZ\_DR\_L\_006 REV 02
- General Site Layout Plan numbered D200020 CDS EN ZZ DR L 01
- Soft Landscaping Plan 1 of 7 - Trees, Seeding & Native Hedgerows numbered D200020 CDS\_EN\_ZZ\_DR\_L\_020
- Soft Landscaping Plan 2 of 7 - Front & Rear Of Building numbered D200020 CDS EN ZZ DR L 021
- Soft Landscaping Plan 3 of 7 - Car Park & Adjacent Border numbered D200020 CDS EN ZZ DR L 022
- Soft Landscaping Plan 4 of 7 - Flower Court to Wake Facility Borders numbered D200020 CDS EN ZZ DR L 023
- Soft Landscaping Plan 5 of 7 – Tranquillity Garden, Wake Facility and Memorial Garden Plan numbered D200020 CDS EN ZZ DR L 024
- Soft Landscaping Plan 6 of 7 – Bulb Planting numbered D200020 CDS EN ZZ DR L 025
- Soft Landscaping Plan 7 of 7 – Site Entrance numbered D200020 CDS EN ZZ DR L 026
- Hard Landscape Plan 1 of 2 numbered D200020 CDS EN ZZ DR L 028
- Hard Landscape Plan 2 of 2 numbered D200020 CDS EN ZZ DR L 029
- Gates, Fencing & Street Furniture Plan 1 of 3 numbered D200020 CDS EN ZZ DR L 040
- Gates, Fencing & Street Furniture Plan 2 of 3 numbered D200020 CDS EN ZZ DR L 041
- Gates, Fencing & Street Furniture Plan 3 of 3 numbered D200020 CDS EN ZZ DR L 042
- Vehicle Access Plant Plan numbered D200020 CDS EN ZZ DR Y 004 Rev 03
- Pedestrian and Cycle Access Plan numbered D200020 CDS EN ZZ DR Y 005 Rev 02

In addition to the above, the following plans and documents have been received following receipt of consultation comments from the Lead Local Flood Authority:

- Location of Proposed Connection Plan
- And drainage layout drawings numbered DR-C-0503 C02, C06 and C07.

## **AMENDMENTS**

No amendments have been received.

## 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

97/00077/FUL	PER	Creation of vehicular access road between approved car park and the cemetery
22/00323/FUL	GC	Proposed new crematorium, including a wake facility, administration, memorial garden, car park and landscaping
23/00104/DISCON	PTDIS	Discharge of Conditions 3 (Materials), 6 (Approved Access), 9 (Surface Water Drainage), 10 (Drainage Assessment), 11 (Surface Water Run off), 15 (CEMP), 16 (LBMP), 18 (Lighting), 23 (Employment & Skills) of Planning Permission 22/00323/FUL

## CONSULTATIONS

Bolsover District Council Engineer:

No further comments to make.

Derbyshire County Council (Development Control Archaeologist):

No objections in principle to this variation.

Derbyshire County Council (Lead Local Flood Authority):

Comment that the proposals include changes to the proposed drainage, comprising the omission of proposed effluent drainage field. They advise that it was initially proposed to discharge the treated sewerage from a treatment plant into the proposed drainage field. The application as submitted did not confirm or include a plan showing the point of discharge of the treated sewerage. These details were requested.

Following the submission of foul drainage connection information by the application, the Lead Local Flood Authority commented as follows on the 30<sup>th</sup> April 2024:

We have no objection and further comments to make in respect of the variation of condition No 2.

Derbyshire County Council (Local Highway Authority):

The proposed alterations to the approved plans indicate the provision of a pedestrian access on to Common Lane which will link with the existing footway on the western side of Common Lane. There are no objections to the creation of the pedestrian access on to Common Lane; any gate(s) erected at this access adjacent to Common Lane shall open inwards only.

The other proposed on-site alterations included in the application will not have any highway impact and on that basis there are no highway authority objections to the application.

Derbyshire Fire and Rescue:

No Objections.

Derbyshire Force Designing Out Crime Officer:

No objections to the variations proposed.

Derbyshire Wildlife Trust:

We have reviewed the information relating to VOC including alterations to the landscaping plans. Given that the scheme achieves well over the statutory 10% net gain in biodiversity the minor alterations to the planting scheme should not make a considerable difference to this target. Providing the LBEP is updated accordingly with any proposed changes then we have no further comments to make.

Environment Agency:

The Environment Agency will not be making any formal comment on the submission for the following reason:

- The Environment Agency did not request the planning condition(s) the applicant is seeking to vary. We advise you seek the views of the consultee who requested the condition on the information submitted.

Shirebrook Town Council:

No objections.



## **PUBLICITY**

Provisions relating to statutory consultation and publicity do not apply to applications made under S73 of the Planning Act 1990. However, local planning authorities have discretion to consider whether the scale or nature of the change warrants consultation, in which case the authority can choose how to inform interested parties.

In this case, the application has been publicised by site notices posted on 19<sup>th</sup> December 2023 by advertisement placed in the local press on 3<sup>rd</sup> January 2024 and by neighbour notification letters sent to 14 adjacent properties on the 18<sup>th</sup> December 2023.

There have been no letters of representation received as a result of the applications publicity.

## **POLICY**

### Adopted Local Plan for Bolsover District 2020 (“the Development Plan”)

SS1 Sustainable Development  
SS3 Spatial Strategy and Distribution of Development  
SS9 Development in the Countryside  
WC3 Supporting the Rural Economy  
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)  
SC13 Water Quality  
SC14 Contaminated and Unstable Land  
SC18 Scheduled Monuments and Archaeology  
ITCR10 Supporting Sustainable Transport Patterns  
ITCR11 Parking Provision  
II2 Employment and Skills

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

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

Chapter 2: Achieving sustainable development  
Paragraphs 47 - 48: Determining applications  
Paragraphs 55 - 58: Planning conditions and obligations  
Paragraphs 92, 93, 95 and 97: Promoting healthy and safe communities  
Paragraphs 104 - 108: Promoting sustainable transport  
Paragraphs 110 - 113: Considering proposals – traffic impacts

Paragraphs 119, 120, 122 and 123: Making effective use of land  
Paragraphs 126 - 132 and 134: Achieving well-designed places  
Paragraphs 152, 154 and 157: Meeting the challenge of climate change  
Paragraphs 159, 167 and 169: Planning and flood risk  
Paragraphs 174, 180 and 182: Conserving and enhancing the natural environment  
Paragraphs 183 - 188: Ground conditions and pollution  
Chapter 16: Conserving and enhancing the historic environment

National Planning Practice Guidance  
National Model Design Guide

## **ASSESSMENT**

This application is made under s73 of the Planning Act and seeks to substitute approved drawings under application code ref. 22/00323/FUL to allow changes to the appearance of the wake facility and crematorium buildings and the approved drainage and landscaping proposals as set out in the proposals section of this report.

Applications under s73 of the Planning Act allow applicants to apply for minor amendments to approved developments. There is no statutory limit on the degree of change permissible to conditions under s73, but the change must only relate to conditions and not to the operative part of the permission.

The scope of consideration is limited to the changes to the development that has already been granted under application code ref. 22/00323/FUL. Whilst the effect of the changes can be considered in the round in terms of their impact on the local environment, the nature / principle of the development has already been approved and is not a matter for consideration in respect of this application.

Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that applications for planning permission are determined in accordance with the development plan unless material considerations indicate otherwise. The development plan for the purposes of the Act is the Adopted Local Plan for Bolsover District (2020). Having regard to the consultation responses received and the relevant provisions of the development plan and policy contained within the National Planning Policy Framework, the main issues to consider assess are:

- The impact of the changes to the wake facility and crematorium buildings on the character, identity and context of this part of the countryside / settlement edge and whether the development achieves high design quality;
- The implications of the changes on landscape character and biodiversity, and;
- Drainage considerations.

The proposed changes do not affect the amount of parking and vehicular access arrangements. It is proposed to improve pedestrian connectivity, by providing a footpath link to Common Lane to the east. The Local Highway Authority and Derbyshire Force Designing Out Crime Officer have raised no objections with regard to the changes in terms of their impact on highway and public safety.

The proposals involve the modest increase in the size of the cremator hall and plant room, to accommodate slightly larger plant. It remains, however, that the crematorium facility will require an Environmental Permit from the Environment Agency to operate which will strictly control emissions and other environmental controls. Notwithstanding the location of the site relative to nearby residential properties, the proposals will not materially impact on the predicted noise levels from the crematorium building which were deemed to be acceptable by the Council's Environmental Health Team subject to conditions. The Environment Agency have chosen not to comment on the application and point to the agency not recommending any conditions. It would be appropriate / necessary to repeat the condition attached to the existing permission, requiring a further noise report validating that the development will achieve the operational noise levels set out in Table 2 of the original Noise Impact Assessment should the application be approved, to protect the amenity of the occupants of nearby dwellings / land uses.

The impact of the changes to the wake facility and crematorium buildings on the character, identity and context of this part of the countryside / settlement edge and whether the development achieves high design quality

Policy SC2 of the development plan is supportive of new proposals that protect and enhance the character and quality of local landscapes and the wider countryside and that seek to protect and enhance the distinctiveness, character, townscape and setting of settlements amongst other considerations.

Policy SC3 'High Quality Development' requires development to achieve a high quality of design in terms of place making, buildings and landscaping. It states that proposals for development will be permitted where they respond positively to the context and contribute to local identity in terms of height, scale, massing, density, layout and materials and accord with and respond to the established character and local distinctiveness of the surrounding landscape.

These provisions align with government policy in the National Planning Policy Framework, which recognises that the creation of high quality, beautiful and sustainable buildings and places is fundamental to what the planning and development process should achieve.

The approved crematorium building comprises a series of connected single storey buildings with overhanging roofs. Its approved siting, form, scale and high-quality design responds positively to character of this part of the countryside / settlement edge. Beyond this building is a tranquillity courtyard, car park and separate wake facility building. Again, this building is single storey and set well within the site, maintaining a sense of openness to the north.

The proposed changes to the appearance of the building are relatively minor. Their high quality design would not be compromised, with only minor changes proposed to the buildings footprint, window design and the omission and addition of new windows and doors.

The CGI images of the approved crematorium building from the B6407 entrance to the site that accompanied the original application continue to provide an accurate interpretation of the building's contribution to their surroundings, except for the chimney stack which is not shown.

The main changes that would be evident from the site entrance would be the insertion of the window in the north elevation shown in the image below, resulting in a consistent series of windows.



Within the tranquillity courtyard area and main entrance an additional canopy support column would be introduced and an area for signage and external lighting, otherwise the development has not significantly changed from that originally envisaged and approved.



The submitted plans show several areas for signage, however, no details of signage have been submitted with the application. While certain advertisements benefit from deemed consent under the Town and Country Planning (Control of Advertisements) (England) Regulations 2007 where they meet prescribed conditions and limitations, a footnote will be necessary to advise the applicant that the signage may require a separate grant of express advertisement consent from the Local Planning Authority.

Taking into the consideration the nature and extent of changes to the buildings, officers are satisfied that they would be acceptable in terms of the overall impact of the development on the character, identity and context of this part of the countryside / settlement edge and will not result in any depreciation of the high-quality design that the original scheme secured.

### **The implications of the changes on landscape character and biodiversity**

Development plan policies are supportive of new proposals that protect and enhance the character and quality of local landscapes and the wider countryside and that respond positively to the established character and local distinctiveness of the surrounding landscape.

The overall height of the buildings has not changed, neither has their general position on site. The proposed changes to the footprint and scale of the crematorium building are minor and do not change the outcomes / findings of the Landscape and Visual Impact Assessment that accompanied the original application. The buildings would not be out of scale or character in landscape terms and will continue to respond positively to the sites location on the settlement edge, with a sense of openness maintained to the north and significant new tree planting which in time will filter views of any development from this direction and when viewed from Common Lane. The above ground water storage tank is sensitively located and is of a scale that would not be visually intrusive or harmful in landscape terms.

Paragraph 180 of the National Planning Policy Framework states that planning policies and decisions should contribute to and enhance the natural and local environment by minimising impacts on and providing net gains for biodiversity amongst other requirements. Policy SC9 of the development plan requires development across the district to demonstrate that there will be no overall loss of biodiversity.

Prior to development commencing on site the land comprised arable farmland, which is of limited value in biodiversity terms. The proposals include the introduction of significant amounts of new tree and shrub planting. Whilst some of the tree and shrub species have changed, the nature (in terms of design and numbers) and quality of the landscaping on site will largely remain with extensive new planting, which will lead to significant biodiversity gain to satisfy the relevant provisions of the development plan and national policy. Derbyshire Wildlife Trust have raised no objections on this basis, however, point to the need to update the Landscape and Ecological Management Plan, which can be achieved by condition.

### **Drainage**

The application does not propose to alter the surface water drainage proposals, which were deemed to be acceptable from a land drainage and flood risk perspective to satisfy the relevant provisions of the Policy SC7 of the development plan.

The approved surface water drainage system incorporates 3 no. geocellular tanks to handle surface water run off from the 2 no. proposed buildings, and filter drains / strip around the circulation spaces and car parking areas. Permeable paving will also be laid out under approx. 2/3's of the proposed car parking area. The addition of an above ground water storage tank, screened by perimeter fencing would not affect the approved surface water drainage system.



The application omits the drainage field, which was proposed to accommodate a package treatment plant. It is now proposed to connect to the main sewer, which is more preferable having regard to the Building Regulations order of priority. Such a connection will need to be made before the facility is brought into use to satisfy Buildings Regulations. The revised proposal is therefore considered to be a betterment over the approved foul drainage method.

## **CONCLUSION**

This application seeks minor amendments to an approved crematorium and wake facility with associated landscaped grounds which is under construction. The changes are minor in nature. When assessed individually and cumulatively they would not undermine the high design quality of the already approved development, result in a development that would continue to respond positively to the character and appearance of this part of the countryside and local landscape and deliver significant biodiversity enhancement.

There are no technical reasons why the changes are unacceptable. No amendments are proposed to the vehicular access or parking arrangements and pedestrian connectivity will be enhanced with the new footpath connection to Common Lane. The surface water drainage proposals have not changed and will continue to provide acceptable surface water attenuation on site to deal with extreme rainfall events, factoring in an allowance for climate change. The amendments include the omission of the drainage field and instead propose to make a main sewer connection which is a more preferable method of disposing of foul water and waste.

Taking the above into consideration the proposed changes are considered to be acceptable, having regard to the consultation responses received and the relevant provisions of the development plan. A recommendation of approval is put forward on this basis.

As this application under section 73 of the 1990 Act will sit alongside the previous permission, it will be necessary to repeat and modify any original conditions that remain relevant to reflect amended plans and details.

## **RECOMMENDATION**

It is recommended that the application be APPROVED subject to the following conditions:

1. Unless specifically stated in the conditions below, the development hereby permitted shall be carried out in accordance with the plans and documents approved in respect of application code ref. 22/00323/FUL, except where amended by the following details and plans:
  - Ground floor crematorium plan numbered 1481-A-10-01
  - Ground Arrangement Plan – Tranquillity and Flower Court Plan numbered 1481-A-10-02
  - Crematorium Roof Plan numbered 1481-A-10-03
  - Crematorium Elevations Plans numbered 1481-A-12-01, 02, and 03
  - Wake Facility Building General Arrangement Plan numbered 1481-A-50-01
  - Wake Facility Building Roof Plan numbered 1481-A-50-02
  - Wake Facility Elevations Plan numbered 1481-A-52-01

- Boundary Treatment Plan numbered D200020\_CDS\_EN\_ZZ\_DR\_L\_006 REV 02
- General Site Layout Plan numbered D200020 CDS EN ZZ DR L 01
- Soft Landscaping Plan 1 of 7 - Trees, Seeding & Native Hedgerows numbered D200020 CDS\_EN\_ZZ\_DR\_L\_020
- Soft Landscaping Plan 2 of 7 - Front & Rear Of Building numbered D200020 CDS EN ZZ DR L 021
- Soft Landscaping Plan 3 of 7 - Car Park & Adjacent Border numbered D200020 CDS EN ZZ DR L 022
- Soft Landscaping Plan 4 of 7 - Flower Court to Wake Facility Borders numbered D200020 CDS EN ZZ DR L 023
- Soft Landscaping Plan 5 of 7 – Tranquillity Garden, Wake Facility and Memorial Garden Plan numbered D200020 CDS EN ZZ DR L 024
- Soft Landscaping Plan 6 of 7 – Bulb Planting numbered D200020 CDS EN ZZ DR L 025
- Soft Landscaping Plan 7 of 7 – Site Entrance numbered D200020 CDS EN ZZ DR L 026
- Hard Landscape Plan 1 of 2 numbered D200020 CDS EN ZZ DR L 028
- Hard Landscape Plan 2 of 2 numbered D200020 CDS EN ZZ DR L 029
- Gates, Fencing & Street Furniture Plan 1 of 3 numbered D200020 CDS EN ZZ DR L 040
- Gates, Fencing & Street Furniture Plan 2 of 3 numbered D200020 CDS EN ZZ DR L 041
- Gates, Fencing & Street Furniture Plan 3 of 3 numbered D200020 CDS EN ZZ DR L 042
- Vehicle Access Plant Plan numbered D200020 CDS EN ZZ DR Y 004 Rev 03
- Pedestrian and Cycle Access Plan numbered D200020 CDS EN ZZ DR Y 005 Rev 02
- Location of Proposed Foul Water Connection Plan, and
- Drainage layout drawings numbered DR-C-0503 C02, C06 and C07.

Reason:

For the avoidance of doubt and in order to define the planning permission.

2. The buildings hereby approved shall be constructed in the materials set out in the CDS Group Proposed Materials Schedule that was approved in respect of application code ref. 23/00104/DISCON unless otherwise agreed in writing by the Local Planning Authority.

Reason:

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

3. Before any other operations commence the existing vehicular access onto Common Lane shall be improved. The junction shall be laid out in accordance with the approved plan(s), constructed to base level, drained and visibility sightlines of

215m measured in each direction to the nearside edge of the carriageway, as measured from a point located centrally and 2.4m back into the access. The area within the sightlines shall thereafter be kept clear of any object greater than 1m in height (0.6m in the case of vegetation) above the nearside carriageway channel level.

Reason:

To ensure that the proposed development does not prejudice the free flow of traffic or the conditions of general safety along the neighbouring highway and to accord with policy SC3 of the Local Plan for Bolsover District.

4. The proposed visitor parking shall be provided in accordance with the application drawings prior to first use of the facility. Once provided, the space shall be retained free from any impediment to its designated use for the life of the site.

Reason:

To ensure that the proposed development does not prejudice the free flow of traffic or the conditions of general safety along the neighbouring highway and to accord with policy SC3 of the Local Plan for Bolsover District.

5. Notwithstanding the provision of the Town and Country Planning (General Permitted Development) Order (2015), (or any Order revoking, amending or re-enacting that Order) no gates / bollards / chains / other means of obstruction other than as set out on drawings numbered D200020 CDS EN ZZ DR L 040, Vehicle Access Plan numbered D200020 CDS EN ZZ DR Y 004 Rev 03, Pedestrian and Cycle Access Plan numbered D200020 CDS EN ZZ DR Y 005 Rev 02 and drawings D200020-CDS-EN-22-DR-L-55 and 56 (Construction Details 6 and 7 of 8) approved in respect of application 23/00104/DISCON shall be erected across the approved access, unless details have first been submitted to and approved in writing by the Local Planning Authority.

Reason:

In the interests of highway safety and to accord with policy SC3 of the Local Plan for Bolsover District.

6. Space shall be provided within the site for storage of plant and materials, site accommodation, loading, unloading and manoeuvring of goods vehicles, parking and manoeuvring of employees and visitors vehicles, laid out and constructed in accordance with detailed designs first submitted to and approved in writing by the Local Planning Authority. The facilities shall be retained free from any impediment to their designated use throughout the construction period.

Reason:

In the interests of highway safety and to accord with policy SC3 of the Local Plan for Bolsover District.



7. Throughout the period of development vehicle wheel cleaning facilities shall be provided and retained within the site. All construction vehicles shall have their wheels cleaned before leaving the site in order to prevent the deposition of mud and other extraneous material on the public highway.

Reason:

In the interests of highway safety and to accord with policy SC3 of the Local Plan for Bolsover District.

### **Drainage**

8. Within 28 days of the date of this decision 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. Scott White and Hookins. (25 - May 2022) FRA & Drainage Strategy Report. 203810/Revision 1
  - b. Scott White and Hookins. (26 - May 2022) Drainage Layout. 203810-SWH-ZZ-XX-DR-D-0500-P02
  - c. And DEFRA's Non-statutory technical standards for sustainable drainage systems (March 2015) shall have been submitted to and approved in writing by the Local Planning Authority. The surface water drainage for the site shall thereafter be provided in accordance with the approved details.

Reason:

To ensure that the proposed development does not increase flood risk and that the principles of sustainable drainage are incorporated into this proposal, and sufficient detail of the construction, operation and maintenance/management of the sustainable drainage systems are provided to the Local Planning Authority, in advance of full planning consent being granted and to accord with policy SC2 and SC7 of the Local Plan for Bolsover District.

9. Within 28 days of the dated of this decision 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.

Reason:

To ensure that surface water from the development is directed towards the most appropriate waterbody in terms of flood risk and practicality by utilising the highest possible priority destination on the hierarchy of drainage options and to accord with policy SC2 and SC7 of the Local Plan for Bolsover District. The assessment should demonstrate with appropriate evidence that surface water runoff is discharged as high up as reasonably practicable in the following hierarchy:

- I. into the ground (infiltration);
- II. to a surface water body;

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

And to ensure that development will be safe from flood risk including from groundwater and natural springs.

10. Within 28 days of the date of this decision, 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.

Reason:

To ensure surface water is managed appropriately during the construction phase of the development, so as not to increase the flood risk to adjacent land/properties or occupied properties within the development and to accord with policy SC2 and SC7 of the Local Plan for Bolsover District.

11. The Geocellular tank should not be brought into use until such a time as it is fully designed and constructed in line with CIRIA SuDS manual C753 and to the agreed specifications on document:
  - “Drainage Layout” referenced 203810-SWH-ZZ-XX-DR-D-0500-P02 (dated 26 May 2022 by Scott White and Hookins.),and an associated management and maintenance plan, in line with CIRIA SuDS Manual C753 is submitted to and approved in writing by the Local Planning Authority.

Reason:

*To ensure that the proposed attenuation pond does not increase flood risk, that the principles of sustainable drainage are incorporated into the proposal, the system is operational prior to first use and that maintenance and management of the sustainable drainage systems is secured for the future* and to accord with policy SC2 and SC7 of the Local Plan for Bolsover District.

12. 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).

Reason:

To ensure that the drainage system is constructed to the national Non-statutory technical standards for sustainable drainage and CIRIA standards C753 and to accord with policy SC2 and SC7 of the Local Plan for Bolsover District.

### **Ecology**

13. No construction work, soil stripping, demolition works or vegetation clearance shall take place between 1st March and 31st 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 are present, an appropriate exclusion zone will be implemented and monitored until the chicks have fledged. No works shall be undertaken within exclusion zones whilst nesting birds are present.

Reason:

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

14. The development shall be undertaken in strict accordance with the Construction Environmental Management Plan: Biodiversity V1 (CEMP: Biodiversity) by RPS Group dated 16.01.22 approved in respect of application 23/00104/DISCON. 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.

Reason:

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

15. Prior to first use of the facility the approved Landscape and Biodiversity Enhancement Plan (LBEP) V3 dated 10<sup>th</sup> February 2023 shall be updated to reflect the changes to the approved landscaping and the revised document submitted to the Local Planning Authority for approval in writing. The plan shall thereafter be carried out in accordance with the approved details.

Reason:

In order to mitigate the biodiversity impacts of the development and to ensure that satisfactory landscaping is provided within a reasonable period in the interests of visual amenity and biodiversity interests and in compliance with Policies SS1(h and i), SC2(d, h and i), SC3(a, b, e, f and i), SC9 and SC10 of the Local Plan for Bolsover District.

16. If within a period of five years from the date of the planting of any tree or shrub that tree or shrub may die, be removed, uprooted or become seriously damaged it shall be replaced by another of the same species during the first available planting

season, unless a variation of the landscaping scheme is approved in writing with the Local Planning Authority.

Reason:

To ensure that any soft landscaping is suitably maintained in the interests of visual amenity and biodiversity and in compliance with Policies SS1(i), SC2(d, h and i), SC3(a, b, e, and i), SC9 and SC10 of the Local Plan for Bolsover District.

17. The external lighting shall be carried out in accordance with the External Lighting Strategy Rev C dated 17/06/2022 by CDS Group and no bat box shall be installed in areas where the proposed lux exceeds 1 (as per the Lighting Strategy).

Reason:

To safeguard bats and maximise the biodiversity value of the site of in accordance with Policies SS1(i), SC2(d), SC3(i) and SC9 of the Local Plan for Bolsover District.

18. The development shall be completed in accordance with the details on the Hard Landscaping Plans numbered D200020 CDS EN ZZ DR L 028 and D200020 CDS EN ZZ DR L 029 and the Hard Landscaping Materials Schedule dated May 2022 (except where amended by the above plans) prior to the site being bought into first use. The details thereafter shall be maintained throughout the life of the development as approved.

Reason:

To ensure that satisfactory landscaping is provided within a reasonable period in the interests of visual amenity and biodiversity interests and in compliance with Policies SS1(h and i), SC2(d, h and i), SC3(a, b, e, f and i), SC9 and SC10 of the Local Plan for Bolsover District.

### **Contamination / Noise**

19. If during the development, any contamination is identified that has not been considered in the Phase II Geoenvironmental and Geotechnical Report, then additional remediation proposals for this material shall be submitted to the Local Planning Authority for written approval. Any approved proposals shall thereafter form part of the Remediation Method Statement for the site.

Reason:

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

20. Prior to first operation of the development an independent validation report must be submitted demonstrating that any remediation works carried out under condition 20

above have been carried out satisfactorily and remediation targets have been achieved and this report shall have been produced by a suitably qualified independent body. The report shall provide verification that the remediation works have been carried out in accordance with the approved Remediation Method Statement(s) and post remediation and monitoring results shall be included in the report to demonstrate that the required remediation has been fully met.

Reason:

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

21. Prior to the development being brought into operation, a further noise report validating that the development will achieve the operational noise levels as set out in Table 2 of the Noise Impact Assessment shall be submitted to and approved in writing by the Local Planning Authority. The development use shall only commence upon agreed of the validation report and measures deployed to achieve operational noise levels as agreed shall be retained and maintained throughout the lifetime of the development.

Reason:

To protect the amenity of future operators and nearby residential neighbours of the development in compliance with Policies SC3 and SC11 of the Local Plan for Bolsover District.

22. The development shall operate in accordance with the Employment and Skills Plan Method Statement approved in respect of application code ref. 23/00104/DISCON throughout its lifetime unless otherwise agreed in writing by the Local Planning Authority.

Reason:

To maximise potential local skills, training and employment opportunities and to accord with policy II2 of the Local Plan for Bolsover District.

### **Advisory/Informative Notes**

01. Local Highways Authority

1. Section 184 Licence. Planning permission does not give you approval to work on the public highway. To carry works associated with this planning permission, separate approval must first be obtained from Derbyshire County Council as Highway Authority - this will take the form of a section 184 licence Highways Act 1980). It is strongly recommended that you make contact with the County Council at the earliest opportunity to allow time for the process to be completed. Information and relevant application forms,

regarding the undertaking of access works within highway limits, are available via the County Council's website [www.derbyshire.gov.uk](http://www.derbyshire.gov.uk), email [highways.hub@derbyshire.gov.uk](mailto:highways.hub@derbyshire.gov.uk) or telephone 01629 533190.

2. Where the site curtilage slopes down towards the public highway provisions within Section 163 of the Highways Act 1980 requires measures to be taken to ensure that surface water run-off from within the site is not permitted to discharge across the footway margin. This usually takes the form of a dished channel or gulley laid across the access immediately behind the back edge of the highway, discharging to a drain or soakaway within the site.
3. Pursuant to Sections 149 and 151 of the Highways Act 1980, steps shall be taken to ensure that mud or other extraneous material is not carried out of the site and deposited on the public highway. Should such deposits occur, it is the applicant's responsibility to ensure that all reasonable steps (e.g. street sweeping) are taken to maintain the roads in the vicinity of the site to a satisfactory level of cleanliness.
4. If construction works are likely to require Traffic Management, advice regarding procedures should be sought from Mr J Adams, Traffic Management, 01629 538628. All road closure and temporary traffic signal applications will have to be submitted via the County Councils web-site; relevant forms are available via the following link - [http://www.derbyshire.gov.uk/transport\\_roads/roads\\_traffic/roadworks/default.asp](http://www.derbyshire.gov.uk/transport_roads/roads_traffic/roadworks/default.asp)
5. The applicant should be aware that if any land within the site is subject to a covenant which protects that land indicated on the attached drawing, obligations on the land owner and the protection of future access and maintenance rights for the Highway Authority shall pass with successors in title.

## 02. Lead Local Flood Authority

The applicant is advised in respect of Conditions 8-12 that the submitted details shall address the Lead Local Flood Authority's comments in respect of application code ref. 23/00104/DISCON dated 7<sup>th</sup> July 2023.

A. The County Council does not adopt any SuDS schemes at present (although may consider ones which are served by highway drainage only). As such, it should be confirmed prior to commencement of works who will be responsible for SuDS maintenance/management once the development is completed.

B. Any works in or nearby an ordinary watercourse may require consent under the Land Drainage Act (1991) from the County Council. For further advice, or to make an application please contact [Flood.Team@derbyshire.gov.uk](mailto:Flood.Team@derbyshire.gov.uk).

C. No part of the proposed development shall be constructed within 5-8m of an ordinary watercourse and a minimum 3 m for a culverted watercourse (increases with size of culvert). It should be noted that DCC have an anti-culverting policy.

D. The applicant should be mindful to obtain all the relevant information pertaining to proposed discharge in land that is not within their control, which is fundamental to allow the drainage of the proposed development site.

E. The applicant should demonstrate, to the satisfaction of the Local Planning Authority, the appropriate level of treatment stages from the resultant surface water discharge, in line with Table 4.3 of the CIRIA SuDS Manual C753.

F. The County Council would prefer the applicant to utilise existing landform to manage surface water in mini/sub-catchments. The applicant is advised to contact the County Council's Flood Risk Management team should any guidance on the drainage strategy for the proposed development be required.

G. Flood resilience should be duly considered in the design of the new building(s) or renovation. Guidance may be found in BRE Digest 532 Parts 1 and 2, 2012 and BRE Good Building Guide 84.

H. Surface water drainage plans should include the following:

- Rainwater pipes, gullies and drainage channels including cover levels.
- Inspection chambers, manholes and silt traps including cover and invert levels.
- Pipe sizes, pipe materials, gradients, flow directions and pipe numbers.
- Soakaways, including size and material.
- Typical inspection chamber / soakaway / silt trap and SW attenuation details.
- Site ground levels and finished floor levels.

I. On Site Surface Water Management;

- The site is required to accommodate rainfall volumes up to the 1% probability annual rainfall event (plus climate change) whilst ensuring no flooding to buildings or adjacent land.
- The applicant will need to provide details and calculations including any below ground storage, overflow paths (flood routes), surface detention and infiltration areas, etc, to demonstrate how the 100 year + 40% Climate Change rainfall volumes will be controlled and accommodated. In addition, an appropriate allowance should be made for urban creep throughout the lifetime of the development as per 'BS 8582:2013 Code of Practice for Surface Water Management for Developed Sites' (to be agreed with the LLFA).
- Production of a plan showing above ground flood pathways (where relevant) for events in excess of the 1% probability annual rainfall event, to ensure exceedance routes can be safely managed.
- A plan detailing the impermeable area attributed to each drainage asset (pipes, swales, etc), attenuation basins/balancing ponds are to be treated as an impermeable area.

### Peak Flow Control

- For greenfield developments, the peak run-off rate from the development to any highway drain, sewer or surface water body for the 1 in 1 year rainfall event and the 1 in 100 years rainfall event, should never exceed the peak greenfield run-off rate for the same event.
- For developments which were previously developed, the peak run-off rate from the development to any drain, sewer or surface water body for the 100% probability annual rainfall event and the 1% probability annual rainfall event must be as close as reasonably practicable to the greenfield run-off rate from the development for the same rainfall event but should never exceed the rate of discharge from the development, prior to redevelopment for that event.

### Volume Control

- For greenfield developments, the runoff volume from the development to any highway drain, sewer or surface water body in the 6 hours 1% probability annual rainfall event must not exceed the greenfield runoff volume for the same event.
- For developments which have been previously developed, the runoff volume from the development to any highway drain, sewer or surface water body in the 6 hours 1% probability annual rainfall event must be constrained to a value as close as is reasonably practicable to the greenfield runoff volume for the same event, but must not exceed the runoff volume for the development site prior to redevelopment for that event.

Note:- If the greenfield run-off for a site is calculated at less than 2 l/s, then a minimum of 2 l/s could be used (subject to approval from the LLFA).

- Details of how the on-site surface water drainage systems shall be maintained and managed after completion and for the lifetime of the development to ensure the features remain functional.
- Where cellular storage is proposed and is within areas where it may be susceptible to damage by excavation by other utility contractors, warning signage should be provided to inform of its presence. Cellular storage and infiltration systems should not be positioned within the highway.
- Guidance on flood pathways can be found in BS EN 752.
- The Greenfield runoff rate which is to be used for assessing the requirements for limiting discharge flow rates and attenuation storage for a site should be calculated for the whole development area (paved and pervious surfaces - houses, gardens, roads, and other open space) that is within the area served by the drainage network, whatever the size of the site and type of drainage system. Significant green areas such as recreation parks, general public open space, etc., which are not served by the drainage system and do not play a part in the runoff management for the site, and which can be assumed to have a runoff response which is similar to that prior to the development taking place, may be excluded from the greenfield analysis.

J. If infiltration systems are to be used for surface water disposal, the following information must be provided:

- Ground percolation tests to BRE 365.
- Ground water levels records. Minimum 1m clearance from maximum assessment of relevant groundwater borehole records, maps and on-site monitoring in wells.



- Soil / rock descriptions in accordance with BS EN ISO 14688-1:2002 or BS EN ISO 14689-1:2003.
- Volume design calculations to 1% probability annual rainfall event + 40% climate change standard. An appropriate factor of safety should be applied to the design in accordance with CIRIA C753 – Table 25.2.
- Location plans indicating position (soakaways serving more than one property must be located in an accessible position for maintenance). Soakaways should not be used within 5m of buildings or the highway or any other structure.
- Drawing details including sizes and material.
- Details of a sedimentation chamber (silt trap) upstream of the inlet should be included.

Soakaway detailed design guidance is given in CIRIA Report 753, CIRIA Report 156 and BRE Digest 365.

K. All Micro Drainage calculations and results must be submitted in .MDX format, to the LPA. (Other methods of drainage calculations are acceptable.)

L. The applicant should submit a comprehensive management plan detailing how surface water shall be managed on site during the construction phase of the development ensuring there is no increase in flood risk off site or to occupied buildings within the development.

### 03. Wildlife

- a. The applicant is reminded that, under the Wildlife and Countryside Act 1981, as amended (section 1), it is an offence to remove, damage or destroy the nest of any wild bird while that nest is in use or being built. Planning consent for a development does not provide a defence against prosecution under this act.
- b. Trees and scrub are likely to contain nesting birds between 1st March and 31st August inclusive. Trees and scrub are present on the application site and are to be assumed to contain nesting birds between the above dates, unless a recent survey has been undertaken by a competent ecologist to assess the nesting bird activity on site during this period and has shown it is certain that nesting birds are not present.

### 04. Coal Authority

- a. The proposed development lies within a coal mining area which may contain unrecorded coal mining related hazards. If any coal mining feature is encountered during development, this should be reported immediately to the Coal Authority on 0345 762 6848.

Further information is also available on the Coal Authority website at:

[www.gov.uk/government/organisations/the-coal-authority](http://www.gov.uk/government/organisations/the-coal-authority)

## 05. The Need for Advertisement Consent

The applicant is advised that this permission does not convey authorisation to display advertisements that do not benefit from deemed consent under the Town and Country Planning (Control of Advertisements) (England) Regulations 2007. Such advertisements would require a separate grant of express advertisement consent. For further advice on the need or otherwise for advertisement consent, the applicant is advised to contact / engage with the Local Planning Authority.

### **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.*

## **Bolsover District Council**

### **Meeting of the Planning Committee on 19<sup>th</sup> June 2024**

#### **Creswell Growth Plan – Consultation Draft**

#### **Report of the Portfolio Holder for Growth**

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

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

- To seek approval from Members on the contents of the Creswell Growth Plan Consultation Draft Document and to commence a consultation exercise upon it.

### **REPORT DETAILS**

#### **1. Background**

- 1.1 Members will recall that work commenced on the preparation of a Growth Plan for Creswell in April 2022 in accordance with the Local Development Scheme.
- 1.2 Growth Plans are non-statutory planning documents that sit on top of the Local Plan for Bolsover District and direct where additional growth would be acceptable to the Council over and above that planned in the Local Plan for Bolsover District. It is intended that the Council will adopt prepared Growth Plans as material considerations in the planning process.
- 1.3 The preparation of the Creswell Growth Plan has already undergone two stages of public consultation:
  - Initial Consultation Exercise in June 2022 – this consultation asked people living and working in Creswell what they thought about the village as a place to live and work in, and what they thought about the village centre and local environment.
  - Masterplanning Consultation Exercise in January-February 2023 – this consultation asked people what they thought growth in Creswell could look like and what land uses it should include.
- 1.4 The feedback during these consultation exercises by way of the representations submitted to the Council have all been considered and have informed the preparation of a draft Creswell Growth Plan document. The contents of this draft document and the next steps going forward are discussed below.

## 2. Details of Proposal or Information

### Contents of the draft Creswell Growth Plan

- 2.1 The draft Creswell Growth Plan outlines the policy framework for the Creswell Growth Plan and the consultation feedback to date, before setting out a number of options for consideration and questions upon which consultation feedback is sought.
- 2.2 The document approaches this task by reflecting the structure of the previous rounds of consultation and focusses on options relating to:
- Living and Working in Creswell (including potential development sites)
  - Creswell Village Centre
  - Green Spaces and the Countryside
- 2.3 In terms of potential options, the draft Creswell Growth Plan identifies three realistic options for the approaches to growth that could be pursued. Option C, identifies the potential development sites that have been promoted to the Council that could deliver growth.
- Option A – Consolidation of already committed growth
  - Option B – Consolidation of already committed growth with additional employment growth.
  - Option C – Pursue additional housing and employment growth

The following table summarises these three options.

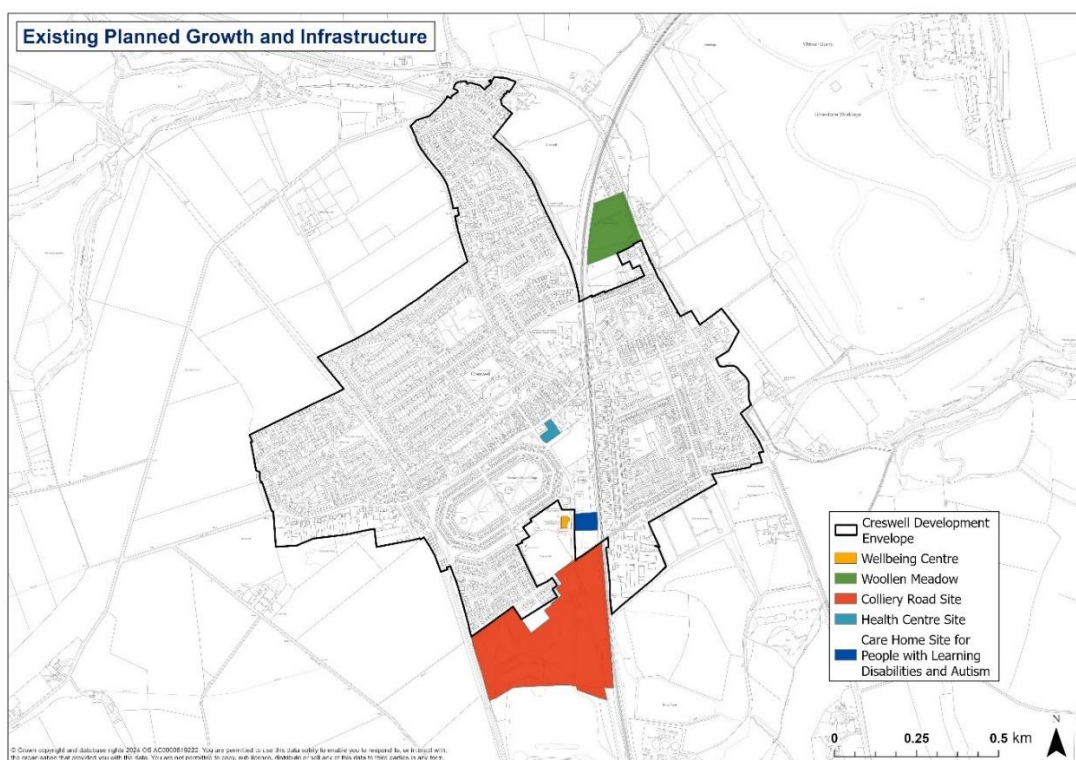
Options	Advantages	Disadvantages
<b>Option A: Consolidation of already committed growth.</b>  This option would recognise that Creswell has committed growth through windfall sites of around 300 houses.  It would focus on pursuing the delivery of existing infrastructure commitments with the Health Centre and other Section 106 commitments brought forward with what is in the S106 pipeline with regard to schools and open space / sports / affordable housing.	Allows the existing and planned for infrastructure provision to catch up with committed growth.  Protects the countryside.	Would not support job growth in village.  Would not support longer term residential growth in the village.  Would not secure potential new infrastructure.

Included in this would be a Green Space Strategy for the village.		
<p><b>Option B: Consolidation of already committed growth with additional employment growth.</b></p> <p>This option would also recognise that Creswell has committed growth through windfall sites and focus on pursuing the delivery of existing infrastructure commitments as well as putting together a Green Space Strategy for the village.</p> <p>It would plan for bringing forward new employment opportunities for the community in the form of shared rural workspace in the reuse of the former railway station/historic farmsteads and co-working spaces in existing community facilities.</p>	<p>Allows the infrastructure provision to catch up with committed growth.</p> <p>Protects the countryside.</p> <p>Plans for new job growth in village to help diversify the local economy.</p> <p>Encourages the reuse of historic buildings.</p>	<p>Would not support longer term residential growth in the village.</p>
<p><b>Option C: Pursue additional housing and employment growth.</b></p> <p>This option would plan for an amount of additional housing growth on land currently in the countryside and plan for bringing forward shared workspace in a purpose-built development.</p>	<p>Plans for new job growth in village to help diversify the economy.</p> <p>Plans for longer term residential growth.</p> <p>Would be able to deliver investment in infrastructure improvements.</p>	<p>May put additional pressure on infrastructure capacity in the short-term.</p> <p>Takes land from the countryside.</p>

- 2.4 A range of views were expressed about growth in Creswell. There are strong concerns that further residential growth would be at a cost to the local community. The approach to a Growth Plan Options for Creswell has regard to the expressed concerns.

#### Option A – Consolidation of already committed housing growth

- 2.5 In this option, the desired limited quantum of growth would be achieved by restricting growth to the already committed growth from the windfall site of around 300 houses on the land at the former Creswell Colliery (highlighted in red on the plan below) and the proposed Care Home development on Colliery Road.
- 2.6 Under this option the recently delivered S106 infrastructure in Creswell, including the Heritage and Wellbeing Centre and the biodiversity improvements to Wollen Meadows would be established and the proposed Health Centre developed. In response to the expressed views about green infrastructure in and around the village, a Community Green Strategy is proposed under this Option.



#### Option B – Consolidation of already committed growth with additional employment growth within existing buildings and café facilities

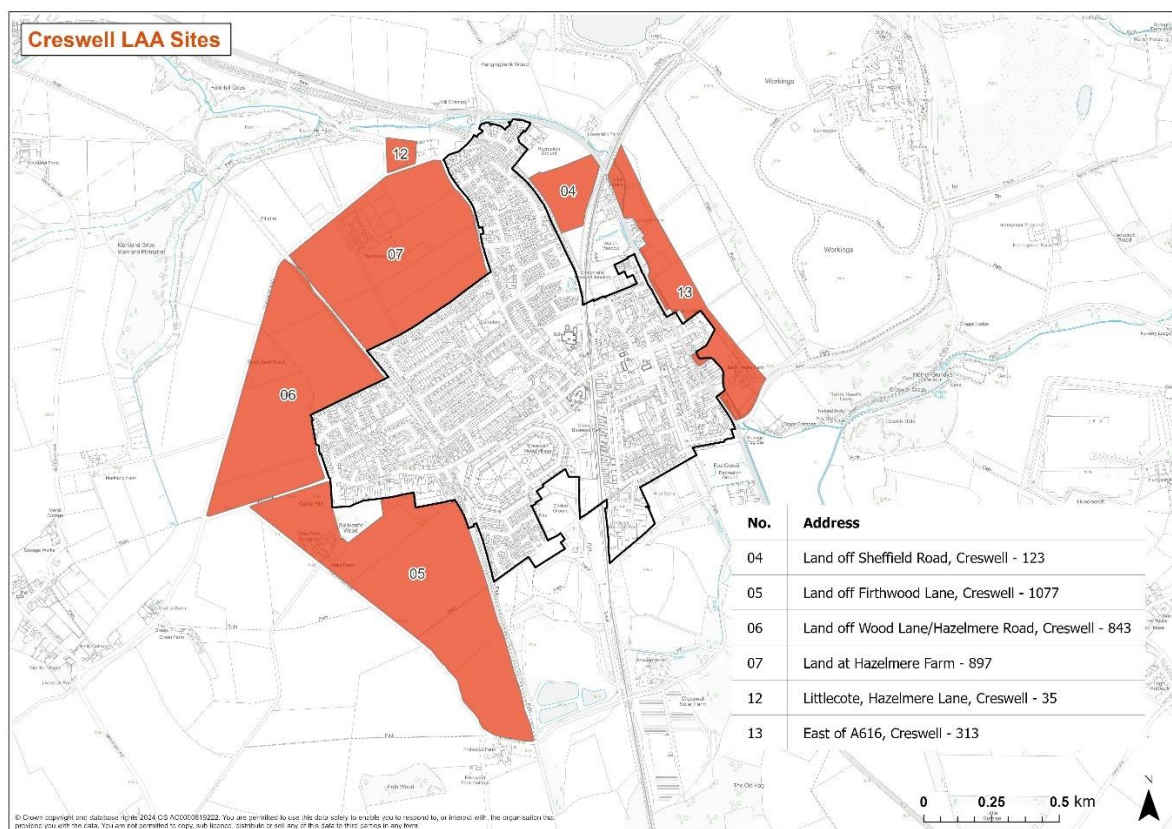
- 4.1 The focus of Option B is economic growth, alongside the consolidation of recent and planned housing and infrastructure and the Community Green Strategy as outlined under Option A. This approach is based on using the built assets that Creswell already has, in the potential of existing buildings and businesses in the village to provide employment space. Employment growth



under this option would comprise desk-based workspaces in underused buildings as Shared Rural Workspaces as well as promoting table-based co-workspace in the cafés and other existing venues in the village.

### Option C – Pursue additional Housing and Employment Growth

- 2.7 Under this option further housing growth would be promoted alongside economic growth. The register of sites that are potentially available for potential future growth that come out of the Council's Land Availability Assessment (LAA) would form the basis of this Option. As well as residential growth, this option would investigate the potential for further additional employment growth in the form of a new development to accommodate Shared Rural Workspace. Under this option the Community Green Strategy would be expanded to include the consideration of green infrastructure and biodiversity as it relates development sites.



- 2.8 The draft Creswell Growth Plan asks interested parties to provide comments on which option they consider to be the most appropriate one for Creswell. Within each Option a range of questions seeks to find out more detailed understanding of how the Growth Plan should be taken forward. Under Option C, the draft Creswell Growth Plan seeks feedback on each of the potential development sites that have been promoted to the Council.
- 2.9 The draft Creswell Growth Plan document is contained in Appendix 1 to this report.

### Proposed format of the public consultation exercise

- 2.10 In accordance with the preparation steps set out in the Council's Local Development Scheme, the next step is to publish the draft Creswell Growth Plan for public consultation.
- 2.11 The consultation methods for prepared Growth Plans are set out in the Council's Statement of Community Involvement (December 2022) and are intended to mirror closely the methods used for statutory planning documents. As such, this states that the Council will:
- Hold a formal public consultation of a minimum of 4 weeks;
  - Make the draft Growth Plan and any associated documents available to view and comment on via the Council's website, and at the Council's main office; customer contact centres; and, libraries;
  - Write to or email people with an interest in the preparation of the Growth Plan;
  - Listen to the comments made.
- 2.12 Members will also be aware that the Council has carried out a number of innovative digital planning consultations on its Growth Plans using the secured external funding through the Government's PropTech Innovation Fund. This funding extends to the planned public consultation exercise on the draft Creswell Growth Plan, and this will involve a further trial of the new, purposely designed, consultation website portal that is designed to increase public engagement.
- 2.13 Should the draft Creswell Growth Plan be approved as the subject of a public consultation exercise, it is planned that it will be transferred from the attached MS Word document into a web-based, accessible viewable document on the new consultation website portal.
- 2.14 It is planned that the 6-week consultation exercise will commence on Monday 8<sup>th</sup> July and run to Monday 19<sup>th</sup> August 2024 to take account of the holiday season.

### **3 Reasons for Recommendation**

- 3.1 The report updates Members on the preparation of the draft Creswell Growth Plan and recommends that Members approve the contents of the proposed draft Creswell Growth Plan for the purposes of public consultation.
- 3.2 However, as the dates for the public consultation exercise may change it is also recommended that delegated authority to the Assistant Director for Planning and Planning Policy in consultation with the Chair and Vice Chair of Planning Committee to agree the final arrangements of the proposed consultation exercise on the draft Creswell Growth Plan.



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

- 4.1 It would be possible to not approve the draft Creswell Growth Plan at this time, but this alternative option has been rejected as this would cause delay to the Council's progress on meeting its growth ambitions.

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### **RECOMMENDATION**

That Planning Committee:

- 1) approve the contents of the proposed draft Creswell Growth Plan as discussed in the report and as set out in full in Appendix 1;
- 2) gives delegated authority to the Assistant Director of Planning and Planning Policy in consultation with the Chair and Vice Chair of Planning Committee to agree the final arrangements of the proposed consultation exercise on the draft Creswell Growth Plan.

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

#### **IMPLICATIONS:**

**Finance and Risk:**            Yes ☐            No ☒

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

On behalf of the Section 151 Officer

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

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

On behalf of the Solicitor to the Council

**Environment:**            Yes ☒            No ☐

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

**Details:** The Creswell Growth Plan seeks to support sustainable growth in Creswell and respond to the needs of the local community. It will focus on matters relating to living and working in Creswell, the village centre and the environment within and around the village. As such, the Creswell Growth Plan will make a notable contribution to this subject.

**Staffing:**            Yes ☐            No ☒

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

On behalf of the Head of Paid Service

### **DECISION INFORMATION**

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

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

<b>Links to Council Ambition: Economy, Environment and Housing</b>
<ul style="list-style-type: none"> <li>• Focussing on our <b>Economy</b> by driving growth, promoting the district and being business and visitor friendly.</li> <li>• Focussing on our <b>Environment</b> by protecting the quality of life for residents and businesses, meeting environmental challenges, and enhancing biodiversity.</li> <li>• Focussing on our <b>Housing</b> by delivering social and private sector housing growth.</li> </ul>

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

# **CRESWELL GROWTH PLAN**

## **Consultation Draft Document**

**July 2024**

## Equalities Statement

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

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

## Access for All statement

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

- **Phone** – 01246 242424
- **Email** – [enquiries@bolsover.gov.uk](mailto:enquiries@bolsover.gov.uk)
- **BSL Video Call** – a three way video call with us and a BSL interpreter. It is free to call Bolsover District Council with Sign Solutions, you just need wifi or mobile data to make the video call, or call into one of our Contact Centres.
- **Call with Relay UK** via textphone or app on 0800 500 888 – a free phone service provided by BT for anyone who has difficulty hearing or speaking. It's a way to have a real time conversation with us by text.
- **Visiting one of our offices** at Clowne, Bolsover, Shirebrook and South Normanton.

## **Contents**

### Preface

#### 1) Introduction

- Background
- Purpose of this document
- How has it been prepared

#### 2) Policy Framework for the Creswell Growth Plan

- Vision Bolsover
- Local Plan for Bolsover District
- National Planning Policy Framework
- National Planning Practice Guidance

#### 3) Consultation findings to date

- Initial Consultation: Community Views on Creswell
- Second Consultation: Community Views on Growth
- Feedback: Community Event

#### 4) Growth Plan Options

- Option A: Consolidation of already committed growth
- Option B: Consolidation of already committed growth with additional employment growth
- Option C: Additional housing and employment growth
- Summary conclusion

#### 5) Your Views

#### 6) Next stages and the Growth Plan preparation timetable

## **Preface**

- P.1 This document has been prepared for the purposes of the consultation exercise on the Council's Creswell Growth Plan Options.
- P.2 This consultation exercise starts on Monday 8<sup>th</sup> July and runs through to Monday 19<sup>th</sup> August 2024. Comments on the contents of this consultation document need to be provided by 5pm on the 19<sup>th</sup> August 2024.
- P.3 The PlaceBuilder Consultation Portal as this is the easiest and quickest way for you to make your comments.

### **Submitting your representation online via PlaceBuilder**

Submitting your representation online is a quicker way of getting involved.

- Your representation will already have your contact details filled in.
- You will receive an instant confirmation email to give you a receipt so that you know your representation has been successfully delivered and that your comments will be considered.
- Go to <https://placebuilder.io/Creswellgrowthplan/imagine> for more information.  
*(If you don't yet have an account, you can set one up easily from this web address)*

- P.4 If you are unable to access the PlaceBuilder Consultation Portal, you will be able to email or post your comments to us.

## 1) Introduction

### **Background**

- 1.1 Bolsover District Council resolved to commence the preparation of a Growth Plan for Creswell in February 2022.
- 1.2 Growth Plans are non-statutory planning documents that sit on top of the Local Plan for Bolsover District and direct where additional growth would be acceptable to the Council. The Council will adopt prepared Growth Plans as material considerations in the planning processes.

### **Purpose of this document**

- 1.3 The purpose of this document is to set out the potential Growth Plan Options so that the Council can hear the views of the community and other stakeholders before making its decision on the best approach to future growth in Creswell.

### **How has it been prepared?**

- 1.4 The Council is preparing the Creswell Growth Plan in accordance with its Local Development Scheme (2022) and it is consulted on in accordance with its Statement of Community Involvement.
- 1.5 The preparation of the Creswell Growth Plan started in April 2022 and has already undergone three stages of public engagement:
  - **Initial Consultation June 2022:** Community Views on Creswell. This consultation asked people living and working in Creswell what they thought about the village as a place to live and work in, and what they thought about the village centre and local environment.
  - **Second Consultation January/February 2023:** Community Views on Growth. This Masterplanning Consultation Exercise asked people what they thought growth in Creswell could look like and what land uses it should include.
  - **Consultation Feedback 27<sup>th</sup> July 2023:** Community Event. This Virtual Reality Balloon Ride event took forward the responses from the Masterplan consultation to illustrate the relationship between growth and infrastructure in Creswell.
- 1.6 The representations submitted from the two consultations have informed the contents of this document.

## 2) Policy Framework for the Creswell Growth Plan

### Vision Bolsover

- 2.1 Bolsover – The Future 2024-2028 is the Council's corporate prospectus and sets out its Vision as a dynamic, self-sufficient, and flexible Council that delivers excellent services, whilst adapting to local aspirations and acting as the economic and environmental driver for Bolsover District.
- 2.2 In relation to the Economy the aim is driving growth, promoting the district and being business and visitor friendly. The Council's priorities include:
- Actively working with partners to support enterprise, innovation, jobs and skills.
  - Unlocking regeneration and development potential of long-term vacant land and buildings, and stalled sites and deliver income generating capital projects. Promoting the District and working with partners to increase and support the creative, cultural and tourism sector.



2.3 In relation to the Environment, the aim is to protect the quality of life for residents and businesses, meet environmental challenges and enhance biodiversity. The Council's priorities include:

- Ensuring all areas, neighbourhoods and streets in the district, irrespective of housing tenure or type, are places where people want to live, feels safe, and are proud to live.
- Reducing our carbon footprint whilst supporting and encouraging residents and businesses to do the same.
- Enhancing biodiversity across the district.
- Working with stakeholders, strategic and local partnerships to deliver shared strategies and priorities that support the local environment.

- 2.4 In relation to Housing, the aim is to deliver social and private sector housing growth. The Council's priorities include:
- Enabling housing growth by increasing the supply, quality, and range of housing to meet the needs of the growing population.
  - Building more good quality social housing and being a decent landlord.



## **Local Plan for Bolsover District**

- 2.5 The Local Plan for Bolsover District was adopted by the Council in March 2020 and is an ambitious document which actively tackles the issues we face today in seeking to achieve sustainable growth.
- 2.6 It is underpinned by sound evidence and a spatial strategy that retains the district's distinctive identity whilst providing the growth that is needed for the district to prosper and flourish. This means that it plans for the right amount and type of homes to meet our needs, in the right places with the right infrastructure in place to support all residents and businesses going forward.
- 2.7 The Local Plan for Bolsover District classifies Creswell as a Large Village in recognition of its place as one of the district's more sustainable settlements.
- 2.8 As such, the Local Plan for Bolsover District states that to achieve sustainable development it will direct development and service provision to such settlements. Based on this strategy, the Local Plan for Bolsover District allocates approximately 289 new dwellings and 0.46 hectares of new employment land to Creswell through to 2033, to be accommodated at the Colliery Road site.
- 2.9 Any additional growth supported through this Growth Plan would be on top of that allocated in the Local Plan for Bolsover District. If the Growth Plan is adopted by the Council, it will be a material consideration taken into account in the determination of future planning applications.

## **National Planning Policy Framework**

- 2.10 The National Planning Policy Framework (NPPF) was first published in March 2012 but has been updated several times since. The latest version was published in December 2023 and sets out the Government's policies for England and how these should be applied. It provides a framework within which locally prepared plans can provide for sufficient housing and other development in a sustainable manner, so significantly boosting the supply of housing and helping to build a strong and competitive economy.
- 2.11 Crucially, the NPPF states that there are three overarching objectives to achieving sustainable development, namely:
- an economic objective - to help build a strong, responsive and competitive economy, by ensuring that sufficient land of the right types is available in the right places and at the right time to support growth, innovation and improved productivity; and by identifying and coordinating the provision of infrastructure;
  - a social objective - to support strong, vibrant and healthy communities, by ensuring that a sufficient number and range of homes can be provided to meet the needs of present and future generations; and by fostering well-designed, beautiful and safe spaces, with accessible services that reflect current and future needs and support communities' health, social and cultural wellbeing; and
  - an environmental objective - to protect and enhance our natural, built and historic environment including; making effective use of land, improving

biodiversity, using natural resources prudently, minimising waste and pollution, and mitigating and adapting to climate change, including moving to a low carbon economy.

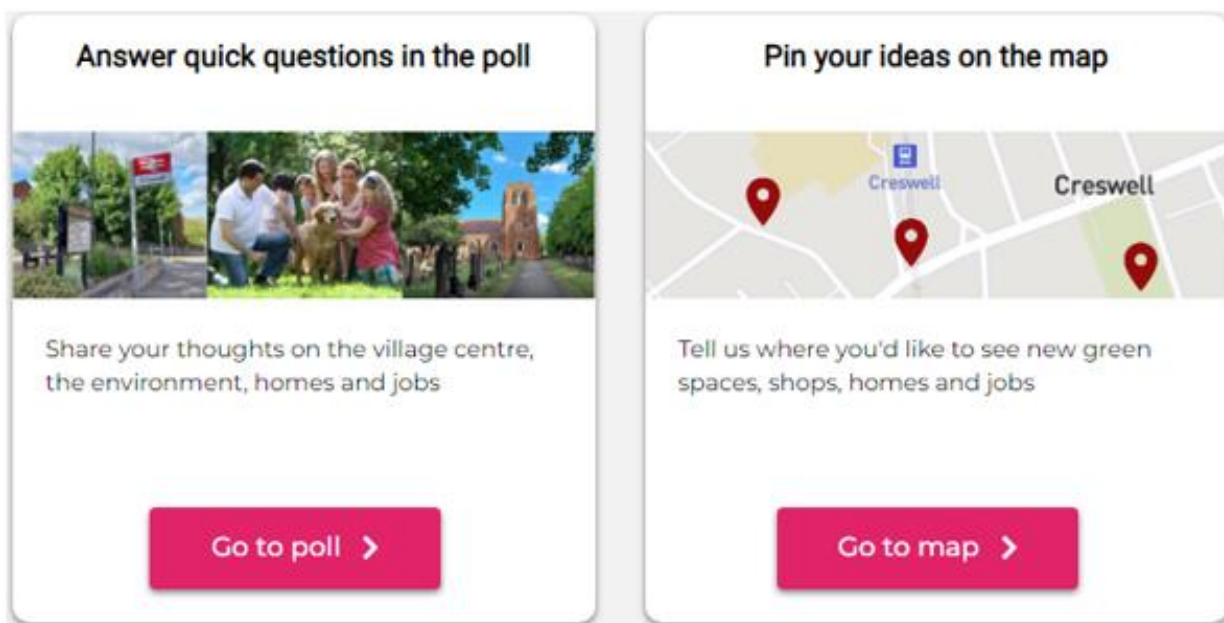
### **National Planning Practice Guidance**

- 2.12 The National Planning Practice Guidance (PPG) provides guidance on a range of planning practice categories and helps explain how national policy should be implemented.

### 3) Consultation Responses

#### Initial Consultation: Community Views on Creswell

- 3.1 The Initial Consultation Exercise on a Growth Plan for Creswell ran between 1<sup>st</sup> and 30<sup>th</sup> June 2022.
- 3.2 This consultation exercise followed a digital, mobile first, approach that sought to engage with people in Creswell to find out what they thought about living/working in Creswell, and their thoughts on the village centre and on the wider environment.



- 3.3 During this exercise, 97 responses were received, although not all respondents provided answers across all four subject areas. The results are summarised below.

#### Living in Creswell

- 1.1 Out of the 97 respondents that answered this section, the headlines from the 'Living in Creswell' section were as follows:
- on the whole people like living in Creswell with 80 respondents (82%) feeling 'satisfied, good or very good' and 18 respondents feeling 'bad or very bad' about living in the village. The majority felt 'satisfied'.
  - 69% of respondents liked living in Creswell because of the good access to green space and the countryside.
  - 53% of respondents said that poor public transport was an issue.
  - 51% of the respondents did not like the quality of the village centre.
  - 42% of the respondents cited a lack of good job opportunities.
  - in terms of types of new housing, 39% of respondents wanted 'new market housing', 30% wanted 'affordable homes' and 26% of the respondents wanted 'housing of all types for local people'.

- 68 individual comments were made covering a variety of issues. Common themes were fear of crime and anti-social behaviour.

### Working in Creswell

1.2 Out of the 11 respondents that answered this section, the headlines from the 'Working in Creswell' section were as follows:

- In terms of why respondents liked working in Creswell, 7 respondents (64%) said it was because they 'lived close to their job'.
- 6 of the respondents (55%) wanted 'more jobs in retail' and 3 wanted 'more jobs in leisure and entertainment'.
- In terms of what could be done to improve respondents working lives, 6 (55%) wanted 'more frequent public transport', 3 wanted 'more available car parking' and 2 respondents wanted 'better walking or cycling routes to work'.
- 7 individual comments were made across a range of concerns including a lack of jobs.

### Village Centre

1.3 Out of 28 respondents that answered this section, the headlines from the 'Village Centre' section were as follows:

- In terms of why respondents liked the village centre, 9 respondents (32%) said it was because they 'liked the variety of shops and services', 6 said it was because they 'liked the convenient bus stops.'



- In terms of why respondents disliked the village centre, 17 respondents (61%) 'disliked the poor choice of shops and services', and 17 'disliked the unpleasant shopping environment' and 16 respondents 'disliked the limited car parking'.



- in terms of what respondents thought could be done to improve the environment of the village centre, 14 (50%) said they wanted 'higher quality paving and street furniture' and 8 respondents said they wanted 'shops to have a better appearance'.
- in addition, 4 respondents (14%) wanted slower traffic and 2 wanted more trees in the village centre.
- 17 individual comments were made across a range of concerns including fear of crime and antisocial behaviour in the village centre and a lack of variety of shops.

### Green Spaces, Countryside, Climate Change and Nature Conservation

1.4 Out of the 28 respondents that answered this section, the headlines from the 'Green Spaces, Countryside Climate Change and Nature Conservation' section were as follows:

- 18 respondents (64%) liked the green spaces because they were 'good for recreational walking'; 9 thought they were 'good for kicking a ball around'; and 8 felt they were 'well maintained'.
- 17 respondents (61%) disliked the green spaces due to 'poor quality Equipped Play Areas'; 11 due to 'poor maintenance'; and 7 respondents (25%) chose 'other reasons.'



- in terms of the countryside footpaths, 13 of the respondents (46%) were aware of 'some' walking routes'; 10 (36%) were aware of 'lots of' walking routes.' 9 respondents (32%) thought that only 'some' countryside footpaths were of 'good quality'.

- in terms of cycle routes, 12 (43%) respondents were aware of 'some' cycle paths, 10 thought there were only a 'few' cycle paths. 3 respondents (11%) felt that only 'some' cycle routes were of a good quality.
- in terms of combatting the effects of climate change, 16 of respondents said 'more solar panels' were needed and 6 of respondents said 'more tree planting' was needed.
- 15 individual comments were made across a range of environment related concerns. Common themes were lack of maintenance of open ground, poor quality of footpaths, and the need for better cycle and bridleway provision.

### Summary

3.4 This new and more digital way of consulting people proved to be a success in that it saw greater levels of public involvement, increasing an awareness of local views. The responses from this Initial Consultation Exercise told us that:

- Creswell is a reasonable place to live, largely because it has good access to the countryside.



- In terms of types of new housing, most respondents wanted new market housing, followed by affordable homes.
- A lack of good job opportunities was one of the main reasons given for why people did not like living in Creswell.
- Poor quality public transport is an issue.
- Feelings about the village centre aired on the side of 'satisfied, to very bad'. None of the respondents felt 'very good' about it. An unpleasant shopping environment and a poor choice of shops and services were given as reasons.
- To improve the village centre, large proportions of respondents said that a higher quality of paving and street furniture was needed followed by the shops having a better appearance.



- Respondents felt that Creswell has good green spaces and countryside footpaths and cycle routes but that all could be improved.
- To combat the effects of climate change, a significant number of respondents said that 'more solar panels' and 'more tree planting' was needed.

3.5 The responses received to the initial consultation revealed that overall, people like living in Creswell. The most positive reason chosen was good access to green space and the countryside. However, when wider opinions were expressed, this revealed issues in Creswell with respect to anti-social behaviour. Respondents however praised the community spirit of the village.



- 3.6 In terms of employment, consultation responses revealed that Creswell is seen as a place with limited employment opportunities. Jobs within the village and access to jobs further afield are an issue. Some respondents stated a link with this and the anti-social behaviour issues.
- 3.7 Concern was expressed that the village centre looks run down and lacks variety, that it could benefit from more businesses including independent shops and better parking.
- 3.8 In contrast, respondents felt generally positive about the green spaces in Creswell and the access to the countryside around the village. From the responses received it is apparent that green spaces make an important contribution to the quality of life in Creswell and provide both social and environmental benefits. Maintaining and improving green spaces in and around the village was considered by many as a priority.

## Second Consultation: Community Views on Growth

- 3.9 The second stage of consultation focussed on masterplanning and sought to find out what the people of Creswell and other stakeholders thought any potential growth in Creswell could look like.



- 3.10 To enable this public engagement to take place, the Council worked in partnership with The Future Fox, a PropTech digital planning company, to develop a new, innovative Masterplanning digital planning tool. This work was funded using money from the Government's PropTech Innovation Fund.
- 3.11 The digital planning tool helped participants explore how large development sites are designed, what features or components they could include and to appreciate the trade-offs between elements that generate income for the developer such as housing/employment developments and those that cost money such as infrastructure.
- 3.12 One of the sites around Creswell that had been promoted to the Council through the Land Availability Assessment 'Call for Sites', namely the area of land to the north-west of Creswell, was chosen as the 'blank canvas' for the masterplanning exercise.





- 3.13 Respondents had a wide range of land uses that they could add to their Masterplan. They could add as many or as few land-use tiles as they wanted. The tool also included a financial element so that respondents could explore how some land uses were 'Income Uses' whereas others, namely 'Infrastructure Uses', have an overall cost to being delivered. Respondents were encouraged to 'balance the books' and so explore the trade-offs when planning for new development. This financial element was included to give a sense of realism to the creation of the masterplan and to make explicit the connection between income generating growth and the cost of infrastructure provision.
- 3.14 Over 725 people used the Masterplanning digital planning tool. In all 127 formal submissions were received showing the types of land uses that people thought any growth in Creswell should include. The table below shows the total number of tiles placed by land use type from all 127 submissions.

<b>Income Uses</b>	<b>Number</b>	<b>Infrastructure Uses</b>	<b>Number</b>
Market Housing	163	Roads	206
Shopping Area	83	Woodland	149
Offices	72	Nature Site	79
IT workplaces	71	Green Space	77
Social Housing	67	Solar / Wind Farm	62
Eco Homes	63	GP Surgery	59
<b>Total Income Uses</b>	<b>519</b>	Leisure	56
		Western Park	38
		Sport Playing Pitch	37
		Skills College	30
		Primary School	29
		Recycling Centre	29
		<b>Total Infrastructure Uses</b>	<b>851</b>

- 3.15 In participating in the masterplan consultation, some respondents achieved the balance of infrastructure cost with the necessary associated growth, whilst others did not. Not all respondents chose to 'balance the books' with respect to infrastructure and growth. In those cases, the Masterplan submissions primarily comprised only environment related infrastructure, effectively stating a wish for 'no growth'. In all cases the respondents' choices have enabled the Council to better understand the community's priorities.
- 3.16 In terms of income generating land uses, as can be seen from the above table, Market Housing was the most frequently chosen. Employment-based items (Offices and IT Workplaces combined) were the second most popular income generating uses after housing reflecting the importance people placed on employment in creating balanced growth. In terms of infrastructure, 'Woodland' was most significant in its popularity, followed by 'Nature Site' and 'Green Space'. In this analysis, the choice of Roads as the top Infrastructure Use, is considered not to

reflect a preference of those that undertook the exercise, more a reflection of the understanding of roads as being necessary.

- 3.17 To accompany the masterplan submissions, a range of written responses were received.
- 3.18 Those respondents that were against further growth in Creswell, were generally of the view that the residential growth to date in the village has not led to improved/increased levels of infrastructure provision.
- 3.19 Respondents that were more ambivalent about growth often mentioned that it had a negative impact on the natural environment of Creswell. A view that was reflected in the masterplan submissions with natural environment land uses featuring highly on infrastructure priorities.



- 3.20 Where respondents supported growth in principle, they had the same concerns as those that were against growth, that growth had to translate into necessary infrastructure provision and environmental improvements. Effectively a balance of growth and nature.

### **Feedback: Community Event**

- 3.21 The third public engagement was to provide feedback to participants and local stakeholders. In this, the Council worked in partnership with Digital Urban, a company that creates 3 dimensional digital recreations of places and virtual reality experiences.

3.22 The responses to the masterplan exercise were translated by Digital Urban into a virtual reality version of Creswell. The digitised Creswell showed the consolidation of recent and already planned growth together with potential new employment uses. As well as recent and proposed new housing, the range of recent and planned infrastructure was also shown, including the health centre. The environmental improvement project, Bolsover Community Woodlands was shown with the trees animated as growing over time.



3.23 On 27<sup>th</sup> July 2023, 109 people participated in the virtual reality balloon ride over Creswell at the Heritage and Wellbeing Centre. The feedback from the event focused on the usefulness of using virtual reality as a way of understanding Creswell in a different way. The use of virtual reality was well received by the attendees and anecdotally was found to help bring the housing, employment, and infrastructure proposals to life. The event brought forward a strong feeling of community pride.

3.24 The feedback from all three stages of public engagement has informed the choice of potential options in taking forward the preparation of a Growth Plan for Creswell.



## 4) Growth Plan Options

### Views on Growth

- 4.1 A range of views were expressed about growth in Creswell. There are strong concerns that further residential growth would be at a cost to the local community. A cost that is borne out in the pressure that it exerts on social infrastructure such as healthcare and education, along with the impact on green infrastructure, with the loss of countryside and the resultant impact on nature.
- 4.2 The approach to a Growth Plan Options for Creswell must have regard to these concerns. The understanding and appreciation of what comprises growth, particularly in the way of what may benefit a community, should not be limited. Creswell can grow in many ways, within its community, across its business base and in the richness of its green environment.
- 4.3 Consistent across the responses to both consultations is that employment growth should be part of Creswell's future. Current employment opportunities in Creswell are considered poor in both a lack of choice and the number of jobs.
- 4.4 Similarly, the village centre is considered poor by some in both the choice of shops and the quality of the environment. However, the choice of shops is largely a reflection on the retail market and to a degree outside of the influence of the Council. In terms of its visual quality, the linear nature of the village centre presents limited opportunities for public realm improvements to create a shared public open space.



- 4.5 There are however potential opportunities for village centre enhancement from bringing nature into the centre through tree planting and in the positive environmental and economic impact of bringing vacant buildings back in to use.

4.6 What has come out through the consultation responses is the need for increasing opportunities for social participation in Creswell. In addition to venues such as the Events Centre and Creswell Heritage and Wellbeing Centre, this could be achieved through the creation of more workplaces in the village and the informal social opportunities provided by outside space.

4.7 Based on the consultation responses received and the concerns raised, the following three potential options are put forward for a Growth Plan for Creswell.

**Option A:** Consolidation of already committed housing growth.

**Option B:** Consolidation of already committed housing growth but with additional employment growth.

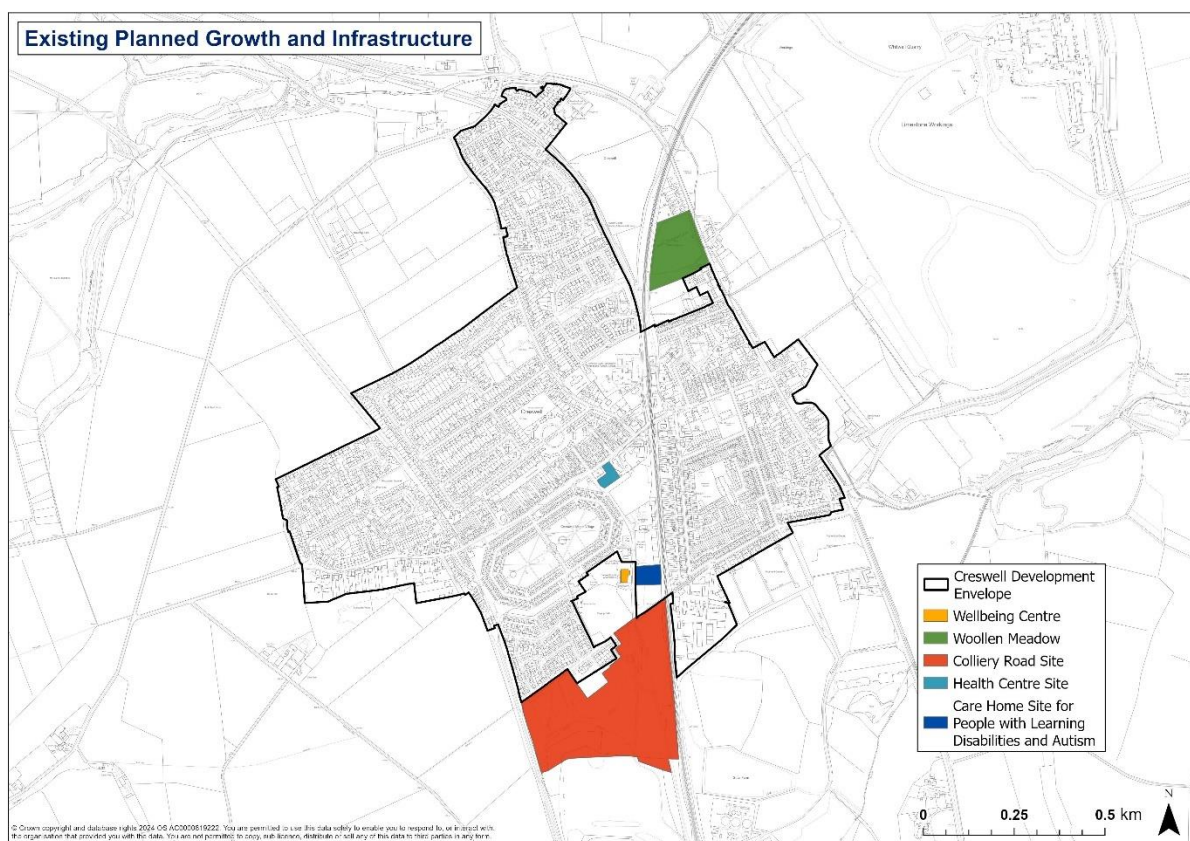
**Option C:** Additional housing and employment growth.

4.8 The following table summarises these three options.

	Description	Potential levels of growth	Comments
<b>Option A</b>	Consolidation of planned housing growth	300 planned for houses at Colliery Road.	This level of growth is already provided for on committed windfall sites.
<b>Option B</b>	Consolidation of planned housing growth alongside additional employment growth within existing buildings	300 planned for houses at Colliery Road, with small scale employment growth.	Low level of employment growth focusing on the reuse of existing buildings and existing facilities in the village.
<b>Option C</b>	Additional housing growth alongside additional employment growth	300 planned for houses together with additional residential and employment development. The potential housing sites in Creswell can accommodate from 35 to 1,077 new houses. Additional employment growth on edge of village location(s).	A level of housing growth that would bring forward new infrastructure. Employment growth that would include purpose built new development.

## Option A – Consolidation of already committed growth

- 4.9 This growth option would comprise the already committed growth from the windfall site of around 300 houses on the land at the former Creswell Colliery (highlighted in red on the plan below) and the proposed Care Home development on Colliery Road. Alongside this committed growth, under this option the recently delivered S106 infrastructure in Creswell, including the Heritage and Wellbeing Centre and the biodiversity improvements to Wollen Meadows would be established and the proposed Health Centre developed. In response to the expressed views about green infrastructure in and around the village, a Community Green Strategy is proposed under this Option.



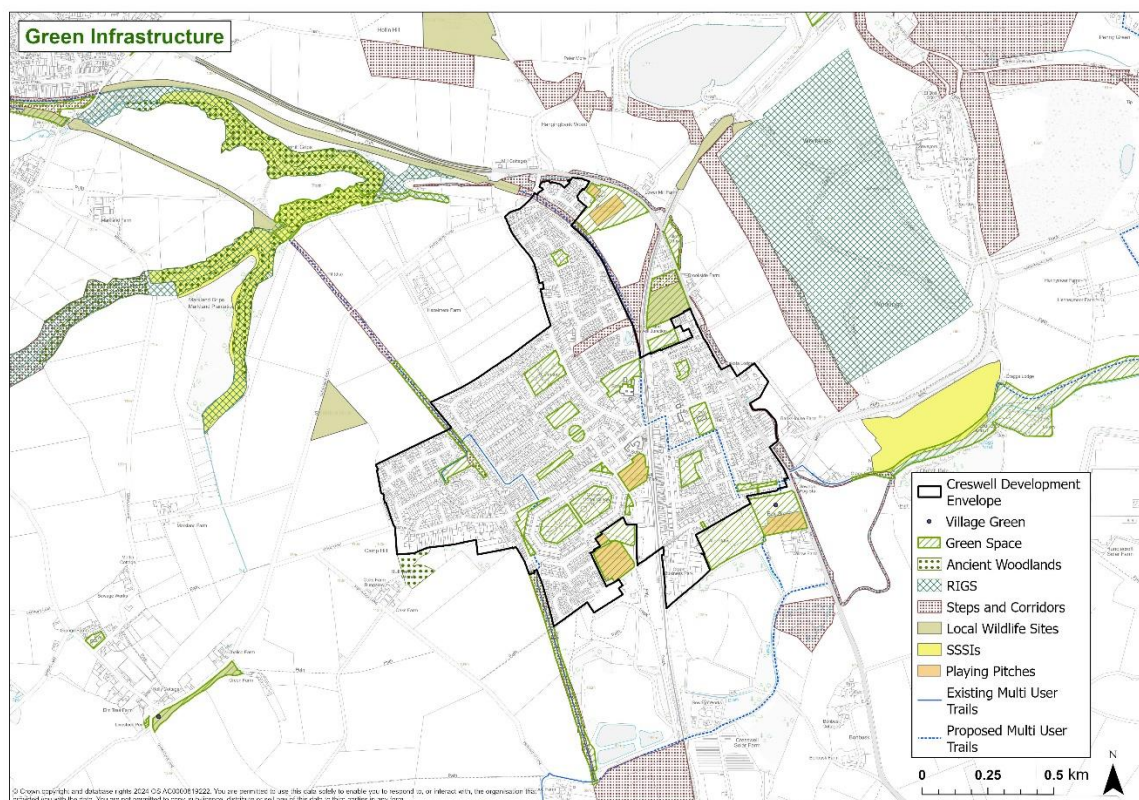
### Community Green Strategy and Delivery Plan

- 4.10 The initial consultation on the Growth Plan revealed that a significant number of respondents liked living in Creswell because of the good access to green space and the countryside. This was further reinforced in responses to the second consultation where nearly 50% of the infrastructure icons selected for Creswell's growth were either woodland, nature sites or green spaces. In response to the consultation responses, alongside the consolidation of existing planned growth, Option A would include a Community Green Strategy for Creswell.





- 4.11 The Strategy would be built upon the wealth of green infrastructure that is in and around Creswell. This includes amenity open spaces, recreation sites, wildlife areas, woodland, the nearby Creswell Crags, and the trails and footpaths along which the wider countryside can be accessed.



- 4.12 The Strategy would prioritise maintenance as well as the potential for the enhancement of existing open spaces in and around the village.
- 4.13 Another key aim of the Strategy would be to explore the opportunities for increasing green infrastructure within the village and strengthening green links to the wider countryside. Acknowledging the important contribution of green spaces and nature to the quality of life in Creswell, a community centred approach will go hand in hand



with improving ecological networks, addressing the health of both people and nature.

- 4.14 The focus of the Strategy would be Environmental Projects based in the village and surrounding area. The Delivery Plan would look at the different ways of delivering these projects on the ground in terms of the potential for community participation, the involvement of partnership organisations and the availability of funding to make things happen. The purpose of the strategy would be to have a list of Projects that are 'ready to go'. As key to this, the opportunities provided by working in partnership with local landowners, businesses, and organisations to open up funding opportunities will be explored.



- 4.15 The Strategy will be a key document in supporting bids for funding to a range of bodies/organisations, national and local. It would also inform requests for S106 developer contributions from any future growth in Creswell.
- 4.16 Delivering the projects on the ground will provide an opportunity for a range of people from within the community of Creswell and Elmtun to come together. In this, the Strategy will build on the Community Woodland Project, a district-wide project within which Creswell is the location of the flagship Lark Rise Community Woodland on Fox Green and the former spoil heap. The project works with communities to increase, improve, and link up Bolsover District's trees, woodlands, and hedges with the aim to benefit wildlife and to help people get more from their green spaces.
- 4.17 The community participation component of the Community Green Strategy will take forward and expand on the progress already made by the Community Woodland Project to give everyone the opportunity to improve their physical and mental health through access to high quality local treescapes and related community activities. Its environmental projects will complement that of the woodland planting. The aim is



for the quality of the green infrastructure and linkages in and around Creswell to be enhanced, thereby increasing the contribution of green infrastructure to the quality of life for the residents of Creswell into the future.



- 4.18 The Strategy would also help to take forward the aims of the Council's Local Nature Recovery Action Plan (2022) as it relates to Creswell. In this there are opportunities from potential future growth in respect of developer's contributions towards Biodiversity Net Gain, with the protection and restoration of local wildlife, and opportunities to re-introduce species lost from the local countryside.

### **Option B – Consolidation of already committed growth with additional employment growth within existing buildings and cafes spaces.**

- 4.19 The focus of Option B is economic growth, alongside the consolidation of recent and planned housing and infrastructure and the Community Green Strategy as outlined under Option A.
- 4.20 This approach is based on using the built assets that Creswell already has, in the potential of existing buildings and businesses in the village to provide employment space for those working from home as self-employed or as hybrid workers with shared time between home working and office working.
- 4.21 Employment growth under this option would comprise desk-based workspaces in underused buildings as Shared Rural Workspaces as well as promoting table-based workspaces in the cafés and other existing venues in the village.

#### Shared Rural Workspaces

- 4.22 The underused buildings in Creswell represent a potential asset to the village. Some of these buildings provide space that can potentially accommodate a range of employment uses. One such use is Shared Rural Workspace, an initiative that has

developed in a large number of rural areas across the country, more-so since the pandemic introduced hybrid working across a range of office-based employment.



- 4.23 Unlike serviced offices, shared rural workspaces comprise a range of desks/tables and seating that occupy a largely open space within a building. As such they allow for collaboration, knowledge sharing and chance meeting, whilst also enabling those that use it to be able to work privately. Such workspaces cater for hybrid workers, that is to say those office-based workers that also work from home for some of the week. It also caters for freelancers that are otherwise based at home. As well as responding to the social needs of home-workers and freelancers, Shared Rural Workspace can address the sometimes-uneven provision of Information and Communications Technology (ICT) in villages, by providing ICT to a high specification.
- 4.24 The interior of the shared workspace building is key. Critically, it comprises a range of spaces, from comfy, cafe-style areas to reception areas where people can grab a seat and work in a way that suits them. Through the use of modular office furniture both collaborative and private spaces can be created. In this way the interior of shared workspace buildings can provide something for everyone. The environment of the workspace is homely in the way of being warm and welcoming. The approach is comfortable furniture, ambient lighting, plants, rugs, and soft furnishings to create comfortable and fluid spaces that help creative thinking.
- 4.25 In Creswell, the former Midland Railway station building and surrounding area are underused. The building and site could potentially accommodate such shared workspaces. The high architectural quality of the building and proximity of the Robin Hood rail connection from Creswell to neighbouring towns and cities provides an ideal location for a high-quality accessible working environment. There have been various studies undertaken investigating the former Station's potential for employment uses. Under this growth option, these previous studies would provide

the starting point to take forward the investigation of its potential for shared rural workspaces.

- 4.26 In the same way, traditional agricultural buildings also present an underused resource in respect of the potential to accommodate shared workspace. As well as the opportunity to combine high quality technology and a welcoming community workspace in an otherwise redundant rural building, their particular contribution to the provision of shared rural workspaces is the environment offered by an agricultural setting, providing the ideal relaxed location for creative thinking and work.



- 4.27 Shared rural workspaces in the reuse of agricultural buildings provide high quality office space with the emphasis on a natural landscape setting and access to the countryside. The setting can help contribute to a relaxed ambiance for networking and social interaction, a place to work, network and meet clients.
- 4.28 In Creswell, there are a number of 19<sup>th</sup> century farmsteads located around the historic core of the village. The high-quality landscape and network of footpaths from the farmstead's out into the open countryside provides the ideal setting for the high-quality working environment that characterises shared rural workspaces.
- 4.29 It is possible to consider that the provision of shared rural workspace could help strengthen the community of Creswell, in that those who may presently work from home for some or all of the week, are able meet with others. In an environment to share business ideas and foster enterprise it would also provide the opportunity for business growth. In combining high quality technology and a welcoming community workspace, shared rural workspaces could also help support and grow the digital, knowledge-based, and creative economy within Creswell.



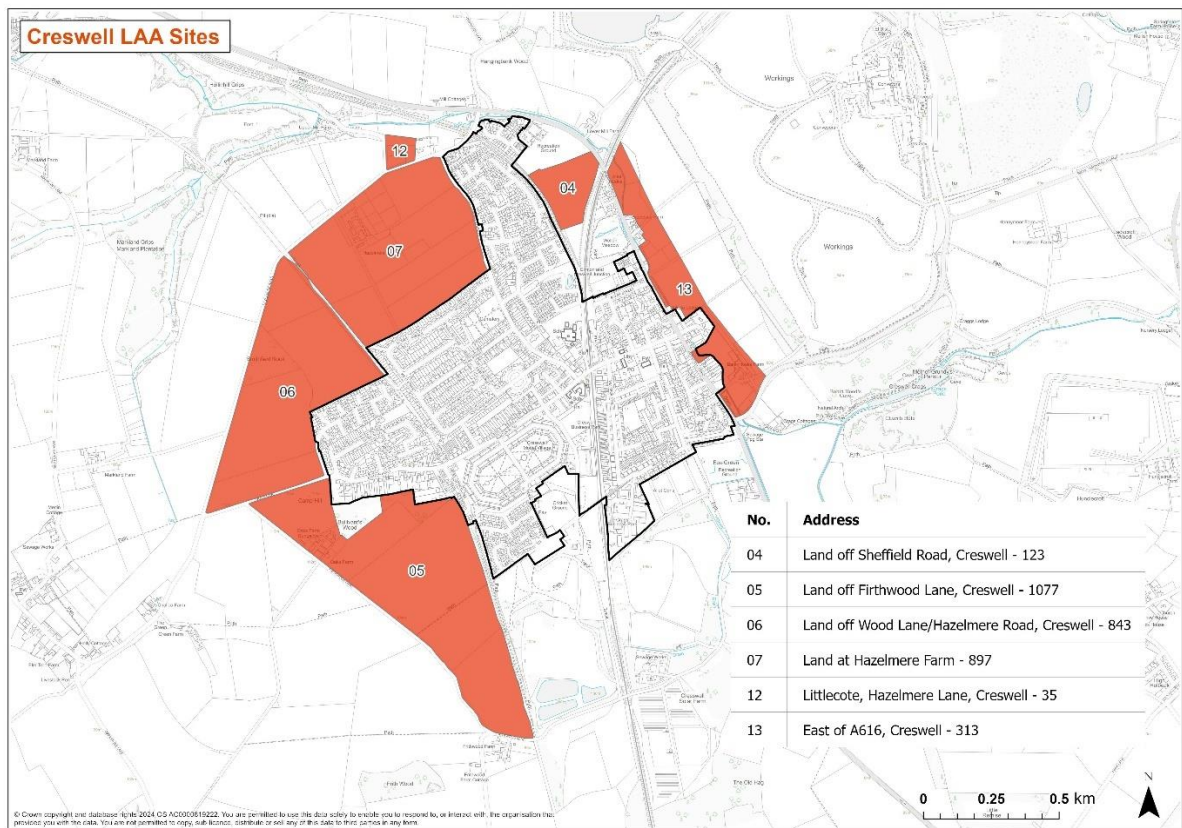
### Co-working Cafés

- 4.30 Creswell has a range of cafés, either stand alone or as part of a community space, that could potentially provide co-working venues. A co-working cafe combines a traditional cafe with features of a shared workspace where people can work in a relaxed and social environment while enjoying the typical cafe amenities, such as coffee, snacks, and comfortable seating.
- 4.31 Basic requirements for a co-working café would comprise high-speed internet, printing services, power outlets, and office supplies to support productivity. If space allows, communal tables, or private meeting rooms possibly on upper floors where people can work in a collaborative setting. With the use of first floor rooms cafes could offer hot desking, meeting rooms and private offices which can be rented out for a day or on a more long-term basis. If hosting a meeting with a team or looking to set up a freelancer group there would need to be a big enough table.
- 4.32 As with shared workspace, co-working cafes offer an informal place to meet, network and potentially collaborate on projects. However, although co-working in a cafe provides the opportunity to socialise, it doesn't have the consistency and range of people to be found in a shared workspace. Co-working cafes typically offer more flexibility in terms of usage however, as individuals can drop in for a few hours or a day at a time and without having to pay a fee.
- 4.33 The size of the café is fundamental to it working as both a café and a co-working space. It may not be viable for smaller cafés to give up tables to patrons who were occupying a table for a long time without buying food. Similarly for a co-worker the ambient noise in a small café may be too distracting for working. During the week a cafe could have a dedicated space for working, which could minimise such disruption.
- 4.34 The dilemma of how often a co-worker using a café needs to order drink/food to be welcome could be overcome by a membership scheme that would also offer discounts on food and drinks or the offer of 'unlimited coffee', and (if available on upper floors) hiring meeting rooms.
- 4.35 The different ways of delivering workspace in Creswell would be explored in a Creswell Workspace Strategy. This would be a multi-agency initiative with a range of Council departments working in partnership with local property owners, businesses, and organisations.

### **Option C – Additional housing and employment growth**

- 4.36 The focus of Option C is to promote further housing growth alongside economic growth. Under this Option, the Community Green Strategy would be expanded to include the consideration of green infrastructure and biodiversity as it relates development sites.
- 4.37 Through this option the appropriate level of sustainable housing growth would be explored. There are several potential sites identified in the Council's Land Availability Assessment (LAA).

- 4.38 The Council's Land Availability Assessment (LAA) is an assessment of the suitability and deliverability of sites that are promoted by landowners. Once sites are assessed they are included on this register of sites potentially available for potential future growth.
- 4.39 The LAA sites for Creswell are set out on the plan below along with the number of new houses that these sites could potentially deliver. The housing figures are based on a standard density of 30 dwellings per hectare.



- 4.40 All Creswell LAA sites would need to bring forward developer contributions towards infrastructure which would be secured by S106 Agreement. Section 106 contributions fall within three main types: Green, Social and Physical infrastructure. Within these, contributions are most often sought towards education, sports and outdoor recreation, open space, affordable housing, highways, health, and art infrastructure. The level of contribution sought from each site against infrastructure is dependent on the numbers of houses approved.
- 4.41 The impact of further growth upon the natural environment of Creswell was raised in a number of consultation responses including from those who were not against growth. This is addressed in national legislation embodied by the Environment Act 2021 which requires that all new developments now contribute towards preserving biodiversity through creating or enhancing habitats. The mandatory requirement under the Act is a 10% uplift in biodiversity, known as Biodiversity Net Gain (BNG).

- 4.42 One of the main principles of BNG is the importance of the balance between the need for development and the natural environment. This is in acknowledgement that development often results in a significant impact on or loss of nature and habitat. BNG requires the developer to either incorporate additional habitats in the development or mitigate the loss by providing it elsewhere. The requirements under the Environment Act for BNG took effect in January 2024 for large sites and April 2024 for small sites.

#### Shared Rural Workspace

- 4.43 As well as residential growth this option would investigate the potential for further additional employment growth. Taking forward the concept of Shared Rural Workspace this option would investigate the potential for a bespoke workspace development if there was proven to be sufficient market demand. This could be located on land in the open countryside in close proximity to the village.



- 4.44 To reflect the aesthetic of the countryside location and the concept, the architecture of the buildings would reflect that of a farmstead character, of single storey buildings in a courtyard layout. The interior spaces would similarly reflect the open character of agricultural buildings. This would enable flexibility in how the spaces are used to allow for the collaboration, knowledge sharing and chance meeting that is characteristic of this approach to workplaces.
- 4.45 There are examples of such purpose-built workspaces elsewhere in the country. Such a development may easily be assimilated into the countryside around Creswell on one of the LAA sites.
- 4.46 As with the creation of shared workspace through building conversion under Option B, a bespoke development under this option would also provide the opportunity for business growth in Creswell. In combining high quality technology and a welcoming community workspace, new shared rural workspaces could also help support and grow the digital, knowledge-based, and creative economy within the village.





- 4.47 Due to the relatively large number of potential site options available to accommodate any amount of potential additional growth under Option C, comments on the desirability of the different site are invited as part of this Growth Plan Consultation.

## Summary Conclusion

- 4.48 Based on the potential identified options and considering the feedback from the consultation exercises, the following are the broad advantages and disadvantages for Options A, B and C.

Options	Advantages	Disadvantages
<p><b>Option A: Consolidation of already committed growth.</b></p> <p>This option would recognise that Creswell has committed growth through windfall sites of around 300 houses. It would focus on pursuing the delivery of existing infrastructure commitments with the Health Centre and other Section 106 commitments brought forward with what is in the S106 pipeline with regard to schools and open space / sports / affordable housing. Included in this would be a Green Space Strategy for the village.</p>	<p>Allows the existing and planned for infrastructure provision to catch up with committed growth.</p> <p>Protects the countryside.</p>	<p>Would not support job growth in village.</p> <p>Would not support longer term residential growth in the village.</p> <p>Would not secure potential new infrastructure.</p>



<p><b>Option B: Consolidation of already committed growth with additional employment growth.</b></p> <p>This option would also recognise that Creswell has committed growth through windfall sites and focus on pursuing the delivery of existing infrastructure commitments as well as putting together a Green Space Strategy for the village.</p> <p>It would plan for bringing forward new employment opportunities for the community in the form of shared rural workspace in the reuse of the former railway station/historic farmsteads and co-working spaces in existing café spaces.</p>	<p>Allows the infrastructure provision to catch up with committed growth.</p> <p>Protects the countryside.</p> <p>Plans for new job growth in village to help diversify the local economy.</p> <p>Encourages the reuse of historic buildings.</p>	<p>Would not support longer term residential growth in the village.</p>
<p><b>Option C: Pursue additional housing and employment growth.</b></p> <p>This option would plan for an amount of additional housing growth on land currently in the countryside and plan for bringing forward shared workspace in a purpose-built development.</p>	<p>Plans for new job growth in village to help diversify the economy.</p> <p>Plans for longer term residential growth.</p> <p>Would be able to deliver investment in infrastructure improvements.</p>	<p>May put additional pressure on infrastructure capacity in the short-term.</p> <p>Takes land from the countryside.</p>

5) Your Views on Growth

4.49 This consultation is your opportunity to respond to these Options. What follows are a number of questions, the answers to which will help to inform the chosen Option for a Growth Plan for Creswell.

<b>Growth Options</b>
<b>Q1. Please rate the potential Growth Options from 1 to 3 with 1 being the most favourable?</b>
<b>Option A: Consolidation of existing growth.....</b>
<b>Option B: Consolidation of existing growth with additional employment growth.....</b>
<b>Option C: Pursue additional housing and employment growth.....</b>
<b>None of the above.....</b>
<b>Please add anything further below</b> ..... ..... ..... ..... .....

4.50 The following questions relate to each of the above Options A, B and C. It would be helpful to receive responses to all of the questions notwithstanding your preferred option, however responses to those questions under the Option that you have chosen as the most favourable would be equally appreciated.

Questions applicable to all Options:

Green Space and Recreation				
Q2. How often do you use the following open spaces in Creswell?				
	Weekly	Monthly	Yearly	Never
East Street Recreation Ground				
Coronation Garden				
Land behind the cemetery				
Model Village Green				
Fox Green				
Former Markland School playing fields off Blossom Walk				
Play area off Chestnut Drive				
Welbeck Street Recreation Ground				
Wood Avenue Recreation Ground				
Wollen Meadow				

If never or rarely, is there something that could be done that would encourage you?

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## Footpaths and Bridleways

**Q9. How frequently do you take walks out of the village along the footpaths and bridleways?**

	Weekly	Monthly	Yearly	Never
The Elmton Walk (between Creswell and Elmton)				
The Archaeological Way (between The Craggs and Pleasley)				
Clowne Branch Line Greenway (Creswell to Poolsbrook Country Park)				
Creswell Railway (North) – short section of greenway from Wood Lane / West Street towards Hazelmere Road				
Frithwood Trail (Model Village to Frithwood Lane)				
Frithwood Lane bridleway				
Craggs Road / Bridleway to Creswell Craggs				
Robin Hood Way to Welbeck and beyond (e.g. Clumber Park)				
Path around Whitwell Quarry				

**If never or rarely, is there something that could be done that would encourage you?**

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## Landscape and Nature

**Q4. What is it about the landscape and nature in and around Creswell that you appreciate the most?**

**Please rate from 1-6, with 1 being the most important.**

- The easy access to the wider countryside...
- The opportunity to have space away from the 'day to day'...
- Woodland...
- Views....
- Sounds of nature....
- Health benefits....

**Please add anything further below**

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## Trees

**Q5. Where do you think planting more trees in the village should be focused?**

**Please rate from 1-5, with 1 being the most important.**

- Along Elmton Road and Sheffield Road....
- In existing play areas/open spaces....
- Community woodlands such as Larks Wood....
- As part of new housing developments.....
- Existing private gardens.....

**Please add anything further below**

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## Infrastructure

### Q6. What are your main concerns regarding infrastructure in Creswell

Please rate from 1-5, with 1 being of most concern

- Number of available places in schools....
- Waiting time to see a doctor....
- Distance to travel for college/higher education.....
- Quality of sports pitches.....
- Quality of public open spaces.....
- Other (please state).....

Please add anything further below

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### Questions in relation to Options B and C:

4.51 The following questions relate to employment growth.

## Development for Economic Growth

### Q7. What type of accommodation for employment do you think would benefit Creswell most?

New purpose-built workspaces.....Y/N  
Workspaces in converted historic buildings.....Y/N  
New purpose-built light industrial workspaces.....Y/N  
Other (please state).....

Please add anything further below

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## Types of Economic Growth

**Q8. What type of employment would most benefit Creswell?**

**Please rate from 1-5, with 1 being the most needed.**

- Small start-up businesses.....
- Practical skills training centres.....
- Social Enterprise initiatives.....
- Business growth for existing businesses....
- Other.....

**Please add anything further below**

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## Hybrid working

**Q9. Do you or does someone you know (please specify) work from home for some of the week?**

Yes.....(who)

No

**If yes, would the availability of a desk in a shared workspace in the village be of interest?**

Yes/No

**If yes, where would the preferred space be?**

- In a purpose-built modern building Y/N
- In a converted historic building Y/N
- In a local café/community venue Y/N
- Other.....

**...and how would the workspace be used?**

- On an informal drop-in basis Y/N
- As a pre-booked space arranged on an as-and-when basis Y/N
- A dedicated space on certain days of the week Y/N
- Other.....

**Please add anything further below**

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**Questions in relation to Option C:**

4.52 The following questions relate to residential growth.

<p><b>Market Housing</b></p> <p><b>Q10. In previous consultations, Market Housing was chosen as the most popular. What type of market housing do you think Creswell needs?</b></p> <p><b>Please rate from 1-5, with 1 being the most important.</b></p> <ul style="list-style-type: none"> <li>• Bungalows...</li> <li>• 1-bedroom flats...</li> <li>• 2-bedroom houses...</li> <li>• + bedroom houses...</li> <li>• Building plots for self-build houses...</li> </ul> <p><b>Please add anything further below</b></p> <p>.....</p> <p>.....</p> <p>.....</p> <p>.....</p> <p>.....</p>
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<p><b>Social Housing</b></p> <p><b>Q11. In terms of Social Housing, what do you think is needed in Creswell?</b></p> <p><b>Please rate from 1-5, with 1 being the most needed.</b></p> <ul style="list-style-type: none"> <li>• Social rent family homes.....</li> <li>• Social rent 1 person accommodation.....</li> <li>• Warden controlled houses....</li> <li>• Older persons bungalows.....</li> <li>• Any other.....</li> </ul> <p><b>Please add anything further below</b></p> <p>.....</p> <p>.....</p> <p>.....</p> <p>.....</p> <p>.....</p>
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## Residential Townscape

**Q12. What would make new housing developments in Creswell better places to live?**

**Please rate from 1-7, with 1 having the most impact.**

- Better choice of house types.....
- More/better open spaces.....
- A lower density of development...
- Higher quality surface materials, driveways/paths/roads...
- Boundaries to front gardens, fences/walls/hedges...
- Street trees...
- Footpath links to the surrounding countryside.....

**Please add anything further below**

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4.53 The following are the individual sites that are being promoted for residential development in Creswell. It would be helpful to receive any views you have on the potential development of each site.

### Site Reference: 04 Land Off Sheffield Road

Development potential: 123 dwellings



Please express your views below

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**Site Reference: 05 Land Off Frithwood Lane**

Development potential: 1077 dwellings



Please express your views below

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**Site Reference: 06 Land Off Wood Lane and Hazelmere Road**  
Development potential: 843 dwellings



**Please express your views below**

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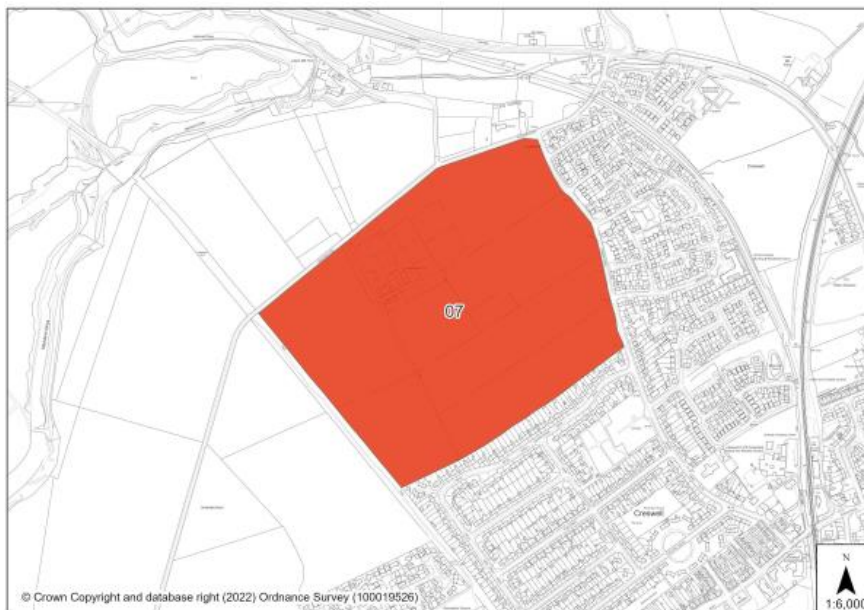
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**Site Reference: 07 Land at Hazelmere Farm**  
Development potential: 897 dwellings



Please express your views below

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**Site Reference: 12 Littlecote Hazelmere Lane**

Development potential: 35 dwellings



Please express your views below

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**Site Reference: 13 Sheffield Road**

Development potential: 313 dwellings



**Please express your views below**

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## **6) Next stages and the Growth Plan preparation timetable**

- 6.1 The purpose of this document is to set out the Council's identified Growth Plan Options and to seek feedback on how Creswell's green spaces, footpaths and cycle paths can be improved, if the proposed workspace approach to employment addresses the issues raised and views on the potential development of residential sites.
- 6.2 The Council will consider the responses on this Consultation on Creswell Growth Plan Options before drafting the Growth Plan and approving its final version for adoption.
- 6.3 In accordance with the adopted Local Development Scheme (as amended), the Council will seek to adopt its final Creswell Growth Plan by December 2024.



## **Bolsover District Council**

### **Meeting of the Planning Committee on 19<sup>th</sup> June 2024**

### **Quarterly Update on Section 106 Agreement Monitoring**

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

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

## **PURPOSE / SUMMARY OF REPORT**

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

## **REPORT DETAILS**

### **1. Background**

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

- 1.4 To manage and mitigate this serious risk the Council has approved a procedure for recording and monitoring Section 106 Agreements. The most recent version of this was approved by Planning Committee in September 2022 and it governs the work of the Council's cross-departmental Section 106 Monitoring Group.
- 1.5 Following the quarterly Section 106 Monitoring Group meeting, officers provide a progress report to the Planning Committee in respect of the monitoring of Section 106 Agreements. In line with the approved Procedure this progress report is required to highlight any sums at risk of clawback that need spending within 24 months, as well as a summary of the sums being held by infrastructure type that are in years three, four and five. Accordingly, this report is the quarterly progress report following the meeting of the Section 106 Monitoring Group held on 18<sup>th</sup> April 2024.

## 2. Details of Proposal or Information

- 2.1 The Council's Section 106 Agreement Monitoring Procedure requires sums within 24 months of their deadline to be highlighted for Member's attention.
- 2.2 Members will recall that in the report provided in March, seven sums were identified as being within their 24-month deadline as of 18<sup>th</sup> January 2024.
- 2.3 As of the Monitoring Group meeting on 18<sup>th</sup> April 2024 there are eight sums within their 24-month deadlines (details below).

### **Spend Date within 12 months (by 18<sup>th</sup> April 2024)**

Action Plan	Finance Spreadsheet	Site	Infrastructure and amount	Amount remaining	Date
<b>Item 9</b>	Line 85	Rosewood Lodge Farm South Normanton	Outdoor Sport (£43,548.85)	£360.85  <b>£20,100 spent during quarter. Residual sum to be reallocated</b>	21.05.24
<b>Item 10</b>	Line 85	Rosewood Lodge Farm South Normanton	Health (£80,141.59)	£0  <b>Full £80,141.59 transferred to ICB</b>	21.05.24
<b>Item 17</b>	Line 83	Mansfield Road, Tibshelf	Outdoor Sport (£164,153)	£163,003  <b>No change</b>	20.12.24
<b>Item 19</b>	Line 89	Oxcroft Lane, Bolsover	Outdoor Sport (£125,336.69)	£123,614.19	10.03.25

				<b>£144.36</b> spent during quarter.	
<b>Item 21</b>	Line 91	High Ash Farm, Clowne	Open Space (£10,184.39)	£10,184.39  <b>No change</b>	19.3.25
<b>Item 22</b>	Line 88	Station Road, Langwith Junction	Health (£16,000)	£16,000  <b>No change</b>	30.1.25

#### **Spend Date within 2 years (by 18<sup>th</sup> April 2025)**

<b>Action Plan</b>	<b>Finance Spreadsheet</b>	<b>Site</b>	<b>Infrastructure and amount</b>	<b>Amount remaining</b>	<b>Date</b>
Item 4	Line 84	Spa Croft, Tibshelf	Art (£10,176.20)	£10,176.20  <b>No change</b>	31.3.26
Item 21	Line 71	Creswell Road, Clowne	Outdoor Sport (£26,207)	£26,207  <b>No change</b>	3.3.26

- 2.4 As can be seen from the tables above, the two allocations from the Rosewood Farm development at South Normanton have now been spent or transferred. From this development there is a residual amount from the allocation for Outdoor Sport, which is to be reallocated to contribute towards an Open Space project in South Normanton.
- 2.5 The other allocation that was within the 12 months spending deadline as reported in March was for Outdoor Sport from the Mansfield Road development at Tibshelf. It is anticipated that this contribution will be spent this summer.
- 2.6 Since the last quarterly update report, three further allocations have come within the 12-month spending deadline. They comprise the allocation for Health from the development at Langwith Junction, the allocation for Open Space from the development at High Ash Farm at Clowne and the allocation for Outdoor Sport from the Oxcroft Lane development at Bolsover. The latter, which is to fund a Skatepark at Hornscroft Park has been further reduced, with the spending of £144.36 on an additional planning fee to upgrade the original outline application to a full application. To date a total of £1,866.86 has been spent from this allocation. There has been no change in the spending of the other two allocations.
- 2.7 Since the March meeting of the Planning Committee, two new allocations have come within the two-year spending threshold, the allocation for Outdoor Sport from the Creswell Road Clowne development and the allocation for Art from the development at Spa Croft Tibshelf. To date, there has been no spend against these allocations.

- 2.8 The updates for the remaining items above as recorded at the Section 106 Monitoring Group are set out below for Member's information.

(DMLCM = Development Management and Land Charges Manager; CADO = Community Arts Development Officer; LSPO = Leisure Special Projects Officer; PPPO = Principal Planning Policy Officer; CLE = Chartered Legal Executive; SDLPPSG&H = Senior Devolution Lead for Planning Policy, Strategic Growth and Housing; PPDM = Principal Planner Development Management; PA= Principal Accountant; HOL = Head of Leisure; DMCO = Development Management Case Officer; P&SM = Partnership and Strategy Manager)

Item	Development site, relevant S106 sum and spend by date	Responsible officer
<b>17</b>	<p><b>Mansfield Road, Tibshelf – Outdoor Sport</b>  <b>£164,153 (20.12.24)</b></p> <p><u>Action from previous quarterly meeting</u>  LSPO to provide monthly updates on progress to PPPO.</p> <p><u>Updates since the last meeting</u>  Works out to tender with a return date of 8 March with evaluation to be carried out and contract awarded 20 March following parish council meeting. Tender specification amended, with the skate park removed to be replaced by a small MUGA.</p> <p><u>Meeting update</u>  Contractor appointed. Met on site 17<sup>th</sup> April. Works to start on site imminently to be completed before the school summer holidays.</p> <p><u>Agreed Action</u>  Monthly updates</p>	<p><b>LSPO</b></p> <p>LSPO/PPPO</p> <p>LSPO</p> <p>LSPO</p> <p>LSPO/PPPO</p>
<b>19</b>	<p><b>Oxcroft Lane, Bolsover – Outdoor Sport</b>  <b>£125,336.69 (10.03.25)</b></p> <p><u>Action from previous quarterly meeting</u>  LSPO to report to next meeting.</p> <p><u>Updates between and at meeting</u>  Proposed Skatepark is progressing, with an archaeological investigation a pre-start condition. The archaeological works carried out by ECUS Ltd under a Written Scheme of Investigation (WSI) approved by the County Archaeologist. The scheduled start date for construction works 25 March. Contractor in place (Maverick Industries</p>	<p>LSPO</p> <p>LSPO</p> <p>LSPO</p>

	<p>Ltd.) Target date for completion of works 19 July 2024</p> <p><u>Meeting update</u> Archaeological dig completed with some small finds. Contractor due to start Monday 22<sup>nd</sup> April with planned completion before school summer holidays.</p> <p><u>Agreed Action</u> Report to next meeting.</p>	<p>LSPO</p> <p>LSPO</p>
<b>21</b>	<p><b>High Ash Farm, Clowne – Open Space £10,184.39 (19.03.25)</b></p> <p><u>Action from Previous Quarterly Meeting</u> LSPO to provide monthly updates on progress to PPPO.</p> <p><u>Updates since last meeting</u> Discussions ongoing with Clowne Parish Council to develop public open space on land off North Road, Clowne comprising a small improvement scheme of around £10,000 with a public consultation/request for ideas from March to April. The works are to be tendered in Spring with the aim that they will be carried out in early Autumn 2024</p> <p><u>Meeting update</u> Item to be taken to Parish Meeting on Monday 22<sup>nd</sup> April to agree Public Consultation.</p> <p><u>Agreed Action</u> Monthly Update</p>	<p>LSPO</p> <p>LSPO/PPPO</p> <p>LSPO</p> <p>LSPO</p> <p>LSPO/PPPO</p>
<b>22</b>	<p><b>Station Road, Langwith Junction – Health £16,000 (30.01.25)</b></p> <p><u>Action from Previous Quarterly Meeting</u> Report to next meeting.</p> <p><u>Update at meeting</u> SDLPPSG&amp;H not at meeting but has reported that discussions with NHS ICB ongoing and more detailed update to come to the next meeting.</p> <p><u>Agreed Action</u> Report to the next meeting</p>	<p><b>SDLPPSG&amp;H</b></p> <p>SDLPPSG&amp;H</p> <p>SDLPPSG&amp;H/ PPPO</p>

4	<b>Spa Croft, Tibshelf – Art £10,176.20 (30.03.26)</b>	<b>CADO</b>
	<u>Action from previous quarterly meeting</u> Monthly updates.	CADO
	<u>Updates since the last meeting</u> The design/concept of a stone pillar agreed in principle. An initial informal site surveying/3D mock-up is completed. The timeline for procurement to begin in May 2024 is on track. At a recent meeting with the National Trust at Hardwick Hall either a stone donation or the NT commissioning the work as a whole is a possibility.	CADO
	<u>Meeting Update</u> CADO provided a Design Communication Document which sets out what the community would like to see and a ‘mock up’ artist impressions of what the structure would look like, and all agreed that the proposed design could make a positive place-making contribution. The developer has agreed a location and is preparing tenders.	CADO
	The timeline as set out at the last meeting still holds with <b>May to June 2024</b> – for the commissioning of the artist and application for licences, and <b>September instead of June 2024</b> – for the work to start...with all works still programmed for completion by March 2025.  Discussed that the structure would require Planning Permission. On a highway verge, so the need for a highway license.  <u>Agreed Action</u> Developer to be notified of need for Planning Permission and DCC Highways to be made aware of proposal. Monthly update	PPPO/DMCO       CADO/PPPO
21	<b>Creswell Road, Clowne – Outdoor Sport £26,207 (3.3.26)</b>  <u>Previous Action</u> New Action. Since the last meeting this obligation has come within the 2 years spend threshold.  <u>Meeting Update</u> Missed off the meeting agenda in error.	<b>LSPO</b>          PPPO

	<u>Agreed Action</u> None	
	<u>Update since the meeting</u> There is circa £26,000 which is allocated to a new skate park at Clune Street Recreation Ground. This is currently out to tender via Clowne Parish Council who are leading on the scheme.	LSPO

- 2.9 These updates demonstrate the monitoring carried out by Planning Officers and the progress being made by Spending Officers to ensure that S106 monies are spent in a timely manner alongside the build-out of the approved developments. However, in line with the Council's S106 Agreement Monitoring Procedure the relevant Spending Officers will be in attendance at the Committee to answer any questions to Members on the above Action Plan items.
- 2.10 In addition to these time sensitive items, the Procedure requires that Members are provided with summary information in relation to Section 106 Agreement monies held with deadlines beyond the 24-month period. Based on the position at the end of Quarter 4 (31<sup>st</sup> March 2024), the following 'summary of sums' can be provided for years three, four and five.

Infrastructure type	Amount in later years		
	Year 3	Year 4	Year 5 and beyond
<b>Art</b>	£20,933.45	£12,695.12	£477.46 (no clawback)
<b>Outdoor Sport</b>	£22,842.90	£60,046.75	£210,597.69 (of which, no clawback against £34,762.70)
<b>Informal Open Space</b>	£30,400.07	£116,794.50	£139,252.00 (of which, no clawback against £29,893)
<b>Health</b>	£11,784.56	£0	£60,316.90 (of which, no clawback against £12,277.20)
<b>Highways</b>	£0	£0	£569,000.00 (no clawback)
<b>Biodiversity</b>	£0	£0	£8,029.96
<b>Totals</b>	£85,960.98	£189,536.37	£987,674.01



- 2.11 The spend profiles for Art, Health, Highways and Biodiversity remain the same as for the previous financial quarter. The passage of time has brought Outdoor Sport sums into the shorter spending thresholds, consequently, sums in year 5 have decreased with sums increasing in both years 3 and 4. The sums against Open Space remain the same in years 3 and 4 but have increased in year 5 with monies received towards maintenance from the developments at Spa Croft, Tibshelf and at Carter Lane West, South Normanton. As maintenance sums there is no clawback with regard to the £29,893 received.

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

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

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

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

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### **RECOMMENDATION(S)**

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

**Approved by Council McGregor, Portfolio Holder – Corporate Governance**

**IMPLICATIONS:****Finance and Risk:**                      **Yes**☒                      **No** ☐

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

On behalf of the Section 151 Officer

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

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

On behalf of the Solicitor to the Council

**Environment:**                      **Yes**☐                      **No** ☒

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

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

**Staffing:**                      **Yes**☐                      **No** ☒

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

On behalf of the Head of Paid Service

**DECISION INFORMATION**

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

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

<b>Links to Council Ambition: Economy, Environment and Housing</b>
<ul style="list-style-type: none"> <li>• Focussing on our <b>Economy</b> by driving growth, promoting the district and being business and visitor friendly.</li> <li>• Focussing on our <b>Environment</b> by protecting the quality of life for residents and businesses, meeting environmental challenges, and enhancing biodiversity.</li> <li>• Focussing on our <b>Housing</b> by delivering social and private sector housing growth.</li> </ul>

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