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To: Chair & Members of the  
Planning Committee

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Friday 23<sup>rd</sup> August 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, 4th September, 2024 at 10:00 hours.

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

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

Yours faithfully



Solicitor to the Council & Monitoring Officer

## **Equalities Statement**

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

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

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**PLANNING COMMITTEE  
AGENDA**

*Wednesday, 4th September, 2024 at 10:00 hours taking place in the Council Chamber,  
The Arc, Clowne*

<b>Item No.</b>		<b>Page No.(s)</b>
1.	<b>Apologies For Absence</b>	
2.	<b>Urgent Items of Business</b>	
	To note any urgent items of business which the Chairman has consented to being considered under the provisions of Section 100(B) 4(b) of the Local Government Act 1972.	
3.	<b>Declarations of Interest</b>	
	Members should declare the existence and nature of any Disclosable Pecuniary Interest and Non Statutory Interest as defined by the Members' Code of Conduct in respect of:	
	a) any business on the agenda	
	b) any urgent additional items to be considered	
	c) any matters arising out of those items	
	and if appropriate, withdraw from the meeting at the relevant time.	
4.	<b>Minutes</b>	4 - 8
	To consider the minutes of the last meeting held on 17 <sup>th</sup> July 2024.	
	<b><u>APPLICATIONS TO BE DETERMINED UNDER THE TOWN &amp; COUNTRY PLANNING ACTS</u></b>	
5.	<b>24/00183/FUL - Change of Use from Paddock to Garden Area (inclusive of boundary gate, outbuildings &amp; planting) &amp; erection of double garage - The Old Dairy, Batley Lane, Pleasley, Mansfield</b>	9 - 29
6.	<b>21/00331/FUL - Full Planning Application for Residential Development - Open Space East of Dahlia Avenue, South Normanton</b>	30 - 63
	<b><u>REPORTS OF THE ASSISTANT DIRECTOR OF PLANNING AND PLANNING POLICY</u></b>	
7.	<b>Proposed reforms to the National Planning Policy Framework and other changes to the planning system - open consultation</b>	64 - 76
8.	<b>Quarterly Update on Section 106 Agreement Monitoring</b>	77 - 87

# Agenda Item 4

## PLANNING COMMITTEE

Minutes of a meeting of the Planning Committee of the Bolsover District Council held in the Council Chamber on Wednesday, 17<sup>th</sup> July 2024 at 10:00 hours.

### **PRESENT:-**

Members:-

Councillor Tom Munro in the Chair

Councillors Rob Hiney-Saunders, Duncan McGregor, Phil Smith, Janet Tait, Deborah Watson, and Jen Wilson.

Officers:- Jenny Owen (Chartered Legal Executive), Chris Whitmore (Development Management and Land Charges Manager), Neil Oxby (Principal Planning Policy Officer) and Matthew Kerry (Governance and Civic Officer).

### **PL84-24/25 APOLOGIES FOR ABSENCE**

Apologies for absence were received on behalf of Councillors Chris Kane, John Ritchie, and Carol Wood.

### **PL85-24/25 URGENT ITEMS OF BUSINESS**

There was no urgent business to be considered.

### **PL86-24/25 DECLARATIONS OF INTEREST**

There were no declarations of interest.

### **PL87-24/25 MINUTES – 19<sup>TH</sup> JUNE 2024**

Committee was advised that the minutes of the last meeting held on 19<sup>th</sup> June 2024 would be presented to the next meeting.

**RESOLVED** that the minutes of a meeting of the Planning Committee held on 19<sup>th</sup> June 2024 be presented to the next meeting for approval.

### **PL88-24/25 SIX MONTHLY ENFORCEMENT REPORT - JANUARY 2024 TO JUNE 2024**

The Development Management and Land Charges Manager presented the six monthly Enforcement Report.

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During the period 1<sup>st</sup> January 2024 – 30<sup>th</sup> June 2024, 140 unauthorised activity enquiries were received; up 27% on the previous six months review period. 85% of cases began investigation within the target time. This slight downturn in performance was reflective of a reduction in staffing within the Planning Enforcement Team over the review period. It was noted that all cases were still investigated by the Team.

Following the resignation of the Principal Planning Enforcement Officer on 18<sup>th</sup> April 2024, and with difficulties recruiting, a decision was taken to recruit an additional Principal Planner who, with the other Principal Planners within the Development Management Team, would be able to take a lead on planning enforcement cases requiring formal action be taken. This would ensure greater resilience and provide a renewed focus on planning enforcement work and service delivery going forward.

To manage workflow, the Team had invested and would commit to developing its case management software to manage workflow; this would be maintained over the next review period.

Overall, despite the service operating at 50% capacity in terms of staffing for the majority of the review period, the Team were satisfied with the work achieved.

The development management service reported in the last monthly enforcement report that the oldest enforcement case dated back to 2015: case ref. E15/232 – Stables at Barlborough. This case was closed on the 16<sup>th</sup> May 2024 following the demolition of the unauthorised building and compliance with the Enforcement Notice dated 27<sup>th</sup> January 2017. Images of the site were shown to the Committee.

All new Enforcement Notices Served over the review period were presented in Table 1 of the report.

The Development Management and Land Charges Manager reiterated a transformation of the service would provide greater resilience moving forward.

A Member noted there had been lots of improvement. With cases taking multiple staff working hours to handle/resolve, and 140 unauthorised activity enquiries being received, the work undertaken was impressive.

The Development Management and Land Charges Manager explained while Planning Enforcement was discretionary, the Council had to be conscious of the UK Government's role, which would take steps if enforcement of serious breaches were not being addressed. The UK Government required correct assessments of breaches being taken, but with the recent hire and the Team having considerable experience, the issuing of appropriate notices would be ensured. The Member stated they were confident of current staffing levels.

A Member noted how quickly and effectively the Team had managed the casework over this review period. They wished to thank one of the officers for their professionalism and courtesy. The Chair echoed these comments, adding with regards the Stables at Barlborough, during the Committee's site visit the development had appeared highly questionable.

Moved by Councillor Duncan McGregor and seconded by Councillor Phil Smith  
**RESOLVED** that the report be noted.

## PLANNING COMMITTEE

### **PL89-24/25          SIX MONTHLY PLANNING AND ENFORCEMENT APPEAL REPORT - JANUARY 2024 TO JUNE 2024**

The Development Management and Land Charges Manager presented the six Monthly Planning and Enforcement Appeal Report to the Committee.

The UK Government set performance of Planning decisions and Quality of Planning Decisions. It was tracked when Planning Committees decided against officer recommendations and noted the type of rejections.

Attached at Appendix 1 to the report was the list of Planning Appeal Decisions from January 2024 to June 2024.

For the Granary, Stony Houghton (ref: APP/R1010/D/23/3327757), the application had been overly domestic and deemed offensive to the conservation area. The appeal was dismissed.

For 30 Church Street, South Normanton (ref: APP/R1010/D/24/3340677), the application had been for vehicular parking but effected highway safety due to the lack of manoeuvrability at low speed. The appeal was dismissed.

For 67 Chatsworth Road, Creswell (ref: APP/R1010/W/24/3338461), the application was retrospective for the change of use of land from communal to domestic and the enclosure of that land with a fence which compromised the public footpath, the character and appearance of the area, and biodiversity. The appeal was dismissed.

The threshold for an authority's total number of decisions overturned at appeal was 10%. For the Council, only 1% of appeals had been successful.

A Member noted it was good that the decisions overturned were low, and sought clarity on the timeline of the enforcement process for 67 Chatsworth Road, Creswell. The Development Management and Land Charges Manager explained the owners had eight weeks remaining at the time of the Committee to uphold the decision.

A Member credited the Team for their good work despite not having a full complement of staff.

Moved by Councillor Tom Munro and seconded by Councillor Phil Smith  
**RESOLVED** that the report be noted.

### **PL90-24/25          NON-STATUTORY STAGE 1 CONSULTATION FROM NATIONAL GRID FOR THE CHESTERFIELD TO WILLINGTON PROJECT.**

The Principal Planning Policy Officer presented a detailed report and presentation slides on the National Grid's proposal to enhance the East Midlands electricity network by building and operating approximately 60 kilometres (km) of new 400 kilovolt (kV) overhead electricity line from Chesterfield to Willington (South Derbyshire) with part of the proposal to come through Bolsover District.

The report set out a summary of the proposals, a summary of the potential longer term implications for the Council once a Development Consent Order (DCO) was

## PLANNING COMMITTEE

submitted to the Planning Inspectorate and a potential response to National Grid's non-statutory stage 1 consultation.

Due to the General Election 2024, the timetable for the consultation had been temporarily postponed and would now end on 17<sup>th</sup> September 2024. There was still opportunity to attend consultations in person and one was scheduled to take place in Glapwell on 18<sup>th</sup> July from 2pm to 7pm where representatives from National Grid would be present to answer questions. Consultation documents were also available in Bolsover and South Normanton libraries.

Taking a strategic approach, National Grid had looked at various different options and had decided that the most effective route was Chesterfield to Willington as set out below; The Chesterfield to Stretton route would cross into the Bolsover District.

- Section 1 - Chesterfield to Stretton;
- Section 2 - Stretton to Ripley;
- Section 3 - Ripley to Morley;
- Section 4 - Morley to Ockbrook;
- Section 5 - Ockbrook to Aston-on-Trent; and,
- Section 6 - Aston-on-Trent to Willington.

The presentation slides set out maps of the heritage and environmental constraints and it was noted there would be a negative impact on heritage assets including Hardwick Hall, Hardwick Old Hall, Hardwick Hall Register Park and Gardens, Bolsover Castle, the scheduled monument at Stainsby defended manorial complex and the conservation areas located at Hardwick and Rowthorne, Stainsby, Astwith and Hardstoft. A meeting had been held between officers and representatives of the National Trust to review the implication of the proposal for Hardwick Hall. It was noted, however, that impacts on local natural wildlife sites were not considered in the proposal by National Grid.

The consultation was an online feedback form with a series of questions divided into six sections plus a number of general questions. Appendix 2 to the report set out the Council's proposed response to the questions in relation to the Chesterfield to Stretton route to follow a potential alternative route between Holmewood and North Wingfield and also the negative impact on heritage and the lack of investigation into the impact on local wildlife sites. It was noted that the pylons would be 50 metre high lattice structures, and examples of alternate pylons were included in the report. It was also anticipated that the new UK Government's proposals may have an implication for the timetable of the project.

In response to a Member's query, the Principal Planning Policy Officer advised the meeting that as this was stage 1 consultation and the route was not yet definitive, Members should refer any queries they received from the public back to this report and its appendices. It was possible that amendments may be made to the Council's consultation response further to discussion with National Trust and English Heritage, however, it was anticipated that these would only be minor changes. The Chair added that if any major changes were made to the consultation response, these would be reported back to Committee.

A Member agreed with the recommendation in the report and stated that while progress was necessary, there was a need to protect residents as well as heritage sites like Hardwick Hall. It would be preferable to have underground cables, though this was not financially viable. If there was a choice, the 'T-pylon' would be preferable.

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The Chair queried why local wildlife sites were not considered by National Grid in the consultation exercise. The Principal Planning Policy Officer advised that local wildlife sites were not necessarily taken into account as they had less statutory protection.

Moved by Councillor Duncan McGregor and seconded by Councillor Deborah Watson  
**RESOLVED** that 1) the proposal for a new overhead electricity line from Chesterfield to Willington, which was located in part of the Bolsover District, be noted,

2) the potential implications for the Council if an application for a Development Consent Order was submitted and subsequently granted, be noted,

3) the Council responds to the consultation questions considered to relate to Bolsover District (set out in Appendix 2 to the report),

4) delegated authority be given to the Assistant Director of Planning & Planning Policy, in consultation with the Chair of Planning Committee, to amend the proposed responses set out in Appendix 2 to the report, reflecting any additional information that becomes available.

The meeting concluded at 10:40 hours.

**PARISH** Ault Hucknall Parish

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**APPLICATION** Change of Use from Paddock to Garden Area (inclusive of boundary gate, outbuildings & planting) & erection of double garage  
**LOCATION** The Old Dairy Batley Lane Pleasley Mansfield  
**APPLICANT** Mr Andrew Clarke, The Old Dairy Batley Lane Pleasley NG19 7QL  
**APPLICATION NO.** 24/00183/FUL **FILE NO.** PP-12912373  
**CASE OFFICER** Mr Mark Penford  
**DATE RECEIVED** 17th April 2024

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## SUMMARY

This is a full planning application seeking planning permission for the material change of use of land designated as countryside to be incorporated as domestic garden curtilage to The Old Dairy, Batley Lane, Pleasley. The land is already in use as domestic curtilage and includes two hard surfaced areas with associated outbuildings and landscaping used for outdoor seating. Consent is sought retrospectively for the retention of boundary treatment and gates. The application is also proposing a single storey double garage outside of the garden curtilage to the rear of The Old Dairy. The garage is the only part of the development for which retrospective consent is not sought.



*Front elevation of The Old Dairy*



*Rear elevation of The Old Dairy*

The primary planning considerations are the principle of development, taking into account whether the proposal represents appropriate development within the countryside, impacts on heritage assets, design and character, residential amenity, biodiversity, archaeology and highway safety.

## CALL-IN REQUEST

The application is referred to Planning Committee for determination due to a call-in request from Cllr Ritchie on the following grounds:

*If you are minded to recommend refusal, I would ask the application to come to Planning Committee. The application is in my ward, and I have met Mr Clarke. It was my suggestion that Mr Clarke put in a retrospective planning application including the garage and find a good architect and he has in Steve Iberle, who used to work here when I did.*

Cllr Ritchie considers the development to be an improvement to the character and appearance of the site and the open countryside.

## Site Location Plan



### **SITE & SURROUNDINGS**

The Old Dairy is a stone barn residential conversion. The barn conversion is located within an open relatively isolated rural landscape within designated countryside. In addition to The Old Dairy is a separate two storey barn conversion and the original farmhouse to the south. The vehicular access is via Batley Lane, which is a single width lane bordered by hedgerows. The barn conversion is set back from the highway with a driveway which leads around the property frontage to the rear of the building via its side gable. The dwelling also benefits from a soft landscaped garden area forward of the principal elevation. To the rear of the site is the approved garden curtilage and a paddock. To the rear area two historic areas which once accommodation agricultural buildings. These areas are now being used by the applicant for outdoor seating and includes a garden pergola, seating, and planting areas. The paddock is proposed to be used as garden curtilage. Post and rail fencing has been erected to the perimeter of the paddock.



*The paddock proposed for change of use to domestic garden.*



*The paddock and area of hard surfacing and outdoor seating to the north, including an erected pergola.*



*The area of outdoor seating to the south, including hard surfacing, shed and paraphernalia.*

## **BACKGROUND**

Planning Permission was granted for the barn conversion under office reference 13/00310/FUL on 16/09/2013. This included the conversion of two barns to form two separate

dwellinghouses. These were the conversion of the 'L' shaped mainly stone range of barns to one four-bed dwelling, and the conversion of the brick cart shed to a two-bed dwelling without the need for any extensions or major reconstruction work.

The case officer's report explains that the barns subject to the application were the barns/outbuildings to Batley Farmhouse, in a situation of open countryside between Pleasley and Rowthorne. The layout submitted with the application clearly showed the garden and parking for the dwelling, deliberately excluding a paddock area to the rear from the garden curtilages. This was in the interests of preserving the heritage interests of the site and countryside character.



*The approved site layout drawing no 011 Rev C defining the approved garden curtilages of each dwelling in light green and excluding the paddock and farm buildings from garden in dark green to the north-east.*

## PROPOSAL

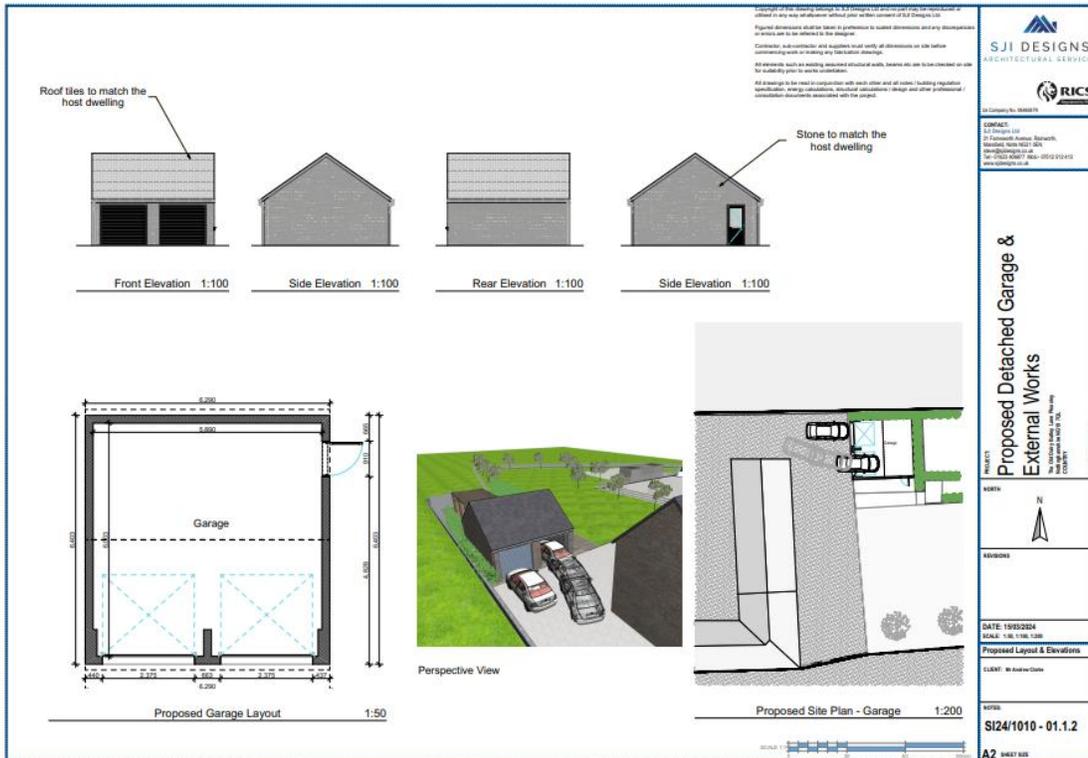
This application relates to the L shaped stone range barn to the north of the site 'The Old

Dairy' marked as Unit 1 above and seeks a material change of use of the land marked as paddock in dark green (in the north-eastern corner) to extend the approved garden curtilage (light green) of the dwelling out into open countryside. The site area subject to the change of use (in dark green on drawing 011 Rev C) is approximately 1375 square metres. The application advises that the site area has been used as a private garden by the applicant for several years (the planning agent advising 7 years) and the applicant seeks to formalise this use through a retrospective planning application.

The application seeks to regularise areas of planting, boundary fencing, gates, and a pergola structure. The double garage is proposed to the rear of the barn conversion, forward of the outdoor seating area and pergola.



**The proposed site layout identifying the two seating areas which once accommodated agricultural buildings and the paddock in between them.**



*The proposed double garage (not constructed), situated outside the approved garden curtilage to the rear of The Old Dairy.*

### Supporting Documents

Planning Statement prepared by SJI Designs Architectural Services

### AMENDMENTS

No formal amendments have been received.

### Summary of Submissions

For clarification this recommendation is based on the following plans:

- Historic Images drawing S124/1010-01.1.3 dated 15/03/2024.
- Existing Layout drawing S124/1010-01.1.1 dated 20/03/2024.
- Proposed Garage Elevations and Floor Plan drawing S124/1010-01.1.2 dated 15/03/2024.
- Location Plan, Layout Plan, Gates and Boundary Details drawing S124/1010-01.1.1 dated 19/04/2024.

### PLANNING HISTORY

13/00310/FUL      Granted

Conversion of existing agricultural buildings to form two new dwellings (as amended by the revised layout plan 011 Rev C showing the derelict dutch barn demolished, the revised repairs schedule and drawing 015 Rev A showing extent of rebuilding of the stonework, and Drawing 012 Rev C showing the proposed roof lights located on the rear east elevation of the barn roof)

### CONSULTATIONS

**Ault Hucknall Parish Council**  
Response not received.

### **Bolsover District Council – Heritage & Conservation Manager**

When considering the original application the barns were regarded as non-designated heritage assets. In order to protect the wider landscape setting of the assets the domestic curtilage was tightly drawn on the original permission and permitted development rights were removed by condition to ensure control over future changes to both the farm buildings and structures in the garden. When dealing with applications for barn conversions we are consistent in ensuring that the domestic curtilage is tightly drawn to avoid encroachment into the countryside / landscape setting. In light of the above, I am unable to support this application as it is considered that the extension of the domestic curtilage into the paddock area and the construction of a domestic garage is an encroachment into the countryside leading to domestication of the wider landscape setting contrary to policies contained in the Local Plan and NPPF.

### **Derbyshire County Council – Archaeologist**

The fields to the north of 'The Old Dairy' have entries on Derbyshire Historic Environment Record for artefact scatters of prehistoric, Roman and medieval date. The scatters are not especially dense – in Field KY4 immediately north of the farm (it appears that field boundaries have been removed since the material was collected around 1985) comprising a few flints, 2 sherds of Romano-British pottery and 10 sherds of medieval 'Chesterfield ware' – and are described as being associated with a NW-SE 'ridge' within the field.

This ridge is not especially apparent on the ground today but would appear likely to describe the central part of the field rather than its eastern or western ends. The artefact scatter may evidence an archaeological site of any or all of the above dates, though there is also potential for low-density activity (particularly the Roman material) to derive from manuring practices of the time. Given the low number of artefacts and their focus in the centre of the field (i.e. not immediately adjacent to the current proposal site) it is not imagined that the proposed change of use would have any meaningful archaeological impact.

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

It is considered that the application will have no detrimental highway impact and on that basis there are no highway authority objections to the application.

### **Severn Trent Water Ltd**

Response not received.

### **The National Trust**

Response not received.

### **PUBLICITY**

Site Notice posted 14.05.2024. Comments required by 04.06.2024.

Neighbour letters to Batley House and Owl Barn posted 13.05.2024. Comments required by 03.06.2024.

### **REPRESENTATION**

One representation has been received confirming no specific objections to the application for the erection of a double garage. However, concerns are raised that granting approval for this aspect or any of the other items included in the application cannot be used now or in the future as a stepping stone to circumvent in any way, any restrictions that exist to a planning application or change of use that exist today.

## **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 SS9 – Development within the Countryside
- Policy SC2 – Sustainable Design and Construction
- Policy SC3 – High Quality Development
- Policy SC5 – Changes of Use and Conversions in the Countryside
- Policy SC8 – Landscape Character
- Policy SC9 – Biodiversity and Geodiversity
- Policy SC10 – Trees, Woodland and Hedgerows
- Policy SC11 – Environmental Quality
- Policy SC18 – Archaeology
- Policy SC21 – Non-Designated Heritage Assets.
- 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 180, 186 and 188: Conserving and enhancing the natural environment.

### Supplementary Planning Documents

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

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

#### *Local Parking Standards:*

This document relates to Policy ITCR11 of the Local Plan by advising how the parking standards contained in appendix 8.2 of the local plan should be designed and implemented with development proposals. This SPD does not revise the standards contained in the Local Plan but does provide suggested new standards for parking matters not set out in the Local

Plan, such as cycle parking. The design supersedes the parking design section included within the existing Successful Places SPD (2013).

*Biodiversity Net Gain Design Note:*

In light of the requirement for mandatory 10% biodiversity net gain, the Council has prepared a planning advice note to provide advice on the background to the introduction of mandatory 10% Biodiversity Net Gain, how this statutory provision relates to policy SC9: Biodiversity and Geodiversity in the Local Plan for Bolsover District, and how we will expect those preparing applications to approach this new legal requirement.

*Historic Environment:*

The Historic Environment Supplementary Planning Document was adopted in March 2006 to provide further clarity and interpretation for policies in the Bolsover District Local Plan (of the time) in relation to listed buildings, conservation areas, conversion of historic agricultural buildings and archaeology.

## **ASSESSMENT**

### ***Key issues***

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

- The Principle of Development
- Impacts on the Openness of the Countryside
- Heritage Impacts
- Residential Amenity
- Archaeology
- Biodiversity
- Highway Safety
- Sustainability Considerations

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

### **Principle of Development**

The application site is located outside of the defined development envelopes of the towns and villages within the district and is therefore within the countryside. Within the countryside, the Local Plan sets out that urban forms of development would not be appropriate or sustainable and not in accordance with the Spatial Strategy. The restraint on the amount of land removed from the countryside from development also contributes to the delivery of the Local Plan's vision and objectives regarding conserving and enhancing the quality and character of the countryside. Objective C of the Local Plan sets out an intention to conserve and enhance the quality and character of the countryside, its landscapes and wildlife.

For the principle of development to be acceptable, the proposal must fall within one or more of the categories of development set out under Policy SS9 of the Adopted Local Plan. This policy states that development proposals in the countryside outside development envelopes will only be granted planning permission where it can be demonstrated that they fall within one or more of the following categories:

- 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

Notwithstanding any possible compliance with one of the above categories of appropriate development within the countryside, in all cases, where development is considered acceptable in principle, it will be required to respect the form, scale and character of the landscape, through careful location, design and use of materials.

When planning permission was granted the application clearly defined the garden curtilage of the barn subject to this application and that of the neighbouring two storey barn conversion to the south. Drawing number 011 Rev C excluded land within the site as a paddock together with the two areas of the site which formerly accommodated agricultural buildings from the defined garden curtilages. The site plan shows that a boundary fence and hedge was required to be provided at the end of the garden curtilage, to define the curtilage and amenity space for plot 1.



**The defined garden curtilage in light green, paddock in dark green.**

The development does not meet criteria (b to (g) of Policy SS9. In relation to criteria (a), for the principle of development to be acceptable, the application would need to demonstrate the land is defined as previously developed and ensure the change of use and structures proposed respect the form, scale and character of the landscape and comply with all relevant policy.

Prior to applying for planning permission, the authorised use of the site was agricultural as the building was a redundant farm building for livestock. The framework defines previously developed land as land which is or was occupied by a permanent structure, including the

curtilage of the developed land (although it should not be assumed that the whole of the curtilage should be developed) and any associated fixed surface infrastructure. This excludes: land that is or was last occupied by agricultural or forestry buildings; land that has been developed for minerals extraction or waste disposal by landfill, where provision for restoration has been made through development management procedures; land in built-up areas such as residential gardens, parks, recreation grounds and allotments; and land that was previously developed but where the remains of the permanent structure or fixed surface structure have blended into the landscape. Although the land had agricultural buildings on it, in planning terms this was greenfield land.

The approved site layout plan 011 Rev C has identified the land outside of the defined garden curtilages as paddock, and the case officer's report briefly refers to it as a horse paddock. However, no express planning consent was granted for the material change of use of the agricultural land to equestrian purposes and there is no evidence to suggest that the applicant has used the land for the keeping of horses. This is confirmed in the planning statement, which states that from the historic evidence, the site layout and use of the site did not change.

There are numerous appeal decisions in relation to equestrian uses of land and whether such land might constitute previously developed land. In situations where sites benefit from planning permission for a permanent equestrian structure and associated equestrian use of land, such as a stable and its curtilage, it would be reasonable to conclude that such sites constitute previously developed land. However, in accordance with the framework, it should not be assumed that the whole of the curtilage of a site should then be developed. In such situations the re-use of land and buildings for new development would be acceptable in principle under criteria a to Policy SS9, subject to acceptable impacts on the landscape and full consideration of all relevant local and national policy.

In this case, there has been no express planning permission granted to establish an equestrian use, nor has there been consent granted for any equestrian buildings such as stables on the site. The approved site layout plan identifies the barn to the north (the site of the current pergola) was to be demolished. Planning Permission would not be required to generally keep horses on agricultural land.

In the case of dismissed appeal reference APP/L3245/W/19/3223925, an applicant sought retrospective consent for the change of use of countryside to residential garden. In that case the site was largely lawned, like the application site, and there was a timber stable on the site surrounded by a post and rail fence which provided a small paddock. The appeal site, like the application site, was surrounded by open fields. There was a dispute between the parties over what the current use of the land was. The Inspector stated there was no evidence to suggest that the lawful use of the land was for garden use. On the balance of probabilities, the Inspector considered that the lawful use of the appeal site would be agriculture and dismissed the appeal as causing harm to the character and appearance of the countryside.

In the absence of any application to approve an equestrian building and establish the curtilage with that building, it is considered that the principle of development is unacceptable as the site is considered to be greenfield previously undeveloped land, not falling within any of the appropriate categories of development within the countryside as set out under Policy SS9.

### **Impacts on the Openness of the Countryside**

Notwithstanding whether the site is previously developed in planning terms, policy SS9

requires all developments within the countryside to respect the form, scale and character of the landscape, through careful location, design and use of materials.

Policy SS1 (i) states that, in order to achieve sustainable development, development proposals should protect, create and/or enhance the character, quality and diversity of the district's green infrastructure and local landscapes, the wider countryside and ecological and biodiversity assets.

Policy SC3 (j) requires development proposals to accord with and respond to the established character and local distinctiveness of the surrounding landscape.

Policy SC5 of the Adopted Local Plan states where planning permission is required, proposals for the conversion of an existing building or structure, or the change of use of land, to a new use, will be permitted provided they comply with all of the following criteria:

- a) The building is worthy of retention, structurally sound and capable of conversion without substantial reconstruction*
- b) The conversion or change of use, is in keeping with the original character of the building or land and enhances the fabric and character of any adjacent buildings, or the landscape character type generally*
- c) The number of units and/or density of development is appropriate to the building's location*
- d) The building would have an existing curtilage or a curtilage can be created which does not adversely affect the landscape character type, the building itself or any adjacent structure*
- e) Utilities can be provided and the building has adequate access to a metalled road without creating traffic hazards and without involving road improvements incompatible with the character of the area*
- f) The development proposed does not add to flood risk concerns.*

Policy SC8 of the Adopted Local Plan states proposals for new development will only be permitted where they would not cause significant harm to the character, quality, distinctiveness or sensitivity of the landscape, or to important features or views, or other perceptual qualities such as tranquillity unless the benefits of the development clearly outweigh the impacts. Development proposals should have regard to the Derbyshire Landscape Character Assessment, Historic Landscape Character Data and the Areas of Multiple Environmental Sensitivity and contribute, where appropriate, to the conservation and enhancement, or restoration and recreation of the local landscape.

Paragraph 180 of the framework states planning decisions should (a) contribute to and enhance the local environment by protecting and valued landscapes and (b) recognise the intrinsic character and beauty of the countryside.

To protect the countryside from harm, when the application was approved condition 15 was attached to the original consent which removes Permitted Development Rights in relation to extensions and external alterations of the barn and also for the erection of any incidental building, structure or enclosure, without the granting of planning consent. This was to enable the Local Planning Authority to retain control over future extensions and outbuildings in view of the form and layout of the development.

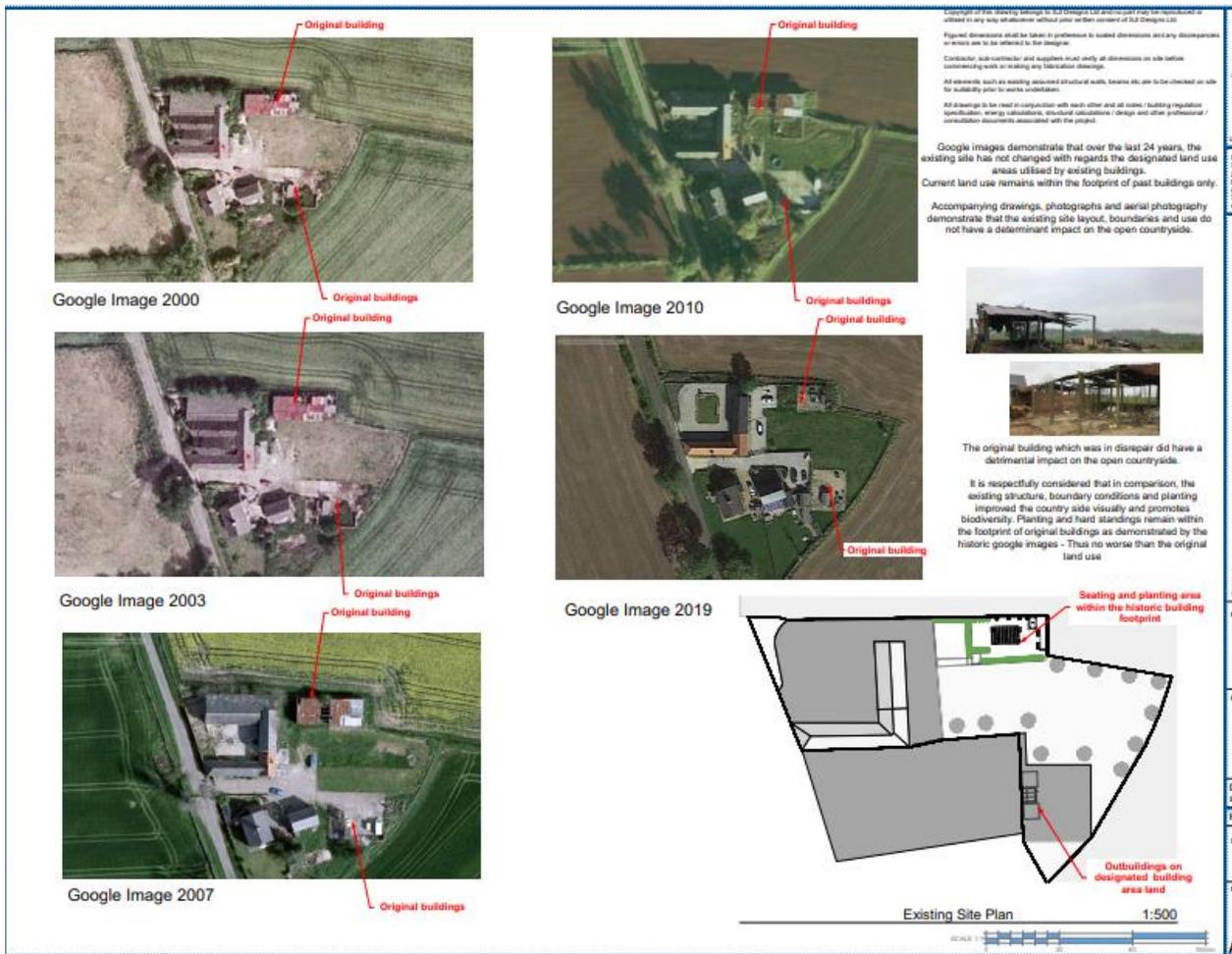
In addition, condition 16 of the original consent requires the following:

16. The boundary detail shown on the proposed site plan drawing 011 Rev C shall be implemented and retained and maintained in their approved position. Any new fencing shall be post and rail timber type supported by hedgerow planting where shown on the approved plan. The curtilages of the dwellings shall be confined to the areas shown on the approved plan and for purposes pursuant to Part 2 of Schedule 2, Article 3 of the Town and Country Planning (General Permitted Development) Order 1995 as amended (or any Order revoking and re-enacting that Order) no new boundary treatments shall be constructed within the paddock area which could effectively be construed as expanding the curtilages defined on the approved plan.

The approved boundary treatment included retention of a stone wall to the north, timber post and rail fencing (with some dilapidated fencing to be repaired), a hawthorn hedge and new boundary hedging. The applicant has erected boundary treatment not fully in accordance with that required by Condition 16 which includes a fence adjacent the northern seating area.



*The paddock proposed to be used as garden curtilage.*



### Historic images of the site from 2000 to 2019.

The historic images plan shows that in 2000 the areas currently used for two separate outdoor seating areas once accommodated agricultural buildings. In 2010 the agricultural building to the north can still be seen and the building to the south is shown to be removed and an area of hard surfacing retained. The historic images plan includes photographs of the one of the original buildings on the site in a derelict condition. It is the view of the applicant that, in comparison to the derelict structures, the existing structures, boundaries and planting improve the countryside visually as planting and hard standings remain within the footprint of the original buildings.

The paddock area is currently well-maintained and cut grassland with post and rail fencing on its borders to open countryside. Presently the rear elevation of the barn conversion is open to the paddock, with no defined boundary treatment to separate it from the approved garden curtilage as shown on drawing 011 Rev C. The above photographs demonstrate how the paddock is open to the wider landscape setting of the barn conversion.

Although there are no structures erected on the current grassland, the paddock is well maintained grassland, visibility connected to the dwelling and, when considered with the seating area has a distinct domestic character associated with a well-maintained lawn.

Although the redundant agricultural buildings were derelict, these structures were appropriate to the countryside location in design terms, separating an agricultural character from residential character. If planning permission was granted for this change of use of

approximately 1375 square metres of land, it is considered to be reasonable to conclude that a more intensive residential appearance could follow from further ornamental planting, paraphernalia, pressure for further garden buildings and other structures.

Whilst it is appreciated that paraphrenia such as trampolines, seating and other moveable features would not be development, as the site is within such an open rural landscape, it is considered that the use of the whole site for garden would cause significant harm to the rural landscape appearance of the locality, which was safeguarded in the original consent.

The proposed double garage is proposed on the hardstanding of the former agricultural building to the north of the site, outside of the approved garden curtilage to the rear of The Old Dairy. The garage has a pitched roof to be built in stone elevations and roof tiles to match the host dwelling. A submitted perspective view, as shown below, shows the garage in the context of the wider site, showing the retrospective seating area with pergola to the rear, the paddock and second seating area in the distance. The garage represents an urban residential intrusion into the countryside, extending the domestic curtilage which is considered to be harmful to local rural character from a distinct change of character to domestic.



*A submitted perspective view showing the proposed garage, rear seating area with pergola, paddock and second seating area in the rear, all of which are proposed to be incorporated as domestic garden.*

In considering acceptable garden areas for residential dwellings, it should be noted the adopted Supplementary Planning Document 'New Residential Development' advises 90 square metres of garden areas are proposed for four-bed dwelling. This is not set in stone, and there should be flexibility having regard to local context. For countryside conversions, there may be a need to accept reduced garden areas in order to protect the countryside from residential encroachment, particularly for sensitive barn conversions where it is necessary to preserve the agricultural setting, an important component of the significance of such buildings. Therefore the 1375 square of additional garden area is excessive and extremely disproportionate to the size of the residential accommodation and a garden area which would be reasonably expected to provide a good standard of amenity for the occupants.

It is considered that the use of the land for an extended garden area, together with the proposed garage would cause a residential impact to the site, eroding the character and appearance of the countryside. In terms of national policy, the framework has an emphasis on protecting valued landscapes. It is appreciated this countryside location is not subject to any special designation, however it represents the rural landscape setting of an identified non-

designated heritage asset (the impacts on which are discussed in the next section of this report) and is therefore considered to be valued in this regard.

Permitted Development Rights could be removed regarding the erection of incidental/ancillary buildings within what would be an a very large garden curtilage, however it is not considered that this would sufficiently mitigate against the harm caused by the use of the overall site for domestic purposes, and the accompanying residential activities which come with that, and which would not amount to development or require the benefit of planning permission. It is considered that the paddock is of a sufficient size to allow a small group of animals to graze, which would retain the agricultural historic setting and character of the former agricultural building successfully. Alternatively, the site could be maintained as vacant paddock land to achieve this.

It is therefore considered that the proposal is contrary to Policy SS9 by failing to respect the form, scale and character of the landscape, through careful location, design and use of materials. The proposal is considered contrary to Policy SC5 (b) as the change of use is not in keeping with the original agricultural character of the land which existed when planning permission was granted and fails to enhance the fabric and character of the agricultural converted building and its landscape character generally. The proposal is considered contrary to Policy SC5 (d) as the application is proposing a garden curtilage which adversely affects the landscape character and fails to protect the agricultural landscape setting of an historic agricultural site and building. The proposal is considered contrary Policy SS1 (i) are a development which fails to protect character and quality of the landscapes and the wider countryside; and to Policy SC3 (j) which requires development proposals to accord with and respond to the established character and local distinctiveness of the surrounding landscape.

The proposal is considered contrary to Policy SC8 by causing significant harm to the character of the countryside; and contrary to Paragraph 180 (a) of the framework, by failing to protect this valued landscape, which protect the rural setting of the barn conversion and non-designated heritage asset.

## **Heritage Impacts**

The District Council's Heritage & Conservation Manager (H&CM) has confirmed the barns that have been converted to residential are simple vernacular structures built in a functional style. Primarily constructed in magnesian limestone with a mixture of slate and pantile roofs, the barns are thought to date from the early to mid-19<sup>th</sup> Century to serve the working farm at Rowthorne 1km away.

The H&CM was involved with the original planning permission for the conversion of the barns to residential. As part of that application the buildings were regarded as non-designated heritage assets and considered to be of architectural and historic significance. During that time, careful consideration was given to defining the domestic curtilages as the landscape setting to the farm complex was considered to be an important feature.

Policy SC21 of the Adopted Local Plan states development proposals which positively sustain or enhance the significance of any local heritage asset and its setting will be permitted. Alterations, additions and changes of use should respect the character, appearance and setting of the local heritage asset in terms of the design, materials, form, scale, size, height and massing of the proposal. Proposals involving full or partial demolition of a local heritage asset will be resisted unless sufficient justification is provided on the proposed scheme and its

public benefits to outweigh the harm caused by the loss of the asset.

Paragraph 209 of the framework states the effect of an application on the significance of a non-designated heritage asset should be taken into account in determining the application. In weighing applications that directly or indirectly affect non-designated heritage assets, a balanced judgement will be required having regard to the scale of any harm or loss and the significance of the heritage asset.

The original planning application was submitted with a Heritage Impact Assessment which identified the following:

*“The NPPF defines the setting of a heritage asset as ‘the surroundings in which (it) is experienced’ and the English Heritage guidance considers traditional farm buildings to be an essential contributor to local character and distinctiveness in the countryside. The surviving farm buildings and associated farmhouse are very much an established component of this rural landscape, which is still used primarily for arable farming. The original buildings at Batley Farm were first developed at a time when there was a distinctive pattern of small, elongated fields, mainly in arable use and farmed by tenants on the Chatsworth Estate and whilst most of these smaller fields have been enlarged as a result of modern farming practices, there are still a number of surviving field boundaries that are shown on the 1838 Tithe Award map (Map 3).”*

The District Council’s Historic Environment SPD was adopted in March 2006. Paragraph 3.19 recognises the importance of the setting of farm groups in the landscape stating that the setting of farm groups is important. The formation of new curtilages to create gardens will require careful consideration and will require careful consideration. The SPD also recognises that whilst enclosed spaces within farm complexes are often hard landscapes, the land surrounding farm groups is invariably open fields.

In order to protect the setting of farm groups in the landscape, the SPD advises the District Council will normally remove Permitted Development Rights. Page 26 of the SPD recommends that private amenity space for domestic outdoor equipment should be marked on proposal plans and located away from principal elevations.

The H&CM has confirmed that in order to protect the wider landscape setting of the non-designated heritage assets, the garden curtilages were tightly drawn (in accordance with drawing 011 Rev C) to avoid encroachment into the countryside. In light of the applications intention to significantly encroach the garden curtilage into the countryside the H&CM confirms she is unable to support the application due to a domestication of the wider landscape setting, contrary to the policies contained in the Local Plan and the framework for the protection of heritage assets and the countryside.

As required by the framework, there is a balanced judgement test which is necessary having regard to the significance of the asset against the scale of any harm or loss. In this case Officers have taken into account that a number of buildings are identified as non-designated heritage assets in numerous adopted Conservation Area Appraisals, however there are none which are identified outside of the district’s Conservation Areas and the Council does not have a local list/register of heritage assets. To be consistent with the previous application it is still considered that The Old Dairy is regarded as a non-designated heritage asset where policy SC21 of the Local Plan and Paragraph 209 of the framework are engaged.

The building is clearly of some significance, dating back to the 19<sup>th</sup> Century and due to its architectural merit, as referred to by the H&CM. The conversion has retained a distinct agricultural character, respecting the character of the former farmstead. By restricting the garden curtilage, the wider rural landscape setting of the farmstead was preserved, an important historic component of the farmstead throughout time.

The change in character that the change of use could cause is set out in the countryside section of this report. Whilst Permitted Development Rights could be removed by condition in relation to incidental outbuildings, numerous paraphernalia could be erected on the site without the benefit of planning permission creating a distinct domestic character, which is considered to cause some harm to the non-designated heritage assets from the loss of its setting. This could include anything from outdoor seating, play equipment such as climbing frames and trampolines and washing lines. Without these features, the paddock has a domestic appearance of a maintained lawn with no separation from the approved defined garden.

Therefore, the overall use of the paddock land for domestic purposes, and the introduction of the proposed garage, is considered to cause some harm to the non-designated heritage asset as a result of the loss of its agricultural setting and encroachment of garden into this setting. However, in the balanced judgement, it is not considered that the non-designated asset is of such significance that the harm would justify a recommendation of refusal of the application on heritage grounds.

### **Residential Amenity**

Policy SC3 (n) of the Adopted Local Plan 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. Paragraph 135 (f) of the framework states planning decisions should provide a high standard of amenity for existing and future users of land and buildings.

The Old Dairy has four no bedrooms. As referred to above the Council's adopted SPD 'Successful Places' advises that a minimum garden area of 90 square metres is provided for four and above bedroom dwellings. There is therefore no planning justification for the increase garden area of approximately 1375 square metres. Notwithstanding the above, the proposed change of use does not raise any amenity concerns and it is noted that no objections have been raised to the planning application on amenity grounds. The proposal is therefore considered in accordance with Policy SC3 (n) of the Local Plan and Paragraph 135 (f) of the framework.

### **Archaeology**

Policy SC18 of the Adopted Local Plan states that proposals will be supported where the significance of scheduled monuments or archaeological sites, including their setting, is sustained and enhanced. Any development that adversely impacts a scheduled monument, physically and/or in terms of setting, will not be permitted except where the harm is demonstrably outweighed by public benefits.

The County Council's Archaeologist has confirmed that the fields to the north of The Old Dairy have entries on the Derbyshire Historic Environment Record for artefact scatters of

prehistoric, Roman and medieval date. The scatters are not especially dense – in Field KY4 immediately north of the farm (it appears that field boundaries have been removed since the material was collected around 1985) comprising a few flints, 2 sherds of Romano-British pottery and 10 sherds of medieval 'Chesterfield ware' – and are described as being associated with a NW-SE 'ridge' within the field.

This ridge is not especially apparent on the ground today but would appear likely to describe the central part of the field rather than its eastern or western ends. The artefact scatter may evidence an archaeological site of any or all of the above dates, though there is also potential for low-density activity (particularly the Roman material) to derive from manuring practices of the time. Given the low number of artefacts and their focus in the centre of the field (i.e. not immediately adjacent to the current proposal site) the County Council's Archaeologist does not raise any objection to the application, as it is not imagined that the proposed change of use would have any meaningful archaeological impact. The development meets the requirements of Policy SC18 of the Local Plan.

## **Biodiversity**

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

Paragraph 180 (d) of the framework states that planning decisions should contribute to and enhance the natural and local environment by minimising impacts on and providing net gains for biodiversity.

Since 2<sup>nd</sup> April 2024 it has become mandatory for small sites to provide a 10% net-gain for biodiversity. This is in order to ensure developments result in more or better-quality natural habitat compared to what was there before the development.

The Government has set out exemptions where 10% biodiversity net gain is not required. These include development impacts a priority habitat less than 25sqm. In addition, applications for retrospective consent are also exempt under Section 73a of The Town and Country Planning Act.

This application meets the exemption because it is mostly retrospective in nature and the proposed double garage would be on existing hard surfacing and therefore does not impact on any habitat.



*Proposed siting of the double garage outside of the approved garden curtilage.*

The development would not cause any harm to protected species and is considered in accordance with Policy SC9 of the Local Plan and Paragraph 180 of the framework.

### **Highway Safety**

The Highway Authority has confirmed no objections to the development confirming that the application will have no detrimental impact on the highway network. The Old Dairy was approved with four bedrooms and three parking spaces to the rear, in accordance with the Council's adopted minimum parking standards set out under Appendix 8.2 of Policy ITCR11. There is also capacity to park vehicles within the front garden curtilage of the dwelling. The double garage would provide further parking for the benefit of the applicant. The development does not result in the loss of any parking and is considered in accordance with Policy ITCR11 of the Adopted Local Plan and Paragraph 115 of the framework, as the development would not have an unacceptable impact on highway safety.

### **Sustainability Considerations**

Paragraph 7 of the framework explains the purpose of the planning system is to contribute to the achievement of sustainable development, including the provision of homes, commercial development, and supporting infrastructure in a sustainable manner. At a very high level, the objective of sustainable development can be summarised as meeting the needs of the present without compromising the ability of future generations to meet their own needs<sup>4</sup>. At a similarly high level, members of the United Nations – including the United Kingdom – have agreed to pursue the 17 Global Goals for Sustainable Development in the period to 2030. These address social progress, economic well-being and environmental protection.

Paragraph 8 of the framework states achieving sustainable development means that the planning system has three overarching objectives, which are interdependent and need to be pursued in mutually supportive ways (so that opportunities can be taken to secure net gains across each of the different objectives):

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;

Much of the application is for retrospective development. It is anticipated that approval of the application would increase the value of the property, benefiting the applicant. The construction of the proposed garage would benefit a local construction company and economy on a temporary basis. 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; and

The proposal would create a significant garden curtilage for the occupants of the dwelling which would benefit the applicant's health and well-being. The social objective is met.

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

The change of use would fail to protect the rural character of the countryside from the introduction of a domestic character and intrusion of garden curtilage and the proposed garage into the countryside. The environmental objective is not met.

## **CONCLUSION**

The application proposes the retrospective change of use of approximately 1375 square metres of greenfield land to be included as domestic garden to The Old Dairy and the erection of a double garage outside of the defined garden curtilage of the barn conversion. This is contrary to the criteria of Policy SS9 which sets out development which is not inappropriate within the countryside.

The development represents a significant extension of residential garden into the rural setting of the barn conversion, which together with the proposed garage and seating area is considered to harm the rural character of the landscape, fail to enhance the agricultural landscape character of the site and fails to provide a garden curtilage which does not adversely affect the landscape character type, contrary to Policy SC5 (a) and (b).

The development is considered to represent an environmentally unsustainable form of development which fails to meet the environmental objective of sustainability as set out in paragraph 8 of the framework.

## **RECOMMENDATION**

**The current application be REFUSED for the following reasons:**

1. The application represents the change of use of previously undeveloped land to residential garden and development outside of the dwelling's defined garden curtilage contrary to Policy SS9 of the Adopted 2020 Local Plan for Bolsover District, which sets out a number of criteria where development within the countryside, outside of the defined development envelopes within the district, will be supported in principle.
2. The proposals, by virtue of representing a significant intrusion of residential garden of a scale and footprint which is excessive and disproportionate to that required for the

dwelling; a proposed double garage of a domestic form and appearance wholly out of scale and character with The Old Dairy; together with associated outbuildings extending into the countryside, outside of the defined garden curtilage of the barn conversion, are considered to harm the form, character and appearance of the rural landscape setting to the dwelling and the countryside, contrary to Policy SS9 of the Adopted 2020 Local Plan for Bolsover District. The change of use would cause an inherent residential character and loss of agricultural setting, which is an important component of this historic farmstead, failing to enhance the rural character of the building and landscape character generally; contrary to Policy SC5 (a) and (b) of the Adopted Local Plan; and contrary to Policy SC8 of the Adopted Local Plan by causing significant harm to the character, quality and distinctiveness of the landscape. The proposal is considered contrary Policy SS1 (i) of the Adopted Local Plan by failing to protect the character and quality of the landscape and the wider countryside; and to Policy SC3 (j) of the Adopted Local Plan which requires development proposals to accord with and respond to the established character and local distinctiveness of the surrounding landscape. The proposal is contrary to Paragraphs 180 (a) and (b) of the National Planning Policy Framework by failing to protect a valued landscape in the context of the setting of a non-designated heritage asset; and by failing to recognise the intrinsic character and beauty of the countryside. The development represents an environmentally unsustainable form of development contrary to Paragraph 8 of the National Planning Policy Framework.

### **Statement of Decision Process**

*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. Officers have not entered into negotiations during the course of the application as it was not considered possible to make any minor alterations to the proposal which would make the proposal policy compliant, or overcome the concerns raised in relation to the impacts on the character of the countryside. Officers have sought to be proactive by taking the planning application to the nearest available Planning Committee for determination.*

### **Equalities Statement**

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

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

### **Human Rights Statement**

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

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

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

**PARISH** South Normanton Parish

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

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## **SUMMARY**

This application is being re-reported to the Planning Committee to re-consider the proposal in light of proposed changes to the biodiversity mitigation measures as set out in the ecology and biodiversity considerations section of this report. The Council's scheme of delegation requires applications that propose significant changes to the size, scale or nature of proposals previously approved by planning committee that are more than non-material to be determined by the Planning Committee and not under delegation to officers.

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

The application, as revised, is recommended for a conditional approval, subject to the completion of a S106 Planning Obligation.

## **BACKGROUND**

This application was reported to Planning Committee on the 10<sup>th</sup> of April 2024, when it was resolved to grant planning permission subject to the completion of a S106 Planning Obligation; the S106 agreement is not yet complete due to the reconsideration of the issues discussed later in this report, and so the decision has not yet been issued.

The original report is included as Appendix A below, but excluding the initially recommended conditions, as these were amended by the supplementary update report, that is also included as Appendix B.

Of note is that it was resolved by the previous committee to further amend condition 16 from that shown in the supplementary report, due to additional information that was presented verbally to the Committee, and the revised condition 16 is included as Appendix C.

## **REVISIONS**

A revised Biodiversity Metric has been submitted with a reduced predicted gain of 1.81% (originally 13.68%), along with a financial offer of £81,000 for the delivery and ongoing management and maintenance of those enhancements by the Council.

## **CONSULTATION RESPONSE**

### Derbyshire Wildlife Trust

13/08/2024 - The revised Biodiversity Metric has been reviewed and is considered to be accurate. The application is accompanied by sufficient information for the Council to proceed with its determination.

A biodiversity net gain is achievable using a combination of on-site and off-site habitat creation and enhancement measures; a revised approach to that proposed could be taken depending on the objectives of the Council in terms of what it wants to deliver, so care should be taken over the wording of any condition to permit flexibility. No further survey or assessment is required at this time.

The consultation response repeats the recommended conditions of the Trusts earlier consultation response but includes revised wording of (the previously approved) condition 23, to reflect the revised information that has been submitted.

#### Planning Policy

20/08/2024 - From an assessment of the proposed revisions, it is considered that the proposed revisions to the scheme to reduced predicted gain of 1.81% (originally 13.68%), along with a financial offer of £81,000 for the delivery and ongoing management and maintenance of those enhancements by the Council are acceptable in principle and compliant with policy SC9: Biodiversity and Geodiversity.

On this basis, it is considered that the application continues to be policy compliant and should be approved with the appropriate suite of conditions and a Section 106 Agreement that incorporates the agreed Heads of Terms.

#### **ECOLOGY AND BIODIVERSITY CONSIDERATIONS**

As noted in detail in the original report, the key Local Plan Policies relating to these issues are Policy SC9 and SC10.

In considering these issues, it was originally reported that “A biodiversity net gain of more than 10% is achievable using a combination of on-site and off-site habitat creation and enhancement measures, and no further surveys or assessments are required at this time”.

During the discussions to progress and complete the S106 planning obligation, further work has been undertaken to establish more detailed costings for the delivery and on-going management and maintenance of the revised off-site biodiversity enhancement measures that are proposed. This was necessary to ensure that any payment made to the Council for the Council’s delivery of the off-site biodiversity measures at Hilltop Recreation Ground in Pinxton, that would be provided in conjunction with the Derbyshire Wildlife Trust, would be sufficient to ensure that the biodiversity uplift can be delivered.

As was reported to the previous committee, the application is accompanied by an accepted financial viability assessment that demonstrates limitations to available resources to fund normal section 106 contributions, but that the biodiversity enhancement measures could be provided. Due to the additional costings work that has been undertaken since this application was originally considered, the applicant is not in a position to be able to afford to fund the originally predicted gains, such that to do so would have meant that this affordable housing scheme could not be delivered.

In view of this a reduced offer has been designed that would deliver a reduced net gain of 1.81%; this is accompanied by an associated offer of £81,000 for the Council to carry out the works and subsequent management and maintenance for a period of 30 years.

As this application was initially received in 2021, under the transitional arrangements it is not subject to the national mandatory biodiversity net gain conditions, where a minimum of 10% would now be legally required. In this respect the wording of the relevant Local Plan Policy SC9 that compensatory measure should be secured “to ensure no net loss of biodiversity and, where possible, provide a net gain” prevails and, given a gain would still be delivered, the revised details, whilst reduced, are still policy compliant.

Considering the wider planning balance relating to this proposal, the original recommendation was balanced in favour of the delivery of the provision of affordable housing for which there is an identified need, based on the independently produced viability study that demonstrated that the scheme could not be delivered with full contributions to infrastructure. Despite the reduction in the biodiversity net gain anticipated at the time of that earlier report, it considered that the resulting planning balance remains in favour of the delivery of the affordable housing, and that the amendments being put forward are a practical response to the viability issues already identified following the additional costing works that have been undertaken; this should ensure that the affordable homes scheme, with its associated benefits of providing homes where there is an identified need, can be delivered.

For this reason, it is considered that the revisions are acceptable.

## **RECOMMENDATION**

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

**A. Limitation over the occupation of the dwellings to affordable housing.**

**B. A contribution of £81,000 to be used by the Council for the provision for off-site biodiversity mitigation measures, including mechanisms for initial investigations, provision, and long-term management and maintenance.**

**AND subject to the conditions listed in the supplementary report at Appendix B, except for: -**

- **the amended 16 shown in Appendix C, as resolved at the earlier Committee meeting; and**
- **revised condition 23 to reflect the revised information submitted as follows: -**
  - 23. Off-site condition for management and Enhancement Plan (Condition 27)  
A Biodiversity Habitat Enhancement and Management Plan (BHEMP) shall be submitted to, and be approved in writing by, the LPA prior to the commencement of the development. The aim of the plan is to provide details for the creation, enhancement and management of habitats and species off-site post development to provide a biodiversity net gain. The plan shall be suitable to provide to the management body responsible for the site. It shall include the following: -
    - a) Description and location of features to be retained, created, enhanced and managed.
    - b) Details for the enhancement of modified grassland including the results of soil analysis.
    - c) Aims and objectives of management, in line with desired habitat conditions for grassland types as per Defra’s biodiversity 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, 3, 5, 10, 15, 20, 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.

## APPENDIX A – Original report

**PARISH** South Normanton Parish

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

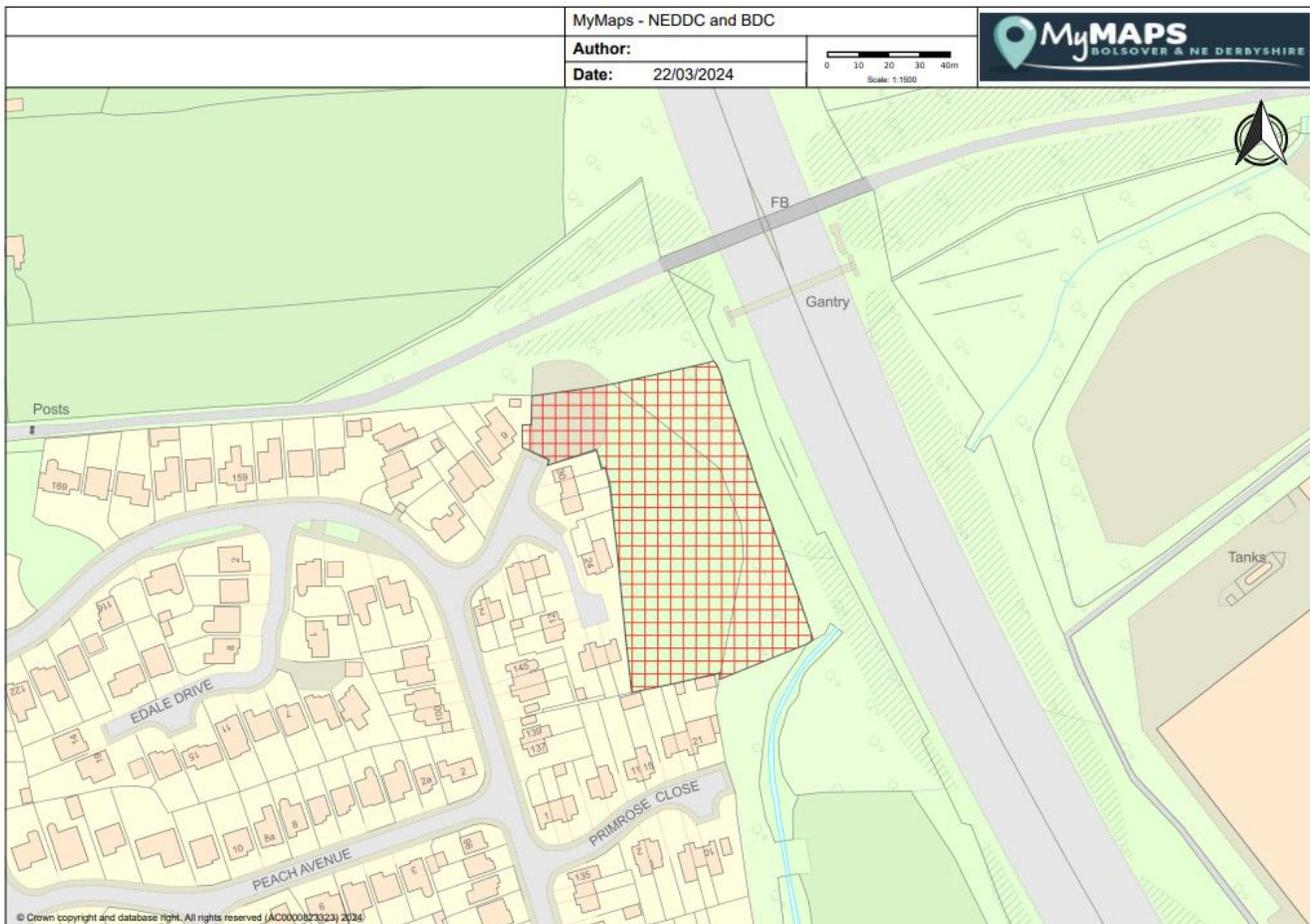
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### SUMMARY

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

These will be discussed in more detail within the report.

### SITE & SURROUNDINGS



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

been laid on the northwest part of the site.

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

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

## PROPOSAL

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

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

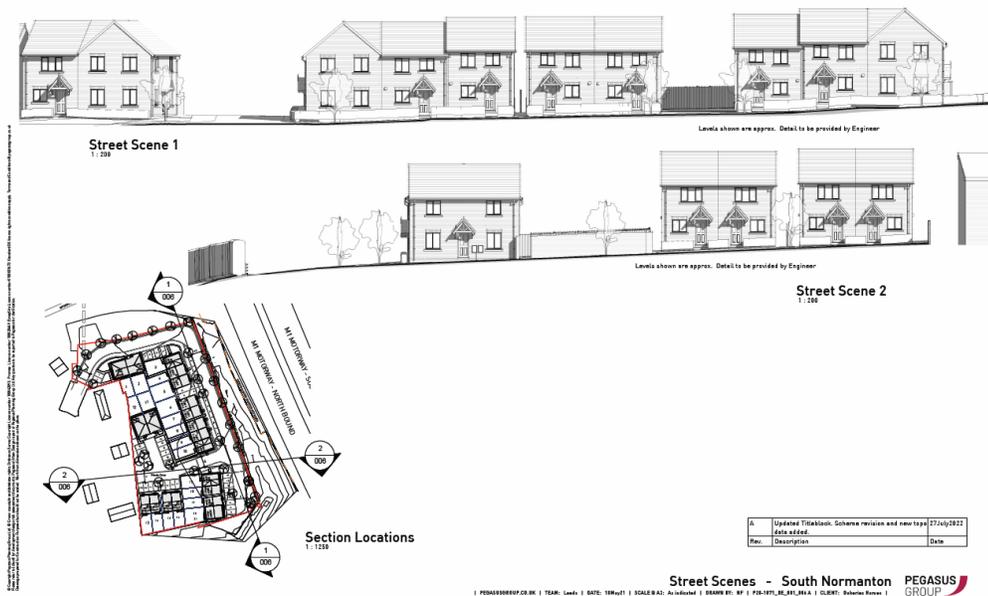
The submitted layout indicates a bund of approximately 6m in height and 2m in width along the site's eastern boundary. A further acoustic barrier (3m) would be included to the top of this bund that is adjacent to the M1. The following is the layout as proposed:



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

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

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



### Supporting Documents

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

### **AMENDMENTS**

17/11/2022 – Revised scheme:

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

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

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

07/03/2023 – Revised drawings:

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

28/03/2023 – Revised drawings:

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

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

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

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

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

29/01/2024 –

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

## **EIA SCREENING OPINION**

The proposals that are the subject of this application are not Schedule 1 development, but

they are an urban development project as described in criteria 10b of Schedule 2 of The Town and Country Planning (Environmental Impact Assessment) Regulations 2017.

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

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

## **HISTORY**

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

## **CONSULTATIONS**

### Bolsover District Council Drainage Engineer

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

- Make provision for the lifetime management and maintenance of any SuDS schemes.
- Comply with Part H of the Building Regulations 2010.
- Not detrimentally alter the structure or surface of the ground and increase or alter the natural flow of water to cause flooding to neighbouring properties.
- Ensure any temporary drainage arrangements during construction gives due consideration to the prevention of surface water runoff onto the public highway and neighbouring properties.

### Bolsover District Council Head of Regeneration

No comments received.

### Bolsover District Council (Leisure)

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

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

- £23,436 (21 dwellings x £1116 per dwelling) for improvement of existing nearby green spaces (Policy ITCR5).

- £28,560 (21 dwellings x £1360 per dwelling) for improving existing built and outdoor sports facilities (Policy ITCR7).

#### Bolsover District Council (Strategic Housing)

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

#### Coal Authority

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

#### Derbyshire County Council (Highways)

19/07/21 - Further information required.

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

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

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

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

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

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

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

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

#### Derbyshire County Council (Strategic Planning)

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

employment and skills.

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

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

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

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

Derbyshire Wildlife Trust

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

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

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

Environmental Health

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

Force Designing Out Crime Officer

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

06/12/2022 - Comments regarding:

- control over boundary treatments, including the introduction of gates and management of proposed hedges;
- ensuring that the portion of a footpath link to Sporton Lane (if provided or retained)

- within the site is left with an open aspect;
- inclusion of lighting to the parking court (Solar powered columns will be acceptable).

#### Health and Safety Executive

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

#### National Highways (formerly Highways England)

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

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

#### NHS / Clinical Commissioning Group

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

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

#### Urban Design

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

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

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

### **PUBLICITY**

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

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

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

#### Principle

- Concerns over the density of the development with around 80 people living in this small area; will cause environmental problems.
- The Council should consider local factors and residents' concerns in conjunction with planning applications and not just policies and targets.

- New houses will further stretch amenities in the area; schools are already stretched with most over-subscribed.
- Already large number of properties in the area and there are other plans to build elsewhere in South Normanton.

### Highway Safety

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

### Amenity

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

### Biodiversity

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

### Other

- Impact on property values.

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

## **POLICY**

### Development Plan for Bolsover District ("the Development Plan")

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

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

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

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

- Chapter 2: - Achieving sustainable development.
- Paragraphs 7 - 10: Achieving sustainable development.
- Paragraphs 47 - 50: Determining applications.
- Paragraphs 55 - 58: Planning conditions and obligations.
- Paragraphs 96 - 107: Promoting healthy and safe communities.
- Paragraphs 108 - 117: Promoting sustainable transport.
- Paragraphs 123 - 127: Making effective use of land.
- Paragraphs 131 – 136: Achieving well-designed and beautiful places.
- Paragraph 157, 159 and 162: Meeting the challenge of climate change.
- Paragraph 165 - 175: Planning and Flood Risk.
- Paragraphs 180, 186 and 188: Conserving and enhancing the natural environment.
- Paragraphs 189 - 194: Ground conditions and pollution.

#### Supplementary Planning Documents

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

## **ASSESSMENT**

### ***Key issues***

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

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

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

### Principle of Development

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

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

### *Response to representations*

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

### Affordable Housing

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

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

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

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

#### Access and Highway Safety

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

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

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

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

The Highway Authority has recommended conditions and advisory notes.

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

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

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

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

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

### *Response to representations*

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

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

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

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

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

### Landscape and Visual Impact

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

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

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

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

#### Design, Layout & Residential Amenity

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

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

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

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

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

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

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

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

occupiers of existing dwellings can be maintained.

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

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

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

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

### Biodiversity & Trees

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

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

Following the submission of additional biodiversity information to address issues raised by the Derbyshire Wildlife Trust, the Trust has confirmed that the application is accompanied by sufficient information for the Council to proceed with its determination. A biodiversity net gain of more than 10% is achievable using a combination of on-site and off-site habitat creation and enhancement measures, and no further surveys or assessments are required at this time. It has been identified through discussions with the Planning Policy offer, as part of ongoing nature recovery work, that land is available to undertake offsite biodiversity improvements on Council owned land at Pinxton. In view of this, in order to secure the provision and long-term management and maintenance of the proposed biodiversity measures, conditions are recommended for the on-site elements, and a legal agreement is proposed to secure the off-site biodiversity measures; the agreement would need to include either the direct provision of the works by the developer or a contribution to the Council to carry out the works, along with suitable measures to secure the long term management of that provision, that may necessitate an appropriate financial sum if necessary.

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

suitability of that document as part of the consideration and determination of the relevant application at that time.

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

#### Drainage and flood risk

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

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

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

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

#### Ground Conditions

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

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

## Noise

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

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

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

## Air Quality

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

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

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

## Hazardous Installations

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

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

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

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

### S106 Requirements & Viability

#### Affordable Housing

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

#### Recreation and Leisure

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

#### Green space

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

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

existing green space.

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

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

#### *Built & Outdoor Sports Facilities*

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

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

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

#### Education

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

#### Health

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

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

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

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

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

### Viability

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

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

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

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

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

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

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

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

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

## **CONCLUSION**

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

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

## **RECOMMENDATION**

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

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

**AND subject to the following conditions:**

*See appendix B below for conditions*

## **APPENDIX B – Extract from Committee update report**

### **COMMITTEE UPDATE SHEET**

#### **SUPPLEMENTARY REPORT OF THE PLANNING MANAGER**

This sheet is to be read in conjunction with the main report.

#### **Applications to be determined under the Town & Country Planning Acts**

Planning Site Visits held on 5<sup>th</sup> April 2024 commencing at 10:00 hours.

PRESENT: -

Cllr Tom Munro, Cllr John Ritchie, Cllr Rob Hiney Saunders and Councillor Phil Smith.  
Apologies were received from Cllr Carol Wood.

Officers: Chris Whitmore, Peter Sawdon

#### **SITE VISITED**

1. 21/00331/FUL, Dahlia Avenue, South Normanton

The meeting concluded at 11:15 hrs.

#### **AGENDA ITEM 5 – 21/00331/FUL: Open Space East of Dahlia Avenue South Normanton**

In ongoing discussions with the applicant, we have been requested to consider 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 deal with the identification and treatment of any contamination, should any be identified.

The suggested amendments are considered a minor re-drafting of the originally drafted conditions that maintain the controls sought through them, such that there are no objections to these suggested alterations.

Additionally, it has been noted that the draft conditions include the following drafting errors that require correction: -

- Condition 16 is a duplication of condition 8 that has been included in error and so condition 16 is 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).

#### **Recommendation**

That the recommended conditions in the original report be amended as follows: -

1. The development shall be begun before the expiration of three years from the date of this permission.
2. The development hereby permitted shall be carried out in accordance with the following approved drawings and documents, unless otherwise required and/or approved under other conditions of this planning permission.

Documents submitted 25/01/2024: -

- P20-1071.01H - Revised Layout
  - P20-1071.04A - Site Levels and Sections
  - P20-1071.06A - Street Scenes
  - P20-1071.07B - Garden Sizes
  - P20-1071.08 - 3D Site Renders
  - P20-1071.020 - TYPE B-TYPE B – SEMI
  - P20-1071.021 - TYPE B-TYPE D – SEMI
  - P20-1071.022 - TYPE C-TYPE C - SEMI
  - P20-1071.023 - TYPE D-TYPE C-TYPE C - 3 TERRACE (Sheet 1)
  - P20-1071.024 - TYPE D-TYPE C-TYPE C - 3 TERRACE (Sheet 2)
  - P20-1071.025 - TYPE C-TYPE C-TYPE D - 3 TERRACE (Sheet 1)
  - P20-1071.026 - TYPE C-TYPE C-TYPE D - 3 TERRACE (Sheet 2)
  - P20-1071.027 - TYPE F-TYPE B – SEMI
  - P20-1071.028 - BUNGALOW 1 – SEMI
  - P20-1071.029 - BUNGALOW 2 - SEMI
3. No development comprising the erection of any external walls shall take place until samples of the materials to be used in the construction of the external surfaces of the development, including the roof, have been submitted to and approved in writing by the Local Planning Authority. The Development shall be carried out in accordance with the approved details. The materials to be used throughout the development shall be consistent in terms of colour, size, and texture with the approved details.
  4. No development shall take place until full details of both hard and soft landscape work with an associated implementation plan, have been submitted to and approved in writing by the Local Planning Authority. The hard landscape details shall include proposed finished levels or contours; means of enclosure; hard surfacing materials and street furniture, where relevant. The soft landscaping works shall include planting plans; written specifications (including cultivation and other operations associated with plant and grass establishment); schedules of plants and trees, noting species, plant/tree sizes and proposed numbers/densities and the implementation programme.

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

5. Prior to the commencement of any development hereby approved, a scheme in the form of a Construction 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. No 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.

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.

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. The scheme of sound mitigation included in the submitted Noise Impact Assessment dated 4th February 2021, carried out by Environmental Noise Solutions must have been implemented as part of this development prior to the occupation of any dwelling and must be retained, as approved, at all times thereafter.
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.
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:
  - 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 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.

## **APPENDIX C – Revised condition 16**

16. The scheme of sound mitigation included in the submitted Noise Impact Assessment dated 4th February 2021, carried out by Environmental Noise Solutions must have been implemented as part of this development prior to the occupation of any dwelling and must be retained, as approved, at all times thereafter.

## Bolsover District Council

### Meeting of the Planning Committee on 4<sup>th</sup> September 2024

#### Proposed reforms to the National Planning Policy Framework and other changes to the planning system – open consultation.

#### Report of the Assistant Director of Planning & Planning Policy

<b>Classification</b>	This report is Public.
<b>Report By</b>	Sarah Kay - Assistant Director of Planning & Planning Policy

### PURPOSE/SUMMARY OF REPORT

To provide Members with a summary of the open consultation for the proposed reforms to the National Planning Policy Framework and other changes to the planning system, published on 30<sup>th</sup> July 2024.

### REPORT DETAILS

#### **1. Background**

- 1.1 On the 30<sup>th</sup> July 2024 the Ministry of Housing, Communities and Local Government (MHCLG) launched an [open consultation](#) on their proposed approach to revising the National Planning Policy Framework (NPPF) to achieve sustainable growth in the planning system.
- 1.2 The consultation principally relates to the supply of land to boost housing, but it also seeks views on a series of wider interventions relating to planning fees, local plan interventions, and thresholds for Nationally Significant Infrastructure Projects (NSIPs).
- 1.3 The consultation comprises of 106 questions in total (listed in Appendix 1) and closes on the 24<sup>th</sup> September 2024. Accompanying the consultation was publication of the [draft NPPF](#) text, which encompasses the proposed changes.

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

- 2.1 The consultation is split into chapters detailed in the table below:

Chapter 1.	Introduction
Chapter 2.	Policy objectives
Chapter 3.	Planning for the homes we need
Chapter 4.	A new Standard Method for assessing housing needs

Chapter 5.	Brownfield, grey belt and the Green Belt
Chapter 6.	Delivering affordable, well-designed homes and places
Chapter 7.	Building infrastructure to grow the economy
Chapter 8.	Delivering community needs
Chapter 9.	Supporting green energy and the environment
Chapter 10.	Changes to local plan intervention criteria
Chapter 11.	Changes to planning application fees and cost recovery for local authorities related to Nationally Significant Infrastructure Projects
Chapter 12.	The future of planning policy and plan making

- 2.2 Across those chapters, the key principles of the consultation centre around housing need and targets, greenbelt, local plans, and other aspects of planning reform.
- 2.3 The consultation seeks to re-introduce a focus on supply of land as the primary presumption in favour of 'sustainable development', which will affect para. 11 of the NPPF (the tilted balance remains, but will be more intrinsically linked to policies connected with the supply of land).

#### Housing need and targets

- 2.4 In respect of the above the consultation reaffirms the Government objective to significantly boost the supply of homes. In order to boost supply, the consultation emphasises that local requirements will be based on identified housing need and the consultation indicates the intention to reintroduce the 5-year housing land supply (5YHLS) requirement, restore the 5% buffer on the 5YHLS (or require a 20% buffer if the council score below 85% in the housing delivery test), remove the urban uplift, and disallow fixing 5YHLS through annual position statements.
- 2.5 To coincide, the consultation introduces a new standard method calculation formula to be used by all councils, using a baseline based on existing housing stock levels, a stronger affordability multiplier, and removing caps / additions.
- 2.6 The implication for Bolsover is that currently the standard method results in a requirement for 195 dwellings per annum, which will rise to 404 dwellings per annum as a result of the new standard method formula. This is significantly above the Local Plan requirement of 272 dwellings per annum.
- 2.7 Alongside new housing targets, the consultation also proposes to amend policy on housing mix, introducing specific reference to social rent and 'looked after children'. Through the consultation the requirement for the first 10% of homes to be affordable home ownership (First Homes) is deleted.

#### Greenbelt

- 2.8 The consultation considers a number of changes to greenbelt, including the introduction of 'grey belt' (by definition), and a compulsory review of greenbelt to become necessary if identified housing, commercial and other needs cannot be met.

- 2.9 As proposed, any sites for development that meet the new 'grey belt' definition will be deemed 'appropriate' if they are in a sustainable location, and will not need to demonstrate 'very special circumstances'.
- 2.10 To coincide with the above, the consultation indicates any greenbelt land released through plan-making or planning decisions will need to meet the following 'golden rules':
- at least 50% affordable housing (if the scheme involves the provision of housing).
  - necessary local and national infrastructure.
  - the provision of new, or improvements to existing, local green spaces, accessible to the public.

### Local plans

- 2.11 The consultation indicates that it is the intention to implement the new plan-making system as set out in the Levelling-up and Regeneration Act from summer or autumn 2025. This includes transitional arrangements for any plans being examined, or at regulation 19 stage. This does not affect Bolsover.
- 2.12 Current system plans that are not subject to transitional arrangements need to be submitted for examination under the existing 2004 Act system no later than December 2026.
- 2.13 For Bolsover, with the intended Local Plan Review timescales already in place (i.e. before March 2025), this will mean any of our current plan-making proposals lie outside of the 2004 system, and will be captured in the new plan-making system in future.
- 2.14 Alongside this, the duty to cooperate through plan-making is proposed to be re-emphasised and is intended to capture meeting housing need (inc. neighbours' unmet need), strategic infrastructure, and climate resilience.

### Other reform

- 2.15 A series of other supplementary reforms are also captured by the consultation, which relates to fees, design and design-codes, strategic planning, local plan intervention, NSIPs and climate change as follows.
- 2.16 **Fees:** the consultation includes proposals to further increase planning fees, firstly for householder applications (£258-£528), but subsequently for other applications as well. These changes are based upon the cost recovery of administering and determining planning applications, and includes for local authorities being able to recover costs for their involvement in NSIP related applications as well. It is also seeking views on the localisation of planning fees and local variation from a default national set fee regime.
- 2.17 **Design and design-codes:** the consultation proposes to remove reference to 'beauty' and 'beautiful', which will limit subjectivity / ambiguity of these terms. In addition, the consultation retains design-code emphasis but shifts their role from a district wide code to localised design codes, masterplans and guides for sites subject to the most change / potential.

- 2.18 **Strategic Planning:** the consultation seeks to re-introduce a regional tier of planning through the introduction of Spatial Development Strategies (SDSs), which will see Mayors overseeing the development and agreement of SDSs. Outside of mayoral areas, other appropriate geographies will be considered.
- 2.19 **Local plan intervention:** the consultation indicates the Government is committed to taking tough action to ensure authorities have up-to-date local plans in place, and proposes to revise the policy criteria for intervention (whilst maintain flexibility). Such measures would include issuing plan-making directions and/or SoS intervention.
- 2.20 **NSIPs and climate change:** the consultation seeks to increase the scope of commercial projects covered by the NSIP regime (including data centres, gigafactories, and/or laboratories), and also considers reducing the mega wattage thresholds for renewable energy projects (wind and solar). Other references to climate change seek views how national policy can be strengthened to deliver measurable climate change mitigation, it makes reference to agricultural land and food production, and also water resilience.

### **3. Recommendation**

- 3.1 The purpose of this report is to provide Members with a general overview of the consultation issues.
- 3.2 Officers across both the Planning Policy and Development Management teams are currently co-ordinating responses to each of the questions in the consultation. This is targeted to be complete by the 13<sup>th</sup> September 2024.
- 3.3 The consultation timescales do not allow the fully completed response to be reported back to planning committee before the consultation deadline and therefore it is proposed for the final response to be shared with the Chair of Planning Committee and the Portfolio Holder for Growth for agreement, prior to submission by the Assistant Director of Planning & Planning Policy before the 24<sup>th</sup> September 2024 deadline.
- 3.4 The consultation indicates that the Government intend to press ahead with the changes that support their plans as soon as possible, with the consultation indicating that they will respond to this consultation and publish NPPF revisions before the end of the year. With this in mind, Officers will report to the Local Plan Implementation Advisory Group in October on the implications for this consultation and the current Local Plan Review.

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

- 4.1 The alternative option would be to not respond to the consultation, but given the proposals have the potential to impact the district in terms of housing and growth, and affect the wider planning service, this alternative option was rejected.

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### **RECOMMENDATION(S)**

1. That Members consider the scope and provisionally indicated implications of the consultation, and endorse the preparation of a detailed response to all 106 questions by Officers; and
2. That Members delegate final agreement of the detailed response to the Assistant Director of Planning & Planning Policy, in consultation with the Chair of Planning Committee, and the Portfolio Holder for Growth.

<b><u>IMPLICATIONS:</u></b>	
<b><u>Finance and Risk:</u></b>	Yes <input type="checkbox"/> No <input type="checkbox"/>
Details: N/A	
On behalf of the Section 151 Officer	
<b><u>Legal (including Data Protection):</u></b>	Yes <input type="checkbox"/> No <input type="checkbox"/>
Details: N/A	
On behalf of the Solicitor to the Council	
<b><u>Environment:</u></b>	
Please identify (if applicable) how this proposal/report will help the Authority meet its carbon neutral target or enhance the environment.	
Details: N/A	
<b><u>Staffing:</u></b>	Yes <input type="checkbox"/> No <input type="checkbox"/>
Details: N/A	
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> <i>(Only Key Decisions are subject to Call-In)</i>	No

<b>District Wards Significantly Affected</b>	District Wide
<b>Consultation:</b> <b>Leader / Deputy Leader</b> <input checked="" type="checkbox"/> <b>Executive</b> <input checked="" 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 checked="" type="checkbox"/>	Details:

## **Links to Council Ambition: Customers, Economy, Environment and Housing.**

The open consultation, and the wider planning service, have links to all four of the council ambitions through the promotion of sustainable growth and development in general.

### **DOCUMENT INFORMATION**

<b>Appendix No</b>	<b>Title</b>
1.	List of questions contained in the open consultation.

### **Background Papers**

*(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).*

## **APPENDIX 1: LIST OF QUESTIONS FROM OPEN CONSULTATION**

Question 1: Do you agree that we should reverse the December 2023 changes made to paragraph 61?

Question 2: Do you agree that we should remove reference to the use of alternative approaches to assessing housing need in paragraph 61 and the glossary of the NPPF?

Question 3: Do you agree that we should reverse the December 2023 changes made on the urban uplift by deleting paragraph 62?

Question 4: Do you agree that we should reverse the December 2023 changes made on character and density and delete paragraph 130?

Question 5: Do you agree that the focus of design codes should move towards supporting spatial visions in local plans and areas that provide the greatest opportunities for change such as greater density, in particular the development of large new communities?

Question 6: Do you agree that the presumption in favour of sustainable development should be amended as proposed?

Question 7: Do you agree that all local planning authorities should be required to continually demonstrate 5 years of specific, deliverable sites for decision making purposes, regardless of plan status?

Question 8: Do you agree with our proposal to remove wording on national planning guidance in paragraph 77 of the current NPPF?

Question 9: Do you agree that all local planning authorities should be required to add a 5% buffer to their 5-year housing land supply calculations?

Question 10: If yes, do you agree that 5% is an appropriate buffer, or should it be a different figure?

Question 11: Do you agree with the removal of policy on Annual Position Statements?

Question 12: Do you agree that the NPPF should be amended to further support effective co-operation on cross boundary and strategic planning matters?

Question 13: Should the tests of soundness be amended to better assess the soundness of strategic scale plans or proposals?

Question 14: Do you have any other suggestions relating to the proposals in this chapter?

Question 15: Do you agree that Planning Practice Guidance should be amended to specify that the appropriate baseline for the standard method is housing stock rather than the latest household projections?

Question 16: Do you agree that using the workplace-based median house price to median earnings ratio, averaged over the most recent 3 year period for which data is available to adjust the standard method's baseline, is appropriate?

Question 17: Do you agree that affordability is given an appropriate weighting within the proposed standard method?

Question 18: Do you consider the standard method should factor in evidence on rental affordability? If so, do you have any suggestions for how this could be incorporated into the model?

Question 19: Do you have any additional comments on the proposed method for assessing housing needs?

Question 20: Do you agree that we should make the proposed change set out in paragraph 124c, as a first step towards brownfield passports?

Question 21: Do you agree with the proposed change to paragraph 154g of the current NPPF to better support the development of PDL in the Green Belt?

Question 22: Do you have any views on expanding the definition of PDL, while ensuring that the development and maintenance of glasshouses for horticultural production is maintained?

Question 23: Do you agree with our proposed definition of grey belt land? If not, what changes would you recommend?

Question 24: Are any additional measures needed to ensure that high performing Green Belt land is not degraded to meet grey belt criteria?

Question 25: Do you agree that additional guidance to assist in identifying land which makes a limited contribution of Green Belt purposes would be helpful? If so, is this best contained in the NPPF itself or in planning practice guidance?

Question 26: Do you have any views on whether our proposed guidance sets out appropriate considerations for determining whether land makes a limited contribution to Green Belt purposes?

Question 27: Do you have any views on the role that Local Nature Recovery Strategies could play in identifying areas of Green Belt which can be enhanced?

Question 28: Do you agree that our proposals support the release of land in the right places, with previously developed and grey belt land identified first, while allowing local planning authorities to prioritise the most sustainable development locations?

Question 29: Do you agree with our proposal to make clear that the release of land should not fundamentally undermine the function of the Green Belt across the area of the plan as a whole?

Question 30: Do you agree with our approach to allowing development on Green Belt land through decision making? If not, what changes would you recommend?

Question 31: Do you have any comments on our proposals to allow the release of grey belt land to meet commercial and other development needs through plan-making and decision-making, including the triggers for release?

Question 32: Do you have views on whether the approach to the release of Green Belt through plan and decision-making should apply to traveller sites, including the sequential test for land release and the definition of PDL?

Question 33: Do you have views on how the assessment of need for traveller sites should be approached, in order to determine whether a local planning authority should undertake a Green Belt review?

Question 34: Do you agree with our proposed approach to the affordable housing tenure mix?

Question 35: Should the 50 per cent target apply to all Green Belt areas (including previously developed land in the Green Belt), or should the Government or local planning authorities be able to set lower targets in low land value areas?

Question 36: Do you agree with the proposed approach to securing benefits for nature and public access to green space where Green Belt release occurs?

Question 37: Do you agree that Government should set indicative benchmark land values for land released from or developed in the Green Belt, to inform local planning authority policy development?

Question 38: How and at what level should Government set benchmark land values?

Question 39: To support the delivery of the golden rules, the Government is exploring a reduction in the scope of viability negotiation by setting out that such negotiation should not occur when land will transact above the benchmark land value. Do you have any views on this approach?

Question 40: It is proposed that where development is policy compliant, additional contributions for affordable housing should not be sought. Do you have any views on this approach?

Question 41: Do you agree that where viability negotiations do occur, and contributions below the level set in policy are agreed, development should be subject to late-stage viability reviews, to assess whether further contributions are required? What support would local planning authorities require to use these effectively?

Question 42: Do you have a view on how golden rules might apply to non-residential development, including commercial development, travellers sites and types of development already considered 'not inappropriate' in the Green Belt?

Question 43: Do you have a view on whether the golden rules should apply only to 'new' Green Belt release, which occurs following these changes to the NPPF? Are there other transitional arrangements we should consider, including, for example, draft plans at the regulation 19 stage?

Question 44: Do you have any comments on the proposed wording for the NPPF (Annex 4)?

Question 45: Do you have any comments on the proposed approach set out in paragraphs 31 and 32?

Question 46: Do you have any other suggestions relating to the proposals in this chapter?

Question 47: Do you agree with setting the expectation that local planning authorities should consider the particular needs of those who require Social Rent when undertaking needs assessments and setting policies on affordable housing requirements?

Question 48: Do you agree with removing the requirement to deliver 10% of housing on major sites as affordable home ownership?

Question 49: Do you agree with removing the minimum 25% First Homes requirement?

Question 50: Do you have any other comments on retaining the option to deliver First Homes, including through exception sites?

Question 51: Do you agree with introducing a policy to promote developments that have a mix of tenures and types?

Question 52: What would be the most appropriate way to promote high percentage Social Rent/affordable housing developments?

Question 53: What safeguards would be required to ensure that there are not unintended consequences? For example, is there a maximum site size where development of this nature is appropriate?

Question 54: What measures should we consider to better support and increase rural affordable housing?

Question 55: Do you agree with the changes proposed to paragraph 63 of the existing NPPF?

Question 56: Do you agree with these changes?

Question 57: Do you have views on whether the definition of 'affordable housing for rent' in the Framework glossary should be amended? If so, what changes would you recommend?

Question 58: Do you have views on why insufficient small sites are being allocated, and on ways in which the small site policy in the NPPF should be strengthened?

Question 59: Do you agree with the proposals to retain references to well-designed buildings and places, but remove references to 'beauty' and 'beautiful' and to amend paragraph 138 of the existing Framework?

Question 60: Do you agree with proposed changes to policy for upwards extensions?

Question 61: Do you have any other suggestions relating to the proposals in this chapter?

Question 62: Do you agree with the changes proposed to paragraphs 86 b) and 87 of the existing NPPF?

Question 63: Are there other sectors you think need particular support via these changes? What are they and why?

Question 64: Would you support the prescription of data centres, gigafactories, and/or laboratories as types of business and commercial development which could be capable (on request) of being directed into the NSIP consenting regime?

Question 65: If the direction power is extended to these developments, should it be limited by scale, and what would be an appropriate scale if so?

Question 66: Do you have any other suggestions relating to the proposals in this chapter?

Question 67: Do you agree with the changes proposed to paragraph 100 of the existing NPPF?

Question 68: Do you agree with the changes proposed to paragraph 99 of the existing NPPF?

Question 69: Do you agree with the changes proposed to paragraphs 114 and 115 of the existing NPPF?

Question 70: How could national planning policy better support local authorities in (a) promoting healthy communities and (b) tackling childhood obesity?

Question 71: Do you have any other suggestions relating to the proposals in this chapter?

Question 72: Do you agree that large onshore wind projects should be reintegrated into the s NSIP regime?

Question 73: Do you agree with the proposed changes to the NPPF to give greater support to renewable and low carbon energy?

Question 74: Some habitats, such as those containing peat soils, might be considered unsuitable for renewable energy development due to their role in carbon sequestration. Should there be additional protections for such habitats and/or compensatory mechanisms put in place?

Question 75: Do you agree that the threshold at which onshore wind projects are deemed to be Nationally Significant and therefore consented under the NSIP regime should be changed from 50 megawatts (MW) to 100MW?

Question 76: Do you agree that the threshold at which solar projects are deemed to be Nationally Significant and therefore consented under the NSIP regime should be changed from 50MW to 150MW?

Question 77: If you think that alternative thresholds should apply to onshore wind and/or solar, what would these be?

Question 78: In what specific, deliverable ways could national planning policy do more to address climate change mitigation and adaptation?

Question 79: What is your view of the current state of technological readiness and availability of tools for accurate carbon accounting in plan-making and planning decisions, and what are the challenges to increasing its use?

Question 80: Are any changes needed to policy for managing flood risk to improve its effectiveness?

Question 81: Do you have any other comments on actions that can be taken through planning to address climate change?

Question 82: Do you agree with removal of this text from the footnote?

Question 83: Are there other ways in which we can ensure that development supports and does not compromise food production?

Question 84: Do you agree that we should improve the current water infrastructure provisions in the Planning Act 2008, and do you have specific suggestions for how best to do this?

Question 85: Are there other areas of the water infrastructure provisions that could be improved? If so, can you explain what those are, including your proposed changes?

Question 86: Do you have any other suggestions relating to the proposals in this chapter?

Question 87: Do you agree that we should we replace the existing intervention policy criteria with the revised criteria set out in this consultation?

Question 88: Alternatively, would you support us withdrawing the criteria and relying on the existing legal tests to underpin future use of intervention powers?

Question 89: Do you agree with the proposal to increase householder application fees to meet cost recovery?

Question 90: If no, do you support increasing the fee by a smaller amount (at a level less than full cost recovery) and if so, what should the fee increase be? For example, a 50% increase to the householder fee would increase the application fee from £258 to £387.

If Yes, please explain in the text box what you consider an appropriate fee increase would be.

Question 91: If we proceed to increase householder fees to meet cost recovery, we have estimated that to meet cost-recovery, the householder application fee should be increased to £528. Do you agree with this estimate?

Yes

No – it should be higher than £528

No – it should be lower than £528

no - there should be no fee increase

Don't know

If No, please explain in the text box below and provide evidence to demonstrate what you consider the correct fee should be.

Question 92: Are there any applications for which the current fee is inadequate? Please explain your reasons and provide evidence on what you consider the correct fee should be.

Question 93: Are there any application types for which fees are not currently charged but which should require a fee? Please explain your reasons and provide evidence on what you consider the correct fee should be.

Question 94: Do you consider that each local planning authority should be able to set its own (non-profit making) planning application fee?  
Please give your reasons in the text box below.

Question 95: What would be your preferred model for localisation of planning fees?

Full Localisation – Placing a mandatory duty on all local planning authorities to set their own fee.

Local Variation – Maintain a nationally-set default fee and giving local planning authorities the option to set all or some fees locally.

Neither

Don't Know

Please give your reasons in the text box below.

Question 96: Do you consider that planning fees should be increased, beyond cost recovery, for planning applications services, to fund wider planning services?

If yes, please explain what you consider an appropriate increase would be and whether this should apply to all applications or, for example, just applications for major development?

Question 97: What wider planning services, if any, other than planning applications (development management) services, do you consider could be paid for by planning fees?

Question 98: Do you consider that cost recovery for relevant services provided by local authorities in relation to applications for development consent orders under the Planning Act 2008, payable by applicants, should be introduced?

Question 99: If yes, please explain any particular issues that the Government may want to consider, in particular which local planning authorities should be able to recover costs and the relevant services which they should be able to recover costs for, and whether host authorities should be able to waive fees where planning performance agreements are made.

Question 100: What limitations, if any, should be set in regulations or through guidance in relation to local authorities' ability to recover costs?

Question 101: Please provide any further information on the impacts of full or partial cost recovery are likely to be for local planning authorities and applicants. We would particularly welcome evidence of the costs associated with work undertaken by local authorities in relation to applications for development consent.

Question 102: Do you have any other suggestions relating to the proposals in this chapter?

Question 103: Do you agree with the proposed transitional arrangements? Are there any alternatives you think we should consider?

Question 104: Do you agree with the proposed transitional arrangements?

Question 105: Do you have any other suggestions relating to the proposals in this chapter?

Question 106: Do you have any views on the impacts of the above proposals for you, or the group or business you represent and on anyone with a relevant protected characteristic? If so, please explain who, which groups, including those with protected characteristics, or which businesses may be impacted and how. Is there anything that could be done to mitigate any impact identified?



**Bolsover District Council**

**Meeting of the Planning Committee on 4<sup>th</sup> September 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 Principal 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 legal agreements 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.
- 1.6 Accordingly, this report is the quarterly progress report following the meeting of the Section 106 Monitoring Group held on 18<sup>th</sup> July 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 on 19<sup>th</sup> June, eight sums were identified as being within their 24-month deadline as of 18<sup>th</sup> April 2024.
- 2.3 As of the Monitoring Group meeting on 18<sup>th</sup> July 2024 there are nine sums within their 24-month deadlines (details below).

### **Spend Date within 12 months (by 18<sup>th</sup> July 2025)**

<b>Action Plan</b>	<b>Finance Spreadsheet</b>	<b>Site</b>	<b>Infrastructure and amount</b>	<b>Amount remaining</b>	<b>Date</b>
<b>Item 17</b>	Line 83	Mansfield Road, Tibshelf	Outdoor Sport (£164,153)	£162,915 <b>Reduced by £88</b>	20.12.24
<b>Item 19</b>	Line 89	Oxcroft Lane, Bolsover	Outdoor Sport (£125,336.69)	£123,469.84 Reduced by £144.35 <b>Now spent</b>	10.3.25
<b>Item 22</b>	Line 88	Station Road, Langwith Junction	Health (£16,000)	£16,000 <b>No change</b>	30.1.25

- 2.4 Members will note that since the quarterly update report presented to June's meeting of the Planning Committee there has been further spend of £88 against the Outdoor Sports sum from the Mansfield Road Tibshelf development. Since the S106 Monitoring Group meeting in July, the Outdoor Sports sum from the Oxcroft Lane development has been spent in full with the completion and handover of the Skatepark development at Hornscroft Park, Bolsover. The Health sum from the Station Road development at Langwith Junction remains unspent.
- 2.5 The sum of £10,184.39 from the High Ash Farm, Clowne development that was reported on at the last meeting has been removed from the list of sums needing to be spent. As notified to all Members following the last meeting, it is in fact a maintenance sum related to an area of open space within the development and as such there is no clawback provision.

#### **Spend Date within 2 years (by 18 July 2026)**

<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
Not in Action Plan	Line 96	Land at Thornhill Drive, South Normanton	Art £10,757	£10,757.25  <b>No change</b>	24.6.26
Not in Action Plan	Line 97	Land at Thornhill Drive, South Normanton	Outdoor Sport £22,843	£15,555.75  <b>Reduced by £7,287.25</b>	24.6.26

Not in Action Plan	Line 98	Land at Thornhill Drive, South Normanton	Open Space £30,400	£30,400.07  <b>No change</b>	24.6.26
Not in Action Plan	Line 99	Land at Thornhill Drive, South Normanton	Health £11,784	£11,784.56  <b>No change</b>	24.6.26

2.6 Since the last Planning Committee four further sums have come within the 2 years spend threshold. All are from the development at Thornhill Drive, South Normanton and are to contribute towards a range of infrastructure. Of these there has been £7,287.25 spend to date against the Outdoor Sport allocation. This was spent on various works to the football pitches at Common Meadows and to the pavilion at Broadmeadows Open Space. The LFPDM is in discussion with the Parish Council concerning other potential projects. All four sums from Thornhill Drive have since been included on the Action Plan.

2.7 The updates for the above items as recorded at the Section 106 Monitoring Group are set out below for Member's information.

(CADO = Community Arts Development Officer; LFPDM = Leisure Facilities Planning & Development Manager; PPPO = Principal Planning Policy Officer; SDLPPSG&H = Senior Devolution Lead for Planning Policy, Strategic Growth and Housing; CLE = Chartered Legal Executive; PPDM = Principal Planner Development Management; PA= Principal Accountant; HOL = Head of Leisure; DMCO = Development Management Case Officer); P&SM = Partnership and Strategy Manager)

Item	Development site, relevant S106 sum and spend by date	Responsible officer
<b>17</b>	<b>Mansfield Road, Tibshelf – Outdoor Sport</b> £164,153 (20.12.24) <b>£162,915 (outstanding)</b>	LFPDM
	<u>Action from previous quarterly meeting</u> Monthly updates	LFPDM/PPPO
	<u>Update between April and July meeting.</u> Pre-start meeting with supplier/installers/parish council scheduled for 2 July. With a start on site scheduled for 30 July, estimated 6 weeks on site.	LFPDM

	<p><u>July meeting update</u> Revised timeframe of 9 weeks to undertake the work.</p> <p><u>Agreed Action</u> Report to next meeting.</p> <p><u>Update Since Meeting</u> Contractors on site as of 30<sup>th</sup> July</p>	<p>LFPDM</p> <p>LFPDM</p> <p>LFPDM</p>
<b>19</b>	<p><b>Oxcroft Lane, Bolsover – Outdoor Sport</b> £125,336.69 (10.03.25) <b>£123,469.84 (outstanding)</b></p> <p><u>Action from previous quarterly meeting</u> Report to next meeting.</p> <p><u>Update between April and July meeting.</u> This allocation will contribute to new skatepark at Hornscroft Park. The construction company Maverick started on site on Monday 22 April and have been making good progress. Estimated completion late July/early August, not far off the original target.</p> <p><u>Meeting update</u> Money transferred to Old Bolsover Town Council. Skatepark near completion. ROSPA sign-off inspection booked for Thursday 25<sup>th</sup> July.</p> <p><u>Agreed Action</u> Remove from Action Plan</p> <p><u>Update since Meeting</u> Old Bolsover Town Council confirmed receipt of the funds from BDC on 22nd July 2024. The skatepark was handed over to the Parish on 25<sup>th</sup> July.</p>	<p>LFPDM</p> <p>LFPDM</p> <p>LFPDM</p> <p>LFPDM</p> <p>ALL</p> <p>LFPDM</p>
<b>22</b>	<p><b>Station Road, Langwith Junction – Health</b> <b>£16,000 (30.01.25)</b></p> <p><u>Action from Previous Quarterly Meeting</u> Report to next meeting.</p> <p><u>July meeting update</u> At the last update from SDLPPSG&amp;H before the April meeting, progress is ongoing. Integrated Care Board (ICB) confirmed previously that they would be able to spend the £16,000 well before the</p>	<p>SDLPPSG&amp;H</p> <p>SDLPPSG&amp;H</p> <p>PPPO</p>

	<p>January 2025 deadline. PPPO to be taking forward Actions on the Health obligations following a handover by SDLPPSG&amp;H.</p> <p><u>Agreed Action</u> Handover on all S106 Health obligations.</p> <p>Report to the next meeting.</p> <p><u>Update since Meeting</u> <b>23.7 24</b> email PPPO to ICB including extracts from the Action Plan of the 2 Health contributions that are within the 2-year spending threshold. Requesting a meeting to discuss progress.</p>	<p>SDLPPSG&amp;H/ PPPO PPPO</p> <p>PPPO</p>
<p><b>4</b></p>	<p><b>Spa Croft, Tibshelf – Art £10,176.20 (31.03.26)</b></p> <p><u>Action from previous quarterly meeting</u> Developer to be notified of need for Planning Permission and DCC Highways to be made aware of proposal.</p> <p>Monthly update</p> <p><u>July Meeting Update</u> A written update from CADO submitted prior to the meeting states that since the last meeting in April, Hardwick estate have stated that they are unable to donate any stone or tender for the work. They have however indicated that they may have some contacts within Derbyshire County Council's departments concerning this kind of work so are forwarding CADO some contacts.</p> <p>The timeline as set out at the last meeting has slipped with September 2024 for the commissioning of the artist and application for licences instead of May 2024. The planned end date remains March 2025.</p> <p>Discussed at the April meeting that the structure would require Planning Permission. On a highway verge, so the need for a highway license.</p> <p><u>Agreed Action</u> Developer to be notified of need for Planning Permission and DCC Highways to be made aware of proposal.</p> <p>Monthly updates</p>	<p>CADO</p> <p>PPPO/DMCO</p> <p>CADO</p> <p>CADO</p> <p>PODM/DMCO</p> <p>CADO/PPPO</p>

<p><b>21</b></p>	<p><b>Creswell Road, Clowne Outdoor Sport £26,207 (3.3.26)</b></p> <p><u>Previous Action</u> None (item missed off agenda in error)</p> <p><u>Update between April and July meeting.</u> LFPDM confirmation in May that the sum which is in the region of £26,000 is allocated to a new skate park at Clune Street Recreation Ground and that the project is currently out to tender via Clowne Parish Council who are leading on the scheme. Confirmed in June that a total of 6 tender returns have been received. A tender evaluation session is scheduled for 19 July.</p> <p><u>July meeting update</u> Confirmed meeting with the Parish Council tomorrow (19<sup>th</sup> July) to undertake tender evaluation.</p> <p><u>Agreed Action</u> Report to next meeting.</p>	<p><b>LFPDM</b></p> <p>LFPDM</p> <p>LFPDM</p> <p>LFPDM</p>
	<p><b>Land at Thornhill Drive, South Normanton Art £10,757 (24.6.26)</b></p> <p><u>New Item on Action Plan</u></p> <p>CADO not at meeting</p> <p><u>Agreed Action</u> Add to Action Plan Report to next meeting</p>	<p><b>CADO</b></p> <p>PPPO CADO</p>
	<p><b>Land at Thornhill Drive, South Normanton – Open Space £30,400 (24.6.26)</b></p> <p>New Item on Action Plan</p> <p><u>Update at meeting</u> Discussed that under the terms of the S106, the monies for Open space could be combined with the funds remaining for Outdoor Sport (see below).</p> <p><u>Action</u> Add to Action Plan Report to next meeting</p>	<p><b>LFPDM</b></p> <p>LFPDM</p> <p>PPPO LFPDM</p>

	<p><b>Land at Thornhill Drive, South Normanton – Outdoor Sport</b>  £15,555.75 (24.6.26)  <b>£7,287.25 (outstanding)</b></p> <p>New Item on Action Plan</p> <p><u>Update at meeting</u>  There has been spend to date against the allocation relating to various works to the football pitches at Common Meadows and to the pavilion at Broadmeadows. There is ongoing discussion with the Parish Council concerning other potential projects. As stated above, under the terms of the S106, the monies for Open space could be combined with the funds remaining for Outdoor Sport.</p> <p><u>Action</u>  Add to Action Plan  Report to next meeting</p>	<p><b>LFPDM</b></p> <p>LFPDM</p> <p>PPPO  LFPDM</p>
	<p><b>Land at Thornhill Drive, South Normanton – Heath</b>  <b>£11,784 (24.6.26)</b></p> <p>SDLPPSG&amp;H not at meeting</p> <p><u>Agreed Action</u>  Handover on all S106 Health obligations.</p> <p>Report to the next meeting.</p> <p><u>Update since Meeting</u>  <b>23.7 24</b> email PPPO to ICB sending extracts from the Action Plan of the 2 Health contributions that are within the 2-year spending threshold. Requesting a meeting to discuss progress.</p>	<p><b>SDLPPSG&amp;H</b></p> <p>PPPO  SDLPPSG&amp;H</p> <p>PPPO</p> <p>PPPO</p>

2.8 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.

2.9 In addition to these time sensitive items, the Procedure requires that Members are provided with summary information in relation to Section 106 Agreement monies held with deadlines beyond the 24-month period. Based on the position at the end

of Quarter 1 (30<sup>th</sup> June 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
Art	£0.00	£12,695.12	£99,805.57 (no clawback on £477.46)
Outdoor Sport	£48,723.75	£53,930.58	£163,724.69 (no clawback on £48,424.19)
Informal Open Space	£116,794.50	£36,916.00	£211,454.98
Health	£0.00	£0	£60,316.90 (of which, no clawback against £12,277.20)
Highways	£0	£0	£569,000.00 (no clawback)
Biodiversity	£0	£0	£8,029.96
	<b>£165,518.25</b>	<b>£103,541.70</b>	<b>£1,307,750.46</b>

- 2.10 In Q1 of 2024/235 contributions for Art and Outdoor Sport were received from the development at Broad Lane Hodthorpe and are included in the sums for year 5 and beyond.
- 2.11 Since the last meeting sums against Health, Outdoor Sport, Informal Open Space and Art that that were previously in year 3 have come within the 24-month spending threshold. Notwithstanding this, the sums that come within the 3-year spending threshold with regard to Outdoor Sport and Informal Open Space have increased, moving from the 4-year threshold. The sums for Highways and Biodiversity remain the same as for the previous financial quarter.

### **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

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

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

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

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