

The Arc
High Street
Clowne
S43 4JY

To: Chair & Members of the Planning
Committee

Contact: Angelika Kaufhold
Telephone: 01246 242529

Email: angelika.kaufhold@bolsover.gov.uk

Tuesday, 22 October 2024

Dear Councillor

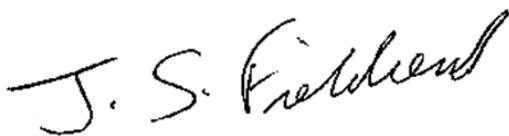
PLANNING COMMITTEE

You are hereby summoned to attend a meeting of the Planning Committee of the Bolsover District Council to be held in the Council Chamber on Wednesday, 30th October, 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 onwards.

Yours faithfully



Solicitor to the Council & Monitoring Officer

Equalities Statement

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

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

Access for All statement

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

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

**PLANNING COMMITTEE
AGENDA**

Wednesday, 30th October, 2024 *Wednesday, 30 October 2024 at 10:00 hours taking place
in the Council Chamber*

Item No.		Page No.(s)
1.	Apologies For Absence	
2.	Urgent Items of Business To note any urgent items of business which the Chairman has consented to being considered under the provisions of Section 100(B) 4(b) of the Local Government Act 1972.	
3.	Declarations of Interest Members should declare the existence and nature of any Disclosable Pecuniary Interest and Non Statutory Interest as defined by the Members' Code of Conduct in respect of: a) any business on the agenda b) any urgent additional items to be considered c) any matters arising out of those items and if appropriate, withdraw from the meeting at the relevant time.	
4.	Minutes - 19th June 2024 To re-consider the minutes of the meeting held on 19th June 2024.	5 - 26
5.	Minutes - 4th September 2024 - to follow To consider the minutes of the meeting held on 4 th September 2024.	
6.	Minutes - 17th September 2024 - to follow To consider the minutes of the last meeting held on 17 th September 2024.	
<u>APPLICATIONS TO BE DETERMINED UNDER THE TOWN & COUNTRY PLANNING ACTS</u>		
7.	Application no. 24/00184/FUL - Change of use from residential dwelling (C3a) to a children's home (C2) for a maximum of three children - 18 Buckthorn Close, Bolsover, Chesterfield, S44 6FX (speakers registered)	27 - 43
8.	Application no. 24/00356/FUL - Erection of a new pavilion building to provide a flexible community space that can be used for a variety of uses, including co-working, community events,	44 - 55

cafe, and tourist information centre. The building will also provide increased provision of public WCs, market stall storage, market supervisor office, and a Wi-Fi hub. The community hub will be run / managed by Shirebrook Town Council - Shirebrook Marketplace, Shirebrook

9. Application no. 23/00644/FUL - Conversion of public house to general convenience store with extension to provide additional storage and conversion of 1st and 2nd floors to provide 2 self-contained flats and 7 bedroom House in Multiple Occupation (HMO) - The New Victoria Inn, Acreage Lane, Shirebrook, Mansfield 56 - 99
10. Application no 24/0096/FUL - Use of land for nature based woodland play area, including a shelter building - Land North Of 4 To 10 Meadow View, Clowne 100 - 121

REPORTS OF THE ASSISTANT DIRECTOR OF DEVELOPMENT AND PLANNING

11. SECTION 106 AUDIT REPORT (OCTOBER 2024) 122 - 151

Agenda Item 4

PLANNING COMMITTEE

Minutes of a meeting of the Planning Committee of the Bolsover District Council held in the Council Chamber, The Arc, Clowne on Wednesday, 19 June 2024 at 10:00 hours.

PRESENT:-

Members:-

Councillor Tom Munro in the Chair

Councillors:- Chris Kane, Duncan McGregor, John Ritchie, Phil Smith, Janet Tait, Deborah Watson, and Jen Wilson.

Officers:- Sarah Kay (Assistant Director Planning and Planning Policy), Chris Whitmore (Development Management and Land Charges Manager), Chris McKinney (Senior Devolution Lead for Planning Policy, Strategic Growth and Housing), Kay Gregory (Principal Planner), Jenny Owen (Chartered Legal Executive), Julie-Anne Middleditch (Principal Planning Policy Officer), Matt Connelly (Special Projects Officer) (from Minute No. PL83-23/24), Dan Oakley (Community Arts Development Officer) (from Minute No. PL83-23/24) and Alison Bluff (Governance).

PL73-24/25 APOLOGIES FOR ABSENCE

Apologies for absence were received on behalf of Councillors Rob Hiney-Saunders and Carol Wood.

PL74-24/25 URGENT ITEMS OF BUSINESS

There were no urgent items of business to consider.

PL75-24/25 DECLARATIONS OF INTEREST

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

Minute No.	Member	Level of Interest
PL78-24/25.	Councillor Janet Tait	As a Member on the Planning Committee, Councillor Tait would sit in the public gallery and not take part in the discussion or vote on the item.

PLANNING COMMITTEE

PL76-24/25 MINUTES

Moved by Councillor Duncan McGregor and seconded by Councillor John Ritchie
RESOLVED that the Minutes of a Planning Committee held on 10th April 2024 be approved as a true record.

PL77-24/25 24/00144/VAR - VARIATION OF CONDITION 2 (RELOCATION OF TEMPORARY ACCESS ROAD) OF APPLICATION 22/00168/FUL - LAND NORTH WEST OF 1 BARN COTTAGES FARM LANE HARDSTOFT

Committee considered a detailed report in relation to the above application, presented by the Development Management and Land Charges Manager.

The application had been referred to Planning Committee as it proposed to vary a planning permission that was originally determined by Planning Committee and involved more than non-material minor amendments.

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

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

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

Mr Chris Williams attended the meeting and spoke against the application.

Mr Paul Harris attended the meeting and spoke against the application.

In response to a Member's query, the Development Management and Land Charges Manager, advised the meeting that utilities and the route of utilities was a matter for the service providers and that they have national permitted development rights to carry out such work. Planning officers had looked at the proposed alternative access, assessed the impact on the environment and felt the revised routing of the access was better than the original routing because it was not a strident feature which crossed the land diagonally. It actually provided a more direct link to Farm Lane, and followed an existing landscape feature which helped mitigate its impact on the landscape, thus, the application was considered acceptable on its own merits. Members were asked to note that this was an application under s73, i.e., to grant a new permission, but the original permission was a valid application and a legitimate fall-back position.

The Member noted that the applicant was not at the meeting to answer Members' questions.

PLANNING COMMITTEE

In response to another Member's query, the Development Management and Land Charges Manager, advised the meeting that land ownership was a civil matter. In relation to the original application, the applicant had confirmed the extent of the application site area was in their ownership and had served the correct certificate. In relation to the current application, this was to make an amendment to the original permission and it was not a requirement to submit a further site location plan.

Moved by Councillor Duncan McGregor and seconded by Councillor Jenny Wilson
RESOLVED that the application be approved subject to the following conditions:

1. The development shall be begun before 9th August 2025
2. The development hereby permitted must be carried out in accordance with the following plans and documents:
 - Site Block Ownership Plan & Site Location Plan as Proposed - L/01 Rev J received 2nd April 2024
 - Proposed block plan - L/02 Rev B; received 20th June 2022
 - Proposed ground floor plan - P/01 Rev B; received 20th June 2022
 - Mezzanine floor and roof plan - P/02 Rev B; received 20th June 2022
 - South and East Elevations - P/03 Rev B; received 20th June 2022
 - North and West Elevations - P/04 Rev B; received 20th June 2022
 - Section A-A as Proposed - P/05 Rev B; received 20th June 2022
 - M-Ecology - Bat Activity Survey Report (30th May 2022); received 20th June 2022.
 - Coal Mining Risk Assessment report (G22227) prepared by Geo-Investigate Ltd;
received 20th June 2022.
3. Prior to commencement of development, the Structural Report, prepared by Nashmean Limited and received on the 23rd March 2022 shall be updated to correspond with the approved plans, submitted to and approved in writing by the Local Planning Authority. The development shall then be carried out in accordance with the approved details.
4. No development shall commence on the building conversion until details of the roofing materials and details of the verge have been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the agreed details and retained as such for the life of the development.
5. The rainwater goods shall be cast metal on rise and fall brackets.
6. Prior to the installation of any doors or windows, the following information must be submitted to and approved in writing by the Local Planning Authority:
 - Details of all new windows, including rooflights, in the form of 1:20 scaled plans.
 - Details of all new external doors, in the form of 1:20 scaled plans.
 - Details and treatment of the timber shutters in the form of 1:20 plans.
 - Details of the appearance and materials for the proposed cill and lintel treatments.The development shall then be carried out in accordance with the agreed details and retained as such for the life of the development.
7. The dry stone wall must be constructed in accordance with the details submitted under discharge of condition application 23/00614/DISCON, a sample panel of

PLANNING COMMITTEE

which must be constructed and approved prior to the wall being constructed. The wall must be constructed in accordance with the approved details before the first occupation of the dwelling hereby approved and must be maintained as such thereafter.

8. No building shall be occupied until the hard and soft landscape works approved under discharge of conditions application no 23/00614/DISCON have been implemented on site.
9. Prior to any works being carried out to trees within the application site, a specification of works shall be submitted to and approved in writing. Where development takes place within any identified root protection areas of trees to be retained, the ground excavations shall be carried out using hand dig technology only. All tree works shall be carried out in accordance with the appropriate recommendations contained in British Standard 3998: 2010 (Tree Work) and in general shall in no way prejudice the health, balance, and natural appearance of the trees to be retained.
10. Prior to occupation of the dwelling hereby permitted, the temporary access track must be removed and the field must be restored to its previous condition through suitable ground preparation and the sowing of an appropriate seed mix. The section of hedgerow removed for access shall be reinstated using appropriate native species. The establishment of the hedgerow plants shall be monitored by the applicant for the next five years and any failed plants shall be replaced like for like. The stone wall along the western boundary shall be restored back to its current condition.
11. Prior to occupation of the dwelling, an integrated or surface-mounted bat box shall be incorporated at the apex of the western gable. A photograph of the box in situ shall be submitted to and approved by the Local Planning Authority. The box shall be maintained in the agreed form for the life of the development.
12. The removal of the hedgerow to create the temporary site access shall avoid the nesting season, which falls between 1st March and 31st August inclusive, unless preceded by a nesting bird survey undertaken by a competent ecologist no more than 48 hours prior to clearance. If nesting birds are present, an appropriate exclusion zone will be implemented and monitored until the chicks have fledged. No works shall be undertaken within exclusion zones whilst nesting birds are present.
13. The lighting strategy approved under discharge of conditions application no 23/00614/DISCON must be provided on site before first occupation of the dwelling hereby approved and must be maintained as such thereafter.
14. The premises, the subject of the application, shall not be taken into use until space has been provided within the application site for the parking of visitors/resident's vehicles (measuring a minimum of 2.4m x 5.5m), generally in accordance with the application drawings, constructed, laid out, surfaced, and maintained throughout the life of the development free from any impediment to its designated use.
15. No part of the development shall be taken into use until details of arrangements for the collection of waste have been submitted to and approved by the Local Planning Authority. The development shall be carried out in accordance with the agreed details and the facilities retained for their designated purposes at all times thereafter.
16. No development shall commence until;
 - a) a scheme of intrusive investigations has been carried out on site to establish the risks posed to the development by past shallow coal mining activity; and
 - b) any remediation works and/or mitigation measures to address land instability arising from coal mining legacy, as may be necessary, have been implemented on

PLANNING COMMITTEE

site in full in order to ensure that the site is made safe and stable for the development proposed.

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

17. Prior to the occupation of the development, or it being taken into beneficial use, a signed statement or declaration prepared by a suitably competent person confirming that the site is, or has been made, safe and stable for the approved development shall be submitted to the Local Planning Authority for approval in writing. This document shall confirm the methods and findings of the intrusive site investigations and the completion of any remedial works and/or mitigation necessary to address the risks posed by past coal mining activity.
18. Notwithstanding the provisions of Classes A, B, C, D, E, and F of Part 1, and Classes A, B and C of Part 2 of Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that Order with or without modification), no extension, enlargement, alteration or the provision of incidental or ancillary buildings, surfaces or boundary treatments to the dwellinghouse hereby permitted and its curtilage shall take place, other than those approved under the terms of this permission, unless authorised by an express grant of planning permission.
19. Before the commencement of the development hereby approved:
 - a) A Phase I contaminated land assessment (desk-study) must be undertaken and approved in writing by the local planning authority.
 - b) The contaminated land assessment must include a desk-study with details of the history of the site use including:
 - the likely presence of potentially hazardous materials and substances, their likely nature, extent, and scale,
 - whether or not they originated from the site,
 - a conceptual model of pollutant-receptor linkages,
 - an assessment of the potential risks to human health, property (existing or proposed) including buildings, crops, livestock, pets, woodland and service lines and pipes, adjoining land, ground waters and surface waters, ecological systems,
 - archaeological sites and ancient monuments,
 - details of a site investigation strategy (if potential contamination is identified) to
 - effectively characterise the site based on the relevant information discovered by the desk study and justification for the use or not of appropriate guidance. The site investigation strategy shall, where necessary, include relevant soil, ground gas, surface and groundwater sampling/monitoring as identified by the desk-study strategy

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

Reasons for Condition(s)

1. To comply with the requirements of Section 51 of the Planning and Compulsory Purchase Act 2004.
2. To ensure that the development takes the form as envisaged by the Local Planning Authority.
3. To define the terms of this permission and to ensure a satisfactory appearance of the completed development, in the interests of visual amenity and in compliance with policies SS1, SS9, SC3, and SC5 of the adopted Local Plan.

PLANNING COMMITTEE

4. To ensure a satisfactory appearance of the completed development. In the interests of visual amenity and in compliance with policies SS1, SS9, SC3 and SC16 of the adopted Local Plan.
5. To ensure a satisfactory appearance of the completed development. In the interests of visual amenity and in compliance with policies SS1, SS9, SC3 and SC16 of the adopted Local Plan.
6. To ensure a satisfactory appearance of the completed development. In the interests of visual amenity and in compliance with policies SS1, SS9, SC3 and SC16 of the adopted Local Plan.
7. To ensure a satisfactory appearance of the completed development. In the interests of visual amenity and in compliance with policies SS1, SS9, SC3 and SC16 of the adopted Local Plan.
8. To ensure a satisfactory appearance of the completed development. In the interests of visual amenity and in compliance with policies SS1, SS9, SC3 and SC16 of the adopted Local Plan.
9. For the avoidance of doubt, and in the interests of visual amenity, good arboricultural management and in compliance with policies SS1, SC3, and SC10 of the adopted Local Plan.
10. To define the terms of this permission, and in the interests of visual amenity, biodiversity, and highway safety, in compliance with policies SS1, SS9, SC3, SC9, SC10 and ITCR10 of the adopted Local Plan.
11. In the interests of biodiversity and in compliance with policies SS1, SC3, and SC9 of the adopted Local Plan.
12. In the interests of biodiversity and in compliance with policies SS1, SC3, and SC9 of the adopted Local Plan.
13. In the interests of biodiversity and in compliance with policies SS1, SC3, and SC9 of the adopted Local Plan.
14. To ensure the provision of on-site parking to serve the development. In the interests of highway safety and in compliance with policies SC3 and ITCR11 of the adopted Local Plan.
15. In the interests of highway safety and in compliance with policies Sc3 and ITCR10 of the adopted Local Plan.
16. The undertaking of intrusive site investigations, prior to the commencement of development, is considered to be necessary to ensure that adequate information pertaining to ground conditions and coal mining legacy is available to enable appropriate remedial and mitigatory measures to be identified and carried out before building works commence on site. This is in order to ensure the safety and stability of the development, in accordance with paragraphs 183 and 184 of the National Planning Policy Framework.
17. The undertaking of intrusive site investigations, prior to the commencement of development, is considered to be necessary to ensure that adequate information pertaining to ground conditions and coal mining legacy is available to enable appropriate remedial and mitigatory measures to be identified and carried out before building works commence on site. This is in order to ensure the safety and stability of the development, in accordance with paragraphs 183 and 184 of the National Planning Policy Framework.
18. To enable the Local Planning Authority to retain control over future extensions, alterations, and the erection of outbuildings, giving the simple form of the extended dwelling, and location within the countryside and conservation area; in compliance with policies SS1, SS9, SC3 and SC16 of the Bolsover District Local Plan.
19. To ensure that the site is free from contamination, in compliance with policies SS1, SC2 and SC14 of the adopted Local Plan.

PLANNING COMMITTEE

Statement of Decision Process

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

Notes

1. Under provisions within Sections 149 and 151 of the Highways Act 1980, the developer must take all necessary action to ensure that mud or other extraneous material is not carried out of the site and deposited on the public highway. Should such deposits occur, it is the developer's responsibility to ensure that all reasonable steps (e.g. street sweeping) are taken to maintain the roads in the vicinity of the site to a satisfactory level of cleanliness.
2. The sewer records do not show any public sewers within the curtilage of the site. However, the applicant should be made aware of the possibility of unmapped public sewers which are not shown on the records but may cross the site of the proposed works. These could be shared pipes which were previously classed as private sewers and were transferred to the ownership of the Water Authorities in October 2011. If any part of the proposed works involves connection to / diversion of / building over / building near to any public sewer the applicant will need to contact Yorkshire Water in order to determine their responsibilities under the relevant legislation.
3. All proposals regarding drainage will need to comply with Part H of the Building Regulations 2010. In addition, any connections or alterations to a watercourse will need prior approval from the Derbyshire County Council Flood Team, who are the Lead Local Flood Authority.
4. It is essential that any work carried out does not detrimentally alter the structure or surface of the ground and increase or alter the natural flow of water to cause flooding to neighbouring properties. The developer must also ensure any temporary drainage arrangements during construction gives due consideration to the prevention of surface water runoff onto the public highway and neighbouring properties.
5. In the interests of maintaining good relationships with surrounding land users, the applicant is requested to provide a scheme of noise management for customers using the holiday let.
6. Certain plant and animal species, including all wild birds, are protected under the Wildlife and Countryside Act 1981. It is an offence to ill-treat any animal; to kill, injure, sell, or take protected species (with certain exceptions); or intentionally to damage, destroy or obstruct their places of shelter. It is thus an offence to take, damage or destroy a wild birds nest whilst in use or being built. Hedgerows or trees containing nests should therefore not be removed, lopped, or topped during the nesting season. Bats enjoy additional protection. It is an offence to kill, injure or disturb bats founds in the non-living areas of a dwelling house (that is, in the loft) or in any other place without first notifying English Nature. Some other animals are protected under their own legislation (e.g. the Protection of Badgers Act 1992).
7. The applicant is reminded that any amendment to the approved red line boundary or land owned by the applicant, following any dispute over land ownership may result in an amended planning application being required.

Councillor Janet Tait left her seat on the Committee and sat in the public gallery.

PLANNING COMMITTEE

PL78-24/25 23/00644/FUL - CONVERSION OF PUBLIC HOUSE TO GENERAL CONVENIENCE STORE WITH ADDITIONAL STORAGE AND CONVERSION OF 1ST AND 2ND FLOORS TO PROVIDE 2 SELF-CONTAINED FLATS AND 10 BEDROOM HMO - THE NEW VICTORIA INN ACREAGE LANE SHIREBROOK MANSFIELD

District Councillor Janet Tait, spoke against the application.

Committee considered a detailed report in relation to the above application, presented by the Development Management and Land Charges Manager.

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

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

District Councillor Janes Yates had requested the application be referred to Planning Committee because there were 15 licensed HMOs in the Bolsover District, all within Shirebrook South, Shirebrook North and Langwith Wards, and 8 of these were within Shirebrook South wards where the Victoria Inn was located. Councillor Yates had stated there had been multiple issues within HMOs in this area, for example, at the former Station Hotel in Shirebrook North Ward, and the former King of Diamonds in Langwith Ward. These were not on the list of licensed sites on the Council's Website.

Mrs Raj Padda (Applicant) attended the meeting and spoke for the application.

In response to Members' questions, Mrs Padda confirmed that in relation to the single occupant rooms, any potential tenant would be required to sign a single occupant contract. Work and background checks would also be carried out. In relation to management and inspection of the properties, this would be undertaken by Mrs Padda as she would be on site on a daily basis.

Shirebrook Town Councillor Dale Smith attended the meeting and spoke against the application.

Hazel Ward attended the meeting and spoke against the application on behalf of Shirebrook Town and District Councillor Jane Yates who could not attend the meeting.

Wendy Rogers, secretary of the Model Village Residents Association, attended the meeting and spoke against the application.

PLANNING COMMITTEE

The Development Management and Land Charges Manager referred to the Supplementary Update Report, which advised of a further representation received from Shirebrook Town Council and a late representation from Derbyshire Wildlife Trust which confirmed that a Preliminary Bat Roost Assessment should be submitted prior to determination of the application to demonstrate the presence or otherwise of protected species, and the extent that they may be affected by the proposed development. If Members were minded to approve the application the recommendation would be to delegate authority to officers to grant planning permission, subject to;

- a) the submission of a Preliminary Bat Roost Assessment and any necessary survey work identified to satisfy Derbyshire Wildlife Trust that the development will not adversely impact on bats, and
- b) no material changes being required to the development that require further assessment.

Referring to the comments made by speakers against the application, Members noted that it was policies that governed decisions made by the Planning Committee. Representations made by consultees such as environmental health, police, and highways etc., also needed to be taken into account and given weight to for any planning application.

Moved by Councillor Duncan McGregor and seconded by Councillor Tom Munro that the application be approved.

Councillor Deborah Watson proposed an alternative motion that the application be deferred pending the bat assessment and to enable the applicant to give consideration to the HMO element of the proposals given the concerns raised and that it be brought back to a future Planning Committee for Members to determine the application.

The motion was seconded by Councillor Chris Kane.

On being put to the vote, the motion was won;

For the motion: 5

Against the motion: 2

It was therefore **RESOLVED** that the application be deferred pending a bat assessment and the application be brought back to a future Planning Committee for Members to determine the decision.

Councillor Janet Tait left the public gallery and took her seat back on the Committee.

PL79-24/25 24/00102/FUL - CHANGE OF USE OF EXISTING DWELLINGHOUSE (C3 USE) TO CHILDREN'S CARE HOME FOR UP TO 3NO. CHILDREN (C2 USE). MINOR FACILITATING WORKS COMPRISING WIDENING OF DRIVEWAY AND VEHICLE ACCESS - 16 THE CHINE BROADMEADOWS PINXTON NOTTINGHAM

Committee considered a detailed report in relation to the above application, presented by the Development Management and Land Charges Manager.

PLANNING COMMITTEE

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

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

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

The staff required to look after children would work to a register and weekly staff rota. Other visitors would include Social Services once every 6 weeks, an Ofsted visit taking place every 12 months. At Least one member of staff would be required to sleep at the property overnight.

No external changes were proposed to the appearance of the building. The only minor operational development associated with the application was a proposal to widen the vehicular access and driveway hardstanding to facilitate additional off-road parking and turning for the proposed use. The second floor of the building would not be in use.

Further information was contained in the Supplementary Update Report which advised that Bolsover District Councillor Louise Fox and South Normanton Parish Councillor Julian Siddle had made a joint representation stating their concerns regarding the application, and that a further additional resident representation had been received.

Emma Swann attended the meeting and spoke against the application.

Patricia Baker attended the meeting and spoke against the application.

Marie Martin attended the meeting and spoke against the application.

June Lambert attended the meeting and spoke against the application.

James Stannard (Agent) attended the meeting and spoke for the application.

Further to a question from a Member, James Stannard noted he had worked with the applicant a number of times over the previous 18 months and the applicant had recruited extensively for very senior positions in care homes the applicant had set up. Two representatives of the applicant who were present at the meeting, provided Members with their experience and number of years working with young people with complex needs and answered further questions raised by Members.

The Chair drew Members attention to the Principal Environmental Health Officer's

PLANNING COMMITTEE

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

Councillor Phil Smith proposed an amendment to the recommendation in the report that a two year temporary planning permission be granted to enable any possible adverse impact on amenity to be monitored and evaluated during the two year period.

The motion was seconded by Councillor John Ritchie.

Following clarification sought on the reasons from the Development Management and Land Charges Manager, Councillor Duncan McGregor proposed a motion that the application be refused on the grounds that despite being located in an emerging town, the site had limited access to public transport, and as such, the future occupants, employees and support workers would be heavily reliant on the private motor vehicle for travel to and from the site, resulting in an unsustainable form of development and, as a consequence, vehicle movements and parking that would be detrimental to the residential amenity of the area.

After withdrawing his original proposal, Councillor Phil Smith seconded Councillor McGregor’s proposal. Councillor John Ritchie withdrew his support for Councillor Smith’s original proposal.

On being put to the vote, the motion was won;

For the motion: 5
Abstentions: 2

It was therefore **RESOLVED** that the application be refused.

As the time was 12:15 hours the Chair consented to a 15 minute break.

PLANNING COMMITTEE

PL80-24/25 23/00573/OTHER - APPLICATION UNDER S106A TO MODIFY THE LEGAL AGREEMENT COMPLETED WITH PLANNING PERMISSION 21/00464/TDC TO OMIT INFRASTRUCTURE OBLIGATIONS FOR VIABILITY REASONS FOR: AFFORDABLE HOUSING, LEISURE, SCHOOLS, HEALTH AND HIGHWAYS - FORGE NEW HOMES DEVELOPMENT SITE WELBECK ROAD BOLSOVER

Committee considered a detailed report in relation to the above application, presented by the Principal Planner.

The application required a determination by Planning Committee, as it was contrary to policies contained within the Bolsover District Local Plan relating to developer contributions.

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

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

The application had since been subject to an independent viability review on behalf of the Council, which recommended that a reduced amount of £485,000 from the original £693,591 (£722,000 with indexation) was the total amount that the applicant could pay to deliver the scheme. This had been agreed by the applicant and consultees, and had been distributed across the obligations.

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

Further information was contained in the Supplementary Update Report in relation to Leisure / Public Open Space considerations. In the original comments from BDC Leisure (dated 3 May 2024), it was suggested that if a reduced Section 106 contribution was to be negotiated, then the Playing Pitch contribution could be omitted as there were no playing pitches immediately related to the development; but only on the basis that the original Public Open Space (POS) contribution was increased from £50,460 to £55,970. This figure was agreed taking a logical approach, as it was 50% of the total contribution (for both POS and playing pitches) required in the original Section 106 agreement.

The Council’s Leisure Officer had suggested the revised POS contribution should be

PLANNING COMMITTEE

allocated towards development of the new town park as an alternative to the three sites originally stated, as this would be better related to the development due to walking distances. They also suggested that the POS clause should include the delivery of the town park within 5 years of receipt of payment (depending on the trigger point).

Following consideration, it was agreed that the town park may not be delivered within 5 years, and that a longer timescale would be likely. Thus, the Leisure Officer asked if the funds could be allocated to the *“town park with caveats that if the town park timescale is not agreed within 3 years, the funds are to be allocated to Horsehead Lane, Laburnum Close and or Hornscroft”*

Officers therefore considered that the allocation of funds towards the development of the town park should be prioritised, as this site would be better related to the development than the original sites stated in the Section 106 agreement, the closest of which (Horsehead Lane) was a walking distance of 600m away from the application site (300m as the crow flies). However, if the timescale for the new town park was not agreed within 3 years of the date of the Deed of Variation, then the funds were to be reallocated to Horsehead Lane, Laburnum Close or Hornscroft, as the three areas of open space closest to the application site.

Members raised various questions to which the Principal Planner replied. The Chartered Legal Executive advised Members that the applicant’s request was unusual on a site of a small size, however, Legal would be minded to accept the applicant’s offer.

Moved by Councillor Tom Munro and seconded by Councillor Duncan McGregor

RESOLVED that amendment to S106 agreement through Deed of Variation (in addition to the amendments currently proposed);

- Amend definition of Public Open Space commuted sum – The sum of £55,970 (Fifty thousand four hundred and sixty pounds) to be paid to the Council pursuant to Schedule 2 towards provision and/or improvement of the proposed Bolsover Town Park. If a timescale for the Town Park is not agreed within 3 years from the date of this Agreement, the funds shall be allocated towards the provision and/or improvement of the existing equipped play areas and amenity green spaces located at Horsehead Lane, Laburnum Close and Hornscroft Park.
- Amend Section 2.1 - Prior to occupation of the 18th dwelling on the application land the first instalment in the sum of £27,985.
- Amend section 2.2 – Prior to the occupation of the 40th dwelling on the application land the final instalment of £27, 985.

Viability Clawback Review considerations:

The applicant stated in an email dated 17 June 2024 that they endeavour to start on site by the end of June, and that the Deed of Variation is the final viability issue to resolve. There is also a pending application for the approval of conditions attached to the Technical Details Application which is currently out for consultation.

However, if Members consider that a clawback clause is necessary, the applicant has submitted a draft viability mechanism on the 14 June 2024, which has been sent to BDC Legal for comment. To summarise the proposed mechanism:

“If on the fourth anniversary of this Deed less than 90% of the Dwellings are Occupied, the Owner shall provide written notice to the Council to that effect...and will undertake a

PLANNING COMMITTEE

Viability Review of the Development...If the outcome of the Viability Review is that the Market Housing Units are achieving a profit greater than 17.5% of Gross Development Value the Owner will pay the Council the balance of any Surplus Profit up to the Commuted Sum Payment Cap...The Council and the Developer will use all reasonable endeavours to agree the Surplus Profit...If no agreement is reached between the Council and the Developer on the Surplus Profit the matter may be referred to an independent arbitrator for determination in accordance with the terms of Clause of the Original Agreement...In the event that it is agreed or determined pursuant to the Viability Review that there is no Surplus Profit, the Owner shall not be required to provide any Commuted Sum arising out of the Viability Review.”

PL81-24/25 23/00640/VAR - APPLICATION TO VARY CONDITION 2 (APPROVED PLANS) OF APPLICATION 22/00323/FUL TO MAKE AMENDMENTS TO THE SCHEME - AMENDMENTS INC. CHANGES TO ROOF LIGHTS AND DOORS (INC. OMITTING SOME OPENINGS); INCREASED FLOOR AREAS TO ACCOMMODATE TOILETS, NEW OPENINGS AND LIGHTS; INCREASED HALL AND PLANT ROOM FLOOR AREA; AND REVISIONS TO LANDSCAPING AND DRAINAGE SCHEME - SHIREBROOK CEMETERY, COMMON LANE, SHIREBROOK

Committee considered a detailed report in relation to the above application, presented by the Development Management and Land Charges Manager.

Members attention was drawn to the Supplementary Update Report which advised that the Lead Local Flood Authority had confirmed in respect of conditions 9 -11 of application 22/00323/FUL, that the following surface water details were acceptable:

- SWH Letter to Derbyshire with accompanying Appendices 18/07/2023.
- Scott White and Hookins. (25 - May 2022) FRA & Drainage Strategy Report.
- 203810/Revision 1 b. Scott White and Hookins. (26 - May 2022) Drainage Layout.
- 203810-SWH-ZZ-XX-DR D-0500-P02

In light of the above, if Members were minded to approve the application for completeness, recommended conditions 8 – 10 should be replaced with the two conditions as outlined in the Supplementary Update Report.

The application followed the approval of planning application 22/00323/FUL on 28th September 2022 for a new crematorium, including a wake facility, administration space, memorial garden, car park and landscaping. At the technical design stage a number of changes to the development had been identified, which had necessitated the submission of this application. The application also addressed changes to foul drainage connections and landscaping.

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

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

PLANNING COMMITTEE

- Revisions to landscaping and drainage.

Moved by Councillor Duncan McGregor and seconded by Councillor John Ritchie
RESOLVED that the application be approved subject to the following conditions;

1. Unless specifically stated in the conditions below, the development hereby permitted shall be carried out in accordance with the plans and documents approved in respect of application code ref. 22/00323/FUL, except where amended by the following details and plans:
 - Ground floor crematorium plan numbered 1481-A-10-01
 - Ground Arrangement Plan – Tranquillity and Flower Court Plan numbered 1481-A-10-02
 - Crematorium Roof Plan numbered 1481-A-10-03
 - Crematorium Elevations Plans numbered 1481-A-12-01, 02, and 03
 - Wake Facility Building General Arrangement Plan numbered 1481-A-50-01
 - Wake Facility Building Roof Plan numbered 1481-A-50-02
 - Wake Facility Elevations Plan numbered 1481-A-52-01
 - Boundary Treatment Plan numbered D200020_CDS_EN_ZZ_DR_L_006 REV 02
 - General Site Layout Plan numbered D200020 CDS EN ZZ DR L 01
 - Soft Landscaping Plan 1 of 7 - Trees, Seeding & Native Hedgerows numbered D200020 CDS_EN_ZZ_DR_L_020
 - Soft Landscaping Plan 2 of 7 - Front & Rear Of Building numbered D200020 CDS EN ZZ DR L 021
 - Soft Landscaping Plan 3 of 7 - Car Park & Adjacent Border numbered D200020 CDS EN ZZ DR L 022
 - Soft Landscaping Plan 4 of 7 - Flower Court to Wake Facility Borders numbered D200020 CDS EN ZZ DR L 023
 - Soft Landscaping Plan 5 of 7 – Tranquillity Garden, Wake Facility and Memorial Garden Plan numbered D200020 CDS EN ZZ DR L 024
 - Soft Landscaping Plan 6 of 7 – Bulb Planting numbered D200020 CDS EN ZZ DR L 025
 - Soft Landscaping Plan 7 of 7 – Site Entrance numbered D200020 CDS EN ZZ DR L 026
 - Hard Landscape Plan 1 of 2 numbered D200020 CDS EN ZZ DR L 028
 - Hard Landscape Plan 2 of 2 numbered D200020 CDS EN ZZ DR L 029
 - Gates, Fencing & Street Furniture Plan 1 of 3 numbered D200020 CDS EN ZZ DR L 040
 - Gates, Fencing & Street Furniture Plan 2 of 3 numbered D200020 CDS EN ZZ DR L 041
 - Gates, Fencing & Street Furniture Plan 3 of 3 numbered D200020 CDS EN ZZ DR L 042
 - Vehicle Access Plant Plan numbered D200020 CDS EN ZZ DR Y 004 Rev 03
 - Pedestrian and Cycle Access Plan numbered D200020 CDS EN ZZ DR Y 005 Rev 02
 - Location of Proposed Foul Water Connection Plan, and
 - Drainage layout drawings numbered DR-C-0503 C02, C06 and C07.

PLANNING COMMITTEE

Reason:

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

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

Reason:

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

3. Before any other operations commence the existing vehicular access onto Common Lane shall be improved. The junction shall be laid out in accordance with the approved plan(s), constructed to base level, drained and visibility sightlines of 215m measured in each direction to the nearside edge of the carriageway, as measured from a point located centrally and 2.4m back into the access. The area within the sightlines shall thereafter be kept clear of any object greater than 1m in height (0.6m in the case of vegetation) above the nearside carriageway channel level.

Reason:

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

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

Reason:

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

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

Reason:

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

PLANNING COMMITTEE

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

Reason:

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

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

Reason:

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

Drainage

8. Prior to first occupation of the development hereby approved, the surface water drainage for the site shall be provided in accordance with the following details:

- SWH Letter to Derbyshire with accompanying Appendices 18/07/2023.
- Scott White and Hookins. (25 - May 2022) FRA & Drainage Strategy Report.
- 203810/Revision 1 b. Scott White and Hookins. (26 - May 2022) Drainage Layout.
- 203810-SWH-ZZ-XX-DR D-0500-P02.

unless otherwise agreed in writing by the Local Planning Authority. Construction activities should be managed in line with the CIRIA Guidance on the Construction of SuDS Manual C768, to ensure that the effectiveness of the sustainable drainage features is not compromised.

Reason:

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

9. Surface water during the construction phase shall be managed in strict accordance with the details set out in document P301003 - Shirebrook Crematorium – Surface Water Run-Off Management by Dragonfly Developments.

PLANNING COMMITTEE

Reason:

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

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

Reason:

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

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

Reason:

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

Ecology

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

Reason:

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

PLANNING COMMITTEE

13. The development shall be undertaken in strict accordance with the Construction Environmental Management Plan: Biodiversity V1 (CEMP: Biodiversity) by RPS Group dated 16.01.22 approved in respect of application 23/00104/DISCON. The approved CEMP shall be adhered to and implemented throughout the construction period strictly in accordance with the approved details, unless otherwise agreed in writing by the local planning authority.

Reason:

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

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

Reason:

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

15. If within a period of five years from the date of the planting of any tree or shrub that tree or shrub may die, be removed, uprooted, or become seriously damaged it shall be replaced by another of the same species during the first available planting season, unless a variation of the landscaping scheme is approved in writing with the Local Planning Authority.

Reason:

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

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

Reason:

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

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

PLANNING COMMITTEE

Reason:

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

Contamination / Noise

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

Reason:

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

19. Prior to first operation of the development an independent validation report must be submitted demonstrating that any remediation works carried out under condition 20 above have been carried out satisfactorily and remediation targets have been achieved and this report shall have been produced by a suitably qualified independent body. The report shall provide verification that the remediation works have been carried out in accordance with the approved Remediation Method Statement(s) and post remediation and monitoring results shall be included in the report to demonstrate that the required remediation has been fully met.

Reason:

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

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

Reason:

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

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

PLANNING COMMITTEE

the Local Planning Authority.

Reason:

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

PL82-24/25 CRESWELL GROWTH PLAN - CONSULTATION DRAFT

Committee considered a detailed report, presented by the Principal Planning Policy Officer, which sought Members approval for the contents of the Creswell Growth Plan Consultation Draft Document and also to commence a consultation exercise upon it. The draft Growth Plan document was attached at Appendix 1 to the report.

Work on the preparation of a Growth Plan for Creswell commenced in April 2022. Two stages of public consultation had taken place; an initial consultation exercise in June 2022 and a master planning consultation exercise in January-February 2023.

The feedback during these consultation exercises by way of the representations submitted had all been considered and informed the preparation of the draft Creswell Growth Plan document. The next step was to publish the draft Creswell Growth Plan for public consultation.

The consultation methods for prepared Growth Plans were set out in the Council's Statement of Community Involvement (December 2022) and were intended to mirror closely the methods used for statutory planning documents.

The Council had carried out a number of innovative digital planning consultations on its growth plans using the secured external funding through the Government's PropTech Innovation Fund. This funding extended to the planned public consultation exercise on the draft Creswell Growth Plan and would involve a further trial of the new purposely designed consultation website portal to increase public engagement.

If approved, the 6-week consultation exercise would commence on Monday 8th July 2024 to Monday 19th August 2024.

Councillor McGregor and the Portfolio Holder for Growth thanked the Principal Planning Policy Officer and Planning staff for their work on the document.

Moved by Councillor Tom Munro and seconded by Councillor Duncan McGregor

RESOLVED that 1) the contents of the proposed draft Creswell Growth Plan be approved,

2) delegated authority be given to the Assistant Director of Planning and Planning Policy in consultation with the Chair and Vice Chair of Planning Committee to agree the final arrangements of the proposed consultation exercise on the draft plan.

PLANNING COMMITTEE

PL83-24/25 QUARTERLY UPDATE ON SECTION 106 AGREEMENT MONITORING

Committee considered a detailed report, presented by the Principal Planning Policy Officer, in relation to progress on the monitoring of Section 106 agreements.

The progress report was required to highlight any sums at risk of clawback that needed spending within 24 months, as well as a summary of the sums being held by infrastructure type that were in years three, four and five. Accordingly, the report was the quarterly progress report following the meeting of the Section 106 Monitoring Group held on 18th April 2024.

In the report provided to Members in March 2024, seven sums were identified as being within their 24-month deadline as of 18th January 2024. As at 18th April 2024, there were eight sums within their 24-month deadlines, details of which were set out in the report.

Members asked various questions to which the Special Projects Officer and Community Arts Development Officer replied.

Move by Councillors Duncan McGregor and seconded by Councillor Tom Munro **RESOLVED** that the report be noted.

The meeting concluded at 13:17 hours.

PLANNING COMMITTEE

Minutes of a meeting of the Planning Committee of the Bolsover District Council held in the Council Chamber on Wednesday 4th September 2024 at 10:00 hours.

PRESENT:-

Members:-

Councillor Tom Munro in the Chair

Councillors Rob Hiney-Saunders (left during minute number PL98-24/25), Chris Kane, Duncan McGregor (left during minute number PL98-24/25), John Ritchie, Janet Tait, Deborah Watson, Jen Wilson and Carol Wood.

Officers:- Sarah Kay (Assistant Director of Planning and Planning Policy), Jim Fieldsend (Monitoring Officer), Chris Whitmore (Development Management and Land Charges Manager), Chris McKinney (Senior Devolution Lead for Planning Policy, Strategic Growth and Housing), Julie-Anne Middleditch (Principal Planning Policy Officer), Neil Oxby (Principal Planning Policy Officer), Matthew Connley (Leisure Special Projects Officer (from minute number PL99-24/25)), Dan Oakley (Community Arts Development Officer (from minute number PL99-24/25)), Amy Bryan (Governance and Civic Manager) and Hannah Douthwaite (Governance and Civic Officer).

PL91-24/25 APOLOGIES FOR ABSENCE

An apology for absence had been received on behalf of Councillor Phil Smith.

PL92-24/25 URGENT ITEMS OF BUSINESS

There were no Urgent Items of Business considered at the meeting.

PL93-24/25 DECLARATIONS OF INTEREST

Minute No.	Member	Level of Interest
PL96-23/24	Councillor John Ritchie	As a Member on the Planning Committee, Councillor Ritchie would not take part in the discussion or vote on the item.

PL94-24/25 MINUTES – 19TH JUNE 2024

The minutes of a Planning Committee meeting held on 19th June 2024 had been circulated to Members prior to the start of the meeting and were also available to the public on the Council's website.

PLANNING COMMITTEE

Moved by Councillor Duncan McGregor and seconded by Councillor Chris Kane
RESOLVED that the minutes of a meeting of the Planning Committee held on
Wednesday 19th June 2024 be approved as a true and correct record.

PL95-24/25 MINUTES – 17TH JULY 2024

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

RESOLVED that the minutes of the meeting held on Wednesday 17th July 2024
be approved as a true and correct record.

*Having previously declared his interest in the following item of business,
Councillor Ritchie moved into the public gallery for the following item of business
and did not partake in the vote.*

PL96-24/25 24/00183/FUL - CHANGE OF USE FROM PADDOCK TO GARDEN AREA (INCLUSIVE OF BOUNDARY GATE, OUTBUILDINGS & PLANTING) & ERECTION OF DOUBLE GARAGE - THE OLD DAIRY, BATLEY LANE, PLEASLEY, MANSFIELD

Committee considered a detailed report in relation to the above application,
presented by the Development Management and Land Charges Manager.

The application had been called in to Planning Committee by Councillor John Ritchie
as he had been supporting the applicant.

The application sought approval for the material change of use of land designated as
countryside to be incorporated as a domestic garden. The land was already in use
as domestic curtilage and included two hard surfaced areas with associated
outbuildings and landscaping used for outdoor seating. Consent was sought
retrospectively for the retention of boundary treatment and gates.

The application was also proposing a single storey double garage outside of the
garden curtilage to the rear of The Old Dairy. The garage was the only part of the
development for which retrospective consent was not sought.

Councillor John Ritchie spoke for the application.

Mr Clarke (applicant) attended the meeting and spoke for the application.

A Member queried if the paddock was approved as use as a garden if it would
remain as greenbelt or change to be classified as brownfield making it easier to
be developed on in the future.

The Development Management and Land Chargers Manager advised that the
application sought permission for development / the change of use of the land
and that the extent of the previously approved garden was detailed on screen.

PLANNING COMMITTEE

Land in built up areas such as residential gardens was excluded from the definition of previously developed land.

Another Member noted the amount of work which had been undertaken by the applicant, however, when taking into consideration material planning considerations the application went against policy.

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

RESOLVED that the application be **REFUSED**.

Councillor John Ritchie left the public gallery and took his seat back on the Committee.

PL97-24/25 **21/00331/FUL - FULL PLANNING APPLICATION FOR
RESIDENTIAL DEVELOPMENT - OPEN SPACE EAST OF
DAHLIA AVENUE, SOUTH NORMANTON**

Committee considered a detailed report in relation to the above application, presented by the Development Management and Land Charges Manager.

The application was initially referred to Committee on 10th April 2024 due to financial viability issues, meaning normal S106 contributions were not able to be offered. It was now being presented to Committee for consideration in light of proposed changes to the biodiversity mitigation measures as set out in the ecology and biodiversity considerations section of the report. The Council's scheme of delegation required applications which proposed significant changes to the size, scale or nature of proposals previously approved by the Committee that were more than non-material to be determined by the Planning Committee and not under delegation to officers.

Moved by Councillor Duncan McGregor and seconded by Councillor Deborah Watson

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

- A. Limitation over the occupation of the dwellings to affordable housing.
- B. 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: -

PLANNING COMMITTEE

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.

PL98-24/25

PROPOSED REFORMS TO THE NATIONAL PLANNING POLICY FRAMEWORK AND OTHER CHANGES TO THE PLANNING SYSTEM - OPEN CONSULTATION

The Assistant Director of Planning and Planning Policy provided 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 30th July 2024.

The consultation principally related to the supply of land to boost housing, but it

PLANNING COMMITTEE

also sought views on a series of wider interventions relating to planning fees, local plan interventions, and thresholds for Nationally Significant Infrastructure Projects (NSIPs).

The consultation comprised of 106 questions in total (listed in Appendix 1 to the report) and would close on the 24th September 2024.

The consultation reaffirmed the Government objective to significantly boost the supply of homes.

The implication for Bolsover District Council was that the current standard method resulted in a requirement for 195 dwellings per annum, which would rise to 404 dwellings per annum as a result of the new standard method formula. This was significantly above the Local Plan requirement of 272 dwellings per annum.

The consultation also considered 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 could not be met.

Members raised concern in regard to finding the required tradesmen to carry out the work on new houses and requested that this be highlighted within the consultation response.

Councillors Rob Hiney-Saunders and Duncan McGregor left the meeting.

Moved by Councillor Tom Munro and seconded by Councillor John Ritchie
RESOLVED that final agreement of the detailed response be delegated to the Assistant Director of Planning and Planning Policy, in consultation with the Chair of Planning Committee and the Portfolio Holder for Growth.

The Leisure Special Projects Officer and Community Arts Development Officer entered the meeting.

PL99-24/25 QUARTERLY UPDATE ON SECTION 106 AGREEMENT MONITORING

The Principal Planning Policy Officer provided a progress update on the monitoring of Section 106 Agreements.

As 18th July 2024 there were currently nine sums within their 24 month spend date.

The sum of £10,184.39 from the High Ash Farm, Clowne development as reported at the last meeting had been removed from the list of sums needing to be spent.

Since the last Planning Committee four further sums had come within the 2 year spend threshold – these were all in relation to the development at Thornhill Drive, South Normanton and were to contribute towards a range of infrastructure.

PLANNING COMMITTEE

Moved by Councillor John Ritchie and seconded by Councillor Deborah Watson
RESOLVED that the update be noted.

The meeting closed at 11:40 hours.

PARISH Old Bolsover Parish

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

LOCATION 18 Buckthorn Close Bolsover Chesterfield S44 6FX

APPLICANT Mrs Chantelle Stone 18 Buckthorn Close Bolsover Derbyshire S44 6FX
United Kingdom

APPLICATION NO. 24/00184/FUL **FILE NO.** PP-12962037

CASE OFFICER Mrs Karen Wake

DATE RECEIVED 18th April 2024

SUMMARY

The application has been referred to committee by Cllr Jeffery due to concerns about insufficient parking spaces for the application leading to highway safety implications and an unsuitable location for new residents as the site is too far away from local services.

The application is for a change of use to a children's home for a maximum of 3 children. The application is recommended for approval.

Site Location Plan



OFFICER REPORT ON APPLICATION NO. 24/00184/FUL

SITE & SURROUNDINGS

Number 18 Buckthorn Close is a detached two storey dwelling located within a residential cul de sac consisting of similar house types. The dwelling benefits from two off-road parking spaces on the site frontage and a flat landscaped rear garden which is enclosed by a screen fence. To the ground floor the dwelling benefits from an integral garage, living room, dining room, kitchen, utility, hallways and w.c. To the first floor there are five bedrooms and a bathroom. The site is accessed via a shared driveway.

PROPOSAL

The application is for a material change of use from C3a (dwellinghouse) to C2 (children's care home) for a maximum of 3 children. No external changes are proposed to the dwelling.

AMENDMENTS

Amended noise management plan submitted following the consultation response from the Environmental Health Officer

Amended parking layout submitted following the site of deeds plans showing shared areas for parking/turning.

EIA SCREENING OPINION

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

HISTORY

17/00234/FUL	Granted Conditionally	Residential Development comprising of a total of 212 homes comprising a mix of detached, semi-detached and terraced 2 & 2.5 storey houses with associated garaging, parking and infrastructure including the provision of public open spaces
--------------	--------------------------	--

CONSULTATIONS

BDC Principal Environmental Health Officer

There has been a recent increase in the number of applications for supported living in residential settings following a reminder issued by the Housing and Planning Minister last year, acknowledging a shortage of provision. The vast majority of the applications reviewed come from recently created companies seeking to fill demand. Although the nature of the supported living is not supplied, supported living usually includes individuals with a variety of disabilities and complex needs. As a district Environmental Health Officer, with experience of trying to resolve noise complaints arising from similar supported living premises whilst there may be similarities, their impacts are not the same as a typical home environment.

These are private facilities that care for people who often have a wide range of challenging behaviour and complex needs. This can result in significantly higher levels of noise and aggressive behaviour. The fact that staff at the homes are well trained to look after residents is not in doubt, however the primary focus of the service and the management systems that are in place are (a). To make money and, (b) To ensure the welfare needs of the residents are met.

The noise impacts of the business upon the wider community are not considered a priority for care providers or the placing authorities, and these impacts can be significant and very difficult to control retrospectively. Problems can arise for a variety of reasons, for example where the assessment of the care needs results in unsuitable placements, or changes in the circumstances of those being cared for which are not readily accounted for. Where problems arise Environmental Health departments have to try and resolve the issues that arise from residents who do not adjust well to a care home setting.

The impacts can be significant, and can as a worse-case include nightly anti-social behaviour and noise nuisance, on the property or outside, which care home staff are not able to prevent (Staff cannot prevent those being cared for leaving the property, at any time of day or night) I have experience of several cases where regular calls are made to the Police by concerned members of the public, however the power available to the Police do not result in sustainable improvement. Environmental Health teams can investigate and serve noise abatement notices under statutory powers available to them, however in practice, this is a protracted process that requires the engagement of various agencies. The outcomes are usually far from satisfactory. As a result, the introduction of such a care facility into residential location could introduce excessive noise, that will be incongruent with the local area, arising from: 1. Regular visits from residential care home staff, and other associated support workers. Some of this will be during antisocial hours, which will be largely dictated to by the needs of those being cared for. 2. Intermittent but potentially regular episodes of shouting, screaming and other anti-social behaviour, both on and off the property.

I am aware of the ministerial statement issued last year by the Minister of State Department for Levelling up, Housing and Communities that confirmed 'that the planning system should not be a barrier to providing homes to 2 the most vulnerable children in society'. The statement does not however state that the imposition of appropriate conditions is unreasonable. I recommend therefore that consideration is given to the granting of a 2 year temporary permission, so that the impacts of the proposals upon the community can be fully evaluated. I also recommend the following condition: 1. Prior to the development being brought into first use, a noise management plan must be submitted to the LPA and approved in writing. The management plan must be implemented in full thereafter.

A noise management plan has been submitted and is acceptable and a condition requiring its implementation in full is recommended.

DCC Adult Social Care and Health
Response not received.

DCC Childrens Services

As a county, Derbyshire have fewer children's homes across the county than other authorities. Some children are placed at a distance and therefore any new provision from private organisations could be useful to increase supply in a more local area.

It is important to note that every residential home when it registered with Ofsted, would have to issue a 'statement of purpose' which outlines their key type of home and cohort of children they would want to place there. This should all become apparent with Ofsted and they would assess the suitability of the property against their desired statement of purpose.

Advise finding out the type of residential home it plans to be before making further comments/drawing further concerns. For example, it may focus on emotional and behavioural difficulties or may focus on learning and disabilities - the types of home and types of children placed there can vary a lot based on this. Ultimately, there is limited provision across the county.

DCC Highway Authority

Considering scale of development, the proposal will not have an unacceptable impact on highway safety and there are no grounds for an objection. Recommends the car parking spaces are maintained for the life of the development.

Force Designing Out Crime Officer

Safeguarding checks show that there are no concerns in the immediate area relating to child sexual exploitation, child criminal exploitation, nor any other significant crime related matters which would make the use proposed unacceptable. Resident objections and the reasons presented, are noted. On the subject of nuisance associated with children's homes sites, there is no inevitability, or even likelihood that this will occur, but there is a possibility. I understand policy guidance may dictate otherwise, but in reality there have been a small proportion of the growing number of small children's homes in the County which have unsettled community cohesion. This is usually seated in either the behaviour of some residents, the apparent lack of appropriate management, or a combination of the two where weak management practices have led to inappropriate placements and an apparent inability to tackle unacceptable behaviour. I understand though that these matters may not necessarily be seen as material in your deliberations.

Old Bolsover Town Council

Asked for clarification if there is there a particular category of young person that this proposal would be aimed at and what, if any, measures are proposed to mitigate against any issues being caused for the other occupants on the estate and in particular those who are in the closest proximity to the property?

NEDC Supported Accommodation Team Review Team

Confirms no comments to make. The accommodation is for under 17's so not eligible for housing benefit and not the SART remit.

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

PUBLICITY

Site notice and neighbours notified. Letters of objection received from 11 residents and 2 councillors which raise the following issues:

- Children on the estate are well behaved but the children who arise at this house may change this.
- Do not want a happy quiet contented estate to be somewhere the police and emergency services are often called to.
- Could result in anti-social behaviour on the estate
- Existing anti-social behaviour may be a poor example to the children who are placed in care here to remove them from anti-social and harmful environments when they deserve a safe nurturing environment
- Feeling of unsafety
- Would result in trouble for residents, decisions are not made in the best interests of residents.
- The mixes of the ages and the genders of the children is concerning.
- Risks from the children's parents/family finding out where they are and causing difficulties and disturbance.
- Residential care is know to have poor outcomes for children and young people.
- Concerns for crime and anti-social behaviour, damage to property, challenging behaviour.
- These children will test boundaries with carers
- This facility doesn't create a family atmosphere as the children have carers rather than foster parents. There is documented evidence that foster homes are more successful than homes such as the one proposed.
- The 'Noise Management Plan' states that whilst the area itself often sits within the 20-35db range, then suggests noise anywhere in the 30db-70db range would be acceptable and reads as though it has not taken into account the character of the area.
- The property has only 2 spaces of their own. The parking was set out under the assumption that these properties would be for residential use only (as evidenced by the restrictive covenants agreed to upon purchase), and not for the proposed number of staff that will be both living in and attending the site in both shift and on-call patterns.
- The road itself has suffered from a number of disputes regarding parking, and the increased traffic may exacerbate this. These disputes have also extended to numerous complaints of near-misses involving children.
- The report cites a number of local amenities and facilities in a way which is inaccurate and suggests research has not been conducted beyond a web search. For example, the proposed local hospital in Shirebrook ("The Manor Hospital"), is in fact a care home for adults with complex emotional and learning difficulties and the riding school which is suggested as an enriching activity available to the residents has in fact been involved in multiple planning applications with a view to ceasing business as a riding school. The closest hospitals are in Chesterfield and Sutton in Ashfield.
- The Environmental Health Officer has raised a number of concerns, alongside the suggestion that a 2 year temporary permission is considered. Concern is expressed about how hard this may be to revoke should issues arise, and the moral and ethical implications of displacing children who by that point may have begun to feel that they have found themselves a part of a community.
- Concerns with traffic flow
- There will be six full time and two part time staff, so potentially eight vehicles coming and going on rotas with 24 hours care.
- Multi agency meetings will mean more vehicles. And the number of visitors cannot be quantified as it will depend on the needs of the residents. All these additional comings

and goings will result in noise, disturbance and loss of privacy for existing residents as well as parking problems.

- The small cul de sac cannot accommodate the number of cars. There are already problems resulting from insufficient parking and this proposal will make that worse
- Number of spaces stated is incorrect.
- Parking is already at a premium with minimal roadside parking.
- There are only two parking spaces on site. The shared driveway/turning area is not for parking it is for people to manoeuvre into and out from their parking areas on their own property, not for parking in.
- The applicant has incorrectly stated that the turning areas for the adjacent properties are parking spaces. At best this claim is disingenuous at worst it is a deliberate attempt to deceive the planning officers and committee.
- Concerns raised about the attitude of the applicant resulting in any issues going unresolved, with little options left to the residents' in order to resolve them amicably.
- Concerns raised about the possibility of safeguarding issues arising for any children who are bystanders to tension between residents and the representatives of the company who will manage this home.
- Disappointed that the Council is even open to considering such a proposal on such a newly established estate.
- Professionalism concerns of the manager, how the home will be run and responsibility for vulnerable children.
- Concerns for the needs and background of the children in the house.
- If behavioural issues arise will staff be able to deescalate.
- Devaluation of property.
- The change of use would be better suited to a house in the middle of a city or centre of Chesterfield.
- Some residents would not have moved here had they known such a change of use would happen.
- One resident has lived near such a home previously and experienced the trouble it caused
- The Council has a vested interest not to change the dwelling to a children's home on the basis of damaged property.
- There are a lot of new council properties on this estate. Surely the Council doesn't want to be causing issues for its new tenants.
- The care provider appears to have little experience.
- The field alongside the property in question has planning permission estimated for 200 houses. The garden will therefore be overlooked not private as set out in the planning documents
- Poor business history of the company, previous court cases relating to the company and inexperience of the company are concerning.
- Restrictive covenants suggest use as a children's home would be a breach of covenants which state businesses cannot be operated and frontage landscaping cannot be removed.
- There are no play facilities on the estate so children play in the road. Additional traffic will put these children at risk
- The lack of facilities means there is nothing to keep children occupied so they are more likely to cause anti-social behaviour.

- The application information suggests Bolsover and bus stops are in walking distance. The nearest bus stop is a 20min walk and Bolsover is a 30min walk. There is also nothing for children of this age to do in Bolsover hence the existing anti-social behaviour problems on the estate resulting in the need for an increased police presence.
- Discussions about the proposal which have taken place in Facebook are a safeguarding concern and put the children at risk.
- There are a number of inaccuracies in the application supporting documents.
- The behaviour described by the Environmental Health Officer would be upsetting and disturbing for adjacent residents who would have no escape from the noise given the close proximity of properties on this part of the estate.
- The location plan is inaccurate because includes the shared driveway which is partially owned by adjacent residents. Title deeds have been provided to show land ownership
- The site ownership includes the hedgerow around the site.
- The Highway Authority comments are based on inaccurate information provided in the application as there are only two parking spaces not three.
- A two year temporary consent will not overcome the potential problems and is not a solution.
- Due to the distance of the estate from facilities, children will need to be driven everywhere by car.
- Parking guidance published by Melton Borough Council recognises that care homes require more parking than an equivalent sized dwelling and states care homes will only be granted planning permission where adequate parking to support the need of that home can be demonstrated. It also recognises that the frequency of vehicle movements often at unsociable hours can be disruptive in a residential setting and can impact on residential amenity.
- Much weight seems to be placed upon the statement made by the Minister of State for Levelling Up, Housing and Communities in May 2023. That is an expression of view of the Government of the day and is one factor to be considered in deciding on such an application - it does not mean that the wider interests of the local community should take second place.

POLICY

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

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

- SS1 – Sustainable Development
- SS3 – Spatial Strategy and Distribution of Development
- LC3 – Type and Mix of Housing
- SC1 – Development within the Development Envelope
- SC3 – High Quality Development
- SC9 – Biodiversity and Geodiversity
- ITCR11 – Parking Provision

National Planning Policy Framework (“the Framework”)

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

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

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.

ASSESSMENT

Key issues

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

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

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

The Principle of Development

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

The site falls within the Bolsover East Ward and within the Parish of Old Bolsover. The site is located within the defined development envelope of Bolsover where the principle of development is acceptable as defined under Policy SC1, subject to all material planning considerations. This is a small-scale development in planning terms which involves the change of use of an existing dwelling to a children's home within the development envelope of one of the district's main towns and as such the proposal meets the requirements of Policy SS3 of the Local Plan by distributing the proposed use to within the main towns and/or larger villages. The site is located close to Bolsover Secondary School and is within a reasonable walking distance of the town centre where a wide range of services and facilities can be found.

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

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

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

She went on to say that "Local planning authorities should give due weight to and be supportive of applications, where appropriate, for all types of accommodation for looked after

children in their area that reflect local needs and all parties in the development process should work together closely to facilitate the timely delivery of such vital accommodation for children across the country.” The recent consultation on changes to the National Planning Policy Framework include proposals to change para. 63 to include a specific reference to Social Rent and “looked after children” as among those for whom needs should be assessed and reflected in planning policies.

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

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

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

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

The impact on the character and appearance of the conservation area

The development utilises an existing dwelling within the development envelope. The development does not propose any external alterations to the building apart from potentially providing one additional parking space on the site frontage. The development is therefore not considered to be harmful to the character and appearance of this residential estate.

Residential Amenity

Impact on residential amenity for existing residents

The property is a detached, two storey dwelling with a rear garden positioned at the end of a small cul-de-sac. The rear garden is enclosed by the existing fence and hedge. There are dwellings to the front of the site and there is a further dwelling immediately to the north of the site. This means that although the property is detached, it is very close to neighbouring properties.

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

as a dwelling and as such the proposal is not considered to result in a loss of privacy for adjacent residents.

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

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

However, if the residents of the home cause noise and disturbance for adjacent residents this could be investigated and controlled by an abatement notice. The Environmental Health Officer advises this is a protracted process, but they do have the statutory powers to control this issue. In addition, if residents are showing aggressive or anti-social behaviour, this is a matter to be controlled by the police, not by planning legislation. Furthermore, such disturbances at the home would be an indication that the placement is not suitable and may not be in the best interest of the child. This would be a matter for the placing / local authority (responsible for children's services) to resolve.

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

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

for noise issues arising from the site are to be managed should the application be approved, and the environmental health officer has confirmed it has addressed the issues he has raised.

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

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

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

The issue of the impact of the home in terms of noise and disturbance for residents is not restricted to noise and disturbance from residents of the home. It could also be as result from the comings and goings associated with the use of the property as a children's home in terms of staff, visitors etc.

Information has been submitted with the application which details how the home will operate in terms of staff, visitors etc. Further information on these matters has also been requested and provided by the applicant, including details of child evaluation steps, a locality risk assessment and a statement of purpose which is to be submitted to Ofsted. There are a number of discrepancies in these documents about the details of the staffing arrangements,

how staff will access the site, how the children would be taken to activities, visitor numbers to the property etc. This makes the assessment of the impact of these comings and goings very difficult. However, these discrepancies are likely to be as a result of the fact that exact figures cannot be produced because this will partly be dependent on the needs and requirements of the residents and their families at the time of occupation and the staff who are employed at any one and each of these things can vary.

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

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

Residential amenity for future residents

The home is proposed to accommodate up to three children aged 8-17 years old. There is a primary school and a secondary school in Bolsover. The dwelling on site has an enclosed private garden which is considered to provide adequate open space to meet the need of its occupiers. Concern has been expressed by residents that the estate has nowhere for children to play and that Bolsover has inadequate facilities for young people which is damaging to their mental health and well-being and will result in them resorting to anti-social behaviour as there is nothing to keep them occupied. However, many residents have raised and are raising families on this new estate because they feel it is a safe and healthy environment in which to raise children. In addition, DCC Children's services have confirmed that Ofsted will consider the location, amongst other things, when considering the appropriateness of the home. On this basis, the site is considered to be capable of providing an adequate standard of amenity for its future residents.

Access/parking/highways issues

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

The site is capable of accommodating two cars on the site frontage on existing parking spaces and one in the existing garage such that there are three existing parking spaces on site. The applicant has confirmed that the garage will not be used for anything other than

parking and is not required for storage or any other use in connection with the proposed use of the site. These spaces could be required to be provided and maintained by condition. These parking spaces could accommodate the managers car and the cars of the two care workers on shift. This would result in the cars of 2 carers parking on the road during the hand over period and any visitors to the site would also need to park on the road.

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

Biodiversity

The proposal falls below the threshold of needing to provide the mandatory 10% net gain for biodiversity because it doesn't impact on a priority habitat and impacts on less than 25 square metres (5m by 5m) of on-site habitat and less than 5 metres of on-site linear habitats such as hedgerows.

The proposal does not result in external alterations to the building and as such does not result in a net loss for biodiversity in accordance with Policy SC9 of the Local Plan for Bolsover District.

Issues raised by residents

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

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

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

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

The issue of whether foster care or children's homes are a more effective environment for children has not been considered as this is not a material planning issue which can be taken into account.

The issue of discrepancies in the application form and reports mean that the application should be refused and the expression of concern that the application is even being

considered by the council has not been considered as it is not possible to do that. The application was accompanied by the documents necessary to make it valid and as such the application has to be considered by the council on its individual merits. The council cannot merely refuse to consider an application.

The fact that there are council owned properties on the estate and therefore the council should have a vested interest in refusing the application has not been considered as this is not a material planning issue which can be taken into account. The application has to be considered on its individual merits and the ownership of nearby dwellings cannot be taken into account.

The issue of the adjacent field potentially being developed for housing has not been considered because if dwellings are approved adjacent to the site in the future they would need to meet the Council's guidance in terms of distances between windows and gardens etc and as such would not result in an unacceptable level of privacy for the existing property.

Melton Borough Council's supplementary planning guidance has not been taken into account because it is not relevant to this Authority. Only the supplementary planning guidance adopted by this council can be considered when determining the application, in addition to national planning policies and guidance and the policies in the Development Plan.

CONCLUSION / PLANNING BALANCE

There is an identified need for the provision of care homes for children within the county. The site is on an allocated housing site identified in the Local Plan and as such is considered to be a sustainable location for residential development. Children's Services have confirmed that the suitability of the location is a matter for Ofsted to assess, having regard to the operator's Statement of Purpose, and the placing authority will place children according to their needs and in accordance with their care plan. The proposed development is therefore considered to help contribute towards this need.

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

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

The proposal will result in some on street parking but this is not considered to be significantly greater than if the property remains a dwelling and as such the proposal is not considered to be detrimental to highway safety and there are no objections to the proposal from the Highway Authority provided three parking spaces are maintained on site and this can be required by condition.

RECOMMENDATION

The current application be APPROVED subject to the following conditions:

1. The development must be begun before the expiration of three years from the date of this permission.
2. The noise management plan submitted to the Local Planning Authority via email on the 12th September 2024 must be implemented in full, concurrent with the first occupation of the site and must continue to be implemented in accordance with the approved scheme thereafter.
3. Before the development hereby approved is first implemented, the three parking spaces shown on amended parking plan received by the Local Planning Authority via email dated 17th September 2024 (including one space in the garage be available for parking on site in accordance with that plan and must be maintained available for parking at all times thereafter.
4. Notwithstanding the Town and Country Planning (Use Classes) Order 1987 (or any order revoking and re-enacting that order with or without modification) the premises must be used only as a children's care home for up to 3 children and for no other purpose (including any other use falling within Class C2 of the Order).
5. There must be no more than three members of staff on shift at the premises at any time unless otherwise agreed in writing by the Local Planning Authority

Notes

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

Statement of Decision Process

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

Equalities Statement

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

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

Human Rights Statement

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

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

PARISH Shirebrook Parish

APPLICATION Erection of a new pavilion building to provide a flexible community space that can be used for a variety of uses, including co-working, community events, cafe, and tourist information centre. The building will also provide increased provision of public WCs, market stall storage, market supervisor office, and a Wi-Fi hub. The community hub will be run / managed by Shirebrook Town Council

LOCATION Shirebrook Marketplace Shirebrook

APPLICANT Shirebrook Town Council C/o Agent

APPLICATION NO. 24/00356/FUL **FILE NO.** PP-13302172

CASE OFFICER Mrs Karen Wake

DATE RECEIVED 5th August 2024

SUMMARY

The application has been referred to Planning Committee by the Development Management and Land Charges Manager due to the decision being of strategic importance to the District and in the interests of openness and transparency, as the District Council has been involved in the inception of the scheme and could be involved in its delivery.

The application is for a building to provide a flexible community space, public toilets, and a storage area for market stalls.

The application is recommended for approval, subject to conditions relating to materials.

Site Location Plan



OFFICER REPORT ON APPLICATION NO. 24/00356/FUL

SITE & SURROUNDINGS

The site is the northwest corner of Shirebrook marketplace. The marketplace is surrounded by buildings in a variety of commercial/retail uses, many of which have residential uses above. The marketplace has a variety of surface treatments and contains a number of trees as well as a recently erected sculpture/mining memorial.

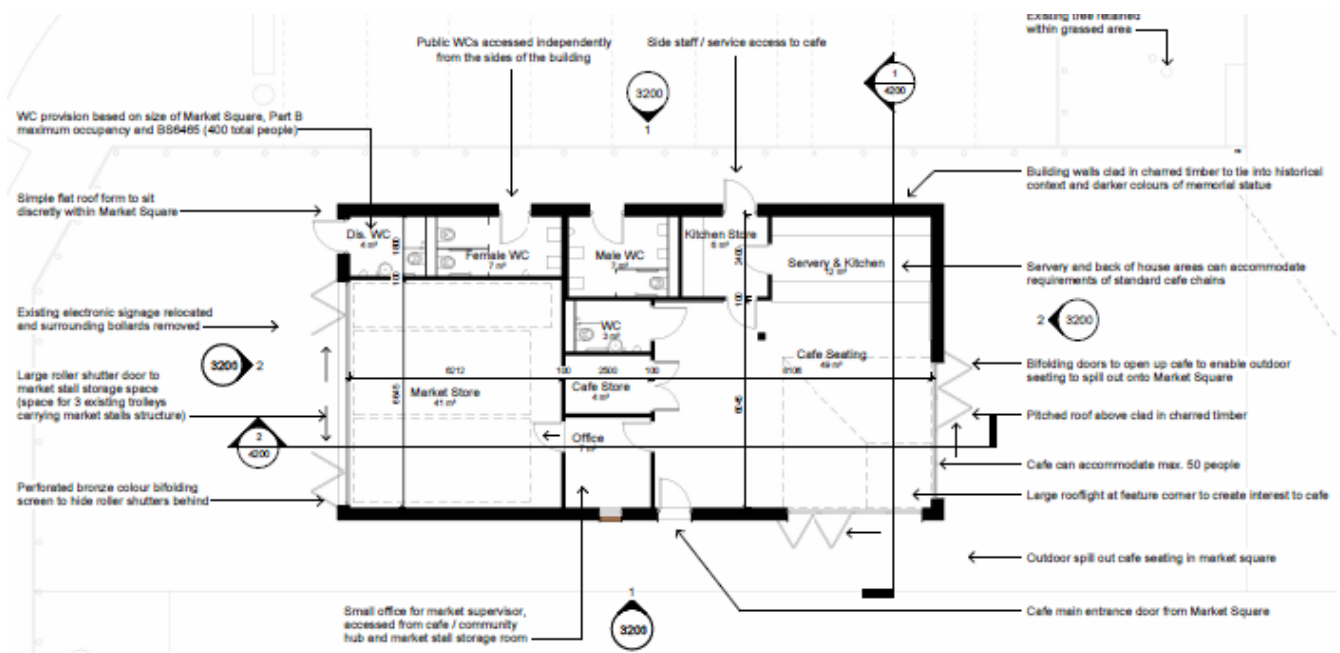
BACKGROUND

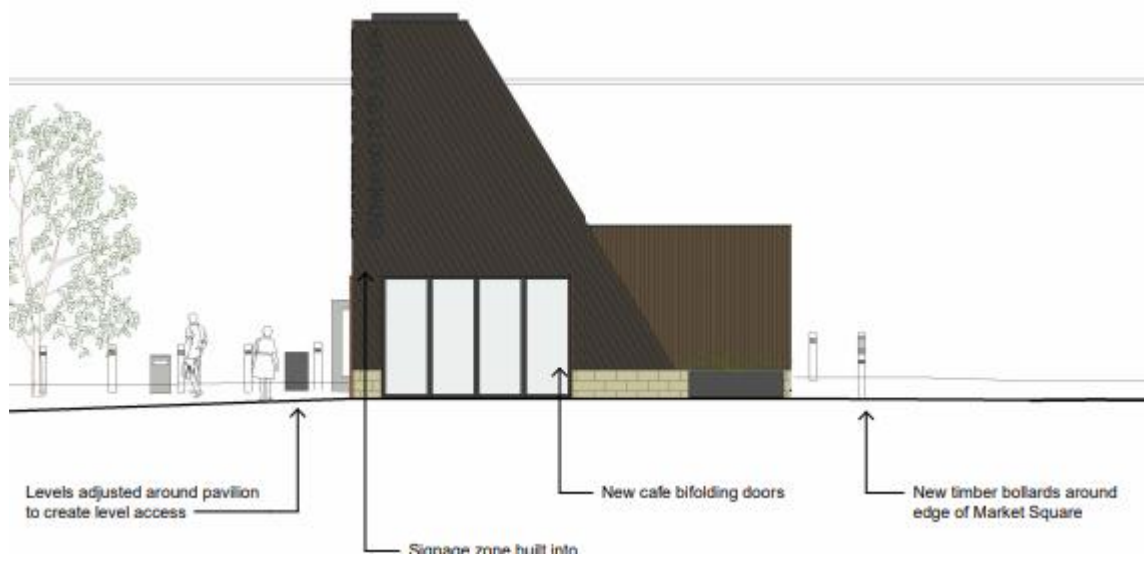
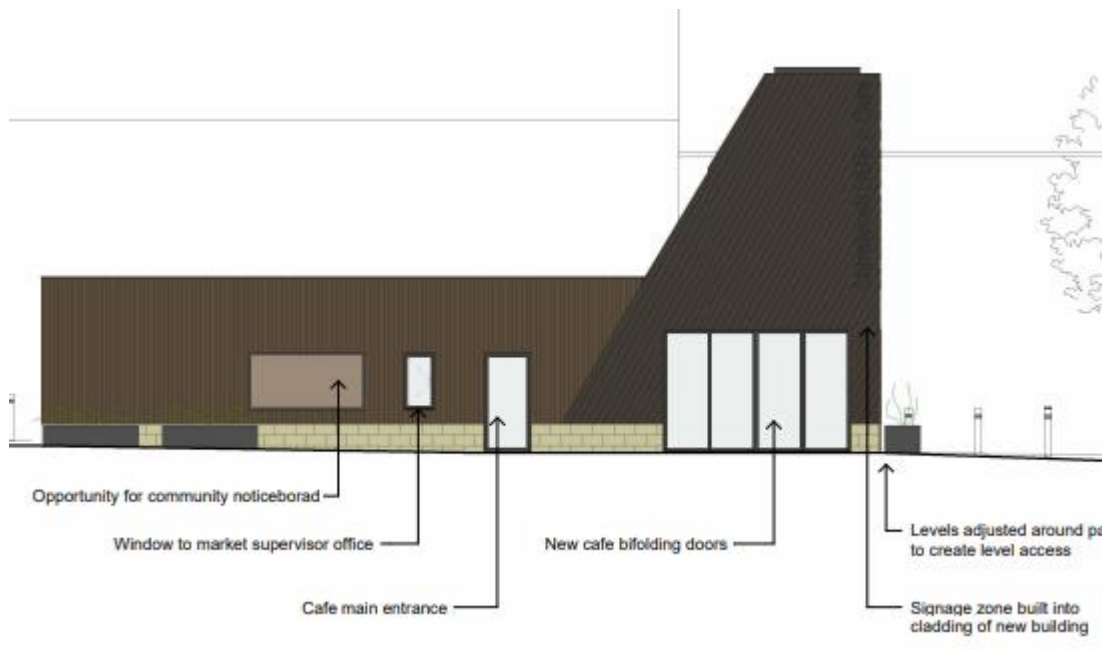
As set out in the supporting Design and Access Statement that accompanies the application Shirebrook Town Council in partnership with Bolsover District Council are seeking to significantly improve the physical and environmental quality of the marketplace to make this important civic space more vibrant and welcoming, and the retail beating heart of Shirebrook. The development forms part of the Shirebrook Market Place: REimagined project.

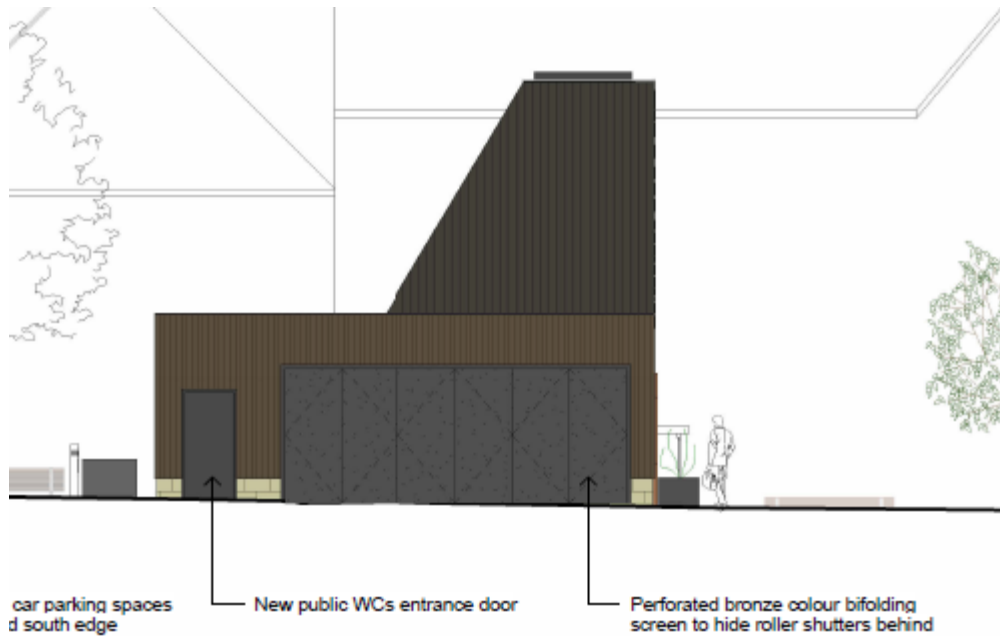
There is a Local Development Order for Shirebrook Market Place which gives planning permission for numerous works, including a small community building. The construction of a community building within the marketplace is therefore considered to be acceptable in principle, however, the building proposed is of a different nature (in terms of being a building in mixed use) and larger than that which can be construed as being permitted under the Local Development order, hence why a full planning application has been submitted.

PROPOSAL

The application is for the erection of a new building to provide a flexible community space that can be used for a variety of uses, including co-working, community events, cafe, and tourist information centre. The building will also provide improved provision of public WCs, market stall storage, market supervisor office, and a Wi-Fi hub. The community hub will be run / managed by Shirebrook Town Council.







AMENDMENTS

Amendments have been made to the materials to be used on the building, and the surfacing around it as well as the addition of planters around the building, following discussions with the Senior Urban Design Officer.

EIA SCREENING OPINION

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

HISTORY

20/00313/OTHER	Granted conditionally	Extension to Local Development Order to support the Shop Front Repairs Grants Scheme
20/00494/OTHER	Granted conditionally	Local Development Order to facilitate and enable regeneration of Shirebrook Marketplace
21/00620/ADV	Granted conditionally	Advertisement for a digital screen
22/00536/LDOCC	Granted	Prior Approval for memorial statue and associated groundworks related to Local Development Order (20/00494/OTHER) to facilitate and enable regeneration of Shirebrook Marketplace
08/00127/FUL	Granted conditionally	Installation of a CCTV surveillance scheme
19/00451/OTHER	Granted conditionally	Local Development Order for shop front repairs

CONSULTATIONS

Town Council
No objections

Derbyshire County Council Highways

No objections subject to a condition requiring parking spaces shown on the approved plan to be provided before the building is brought into use and a note advising the applicant of the need to obtain a section 184 license to create a dropped crossing to any parking area.

Senior Engineer

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

Senior Urban Design Officer

With regard to the amended plans, the incorporation of a stone plinth to the base of building helps to ground the building within the space and works well with the addition of a square of apron stone paving around the entrance. The additional planters help improve the setting of the of the building when viewed across the square. Agrees with option 8 in the materials study and agree that the subtle tonal contrast and the gradation of the wooden panels help to give the building more articulation. Need to ensure that the bifold doors as shown in Page 40 the Design and Access Statement are shown on the plans. The bronze (tree bark) decorative perforated pattern will be a much-improved addition to this elevation adding interest and disguising the security shutter behind it.

PUBLICITY

Site notice and 36 neighbours notified.

5 letters of objection received which raise the following issues:

1. The building is unnecessary, there are already several cafes and meeting rooms in Shirebrook, the tourist information office could be in the town council building and the existing toilet block could be upgraded.
2. The council do not have the required funds to complete projects that are already underway, e.g. the memorial garden and the crematorium, so this new eyesore will just be another strain on the budget.
3. The marketplace just needs sprucing up and the memorial garden should be on the town park or in the crematorium grounds.
4. The proposal will alienate many long standing market traders.
5. The new building will be out of place and decimate the formerly outstanding outdoor market
6. The building has no clear benefit for the people of Shirebrook.
7. There is no requirement for a tourist information centre. Why would anyone want to come into Shirebrook in its current state.
8. This is a total waste of money and is not wanted or required by the residents. It will also look totally out of place and the building is not in keeping with the current square.

The money would be best spent in tidying up and making improvements to the current infrastructure.

9. There hasn't been a proper consultation on the proposed build.
10. An additional café will take trade from existing businesses.
11. If the toilet facilities are they only going to be open on market days its pointless.
12. Building it in the corner over near the Co-op is going to be an eyesore. This plan should have been thought about before the miner's monument, because of this its thrown the symmetry out for a pleasing to the eye layout.
13. Proper consultation is required of people working round the market and residents on market days etc. Asking the residents on the BDC website isn't covering a large enough group
14. This is a waste of council taxpayers money and an ugly and unnecessary project.
15. The area for market stalls has been reduced by the monument and ongoing structure of a memorial garden and there have already been complaints about this so if this makes the market square smaller there won't be need for a store for the market stalls.
16. There is no need for a supervisor's office, they can use the sizeable Town Council Office and even watch from the office window,
17. The building will be a target for vandalism which is rife around the market area already and it is a no go area for the public to even walk across after 2- 3pm
18. Concerns about traffic safety around the market square, Is it a pedestrian zone or not?

2 letters of support received which make the following points:

1. The market is the focal point of the Town and the heart of the community and is long overdue updating and investment. At the moment a lot of people ignore the pedestrian zone signs and the market square is used as an unofficial car park. The current toilets are poor unreliable and in desperate need of replacement. The Cafe/Community hub with a Wifi hub will be a great public facility.
2. The provision of market stall storage demonstrates a clear commitment by the council to continue Shirebrook's long history as a Market Town
3. The residents group voted to support the planning application because the square is looking sad and tired and long overdue a refresh. The current toilets are very poor, unreliable and not very nice to use and desperately need replacing.

POLICY

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

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

- SS1 Sustainable Development
- SC1 Development within the Development Envelope
- SC2 Sustainable Design and Construction
- SC3 High Quality Development
- SC9 Biodiversity and Geodiversity
- SC11 Environmental Quality (Amenity)
- WC5 Retail, Town centre and Local centre Development
- 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.

Supplementary Planning Documents

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.

ASSESSMENT

Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that applications for planning permission are determined in accordance with the development plan unless material considerations indicate otherwise. The development plan for the purposes of the Act is the Local Plan for Bolsover (2020) and the supplementary planning documents referred to above. The policies in the National Planning Policy Framework (2023) as set out in the Policy section of this report are also material considerations in respect of this application.

Having regard to the above and the relevant provisions of the development plan and national policy, it is considered that the key issues in the determination of this application are:

- the principle of the development
- the impact on the vitality and viability of the town centre
- the design and visual impact of the proposed development
- Residential amenity
- whether the development would be provided with a safe and suitable access and the

- impact of the development on the local road network
- Biodiversity

These issues are addressed in turn below.

Principle

The site is within Shirebrook marketplace which is the heart of the town centre. The principle of a community building being acceptable within the marketplace as part of the regeneration works proposed is established by the Local Development Order which grants planning permission for a number of developments, one of which is small buildings for community uses including toilet blocks, changing rooms, information points etc subject the prior approval of the details be the council. The proposed building is considered larger than what was granted planning permission by the Local Development Order, but the principle of such a building/use is considered to be established and is considered to be an appropriate town centre use.

Impact on the vitality and viability of the town centre

Part of the building is to be used to replace the existing town centre toilets and to provide a storage area for market stalls which currently have to be stored away from the marketplace. The improved storage facility and public toilets are considered to be enhancement to the existing marketplace and are considered to enhance the vitality and viability of the town centre and its popular market.

The proposed community hub is considered to provide additional and enhanced facilities for local residents and visitors to the town centre and the additional opening hours proposed are considered to help encourage visitors and shoppers to come to the town centre on non-market days and to stay in the town centre after the market closes which will potentially improve the footfall and customer base for existing town centre businesses. The proposal is therefore considered to enhance the vitality and viability of the town centre in accordance with Policy WC5 of the adopted Local Plan.

Design and visual impact of the proposed development

The building has been designed by an established and well respected architect firm. The design is intended to create a simple, yet striking addition to the marketplace. The proposed building is designed with a tall corner feature creating a 'lofty' cafe space, whilst also creating a memory of the distinctive 'pithead' form. The use of charred timber is envisaged to create a modern aesthetic with a clear reference to the production of coal and the industry which has played such a significant role in the evolution of Shirebrook Town. A green roof is proposed for the long, lower part of the building, creating opportunities for wildlife at the heart of the square, and contributing to the biodiversity net gain requirements.

The pavilion will provide public WC facilities with separate female and male WCs, and a disabled WC with baby changing, accessed from the north and west elevations. These WCs will replace the existing minimal facilities within the square. A large store will be located and accessed from the west for use as a market stall storage space, with room for the 3 existing trolleys and stalls currently in use on market days. A small office space for the market supervisor will be located adjacent to this store, with a view over the public square to the south. The rest of the building will be used as a community hub, providing a flexible space for co-working initiatives, community events, a tourist information centre and cafe. The cafe will be run by a local business and will help keep the community hub a viable venture for the

Town Council.

The majority of the new surfacing within the marketplace will be a resin bound gravel laid on tarmac. This is a cost effective yet transformational surfacing that will not require the groundwork that traditional paving requires. A subtle differentiation in two colours of gravel will create the design as shown on the plans. The colours will be warm light greys - the swatches adjacent are product samples from Resin Bonded Aggregates. The resin surface is to be edged with aluminium. The paving within the memorial garden will be more distinctive to complement the memorial statue. These will be varying colours of concrete setts - Marshalls granite range and concrete 'Conservation X' range. Dark grey granite setts will edge the memorial garden and the seating areas. Yorkstone paving with a granite edging will be provided, reflecting the paved apron to the memorial. The paving will 'wrap around' the southeastern corner of the Pavilion building, allowing cafe seating and activities to out onto the square

The new zones proposed for the marketplace will be complemented by the planting of trees. The existing trees on site have been assessed by Bolsover District Council's Tree Officer to fully assess the potential of their retention. A number of trees are being retained as part of the works to the north and south edges of the wider marketplace. In addition, planters are proposed to 'soften' the frontage to the Pavilion and provide a transition zone between the building and the main square.

This Design and Access Statement illustrates the design decisions made in relation to the public realm improvements and the new Pavilion building proposed in the marketplace, following the Local Development Order currently in place. The project brief has been developed and refined based upon the findings of a comprehensive baseline study and stakeholder engagement. This considered not only the current physical and operational condition of the study area, but also considered the opportunities and constraints presented by the wider town centre context. In addition, the development proposals have been refined still further in terms of materials and finishes, in order to create a striking, yet harmonious solution, forming an active and attractive backdrop to the marketplace. The whole scheme has been well considered and, subject to conditions requiring compliance with the amended plans and submission of materials for approval, the building is considered to be an appropriate response to the site and its context and is considered to enhance the appearance of the marketplace in accordance with Policy SC3 of the Local Plan for Bolsover District.

Residential amenity

There are a number of flats around the marketplace. The proposal is not considered to result in any additional noise or disturbance or loss of privacy for residents of adjacent dwellings over and above the existing situation or what would reasonably be expected in a town centre location. The proposal is therefore not considered harmful to the amenity of adjacent residents and is considered to meet the requirements of policies SC3 and SC11 of the adopted Local Plan in this respect.

Access/Highways

The proposed community building is within the existing marketplace at the heart of the town centre. The building does not have its own parking proposed but the marketplace is adjacent to existing town centre car parks and the town centre is well served by buses and within

walking distance of the train station. The proposed community hub is therefore sustainably located where it can be reached by residents and visitors by a number of modes of transport.

The storage element of the building is for the market stalls which are to be used in the market area adjacent to the building. The stalls are currently stored outside of the marketplace and have to be brought into and out from the marketplace by vehicle every market day. The storage of the stalls on site is therefore considered to result in less vehicular movements within the marketplace than currently exists.

For the above reasons the proposal is not considered to be detrimental to highway safety and is considered to meet the requirements of Policy SC3 of the adopted Local Plan in this respect.

The Highway Authority have asked for a condition requiring the parking spaces in the square to be provided before the building is first occupied. This is not considered to be necessary given the town centre location of the building. It is not considered to require dedicated parking.

A note can be added to any decision notice to advise the applicant of the need to obtain a Section 184 licence for a footway crossing.

Biodiversity

The proposal involves the loss of some existing planting and 1 tree. 2 trees are being retained. The proposal includes replacing planting, 2 new trees and the building has a green roof. The proposal provides a 10% net gain for biodiversity and as such, subject to a condition requiring the provision and retention of this biodiversity, the proposal meets the statutory requirements for biodiversity net gain and the requirements of Policy SC9 of the adopted Local Plan.

Issues raised by residents

Most of the issues raised by residents are covered in the above assessment. The proposal is part of a comprehensive scheme for the regeneration of the marketplace which has been the subject of a consultation exercise and has been accepted in principle by the granting of the Local Development Order.

The proposal is, in part, to provide enhanced facilities for market traders rather than an attempt to alienate market traders and to encourage more use of the marketplace for extended periods of time to improve footfall and trade for businesses in the marketplace.

The funding of the scheme has not been considered as this is not a material planning issue which can be taken into account.

The issue of competition for existing cafes has not been considered as this is also not a material planning issue which can be taken into account.

CONCLUSION / PLANNING BALANCE

In conclusion, this building is a comprehensive scheme that will benefit the space, uplifting the square to give a more modern, cosmopolitan feel to it. This will complement existing shops around it and provide an attractive space for people to visit and linger in,

rather than to just use the square for shopping. The facility will benefit the marketplace area and result in an enlivened space. On balance, the scheme has been well considered and is an appropriate response to the site and its context. A recommendation of approval is put forward on this basis.

RECOMMENDATION

The application be APPROVED subject to the following conditions:

1. The development shall be begun before the expiration of three years from the date of this permission.
2. Development may not be begun until:
 - a) a biodiversity gain plan has been submitted to the planning authority; and
 - b) The planning authority has approved the plan.The Biodiversity Gain Plan must be prepared in accordance with the Biodiversity Metric submitted with the application prepared by Futures Ecology and include a timeline for delivery of any on site measures. The biodiversity enhancement measures shall thereafter carried out in accordance with the approved details.
3. The development must not commence until a landscape plan and management schedule to secure gains over a minimum 30 year period in accordance with the approved Biodiversity Gain Plan has been submitted to and approved in writing by the Local Planning Authority. The Landscaping must be provided on site before the dwelling hereby approved is first occupied.
4. The development must be carried out in accordance with drawing numbers:
 - 2201 Rev P06 Proposed floor plan
 - 2800 Rev P06 Proposed phasing plan
 - 4200 Rev P02 Proposed sections
 - 2212 Rev P06 Proposed market stall layout
 - 3200 Rev P06 Proposed elevations
5. Prior to construction of the building superstructure, samples of the materials to be used for all external areas of the building, including windows, external doors and bi-folding screen must be submitted to and approved in writing by the Local Planning Authority. The dwelling hereby approved must be constructed in the approved materials and must be maintained as such thereafter.
6. The external paving and planters shown on the approved plan must be provided on site in accordance with the approved plan before the building hereby approved is first occupied and must be maintained as such thereafter.

Statement of Decision Process

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

Equalities Statement

Section 149 of the Equality Act 2010 places a statutory duty on public authorities in the exercise of their functions to have due regard to the need to eliminate discrimination and

advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it (i.e., “the Public Sector Equality Duty”).

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

Human Rights Statement

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

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

PARISH Shirebrook Parish

APPLICATION Conversion of public house to general convenience store with extension to provide additional storage and conversion of 1st and 2nd floors to provide 2 self-contained flats and 7 bedroom House in Multiple Occupation (HMO)

LOCATION The New Victoria Inn Acreage Lane Shirebrook Mansfield

APPLICANT Mrs R Padda 1 The Summit, Carter Lane Shirebrook, MansfieldNG20 8NA

APPLICATION NO. 23/00644/FUL **FILE NO.** PP-12674770

CASE OFFICER Mrs Karen Wake

DATE RECEIVED 18th December 2023

SUMMARY

This application is being re-reported to the Planning Committee to re-consider the development in light of proposed changes to the scheme and the submission of a preliminary bat roost survey.

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

The application, as revised, is recommended for a conditional approval.

BACKGROUND

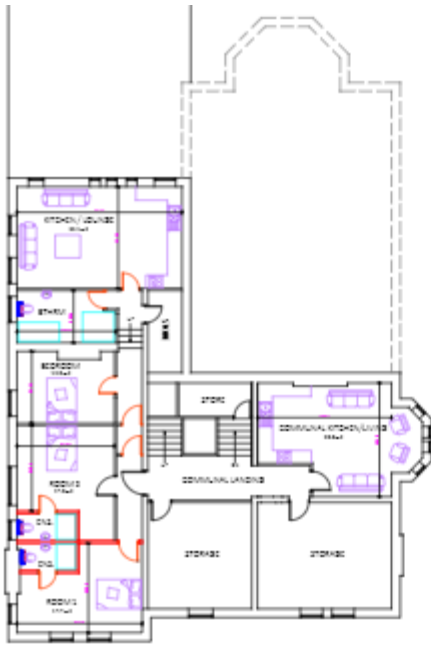
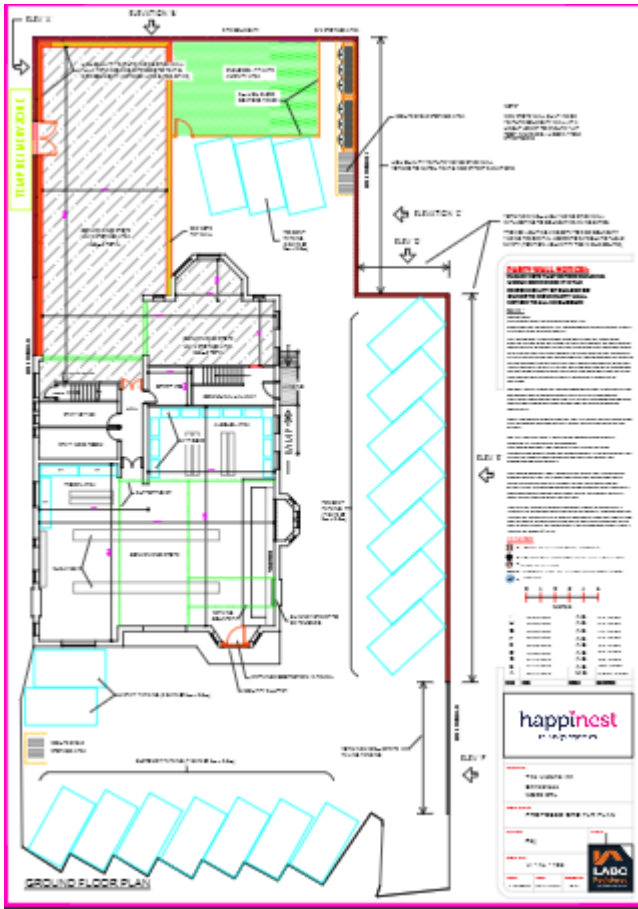
The application was initially considered at planning committee in June this year but was deferred to ask the applicant to consider residential flats instead of HMO accommodation and also to enable a Preliminary Bat Roost Assessment to be submitted. Members resolved to defer the planning application and confirmed it must be referred back to Planning Committee once these issues had been addressed.

The original report is included in appendix A.

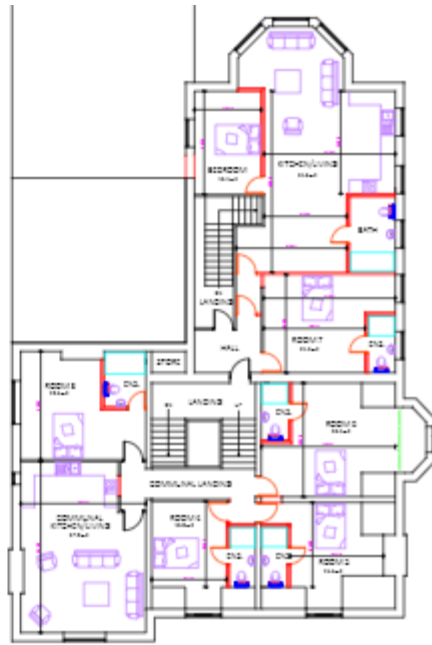
REVISIONS

The applicant has provided a preliminary bat roost survey and has reduced the number of bedrooms in the HMO from 10 to 7 and submitted supporting information to justify why they wish to retain the HMO but with a reduced number of bedrooms.

A revised plan has been submitted to show the amended HMO layout and also to include a single storey rear extension to provide storage for the shop proposed at ground floor. The addition of the extension reduces the available parking area and amenity space proposed.



FIRST FLOOR PLAN



SECOND FLOOR PLAN



FRONT ELEVATION

FACING MATERIAL SPECIFICATION

FACING BRICKWORK TO MATCH EXISTING
 ROOF TILES TO MATCH EXISTING
 FLAT ROOF TO BE WARM DECK WITH GREY BUTYL RUBBER TOPPING
 SHOP FRONT SCREEN FROM PFC ALUMINIUM (WHITE) TO MATCH WINDOW APPEARANCE
 ROLLER SHUTTER DOOR TO BE ALUMINIUM (GREY FINISH)
 ORIGINAL PUB SIGNAGE TO BE RETAINED AS ILLUSTRATED



SIDE ELEVATION 1 (ELEV 'A')



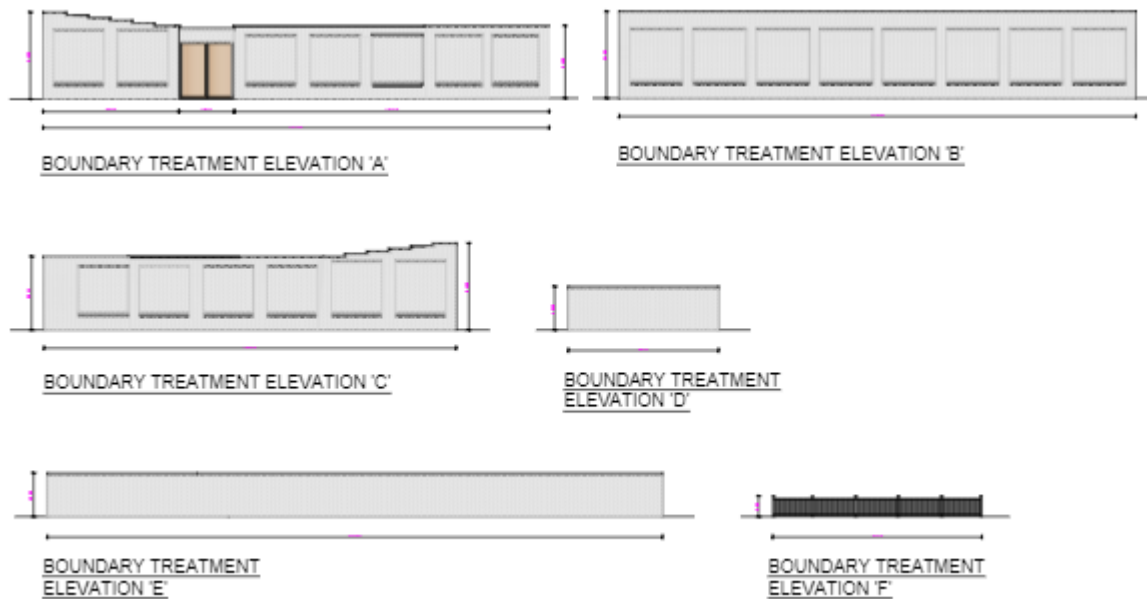
REAR ELEVATION (REAR WALL OMITTED FOR CLARITY)

FACING MATERIAL SPECIFICATION

FACING BRICKWORK TO MATCH EXISTING
 ROOF TILES TO MATCH EXISTING
 FLAT ROOF TO BE WARM DECK WITH GREY BUTYL RUBBER TOPPING
 SHOP FRONT SCREEN FROM PFC ALUMINIUM (WHITE) TO MATCH WINDOW APPEARANCE
 ROLLER SHUTTER DOOR TO BE ALUMINIUM (GREY FINISH)
 ORIGINAL PUB SIGNAGE TO BE RETAINED AS ILLUSTRATED



SIDE ELEVATION 2 (SIDE WALL FACING CARE HOME OMITTED FOR CLARITY)



CONSULTATION RESPONSE TO AMENDMENTS

Parish Council

Strongly object to another HMO in Shirebrook

Derbyshire County Council Highway Authority

No objections subject to a condition requiring parking to be provided on site in accordance with the amended plan and an advisory note to advise the applicant of the requirement to obtain a section 184 licence from the Highway Authority for works to the footway.

Derbyshire Wildlife Trust

Following on from previous comments two nocturnal surveys were carried out in July and August 2024. No bats were recorded entering or existing the building during either survey. However, noctule and brown long-eared bats were detected in the surrounding area. No further surveys are considered proportionate. Support the recommendations that external repairs should be undertaken outside the active season for bats, with November to February being the period when bats are least likely to be active and advise an informative is attached to any consent in this respect.

Recommended conditions relating to external lighting, no works to take place in bird nesting season unless preceded by a nesting bird survey and Biodiversity Enhancements be provided in the form of bat and bird boxes.

Coal Authority

No further comments

Environmental Health Officer

Confirms previous comments still apply

Force Designing Out Crime Officer

The space provided for refuse and cycle storage to the rear of the building, whilst enclosed on three sides, is not secure (as originally proposed prior to additional parking being allocated in

this area). This was subject to previous discussions with agreement to move cycle storage back into an area which was secure and accessible only to residents. Previous comments about the security and specification of the resident's cycle store are key.

Other matters in respect of door entrance control provision, external CCTV and external lighting might be resolved by condition as previously discussed agreed.

Previous informative comments in respect of structure, security and part Q of building regulations for new openings, and requirements of alcohol licensing are worth repeating.

There is mention of a security management plan condition, attached to some other documents. This doesn't seem to be generally available. It may be useful to have sight of what is being proposed, and how this dovetails into physical security. Consideration should be given to how such a condition would be effectively policed in perpetuity, in the event of those responsible not fulfilling any requirements.

PUBLICITY

Neighbours re-notified. No comments received.

CONSIDERATIONS/ASSESSMENT

The issues for consideration following the deferral of the application are:

- Biodiversity
- Amendments to the proposal

Biodiversity

A protected species appraisal has been submitted. The appraisal found no evidence of the presence of bats or nesting birds but there were features on the building that could provide access and suitable shelter for roosting or resting bats and nesting birds which could not be fully investigated so two dusk emergence surveys were carried out to determine the presence or absence of bats. The emergence surveys have been carried out and no bats were seen entering or exiting the building during either survey. The survey concludes that bats are therefore not considered to pose a constraint to the works.

Derbyshire Wildlife Trust have reviewed the reports and have confirmed they do not consider any additional reports are required. Derbyshire Wildlife Trust have advised an informative note to advise the applicant to undertake works to the roof sensitively and outside the main active period for bats. Such a note can be added to any planning permission.

Derbyshire Wildlife Trust has also recommended conditions requiring details of any external lighting to be submitted prior to its installation and the submission of a scheme for biodiversity enhancement measures in the form of inclusion of bat and bird boxes. Subject to the inclusion of such conditions the proposal is considered to result in no not less for biodiversity in accordance with policy SC9 of the Local Plan for Bolsover District. There is no requirement for the provision of a biodiversity net gain because the application was submitted prior to the mandatory requirement for 10% net gain.

Derbyshire Wildlife Trust have also asked for a condition that works take place outside the nesting bird season unless preceded by a nesting bird survey. Given that nesting birds are

protected under other legislation such a condition is not considered to be necessary, but should be added as an informative note to any planning permission.

Amendments to the proposal

Following the comments made by some members at the previous committee, the applicant has been asked to consider amending the proposal to provide additional flats rather than a mix of flats and HMO.

The applicant has considered the suggestion but does not wish to change the application to all flats. The number of bedrooms in the HMO has been reduced from 10 to 7 but the application remains a change of use to retail, 2 flats and HMO. The applicant has submitted a supporting statement which explains the reasoning for this and this is included at Appendix B. The Local Planning Authority must therefore determine the application in its current form.

The issue of the type of accommodation proposed and the number of HMO's in Shirebrook has been fully considered in the original report attached at Appendix A.

The applicant has added a single storey extension to the rear of the building to provide storage for the proposed shop. This did not form part of the application proposal when the application was originally reported to planning committee on the 19th June 2024. Members will note from the original officer's report that the removal of a single storey rear extension, which extended up to the rear boundary of the site was secured. Although this application reintroduces an extension of a similar footprint, it will be sited behind and below the height of an attractive boundary wall, which incorporates recessed brickwork panels, to be retained and extended. The extension will be effectively concealed from street level and by retaining the boundary wall, will integrate into its setting and respond positively to its context in terms of the height, scale, massing, density, layout and materials such that it would comply with the requirements of Policy SC3 of the Local Plan for Bolsover (2020).

The proposed storage area will enhance the retail capacity of the proposed shop, allowing it to provide an improved facility for local residents.

The additional storage area has resulted in the loss of some of the parking and amenity space proposed for the residential element of the scheme but the number of bedrooms in the HMO proposed has been reduced from 10 to 7.

The scheme previously provided 25 parking spaces, and this has been reduced to 19 spaces. The amendment to the scheme has reduced the parking requirement for the site by three spaces but has reduced the number of spaces available on site by 6.

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

In addition, the parking requirement for the proposed use of the site is still less than would be required if the building returned to a public house use.

The current proposal provides an enclosed private amenity space to serve resident of the flats and HMO. The space is quite small and has been reduced in size from that provided in the original scheme. However, the council's Successful Places Supplementary Planning Documents allows for amenity space requirements for flats and HMO's to be relaxed where existing buildings are being converted. It is therefore considered that the reduced level of amenity space is not a justification to refuse the proposal and the proposal overall is considered to provide an adequate level of amenity for future occupiers in this town location.

The proposed extension is set away from adjacent dwellings and is partially screened by the boundary wall such that it does not result in a loss of privacy or amenity for residents of adjacent dwellings. All other issues relating to the impact on the amenity for residents of adjacent dwellings is covered in the original report.

CONCLUSION / PLANNING BALANCE

The building will remain in a community use within a Class E use at ground level and the additional storage area proposed will improve the retail capability of that use. The application will bring an attractive and prominent building back into use, preventing further decay and decline.

The site and building is considered capable of accommodating the retail unit with additional storage, two self-contained flats and a 7 bed HMO without causing overdevelopment of the site. As already considered in the original report, no controls exist with regard to the proliferation of HMO's in the area and there is no evidence to suggest that this will result in a community imbalance in this urban / town location. How future occupants might cause anti-social behaviour, crime or nuisance are not material. Efforts have been successfully made to strengthen community safety by designing out crime. The application raises no concerns in relation to design and character, residential amenity, highway safety, land stability, biodiversity and sustainability which cannot be overcome by planning conditions. It is therefore considered that the application represents a sustainable form of development in accordance with the Local Plan and the National Planning Policy Framework and a recommendation of approval is put forward on this basis.

RECOMMENDATION

The current application be APPROVED subject to the following conditions:

1. The development shall be begun before the expiration of three years from the date of this permission.
2. The development hereby permitted shall be carried out in accordance with the following approved drawings and documents unless specifically stated otherwise in the conditions below:
Revised Proposed Block Plan ref VI-AL-111 Issue A
Revised Proposed Elevations ref VI-AL-108 Issue D
Revised Proposed Elevations ref VI-AL-107 Issue C
Revised Proposed First Floor and Second Floor ref VI-AL-106 Issue C
Revised Proposed Ground Floor Plan with Site Layout ref VI-AL-105 Issue I
Revised Boundary Details VI-AL-109 Issue B
3. The development hereby approved shall not be brought into use until the access,

parking and turning facilities have been provided as shown on the approved plan. Once provided the access, parking and turning facilities shall be maintained thereafter free from any impediment to use for access, parking and turning purposes.

4. Before the hereby approved commercial unit and residential accommodation are first taken into use, the existing vehicular access to Acreage Lane shall be permanently closed with a physical barrier and the existing vehicle crossover reinstated as footway fully in accordance with a scheme which has first been submitted to and approved in writing by the Local Planning Authority.
5. Notwithstanding the Town and Country Planning (Use Classes) Order 1987 (or any order revoking and re-enacting that order with or without modification) the ground floor of the premises must be used only for Class E, a, b, d, e, f purposes (and for no other use falling within Class E, c and g of the Order).
6. The hereby approved 7 bedroomed house in multiple occupation shall be for a maximum of 7 occupants.
7. Prior to the first occupation of the residential accommodation hereby approved a scheme of sound insulation shall be submitted to and approved in writing the Local Planning Authority. The scheme shall be designed following the completion of a sound survey undertaken by a competent person. The scheme shall take account of the need to provide adequate ventilation, which will be by mechanical means where an open window would not achieve the following criteria. Unless otherwise agreed, the scheme shall be designed to achieve the following criteria with the ventilation operating:

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

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

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

All Habitable Rooms 45 dB LAmax to occur no more than 6 times per night (2300 hrs - 0700 hrs)

Any outdoor amenity areas 55 dB LAeq (1 hour) (0700 hrs - 2300 hrs)

The scheme as approved shall be validated by a competent person and a validation report submitted to and approved in writing by the local planning authority before first occupation. The approved scheme shall be implemented in full and retained thereafter.

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

continually operated and maintained thereafter.

10. Prior to any works taking place to the external elevations and roof of the development, the precise external materials for the elevational treatment and roofing shall be first submitted to and approved in writing by the Local Planning Authority. The development shall then proceed fully in accordance with the agreed external materials and be maintained in perpetuity for the lifetime of the development.
11. Prior to the commencement of use of the commercial unit and first occupation of the residential accommodation, the boundary treatments shown on the approved site will be constructed on site in accordance with the approved details and must be maintained as such thereafter.
12. Prior to the commencement of use of the commercial unit and first occupation of the residential accommodation, a hard and soft landscaping scheme shall be submitted to and be approved by the Local Planning Authority. Any trees or plants shall be planted in accordance with the agreed landscaping scheme in the first planting season and any trees/plants which within a period of five years from the completion of the development die, are removed, or become seriously damaged or diseased, shall be replaced in the next planting season with others of similar size and species, unless the Local Planning Authority gives written consent to any variation.
13. Notwithstanding the submitted details shown on the approved plans, prior to commencement of use of the commercial unit and residential accommodation the precise details and location of the secure cycle storages areas to the rear of the site shall be submitted to and approved in writing by the Local Planning Authority and provided prior to commencement of use. Once provided the revised location and specification for the cycle storage scheme shall be maintained thereafter.
14. Prior to the commencement of use of the commercial unit and first occupation of the residential accommodation, a scheme of biodiversity enhancement measures shall be provided on site fully in accordance with a scheme which has first been submitted to and approved in writing by the Local Planning Authority. Once provided the biodiversity enhancement measures shall be maintained thereafter.
15. The roller shutter box for the main customer entrance to the commercial unit shall be an internally fitted mechanism only.
16. Prior to the installation of any replacement windows and doors, precise details shall be first submitted to and approved in writing by the Local Planning Authority. The agreed replacement windows and doors shall then be implemented fully in accordance with the approved details prior to commencement of use of the commercial unit and residential accommodation and maintained thereafter.
17. The two hanging signs on the building shall be retained, repaired or replaced and re-installed in accordance with a scheme which has first been submitted to and approved in writing by the Local Planning Authority prior to commencement of use of the ground floor commercial unit. Once provided the hanging boards shall be maintained thereafter.

18. The hereby approved ground floor commercial premises shall be open for trade or business only between 6am and 11pm daily.
19. There shall be no commercial deliveries for the ground floor unit outside of the hours of 7am and 9pm Monday to Saturday and 9am to 9pm Sunday, with the exception of newspapers.

Reasons for Conditions

1. To comply with the requirements of Section 51 of the Planning and Compulsory Purchase Act 2004.
2. For the avoidance of doubt and in order to define the planning permission.
3. In the interests of ensuring sufficient access, parking and turning is provided in the best interests of highway safety in accordance with policy SC3 and ITCR11 of the Adopted Local Plan for Bolsover District.
4. In the best interests of highway safety in accordance with policy SC3 of the Adopted Local Plan for Bolsover District.
5. In the interests of ensuring the ground floor unit is maintained with an appropriate form of replacement community facility under permitted development within Class E in accordance with Policy ITCR4 of the Adopted Local Plan for Bolsover District.
6. In the interests of protecting residential amenity by providing adequate living accommodation for future occupants and an appropriate scale of housing development and resulting demand on parking, in accordance with policies SC3 and ITCR11 of the Adopted Local Plan for Bolsover District.
7. To protect future occupants from adverse noise from the commercial use within the ground floor of the building, in accordance with Policy SC3 (n) of the Adopted Local Plan for Bolsover District.
8. As a means to strengthen community safety and create safe places in accordance with Policy SC3 (e) of the Adopted Local Plan for Bolsover District.
9. As a means to strengthen community safety and create safe places in accordance with Policy SC3 (e) of the Adopted Local Plan for Bolsover District.
10. To ensure the satisfactory appearance of the development and safeguard the amenity of residents in accordance with Policy SC3 of the Adopted Local Plan for Bolsover District.
11. To ensure the satisfactory appearance of the development, safeguard the amenity of residents and to strengthen community safety by providing a secure means of boundary treatment where necessary, in accordance with Policy SC3 of the Adopted Local Plan for Bolsover District.

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

Statement of Decision Process

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

Notes

1. No tree, scrub or hedgerow clearance should take place between 1st March and 31st August inclusive, unless preceded by a nesting bird survey undertaken by a competent ecologist no more than 48 hours prior to clearance. If nesting birds are present, an appropriate exclusion zone should be implemented and monitored until the chicks have fledged. No works should be undertaken within exclusion zones whilst nesting birds are present.
2. The conversion should proceed with caution and vigilance for any unexpected bat presence. Any works to the roof coverings, roof void, eaves and ceilings should be undertaken sensitively and outside the main active period for bats where possible (October/November – February should be prioritised for works to roof, where

practicable). If any roosting bats are discovered, works should cease immediately and a suitably qualified ecologist should be contacted for advice.

3. The Coal Authority advises that the proposed development lies within an area that has been defined by the Coal Authority as containing potential hazards arising from former coal mining activity at the surface or shallow depth. These hazards can include: mine entries (shafts and adits); shallow coal workings; geological features (fissures and break lines); mine gas and former surface mining sites. Although such hazards are seldom readily visible, they can often be present and problems can occur in the future, particularly as a result of new development taking place. Under the Coal Industry Act 1994 any intrusive activities which disturb or enter any coal seams, coal mine workings or coal mine entries (shafts and adits) require the prior written permission of the Coal Authority since these activities can have serious public health and safety implications.

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

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

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

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.

APPENDIX A: ORIGINAL REPORT

PARISH Shirebrook Parish

APPLICATION Conversion of public house to general convenience store with additional storage and conversion of 1st and 2nd floors to provide 2 self-contained flats and 10 bedroom HMO.

LOCATION The New Victoria Inn Acreage Lane Shirebrook Mansfield

APPLICANT Mrs R Padda 1 The Summit, Carter Lane Shirebrook, MansfieldNG20 8NA

APPLICATION NO. 23/00644/FUL **FILE NO.** PP-12674770

CASE OFFICER Mr Mark Penford

DATE RECEIVED 18th December 2023

SUMMARY

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

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

Member Call In

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

The application is recommended for conditional approval.



SITE & SURROUNDINGS

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



BACKGROUND

The earliest known planning history for the site dates back to 1961 when the building was known as the Victoria Hotel. The historic plans for the application show a public bar, separate

lounge and concert room with stage to the ground floor and bedrooms to the first floor. It is not known when the use as a hotel ceased, but its authorised planning use as a public house has been for many decades up until the present day.



Side elevation to Acreage Lane

Rear of the site to Recreation Drive

(feature wall to be extended)

(feature wall to be retained)

AMENDMENTS

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

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

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

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

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

PLANNING HISTORY

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

CONSULTATIONS

Bolsover District Council – Environmental Health Officer

1st comments

Advises Housing and Public Health have reviewed the information submitted to support the application together with records and comments on the need to consider fire safety, amenity

standards and compliance with the Council's adopted amenity standards, bedroom sizes and the need for a HMO licence if the property is occupied by 5 or more people.

2nd comments

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

Bolsover District Council – Planning Policy

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

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

Bolsover District Council - Principal Environmental Health Officer

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

Derbyshire Constabulary - Force Designing out Crime Officer

1st comments

Notes community concerns and has notified the local police Safer Neighbourhood Team for

contextual opinion. The locality has a significantly higher HMO element than the norm. Some are associated with raised levels of drug & alcohol abuse, anti-social behaviour and crime. There are a number of HMO's which are well managed and problem free. The difference between the two lies in the behaviour of tenants, effective management and maintenance by landlords, neither of which would be seen as material in planning terms. The transient nature of the HMO tenancy would not bring the community cohesion or guardianship of owner occupancy. This is a chaotic lifestyle of some HMO tenants. There is no inevitability of any such element for this proposal, but provisions should be made to strengthen community safety, if a recommendation to approve is made, on balance.

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

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

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

2nd comments

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

3rd comments

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

Derbyshire County Council - Highway Authority

1st comments

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

2nd comments

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

Derbyshire County Council – Licensing Authority

Response not received.

Derbyshire Wildlife Trust

Response not received.

Shirebrook Town Council

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

The Coal Authority

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

PUBLICITY

Site Notice was posted 09.01.2024 with comments required by 30.01.2024.

Press Notice was published 01.05.2024. Comments required by 15.05.2024.

Neighbour notification letters posted 09.01.2024. Comments required by 30.01.2024.

Neighbour notification letters posted 13.05.2024. Comments required 27.05.2024.

REPRESENTATIONS

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

Principle of Development

- In the last 20/25 years 7 public houses have closed in Shirebrook.
- This will kill the village; the Victoria was the heart and soul of our community.
- The Model Village Residence Association no longer has a base to plan activities for our local community.

- This would break the community and the Victoria should stand as a community building for everyone.
- The site was our polling station.
- Where do you expect our community to go.
- Many generations have used the public house up until closure.
- So many pubs have already been demolished or converted into shops.
- The community does not need any more shops.
- What the community needs is places to socialise.
- The Victoria would be better off staying as it is to bring something into Shirebrook.
- Strongly oppose another HMO especially adjacent a care home and close to a junior school.
- Changes of Use of The Shire, King of Diamonds and Great Northern has had a negative impact on the village and are notorious for drug use with long term benefit claimants who are unknown to the village residents.
- This pub is still a viable business and much needed by the community.
- Perhaps the ground floor could remain a pub and the upstairs be converted into flats.

Residential Amenity and Community Safety

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

Highway Safety

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

Other comments

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

Cllr Tait

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

POLICY

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

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

- Policy SS1: Sustainable Development.
- Policy SS3: Spatial Strategy and Distribution of Development
- Policy SC1: Development Within the Development Envelope.
- Policy SC2: Sustainable Design and Construction.

- Policy SC3: High Quality Development.
- Policy SC5: Changes of Use
- Policy SC11: Environmental Quality (Amenity).
- Policy SC14: Land Contamination and Land Stability
- Policy WC5: Retail Town Centre and Local Centre Development.
- Policy ITCR4: Local Shops and Community Facilities.
- Policy ITCR11: Parking Provision.

National Planning Policy Framework (“the Framework”)

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

- Chapter 2: - Achieving sustainable development.
- Paragraphs 7 - 10: Achieving sustainable development.
- Paragraphs 47 - 50: Determining applications.
- Paragraphs 55 - 58: Planning conditions and obligations.
- Paragraphs 85 - 87: Building a strong, competitive economy.
- Paragraphs 96 - 107: Promoting healthy and safe communities.
- Paragraphs 108 - 117: Promoting sustainable transport.
- Paragraphs 123 - 127: Making effective use of land.
- Paragraphs 131 – 136: Achieving well-designed and beautiful places.
- Paragraphs 189 - 194: Ground conditions and pollution.

Supplementary Planning Documents

Successful Places – Adopted 2013

Local Parking Standards – Adopted 2024

ASSESSMENT

Key issues

The key issues are:

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

Principle of Development

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

Site Location

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

Community Facilities

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

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

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

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

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

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

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

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

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

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

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

Whilst the intention of Policy ITCR4 was never to allow free movement between different types of community facilities, a significant material planning consideration, which weighs in favour of supporting the application, is that the application is proposing to replace the community facility with another kind of community facility. Policy ITCR4 also recognises that marketing strategies may consider other community facility uses before considering non-community facility uses. Policy ITCR4 specifically defines convenience shops as such

facilities. Neither local nor national policy attributes more weight to public houses over convenience stores. This application therefore carries the benefit of keeping part of the building within appropriate community use falling within Class E.

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

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

Impact on the Town Centre

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

- a) Over 200m² of net retail or leisure floorspace within 500m of local centres
- b) Over 280m² of net retail or leisure floorspace within 500 metres of the town centre boundaries
- c) Over 500m² of net retail and leisure floorspace across the remainder of the district

The District Council's Planning Policy team confirms that a retail sequential and impact test won't be necessary because the site is more than 500m from the town centre boundary and the floorspace is less than 500m² net retail floorspace. In this situation the development does not conflict with Policy WC5 and there are no planning grounds on which to refuse the development based on its impact upon the vitality and viability of Shirebrook Town Centre.

The number of HMOs in Shirebrook

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

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

with an appropriate mix of housing types for local communities.

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

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

Conclusion to Principle of Development

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

Visual Amenity

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

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

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

The New Victoria Inn is a large attractive building located in a prominent position within the

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

Officers originally raised concerns in relation to the extent of the external changes proposed to the building and a resulting adverse impact on the design character of the building and wider locality. A significantly long flat roofed extension was proposed directly abutting the boundary to Acreage Lane's footway, which failed to present good quality design and would have been in view from the public domain. Alterations were also initially proposed to the frontage to alter bay windows and create a new opening for the convenience store, bricking up the original main entrance. Hanging signs were proposed to be removed and it was not clear what the applicants intentions were for the high-quality feature walling abutting Recreation Drive, which is an important visual feature.

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

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

PARTY WALL NOTICE:
PLEASE NOTE THAT BEFORE BUILDING WORK COMMENCES IT IS THE RESPONSIBILITY OF BUILDER OR OWNER TO SERVE PARTY WALL NOTICE TO ALL NEIGHBOURS

NOTE:
CONTRACTOR TO BE CHECKED ON SITE.
CONTRACTOR TO CHECK THE TECHNICALITY BEFORE WORK BEGINS & REPORT ANY DISCREPANCIES.
THE DRAWINGS OF CONTRACT AND MEASUREMENTS MUST BE MATCHED TO COPY BY ANY WAY ON FORMS SET OUT BY ANY MEASUREMENTS OFFICER OF THE DISTRICT COUNCIL AND MUST ONLY BE USED BY THE MEASUREMENTS OFFICER OF THE DISTRICT COUNCIL. ANY OTHER COPIES OF THE DRAWINGS, THE CONTRACT AND MEASUREMENTS OFFICER OF THE DISTRICT COUNCIL WITH THE SOLE PURPOSE TO ASSIST THE CONTRACTOR AT A LATER DATE OR FOR ANY OTHER PURPOSE OR FOR ANY OTHER PURPOSE IS STRICTLY FORBIDDEN.
NOTICE: NO CHECK DIMENSIONS OF THE SITE HAVE BEEN TAKEN AND ALL DIMENSIONS AND DETAILS HAVE BEEN PROVIDED BY THE CLIENT.
NO USE OF DIMENSIONS IS IMPLIED OR ANY OTHER MEASUREMENTS SHALL BE PROVIDED BY THE CONTRACTOR TO BE MATCHED TO THE DRAWINGS AND MEASUREMENTS OFFICER OF THE DISTRICT COUNCIL. THE CONTRACTOR IS TO BE RESPONSIBLE FOR THE ACCURACY OF ALL DIMENSIONS AND DETAILS PROVIDED FOR THE WORKS OR COMMENCING ANY WORKS.
THE DRAWING DOES NOT PRESENT OR GIVE THE STRUCTURAL CONSTRUCTION OF THE BUILDING OR THE FOUNDATION WORK. THE CONTRACTOR IS TO BE RESPONSIBLE FOR THE STRUCTURAL CONSTRUCTION OF THE BUILDING AND THE FOUNDATION WORK. THE CONTRACTOR IS TO BE RESPONSIBLE FOR THE ACCURACY OF ALL DIMENSIONS AND DETAILS PROVIDED FOR THE WORKS OR COMMENCING ANY WORKS.
THE USE OF DIMENSIONS IS IMPLIED OR ANY OTHER MEASUREMENTS SHALL BE PROVIDED BY THE CONTRACTOR TO BE MATCHED TO THE DRAWINGS AND MEASUREMENTS OFFICER OF THE DISTRICT COUNCIL. THE CONTRACTOR IS TO BE RESPONSIBLE FOR THE ACCURACY OF ALL DIMENSIONS AND DETAILS PROVIDED FOR THE WORKS OR COMMENCING ANY WORKS.



FRONT ELEVATION

FACING MATERIAL SPECIFICATION

FACING BRICKWORK TO MATCH EXISTING
ROOF TILES TO MATCH EXISTING
FLAT ROOF TO BE WARM DECK WITH GREY BUTYL RUBBER TOPPING
SHOP FRONT SCREEN FROM PPC ALUMINIUM (WHITE) TO MATCH WINDOW APPEARANCE
ROLLER SHUTTER DOOR TO BE ALUMINIUM (GREY FINISH)
ORIGINAL PUB SIGNAGE TO BE RETAINED AS ILLUSTRATED

LEGEND

- - SMOKE DETECTOR WITH BELL
- - EMERGENCY LIGHTING TO BS5838 PART 1 1988
- - HEAT DETECTOR
- - 30 MINUTE FIRE RESISTING DOOR AND FRAME
- - BATHURSE

B	08/10/2024	A.B.	2nd ISSUE
A	08/10/2023	M.S.	FIRST ISSUE

happinest
we design happiness

PROJECT: The Victoria Inn, Shrewsbury, NG20 8RL

DRAWING TITLE: PROPOSED ELEVATIONS 1

CLIENT: Raj

DATE: VI - AL - 107

SCALE: 1:150 (A3) 08/10/2023 M.S.



SIDE ELEVATION 1 (ELEV 'A')

Proposed front elevation and side elevation to Acreage Lane

PARTY WALL NOTICE:
PLEASE NOTE THAT BEFORE ANY WORK COMMENCES IT IS THE RESPONSIBILITY OF THE OWNER OR OWNER'S REPRESENTATIVE TO NOTIFY ALL ADJOINING PARTIES OF ANY WORK COMMENCING.

NOTE:
ALL WORKS TO BE CARRIED OUT BY THE CONTRACTOR TO CHECK FOR HAZARDOUS MATERIALS MUST BE CARRIED OUT BY A SUITABLE CONTRACTOR.

LEGEND

- SMOKE DETECTOR WITH SOUNDER
- EMERGENCY LIGHTING TO BS5839-1:2002
- HEAT DETECTOR
- 30 MINUTE FIRE RESISTING DOOR AND FRAME
- SIGNATURE

0 1 2 3 4 5
Metres

happinest
we design happiness

PROJECT
The Victoria Inn
Sharnbrook
NG20 8RL

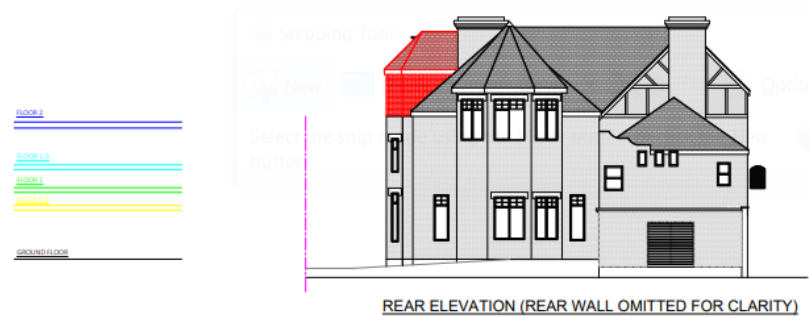
PROPOSED ELEVATIONS 2

CLIENT
Raj

DATE
VI - AL - 108

SCALE
1:500 (A) 1:100 (B)

LABC
Registered



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

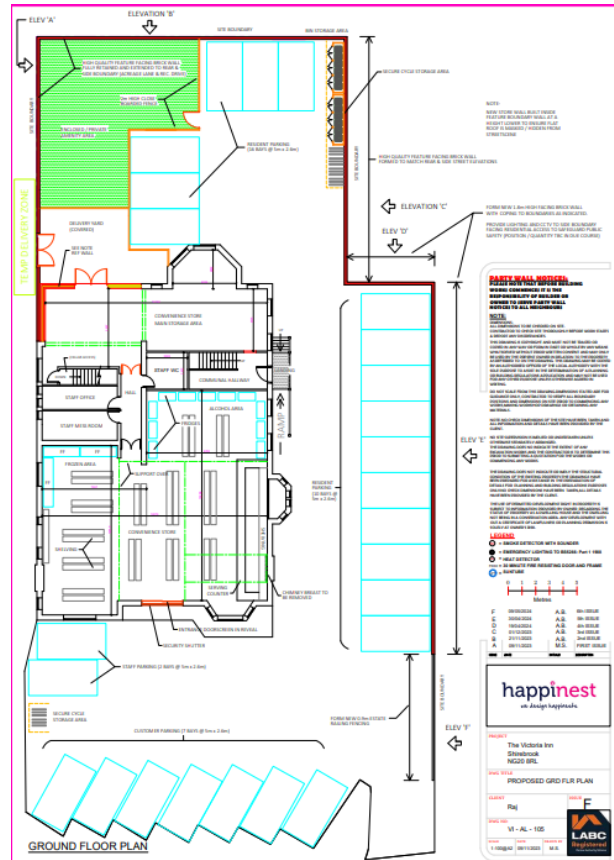
It is considered that the proposal, in its revised form, has respected and preserved the established design character of the building and locality. Planning Conditions are recommended to agree the external elevational and roofing materials used for the development, details of any replacement windows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

Residential Amenity

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

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

The framework emphasises that buildings and places are safe and accessible, so that crime and disorder, and the fear of crime and disorder, do not undermine the quality of life or community cohesion. (Para. 96 b). This is set out in Local Plan Policy SC3: High Quality Development, which identifies that proposals for development will be permitted provided that they take account of the need to reduce opportunities for crime and the fear of crime, disorder and antisocial behaviour and promote safe living environments. The above is reflected in paragraph 135 (f) of the framework, which seeks to secure a high standard of amenity for existing and future users.

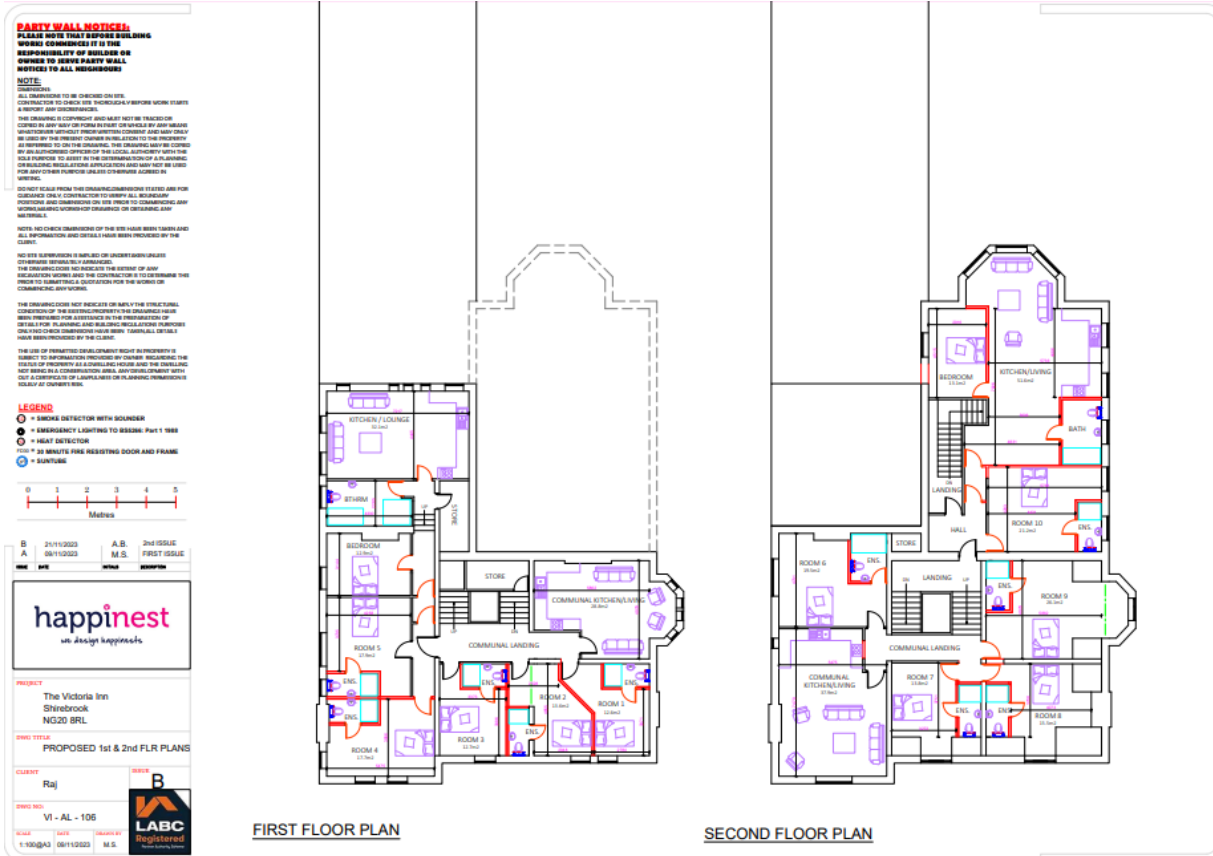


Proposed revised ground floor site layout.

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

The bedroom areas comply with the District Council's Space Standards for HMOs set out in its Housing Act 2004 Guidance 'Amenities and Space in HMO's', by being at least 10sqm per bedroom and are well-above the national minimum size requirement of 6.51sqm. By complying with the District Council's space standards, the application has demonstrated that the existing footprint of the building, at first floor and second floor level, is capable of accommodating a 10-bed HMO and two flats without causing a cramped form of living

accommodation.



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

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

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

The application has not identified any conflict with the adopted Supplementary Planning Document 'Successful Places' separation criteria in this regard. Successful Places advises that 25m² of amenity area is provided per flat, which can be on a shared basis. This generates a need for 50sqm for the two self-contained flats that are proposed. The SPD does not define amenity space provision for HMO's and therefore a judgement is necessary with each application required to be considered on its own merits. The SPD is clear that there may be times when guidance criteria cannot be followed in full and applications should work with local context, such as change of use applications and constraints associated with existing buildings and their defined curtilages.

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

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

Noise

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

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

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

All Habitable Rooms 45 dB LAmax to occur no more than 6 times per night (2300 hrs – 0700 hrs)

Any outdoor amenity areas 55 dB LAeq (1 hour) (0700 hrs – 2300 hrs)

The recommended condition also requires a validation report to ensure the scheme is implemented in accordance with the approved details. The condition is attached to this recommendation.

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

Community Safety

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

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

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

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

strengthening community safety by increasing surveillance, adequate lighting for users and separation of the site from the care home adjacent.

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

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

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

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

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

Highway Safety

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

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

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

basis it is anticipated that:

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

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

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

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

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

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

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

Land Stability

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

human health, and the built and natural environment.

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

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

Biodiversity

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

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

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

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

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

Sustainability Considerations

Paragraph 7 of the framework states the purposes of the planning system is to contribute to

the achievement of sustainable development. The means to achieving sustainable development is set out in Paragraph 8 of the framework, including the need to meet three overarching objectives, which are interdependent and need to be pursued in mutually supportive ways (so that opportunities can be taken to secure net gains across each of the different objectives. These are as follows:

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

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

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

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

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

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

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

The application causes no harm to the natural, built or historic environment or to biodiversity.

The Principal Environmental Health Officer has not raised any pollution related concerns. The environmental objective is considered met.

Conclusion

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

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

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

RECOMMENDATION

The current application be APPROVED subject to the following conditions:

Condition(s)

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

Site Location Plan received 18/12/2023

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

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

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

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

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

F

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

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

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

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

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

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

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

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

All Habitable Rooms 45 dB L_{Amax} to occur no more than 6 times per night (2300 hrs - 0700 hrs)

Any outdoor amenity areas 55 dB LAeq (1 hour) (0700 hrs - 2300 hrs)

The scheme as approved shall be validated by a competent person and a validation report submitted to and approved in writing by the local planning authority before first occupation. The approved scheme shall be implemented in full and retained thereafter.

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

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

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

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

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

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

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

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

16. Prior to the installation of any replacement windows and doors, precise details shall be first submitted to and approved in writing by the Local Planning Authority. The agreed replacement windows and doors shall then be implemented fully in accordance with the

approved details prior to commencement of use of the commercial unit and residential accommodation and maintained thereafter.

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

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

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

Reasons for Conditions

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

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

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

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

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

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

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

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

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

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

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

Statement of Decision Process

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

Notes

1. No tree, scrub or hedgerow clearance should take place between 1st March and 31st August inclusive, unless preceded by a nesting bird survey undertaken by a competent ecologist no more than 48 hours prior to clearance. If nesting birds are present, an appropriate exclusion zone should be implemented and monitored until the chicks have fledged. No works should be undertaken within exclusion zones whilst nesting birds are

present.

2. The Coal Authority advises that the proposed development lies within an area that has been defined by the Coal Authority as containing potential hazards arising from former coal mining activity at the surface or shallow depth. These hazards can include: mine entries (shafts and adits); shallow coal workings; geological features (fissures and break lines); mine gas and former surface mining sites. Although such hazards are seldom readily visible, they can often be present and problems can occur in the future, particularly as a result of new development taking place. Under the Coal Industry Act 1994 any intrusive activities which disturb or enter any coal seams, coal mine workings or coal mine entries (shafts and adits) require the prior written permission of the Coal Authority since these activities can have serious public health and safety implications.

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

www.gov.uk/get-a-permit-to-deal-with-a-coal-mine-on-your-property

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

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

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

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

Such activities could include site investigation boreholes, excavations for foundations, piling activities, other ground works and any subsequent treatment of coal mine workings and coal

mine entries for ground stability purposes. Failure to obtain permission to enter or disturb our property will result in the potential for court action. Application forms for Coal Authority permission and further guidance can be obtained from The Coal Authority's website at: www.gov.uk/get-a-permit-to-deal-with-a-coal-mine-on-your-property

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

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.

APPENDIX B

PLANNING STATEMENT – Mrs R Padda – 25/06/2024

I am making this statement to explain and reassure the community in reference to the HMO side of my planning application. As residents have inferred, I can possibly change the rooms to flats. However, I honestly cannot see how the type of tenants will be different. I am still looking for decent, working people to live in and look after the property.

The main reason why I have chosen rooms as opposed to only flats is because although there are a high number of HMOs in Shirebrook, very few appear to be of a decent living quality. It would appear that there is no requirement to provide car parking and garden space facilities for HMOs in general, however, in this instance we are seeking to provide this anyway, even though others don't. This community clearly needs more affordable housing. Many people cannot afford a flat or house on a single income. This proposal would provide tenants access to the property ladder, ultimately providing a stepping stone until they are able to afford a home.

I know some residents feel very strongly and are objecting to the HMO on the basis of the type of tenant. Please be assured that I am more concerned that we have the right people living there than anyone else. There are many people that are supporting this venture because they also know our community needs this accommodation. We are situated locally, not living miles away. Our tenants know where they can find us, and we are easily contactable. Other Landlords cannot be contacted even by phone if there is a problem. We are onsite regularly and can inspect the premises frequently.

As our shop is on the ground floor, extensive CCTV would be as standard, which provides security to both our customers and residents alike.

PARISH Clowne Parish

APPLICATION Use of land for nature based woodland play area, including a shelter building
LOCATION Land North Of 4 To 10 Meadow View Clowne
APPLICANT Ben Shatford
APPLICATION NO. 24/00096/FUL **FILE NO.** PP-12863529
CASE OFFICER Mrs Karen Wake
DATE RECEIVED 6th March 2024

SUMMARY

The application has been referred to Planning Committee by Cllr Hiney-Saunders due to concerns about the lack of parking at the site and the impact of the development on the environment. The application is also considered to be of strategic importance by the Development Management and Land Charges Manager as the land is situated outside of the development envelope for Clowne.

The application is also required to be determined by Planning Committee because objections have been received by 24 residents.

The application is for the change of use of the land to a woodland play area, including the erection of a shelter building.

The application is outside the development envelope within an area allocated as countryside in the Local Plan. The site is also within the Clowne Conservation Area, and a Regionally Important Geological site and is immediately adjacent to a Protected Green Space and a Wildlife Corridor and Stepping Stones.

The application is recommended for **Refusal**.

Site Location Plan



OFFICER REPORT ON APPLICATION NO. 24/00096/FUL

SITE & SURROUNDINGS

The site is situated in the countryside to the east of Clowne Town centre and comprises an undeveloped parcel of land which includes Clowne Crag, a Limestone Gorge designated as a Regionally Important Geological Site (RIGS). The site also encroaches into the Markland and Hollinhill Grips (known as Clowne Craggs); a Historic Environment Record site comprising caves and rock shelters within the gorge and numerous fissures and potential wildlife site within the Clowne Linear Park, comprising mosaic habitat. The site is partly maintained grass land and partly wooded with a stream to the south. There is no highway access to the site, only a public footpath, which is included within the application site area.

To the north/northeast of the site is the Linear Park. To the east/southeast is an area of vacant, overgrown land. To the south, southwest and west of the site are dwellings. To the northwest of a public footpath which it is proposed to use to access the site, beyond which is woodland a further dwelling and garden.

The land to the south of the application site partly lies within Flood Zones 2 and 3.

The whole of the site lies within Clowne Conservation Area.

BACKGROUND

Prior to the submission of this application, a screen fence was erected along a significant length of the site's boundaries. This fence does not form part of the planning application.

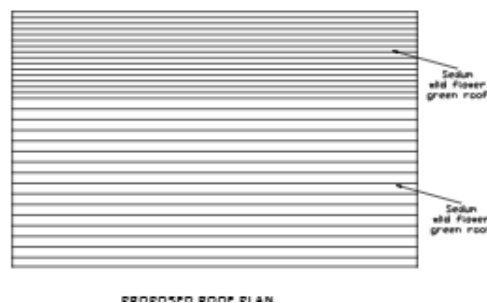
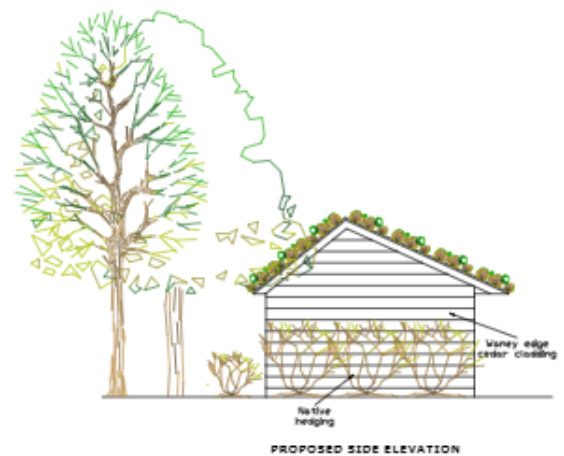
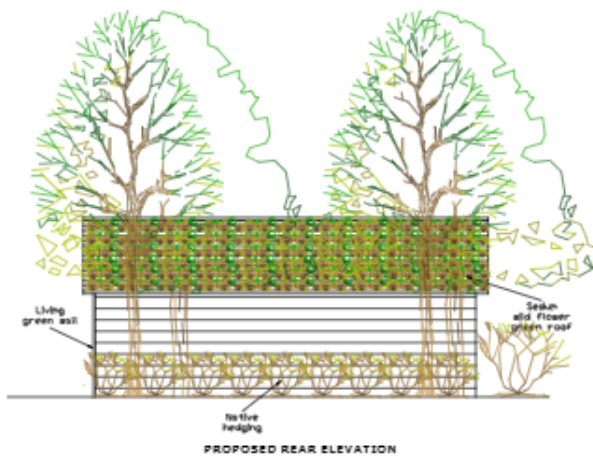
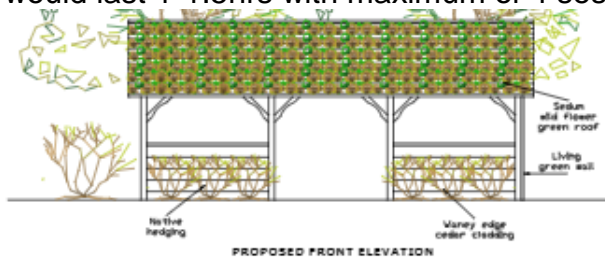
The play areas within the trees at the base of the Craggs have already been constructed but the use has not yet been implemented.

A timber seating structure has been erected on land within the applicant's ownership, adjacent to the site boundary without planning permission and is therefore unauthorised. The structure is not within the application site area (edged red on the submitted site location plan) and does not form part of this application.

PROPOSAL

The application is for the change of use to a change of use to a nature based play area and the erection of a shelter building. The proposed building is 7.5m long, 4m wide and has a pitched roof which is 3.6m high to the ridge. The building is partially open on one side and is constructed in timber with a green roof and one green living wall. The other walls have native hedge planting proposed immediately adjacent to them.

The proposed use involves up to 10 children plus parents/guardian taking part in organised nature-based play activities (mud kitchen, hands-on learning, exploration etc.). The sessions would last 1-1.5hrs with maximum of 4 sessions per day.



AMENDMENTS

The proposed building on site has been amended from a classroom to a smaller shelter building which is open on one side.

Additional information submitted relating to the public benefits of the scheme.

Revised biodiversity metric has been submitted which includes the watercourse, together with a river condition survey.

EIA SCREENING OPINION

This proposal does not fall within Schedule 1 or 2 of the Environmental Impact Regulations.

HISTORY

16/00049/FUL	Granted Conditionally	Redevelopment of former car park and erection of nine dwelling houses with associated driveway and parking areas (as amended by revised plans received 13th April 2016)
17/00303/FUL	Granted Conditionally	Erection of 8 dwellings
17/00476/DISCON	Conditions discharged	Discharge of Conditions 3 (Landscaping), 6 (Biodiversity Enhancement Native Landscaping), 8 (Remediation Works), 10 (Visibility Splays), 11 (Details of Site Accommodation & Materials), 14 (Bin Collection Points) and 15 (drainage) of planning permission 17/00303/FUL
17/00646/DISCON	Conditions discharged	Discharge of Conditions 2 (External Roof & Wall Materials), 4 (Landscape & Drive Management Plan), 5 (External lighting Strategy), 7 (Boundary Treatment Materials), 9 (External Levels), 15 (Foul & Surface Water Details) of planning permission 17/00303/FUL
18/00290/FUL	Granted Conditionally	Two new dwellings over three floors, plots 7 & 8 of previously approved application 17/00303/FUL
20/00227/FUL	Granted Conditionally	Erection of two dwellings (re-design of plots 7 & 8 of 17/00303/FUL and 18/00290/FUL)
22/00058/FUL	Granted Conditionally	2 Dwellings and change of use to garden land (revised scheme)

CONSULTATIONS

Parish Council

Object to the development as there isn't any consideration to onsite car parking in what is a residential area, It is believed that access is from the side of the applicant's property and that nearby carparks are proposed to be used for customers to park/drop off and pick up. The use of neighbouring carparks is inadequate as they are mostly full during the proposed hours of operation, and this will put additional pressure on key infrastructure at key times of the day as it is assumed that there will be group use throughout.

Conservation Manager

Whilst in principle, the use of the site for outdoor play appears to be a low key use which would have a minimal impact on the historic landscape, the increased public access to the site will inevitably lead to the need for limited interventions to ensure the health and safety of users. There will also be the need for some additional outdoor furniture such as the wooden table and chairs and play equipment, which although not permanent will have an impact on the open character of the area. There is a concern that these albeit minor incremental changes will alter the character and appearance of the area. The intensified human activity may also have an impact on geology, archaeology and biodiversity.

The use as an outdoor natural play area in isolation would have a limited impact on the character of the area, however, the associated paraphernalia required for the education use, and the construction of a permanent building will have a negative impact on the alter character and appearance of the area resulting in harm the significance of the designated heritage assets. The level of harm is considered to be less than substantial (at the lower end of the scale). It would therefore be necessary to weigh any such perceived harm against the public benefits of the development.

The size of the shelter has been reduced from 45m² to 30m² and the design has been altered to create an open 3 sided stable/ barn structure. The applicant has also provided additional information / evidence for the need for some form of shelter and supporting evidence of the public benefits arising from the proposed use. Whilst the amendments to the design and scale of the shelter are welcomed and it is acknowledged that additional evidence has been provided in support of the public benefits of the use, the earlier comments in respect of the impact of the proposal on designated and non-designated assets still stands.

Environmental Health Officer

No objections.

Derbyshire County Council Flood Team

No comments as the flood team are only commenting on major applications. Would like to highlight that the proposals for biodiversity enhancements within the watercourse would be subject to Land Drainage Consent from DCC flood team to ensure that flood risk to proposed and existing properties would not be increased as a result.

Derbyshire County Council Highways

No objections. Suggest an advisory note to the applicant advising of the need for adjacent footpaths to remain open and unobstructed.

Derbyshire County Council Rights of Way

Clowne Public Footpaths Nos. 11 and 28 lie to the west of the site and are part of the access. There are no objections to the proposals as it appears that the routes will be ultimately unaffected. The applicant should be advised that:

- The footpaths must remain open, unobstructed and on their legal alignment.
- There should be no disturbance to the path surface without prior authorisation from the Rights of Way Section.
- Consideration should be given to the safety of members of the public using the path during the works. A temporary closure of paths will be permitted on application to

- DCC where the path(s) remain unaffected on completion of the development.
- There should be no encroachment of the path, and no fencing should be installed without consulting the Rights of Way section

Footpaths Secretary Chesterfield, North East Derbyshire and Bolsover Group of Ramblers

No objections. no reason why the proposed development should adversely affect the Right of Way to the North East of the area, i.e., Clowne footpaths 11 and 28.

Derbyshire County Council Archaeology

The site sits both within the conservation area and within the boundary of the Markland and Hollinhill Grips, a Limestone gorge with 12 caves, 41 possible rock shelters of various sizes, some of which have been linked with occupation sporadically since the upper palaeolithic. As the site lies within an area of wider archaeological importance and context any groundworks associated with this application should have a degree of archaeological monitoring where appropriate secured by condition. In line with NPPF Ch 16 para 211, should be worded

“No development shall take place until a written scheme of investigation (WSI) for archaeological monitoring has been submitted to and approved by the local planning authority in writing. For land that is included within the WSI, no development shall take place other than in accordance with the agreed WSI, which shall include the statement of significance and research objectives; and:

- The programme and methodology of site investigation and recording and the nomination of a competent person(s) or organisation to undertake the agreed works
- The programme for post-investigation assessment and subsequent analysis, publication & dissemination and deposition of resulting material. This part of the condition shall not be discharged until these elements have been fulfilled in accordance with the programme set out in the WSI.”

All works should be in accordance with a bespoke written scheme of investigation (WSI) prepared specifically to the needs of this site and the development, pre-approved by DCC Archaeology in writing before implementation. The WSI should be compiled by the archaeological organisation commissioned to undertake the works in the field and should be undertaken to recognised industry standards, in line with the appropriate qualitative standards of field practice and recording as outlined in current key methodological literature (for example Barker 1993, Roskams 2001). All archaeological works should be undertaken by a suitably experienced archaeological organisation with suitably and most importantly demonstrably experienced archaeologists undertaking the work on the ground.

The reduction in scale of the shelter building, will still be likely to require groundworks/foundations and it is still probable that some degree of site strip will be needed, for which the archaeological monitoring recommended above is still appropriate.

Head of Leisure

No comments received.

Derbyshire Wildlife Trust

The revised metric, which has had the watercourse element added results in the overall BNG predictions as follows:

+0.16 habitat units / 10.70%

+1.81 watercourse units / 44.50%

No direct woodland loss will result, only minor losses of scrub and modified grassland. Woodland will be enhanced in condition through management and new mixed scrub will be planted. Proposals are generally considered low impact, with the highest potential for adverse impacts being from any new lighting associated with the site. There must be no adverse impacts to Clowne Craggs as a result of the application, with respect to roosting and foraging bats. The woodland play site is not anticipated to operate into the evening and therefore sensitively chosen lighting, with a cut off period 6 or 7pm, would be acceptable to limit impacts to wildlife.

There is opportunity to enhance this area for biodiversity through measures intended to achieve the mandatory gains and also through the additional management prescriptions provided by Armstrong Ecology for areas outside of the planning application boundary. All works within the woodland should be undertaken with due consideration for protected species, as highlighted in the ecological report. It is also noted that water voles were historically recorded along the nearby stream (records present on Derbyshire Biological Record Centre database) and any future management along the riparian corridor should take this into account and obtain advice from an ecologist prior to any works.

The ecological report makes the case that a Habitat Management and Monitoring Plan (HMMP) is not considered to be a “*reasonable or proportionate requirement going forward*”. It is agreed that the predicted unit gains are small and that the management should be simple to achieve and the highest value habitat on site, the broadleaved woodland, will only be positively affected.

However, given that the application is subject to mandatory net gain, the gains should be secured and monitored over the 30-year period and the LPA has a duty to report on the success of BNG measures secured as part of the planning process. Prior to mandatory BNG, the management prescriptions could be secured via condition, either requiring compliance with the Preliminary Ecological Appraisal and Biodiversity Impact Assessment or the production of a Landscape and Ecological Enhancement Plan (LEMP). Under mandatory BNG, the LPA should decide if the onsite gains are ‘significant’ to determine if a HMMP is required <https://www.gov.uk/guidance/make-on-site-biodiversity-gains-as-a-developer#significant-on-site-enhancements> Whichever mechanism is chosen, the recommended management prescriptions in the ecological report should be secured for the long term and ideally their success would be reported on to the LPA to evidence that net gain had been achieved.

In addition to securing the habitat management, conditions are also required to ensure the development is carried out in accordance with the reasonable avoidance methods and mitigation measures detailed in the Preliminary Ecological Appraisal and Biodiversity Impact Assessment (Armstrong Ecology, February 2024), and prior to installation of any lighting, a detailed lighting strategy be submitted for approval.

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

PUBLICITY

Site notice, press notice and neighbour letters. Objections received from 24 residents, the Clowne Community Association and a Local Councillor. The objections raised the following issues:

1. A large wooden structure has already been built but it is not shown on the submitted plans. It has been constructed close to the boundary with properties on Meadow View with no opportunity to screen it from the adjacent dwellings.
2. The proposed shelter is a substantial building, internal layout plans have not been submitted so the use of the building is unclear.
3. The building is located on an area which floods during periods of heavy rain.
4. Whilst the applicant has erected a post and wire fence to the extremities of the site but has supplemented this with pallets, orange netting and plastic garden furniture which is not very ecological.
5. The development is positioned on land closest to the houses which back onto it and will be clearly visible from adjacent dwellings because of the gradient of the adjacent gardens meaning the adjacent houses are set higher and look down onto the site. Screening by landscaping and trees therefore not screen the site from the adjacent properties.
6. Residents were not notified of any previous application which was refused.
7. The proposal will harm the peace, privacy, amenity and enjoyment of the houses and gardens adjacent to the site.
8. The proposal will look directly into the windows of adjacent homes.
9. The noise from up to 10 children plus accompanying adults attending play sessions 6 days a week, 9am-6pm will be unacceptable
10. The suggestion that the proposal will reduce anti-social behaviour on the site is unfounded. The Local Authority have been unsuccessful in their attempts to stop this, and the vast majority of antisocial behaviour occurs in the summer months in the evenings when the site will not be in use. If anything, the siting of a shelter and any equipment will actually be a draw rather than a deterrent.
11. The suggestion that visitors will use public transport is unrealistic. The site access is via Rectory Road and the public footpath, so visitors will attempt to park on Rectory Road where double yellow lines are in situ and in the surrounding roads ie Church Road which is a narrow road and is highly congested at all times rather than use the car parks in the village which are not large.
12. There are health and safety issues for visitors to the site as it is prone to flooding, suffers from poor emergency access, it has no lighting, no electricity, no sewage facilities, and no fresh-water access. Without significant as-yet-undeclared development of the site potentially breaching planning regulations, the site will remain unsafe for its proposed usage.
13. In the event of an accident how will emergency services access the site.
14. The proposal states no toilet facilities but may install a composting toilet, how would this be maintained and where would this be placed?
15. The previous owner of the site stated that when he registered his ownership with Land Registry that he had covenant placed on the land that it could not be developed and was to be held as a nature greenspace and not to be used for commercial use, it had to remain as a garden, had to be mown and couldn't be left to get overgrown or be built on.
16. The proposal will spoil the peace of the area and the linear park.
17. There is already a lack of parking in the area and on nearby streets and the proposal will make this worse.
18. The proposal has no consideration for the community.
19. The adjacent properties were purchased because of the quiet location privacy and some residents have special needs which rely on this. The proposal will have a huge

- impact on the peacefulness and privacy of adjacent dwellings.
20. Residents are taking legal advice on this proposed development as the applicant of seems very confident as a website is already running for the business. The website is in the applicant's wife's name. This is suspicious and needs looking into as it should be in the applicant's name
 21. The proposal will have a negative impact on services, weddings and funerals held at the church when people do not want to listen to excitable children.
 22. The application states people will park in the town centre car parks, but these car parks are already busy and often full.
 23. Adjacent residents are likely to face significant costs to further secure the rear of gardens and properties from the risk of criminal trespass, damage and antisocial behaviour – especially during the summer months and evenings. The more people who have long-term visibility of adjacent properties from the rear, the greater the risk faced, and this is an unacceptable risk.
 24. There is no provision for removal of waste materials and rubbish from the site.
 25. The play area is not simply a recreational play area but is actually to be part of a privately owned and operated for profit schooling facility, and as such should be subject to the planning considerations given to all schooling facilities.
 26. There are a number of inaccuracies on the application form.
 27. Site contamination has not been assessed by any relevant expert opinion. The stream adjacent to the site contains many drainage culverts from adjacent properties all potentially carrying wastewater, or possibly even sewage. Placing young children next to potentially dangerous effluent is irresponsible
 28. Given the focus of the business operating the 'forest school play area' on tactile learning, children will be getting muddy and involved with nature on the site. This is applauded as a notion for a child's learning, there is concern regarding the potential for dangerous waste materials formerly on the site to still be present in the ground substrate. Has any assessment of this possibility been carried out?
 29. The building is not a simple shelter.
 30. The proposal will be harmful to protected species and other wildlife and declaring a biodiversity 10% net gain is splitting hairs to achieve a favourable recommendation on the planning application. Humans and nature do not go together in terms of biodiversity and sustainability.
 31. Proposed hours of operation are unacceptable.
 32. The site is too close to the stream, where fast flowing water and the likely activity of rodents is not suitable for children to play.
 33. There concerns that the additional sewerage requirement on to the existing system already aged and strained would not be able to cope.
 34. Not all neighbours received notification letters about the application and no site notices have been put up.
 35. The site has no parking. Traffic already speeds along Rectory Road, using it as a cut through and people dropping off and collecting children and parking on here will be a further hazard.
 36. The applicant has claimed he owns both sides of a stream that previously always served as a border between the site and adjacent properties. He has erected unsightly fences in areas of natural woodland and even on the edge of an area of protected Greenaway land for a considerable stretch. A party with several children was held in the garden with music etc and considerable noise and because this is a natural valley the

- noise carries a long way and an echo effect is created. This spoiled the ability for adjacent residents to enjoy their gardens.
37. There is no need for the facility there are several woodlands in the area for woodland walks and several play areas around Clowne as well as a learning centre in Creswell Craggs and at Sherwood Forest Edwinstowe.
 38. The proposal will result in noise, pollution, litter and traffic in the area.
 39. People accessing the site and queuing to enter etc will obstruct the footpath which is well used by local people.
 40. With the potential of up to 40 children per day, 6 days a week not including their careers and staff this is potentially 500 people per week, this amount of people will have a detrimental impact upon the site, the wildlife and the biodiversity will not be able to survive the destructive nature of this amount of people.
 41. The limestone gorge outcrop and cliffs need to be protected within the conservation area
 42. The facility is already advertised on google maps and is advertising Sunday working which is not on the application form.
 43. The applicant should be asked to provide a copy of the deeds to the property so the restrictive covenants can be seen.
 44. The applicant states that the noise would be compatible with a built up area that contains residential properties. There is no evidence to support that statement and the Office of National Statistics describe any area such as Kingfisher View as a hamlet due to the number of houses there.
 45. The applicant states that the level of activity would be similar to the activity on the adjacent Linear Park. This is a false comparison. The area mentioned is used mainly by singular dog walkers who, other than possibly recalling their dog would bear no resemblance to the level of noise generated from the proposed scheme.
 46. The parking arrangements referred to in the planning statement can only be taken at face value due to the lack of "policing" of the situation.
 47. The application shows photographs of empty car parks which is misleading together with photographs of the proposed grassland area showing dense foliage and stating the screening this will bring. There is no mention of the areas lack of screening and noise deadening in the months where there is no foliage leaving the site open to nearby residences.
 48. The site was bought by a building company. Once a building is approved, even just a shelter, this can be the footprint for future housing. The woodland play area is very unlikely to make a return unless it takes a huge number of 'customers' each day, which is just not feasible. It won't be long before there is an application on the site for houses.
 49. The issue of flooding has not been properly addressed.
 50. The biodiversity metric submitted should include the water course module and it has been omitted. This needs to be addressed before the application can be determined.
 51. The site is within the Clown Conservation area for the Old Rectory and St Johns Church and anything that changes the character of this land will affect the environment and character of the conservation area. The proposed building is right in the centre of the stream valley habitat massively impacting on it. For the applicant to argue it would have no impact seems a gross misuse of the term. For the applicant to describe the building as recessive when it will be placed in the centre of the stream valley and close to a number of neighbours boundaries when no similar such uses have been here for decades is an unusual interpretation.

52. Town centre car parks are already at capacity +-and are full most of the time.
Realistically, people using the proposed development will park on nearby streets where parking is already a problem.
53. A seating area has already been constructed without planning permission and other structures will follow and the use will extend outside the approved area.
54. The facility is already advertised saying it will operate 7 days a week which is unacceptable for residential amenity.
55. If the use is a woodland school will it need Ofsted approval?
56. The proposal does not comply with the council's parking policy or parking standards.
57. Covenants refer to owners or occupiers of neighbouring properties. Given that Bolsover District Council are one of those neighbours as they own/maintain that part of the linear park I would expect them to have a view on this application regardless of covenants. The fencing that has been put in place along the boundary of the property and linear park and which provides the privacy to allow the applicant's business use has certainly caused *annoyance* to a number of users of the linear park. BDC Leisure department should be consulted as they may have an objection regardless of whether they instigate or join in with any post application legal process associated with these covenants.
58. The proposal poses a health and safety risk for its users
59. The applicant has trespassed on adjacent properties and erected a fence without consent of the land owner.
60. The proposal is in breach of the Human Rights Act for residents on Meadow View. This act gives a right to private and family life and a respect of your home.
61. The applicant has now submitted a river survey and identified opportunities to improve the water coarse and riparian bank area. However, there is no accompanying plan/schedule of works that can be conditioned as part of any grant of planning permission. It is essential therefore that the applicant brings forward a "Plan of Works" that details the initial work to be done and the longer-term riparian planting identified in the report. This will allow the Local Planning Authority to monitor the progress of the development site as part of their own and the applicant's compliance requirements over the next 30 years. It would also form a baseline against which any future applications to vary, for example, may be considered.
62. The mandatory Biodiversity Net Gain (BNG) requirements make clear that the site to be assessed is the whole area within the planning Red Line Boundary. The BNG information and metrics submitted do not cover all of the site because the site area shown on the BNG metrics are 012 ha on the first one and 0.14ha on the second. The site area when measured on the council's area measuring tool is 0.19ha. The applicant should submit a further Statutory Biodiversity Metrics that encompass the whole site area and the required water course with riparian areas.
63. The applicant has submitted a river condition assessment prepared by an ecologist. However, the 20% area assessment in any Modular River Survey field survey should be conducted across multiple areas within the watercourse length, rather than in just one area. This approach ensures a representative assessment of the watercourse's physical characteristics and habitat conditions along its entire length. The report only assesses the first 20% of the watercourse and therefore excludes any assessment of the watercourse and riparian bank area located directly opposite where the applicant plans for their customers to use the site. This area falls within the 10m assessment requirements, has considerable existing habitat value, and is considerably distinctive from the first 20% of the watercourse assessed. In addition, the location of "RCA Module Midpoint 1" is faulty in its plotted and reported location. The applicant should

submit a River Condition Assessment Report (and update their Statutory Biodiversity Metrics accordingly) that provides a representative assessment of the entire watercourse length, impacted by the proposed development, and not just the western most (20%) part of the watercourse.

64. The applicant has erected a timber fence around their boundary. The fence runs directly over the water course and dips down in height making it much closer to the water level where it crosses the watercourse. The fence presents an obstruction to water-based wildlife and restricts and redirects the water course in the event of elevated water levels. This will result in flooding being re-directed along the public footpath towards
65. Rectory Road. During periods of flooding the fence may break away and become blocking debris at exactly the point in the water course that it starts to narrow.
66. The fence does not have planning permission. It screens Clowne Crags, removing them from sight resulting in considerable loss of amenity to the local setting. The fence is clearly visible at all points parallel to it from the southern Linear Park footpath. Coloured in light brown the fence significantly contrasts with the surrounding landscape and is highly visible. This detracts significantly from the surrounding landscape. The fence is therefore causes harm to the Clowne Conservation area.
67. A planning enforcement complaint has been raised submitted about the fence, in parallel to a complaint to Derbyshire County Council Flood Team (as the LLFA.) The applicant should amend the application to include retrospective planning permission for a fence that is suitable for a setting within the Clowne Conservation Area, and that allows wildlife to transit through/between panels unimpeded and remove the existing fencing panels that are within the riparian bank area and that cross the water course, that do not have consent from the Derbyshire County Council Flood Team (acting as the LLFA), in contravention of the Land Drainage Act 1991 as amended by the Flood and Water Management Act 2010.
68. The applicant has stated that a Habitat Management Plan is not required. The LPA should be mindful of the site's location within Clowne Linear Park. Due regard should be given to the wildlife onsite, the immediate surrounding area (Clowne Crags) and downstream (Creswell Crags). A Habitat Management Plan provides several benefits, including enhanced Biodiversity, establishing a long-term management and monitoring plan ensuring the sustainability of the habitats and provides a quantifiable baseline against which approved and future biodiversity net gains can be considered and likely captured. The applicant should submit a Habitat Management Plan that details how the proposed development will manage the interaction between the development site, its immediate surrounding area and nature.

Two letters of support received which raise the following issues:

1. Giving Clowne children a play area in a rural setting would be very welcome and would benefit local people who can walk there and enjoy the beautiful setting.
2. There are lots of carparks in Clowne and there are always spaces except possibly at the beginning and end of the school day.
3. Clowne and the Bolsover district has a lack of Early Years (under 5) services and is far behind neighbouring counties of South Yorkshire (Sheffield) in terms of council provision.
4. Young families and young children need services to nurture their minds. Lacking a family centre/Sure start centre, this outdoor activity space would be fantastic for clowne and neighbouring residents to support children and develop their senses and provide

early years education. Children need to be in outdoor spaces, rather than old fashioned toddler groups. Being with nature and learning and socialising with their peers is paramount.

5. Maternal Mental Health is high up on the national agenda and these groups would support mothers to meet other parents in the early years which is often extremely difficult and isolating.
6. Most families attending would walk/park in community allocated parking spaces. With such an increase in new homes in the region, there are numerous families new to the area and supporting local trade such as supermarkets and cafes after groups. This application would be fantastic for the young families of Clowne and neighbouring villages which are somewhat forgotten by Derbyshire County Council.

POLICY

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

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

- SS1: Sustainable Development
- SS9: Development in the Countryside
- WC3: Supporting the Rural Economy
- SC2: Sustainable Design and Construction
- SC3: High Quality Development
- SC5: Change of Use and Conversions in the Countryside
- SC7: Flood risk
- SC10: Trees, Woodland and Hedgerows
- SC9: Biodiversity and Geodiversity
- SC11: Environmental Quality (Amenity)
- SC16: Development Within or Impacting upon Conservation Areas
- SC17: Development affecting Listed Buildings and their Settings.
- SC18: Scheduled Monuments and Archaeology
- SC21: Non-Designated Local Heritage Assets
- ITCR6: Protection of Green Space
- ITCR11: Parking Provision

National Planning Policy Framework (“the Framework”)

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

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

- Paragraphs 123 - 127: Making effective use of land.
- Paragraph 165 - 175: Planning and Flood Risk.
- Paragraphs 180, 186 and 188: Conserving and enhancing the natural environment.
- Paragraphs 189 - 194: Ground conditions and pollution.
- Paragraphs 200 - 214: Conserving and enhancing the historic environment.

Supplementary Planning Documents

Clowne Conservation Area Appraisal and Management Plan 2018

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.

ASSESSMENT

Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that applications for planning permission are determined in accordance with the development plan unless material considerations indicate otherwise. The development plan for the purposes of the Act is the Local Plan for Bolsover (2020) and the supplementary planning documents outlined above. The National Planning Policy Framework (2023) is a material consideration in respect of this application.

There is a separate legal duty under Section 72 (1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 for the Local Planning Authority to pay special attention to the desirability of preserving or enhancing the character or appearance of Conservation Areas. Case law has established that the above legal requirement must be given “considerable importance and weight” in decision making.

Having regard to the above requirements in law and the relevant provisions of the development plan and other material considerations, consultation and public comments received the main issues for consideration are:

- The acceptability of the development in location terms
- The impact of the development on this part of Clowne Conservation Area and other heritage assets
- The impact of the development on the character and appearance of the area

- Impact on the local environment, including:
 - Residential amenity of the occupants of nearby residential properties
 - Wildlife and Biodiversity
 - Highway safety considerations, and
 - Drainage and Flooding

Matters of land ownership, trespass, regulation of the proposed use and health and safety sit outside of the remit of the planning system. They are covered under separate regulatory regimes or relate to civil matters.

The acceptability of the development in location terms

Policy SS1 of the Local Plan for Bolsover (2020) sets the criteria against which the Council will consider the sustainability of a proposal. The Policy does not require any proposal to achieve a benefit against every criterion, but it seeks to provide a basis on which to recognise the various sustainability costs and benefits of a proposal, which will then be considered by the Council in the overall 'Planning Balance'. The policy is supportive of development proposals, which support the local economy by providing employment opportunities and promote the efficient use of land in sustainable locations. The policy also seeks to locate development in close proximity to trip generators with the aim of reducing the need to travel by non-sustainable modes of transport, create well designed places that are accessible, durable, adaptable and enhance local distinctiveness, protect and enhance the character, quality and settings of towns and villages and heritage assets through an appropriate mix of good quality, well-designed development and 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 amongst other considerations.

The site lies outside of the defined development envelope of Clowne, within the countryside. The proposal does not accord with the criteria of Policy SS9 relating to supported forms of development in the countryside. The land is not previously developed and the proposed use is linked to learning (Use class F1) and indicated by the applicant to be sui-generis and does not therefore accord with criteria a) or c) as suggested by the applicant. It is, however, acknowledged that the nature of the learning / play offer is linked to the environment and a woodland setting, which may warrant a countryside or edge of settlement location. The harm is therefore tempered in this respect.

Policy SC5 makes provision for the change of use and conversion of buildings in the countryside. Although there is no existing buildings on site and the application involves new building operations, criteria b) requires in the case of changes of use the development to be in-keeping with the original character of the land and to enhance the landscape character type generally.

The applicant has stated in their supporting Planning Statement that it is not the intention to create a regular day nursery where children attend full time on a daily basis. The use would be operated by the applicants, who are an experienced and qualified operator specialising in early years development. The woodland play sessions will be within dedicated time slots, with a maximum of 10 children in attendance at each session. Sessions would typically last 1-1.5 hrs with 4 sessions a day between 9am and 6pm. The specified hours of operation are between 9am and 6pm Monday to Saturday. Limited information has been presented relating

to the need for a forest school in this location and intensity of use would indicate that it would serve a wider catchment than Clowne if it was not to operate as a private day nursery as suggested. The applicant suggests the same by indicating that visitors will be encouraged to park at a meeting point at a public footpath and to use public car parks if travelling by car. Although the site can be accessed by public transport and foot, it is convoluted and over some distance off a public footpath. Policy SC3 requires development to provide appropriate access for people with physical and/or mobility difficulties to both individual buildings and the wider built environment. The distance and route is such that it would not be readily accessible by all.

The development relates to the use of the land and the development of a physical base in the form of a shelter building. Whilst weight is given to the benefits associated with woodland play / learning and the locational requirements of such a use, the need for a significant building / shelter on the site results in a permanent commercial base and development that is harmful in the context of the sites sensitive and constrained location.

Whilst it is acknowledged that the site is located on the fringes of Clowne, which is a higher order settlement in the Local Plan for Bolsover (2020), the intended use would introduce significant activity and development within an otherwise tranquil location on the fringes of the settlement with poor accessibility, which contributes to the landscape and historic setting of the settlement. The use and associated development, whilst reduced in scale, would introduce a form of development that would result in significant harm to the landscape and historic setting of Clowne that would be contrary to the criteria of Policy SS1 that consider such impacts. Furthermore, the development would introduce a commercial / learning based use and associated development that has not been demonstrated to be necessary in a countryside location contrary to the spatial objectives of the development plan and the requirements of Policy SS9.

The impact of the development on this part of Clowne Conservation Area and other heritage assets

Section 72 (1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires Local Planning Authority to pay special attention to the desirability of preserving or enhancing the character or appearance of Conservation Areas. This must be given “considerable importance and weight” in decision making.

Policy SC16 of the Local Plan for Bolsover (2020) states that development proposals within or impacting upon Conservation Areas will be permitted where they preserve or enhance the character and appearance of the area and its setting. It advises that applications will be considered in relation to how well the design and location of the proposal has taken account of:

- a) The development characteristics and context of the conservation area, in terms of important buildings and important open spaces
- b) Landscapes, walls, trees and views into or out of the area
- c) The form, scale, size and massing of nearby buildings, together with materials of construction

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 paragraphs 200 - 214: Conserving and enhancing the historic environment.

Harm is differentiated under the national guidance in two categories: harm is either 'substantial' or is 'less than substantial'. Any harm to significance requires clear and convincing justification and must be weighed against the public benefits of a scheme (NPPF 207 and 208).

Paragraph 205 of the NPPF makes it clear that: "When considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation (and the more important the asset, the greater the weight should be). This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance.

The District Councils Conservation and Heritage Manager has assessed the application, in its amended form, and had regard to the above policy framework and the significance of the site (with particular regard being given to Clowne Conservation Area and Management Plan 2018 and the setting of nearby listed buildings and other heritage assets).

They advise that the landscape is a key component of the character and appearance of a settlement. The underlying geology influences the natural landforms, features and natural vegetation. These in turn influence the nature of man's activities over the centuries including the very nature of settlement. They recognise that landscape is therefore integral to sense of place and a key component that underpins character and appearance.

The Craggs and their wider landscape setting are historically, geologically and visually significant for their pre/early settlement character. Recognising that the site is visually contained as a result of its positioning within the Craggs, below the former railway line (now the Linear Park) and the dense tree cover and the built form along Church Street, they have explained that the development will have a negative impact on the alter character and appearance of the area resulting in harm the significance of the designated heritage assets. The site has remained undeveloped for centuries and has a rich and varied history. The Craggs and their wider landscape setting are historically, geologically and visually significant for their pre/early settlement character. The development of the site will negatively impact on heritage and the less than substantial harm will need to be weighed against the public benefits to be derived.

The impact of the development on the character and appearance of the area

Policy SC3 'High Quality Development' requires development to create good quality, attractive, durable and connected places through well designed locally distinctive development that will integrate into its setting, respond positively to the context and contributes to local identity and heritage in terms of height, scale massing, density, layout and materials and respond to the established character and local distinctiveness of the surrounding landscape and 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 amongst other considerations.

The site constitutes undeveloped land within a linear park. It is of particular environmental importance, contributing positively to the history, geology and landscape of the area. The introduction a commercial use, building and associated paraphernalia would not respond positively to the sites existing character or context. It would constitute unwarranted and harmful urban encroachment into this sensitive area. Furthermore, the convoluted and difficult access to the site does not create conditions that facilitate sustainable forms of transport that is accessible to all. The development is therefore considered to be contrary to the requirements of Policy SC3.

Residential amenity of the occupants of nearby residential properties

As set out in earlier sections of this report, the nature of the use will materially affect the tranquillity of the area. In terms of the impact of the development on the residential amenity of the occupants of nearby dwellings / land uses, Policy SC3 requires new development to ensure a good standard of amenity is maintained for the occupants of existing neighbouring properties as well as the future occupants of new development, including levels of privacy and light, position and avoiding overbearing relationships and the provision of adequate amenity space.

Policy SC11 'Environmental Quality (Amenity)' 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. It advises that applicants will need to demonstrate that a significant loss of amenity would not occur as a result of the development or throughout its construction and operation.

It is not considered that the development will cause a loss of residential amenity that would be unacceptable in planning terms. Existing residential dwellings to the south of the site have relatively large rear gardens. The proposed development is also sited on the northern part of the land owned by the applicant. The location of the site and proposed shelter and its scale relative to neighbouring properties is such that there would not be unacceptable overbearing or overshadowing effects, loss of privacy or noise nuisance. No objections have been received from the Environmental Health Team and a management plan could be controlled by condition to effectively manage the use of the site and any disturbance arising, to minimise the impacts.

Wildlife and Biodiversity

Policy SC3 requires development to address opportunities for biodiversity, conservation, and enhancement ensuring that local semi-natural features, including watercourses are created or enhanced as integral parts of development.

Policy SC9 of the Local Plan for Bolsover (2020) 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 National Planning Policy Framework states planning decisions should contribute to and enhance the natural and local environment by minimising impacts on and providing net gains for biodiversity. Paragraph 186 (a) of the framework states that planning applications which cause significant harm to biodiversity cannot be avoided, planning permission should be refused.

Although the application was made before the mandatory requirement to deliver 10% Biodiversity Net Gain (BNG) for smaller sites, the applicant has submitted a metric in addition to an Ecological Report by Armstrong Ecology, which was amended to include the watercourse habitat, following public comments which identified the need for this habitat to be assessed separately. The predictions for biodiversity enhancements on site, indicate +0.16 habitat units / 10.70% and +1.81 watercourse units / 44.50%. Although further concerns have been expressed relating to the area of the site assessed, it has been demonstrated that the development could deliver gains beyond measurable net gain which carry weight in the planning balance. It would appear that the polygon drawn of the site by the Council does not fully correspond with the site location plan submitted by the applicant upon, which the metric is based. The District Council has no reason to doubt the applicant's calculations and Derbyshire Wildlife Trust have not raised any objections.

The site is located within a wooded area and a potential wildlife site, comprising mosaic habitat. Derbyshire Wildlife Trust have advised that no direct woodland loss will result, only minor losses of scrub and modified grassland. Woodland will be enhanced in condition through management and new mixed scrub will be planted.

With sensitive lighting and the use not operating into the evenings it is not anticipated that there would be any unacceptable impacts on wildlife. Subject to conditions to control lighting and secure habitat management on site the development would be acceptable from a wildlife and biodiversity perspective, with potential enhancements to biodiversity a benefit of the development.

Highway safety considerations

Policy ITCR11: Parking Provision of the Local Plan states that planning permission will be granted where there is appropriate provision for vehicle and cycling parking as set out in the Local Plan for Bolsover District's Appendix 8.2.

No dedicated parking is proposed to serve the development and access to the site will be via a pedestrian footpath link only. Policies SS1 and ITCR10 of the Local Plan promote sustainable travel patterns and the use of the District's sustainable transport modes. Although in location terms, the site is reasonably well connected to sustainable travel options and parking opportunities within the settlement, the access to the site is via a convoluted route and is by foot only. Concerns have been expressed that the location of the site, nature of the use and intended operation of the facility will result in a demand for on street parking in the area. No objections have, however, been raised by the Local Highway Authority on the grounds that the development would have an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe having regard to paragraph 115 of the National Planning Policy Framework (2023).

In terms of the proposed access arrangements, Policy SC3 requires that development provide appropriate access for people with physical and/or mobility difficulties to both individual buildings and the wider built environment. The nature of the access to serve the proposed use is not considered to be policy compliant in this respect and is a negative of the application.

Drainage and Flooding

Policy SC7 'Flood Risk' states that all development will be required to consider the effects of new 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), where appropriate.

The policy states that development will not be permitted unless:

- a) In the functional floodplain (flood zone 3b), it is water compatible or essential infrastructure
- b) In flood zones 2 and 3a, it passes the Sequential Test, and if necessary, the Exceptions Test, as required by national policy
- c) In flood zone 1, it can be demonstrated for sites over 1 ha. in area through an FRA that the development, including access, will be safe, without increasing flood risk elsewhere and where possible will reduce flood risk overall.

The operational development is located within flood zone 1, however, the access to the site is located within flood zones 2 and 3. Consideration therefore needs to be given to the need for a sequential test. The aim of the sequential test is to steer new development to areas with the lowest risk of flooding from any source.

The application is accompanied by a Flood Risk Assessment (FRA) which was updated to cover the access to the site. The updated FRA includes monitoring and emergency procedures in the event of flooding.

On the basis that the building and other operational development is located in flood zone 1 and only the access to the site, which is covered by the change of use is located within flood zones 2 and 3 the sequential test is not considered to be necessary, as such development is specifically excluded from this test by paragraph 174 and footnote 60 of the National Planning Policy Framework (2023).

Notwithstanding the above, paragraph 173 of the National Planning Policy Framework (2023) states that applications should be supported by a site-specific flood-risk assessment and development should only be allowed in areas at risk of flooding where, in the light of this assessment it can be demonstrated that:

- a) within the site, the most vulnerable development is located in areas of lowest flood risk, unless there are overriding reasons to prefer a different location;
- b) the development is appropriately flood resistant and resilient such that, in the event of a flood, it could be quickly brought back into use without significant refurbishment;

- c) it incorporates sustainable drainage systems, unless there is clear evidence that this would be inappropriate;
- d) any residual risk can be safely managed; and
- e) safe access and escape routes are included where appropriate, as part of an agreed emergency plan.

Whilst it is considered that residual risks could be safely managed and safe access and escape routes could be found, the vulnerability of the site access to flooding is a negative of the development.

CONCLUSION / PLANNING BALANCE

Whilst it is acknowledged that the nature of the proposed use is linked to the environment and a woodland setting, which may warrant a countryside or edge of settlement location, the development does not accord with the spatial strategy of the development plan and the requirements of Policies SS9 or SC5 of the Local Plan for Bolsover (2020).

Notwithstanding this policy conflict, consideration can be given to the costs and benefits of a proposal in the form of the 'Planning Balance' as advocated by Policy SS1 to establish whether the proposal would contribute to sustainable development within the Bolsover District.

In considering this balance, special attention to the desirability of preserving or enhancing the character or appearance of Clowne Conservation Area must be given, having regard to section 72 (1) of the Planning (Listed Buildings and Conservation Areas) Act 1990. This carries "considerable importance and weight" in decision making.

Having regard to the main considerations set out in the assessment section of this report, the proposed development constitutes a significant incursion into, and will harm the landscape setting of Clowne and fail to respond positively to the identity and context of the area and result in less than substantial harm to the character and appearance of this part of Clowne Conservation Area and Clowne Craggs. These costs / negative impacts weigh heavily against the development. Whilst it is acknowledged that the development would provide a new forest school / play facility and bring with it some employment (one job) and provide biodiversity net gains, this harm when considered alongside the other costs / negatives, including the nature and vulnerability of the site access to flooding are considered to outweigh the benefits to be derived. A recommendation of refusal is put forward on this basis.

RECOMMENDATION

The current application be Refused for the following reasons:

1. The proposed development constitutes an unwarranted and unsustainable form of development in the countryside that is poorly connected to and would result in significant incursion into, and harm to the landscape setting of Clowne and fail to respond positively to the identity and context of the area, contrary to the requirements of Policy SS1, SS9, SC3 and SC5 of the Local Plan for Bolsover (2020) and policy contained within the National Planning Policy Framework (2023).

2. The development will encroach into an area of land which makes a significant contribution to the historic, geological and early settlement character of Clowne and would result in less than substantial harm to the character and appearance of this part of Clowne Conservation Area and Clowne Craggs that would not be outweighed by the public benefits to be derived, contrary to the requirements of Policy SC16 of the Local Plan for Bolsover (202) and policy contained within the National Planning Policy Framework (2023).

Statement of Decision Process

Officers have worked with the applicant to address issues raised during the consideration of the application to narrow down officer concerns relating to technical aspects of the submission. It, however, remains that the Council has fundamental concerns with the development proposal. On this basis the requirement to continue to engage in a positive and proactive manner following the resolution of technical aspects of the application is considered to be best served by the Local Planning Authority issuing a decision on the application at the earliest opportunity and thereby allowing the applicant to exercise their right to appeal.

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 evidence to suggest that the nature of the access to the site will negatively impact on those with disabilities / mobility issues. This has been given weight in the planning balance.

Human Rights Statement

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

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



Bolsover District Council

Meeting of the Planning Committee on 30th October 2024

Report of the Assistant Director: Planning & Planning Policy

SECTION 106 AUDIT REPORT (OCTOBER 2024)

Classification	This report is Public
Report By	Julie-Anne Middleditch Principle Planning Policy Officer
Contact Details	01246 242286 julie-anne.middleditch@bolsover.gov.uk

PURPOSE / SUMMARY OF REPORT

- To report on the Internal Audit of the Council’s Section 106 Agreement Monitoring Procedure and recommended revisions to the Procedure in the light of the Audit.

REPORT DETAILS

1 Background

- 1.1 Section 106 Agreements are a legal agreement between the Council and landowners/developers that are often completed alongside applications for planning permission for major developments. They are needed to deal with the additional pressures on infrastructure that result from the new development. They are only required where the effects of the development would otherwise be unacceptable in planning terms and where they cannot be dealt with by conditions of the planning permission.
- 1.2 Implementation of 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 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 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 risk the Council has an approved Procedure for recording and monitoring Section 106 Agreements. This governs the work of the Council's cross-departmental Section 106 Monitoring Group. The Procedure is kept under review and updated from time to time. It was most recently updated following the recommendations of an Internal Audit in May 2022. The amended Procedure was approved by Planning Committee in September 2022.

2. Details of Proposal or Information

2.1 A further Internal Audit review of the Council's S106 Agreement monitoring processes and controls has been undertaken. It commenced in June and was completed October 2024. The Audit Report is attached as Appendix A.

2.2 This recent Audit Report confirms that all previous recommendations from the previous Audit in 2022 have been implemented. In this latest Audit, the reliability of the controls or managing risk is assessed as **Reasonable**. This is a level of assurance where the majority of controls are considered to be in place and operating effectively. However, although risks are generally well managed, the assessment indicates that there are some improvements needed.

2.3 Consequently, the Audit puts forward four recommendations relating to areas of risk where action is required. The areas of risk cover four aspects of the monitoring procedure: the S106 Agreements, the central record of Agreements and monitoring of Agreements, the notification of triggers being met and the effective allocation and spend of S106 contributions.

Section 106 Legal Agreements

2.4 Audit finding: On examining those S106 Agreements published on the Council's website, the more recent S106 Agreements examined by the auditor had been redacted to black out the signatories of Council officers and of other parties. However, there were some older agreements where this had not taken place. As the Council's website allows public access to its planning database for planning applications all non-sensitive and non-confidential information and correspondence is disclosed, including a copy of the S106 Agreement. Signatures constitute personal data so should not be published plus signatures can be reproduced in an unauthorised or fraudulent way. Classified as Low Risk.

2.5 Recommendation (R1): A review of S106 agreements on the planning database for public access, is undertaken to ensure signatures are redacted.

2.6 **Response/Action taken:** A review of those S106 cases identified by the auditor has been undertaken and signatures redacted. Within the next month Development Management are to look at all of the historic S106's and Deed of Variations that the Council has signed up to, to make sure that all signatures are redacted. This is a significant body of work that is anticipated will be completed by mid-November. Section 1 (i) c of the S106 Procedure has been amended to include a reference to the need to redact signatures and personal information on publishing an electronic copy of the legal agreement on Public Access.

Central Record of S106 Agreements & Monitoring of Agreements

- 2.7 Audit finding: Collectively there is a good understanding of the position on each development. However, there is the opportunity to make the processes more efficient by consolidating the information into fewer documents, so that information is updated only once. Classified as Medium Risk
- 2.8 Recommendation (R2): Planning Managers review areas of duplication in respect of recording S106 contribution triggers and monitoring how these are met, with a view to consolidating information into one or fewer documents to record amounts once and provide effective management information.
- 2.9 **Response/Action taken:** A streamlining of the current approach is underway. This comprises a new S106 monitoring spreadsheet which will automatically notify officers that a trigger for payment has been met once the quarterly Completion figures from the survey of S106 sites are input. The new spreadsheet will work alongside the use of existing development management systems. If payment is not received from the developer on the trigger being met an Enforcement Case will be created. The details of the case will be captured like any other enforcement complaints in the Development Management Uniform system. This is accessed daily whereby the list of active cases and ongoing progress will be visible. It is proposed that the enforcement actions taken will also be recorded on the S106 monitoring spreadsheet. This new approach is planned to be fully operational by the end of the 2024.

Notification of Triggers being met.

- 2.10 Audit finding: The S106 Procedure does not specify the timeframe required between being notified of the trigger being met and sending the first, second and subsequent requests for payment to the developer. There is a risk therefore that recovery processes may be inconsistently applied, or the time taken to recover amounts due may be unnecessarily extended. Classified as Medium Risk.
- 2.11 Recommendation (R3): Timeframes should be established between each stage of recovery. These should be defined in the Procedure notes and effectively applied. If such requests for payment are not made via the Sundry debtor system, any alternative system should include these details and summary information available to management.
- 2.12 **Response/Action taken:** The suggested timeframes for recovery are an initial letter to the developer once the payment trigger is reached and further letter two weeks later if no response received/obligation not discharged. Section 3 (i) b of the S106 Procedure has been amended accordingly.

Effective Allocation and Spend of S106 Contributions

- 2.13 Audit finding: There are some S106 obligations which do not include a timeframe for the delivery of the associated infrastructure. S106 obligations that are not subject to clawback usually comprise those infrastructure obligations that are not in the way of a financial contribution but are instead delivered by the developer. Such items can include Affordable Housing, Artwork and Open

Space including the provision of play equipment. Sums for the ongoing maintenance of open space are also not subject to clawback. As the Council would still require delivery of projects within a reasonable timeframe, an annual review of progress for those projects should be reviewed. Classified as a Low Risk.

- 2.14 Recommendation (R4): An annual review of projects allocated S106 contributions that do not have a timeframe for spend (for example maintenance), take place to seek assurance on delivery.
- 2.15 **Response/Action taken:** Annual spend on maintenance is included under Section (i) the Annual Infrastructure Statement (AIFS) which sets out the annual spend during the reported year identifying the individual sites. This will be formalised within a new Section 6 in the Procedure.
- 2.16 In terms of those obligations that are delivered by the developer, Section (d) of the AIFS requires summary details of any non-monetary contributions to be provided under planning obligations which were entered into during the reported year. However, Section (d) is framed around affordable housing, school places and biodiversity. It does not include artwork, open space or play equipment infrastructure. Critically there is no follow up question that monitors the delivery of such obligations that were entered into in previous years.
- 2.17 There is quarterly monitoring of non-monetary contributions at the meeting of the S106 Monitoring Group although this is not consistent across all sites. It is proposed that this is extended to encompass the quarterly monitoring of non-monetary obligations on all active development sites. Accordingly, the new section 6 formalises and extends the Quarterly Reporting of progress to the S106 Monitoring Group.

Summary of Proposed Revisions to S106 Monitoring Procedure

- 2.18 In summary, in the light of the Audit findings and recommendations, officers have reviewed the Section 106 Agreement Monitoring Procedure and drafted the following revisions. The headings and section references are those of the Procedure.
- 2.19 Proposed Revisions:
- i) Throughout the Procedure the information recorded and maintained by the Planning Department is referred to as the 'Planning Spreadsheet' as distinct from the information recorded and maintained by the Finance Department known in the Procedure as the 'Finance Spreadsheet'. It is proposed that throughout the S106 Monitoring Procedure the Planning Spreadsheet is renamed, 'S106 Planning Monitoring Spreadsheet' to properly identify its function. Similarly, references to the Finance Spreadsheet to be changed to S106 Finance Monitoring Spreadsheet to correspond to how it is referred to outside of the Procedure.
 1. Planning Permission Issued
 - ii) Section 1 (i) c. Revised in response to R1.

2. Trigger Points
iii) Section 3(i) b. As above

6. S106 Contributions not subject to Clawback
iv) New Section added

2.20 The Section 106 Agreement Monitoring Procedure has been revised as above and is attached as Appendix B to this report.

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.

4 Alternative Options and Reasons for Rejection

4.1 The alternative option would be to not implement the recommendations of the S106 Audit. This would undermine the aim of the S106 Procedure to guide efficiency and effectiveness in the Council's management of S106 infrastructure delivery.

RECOMMENDATION(S)

That Planning Committee notes the Section 106 Audit Report (October 2024); and

That Planning Committee approves the Section 106 Agreement Monitoring Procedure (as attached at Appendix B).

Approved by Portfolio Holder – Corporate Performance & Human Resources

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

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

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

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

DOCUMENT INFORMATION	
Appendix	Title
A	Internal Audit Report Bolsover District Council Section 106 Agreements (May 2022)
B	Section 106 Agreement Monitoring Procedure (August 2022 revision)
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).	

Bolsover, Chesterfield and North East Derbyshire District Councils'

Internal Audit Consortium

Internal Audit Report

Authority:	Bolsover District Council
Subject:	Section 106 Agreements (B008)
Date of Issue:	1st October 2024
Assurance Level:	Reasonable
Report Distribution:	<p>Assistant Director of Planning and Planning Policy, Development Management & Land Charges Manager, Senior Devolution Lead for Planning Policy, Strategic Growth & Housing, Principal Planning Policy Officer, Strategic Director of Services, Director of Finance & Section 151 Officer, Chief Executive.</p>



INTERNAL AUDIT REPORT BOLSOVER DISTRICT COUNCIL SECTION 106 AGREEMENTS

Introduction

In accordance with the annual audit plan, a review of the controls and risks in respect of Section 106 (S106) Agreements at Bolsover District Council has been completed.

Planning obligations under Section 106 of the Town and Country Planning Act 1990 (as amended), commonly known as S106 agreements, are a mechanism which make a development proposal acceptable in planning terms, that would not otherwise be acceptable. They are focused on site specific mitigation of the impact of development. S106 agreements are often referred to as 'developer contributions'.

According to the last Annual Infrastructure Funding Statement, published in October 2023, the Council received £367k in 2022/23 in S106 contributions adding to balances bought forward of £1.467m.

Scope and Objectives

The objectives of the audit include a review of the controls relating to the following: -

- Previous Recommendations are implemented.
- S106 contributions are sought in accordance with planning guidance and legislation.
- Signed s106 Legal Agreements are in place stating the triggers for payment, any interest due, the conditions of use and period by which spend must take place.
- Unilateral agreements are held.
- There is a record of all S106 contributions due, and this is promptly updated and monitored.
- Processes are in place to ascertain when conditions have been met on site and payment due triggered.
- Recovery processes are in place and are being followed for pursuit of S106 payments.
- S106 contributions are allocated for spend with the relevant department /third party and progress measured to ensure expenditure incurred in accordance with timeframes.
- Effective reporting processes to members and management are in place regarding S106 contribution amounts due, received and spent.
- Appropriate provision is made where it is likely that amounts must be returned to the Developer where scheme has not proceeded within timeframe.

Conclusion

The conclusion of the audit was that the reliability of controls have been assessed as Reasonable. The majority of controls are in place and operating effectively, although some control improvements are required. Please Appendix A for definitions.

Acknowledgement

The assistance of the Development Management and Land Charges Manager, Principal Officer - Planning Policy, and other planning staff was appreciated during the audit review.

Findings and Recommendations

Previous Recommendations

1. The previous report was completed in May 2022 and included one recommendation. This related to submitting an ad-hoc report highlighting where monies collected under S106 needed to be spent within the next 12 months to comply with the obligations of the agreement. This recommendation has been implemented and reporting arrangements are further discussed at paragraph 42.

S106 contributions are sought in accordance with planning guidance and legislation

2. A sample of 5 major planning applications were reviewed in each case the subsequent planning committee report, provided detailed consideration of S106 contributions required covering the main key areas and consultation with third parties such as Derbyshire County Council (DCC) and the applicable Health Authority.
3. At a later stage, if the developer has requested changes to the S106 obligation, matters are given due consideration with a further report to Planning Committee recommending acceptance or otherwise of the changes.
4. In one case sampled, the decision to accept a proposal to change the make-up affordable homes from 3 social rent and 2 shared ownership properties to 5 shared ownership was taken and documented by email by the Senior Devolution Lead for Planning Policy, Strategic Growth & Housing (20/00185/OUT & 22/00668/REM). As the change is within 5 years of when the planning decision was made, no further approval is required.
5. The Development Management and Land Charges Manager explained that where changes are not considered material, decisions can be taken by Officers under delegated powers. The Constitution does state that the control of development under planning legislation is delegated to officers subject to listed exceptions, one of exceptions relates to the size, scale or nature of proposals. In addition, in this case, as

the change was agreed within 5 years of the planning obligation being entered into, no further approval is required.

S106 Legal Agreements

6. Further to approval at Planning Committee, tests were undertaken to ensure that the S106 requirements had been accurately reflected within the S106 Legal Agreement. In 4 out of 5 cases sampled, signed S106 Legal Agreements are in place stating the triggers for payment, the basis for any indexation or interest due and the conditions of use and period by which spend must take place.
7. Only one query arose relating to application ‘22/00485 35 Red Land South Normanton’ where the report stated that for Affordable Housing, in the region of 28 social rent properties and 24 shared ownership properties were required, however the S106 agreement referred to 70% affordable and 30% shared ownership which would require 36 social rent properties and 16 shared ownership properties.
8. The Planning Case Officer explained that this had been the understanding when the report was produced but was subsequently changed as the project was further defined. The proposal was for 100% affordable housing whilst the tenure had changed the number of affordable homes had not and a better offer was now being proposed.
9. As required by legislation and to aid transparency, the Council’s website allows public access to its planning database for planning applications. All non-sensitive and non-confidential information and correspondence is disclosed including a copy of the S106 Agreement. More recent S106 agreements examined have been redacted to black out signatories of Council officers and of other parties, however there were some older agreements where this had not taken place. As confirmed by the Data Protection Officer, signatures constitute personal data so should not be published plus signatures can reproduced in an unauthorised or fraudulent way.

R1.	A review of S106 agreements on the planning database for public access, is undertaken to ensure signatures are redacted.
	Risk: Medium

Central Record of S106 Agreements & Monitoring of Agreements

10. The amounts due under S106 agreements are payable by the developer subject to ‘triggers’ being met as defined in the specific agreement. Many payments triggered are dependent on the number of properties within a development currently built or occupied but there can be other triggers such as the payment of maintenance fee where a park has been provided but land transferred to the Council.

11. The Planning Service have documented procedures and a flowchart outlining the process for recording, monitoring and reporting S106 agreements. This includes responsibilities of other parties involved in the process such as Legal, Finance, Housing and Leisure Services.
12. Presently the planning processes are divided between the Development Management team and the Planning Policy team. The Development Management team are responsible for maintaining a 'tracker spreadsheet' of all 'live' S106 agreements. This includes adding new agreements, detailing triggers for each type of obligation and the current position against those triggers. The team is also responsible for notifying the developer and other parties such as Derbyshire County Council, the respective Health representative where appropriate) and recording the date of when notification and requests for payment were made and received.
13. Once all obligations have been met the S106 is removed from the tracker spreadsheet. Archived versions of the tracker are retained.
14. The Planning Policy team are responsible for visits to properties on a quarterly basis and update: -
 - the 'Quarterly Residential Completions Update -Progress' spreadsheet, and
 - and 'Obligation Trigger Review of Active Sites report'. This word format report contains the same information as the spreadsheet but also includes details of whether triggers have been met and additional narrative information.
 - The Action Plan which details where there is the risk to the development which is S106 related with actions for officers to undertake within an agreed timeframe.
15. The Finance Section are responsible for maintaining a spreadsheet of all amounts received and indicate where sundry debtor accounts are unpaid.
16. All documents form part of monitoring information provided to the Quarterly S106 Monitoring Group. The Group consists of planning and relevant departmental representatives and its role is to monitor progress of developments and the meeting of S106 obligations (including where appropriate, the collection and subsequent spend of 106 contributions).
17. The audit included selecting a sample of 5 applications with S106 agreements and following the extent to which the procedures have been followed.

Updating the Tracker Spreadsheet.

18. For the sample chosen from the planning committee reports, all had been recorded on the Tracker Spreadsheet provided on 12th July 2024.

The tracker spreadsheet included: -

- details of progress from December 2023 on-site visits, however it had not been updated to include the position from visits undertaken at the end of March 2024

and June 2024. This information was however available in the documents outlined at paragraph 14.

- The date requests for payment were made and when amounts were received were not recorded in every case. As mentioned at paragraph 15, the Finance spreadsheet does however record all payments received.

Staff explained that there had been a change in personnel during the period reviewed which led to the Tracker spreadsheet not being updated initially. The on-line Tracker Spreadsheet was viewed later in the audit which showed that it was being updated.

19. The first tab on the Tracker spreadsheet provides the summary position on live S106's whilst the remaining tabs appear to show the amounts paid each year to the Council and third parties from developers. However, there was no detail of amounts received by the Council in 2023/24 or so far in 2024/25. The Finance S106 spreadsheet already records when payments have been made so it's not clear why Council contributions are required on the Tracker spreadsheet.
20. There were no details of amounts received from DCC for 2024/25. It has confirmed by the Principal Officer (Planning Policy) that DCC will provide this information on a quarterly basis going forward.
21. Collectively, there is a good understanding of the position on each development as outlined in the supporting paperwork to the S106 Monitoring Group. However, there is some duplication in terms of the information being recorded on the Tracker spreadsheet and other planning documents presented to the S106 Monitoring Group. There is the opportunity to make the processes more efficient by consolidating the information into fewer documents, so that information regarding property and other triggers and their current status are updated only once. Spreadsheets can be designed to facilitate the automatic highlighting of meeting triggers with minimum input and provide concise quality management information. Utilising the IDOX database to provide the management information required should also be considered.

R2	Planning Managers review areas of duplication in respect of recording S106 contribution triggers and monitoring how these are met, with a view to consolidating information into one or fewer documents to record amounts once and provide effective management information. Risk: Low
-----------	--

Unilateral Agreements

22. Unilateral agreements are undertakings which developers voluntarily enter in to and there is no obligation to complete as part of conditions imposed through the planning process. Unilateral agreements are formally recorded in a legal agreement; however, there is no clawback or spending limitations in respect of the Council. These continue to be monitored.

Notification of Triggers being met.

23. Monitoring information from April 2024 and July 2024 was examined which demonstrates quarterly visits to development sites are taking place and being effectively reported to the S106 Monitoring Group.
24. As mentioned in paragraph 12, within the Development Management team, individual case officers are responsible for notifying the developer and third parties that an obligation has been met and the amount due. Most agreements require the amounts required in the original agreement to be index-linked to reflect inflation or specific industry inflationary changes. Finance will determine the amount due when requested otherwise the amounts are determined by the case officers. This was evident from the sample selected for testing. Derbyshire County Council will determine their own indexation calculations for Education and Highways as necessary and will seek to recover these amounts due.
25. The process at BDC requires notification and request for payment to be done via email which includes providing details of the Council's bank account to facilitate payment. Where payment is not received a further email will be sent. The planning case officers liaise with Finance to assess whether payment has been received. A sundry debtor invoice is sent if no further payment is received or if the developer has asked for one.
26. The observations were that: -
 - The procedures do not specify the timeframe required between being notified of the trigger being met and sending the first, second and subsequent requests for payment. There is a risk therefore recovery processes may be inconsistently applied or the time taken to recover amounts due may be unnecessarily extended.
 - Whilst some dates are recorded on the tracker spreadsheet, it is not possible to readily identify the stage of recovery each is at.
 - It is not possible for the Development Management & Land Charges Manager to readily identify the amount owed in respect of S106 contributions. Some entries are shown as outstanding on the Finance S106 spreadsheet whilst the remainder needs to be established from individual entries on the tracker spreadsheet.
27. A sample of 4 planning cases was examined and correspondence provided showed that in 3 of the cases, request for payment had been within a month of being notified of the trigger being met. In the remaining case, the date of notification wasn't clear. Where payment hadn't been received, the case officers had chased the developer although at differing timeframes. Where the payment hadn't been received promptly, (in 2 cases) the timeframe between the first request and sending the sundry debtor account was circa 4 months and 16 months respectively, although there had been correspondence with developers during this period.

28. One of the cases sampled, related to Planning Reference 23/000367/OTHER (Chesterfield Road, Barlborough). In this case, the trigger was shown as met by 31/03/23 with the sundry debtor invoice being issued on 31/07/23 for £91,106 for a Sport Obligation. The amount remains unpaid and in dispute. Amounts are also outstanding to DCC for Education and Highways obligations. The matter was referred for external legal action during July 2024. A second instalment is now due to the Council for circa £90k. A recent application to vary the terms of the S106 had been received but was later refused which is understood to have confused matters further.
29. Discussion took place with the Head of Finance & Section 151 Officer, to consider the inclusion of all debts on the sundry debtor system once due and as a result reminders for payment will be automatically issued and complete arrears reports will be available. It also ensures that all debts due to the Council are included in the financial statements. The Officer's view was there would be confusion and potential for spending of S106 contributions before payment had been received. When an invoice is raised, the department is credited with the value of the invoice regardless of whether the amount has been received.
30. If the sundry debtor system is not to be used, the Tracker (or its replacement, as commented at paragraph 20) needs to encompass all dates of recovery actions taken with the document being monitored by management. The procedure notes should be updated to stipulate a timeframe for each recovery action to ensure recovery is not delayed and inconsistently applied.

R3	<p>Timeframes should be established between each stage of recovery. These should be defined in the procedure notes and effectively applied. If such requests for payment are not made via the Sundry debtor system, any alternative system should include these details and summary information available to management.</p> <p>Risk: Medium</p>
-----------	---

Effective Allocation and Spend of S106 contributions

31. S106 agreements contain conditions regarding the spending of S106 contributions which the Council must abide by. These include timeframes for spend (usually contributions must be spent 5 years from receipt) and the specific purpose and area where expenditure must take place. Failure to spend amounts in accordance with conditions may lead to the Council refunding the developer inclusive of interest. With reduced funding, this may lead to the project not proceeding or the Council funding the project from its own resources.

32. Project cost centres show the amount budgeted and actual amount of the contribution together with budgeted and actual spend. The information is encompassed within the Finance S106 Spreadsheet. The spreadsheet also shows the timeframe for spend and is colour coded to show contributions which must be spent with the next 12 months and 24 months, together with those that have lapsed the due date.
33. A sample of 5 entries from the Finance S106 spreadsheet were traced back to the initial S106 agreement which indicated that the correct timeframes and projected date for spend had been accurately recorded. Where expenditure had occurred to date, this was verified to the FMS. No issues relating to expenditure were identified except minor points mentioned at paragraphs 40 and 41.
34. As the minutes show, the S106 Monitoring Group review and chase progress made in respect to spending S106 contributions as allocated, particularly those requiring spend within the next 12 and 24 months. At the time of the audit, no amounts have been required to be returned to the developer.

Spending of Health S106 contributions

35. It was noted from the information provided to the Group that spending of the Health Contributions is towards the end of the 5 year period allowed, for example: -
 - For planning reference:16/00530/FUL -Station Road Langwith Junction. Health Spend of £16,000 is required by 30/01/25 but there has been no update as part of the March 2024 and June 2024 monitoring. There remains 5 months for the expenditure to take place.
 - For planning application reference 14/00531/OUT – Rosewood Lodge Farm, South Normanton, spend was required by 21/05/24. Amounts were paid to the NHS Derby and Derbyshire Integrated Care Board (ICB) and placed in their account on 10th June 2024, after the deadline. A new agreement has been established dated 21/05/24 between the two parties to indemnify the Council from any liability for refund as a result of not spending the S106 contributions within the timeframe.
36. Through discussions with staff, there has been delays in receiving updates from Health partner on 'selection / delivery of S106 funded projects. The S106 Monitoring Group is an internal group therefore third parties do not attend. Internal Audit were informed that S106 Health matters are discussed at the Derbyshire Infrastructure Planning Group but that due to absences and changes in key NHS staff attending, it has been difficult obtaining an update. A recent meeting attended by the Principal Planning Officer in September 2024 has been useful.

37. In September 2023, Planning staff ensured that planning committee members and the Senior Leadership Team were aware of the problems being encountered. As a result the Chief Executive met with representatives of the ICB to establish a way forward. Planning staff have taken all measures possible to seek spending of health funds without requiring the return of funds to the developer.

Spending of Art S106 contributions

38. A review of the Action Plan shows that the majority of actions relate to meeting the delivery Art of obligations. The Development Management & Land Charges Manager is reviewing processes to assess whether including more specific details regarding Art installation can be included within the S106 agreement rather further discussions taking place on meeting the trigger. Advice can then also be given at an earlier stage should separate planning permission be necessary.

Spending of Parks & Open Spaces and Outdoor Sports S106 Contributions

39. These are being monitored as previously outlined. Cater Lane West South Normanton (14/00551/FUL) POS contribution is showing on the finance spreadsheet as a nil condition balance outstanding. The FMS indicates that a purchase order was raised for £3,243 on 07/12/22 to South Normanton Parish Council but remains outstanding. The Leisure Officer has explained that a project for a youth shelter is being considered as part of a wider project. The project no longer appears on monitoring record as there is no requirement to repay the developer if unspent.

40. POS contribution from The Brambles Doe Lee (05/00735) is showing a balance of £1,846.44 for maintenance. In terms of spend, there remains a purchase order outstanding for maintenance for Glapwell Mountain Bike Trail. The purchase order was raised on 10/01/23 for maintenance covering 2022/23 and 2023/24 with an invoice only being received for 2022/23 maintenance. The project no longer appears on monitoring record as there is no requirement to repay the developer if unspent.

41. There are some agreements which do not include a timeframe for spend of the S106 contributions, especially where this relates to maintenance. However, it is envisaged that the Council would still require delivery of projects within a reasonable timeframe and therefore an annual review of progress for those without projects allocated S106 contributions should be reviewed.

R4	An annual review of projects allocated S106 contributions that do not have a timeframe for spend (for example maintenance), take place to seek assurance on delivery. Risk: Low
-----------	---

S106 Reporting

42. Copies of the previous four Planning Committee reports, which at the date of audit testing included report dates of June 2023, September 2023, November 2023 and March 2024, were obtained. The Planning Committee reports provide detailed information to Members and are considered to accurately reflect the position regarding the specific S106 agreements which are nearing the obligation or 'use by' date or within the next 12 and 24 months.

Appropriate Provision for repayment of funds

43. The monitoring information is not stating any S106 contributions will not be spent by within the specific deadlines, therefore no provision has been made for repayments plus interest. Through discussions with the Head of Finance & Section 151 Officer, there is one agreement where funds are being retained on behalf of DCC and interest shall be due when paid over. Provisions are to be included at the next refresh of the Medium Term Financial Plan.

Appendix 1

Assurance Level	Internal Audit Definition	Risk Register Link
Substantial Assurance	There is a sound system of controls in place, designed to achieve the system objectives. Controls are being consistently applied and risks well managed.	Minor / negligible impact
Reasonable Assurance	The majority of controls are in place and operating effectively, although some control improvements are required. The system should achieve its objectives. Risks are generally well managed.	Minor / moderate
Limited Assurance	Certain important controls are either not in place or not operating effectively. There is a risk that the system may not achieve its objectives. Some key risks were not well managed.	Moderate / Severe Impact
Inadequate Assurance	There are fundamental control weaknesses, leaving the system/service open to material errors or abuse and exposes the Council to significant risk. There is little assurance of achieving the desired objectives.	Catastrophic Impact

Appendix 2

Indicative Definitions of High Medium and Low Recommendations

Rating	Definition
High	<p>Risks that can have a catastrophic / severe impact on the operation of the Council or service - Must take action to mitigate or terminate if not possible to do so: -</p> <ul style="list-style-type: none"> • Death, extensive injury, major permanent harm • Unable to function without government or other agency intervention. • Significant impact on service objectives • Inability to fulfil obligations. • Short to medium term impairment to service capability • Adverse national publicity, highly damaging, loss of public confidence • Major adverse local publicity • High risk of fraud being able to occur e.g., key internal controls are not operating or are missing. • Direct link to a strategic risk occurring. • A serious breach of legislation/ legal requirements leading to substantial financial penalties or severe breach of data protection (report to ICO) • Substantial loss or damage to Council assets/or information
Medium	<p>Risks which have a noticeable impact on the service provided, will cause a degree of disruption to service provision / impinge on the budget - Check current controls and consider if others are required: -</p> <ul style="list-style-type: none"> • Medical treatment required, semi-permanent harm up to 1 year. • Short term disruption to service capability • Significant financial loss • Some adverse publicity needs careful public relations. • Isolated personal details compromised • Risk of fraud being able to occur • Direct link to identified operational risks occurring. • A serious breach of organisational policies and procedures • A breach of legislation / legal requirements leading to a moderate financial impact • Loss or damage to Council assets, information • Previously agreed medium internal audit recommendations remain outstanding.
Low	<p>Risks where the impact and any associated losses will be minor.</p> <ul style="list-style-type: none"> • First Aid treatment, non- permanent harm up to 1 month, no obvious harm or injury • Minor / negligible impact on service objectives • Financial loss that can be accommodated at service level / minimal. • Some public embarrassment, no damage to reputation, unlikely to cause any adverse publicity / internal only. • Minimal risk of fraud • No direct link to operational or strategic risks • A minor breach of organisations policies and procedures • A minor breach of Legislation / legal requirements • Low risk of loss or damage to Council assets
Advisory	<p>Not risk or control related.</p> <ul style="list-style-type: none"> • May enhance the service. • May achieve efficiencies. • May lead to an improved outcome

Internal Audit Report – Implementation Schedule

Report Title:	Section 106 Contributions 2024/25	Report Date: 1st October 2024
		Response Due By Date: 22nd October 2024

	Findings and Risk identified	Recommendations	Risk (High, Medium, Low)	Agreed	To be Implemented By:		Comments
					Officer	Date	
141.	Non-compliance with General Data Protection Regulation (GDPR) as signatures constitute personal data and could be reproduced in an unauthorised or fraudulent way.	A review of S106 agreements on the planning database for public access, is undertaken to ensure signatures are redacted.	M				
2.	Reducing duplication in the recording of data to provide effective management information.	Planning Managers review areas of duplication in respect of recording S106 contribution triggers and monitoring how these are met, with a view to consolidating information into one or fewer documents to record amounts once and provide effective management information.	L				

	Findings and Risk identified	Recommendations	Risk (High, Medium, Low)	Agreed	To be Implemented By:		Comments
					Officer	Date	
148	3. Formal recovery process timeframe not in place to ensure timely and consistent recovery.	Timeframes should be established between each stage of recovery. These should be defined in the procedure notes and effectively applied. If such requests for payment are not made via the Sundry debtor system, any alternative system should include these details and summary information available to management.	M				
	4. Potential for S106 contributions without clawback not to be delivered.	An annual review of projects allocated S106 contributions that do not have a timeframe for spend (for example maintenance), take place to seek assurance on delivery.	L				

Please tick the appropriate response (✓) and give comments for all recommendations not agreed.

Signed Head of Service:		Date:	
-------------------------	--	-------	--

Procedure: Section 106 Agreement Monitoring (B011)

Proposed Amendments (30th October 2024) highlighted in grey

Background

Section 106 agreements are governed by the Town and Country Planning Act 1990. Amongst other things, they enable the District Council to secure contributions to services, infrastructure and amenities in order to support and facilitate proposed development. They work on the principle that developers should contribute towards any additional burden placed on the social and physical infrastructure of an area as a result of a development.

Therefore, developer contributions secured by a legal agreement often form reasons for planning approval for major development in the district. It is also more likely that a local community would be adversely affected by developments if obligations aren't met, and the relevant contributions aren't made. This means 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 making.

Section 106 contributions received by the District Council are also subject to strict criteria on how and when they are spent. Expenditure must be relevant to a particular development and be spent within a set timescale (usually five years) otherwise the conditions of the agreement may have been breached, leaving the Authority open to legal claims from developers to recover contributions. Council departments must therefore be able to demonstrate how and when funds have been spent in order to reduce the risk of such claims against the Authority.

Consequently, it is important that the District Council has a robust procedure for recording and monitoring Section 106 obligations. The following procedures are intended to ensure that Section 106 legal agreements are discharged in accordance with planning approvals and that all obligations are met.

Procedure for Recording and Monitoring Section 106 Obligations

The spreadsheet maintained within Planning ('the S106 Planning Monitoring Spreadsheet') is used to record current and future legal agreements, monitor compliance with planning approvals and ensure that obligations are fulfilled where triggers are reached. Obligations include financial payments towards infrastructure provision and also physical infrastructure such as affordable housing to be built on-site.

The spreadsheet maintained within Finance ('the S106 Finance Monitoring Spreadsheet') is used to record financial payments made to the District Council, the remaining balance of these monies and the date by which the monies must be spent, or else returned to the developer if not spent (typically a period of 5 years from the date money is received).

The following procedures cover:

- recording of Section 106 Agreements on the S106 Planning Monitoring Spreadsheet
- responsibilities for monitoring the progress of Agreements;
- recording and accounting for financial contributions;
- expenditure and budgetary control of financial contributions;
- monitoring and recording delivery of infrastructure; and
- management reporting systems.

The following procedures are organised around the key stages in the life of a Section 106 agreement: (1) when a planning permission is issued; (2) quarterly review; (3) when triggers are reached; (4) when payments are received; (5) when obligations have been discharged and (6) when there is a failure to comply with obligations.

1 Planning Permission Issued

Once planning permission has been granted subject to a completed legal agreement containing obligations made under s.106 of the 1990 Act, and the planning permission has been issued, the following actions are required by the named Service areas / officers:

(i) Planning

(a) Relevant Case Officer

E-mail copies of the legal agreement to:

- all other departments at BDC that would benefit from obligations in the agreement (normally Outdoor Leisure; Housing Strategy and/or the Arts Officer); and
 - any departments at Derbyshire County Council that would benefit from obligations in the agreement (normally Education and/or Highways)
 - any other external body that would benefit from obligations in the agreement such as the CCG (NHS)
 - Planning Manager (Development Control) and nominated team member
 - Planning Policy Manager and nominated team member
- (b) Add a summary of the obligations in the legal agreement including relevant trigger points to the S106 Planning Monitoring Spreadsheet.
- (c) Publish an electronic copy of the legal agreement on Public Access ensuring that signatures and other personal information is redacted.
- (d) Retain original hard copy in S.106 Register

(ii) Legal

- (a) Register the agreement as a Land Charge - Land Charges do not need a copy of the whole agreement, they need:
1. names of the parties;
 2. address of property;
 3. date of agreement;
 4. planning reference; and
 5. a plan of the land.

2 Quarterly Reviews

The responsibility for monitoring compliance with legal agreements is shared by a number of officers within different Service areas across the Council but is co-ordinated via the S106 Monitoring Group. However, officers are individually responsible for spending the monies and / or procuring services or works secured by legal agreements that relate directly to their Service area and ensuring any expenditure or works are carried out strictly in accordance with the terms of the legal agreement.

The relevant Service area will also be responsible for checking that monies are spent before any claw-back clause in the agreement is triggered.

To ensure efficient and effective monitoring of compliance with legal agreement across different Service areas, officers involved in the process are required to attend a quarterly S106 Monitoring Group review meeting.

The S106 Finance Monitoring Spreadsheet is used at the S106 Monitoring Group to highlight any issues where claw back clauses may become an issue etc. Action points should be agreed at the quarterly S106 Monitoring Group review meetings within a S106 Monitoring Group Action Plan with target dates, and completion dates where actions are completed, whenever there is a risk that monies will not be spent within the relevant timescale, and/or there is a risk development will not proceed in accordance with the planning approval, and/or there is a risk that an obligation will not be met.

To ensure this monitoring process is robust, the following actions are required by the named Service areas / officers:

- (i) Planning Policy Manager (or nominated team member)
- (a) Arrange dates for the quarterly S106 Monitoring Group review meetings for each financial year.
 - (b) Prepare agenda, minutes from previous meetings and S106 Monitoring Group Action Plan in advance of quarterly review.
 - (c) Chair S106 Monitoring Group and report progress on any relevant action points from the previous meeting at the quarterly review and record completion dates where actions are completed.

- (d) Review the S106 Planning Monitoring Spreadsheet (in partnership with Development Control team) and report developments where triggers have been met since the previous meeting.
- (e) Progress any relevant action points stated in the S106 Monitoring Group Action Plan in advance of the next meeting.
- (f) Following quarterly S106 Monitoring Group review meeting, prepare reports for the next available meetings of the Planning Committee and the Senior Leadership Team that:
 - i) highlights any sums at risk of clawback that need spending within 24 months;
 - ii) provides a summary of allocated sums for years 3 to 5 under each infrastructure heading.
- (g) Send out a quarterly email to all Members (copying in those on the Planning Committee) with a link to the Planning Committee quarterly monitoring report.
- (h) Send out quarterly email to those Members in Parishes where there are spending allocations within 24 months of their deadline with a link to the Planning Committee quarterly monitoring report.

(ii) Finance

- (a) S106 Finance Monitoring Spreadsheet to be circulated prior to quarterly S106 Monitoring Group review meetings.
- (b) Highlight any new sums received and highlight any sums which need spending within the next 12- and 24-month periods.
- (c) S106 Finance Monitoring Spreadsheet to be updated in respects of officer updates following quarterly S106 Monitoring Group review meetings.
- (d) Request Accounts Department to issue invoice where developer has not responded to two written officer requests for payments to be made when required.

(iii) Community Arts Development Officer

- (a) Manage workload to prioritise the timely spend of relevant S106 Agreement monies.
- (b) Attend quarterly S106 Monitoring Group review meetings and report on progress on relevant S106 Monitoring Group Action Plan points.

- (c) Progress any relevant S106 Monitoring Group Action Plan points arising in the quarterly S106 Monitoring Group review meeting in a timely manner and provide updates to the Planning Policy Manager (or nominated team member) in advance of the next meeting.
- (d) Attend Planning Committee to report progress on any relevant S106 Monitoring Group Action Plan points.

(iv) Housing Strategy

- (a) Manage workload to prioritise the timely spend of relevant S106 Agreement monies.
- (b) Attend quarterly S106 Monitoring Group review meetings and report on progress on relevant S106 Monitoring Group Action Plan points.
- (c) Progress any relevant S106 Monitoring Group Action Plan points arising in the quarterly S106 Monitoring Group review meeting in a timely manner and provide updates to the Planning Policy Manager (or nominated team member) in advance of the next meeting.
- (d) Attend Planning Committee to report progress on any relevant S106 Monitoring Group Action Plan points.

(v) Leisure Services

- (a) Manage workload to prioritise the timely spend of relevant S106 Agreement monies.
- (b) Attend quarterly S106 Monitoring Group review meetings and report on progress on relevant S106 Monitoring Group Action Plan points.
- (c) Progress any relevant S106 Monitoring Group Action Plan points arising in the quarterly S106 Monitoring Group review meeting in a timely manner and provide updates to the Planning Policy Manager (or nominated team member) in advance of the next meeting.
- (d) Attend Planning Committee to report progress on any relevant S106 Monitoring Group Action Plan points.

3. Trigger Points

Typically, legal agreements will have a 'trigger point' when payments are required to be made or when affordable housing or other infrastructure should be delivered. In many cases, a trigger point will be related to the number of new houses that have been built and/or occupied. Planning officers are responsible for monitoring the trigger points for obligations including payments of commuted sums. To ensure this monitoring process is robust, the following actions are required by the named Service areas / officers:

(i) Planning

- (a) Planning officers will monitor all sites where 'trigger points' have not been previously met every six months.
- (b) Where a trigger point has been reached, planning officers will:
- e-mail the officer from the relevant Service area that a trigger point has been reached in respect of an obligation for delivery of infrastructure.
 - send a First Letter to the developer to request discharge of the obligation. If requested by the developer: instruct the Accounts Department to raise an invoice in respect of a financial contribution or commuted sum; and
 - If no response/obligation not discharged by the developer within 2 weeks, send a Second Letter stating that if obligation is not discharged within the next two weeks the debt will be referred to the Council's Legal Services [see under Section 7 Failure to Comply with Obligations]
- (c) Record discharge request/correspondence date on the S106 Planning Monitoring Spreadsheet

4. Receipt of Payment

Finance should be notified and provided with a receipt once payment is received by the Authority. The Accounts Department will be responsible for taking payment and for unpaid invoices. To ensure monies received is spent by the relevant Service area within the relevant time period, the following actions are required by the named Service areas / officers:

(i) Finance

- (a) Where financial contribution is to be made to Bolsover District Council, Finance to update S106 Finance Monitoring Spreadsheet on a monthly basis.
- (b) Where financial contribution is to be transferred to Derbyshire County Council or other external body, Finance to update S106 Finance Monitoring Spreadsheet on a monthly basis.
- (c) Finance to update monitoring group on payments received over the previous three months at the quarterly S106 Monitoring Group review meeting.

- (d) Finance to maintain a record of annual receipts and payments on the S106 Finance Monitoring Spreadsheet.

- (ii) Planning

- (a) Record payment date on S106 Planning Monitoring Spreadsheet on receipt of confirmation that payment has been received.

5 Discharge of Obligations

Officers are individually responsible for spending the monies and / or procuring services or works secured by legal agreements that relate directly to their Service area and ensuring any expenditure or works are carried out strictly in accordance with the terms of the legal agreement. The relevant Service area will also be responsible for ensuring that Planning are updated when obligations have been discharged so the Authority can demonstrate that all obligations have been discharged within the relevant time period.

Officer updates on expenditure and delivery of infrastructure at quarterly S106 Monitoring Group review meeting will provide a robust framework to monitor discharge of obligations. To ensure that the S106 Planning Monitoring Spreadsheet provides an accurate record of current and discharged obligations and to ensure time limits are met, the following actions are required by the named Service areas / officers:

- (i) Planning

- (a) Update S106 Planning Monitoring Spreadsheet on receipt of confirmation that an obligation has been discharged.
- (b) When all obligations have been discharged provide confirmation of this to the developer and to Land Charges and move the record from the current S106 Planning Monitoring Spreadsheet to the archive spreadsheet.

- (ii) Finance

- (a) Remove record of legal agreement from the Financial spreadsheet once all monies received have been spent.
- (b) Record contributions where claw back clauses may become an issue as an Action Point to be monitored at the following quarterly S106 Monitoring Group review meeting meetings.

6. S106 Contributions not subject to clawback

The progress on those S106 Contributions held by the District Council that are not subject to a clawback provision and thereby without a timeframe within which to be spent, shall be monitored as follows,

- a) Quarterly Reporting of progress to the S106 Monitoring Group by the responsible officers.
- b) Annual Reporting in the Annual Infrastructure Funding Statement of the spending of maintenance sums.

7. Failure to comply with Obligations

Where a trigger point has been reached, planning officers issue a written request to the developer seeking discharge of an obligation. If there has been no response to two separate written requests and an obligation remains unmet, Legal will be instructed to send a further letter to the developer requesting compliance with the relevant obligation. The letter would state that if the obligation was not complied with to our satisfaction, we would commence legal action. The method of enforcing a Section 106 is contained within the Agreement itself. There are two options set out:

- (a). The Council can do the work in default and the recharge the developer; or
- (b) It can apply to court for an injunctive order requiring the developer complies. This would normally be an order of specific performance requiring payment of the commuted sum. It could, depending on the wording of an obligation, also be an order preventing further development or further occupation of houses.

The Council's solicitor would be responsible for determining the most appropriate course of action on a case-by-case basis.

Management Reporting

The main management reporting of the Section 106 process is as follows:

- officers involved in the process attend the quarterly Section 106 Monitoring Group where the monitoring spreadsheets and the S106 Monitoring Group Action Plan are reviewed.
- the budgetary position is reported the Quarterly Budget Monitoring Report which is prepared in Finance and presented to Executive.
- a summary / progress report taken to Planning Committee in respect of Section 106 agreements following the quarterly S106 Monitoring Group review meeting.

- a summary / progress report taken to Senior Leadership Team in respect of Section 106 agreements following the quarterly S106 Monitoring Group review meeting.
- a quarterly email to all Members (copying in those on the Planning Committee) with a link to the Planning Committee quarterly monitoring report.
- a quarterly email to those Members in Parishes where there are spending allocations with less than 24 months to run with a link to the Planning Committee quarterly monitoring report.

Freedom of Information Requests

Freedom of information requests relating to Section 106 financial information will be dealt with by the relevant department depending on the nature of the enquiry.