

PARISHBlackwell Parish

APPLICATION LOCATION Primrose Residential development: 16 units (Use Class C3)
APPLICANT Amberleigh Manor, Primrose Hill Blackwell DE55 5JF
APPLICANT Mr S Kelly
APPLICATION NO. 20/00166/FUL **FILE NO.** PP-08647400
CASE OFFICER Mrs Sarah Kay
DATE RECEIVED 22nd April 2020

BACKGROUND

On the 10th March 2021 Planning Committee Members considered a report for the application detailed above, for a development of 16 new dwellings, which was recommended for approval.

The original officer report and recommendation for this application is attached as Appendix A. This should read in conjunction with this update report and the recommendations contained therein.

At the Planning Committee meeting Members formally resolved that the application should be deferred for a decision, *'to enable planning officers to enter into discussions with the applicant about the possibility of bringing forward their application for Phase 2 (the possible conversion of Amberleigh Manor into flats). The reason being that if both proposals were in front of the Committee it would be better able to make an informed assessment on issues such as viability, S106 contribution requirements and gain more certainty that the former nursing home would be brought back into use. It would also enable the developer an opportunity to comply with Local Plan policy SC4'*.

ADDITIONAL INFORMATION

Since the last Planning Committee meeting the applicant has sought to provide additional information to address the queries which were raised by Members of the committee during the last meeting and ultimately the reason for the application being deferred.

These details include:

- Feasibility details for the conversion of the former Nursing Home into 10 units and the erection of 2 new units adjacent to the current building footprint (referred to as Phase 2) – prepared by Halas PBC dated 16th March 2021.
- 1445-02 Rev N Site Layout – an amended site layout plan has been prepared which shows the incorporation of a footpath and lighting details along the shared access / driveway, and the applicant / developer has also confirmed that electric vehicle charging points will be provided for each dwelling.
- 0233 Drawing No 1 Rev B Refuse Vehicle Tracking Layout – a tracking layout has been submitted which shows that a refuse vehicle will be able to enter the site to service the 16 no. dwellings and turn in the driveway turning head.

- Statements from the Developer and Landowner have also been submitted setting out their commitments to the delivery of the development proposals.

In addition to the above CP Viability were again independently instructed by the Council to undertake a further viability appraisal to consider whether comprehensively the scheme incorporating both Phase 1 (the 16 dwellings as proposed under app. 20/00166/FUL) and Phase 2 (the development of the former Amberleigh Nursing Home inc. conversion of the existing building into 10 units and 2 no. new build units) could comply with S106 contribution policies of the Local Plan.

- 2nd Viability Appraisal was issued by CP Viability dated 30th March 2021.

All of the additional information which has been submitted are available for public inspection on the Council's website / public access system.

Following on from the concerns raised by the Planning Committee, the applicant / developer has confirmed that they are committed to delivering both Phases 1 and 2 of the development, however they have confirmed that for commercial reasons they are not in a position to prepare and submit the proposals for Phases 1 and 2 as a new single planning application, or submit a supplementary planning application for Phase 2.

Whilst the commercial reasoning for not being able to submit further applications are not a matter which can be questioned through the planning process, it is accepted that progression of a detailed planning application of Phase 2 is likely to incur additional expenses associated with the preparation of a full planning application for this Phase.

It is acknowledged that the piecemeal nature of potentially there being separate planning applications / permissions was a concern of planning committee, however it is not considered that the applicant / developer can be forced to make a second / new application. Particularly as it is considered that the development the subject of this specific application could be compatible with either the re-opening of the former Nursing Home as it stands or conversion of the building into separate residential units at a later date.

Notwithstanding this however, the applicant / developer did appreciate the concerns of the committee and subsequently undertook some initial feasibility work to understand the scope of converting the existing building on site which could potentially form part of the Phase 2 of development.

That feasibility / scoping exercise indicates that the former Nursing Home building could be converted into 10 residential units alongside a small element of new build comprising 2 units (as per the following schedule):

Unit 1 - 3 bed (two storey) mews
Unit 2 - 3 bed (two storey) mews
Unit 3 - 3 bed (two storey) mews
Unit 4 - 3 bed (two storey) mews
Unit 5 - 2 bed (two storey) mews
Unit 6 - 2 bed (two storey) mews
Unit 7 - 2 bed (two storey) mews

Unit 8 - 4 bed (two storey) mews
Unit 9 - 2 bed (two storey) mews
Unit 10 - 3 bed (three storey) mews
Unit 11 - 2 bed (two storey) mews (new build)
Unit 12 - 2 bed (two storey) mews (new build)

With the indication of the type of accommodation Phase 2 could deliver this has allowed the viability of this component of the development proposals to also be tested / appraised, to establish an understanding whether (as a comprehensive development) the scheme could realise a greater % of profit and allow for S106 contributions to be secured.

The findings of this viability appraisal and the implications of any prospective phasing are discussed in more detail below.

Viability Appraisal / Developer Contributions

In a similar way to how the viability was appraised for Phase 1, the applicant / developer agreed with the Council to appoint an independent assessor to appraise the viability of Phase 2. Commensurate to this, the viability of Phase 1 and 2 combined was also considered.

These appraisals have subsequently been undertaken by David Newham of CP Viability, whose findings were reported in a second appraisal report dated 30th March 2021.

What is now presented in the latest viability appraisal is a clearer picture of the schemes limitations / constraints associated with S106 contributions, taking into account potential returns from Phase 1, Phase 2 and both Phases together.

In addition to the conclusion previously reported that Phase 1 was already unable to make any S106 contributions as a standalone development, the conclusions reached in the latest appraisal are that the scheme of development for Phase 2 alone or both Phases 1 and 2 combined are also so finely balanced in terms of viability that they too would be unable to afford to make any S106 contributions as applications together or individually.

Therefore despite there not being a second planning application for Phase 2 for planning committee to consider, the viability appraisal conclusions (which are independent and are based on a reasonable amount of feasibility work to understand what development value may be realised from Phase 2) continue to advise that viability is still an issue across the entire site and no S106 contributions can be viably sought on this development site.

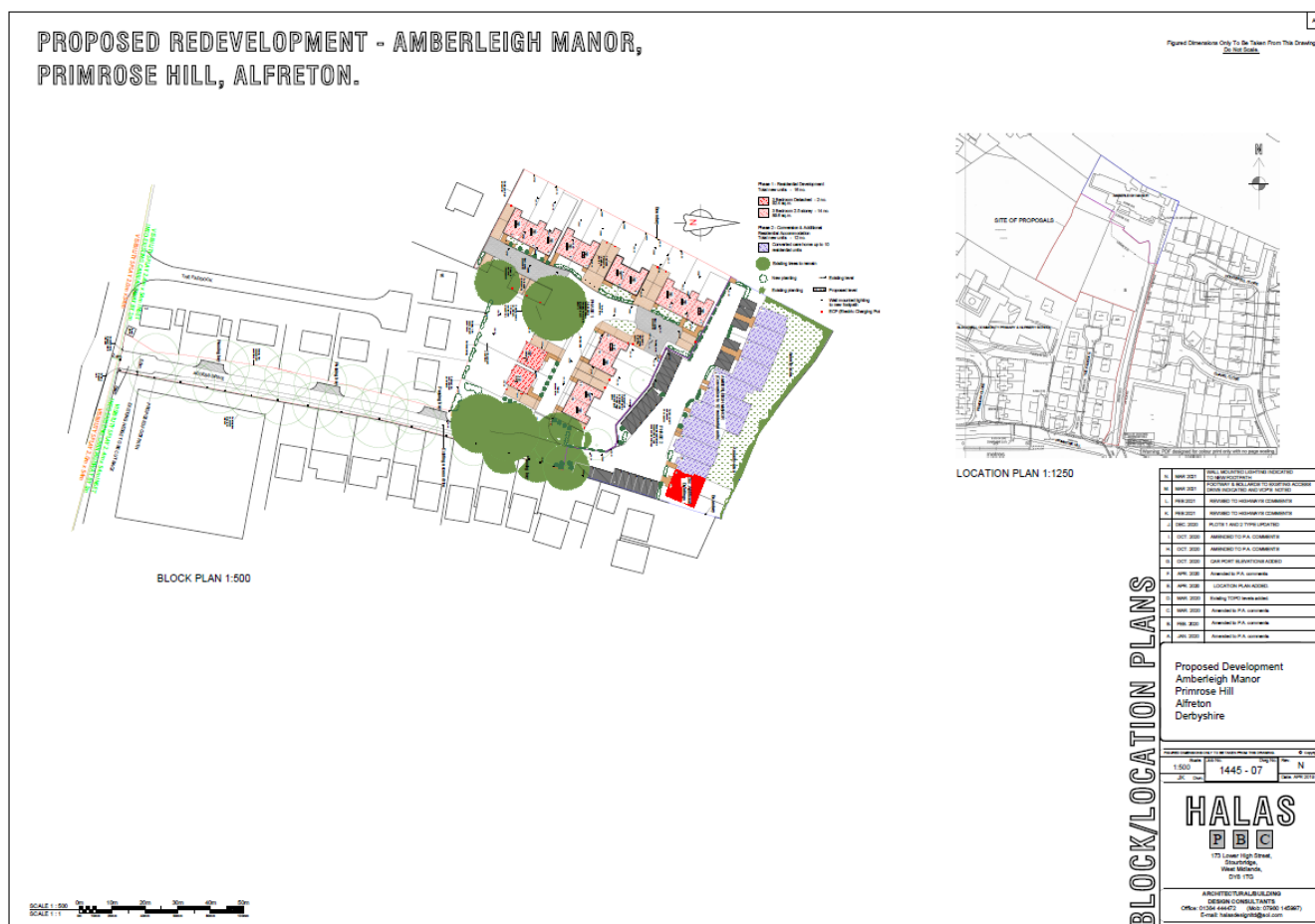
Under the provisions of policy SC4 of the Local Plan, it is acknowledged that the policy states that comprehensive development should be sought where it appears that a development site may be being proposed to be developed in a piecemeal way (salami sliced) to avoid triggering planning contributions. However in this case it is now clear from the additional viability appraisal undertaken that this will make no difference to the overall development value that can be realised from this site (comprising Phase 1, Phase 2 or a combination of both). Therefore any potential concerns about conflict with policy SC4 of the Local which were identified by planning committee previously in their decision to defer have now been addressed.

In bring this development forward on a phased basis, sufficient evidence now exists to show

It is therefore considered that the recommendations made in the original officer report for planning application 20/00166/FUL should still stand.

Whilst it is accepted that this recommendation continues to only relate to Phase 1 of the sites overall redevelopment, the prospect of either Phase 2 of the development proposals being bought forward as a separate application for complimentary residential development or the former Nursing Home re-opening under its extant permission are both considered appropriate types of development that can suitably co-exist with the development of Phase 1.

In response to questions / queries that were raised by Members of the committee in relation to the access driveway, waste servicing and potential for EVC infrastructure the applicant / developer has sought to address these points through the submission of a revised Site Layout Plan (Rev N).



The latest layout now demonstrates on a single plan the provision of vehicle passing places along the driveway / access, as well as a footway leading up the entire length of the shared

driveway / access. The applicant / developer has also committed to the provision of EVC points at each new dwelling.

Furthermore a vehicle tracking plan has also been submitted to show that the geometry of the driveway / access and turning head will allow a refuse vehicle to enter and turn within the site (subject to indemnity agreement with the refuse collection service) negating the need for occupants to carry waste bins for collection at the site entrance on Primrose Hill.



These additional details seek to give Members some clarity / assurance that the provisions are achievable but it should be noted that all of these details can be cross referenced with the requirements of conditions 13 and 17 that were put forward in the original officer report which looked to address these points and these conditions would secure the requirements if permission was granted. EVC points were not addressed in the previous recommendation however and therefore an additional condition would need to be imposed to secure the EVC points as follows:

20. *An electric vehicle recharging point shall be provided within the garage or on the exterior of each dwelling before the dwelling to which the recharging point relates is first occupied. All recharging points shall thereafter be retained. Cable and circuitry ratings shall be of adequate size to ensure a minimum continuous current demand of 16 Amps.*

REASON: To promote high standards of low carbon and energy efficient design, to improve

air quality and in compliance with the requirements of Policy SS1(d), SC2(d) and SC3(k) of the Local Plan for Bolsover District.

CONCLUSION

It is considered that sufficient information has now been submitted to allow Members of the committee to fully understand the constraints and implications of viability across the site of both this application (Phase 1) and also Phase 2 of the wider Amberleigh Manor site, to allow for an informed decision to be taken as to whether the development the subject of this application can be accepted without securing the necessary developer contributions.

The recommendation remains that despite the development proposals not being able to meet S106 contributions required by policy ITCR5, ITCR7 and II1 of the Local Plan (open space / play provision and education) it is considered that it is in the public interest to approve the application proposals. The former nursing home building remains vacant and it is clear from the application submission and through subsequent discussions with the applicant / developer that the site owner is not in a position to re-open the business without substantial investment. Therefore the site poses a risk of falling into disrepair and attracting anti-social behaviour if a new use or redevelopment is not secured.

Clearly there are constraints affecting the site which limit the scale and amount of development which can be accommodated and therefore naturally there is a demonstrable knock on effect on viability. An independent viability appraisal of both phases of development have now been undertaken which show that the development would not be economically viable, if S106 contributions are to be secured. It is considered to be appropriate to grant planning permission without open space / play provision and education contribution) on this occasion so that that this development can still be brought forward in line with the local plan.

In all other respects, the application is for the most part considered to be acceptable in planning terms for the reasons set out in the report and although there are some minor technical issues outstanding, these are very likely resolvable subject to conditions and are unlikely therefore to weigh negatively in the overall balance of considerations, such that a recommendation to grant permission is proposed.

RECOMMENDATION

The current application be **APPROVED** subject to the conditions as set out in Appendix A of the original officer report, and the addition of condition 20 as detailed in the supplementary report above.

APPENDIX A – COMMITTEE REPORT FROM 10TH MARCH 2021 FOR 20/00166/FUL

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SUMMARY

This application has been referred to the Planning Committee because the development is unable to comply with S106 contribution policies for viability reasons.

Notwithstanding the above, the application is recommended for approval. The proposals are considered to represent sustainable development and accord in all other respects with policy requirements. The report presents a balanced planning argument why it is considered that the benefits of the proposals outweigh non-compliance with infrastructure contribution policies, inc. consideration of appropriate scales of redevelopment which bring a vacant site back into use, address on site constraints (protected trees) and maintain neighbouring amenity.

Site Location Plan



SITE & SURROUNDINGS

The site lies within the development envelope of Blackwell and comprises of the foreground garden area of the former nursing home known locally as Amberleigh Manor, which is located in the north eastern part of the village.

The group of buildings to the immediate north of the application site are those which comprise a two storey detached property that were formerly used as the nursing home, but they are all now vacant.

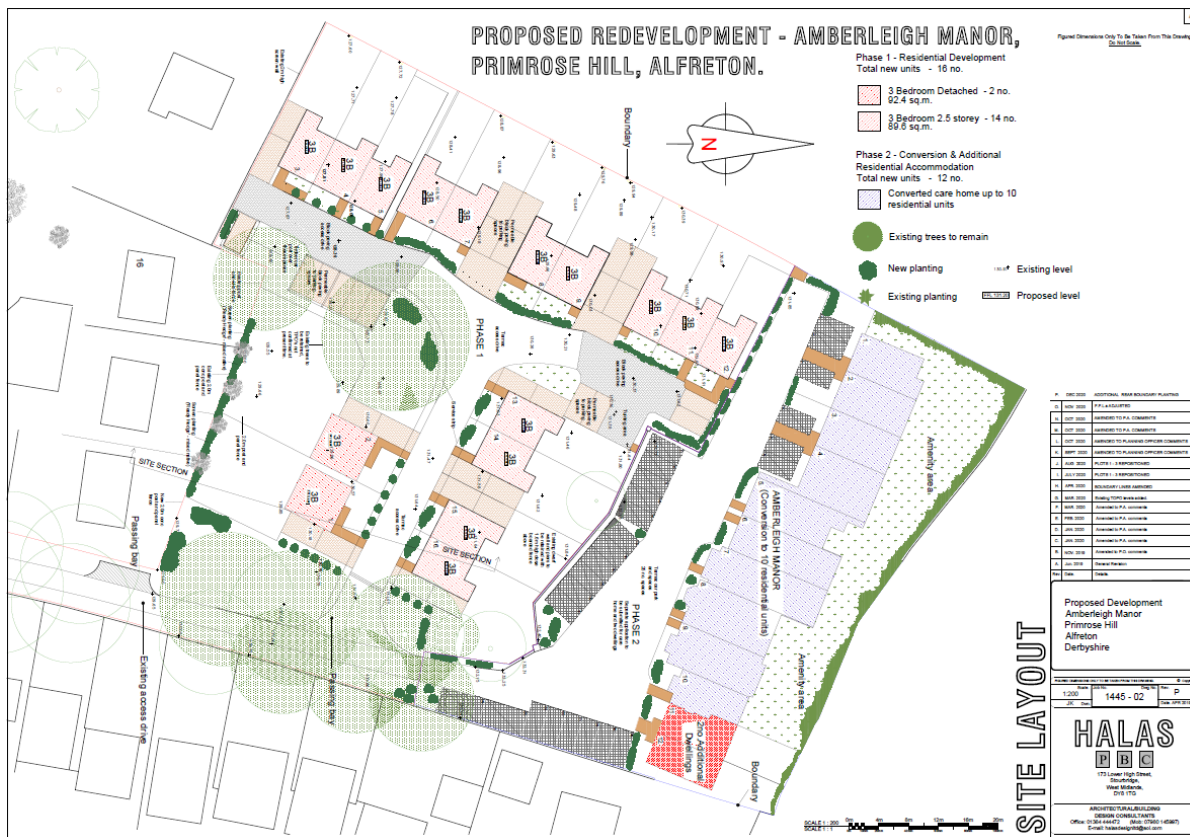
The application relates to land within the fore grounds of the former nursing home but does not include the buildings and is approx. 0.54ha in area.

The site has undulating topography across the site. The south west corner sits lower than the rest of the site which rises towards the nursing home building. Ground levels to the boundary with residential properties on The Paddock are higher than the gardens of these properties. There are numerous trees within the site and either side of the access drive some of which are covered by Tree Preservation Order (BOL/27). Residential properties lie to the west, east and south. Open countryside lies to the north.

PROPOSAL

This is a full planning application for a development comprising the erection of 16 dwellings with access taken via the existing tree lined driveway off Primrose Hill running to the east of The Paddock and opposite Colliery Road in Blackwell.

The development comprises a mixture of 2 bed and 3 bed properties which are detached, semi-detached and terraced in nature.



The application submission is accompanied by the following plans / documents:

1445-11 – Location Plan

~~1445-07 Rev F Block / Location Plan~~

~~1445-03 – 2 Bed Type (Elevations and Floor Plans)~~

1445-04 – 3 Bed Type (Elevations and Floor Plans)

1445-08 Rev A Streetscenes

1445-02 Rev P – Site Layout

1445-04 Rev A – Streetscene / Car Ports / Sections

1445-18 - 3 Bed Type – Detached (Elevations and Floor Plans)

Supporting Documents

Design and Access Statement

Planning Statement

Coal Mining Risk Assessment

Land Survey

Tree Survey

Arboricultural Method Statement & Tree Protection Plan (2020-08-02 Project No. 200)

Biodiversity Survey & Report / Arborist and Ecological Services Ltd Supplementary Statement

Drainage Strategy

Viability Appraisal – prepared by CP Viability Feb 2021

AMENDMENTS (N.B. Plans shown crossed out have been superseded by later plans)

14/08/2020

Arboricultural Method Statement & Tree Protection Plan (2020-08-02 Project No. 200)

Drainage Strategy

~~1445-02 Rev D – Site Layout~~

15/10/2020

~~1445-02 Rev K – Site Layout~~

26/10/2020

~~1445-02 Rev N – Site Layout~~

~~1445-07 Rev I Block / Location Plan~~

18/10/2020

~~1445-02 Rev O – Site Layout~~

~~1445-04 – Streetscene / Car Ports / Sections~~

07/12/2020

Arborist and Ecological Services Ltd Supplementary Statement

14/01/2021

1445-02 Rev P – Site Layout

1445-04 Rev A – Streetscene / Car Ports / Sections

1445-18 - 3 Bed Type – Detached (Elevations and Floor Plans)

27/01/2021

Viability Appraisal – prepared by CP Viability Jan 2021

EIA SCREENING OPINION

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

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

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

HISTORY

00/00383/TPO – Crown and prune TPO BOL/40 (Lime) – GRANTED CONDITIONALLY

01/00475/FUL - Erection of a conservatory to front, two storey extension to side, and a detached two storey dwelling – GRANTED CONDITIONALLY

02/00577/TPO - To prune trees running along the drive (Trees T8, T10, T12, T14, T16 and T18 of TPO BOL/27) - GRANTED CONDITIONALLY

05/00134/FULMAJ - Two storey nursing home, with basement parking and plant room (revised scheme) - GRANTED CONDITIONALLY

07/00717/TPO - Pruning works to trees T13, T11, T9, T7, T5 and T3 (TPO 27) – GRANTED CONDITIONALLY

08/00183/FUL - Two storey extension to side and rear – REFUSED

08/00590/TPO - Pruning works (T1- Lime) – GRANTED CONDITIONALLY

10/00112/VARMAJ - Two storey residential nursing home with basement parking and plant room (extension of time period for start of previously approved scheme ref 05/00134/FULMAJ) - GRANTED CONDITIONALLY

14/00410/TPO - Crown reduction to two trees by 25% (T8 and T10- BOL/27) – GRANTED CONDITIONALLY

CONSULTATIONS

BDC Engineer (Drainage) – 05/05/2020

Comments received from the Engineers confirming that subject to acceptance of the SuDS design by DCC (LLFA), we must ensure the developer submits an Operation and Maintenance Plan (in accordance with section 32 of the SuDS Manual) which provides details of the arrangements for the lifetime management and maintenance of the SuDS features together with contact details. 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.

BDC Housing

No comments received.

BDC Leisure – 16/06/2020

Comments received from Leisure Services confirming that the development proposals meet the trigger requirements for policy ITCR5 of the Local Plan in respect of securing green space and play provision in the district. Contributions have been calculated based upon the scale of the development proposals for a commuted sum contribution towards Gloves Lane Recreation Ground for Equipped Play of £836 per dwelling; and towards Gloves Lane Recreation Ground and Westhouses Recreation Ground for improving playing pitches / ancillary facilities of £1022 per dwelling. A maintenance sum for a period of 10 to 15 years will also need to be negotiated.

BDC Streetscene Manager – 23/04/2020

Comments received advise that the access roads will need to be constructed to a specification capable of taking a Refuse Collection Vehicle with a GVW of 32 tonnes. If the carriageway is not to be adopted as public highway then we would also need an indemnity agreement regarding vehicular damage. Alternatively a presentation point would need to be constructed near the adopted highway.

Coal Authority – 05/05/2020

Comments received confirming that the Coal Authority concurs with the conclusion / recommendations of the Coal Mining Risk Assessment, 29 January 2020 based on the professional opinion of EnviroSolution Ltd that there is currently a risk to the proposed development from coal mining legacy. In order to confirm the exact ground conditions present beneath this site, to inform the extent of remedial / mitigatory measures that may be required to ensure that the development is safe and stable, intrusive site investigations (Section 4) should be undertaken prior to commencement of development.

Community Arts Development Officer

No comments received.

DCC Highways – 16/05/2020

The Highway Authority recommends that a more suitable drawing (ideally a topographical survey), clearly dimensioned, is submitted to demonstrate the full extent of achievable visibility from a 2.4m set-back distance to the carriageway channel and at 1.0 m into the carriageway. The currently recommended distance of 2.4m x 54m is based on Primrose Hill being a classified road subject to a 30mph speed limit with a general lack of side friction in the immediate vicinity. Any lesser provision will need to be supported by the results of a traffic speed survey with the sightlines being commensurate with 85th percentile wet weather speeds and taking into account approach gradient.

The provision of passing places, which should be intervisible, would be considered acceptable in principle and the dimensions of these should accommodate the largest vehicle likely to frequently enter the site. As previously mentioned it is currently not possible to print plans to scale to determine the dimensions of what is indicated.

The development proposals will be likely to result in an increase in vehicular activity associated with the site, especially in the event of Phase 2 being brought forward, therefore, it's recommended that the applicant is given further opportunity to submit details to

satisfactorily address the above exit visibility concerns. In the event that sightlines meeting current design guidance can't be provided, the applicant should be requested to submit further details demonstrating that predicted vehicle trips generated by the proposed would be less than, or equitable with, those generated by the extant use of the site.

DCC Developer Contributions – 14/05/2020

Comments received advising on primary and secondary education projections as follows:

Primary level education - Analysis of the current and future projected number of pupils on roll, together with the impact of approved planning applications shows that the normal area primary school would have sufficient capacity to accommodate the 3 primary pupils arising from the proposed development.

Secondary level education - An evaluation of recently approved residential developments of 11 or above units or over 1,000 square metres of floorspace within the normal area of Tibshelf Community School shows new development totalling 17 dwellings, which would result in demand for 3 secondary places. Analysis of the current and future projected number of pupils on roll, together with the impact of approved planning applications shows that the normal area secondary school would not have sufficient capacity to accommodate the 3 secondary arising from the proposed development.

Mitigation - The above analysis indicates that there would be a need to mitigate the impact of the proposed development on school places in order to make the development acceptable in planning terms as the normal area secondary school would not have sufficient capacity to accommodate the additional pupils generated by the proposed development. The County Council therefore requests financial contributions as follows:

£77,645.70 for 3 secondary places at Tibshelf Community School towards additional education facilities.

Derbyshire Constabulary – 29/04/2020

Comments received confirming that there are no objections to the principle of residential development at this location. The detail of phase 1 is broadly acceptable from a community safety perspective, with reservations about boundaries and lighting. There is no detail available online regarding boundary specification, so this will need to be considered / agreed having regard to crime prevention design specifications. Noting there is no provision for communal lighting shown with the application submission and as the access road is not to be adopted comments suggest that the application should make provision for a landlord supply and present a suitable public lighting scheme for communal areas of the site.

Derbyshire Wildlife Trust – 20/05/2020, 26/01/2021 and 28/01/2021

Comments were received advising that additional bat and reptile survey work was undertaken (building 3 - bats; and slow worm / grass snake were potential target species), and consideration was also given to potential impacts on breeding birds. Further comments / advice was offered in due course alongside recommendations regarding suitable mitigation and biodiversity enhancements for the development as a whole.

Additional information was subsequently provided which led DWT to offer detailed comments / suggestions for conditions to address:

Protection of breeding birds during construction - To ensure that breeding birds are protected from harm we advise that a condition should be imposed requiring that "No removal of hedgerows, trees, shrubs or brambles shall take place between 1st March and 31st August

inclusive, unless a recent survey has been undertaken by a competent ecologist to assess the nesting bird activity on site during this period, and details of measures to protect the nesting bird interest on the site, have first been submitted to and approved in writing by the local planning authority and then implemented as approved.”

Trees - Development should be implemented in accordance with the measures set out in the Arboricultural Method Statement and Tree Protection Plan (Crawshaw Arborcare Ltd, August 2020).

Landscape and Biodiversity Enhancement and Management Plan (LBEMP) - A LBEMP shall be submitted to, and be approved in writing by, the LPA prior to the commencement of the development. The LBEMP should combine both the ecology and landscape disciplines and include the following:-

- a) Description and location of native tree and shrub planting.
- b) Locations of 5 integrated swift bricks, hedgehog access gaps between gardens holes
- c) Appropriate management aims, methods and practices to maintain enhancement features.
- d) Prescriptions for management actions.
- e) Preparation of a work schedule (including an annual work plan capable of being rolled forward over a ten-year period).
- f) Details of the body or organization responsible for implementation of the plan.
- g) Ongoing monitoring visits, targets and remedial measures when conservation aims and objectives of the plan are not being met.

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.

In addition it was agreed with DWT that bat survey work of the building identified could not be reasonably requested / required, as the building lay outside of the application site boundary and was not affected by these specific development proposals.

Environmental Health / Protection – 11/09/2020

Comments received confirming they have reviewed the application documents and the coal mining risk assessment. This has shown that there is the potential for mine gas and made ground to be present on the site. Therefore, in the event that planning permission is granted for this site, we would recommend that the standard pre-commencement contaminated land planning condition is imposed.

Health & Safety Executive – 28/04/2020

Response received advises that the proposed development site identified does not currently lie within the consultation distance (CD) of a major hazard site or major accident hazard pipeline; therefore at present HSE does not need to be consulted on any developments on this site.

Lead Local Flood Authority – 14/05/2020

As a statutory consultee for surface water the minimum details required on all major planning applications are as follows:

- Site plan and impermeable area
- Topographic survey of the site

- Appropriate evidence to support how the site will drain, including confirmation of where the surface water will outfall to (photographs / maps / a confirmation letter from a water company)
- Basic calculations of the greenfield/brownfield runoff and discharge rates, (refer to Point J in the Advisory Notes)
- A quick storage estimate to show the required storage volume of surface water on site and an indication of the likely location
- Calculations should include allowances for the current Environment Agency guidance for climate change and urban creep (Refer to Point J in the Advisory Notes)
- Basic ground investigation (desktop survey as a minimum)
- Major developments should incorporate sustainable drainage systems unless there is clear evidence that this would be inappropriate (as per National Planning Policy Framework 165).

These details are required at the early planning stage to demonstrate that the proposed site is able to drain and that due consideration has been given to the space required on site for surface water storage.

Parish Council – 29/04/2020

Comments received asking that thorough checks for Bats are carried out. Also comments raise concerns that flooding is a continuous problem on this site, and measures to alleviate this problem will need to be addressed. In their view the current sewage pipes will not be sufficient to sustain the proposed development. There are also concerns raised that the narrow access to the site for the number of cars there could be on a development of this size is a concern, along with parking.

Severn Trent Water

No comments received.

Urban Design Officer – 15/05/2020

Comments were received from the UDO offering feedback on the initial application submission and site layout iteration as follows:

Design and Access Statement - The design statement is relatively brief and although it identifies the main constraints, such as protected trees, topography, coal mining legacy, restricted entrance lane and the presence of neighbouring dwellings. However, these are only addressed in a relatively superficial manner and no design principles are identified as a result, that should then inform the approach to the subsequent design. The long distance view to the south and the relationship of the site to the countryside to the north and not identified.

Consequently, the proposed design and layout does not then necessarily take account of the site constraints. For example the location of some plots to the adjacent bungalows results in an unneighbourly relationship that would appear dominant and overbearing to the outlook of some residents. This would be exacerbated by the use of tall house types and the DAS does not identify the presence of short neighbour gardens or change in levels between the proposals and the adjacent properties. The use of tall house types throughout much of the site also increases the scale and presence of the development as seen from Primrose Hill (as seen along The Paddock).

Importantly, the primary characteristic of the site is its mature landscape defined by large established trees, which create a strong sylvan quality and an attractive skyline.

Although tree maintenance and remedial works are required to many, the trees themselves have the potential to provide a fine focus to the development, particularly within the central part of the site. However, the DAS does not appear to recognise this opportunity in terms of

creating a 'vision' or sense of place for the development. The layout seeks to remove several key trees or fit closely around them, rather than fully incorporating them into the heart of layout.

The proximity of trees to some plots will dominate gardens and is likely to lead to pressure to remove them in the future.

Development is shown to occupy the low point of the site (SW corner) and it is currently unclear how the site would be drained. For example is this areas required to accommodate a SuDS pond or would a pumping station be required. If so, sufficient space would be required to accommodate this infrastructure together with an associated easement. As such, a clearer indication of drainage proposals should be provided.

The site lies adjacent to open countryside along its northern boundary (currently shown as blue land) and this presents a potential opportunity for a design to address the landscape and benefit from an outlook over towards the fields (see Phasing below).

Guidance in Successful Places (2013) recommends that a site analysis should inform the site design principles and the subsequent layout. The site analysis is not considered to be robust and it is unclear how the resulting layout has taken into account the constraints and opportunities.

Existing trees - The tree report accompanying the application makes a number of recommendations, although it is unclear whether the proposed layout has responded to these. For example the internal road through the centre of the site would necessitate the removal of two Category A Trees (T19 and T21). The arborists suggestion to rotate Plot 1-3 away from the Lime trees has not been implemented etc.

Phasing - Splitting the site into two phases (Phase 2 currently shown as conversion and extension of the existing empty building) limits options for the internal layout of the site and results in a number of negative impacts, such as the removal of a number of high quality trees in order to accommodate the internal road. If the site could be developed in a comprehensive manner this would open up the possibility of extending the access road towards the northern edge of the site, orienting dwellings to achieve an outlook over the adjacent countryside and avoiding the need to remove trees to facilitate access and circulation arrangements.

Density - At the pre-application stage the applicant was advised to reduce the amount of development in order to achieve a more appropriate layout on the site. However, the development density remains unchanged and the application raises a number of design concerns. A lower density development in a more generous landscape setting would assist in easing a number of the above issues in relation to the layout and is likely to facilitate a more a more appropriate layout.

Appearance - The proposed elevations are very plain and would benefit from the introduction of additional architectural details, such as brick band or raised corner details, dentil courses to verges and eaves lines etc. Notwithstanding this, the standard approach to the design and appearance of the houses and the repetitious use of the same house types does not respond particularly to the sylvan character of the site and a more considered architectural response to the character of the site is strongly encouraged.

Conclusion - Overall, the layout remains very similar to that submitted for pre-application comments. Although the application has only made some relatively minor adjustments to the design, the proposals are not considered to have responded positively to pre-application advice. The site appraisal is superficial and the opportunities and constraints do not appear to have necessarily informed the resulting layout, which lacks generosity and has a negative impact on a number of trees. In its current form the application is not considered meet the requirements of Policy SC3 High Quality Development or guidance contained within Successful Places (2013).

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

PUBLICITY

The application has been advertised in the local press (30/04/2020), by site notice posted (19/05/2020) and 19 neighbouring properties notified by letter (12/05/2020).

In total there have been 8 representations received, with a summary of issues raised as follows:

Will boundary walls be retained including walls to outhouses along the boundary?
Proposed dwellings in phase 2 will impact on daylight and will create feeling of being closed in.
Potential impact from lighting within the development.
Will noise and dust be controlled during construction?
Bats regularly seen at the site and have roosted at the property.
Flood risk to SW corner due to underground stream.
Plans do not accurately show Glen Vine.
No drainage details provided for foul or surface water.
No local resident consultation has been undertaken as stated in the design and access statement.
Brick boundary wall to western boundary is in poor condition and has partially collapsed. Will this wall be repaired?
Problems with tracking the application and reading comments via the Council's website.
Poor maintenance of the trees along the access drive has led to residents paying for works to be undertaken. Who will be responsible for maintaining the trees and open space in the future? Enforceable maintenance schedule needed.
Impact of more vehicles using access drive to rear of houses on Dodgewell Close, increased noise and pollution and general disturbance.
Broadly supportive of the development as site is derelict.
Concerns re: volume of traffic that will use the access road and position of passing places close to neighbouring boundaries.

It should be noted that this application was originally submitted in March 2020, when the first national lockdown was announced and enforced. Bolsover District Council took a decision at that time to delay undertaking planning application publicity (inc. sending out neighbour notification letters) and planning committee meetings were temporarily postponed. This decision was lifted in May 2020 and meetings resumed in September 2020. The application has subsequently been publicised according to the DMPO.

- *A number of representations received initially received raised the absence of neighbour notification as an issue, but this matter was resolved.*

All neighbour representations are available to view in full on the Council's website.

POLICY

Bolsover District Local Plan ("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 SS2: Scale of Development
Policy SS3: Spatial Strategy and Distribution of Development
Policy LC3: Type and Mix of Housing
Policy SC1: Development within the Development Envelope
Policy SC2: Sustainable Design and Construction
Policy SC3: High Quality Development
Policy SC7: Flood Risk
Policy SC9: Biodiversity and Geodiversity
Policy SC10: Trees, Woodlands and Hedgerows
Policy SC11: Environmental Quality (Amenity)
Policy SC13: Water Quality
Policy SC14: Contaminated / Unstable Land
Policy SC15: Hazardous Installations
Policy ITCR5: Green Space and Play Provision
Policy ITCR7: Playing Pitches
Policy ITCR10: Supporting Sustainable Transport Patterns
Policy ITCR11: Parking Provision
Policy II1: Plan Delivery and the Role of Developer Contributions

National Planning Policy Framework ("the Framework")

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

Paragraphs 7-10: Achieving sustainable development
Paragraphs 47-48: Determining applications
Paragraphs 54-57: Planning conditions and obligations
Paragraphs 91, 92 and 94: Promoting healthy and safe communities
Paragraphs 96 and 98: Open space and recreation
Paragraphs 108-111: Promoting sustainable transport
Paragraph 118: Making effective use of land
Paragraphs 124-128: Achieving well-designed places
Paragraph 153: Meeting the challenge of climate change
Paragraph 165: Sustainable Drainage Systems
Paragraphs 170 and 175: Conserving and enhancing the natural environment
Paragraphs 178-181: Ground conditions and pollution
Paragraphs 184 and 189-197: Conserving and enhancing the historic environment

Supplementary Planning Documents

Successful Places: A Guide to Sustainable Housing Layout and Design – Supplementary Planning Document.

Parking Standards – Consultation Draft Supplementary Planning Document.

ASSESSMENT

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

- the principle of the development;
- highway safety considerations, including whether the development would be provided

with a safe and suitable access and the impact of the development on the local road network;

- landscape and visual impact of the development;
- whether the development can deliver a suitable design and layout and provides sufficient residential amenity;
- the ecology impacts of the development (inc. trees and wildlife);
- potential contamination risks / land stability;
- drainage requirements; and
- impacts on infrastructure, including recreation and leisure, education and health facilities.

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

Principle of the Development

The application site lies within the development envelope of Blackwell, as defined under Policy SC1 of the Local Plan, where the principle of development is supported subject to the development proposals being regarded appropriate in terms of scale, design and location to the character and function of the area.

Furthermore under the provisions of Policies SS2 and SS3 of the Local Plan it is acknowledged that the village of Blackwell, albeit a small rural village, is capable of supporting some modest urban forms of development, such as that being proposed. The village is served by a convenience store, local community facilities and several bus services (Chesterfield, Mansfield and Alfreton).

In the context of the above the development proposals lie within the development envelope and are a component phase of a former nursing home / vacant site's redevelopment. Strictly speaking these development proposals are concentrated on a site that forms the grounds of the former nursing home (rather than the built footprint of the nursing home itself) so are greenfield in nature; however it is anticipated that the conversion of the existing building will proceed as a second phase of development in due course.

Overall the principle of housing development on the site is considered to be acceptable.

Highway Safety / Access

The Local Highways Authority (LHA) commented on the original application submission seeking the provision / demonstration of visibility splays measuring 2.4m x 54m in each direction, based upon the 30mph speed limit of Primrose Hill (which is classified). The LHA acknowledged that the development proposals would likely increase traffic activity at the site, so the need to secure demonstration of appropriate visibility splays was necessary. It was noted that any lesser provision would need to be supported by the results of a traffic speed survey with the sightlines being commensurate with 85th percentile wet weather speeds and taking into account approach gradient. The LHA also acknowledged that the extant use of the site as a nursing home was a fall-back position in terms of traffic activity associated with the site access, which could be considered.

Various iterations of the application proposals have been prepared since the receipt of the

original comments from the LHA, however these have not been accompanied by any speed survey data. The site does however have an extant permission to operate as a nursing home and in 2010 a much larger extension to the nursing home was also permitted but not implemented.

On site it is acknowledged that exit visibility from the site access is better in the critical direction than the non-critical direction (see photographs taken below). The presence of double yellow lines in this particular locality ensure that views are not restricted by the presence of on street parking.



Previous topographical surveys undertaken at the site demonstrate that exit visibility measuring 2.4m x 43m is achievable from the site access, and this has previously been accepted by the LHA. Therefore whilst it is noted that the LHA continue to request the demonstration of visibility splays measuring 2.4m x 54m (without speed surveys), it is considered on balance that the likely traffic generation from the development proposals compared to the extant nursing home permission are comparable. Exit visibility splays of 2.4m x 43m are therefore considered to be acceptable.

Looking in more detail at the layout of the development proposals, each unit is shown to be provided with 2 no. dedicated off street parking spaces which accords with the parking standards set in Appendix 8.2 of the Local Plan.

Overall therefore, subject to the imposition of appropriate and necessary planning conditions requiring the implementation / provision of the visibility splays and plot parking the development proposals are considered to be acceptable.

Landscape and Visual Impact

The application site is enclosed with existing development from bungalows on The Paddocks and Blackwell Primary School / Glen Vine off Pendean Close to the south; two storey dwellings off Dodgewell Close and Church view to the east; the built footprint of the former nursing home building lies to the immediate north; and the playing fields to Blackwell Primary School lie to the west.

In terms of landscape / visual impact there are glimpses of the development site from Primrose Hill ascertained between the houses which surround the site, however any development seen from these perspectives are likely to be against the backdrop of the current nursing home property which sits on a tier that is elevated above the levels of the application site. Levels across the site generally increase south to north.

In the context of Policy SC8 of the Local Plan it is considered that the development proposals will assimilate with its surroundings and will not cause any significant harm to the character, quality, distinctiveness or sensitivity of landscape, or to important features. In respect of landscape and visual impact the development proposals are considered to be acceptable.

Design and Layout (inc. Residential Amenity)

Alongside consideration of advice contained in the Council's adopted Supplementary Planning Document 'Successful Places' - Housing Layout and Design Guide and Policy SC2 and SC3 of the Local Plan the details of the proposed site layout have undergone a number of variations / iterations since submission. These changes also respond to the receipt of the Urban Design Officer initial comments and other site constraints, leading to the latest site layout proposed (Rev P) being prepared for consideration.

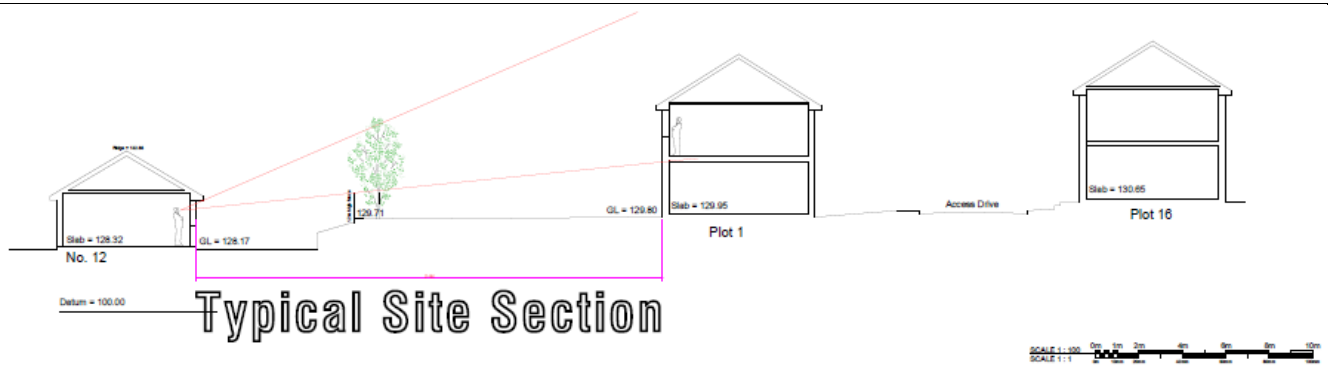
As amended the scheme now proposes a development of 16 no. dwellings 3 bed units which are either semi-detached or detached in nature. The layout has been amended to address concerns relating to the relationship of the new development proposals to existing neighbouring properties, having regard to separation distances and levels; as well as the relationship of the new dwellings to protected trees. The driveway layout and access / servicing details have also been amended.



Having regard to the relative separation distances achieved between plots and existing neighbouring properties (inc. the nursing home building) all units achieve minimum distances sought between facing windows and garden boundaries guided by the adopted SPD. Furthermore the smallest private garden areas of the overall development proposal (plots 5 and 6) measure approximately 55sqm in area, which are considered to be at the lower end of the minimum threshold but are acceptable. These units also adjoin the playing field of the school to the west so these areas are unobstructed beyond their own private garden areas created, which also improves amenity.

The mixture of terraced, semi-detached and detached properties proposed is considered appropriate in this location and is considered to be generally reflective of the surrounding

area. It is acknowledged that the initial layout did not relate well to its surroundings in terms of the earlier distribution and location of the proposed two storey dwellings that were close to bungalows on adjoining sites, but this has been suitably addressed through submitted amendments. Plot 1 and 2 (which are detached) now sit more comfortably with the neighbouring bungalows to the south (The Paddocks).



Materials, finishes and a boundary treatments will all need to be agreed subject to planning condition as these details do not accompany the current submission. In addition conditions to control the final hard and soft landscaping treatment of the site are also recommended and these will address the comments made by the Crime Prevention Design Advisor relating to boundary treatments and external lighting details to all communal driveways / access points.

Overall it is considered that the revised layout has satisfied the concerns of the Urban Design Officer and on balance, the design and layout of the overall scheme is considered to be acceptable. By virtue of the presence of mature protected trees and the variance in levels across the site, the layout submitted achieved an appropriate design compromise.

Ecology / Biodiversity (inc. Trees and Wildlife)

The Derbyshire Wildlife Trust (DWT) has considered the submitted ecology information and consider that the impact of the development has for the most part now been satisfactorily assessed.

Where there are any outstanding matters of detail, DWT has advised that these can be covered by the imposition of appropriate planning conditions which require works to take place in accordance with the Arboricultural Method Statement (AMS) and Tree Protection Plan (TPP), and further details to be drawn up and submitted for later approval relating to new landscaping detail and ecological enhancement / mitigation measures.

The access driveway leading up to the parcel of land where the 16 no. dwelling are proposed is lined with mature trees which are protected by Tree Preservation Order (TPO) BOL/27 and an addition number of trees close to the southern boundary of the development parcel are also protected separately by TPO BOL/40.



The trees are in need of some management / maintenance works but the majority of them are capable of retention alongside the layout of the proposed development. The AMS and TPP submitted demonstrates that above ground construction measures can be incorporated where there is a requirement to form any hard surfaces that fall within the protected trees root protection areas (RPAs) to create driveways or extend the access road, and the footprint of all the buildings have been moved outside of any RPAs illustrated with the exception of an Ash tree located in G1 of BOL/40 which will have to be removed (but is identified as a category U tree (with a poor life expectancy) in the AMS anyway).

It is noted that there are a number of trees on site that are not specifically covered by the TPO, whose retention therefore cannot be insisted upon, but the AMS and TPP demonstrates which trees are worthy of retention and protection and in general it is considered that an appropriate compromise is achieved to enable the development to come forward without constraint to the future health / wellbeing of the retained TPO trees.

Regardless of this planning application, a separate TPO tree works application will be necessary to cover the specific works deemed necessary to facilitate the development proposals and remove the category U trees as set out in the supporting AMS. Replacement trees will be secured where necessary as part of this application process.

It will be necessary to impose a series of planning conditions to ensure that the final details of the above ground construction measures and root protection areas / measure, in line with the

latest site layout iteration (as the AMS and TPP is based on an earlier layout plan), are agreed in writing before development commences but it is considered that there is sufficient information supporting this application to conclude that the development proposals are capable of being accommodated alongside the retention of the majority of the protected trees on site in accordance with Policy SC10 of the Local Plan.

Furthermore in accordance with the requirements of Policy SC9 of the Local Plan conditions securing a Landscape and Biodiversity Enhancement and Management Plan (LBEMP) will deliver the appropriate landscaping and biodiversity enhancement measures deemed necessary by DWT and are recommended for inclusion in the event of planning permission being granted.

Contamination / Land Stability

Under the provisions of Policy SC14 of the Local Plan both the Environmental Protection Officer (EPO) and the Coal Authority have reviewed the application submission and historical files, having regard to the nature of the development proposals.

Both have confirmed that whilst there is potential former land contamination and coal mining legacy issues which may affect the development site, these issues can be investigated and appropriately remediated (as detailed in the Coal Mining Risk Assessment and Land Survey). A condition can be included in the event that planning permission is granted for this site, for further assessment of the site to be undertaken in respect of contamination / coal mining risk and where that assessment shows it to be necessary to carry out appropriate mitigation to deal with that contamination.

Drainage

Foul Water

No consultation response has been received from the water company in respect of foul drainage and it must be assumed therefore that they do not have any objections to the proposal; the final design and provision of foul drainage is also a matter dealt with under the Building Regulations.

Surface Water

Following the submission of additional information in response to their initial comments, the LLFA has not provided any further response in respect of surface water drainage. It is therefore assumed that the principle of incorporating a satisfactory drainage solution on site is achievable subject to the final design being agreed as a pre-commencement condition requirement alongside details of an implementation and management of any drainage scheme, including details for surface water management during the construction period. These recommended conditions also cover the comments raised by the Council's Drainage Engineer and are recommended for inclusion in the event of planning permission being granted.

Infrastructure Provision (inc. recreation, leisure, education and health facilities)

Green Space and Play Provision - Policy ITCR5: Green Space and Play Provision, does not require open space provision for sites of this size (less than 25 dwellings) but does expect

new residential developments of more than 10 units to make reasonable financial contributions, either for new green spaces, or to improve green spaces, falling within the following walking distances:

- Equipped Play Areas within 400 metres
- Amenity Green Space within 500 metres
- Recreation Grounds or Semi-Natural Green Space within 800 metres

Blackwell has an under provision of open space – 1.73ha of additional green space is required to meet the minimum standard.

As the proposed development exceeds 10 units but is less than 25 dwellings, a s106 commuted sum contribution has been requested to improve the following areas of green space, all of which fall below the 60% quality standard referred to in the local plan (as advised by the Leisure Officer):

- Equipped Play Area: Gloves Lane Recreation Ground
- Recreation Ground / Semi-Natural Green Space: Gloves Lane (Blackwell Bridleway 31 / Tibshelf Bridleway 4, which provides access for pedestrians, cyclists and horse riders from Blackwell to Doe Hill Country Park / Silverhill Trail / Five Pits Trail).

Using the current policy formula the commuted sum would be £13,728 (16 dwellings x £858 per dwelling)¹.

Built & Outdoor Sports Facilities - Policy ITCR7 requires that if quality improvements are needed to playing pitches, new residential development of more than 10 dwellings will be expected to make financial contributions to the improvement of those playing pitches and/or their ancillary facilities; The Leisure Officer has advised that quality improvements are required to the Gloves Lane Recreation Ground and Westhouses Recreation Ground.

Using the current policy formula the commuted sum would be £16,352 (16 dwellings x £1022 per dwelling)².

Education - Derbyshire County Council as Education Authority has advised that Blackwell Community Primary & Nursery School have sufficient available capacity to accommodate the number of pupils projected to arise out of this development, unlike Tibshelf Community School that is already at capacity, such that a financial contribution of £77,645.70 for 3 secondary places at Tibshelf Community School towards additional education facilities.

Health Facilities - No comments have been received from the North Derbyshire CCG in response to this planning application consultation and no request received for any contribution towards primary / secondary care services arising from the development proposals.

Having regard to the contributions which have been sought to address infrastructure demand / provision arising from the development proposals these are noted to total £107,725.70 and

¹ Please note this figure has been adjusted from the original consultee response from Leisure to reflect the reduction in units from 17 to 16 and the RPI applied to 2019 figures.

² Please note this figure has been adjusted from the original consultee response from Leisure to reflect the reduction in units from 17 to 16.

contribute towards education and open space / play provision. As part of the application process the applicant has raised the issue of viability, advising that the S106 contributions requested would adversely impact upon the viability and deliverability of the development proposals.

Under the provisions of Policy II1 of the Local Plan the applicant agreed to appoint an independent viability consultant to undertake an appraisal of the scheme to explore the potential impacts upon viability, if the full suite of S106 contributions were to be secured. The applicant and the Council agreed to the appointment of CP Viability to undertake this appraisal, which was finalised and reported in January 2021.

The Viability Appraisal (VA) confirms that the scheme is not viable, if the associated S106 contributions are secured against planning permission for the development proposals, and therefore it was necessary to consider whether there are over-riding public benefits to the scheme to recommend that planning permission is granted without full development plan compliance. Without any contributions being secured the developer profit margin is still calculated as low as 4.4% (which is significantly short of the minimum 15% target profit set in Planning Practice Guidance), but the advice contained in the VA recommends that to ensure the best possible chance of the scheme coming forward there is justification to remove all planning policy contributions.

In this regard it is therefore accepted that the development proposals are severely constrained by viability. Noting that the site is currently vacant, there is a risk that if development cannot be facilitated through a positive planning permission it will fall further into disrepair and potentially create anti-social behaviour issues.

It is acknowledged that the site is constrained due to other material planning constraints (protected trees) which naturally impact upon the scale and scope of development density achievable on site. It is considered that the latest site layout submission achieves an appropriate balance in respect of these constraints and therefore it is considered on balance that it is in the public interest to support the development proposals despite the contribution shortfall.

CONCLUSION / PLANNING BALANCE

In conclusion, despite the development proposals not being able to meet S106 contributions required by policy ITCR5, ITCR7 and II1 of the Local Plan (open space / play provision and education) it is considered that it is in the public interest to approve the application proposals. The former nursing home is currently vacant and it is clear from the application submission that the site owner does not intend to re-open the business, therefore the site poses a risk of falling into disrepair and attracting Anti-social behaviour if a new use or redevelopment is not secured.

Clearly there are constraints affecting the site which limit the scale and amount of development which can be accommodated and therefore naturally there is a demonstrable knock on effect on viability. An independent viability appraisal has been undertaken which shows that the development would not be economically viable. It is considered to be appropriate to grant planning permission without open space / play provision and education contribution) on this occasion so that that this development can still be brought forward in line with the local plan.

In all other respects, the application is for the most part considered to be acceptable in planning terms for the reasons set out in the above report and although there are some minor technical issues outstanding, these are very likely resolvable subject to conditions and are unlikely therefore to weigh negatively in the overall balance of considerations, such that a recommendation to grant permission is proposed.

RECOMMENDATION

The current application be APPROVED subject to the following conditions:

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:

1445-11 – Location Plan

1445-04 – 3 Bed Type (Elevations and Floor Plans)

1445-02 Rev P – Site Layout

1445-04 Rev A – Streetscene / Car Ports / Sections

1445-18 - 3 Bed Type – Detached (Elevations and Floor Plans)

Arboricultural Method Statement & Tree Protection Plan (2020-08-02 Project No. 200)

Drainage

3. No development shall take place, other than site clearance works, until a detailed design and associated management and maintenance plan of the surface water drainage for the site have been submitted to and approved in writing by the Local Planning Authority.

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

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

6. 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).

Coal Authority

7. No development shall commence until intrusive site investigations have been carried out on site to establish the exact situation in respect of coal mining legacy features. The findings of the intrusive site investigations shall be submitted to the Local Planning Authority for consideration and approval in writing. The intrusive site investigations shall be carried out in accordance with authoritative UK guidance.

Where the findings of the intrusive site investigations (required by the condition above) identify that coal mining legacy on the site poses a risk to surface stability, no development shall commence until a detailed remediation scheme to protect the development from the effects of such land instability has been submitted to the Local Planning Authority for consideration and approval in writing. Following approval, the remedial works shall be implemented on site in complete accordance with the approved details.

Contamination

8. Unless otherwise agreed by the Local Planning Authority, development other than that required to be carried out as part of an approved scheme of remediation must not commence until conditions A to D have been complied with. If unexpected contamination is found after development has begun, development must be halted on that part of the site affected by the unexpected contamination to the extent specified by the Local Planning Authority in writing until condition D has been complied with in relation to that contamination.

A. Site Characterisation

An investigation and risk assessment, in addition to any assessment provided with the planning application, must be completed in accordance with a scheme to assess the nature and extent of any contamination on the site, whether or not it originates on the site. The contents of the scheme are subject to the approval in writing of the Local Planning Authority. The investigation and risk assessment must be undertaken by competent persons and a written report of the findings must be produced. The written report is subject to the approval in writing of the Local Planning Authority. The report of the findings must include:

- (i) a survey of the extent, scale and nature of contamination;
- (ii) 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,
 - groundwaters and surface waters,
 - ecological systems,
 - archaeological sites and ancient monuments;
- (iii) an appraisal of remedial options, and proposal of the preferred option(s).

This must be conducted in accordance with DEFRA and the Environment Agency's *'Model Procedures for the Management of Land Contamination, CLR 11'*.

B. Submission of Remediation Scheme

A detailed remediation scheme to bring the site to a condition suitable for the intended use by removing unacceptable risks to human health, buildings and other property and the natural and historical environment must be prepared, and is subject to the approval in writing of the Local Planning Authority. The scheme must include all works to be undertaken, proposed remediation objectives and remediation criteria, timetable of works and site management procedures. The scheme must ensure that the site will not qualify as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land after remediation.

C. Implementation of Approved Remediation Scheme

The approved remediation scheme must be carried out in accordance with its terms prior to the commencement of development other than that required to carry out remediation, unless otherwise agreed in writing by the Local Planning Authority. The Local Planning Authority must be given two weeks written notification of commencement of the remediation scheme works.

Following completion of measures identified in the approved remediation scheme, a verification report (referred to in PPS23 as a validation report) that demonstrates the effectiveness of the remediation carried out must be produced, and is subject to the approval in writing of the Local Planning Authority.

D. Reporting of Unexpected Contamination

In the event that contamination is found at any time when carrying out the approved development that was not previously identified it must be reported in writing immediately to the Local Planning Authority. An investigation and risk assessment must be undertaken in accordance with the requirements of condition A, and where remediation is necessary a remediation scheme must be prepared in accordance with the requirements of condition B, which is subject to the approval in writing of the Local Planning Authority.

Following completion of measures identified in the approved remediation scheme a verification report must be prepared, which is subject to the approval in writing of the Local Planning Authority in accordance with condition C.

E. Importation of soil

In the event that it is proposed to import soil onto site in connection with the development, the proposed soil shall be sampled at source and analysed in a laboratory that is accredited under the MCERTS Chemical testing of Soil Scheme for all parameters requested (where this is available), the results of which shall be submitted to the LPA for consideration. Only the soil approved in writing by the LPA shall be used on site.

This memorandum in no way indicates that this site is currently considered to be contaminated, merely that the potential for contamination exists on this site. We do not currently have any entries on our register of contaminated land as we are presently at the stage of inspecting the District and identifying potentially contaminated sites. If any of these sites warrants regulatory action, an entry will be made on the public register.

As the whole of Bolsover district is considered to be a radon affected area we would advise the applicant obtains a Radon Risk report for the site. A report may be obtained from Public Health England <http://www.ukradon.org/>

Ecology

9. No removal of vegetation or work to buildings will take place between 1st February and 31st September inclusive, unless a recent survey has been undertaken by a competent ecologist to assess the nesting bird activity on site during this period, and details of measures to protect the nesting bird interest on the site, have first been submitted to and approved in writing by the local planning authority and then implemented as approved.

10. No development shall take place (including demolition, ground works, vegetation clearance) until a construction environmental management plan (CEMP: Biodiversity) has been submitted to and approved in writing by the local planning authority. The CEMP (Biodiversity) shall include the following:

- a) Risk assessment of potentially damaging construction activities.
- b) Identification and demarcation of "biodiversity protection zones" (to include hedgerows and trees).
- c) Practical measures (both physical measures and sensitive working practices) to avoid or reduce impacts during construction (may be provided as a set of method statements and should include a badger working method statement).
- d) The location and timing of sensitive works to avoid harm to biodiversity features.
- e) The times during construction when specialist ecologists need to be present on site to oversee works.
- f) Responsible persons and lines of communication.
- g) The role and responsibilities on site of an ecological clerk of works (ECoW) or similarly competent person (as necessary).
- h) Use of protective fences, exclusion barriers and warning signs.

11. A landscape and biodiversity enhancement and management plan (LBEMP) must be submitted to, and be approved in writing by, the Local Planning Authority prior to the commencement of the development. The LBEMP must combine both the ecology and landscape disciplines and ensure that there is no net loss of biodiversity and ideally providing a measurable net gain. It should include the following:-

- a) Description and location of habitat and species features to be created, planted, enhanced and managed including type and locations of bird boxes (c.25 integrated swift boxes), integrated measures for swallow, Barn Owl mitigation (based on section 4 of the Barn Owl Report prepared by TEP July 2020), hedgehog access gaps in gardens and details of habitat creation.
- b) Aims and objectives of management for species and habitat.
- c) Appropriate management methods and practices to achieve aims and objectives.

- d) Prescriptions for management actions.
- e) Preparation of a work schedule (including an annual work plan capable of being rolled forward over a ten-year period).
- f) Details of the body or organization responsible for implementation of the plan.
- g) Ongoing monitoring visits, targets and remedial measures when conservation aims and objectives of the plan are not being met.

The LBEMP will also include details of the legal and funding mechanism(s) by which the long-term (25 years) 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.

12. Prior to the occupation of any dwelling, a bat friendly lighting scheme for the access road / driveway shall have been submitted to and approved in writing by the Local Planning Authority; that scheme shall include details of implementation timescales and the approved scheme shall be implemented as approved.

Highways

13. Before any other operations are commenced the site access shall be modified, laid out and constructed in accordance with a detailed design first submitted to, and approved in writing by the Local Planning Authority. The access shall include proposed passing places as detailed in the application submission, be constructed to base level and be provided with visibility sightlines of 2.4m x 43m in both directions. Prior to the first occupation of any dwelling on site, the permanent new access shall be laid out as approved and the land in advance of the visibility sightlines shall be retained throughout the life of the development free of any object greater than 1m in height relative to the adjoining nearside carriageway channel level.

14. At the commencement of operations on site, space shall be provided within the site curtilage for storage of plant and materials, site accommodation, loading and unloading of goods vehicles, parking and manoeuvring of site operatives and visitors vehicles, laid out and constructed in accordance with detailed designs to be submitted in advance to the Local Planning Authority for written approval and maintained throughout the contract period in accordance with the approved designs free from any impediment to its designated use.

15. No development consisting of highway construction shall take place until either confirmation has been provided that a Section 38 adoption agreement with the Highway Authority will be completed; or details of the construction and future maintenance of the residential access driveway(s) and footway(s) (including layout, levels, gradients, construction, surfacing, means of surface water drainage and street lighting) have been submitted to and approved in writing by the Local Planning Authority. Any such details approved shall be implemented before the first occupation of any dwelling on site and the driveway shall thereafter be maintained in accordance with the approved details.

16. No dwelling shall be occupied until space has been provided within the site curtilage/ plot for the parking of residents and visitors vehicles associated with that dwelling, all to be laid out and constructed in accordance with the approved drawings. The facilities shall be retained throughout the life of the development free from any impediment to their designated use, for the parking of motor vehicles at all times.

17. No dwelling shall be occupied until further details for the arrangements of waste collection from the new dwellings have been submitted to and approved in writing by the Local Planning Authority. Details required shall demonstrate that a Refuse Collection Vehicle with a GVW of 32 tonnes is capable of accessing and turning within the site; or alternatively the design of a presentation / collection point positioned at the site entrance. Details shall be implemented as approved prior to occupation of any dwelling and shall be retained throughout the life of the development free from any impediment to their designated use.

Trees

18. No development shall commence until the Arboricultural Method Statement and Tree Protection Plan (Crawshaw Arborcare Ltd, August 2020) have been revised to reflect drawing no. 1445-02 Site Layout Rev P and submitted to the Local Planning Authority for written approval. Thereafter development shall only be implemented in accordance with the measures set out in the approved Arboricultural Method Statement and Tree Protection Plan.

Materials

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

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.