

**PARISH** Old Bolsover Parish

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**APPLICATION** Demolition of existing industrial buildings and proposal for 32 dwellings (residential development) at the former Mill Lane depot site (Revised proposals omit stopping up works to Mill Lane but retains land for the works as a possible future option; also new footpath connection added to Mill Lane Oxcroft Lane junction).

**LOCATION** Former Direct Services Depot Unit 2 Mill Lane Bolsover S44 6NP

**APPLICANT** Mr Ian Powell

**APPLICATION NO.** 21/00306/FUL **FILE NO.** PP-09730654

**CASE OFFICER** Mr Steve Phillipson

**DATE RECEIVED** 20th May 2021

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### **SUMMARY**

This is an application for full planning permission for 32 dwellings, comprised of two and single storey dwellings including 3 affordable houses on the old Council depot site at Mill Lane Bolsover. The application is recommended for approval because it complies with local plan and national planning policies and there are no adverse effects on its surroundings that are so harmful as to justify a refusal of planning permission.

The key issues to consider for this application are:

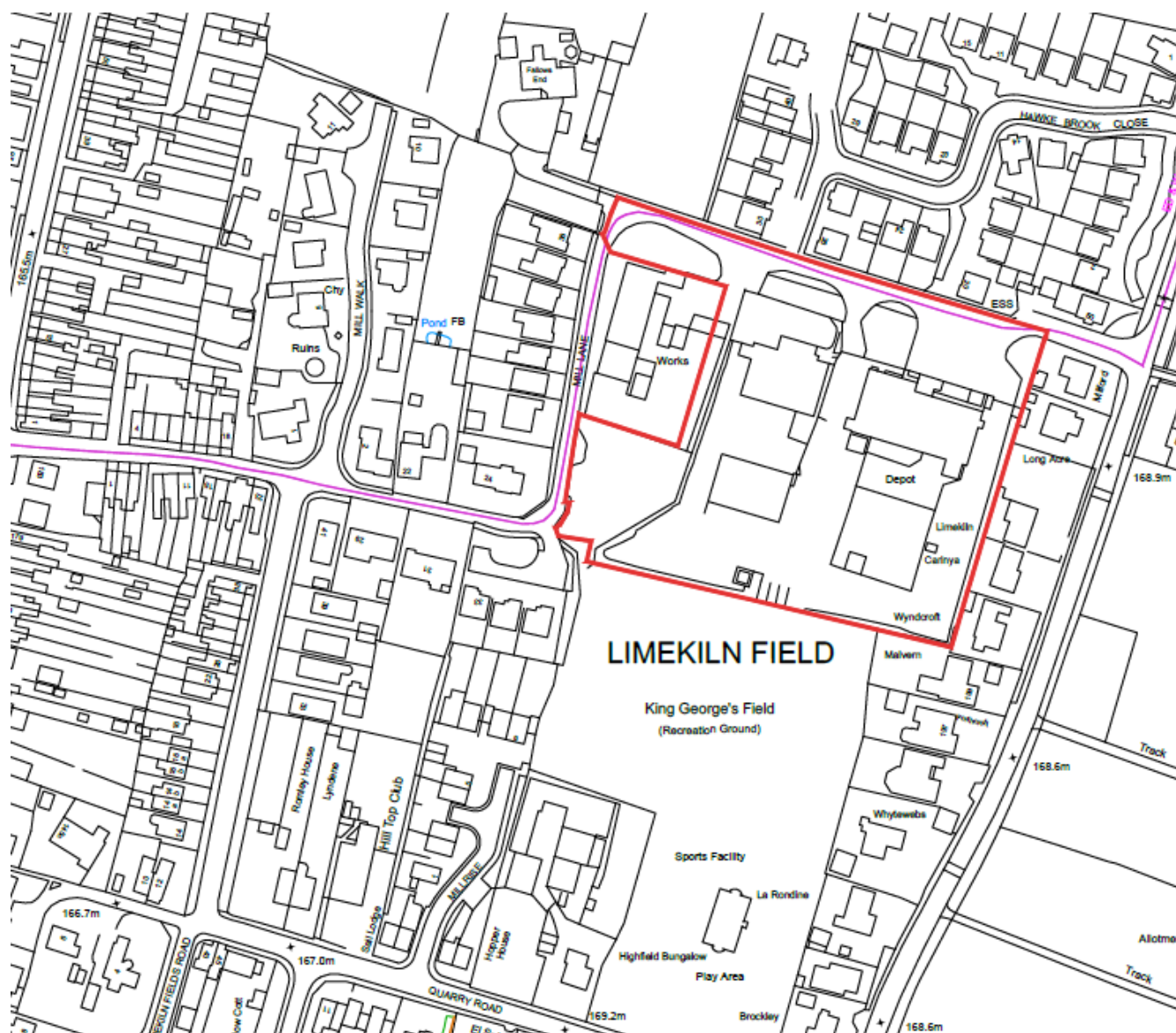
- the principle of the development;
- whether the development would have unacceptable impacts on the local highway system including Mill Lane;
- the quality of design, street scene and visual impact of the proposed development;
- amenity impacts;
- whether compatible with the adjacent land use at RRD and;
- impacts on local infra-structure.

Also surface water drainage issues are not yet fully resolved but an update on this will be provided before the meeting.

The application has been called in to planning committee by Councillor Nick Clarke and there are 14 public objections to the proposal. Concerns are centred on the substandard nature of Mill Lane and fears that the proposal will increase traffic without mitigating the effects. However accounting for the established industrial/depot use which could restart if permission is not granted for residential, the amount of increased traffic predicted is very low (1 vehicle every 30 minutes at peak times) and does not justify refusal. Some betterment to the existing highway system will be delivered in the form of a footpath link from Mill Lane to Oxcroft Lane and the opportunity to stop up Mill Lane in the future (should it prove to be appropriate) is being safeguarded for a period of 20 years by S106 agreement. There are no other highway safety reasons to withhold planning permission and the County Highway Authority does not object.

The proposal is policy compliant in other respects and so is recommended for approval.

## Site Location Plan



### **SITE & SURROUNDINGS**

The site of the former Council Direct Services Depot (including depot for refuse vehicles) amounting to approximately 1.4ha in area of brownfield land. The three buildings on site are utilitarian in appearance and finished in brick and corrugate cladding and roofing including asbestos. The site is otherwise mainly hard surfaced with parking areas to front and rear although there is some landscaping to Mill Lane frontage.

The site is accessed from Mill Lane which lacks a footpath connection to Oxcroft Lane. Further along its length to the west and south of the site, Mill Lane has sharp bends, is narrow and it relies on on-street parking for terraced properties in places and lacks a continuous footpath.

There is one adjacent commercial property to the northwest corner of the site (RRD) which is a warehouse and distribution use for a vehicle parts/accessories. Operating hours are not

restricted. Otherwise to the north and west sides of the site is 2 storey residential development and to the east side is 1 and 2 storey residential development. To the south side is an equipped recreation ground.

Definitive footpath 28 runs immediately adjacent to the west side of the site and then joins to Mill Lane to the west as well as the recreation ground to the south (See dotted line on the plan below).



## PROPOSAL

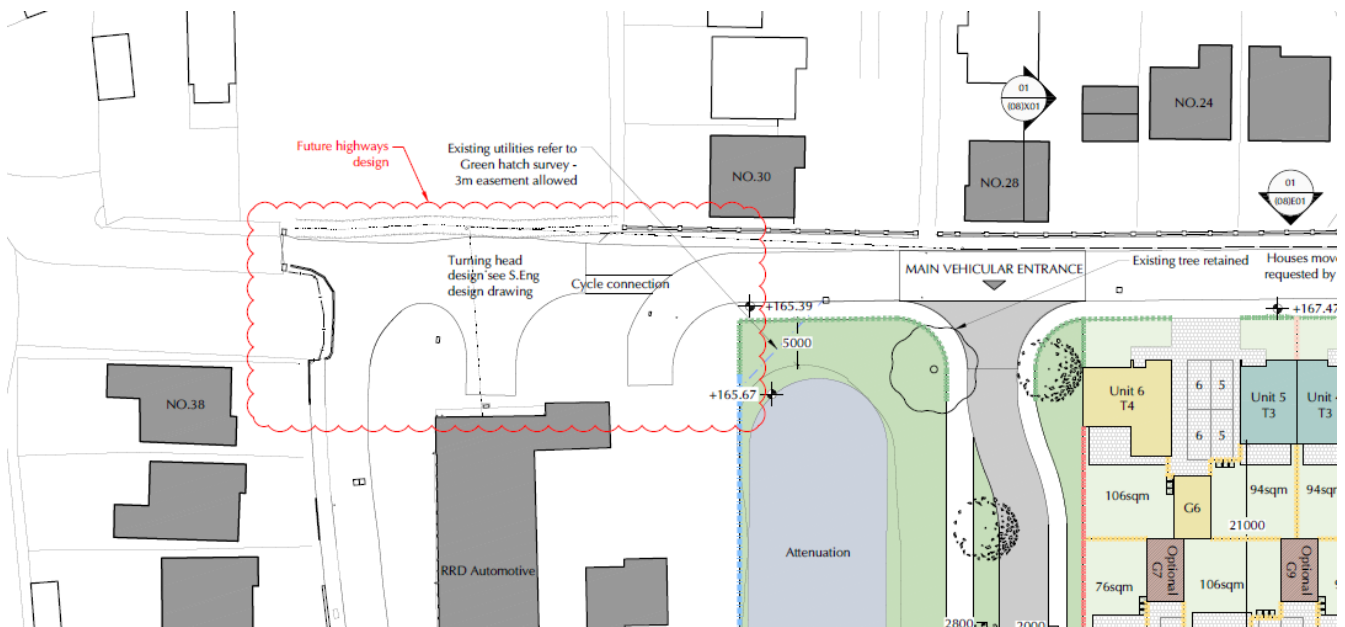
Demolition of the old depot buildings, removal of the hard surfaces and restoration of the site to enable a development consisting of the erection of 32 dwellings accessed from Mill Lane. 23 would be 2 storey and 9 single storey where adjacent to the lower scale properties on Oxcroft Lane. The proposed market housing will consist of 9 two bed, 17 three bed and 3 four bed dwellings. The affordable housing would consist of 3 two bed dwellings (affordable rent).

The layout shows the diversion of public footpath 28 to a more open, tree lined route through the site to immerge on the recreation ground to the south.

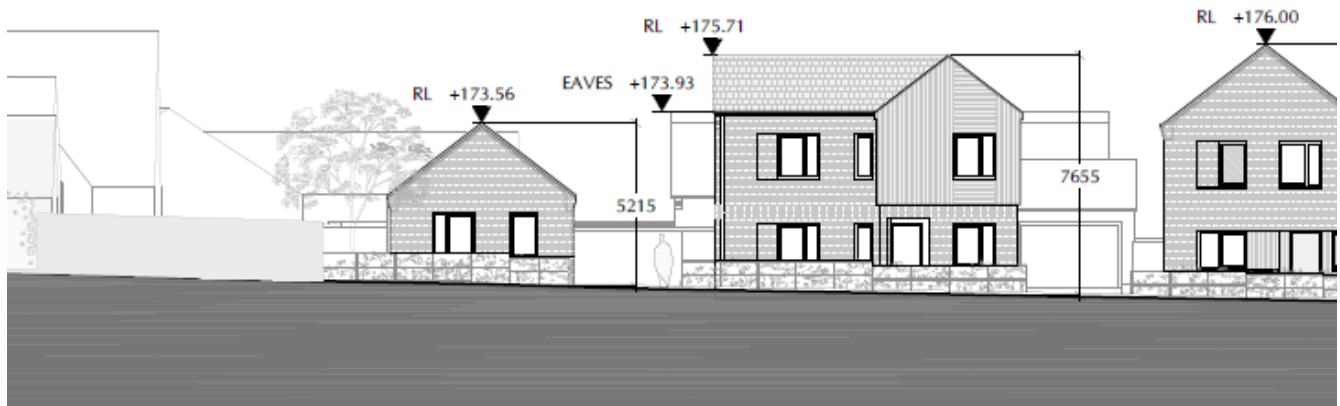
A surface water attenuation pond is proposed in the northwest corner of the site.

The proposal includes the provision of a section of new footpath along the south side of Mill Lane from its junction with Oxcroft Lane to link to the footpath at the front of the site. Due to the need to maintain a minimum road width of 5.5m the width of the new footpath link would be limited to about 1.4m at the pinch point.

The revised version of the proposed layout no longer includes the provision of a turning head on Mill Lane and the stopping up of Mill Lane to traffic. However the design for the potential turning head has been provisionally agreed by the Highway Authority and the Applicant has agreed to set the land needed for these works aside for 20 years so that this development would not prevent the stopping up of Mill Lane at some future time (See later in this report for further consideration of this issue).



House types proposed are relatively contemporary. A few examples of these are shown in the images below.



The Applicant has agreed to the following S106 obligations to address the additional infrastructure pressures that would result from the development:-

- Mill Lane turning head land shown outlined in red on plan 2747(08) G02 Rev A to be set aside for 20 years.  
(note: Footpath link from Oxcroft Lane to be required by planning condition).
- Provision of 3 two bed affordable houses for rent agreed in line with policy LC2 requiring 10% on site.
- £27,840 for Open Space: Improvements to recreation ground at King George's Field, Quarry Road.
- £33,920 Quality Improvements to Playing Pitches: Invested in improving playing pitches and their ancillary facilities at Moor Lane and or Castle Leisure Park.
- £51,217.47 towards the provision of 3 infant places at Bolsover Infant and Nursery School + additional education facilities.
- £85,362.45 towards the provision of 5 junior places at Bolsover C of E Junior School + additional education facilities.
- £154,350.24 towards the provision of 6 Secondary places at The Bolsover School + additional education facilities.
- £15,360 towards increasing capacity at one or more of the following GP practices: Welbeck Road Health Centre; Castle Street Medical Centre; The Friendly Family Surgery).
- S106 Agreement monitoring £70 per trigger.

Viability summary provided indicating that stopping up works to Mill Lane would cost approximately £108,000 and this would reduce profit (on Gross Development Value) down from 15% to 13.5% and that 15% is the lowest level the Applicant is willing to go to in order to progress with a project.

## **AMENDMENTS**

Revisions to improve urban design agreed.

Affordable housing offer amended from affordable home ownership to affordable housing for rent in line with policy LC2.

Works to stop up Mill Lane omitted but land set aside for future works if deemed appropriate.

Provision of footpath link to Oxcroft Lane added.

## **EIA SCREENING OPINION**

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

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**

None relevant on site.

## **CONSULTATIONS**

### BDC Urban Design Officer

As amended there are no objections subject to conditions regarding:-

Materials; landscaping; boundary details; retention of front boundary treatments and agreed boundary treatments alongside Lime Kiln Fields; removal of permitted development rights for erection of new front boundary treatments or boundary treatments alongside Lime Kiln Fields.

### BDC Environmental Health Officer

Contamination

19/08/2021 No objections regarding contamination subject to a condition regarding the implementation of mitigation works.

Noise.

Outstanding concern re noise from RRD loading area. Condition recommended re scheme for uprated ventilation for facing dwellings only.

### BDC Drainage Engineer

No objections subject to conditions/notes re: SuDS maintenance, compliance with Part H Building Regs; reduced risk of flooding during construction.

### BDC Streetscene

Consulted and reminder sent – No response to date.

#### BDC Leisure Officer

Seeks S106 contributions for leisure to account for the additional pressures on local facilities comprised of:-

- £27,840 for Open Space: Improvements to recreation ground at King George's Field, Quarry Road.
- £33,920 Quality Improvements to Playing Pitches: Invested in improving playing pitches and their ancillary facilities at Moor Lane and or Castle Leisure Park.

The Leisure Officer also comments on the lack of proposed public open space provision on site. He also suggests that it would be desirable to extend the diverted public footpath to the south of the site by constructing a new surfaced path across King George's Field to Quarry Road to a point opposite Stratton Road.

#### BDC Housing Strategy Officer

The affordable housing provision, 3 two bed units, is in line with the 10% policy requirement, however they have put forward that these units will be for affordable home ownership but usually we would ask for these units to be for affordable rent. *Now revised in line with policy as requested.*

#### Bolsover Ramblers Association

We note that this proposal will impact on the route of Bolsover footpath 28 and a short section of Bolsover footpath 29. No objections providing the changes to the footpath referred to above are dealt with in a formal manner.

#### BDC Economic Development

Request the inclusion of a planning condition to secure opportunities for skills, training and employment in the District.

#### DCC Highway Authority

No objections subject to conditions (appropriate conditions in recommendation section below).

It is noted that the proposed stopping up of Mill Lane has been removed from the scheme although land is to be retained / be available for this to be undertaken at a later date if deemed appropriate. The proposal will, however, provide for improvements to the junction of Mill Lane with Oxcroft Lane and provision of some pedestrian facility.

It is not considered that the scale of this development would cause demonstrable harm to the existing highway network whereby a recommendation of refusal would be sustainable.

A footpath diversion order will be required.

#### DCC Flood Risk Team

Awaiting information from the Applicant on SuDS basin location/design.

#### DCC Education

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. The County Council therefore requests financial contributions as follows:-

- £51,217.47 towards the provision of 3 infant places at Bolsover Infant and Nursery School + additional education facilities.
- £85,362.45 towards the provision of 5 junior places at Bolsover C Of E Junior School + additional education facilities.
- £154,350.24 towards the provision of 6 Secondary places at The Bolsover School + additional education facilities.

#### Designing Out Crime - Police

Whilst generally supportive of the scheme and the footpath diversion, the police raised a few minor issues regarding the guardianship of adjacent open land, roads and footpath links, including the likely extent of road adoption and street lighting provision in front of plots 24-26.

#### Derbyshire Wildlife Trust

No objections subject to conditions.

We have reviewed the Preliminary Ecological Appraisal. Sufficient information has been provided to enable the application to be determined. Conditions are requested re: nesting birds; precautionary check for bats; submission of a Biodiversity Enhancement Plan.

#### NHS -CCG

The NHS Derby and Derbyshire Primary Care Estates Strategy has identified this area of Bolsover as a high priority, with anticipated short term growth over the next 5 years creating capacity issues for the local practice facilities which collectively are fully utilised.

A S106 obligation of £15,360 is sought towards increasing capacity at one or more of the following GP practices:-

Welbeck Road Health Centre; Castle Street Medical Centre; The Friendly Family Surgery).

Chesterfield Hospital also requested the impacts on the Hospital be considered.

#### Old Bolsover Town Council

Members raised concerns over road safety and pedestrian safety on Mill Lane where no there are no pavements on part of the road.

#### Severn Trent Water

No response

#### **PUBLICITY**

Advertised in the press, site notice posted, 29 neighbouring properties consulted.

#### **Initial Consultation**

12 representations were received to the initial consultation. 3 of these raised no objections in principle provided that Mill Lane was stopped up to traffic as originally proposed. In addition the following concerns and objections were raised:-

#### Highway Safety

By far the most common concerns raised in representations related to the substandard condition of Mill Lane and highway safety. Stating that Mill Lane:-

Is narrow/single width; lacks passing places; has sharp bends; poor visibility round the bends; lacks a footpath in places; increased risks to pedestrians; incidents of vehicles scraping past and hitting the walls of houses fronting on to it; it has on street parking problems; increasingly



used as rat run with the new developments worsening the problem; suggests Mill Lane be stopped off or made one way; needs some form of traffic calming; large articulated lorries access Mill Lane despite the 7.7 tonne weight limit sign. Requests that the proposed stopping up of Mill Lane and turning heads are required prior to commencement of development.

More general highway safety concerns:-

Increased traffic on an unsuitable road infrastructure and impacts on highway safety;  
Other new developments nearby also contribute to incremental increased traffic without parallel investment in road infrastructure;

Construction Traffic;

Speeding on Shuttlewood Road;

Increased traffic on single width Oxcroft Lane North;

Suggests Oxcroft Lane North and other roads be access only;

Increased traffic on the one way system Oxcroft Lane South;

Increased traffic air pollution;

Further development in the area should not be allowed until a proper modern road to Hill Top is provided;

Ways to reduce car usage and encourage walking and cycling should be considered;

Concern that an access for large vehicles to RRD and another property needs to be maintained.

Other Concerns

Not an allocated housing site in the local plan, no need for more housing.

Only 3 affordable houses will be provided.

Should be used to plant a small wood instead to reduce carbon.

Loss of employment Land.

Objects to the 3 new dwellings proposed on Mill Lane to the south of RRD.

Noise from construction.

Concern over safety re disturbance and removal process of the old asbestos on site.

Concern over possible piled foundations and disturbance.

Concern over disturbance of former landfill.

Requests single storey next to Oxcroft Lane bungalows.

The tree screen to Oxcroft Lane boundary should be retained.

Any trees removed should be replaced twice over.

**Re-consultation (following revised proposals to omit stopping up works to Mill Lane but retain land for the works as a possible future option; also new footpath connection added to Mill Lane/Oxcroft Lane junction).**

A Further 7 representations were received (5 from people who had commented initially making a **total of 14 representations from different people**):-

All of the second set of respondents objected to the omission of the stopping up proposals for Mill Lane that were initially proposed. Four of the residents stated that they did not initially have any objections to the planned housing provided that concerns regarding Mill Lane were taken seriously and mitigated.

Also concern raised that the footpath crossing of Mill Lane from the Jones Homes site is straight across from the proposed access junction to the development.

### Representations were received from individual Councillors

Anne Clarke

Nick Clarke

Joan Dixon (DCC)

Mick Yates (DCC)

The representations made supported residents' concerns as listed above, in particular the need to mitigate traffic impacts on Mill Lane.

### **POLICY**

#### Local Plan for Bolsover District 2020 ("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
- LC2 Affordable Housing
- LC3 Type and Mix of Housing
- SC1: Development within the Development Envelope
- SC2 Sustainable Design and Construction
- SC3 High Quality Development
- SC7 Flood Risk
- SC9 Biodiversity and Geodiversity
- SC10 Trees, Woodland and Hedgerows
- SC11 Environmental Quality (Amenity)
- SC13 Water Quality
- SC14 Contaminated and Unstable Land
- ITCR3 Protection of Footpaths and Bridleways
- ITCR5 Green Space and Play Provision
- ITCR7 Playing Pitches
- ITCR9 Local Transport Improvement Schemes (a) Development of cycle network
- ITCR10 Supporting Sustainable Transport Patterns
- ITCR11 Parking Provision
- II1 Plan Delivery and the Role of Developer Contributions
- II2 Employment and Skills

#### National Planning Policy Framework ("the Framework")

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

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

- Paragraphs 110- 113: Considering proposals – traffic impacts
- Paragraph 119, 120, 122 and 123: Making effective use of land
- Paragraph 124 and 125: Achieving appropriate densities
- Paragraphs 126-132 and 134: Achieving well-designed places
- Paragraph 152, 154 and 157: Meeting the challenge of climate change
- Paragraph 159 167 and 169: Planning and Flood Risk
- Paragraphs 174, 180 and 182: Conserving and enhancing the natural environment
- Paragraphs 183-188: Ground conditions and pollution

### Supplementary Planning Documents

Supplementary Planning Document Successful Places: A Guide to Sustainable Housing Layout and Design (2013).

## **ASSESSMENT**

### **Key issues**

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

- the principle of the development;
- whether the development would be provided with a safe and suitable access and the traffic impacts on the local highway system including Mill Lane;
- the quality of design, street scene and visual impact of the proposed development;
- amenity impacts;
- whether compatible with the adjacent land use at RRD and;
- impacts on local infra-structure.

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

### **Principle**

Although this site is not specifically allocated for residential development in the local plan, it is within the development envelope (or settlement framework) where policy SC1 will allow development provided that the criteria of that policy are met, i.e. the proposed development:-

- a) *“is appropriate in scale, design and location to the character and function of the area.”*  
Scale and design are considered in more detail below but subject to being deemed acceptable (as recommended) the location and function of the area is primarily residential and so the proposal is able to accord with this criterion.
- b) *“does not result in the loss of a settlements last remaining community building...”*  
Not applicable.
- c) *“is compatible with and does not prejudice the use of adjacent sites”*  
The location of RRD adjacent and issues of potential noise and disturbance are considered in more detail below, but it is recommended that the two land uses are compatible subject to a planning condition. Hence the development is considered able to meet this criterion.
- d) *“accords with the other policies on the plan...”*  
Considered below in this report.
- e) *“would not have an unacceptable environmental impact”*  
Considered below in this report.

Therefore subject to further consideration of the impacts the proposal is considered able to

meet the criteria of policy SC1 and so is acceptable in principle.

Development within the existing settlements is more sustainable due to the proximity of services and facilities and schools etc. Policy SS3 (Spatial Strategy and Distribution of Development) says that to achieve sustainable development the local plan directs development and service provision in accordance with a five tier hierarchy. Bolsover town is a first tier choice to achieve sustainable development.

Furthermore, this is a brownfield site which has fallen into disuse. The buildings are not attractive and detract from the character of the area. They contain quite a lot of asbestos and the site is beginning to be subject to vandalism. Policy SS1(b) (Sustainable Development) and the Framework encourage the re-use of previously developed land. Therefore it is considered that the redevelopment of this site for an appropriate alternative use and the delivery of additional housing is a benefit weighing in favour of approval.

## **Highway Safety and Traffic Impacts**

### Mill Lane and Local Highways

By far the most frequently raised concern set out in representations and by local councillors are issues relating to the use of Mill Lane and concerns over increased use of it by traffic. This is also the reason why the application has been called in to be determined by Planning Committee.

There are a number of issues with Mill Lane along its length between the Oxcroft Lane junction to the east and the Shuttlewood Road/Hill Top junction to the west. There are sections with no footpath, it is single width in places and narrow with on-street parking and tight bends lacking forwards visibility. It is certainly not a road that would meet modern standards in this location.

If the proposed development materially increases traffic on this substandard road to a point where there would be an unacceptable impact on highway safety that is not outweighed by the benefits then permission should be refused.

Framework para 111. *“Development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.”*

In this case the developer has submitted a Transport Assessment (TA) with the application. Having regard to the authorised existing commercial/depot use of the site and the traffic that can be generated by that use, the conclusions of the TA are that the net change of traffic movements would be an increase of 2 two-way movements during the peak period of 1 vehicle every 30 minutes. The TA concludes that the proposed development would not trigger a severe impact in accordance with local and national policy and guidance, and that the additional traffic generated by the site would not materially impact upon how the surrounding highway network is currently operating.

The County Highway Authority has been consulted on the TA and they have confirmed its findings. DCC say that there is no evidence to suggest that the development would have a significant adverse effect on the capacity or safety of the local road network especially

considering the previous industrial use. DCC also say that some HGV traffic would be removed from what is now a predominately residential area.

With evidence to show that the proposal would not materially impact on the local roads, it is not then possible to require Mill Lane to be stopped up to traffic, because it is not “necessary” in planning terms, to deal with the impacts of this proposal to make the development acceptable.

The idea of exploring the merits of stopping up Mill Lane to traffic was promoted by Bolsover DC planning officers. Hence it was originally included as part of the planning application. However the County Highway Authority has advised as follows:-

*“Whilst the principle of restricting through traffic on Mill Lane may be feasible, this is likely to require a traffic regulation Order to achieve – this will need to be the subject of further consultations with the public and other bodies, the outcome of which cannot be pre-empted or guaranteed at this stage. In addition, it would also seem that little consideration has been given to the consequences of restricting through traffic on Mill Lane or where any network trips may be diverted to – it is entirely feasible for vehicles to arrive at the Mill Lane / Shuttlewood Road junction via Quarry Road, Limekiln Fields Road and Mill Lane – this would increase traffic levels on adjacent streets (including Quarry Road where an existing play area is located). The impact on surrounding streets, where vehicles circumnavigate the severance of Mill Lane to through traffic, also needs to be considered and whether any mitigation is required along these routes.” DCC 13/08/2021.*

In other words there is a separate legal process required to stop up a road and the outcome of that process is unknown and we don't really know yet whether stopping up Mill Lane is actually a good idea until more studies are undertaken and the Highway Authority can reach an informed view. Would it just move the problem elsewhere on the local road network?

However, Bolsover DC at Local Planning Authority needs determine the planning application which is before it now. So with regards to stopping up of Mill Lane:-

- i. it is not “necessary” to stop up Mill Lane to deal with the traffic impacts of this application; and
- ii. stopping up relies on a separate legal process outside BDC's control so it would not be possible to enforce a condition requiring it; and
- iii. further transport study work is required to assess the pro's and con's of doing so.

Therefore it is concluded that it would be unnecessary, unenforceable and unreasonable to require stopping up works as part of the current planning application.

However the Applicant has agreed to include a S106 planning obligation to set the land aside needed to undertake the works for a period of 20 years, such that the turning heads and stopping works could be undertaken at some future time if deemed to be appropriate. The obligation would not include funding.

This is considered to be a reasonable and proportionate requirement, otherwise this development could prejudice the option to stop up Mill Lane to traffic in the future if it is deemed to be needed. Furthermore some S106 funding for Mill Lane works is being held by DCC resulting from the Jones Homes development. This increases the feasibility of this

option being implemented in the future as the pressures on the local roads from the various new developments becomes more evident.

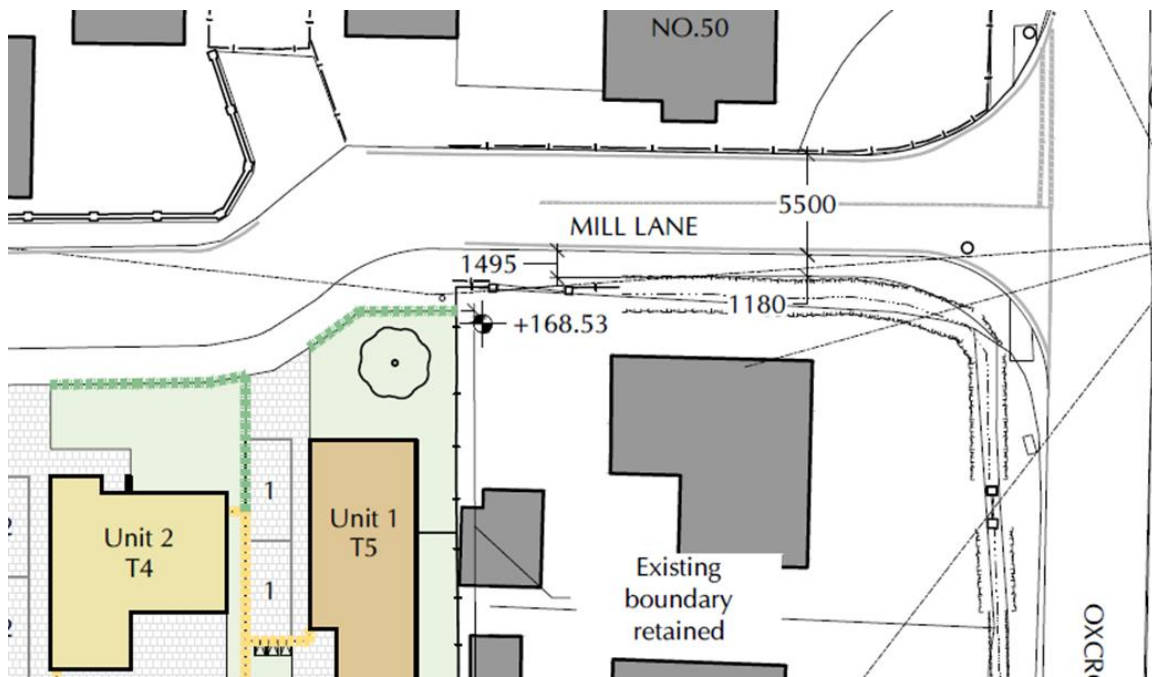
### The New Estate Road and Junction

The County Highway Authority has no objections to the designs proposed for the new estate road and junction subject to conditions as recommended below. Therefore the designs are considered to be acceptable and would not result in harmful effects on highway safety. The highway conditions recommended are considered to be necessary with the exception of a condition preventing gates or other barriers on the individual driveways. It is considered that the decision to erect gates to a private drive is a matter that should be left to individual home owners. This is allowed under national permitted development rights and there is no special reason to remove such rights in this case.

### Footpath Connections

With regard to the initial proposals, the County Highway Authority advised that the application site did not have adequate, surfaced pedestrian connections to Bolsover town centre. This is because there is no footway on Mill Lane to the east side of the site. This was a significant problem because the development would have materially increased the number of pedestrians on a section of road with no footway at the junction with Oxcroft Lane where visibility of pedestrians in the road would be restricted.

However the amended proposal now includes the provision of a footpath link on the south side of Mill Lane as shown below. In order to keep the road surface to a standard 5.5m width the footpath can only be 1.49m wide (instead of 2m as is normally required) but this is the best that can be achieved and is considered to deal adequately with the issue. The Highway Authority is satisfied with the revised proposal. A condition is required to ensure the footpath link is provided before any of the dwellings are occupied.



The Highway Authority and Leisure Officer would have also welcomed a surfaced footpath connection to the south across the recreation ground to Quarry Road. However this has not

been agreed due to the additional costs and the limited viability of the scheme which has been shown to be marginal. However there will be a surface footpath to Oxcroft Lane (see above) and there is a grass surface definitive footpath link to the south across the recreation ground. Therefore it is considered that the site will have adequate footpath connections to enable walking as a sustainable alternative means of travel to access the services and facilities within Bolsover.

A footpath diversion order will be required to re-route footpath 28 through the site. This is a separate legal process but the footpath diversion proposed is considered to be desirable given the nature of the current route passing between industrial buildings and next to palisade fencing. It is not currently well used, overgrown and unappealing. A tree lined route through the site as proposed is considered to be a more attractive and safer alternative route.

### Cycling

Policy ITCR9 of the Local Plan aims to develop a Bolsover Town cycle network with routes sought on Mill Lane, Oxcroft Lane and Quarry Road. It is considered that the proposal will not affect the delivery a cycle network and it demonstrates that the local roads are considered to be suitable for cycle use as a sustainable alternative to the car.

### Travel Plan

A Travel Plan has been prepared to encourage sustainable travel alternatives to the private car. A condition is recommended to encourage the review and implementation of its recommendations.

### Conclusions on Highway Safety and Traffic Impacts

It is recognised that public concerns and those of local councillors are centred on the substandard nature of Mill Lane and fears that the proposal will increase traffic without mitigating the effects. However accounting for the established industrial/depot use which could restart if permission is not granted for residential, the amount of increased traffic predicted is very low (1 vehicle every 30 minutes at peak times) and not material to this planning decision. Some betterment to the existing highway system will be delivered in the form of a footpath link from Mill Lane to Oxcroft Lane and the opportunity to stop up Mill Lane in the future (should it prove to be appropriate) is being safeguarded for a period of 20 years by S106 agreement. The design of the estate road and junction proposed is acceptable and there are no other highway safety reasons to withhold planning permission.

### **Design, Streetscene and Visual Impact**

The proposed development is largely two storey but responds well to the existing lower scale development on the Oxcroft Lane boundary by the provision of single storey bungalows along the whole eastern side of the site.

Policy SC3 of the local plan will permit developments provided that they:-

- a) Create good quality places that will integrate into its setting
- b) Respond positively to context and contribute to local identity in terms of height, scale, massing, density, layout and materials
- c) Protect important views
- e) Provide a positive sense of place through well designed streets appropriate to their context.
- f) Reduce crime

- h) Provide access for people with mobility difficulties
- j) Address opportunities for biodiversity
- n) Ensure a good standard of amenity in terms of privacy, light avoiding overbearing etc.

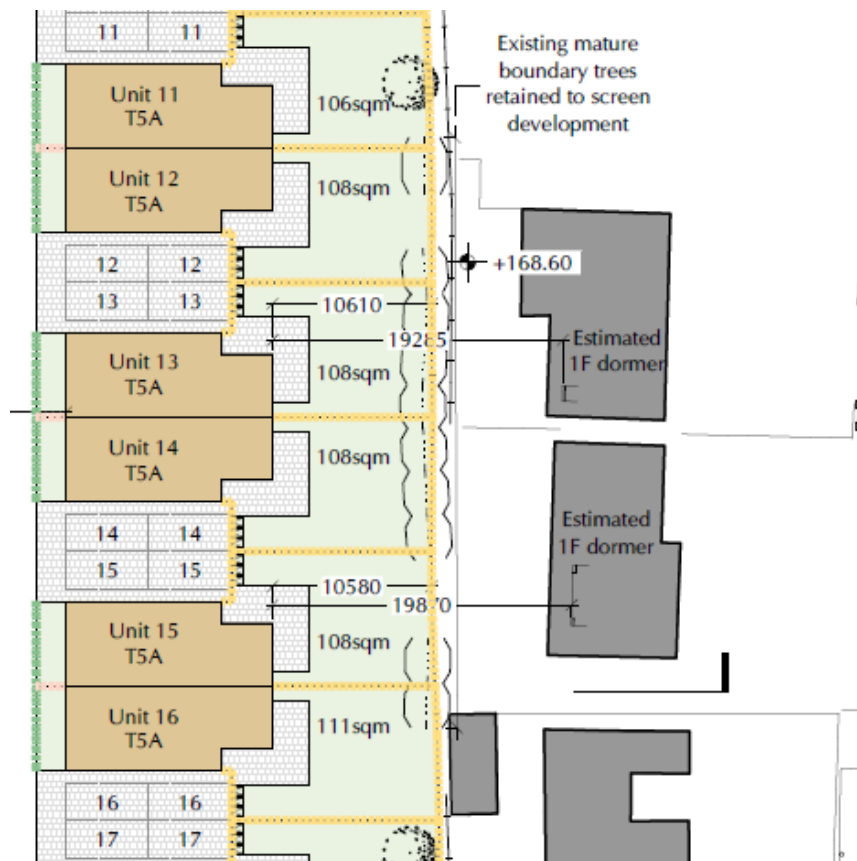
The proposed development has been designed and revised to meet these policy requirements and as amended the Urban Design Officer and Designing Out Crime Officer have no objections to the proposal. Accordingly it is considered that the above policy objectives and the similar objectives within the Framework have been met.

BDC Streetscene have been consulted on the regarding the proposals for bin lorry access and refuse collection points but have not commented. It is assumed therefore that the layout proposed will provide satisfactory arrangements.

Conditions are recommended below as necessary to deal with some of the design details.

**Amenity Impacts**

The proposal generally complies with the Council’s spacing standards for separation distances between windows and garden sizes as set out in “Successful Places”. There are two instances where the separation distance falls slightly below standard in relation to two existing dormer bungalows on Oxcroft Lane where a separation distance between windows of 19.2m and 19.8m are achieved whereas 21m should be provided. See image below:



However there is not a ground floor privacy issue due to the dividing fence and hedgerow,



and the proposed dwellings concerned (units 13-15) are single storey bungalows. The main privacy impact from the shortfall in separation distance would be that occupants of the proposed dwellings 13-15 may be overlooked from the upstairs dormer windows of the existing dwellings on Oxcroft Lane. Given the minor nature of the shortfall (1.5m) and that it is occupants of the proposed rather than existing dwellings that would be affected, it is considered that the shortfall would not justify refusal in this instance. Purchasers of the new dwellings would have the choice of whether they are happy with the arrangement or not.

### **Amenity and Compatibility with the Adjacent Land Use RRD**

There is one adjacent commercial property to the northwest corner of the site (RRD) which is a warehouse and distribution use for a vehicle parts/accessories. Operating hours are not restricted.

The Environmental Health Officer is concerned that noise from RRD loading area and reversing beepers would be very close to proposed properties. Whilst closed windows would adequately mitigate the noise, there would be a problem if windows need to be left open during warm weather. He therefore advises that a condition is necessary to require a scheme for uprated acoustic ventilation to be agreed for some of the facing dwellings only (plots 6,7, 27,28,29). The condition is deemed necessary to comply with policy SC1(c) and SC11 of the local plan and the policies of the Framework which require existing businesses to be protected from complaint action from new dwellings locating nearby. The condition is also necessary to protect the amenity of the occupiers of the new dwellings.

### **Infrastructure Capacity and S106 Obligations**

The capacity of the local road system has been considered above.

The proposal will bring additional residents into Bolsover which will result in additional pressures on local facilities and services. Where there is a capacity shortfall it is appropriate that developments should pay their way and make a proportionate contribution to the upkeep and expansion of these services.

In this instance the Applicant has agreed to the justified requests of consultees as supported by local plan policy and so it is considered that the additional pressures on local infrastructure resulting from the development will be adequately dealt with. The proposal is considered to be policy compliant in terms of affordable housing provision and the other S106 aspects listed

S106 obligation heads of terms have been agreed as set out in the "Proposal" section of this report above.

The Leisure Officer's comments regarding lack of public open space on site are noted, however this is a relatively small development of 32 dwellings and is located immediately adjacent to and existing public recreation ground. It is considered therefore that there is no planning need to provide additional public open space on site and that it would be better to use the commuted sums agreed to enhance the quality and facilities of the existing recreation ground adjacent.

It is noted that Chesterfield Hospital have requested the impacts on the Hospital be considered. However the Council's policies and supporting documents do not justify or quantify a contribution to secondary health at this time, it would not pass the national tests for

planning obligations set out in the CIL regulations and so has not been sought.

## OTHER MATTERS

### **Surface Water Drainage**

Disposal strategy includes discharge to the public sewer at an attenuated rate with on SuDS attenuation pond. Whilst the surface water drainage strategy proposed appears to be generally acceptable, there still some outstanding issues which need to be resolved. The Lead Local Flood Authority has raised concerns regarding the proximity of the proposed surface water attenuation basin to plot 29 to the south of it. Also clarification is sought on the relative ground levels to RRD on the west boundary and the implications this might have for the location of the SuDS basin.

Further information is awaited from the Applicant on these matters and Committee Members will be updated on this issue priory to the meeting.

### **Foul Water**

Policy SS6 (k), requires the applicant to demonstrate that adequate sewerage infrastructure and capacity exists or can be provided as part of the development proposed in this application. The Applicant has provided evidence to show that Yorkshire Water have agreed in principle that foul water domestic waste can discharge to the 150 mm diameter public foul/combined sewer recorded in Mill Lane, at a point north of the site. Therefore it is assumed that the proposal to connect to the public sewage system is acceptable. A condition requiring the approval of drainage details is considered to be appropriate.

### **Ecology and Biodiversity**

This is a brownfield site which mainly hard surfaced and so the impacts on biodiversity are not considered to be significant. One of the trees on the site frontage will be lost to create the access but the other retained. The hedgerow and trees on the east boundary to Oxcroft Lane are also to be retained.

Derbyshire Wildlife Trust have no objections subject to conditions requiring a Biodiversity Enhancement Plan to be agreed and implemented. DWT also request conditions requiring checks for nesting birds and a precautionary check for bats for building 3. However since these species are protected in other legislation separate from planning law it is considered that it is not "necessary" to duplicate protection by means of a planning condition and that an informative note would adequately deal with this concern.

### **Ground Conditions and Contamination**

A condition to ensure that the ground is remediated to a standard suitable for residential use is considered to be necessary as recommended by the Environmental Health Officer.

Comments in representations about the presence of asbestos on the buildings to be demolished are noted. However, the methods of proper disposal of asbestos is governed in other legislation and policed by the HSE rather than the planning system.

### **Local Employment**

The Economic Development Officer has requested the inclusion of a planning condition to secure opportunities during construction for skills, training and employment in the District.

This can be applied under policy II2 of the local plan.

### **Air Pollution**

Unlikely to be materially affected given the modest size of the proposal and small increase in traffic predicted above the established/former use level.

### **Noise and Disturbance during Construction**

Concerns raised in representations are noted. However some noise and disturbance during construction is inevitable and this is not a reason to withhold planning permission. A construction management plan condition can assist with agreeing reasonable working hours to reduce potential problems and should also help to manage the parking and routing of construction traffic given the known problems with Mill Lane.

### **CONCLUSIONS**

The proposal is considered to be acceptable in principle resulting in the redevelopment of a brownfield site within the development envelope. The criteria of policy SC1 have been considered above and the development has been found to be compliant with those criteria.

It is recognised that public concerns and those of local councillors are centred on the substandard nature of Mill Lane and local highways and fears that the proposal will increase traffic without mitigating the effects. However accounting for the established industrial/depot use which could restart if permission is not granted for residential, the amount of increased traffic predicted is very low (1 vehicle every 30 minutes at peak times) and not material to this planning decision. Some betterment to the existing highway system will be delivered in the form of a footpath link from Mill Lane to Oxcroft Lane and the opportunity to stop up Mill Lane in the future (should it prove to be appropriate) is to be safeguarded for a period of 20 years by S106 agreement. The design of the estate road and junction proposed is acceptable and there are no other highway safety reasons to withhold planning permission.

The residential designs proposed are considered to be good and compliant with Successful Places design guide. The provision of additional housing is welcome and there are no significant amenity impacts likely that cannot be dealt with by condition. The additional pressures on local services and facilities will be mitigated by means of policy compliant S106 obligations.

No other environmental impacts have been identified that would warrant the refusal of planning permission.

The proposed development therefore accords with the policies of the local plan as well as the National Planning Policy Framework.

### **RECOMMENDATION**

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

- Mill Lane turning head land shown outlined in red on plan 2747(08) G02 Rev A to be set aside for 20 years.
- Provision of 3 two bed affordable houses for rent.
- £27,840 for Open Space: Improvements to recreation ground at King George's Field,

Quarry Road.

- £33,920 Quality Improvements to Playing Pitches: Invested in improving playing pitches and their ancillary facilities at Moor Lane and or Castle Leisure Park.
- £51,217.47 towards the provision of 3 infant places at Bolsover Infant and Nursery School + additional education facilities.
- £85,362.45 towards the provision of 5 junior places at Bolsover C of E Junior School + additional education facilities.
- £154,350.24 towards the provision of 6 Secondary places at The Bolsover School + additional education facilities.
- £15,360 towards increasing capacity at one or more of the following GP practices: Welbeck Road Health Centre; Castle Street Medical Centre; The Friendly Family Surgery).
- S106 Agreement monitoring £70 per trigger.

**AND subject to the following conditions listed in precis form below, to be formulated in full and reported to committee in the update report:-**

- Start within three years.
- List of approved plans and documents.
- Implementation of the site remediation strategy and provide a validation report.
- Biodiversity Enhancement Plan.
- Employment Scheme.
- Approval surface water drainage details.
- Approval of foul water drainage details.
- Long term maintenance of SuDS features.
- Prior to the occupation of units 6, 7, 27, 28 and 29 a scheme for uprated acoustic ventilation.
- Approval of external materials, including samples.
- Hard and soft landscaping and its implementation – to include retention of the trees and hedges as shown on the approved plan.
- Maintenance of landscaping.
- Details of boundary treatments including elevations.
- A requirement to retain front boundary treatments and agreed boundary treatments alongside the recreation ground (to prevent removal of front boundary treatments and the erosion of the character of the development).
- Removal of PD rights for erection of front boundary treatments or boundary treatments alongside the recreation ground, unless otherwise agreed in writing by the LPA (to prevent erection of ad-hoc boundary enclosures against the playing field where a common approach to the treatment of these areas has been agreed to achieve an attractive and consistent appearance).

Plus the following Highway Conditions

- Construction Management Plan to be approved.
- Wheel cleaning.
- Details of Mill Lane/Oxcroft Lane junction works and footpath provision prior to occupation.
- Construction details of the residential estate road.
- Implementation of details of the residential estate road.

- Provision of road junction and visibility splays.
- Provision of parking and turning space as approved plan.
- Retention of parking and garage spaces for use.
- The proposed driveways to the access off Mill Lane shall be no steeper than 1:14.
- Details of future management and maintenance of the proposed streets.
- Revised Travel Plan to be agreed.

### **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.