

PARISH Old Bolsover Parish

APPLICATION Two new dwellings
LOCATION Land East Of 22 Appletree Road Stanfree
APPLICANT Chapman Developments Ltd
APPLICATION NO. 21/00619/OUT
CASE OFFICER Miss Kay Gregory
DATE RECEIVED 12th October 2021

SUMMARY

This application has been referred to Planning Committee on the basis that the application site is co-owned by Cllr Cooper, although it should be noted that he is not the applicant.

The proposal is for Outline planning permission, with all matters reserved, for the construction of two detached dwellings.

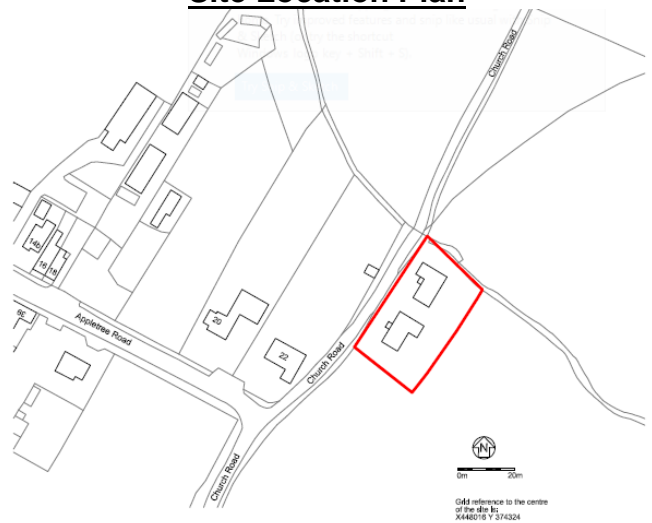
The application has been submitted with indicative plans (elevations and layout as amended). A site location plan and Design and Access Statement, along with a Historical Site Investigation Report has also been submitted.

The main issues under consideration are:

- Whether the principle of developing two dwellings in the countryside is acceptable by reason of the applicant's submitted statement that the site is previously developed land.
- The sustainability of Stanfree as a settlement within the countryside.
- Whether the site can be provided with a safe and suitable access.

Other issues under consideration relate to visual impact on the character of the countryside, biodiversity and coal mining legacy. All matters will be discussed in the relevant sections below.

Site Location Plan



SITE & SURROUNDINGS

The application site is within the village of Stanfree, which is a small settlement in the countryside as defined by policy SS2 of the adopted Local Plan.

The site is towards the north east edge of the village, and has an area of approximately 1,200m². It is sited adjacent to an unsurfaced section of Church Road, which has no vehicular through route and terminates to vehicular traffic at the entrance to Stanfree Cottage.

This unsurfaced section of Church Road provides pedestrian access past the site frontage, and then through the grounds of Stanfree Cottage, providing designated footpaths northwards, out of the settlement.

The site is accessed along an unsurfaced section of Church Road, formed at the junction of Church Road and Appletree Road, leading in a northerly direction, on land levels which slope downhill towards the north.

This section of Church Road is publicly maintained highway for a distance of approximately 35m along the lane, terminating at the south west corner of the application site. It then becomes a private road with vehicular access to Stanfree Cottage.

The Lane, along its adopted and privately maintained length is rural in appearance and is sunken in part. It is bound by grass verges on the eastern side and the boundary of 22 Appletree Road on the west side. It is laid with compacted stone, with grass growing in the middle of vehicle tracks.

Opposite the site is the rear garden to 22 Appletree Road. This property has a gated, vehicular access on the side boundary, onto Church Road. It is understood that it is at this point the publicly maintained highway ends. It does not appear that this access is in frequent use as the grass beneath the gate is undisturbed.

The site is rectangular in shape, bordered by hedgerows and trees, and appears to have a defined curtilage. A small wooded area of trees along the eastern boundary of the site are predominantly self-set cherry, with a mature cherry within the group and a mature, prominently sited ash tree, on the south-east corner of the site boundary.

Land levels on site drop towards the north. On the southern end of the site, at its highest point, is a dilapidated static caravan, mounted on bricks. There are areas of hard standing beneath and around the caravan. There are no records of planning permission being sought to site this caravan, so it is unclear how long it has been on site, although it is evident that it has been in place for a number of years and has not been in any recent use, given its poor condition.

There is also evidence of previous building/s within this area, with the floor and foundations visible. The applicant has submitted some photographic evidence with the application, providing images of a hearth, and evidence of burning.

The applicant claims that there was a residential cottage previously on the site. A search of historic maps does suggest that there were buildings on the site up until around 1970. The presence of a burnt hearth also suggests that the buildings were residential in nature, rather

than agricultural/animal buildings. This will be discussed in greater depth below.

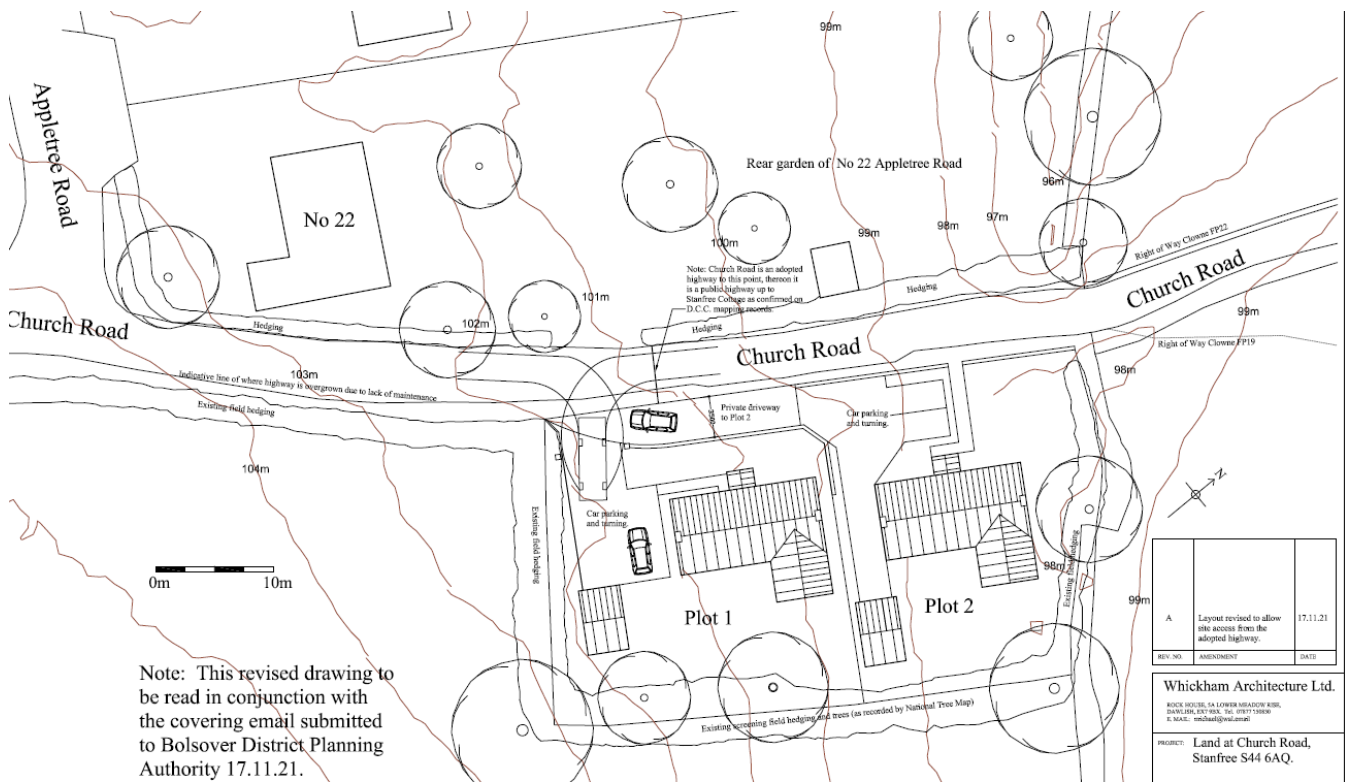
There is agricultural land adjoining the east and southern boundary of the site. There is a gap of approximately 100m between the southern boundary of the site and further built development along the same side of Church Road, comprising Calow Farm house and buildings, and then other residential development.

The grounds of Stanfree cottage are to the north of the site. A shallow brook runs along the northern boundary.

PROPOSAL

This application is seeking Outline planning permission, with all matters reserved, for the erection of two detached dwellings.

The plan below is an indicative layout, and is an amendment to the originally submitted plan, to provide details of how the site will be accessed from the adopted part of Church Road, on request of the highway authority.



The applicant has submitted an indicative elevation plan (see below) which also depicts the land levels on site. This plan is purely indicative at this stage. Design, appearance, scale, layout and landscaping are reserved matters and as such would be subject to further negotiations at the reserved matters stage.



Indicative street elevation.

0m 10m

AMENDMENTS

- Preliminary Ecological Appraisal – Arbtech; received on the 16th December 2021.
- Indicative site layout – 12.20.04 Rev A; received on the 18/11/21.

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

None.

CONSULTATIONS

BDC Engineers

- No objections – recommend 5 advisory notes.

BDC Environmental health

- The site is within influencing distance of a former landfill, and has also been used for agricultural purposes.
- No objections subject to conditions.

BDC Planning policy

The Councils' planning policy section was invited to comment on the application but did not provide a response in time for the agenda publication. Should their comments be submitted they will be presented as a late item to the Planning Committee.

DCC Highways

1st November 2021

- It is noted that the extent of the 'adopted' section of Church Road does not extend across the whole frontage of the area the subject of the application and is not indicated as being the applicant's ownership/control. Access may, therefore, be an issue.
- Although the frontage section of Church Road is partly indicated as publicly maintainable highway, it is maintained to standard of user given that it basically gives access to Stanfree Cottage. It is single width with no separate pedestrian provision and potentially limited passing opportunities.
- Assuming the land has no use in planning terms that would generate vehicular movements comparable with two dwellings without the need for planning permission then the proposal would intensify the use of this section of Church Road.
- On the basis of the above, the Highway Authority would recommend refusal of the proposal for the following reasons.

6th January 2022

- It is understood from additional information submitted by the agent that in the event of development proceeding some improvements could be offered to the access from Appletree Road to the site.
- It is also understood that as the Local Planning Authority you would wish to see the rural nature of the 'road' retained.
- Taking this into account, it is considered that improvements should consist of improvement works and surfacing to the junction with Appletree Road say for a distance of 10m with a minimum distance of 5m being of a width whereby two vehicles travelling in opposite directions can pass.
- In addition, intervisible passing place(s) should be provided between the site and the junction with Appletree Road. It should be noted that these works would need to be carried out under a Section 278 Agreement under the Highways Act 1980.
- Subject to the above being able to be provided, the Highway Authority would be willing to withdraw its objection to the proposal and recommend conditions be included in the event planning permission is granted.

Derbyshire Wildlife Trust – see biodiversity section.

- No objections subject to conditions.

The Coal Authority – see section on Coal Mining Legacy

- No objections subject to conditions.

PUBLICITY

The application has been publicised by way of a site notice, and letters sent to 15 adjacent properties. There have been 16 representations received as a result of the publicity, two of which were submitted from the re-consultation of the revised layout. Their comments are summarised below:

- It is noted that the Councillor Paul Cooper who is part owner of the land proposed for development is still not registered in the documentation as having an interest. This should be amended promptly to comply with the planning committee's transparency requirements, especially as the Councillor is on the Planning Committee.
- Support - Excellent to see this kind of independent small scale development in our

area, much needed.

- Object. The lane only serves one access which is that of Stanfree Cottage Farm. Existing use does not include vehicular access to the side of 22 Appletree Road. For the applicant to use this unofficial entrance as evidence that the lane is already serving multiple properties is fallacious.
- The lane geometrically is adequate for current use and the Highway Authority meet their responsibilities associated with this adopted highway. The short section of adopted highway is part of DCC's yearly inspection route and continues to be monitored and inspected. We use the adopted highway several times a day to access Stanfree Cottage Farm and have never had any complaints with the Highway Authority's maintenance, it is wholly adequate for existing use.
- Beneath the build-up of detritus materials and overgrown verges there does not exist the structure of a road!
- Derbyshire County Council have stated that the only part adopted by themselves is the most southerly part, just as far as the entrance to the proposed site. It should also be noted that DCC do not maintain their part of the lane either. Every year, for at least 50 years, our family has filled in the ruts and pot-holes, cut the grass, and hedges on the lane, and generally kept maintained the access for both ourselves and walkers who use the two public footpaths that merge on the lane.
- There is no right of access, other than to footpath users and Stanfree Cottage Farm, which has been the sole purpose of this lane for centuries.
- I am a joint owner of Stanfree Cottage Farm. I strongly object. The planning application drawings depict the lane to Stanfree Cottage Farm and Land as being part of the Queens Highway "Church Road". This is incorrect.
- The owners of the land for the proposal have no private rights of access to the remaining lane after the adopted highway ends.
- Any works carried out on the adopted highway directly affects access to Stanfree Cottage Farm. Therefore we have a right to know exactly what is happening to the only access to the property. It appears that the agent wishes to liaise directly with the Highways Authority which may hinder transparency. To ensure transparency, please ensure that all consultations are readily and publicly available and published on the planning portal.
- The lane from the junction of Appletree Road and Church Road down towards the proposed development is made up of compacted stone and dirt with a grass centre and is not wide enough to get a vehicle and pedestrian side by side without the pedestrian having to get in the hedge bottom.
- The remaining lane is not a public highway, it is a track. The only right of access over the remaining lane is the public footpath. The new drawing supplied by the applicant depicts an entrance path from the proposed dwelling leading directly onto the lane which is not part of the adopted highway.
- The applicant has no private rights of access on the lower section of the lane and no permissions have been sought or granted, therefore there can be no footpath from the bottom of the field onto the lane.
- The lane suffers from erosion due to weather, land drainage (as it is a downward slope to the main watercourse bordering Stanfree Cottage Farm's property) and light traffic use. The increase in traffic, construction machinery (tracked excavators, Dumpers, Delivery HGVs with building materials, Concrete mixers, pumps etc) would result in severe deterioration to the lane and increased risk to pedestrian safety due to

deterioration of the lane and increased traffic.

- The bottom of the lane is prone to flooding and erosion. The lane acts as a land drain for excess surface water off Church Road and fields above and adjacent, taking the water to the watercourse that flows under the farm gate and along Stanfree Cottage's property.
- Anyone who takes a look at the top of the lane (southern end) can see that Church Road is adequate. There is a steep bank on the east side that falls at about 45 degrees until it meets the stone part of the lane, and it is unlikely that this could be widened without undermining the stability of the adjoining field.
- Construction traffic would cause visibility problems as Church Road is on a blind bend.
- The applicant's claim is that the lane is substantially wide enough to fit multiple vehicles down, because refuse collection has taken place at Stanfree Cottage. Due to the nature of the lane, a smaller lorry makes the collection rather than the standard sized one. No collections have been made from the property in the last 5 years, so it seems unlikely that the tyre tracks they unearthed were those of a bin lorry, and are more likely to be those of our ride-on lawn mower that we use to cut the verges of the lane.
- The revised indicative plan that has been submitted shows where they believe adopted highway ends, and then it states that the rest of the lane is a "public highway". This is not the case. It is an access road to Stanfree Cottage with no private rights of use other than as a public footpath.
- I note at this time that there are two further emails relating to the planning application that are unavailable. I therefore reserve the right to make further comments once these are publicly available.
- In the evening there is almost no light pollution, which has a negative impact on wildlife because it alters how animals perceive the daylight and night-time, disrupting their natural behaviour. If further lighting is introduced to improve safety on the lane for pedestrians and vehicles, it would overall have a negative effect on all species.
- I have seen lots of wildlife there including bats, owls, foxes, deer, rabbits, hares, and weasels / stoats.
- Traffic will increase down the lane putting the public at more risk of getting injured by a vehicle. Furthermore, the lane is not designed to cater for this high level of traffic.
- My concerns are for the safety of road users and pedestrians using both Apple tree and Church Road, particularly during the construction phase.
- The lower section of the lane (to the north) has a proposed access onto it, meaning hedgerows would need to be removed. The proposal is requesting two access points onto the lane, changing its use, which is currently a public footpath and single use farm access only.
- There will not be enough parking for the properties and they will end up parking on the lane.
- The dwellings proposed for this site are inappropriate for the location and are detrimental to the local community. The site is located in open countryside and is not identified for development as part of the Local Plan.
- Strongly object – the site is in open countryside and would change the views of the landscape and its character.
- The lane is narrow and difficult underfoot in bad weather which would deteriorate further with increased traffic.
- Insufficient width on lane to provide passing place for cars.

- The lane has sole access to a farm and the footpaths which run across it. The lane is part of a more extended series of footpaths through Stanfree which is a small rural settlement that has had its fair share of large new houses.
- The proposed development is totally unsuitable to the location, dwellings of that stature would totally ruin the outlook of the land.
- For at least half a century, this has been open land, primarily left to nature. Development such as this would change the character of the landscape significantly.
- In the report it mentioned the development would help reduction of fly tipping on the lane. I find this hard to believe as there have never been any incidents of fly tipping
- In the report it describes the site as being brownfield. The site has been overgrown with greenery for several decades and has required heavy machinery to unearth some old footings from a bygone time. Seems like they are plucking at straws to give a valid reason for the development to be granted. Nothing to benefit the community whose access to local footways and views from them would be spoilt.
- There is nothing in the local plan about developing this area, as this area has had enough development. The area does not need any more unaffordable housing, there are plenty of large houses already.
- The proposed development will cause issues to the footpath and its surroundings as it will reduce the open space and views which give you a sense of wellbeing in these uncertain times.
- Stanfree is a self-contained historical settlement which has in recent years had several large dwellings built around the Village. Manor Close, Oxcroft view and the development on the corner of Church Road and Blackbanks are in far more appropriate locations due to access etc.
- Stanfree will soon lose its identity if further large properties are given the go ahead, there is a large development planned on Buttermilk Lane a couple of miles away and there will be ample choice of housing on this development.
- The application has no information relating to the size of the former buildings, what they were used for, building materials, date when it was demolished, or the reasons why it was demolished.
- The application describes the location as a brown field site, this gives further cause for concern. The location has been allowed to become overgrown for decades, and has sat unattended allowing for nature to take over. In order to unearth any foundations, they have had to bring in heavy machinery to excavate. Therefore, this suggests it has been some time since any type of building was previously sited here. The site and watercourse adjacent have been overgrown for decades, providing habitat for wildlife. Therefore, I believe the site has to be considered a green field site.
- The footpath past the site is known as Miner's Way, the development would ruin the final part of this walk.
- Due to the size of these properties, it is highly likely that each of these dwellings would have at least two / three cars each. Stanfree's bus service is virtually non-existent, therefore, meaning traffic use on the lane and roads would increase. Therefore, this site is unsustainable.
- In my opinion, the plot of land is situated in a flood risk area, particularly during extreme wet events, located next to a watercourse and downhill from the limestone escarpment.
- Would the proposed dwellings be built green? Many new houses are thrown up without any consideration for sustainability. It would be nice to see solar roofs, water

harvesting systems, thermal insulation and much more in new builds today.

POLICY

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

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

- SS1 – Sustainable development
- SS2 – Scale of development
- SS3 – Spatial strategy and distribution of development
- SS9 – Development in the countryside
- LC3 – Type and mix of housing
- SC2 – Sustainable design and construction
- SC3 – High quality development
- SC5 – Change of use and conversions in the countryside
- SC9 – Biodiversity and geodiversity
- SC10 – Trees and hedges
- SC11 – Environmental quality (Amenity)
- SC14 - Contaminated and unstable land
- ITCR10 – Supporting sustainable transport patterns
- ITCR11 – Parking provision
- Appendix 8.2 – Parking standards

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
- 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
- Paragraphs 174, 180 and 182: Conserving and enhancing the natural environment
- Paragraphs 183-188: Ground conditions and pollution

Supplementary Planning Documents

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

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

ASSESSMENT

Key issues

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

- The principle of the development
- The landscape and visual impact of the proposed development
- Residential amenity
- Whether the development would be provided with a safe and suitable access;
- The impact of the development on the local road network; and
- Biodiversity considerations
- Coal mining legacies

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

Principle

In the Local Plan for Bolsover District (March 2020) the village of Stanfree is identified as a small settlement in the countryside, which in terms of the settlement hierarchy and the distribution of development steered by the local plan it would be placed at the lower end of meeting the criteria of sustainable development (policy SS3). As a village without a defined development envelope, Stanfree is considered to lie in the countryside where development proposals should be considered against policy SS9 of the Local Plan.

Policy SS9 states that development will only be granted planning permission where it can be demonstrated that the proposals fall within one or more of the policy categories, as identified below.

Policy SS9: Development in the Countryside

Development proposals in the countryside outside development envelopes will only be granted planning permission where it can be demonstrated that they fall within one or more of the following categories

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

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

The applicant claims in their submitted documents that the site is 'previously developed land' as defined under part (a) of policy SS9.

The adopted Local Plan defines Previously Developed Land as "Land which is or was

occupied by a permanent structure. This excludes land that is or has been occupied by agricultural or forestry buildings, land that has been developed for minerals extraction or waste disposal where provision has been made for restoration.”

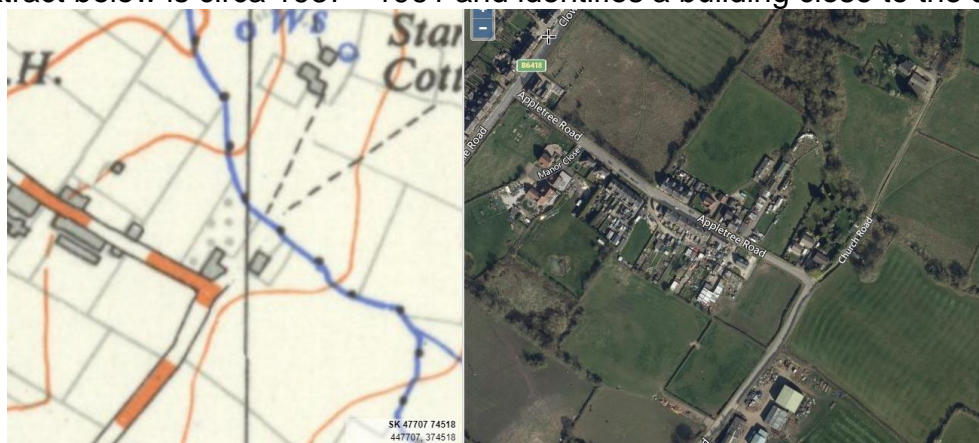
The National Planning Policy framework (2021) defines Previously Developed Land as, *“Land which is or was occupied by a permanent structure, including the curtilage of the developed land (although it should not be assumed that the whole of the curtilage should be developed) and any associated fixed surface infrastructure. This excludes: land that is or was last occupied by agricultural or forestry buildings; land that has been developed for minerals extraction or waste disposal by landfill, where provision for restoration has been made through development management procedures; land in built-up areas such as residential gardens, parks, recreation grounds and allotments; and land that was previously developed but where the remains of the permanent structure or fixed surface structure have blended into the landscape.”*

The application site has a defined curtilage, which does not appear to have been altered for over 100 years.

Historic maps, circa 1888-1913 (National Library of Scotland – Map Finder – Georeferenced Maps) identify a building on the site (see below), which is hatched in a similar way to surrounding buildings which would have been, and still are in some circumstances in residential use. The extract below also evidences that the curtilage to the application site has not changed since the start of the 20th century.



The map extract below is circa 1937 - 1961 and identifies a building close to the site frontage



The map below, circa 1949 – 1970 identifies that the site had at that time been cleared of buildings, but still retained the rectangular curtilage.



Whilst the Council acknowledge that the site is currently free of permanent buildings, it is evident that there was a building on the site, up until a timeframe between 1949 and 1970 and it is highly likely that this was residential in nature.

The applicant, whilst carrying out preliminary ground investigations uncovered remnants of a permanent building, with foundations and a hearth area that had evidence of use (soot and burning).

The images below form part of the application submission and have been provided by the applicant.

The applicant also submitted a detailed, historical investigation document and site investigation plan, concluding that their investigations demonstrate the historical presence of residential buildings on the site.



Substructure masonry



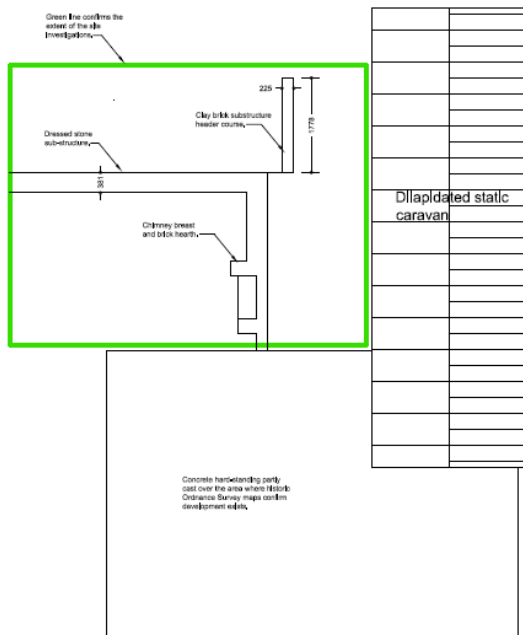
Northeast facing image indicating later-day adjacent oversite floor slab



Chimney breast and fire hearth structure – confirming human occupation of the building.



Carbonised chimney and hearth structure



Whilst it is acknowledged that these remnants of buildings were uncovered following some ground excavations, the submitted images demonstrate that that the findings were only marginally below ground level.

A further site visit was carried out with the development control manager where it was evident that there were remnants of former buildings on site that were barely covered with foliage. There were also areas of hard standing beneath and around the dilapidated, static caravan. Images of these have been provided in the Landscape and visual impact section of the report.

The Framework (2021) Glossary for Previously Developed Land identifies that development sites where the remains of the permanent structure or fixed surface structure have *blended into the landscape*, do not meet the definition of 'previously developed land'.

Whilst overgrowth on site had covered over remnants of former buildings (until the applicant's

investigations), the ground foliage has been identified as mainly nettle and bramble, which has low ecological value, and which was easily removed to uncover the areas of hard standing and stone/brick foundations.

The general overgrown appearance and dilapidated nature of the site does not reflect or respect surrounding land uses which are agricultural in their appearance, and as such it is not considered that the remains of previous structures or the historic use of the site have blended into the landscape.

The Council therefore considers that the applicant has submitted sufficient information to demonstrate that the site is previously developed land.

Where this has been demonstrated, policy SS9 requires that it is only on the basis that the proposed use is '*sustainable and appropriate to the location*'.

As identified above, policy SS3 of the adopted Local Plan defines the village of Stanfree as a small settlement in the countryside, which has limited access to services and facilities.

The proposal will be to allow two new dwellings to be created in the village of Stanfree, which is accepted as not being the most preferable location for new growth in terms of accessibility / sustainability. However, despite this, the village has continued to see small pockets of appropriate infill growth in recent years.

The application site is 370m away from bus stops on Clowne Road, providing a bus service into Clowne and Bolsover. Whilst the bus route is relatively limited and is not 24hours, it does provide access into the nearby towns at various times during normal working/daytime hours.

There are a small number of employment uses within walking distance of the site, but the bus service provides access to employment in nearby towns and the Barlborough Links employment area.

There is no direct access to services such as doctors or dentists but these are located within the nearby towns that are accessible on the bus route.

There are playing fields located approximately 1.2km away and a primary school in Shuttlewood, located 1.9km away. There is secondary school provision within the towns of Clowne and Bolsover which are accessible by bus.

There is a small convenience shop/post office in Shuttlewood which is approximately 2.2km from the site.

Whilst the Council acknowledge that Stanfree has limited access to services and facilities, there is access to these by bus, with Clowne only 2km to the north.

The site is not within a sustainable settlement, but given that it is proposing only two additional dwellings, adjoining the built up area of Stanfree, and given that there have been recent approvals for limited infill developments within the village, it is considered that the location is acceptable and would not warrant a reason for refusal on sustainability grounds.

On balance, the principle of development, subject to the key issues considered in greater detail below, can be regarded as acceptable, in compliance with the policies provided above.

Landscape and visual impact of the proposed development

The site is not visible from the junction of Church Road and Appletree Road as it slopes downhill towards the north and there is a bend in the alignment of the lane. The southern part of the site is also screened by mature hedges.

The Lane itself, leading down to the site has an attractive rural appearance as depicted on the image below, although it is accepted that some engineering works will be required at the junction to facilitate the development. Improvements at the junction should be sympathetically carried out so that the rural appearance of the Lane is retained as much as possible.



The application site is visible from pedestrian viewpoints around the site, given that there are two designated footpaths (B5/19/2 and B5/22/1) running in a northerly direction from Stanfree Cottage.

Whilst the northern end of Church road is unadopted, and terminates at the entrance to Stanfree cottage, there is a pedestrian through route along the site frontage, onto the designated footpaths, therefore affording the application site some visibility from within the public domain.

The existing condition of the site is relatively poor and is of low ecological value. Whilst the site is enclosed by hedges, the predominant vegetation within the site are nettles and brambles.

There is also a dilapidated static caravan in the southern part of the site which would require removal to facilitate the development

(see below).



The caravan is mounted on bricks and appears to have been on site for a number of years. There appears to be hard surfacing beneath the caravan and it has not recently been in any sort of use. There has never been any planning permission sought for the siting of this caravan and so its original purpose is unknown. The removal of this caravan would be welcomed by the Local Planning Authority.



There are also other areas of hardstanding within the site, which were previously covered over with foliage.



The visual condition of the application site, as existing, does not reflect the appearance of the surrounding landscape, which is visually attractive agricultural land to the north, east and south.

Whilst the natural site boundaries of the site (hedges and trees) have some value within the landscape, the site itself comprises areas of hardstanding and brick/stone foundations that have been covered with brambles and nettles, providing no visual value to the character of the surrounding land.

The majority of the boundaries could be retained as part of a reserved matters application, and improved through an appropriate landscaping scheme.

Whilst some of the self-set cherry trees on the eastern boundary would need to be removed to facilitate the development, these trees are currently growing in cramped conditions and do require arboricultural management. The other, larger trees are to be retained to assist with the integration of the development into the surrounding area.

The existing static caravan causes visual detriment to the appearance of the site, and it appears that it has been on site in excess of ten years, therefore becoming immune from enforcement action. Approval of the development would see the removal of this structure. It should be noted however that its removal and the condition of the land could potentially be improved through the Section 215 process (untidy land).

Concerns were raised about the possibility of precedent, permitting additional dwellings in the future to be built within the 100m wide gap between the southern boundary of the site and Calow Farm. This has been discounted however, as the 100m gap does not constitute as previously developed land and does not share any of the visual characteristics associated with the application site. Proposals to develop this area would therefore be resisted as they would fail to comply with the provisions of policy SS9.

Whilst it is accepted that the site has become overgrown with foliage, it retains an untidy appearance and does not respect the appearance of the surrounding rural landscape. Given that the application site is adjacent to other forms of residential development, it is not considered that the proposal will cause any detriment to the visual amenity of the area, or

appearance of the surrounding landscape, sufficient to warrant a reason for refusal.

Subject to approval of matters relating to scale, layout and design, which should take account of its semi-rural location, and the drop in land levels, it is considered that two dwellings could be constructed, in negotiation with the Local Planning Authority, which respect the form, scale and character of the landscape, through careful location, design and use of materials; in compliance with policies SS1, SS9 and SC3 of the adopted Local Plan.

Residential amenity

The application currently under consideration is to establish the principle of development only. Design and layout are therefore reserved for future consideration, although it is noted that full consideration will be given to the semi-rural character of the surrounding landscape.

The applicant has submitted a revised indicative layout which would provide a distance of 13m from the front of the dwellings onto the side boundary of 22 Appletree Road. There is however pedestrian access past the garden, onto Stanfree cottage and the designated footpaths, and as such this garden is already exposed to some extent. There is scope however, to site the two new dwellings slightly further into the site which would increase the separation distance.

Having regard to the relative separation distances achieved between plots and overall private amenity space per dwelling, the indicative site layout plan shows that the units can achieve satisfactory distances, as guided by the adopted guidance document, Successful Places.

It is considered that the site is of sufficient size to accommodate two dwellings without causing detriment to the amenity of surrounding residents, and which can provide a sufficient level of outdoor amenity space for the enjoyment of new residents, in compliance with policies SC3 and SC11 of the adopted Local Plan.

Highway considerations

The extent of Church Road leading down to the site is adopted for a distance of approximately 35m, after which it becomes privately maintained, providing vehicular access to Stanfree Cottage only.

The existing gated access into the rear garden of 22 Appletree Road would not have required planning permission and despite its obvious infrequent use appears to have been in place for a number of years.

The submitted location plan does not include any part of Church Road within the red line boundary. The highway authority were consulted and originally objected to the proposal on the ground that the 'adopted' section of Church Road does not extend across the whole frontage of the area the subject of the application and is not indicated as being the applicant's ownership/control. Access may, therefore, be an issue. Although the frontage section of Church Road is partly indicated as publicly maintainable highway, it is maintained to standard of user, given that it basically gives access to Stanfree Cottage. It is single width with no separate pedestrian provision and potentially limited passing opportunities. Assuming the land has no use in planning terms that would generate vehicular movements comparable with two dwellings without the need for planning permission then the proposal would intensify the use of this section of Church Road.

This was put to the applicant who submitted a revised indicative plan which demonstrates the provision of vehicular access into the site to serve both dwellings, from within the adopted highway boundary at the south-west corner of the site. They also confirmed that if the site can be developed, they would be willing to liaise with the Highways Authority to investigate exactly what was originally adopted and to seek permission to rebuild this to a current adopted highway standard.

Whilst the layout identifies that vehicles serving plot 1 may have to reverse onto the private section of Church Road, it is considered that the reserved matters application could site the dwellings further into the site, to allow for vehicle movements to be contained within the application site boundary.

The revised plan was discussed with the highway authority prior to submission of their final comments. It was explained to them that the provision of two additional dwellings in addition to the existing use of the lane by Stanfree Cottage and less frequent use by 22 Appletree Road would not cause such an intensification in the vehicular use of the lane to warrant a reason for refusal on highway safety grounds.

The highway authority explained that some improvements would be required to the lane to improve access, in the form of a Section 278 agreement, although they acknowledged that the works would need to be kept to the bare minimum in order to retain the rural appearance of the land. Their final comments were received on the 6th January, advising that it is their understanding that in the event of permission being granted, some improvements could be offered to the Lane.

They also understood that the rural nature of the Lane should be retained as much as possible. Taking this into account, they considered that improvements should consist of works and surfacing at the junction with Appletree Road for a distance of 10m with a minimum distance of 5m being of a width whereby two vehicles travelling in opposite directions can pass. It should be noted that these works would need to be carried out under a Section 278 Agreement under the Highways Act 1980.

In addition, they also requested that an intervisible passing place should be provided between the site and the junction with Appletree Road. This additional passing place, in addition to the 5m wide junction is not considered to be necessary given that Church Road has no vehicular through route and only serves Stanfree Cottage, the two new dwellings and occasional use by 22 Appletree Road as a secondary access.

Subject to the above being able to be provided, the Highway Authority would be willing to withdraw its objection to the proposal and recommend that conditions are included in the event planning permission is granted.

With regards to on-site parking provision, it is considered that there will be, subject to detailed approval of the residential scale and layout, sufficient space for resident's vehicles to park and manoeuvre within the site.

It is therefore considered subject to the full implementation of appropriately worded conditions which require proportionate works to sections of the publicly maintained Church Road, that the

applicant has adequately demonstrated that the site can be accessed in a safe and suitable manner, and that there is sufficient space on the site for the parking of resident's vehicles, allowing space for safe manoeuvring within the site boundary without encroaching into the private section of Church Road and without causing detriment to highway safety, in compliance with policies SS1, ITCR10 and ITCR11 of the adopted Local Plan.

Biodiversity and Trees

The site is bound on all sides by existing hedgerows. Along the eastern boundary are a group of self-set Cherry trees, growing in cramped conditions, resulting in poor individual form; although they do have some group value.

There is a mature ash tree on and overhanging the eastern boundary of the site.

It is accepted that part of the hedgerow fronting the site will need to be removed to facilitate the access, although this will be kept to a minimum as only one access is required to serve both dwellings. Some of the cherry trees will also need to be removed as they will be in the rear garden to the new dwellings.

The application as submitted did not include any ecological information. On request of Derbyshire Wildlife Trust, a preliminary Ecological Appraisal was submitted.

The report identified the following habitat areas:

- Tall ruderal – mainly nettle and bramble
- Scattered Scrubs – mainly snowberry, small patches of dog rose in the hedges.
- Scattered Trees – along the eastern boundary. Large cherry and ash, along with self-seeded cherry.
- Self-seeded saplings – cherry on the eastern boundary.
- Log, brash and rubble piles
- Hardstanding – concrete, rubble, bricks. Potential to support habitat, will require removal. Have nettles and brambles covering them.
- Buildings – dilapidated static caravan
- Small brook (outside site) – fast flowing, extremely shallow with no channel as such. Ivy clad hawthorn growing in middle. Waterbody overgrown with bramble and shrub, creating a dark understorey with no vegetation growing along the waterbody.

There were no protected species or species of nature conservation interest identified during the assessment although it is accepted that there is habitat potential for some species, mainly around the periphery and outside the site boundary.

The Assessment provides a series of recommendations and mitigation, which were sent to the Wildlife Trust for comment.

The Trust were pleased to see that the two largest trees on/adjacent to the site will be retained (along with others). Root Protection Zones of these trees should be adequately protected during construction.

Other habitats on site are considered of low ecological value, with the majority of the onsite scrub comprising the non-native invasive species snowberry.

Protected species constraints are limited to nesting birds and potential use by small mammals and Herpetofauna.

The recommendations summarised in the Executive Summary and detailed in Section 5 are considered appropriate and proportionate to the site and these can be secured through planning conditions.

It is therefore considered that the applicant has submitted sufficient information at the Outline stage to assess for the presence of biodiversity, and recommendations for mitigation. Subject to the full implementation of appropriately worded conditions, as requested by the Wildlife Trust, it is considered that the proposal complies with policies SS1, SC3, and SC9 of the adopted Local Plan.

Coal Mining Legacies

The application site is within a Coal Authority High Risk area and as such the Coal Authority were consulted.

The applicant had supplied a Coal Mining Report with the application.

The Coal Authority initially responded advising that their records indicate the application site to lie in an area where coal mining has taken place at shallow depth. Voids and broken ground associated with such workings can pose a risk of ground instability and may give rise to the emission of mine gases.

They noted that the applicant had submitted some coal mining information to accompany the planning application; such as a Coal Mining Report, Consultants Report or Enviro All in One Report. However, they considered the reports to be factual only and did not provide any proper assessment of the potential risks posed to the development proposal by past coal mining activity. The Coal Authority therefore objected until such time that a Coal Mining Risk Assessment was submitted.

This was put to the applicant, who disputed the need to submit a full risk assessment at this stage.

The Coal Authority later confirmed they have acknowledged that the applicant is aware that the site is within an area where coal mining has taken place at shallow depth and they have confirmed that a borehole investigation will be carried out to investigate the risk posed by coal mining legacy.

Given the outline nature of the In this case, whilst a risk assessment has not been submitted, given the shallow depth and the thickness of the recorded workings, they acknowledge that it is unlikely a desk-based Coal Mining Risk Assessment would be able to discount a risk of instability at the site. As such, it is likely that intrusive site investigations would be still recommended in any case.

Whilst the Coal Authority maintain the view that outline planning applications should be supported by a Risk Assessment, they agreed to withdraw their objection to the application

subject to the imposition of a condition requiring the undertaking of suitable intrusive site investigations and any necessary remedial works, prior to commencement of development.

Therefore, subject to the full implementation of any appropriately worded conditions to ensure that the stability of the land is safe for new development, it is considered that the applicant has submitted sufficient information during processing of the Outline, in compliance with policies SS1, SC2 and SC14 of the adopted Local Plan.

CONCLUSION

The Local Planning Authority agrees with the applicant's assertion that the site is previously developed land, as defined by both the Local Plan and National Planning Policy Framework, and whilst Stanfree is not a sustainable settlement in terms of its service provision, there is direct access to nearby towns without full reliance on privately owned motorised vehicles.

The provision of two additional dwellings, on the edge of the built area, and taking into account other recent approvals in the village for small infill developments, it is felt that the proposal is acceptable in principle and will not set a precedent for further residential development within the vicinity of the site; although it is acknowledged and accepted that every application is determined on its own merits.

On balance therefore, having regard to all other material factors which have been considered during processing of the application, it is accepted that development of this site for two dwellings is acceptable, subject to the full implementation of all necessary and appropriately worded conditions.

It is considered that the development can achieve an appropriate design, scale and appearance which respects the sites semi-rural location of the fringe of a small village settlement, in compliance with the adopted policies and guidance of Bolsover District Council and as such it is recommended that the application is approved.

RECOMMENDATION – grant with conditions.

Conditions

1. Approval of the details of the Appearance, Landscaping, Layout, and Scale (hereinafter called "the reserved matters") shall be obtained from the Local Planning Authority in writing before any development is commenced.
2. Application for approval of the reserved matters shall be made to the Local Planning Authority before the expiration of three years from the date of this permission and the development to which this permission relates shall be begun either before the expiration of three years from the date of this permission, or before the expiration of two years from the date of approval of the last of the reserved matters to be approved, whichever is the later.
3. Prior to the commencement of any development above foundation level, full details or samples of the facing and roofing materials to be used in the development hereby permitted shall be submitted to and approved by the Local Planning Authority. The development shall then be carried out in accordance with the approved details.
4. The reserved matters application shall include a detailed scheme for the proposed, and

retention of existing (where possible) boundary treatments of the site, including position, design and materials, and to include all boundaries or divisions within the site. The approved scheme shall be completed before the buildings are first occupied or such other timetable as may first have been approved in writing with the Local Planning Authority.

5. 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:

- Risk assessment of potentially damaging construction activities.
- Identification of "biodiversity protection zones". This shall include retained trees and the adjacent Brook.
- Practical measures (both physical measures and sensitive working practices) to avoid or reduce impacts during construction. This shall include the precautionary working methods detailed in Section 5 of the Preliminary Ecological Assessment (Arbtech, December 2021) to safeguard amphibians, reptiles, hedgehogs, badgers and birds.
- The location and timing of sensitive works to avoid harm to biodiversity features (as above).
- The times during construction when specialist ecologists need to be present on site to oversee works.
- Responsible persons and lines of communication.
- The role and responsibilities on site of an ecological clerk of works (ECoW) or similarly competent person.
- Use of protective fences, exclusion barriers and warning signs.

The approved CEMP shall be adhered to and implemented throughout the construction period strictly in accordance with the approved details, unless otherwise agreed in writing by the local planning authority.

6. Prior to the installation of lighting fixtures, a detailed lighting strategy shall be submitted to and approved in writing by the LPA to safeguard bats and other nocturnal wildlife. This should consider advice provided in Section 5 of the Preliminary Ecological Assessment (Arbtech, December 2021) and provide details of the chosen luminaires, their locations and any mitigating features such as dimmers, PIR sensors and timers. Guidelines can be found in Guidance Note 08/18 - Bats and Artificial Lighting in the UK (BCT and ILP, 2018). Such approved measures will be implemented in full.

7. Prior to building works commencing above slab level, a Biodiversity Enhancement Plan shall be submitted to and approved in writing by the Local Planning Authority. This shall include enhancements for a range of species, as detailed in Section 5 of the Preliminary Ecological Assessment (Arbtech, December 2021). The plan shall clearly show positions, specifications and numbers of features. Such approved measures shall be implemented in full and maintained thereafter, with photographs of the measures in situ submitted to the LPA to fully discharge the condition.

8. Any reserved matters application shall include full details of improvements to the junction of the access route with Appletree Road whereby a distance of 10m back from Appletree Road shall be constructed and surfaced to an adoptable standard, with a minimum depth of 5m

comprising a minimum width of 5m, to allow two vehicles travelling in opposite directions to pass. Such works shall be completed prior to occupation of any dwelling.

9. No development shall take place other than site clearance until a construction management plan or construction method statement has been submitted to and been approved in writing by the Local Planning Authority. The approved plan/statement shall be adhered to throughout the construction period. The statement shall provide for but not necessarily be restricted to the following as appropriate.

- Parking of vehicles of site operatives and visitors
- Routes for construction traffic, including abnormal loads/cranes etc
- Hours of operation
- Method of prevention of debris being carried onto highway
- Pedestrian and cyclist protection
- Proposed temporary traffic restrictions
- Arrangements for turning vehicles

10. Before any other operations are commenced, a new vehicular and pedestrian access shall be formed to Church Road located, designed, laid out, constructed and provided with maximum achievable visibility splays from a distance of 2.4m back across the site frontage, all as agreed in writing with the Local Planning Authority, the area in advance of the sightlines being maintained throughout the life of the development clear of any object greater than 1 metre in height relative to adjoining nearside carriageway channel level.

11. The premises, the subject of the application, shall not be occupied until space has been provided within the site curtilage for the parking and manoeuvring of vehicles, designed, laid out and constructed all as may be agreed with the Local Planning Authority and maintained thereafter free from any impediment to its designated use.

12. No development shall commence until;

- a) a scheme of intrusive investigations has been carried out on site to establish the risks posed to the development by past shallow coal mining activity; and
- b) any remediation works and/or mitigation measures to address land instability arising from coal mining legacy, as may be necessary, have been implemented on site in full in order to ensure that the site is made safe and stable for the development proposed.

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

13. Prior to the occupation of the development, or it being taken into beneficial use, a signed statement or declaration prepared by a suitably competent person confirming that the site is, or has been made, safe and stable for the approved development shall be submitted to the Local Planning Authority for approval in writing. This document shall confirm the methods and findings of the intrusive site investigations and the completion of any remedial works and/or mitigation necessary to address the risks posed by past coal mining activity.

14. Before the commencement of the development hereby approved:

- a. A Phase I contaminated land assessment (desk-study) shall be undertaken and approved in

writing by the local planning authority.

b. The contaminated land assessment shall include a desk-study with details of the history of the site use including:

- the likely presence of potentially hazardous materials and substances,
- their likely nature, extent and scale,
- whether or not they originated from the site,
- a conceptual model of pollutant-receptor linkages,
- an assessment of the potential risks to human health, property (existing or proposed) including buildings, crops, livestock, pets, woodland and service lines and pipes, adjoining land, ground waters and surface waters, ecological systems, archaeological sites and ancient monuments,
- details of a site investigation strategy (if potential contamination is identified) to effectively characterise the site based on the relevant information discovered by the desk study and justification for the use or not of appropriate guidance. The site investigation strategy shall, where necessary, include relevant soil, ground gas, surface and groundwater sampling/monitoring as identified by the desk-study strategy

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

15. Before the commencement of the development hereby approved:

Where the site investigation identifies unacceptable levels of contamination, a detailed remediation scheme to bring the site to a condition suitable for the intended use by removing unacceptable risks to human health, buildings and other property and the natural and historical environment shall be submitted to and approved in writing by the local planning authority. The submitted scheme shall have regard to relevant current guidance. The approved scheme shall include all works to be undertaken, proposed remediation objectives and remediation criteria and site management procedures. The scheme shall ensure that the site will not qualify as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land after remediation.

The developer shall give at least 14 days-notice to the Local Planning Authority (Environmental Health Division) prior to commencing works in connection with the remediation scheme.

16. No dwellings hereby approved shall be occupied until:

a. The approved remediation works required by condition 15 above have been carried out in full in compliance with the approved methodology and best practice.

b. If during the construction and/or demolition works associated with the development hereby approved any suspected areas of contamination are discovered, which have not previously been identified, then all works shall be suspended until the nature and extent of the contamination is assessed and a report submitted and approved in writing by the local planning authority and the local planning authority shall be notified as soon as is reasonably practicable of the discovery of any suspected areas of contamination. The suspect material shall be re-evaluated through the process described in 14b to 15 above and satisfy 16a above.

c. Upon completion of the remediation works required by 16 and 16a above a validation report

prepared by a competent person shall be submitted to and approved in writing by the local planning authority. The validation report shall include details of the remediation works and Quality Assurance/Quality Control results to show that the works have been carried out in full and in accordance with the approved methodology. Details of any validation sampling and analysis to show the site has achieved the approved remediation standard, together with the necessary waste management documentation shall be included.

Reasons for Conditions

1. To comply with the requirements of Section 51 of the Planning and Compulsory Purchase Act 2004.
2. To comply with the requirements of Section 51 of the Planning and Compulsory Purchase Act 2004.
3. To ensure a satisfactory appearance of the completed development, in the interests of visual amenity and in compliance with policies SS1 and SC3 of the adopted Local Plan.
4. To ensure a satisfactory appearance of the completed development, and to ensure adequate visibility for motorists exiting the site, in the interests of visual amenity and highway safety, and in compliance with policies SS1, SS9, SC3, SC9 and ITCR10 of the adopted Local Plan.
5. To ensure the provision of a no loss, and/or net gain in biodiversity, in compliance with policies SS1, SS9, SC3 and SC9 of the adopted Local Plan
6. In the interests of ensuring the protection of any protected species or other species of nature conservation interest, in compliance with policies SS1, SS9, SC3 and SC9 of the adopted Local Plan.
7. To ensure the provision of a no loss, and/or net gain in biodiversity, in compliance with policies SS1, SS9, SC3 and SC9 of the adopted Local Plan
8. In the interests of providing a safe and suitable access to the site. In accordance with highway safety and in compliance with policies SS1, SC3 and ITCR10 of the adopted Local Plan.
9. To ensure that construction plant and materials can be safely stored within the application site, clear of the adopted highway, in the interests of highway safety and in compliance with policies SS1, SC3 and ITCR10 of the adopted Local Plan.
10. To ensure the provision of a safe and suitable vehicular access, in the interests of highway safety and in compliance with policies SC3 and ITCR10 of the adopted Local Plan.
11. To ensure the provision of satisfactory resident parking within the application site, in the interests of highway safety and in compliance with policies SC3 and ITCR11 of the adopted Local Plan.
12. To ensure that the stability of land within the site is capable of supporting built form, in the interests of land stability and coal mining legacies, and in compliance with policies SS1,

SC2 and SC14 of the adopted Local Plan.

13. To confirm that sufficient investigations have been carried out to establish the stability of the site, in the interests of coal mining legacies, and in compliance with policies SS1, SC2 and SC14 of the adopted Local Plan.

14. To protect future occupiers of the development, buildings, structures/services, ecosystems and controlled waters, including deep and shallow ground water and to ensure that matters relating to potential contamination on site have been properly assessed, in compliance with policies SS1, SC2 and SC14 of the adopted Local Plan.

15. To protect future occupiers of the development, buildings, structures/services, ecosystems and controlled waters, including deep and shallow ground water and to ensure that matters relating to potential contamination on site have been properly assessed, in compliance with policies SS1, SC2 and SC14 of the adopted Local Plan.

16. To protect future occupiers of the development, buildings, structures/services, ecosystems and controlled waters, including deep and shallow ground water and to ensure that matters relating to potential contamination on site have been properly assessed, in compliance with policies SS1, SC2 and SC14 of the adopted Local Plan.

Notes

1. Pursuant to Section 184 of the Highways Act 1980 and Section 86(4) of the New Roads and Streetworks Act 1991 prior notification shall be given to the Department - Place at County Hall, Matlock regarding access works within the highway. Information, and relevant application forms, regarding the undertaking of access works within highway limits is available via the County Council's website <https://www.derbyshire.gov.uk/transport-roads/roads-traffic/licences-enforcements/vehicular-access/vehicle-accesses-crossovers-and-dropped-kerbs.aspx> E-mail highways.hub@derbyshire.gov.uk or Telephone Call Derbyshire on 01629 533190.

2. The Highway Authority recommends that the first 5m of the proposed access/driveway should not be surfaced with a loose material (i.e. unbound chippings or gravel etc.). In the event that loose material is transferred to the highway and is regarded as a hazard or nuisance to highway users, the Authority reserves the right to take any necessary action against the householder.

3. Pursuant to Sections 149 and 151 of the Highways Act 1980, steps shall be taken to ensure that mud or other extraneous material is not carried out of the site and deposited on the public highway. Should such deposits occur, it is the applicant's responsibility to ensure that all reasonable steps (e.g. street sweeping) are taken to maintain the roads in the vicinity of the site to a satisfactory level of cleanliness.

4. There is a Public Right of Way (Footpath 22 on the Derbyshire Definitive Map). The route must remain unobstructed on its legal alignment at all times and the safety of the public using it must not be prejudiced either during or after development works take place. Further advice can be obtained by calling 01629 533190.

Please note that the granting of planning permission is not consent to divert or obstruct a public right of way.

If it is necessary to temporarily obstruct a right of way to undertake development works then a temporary closure is obtainable from the County Council. Please contact 01629 533190 for further information and an application form

If a right of way is required to be permanently diverted then the Council that determines the planning application (The Planning Authority) has the necessary powers to make a diversion order.

Any development insofar as it will permanently affect a public right of way must not commence until a diversion order (obtainable from the planning authority) has been confirmed. A temporary closure of the public right of way to facilitate public safety during the works may then be granted by the County Council.

To avoid delays, where there is reasonable expectation that planning permission will be forthcoming, the proposals for any permanent stopping up or diversion of a public right of way can be considered concurrently with the application for proposed development rather than await the granting of permission.

5. Pursuant to Section 278 of the Highways Act 1980 and the provisions of the Traffic Management Act 2004, no works may commence within the limits of the public highway without the formal written Agreement of the County Council as Highway Authority. It must be ensured that public transport services in the vicinity of the site are not adversely affected by the development works.

Advice regarding the technical, legal, administrative and financial processes involved in Section 278 Agreements may be obtained from Mr K Barton in Development Control at County Hall, Matlock (tel: 01629 538658). The applicant is advised to allow approximately 12 weeks in any programme of works to obtain a Section 278 Agreement.

6. The applicant is reminded that the scale, layout and design (including use of material) will need to give full consideration and respect to the site's location in the countryside. The topography of the land should be utilised to ensure that the dwellings are sympathetically sited within the plot to ensure the retention of the rural character of the area. The Local Planning Authority encourage pre-application discussions prior to the formal submission of Reserved Matters.

7. Certain plant and animal species, including all wild birds, are protected under the Wildlife and Countryside Act 1981. It is an offence to ill-treat any animal; to kill, injure, sell or take protected species (with certain exceptions); or intentionally to damage, destroy or obstruct their places of shelter. It is thus an offence to take, damage or destroy a wild birds nest whilst in use or being built. Hedgerows or trees containing nests should therefore not be removed, lopped or topped during the nesting season. Bats enjoy additional protection. It is an offence to kill, injure or disturb bats found in the non-living areas of a dwelling house (that is, in the loft) or in any other place without first notifying English Nature. Some other animals are protected under their own legislation (e.g. the Protection of Badgers Act 1992).

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
