

PARISH Glapwell Parish

APPLICATION Change of use to drive thru coffee shop, part demolition of single storey extensions, addition of drive thru window and drive through lane.

LOCATION The Plug And Feathers, The Hill, Glapwell, Chesterfield

APPLICANT Andrew Burney c/o 5th Floor, Unex Tower Stratford London E15 1DA
United Kingdom

APPLICATION NO. 21/00506/FUL **FILE NO.** PP-10156128

CASE OFFICER Mrs Karen Wake (Mon, Tues, Wed)

DATE RECEIVED 24th August 2021

SUMMARY

This application has been referred to the Planning Committee by the Planning Manager given the concerns of local residents about the impact of the development on road safety in the area.

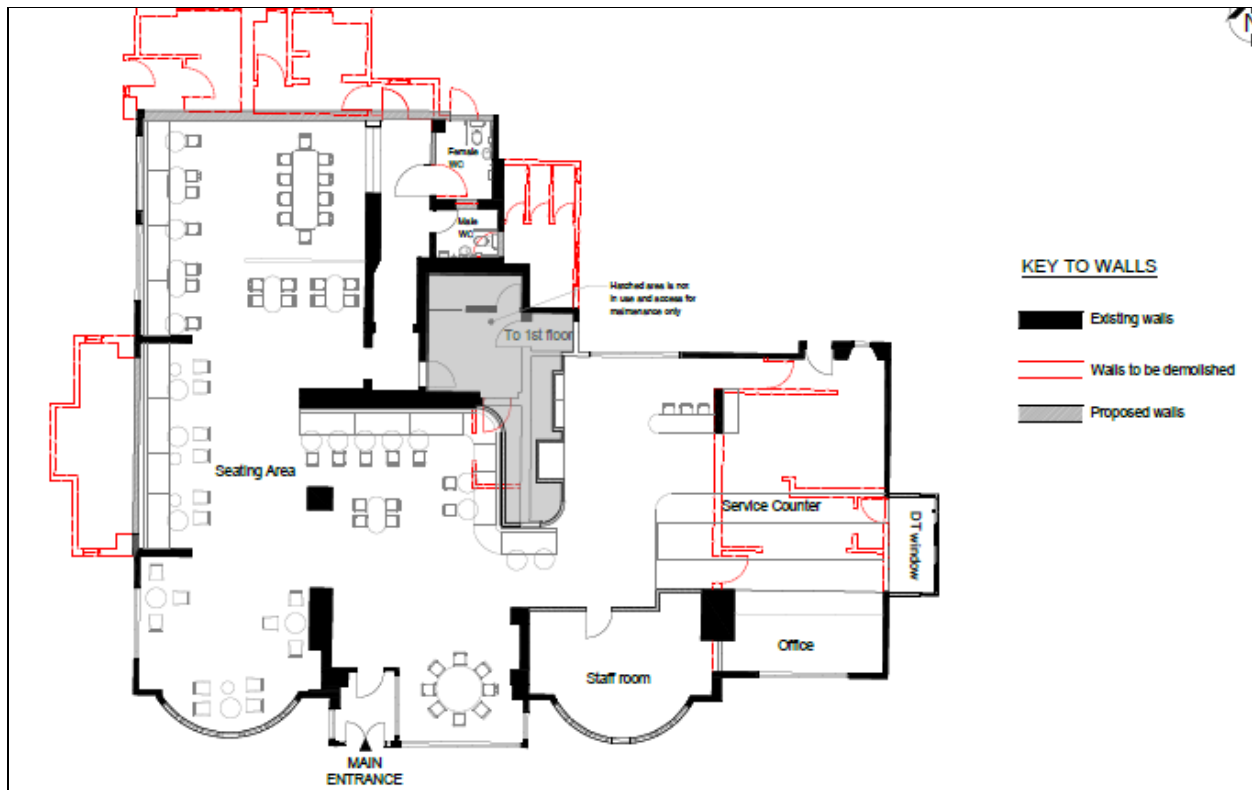
In summary, the application is recommended for approval. This is considered to represent a sustainable facility which accords with most policy requirements, subject to the inclusion of suitable conditions.

Site Location Plan





Proposed Elevations



Proposed Ground Floor Plan

AMENDMENTS

Amendments have been made to the alterations to be made to the outbuilding following the

findings of bat surveys.

Alterations have been made to the site layout following advice from DCC Highways.

Acoustic fence has also been added to proposal.

HISTORY

BLA/1973/0042	Granted Conditionally	Alterations at The Glapwell Hotel (BLA 373/42)
BOLADV/1989/004	Granted Conditionally	Two static externally illuminated fascia signs and one externally illuminated pole sign at The Glapwell Hotel (BOL 289/A4)
BOLADV/1994/007	Granted Conditionally	Re-signage at The Glapwell Inn (BOL 9406/AD07)
98/00179/ADV	Granted Conditionally	Erection of illuminated signs
02/00242/FUL	Granted Conditionally	Change of use of first floor to hotel and two storey extension to side, conversion of outbuilding to managers flat and hotel bedrooms and extension to car park
05/00651/ADV	Granted Conditionally	Erection of 2 externally illuminated signs, 1 non illuminated sign and an internally illuminated double sided totem sign
09/00052/RETRO	Granted Conditionally	Retention of timber decking with balustrading
11/00240/FUL	Granted Conditionally	Change of use of part of first floor to form four guest rooms
12/00265/FUL	Granted Conditionally	Alterations to front & side elevation (ground floor) & internal alterations for refit
12/00336/ADV	Granted Conditionally	Various signage including 1 Post and 1 Logo sign (internally illuminated), 1 fascia sign (internally & externally illuminated), 2 amenities and 1 post signs (non-illuminated) and 4 lanterns (as amended by email received on the 13th August 2012 from the agent)
21/00762/FUL	Granted Conditionally	Change of Use from Drinking Establishment (A4) to Convenience Store (E) - additional of pedestrian access ramp to front entrance. Change of window to door on rear elevation

CONSULTATIONS

Ault Hucknall Parish Council

Extremely concerned about the traffic flow which will result from the development which is sited inside a bend in the highway on what is a very fast road. Appears to be limited parking spaces and the drive-through could easily result in traffic queuing onto the highway creating a dangerous situation from both access and egress points.

Derbyshire County Council (Highways)

Requested amended details/layouts which have been submitted. No objections raised to the amended plans subject to conditions requiring access, visibility splays and parking to be provided in accordance with the approved plans, no gates or other barriers to the access / driveway, submission of a construction management plan.

Derbyshire County Council (Rights of Way)

No objections. It appears the route of Glapwell Public Bridleway no. 1 will be unaffected by the proposed works. Applicant should be advised that there must be no impact on the Bridleway, it must remain open, unobstructed and its surface unaffected.

Derbyshire Wildlife Trust

Bat surveys found a maternity roost of myotis bats, an occasional day roost of a small number of brown long-eared bats and two occasional day roosts of single common pipistrelle bats within the roof void. No roosting bats were recorded using the outbuilding.

The roosts within the roof void can be retained within proposals. No direct works to the roof void, covering or eaves are proposed and the report concludes that a mitigation licence will not be required from Natural England. The mitigation measures proposed appear reasonable. Advise obtaining confirmation from the applicant, prior to determination, that these are achievable and request that the results of the eDNA analysis are provided to confirm the myotis species. It is likely that the maternity roost is of county importance. The measures should be incorporated within a Non-licensed Method Statement, which must be secured via a condition prior to the start of all works on site. A Sensitive Lighting Plan will also be essential and must be required by condition. If for any reason, the likelihood of roost disturbance increases, a mitigation licence will be required along with a review of the mitigation. Recommend that monitoring requirements are also secured via a condition to ensure remedial actions are taken if a) the method statement is not complied with and b) adverse impacts to the roost are identified.

An active swallow nest was recorded in the outbuilding during the surveys. It is preferable to alter the existing nesting location a little as possible to maximise chances of swallows returning to nest on site. Full details of the Swallow Compensation should be secured via a condition as well as a bird mitigation condition.

Environmental Health Officer

Raised some concerns and asked for additional information. Additional information provided together with details of an acoustic fence to be provided. Following submission of additional information there are no concerns relating to odour or noise subject to the provision of the proposed acoustic fence being required by condition.

Glapwell Parish Council

Expressed serious concerns regarding road safety issues relating to this development. The A617 generates huge traffic flows and this will get worse with recent planning granted for over 120 homes. The site does not have safe entry and exit for vehicles from such a busy road. It is close to where the speed limit changes from 40mph to 30mph and is subject to a sweeping curve of the carriageway further up the Hill. Cars are averaging in excess of the 30mph speed limit and cars slowing down in the carriageway, or stationary in a queue on the carriageway, will result in accidents.

There is no information about how HGV drivers will access the site as it appears too small to accommodate HGV's. This means HGV's parking roadside to use the facilities as there are no road markings to prevent this and could again lead to accidents.

The site is situated next to the entry and exit to the Stockley Trail and Mountain Bike course. Pedestrians and cyclists use this access. Unlike when this was a public house, a drive through will generate more vehicles crossing the pavement and there is no provision for cyclist safety.

There will be an increase in litter when the village already suffers with problems regarding takeaway litter being brought into the village for consumption and then disposed of inappropriately. How will this be mitigated?

What is the company ethos on cutting down on single use cups as environmentally aware businesses should only be located within the area.

The opening times are very different to those previously experienced by nearby residents with potential for noise generation. Some of the noise issues are addressed in documentation provided with the application but the actual impact in the early hours seems significant. Operational hours state starting at 5am. At this time ambient road noise will be lower meaning that operational noise will be more intrusive to nearby dwellings.

The building is one that has served the community for many years and the historic structure of the building should be preserved

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

PUBLICITY

Site notice and 25 neighbours notified. Letters received from 18 residents which raise the following objections:

1. People do not obey the speed limit the road needs a speed camera as there have been fatalities on this road. There used to be an anti-slip surface adjacent to the site but this has been surfaced over, rumble strips may be a cheap option to reduce speeds.
2. Road markings will need to be provided to prevent parking on the road if a vehicle is too big to go through the drive through or at busy times which used to happen when the pub was open causing delays and danger to other road users and residents.

3. This is not in keeping with the residential area or this beautiful building.
4. Will result in even more traffic and congestion on an already busy road and result in queues blocking the road causing delays and possibly accidents. There have already been serious accidents including fatalities on this road. The current proposal will make this road even more dangerous.
5. May result in litter.
6. The entrance to The Stockley Trail is well used by walkers cyclists and horse riders and is likely to be blocked by overspill vehicles trying to access the site causing danger to these users.
7. The opening hours (5am -11pm) are very unsociable in a residential area causing noise for adjacent residents. The latest the pub ever stayed open was 10pm and it was never open early in a morning.
8. There is no need for a coffee shop chain here when one is already available in Heath, one at Junction 29A and at Tibshelf services, one at Glapwell Nurseries plus two others within half a mile run by local families.
9. The noise and pollution caused by car engines running will be unpleasant for immediate neighbours.
10. The building is listed.
11. If this goes ahead will the bypass plans be shelved?
12. Will make accessing adjacent driveways even more difficult and cause further problems for pedestrians trying to cross the road.
13. Will de-value adjacent properties.
14. A small, local business such as a restaurant, convenience shop or coffee shop/bistro would be preferable.
15. The building should remain a community asset and be re-opened as a pub/restaurant.

The following supporting comments were made by two residents:

1. The company has the financial backing to support the maintenance of the building.
2. A coffee shop will result in less problems of noise and disorderly behaviour than the pub use.
3. Good to see electric vehicle charging points in an area where there are none. The bays should be large enough for disabled/family users and should be installed and opened when the building becomes open to the public.

POLICY

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

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

- SS1 (Sustainable Development)
- SC1 (Development within the Development Envelope)
- SC2 (Sustainable Design and Construction)
- SC3 (High Quality Development)
- SC9 (Biodiversity and Geodiversity)
- SC10 (Trees, Woodland and Hedgerow)
- SC11 (Environmental Quality (Amenity))
- ITCR4 (Local Shops and Community Facilities)

- ITCR11 (Parking Provision)

National Planning Policy Framework (“the Framework”)

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

- Chapter 2: Achieving sustainable development
- Paragraphs 47-48: Determining applications
- Paragraphs 55-58: Planning conditions and obligations
- Paragraphs 104-108: Promoting sustainable transport
- Paragraph 119, 120, 122 and 123: Making effective use of land
- Paragraphs 174, 180 and 182: Conserving and enhancing the natural environment
- Paragraphs 183-188: Ground conditions and pollution

ASSESSMENT

Key issues

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

- the principle of the development and the loss of a community facility
- the impact on the character and appearance of the area
- the impact on residential amenity
- whether the development would be provided with a safe and suitable access and the impact of the development on the local road network
- biodiversity and trees
- issues raised by local residents

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

Principle

The site is within the development envelope of Glapwell village in a predominantly residential area. The previous use of the building was a public house and as such is a community use protected by Policy ITCR4 of the Local Plan for Bolsover District. Planning permission has previously been granted for a change of use to a convenience store but this was also considered to be a community facility and this permission has not been implemented.

Policy ITCR4 protects local shops and community facilities such as public houses and states planning permission will only be granted for a change of use of such buildings if one of a number of criteria can be met. One of these criteria is that:

“The loss of the specific facility would not create, or add to, a shortfall in the provision or quality of such facilities within the locality.”

In this instance there is a community centre in Glapwell village, the Resource Centre in Doe Lea, the Young Vanish Pub, the Twin Oaks Motel, the Elm Tree at Heath, the Doe Lea Miners Welfare and two convenience stores within the local area. The loss of the public house / previously approved convenience store is therefore not considered to result in a shortfall of

community facilities in the area. As such the proposal is considered to comply with the requirements of Policy ITCR4 and the principle of the proposed change of use is therefore acceptable.

The building has been vacant for some time and the re-use of the building is considered to be an efficient use of previously developed land. The site is within walking distance for local residents and is on a main commuter route such that it will be a convenient drop in for people and on this basis the site is considered to represent a sustainable use of the building which would meet the requirements of Policy SS1 and as such is considered to be acceptable in principle subject to compliance with the other relevant policies in the Local Plan.

The impact on the character and appearance of the area

The proposal utilises the existing building with the demolition of two small single storey elements, installation of a side window and some alterations to an outbuilding with no other alteration to the external appearance of the frontage of the building. There are also some alterations proposed to the car park layout and provision of a drive-thru lane but the proposal will otherwise not result in material alterations to the appearance of the original building. The area is predominantly residential but there is a parade of shops and an industrial estate in the locality and the proposal replaces an existing commercial use such that the proposal is not considered to appear unduly prominent or out of character in the area. In addition, the re-use of the vacant building which is falling into disrepair is considered to bring vitality of the area and to enhance the character and appearance of the building by bringing a new facility to the area.

The proposal includes new signage but this does not form part of this application and is the subject of a separate application for advertisement consent.

Residential Amenity

The site is immediately adjacent to residential dwellings and as such the proposed use of the building is likely to result in some level of noise and disturbance for residents of adjacent dwellings. However, the building could be re-used as a public house at any time without the need for planning permission and the use of the site as a coffee shop is not considered to result in a material increase in noise and disturbance for local residents over and above a public house use. However, the hours of opening proposed are longer (5am-11pm) than a public house use. A noise assessment and additional information has been submitted including details of an acoustic fence to be erected on the site boundary. The Environmental Health Officer has no objections to the proposal following the provision of the additional information subject to a condition requiring the provision and retention of the acoustic fence. Subject to such a condition the proposal is not considered to be materially detrimental to residential amenity, over and above the use of the building as a public house and the proposal is considered to meet the requirements of Policy SC11 of the Local Plan for Bolsover District.

Access/Highways

A transport statement has been submitted with the application which has been carried out by a transport planning specialist consultant. The statement includes a traffic count and an assessment of the number of vehicular trips generated by the proposal and then assesses the likely impact of the proposal. The conclusion of that assessment is that the proposal is acceptable in terms of its highways impacts.

The report also estimates the increase in the number of trips to and from the site using information from the TRICS database and this suggested that the greatest increase would occur in the morning with lesser increases at other times. The assessment concludes that the proposal would not result in a significant material impact or increase in traffic arising from the use proposed (in comparison with the current extant use) and that the potential changes to the trips would not impact on the operation of the local or wider highway network.

The site currently has two accesses, one at each end of the site frontage and these are to be retained and utilised in this proposal. The proposal reduces the number of parking spaces on site from 26 to 15. Some of the existing parking spaces removed are on the site frontage but these spaces are partially located on highway land and as such were unauthorised as part of the use of the site by the pub. The floor area of the building which is proposed to be used for retail purposes extends to approx. 155sqm which gives a requirement for 38 parking spaces in accordance with the council's parking standards set out in the Local Plan. The proposal therefore doesn't meet the council's parking standards however, if the building remained in a public house use the council's current parking standards would require 76 parking spaces and as such the site would therefore be even further short of meeting the councils parking requirements. Therefore, on balance, whilst the proposal does not meet the councils parking standards, nor does the previous use which could re-open at any time without the need for planning permission. The proposal is therefore not considered to result in a greater parking requirement than the existing use and in addition there are no objections to the proposal from the Highway Authority. Subject to condition requiring the provision of the access, parking and turning areas on site to be provided in accordance with the approved plan, the proposal is therefore not considered to be detrimental to highway safety and is considered to meet the requirements of Policies SC3 and ITCR11 of the Local Plan for Bolsover District.

The Highway Authority have also asked for a condition to require details of on-site storage of plant and materials (during the construction phase) to be provided. Given the modest scale of the development and the works proposed and the large area of parking available, such a condition is considered unnecessary particularly as should storage take place outside the site on the footpath or highway this would be controlled under the Highways Act.

The Highway Authority have also asked for no gates or barriers to the accesses to the site. This is considered unnecessary and unreasonable as the application does not include the provision of new boundary treatment on the site frontage. Any boundary treatments/gates on the frontage under 1m in height would not require planning permission. Gates/boundary treatments over 1m in height would need to be the subject of a separate planning application. Should gates be installed they would be very unlikely to be closed during the business opening hours as this would deter customers. If fences/gates were required for security purposes it would be unreasonable to prevent this unnecessarily.

Biodiversity and trees

Preliminary bat survey work and nocturnal surveys undertaken identified the use of the main building by three species of bats and found a maternity roost and 2 occasional roosts within the roof void. No roosting bats were recorded using the outbuilding.

The roosts within the roof void can be retained within proposals. No direct works to the roof void, covering or eaves are proposed and the report concludes that a mitigation licence will

not be required from Natural England. The mitigation measures proposed appear reasonable and the applicant has confirmed that the conditions are achievable and has also confirmed the species of bats within the roof as requested by Derbyshire Wildlife Trust. The measures can be incorporated within a Non-licensed Method Statement, which can be required by condition prior to the start of all works on site. A Sensitive Lighting Plan will also be required and can also be required by condition. Derbyshire Wildlife Trust also recommend that monitoring requirements are also secured via a condition to ensure remedial actions are taken if a) the method statement is not complied with and b) adverse impacts to the roost are identified.

An active swallow nest was also recorded in the outbuilding during the surveys. Full details of the Swallow Compensation can also be required by a condition as well as a bird mitigation condition.

The proposal involves the removal of 6 trees. The trees are not covered by a preservation order and a tree report has been submitted with the application which confirms that 5 of these are of low quality with limited retention value. The report goes on to say that the removal of these trees can be compensated for with new planting which will be more sustainable for future retention, offer seasonal amenity and a diverse habitat for wildlife. The replacement of these trees and the protection of retained trees during construction can be controlled by condition.

The applicant has confirmed agreement to these conditions and subject to such conditions the proposal is not considered to have an adverse impact on the protected species on site and is considered to have a neutral impact for biodiversity. Subject to such a condition the proposal is therefore considered to meet the requirements of Policies SC9 and SC10 of the Local Plan for Bolsover District.

OTHER PLANNING CONSIDERATIONS

Issues raised by local residents

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

The issue of the need for an additional coffee shop and its impact on existing businesses has not been considered, as the issue of competition is not a material planning consideration which could be taken into account as part of the planning application process.

The suggested alternative uses for the site have also not been considered, as these uses do not form part of the proposal and the application as submitted for the proposed use has to be considered on its individual merits, it is not for the council to suggest alternative uses if the use proposed is acceptable in planning terms.

The highway safety issues relating to the proposal have been covered in the above assessment.

The loss of value to property has not been considered as this is not a material planning issue which could be taken into account as part of the planning process.

The building is not listed and therefore this has not been a consideration. The impact of the

proposal on any future bypass proposal has also not been considered as it does not form part of the current application.

CONCLUSION

The proposal provides a re-use of a previously developed site and a building which is falling into disrepair. The proposal is in a sustainable location and is considered to preserve the character and appearance of the area. The proposal is not considered harmful to the amenity of local residents or to highway safety over and above the existing situation if the site was brought back into use as a public house.

Subject to the conditions set out in the above assessment the proposal meets the requirements of the relevant Policies in the Local Plan for Bolsover District and the National Planning Policy Framework.

RECOMMENDATION

The current application be APPROVED subject the following conditions :

1. The development shall be begun before the expiration of three years from the date of this permission.
2. The development must be carried out in accordance with the plan numbers:
 - 4167_PL05H
 - 4167_PL06
 - 4167_PL07
 - 4167_PL09B
 - 001_10REV A
 - 001_19 REV B
 - 001_27 REV A
3. Before development starts on site, tree protection measures must be provided on site in accordance with the method statement for tree protection measures, diagram 1 and appendix 5 of the Arboricultural report dated 27th July 2021 and must be maintained throughout the construction period on site unless otherwise agreed in writing by the Local Planning Authority.
4. Before the development hereby approved is first brought into use, full details including size, species, location and planting timetable for the replacement trees to replace the 6 trees removed as part of this application must be submitted to and approved in writing by the Local Planning Authority. The trees must be planted in accordance with the approved details.
5. Before the development hereby approved is first brought into use, The Jakoustic acoustic fence, details of which were submitted to the Local Planning Authority via email on 23rd September 2021 must be installed on site in the position shown on plan number 4167_PL05H and must be maintained as such thereafter.

6. Before the development hereby approved is first brought into use, the access, parking, drive through lane and delivery bay must be provided on site, marked out in accordance with the approved plan number 4167_PL05H and must be maintained as thereafter.
7. Prior to the commencement of any works on site (including any works affecting the main building or outbuilding, removal of trees, installation of permanent or temporary lighting and installation of scaffolding) a Non-licensed Method Statement providing full details of mitigation measures to safeguard bats at the site must be submitted to and approved in writing by the Local Planning Authority. These measures must expand upon those detailed in Section 4.1 of the Bat Activity Survey report (Morph Ecological Consultants, July 2022) and include a bat monitoring protocol. The protocol must include the requirement for remedial measures if a) the Non-licensed Method Statement is not complied with and / or b) adverse impacts to the roosts are identified. The results of all monitoring must be submitted to the Local Planning Authority for approval. The approved measures must be fully communicated to site staff and implemented in full in accordance with the approved details and maintained as such thereafter.
8. Prior to the installation of any lighting fixtures, a detailed Lighting Strategy must be submitted to and approved in writing by the Local Planning Authority to safeguard known bat roosts at the site. This document must be cohesive with the Non-licensed Method Statement submitted under condition 7. The hours of operation of the lighting must be stated and the strategy must provide details of the chosen luminaires, their locations and any mitigating features such as building canopies, lighting baffles/shields, dimmers, PIR sensors and timers. Dependent on the scale of proposed lighting, a lux contour plan may be required to demonstrate acceptable levels of light spill to roost access points and surrounding habitats. Guidelines can be found in Guidance Note 08/18 - Bats and Artificial Lighting in the UK (BCT and ILP, 2018). The approved measures must be implemented on site in full and in accordance with the approved details and maintained as such thereafter.
9. Before any works to the outbuilding or bin store commence on site, full details including type, size, position and timetable for installation of the swallow nesting boxes to be installed on site must be submitted to and approved in writing by the Local Planning Authority. The boxes must be provided on site in accordance with the approved scheme and must be maintained as such thereafter.
10. No stripping, demolition works or vegetation clearance must take place between 1st March and 31st August inclusive, unless preceded by a nesting bird survey undertaken by a competent ecologist no more than 48 hours prior to clearance. If nesting birds are present, an appropriate exclusion zone must be implemented and monitored until the chicks have fledged. No works must be undertaken within exclusion zones whilst nesting birds are present.

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.

The decision contains several pre-commencement conditions which are so fundamental to the development permitted that:

- it would have been otherwise necessary to refuse the whole permission; or
- are necessary to address issues that require information to show that the development will or can be made safe, or
- address other impacts which need to be assessed to make the development acceptable to minimise and mitigate adverse impacts from the development.

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.