

**PARISH** Old Bolsover Parish

---

**APPLICATION** Demolition of agricultural buildings, conversion of existing stone barns and outbuildings to create 3 dwellings and 4 new build dwellings with new public greenspace with access from Whaley Road

**LOCATION** Whaley Moor Farm, Whaley Road, Whaley, Mansfield

**APPLICANT** Chatsworth Settlement Trustees, The Estate Office, Edensor, Bakewell, DE45 1PJ

**APPLICATION NO.** 21/00560/FUL

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

**DATE RECEIVED** 20th September 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 and the fact that the previous application on the site was determined by Planning Committee.

In summary, the application is recommended for refusal. The development is considered to result in harm to the conservation area and the threshing barn as heritage assets. This harm is classed as less than substantial harm which is not outweighed by the public benefits of the proposal.

The public benefits which are provided could be provided by the conversion of the site frontage buildings without the new build element of the scheme. An independent viability appraisal has found that the conversion of these buildings does not result in a conservation deficit to trigger the need for enabling development.

Officers have sought to negotiate with the applicant to remove the new build element of the development and progress the application with the conversion of the frontage buildings only. The applicant maintains the conversion of the buildings is unviable and therefore declined to amend the application.

In addition, Whaley is a small settlement in the countryside and as such is not a sustainable location and to focus development in this area would not align well with the wider carbon reduction ambitions cited within the NPPF, and the Council's Local Plan.

# Site Location Plan



## **SITE & SURROUNDINGS**

The application site covers an area of 0.584 Ha and is located centrally within the village of Whaley. Whaley is located on an area of sloping land which falls from a shallow ridge towards a stream at the rear of the application site. The stream travels north-west to the south-east (where it joins the River Poulter) and runs on a similar alignment to Whaley Road, which is the main vehicular route through the village. The other entry point is from Mag Lane to the north-east, which provides access to the top yard. The T junction where the routes meet is in effect the centre of the settlement and is directly addressed by the bottom yard site.

The village is entirely located within the Whaley Conservation Area designation. The conservation area contains no buildings with statutory listings, however a number of buildings are identified as having architectural/historical merit including the stone barn located on the frontage of the application site. Open spaces to the north-west and south-east of the site are also noted as being important to the character of the Conservation Area.

The late 19<sup>th</sup> century farm buildings on the site are all constructed from Magnesian Limestone. These consist of the former farm house shell (now used as a barn), the northern barn (an attractive traditional building) and a small building fronting Whaley Road to the south of the farm house. The conversion of the farm house during the 1960's is reported to have included removing the pitched roof, all of the interior and filling in most openings with stone. A sloping metal mono-pitch roof replaces the original. A steel framed hay barn also exists on the site and is a relative modern addition clearly related to the function of the farmstead. The other buildings occupying the site are utilitarian in appearance and with little architectural merit. These later buildings are generally located to the rear of the site and are less visible from publicly accessible areas.

## **BACKGROUND**

An outline application for conversion of the barns to two dwellings and the construction of 8 new dwellings on the site has previously been refused on the site in 2018 (app. ref 17/00546/OUT).

The latest application is a resubmission of that previously refused application, but it has been amended to a full application to include full details of the application proposals rather than being an outline application.

The original outline application (17/00546/OUT) was refused for the following reasons:

1. The development proposes a design not obviously well related to the local vernacular and the northern portion appears overly dense, prominent in the public realm and leads to an erosion of the perception of openness of this section of the Conservation Area. Such effects conflict with the requirements of Local Plan Policy GEN2, CON1 and CON4, the emphasis within NPPF para 132 and S72 of the Listed Buildings and Conservation Areas Act 1990 to ensure 'special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area.'
2. Whaley is an isolated hamlet with little access to day to day services. There are no education facilities within the settlement, users of the development will be highly car

dependent and there is insufficient pedestrian access to other settlements nearby due to the absence of pavement and narrow, unlit roads. Consequently, the application site is not in a location that is suitable for the scale of residential development proposed in this location and there is no evidence that the proposed affordable housing would meet an identified local need. Moreover, the Council can demonstrate 5 years supply of deliverable housing sites and as such, the proposed housing is not needed to make up a shortfall in terms of meeting objectively assessed housing need in the District. Taking all these factors into account, the current proposals constitute an unsustainable form of development situated within an unsustainable location and any benefits of granting planning permission for the current application would be demonstrably and significantly outweighed by the adverse impacts of doing so when taking into account policies in the Development Plan and the National Planning Framework as a whole.

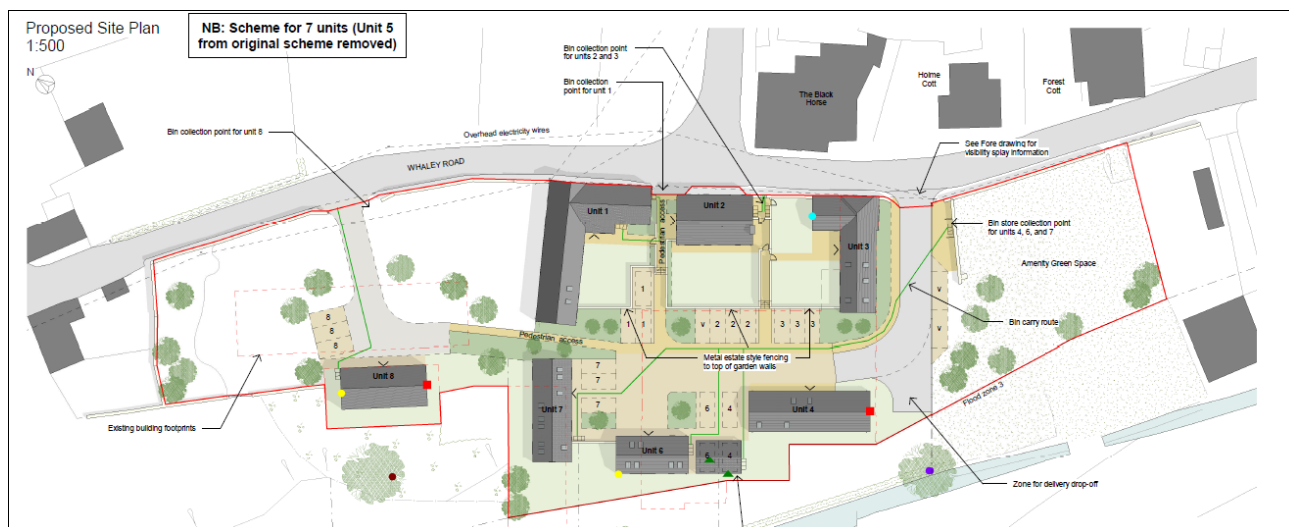
## PROPOSAL

The application comprises the demolition of existing modern farm buildings, the erection of four new houses and the conversion of three traditional farm buildings into three new dwellings.

The layout for the site comprises a scheme of 4 new dwellings, two conversions of traditional buildings and one conversion/re-build of a traditional building. Three of the new dwellings are located to the rear (southwest) of the conversions. With the exception of Unit 8, the development will be served off a private drive directly to the south of the built development, which utilises the existing main point of access to the farm. The dwellings are laid out in a courtyard arrangement. Unit 8, set to the northwest of the courtyard arrangement, is to be served by a separate access.

The proposed dwellings are a mix of 3, 4 and 5 bed detached dwellings with off street parking. Two of the dwellings also have a detached garage. The majority of the dwellings are two storeys in height, with one single storey dwelling at unit 4.

## Site Layout







## AMENDMENTS

There have been numerous amendments to the proposal including reducing the number of new build dwellings from 5 to 4, amendments to the layout and amendments to the design and detailing of each unit.

The latest set of drawings for units 6 and 8 were received on 20<sup>th</sup> September 2022

Drawing no. 7275 (08) 57 Rev A: Unit 8

Drawing no. 7275 (08) 55 Rev B: Unit 6

The latest set of drawings for units 1,2,3,4, 7 and the street scene elevations and sections were received on 14<sup>th</sup> June 2022

Drawing no. 7275 (08) 50 Rev A: Unit 1

Drawing no. 7275 (08) 51 Rev D: Unit 2

Drawing no. 7275 (08) 52 Rev D: Unit 3

Drawing no. 7275 (08) 58 Rev C: Unit 4

Drawing no. 7275 (08) 56 Rev C: Unit 7

Drawing no. 7275 (08) 04 Rev H: Street elevations and sections 1

Drawing no. 7275 (08) 05 Rev H: Street elevations and sections 2

The latest proposed site plan was received on 4<sup>th</sup> March 2022

Drawing no. 7275 (08) 09 Rev N: Proposed site layout

## EIA SCREENING OPINION

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

## HISTORY

BOL/1966/0906	Granted Conditionally	Petrol tank and pump at Whaley Moor Farm (BOL 666/9)
BOL/1967/0301	Granted Conditionally	Replace existing farmhouse (BOL 167/3)
BOL/1970/0505	Refused	Petrol tank and pump (BOL 570/5)
BOL/1991/0107	Refused	Development of a new farmstead, conversion of farm building to form 2 dwellings and erection of 15 dwellings (BOL 391/107)
01/00041/TCON	No TPO	Fell 7 willow trees, 1 ash and 1 sycamore
02/00060/TCON	No TPO	Fell 2 lime trees
11/00226/FUL	Granted Conditionally	Erection of a 6 bay barn to replace existing building
11/00227/CON	Granted	Demolition of dutch barn

	Conditionally	
13/00300/FUL	Granted Conditionally	Replacement agricultural building to store implements
17/00546/OUT	Refused	Outline planning application for redevelopment of Whaley Moor Farm comprising the removal of agricultural buildings, conversion of existing stone barns to 2 dwellings and new build development to provide 8 new dwellings with access from Whaley Road.

## CONSULTATIONS

Bolsover District Council Conservation Manager – 09/11/2021, 26/11/2021, 11/04/2022, 21/04/2022, 16/06/2022 and 21/09/2022

Objects to the proposal. The impact of the development is considered to be harmful to the significance of the Conservation Area as a designated asset and Threshing Barn as a non-designated heritage asset, with the level of harm being less than substantial.

Bolsover District Council Senior Engineer – 08/10/2021

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

Any work carried must not detrimentally alter the structure or surface of the ground and increase or alter the natural flow of water to cause flooding to neighbouring properties. The developer must also ensure any temporary drainage arrangements during construction gives due consideration to the prevention of surface water runoff onto the public highway and neighbouring properties.

The developer should provide detailed proposals of the disposal of foul and surface water from the site and give due consideration to the use of SUDS, which should be employed whenever possible.

Where SuDS features are incorporated into the drainage design for developments of between 2 and 9 properties it is strongly recommended that the developer provides the new owners of these features with sufficient details for their future maintenance.

Derbyshire County Council (Archaeology) – 05/10/2021

The proposals will not have any significant archaeological impact. The BDC Conservation Manager should advise about the impact of the proposal on the significance of Whaley

Conservation Area.

Derbyshire County Council (Lead Local Flood Authority) – 18/11/2021

No formal comments to make as this is not a major application. Advise informative notes relating to surface water and flood risk and advise that units 4 and 5 are adjacent to the edge of flood zones 2 and 3 and as such the applicant should ensure the floor levels of these units are set at an appropriate level to mitigate flood risk.

Derbyshire County Council (Highways) – 22/10/2021 and 18/03/2022

No objections to the amended proposal. Request conditions requiring submission of a scheme for storage of plant, materials and vehicles during construction, wheel washing facilities to be provided during construction period, vehicular access to be provided in accordance with approved plans, access opposite former public house to be changed to pedestrian access only, parking and manoeuvring to be provided in accordance with approved plans, no gates on the access and accesses to be no steeper than 1 in 14.

Derbyshire Wildlife Trust – 29/11/2021

All survey work provided is current. Advise conditions be attached to any planning permission requiring the amphibian, reptile, badger and bird method statement be implemented in full and a statement of compliance submitted, works to buildings 6 and 7 not to be undertaken until a European Protected Species licence has been obtained from Natural England and works carried out in accordance with the approved mitigation and prior to installation of any lighting a lighting strategy be submitted for approval and implemented in full.

Environmental Health Officer – 07/10/2021

Given the previous commercial/agricultural uses of the land and the presence of hardstandings which are likely to be removed exposing potentially contaminated fill material, removal of all made ground or a phased contaminated land investigation and risk assessment condition should be included on any permission.

Severn Trent Water – 14/10/2021

Foul drainage is proposed to connect into the public foul water sewer, which will be subject to a formal section 106 sewer connection approval. As a pumped solution is being proposed, a sewer modelling study may be required to determine the impact this development will have on the existing system and if flows can be accommodated. Severn Trent may need to undertake a more comprehensive study of the catchment to determine if capital improvements are required. If Severn Trent needs to undertake capital improvements, a reasonable amount of time will need to be determined to allow these works to be completed before any additional flows are connected.

Surface water is proposed to discharge into a watercourse about which there is no comment. It is advised that the Lead Local Flood Authority are consulted for their requirements or recommendations regarding acceptable disposal methods or flow rates.

For the use or reuse of sewer connections either direct or indirect to the public sewerage system the applicant will be required to make a formal application to the Company under Section 106 of the Water Industry Act 1991.

Suggest an Informative note that although statutory sewer records do not show any public



sewers within the area you have specified, there may be sewers that have been recently adopted under, The Transfer of Sewer Regulations 2011. Public sewers have statutory protection and may not be built close to, directly over or be diverted without consent and the applicant is advised to contact Severn Trent Water to discuss the proposals and Severn Trent will seek to assist in obtaining a solution which protects both the public sewer and the buildings.

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

## **PUBLICITY**

Site notice posted 28/09/2021, press notice printed 07/10/2021 and 13 neighbours notified 23/09/2021 (re-consulted 07/03/2022). Letters of objection received from 10 local residents from 7 households which raised the following issues:

1. The application is contrary to the Policies in the Local Plan and has already been refused on that basis
2. The scale of the development proposed is inappropriate for the size of the village, increasing the size of the village by 47%
3. Whaley is an isolated hamlet. To focus development in this location would not be sustainable. The development will be highly car dependent, has no access to services, education facilities or shops, poor broadband, poor phone signal, no mains sewers and no gas supply. Development in this area would not align with the carbon reduction ambitions from Government or similar ambitions within the existing and emerging Local Plans for Bolsover.
4. The development will have an adverse impact on the character and appearance of the village, will adversely affect the valued characteristics highlighted within the Whaley Conservation Area Appraisal and will impact visitors to the village interested in the Archaeological Way that exists in the context of the site. The public benefits listed to justify this are all inaccurate
5. The application does not sufficiently address impacts upon protected species such as birds, badger, bats, frogs, toads and newts known to exist in the context of the site. There are also concerns about water quality impacts during the course of the development.
6. The roads into the village will not cope with the increased traffic resulting from the development. The roads are single track with blind corners, are not gritted and have sharp bends. There are already numerous accidents on these roads than the development will make this worse. The development will make the roads unsafe for car drivers and pedestrians
7. The claim by the applicant that the proposal will benefit the village by a reduction in current vehicle movements to and from the site are overstated and an attempt to dilute the uplift in vehicle movements resulting from the development. No evidence has been submitted to back their statement
8. Current utilities such as the Severn Trent Sewage Works will not cope with the increased resulting demand from the development. The existing septic tank and reed bed that serve the hamlet was designed for the existing buildings at the time with no spare capacity
9. Permitted development rights should be removed from the properties proposed
10. The development will be a prestige development that will not be affordable nor aimed

at the local community or local workers. Even the smallest houses will be beyond the means of local people.

11. The proposed development at Whaley “is not allocated for housing within the adopted Local Plan and is situated in the countryside and therefore covered by the greater countryside policies in the plan.” Bolsover has lots of new housing and is meeting its housing targets and needs and therefore there is no need for additional housing in this sensitive location.
12. There is a clear intent by the applicant. It is not to preserve and enhance the conservation area as stated, it is to make a profit. There are a number of flaws/errors in the viability report submitted
13. There may be a small benefit to the appearance at the T-Junction where the Blackhorse is located and removal of the fire damaged barn (which should have been removed immediately afterwards) however, the positives for the village are greatly outweighed by the negatives, policy breaches and unknown aftermath caused by the development.
14. Reducing the total footprint of the development is irrelevant. By removing the farm it will damage this historic agricultural village
15. There are an abundance of trees and shrubs within the village and it is surrounded by fields and woodland. Additional planting is not going to enhance the village character and is unnecessary
16. A viability report has been submitted. This is irrelevant in the decision making process. The profit of the developer will or will not make has nothing to do with planning policy and should be given no weight
17. If the application is successful it will set a precedent for further development within the village on other land owned by the applicant
18. Any development should be restricted to the conversion of the stone barns
19. The damaged barn can be repaired it does not need to be removed
20. The applicant has deliberately not maintained the site whilst promoting this development over the last 5 years. They have let a roadside wall collapse, have fenced the barn with unsightly fencing to make it look worse and although the barn was damaged by two unexplained fires, it was still being used for storage up until the planning application was submitted. The application contains a veiled threat that if it isn't approved the site will be left to deteriorate until such time an application can be pushed through.
21. It should be noted that of the 19 households in the village, 7 are directly or indirectly dependant on the applicant for their tenancy or livelihood and therefore feel unable to comment on the development.
22. As the applicants are responsible for any lack of maintenance of the site this should not be used as an argument for approving the proposal.
23. At the moment Whaley is an agrarian community with at least five of the 19 homes working in the farming industry surrounding the settlement. Both farms are viable, and the work undertaken by them helps sustain the agricultural nature of the community.
24. Whilst the application seeks via the redevelopment to restore some of these assets, it will also change the nature of the village from a farming settlement to a commuting village, as aside from farming and the garage, there is no other employment in the village. The proposed development goes beyond renovating existing historic structures, but also proposes completely new dwellings. These are not essential for the viability of the scheme and will not make the communities more sustainable, nor improve their economic vitality. Comments made by the applicant about the

development adding to the sustainability of services in Langwith and Whaley Thorns are inaccurate. The poor pedestrian and cycle access from Whaley to the A632 at Langwith as well as the narrow road to the same means that the residents of Whaley use the services, shops and amenities in the larger towns of Bolsover and Clowne.

25. The proposed development will not make a positive contribution to local character and distinctiveness. Whaley is probably the last example of an agrarian village that has been undeveloped on the limestone plateau in Bolsover district. Historic maps produced by the developer show that the footprint of the village has been largely unchanged since the Enclosure Map of 1780. Apart from a small number of houses that were built in the 20th Century to accommodate farm workers and the family who owned the garage, there has been little development and that development has met the needs of workers directly linked to work in Whaley. Since becoming a Conservation area in 1978, there has been no development in the village.
26. Planners at Bolsover District Council have been rigorous in ensuring that no changes are made which would further deteriorate the heritage assets of the village. In general, the Conservation area in Whaley has been well protected and, indeed, residents have contributed to the improvement of its heritage assets in recent years and take an immense pride in protecting its character and distinctiveness. The proposed development, particularly the addition of new build, threatens that progress. With the addition of an urban style courtyard. The houses in the village have an organic character that reflects their development at different times and for different uses. The plans submitted look highly regimented, in a modern style, more consistent with estate developments. Though there is a limited use of brick and slate in the village, there seems to be an inordinate amount of the development using these materials rather than the dominant Magnesian limestone with terracotta pantiles. There is also reference to modern elements such as wooden cladding which are not present currently and the use of car ports. These will be to the detriment of the Conservation area.

## **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
- SC2 Sustainable Design and Construction
- SC3 High Quality Development
- SC5 Change of Use and Conversions in the Countryside
- SC9 Biodiversity and Geodiversity
- SC11 Environmental Quality (Amenity)
- SC14 Contaminated and Unstable Land
- SC16 Development Within or Impacting upon Conservation Areas
- SC21 Non-Designated Local Heritage Assets
- ITCR10 Supporting Sustainable Transport Patterns

- IRCR11 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 55-56: Planning conditions
- Paragraph 78-80: Rural Housing
- Paragraphs 104-113: Promoting sustainable transport
- Chapter 12 (Paras. 126 – 136): Achieving well-designed places
- Paragraph 152, 154: Meeting the challenge of climate change
- Paragraph 174: Conserving and enhancing the natural environment
- Paragraph 180: Habitats and biodiversity
- Paragraphs 183-188: Ground conditions and pollution
- Paragraphs 194 -208: Conserving and enhancing the historic environment

### 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.

### Whaley Conservation Area Appraisal and Management Plan December 2008

## **ASSESSMENT**

### **Key issues**

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

- the principle of the development
- the impact of the proposed development on the character and appearance of the conservation area
- sustainability of development
- residential amenity
- whether the development would be provided with a safe and suitable access and the impact of the development on the local road network
- biodiversity and ecology
- visual impacts and landscaping
- drainage
- archaeology
- contamination

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

### Principle of Development

Planning law requires that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. The statutory development plan for Bolsover District is the Local Plan for Bolsover District (adopted March 2020) and Local Plan policies form the starting point for a decision on this application. The council has more than a five year supply of deliverable housing and as such full weight should be given to these policies.

The site occupies a prominent and central location in the small rural village of Whaley. Reflecting this rural nature, Whaley has no Development Envelope (policy SC1) and the whole village is in the Countryside. The site is also within the designated Whaley Conservation Area.

Policy SS3: Spatial Strategy and Distribution of Development is the adopted Local Plan's strategic policy that establishes the District's spatial hierarchy of its settlements. This policy advises that to achieve sustainable development, development will be directed first to the District's Small Towns and Emerging Towns, then to the District's Large Villages. Beyond these more sustainable settlements, the Local Plan will support limited development in a small number of identified Small Villages. The policy then allocates an amount of residential and employment growth to each of the relevant settlements and advises that these settlements have a Development Envelope defined on the Policies Map. Whaley is not identified amongst these relevant settlements.

Settlements not identified in the categories above are termed as Small Settlements in the Countryside and policy SS3 advises that they are considered to not be sustainable settlements and that the Local Plan will not support urban forms of development beyond infill development and conversion of agricultural buildings where appropriate.

Policy SS3 is supported by policy SS9: Development in the Countryside, which is the adopted Local Plan's strategic policy that seeks to restrict urban forms of development in the countryside where these would not be appropriate or sustainable and not in accordance with the Local Plan's Spatial Strategy. As such, policy SS9 states that development proposals in the countryside outside development envelopes will only be granted planning permission where it can be demonstrated that they fall within a number of stated categories, such as the re-use of previously developed land or the re-use of redundant buildings that make a positive contribution to the local area.

Policy SC5: Change of Use and Conversions in the Countryside continues this support and says that proposals will be permitted provided they comply with all of the criteria of the policy.

In light of this policy framework, the conversion and re-use of redundant buildings that make a positive contribution to the local area and the character and appearance of the Whaley Conservation Area may comply with the requirements of policies SS9 and SC5. However, the new build residential units would be contrary to the requirements of Policies SS3 and SS9 of the Local Plan as land that is occupied or was last occupied by agricultural buildings is excluded from the definition of previously developed land.

The Planning Statement submitted with the application advises that the new build units should be considered as enabling development to secure the future of the heritage assets within the farm complex.

The Local Plan for Bolsover District does not make provision for enabling development within its policy framework and so no Local Plan policy support is provided for proposals of this kind. However, paragraph 208 of the NPPF states that “Local planning authorities should assess whether the benefits of a proposal for enabling development, which would otherwise conflict with planning policies but which would secure the future conservation of a heritage asset, outweigh the disbenefits of departing from those policies”.

Therefore, it is necessary to reach a judgement on this matter. To enable this to be done, the planning application as originally submitted was accompanied by a Viability Assessment of the proposal (Viability Assessment for Whaley Moor Farm, Chatsworth Settlement Trustees supplied by BE Group dated September 2021). This report reached the conclusion that a conversion scheme converting the traditional farm buildings into dwellings would lead to a conservation deficit which would be unviable and that a minimum of 5 new dwellings would be necessary to facilitate the conversion of the three traditional barns and make the overall scheme viable.

The applicant’s Viability Assessment was reviewed by an independent viability expert (David Newham of CP Viability Ltd on 25<sup>th</sup> November 2021) and a report produced setting out their assessment of the submitted information. This report concludes the conversion of the 3 traditional properties part of the proposal was viable with no conservation deficit demonstrated and as a result there was no need for any enabling development in this case.

The application was subsequently amended to the scheme currently being considered and one new dwelling was removed from the proposal such that the proposal now includes four new dwellings as well as the three conversions. The applicant’s viability assessment was amended to reflect the amended scheme (Whaley Moor Farm Revised Appraisal produced by BE Group dated 16<sup>th</sup> March 2022) and this time concluded that the 4 new dwellings proposed were necessary to make the scheme viable.

A further independent assessment of the applicant’s amended viability assessment was carried out again by David Newham of CP Viability Ltd on 31<sup>st</sup> March 2022. This independent assessment still concluded that the conversion of the traditional buildings to three dwellings was viable in its own right and that there was no need for enabling development in this case.

In light of this independent assessment of the development viability issue, it is considered that there is no case for the proposed enabling development to outweigh the disbenefits of departing from the Council’s policy framework governing the general location of new development and it is considered that the proposal does not comply with Local Plan policies SS3 and SS9.

It is considered possible to achieve an acceptable proposal if the new build units are deleted from the application and the proposed conversion element of the proposal would secure the re-use of redundant buildings that make a positive contribution to the local area and may comply with policy SC5 of the Local Plan. The applicant has been advised of this and it was requested that the new build dwellings be removed from the proposal to allow the application



to be considered purely on the conversion of the three traditional buildings. The applicant declined to amend the proposal maintaining that it needed the new build to be viable.

### The impact of the proposed development on the character and appearance of the Conservation Area

Farming has been central to the character of Whaley for centuries. Whilst the number of farms has dwindled, farming remains an integral part of the character of the village not only due to the agricultural landscape in which Whaley sits, but also because it has a strong presence in the village itself.

The Whaley Conservation Area Appraisal (2008) identifies Whaley's agrarian origins as underpinning its special character. Whaley Moor Farm is one of two surviving farms, both of which are in prominent locations; Whaley Moor Farm lies in the centre of the village and Whaley Farm abuts the road on the approach to the village. The traditional farm buildings that remain make an important contribution to the character of the conservation area. Both farms are in the ownership of the Chatsworth Settlement Trustees and are operated by tenant farmers.

The Conservation Area has a strong rural character due largely to the interrelationship between the built environment and the wider landscape, and the survival of many of the buildings which comprised the 18<sup>th</sup> and 19<sup>th</sup> century farming village. Whaley Moor Farm, dating from the 18<sup>th</sup> century, is at its centre. The farm remains in agricultural use, with a large modern cattle shed alongside traditional agricultural buildings.

Although added to and altered over the centuries, the Whaley Moor farmstead retains its threshing barn, which although under-used is relatively unaltered. Enclosing the farmyard at its south eastern extent is a small range of traditional single storey brick outbuildings much altered. The site also retains what remains of the two former farm workers cottages fronting Whaley Road. The cottages were combined to form a farmhouse in the mid20<sup>th</sup> century and then later gutted to provide for storage. The resulting building has a negative impact on the Whaley Road frontage and blights an otherwise very attractive historic village. The building is highly prominent, particularly at its entrance from the north, where it closes the view at the T junction in the village centre.

Whaley Conservation Area is a designated heritage asset and the 19<sup>th</sup> century threshing barn, the only fully surviving traditional building on the site is a non-designated heritage asset. The contribution of Whaley Moor Farm and its threshing barn to the significance of the Conservation Area is of some note. Their particular contribution can be defined as follows;

- As an historic farmstead at the historic core of the village Whaley Moor Farm is an integral part of the character of the Conservation Area
- As one of only two surviving farms in an historic agrarian settlement the rarity of Whaley Moor Farm contributes to its significance
- The prominent location of Whaley Moor Farm and the threshing barn contributes to their visual impact
- The preservation and vernacular character of the threshing barn makes an important contribution to the historic townscape, acknowledged in its status as a non-designated heritage asset.

- The surviving traditional farmstead buildings though few, demonstrate the variety in scale, roofs and materials that convey the particular character of a farmstead of its time which was developed and redeveloped over a number of years.

The heritage sensitivity of the site has been a key consideration throughout the planning process. The following advice was given at the pre application stage in February 2019.

*“The northern end of the site is particularly sensitive to change. The proposed terrace and garages would impact on the setting of the barn and mill as non-listed buildings of merit and also the farmyard as a key characteristic of the farmstead. This would in turn result in harm to the Conservation Area as a heritage asset. There is possibly the potential for accommodating one unit at the back of the site that, subject to a high quality of design, could enhance the setting of the conservation area. The lower part of the site has potential for accommodating a range of new development. The layout as presented is loosely based on a courtyard arrangement but would need to reflect this more so if it was to preserve or enhance the intrinsic character of the farmstead. In particular, opening up the farmyard to view from the main street undermines the enclosure that is a key character component and the internal layout with individual residential units marked by a broken building line has a (sub) urban character that is not appropriate in this context.*

*With the quality and sensitivity of the setting in this location there is the scope and the need to do something outstanding; a bespoke high quality scheme which would significantly enhance its immediate setting and be sensitive to the defining characteristics of the local area.”*

Since that time, in response to ongoing advice from the Conservation Officer, the scheme design has undergone a number of iterations. Notwithstanding this, the final design does not have the support of the Conservation Officer.

The amended proposal for 7 dwellings comprises the conversion of the 19<sup>th</sup> century threshing barn and the reconstruction of the former farmhouse/ workers cottages. At the eastern end of the road frontage the brick and stone single-storey range is to be converted/re-built, albeit on a similar footprint. Preserving and enhancing the character of the site as an historic farmstead in a conservation area therefore relies significantly on the overall impact of the new dwellings; their number, the relative size of the individual units and the quality and attention to detail of the new build components.

#### Unit 1: Conversion of the Threshing Barn

As the key building of a traditional farmsteads, the threshing barn at Whaley Moor Farm has heritage significance due to its age, its level of survival and its size, the key feature of the building type. It is the only building on the site that has aesthetic value. The submitted scheme for one dwelling within the barn retains the full height of the threshing space and threshing door opening, a significant characteristic of the building type. In providing for one dwelling, the new openings are minimal and the layout is acceptable; the conversion retains the character and appearance of the barn as a traditional agricultural building. The design scheme as submitted responds to the need to maintain its traditional character notwithstanding its conversion to a new use and the impact on its significance is thereby reduced. The conversion of this traditional building as proposed accords with conservation objectives.

### Unit 2: Reconstruction of the former farmhouse/workers cottages

The present building has nothing to commend it in terms of its physical presence. It does not contribute to the heritage value of the conservation area or the threshing barn. That it sits at the historic core of the village increases its negative impact. Although previously a farmhouse it was formerly two cottages combined into one dwelling in the mid to late 20<sup>th</sup> century. The proposal is for the reconstruction of a dwelling. The scheme as submitted is neither a reproduction of the previous cottages nor the farmhouse that followed them, although the proposed frontage to Whaley Moor Road has the presence of a traditional dwelling. The proposed reconstruction of this building into a dwelling would enhance the character and appearance of the Conservation Area.

### Unit 3: Redevelopment of the buildings at the eastern end of the frontage

This is presently an ad hoc arrangement of outbuildings comprising the remnant of a traditional stone building. Their overall contribution to the heritage significance of the conservation area rests in their traditional materials of construction and traditional scale and proportion. The proposed replacement building reflects the subordinate nature of a traditional range in terms of scale and roof height. It has a greater presence than what is presently there as viewed when approached along Whaley Road from the east. However, the attention to scale and traditional proportion means that this new building sits well alongside the threshing barn and reconstructed farmhouse as a traditional group in an historic setting. The proposal retains the integral boundary wall as a component of the Whaley Road elevation. Overall this proposal preserves the character and appearance of the Conservation Area.

### Units 4 to 7: New-build

This part of the site includes the former cattle yard. It has experienced the most change over the centuries. The contribution of this part of the site is in that it embodies the continuation of its use as a farm. In this it contributes to the significance of the conservation area as a designated heritage asset. The proposal is for the removal of the cattle shed and the development of 3 houses around the perimeter of the former cattle yard. The houses are built of stone and are generally 1.5 storey and 1 storey in height. Roofs are a combination of slate and pantile. Although numbered 4-7, there are only 3 buildings proposed as Unit 5 was removed in response to Conservation Officer comments. The contribution of this part of the site to the heritage significance of the conservation area and threshing barn is not in the cattle building per se, but in that it represents and enables the continuation of its use as a farm. It is in this that this part of the site and the modern cattle building contributes historic and communal value to the significance of the conservation area as a designated heritage asset. The scheme for units 4-7 has sought to address the requirement for the building blocks to reflect the scale and proportion more usually associated with traditional farm buildings to move towards a farmstead character.

### Unit 8: new build

This proposed unit sits on the former stack yard, a part of the site that has experienced the least change over the centuries. The characteristic openness of the yard contributes to the heritage significance of the conservation area and threshing barn as part of its wider historic setting. Unit 8 is a standalone building at the back of the site. It is of a narrow proportion and has a variety of opening sizes. In conservation terms the 'glazed threshing door' detail is not acceptable as a design feature as it compromises the adjacent surviving

threshing barn in term of its unique contribution to the character of the group. Given the prominence of the location and the heritage sensitivity of the site overall, a building of high design quality is needed. As it is, the design of this building does not meet the threshold.

It is acknowledged that the former farmhouse is currently an eyesore and that its reinstatement would constitute a significant enhancement. However, this should not be at the expense of permanent harm to the significance of the Conservation Area and threshing barn as heritage assets.

Although the overall aesthetic value of Whaley Moor Farm to the significance of the Conservation Area is low, this is balanced by the contribution of the evidential, historic and communal value of the farmstead. The impact of the change of use from agriculture to residential on these three values is a key consideration as they will be significantly reduced and in some ways lost altogether, which impacts on the significance of the Conservation Area as a designated heritage asset.

The site is a sensitive location with regard to heritage significance and therefore any development introduces the possibility of 'harm'. The heritage significance of the Conservation Area as a designated historic asset is high, with that of the Threshing barn (a non-designated heritage asset) likely to be considered low. In accordance with the NPPF (*para 199 NPPF 2021*) the consideration is whether there is total loss, substantial harm, 'less than substantial harm or no harm. The following summary points highlight the positive, negative and marginal impacts.

**Major positive impact:** The proposal for the former farmhouse is classed as having a major impact due to it constituting a change to a key historic building element, such that it is totally altered. In the case of this proposal this is a major positive alteration.

**Major negative impacts:** The comprehensive changes to the setting of the Conservation Area and Threshing Barn brought about by the development constitute a major negative impact. Similarly the fundamental change in the use of Whaley Moor Farm from a farmstead to a residential development is a major negative change to its agrarian character at the heart of the Conservation Area.

**Marginal Impact:** the alterations to the Threshing Barn as a key historic building with its conversion will result in it being altered, but due to the sensitivity of the scheme this is considered to have a marginal impact.

On the basis of the above, the impact of the development overall would be considered to be 'less than substantial harm'.

#### Conclusion on the impact on heritage assets

The loss of a working farmstead at the core of an agrarian settlement has a major negative impact on the significance of the Conservation Area as a designated heritage asset. To compensate for this, the design quality of the residential development that replaces it has to be substantial if the overall impact of the development on the significance of the Conservation Area is to be a positive one.

To achieve such a visually successful scheme for this particular site requires a design approach that puts at its centre the importance of historic setting. Such a scheme was previously agreed (Ref: July 2020) with a development comprising the proposals for Units

1, 2 and 3 only (conversions) but the applicant has stated that such a scheme would be unviable.

The unit numbers and scale of the individual new build units in this present submission has been reduced following amendments which has resulted in the impact of the new build components being reduced. However, although this final design amounts to less of a visual impact than previous iterations with more units, it does not overall constitute the preservation or enhancement of either the Conservation Area or the threshing barn as heritage assets. Critically, the design approach to Unit 8, a highly prominent building, reduces the overall architectural quality of the scheme.

The Conservation Officer has submitted an objection to the scheme. The impact of the development is considered to be harmful to the significance of the Conservation Area as a designated asset and Threshing barn as a non-designated heritage asset with the level of harm being less than substantial.

The NPPF (para 202) states that 'where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use.'

The harmful impact of the proposals on the Conservation Area identified above would amount to less than substantial harm, so it is necessary to consider the public benefits of the scheme in the determination of this application.

The applicant suggests that the public benefits are securing the long term future of heritage assets; the removal of a major eyesore (blank wall of former farmhouse) in heart of village & replacement with an attractive homestead; and the retention & restoration of traditional agricultural buildings & local heritage assets (threshing barn & former farmhouse) to respect & enhance former farmyard & setting of threshing barn. These benefits are not disputed but the independent viability assessment of the scheme finds that they can be provided without the new build element of the scheme as the conversion element of the proposal is viable in its own right and as such there is no conservation deficit to trigger the need for enabling development.

The applicant states that public benefits also include enhancement of the character & appearance of the Conservation Area with a traditional farmstead layout to reflect quality, scale & character of historic farming settlement and replacement of dilapidated outbuildings & rationalisation of redundant/under-used land. As set out above, the proposal is not considered to enhance the conservation area as it results in less than substantial harm and as such this cannot be considered to be a public benefit.

The applicant lists a reduction of 2 homes from the 2017 scheme, the provision of at least 2 parking spaces per home & 4 visitor spaces to avoid potential for on-street parking along main roads, protection of key views in & out of village, varied elevations, scale & mass of new buildings to reflect character of built form on site & in the settlement as public benefits. These are not considered to be public benefits and are merely references to what is included in the design of the development.

The applicant considers that the proposal will result in a net reduction in built development footprint & decrease in rate of surface water and therefore this is considered to be a further benefit but (as set out in the drainage section of this report) it would not be such a significant benefit to the local area that this issue would carry significant weight in the determination of the current application.

The applicant also suggests that a public benefit would be the provision of an amenity greenspace in heart of village. However, whilst the application form refers to this space being public space, there is no reference to this in the rest of the plans and proposals and no unilateral undertaking has been offered to suggest how this could be provided / retained / maintained as public open space and the space would therefore become space for residents of the proposed development rather than a public open space and as such cannot be considered to be a public benefit.

The applicant suggests residents within the village rely on services and facilities within Bolsover or nearby Langwith and Whaley Thorns, which contains several shops, a post office, a primary school, various community facilities and a train station. Additional housing in this location is therefore said to support these existing services and is a common arrangement in a number of smaller villages throughout the Council's administrative area and that this is a public benefit and complies with Paragraph 79 of the NPPF

The applicant also makes the case the proposed development will bring direct economic benefits in terms of direct employment during the construction phase and in the longer term through the indirect economic benefits of expenditure by local residents in the local economy. The applicant suggests it will also help by providing homes near to areas of economic productivity such as Bolsover and Chesterfield and will lead to a contribution under the New Homes Bonus scheme paid by central government to councils to incentivise housing growth in their areas, thus increasing the Council's tax revenue.

Whilst this support for nearby services and economic benefits could be considered to be public benefits, these benefits are not considered to be substantial given the proposal only results in a total of seven dwellings and are not considered to be more than could be achieved from any residential development of a similar size and scale within development envelopes. As such it is not considered that the proposal provides sufficient public benefits to outweigh the less than substantial harm caused to the heritage assets.

In addition as set out in earlier sections of this report, the absence of services in the settlement and the absence of good access to neighbouring settlements suggest Whaley is not a sustainable location and to focus development in this area would not align with the wider carbon reduction ambitions cited within the Framework and the Council's Local Plan. Therefore, it is difficult to conclude that the benefits of granting planning permission would not be offset and outweighed by the location of the proposed development. Consequently, it is equally difficult to consider the current proposals are a sustainable form of development also taking into account the housing is not required to meet unmet housing need within the local area.

#### Sustainability of Location

Whaley is a relatively isolated hamlet. It is reported that in fairly recent years it has lost its pub, the nearby Henton Memorial Hall, its mobile library service and its telephone box. There



are no education facilities within the settlement and it is reported that children have to travel to Cuckney, Shirebrook and Scarcliffe via car for schooling provision. The village is stated not be on a gritting route and that pedestrian access to other settlements nearby is unsafe due to the absence of pavement and narrow, unlit roads. Residents suggest, for most households the only viable access is via car.

Owing to this low level of population, absence of public transport linkages, linkages to employment and absence of in settlement services such as schools Whaley is classed as a Small Settlement in the Countryside and policy SS3 advises that it is considered to not be sustainable settlements.

Although it is acknowledged that Whaley is not a substantial distance from other settlements such as Whaley Thorns and Langwith (approx. 2 miles), these settlements also score poorly in relation to population, employment and settlement services (albeit in the case of Langwith, good public transport links are available). These settlements are also only categorised as rural, small villages. It is also acknowledged that Bolsover, which is categorised as a small town, is 3 miles from Whaley but linkages in terms of alternative means of transport other than the car are poor. Therefore although the applicant seeks to suggest that services in one settlement could legitimately support populations in another (as is also articulated in the Framework), it is not considered that this argument supports a case for acceptance of this scheme, against all other material considerations.

Overall, taking account of the Settlement Hierarchy evidence, the absence of services in the settlement and the absence of good access to neighbouring settlements, this would suggest the site in question is not a sustainable location and to focus development in this area would not align with the wider carbon reduction ambitions cited within the Framework, the Council's Local Plan Policies SS1 and SS3 and objectives A, B and H. Therefore, it is difficult to conclude that the current proposal is a sustainable form of development also taking into account the housing provided is not required to meet unmet housing need within the District.

#### Residential Amenity

The proposal introduces dwellings on the site frontage with windows in the front elevations. These windows are offset to the windows in adjacent dwellings and are on the opposite side of a public highway where distances between windows can be reduced given that the intervening land is not private.

The residents of adjacent dwellings will experience some noise and disturbance during the construction of the development but this will only be for a temporary period and once the development is completed the proposal is not considered to result in any additional noise or disturbance for residents of adjacent dwellings over and above what would be experienced if the site were to remain as a working farm. The proposal is therefore not considered to result in a significant loss of privacy or amenity for residents of adjacent dwellings.

The proposed development incorporates garden areas/open space for each of the proposed dwellings. Whilst the courtyard arrangement and rural design of the development may mean that some of these open spaces are not considered completely private, as screen fences etc would not want to be incorporated into the scheme to define private curtilage, the proposal is considered to provide an adequate standard of privacy and amenity for any future residents of the dwellings.

On this basis the proposal is not considered to result in a significant loss of privacy or amenity for residents of adjacent dwellings and is considered to be able to provide an adequate standard of amenity for future residents. The proposal is considered to meet the requirements of Policy SC11 of the Local Plan for Bolsover District and the guidance set out in the Successful Places, a Guide to Sustainable Housing Layout and Design published by the council in this respect.

#### Access/Highways

The proposal utilises an existing access and proposes some improvement, slightly relocates another access leading to some improvement and would close another access to vehicular traffic which has severely substandard visibility in both directions. The type of traffic associated with the site would also change in that farming would cease, removing large slow moving vehicular movements and replacing them with more numerous car movements. A transport assessment (Chatsworth Settlement Trustees Whaley Moor Farm Bottom Yard Transport Statement , 16 September 2021, Version 1.0) has been submitted with the application which concludes that the proposal can be safely accommodated in the local highway network without any detriment to existing road users, traffic would quickly disperse along local routes and that compared with day-to-day fluctuations in traffic, the impact of the development is likely to be negligible. There are also no objections, subject to conditions, from the Highway Authority.

Overall it is considered, there are no significant highway safety concerns with the proposals. Some net highway benefit is likely to be realised as a consequence of the development through the improvement to highway visibility and removal of larger farm related vehicles. As such the proposals would not have a severe effect on the highway network or an unacceptable impact on highway safety at this location in line with NPPF para 111.

#### Biodiversity and Ecology

A preliminary ecological appraisal and bat survey was submitted as part of the original application (application no 17/00546/OUT). This report has been updated to take into account the amended proposal and additional surveys have been carried out to ensure the appraisal is up to date (Preliminary Ecological Appraisal and Bat Survey Reference: 0107\_15/RE03 version 6 dated 16.09.2021)

Derbyshire Wildlife Trust have confirmed that all survey work is current and that additional updated bat surveys may be required by Natural England depending on when a licence application is submitted. The proposed mitigation for bats and other wildlife is considered acceptable, although Derbyshire Wildlife Trust advise that the bat loft should be created as soon as practicable in the development programme and that sparrow terraces should be swapped for swift boxes due to recent research showing higher uptake by a range of bird species. They also recommend a swift box in each dwelling, in line with the guide Designing for Biodiversity.

Derbyshire Wildlife Trust have suggested a number of conditions if the application is to be approved which include the amphibian, reptile, badger and bird method statement be implemented in full and a statement of compliance submitted, works to buildings 6 and 7 not being undertaken until a European Protected Species licence has been obtained from Natural England and works carried out in accordance with the approved mitigation and prior to

installation of any lighting a lighting strategy be submitted for approval and implemented in full. Subject to such conditions the proposal is considered to protect biodiversity and ecology interests on the site in accordance with Policy SC9 of the Local Plan for Bolsover District.

### Drainage

A flood risk and drainage strategy report has been submitted with the application (Flood Risk and Drainage Strategy Report Ref: 21052-PWA-00-XX-DR-C-1000(P05) dated September 2021).

In order to comply with Building Regulations Part H, surface water must drain to soakaways in the first instance, if not viable to watercourse and then to sewer as last resort. In this instance the bedrock geology is thought to be impermeable in nature and unsuitable for infiltration because of nearby colliery workings. There is a watercourse very close to the site which is reasonably practicable to get to (subject to land drainage consent) therefore in accordance with the hierarchy, surface water disposal is proposed to be made to the unnamed ordinary watercourse to the south-west of the site. The report concludes that the proposal results in less impermeable surface area than the existing site and as such the proposal will result in a betterment when compared with the existing surface water drainage regime.

The report also concludes that the topography of the land to the rear of properties 4-6 should not be amended from the existing levels to ensure no increased flood risk to residents downstream and floor areas in these properties should be appropriate to mitigate flood risk as they are adjacent to the flood zone. The Lead Local Flood Authority advise informative notes on any planning permission in this respect.

Foul drainage is proposed to a public sewer via a foul pumping station. Although a number of residents raise concern about the capacity of the existing drainage system, Severn Trent Water who manage the system raise no concerns with the proposed development subject to the applicant making a formal application to the Company under Section 106 of the Water Industry Act 1991.

Subject to conditions relating to levels and notes suggested by the Lead Local Flood Authority, the proposal is not considered to increase flood risk on or adjacent to the site and may in fact reduce flood risk adjacent to the site in accordance with SC7 of the Local Plan for Bolsover District. However, the improved flood risk resulting from granting permission for this application would not be such a significant benefit to the local area that this issue would carry significant weight in the determination of the current application.

### Archaeology

No archaeological information has been submitted as part of this application but the results of an archaeological evaluation and a buildings appraisal/statement of significance in relation to built heritage on site was submitted with the earlier application on the site. Based on the previously submitted information, the County Archaeologist was satisfied that the proposals will not have a significant archaeological impact and the proposal is therefore considered to meet the requirements of SC18 of the Local Plan for Bolsover District.

### Contamination

Given the previous commercial/agricultural uses of the land and the presence of hardstanding which are likely to be removed exposing potentially contaminated fill material, a condition

requiring removal of all made ground or a phased contaminated land investigation and risk assessment condition should be included on any permission to make sure the site is safe for residential use. Subject to such a condition the proposal is likely to be capable of developed safely and is considered to meet the requirements of policy SC14 of the Local Plan for Bolsover District.

#### Issues raised by Local Residents

It is considered that the issues raised by local residents in their representations are covered in the above assessment.

### **CONCLUSION / PLANNING BALANCE**

In conclusion, there are a number of issues that do not weigh heavily in the determination of the application. These issues include the potential impacts of the scheme on archaeology, flood risk and drainage, residential amenity, highway safety and potential contamination which have all been found to be acceptable or could be made acceptable in planning terms subject to appropriate planning conditions. The potential impacts of the scheme on biodiversity/ecology can also be appropriately mitigated.

There are also elements of the scheme which may be acceptable. For example, the conversion of the traditional buildings within the site is acceptable in principle under Local Plan Policy SC5 and would represent an enhancement to the character and appearance of the conservation area in accordance with policy SC16

With regard to the new build elements of the proposals however, the independent assessment of the viability of the scheme demonstrated that the conversion of the traditional buildings is viable without the need for any additional new build development being necessary as enabling development. Any new dwellings in this countryside location are therefore considered contrary to Policy SS9 of the Local Plan.

In addition with regard to the new build elements of the proposal, the Conservation Manager considers that the design approach to Unit 8, a highly prominent building, reduces the overall architectural quality of the scheme and the impact of the development is harmful to the significance of the Conservation Area as a designated asset and threshing barn as a non-designated heritage asset, with the level of harm being less than substantial.

In the context of para. 201 of the Framework the less than substantial harm identified is not outweighed by any public benefits.

Whaley is a relatively isolated hamlet with little access to day to day services. There are no education facilities within the settlement and it is reported that children have to travel to Cuckney, Shirebrook and Scarcliffe via car for schooling provision. Pedestrian access to other settlements nearby is unsafe due to the absence of pavement and narrow, unlit roads. Residents suggest, for most households the only viable access is via car. This assessment is reinforced by the Council's Settlement Hierarchy evidence that concludes Whaley is a small settlement in the countryside and as such is not a sustainable location and to focus development in this area would not align well with the wider carbon reduction ambitions cited within the NPPF, and the Council's Local Plan.

Moreover it is considered the Council can demonstrate 5 years supply of deliverable housing sites. As such, the proposed housing is not needed to make up a shortfall in terms of meeting objectively assessed housing need in the District. There is also a lack of evidence that demonstrates that the existing agricultural use of the land is unviable or that housing would be a more appropriate use of the land. In this case, there is no details of why the farm needs to be disposed of by the applicant and why it might not be sold on as a 'going concern'. It is also reasonable to say that the existing farm buildings do not look out of place within a small rural village within a 'farmed' landscape.

Accordingly, the application is recommended for refusal because the adverse impacts of granting planning permission are considered to significantly outweigh the benefits of doing so.

## **RECOMMENDATION**

**The current application be REFUSED for the following reasons:**

1. The proposed development will result in an adverse impact to both designated and non-designated heritage assets, which is considered in context of the National Planning Policy Framework (NPPF) to amount to less than substantial harm. This harm is not outweighed by the demonstration of wider over-riding public benefits, nor is it justified by the demonstration of a need to consider enabling development to address a conservation deficit. The proposals are therefore contrary to Policies SC16 and SS9 of the Local Plan for Bolsover District and the wider NPPF.
2. Whaley is an isolated hamlet with little access to day to day services. There are no education facilities within the settlement, users of the development will be highly car dependent and there is insufficient pedestrian access to other settlements nearby due to the absence of pavement and narrow, unlit roads. Consequently, the application site is not in a location that is suitable for the new residential development proposed in this location. Moreover, the Council can demonstrate 5 years supply of deliverable housing sites and as such, the proposed housing is not needed to make up a shortfall in terms of meeting objectively assessed housing need in the District. Taking all these factors into account, the current proposals constitute an unsustainable form of development situated within an unsustainable location and any benefits of granting planning permission for the current application would be demonstrably and significantly outweighed by the adverse impacts of doing so when taking into account policies in the Development Plan and the National Planning Policy Framework as a whole.

### **Statement of Decision Process**

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

### **Equalities Statement**

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

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

### **Human Rights Statement**

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

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