

**PARISH**

Blackwell Parish

**APPLICATION**

Change of use of former care home to 10 residential units and erection of two further residential units and associated development - total of 12 residential units (Use Class C3)

**LOCATION**

Amberleigh Manor Primrose Hill Blackwell Alfreton

**APPLICANT**

Mr S Kelly Amberleigh Manor, Primrose Hill Blackwell DE55 5JF

**APPLICATION NO.** 22/00229/FUL

**FILE NO.** PP-11226466

**CASE OFFICER**

Mr Mark Penford

**DATE RECEIVED**

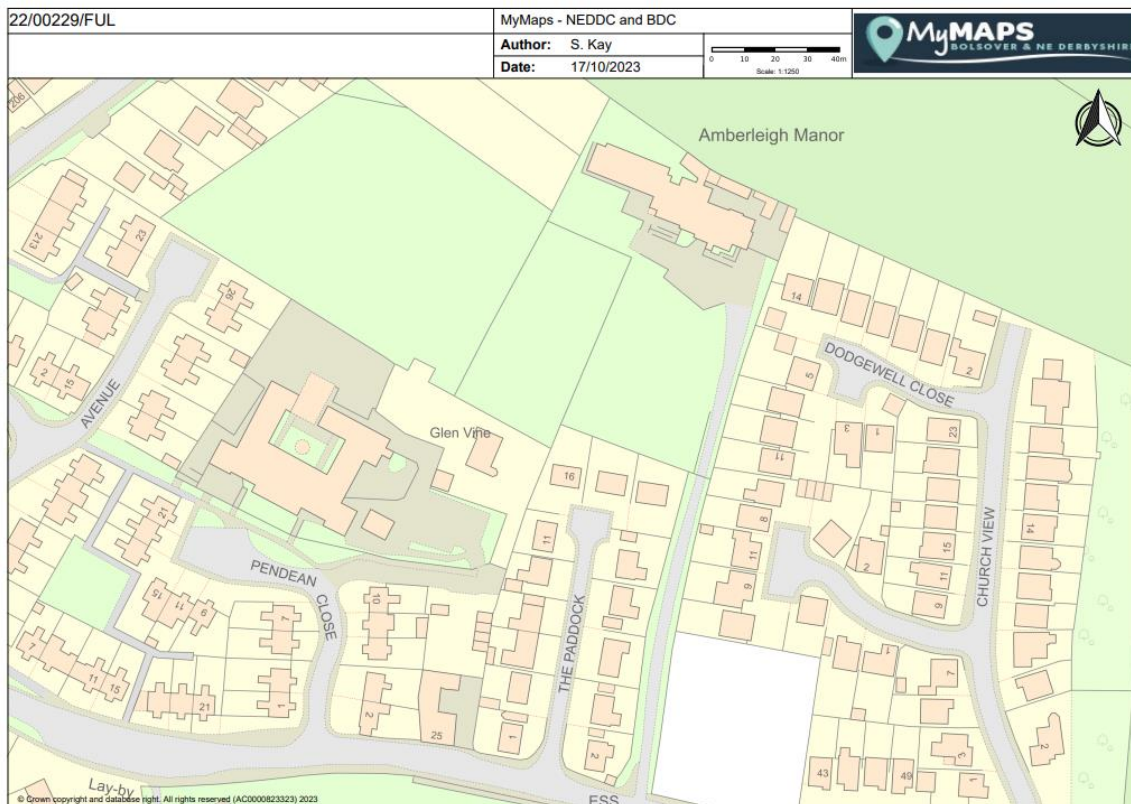
4th May 2022

**SUMMARY**

This is a full planning application for the change of use of the vacant Amberleigh Manor Care Home (C2), with external alterations to create 10 no. two storey residential dwellings and the erection of two no. two storey residential dwellings attached to the eastern side of the building (C3). Some single storey outbuildings to the rear are proposed to be demolished. The proposed development is known as Phase II for the re-development of the care home site. It is the applicant's intention that the submission of this phase would complete the site's development for residential dwellinghouse purposes. The proposal includes the provision of private rear garden areas and off-road parking spaces with electric vehicle charging points.

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

**Site Location Plan**



## **SITE & SURROUNDINGS**

The application site consists of the Amberleigh Manor Care Home on the north side of Primrose Hill, Blackwell. The two-storey former care home has been vacant for a number of years and has attracted vandalism, anti-social behaviour and is subsequently in a boarded up and dilapidated condition. The building is accessed via an unadopted tree lined track from Primrose Hill. The trees are subject to a Tree Preservation Order and make a positive visual amenity contribution to the locality. The site is previously developed brownfield land.

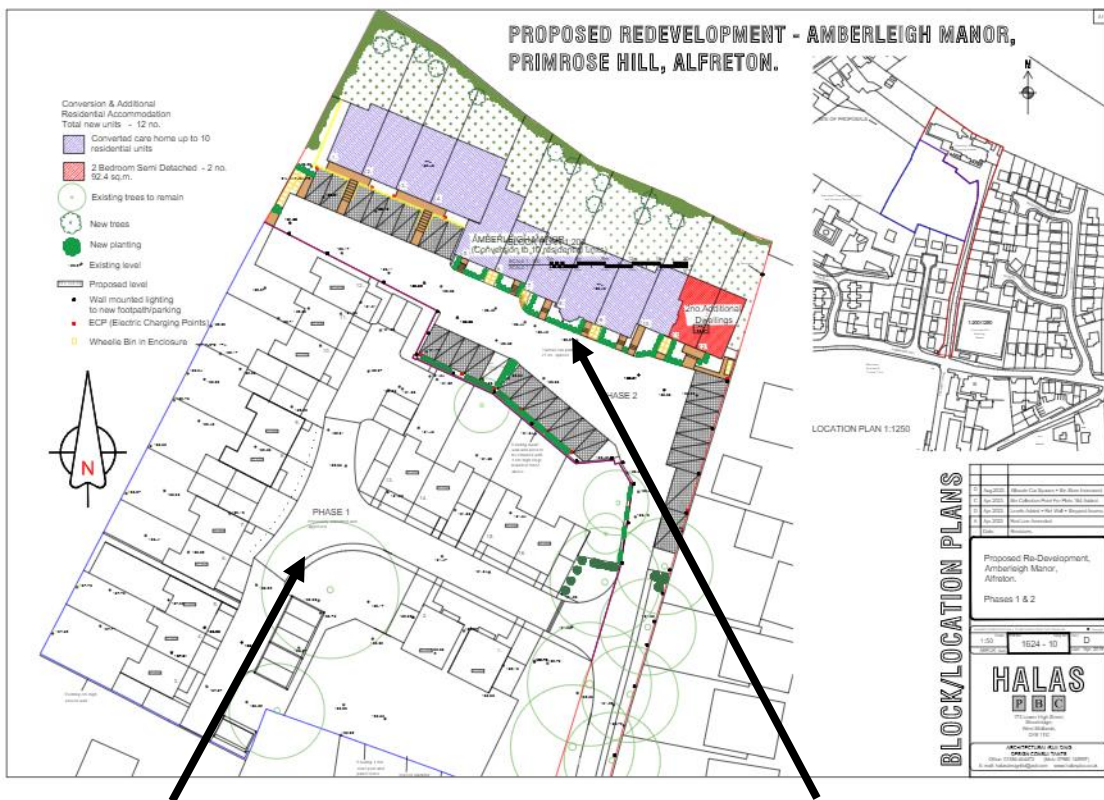
To the north of the existing care home is an important open break which is protected under Policy SS11 of the Adopted Local Plan. The application site and proposed development does not impact on this open break. To the south-west of the site is the Green Space to Blackwell Community Primary and Nursery School, which is protected by Policy ITCR6 of the Adopted Local Plan. The application site and proposed development does not impact on the protected Green Space. The site is located within Flood Zone 1, defined as an area at least likelihood of flooding, does not impact on any Conservation Area and is not within the setting of any Listed Buildings.

The existing building proposed for conversion.



## **BACKGROUND**

To the south of the care home planning permission was granted for the development of 16 new build residential dwellinghouses on 21<sup>st</sup> April 2021 under office code 20/00166/FUL. The planning permission, known as Phase 1 of the redevelopment of the care home site, remains extant and could still be implemented. The total site area of the care home is 0.8ha with the application site boundary area 0.266ha. This includes the care home, hard-standing and amenity space areas at the northern boundary area.



**Phase 1 Approved Site Layout**

**Phase 2 Proposed Site Layout**

**SUPPORTING DOCUMENTS**

- Arboricultural Report, Impact Assessment & Protection Method Statement dated 1<sup>st</sup> May 2023.
- Revised Design & Access Statement prepared by Agility Planning & Design Revised September 2023
- Mining Investigation Report prepared by Spilman Associated dated January 2022.
- Tree Constraints Plan dated 01/05/2023 – Project No 200
- Tree Protection Plan – dated 01/05/2023 – Project No 200
- Planning Statement prepared by Agility Planning & Design dated April 2022.
- Preliminary Ecological Appraisal prepared by Arborist & Ecological Services Ltd dated 25.10.2021.
- Viability Assessment prepared by David Newham MRICS Director CP Viability Ltd dated 30<sup>th</sup> March 2021.
- Viability Appraisal prepared by David Newham MRICS Director CP Viability Ltd dated 7<sup>th</sup> June 2023.

**AMENDMENTS**

- Revised Site Location and Block Plan – drg no 1624-10 Rev D dated April 2019
- Revised Site Location Plan and Block Plan - drg no 1624-10 Revision B dated April 2019
- Revised Front Elevations Plots 1- 12- drg no 1624-08 Revision A dated November 2021
- Revised Front, Rear and Side Elevations Plots 1- 12 - drg no 1624-07 Revision A dated November 2021
- Revised Floor Plans (plots 8-12) drg no 1624-05 dated August 2021
- Revised Floor Plans (plots 5-7) drg no 1624-04 dated August 2021

Revised Floor Plans (plots 1-4) drg no 1624-03 dated August 2021  
Refuse Vehicle Tracking Layout - drawing 1D dated 24/02/2021.  
Site Access General Arrangement Layout - drawing 2A dated 24/02/2021.  
Revised Elevations (plots 1-12) drg no 1624-04 Rev A dated December 2021  
Revised Floor Plans (plots 1-12) drg no 1624-03 Rev A dated December 2021

## **PLANNING HISTORY**

01/00475/FUL	Granted	Erection of a conservatory to front, two storey extension to side, and a detached two storey dwelling – Granted 06/02/2002
08/00183/FUL	Refused	Two storey extension to side and rear – Refused 14/05/2008
20/00166/FUL	Granted	Primrose residential development: 16 units (Use Class C3) – Granted 21/04/2021

## **CONSULTATIONS**

### **Blackwell Parish Council**

The council had expressed concerns regarding:

- the trees being cut down, but it is now understood that most of them are subject to a Tree Preservation Order.
- about the possibility of flooding, but that this would be investigated by the Lead Local Flood Authority and an application to Sever Trent; and
- whether the school wall would be rebuilt, and it is now understood that the boundaries would be determined by way of planning condition.

### **Bolsover District Council – Leisure**

Having regard to Policy ITCR5 of the Local Plan, confirms Blackwell has an under provision of open space – 1.73ha of additional green space is required to meet the minimum standard. As the proposed development exceeds 10 units but is less than 25 dwellings, a S106 commuted sum contribution is sought to improve the following areas of green space, all of which fall below the 60% quality standard: Equipped Play Area: Gloves Lane Recreation Ground. Recreation Ground / Semi-Natural Green Space: Gloves Lane (Blackwell Bridleway 31 / Tibshelf Bridleway 4, which provides access for pedestrians, cyclists and horse riders from Blackwell to Doe Hill Country Park / Silverhill Trail / Five Pits Trail). Using the current policy formula, the commuted sum would be £11,256.00 (12 dwellings x £938 per dwelling).

As the proposed development is not of sufficient scale to require any dedicated-on site built / outdoor sports facilities, it is recommended that a suitable commuted sum is negotiated in lieu of any formal on-site requirement. Using the current policy formula, the commuted sum would be £13,716.00 (12 dwellings x £1143 per dwelling). This amount is based on 2022 prices and should be index linked to the RPI in terms of timing of payment. The commuted sum would be invested in improving playing pitches and their ancillary facilities at Gloves Lane Recreation Ground and Westhouses Recreation Ground. Maintenance sums are not usually enforceable on payments made in lieu of on-site provision. It should be expected to receive a commuted sum for a period of 10 / 15 years following completion of the development for any land

adopted by the District Council. This would be index linked in accordance with the current Local Plan policy and will cover grounds maintenance and the ongoing management and maintenance of any play equipment, fencing, etc. provided by the developer. The exact level of commuted sum will need to be negotiated once the nature, size and form of the land to be adopted has been agreed and approved.

### **Bolsover District Council – Senior Engineer**

Confirms sewer records do not show any public sewers within the site curtilage. The applicant could be made aware of possible unmapped public sewers not shown on the records that may cross the proposed works. Shared pipes previously classed as private sewers could have been transferred to the Water Authorities in 2022. The applicant may need separate approval from Severn Trent Water to connect to, divert, build over or near to public sewers. All drainage proposals will need to comply with Part H of the Building Regulations. Any connection or alteration to a watercourse will need Prior Approval from the Lead Local Flood Authority at Derbyshire County Council.

### **Bolsover District Council – Assistant Director Streetscene**

#### 1<sup>st</sup> response

Streetscene has a duty to collection household waste (S45 Environmental Protection Act) from this development and are committed to undertaking this duty; however, it has to be ensured that there is suitable vehicular access to avoid having to issue designated collection\presentation points to householders. Streetscene need to understand whether the estate\access roads will be adopted by the Highway Authority for maintenance at public expense; and if not, that they will be constructed to a minimum Highways 6C standard to facilitate operation of the District Council's large goods (refuse) vehicles. An indemnity agreement needs to be in place to safeguard liability of the Council; in particular, as Council refuse vehicles (32tonne) will have need to undertake turning manoeuvres at cul-de-sac and/or junction heads which increase physical wear on metalled surfacing. Due to the road not being adopted, it would not normally receive street sweeping\litter picking; however, if the Council has an indemnity agreement in place, street sweeping arrangements would be undertaken.

#### 2<sup>nd</sup> response

Following receipt of a draft indemnity agreement, advises that the document now needs to be agreed in conjunction with Streetscene and the District Council's legal colleagues.

### **Bolsover District Council – Urban Design Officer**

Advises the design quality of the scheme is improved by reducing the height of plots 11 & 12, introducing a hipped/half hipped roof to reduce the scale and presence of plot 12 and improve impacts on amenity on the adjacent garden. The rear gardens have no separate garden access meaning garden waste would need to be carried through plots. Although unappealing, this may have to be accepted given the limitations of the building conversion.

### **Derbyshire County Council – Highway Authority**

Following consideration of additional information confirms, no objection and recommends planning conditions as follows:

- Pre-commencement condition to secure a new vehicular and pedestrian access to Primrose Hill of 43m visibility in each direction.
- Off-road parking for each dwelling provided prior to occupation.
- Notwithstanding the provisions of the GPDO 2015 parking spaces shall be maintained

- free of any impediment to their designated use.
- Pre-commencement condition to secure a site construction compound throughout the construction phase.
- Notwithstanding the provisions of the GPDO 2015, no gates, bollards, chains or other means of obstruction shall be erected across the approved access road.
- Pre-commencement condition to agree details of the proposed arrangements for future management and maintenance of the streets within the development (which are to remain private).
- Pre-commencement condition to ensure the internal access drives are to the 6C's design guide standards.

Advisory notes recommended:

- Means to prevent mud or material onto the highway
- Prevention of surface water run-off onto the highway
- Requirement for separate approval from DCC for any works on the public highway.
- A clause should be incorporated into the deeds of the dwellings to ensure at no time will adoption of the road be sought.
- In order to discharge details of the management and maintenance of streets, the LPA will require details of a completed agreement with details of a private management and maintenance company.
- If construction works require traffic management, advice should be sought from DCC's Traffic Management Team.

Confirms that in relation to ongoing future management and maintenance of streets, that va Section 106 Agreement would not be necessary.

## **Derbyshire County Council – Lead Local Flood Authority**

### 1<sup>st</sup> response

Raises a holding objection until such time that further information is provided relating to the proposed surface water drainage strategy for the development, in order to demonstrate the site is able to drain and that due consideration has been given to the space required on site for surface water storage.

### 2<sup>nd</sup> response

Confirms additional information is necessary prior to determination. This includes evidence of approval from Severn Trent Water for a connection to the sewer system. The developer needs to provide a quick storage estimate for the underground surface water storage.

### 3<sup>rd</sup> response

Seeks an update on the proposed drainage plan to including the numbers of each pipe and ensure they correspond with the drainage calculations, evidence why the greenfield runoff rate cannot be met within the brownfield area of the site and why a discharge rate of 3l/s for each discharge point has been proposed, rather than the greenfield runoff rate for each rainfall event.

### 4<sup>th</sup> response

Having reviewed the additional information received 29<sup>th</sup> August 2023, confirms no objections subject to planning conditions to secure:

- a) A detailed design and associated management and maintenance plan of the surface water drainage of the site.
- b) A detailed assessment to demonstrate the proposed destination for surface water accords with the drainage hierarchy set out in paragraph 80 of the planning practice guidance.
- c) Details demonstrating how additional surface water run-off from the site will be avoided

- during the construction process.
- d) A verification report to demonstrate the implemented drainage system has been constructed as per the approved scheme, including any minor variations, any management company.

## **Derbyshire County Council – Developer Contributions**

### Primary Level

The proposed development falls within the normal area of Blackwell Community Primary and Nursery School. The proposed development would generate the need to provide for an additional 3 primary pupils. Analysis of current and future projected number of pupils on role together with the impact of approved planning applications show the normal area Blackwell Community and Nursery School would have sufficient capacity to accommodate the 3 primary pupils arising from the development.

### Secondary Level

The proposed development falls within the normal area of Tibshelf Community School. The proposed development generates the need to provide for an additional 2 secondary pupils. Tibshelf Community School has a net capacity for 750 pupils with 830 pupils currently on roll. The number of pupils on roll is projected to decrease to 785 during the next five years. An evaluation of recently approved major residential developments within the normal area Community School shows new development totalling 251 dwellings, amounting to an additional 50 secondary pupils. Analysis of the current and future projected number of pupils on roll, together with the impact of approved planning applications shows that the normal area secondary school would not have sufficient capacity to accommodate the 2 secondary pupils arising from the proposed development. There is a need to mitigate the proposed development on secondary school places to make the development acceptable in planning terms and a financial contribution of £54,744.14 is required towards 2 secondary places at Tibshelf Community School.

### Broadband

With regards to fibre-based broadband confirms the County Council would not require this to be provided to make a development acceptable in planning terms.

### Waste

Advice provided on the need for developments to be provided with a convenient means of waste management and access to a household waste recycling centre. No objection is raised based on access to such facilities for the proposed development site.

### Employment and Skills

Highlights the County Council wishes to work collaboratively with District/Borough Councils to support and identify financial contributions to deliver employment and skills development. A request for such a contribution has not been made for this development.

## **Derbyshire Constabulary - Force Designing Out Crime Officer**

### 1<sup>st</sup> response

No objection raised. Requests clarification on some elements of the scheme in relation to a lack of lighting for safety and security of the parking area, no garden access for the plots other than the end units and practicality for disposal of garden waste. As an informative matter the scheme will need to comply with Part Q of the Building Regulations in respect of resistance to forced entry as it is likely the existing windows and doors could not be retained.

### 2<sup>nd</sup> response

In respect of lighting confirms, in the absence of type, height and specification a planning condition could be used to agree a lighting scheme. If no garden access provision for all

central plots is part of the approved scheme this matter is one of practicality, not crime related, so does not attract adverse comments from the police. Notes the District Council's Urban Design Officer has commented that this may have to be accepted.

### **Derbyshire Wildlife Trust**

Following review of the Preliminary Ecological Appraisal prepared by Arborist and Ecological Services Ltd dated October 2021, confirms the report provides the Council with a reasonable level of confidence that protected species will not be affected by the development. DWT is not aware of any other features of nature conservation value and there are no records of protected species close to the site. Advises the Council to attach a condition requesting details of biodiversity enhancement in the form of the type and location of 2 external Schwegler bat and 2 bird boxes to achieve a net biodiversity gain.

### **Health and Safety Executive**

It appears the development falls within the SD3 distance of the nearby licensed explosives site but outside the SD2 distance. Raises no objection on the basis that the development is not a vulnerable building.

### **Health and Safety Executive (Web Based App Check)**

Confirms the application site does not cross any consultation zones of a major hazard site or major accident hazard pipeline and the HSE does not need to be consulted on any developments on this site.

### **NHSDCG**

Confirms a financial contribution towards health will not be required as it falls under the threshold.

### **Environmental Health – Principal Pollution Officer**

Confirms no objections to the application in principle and recommends the following planning conditions:

1. Control construction works to be between 07:30am and 6pm Monday to Friday and 7:30am to 1pm Saturday. No works on site or deliveries to the site on Sundays or Public Holidays.
2. Prior to occupation removal of any made ground or submission of a contamination investigation and risk assessment together with remediation and verification, if necessary.
3. Where any other areas are suspected of contamination the above process for site investigation and risk assessment should be followed.
4. Any imported soils to be tested for contamination prior to importation.

### **Severn Trent Water**

Advises a pre-commencement of development condition is necessary to agree a surface water and foul sewage disposal scheme. Advice provided on compliance with Part H of the Building Regulations, Planning Practice Guidance. Advisory note in relation to the possible presence of sewers, which have statutory protection and may not be built over, close to or diverted without the consent of Severn Trent Water.

Confirms there is a 3in water main within the site and the applicant needs to make a Diversion Application (S185) to Severn Trent Water. No build over is permitted by Severn Trent Water.



Severn Trent would require detailed plans of the construction depths of the works and for the applicant to confirm the level and line of the water main through trial dug holes.

## **The Coal Authority**

### 1<sup>st</sup> response

Confirms the site lies within the defined Coal Mining High Risk Referral Area and raises an objection in the absence of a Coal Mining Risk Assessment.

### 2<sup>nd</sup> response

Following consideration of a Mining Investigation Report, confirms that following the drilling of boreholes on the site, the report confirms only intact coal seams were encountered with no evidence of any shallow workings. Withdraws the objection to the application as the potential for coal mining legacy to affect the development has been adequately investigated. No planning conditions recommended.

## **PUBLICITY**

A Press Notice was published 30<sup>th</sup> June 2022 with comments required by 14/07/2022.

A Site Notice was posted 21/06/2022 with comments required by 12/07/2022.

Neighbour notification letters were sent on 21/06/2022 with comments required by 12/07/2022.

The neighbours were re-consulted in respect of amended plans on 23<sup>rd</sup> May 2023 with comments required by 6<sup>th</sup> June 2023.

Neighbouring residents were re-consulted in respect of amended plans on 21<sup>st</sup> June 2023 with comments required by 12<sup>th</sup> July 2023.

Neighbour residents were re-consulted for the final time in respect of amended plans on 6<sup>th</sup> September 2023 with comments required by 20<sup>th</sup> September 2023.

## **RESIDENT REPRESENTATIONS**

Nine letters of representation have been received. Comments are summarised as follows:

- Queries who the market housing will be for.
- Windows will cause loss of privacy from overlooking.
- Concerns raised regarding collapse of a wall and its current state.
- Trees and shrubs have been removed with no consideration for birds.
- Two years on from phase 1 clarification is still awaited on what will be done with the wall.
- Will there be a meeting to discuss resident concerns.
- Requests the Council revisits the condition of trees. Suspects a professional report is in place but simple pruning is not appropriate.
- Lime trees are far too big and dangerous to properties along the track. They need to be severely reduced and maintained at that.
- Bungalows especially are threatened by overgrown condition of the trees.
- The Council should take this opportunity to eliminate a serious tree problem which will only get worse despite the good intentions for maintenance.
- Two additional dwellings will be very close, imposing a side boundary, block out light, and be oppressive.

- Concerns for damage to property.
- Trees may be damaged from the development.
- There are no other houses on the building line which have houses as close to their boundary.
- Detrimental effect on use of gardens.
- Bin stores and parking on the boundary are not acceptable.
- Lights from houses or the street may shine into gardens.
- Construction activity will cause dust, noise and debris.
- Construction activity will cause scaffolding and overlooking from builders.
- A negative impact on our day to day lives.
- The original manor house was built with a brick walled garden and some parts of the original brick wall remains adjacent properties and the school field.
- Concerns for health and safety if the manor house brick wall collapses further.
- Phase 2 is not even recognising there is a wall.
- The trees are too large and causing damage to property. Although they have a Preservation Order on them, the trees should be kept in order.
- Concerns over impacts to boundary wall and trees.
- No account has been taken of previous comments on plots 11 and 12 and the impacts on quality of life, affecting property value, scaffolding and dust up to the boundary.
- It is evidence that more consideration has been given to trees than it has to neighbours. Maintains objection.
- Concerns the trees are unsafe for children, the applicant has not maintained them, residents have had to pay for tree works but these are not our trees or responsibility, who will be responsible for maintenance in the future.

## **POLICY**

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

Section 38 (6) of the Planning & Compulsory Purchase Act 2004 requires that applications for planning permission are determined in accordance with policies in the adopted Local Plan, unless any 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
- LC3 – Type and Mix of Housing
- SC1 – Development Envelopes
- SC2 – Sustainable Design and Construction
- SC3 – High Quality Development
- SC4 – Comprehensive Development
- SC5 – Changes of Use and Countryside Conversions
- SC6 – Renewable and Low Carbon Energy
- SC7 – Flood Risk
- SC9 – Biodiversity and Geodiversity
- SC10 – Trees, Woodlands and Hedgerows
- SC11 – Environmental Quality (Amenity)

- SC13 – Water Quality
- SC14 – Contaminated and Unstable Land.
- SC15 – Hazardous Installations
- ITCR4 – Local Shops and Community Facilities
- ITCR5 – Green Space and Play Provision
- ITCR10 – Supporting Sustainable Transport Patterns
- ITCR11 – Parking Provision
- II1 – Plan Delivery and the Role of Developer Contributions.
- WC4 – Rough Close Works Explosive Safeguarding Zones

### **National Planning Policy Framework (“the Framework”)**

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

- Chapter 2: Achieving sustainable development.
- Paragraphs 47-48: Determining applications.
- Paragraphs 55-58: Planning conditions and obligations.
- Paragraphs 92, 93, 95 and 97: Promoting healthy and safe communities.
- Paragraphs 104-108: Promoting sustainable transport
- Paragraph 119, 120, 122 and 123: Making effective use of land
- Paragraph 124 and 125: Achieving appropriate densities.
- Paragraphs 126-132 and 134: Achieving well-designed places.
- Paragraph 152, 154 and 157: Meeting the challenge of climate change.
- Paragraph 159 167 and 169: Planning and Flood Risk.
- Paragraphs 174, 180 and 182: Conserving and enhancing the natural environment.
- Paragraphs 183-188: Ground conditions and pollution

### **Supplementary Planning Documents**

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

## **ASSESSMENT**

### **Key issues**

The key issues in the determination of this application are:

- the principle of development
- viability considerations
- design and character
- trees
- residential amenity
- highway safety & refuse collection.
- biodiversity
- flooding and drainage
- ground contamination and land stability
- Rough Close Works hazardous explosives site
- sustainability considerations

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

## **Principle of Development**

To achieve sustainable development Policy SS3 of the Adopted Local Plan sets out a settlement hierarchy where new development is firstly directed to the small towns of Bolsover and Shirebrook, followed by the emerging towns of South Normanton and Clowne. Following the towns, the Local Plan directs development to the defined larger villages and finally to the defined smaller villages. Blackwell is defined as one of the smaller villages where limited urban forms of development are also supported in principle. This is an urban form of development which is primarily re-using the fabric of an empty building to facilitate housing. Blackwell, although a small village, is capable of supporting housing development in accordance with spatial strategy Policy SS3 of the Adopted Local Plan.

The application site is located within the defined development envelope of Blackwell where the proposed development is supported in principle in accordance with Policy SC1 of the Adopted Local Plan. Policy SC1 of the Adopted Local Plan states to contribute to sustainable development in the Bolsover District, development proposals should meet a range of criteria. This application is supported directly by Policy SS1 (b) and SC2 (a) of the Adopted Local Plan by promoting the efficient use of land and the re-use of previously developed vacant land and buildings. In accordance with the requirement of Policy SC1 (b), the development does not result in the loss of the settlement's last remaining community facility of this type because Blackwell Care Home is still in operation within the settlement envelope.

Policy ITCR4 of the Adopted Local Plan safeguards against the loss of local shops and community facilities, specifically recognising care homes as such facilities. The loss of the care home, which was for the aged, is supported by Policy ITCR4 provided one of the criteria to the policy is met. The first of the criteria is where the loss would not create, or add to, a shortfall in the provision or quality of such facilities within the locality. The policy criteria applies a rule check of a 400m radius around the proposal for similar facilities, based on a 10-minute walking time.

Blackwell Care Home, for the over 65's, is approximately 300 metres from the application site. The development is therefore considered in accordance with Policy ITCR4 (a) as there is another facility within a 400m radius. In this situation there are no planning grounds on which to retain the building for care uses. A significant material planning consideration is that the care home has not been in operation for a number of years and the application represents the efficient re-use of the existing building's fabric with two additional dwellings utilising a brownfield site. It should also be noted that District Council's Viability Consultant has advised that this is not the strongest property for a care home use and upon considering the application for Phase 1, a future application for conversion to residential was anticipated.

Paragraph 60 of the framework sets out the Government's objective of significantly boosting the supply of homes. Paragraph 120 (c) of the framework states planning decisions should give substantial weight to the value of using suitable brownfield land within settlements for homes. These are significant material planning considerations which weigh in favour of the development.

The development is considered in accordance with Policy SC5 of the Adopted Local Plan which supports the change of use of existing buildings. This is since the building is considered worthy of retention, with design alterations proposed to enhance the building in design terms. These considerations are discussed in the 'design and character' section of this report.

## **Viability Considerations**

The extant planning permission for 16 new-build dwellings to the south of the care home was considered by Members on 10<sup>th</sup> March 2021. Members resolved that the application should be deferred for a decision to enable Officers to enter into discussions with the developer about the possibility of bringing forward their application for Phase 2 (conversion of the care home to dwellinghouses). This was in order to understand the viability of the site as a whole, to establish S.106 requirements and because Members wanted to gain more certainty that the former nursing home might be brought back into use.

The applicant provided additional information to address the queries raised by Members and a 2<sup>nd</sup> Viability Appraisal dated 30<sup>th</sup> March 2021 was considered by the District Council's viability consultant, CP Viability. The applicant/developer confirmed a commitment to the development of both phases 1 and 2, but for commercial reasons were not in a position to submit a combined application for both phases at the time. Although Officers understood the piecemeal nature of the development was a concern for Members, it was explained that the applicant/developer could not be made to submit a second application. It was noted in the Committee Report for Phase 1 that the development subject to Phase 1 could be compatible with Phase 2 for a future application to convert the care home.

The applicant/developer appreciated the concerns of the Committee and undertook some feasibility work to understand the scope of converting the building prior to submitting their application. The feasibility/scoping exercise was for the conversion of the building to 10. No. dwellings and 2 no. new build dwellings and was therefore commensurate to the proposals currently under consideration. The Committee Report set out to Members that, in addition to the previous report that Phase 1 was unable to make any S.106 contributions as a standalone development, the conclusions reached in the updated appraisal was that the scheme of development for phases 1 and 2 combined were finely balanced in terms of viability so that they too would be unable to afford any S.106 contributions as applications together or individually.

The report therefore concluded that viability was an issue across the entire site, irrespective of whether the development was brought forward under phases 1 and 2 separately or combined and no S.106 contributions could be viably sought for the phases. In respect of Policy SC4, which seeks to prevent piecemeal development to avoid triggering S.106 contributions, the Case Officer's report set out that the potential concerns of Members regarding the conflict with Policy SC4 had been addressed through the additional information. The report prepared to Members concluded that the development would not be avoiding S.106 contributions through piecemeal permissions, as viability was an issue across the entire site. Furthermore, it was stated that acceptability of a separate two-phase development would not have prejudiced the delivering of one phase or another by issuing separate permissions. The previous case officer's report therefore set out that it was anticipated that the conversion of Amberleigh Care Home would proceed as a second phase of development in due course. Members resolved to grant the planning permission for Phase 1, which is still

capable of implementation.

Following the validation of the current application, consultation has identified financial contributions towards education and improvements to off-site open space, as confirmed by the District Council's Special Projects Officer and Derbyshire County Council. Although the previous viability assessment set out that both phases of development would be unviable, due to the length of time between the approval of Phase 1 and the submission of Phase 2, Officer's have considered it necessary that the viability of the development is re-visited in the interests of ensuring that the financial contributions identified through consultation remain unviable. The District Council's Viability Consultant, CP Viability, has therefore re-considered the viability of the pending application through an updated Viability Assessment as at 7<sup>th</sup> June 2023.

A capital value of 2.258 million has been adopted following evidence of sale prices within a 2 mile radius. Considering the UK House Price Index and the Nationwide Index this suggests values has risen by 15% since CP Viability's last assessment in March 2021. The Bank of England base rate has consistently been raised and this has had a knock on effect on the cost of mortgages, which in turn, due combined with the cost of the living/energy crisis, there is a greater pressure on affordability. A lack of affordability is causing a reduction in property prices. It is therefore predicted values will stagnate through 2023 and 2024. However early predictions of prolonged value stagnation are therefore by no means guaranteed and the continued imbalance between supply and demand may continue to drive sales price inflation. To account for inflation CP Viability considers a cautious uplift of 15% to be reasonable. With this value gives a predicted value of 2.596 million.

In terms of development costs, the March 2021 assessment was based on plot construction costs on the "Build Cost Information Service ("BCIS") data, using the default Derbyshire 'new build generally' median figure of £1,230 per sqm. For the refurbishment units the 'estate housing rehabilitation / conversion' median rate of the BCIS was used, which at the time equated to £838 per sqm. For the updated assessment the same BCIS data has been applied. - New build median generally £1,474 per sqm. - Rehabilitation / conversion median £1,030 per sqm. The assessment has factored in external costs to 15% of BCIS rate, contingency to 3% of BCIS rate, marketing of 2% on revenue plus £750 per dwelling for legal costs, professional fees of 6.75%, for finance 7.5% plus £30,000 to cover arrangement fees and exit charges and for developer profit a rate of 15% on revenue.

Benchmark Land Value ("BLV") attempts to identify the minimum price that a hypothetical landowner would accept in the prevalent market conditions to release the land for development. CP Viability has had to establish the existing use value of the property. Given the age and vacant nature of the property, CP Viability advises capital expenditure would be required to bring the property back up to a modern standard for care purposes. This has to be factored into the existing use value. Comparable evidence has been drawn from three care homes in Alfreton, Sutton-in-Ashfield and Jacksdale, which had capital expenditure of between 10.4 and 14 thousand per bedroom. For the subject scheme, CP Viability has considered an allowance of £10,500 per bedroom to be appropriate, which equates to £420,000. From this CP Viability has made an allowance of £50,000 for capital expenditure to arrive at an existing use value of £370,000.

In the case of the subject property, CP Viability advises this remains a location and facility which could still be used as a care home facility going forward, however equally the fact that the property has been vacant suggests to CP Viability this is not the strongest property for a care home use. On balance, having considered these factors, CP Viability previously considered a 10% premium uplift to be a reasonable incentive for the landowner to release the property for residential development. This equates to a benchmark land value of £407,000.

With what is outlined above this generates a residual land value of £317,636. This is below the adopted benchmark land value of £407,000 and therefore CP Viability advises that the development can be described, at best, as being marginally viable (before any planning policies are factored in for S106 contributions). If planning policies were to be introduced, CP Viability advises the District Council that this would reduce the residual land value (in other words make the scheme more unviable). The conclusion is therefore the same as the outcome in March 2021 for Phase 1, that the scheme is still unable to support any planning policy contributions across the entire site.

### Overriding Public Interest

It has therefore been necessary to consider whether there are any overriding public benefits of accepting the scheme, without meeting its necessary planning obligations, which is whether the public benefit overrides the policy conflict.

It is considered that the following factors equate to overriding public interest:

- The building has been empty for several years, is boarded up and dilapidated. The site has been unmanaged, and this has detracted from the character of the settlement. Approval of the application would visually enhance the building and the wider site, which would be a public benefit to the residents living in proximity of the site.
- The applicant has maintained they are not in a position to re-open the care home, a case supported by the updated Viability Assessment. The site has no security and without being brought back into use for market housing would be likely to fall into further disrepair, of detriment to visual amenity and public safety.
- The revised Design & Access Statement explains the applicant undertook pre-application engagement with local residents and a number raised concerns relating to safety and security. In one case a property had been burgled and access was through the application site. Bringing the site back into use would minimise these incidents and public fear of crime.
- The building has attracted attention whilst being empty. There have been attempted burglaries of the care home on three occasions during the time it has remained unoccupied, which led to police presence and arrest of an intruder, who also attempted to steal from residential property. Neighbours are currently having to be vigilant and notify police when necessary. The layout provides optimum natural surveillance from all 12 units, which would deter crime.
- The applicant represents the efficient re-cycling and re-use of a large building inside the development envelope, which would provide 12 new family homes for the local community using brownfield land.
- It is logical for this development to proceed following the approval of Phase 1 as it would complete the development of the site for 28 dwellings in total, with a compatible

land use in the best interests of residential amenity and visual amenity.

- Residents are concerned that the trees subject to the Tree Preservation Order are unmanaged and there are health and safety concerns from falling branches and collapse. Bringing the site back into use would enable the trees to be more effectively managed into the future, in the best interests of the health and safety of local residents. The application is also proposing tree works in accordance with the advice of an Arboriculturalist.



The rear of the dilapidated building boarded up in part, with dispersed litter and fly tipping.

## **Conclusion to Principle of Development**

Following the above assessment, the principle of development is considered acceptable without the need for any financial contributions, given the overriding public interest which has been demonstrated. This is subject to application of all other relevant planning policies of the Adopted Local Plan, the framework and any material planning considerations.

## **Design and Character**

The existing care home is a two-storey pitched roofed building. The eastern side has been rendered and the western side is in brickwork. In its present condition the building and wider site harms the character and appearance of the settlement. To facilitate the proposed development external alterations have been proposed to enhance the design character of the building, provide a better residential appearance and sense of conformity. The alterations include new principal entrance doorways with roof canopies and new openings to the rear onto dedicated private gardens. The part of the building in brickwork is proposed to be rendered to match the existing render and the 2 no. new builds would also be rendered. To the frontage of the dwellings planting is proposed including hedging and scrubs. Parking areas are proposed in permeable block paving.

The District Council's Urban Design Officer has considered the design approach and not raised any particular concerns over visual appearance with some changes primarily being proposed for reasons of residential amenity and bin storage. Amendments to the application have included setting down the height of new build units 11 and 12 and hipping the roof so that it slopes away from the adjacent dwelling on Dodgwell Close. The development is considered in scale and character with the existing building as a whole and with its



surroundings, represents good quality design in planning terms and a sustainable form of development by recycling the existing fabric of the building.

Planning conditions are recommended to agree the external materials used in the construction of the development, a scheme of boundary treatment and to agree a sympathetic hard and soft landscaping scheme.

In terms of the site boundaries, a resident has commented about the original brick wall of a former manor house/school which has partially collapsed. A red brick wall of some character can be seen on site. Although its condition has deteriorated in parts, there might be scope for this to be retained, as part of a boundary treatment scheme, which can be agreed by planning condition. An advisory note is recommended to encourage the applicant to retain the boundary wall, wherever possible, provided residential amenity and visual amenity is protected.

Careful consideration has been given to Phases 1 and 2 for the redevelopment of this site and it is considered that both phases integrate well together and could be brought forward as a comprehensive scheme through separate planning applications. The case officer's Committee Report for Phase 1 explained that the piecemeal nature of the applications could not have been avoided, and that Phase 1 would be compatible with a future application for the conversion of the former care home to separate residential units, at a later date.



The application has demonstrated the proposal is appropriate in scale, design, location and to the character and function of the area, by respecting the scale and form of the original building in accordance with Policy SC1 (a) of the Adopted Local Plan. The development

represents a good quality, attractive and durable place in accordance with Policy SC3 (a) of the Adopted Local Plan. The proposal is considered to conform to the framework and its emphasis on high quality design by adding to the quality of the area, being visually attractive as a result of good architecture, layout and appropriate landscaping, in accordance with Paragraph 130 of the framework.

## Trees

The primary consideration for impacts on landscape features in respect of this development are mature trees which are subject to a Tree Preservation Order. The mature trees form an avenue of Lime and other trees leading from Primrose Hill to the redundant care home.



*The tree lined unadopted access road serving the site.*

In accordance with Policy WC10 development proposals should contribute to the protection, enhancement, and where possible expansion of woodlands, trees and hedgerows in the area. The loss of woodland, healthy trees and hedgerows with visual, historic or wildlife importance will be resisted.

Paragraph 180 (c) of the NPPF states that development resulting in the loss or deterioration of irreplaceable habitats (such as ancient woodland and ancient or veteran trees) should be refused, unless there are wholly exceptional reasons, and a suitable compensation strategy exists.

During processing of the application concerns were raised with the applicant that insufficient information was initially provided to understand the impacts of the development on the protected trees throughout the site. In response an up-to-date Arboricultural Impact Assessment has been submitted in May 2023 which includes appropriate tree protection and method statements. The report prepared by Crawshore Arborcare Ltd dated 1<sup>st</sup> May 2023 includes a full assessment of the trees on site and recommends tree protection.

The report has identified 41 trees on the site. The majority of the trees are proposed to be retained. Five trees are proposed to be removed (T22, T23, T24, T26, T35) as these trees are defined as Category U trees. These are all trees which, in the view of the Arboriculturalist, have a serious, irremediable structural defect such that their early loss would be expected due to collapse, are showing signs of significant decline or are trees infected with pathogens of significance of such which are of detriment to the health and safety of other trees. As the trees are identified by the qualified Arborist as being Category U, their removal is justified in this instance.

In terms of the remaining lime trees along the avenue, the removal of epicormic growth would take place around the bases and strategic crown lifting take place to allow access for construction traffic to a height of 4m by pruning the limbs back to the main stem in line with current British Standards for pruning. The Arboriculturalist is to make site visits to check works throughout the construction phase, in the interests of protecting the trees throughout.

As a large number of trees are proposed to remain, the site would retain its character associated with these positive landscape features and there would subsequently be no harm to the group value of the Tree Preservation Order.

The tree report includes details of tree protection throughout the construction process, which includes protective fencing of the root protection areas and 'no dig' confinement systems within the root protection areas. The application has therefore demonstrated that the trees can be effectively integrated with the development, resulting in the loss of 5 trees which are identified as not suitable for retention, can prevent damage to root systems and to the trees in general and the layout of the development is such that it avoids any conflict between trees and development, by excluding trees in private garden areas.

Local residents are concerned that the trees are too large due to a lack of management and that they could cause a health and safety issue. It is clear that tree works are necessary as part of the application process. It is the applicant/land-owners responsibility to maintain the trees on their private land and these concerns are a civil matter. However, it is likely that bringing the site back into habitable use would better facilitate the ongoing management and maintenance of the trees into the future, which is in the best interests of local residents and the long-term health of the trees.

It is considered that a condition to secure a detailed landscaping scheme is necessary to include appropriate replacement tree planting and sufficient mitigation for the loss of the 5 no. trees, due to their maturity, on site together with a condition to ensure that the recommendations of the Arboricultural Impact Assessment for tree protection and monitoring by the Arborist are adhered to throughout the construction phase. The application is therefore in accordance with Policy SC10 of the Adopted Local Plan and Paragraph 180 (c) of the NPPF.

### **Residential Amenity**

Successful Places 'A Guide to Sustainable Housing Layout and Design' (SPD) sets out the Council's minimum separation distances between dwellings in Table 3, which are in the interests of preventing massing, overshadowing, and overlooking to neighbouring residents. As a guide 21m should be provided between rear elevations, 12m front to front and 12m rear to a side wall.

To the south of the site is vacant land which has consent to implement Phase 1 of the development. To the east are residential properties on Dodgewell Close. To the north-west the site borders long residential gardens of properties fronting Alfreton Road.

The separation between proposed plots 1-3 and the side elevation of plot 12 of Phase 1 stands at 14m, in excess of the Good Practice Guidance note in Successful Places. Due to the length of the substantial gardens to numbers 191, 193 & 199 Alfreton Road, the relationship between the development and these existing dwellings is also in excess of the guidance criteria. To the north is open countryside.

Residents on Dodgewell Close have raised concerns regarding adverse impacts through loss of light and overshadowing to their property by virtue of the new build attached plots 11 and 12. The nearest property to the eastern side of the care home is no 14. The site layout plan

demonstrates all existing outlook from the habitable room windows of no 14 are uninterrupted. The dwelling does not have any windows serving habitable rooms on the side elevation. In accordance with advice from the Urban Design Officer, the design of these new build dwellings has been altered to reduce the eaves and ridge and hip the roof plane so that it slopes away from Dodgwell Close, which has further minimised impacts to the adjacent dwelling and the north facing garden.

In addition, the ground levels of the site are below those of Dodgwell Close, plot 12 is set in from the boundary and its eaves height is relatively shallow at 6m. It is therefore considered that the relationship between plot 12 and number 14 Dodgwell Close is acceptable and that the position of plot 12 would not cause harm to amenity through massing or overbearing impacts to the dwelling and its garden. In the event of an appeal situation it is not considered that this situation could be adequately defended.

The SPD advises on minimum outdoor amenity spaces per dwelling depending on the number of bedrooms. One to two bed houses should be provided with 50sqm of private garden area, 3 bed houses with 70 square metres and 4 bed houses with 90 square metres. The guidance is that garden areas should be applied reasonably having regard to site conditions and context. This application needs to work with constraints associated with the existing building and its position to existing site boundaries.

The following rear garden areas are proposed:

Plot 1 – 3 beds - 102 sqm

Plot 2 – 3 beds - 63 sqm

Plot 3 – 3 beds – 55sqm

Plot 4 – 3 beds – 62sqm

Plot 5 – 3 beds – 55sqm

Plot 6 – 2 beds – 63sqm

Plot 7 – 2 beds – 64sqm

Plot 8 – 4 beds – 73sqm

Plot 9 – 2 beds – 63sqm

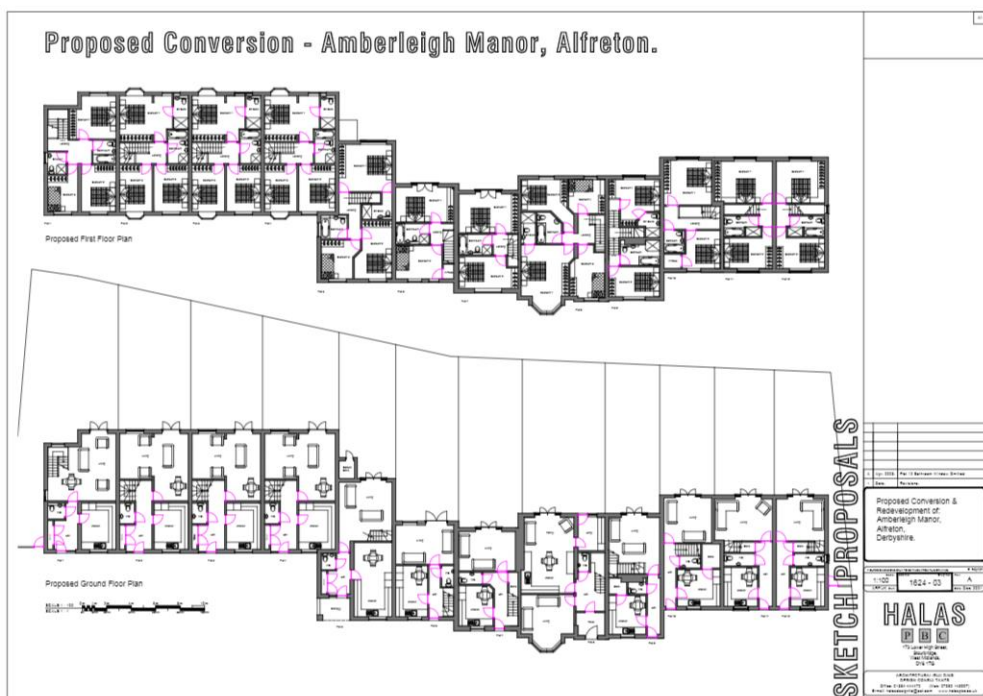
Plot 10 – 2 beds – 40sqm

Plot 11 – 2 beds - 46 sqm

Plot 12 – 2 beds – 51sqm.

Although the garden areas do not all fully meet the guidance criteria, a pragmatic and flexible approach is considered necessary given that the scheme is primarily a change of use. It is necessary to work with the constraints of the existing building and its position to the northern boundary. The SPD recognises that it is necessary to work with local context. All of the private rear gardens would have excellent outlook over open countryside to the north. On balance, the gardens would be private, usable, and not of detriment to the living conditions of future occupants. The gardens are therefore considered acceptable.

Plot 12 has a first-floor east landing window and Plot 1 has a first floor west facing shower room window. In the absence of obscure glazing these windows would overlook the gardens of number 14 Dodgwell Close and 191, 193 & 199 Alfreton Road. A planning condition is therefore recommended to ensure these windows are obscurely glazed and to ensure any opening is at least 1.7m above internal finished floor level of these plots.



Proposed Floor Plans demonstrating 12. No. two-storey terraced dwellings and private rear gardens.

Given the sub-standard garden areas it is recommended that permitted development rights are removed under Part 1 of the Schedule 2 of the GPDO in relation to extensions and outbuildings and other alterations such as porches and roof alterations. This is in the interests of preventing overdevelopment of the gardens, protecting residential amenity and also in the interests of protecting the design character of the building as a whole from different alterations which might otherwise be undertaken by individual occupants without the benefit of planning permission.

The development is considered to have acceptable impacts on residential amenity in accordance with Policy SC3 (n) of the Adopted Local Plan, which seeks to ensure a good standard of amenity is maintained for occupants of existing neighbouring properties and future occupants, including levels of privacy and light, position and avoiding overbearing relationships and adequate provision of amenity space. The proposal is also considered in accordance with Paragraph 130 (f) of the framework, which requires a high standard of amenity for existing and future users.

In respect of noise impacts, the proposal is for a residential use which would be compatible with its residential surroundings. The District Council's Principal Pollution Officer has raised no objection to the development subject to a condition to control construction hours to between 7:30am and 6pm Monday to Friday and between 7:30am and 1pm Saturday. The condition is attached to this recommendation in the interests of protecting local residents from adverse noise during the construction process. The development is considered in accordance with Policy SC11 of the Adopted Local Plan, which requires development proposals to ensure a significant loss of amenity would not occur as a result of development or throughout its construction and operation.

### Highway Safety including Refuse Collection

The twelve dwellings are all served by an unadopted track leading from Primrose Hill, the same unadopted track which is approved to serve the 16 dwellings approved under phase 1, and which always served the care home.

The Highway Authority has confirmed no objections to this planning application after considering additional information including refuse vehicle tracking analysis and a site access general arrangement layout, which includes passing places and a footpath. A number of planning conditions have been requested. These ensure that adequate highway visibility splays are provided of 43m in each direction of the vehicular and pedestrian access to Primrose Hill; that parking provision within the development is provide prior to occupation of the development and then retained in perpetuity; a site compound to be created throughout the construction period; and to ensure no bollards or other means of obstruction are installed to the site access. These conditions are attached to this recommendation being necessary in the interests of highway safety.

A condition has been recommended to ensure arrangements for the management and maintenance of the streets within the development will be agreed until such time that a private management company is agreed. This is because the Highway Authority confirms the site will remain private and unadopted. As part of this process the Highway Authority commented that a legal agreement might be necessary to discharge the condition. Officers consider a Section 106 Agreement would not be necessary and that a condition could appropriately deal with this matter. The condition attached to this recommendation requires an approved management and maintenance scheme to be maintained in perpetuity for the lifetime of the development.

A further condition is also necessary to ensure that the internal specification of the access road is improved in accordance with Derbyshire County Council's 6c's Design Guide, and in accordance with a scheme submitted to and approved in writing by the Local Planning Authority. This condition would ensure the private roads within the site are of an acceptable standard to serve the residential development.

Policy ITCR11 of the Adopted Local Plan sets out in Appendix 8.2 the Council's minimum parking standards. Two-three bed dwellings require 2 spaces and four and above bed dwellings require three spaces. A total of twenty-seven car parking spaces are provided within a communal car park area which would be established forward of the principal elevations of the dwellings, together with turning areas. Plots 1-4 have parking directly in front of these units, plots 5-12 would park in a courtyard parking areas. The parking allocation is shown on revised drawing 1624-10 Rev D with two additional visitor spaces also being provided. The proposed parking provision is fully in accordance with and exceeds the requirements of Policy ITCR11, by providing additional visitor parking spaces.

The District Council's Streetscene team has been consulted in respect of refuse collection. Following consideration of swept path analysis, which demonstrates how refuse vehicles could access, turn and enter the site for Phases 1 and 2, no concerns have been raised in terms of the District Council's refuse vehicles being able to access the site. The care home received refuse collection from the building for several years and this would continue for the proposed dwellings.

The District Council's Streetscene team have had some concerns regarding the District Council being liable for any damage caused by the Council's heavy goods vehicles to the

private road. The applicant has therefore agreed to enter into an Indemnity Agreement with the District Council, where the owner gives consent for the Council to access the site and carry out waste collection and Streetscene services. The agreement would ensure that the any damage caused to access roads will be at no fault of the District Council. The layout plan has been revised to ensure each dwelling is provided with 3 bin storage areas, fully in accordance with the District Council's 3-bin collection system and a bin collection point is also provided within the parking courtyard.

In terms of garden collection, with the exception of residential plots 1 and 12, the plots do not benefit from a separate outside pedestrian access between rear and front curtilages, meaning future residents would need to take garden waste through their properties. However, the District Council's Urban Design Officer has commented that it would be reasonable to accept this due to the constraints and nature of the development proposed. The establishment of a long and narrow rear access pathway at the end of gardens is not considered to be the correct answer from a public safety perspective and it is noted that the Force Designing Out Crime Officer has noted the absence of outdoor access to gardens and has not requested a footpath to be provided through consultation. This is an issue of practicality for future residents, who would be aware of the situation prior to purchase, and is not a material reason to recommend refusal. The application has therefore demonstrated that residents could have their bins appropriately collected from the frontage of the properties.

Each plot would benefit from one electric vehicle charging point, the locations of which are shown on revised site layout 1624-10 Rev D. This is in accordance with Policy SC6 of the Adopted Local Plan which supports developments for renewable energy supplies.

With support of the application from the Highway Authority the application has demonstrated a well-designed street/place within the development, which is safe for future users, in accordance with Policy SC3 (e) of the Adopted Local Plan. The development is considered in accordance with paragraph 110 of the framework, which requires safe and suitable access to be achieved to sites for all users.

## **Biodiversity**

The application is supported by a Preliminary Ecological Appraisal prepared by Arborist and Ecological Services Ltd dated 25<sup>th</sup> October 2021, which has been considered by Derbyshire Wildlife Trust. The report provides the Council with a reasonable level of confidence that protected species will not be affected by the development. Derbyshire Wildlife Trust are not aware of any other features of nature conservation value directly associated with the site or immediately adjacent and there are no records of any protected species.

Derbyshire Wildlife Trust therefore confirms support for the recommendations made in the Preliminary Ecological Appraisal, which is to attach a condition to secure details of biodiversity enhancements for approval. In this instance the condition suggested is to secure the type and location of 2 external Schwegler bat and 2 bird boxes for approval, in order to secure a net biodiversity gain. The condition is attached to this recommendation.

With the requested condition the development would meet the requirements of Policy SC9 of the Adopted Local Plan by providing a net-gain for biodiversity and is in accordance with Paragraph 174 (d) of the framework by minimising impacts on and providing net-gains for

biodiversity.

## **Flooding and Drainage**

The application site is located within Flood Zone 1, an area defined by the Environment Agency as the least likely to flood. As the application site area is less than 1ha (0.26ha), a Flood Risk Assessment is not necessary. This is acceptable as per the advice in footnote 55 of the NPPF. However, as a major planning application the Lead Local Flood Authority (LLFA) has been consulted as a statutory consultee, in order to ensure the development has properly considered its impact on flood risk. Severn Trent Water Ltd has also been consulted in respect of foul sewage connections and surface water disposal considerations.

The LLFA initially raised a holding objection to the development as it was not possible to provide an informed comment until the applicant provided further information on the surface water drainage strategy for the site, in order to demonstrate the site is able to drain and consideration given to space on site required for surface water storage. Over the course of several months the applicant has provided additional information and re-consultation with the LLFA has been undertaken.

Following submission of further information, the LLFA sought confirmation of approval from Severn Trent Water for a connection to the sewer system and a quick storage estimate for underground surface water storage. The applicant's consultant has confirmed that as the site is brownfield, it is likely to have connection to existing sewers and it might be possible to utilise the existing connection. Surface water drainage calculations, including flow controls and attenuation, have also been provided. The consultant also advises that the discharge rates proposed for the site are suitable as the guidance requires a 30% betterment, which the development is providing and exceeding. Following that information, the LLFA has considered that site's drainage plan, and has requested amendments to the drainage design, evidence as to why the greenfield runoff rate cannot be met and why a discharge rate of 3l/s for each discharge point is proposed rather than the greenfield runoff rate for each rainfall event.

Following receipt of the drainage strategy the LLFA confirms no objections to the development subject to planning conditions to secure a management and maintenance plan of the surface water drainage of the site, an assessment to demonstrate that the destination for surface water accords with paragraph 80 of the planning practice guidance, a scheme to demonstrate how surface water run-off will be avoided during construction, and verification that the drainage scheme has been constructed as per the approved scheme. These conditions are attached to this recommendation.

Severn Trent Water Ltd raises no objection to the development and recommends a condition which requires the applicant to submit a foul sewage and surface water disposal scheme. This is in order to ensure the development is provided with a satisfactory means of drainage, to reduce the risk of a flooding problem and to minimise risk of pollution. The condition is attached to this recommendation.

In a separate Clean Water Asset Protection Response, Severn Trent Water advises that there is a 3in water main within the application site and no build over is permitted. In this situation, the applicant/developer are required to submit a Diversion Application for Severn Trent Water Ltd to assess. Severn Trent Water Ltd provides an advisory note on this for the applicant,



which is outside the planning permission process.

The District Council's Drainage Engineer has checked sewer records and confirms no public sewers are within the curtilage of the site and comments that the application should be made aware of the possibility of unmapped public sewers. Advice from Severn Trent Water has been repeated in that the applicant should contact Severn Trent Water to determine any responsibilities in relation to relevant legislation, as a separate matter outside of the planning system.

There is no planning requirement for the applicant to obtain approval of a diversion application prior to any planning permission being granted. Severn Trent Water Ltd has full control over its assets and separate consent would be necessary from Severn Trent Water to build over, near-to or to divert any of its apparatus within the application site. An advisory note is recommended to make the applicant aware of this necessary process.

With no objection raised from the Lead Local Flood Authority and Severn Trent Water Ltd the application is considered to have appropriately considered the effect on flood risk, surface water run-off and foul connections. This is in accordance with Policy SC7 of the Adopted, which states all development proposals will be required to consider the effect of the proposed development on flood risk, both on-site and off-site, commensurate with the scale and impact of the development. The proposals are also considered in accordance with paragraph 167 of the framework, which states that when determining any planning applications, local planning authorities should ensure that flood risk is not increased elsewhere.

### **Contamination and Unstable Land**

As the site is previously developed land and could give rise to land contamination, and since the site lies within the defined Coal Mining Risk Referral Area, the Council's Principal Environmental Health Officer and The Coal Authority have been consulted.

In respect of ground contamination, the Principal Environmental Health Officer raises no objection subject to a conditioned approach to ensure that either any made ground is removed, or a contamination investigation and risk assessment together with remediation and verification is undertaken, if necessary. Further conditions have been recommended by the Principal Environmental Health Officer to ensure that any other areas which are suspected of contamination should be subject to the same process for site investigation, risk assessment and remediation. A final condition is necessary to ensure that any imported soils are tested for contamination prior to importation and only imported in accordance with agreed details. The conditions are attached to this recommendation.

With regards to land stability, the Coal Authority has considered a submitted Mining Investigation Report dated January 2022 from Spilman Associates Ltd. The report confirms boreholes have been drilled. The results are that only thin intact coal seams were encountered, with no evidence of any shallow workings. Following the borehole investigations, the Coal Authority confirms that the issue for coal mining legacy to affect the development has been adequately investigated and raises no objection to the application. In this instance no planning conditions are necessary to secure further site investigations to check the site can be made safe and stable for the development proposed.

The proposals are therefore in accordance with policy SC14 of the Adopted Local Plan, which states development proposals will not be permitted unless it can be demonstrated that any contaminated or unstable land issues will be addressed by appropriate mitigation measures to ensure that the site is suitable for the proposed use and does not result in unacceptable risks which would adversely impact upon human health, and the built and natural environment.

The development is also in accordance with paragraph 183 of the framework, which states planning should ensure that a site is suitable for its proposed use taking account of ground conditions and any risks arising from land instability and contamination. This includes risks arising from natural hazards or former activities such as mining, and any proposals for mitigation including land remediation (as well as potential impacts on the natural environment arising from that remediation).

### **Rough Close Works Hazard Site**

The application site is within the outer consultation zone of the Rough Close Works, South Normanton Hazardous Site, where Policy WC4 requires developments to be in accordance with the Health and Safety Executives land use planning guidance restrictions. The outer consultation zone does not restrict new residential developments, but new buildings should be designed to ensure they are not vulnerable to blast.

The Health and Safety Executive has confirmed through consultation that the proposed development falls within the SD3 distance of the nearby licensed explosives site, but outside the SD2 distance. HSE therefore has no comment to make on the planning application provided that the development is not a vulnerable building. A vulnerable building means a building or structure of vulnerable construction comprising the following:

- (a) a building of more than three storeys above ground or 12m in height constructed with continuous non-load bearing curtain walling with individual glazed or frangible panels larger than 1.5m<sup>2</sup> and extending over more than 50% or 120m<sup>2</sup> of the surface of any elevation;
- (b) a building of more than three storeys above ground or 12m in height with solid walls and individual glass panes or frangible panels larger than 1.5m<sup>2</sup> and extending over at least 50% of any elevation;
- (c) a building of more than 400m<sup>2</sup> plan area with continuous or individual glazing panes larger than 1.5m<sup>2</sup> extending over at least 50% or 120m<sup>2</sup> of the plan area; or
- (d) any other structure that, in consequence of an event such as an explosion, may be susceptible to disproportionate damage such as progressive collapse.

The proposed development does not fall within any of the above categories of vulnerable development. The building is of substantial brick construction, as would the 2 no new build units, and its authorised use is already for living accommodation, albeit for care purposes. The application is therefore considered to be in accordance with Policy WC4 of the Adopted Local Plan and is an appropriate form of development within the outer consultation zone of the Rough Close Works explosives site.

### **Sustainability Considerations**

Paragraph 11 of the framework requires planning decisions to apply a presumption in favour of sustainable development.

Paragraph 8 of the framework states achieving sustainable development means that the planning system has three overarching objectives, which are interdependent and need to be pursued in mutually supportive ways, so that opportunities can be taken to secure net-gains across each of the different objectives. The proposal has been considered in relation to the three sustainability objectives as follows:

*a) an economic objective – to help build a strong, responsive and competitive economy, by ensuring that sufficient land of the right types is available in the right places and at the right time to support growth, innovation and improved productivity; and by identifying and coordinating the provision of infrastructure;*

The construction phase would benefit the local economy and create jobs. Future occupants would spend in the local economy, benefitting local businesses in the district. The economic objective is met.

*b) a social objective – to support strong, vibrant and healthy communities, by ensuring that a sufficient number and range of homes can be provided to meet the needs of present and future generations; and by fostering well-designed, beautiful and safe places, with accessible services and open spaces that reflect current and future needs and support communities' health, social and cultural well-being;*

The locality has a number of services and facilities including a bus service, railway station, convenience store, primary school, medical centre, nursery, care home, church, community centre and country club, which all contribute to the sustainability of the settlement. Blackwell also has good connections to the district's larger settlements, which provide a greater range of amenities and services for future occupants. Twelve well-designed family homes would be provided through the development benefitting future occupants' health, social and cultural well-being. The social objective is met.

*c) an environmental objective – to protect and enhance our natural, built and historic environment; including making effective use of land, improving biodiversity, using natural resources prudently, minimising waste and pollution, and mitigating and adapting to climate change, including moving to a low carbon economy*

The development represents the efficient re-use of a vacant and dilapidated building on a brownfield site causing no harm to the built or natural environment, and has no adverse impact on biodiversity, or pollution. The courtyard parking areas would be provided with electric vehicle charging. The environmental objective is met.

## **Conclusion**

The principle of development is acceptable as a housing development contained within the defined development envelope of the settlement of Blackwell in accordance with Policy SC1 of the Adopted Local Plan. Although the proposal will result in the loss of a community facility, there is an alternative care home within a 400m radius of the site, which meets the requirements of Policy ITCR4 of the Adopted Local Plan.

This application has been subject to an up-to-date Viability Assessment which concludes that it would be unviable to provide financial contributions towards education, open space & sport facilities for Phase 2. This is fully consistent with an earlier detailed viability assessment undertaken for Phase 1, which concluded that a development of Phase 2 alone, or a development of Phases 1 and 2 combined, are so finely balanced in terms of viability that they would be unable to afford to make any S106 contributions as applications together or individually – such contributions are simply not viable across the entire site. In this case, it is considered that it is in the public interest to approve the proposals.

The application raises no concerns in terms of the impacts on design and character, trees, residential amenity, highway safety and refuse collection, biodiversity, flooding and drainage, ground contamination and land stability and the Rough Close Works explosives site.

When taking into account with the approval of Phase 1 (20/00166/FUL) a total of 28 dwellings would be delivered on this site. The application therefore represents a sustainable form of development.

## **RECOMMENDATION**

**The current application be conditionally approved subject to following planning conditions:**

1. The development shall be begun before the expiration of three years from the date of this permission.
2. The development hereby permitted shall be carried out in accordance with the following approved drawings and documents unless specifically stated otherwise in the conditions below:

Revised Site Location Plan and Block Plan - drg no 1624-10 Revision D dated April 2019 (Revised August 2023)

Refuse Vehicle Tracking Layout - drawing 1D dated 24/02/2021

Site Access General Arrangement Layout - drawing 2A dated 24/02/2021

Revised Elevations (plots 1-12) drg no 1624-04 Rev A dated December 2021 (Revised March 2023)

Revised Floor Plans (plots 1-12) drg no 1624-03 Rev A dated December 2021 (Revised April 2023)

Tree Constraints Plan dated 01/05/2023 - Project No 200

Tree Protection Plan - dated 01/05/2023 - Project No 200

Proposed Drainage Strategy - Drawing Number DS001 Rev D dated 06.07.2020 (Revised August 2023)

Land Survey - Drg no 19-1618-1A dated October 2020

3. No development shall commence until drainage plans for the disposal of surface water and foul sewage have been submitted to and approved in writing by the Local Planning Authority. The agreed drainage scheme shall then be implemented fully in accordance with the approved details prior to the first occupation of the development and be maintained in perpetuity thereafter.

4. All construction works must be undertaken only between 07:30am and 6pm Monday to Friday and between 7:30am to 1pm Saturday. No construction work activity on site or deliveries to or from the site shall take place on Sundays and Public Holidays.
5. Before any other operations are commenced the site access shall be modified, laid out and constructed in accordance with a detailed design first submitted to, and approved in writing by the Local Planning Authority. The access shall include proposed passing places as detailed in the application submission, be constructed to base level and be provided with visibility sightlines of 2.4m x 43m in both directions. Prior to the first occupation of any dwelling on site, the permanent new access shall be laid out as approved and the land in advance of the visibility sightlines shall be retained throughout the life of the development free of any object greater than 1m in height relative to the adjoining nearside carriageway channel level.
6. Prior to the first occupation of each dwelling, space shall be provided for the parking of vehicles associated with that dwelling fully in accordance with the approved plans. Once provided the car parking spaces shall be maintained in perpetuity for the lifetime of the development free from any impediment to their designated parking uses.
7. At the commencement of operations on site, space shall be provided within the site curtilage for storage of plant and materials, site accommodation, loading and unloading of goods vehicles, parking and manoeuvring of site operatives and visitors vehicles, laid out and constructed fully in accordance with detailed designs to be first submitted in advance to the Local Planning Authority for written approval. The site compound shall be maintained throughout the entire contract period in accordance with the approved designs free from any impediment to its designated use.
8. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015, or any statutory instrument amending, revoking and/or replacing that Order, the parking spaces to be provided in connection with the development shall not be used other than for the parking of vehicles.
9. Notwithstanding the provision of the Town and Country Planning (General Permitted Development) Order (2015), (or any Order revoking, amending or re-enacting that Order) no gates / bollards / chains / other means of obstruction shall be erected across the approved access unless details have first been submitted to and approved in writing by the Local Planning Authority.
10. No development shall be commenced until details of the future maintenance of the residential access driveways and any footways (including maintenance and management of layout, levels, gradients, construction, surfacing, means of surface water drainage and street lighting) have been submitted to and approved in writing by the Local Planning Authority. The driveways shall thereafter be managed and maintained fully in accordance with the approved management and maintenance details for the lifetime of the development.
11. Prior to first occupation of the development, two no. Schwegler bat boxes and two no. bird boxes must be installed in accordance with a scheme that has first been submitted to and approved in writing by the Local Planning Authority, with photographs of the boxes in situ provided to the Local Planning Authority to discharge the condition. The agreed bat and bird

boxes shall then be maintained in perpetuity.

12. Prior to the first occupation of the hereby approved development any made ground on the site shall be removed, or a contamination investigation and risk assessment of that part of the site shall be undertaken by a competent person in accordance with current guidance and in accordance with a scheme which has been first submitted to and approved in writing by the Local Planning Authority. Where the site investigation and risk assessment shows that contamination remediation is required, a remediation scheme shall be submitted to and approved in writing by the Local Planning Authority. Any approved remediation scheme shall be implemented fully in accordance with the approved scheme and a verification report shall be submitted to and approved in writing demonstrating that the remediation has been carried out successfully prior to the first occupation of the dwellings hereby approved.

13. Where any further suspected areas of contamination are discovered during the development process of the site, the process of site investigation and risk assessment, remediation and verification as described in condition 12 above shall be carried out by a competent person fully in accordance with current guidance and in accordance with a scheme which has first been submitted to and approved in writing by the Local Planning Authority.

14. In the event that it is necessary to import soil onto the application site in connection with the development, prior to any importation soil shall be sampled at source; analysed in a laboratory which is accredited under the MCERTS Chemical Testing of Soil Scheme and the results submitted to and approved in writing by the Local Planning Authority. Any soil imported into the application site shall then be fully in accordance with the agreed soil scheme.

15. Prior to first occupation of plots 1 and 12, the east facing first-floor secondary windows serving plot 12 and the west facing first-floor secondary windows serving plot 1 shall be glazed with highly obscure non-opening glass and any opening shall be top-only and a minimum of 1.7m above internal finished floor level. Once installed the obscure glazing and opening method shall be maintained in perpetuity.

16. Notwithstanding the provisions of Part 1 Class A, AA, B, C, D, E of Schedule 2 of the Town and Country Planning (General Permitted Development) Order 2015 as amended (or any Order revoking and re-enacting that Order) no development as may otherwise be permitted by Class A, AA, B, C, D, E of the Order shall be carried out on the dwellinghouses hereby permitted.

17. Prior to occupation of the development, a lighting scheme, to include details of location, type, height and specification, shall be submitted to and approved in writing by the Local Planning Authority. The agreed lighting scheme shall then be implemented on site fully in accordance with the approved scheme and made available for use prior to occupation of the first dwelling.

18. Prior to any works taking place to the external elevations and roof of the development, the precise external materials to be used in the construction of the development shall be first submitted to and approved in writing by the Local Planning Authority. The development shall then proceed fully in accordance with the agreed external materials and then maintained in perpetuity.

19. Prior to first occupation of the development a scheme of hard and soft landscaping, to include proposed trees within the development, shall be submitted to and approved in writing by the Local Planning Authority. All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the occupation of the dwellings or the completion of the development, whichever is the sooner; and any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.

20. Prior to first occupation, a detailed scheme of boundary treatment shall be installed fully in accordance with a scheme which has first been submitted to and approved in writing by the Local Planning Authority. The agreed boundary treatment scheme shall then be maintained in perpetuity.

21. Prior to the first occupation of the development, details confirming arrangements to allow access on to the new estate road for refuse vehicles (bin lorries), to enable properties to have their bins collected from within the site, shall be first submitted to and approved in writing by the Local Planning Authority. The approved details shall be implemented in full prior to occupation of the first dwelling and be maintained in perpetuity.

22. Before works commence on site details to upgrade the private access road from Primrose Hill to the application building, to bring the private access road in accordance with the Derbyshire County Council's Design 6C's Guide, shall be submitted to and approved in writing by the Local Planning Authority. The agreed private access road improvement scheme shall be completed in full prior to occupation of the first dwelling and be maintained in perpetuity thereafter.

23. No development shall take place until a detailed design and associated management and maintenance plan of the surface water drainage for the site, in accordance with the principles outlined within:

a. Halas Design Ltd. (August 2023). Block/Location Plans. Rev. D.

b. HSP Consulting. (21.08.2023). Drainage Strategy. Rev. D. Drawing No. DS001

c. HSP Consulting. (25.11.2022). Drainage strategy Technical Memorandum. Rev. C. Ref. C3352/TM001.

Including any subsequent amendments or updates to those documents as approved by the Flood Risk Management Team.

d. And DEFRA's Non-statutory technical standards for sustainable drainage systems (March 2015),

have been submitted to and approved in writing by the Local Planning Authority.

24. No development shall take place until a detailed assessment has been submitted to and approved in writing by the Local Planning Authority, to demonstrate that the proposed destination for surface water accords with the drainage hierarchy as set out in paragraph 80 reference ID: 7-080-20150323 of the planning practice guidance. The assessment must demonstrate, with appropriate evidence, that surface water runoff is discharged as high up as reasonably practicable in the following hierarchy:

I. into the ground (infiltration);

- II. to a surface water body;
- III. to a surface water sewer, highway drain, or another drainage system;
- IV. to a combined sewer.

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

26. Prior to the first occupation of the development, a verification report carried out by a suitably qualified independent drainage engineer must be submitted to and approved in writing by the Local Planning Authority. This must demonstrate that the drainage system has been constructed as per the agreed scheme (or detail any minor variations), provide the details of any management company and state the national grid reference of any key drainage elements (surface water attenuation devices/areas, flow restriction devices and outfalls).

27. The hereby approved development shall be undertaken fully in accordance with the Arboricultural Report, Impact Assessment & Protection Method Statement, Tree Protection Plan and Tree Constraints Plan prepared by Crawshore Arborcare Ltd dated Monday 1st May 2023.

### **Reasons for Conditions**

1. To comply with the requirements of Section 51 of the Planning and Compulsory Purchase Act 2004.
2. For the avoidance of doubt and having regard to the amended and additional documents submitted during the application, in order to define the planning permission.
3. This is a pre-commencement of development condition necessary to ensure that the development is provided with a satisfactory means of drainage as well as to reduce the risk of creating or exacerbating a flooding problem and to minimise the risk of pollution in accordance with Policy SC2 (f) and SC7 of the Local Plan for Bolsover District.
4. In the interests of protecting residential amenity in accordance with the requirements of Policy SC11 of the Local Plan for Bolsover District.
5. This is a pre-commencement of development condition necessary in the interests of highway safety and in accordance with the requirements of Policy SC3 (e) of the Local Plan for Bolsover District.
6. In the interests of highway safety and in accordance with the requirements of Policy SC3 (e) of the Local Plan for Bolsover District.
7. In the interests of highway safety and in accordance with the requirements of Policy



SC3 (e) of the Local Plan for Bolsover District.

8. In the interests of highway safety and in accordance with the requirements of Policy SC3 (e) of the Local Plan for Bolsover District.

9. In the interests of highway safety and in accordance with the requirements of Policy SC3 (e) of the Local Plan for Bolsover District.

10. This is a pre-commencement of development condition necessary in the interests of highway safety and in accordance with the requirements of Policy SC3 (e) of the Local Plan for Bolsover District.

11. To ensure a net-gain for biodiversity, in the interests of protecting biodiversity, in accordance with Policy SC9 of the Local Plan for Bolsover District.

12. To ensure the site is developed free from unacceptable levels of land contamination in accordance with Policy SC14 of the Adopted Local Plan for Bolsover District.

13. To ensure the site is developed free from unacceptable levels of land contamination that might be discovered during the development process in accordance with Policy SC14 of the Adopted Local Plan for Bolsover District.

14. To ensure the site is developed free from unacceptable levels of land contamination from imported soil in accordance with Policy SC14 of the Adopted Local Plan for Bolsover District.

15. To prevent overlooking to the adjacent residential gardens and protect residential amenity in accordance with Policy SC3 of the Local Plan for Bolsover District.

16. To protect the character and appearance of the development and residential amenity from proposals which could otherwise be undertaken without the benefit of planning permission in accordance with Policy SC3 of the Local Plan for Bolsover District.

17. In order to reduce opportunities for crime, fear of crime, disorder and anti-social behaviour in accordance with Policy SC3 (f) of the Adopted Local Plan for Bolsover District.

18. To ensure the satisfactory appearance of the development in accordance with Policy SC3 of the Adopted Local Plan for Bolsover District.

19. To ensure the satisfactory appearance of the development and to provide mitigation for the loss of some trees within the site in accordance with Policies SC3 and SC10 of the Adopted Local Plan for Bolsover District.

20. To ensure the satisfactory appearance of the development and to protect residential amenity in accordance with Policy SC3 of the Adopted Local Plan for Bolsover District.

21. To ensure the dwellings can have their bins collected appropriately, in the best interests of health and highway safety, in accordance with Policy SC3 (e) of the Adopted Local Plan for Bolsover District.

22. This is a pre-commencement of development condition necessary in the best interests of highway safety to ensure the private access road is up to standard to serve the dwellings, in accordance with Policy SC3 (e) of the Adopted Local Plan for Bolsover District.
23. This is a pre-commencement of development condition to ensure that the proposed development does not increase flood risk and that the principles of sustainable drainage are incorporated into this proposal, and sufficient detail of the construction, operation and maintenance / management of the sustainable drainage systems are provided in accordance with Policy SC7 of the Adopted Local Plan for Bolsover District.
24. To ensure that surface water from the development is directed towards the most appropriate waterbody in terms of flood risk and practicality by utilising the highest possible priority destination on the hierarchy of drainage options, in accordance with Policy SC7 of the Adopted Local Plan for Bolsover District.
25. This is a pre-commencement of development condition necessary to ensure surface water is managed appropriately during the construction phase of the development, so as not to increase the flood risk to adjacent land/properties or occupied properties within the development, in accordance with Policy SC7 of the Adopted Local Plan for Bolsover District.
26. To ensure that the drainage system is constructed to the national non-statutory technical standards for sustainable drainage and CIRIA standards C753 in accordance with Policy SC7 of the Adopted Local Plan for Bolsover District.
27. To ensure no harm to trees of significance within the site in accordance with Policy SC10 of the Adopted Local Plan for Bolsover District.

## **Notes**

1. Derbyshire Constabulary's Force Designing Out Crime Officer advises that the approved scheme would need to comply with Building Regulations Approved Document Q in respect of resistance to forced entry. Accordingly, it's unlikely that any of the existing buildings external doors or windows will be able to be retained for future use.

2. In relation to Condition 3, Severn Trent Water advises Planning Practice Guidance and Section H of the Building Regulations 2010 detail surface water disposal hierarchy. The disposal of surface water by means of soakaways should be considered as the primary method. If this is not practical and there is no watercourse available as an alternative other sustainable methods should also be explored. If these are found unsuitable, satisfactory evidence will need to be submitted, before a discharge to the public sewerage system is considered.

Severn Trent Water also advises there is a 3in water main in the application site. No build over is permitted. The applicant, developer or site agent will need to submit a Diversion Application (S185 ) along with the proposed plans for STW to assess. To request a water map please follow the link:

<https://www.stwater.co.uk/building-and-developing/estimators-and-maps/request-a-water-sewer-map/> scroll down the page to view the link:

Please visit [www.digdat.co.uk](http://www.digdat.co.uk). You will need to register on the website and then be able to search for your chosen location and get an instant quote online. For more information you can view Digdat's user guide (opens in a new window). Please look at the district area supply plan (PDF) (opens in a new window) to check that your site is within the Severn Trent boundary before requesting an underground asset map. Any correspondence and diversion applications are to be submitted through New Connections. The relevant form can be found on the Severn Trent website, please complete the form as fully as possible.

[https://www.stwater.co.uk/content/dam/stw/stw\\_buildinganddeveloping/Diversion-of-a-Severn-Trent-Water-main.pdf](https://www.stwater.co.uk/content/dam/stw/stw_buildinganddeveloping/Diversion-of-a-Severn-Trent-Water-main.pdf)

Information on diversion application charges can be found at:

[https://www.stwater.co.uk/content/dam/stw/stw\\_buildinganddeveloping/new-connections/2020/new-connections-charging-arrangement-20-21.pdf](https://www.stwater.co.uk/content/dam/stw/stw_buildinganddeveloping/new-connections/2020/new-connections-charging-arrangement-20-21.pdf) Scroll down the "New Connections Charging" document - 1 April 2020 to 31 March 2021 go to Page 24 Diversion of a Water Asset.

3. Bolsover District Council's Senior Engineer advises sewer records do not show any 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 of the proposed works. These could be shared pipes which were previously classed as private sewers and were transferred to the ownership of the Water Authorities in October 2011. 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. 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.

4. Derbyshire County Council Highway Authority advises:

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

Where the site curtilage slopes down towards the public highway provisions within Section 163 of the Highways Act 1980 requires measures to be taken to ensure that surface water run-off from within the site is not permitted to discharge across the footway margin. This usually takes the form of a dished channel or gulley laid across the access immediately behind the back edge of the highway, discharging to a drain or soakaway within the site.

Planning permission does not give you approval to work on the public highway. To carry works associated with this planning permission, separate approval must first be obtained from Derbyshire County Council as Highway Authority - this will take the form of a section 184 licence (Highways Act 1980). It is strongly recommended that you make contact with the County Council at the earliest opportunity to allow time for the process to be completed. Information and relevant application forms, regarding the undertaking of access works within highway limits, are available via the County Council's website [www.derbyshire.gov.uk](http://www.derbyshire.gov.uk), email

highways.hub@derbyshire.gov.uk or telephone 01629 533190.

The following clause should be included in the deeds of the dwellings to ensure that at no time will adoption of any part of the access road be sought: "The lessee or purchaser shall not at any time, either alone or jointly with others, seek adoption of any part of the driveway intended to serve the development as a highway maintainable at the public expense, it being the intention that same shall at all times remain private up to the point where the same abuts the publicly maintainable highway.

If construction works are likely to require Traffic Management, advice regarding procedures should be sought from the County Council Traffic Management Team (01629 538628). All road closure and temporary traffic signal applications will have to be submitted via the County Councils website; relevant forms are available via the following link - [http://www.derbyshire.gov.uk/transport\\_roads/roads\\_traffic/roadworks/default.asp](http://www.derbyshire.gov.uk/transport_roads/roads_traffic/roadworks/default.asp)

5. Derbyshire County Council advises developers should work with broadband providers to ensure NGA broadband services are incorporated as part of the design of new development. However, if it can be shown that this would not be possible, practical or economically viable, in such circumstances, suitable ducting should be provided within the site and to the development in order to facilitate future installation. Guidance on the characteristics of qualifying NGA technologies is available from The Department for Digital, Culture, Media and Sport.

6. In respect of conditions 23 to 26, the applicant/developer is referred to the substantial advisory note contained within the Lead Local Flood Authority's consultation response dated 3rd October 2023.

7. With regards to Condition 20 and a proposed scheme of boundary treatment for the site, the applicant/developer is strongly encouraged to consider the retention and repair of the historic former school wall, wherever possible.

### **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 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.*

*The pre-commencement of development conditions have been agreed with the applicant's planning agent.*

### **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.*