

**PARISH** Old Bolsover Parish

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**APPLICATION** Full planning application comprising proposed link road between Shuttlewood Road and Oxcroft Lane, including demolition of Boleappleton Farm and associated outbuildings, ground level changes, and construction of 161 dwellings with public open spaces, access routes, landscaping and associated works.

**LOCATION** Land South West Of Brockley Wood Oxcroft Lane Bolsover

**APPLICANT** Mr D Abbott 5 Midland Way Barlborough Chesterfield S43 4XA

**APPLICATION NO.** 22/00402/FUL **FILE NO.** PP-11437775

**CASE OFFICER** Mr Steve Phillipson

**DATE RECEIVED** 4th August 2022

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## **SUMMARY**

The application site is partially outside the settlement framework and so the proposal is contrary to the countryside protection policy SS9 of the local plan. However, the application is recommended for approval. Therefore, the decision needs to be made by Planning Committee.

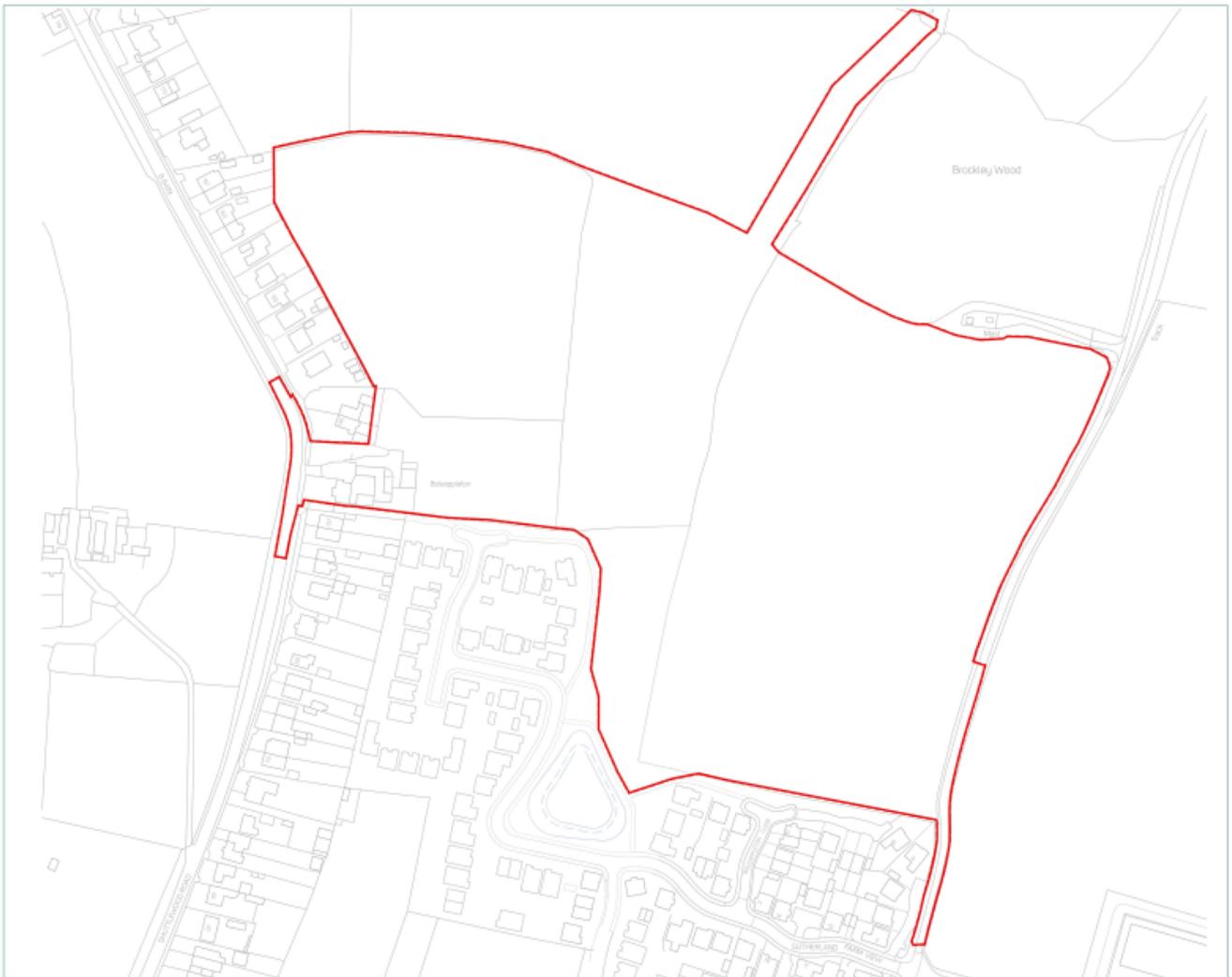
The application was also called in by Councillor Donna Hales (Bolsover North & Shuttlewood ward).

The proposal offers a means to deliver a distributor road to link Shuttlewood Road through the site to connect to Oxcroft Lane in accordance with the requirement of local plan policy LC1. A goal which otherwise is unlikely to be delivered for the foreseeable future.

The key issue to consider is whether this benefit, together with the other benefits of the development, outweighs the harm caused by approving the application contrary to SS9 and any other harms with consideration given to issues including:-

- the principle of the development and the link road
- highway safety and the local road network
- the landscape and visual impact of the proposed development
- biodiversity
- design and housing layout
- local infrastructure capacity
- other technical issues: stability; archaeology; drainage; telecom mast; noise

# Site Location Plan



## SITE & SURROUNDINGS

The site covers approximately 9 ha of mainly agricultural land at the north side of Bolsover set between Oxcroft Lane on the East side and Shuttlewood Road on the West side. The application site comprises three agricultural fields separated by hedgerows with occasional trees. The derelict Boleappleton Farm is at the west portion of the site and is proposed to be demolished and cleared as part of the development.

Existing residential properties of Shuttlewood Road are adjacent to the West, to the South are new residential properties of the Jones Homes development site, and to the North and East sides is countryside. Brockley Wood (ancient woodland and local wildlife site) and a 20m telecom tower are immediately adjacent to the Northeast corner.

The site sits at the top of a valley feature in the landscape with ground levels at the centre significantly lower than the East and West sides. Levels also drop to the north with the head of Hawke Brook running through the centre of the site in a northerly direction. A spur of the red line application boundary extends northwards from the main site adjacent to the brook to facilitate surface water drainage works.

The site field boundaries are generally hedgerow lined and two hedgerows cross North-South through the site with a small group of hedgerow trees on the central hedge line.



A Public Right of Way crosses the north-western corner of the site (footpath 45). Pedestrian access can be gained off Shuttlewood Road into the site and then the footpath extends north. The site is flood risk zone 1 (least likely to flood) and Coal Authority low risk zone.

## BACKGROUND

Only the Southeast third of this application site is allocated for housing in the local plan under policy LC1 (the land shown brown below is allocated for housing). The North side of the site is unallocated and so within the countryside where new development is normally resisted.



However, policy LC1 requires, amongst other things, the development to facilitate the provision of a distributor road to link Shuttlewood Road through the site to connect to Oxcroft Lane. Part of this wider allocation has already been developed under an old approval which predated the local plan policy requirement and so that phase of development did not ultimately deliver the link road or contribute to its delivery. The two remaining undeveloped parts of the allocation would not provide sufficient return to fund the cost of a link road whilst also meeting other infrastructure requirements for schools, affordable housing, health etc.

The Applicant has therefore proposed in this application, that in return for granting planning permission for additional land in the countryside beyond the north side of the allocation, the policy requirement for the link road between Shuttlewood Road and Oxcroft Lane will be provided.

It is expected that the developer of the other, as yet undeveloped part of the allocation (to the Southwest corner of the allocation), will also contribute financially to the delivery of the link road. That part of the site is the subject of a current planning application which is pending a decision (23/00463/FUL for the erection of 70 dwellings).

This application (22/00402/FUL) was initially submitted as hybrid application, part full on the allocated part of the site, and part outline on the unallocated part. However, insufficient detail had been provided to demonstrate that the link road could be provided accounting for the significant ground level differences across the site. Therefore, a major revision to the application has been agreed to change the nature of the application to a full planning application.

## PROPOSAL

As amended, this is a full planning application comprising proposed link road between Shuttlewood Road and Oxcroft Lane, including the demolition of Boleappleton Farm and associated outbuildings, ground level changes, and construction of 161 dwellings with public open spaces, access routes, landscaping and associated works. An extract of the proposed layout plan is shown below:



Primary site access will be gained off the Oxcroft Lane, along the eastern site boundary and the B6419 Shuttlewood Road, along the western site boundary.

At the proposed access with Shuttlewood Road it is proposed to realign the highway carriageway to the east a little to widen the verge on the west side of the Shuttlewood Road. This is needed to improve intervisibility around the bend in Shuttlewood Road between a vehicle turning right into the site, and a car travelling south down Shuttlewood Road. This is shown below.



At the Oxcroft Lane side the footway will be extended from the existing extent of built development to the south up to the proposed access point.

The alignment of the proposed link road between the access points responds to the topography within the site, and ensures that adoptable gradients are achieved. Currently a 6.5 metre carriageway is proposed, to ensure appropriate widths for potential access of public transport services, as well as 2m footways to provide a safe route for pedestrians. A 3m wide cycle track would link to the new development to the south across a public open space.

The route of public footpath 45 would be realigned along an estate road but the access/egress point on Shuttlewood Road would be retained along with the alternative option to continue along the proposed estate road and then on to Shuttlewood Road.

The ground level changes needed to provide road gradients to standard include cutting levels at the top of the East and West sides of the site and partly infilling the valley feature in the centre. This means that the central North/South surface water ditch will be culverted and ground levels built up in the bottom of the valley. The existing central boundary hedgerow with hedgerow trees will be lost as a result although biodiversity mitigation and compensation proposals both on and off-site, will achieve a small net gain for biodiversity overall (1.28%).

The proposal includes the erection of 161 dwellings, 16 of which would be affordable (9.9% 4, two beds and 8 one beds), and 145 market dwellings.

Scale proposed includes 14 single storey bungalows, 33 two and half storey houses (with roof space used) and 114 two storey houses.

Size of dwellings proposed:

12 one bed units in total within three small apartment buildings;

19 two bed;

55 three bed;

58 four bed; and

17 five bed.

The proposal includes large areas of public open space (POS) with access tracks and a cycle path across, a play space, SuDS balancing ponds and landscaping. Some parts of the POS area will be quite steeply sloping due to the levels works proposed.

The landscaping proposals include tree lined streets on the principal road through, with tree planting verges to be maintained in future by a management company, rather than being included within the adoptable highway.

## **AMENDMENTS**

This application (22/00402/FUL) was initially submitted as hybrid application, part full on the allocated part of the site, and part outline on the unallocated part. However, insufficient detail had been provided to demonstrate that the link road could be provided accounting for the significant ground level differences across the site. Therefore, a major revision to the application has been agreed to change the nature of the application to a full planning application.

Various amendments have been agreed during the course of the application to the layout, mix of dwellings and landscaping. The number of dwellings proposed has been reduced from 163 to 161.

## **HISTORY**

15/00076/OUT - Planning permission for 137 dwellings. Land adjacent to the Southwest of this site.

22/00141/SCREEN - Request for EIA Screening Opinion under Regulation 6 of the EIA Regulations - Proposed Residential Development at Land West of Oxcroft Lane, Bolsover: EIA not required 30/03/2022.

*“ Having had regard to the scale and nature of development, the location of the proposals and the characteristics of the potential impacts, it is considered that whilst the development proposals represent a major residential development there is no evidence to suggest that the proposal would have EIA significant effects on (a) population and human health, (b) biodiversity, land, soil, water, air or the landscape, or as a result of the interaction between these factors.*

*Therefore the Council considers that the development proposals do not constitute EIA development and so an environmental statement will not be required to accompany any planning application submitted for these proposals.”*

23/00463/FUL - Erection of 70 dwellings, Land to the South of current application site., West of Oxcroft Lane and to North of Mill Lane: Pending consideration.

## CONSULTATIONS

### ARQIVA

14/04/2023 No objections (Arqiva is responsible for providing the BBC, ITV and the majority of the UK's radio transmission network and is responsible for ensuring the integrity of Re-Broadcast Links. Consulted due to the proximity of the telecom mast at the north east corner of the site).

### BDC - Urban Design Officer

19/02/2024 (comments relating to amended layout plan n2023 0081): No objections subject to matters which can be resolved by conditions re:-

- Provision on additional trees to the apartments car park;
- Provision of limestone walls to Shuttlewood Road entrance, samples to be agreed;
- Materials to be agreed (Reduces plots with render facing the countryside including plots 71, 73, 76);
- Additional tree planting within the site.

Previous responses 26/10/2023.

### BDC – Environmental Health Officer

24/04/2023. No objections subject to conditions regarding:-

- Implementation of ground remediation strategy prior to commencement.
- Validation report for remediation.
- Scheme to minimise dust during demolition and construction.
- A scheme of sound insulation.

Informative note requested:

Construction works on the site and deliveries to the site shall be undertaken only between the hours of 7.30am to 6pm Monday to Friday and 7.30am to 1pm on Saturday. There shall be no work undertaken on site or deliveries to the site on Sundays or public holidays.

### BDC Drainage Engineer

13/09/2022. No objections. Recommends informative notes/conditions re:-

An operation and maintenance plan for SuDS should be provided.

The sewer records do not show any public sewers within the curtilage of the site.

All proposals regarding drainage will need to comply with Part H of the Building Regulations 2010.

It is essential that any work carried out does not detrimentally alter the structure or surface of the ground and increase or alter the natural flow of water to cause flooding to neighbouring properties.

### BDC Leisure Officer

29/02/2024. Notes that a large amount of open space is included within the proposals.

As there are currently no equipped play areas within 400m of the proposed development (although a play space is due to be provided on the Jones Homes Phase 2 site shortly), an equipped play area will be required on site as outlined in Policy ICTR5 [*This can be conditioned*].

The current Planning Layout (drawing no. 008 Rev N) shows a proposed LEAP standard play

area. For a development of this size, this would be the minimum requirement with an activity zone of 400m<sup>2</sup>, although this should ideally be larger given the number of dwellings proposed.

A condition is requested setting out the specification required for the play space.

Policy ICTR5 also states that “reasonable financial contributions” will be expected to be made to improve green spaces within a defined walking distance. In this case, a contribution is requested for improvements to King George’s Field, which is within 800m walking distance of the proposed development as well as other areas of green space in the vicinity including Bolsover Cemetery, Oxcroft Lane Allotments and Dykes Field.

The level of this commuted sum would need to be negotiated and will depend upon the cost of providing an on-site play area, although it is assumed that the cost of a LEAP standard play area would be circa £60,000 to £70,000 based on current prices.

The commuted sum in lieu of on-site provision would be £171,304 (161 dwellings x £1,064 per dwelling). This amount is based on 2023 prices. It is suggested that once the cost of the on site play area has been deducted from this amount the remainder would be the “reasonable financial contribution” referred to in policy ICTR5.

**Playing Pitches:**

Policy ICTR7 of the Local Plan for Bolsover (March 2020): Playing Pitches states that “If improvements to existing pitches are needed, new residential development of more than 10 dwellings will be expected to make financial contributions to the improvement of playing pitches and / or their ancillary facilities.

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 £208,656 (161 dwellings x £1,296 per dwelling). This amount is based on 2023 prices.

Such a commuted sum would be invested in improving playing pitches and their ancillary facilities at Moor Lane and Castle Leisure Park and / or other sports facilities within the parish including The Oxcroft Centre.

BDC Arts Officer

Awaited.

BT Radio Network Protection

27/04/2023. No Objections.

The project indicated should not cause interference to BT’s current and presently planned radio network.

DCC – Highway Authority

19/02/2024 (comments relating to amended drawing n2023 403 Rev A and TP-0111-P07 as amended by the e-mail from DCC of 26/02/2024 omitting suggested highway condition 6).

No objections subject to conditions.

The Highway Authority's previous consultation responses raised a number of issues in connection with the Public Right of Way (PROW) which runs through the site, street trees and the internal layout and in the intervening period a number of discussions have taken place to try and resolve the highway issues, which has culminated in the recently submitted revised drawings, so from a highways aspect the drawings are now considered acceptable in principle.

The Highway Authority would need to approve the appropriate technical approval of the proposed street trees and would look for a Management Company to be set up to take on the future maintenance requirements.

A S106 obligation should be secured for Travel plan monitoring contribution sum of £1,265 per annum for 5 years (£6,325).

Conditions are recommended regarding:-  
Provision of access, parking and turning facilities;  
Highway improvement works as per approved plans;  
Details of cycle parking facilities;  
Updated Travel Plan to be submitted for approval;  
Construction management Plan to be approved;

#### DCC Rights of Way Team

21/04/2023 (comments relate to the initial version of the full layout).

Object due to character of the footpath diversion route.

Bolsover Public Footpath No. 45 is directly affected by these proposals. A footpath diversion would be necessary. The applicant would need apply to BDC for the requisite diversion. The applicant should be advised that an application can be submitted for the diversion of the public footpath in advance of planning permission being granted.

Consideration must be given to the proposed alternative line of the path. In planning the incorporation of a footpath into a development, preference should be given to the use of made-up paths through landscaped or open space areas away from vehicular traffic. For approximately half of the length of the part of the path that runs through the development site, it is the intention to re route the footpath along the footway adjacent to an access road serving a dozen houses. For this reason, the Public Rights of Way Section must object to the proposed layout.

DCC also note that the official line of the footpath is already obstructed by the garage of an adjacent dwelling.

It is also important to point out that part of the proposed line of the path, north of the housing where it runs through open green space, runs along the used line of the path on the ground, and not along the legal line. It is important that both alignments remain open and unobstructed, but it is also essential that the legal line is shown on layout plans, and that the boundary crossing is correctly marked, and provided in the right location.

The proposed new pathways, through the landscaped areas across the site, are welcome. If these are to be dedicated as public rights of way, they would be a positive addition to the

network.

Informative notes are also requested regarding procedures associated with the right of way.

#### DCC Flood Risk Team

10/08/2023. No objections subject to conditions:-

- No development until detailed proposals for surface water drainage have been approved.
- Surface water management during construction.
- Submission of a verification report prior to occupation.

Informative notes are also provided.

#### DCC Education and Strategic Infrastructure

6/07/2023 and earlier response 02/05/2023.

The following S106 contributions are requested to address any worsening of capacity issues at local schools created by the additional demands of the residents of the application site:-

Infant: £39,454.10 for 2 infant places.

Junior: No contribution request for junior places.

Secondary: £59,449.94 for 2 secondary places.

SEND: £119,316.42 for 1.41 SEND places of arising from a development (Special Schools as well as Enhanced Resources within mainstream schools).

DCC – Bolsover Library. Stock contribution of £11,400 (i.e. £70.37 per dwelling).

S106 Monitoring Fee of £77 per S106 payment trigger.

#### DCC – County Archaeologist

24/04/2023 No objections subject to conditions.

Boleappleton Farm is not assessed for potential built heritage significance in the revised heritage statement. It appears on map evidence to be of mid 19th century origin (between 1835 and 1880), and therefore unlikely to have archaeological value as an early settlement core.

The site lies immediately north of another housing site where significant archaeological remains including prehistoric, Roman and post-Roman activity including a small group of burials were excavated in 2019 in advance of development. Although still in post-excavation (the final report is in preparation) the results of this site are regionally important, particularly with regard to the organisation and chronology of Roman settlement in the area, and the origins and life histories of the late Roman population. Emerging data from the burials and evidence for post-Roman continuity could even make a national contribution.

The current proposal site has clear archaeological interest as a potential continuation of its neighbour. The applicant has submitted a heritage impact assessment drawing on a geophysical survey of the site. This suggests that the site has a similar archaeological resource to that previously excavated to the south, namely settlement/field system of probable Romano-British date with likely prehistoric elements on a different alignment. These remains would have potential to expand and contextualise the story emerging from the

excavations on the neighbouring site, and would be – at least – of regional importance.

There is a requirement under NPPF para 205 for a conditioned scheme of archaeological work to investigate and fully record this archaeological resource. This would need to take place before commencement of development on the site. The archaeological work would involve strip and open area excavation of substantial parts of the site and perhaps all of it.

#### DCC Strategic Planning Policy

26/04/2023 and 09/09/2022. No objections but with comments below. Comments relate to the initial version of the application which covered the same site but was a hybrid application, part full application within the housing allocation, and part outline application for the part of the site outside the allocation.

DCC conclude that the planning application site is a sustainable location for housing development, where Bolsover is identified at being at the top of the settlement hierarchy, and where there is good access a range of services, employment opportunities, facilities and public transport.

The norther part of the site is outside any defined settlement limits where countryside policies would apply. This part of the application site is not covered by a BDLP housing allocation as Phase 1 is and does not accord with open countryside policies of the BDLP, meeting none of the exception provisos.

In terms of housing land supply Bolsover has been identified in the BDLP as a suitable location for new housing growth. It is considered that the proposal could contribute to Bolsover's housing requirements and for the District generally. A review of the five year housing land supply position reveals that the District Council had a greater cumulative deliverable supply of housing than the cumulative housing requirement. This factor would need to be considered by the District Council when determining this planning application. It is considered, however, that the proposal would provide for a natural extension of the housing allocation to the south and would provide for a sustainable extension to Bolsover. It is recognised that Bolsover is identified in the BDLP as being suitable to accommodate significant housing growth and provide additional benefits in providing affordable housing. The 10% of the total housing proposed on the site to be affordable is welcomed and this accords with BDLP policy. The proposal would also benefit the local community and the locality in general through the provision of the new access/distributor road.

#### Derbyshire Wildlife Trust (DWT)

23/02/2024. No objections subject to S106 obligation for off-site biodiversity compensation and planning conditions regarding on-site proposals.

Further to our comments dated 29th June 2023, we are pleased to see that the botanical survey was updated and that F1 and F2 have been confirmed as 'other neutral grassland'. We have reviewed the recently submitted Biodiversity Net Gain Report (FPCR, Updated January 2024). A net gain of +0.41 habitat units (+1.28%) is predicted to be achieved through a combination of onsite and offsite (adjacent land) habitat creation and enhancement. Trading rules are satisfied.

The offsite land should be appropriately secured via 106 Agreement, including a requirement

for the submission and approval of a Habitat Management and Monitoring Plan (HMMP) prior to commencement of development, along with sufficient funding for management and monitoring for a period of at least 30 years.

Roosting bats have been confirmed in Buildings 1, 4 and 5 and therefore a licence will be required prior to demolition. All roosts were considered to be of low conservation status and are likely to be mitigated for through boxes in dwellings and potentially on retained trees or the woodland edge. Update surveys are likely to be required to inform a licence application.

Overall DWT are satisfied with proposals, particularly the inclusion of green corridors within the development site and connecting to adjacent development and offsite habitat. Conditions are requested re:-

- Bat Licence prior to the demolition of Buildings 1, 4 and 5 [*Officer comment: The need for a bat licence is covered in separate legislation which should not be duplicated under planning powers, therefore a note on the decision notice advising of the legal requirement for a bat licence is considered to be a more appropriate alternative*].
- Nesting Birds.
- Construction Environmental Management Plan (CEMP: Biodiversity)
- Habitat Management and Monitoring Plan (HMMP)
- Species Enhancement Plan.
- Detailed Lighting Strategy.

#### Eastwoods (Consulting Engineers re Ground Stability)

21/07/2023 updating their response of 24/04/2023. No objections subject to conditions.

The Stability Report notes that the site is intersected by a valley feature that runs centrally through the site. It includes a topographical survey that shows that average slopes on the site are around 1 in 11, but there are slopes as steep as 1 in 5 on both sides of the valley feature. Within the proposals for the development, the ground levels are being remodelled to accommodate the proposed layout of the site. The main consequence of this is that the crest of the slope in the central northern area is being brought forward and this will further steepen the slope adjacent to the valley to about 1 in 4. The southern part of the valley will be backfilled to enable construction of the main spine road of the site. This will slacken the steep gradients in this area and will substantially reduce the risk of landslide on the southern part of the site.

A quantitative slope stability assessment was undertaken at various locations in this area to check whether the proposed ground slopes are satisfactory. The factor of safety against movement of the remodelled slope was assessed to be between 0.869 and 1.0, and the report concluded that the proposed ground slopes in the northern part of the site are unacceptable without additional stabilisation measures.

The Stability Report has now been updated with preliminary designs using soil nails to stabilise the slope. Two independent preliminary designs have been supplied and these have both demonstrated that, with appropriate soil nailing, the ground can be stabilised to achieve equilibrium with slopes of up to about 1 in 4.

The gradients on the site are typically much shallower than 1 in 6. It is only in the central valley that slopes are around 1 in 4. On the rest of the site, the slopes are around 1 in 10 at which no planning constraints would apply. Since the applicant has demonstrated that in the

central zone the slopes can be made stable with appropriate strengthening, and the risk of slope stability failure outside the site would be classed as negligible, we consider that it would be appropriate to allow residential development on the site provided that appropriate engineering constraints are placed on the site slopes, retaining walls and drainage.

A pre-commencement condition is recommended to require submission and approval of detailed engineering drawings showing the provision of appropriate slope stability measures.

#### Old Bolsover Town Council

19/05/2023 Object for the following reasons:

1. The development is outside the housing provision set out in the Local Plan; Policy SS4: Strategic Site Allocation - Bolsover North and is contrary to Policy SS2: Scale of Development, which has already set out sufficient land to accommodate the delivery of dwellings and employment land.
2. The loss of green space and the impact of these is against Objective I: Green Spaces and Green Infrastructure as set out in the Local Plan and contrary to Policy SS9: Development in the Countryside.
3. The impact of the development on residents, including highway safety, with concerns raised over the proposed entry road and the diversion of traffic in Shuttlewood and the Town Centre.
4. Increased noise and pollution levels and the potential impact to Public Right of Way 45.

#### NHS Integrated Care Board (ICB regarding primary care)

30/05/2023 Request for S106 contribution of £146,880 for GP practice capacity based on 163 dwellings.

The NHS Derby and Derbyshire Primary Care Estates Strategy has identified this area of Bolsover as a high priority, with anticipated short term growth over the next 5 years creating capacity issues for the local practice facilities which collectively are fully utilised. The health contribution would ideally be invested in enhancing capacity/infrastructure with existing local practices. The closest practices to this development, which include the site in their catchment area are:-

- Welbeck Road Medical Centre
- Castle Street Medical Centre
- The Friendly Family Surgery
- Springs Health Centre

#### [Chesterfield Royal Hospital

*Also, whilst not a consultee, a representation has been received from Chesterfield Royal Hospital 20/02/2024 who request a S106 contribution of £212,499 based on the additional demands they have calculated on the hospital.]*

#### Peak and Northern Footpath Society

24/04/2023 Object.

We object most strongly to the diversion of a section of this footpath onto an estate road as indicated on the plan. This flies in the face of central government advice as set out in the DEFRA Circular 1/09 which, as the Highway Authority has indicated in their response, advises against such a practice. The advice is to route a public right of way through a green space segregated from other public highways. The applicant has chosen to ignore this advice

completely.

Therefore, without changes to this proposal to satisfy this requirement, this Society will probably exercise its right to object to any Public Path Order published by the Council to achieve this unacceptable diversion.

Police Force Designing Out Crime Officer

24/05/2023. No issues with the majority of the proposals.

No issues with the main diverted footpath route but suggests that the existing footpath access from Shuttlewood be removed now that an alternative is proposed rather than having a route between plots 46 and 47.

Boundaries are mostly acceptable. Amendments requested to the position of rear garden gates for 2 plots and better surveillance of parking allocation for one plot requested.

Ramblers Association

23/04/2023, 13/04/2023 and 19/08/2022 Object to the proposals as presented due to our perceived failure to fully consider the law and guidelines relating to the RoW Footpath 45 that crosses the site.

The Ramblers say that sections of Bolsover FP 45 (part) will be built over, the definitive line changed and a natural surface footpath be replaced with a tarmac roadside causeway and this part of the proposal is contrary to planning guidance. "The authority must be satisfied that it is necessary to stop up or divert the way in order for the development to be carried out. It is not sufficient that the making of the order would facilitate the carrying out of the development. The order must be necessary in the sense that without the order development could not be carried out." See Rights of Way Guide to Law and Practice. Considering both the plans submitted, The Ramblers are of the view that the changes are simply for monetary and or convenience purposes and not strictly essential to the development of the site. Considering the above point and the planning guidance that recommends that footpaths should not be replaced with roads or roadside causeways the Ramblers offer strong objection to the proposal.

Yorkshire Water

21/04/2023. No objections subject to conditions:  
Separate systems of drainage for foul and surface water.  
No surface water to the public sewer.  
Details of means of disposal of foul water.  
Notes are also advised.

Other

CPRE Derbyshire 20/04/2023.

Whilst not a consultee, a representation has been received from The Council for the Protection of Rural England on the following grounds:

Development in countryside beyond the housing allocation in the local plan.

These additional houses to the plan would be built in open green spaces and would infringe the Shuttlewood / Bolsover open break area.

We cannot see how this part of the application meets any of the exception provisions of the open countryside policies of the Bolsover District Local Plan.

Already in excess of the housing supply requirement in the local plan.

There are no housing allocations proposed for the Shuttlewood village in the 2020 approved Bolsover District Local plan, as the aim was to maintain Shuttlewood village in its rural setting and maintain its rural village character.

Significant change to the size of the village.

Extra traffic causing traffic jams even with the link road through.

Derbyshire Swift Conservation Project 01/06/2023.

Not a consultee. Requests:

Provision of internal nest boxes at a rate of 1:1; these be designed for Swifts as a universal biodiversity enhancement for declining urban bird species in addition to any external bird boxes designed for other species.

## **PUBLICITY**

Advertised in the press and on site and site notices posted. 31 properties consulted. Also a re-consultation exercise has been undertaken when the application changed from being a part outline/part full application to an entirely full planning application.

1 resident says that they would support the new link road.

**36 objections** received (plus an additional 6 representations following the re-consultation, from people who had already objected following the initial consultation), The majority of objections were received from Shuttlewood Road residents. The following issues were raised:-

### In Principle

No need for more housing in Bolsover.

Too much building going on in Bolsover.

Harm to the character of Bolsover which is being overwhelmed by new development.

There are other brownfield and more suitable sites that could be identified within the provisions of the local plan.

Cumulative impacts of multiple developments in Bolsover should be considered.

The regeneration existing affordable housing should be a priority, not building more expensive houses.

Not in accordance with the local plan outside development envelope.

Does not respect the form, scale and character of the landscape (SS9).

The infrastructure cannot support further housing/residents - doctors surgeries, dentist, schools and policing are already at full capacity, no public toilets.

Lack of facilities in Shuttlewood e.g. shops and pubs.

Infrastructure needs to be improved before new development is allowed.

Loss of agricultural land.

Loss of green space.

Loss of green fields.

The link road will divert traffic from the town centre adversely impacting local retail businesses which are already suffering from the closure of the co-op.

### Highway Impacts

The site exit onto Shuttlewood Road is at an extremely dangerous corner at the crown of a

blind bend. It has an accident history.

If permitted, traffic control during construction and after development will be required to make exit safe; a roundabout has also been suggested.

In winter a small amount of snow brings the hill to a stop causing chaos.

Shuttlewood Road has pavement on one side only.

More traffic on Oxcroft Lane. There has already been a significant increase in traffic along there and the road is becoming hazardous to its users.

Oxcroft Lane is a narrow country lane.

Suggests that Oxcroft Lane North of the site becomes access only - no through road.

More traffic going through Shuttlewood.

Shuttlewood crossroads junction is a slalom.

Impact on highway safety.

Speeding Shuttlewood Road.

Congestion.

Double parking.

No lollipop lady/man for school crossing.

A link road would be used as a rat run by all the houses being built on Oxcroft Lane and Welbeck Road.

The proposed link road will only add to the existing traffic problems in Bolsover.

Link Road won't improve traffic through the town as no improvements are proposed to junction of Shuttlewood Road and the A632.

Suggests improving Mill Lane instead.

Lack of cycle Lanes.

Construction traffic disturbance.

The mitigation proposals set out in the Travel Plan won't work.

The Council should concentrate on improving traffic flows and parking in the town centre to encourage visitors.

Adverse effect on public right of way.

### Impact on Ecology

Loss of habitat

Impact on Wildlife.

Impact on species including bats, birds, owls, Skylark and Yellowhammer, hares, snakes,

Loss of Bat roost on site.

The loss of hedgerows should not be permitted - replacement hedgerows do not provide the same ecological value.

Adjacent to Brockley Wood ancient woodland and local wildlife site.

The site is part of a green corridor for wildlife.

Impact of light pollution on wildlife.

Disturbance to wildlife during construction.

Loss of trees

Loss of trees and disturbance of soil removes a carbon sink affecting climate change.

Impact on trees in Brockley Wood.

### Other

More litter and waste.

More pollution and traffic fumes.

Archaeology yet to be explored.

There are geological faults on the land so not suitable for building.

Bole Appleton Farm is part of the Heritage of this area and should be restored not demolished.

The Oxcroft Estate itself has just been granted conservation status (Ref 23/00272) and this proposed development would have a detrimental effect on that status.

Light pollution.

Noise and dust during construction.

Noise from occupation of dwellings and traffic.

Impact on health.

Loss of green space affecting wellbeing.

Antisocial behaviour on the open space areas.

Increased access for burglars.

Loss of green belt land [*Officer comment: Note this is not correct*]

Within a zone of potential instability.

Impact on landscape character.

## **POLICY**

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

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

SS1: Sustainable Development;

SS2: Scale of Development;

SS3: Spatial Strategy and Distribution of Development;

SS9: Development in the Countryside;

SC1: Development within the Development Envelope;

SC2: Sustainable Design and Construction;

SC3: High Quality Development;

SC7: Flood Risk;

SC8: Landscape Character;

SC9: Biodiversity and Geodiversity;

SC10: Trees, Woodland and Hedgerows;

SC11: Environmental Quality (Amenity);

SC14: Contaminated and unstable Land;

SC18: Scheduled Monuments and Archaeology;

LC1: Housing Allocations;

LC2: Affordable Housing Through Market Housing;

LC3: Type and Mix of Housing;

ITCR3: Protection of Footpaths and Bridleways;

ITCR5: Green Space and Play Provision;

ITCR7: Playing Pitches;

ITCR10: Supporting Sustainable Travel Patterns;

ITCR11: Parking Provision;

II1: Plan Delivery and the Role of Developer Contributions.

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

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 7 - 10: Achieving sustainable development.
- Paragraphs 47 - 50: Determining applications.
- Paragraphs 55 - 58: Planning conditions and obligations.
- Paragraphs 96 - 107: Promoting healthy and safe communities.
- Paragraphs 108 - 117: Promoting sustainable transport.
- Paragraphs 123 - 127: Making effective use of land.
- Paragraphs 131 – 136: Achieving well-designed and beautiful places.
- Paragraph 157, 159 and 162: Meeting the challenge of climate change.
- Paragraph 165 - 175: Planning and Flood Risk.
- Paragraphs 189 - 194: Ground conditions and pollution.
- Paragraphs 200 - 214: Conserving and enhancing the historic environment.

### Supplementary Planning Documents

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

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

## **ASSESSMENT**

### ***Key issues***

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

- *the principle of the development and the link road*
- *highway safety and the local road network*
- *the landscape and visual impact of the proposed development*
- *biodiversity*
- *design and housing layout*
- *local infrastructure capacity*
- *other technical issues: stability; archaeology; drainage; telecom mast; noise*

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

### **The Principle of Development**

This application site is partially within the settlement envelope and allocated for housing under policy LC1 of the local plan. Policy SC1: Development within the Development Envelope presumes in favour of proposed development within defined settlement limits subject to several criteria i.e. its appropriateness in scale, design and location to the character and function of the area, its compatibility with existing or intended land uses and its environmental impact. As such this element of the proposal is considered acceptable in principle and accords with local plan policy subject to further assessment of the impacts.

However, the northern two thirds of the site is outside any defined settlement limits where countryside protection policies apply SS9. This part of the application site is not covered by a housing allocation, and it does not accord with open countryside policies meeting none of the

exception provisos.



Policy SS9: Development in the Countryside of the local plan presumes against development outside development limits. There are exceptions such as where the proposal entails the use of previously developed land, is needed for agriculture/horticulture/forestry, is for small scale employment uses related to local farming/forestry/ recreation/ tourism, secures the retention/ enhancement of a community facility etc. The proposed development does not meet any of the exceptions in Policy SS9 and as such does not accord with the requirements of this local plan policy.

Bolsover has, at least, been identified in the local plan Policy SS3: Spatial Strategy and Distribution of Development, as a suitable location for new sustainable housing growth. SS3 seeks to direct development primarily to the small towns of Bolsover and Shirebrook and emerging towns of South Normanton and Clowne.

The application site is located approximately 1.5 km to the north of Bolsover town centre which benefits from a wide range of services, facilities, and employment opportunities. It is considered that the application site occupies a sustainable location for residential development, with good access to the range of services, facilities, and employment opportunities available within Bolsover that also applies to the housing allocation to the south. There are regular local bus services providing links to Bolsover, Mansfield, Sheffield, Halfway and Markham Vale. The proposal therefore performs well against the criteria of policy SS1:Sustainable Development.

It is thus clear that Bolsover has been identified in the local plan as a suitable location to accommodate sustainable housing growth and that the proposed development could contribute significantly to the housing requirements for Bolsover and for the wider District as a whole. The site could be considered to provide for a natural extension of the housing allocation to the south.

However, in terms of housing supply the Council has identified approximately 9 years housing supply and so there is no overriding need at this time to release additional land for housing in order to achieve a 5-year housing supply.

The main argument put forward in the application as the reason why planning permission should be granted, is that the application will deliver a distributor link road between Shuttlewood Road and Oxcroft Lane.

Policy LC1(c) (Housing Allocations) allocates Land between Shuttlewood Road and Oxcroft Lane (see land shown brown above) as housing land but the allocation is subject to the requirement that it will contribute to schools; provide green space; provide 10% affordable housing; contribute to cycling and walking; and criterion (a) requires:

*“Facilitate the provision of a distributor road link to Shuttlewood Road through the site and connect to Oxcroft Lane, so increasing the capacity and traffic flow of the local highway network”*

It was hoped that a link would have been delivered from the earlier phase of development on the adjacent site (Now known as the Jones Homes phase 2 site). That earlier phase was granted planning permission in accordance with the NPPF at a time when that site was unallocated and in the countryside because the Council did not then have a 5- year supply of housing. There were no Highway Authority objections to justify refusal of that permission although it was recognised that the road system is restricted in all directions in the vicinity of the site. Increased traffic through Mill Lane (single width, lacking footways, restricted junction visibility) was a particular concern to the District Council as well as increased traffic travelling north on Oxcroft Lane (single width country lane). A new road link between Oxcroft Lane and Shuttlewood Road was seen as a means of mitigating the impacts and at the same time releasing capacity at the town end junction, A632/Shuttlewood Road junction and improving capacity and connectivity for Bolsover in general.

No planning policy was in place to require a link road at the time but a S106 obligation did require the Applicant (Akroyd and Abbot) to use “reasonable endeavours” to provide a link. Unfortunately, this did not produce results and the access point (Boleappleton Farm) was sold to a third party.

Now that there is a planning policy in place requiring a road link, the Council is in a stronger position to require its provision. However, the remaining undeveloped parts of the allocation (approximately 110 dwellings over the two undeveloped parcels of land) would not produce sufficient returns to fund the delivery of the link road. Furthermore, compulsory purchase of at least one and probably 2 existing dwellings on Shuttlewood Road would be required. Given that there are no funds in place to for the Council to assist with the link road there is no realistic prospect of its delivery in the foreseeable future. The best that could be achieved within the limitations of the allocated land is to ensure that any layout which is approved would not preclude a road link in future. i.e. a road stub would end at the western boundary of the allocation adjacent to Shuttlewood Road where a future link might be provided one day if funding allows. Regardless of whether a compulsory purchase does or doesn't take place in the future, the risk of compulsory purchase may raise issues of “planning blight” at adjacent dwellings and the risk of compensation (although blight is not a material planning consideration for this decision).

The local plan policy requirement for the road link is supported in the evidence base for the local plan. Specifically highlighted in the Aecom Bolsover Town Transport Study 2016 (commissioned by DCC and BDC). The document reported that the benefits of a link road would be 'two-fold: firstly, it would remove some traffic from the A632 / Shuttlewood Road junction (which is sub-standard in terms of alignment and visibility) and, secondly, it would also remove traffic from the A632 / Town End / Welbeck Road junction by removing the requirement of traffic routing to Sherwood Lodge (and Oxcroft Lane) from travelling through this junction'.

### Conclusions on The Principle of Development

The application site is a sustainable location for housing development, where Bolsover is identified as being at the top of the settlement hierarchy, and where there is good access to a range of services, employment opportunities, facilities and public transport. Therefore, although there is no urgent need to release additional land for housing supply at this time, the site could be considered for release in future years and it is considered that the transport benefits and the means proposed of delivering the LC1 policy requirement for a link road could, in principle, be a reason to grant planning permission despite the conflict with countryside protection policy SS9. However, Committee Members need to be satisfied that the benefits of the delivery of the link road, together with the other benefits of the proposal, outweigh the impacts. These are considered in more detail below.

### **Highway Safety and the Local Road Network**

The proposed link road is 6.5m wide which is wide enough to accommodate buses in future if required.

In terms of highway capacity issues, the benefits of the proposed link road between Oxcroft Lane and Shuttlewood Road are summarised above. It is considered that it would remove some traffic from the A632 / Shuttlewood Road junction (which is sub-standard in terms of alignment and visibility), and remove traffic from the A632 / Town End / Welbeck Road junction by removing the requirement of traffic routing via Oxcroft Lane, Longlands and Welbeck Road, and would provide a more acceptable alternative to the use of Mill Lane, which is substandard in width, lacks footpaths and has poor junction visibility. It would also assist with improving capacity and connectivity for Bolsover in general.

However, the additional dwellings now proposed in the countryside beyond the housing allocation (approximately 121) would themselves create additional traffic and this will moderate the benefits.

The results of the submitted Transport Assessment modelling are that:

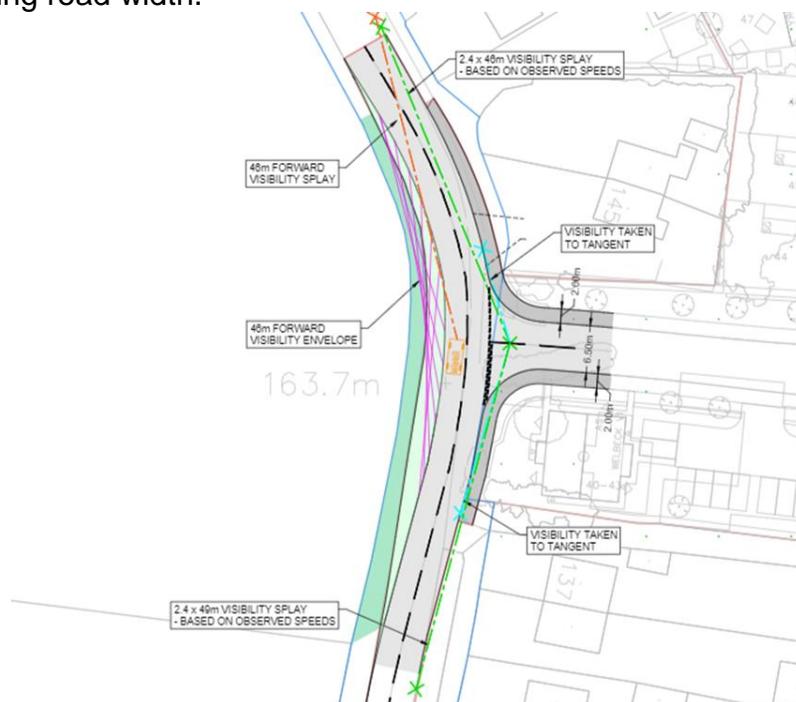
*"When comparing the 2030 baseline scenarios with and without the link road, the link appears to offer notable baseline improvements at the Hill Top / Town End junction and Welbeck Road / Town End / Moor Lane signal junction, two of the key town centre junctions, due to more efficient traffic flows. When development traffic is considered on top of this base scenario with diverted traffic and compared with the 2030 baseline excluding the link road, the Welbeck Road signal junction operates with enhanced capacity (thus fully mitigating impacts of the development), while the Hill Top / Town End junction sees comparable performance, with a very minor increase in RFC of 0.02 in the AM peak, and improved capacity during the*

PM peak to offset any minor impacts during the AM period. On this basis, it is considered that the link road both improves baseline flows and sufficiently addresses the impact of additional development trips. As a result of the diverted flows from the link road and development trips, the Longlands / Welbeck Road T-junction does see some very minor impacts, however this operates well-within capacity, sees negligible changes in queue lengths and delays (circa one PCU and one second respectively during the worst peak), and clear benefits to more sensitive junctions as set out above are observed as a result of the link road should this successfully divert traffic away from the town centre.

Notwithstanding junction capacity, other benefits are shown including reduced overall trips at the Welbeck Road signal junction and Hill Top T-junction turning Town End, and subsequently reduced levels of traffic on the Town End link to improve amenity for pedestrian and cyclists. The link road also addresses a key local concern in offering a more suitable route for bypassing Bolsover Town Centre than Mill Lane, offering opportunities to implement measures to further restrict rat-running in future (such as the land safeguarded as part of application ref. 21/00306/FUL to stop-up Mill Lane).” [Hexa Consulting 20/10/2023].

With regard to highway safety, the Applicant has undertaken lengthy discussions with the Highway Authority and undertaken site meetings with particular attention to the proposed junction of the link road with Shuttlewood Road. There is a sharp bend in the highway adjacent to Boleappleton Farm where forward visibility around the bend is restricted by the hedgerow on the inside of the bend. This is an issue which has been raised numerous times in the public representations made on this application.

The particular concern relates to the intervisibility between a vehicle turning right into the junction and a vehicle travelling south along Shuttlewood Road (All other manoeuvres comfortably meet visibility splay requirements). However, the Highway Authority has agreed that an acceptable standard of visibility can be achieved if a slight realignment of the bend is made, moving the road centre away from the hedge and towards the application site, and still retaining the existing road width.



These highway works can be required by condition to meet the standards set out in national guidance (Manual for Streets).

With regard to the internal layout proposed, the proposed roads are to adoptable standard and are considered to be acceptable subject to conditions as recommended below. Proposed car parking provision meets standards. The proposal complies with policy SC3 and ITCR11.

### **Landscape and Visual Impacts**

The main issue to note with this application is that, in order to achieve acceptable road gradients, it is necessary to undertake a cut and fill operation on this site effectively filling in the valley to the south side of the proposed spine road. To the north side of the spine road and between the 2 housing development plateaux, the proposed open space levels would then reduce in a dish form and grade back to existing levels 20m before the Brockley Wood boundary (to ensure that the ancient woodland tree roots are not affected). The image below looks south back from the Northern boundary of the open space.



The northern and central runs of housing at its interface with the proposed open space may be more exposed in the landscape as a result, although existing and proposed tree planting on the north side of the development and within the open space should soften these effects.

The application is supported by a Landscape and Visual Impact Assessment which concludes that the most sensitive visual receptors would be people using the public footpath but the site's landscape character has the ability in which to absorb development of the scale and type proposed.

This has been reviewed by the Urban Design Officer who also has landscape assessment qualifications. Whilst she does not favour the amount of engineering works and fill to adapt the natural landform, she does not think that the overall effect would cause harm to the landscape character of the area. Therefore, it is considered that the proposal complies with policy SC8 and SS9 of the local plan regarding the landscape and visual impacts of the proposal.

## **Biodiversity**

As a result of the significant ground level changes required on this site to achieve road gradients it is necessary to remove the internal hedgerows and some trees. However, the proposal includes a large area of open space which can accommodate new planting and also includes off-site biodiversity enhancement proposals for the adjacent land to the north close to Brockley Wood. These proposals have been drafted in consultation with Derbyshire Wildlife Trust who have advised that the submitted Biodiversity Net Gain Report shows a net gain of +0.41 habitat units (+1.28%) is predicted to be achieved through a combination of onsite and offsite (adjacent land) habitat creation and enhancement and that trading rules are satisfied.

The offsite land needs to be appropriately secured via S106 Agreement, including a requirement for the submission and approval of a Habitat Management and Monitoring Plan (HMMP) prior to commencement of development, along with sufficient funding for management and monitoring for a period of at least 30 years.

Overall DWT are satisfied with proposals, particularly the inclusion of green corridors within the development site and connecting to adjacent development and offsite habitat. Therefore subject to the conditions requested by DWT (but see below) it is considered that there are no unacceptable impacts on biodiversity and that adequate mitigation and compensation proposals have been agreed to address the harms and that the proposal complies with policy SC9 and SC10 in this regard.

Roosting bats have been confirmed in Buildings 1, 4 and 5 to be demolished and therefore a licence will be required prior to demolition. DWT advise that all roosts were considered to be of low conservation status (i.e. not rare species) and are likely to be mitigated for through boxes in dwellings and potentially on retained trees or the woodland edge. Whilst DWT have recommended a planning condition that possession of a licence be demonstrated prior to works, this is an area well protected by other legislation and so in accordance with Government Guidance it is not necessary to repeat it in planning conditions. Therefore, an informative note to application is considered to be more appropriate to remind the developer of the law regarding bats and the need for a licence from Natural England.

## Design and Layout

The layout includes a tree lined, east-west central spine road connecting Oxcroft Lane with Shuttlewood Road; outward facing perimeter blocks of housing with corner facing units to properly address the streets and public spaces; a large central public open space with play area running north-south through the site connecting an open space area on the adjacent development; open space to the north side and countryside edge which partially retains the existing line of public footpath 45; and peripheral open space fronting Oxcroft Lane behind retained hedgerows.

It is considered that there is an appropriate mix of dwelling design size and type with single, two and some two and half storey dwellings. The bungalows being concentrated in the area adjacent to existing property on Shuttlewood Road.



Most property are types houses although there are three small blocks of 4 apartments adjacent to the access road at the Shuttlewood Road end of the site which are designed to have the appearance of more traditional dwellings. These would contain some of the affordable units and are shown in the image below. A natural magnesian limestone boundary wall to Shuttlewood Road will be provided to enhance the local character of the street.



The garden sizes proposed and space between dwellings for privacy generally complies with the Council's successful places design guide and overall, it is considered that the proposed layout and building designs proposed will result in a characterful, policy compliant development with a good standard of amenity and open space provision. The Urban Design

Officer does not object subject to conditions.

In terms of connectivity, a 3m wide cycle width link is proposed through the open space to link to the development to the south and footpath links will be provided to both frontages to connect with existing development.

A more controversial aspect of the proposal relates to the line of footpath 45 and it should be noted that DCC Rights of Way, the Ramblers and the Peak and Northern Footpath Society object to the application. Although part of the footpath which will pass through the open space to the north will be retained on its current alignment, where it passes through the proposed development the footpath alignment will need to be diverted (this also needs to be formally approved by a separate legal process – a footpath diversion order). The footpath societies object because the proposed route of the public right of way does not all pass through a green space which is segregated from other public highways. The Ramblers advise that:

*“The authority must be satisfied that it is necessary to stop up or divert the way in order for the development to be carried out. It is not sufficient that the making of the order would facilitate the carrying out of the development. The order must be necessary in the sense that without the order development could not be carried out.”*

Amendments have been sought from the Applicant to improve the route of the footpath environment. However, only a minor revision has been included on the amended plan which was to provide front gardens to the bungalows on the west side of the estate road with a view to providing a “greener” footpath route. See before and after plans below:

Before



After



The officer view on this is that it would be better to have a greener still footpath corridor or retain the footpath through open space. However, it is known that viability on this site is tight if it is to also deliver the other policy requirements for S106 obligations (schools, affordable housing, leisure etc.) and is unlikely to be viable if the existing line of the path is retained because there would not be adequate space for development plots in this part of the site. A copy of the definitive map line of the path is shown below:



There is a lot of open space proposed elsewhere on this site but it is very difficult to swap this out by retaining the area of the footpath within open space because that would mean pushing the development plateaux for the housing areas closer together. However, that would create significant problems in terms of steeper gradients necessary and slope stabilization, which is also a constraint to development on this site. On this basis it is considered to be reasonable to assume that the diverted line of the path, as proposed, is “necessary” in order for the development to be carried out.

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

#### Affordable Housing

The proposal includes approximately 10% on site affordable housing for rent in accordance with policy LC2.

This comprised of 12 one bed Welbeck apartments and 4 Holbeck 2 bed houses.

This policy compliant provision can be seen as a benefit of the proposals.



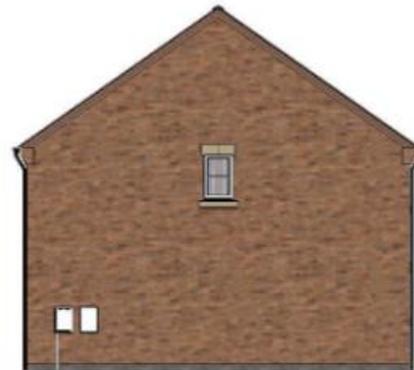
FRONT ELEVATION



NORTHERN ELEVATION



FRONT ELEVATION



SIDE ELEVATION

### Off-site Biodiversity Compensation

(Details as requested by Derbyshire Wildlife Trust above)

### Schools

The following S106 obligations to address any shortfall in school capacity has been requested by DCC and agreed by the Applicant.

Infant: £39,454.10 for 2 infant places.

Junior: No contribution request for junior places.

Secondary: £59,449.94 for 2 secondary places.

SEND: £119,316.42 for 1.41 SEND places of arising from a development (Special Schools as well as Enhanced Resources within mainstream schools).

### Health – Primary Care

£146,880 for increase to local GP practice(s) with options for funding projects at:-

- Welbeck Road Medical Centre
- Castle Street Medical Centre
- The Friendly Family Surgery
- Springs Health Centre

### Secondary Health

None. Chesterfield Hospital has submitted a request for £212,499. However, they are not a consultee and at this point in time the Council does not have a procedure or supplementary guidance that could calculate and justify a reasonable and proportionate contribution. A

contribution would not therefore comply with the Governments CIL Regulations and would not be legally enforceable. Therefore, it is considered that a contribution to Chesterfield Hospital cannot be required at this time.

Similarly, a contribution for Dentist facilities cannot be secured at this time.

#### Library

DCC – Bolsover Library. Stock contribution of £11,400 (i.e. £70.37 per dwelling).

#### Travel Plan

Monitoring contribution sum of £1,265 per annum for 5 years (£6,325).

#### Monitoring Fee

S106 Monitoring Fee of £77 per S106 payment trigger.

#### Sport Play and Open Space

A late consultation response from the Leisure Officer had only just been received at the time of writing this report. The response has been sent on to the Applicant for consideration but as yet, the Applicant needs time to reach an agreed position. Committee Members will be updated on this matter on the late supplementary update report.

However, the contributions requested by the Leisure Officer under policy ITCR5 and ITCR7 of the local plan include:-

#### Quality Improvement to Green Spaces

The residual sum of £171,304 (161 dwellings x £1,064 per dwelling) minus the cost of providing the on-site play space and ancillary equipment, fencing, surfacing and pathways to it. The residual sum being for improvements to King George's Field, which is within 800m walking distance of the proposed development, as well as other areas of green space in the vicinity including Bolsover Cemetery, Oxcroft Lane Allotments and Dykes Field.

#### Playing Pitch Contribution:

£208,656 (161 dwellings x £1,296 per dwelling) to be invested in improving playing pitches and their ancillary facilities at Moor Lane and Castle Leisure Park and / or other sports facilities within the parish including The Oxcroft Centre.

#### Public Art

Policy SC3 says that all proposals above 100 dwellings should make provision for new works of art. This can be required by planning condition rather than legal obligation because there is plenty of room on site within the open space areas to accommodate such provision.

### **Other Technical Matters**

#### Stability

The proposal includes reprofiling land with steep slopes in places which may create a risk of instability. The steepest slopes are likely to require the implementation of engineered stability mitigation and surface water treatment as is recommended by Eastwoods Consulting Engineers. Subject to a condition to set out what is required and its implementation and how

this will look, the proposal is considered to be compliant with policy SC14 of the local plan.

#### Archaeology

As set out above in the Consultations section of this report, the site has potential to contain archaeology of regional importance. Subject to a condition under policy SC18 to ensure that any important archaeology is fully investigated and recorded before development commences, then archaeology is not considered to be a constraint to development.

#### Drainage

Surface water will be slowed by SuDS ponds and holding tanks and then discharged to the Brook SC7, SC13. Infiltration will not be possible on parts of this site where it would increase the risk of instability on steeply sloping land. Subject to planning conditions requiring submission of the detailed design and associated management and maintenance plan of the surface water drainage for the site, amongst other things; the County Council, in their capacity as the local lead flood authority, have no objections to the proposals.

Foul will be to the sewerage system Policy SS6 (k). Consultees have no objections subject to conditions.

#### Telcom Mast

No objections have been received from relevant consultees regarding interference with or emissions from the adjacent telecoms mast. The height of it is sufficient to clear the proposed buildings.

#### Noise

A suitably worded condition is recommended under policy SC11 by the Environmental Health Officer to ensure that any noise from the nearby poultry rearing unit is acceptable and that a means of ventilation in summer can be provided to prevent overheating without the need to open windows for properties affected.

Comments in representations are noted about noise from the development, particularly during construction. This can be mitigated by a construction management plan condition to control hours of working along with dust suppression etc. This will be important due to the significant earth works required.

#### **Other Matters**

The point made in representations about loss of agricultural land is noted. However the site is classed a grade 4 poor quality agricultural land on the Natural England classification map.

The concern raised in representations is noted that the link road will divert traffic from the town centre adversely impacting local retail businesses. This is not considered to be a reason to not provide better connectivity. It will help to relieve congestion by removing the need to travel through the town centre for those who had no intention of shopping at the time.

It is considered that the proposal would not harm the character of The Oxcroft Estate conservation area. Boleappleton Farm is not considered to be of listable quality such as to require its preservation.

#### **CONCLUSION / PLANNING BALANCE**

The application site is a sustainable location for housing development, where Bolsover is identified as being at the top of the settlement hierarchy, and where there is good access to a range of services, employment opportunities, facilities and public transport. Therefore, although there is no urgent need to release additional land for housing supply at this time, the site could be considered for release in future years and it is considered that the transport benefits and the means proposed of delivering the LC1 policy requirement for a link road is a reason to grant planning permission despite the conflict with countryside protection policy SS9. The benefits of the delivery of the link road, together with the other benefits of the proposal, including the provision of affordable houses and the social and economic benefits associated with the provision of additional market housing, are considered to outweigh the harms and the impacts identified. These can be adequately mitigated by planning conditions and legal obligations to address local infrastructure capacity.

## **RECOMMENDATION**

**The current application be APPROVED subject to prior entry into a s.106 legal agreement containing the following planning obligations (listed in precis form only):-**

**Provision and maintenance of off-site biodiversity compensation including a requirement for the submission and approval of a Habitat Management and Monitoring Plan (HMMP) prior to commencement of development, along with sufficient funding for management and monitoring for a period of at least 30 years.**

- A. Affordable Housing 10% on site – Affordable rent**
- B. Education:**
  - **Infant: £39,454.10 for 2 infant places.**
  - **Secondary: £59,449.94 for 2 secondary places.**
  - **SEND: £119,316.42 for 1.41 SEND places of arising from a development (Special Schools as well as Enhanced Resources within mainstream schools).**
- C. Library - Stock contribution of £11,400**
- D. Travel Plan - Monitoring contribution sum of £1,265 per annum for 5 years (£6,325).**
- E. Health £146,880 Local GP practices**
- F. S106 Monitoring Fee of £77 per S106 payment trigger.**
- G. Leisure - To be Confirmed following negotiation:**
  - **Quality Improvement to Green Spaces - The residual sum of £171,304 minus the cost of providing the on-site play space.**
  - **Playing Pitch Contribution- £208,656**

**AND subject to the following planning conditions (in precis form only with final wording and list of conditions to be delegated to the Assistant Director of Planning and Planning Policy):**

## 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:-

*\*Final list of approved plans to be inserted\**

### 3. Nesting Birds

No stripping, demolition works or vegetation clearance shall take place between 1st March and 31st August inclusive, unless preceded by a nesting bird survey undertaken by a competent ecologist no more than 48 hours prior to clearance. If nesting birds are present, an appropriate exclusion zone must be implemented and monitored until the chicks have fledged. No works shall be undertaken within exclusion zones whilst nesting birds are present.

### 4. Construction Environmental Management Plan (CEMP: Biodiversity)

No development shall take place (including demolition, ground works, vegetation clearance and movement of plant, machinery and materials) until a Construction Environmental Management Plan (CEMP: Biodiversity) has been submitted to and approved in writing by the local planning authority. The CEMP (Biodiversity) shall reflect the measures set out in Section 4 the Preliminary Ecological Appraisal (FPCR, March 2023) and include the following.

- a) Risk assessment of potentially damaging construction activities.
- b) Identification of "biodiversity protection zones".
- c) Practical measures (both physical measures and sensitive working practices) to avoid or reduce impacts during construction.
- d) The location and timing of sensitive works to avoid harm to biodiversity features.
- e) The times during construction when specialist ecologists need to be present on site to oversee works.
- f) Responsible persons and lines of communication.
- g) The role and responsibilities on site of an ecological clerk of works (ECoW) or similarly competent person.
- h) Use of protective fences, exclusion barriers and warning signs.

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

### 5. Archaeology

"a) No development shall take place until a Written Scheme of Investigation for archaeological work has been submitted to and approved by the local planning authority in writing, and until any pre-start element of the approved scheme has been completed to the written satisfaction of the local planning authority. The scheme shall include an assessment of significance and

research questions; and

1. The programme and methodology of site investigation and recording
2. The programme for post investigation assessment
3. Provision to be made for analysis of the site investigation and recording
4. Provision to be made for publication and dissemination of the analysis and records of the site investigation
5. Provision to be made for archive deposition of the analysis and records of the site investigation
6. Nomination of a competent person or persons/organization to undertake the works set out within the Written Scheme of Investigation"

"b) No development shall take place other than in accordance with the archaeological Written Scheme of Investigation approved under condition (a)."

"c) The development shall not be occupied until the site investigation and post investigation reporting has been completed in accordance with the programme set out in the archaeological Written Scheme of Investigation approved under condition (a) and the provision to be made for publication and dissemination of results and archive deposition has been secured."

#### 6. Slope Stabilisation Measures

Prior to the commencement of development, detailed engineering drawings and information showing the provision of appropriate slope stability measures for the site shall have been submitted to and approved in writing by the Local Planning Authority. The slope stability measures shall accord with the following requirements and shall be implemented as approved:-

1. No reduction in ground levels shall be permitted at the bottom of the valley
2. No increase in ground levels shall be permitted at the crest of the slope.
3. The slope of any part of the site shall not be steeper than 1 in 6 unless appropriate slope stabilisation measures are incorporated.
4. The slope of parts of the site to be occupied by houses shall not exceed 1 in 10 (or 1 in 8 if appropriate land drainage is used) unless other suitable slope stabilisation measures are incorporated.
5. Should there be a need for retaining walls where the ground slopes at more than 1 in 10, the maximum retaining wall height shall be 3.0m and there shall be a slope of no steeper than 1 in 40 for a zone 3.5 times the retained height in front of and behind the retaining wall. This zone should not overlap a similar zone from another retaining wall. (That is the width of level ground between two retaining walls should be no less than seven times the average of their retained heights. This gives an overall slope of 1 in 6.)
6. Land drainage running perpendicular to the site contours shall be provided where ground with a gradient of between 1 in 8 and 1 in 10 is to be developed with housing or roads or where any springs are encountered.
7. Soakaways shall not be used for this development.
8. No trench more than 1m deep and 10m long shall be dug approximately parallel to the site contours in the steeper sections.
9. No spoil heaps over 1.5m high shall be placed on any part of the slope where the gradient measured over a width extending 20m from the stockpile, or each side of it, is steeper than 1 in 10.

### 7. Surface Water Drainage Details

“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. Flood Risk Assessment and Drainage Strategy prepared by Hexa Consulting Engineers, Ref: 600152, Dated 21st March 2023, Revision V06 and “including any No objections in principle Conditions Recommended X Objection Recommended

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subsequent amendments or updates to those documents as approved by the Flood Risk Management Team”

b. 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.”

### 8. Surface Water Management During Construction

“Prior to commencement of the development, the applicant shall submit for approval to the LPA details indicating how additional surface water run-off from the site will be avoided during the construction phase. 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 LPA, before the commencement of any works, which would lead to increased surface water run-off from site during the construction phase.”

### 9. Surface Water Drainage System Verification Report

“Prior to the first occupation of the development, a verification report carried out by a qualified drainage engineer must be submitted to and approved 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).

### 10. Foul Drainage Details

No development shall take place until details of the proposed means of disposal of foul water drainage for the whole site, including details of any balancing works, off-site works and phasing of the necessary infrastructure, have been submitted to and approved by the local planning authority. If sewage pumping is required from any part of the site, the peak pumped foul water discharge must not exceed 6.7 (six point seven) litres per second. Furthermore, unless otherwise approved in writing by the local planning authority, no buildings shall be occupied or brought into use prior to completion of the approved foul drainage works that would service that building.

The site shall be developed with separate systems of drainage for foul and surface water on and off site. The separate systems shall extend to the points of discharge to be agreed.

11. No piped discharge of surface water from the application site shall take place until works to provide a satisfactory outfall, other than the existing local public sewerage, for surface water have been completed in accordance with details submitted to and approved by the Local Planning Authority.

## 12. Ground Contamination

1 Before the commencement of the development hereby approved:

Works identified in the Remediation Strategy submitted with the application Report ref KE/GCB/JRH/47129-003 shall be undertaken in accordance with the scheme in that report. The Remediation works shall ensure that the [site] [development] will not qualify as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land after remediation.

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

2 No [dwellings/buildings] hereby approved shall be occupied until:

a) The approved remediation works required by 1 above have been carried out in full in compliance with the approved methodology and best practice.

b) If during the construction and/or demolition works associated with the development hereby approved any suspected areas of contamination are discovered, then all works shall be suspended until the nature and extent of the contamination is assessed and a report submitted and approved in writing by the Local Planning Authority and the Local Planning Authority shall be notified as soon as is reasonably practicable of the discovery of any suspected areas of contamination. The suspect material shall be re-evaluated through the process described in the Phase I contaminated land assessment (desk-study) ref [ ] submitted with the application and through the process described in 1 above and,

b) Upon completion of the remediation works required by 1 above a validation report prepared by a competent person shall be submitted to and approved in writing by the Local Planning Authority. The validation report shall include details of the remediation works and Quality Assurance/Quality Control results to show that the works have been carried out in full and in accordance with the approved methodology. Details of any validation sampling and analysis to show the site has achieved the approved remediation standard, together with the necessary waste management documentation shall be included.

## 13. Habitat Management and Monitoring Plan (HMMP)

A Habitat Management and Monitoring Plan (HMMP) shall be submitted to, and be approved in writing by, the LPA prior to the commencement of the development. This shall identify the habitats to be retained, created and / or enhanced on the site and specify the appropriate management prescriptions and responsibilities for 30 years from the date of this permission, to secure the predicted condition targets, as per the approved biodiversity metric for the application. The HMMP shall also set out a monitoring schedule to ensure targets are met and remedial actions to take if not.

## 14. Species Enhancement Plan

Prior to building works commencing above foundation level, a Species Enhancement Plan shall be submitted to and approved in writing by the Local Planning Authority. Approved measures shall be implemented in full and maintained thereafter. The Plan shall clearly show

positions, specifications and numbers of features, which will include (but are not limited to) the following:

- universal nest boxes at ratio of 1:1, in line with British Standard 42021:2022
- owl box(es) in suitable location close to Brockley Wood
- integrated bat boxes in 30% of dwellings
- insect bricks in 30% dwellings and / or towers in public open space.
- fencing gaps 130 mm x 130 mm to maintain connectivity for hedgehogs in all gardens.

#### 15. Lighting

Prior to the installation of lighting fixtures, a detailed lighting strategy shall be submitted to and approved in writing by the LPA to safeguard bats and other nocturnal wildlife. This should provide details of the chosen luminaires, their locations and any mitigating features such as dimmers, PIR sensors and timers. Dependent on the scale of proposed lighting, a lux contour plan may be required to demonstrate acceptable levels of light spill to any sensitive ecological zones/features. Guidelines can be found in Guidance Note 08/23 - Bats and Artificial Lighting at Night (BCT and ILP, 2023). Such approved measures will be implemented in full.

#### 16. Street Trees

Street trees shall be provided and maintained in accordance with a scheme to be submitted to and approved in writing by the local planning authority.

All proposed street trees must be suitable for transport corridors as defined by Trees and Design Action Group (TDAG). Details must be provided of what management systems are to be included, this includes root protections, watering and ongoing management responsibilities and contact details.

17. Landscaping Scheme to submitted for approval and implemented.

18. Maintenance of landscaping scheme.

#### 19. Noise Mitigation

Prior to the first occupation of plots 1-4, 161, 44-46, 135-141 and 96-102 of the dwellings hereby approved a scheme of sound insulation shall be submitted to and approved in writing the Local Planning Authority in respect of these plots. The scheme shall be designed following the completion of a sound survey undertaken by a competent person. The scheme shall take account of the need to provide adequate ventilation, which will be by mechanical means where an open window would not achieve the following criteria. Unless agreed with the local planning authority the scheme shall be designed to achieve the following criteria with the ventilation operating:

Bedrooms	30 dB LAeq (15 Minutes) (2300 hrs – 0700 hrs)
Living/Bedrooms	35 dB LAeq (15 Minutes) (0700 hrs – 2300 hrs)
All Other Habitable Rooms	40 dB LAeq (15 Minutes) (0700 hrs – 2300 hrs)

All Habitable Rooms 45 dB LAmax to occur no more than 6 times per night (2300 hrs – 0700 hrs)

Any outdoor amenity areas 55 dB LAeq (1 hour) (0700 hrs – 2300 hrs)

The scheme as approved shall be validated by a competent person and a validation report submitted to and approved in writing by the local planning authority prior to occupation of the

relevant plots. The approved scheme shall be implemented in full and retained thereafter.

### Highway Safety

20. Provision of the Link Road and junctions in accordance with the revised drawings to base course level prior to occupation.

21. The Development hereby approved shall not be brought into use until the access, parking and turning facilities have been provided as shown on drawing n2023 403 Rev A and TP-0111-P07

22. The Development hereby approved shall not be occupied until the highway improvements works comprising:

Works A as shown on drawing DR-0105-P03.

Works B as shown on drawing DR-0106-P04.

Have been constructed and completed.

23. No individual dwelling in the Development hereby approved shall not be occupied until sheltered, secure and accessible bicycle parking has been provided in accordance with details which shall first be submitted to and approved in writing by the Local Planning Authority. The storage area shall be maintained for this purpose thereafter.

24. The Development hereby approved shall not be brought into use until an updated Travel Plan has been submitted to and approved in writing by the Local Planning Authority that promotes sustainable forms of travel to/from the development site. The submitted details shall use Modeshift STARS Business (or an alternative that has been agreed by the LPA) to carry out this process and shall include mechanisms for monitoring and review over the life of the development and timescales for implementation. The approved Travel Plan shall be implemented, monitored and reviewed in accordance with the approved details.

25. Prior to commencement of the development hereby permitted details of a construction management plan shall be submitted to and approved in writing by the Local Planning Authority. The approved plan shall be adhered to throughout the demolition/construction period. The plan/statement shall include but not be restricted to:

- Parking of vehicle of site operatives and visitors (including measures taken to ensure satisfactory access and movement for existing occupiers of neighbouring properties during construction);
- Advisory routes for construction traffic;
- Any temporary access to the site;
- Locations for loading/unloading and storage of plant, waste and construction materials;
- Method of preventing mud being carried onto the highway;
- Arrangements for turning vehicles;
- Arrangements to receive abnormal loads or unusually large vehicles;
- Highway Condition survey;
- Working hours/days for noise generating activities;
- Methods of dust suppression during demolition and construction;
- Methods to prevent damage from surface water run-off during construction;
- Methods of communicating the Construction Management Plan to staff, visitors and neighbouring residents and businesses.

- Complaint recording and contact details of persons responsible for implementing the Construction Management Plan.

26. Prior to the occupation of any dwelling a detailed play space scheme shall have been submitted to and approved in writing by the local planning authority. The scheme shall be implemented before any more than 75% of market dwellings have been occupied. The scheme shall include:-

1. Access – all paths leading to the play area shall be tarmac and at least 1.5m wide with a gradient of no steeper than 1:12 (ideally 1:20).
2. There shall be at least 5 pieces of equipment suitable for children up to the age of 12 years, which should be predominantly metal in construction.
3. The play area shall be fenced with 2 self-closing gates to restrict access by dogs, with sufficient benches and bins (including dog bins) within the play area and surrounding open space.
4. The play area must be located such that it benefits from informal surveillance from nearby dwellings and / or pathways, with an adequate buffer zone of at least 20m to the nearest dwelling.
5. Planting should be arranged so that it allows open views into and out of the play area.

27. Notwithstanding the submitted planting/landscape drawings, where the existing hedgerow fronting Oxcroft Lane is to be removed at, and to the south of the proposed access point, it shall be replaced in the first available planting season, behind the proposed footway by a native mix hedgerow planted in a double staggered row at 30 cm centres. Thereafter it shall be retained and maintained.

28. External Building materials to be submitted for approval and implemented as approved.

### **Notes to Applicant including:**

#### Bat Licence

The demolition of Buildings 1, 4 and 5 must not take place until all necessary update surveys have been completed and an appropriate bat licence has been obtained. Confirmation of this should be submitted to the LPA. Upon receipt of a licence from Natural England / site registration, works shall proceed strictly in accordance with the approved mitigation. Such approved mitigation must be implemented in full in accordance with a timetable of works included within the licence and followed thereafter.

#### Right of Way

Bolsover Public Footpath No. 45 is directly affected by these proposals and so a footpath diversion order must be completed before its legal alignment can be affected.

- The footpath must remain open, unobstructed and on its legal alignment, as shown on the attached plan, or on its currently used alignment on the ground.
- There should be no disturbance to the path surface without prior authorisation from the County Council's Rights of Way Section.
- Consideration should be given to the safety of members of the public using the path during any works. A temporary closure of paths will be permitted on application to DCC where the path(s) remain unaffected on completion of the development.
- There should be no encroachment of the path, and no fencing should be installed without consulting the Rights of Way Section.

### Working Hours

Further to the above condition requiring a construction management plan to be approved which, in turn, requires working hours to be agreed, the Council's Environmental Health Officer has advised that construction works on the site and deliveries to the site must be undertaken only between the hours of 07.30am to 6pm Monday to Friday and 7.30am to 1pm on Saturday. There shall be no work undertaken on site or deliveries to the site on Sundays or public holidays.

### Other Advisory Responses to Note

DCC Flood Risk Group 10/08/2023.

DCC Rights of Way 21/04/2023.

Eastwoods Consulting Engineers 21/07/2023

Yorkshire Water 21/04/2023

BDC Drainage Eng 13/09/2022.

### 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.