

**PARISH**

Hodthorpe and Belph

**APPLICATION**

Outline planning application (all matters reserved except access) for the mixed-use redevelopment of the former Whitwell Colliery site, comprising circa 450 dwellings, circa 6 hectares of employment, public open space, convenience retail store and offices, means of access and parking including drop off area for Whitwell railway station, drainage and structural landscaping

**LOCATION**

Whitwell Tip and Surrounding Land Southfield Lane Whitwell

**APPLICANT**

Welbeck Estates Company Limited

**APPLICATION NO.** 18/00452/OUT

**FILE NO.**

**CASE OFFICER** Chris Fridlington

**DATE RECEIVED** 24th August 2018

**EXECUTIVE SUMMARY**

The current application seeks outline planning permission for the mixed-use redevelopment of the former Whitwell Colliery site with all matters other than access reserved for future consideration.

Indicative Masterplan



The proposed development will include around 450 dwellings, around 6 hectares of employment land, a 'country park', a convenience retail store and offices, and a new drop off area for Whitwell railway station. The proposals will also create new means of vehicular access to the application site from Station Road and will incorporate a sustainable drainage system.

In this case, officers consider the proposals are 'acceptable in principle' because the proposed development will be provided with safe and suitable access points and as a whole; the development proposals are consistent with the site-specific policy *SS6: Strategic Site Allocation – Former Whitwell Colliery site* in the emerging Local Plan.

In reaching these conclusions, appropriate weight has been given to the decision made by Derbyshire County Council on the parallel application for reclamation of the site, which the County Council have recently resolved to approve (application no. CM5/0818/42).

The County Council's decision on application no. CM5/0818/42 is important to the determination of this application for the future redevelopment of the site because the County Council are intending to approve a scheme for the reclamation of the site that would provide 'development platforms' for the future development of the site as proposed in this application.

The benefits of redevelopment of this site include the reclamation of dis-used land that detracts from the character of the local area to promote and encourage the delivery of houses and employment land. Furthermore, the provision of a country park and the proposals to link this extensive public open space to the wider network of multi-user trails would benefit the health and well-being of the existing community and future resident and the provision of a drop-off area for Whitwell Station in addition to enhancing cycling and walking routes in the local area should also promote the take up of sustainable modes of transport.

It is also considered that the other key issues raised in the determination of this application have been properly addressed because:

- the proposed development would not harm the setting of any heritage asset or result in the physical or visual coalescence of the neighbouring settlements of Hodthorpe and Whitwell
- the development would be provided with safe and suitable access points for all users;
- 5% on-site provision of affordable housing can be justified by the viability of the development; and
- the socio-economic benefits of 'over-provision' of public open space outweighs the potential dis-benefits of 'under-provision' of formal sports facilities.

In all other respects, the development is acceptable or can be made acceptable in planning terms subject to appropriate planning conditions and planning obligations securing affordable housing provision, financial contributions towards primary and secondary education and facilitating the extension of the local medical practice, amongst other things.

Accordingly, this application is recommended for conditional approval subject to prior entry into a s.106 legal agreement.

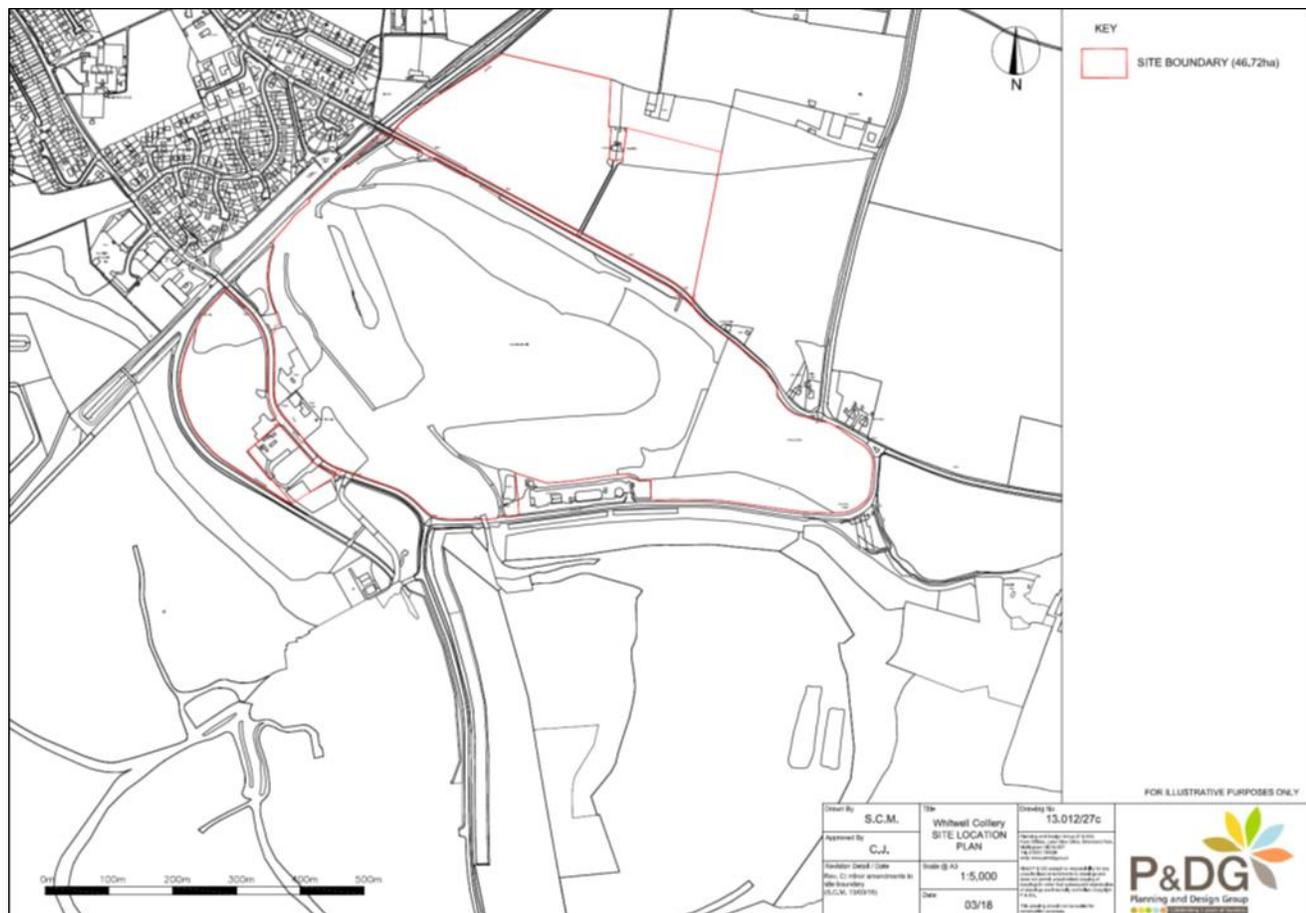
# FULL REPORT: APPLICATION NO. 18/00452/OUT

## SITE & SURROUNDINGS

The application site is located within the Parish of Hodthorpe and Belph but adjoins the neighbouring Parish of Whitwell As a whole, the site lies between the settlements of Whitwell and Hodthorpe and is broadly triangular in shape comprising three parcels separated by Station Road and Southfield Lane with Whitwell Railway Station and the active railway line running along its North West perimeter.

The northernmost part of the site adjoins the new Allotment Gardens and Community Woodland at Hodthorpe but agricultural fields, leading to the wider open countryside, extend to the north east of the site. Millash Lane is to the south of the site, which is abutted by the existing sewage treatment works. Beyond this, to the south and south west, the site is bordered by Whitwell Quarry. The hamlet of Belph is located a short way to the east of the site; Creswell Crags are located around 2km to the south of the site.

### Site Location Plan



Other than a small plot on site (0.75ha), which is leased by the landowner (Welbeck Estate) to Alkane for an energy park, the site is largely vacant, remaining as such since the Colliery closed in 1986. However, the land to the north of Station Road has not previously been developed and 'only' the former Whitwell Colliery site could be described as previously developed land.

The former Whitwell Colliery site is approximately 13 hectares in size and is situated to the south of the village and across the Robin Hood railway line. This part of the site is characterised by the spoil heap from Whitwell Colliery, which now forms an incongruous feature in the wider Magnesian Limestone landscape.

#### Spoil Heap at the former Whitwell Colliery



## PROPOSAL

The current application seeks outline planning permission for the mixed-use redevelopment of the former Whitwell Colliery site.

The indicative masterplan submitted with this application (see below) shows that the proposed development will include around 450 dwellings, around 6 hectares of employment land, a 'country park', a convenience retail store and offices, and a new drop off area for Whitwell railway station.

The proposals will also create new means of vehicular access to the application site from Station Road and will incorporate a sustainable drainage system.

### Indicative Masterplan



# AMENDMENTS

There have been various revisions of the Landscaping Masterplan submitted while this application has been pending consideration. The Landscaping Masterplan has been revised primarily to address the concerns of the Derbyshire Wildlife Trust and is now supported by a biodiversity matrix that shows the proposals would achieve a net gain in biodiversity through a mixture of habitat retention, translocation of some habitat and habitat creation through structural landscape planting. The current landscaping masterplan is shown below.

In addition, the applicant has submitted revised plans and additional information to address highways issues raised by Derbyshire and Nottinghamshire County Councils in their respective capacities as the local highway authorities.

## Revised Landscaping Masterplan



# ENVIRONMENTAL IMPACT ASSESSMENT

The development proposed in the current application does fall within Schedule II of the EIA Regulations set out in the Council's formal screening opinion (17/00279/SCREEN); the proposals are not considered to be EIA development.

## RELEVANT PLANNING HISTORY

There is limited planning history held on file by this Council for the Whitwell Tip site because in its former use; Derbyshire County Council were responsible for managing development on the site in their capacity as the minerals planning authority. Similarly, the County Council are responsible for dealing with a parallel application for reclamation of this site (application no. CM5/0818/42), which members of their Planning Committee recently resolved to approve.

The County Council's decision on application no. CM5/0818/42 is important to the determination of this application for the future redevelopment of the site because the County Council are intending to approve a scheme for the reclamation of the site that would provide 'development platforms' for the future development of the site as proposed in this application.

Consequently, the County Council have already assessed a number of planning issues that are relevant to this application including the impact of the reclamation and future development of the site on archaeology and ecology, underlying ground conditions, and establishing the structural landscaping for the reclaimed site, the provision of a 'country park' and its future maintenance.

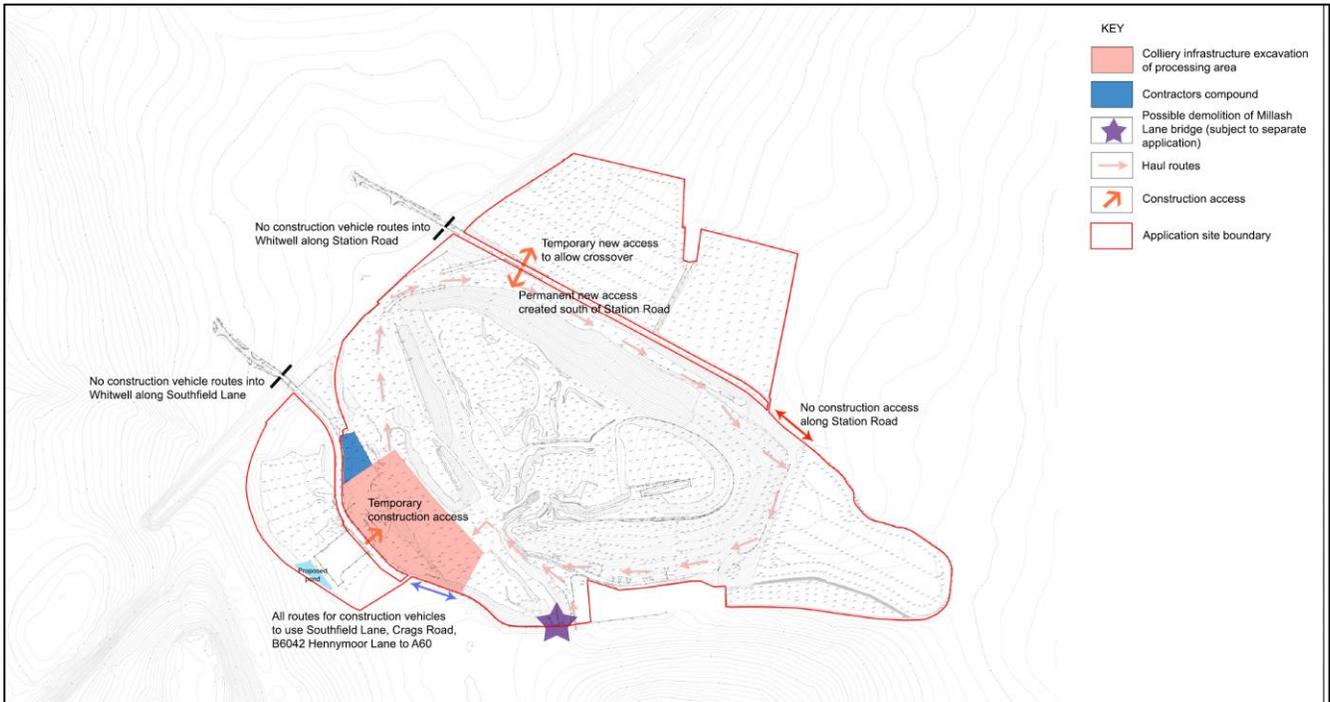
Therefore, as this report goes on to explain in further detail, there are a number of issues that this Council needs to consider but, in effect, may have already been addressed by the County Council provided that any permission for this application is consistent with the permission to be issued by the County Council for the reclamation of the site.

The phasing programme of reclamation works that has been agreed with Derbyshire County Council is provided below for information:

### Reclamation Phase 1 and 1A:

- Crossover access completed between land north and south of Station Road, comprising of a temporary access to the north and permanent new access to the south initially for construction vehicles but then to service the wider development;
- Completion of temporary construction access from Southfield Lane for all vehicles;
- Completion of construction access to/from Southfield Lane to service employment area (Phase 1A);
- Completion of contractor's compound (Phase 1);
- Completion of a colliery infrastructure excavation and processing area (Phase 1);
- Prevention of construction vehicle routes along Station Road (both ways) and Southfield Lane (restriction into Whitwell only); and
- All routes for construction vehicles to use a designated route along Southfield Lane, Craggs Road and the B6042 Henny Moor Lane to the A60.
- Stripping vegetation to all working areas (Phase 1A);
- Strip soil from eastern field prior to construction of new pond (Phase 1A).
- The stripping of soil from the land parcels to the north of Station Road and the transport and storage of the same to the main tip site using the crossover access. (Phase 1A).

# Phase 1



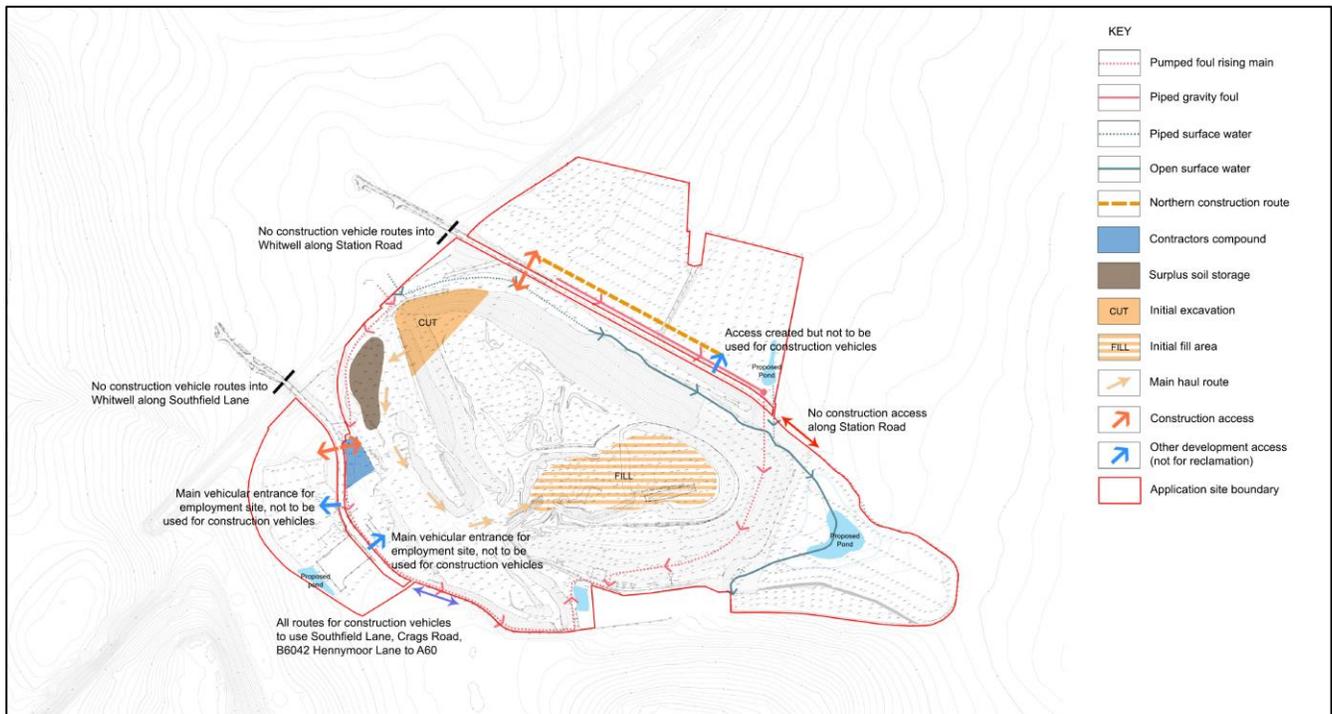
# Phase 1 A



## Reclamation Phase 2

- The construction of a new wet well/pumping shaft in area 7 and the laying of a new foul rising main from the west of the site, adjacent the current railway station, placed adjacent to and along Southwell lane to the existing Sewage Treatment plant on Millash Lane.
- The construction of a new wet well/pumping shaft in area 4 and the laying of a new foul rising main across Station road, along the eastern flank of the tip, to the sewage treatment plant on Millash Lane.
- The installation of services to commission pumping stations.
- Diversion of the existing surface water culvert as it enters the site adjacent the railway station to a new culvert and open water course alongside Station Road to the new attenuation pond in the eastern field. This diversion is essential as the existing surface water culvert is under the tip and in danger of collapse.
- Construction of permanent vehicular entrance off Southfield Lane into Area 9, not to be used for construction vehicles;
- Construction of main vehicular entrance off Southfield Lane into Area 10, not to be used for construction vehicles;
- Construction of main vehicular entrance off Station Road into Areas 3 and 4, not to be used for construction vehicles;
- Retention of construction access crossovers at Station Road and Southfield Lane.
- The commencement of excavation of the tip in areas 5 & 6. The excavated material re-laid and compacted to fill voids in the central area of the main colliery tip.

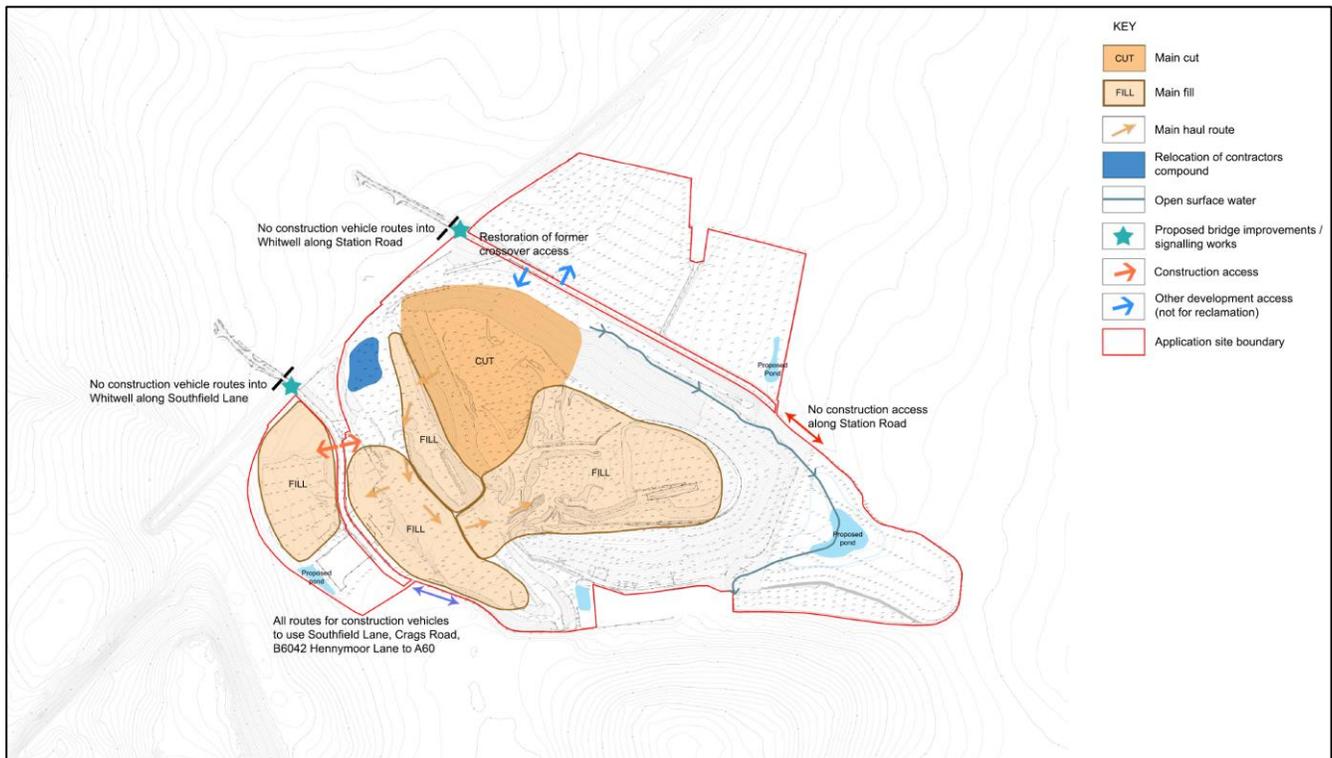
## Phase 2



### Reclamation Phase 3

- The continuation of excavation of the tip from areas 5 & 6 but with excavated material also placed and compacted in areas 9 & 10 following the commissioning of the pumping shaft and rising main in area 7 and the completion of the diversion of the surface water culvert, ditches and main attenuation pond.
- The completion and commissioning of the wet well/pumping station in area 4 and the rising main to the sewage treatment plant and a new surface water culvert and attenuation pond in area 4 connecting with the new surface water ditch alongside Station Road.
- The withdrawal and restoration of the former crossover access and creation of staggered development access into Areas 1 and 2 and 5 and 6, not to be used for reclamation works;
- Retention of crossover construction access at Southfield Lane.

### Phase 3



## Reclamation Phase 4

- Placing soils on the main tip and other areas proposed for planting/landscaping once all major earthworks are complete.
- Forming all tracks and paths as identified by the masterplan.
- Planting up of landscaped areas as dictated by the masterplan.
- The commencement of residential development in mixed-use development Phase 1A to the north of Station Road.

### Phase 4



## **CONSULTATIONS**

### Bolsover District Council (Arts Officer)

The Council's Art Officer notes that a focal space within the proposed country park is discussed in the applicant's design and access statement. The Art Officer considers these proposals provide an opportunity for a development to create a space where art can be appreciated by residents and space users whilst fostering a sense of shared space that welcomes new communities and provides opportunities to increase community cohesion, ownership and pride through place making.

### Bolsover District Council (Environmental Health Protection Officer)

In terms of the potential for land affected by pollution or other contaminants, the Council's Environmental Health Protection Officer ("the EHPO") does not object to the concept of cover systems (i.e. placing covers over the development platforms created during the reclamation of the tip) and recommends a condition where remediation strategies, if required, will be submitted and approved for each phase of the development.

In these respects, the EHPO considers that further studies for each individual area will be required to further refine the risk assessments that have been carried out and allow remediation strategies to be developed for each specific land use. This needs to include gas risk assessments for the whole site that have not currently been submitted with this application.

In terms of the potential impacts of the development during the construction phase of the development, the EHPO recommends a planning condition is attached to any permission for this application securing compliance with an approved construction environmental management plan prior to the commencement of the construction of any employment buildings or new housing.

In terms of the noise environment for future occupants of the proposed housing, the EPHO suggests a scheme of sound insulation should be submitted to and approved in writing the Local Planning Authority prior to the submission of any reserved matters application.

### Bolsover District Council (Housing Strategy Officer)

Subject to agreement on viability, there are no overriding objections to the overall provision of 5.5% on-site provision of affordable housing noting that the proposals include 10% affordable housing provision on phases 1B, 2A and 3 (see overleaf).

It is also recommended that the tenure of the affordable housing should be split 85% social or affordable rent and 15% Affordable Home Ownership and the most appropriate house types for the site would be 2 and 3 bed houses.

Extract from Illustrative Phasing Plan



Bolsover District Council (Economic Development)

No objections subject to conditions to secure local opportunities for skills, training and employment in the District.

Bolsover District Council (Leisure Services)

The Council's Special Projects Officer offers qualified support for the proposals taking into account the potential improvements to access to green space and potential for active participation in informal leisure activities through the provision of a network of multi-user trails within the site and the wider local area.

Bolsover District Council (Senior Engineer)

No objections subject to approval of a detailed design and associated management and maintenance plan of the surface water drainage for the site, and confirmation that additional surface water run-off from the site will be avoided during the construction phase of the

proposed development.

#### Bolsover District Council (Urban Design)

In summary, the Council's urban designer comments that the illustrative masterplan-led development shows the layout of a mixed use development within a country park setting. Key site constraints and design issues have been well considered throughout the planning of the development and the country park gives significant gains in public access to open space for residents of Whitwell.

The main issue will be the delivery of the project over a long period ensuring this delivery meets design quality along with the expectations of the community of Whitwell. Presently housing sites are zoned within the plan but the success of the development will depend on ensuring a locally distinctive design of housing that sits within and makes the most of its country park setting and landscape at the reserved matters stage.

#### Clinical Commissioning Group

The CCG comment that in order to accommodate the number of additional patients generated by the proposed development, the local medical practice will need to convert the practice managers office to a clinical room and convert a current store room into an office, this will involve changes to the siting of the sewerage waste for the building and moving the man hole cover to outside the building.

The CCG are therefore requesting that the developer makes a financial contribution towards the cost of fitting out the proposed treatment room to meet current NHS standards and converting to an office.

However, this request falls short of the normal contribution that the CCG would request from a development of the size proposed in this application. In this case, the CCG have based their modified request on the applicant's commitment to provide an additional room in the new medical centre proposed by the applicant in Creswell.

#### Coal Authority

No objections subject to conditions to ensure future development on the site does not encroach within the 25metre stand-off distance from the two on-site shafts.

#### County Archaeologist

No objections subject to conditions requiring further investigation of potential archaeological interest in the fields at 'Penny Green'.

#### Derbyshire County Council (Flood Team)

No objections subject to conditions requiring the submission of (i) a detailed design and associated management and maintenance plan of the surface water drainage for the site, (ii) confirmation that the proposed destination for surface water accords with the drainage

hierarchy, and (iii) submission of details indicating how additional surface water run-off from the site will be avoided during the construction phase.

#### Derbyshire County Council (Local Education Authority)

The County Council's analysis indicates that there would be a need to mitigate the impact of the proposed development on school places in order to make the development acceptable in planning terms. The County Council therefore requests financial contributions as follows:

- £1,133,134.80 towards Project A: Additional teaching block for the provision of 70 primary places at Whitwell Primary School; and
- £219,525.57 towards Project E: Additional teaching accommodation for the provision of 9 secondary places at Heritage High School.

#### Derbyshire County Council (Local Highway Authority)

Subject to conditions relating primarily to securing safe and suitable access points, the local highway authority has no objections to the revised application on highway safety grounds.

#### Derbyshire Police

No objections to the broad aims of redevelopment at this location, nor the contents of indicate layout and masterplan in an area which has suffered from neglect and consequential contagion.

#### Derbyshire Wildlife Trust

Object to the proposals because the Trust remains concerned that the Landscaping Masterplan would not achieve adequate compensation for the loss of habitat resulting from the reclamation of the site.

#### Environment Agency

No objections subject to conditions related to ground conditions and potential for contamination as well as preventing contamination of ground water during the construction phase of the development.

#### Historic England

No objections.

#### Hodthorpe and Belp Parish Council

No objections and offer 'in principle' support for the development.

#### Network Rail

No objections to the proposals subject to agreement (by way of conditions) on a construction method statement and the detailed design of drainage, boundary fencing, Armco barriers, soundproofing, lighting and landscaping to allow Network Rail to safeguard the safety, operational needs and integrity of the adjacent railway.

#### Nottinghamshire County Council (Highways)

Nottinghamshire County Council object to the proposals because their highway engineers consider the development will generate significant levels of additional traffic along the A60 into Nottinghamshire and this is considered to have a significant and detrimental impact on the operation of junctions not least the A619/A60 Darfoulds junction.

#### Peak and Northern Footpaths Society

The Society notes there are no existing rights of way through the former colliery site but this application has opportunities to provide connectivity through and within the site to the wider path network to encourage walking for health and recreation.

The Society also wish to see the public footpath running between Green Lane and Station Road remain a separate facility for non-motorised users away from the side of any vehicular highway.

#### Severn Trent Water

No objections subject to conditions requiring the submission of the detailed design for foul and surface water drainage.

#### Sport England

Sport England objects to the application at this time, as there currently appears to be no provision for meeting the additional needs for sports facilities arising from the development. Sport England would be willing to review this position should further/amended information, including clarification of potential off-site sports provision proposals, be submitted to address the above points.

#### Whitwell Parish Council

Whitwell Parish Council notes that the proposed development site lies outside its parish boundary, however, the Council believes that Whitwell parish infrastructure will be impacted by this proposed development and therefore makes the following observations:

1. Over the proposed development period the scheme will result in the building of between 400 and 450 residential properties. Using the DCC Education Formula it is therefore estimated that any negotiated S106 agreement should provide for a contribution of £1.1m to meet the costs of additional education provision.

2. Public Health – The CCG does not currently have a formula that it uses to calculate a required contribution, but Whitwell Parish Council requests that engagement be entered into by the Planning Team to establish the appropriate level of contribution required as part of the S106 agreement.
3. Highways – The Parish Council requests that in its negotiations with DCC Highways Department the Planning Department should ask DCC Highways to include an assessment of the current capacity of Southfield Lane as at the time of writing there is ongoing congestion caused by on-street parking on the western side and extreme congestion at school opening and closing times. The proposed development would, in the opinion of the Parish Council, result in even worse congestion unless modifications to Southfield Lane are considered.
4. Highways – Station Road – The Parish Council requests that as part of the proposed scheme DCC Highways considers a requirement be placed on the developer to straighten Southfield Lane from Sherwood Cottage to the junction of Station Road and Green Lane. This is a well known accident black spot with at least one fatality in the last 10 years.
5. Highways – Station Road Junction with A60 – that DCC Highways investigate what improvements might be needed at this junction to cope with increased traffic movements as a result of the development.
6. If the proposal is accepted, during construction of the site all traffic to and from the site be required to use access and exit via the A60 Mansfield Road.
7. Some modification is considered to the proposed order of development.
8. Access to all footpaths is maintained.
9. No information has been given as to whether buildings will be green/sustainable/wildlife friendly.
10. The parish council are concerned with the increase in traffic around and through the village and on High Street and wider infrastructure issues e.g., towards the A60.
11. The parish council are concerned that merely consulting with CCG is insufficient for a development of this size and what steps are being taken to consult with wider NHS provision e.g., hospitals, walk-ins etc?
12. The parish council wishes to be consulted upon consideration of Street names, recognising the mining heritage of the area.

## **PUBLICITY**

This application has been publicised by way of site notices, press advert and neighbour notification.

During the consultation period only one representation was received from *Butterfly Conversation (East Midlands)* who highlight that part of the tip, which faces roughly south adjacent to Millash Lane and Southfield Lane, is an important area for key butterfly species and in particular, stress the importance of conserving and enhancing this habitat and assemblage of species.

## **POLICY**

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

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

GEN 1: Minimum Requirements for Development  
GEN 2: Impact of Development on the Environment  
GEN 4: Development on Contaminated Land  
GEN 5: Land Drainage  
GEN 6: Sewerage and Sewage Disposal  
GEN 8: Settlement Frameworks  
GEN 11: Development adjoining the Settlement Framework Boundary  
GEN 17: Public Art  
HOU 5: Outdoor Recreation and Play Space Provision for New Housing Development  
HOU 6: Affordable Housing  
CLT 11: New Countryside Recreation Facilities  
TRA 1: Location of New Development  
ENV3: Development in the Countryside  
ENV 5: Nature Conservation Interests throughout the District  
ENV 8: Development affecting Trees and Hedgerows

### Emerging Local Plan for Bolsover District (“the emerging Local Plan”)

Paragraph 48 of the National Planning policy Framework says local planning authorities may give weight to relevant policies in emerging plans according to:

- a) the stage of preparation of the emerging plan (the more advanced its preparation, the greater the weight that may be given);
- b) the extent to which there are unresolved objections to relevant policies (the less significant the unresolved objections, the greater the weight that may be given); and
- c) the degree of consistency of the relevant policies in the emerging plan to this Framework (the closer the policies in the emerging plan to the policies in the Framework, the greater the weight that may be given)

The emerging Local Plan is at a very advanced stage of preparation and the Council is now awaiting the Inspector’s Report which will formally end the Examination stage following consultation on the Main Modifications to the Publication Version of the Bolsover District Local Plan.

Therefore, it is appropriate to afford weight to the policies as modified in the emerging Local Plan and the most relevant policies in the emerging Local Plan in the determination of this application include:

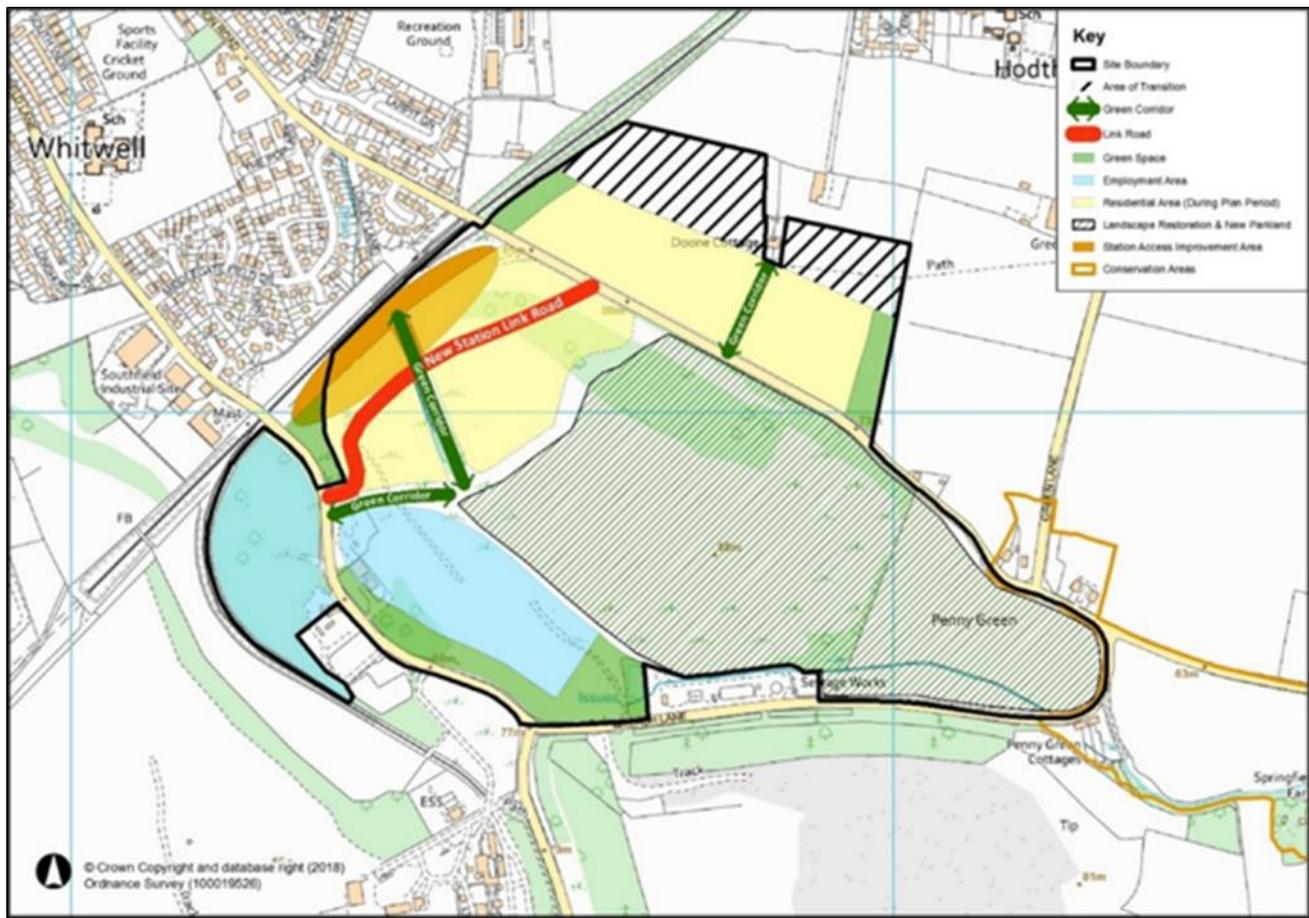
- Policy SS3: Spatial Strategy and Distribution of Development, and
- Policy SS6: Strategic Site Allocation – Former Whitwell Colliery site

Policy SS3: *Spatial Strategy and Distribution of Development* says that to achieve sustainable development, the emerging Local Plan will direct development and service provision within Bolsover District in accordance with the following settlement hierarchy:

1. firstly to the Small Towns of Bolsover and Shirebrook and the Emerging Towns of South Normanton and Clowne;
2. then to the Large Villages of Creswell, Pinxton, Whitwell, Tibshelf and Barlborough.

Beyond these more sustainable settlements, the emerging Local Plan will support limited development in a small number of the Small Villages. To deliver the growth requirement for Whitwell set out in policy SS3, land at the former Whitwell Colliery site is allocated as a Strategic Site.

Policy SS6: Strategic Site Allocation – Former Whitwell Colliery site (as modified)



Policy SS6: *Strategic Site Allocation – Former Whitwell Colliery site (as modified in Main Modifications)* says proposals for the development of this strategic site will be permitted where they are guided by the indicative masterplan for the site (shown above) and provided they meet the following criteria:

- a) Remodel the site to an appropriate landscape form;

- b) Create a country park;
- c) Enable completion of at least 200 dwellings within the site by 2033;
- d) Optimise the use of the site or make best use of land;
- e) Provide 5 hectares of B-use employment land;
- f) Improve access to Whitwell train station;
- g) Contribute towards minimising the need to travel by private car through provision of convenient access via sustainable modes of transport to locations of employment and services;
- h) Contribute towards place making through the delivery of a high quality designed development through the use of a design code that creates an attractive and locally distinctive new urban neighbourhood utilising as appropriate public art;
- i) Contribute towards conserving and enhancing the biodiversity of the District through the protection and incorporation of existing hedgerows and woodlands and the creation and enhancement of open flower rich grassland, wetland and scrub habitats within the site's general layout, design and orientation;
- j) Contribute towards the efforts to tackle climate change through its approach to sustainable construction, renewable energy and energy conservation within the site's general layout, design and orientation;
- k) Demonstrates that adequate sewerage infrastructure and capacity exists or can be provided as part of the development;
- l) Avoid the sterilisation of important mineral resources;
- m) Conserve or enhance the setting of heritage assets, in particular the Belph Conservation Area and the wider setting of Creswell Crags;
- n) Due to the historic use of the site and the underlying principal aquifer, a detailed site investigation and remediation report shall be provided and any necessary works undertaken; and
- o) Provide for a landscaped transition zone to the north of Station Road where the form, layout and density of housing development shall reflect the need to respond positively to the countryside edge and the important open break between Whitwell and Hodthorpe.

In addition, this modified policy is consistent with paragraph 72 of the National Planning Policy Framework which says the supply of large numbers of new homes can often be best achieved through planning for larger scale development, such as new settlements or significant extensions to existing villages and towns, provided they are well located and designed, and supported by the necessary infrastructure and facilities.

Therefore, as modified, policy SS6 should be afforded significant weight in the determination of this application as it is intended to achieve these objectives and is therefore demonstrably

consistent with policies in the Framework in its own right. As such, all further references to policy SS6 refer to this policy as modified and as described above.

### Supplementary Planning Documents

The Council's supplementary planning guidance on affordable housing is relevant to this application stating that the Council will normally expect 10% affordable housing on a scheme of the size. However, this guidance also says the Council will accept a minimum of 5% affordable where the reduced number is justified by the viability of the proposed development.

The Council's supplementary planning document *Successful Places* has limited relevance to this application because it is an application for outline permission with all matters reserved other than access but any subsequent reserved matters applications would be expected to accord with the design principles in this document.

### National Planning Policy Framework ("the Framework")

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

- Paragraphs 7-10: Achieving sustainable development
- Paragraphs 47-48: Determining applications
- Paragraphs 54-57: Planning conditions and obligations
- Paragraph 64: Affordable housing
- Paragraph 72: Delivering housing on larger sites
- Paragraph 80: Building a strong, competitive economy
- Paragraphs 91, 92 and 94: Promoting healthy and safe communities
- Paragraphs 96 and 98: Open space and recreation
- Paragraphs 108-111: Promoting sustainable transport
- Paragraph 118: Making effective use of land
- Paragraphs 124-128: Achieving well-designed places
- Paragraph 153: Meeting the challenge of climate change
- Paragraph 165: Sustainable Drainage Systems
- Paragraphs 170 and 175: Conserving and enhancing the natural environment
- Paragraphs 178-181: Ground conditions and pollution
- Paragraphs 184 and 189-197: Conserving and enhancing the historic environment

### National Planning Practice Guidance

National Planning Practice Guidance offers additional guidance on a number of key issues in the determination of this application including viability, conserving the setting of heritage assets and healthy communities:

### *Viability*

National Planning Practice Guidance says where up-to-date policies have set out the contributions expected from development, planning applications that fully comply with them should be assumed to be viable. It is up to the applicant to demonstrate whether particular circumstances justify the need for a viability assessment at the application stage. Policy compliant in decision making means that the development fully complies with up to date plan policies. A decision maker can give appropriate weight to emerging policies.

### *Heritage Assets*

National Planning Practice Guidance says all heritage assets have a setting, irrespective of the form in which they survive and whether they are designated or not. The setting of a heritage asset and the asset's curtilage may not have the same extent. The extent and importance of setting is often expressed by reference to the visual relationship between the asset and the proposed development and associated visual/physical considerations.

### *Healthy and Safe Communities*

The design and use of the built and natural environments, including green infrastructure are major determinants of health and wellbeing. Planning and health need to be considered together in two ways: in terms of creating environments that support and encourage healthy lifestyles, and in terms of identifying and securing the facilities needed for primary, secondary and tertiary care, and the wider health and care system (taking into account the changing needs of the population).

## **ASSESSMENT**

The current application seeks outline planning permission for the mixed-use redevelopment of the former Whitwell Colliery site.

The indicative masterplan submitted with this application shows that the proposed development will include around 450 dwellings, around 6 hectares of employment land, a 'country park', a convenience retail store and offices, and a new drop off area for Whitwell railway station. The proposals will also create new means of vehicular access to the application site from Station Road and will incorporate a sustainable drainage system.

As this is an application for outline planning permission with all matters other than access reserved for future consideration; the main issues in the determination of this application are whether the proposed development is 'acceptable in principle' and whether the proposed development would be provided with a safe and suitable means of access.

However, as this application has progressed through its determination period, the impact of the development on the local road network, the potential under provision of formal recreation space and on-site affordable housing, and the visual impact of an increasing amount of residential development north of Station Road have all emerged as further key issues in the determination of the application.

### **Key issues**

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

- the principle of the development
- the landscape and visual impact of the proposed development
- whether the development would be provided with a safe and suitable access;
- the impact of the development on the local road network;
- the under-provision of on-site affordable housing; and
- the 'over-provision' of public open space vs the under-provision of formal sports facilities.

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

## Principle

The land at the former Whitwell Colliery site is not allocated for housing in the adopted Local Plan but it is allocated as a Strategic Site in the emerging Local Plan. Therefore, the proposals are contrary to the current development plan but the site has been allocated in the emerging Local Plan for a mixed-use development.

The emerging Local Plan is now at a very advanced stage of preparation, having seen consultation on the necessary Main Modifications to the emerging Local Plan taking place in June and July 2019. Following this, the Council submitted the representations received on the Main Modifications to the Inspector on 1<sup>st</sup> August 2019 and is now awaiting the Inspector's Report. Policy SS6 is also consistent with national planning policies in its own right.

Consequently, sufficient weight can be given to the site allocation in the emerging Local Plan to offset and outweigh the identified conflict with the adopted Local Plan and the current proposals could be deemed to be 'acceptable in principle' provided the current application meets the requirements of the site-specific policy SS6 in the emerging Local Plan

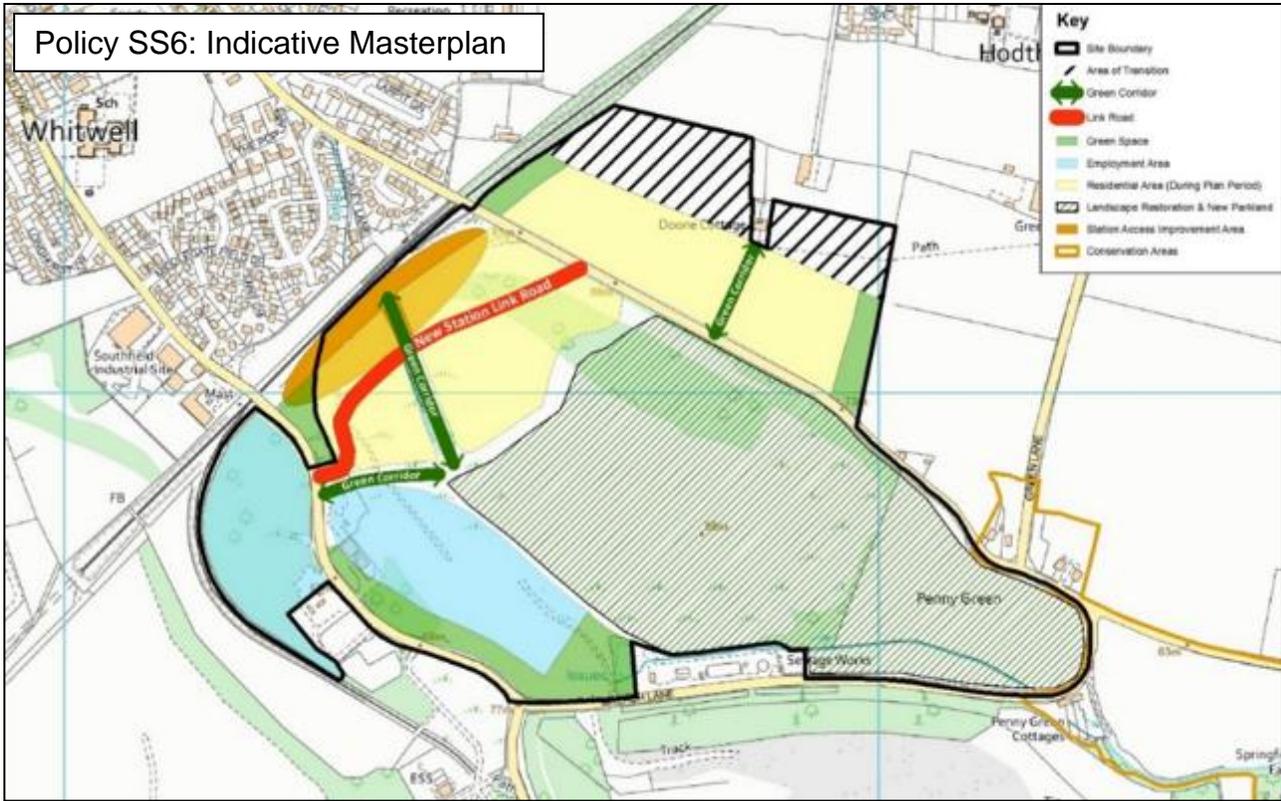
In summary, the emerging Local Plan says proposals for the development of this strategic site will be permitted where they are guided by the indicative masterplan for the site and various criteria set out in policy SS6. The indicative masterplan from policy SS6 is shown on the following page next to the applicant's indicative masterplan and it can be seen that there is a close correlation between the two.

For example, the indicative masterplan shows provision of around 400 dwellings, creation of a country park, around 6ha of employment land, and efficient use of the developable land available to the applicant.

In addition, the County Council have accepted that the restoration of the former spoil heap will result in the site being remodelled to an appropriate land form and will be taking forward the structural landscaping for the country park as part of the restoration proposals.

Policy SS6(g) also requires the development to contribute towards minimising the need to travel by private car through provision of convenient access via sustainable modes of transport to locations of employment and services. Linking the proposed development to the nearby station and creating employment land and providing services on site like a convenience store as shown on the indicative masterplan would appear to start to address policy SS6 (g),

Policy SS6: Indicative Masterplan



Applicant's Indicative Masterplan



The applicant has also submitted a phasing plan (below) which alongside viability testing, provides further reassurance that the proposed development is deliverable and will come forward within the plan period for the emerging Local Plan.

The current schedule of delivery is estimated (by officers) to be 200 dwellings by 2032/33 with a start on site being made in 2026/27. Around 30-40 houses will be built out per annum but the developer has indicated that delivery could be accelerated and an earlier start made on site depending on market conditions.

### Phasing Plan



Therefore, officers consider that ‘in principle’ the proposed development will meet all seven of the criteria (a) – (g) from policy SS6, which require the applicant to:

- a. Remodel the site of the former colliery and associated tip to an appropriate landscape form;
- b. Create a country park;
- c. Enable completion of at least 200 dwellings within the site by 2033;
- d. Optimise the use of the site or make best use of land;

- e. Provide 5 hectares of B-use employment land;
- f. Improve access to Whitwell train station; and
- g. Promote sustainable modes of transport

Assessment of the remaining criteria (h) – (o) in policy SS6:

SS6 (h) requires the development to contribute towards place making through the delivery of a high quality designed development through the use of a design code that creates an attractive and locally distinctive new urban neighbourhood utilising as appropriate public art

SS6 (j) requires the development to contribute towards the efforts to tackle climate change through its approach to sustainable construction, renewable energy and energy conservation within the site's general layout, design and orientation.

In principle, there is no reason why the proposed development could not achieve these objectives but these are matters related to layout, external appearance and scale and therefore, the details of SS6 (h) and (j) are for further consideration at reserved matters stage.

Criteria (i), (k), (l) and (n) relate to biodiversity and technical considerations with regard to sewerage infrastructure, remediation of the land, and safeguarding mineral resources and the later sections of this report explain firstly how these issues have been dealt with by the County Council in their determination of the parallel application for reclamation of the former colliery site.

The report then goes on to explain how conditions imposed on any permission for this application will be necessary to carry forward appropriate mitigation measures secured by the County Council and/or deal with the remaining technical considerations. With these points in mind, officers are satisfied that the proposed development meets or is capable of meeting 13 of the 15 criteria in SS6 because 'in principle' it would:

- a) achieve an appropriate land form,
- b) result in the creation of a country park,
- c) allow for delivery of 200 houses by 2033,
- d) make best use of the land,
- e) provide 5 hectares of employment land,
- f) make improvements to access to Whitwell station
- g) promote connectivity and sustainable modes of transport,
- h) have a locally distinctive sense of place,
- i) achieve net biodiversity gains,
- j) address climate change, plus the development
- k) would not otherwise impact negatively on the mains sewers;
- l) can be made suitable for the proposed uses without prejudicing mineral resources; and
- n) would be appropriately remediated

Compliance with the two remaining criteria SS6 (m) and SS6 (o) is discussed in the following section of this report.

## Landscape and Visual Impact

Whilst it is considered the proposed reclamation of the previously developed land on the site of the former colliery will achieve an appropriate landform; concerns have been raised about the amount of development on 'greenfield' land on the north side of Station Road and whether the scheme as a whole would:

- m) Conserve or enhance the setting of heritage assets, in particular the Belph Conservation Area and the wider setting of Creswell Crags; and/or
- o) Provide for a landscaped transition zone to the north of Station Road where the form, layout and density of housing development shall reflect the need to respond positively to the countryside edge and the important open break between Whitwell and Hodthorpe.

The main reason this issue has arisen is because of the increased scale of development proposed in the north east corner of the site on the opposite side of Station Road from the former colliery site. In summary, the areas labelled 1 and 2 on the following extract of the Indicative Masterplan in the northernmost part of the site extend further into the important open break between the settlements of Hodthorpe and Whitwell than anticipated in earlier versions of the strategic site allocation in the emerging Local Plan.

### Extract from Illustrative Masterplan



Subsequently, this additional site area has been agreed in the Main Modifications to the emerging Local Plan as a 'transitional area' but the applicant's Indicative Masterplan suggests less of a landscaped buffer on the edge of the site and more housing than suggested by the Indicative Masterplan attached to policy SS6 in the emerging Local Plan.

In part, the housing proposed on land to the north of Station Road is required to mitigate for the 'up-front' remediation costs required to prepare the site for the mixed-use development and the consequential impact of these costs on cash-flow and the deliverability of the scheme. The use of the land to the north of Station Road also assists cash flow and the viability of the scheme because the cost of this part of the development (when taken in isolation) is much lower and houses can be built on this land while the reclamation of the tip is in progress.

However, as noted above, the additional residential development on this land could mean that the scheme would have a greater landscape and visual impact than anticipated at the plan-making stage, which could render the scheme unacceptable in planning terms when taken as a whole.

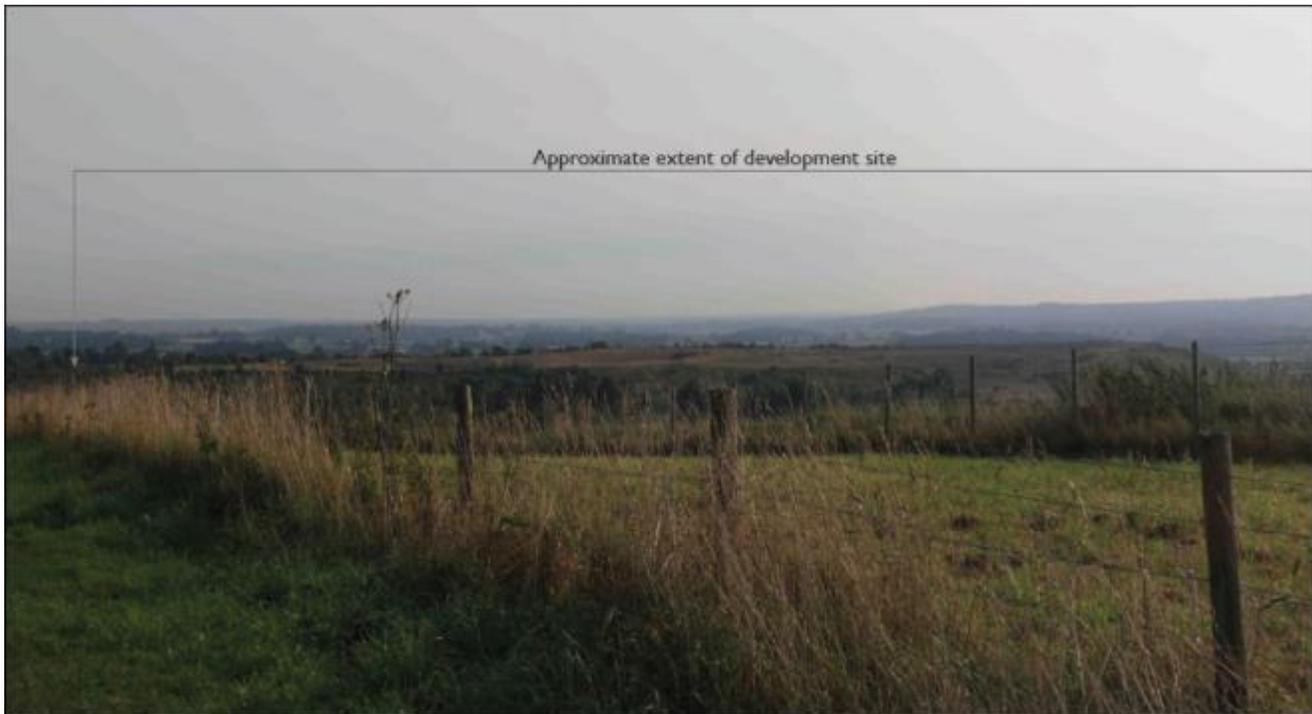
#### Assessment of impact on Landscape Setting

The application site lies within the Southern Magnesium Limestone with Limestone Farmlands Landscape Character Area, which is partly characterised by occasional large plantations with Ash-oak-elm with hazel. There are also significantly large strands of woodland within the local area, particularly Whitwell Woods.

Therefore, the structural planting proposed in the Landscaping Masterplan is appropriate in landscape terms and officers agree with the conclusions in the applicant's LVIA (Landscape Visual Impact Assessment), which predicts no significant impacts on landscape character as a result of the proposed development rather, a very limited (negligible) beneficial impact due to changing the uncharacteristic mound (i.e. the former tip) to a more characteristic woodland and field pattern land cover.

In addition, no significant effects are expected on the setting of heritage assets, in particular the Belph Conservation Area and the wider setting of Creswell Crags. The location of the development, adjacent to an existing remediated spoil tip and Whitwell Quarry, greatly reduces its potential area of influence and therefore, its potential visual impact and the nearby Creswell Crags (one of the most heavily protected archaeological and geological sites in Britain) would experience no landscape impacts from the proposed development.

## Application Site within its Landscape Setting



### Assessment of Coalescence

Consequently, the residual concern about the scheme relates to extent of the housing development into the two fields to the north of Station Road and whether building housing on these fields will result in the coalescence or 'perceived' coalescence of the settlements of Whitwell and Hodthorpe.

Notably, the northernmost part of the site adjoins the new Allotment Gardens and Community Woodland in Hodthorpe and from the plans; it would seem likely the enclosing of the gap between Hodthorpe and new housing to only one field and a thin strip of woodland of approx. 230m would result in the coalescence of the two settlements.

However, the situation is different when experienced on the ground. The railway line plays a distinct role in this as the road (Queens Road) between Hodthorpe and Whitwell rises over the railway line with land to the north-east the main housing parade of Hobthorpe, whilst land to the south-west of Queens Road is a mix of small elderly bungalows, a small number of detached houses and allotments. The allotments have been relocated to occupy the field that would provide the gap between the new housing and Hodthorpe with a surrounding area of community woodland. This will protect and enhance the gap and prevent the actual merger or any housing by future development.

The two fields of new housing will be accessed off Station Road and as a result they will be more directly accessible to areas of Whitwell and the railway station rather than to Hodthorpe.

Only the rear of the housing estate will be visible from Hodthorpe and this will be less visible once the community woodland around the allotments has matured and grown upwards in 10-15 years. The road from Hodthorpe leads to Whitwell across the railway line and this forms a clear boundary in this direction. It is the gap on west side of the railway line that requires protection as it would directly physically read as a connection of the two settlements.

Visually, residents along the north side of Queen Street in Hodthorpe would experience a more urbanising context and change to their environment and setting, mainly because the views towards the site stretch across open fields and views of the new housing will be seen from the upper floors of the houses along this main road in Hodthorpe. The introduction of new housing in their view will appear closer, however these will be middle ground views and whilst initially affected they will diminish once the woodland screen has matured and blend in with wider long distance views.

Therefore, it is considered there will be no experience of a physical connection between the two settlements, and new houses will feel physically linked to Whitwell. In this case, the physical disconnect between the proposed housing and Hodthorpe's existing settlement boundary and the screening of woodland in the future would be enough to mitigate for the proximity of the new housing to the edge of Hodthorpe and prevent coalescence of the two settlements.

Consequently, it is considered that the proposed development would conserve the setting of heritage assets (SS6(m)) and would be of a form that would respect the important open break between Whitwell and Hodthorpe (SS6(o)).

As noted in the previous sections of this report, the proposed development meets the criteria of the site-specific policy SS6 in all other respects. Therefore, the proposed development can be deemed to be acceptable in principle and it would be appropriate to recommend approval of this application providing the remaining key issues can be addressed and there are no other planning considerations that would mean the development would otherwise be unacceptable in planning terms.

The following sections of this report deal with the remaining four key issues, namely:

- whether the development would be provided with a safe and suitable access;
- the impact of the development on the local road network;
- the acceptability of 5% on-site provision of affordable housing; and
- the provision of public open space.

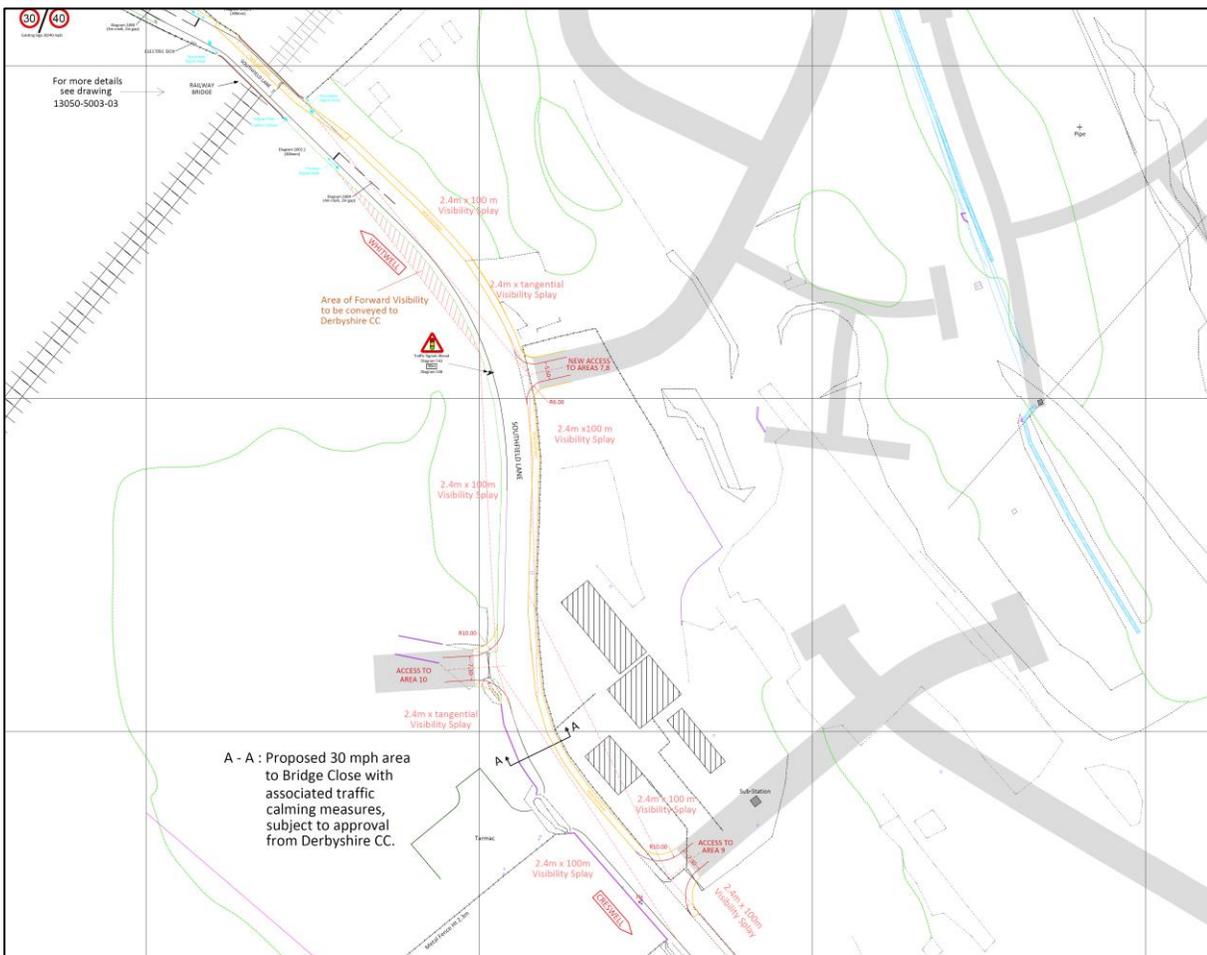
## Site Access

As submitted, the developer is proposing points of access from Station Road and Southfield Lane alongside a package of highway improvements including the introduction of Traffic Signal Controls for the bridges on Station Road and Southfield Lane.

### Southfield Lane

The following drawing shows that three separate points of access to the site will be made along Southfield Lane each with a visibility splay measuring 2.4m x100m as agreed by the County Council in their capacity as the local highway authority.

### Means of Access from Southfield Lane (Drawing No. 13050-5003-005G)



In the determination of the parallel application for the reclamation of the site, the County Council minerals also secured an extension of the footway provided along Southfield Lane from Whitwell village over the railway bridge to the proposed access serving the residential and employment sites as shown on MET Engineers drawing 13050-5003-05 G.

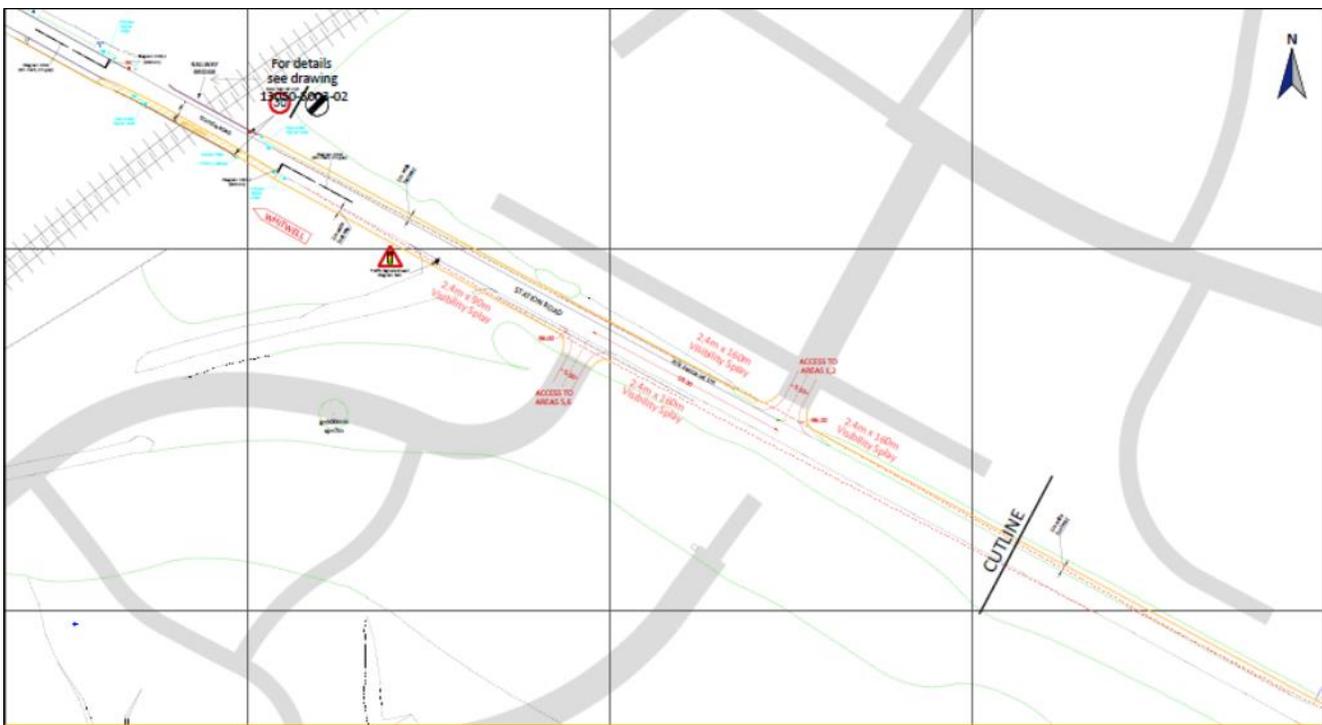
In addition, the County Council secured forward visibility for the proposed signals at the bridge to ensure sightlines are available to traffic approaching any queueing traffic. These

sightlines will be secured via the conditions and S106 attached to the permission granted by the County Council for reclamation of the site.

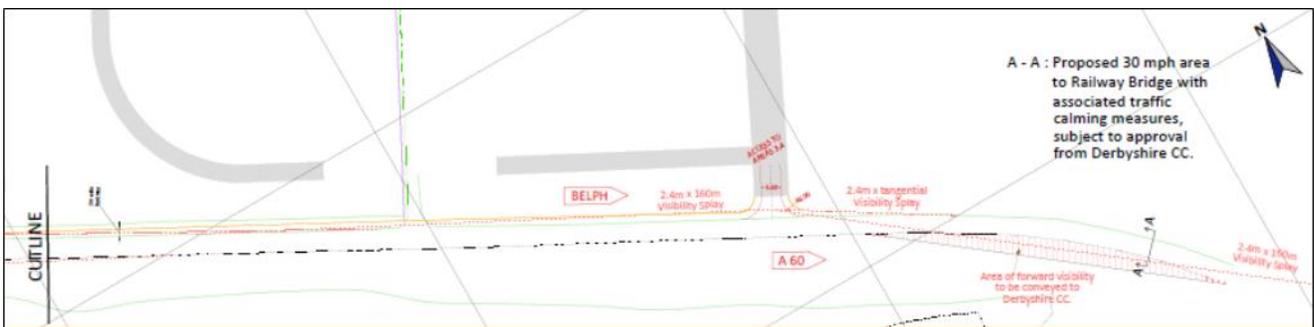
However, it would be necessary to repeat conditions securing visibility sightlines and the new footway on any permission for this application to ensure these highway improvements are retained throughout the lifetime of the mixed-use development proposed in this application.  
Station Road

The following two drawings show that three separate points of access to the site will also be made along Station Road; two with a visibility splay measuring 2.4m x 100m and one (the western exit from Phase 1B towards the railway bridge) measuring 2.4m x 90m all as agreed by the County Council in their capacity as the local highway authority.

Means of Access from Station Road to Areas 1 & 2 (Drawing No. 13050-5003-004E)



Means of Access from Station Road to Areas 3 & 4 (Drawing No. 13050-5003-004E)



There will also be an extension of the footway provided along Station Road from Whitwell village over the railway bridge and the proposed accesses serving Phases 1A and 2B of the application site. This provision has been agreed with the County Council's highways team as shown on drawing 13050-5003-04 Rev E as part of the application for reclamation of the site.

Again, it would be necessary to repeat conditions securing visibility sightlines and the new footway on any permission for this application to ensure these highway improvements are retained throughout the lifetime of the mixed-use development proposed in this application

In addition, as part of the County Council application for reclamation of the site, it is proposed to relocate the start of the national speed limit to beyond the extent of the mixed-use development together with the extension of the 30mph limit from the Station Road railway bridge to the beginning of the mixed-use development. It is also proposed to reduce the speed limit from 60mph to 40mph from the development to the A60.

Both these proposed amendments to the existing speed limits will be progressed through an application for a Traffic Regulation Order (TRO) following the approval of the application for the reclamation of the site.

### Junction of Station Road and Green Lane

The applicant proposes a reduction in the height of the stone wall facing Portland Cottage, Belph to achieve the required visibility splay when turning right from Green Lane. This proposal is entirely within the applicant's control to deliver and maintain and are now the subject of a separate planning application that has recently been submitted to this Council.

As the proposals have been supported by the County Council and this Council's Heritage Conservation Manager prior to the formal submission, this application is likely to be approved. However, these highway improvements (as shown below) would need to be secured by a condition attached to any permission for this application to ensure that the proposed works are carried out prior to the occupation of any development accessed from Station Road.

### Proposed Visibility Improvements at junction of Station Road with Green Lane



### Conclusions on Site Access

In summary, the schedule of highway improvements to provide access to the site are as follows:

- Pre-construction: TRO for Station Road and Southfield Lane speed limits, street lighting to Station Road, traffic calming to Station Road, new village sign, and visitor parking.
- Phase 1A: construction of access into the phase, bridge improvements to Station Road Bridge including traffic signals and footway. Improvements to the Green Lane/Station Road junction
- Phase 1B: New bus stop, construction of access into phase, station drop off area;
- Phase 2B: Construction of access into phase;
- Phase 2A: None applicable
- Phase 3: Construction of access into phase, street lighting to Southfield Lane, bridge improvement works including traffic signals and footway.

In accordance with the provisions of national policies in the Framework, and saved policies GEN1 and GEN2 in the adopted Local Plan, implementation of this schedule of works would mean the development would be provided with safe and suitable access points for all users and would not generate congestion or highway safety concerns within the local area subject to conditions securing the highway improvements to Southfield Lane, Station Road and the junction of Station Road and Green Lane prior to the occupation of the relevant phase of the development as proposed in this application.

## **Impact on the Local Road Network**

Alongside accepting the proposed development would be provided with safe and suitable access points, Derbyshire County Council have raised no objections to the proposals in terms of their potential impact on the wider road network subject to agreement on a travel plan.

The applicant is willing to submit a Residential and Employment Travel Plan drawn up to the County Council's specifications and will pay the appropriate monitoring fee. There are also provisions for a Construction Traffic Management Plan in the application submitted to Derbyshire County Council and it is considered this Management Plan should also be secured as a condition of any permission issued by this Council for this application.

However, Nottinghamshire County Council have objected to the proposals on highway grounds because their highway engineers consider the development will generate significant levels of additional traffic along the A60 into Nottinghamshire and this is considered to have a significant and detrimental impact on the operation of junctions not least the A619/A60 Darfoulds junction.

Nottinghamshire County Council go on to say that the Bassetlaw Regulation 123 CIL list identifies junctions in Bassetlaw which will need to be improved to accommodate development traffic, and rather than rely on individual developers bearing the cost of individual junction improvements financial contributions are sought towards the package, so that all developers who have a direct impact contribute accordingly. The Whitwell Colliery development is part of the forecast cumulative traffic impact in Nottinghamshire and should be required to contribute.

In these respects, Nottinghamshire County Council would 'respectfully request' that if the applicant is not willing to contribute financially then the applicant should demonstrate the development impact at each of the junctions in Worksop, i.e. where the development has more than 30 additional trips in the peak hour, using suitable junction traffic models. The applicant would then be required by Nottinghamshire County Council to provide highway mitigation at each junction such that there is no net worsening of traffic conditions.

As an example, Nottinghamshire County Council say the applicant may be required to provide the 'alternative' junction improvement scheme at Darfoulds as sketched in figure 6 of the MET technical note.

In the first instance, it is understood that the Whitwell Colliery development was not part of the forecast cumulative traffic impact in Nottinghamshire that formed the basis of Bassetlaw's Regulation 123 CIL list but even then; it would be inappropriate to seek Community Infrastructure Levy contributions of this nature when they have been viability tested against development in Bassetlaw District not development in Bolsover District, which has markedly different land values and house prices.

For example, Bassetlaw is reported to have an overall average house price of £228,824 compared to Whitwell, with an overall average price of £138,034, which was similar in terms of sold prices to nearby Creswell (£139,585), but cheaper than Worksop (£164,282), Holbeck (£160,024) and Cuckney (£282,372).

However, Paragraph 109 of the Framework says development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe. In this case, the applicant has provided a transport note that indicates the impacts of vehicles from the proposed development on the Darfours junction would be less than severe. Nottinghamshire County Council dispute this but provide no technical basis on which to evidence their comments.

Therefore, there are no reasonable grounds on which to refuse this application because of its potential consequential impact on Nottinghamshire's road network. In the alternative, the requests for financial contributions from Nottingham County Council cannot be demonstrated to be reasonable or necessary with reference to Bassetlaw's Regulation 123 CIL list.

In all other respects, Derbyshire County Council have not raised any concerns that the development would have any significant impacts on their transport network (in terms of capacity and congestion), or on highway safety. Therefore, it is not considered that the proposed development would have a severe adverse impact on the local road network subject to securing the highway improvements agreed with Derbyshire County Council and listed in the previous section of this report.

Consequently, there are no substantive reasons to refuse this application on highways grounds despite the concerns raised by Nottinghamshire County Council.



of the size. However, this guidance also says the Council will accept a minimum of 5% affordable where the reduced number is justified by the viability of the proposed development.

The applicant has submitted a development appraisal and at Paragraph 57, the Framework says:

*The weight to be given to a viability assessment is a matter for the decision maker, having regard to all the circumstances in the case, including whether the plan and the viability evidence underpinning it is up to date, and any change in site circumstances since the plan was brought into force.*

National Planning Practice Guidance offers additional guidance on viability and says an assumption of 15-20% of gross development value (GDV) may be considered a suitable return to developers.

In this case, the development appraisal shows a 15.4% return against GDV. Having tested the assumptions behind the development appraisal, officers consider that the applicant's development appraisal does demonstrate that the development is not sufficiently viable to provide 10% on-site affordable housing across the entire site (i.e. on-site provision of 45 affordable houses) without reducing the return to the developer to a point below 15% of GDV.

Officers therefore consider the reduced provision of on-site affordable houses (25 (5.5%) compared to 45 (10%)) is justified by the viability of the proposed development. Consequently, with due regard to the Council's supplementary planning guidance, it is considered the development proposals are sufficiently 'policy compliant' in respect of the proposed provision of 5.5% on-site affordable housing.

To allow the scheme to become fully 'policy compliant' (if permission were to be granted for this application) a review mechanism could be included in the necessary s.106 legal agreement for the affordable housing to allow viability to be reassessed over the lifetime of the development to seek opportunities to increase affordable housing provision to 10% on-site provision.

However, it is considered the wider socio-economic and environmental benefits of promoting and encouraging delivery of this strategic site outweighs the adverse impacts arising from the overall shortfall of affordable housing even if a review mechanism were to find 5.5% provision of affordable housing is all that could be achieved on-site.

## **Provision of Public Open Space and Formal Sports Facilities**

In their consultation response on this application, Sports England objected to the proposed development on the basis that there would be no provision for meeting the additional needs for sports facilities arising from the development. Sport England advised they would be willing to review this position should further/amended information, including clarification of potential off-site sports provision proposals, be submitted to address the above points.

The Council's Special Project Officer initially shared similar concerns about this application but having subsequently reviewed the application again; the Special Project Officer is now able to offer at least qualified support for the application for the following reasons:

The proposed 600m<sup>2</sup> NEAP standard play area is acceptable in terms of size and location given the proximity of existing play areas to the proposed development site. If it is the developer's intention to transfer ownership of the play area to the district council, then the preference would be for metal equipment. The Council would also require a commuted maintenance sum for a period of 10 years, as outlined in the heads of terms.

The area of former colliery that is being retained as amenity open space is, as noted below, significantly in excess of that which would be required by the Green Space Strategy and it is recognised that this will be a valuable asset for residents of the proposed development and the existing communities surrounding the site. It is also recommended that the proposed 'footways' across the former colliery are constructed as paths that are suitable for walking and cycling (and potentially horse-riding), i.e. ideally 3m wide and suitably surfaced.

This would then open up the wider network of bridleways and trails to the residents of the proposed development and connect Whitwell to the Archaeological way, a multi-user trail, which currently runs from Pleasley to Creswell Crags. It would also allow access in the opposite direction and provide pedestrian and cycle access to Whitwell Station.

From a planning perspective, there are potentially wider socio-economic and community benefits arising from the proposed improvements to access to green space and the potential for active participation in informal leisure activities through the provision of a network of multi-user trails within the site and the wider local area than there would be from the provision of formal sports pitches. For example, the evidence base for the emerging Local Plan shows that there is an adequate provision of playing pitches in the Whitwell area.

In these respects, Paragraph 96 of the Framework says access to a network of high quality open spaces and opportunities for sport and physical activity is important for the health and well-being of communities. Planning policies should be based on robust and up-to-date assessments of the need for open space, sport and recreation facilities (including quantitative or qualitative deficits or surpluses) and opportunities for new provision. Information gained from the assessments should be used to determine what open space, sport and recreational provision is needed, which plans should then seek to accommodate.

In this case, policy SS6 has been drafted on the basis of robust and up-to-date assessments of the need for open space, sport and recreation facilities and has stipulated the provision of a country park (SS6(c)), which the development will provide. The proposed development will

also provide new links to the existing rights of way network and promote opportunities for walking, cycling and other forms of informal recreation.

Therefore, when taken as a whole, the new country park (as shown on the revised Landscaping Masterplan, below) with nearby children’s playground and associated multi-user tracks is anticipated to be a valuable asset for residents of the proposed development and the existing communities surrounding the site and as such; it is considered the benefits arising from the ‘over-provision’ of public open space outweigh the ‘under-provision’ of formal sports facilities in this particular case.

**Revised Landscaping Masterplan**



## Conclusions on the Key Issues

From the above analysis, it is considered that the key issues in the determination of this application have been properly addressed because:

- the development accords with the criteria in the site-specific policy SS6 and is therefore, demonstrably acceptable in principle
- the proposed development would not harm the setting of any heritage asset or result in the physical or visual coalescence of the neighbouring settlements of Hodthorpe and Whitwell
- the development would be provided with safe and suitable access points for all users;
- the development would not have a severe adverse impact on the local road network;
- the viability of the development proposals justifies on-site provision of 5% affordable housing; and
- the socio-economic benefits of 'over-provision' of public open space outweighs the potential dis-benefits of 'under-provision' of formal sports facilities.

Consequently, it would be appropriate to consider granting outline planning permission for the current application providing there were no other relevant planning considerations that give rise to an insurmountable technical issue or overriding objection to the proposals.

The following sections of the report explain how the proposed development is considered to be acceptable in all other respects and/or can be made acceptable in planning terms subject to appropriate planning conditions and planning obligations securing affordable housing provision, financial contributions towards primary and secondary education and financial contributions towards the local medical practice, amongst other things.

## **OTHER PLANNING CONSIDERATIONS**

### **Air Quality**

There are no air quality management areas within the local area and the Council's Environmental Health Protection Officer ("the EHPO") has not expressed any specific concerns in terms of air quality and vehicle emissions once the development has been carried out and has been brought into use.

However, the EHPO would encourage the applicants to consider green infrastructure mitigation that could be carried out to offset any adverse impacts on air quality including but not limited to electrical charging points, contributions towards public and sustainable transport and selection of high energy efficient boilers and sustainable building technologies.

The EHPO has also not expressed any specific around the construction phase and the potential for dust and other emissions associated with the build out of the proposed development once the restoration works have been carried out.

In this case, the Council's EHPO is satisfied these potential nuisance issues can be addressed by imposing a planning condition requiring the submission of, and subsequent compliance with, an agreed construction and environmental management plan prior to commencement of the proposed development.

The County Council have taken a similar approach and are imposing an almost identical condition on their permission for the restoration of the site, which is more likely to give rise to potential nuisance because of the amount of earthworks that are required to restore the site to an appropriate landform.

Therefore, subject to appropriate conditions, the proposals would comply with saved Local Plan policies GEN1 and GEN2 because they would not result in any significant adverse impact on air quality within the local area.

### **Archaeology and Heritage Assets**

The main impacts on any extant archaeology on the application site will occur during the restoration of the former colliery site rather than during the construction phase of the development proposed in this application. Consequently, the County Council have had to assess the potential impacts of the scheme 'as a whole' on any above or below ground archaeological interest during their determination of the parallel application for the reclamation of the site.

Notably, the bulk of the site has very limited archaeological potential due to the former colliery and spoil tip uses and archaeological potential is restricted to those peripheral areas of the site outside the footprint of the former colliery and tip, comprising two fields to the north of Station Road, and a further two fields at the eastern end of the site north of Millash Lane at 'Penny Green'.

Following further geophysical survey work, it was found that the northern fields have been disturbed by quarrying, which is visible on historic mapping, and no clear archaeological targets were identified in this area. However, the same survey work identified archaeological potential in the fields at 'Penny Green', and this now needs to be subject to further archaeological investigation prior to the commencement of any development in this area.

Therefore, as recommended by the County Archaeologist, the County Council have imposed conditions requiring further investigation of the potential archaeological interest in the fields at 'Penny Green' on their permission for the restoration of the former colliery site. As such, any permission granted for this application should contain a complimentary condition that ensures the archaeological work required by the County Archaeologist is carried out prior to the commencement of the development proposed in this application.

Subject to this type of condition, the proposals would comply with the relevant policies in the adopted Local Plan and national planning policy that seek to safeguard or properly understand and record extant archaeological interest wherever it cannot be retained 'in-situ'. As noted in earlier sections of this report, the proposals would not have any other adverse impacts on the fabric or setting of any other designated or non-designated heritage asset including the designated Belph Conservation Area and Creswell Crag. Therefore, there are no substantive reasons to refuse this application on heritage grounds.

## **Climate Change & Renewable Energy**

The Government's current approach to micro-renewable energy generation means that it is not possible to use planning conditions to secure photo-voltaic tiles or solar panels, for example, or other forms of energy saving measures such as air-source heat pumps.

Similarly, the potential to utilise 'warm' water in the mining system 'under' the site to create a renewable heat source for future occupants of the development proposed in this application (or even the wider community) are beyond the reasonable scope of this application and from a developer's perspective, exploring this proposal would firstly delay delivery of the scheme and perhaps more critically: undermine the viability of the development.

However, it is considered reasonable and necessary to secure by planning conditions attached to any permission for this application, electric charging points for each dwelling house and commercial building that comes forward at the reserved matters stage. This approach would address the EHPO's comments about air quality that have already been reported; ensure the development is 'future-ready'; and promote and reduce the use of non-renewable sources of energy as far as is practicable.

The site is also located in a sustainable location with good links to public transport and potential links to the wider footpath network and nearby multi-user trails. As noted in earlier sections of the report, the applicant has submitted a Transport Plan and is willing to pay for this to be monitored, which should ensure the opportunities this scheme presents are fully realised in terms of reducing car dependency.

Therefore, the proposed development can make a reasonable contribution to reducing carbon

dependency within the limited scope of what can be achieved within the current planning policy framework.

## **Communications**

In their consultation response, Derbyshire County Council have noted that currently access to the internet is mainly through the national telephone network infrastructure. Broadband service quality varies across Derbyshire and access to superfast broadband speeds in the County is limited. Improvement to broadband connectivity is identified as a key priority in the County Council's Council Plan 2014 – 2017.

The County Council in common with this Council's growth strategy, aims to broaden Derbyshire's economic base and improve economic performance and both Council's recognise broadband plays an essential role in achieving these objectives. National Planning policy says advanced, high quality and reliable communications infrastructure is essential for economic growth and social well-being. Planning policies and decisions should support the expansion of electronic communications networks, including next generation mobile technology (such as 5G) and full fibre broadband connections.

Therefore, it is considered reasonable and necessary to require the new dwellings and the commercial buildings proposed to come forward on this site to be provided with full fibre broadband connections, which should be secured by appropriate planning conditions if permission were to be granted for this application.

## **Drainage**

### *Foul Water*

Severn Trent Water are the statutory undertaker for the mains sewers within the local area and have been consulted on this application. Severn Trent Water have since advised they have no objections to the proposals provided details of foul water drainage are agreed prior to commencement of any development on site.

Therefore, subject to a condition of this nature, it can be considered that the scheme complies with policy SS6 (k), which requires the applicant to demonstrate that adequate sewerage infrastructure and capacity exists or can be provided as part of the development proposed in this application.

### *Surface Water*

The current proposals incorporate an extensive sustainable drainage system in accordance with national and local planning policies.

The proposed drainage strategy is to divert the mainly culverted watercourse, which crosses the site and the Whitwell Sewage Treatment Works, around the north of the site in an open channel to re-join the original route downstream of the Whitwell Sewage Treatment Works.

All surface water drainage from the development will drain into this watercourse. Attenuation is provided by a large wetland at the eastern end of the site, with 3 smaller detention basins around the site and swales will be incorporated into the main residential development where possible.

This Council's Senior Engineer and the County Council, in their capacity as the local lead flood authority, have no objections to these proposals 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.

### Conclusions on Drainage

Therefore, subject to the conditions recommended in consultation responses on this application, the development would comply with saved Local Plan policies GEN 5 and GEN 6 and national planning policies that require developments to be provided with adequate foul water drainage and appropriate sustainable drainage systems.

### **Ecology**

In common with many 'brownfield' sites, the application site has become quite important for wildlife and the Butterfly Conservation group have advised the part of the site that faces roughly south adjacent to Millash Lane and Southfield Lane is a particularly important area for key butterfly species. However, the main impacts on biodiversity will occur during the restoration of the former colliery site rather than during the construction phase of the development proposed in this application, Therefore, the County Council have had to assess the impacts of the scheme 'as a whole' on wildlife and ecology during their determination of the parallel application for reclamation of the site.

As part of this assessment, the landscaping masterplan has been revised a number of times primarily to address the concerns of the Derbyshire Wildlife Trust, alongside the concerns of Butterfly Conservation, and is now supported by a biodiversity matrix that shows the proposals would achieve a net gain in biodiversity through a mixture of habitat retention, translocation of some habitat and habitat creation through structural landscape planting. The current landscaping masterplan is shown below.

## Revised Landscaping Masterplan



Despite Derbyshire Wildlife Trust continuing to express concerns about the proposals the applicant's approach to dealing with the biodiversity interest on site is now considered to be acceptable by the County Council (on the advice of their in-house ecologist) subject to, amongst other things:

- i. conditions requiring the submission and implementation of an agreed landscape and ecological management plan; and
- ii. planning obligations requiring 25 years aftercare of the agreed landscaping scheme once it has been carried out.

As the scheme has been designed to accommodate the development proposed in this application, it is considered to accept the same proposals on the same terms. In doing, this will mean the completed development will achieve a gain in net biodiversity in accordance with local and national planning policies and the scheme will meet the specific requirements of emerging policy SS6(i) which says the proposed development of the site must:

*Contribute towards conserving and enhancing the biodiversity of the District through the*

*protection and incorporation of existing hedgerows, and woodlands, watercourses and the creation and enhancement of open flower rich grassland, wetland and scrub habitats within the site's general layout, design and orientation.*

Therefore, subject to repeating the above conditions and obligations required by Derbyshire County Council on any permission for this application, it is not considered that there are substantive planning reasons to refuse this application on biodiversity grounds despite the concerns of Derbyshire Wild Trust and the Butterfly Conservation group.

## **Education**

The County Council's analysis indicates that there would be a need to mitigate the impact of the proposed development on school places in order to make the development acceptable in planning terms. The County Council has therefore requested financial contributions as follows:

- £1,133,134.80 towards Project A: Additional teaching block for the provision of 70 primary places at Whitwell Primary School; and
- £219,525.57 towards Project E: Additional teaching accommodation for the provision of 9 secondary places at Heritage High School.

The development is able to make these contributions which means that the proposals will have no adverse impact on local education provision subject to these contributions being secured by way of appropriate planning obligations in a s.106 legal agreement.

## **Ground Conditions**

One of the guiding principles behind the application submitted to the County Council is to produce, as far as is practicable, a 'shovel-ready' site through the creation of development platforms during the restoration of the former colliery site. In the first instance, this means that the County Council have already started to assess ground conditions including land stability, contamination and coalmining risk and determined the suitability of much of the site to accommodate future development when they granted permission for their application subject to various conditions.

However, the County Council have been working to a 'lower threshold' on ground conditions insofar as they cannot go any further than requiring the land to be sufficiently 'cleaned up' to accept an end-use of the site for amenity land i.e. a country park or nature reserve rather than residential development. This means there needs to be a phased approach to dealing with potential contamination with additional conditions attached to any permission for this application to ensure the development platforms would be suitable for commercial or residential development, as appropriate.

At this stage, it is understood that the developer is intending to cap the platforms to accommodate new buildings and import 'clean soil' from the land north of Station Road to

create 'safe' gardens for the new houses proposed on land south of Station Road. The EHPO has no objections to this approach and suggests conditions to ensure the development platforms are safe and suitable for their end-use for either commercial or residential development.

In addition, a condition requiring a 25m stand-off from the two mine shafts on site (shown as blue dotted lines around the two red stars in the extract from the masterplan, above) will need to be imposed on any permission for this application to avoid any risk to the development from the coal-mining legacy associated with the site.

### Location of Mine Shafts



Therefore, subject to appropriate planning conditions the development complies with saved Local Plan policy GEN4 and national planning policies that require land that may be affected by contamination or poor ground conditions to be shown to be safe and suitable for development.

### **Mineral Resources**

Derbyshire County Council have no objections to the proposals in terms of the scheme's potential impact on the operations of the nearby quarry or any extant mineral resource on or under the application site. It is therefore concluded that the current application is consistent with emerging Local Plan policy SS6 (I), which says the re-development of the former colliery site must avoid the sterilisation of important mineral resources.

## **Neighbourliness**

By virtue of the location of the application site and the relationship between the development shown on the illustrative masterplan and the nearest neighbouring residential properties; it is highly unlikely that the development proposed on this site would impact on the residential amenities of the nearest houses by way of any loss of privacy, loss of outlook, or loss of light. These matters would also be revisited at the reserved matters stage when applications are made for the details of layout, external appearance and landscaping in any event.

Similarly, the design of the proposed development and the living conditions of future occupants would be looked at the reserved matters stage but it would be appropriate to require the development to accord with the principles in the submitted design and access statement and the Council's supplementary planning document *Successful Places* to ensure that the proposed development is completed to an appropriate standard of design if permission were to be granted for this application.

However, there is potential for noise and disturbance during the construction phase of the development and the operational phase of the commercial buildings proposed on site. These issues are discussed in more detail in the following section of this report.

## **Noise and Disturbance**

### Construction Phase

It is clear from the County Council's assessment of the parallel application for the reclamation of the site that the construction phase of the development could result in noise impacts arising from vehicle movements and the operation of plant and machinery, for example and there is also potential for dust and vibrations to impact on existing residents.

Therefore, the EHPO is recommending that a construction environmental management plan is submitted prior to the commencement of the development proposed in this application, which will then be implemented for the duration of the development once it has been approved.

The EHPO also suggests that the construction environmental management plan should include hours of work, methods of controlling nuisance dust and soiling, vibration which shall include but not limited to the provision of wheel washes, speed limits, damping down, locations of soil storage mounds and site compounds, amongst other things.

### Operational Phase

The development has been phased to allow the reclamation of the site to be substantially complete prior to the first occupation of any of the proposed residential development. Nonetheless, there is still potential for noise to impact on the amenities of the future occupants of the proposed housing particularly those that would be sited nearest to the railway and/or the proposed employment uses.

Therefore, the EHPO is recommending conditions that would secure sound insulation for the dwellings most likely to be affected by noise and to secure appropriate noise attenuation for any new employment buildings prior to their construction.

### Conclusions on Noise and Disturbance

Subject to securing an appropriate CEMP prior to the commencement of the development proposed in this application and securing appropriate noise attenuation for the dwellings most likely to be affected by noise, the proposed development should not have any significant adverse impact on the amenities of the local area and should provide appropriate living conditions for future occupants of the proposed housing scheme.

### **Public Art**

In lieu of the public art contribution required by saved Local Plan policy GEN17 (i.e. 1% of development costs), it is proposed by the applicant to provide £50,000 towards a viewpoint at the tip of the former colliery site, a trim trail and a series of interpretative boards advertising the proposed walking routes across the former colliery site and connections beyond (towards the Archaeological Way and Creswell Crags for instance). The proposed features will be implemented before the completion of development phase 2A.

This Council's Art Officer considers these proposals provide an opportunity for a development to create a space where art can be appreciated by residents and space users whilst fostering a sense of shared space that welcomes new communities and provides opportunities to increase community cohesion, ownership and pride through place making.

Therefore, whilst the proposals do not fully meet the criteria of saved Local Plan policy GEN17, they will make a meaningful contribution to the overall quality of the proposed development and the implementation of these proposals should be secured by a planning condition attached to any permission for this application (subject to submission of, and agreement on an appropriate scheme with a minimum value of £50,000).

### **Public Health**

The development proposals include the creation of a country park and walking and cycling links to the wider network of footpaths and multi-user trails in the area. It is acknowledged in national planning policy that physical activity is important for the health and well-being of communities and this development should provide opportunities for informal recreation. The re-development of the site also addresses problems arising from an area, which Derbyshire Police have noted, has suffered from neglect and consequential contagion.

Therefore, the development proposals should make a positive contribution to the health and well-being of the local community as well as provide a healthy environment for future occupants of the proposed housing.

However, the scheme will place additional pressure on the local medical practice and the

impact on capacity at the medical practices in Creswell. Therefore, the CCG would normally request £171,180 towards improvements based on their standard formula for calculating developer contributions.

The development is unable to make this contribution but the CCG has also agreed with the developer that an additional room could be provided in the new build medical centre being proposed by Welbeck Estates in Creswell as one form of mitigation for the proposed development.

The CCG also comment that in order to accommodate the additional patients expected in Whitwell, the local medical practice will need to convert the practice manager's office to a clinical room and convert a current store room into an office. Therefore, the CCG are willing to accept a financial contribution towards these works that are estimated to cost £30,000 rather than request the full £171,180 that has been calculated using the CCG's standard formula.

In these terms, the development is capable of mitigating for its impacts on local health care provision provided (a) the alternative provision in Creswell does come forward prior to completion of the development proposed in this application and (b) provided the offer of £30,000 towards improvements of the local medical centre is secured by a planning obligation in a s.106 legal agreement - if permission were to be granted for this application.

## **Railway**

With reference to the protection of the adjacent railway line, Network Rail has no objection in principle to the proposed development subject to a number of requirements relating to siting, layout and design of the development that will mostly need to be considered at the reserved matters stage - if this application were to be approved.

However, Network Rail also seek conditions requiring their prior approval of drainage, boundary fencing, Armco barriers (to prevent vehicles leaving any of the private roads and entering onto railway land), method statements, soundproofing, lighting and landscaping. It is accepted that prior approval of these details is necessary in the interests of the safety, operational needs and integrity of the railway.

This request is also reasonable because these matters are also all related to the proposed development and the final details of most of these items are required to be submitted and to be 'approved' by other statutory consultees in any event. Therefore, subject to compliance with the planning conditions suggested by Network Rail, the proposed development would not have any adverse impact on the operation of the adjacent railway line.

## **Sequence of Development**

The proposed phasing of the development is show in the phasing plan overleaf and as noted in previous sections of this report, Phase 1A and Phase 2B includes residential development on what is effectively 'greenfield' land north of Station Road. Residential development on this land is required for viability reasons and to assist cash flows taking into account a substantial

amount of the cost of restoring the site needs to be met before income can be earned from house sales.

However, this situation gives rise to a certain degree of risk that housing development may be progressed in advance of the full restoration of the tip and it is the restoration of the tip that in the most part; provides the justification for this site being allocated as a strategic site in the emerging Local Plan. The proposed development should also be sequenced to ensure that the employment land and the proposed pick up point for Whitwell Station are delivered at appropriate phases of the development.

Extract from Illustrative Phasing Plan



It is therefore considered necessary to secure the sequence of development by conditions to be imposed on any permission for this application as follows:

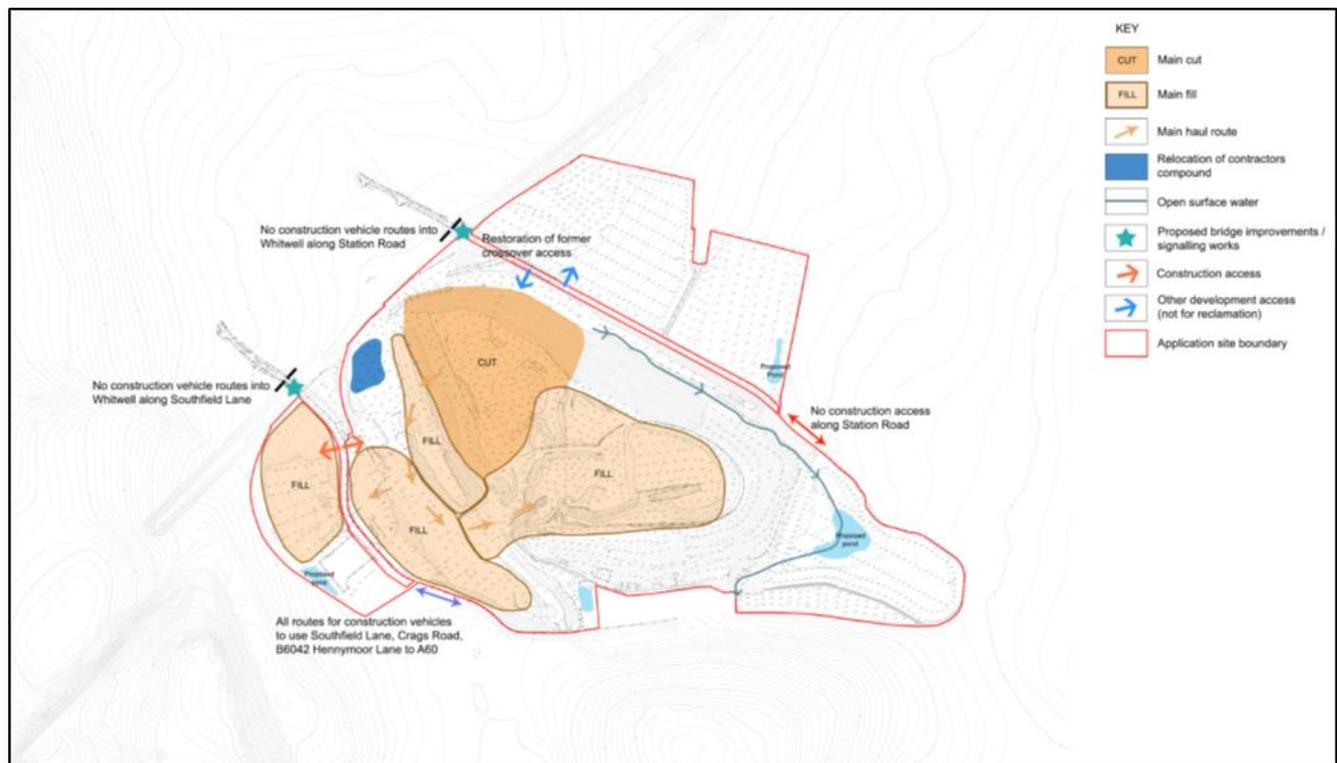
- The development hereby approved shall be carried out in sequence as shown on Drawing No. 13.012/24o starting with the build out of housing on Phase 1A.
- Phase 1A (residential development) must not commence until phase 3 of the restoration of the site (as illustrated by Drawing no. 13.012/39f) has been substantially completed in accordance with the requirements of the associated Landscape and Environmental Management Plan.
- No residential development in Phase 1B shall be carried out (other than ground preparation works) until a minimum of 10 houses have been substantially completed in Phase 1A.
- No more than 50% of the houses subsequently granted reserved matters approval on Phase 1A and no more than 25% of the houses subsequently granted reserved matters approval on Phase 1B shall be occupied until phase 4 of the restoration of the site (as illustrated by Drawing no. 13.012/41b) has been substantially completed in accordance with the requirements of the associated Landscape and Environmental Management Plan
- Phase 2A and 2B (residential development) must not commence until phase 4 of the restoration of the site (as illustrated by Drawing no. 13.012/41b) has been substantially completed in accordance with the requirements of the associated Landscape and Environmental Management Plan.
- No residential development in Phase 2B shall be carried out (other than ground preparation works) until a minimum of 10 houses have been substantially completed in Phase 2A and the 'drop off' area for Whitwell Station and footpath links to this drop off point and the station itself have been provided.
- Phase 3 (residential development) must not commence until (a) reserved matters approvals or full planning permission has been obtained for commercial buildings (i.e. buildings suitable for a B1, B2 or B8 use) with a minimum cumulative floor area of 30,000m<sup>2</sup> to be provided on the employment land proposed in this application or (b) until 50% of the employment land proposed in this application (3ha) has been taken into use for employment purposes falling within a B1, B2 or B8 Use.

The schedule of works that would result from these conditions closely follows the applicant's anticipated trajectory of delivery, which is set out in the applicant's addendum planning statement as follows:

- Broadly concurrent development of Phase 1A north of Station Road (circa 138 dwellings) from 2021 and Phase 1B south of Station Road (circa 106 dwellings) until 2026;
- Concurrent development of Phase 2A south of Station Road (circa 65 dwellings) and Phase 2B north of Station Road (63 dwellings) from 2026-2029;
- Employment to be delivered in three distinct phases of approximately 2 hectares each in 2024, 2029 and 2034; and
- To account for the winding down of operations at the adjacent Whitwell Quarry works, the development of Phase 3 east of Southfield Lane (circa 72 dwellings) from 2040-2043.

For reference, Drawing No. 13.012/39f showing phase 3 of the restoration and Drawing no. 13.012/41b showing phase 4 of the restoration of the site are provided below:

Phase 3 of the Restoration (Drawing No. 13.012/39f)



Phase 4 of the Restoration (Drawing No. 13.012/41b)



## CONCLUSIONS

In conclusion, the above analysis is considered to demonstrate that the development proposed in this application is acceptable or can be made acceptable in planning terms subject to (i) appropriate planning conditions and (ii) subject to planning obligations securing affordable housing provision, financial contributions towards primary and secondary education and extension to the local medical practice, amongst other things.

It is also considered that the other key issues raised in the determination of this application have been properly addressed because:

- the development accords with the criteria in the emerging Local Plan's site-specific policy SS6 and is therefore, demonstrably acceptable in principle
- the proposed development would not harm the setting of any heritage asset or result in the physical or visual coalescence of the neighbouring settlements of Hodthorpe and Whitwell
- the development would be provided with safe and suitable access points for all users;
- the development would not have a severe adverse impact on the local road network;
- the viability of the development proposals justifies on-site provision of 5% affordable housing; and
- the socio-economic benefits of 'over-provision' of public open space outweighs the potential dis-benefits of 'under-provision' of formal sports facilities.

Accordingly, this application is recommended for conditional approval subject to prior entry into a s.106 legal agreement.

## **RECOMMENDATION**

The current application be APPROVED subject to prior entry into a s.106 legal requirement containing the following planning obligations:

### Affordable Housing

- A.** On site provision of 5.5% affordable housing (equivalent to a maximum of 25 new houses) tenure to be split: 85% socially rented and 15% affordable home ownership;
- B.** Review mechanism to allow for 10% affordable housing in the event market conditions change over the operational phase of the proposed development;

### Education

- C.** Financial contribution of £1,133,134.80 (index linked) towards provision of additional teaching block for the provision of 70 primary places at Whitwell Primary School;
- D.** Financial contribution of £219,525.57 (index linked) towards additional teaching accommodation for the provision of 9 secondary places at Heritage High School;

### Public Health

- E.** Financial contribution of £171,180 (index linked) towards local health provision unless and until contracts have been signed securing the build out of the new build medical centre being proposed in Creswell and the provision of the additional treatment room in this development. Once the construction of the new-build medical centre has been secured, the financial contribution towards local health provision shall be reduced to an amount equivalent to the cost of the works required to convert the office at the Whitwell medical practice to a medical treatment room and convert the existing store room into a replacement office;

### Public Open Space

- F.** Neighbourhood equipped area of play (NEAP), of an area of 600m<sup>2</sup>, to be provided on the location identified in the masterplan 13.012/32L, to an agreed investment of £120,000 (to be index linked), and providing play equipment particularly for the ages of 8-13 to address local shortfalls identified locally within the Parish;
- G.** Maintenance provision of the NEAP, over a period of 10 years, at a cost of £30,816, based on a rate of £51.36 per m<sup>2</sup> (to be index linked), providing that the applicant is not transferring the NEAP to a management company;
- H.** 25 years aftercare of the agreed landscaping scheme once it has been carried out; and

### Travel Plan Monitoring

- I.** Travel Plan monitoring fee of £1,015.00pa for 5 years, total of £5,075 index linked

**AND** subject to the following conditions:

**Reserved Matters**

1. Approval of the details of the landscaping of the site and the siting, scale and external appearance of the buildings on the site (hereinafter called "the reserved matters") shall be obtained from the local planning authority in writing before any development is commenced. The approved layout shall broadly accord with the disposition of uses identified on Drawing No.
2. Application for approval of the reserved matters shall be made to the local planning authority before the expiration of five years from the date of this permission.
3. The development hereby permitted shall be begun before the expiration of three years from the date of approval of the last of the reserved matters.

**Reasons:** In the interests of the proper planning of the local area

**Archaeology**

4. No development shall take place until a Written Scheme of Investigation for archaeological work shall have been submitted to and approved in writing by the local planning authority. The scheme shall include an assessment of significance and research questions; and:
  - i. the programme and methodology of site investigation and recording;
  - ii. the programme for post investigation assessment;
  - iii. the provision to be made for analysis of the site investigation and recording;
  - iv. the provision to be made for publication and dissemination of the analysis and records of the site investigation;
  - v. the provision to be made for archive deposition of the analysis and records of the site investigation;
  - vi. the nomination of a competent person or persons/organisation to undertake the works set out within the Written Scheme of Investigation.
5. No development shall take place other than in accordance with the approved Written Scheme of Investigation.
6. Prior to the first occupation of the development hereby approved, the site investigation and post investigation assessments shall have been completed in accordance with the

Written Scheme of Investigation approved under Condition 4, and provision shall have been made for the publication, dissemination, and archive deposition of the results.

**Reasons:** To ensure that the archaeological interest on site is properly managed in accordance with its degree of significance.

### Broadband

7. All dwelling houses erected as part of the residential development and any buildings erected on the commercial land hereby approved must be provided with full fibre broadband connections to an operational telecommunications network (or equivalent) prior to first occupation.

**Reasons:** To ensure appropriate connectivity in accordance with national planning policies in the Framework.

### Coal Mining Legacy

8. No development shall take place within the safeguarding areas of the two mine shafts on site without the prior written approval of the local planning authority (as shown on Drawing No. 13.012/32I).

**Reason:** Building over or within the influencing distance of a mine entry (shaft or adit) can be dangerous and has the potential for significant risks to both the development and the occupiers if not undertaken appropriately.

### Construction Environmental Management Plan

9. Prior to the start of any development hereby approved, a construction environmental management plan shall be submitted and approved in writing by the local planning authority.

This plan must include methods for controlling noise levels to those specified in mineral planning guidance and should not exceed background sound levels (LA90, 1hr) by more than 10 dB(A) and in any event should not exceed 55dB (A) (LAeq 1 hour) free field (during normal working hours). Exceedances of these limits will only be permitted for short, defined periods when additional mitigation measures have been agreed.

The construction environmental management plan must also include hours of work, methods of controlling nuisance dust and soiling, vibration which shall include but not limited to the provision of wheel washes, speed limits, damping down, locations of soil storage mounds and site compounds.

In addition, the construction environmental management plan must provide details of the storage of plant and materials, site accommodation, loading, unloading of goods vehicles, parking of site operatives' and visitors' vehicles, routes for construction traffic, hours of operation, method of prevention of debris being carried onto highway and any proposed temporary traffic signing or restrictions and measures required to protect the integrity and safe operation of the railway line adjacent to the application site.

Once agreed in writing by the local planning authority, the development shall be carried out in complete accordance with the approved construction environmental management plan.

**Reasons:** In the interests of highway safety and safeguarding the amenities of the local area.

### Design

10. The design of the proposed residential development shall be in accordance with the principles set out in the submitted design and access statement and the supplementary planning document *Successful Places* (and/or any successor supplementary planning document adopted by the local planning authority).

**Reasons:** To ensure that the proposed development is completed to an appropriate standard of design in the interests of place-shaping, the amenities of the local area and living conditions of future occupants.

### Drainage

#### *Foul Water*

11. The development hereby permitted shall not commence until drainage plans for the disposal of foul sewage have been submitted to and approved by the Local Planning Authority. The scheme shall be implemented in accordance with the approved details before the development is first brought into use.

**Reason:** To ensure that the development is provided with a satisfactory means of foul drainage as well as reduce the risk of creating or exacerbating a flooding problem and to minimise the risk of pollution.

#### *Surface Water Drainage*

12. 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) Whitwell Colliery Redevelopment Flood Risk Assessment and Drainage Strategy A090970, Version 3, Welbeck Estates (February 2018), including any subsequent addendums, amendments or updates to those documents as approved by the LLFA,
- b) And DEFRA's Non-statutory technical standards for sustainable drainage systems (March 2015), No objections in principle Conditions Recommended X Objection Recommended

have been submitted to and approved in writing by the Local Planning Authority. The approved drainage system shall be implemented in accordance with the approved detailed design, prior to the use of the building commencing

**Reason:** To ensure that the proposed development does not increase flood risk and that the principles of sustainable drainage are incorporated into this proposal, and sufficient detail of the construction, operation and maintenance/management of the sustainable drainage systems are provided to the Local Planning Authority, in advance of full planning consent being granted.

- 13.** No development shall take place until a detailed assessment has been provided to and approved in writing by the Local Planning Authority, to demonstrate that the proposed destination for surface water accords with the drainage hierarchy as set out in paragraph 80 of the planning practice guidance."

**Reason:** To ensure that surface water from the development is directed towards the most appropriate waterbody in terms of flood risk and practicality by utilising the highest possible priority destination on the hierarchy of drainage options. The assessment should demonstrate with appropriate evidence that surface water runoff is discharged as high up as reasonably practicable in the following hierarchy:

- i. into the ground (infiltration);
- ii. to a surface water body;
- iii. to a surface water sewer, highway drain, or another drainage system;
- iv. to a combined sewer.

- 14.** 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.

**Reason:** To ensure surface water is managed appropriately during the construction phase of the development, so as not to increase the flood risk to adjacent land/properties or occupied properties within the development.

### Ecology

**15.** Prior to the commencement of the development hereby approved, a Landscape and Ecology Management Plan (LEMP) for each phase must be submitted to and approved in writing by the local planning authority. The LEMP must include details of the landscape restoration plans for each phase including planting, seeding, details of habitat creation and establishment of that habitat including details of management proposals and the applicable aftercare period. The LEMP for each phase is to be prepared and implemented in accordance with the LEMP approved by Derbyshire County Council under application ref: CM5/0818/42 and agreed as part of the S106 Agreement for the reclamation scheme submitted to the County Council.

**Reason:** To ensure the successful and appropriate re-establishment of landscape and habitats within the site, in the interests of nature and landscape conservation, and to achieve a net gain in biodiversity.

### Electric Charging Points

**16.** All dwelling houses erected as part of the residential development hereby approved shall be provided with a charging point for electric vehicles, and a minimum of one charging point for electric vehicles shall be provided for each building erected on the employment land hereby approved.

### External Lighting

**17.** Prior to the installation of any external lighting (during either the construction phase of operational phase of the proposed development), precise details of any external lighting, including details of siting, lighting installations, luminosity, illuminated areas, light spread and/or light patterns, and duration of installation, must be submitted to and approved in writing by the local planning authority.

Thereafter, any external lighting shall be installed or implemented as approved.

**Reason:** To avoid compromising the operation of the adjacent railway line and to avoid any unnecessary light pollution in the interests of safeguarding biodiversity and the amenities of the local area and in the interests of protecting the living conditions of future occupants.

## Ground Conditions

**18.** Prior to each phase of development approved by this planning permission, no development shall take place until a scheme that includes the following components to deal with the risks associated with contamination of the site shall each be submitted to and approved, in writing, by the local planning authority:

- i. A preliminary risk assessment which has identified:  
all previous uses, potential contaminants associated with those uses  
a conceptual model of the site indicating sources, pathways and receptors  
potentially unacceptable risks arising from contamination at the site.
- ii) A site investigation scheme, based on (i), above, to provide information for a detailed assessment of the risk to all receptors that may be affected, including those off site.
- iii) The results of the site investigation and detailed risk assessment referred to in (2) and, based on these, an options appraisal and remediation strategy giving full details of the remediation measures required and how they are to be undertaken.
- iv) A verification plan providing details of the data that will be collected in order to demonstrate that the works set out in the remediation strategy in (3) are complete and identifying any requirements for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action.

Thereafter, the scheme shall be implemented as approved.

**Reason:** To ensure that the development does not contribute to, or is not put at unacceptable risk from/adversely affected by, unacceptable levels of water pollution in line with paragraph 170 of the National Planning Policy Framework.

**19.** If, during development, contamination not previously identified is found to be present at the site then no further development (unless otherwise agreed in writing with the local planning authority) shall be carried out until the developer has submitted a remediation strategy to the local planning authority detailing how this unsuspected contamination shall be dealt with and obtained written approval from the local planning authority. The remediation strategy shall be implemented as approved.

**Reason:** National Planning Policy Framework (NPPF) paragraph 170 states that the planning system should contribute to and enhance the natural and local environment by preventing both new and existing development from contributing to or being put at unacceptable risk from, or being adversely affected by unacceptable levels of water pollution. Government policy also states that planning policies and decisions should ensure that adequate site investigation information, prepared by a competent person, is presented (NPPF, paragraph 178).

## Ground Water

- 20.** Piling or any other foundation designs using penetrative methods shall not be permitted other than with the express written consent of the local planning authority, which may be given for those parts of the site where it has been demonstrated that there is no resultant unacceptable risk to groundwater. The development shall be carried out in accordance with the approved details.

**Reason:** Piling or any other foundation designs using penetrative methods can result in risks to potable supplies from, for example, pollution, risk of mobilising contamination, drilling through different aquifers and creating preferential pathways. Thus it should be demonstrated that any proposed piling will not result in contamination of groundwater.

## Highways and Site Access

- 21.** No development shall commence on any phase/area until temporary access for construction purposes has been provided, laid out and constructed to base level in accordance with a detailed scheme first submitted to and approved in writing by the Local Planning Authority and County Highway Authority.
- 22.** No works shall commence on site until a detailed scheme for the traffic signal control and new footways on the Station Road and Southfield Lane railway bridges has been submitted to and approved in writing by the local Planning Authority in consultation with the County Highway Authority. The works shall be implemented in accordance with the approved scheme prior to the first occupation of any dwelling or premises hereby permitted.
- 23.** No works shall commence on site until a detailed scheme for improvements to the Green Lane/Station Road junction (generally in accordance with Drawing 13050-5003-006 rev 2) has been submitted to and approved in writing by the Local Planning Authority in consultation with the County Highway Authority. The works shall be implemented prior to the first occupation of any dwelling or premises hereby permitted in accordance with the approved scheme and the area forward of the new sightline constructed as highway verge prior to the first occupation of any dwelling or premises hereby permitted.
- 24.** Prior to the first occupation of any dwelling hereby permitted on Areas 1-4 (Phases 1A & 2B), the new access onto Station Road serving that dwelling shall be laid out in accordance with application drawing 13050-5003-04 rev E, having a minimum carriageway width of 5.5m, 2 x 2m footways and 6m radii, constructed to base level, drained and lit in accordance with the County Council's specifications. Each access shall be provided with visibility sightlines of 2.4m x 160m in each direction, the area forward of the sightlines shall be constructed as footway and taken into the highway.
- 25.** Prior to the first occupation of any dwelling hereby permitted on Areas 5 & 6 (Phases 2A & 1B), the new access onto Station Road shall be laid out in

accordance with application drawing 13050-5003-04 rev E, having a minimum carriageway width of 5.5m, 2 x 2m footways and 6m radii, constructed to base level, drained and lit in accordance with the County Council's specifications. The access shall be provided with visibility sightlines of 2.4m x 160m in the easterly direction and 2.4m x 90m to the west, the area forward of the sightlines shall be constructed as footway and taken into the highway.

- 26.** Prior to the first occupation of any dwelling hereby permitted on Areas 7 & 8 (Phase 3), the new access onto Southfield Lane shall be laid out in accordance with application drawing 13050-5003-05 rev G, having a minimum carriageway width of 5.5m, 2 x 2m footways and 6m radii, constructed to base level, drained and lit in accordance with the County Council's specifications. The access shall be provided with visibility sightlines of 2.4m x 100m in both directions, the area forward of the sightlines shall be constructed as footway and taken into the highway.
- 27.** Prior to any premises first being taken into use on Areas 9 & 10 (the Employment phases), the access serving that property from Southfield Lane shall be laid out in accordance with application drawing 13050-5003-05 rev G, having a minimum carriageway width of 7.3m, 2 x 2m footways and 10m radii, constructed to base level, drained and lit in accordance with the County Council's specifications. The access shall be provided with visibility sightlines of 2.4m x 100m in both directions, the area forward of the sightlines shall be constructed as footway and taken into the highway.
- 28.** The gradient of any access into the site shall not exceed 1:30 for the first 10m from the existing highway boundary and not exceed 1:20 thereafter.
- 29.** No works shall commence on site until a detailed scheme for the provision of footways and drainage on Station Road and Southfield Lane has been submitted to and approved in writing by the local Planning Authority in consultation with the County Highway Authority. The scheme shall be implemented prior to the first occupation of any dwelling or premises hereby permitted, between the railway bridge on the existing road and the access of the area/phase serving the property.
- 30.** Notwithstanding the submitted drawing, forward visibility of 100m shall be provided round the bend at the approach from the east to the traffic signals on Southfield Lane in order to maximise visibility available to a driver approaching the signals and also for a driver approaching behind vehicles queuing at the signals. The area forward of the sightline shall be laid out and constructed as highway in accordance with detailed designs first submitted to and approved in writing by the local Planning Authority in consultation with the County Highway Authority.
- 31.** Notwithstanding the submitted drawing, forward visibility sightline of 160m shall be provided at the approach from the east to the junction of areas 3 & 4 in order to maximise visibility available to a driver approaching behind a vehicle waiting to turn right into the junction. The area forward of the sightline shall be laid out and constructed as highway in accordance with detailed designs first submitted to and

approved in writing by the local Planning Authority in consultation with the County Highway Authority.

32. Notwithstanding the submitted information, a subsequent reserved matters or full application shall include design of the internal layout of the site in accordance with the guidance contained in the 6Cs' Design Guide and the "Manual for Streets" document issued by the Departments for Transport and Environment and Local Government.
33. The new dwellings shall not be occupied until the proposed new estate street, between each respective plot and the existing public highway, has been laid out in accordance with the approved application drawings to conform to the County Council's design guide, constructed to base level, drained and lit in accordance with the County Council's specification for new housing development roads.
34. Any full or reserved matters application should be accompanied by a swept path analysis to demonstrate that service and emergency vehicles can successfully enter and manoeuvre within the site.

**Reasons:** In the interests of highway safety and safeguarding the amenities of the local area, and in the interests of the amenity and living conditions of future occupants of the proposed development.

#### Local Employment Opportunities

35. Before the development hereby approved commences, an Employment Scheme to enhance and maximise employment and training opportunities during the construction phase of the project shall be submitted to and approved in writing by the Local Planning Authority (please refer to the template attached). The approved Scheme shall then be implemented in full unless in accordance with any such subsequent variations as shall have been formally submitted to and approved in writing by the Local Planning Authority.
36. Within 6 weeks prior to the approved development being first brought into operation, an Employment Scheme to enhance and maximise employment and training opportunities during first occupation, including a timetable for implementation, shall be submitted to and approved in writing by the Local Planning Authority. The approved Scheme shall then be implemented in full in accordance with the approved timetable unless in accordance with any such subsequent variations as shall have been formally submitted to and approved in writing by the Local Planning Authority.

**Reasons:** To maximise potential local skills, training and employment opportunities.

## Noise Attenuation

### *Residential*

**37.** Prior to the commencement of each development phase, a scheme of sound insulation shall be submitted to and approved in writing the Local Planning Authority. The scheme shall be designed following the completion of a sound survey undertaken by a competent person. The survey and the resulting scheme for each phase shall take account of the established noise conditions at the time of survey, and will consider the need to provide adequate ventilation where deemed to be necessary, which will be by mechanical means in addition to opening windows, where such an open window would not achieve the following criteria. Where ventilation has been considered to be necessary, the scheme shall be designed to achieve the following criteria with the ventilation operating:

- Bedrooms 30 dB LA<sub>eq</sub> (15 Minutes) (2300 hrs – 0700 hrs)
- Living/Bedrooms 35 dB LA<sub>eq</sub> (15 Minutes) (0700 hrs – 2300 hrs)
- All Other Habitable Rooms 40 dB LA<sub>eq</sub> (15 Minutes) (0700 hrs – 2300 hrs)
  
- All Habitable Rooms 45 dB LA<sub>max</sub> to occur no more than 6 times per hour (2300 hrs – 0700 hrs)
- Any outdoor amenity areas 55 dB LA<sub>eq</sub> (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. The approved scheme shall be implemented in full and retained thereafter.

### *Commercial and Retail Uses*

**38.** Prior to the erection of any buildings for employment/retail uses on the application site (i.e. buildings in an A1, B1, B2 or B8 use or in a mixed use):

- an assessment of sound must be undertaken and a scheme specifying the provisions to be made for the control of sound emanating from these buildings must be submitted to and approved in writing by the Local Planning Authority.

The assessment must identify and quantify all sound sources from each building and must assess the significance of the sound impact, taking into account the uncertainty of the assessment at the boundary of any neighbouring dwellings or other sensitive receptor in accordance with the methodology described in the British Standard BS4142:2014 Methods for rating and assessing industrial and commercial sound.

The approved scheme must then be implemented in full when each building (i.e. building in an A1, B1, B2 or B8 use or in a mixed use) is erected and upon completion of all works within the approved scheme a validation report must be completed by a competent person and must be submitted to and approved in writing by the Local Planning Authority.

Thereafter, the approved noise attenuation scheme must be maintained as validated throughout the lifetime of the buildings.

**Reason:** In the interests of safeguarding the amenities of the local area and the living conditions of future occupants.

### Public Art

**39.** Prior to the occupation of any development on Phase 2A of the site, a viewpoint at the tip of the former colliery site, a trim trail and a series of interpretative boards advertising the proposed walking routes across the former colliery site and connections beyond (towards the Archaeological Way and Creswell Crags for example) must be provided in accordance with a scheme to be first submitted to and agreed in writing by the local planning authority.

**Reasons:** In lieu of the financial contribution required by saved Local Plan policy GEN17 and in the interests of place making and promoting and encouraging access to public open space.

### Safety Barriers

**40.** Network Rail's existing fencing / wall must not be removed or damaged and prior to the occupation of any part of the development hereby approved, an Armco or similar barrier must be located in positions where vehicles may be in a position to drive into or roll onto the railway or damage the lineside fencing in accordance with a scheme first submitted to and approved in writing by the local planning authority.

Thereafter, the safety barriers must be maintained as approved for as long as the railway remains operational.

**Reasons:** To ensure the proposed development does not compromise the operation of the adjacent railway line.

### Sequence of Development

**41.** The development hereby approved shall be carried out in sequence as shown on Drawing No. 13.012/24o starting with the build out of housing on Phase 1A.

**42.** Phase 1A (residential development) must not commence until phase 3 of the restoration of the site (as illustrated by Drawing no. 13.012/39f) has been substantially completed in accordance with the requirements of the associated Landscape and Environmental Management Plan (subject of Condition 15, above).

**43.** No residential development in Phase 1B shall be carried out (other than ground preparation works) until a minimum of 10 houses have been substantially completed in Phase 1A.

44. No more than 50% of the houses subsequently granted reserved matters approval on Phase 1A and no more than 25% of the houses subsequently granted reserved matters approval on Phase 1B shall be occupied until phase 4 of the restoration of the site (as illustrated by Drawing no. 13.012/41b) has been substantially completed in accordance with the requirements of the associated Landscape and Environmental Management Plan (subject of Condition 15, above).
45. Phase 2A and 2B (residential development) must not commence until phase 4 of the restoration of the site (as illustrated by Drawing no. 13.012/41b) has been substantially completed in accordance with the requirements of the associated Landscape and Environmental Management Plan (subject of Condition 15, above).
46. No residential development in Phase 2B shall be carried out (other than ground preparation works) until a minimum of 10 houses have been substantially completed in Phase 2A and the 'drop off' area for Whitwell Station and footpath links to this drop off point and the station itself have been provided.
47. Phase 3 (residential development) must not commence until (a) reserved matters approvals or full planning permission has been obtained for commercial buildings (i.e. buildings suitable for a B1, B2 or B8 use) with a minimum cumulative floor area of 30,000m<sup>2</sup> to be provided on the employment land proposed in this application or (b) until 50% of the employment land proposed in this application (3ha) has been taken into use for employment purposes falling within a B1, B2 or B8 Use.

**Reasons:** To ensure the proposed development delivers on the socio-economic and environmental benefits that justified granting outline permission for re-development of the site of the former Whitwell Colliery and for new development on undeveloped land adjacent to the site of the former Whitwell Colliery.

#### Travel Plan

48. No building or use hereby permitted shall be occupied or the use commenced until a Travel Plan comprising immediate, continuing and long-term measures to promote and encourage alternatives to single-occupancy car use has been prepared, submitted to and been approved in writing by the Local Planning Authority. The approved Travel Plan shall then be implemented, monitored and reviewed in accordance with the agreed travel Plan Targets.

**Reasons:** To promote and encourage the take up of sustainable modes of transport in accordance with national planning policies in the Framework.

## **HUMAN RIGHTS**

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.

## **EQUALITY IMPACT ASSESSMENT**

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. However, the proposals should improve accessibility to open space and improve connectivity to Whitwell Station by virtue of the provision of the country park with associated parking and the provision of a drop off point at the station.

## **STATEMENT OF DECISION PROCESS**

Officers have worked positively and pro-actively with the applicant to amend the scheme to meet the requirements of the relevant local and national planning policies and to agree planning conditions and planning obligations that would make the development proposals acceptable in planning terms in all other respects.

In this case, officers consider the requirements of the recommended pre-commencement conditions are so fundamental to the development to be permitted (including the timing of compliance) that it would otherwise be necessary to refuse outline planning permission for the current application.

Officers also consider the recommended planning obligations meet the policy tests in the Framework and the legal tests in CIL regulations because they are (a) necessary to make the development acceptable in planning terms; (b) directly related to the proposed development; and (c) fairly and reasonably related in scale and kind to the development.

# Site Location Plan

