

PARISH Clowne Parish

APPLICATION Outline Planning Application with All Matters Reserved for mixed use development including upto 24ha of employment land (B1, B2, B8), upto 1800 residential dwellings, green infrastructure, educational and recreational uses, a retirement village, neighbourhood centre, hotel, restaurant, health and care, and leisure uses, demolition of existing Station Road Industrial Estate where applicable, demolition of dwelling/outbuilding as applicable, and construction of new link road with in-principal points of access.

LOCATION Land North of Clowne Including Section of Town Centre Hickinwood Lane Clowne

APPLICANT Ms Alison Barnfield - Waystone Limited, 7 Napier Court, Gander Lane, Barlborough, Chesterfield, S43 4PZ

APPLICATION NO. 17/00640/OUT **FILE NO.** PP-06599943

CASE OFFICER Mr Stephen Gill

DATE RECEIVED 14th December 2017

BACKGROUND / SUMMARY

Background

This planning application (17/00640/OUT) relates to the site often referred to as Clowne North but is also known as Clowne Garden Village ("the site"). This application was previously given a resolution to grant planning permission by Planning Committee in June 2018, and this was subject to a signed Section 106 ("S.106") legal agreement. The S.106 agreement was needed to ensure that any off-site mitigation measures, financial contributions, and improvements agreed during the application process to make the development acceptable were delivered.

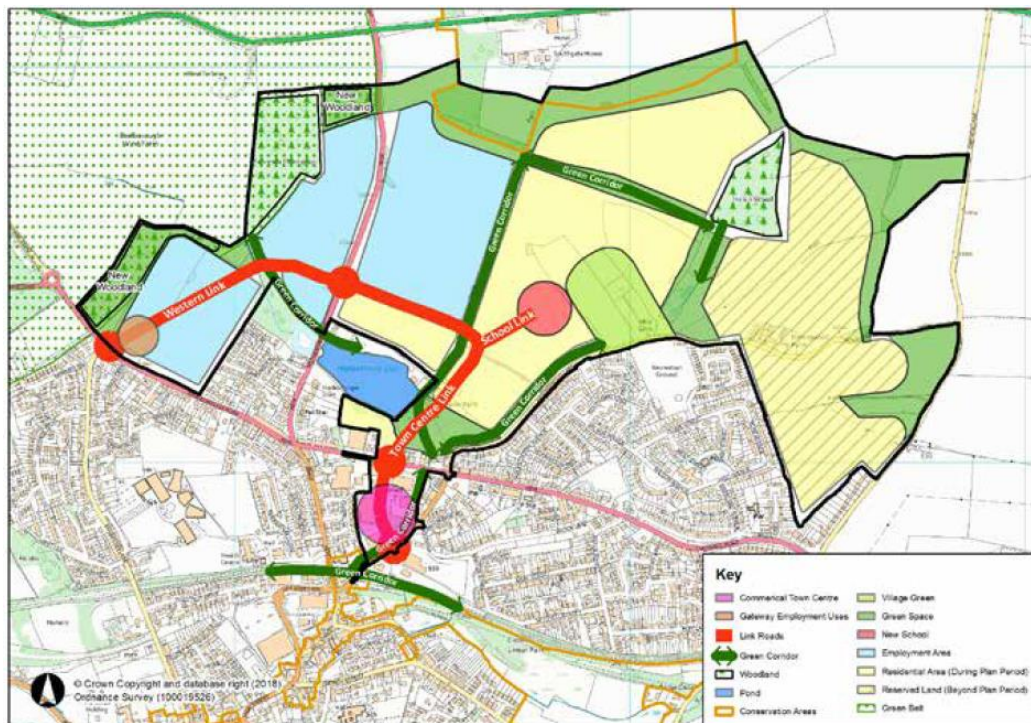
Despite there being an agreement in principle on what matters should be included in the S.106 agreement, issues arose in respect of the highway improvement works. The issues centred on agreeing an appropriate improvement scheme for the Treble Bob Roundabout ("TBR"). As a result, the S.106 was never completed, and because the S.106 was never signed, the decision notice for the planning application was never issued and the application has not been formally determined since.

Over the period since the application was previously given a resolution to grant by Planning Committee in 2018, there have been extensive ongoing discussions between the applicant, National Highways ("NH"), and Derbyshire County Council Highways ("DCC Highways"). These discussions have taken place to try and agree the highway improvement work details for the TBR. Following extensive discussions, an agreement has now been reached between DCC Highways, NH, and the applicant in relation to the overall highway improvement schemes (which will be discussed in detail later in the report). With that considered, the applicant now wishes to move the application forward to a formal determination.

Since the application was previously considered by Planning Committee in June 2018 and now, there have been some fundamental changes in planning policy at both a national and local level, which includes an updated National Planning Policy Framework (December 2023) (“NPPF”), and a new Development Plan for Bolsover District Council, which was adopted in March 2020 (“the Development Plan”). In addition, the planning application when submitted in 2017 included an Environmental Impact Assessment (“EIA”), which was required due to the size and scale of the development and the potential for significant effects during the construction and operational phases of the development.

Given the passage of time between June 2018 and today means that the application cannot be determined based on the technical evidence submitted in 2017 / 18. This evidence needs to be updated to reflect the most up to date site conditions and needs to be considered against the latest national and local planning policies. In addition, consideration also needs to be given as to whether the effects and conclusions set out in the original EIA submitted in 2017 are still correct or whether there are now considered to be greater effects in EIA terms. The applicant as part of this reappraisal has submitted updated additional technical evidence, including an EIA Addendum, which will be discussed in detail in this Committee Report.

For context, below is an extract of an indicative masterplan for the site taken from the latest Development Plan:



SITE & SURROUNDINGS

The application site is located to the north of Clowne and comprises 140 hectares of Greenfield land. The site is made up of mainly arable fields of varying sizes enclosed in part by hedgerows and some large plantations (namely Forrest’s Plantation and Hickin Wood). To the north of the site (approximately 100m) is the A619 Worksop Road, to the west at around

500m is the edge of the village of Barlborough and to the east is the edge of the developed area associated with Clowne (Hickinwood Lane and the development accessed from Harlesthorpe Ave) with fields beyond. To the south, the site sits alongside the settlement of Clowne.

Clowne lies on relatively elevated ground and the site slopes from a gentle ridge in the north, towards the south. A small watercourse intersects the southern part of the site flowing from Harlesthorpe West Pond, through Harlesthorpe Dam then across the site towards the northern edge of Clowne. Harlesthorpe West Pond and Dam are both Local Wildlife sites situated on the immediate edge of the site.

The town centre of Clowne exists less than 1 mile from much of the site area and offers a wide variety of day-to-day services. There are several existing Public Right of Way ("PRoW") routes within the site that provide recreational walking routes and access to the footpath network beyond.

PROPOSAL

As stated above the proposed development has not changed from what was presented to Planning Committee in June 2018.

The planning application seeks outline planning permission (all matters reserved) for up to 24 ha of employment land for uses that fall within use classes B1, B2 & B8 and up to 1,800 new homes. The development also includes 57.75 hectares of new Green Infrastructure, along with a range of other uses, which include educational and recreational uses, a retirement village, neighbourhood centre, hotel / restaurant, health and care and leisure uses. The proposal also involves the demolition of the buildings within the industrial estate at Station Road, which is needed to deliver a new link road from Clowne through to the site. The development is shown as being divided into two phases (residential and commercial), albeit it will probably be delivered in several sub phases.

It should be noted that matters such as access, layout, scale, appearance, and landscaping are reserved for future consideration. If this application was approved, these matters would be considered in detail as part of future reserved matters applications, and not as part of this outline planning application.

Residential Development

The residential development is proposed to the centre and east of the site. The first 1000 dwellings are shown to be positioned centrally within the site and would be delivered within the Development Plan period up to 2033. The remaining 800 would be delivered outside the Development Plan period, and these would be positioned to the east of the site.

Employment & Other Development

24 hectares of new employment uses will be created, and this would be concentrated both centrally and to the west of the site (the Commercial Phase). The uses would include offices

and light industry, (previously B1, but is now Use Class Eg (i ii and iii), industrial (Use Class B2) and storage and/or distribution (Use Class B8).

To the far west of the site adjacent to the proposed employment uses, and close to the site entrance off Boughton Lane, a new hotel and restaurant use is proposed. In addition, 1.5 ha of the site has been designated for health and care facilities, which is positioned between land that will be used for employment and residential. The industrial buildings that are earmarked for demolition to the south of the site would be replaced with an access through road, which would provide a link between Clowne and the site. Retail / retirement uses are also proposed in this area.

Finally, in an area close to the existing allotments and adjacent to the proposed village green a new 1.5 form of entry primary school is proposed.

Access

As stated above, access is a reserved matter, however the applicant has provided some access information i.e., access positions

To the west of the site, a new roundabout is proposed, which will link the site to Barlborough Road and Boughton Lane. Centrally within the site, another roundabout is proposed off Rotherham Road, which will link to Barlborough Road to the south, and Worksop Road to the north. A further second access is proposed off Rotherham Road, which is situated to north of the proposed roundabout. Further south of the site, a new roundabout is proposed at Station Road (at the entrance to the existing industrial estate), and a signalised junction is proposed on Creswell Road, which would have a new road that connects into the site.

Green Infrastructure

The application proposes 57.75 hectares of Green Infrastructure within the development, which will include areas of retained woodland and habitat areas, all of which will be discussed in detail in the Committee Report.

AMENDMENTS

2023

As part of the consultation and assessment process in 2023/24, the following additional documentation has been received:

- Financial Viability Assessment received in April 2024;
- Amended Phasing Plan received April 2024;
- New Access drawings received in October 2023;
- New Certificate of Ownership and copies of additional Notice No 1 received in November 2023.
- A response from the applicant's Highways Consultants to National Highways, including a road safety audit in relation to the works proposed for Jct 30 of the M1.

The additional information was subject to a full re-consultation, which commenced on the 10th April 2024.

2017 / 18

As set out in the previous Committee Report, additional information was requested as part of the application process previously. The following additional information was subject to re-consultation on 30 May 2018:

- A new application form and subsequently amended application description of development reflecting the omission of 'Access' from the outline application. The application is now with 'All Matters Reserved'.
- Additional Archaeological information.
- Indicative junction access drawings relating to the proposed junctions at Boughton Lane, Station Road, Rotherham Road and Creswell Road.
- Planning Statement in support of the application.
- A response from the applicant's Highways Consultants to Highways England including additional transport modelling data.
- Technical Note in relation to Harlethorpe Dam.
- Additional details and further survey regarding protected species and biodiversity.
- Heads of Terms for S106 document.
- Additional Noise Impact information.
- Air Quality information.

Environmental Impact Assessment

Screening Opinion

The proposed development was assessed in 2017 (prior to formal submission) on whether an EIA would be required. On the 23rd August 2017, it was confirmed in an EIA Screening Opinion issued by BDC that the development was not considered to be EIA Schedule 1 Development.

However, the development is EIA Schedule 2 development, as it is an infrastructure project described as an Urban Development Project at 10(b) in the first column of Schedule 2 of the EIA Regulations.

Following an assessment of the development against the selection criteria for screening Schedule 2 development contained at Schedule 3 of the EIA regulations, it was considered that the development was EIA Development. On that basis, it was considered that an EIA was required.

Scoping Opinion

The applicant sought a Scoping Opinion from BDC to explore specific topic areas to include within the EIA. The Scoping Opinion issued by BDC under reference 17/00430/SCOPE stated that the following chapters should be included:

- Transport (including Air Quality and Noise);
- Landscape and Visual Impacts;
- Cultural Heritage and Archaeology;
- Biodiversity; and
- Socioeconomic Impacts.

Other matters such as potential flood risk, coal mining, noise and emissions during the construction period were also considered. However, as set out in the previous Committee Report, these matters were not judged to be of regional or greater significance. It was judged that such matters could be effectively considered through specific technical reports and if needed through planning conditions. As such these matters were not 'scoped in' to the EIA.

EIA Addendum

As set out above, since the application was considered by Planning Committee in 2018, a significant amount of time passed. Given the passage of time, it was considered that an EIA Addendum would be required to assess whether the outcomes reached previously on the matters set out above have changed, and whether the effects of the development are now greater. The applicant has submitted an EIA addendum, which has been considered, and will be discussed in detail.

HISTORY

17/00430/SCOPE	COMMENTS	Request for Scoping Opinion
	04/10/2017	

CONSULTATIONS

Technical consultation took place in both 2017/18 and 2023/24. The following is a summary of the consultation responses received from consultations that took place in May 2023 and April 2024, as they are the most relevant. Previous technical responses can be viewed on the previous Committee Report, which is situated at Appendix I of this report.

Bolsover Council Conservation Officer: The Conservation Officer confirms that the comments set out in 2018 still apply, and an **objection** is raised. The submission of further information is recommended to address the harm that will result to the setting of Southgate House, Clowne Conservation Area, and Manor farm. The Conservation Officer is still of the opinion that the development will result in harm (less than substantial) to the setting of the designated heritage assets.

Bolsover Council Development Plans Team: No objection - The Bolsover Development Plans Team conclude that the proposal would be in strong conformity with the Development Plan and should be approved provided the applicant can confirm they will meet the required provision of 10% affordable housing on site and all of the infrastructure types treated as being of critical or necessary importance to the delivery of the Development Plan.

Bolsover Council Economic Development: No objection. The development is supported in the Development Plan under Policy SS5. The development would result in substantial job creation.

Bolsover Council Engineer: Have confirmed that the comments set out in 2018 still apply to the development - **No objection**. This is subject to the acceptance of any proposed SuDS design by DCC Flood Risk. The developer must submit an Operation and Maintenance Plan, which provides details of the arrangements for the lifetime management and maintenance of the SuDS.

Bolsover Council Environmental Health: Have confirmed that the comments set out in 2018 still apply to the development. Environmental Health have concerns in relation to noise, and the lack of detailed information submitted as follows:

Noise:

Environmental Health do not object to the development. However, more information has been requested from the developer to demonstrate how existing houses around the proposed access points into the site will be protected.

Air Quality:

Environmental Health conclude that the overall impacts of the proposed development in terms of air quality will be low, and no air quality standards are predicted to be exceeded.

Bolsover Council Leisure Services: Objection - There are areas of concern with the application and the comments submitted in 2018 still apply to the application. The concerns relate to the following in summary:

- Open Space and play
- *Outdoor Sport*
- *Active Travel & Connectivity*

Bolsover Council Urban Designer: No objection subject to conditions. Given the scale of the development proposed it is considered that a Design Code will be required which builds upon the master planning work already undertaken. This is an appropriate mechanism to ensure that BDC has some control on the design aspects of the development as a whole.

Campaign for the Protection of Rural England (CPRE): Confirm that the comments set out in 2018 still apply – **Objection**. CPRE do not believe the developer has made any significant changes to warrant a change of view. In summary, the concerns are as follows:

- CPRE opposed the site from being included in the Bolsover Local Plan and are still opposed.
- Objection raised to the significant and unwarranted loss to Green Belt land to the North of Clowne. The development would also see the loss of valuable Grade 2/3 agricultural land.
- The plans fail to demonstrate an appropriate protection of existing landscape and the development as proposed will also see the loss of allotments, recreational land, water meadows and wildlife habitats.

- Such a development would have a resulting, unavoidable urbanising effect that would detract greatly from the current landscape character.
- Whether it is possible to create safe, attractive, and convenient routes between the development and Clowne town centre is questionable.
- CPRE have serious concerns about the increased likelihood of damaging flood events occurring in Clowne.

Active Travel –Objection – The following concerns have been raised in summary:

- Absence of a multi-modal trip generation and assignment.
- Travel Plan is considered to be weak and ineffectual.
- Inconsistent, incomplete, and deficient off-site infrastructure to support the proposals, with specific regard to the following locations:
 - Spine Road, between Creswell Road and Station Road
 - Creswell Road / Spine Road junction
 - Station Road roundabout
 - Barlborough Road roundabout
 - Rotherham Road roundabout and T-junction

Barlborough Parish Council – Objection – The following concerns have been raised in summary:

- The application does not meet the requirements of the local plan. It gives no confidence that key issues have been thought through, timed, and costed.
- The planning application does not address the education and sports needs of Clowne Garden Village.
- The planning application does not address the health needs.
- The plan does not meet local needs, exceeds the numbers set out in the local plan and does very little to increase the desperately needed housing stock in the area.
- The application does nothing to bring high skilled jobs to the area. It will increase traffic and pollution for the meagre gain of low skill jobs.
- The development will damage the local environment and further destroy our flora and fauna. There is a risk of flooding and damage to local dams.
- The job number in the Employment and Skills Statement at 2,500, does not match the number of jobs that the Transport Assessment proposes.

In addition, RGP provided a Transport Note on behalf of Barlborough Parish Council in June 2023, and an updated note in May 2024. The points raised by RGP will be discussed in detail within the report.

Clowne Parish Council: - Objection – Plan A Planning submitted an objection on behalf of Clowne Parish Council, and the following is a summary of the points and concerns raised. The Evidence basis for the allocation is out of date.

- A new planning application should be requested given the passage of time and significant material changes.
- More Affordable Housing provision should be requested
- Poor levels of Public Consultation

- Viability and Section 106 Planning Obligations and the need to reappraise these
- Environmental Harm
- Significant levels of biodiversity enhancements should be delivered
- Traffic and Transport Impacts
- Concerns in relation to Harlethorpe Dam
- Impacts to the existing Sewage and Drainage Infrastructure
- Lack of Sport and Recreational Facilities
- Potential re-location of the Mining Heritage Memorial
- Archaeology Mitigation
- The impact on Hickinwood Lane Allotments

Coal Authority: Have confirmed that the comments set out in 2018 still apply to the development. **No objection** subject to conditions. The Coal Authority were satisfied that the information submitted in 2018 acknowledges the risks posed by the mine entries to both public safety and ground stability. Following discussions undertaken in 2018, it is considered that the Phase 2 information submitted with the application now includes ground investigations that locate the relevant mine shafts and the appropriate mitigation required.

DLUHC (now MHCLG): No comments have been received as part of the re-consultation process.

Integrated Care Board: No objection to the development subject to mitigation. The mitigation would be in the form of a financial contribution towards the existing health infrastructure in the area, which has been calculated by the Integrated Care Board (“ICB”). The following is the contribution calculation following consultation in 2024:

(B) Additional patients to be accommodated	x	(D) Standard area m ² /person Based on total list size of approx.	x	(E) Cost of extension including fees £/m ²	=	Total cost (B) x (D) x (E)
4,500		0.08 m ²		£ 5,000*		£1,800,000

Derbyshire County Archaeology: Have confirmed that the comments set out in 2018 still apply to the development – **Objection**. County Archaeology state that the scheme includes several undesignated archaeological and heritage assets and retains the potential for undiscovered archaeological remains. Previously it was advised that a programme of archaeological field reconnaissance was needed.

Derbyshire County Education Authority: DCC education offer **no objection** subject to the following mitigation:

- A new primary school to accommodate the 342 pupils that are likely to be generated by the development. Land and buildings (or adequate funding for the total cost of such) would need to be provided to accommodate a 1.5 form of entry primary school.
- £10,700,989.20 towards the provision of 360 secondary places at Heritage High School.
- £1,422,314.96 towards SEND places The above is based on current demographics which can change over time and therefore the County Council would wish to be consulted on any amendments to a planning application or further applications for this site.

Derbyshire County Highways Authority: No objection subject to conditions and obligations to be set out in a S.106 Agreement. Details discussed in detail within the report.

Derbyshire County Lead Local Flood Authority: No objections subject to conditions as set out in the report.

Derbyshire Police Architectural Liaison: Confirm that the comments made in 2018 still apply – **No Objection**. Crime prevention through environmental design principles (as per Successful Places Design Guidance) should be incorporated into future design of estates.

Derbyshire Wildlife Trust: - No objection, DWT support the Biodiversity Net Gain proposals set out. However, DWT do have some concerns in relation to the potential layout, which are discussed in detail in the report.

Eastwoods Consulting Engineers: The comments set out in 2018 still apply to the development – **No objection**. The location plan submitted with the application indicates that the entire development lies in zone 5 as defined within the Landslide Hazard Report. Within zone 5, the risk of major landslide is negligible.

Environment Agency: Have confirmed that the comments set out in 2018 still apply to the development - **No objection**.

Highways England: No objection subject to conditions.

Historic England: The comments issued in January and June 2018 still applies - **Objection**. Historic England are concerned by the level of information submitted as part of this application in relation to heritage. Historic England believe that the application will result in harm to non-designated and designated heritage assets.

Natural England: Have confirmed that the comments set out in 2018 still apply to the development - **No objection**. Based on the plans submitted, Natural England considers that the proposed development will not have significant adverse impacts on designated sites.

National Grid / Cadent Gas: No comments received.

Severn Trent Water Limited: Severn Trent has raised concerns because of potential damage or interference with a public asset. Severn Trent have advised that it is an offense under S174(1) of the Water Industry Act 1991 to intentionally or recklessly interfere with any

structure, installation or apparatus belonging to a water undertaker without consent. A Condition is recommended, which sets out a requirement for a Sewer Modelling Study.

Whitwell Parish Council: Whitwell Parish Council **object** to the development on the grounds of highway safety, traffic impacts, impacts to the existing infrastructure and loss of amenity (in summary).

Woodland Trust: Maintain **objection** from 2018 on the basis of potential damage to the ancient Hickenwood.

Yorkshire Water: Have confirmed that the comments set out in 2018 still apply to the development - **No objection**. The site is within the operational area of Severn Trent Water. The submitted drainage strategy report suggests that all wastewaters will drain to Severn Trent's infrastructure. The site is however on the wastewater operational boundary between YW and Severn Trent but is outside of our area of operation. YW state that their infrastructure does not have capacity for drainage and treatment of wastewater from the site.

Chesterfield Royal Hospital: Confirm that Initial modelling suggests that the impact of this development is up to £ £2,375,760.

CP Viability: No objection. Viability will be discussed in detail within the report.

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

PUBLICITY

In line with statutory requirement set out in Regulation 25 of the Town and Country Planning (Environmental Impact Assessment) Regulations 2017 and Section 15 of the Development Management Procedure Order 2015. The application was publicised in December 2017 by way of the following:

- Neighbour Notifications
- 5no Site Notices
- Press notice published in the local newspaper

As part of a re-consultation process, which happened in both May 2023 and April 2024, which occurred because of additional information received from the applicant, the application was again publicised by way of:

- Neighbour Notifications
- 16 Site Notices
- Press notice published in the local newspaper.

In addition to the above, two public consultation meetings also took place in Barlborough and Clowne, on the 30th and 31st May 2023. A drop-in session was also undertaken, which took place at the Council offices on the 20th June 2023.

2017/18 representations

975 public representations were received because of the publicity undertaken in 2017/18. These representations are **still relevant** when considering this application. They are summarised in the previous Committee Report and can be reviewed at Appendix I within that report. The previous representations were also considered as part of the previous Committee Report.

2023/2024 representations

As part of the re-consultation process undertaken in 2023/2024, close to 300 representations have been received, which raise the following (in summary):

MP Comments

In September 2023 & January 2024 BDC received comments from Mark Fletcher MP who objects to the application. In the representation received in 2024, a survey of the local community was submitted, which raised several concerns, such as impacts on healthcare, flooding, environmental impacts, and impacts in relation to education provision, loss of green space, the lack of affordable housing provision, over development and highway impacts (the MP shares these concerns). Mark Fletcher MP also raised concerns on the lack of support given to the scheme from DCC Highways, and the need for BDC to consider the concerns raised by the local residents.

In addition, in August 2024, BDC also received comments from Natalie Fleet MP who raised the following concerns in relation to the development (in summary):

- Poor existing public transport provision.
- Potential highway impacts, and lack of clarity on when any highway improvements will be delivered.
- Potential noise and air pollution.
- Lack of provision for dental practices and GP provision.
- Lack of education provision, and the additional demand that will be placed on the existing schools.
- Additional surface water from the development, and the potential impacts this would have to the area.
- Concerns that the affordable housing proposed makes up only a small portion of the development.

The principle

- The site should be removed from the Local Plan due to its unsuitability for development.
- The application is premature and should have been refused years ago.
- The Government have now disregarded housing targets, and therefore this site should not be considered further for development.
- The development will have significant impacts on the Green Belt.
- No Environmental Impact Assessment has been submitted with the application.

- The Development Plan is not justified, ineffective, is inconsistent and is not positively prepared and on that basis is not legally compliant.
- Additional employment development is not needed in the area.
- The loss of productive farmland at a time that the Country needs to be more self-sufficient.
- The Local Plan states that 1,500 houses are proposed for the site, however 1,800 are proposed as part of the planning application. This is an unjustified increase of 20% and represents overdevelopment.
- The Development Plan when assessing employment need in the Borough fails to take account of developments that are already granted such as Coalite.

Infrastructure Requirements

- There is not enough existing primary or secondary education provision to cope with the additional demand from the development.
- Existing doctors, dentists and schools in the area are over-subscribed, the development will only make these issues much worse.
- It is not clear when the new primary school will be delivered.
- No public consultation on the S.106 agreement.
- There are no improvements proposed in and around the heritage school to take account of the increased traffic.
- It is not clear when the new medical facilities will be available and what exactly they will be.
- There is no space for existing GP practices to expand.
- The Council are only interested in S.106 monies.
- Not enough funding is being requested for healthcare.
- The S.106 contributions will result in no significant benefit to the community.
- The viability assessment shows a woeful level of contributions that will not mitigate for the development impacts.

Design & Amenity

- The development would adversely impact the existing character of Clowne forever.
- The development will involve the loss of the Hickenwood Lane allotments.
- The development will have immense impact on the residents in terms of amenity, privacy, and quality of life.
- The hotel is poorly positioned within the layout and is not needed in the area.
- The development would effectively split Clowne into two separate areas and will fragment several community services.
- There are no details about the proposed retirement village.
- The Parameters Plan indicates buildings of up to 26m in height, which is not acceptable.
- No Design Code for the site has been submitted.

Affordable Housing

- The affordable housing contribution has reduced to 6.2%, with no real justification. This fails to meet Development Plan Policy LC2
- The development cannot offer affordable housing with the current house prices as they are in the area.

Traffic & Highway issues

- There are inconsistencies between the Transport Assessment Addendum and the Employment and Skills Statement in terms of how many jobs will be created. There will be 737 extra jobs than previously set out.
- DCC Highways raised issues with the application at the last Planning Committee, as they did not see a clear solution to the wider highway issues. It is not clear what the applicant has done to address this since 2018.
- Emergency Services do not seem to have been consulted on the application in terms of accessibility if the development was to go ahead.
- The area cannot cope with 1,800 new homes with the existing highway infrastructure.
- Potential Increase in traffic at the M1 Jct 30, and the proposal to signalise the junction will not work and will increase the potential for accidents.
- No provision for pedestrian movement has been made in the application, and development relies on heavy car usage.
- There will be an additional 3,000+ cars on the road in Clowne, which is unacceptable.
- The highway improvements proposed to the Treble Bob Roundabout are insufficient and will not be able to cope with the additional demand from the development.
- Any road infrastructure improvements proposed should be carried out before any development commences.
- No traffic modelling in the centre of Clowne has not been completed by the developer.
- Traffic surveys have utilised data that was taken during the pandemic which significantly reduced traffic volumes and should be considered out of date.
- The Transport Assessment is not fit for purpose.
- Gapsick Lane and Hickenwood Lane will become oversubscribed with cars trying to avoid the additional traffic caused by the development.
- Insufficient public transport connections, and cycle infrastructure is proposed.
- Concern regarding the proposed re-siting of the miner's memorial to accommodate improved road infrastructure.
- The increase in HGV traffic would be unacceptable.
- The proposed introduction of traffic lights at the treble bob roundabout will worsen the existing traffic problem.
- No improvements to Worksop Road, Rotherham Road or Gander Lane are proposed and these will inevitably be impacted by the development.
- The proposed link road leaves Barlborough Road via an additional roundabout at the bottom of Boughton Lane. Why would this link road not use the existing roundabout just a hundred yards away and avoid coming into the village.
- There is nowhere to park in Clowne as it currently stands, the development will make this issue exponentially worse.

- When the site was checked against the Transport for New Homes development checklist, the site comes out very poorly as strategic location for sustainable development.
- No information on what will happen to the existing public footpaths that run through site.
- The local bus service and public transport facilities are not fit for purpose, so how will they cope with the additional demand.
- It is not clear on who will pay for the highway infrastructure improvements such as the Treble Bob.
- The traffic impacts will have an unacceptable impact on Barlborough Village as the additional traffic will use Barlborough to access the M1.

Impacts on Ecology & Trees

- The Ecology Reports submitted are not fit for purpose and are out of date.
- The development would erode significant amounts of green spaces and habitats.
- The level of green space proposed within the development does not compensate for what will be lost.
- A disregard for the environmental impacts of the development.
- Indirect impact to ancient and veteran trees.
- No details on how the wildlife in the area will be protected during the development.
- It is unclear on how the development will meet the new Biodiversity Net Gain objectives.
- No response has been received from the Arboricultural Officer in relation to potential impacts to trees.
- The removal of the existing hedgerows within the site should not be allowed.
- No evidence of the 10% uplift in Biodiversity Net Gain has been submitted with the application, including the statutory biodiversity metric calculation tool.

Drainage

- The recent flood events that have occurred because of Storm Babet only reinforces the fact the area cannot cope with a development of the size proposed in flood risk terms.
- AECOM are not factoring the wider river impact, which has a larger flooding surface area immediately below the dam, adjacent to Hickenwood Lane, and downstream upto and beyond Hollin Hill. Discounting the river flooding, minimises the perceived risk of flooding in the impacted areas.
- The development could have an unacceptable impact on Harlsthorpe Dam and could cause the dam to fail, which would have a devastating impact on Creswell Crags and the local ecology.
- The impact of the development of Harlsthorpe Reservoir both upstream and downstream could be significant.
- Harlsthorpe Dam is classed as being high risk by the Environment Agency and is designated as being Cat A under flood and reservoir safety, and no in-depth consideration has been given to this. The dam could be adversely impacted by physical shock and vibration.

- During heavy rainfall the roads and land already flood in parts, and this development will make this issue much worse.
- The existing sewerage infrastructure will not be able to cope with the additional demand from the development.
- No confirmation has been received from Severn Trent, which confirms that the development is acceptable.
- The drainage strategy proposed is too ambitious and will not work as the area around where the development is proposed regularly floods.
- Building of the new access roads for the development will have severe adverse impacts on Harlethorpe Dam and Creswell Crags, as it will increase surface water levels.

Air Quality & Noise

- A further independent Air Quality Assessment should be requested to consider the additional traffic impacts.
- The additional traffic movements from the development will cause unacceptable levels of noise and air pollution.
- No information on how noise will be controlled from the commercial uses and additional traffic.
- Concerns raised in relation to potential impacts of additional air and noise pollution from HGV's.

Open Space & Sports Provision

- No Sports Strategy has been submitted with the application as requested by Sport England.

Heritage & Archaeology

- The development would have an unacceptable adverse impact on Clowne Conservation Area.
- The development will have an unacceptable adverse impact on the Listed Buildings that surround the site.
- No Archaeological information has been submitted with the application.

General Concerns

- As part of the re-consultation exercise, it was not clear to residents what in the application had changed.
- There has been a delay in new information associated with the application being published on the website.
- The applicant states in the application forms that they have received pre application advice from BDC, however despite requests under Freedom of Information, no information has been provided.
- The technical information submitted with the application is now severely outdated.
- The development would cause unacceptable light pollution.

- The decision appears to have been pre-determined by the Council.
- There are many new build properties in the area that have not sold, Clowne does not need more housing.
- The current application is over 5 years old, and the applicant should be made to submit a full new planning application.
- The existing supermarkets will not be able cope with the additional demand from the development.
- The development will de-value the residential properties in the area.
- The application will destroy the existing views currently enjoyed by residents.
- The development would result in a 50% increase in the existing population.
- The development brings no positives for the existing residents.
- The proposed development is reckless and only seeks financial profit. The application plans are full of inaccuracies and are outdated. They fail to show that development has already taken place right up to the boundaries of the site as an example being Spinnaker Road /Mizzen Road near Harlethorpe Dam.
- The plans do not show the houses that have been built on Rotherham Road
- It is not clear in the application what buildings will be demolished.
- The public consultation events organised by the developer and Council were very poor.
- Barlborough and Clowne regularly face power cuts, and the development proposed is likely to make this worse.
- No information has been submitted to demonstrate that the Council complied with in order to help those with visual impairments.
- Concerns in relation to the potential for additional anti-social behaviour.

POLICY

The Development Plan for Bolsover District Council 2020

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

- Policy SS1 – Sustainable Development
- Policy SS2 – Scale of Development
- Policy SS3 – Spatial Strategy and Distribution of Development
- Policy SS5 – Strategic Site Allocation – Clowne Garden Village
- Policy LC2 – Affordable Housing Through Market Housing
- Policy LC3 – Type and Mix of Housing
- Policy WC1 – Employment Land Allocations
- Policy WC2 – General Principles for Economic Development
- Policy SC2 – Sustainable Design and Construction
- Policy SC3 – High Quality Development
- Policy SC4 – Comprehensive Development
- Policy SC6 – Renewable and Low Carbon Energy
- Policy SC7 – Flood Risk
- Policy SC8 – Landscape Character

- Policy SC9 – Biodiversity and Geodiversity
- Policy SC10 – Trees, Woodlands, and Hedgerows
- Policy SC11 – Environmental Quality (Amenity)
- Policy SC12 – Air Quality
- Policy SC13 – Water Quality
- Policy SC14 – Contaminated and Unstable Land
- Policy SC16 – Development Within or Impacting upon Conservation Areas
- Policy SC17 – Development affecting Listed Buildings and their Settings
- Policy ITCR1 – Strategic Green Infrastructure Network
- Policy ITCR 3 – Protection of Footpaths and Bridleways
- Policy ITCR 5 – Green Space and Play Provision
- Policy ITCR 6 – Protection of Green Space
- Policy ICTR 7 – Playing Pitches
- Policy ITCR10 – Supporting Sustainable Transport Patterns
- Policy ITCR11 – Parking Provision
- Policy II1 – Plan Delivery and the Role of Developer Contributions

Each Policy, its requirements and relevance to the proposed development will be discussed in detail within the Committee Report.

National Planning Policy Framework December 2023

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

- Chapter 2 – Achieving Sustainable Development
- Chapter 3 – Plan Making
- Chapter 4 – Decision Making
- Chapter 5 – Delivering a Sufficient Supply of Homes
- Chapter 6 – Building a Strong Competitive Economy
- Chapter 8 – Promoting Healthy and Safe Communities
- Chapter 9 – Promoting Sustainable Transport
- Chapter 11 – Making Effective Use of Land
- Chapter 12 – Achieving Well Designed Places
- Chapter 13 – Protecting Green Belt Land
- Chapter 14 – Meeting the Challenge of Climate Change, Flooding and Coastal Change
- Chapter 15 – Conserving and Enhancing the Natural Environment
- Chapter 16 – Conserving and Enhancing the Historic Environment

Supplementary Planning Documents

Successful Places:

A guide to Sustainable Housing Layout and Design, adopted 2013: The purpose of the Successful Places guide is to promote and achieve high quality residential development within the district by providing practical advice to all those involved in the design, planning and

development of housing schemes. The guide is applicable to all new proposals for residential development, including mixed-use schemes that include an element of housing.

Housing Land Supply Position

According to the Council Annual Position Statement of Five Years Housing Land Supply (November 2023), the following is the latest housing land supply for Bolsover District Council.

- Bolsover has a basic housing requirement of 1,360 dwellings over a 5-year period (5 x 272 per annum);
- Add 5% to 1360 dwellings in line with NPPF requirements over the 5-year period, which equates to the need for the Council to have a land supply for 1,428 dwellings over a 5-year period.
- The Council has a Cumulative Deliverable Land Supply for 2,553 dwellings over a 5-year period, which exceeds the housing requirement of 1,428 dwellings by 1,125 dwellings.
- Given the considerable exceedance in the Cumulative Deliverable Land Supply, the Council is able to demonstrate an **8.92**-year housing land supply.

Employment Land Supply position

Development Plan Policy SS2 identifies a requirement for 92 ha of employment land for the period 2015 to 2033. Development Plan Policy WC1 allocates sites to meet this demand requirement, which includes CGV. CGV is allocated to deliver 20 hectares of employment uses, which is a substantial proportion of the requirement identified in Development Plan Policy SS2.

ASSESSMENT

Key issues

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

- The Development Plan & Prematurity
- Principle of Development
- Viability and Planning Obligations
- Design Concepts
- Housing Mix & Affordable Housing
- Green Space & Sport Provision
- Biodiversity & Trees
- Landscape and Visual Impact
- Cultural Heritage & Archaeology
- Drainage & Flood Risk
- Transport and Highways
- Air Quality & Noise
- Other Representations

- Benefits vs Harm
- Conclusions

It should be noted that where it is considered appropriate, a summary of the assessment undertaken in the previous Committee Report has also been provided, to help the reader understand what may have changed between the assessment undertaken previously and the one undertaken in this report.

The Development Plan & Prematurity

When assessing the principle of development, significant weight should be afforded to the currently adopted Development Plan Policies when determining planning applications. This is confirmed at Section 38(6) of the Planning and Compulsory Purchase Act 2004, which states that applications for planning permission must be determined in accordance with the Development Plan unless material considerations indicate otherwise.

Most of the site is no longer in the Green Belt and is now allocated for housing and employment development under Development Plan Policy SS5. However, following the public consultation exercises, many of the representations received challenge the planning application and sites designation in the Development Plan. Some representations conclude that the currently adopted Development Plan is not justified, is ineffective, and inconsistent and is not positively prepared, and most of the site should never have been removed from the Green Belt. Some representations received also conclude that the application is premature.

When this planning application was previously assessed in 2018, the site was designated as being partially within the Green Belt in the previously adopted Bolsover District Local Plan (February 2000). At that point in time, BDC were in the latter stages of producing a new Development Plan and in 2018 the document was at Publication Stage. The Development Plan (in draft) at that point designated the site for development under draft Development Plan Policy SS5.

Since 2018, the new Development Plan has been through an independent formal examination process by an Inspector appointed by the Secretary of State. The Inspector's report, received on 15th January 2020, concluded that the new Development Plan for BDC could be made sound subject to some Main Modifications. Those Main Modifications were incorporated and in March 2020 the new Development Plan for Bolsover District was formally adopted in accordance with the Town and Country Planning (Local Planning) (England) Regulations 2012 (Regulation 26) (As Amended). By confirming that the plan was 'sound', the Inspector considered that the Development Plan met the criteria set out in the NPPF at paragraph 35.

In terms of the removal of most of the site from the Green Belt, when assessing whether it is appropriate to alter the Green Belt boundaries, the NPPF is clear that these should only be altered where exceptional circumstances are fully evidenced and justified, through the preparation or updating of plans as set out at paragraph 145 of the NPPF. The methods and justification for taking such action (to address future housing need and employment growth) were scrutinised at the time by an Independent Planning Inspector appointed by the Secretary of State, and the justification provided was found to be sound. Further alterations to the Green Belt boundaries are not possible through the application process.

Representations have also been received that state that the application is premature and should be refused on these grounds. The issue of prematurity was discussed in detail as part of the previous Committee Report on pages 45 and 46 (see Appendix I). Paragraphs 49 and 50 of the NPPF deal with the issue of prematurity, and state the following:

49. *However, in the context of the Framework – and in particular the presumption in favour of sustainable development – arguments that an application is premature are unlikely to justify a refusal of planning permission other than in the limited circumstances where both:*
- a) the development proposed is so substantial, or its cumulative effect would be so significant, that to grant permission would undermine the plan-making process by predetermining decisions about the scale, location or phasing of new development that are central to an emerging plan; and*
 - b) the emerging plan is at an advanced stage but is not yet formally part of the development plan for the area.*
50. *Refusal of planning permission on grounds of prematurity will seldom be justified where a draft plan has yet to be submitted for examination; or – in the case of a neighbourhood plan – before the end of the local planning authority publicity period on the draft plan. Where planning permission is refused on grounds of prematurity, the local planning authority will need to indicate clearly how granting permission for the development concerned would prejudice the outcome of the plan-making process.*

The site is now formally allocated for development in the adopted Development Plan. The development when it was previously assessed was done at a time when the Development Plan was an 'Emerging Plan' so the issue of prematurity in relation to the proposed development may have been a more relevant material consideration at that stage.

When prematurity was assessed in the previous Committee Report, it was considered that although the proposed development was in the Green Belt, the cumulative effects of the development were not considered to be so substantial that if the application was to be granted planning permission then it would undermine the plan making process by predetermining decisions about the scale, location or phasing of new development to the extent where it would prejudice the outcome of the plan making process. Therefore, a refusal on the grounds of prematurity was not considered to be justified when the application was previously assessed.

Overall, there is no reasonable basis to conclude that the plan is unsound. In addition, the previous Committee Report needed to consider the issue of prematurity in detail due to the emerging status of the Development Plan at that time. This report does not need to undertake this assessment because the emerging Development Plan has now become an adopted Development Plan.

An additional concern raised in the representations is that the evidence base for the

Development Plan should now be considered as out of date, due to the commencement of the statutory Development Plan review in October 2023. The Development Plan review involves the following steps (broadly):

Step 1

- a. 'Fact finding' to enable the Council to keep under review the matters which may be expected to affect the development of Bolsover District or the planning of its development; and
- b. A review of new national policy areas will also be carried out to ensure the Council's Local Plan addresses all important policy areas.

BDC Planning Policy indicate that this work is ongoing and should be complete by the end of 2024.

Step 2

- a. responding to this updated evidence to consider which factors might lead to necessary revisions to the Local Plan, such as higher targets for housing and employment land needs.

This step will need to be completed before March 2025.

The Development Plan review has commenced on time. Given that the review is ongoing, it is too early in the process to predict what the likely outcomes of the review process will be, and whether there will be any changes to housing and employment need in Bolsover. Therefore, no weight can be applied to the Development Plan review process in the decision making on this application.

Principle of Development

For reasons set out above, the Development Plan is sound, and is positively prepared, justified, effective, and consistent with National Policy. There is no reasonable basis not to consider the merits of this development against the requirements of the adopted Development Plan.

Development Plan Policy SS2 states that during the plan period, the Development Plan will accommodate new growth and investment in Bolsover District by making provision for:

- a) Sufficient land to accommodate the delivery of a minimum of 5,168 dwellings (272 new homes per year) to meet the Council's Housing Objectively Assessed Need across the period 2014 to 2033.
- b) An additional housing land supply buffer of 10% for site flexibility applied across the period 2014 to 2033 (up to a planned scale of housing provision of 5,700 dwellings).
- c) Sufficient land to accommodate 92 hectares of employment land across the period 2015 to 2033.

Development Plan Policy SS3 states (in summary) that to achieve sustainable development, the Development Plan will direct development and service provision within Bolsover to (in the first instance) the small towns of Bolsover and Shirebrook and emerging towns including South Normanton and Clowne. In addition, Development Plan Policy SS3 also sets out what the distribution of development should be in Bolsover to achieve the scale of development set out in Development Plan Policy SS2. Development Plan Policy SS3 considers that Clowne can accommodate up to 1,494 dwellings and 20 hectares of employment floorspace to help achieve the overall housing and employment targets set out for Bolsover in Development Plan Policy SS2.

As set out above, the sites allocation for employment and housing in the Development Plan is confirmed under Development Plan Policy SS5. The allocation will help to bring forward the development distribution identified in Development Plan Policy SS3 in a structured and cohesive manner. Development Plan Policy SS5 sets out a list of criteria, that proposals will be assessed against, which is stated as follows:

“Proposals for the development of this strategic site will be permitted where they are guided by the indicative masterplan for the site (see Figure 4C) or any subsequent approved document and

- a) Enable completion of 1,000 dwellings within the site by 2033*
- b) Optimise the use of the site or make best use of land*
- c) Deliver 20 hectares of B-use employment land*
- d) Provide 5 hectares of non B-use employment land*
- e) Improve highway connection to town centre*
- f) Create a new western link highway to the A616 / Boughton Lane junction*
- g) Provide for a new primary school within the site*
- h) Create a new substantial and central village green*
- i) Provide multi-user trails through the site that connect to the enhanced Clowne Linear Park proposal and the wider proposed multi-user trail network*
- j) Create significant landscape planting, especially to the east, north and western boundaries and in other appropriate locations*
- k) 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*
- l) 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*
- m) Contribute towards conserving and enhancing the biodiversity of the District through the protection and incorporation of existing hedgerows, woodlands, wetlands and grasslands within the site’s general layout, design and orientation*
- n) Contribute towards the efforts to tackle climate change through its approach to sustainable construction, flood risk reduction, sustainable drainage systems, renewable energy and energy conservation within the site’s general layout, design and orientation.*
- o) Conserve and/or enhance the historic environment, heritage assets and/ or their setting and be informed by a Heritage Impact Assessment.*
- p) Demonstrate that adequate sewage infrastructure and capacity exists or can be*

provided as part of the development.”

In relation to the requirements of Development Plan Policy SS2, the development offers a substantial contribution towards BDC’s aspirations for growth and new investment in Bolsover. The development has the potential to contribute up to 34% of BDC’s overall housing delivery target and 26% of the employment delivery target set out in Development Plan Policy SS2.

In addition, this development would deliver the majority of the housing and employment delivery targets for Clowne. This is beneficial because if this site was not brought forward, not only would this have a significant impact on BDC’s growth aspirations for Bolsover, but it could also result in more piecemeal type development taking place in the area, which is a less cohesive and effective method of achieving development infrastructure delivery. With that considered, the proposed development is considered to meet the aims and requirements of Development Plan Policies SS2 and SS3.

In terms of Development Plan Policy SS5, there is a requirement to deliver 1,000 dwellings by 2033. The updated Planning Statement submitted with the application includes information regarding the planning trajectory of the residential development proposed. The Planning Statement states:

“At the time of submission of the planning application, of the 1,800 dwellings proposed, it was envisaged that 1,000 would be delivered by 2033. However, due to the delays experienced during the planning application process, this delivery rate will no longer be achievable.”

The Planning Statement now advises the following rate of delivery, which could be achieved up to 2033:

Year 1	2025	30-40 dwellings
Year 2	2026	60-80 dwellings
Year 3 onwards	2027 onwards	90-120 dwellings per annum
Total by 2033		720-960 dwellings

It is fully noted that if the housing was delivered at the above rate, then there would be a potential shortfall over the plan period. As stated earlier, this shortfall would be due to a delay in development commencing as opposed to not planning for sufficient levels of development. BDC Planning Policy in their response to the application consider whether the shortfall in trajectory is significant. They conclude that the trajectory set out in Appendix 5.1 of the Development Plan was the best assessment available at the time of the adoption of the Development Plan. They also conclude that forecasting housing delivery is not an exact science but is based on the best available evidence at the time of the assessment.

BDC does monitor annual housing delivery across allocated and windfall housing sites within its Authority Monitoring Reports and these have reported that the Development Plan housing target has been met each year since adoption. In addition, the national Housing Delivery Test undertaken by the Government also demonstrates that the BDC is meeting its housing requirements.

Based on the above, BDC Planning Policy consider the loss of approximately 300 dwellings from the period 2021/22 to 2023/24 will not prove critical in terms of meeting BDC's housing needs over that period. In fact, it is considered that a later commencement would support and safeguard housing delivery for the later years of BDC's housing supply.

In terms of employment, the development proposes the following land uses:

Gross Development Area

This is the total land for each use class proposed:

- Use Class B1 (now Use Class E(g) i, ii and iii) = **4.8 Hectares**
- Use Class B2 = **9.6 Hectares**
- Use Class B8 = **9.6 Hectares**

Total Gross Employment Development Area = **24 Hectares**

- All other commercial uses (including land for primary school) = **5 Hectares**

BDC Planning Policy consider that the quantum of and type of employment development proposed strongly accords with Development Plan Policy SS5. The development will deliver the planned growth for the emerging town of Clowne in the manner that BDC has planned.

Overall, the Parameters Plan submitted with the application strongly reflects the indicative masterplan for the site contained in the Development Plan in terms of the extent of the proposed development and the amount of land dedicated to new housing and employment uses.

Therefore, it is considered that the development accords with parts a-d of Development Plan Policy SS5. The remaining requirements of Development Plan Policy SS5 and whether the development complies with these will be discussed in the relevant sections below.

In terms of Green Belt, as set out above the site (for the most) is no longer in the Green Belt. The previous Committee Report set out a very comprehensive assessment of the development against national and local Green Belt policy. This detailed assessment is no longer required as part of this report, given the site's amended Green Belt status.

However, there is a small portion of the site, which is still designated as being in the Green Belt on the western boundary. The area of Green Belt land is identified in the masterplan illustration contained on page 47 of the Development Plan as being a mixture of a new woodland area, and existing plantation. The submitted Parameters Plan follows the principles of that masterplan and proposes to retain the existing plantation and proposes new woodland in that area of the site. There is no built development proposed within the Green Belt designation. This area of retained and new planting on the western boundary would form a hard border between the development, and the open Green Belt to the west, so strengthening the Green Belt and providing a physical feature that is readily recognisable and is likely to be permanent.

Given that this small area of Green Belt land would be left absent of built development, no impacts to openness on a visual or spatial level would occur. Therefore, it cannot be concluded that any inappropriate development will take place in the Green Belt, and because no inappropriate development will take place, it is not considered necessary for the applicant to demonstrate a Very Special Circumstances case.

Overall, it is considered that the development would make a substantial contribution towards housing and employment for Bolsover. The principals proposed as part of this development clearly align with aims and requirements of Development Plan Policy SS5. On that basis, it is considered that the proposed development accords with Development Plan Policies SS2, SS3 and SS5. In addition, there are no other material considerations that provide any credible justification for BDC not to accept the principal of development. Therefore, the principle of development is acceptable, and significant weight in favour of the development in the planning balance is given to the housing and employment provision proposed.

Representations

Many of the representations raised in relation to the principle of development have been addressed above.

In relation to concerns raised that no EIA has been submitted, as set out above an EIA was submitted in 2017 with the application, and a further EIA Addendum has been submitted for consideration in March 2023. The loss of agricultural land was assessed and weighed up when deciding whether the site was suitable for development at the examination of the Development Plan, therefore, it does not need to be re-assessed in detail in this report.

Concerns have also been raised in relation to the fact that Development Plan Policy SS5 makes the assertion that 1,500 dwellings is the maximum density for the site, which does not align with the application, which proposes up to 1,800 dwellings. The figure set out in the Development Plan is an indicative density of 30 dwellings per hectare as used in the land availability assessment methodology to estimate how many dwellings can be delivered on potential site allocations. The precise density of an allocation is determined once all the technical reports and constraints have been assessed on the site.

In terms of housing targets and the assertions that these have been removed, this is not the case. The revised NPPF was issued in December 2023, and as part of this document housing targets remain advisory and the standard method for assessing local housing need remains unchanged. Indeed, the Government still monitors Local Planning Authorities ("LPA's") against their Development Plan targets.

Viability and Planning Obligations

Development plan Policy II1 states that to aid plan delivery, planning obligations will be sought where the implementation of a development would create a need to provide additional or improved infrastructure, amenities or facilities or would exacerbate an existing deficiency. The identification of this need will be assessed on a case-by-case basis but will be guided by the latest version of the Council's Infrastructure Study and Delivery Plan.

The NPPF at section 4 paragraph 58 states that where up-to-date policies have set out the contributions expected from development, planning applications that comply with them should be assumed to be viable. It is up to the applicant to demonstrate whether circumstances justify the need for a viability assessment at the application stage. 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. All viability assessments, including any undertaken at the plan-making stage, should reflect the recommended approach in national planning guidance, including standardised inputs, and should be made publicly available.

Contributions

The following is a comparison between the contributions that were agreed in principle in 2017, and contributions that have been requested by the relevant consultees in 2024:

Contribution	2018	2024
Community Forum Contribution	£107,000.00	£0.00
Improving Connectivity Contribution	£915,750.00	£0.00
Public Transport Contribution	£750,000	£0.00
Temporary Transport Contribution	£90,300.00	£0.00
Primary Education Contribution - towards the construction of a new school.	£5,809,650.00	£9,500,000.00
Secondary Education Contribution – toward additional secondary school places	£4,637,566.00	£8,258,679.00
SEND Contribution	£0.00	£1,463,597.00
Treble Bob Roundabout Improvement Scheme	£3,430,412.00	£5,293,907.00
M1 Jct 30 Improvement Scheme	£885,000.00	£535,764.00
Travel Plan	£50,000.00	£50,000.00
Healthcare Contribution – towards improvements to the existing healthcare infrastructure	£684,720.00	£1,800,000.00
Libraries – toward library improvements	£0.00	£126,840.00
Chesterfield Royal Hospital	£0.00	£2,375,760.00
Total	£17,360,398.00	£29,404,547.00
Affordable Housing Provision	6.40%	10%

In addition to the above, Clowne and Barlborough Parish Councils also requested contributions towards the following:

Project Reference	Project	Location	Indicative Budget Estimate £	Notes/ Baseline Assumptions
24-1	Finishing the link to the Clowne Greenway from <u>Barlborough</u> end	Clowne Greenway	£49,000	ONS average occupancy assume 2.42 people per household Forecast additional population once all houses are occupied assume 4356 persons Car ownership ONS 2021 – 2160 additional cars based on 12 cars for every 10 households in England Supports section 6.56 of Bolsover Local Plan to improve access to Greenway as a result of population increase of 4356 persons
24-2	Extension to Clowne & <u>Barlborough</u> Cemetery	<u>Barlborough</u> Road, Clowne	£317,000	Increased Burial Capacity (land already secured by Joint Burial Committee) needs groundworks, roads and water. Costings based on those supplied by Engineering Services at Bolsover DC
24-3	Town Centre Improvements Scheme	Various within the Town Centre Environs	£110,000	New Civic Space, Town Centre Pedestrianisation & Shop Front Scheme, Clowne in Bloom Town Centre and key Approaches to CGV
24-4	Community & Road Safety Improvements	Various	£130,000	CCTV Phase 3 for CGV, Puffin Crossing Mill Green Way
24-5	Cultural Hub	To be identified	£430,000	To house a start-up cultural industries centre in a suitable building to create a cultural hub for Clowne. Costs include purchase of suitable building and adaptation works to create various studio spaces etc.
24-6	30m x 15m Extension to Clowne Community Centre or new community space within Parish	Recreation Close, Clowne	£1,062,000	To extend level of community space to accommodate forecast increase in resident population of 4356 persons. https://costmodelling.com/building-costs Estimate based on an extension cost of 450 metres square at a cost per £2360 per square metre.
24-7	Extension to Allotments	<u>Hickinwood</u> Lane	£48,250	To extend level of allotment space to accommodate forecast increase in resident population of 4356 persons. 2.5 acres at £12,100 per acre plus £18000 for cost of parking area, fences, gates hedges & borders, water supply, drainage, CCTV etc.
Total Indicative Costs - All Schemes			£2,146,250	

Community Infrastructure Levy Regulations 2010 Part 11 Regulation 122

The Community Infrastructure Levy Regulations 2010 Part 11 Regulation 122 relates to the limitation on the use of planning obligations. In summary, the legislation states that a planning obligation may only constitute a reason for granting planning permission for the development if the obligation is:

- a) Necessary to make the development acceptable in planning terms;
- b) Directly related to the development; and
- c) Fairly and reasonably related in scale and kind to the development.

Following an assessment of the contributions requested against the above legislation, the following contribution requests are not considered to meet the tests:

- Community Forum Contribution
- Improving Connectivity Contribution
- Public Transport Contribution
- Temporary Transport Contribution
- Chesterfield Royal Hospital Contribution
- The contribution requests made by Clowne and Barlborough Parish Council

In relation to the contributions towards a Community Forum, Improving Connectivity, and Public Transport, these were requested at the previous Planning Committee in 2018 by Members of the Committee, and not technical consultees. For the applicant to make these contributions, the affordable housing provision was reduced from 10% to 6.4%. Following a re-consultation exercise with statutory and non-statutory consultees in 2023/24, none of them have requested these contributions.

Whilst Members of Planning Committee requested these previously, there is no justification on how they meet the CIL Regulation tests set out above. They have not been requested from consultees, there does not appear to have been a method for calculating the contributions,

and it cannot be proven that the contributions in themselves are necessary to make the development acceptable. However, in relation specifically to connectivity and public transport, whilst the contributions cannot be justified, there are other provisions that deal with these matters, which are discussed in detail within the Committee Report.

Chesterfield Royal Hospital stated in their response that initial modelling suggests that the impact of this development is up to £2,375,760. However, no information has been submitted by the Royal Hospital that details why this contribution is required, and what it is needed for specifically. There is not enough information for BDC to conclude that the contribution requested meets the tests set out in the CIL Regulations.

The requests made by Clowne and Barlborough Parish Councils have been fully considered. The budgets for each are indicative estimations of what may be required. In addition, whilst there is some information on what each improvement would deliver, there is no detailed justification or reasoning as to why these are necessary (in planning terms), and therefore, these requests cannot be considered as infrastructure, that is necessary to make the development acceptable in planning terms. Therefore, they do not meet the tests set out in CIL Regulation 122.

Critical and Non-Critical Infrastructure

The Councils Infrastructure Study and Delivery Plan (March 2018) sets out what the priorities are for BDC, and these are sub divided into being critical, necessary, and complimentary, see extract below. It should be noted that this priority hierarchy provides a guide as to how financial contributions should be prioritised, however in terms of prioritisation the below may be superseded in certain circumstances by more recent evidence that may come forward through consultation responses.

Importance to the Local Plan Strategy	Type of Infrastructure Project
Critical	<ul style="list-style-type: none"> • Road capacity • Utilities • Water
Necessary	<ul style="list-style-type: none"> • Education - Primary Phase • Cycling and Walking • Green Space - Town Parks • Green Space - Quantitative improvements • Education - Secondary Phase • Health
Complementary	<ul style="list-style-type: none"> • Green Space - Qualitative improvements • Strategic Green Infrastructure

Based on the Councils Infrastructure Study and Delivery Plan (March 2018) and the relevant consultation responses, BDC consider some of the contributions and requirements to be critically needed to facilitate the development, and comply with CIL Regulation 122 including:

- The construction of a Primary School
- Contribution towards Secondary School Places

- Treble Bob Roundabout Improvement (scheme described in full in Transport & Highway Section below)
- M1 Jct 30 mitigation contribution ((scheme described in full in Transport & Highway Section below)
- Travel Plan Contribution
- Healthcare Contribution
- 10% Affordable Housing provision

The total for the above critical infrastructure = **£25,438,350.00 + 10% Affordable Housing**

The following contribution requests also comply with CIL Regulation 122, but are non-critical infrastructure:

- SEND Contribution
- Libraries contribution

Viability

The applicant commissioned an updated Viability Report in 2024, which was undertaken by Bespoke Property Consultants (“Bespoke”). CP Viability who reviewed the applicants Viability Report on BDC’s behalf did not agree with the initial findings and concluded that the development was viable with full contributions and 10% affordable housing provision.

There have been extensive discussions between BDC, the applicant and the Viability Consultants for both parties to try to find an agreed position and clarify the areas of disagreement, specifically in relation to the inputs into the applicants Viability Appraisal. The main points of disagreement that needed discussion were in relation to:

- Profit level for open market housing.
- Build cost - External build costs.
- Contingency and professional fees.
- Infrastructure timings & S106 payment triggers.

Bespoke submitted further information / evidence in a letter dated 31st July 2024, in which they expand and provide justification for their position on some of the above points and make concessions on others. This additional information has been reviewed by CP Viability and they now agree with the inputs / baselines used for the following in the applicants Viability Appraisal:

- Profit level for open market housing – Following the submission of further evidence from other similar schemes, CP Viability have now agreed with the proposed profit levels at 20% on revenue.
- The applicant has reduced there assumed build costs, and they have adopted those proposed by CP Viability. The external costs have been increased, which is reasonable as confirmed by CP Viability.

- There is still a disagreement over contingency and professional fees, however this is not considered to be so significant that it would fundamentally alter what contributions can viably be made.

Following the submission of additional information and discussions on the inputs associated with the applicants Viability Appraisal, CP Viability conclude that with the provision of 10% on site affordable housing, the maximum contribution payment that can be made is **£25,438,350**. This contribution would cover the critical infrastructure needed to make the development acceptable in planning terms. The applicant has now committed to making this contribution, which will be secured by way of a Section 106 Agreement.

In relation to the non-critical infrastructure contributions, these cannot be viably made at this stage in the process as confirmed by CP Viability. However, a deferred contribution clause would be inserted into any Section 106 to ensure that if these contributions were found to be viable through a viability reappraisal, then the applicant would be liable to make those contributions at a later stage in the development process.

The arithmetic evidence base which informs the agreement between officers and the applicant on viability is complicated. It is not considered helpful to regurgitate the findings of the appraisals here. The viability appraisal work and final report of the Council's viability expert form part of the public file and have been published in full for examination and comment by the public and consultees. In summary, it is the view of officers that based on the above, the appraisal work by CP Viability carried out on behalf of the Council and the applicant's commitment to making the necessary contributions as the development progresses to meet the infrastructure needs arising, the proposals would comply with Development Plan Policy II1 subject to a signed Section 106 Agreement, which includes a review mechanism to facilitate contributions towards deferred, "non-critical" infrastructure, where additional profit is made over and above that which has been identified through the viability modelling.

The Section 106 Heads of Terms are set out below at the end of this report.

Design Concepts

In terms of design Development Plan Policies SS5, SC2 and SC3 are relevant, along with NPPF Section 12.

Development Plan Policy SS5 (part I) states that the site should 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.

Development Plan Policy SC3 states that development will be required to achieve a high quality of design in terms of place making, building, and landscaping. Proposals for development will be permitted provided they (in summary): create good quality, attractive, durable places through good design, respond positively to the local context in terms of height, scale, massing, density layout and materials, protect important views, promote a vibrant mixture of proposals that supports communities, provides a sense of place.

NPPF section 12 at paragraph 134 states that design guides and codes can be prepared at an area-wide, neighbourhood or site-specific scale, and to carry weight in decision-making should be produced either as part of a plan or as supplementary planning documents. Landowners and developers may contribute to these exercises but may also choose to prepare design codes in support of a planning application for sites they wish to develop. Whoever prepares them, all guides and codes should be based on effective community engagement and reflect local aspirations for the development of their area, considering the guidance contained in the National Design Guide and the National Model Design Code. These national documents should be used to guide decisions on applications in the absence of locally produced design guides or design codes.

As set out above, appearance, layout, and scale are matters that are reserved as part of this outline planning application and will not be considered in detail as part of this application. Instead, these matters would be considered at reserved matters stage if the application was approved.

The design concepts discussed and agreed in 2017/18 remain the same, and no amendments to the scheme have been made. The submitted Design and Access Statement undertaken by FPCR on behalf of Waystone does set out some overarching design parameters for the site, and these were discussed in the previous Committee Report. The Design and Access Statement divides the site up into Character Areas, and then provides a high-level appraisal of how each would be designed.

The Character Areas are as follows:

Hickinwood Heart and Harlesthorne Waterside

As set out in the Design and Access Statement, this area would accommodate residential development of a higher density, which would create an enclosure to the open space. The housing and school development will be formally arranged fronting onto the central public open space.

Van Dyk Edge and Gapsick North and South

Residential areas of lower density are proposed for these Character Areas. It is considered that this will take account of the adjacent Conservation Area and site topography. Hickin Wood will form a central green focus to the area with strong footpath links to the wider countryside.

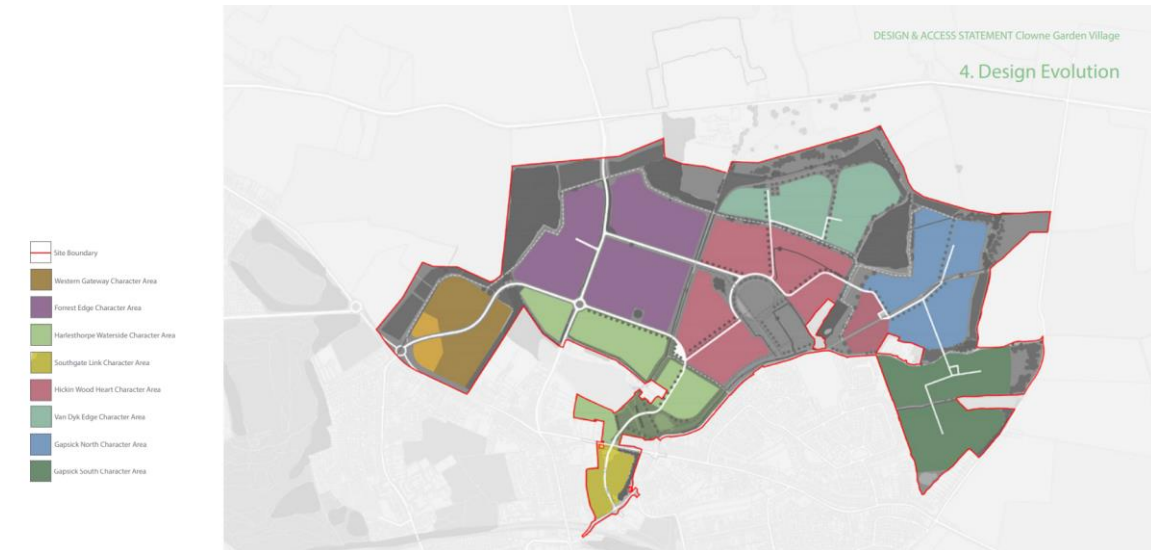
Forrest Edge

This Character Area would contain employment uses on the western edge of the site and will be enclosed by existing Forrest Plantation. Green Infrastructure is proposed along the northern boundary, and this would extend the existing wooded character on the northern edge.

Southgate Link and Western Gateway

A gateway entrance is proposed from the south and west, including new pedestrian links into Clowne. Character Streets are proposed across the Masterplan e.g., green lanes, primary roads, and boulevards with trees to aid legibility.

The following is an image of the Character Areas as they are set out in the Design and Access Statement:



BDC's Urban Design Officer ("UDO") has reviewed the application and has provided some comments. The UDO notes that in recent years, the Government has pushed for improvements in design quality. This is evident in the changes made to the NPPF, and the formulation of both the National Model Design Code and Building for Healthy Life.

The Parameters Plan has been reviewed and it is a logical and responsive layout based on the existing site conditions. The UDO states that the housing areas could benefit from integrated communal uses and at this stage the garden village character is not something that is a prominent feature in the layout any more than other large developments.

Previously in 2018, the requirement to establish design principles was subject to a condition. As part of the latest consultation exercise, the UDO does not object to the scheme, and has again recommended that a condition is attached that relates to the submission of a Design Code. It is noted that a request has also been made for a condition that relates to the requirement for a masterplan, however, it is considered that the requirement to agree a site wide design code provides enough comfort that the design characteristics of the development will be considered in detail.

Subject to a robust condition, it is considered that the development would comply with Development Plan Policies SC2, SC3, SS5 (part I) and the provisions set out in the at NPPF section 12.

Representations

Many of the representations received in relation to design relate to the detailed matters of

the development, and these would be considered at reserved matters stage. It is fully noted that a development of the size proposed in Clowne will change the characteristics of the area. However, subject to the development of a masterplan, a design code, and the other requirements set out in the proposed planning condition, it is considered that this change to the area can be dealt with sensitively. In terms of impacts to residential amenity, this again would be assessed at reserved matters stage.

Housing Mix and Affordable Housing

Housing Mix

In relation to housing mix Development Plan Policy LC3 is relevant and states that development proposals for new housing should seek to ensure an appropriate mix of dwelling types, and sizes, taking account of existing imbalances in the housing stock, site characteristics, the characteristics of adjoining development, and viability and market considerations.

At paragraph 5.50 of the Development Plan, it sets out that the Council's Strategic Housing Market Assessment (SHMA) makes recommendations in relation to the mix of housing, and for Bolsover this is as follows:

- 0-5% 1 bedroom homes
- 30-35% 2 bedroom homes
- 40-45% 3 bedroom homes
- 20-25% 4 or more bedrooms

Whilst it is possible to condition the housing mix, it would not be considered appropriate in this instance. With a site of this size, the build programme is likely to be more than 20 years, and it is reasonable to conclude that the mix needs may change over that time. As a result, this could have an impact on deliverability from a commercial standpoint in the future. Therefore, it is considered that housing mix should be dealt with on a phase-by-phase basis at reserved matters stage and given that the Council have an adopted policy position on housing mix through Development Plan Policy LC3, it gives sufficient comfort that this can be revisited at reserved matters stage.

Affordable Housing

Development Plan Policy LC2 relates to affordable housing and states that the Council will require applications for residential development comprising 25 or more dwellings (or which form part of a larger development site with a potential capacity of 25 or more dwellings) to provide 10% as affordable housing on site. This should be in the form of affordable housing for rent. Where an applicant considers that this requirement would lead to the development becoming unviable, this should be demonstrated through the submission of a detailed viability assessment which should accompany the planning application.

The NPPF also supports the delivery of affordable housing as set out in Section 5 (Delivering a Sufficient Supply of Homes).

In terms of the type and mix of affordable houses for rent, the Council's evidence points to the greatest demand for larger family homes, including 3 and 4 bed homes. In addition, BDC planning policy also identifies that there is a shortage of 1 bed properties.

The applicant has committed to making provision for 10% affordable housing in the form of affordable rent. To ensure that the affordable housing is delivered, this would be included as an obligation in any Section 106 Agreement. Overall, it is considered that the development complies with Development Plan Policy LC2. Whilst the provision for affordable housing is always beneficial generally, in planning policy terms, the applicant is proposing a policy compliant level of affordable housing, which is the expectation. With that considered, the provision for affordable housing is neutral in the planning balance.

Green Space and Sports Provision

Development Plan Policy ITCR5 states that residential development of over 25 dwellings will be required to make provision for an equipped play area and new or enlarged green space either on site or within 400 metres walking distance in accordance with the following minimum standards: a) 1.86 ha. of Formal Green Space (Amenity green space, Recreation Grounds, and Equipped Play Areas) per 1,000 population.

Policy ITCR5 also states that "In addition new residential developments of more than 10 units will be expected to make reasonable financial contributions, either for new green spaces, or to improve green spaces, falling within the following walking distances: Equipped Play Areas within 400 metres / Amenity Green Space within 500 metres / Recreation Grounds or Semi-Natural Green Space within 800 metres. The Council will prioritise contributions to achieve minimum quality standards of 60% for Green Spaces". In line with policy ITCR5, a suitable commuted sum would be sought for improvements to the following (off site) green spaces – Equipped Play Area: Clune Street play area, Semi-Natural Green Space: Clowne Linear Park.

Development Plan Policy ICTR7 states that when considering development proposals, the Council will use the Sport England Playing Pitch Calculator and the Playing Pitch Strategy and Assessment to consider whether new playing pitch provision or improvements to existing pitches will be needed.

Development Plan Policy ICTR 6 states that Development proposals will be permitted where they do not result in the loss of existing green spaces, including allotments and village greens, as identified on the Policies Map or in the Council's Green Space Strategy, and associated documents, or any future green space.

Development Plan Policy SS5 (part h) states that as part of the development for the site a new substantial and central village green should be created.

NPPF paragraph 102 states that 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 and can deliver wider benefits for nature and support efforts to address climate change.

The Council's Green Space Strategy for Bolsover 2012 (updated 2018) states that for Clowne there is an existing shortfall in the quantity of formal (8.59 Ha) and semi natural green space (5.68 Ha) across the [existing] settlement. The strategy also states that the priority for Clowne is to 'establish a town park'.

Green Space

The applicant is proposing the following in relation to green space provision (the same as in 2018):

- Approximately 57.75 hectares (over 40%) of the site is designated as multifunctional green infrastructure, including defined public open space, landscape, and green infrastructure.
- Accessible open space of various typologies as defined in the Bolsover Green Space Strategy. These include Level 2 (multifunctional town park), Level 3 (village or neighbourhood park) and Level 4 (local green space), which accounts for **10 hectares** of formal green space. The total level of green space in the development would amount to **15 hectares**.
- The provision of additional allotments, community orchards and other community green space.

Figure 8b on page 141 of the Development Plan sets out how much Green Space is required for varying scales of residential development as follows:

Number of houses	Formal	Semi - Natural	Total
25	0.10	0.06	0.16
50	0.20 ha	0.12 ha	0.32 ha
100	0.40 ha	0.24 ha	0.64 ha
150	0.60 ha	0.36 ha	0.96 ha
200	0.80 ha	0.48 ha	1.28 ha
500	2 ha	1.2 ha	3.2 ha
1000	4 ha	2.4 ha	6.4 ha

Based on the above, a development of up to 1,800 units would require the following:

- 7.2 hectares of Formal Green Space; and
- 4.32 hectares of Semi Natural Open Space

The GSS identifies (in summary) that Clowne does not have a Level 2 Town Park, and there is also a deficiency in access to equipped play areas in the south and east of the town. There is also an existing shortfall in the quantity of formal green space (8.59 hectares) and semi-natural green space (5.68 hectares) across the settlement. The GSS identifies that the key priorities for Clowne is to address these issues.

The Hickenwood Heart Character Area sets out the area of formal green space proposed in the scheme for natural play, sport, and informal recreation, along with provision of a Neighbourhood Equipped Area of Play (NEAP) and Multi-Use Games Area (MUGA).

BDC's Leisure Officer has reviewed the submission and does raise some concerns. The Leisure Officer concludes that whilst they were generally supportive of the proposals previously, they now have concerns in relation to the location of the MUGA and NEAP and their potential relationship to neighbouring dwellings. It should be noted that, the siting of the MUGA and NEAP are **not** being considered in this application, their positioning and specification would be discussed at reserved matters stage.

The Leisure Officer also concludes that based on a population density estimation of 2.3 residents per household, the area of formal green space should be in the region of 7.74 hectares, which is more than the requirement set out in the Development Plan above. This population density estimation appears to be based Sport England's ("SE") calculations in their response. The Leisure Officer concludes that whilst they understand the reasoning behind locating the central open space to the north of the existing allotments off Hickenwood Lane, they are of the view that the actual area of usable open space appears to be limited to the village green, the area of which is unspecified. This is because most of the area is occupied by allotments and the proposed community gardens. The Leisure Officer concludes that there should be a larger area of open space / park land which should also include formal sports provision.

Whilst the Leisure Officers comments are noted, as set out above, the development will deliver **10 hectares** of formal green space, including a multifunctional town park, village green and additional allotments. The current absence of a 'Level 2 Town Park' facility is a significant issue for Clowne as identified in the GSS. The village green will deliver a 'level 3 (village or neighbourhood park) as defined by the GSS, and this accords with the requirements of Development Plan Policy SS5 (part h). In addition, **5 hectares** of natural and semi natural green space would be created as part of the development, which will include natural and semi natural habitats that would be accessible to the public within the development, including woodlands, wetlands, and meadows.

Overall, the development delivers more than what is required, specifically in relation to the formal green space where the applicant is delivering approximately 2 hectares more than the policy requirement. Given that the proposals exceed the planning policy requirements and are also delivering typologies of green space that are needed in Clowne, this is a benefit in the planning balance that is given significant weight. The development more than complies with the requirements of Development Plan Policy ITCR5, and the requirements of the NPPF at paragraph 102. The development would also create a village green, which meets the requirement of part h of Development Plan Policy SS5 (part h).

Allotments

Concerns have been raised in relation to the potential loss of the allotments that currently exist within the site. Development Plan Policy ITCR 6 is clear that community facilities such as allotments should be retained unless it can be robustly justified. In this case, the applicant and the details set out in the Design and Access Statement are clear that the existing

allotments will be retained as part of the development, and in fact the level of allotment provision will be increased within the site (directly adjacent to the existing allotments). Furthermore, to ensure that the allotments are retained as intended, a suitably worded planning condition would be added to ensure that they are retained in perpetuity. Therefore, subject to condition, the development complies with the requirements of Development Plan Policy ICTR 6.

Sports Provision

In relation to sports provision, Sport England (“SE”) have been consulted, and are a non-statutory consultee for this development. SE conclude that the additional population would generate a demand for sports facilities, as the existing provision within the area may not be able to accommodate the increased demand. SE observe that there are no sports facilities identified on the submitted Parameters Plan and nothing was previously included within the draft Section 106 Agreement relating to sports provision.

SE state that Bolsover Playing Pitch Strategy (August 2017) (“PPS 2017”) does show a shortfall of grass football pitches in the future in the area. SE also agree with the Leisure Officers comments in 2018, which highlighted the need for a new adult grass football pitch and changing rooms, and provision for this should be included within the development. Overall, SE conclude that the development does not include a sufficient level of provision for outdoor sports facilities, however, they **do not** wish to raise an objection to the application as set out in their response. SE conclude that further work is required to formally establish the levels of need for a new grass pitch / outdoor sports requirements in the area in 2023/24. Based on the above, SE recommend that a Sports Strategy is submitted to help inform any future reserved matters applications, and this can be included as a planning condition.

In relation to the provision for additional sports facilities, the previous Committee Report concluded that for a development of 1,800 dwellings and in line with the recommendations in Scenario 2 of the Growth Scenarios within the PPS 2017 (set out below), an additional 1,800 dwellings would generate sufficient demand for one additional full sized adult football pitch.

Scenario 2 – Identified need for Playing Pitches by Analysis Areas

Analysis Area	Residential (dwellings)	Adult Football	Youth Football	Mini Soccer	Rugby Union	Cricket
Clowne	1,868	1.08	0.85	0.06	0.01	0.28
Bolsover	1,723	1.02	0.81	0.07	0.02	0.28
Shirebrook	695	0.41	0.30	0.03	0.01	0.10
South Normanton	454	0.37	0.19	0.01	N/A	0.06
Total	4,740					

However, the PPS 2017 also states that if the existing facilities in the area are utilised more efficiently, then there would be sufficient provision to meet the additional capacity generated. Therefore, a request for a new adult football pitch to be included within the development (or a contribution) is not considered to be justifiable at this stage, as it would not meet the tests set out in the Community Infrastructure Levy Regulations 2010 Part 11 Regulation 122. This is because such a request is not considered necessary to make the development acceptable. The evidence base (PPS 2017) states that any additional need could be met if the existing

facilities in the area are used more efficiently. In relation to other pitch sports, the PPS 2017 shows these to be adequately catered for within the district. These sports include cricket, rugby league, rugby union, hockey, tennis, and bowls.

The PPS 2017 is the most up to date evidence-based document BDC has available to assess sports provision needs in the district, and this document was used to help inform the current adopted Development Plan. Whilst the PPS 2017 is being updated as part of the Development Plan Review work, at this stage this information is not available. In addition, there has been no evidence submitted that demonstrates that the conclusions in the PPS 2017 have substantially changed, and therefore, it is entirely reasonable for BDC to continue to refer to this document when assessing the need for sports provision in the area. Notwithstanding the above, whilst BDC cannot secure the provision of a new football pitch for the reasons set out, the applicant does refer to the provision of pitches within their Viability costings, and so, it is reasonable in this instance to request a Sports Strategy through a Condition to understand the potential delivery of these further.

Biodiversity & Trees

Biodiversity was 'scoped in' to the 2017 EIA, and Chapter 12 of the EIA considered biodiversity in detail. In addition, an Ecology Update Report was also submitted dated May 2018.

Biodiversity

Development Plan Policy SC9 states that development proposals should seek to conserve and enhance the biodiversity and geodiversity of the district and to provide net gains where possible. Proposals for development must include adequate and proportionate information to enable a proper assessment of the implications for biodiversity and geodiversity.

Development Plan Policy SS5 (part j) states that proposals for the site will create significant landscape planting, especially to the east, north and western boundaries and in other appropriate locations. Part m of the policy states that proposals will contribute towards conserving and enhancing the biodiversity of the district through the protection and incorporation of existing hedgerows, woodlands, wetlands and grasslands within the site's general layout, design, and orientation.

NPPF section 15 paragraph 186d states (in summary) that planning policies and decisions should contribute to and enhance the natural and local environment by minimising impacts on and providing net gains for biodiversity, including by establishing coherent ecological networks that are more resilient to current and future pressures.

Previous Assessment - 2018

Flora

In relation to Flora, no designated sites of international importance were identified within 5km of the site. Two Sites of Specific Scientific Interest ("SSSI") are located within 2km of the site including:

- Crabtree Wood SSSI located 1.4 km to the north of the site and
- Hollinhill and Markland Grips SSSI located 360m to the southeast.

Three non-statutory sites of conservation interest are situated within the site. These include:

- Hickinwood Farm Field Pond Local Wildlife Site (“LWS”) (BO135),
- Hickin Wood LWS (BO128) and
- Harlesthorne West Pond LWS (BO089).

In addition, two potential Local Wildlife Sites (pLWS), Harlesthorne Hedges and Clowne West Hedges and one site of interest, Hickinwood Lane Copse (BO136/3) are situated within the site. A further 10 LWS and 2 pLWS and 8 sites of interest are located within 1km of the site boundary. The closest is Harlesthorne Dam LWS (BO057), located adjacent to the site boundary.

In relation to potential impacts on Flora, although DWT did not raise objection to the application previously, they did highlight the following concerns, and these concerns remain today:

1. The proposed road through the wetland habitat to the east of Harlesthorne Dam due to the loss of a locally uncommon habitat and severance of the green corridor in this area. DWT advised that this road should be re-routed. If this is not possible, DWT concluded that it is essential that mitigation measures be included in the design, including bridging the existing ditches (which would also provide connectivity for mammals), offset gullies, drop kerbs and sensitive lighting.
2. The proposed road through the woodland to the west of Harlesthorne Dam due to adverse impacts on a Local Wildlife Site and severance of a green corridor. DWT advised that mitigation measures should be designed in as set out above. DWT stated that a mammal underpass would also be beneficial in this area to avoid/reduce road casualties.
3. Three points of severance in Harlesthorne Hedges pLWS, due to adverse impacts to a pLWS, degradation of the local hedgerow network and loss of hedgerow habitat. DWT advised that these severance points be reduced and where unavoidable, DWT advised that standard trees are planted either side of the carriage way to reduce the severance effect for bats and birds.

These concerns will be considered further below as part of the current assessment.

Fauna

Previously, the potential impacts to various habitats and species were considered for both the construction and operational phases of development. The following species were considered through the previous survey work:

- Badgers

- Bats
- Birds
- Reptiles
- Amphibians
- White Clawed Crayfish
- Water Vole
- Otter

It was concluded that no mitigation or further survey work was needed during the construction or operational phases of development for the following species:

- Otter
- Water Voles
- White Clawed Crayfish
- Reptiles

It was identified previously that that the following species and habitats did require some mitigation during the construction and/or operational phases of development:

Amphibians

The previous assessment concluded that based on the habitats present, the site was considered to have the potential to support a population of Great Crested Newts ("GCN"), with Hickingwood Farm Field Pond being identified as an area that could provide some suitable breeding habitat. However, given the relatively low Habitat Suitability Index score of the Hickenwood Farm Field Pond, which was (below average), it was considered likely that, should GCNs be present, the population size-class would be medium at most. The aquatic and terrestrial habitats present within the site were also considered suitable to support the common toad (a Species of Principal Importance) and other common amphibian species such as the smooth newt and common frog (of no conservation importance).

It was concluded previously that none of the waterbodies providing breeding habitat to the common toad (or other common amphibian species) will be directly affected by development. Clearance of the site and the subsequent loss of the more established habitats, such as hedgerow bases and areas of permanent rough grassland would likely result in a decrease in the population sizes associated with the onsite ponds (in the short-medium term). However, it was also concluded previously that given the proposed retention of habitats that offer optimal terrestrial habitat to the common toad and amphibians in general, (e.g. the mosaic of habitats around Hickenwood Farm Pond supporting the good breeding population, adjacent allotments, and Hicken Wood to the north) it was considered unlikely that the development would result in the complete loss of species such as the common toad. The potential decrease in the population of the species was minor adverse in Environmental Impact terms.

The implementation of the green infrastructure proposed, including a variety of new terrestrial habitat, along with the adoption of mitigation such as drop kerbs and off-set gully pots was considered effective mitigation to ensure that the amphibian populations will be maintained in the longer term.

Badgers

A survey carried out in October 2017 confirmed Badger activity in the vicinity of the site. In terms of mitigation FPCR recommended 'Constructional Mitigation' which involved ensuring that linkages in the area were maintained and that wildflower rich grasslands are provided in appropriate areas.

The following measures were also recommended to help protect badgers:

- Briefing the construction staff on the potential presence of badgers;
- Covering open trenches or providing ramps out to prevent entrapment; and
- Covering/compacting soil piles to prevent badgers forming new setts in soil piles

Operational mitigation was also recommended in the form of planting and habitat enhancement in relevant areas as the development progresses.

Bats

As a result of several bat surveys carried out in 2017/18, a series of mitigation measures were previously identified for bats in the area. It was concluded that a series of general habitat enhancements, additional waterbodies, better connected woodland areas and other linear habitats that are being proposed in the application were considered to provide some mitigation for bats. In addition, a minimum of 50 bat boxes of varying types were proposed as part of the 'Construction Mitigation' recommended in the 2017 EIA. Sensitive lighting was also recommended as part of the mitigation for the 'Operational Phase' of the development within the 2017 EIA. It was considered in the previous assessment, that subject to the inclusion of these measures as part of the mitigation proposals the development would demonstrate a minor beneficial effect in EIA terms.

Birds

Both a Breeding Bird Survey and a Wintering Bird Survey were carried out in 2018. It was concluded that the construction phase of the development does have the potential to disturb birds using the site for roosting, foraging, and breeding. Disturbance is likely to come from noise from vegetation clearance, initial ground works, and some construction activities such as piling. It was highlighted previously that disturbance during the breeding season may lead to nest desertation or avoidance of the area altogether.

During the operational phase, the development has the potential to impact upon populations of breeding birds through human disturbance within retained / created habitats. The potential increase in domestic cats and predation of small birds was also raised as a potential issue.

The previous assessment concluded that each phase of development is likely to result in a temporary reduction in the extent of foraging, shelter, and nesting habitat available, however given that most of the habitats of value would be retained, the impacts were considered short term.

In the longer-term, it was concluded that the provision of the gardens within the residential areas and the creation of habitats within the proposed Green Infrastructure would result in impacts of medium magnitude on a receptor of low sensitivity (local value) and will result in a minor beneficial effect to the wider breeding assemblage in EIA terms.

Summary of Effects

The 2017 EIA concluded that the proposed development will for the large-part result in the loss of arable land and improved and poor semi-improved grassland which are of negligible ecological value. In addition, it was considered that the development would result in the loss of small areas of wet ditches and associated wet grassland, semi-natural broad-leaved woodland, and removal of hedgerows of ecological value.

The 2017 EIA concluded that the Green Infrastructure proposed would help to retain most of the habitats of value, including ponds and the majority of mature trees, hedgerows, semi-natural broad-leaved woodland, flowing wet ditches and associated wet grassland. It was concluded that the mitigation measures, including the habitat creation and pre-cautionary measures would ensure that most adverse effects to ecological features of interest would be avoided. Finally, the 2017 EIA concluded that due to a lack of mitigation options, impacts of minor adverse effects of medium significance would potentially result from the loss of breeding habitat for farmland birds.

Current Assessment - 2024

Since the previous assessment was undertaken, both national and local policies have been updated, and the policies now relevant in terms biodiversity have been set out above.

Given the changes in national and local planning policy, and the need to assess whether the previous conclusions set out in relation to biodiversity in the 2017 EIA are still valid, the applicant has submitted updated ecological information as part of the ES Addendum submitted in March 2023. The following work has been undertaken as part of the ES Addendum:

- An updated site walkover – this was carried out by FPCR in July 2022 to identify and record any relevant changes to the previously recorded baseline data (surveys) submitted in 2017 /18 (outcomes described above). FPCR concluded within the EIA Addendum that there were no notable changes (since 2018) in habitat type and/or condition noted during the update walkover survey. DWT have reviewed this information and have not raised any concerns in respect of the conclusions reached following the site walk over. DWT conclude that they have no reason to expect that the protected species receptors will have altered since the previous assessments undertaken in 2018. Protected species constraints on the site remain the same as they did in 2018, and include farmland birds, foraging and commuting bats, water voles, reptiles, and amphibians.

DWT have reviewed the EIA Addendum, and do not consider that further surveys are needed, as it was not considered that they would bring about any significant changes to the mitigation previously agreed.

- Summer Bat Activity Survey – this was carried out in July 2022. This addressed a previous request made by DWT to fill a gap in the existing survey information previously submitted. DWT have no objection to the conclusions set out in the Activity Survey, and support the mitigation previously agreed to maintain habitat for foraging and commuting bats.
- Farmland Bird Mitigation Strategy – this was carried out at the request of DWT. The strategy aims to provide compensatory habitat for at least 4 skylark territories, plus breeding birds habitats for yellow hammer and linnet. Currently it has been calculated that between 8.36ha and 18.1ha of offsite land will be required to fully compensate for the loss of the four skylark territories recorded on site, with the exact area dependent on the amount of onsite land utilised as mitigation. Given that off-site mitigation will be required, this would need to be secured in the Section 106 Agreement.
- DWT welcome the proposals for arable crop management and the creation of features such as beetle bank and conservation headlands.

The EIA Addendum concludes that the impacts of the development on biodiversity have not changed since the assessment undertaken in the 2017 EIA, and these remain valid. DWT have reviewed the EIA Addendum and do not disagree with the conclusions. The 2017 EIA concluded that there were minor adverse effects of medium significance that could potentially result from the loss of breeding habitat for farmland birds. To address this, the applicant is now proposing on and off-site compensatory habitat for skylark birds as set out above. In terms of biodiversity, there are not considered to be a greater level of impact from the development than what was concluded in the 2017 EIA.

Biodiversity Net Gain

From the 12th February 2024, Biodiversity Net Gain (“BNG”) became mandatory (for major developments) under Schedule 7a of the Town and Country Planning Act 1990 (as amended). This means that there must be a 10% mandatory net gain for major developments that were submitted on or after the 12th February 2024. Given that this application was submitted prior to BNG becoming a mandatory requirement, BDC cannot enforce these requirements on to this application. Therefore, we must revert to the requirements of the Development Plan Policies and the NPPF in relation to biodiversity, which advocate for net gains where possible and no net loss.

In terms of BNG, this scheme would deliver a significant level, and this would be achieved through habitat creation and enhancement on site, without the need for any off-site provision. The new habitat provision will include the following:

- 6ha of broad-leaved woodland;
- 29ha of species-rich grassland (of which at least 4.5ha will be managed to a ‘good’ condition);
- up to 2160m of native species-rich hedgerow (planted as the boundary habitat to the areas of proposed woodland and along new and existing roads, and between areas of development and green space);

- two ponds totalling 0.6ha and 1400m of associated swales, will be specifically designed to be of value to wildlife (as part of the Sustainable Urban Drainage System (SUDS)), and
- scattered native trees and shrubs would also be planted in association with areas of open space.

Below is an image demonstrating where the new green infrastructure will be delivered:



BNG would be delivered across the site and would include improvements on all boundaries. The BNG Assessment submitted with the updated information predicts the following net gains across the site:

- 67.38 Habitat Units (18.05%)
- 6.91 Hedgerow Units (10.21%)
- 15.48 River Units (138.55%)

DWT have reviewed the BNG Assessment submitted, and conclude that the trading rules have been satisfied, and welcome the proposals. Development Plan Policy SC9 and the NPPF at Section 15 both advocate the need to achieve net gains where possible, and Development Plan Policy SS5 (part m) states that proposals should conserve and enhance biodiversity, and the development achieves this. The BNG proposals in this scheme are considered to go beyond the current Development Plan and NPPF requirements and go beyond the mandated 10%. Given that the BNG proposals go beyond the policy and legislative requirement, the proposals are a benefit of the scheme and is given significant weight in favour of the development in the planning balance.

The development will also deliver significant landscape planting because of the BNG proposals, and this complies with Development Plan Policy SS5 (part J).

DWT Concerns

On the concerns raised by DWT (set out above) in relation to the on-site flora, it should be noted that the specific layout of the road infrastructure is a reserved matter. There will be a need to provide several roads and access points through the site for accessibility purposes.

As a result, there will be an inevitable loss of some flora and fauna on the site, and this does not weigh in favour of the development in the planning balance.

In addition, DWT offer some potential mitigation options that could be explored if the road infrastructure (of concern) identified on the Parameters Plan remains in place at reserved matters stage. This includes bridging of the existing ditches, offset gullies, drop kerbs, sensitive lighting schemes, tree planting and the construction of a mammal underpass. It is too early in the process to establish what specific on-site mitigation would be required, given that the application is an outline application. This will need to be established at reserved matters stage when assessing the acceptability of each individual layout.

Conclusion on Biodiversity

The following are the concluding points:

- No further survey work is required following the extensive work carried out in 2017 /18 in relation to on-site fauna, and DWT have confirmed that they do not object to this approach. There is mitigation proposed in relation to bats, birds, amphibians, and badgers as set out above. In EIA terms, there are no other approved schemes in the area that would fundamentally change the outcomes of the 2017 EIA.
- The Farmland Bird Mitigation Strategy submitted sets out a suite of potential measures that could provide suitable compensation through a combination of onsite and offsite enhancement/creation. These proposals have been submitted to address a weakness identified in the 2017 EIA. The offsite mitigation will need to be secured through the Section 106 Agreement.
- Significant BNG improvements will be delivered across the site, and this is a benefit in the planning balance.
- In relation to the concerns raised by DWT, there is no fixed layout at this stage, so it is difficult to establish what on site mitigation would be required for any road infrastructure. This will need to be established at reserved matters stage when assessing the acceptability of each individual layout.

Overall, there is an inevitable conflict with Development Plan Policy SC9 and the NPPF at Section 15 because of the potential loss of flora and fauna on the site, and the fact that the development would fail to conserve. However, there is significant mitigation that goes beyond the policy and legislative requirements in terms of net gains, and this would outweigh and mitigate for the harm in this instance. In addition, whilst DWT have concerns in relation to road infrastructure, which is a valid concern, the specific layout of roads is not for consideration as part of this application.

There is significant landscape planting on all boundaries of the development, which complies with Development Plan Policy SS5 (part j).

Representations

Many of the points raised in the representations received in relation biodiversity have been dealt with in the above assessment. The ecological reports undertaken are still considered to be fit for purpose and DWT confirm that they have no objection in relation to the survey work. In terms of wildlife protection, DWT have recommended a condition for a biodiversity CEMP, which would need to be submitted and agreed prior to the commencement of development. This document would need to include details of wildlife protection measures for various species, and this would need to be agreed with DWT before the condition was discharged.

Trees

Development Plan Policy SC10 states that trees, woodlands, and hedgerows are important visual and ecological assets. To help retain local distinctiveness, trees, woodland, and hedgerows will be protected from damage and retained, unless it can be demonstrated that removal is necessary and appropriate mitigation can be achieved. Potential long-term conflict between retained trees, hedgerows, and buildings should be designed out at the planning stage.

NPPF section 12 paragraph 136 states that trees make an important contribution to the character and quality of urban environments and can also help mitigate and adapt to climate change. Planning policies and decisions should ensure that new streets are tree-lined, that opportunities are taken to incorporate trees elsewhere in developments (such as parks and community orchards), that appropriate measures are in place to secure the long-term maintenance of newly planted trees, and that existing trees are retained wherever possible. Applicants and local planning authorities should work with highways officers and tree officers to ensure that the right trees are planted in the right places, and solutions are found that are compatible with highways standards and the needs of different users.

The applicant has submitted an updated Arboricultural Impact Assessment ("AIA"), which was undertaken by FPCR in December 2022. As part of that assessment a total of 79 individual trees, 52 groups of trees, 3 woodlands and 30 hedgerows were surveyed. The report concludes that most of the individual trees recorded were of mature proportions, with most of the trees being positioned within field boundary hedgerows.

Of the individual trees, ten were considered of high quality (Category A). This included six English oak, one Turkey oak *Quercus cerris*, a single sycamore, an oak identified as a Lucombe oak *Quercus x hispanica* and a Beech *Fagus sylvatica*. All seven were of large proportions, displaying limited defects other than those that would be typically expected in such mature specimens and thus had considerable remaining life expectancies. All three recorded woodlands were also considered to be of high quality (Category A), as were a further two tree groups. G11, a mixed species group on the southern boundary and G43, which comprised a double row of mature beech *Fagus sylvatica*, ash and English oak specimens.

It should be noted that partially within the site boundary to the north is a woodland that contains a wide range of species that is protected by a Tree Preservation Order ("TPO") reference TPO BOL/20/105. The woodland is also situated within Southgate House Conservation Area, and the latest AIA considers this to be Category A (high quality / high value). In addition, the AIA also identifies that a large beech tree (T67) situated on the

northern boundary meets the criteria for Veteran Tree status. The Parameters Plan indicates that the woodland and Veteran Tree would be retained, which has been confirmed by FPCR. In addition, the site includes Hicken Wood, which is recorded as Ancient Woodland which in England is defined as an area that has been continuously wooded since at least 1600 AD. The proposed Parameters Plan indicates that this will not be affected by the development and would be retained in full.

Given that 'layout' is not being considered at this stage, the level of information submitted in relation to the protected woodland and Veteran Tree is acceptable. However, further survey work will be required when layouts are fixed at reserved matters stage to ensure that any potential impacts are considered in detail.

Concerns have been raised in the representations received in relation to the Arb Impact Assessment and the lack of detail in terms of what will be removed and retained as part of the development.

It is inevitable that some tree removal will take place within the site, however, the level of removal will only become clear at reserved matters stage. It is considered at this stage of the process, the information contained within the submitted AIA is acceptable.

To ensure that trees are adequately considered within each phase of development, BDC would attach a planning condition to ensure that a new AIA is submitted as part of reserved matters application where this is considered relevant to ensure that potential tree impacts are considered in detail.

Potential tree loss is not considered to weigh in favour of the development in the planning balance. However, as set out above, the applicant has submitted a comprehensive biodiversity enhancement scheme with the application, which demonstrates significant BNG increases across the site. Furthermore, if more trees need to be removed than what is currently identified in the submitted AIA to facilitate a layout, then further planting can be requested.

For the reasons set out above, it is considered that the information submitted by the applicant in relation to trees is acceptable at this stage, and a condition would be attached to ensure that AIAs are submitted at reserved matters stage if this is considered to be relevant. Therefore, subject to condition, the development is acceptable, and complies with Development Plan Policy SC10 and the NPPF at Section 12.

Representations

The concerns raised in the representations relating to trees have been adequately considered above.

Landscape and Visual Impact

Landscape and Visual was also 'scoped in' to the 2017 EIA, and therefore, an assessment will need to be undertaken to understand whether the previous conclusions set out in the 2017 EIA are still valid.

Development Plan Policy SC8 states that proposals for new development will only be permitted where they would not cause significant harm to the character, quality, distinctiveness, or sensitivity of the landscape, or to important features or views, or other perceptual qualities such as tranquillity unless the benefits of the development clearly outweigh the impacts. Development proposals should have regard to the Derbyshire Landscape Character Assessment, Historic Landscape Character Data and the Areas of Multiple Environmental Sensitivity and contribute, where appropriate, to the conservation and enhancement, or restoration and recreation of the local landscape.

NPPF section 12 paragraph 135c states (in summary) that planning policies and decisions should ensure that developments are sympathetic to local character and history, including the surrounding built environment and landscape setting, while not preventing or discouraging appropriate innovation or change (such as increased densities).

Previous Assessment – 2018

An LVIA was submitted as part of the 2017 EIA, which assessed the landscape value of the site. The previous assessment concluded that the site contained no particularly rare landscape features, and in EIA terms, the landscape affected was described as having a medium sensitivity and medium landscape value.

It was previously concluded that the main impact associated with the development was on a site wide scale and this was in relation to the proposal to replace arable farmland with development. It was considered that following the completion of the development, the overall effect in EIA terms would be major/moderate adverse in the shorter term and in the longer term the effect would be moderate adverse once the landscaping mitigation / green infrastructure had matured.

Current Assessment – 2024

As part of the EIA Addendum, the applicant has also re-assessed the potential landscape and visual impacts from the development. The EIA Addendum concludes that there have been no changes to the methodology for the LVIA since its original submission and the current best practice remains the same.

In terms of baseline conditions, the EIA Addendum states that whilst most of the environmental conditions at the site remain the same as in 2017. The most notable change is that most of the site has now been removed from the Green Belt. It is concluded that all other character areas and receptors identified in the baseline assessment remain as set out in the 2017 EIA.

According to the latest information submitted, the impacts will continue to be 'major/moderate adverse' in the earlier stages of the post development phase and 'moderate adverse' in the longer term once the landscaping / green infrastructure matures. The residual effects of the proposed development remain consistent with those set out in the 2017 EIA. Given that there have been no fundamental changes to the methodology, the baseline conditions, the level of

green infrastructure and landscaping proposed as part of the mitigation, this appears to be a reasonable conclusion.

BDC has no reasonable basis to disagree with the outcomes of the latest EIA Addendum in relation to landscape and visual impacts. In EIA terms, there are no other approved schemes in the area that would fundamentally change the outcomes of the 2017 EIA, and the effects remain the same as what were concluded previously.

There will still be some policy conflict with Development Plan Policy SC8 and NPPF section 12. The most significant policy conflicts will come in the early stages of the completed development phase, where major / moderate adverse impacts will take place from both a landscape and visual aspect. However, as set out above, this harm will reduce when the new landscaping and green infrastructure matures, but this will take time. It cannot be ignored that the policy conflict in the early stages of the post development phase does not weigh in favour of the development in the planning balance.

Cultural Heritage & Archaeology

Cultural Heritage & Archaeology was 'scoped in' to the 2017 EIA, and therefore, an assessment will need to be undertaken to understand whether the previous conclusions set out in the 2017 EIA are still valid.

Heritage

Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 (as amended) states that in considering whether to grant planning permission for development which affects a Listed Building or its Setting, the LPA shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses. Section 72 of the same Act states that in the exercise, with respect to any buildings or other land in a Conservation Area, of any functions under or by virtue of any of the provisions mentioned in subsection (2), special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area.

Development Plan Policy SC16 relates to development within or impacting on Conservation Areas and states that development proposals within or impacting upon Conservation Areas will be permitted where they preserve or enhance the character and appearance of the area and its setting. Applications will be considered in relation to how well the design and location of the proposal has taken account of a) The development characteristics and context of the conservation area, in terms of important buildings and important open spaces b) Landscapes, walls, trees and views into or out of the area c) The form, scale, size and massing of nearby buildings, together with materials of construction.

Development Plan Policy SC17 relates to development affecting Listed Buildings. The Policy states that as set out in national guidance, where a proposed development will lead to substantial harm to or loss of a designated heritage asset, the Council will refuse consent except in exceptional circumstances. Exceptional circumstances would include demonstrating that the substantial harm or total loss is necessary to achieve substantial public benefits that outweigh that harm or loss.

Development Plan Policy SS5 (part o) states that development should conserve and/or enhance the historic environment, heritage assets and/ or their setting and be informed by a Heritage Impact Assessment

NPPF paragraph 201 states that Local planning authorities should identify and assess the particular significance of any heritage asset that may be affected by a proposal (including by development affecting the setting of a heritage asset) taking account of the available evidence and any necessary expertise. They should take this into account when considering the impact of a proposal on a heritage asset, to avoid or minimise any conflict between the heritage asset's conservation and any aspect of the proposal.

NPPF paragraph 203 states that in determining applications, local planning authorities should take account of: a) the desirability of sustaining and enhancing the significance of heritage assets and putting them to viable uses consistent with their conservation; b) the positive contribution that conservation of heritage assets can make to sustainable communities including their economic vitality; and c) the desirability of new development making a positive contribution to local character and distinctiveness.

NPPF paragraph 205 states that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation (and the more important the asset, the greater the weight should be). This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance.

NPPF paragraph 208 states that where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use.

Previous Assessment – 2018

The 2017 EIA examined a range of impacts on heritage assets. The EIA concluded that the proposed development would not lead to substantial harm or loss of designated heritage assets of the highest significance such as World Heritage Sites, Scheduled Ancient Monuments, Grade I or Grade II* Listed Buildings, Registered Parks and Gardens or Registered Battlefields. The previous Committee Report also concluded that the development would not lead to substantial harm or the loss of any designated heritage assets. Of the impacts previously assessed, the most notable were identified as follows:

- Enduring effects on potential buried archaeological remains within the footprint of the groundworks proposed.
- Short term and long term 'negligible to minor' increase in noise and light pollution on the Ash Tree Cave Scheduled Monument. Residual Setting Impacts upon Ash Tree Cave Scheduled Monument of 'Negligible to Minor Adverse'.
- Short term and long term 'negligible to minor' increases in noise and light pollution on the Grade II listed Manor Farm, North Walls Farm, Southgate Stables, Southgate House/ Van Dyk Hotel and the associated gardens and parkland.

- ‘Negligible to minor adverse’ visual and setting impacts on Grade II listed North Walls Farmhouse and Southgate Stables.
- ‘Minor to moderate’ visual and setting impacts on Southgate House / Van Dyk Hotel Grade II listed building.
- Visual and setting impacts on Manor Farm, which will be ‘Major’ and will have a ‘Major adverse’ impact on significance.
- The magnitude and significance of the impact on the Southgate House Conservation Area, which will be negligible.
- The magnitude of the impact on the Clowne Conservation Area, which will be neutral.

The Conservation Officer and Historic England (“HE”) both raised concerns during the assessment of the application previously. Both consultees concluded that insufficient information had been submitted to fully understand the heritage impacts from the development.

It was considered in the previous assessment of the application that the impacts of the development in the vicinity of the above heritage assets could be understood from the details provided at the time. It was concluded that there would not be ‘substantial harm’ leading to the total loss of significance of the assets in Development Plan and NPPF terms. In EIA terms, the 2017 EIA concluded that the effects on the adjacent Conservation Areas would be of neutral to minor beneficial significance or of negligible significance. In relation to scheduled monuments, it was concluded that the effects on the nearby sites would be negligible to minor adverse significance or neutral. In relation to potential effects on Listed Buildings these were predominantly neutral but moderate in the case of some nearby properties and major adverse in the case of the Grade II Listed Manor Farm.

It was concluded previously that the development would lead to ‘less than substantial harm’, and the public benefits of the development were weighed up against the potential harm.

Current Assessment - 2024

As set out above Sections 66 and 72 of the Listed Building Act (As Amended) LPAs shall have special regard to the desirability of preserving a Listed Building or its setting, and special attention shall be paid to the desirability of preserving or enhancing the character or appearance of a Conservation Area. In the case of *Forge Fields v Sevenoaks* [2014] EWHC 1895 (Admin) LJ Linblom confirmed at paragraph 45 of the judgement that “*There is a statutory presumption, and a strong one, against granting planning permission for any development which would fail to preserve the setting of a listed building or the character or appearance of a conservation area*”.

The EIA Addendum submitted by the applicant concludes that the EIA submitted in 2017 provided an assessment of the potential effects of the development on nearby Listed Buildings, and the Conservation Area which is summarised above. Given that the description of development has not changed, and the development remains as proposed in 2017/18, the EIA Addendum concludes that the outcomes of the previous assessments remain valid. In addition, the EIA Addendum also concludes that whilst planning policy has changed, the policy tests set out in the previous version of the NPPF have been carried forward to the latest version.

The Conservation Officer and HE have been reconsulted on the latest information submitted. HE states that given that no further heritage assessments have been undertaken, there previous comments submitted in 2018 are still relevant.

The Conservation Officer has also commented on the latest information and concludes that the previous comments issued in 2018 still apply, as no further assessments have been undertaken in relation to potential heritage harm. The Conservation Officer states that the scheme will result in harm to the heritage assets and that a Heritage Impact Assessment should be submitted to inform the layout and any mitigation measures that may be required.

Overall, the Conservation Officer remains of the opinion that the development will result in harm (less than substantial) to the setting of the designated heritage assets, and that the harm has not been fully considered.

As set out above, there will be some inevitable harm (less than substantial) to the designated heritage assets that surround the site. Due to the high-level nature of the application, it is very difficult to assess what the precise impacts of the development will be, and this would only become clear at reserved matters stage when assessing matters such as layout, appearance, and scale. BDC can reserve the right at reserved matters stage to comment further on the relationship between a layout and any designated heritage assets. If a future layout is inappropriate in its relationship to designated heritage assets, then BDC would be able to request amendments or in the worst case reject a layout. The requirement for a Heritage Impact Assessment can also be requested by BDC as part of any relevant reserved matters application to ensure heritage is considered thoroughly.

In EIA terms, the development remains the same as when the application was previously assessed. Whilst concerns have been raised by, HE and the Conservation Officer, neither have concluded that the development would have a greater impact (in EIA terms) than what is set out in the 2017 EIA. In relation to the requirement set out in Development Plan Policy SS5 (part o), the potential impacts of layout and scale would be considered at reserved matters stage.

Overall, the harm has been identified as being 'less than substantial' to heritage assets. Therefore, in accordance with the Development Plan Policy SC17 and the NPPF at paragraph 208, this harm will need to be weighed up against the public benefits as was the case when the application was assessed in 2018, and this assessment will be undertaken in the planning balance section later in the report.

Whilst in planning policy terms, the harm to the heritage assets should be weighed up against the public benefits, there is a statutory duty to consider the requirements of s.66 and s.72 of the Listed Building and Conservation Area Act. The LPA are obligated to have a "special regard" to the desirability of preserving the setting of a Listed Building under s.66. LPAs are also obligated to pay "special attention" to the desirability of preserving or enhancing the character and appearance of a Conservation Area under s.72. "Preserving" in both contexts means doing no harm, as set out in paragraph 45 in the case of *Forge Fields v Sevenoaks* [2014] EWHC 1895 (Admin).

Therefore, any potential harm to heritage assets should be given considerable importance and weight by the LPA when coming to a decision on the application. The harm to the setting of a Listed Building and/or to a Conservation Area gives rise to a strong presumption against planning permission being granted, and the presumption is a statutory one. As identified above, there will be harm to heritage assets from this development, and whilst this is 'less than substantial' significant weight must be given to this harm as the development would fail to preserve as required by s.66 and s.72 of the of the Listed Building and Conservation Area Act.

Whilst significant weight must be given to harm and lack of preservation, it is not the case that this cannot be outweighed by other material considerations powerful enough to do so. However, an LPA can only properly strike the balance between harm to a heritage asset on the one hand and public / planning benefits on the other, if it is conscious of the statutory presumption in favour of preservation and if it demonstrably applies that presumption to the proposal it is considering, as identified in paragraph 49 of the *Forge Fields v Sevenoaks* [2014] EWHC 1895 (Admin) judgment. This harm will be significant weight in the planning balance, and an assessment is undertaken below of the harm vs the public benefits.

Representations

Concerns raised in the representations relating to potential impacts on Clowne Conservation Area and the Listed Buildings have been discussed in detail above.

Archaeology

Development Plan Policy SC18 states that proposals will be supported where the significance of scheduled monuments or archaeological sites, including their setting, is sustained, and enhanced. Any development that adversely impacts a scheduled monument, physically and/or in terms of setting, will not be permitted except where the harm is demonstrably outweighed by public benefits.

The NPPF at paragraph 200 states that in determining applications, LPAs should require an applicant to describe the significance of any heritage assets affected, including any contribution made by their setting. The level of detail should be proportionate to the assets' importance and no more than is sufficient to understand the potential impact of the proposal on their significance. As a minimum the relevant historic environment record should have been consulted and the heritage assets assessed using appropriate expertise where necessary. Where a site on which development is proposed includes, or has the potential to include, heritage assets with archaeological interest, local planning authorities should require developers to submit an appropriate desk-based assessment and, where necessary, a field evaluation.

Previous Assessment – 2018

Previously, concerns were raised that the desk based archaeological information provided with the application was insufficient. The applicant provided a Geophysical Survey for 32 hectares of the site. In summary the Geophysical Survey stated:

A magnetometer survey was carried out over an area of some 32ha in three areas to the north of Clowne. Possible enclosures / field systems / ditches; a partial ring ditch; tentative oval enclosures and a potential pit alignment, have all been identified in the data. Ridge and furrow and modern cultivation patterns have also been mapped, along with former field boundaries recorded on historic mapping and on the 1839 Tithe map. Other responses reflect agricultural activity, land drains, a small pipe and modern disturbance.

The County Archaeologist at the time considered these results and were satisfied that the finds were not of national significance that would rule out development on the surveyed portions of the site. The previous case officer considered that subject to further archaeological work, the Geophysical Survey was considered to give a sufficient assessment of archaeological significance to meet the 'just enough' requirement of NPPF paragraph 128 (now paragraph 200). It was considered that further evaluation trenching and mitigation excavation of the archaeological remains could be deferred until the post-consent stage. However, concerns were raised by the County Archaeologist in relation to the fact that a large portion of the site to the east was not surveyed.

Current Assessment - 2024

DCC Archaeology have been reconsulted in 2023, and they have reiterated the same concerns that were raised in 2017/18. Concerns remain because a large portion of the site has not been surveyed for archaeological remains.

Key areas of the site have been surveyed as set out above and nothing of any significance was found. Of course, that is not say that nothing will be found on parts of the site that have not been surveyed. However, it is considered that the requirement for another Geophysical Survey can be secured by way of condition to ensure that the remaining parts of the site are surveyed prior to the submission of the first reserved matters application. If anything of significance is found, then there will be sufficient flexibility at reserved matters stage to either reduce the density of the development or reconfigure the Green Infrastructure to ensure that this is considered.

It is common for large sites such as this to have up to 50% of the site surveyed prior to gaining planning permission. This is because of the substantial costs associated with having all the survey work done upfront and the risk of not gaining planning permission. This approach will ensure that Archaeology is assessed thoroughly, whilst balancing the commercial risk to the applicant of having to fund the significant cost of having the whole site surveyed without planning permission. If any archaeological remains are found within the site, then their significance will be assessed and considered to ensure they remain in situ (if this is required). This approach complies with Development Plan Policy SC18 and the NPPF paragraph 200.

Representations

Concerns raised in the representations relating to the fact the no archaeology information has been submitted with the application has been considered in detail in the above assessment.

Drainage and Flood Risk

Development Plan Policy SC7 states that all development proposals will be required to consider the effect of the proposed development on flood risk, both on-site and off-site, commensurate with the scale and impact of the development. All developments shall have regard to Environment Agency standing advice for flood risk assessment. This should be demonstrated through a Flood Risk Assessment (FRA). Part d of the policy also states that there should be no net increase in surface water runoff for the lifetime of the development on all new development. Run off rates for development on greenfield sites should not be exceeded, and where possible should be reduced from existing. Run off rates for development on previously developed land should be reduced from the current rate of surface water runoff where feasible. Surface water runoff should be managed at source wherever possible, avoiding disposal to combined sewers.

Development Plan Policy SS5 (part n) states that development should contribute towards the efforts to tackle climate change through its approach to sustainable construction, flood risk reduction, sustainable drainage systems, renewable energy and energy conservation within the site's general layout, design, and orientation. In addition, part p of the policy states that development proposals should demonstrate that adequate sewage infrastructure and capacity exists or can be provided as part of the development.

The NPPF at section 14 paragraph 173 states that when determining any planning applications, local planning authorities should ensure that flood risk is not increased elsewhere. Where appropriate, applications should be supported by a site-specific flood-risk assessment.

Previous Assessment – 2018

The previous FRA concluded that the site was designated as being entirely within Flood Zone 1 ("FZ1"). The previous FRA also concluded that there were no main rivers, watercourses or canals in the site and no past reports of groundwater flooding in the area. It was identified that a small portion of the site does have a risk of flooding along tributaries serving Harlethorpe Dam. Evidence of historical flooding of the watercourse downstream of Harlethorpe Dam was also identified.

The Strategic Flood Risk Assessment for Chesterfield, Bolsover, and Northeast Derbyshire ("SFRA") identifies Harlethorpe Dam as a potential source of flood risk. Harlethorpe Reservoir is situated outside of the proposed development boundary but is immediately upstream of part of the site. The SFRA also refers to "flooding problems" along the watercourse downstream of the reservoir, within Clowne. Whilst the SFRA 2017 is being updated as part of the Development Plan Review work, at this stage this information is not available.

It should be noted that the SFRA has not been updated since the planning application was submitted in 2017.

Surface Water

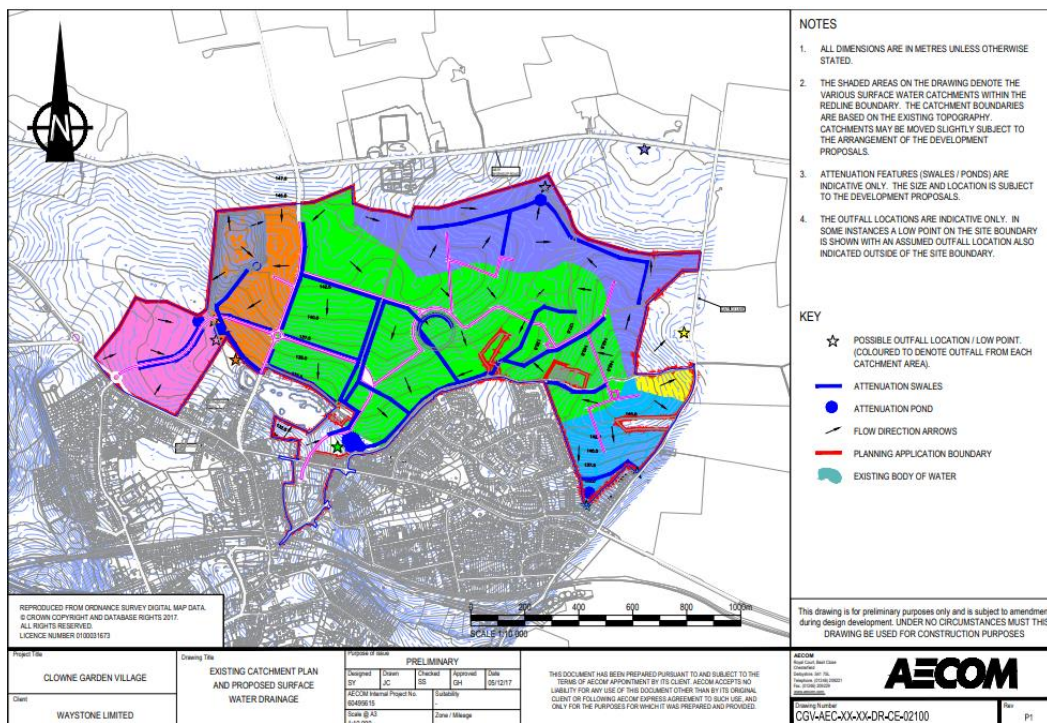
In terms of surface water, the Drainage Strategy submitted with the application in 2017/18 recognised that any development on a site that incorporates roof areas and hard surfaces will increase the rate at which surface water runs off a site. Previously it was agreed to restrict surface water discharge rates to greenfield levels using methods that follow the SuDS hierarchy, which is as follows:

- a) Into the ground (infiltration);
- b) to a surface water body
- c) to a surface water sewer, highway drain, or another drainage system
- d) to a combined sewer

The previous SUDS methods were as follows:

- Use of swales and filter strips (400mm to 600mm deep) – linear channels with vegetation, which would be used to store flows of surface water. This is a form of infiltration.
- Use of filter drains – trenches filled with granular material, which often include a perforated land drainpipe at the base to collect and direct the flow as intended. This is a form of infiltration.
- Regional Attenuation – such as ponds or wetland areas (i.e., permanently wet areas) which accommodate flows during flood events and provide ecological habitats.
- Other Measures such as below ground attenuation, permeable paving, green roofs, and rainwater harvesting.

Appendix A of the Drainage Strategy, showed the inclusion of attenuation ponds, alongside areas of swales, and outfall locations, which showed a clear intent to deliver what is proposed (as set out above) (illustration of Appendix A below):



Volume calculations were also provided as part of the Drainage Strategy, which considered the uplift in potential surface water discharge. A high-level assessment estimated this to be between 23,000m³ and 58,000m³ of additional surface water. The uplift in surface water discharge is estimated to be significant, and for that reason the applicant proposed several different methods for discharging surface water safely from the site.

No objections were raised previously by the EA or the LLFA in relation to flood risk or the applicant's proposed methods for attenuating additional surface water from the site. Therefore, it was concluded that the application was acceptable in terms of flood risk.

Harlesthorne Dam

Many representations were raised previously in respect of Harlesthorne Dam and the potential impacts to the dam. In 2018, a Consulting Reservoir Engineer was commissioned by a third party. The Engineer raised some concerns in terms of the relationship between the development and Harlesthorne Dam. The Reservoir Engineer stated the following in relation to Dam:

“The dam is classed as High Risk by the Environment Agency and designated as Category A (under Floods and Reservoir Safety). These are both the highest designations for UK dams due to the potential for loss of life should a failure occur. Any works that may affect the safety of these dams, including changes to the catchments and downstream developments, must be approved by an All Reservoir Panel Engineer appointed by the Secretary of State under the Reservoirs Act 1975.”

The letter went on to raise three main areas of concern regarding potential indirect impacts upon the dam through the development proposed. These included:

- a) Removal of the agricultural catchment, which will increase discharge rates into the dam.
- b) The road downstream needs careful consideration to prevent water backing up or causing submergence of the dam.
- c) Potential water quality effects through construction processes.

Aecom provided a response to the points raised by the Reservoir Engineer, which was provided in May 2018. The previous Committee Report addressed each of the points raised by the Reservoir Engineer above as follows:

a) Catchment and Discharge Rates

This issue is inherently linked to the surface water drainage strategy for the wider site. The wider strategy to ensure surface run off from the development is controlled is discussed in the ‘Other Issues’ section of this report. The applicants have sought to supplement this and respond to the above comments via the production of a Technical Note in relation to Harlesthorne Dam. This sets out:

“Due to the topography and location of the watercourse supplying Harlesthorne Dam and fishery, a preliminary assessment indicated that it was likely that a

percentage of the area of development to the West of Rotherham Road would outfall into the existing watercourse upstream of the Dam. Provision of attenuation within the development, upstream of the outfall point, would allow restriction of the flows from the development to equivalent greenfield levels. This would minimise the risk to the Dam and downstream watercourse from inundation of flow from the development. Surface water run-off from the development east of Rotherham Road, would be collected by swales around the development, attenuated within a new balancing pond, prior to discharge downstream of the Harlesthorne Dam.”

The above approach is supported by the Lead Local Flood Authority in their suggested conditions. Therefore, subject to formalising the strategy and finalising the required capacities proportionate to the impermeable development and evaluating an appropriate balance between infiltration and attenuation to ensure an appropriate safety margin, there would not appear to be any significant change catchment and discharge rates into the dam. Moreover, no objections to this approach are raised by either the County Flood Authority or the Environment Agency.

b) Dam impacts and potential failure

The development of agricultural land to urban use, upstream of the Dam will be mitigated through on-site surface water management. Surface Water from the development will be attenuated and controlled on site by means of infiltration to ground and discharge from the site at equivalent greenfield run-off rates. Such an approach has been confirmed with the Environment Agency who have raised no concerns. The recent submissions go on to confirm:

‘To reduce the risk to Harlesthorne Dam from water backing up downstream, the area immediately downstream of the Dam is to remain as open grassland/ wetland. This area would remain ‘un-developed’ and therefore available to provide attenuation and relief for downstream drainage.

Although past incidents of flooding are reported by the Lead Local Flood Authority, It is understood that some of these instances of flooding have been associated with the existing culvert beneath Creswell Road. Within the development of this scheme it is therefore proposed that the existing culvert be replaced, reducing the constraint and providing additional capacity. Downstream of this culvert the existing watercourse sits within a deep channel adjacent to Station Road Industrial Estate. In addition to replacing the culvert it is also proposed to clear the downstream watercourse, improving access and minimising further the flood risk in the area. These measures would result in a vast improvement, minimising flood risk in comparison with the existing condition.’

There is also an acknowledgement within the submissions that the road in question would need to be designed to ensure that it does not act as an impediment to flood waters as is emphasised by the Consulting Reservoir Engineer.

In order to fully secure such matters, it is proposed to condition the submission and agreement of a site wide drainage strategy and scheme/strategy to address dam safety. Such details would be better informed once the design of this area of the development is more effectively worked up.

c) Water Quality Impacts

Finally, regarding water quality impacts during development, this is a matter for many large scale developments and measures to avoid impacts in the short term construction process are usually dealt with adequately as part of a Construction Environmental Management Plan condition. In the longer term the SUDS strategy includes an approach referred to as a 'Treatment Train' which often include a number of swales and filter drains that are said to convey a good level of filtration to pollutants that may arise within an operational housing estate (e.g. oils or particulate matter) post completion of the development. The applicants in relation to this issue state:

'Any surface water from parking or commercial hardstanding areas would be discharged via by-pass separators. In line with LLFA requirements, the provision of a carefully designed Sustainable Drainage System (SUDs) of attenuation areas, flow control systems and outfall ditches prior to outfall from the development, could minimise any water quality issues with regard to hydrocarbons and/or turbidity. It is proposed that the detail for the outfall to the upstream watercourse be discussed with the owners of Harlesthorne Dam prior to development of the detailed design to allow any water quality concerns to be addressed.'

Current Assessment - 2024

The applicant has provided a review of the previous FRA which has been undertaken by Aecom, the document is essentially an FRA review. The FRA Review provides an assessment as to whether the findings and conclusions previously set out in relation to flood risk are still valid.

The FRA Review concludes that the site is still situated entirely within FZ1, and the annual risk of flooding is less than 0.1%. The FRA Review also states that there has been no change to the risk of surface water flooding within the site when compared with the findings of the previous FRA.

In terms of the potential for reservoir flooding, there is not considered to be any change in the risk since this was assessed in the previous FRA. There is a small part of the site, immediately downstream of Harlesthorne Reservoir which is at risk of flooding from reservoirs. However, this area is still proposed as green space as illustrated on the indicative masterplan.

Some localised areas within the site are identified as being vulnerable to surface water flooding, particularly upstream and downstream of Harlesthorne Dam. The risk of surface water flooding in these areas ranges from low to high, and this was the case when the application was previously assessed in 2017/18.

As was the case previously, the main consideration in flood risk terms is the impact of additional surface water. As well as an FRA review, the applicant has also undertaken a review of the Drainage Strategy previously agreed to see whether this is still fit for purpose.

Since the previous Drainage Strategy was produced, the only difference Aecom have identified since, is that the EA has now published updated guidance on climate change allowances in relation to peak rainfall intensities. These should be used for assessing flood risk for planning applications. Aecom conclude that the most recent update to the EA guidance was published on 27 May 2022.

Based on the Department for Environment Food & Rural Affairs (“DEFRA”) website for climate change allowances, the site is situated within the Idle and Torne Management Catchment. The DEFRA website provides peak rainfall allowances for this catchment based on a 3.3% and 1% annual exceedance rainfall event, which is set out in the tables below:

Epoch	Central Allowance	Upper End Allowance
2050s	20%	35%
2070s	25%	35%

**Table 1 – Peak rainfall allowances, 3.3% annual exceedance rainfall event
(environment.data.gov.uk/hydrology/climate-change-allowances/rainfall)**

Epoch	Central Allowance	Upper End Allowance
2050s	20%	40%
2070s	25%	40%

**Table 2 – Peak rainfall allowances, 1% annual exceedance rainfall event
(environment.data.gov.uk/hydrology/climate-change-allowances/rainfall)**

The Drainage Strategy proposed for this development refers to a 40% allowance for the effects of climate change for a 100-year event and this complies with the most up to date climate change guidance for peak rainfall intensities issued by the EA. Therefore, Aecom conclude that the Drainage Strategy proposed is still fit for purpose and does not need to be amended.

The LLFA and the EA have been reconsulted as part of the current assessment, and do not object to the latest updated information submitted or the applicant’s approach to dealing with flood risk and drainage. In line with Development Plan Policy SC7, the development proposes a Drainage Strategy that will use the SuDS hierarchy to ensure that surface water runoff is restricted to mimic the average greenfield runoff rates indicated in Table 2 of the Drainage Strategy.

The approach proposed will ensure that there should be no net increase in surface water runoff for the lifetime of the development. The applicant’s proposals to utilise SuDS features within the development complies with Development Plan Policy SS5. The policy states that development on the site should contribute toward the efforts to tackle climate change through its approach to sustainable construction, including flood risk reduction and the use of SuDS.

The LLFA in their response to the application stated that 10% Urban Creep would need to be considered. The applicant has provided a response to this and states that an assessment of

the storage requirements has been made based on an allowance of 85% impermeable area across each of the proposed development plots.

Aecom conclude that typically, for a new residential development, up to 65% of the plan area will consist of impermeable surfaces, such as roofs, roads, patios, driveways etc, with the remaining area consisting of gardens and soft landscaping. Therefore, even when allowing for a potential 10% increase in impermeable area due to urban creep, the impermeable area of the proposed residential development is still expected to be well below the 85% figure assumed within the Drainage Strategy. The LLFA have reviewed this response and were satisfied.

Overall, subject to conditions, there are no objections raised to development on flood risk or drainage grounds. The development is therefore considered to meet the requirements of Development Plan Policy SC7. In addition, the proposed use of sustainable drainage systems in the drainage strategy meets the principles of Development Plan Policy SS5 (part n).

Harlesthorpe Dam

Concerns have been raised in relation to the potential impact of the development on Harlesthorpe Dam as part of the most recent consultation process. The concerns raised by the Consulting Reservoir Engineer undertaken in 2018 was submitted again for consideration. As set out above, the applicant submitted a direct response to these points in 2018, and that response was summarised above.

Notwithstanding this, in 2023 BDC contacted the EA directly about the potential impacts to the Dam, and the EA confirmed that they do not object to the development.

Severn Trent

Severn Trent have been consulted on the application and have raised concerns in respect of the application because of potential damage or interference with public assets. Whilst concerns have been raised, Severn Trent have not fundamentally objected to the application.

Severn Trent have recommended a pre commencement condition to ensure that a sewer modelling study is undertaken to determine the impact of the development on the existing sewer infrastructure. This will need to be reviewed by Severn Trent to understand whether any improvements will be required in order to facilitate the development.

Storm Babet

Following a further review of the application in May 2024, the LLFA concluded that Storm Babet improved their understanding of existing flood risk in the area. 16 properties were flooded during that event, and the watercourses both below Harlesthorpe Dam and within the development site boundary were a contributing factor. The LLFA now conclude that the development warrants a detailed hydraulic analysis of all watercourses within the site. Therefore, the LLFA now recommends a condition to ensure that a full hydraulic analysis is undertaken prior to the approval of any reserved matters application.

Representations

Many of the points raised in the representations have been addressed above, and there is no reasonable basis to refuse the application on flood risk grounds. Concerns have been raised most recently in relation to the flood event that occurred in Clowne because of Storm Babet, and that a development of the size proposed in this application will make the potential for flooding much worse. This has been considered carefully by the LLFA and a further condition has been recommended as set out above.

The development proposes an overarching Drainage Strategy that incorporates several fundamental methods for dealing with additional surface water. The principles proposed will be conditioned to ensure that each reserved matters application will need to follow the drainage principles agreed, which mean that surface water runoff from the site, should not be any worse than what exists.

Transport and Highways

Development Plan Policy SS5 (part e) states that proposals for development should improve highway connections to the town centre. Part f also sets out the need to create a new western link highway to the A616 / Boughton Lane junction.

Development Plan Policy ICTR 9 states that Planning permission will be granted where the proposal would not prejudice the delivery of the transport schemes identified on the Policies Map and set out in detail in Appendix 8.1.

Development Plan Policy ICTR10 states that planning permission will be granted where new development and the provision of services are located so as to support sustainable transport patterns and the use of the district's sustainable transport modes. The policy also states that all development proposals should provide convenient, safe, and attractive access via footpaths, footways, bridleways, cycle paths and public realm areas.

Development Plan Policy SC3 (part K) states that development should create conditions for active travel choices through provision of connected places that are easy to move around, integrated with their surroundings and which facilitate access through sustainable forms of transport including walking, cycling, and bus and rail public transport.

NPPF paragraph 115 states that 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.

NPPF paragraph 116 states that within this context (of the above), applications for development should: a) give priority first to pedestrian and cycle movements, both within the scheme and with neighbouring areas; and second – so far as possible – to facilitating access to high quality public transport, with layouts that maximise the catchment area for bus or other public transport services, and appropriate facilities that encourage public transport use; b) address the needs of people with disabilities and reduced mobility in relation to all modes of transport; c) create places that are safe, secure and attractive – which minimise the scope for conflicts between pedestrians, cyclists and vehicles, avoid unnecessary street clutter, and

respond to local character and design standards; d) allow for the efficient delivery of goods, and access by service and emergency vehicles; and e) be designed to enable charging of plug-in and other ultra-low emission vehicles in safe, accessible and convenient locations.

Previous Assessment – 2018

Highway Impacts & Mitigation

Highway impacts were 'scoped in' to the 2017 EIA, and a Transport Assessment ("TA") was submitted as part of the 2017 EIA. Following consultation on the TA submitted, several issues were raised by NH and DCC Highways, which needed to be addressed, and as a result a TA Addendum was submitted in April 2018. The TA Addendum provided further consideration and clarity on the following points:

1. Development Proposals – disparity in the balance of employment uses between the application form and submitted TA.
2. Trip Generation queries
3. Design year of M1 Jct 30
4. Jct assessment of M1 Jct 30
5. Access to the development
6. Vehicle Tracking
7. Implementation timetable
8. Monitoring
9. Traffic routeing through Clowne
10. Traffic Routeing through the De Rodes Roundabout

The scope and information submitted within the 2017 TA and TA Addendum followed on from the comprehensive assessment undertaken as part of the Clowne Transport Study 2016 ("CTS").

The TA and TA Addendum were undertaken by Aecom, who also undertook the work associated with the Clowne Transport Study 2016 ("CTS"). The 2017 TA concluded that taking account of the committed developments in Clowne, the modelling considered that a total of 807 arrivals and 784 departures during the AM peak and 696 arrivals and 761 departures during the PM peak would likely occur. However, following several meetings and discussions with DCC Highways and NH in 2018, these figures were revised as part of the TA Addendum. The TA Addendum at table 2.1, gave figures of 779 arrivals and 857 departures in the am and 775 arrivals and 723 departures in the pm.

In terms of traffic volume, a growth figure of 7% was assumed for the period between 2016 and 2021 and 20% to 2032. Whilst other concerns were raised by DCC Highways (discussed below), no objections were raised by either DCC Highways or NH Highways at that point in time in relation to the trip generation estimates, set out in the TA Addendum.

Table 7.10 of the 2017 EIA summarised the likely residual effects of the development in EIA terms, were 'minor adverse' in relation to the local highway network, specifically in terms of driver delay and severance and fear and intimidation. Negligible effects were identified for all other highway related matters.

As set out in the 2017 TA, and TA Addendum the results of the peak hour assessments for the existing and proposed junctions used to access the site indicated that mitigation would be required at:

1. M1 (Junction 30) – (proposed signalisation scheme)
2. Treble Bob roundabout – (replacement with a signalised junction)
3. A616 / Midland Way / High Hazel Road – (enlargement of existing roundabout)
4. A619 / A618 signalised junction – (upgrade)

Designs were also produced to show mitigation that may be needed if triggered through transport monitoring:

1. A616 / Lindrick Way Junction, Clowne – (road alignment changes / lane widening)
2. A616 / Clowne Road Junction, Clowne – road alignment changes/ lane widening)

The 2017 EIA identified that following the delivery of the mitigation, the development will have a negligible highway impact in EIA terms.

When the application was previously considered by Planning Committee, the wider transport capacity impacts on the TBR and the knock-on impacts for the M1 at J30, remained a concern for DCC Highways and NH, and it was considered that further transport modelling work was required. In addition, greater clarity was also needed on when the improvements would be delivered i.e., the trigger points.

DCC Highways also had concerns in relation to the uncertainty regarding the effect of additional traffic on the junctions at High St / Mansfield Road, High St / Boughton Lane and North Rd / Station Road. DCC Highways in previous responses stated that without full modelling data at these junctions, the impact of 20% growth in traffic travelling south was not fully understood. This will be discussed further below.

Access Arrangements

Initially 'access' was a matter that was 'scoped in' for consideration as part of this outline planning application. However, this matter was removed as part of the previous assessment, which meant that the application became an application for outline planning permission with all matters reserved. Details of the indicative access positions have already been set out above.

Current Assessment - 2024

Access

In terms of access, the indicative access positions remain the same as in 2017/18, and access will need to be considered at reserved matters stage. As part of the latest representations received (this was also raised previously), concerns have been raised in relation to the potential loss of the Miners Memorial at Station Road where access and highway work may be necessary.

At this stage, it cannot be concluded with any certainty whether the Memorial would need to be re-sited. The preference would be for the memorial to remain in situ for the obvious reasons. To ensure that this matter is dealt with sensitively, a condition would be added to ensure that if the memorial did need to be moved to accommodate the highway works, then the applicant would need to provide specific details on re-siting.

Highway Impacts & Traffic Generation

As part of the updated ES Addendum, the applicant has submitted an updated Transport Statement ("TS"). This document follows on from the previous TA submitted in 2017, and the TA Addendum submitted in 2018.

The TS concludes that traffic volumes have been disrupted by the COVID pandemic, and as such the Annual Average Daily Flows ("AADF") values have been extracted for 2016, which is the year of the previous TA (counts conducted in June 2016), 2019 (last pre pandemic year) and 2021 (last full year of data available from the Department for Transport ("DfT")).

The TS concludes that the way in which traffic will grow in the peak hours in the future is now more uncertain, with advice from the DfT awaited (due to patterns of home working not yet being set following the COVID pandemic). It is clear at table 3.1 of the TS that traffic volumes have decreased between 2016 – 2021, however, the COVID pandemic will likely have contributed to these figures.

Notwithstanding this, the updated TS concludes that growth in traffic volumes to 2019 was in line with expectations and the application of 20% growth to 2032 still provides a robust analysis case. NH have reviewed the updated TS and are content with the proposal to maintain historic traffic data from 2016 as the baseline. DCC confirmed in an e-mail response dated 22nd December 2023 that they also accepted this approach. However, later in the assessment process, DCC Highways did raise some concerns in relation to trip generation, which is discussed below.

RGP submitted two detailed responses to the application relating to highway matters on behalf of Barlborough Parish Council. RGP (in summary) raised concerns in relation to traffic growth and the scope of the TA. RGP also concluded that Road Safety Audits ("RSA") should be requested for all the improvements works proposed (aside from those proposed at M1 Jct 30 where an RSA has already been undertaken). The representations from RGP are very detailed and whilst the concerns are summarised here, these responses can be reviewed in full on the website.

Aecom on behalf of the applicant provided a rebuttal to the comments raised by RGP. Aecom conclude that they worked with BDC and DCC Highways to examine the transport network around Clowne and Barlborough through the CTS, which identified the key issues with regards to a potential strategic allocation at Clowne. As such, Aecom conclude that the transport network and issues were well understood prior to starting work on the planning application. In addition, Aecom conclude that the scoping of a TA relates to seeking agreement on aspects such as study area (i.e., the junctions requiring assessment), trip generation, trip distribution, approach to road safety, approach to sustainable travel.

In relation to RGP's assertion that RSAs should be undertaken for all the highway improvement works, this has not been requested by either DCC Highways or NH as part of the consultation process. However, in relation to the access arrangements when they come forward at reserved matters stage, DCC Highways do reserve the right to request that RSAs are undertaken as part of assessing the acceptability of the access arrangements if they consider this necessary.

One of main concerns raised in the representations relates to the methods for assessing the traffic impacts, specifically the method for calculating trip rates in the TA and TA Addendum. The method for calculating trip rates in the CTS (in relation to a potential development of the size proposed on the site) is different to how this has been calculated in the TA & TA Addendum. In the CTS, the method used for calculating trip rates were calibrated to the 85th Percentile method. However, in relation to the TA and TA Addendum, whilst the same set of data samples were used as those set out in the CTS, the 85th Percentile method for calculating traffic impacts was removed in favour of using the AADF method, which uses the average peak hour trip rates. This change has reduced the predicted trip rates for the development overall.

DCC Highways did provide a response and confirmed that transport planning modelling practice has recently moved towards a 'decide and provide' approach, which attempts to encourage lower car-borne trips, with mitigation in the form of improvements to other modes. These are aimed at providing opportunities for occupiers of the development to choose alternative travel options such as walking, cycling and passenger transport. DCC Highways consider the AADF method to resemble the current travel trends more closely, with flexible working resulting in fewer peak hour trips.

With a development of this size, it is also reasonable to conclude that some vehicle trips will be internalised, with residents being able to access amenities and employment without using the external highway network and by using active travel modes. Therefore, whilst concerns have been raised in terms of the difference between the CTS and the TA & TA Addendum in how trip rates have been calculated, neither NH nor DCC Highways have objected in principle to the use of AADF.

Notwithstanding the above, DCC Highways did raise some separate queries in February 2024 following representations raised from Cllr Hiney-Saunders in relation to the trip rates associated with the employment uses and job numbers. These concerns have been raised by Cllr Hiney-Saunders and other members of the community throughout 2023/24, and these concerns were reinforced following a review of the Employment and Skills Statement ("ESS"). The ESS submitted in May 2023 concluded that 2,500 jobs would be created as part of the development. However, the TA Addendum concluded that 1,737 jobs (737 jobs less) would be created. DCC Highways also raised concerns because there did not appear to be any consistency in how much employment development was being created, as there appeared to be differences in what was being proposed in various documents submitted, including the TA Addendum, the application forms, the ESS and the employee and land use spreadsheets, which accompanied the 2017 TA.

It was confirmed to DCC Highways that the employee and land-based spreadsheets were superseded by the TA Addendum and no longer form part of the assessment. In terms of the

issue relating to the breakdown of the development uses, this was previously raised in 2018 by both NH and DCC Highways. As a result, the applicant confirmed in the TA Addendum at 2.1 and in Appendix A (extract below) what the breakdown of the employment uses and other uses would be in the development:

TA Addendum – Paragraph 2.1

2.1 Item 1: Development Proposals

In their responses to the TA, HE noted that there was a disparity between the planning application form and the submitted TA. This disparity was in the balance of B1, B2 and B8 land-uses proposed on the application form, against the proportions assessed in the TA. The planning application form was also completed in Ha rather than m².


Appendix A provides a breakdown of the confirmed development areas. This shows:

- 1,800 residential units;
- 4.78 Ha of B1;
- 9.57 Ha of B2; and
- 9.57 Ha of B8.

Additional land-uses listed include retirement flats, local shops, a 120-bed hotel and a primary school.

A revised planning application form will be submitted based on the above quantum of development. As such, this item should now be resolved.

TA Addendum – Development Scenario - Appendix A:



	Planning Use Class	Site area		Anticipated build densities			Predicted job numbers		Assumptions
		Acres	Ha	sqft	m2	Units	Government guidance		
Base Scenario 2									
Residential	C3						1800		
Retirement with Ground Floor Retail and Services	C2, C3, A1,A2,A3 ,A4,A5 and Sui Generis	4.77	1.93	75320 retirement 18,830 retail & service			7000 and 1,750	68 + 94	Both figures base on comparable developments as no formal guidance has been found to date for Retirement and Retail based on Upper figure Guidance from HCA's Employment Densities Guide 2nd Addition 2010 using a blended rate between A1 and A2
Hotel & Restaurant Leisure, Healthcare	A3, A4, C1, D1, D2 Sui Generis	3.21	1.3	61,795			5,743 120 bedrooms	124	Guidance from HCA's Employment Densities Guide 2nd Addition 2010 using the A3 Restaurants and Cafés. Guidance from HCA's Employment Densities Guide 2nd Addition 2010 using the general hotels (3 star) rate No allowance has been made at this stage for additional potential uses on this site such as a health club or conferencing.
Education	D1,D2,	4.42	1.79	14,558			1,353	45	Assuming a 2 form Primary School numbers based on information from BDC education dept.
Business Park assume 20 % B1	B1	11.81	4.78	154,298	30% coverage		14,340	540	
Business Park assume 40% B2	B2	23.65	9.57	360,482	35% coverage		33,502	507	Guidance from HCA's Employment Densities Guide 2nd Addition 2010 using the B1 Business Park of 1 FTE per 12m2 of NIA. Bolsover
Business Park assume 40% B8 with a 50% split between large scale retail logistics and 50% Indigenous logistics	B8	23.65	9.57	411,979	40% coverage split into Indigenous B8 and Imported Large Scale 50/50		38,228	521	B1 113 jobs per hectare B2 53 jobs per hectare Indigenous B8 30 jobs per hectare Imported large scale retail logistics B8 79 jobs per hectare
Totals								1737	

In terms of the inconsistencies identified in relation to employment uses in the other documents, the following is a breakdown of what is contained in the other documents (alongside the TA Addendum):

Gross Development Areas	TA Addendum - April 2018 (Table 2.1 AND Appendix A)		Employment & Skills Statement (Update) February 2024		Application Form (Revised issue November 2023)	
	Hectares	Acres	Hectares	Acres	Hectares	Acres
B1	4.78	11.81	4.78	11.81	24	59.3
B2	9.57	23.65	9.57	23.65		
B8	9.57	23.65	9.57	23.65		
B1/B2/B8 Sub Total	23.92	59.11	23.92	59.11	24	59.3
All Other Uses INCLUDING Primary School	5.02	12.4	5.02	12.4	Not Stated	Not Stated
Development Sqm / SqFt	TA Addendum - April 2018 (Appendix A)		Employment & Skills Statement (Update) February 2024		Application Form (Revised issue November 2023)	
	Sqm	SqFt	Sqm	SqFt	Sqm	SqFt
B1	14,340	154,298	14,400	155,000	14,340	154,355
B2	33,502	360,482	21,971	236,500	33,502	360,612
B8	38,228	411,979	37,161	400,000	38,228	411,482
Retirement with Ground Floor Retail and Services	8,750	94,150	15,793	170,000	7,000	75,347
Hotel & Restaurant Leisure, Healthcare	5,743	61,795			5,743	61,817
Primary School	1,353	14,558			Not Listed	Not Listed
TOTALS	101,916	1,097,262	89,325	961,500	98,813	1,063,613
% compared with TA Addendum	100.0%	100.0%	87.6%	87.6%	97.0%	96.9%

There are some slight variations in the documents in terms of the proposals. Whilst there are some variations, a critical point to note is that the ESS and the application forms are not proposing a greater quantum of development than what is set out in the TA Addendum at 2.1 and Appendix A or the description of development, however, there does need to be some certainty on what the development will deliver.

In relation to the concerns raised by DCC Highways, several discussions have taken place with them, and the following points should be noted:

1. Firstly, the uses proposed in this development and their quantum's have not changed since the application was submitted in 2017 and the description of development has not been amended. In the period between 2017 – 2023 when the off-site highway mitigation were being discussed and agreed (set out below), it was agreed that the information submitted in TA and TA Addendum in 2017 /18 (which is based on the description of development) was still an acceptable tool for agreeing the mitigation, and all of the mitigation agreed between the applicant, DCC Highways and NH is based on the trip rates and uses set out in the TA Addendum and the work undertaken as part of the CTS.

Following extensive discussions with DCC Highways, it has been agreed that to help mitigate their concerns, several conditions will be required as set out in their latest formal response (August 2024). One of these Conditions, which is critical to the acceptability of the scheme from a DCC Highways perspective is a condition that clearly sets out what the maximum floorspace is for each use within the development. This must accord with the scenario used to assess highway impacts from the development as set out in the TA Addendum (extract above). This condition is proposed, and the wording has been agreed with DCC Highways. This has removed their concerns in relation to uncertainty on floorspace creation for each use.

2. In relation to the uncertainty around job creation estimates, there are differences and inconsistencies between certain documents in the application. It is also fully noted that the trip generation estimates appear to be based on potential job forecasts. However, forecasting job estimates and trip rates is not an exact science, and professional judgement does have to be used by a qualified person to confirm their acceptability. Following extensive discussions with DCC Highways on the matter of trip rates and job creation, it is considered that the conditions proposed by them in their latest response (August 2024) would remove their concerns on this matter.

An additional point to note is that the patterns for the way in which people travel to and from work has changed (since the production of the TA and TA Addendum) and is now more uncertain following the Coronavirus Pandemic. Many people are taking a hybrid approach to working (where this is possible), which involves a mixture of working from home and at the workplace. This hybrid approach to working has the potential to reduce trip rates, although no formal assessment of this has been undertaken as part of this application.

The traffic impacts have been assessed through the TA and TA Addendum, and no changes have been identified in the TS. All the mitigation, which is set out below and has taken several years to agree (in principle) is based on this information, which has been accepted by both NH and DCC Highways previously. There are conditions proposed on the application, which DCC Highways have specified are needed to give them certainty on the potential acceptability of the scheme and these would be included in any approval.

Impacts on Junctions High St / Mansfield Road, High St / Boughton Lane and North Rd / Station Road

As set out above, the effect of additional traffic on the junctions at High St / Mansfield Road, High St / Boughton Lane and North Rd / Station Road was raised by DCC Highways in 2017/18. It was suggested that without full modelling data, the impact of the 20% increase of traffic travelling south upon the functioning capacity of these junctions would not be fully understood.

The harm of this was weighed up, and the previous case officer considered that there was a risk that as the development came forward that the town centre and onward junctions to the south would carry an increasing amount of traffic. However, it was considered that these potential impacts would need to be dealt with in the longer terms and could be prioritised by

BDC and/or DCC Highways directly to avoid placing further financial burdens upon the development. To date, no further assessment has been carried out on the above junctions.

Development Plan Policy ITCR 9 and Appendix 8.1 do set out a comprehensive list of highway improvements that will be needed within Clowne, which were identified from the work undertaken as part of the CTS. Some of these improvements are needed for this development and are already proposed by the applicant (discussed below). Some will not be delivered as part of this scheme and will come forward either through separate funding secured by BDC and/or DCC Highways or as part of mitigation that will be required for future schemes. The CTS did not propose any improvement schemes at the above junctions.

It is true that the junctions above have not been modelled and the impact of a potential 20% increase is not fully understood. Therefore, it must be concluded that because the above junctions have not been modelled, the impacts are not fully understood, and this does not weigh in favour of the development in the planning balance.

Mitigation

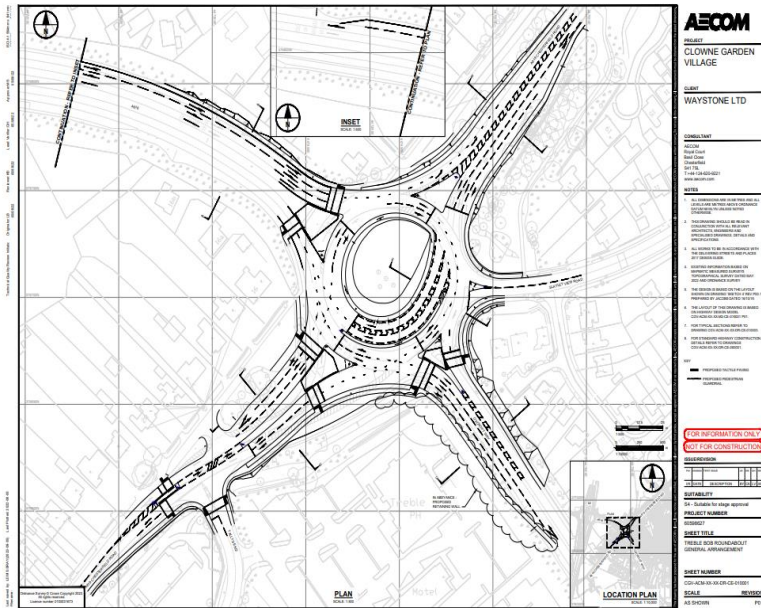
As set out above, Development Plan Policy ITCR 9 and Appendix 8.1 of the Development Plan, contain a list of highway improvement schemes that are needed in Clowne, and these were developed as part of the CTS. These include the following:

1. Improvements to A616 / Treble Bob Junction, Clowne
2. Improvements to M1 Jct 30 roundabout
3. Improvements to A616 / Barlborough Links Junction
4. Improvements to A619 / A618 Junction, Clowne
5. Improvements to A616 / Lindrick Way Junction, Clowne
6. Improvements to A616 / Clowne Road Junction, Clowne
7. Improvement to A616 / Boughton Lane Junction, Clowne
8. Improvements to A629 / Gapsick Lane Junction, Clowne

The schemes listed above in 1-4 would be delivered as part of this scheme. If following a period of monitoring, it is considered that further mitigation is needed then the schemes at 5 and 6 would also be delivered. The schemes at 7 and 8 would not be delivered as part of this scheme. The applicant is proposing the same mitigation as was agreed in 2018, however the scheme for the TBR has changed following discussions with both DCC Highways and NH, which is set out in detail below. The highway mitigation proposed for this development is as follows:

Treble Bob Roundabout

Following further work conducted independently by DCC Highways, this work has shown that a signalised roundabout including a cut through would be the best performing scheme and as a result, this design will now be advanced instead of the previous. The new scheme designs for a signalised roundabout were submitted for consideration in May 2023, and this follows extensive discussions over a period of years with DCC Highways and NH. Below is an image of the proposed re-design for the TBR:



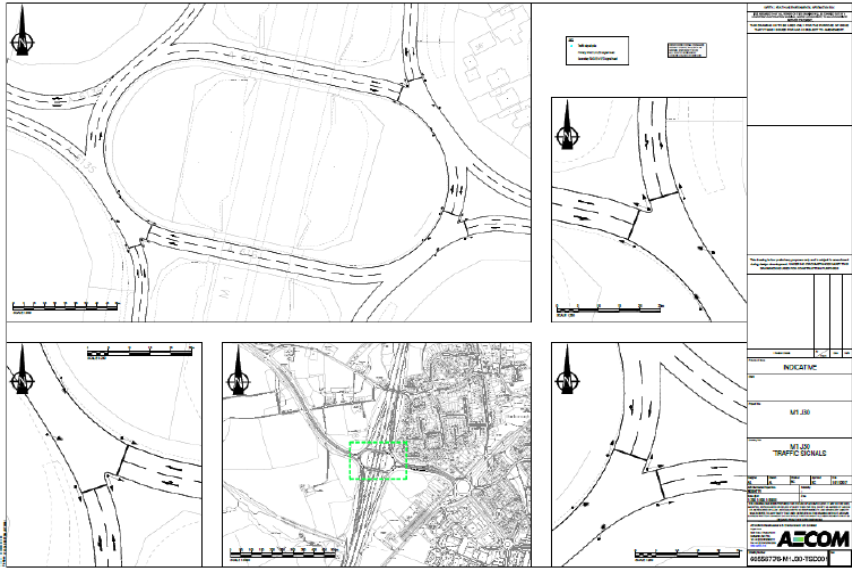
NH have requested a condition that will ensure that this scheme is delivered prior to first occupation of the development overall, and DCC Highways have requested a similar condition. The applicant is also proposing to install a queue detection loop on the A616, which would alter the signal settings to ensure that any potential queue on the A616 would be quickly dispersed. This would prevent any queuing back on the M1 following the implementation of the TBR scheme. NH do not object to this approach, and DCC Highways have provided confirmation that the installation of a queue detection loop is both feasible and acceptable.

Whilst the improvements to the TBR do act as a form of mitigation for the proposed development, this scheme would also have an inevitable benefit, as it would help Bolsover to achieve the future employment and housing growth envisaged in the Development Plan for the District. Therefore, the improvements proposed to the TBR are a benefit that should be given significant weight.

M1 Junction 30

Traffic modelling indicated that vehicle trips from the development would have an impact on the Strategic Road Network (“SRN”) at M1 junction 30. As a result, the applicant proposes an off-site highway mitigation scheme to signalise the junction. The mitigation scheme would be split into two phases, which would include an ‘interim scheme’ and the ‘larger scheme’. The interim scheme would involve the signalisation (and local widening) of the southbound exit slip road only, together with changes to the road markings. The larger scheme would add signals to the northbound exit slip road, and the entry to the roundabout from the Treble Bob direction. In terms of trigger points, the interim scheme would be delivered prior to occupation of any development, and no more than 200 dwellings could be occupied prior to the delivery of the larger scheme.

NH have reviewed this proposal and consider that it would be effective at mitigating the impact at this junction.

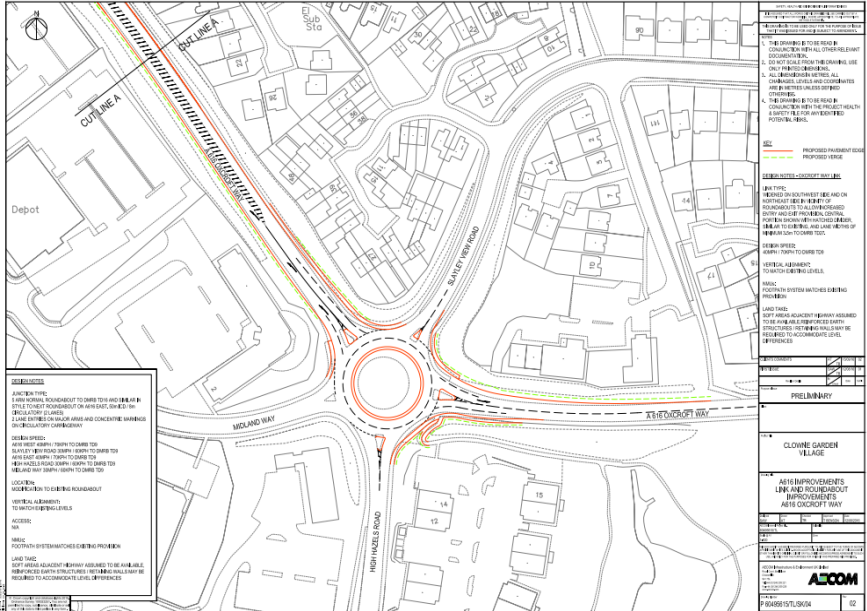


The applicant has undertaken the Road Safety Audit (“RSA”) to the satisfaction of NH. Through this process, minor amendments to the overall scheme have been made, and accepted.

Improvements to A616 / Barlborough Links Junction

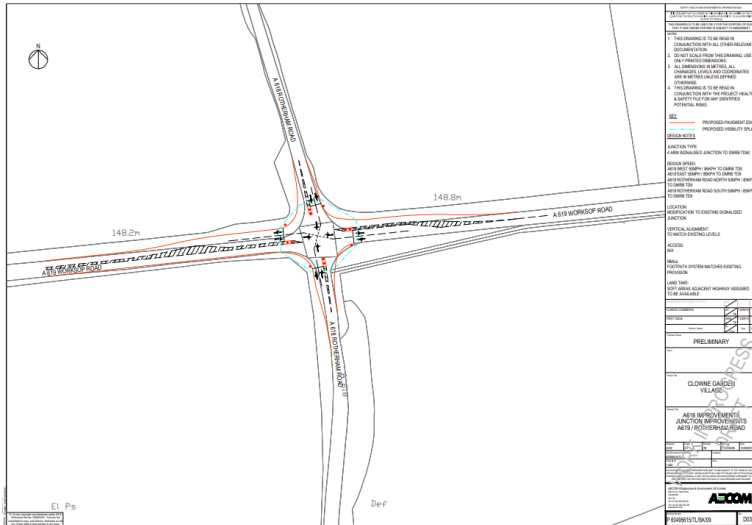
Roundabout improvements are proposed at Midland Way / High Hazel Road. The work includes widening on the southwest side and on the northeast side in the vicinity of the roundabout to allow increased entry and exit provision. A planning condition is proposed that will require the submission of a Phasing Plan and as part of this requirement, the applicant would need provide details of timings / phasing of the offsite highway works such as these proposals. This would need to be agreed by DCC Highways prior to discharging the condition.

Below is an extract of the work proposed in this area. Image of proposal below:



Improvements to A619 / A618 Junction, Clowne

The mitigation proposed in this area is the introduction of a 4-arm signalised junction. As set out above, a Phasing Plan would be required and as part of this, the applicant would need to provide details of timings / phasing of the offsite highway works such as these proposals. The following is an image of the work proposed:

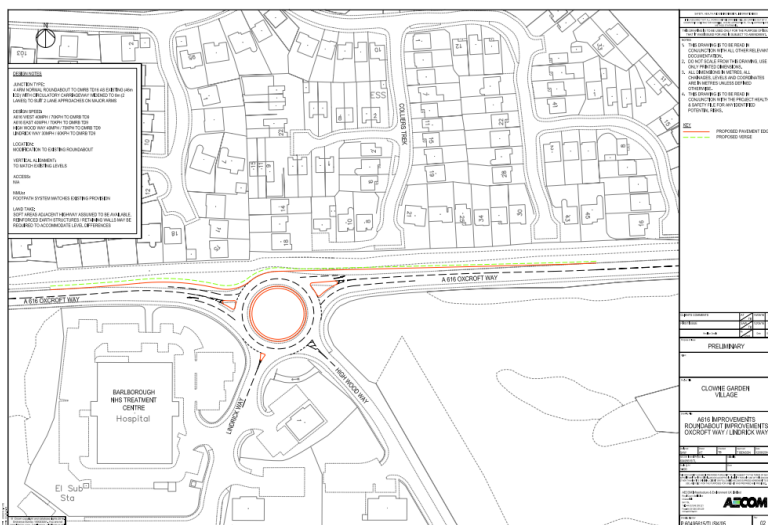


Improvements to A616 / Lindrick Way Junction and A616 / Clowne Road Junction

The trigger for the following schemes would only come after a period of monitoring. The applicant is proposing to produce Junction Capacity Reports in years 5 & 10 to determine the need for these improvements. The requirement for monitoring would be secured through the Section 278 Agreement, as confirmed by DCC Highways.

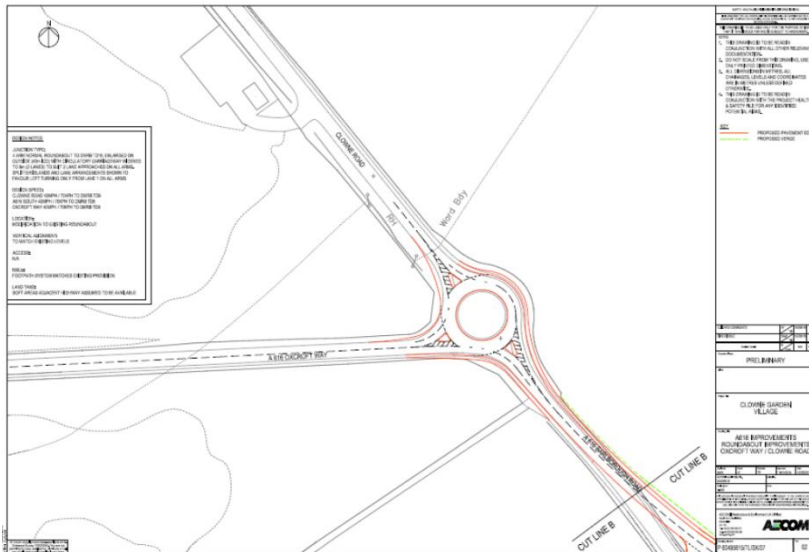
A616/ Lindrick Way Junction

This would involve improvements to the roundabout at Oxcroft Way and Lindrick Way:



A616/ Clowne Road

This would involve improvements to the roundabout at Oxcroft Way and Clowne Road:



In relation to the mitigation measures proposed, RGP have offered the following comments:

1. There are no modelling outputs relating to the Treble Bob roundabout mitigation scheme appear to have been provided.
2. The Treble Bob roundabout mitigation scheme should be delivered in-full prior to first occupation of the development.
3. The mitigation scheme at the A619 / A618 junction would still see the junction operating above capacity. Therefore, it is recommended that a revised A619 / A618 mitigation arrangement be investigated.
4. The A616 / A618 / North Road junction appears to be operating in excess of capacity after implementation of the proposed development.

In relation to the above comments, neither DCC Highways nor NH have requested details of the modelling outputs in relation to the TBR to be submitted as part of the planning application. NH have requested a Condition to ensure that the works / improvements proposed for the TBR are delivered prior to the first occupation of the development. DCC Highways have not requested that the applicant revisit the points raised in 3 and 4 above, and in addition these mitigation schemes have been discussed and agreed over several years.

Connectivity & Off-site Linkages

Concerns / objections have been raised in terms of the lack of connectivity in relation to pedestrian, cycle, and public transport linkages for the development. This issue has been raised as a concern by DCC Highways, Active Travel and RGP.

Active Travel have concluded that the previous conditions agreed in relation to securing highway and pedestrian connectivity do not meet the NPPF tests set out in paragraph 56, as they were not precise about the location of infrastructure or the specification to be provided,

nor did they convey whether the above conditions are to be submitted / discharged as part of a submission that considers the site in its entirety. Active Travel also conclude that the above approach will make it very difficult to achieve a holistic joined-up approach to local connectivity when reserved matters applications are submitted for individual components of the site.

RGP conclude that the area is primarily reliant on private car travel, and the information submitted with the application in relation to highway / transport impacts fails to give any meaningful consideration to the accessibility credentials of the site in terms of access to, and distances from key local amenities. RGP also conclude (in summary) that little consideration has been given to accessibility to local amenities for those who would reside in the northern and eastern parts of the site, who will live at a considerable distance from the centre of Clowne.

BDC Planning Policy have provided an additional comment on the points raised by Active Travel and RGP. BDC Planning Policy conclude that the comments raised overlook the requirements of Policy SS5: in particular, the following requirements:

- a) Improve highway connection to town centre;
- b) Create a new western link highway to the A616 / Boughton Lane junction;
- i) Provide multi-user trails through the site that connect to the enhanced Clowne Linear Park proposal and the wider proposed multi-user trail network;
- k) 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.

These policy points will need to be addressed as part of this development and that will be at reserved matters stage for each parcel of development within the site. BDC Planning Policy further states that related to these policy requirements, the form of the proposed development is set by an indicative masterplan within the Development Plan. This will guide the development of the site through Policy SS5. The indicative masterplan sets out clear green corridors that are planned to provide walking and cycling corridors within the site and connections to the town centre. It is noted that the Parameters Plan submitted within this application strongly accords with the indicative masterplan in the Development Plan.

As set out above in the viability section of the report, there were contributions that were previously requested in relation to the following:

- £50,000 contribution as a Travel Plan contribution.
- £750,000 contribution towards a Public Transport Contribution.
- £915,750 contribution towards Improving Connectivity

As set out, the contributions towards public transport and improving connectivity do not meet the tests set out in the CIL Regulations 122. They have not been requested from consultees, there does not appear to have been a method for calculating the contributions, and it cannot be proven that the contributions themselves are necessary to make the development acceptable.

Whilst the contributions are not CIL compliant for the reasons set out, it does not mean that connectivity and public transport linkages are not an important part of this application.

Several provisions are proposed, which include a Section 106 requirement to produce an Active Travel and Passenger Transport Strategy. The provisions of the strategy will seek to ensure that the site is accessible by walking and cycling. In addition, this strategy also includes the need to secure the delivery of a bus service. In addition, a planning condition has also been added in relation to connectivity, which would ensure that as part of a Phasing Plan, the applicant will need to submit details of off-site pedestrian crossings and on-site highway connections to the existing highway infrastructure, including footways and cycle paths. This detail will need to be agreed prior to or on submission of the first reserved matters application.

A similar condition was proposed previously, and Active Travel have submitted comments, which state that this condition was not fit for purpose. The wording of the condition in relation to linkages and connectivity is precise (as far as it can be for the type of planning application submitted), the condition is also clear, and enforceable. Given that the application is an outline application all matters reserved, it would not be possible to agree all the necessary connectivity requirements at this stage, because the layout of the development and how this would connect into the existing surroundings is unknown. Therefore, the condition and Section 106 obligation proposed are fit for purpose.

Based on the above, the development is acceptable in terms of connectivity and off-site linkages at this stage in the planning process. This is subject to a planning condition and a S.106 obligation for an Active Travel and Passenger Transport Strategy. Therefore, it is considered that the development would comply with Development Plan Policies SC3, SS5 (part e) & ICTR 10.

Public Rights of Way

There are several Public Rights of Way, which run through the site including Clowne Public Footpaths Nos. 1,3,4,5,6,7,13, and Whitwell Public Footpaths Nos. 5 and 6. The Rights of Way Officer states that plans for the PRow routes must be set out in detail when applying for detailed permission (reserved matters). The Rights of Way Officer concludes that wherever possible, PRow's should be kept on their existing routes and consideration should always be given to amending site layout plans to accommodate routes on their existing lines. This is a matter that would need to be considered at reserved matters stage.

The Rights of Way Officer does not object to the scheme at this stage subject to a condition that would ensure that a strategy is submitted that sets out how PRow routes will be considered including any proposals to divert, upgrade, extinguishments, and creations. Overall, given the nature of the application it would not be possible to fully assess the potential impacts to PRow routes, however, as part of a condition, which sets out a requirement to agree a Design Code, details can be requested in relation to how PRow will be considered within the site.

Conclusions

The impacts in EIA terms remain the same as was assessed previously. The residual effects were identified as being 'minor adverse' on the local highway network in some respects. However, overall, it was considered that following the implementation of the mitigation, the effects on the local highway network are negligible. Neither DCC Highways nor NH have come to a different conclusion on this matter.

As set out in NPPF paragraph 115, the development should only be prevented or refused on highway grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe. The trip rate estimates for the development were agreed previously as set out above and have been used to agree the mitigation required over a period of several years with both NH and DCC Highways. The mitigation agreed should ensure that the development does not have a severe impact on the road network or highway safety. Therefore, subject to the delivery of the agreed mitigation, it would not be reasonable to refuse the application on grounds of severe highway impacts.

It is fully acknowledged that the potential impacts of the development have not been modelled at the junctions of High St / Mansfield Road, High St / Boughton Lane and North Rd / Station Road. Whilst concerns have been raised about this by DCC Highways, they have never concluded that the lack of assessment of these junctions is so severe that it would justify a reason to refuse the application on highway grounds. Despite this not being a reasonable basis to refuse the application on its own, the lack of assessment of these junctions would not weigh favourably in the planning balance, and this will be discussed further in the planning balance below.

The development would not prejudice the delivery of transport schemes identified in Development Plan Policy ICTR 9 and Appendix 8.1; in fact, the scheme would result in the delivery of some of the key highway improvements schemes that are needed in Clowne.

For the reasons set out above, BDC cannot request the contributions that were previously agreed towards connectivity or public transport for the reasons set out. However, there would be a requirement to produce an Active Travel and Passenger Transport Strategy, and this will be secured through a legal agreement. In addition, a condition has been recommended that would ensure that prior to the submission of the first reserved matters, the applicant would need to submit and agree a Phasing Plan, which would need to include details of highway connections (including footway and cycle ways), and this would ensure compliance with Development Plan Policy SS5, and SC3

Overall, for the reasons set out above, and subject to considerable mitigation and planning conditions, it would not be reasonable to refuse the application on the grounds of the development having a severe adverse impact on the road network. Therefore, it is considered that the development would comply with Development Plan Policies SS5, ICTR 9, ICTR10 and SC3 and Section 9 of the NPPF.

Representations

Many of the representations raised in relation to highways are based on the potential transport impacts, and the fact that respondents are concerned that the existing infrastructure will not be able to cope with the additional demand even with the mitigation proposed. The

lack of pedestrian linkages and overall infrastructure, including the lack of public transport infrastructure is also a concern for many respondents and both of these matters are discussed in detail above.

- Concern regarding the proposed re-siting of the miner's memorial to accommodate improved road infrastructure.
- No improvements to Worksop Road, Rotherham Road or Gander Lane are proposed and these will inevitably be impacted by the development.
- There is nowhere to park in Clowne as it currently stands, the development will make this issue exponentially worse.

Air Quality & Noise

Both Air Quality & Noise were 'scoped in' in to the 2017 EIA alongside transport. This section will conclude whether the conclusions reached in 2017/18 are different to today.

Air Quality

Development Plan Policy SC12 is relevant to the assessment of air quality and states that the assessment of new development will include a consideration of the potential impact of new development and increased traffic on air quality, particularly in relation to development close to the M1, the existing Air Quality Management Areas (AQMA) and other major highways or transport corridors. Development that, on its own or cumulatively, would be likely to exacerbate air quality problems in existing and potential AQMAs will only be permitted if the potential adverse effects would be mitigated to an acceptable level by other environmental controls, or by measures included in the proposals.

NPPF Section 15 paragraph 186 states that planning policies and decisions should sustain and contribute towards compliance with relevant limit values or national objectives for pollutants, taking into account the presence of Air Quality Management Areas and Clean Air Zones, and the cumulative impacts from individual sites in local areas. Opportunities to improve air quality or mitigate impacts should be identified, such as through traffic and travel management, and green infrastructure provision and enhancement. So far as possible these opportunities should be considered at the plan-making stage, to ensure a strategic approach and limit the need for issues to be reconsidered when determining individual applications. Planning decisions should ensure that any new development in Air Quality Management Areas and Clean Air Zones is consistent with the local air quality action plan.

Previous Assessment - 2018

In 2017, the previous Committee Report stated that the potential impacts to air quality were considered from both a construction phase and an operational 'as built' phase.

In terms of the construction phase of development, it was concluded that the applicant had followed an appropriate Construction Dust Assessment Methodology in the production of the 2017 EIA. This was confirmed by Environmental Health who had no objection to the content or the assumptions underpinning the report. The 2017 EIA at Table 8.12 set out a range of potential mitigation measures including the implementation of a Dust Management Plan, a

commitment to carry out monitoring onsite and off-site, erection of screens and barriers where required, a commitment to enclose activities with high dust potential, stockpile coverage to avoid wind distribution, provision of effective water suppression, water assisted dust sweepers and wheel wash facilities. This was acceptable.

In terms of the operational phase, the applicant undertook a comprehensive assessment, which involved the modelling of the annual mean nitrogen dioxide (NO₂) and particulate matter (PM₁₀ and PM_{2.5}) at 28 sensitive human receptors. Concentrations at the time were well below the relevant objectives in all modelled scenarios. The change in pollutant concentrations at all receptors were 'negligible' in accordance with the criteria outlined in the guidance from EPUK/IAQM (Environmental Protection UK and Institute of Air Quality Management, 2017). Therefore, it was concluded that the scheme would not have a significant impact on local air quality.

Overall, the previous Committee Report concluded that the development would not have an unacceptable impact on air quality. This was subject to a condition that set out a requirement for periodic reviews to assess whether the air quality assumptions made at that time (2017) were an accurate representation of the impacts.

In EIA terms, it was concluded that overall, the effects of the construction phase activities are slightly adverse, which is not considered to represent a significant effect. The effects associated with the operational phase were predicted to be negligible in EIA terms.

Current Assessment – 2024

As part of the EIA Addendum submitted in 2023, the applicant has revisited air quality to understand whether any further assessments are required or if the effects identified had changed.

Since the application was previously assessed, it should be noted that all Air Quality Management Areas (AQMA's) have now been revoked. The applicant asserts that this is an improvement in the baseline levels of background pollutants in the district. The applicant also states that there have been no changes in policy that would justify a re-assessment of the methodology adopted in 2017 for both construction activity and the operational phase of development. On that basis, the applicant concludes that the outcomes of the original assessment carried out previously are still valid.

Environmental Health have reviewed the latest EIA Addendum, and state that the previous comments made in July 2018 still apply to the present day. Environmental Health do not object to the methodology that has been used to assess potential air quality impacts and have not requested any further assessments to build on those previously undertaken. Environmental Health still consider that the overall impacts of the proposed development in terms of air quality will be low. Demolition and Construction phases will need to be managed carefully, and this can be done through a Construction Environment Management Plan ("CEMP") as set out previously.

Environmental Health would like to see more mitigation options proposed, however, it is considered appropriate to continue with the previous approach of conditioning a requirement

for periodic reviews to take place. This is more accurate way of assessing whether the potential air quality impacts are greater than the assumptions, and if this is the case Environmental Health will still be able to consider additional mitigation measures if they are considered necessary.

In EIA terms, the EIA Addendum concludes that the air quality assessment undertaken as part of the previous 2017 EIA are still valid, and the outcomes reached in 2017 (set out above) are still valid. Environmental Health have not raised any concerns on these conclusions, and therefore, it is concluded that in EIA terms the effects are not considered to be any greater than what was previously assessed.

Based on the above, it is considered that subject to condition, the development will comply with Development Plan Policy SC12 and section 15 of the NPPF 2023.

Noise

Development Plan Policy SC11 states that development likely to cause, or experience, a loss of residential amenity as a result of light, noise, dust, odour or vibration, or a loss of privacy must be supported by a relevant assessment. If necessary, appropriate mitigation must be put in place. applicants will need to demonstrate that a significant loss of amenity would not occur as a result of the development or throughout its construction and operation.

The NPPF at section 15 paragraph 185 states (in summary) that planning policies and decisions should mitigate and reduce to a minimum potential adverse impact resulting from noise from new development and avoid noise giving rise to significant adverse impacts on health and the quality of life.

Previous Assessment - 2018

In 2017, the applicant submitted a noise and vibration assessment, which was undertaken by AECOM. AECOM also produced the Noise and Vibration chapter of the EIA, and in May 2018 a Technical Memo was also submitted investigating the potential for a noise barrier to mitigate traffic noise impacts from a new road within the site.

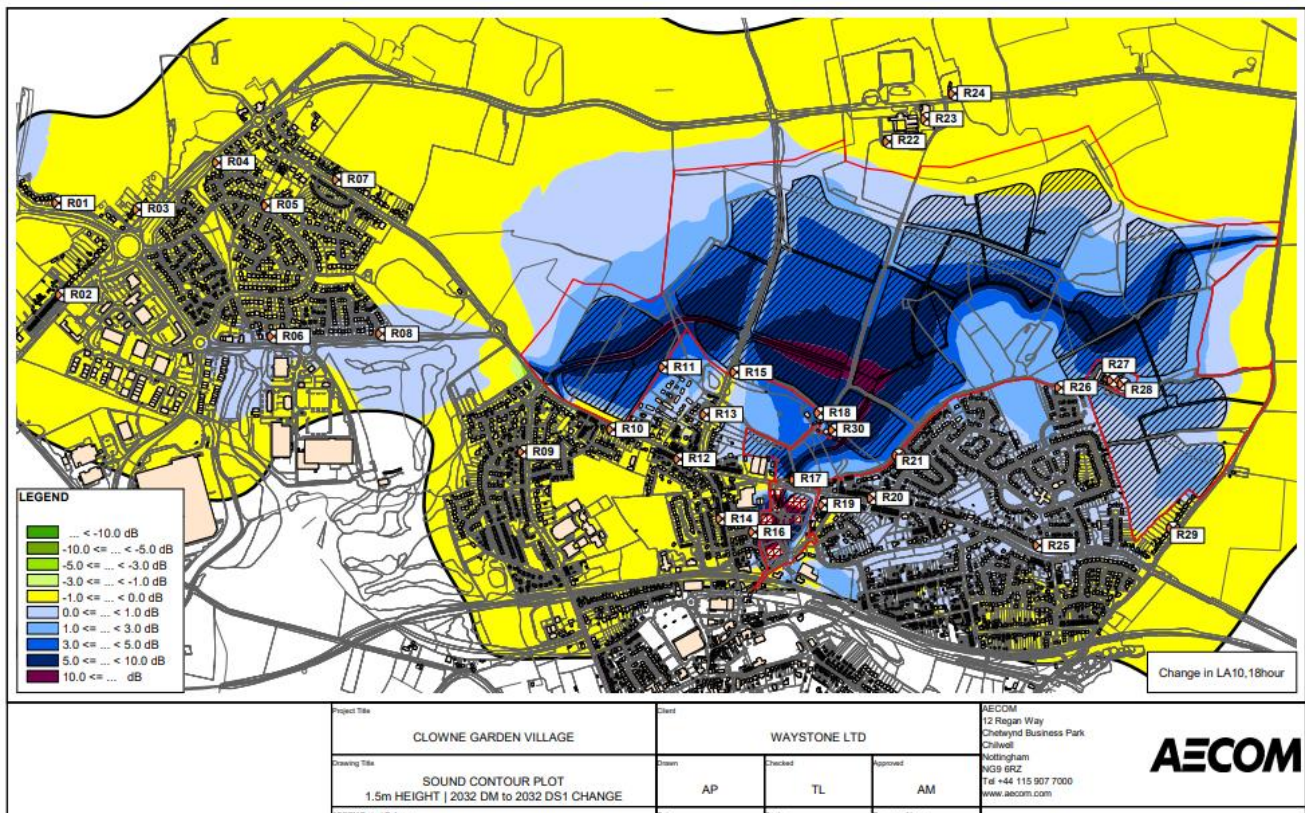
It was noted in the previous Committee Report that given the outline nature of the application, the site layout detail is not yet finalised, therefore, it was not possible to undertake a detailed noise assessment beyond what is demonstrated in the modelling analysis shown in the Appendix 9.5 of the 2017 EIA. Noise was considered in two parts the 'construction phase' and the 'operational phase'.

In 2017, it was considered that noise during construction activity, such as ground works would likely result in the highest noise impacts, due to activities such as piling, and piling equipment. It was considered that building construction beyond the groundwork would likely result in lower noise levels. The previous case officer considered that construction matters could be effectively dealt through a CEMP.

In relation to the operational phase of development, the transport modelling used in the 2017 Noise Impact Assessment concluded that most of the receptors in the vicinity of the site in

terms of effects were classed as negligible or minor adverse, and not significant in EIA terms. However, the previous Committee Report did note that there were some instances where existing receptors located in the vicinity of the new site roads would experience noise increases that would be classed as moderate or major adverse, and these included:

- R16: Rear of existing properties on Chapel Close
- R17: Existing residential properties on Cresswell Road adjacent new site access
- R18: Harlesthorne Lodge
- R21: Hickinwood Lane Properties west of Harlesthorne Ave
- R26: Hickinwood Land Properties east of Harlesthorne Ave
- R27: Existing Property adjacent Hickinwood Kennels
- R30: Manor Farm



When Environmental Health assessed the proposals in 2017/18, they did not fundamentally object to the application. However, it was highlighted that an area of uncertainty existed around the effect of the additional traffic noise upon existing residential properties around the access points into the site. On that basis, Environmental Health requested further information to demonstrate how the areas of concern would be protected against adverse noise. The applicant did submit some additional detail, which included a proposal for a noise barrier at one receptor (R17), but this was not considered to be sufficient. Environmental Health concluded that there was an opportunity to secure the appropriate levels of mitigation, but this would need further consideration. To ensure that appropriate levels of mitigation were proposed, it was considered that further noise surveys would be required, and these would need to be submitted on or before the first reserved matters application, and this was secured by way of condition.

In EIA terms, it was considered that noise from both construction and the operational phases of the development would be minor adverse.

Current Assessment – 2024

The EIA Addendum submitted in 2023 considers that the methodology used in the noise assessment remains the same as it was in 2017, and therefore, there is no update required in respect of this.

In terms of the baseline conditions, the EIA Addendum states that there have been no substantial changes to the local environment or surrounding infrastructure, and on that basis the previously submitted baseline noise measurements are considered to remain sufficiently up to date. Furthermore, in terms of the assessment of the impacts, the EIA Addendum states that as there has been no change to the assessment method because of the changes in planning policy, no change to traffic distribution and no change to the baseline conditions. Therefore, it is considered that the outcomes presented in 2017 are the same.

Environmental Health have reviewed the updated information submitted by the applicant, and do not disagree with the conclusions in the EIA Addendum. However, Environmental Health do conclude that their consultation response submitted in June 2018 still applies.

It is still considered that potential noise from construction activity can be dealt with through an effective CEMP. Potential noise from traffic is still a concern insofar as the uncertainty around the potential effect of additional traffic noise upon existing residential properties especially around the access points into the site. As was the case in 2018, Environmental Health have requested that further information is submitted to demonstrate how the areas of concern at the above receptors would be protected against adverse noise.

Given the high-level nature of the application, it is difficult to ascertain what the exact noise impacts will be at certain receptors around the development, as there is no certainty at this stage on factors such as layout and scale. When the scheme was previously considered, the noise aspect was dealt with by way of planning conditions, which meant that prior to the submission of each reserved matters application, there was a requirement to submit and agree sound mitigation measures for noise from all potential sources.

Given that the baseline, methodology and assessment remain valid from 2017 (as confirmed by Environmental Health), it is considered reasonable to deal with noise matters again through suitably worded planning conditions. In EIA terms, Environmental Health have not raised any objections to the outcomes set out in the EIA Addendum, which concludes that the residual effect of the development would remain the same as what was previously assessed.

On that basis, subject to conditions, it is considered that the development will comply with Development Plan Policy SC11 and NPPF section 15 paragraph 185.

Representations

Representations have been received, which raise concerns in relation to additional traffic movements and the potential damage these will have in terms of noise and air pollution. In

addition, concerns have been raised in respect of the air quality modelling produced and the fact that it does not take account of stationary traffic and is not robust. Potential impacts to the fishing business that operates from Harlesthorpe Dam have also been raised.

As stated above, the construction phase of the development can be effectively controlled through a CEMP, which will need to be agreed with the BDC prior to the commencement of any development.

There will be a requirement through conditions to consistently undertake periodic reviews of air quality in the development. This will provide accurate data and will enable Environmental Health to recommend the right level of mitigation at the time of the review to minimise impacts to air quality from additional traffic. In terms of noise, as stated above, there will be a requirement submit and agree sound insulation details for the residential, medical, and educational uses, and insulation details will need to be based on an assessment of traffic noise as well as any other noise source.

Whilst the representations in relation to noise and air quality are noted, they do not form a reasonable basis to refuse the application.

Other Representations

Many of the representations raised have been addressed in the technical sections within the Committee Report. However, some of the representations raised are matters that are not considered to be material planning considerations, and these are as follows (in summary):

- Potential de-valuation of residential properties in the area.
- Assertions that many new build properties in the area have not sold.
- The existing supermarkets will not be able to cope with the additional demand from the development.
- The application will destroy the existing views currently enjoyed by residents.
- Barlborough and Clowne regularly face power cuts, and the development proposed is likely to make this worse.
- Concerns in relation to the potential for additional anti-social behaviour.
- The application is only focussed on developer profit.

The following concerns were also raised by respondents (in summary) and have not been covered in the technical sections of the report, due to the nature of the concern. BDC's response to each point is in italics after each bullet point below:

- The applicant states in the application forms that they have received pre application advice from BDC, however despite requests under Freedom of Information ("FOI"), no information has been provided.

There has been no formal written pre application advice given to the applicant. This has been subject to a separate request through FOI, and the same response was issued to respondents at that time.

- The decision appears to have been pre-determined by the Council.

No planning application decision is pre-determined. The decision for this application will be made by Planning Committee, and whilst an Officer will provide a recommendation, the Planning Committee is independent, and is not bound to follow the recommendation made by Officers. Planning decisions and recommendations made by Officers are based on a national and local planning policy structure, and planning judgement.

- The current application is over 5 years old, and the applicant should be made to submit a full new planning application.

Timescales for an LPA to determine a planning application are set out in the Town and Country Planning (Development Management Procedure) (England) Order 2015 Part 6 Article 34(2) ("the 2015 Order"), which states:

- a) in relation to an application for major development, 13 weeks beginning with the day immediately following that on which the application is received by the local planning authority;*
- b) in relation to an application for development which is not major development, 8 weeks beginning with the day immediately following that on which the application is received by the local planning authority; or*

However, if a planning application is accompanied by an EIA as is the case with this application, then as set out in the Town & Country Planning (Environmental Impact Assessment) Regulations 2017 ("the EIA Regulations"), the period for determination is extended to 16 weeks. BDC accepts that the time periods set out in the legislation for determining the application have been exceeded, however, Part 6 Article 34 (2c) of the 2015 Order makes the following provision:

- c) in relation to any development, unless the applicant has already given notice of appeal to the Secretary of State, such extended period as may be agreed in writing between the applicant and the local planning authority.*

The applicant has not made any such appeal to the Secretary of State. Therefore, in accordance with the 2015 Order, it is entirely at the discretion of BDC (with the agreement of the applicant) whether they wish to agree an extension of time in order to determine the application. In addition, there are no provisions in the 2015 Order that restrict how many extensions of time can be agreed between the LPA and the applicant or how long an extension of time can be agreed for, i.e., extensions of time can be agreed for days, weeks, months or even years, dependent on circumstances.

- The application plans are full of inaccuracies and are outdated. They fail to show that development has already taken place right up to the boundaries of the site as an example being Spinnaker Road /Mizzen Road near Harlesthorne Dam, and the houses built on Rotherham Road.

The plans submitted as part of this application are acceptable for the purposes of determining the type of application proposed (outline all matters reserved). Whilst the plans may not include separate developments that may have been built

(adjacent or close to the site) since the application was submitted in 2017, it is not considered to be pivotal for this detail to be illustrated on the plans for BDC to make a decision on the application. The future development of the site and its relationship to neighbouring development will be considered at reserved matters stage and at that point the applicant will need to consider and show the relationship between any layout proposed within the site and any existing uses that surround the site.

- The public consultation events organised by the developer and Council were very poor and was also poorly publicised.

The application has been publicised in line with the requirements of the Town and Country Planning (Development Management Procedure) (England) Order 2015 (As Amended), which has included:

- *Neighbour Notifications*
- *Site Notices*
- *Press Notices*

The public consultation events were not a requirement under the legislation. Three were arranged, two of which were hosted by Barlborough and Clowne Parish Council's, and a third was hosted by BDC. These were undertaken to enable the community to receive a presentation in relation to the updated planning documents and to discuss the proposals.

Benefits & Public Benefits vs Harm

Harm

The following matters are the dis-benefits associated with the application:

1. *Harm to Heritage Assets*

Harm to heritage assets should be given considerable importance and weight by the LPA when coming to a decision on the application as set out above. The harm to the setting of a Listed Building and/or to a Conservation Area gives rise to a strong presumption against planning permission being granted, and the presumption is a statutory one. There will be harm to heritage assets from this development, which is identified as being 'less than substantial'. **Significant weight** must be given to this harm, as the development would fail to preserve as required by s.66 and s.72 of the Listed Building and Conservation Area Act.

2. *Impacts to biodiversity:*

As set out above, there would be an inevitable loss of some flora and fauna on the site as described above, which does not weigh in favour of the development. This loss is given **moderate weight** not in favour of the development in the planning balance.

3. *Highway Impacts*

The lack of assessment carried out on the junctions at High St / Mansfield Road, High St / Boughton Lane and North Rd / Station Road does mean that there is some conflict with the NPPF at Section 9. The lack of assessment of the above junctions is given **moderate weight** not in favour of the development in the planning balance.

4. *Loss of trees*

It is inevitable that some tree removal would take place within the site because of the development, which does not weigh in favour of the scheme, and is given **moderate weight**.

5. *Landscape Harm*

There would be some policy conflict with Development Plan Policy SC8 and NPPF section 12. The most significant policy conflicts would come in the early stages of the completed development phase, where major / moderate adverse impacts would take place from both a landscape and visual perspective. The policy conflict in the early stages of the post development phase does not weigh in favour of the development and is given **moderate weight**.

Benefits

The following matters are the benefits associated with the application:

1. *Delivery of Housing provision:*

There is a pressure from the Government at a national level to deliver housing to help accommodate a growing population across the UK and provide opportunities for people to purchase their own homes. At a local level, the housing that would be delivered in this development would contribute substantially to BDC's aspirations for growth and new investment. The scheme (alongside the employment provision) will encourage people into Bolsover District to live and work. To deliver this level of housing provides people with new opportunities to get on the housing ladder, which is a **significant public benefit** of the scheme. In terms of the planning balance, this benefit is given **significant weight** in favour of the development.

2. *Direct Employment provision:*

Development Plan Policy SS2 identifies a requirement for 92 ha of employment land for the period 2015 to 2033. CGV is allocated to deliver 20 hectares of this employment requirement, which is a substantial proportion. The development will deliver 24 hectares of employment uses, which will include a mix of industrial and commercial development. The expected job creation attributed to the development will be substantial, and this is a **significant public benefit** of the scheme. In terms of the planning balance, this benefit is given **significant weight** in favour of the development.

3. *Indirect Employment Provision:*

The construction of new homes will enable new residents to support the local economy and in turn provide an increase in expenditure of goods, supplies, and services on a significant level. This benefit is given **moderate weight** in favour of the development in the planning balance.

4. *Construction related economic benefits:*

The 2017 EIA estimates that the construction phase of development would contribute 6,748 person years of direct additional construction employment to the Bolsover Economy – or 35 FTE jobs for a 20-year period. There would also be indirect benefits to the economy through the supply of materials from local businesses and through the sourcing of labour through the local labour market. This is a benefit that is given **moderate weight** in favour of the development in the planning balance.

5. *Education Provision:*

DCC Education conclude that the development will generate the need for 342 primary school places and 360 secondary school places. A 1.5 Form Entry school would be delivered, as part of the development, and sufficient land would be given to allow for the expansion into a 2 Form Entry school should it be needed. This will accommodate primary pupils generated by the development as well as those arising from future development in the area. In terms of secondary school provision, a contribution of £8,200,000.00 towards the expansion of Heritage High School has also been requested from DCC Education to mitigate for the impacts of the development.

The education provision has the potential to not only provide additional school places to mitigate for the development, but it would also create additional spaces for existing residents, which is a **moderate public benefit** of the scheme. In the planning balance, the education provision does go slightly beyond just mitigating for the development impacts, and therefore this is given **moderate weight** in favour of the development in the planning balance.

6. *Benefit 6 - Green Space Provision & Biodiversity Net Gain:*

The development will deliver 10 hectares of formal green space, including a multifunctional town park, village green and additional allotments. The current absence of a 'Level 2 Town Park' facility is a significant issue for Clowne as identified in the GSS.

In addition, a significant amount of BNG is proposed and will be achieved through habitat creation and enhancement on site. The BNG proposals go beyond the 10% BNG increases mandated under Schedule 7A of the Town and Country Planning Act 1990. In addition, they go beyond the requirements of Development Plan Policy SC9 and the NPPF at section 15. The green space, and additional allotment provision would provide **significant public benefits**. In the planning balance the green space and BNG proposals are significantly beneficial, and this is given **significant weight** in favour of the development in the planning balance.

7. Benefit 7 - Treble Bob Roundabout Improvements:

The TBR improvement is a once and for all improvement, that will remove one obstacle to the future growth of the district. As a result, this improvement is not considered to be just a form of mitigation for the reasons set out in the report. Therefore, this is a benefit that is given **significant weight** in favour of the development in the planning balance.

Balancing Exercise

In terms of the harm, the following points will be considered first:

- Impacts to biodiversity; and
- Loss of trees;

Whilst any potential loss of flora and fauna, along with any loss of trees does not weigh in favour of the development, there is significant levels of biodiversity net gain and tree planting proposed within the scheme. This will not just mitigate for any losses that may occur because of the development but would result in a considerable improvement on the existing situation. Therefore, the harm caused by the above would be effectively mitigated and would not form a reasonable basis to refuse the application.

In relation to the following:

- Harm to Heritage Assets;
- Highway Impacts; and
- Landscape harm

The 'less than substantial harm' to heritage assets is given significant weight as the development would fail to preserve and would cause some harm and there is a strong presumption against planning permission being granted on that basis. However, as set out whilst significant weight should be given to any harm and failure to preserve, this does not mean that this cannot be outweighed by material considerations powerful to do so. In this case, as set out above there are public benefits associated with this development:

- Housing Provision – Significant public benefit
- Significant Employment Provision – Significant public benefit
- Green Space Proposals – Significant public benefit
- Education Provision – Moderate public benefit

The housing and employment provision, along with green space and BNG provision, are significant public benefits in this application, and without this development they would not be achieved. The public benefits associated with the development are significant, and when they are considered together cumulatively, they would in this case outweigh the 'less than substantial harm' identified in relation to heritage assets. Heritage will need to be given further consideration, and as the more detailed aspects of the development are submitted for consideration at reserved matters stage, it is considered that BDC would have sufficient control to be able to request a Heritage Impact Assessment on a case-by-case basis.

The highway mitigation is significant and has been discussed and agreed over several years between the applicant, NH and DCC Highways. This mitigation coupled with conditions will ensure that the development does not have a severe impact on the highway network and highway safety. The lack of assessment carried out on the junctions at High St / Mansfield Road, High St / Boughton Lane and North Rd / Station Road does mean that there is some conflict with the NPPF at Section 9. Whilst concerns have been raised by DCC Highways on this matter, it has never been suggested that this matter in itself is so severe that it would justify a reason for refusal.

There will be landscape harm as set out above, however this would reduce over time due to the significant levels of landscape mitigation. There would be permanent harm due to a change in the characteristic of the landscape. However, this has never been considered a strong enough reason to refuse the application, given that the mitigation will over time reduce the harm.

In the planning balance when the overall benefits are considered against the overall harm, it is considered that the benefits of the development would outweigh the harm. There is significant mitigation proposed for most of the harmful aspects of this application, which does reduce the weighting given to them. Overall, in the planning balance, it is considered that the significant benefits associated with the development outweigh the harm.

CONCLUSION

Section 38(6) of the Planning and Compulsory Purchase Act 2004, which states that applications for planning permission must be determined in accordance with the Development Plan unless material considerations indicate otherwise.

For the reasons set out, the development complies with Development Plan Policies SS2, SS3 and SS5 in relation to the principle of development. The development will deliver the critical infrastructure needed to facilitate the development through financial contributions, which will be secured through a S.106 Agreement and planning conditions, and this complies with Development Plan Policy I11.

In relation to design, subject to a condition requiring a Design Code, the development would comply with Development Plan Policies SC2, SC3, and SS5 (part I). It is considered that housing mix can be dealt with on a phase-by-phase basis at reserved matters stage, and this would ensure compliance with Development Plan Policy LC3. The development will deliver a policy compliant level of affordable housing at 10%, which complies with Development Plan Policy LC2.

The development delivers more than what is required in relation to formal green space and would deliver typologies of green space that are needed in Clowne. This goes beyond the requirement of Development Plan Policy ITCR 5 and meets the requirement of Development Plan Policy SS5 (part h). In relation to biodiversity and trees, there is an inevitable conflict with Development Plan Policy SC9, and this is because of the potential loss of flora and fauna on the site, and the fact that the development would fail to conserve. However, there is significant mitigation that goes beyond the policy and legislative requirements in terms of net

gains, and this would outweigh the harm, and would be a benefit. Tree loss does not weigh in favour of the development, however there is substantial mitigation proposed that would outweigh this loss. Further survey work is needed, and if more mitigation is required for tree loss, then this would be requested to ensure compliance with Development Plan Policy SC10.

There is some policy conflict with Development Plan Policy SC8 in relation to landscape and visual impacts for the reasons set out above. However, the benefits of the scheme are considered to outweigh the policy conflict, as identified. The harm to heritage assets has been given considerable weight in this assessment, in line with s.66 and s.72 of the Listed Building and Conservation Area Act. The development demonstrates less than substantial harm, and whilst the harm and failure to conserve conflicts with Development Plan Policies SC16 and SC17, the public benefits set out above are considered to outweigh the harm.

There are no objections raised to development on flood risk or drainage grounds. The development is therefore considered to meet the requirements of Development Plan Policy SC7. In addition, the proposed use of sustainable drainage systems in the drainage strategy meets the principles of Development Plan Policy SS5 (part n).

In relation to noise and air quality, it is considered that subject to conditions, the development would comply with Development Plan Policies SC11 and SC12.

Overall, the development complies with the majority of the Development Plan Policies. However, as set out above, there are also conflicts, and in respect of these conflicts, there are material considerations that are considered to outweigh those conflicts for the reasons set out in the report.

On that basis, the application is recommended for approval subject to conditions and a signed Section 106 Agreement.

RECOMMENDATION

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

A: Highways

- The delivery of Treble Bob Roundabout Scheme
- The delivery of the M1 Jct 30 Interim and Full Schemes

B: Active Travel & Passenger Transport Strategy

C: Travel Plan

- £50,000 to Derbyshire County Council as a Travel Plan contribution for the implementation of a site wide Travel Plan

D: Affordable Housing

- 10% Provision and Tenure Type

E: Education

- The transfer of serviced and accessible land to Derbyshire Country Council Education
- The delivery of a new primary school by the applicant or a full contribution of £9,500,000 to Derbyshire Council Education for the delivery a new Primary School
- Secondary School Contribution of £8,258,879

F: Health Care

- £1,800,000 contribution towards to the Integrated Care Board to improve health care facilities.

G: Open Space Management Provisions

H: Provision for delivery of Skylark Mitigation

I: Viability Reappraisal & Deferred Contributions

A Viability Reappraisal requirement to establish the amount (if any) which is available for calculation of the Deferred Contributions.

Deferred Contributions:

- *SEND Contribution:* Payment of £1,463,597 to Derbyshire County Council towards the provision of Special Educational Needs and Disability
- *Library Contribution:* Payment of £126,840.00 to Derbyshire County Council towards local library stocks and measures to increase capacity.

AND subject to the following conditions:

1. The first application for the approval of Reserved Matters for any part of the development must not be made later than the expiration of five years from the date of this permission and any subsequent applications for the approval of Reserved Matters must not be made later than the expiration of twenty-five years from the date of this permission. The development to which this permission relates must be begun no later than the expiration of three years from the approval of the first Reserved Matters application made in pursuance of this outline planning permission.
2. The development hereby approved shall be carried out in accordance with the details reserved by the conditions attached to this decision notice. In addition, the following documents are approved as relevant documents for the future determination of reserved matter as part of this planning permission, unless otherwise agreed in writing by the Local Planning Authority:
 - The Design and Access Statement, including the Design Concept Character Areas
 - The Drainage Strategy Report & Appendices Ref: CGV-AEC-XX-XX-RP-CE-02501
 - The Harlethorpe Dam Technical Note dated 15th May 2018
 - Noise Impact Information (dated 29th May 2018)

- Air Quality details (dated 29th May 2018)
 - Flood Risk Assessment Ref: CGV-AEC-XX-XX-RP-CE-02500
 - Phasing Plan Reference CN-PP-01 Revision A
 - BNG Metric prepared by FPCR
3. No development can commence (aside from site clearance and preparation work) until details of access, appearance, landscaping, layout, and scale (hereafter referred to as the reserved matters) relating to that phase of the development have been submitted to and approved in writing by the Local Planning Authority. The development shall be implemented in accordance with the approved details.
4. The development hereby approved shall comprise no more than the following for each use as set outlined in the Transport Assessment Addendum unless otherwise agreed in writing by the Local Planning Authority on an application submitted to it:
- C3 Dwellings 1800
 - C2 Carehome 7000m² and ancillary retail/services of 1750m²
 - C1 Hotel with ancillary restaurant, leisure, healthcare, of 5743m² and 130 bedrooms
 - F1 2 Form Primary School 1353m²
 - E(i)(ii)(iii) Business Park (office) 14340m²
 - B2 Business Park (general industry) 33502m²
 - B8 Business Park (warehouse and Distribution) 38228m²

or sui generis uses comprising a mixture of the approved uses only, within the maximum cumulative floorspace thresholds set out for each Use Class.

5. Notwithstanding the Phasing Plan submitted with the application prior to or on the first submission of any reserved matters application, a Phasing Plan shall be submitted to and approved in writing by the Local Planning Authority. The Phasing Plan shall indicate the broad location, timing, and delivery schedule of the following specific works:
- a. Details of structural landscaping and implementation schedule,
 - b. Timing and phasing of the offsite highway's improvements as proposed in the Transport Assessment (Aecom November 2017 reference 60556776), the Transport Assessment Addendum dated April 2018 reference 60556776 and the Transport Statement dated March 2023), including offsite pedestrian crossings and onsite highways connections to existing strategic highway infrastructure including footways and cycle paths.
 - c. Provision of education facilities within the site
 - d. Provision of the Central Village Green and play spaces.
 - e. A Sports Strategy, which details the timing and delivery of any sports provision within the development.

The development thereafter shall be carried out in accordance with the approved details unless otherwise agreed in writing by the Local Planning Authority.

6. Prior to the submission of the first Reserved Matters application a detailed Design Code relating to all forms of built development on the site shall be submitted to and approved by the Local Planning Authority in writing. The approved Design Code will be applied to all Reserved Matters applications in that phase unless otherwise agreed in writing by the Local Planning Authority. The Design Code shall also refer to and reflect the ten principles set out in the National Design Guide and Model National Design Code, and the Council's current design guidance, and will cover the following key detailed design matters in respect of the following:
- Movement hierarchy and street types - the network of streets and car free routes and how these integrate into existing networks and pedestrian linkages, using street sections and plans to illustrate this.
 - Urban design principles - how the development will create a permeable and secure network of blocks and plots with well-defined, active, and enclosed streets and spaces.
 - Townscape and Legibility strategy - how the scheme will give identity and be easy to navigate using gateways, views, nodes, and landmarks for orientation, including use of high-quality materials for individual landmark buildings.
 - Residential character areas - the different areas of housing within the site and details of the key characteristics of each zone in terms of layout, scale, siting appearance, and landscape, Architectural appearance, building details and materials informed by a local character appraisal.
 - Employment land character areas - the different areas of commercial uses within the site and details of the key characteristics of each area in terms of layout, scale, siting appearance, and landscape, Architectural appearance, building details and materials informed by a local character appraisal,
 - Landscape framework and Open space character areas - the function, appearance and design principles for key linkages and areas of open space, including a street tree framework plan across the whole development, and details of any work, improvements or amendments associated with any Public Right of Way within the site.
 - A SuDs framework and characterisation throughout. Including swales and rain gardens with an integrated relationship to housing areas and landscape characterisation.
 - Vehicle and cycle parking - including details of allocated and visitor parking strategies in line with the Council's parking standards.
 - Hard and soft landscape - including street surfacing, junction treatments, street furniture, signage, management, and maintenance.

- Boundary treatments - details of front, side, rear and plot division boundaries for each street type / character area.
7. Prior to the submission of a reserved matters application of development that is within the Defined Coal Mining Risk Zone, an appropriate scheme of intrusive site investigations for mine entries shall be undertaken. A report summarising the findings of the intrusive site investigations (including the results of any gas monitoring) shall be submitted as part of any subsequent Reserved Matters application for the site within the Defined Coal Mining Risk Zone. The Reserved Matters submissions shall also include the submission of a layout plan which identifies appropriate zones of influence for the recorded mine entries on the site and shall define and reference any relevant 'no build zones' as applicable. The Reserved Matters submissions shall also include a scheme of treatment for the recorded mine entries if identified on the site, for subsequent approval. Thereafter the development on the site shall be carried out in accordance with the approved remediation scheme.
 8. Unless otherwise agreed by the Local Planning Authority, development for each specific phase of development other than that required to be carried out as part of an approved scheme of remediation must not commence until subsections A-E have been complied with. If unexpected contamination is found after development has begun, development must be halted on that part of the site affected by the unexpected contamination to the extent specified by the Local Planning Authority in writing until subsection D has been complied with in relation to that contamination.

A. Site Characterisation

An investigation and risk assessment for each parcel / phase in addition to any assessment provided with the planning application, must be completed in accordance with a scheme to assess the nature and extent of any contamination on the site, whether or not it originates on the site. The contents of the scheme are subject to the approval in writing of the Local Planning Authority. The investigation and risk assessment must be undertaken by competent persons and a written report of the findings must be produced. The written report is subject to the approval in writing of the Local Planning Authority. The report of the findings must include:

- (i) a survey of the extent, scale and nature of contamination;
- (ii) an assessment of the potential risks to:
 - human health,
 - property (existing or proposed) including buildings, crops, livestock, pets, woodland and service lines and pipes,
 - adjoining land,
 - groundwaters and surface waters,
 - ecological systems,
 - archaeological sites and ancient monuments;
- (iii) an appraisal of remedial options, and proposal of the preferred option(s).

This must be conducted in accordance with DEFRA and the Environment Agency's *'Model Procedures for the Management of Land Contamination, CLR 11'*.

B. Submission of Remediation Scheme

A detailed remediation scheme to bring the site to a condition suitable for the intended use by removing unacceptable risks to human health, buildings and other property and the natural and historical environment must be prepared and is subject to the approval in writing of the Local Planning Authority. The scheme must include all works to be undertaken, proposed remediation objectives and remediation criteria, timetable of works and site management procedures. The scheme must ensure that the site will not qualify as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land after remediation.

C. Implementation of Approved Remediation Scheme

The approved remediation scheme must be carried out in accordance with its terms prior to the commencement of development other than that required to carry out remediation, unless otherwise agreed in writing by the Local Planning Authority. The Local Planning Authority must be given two weeks written notification of commencement of the remediation scheme works.

Following completion of measures identified in the approved remediation scheme, a verification report (referred to in PPS23 as a validation report) that demonstrates the effectiveness of the remediation carried out must be produced and is subject to the approval in writing of the Local Planning Authority.

D. Reporting of Unexpected Contamination

In the event that contamination is found at any time when carrying out the approved development that was not previously identified it must be reported in writing immediately to the Local Planning Authority. An investigation and risk assessment must be undertaken in accordance with the requirements of condition 1, and where remediation is necessary a remediation scheme must be prepared in accordance with the requirements of condition 2, which is subject to the approval in writing of the Local Planning Authority.

Following completion of measures identified in the approved remediation scheme a verification report must be prepared, which is subject to the approval in writing of the Local Planning Authority in accordance with condition 3.

E. Importation of soil

In the event that it is proposed to import soil onto site in connection with the development, the proposed soil shall be sampled at source and analysed in a laboratory that is accredited under the MCERTS Chemical testing of Soil Scheme for all parameters requested (where this is available), the results of which shall be submitted to the LPA for consideration. Only the soil approved in writing by the LPA shall be used on site.

9. No development within any phase (as approved under Condition 3) shall take place until a Written Scheme of Investigation for archaeological work on that Phase has been submitted to and approved by the local planning authority in writing. No development shall take place in any phase of the development until the fieldwork element of the scheme for that phase is complete to the written satisfaction of the local planning authority. The scheme shall include an assessment of significance and research questions, and on a phased basis:

1) The programme and methodology for archaeological evaluation shall take place before the consideration of the reserved matters 'layout' details for that phase;

(2) The programme and methodology for further archaeological work following evaluation, comprising preservation *in situ* or mitigation excavation as appropriate.

(3) The programme of post investigation assessment;

(4) Provision to be made for analysis of the site investigation and recording;

(5) Provision to be made for publication and dissemination of the analysis and records of the site investigation;

(6) Provision to be made for archive deposition of the analysis and records of the site investigation; and

(7) Nomination of a competent person or person/organisation to undertake the works set out within the Written Scheme of Investigation.

No development shall take place other than in accordance with the archaeological Written Scheme of Investigation

No phase of the development shall be occupied until the site investigation and post investigation assessment for that phase has been completed in accordance with the programme set out in the Written Scheme of Investigation and the provision to be made for analysis, publication and dissemination of results and archive deposition has been secured.

10. On submission of any reserved matters application details of all foul, surface water and land drainage work and all related works necessary to drain the area covered by that reserved Matters application shall be submitted to the Local Planning Authority for approval.

No development in any phase or part thereof in question shall commence until the details have been approved by the Local Planning Authority in writing. Any drainage scheme should be carried out in broad accordance with the principles outlined within:

- Clowne Garden Village, Drainage Strategy Review, Document Ref: GCV-ACM-XX-XX-TN-CE-00502 (21 December 2022),
- Clowne Garden Village, Derbyshire Drainage Strategy Report; Project Number: 60556776 CGV-AEC-XX-XX-RP-CE-02501 Rev 01 (December, 2017) and
- Clowne Garden Village, Flood Risk Assessment; Project Number: 60556776 CGV-AEC-XX-XX-RP-CE-02500 Rev 01 (December, 2017), "including any subsequent amendments or updates to those documents as approved by the

Flood Risk Management Team” And DEFRA’s Non-statutory technical standards for sustainable drainage systems (March 2015),

- DEFRA’s Non-statutory technical standards for sustainable drainage systems (March 2015),

Each Drainage Scheme should include:-

- A) An assessment of the potential for disposing of surface water by means of a sustainable drainage system (SuDS) in accordance with the principles set out in NPPF (or any subsequent version). Where the assessment demonstrates that SuDS is feasible, the details provided shall include such drainage designed in accordance with the non-statutory technical standards for SuDS and the Local Planning Authority's local standards.

An assessment of any impact on the Harlethorpe Dam and necessary mitigation.

Details of how all foul water infrastructure is to be provided (including timescales for provision and details of offsite works and the point of connection [s] into the existing public sewer) to serve the Zone, or part thereof in question.

Details of the outfall for surface water, including surface water drainage features (including SuDS, and information demonstrating where possible the integration of SuDs features into the green infrastructure and layout of the site), sewerage and outfalls to watercourse plus any other necessary infrastructure identified as part of a surface /storm water management plan.

Surface water from vehicle parking and hard standing areas (excluding those associated with residential properties) shall be passed through an interceptor of adequate capacity prior to discharge to a public sewer. Roof drainage shall not be passed through an interceptor.

- B) The works as approved under part A) of this Condition shall be carried out concurrently with the development of the Zone in question and no part of such Zone, including any buildings, shall be occupied until the said works have been completed and are operational in relation to the said part of the Unity Zone.

- C) All Zones shall be developed with separate systems of drainage for foul and surface water on and off site and no additional surface water shall discharge to the existing local public sewer network.

11. Prior to the commencement of the development for each phase, details demonstrating how additional surface water run-off from that phase will be avoided during construction shall be submitted to and approved in writing by the Local Planning

Authority. The applicant may be required to provide collection, balancing and/or settlement systems for these flows. The approved system shall be operating to the satisfaction of the local planning authority, before the commencement of any works leading to increased surface water run-off from site, during the construction phase.

12. No reserved matters application should be approved until a full hydraulic analysis has been carried out of all the watercourses within the development site boundary, and the risk of flooding to existing and proposed properties assessed both pre and post development. These details shall be submitted to and approved in writing by the Local Planning Authority and if any mitigation measures are identified they shall be implemented in full.
13. Development in each phase should not be occupied until the need for public sewerage improvements proportionate to that phase of the development has been identified and the necessary improvements to the public sewerage system relative to that phase of the development have been fully implemented to the satisfaction of Severn Trent Water.
14. Prior to 80% (number of dwellings or floorspace) occupation of each phase of development a verification report carried out by a qualified drainage engineer must be submitted to and approved in writing by the Local Planning Authority. The verification report must demonstrate that the drainage system has been constructed in accordance with the approved scheme (or detail any minor variations), provide the details of any management company, and state the national grid reference of any key drainage elements (surface water attenuation devices/areas, flow restriction devices and outfalls).
15. No development shall commence within any phase or sub phase (including any works of demolition) until a Construction Environmental Management Plan ('CEMP') specific to that phase or multiple phases (as applicable) has been submitted to and approved in writing by the Local Planning Authority. The CEMP shall include details of:
 - a) Environment Management Responsibilities;
 - b) Construction Activities, and Timings, including details of any temporary access arrangements;
 - c) Plant and Equipment, including loading and unloading, including arrangements to receive abnormal loads or unusually large vehicles;
 - d) Construction traffic routes and points of access/egress to be used by construction vehicles, and arrangements for turning vehicles;
 - e) Details of site compounds, offices, welfare facilities and areas to be used for the storage of materials;
 - f) Utilities and Services;
 - g) Emergency planning & Incident Reporting;
 - h) Contact details for site managers and details of management lines of reporting to be updated as different phases come forward;
 - i) Method of preventing mud and dust from being carried onto the highway
 - j) Highway Condition survey
 - k) On site control procedures reference:
 - Traffic mitigation measures including traffic management and parking

- Temporary haulage routes
- Air and Dust quality
- Noise and vibration
- Waste and Resource Management
- Agricultural Soils and Materials
- Temporary surface water drainage during construction
- Protection of Controlled Waters
- Trees, Hedgerows and Scrub
- Ecology
- Archaeological and Cultural Heritage
- Visual and Lighting
- Utilities and Services
- Protection of water resources
- Protection of species and habitats

l) Detailed phasing plan to show any phasing, different developers and/or constructors to be updated regularly

m) Details for the monitoring and review of the construction process including traffic mitigation (to include a review process of the Construction Environmental Management Plan during development).

n) Methods of communicating the Construction Management Plan to staff, visitors and neighbouring business and residents. Reason: In the interests of the safe operation of the adopted highway in the lead into development both during the demolition and construction phase of the development.

o) Biodiversity

- Risk assessment of potentially damaging construction activities.
- Identification of “biodiversity protection zones”.
- Practical measures (both physical measures and sensitive working practices) to avoid or reduce impacts during construction. These must include badger survey prior to commencement of each relevant phase or sub phase of development, nesting bird checks, site clearance methodologies for amphibians, reptiles and brown hare.
- Practical measures (both physical measures and sensitive working practices) to avoid or reduce impacts during construction (may be provided as a set of method statements).
- The location and timing of sensitive works to avoid harm to biodiversity features.
- The times during construction when specialist ecologists need to be present on site to oversee works.
- Responsible persons and lines of communication.
- The role and responsibilities on site of an ecological clerk of works (ECoW) or similarly competent person.
- Use of protective fences, exclusion barriers and warning signs.

Any development hereby permitted shall be carried out only in accordance with the

approved CEMP.

16. On the submission each respective reserved matters application for development within any phase, a Landscape and Biodiversity Enhancement and Management Plan shall be submitted to, and approved in writing by, the Local Planning Authority. This shall be an iterative document, to be updated as necessary and approved prior to the commencement of each further phase of development. The document shall be suitable to provide to the management body responsible for the site. It shall include the following:

- a) Description and location of features to be retained, created, enhanced, and managed, as per the approved biodiversity metric (FPCR), and clearly quantifying how each phase contributes to the overall net gain figures.
- b) Aims and objectives of management, in line with desired habitat conditions detailed in the metric.
- c) Appropriate management methods and practices to achieve aims and objectives.
- d) Prescriptions for management actions.
- e) Preparation of a work schedule (including a 30-year work plan capable of being rolled forward in perpetuity).
- f) Details of the body or organization responsible for implementation of the plan.
- g) A monitoring schedule to assess the success of the habitat creation and enhancement measures at intervals of 1, 2, 3, 4, 5, 10, 15, 20, 25 and 30 years.
- h) A set of remedial measures to be applied if conservation aims and objectives of the plan are not being met.
- i) Detailed habitat enhancements for wildlife, in line with British Standard BS 42021:2022.
- j) Details of underpasses, offset gullies and drop kerbs in the road network to safeguard wildlife.
- k) Detailed specifications for open water habitats to provide biodiversity benefits.
- l) Requirement for a statement of compliance upon completion of planting and enhancement works in each phase.

The document shall also include details of the legal and funding mechanism(s) by which the long-term implementation of the plan will be secured by the developer with the management body(ies) responsible for its delivery. The approved plan will be implemented in accordance with the approved details.

17. Any application for approval of reserved matters shall include the submission of a detailed Arboricultural Impact assessment and Tree Constraints Plan where appropriate.

The information shall include:

- an individual tree assessment of all trees which are proposed to be retained in accordance with the EIA representing the base case scenario in respect of tree removal at the site.
- The measures which will be implemented to secure their protection during the course of the development and retention thereafter.

No development relevant to that phase shall commence until the approved tree protection measures have been put in place and the development of the relevant phase shall thereafter proceed in full accordance with the approved Tree Constraints Plan, unless otherwise agreed in writing by the Local Planning Authority.

18. Provision shall be made in all reserved matters applications for green space and play provision in accordance with the requirements agreed as part of condition 5 and Bolsover District Development Plan Policy ITCR 5 or any replacement development plan policy.
19. Any reserved matters application shall be accompanied by a detailed lighting strategy to safeguard bats. Sensitive habitats, including woodland, grassland, allotments, open water, public open space, Local Wildlife Sites, and key green/blue corridors, shall be safeguarded from excessive lightspill. Where these habitats are present, details shall be provided of the type of lighting proposed and any mitigating features such as shields, hoods, timers etc. Lux plans may also be required to determine exact levels of lightspill in particularly sensitive areas. The development shall be implemented in full accordance with the approved measures.
20. The Allotments within the application site area shall be retained as part of the development hereby permitted.
21. Prior to commencement of the development hereby approved; the details of air quality management and review shall be submitted to and agreed in writing by the local planning authority.
 - Details of mitigation measures to be included the proposals
 - Details of base lines
 - Timing / Phasing of monitoring
 - Location of monitoring points
 - How the results will be assessed
 - What actions will be considered at each review point.
22. Any reserved matters application containing residential development shall include details of a scheme of sound insulation that shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall be designed following the completion of a sound survey undertaken by a competent person. The scheme shall take account of the need to provide adequate ventilation, which will be by mechanical means where an open window would not achieve the following criteria. The scheme shall be designed to achieve the following criteria with the ventilation operating: Unless otherwise approved in writing by the Local Planning Authority.
 - Bedrooms 30 dB LA_{eq (15 Minutes)} (2300 hrs – 0700 hrs)
 - Living/Bedrooms 35 dB LA_{eq (15 Minutes)} (0700 hrs – 2300 hrs)
 - All Other Habitable Rooms 40 dB LA_{eq (15 Minutes)} (0700 hrs – 2300 hrs)
 - All Habitable Rooms 45 dB LA_{max} to occur no more than 6 times per hour
 - Any outdoor amenity areas 55 dB LA_{eq (1 hour)} (0700 hrs – 2300 hrs)

Prior to the first occupation of the dwelling(s) hereby approved, 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.

23. Any reserved matters application containing commercial/industrial development shall include an assessment of sound emanating from the development and a scheme specifying the provisions to be made for the control of sound. This shall be submitted to and approved in writing by the Local Planning Authority. The assessment shall demonstrate that the rating level of the sound, corrected for acoustic features, measured at or calculated to, a position representing any boundary which may suffer a loss of aural amenity from sound associated with the development, shall not cause an increase in the residual sound level unless otherwise agreed in writing with the Local Planning Authority. The scheme, as approved, shall be implemented in full and validated by a competent person. The scheme, as validated, shall be retained thereafter for the life of the development.

The references in this condition to rating level and residual sound level have the same meaning as those defined in BS4142: 2014 Methods for rating and assessing industrial and commercial sound.

24. Any reserved matters application including medical or educational facilities shall include a scheme of sound insulation that shall be submitted and approved in writing by the Local Planning Authority. The scheme shall be designed following the completion of a sound survey undertaken by a competent person. The scheme shall take account of the need to provide adequate ventilation, which will be by mechanical means where an open window would not achieve the criteria agreed in writing with Local Planning Authority. The scheme shall be designed to achieve current best practice criteria with the ventilation operating and shall consider both internal and external areas.
25. The Commercial Phase (or any sub-phase within the Commercial Phase)) shall not be brought into use until an Employment Travel Plan that promotes sustainable forms of travel to the development site has been submitted to and approved in writing by the Local Planning Authority. The submitted details shall use Modeshift STARS Business or equivalent to carry out this process and include mechanisms for monitoring and review over the life of the development and timescales for implementation. The approved Travel Plan shall be implemented, monitored, and reviewed in accordance with the approved details.
26. Any phase of residential development shall not be occupied until a residential travel plan that promotes sustainable forms of access to the development site has been submitted to and approved in writing by the Local Planning Authority. The Travel Plan will thereafter be implemented and updated in accordance with the approved details.
27. Before any works commence on each phase of development, a strategy/plan detailing active travel measures associated with the development shall be submitted to the Local Planning Authority for written approval with those details being implemented in accordance with the agreed strategy/plan.

28. No development in any phase shall be occupied until the improvement scheme identified for M1 junction 30 (interim scheme) as shown in general accordance with AECOM drawing CGV-ACM-M1J30-XX-DR-CE-010001 Revision P03 is completed and open to traffic unless otherwise agreed in writing by the Local Planning Authority.
29. No more than 200 dwellings shall be occupied until the improvement scheme identified for M1 junction 30 (larger scheme), as shown in general accordance with AECOM drawing ref 60556776-M1J30-TSD001 (or revised scheme following a Stage 1 Road Safety Audit (RSA) and Walking, Cycling, Horse-riding Assessment and Review (WCHAR) is completed and open to traffic unless otherwise agreed in writing by the Local Planning Authority.
30. No part of the development shall be occupied until the improvement scheme for the A616/A619 'Treble Bob' roundabout junction as shown in general accordance with AECOM drawing CGV-ACM-XX-XX-DR-CE-00001 Revision P01 and which shall also include installing a queue detection loop on the A616, is completed and open to traffic unless otherwise agreed in writing by the Local Planning Authority.
31. Any application for reserved matters shall include an electric vehicle infrastructure strategy and implementation plan and also a scheme detailing the proposed vehicle, motorcycle, and cycle parking arrangements for each phase of development. The plan shall contain details of the number and location of all electric vehicle charging points that shall comply with BS EN 62196 Mode 3 or 4 charging and BS EN 61851, and Derbyshire Highway Design Guide. Buildings and parking spaces that are to be provided with charging points shall not be brought into use until associated charging points are installed in accordance with approved details and are operational. The charging points installed shall be retained thereafter unless replaced or upgraded to an equal or higher specification.
32. Commercial plots excluding ancillary buildings and infrastructure shall not be brought into use until showers and lockers have been installed in accordance with details which shall first be submitted to and approved in writing by the Local Planning Authority.
33. Prior to the first occupation of each reserved matter residential phase, a residential welcome pack promoting sustainable forms of access to the development shall be submitted to and approved in writing by the Local Planning Authority. The pack shall be provided to each resident at the point of the first occupation of each dwelling.
34. Any application for the approval of reserved matters shall include full details of all proposed street tree planting, root protection systems, future management, and the proposed times of planting. All tree planting shall be carried out in accordance with the approved details.
35. Before development in each phase commences, an Employment Scheme (prepared by the main contractor for that phase) 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. The approved Employment Scheme shall then be implemented in full unless in accordance with any such

subsequent variations as shall have been submitted to and approved in writing by the Local Planning Authority.

36. Prior to the first occupation of any premises within the commercial phase an Employment Scheme to enhance and maximise employment and training opportunities during each plot's operation, including a timetable for implementation, shall be submitted to and approved in writing by the Local Planning Authority. The approved Employment 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 submitted to and approved in writing by the Local Planning Authority
37. On or before the submission of the reserved matters application that includes the 600th dwelling, details of a phase of at least 0.7 hectares for the development of self-build houses shall be submitted to and approved in writing by the Local Planning Authority. The details shall include a design guide for the development of the self-build houses. The site shall thereafter be developed in accordance with the approved details and shall be reserved for self-build houses, unless otherwise agreed by the Local Planning Authority in writing.
38. As part of each reserved matters application for residential development, details of the proposed housing mix within that phase of development shall be submitted.
39. Each reserved matters application shall include full details of existing and proposed ground levels and proposed building slab levels (all relative to ground levels adjoining the site), notwithstanding any such detail shown on previously submitted plans. Development shall be carried out in accordance with the approved details.
40. If the extent of the new road and Roundabout design on Station Road necessitates relocation of the existing Mining Memorial, a scheme for its relocation shall be prepared in consultation with the Local Planning Authority and Clowne Historical Society, and thereafter submitted and approved in writing by the Local Planning Authority. The approved relocation scheme shall be implemented prior to the construction of the new section of road.
41. No built development pursuant to this permission, defined under section 55 of the Planning Act 1990 shall be carried out within North East Derbyshire Green Belt as defined on the Local Plan for Bolsover (2020) Proposals Map. The land within the Green Belt shall form a landscaped buffer to the development in accordance with the indicative Design Concept Character Areas Plan.

Statement of Decision Process

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

The decision contains several pre-commencement conditions which are so fundamental to

the development permitted that:

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

Equalities Statement

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

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

Human Rights Statement

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

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

APPENDIX I – PREVIOUS PLANNING COMMITTEE REPORT (JUNE 2018).

APPENDIX II – PREVIOUS SUPPLEMENTARY PLANNING COMMITTEE REPORT (JUNE 2018).