

**PARISH** Shirebrook Parish

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**APPLICATION** Erection of 2 industrial units, 22 parking spaces service yard for the loading and unloading of LGV/HGVs and alterations to the access  
**LOCATION** Land North Of Sookholme Road Junction Portland Drive Shirebrook  
**APPLICANT** Natalie Etches Bolsover District Council The Arc Clowne S43 4JY  
**APPLICATION NO.** 24/00067/FUL **FILE NO.**  
**CASE OFFICER** Mrs Karen Wake  
**DATE RECEIVED** 13th February 2024

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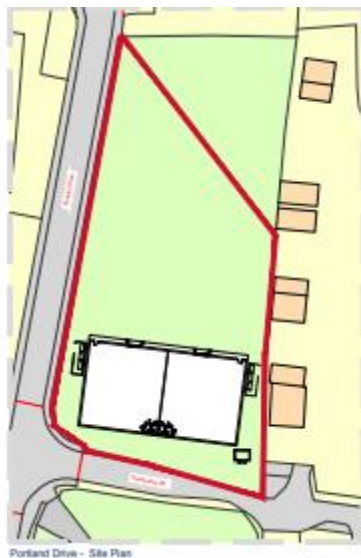
### **SUMMARY**

The application has been referred to Planning Committee by the Development Management and Land Charges Manager due to the decision being of strategic importance to the district and in the interests of openness and transparency, as the District Council has been involved in the inception of the scheme and could be involved in its delivery.

The application is for the erection of 2 industrial units with service yard and 22 parking spaces. The proposal also includes alterations to the existing access.

The application is recommended for approval, subject to conditions.

### **Site Location Plan**



### **OFFICER REPORT ON APPLICATION NO. 24/00067/FUL**

#### **SITE & SURROUNDINGS**

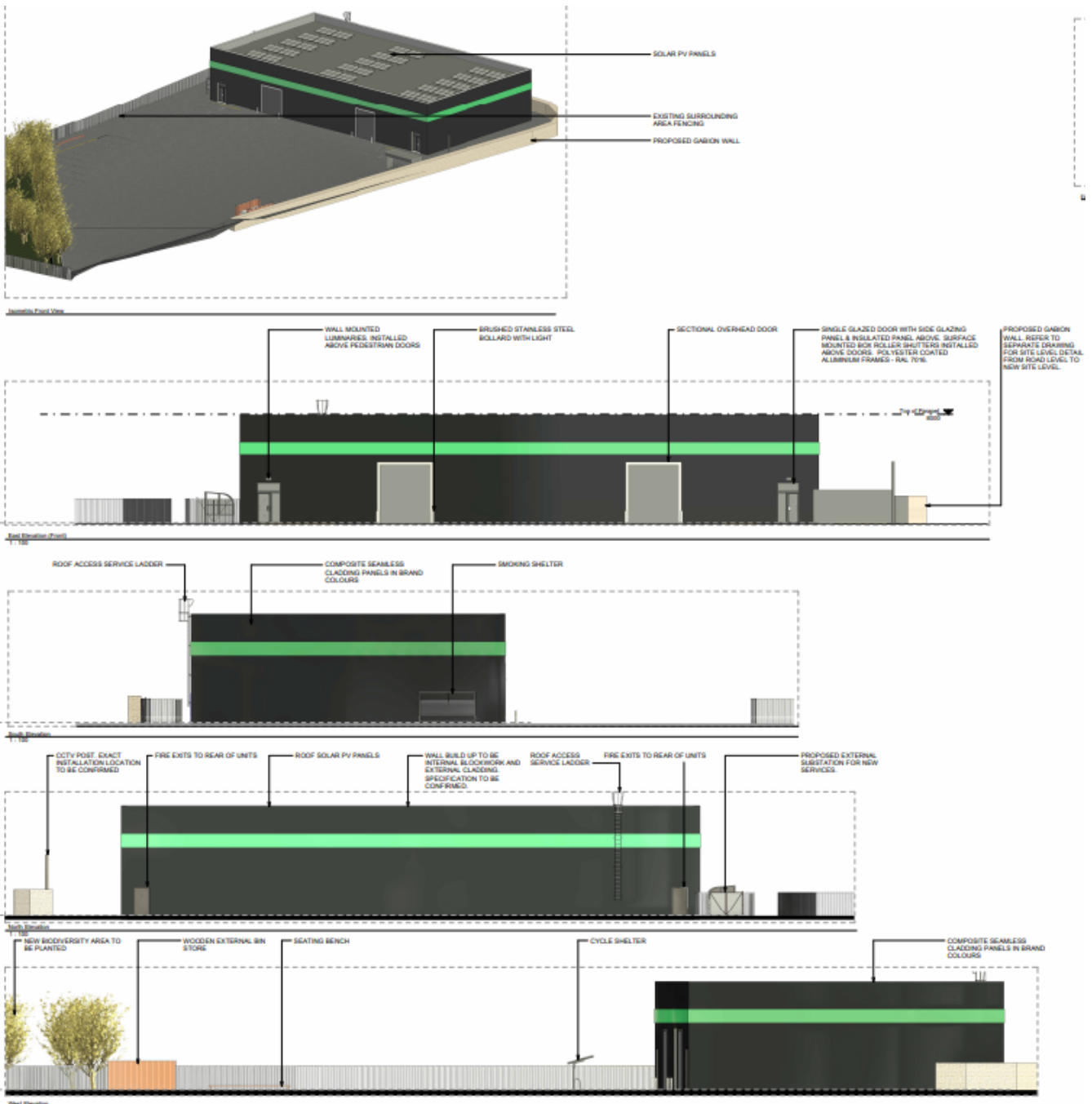
The site is a vacant, overgrown site with Portland Drive bordering the western boundary and Sookholme Road bordering the southern boundary. The site is located within an industrial

area with storage facilities and industrial units to the north, east and west. An area of open space is also present beyond the roads to the south and west. The site is fairly level and is set slightly lower than the adjacent highways and the site to the north and slightly higher than the site to the east.

## PROPOSAL

The application is for an industrial building which is divided into two units. The proposal includes a service yard and 22 parking spaces as well as bin store at the site entrance. The proposal includes a gabion basket retaining structure adjacent to the highway and strengthening works to the existing dropped crossing to the site. The proposal also includes extensive landscaping which includes native trees, wildflower planting and native shrubbery.





## BACKGROUND

The application as originally submitted had a floor area which was just over 1000sqm which made it a major application which was received after 12<sup>th</sup> February making it subject to the mandatory requirement for a 10% net gain for biodiversity. The application has subsequently been amended to remove some of the floor area proposed such that the development is now just under 1000sqm floor area. This means the amended application is not defined as a major application and was received before 2<sup>nd</sup> April 2024 when the mandatory requirement for 10% net gain for biodiversity for non-major applications came into force. There is therefore no requirement for the development to achieve a 10% net gain for biodiversity. There is a requirement to achieve no net loss for biodiversity in order to meet the requirements of Policy SC9 of the Local Plan for Bolsover District Council and this is discussed in the assessment of

the application later in this report.

## **AMENDMENTS**

The retaining structure adjacent to the highway, the access and layout have all been amended at the request of the Highway Authority. The mezzanine, one of the bin stores and the smoking shelter have all been removed from the proposal.

## **EIA SCREENING OPINION**

The proposals that are the subject of this application are not EIA development.

## **HISTORY**

23/00018/FUL	Withdrawn	Erection of 14 industrial units, bin store, car parking with additional space of loading & unloading of LGV/HGV's. Alterations to access with a new T-Junction with Portland Drive
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## **CONSULTATIONS**

### Shirebrook Town Council

No comments received

### Environment Agency

The development falls within flood zone 1 and therefore there are no fluvial flood risk concerns associated with the site.

### Derbyshire County Council Highway Authority

No objection subject to conditions requiring implementation of the submitted travel plan, access, parking and turning to be provided in accordance with the approved plan and submission of a construction management plan.

### Derbyshire County Council Flood Authority

No comments to make.

### Environmental Health Officer

Recommend condition requiring a contamination watching brief which requires if, during the works contamination is encountered which has not previously been identified, then the additional contamination shall be fully assessed, and an appropriate remediation scheme submitted to and approved in writing by the Local Planning Authority.

### Derbyshire Wildlife Trust

Recommend any net loss to biodiversity is addressed to ensure no net loss. Recommend conditions requiring submission of a Landscaping and Biodiversity Enhancement and Management Plan and a Construction Environmental Management Plan.

### Senior Engineer

The sewer records do not show any public sewers within the curtilage of the site. However, the applicant should be made aware of the possibility of unmapped public sewers which are not shown on the records but may cross the site of the proposed works. If any part of the proposed works involves connection to / diversion of / building over / building near to any public sewer the applicant will need to contact Severn Trent Water in order to determine their

responsibilities under the relevant legislation. There is actually a private sewer marked on our copy of STW's records in magenta (enclosed for information) .

All proposals regarding drainage will need to comply with Part H of the Building Regulations 2010. In addition, any connections or alterations to a watercourse will need prior approval from the Derbyshire County Council Flood Team, who are the Lead Local Flood Authority. It is essential that any work carried out does not detrimentally alter the structure or surface of the ground and increase or alter the natural flow of water to cause flooding to neighbouring properties. The developer must also ensure any temporary drainage arrangements during construction gives due consideration to the prevention of surface water runoff onto the public highway and neighbouring properties.

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

## **PUBLICITY**

Site notice, press notice and 10 neighbours notified. Objection received from one resident which raises the following issues:

1. The land is subject to heavy flooding throughout the year and if the land is raised the flood water will be pushed further into adjacent property causing more flooding.
2. The flood risk assessment documents are inaccurate. All of the mapping does not show the land surrounding has had the levels substantially raised and is not representative of where the water goes. The models show risk for 1 in 30, 1 in 100 and 1 in 1000 years. In fact, flooding is more like 1 in 2 weeks and is substantial.
3. The watercourse to the north of the land that runs Eastwards, where the proposed drainage from the application is planned to be pumped, discharges from a 900mm culvert. The property downstream has illegally without consent installed a 600mm culvert in their land. The flow of water is now severely restricted and already floods adjacent property most weeks during rainfall. The proposed application will therefore increase the flooding to this land land. The flood models are based on the watercourse being unrestricted which it isn't and this can be evidenced.
4. A previous planning application was rejected on grounds of flood risk.
5. The site floods and the water from the land runs straight into the adjacent yard. This causes immense problems and damages the yard and back garden of the adjacent house which is private land.
6. The flooding from the land has previously been raised with the applicant but no response has given to these concerns.

## **POLICY**

### Local Plan for Bolsover District ("the adopted Local Plan")

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

- SS1: Sustainable Development
- WC2: Existing Employment Sites
- SC1: Development within the Development Envelope
- SC2: Sustainable Design and Construction

- SC3: High Quality Development
- SC7: Flood Risk
- SC9: Biodiversity and Geodiversity
- SC11: Environmental Quality (Amenity)

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

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

- Chapter 2 (paras. 7 – 14): - Achieving sustainable development.
- Paragraphs 48 - 51: Determining applications.
- Paragraphs 56 - 59: Planning conditions and obligations.
- Paragraphs 85 - 87: Building a strong, competitive economy.
- Paragraphs 109 - 118: Promoting sustainable transport.
- Paragraphs 124 - 128: Making effective use of land.
- Paragraphs 131 – 141: Achieving well-designed places.
- Paragraph 170 - 182: Planning and Flood Risk.

### Supplementary Planning Documents

#### Local Parking Standards:

This document relates to Policy ITCR11 of the Local Plan by advising how the parking standards contained in appendix 8.2 of the local plan should be designed and implemented with development proposals. This SPD does not revise the standards contained in the Local Plan but does provide suggested new standards for parking matters not set out in the Local Plan, such as cycle parking. The design supersedes the parking design section included within the existing Successful Places SPD (2013).

#### Biodiversity Net Gain Design Note:

In light of the requirement for mandatory 10% biodiversity net gain, the Council has prepared a planning advice note to provide advice on the background to the introduction of mandatory 10% Biodiversity Net Gain, how this statutory provision relates to policy SC9: Biodiversity and Geodiversity in the Local Plan for Bolsover District, and how we will expect those preparing applications to approach this new legal requirement.

### **ASSESSMENT**

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

- The Principle of The Development
- The Impact of The Proposed Development on The Character and Appearance of the Street Scene
- Residential Amenity
- Whether The Development Would Be Provided with a Safe and Suitable Access and Impacts on Highway Safety
- Impact on Biodiversity
- Flood Risk
- Issues Raised by Residents.

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

### Principle of development

The application site is within an established industrial area, where the general principles for economic development are identified, as defined by policy WC2 of the adopted local plan.

This policy identifies the site to be an 'existing employment site' allocated on the Policies Map, and is therefore a site which should be protected. The policy states that proposals for alternative employment generating uses at existing employment areas and allocated employment land will be treated on their merits.

Policy SS1 of the Local Plan states that development proposals should support the local economy by providing employment opportunities suitable for local people, contributing towards business expansion and growth in key sectors; promote the efficient use of land and the re-use of previously developed land in sustainable locations.

Policy SC2 states that the Council will permit proposals which promote the efficient use of land and infrastructure, including developments which include a sustainable and complementary mix of uses.

It is therefore considered that the principle of erecting purpose built industrial units to be used for employment generating industrial uses is acceptable in principle, subject to compliance with other relevant local plan policies and material planning considerations.

### The impact of the proposed development on the character and appearance of the street scene

The proposed development is considered to be in keeping with the adjacent industrial buildings and the street scene in terms of character, scale, design and materials. The site is fairly level. The adjacent highway is set slightly higher such that the proposed building will be set slightly lower than the road. A Gabion basket retaining structure and landscaping are proposed along the Portland Drive highway boundary and landscaping is proposed along the Sookholme Road highway boundary. The building is set slightly back from the Portland Drive frontage but is close to the Sookholme Road frontage, however there are existing buildings on Sookholme Road which are adjacent to the highway and the appearance of the building will be softened by the proposed landscaping. The proposal is therefore not considered to be unduly prominent or out of character in the street scene.

### Residential Amenity

The site is within an existing industrial site, surrounded by commercial buildings. There is one dwelling to the east of the site which was built prior to the current planning system being in place. It was originally part of a farmstead with agricultural buildings. The property was within a larger site which became a strategic allocation for industrial development and subsequently, numerous applications have been approved for various industrial uses and buildings on and adjacent to this dwelling as the industrial estate developed. There are commercial buildings to the east of the site between the proposed development and that dwelling. The proposal is therefore not considered to result in any significant loss of privacy or amenity for residents of

this dwelling or other dwellings outside the industrial estate over and above the existing situation and as such the proposal is considered to meet the requirements of Policies SC2, SC3 and SC11 of the Local Plan for Bolsover District.

### Access/Highways

The proposal utilises the existing dropped kerb access to the site but strengthens that crossing. The proposal includes sufficient car parking and manoeuvring space within the site to serve the proposed development and there are no objections to the proposal from the Highway Authority subject to conditions requiring compliance with the transport plan submitted with the application and the parking and turning to be provided on site in accordance with the approved plan.

A transport statement has been submitted with the application which considered that the site is located within a reasonable walking distance of the majority of Shirebrook and within a reasonable cycle ride of the whole of Shirebrook as well as Mansfield, Bolsover and Warsop. It also concluded that the bus stops on Market Place, offered a regular service into the centre of Mansfield and Chesterfield and Shirebrook Rail Station offering a regular service between Nottingham and Worksop. The site is therefore considered to be in a sustainable location, accessible by modes of transport other than the car and a Travel Plan has also been submitted which provides a strategy for encouraging sustainable travel.

The Transport statement also considered that there are no existing road safety issues pertinent to the development of the site and that the proposal is not considered to generate a significant number of vehicular movements to and from the site.

The transport statement concluded that the proposed development would not be expected to have a severe impact on the operation of the local highway network in accordance with the requirements of the National Planning Policy Framework which 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.”

On this basis, subject to conditions requiring the parking and turning areas to be provided on site in accordance with the approved plans, the proposal is not considered to be detrimental to highway safety and is considered to meet the requirements of Policy SC3 of the Local Plan for Bolsover District.

The Highway Authority have also asked for a condition requiring implementation of the submitted travel plan. However, given that the amended application is no longer classed as a major application and the travel statement submitted with the application concludes that the proposal would not generate significant movements, such a condition would be unreasonable and as such would not meet the tests for conditions. This is because Planning Guidance advises that travel plans are only required for developments which generate a significant number of vehicle movements.

The Highway Authority also requested further construction details about the access and proposed gabion wall retaining structure. However, the Highway Authority have confirmed that the proposal is acceptable in principle and these construction details will be the subject of



a separate Section 184 Agreement with the Highway Authority. A note can be added to advise the applicant of the need for such agreement and given that these details are covered under this section of The Highways Act it is not considered reasonable to require further construction details by condition.

### Impact on Biodiversity and Ecology

The site is overgrown and as a result an ecology report was also requested and has been submitted. The report found the habitat was of low ecological value and low ecological importance and that the habitat lost could be compensated through landscaping and tree planting on site. Site clearance works will need to be undertaken outside the bird nesting season Oct – Feb or a nesting bird check undertaken prior to vegetation removal and post development nest boxes should be incorporated into the building in the northeast corner. The report also advised good practice working methods will also be required for rabbit and hedgehog and should be outlined within a Construction and Environmental Management Plan (CEMP). This can be required by condition.

The site is close to two SSSI's and as such consultation with Natural England is required in relation to the impact of the development on these the SSSI's. Natural England's comments have not yet been received.

The application as originally submitted had a floor area which was just over 1000sqm which made it a major application which was received after 12<sup>th</sup> February making it subject to the mandatory requirement for a 10% net gain for biodiversity. The application has subsequently been amended to remove some of the floor area proposed such that the development is now just under 1000sqm floor area. This means the amended application is not defined as a major application and was received before 2<sup>nd</sup> April 2024 when the mandatory requirement for 10% net gain for biodiversity for non-major applications came into force. There is therefore no requirement for the development to achieve a 10% net gain for biodiversity. There is, however, a requirement to achieve no net loss for biodiversity in order to meet the requirements of Policy SC9 of the Local Plan for Bolsover District Council.

The small site metric for the amended proposal development shows the current baseline units on site, total 3.2860. Post-development, the habitat units are 1.8844, indicating a loss according to the metric.

However, it is important to note that the metric does not account for the site enhancements proposed in the landscaping scheme. Post-development, there will be an additional 1.5159 units of hedgerow and 32 newly planted trees. Currently, there are no trees on the site.

As a development which is exempt from mandatory Biodiversity Net Gain, there is no requirement for like-for-like habitat replacement. The proposed hedgerow units and new trees are considered to be an enhancement to the biodiversity on the site and these enhancements ensure there is no net loss on site, supporting biodiversity and contributing to the environmental value of the site. On this basis, subject to no objections being raised by Natural England, the proposal is considered to meet the requirements of Policy SC9 of the adopted Local Plan.

### Flood risk

The Flood Risk Assessment has been carried out in accordance with the requirements of the NPPF despite the site itself being in flood zone 1 where an assessment is not required. The proposed landscaping area directly to the north of the site which is within the applicant's ownership is within flood zone 3.

The flood risk assessment concludes that the Development Proposals are compatible with the predicted flood risk, including climate change allowances, over the development lifetime and are not predicted to increase the risk of flooding to others over the development lifetime. Consequently, it is concluded that, with regards to the flood risk requirements of the NPPF, the Development Proposals are acceptable and meet the requirements of policy SC7 of the adopted Local Plan.

However, the site is in an area which in part is in a high risk of surface water flooding and in part a medium risk zone and as such a site specific drainage strategy needs to be provided to show that the development can be accommodated on site without increasing flooding problems from surface water on or adjacent to the site. This has not yet been provided, however, subject to submission of a suitable drainage strategy that does not increase flood risks on and off site and the requirement for this to be provided by condition, the proposal is considered to be capable of being accommodated on site to comply with Policy SC7 of the adopted Local Plan.

#### Issues raised by resident

The issue of the illegal/unauthorised alteration to the size of the culvert has not been considered at this stage. A detailed drainage strategy is required, which will need to be ratified by the LLFA or a competent person. This will need to consider the suitability of any outfall / surface water destination and may require the upgrading of existing infrastructure.

The issue of the previous application being refused due to flood risk has not been considered because the previous application was materially different to the current application and included land which was within flood zone 3 and the current application does not. In addition, the previous application wasn't refused it was withdrawn.

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

The proposal is an employment generating use in a sustainable location of an allocated employment site. The proposal is considered to be in keeping with the existing street scene in terms of scale and design and is not considered to be detrimental to the amenity of residents of adjacent dwellings over and above the existing situations. Subject to a condition requiring access, parking and turning to be provided in accordance with the approved plans the proposal is not considered to be detrimental to highway safety.

Additional information is necessary to fully address potential surface water flood risks but it is anticipated that this issue can be appropriately addressed.

Subject to conditions, the proposal is not considered to result in a net loss for biodiversity and the low ecological value habitat lost can be compensated through landscaping and tree planting on site.

There is an outstanding consultation response from Natural England which is necessary to understand any impact the development may have on adjacent SSSI's, however, it is

anticipated that any issues will be able to overcome by submission of information/conditions.

## **RECOMMENDATION**

**Subject to the submission of an acceptable drainage strategy and no concerns which cannot be overcome by conditions requested by Natural England, delegated powers be given to the Development Management and Land Charges Manager to APPROVE the application subject to the following conditions which are given in precis form:**

1. The development shall be begun before the expiration of three years from the date of this permission.
2. Approved in accordance with the approved plan numbers.
3. Samples of materials to be submitted.
4. Submission, approval and implementation of a Landscaping and Biodiversity Enhancement and Management Plan based on the amended landscaping scheme plan and as described in the small site metric submitted.
5. Submission, approval and implementation of a construction environmental management plan
6. Access, parking and turning to be provided in accordance with the approved plans before the use is first implemented and maintained as such thereafter.
7. Surface water drainage to be in accordance with the approved scheme and any other associated drainage conditions necessary.
8. Any information and conditions recommended by Natural England

## **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.

## **Advisory Note relating to Biodiversity Gain Plan Exemption**