

PARISH Old Bolsover Parish

APPLICATION	Proposed 9 x 1 bed (ground floor flats) and 9 x 2 bed, 2 storey (first and second floor flats)		
LOCATION	Land At The Rear Of The White Swan Market Place Bolsover		
APPLICANT	Mr Steve Botham 10 Corner Pin Close Netherthorpe Staveley Chesterfield S48 8LN		
APPLICATION NO.	23/00439/FUL	FILE NO.	
CASE OFFICER	Mr Jonathan Gaynor		
DATE RECEIVED	21st August 2023		

SUMMARY

This full planning application is for 2 three storey buildings and 1 two storey building that will deliver 9 one bed flats at the ground floor and 9 two bed 2 storey flats, that will be delivered on the second and third floors of the building.

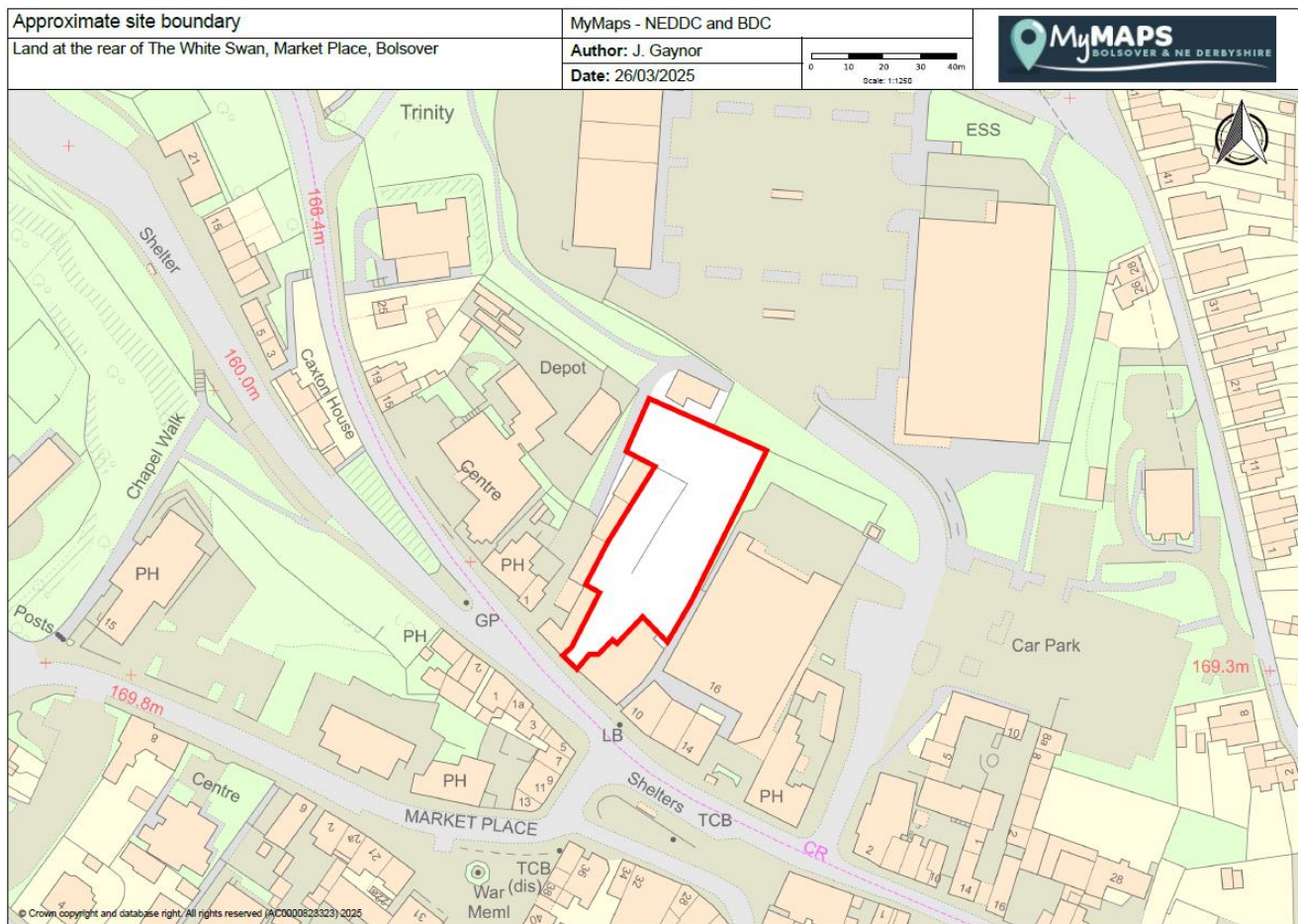
The site is a brownfield site situated within Bolsover Town Centre and as such, the development is acceptable in principle. The scheme has been revised in consultation with the Conservation Officer and Urban Design Officer as is now considered acceptable in all other planning regards, except viability.

A viability assessment has been submitted which concludes that for the scheme to be viable, no s106 contributions can be provided, contrary to the policy expectation totalling £136,746 towards education, open space and playing pitches. This assessment has been independently reviewed and the findings have been verified.

A recommendation to grant planning permission without requiring any s106 contributions is made on the basis that the development will secure the regeneration of a vacant brownfield site in the town centre and deliver high quality residential development in a sustainable location that has been designed to respond positively to the site and its context.

It was resolved at the 16th April 2025 planning committee meeting that the item be deferred until a future meeting to allow officers to enter into discussions with the applicant to discuss the potential for a viability review mechanism to enable developer contributions to be made in circumstances where the development proves to be more profitable than envisaged in the viability assessment. These discussions have now taken place and are referred to in the assessment section of this report.

Site Location Plan



OFFICER REPORT ON APPLICATION NO. 23/00439/FUL

SITE & SURROUNDINGS

The site lies within Bolsover town centre close to the Market Place. It falls within the Bolsover Conservation Area and is within the vicinity of Bolsover Castle. The White Swan public house is a prominent un-listed heritage asset within the street, next to Dane Bank House which also has a distinct civic quality and status as a former bank. Both relate to the setting of the Market Place. The entrance to the site falls between these 2 buildings. There are several listed buildings along with many non-designated heritage assets in the town centre with a close-knit pattern of development and domestic scale.

The long extended narrow plots off the main street have been shown on historical plans to have outbuildings extending to the rear as part of a pattern of development of medieval burgage plots. The development will conform with this historical pattern.

There are stone boundary walls to the eastern and northern boundaries which are characterful and to be retained. The plot shows a split in level between the boundary of the rear of the White Swan and Dane Bank house. This is seen as a ramped footing/retaining wall along the centre line of the courtyard.

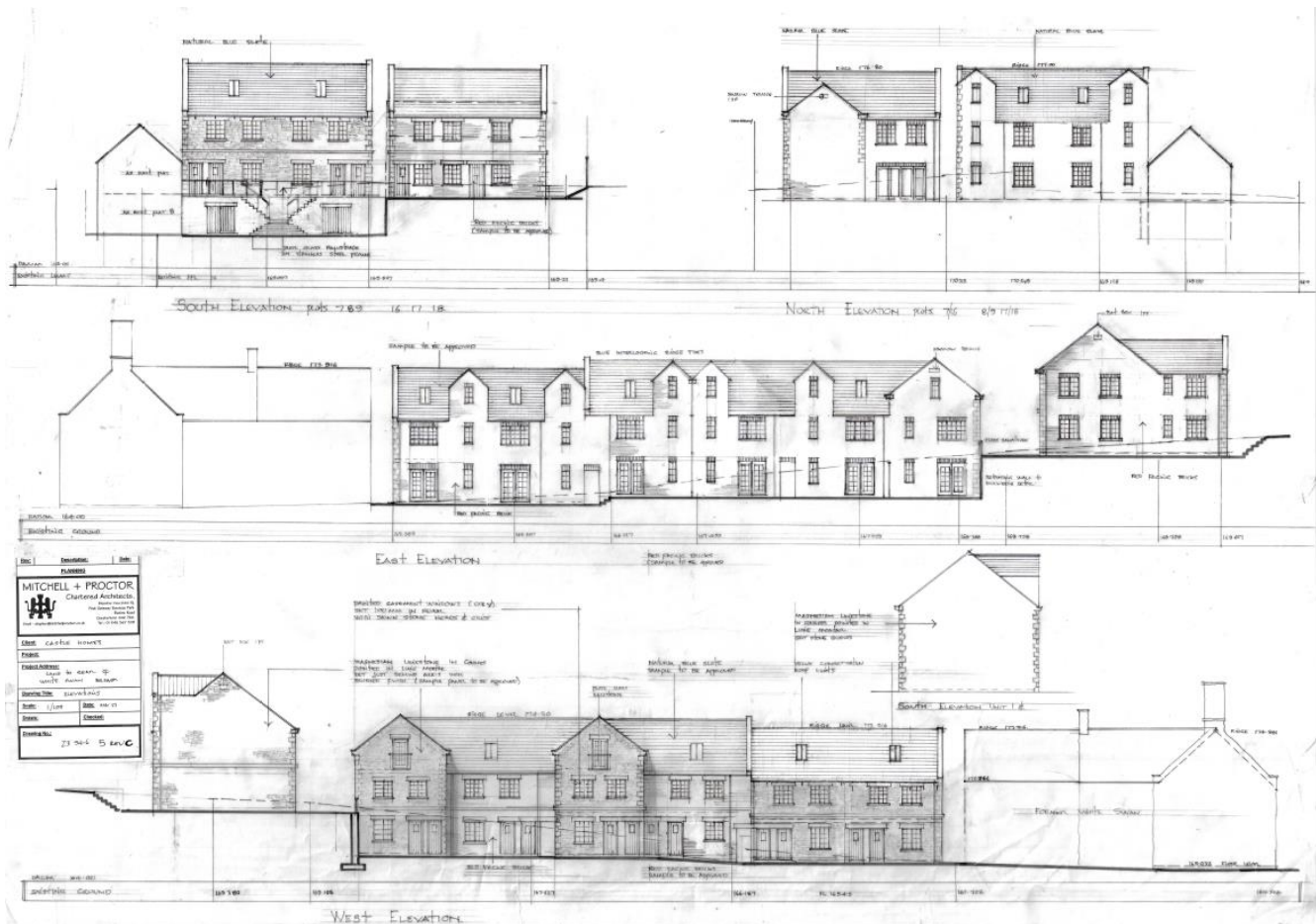
The site is relatively contained behind the two main street buildings. The substantial mass of the White Swan and the adjacent Dane Bank House almost completely blocks the views to the main street. There are glimpses though from the street that are typical of the experience of walking down the street and looking through to the rear.

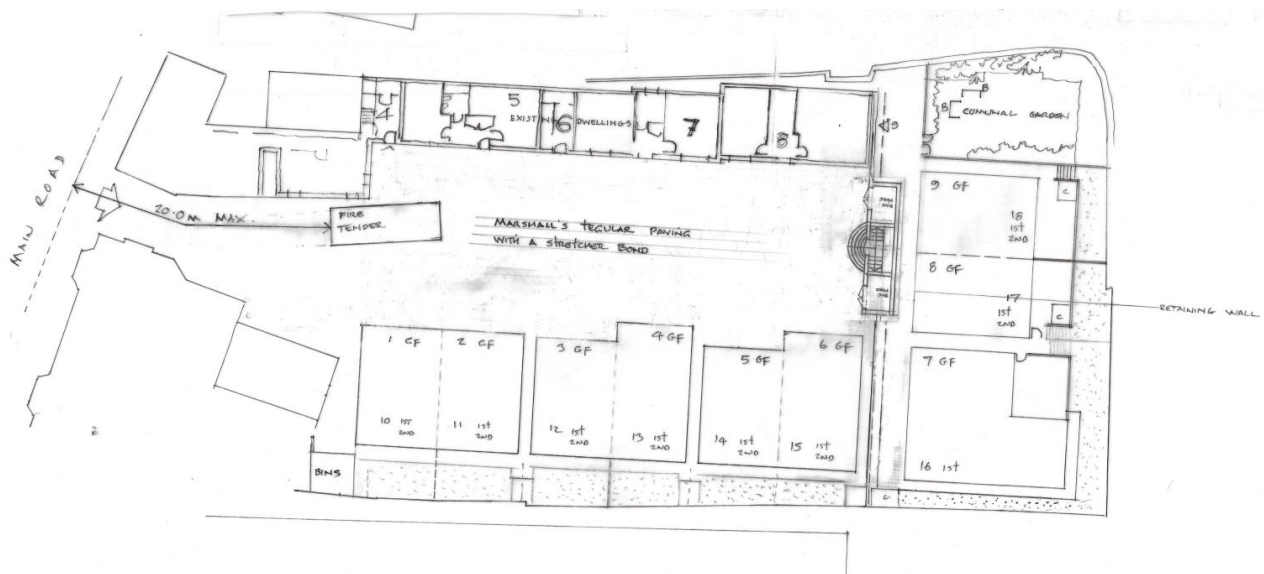
There are views from the north from a sloped bank to Morrisons service road and car park and to the east from Town End Car park beyond the rear of the B&M building which screens most of the development from the east. The west is completely enclosed by the recently developed mews buildings behind Dane Bank house.

While the development forms part of the rear of these properties there is potential for views of the upper parts of the site to be seen from other areas within the town.

PROPOSAL

The application proposes 2 three storey buildings and 1 two storey building that will deliver 9 one bed flats at the ground floor and 9 two bed 2 storey flats, that will be delivered on the second and third floors of the building.





AMENDMENTS

Amendments to the overall design of the scheme, which involved extensive discussions with the Conservation Officer and Urban Design Officer.

EIA SCREENING OPINION

The development does not constitute Schedule 1 or 2 development under the (Environmental Impact Assessment) Regulations 2017. There is therefore no requirement to screen the development as to the likely environmental effects.

HISTORY

17/00082/OUT	Granted Conditionally	Outline application with all matters reserved for residential development on land to the rear of the White Swan and the conversion of the pub to create retail use at ground floor with 3 or 4 apartments to the first floor.
17/00377/REM	Granted Conditionally	Approval of Reserved Matter for the erection of 10 dwellings

CONSULTATIONS

- DCC Highways**

The Highway Authority's previous consultation response raised a highway issue in connection with the highway improvements conditioned within Decision Notice 17/00377/REM and in the intervening period a number of discussions have taken place to try and resolve the highway issues, which has culminated in the recently submitted revised drawing (Proposed Site Plan – Amended Plan), so from a highways aspect the drawings are now considered acceptable in principle. Conditions relating to access,

bicycle parking and the submission of a Construction Management Plan are requested, as well as informative notes.

- **BDC Planning Policy**

The starting point for decision-making are the policies set out in the development plan, which comprises the Local Plan for Bolsover District. The Local Plan sets out a spatial strategy and distributes development to the large and more sustainable settlements in Bolsover District. As the Plan was only adopted in 2020, it is considered to be up-to-date and has been delivering significantly more dwellings in recent years than is required under the Local Plan provisions.

The location within Bolsover town centre is considered to be a sustainable location and this meets strategic policy requirements, and subject to more detailed policy considerations such as Archaeology and Conservation would be acceptable in policy terms, unless material considerations indicate otherwise.

Such material considerations that should also be considered are:

- The Government's drive for more housing
- The Council's excellent delivery record of delivering housing in recent years.
- The unviable nature of the development and the consequent lack of contribution towards infrastructure including school. Playing pitches and open space.

- **BDC Streetscene and Waste Services**

After looking at the plans, we will not be able to service the bins from outside the homes, there's no chance we'll get a refuse vehicle up there, either driving in and trying to turn around or reversing in off the Main Road, all bins must be presented at the bottom near the Main Road, possibly within a bin storage area. *Following updated plans*, unfortunately our decision remains the same the bins would have to be brought to the entrance of the development near to the road, all the properties will have individual 180ltr black bins, 240ltr burgundy bins, 240ltr green bins (if requested/required) and 23ltr food waste caddy (this starts in April 2026) this is why a bin storage area near to the entrance would be ideal.

- **DCC Public Right of Way Officer**

The amended plans do not appear to further affect Bolsover FP 19, therefore the RoW section has no objection, and comments remain as previously stated.

- **DCC Planning Policy and DCC Adult Social Care**

Early comments outlined necessary S106 contributions. However, Derbyshire County Council appreciate that an independent review of the viability of the development has taken place which agrees with the applicant's evidence that the scheme cannot viably support any S106 contributions.

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. However,

the County Council understand that the particular circumstances of some developments may justify the need for a viability assessment at the application stage.

The County Council accepts the conclusion of the independent viability report i.e. that the development cannot support any S106 contributions.

Derbyshire County Council would also like to make the following comments from our Public Health and Adult Social Care Team:

As this development is fewer than 100 dwellings and relates to general housing, ASCH are unable to provide specific feedback. However, we would appreciate the following general design principles being considered to comply with the NPPF's requirement for developments to 'create places that are safe, inclusive and accessible and which promote health and well-being, with high standards of amenity and flexibility for existing and future users.'

- *Dwellings meet national space and/or M4(2) standards to encourage independent living for all ability and mobility levels*
- *Good internal space standards, ceiling heights, natural light levels*
- *Stairways, walls and ceilings capable of accommodating stair lifts or hoists should these be required in future; large internal cupboards which could be converted for through floor lifts at a future date*
- *A mix of tenures and types: affordable accommodation is important to help ensure the stability of the domiciliary care market*
- *Having a proportion of dwellings built on one level (stacked or bungalow) and ensuring this type of provision is located near public transport routes and/or urban centres*

- **Urban Design Officer**

I've now checked the amended plans and consider all amendments acceptable and in line with my previous requests, in particular:

- to move the steps away from the window of the existing mews building,
- Relocated the bin area to remove the unsightly wooden fence in front of the rear extension of the White Swan,
- Removal of trees from the courtyard.
- Including wider French style windows to the rear to improve light and amenity.

Agrees with Conservation Officer regarding details of materials and therefore happy to recommend approval. I only wish to ensure that a detailed soft and hard works landscape scheme for the area is submitted showing details of steps, planter walls, coping stones, and balustrades, and any paving scheme, including threshold paving. The character of the courtyard needs to be simple but to as high a standard as the buildings. *Details of courtyard finish now agreed in consultation with Urban Design Officer.*

- **Conservation Officer**

The revised scheme had addressed a number of the concerns raised in our previous comments and was generally considered to be moving in the right direction and more aligned with the previously approved scheme which relied on a 'stepped' change in

levels to preserve the character of the courtyard.

The architect has provided the following justification:-

- *The revised development is predominantly two-and- half storey in height with the transition from the courtyard to the upper level which is accessed via steps*
- *All this is in line with the design advice previously produced by Solstice Design and materials have been chosen with a combination of local limestone with occasional use of red brick. Roofs are a mix of pantiles and Welsh slate.*
- *Development now occurs in short rows with variation in roof height. Conservation rooflights are included to the courtyard with dormer windows to the rear. There is now no single theme nor repetition of similar house types.*
- *The disposition of buildings to the rear has been re-considered so that the buildings to the upper ground level do not overlook the entrance to the completed units (i.e., Dane bank Flat 9).*

The changes to the detailing and materials are welcomed.

Given the sensitivity of the site it is imperative that the detailed design and materials of construction respect the local vernacular and deliver a high-quality courtyard development which will enhance the conservation area. To avoid any confusion at a later date, it would be beneficial to agree the general palette of materials at this stage.

The revised scheme proposes the following materials:-

West elevation - First plot to rear of White Swan

Magnesian limestone to front / red pantile roof – see comments below

Magnesian limestone – acceptable but sample of stone and lime pointing to be conditioned

Stone kneelers and coping – acceptable

Stone heads and cills – acceptable – sample of stone required

Stone stringcourse – details required

Cast aluminium rainwater goods on rise and fall brackets – acceptable

Conservation Rooflights – acceptable – details required

Painted timber flush casement windows set back in 100mm reveal - acceptable 1:20 details to be conditioned

Timber boarded doors – acceptable details to be conditioned

Ridge tiles – no details

The use of magnesian limestone on this plot is welcomed but it is not clear whether the return gable would be in stone. Given the visibility of this plot and relationship with the White Swan and Dane Bank House it would be preferable if the gable end was constructed in stone. Having considered the proposed mix of roof materials, it is considered that the use of slate throughout the development is the preferred option rather than a mix of slate and pantile.

West elevation - remainder of block

Front elevation - Brick with projecting stone gables – comments below
Slate roof – acceptable – sample required
Stone kneelers and coping – acceptable – details required
Stone heads and cills – acceptable – sample of stone required
Stone stringcourse – details required
Cast aluminium rainwater goods on rise and fall brackets – acceptable
Conservation Rooflights – acceptable – details required
Painted timber flush casement windows set back in 100mm reveal - acceptable details to be conditioned
Full height door opening to gable with fully glazed screen – details required by condition
Timber boarded doors – acceptable details to be conditioned
Ridge tiles – no details

I had some reservations about the mix of stone (to gables) and brick facades but if it is well detailed it could add some visual interest and provide a common theme/ detail across the site.

Rear elevation

Red brick - acceptable – sample and sample panel required
Rear gable verge details – details required (is it proposed to use a brick dentil course or traditional pointed verge detail)
Slate roof – acceptable – sample of slate required
Stone kneelers and coping – acceptable – details required
Stone heads and cills – acceptable – sample of stone required
Stone stringcourse – details required
Cast aluminium rainwater goods on rise and fall brackets – acceptable
Conservation Rooflights – acceptable – details required
Painted timber flush casement windows set back in 100mm reveal - acceptable 1:20 details to be conditioned
Full height door opening to gable with fully glazed screen – details required by condition
Timber boarded doors – acceptable details to be conditioned
Ridge tiles – no details

Plot 7, 8, 9 16, 17, 18

The materials are the same as above and will be covered by conditions.

The elevated positioning of these plots makes them very dominant, but the revised scheme is not dissimilar to the approved layout. The blank elevation to unit 7 is poorly detailed despite being screened by adjacent properties and it may be worth revisiting this element of the design to see if it can be improved.

The proposed stepped access to the upper level and introduction of a fully glazed balustrade is a more acceptable design solution.

Heritage Impacts

In heritage terms the main issue for consideration is the impact of the proposed development on the character and appearance of the Conservation Area and setting of the designated and non-designated assets in accordance with the policies contained in the Bolsover District Local Plan and the NPPF as outlined above.

The applicant concludes that the revised scheme has addressed the heritage concerns as outlined below:-

*In conclusion, we feel that the character of our revised scheme now accords with the principals of the previously approved development and the reduction in ridge heights ensures that the scheme has little, if any, impacts from views from the Castle. The ridge heights are shown on the elevations are subservient to those of the White swan and the Supermarket building to the North-East.
Given the above we see no reason that a new Heritage Statement would be necessary given the changes made to reflect those previously approved.*

Whilst I am of the opinion that the revised scheme does address many of the concerns raised it is considered that there will be a degree of harm caused to the character and appearance and setting of the wider (albeit less than substantial at the low end of the scale). In accordance with the requirements set out in the NPPF (para 208) it must be demonstrated that the level of harm will be outweighed by the public benefits of the scheme.

Later comments: We have agreed the general detailing and materials including the use of slate and stone to end gable.

I am ok with the revised plans, and I understand that a revised Heritage Impact Statement is being prepared to satisfy the DCC archaeologist.

Suggested conditions

- Sample of brick and stone
 - Sample of slate / ridge tiles
 - Sample panel of lime pointing to be agreed.
 - Details of stone stringcourse
 - Windows to be set back in 100mm reveal.
 - 1:20 details of windows and doors
 - Details of glass balustrade and screen to full height openings
 - Details of conservation rooflights
 - Details of cast aluminium rainwater goods / rise and fall brackets.
 - Removal of limited pd rights
 - Hard and soft landscaping
 - Details of steps
- **Leisure Officer**
Open Space

Policy ITCR5 of the Local Plan for Bolsover (March 2020) sets out standards to improve green space and play provision in the district.

Applying the policy in the standard below, a proposal for 25 dwellings would require the provision of 0.10 ha of Formal Green Space and 0.06 ha of Semi natural Green Space.

Formal Green Space could be either amenity green space, informal recreation grounds, or equipped play areas, or a combination, bearing in mind that all residents should be within 400 metres of an equipped play area.

As noted above, Policy ITCR5 sets out new Green Space Quantity Standards. Any residential development of 25 or more 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
- b) 1.2 ha. of Semi-natural green space per 1,000 population
- c) In settlements where the current provision for either formal or semi natural green space exceeds minimum standards a reduction will be made in the relevant requirement to reflect the percentage of the development site that is within 400 metres walking distance from the edge of existing publicly accessible formal and/or semi-natural green space of at least 0.5 hectares in size.

In addition new residential developments of more than 10 units will be expected to make reasonable financial contributions, either for new green spaces, playing pitches or to improve green spaces or playing pitches falling within the following walking distances:

- Spaces of a minimum size of 10 ha within 7.5 km
- Spaces of a minimum size of 4 ha within 2 km
- Spaces of a minimum size of 2 ha within 800 m
- Spaces of a minimum size of 0.5 ha or equipped play areas within 400m

The Council will prioritise contributions to achieve minimum quality standards of 60% for green spaces and standard for playing pitches.

In line with Policy ICTR5 and using the current policy formula the commuted sum would be £19,152) (18 dwellings x £1,064 per dwelling). This amount is based on 2023 prices and should be index linked to the RPI in terms of timing of payment.

The commuted sum would be invested in the creation, enhancement and / or improvement of open green spaces or playing pitches as outlined in Policy ICTR5.

Built & Outdoor Sports Facilities

Under Policy ICTR7: Playing Pitches: 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.

Policy ICTR5 also refers to Quality Improvements to Playing Pitches: new residential development of more than 10 dwellings will be expected to make financial contributions to the improvement of playing pitches and / or their ancillary facilities.

As the proposed development is not of sufficient scale to require any dedicated on-site built / outdoor sports facilities, it is normally recommended that a suitable commuted sum is negotiated in lieu of any formal on-site requirement. However, as the contribution requested under ICTR5 also includes 'playing pitches', a separate / additional contribution is not being sought in this case.

- **Derbyshire Wildlife Trust**

We previously provided comments on this application on 16th October 2023, requesting that swift bricks are used instead of sparrow terraces and that the box locations were amended.

We note that the most recent Elevations Plan (Rev. A) was updated to swap the bat box to the eastern elevation and the terrace to the northern elevation, however it has not swapped out the terrace for swift bricks. The most recent version of the Hard and Soft Landscaping Plan (Rev. D) also still refers to a sparrow terrace, despite our recommendations to swap this for swift bricks.

We would also refer to the comments provided by Derbyshire Swift Conservation Trust and echo the advice to install bricks in accordance with the British Standard BS 42021:2022 at a ratio of 1:1 with dwellings. The new-build apartments provide an ideal opportunity to incorporate a meaningful number of swift bricks in a suitable building.

We advise that the bat and bird box details should be agreed via submission of a revised Elevation Plan, to include a greater number of integral swift bricks, in groups at eaves level on suitable elevations (avoiding south). Once the bat and bird box details have been agreed, they can be secured via a compliance condition with the relevant plans. Alternatively, a condition could be attached for a Bat and Bird Box Plan, in line with BS 42021:2022, but details would have to be agreed prior to any works above foundation level to ensure the boxes are incorporated.

Conditions recommended relating to nesting birds and lighting.

- **Historic England**

On the basis of this information, we do not wish to offer any comments. We suggest that you seek the views of your specialist conservation and archaeological advisers, as relevant.

- **Integrated Care Board (NHS)**

I can confirm that this application falls under our threshold for a S106 request.

- **Environmental Health**

I can confirm that whilst I have no objection to the proposals in principle, given the location of the proposed development and the previous land uses, conditions are recommended in relation to measures to minimise dust during construction,

construction working hours, a scheme of sound insulation, a contamination assessment and any remediation works undertaken.

- **Yorkshire Water**

The developer is proposing to discharge surface water to public sewer however, sustainable development requires appropriate surface water disposal. Yorkshire Water promote the surface water disposal hierarchy and the developer must provide evidence to demonstrate that surface water disposal via infiltration or watercourse are not reasonably practical before considering disposal to public sewer.

As a last resort, and upon receipt of satisfactory evidence to confirm the reasons for rejection of other methods of surface water disposal, curtilage surface water may discharge to public sewer. Surface water discharges to the public sewer must have a minimum of 30% reduction based on the existing peak discharge rate during a 1 in 1 year storm event. The developer will be required to provide evidence of existing positive drainage to a public sewer from the site to the satisfaction of Yorkshire Water and the Local Planning Authority by means of physical investigation. On-site attenuation, taking into account climate change, will be required before any discharge to the public sewer network is permitted.

A condition is requested to that effect.

- **DCC Archaeology**

I have reviewed the resubmitted WSI and confirm that it is fit for purpose and can be implemented

- **Old Bolsover Town Council**

No response received.

- **BDC Engineers**

My comments regarding the above application are as follows :

1. Subject to acceptance of the SuDS design by DCC (LLFA), we must ensure the developer submits an Operation and Maintenance Plan (in accordance with section 32 of the SuDS Manual) which provides details of the arrangements for the lifetime management and maintenance of the SuDS features together with contact details. (a copy to be kept by Engineering Services)
2. The sewer records show a public sewer within the area of the proposed work (plan enclosed). The applicant should also be made aware of the possibility of unmapped public sewers which are not shown on the records but may cross the site of the proposed works. These could be shared pipes which were previously classed as private sewers and were transferred to the ownership of the Water Authorities in October 2011. 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 Yorkshire Water in order to determine their responsibilities under the relevant legislation.
3. All proposals regarding drainage will need to comply with Part H of the Building Regulations 2010.
4. 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.

- **Ramblers Association**

We would reiterate that we have no objection or comment to offer in relation to the proposal as presented.

- **Peak and Northern Footpath Association**

No response received.

- **Lead Local Flood Authority**

I checked through the public folder but found no reports relating to the flood risks and drainage strategy, although this development is considered as a "Major Development".

May you please ask the applicant to provide the FRA and Drainage Strategy for the LLFA to review and response?

- **Derbyshire Fire and Rescue**

No objections subject to the following:

- Access for emergency service vehicles, both during the demolition and construction phases of the proposal, should be provided in accordance with Approved Document B (Vols 1 and 2) Section B5.
- Site details should be provided to Derbyshire Fire and Rescue Service with contact details and expected timeframes for the build.
- A full Building Regulations Consultation.

- **Severn Trent Water**

No response received.

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

PUBLICITY

The application has been publicised by way of neighbour notification, site notice and a press notice. One representation has been received from Derbyshire Swift Conservation Project and is summarised below:

The submission shows a sparrow terrace on the southern elevation but best practice is to use integrated nest bricks as they become a permanent feature of the building, require zero maintenance, are aesthetically integrated with the design of the building, are less vulnerable to vandalism and have better thermal regulation with future climate change in mind. The latter point also means such bricks can be safely installed on all aspects of new developments. Additionally, such bricks are considered a universal nest brick for urban bird species, including red-listed species such as Common Swift, House Sparrow, House Martin, and Starling.

The number of integral nest boxes on new residential developments shall at least equal the

number of dwellings. A condition is recommended to secure the above.

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

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
- SS3 – Spatial Strategy and Distribution of Development
- LC3 – Type and Mix of Housing
- WC5 - Town and Local Centres
- SC1 – Development within the Development Envelope
- SC2 – Sustainable Design and Construction
- SC3 – High Quality Development
- SC7 – Flood Risk
- SC9 – Biodiversity and Geodiversity
- SC10 – Trees, Woodland and Hedgerows
- SC11 – Environmental Quality (Amenity)
- SC14 – Contaminated and Unstable Land
- SC16 – Development Within or Impacting upon Conservation Areas
- SC17 – Development affecting Listed Buildings and their Settings
- SC19 – Bolsover Area of Archaeological Interest
- SC21 – Non Designated Local Heritage Assets
- ITCR10 - Supporting Sustainable Transport Patterns
- ITCR11 – Parking Provision

National Planning Policy Framework ("the NPPF")

The National Planning Policy Framework sets out the Government's planning policies for England and how these should be applied. The overarching aims of the NPPF is therefore a material consideration in the determination of this application and have been taken into account.

Supplementary Planning Documents and other Considerations

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.

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.

Planning (Listed Buildings and Conservation Areas) Act 1990:

Section 72 requires that “Special attention shall be paid to the desirability of preserving or enhancing the character or appearance of a conservation area.”

S66(1) requires that in considering whether to grant planning permission for development which affects a listed building or its setting, special regard is had to the desirability of preserving the building or its setting or any features of architectural or historic interest which it possesses.

Bolsover Conservation Area Appraisal 2021.

ASSESSMENT

Key issues

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

- the principle of the development;
- design and heritage;
- archaeology;
- residential amenity;
- the impact of the development on the local road network;
- biodiversity;
- contamination;
- drainage; and,
- viability.

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

Principle

Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires planning applications to be determined in accordance with the development plan unless material considerations indicate otherwise.

To achieve sustainable development, Policy SS3 of the Local Plan sets out a settlement hierarchy which seeks to distribute development firstly to the district's larger and more sustainable settlements. Bolsover is listed under Policy SS3 as a small town and sits at the top of settlement hierarchy. Therefore, it is considered that the urban form of development proposed (residential) complies with Policy SS3.

The site is located within the development envelope of Bolsover where new housing development is supported in accordance with Policy SC1 of the Local plan, subject to meeting design and compatibility criteria, and subject to accordance with other relevant policies of the Local Plan. In addition, Policy WC5 of the Local Plan states that support will be given to proposals, which maintain or enhance the vitality and viability of town centres such as Bolsover. While this policy could be viewed as being directed towards retail and leisure development, the proposed residential development would bring additional footfall to Bolsover town centre when occupied, which is likely to help boost the local economy through increased use of town centre offerings.

Therefore, the principle of residential development is acceptable subject to the acceptability of the other matters discussed in this report.

Design and Heritage

Local 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, and c) The form, scale, size and massing of nearby buildings, together with materials of construction.

Local Plan Policy SC3 (a) states that development will be required to achieve high quality of design in terms of place making, buildings and landscaping, create good quality, attractive, durable, and connected places through well designed locally distinctive development that will integrate into its setting.

NPPF paragraph 215 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.

Paragraph 135 of the NPPF states that planning decisions should ensure developments function well and add to the quality of the area, are visually attractive as a result of good architecture, layout and appropriate and effective landscaping and which are sympathetic to local character and history.

As set out above, the site falls within the Bolsover Conservation Area and within the vicinity of Bolsover Castle. The White Swan public house is also a prominent undesignated heritage asset within the street, next to Dane Bank House. There are also several listed buildings along with many non-designated heritage assets in the town centre with a close-knit pattern of

development and domestic scale. Therefore, heritage and design needs to be carefully considered as part of the assessment.

The original scheme submitted in August 2023 was reviewed by the Conservation Officer and Urban Design Officer and was not supported. It was considered that the character of the scheme had substantially changed from the scheme approved through an earlier permission (17/00377/REM). The strengths of the previously approved scheme were that the courtyard was generally retained at the same level and was wider, the first building retained a subservience in ridgeline to the main White Swan building, and most of the ridgeline was two storeys with no dormers and occasional step change in ridgeline. A centralised gable frontage portion and gabled fronted end portion allowed for step changes in height and was used to transition up to the buildings at the rear of a higher level.

The scheme submitted in August 2023 proposed buildings that had roofs with regular stepping, which would follow the sloping topography and consistency in gables, dormers, doors, and ginnels, which altogether gave a more suburban feel to the scheme. The scheme at that time had very little resemblance to the architecture of the public house and was less subservient than the previous scheme. The consistency and repetition were considered to be out of character with the mix of styles generally found in the town centre and did not reflect the industrial/workshop character. Overall, neither the Conservation Officer nor the Urban Design Officer supported the scheme in design terms.

Following the comments made by the Conservation Officer and Urban Design Officer, the applicant worked proactively to amend the scheme, and a revised scheme was submitted in late 2023. The revised scheme submitted in design terms, is predominantly two and half storey in height with the transition from the courtyard to the upper level, which would be accessed via steps. The development now occurs in short rows with variation in the roof height, which is similar to the previously approved scheme. Conservation rooflights are included in the courtyard, with dormer windows to the rear, and the deposition of buildings to the rear has been reconsidered so that the buildings to the upper ground level do not overlook the entrance to the completed units: i.e., Dane Bank Flat 9. There does not appear to be any single theme nor repetition of similar house types, and the ridge heights have been reduced.

The Conservation Officer and Urban Design Officer have reviewed the revised scheme and they have noted that the revisions have addressed many of the concerns raised in respect of the initial scheme submitted. It was considered that the revised scheme now aligns much more closely with what was approved previously as part of the earlier reserved matters scheme and could be supported in principle. The Conservation Officer noted that given the sensitivity of the site it is imperative that the materials proposed respect the local vernacular and deliver a high-quality courtyard development which will enhance the Conservation Area. The applicant put forward a detailed breakdown of what materials will be used for each elevation on the revised plans submitted, and for the most these have been accepted by the Conservation Officer (in principle). However, conditions would still be needed for the following in order to agree the use of materials in full:

- Sample of brick and stone
- Sample of slate / ridge tiles
- Sample panel of lime pointing to be agreed.
- Details of stone stringcourse

- Windows to be set back in 100mm reveal.
- 1:20 details of windows and doors
- Details of glass balustrade and screen to full height openings
- Details of conservation rooflights
- Details of cast aluminium rainwater goods / rise and fall brackets.
- Details of steps

The Conservation Officer has also requested that a condition is attached, which removes Permitted Development Rights in order to preserve the appearance of the Conservation Area post development, which is considered to be both reasonable and necessary. Given that flats do not benefit from permitted development rights applicable to 'dwellinghouses', it is only considered necessary to remove rights around boundary treatments and renewable energy, that could otherwise result in uncontrolled means of enclosure and additions around the buildings such as solar panels, that may be acceptable but only in a controlled manner. A condition for the submission of a hard and soft landscaping scheme was also requested by the Conservation Officer. Details have now been provided by the applicant showing Marshall's Tegular paving with a stretcher bond across the whole courtyard in accordance with the Urban Design Officer's advice. This is considered acceptable.

Overall, the Conservation Officer and Urban Design Officer now support the revised scheme, as this now resembles the scheme that was previously approved on the site under reserved matters application reference 17/00377/REM. Notwithstanding the support given to the revised scheme, the Conservation Officer does conclude that the development would have a degree of harm to the character and appearance of the Conservation Area, which would amount to 'less than substantial harm' at the low end of the scale. Therefore, in accordance with the NPPF at paragraph 215 the public benefits of the scheme need to be weighed up against the harm.

The public benefits include:

1. Bringing the site back into a viable use that would provide additional housing for people to live. Housing provision is high on the Government agenda, and the provision for additional housing on a brownfield site would be a strong public benefit.
2. The development would bring additional footfall to the town centre of Bolsover that would provide additional expenditure to local shops and businesses, which is also a public benefit.

It is considered that the public benefits set out above would outweigh the low level of less than substantial harm identified by the Conservation Officer. Therefore, it is considered that the development would comply with Local Plan Policies SC3, SC16 and SC17, and sections 12 & 16 of the NPPF.

Archaeology

The site is within the Bolsover Area of Archaeological Interest. Local Plan Policy SC19 requires application within this area that involve ground disturbance to be accompanied by the results of a suitable archaeological assessment appropriate to the scale and type of development. It sets out that proposals will be supported where the significance of

archaeological assets is sustained and enhanced. Where harms to archaeological assets are considered to be outweighed by development benefits, provision should be made for their excavation and recording before development takes place.

The NPPF at paragraph 207 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

A Written Scheme of Investigation has been submitted by the applicant and sets out a scheme of archaeological mitigation by watching brief during the planned development. The Derbyshire County Council Archaeologist is satisfied with the information, subject to a condition ensuring implementation is in accordance with it.

Residential Amenity

Local Plan Policy SC3(n) sets out a requirement to achieve a good standard of amenity for the occupants of existing neighbouring properties as well as the future occupants of new development, including levels of privacy and light, position and avoiding overbearing relationships and the provision of adequate amenity space.

Local Plan Policy SC11 states that development likely to cause, or experience, a loss of residential amenity because 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 because of the development or throughout its construction and operation.

The NPPF paragraph 198 states 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. NPPF Paragraph 135(f) states that development should create places that have a high standard of amenity for existing and future users.

The Successful Places SPD also sets out minimum standards for separation distances and garden areas in the interests of residential amenity.

The proposed layout of the properties has been considered relative to one another and surrounding uses. As with the previously approved reserved matters application for the site (ref: 17/00377/REM), which considered a layout for 10 dwellings, the garden sizes and front to front separation distances within the courtyard are lower than would typically be expected. However, the site is seeking to achieve a particular design approach, which is a 'mews type appearance', preserving the historic building pattern and with a communal garden area. Given these considerations and town centre location, there is sufficient reason to depart from more

typical separation and garden size standards used for assessing more conventional housing layouts. It is common for development in locations such as town and city centres to demonstrate lower levels of separation and smaller garden sizes because of the density of the environment. In this case, it is considered that there would not be any adverse effects on neighbouring properties in terms of residential amenity. In terms of overbearing, overshadowing or overlooking between the new properties, the north eastern building is close to the side elevation of the southern building, however the design is such that windows are limited to avoid significant impact and the level change helps with this.

It is noted that there are non-residential uses in the vicinity of the site such as retail, a public house, industrial and offices, as would be expected in a town centre location. Residential uses around the site already exist and it is considered that further residential properties would not be subjected to unreasonable noise or other amenity impacts from existing surrounding uses or restrict their ongoing operation.

To ensure that the construction phase of development does not have any adverse impacts in terms of noise, vibration, and harm from additional construction traffic during the build phase, a suitable worded planning condition would be attached to ensure that a Construction Management Plan was submitted and agreed.

The Impact of the Development on the Local Road Network

Local Plan Policy ITCR10 states that development proposals which are likely to have significant amounts of movements will need to be supported by a Transport Statement or Transport Assessment in order to understand their impact on existing transport networks. Policy ITCR11 and Appendix 8.2 of the Local Plan sets out parking standards for various types of development. For dwelling, the expectation is generally two spaces for 2-3 bed dwellings and 3 spaces for 3+ bed dwellings, subject to exceptions where the context allows / requires. An exception must be justified and not lead to negative impacts on health and safety or unacceptably impact upon amenity.

In this circumstance, the site is a town centre location that is considered to be sustainable. There are a wide array of day to day amenities and access to public transport within walking distance. While there would be space for some parking within the courtyard, any significant amount of spaces would visually dominate streetscene and detract from the design to maintain a burgage style plot behind a main street. Also, the flats to the west side of the courtyard have been constructed without integral garages and external parking, and the design relies on some continuity of space provided by the minimal courtyard finished in Marshall's Tegular paving. Some soft landscaping was proposed in front of the buildings but its removal was discussed with the Urban Design Officer to maintain a clean authentic courtyard that's quality would not be eroded by poor maintenance of vegetation. The open space also allows for access by emergency and service vehicles.

Given the above, no parking provision is considered acceptable in this instance and this should not be considered a departure from the relevant Local Plan policies.

Biodiversity

This application was received before the mandatory 10% biodiversity net gain came into force and therefore is exempt from that provision. However, Local 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.

Derbyshire Wildlife Trust have been consulted and consider that given the nature of the site, it is unlikely that any habitat impacts will result from the proposals. They do however recommend conditions in relation to lighting, breeding birds, and the submission of a biodiversity enhancement plan. Derbyshire Wildlife Trust do concur with the comments from Derbyshire Swift Conservation Project to use swift bricks instead of sparrow terraces as they provide an ideal opportunity to incorporate a meaningful number of swift bricks in a suitable building. It is considered that an acceptable situation can be achieved via conditions in accordance with Policy SC9.

Contamination

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

The site is brownfield and subject to a number of historic uses. Environmental Health have been consulted and have no objections to the development in principle but given the location and previous uses, recommend conditions in relation to a land contamination assessment and the implementation of any necessary remediation, a scheme of sound insulation, a programme of measures to minimise the spread of airborne dust from the site during the demolition and construction phase, and the control over construction working hours.

With the imposition of the conditions recommended by the Environmental Health Officer, the proposal is considered to be acceptable in accordance with Policy SC14.

Drainage

No detailed drainage details have been submitted with the application, although a drainage strategy prepared to support a previous application for 10 dwellinghouses on the site was submitted to demonstrate that acceptable drainage can be achieved.

Yorkshire Water has been consulted and noting that surface water is proposed to be discharged into the public sewer, state that the developer must provide evidence to demonstrate that surface water disposal via infiltration or watercourse are not reasonably practical before considering disposal to a public sewer. As a last resort, and upon receipt of satisfactory evidence to confirm the reasons for rejection of other methods of surface water disposal, curtilage surface water may discharge to public sewer. Surface water discharges to the public sewer must have a minimum of 30% reduction based on the existing peak

discharge rate during a 1 in 1 year storm event. The developer will be required to provide evidence of existing positive drainage to a public sewer from the site to the satisfaction of Yorkshire Water and the Local Planning Authority by means of physical investigation. On-site attenuation, taking into account climate change, will be required before any discharge to the public sewer network is permitted. They request a condition to secure the above. The Lead Local Flood Authority (LLFA) at Derbyshire County Council have also been consulted and requested a Floor Risk Assessment and Drainage Strategy. The site is within Flood Zone 1 which is the lowest risk of flooding, and only slightly encroached by areas at low risk of surface water flooding.

A recommendation to approve would therefore be subject to no objections from the LLFA and conditioned to require the relevant information to accord with policy SC7 of the Local Plan.

Viability

Given the scale of the proposed development, a s106 contribution totalling £136,746 is expected, comprising £91,928.37 for education, £20,338 for open space and £24,480 for playing pitches.

The above amount for education was the amount Derbyshire County Council originally requested, however they updated their comments after the viability assessment had been received with an increased request of:

- £20,299.61 towards the provision of additional education facilities at Bolsover Infant and Nursery School;
- £20,299.61 towards the provision of additional education facilities at Bolsover C Of E Junior School; and,
- £61,175.40 towards the provision of additional education facilities at The Bolsover School.

However, a further response on 26 February 2025 states that “The County Council accepts the conclusion of the independent viability report i.e. that the development cannot support any S106 contributions”.

With regard to open space and playing pitches, the comments of the Leisure team dated 19 October 2023 set out a request for a commuted sum of £19,152. The two amounts stated above relate to an updated figure for open space and take account of a separate and additional requirement for a Playing Pitches contribution under policy ITCR7. The amounts stated above mirror those considered by the applicant’s viability assessment and what was reviewed for the Council independently.

The Viability Assessment submitted that suggests that a minimum of 20% profit on cost is usually required to maintain a viable development, and that the development will only return a developer profit of 18% with the inclusion of zero s106 contributions.

In order to test and verify the submitted information, the Council has had an independent review conducted. This initially run an appraisal with the full s106 contribution and found a residual land value below the benchmark land value and therefore deemed the development to be unviable. The contribution was then reduced to establish at what point, if any, it returned a viable outcome. With nil s106 contributions, the scheme still fails to meet the viability

threshold, even considering a view that the applicant's appraisal's figures are optimistic and no contingency has been built in. If the various elements were adjusted to mid-range expectations, the viability outcome would be even worse. The independent review therefore concludes that the scheme cannot viably support any s106 payments, and that these costs should be removed in order to give the scheme the best chance to be delivered.

Granting planning permission without securing the above contributions is a negative of the development. Policy II1 states that where the needs for infrastructure and other requirements arising from development is proven to exceed that which can be viably made, priority will be determined by the District Council based on the importance of the infrastructure and other requirements, to the delivery of the Local Plan. This is a consideration in the assessment of the various sustainability costs and benefits in a planning balance.

The site is a brownfield town centre site and is considered highly sustainable in planning terms relative to the district. It is considered that there is significant benefit to bringing the site back into use for residential purposes in this sustainable town centre location. The amendments to the buildings design and appearance will also result in a form of development that will make a more positive contribution to the site and its context. While it is unfortunate that contributions cannot be made in this instance, the viability position is clearly evidenced and verified and the less than substantial harm to the conservation area would be outweighed by the public benefits to be derived in this case.

It was asked at planning committee on the 16th April 2025 whether a lesser contribution could be requested, or project viability be reviewed during construction. It was explained that it had been demonstrated that the development would not return a sufficient level of profit with any contributions at this time, to make the project a viable proposition to a developer. If a contribution was sought, this would jeopardise the development and be an unreasonable request to make in this respect. It was, however, considered reasonable to require a review of project viability towards the end of the build programme to gauge an understanding of construction costs and sales values, to understand whether any super profit (above an agreed profit percentage) had been made and to require that this contributes to any deferred contributions in a s106 legal agreement.

This approach is supported in the national Planning Practice Guidance (Paragraph: 009 Reference ID: 10-009-20190509), which states:

“Where contributions are reduced below the requirements set out in policies to provide flexibility in the early stages of a development, there should be a clear agreement of how policy compliance can be achieved over time. As the potential risk to developers is already accounted for in the assumptions for developer return in viability assessment, realisation of risk does not in itself necessitate further viability assessment or trigger a review mechanism. Review mechanisms are not a tool to protect a return to the developer, but to strengthen local authorities’ ability to seek compliance with relevant policies over the lifetime of the project.”

Planning Practice Guidance on viability shows that profit is a reflection of risk and is subject to adjustment to take into account site specific circumstances. The guidance suggests that developer profit should fall within a range of 15% to 20% on revenue, unless firm evidence suggests otherwise (whilst this is within the context of Local Plan viability testing, the

independent viability review states that a recent viability consultation process suggested that this was a reasonable range to apply to decision making viability assessments). It is therefore suggested as reasonable that 70% of any profit made over 20% profit on revenue is paid to the Council up to whatever the indexed contribution would have been. Following discussions with the applicant, they have agreed to enter into a s106 agreement with such a mechanism which will enable the Local Planning Authority to seek compliance with relevant policies over the lifetime of the project and goes some way to addressing the concerns raised at planning committee on the 16th April 2025.

CONCLUSION / PLANNING BALANCE

The site is in a sustainable town centre location where the principle of residential development is acceptable. The design of the scheme has evolved through consultation with the Conservation Officer and Urban Design Officer, such that it is now considered acceptable. The scheme is acceptable or can be made acceptable by condition in all other planning regards, except viability. In this instance, it is considered that the benefits of remediating the site and bringing it back into residential use without s106 contributions should be afforded more weight than leaving the brownfield town centre site vacant, particularly if a S106 agreement is entered into to allow for the viability situation to be reviewed prior to completion of the development requiring contributions to be made should profit be achieved that is significantly above what is currently expected.

RECOMMENDATION

Upon no objections being received from the Lead Local Flood Authority (LLFA), that delegated authority be given to the Development Management and Land Charges Manager or Principal Planners to APPROVE the development subject to the following conditions and any other conditions recommended by the LLFA and upon completion of a s106 agreement to secure a viability review mechanism at a suitable stage in the build out of the site, to enable the education, open space and playing pitch developer contributions to be made in circumstances where the development proves to be more profitable than envisaged in the viability appraisal.

Conditions

1. The development shall be begun before the expiration of three years from the date of this permission.
2. The development hereby approved shall be implemented in accordance with the following plans unless specifically stated otherwise in the conditions below:
 - Revised Location Plan (received 17 January 2025);
 - Site Plan and Ground Floor Plan Plots 1-6 (Drawing no. 23 946 2 Rev. B, received 17 January 2025);
 - Ground Floor Plots 7-9 and First Floor Plots 10-15 (Drawing no. 23 946 3 Rev. A, received 28 March 2025);
 - Rooms in Roof Plots 10-15 and First Floor Plots 16-18 (Drawing no. 23 946 4 Rev. A, received 28 March 2025);
 - Elevations (Drawing no. 23 946 5 Rev. C, received 28 March 2025);

- Sections (Drawing no. 23 946 6 Rev. A, received 28 March 2025);
 - Hard and Soft Landscaping (Drawing no. 23 946 7 Rev. D, received 17 January 2025).
3. Before the commencement of construction works including any demolition in connection with the development hereby approved, a programme of measures to minimise the spread of airborne dust from the site during construction and demolition periods shall be submitted to and approved in writing by the Local Planning Authority. The construction shall be undertaken in accordance with the approved scheme.
 4. Construction works on the site and deliveries to the site shall be undertaken only between the hours of 7.30am to 6pm Monday to Friday and 7.30am to 1pm on Saturday. There shall be no work undertaken on site or deliveries to the site on Sundays or public holidays.
 5. Prior to the first occupation of the dwellings hereby approved a scheme of sound insulation shall be submitted to and approved in writing the Local Planning Authority. The scheme shall be designed following the completion of a sound survey undertaken by a competent person. The scheme shall take account of the need to provide adequate ventilation, which will be by mechanical means where an open window would not achieve the following criteria. Unless otherwise agreed, the scheme shall be designed to achieve the following criteria with the ventilation operating:
 - Bedrooms 30 dB LAeq (15 Minutes) (2300 hrs – 0700 hrs)
 - Living/Bedrooms 35 dB LAeq (15 Minutes) (0700 hrs – 2300 hrs)
 - All Other Habitable Rooms 40 dB LAeq (15 Minutes) (0700 hrs – 2300 hrs)
 - All Habitable Rooms 45 dB LAm_{ax} to occur no more than 6 times per night (2300 hrs – 0700 hrs)
 - Any outdoor amenity areas 55 dB LAeq (1 hour) (0700 hrs – 2300 hrs).

The scheme as approved shall be validated by a competent person and a validation report submitted to and approved in writing by the local planning authority. The approved scheme shall be implemented in full and retained thereafter.

6. Development other than that required to be carried out as part of an approved scheme of remediation must not commence until:
 - a) A Phase I contaminated land assessment (desk-study) shall be undertaken and approved in writing by the local planning authority.
 - b) The contaminated land assessment shall include a desk-study with details of the history of the site use including:
 - the likely presence of potentially hazardous materials and substances,
 - their likely nature, extent and scale,
 - whether or not they originated from the site,

- a conceptual model of pollutant-receptor linkages,
- 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, ground waters and surface waters, ecological systems, archaeological sites and ancient monuments,
- details of a site investigation strategy (if potential contamination is identified) to effectively characterise the site based on the relevant information discovered by the desk study and justification for the use or not of appropriate guidance. The site investigation strategy shall, where necessary, include relevant soil, ground gas, surface and groundwater sampling/monitoring as identified by the desk-study strategy

The site investigation shall be carried out by a competent person in accordance with the current U.K. requirements for sampling and analysis. A report of the site investigation shall be submitted to the local planning authority for approval.

7. Before the commencement of the development hereby approved:

Where the site investigation identifies unacceptable levels of contamination, 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 shall be submitted to and approved in writing by the local planning authority. The submitted scheme shall have regard to relevant current guidance. The approved scheme shall include all works to be undertaken, proposed remediation objectives and remediation criteria and site management procedures. The scheme shall 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.

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

8. No dwellings hereby approved shall be occupied until:

- a) The approved remediation works required by 7 above have been carried out in full in compliance with the approved methodology and best practice.
- b) If during the construction and/or demolition works associated with the development hereby approved any suspected areas of contamination are discovered, which have not previously been identified, then all works shall be suspended until the nature and extent of the contamination is assessed and a report submitted and approved in writing by the local planning authority and the local planning authority shall be notified as soon as is reasonably practicable of the discovery of any suspected areas of contamination. The suspect material shall be re-evaluated through the process described in 6b to 7 above and satisfy 8a above.

- c) Upon completion of the remediation works required by 7 and 8a above a validation report prepared by a competent person shall be submitted to and approved in writing by the local planning authority. The validation report shall include details of the remediation works and Quality Assurance/Quality Control results to show that the works have been carried out in full and in accordance with the approved methodology. Details of any validation sampling and analysis to show the site has achieved the approved remediation standard, together with the necessary waste management documentation shall be included.
9. The development hereby approved shall not be brought into use until the access facilities have been provided as shown on drawing 'Site Plan and Ground Floor Plan Plots 1-6' (Drawing no. 23 946 2 Rev. B, received 17 January 2025).
10. No dwelling in the development hereby approved shall be occupied until sheltered, secure and accessible bicycle parking has been provided in accordance with details which shall first be submitted to and approved in writing by the Local Planning Authority. The storage area shall be maintained for this purpose thereafter.
11. Prior to commencement of the development hereby permitted details of a construction management plan shall be submitted to and approved in writing by the Local Planning Authority. The approved plan shall be adhered to throughout the demolition/construction period. The plan/statement shall include but not be restricted to:
- Parking of vehicles of site operatives and visitors (including measures taken to ensure satisfactory access and movement for existing occupiers of neighbouring properties during construction);
 - Locations for loading/unloading and storage of plant, waste and construction materials; Method of preventing mud and dust being carried onto the highway;
 - Arrangements for turning vehicles;
 - Arrangements to receive abnormal loads or unusually large vehicles;
 - Highway Condition survey;
 - Methods of communicating the Construction Management Plan to staff, visitors and neighbouring residents and businesses.
12. Prior to their use on the development, details of the below shall be submitted to and approved in writing by the local planning authority:
- Sample of brick and stone;
 - Sample of slate / ridge tiles;
 - Sample panel of lime pointing;
 - Details of stone stringcourse;
 - 1:20 details of windows and doors, including showing windows set back in 100mm reveal;
 - Details of glass balustrades and screen to full height openings;
 - Details of conservation rooflights;
 - Details of cast aluminium rainwater goods / rise and fall brackets;

- Hard and soft landscaping (details of steps, retaining walls / features, coping stones, balustrades, and any paving scheme, including threshold paving).

The development shall be implemented and retained in accordance with the approved details.

13. Notwithstanding the provisions of Parts 2 and 14 of Schedule 2, Article 3 of the Town and Country Planning (General Permitted Development) Order 2015 as amended (or any Order revoking and re-enacting that Order) none of the dwellings hereby permitted shall be altered externally, including: the erection of gates, fences or walls; exterior painting; or the installation of solar panels or any other external energy equipment, unless planning permission has first been granted by the Local Planning Authority.
14. No clearance of scrub or trees should be undertaken between 1st March and 31st August inclusive, unless a competent ecologist has undertaken a careful, detailed check for active birds' nests immediately before the work is commenced. If any active nests are discovered then these should be left undisturbed until the birds have fledged with an appropriate buffer surrounding the nest.
15. Prior to the installation of external lighting fixtures, a detailed lighting plan shall be submitted to and approved in writing by the local planning authority to ensure luminaires are positioned to avoid lightspill to biodiversity features, including bat and bird boxes. This should provide details of the chosen luminaires, their locations, and any mitigating features such as dimmers, PIR sensors and timers. Guidelines can be found in Guidance Note 08/23 - Bats and Artificial Lighting at Night (BCT and ILP, 2023). Such approved measures will be implemented in full.
16. Notwithstanding the Sparrow Terraces shown on the approved Elevations Plan (Drawing no. 23 946 5 Rev. C), Swift Bricks shall be installed instead of the Sparrow Terraces, in accordance with the British Standard BS 42021:2022, at a ratio of 1:1 with the dwellings hereby approved.
17. No development shall take place other than in accordance with the archaeological Written Scheme of Investigation undertaken by Archaeological Research Services Ltd (report 2024/49), received 01 July 2024.
18. The development shall not be occupied until the site investigation and post investigation assessment has been completed in accordance with the programme set out in the archaeological Written Scheme of Investigation and the provision to be made for analysis, publication and dissemination of results and archive deposition has been secured.
19. Prior to occupation of any of the dwellings hereby approved, full details of bin storage facilities, including plans of the enclosure and provisions for refuse collection, shall be submitted to and agreed in writing by the Local Planning Authority.

20. There shall be no piped discharge of surface water from the development prior to the completion of surface water drainage works, details of which will have been submitted to and approved by the Local Planning Authority. If discharge to public sewer is proposed, the information shall include, but not be exclusive to:-
 - a. evidence to demonstrate that surface water disposal via infiltration or watercourse are not reasonably practical;
 - b. evidence of existing positive drainage to public sewer and the current points of connection; and
 - c. the means of restricting the discharge to public sewer to the existing rate less a minimum 30 % reduction, based on the existing peak discharge rate during a 1 in 1 year storm event, to allow for climate change.
21. Subject to acceptance of any SuDS design by Derbyshire County Council (Lead Local Flood Authority), an Operation and Maintenance Plan (in accordance with section 32 of the SuDS Manual) must be submitted to and approved in writing by the Local Planning Authority prior to occupation of any of the dwellings, which provides details of the arrangements for the lifetime management and maintenance of the SuDS features together with contact details.

Informatives

1. The development hereby approved and any associated highway works required, is likely to impact on the operation of the highway network during its construction (and any demolition required). You are advised to contact the Highway Authorities Network Management Team at www.derbyshire.gov.uk/transport-roads/roads-traffic/roadworks/roadworks.aspx before undertaking any work, to discuss any temporary traffic management measures required, such as footway, Public Right of Way, carriageway closures or temporary parking restrictions a minimum of eight weeks prior to any activity on site to enable Temporary Traffic Regulation Orders to be prepared and a programme of Temporary Traffic Management measures to be agreed.
2. It is expected that contractors are registered with the Considerate Constructors scheme and comply with the code of conduct in full, but particularly reference is made to “respecting the community” this says: Constructors should give utmost consideration to their impact on neighbours and the public
 - Informing, respecting and showing courtesy to those affected by the work;
 - Minimising the impact of deliveries, parking and work on the public highway;
 - Contributing to and supporting the local community and economy; and
 - Working to create a positive and enduring impression, and promoting the Code.
3. The Construction Management Plan should clearly identify how the principal contractor will engage with the local community; this should be tailored to local circumstances. Contractors should also confirm how they will manage any local

concerns and complaints and provide an agreed Service Level Agreement for responding to said issues.

4. Contractors should ensure that courtesy boards are provided, and information shared with the local community relating to the timing of operations and contact details for the site coordinator in the event of any difficulties.
5. The proposed development is situated within a Smoke Control Area. This has legal implications for the type of solid fuel appliance which may be installed in the proposed development and types of solid fuel which may be burnt in these appliances. Further information is available at <https://www.gov.uk/smoke-control-area-rules>.
6. The sewer records show a public sewer within the area of the proposed work. The applicant should also be made aware of the possibility of unmapped public sewers which are not shown on the records but may cross the site of the proposed works. These could be shared pipes which were previously classed as private sewers and were transferred to the ownership of the Water Authorities in October 2011. 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 Yorkshire Water in order to determine their responsibilities under the relevant legislation.
7. All proposals regarding drainage will need to comply with Part H of the Building Regulations 2010.
8. 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.
9. The developer is proposing to discharge surface water to public sewer however, sustainable development requires appropriate surface water disposal. Yorkshire Water promote the surface water disposal hierarchy and the developer must provide evidence to demonstrate that surface water disposal via infiltration or watercourse are not reasonably practical before considering disposal to public sewer.
10. The developer will be required to provide evidence of existing positive drainage to a public sewer from the site to the satisfaction of Yorkshire Water and the Local Planning Authority by means of physical investigation. On-site attenuation, taking into account climate change, will be required before any discharge to the public sewer network is permitted.
11. Derbyshire Fire and Rescue Service have no objections subject to the following:

- Access for emergency service vehicles, both during the demolition and construction phases of the proposal, should be provided in accordance with Approved Document B (Vols 1 and 2) Section B5.
- Site details should be provided to Derbyshire Fire and Rescue Service with contact details and expected timeframes for the build.
- A full Building Regulations Consultation.

12. The proposed development is situated within a Smoke Control Area. This has legal implications for the type of solid fuel appliance which may be installed in the proposed development and types of solid fuel which may be burnt in these appliances. Further information is available at <https://www.gov.uk/smoke-control-area-rules>

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.

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.