

**PARISH**Shirebrook Parish

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**APPLICATION**

Outline application for residential development with access detail submitted for approval for up to 20 dwellings (100% affordable) and all other matters to be reserved.

**LOCATION**

Land behind Nicholson's Row, 43 To 69 Main Street, Church Drive and Long Lane Shirebrook.

**APPLICANT**

Mr P Farmer 12 Nightingale Court Nightingale Close Rotherham

**APPLICATION NO.**

19/00432/OUT

**FILE NO.** PP-08038180

**CASE OFFICER**

Mr Steve Phillipson

**DATE RECEIVED**

27th July 2019

REFERRED TO COMMITTEE BY: Cllr Tait

REASON: The suitability of the infrastructure in this area to sustain 20 properties and concerns regarding the road safety. Also residents have come forward with multiple concerns.

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**SUMMARY**

This is a sustainably located site near Shirebrook town centre which is not currently in use and is subject to fly-tipping. It is allocated for residential development in the adopted local plan and compliant with emerging local plan policy.

Outline planning permission for residential use was granted for it in 2015 but this has since expired. A recent application for outline permission for 22 dwellings was refused because it had not been demonstrated that 22 dwellings could be accommodated on site whilst still complying with the Council's policies and guidelines.

The current outline application has reduced the number of dwellings from 22 to 20 and this has freed up enough space to enable the Applicant to demonstrate that a future reserved matters application for 20 dwellings could comply with the Council's policies and guidelines. i.e. the Applicant has addressed the reasons for the refusal of the previous planning application.

The Applicant has also agreed to enter into a S106 obligation to require 100% of the dwellings be affordable housing. This benefit can now be given weight in the balance.

This is a housing association scheme, a not for profit organisation, and the provision of affordable housing of the type and tenure sought by the Council to help fulfil a substantial identified need for affordable housing and at a level (100% instead of 10%) which far exceeds the policy expectation is a substantial benefit.

Although the Applicant has not agreed to the other S106 requests for health and art it is understandable that an all affordable scheme could not stand other contributions and this is a position the Council has accepted recently for a similar 100% affordable housing scheme nearby in Shirebrook.

In addition the extent of the public benefits in terms of the contribution to meeting affordable

housing need is considered to outweigh the more modest benefits that could result from provision of the health and art contributions for this relatively small site because only small sums would be involved.

Therefore the application is recommended for approval subject to conditions to deal with technical issues.

Indicative Layout



# OFFICER REPORT: APPLICATION NO. 19/00432/OUT

## SITE

The site is 0.49 hectares in area and is close to the centre of Shirebrook Centre. It is an under used backland site which has grass, bramble and scrub cover and a few trees, mostly self-set Sycamore and the remnants of a central hedgerow. None of the trees are remarkable specimens. Fly tipping is evident.

### Site Location Plan



The site is situated behind other commercial buildings along Main Street, bungalows of Nicholson's Row, a mix of houses and bungalows on Long Lane and church hall buildings of Church Drive. Vehicular access to the site is proposed from Long Lane. Ground levels fall generally from the North West down to the south and east with a maximum level difference of about 4.5m.

Adjacent to the North West corner of the site is a late 17th century stone barn which has previously had permission for residential conversion previously (15/00395/OUT) and would have historically formed part of a complex of farm buildings known as Hollycroft Farm. The stone farmhouse adjacent is now two dwellings. Further to the North West behind Hollycroft Farm buildings is the Grade II Listed Holy Trinity Church which sits at a higher ground level than the application site and is partially screened from the site by existing buildings, walls fencing and trees.

A public footpath passes north south through the site from Main Street down to Long Lane and the public open space beyond and residential areas to the south (definitive footpath 19).



It should also be noted that the application includes part of the existing side and front garden to Hollycroft – a dwelling on Long Lane shown above. The existing beech hedge to the front

would be removed to create the visibility splay needed for the site access. The beech hedge to its eastern boundary would also be removed.

## PROPOSAL

Outline application for residential development of up to 20 dwellings (100% affordable) with access detail submitted, which is from Long Lane to the south side of the site. All other matters are reserved. An indicative site layout plan has been provided showing how the site might be laid out.

This plan (shown below) shows 2 pairs of two storey semi-detached houses fronting Long Lane, 5 two storey houses each side of a new street into the site, 2 one bed bungalows (where close to existing bungalows at a lower level on Long Lane); and 4 two storey apartments backing on to Main Street property arranged around a cul-de-sac and courtyard turning head. With the exception of the 1 bed bungalows all dwellings are shown as being 2 bed.



The application is accompanied by the following reports:-

Design and Access Statement – Concludes the site is highly sustainable and can accommodate the proposed number of dwellings; the indicative layout has evolved from the previous application relating to its density, greenery around parking and staggering of the plots. The scheme will now provide up to 20 dwellings all of which will be affordable dwellings which will help the Council meet the demand for affordable housing for Shirebrook and the wider area.

Tree Survey – Concludes – there are several trees on site with a small variety of species; all trees are category C or U and so should not pose a constraint to development.

Ecology Survey – Concludes that there is a patch of Japanese Knotweed on site which will need eradicating; none of the vegetation habitats on site are of any intrinsic value and are not worthy of protection; the site forms part of a commuting corridor (and foraging territory) for bat roosts close by, but off-site, hence development could affect the use of the roost and so a licence from Natural England should be obtained and mitigation measures approved to include maintenance of a green corridor and appropriate street lighting.

Heritage Asset Statement – Views of the Church from Long Lane will be affected. However the site is allocated for residential development and being within an existing built up area, use for residential will preserve the setting and improve the sites appearance by preventing fly tipping, vandalism and antisocial behaviour.

Drainage Strategy – includes the use of underground storage to restrict the peak run-off rate to reduce the risk of flooding down stream.

## **AMENDMENTS**

Draft S106 legal agreement submitted agreeing to provide 100% of the dwellings constructed as part of the development as affordable dwellings in accordance with an Affordable Housing Scheme.

Revised Indicative Layout Plan 18/2143/SK003 Rev D

## **HISTORY (if relevant)**

15/00395/OUT	Granted Conditionally	Outline planning approval for residential use with all matters reserved for later approval (including change of use of existing barn for use as a dwelling).
18/00647/OUT	Refused	Outline application with access from Long Lane for residential development of up to 22 dwellings (100% affordable) and all other matters to be reserved.

Refused because it had not been demonstrated that 22 dwellings could be accommodated on site whilst still complying with the Council's policies and guidelines. Concerns re solid rows of frontage parking, lack space for planting, stark street scene, loss for biodiversity, harm to the wider setting of the Church.

## **CONSULTATIONS**

### BDC (Environmental Health Officer)

No objections subject to a condition requiring an investigation for potential ground contamination.

### BDC (Housing Strategy Officer)

Confirms that there is a substantial need and demand for affordable housing in Shirebrook. The SHMA 2013 estimated that 96 affordable homes should be built in the Shirebrook sub market each year. The spread of house types is broadly acceptable and this is a good site in terms of its accessibility to the centre of the town.

Has requested a few changes to the wording of the draft S106 obligation submitted requiring the housing to be all affordable.

### BDC (Conservation Officer)

The significant views of the grade 2 listed Holy trinity Church in terms of its contribution as a heritage asset are from Main Street. Notes that views from the Church of the application site are limited. Looking towards the church the site does not contribute to the immediate setting of the Church but is part of its wider setting. Would prefer a more spacious design given the contribution of the site as a component of wider setting of the Church.

### BDC Drainage Engineer

If using SuDS a maintenance plan is required. Ensure temporary drainage plans during construction aim to prevent surface water runoff to the highway or neighbouring properties.

### BDC (Urban Design)

No objections subject to further refinements to be secured at reserved matters stage (verbal response).

### Shirebrook Town Council

Councillors are still concerned about the density of properties and the associated traffic issues, lack of parking spaces and the size of the properties themselves.

### DCC Archaeologist

There is potential for medieval 'backplot' archaeology (small scale industry, rubbish pits, cess pits, agricultural buildings rather than for the medieval houses themselves. A condition is recommended involving a written scheme of investigation for archaeological work trial trenching evaluation followed by targeted excavation of areas of significant archaeological remains.

### DCC (Highways)

No objections in principle. The site can be served by an appropriate access. Conditions are recommended re:-

- Provision of new access
- Parking and manoeuvring space
- Wheel cleaning during construction
- Maintenance details for the street to be approved
- Prevention of surface water runoff to the highway.

Notes including a footpath diversion order will also be required.

### DCC (Education)

Analysis of the current and future projected number of pupils on roll, together with the impact of approved planning applications shows that: the normal area primary school would have sufficient capacity to accommodate the 4 primary level pupils arising from the proposed development; and the secondary school would have sufficient capacity to accommodate the 3 secondary pupils arising from the development.

### DCC (Flood Risk)

Initially advised additional surface water details needed.

Following the submission of a drainage strategy and drainage layout DCC have been re-consulted but were not able to fully review the information at the time this report was written due to other urgent flood risk work currently necessary. They have advised that the proposal to connect to surface water sewer may be the most practical disposal for surface water although 5 l/s may not be the minimum practicable rate attainable. Also the drainage strategy is lacking information.

### Derbyshire Wildlife Trust

There is believed to be a bat commuting route across the site. A green corridor to maintain this commuting route should be provided. This may comprise open space or a linear run of gardens but they advise that it should be planted with trees and/or hedgerow to strengthen the feature. It could also potentially comprise an avenue of street trees along the access road. Lighting will need to be carefully designed with this commuting route in mind.

Whilst the site in general appears to support habitats of relatively low ecological value e.g.

species-poor grassland and tall ruderal, the proposal will result in the loss of numerous trees and several lengths of hedgerow, which should be offset by proposed landscape planting. There is also Japanese knotweed on site which will require removal prior to development.

#### Yorkshire Water

No comments

#### Severn Trent Water

No objections subject to approval of drainage details.

(Planning Practice Guidance and section H of the Building Regulations 2010 detail surface water disposal hierarchy. The disposal of surface water by means of soakaways should be considered as the primary method. If this is not practical and there is no watercourse is available as an alternative other sustainable methods should also be explored. If these are found unsuitable, satisfactory evidence will need to be submitted, before a discharge to the public sewerage system is considered).

#### Peak and North Footpath Soc'

No objections. Requests the footpath be surfaced and lit through to Main Street with anti-vehicle barriers to deter motorbikes.

#### Ramblers

No objections. Recommends motorcycle barriers, avoiding high enclosure fences, surfacing, any temporary closure to be kept to a minimum.

#### CCG (NHS)

Although no contribution for health was sought for the previous application the CCG now seeks a contribution for Health towards the Shires GP Practice of £9,600 to be used to increase capacity.

### **PUBLICITY**

Advertised in the press and on site. Neighbours notified by letter. 3 objections received on the following grounds:-

Increased traffic.

Obstruction of private driveways.

On-street parking.

Access should be prevented from Main Street.

Narrow roads in the vicinity.

Obstruction of emergency services.

Lack of facilities to accommodate the level of housing.

No significant change from the previous application and issues not addressed.

Over-development for the size of the plot.

Should be detached properties fronting Long Lane in keeping with the street or face the new street.

The plans do not indicate a cycle path. Cyclists use the footpath route.

Could generate antisocial behaviour.  
Noise during construction.

Also one further objection from a Councillor raising concerns/queries:  
Queries whether the hedge to Hollycroft will be replanted outside the new fence.  
Queries parking provision for residents of Hollycroft Farm  
Proximity of footpath route to Hollycroft Farm boundary.  
Concerned about the high density.

## **POLICY**

### Bolsover District Local Plan (BDLP)

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

HOU3 – Allocates this site for residential development in the adopted local plan. The policy specifically states that “No open space requirement is necessary for the development of this site, however, the route of public footpath No. 19 which runs through the site should be safeguarded.

GEN1 (Minimum Requirements for Development);  
GEN2 (Impact of Development on the Environment);  
GEN4 (Development on Contaminated Land);  
GEN5 (Land Drainage);  
GEN6 (Sewerage and Sewage Disposal);  
GEN8 (Settlement Frameworks);  
HOU5 (Outdoor Recreation and Play Space Provision for New Housing Developments);  
HOU6 (Affordable Housing);  
TRA1 (Location of New Development);  
TRA12 (Protection of Existing Footpaths and Bridleways);  
TRA13 (Provision for Cyclists);  
TRA15 (Design of Roads and Paths to Serve New Development);  
CON10 (Development Affecting the Setting of Listed Buildings);  
CON13 (Archaeological Sites and Monuments)  
ENV5 (Nature Conservation Interests throughout the District);  
ENV8 (Development Affecting Trees and Hedgerows).

### Publication Version of Bolsover District Local Plan (“the emerging Local Plan”)

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

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

- c) the degree of consistency of the relevant policies in the emerging plan to this Framework (the closer the policies in the emerging plan to the policies in the Framework, the greater the weight that may be given)

The emerging Local Plan is now at a very advanced stage of preparation having almost completed examination in public. Therefore, it is appropriate to afford significant weight to its policies.

The most relevant policies in the emerging Local Plan include:-

Policy SS1: Sustainable Development  
Policy LC3: Type and Mix of Housing  
Policy SC1: Development within the Development Envelope  
Policy SC2: Sustainable Design and Construction  
Policy SC3: High Quality Development  
Policy SC7: Flood Risk  
Policy SC8: Landscape Character  
Policy SC9: Biodiversity and Geodiversity  
Policy SC10: Trees, Woodland and Hedgerows  
Policy SC14: Contaminated and Unstable Land  
Policy SC11: Environmental Quality (Amenity)  
Policy SC17: Development affecting Listed Buildings and their settings  
Policy SC18: Scheduled Monuments and Archaeology  
Policy ITCR3: Protection of Footpaths and Bridleways  
Policy ITCR5: Green Space and Play Provision Policy  
Policy ITCR10: Supporting Sustainable Transport Patterns  
Policy ITCR11: Parking Provision

#### 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:

Paragraphs 7-10: Achieving sustainable development  
Paragraphs 47-48: Determining applications  
Paragraphs 54-57: Planning conditions and obligations  
Paragraphs 91, 92 and 94: Promoting healthy and safe communities  
Paragraphs 108-111: Promoting sustainable transport  
Paragraph 118: Making effective use of land  
Paragraph 122-123: Achieving Appropriate Densities  
Paragraphs 124-128: Achieving well-designed places  
Paragraph 153: Meeting the challenge of climate change  
Paragraph 165: Sustainable Drainage Systems  
Paragraphs 170 and 175: Conserving and enhancing the natural environment  
Paragraphs 184 and 189-197: Conserving and enhancing the historic environment

Other (specify)

Supplementary Planning Document - Successful Places: A Guide to Sustainable Housing Layout and Design (2013) <http://www.bolsover.gov.uk/planning/development-plan>

Statutory Duty for planning applications affecting listed buildings:

Section 66 creates a duty with respect to planning applications affecting a Listed Building or its setting in that special regard shall be had to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.

## **ASSESSMENT**

The main issues to consider associated with this proposal are: the principle of the development of this site for residential purposes; any benefits that would arise from the proposal; the effects of the development on the character and appearance of the area; impacts on the amenities of neighbouring residents; impact on heritage assets; impact on biodiversity interests and impact on highway safety.

### The Principle of Development

With regard to development plan policy, the site is specifically allocated for residential development in the adopted Local Plan (2000) under policy HOU3, and it is within the development envelope as defined by the emerging Local Plan under policy SC1. Furthermore policy SS3 sets out a settlement hierarchy where development should be directed and Shirebrook is one of the towns identified as being the first preference. The proposal is also in accordance with The Framework in principle because it accords with the development plan (para' 11c).

The site is considered to have a very sustainable location close to the town centre and so benefits from the goods and services on offer without the need to rely on the private car. The site is within walking distance of the primary school, local park, employment estate and Shirebrook also has a secondary school and railway station within a reasonable distance.

Hence residential development is clearly acceptable in principle on this site.

Outline planning permission with access from Long Lane has been granted for this site in the past but a recent outline application for 22 dwellings has also been refused. This was because it had not been demonstrated that the amount of development proposed (22 dwellings) could be accommodated on site whilst still complying with the Council's policies and guidelines. Concerns were raised over the cramped nature and quality of design shown in the indicative plans re rows of solid frontage parking, lack space for planting, stark street scene, loss for biodiversity and harm to the wider setting of the Church.

The extent to which these concerns have been addressed by the indicative proposals with the current application for 20 dwellings is key to the acceptability of the current application. These matters are considered below.

In addition to the favourable policy position outline planning permission has been granted for this site in the past, although this has recently expired. This is considered to be a material

consideration in that the Council should be consistent in its decision making unless there has been a material change in circumstances since the previous decision that indicates that permission ought not to be granted.

The previous permission was granted under the same adopted local plan policies. The main change in circumstances since the previous approval are firstly, that permission is now sought for a specific number of dwellings (20); secondly, unlike the previous application approved this application does not include the conversion of the Hollycroft Farm stone barn (The barn area is now outside but adjacent to the current application site); and thirdly the application site now includes part of the front garden to Hollycroft House to achieve required visibility splays. The significance of these changes is considered below.

### Benefits of the Proposal

The Applicant proposes that this site will comprise of 100% affordable housing even though there is no policy requirement to provide any affordable housing in this case (10% affordable housing is required for developments of 25 dwellings or more). The Applicant has provided a draft S106 obligation to this effect. The Housing Strategy Officer has confirmed that there is a substantial need and demand for affordable housing in Shirebrook and the spread of house types indicated is acceptable and this is a good site in terms of its accessibility to the centre of the town.

Therefore it is considered that the delivery of 20 extra affordable houses of the right type and in the right place which would be a substantial contribution towards meeting the annual need in Shirebrook (about 20% of the annual need) is a benefit of the proposal that should be given significant weight.

To secure the affordable housing offered as a reason for granting planning permission, any permission would need to be subject to the completion of the S106 obligation.

The proposal would also contribute to the housing supply, this is a benefit and should be given some weight but it is not needed as such to achieve a five year supply since this has already been identified.

The site is currently unmaintained and as a result is overgrown and untidy in appearance. It has been the subject of fly tipping and antisocial behaviour. The development should help to address these issues and improve the character of the area and safety for footpath users. This benefit should also be given some weight.

### Highway Safety

The access junction position proposed on Long Lane for the estate road is to be considered for approval at this stage. The Highway Authority has confirmed that the access position and design is acceptable and no objections are raised subject to conditions.

It is noted that concerns have been raised in representations about increased traffic generated and the capacity of the local highway system, the narrow width of Long Lane, amount of on-street parking, junction visibility etc. However since this site is allocated for residential development and the previous planning permission requires the use of Long Lane

as the access point, the Council must expect there to be some level of increased traffic accessing this site.

Therefore the issues to consider can only relate to the density of development proposed. If so many dwellings are proposed that the development would significantly and severely affect the road network or if it becomes impossible to provide an appropriate amount of car parking space to the detriment of highway safety, then it might not be appropriate to grant consent.

Although the density proposed (41 dwellings/ha) is a little higher than average for new developments (about 35/ha), with regard to increased traffic on the local highway system, it is considered that the additional vehicle trips that could be attributed to the higher density development as oppose to an average density would not be significant and so would not be a defensible reason to refuse planning permission. An average density would mean about 17 dwellings on this site instead of 20. i.e. 3 additional dwellings is not materially different in terms of traffic impact on the local road network.

With regard to parking provision, the indicative layout provided with this outline application demonstrates that 20 dwellings could be provided on site together with off-street parking space at a level which meets the Council's guidelines and policies. Hence the proposal should not result in an unacceptable degree of on-street parking and should not materially affect amenity at or access to existing dwellings.

The concern regarding loss of parking space for residents of Hollycroft Farm is noted. It is understood that they have used the application site for parking from time to time. However there is no right to park on land owned by others and that property does have some space for off-street parking within its own curtilage.

In summary it is considered that the level of development proposed would not generate traffic that would materially harm the road network, highway safety or amenity at existing dwellings.

### Design, Layout and Effects on the Character and Appearance of the Area

With regard to the site access junction to Long Lane which is to be approved at this stage. It requires the loss of a section of the existing side garden and existing Beech hedgerow boundary to Hollycroft and the re-alignment of the route of footpath 19 along the west side footway of the new road. The Layout shows that a new 1.8m timber fence (now erected) and new Beech hedge on the outside (east side) of it that will be planted to replace the hedgerow removed. This would soften the appearance of the timber fence running along the footpath and side boundary of Holly Croft and would also help mitigate the ecological impact. A condition to require the planting and maintenance of the hedge is considered to be necessary.

This is an outline application with only access detail submitted for approval at this time. So details of layout, appearance, scale and landscaping are 'reserved' for approval at a later stage. Ordinarily therefore it would not be appropriate to give a lot of weight to indicative layout plans, since they are just that, indicative, and there will be further opportunity for improvements to be made at reserved matters stage.

However this application specifically includes a maximum number of dwellings to be provided on site; up to 20. So if planning permission is to be granted the Council must be satisfied that

it is possible to fit 20 dwellings on this site in a manner that would be acceptable having regard to planning policy, design guidelines, environmental impacts and all other material considerations. The Applicant has demonstrated this by means of an indicative layout plan.

The previous application for this site was for up to 22 dwellings and that application was refused because the Applicant was not able to demonstrate an acceptable scheme which complied with policy and guidelines. The current application is for 2 less dwellings and this has freed up enough space to show a development which has improved the street scene including frontage garden space, more planting and a parking solution which does not rely on solid banks of frontage parking. Garden space and separation between dwellings is also adequate and able to meet guidelines.

The current and previous indicative layouts are shown below for comparison:

### Current



### Previous



Given that a well-used public footpath passes through the site and there will be glimpses of the listed church to the northwest it is considered that the improvements illustrated to the streetscene are a material improvement over the previous application.

Comments made in representations about the two storey scale proposed and semi-detached nature of the dwellings shown to Long Lane are noted (single storey detached being preferred by the resident), however it is considered that these aspects of design as illustrated are not inappropriate for their setting. There are other two storey semi-detached properties further east on Long Lane.

Concerns have been raised in representations about the density of the development proposed. However high density in itself is not a problem; it is only a concern when the density is so high that it results in unacceptable impacts and unacceptable living conditions

that fail to meet the Council's guidelines and policies. It should be noted that Policy SS1 and SC2 of the Emerging Local Plan promotes the efficient use of land and Government Guidance in the framework at paragraphs 122-123 (Achieving Appropriate Densities) actively seeks development that makes efficient use of land.

### Heritage Impacts

The most important views of the listed Church are from Main Street and intervisibility from the application is less important and limited by trees beyond the boundary of the application site. The inclusion of additional space between dwellings and planting shown on the current illustrative plan is considered to be sufficient to bring any anticipated effects on the listed building within those expected when the site was allocated. Any remaining harm would be less than NPPF "substantial harm" and so should be weighed against the public benefits of the proposal.

Hollycroft Farm House and stone barn is not listed but should be considered a non-designated heritage asset. At reserved matters stage it will be necessary to have regard to these buildings in terms of layout, design and materials. Unfortunately the barn is now outside of the application site boundary which means that it is not possible to control the redevelopment of this area as part of the same planning permission or to control the appearance of the broken down buildings beyond the application site boundary.

It is considered that any archaeological interest on site should be investigated and recorded. This could be achieved by means of an appropriate planning condition.

### Residential Amenity at Existing Dwellings

Concerns were raised in representations for the previous application about impacts on amenity at existing dwellings including privacy, overbearing impact, noise etc. Not raised specifically for this application but a resident has said that their previous concerns raised had not been addressed. However, the indicative layouts provided show that it is likely that a scheme can be designed for 20 dwellings where any amenity impacts on neighbouring property would not be so significant as to fail to comply with the Council guidelines.

Furthermore, since this is an outline application with only access detail submitted for consideration we do not yet know what the precise impacts will be. They would be considered more fully at reserved matters stage.

Amenity impacts from the parking arrangements is dealt with above.

### Residential Amenity at Proposed Dwellings

The indicative layout provided demonstrates that it is possible to design a layout for 20 dwellings which generally complies with the Council's guidelines in terms of private garden sizes, privacy distances between dwellings and daylighting etc.

### Biodiversity

The Wildlife Trust advise that the site in general appears to support habitats of relatively low

ecological value.

Although the site contains a number of trees these are mainly multi-stemmed self-set sycamore, none of which are particularly good specimens worthy of a tree preservation order. Existing trees beyond the site near the Church would not be affected by the proposal.

The existing vegetation on site nevertheless has some biodiversity value and so its loss needs to be off-set by new planting and landscaping in order to comply with policy and the NPPF. The Wildlife Trust also seek the provision/maintenance of a green corridor for use as a commuting route by bats.

The indicative layout plan illustrates that the proposal could provide for some street tree planting, garden planting and replacement hedgerow planting and so, subject to the landscaping detail to be provided at reserved matters stage, it is considered likely that a commuting corridor for bats could be maintained and the impacts on biodiversity mitigated.

An informative note can be used to advise the Applicant to eradicate and dispose of any Japanese Knotweed in an appropriate manner.

### Public Art and Health

Policy GEN17 states that the Council will seek to negotiate a contribution to public art at 1% of development costs. No art contribution has been agreed.

The CCG seek a contribution of £9,600 for expansion of capacity at the Shires Health Care facility. Emerging Local Plan Policy II1 supports such contributions to health care. However this contribution has not been agreed for viability reasons.

However given that the proposal is for 100% affordable housing for rent and the Housing Association is a not for profit organisation, it is accepted that there will be very little profit in this scheme for other S106 elements of planning gain. Their requirement could either make the scheme unviable or it would at least mean that the nature of the affordable tenure would need to be changed to a type which is of less benefit to the area in terms of the identified affordable housing need (e.g. to shared ownership). The benefits in terms of the delivery of affordable housing of the type currently proposed would be at a level which far exceeds expectations for a development of this size. It would normally take a 200 dwelling development to realise 20 affordable units applying the Council's policies HOU6 and LC2. It is considered that this is a benefit which outweighs the absence of modest contributions to art and health that can be sought for a 20 dwelling scheme on this occasion.

Furthermore In the interests of consistent decision making, it should be noted that for a recent 100% affordable housing scheme for 37 dwellings off The Summit at Shirebrook, Planning Committee resolved to approve that application despite acknowledging that the other S106 contributions requested, including those for health and art, had not been agreed.

### Public Open Space

Not required by policy. There is public park close by to the south of the site.

## Education

No capacity issues. No contributions requested.

## Drainage

Whilst further advice was awaited from the DCC Flood Risk Team at the time this report was written (given the current flooding issues elsewhere), it is considered that the Applicant's proposals for surface water i.e. to use underground storage crate attenuation before discharge to the public sewer, seems likely to be acceptable subject to the approval of details by condition.

## Ground Contamination

A condition will be necessary to require an investigation into possible ground contamination and mitigation if necessary.

## Equalities

There are no known equalities issues that would affect the decision.

## Human Rights

There are no known human rights issues that would not be dealt with by the proper assessment of this application.

## **Conclusions**

The site is allocated for residential development in the Adopted Local Plan (2000) and it is located within the development envelope and in a preferred location as defined by the Emerging Local Plan and so residential development is clearly acceptable in principle.

The site is considered to have a very sustainable location and has been granted outline planning permission previously with an access in a similar position to that currently proposed.

The development would contribute to the supply of housing and could deliver much needed affordable housing of the right type and in the right place.

The site is overgrown and untidy in appearance. It has been the subject of fly tipping and antisocial behaviour and the development should help to address these issues and improve safety for pedestrians on the well-used definitive footpath which crosses through the site.

Although the Council has recently refused outline planning permission for a proposal for up to 22 dwellings, the current proposal is for up to 20 dwellings and this has freed up enough space to enable the Applicant to illustrate material improvements to be made over the previous scheme. The current illustrative layout shows a development which has an improved street scene, is able to provide front garden space, more planting and biodiversity mitigation and a parking solution which no longer relies on solid banks of frontage car parking. Garden

space and separation between dwellings is also adequate. Most significantly the illustrative plan is now able to illustrate a potential layout for 20 dwellings that complies with the Council's design guidelines and development plan policies. Government policies in the Framework indicate that permission should be approved under these circumstances.

A further change from the previous application refused is that the Applicant is now willing to complete a S106 obligation and has completed a draft agreement to ensure that 100% of the dwellings to be provided will be affordable housing for rent. This allows the Council to give this benefit significant weight in the balance as a reason to grant planning permission.

It is acknowledged that the normally required S106 contributions for public art and health are not being provided for. Nevertheless, the nature of the proposal for 100% affordable dwellings of the type needed is considered to be a benefit which outweighs the requirements for these other contributions.

Accordingly, the current application is recommended for approval.

## **RECOMMENDATION**

**The application be APPROVED subject to**

**A. The prior completion of a S106 obligation requiring the dwellings to be 100% affordable rent; and**

**B. The following conditions:**

### Reserved Matters

1. Approval of the details of the layout, scale, appearance, and landscaping (hereinafter called "the reserved matters") shall be obtained from the Local Planning Authority in writing before any development is commenced.
2. Application for approval of the reserved matters shall be made to the Local Planning Authority before the expiration of three years from the date of this permission and the development to which this permission relates shall be begun either before the expiration of three years from the date of this permission, or before the expiration of two years from the date of approval of the last of the reserved matters to be approved, whichever is the later.
3. This permission shall relate to the application an access location as amended by the revised Indicative layout Plan 18/2143/SK003 Rev D.

### Archaeology

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

questions; and

- i. The programme and methodology of site investigation and recording
  - ii. The programme for post investigation assessment
  - iii. Provision to be made for analysis of the site investigation and recording
  - iv. Provision to be made for publication and dissemination of the analysis and records of the site investigation
  - v. Provision to be made for archive deposition of the analysis and records of the site investigation
  - vi. Nomination of a competent person or persons/organization to undertake the works set out within the Written Scheme of Investigation
4. (b) No development shall take place other than in accordance with the archaeological Written Scheme of Investigation approved under condition (a)."
4. (c) 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 approved under condition (a) and the provision to be made for analysis, publication and dissemination of results and archive deposition has been secured."

#### Investigation for Potential Ground Contamination

5. Development other than that required to be carried out to discharge conditions 4 to 8 of this planning permission must not commence until parts A to D of condition 5 have been complied with. If unexpected contamination is found after development has begun, development must be halted on that part of the site affected by the unexpected contamination to the extent specified by the Local Planning Authority in writing until part D has been complied with in relation to that contamination.

#### **A. Site Characterisation**

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

- (i) a survey of the extent, scale and nature of contamination;
- (ii) an assessment of the potential risks to:
  - human health,
  - property (existing or proposed) including buildings, crops, livestock, pets, woodland and service lines and pipes,
  - adjoining land,
  - groundwaters and surface waters,

- ecological systems,
- archeological sites and ancient monuments;

(iii) an appraisal of remedial options, and proposal of the preferred option(s).

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

## **B. Submission of Remediation Scheme**

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

## **C. Implementation of Approved Remediation Scheme**

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

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

## **D. Reporting of Unexpected Contamination**

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

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

## **E. Importation of soil**

In the event that it is proposed to import soil onto site in connection with the development, the proposed soil shall be sampled at source and analysed in a

laboratory that is accredited under the MCERTS Chemical testing of Soil Scheme for all parameters requested (where this is available), the results of which shall be submitted to the LPA for consideration. Only the soil approved in writing by the LPA shall be used on site.

### Drainage

6. No below ground development shall take place until a detailed design and associated management and maintenance plan of surface water drainage for the site, in accordance with DEFRA Nonstatutory technical standards for sustainable drainage systems (March 2015), has been submitted to and approved in writing by the Local Planning Authority. The approved drainage system shall be implemented in accordance with the approved detailed design prior to the use of the buildings commencing.
7. No below ground development shall commence on site or on a part of the site until provision has been made for the satisfactory disposal of foul water from the site or that part of the site in accordance with a scheme which shall first have been submitted to and approved in writing by the Local Planning Authority.

### Ecology

8. The development shall be carried out in general accordance with the recommendations and mitigation/enhancement measures contained within the submitted Ecology/Protected Species Report (by Graham Colborne Dec 2018).

### Finished Floor Levels

9. The plans and particulars submitted in accordance with the reserved matters application shall include details of existing and finished ground levels on and adjacent to the site and the proposed ground floor level(s) of the buildings.

### Highway Safety, Access and Parking

10. Before any other above ground operations are commenced, a new vehicular and pedestrian access shall be created to Long Lane in accordance with application drawing number 18/2143/SK003 Rev D, laid out, constructed in a hard bound material and provided with 2.4m x 33m visibility splays in both directions, the area in advance of the sightlines being maintained throughout the life of the development clear of any object greater than 1m in height relative to adjoining nearside carriageway channel level.
11. The premises, the subject of the application, shall not be occupied until space has been provided within the site curtilage for the parking and manoeuvring of residents', visitors' and service and delivery vehicles as demonstrated by swept path analysis, located, designed, laid out constructed and lit all as agreed in writing with the Local Planning Authority and maintained throughout the life of the development free from any impediment to its designated use. Each dwelling shall be provided with 2 off-street parking spaces.

12. The new access street shall not be provided until details of the proposed arrangements for future management and maintenance of the proposed street within the development have been submitted to and approved by the local planning authority. The street shall thereafter be maintained in accordance with the approved management and maintenance details until such time as an agreement has been entered into under section 38 of the Highways Act 1980 or a private management and maintenance company has been established.
13. No dwelling shall be occupied until definitive footpath 19 (as realigned) has been laid out and surfaced to an adoptable standard and lit.
14. Measures first submitted to and approved in writing by the local planning authority shall be taken to prevent the discharge of water from the development onto the highway prior to the first occupation of any of the dwellings hereby permitted.
15. Prior to the occupation of any new dwelling, details and a scheme for the siting and design of a lockable gate to allow continued vehicular access to No's 1 and 2 Hollycroft Farm from Main Street but prevent general vehicular access from/to Main Street, shall have been submitted to and approved in writing by the local planning authority. Before any new dwelling is occupied and thereafter the approved scheme shall be implemented.

Thereafter all means of vehicular access to the site for the new dwellings hereby approved shall be from Long Lane. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking or re-enacting that Order) no other access shall be formed or permitted unless planning permission is first obtained from the Local Planning Authority.

#### Hedgerow

16. Prior to the occupation of any new dwelling the Beech hedgerow to the east side of Hollycroft shall have been either translocated or planted (in a double staggered row at 35cm centres) in accordance with drawing 18/2143/SK003 Rev D and planting details which have been submitted to the Local Planning Authority and approved under condition 1 above (Landscaping Details reserved by condition 1). Thereafter the hedgerow shall be retained, and maintained and replanted as necessary.
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