

**PARISH**South Normanton Parish

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**APPLICATION** Full Planning Application for Residential Development  
**LOCATION** Open Space East of Dahlia Avenue South Normanton  
**APPLICANT** Dukeries Homes  
**APPLICATION NO.** 21/00331/FUL **FILE NO.** PP-09874542  
**CASE OFFICER** Mr Peter Sawdon  
**DATE RECEIVED** 3rd June 2021

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**BACKGROUND AND SUMMARY**

This application for 100% social housing has previously been reported to Planning Committee on the 10<sup>th</sup> of April 2024 and the 4<sup>th</sup> September 2024. On both occasions it was resolved to grant planning permission subject to the completion of a S106 Planning Obligation; the S106 agreement is not yet finalised. The September 2024 report is included as Appendix 1; n.b. this includes relevant appendices relating to the earlier 10<sup>th</sup> April 2024 report and recommendations.

This application is being re-reported to the Planning Committee to consider proposed layout amendments; these have been necessitated as site investigations carried out after the previous Committee resolutions revealed that a public sewer crossing the site is in a different location to that shown on the public sewer record, meaning that the originally designed scheme cannot be developed in the manner envisaged.

The Council's scheme of delegation requires applications that propose significant changes to the size, scale or nature of proposals previously approved by planning committee that are more than non-material, to be determined by the Planning Committee and not under delegation to officers.

This application was initially referred to the Planning Committee due to financial viability issues, meaning normal S106 contributions are not able to be offered.

The application, as revised, is again recommended for a conditional approval, subject to the completion of a S106 Planning Obligation to deal with biodiversity mitigation.

**REVISIONS**

This is a full application proposal that, following the latest revisions, is now for 19 dwellings that are all proposed as social housing for rent.

As stated above, the revisions have resulted from the recent discovery that the public sewer that crosses the proposed development site is in a significantly different position to that which was shown on the Public Sewer records. Those records indicate that the public sewer only affects the north west corner of the site, whereas the actual location runs the entire length of the site on a north/south axis, which means that the approved layout could not be delivered in its approved form; whilst in theory a public sewer can be diverted, this would not have been cost effective in this case that is known to be marginal in financial terms, as has been demonstrated to the Council through earlier viability work.

The location of the sewer means that much more of the site is affected by the line of the sewer itself, as well as the maintenance margins that must legally be left to either side of it; this means that the available developable area is more limited and opportunities for landscaping are constrained by the need to retain easements to the sewer, within which certain forms of landscaping, including tree planting cannot be undertaken. This has resulted in a reduction in the number of dwellings proposed, down from 21 to 17 plots. To minimise the impacts, the design incorporates the proposed new road along the line of that public sewer. As tree planting cannot be undertaken within the easement area, trees are proposed along the edge of that easement where opportunity exists.

Proposed revised layout showing the line of the public sewer on the line of the proposed new road: -



Dahlia Avenue South Normanton - Planning Layout  
 Dwg. No 24-964-01C Scale 1-500@A3 December 2024



Previous scheme that Planning Committee resolved to grant planning permission: -



**CONSULTATION RESPONSES IN REPSECT OF REVISED DETAILS:**

Bolsover District Council Environmental Health Officer

11/06/2024 - that our previous consultation response and updated comments in regards the 2024 updated layout changes still apply.

Bolsover District Council Urban Design

02/06/2025 - It is regrettable that the scheme has had to be amended again due to the discovery of a different alignment of the Severn Trent sewer line. This has also resulted in constraining the negotiated scheme becoming impossible to be realised on site. The newly discussed layout is less dense and works with the existing topography of the site, resulting in a greater offset from the boundary to the M1, with a greater level of buffer planting. The new alignment of the access road is curved with Street trees outside of the alignment of the sewer easement which follows the road. Parking provides a mix of side parking and courtyard parking with some parallel parking along the main access road. The house styles have been improved to provide a more contemporary style which improved the overall quality of the scheme.

I consider the layout is now well balanced and acceptable, providing a reasonable mix, density, parking, and privacy, along with a suitably well landscaped scheme.

Derbyshire County Council as the Lead Local Flood Authority (LLFA)

13/06/2025 - The changes do not affect the previously reviewed surface water drainage proposals. The LLFA has no objection subject to recommended conditions. N.B. these conditions update and amend that Authority's previously recommended conditions and removes on of the previously recommended conditions.

Derbyshire County Council as Local Highway Authority (LHA)

18/06/2025 – There would not be there would not be an unacceptable impact on Highway Safety.

The latest revised internal layout is not considered to be significantly different to the previous layouts and, assuming that the site is to remain private, as commented on in previous comments, the revised site layout is considered suitable to serve the development site.

Should the applicant want to offer the site to be adopted as publicly maintainable highway, it would be worthwhile for the applicant to discuss the layout with the LHA to ensure that the highway layout meets DCC's adoption standards.

Considering that the scale of the development site has reduced in scale and that the internal layout has significantly changed, it is considered that the previous LHA comments to the application and recommended conditions remain.

Derbyshire Wildlife Trust

18/06/2025 - Whilst the re-design of the proposed development does appear to allow for greater habitat retention and habitat creation on-site the change in the baseline habitats used in the 2025 metric as compared to the 2024 metric are not in accordance with best practice when calculating impacts using the metric.

A medium distinctiveness habitat (bramble scrub) has been cleared and replaced with lower value ruderal/ephemeral vegetation and this vegetation type has subsequently been used in the new metric. All previous metric assessments used the original baseline habitats prior to vegetation clearance. Broadleaved woodland does not appear in the latest metric which could be because it was cleared or possibly it has been re-interpreted as urban trees in the new metric.

I advise the Council to request an amended biodiversity metric that uses the original baseline as per the 2024 metric subject to any minor differences in habitat interpretation. The bramble scrub and broadleaved woodland should both be re-instated unless there is a clear rationale and justification for using a different habitat type.

Once the metric is corrected to reflect the original baseline habitat types it should be possible to understand the impact of the redesigned development and the need for any off-site habitat units.

Force Designing Out Crime Officer

12/06/2025 - Detailed comments relating to crime prevention measures and is seeking controls as previously recommended, to secure appropriate mitigation measures to improve crime prevention measures.

### NHS (Chesterfield Royal Hospital)

16/06/2025 - Section 106 impact on health to be considered. Initial modelling suggests that the impact of this development is up to £28k

### National Highways

03/06/2025 – Recommendations remain unchanged as a result of the amended layout, including a request for a condition requiring approval of a glint and glare controls to ensure that potential impacts to highway safety for users of the M1 can be maintained.

## **PUBLICITY**

The revisions were advertised by site notice and neighbour letters, including letters to those that had previously made comments in respect of the proposal.

Whilst this publicity didn't result in any further representations, one additional letter of representation had been received between the last Planning Committee resolution and the submission of the revisions that are currently being considered. This states that the writer does not object to the development but rather raises concerns about the condition of the land that has already been cleared, fenced off, cabins delivered and now is unfenced and starting to look like a builder's scrap yard. Additionally, following the removal of spoil from the site, this has raised the incidence of noise from the adjacent motorway.

## **POLICY**

### Development Plan for Bolsover District ("the Development 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 Scale of Development.
- LC1: Housing Allocations.
- LC2: Affordable Housing Through Market Housing.
- LC3: Type and Mix of Housing.
- WC4: Rough Close Works, South Normanton.
- SC1: Development within the Development Envelope.
- SC2: Sustainable Design and Construction.
- SC3: High Quality Development.
- SC7: Flood Risk.
- SC8: Landscape Character.
- SC9: Biodiversity and Geodiversity.
- SC10: Trees, Woodland, and Hedgerows.
- SC11: Environmental Quality (Amenity).
- SC12: Air Quality.
- SC13: Water Quality.
- SC14: Contaminated and Unstable Land
- SC15: Hazardous Installations
- ITCR5: Green Space and Play Provision.
- ITCR10: Supporting Sustainable Transport Patterns.
- ITCR11: Parking Provision.

- II1 Plan Delivery and the Role of Developer Contributions.
- II2: Employment and Skills England and how these should be applied.

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

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

- Chapter 2 (paras. 7 – 14): - Achieving sustainable development.
- Paragraphs 48 - 51: Determining applications.
- Paragraphs 56 - 59: Planning conditions and obligations.
- Paragraphs 85 - 87: Building a strong, competitive economy.
- Paragraphs 96 - 108: Promoting healthy and safe communities.
- Paragraphs 109 - 118: Promoting sustainable transport.
- Paragraphs 124 - 128: Making effective use of land.
- Paragraphs 131 – 141: Achieving well-designed places.
- Paragraph 161, 163, 164, and 166: Meeting the challenge of climate change.
- Paragraph 170 - 182: Planning and Flood Risk.
- Paragraphs 187, 193 and 195: Conserving and enhancing the natural environment.
- Paragraphs 196 - 201: Ground conditions and pollution.

### Supplementary Planning Documents

#### *Successful Places: A Guide to Sustainable Housing Layout and Design, Adopted 2013:*

The purpose of the Successful Places guide is to promote and achieve high quality residential development within the District by providing practical advice to all those involved in the design, planning and development of housing schemes. The guide is applicable to all new proposals for residential development, including mixed-use schemes that include an element of housing.

#### *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).

## **ASSESSMENT**

### Key issues

Given there have been no material changes to planning policy that affect the earlier consideration of this development since the previous resolution to grant planning permission, many of the issues considered in reaching the earlier resolutions by Planning Committee to grant planning permission relating to the principle of the development, affordable housing, drainage and flood risk, ground conditions, noise, air quality, and hazardous installations are unaffected by these amendments, and attention is drawn to the appendices to this report for the earlier committee report containing that assessment.

The above is subject to amended wording for previously recommended conditions to reflect the revised details and comments received from consultees in respect of drainage and flood risk.

In view of this the key issues that require re-consideration due to the revised layout drawings are: -

- Access and Highway Safety
- Landscape and Visual Impacts
- Design, layout, and residential amenity
- Biodiversity & Trees
- S106 & Viability

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

#### Access and Highway Safety

Despite the amended layout, which includes a revised internal road layout, the Highway Authority (Derbyshire County Council) has confirmed that this raises no new issues relating to highway safety considerations, subject to the previously recommended conditions.

National Highways have re-iterated their point from the earlier considerations that a condition to require control over glint and glare impacts to ensure that there would be no harm to users of the adjacent M1.

#### Landscape and Visual Impacts

Although a revised layout will affect the overall appearance of the site in its wider landscape setting, the revisions do not materially alter the considerations in this respect given the proposal continues to represent a small addition to the existing settlement on a visually contained site bounded primarily by existing houses, the M1 and a mounded area of land to its north, such that that the revised layout proposals will not have any adverse impacts on the existing landscape.

#### Design, layout, and residential amenity

As noted by the Urban Design Officer, it is regrettable that the scheme has had to be amended again due to the discovery of a different alignment of the Severn Trent sewer line.

This has resulted in constraining the previously negotiated scheme meaning that it is no longer possible to deliver this on site. Additionally, the existence of the sewer line also constrains landscaping opportunities alongside the proposed road as curtail types of planting, including trees, cannot be contained within the easement line to either side of the sewer, along which the proposed road alignment is now proposed to follow (The layout plan included earlier in this report, shows the line of the sewer generally to the eastern edge of the new highway through the site, with the associated easement line edged with a red dashed line) .

Given the more constrained site, the applicant has sought to work closely with officers to resolve some initial concerns with earlier draft layouts. These amendments have resulting in a layout that is less dense than previously accepted, and works with the existing topography of the site, resulting in a greater offset from the boundary to the M1, with a greater level of buffer planting. The new alignment of the access road is curved, and provision has been

made to provide street trees outside of the alignment of the sewer easement which follows the road. Parking is proposed with a mix of side parking and courtyard parking with some parallel parking along the main access road, which makes good use of design opportunities to minimise the prominence of car parking within the proposed layout.

The house styles have been improved to provide a more contemporary style which improved the overall quality of the scheme. Privacy and amenity levels in terms of offset distances between existing and proposed dwellings and the provision of private amenity spaces for new residents are in line with the Council's published design guidance; as a revised site levels plan to reflect the new layout has not been provided, a further condition requiring the submission and approval of such details to ensure appropriate finished levels is recommended.

Given the above, it is considered that the layout is well balanced and acceptable, providing a reasonable mix, density, parking, and privacy, along with a suitably well landscaping proposal.

Of note in respect of design is that the crime prevention officer is generally happy with the revised layout, subject to revised conditions to cover the new layout covering the same issues as raised before in respect of means of enclosure, and lighting to the proposed parking court, that will continue to be controlled through recommended conditions.

Whilst noting the issue that has been raised relating to noise from the M1 by a local resident, as with earlier iterations for the proposed residential development of this site, the Environmental Health Officer is content with the proposals, subject to a condition for noise controls to be imposed to secure the amenities of future residents of the proposed dwellings. An amended condition requiring a new noise assessment to be submitted to reflect the amended layout is recommended. Additionally, once developed, the new dwellings will act as a buffer between the existing houses and the M1 motorway.

Considering the above, subject to conditions to control details of the development, the revised layout is considered to be acceptable and in accordance with adopted policies of the Local Plan.

### Biodiversity & Trees

To satisfy the requirements of Local Plan Policies SC9 (Biodiversity and Geodiversity) and SC10 (Trees, Woodland and Hedgerows), the earlier resolutions required a combination of on-site and off-site habitat creation and enhancement measures to ensure that biodiversity harm was appropriately mitigated.

As on-site landscaping has had to change to facilitate the amended layout, a revised biodiversity metric was requested, but this has incorrectly re-evaluated the baseline position for the assessment to a point after initial site clearance works had been undertaken, contrary to best practice for such evaluations; this has been raised with the agent who has verbally agreed the need to re-assess the proposals based on the already established baseline that reflected the condition of the site prior to any development having taken place. Given the nature of the development, it is highly unlikely that this will materially alter the earlier conclusions regarding the need for the combined on and off-site mitigation works with the off-site works to be provided on Council land at Pinxton to be secured via a financial contribution

to be secured via a S106 Planning Obligation.

At the time of drafting this report, it is understood that the submission of the revised metric is imminent and an updated position on this issue will be provided to that committee.

### S106 & Viability

It has been accepted through earlier viability work that, given the proposal is for 100% affordable housing to rent that no additional S106 contributions would be sought, other than the biodiversity contribution already discussed. This was as the provision of 100% social housing, for which there is an identified need for this type of property in the district, such that this scheme will contribute to the Council's efforts to meet identified local housing need, was considered to be a significant factor that weighed in favour of the proposal without those additional requirements.

Whilst viability hasn't been specifically re-visited due to the re-plan of the layout, a reduction in the number of dwellings will weaken the financial position of the development proposals, such that additional funds to deliver S106 requirements will not be available as a result of the re-plan, such that the earlier recommendations in respect of S106 requirements remain unchanged.

### **CONCLUSION**

The proposal is acceptable in principle given that the site is in the development envelope. The revised residential designs proposed remain appropriate and compliant with Successful Places design guide. The provision of additional affordable housing is welcome and there are no significant amenity impacts likely that cannot be dealt with by condition.

The biodiversity impacts are likely to continue to be resolved through a combination of conditions and the previously agreed S106 Planning Obligation for off-site mitigation and an update on this will be provided to the Committee meeting; no other environmental impacts have been identified that would warrant the refusal of planning permission. The proposed development therefore accords with the policies of the local plan as well as the National Planning Policy Framework.

It is acknowledged that the policy requirement for infrastructure contributions is not being met for financial viability reasons, but nevertheless, the benefits of this proposal, from the delivery of 100% affordable dwellings for which there is a demonstrable need, is considered to outweigh the normal requirements for the contributions that would otherwise be sought from a housing scheme of this scale.

The planning balance in this case is therefore considered, based on the submitted revisions, to remain appropriate in terms of the ability to grant permission for the development as proposed, subject to the completion of a S106 regarding the provision of a financial contribution to off site biodiversity mitigation and on-going management and maintenance costs for this for a minimum 30 year period, along with suitable conditions to otherwise ensure compliance with adopted policy.

### **RECOMMENDATION**

Subject to confirmation of the outstanding biodiversity mitigation issue (update to be provided later that will necessitate limited revisions to the recommended conditions below), that the

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

- A. Limitation over the occupation of the dwellings to affordable housing.
- B. A contribution of £81,000 to be used by the Council for the provision for off-site biodiversity mitigation measures, including mechanisms for initial investigations, provision, and long-term management and maintenance.

AND subject to the following conditions: -

1. The development shall be begun before the expiration of three years from the date of this permission.

[REASON: To comply with the requirements of Section 51 of the Planning and Compulsory Purchase Act 2004.]

2. The development hereby permitted must be carried out in accordance with the following approved drawings and documents, unless otherwise required and/or approved under other conditions of this planning permission.

Documents submitted 21/05/2025: -

- 24-964-01C - Revised Layout
- 24-964-02 - A Type Floor Plans and Elevations
- 24-964-03 - A Type Floor Plans and Elevations
- 24-964-04 - B Type Floor Plans and Elevations
- 24-964-05 – F C Type Floor Plans and Elevations
- 24-964-06 – C F Type Floor Plans and Elevations
- 24-964-07 – D E Type Floor Plans and Elevations
- 24-964-50 – Garden Areas Plan

[REASON: To clarify the extent of the planning permission in the light of guidance set out in "Greater Flexibility for planning permissions" by the Department for Communities and Local Government, November 2009 and for the avoidance of doubt having regard to the amended and additional documents that have been submitted.]

3. Prior to the commencement of development, a Site Levels and Sections plan must be submitted to and approved in writing by the Local Planning Authority showing existing and proposed land levels and proposed finished floor levels for the proposed dwellings. The development must be built in accordance with any plan approved under this condition.

[REASON: In the interests of the character and appearance of the development and to ensure that satisfactory levels of privacy and amenity are provided or maintained for occupants of existing and proposed dwellings, in compliance with Policies SS1(h), SC1(a and c), SC2(i) and SC3(a, b, e, l and n) of the adopted Local Plan for Bolsover District.]

4. No development comprising the erection of any external walls shall take place until samples of the materials to be used in the construction of the external surfaces of the development, including the roof, have been submitted to and approved in writing by the Local Planning Authority. The Development must be carried out in accordance with the approved details. The materials to be used throughout the development must be consistent in terms of colour, size, and texture with the approved details.

[REASON: To ensure a satisfactory standard of external appearance and in compliance with Policies SS1(h), SC1(a and e), SC2(g and i), and SC3(a, b and e) of the adopted Local Plan for Bolsover District.]

5. No development shall take place until full details of both hard and soft landscape work with an associated implementation plan, have been submitted to and approved in writing by the Local Planning Authority. The hard landscape details must include means of enclosure, hard surfacing materials and street furniture, where relevant. The soft landscaping works must include planting plans; written specifications (including cultivation and other operations associated with plant and grass establishment); schedules of plants and trees, noting species, plant/tree sizes and proposed numbers/densities and the implementation programme.

All planting must be implemented in accordance with the approved details in the first available planting season following the completion of the development, or such longer period which has previously been approved in writing by the Local Planning Authority and shall be maintained for a period of 5 years from the agreed date of planting. Any trees or plants which die, become diseased, or are removed during the maintenance period must be replaced with specimens of an equivalent species and size.

[REASON: To ensure that satisfactory landscaping is provided within a reasonable period, in the interests of visual amenity, public safety and biodiversity interests, and in compliance with Policies SS1(h and i), SC1(a and c), SC2(a, d and i), SC3(a, b, e, f, i, l and n), Policy SC9, SC10 and SC11 of the adopted Local Plan for Bolsover District.]

6. Prior to the commencement of any development hereby approved, a scheme in the form of a Construction Management Plan (CMP) must be submitted to and approved in writing by the Local Planning Authority. The submitted plan must include, but is not restricted to: -
  - Parking of vehicle 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;
- details for the methods to be employed to control and monitor noise, dust, and vibration impacts
- Methods of communicating the Construction Management Plan to staff, visitors and neighbouring residents and businesses; and
- timescales for the implementation of the scheme.

The approved scheme must be implemented and adhered to in full accordance with the scheme as approved under this condition.

[REASON: In the interests of safe operation of the adopted highway in the lead into development both during the demolition and construction phase of the development and in the interests of highway safety and in accordance with the requirements of Policy SC3(e) of the adopted Local Plan for Bolsover District.]

7. Before the commencement of the development hereby approved

- i. a contamination site investigation must be carried out by a competent person in accordance with the current U.K. requirements for sampling and analysis and a report of the site investigation must have been submitted to, and approved in writing by, the Local Planning Authority.
- ii. Only where the site investigation required by 6i above 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, must have been submitted to and approved in writing by the Local Planning Authority. The submitted scheme must have regard to CLR 11 and other relevant current guidance. The approved scheme must include all works to be undertaken, proposed remediation objectives and remediation criteria 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. The developer must give at least 14 days' notice to the Local Planning Authority (Environmental Health Division) prior to commencing works in connection with the remediation scheme.

[REASON: To protect future occupiers of the development, buildings, structures/services, ecosystems and controlled waters, including deep and shallow ground water and in compliance with Policies SS1(m&n), SC1(e), SC2(d,m,n&o), SC13 and SC14 of the adopted Local Plan for Bolsover District.]

8. No dwelling hereby approved will be occupied until:

- a) Any approved remediation works required by 6 above have been carried out in full in compliance with the approved methodology and best practice in respect of that dwelling and its plot.
- 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 must 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 must be notified as soon as is reasonably practicable of the discovery of any suspected areas of contamination. The suspect material must be re-evaluated through the process described in 6 above and satisfy 7a above.
- c) Upon completion of the remediation works required by 6 and 7a above, a validation report prepared by a competent person must be submitted to and approved in writing by the local planning authority. The validation report must 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 must be included.

[REASON: To protect future occupiers of the development, buildings, structures/services, ecosystems and controlled waters, including deep and shallow ground water and in compliance with Policies SS1(m&n), SC1(e), SC2(d,m,n&o), SC13 and SC14 of the adopted Local Plan for Bolsover District.]

9. No development shall commence until:

- a) a scheme of intrusive investigations has been carried out on site to establish the risks posed to the development by past shallow coal mining activity; and
- b) any remediation works and/or mitigation measures to address land instability arising from coal mining legacy, as may be necessary, have been implemented on site in full in order to ensure that the site is made safe and stable for the development proposed.

The intrusive site investigations and remedial works must be carried out in accordance with authoritative UK guidance.

[REASON: The undertaking of intrusive site investigations, prior to the commencement of development, is considered to be necessary to ensure that adequate information

pertaining to ground conditions and coal mining legacy is available to enable appropriate remedial and mitigatory measures to be identified and carried out before building works commence on site. This is in order to ensure the safety and stability of the development, in accordance with Policies SC2(m&o), SC3(l) and SC14 of the adopted Local Plan for Bolsover District and paragraphs 178 and 179 of the National Planning Policy Framework.]

10. Prior to the occupation of the development, or it being taken into beneficial use, a signed statement or declaration prepared by a suitably competent person confirming that the site is, or has been made, safe and stable for the approved development must be submitted to the Local Planning Authority for approval in writing. This document must confirm the methods and findings of the intrusive site investigations and the completion of any remedial works and/or mitigation necessary to address the risks posed by past coal mining activity.

[REASON: The undertaking of intrusive site investigations, prior to the commencement of development, is considered to be necessary to ensure that adequate information pertaining to ground conditions and coal mining legacy is available to enable appropriate remedial and mitigatory measures to be identified and carried out before building works commence on site. This is in order to ensure the safety and stability of the development, in accordance with Policies SC2(m&o), SC3(l) and SC14 of the adopted Local Plan for Bolsover District and paragraphs 178 and 179 of the National Planning Policy Framework.]

11. No development will take place until a detailed design and associated management and maintenance plan of the surface water drainage for the site, in accordance with the principles outlined within:

- a. ASC, Ltd. (Oct 2022), Flood Risk Assessment and Drainage Strategy Report, ref: SC128/FRA, including any subsequent amendments or updates as approved by the Flood Risk Management Team.
- b. Vista Architecture, March 2025, Dahlia Avenue South Normanton-Garden Areas Plan.
- c. DEFRA's Non-statutory technical standards for sustainable drainage systems (March 2015),

have been submitted to and approved in writing by the Local Planning Authority.

[REASON: To ensure that the proposed development does not increase flood risk and that the principles of sustainable drainage are incorporated into this proposal, and sufficient detail of the construction, operation and maintenance/management of the sustainable drainage systems are agreed prior to their installation on site and in accordance with the requirements of Policies SS1(l and n), SC2(b, c, d, e, and f), SC3(i), and SC7 of the adopted Local Plan for Bolsover District.]

12. No development will take place until a detailed assessment has been provided to and approved in writing by the Local Planning Authority, to demonstrate that the proposed destination for surface water accords with the drainage hierarchy as set out in paragraph 56 Reference ID: 7-056-20220825 of the planning practice guidance.

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

- I. into the ground (infiltration);
- II. to a surface water body;
- III. to a surface water sewer, highway drain, or another drainage system;
- IV. to a combined sewer.

And in accordance with the requirements of Policies SS1(l and n), SC2(b, c, d, e, and f), SC3(i), and SC7 of the adopted Local Plan for Bolsover District.]

13. Prior to commencement of the development, details indicating how additional surface water run-off from the site will be avoided during the construction phase must have been submitted to and approved in writing by Local Planning Authority. The applicant may be required to provide collection, balancing and/or settlement systems for these flows. The approved system must be operating to the satisfaction of the Local Planning Authority, before the commencement of any works, which would lead to increased surface water run-off from site during the construction phase.

[REASON: To ensure surface water is managed appropriately during the construction phase of the development, so as not to increase the flood risk to adjacent land/properties or occupied properties within the development and in accordance with the requirements of Policies SS1(l and n), SC2(b, c, d, e, and f), SC3(i), and SC7 of the adopted Local Plan for Bolsover District.]

14. No part of the development hereby permitted shall commence until an assessment of the risk to motorists using the M1 motorway as a result of glint and glare emitting from vehicle movements within the development or the proposed street lighting layout, has been carried out and any necessary mitigation scheme identified and has been approved in writing by the Local Planning Authority in consultation with Highways England. The approved mitigation scheme must thereafter be constructed in accordance with the approved plans prior to first occupation of the development and maintained in perpetuity.

[REASON: To ensure that the M1 motorway continues to serve its purpose as part of a national system of routes for through traffic in accordance with Section 10(2) of the Highways Act 1980, in the interests of road safety and in accordance with the requirements of Policies SS1(m) and SC3(e) of the adopted Local Plan for Bolsover District.]

15. Prior to the occupation of any dwellings, street lighting and lighting for the proposed shared parking court serving plots 10 to 16, must have been provided and be made operational in accordance with details that must have previously been submitted to and approved in writing by the Local Planning Authority, that must be maintained and operational, as approved, at all times thereafter.

[REASON: In the interests of visual amenity, public safety and biodiversity interests, and in compliance with Policies SS1(h and i), SC1(a and c), SC2(d and i), SC3(a, b, e, f, i, l and n), Policy SC9, SC10 and SC11 of the adopted Local Plan for Bolsover District.]

16. An updated acoustic assessment must be submitted to the Local Planning Authority for approval in writing prior to the commencement of the development. A scheme of mitigation, as necessary in light of the results of the assessment, [covering façade, glazing and ventilation specifications] must achieve levels not exceeding 30dB LAeq (night) and 45dB L<sub>Amax</sub> (measured with F time weighting) for bedrooms, 35dB LAeq (day) for other habitable rooms, with window shut and other means of ventilation provided. External amenity areas must be designed to meet the requirements of BS8233:2014. Once approved the mitigation must be installed fully in accordance with the approved scheme and permanently maintained thereafter.

[REASON: To protect the aural amenity of future occupiers of the proposed dwellings and in compliance with Policies SS1(h), SC1(a and c), SC2(a and d), SC3(a, l and n), and SC11 of the adopted Local Plan for Bolsover District.]

17. The development hereby approved must not be occupied until the access, parking and turning facilities have been provided as shown on drawing 24-964-01C.

[REASON: To ensure conformity with submitted details and in the interests of highway safety and in accordance with the requirements of Policy SC3(e) of the adopted Local Plan for Bolsover District.]

18. The development hereby approved shall not be occupied until sheltered, secure and accessible bicycle parking has been provided in accordance with details which must first be submitted to and approved in writing by the Local Planning Authority. The storage area must be maintained for this purpose thereafter.

[REASON: To ensure that adequate provision is made for cycle parking in the interests of the sustainability of the development and in accordance with the requirements of

policies of SC2 and ITCR11 of the adopted Local Plan for Bolsover.]

19. Prior to the commencement of development, including preparatory site clearance, a detailed badger survey for any recently excavated badger setts on the site or within 30 metres of the site boundary should be undertaken. The results and any appropriate mitigation/licensing requirements must be submitted to the Local Planning Authority for approval. Such approved measures must be implemented in full.

[REASON: To mitigate the biodiversity impacts of the development and in accordance with Policies SS1(i), SC2(d), SC3(i) and SC9 of the adopted Local Plan for Bolsover District.]

20. Due to the presence of Japanese knotweed on adjacent land, prior to the commencement of the development, including preparatory site clearance, a survey for any recent establishment of this species within the site or along the site boundary should be undertaken. The results and any appropriate mitigation requirements must be submitted to the Local Planning Authority for approval. Such approved measures must be implemented in full.

[REASON: To mitigate the biodiversity impacts of the development and in accordance with Policies SS1(i), SC2(d), SC3(i) and SC9 of the adopted Local Plan for Bolsover District.]

21. No development shall take place (including demolition, ground works, vegetation clearance and movement of plant, machinery and materials) until a Biodiversity Construction Environmental Management Plan (CEMP: Biodiversity) has been submitted to and approved in writing by the local planning authority. The CEMP (Biodiversity) must include the following:

- a) Risk assessment of potentially damaging construction activities.
- b) Identification of “biodiversity protection zones”.
- c) Practical measures (both physical measures and sensitive working practices) to avoid or reduce impacts on protected species and sensitive habitats during construction.
- d) The location and timing of sensitive works to avoid harm to biodiversity features.
- e) The times during construction when specialist ecologists need to be present on site to oversee works.
- f) Responsible persons and lines of communication.
- g) The role and responsibilities on site of an ecological clerk of works (ECoW) or similarly competent person.
- h) Use of protective fences, exclusion barriers and warning signs.

The approved CEMP (Biodiversity) must be adhered to and implemented throughout the construction period strictly in accordance with the approved details, unless otherwise agreed in writing by the Local Planning Authority.

[REASON: To mitigate the biodiversity impacts of the development and in accordance with Policies SS1(i), SC2(d), SC3(i) and SC9 of the adopted Local Plan for Bolsover District.]

22. Prior to building works commencing above foundation level, a Species Enhancement Plan must be submitted to and approved in writing by the Local Planning Authority. Approved measures must be implemented in full and maintained thereafter. The Plan must clearly show positions, specifications and numbers of features, which will include (but are not limited to) the following:
- 21 integrated swift bricks (universal nest box) at ratio of 1:1, in line with British Standard 42021:2022. Bricks should be integrated into the fabric of the dwellings.
  - 3 external or internal bat boxes
  - fencing gaps 130 mm x 130 mm to maintain connectivity for hedgehogs in all gardens.

[REASON: To mitigate the biodiversity impacts of the development and in accordance with Policies SS1(i), SC2(d), SC3(i) and SC9 of the adopted Local Plan for Bolsover District.]

23. A Landscape Enhancement and Management Plan (LEMP) shall be submitted to, and be approved in writing by, the LPA prior to the commencement of the development. The aim of the LEMP is to provide details for the creation, enhancement and management of habitats and species on the site post development. These should be in accordance with the proposals set out in the submitted Biodiversity Metric 4.0 prepared by Brindle and Green 2nd November 2023. The LEMP should combine both the ecology and landscape disciplines and must be suitable to provide to the management body responsible for the site. It must include the following: -
- a) Description and location of features to be retained, created, enhanced and managed, as per the approved biodiversity metric.
  - b) Aims and objectives of management, in line with desired habitat conditions detailed in the metric.
  - c) Appropriate management methods and practices to achieve aims and objectives.
  - d) Prescriptions for management actions.
  - e) Preparation of a work schedule (including a 30-year work plan capable of being rolled forward in perpetuity).
  - f) Details of the body or organization responsible for implementation of the plan.
  - g) A monitoring schedule to assess the success of the habitat creation and enhancement measures at intervals of 1, 2, 5, 10, 15, 20 and 30 years.
  - h) Monitoring reports to be sent to the Council at each of the intervals above
  - i) A set of remedial measures to be applied if conservation aims and objectives of the plan are not being met.
  - j) Requirement for a statement of compliance upon completion of planting and enhancement works.

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

[REASON: To mitigate the biodiversity impacts of the development and in accordance with Policies SS1(i), SC2(d), SC3(i) and SC9 of the adopted Local Plan for Bolsover District.]

24. (NB this condition is likely to require later amendment)

A Biodiversity Habitat Enhancement and Management Plan (BHEMP) shall be submitted to, and be approved in writing by, the Local Planning Authority prior to the commencement of the development. The aim of the plan is to provide details for the creation, enhancement and management of habitats and species on the site post development, in accordance with the proposals set out in the Biodiversity Metric 4.0 prepared by Brindle and Green 2nd November 2023. The plan must be suitable to provide to the management body responsible for the site. It must include the following:

-

- a) Description and location of features to be retained, created, enhanced and managed, as per the approved biodiversity metric.
- b) Details for the enhancement of modified grassland to lowland calcareous grassland including the results of soil analysis.
- c) Aims and objectives of management, in line with desired habitat conditions detailed in the metric.
- d) Appropriate management methods and practices to achieve aims and objectives.
- e) Prescriptions for management actions.
- f) Preparation of a work schedule (including a 30-year work plan capable of being rolled forward in perpetuity).
- g) Details of the body or organization responsible for implementation of the plan.
- h) A monitoring schedule to assess the success of the habitat creation and enhancement measures at intervals of 1, 2, 5, 10, 15, 20, 25 and 30 years.
- i) Monitoring reports to be sent to the Council at each of the intervals above.
- j) A set of remedial measures to be applied if conservation aims and objectives of the plan are not being met.
- k) Requirement for a statement of compliance upon completion of planting and enhancement works.

The BHEMP must also include details of the legal and funding mechanism(s) by which the long-term implementation of the plan will be secured by the developer with the

management body(ies) responsible for its delivery. The approved plan will be implemented in accordance with the approved details.

[REASON: To mitigate the biodiversity impacts of the development and in accordance with Policies SS1(i), SC2(d), SC3(i) and SC9 of the adopted Local Plan for Bolsover District.]

25. Prior to the installation of lighting fixtures, a detailed lighting strategy shall be submitted to and approved in writing by the Local Planning Authority to safeguard bats and other nocturnal wildlife. This should provide details of the chosen luminaires, their locations and any mitigating features such as dimmers, PIR sensors and timers. Dependent on the scale of proposed lighting, a lux contour plan may be required to demonstrate acceptable levels of lightspill to any sensitive ecological zones/features. 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.

[REASON: To mitigate the biodiversity impacts of the development and in accordance with Policies SS1(i), SC2(d), SC3(i) and SC9 of the adopted Local Plan for Bolsover District.]

## **ADVISORY NOTES**

1. National Highways has advised that the applicant should provide actual revised ground levels (see condition 3) so that they can be assured and confirm there is no additional risk from any change in levels alongside its boundary.
2. Subject to acceptance of the SuDS design by Derbyshire County Council (Lead Local Flood Authority), the developer must submit 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 Bolsover District Council Engineering Services)
3. The sewer records show a public sewer within the area of the proposed work (plan available to view on the planning application record of the Council's website). 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 should be advised to contact Severn Trent Water in order to determine their responsibilities under the relevant legislation.

4. All proposals regarding drainage will need to comply with Part H of the Building Regulations 2010.
5. 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.
6. Any developer is requested to ensure that appropriate provision is made for NGA broadband infrastructure and services as part of the design of their development schemes at the outset. If it can be shown that this would not be possible, practical or economically viable, in such circumstances, suitable ducting should be provided within the site and to the property to facilitate future installation. Guidance on the characteristics of qualifying NGA technologies is available from The Department for Digital, Culture, Media and Sport.
7. Attention is drawn to the comments of the Force Designing Out Crime Officer included in his e-mail to this Council dated 12<sup>th</sup> June 2025, that provides advice regarding items that will need to be included with any discharge of conditions applications to support crime prevention in respect of means of enclosure, including gates to individual properties and lighting to public and private areas. Those comments can be viewed on the planning application pages of this Council's website.
8. The Highway Authority (Derbyshire County Council) has advised the following: -
  - The development hereby approved includes the carrying out of work on the adopted highway. You are advised that before undertaking work on the adopted highway you must enter into a highway agreement under Section 278 of the Highways Act 1980 with the County Council, which would specify the works and the terms and conditions under which they are to be carried out.  
Contact the Highway Authority's Implementation team at [development.implementation@derbyshire.gov.uk](mailto:development.implementation@derbyshire.gov.uk) allowing sufficient time for the preparation and signing of the Agreement. You will be required to pay fees to cover the Councils costs in undertaking the following actions:
    - Drafting the Agreement
    - A Monitoring Fee
    - Approving the highway details
    - Inspecting the highway worksPlanning permission is not permission to work in the highway. A Highway Agreement under Section 278 of the Highways Act 1980 must be completed, the bond secured and the Highway Authority's technical approval and inspection fees paid before any drawings will be considered and approved.
  - Drainage arrangements shall be provided to ensure that surface water from the development site does not discharge on to the public highway. No drainage or effluent

from the proposed development shall be allowed to discharge into any highway drain or over any part of the public highway.

9. Early iterations of the layout assumed that the proposed highway would be privately owned and maintained given the layout would include features that Derbyshire County Council as the Local Highway Authority (LHA) would not adopt. Whilst this may still be the case, any developer may wish to note that the Highway Authority has adopted a new approach to highway design such that there may be the option to seek adoption of the highway by Derbyshire County Council and it may be worthwhile for any developer to discuss the approved layout with the LHA if an adoption by them would be desirable. It should be noted that this would be a decision of the LHA and this note in no way indicates that adoption would be forthcoming. In addition, should potential adoption include any amendments to the approved layout, details of this will have to be provided to consider the suitability of these in planning terms, and the necessary process that may need to be followed to facilitate this.

**APPENDIX 1 – Report to Planning Committee 4<sup>th</sup> September 2024 (nb. this report contains its own appendices included as A, B and C)**

**PARISH** South Normanton Parish

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**APPLICATION** Full Planning Application for Residential Development  
**LOCATION** Open Space East of Dahlia Avenue South Normanton  
**APPLICANT** Dukeries Homes  
**APPLICATION NO.** 21/00331/FUL **FILE NO.** PP-09874542  
**CASE OFFICER** Mr Peter Sawdon  
**DATE RECEIVED** 3rd June 2021

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**SUMMARY**

This application is being re-reported to the Planning Committee to re-consider the proposal in light of proposed changes to the biodiversity mitigation measures as set out in the ecology and biodiversity considerations section of this report. The Council’s scheme of delegation requires applications that propose significant changes to the size, scale or nature of proposals previously approved by planning committee that are more than non-material to be determined by the Planning Committee and not under delegation to officers.

This application was initially referred to the Planning Committee due to financial viability issues, meaning normal S106 contributions are not able to be offered.

The application, as revised, is recommended for a conditional approval, subject to the completion of a S106 Planning Obligation.

**BACKGROUND**

This application was reported to Planning Committee on the 10<sup>th</sup> of April 2024, when it was resolved to grant planning permission subject to the completion of a S106 Planning Obligation; the S106 agreement is not yet complete due to the reconsideration of the issues discussed later in this report, and so the decision has not yet been issued.

The original report is included as Appendix A below, but excluding the initially recommended conditions, as these were amended by the supplementary update report, that is also included as Appendix B.

Of note is that it was resolved by the previous committee to further amend condition 16 from that shown in the supplementary report, due to additional information that was presented verbally to the Committee, and the revised condition 16 is included as Appendix C.

**REVISIONS**

A revised Biodiversity Metric has been submitted with a reduced predicted gain of 1.81% (originally 13.68%), along with a financial offer of £81,000 for the delivery and ongoing management and maintenance of those enhancements by the Council.

**CONSULTATION RESPONSE**

Derbyshire Wildlife Trust

13/08/2024 - The revised Biodiversity Metric has been reviewed and is considered to be accurate. The application is accompanied by sufficient information for the Council to proceed with its determination.

A biodiversity net gain is achievable using a combination of on-site and off-site habitat creation and enhancement measures; a revised approach to that proposed could be taken depending on the objectives of the Council in terms of what it wants to deliver, so care should be taken over the wording of any condition to permit flexibility. No further survey or assessment is required at this time.

The consultation response repeats the recommended conditions of the Trusts earlier consultation response but includes revised wording of (the previously approved) condition 23, to reflect the revised information that has been submitted.

### Planning Policy

20/08/2024 - From an assessment of the proposed revisions, it is considered that the proposed revisions to the scheme to reduced predicted gain of 1.81% (originally 13.68%), along with a financial offer of £81,000 for the delivery and ongoing management and maintenance of those enhancements by the Council are acceptable in principle and compliant with policy SC9: Biodiversity and Geodiversity.

On this basis, it is considered that the application continues to be policy compliant and should be approved with the appropriate suite of conditions and a Section 106 Agreement that incorporates the agreed Heads of Terms.

### **ECOLOGY AND BIODIVERSITY CONSIDERATIONS**

As noted in detail in the original report, the key Local Plan Policies relating to these issues are Policy SC9 and SC10.

In considering these issues, it was originally reported that “A biodiversity net gain of more than 10% is achievable using a combination of on-site and off-site habitat creation and enhancement measures, and no further surveys or assessments are required at this time”.

During the discussions to progress and complete the S106 planning obligation, further work has been undertaken to establish more detailed costings for the delivery and on-going management and maintenance of the revised off-site biodiversity enhancement measures that are proposed. This was necessary to ensure that any payment made to the Council for the Council’s delivery of the off-site biodiversity measures at Hilltop Recreation Ground in Pinxton, that would be provided in conjunction with the Derbyshire Wildlife Trust, would be sufficient to ensure that the biodiversity uplift can be delivered.

As was reported to the previous committee, the application is accompanied by an accepted financial viability assessment that demonstrates limitations to available resources to fund normal section 106 contributions, but that the biodiversity enhancement measures could be provided. Due to the additional costings work that has been undertaken since this application was originally considered, the applicant is not in a position to be able to afford to fund the originally predicted gains, such that to do so would have meant that this affordable housing scheme could not be delivered.

In view of this a reduced offer has been designed that would deliver a reduced net gain of 1.81%; this is accompanied by an associated offer of £81,000 for the Council to carry out the works and subsequent management and maintenance for a period of 30 years.

As this application was initially received in 2021, under the transitional arrangements it is not subject to the national mandatory biodiversity net gain conditions, where a minimum of 10% would now be legally required. In this respect the wording of the relevant Local Plan Policy SC9 that compensatory measure should be secured “to ensure no net loss of biodiversity and, where possible, provide a net gain” prevails and, given a gain would still be delivered, the revised details, whilst reduced, are still policy compliant.

Considering the wider planning balance relating to this proposal, the original recommendation was balanced in favour of the delivery of the provision of affordable housing for which there is an identified need, based on the independently produced viability study that demonstrated that the scheme could not be delivered with full contributions to infrastructure. Despite the reduction in the biodiversity net gain anticipated at the time of that earlier report, it considered that the resulting planning balance remains in favour of the delivery of the affordable housing, and that the amendments being put forward are a practical response to the viability issues already identified following the additional costing works that have been undertaken; this should ensure that the affordable homes scheme, with its associated benefits of providing homes where there is an identified need, can be delivered.

For this reason, it is considered that the revisions are acceptable.

## **RECOMMENDATION**

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

**A. Limitation over the occupation of the dwellings to affordable housing.**

**B. A contribution of £81,000 to be used by the Council for the provision for off-site biodiversity mitigation measures, including mechanisms for initial investigations, provision, and long-term management and maintenance.**

**AND subject to the conditions listed in the supplementary report at Appendix B, except for: -**

- **the amended 16 shown in Appendix C, as resolved at the earlier Committee meeting; and**
- **revised condition 23 to reflect the revised information submitted as follows: -**
  - 23. Off-site condition for management and Enhancement Plan (Condition 27)  
A Biodiversity Habitat Enhancement and Management Plan (BHEMP) shall be submitted to, and be approved in writing by, the LPA prior to the commencement of the development. The aim of the plan is to provide details for the creation, enhancement and management of habitats and species off-site post development to provide a biodiversity net gain. The plan shall be suitable to provide to the management body responsible for the site. It shall include the following: -
    - a) Description and location of features to be retained, created, enhanced and managed.
    - b) Details for the enhancement of modified grassland including the results of soil analysis.

- c) Aims and objectives of management, in line with desired habitat conditions for grassland types as per Defra's biodiversity metric.
- d) Appropriate management methods and practices to achieve aims and objectives.
- e) Prescriptions for management actions.
- f) Preparation of a work schedule (including a 30-year work plan capable of being rolled forward in perpetuity).
- g) Details of the body or organization responsible for implementation of the plan.
- h) A monitoring schedule to assess the success of the habitat creation and enhancement measures at intervals of 1, 2, 3, 5, 10, 15, 20, and 30 years.
- i) Monitoring reports to be sent to the Council at each of the intervals above.
- j) A set of remedial measures to be applied if conservation aims and objectives of the plan are not being met.
- k) Requirement for a statement of compliance upon completion of planting and enhancement works.

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

## APPENDIX A – Original report

**PARISH** South Normanton Parish

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**APPLICATION** Full Planning Application for Residential Development  
**LOCATION** Open Space East of Dahlia Avenue South Normanton  
**APPLICANT** Dukeries Homes  
**APPLICATION NO.** 21/00331/FUL **FILE NO.** PP-09874542  
**CASE OFFICER** Mr Peter Sawdon  
**DATE RECEIVED** 3rd June 2021

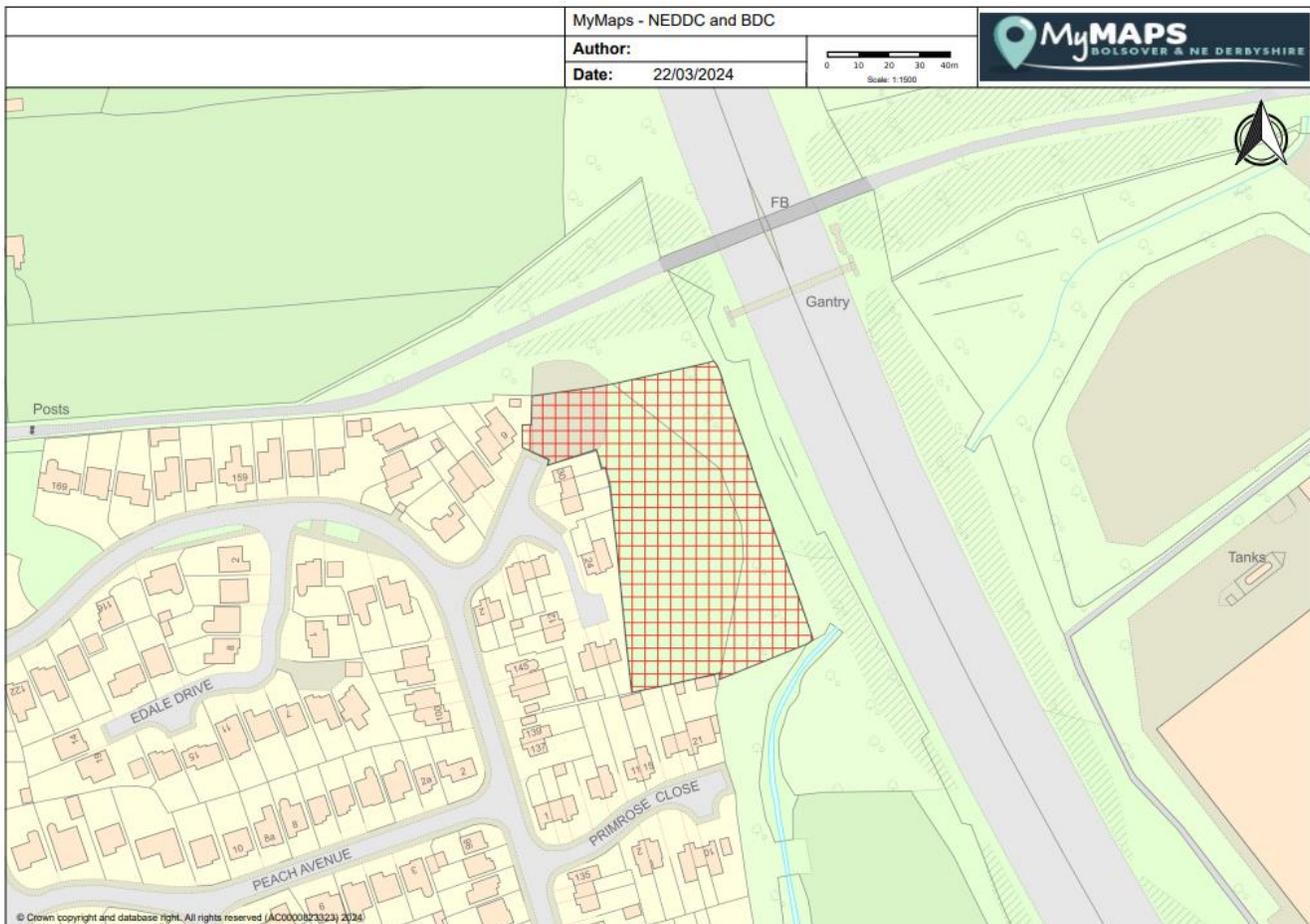
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### SUMMARY

This application has been referred to the Planning Committee due to financial viability issues, meaning normal S106 contributions are not able to be offered.

These will be discussed in more detail within the report.

### SITE & SURROUNDINGS



The site is 0.56ha in size and is broadly rectangular in shape with access via Dahlia Avenue from the northwest corner of the site. The access has been gated and a hard standing has

been laid on the northwest part of the site.

The site is bounded to the east by the M1 motorway and its associated embankment and adjacent hedgerow. Woodland adjoins the northern and south-eastern edges. Dwellings on Dahlia Avenue are located to the west and dwellings on Primrose Close are located to the southwest.

At the time the application was made, a large mound of rubble and soil was piled in the centre of the site, but this has subsequently been removed.

## PROPOSAL

This full planning application seeks planning permission for 21 new homes (reduced from 25 as proposed in the originally submitted scheme) with access extended from the adjacent cul-de-sac (Dahlia Avenue). The applicant states that the scheme will be for affordable homes, and the following is a tenure breakdown of the proposal:

- 10 x two storey (2 bed) properties (4 single story and 6 two storeys)
- 9 x two storey (3 bed) properties
- 2 x flats (1 bed) (in 1no. two storey unit)

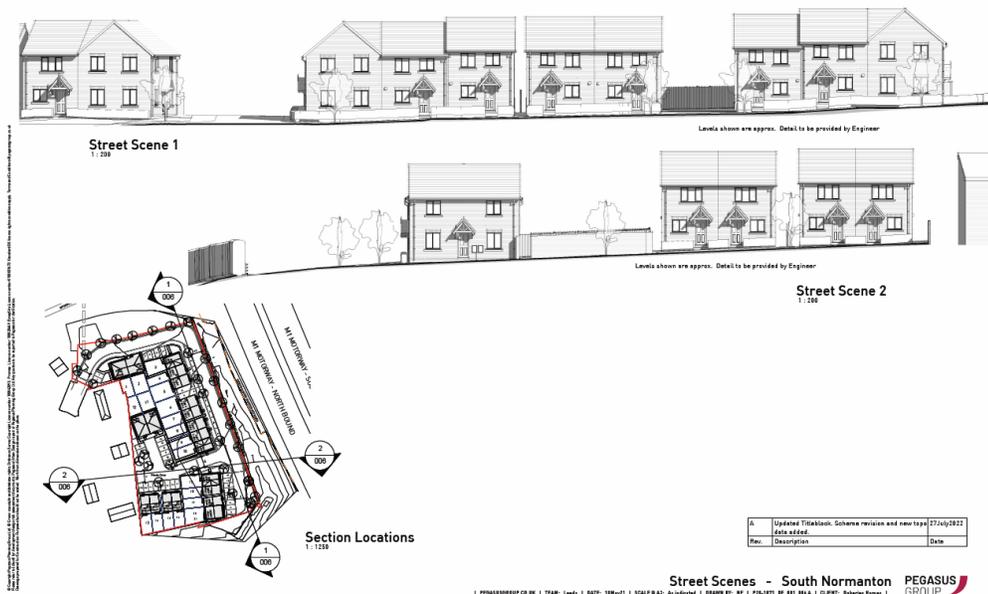
The submitted layout indicates a bund of approximately 6m in height and 2m in width along the site's eastern boundary. A further acoustic barrier (3m) would be included to the top of this bund that is adjacent to the M1. The following is the layout as proposed:



The soil piles on the site at the time the application was made appear to have been placed on the land at the time of earlier adjoining housing developments. Whilst this planning application proposes the removal of those soil piles, these have already been removed from the site, such that retrospective approval for their removal also needs to be considered in the determination of this planning application.

This unauthorised work to remove the soil piles was reported to the Council at the time it was being undertaken and was investigated by the Council's Enforcement Officer. In considering this matter, given any remedial action to rectify the unauthorised works would be to re-instate the removed mounds, that would result in additional vehicle movements which in turn had the potential to impact amenities, it was not considered expedient to take any further action against that part of the development at that time, given the planning merits of that work can be considered in detail as part of the determination of this application (this issue will be discussed in respect of highway safety, appearance and residential amenities later in the report).

The following are images of the proposed street scenes and house types that shows the proposed housing levels following the removal of the soil piles referred to above:



## Supporting Documents

- Planning Statement
- Design & Access Statement
- Arboricultural Impact Assessment
- Transport Statement
- Biodiversity Net Gain Assessment
- Flood Risk Assessment & Drainage Strategy
- Air Quality Assessment
- Noise Assessment
- Land Contamination Assessment
- Preliminary Ecological Appraisal

## **AMENDMENTS**

17/11/2022 – Revised scheme:

- P20-1071.01G - Revised Layout
- P20-1071.07A - Garden Sizes
- SC128/100A/P - Proposed Drainage

- Flood Risk Assessment and Drainage Strategy Report
- BG20.315.1 - Arboricultural Impact Assessment Report - Rev1
- P20-1071.08 - Baseline Biodiversity Impact Assessment - V1
- Biodiversity Metric
- Transport Statement Nov 2022

06/02/2023 – Response to issues raised by the Lead Local Flood Authority (Derbyshire County Council) and National Highways.

07/03/2023 – Revised drawings:

- P20-1071.01H - Revised Layout
- P20-1071.07B - Garden Sizes

28/03/2023 – Revised drawings:

- P20-1071.04A - Site Levels and Sections
- P20-1071.06A - Street Scenes

29/03/2023 – Consultant response to Flood Authority comments

25/08/2023 – Viability Assessment (publicly accessible redacted version available from 01/02/2024)

25/01/2024 – Suite of finalised documents (some re-submitted and some new/replacement documents):

- P20-1071.01H - Revised Layout
- P20-1071.04A - Site Levels and Sections
- P20-1071.06A - Street Scenes
- P20-1071.07B - Garden Sizes
- P20-1071.08 - 3D Site Renders
- P20-1071.020 - TYPE B-TYPE B – SEMI
- P20-1071.021 - TYPE B-TYPE D – SEMI
- P20-1071.022 - TYPE C-TYPE C - SEMI
- P20-1071.023 - TYPE D-TYPE C-TYPE C - 3 TERRACE (Sheet 1)
- P20-1071.024 - TYPE D-TYPE C-TYPE C - 3 TERRACE (Sheet 2)
- P20-1071.025 - TYPE C-TYPE C-TYPE D - 3 TERRACE (Sheet 1)
- P20-1071.026 - TYPE C-TYPE C-TYPE D - 3 TERRACE (Sheet 2)
- P20-1071.027 - TYPE F-TYPE B – SEMI
- P20-1071.028 - BUNGALOW 1 – SEMI
- P20-1071.029 - BUNGALOW 2 - SEMI

29/01/2024 –

- Baseline Biodiversity Impact Assessment Rev. 1
- Revised Ecological Impact Assessment
- Revised Biodiversity Metric

## **EIA SCREENING OPINION**

The proposals that are the subject of this application are not Schedule 1 development, but

they are an urban development project as described in criteria 10b of Schedule 2 of The Town and Country Planning (Environmental Impact Assessment) Regulations 2017.

However, the proposals are not in a sensitive location as defined by Regulation 2 and by virtue of their size and scale, they do not exceed the threshold for EIA development set out in Schedule 2.

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

## **HISTORY**

- BOL/579/245 – Outline planning permission for residential development Granted Conditionally on 24.07.1979.
- BOL/1183/523 – Renewal of outline planning permission for residential development Granted Conditionally on 16.02.1984.
- BOL/592/208 – Full planning permission for estate road and sewers granted condition planning permission on 25.06.1993.
- BOL/992/354 – existing houses on Dahlia Avenue were granted full planning permission on 16<sup>th</sup> August 1993.

## **CONSULTATIONS**

### Bolsover District Council Drainage Engineer

02/07/21 - Records show that a public sewer is located within the area of the proposed works. Proposals for drainage need to:

- Make provision for the lifetime management and maintenance of any SuDS schemes.
- Comply with Part H of the Building Regulations 2010.
- 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.
- Ensure any temporary drainage arrangements during construction gives due consideration to the prevention of surface water runoff onto the public highway and neighbouring properties.

### Bolsover District Council Head of Regeneration

No comments received.

### Bolsover District Council (Leisure)

20/07/2021 - Contribution of £21,750 (25 dwellings x £870 per dwelling) sought towards improvement of existing nearby green spaces (Policy ITCR5) and £26,500 (25 dwellings x £1060 per dwelling) towards improvement to existing built and outdoor sports facilities (Policy ITCR7). Further comment is also made about the prospect of formalising the link path through the site to the Blackwell Trail

*N.B. The figures quoted in the Leisure Officer consultation response above relates to sums calculated in 2021 based on the contribution fee at that time for the originally proposed 25 houses. The reduction in numbers does not alter the policy position on this issue, but if sought, the sums would need to be updated for 21 houses based on inflated 2024 sums as follows: -*

- £23,436 (21 dwellings x £1116 per dwelling) for improvement of existing nearby green spaces (Policy ITCR5).

- £28,560 (21 dwellings x £1360 per dwelling) for improving existing built and outdoor sports facilities (Policy ITCR7).

#### Bolsover District Council (Strategic Housing)

01/07/21 - The proposal to provide 25 affordable homes for rent and affordable home ownership will help to meet the affordable housing need, although the provision of more 3 bed houses would help meet identified demand.

#### Coal Authority

16/07/21 - Following the submission of a Coal Mining Risk Assessment in response to an initial objection from the Coal Authority on the 22/06/21, that organisation now recommends the inclusion of conditions to require further intrusive investigations and were shown to be necessary, appropriate mitigation to deal with the Coal Mining Legacy relating to the site.

#### Derbyshire County Council (Highways)

19/07/21 - Further information required.

15/12/2022 - Parking and swept path analysis are now acceptable. Further alterations required in terms of highway design, maintenance margins, and location of plots within the public highway and position of street trees.

24/11/2023 - Re-iterate comments about the desire to see connections to a nearby footpath (acknowledging that this would involve crossing third party land outside of the control of the applicant), but otherwise, based on the revised site layout plan, it is considered that the proposed development will have no detrimental highway impact. Conditions and advisory notes recommended.

22/02/2024 - Acknowledge limitations to providing improved links to the adjoining footpath, including ownership and viability issues, and confirm no further challenges to the scheme in this respect. Previous comments on other issues and previously recommended conditions still apply.

#### Derbyshire County Council (Flood Risk Management)

22/06/2021 - Further information is needed to inform the consideration of surface water drainage.

19/12/2022 - Further information is still needed to inform the consideration of surface water drainage.

28/03/2023 - Concerned over the potential flood risk to properties in the proposed development and requests further information.

28/07/2023 - No objections subject to conditions (based on additional submitted information).

#### Derbyshire County Council (Strategic Planning)

06/07/21 - Sufficient capacity exists at local schools to accommodate the projected additional pupils generated by this development and so no financial contributions are sought. The inclusion of an advisory note relating to high-speed broadband is recommended. Additional comments are made, but without any specific requests, in respect of waste disposal and

employment and skills.

26/03/2024 – Further comment provided to confirm that capacity still exists in local schools and no contributions are therefore sought.

Derbyshire Swift Conservation *(NB this organisation is not a consultee, but their comments are included here as they relate to biodiversity considerations also addressed by the comments of the Derbyshire Wildlife Trust that are included below)*

14/03/2024 – request a condition requiring up to 25 internal nest bricks (i.e., 1 brick per dwelling) designed for Swifts as a universal biodiversity enhancement for urban bird species and that photographic evidence of installation is made available upon completion.

Note that best practice indicates that integrated swift boxes are more appropriate than other types of bird box, given these are suitable for multiple bird species and addresses the specific need to address issues relating Swifts. Reference to NPPF requirements to promote and enhance biodiversity and geodiversity.

Derbyshire Wildlife Trust

15/07/2021 - Preliminary Ecological Appraisal shows that numerous protected species surveys are recommended, but these have not been done and need to be before the application can be progressed. Also concerns regarding habitat loss and that the scheme will result in a net biodiversity net loss; advise that a Biodiversity Net Gain assessment also needs to be submitted to enable this issue to be considered further.

25/01/2023 - Recommended additional ecology assessments have not been undertaken and are still needed. Submitted biodiversity metric has not been completed correctly and demonstrates a net loss, so needs amending and mitigation for the losses need to be proposed. At present scheme does not comply with local or national planning policies and guidance.

22/02/2024 - Have reviewed additional documents dated November 2023. The application is accompanied by sufficient information for the Council to proceed with its determination. A biodiversity net gain is achievable using a combination of on-site and off-site habitat creation and enhancement measures. No further survey or assessment is required at this time. Conditions are recommended and a legal agreement is needed to secure the provision and long-term management and maintenance of off-site biodiversity measures.

Environmental Health

14/06/21 and 14/07/21 - No objections in principle subject to conditions requiring the identification of any potential contamination and mitigation for such contamination where found, along with a requirement to implement the scheme of sound mitigation.

Force Designing Out Crime Officer

29/06/21 - Alterations suggested to better deal with crime prevention.

06/12/2022 - Comments regarding:

- control over boundary treatments, including the introduction of gates and management of proposed hedges;
- ensuring that the portion of a footpath link to Sporton Lane (if provided or retained)

- within the site is left with an open aspect;
- inclusion of lighting to the parking court (Solar powered columns will be acceptable).

#### Health and Safety Executive

18/06/2021 - No comment to make on the planning application provided that the development is not a vulnerable building.

#### National Highways (formerly Highways England)

08/06/21 and 14/06/2023 - More information requested regarding cross sections (to demonstrate existing and proposed noise bunds), drainage and lighting details; re-iterated those comments 20/09/2021, 13/12/2021, 10/03/2022, 14/06/2022.

04/04/2023 - Satisfied that the proposal will not adversely impact the adjacent highway assets and recommend that conditions should be attached to any planning permission that may be granted.

#### NHS / Clinical Commissioning Group

CCG - No contributions are sought as the size of the development is below their threshold for contribution requests. 16/06/21.

08/07/2021 - Chesterfield Royal Hospital - Section 106 impact on health to be considered. Please advise of the appropriate process to follow. Further request received 12/03/2024.

#### Urban Design

Amendments to the scheme are needed to make it acceptable in design terms and to comply with the Council's adopted housing design guidance. 09/07/21.

Whilst further written response was not provided the former Urban Design Officer had verbally confirmed that the revised scheme is acceptable and had appropriately responded to his earlier comments.

*The above is a summary of consultations; all consultation responses are available to view in full on the Council's website.*

### **PUBLICITY**

The application was initially advertised in the local press, site notices were posted, and 20 neighbouring properties were consulted. This resulted in the receipt of eight representations.

Further publicity (by site notices and neighbour letters) was carried out in February 2022, to notify of amendments to the scheme. No additional representations were received from residents as a result of this.

The representations received raised (in summary) the following issues: -

#### Principle

- Concerns over the density of the development with around 80 people living in this small area; will cause environmental problems.
- The Council should consider local factors and residents' concerns in conjunction with planning applications and not just policies and targets.

- New houses will further stretch amenities in the area; schools are already stretched with most over-subscribed.
- Already large number of properties in the area and there are other plans to build elsewhere in South Normanton.

### Highway Safety

- Increased traffic and parked cars will be present (both during and after construction), which will cause increased risk to pedestrians and road users alike and make it more difficult for emergency service vehicles to have necessary access.
- Existing issues at the junction of Sporton Lane and Church Street due to parked cars; increased traffic will increase the hazard.
- Church Street is used as a rat run so emerging from Sporton Lane will be impacted leading to tailbacks.
- Parking on local roads has gotten worse over the years.
- Traffic speeds on local roads is a concern.
- Damage to highway from construction works.

### Amenity

- Concern at previous land clearance; lack of notification for the works and increase in noise and light pollution as a result.
- Loss of this land as a buffer between existing dwellings and the M1.
- Inconvenience during the construction period.
- Proposed properties are too near to the M1; existing houses are less than 300 yards from it.
- Can't see how another proposed new sound fence will help the situation, there's already one in place on the motorway.
- Risk to new residents of pollution from the adjacent motorway.
- Hope there will be some protection for new dwellings from the motorway barrier.
- New build houses unfortunately have very thin walls.
- Impact on privacy with proximity of new houses to gardens.

### Biodiversity

- Impacts on biodiversity from clearance works that have already been carried out that will remain if the development is carried out.
- A wildlife survey was not carried out before trees were felled.

### Other

- Impact on property values.

*Officer comment: - It should be noted that potential impacts to the value of existing properties because of development is not a material planning consideration, and therefore, will not be considered any further in this report.*

## **POLICY**

### Development Plan for Bolsover District ("the Development 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 Scale of Development.
- LC1: Housing Allocations.
- LC2: Affordable Housing Through Market Housing.
- LC3: Type and Mix of Housing.
- WC4: Rough Close Works, South Normanton.
- SC1: Development within the Development Envelope.
- SC2: Sustainable Design and Construction.
- SC3: High Quality Development.
- SC7: Flood Risk.
- SC8: Landscape Character.
- SC9: Biodiversity and Geodiversity.
- SC10: Trees, Woodland, and Hedgerows.
- SC11: Environmental Quality (Amenity).
- SC12: Air Quality.
- SC13: Water Quality.
- SC14: Contaminated and Unstable Land
- SC15: Hazardous Installations
- ITCR5: Green Space and Play Provision.
- ITCR10: Supporting Sustainable Transport Patterns.
- ITCR11: Parking Provision.
- II1 Plan Delivery and the Role of Developer Contributions.
- II2: Employment and Skills England and how these should be applied.

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

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

- Chapter 2: - Achieving sustainable development.
- Paragraphs 7 - 10: Achieving sustainable development.
- Paragraphs 47 - 50: Determining applications.
- Paragraphs 55 - 58: Planning conditions and obligations.
- Paragraphs 96 - 107: Promoting healthy and safe communities.
- Paragraphs 108 - 117: Promoting sustainable transport.
- Paragraphs 123 - 127: Making effective use of land.
- Paragraphs 131 – 136: Achieving well-designed and beautiful places.
- Paragraph 157, 159 and 162: Meeting the challenge of climate change.
- Paragraph 165 - 175: Planning and Flood Risk.
- Paragraphs 180, 186 and 188: Conserving and enhancing the natural environment.
- Paragraphs 189 - 194: Ground conditions and pollution.

#### Supplementary Planning Documents

- Successful Places: A Guide to Sustainable Housing Layout and Design - adopted Interim Supplementary Planning Document
- Parking Standards - Consultation Draft Supplementary Planning Document

## **ASSESSMENT**

### ***Key issues***

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

- Principle of Development
- Affordable Housing
- Access and Highway Safety
- Landscape and Visual Impacts
- Design, layout, and residential amenity
- Biodiversity & Trees
- Drainage & Flood Risk
- Ground Conditions
- Noise
- Air Quality
- Hazardous Installations
- S106 & Viability

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

### Principle of Development

The land is designated in the Development Plan as being within the defined Development Envelope boundary for South Normanton. The principle of development is accepted for proposals that are situated within the Development Envelope Boundary.

South Normanton is identified as an 'Emerging Town' in the Development Plan. Development Plan Policy SS2 (Spatial Strategy and Distribution of Development) states that the settlement can accommodate up to 380 dwellings over the current plan period. Development Plan Policy SS2 also states that provision of development will be directed to small towns and emerging towns in the first instance. Based on the above, it is concluded that the principle of residential development is acceptable to the site.

### *Response to representations*

For the reasons set out above the principle of residential development is acceptable when assessed against the relevant policies in the Development Plan. Whilst there are strategic sites that are allocated for residential development in the Development Plan, the NPPF at paragraph 69 also states that medium sized sites can make an important contribution to meeting the housing requirement of an area and are often built out relatively quickly. Overall, these types of developments do contribute to the Council maintaining a healthy housing land supply position.

### Affordable Housing

Development Plan Policy LC2 relates to affordable housing and states that the Council will require applications for residential development comprising 25 or more dwellings (or which form part of a larger development site with a potential capacity of 25 or more dwellings) to provide 10% as affordable housing on site.

Given this development is for 21 houses, the application does not trigger any requirement under policy LC2.

Notwithstanding this, the proposed development is for 100% affordable housing, and the latest evidence base identifies a need for additional affordable housing in the district, which is material to the consideration of this case.

For this reason the development exceeds the zero requirements set out in Development Plan Policy LC2, and this weighs in favour of the development in the planning balance given the identified need for affordable dwellings.

#### Access and Highway Safety

Development Plan Policy ITCR10 states in summary that development proposals which are likely to have significant amounts of movements will need to be supported by a Transport Statement or Transport Assessment to understand their impact on existing transport networks. Development Plan Policy ITCR 11 relates to parking and states that planning permission will be granted where there is appropriate provision for vehicle and cycle parking as set out within the parking standards at Appendix 8.2 of the Development Plan.

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

The applicant has submitted a Transport Statement (“TS”), which was undertaken by Armstrong Stokes & Clayton Ltd. The TS has been reviewed by Derbyshire County Council Highways (“DCC Highways”) and no objections have been raised to the information submitted. DCC Highways conclude that the level of trips that would be generated by the development can be accommodated comfortably on the existing highway network. Therefore, it is not considered that the proposal would result in significant adverse impacts to the existing highway network.

It should be noted that the proposed highway within the scheme does not satisfy Derbyshire County Council’s usual adoption criteria and so will become a privately owned and maintained highway.

The Highway Authority has recommended conditions and advisory notes.

Whilst that Authority noted a desire to improve connectivity through the site for pedestrians and cyclists onto an adjoining footpath to the north of the site, that Authority has acknowledged that: -

- this would entail crossing third party land not under the ownership or control of the applicant,
- significant engineering operations would be needed to cross the intervening embankment that would result in loss of existing mature landscaping further harming biodiversity interests, and
- the costs of any works would impact further on the viability and therefore, deliverability of the development.

In view of the above the Highway Authority accepted that such a footpath link would not be deliverable in respect of this development.

Given the location of the development alongside the M1 motorway, National Highways (“NH”) have been consulted. NH do not object to the scheme and are satisfied that the proposed development will not adversely impact the M1. NH recommend a condition that seeks to minimise any potential glint and glare from vehicle movements and street lighting on to the M1 from the development site. This condition is considered necessary in the interests of the safety of users of the motorway.

Overall, for the reasons set out above, it is considered that the development complies with Development Plan Policies ICTR10, 11 and SC3, and no objections are raised on highways grounds. The compliance with the above policies in relation to highway matters would be neutral in the planning balance.

### *Response to representations*

Concerns have been raised in relation to increased traffic during construction, which will cause dangers to both car users and pedestrians, this includes the works to remove the existing soil mounds that have already been undertaken.

Given the soil mounds have already been removed, this work is already completed and so no additional impacts from this element of the development proposal will arise.

The construction phase of the remainder of the development can be effectively controlled through the submission of a Construction Traffic Management Plan. Such a condition has been recommended by the Highway Authority and is proposed for inclusion.

Increased levels of traffic and parking have also been raised as a potential issue with this development. As stated above, the applicant has submitted a Transport Statement, which considers what the potential impacts of the development would be on the existing highway network, and this has been assessed by the Highway Authority who has raised no objections.

In view of the above, there is no reasonable basis to refuse the application on highway safety grounds.

### Landscape and Visual Impact

Development Plan Policy SC8 relates to landscape character and states that proposals for new development will only be permitted where they would not cause significant harm to the character, quality, distinctiveness, or sensitivity of the landscape, or to important features or views, or other perceptual qualities such as tranquillity unless the benefits of the development clearly outweigh the impacts.

There would not be any unacceptable landscape or visual impacts from the development. The development represents an urban extension to the existing built development that surrounds the site. The site is visually contained to the north and south by heavy tree growth. To east is the M1 motorway, which sits lower than the site, but again the site is heavily screened from the motorway by tree growth and a large bund. Given the urban nature of the site and surroundings, and its visual containment, it is not considered that the development will have any adverse impacts on the existing landscape.

Whilst noting the removal of the existing soil mounds, the mounds themselves were unauthorised but would have become lawful in planning terms due to the passage of time; their physical form was clearly at odds with their surroundings such that their removal has returned land levels to those similar to the original ground levels of the site prior to the deposit of the soils, which in turn relates better to adjacent dwellings.

On that basis, the development is considered to comply with Development Plan Policy SC8. This is considered to be neutral in the planning balance.

#### Design, Layout & Residential Amenity

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

The proposals comprise an appropriate mix of dwelling types to ensure that varying requirements for housing of differing sizes can be met and is acceptable.

The development will comprise one and two storey dwellings of a traditional appearance that are in keeping with the overall character and appearance of the area. Appropriate designs of dwellings on corner plots have been incorporated to ensure that the dwellings on these plots appropriately deal with both frontages to these properties to improve natural surveillance and to enhance the character and appearance that will be created by the development.

The proposed dwellings would be constructed in brick and tile; final details of the exact materials to be used have not been submitted, but these can be controlled by condition to ensure materials are used that are appropriate to the character and appearance of the area.

Car parking is sensitively designed, with large parts of the parking located either alongside dwellings or sensitively integrated parallel to the proposed streets, between intervening street trees and other landscaped areas. Where larger areas of shared parking are proposed, the appearance of these is also softened by trees and additional landscaping.

Conditions to deal with other detailed matters, including boundary treatments and detailed landscaping specifications, are recommended for inclusion.

In terms of amenities for existing adjoining developments, as previously mentioned the removal of the soil mounds on site has returned site levels to those similar to those on adjoining land, enabling the proposed dwellings to be constructed at similar levels to those adjoining, which in planning terms is preferable to building on the former higher ground levels in respect of any resulting relationships between existing and proposed dwellings. So, whilst the removal of the soils previously on site was unauthorised, in respect of the wider planning considerations associated with this planning application, this is considered beneficial to delivering a final development that is better integrated with its surroundings.

The development accords with the Council's published guidelines in terms of separation distances from existing adjoining properties, such that a reasonable level of amenity for the

occupiers of existing dwellings can be maintained.

In terms of occupants of the proposed dwellings, appropriate garden provision is being made.

Noise reports have been submitted in view of the proximity of the development to the M1 and, subject to the inclusion of a condition to require the agreement of noise control measures based on the findings of the noise assessment, the Environmental Health Officer has raised no objections to the proposal.

Amendments have been included to address points raised by the Force Designing Out Crime Officer; lighting to the parking court can be required by conditions to address this issue that he has raised.

On balance, the design of the scheme is considered appropriate, subject to the inclusion of conditions to control details as discussed above.

### Biodiversity & Trees

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

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

Following the submission of additional biodiversity information to address issues raised by the Derbyshire Wildlife Trust, the Trust has confirmed that the application is accompanied by sufficient information for the Council to proceed with its determination. A biodiversity net gain of more than 10% is achievable using a combination of on-site and off-site habitat creation and enhancement measures, and no further surveys or assessments are required at this time. It has been identified through discussions with the Planning Policy offer, as part of ongoing nature recovery work, that land is available to undertake offsite biodiversity improvements on Council owned land at Pinxton. In view of this, in order to secure the provision and long-term management and maintenance of the proposed biodiversity measures, conditions are recommended for the on-site elements, and a legal agreement is proposed to secure the off-site biodiversity measures; the agreement would need to include either the direct provision of the works by the developer or a contribution to the Council to carry out the works, along with suitable measures to secure the long term management of that provision, that may necessitate an appropriate financial sum if necessary.

The comments of Derbyshire Swift Conservation organisation are noted and these make reference to best practice for mitigation measures. In this respect, in line with the advice of the Derbyshire Wildlife Trust, a condition is recommended for inclusion that would secure a Biodiversity Habitat Enhancement and Management Plan. On submission of any scheme, in accordance with the Council's normal practice, the Derbyshire Wildlife Trust will advise on the

suitability of that document as part of the consideration and determination of the relevant application at that time.

Considering the above, the proposal is considered to meet the requirements of adopted Local Plan policies SC9 and 10.

#### Drainage and flood risk

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

In terms of flood risk, the site is designated as being within Flood Zone 1, which is an area considered to be at the lowest risk of flooding. The applicant has submitted a Flood Risk Assessment ("FRA") with the application, which concludes that there is no evidence of flooding at the site from fluvial or groundwater flooding. However, the FRA also states that the site is vulnerable in part to surface water flooding from an unnamed watercourse to the south of the site and an open drainage channel associated with the embankment of the M1.

The FRA recommends that the open channels and culvert are inspected and cleaned, removing all debris and obstructions. A long-term maintenance plan should also be established by the applicant for these assets (for the areas the applicant can control)

In terms of the proposed drainage strategy for this site, a cellular crate is proposed on the eastern boundary of the site, with a hydro brake to control the runoff rate. DCC Flood Risk have reviewed the submission and do not object subject to the inclusion of appropriate conditions that are proposed for inclusion.

#### Ground Conditions

Development 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 does not result in unacceptable risks which would adversely impact upon human health, and the built and natural environment.

The applicant has submitted a Phase I Desk Study Report Geo Environmental Assessment. This document has been reviewed by Environmental Health ("EH"), and no objections have been raised in relation to contamination risks. EH have recommended planning conditions that set out a requirement to submit a remediation strategy that will need to be agreed. Therefore, subject to conditions, the development will comply with Development Plan Policy SC14.

## Noise

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

The applicant has submitted a Noise Impact Assessment (“NIA”) with the application, which was undertaken by Environmental Noise Solutions Limited. The site itself already benefits from a 3m high acoustic barrier on the eastern boundary of the site facing the M1. The noise measurements taken for the NIA were taken with this barrier still in place. Following an assessment of the existing noise conditions, the NIA then sets out some mitigation measures. These include enhanced glazing and mechanical ventilation, and acoustic trickle vents that would need to be installed in the proposed homes that are situated up to 20m from the eastern site boundary. For the homes that would be set back further than 20m from the eastern boundary, standard rated glazing and acoustic trickle vents are recommended.

EH have reviewed the submitted Noise Impact Assessment, and are satisfied with the mitigation proposed, and do not have any objections to the development. EH have requested a condition, to ensure that the mitigation proposed is implemented and maintained at all times thereafter. On that basis, subject to condition, the development will comply with Development Plan Policy SC11.

## Air Quality

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

The applicant has submitted an Air Quality Assessment (“AQA”) which was undertaken by Redmore Environmental. The report concluded that the development has the potential to cause air quality impacts through the construction phase of the development. The report states that good practice control measures would provide suitable mitigation for a development of the scale proposed. In addition, the report also concludes that there is the potential for future residents to be exposed to poor air quality due to the site’s proximity to the M1. To understand whether this would be the case, a dispersion modelling assessment was undertaken as part of the AQA. This assessment indicated that the predicted pollutant levels were below the relevant criteria, and on that basis, no mitigation was needed.

Environmental Health have reviewed the AQA and do not object to the findings and have no further comments to make. Therefore, based on the information submitted, it is concluded that the development meets Development Plan Policy SC12.

## Hazardous Installations

The site is located within the outer Explosive Safeguarding Zone for Rough Close Works at South Normanton. Development Plan Policy WC4 permits development in this zone if it is within current Health and Safety Executive (“HSE”) land use planning guidance. Development Plan Policy SC15 also permits developments in such consultation zones provided that the risks arising from the hazardous substance are acceptable in relation to the nature of the proposal.

The HSE have been consulted, and do not object to the development, and have no comments to make providing that the development is not a ‘vulnerable Building’. The HSE defines a ‘Vulnerable building’ as follows:

- (a) a building of more than three storeys above ground or 12m in height constructed with continuous non-load bearing curtain walling with individual glazed or frangible panels larger than 1.5m<sup>2</sup> and extending over more than 50% or 120m<sup>2</sup> of the surface of any elevation;
- (b) a building of more than three storeys above ground or 12m in height with solid walls and individual glass panes or frangible panels larger than 1.5m<sup>2</sup> and extending over at least 50% of any elevation;
- (c) a building of more than 400m<sup>2</sup> plan area with continuous or individual glazing panes larger than 1.5m<sup>2</sup> extending over at least 50% or 120m<sup>2</sup> of the plan area; or
- (d) any other structure that, in consequence of an event such as an explosion, may be susceptible to disproportionate damage such as progressive collapse.

As the proposed development is for new homes of traditional construction that do not include any of the above characteristics, the proposal is not considered to represent a ‘Vulnerable Building’ as defined above. Therefore, the development is considered to comply with Development Plan Policies WC4 and SC15.

### S106 Requirements & Viability

#### Affordable Housing

There is no requirement for the scheme to deliver affordable homes based on the thresholds set out in Development Plan Policy LC2. Notwithstanding this, the scheme delivers 21 new homes, and all of these will be affordable homes, which is a benefit in the planning balance.

#### Recreation and Leisure

Development Plan Policy ITCR5 expects residential developments of more than 10 units to make reasonable financial contributions either for new green spaces, or to improve green spaces, falling within specified walking distances of a site, with a view to achieving a 60% quality standard for green spaces. Policy ITCR7 also seeks contributions to existing playing pitches where improvements to them are needed from developments of 10 or more dwellings, to achieve an ‘average’ standard for playing pitches.

#### Green space

South Normanton has an under provision of open space, and 1.73ha of additional green space is required to meet the minimum standard. BDC’s Leisure Officer has reviewed the application, and states that provision of Formal Green Space and Semi natural Green Space should be provided.

A commuted sum contribution of £23,436 would normally be sought to improve local areas of

existing green space.

Notwithstanding this normal requirement, there is no proposal to make such provisions under ITCR5 due to the financial viability of the scheme, which is discussed later in this report.

In this respect it is noted that there are existing accessible play facilities approx. 170m to the west of the site that would provide recreation provision for occupants of this development should no provision be possible from this development due to viability.

#### *Built & Outdoor Sports Facilities*

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. The Playing Pitch strategy and assessment will be used to consider the most appropriate site for enhancements.

A commuted sum contribution of £28,560 would normally be sought to improve local playing pitches and their ancillary facilities.

Notwithstanding this normal requirement, there is no proposal to make such provisions under ITCR7 due to the financial viability of the scheme, which is discussed later in this report.

#### Education

Derbyshire County Council advised that sufficient capacity exists at local schools to accommodate the projected additional pupils generated by this development, and so no financial contributions are sought.

#### Health

There has been no request from the Clinical Commissioning Group for any contributions towards local health care provision as the size of the scheme is below its threshold where it would seek contributions.

Chesterfield Royal Hospital (CRH) has commented that Section 106 impact on health [should] be considered, stating that initial modelling suggests that the impact of this development is £32,995.

In respect of the CRH request, policy II1 states that "...planning obligations will be sought where ...development would create a need for additional or improved infrastructure...on a case-by-case basis...guided by the latest version of the Council's Infrastructure Study and Delivery Plan."

Whilst the policy does provide for 'necessary and relevant' contributions to both primary and secondary healthcare, the Planning Policy team is in ongoing discussions to establish whether the requests made by CRH meet the necessary legal tests for contributions, including the opportunity for the CRH to provide additional evidence to support its requests. The current opinion on this based on the work done to date is that the requests may not meet those tests and that current evidence and information provided to date is not considered to be sufficient to show that it directly relates to the development or is fairly and reasonably related in scale and kind to it.

Whilst additional contributions are not being offered in any event for viability reasons to be discussed below, for the reasons stated, the requested contribution for the CRH is unlikely to have been sought.

### Viability

As highlighted in the above report, there are policy requirements for S106 contributions. In response to this a viability assessment has been commissioned by the Council that demonstrates that the scheme would be unable to afford additional contributions.

National Planning Policy Guidance states that where there is an up-to-date Local Plan, developments would normally be expected to meet Local Plan S106 requirements, given that these policy requirements will have been viability tested on a plan wide basis. Nevertheless, it does note that there may be some exceptions to this, and specifically mentions build to rent schemes as one, due to this type of development differing from the standard financial model of dwellings for sale.

The submitted viability assessment has been produced in accordance with the requirements of the PPG and demonstrates that the scheme is unable to afford the requested additional S106 contributions and demonstrates that there is no identifiable surplus to finance any contributions, this would also relate to any additional contributions that may be received due to recent re-consultations.

In view of this, the proposal is unable to demonstrate full compliance with the relevant policies relating to those contributions and it will be necessary to consider whether any other material planning considerations outweigh this.

In this respect, an important consideration is the fact that this scheme is for 100% social housing for which there is an identified need for this type of property in the district, such that this scheme will contribute to the Council's efforts to meet identified local housing need. This is considered to be a significant weighting factor.

Whilst these additional dwellings will increase demands on local facilities, the number of dwellings proposed is relatively small when considered against the settlement as a whole, such that the impacts of there being no additional financial contributions is not expected to significantly impact on the ability for existing facilities in the area to cope with the limited increased demand.

In view of the above, on balance it is considered that the public benefit of providing this 100% affordable housing scheme outweighs the limited policy conflict that would arise from there being no financial contribution to respond to the identified contributions sought or needed.

On this basis, it is recommended that no additional financial contributions are sought from this development, other than those identified to cover the provision of off-site Biodiversity features and its on-going management.

Given that the justification for not requiring contributions is the delivery of the affordable housing scheme, it will be necessary to also cover this delivery as part of the proposed S106 planning obligation to provide and maintain that identified public benefit.

## **CONCLUSION**

The proposal is acceptable in principle given that the site is located in the development envelope. The residential designs proposed are considered to be good and compliant with Successful Places design guide. The provision of additional affordable housing is welcome and there are no significant amenity impacts likely that cannot be dealt with by condition. No other environmental impacts have been identified that would warrant the refusal of planning permission. The proposed development therefore accords with the policies of the local plan as well as the National Planning Policy Framework.

It is acknowledged that the policy requirement for infrastructure contributions is not being met for financial viability reasons, but nevertheless, the benefits of this proposal, from the delivery of 100% affordable dwellings for which there is a demonstrable need, is considered to outweigh the normal requirements for the contributions that would otherwise be sought from a housing scheme of this scale. The planning balance in this case is therefore considered to be appropriate in terms of the ability to grant permission for the development as proposed, subject to the completion of a S106 regarding the future management and maintenance of the proposed open space and play equipment and the inclusion of suitable conditions to otherwise ensure compliance with adopted policy.

## **RECOMMENDATION**

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

- A. Limitation over the occupation of the dwellings to affordable housing.**
- B. Provision for off-site biodiversity mitigation measures, including mechanisms for initial provision as well as on-going long-term management and maintenance.**

**AND subject to the following conditions:**

*Conditions as included in appendix B below*

## **APPENDIX B – Extract from Committee update report**

### **COMMITTEE UPDATE SHEET**

#### **SUPPLEMENTARY REPORT OF THE PLANNING MANAGER**

This sheet is to be read in conjunction with the main report.

#### **Applications to be determined under the Town & Country Planning Acts**

Planning Site Visits held on 5<sup>th</sup> April 2024 commencing at 10:00 hours.

PRESENT: -

Cllr Tom Munro, Cllr John Ritchie, Cllr Rob Hiney Saunders and Councillor Phil Smith.  
Apologies were received from Cllr Carol Wood.

Officers: Chris Whitmore, Peter Sawdon

#### **SITE VISITED**

1. 21/00331/FUL, Dahlia Avenue, South Normanton

The meeting concluded at 11:15 hrs.

#### **AGENDA ITEM 5 – 21/00331/FUL: Open Space East of Dahlia Avenue South Normanton**

In ongoing discussions with the applicant, we have been requested to consider an amendment to the recommended conditions to: -

- Merge the requirements of conditions 5 and 21 as a single condition, given the similar nature of these two conditions to control construction management; and
- Merge the requirements of conditions 6 and 7 to create a new two-part condition, given these both deal with the identification and treatment of any contamination, should any be identified.

The suggested amendments are considered a minor re-drafting of the originally drafted conditions that maintain the controls sought through them, such that there are no objections to these suggested alterations.

Additionally, it has been noted that the draft conditions include the following drafting errors that require correction: -

- Condition 16 is a duplication of condition 8 that has been included in error and so condition 16 is proposed to be deleted as it is unnecessary; and
- Condition 8 is incorrectly cross-referenced to other conditions and so amendments to the condition are also proposed (following re-numbering this will become condition 7).

#### **Recommendation**

That the recommended conditions in the original report be amended as follows: -

1. The development shall be begun before the expiration of three years from the date of this permission.
2. The development hereby permitted shall be carried out in accordance with the following approved drawings and documents, unless otherwise required and/or approved under other conditions of this planning permission.

Documents submitted 25/01/2024: -

- P20-1071.01H - Revised Layout
  - P20-1071.04A - Site Levels and Sections
  - P20-1071.06A - Street Scenes
  - P20-1071.07B - Garden Sizes
  - P20-1071.08 - 3D Site Renders
  - P20-1071.020 - TYPE B-TYPE B – SEMI
  - P20-1071.021 - TYPE B-TYPE D – SEMI
  - P20-1071.022 - TYPE C-TYPE C - SEMI
  - P20-1071.023 - TYPE D-TYPE C-TYPE C - 3 TERRACE (Sheet 1)
  - P20-1071.024 - TYPE D-TYPE C-TYPE C - 3 TERRACE (Sheet 2)
  - P20-1071.025 - TYPE C-TYPE C-TYPE D - 3 TERRACE (Sheet 1)
  - P20-1071.026 - TYPE C-TYPE C-TYPE D - 3 TERRACE (Sheet 2)
  - P20-1071.027 - TYPE F-TYPE B – SEMI
  - P20-1071.028 - BUNGALOW 1 – SEMI
  - P20-1071.029 - BUNGALOW 2 - SEMI
3. No development comprising the erection of any external walls shall take place until samples of the materials to be used in the construction of the external surfaces of the development, including the roof, have been submitted to and approved in writing by the Local Planning Authority. The Development shall be carried out in accordance with the approved details. The materials to be used throughout the development shall be consistent in terms of colour, size, and texture with the approved details.
  4. No development shall take place until full details of both hard and soft landscape work with an associated implementation plan, have been submitted to and approved in writing by the Local Planning Authority. The hard landscape details shall include proposed finished levels or contours; means of enclosure; hard surfacing materials and street furniture, where relevant. The soft landscaping works shall include planting plans; written specifications (including cultivation and other operations associated with plant and grass establishment); schedules of plants and trees, noting species, plant/tree sizes and proposed numbers/densities and the implementation programme.

All planting shall be implemented in accordance with the approved details in the first available planting season following the completion of the development, or such longer period which has previously been approved in writing by the Local Planning Authority and shall be maintained for a period of 5 years from the agreed date of planting. Any trees or plants which die, become diseased, or are removed during the maintenance period shall be replaced with specimens of an equivalent species and size.

5. Prior to the commencement of any development hereby approved, a scheme in the form of a Construction Management Plan (CMP) must be submitted to and approved in writing by the Local Planning Authority. The submitted plan must include, but is not restricted to: -
- Parking of vehicle 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;
  - details for the methods to be employed to control and monitor noise, dust, and vibration impacts
  - Methods of communicating the Construction Management Plan to staff, visitors and neighbouring residents and businesses; and
  - timescales for the implementation of the scheme.

The approved scheme shall be implemented and adhered to in full accordance with the scheme as approved under this condition.

6. Before the commencement of the development hereby approved

- iii. a site investigation must be carried out by a competent person in accordance with the current U.K. requirements for sampling and analysis and a report of the site investigation must have been submitted to, and approved in writing by, the Local Planning Authority.
- iv. Only where the site investigation required by 6i above 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, must have been submitted to and approved in writing by the Local Planning Authority. The submitted scheme shall have regard to CLR 11 and other 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 (Environmental Health Division) prior to commencing works in connection with the remediation scheme.

7. No dwelling hereby approved will be occupied until:

- a) Any approved remediation works required by 6 above have been carried out in full in compliance with the approved methodology and best practice in respect of that dwelling and its plot.

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 6 above and satisfy 7a above.

c) Upon completion of the remediation works required by 6 and 7a 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.

8. No development shall commence until:

- c) a scheme of intrusive investigations has been carried out on site to establish the risks posed to the development by past shallow coal mining activity; and
- d) any remediation works and/or mitigation measures to address land instability arising from coal mining legacy, as may be necessary, have been implemented on site in full in order to ensure that the site is made safe and stable for the development proposed.

The intrusive site investigations and remedial works shall be carried out in accordance with authoritative UK guidance.

9. Prior to the occupation of the development, or it being taken into beneficial use, a signed statement or declaration prepared by a suitably competent person confirming that the site is, or has been made, safe and stable for the approved development shall be submitted to the Local Planning Authority for approval in writing. This document shall confirm the methods and findings of the intrusive site investigations and the completion of any remedial works and/or mitigation necessary to address the risks posed by past coal mining activity.

10. No development will take place until a detailed design and associated management and maintenance plan of the surface water drainage for the site, in accordance with the principles outlined within:

- d. ASC, Ltd. (Oct 2022), Flood Risk Assessment and Drainage Strategy Report, ref: SC128/FRA, including any subsequent amendments or updates as approved by the Flood Risk Management Team; and
- e. DEFRA's Non-statutory technical standards for sustainable drainage systems (March 2015),

have been submitted to and approved in writing by the Local Planning Authority.

11. No development will take place until a detailed assessment has been provided to and approved in writing by the Local Planning Authority, to demonstrate that the proposed destination for surface water accords with the drainage hierarchy as set out in paragraph 80 reference ID: 7-080-20150323 of the planning practice guidance.
12. Prior to commencement of the development, details indicating how additional surface water run-off from the site will be avoided during the construction phase must have been submitted to and approved in writing by Local Planning Authority. The applicant may be required to provide collection, balancing and/or settlement systems for these flows. The approved system shall be operating to the satisfaction of the Local Planning Authority, before the commencement of any works, which would lead to increased surface water run-off from site during the construction phase.
13. Prior to the first occupation of any dwelling hereby approved, a verification report carried out by a qualified drainage engineer must have been submitted to and approved in writing by the Local Planning Authority. This must demonstrate that the drainage system has been constructed as per the agreed scheme (or detail any minor variations), provide the details of any management company, and state the national grid reference of any key drainage elements (surface water attenuation devices/areas, flow restriction devices and outfalls).
14. No part of the development hereby permitted shall commence until an assessment of the risk to motorists using the M1 motorway as a result of glint and glare emitting from vehicle movements within the development or the proposed street lighting layout, has been carried out and any necessary mitigation scheme identified and has been approved in writing by the Local Planning Authority in consultation with Highways England. The approved mitigation scheme shall thereafter be constructed in accordance with the approved plans prior to first occupation of the development and maintained in perpetuity.
15. Prior to the occupation of any dwellings, street lighting and lighting for the proposed shared parking court serving plots 8 to 16, must have been provided and be made operational in accordance with details that must have previously been submitted to and approved in writing by the Local Planning Authority, that shall be maintained and operational, as approved, at all times thereafter.
16. The scheme of sound mitigation included in the submitted Noise Impact Assessment dated 4th February 2021, carried out by Environmental Noise Solutions must have been implemented as part of this development prior to the occupation of any dwelling and must be retained, as approved, at all times thereafter.
17. The development hereby approved shall not be occupied until the access, parking and turning facilities have been provided as shown on drawing P20- 1071 – DE\_001\_01 G.
18. The development hereby approved shall not 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.

19. Prior to the commencement of development, including preparatory site clearance, a detailed badger survey for any recently excavated badger setts on the site or within 30 metres of the site boundary should be undertaken. The results and any appropriate mitigation/licensing requirements shall be submitted to the Local Planning Authority for approval. Such approved measures must be implemented in full.
20. Due to the presence of Japanese knotweed on adjacent land, prior to the commencement of the development, including preparatory site clearance, a survey for any recent establishment of this species within the site or along the site boundary should be undertaken. The results and any appropriate mitigation requirements shall be submitted to the Local Planning Authority for approval. Such approved measures must be implemented in full.
21. No development shall take place (including demolition, ground works, vegetation clearance and movement of plant, machinery and materials) until a Biodiversity Construction Environmental Management Plan (CEMP: Biodiversity) has been submitted to and approved in writing by the local planning authority. The CEMP (Biodiversity) shall include the following:

- i) Risk assessment of potentially damaging construction activities.
- j) Identification of "biodiversity protection zones".
- k) Practical measures (both physical measures and sensitive working practices) to avoid or reduce impacts on protected species and sensitive habitats during construction.
- l) The location and timing of sensitive works to avoid harm to biodiversity features.
- m) The times during construction when specialist ecologists need to be present on site to oversee works.
- n) Responsible persons and lines of communication.
- o) The role and responsibilities on site of an ecological clerk of works (ECoW) or similarly competent person.
- p) Use of protective fences, exclusion barriers and warning signs.

The approved CEMP (Biodiversity) shall be adhered to and implemented throughout the construction period strictly in accordance with the approved details, unless otherwise agreed in writing by the Local Planning Authority.

22. Prior to building works commencing above foundation level, a Species Enhancement Plan shall be submitted to and approved in writing by the Local Planning Authority. Approved measures shall be implemented in full and maintained thereafter. The Plan shall clearly show positions, specifications and numbers of features, which will include (but are not limited to) the following:
  - 21 integrated swift bricks (universal nest box) at ratio of 1:1, in line with British Standard 42021:2022. Bricks should be integrated into the fabric of the dwellings.
  - 3 external or internal bat boxes
  - fencing gaps 130 mm x 130 mm to maintain connectivity for hedgehogs in all gardens.

23. A Landscape Enhancement and Management Plan (LEMP) shall be submitted to, and be approved in writing by, the LPA prior to the commencement of the development. The aim of the LEMP is to provide details for the creation, enhancement and management of habitats and species on the site post development. These should be in accordance with the proposals set out in the submitted Biodiversity Metric 4.0 prepared by Brindle and Green 2nd November 2023. The LEMP should combine both the ecology and landscape disciplines and shall be suitable to provide to the management body responsible for the site. It shall include the following: -

- k) Description and location of features to be retained, created, enhanced and managed, as per the approved biodiversity metric.
- l) Aims and objectives of management, in line with desired habitat conditions detailed in the metric.
- m) Appropriate management methods and practices to achieve aims and objectives.
- n) Prescriptions for management actions.
- o) Preparation of a work schedule (including a 30-year work plan capable of being rolled forward in perpetuity).
- p) Details of the body or organization responsible for implementation of the plan.
- q) A monitoring schedule to assess the success of the habitat creation and enhancement measures at intervals of 1, 2, 5, 10, 15, 20 and 30 years.
- r) Monitoring reports to be sent to the Council at each of the intervals above
- s) A set of remedial measures to be applied if conservation aims and objectives of the plan are not being met.
- t) Requirement for a statement of compliance upon completion of planting and enhancement works.

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

24. A Biodiversity Habitat Enhancement and Management Plan (BHEMP) shall be submitted to, and be approved in writing by, the LPA prior to the commencement of the development. The aim of the plan is to provide details for the creation, enhancement and management of habitats and species on the site post development, in accordance with the proposals set out in the Biodiversity Metric 4.0 prepared by Brindle and Green 2nd November 2023. The plan shall be suitable to provide to the management body responsible for the site. It shall include the following: -

- l) Description and location of features to be retained, created, enhanced and managed, as per the approved biodiversity metric.
- m) Details for the enhancement of modified grassland to lowland calcareous grassland including the results of soil analysis.
- n) Aims and objectives of management, in line with desired habitat conditions detailed in the metric.
- o) Appropriate management methods and practices to achieve aims and objectives.
- p) Prescriptions for management actions.

- q) Preparation of a work schedule (including a 30-year work plan capable of being rolled forward in perpetuity).
- r) Details of the body or organization responsible for implementation of the plan.
- s) A monitoring schedule to assess the success of the habitat creation and enhancement measures at intervals of 1, 2, 5, 10, 15, 20, 25 and 30 years.
- t) Monitoring reports to be sent to the Council at each of the intervals above.
- u) A set of remedial measures to be applied if conservation aims and objectives of the plan are not being met.
- v) Requirement for a statement of compliance upon completion of planting and enhancement works.

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

25. Prior to the installation of lighting fixtures, a detailed lighting strategy shall be submitted to and approved in writing by the LPA to safeguard bats and other nocturnal wildlife. This should provide details of the chosen luminaires, their locations and any mitigating features such as dimmers, PIR sensors and timers. Dependent on the scale of proposed lighting, a lux contour plan may be required to demonstrate acceptable levels of lightspill to any sensitive ecological zones/features. 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.

## **APPENDIX C – Revised condition 16**

16. The scheme of sound mitigation included in the submitted Noise Impact Assessment dated 4th February 2021, carried out by Environmental Noise Solutions must have been implemented as part of this development prior to the occupation of any dwelling and must be retained, as approved, at all times thereafter.