

PARISH Old Bolsover Parish

APPLICATION Change of use from grazing land to parking and manoeuvring area for adjacent traveller site including new vehicular access
LOCATION The Stables Featherbed Lane Bolsover Chesterfield
APPLICANT Mr D McAlister The Stables Featherbed Lane Bolsover Derbyshire S44 6JY
APPLICATION NO. 24/00503/FUL **FILE NO.** PP-13518340
CASE OFFICER Mrs Karen Wake
DATE RECEIVED 28th October 2024

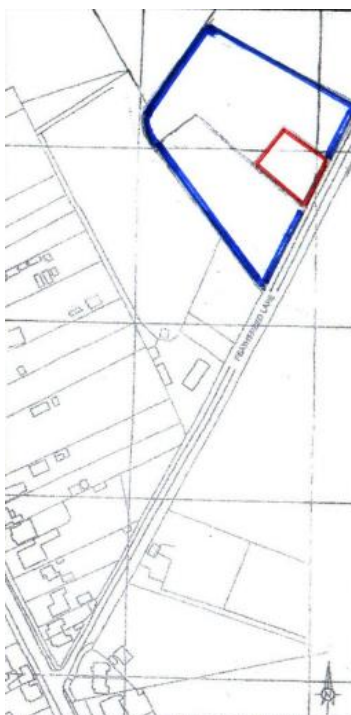
SUMMARY

This application has been referred to the Planning Committee by the Development Management and Land Charges Manager as the original application for the traveller site was determined by Committee.

In summary, the application is recommended for approval. The application is for the extension of the adjacent traveller site to provide parking and manoeuvring space.

The proposal is outside the development envelope within an area of open countryside. The proposed use is not compliant with Policy SS9 (Development in the Countryside) but contributes towards meeting an identified need for traveller sites within the district in compliance with Policy LC5 (Applications for Gypsies, Travellers and Travelling Show People.)

Site Location Plan



OFFICER REPORT ON APPLICATION NO. 24/00503/FUL

SITE & SURROUNDINGS

The site is a small area of land which forms part of a larger grassed field. The site has been hard surfaced and the land level raised in parts to create a level surface. On the southeast boundary of the site is a hedge approximately 3m high with two points of access into the site. Beyond that hedge is the access lane with fields beyond that. On the southwest boundary there is a hedge approximately 2m in height and mature trees with a bungalow and garden beyond. The remainder of the field, of which the site forms part, has mature hedges and trees around the boundaries with fields beyond. The site includes a new access onto

BACKGROUND

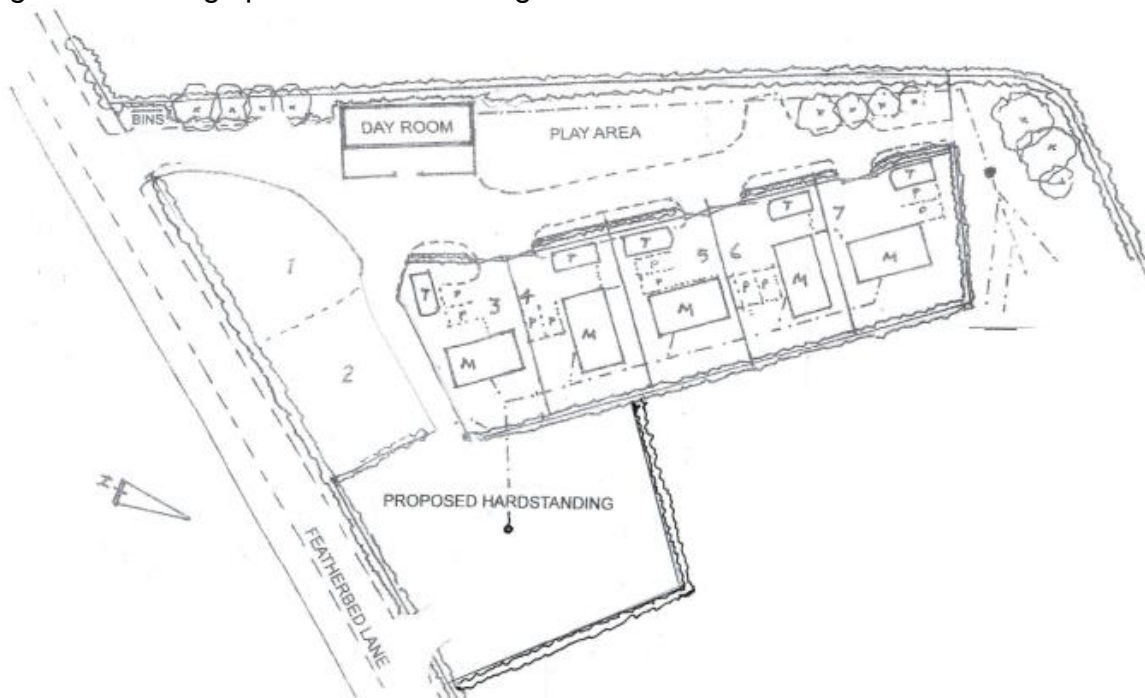
A stable block has previously been granted planning permission on the wider site, together with an extension to the stable block. The construction of the stable block was commenced but not completed. Instead, an amenity block was constructed.

A traveller site for seven pitches each of which may contain a mobile home, one touring caravan and two parking spaces has also been approved. These pitches are immediately to the southwest of this site.

The applicant has moved a mobile home and a touring caravan onto the site and is currently living there but the pitches have not yet been laid out in accordance with the approved plan. The access to the site and the site itself have been re-surfaced and utilities installed along the access lane.

PROPOSAL

The application is for the retention of the extended hard standing to provide additional parking/manoeuvring space for the existing traveller site.



AMENDMENTS

The block plan which shows the wider site has been amended to be in accordance with the previously approved plan.

Additional information provided relating to the intended use of the hardstanding which resulted in a change in the description of the application from storage to parking/manoeuvring area in connection with the existing traveller site.

EIA SCREENING OPINION

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

HISTORY

13/00276/FUL	Granted Conditionally	Erection of stables and hard standing
15/00052/FUL	Granted Conditionally	Erection of stable and tack room building including site entrance details, fence details, parking and turning area details, removal of hardcore and change of use to keeping of horses (application site area as clarified in e-mail dated 27th January 2015)
16/00472/FUL	Refused, allowed on appeal	Extension to stable building to provide ancillary facilities
22/00389/FUL	Granted Conditionally	Extension to Stable Building to Provide Ancillary Facilities
22/00425/FUL	Granted Conditionally	Traveller site with 3 pitches
23/00357/DISCON	Partially discharged	Discharge of Condition 6 (Septic tank & soakaway), 7 (Landscape and Biodiversity Enhancement and Management Plan), 8 (Boundary Treatment), 11 (Bin storage) of Planning Permission 22/00425/FUL
23/00526/FUL	Granted Conditionally	Retention of amenity building
23/00609/FUL	Granted Conditionally	Extension to Traveller site to create 4 additional pitches and revision of layout to Plot 3 of previously approved planning application 22/00425/FUL
24/00200/VAR	Refused	Removal/variation of condition 2 (full details of the septic tank and soakaway) of application 23/00526/FUL
24/00308/FUL	Refused	Erection of walls to site entrance

CONSULTATIONS

Parish Council:

No comments received.

Coal Authority:

No comments to make.

Environmental Health Officer:

No comments to make.

Derbyshire County Council Highway Authority:

On the basis that the proposal is ancillary to the adjacent Traveller site, it is not considered that the proposed parking and storage area will have a detrimental highway impact or any impact on the adjacent public footpath on Featherbed Lane. Based on the analysis of the information submitted and a review of Local and National policy the Highway Authority concludes that there would not be an unacceptable impact on Highway Safety or a severe impact on congestion. There are no justifiable grounds on which an objection could be maintained.

Derbyshire County Council Public Rights of Way:

No comments received.

Derbyshire County Council Gypsy Liaison Group:

No comments received.

Derbyshire Wildlife Trust:

If the Local Planning Authority are satisfied that the proposal is exempt from the statutory 10% net gain for biodiversity, then the main points would be to make sure that the perimeter hedgerow is retained and that any new lighting is reasonable. Suggests a lighting condition, if lighting is proposed as part of the proposal.

Planning Policy:

The proposal does not meet policies SS9 or SC5 of the Local Plan for Bolsover District.

However, it is considered that the decision in this case centres on whether the proposal would contribute to the 'provision of suitable accommodation' and whether the proposal would respect the form scale and character of the landscape through careful location, design and use of materials. In determining this detailed matter, the criteria within policy LC5:

Applications for Gypsies, Travellers and Travelling Showpeople relating to an acceptable living environment and adequate provision for parking and servicing and the now withdrawn Good Practice Guidance: Designing Gypsy and Traveller Sites may prove helpful.

If it is proposed to grant permission as an extension to the gypsy site, policy LC5 identifies that there should be a condition or agreement that ensures the future use of the site shall only be to meet the needs of the gypsy and traveller community.

PUBLICITY

Site notice and 13 neighbours notified. No comments received.

POLICY

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:

- SS9 Development in the Countryside
- LC5 Applications for Gypsies, Travellers and Travelling Showpeople
- SC2 Sustainable Design and Construction
- SC3 High Quality Development
- SC9 Biodiversity and Geodiversity
- SC11 Environmental Quality (Amenity)
- SC13 Water Quality
- SC14 Contaminated and Unstable Land

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 61-63 & 82: Delivering a sufficient supply of homes
- Paragraphs 187, 193 and 195: Conserving and enhancing the natural environment.
- Paragraphs 196 - 201: Ground conditions and pollution.

The NPPF at paragraph 3 identifies that the NPPF should be read as a whole including its footnotes and annexes.

Other

Planning Policy for Traveller Sites 2024

Gypsy and Traveller Accommodation Assessment 2023

Designing Gypsy and Traveller Sites Good Practice Guide

ASSESSMENT

Key issues

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

- The principle of the development
- The impact on the character of the countryside and the local area
- The impact on residential amenity
- Whether the development would be provided with a safe and suitable access
- Biodiversity
- Land stability

- Drainage

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

Principle

The starting point for decision-making is the policies set out in the development plan.

The spatial strategy for Bolsover is set out in Policy SS3: Spatial Strategy and Distribution of Development. It provides a hierarchy of settlements which have a development envelope defined on the Policies Map, within which urban forms of development will generally be acceptable in principle. The application site is not in any of these locations but is identified as being in the countryside.

Policy SS9: Development in the Countryside is a strategic policy that seeks to restrict urban forms of development in the countryside where these would not be appropriate or sustainable and not in accordance with the Local Plan's Spatial Strategy. It provides that development proposals in the countryside outside development envelopes will only be granted planning permission where it can be demonstrated that they fall within a number of specified categories. The proposal is not considered to fall within any of these categories. The Policy also emphasises that "in all cases, where a development is considered acceptable it will be required to respect the form scale and character of the landscape through careful location, design and use of materials."

Policy SC5: Change of Use and Conversion in the Countryside enables changes of use within the countryside provide they comply with the criteria set out in the Policy. The majority of these categories apply to buildings but criteria b provides for a change of use of land if it is in keeping with the original character of the land. The supporting text in paragraph 7.27 refers to an example of a change of use from agricultural land to a recreation ground or garden, which can affect the appearance and character of the area. It is considered that the hard surfacing of the land from what was previously an agricultural field would not be in keeping with the original character of the land.

Policies SS1 i), SC2 h) and SC3 j) set out a planning requirement for the consideration of the effect the proposed development has on the character and surrounding landscape. This approach is reflective of national policy which emphasises that all development should recognise the intrinsic character and beauty of the countryside. In this context, a determination is required as to whether the proposal would have a significant impact on the on the local countryside and landscape.

Planning application code ref. 23/00609/FUL granted permission for 4 additional pitches and revision of layout to Plot 3 of the previously approved planning application 22/00425/FUL. Policy LC5 Applications for Gypsies, Travellers and Travelling Showpeople identifies that proposals for new sites should be within the development envelopes or on other suitable development land as provided for within the Plan unless it can be shown to meet a need identified in an independent assessment. It was acknowledged in relation to application 23/00609/FUL that there was an unmet need against the Gypsy and Traveller Accommodation Assessment. Consequently, Policy LC5 provided a justification for looking at a countryside location under these circumstances (LC5 a). The monitoring of the development identifies that planning permissions 22/00425/FUL and 23/00609/FUL have been

implemented. The current application is not for additional plots and the evidence identifies that the Council has a five year supply of sites. However, Policy LC5 is a criteria based policy that considers applications for gypsies, and travellers. It includes that “applications for new sites and refurbishment of existing sites should meet the design guidelines as detailed in National Guidance, where possible and relevant.” The implication is that policy LC5 is also a consideration in relation to refurbishment of existing sites and not simply new sites. The amended description to a “parking and manoeuvring area for adjacent traveller site including new vehicular access” indicates that there may be issues in relation to the existing site which has planning permission. In this context, Policy LC5 identifies that in considering sites the development should result in an acceptable living environment for its residents (b) and has safe highway access with adequate provision for parking and servicing (e). The application extends beyond the existing site but would need to be assessed in this context.

Planning Policy for Traveller Sites (PPTS) sets out the Government's aims in this matter. This includes ensuring 'fair and equal treatment for travellers, in a way that facilitates the traditional nomadic way of life of travellers while respecting the interests of the settled community' and 'provision of suitable accommodation'. (Paragraph 4). What is meant by “suitable accommodation” is not defined within the PPTS, but the implication of the application is that there is insufficient parking space for the seven plots identified on the site. There isn't any specific current design guidance in relation to gypsy, travellers and showpeople. A Good Practice Guidance: Designing Gypsy and Traveller Sites was issued in 2008, but this was withdrawn by the Government on 1st September 2015. However, it appears that this remains the only design guidance specific to gypsy and traveller sites and, as such, it may be considered reasonable for this to provide information on whether there are issues in relation to the layout of the existing site.

PPTS Policy F: Mixed planning use traveller sites (paragraph 19) identifies that local planning authorities should consider, wherever possible, including traveller sites suitable for mixed for mixed residential and business uses, having regard to the safety and amenity of the occupants and neighbouring residents. However, the existing permission for the seven traveller's plots has a condition preventing business use of the site. This reflects that Featherbed Lane is an un-adopted road / track which also forms a public right of way (Footpath 44 Bolsover) and use of the site should be limited to a residential use as a trade or business operating from the site may be detrimental to highway / pedestrian safety.

Whilst the proposal would not be strictly in-keeping with the original character of the land, the 'provision of suitable accommodation' and whether the proposal would respect the form scale and character of the landscape through careful location, design and use of materials is a key consideration. In determining this matter, the criteria within policy LC5: Applications for Gypsies, Travellers and Travelling Showpeople relating to an acceptable living environment and adequate provision for parking and servicing and the now withdrawn Good Practice Guidance: Designing Gypsy and Traveller Sites need to be considered.

The approved pitches are relatively small. Although each pitch can accommodate 2 car parking spaces and a touring caravan. Travellers often need space for a pick-up truck, and/or trailer and these need more space and additional manoeuvring area. Also, there is no space for visitor parking within the approved Traveller site. Furthermore, the approved septic tank is located in this area and a hard-surface is required to enable access to the tank and manoeuvring space, clear of the highway, for servicing this by a relatively large vehicle. The

site is not a site for general open storage but is designed to provide additional parking and turning area for the existing traveller site and to ensure that there is no likelihood of vehicles blocking Featherbed Lane. On this basis, the proposal is considered to represent a re-furbishment/improvement to the existing site which is designed to provide more suitable accommodation for the occupiers of the site in accordance with policy LC5 of the adopted local plan, subject to a condition requiring no trade or business be undertaken from the site and that the area is only used in connection with the existing traveller site, to ensure the future use of the site shall only be to meet the needs of the gypsy and traveller community it serves. Without such conditions the proposal would be considered unacceptable in principle. With the inclusion of such conditions Policy LC5 provides a justification for the development in the countryside which means that the proposal may be considered acceptable in principle subject to its impact on the rural character of the area, residential amenity, highway safety and biodiversity.

The impact on the character of the countryside and the local area

The site is within an area of open countryside but is adjacent to residential development and existing equestrian developments in the form of stables and barns along Featherbed Lane. The proposed hardsurfacing to provide an additional parking/turning area is set at a lower level than the existing traveller pitches. The proposal will extend the amount of built development on site, but the area of land is modest, the proposal is well related to the main site and any vehicles parked on site will be seen against the existing use of the site and contained by existing landscape features. The overall development is of a scale which is not considered to materially harm the character of the area, given that this site is adjacent to the edge of the development envelope and forms a slight addition to the adjacent built form. In addition, the proposal is not considered to harm the services and infrastructure provided by the adjacent settlement in accordance with part f) of Policy LC5.

The proposal utilises the existing access and provides an additional access onto the lane. Other than at the point of access, the site is partially screened from general views by the hedgerow to the site frontage and around the wider field within which the site sits. The proposal is therefore not considered to significantly detract from the character of the area and can be sufficiently enclosed by appropriate boundary treatment to prevent encroachment into adjoining land and this can be required by condition.

There is an amenity block on site which has already been constructed but this is the subject of a separate planning application. There are no permanent buildings proposed as part of this application and if subsequent permanent structures are proposed at a later date they will need to be considered by further planning applications which would be considered on their individual merits. It is however considered necessary to restrict the use of the parking area to be ancillary to the existing traveller site to minimise the impact on the rural character of the area.

It is also considered necessary to require some form of boundary treatment to be provided to prevent the proposed use spreading into the wider field. Subject to such conditions, the proposal is considered to meet the requirements of part e) of Policy LC5 of the Local Plan for Bolsover District and is not considered that there will be undue harm to the rural character of the area.

Residential Amenity

The site is set away from adjacent dwellings with partial screening from the hedgerows around the site. The applicant's agent has advised that the size of the pitches previously approved are too small to accommodate the needs of the occupiers whilst allowing space for visitors, truck and trailer manoeuvring etc on site. The approval of the enlarged parking/manoeuvring area on site is therefore considered to facilitate the amenity needs of the travellers who will occupy the site without causing harm to the privacy and amenity of adjacent residents. The proposal is likely to have resulted in some increase in noise and disturbance for residents of adjacent dwellings during the construction phase of the development when the hard surfacing was being laid etc. but once this was completed the proposal is considered to be a use which is compatible with the existing residential uses adjacent to the site. It is however considered necessary to restrict the use of the site to purposes that are ancillary to the approved traveller pitches. This is to prevent separate occupation of the site for parking/vehicle storage independent of the traveller site which would potentially result in additional noise and disturbance for residents of adjacent dwellings, the impact of which would not have been considered as part of this application.

It is also considered reasonable to restrict the use of the site to prevent any trade or business being carried out from the site as this may also result in noise and disturbance for residents of adjacent dwellings over and above what would be reasonable expected adjacent to a residential area. Subject to the suggested conditions the proposal is considered to meet the requirements of criteria b) and g) of Policy LC5 as well as Policies SC3 and SC11 in terms of its impact on the amenity of existing and future occupiers.

Access/Highways

The site utilises an existing access to the field which is served off Featherbed Lane and includes an additional access which has been provided further to the north of the existing access, also onto Featherbed Lane.

Featherbed Lane is an un-adopted road/track which also makes up part of a public right of way (Footpath 44 Bolsover). Featherbed Lane is served by an existing vehicular access off Shuttlewood Road. The proposal is to provide additional parking and manoeuvring for the existing traveller site and will allow vehicles to park and turn clear of Featherbed Lane. Subject to a condition requiring the use of the site to be ancillary to the existing traveller site use and no trade or business being carried out on the site, the proposal is not considered to result in a material increase in vehicle movements to and from the site.

A public footpath runs along Featherbed Lane (Bolsover Footpath No. 44). The DCC Right of Way Officer has not objected to the proposal.

The Highway Authority have confirmed that, subject to the above condition they have no objections to the proposal in highway safety terms and on this basis the proposal is not considered to be detrimental to highway or pedestrian safety in accordance with Policies SC3 and ITCR3 of the Local Plan for Bolsover District.

Ecology and Biodiversity Considerations

The proposal results in a larger area of hardstanding than previously approved on an area which has previously been part of a grass field. The proposal also includes the retention of an

additional access which resulted in the removal of a section of hedgerow. The proposal has therefore impacted on habitats and biodiversity.

The application is retrospective and is therefore exempt from the statutory 10% biodiversity net gain requirement. However, Local Plan Policy SC9 requires developments to result in no net loss for biodiversity. A biodiversity net gain assessment was provided as part of the previous application on the site. An additional assessment hasn't been provided as part of this application and the current proposal includes additional hard surfacing of the field than was proposed in the original application. However, the report previously submitted assessed the onsite grassland to be 'modified' grassland and not of any significant botanical interest. The small sites metric submitted with the original application predicted a small net gain of 0.01 habitat unit (4.33%) and 0.12 hedgerow units (18.81%), which was to be delivered through sowing a flower-rich seed mix in the adjacent field to create 'other neutral grassland' and a species-rich native hedge along the northern boundary of the application area. The proposed flower-rich seed mix sowed area previously approved is unaffected by this proposal but the proposed hedge cannot be provided in full if the current application is approved. The hedge could be extended around the area of hardstanding which forms part of this application, and this could be required by such a condition. Subject to such a condition, the biodiversity enhancement measures previously approved could be provided (albeit on an amended line) and the loss of the hedgerow where the new access has been provided could be off set. Subject to such a condition, the proposal is not considered to result in a net loss for biodiversity and complies with the requirements of Policy SC9 of the Local Plan for Bolsover District.

Key Biodiversity Information	
Reason if exempt from the biodiversity gain plan condition	Retrospective application

Land Stability (Mining Legacy)

Part of the site falls within the defined Development High Risk Area. The Coal Authority records indicate that within that part of the application site and surrounding area there are coal mining features and hazards, which should be considered as part of development proposals. The Coal Authority's general approach where development is proposed within the Development High Risk Area is to require the submission of a Coal Mining Risk Assessment to support the planning application.

However, in this case, the specific part of the site this development relates to falls outside the defined Development High Risk Area. Therefore, the Coal Authority did not consider that a Coal Mining Risk Assessment was necessary for this proposal and did not object to the application.

On this basis, a note advising the applicant that the site lies within a coal mining area which may contain unrecorded coal mining related hazards and if any coal mining feature is encountered during development it should be reported immediately to the Coal Authority is considered sufficient. Subject to such a note the proposal is not considered to result in issues for stability on or adjacent to the site and is considered to meet the requirements of Policy SC14 of the Local Plan for Bolsover District.

Drainage

The site is within Flood Zone 1, which has a low probability of flooding. The application forms states that the surface water would be disposed of via a soakaway and there is no foul proposed as this has already been approved as part of the earlier planning application for the pitches on the site. On this basis, the proposal is considered to meet the requirements of Policy SC13 of the Local Plan for Bolsover District.

CONCLUSION / PLANNING BALANCE

While the development does not comply with Policy SC5 of the Local Plan in terms of the use being in keeping with the original character of the land, in view of the requirement of Policy LC5 to provide an acceptable living environment for its residents (b) to have safe highway access with adequate provision for parking and servicing (e) it is considered that Paragraph 63 of the Framework and Policy LC5 of the Local Plan provides justification for approving the development in this countryside location.

The proposal meets the criteria set out in Policy LC5 and the proposal is not considered to be materially harmful to the rural character of the area or to residential amenity or highway safety, subject to the conditions suggested in the above assessment.

RECOMMENDATION

The current application be APPROVED subject to the following conditions:

1. The development hereby approved shall be used for parking and manoeuvring of vehicles and equipment associated with the occupation of the adjacent traveller pitches identified in blue on the location plan submitted with the application only. There shall be no trade or business carried out from the site and it shall not be used as a separate traveller pitch.
2. Before the parking/manoeuvring area hereby approved is first brought into use full details of a hedge to be planted around the edge of the site, must be submitted to and approved in writing by the Local Planning Authority. The hedge must be planted in accordance with the approved details in the first available planting season after the details are approved and must be maintained as such thereafter.
3. Notwithstanding the provisions of Classes A and B of Part 2 of Schedule 2, Article 3 of the Town and Country Planning (General Permitted Development) Order 2015 (or any Order revoking and re-enacting that Order with or without modification), no new accesses or boundary treatments must be installed on site unless authorised by an express grant of planning permission.
4. Notwithstanding the provisions of Article 3(1) of the Town and Country Planning (General Permitted Development) Order 2015, (or any Order revoking and re-enacting that Order) no development otherwise permitted by Part 5 Class B of the Order must be erected/constructed/undertaken without first obtaining planning permission.
5. There must be no external lighting installed on the site without the prior submission of a detailed lighting strategy for the site having been first submitted to and approved in writing by the Local Planning Authority.

Advisory notes

1. Public Right of Way, Bolsover Footpath No.44, as shown on the Derbyshire Definitive Map, must remain open, unobstructed and on its legal alignment at all times. There should be no disturbance to the surface of the route without prior authorisation from the Rights of Way Inspector for the area. Consideration should be given to members of the public using the route at all times. A temporary closure of the route may be granted to facilitate public safety subject to certain conditions. Further information may be obtained by contacting the Rights of Way Section – ETE.PROW@derbyshire.gov.uk. If a structure is to be erected adjacent to the right of way, it should be installed within the site boundary so that the width of the right of way is not encroached upon.
2. The applicant is advised that the site lies within a coal mining area which may contain unrecorded coal mining related hazards and if any coal mining feature is encountered during development it should be reported immediately to the Coal Authority

Statement of Decision Process

Officers have worked positively and pro-actively with the applicant to address issues raised during the consideration of the application. The proposal has been considered against the

policies and guidelines adopted by the Council and the decision has been taken in accordance with the guidelines of the Framework.

Equalities Statement

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

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

However, if these protected characteristics were not taken into account and adequate standard of accommodation wasn’t required in accordance with Policy LC5 of the Local Plan for Bolsover District then it may be considered that such regard had not been exercised.

Human Rights Statement

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

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