

**PARISH** Clowne Parish

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**APPLICATION** Erection of 17 no. dwellings and associated infrastructure  
**LOCATION** Land West Of Homelea and Tamarisk Mansfield Road Clowne  
**APPLICANT** Woodall Homes  
**APPLICATION NO.** 20/00209/FUL **FILE NO.** PP-08728151  
**CASE OFFICER** Mr Peter Sawdon  
**DATE RECEIVED** 26th May 2020

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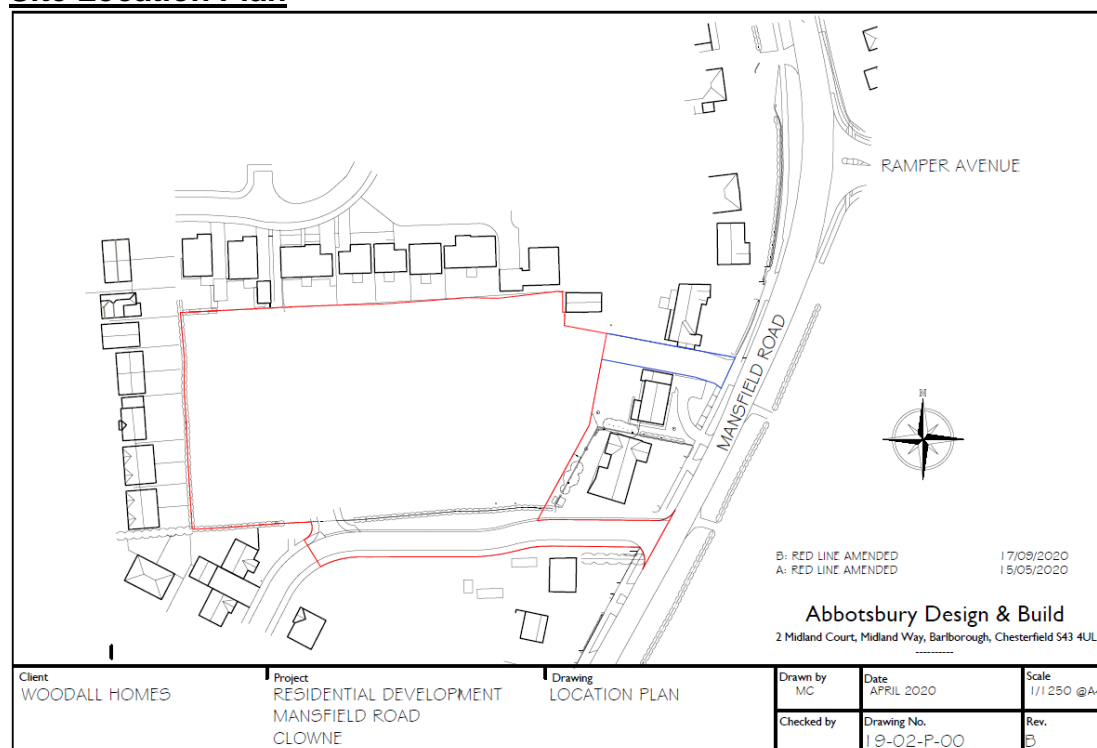
### SUMMARY

This application has been referred to the Planning Committee by Councillor Allan Bailey on the following ground: -

- loss of light to neighbouring properties
- overlooking loss of privacy to neighbouring properties
- layout and density of building lack of adequate parking facilities for residents and visitors
- increased noise pollution due to layout of development including loss of mature trees/hedges with negative on local ecosystem
- inappropriate design of proposed building in relation to surrounding houses

In summary, the application is recommended for approval. This is an allocated site that already benefits from an extant planning permission; the proposal is considered to represent sustainable development and accord with policy requirements. Sufficient contributions are being offered to meet the infrastructure requirements of the development.

### Site Location Plan



# OFFICER REPORT ON APPLICATION NO. 20/00209/FUL

## SITE & SURROUNDINGS

The application site is located on the western side of Mansfield Road at Clowne. It is a fairly level site located at the rear of 2 houses and 2 bungalows which are on the road frontage. It is currently an open field surrounded by hedges on three sides, with low boundary treatments to the east that forms the rear boundary to dwellings fronting Mansfield Road. The site is bounded to all sides by other residential developments.

## PROPOSAL

This is a full application for the erection of 17 dwellings comprising mainly detached bungalows and two storey dwellings, along with a single pair of semi-detached houses. All of the dwellings would be accessed from a single cul-de-sac that is proposed from a new junction to the, as yet un-adopted, access road serving the 'High Ash Farm' development site to the south. A Swale for drainage is proposed on the eastern site boundary that would be incorporated in a small area of incidental open space. A footpath connection is proposed to the development site to the north that would connect with the link path that has already been constructed on that development in order to provide permeability and connection around and between the developments. Hedgerows are proposed to be retained on the site perimeters except where these need to be removed to form vehicular and pedestrian access to the site.

The plan below shows the latest amended scheme.



## Supporting Documents

- Plans including location, layout, landscape, site sections, vehicle traffic layout, drainage strategy, house types, and garage designs
- Arboricultural Assessment
- Ecological Appraisal
- Flood Risk Assessment
- Highway Technical Note
- Remediation Implementation Plan
- Materials Schedule
- Phase 1 and Phase 2 Geo-Technical and Geo-Environmental reports
- Design and Access Statement

## AMENDMENTS

Amended plans and documents received 06/08/2020: -

- 19-02-P-01 Amended Site Plan Rev. E (Now superseded)
- Amended house and garage types ref. 19-02-P-02 Rev. B, 19-02-P-04 Rev. A, 19-02-P-05 Rev. B, 19-02-P-011 Rev. B, 19-02-P-12 Rev. B, 19-02-P-16 Rev. C, 19-02-P-20
- Amended Site Sections 19-02-P-17 Rev. E
- Amended Materials Schedule 19-02-P-18 Rev. B
- Amended Landscape Plan 19-02-P-19 Rev. B
- Infiltration Tests
- Response to Derbyshire Wildlife Trust

12/08/2020 - Confirmation of agreement to payment of S106 contributions and that no soil imports are proposed.

Amended plans received 14/09/2020: -

- 19-02-P-01 Amended Site Plan Rev. E (Now superseded)
- Amended house and garage types ref. 19-02-W-03 Rev. A, 19-02-W-04 Rev. B, 19-02-W-05 Rev. B, 19-02-W-06 Rev. B, 19-02-W-07 Rev. B, 19-02-W-08 Rev. B, 19-02-W-09 Rev. B, 19-02-W-10 Rev. B, 19-02-W-12 Rev. B, 19-02-W-13 Rev. B, 19-02-W-14 Rev. B, 19-02-W-15 Rev. B, 19-02-W-16 Rev. B, 19-02-W-17 Rev. D
- Amended Materials Schedule 19-02-W-18 Rev. D
- Amended Landscape Plan 19-02-W-19 Rev. B
- Sections and notes 19-02-W-20

Amended plans and information responding to the Flood and Highways Authorities received 14/09/2020: -

- 19-02-P-01 Amended Site Plan Rev. H (now superseded)
- 19-02-P06 Rev. C (Plot 5) revised house type
- 19-02-P02 Rev. C (Plot 1) revised house type
- 45073\_015B - Plot Drainage-Layout
- Highway Drainage calculations
- Plot soakaway calculations
- Sustainability Statement

Amended plan received 16/09/2020: -

- 19-02-P-01 Amended Site Plan Rev. H (N.B. This plan only corrects the reference number that had not been properly amended on the version submitted on 14/09/2020)

Amended plans and information received 17/09/2020: -

- 45073-002B - Revised Vehicle Tracking Plan
- 19-02-P-01 REV J - Revised Site Layout Plan
- 19-02-P-00 REV.B - Revised Location Plan
- Revised ownership certificates
- Confirmation that road will be private an un-adopted highway.

## **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**

15/00604/OUT	Granted Conditionally	Proposed residential development with all matters except access reserved for later approval.
17/00392/FUL	Granted Conditionally	Proposed residential development for 15 dwellings with garaging
18/00518/DISCON	Partially Discharged	Application for approval of details reserved by conditions 2, 3, 4, 5, 6, 7, 8, 10, 13, 14, 15 and 16 of planning permission 17/00392/FUL

## **CONSULTATIONS**

Bolsover District Council Drainage Engineer 18/06/2020

1. Subject to acceptance of the SuDS design by DCC (LLFA), we must ensure the developer submits an Operation and Maintenance Plan (in accordance with section 32 of the SuDS Manual) which provides details of the arrangements for the lifetime management and maintenance of the SuDS features together with contact details (a copy to be kept by Engineering Services).
2. The developer must ensure any temporary drainage arrangements during construction gives due consideration to the prevention of surface water runoff onto the public highway and neighbouring properties.

Derbyshire County Council Highways 8/07/2020 and 28/08/2020

Does not consider that there is an evidence base to suggest that the conclusion that the development would not have a significant adverse effect on capacity or safety of the local road network is incorrect and conditions are recommended. However, additional information is still needed to address waste collection (turning areas and bin collection points), amendments to the detailed layout of the access and information on requiring the necessary

approval to carry out the highway works.

Derbyshire County Council Strategic Planning 24/06/2020

Request for education contribution of £17,176.59 for the provision of 1 infant pupil at Clowne Infant and Nursery School towards improving education facilities. Also requests the inclusion of an advisory note to encourage the provision of high speed broadband within the development.

Derbyshire County Council Flood Team (LLFA) 06/07/2020 and 10/09/2020

The LLFA has been re-consulted following the submission of additional technical information to address comments made in their two earlier responses and the reply of that Authority is awaited; an update on this issue will be provided to the Planning Committee when it meets.

Derbyshire Wildlife Trust 22/07/2020 and 11/09/2020

Following the submission of additional information to address initial comments, the Trust recommends the inclusion of conditions to ensure the best outcome for biodiversity, including the use of sympathetic landscaping of native shrubs and trees, protection for the retained trees and hedges, and suitable protection for flora and fauna through the construction period through a construction environmental management plan.

Environmental Protection Officer 06/07/2020

No objections and no conditions sought (this has been verbally confirmed following the receipt of additional information that no soils were to be imported as part of the development).

Leisure Services 22/06/2020

Advises on the amount of land required and/or contributions necessary to ensure compliance with adopted policy. Also recommends that the proposed footpath link between plot 5 and plot 6 should be at least 2.5m wide and surfaced with tarmac to allow pedestrian and cycle access to Fallowfield and future foot / cycle links to the north (Clowne) and south (Bolsover).

NHS Derby and Derbyshire Clinical Commissioning Group 10/06/2020

No comments to make on this application

Severn Trent Water 18/06/2020

No objections - Suggest informative notes.

Urban Design 17/08/2020 and 17/08/2020

The applicants have submitted further amendments to seek to address some outstanding concerns raised by the Urban Design Officer following earlier changes that were made to the scheme; these will be discussed in more detail in the report and all but one of the issues raised has been addressed.

**PUBLICITY**

Initial publicity was carried out by site notice, press advert and 29 neighbour letters resulting in 14 letters of representation.

A second round of publicity was undertaken following the receipt of revisions resulting in the receipt of further letters from or on behalf of 6 of the residents that had also commented initially.

At the time of writing this report, further neighbour notification had recently been undertaken following the receipt of further revisions; any further representations received as a result of that consultation will be provided as an update to the Committee meeting.

The following provides a summary of the issues raised in those representations issues: -

### Principle

More and more housing being built in that area of Clowne, worry about the more houses being accepted to be built in that area will take over country side/walks in that area. Exceeds local plan allocation: 'is expected to deliver 15 dwellings'.

### Design

Does not satisfy Policy SC3: High Quality Development and the Council's Design Guide 'Successful Places'. It does not recognise and enhance the townscape, landscape character and local distinctiveness; no evidence this is achieved beyond what already exists as an undeveloped site within the proposals. The design is out of context and does not enhance the quality of existing settlements and townscapes. To meet national and local planning policy developments should create places of character based upon an appreciation of the site and surrounding area, responding positively to its natural and built context, this is not the case with this proposal.

### On-Site Open Space

The Fallowfield green area being used/abused by other residents other than from that estate who pay a yearly fee for the upkeep of these areas; the development should be provided with its own space. No such space is provided for by the submitted application. Could result in increased costs for existing residents.

In respect of revisions, the total lack of green space on the new development has not been considered at all as I do not regard the only green area which is a swale to be an amenity space. One letter quotes guidance and policy but this is not BDC policy (reference to UDC policy 50(i)). Covid 19 is evidencing the importance of public amenity space as an amenity and for mental and physical health.

### Highway Safety

Traffic is very busy on Mansfield Road already and speeding problems daily on there. Will increase traffic volume in immediate area by at least 40%. Will lead to more accidents on Mansfield Road, especially on the bend nearer to the Ramper Avenue junction. Will not meet DCC Local Transport Plan policy 'contributing to better safety'. Concerned with capacity and suitability of the existing access road. Insufficient parking; example where a 4 bed house has four cars. Whilst parking shown on plots, no additional visitor parking is provided for and on-street parking will be difficult, so parking may overflow onto the adjoining estate resulting in inconvenience for existing residents. Plans to show turning of large vehicles do not show any parked cars. Concerned at emergency access with only one way in and out. Current legislation states that there has to be clear access for emergency vehicles only. Does this then mean that the access road currently being created by Ben Bailey joining their estate to Penny Bun Lane on "The Edge" is going to be for these vehicles only, in which case what measures will be taken to prevent any other vehicle accessing it?

### Infrastructure

There is a lot of houses being built all over Clowne and nearby areas and facilities like schools, doctors, shops and facilities for children activities become overwhelmed.

### Amenity

Proposed houses will directly overlook rear garden and windows. Dwellings to the rear will need to be single storey to avoid the breach of privacy. Developments have been denied in the past because of proximity to other developments.

Extra traffic along 'Ben Bailey' will result in traffic, noise and parking issues during and after development.

Concerns at relationship of a two storey property on plot 5, especially with raised ground levels that are also proposed (*comment: subsequently changed to a bungalow*); suggestions that this could be a bungalow or left as an area of open space.

Note later change to a bungalow for plot 5, but raised ground level will still be an issue and there will be an overbearing impact. Submission of a sun study to shows this will still cast significant shadows during the spring/autumn equinox periods and will significantly impact sunlight during winter. Windows in side need to be obscure glass and restricted in terms of openings. Should be changed further by removing garage and moving bungalow further away from the boundary.

Development will extend issues with disturbance that residents have already endured for a prolonged period due to existing developments in the area. Likely to cause loss of amenity as a result of construction traffic, light, noise, dust, odour and vibration.

Concern about loss of hedgerows and trees on what will become the shared boundary with new dwellings.

Now hedgerow is being retained, what will be put in place at the bottom of gardens? There is no mention of fencing on the rear boundaries; will it be wire fencing like on the Avant site?

### Crime Prevention

Proposed path is poorly surveyed. An increase in connectivity could lead to anti-social behaviour and crime due to the outdated connectivity principles in the local plan that support and promote anti-social behaviour and opportunist theft as there is no reason reduce any further the privacy enjoyed by Sterry Farm residents through the introduction of the connecting pathway between numbers 47 and 49 Fallowfield to this development and the much larger Ben Bailey development. Such anti-social behaviour has occurred on the path leading from the Sterry House development to the Avant development to the north that has included dog fouling issues. One neighbour has now installed obscured glass so no longer surveys that path; this has to be considered as a failed design feature. Will make residents feel vulnerable and insecure. Reference is made in some letters to an aggressive burglary where the residents were threatened with a hammer and a knife in order to steal their car on the evening of 18th June 2020. The objections to the path are supported by the government document Safer Places: The Planning System and Crime Prevention.

## Biodiversity

The proposals will result in the loss of an old orchard and subsequently the loss of an important habitat for many plants, bats, birds and other wildlife. Why are most of the “low grade” trees being removed when they are perfectly healthy? Bats have been seen flying over the area. This will also be a loss of an amenity to the surrounding community who enjoy observing the wildlife and vista of the orchard and mature trees is unacceptable. It would be environmentally friendly to restore this area as a community amenity in line with the Local Plan.

Plans show removal of hedgerows and fences erected which was not allowed on the Avant development.

The hedgerow on the boundary with existing dwellings should not be removed. Landscape plan incorrectly shows timber fencing on adjoining plots; there is a green wire fence that was erected in front of a deep hedge because Avant Homes were told that the removal of the hedge was not acceptable. Concerned that hedge might conveniently disappear.

Note retention of hedge but why is it proposed to be cut back when Avant were made to retain the full hedge; this does not take into account the impact on wildlife and conservation.

## Drainage

Concerned with capacity of the drains to remove excess water and sewage and the effect of this on surrounding properties.

*The above is a summary of objections received and the full details of all representations received are available to view on the Council website.*

## **POLICY**

### Local Plan for Bolsover District (“the adopted Local Plan”)

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

- SS1: Sustainable Development
- SS3: Spatial Strategy and Scale of Development
- LC1: Housing Allocations
- LC3: Type and Mix of Housing
- SC1: Development within the Development Envelope
- SC2: Sustainable Design and Construction
- SC3: High Quality Development
- SC4: Comprehensive 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



- ITCR5: Green Space and Play Provision
- ITCR7: Playing Pitches
- ITCR10: Supporting Sustainable Transport Patterns
- ITCR11: Parking Provision
- I11 Plan Delivery and the Role of Developer Contributions

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

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

*Paragraphs 7-10: Achieving sustainable development*

*Paragraphs 47-48: Determining applications*

*Paragraphs 54-57: Planning conditions and obligations*

*Paragraphs 91, 92 and 94: Promoting healthy and safe communities*

*Paragraphs 96 and 98: Open space and recreation*

*Paragraphs 108-111: Promoting sustainable transport*

*Paragraph 118: Making effective use of land*

*Paragraphs 124-128: Achieving well-designed places*

*Paragraph 153: Meeting the challenge of climate change*

*Paragraph 165: Sustainable Drainage Systems*

*Paragraphs 170 and 175: Conserving and enhancing the natural environment*

*Paragraphs 178-181: 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**

### **Issues**

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

- the principle of the development;
- highway safety considerations, including whether the development would be provided with a safe and suitable access and the impact of the development on the local road network;
- landscape and visual impact of the development;
- whether the development has a suitable design and layout and provides sufficient residential amenity;
- the ecology impacts of the development;
- potential contamination risks;
- drainage requirements;
- impacts on infrastructure, including recreation and leisure, education and health facilities; and
- heritage and archaeology impacts.

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

### **Principle**

This site is allocated by virtue of Policy LC1: Housing Allocations for housing development, as well as having a history of planning permissions for its development for housing including an extant planning permission.

Policy LC1 states that in order to achieve sustainable development, the Local Planning Authority will impose conditions on planning permissions or seek to enter into a planning obligation to secure the expected requirements for each site as contained in the pre-amble to the policy and elsewhere in the plan.

The pre-amble to that policy states that the site is expected to contribute to increasing the capacity of local schools, which the developer has agreed to (see later detailed discussion on this and other issues).

A sustainability statement has been provided to demonstrate compliance with the requirements of policy SS1: Sustainable Development.

In view of the above it is considered that the principle of housing development on the site both established and acceptable in principle.

### **Access**

The principle of dwellings on this site is established and whilst 2 more dwellings are proposed over the earlier planning permission this is not considered material in terms of overall traffic levels and highway capacity in the area.

The re-use of the existing approved access instead of the formation of a new access (as is approved by the extant planning permission) is preferable in highway safety terms as this reduces the number of junctions that would be formed onto Mansfield Road. The existing junction to be used onto Mansfield Road has already been formed and is provided with appropriate visibility splays that accord with highway safety guidelines.

With one exception, all plots either meet or exceed normal parking requirements as included in the Consultation Draft Parking Standards Supplementary Planning Document. Plot 3 is only provided with two parking spaces; as a four bedroom dwelling ideally this should be provided with three spaces. Notwithstanding this minor shortfall it is considered that the overall parking provision is appropriate for the scale of the development and it is not considered that this would lead to unsatisfactory impacts on health and safety or unacceptable impacts upon amenity.

The Highway Authority has advised that it does not consider that there is an evidence base to suggest that the conclusion that the development would not have a significant adverse effect on capacity or safety of the local road network is incorrect.

The Highway Authority has sought clarification on minor layout and technical issues, but has recommended conditions to attach to any planning permission should this Council be minded to grant permission.

Whilst these minor design issues are still not fully resolved, these are technical details that are resolvable and work is progressing to do this. It is considered that these issues are not fundamental to the overall outcome of the highway safety considerations of the planning application. An update on this issue will be provided to planning committee.

The comments received in representations have been considered, but for the reasons outlined above, subject to satisfactorily resolving the minor technical issues referred to, the proposal is considered to be acceptable in respect of highway safety considerations.

An issue raised about access to Penny Bun Lane on the Avant site is raised but this is not material to the consideration of this case. For information however, the planning requirements of the two adjoining planning permissions are that a through vehicular access route should be provided between those developments, although the road layouts are designed in a way where they would still function satisfactorily if that were not delivered.

**Landscape and visual impact of the proposed development**

Whilst this is presently an open field with hedged boundaries it does not form part of any distinctive or sensitive landscape. It is not important to features or views or other particular qualities and such the development is considered to accord with Policy SC8 in this regard. Given the site is bounded by existing housing developments the proposal will assimilate within those in terms of its general landscape and wider visual impacts.

**Design, Layout and Residential Amenity**



Representations refer to the number of dwellings in the context of the Local Plan. Whilst that plan states that this site is expected to deliver 15 dwellings, this is not a policy requirement and consideration must be given to whether 17 dwellings is acceptable on its individual design merits.

The applicant states that 17 dwellings represents only a modest increase in the amount of development and this equates to only 20dph, stating that in the context of the NPPF which advocates the efficient use of land, that their proposal strikes an appropriate balance. Given the rural fringe of the area and the constraints present on this site, a lower density scheme could be considered appropriate in principle, but density has to be considered with other factors in terms of deciding whether a development is well designed or not.

The mixture of 3 and 4 bedroom houses and bungalows proposed is considered appropriate in this location and is considered to be generally reflective of the surrounding area. It is acknowledged that the initial layout did not relate well to its surroundings in terms of the earlier distribution and location of the proposed two storey dwellings that were close to bungalows on adjoining sites, but this has been suitably addressed through submitted amendments.

Whilst a materials schedule has been submitted, it has not been possible to fully consider these based on available on-line information and the agent has verbally agreed that a condition requiring the later submission and approval of materials be included; this is to ensure that the materials are appropriate to the location.

The amended layout meets the Council's adopted design guide 'Successful Places' in terms of separation distances, although conditions will need to be included to control the glazing and method of opening of side windows in plot 5; despite this plot being a bungalow, the elevated levels of that site will enable unacceptable overlooking without this control.

Specific detailed representations have been made in respect of the impacts of the dwelling on plot 5 to the bungalow to the north and in this respect the applicants have responded positively to requests for amendments to that plot. There are increased ground levels at this corner of the site that are needed to facilitate appropriate site drainage that is not unusual or unacceptable. In order to minimise the impacts on the adjoining dwelling, plot 5 was initially amended from a house to a bungalow, but this has been further amended to incorporate a hipped roof to that bungalow in order to minimise the bulk and mass of that building; the revisions meet the Council's guidelines contained in the Successful Places guidelines and will ensure that a reasonable level of privacy and amenity is maintained for existing and proposed residents. The removal of permitted development rights for extensions to that dwelling is also recommended to maintain control over any future extensions to that dwelling that otherwise pose a risk to the future amenity of occupiers of the neighbouring dwelling to the north.

The inclusion of the footpath that ties in with the footpath from Fallowfield and connects through to High Ash Farm to the south is considered to be necessary as this would complete the footpath route between these three sites and contribute to the permeability and sustainability of these sites; the objections relating to the inclusion of this footpath are noted but the connectivity of the various individual permissions in this area is seen as a key design component and it is considered that this should be maintained. The layout has been designed so that all three proposed dwellings alongside that path directly overlook it and should provide

a safe route for pedestrians; this is considered to accord with the guidance contained in the 'Safer Places' design document referred to in representations. It is recommended that permitted development be removed for the erection of any additional fencing to that proposed between the dwellings adjoining that footpath and the path itself to maintain surveillance. A condition is also proposed to ensure that the footpath connection is implemented.

Initial iterations of the layout related poorly to existing and proposed roads due to blank side facing elevations, but the applicants have introduced design amendments as suggested by the Urban Design Officer and the scheme is now considered to relate positively towards street frontages.

The Urban Design Officer has raised concern about the location and orientation of Plot 1 that is restricted by the presence of a retained trees on the boundary of that plot close to the site entrance. He is concerned that this tree will dominate the amenity space of this plot which will have a negative impact on the amenity of the occupants and place pressure on the tree to be removed in the future; on this basis he recommends that Plot 1 should be removed from the scheme and be incorporated as part of the front garden of Plot 2 which would improve the relationship of the development to the entrance and result in a more attractive and welcoming sense of arrival into the site.

The applicants have rejected the suggestion to remove plot 1, stating that "established trees within rear gardens are not unusual concepts and are often selling points for their privacy, shading and ecology benefits, rather than solely being considered in a negative context as is suggested".

Of note on this issue is that the previously approved scheme has already approved the location of a dwelling in closer proximity to that retained tree and this current layout is not considered to be materially different to this already permitted situation. Whilst the removal of the dwelling from plot 1 could potentially benefit the character and appearance of the dwelling at the site entrance point, the layout proposed is not considered so harmful in planning terms that permission should be refused on this issue and subject to controls to provide protection to the tree both during and after construction and over the use of suitable boundary treatments, it is considered that this layout for plot 1 should be accepted.

The proposed boundary treatments to plot 1 are not fully resolved, in part due to the retention of the tree; these are shown as 1.8m brick piers with infill timber panels. The finish of this boundary treatment, its angle to the road and relationship to the retained hedgerow is not fully resolved and a condition to require final details for this boundary treatment is considered necessary. For the most part the remainder of the boundary treatments are considered appropriate in terms of amenity, although these will be discussed in terms of their ecology impact later in the next section of the report.

Conditions to control the final hard and soft landscaping treatment of the site are also recommended.

With the one exception discussed above, the revised layout has satisfied the concerns of the Urban Design Officer and on balance, the design and layout of the overall scheme is considered to be acceptable.

Reference has been made in representations to the noise and disturbance, particularly during the period of construction and the fact that this will add to the already prolonged time that construction has been taking place in this wider location. In this respect, as with the earlier grant of planning permission on this site, the Environmental Protection Officer has not recommended any specific controls in respect of noise disturbance from construction operations, which are covered under Environmental Health legislation in any event. Some disturbance is inevitable during any construction period and is unavoidable and there are no specific circumstances that would justify any additional interventions in respect of this site. In terms of the development once completed, the additional housing will not result any noise disturbance over that which would typically occur in a residential environment and no additional controls would be justified.

### ***Ecology/Biodiversity***

As previously mentioned the amount of trees and hedgerows to be lost is very similar to that already approved in respect of the earlier extant planning permission on this site; this is the clearance of the central areas of the site to facilitate the efficient use of the available site area for development, with the boundary hedgerows and trees retained except for those areas that need to be removed to facilitate the pedestrian and vehicular accesses into the site.

Derbyshire Wildlife Trust has noted the outstanding planning consent for the site and that this together with the location of the site makes it challenging to accommodate additional changes to the layout. Whilst overall The Trust has some reservations about the loss of habitats, the impact is probably fairly low due to the type of habitat and the area affected. Providing sympathetic landscaping and other enhancements can be secured there is potential to achieve no net loss of biodiversity at the site.

The Trust therefore advise the Council that in order to secure the best outcome for biodiversity at the site conditions should be attached to secure sympathetic landscaping and biodiversity enhancements across the site and for the area identified for the swale. They recommend that the landscaping of the site includes the planting of native trees and shrubs within gardens and green space; the swale area should also be enhanced to provide some biodiversity benefits through use of a wildflower/wetland seed mix and subsequent sympathetic management.

It is recommended that these conditions be included in the event that planning permission is granted

It is noted that the means of enclosure for dwellings adjacent to the retained hedgerows are shown to go the full length of plot boundaries and into the retained hedgerow, which is at odds with the submitted hedgerow retention plan. A further condition to require that the fencing is only erected up to that retained hedgerow is recommended to ensure no unnecessary loss of hedgerow.

There is no means of enclosure proposed on the rear garden boundaries alongside the retained hedgerows. It is important that there is either no means of enclosure in these locations or that should any be provided, this is of a suitable design to ensure no harm to the health of that hedgerow and to its biodiversity role on the site and so a condition to deal with this issue is also proposed.

Subject to the inclusion of these conditions, it is considered that sufficient controls are in place to minimise the loss of existing landscaping and to provide sufficient replacement landscaping to ensure no net loss of biodiversity.

### ***Contamination***

The Environmental Protection Officer (EPO) has referred to submissions made on earlier applications, as well as the information that has been submitted that demonstrate that contamination at the site has been appropriately tested and there is no need as a result of this for any additional requirements or conditions unless any soils are proposed to be imported. On this latter point the applicants have confirmed that no soils are proposed to be brought onto site. Advisory notes are proposed in respect of comments made by the EPO intended for any developer.

### ***Drainage***

#### ***Foul Water***

Severn Trent Water are the statutory undertaker for the mains sewers within the local area and have been consulted on this application. Severn Trent Water has advised it has no objections to the proposals. Advisory notes are suggested that can be included in the event that planning permission is granted.

#### ***Surface Water***

The initial submission stated two options for surface water drainage, one being a piped solution. Clearly Sustainable Drainage Systems (SuDS) is the more sustainable solution and this will normally be required where this can be feasible based on local conditions. The submitted drawings show a drainage retention pond on site for surface water attenuation by infiltration. Additional percolation test information has been submitted in response to earlier comments from the Lead Local Flood Authority (LLFA), and the further comments of the Lead Local Flood Authority are awaited. The LLFA officer has verbally stated that the infiltration proposals are likely to be appropriate for this site but wishes to carry out some final detailed checks of the submitted data before making a final recommendation.

Subject to the LLFA's response being positive, a suitable condition can be included on any permission to require the implementation of the SuDS scheme; an update will be provided to the Committee meeting on this issue. Such conditions would also cover the related comments of the Council's Drainage Engineer regarding necessary control over the details of the final scheme and its ongoing management.

Severn Trent Water has stated that it has no comments in respect of surface water drainage.

### ***Recreation and Leisure issues***

#### ***Green Space and Play Provision***

Policies ITCR5: Green Space and Play Provision, does not require open space provision for sites of this size (less than 25 dwellings) but does expect new residential developments of more than 10 units to make reasonable financial contributions, either for new green spaces, or to improve green spaces, falling within the following walking distances:

- Equipped Play Areas within 400 metres
- Amenity Green Space within 500 metres
- Recreation Grounds or Semi-Natural Green Space within 800 metres

Clowne has an under provision of open space – 8.59ha of additional green space is required to meet the minimum standard.

As the proposed development exceeds 10 units but is less than 25 dwellings, a s106 commuted sum contribution has been sought to improve the following areas of green space, all of which fall below the 60% quality standard referred to in the local plan (as advised by the Leisure Officer):

- Equipped Play Area: The Arc and / or The Edge
- Recreation Ground / Semi-Natural Green Space: Improvements to foot / cycle links to the wider countryside and to Clowne Town Centre via The Edge and a new link to Mansfield Road

Using the current policy formula the commuted sum would be £14,586 (17 dwellings x £858 per dwelling) and the developer has agreed to this contribution that will need to be secured via a S106 Planning Obligation, such that the proposal is compliant with this policy.

#### Built & Outdoor Sports Facilities

Policy ITCR7 requires that if quality improvements are needed to playing pitches, new residential development of more than 10 dwellings will be expected to make financial contributions to the improvement of those playing pitches and/or their ancillary facilities; The Leisure Officer has advised that quality improvements are required to the Gloves Lane Recreation Ground.

Using the current policy formula the commuted sum would be £17,374 (17 dwellings x £1022 per dwelling) and the developer has agreed to this contribution that will need to be secured via a S106 Planning Obligation, such that the proposal is compliant with this policy.

#### Education

Derbyshire County Council as Education Authority has advised that Clowne Junior School and Heritage High School have sufficient available capacity to accommodate the number of pupils projected to arise out of this development, unlike Clowne Infant and Nursery school that is already at capacity, such that a financial contribution of £17,176.59 is sought for the provision of additional capacity to accommodate 1 infant pupil at that School; the developer has agreed to this request that will have to be secured through a S106 planning obligation.

#### Health Facilities

Whilst comment is made in representations about capacity at local medical facilities, the NHS Derby and Derbyshire Clinical Commissioning Group has not requested any financial contributions stating that it has no comments to make on this application.

#### Heritage and Archaeology

No listed buildings or conservation areas will be affected.

In terms of archaeology, whilst the archaeologist has not commented on this current application, he advised at the time of the previous approval that on the basis of the results of archaeological fieldwork on an extensive housing site to the west and south of the proposal area he concluded that, as no significant archaeological remains had been identified in this area, that the current site has low to minimal archaeological potential. For this reason, no



further work was recommended.

In view of the above, there are no adverse impacts on heritage interests expected.

### **CONCLUSION / PLANNING BALANCE**

In conclusion, the previous permissions and Local Plan allocation for residential development weighs heavily in favour of granting planning permission for the current application because the acceptability of the current site for housing is well established.

In all other respects, the application is for the most part considered to be acceptable in planning terms for the reasons set out in the above report and although there are some minor technical issues outstanding, these are very likely resolvable and are unlikely therefore to weigh negatively in the overall balance of considerations, such that a recommendation to grant permission is proposed.

### **RECOMMENDATION**

**Subject to satisfactory solution of the outstanding issues in respect of highway safety and surface water drainage, the current application be APPROVED subject to prior entry into a s.106 legal agreement containing the following planning obligations:**

- A** Education contribution of £17,176.59 (Index Linked) for the provision of 1 infant pupil at Clowne Infant and Nursery School.
- B** A commuted sum of £14,586 (17 dwellings x £858 per dwelling) (Index Linked) to improve the following areas of green space:
  - Equipped Play Area: The Arc and / or The Edge
  - Recreation Ground / Semi-Natural Green Space: Improvements to foot / cycle links to the wider countryside and to Clowne Town Centre via The Edge and a new link to Mansfield Road
- C** A commuted sum of £17,374 (17 dwellings x £1022 per dwelling) (Index Linked) to be invested in improving playing pitches and their ancillary facilities at Gloves Lane Recreation Ground.

**AND subject to the following conditions that are given in draft precis form: -**

1. The development shall be begun before the expiration of three years from the date of this permission.
2. List of approved plans
3. In this condition retained tree means an existing tree which is to be retained to comply with the approved Tree Retention Plan ref: 9516-T-02 A, as contained in the Arboricultural Assessment by fpcr dated May 2020 submitted with the planning application; and paragraphs (a) and (b) below shall apply for five years, after the occupation of the last building on the development.

(a) No retained tree will be cut down, uprooted or destroyed, or topped or lopped, other than in accordance with the approved plans and particulars without the written approval of the Local Planning Authority.

(b) If any retained tree is removed, uprooted or destroyed or dies, another tree shall be planted at the same place and that tree must be of such size and species, and must be planted at such time, as approved in writing by the Local Planning Authority.

(c) Before any equipment, machinery or materials are brought on to the site, other than those reasonably necessary to implement this condition, protective barriers must be erected to protect the retained in accordance with the specifications contained in the Arboricultural Assessment by fpcr dated May 2020, and such barriers must be erected at a distance not less than the identified Root Protection Areas on drawing ref 9516-T-02 A, as contained in that assessment document. Nothing shall be stored or placed within the fenced area around a retained tree and the ground levels within the fenced area must not be altered, nor must any excavation take place, without the written consent of the Local Planning Authority.

(d) Where works within the areas covered under c are required, methods of working and construction for those operations must have been submitted to and approved in writing by the Local Planning Authority before such works are commenced and the development must only be carried out in accordance with those approved details.

4. The retained boundary hedgerows along the north, west, and south boundaries of the site must be retained in accordance with drawing ref 9516-T-02 A in the Arboricultural Assessment by fpcr dated May 2020 and protected from damage during construction by the erection of temporary protective barriers (as per condition 3 above) erected at least 2m from the centreline of the hedgerow before development commences on site. Any gaps in the retained hedgerow shall be reinforced and replanted and thereafter the hedgerow shall be maintained and replaced if necessary for a period of 5 years.
5. Notwithstanding the submitted details, no building will be occupied until full details of both hard and soft landscape works, to include details of all proposed means of enclosure and details of all trees and hedgerows to be retained and means for their protection during the course of the development, along with a programme for implementation, has been submitted to and approved in writing by the Local Planning Authority and the works and implementation programme must be carried out as approved. Means of enclosure must be located to avoid the removal of any of the protected hedgerows referred to in condition 4 above.
6. No removal of hedgerows, trees, shrubs or brambles shall take place between 1st March and 31st August inclusive, unless a recent survey has been undertaken by a competent ecologist to assess the nesting bird activity on site during this period, and details of measures to protect the nesting bird interest on the site, have first been submitted to and approved in writing by the local planning authority and then implemented as approved.
7. No development shall take place (including demolition, ground works, vegetation clearance) until a 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:

- a) Risk assessment of potentially damaging construction activities.
  - b) Identification and demarcation of “biodiversity protection zones” (to include hedgerows and trees).
  - c) Practical measures (both physical measures and sensitive working practices) to avoid or reduce impacts during construction (may be provided as a set of method statements and should include a badger working method statement).
  - 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 (as necessary).
  - h) Use of protective fences, exclusion barriers and warning signs.
8. A landscape and biodiversity enhancement and management plan (LBEMP) shall be submitted to, and be approved in writing by, the LPA prior to the commencement of the development. The LBEMP should combine both the ecology and landscape disciplines and include the following:-
- a) Description and location of features to be created, planted, enhanced and managed to include wetland habitat associated with the swale, species rich grassland habitat, scrub creation and tree planting.
  - b) Details of the type and locations of 20 integrated swift nest boxes/bricks,
  - c) Details of hedgehog access throughout the development to include type and location of access gates/holes.
  - d) Aims and objectives of management (retained hedgerows and green infrastructure)
  - e) Appropriate management methods and practices to achieve aims and objectives.
  - f) Prescriptions for management actions.
  - g) Preparation of a work schedule (including an annual work plan capable of being rolled forward over a ten-year period).
  - h) Details of the body or organization responsible for implementation of the plan.
  - i) Ongoing monitoring visits, targets and remedial measures when conservation aims and objectives of the plan are not being met.

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.

9. Prior to the occupation of any dwelling, a bat friendly lighting scheme for the access roads and footways shall have been submitted to and approved in writing by the Local Planning Authority; that scheme shall include details of implementation timescales and the approved scheme shall be implemented as approved.
10. Notwithstanding the provisions of Part 2: Minor Operations, Class A – gates, fences, walls etc., of Schedule 2, Article 3 of the Town and Country Planning (General

Permitted Development Order) 2015 (as amended), or any Order revoking and re-enacting that Order, no means of enclosure shall be erected within 2m of the centre line of the retained hedgerows to the north, west and southern boundaries of the application site (as identified on drawing ref 9516-T-02 A in the Arboricultural Assessment by fpcr dated May 2020), nor between the dwellings (excluding garages) and the footpath connection on plots 4, 5 and 6, except for any that may be permitted under condition 5, or unless planning permission has first been granted by the Local Planning Authority.

11. Notwithstanding the submitted information, before construction commences on the erection of any building or wall, specifications or representative samples of the materials to be used in all external wall and roof areas shall first have been submitted to and approved in writing by the Local Planning Authority.
12. Notwithstanding the provisions of Parts 1 and 2 of Schedule 2, Article 3 of the Town and Country Planning (General Permitted Development) Order 2015 (as amended), or any Order revoking and re-enacting that Order, the dwelling on plot 5 shall not be extended or altered externally nor shall any incidental building, structure or enclosure be erected without the prior grant of planning permission.
13. The windows serving the living room and en-suite bathroom in the northern elevation of plot 5 (facing dwellings on Fallowfield) shall be obscure glazed and non-opening unless the parts of the window which can be opened are more than 1.7 metres above the floor of the room in which the window is installed, which shall thereafter be retained unless planning permission has first been granted by the Local Planning Authority.
14. Before building work on any building or wall commence, a scheme showing the details of the proposed footpath connections to Fallowfield to the north, together with a timetable for implementation, must have been submitted to and approved in writing by the Local Planning Authority. The scheme must provide details of design, specification, gradient, sections and levels details (level details both on site and on the adjacent site) demonstrating that the footpath link to the adjacent development can be successfully achieved to a usable and adoptable standard. The approved scheme must be implemented in accordance with the details and timescales approved.
15. Drainage Conditions (pending further comments of the LLFA and to cover issues raised by BDC's drainage engineer).
16. Highways Conditions (pending further comments of the Highway 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 National Planning Policy Framework.

### **Equalities Statement**

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

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

### **Human Rights Statement**

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

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