

# Public Document Pack



**North East  
Derbyshire**  
District Council

To: **Members of the Planning Committee**

Contact: Alan Maher  
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Date: Monday, 11 October 2021

Please attend a meeting of the Planning Committee to be held on **Tuesday, 19 October 2021** at **1.00 pm** in the **Council Chamber**, District Council Offices, 2013 Mill Lane, Wingerworth, Chesterfield S42 6NG.

The meeting will be open to the public. However, because of the capacity limits on those who can be present in the Council Chamber, due to the Coronavirus (Covid-19) outbreak, the number of places will be restricted. Those wishing to attend will need to book in advance. **If you would like to attend this meeting then please contact the Governance Service: [Governance@ne-derbyshire.gov.uk](mailto:Governance@ne-derbyshire.gov.uk) or phone: 01246 217391 to register your request.**

The meeting will also be live streamed from the Council's website on its You Tube Channel.

Yours sincerely

A handwritten signature in black ink that reads "Sarah Skeneberg". The signature is written in a cursive, flowing style.

**Joint Head of Corporate Governance and Monitoring Officer**

## **Members of the Committee**

Councillor William Armitage  
Councillor Andrew Cooper  
Councillor Peter Elliott  
Councillor Mark Foster  
Councillor Roger Hall  
Councillor David Hancock  
Councillor Lee Hartshorne

Councillor Maggie Jones  
Councillor Heather Liggett  
Councillor Alan Powell  
Councillor Jacqueline Ridgway  
Councillor Kathy Rouse  
Councillor Diana Ruff

**Please notify the Senior Governance Officer, Alan Maher by 4.00 pm on Friday 15 October 2021 of any substitutions made for the meeting.**

**For further information about this meeting please contact: Alan Maher 01246 217391**

# **AGENDA**

## **1 Apologies for Absence and Substitutions**

To receive any apologies for absence and notices of substitutions from Members.

## **2 Declarations of Interest**

Members are requested to declare the existence and nature of any disclosable pecuniary interests and/or other interests, not already on their register of interests, in any item on the agenda and withdraw from the meeting at the appropriate time.

## **3 Minutes of Last Meeting (Pages 4 - 10)**

To approve as a correct record and the Chair to sign the Minutes of Planning Committee held on 21 September 2021.

## **4 NED/21/00938/FL - BRACKENFIELD (Pages 11 - 25)**

Demolition of two polytunnels and erection of one dwelling (revised scheme of 20/01272/FL) at land to the north of School Farm Church Land and south of Conlands, Carr Lane, Brackenfield

(Planning Manager – Development Management)

## **5 NED/21/00914/FL - ASHOVER (Pages 26 - 35)**

Spreading of soil on agricultural land to raise land levels at a field to the north of Grange Barn, Milken Lane, Far Hill, Ashover.

(Planning Manager – Development Management)

## **6 Tree Preservation Orders - ASHOVER (Pages 36 - 44)**

To advise Planning Committee of the making, provisionally, of Tree Preservation Orders 280, 281, 282 and 283 on various areas of trees and a woodland at Ashover.

(Planning Manager – Development Management)

## **7 Late Representations - Summary Update Report**

(Planning Manager – Development Management) TO FOLLOW

## **8 Section 106 (Legal) Agreements Update (Pages 45 - 56)**

To provide an update and detailed breakdown of all current Section 106 (Legal) Agreements.

(Planning Manager – Development Management)

9 **Planning Appeals - Lodged and Determined** (Pages 57 - 59)

(Planning Manager – Development Management)

10 **Matters of Urgency**

To consider any other matter which the Chair is of the opinion should be considered as a matter of urgency.

## *We speak your language*

Polish

*Mówimy Twoim językiem*

Romanian

*Vorbim limba dumneavoastră*

Urdu

ہم آپ کی زبان بولتے ہیں

Chinese

我们会说你的语言



North East  
Derbyshire  
District Council



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## **PLANNING COMMITTEE**

### **MINUTES OF MEETING HELD ON TUESDAY, 21 SEPTEMBER 2021**

#### **Present:**

Councillor Diana Ruff (Chair) (in the Chair)  
Councillor Alan Powell (Vice-Chair)

Councillor William Armitage  
Councillor Peter Elliott  
Councillor Roger Hall  
Councillor Jacqueline Ridgway  
Councillor David Hancock  
Councillor Lee Hartshorne

Councillor Andrew Cooper  
Councillor Mark Foster  
Councillor Heather Liggett  
Councillor Kathy Rouse  
Councillor Maggie Jones

#### **Also Present:**

R Purcell	Assistant Director of Planning
A Lockett	Senior Planning Officer
J Fieldsend	Legal Team Manager (non contentious)
N Calver	Governance Manager
D Stanton	Governance Officer
A Maher	Senior Governance Officer

#### **PLA/ Apologies for Absence and Substitutions**

**22/2**

**1-22** Councillor L Hartshorne substituted for Councillor T Reader, Councillor M Jones substituted for Councillor J Barry.

#### **PLA/ Declarations of Interest**

**23/2**

**1-22** There were no Declarations of Interest.

#### **PLA/ Minutes of Last Meeting**

**24/2**

**1-22** RESOLVED - The minutes of the meeting held on 20 July 2021 were approved as a true record.

#### **PLA/ NED/21/00125/TPO - ASHOVER**

**25/2**

**1-22** The report to Committee explained that an Application had been submitted affecting four of the trees covered by Tree Preservation Order (TPO) 280 at The Bourne, Moor Road, Ashover.

The Application had been referred to the Committee by Local Ward Member, Councillor W Armitage, who had raised concerns about it.

Committee was recommended to approve the proposed felling of Tree 1 and Tree 34, with replacement trees then planted. Committee was recommended to reject the proposal to fell Tree 32 and agree that it be pruned instead. Finally, Committee was recommended to accept the proposal to prune Tree 8.

The report to Committee explained why Members were asked to approve the recommendations. As part of this, Members were informed that Tree 1, which dated back to the mid to late nineteenth century, was now showing signs of infection in its upper parts. The tree had also grown at an angle and was leaning towards the highway. There was a danger that if the tree fell it would put at risk people, neighbouring properties and vehicles on the highway. If it was not removed then it might cause further damage to the surrounding built environment. Officers had concluded, therefore, that the tree should be removed, subject to the condition that a suitable replacement for it be planted.

Before Members discussed the Application those registered to speak were asked to address the Committee. A Petrie spoke to oppose the felling of Tree 1. P Brabbing spoke in favour of felling the tree. The Agent, W Anderson spoke in support of the Application as a whole.

Committee considered the Application. It took into account the relevant Planning Issues. These included the visibility of the trees to the public, the impact on their 'amenity value' to the local area and their contribution to the Special Landscape Area.

Members discussed the Application. They heard about the damage to the highway wall, immediately next to Tree 1. They discussed whether this damage could be rectified and what impact this might have on the plant. They heard about the damage to the drains and The Bourne property which had occurred.

They reflected on the concerns expressed about Tree 1, its probable longevity, its state of health and the serious safety implications if it was to fall. Some Members queried whether additional information to clarify these points might be required. Other Members contended that the Committee had sufficient information on which to make its determination.

At the conclusion of the discussion Councillor J Ridgway and Councillor D Hancock moved and seconded a motion to defer the Application, so that additional information could be obtained to inform the Committee's determination. The motion was put to the vote and was defeated.

Councillors D Ruff and A Cooper then moved and seconded a motion to accept officer recommendations, with an additional condition that a management scheme for the replacement and pruned trees be put in place. The motion was put to the vote and approved by Committee.

#### RESOLVED-

- (1) That the Application be partly and conditionally approved in line with officer recommendations.
- (2) That approval be subject to the proposed conditions and reason for refusal in relation to Tree 32.
- (3) That final wording of the conditions and reason for refusal be delegated to the Planning Manager (Development Management).

Conditions:

1. The work hereby granted consent shall be completed within two years from the date of this decision notice.
2. Notwithstanding the submitted details, the work hereby approved shall be restricted to the following:
  - i. The Felling of tree(s) T1 & T34
  - ii. The Crown Reduction of tree T8 by a maximum of 1/3
  - iii. The pruning of Tree T8 to reduce the height and spread by approximately 20%
  - iv. The Pruning of Tree T32 to reduce the height and spread by approximately 25%
3. The work shall be carried out in accordance with the appropriate recommendations contained in BS 3998:1989 (Tree Works) and in general shall in no way prejudice the health, balance and natural appearance of the tree.
4. Prior to the felling of the trees (T1 and T34) hereby approved, details of the position, size and species of two replacement trees shall be submitted to and be approved in writing by the Local Planning Authority. Thereafter, the replacement trees shall be planted in accordance with the approved scheme in the next planting season following the felling works.
5. Before the replacement trees approved in condition 4 above are planted a detailed 20 year management plan for both trees shall be submitted and approved in writing by the Local Planning Authority.

**PLA/ NED/21/00380/RM - WINGERWORTH**

**26/2**

**1-22**

The report to Committee explained that a Reserved Matters Application had been submitted for a single storey dwelling at Cedar End, Wingerworth Hall Estate, Wingerworth. This would be pursuant to application 18/00703/OL and would affect the setting of a listed building.

The Application had been referred to Committee by Local Ward Member, Councillor D Ruff, who had raised concerns about it.

Committee was recommended to approve the Application and grant full Planning Permission, subject to conditions.

The report to Committee explained why Members were asked to approve the recommendations. Officers had concluded that the design and building materials used for the structure meant that it would not draw attention away from the nearby larger listed building. The report also explained that there would be a high level of vegetation screening it and that the structure would not be visible from areas open to the public.

Before Members discussed the application those registered to speak were asked

to address the Committee. The Applicant, S Armstrong, spoke in support of the application. The Agent, S Bright also spoke in favour of it.

Committee considered the application. It was reminded that the only issue for determination was the design of the building. The other matters had been decided as part of the previous application. Committee took into account the relevant Planning Issues in considering the Application. These included the location and visibility of the site, the materials used, the potential impact of the development on the neighbouring listed building and the adjacent trees covered by a Tree Preservation Order.

Members discussed the Application. They were informed that the Applicant had submitted amended plans, which had removed the installation of windows from the proposed roof area. It was confirmed that these would not now form part of the development. Members considered what impact the building might have on the surrounding area and especially on the listed building. They noted the location of the site, how the development would be screened and how it would not be in public view.

At the conclusion of the discussion Councillors D Ruff and P Elliot moved and seconded a motion to accept officer recommendations. The motion was put to the vote and approved by Committee.

#### **RESOLVED -**

- (1) That planning permission is conditionally approved in accordance with officer recommendations.
- (2) That final wording of the conditions be delegated to the Planning Manager (Development Management).
1. The development hereby approved shall be carried out in accordance with the details shown on drawing numbers CE/003/A, CE/004/A uploaded 26/5/2021 and CE002/B uploaded 20/7/2021 unless otherwise subsequently agreed through a formal submission under the Non Material Amendment procedures.

***Reason - For clarity and the avoidance of doubt.***

2. Before above ground work commences, precise specification or samples of the walling and roofing materials to be used shall be submitted to and approved by the Local Planning Authority. The development shall then be carried out in accordance with the approved details.

***Reason - In the interest of the appearance of the site and the surrounding area, and to preserve the setting of the setting of the neighbouring listed buildings.***

3. Notwithstanding the submitted details, before above ground work commences a plan to show the position, design, materials, height and type of boundary treatment to be erected shall be submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be

completed prior to the occupation of the dwelling hereby approved and shall be maintained as approved for the lifetime of the development.

**Reason** - *In the interest of the appearance of the site and the surrounding area, and to preserve the setting of the setting of the neighbouring listed buildings.*

4. Before development starts, the following shall be submitted to and approved in writing by the Local Planning Authority:
  - a) a scheme of landscaping, which shall include indications of all existing trees, including the position, species and crown spread, and hedgerows on the site;
  - b) the details of any trees and hedgerows to be retained, together with measures for their protection during development;
  - c) a schedule of proposed plant species, size and density and planting locations and
  - d) an implementation programme.

**Reason** - *In the interest of the amenity of the area and in accordance with Policies NE7 of the North East Derbyshire Local Plan.*

**PLA/ 27/2**     **NED/21/00606/TPO - ASHOVER**

**1-22**     The report to Committee explained that an application had been submitted to fell one Ash Tree on land at Moor Road, Ashover. The tree was covered by Tree Preservation Order (TPO) 264T1.

The application had been referred to Committee by Local Ward Member, Councillor W Armitage, who had raised concerns about it.

Committee was recommended to grant permission to remove the tree, subject to conditions.

The report to Committee explained why Members were asked to approve the recommendations. Committee was informed that the tree was old, large and visibly suffering from Ash die-back disease. Members were informed that planning permission had been granted for the site, and that as part of this development the tree would be located in the garden of one of the new houses. Officers had concluded that the tree would be a safety risk if it fell on this property and its residents, and so ought to be removed. Felling the diseased tree now would also enable a replacement tree to be planted in advance of the construction work.

Members were informed that no one had registered to speak on this Application.

Committee considered the Application. It took into account the relevant planning issues. These included the visibility of the tree, what impact its removal would have on the surrounding area and the possible loss of amenity if it was removed.

Members discussed the Application. They discussed the health of the tree and the possible safety implications if it was not felled. Committee also discussed the replacement tree. Some Members stressed that this should not be allowed to



become a safety hazard in its own right, but rather that it needed to be managed to ensure this did not happen.

At the conclusion of the discussion, Councillor M Foster and P Elliot moved and seconded a motion to approve officer recommendations, with the imposition of an additional condition that the replacement tree be subject to a Tree Management Plan.

The motion was put to the vote and approved by Committee.

**RESOLVED -**

- (1) That planning permission is conditionally approved in accordance with officer recommendations.
- (2) That an additional condition for Tree Management Plan for the replacement tree be imposed.
- (3) That final wording of the conditions be delegated to the Planning Manager (Development Management).

**Conditions**

**TPO completion of work**

1. The work hereby granted consent shall be completed within two years from the date of this decision notice.

***Reason*** – For clarity and the avoidance of doubt.

**TPO Scheme for Replacement**

2. Prior to the felling of the tree hereby approved, details of the position, size and species of the replacement trees shall be submitted to and approved in writing by the Local Planning Authority. Thereafter, the replacement tree shall be planted in accordance with the approved scheme in the next planting season following the felling works.

***Reason*** - In the interest of the appearance of the area and in accordance with Policy NE7 of the North East Derbyshire Local Plan, policies SDC2 and SDC3 of the Publication Draft Local Plan and AP15 of the Ashover Neighbourhood Plan.

**Tree Protection**

3. The replacement tree hereby approved shall be subject to the same protections afforded to existing trees as laid out in the landscaping details submitted to discharge condition 6 pursuant of 16/00071/OL. The means of protection shall be installed in accordance with the approved scheme before any other works commence on site and retained in position until all the building works, as approved, have been completed. The area within the relevant fenced/protected areas shall not be used for storage or the parking of machinery or vehicles and the ground levels shall not be altered.

**Reason** - In the interest of the amenity of the area and in accordance with Policies NE7 of the North East Derbyshire Local Plan, policies SDC2 and SDC3 of the Publication Draft Local Plan and AP15 of the Ashover Neighbourhood Plan.

**General TPO Conditions**

4. The work shall be carried out in accordance with the appropriate recommendations contained in BS 3998:2010 (Tree Works).

**Reason** - In the interest of the appearance of the area and the health of the tree and in accordance with policy NE7 of the North East Derbyshire Local Plan, policies SDC2 and SDC3 of the Publication Draft Local Plan and AP15 of the Ashover Neighbourhood Plan.

5. Upon completion of the works hereby approved, all branches shall be removed and the site left in a clean and tidy condition.

**Reason** - In the interest of the appearance of the area and in accordance with policy NE7 of the North East Derbyshire Local Plan, policies SDC2 and SDC3 of the Publication Draft Local Plan and AP15 of the Ashover Neighbourhood Plan.

**PLA/ 28/2**     **Planning Appeals - Lodged and Determined**

- 1-22**     The report to Committee informed Members that three appeals had been lodged. No appeals had been allowed. One appeal had been partly allowed and partly dismissed and one appeal had been dismissed.

**PLA/ 29/2**     **Matters of Urgency**

- 1-22**     There were no matters of urgency.

## PLANNING COMMITTEE – 19<sup>th</sup> October 2021

**REFERENCE NUMBER:** 21/00938/FL      **Application Expiry Date:** 29 June 2019  
**Application Type:** Full Planning Permission

**Proposal Description:** Demolition of two polytunnels and erection of one dwelling (revised scheme of 20/01272/FL)

**At:** Land To The North Of School Farm Church Land And South Of Conlands, Carr Lane, Brackenfield

**For:** Mr and Mrs Walker

**Third Party Reps:** 16      **Parish:** Brackenfield Parish Council  
**Ward Name:** Shirland Ward

**Author of Report:** Alice Lockett      **Date of Report:** 30<sup>th</sup> September 2021

**MAIN RECOMMENDATION: REFUSE**



## **1.0 Reason for Report**

- 1.1 Cllr Liggett a Ward Member has called the application into committee stating that she *“would like the committee to decide the impact and the balance between removing the horticultural poly tunnels and the replacement with a 1.5 storey family accommodation and whether the proposal would outweigh the harm”*.

## **2.0 Proposal and Background**

- 2.1 The proposal is to build a 1.5 storey dwelling at the site with associated garden and using the existing access. The potting shed building on site would remain but the house would be located within the area currently occupied by polytunnels.
- 2.2 The application site is known as Leafield Nursery and is located to the east of Carr Lane and to the south of the property known as Conlands.
- 2.3 Brackenfield is classed as a level 4 settlement within the Publication Draft Local Plan which is considered to have limited sustainability. It does not have a Settlement Development Limit and as such the whole of the village is located within the open countryside for the purposes of determining this application.
- 2.4 The site is separated from the main part of Brackenfield by an open field. The proposed house would be located at least 20m from the nearest property.
- 2.5 Although not located within the Special Landscape Area as outline in the adopted Local Plan, the site is within the primary Area of Multiple Environmental Sensitivity (AMES) which is referenced in landscape policy SDC3 of the Publication Draft Local Plan.
- 2.6 Carr Lane is designated as footpath 19 in the parish of Brackenfield.
- 2.7 The site is a former horticultural nursery and as such is still considered to have an agricultural use. Agricultural land is not considered previously developed for planning purposes.

## **3.0 Relevant Planning History**

- 3.1 07/01049/FL - Proposed horticultural nursery including the construction of two polytunnels a potting/storage shed portaloo water tank eight sleeper beds and the creation of a parking and turning area. **Withdrawn**
- 3.2 08/00066/FL - Proposed horticultural nursery including construction of two poly tunnels a potting/storage shed portaloo water tank eight sleeper beds and the creation of a parking and turning area (Resubmission of NED/07/01049/FL). **Conditionally Approved**
- 3.3 17/00996/OL - Outline application with some matters reserved for the erection of two detached dwellinghouses. **Refused**
- 3.4 19/01063/OL - Outline application with all matters reserved except of access for the erection of two dwellings. **Refused**
- 3.5 20/01272/FL - Demolition of polytunnels and steel storage building and erection of one dwelling with garage. **Withdrawn**

#### **4.0 Consultation Responses**

- 4.1 Highways' Comment:  
Comments are given on the basis that such current activity or similar allowed under the use class could take place without the need for further planning permission.

It is noted that there is currently no residence on site which presumably means vehicular movements take place in association with the activities carried out although no specific information is given in this respect.

Carr Lane is the route of a Public Right of Way (Footpath 19 on the Definitive Map for the area) giving a right of way on foot only. You may wish to ensure that vehicular access to the site would be available given that it is not included in the red line boundary. From information available it would seem that there would be sufficient space for the safe passage for a car and pedestrian.

Although no specific information is given in respect of current vehicular movements, it is considered that it would be difficult to demonstrate demonstrable harm such that any recommendation of refusal might be sustainable.

There are, therefore, **no objections** to the proposal and it is recommended that the following conditions are included in any consent.

- 1. The proposed dwelling shall not be occupied until space has been laid out within the site in for parking of 3 No. vehicles (minimum space

dimensions 2.4m x 5.5 clear of any shared/manoeuvring area) and for vehicles to turn so that they may enter and leave the site in a forward gear (to include at a minimum smaller service /delivery vehicles e.g. supermarket delivery). Once provided, such spaces shall be maintained free from any impediment to their designated use for the life of the development.

2. There shall be no gates or other barriers on the access/driveway except that already existing which shall not be moved forward of its current position.

- 4.2 The Coal Authority has **no objection** to the proposed development subject to the imposition of the conditions to secure Intrusive site investigations and remedial work.
- 4.3 The councils Environmental Health Officer has **no objection** subject to the imposition of conditions to secure a contaminated land assessment, remediation and validation.
- 4.4 Brackenfield Parish Council **objects** to the proposal they have concerns about sewerage and that the proposal does not meet the character of the village as described in the Brackenfield Neighbourhood Plan policy CH1.

## 5.0 Representations

- 5.1 10 objections have been received from members of the public including the Brackenfield Neighbourhood Plan Group. In summary the points raised were:
- That the development site is outside of the settlement limit and that Brackenfield is a level 4 settlement and so the site must be considered to be in the countryside
  - That Brackenfield has very little services and therefore is not a sustainable location.
  - That the site does not confirm to the definition of infill development
  - That the proposed house is an intrusion into the countryside
  - That the proposed house does not meet policies CH1, CH2 and H1 of the Brackenfield Neighbourhood Plan
  - That the benefits of a new build to Brackenfield are very small this was agreed by the inspector on the previous application who said that the economic and social benefits of two dwellings would be marginal.
  - Carr Lane is a footpath and an increase in traffic would be dangerous to walkers
  - The house will impinge on an important view as outlined in the Neighbourhood Plan
  - The house is not in keeping with the character of the area and will harm the distinctive character of the area

- The dwelling will be prominent and intrusive into the countryside
- The site provided a sense of separation between the building on Church Lane and School Lane
- The land is agricultural
- The poly tunnels should have been removed when the site ceased to be a nursey.
- The applicant seems to be implying that they will only remove the poly tunnels if they get permission for the house.
- It is misleading to suggest that the proposal is an improvement to the field
- The proposal will result in increased traffic on Carr lane and problems with the junction.

*(Officer Comment: all these points are addressed in the assessment in section 7 below)*

- The sewerage system is not capable of coping with an additional property

*(Officer Comment officers have not received comments from Severn Trent Water to substantiate or refute this)*

5.2 3 Supporting comments have been received. In summery the points raised are as follows:

- Self builds enhance the diversity of the village
- The house will not be detrimental to wildlife
- A house will look tidier than the poly tunnels

5.3 The applicants have submitted a statement summarising their reasons for wanting to build on the site, this statement has been signed by 3 local people who appear to support the application.

5.4 Councillor Cupit, **Ward Member** has written the following **objection** comment:

I strongly object to this latest application on this site. I consider this application and proposal to be against the relevant local and national policies, including the adopted Brackenfield Neighbourhood Plan. Even more key, the importance of this site as remaining an open and greenfield area has been recently recognised nationally, through the planning inspectorate decision for a previous iteration of these proposals, appeal reference APP/R1038/W/20/3249376.

As such, I consider that this application, if approved, would set a harmful precedent for the local area and cause significant damage to the current rural character and planning protections that cover the settlement of Brackenfield.

## **6.0 Relevant Policy and Strategic Context**

6.1 The Development Plan comprises the North East Derbyshire Local Plan and the Brackenfield Neighbourhood Plan. The most relevant policies in determining this application are as follows:

### **6.2 Brackenfield Neighbourhood Plan**

Policy CH1 Protecting the countryside and landscape

Policy CH2 Protecting local character and distinctiveness

Policy NE2 Dark skies

Policy H1 Housing provision

### **6.3 North East Derbyshire District Local Plan**

GS1 Sustainable Development

GS5 Settlement Development Limits

GS6 New Development in the Countryside

NE1 Landscape Character

NE2 Special Landscape Areas

NE9 Development and Flood Risk

BE1 General Design Principles

BE2 External Lighting and Flood Lighting

H3 Housing Outside the Settlement Development Limits

H12 Design and Layout of New Housing

T2 Highway Access and the Impact of New Development

T5 Walking and Cycling

T6 Public Transport

T9 Car Parking Provision

CSU4 Surface Water and Foul Water Drainage

CSU6 Contaminated Land

### **6.4 The North East Derbyshire District Local Plan (2014-2034) (PDLP)**

The new Local Plan was submitted for examination in May 2018, with public hearings taking place in November/December 2018 and March 2019. The Inspector issued her interim findings in letters dated 18th February and 21st March, 2019. Consultation on Main Modifications was undertaken in 2020 ending on 31st January 2021. All comments/representations received were forwarded to the Inspector for consideration. The Inspector's final report on the Plan was received on 19 July and it is expected that the Plan will be adopted in autumn 2021.

The emerging Local Plan is therefore at an advanced stage and should be attributed appropriate weight in decision making.

The most relevant policies of the PDLP in respect of determining this application are as follows:



SS1 Sustainable Development  
SS8 Development in Small Villages and Hamlets  
SS9 Development in the Countryside  
LC4 Type and Mix of Housing  
SDC3 Landscape Character  
SDC11 Flood Risk and Drainage  
SDC12 High Quality Design and Place Making  
SDC14 Land potentially affected by Contamination or Instability  
ID3 Sustainable Travel

**6.5 National Planning Policy Framework (NPPF)**

The overarching aims of the National Planning Policy Framework (NPPF) are also material in the assessment of this application and have been taken into account.

**7.0 Planning Issues**

7.1 The development site is located outside the defined settlement development limits as set out in both the extant Local Plan and the PDLP. The site is therefore located within countryside for planning purposes.

**7.2 Sustainability of the site Policy GS1, SS1, NP Policy H1 and NPPF**

The village of Brackenfield does not have a Settlement Development Limit (SDL) and is considered to be in the countryside for the purpose of this application. The PDLP considers Brackenfield to be a level 4 settlement as such it is not considered to be a sustainable location.

7.3 In countryside locations policy H3 of the local plan only allows new houses under very specific circumstances, none of which apply here. PDLP policy SS8 and the Brackenfield Neighbourhood Plan (NP) Policy H1 are more permissive allowing limited small scale infill development.

7.4 This development site is located approximately 100m to the north of the main road which runs through the village and is approximately 30m from the nearest dwelling. It is separated from the main part of the village by open fields. Part of the land to the south of the property which is closer to the main part of the village was refused permission for two dwellings in 2020. This decision was upheld at appeal. In this case the inspector recognised that the site did represent a gap and that the development would be infill but that that the gap was integral to the character of the area which comprises clusters of buildings with areas of open space that form wide gaps. As a consequence, the inspector considered that whilst the site was infill the impact of development on it was harmful to the character of the area.

7.5 In this case however the proposed dwelling would not fill a gap between clusters of buildings. Whilst there is a house (Conlands) to the north it is

not read in conjunction with this site being separated by a large, dense, mature hedge which completely hides it. To the south there is a large gap to any other buildings it is therefore only bounded by development on one side and therefore cannot be considered to represent infill. As a consequence the proposal does not meet the requirements of policies H3 of the Local Plan, SS8 of the PDLP or H1 of the NP.

#### 7.6 Policies GS6, SS9 and CH1

Local Plan policy GS6 allows for appropriate development in the countryside which is in keeping with the character and does not represent an intrusion into the countryside.



7.7 The design of the proposal is for a modern 1.5 storey dwelling with rooms in the roof space. The roof space rooms are served by dormer windows in the front elevation. Houses located closest to the development site are mostly mid- 20<sup>th</sup> century former council houses and bungalows. Dormer window are not prevalent. However it is considered that due to the mixed nature of the housing in the vicinity of the site the proposed design is not out of keeping with the character of the area.

7.8 However the proposed location of the dwelling facing towards and clearly visible from School Lane, is considered to represent an intrusion in to the countryside. As a consequence the policy does not meet the requirements of policies GS6 of the Local Plan or SS9 of the PDLP.

#### 7.9 Impact on Landscape NE1, SDC3, CH1 & CH2 & NPPF

The site is located within the open countryside and the primary Area of Multiple Environmental Sensitivity (AMES). Policy NE1 of the Local plan requires that development proposal preserve or enhance the distinctive landscapes of the district. Policy SDC3 of the PDLP allows proposals for new development where they would not cause significant harm to the

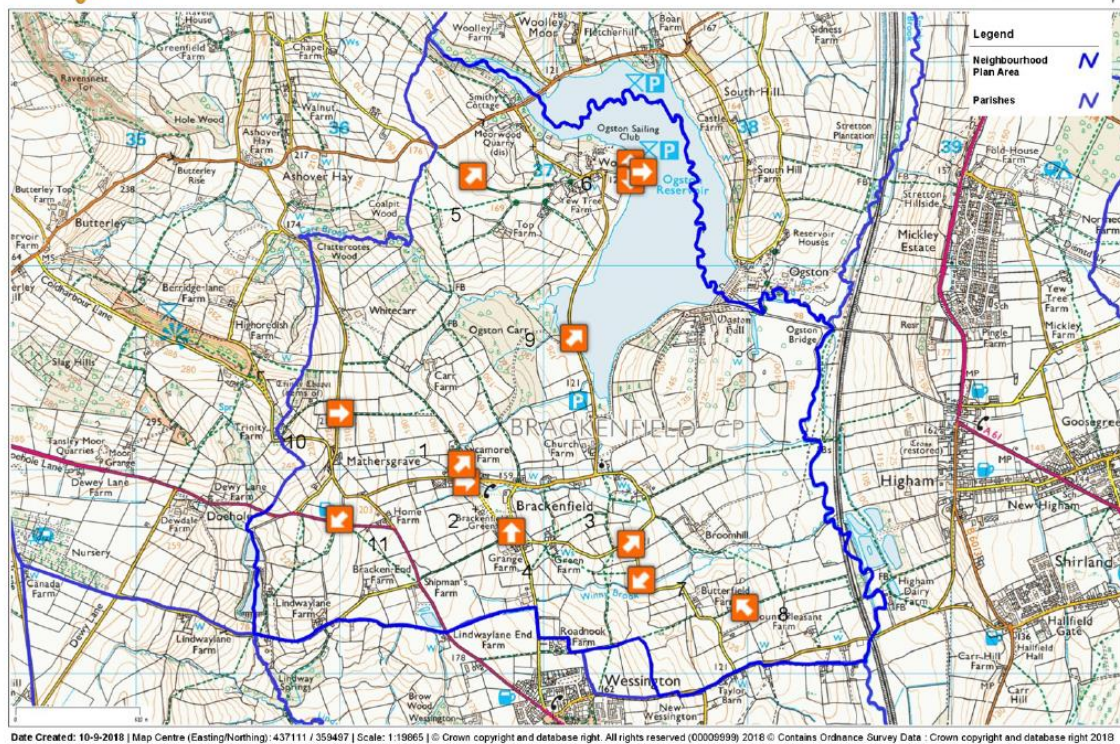
character, quality, distinctiveness or sensitivity of the landscape, or to important features or views, or other perceptual qualities. Further these proposal should be informed by, and be sympathetic to, the distinctive landscape areas identified in the Derbyshire Landscape Character Assessment and the AMES. This is in accordance with paragraph 174 (a) of the NPPF where requires that developments contribute to and enhance the natural and local environment by protecting and enhancing valued landscapes.

- 7.10 In this case and as discussed above, the proposal is considered to be an intrusion into the countryside and as such would cause harm to the character, quality and distinctiveness of the landscape in this part of Brackenfield. In particular it would encroach on one of the gaps which are seen to be a feature of the layout of the village. The fact that the building would be easily seen from the main highway through the village and footpath 19 further supports the argument that the proposal would have a negative impact on the landscape character at this point.

7.11 Impact on an important view

Brackenfield Neighbourhood Plan (policies CH1 and CH2) will only support development which demonstrate that they reinforce and enhance the local character. CH1 in particular requires that to be supported development proposals must protect and enhance the historic landscape and local character identified in the Brackenfield Historic and Character Assessment Report 2018 and that development proposals must not significantly harm the important views identified on the Map in Appendix F and described in the Brackenfield Important Views Report 2018.





- 7.12 The view from the end of Carr Lane across the field containing the development site towards Ogston Reservoir is one of these the development site is one of the important views highlighted in the Important Views report and shown as view 1 on the above map.



As can be seen in the above photograph, the existing polytunnels, whilst visible are for the most part below the hedge line and due to their construction their impact is minimal. The proposed dwelling would be more than 2m taller, being of a greater scale and massing; and being of permanent construction would have a much greater, permanent impact on this protected view as identified in the Brackenfield Neighbourhood Plan.

7.13 Impact on the character of an identified Gap between Development

The impact of a permanent dwelling on the identified gaps between development highlighted in the Brackenfield Neighbourhood Plan would diminish the impact of that gap on the local character and distinctiveness of the area and would therefore not be in accordance with NP policy CH2. As such it is considered that the proposal does not meet the requirements of Local Plan policies NE1, PDLP policy SDC3 and policies CH1 and CH2 of the Brackenfield Neighbourhood Plan.

- 7.14 Policy NE2 of the Brackenfield Neighbourhood Plan aims to minimise light pollution and maintain views of night time skies. It is considered that the proposed design which has a large amount of glazing in the front elevation combined with the open nature of the site with the field to the foreground would have an impact on views of the night sky towards Ogston Reservoir from School Lane and Carr Lane (footpath 19). If members are minded to approve the scheme any external lighting from the site should be controlled by way of condition to limit light spill.

7.15 Material Considerations

A number of material considerations are considered below, however officers do not believe these considerations outweigh the harm outlined above.

7.16 Previously Developed Land

The site is a former horticultural nursery which was granted permission in 2008 for the two poly tunnels and a potting shed (08/00066/FL). Section 336 of the Town and Country Planning Act 1990 defines 'agriculture' as including: '**horticulture, fruit growing, seed growing**, dairy farming; the breeding and keeping of livestock (including any creature kept for the production of food, wool, skins or fur, or for the purpose of its use in the farming of land).

- 7.17 Therefore it is considered by officers that the land and buildings have an agricultural use and therefore cannot be considered as previously developed land. As a consequence the site does not fall into the category of sustainable development under policy GS1 paragraph (b) of the Local Plan and SS1 (b) of the PDLP.

7.18 Impact of the existing poly tunnels



The permission granted for the nursery included a condition that the polytunnels and raised beds (but not the steel shed) should be removed when the horticultural use ceased. The beds were removed after the nursery ceased trading but the polytunnels remain. The agent argues that the condition is not enforceable and indeed an enforcement case was opened and closed in 2014. However since, as argued above horticulture is not a different use class from agriculture it could be argued that the use has not ceased and that the polytunnels can continue to be used in conjunction with horticulture and as argued in paragraph 7.16 they do not represent development. The agent goes on to argue that a house would be more visually attractive than the polytunnels.

- 7.19 By virtue of the 2008 permission the polytunnels are acceptable agricultural development in that position and that their impact on the countryside, gaps and views are acceptable. Unlike buildings of more permanent construction, when polytunnels fall into disrepair they quickly become assimilated back into the countryside and have very little impact even if the hoops remain. As argued above, the impact of the proposed dwelling on the countryside, gap and important view would be much greater than that of the polytunnels in use and it therefore follows that it would be of even greater permanent impact than polytunnels in disrepair. Therefore it is not logical to argue that their replacement by a permanent house of greater scale and massing is an improvement to the countryside in that location.

7.20 Consideration of weight given to PDLP - contra to agent arguments

The applicants' argue that the adopted Local Plan is out of date and that there are uncertainties surrounding the PDLP which means that it cannot be afforded much weight. However it is considered that the saved policies of the adopted Local Plan are consistent with the NPPF. Further the Local Authority has received the final report on the PDLP from the inspector and it is expected that the plan will be adopted by the Council in the autumn. In this case the policies in the PDLP support the policies of the adopted plan and can be given significant weight.

7.21 Impact on housing numbers

The applicants' accept that the council is able to show a 5 year housing supply but argue that due to the out of date nature of the saved policies of the adopted Local Plan and uncertainty regarding the PDLP that the council cannot rely on its policy and the presumption in favour of sustainable development is triggered. However as has been outlined above, the saved policies of the adopted local plan are in accordance with the NPPF and the PDLP is at an advanced stage and as such both carry significant weight. Nevertheless the benefits of a single dwelling to the council's housing supply is generally seen by inspectors to carry, at best, limited weight.

7.22 Highways

It is noted that there is currently no residence on site which presumably means vehicular movements take place in association with the activities carried out although no specific information is given in this respect.

7.23 Carr Lane is the route of a Public Right of Way (Footpath 19 on the Definitive Map for the area). From information available to officers it would seem that there would be sufficient space for the safe passage for a car and pedestrian.

7.24 Although no specific information is given in respect of current vehicular movements, it is considered that it would be difficult to demonstrate demonstrable harm such that any recommendation of refusal might be sustainable.

7.25 Land Contamination and Stability including Coal Risk Assessment

The site falls within the defined Development High Risk Area for Coal mining and that there are coal mining features and hazards within the site. A coal Risk assessment has been submitted. The Coal Authority raised no objections to the redevelopment of this site, subject to the LPA imposing a suitably worded condition to secure the undertaking of intrusive ground investigations, as considered necessary by Midland Surveying & Engineering Ltd.

7.26 The council's environmental health team have no objections to the proposal subject to the usual contaminated land conditions requiring phase 1 contaminated land survey and subsequent remediation and validation.

7.27 Flood Risk

The site is located within flood zone 1 so is considered at low risk of flooding and as such did not require a flood risk assessment. The Applicants have indicated that surface water will be disposed of by means of a soakaway and will not be added to the mains sewers.

7.28 Sewerage

Some objectors have mentioned that the sewage system in this part of Brackenfield is not capable of supporting the sewage from an additional property. Severn Trent Water have been consulted but have not responded to the consultation request. Details of the disposal of foul water can be dealt with by condition if planning permission is granted.

7.29 Biodiversity

The site is not designated for nature conservation and the poly tunnels are not considered suitable locations for bat roosts. As such it is not considered that the proposal will have a negative impact on protected species.

## 8.0 Summary and Conclusion

- 8.1 This application is for a new single storey dwelling with rooms in the roof to be located in the northern corner of the site. As a former horticultural nursery the site has an agricultural use. The dwelling will be located in the area currently occupied by two poly tunnels the steel agricultural building on the site will remain as part of the development. The field within which the site is located has been identified by the inspector who dismissed the appeal on application 19/01063/OL as *“one of those areas of open space that are integral to the distinctive open, rural character of The Green”*. The site also forms the foreground of one of the important views as outlined in the Brackenfield Neighbourhood Plan and is clearly visible from School Lane and Footpath 19 in the parish of Brackenfield.
- 8.2 In this case the proposal is for a building located on land which although previously a horticultural nursery has not had its use changed from agricultural and is therefore not considered to be previously developed.
- 8.3 It is not considered that the proposal constitutes infill development as it is bounded by development on one side only and is located a considerable distance from other dwellings in the village.
- 8.4 Its location away from the main part of the village of Brackenfield and within a parcel of land which is considered to contribute strongly to the distinctive open, rural character of The Green and therefore this part of the village means that it will have a harmful impact on the character of the area.
- 8.5 The building would be clearly visible from the main road and footpath 19 in the parish of Brackenfield therefore it represents a prominent intrusion into the countryside. Further the proposal would have a permanent and harmful impact on an important view as outlined in the Brackenfield Neighbourhood Plan.
- 8.6 The proposal does not fall into the categories of dwelling which the Development Plan supports in the countryside and so development would erode the character of the countryside in this location and cause harm to the distinctive landscape in this area.
- 8.7 No material considerations have been put forward which outweigh this harm.
- 8.8 As such the proposal fails to comply with North East Derbyshire Local Plan policies GS1, GS6, NE1 and H3; policies CH1, CH2, NE2 and H1 of the Brackenfield Neighbourhood Plan and policies SS1, SS8, SS9 and SDC3 of the Publication Draft Local Plan and the aims of the NPPF when read as a whole.



- 8.9 Human Rights have been considered and applied to the determination of this application.

## **9.0 Recommendation**

- 9.1 **REFUSE** the application for the following reason/s:

1. The development site is located within open countryside to the north of the village of Brackenfield which is a level 4 village where development under countryside policies apply.

The site does not represent limited infill as it is located a considerable distance from the main part of the village with open field between it and other development to the south. The previous use of the site was agricultural and therefore cannot be considered to be previously developed land.

The land on which the site is located has been identified as one of the gaps between development which characterises Brackenfield. It also forms the foreground of an important view as outlined in the Brackenfield Neighbourhood Plan. Although the design of the building itself is not considered to be out of keeping with the area its siting, scale and massing makes it highly visible from important viewpoints, School Lane and public footpath 19. As such it is considered that it is an intrusion into the countryside and harms the character of the primary Area of Multiple Environmental Sensitivity.

There are no material considerations which outweigh these harms.

As such it is considered that the proposal does not meet the requirements of policies GS1, GS6, NE1 and H3 of the North East Derbyshire Local Plan, Policies CH1, CH2, NE2 and H1 of the Brackenfield Neighbourhood Plan and policies SS1, SS8, SS9 and SDC3 of the Publication Draft Local Plan and the aims of the National Planning Policy Framework when read as a whole.

## PLANNING COMMITTEE – 19 October 2021

**REFERENCE NUMBER:** 21 / 00914/FL      Application Expiry Date: 30 September 2021  
Application Type: Full Planning Permission

**Proposal Description:** Spreading of soil on agricultural land to raise land levels

**At:** Field To The North Of Grange Barn Milken Lane Far Hill Ashover

**For:** Messrs John and Roger Hollingworth

**Third Party Reps:** 2      **Parish:** Ashover  
**Ward Name:** Ashover

**Author of Report:** Aspbury Planning – Denise Knipe      **Date of Report:** 1 October 2021

**MAIN RECOMMENDATION: GRANT subject to Conditions**

Location Plan



## **1.0 Reason for Report**

- 1.1 The application has been 'called in' by the Ward Member, Councillor Armitage due to concerns raised in relation to impact upon the landscape character and ecology. The Planning Committee is required to determine the application.

## **2.0 Proposal and Background**

- 2.1 The full planning application seeks approval for engineering works involving the spreading of soil from one part of the agricultural holding where an extant planning permission exists (planning reference 17/00200/OL and 19/00868/RM) for residential development. The permissions have yet to be implemented.
- 2.2 The purpose of the application is to reduce the number of trips associated with the removal of soil from the development site, and to make the land levels at the application site less steep, and make the site more usable for farming.
- 2.3 The application is supported with sections of the land which show that the soil would be spread thinly within a depression in the land leading to raising of the dip to 97.06 AOD, grading out to the existing levels of 98.04 AOD and 100.01 AOD.
- 2.4 It is acknowledged that the moving of topsoil from one area of farmland to another on the same agricultural holding can be done without requiring planning permission, under Part 6 of the General Permitted Development Order (GPDO). This is subject to the prior notification of the Local Planning Authority. In this case, the moving of soil is to facilitate the implementation of the planning permissions and not solely related to agricultural development and therefore planning permission is required.
- 2.5 There have already been some engineering works involving leveling within this field approved under planning reference 19/01179/FL. This work has already been carried out and is not impacted by this latest proposal.

## **3.0 AMENDMENTS**

None

## **4.0 Relevant Planning History**

- 4.1 17/00200/OL Outline application (with all matters reserved) for the construction of 10 bungalows to wheelchair user standard M4 (3) with

access taken from Milken Lane (Major Development/Departure from Development Plan/Affecting setting of a Listed Building) (Conditionally Approved)

- 4.2 19/00868/RM Application for approval of reserved matters for access, appearance, landscaping, layout and scale pursuant to outline approval 17/00200/OL for construction of 10 bungalows to wheelchair user standard M4(3) (Major Development/Departure from Development Plan/Affecting setting of a Listed Building) (Amended Plan) (Conditionally Approved)
- 4.3 19/01179/FL Regularisation of Engineering Works consisting of the re-leveling of an agricultural field (Retrospective Application) (Conditionally Approved)

## **5.0 Consultation Responses**

- 5.1 The **Parish Council** considers that this application should be notified to Derbyshire County Council, as the Minerals Authority, due to the movement of soil. Ashover Parish Council supports the Ward Member's request that this application is determined by the Planning Committee.
- 5.2 The application does not trigger a consultation with the Minerals Authority due to not being imported on or off the site.
- 5.3 The Local **Ward Member** raised concerns regarding the impact upon the landscape and ecology and requested that the application be dealt with by members of planning committee.
- 5.4 The **Environment Health Officer** (EHO) reviewed the information submitted and have no comments to make in respect of the proposal.
- 5.5 The **Environmental Agency** was consulted but has not provided comment on the application.
- 5.6 The **Lead Local Flood Authority** (LLFA) was consulted on the application and made not comments.
- 5.7 **Derbyshire Wildlife Trust** (DWT) was consulted on the application and responded stating that given the soil will originate from a donor site that is the subject of planning application 17/00200/OL. It is essential that the soil is not removed from the donor site until all the pre-commencement conditions have been discharged, particularly those relating to safeguarding protected species i.e. the production of a Construction Environmental

Management Plan (CEMP: Biodiversity). To do so would risk causing an offence under current wildlife legislation.

- 5.8 It is also commented that the application has not been supported with any ecology surveys and given that there is known presence of badgers in the area a survey is advisable. It was suggested that this should be pre-determination in case any mitigation is required. Given the location of the soil spreading is contained within the dip in the landscape and does not impact upon the treed boundaries, it is considered acceptable to impose a condition in this instance.
- 5.9 There is a pond within 80 metres of the site and DWT consider that the arable land would not be suitable habitat for Great Crested Newts and advises that a survey would not be required. However, a condition has been recommended as a precautionary measure seeking a Method Statement for works which details best practice working methods to minimise potential impacts to GCN.

## **6.0 Representations**

- 6.1 **Ward Member Councillor Armitage** requested that the application be considered by planning committee.
- 6.2 The application was validated on **19.07.2021** and was due to expire on **12.09.2021**, however an extension of time was agreed until **22.10.2021** to allow the application to be decided at committee. A site visit was undertaken by the case officer on **09.09.2021** and a site notice was placed on the telegraph pole adjacent to The Black Swan public house car park which expired on **30.09.2021**.
- 6.3 **Three** objections have been received from two neighbouring residents which can be summarised as follows:
- There are pre-commencement conditions relating to the site where the soil is to be removed. These have yet to be discharged.
  - There are inaccuracies within the Application Form. It is stated that there are no known contaminants on site. However, there are pre-commencement conditions requiring further assessments to be submitted – these are outstanding.
  - It is stated that there are no protected species on site or designated site, important habitats etc which is incorrect as there are GCN and Badgers in the area.
  - To grant this application would be granting authorisation to make a start on the development site without having to comply or to discharge any of the conditions.

- 6.4 The objectors are concerned that the granting of planning permission would negate the need to comply with conditions on the development site. This is incorrect. The conditions remain undischarged and should any commencement on the site be undertaken, moving of soil in this case, the development would be unauthorised.

## **7.0 Relevant Policy**

- 7.1 The Development Plan comprises the 'saved' **North East Derbyshire Local Plan** (2005), **Ashover Neighbourhood Plan** (2017), and the emerging **Publication Draft Local Plan 2014-2034**.

- 7.2 In respect of the North East Derbyshire Local Plan the most relevant policies to this application are considered to be as follows:

GS1 Sustainable Development  
GS6 Open Countryside  
NE1 Landscape Character  
NE2 Special Landscape Area

- 7.3 The Ashover Neighbourhood Plan 2016-2033 (Adopted November 2017) covers the application site and the following policies are a material consideration:

Policy AP2: Development Proposals outside the Limit of the Development  
Policy AP13: Landscape Character

- 7.4 The new Local Plan was submitted for examination in May 2018, with public hearings taking place in November/December 2018 and March 2019. The Inspector issued her interim findings in letters dated 18 February and 21 March, 2019. Consultation on Main Modifications was undertaken in 2020 ending on 31st January 2021. All comments/representations received have now been forwarded to the Inspector and it is expected that the plan will be adopted in autumn 2021.

- 7.5 In respect of the Draft Local Plan the most relevant policies to this application are considered to be as follows:

SS1 Sustainable Development  
SS9 Development in the Countryside  
SDC3 Landscape Character

- 7.6 **National Planning Policy Framework**

- 7.7 The overarching aims of the revised National Planning Policy Framework (NPPF) are also material in the assessment of this application. Of particular relevance to the proposal are:

Chapter 2 – Achieving Sustainable Development

Chapter 15 – Conserving and Enhancing the Natural Environment

## **8.0 Planning Issues**

- 8.1 The planning issues relevant to the proposal are whether the proposal accords with the policies of the Development Plan, i.e. is it acceptable in principle, its impact on the character of the landscape, its potential impact on the amenity of existing residential property occupiers, and biodiversity.

- 8.2 Each matter is considered in detail below.

### **8.3 Principle of Development and Application of Policy**

- 8.4 Local Plan Policies GS6 and NE2 cover the countryside and Special Landscape Area, where development will be supported where it does not detract from the surrounding landscape and the siting, scale, design, landscape treatment and the use of materials would be in keeping with the special character of area. Furthermore development will be permitted providing it would not have a detrimental effect on the visual amenity, character and function of the Special Landscape Area.

- 8.5 The Ashover Neighbourhood Plan (ANP) is a material consideration when determining planning applications. The ANP identified the importance of the landscape character of the area, and that each development will be required to demonstrate that it respects the distinctive landscape character of the area.

- 8.6 In view of the above, it is considered that development may be acceptable, subject to assessing the visual impact of the engineering works on the surrounding countryside, ecological impact, as well as that on residential amenity.

### **8.7 Impact on Character of Countryside and Special Landscape Area**

- 8.8 The application site is located in open countryside which is designated as a Special Landscape Area (SLA). The SLA was identified in 1988 as part of the core documentation associated with the creation of the then Local Plan process. The site is also covered by the national Character Area 50 'Derbyshire Peak Fringe and Lower Derwent' (NCA50). Whilst the site forms part of a locally designated landscape it is not subject to any national landscape designation.

8.9 It is accepted that the engineering works will alter the contours of the landscape in parts, however, by reason of its nature and minimal physical change it is considered that the development would not cause any undue visual or landscape harm. This is partly due to the application site being contained in a small area of the field and not affecting the distinctive features that contribute towards and add value to the landscape of the area. The open character of the countryside and Special Landscape Area will be retained.

#### **8.10 Impact on Neighbouring Residents and Land Uses**

8.11 The nearest residential properties to the application site are Grange Barn and Grange Farm are located approximately 115m to the south. To the northeast of the site is an outdoor sports facility and hardstanding associated with Eastwood Grange, however it is screened from the application site by mature tree planting.

8.12 Due to the scale and nature of the engineering works, it is not considered that the development would be of any detriment to the amenity of neighbouring residents or land uses.

#### **8.13 Land Contamination Considerations**

8.14 Concerns have been raised relating to possible land contamination from the imported topsoil. The Councils Environmental Health Officer (EHO) was consulted on the application and have not raised any concerns. The soil is to be imported from land that is associated with the farming use. This is usually permissible under Agricultural Permitted Development but in this case, it is to be moved to facilitate the residential permission, and negates the need to remove soils off site, which would involve several HGV movements. There are several conditions imposed on the outline and reserved matters application which require formal discharge. Conditions relating to contamination, requiring further information to be submitted before a commencement on site can take place, are yet to be satisfied.

8.15 In view of EHO not raising objections to the application, and that granting of this consent does not override the conditions on the earlier permissions, it is Officers views that the re-leveling works involving soils elsewhere on the holding are acceptable.

#### **8.16 Ecology and Biodiversity Considerations**

8.17 Further representations make reference to the impact the proposal would have on the known ecology in the area. Again, it is stated that pre-commencement conditions imposed on the site where the soil is to be moved from, relating to ecology are yet to be discharged.



- 8.18 Local Plan Policy NE6 seek to ensure that that development would not adversely affect biodiversity and seeks compensation or mitigation. Policy NE7 advises that the direct or indirect detrimental effect on established or ancient woodland, important hedgerows or trees that make a significant contribution to the character or amenity of the area should be avoided.
- 8.19 Derbyshire Wildlife Trust (DWT) have provided comment on the proposal and have suggested conditions to safeguard protected species. As a way of background information, a Preliminary Ecological Appraisal was submitted during the course of the outline application (17/00200/OL) for 10 dwellings, where it was concluded that there were no badger setts within the site from where the soil was taken.
- 8.20 There is no evidence before Officers to suggest that there are badger setts on the current application site. Nevertheless, badgers and the setts (burrows) they live in are protected under separate legislation. A condition can be imposed requiring a 'Walk-Over survey' for badgers should permission be granted. This is considered a suitable way forward given there has been a passage of time since the earlier survey was conducted.
- 8.21 The proposal does not impact upon any of the boundary trees and hedgerows and it is considered that the proposal would not have a detrimental impact upon the biodiversity of the site and accords with policies NE6 and NE7.
- 8.22 **Flooding and Drainage Considerations**
- 8.23 The site is within a Flood Zone 1, which has a low probability of flooding (land assessed as having a less than 1 in 1,000 annual probability of river flooding).
- 8.24 The Environment Agency was consulted on the application, they have commented on the application. .
- 8.25 The Lead Local Flood Authority was also consulted; they have also not commented.
- 8.26 It is noted that there were no objections from either governing body when considering a similar proposal in the same field (19/01179/FL) and there is no reason to conclude that the proposal presents a flood risk.
- 8.27 **Summary**
- 8.28 Overall, it is considered that the proposed engineering works consisting of re-levelling the agricultural field, using soils from elsewhere within the site;

albeit to facilitate residential development, represents acceptable development as the visual amenity and character of the open countryside and Special Landscape Area is to be retained and protected. The proposal complies with the requirements of the relevant Policies of the North East Derbyshire Local Plan and the National Planning Policy Framework.

- 8.29 The development can only proceed once all the pre-commencement conditions are discharged pertaining to the area where the soils are to be removed, otherwise the moving of the soil would render the extant planning permissions unlawful.

### 8.30 **Conclusion**

- 8.31 For the reasons above it is considered that the proposed development should be approved.

## 9.0 **Recommendation**

- 9.1 GRANT Full Planning Permission subject to the following conditions

### **Conditions**

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

Reason: Required to be imposed pursuant to Section 91 of the Town and Country Planning Act 1990.

2. The development hereby approved shall be carried out in accordance with the plans received unless otherwise subsequently agreed through a formal submission under the Non material Amendment procedures and unless otherwise required by any condition contained in this decision notice.

Reason- For clarity and the avoidance of doubt.

3. Before development starts, a badger survey report shall be submitted to and approved in writing by the Local Planning Authority. This report shall include details of any necessary mitigation measures and a timetable for implementation of any mitigation measures. Thereafter the mitigation measures shall be carried out strictly in accordance with the timetable in the approved report and retained as such thereafter. Unless otherwise agreed in writing by the Local Planning Authority.

Reason: To protect neighbours from noise nuisance and in accordance with Policies NE6 of the North East Derbyshire Local Plan.

4. Due to the low risk of great crested newts being present within the application area, a Method Statement for the proposed works shall be produced and submitted to the LPA for approval, prior to commencement of works on site. This shall include reasonable avoidance measures such as seasonal timings and strategic clearance of suitable habitat, including any potential refugia. It shall also include instructions in the unlikely event that great crested newts are encountered. The approved Method Statement shall be implemented in full and a short statement of compliance submitted to the LPA upon completion of clearance works.

Reason: To protect neighbours from noise nuisance and in accordance with Policies NE6 of the North East Derbyshire Local Plan.

## **North East Derbyshire District Council**

### **Planning Committee**

**19<sup>th</sup> October 2021**

<b>Tree Preservation Orders 280, 281, 282 and 283 – Areas of trees and Woodland at Ashover.</b>
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### **Report No PM/04/21-22/AK of the Planning Manager (Development Management)**

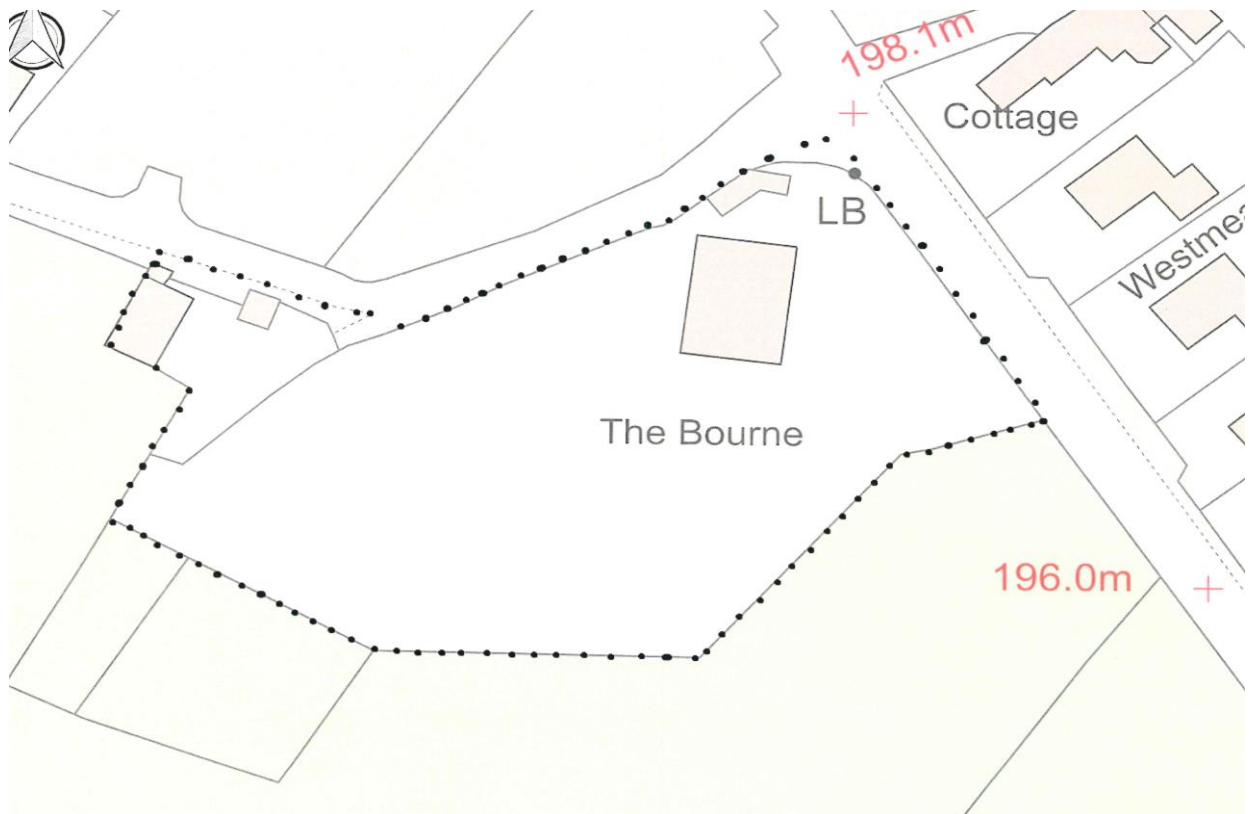
This report is public.

#### **Purpose of the Report**

- To advise Planning Committee of the making, provisionally, of Tree Preservation Orders No.280, 281, 282 and 283 on various areas of trees and a woodland at Ashover.
- To advise Planning Committee of the receipt of objections in respect of the making and/or potential confirmation of the 4 Orders.
- To allow Planning Committee, as required, to determine if the provisional Orders should be confirmed/not confirmed or confirmed in an amended, modified form.

#### **1 Report Details**

- 1.1 Members may recall that an Interim Tree Preservation Order (TPO) has historically been relied upon to protect a large number of trees on an area of land west of Ashover. This was Ashover Interim Tree Preservation Order No.1 and covered land stretching from Ashover west to Kelstedge.
- 1.2 The TPO was made as an “area” Order in 1944. As time has passed it has become increasingly difficult to rely on its provisions as, being an area order, only those trees in place at the time the Order was made were protected. It became more and more difficult to prove a tree(s) was in place up to 75 years ago and so protected. Effectively, this made the Order unenforceable.
- 1.3 Certain portions of the land have been resurveyed over time and replacement TPOs made but earlier this year the decision was taken to make provisional Orders to cover the other trees within the area and so supercede TPO1 altogether.
- 1.4 The Orders made were TPO’s 280, 281, 282 and 283, as set out below as Figures 1 to 4. TPO 280 (a single area) relates to land at The Bourne, Moor Road, TPO 281 (a single area) on land west of Ashover bordered by Narrowleys Lane and Moor Road, TPO 282 on a woodland east of Kelstedge and TPO 283 (a single area) on trees along the roadside of Cipton Lane and Bath Lane.





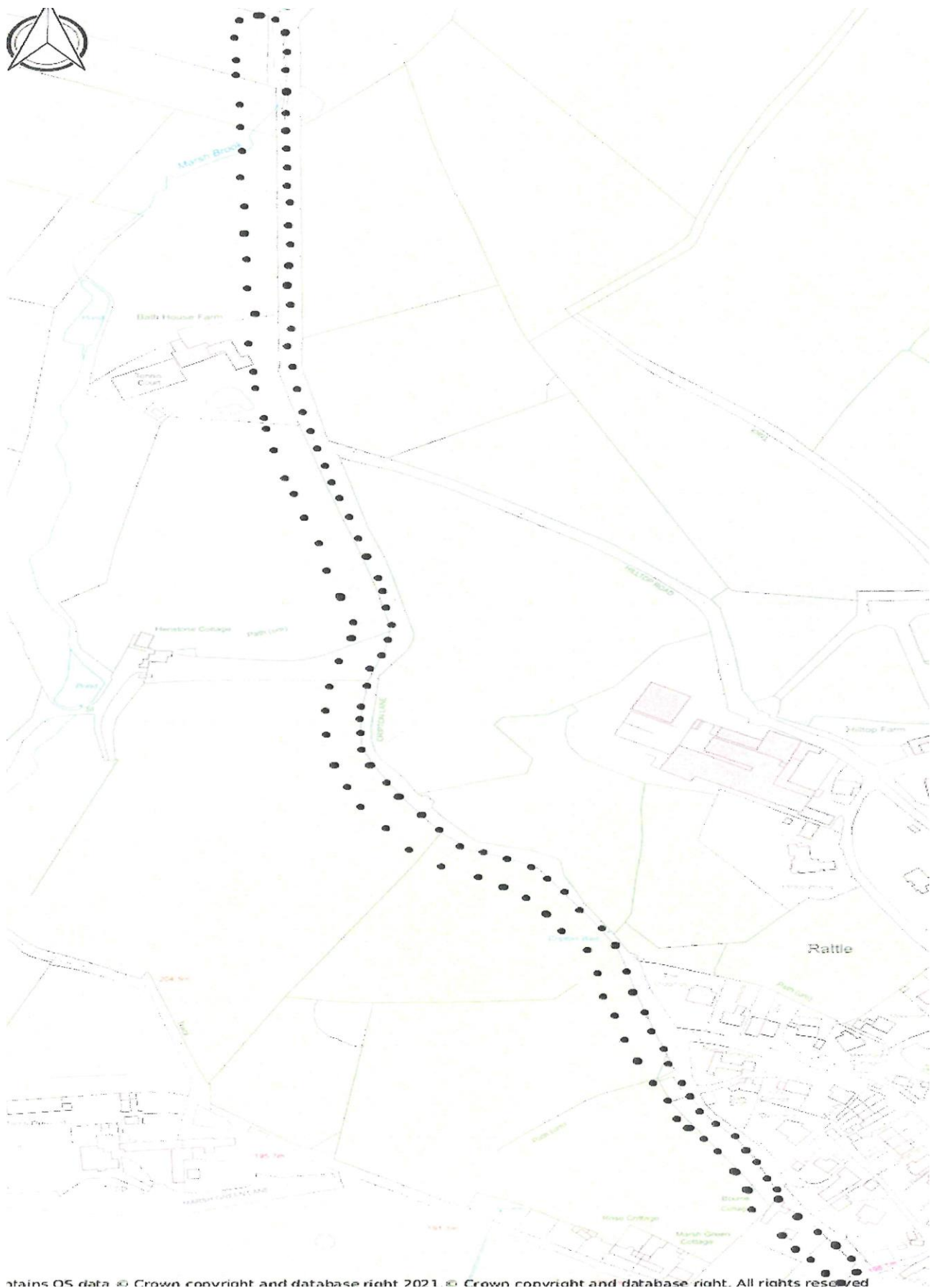


Fig 4: TPO 283: Trees on Cripton Lane and Bath Lane

- 1.5 The trees are considered to offer significant level of amenity to the area but the overriding issue, Officers consider, is that the trees merit ongoing protection due to the long term protection they have received to this point and the public perception of that protection.
- 1.6 Subsequent to the making of the Order, representations have been received from a significant number of parties to all 4 provisional TPOs as follows:

In respect of provisional TPO's 280 and 281:

The site owner has approved development at the rear of the site, and it has been shown that development can take place while protecting the trees. The provisional TPOs have been assessed by an arboricultural consultant who considers them inappropriate for this site and on the adjoining land as several of the trees in the newly designated area were in fact diseased or at significant risk of failure. The area designation covers all trees present in the defined area at the time that the Order was served, yet any appropriate system of amenity evaluation would show some significantly defective trees lack the necessary merit for inclusion in a TPO. The TPO is objected to on the grounds that they include trees whose amenity value has not been correctly assessed.

In respect of provisional TPO 282:

- A. The status of Interim TPO No.1 is questioned.
- B. Is this new TPO a Council initiative or a request from a third party?
- C. What was the Council's method for assessing the amenity value of the trees? What were the scoring criterion?
- D. What other of the many woodlands around Ashover have been protected based on similar scoring mechanisms.
- E. Why is this woodland exceptional and what sets it aside from the other woodlands nearby (particularly those with footpaths within them)? Can a plan of other protected woodlands be provided?
- F. The woodland subject of the Order is a private woodland with no public right of way and not a public amenity area. Four separate woodlands are incorporated into the one order. It is important each is assessed differently.
- G. Who visited the woodland and inspected them? A copy of the report is requested.
- H. The current plan does not accurately define the woodlands and seeks to protect land outside those boundaries. An objection is made to the Order on the basis of inaccurate boundaries.
- I. If any further visit is made the owner requests to attend.
- J. How is any decision to confirm the Order taken? Is a report viewable and can a copy of the original report be provided?

In respect of provisional TPO 281 and 283:

Many of the queries in respect of TPO's 281 and 283 are consistent with those made in respect of TPO 282 (see above) but the specific points raised are as follows:



- A. Can a copy of the Council's assessment method be provided and the scoring criterion that resulted be provided.
- B. What other trees in the locality have been protected in the locality?
- C. Why are these trees considered exceptional, warranting protection, as opposed to others which are not protected?
- D. Who visited the trees and inspected them. Can a copy of the report be provided that led to the Order being made?
- E. The TPO is objected to as the plans do not accurately define the boundaries or location of the trees.
- F. In respect of TPO 283 a line of dots appears which are not representative of the location of trees.
- G. In respect of TPO 281 the area of land is incorrectly defined.
- H. If a further site visit is required the owner would wish to attend.
- I. What other TPO's are proposed in the TPO process?
- J. Can a copy of the Officer report to Cabinet be provided?
- K. The plan in respect of TPO 281 does not include the land surrounding The Bourne. Has a separate Order been made in respect of that?

- 1.7 A tree preservation order is normally made to protect trees in the interests of amenity and this normally involves an assessment of the trees visibility, impact (including the contribution to the wider landscape) and the trees size and form. Before confirming an Order the Council should satisfy itself that the tree(s) would bring a reasonable degree of public benefit in the present or future. Amenity comprises the visibility of the trees, their individual or collective impact as well as other factors such as the trees importance to nature conservation and/or any response to climate change.
- 1.8 In all 4 cases referred to here, as set out above, Officers take the view that the trees do offer a significant level of amenity to the area when taken together with the other trees/woodland in the vicinity. The trees are readily visible from and along the public road and footpath network and so offer excellent amenity value. The trees have been assessed as such by Officers using a scoring mechanism offering an element of objectivity to that assessment but perhaps most importantly in this case, the trees have been protected over the long term by Interim TPO No.1 and Officers consider the ongoing protection of the trees is in the public interest and continues the protection offered the trees and relied on over the long term by the local community. This alone in this case is, in the view of Officers, sufficient to formally protect the trees.
- 1.9 The comments made in respect of TPOs 280 and 281 are noted. However, any permission granted for development overrides a TPO where the removal of any tree(s) is essential to allow the approved development to go ahead. The confirmation of the Orders in that respect does not prevent acceptable development proceeding. In addition, where trees are in exempt categories a TPO does not prevent work being undertaken. In time, it will be preferable to work to individually categorise trees and undertake a more detailed survey, but in the short term Officers believe an area TPO is the most effective way of affording ongoing protection of the trees in question.
- 1.10 In respect of the objections received on TPOs 281, 282 and 283, these all fall within a single ownership. Two "area" Orders and one "woodland" Order have been provisionally made. Subsequently some work has been undertaken to secure an

agreed form of Order(s) with the land owner, who has been proactive in cooperating with Officers, by individually assessing the trees set out in the two area orders and to map as the owner would wish the woodland Order. It is understood that generally he is not opposed to the trees being protected but he wishes to see that in a more structured form. However, time has not allowed all that work to be completed and so Officers consider that a confirmation of the Orders as originally made will afford ongoing interim protection but allow the opportunity to finalise the work with the owner as soon as possible thereafter (potentially then resulting in a further new order(s) being made). If progress can be made on this prior to the Committee meeting, Members will be updated as to progress then.

- 1.11 Many of the other points made are questioning the procedures used to make the various Orders. Members can be assured that the impetus for making the various Orders comes, in this case, from Officers seeking to secure the proper long term ongoing protection of the trees and that assessments have been undertaken to satisfy the Council the trees merit protection. It is accepted that the trees covered by these 4 Orders, in many respects, are of no greater amenity value than many others in the vicinity of Ashover, however, the trees in question have been protected over the long term by Interim TPO No.1 and so there is a public perception they are protected and, in making these Orders, the Council would acknowledge that.

## **2 Conclusions and Reasons for Recommendation**

- 2.1 Officers believe there is a wider public desire to afford ongoing protection of the trees but also note the comments made objecting to the Order.
- 2.2 Officers consider that the trees, the three areas and one woodland, the subject of the TPOs, overall, play an important role in the amenity to the area, albeit in conjunction with other both protected and non-protected trees and areas of woodland in the locality. They will also benefit the varied ecology of the area.
- 2.3 Officers also note that the making of TPOs does not necessarily prevent works being undertaken to trees, otherwise protected, and, in some cases, their removal, where appropriate. In addition, a management plan can be agreed under the provisions of an application to undertake ongoing work to the trees in the case of the woodland TPO.
- 2.4 On that basis Officers conclude that the trees should all be protected by formal Order as provisionally proposed.
- 2.5 In the case of all the Orders it would be preferable to have undertaken more detailed surveys of the trees and their extent further to the provisional Orders being made. In the case of TPOs 281 and 283 some further work has been done but has yet to be finalised. In respect of TPO 282 it has not been possible as yet to agree the exact extent of the woodland. No further work has been possible in respect of TPO 280.
- 2.6 Therefore, it is concluded that all 4 TPOs should be confirmed as provisionally made, except and unless any further work can be undertaken prior to the 6 month deadline to confirm the Order is reached, as set out above.

### **3 Consultation and Equality Impact**

- 3.1 The owners of the trees and other interested parties have been consulted as part of the process undertaken in making the Order.

### **4 Alternative Options and Reasons for Rejection**

- 4.1 There is the alternative option to not confirm the Orders or to modify them. However, for the reasons set out above, neither of these options is considered appropriate in this case.

### **5 Implications**

#### **5.1 Finance and Risk Implications**

- 5.1.1 There is no financial or other risk from the confirmation of the Order as the option remains for the tree owners to make application to seek to undertake works to or remove trees.

#### **5.2 Legal Implications including Data Protection**

- 5.2.1 All proper legal processes have been followed with the land owners advised of the making of the provisional Orders and opportunity given for comments to be made (see above).
- 5.2.2 The provisional TPOs have to be confirmed within 6 months from their making, i.e. the 26<sup>th</sup> October, to retain effect. Any failure to confirm the orders within that time would mean they no longer have effect and any protection is lost.

#### **5.3 Human Resources Implications**

- 5.3.1 None.

### **6 Recommendations**

- 6.1 That Tree Preservation Orders 280, 281, 282 and 283 are all confirmed unmodified with delegated powers granted to the Planning Manager (Development Management), in consultation with the Chair and Vice Chair of the Planning Committee to confirm them in any otherwise modified form as appropriate, as set out in the report, ahead of the 26<sup>th</sup> October deadline.

### **7 Decision Information**

<b>Is the decision a Key Decision?</b> A Key Decision is an executive decision which has a significant impact on two or more District wards or which results in income or expenditure to the Council above the following thresholds: <i>BDC:      Revenue - £75,000    <input type="checkbox"/></i> <i>              Capital - £150,000    <input type="checkbox"/></i>	No
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NEDDC: Revenue - £100,000 <input type="checkbox"/> Capital - £250,000 <input type="checkbox"/> <input checked="" type="checkbox"/> Please indicate which threshold applies	
<b>Is the decision subject to Call-In?</b> (Only Key Decisions are subject to Call-In)	No
<b>Has the relevant Portfolio Holder been informed</b>	No
<b>District Wards Affected</b>	Ashover
<b>Links to Corporate Plan priorities or Policy Framework</b>	All

## 8 Document Information

Appendix No	Title	
<b>Background Papers</b> (These are unpublished works which have been relied on to a material extent when preparing the report. They must be listed in the section below. If the report is going to Cabinet (NEDDC) or Executive (BDC) you must provide copies of the background papers)		
Report Author		Contact Number
Adrian Kirkham (DM)		(01246)217591

## **North East Derbyshire District Council**

### **Planning Committee**

**19<sup>th</sup> October 2021**

#### **Section 106 (Legal) Agreements Update**

#### **Report No PM/05/21-22/AK of the Planning Manager (Development Management)**

This report is public.

#### **Purpose of the Report**

- To provide for all elected Members a detailed breakdown of all live section 106 (legal) agreements.
- To enable Members to play a full role in monitoring the making of section 106 agreements and the receipt and spending of money collected through them.

#### **1 Report Details**

##### **Section 106 Agreements**

- 1.1 Members will recall the most recent report to the Planning Committee on this matter of November 2020 setting out information regarding the community benefits secured through planning consents and associated section 106 (legal) agreements. This report is a further update on this issue for Member information in general accordance with the resolution of Committee in November with the additional information that was requested then.
- 1.2 The attached appendices set out information on all current, live, section 106 agreements. Appendix A provides information in respect of agreements where funding has been secured, Appendix B sets out details of all the agreements where to date payments are due but they have not been received whilst Appendix C sets out the position where no money has been paid to the Council and any updates in respect of requests made for payment.
- 1.3 Whilst the onus/requirement is on the applicant to pay to the Council the money that has been promised/contracted to it, the Council does pursue unpaid money when appropriate. It is most essential, however, that the Council spends any money received within the appropriate time scales set out in the relevant section 106 agreement.
- 1.4 Therefore, Appendix A also sets out when money should be spent and “traffic lights” the level of risk for each payment with red being the colour where money needs to be spent within 2 years, amber within 3 years and green when it is in excess of 3 years. This assists Officers in ensuring money is properly used for the purposes obtained and also this will assist Members in monitoring the use of money within their respective communities.

1.5 There are currently four red records identified.

These relate to recreation/open space provision in the following two cases:

NED/10/01193/FL (Wessington): The use by date of May 2022 is being monitored by Officers and it is anticipated that the money will be used for the stated purpose within the time frame.

NED/14/00147/OL (Wessington): The money should be used by the 28<sup>th</sup> Feb 2023. There remains a further 18 months for this money to be properly used and it is being monitored by Officers.

To public realm works in the following case:

NED/11/00685/FL (Eckington): The money should be used by the 13<sup>th</sup> November 2022. Officers are aware of this deadline and will monitor the situation to ensure proper use of the money.

The additional “red” case relates to affordable housing:

NED/15/00551/FL (Clay Cross/Tupton): The money should be allocated and spent by 21<sup>st</sup> December 2021. Officers are aware of the deadline in this case and are confident the money will be used appropriately.

1.6 It is proposed that a further update on legal agreements will be provided in March/April 2022.

**2 Conclusions and Reasons for Recommendation**

2.1 The proper monitoring of section 106 agreements and the income arising from them enables the Council to both secure proper community infrastructure funding and ensure it is properly apportioned.

2.2 This report and subsequent ones will enable Members to play an active role in those activities and support Officers in ensuring community priorities are secured.

**3 Consultation and Equality Impact**

3.1 None

**4 Alternative Options and Reasons for Rejection**

4.1 A failure to monitor section 106 agreements would leave the Council unable to secure the community infrastructure required to mitigate the impact of granting planning consent for new development. This is not considered a viable alternative.

4.2 More regular reporting on this matter to Planning Committee is possible. However, the making of section 106 agreements, the payments of money and its use can adequately be monitored on an at least half yearly basis.

## **5 Implications**

### **5.1 Finance and Risk Implications**

- 5.1.1 The monitoring and proper accounting and use of money received through section 106 agreements has been consistently and properly accounted for. There is limited risk of not monitoring the income received as the onus for payment lies with the applicant of any approved scheme rather than the Council. The greatest risk to the Council is a failure to use money received by it within the given time scales. The monitoring that is in place mitigates this risk to a significant level.

### **5.2 Legal Implications including Data Protection**

- 5.2.1 Section 106 agreements are public documents placed on the planning register. The statute of limitations regarding payments to the Council is 12 years.

### **5.3 Human Resources Implications**

- 5.3.1 The proper monitoring and enforcing of section 106 agreements carries with it human resource implications. Currently these are being constrained within existing resources but if additional resourcing is required this will be sought through the proper channels.

## **6 Recommendations**

- 6.1 That the information contained within Appendices A, B and C is noted.
- 6.2 That the contents of paragraphs 1.1 to 1.6 is noted and endorsed.
- 6.3 That this matter continues to be reported to Planning Committee on a (approximately) half yearly basis.

## **7 Decision Information**

<b>Is the decision a Key Decision?</b> (A Key Decision is an executive decision which results in income or expenditure to the Council of £50,000 or more or which has a significant impact on two or more District wards)	No
<b>Is the decision subject to Call-In?</b> (Only Key Decisions are subject to Call-In)	No
<b>District Wards Affected</b>	All
<b>Links to Corporate Plan priorities or Policy Framework</b>	Unlocking development potential, providing good quality social housing, contributing to health and well being, increasing participation in sport and leisure activities,

	developing attractive neighbourhoods, making the best use of assets and demonstrating good governance.
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## 8 Document Information

Appendix No	Title
A. <b>to follow</b> B. C.	S106 agreements – payments received and spend to date. S106 agreements – payments due and not received. S106 agreements – payments not yet due/received/pending receipt.
<b>Background Papers</b> (These are unpublished works which have been relied on to a material extent when preparing the report. They must be listed in the section below. If the report is going to Cabinet (NEDDC) or Executive (BDC) you must provide copies of the background papers)	
<b>All section 106 agreements contained on the planning register.</b>	
Report Author	Contact Number
Adrian Kirkham – Planning Manager (DM)	(01246) 217591



# **S106 Agreements - Payments Received and Spend to Date**

Ref No.	Address	Planning Application No.	Intended Use	Use By Date
2	PFI Site Penncroft Lane and Nethercroft Lane, Danesmoor	05/00744/FL	Maintenance	31/10/21
6	Biwater Industries Limited, Market Street, Clay Cross	08/01085/OL	Maintenance	31/10/24
15	J J Cummins Limited, Matlock Road, Wessington	10/01193/FL	Open Space	10/05/22
24	Land To The Rear Of 61 To 119 Nethermoor Road And 15 To 21 Deerlands Road, Wingerworth	12/00600/FL	Open Space Maintenance	15/03/26
30	117 Chesterfield Road, North Wingfield	13/00283/OL & 16/00609/RM	Play Space Contribution	05/04/29
30	117 Chesterfield Road, North Wingfield	13/00283/OL & 16/00609/RM	Maintenance	05/04/29
31	Land between Main Road and Burnsde Avenue and rear of properties on the North Side of Hallfieldgate Lane, Shirland	23/00273/OL, 17/00340/OL & 16/01137/RM	Recreation Contribution	11/11/23
31	Land between Main Road and Burnsde Avenue and rear of properties on the North Side of Hallfieldgate Lane, Shirland	23/00273/OL, 17/00340/OL & 16/01137/RM	Maintenance	11/11/23
32	Land at Coney Green Clay Cross	97/00136/OL	Open Space	01/04/23
34	Land To The East Of Hardwick Drive And To The Rear Of 45 To 57 Penrose Crescent, Arkwright Town	13/00704/FL	Maintenance	13/04/26
35	Site Of Former H B Walker And Son Ltd, Netherthorpe Lane, Killamarsh	13/00804/FL	Play Area	14/01/26
35	Site Of Former H B Walker And Son Ltd, Netherthorpe Lane, Killamarsh	13/00804/FL	Maintenance	14/01/26
43	The Buck Inn Holmgate Road Clay Cross	13/00263/OL & 15/00409/FL	Recreation contribution	26/02/24

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43	The Buck Inn Holmgate Road Clay Cross	13/00263/OL & 15/00409/FL	Maintenance	26/02/24
44	Allotments, Main Road, Shirland	13/00321/FL	Play Space Contribution	03/03/24
44	Allotments, Main Road, Shirland	13/00321/FL	Maintenance	03/03/24
49	Dewley Way Clay Cross	08/01085/OL	Open Space	31/03/26
50	Land to the South of Pioneer House and to the rear of 1-59 Adlington Avenue, Mill Lane, Wingerworth	12/00072/OL & 14/01289/RM	Open Space	13/04/28
57	Land North West of 24 Matlock Road, Wessington	14/00147/OL & 15/01083/RM	Recreation contribution	28/02/23
57	Land North West of 24 Matlock Road, Wessington	14/00147/OL & 15/01083/RM	Maintenance	No date
83	83A Clay Lane, Clay Cross	15/00383/OL , 18/00123/OL and 17/01226/RM	Recreation Contribution	21/12/25
83	83A Clay Lane, Clay Cross	15/00383/OL , 18/00123/OL and 17/01226/RM	Maintenance	21/12/25
85	Land To The Rear Of 61 To 119 Nethermoor Road And 15 To 21 Deerlands Road, Wingerworth	15/00211/FL	Recreation Contribution	10/09/25
85	Land To The Rear Of 61 To 119 Nethermoor Road And 15 To 21 Deerlands Road, Wingerworth	15/00211/FL	Maintenance	No Date
101	Land North and West of Creg Ny Baa, Brackenfield Lane, Wessington	16/00419/FL	Recreation Contribution	14/03/26
105	Land East of Fanny Avenue, Killamarsh	16/01302/FL	Recreation Contribution	No date
105	Land East of Fanny Avenue, Killamarsh	16/01302/FL	Maintenance	No date
113	Land To The South Of Allotments At Ducksett Lane Accessed From Staveley Lane, Eckington	14/00562/OL & 17/00064/RM	Recreation Contribution	18/03/25
113	Land To The South Of Allotments At Ducksett Lane Accessed From Staveley Lane, Eckington	14/00562/OL & 17/00064/RM	Maintenance	18/03/25

122	Land to rear of Hockley House, Hockley Lane, Wingerworth	18/00188/OL, 19/00567/FL & 19/01040/RM	Recreation Contribution	09/03/31
122	Land to rear of Hockley House, Hockley Lane, Wingerworth	18/00188/OL, 19/00567/FL & 19/01040/RM	Maintenance	09/03/31
<b>Recreation/Open Space Totals</b>				
31	Land between Main Road and Burnsde Avenue and rear of properties on the North Side of Hallfieldgate Lane, Shirland	12/00273/OL, 17/00340/OL & 16/01137/RM	Highways	11/11/23
44	Allotments, Main Road, Shirland	13/00321/FL	Highways	03/03/24
50	Land To The South Of Pioneer House And To The Rear Of 1-59 Adlington Avenue Mill Lane Wingerworth	12/00072/OL & 14/01289/RM	Highways	08/06/36
70	Evergreen And Vacant Land To The East Of Derby Road And North Of Junction With Brassington Lane Old Tupton	14/01293/FL	Highways	No date
<b>Highways Totals</b>				
None outstanding				
<b>Education Totals</b>				
24	Land To The Rear Of 61 To 119 Nethermoor Road And 15 To 21 Deerlands Road, Wingerworth	12/00600/FL	Waste Contribution	15/03/26
85	Land To The Rear Of 61 To 119 Nethermoor Road And 15 To 21 Deerlands Road, Wingerworth	15/00211/FL	Waste Contribution	10/09/25
93	Land to the east and north of 119, Top Road, Calow	16/00772/OL	Waste Contribution	14/12/27
<b>Cleansing/Waste Totals</b>				
13	Allotments, Masfield Avenue, Holmewood	14/00373/OL	Affordable Housing	No date
33	Site Of Former Standall Tools Mickley Lane, Dronfield Woodhouse	13/00675/FL	Affordable Housing	26/04/26
58	Windwhistle Farm, Southend, Grassmoor	14/00184/OL & 15/00336/RM	Affordable Housing	to be used within 5 years of completion of the development

75	Appletree Restorations, Mansfield Road, Corbriggs	13/00921/OL	Affordable Housing	No time limit prescribed in S106 Agreement
90	Land To The Rear Of 10 To 52, Ashover, Old Tupton	15/00551/FL	Affordable Housing	21/12/21
104	Allotments, Masefield Avenue, Holmewood	17/00425/FL	Affordable Housing	16/02/26
<b>Affordable Housing Totals</b>				
10	Land South of Sunningdale Park and Poplar Drive and to the West of 21 Elvin Way, New Tupton	10/01152/OL & 13/01032/RM	Health Contribution	13/07/25
13	Allotments, Masefield Avenue, Holmewood	11/00804/OL	Health Contribution	No date
<b>Health Contributions Totals</b>				
15	J J Cummins Limited, Matlock Road, Wessington	11/00743/OL	Community Building Contribution	No date
24	Land To The Rear Of 61 To 119 Nethermoor Road And 15 To 21 Deerlands Road, Wingerworth	12/00600/FL	Library Contribution	15/03/26
66	Northgate Information Solutions Littlemoor Eckington	14/00827/FL	Eckington Town Centre Contribution	26/01/25
85	Land to rear of 61 to 119 Nethermoor Road and 15 to 21 Deerlands Road, Wingerworth	15/00211/FL	Library Contribution	10/09/22
87	Angel Hotel, 8 Market Street, Eckington	11/00685/FL	Public Realm	13/11/22
104	Allotments, Masefield Avenue, Holmewood	17/00425/FL	Holmewood Facilities Contribution	11/02/26
122	Land to the rear of Hockley House, Hockley Lane, Wingerworth	18/00188/OL, 19/00567/FL & 19/01040/RM	Biodiversity Payment	24/08/30
130	Land Opposite The Avenue Visitor Centre on the South side of Mill Lane, Wingerworth	17/00227/OL	Additional Community infrastructure Contribution	17/05/25
<b>General/Public Realm Totals</b>				

	Monitoring Payments
	<b>Monitoring Payments Totals</b>

**Total S106 grant available**

Spend  
Category Key:

	No date or Over 3 years
	Within 3 years
	Within 2 years

Ref No.	Planning Application No.	Conditions/Triggers	Works Status	Amount Received	Spend to date	Current Balance	Spend Category
2	05/00744/FL	Prior to the occupation of 50% of the dwellings	Finished on site	£9,520.00	£8,568.00	£952.00	
6	08/01085/OL	Upon the grant of each reserved matters permissions	Agreement made (work not started)	£280,534.83	£142,835.00	£137,699.83	
15	10/01193/FL	Payable upon the first occupation of the 5th dwelling	Agreement made (work not started)	£1,431.47	£0.00	£1,431.47	
24	12/00600/FL	to be paid over a period of 10 years & To be paid before occupation of 50% of approved dwellings	Started on site	£27,149.00	£0.00	£27,149.00	
30	13/00283/OL & 16/00609/RM	to be paid before occupation of 50% of approved dwellings	Started on site	£42,039.33	£0.00	£42,039.33	
30	13/00283/OL & 16/00609/RM	to be paid before occupation of 50% of approved dwellings	Started on site	£12,730.80	£0.00	£12,730.80	
31	23/00273/OL, 17/00340/OL & 16/01137/RM	to be paid on 50% occupation of the dwellings.	Started on site	£95,000.00	£0.00	£95,000.00	
31	23/00273/OL, 17/00340/OL & 16/01137/RM	to be paid on 50% occupation of the dwellings.	Started on site	£24,000.00	£0.00	£24,000.00	
32	97/00136/OL	To be used within 10 years of payment	Finished on site	£38,308.00	£32,656.00	£5,652.00	

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34	13/00704/FL	To be paid before occupation of 50% of approved dwellings	Started on site	£3,231.89	£1,292.72	£1,939.17	
35	13/00804/FL	within 10 years	Finished on site	£7,408.45	£7,021.93	£386.52	
35	13/00804/FL	within 10 years	Finished on site	£1,940.00	£776.00	£1,164.00	
43	13/00263/OL & 15/00409/FL	To be paid before the occupation of 50% of approved dwellings	Finished on site	£7,363.99	£0.00	£7,363.99	
43	13/00263/OL & 15/00409/FL	To be paid before the occupation of 50% of approved dwellings	Finished on site	£1,994.83	£0.00	£1,994.83	
44	13/00321/FL	To be paid before the occupation of 50% of approved dwellings	Started on site	£5,100.40	£0.00	£5,100.40	
44	13/00321/FL	To be paid before the occupation of 50% of approved dwellings	Started on site	£200.32	£0.00	£200.32	
49	08/01085/OL	To be paid before the occupation of 50% of approved dwellings	Started on site	£9,685.50	£4,613.00	£5,072.50	
50	12/00072/OL & 14/01289/RM	within 10 years of receipt to be paid before occupation of 50% of approved dwellings	Started on site	£127,000.00	£0.00	£127,000.00	
57	14/00147/OL & 15/01083/RM	Within 5 years of occuparion of 50% of approved dwellings on the development following a Reserved Matters Application	Started on site	£22,143.69	£0.00	£22,143.69	
57	14/00147/OL & 15/01083/RM	over a 10 year period & to be paid before occuparion of 50% of approved dwellings on the	Started on site	£6,643.10	£0.00	£6,643.10	

		development following a Reserved Matters Application					
83	15/00383/OL , 18/00123/OL and 17/01226/RM	to be paid before the occupation of 50% of approved dwellings	Started on site	£7,843.00	£0.00	£7,843.00	
83	15/00383/OL , 18/00123/OL and 17/01226/RM	over a 10 year period & to be paid before the occupation of 50% of approved dwellings	Started on site	£2,063.30	£0.00	£2,063.30	
85	15/00211/FL	To be paid before the occupation of 50% of approved dwellings	Finished on site	£647.00	£0.00	£647.00	
85	15/00211/FL	To be paid before the occupation of 50% of approved dwellings	Finished on site	£161.76	£0.00	£161.76	
101	16/00419/FL	£23,945.20 to be paid prior to the first occupation of 1st dwelling	Started on site	£23,945.20	£0.00	£23,945.20	
105	16/01302/FL	To be paid prior to the occupation of any dwelling	Started on site	£18,300.00	£0.00	£18,300.00	
105	16/01302/FL	To be paid prior to the occupation of any dwelling	Started on site	£5,000.00	£0.00	£5,000.00	
113	14/00562/OL & 17/00064/RM	to be paid before occupation of 50% of the dwellings	Started on Site	£66,870.00	£0.00	£66,870.00	
113	14/00562/OL & 17/00064/RM	to be paid before occupation of 50% of the dwellings	Started on Site	£16,980.00	£0.00	£16,980.00	
122	18/00188/OL, 19/00567/FL & 19/01040/RM	to be paid before occupation of 50% of the dwellings	Started on Site	£23,049.45	£0.00	£23,049.45	



122	18/00188/OL, 19/00567/FL & 19/01040/RM	to be paid before occupation of 50% of the dwellings	Started on Site	£6,974.72	£0.00	£6,974.72	
				<b>£895,260.03</b>	<b>£197,762.65</b>	<b>£697,497.38</b>	
31	12/00273/OL, 17/00340/OL & 16/01137/RM	to be paid on 50% occupation of the dwellings.	Started on site	£30,000.00	£0.00	£30,000.00	
44	13/00321/FL	to be paid on 50% occupation of the dwellings.	Started on site	£3,000.00	£0.00	£3,000.00	
50	12/00072/OL & 14/01289/RM	to be paid on 85% occupation of the dwellings.	Started on site	£302,100.00	£0.00	£302,100.00	
70	14/01293/FL	to be paid on 50% occupation of the dwellings.	Started on site	£25,000.00	£20,000.00	£5,000.00	
				<b>£360,100.00</b>	<b>£20,000.00</b>	<b>£340,100.00</b>	
				<b>£0.00</b>	<b>£0.00</b>	<b>£0.00</b>	
24	12/00600/FL	to be paid over a period of 10 years & To be paid before occupation of 50% of approved dwellings	Started on site	£627.64	£615.57	£12.07	
85	15/00211/FL	To be paid before the occupation of 50% of approved dwellings	Finished on site	£12.07	£0.00	£12.07	
93	16/00772/OL	within 10 years	Started on site	£431.20	£0.00	£431.20	
				<b>£1,070.91</b>	<b>£615.57</b>	<b>£455.34</b>	

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13	14/00373/OL	to be paid before occupation of the 10th dwelling	Started on site	£260,000.00	£0.00	£260,000.00	
33	13/00675/FL	to be paid before occupation of 50% of approved dwellings. Within 10 years	Finished on site	£50,498.01	£0.00	£50,498.01	
58	14/00184/OL & 15/00336/RM	to be paid before occupation of 50% of approved dwellings	Started on site	£278,851.30	£0.00	£278,851.30	
75	13/00921/OL	None	Agreement made (work not started)	£2,000.00	£0.00	£2,000.00	
90	15/00551/FL	1st £110,000 to be paid prior to 1st occupation of the 1st dwelling. Further £110,000 to be paid prior to first occupation of the 30th dwelling. Remainder to be paid prior to first occupation of the 45th dwelling	Agreement made (work not started)	£330,000.00	£70,000.00	£260,000.00	
104	17/00425/FL	Before Occupation of the 10th Dwelling	Started on site	£81,000.00	£0.00	£81,000.00	
				<b>£1,002,349.31</b>	<b>£70,000.00</b>	<b>£932,349.31</b>	
10	10/01152/OL & 13/01032/RM	Paid before occupation of 50% if the dwellings approved under reserved matters	Started on site	£7,175.84	£0.00	£7,175.84	
13	11/00804/OL	Paid before occupation of 50% if the dwellings approved under reserved matters	Started on site	£82,009.60	£0.00	£82,009.60	
				<b>£89,185.44</b>	<b>£0.00</b>	<b>£89,185.44</b>	
15	11/00743/OL	Payable prior to the occupation of the first market house	Agreement made (work not started)	£127,322.00	£37,000.00	£90,322.00	

24	12/00600/FL	to be paid over a period of 10 years & To be paid before occupation of 50% of approved dwellings	Started on site	£18,720.00	£18,360.00	£360.00	
66	14/00827/FL	To be paid upon commencement of development	Started on site	£40,000.00	£0.00	£40,000.00	
85	15/00211/FL	To be paid before the occupation of 50% of approved dwellings	Finished on site	£360.00	£0.00	£360.00	
87	11/00685/FL	Within 8 years. To be paid upon commencement of development	Finished on site	£8,000.00	£0.00	£8,000.00	
104	17/00425/FL	1st payment of £7,330 before occupation of 1st dwelling. 2nd payment of £7,300 before occupation of 26th dwelling. 3rd payment of £7,353.60 before occupation of 40th dwelling	Started on site	£22,013.60	£0.00	£22,013.60	
122	18/00188/OL, 19/00567/FL & 19/01040/RM	to be paid prior to commencement of development	Agreement made (work not started)	£23,128.00	£0.00	£23,128.00	
130	17/00227/OL	Within 5 years of payment date	Agreement made (work not started)	£32,500.00	£0.00	£32,500.00	
				<b>£272,043.60</b>	<b>£55,360.00</b>	<b>£216,683.60</b>	
				£36,284.17	£0.00	£36,284.17	
				<b>£36,284.17</b>	<b>£0.00</b>	<b>£36,284.17</b>	
				<b>£2,656,293.46</b>	<b>£343,738.22</b>	<b>£2,312,555.24</b>	

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From Master  
Spreadsheet      £2,312,555.24

£0.00      balanced as at  
5/8/21

## S106 Agreements - Payments due but not paid

Ref No.	Address	Intended Use	Sum Due	Works Status Progress	Date Last Inspected	Date S106 Due	Comments
6	Biwater Industries Limited, Market Street, Clay Cross	Additional Highways Contribution	£250 per property		Sep-19		Letter sent 19.09.2019 - 24.10.2019 Money received for first reserved matters application. AK to check with GC 06.04.2021
41	The Woolpack 26 Town End Shirland Alfreton	Library contribution, Recreation contribution, Maintenance payment & Waste Contribution	£23,381.66	Half of properties occupied	Mar-20	22/03/19	Asked JF to send chase letter 17.06.2019 - emailed JF for update 02.03.2020. JF in contact with the developer regarding payment 06.04.2021. An agreement has now been made with the owner to pay in instalments of £1,948.47 per month 10.08.2021
47	White House, 69 Main Road, Morton	Monitoring Payment, Health Contribution & Affordable Housing	£113,739.13	Finished on site and all occupied	Feb-18	30/03/16	1st letter sent 30.03.2016. Reminder letter sent 03.11.2016. JF to write a report to not pursue the amount 06.04.2021. Report still to be produced JF 10.08.2021
53	Royal Hotel 2 Station Road Eckington	Monitoring Payment & Public realm	£9,090.00	Completed	Jul-19	22/07/19	Building looks abandoned KF - 10.08.2017 Work Completed on Site AK - sent letter 22.7.19

54	Ridgeway Craft Centre Main Road Ridgeway	Affordable Housing & Monitoring Payment	£77,212.03	Completed	Feb-21	?	PS - Non are occupied yet 13.07.2017 LETTER SENT FOR MONITORING PAYMENT 27.07.2017. REMINDER LETTER SENT 03.10.2017. LETTER RECEIVED FROM ANDROMEDA INVESTIGATES ON 20TH FEB 2018 SAYING THEY ARE LOOKING IN TO THE MATTER - SEE CLAIRE FOR LETTER. JF (Legal) has sent a chase letter on 20.11.20. JF has asked Legal contentious department to recover money 06.04.2021. Report still to be produced JF 10.08.2021
60	Site of Former Edward Revill Endowed School Burnside Avenue Shirland	Maintenance payment & Monitoring Payment	£1,751.74	Finished on Site	Feb-20		Reminder letter sent 14.03.2017 - further letter sent 06.02.2020. Referred to JF 06.04.2021. Referred to Lisa Ingram to collect monies 10.08.2021

S106 Agreements - Payments not yet due

Ref No.	Address	Intended Use	Conditions/Triggers	Works Status Progress	Date Last Inspected	Date Contributions Chased
10	<b>Recreation/Open Space:</b>					
	Land South Of Sunningdale Park And Poplar Drive And To The West Of 21 Elvin Way, New Tupton	Recreation	Calculated on the basis of the number of dwellings finally approved & the Council's Recreation and Open Space Supplementary Planning Document Appendix 2 Table 3 or any replacement thereto. Within 3 years. No more that 7 units to be occupied	Conditions discharged understood ground works. Work started	Aug-21	
13	Allotments, Masefield Avenue, Holmewood	Open Space	Payable per annum for 10 years in the event that no skate park is included in the reserved matters application or £12,631.06 payable per annum for 10 years if a skate park is included in the reserved matters application	Started on site	Aug-21	Letter sent 03/08/2021
42	The Former Avenue Site Derby Road Wingerworth	Open Space commuted sum	N/A	Started on site (none occupied)	Jul-21	
42	The Former Avenue Site Derby Road Wingerworth	Open Space Contribution	N/A	Started on site (none occupied)	Jul-21	
62	Land to the East of prospect House Highstairs Lane Stretton	Maintenance	Over a 10 year period	Agreement made (work not started)	Jan-20	
62	Land to the East of prospect House Highstairs Lane Stretton	Recreation	no date	Agreement made (work not started)	Jan-20	
63	The Rectory Rectory Road Duckmanton	Maintenance	over a 10 year period & to be paid before occupation of 50% of approved dwellings	Started on site	Aug-21	Letter sent 03/08/2021
63	The Rectory Rectory Road Duckmanton	Recreation	to be paid before occupation of 50% of approved dwellings	Started on site	Aug-21	Letter sent 03/08/2021
67	Fox Hall Green Lane	Pilsley Play Space	to be paid before occupation of 50% of approved dwellings	Agreement made (work not started)	Mar-20	
67	Fox Hall Green Lane	Pilsley Maintenance	to be paid before occupation of 50% of approved dwellings	Agreement made (work not started)	Mar-20	
72	Bradley Lomas Electrolok Ltd Church Street Eckington	Play Space	to be paid before occupation of 50% of approved dwellings	Agreement made (work not started)	Aug-21	
72	Bradley Lomas Electrolok Ltd Church Street Eckington	Maintenance	over a 10 year period & to be paid before occupation of 50% of approved dwellings	Agreement made (work not started)	Aug-21	
73	Hanging Banks Derby Road Wingerworth	Maintenance	sum payable in accordance with the terms of this agreement and the Recreation and Open Space SPD towards maintenance of any on-site open space to be transferred to the council. To be paid at teh same time as the transfer of any on site open space including drainage attenuation area	Started on site	Aug-21	
80	Woolley Farm, Badger Lane, Woolley Moor	Recreation	to be paid upon occupation of the 3rd dwelling	Agreement made (work not started)	Mar-20	
80	Woolley Farm, Badger Lane, Woolley Moor	Maintenance	Over a 10 year period & to be paid upon occupation of the 3rd dwelling	Agreement made (work not started)	Mar-20	
81	Land On The South Side Of The Junction Between Crofters Close And Boiley Lane, Killamarsh	Maintenance	over a 10 year period & to be paid upon the occupation of 50% of dwellings	Started on Site (none occupied)	Aug-21	Unauthorised work. Letter sent for contribution 03/08/2021
81	Land On The South Side Of The Junction Between Crofters Close And Boiley Lane, Killamarsh	Recreation	to be paid upon the occupation of 50% of dwellings	Started on Site (none occupied)	Aug-21	Unauthorised work. Letter sent for contribution 03/08/2021
91	Former Coalite Site on the North West and South East sides of Buttermilk Lane, Long Duckmanton	Commuted Sum towards upgrading recreational facilities	To be paid in installments with a formula in the agreement	Agreement made (work not started)	Mar-20	
95	Land Between Old Canal and North Side of Primrose Lane, Killamarsh	Off Site Open Space Contribution	£7,540.75 to be paid prior to the occupation of the 7th dwelling, £7,540.75 to be paid prior to the occupation of the 14th dwelling, £7,540.75 to be paid prior to the occupation of the 21st dwelling, remainder to be paid prior to the occupation of the 25th dwelling	Agreement made (work not started)	Mar-20	
97	Land south of Sports Ground at the Corner of rupert street and Hallgate Lane Pilsley	Off site Play Equipment	to be paid within 14 days after the date of which half of the dwellings are occupied	Agreement made (work not started)	Mar-20	

99	Land to rear of 181 Chesterfield Road, Holmewood	Off site Play Equipment	The 1st £13,000 to be paid prior to the 1st occupation of the 10th Dwelling. The remainder to be paid prior to the 1st occupation of the 22nd dwelling	Agreement made (work not started)	Apr-21	
99	Land to rear of 181 Chesterfield Road, Holmewood	Off site Play Equipment Maintenance	Paid either £655 per annum on the date of and subsequent anniversary of the completion of the off site play equipment or as a lump sum of £6,550 on the date of completion of the off site play equipment	Agreement made (work not started)	Apr-21	
100	Land between 205 and 235 Chesterfield Road, Temple Normanton	Off site Play Equipment	1st £1,244 to be paid prior to the first occupation of the first dwelling. A further £1,244 to be paid prior to the first occupation of the 8th dwelling. The remainder to be paid prior to the first occupation of the 15th dwelling.	Agreement made (work not started)	Mar-20	
100	Land between 205 and 235 Chesterfield Road, Temple Normanton	Off site Play Equipment Maintenance		Agreement made (work not started)	Mar-20	
101	Land North and West of Creg Ny Baa, Brackenfield Lane, Wessington	Off site Play Equipment and On site Public open space contribution	1st £23,945.20 to be paid prior to the first occupation of the 1st dwelling. The remainder to be paid prior to the first occupation of the 22nd dwelling	Agreement made (work not started)	Aug-21	Invoice sent 15.03.2021. Letter sent for further contribution 03.08.2021
102	Land to the South of Ankerbold House, Ankerbold Road, Old Tupton	Off site Play Equipment Contribution	1st £3,900 to be paid prior to the first occupation of the first dwelling. A further £3,900 to be paid prior to the first occupation of the 6th dwelling. The remainder to be paid prior to the first occupation of the 11th dwelling	Agreement made (work not started)	Apr-19	
102	Land to the South of Ankerbold House, Ankerbold Road, Old Tupton	Off site Play Equipment Maintenance	to be paid from the date of practical completion	Agreement made (work not started)	Apr-19	
106	Land East of Rupert Street and South of Green Lane, Pilsley	Off site Play Equipment	None listed	Agreement made (work not started)	Mar-19	
107	Land to rear of 14A-54 High Street, Stonebroom	Public Open Space Contribution	To be paid upon occupation	Agreement made (work not started)		
107	Land to rear of 14A-54 High Street, Stonebroom	Public Open Space Maintenance	To be paid upon occupation	Agreement made (work not started)		
108	Danesmoor County Infant School, Pilsley Road, Danesmoor	Off site Public Open Space Contribution	No Trigger	Agreement made (work not started)	Mar-19	
109	Land to the East and North of 119 Top Road, Calow	Off site Public Open Space Contribution	upon occupation of 50% of the dwellings	Agreement made (work not started)	Mar-19	
109	Land to the East and North of 119 Top Road, Calow	Off site Public Open Space Maintenance Contribution	upon occupation of 50% of the dwellings	Agreement made (work not started)	Mar-19	
110	Manor Farm, Upperthorpe Road, Killamarsh	Recreation Contribution	to be paid upon occupation of 50% of the dwellings	Agreement made (work not started)		
110	Manor Farm, Upperthorpe Road, Killamarsh	Maintenance	to be paid upon occupation of 50% of the dwellings	Agreement made (work not started)		
112	Land North West of 66 Stretton Road, Morton	Public Open Space Maintenance	to be paid upon occupation	Agreement made (work not started)	Apr-21	
118	Watercress Farm, Watercress Lane, Danesmoor	Public Open Space Contribution	to be paid before the occupation of 50% of the dwellings	Started on Site	Mar-19	
118	Watercress Farm, Watercress Lane, Danesmoor	Public Open Space Maintenance	to be paid before the occupation of 50% of the dwellings	Started on Site	Mar-19	
119	Land North of Spindle Drive and East of Deerlands Road, Wingerworth	Public Open Space Maintenance	to be paid before the occupation of 75% of the dwellings	Agreement made (work not started)	Mar-21	
120	Land Adjacent The West Side Of 40 Church Meadows, Calow	Recreation Contribution	to be paid before occupation of 50% of the dwellings	Agreement made (work not started)	Apr-19	
120	Land Adjacent The West Side Of 40 Church Meadows, Calow	Maintenance	to be paid before occupation of 50% of the dwellings	Agreement made (work not started)	Apr-19	
121	Land to the North of West Street, Stonebroom	Off Site Play Equipment Contribution	to be paid upon occupation of 50% of the dwellings	Agreement made (work not started)	Mar-19	
121	Land to the North of West Street, Stonebroom	Off site Play Equipment Maintenance	to be paid upon occupation of 50% of the dwellings	Agreement made (work not started)	Mar-19	
123	Land to the North & West of the Poplars, Ankerbold Road, Old Tupton	Travel Plan Contribution	£5,000.00	Work started	Feb-21	
126	56 Top Road, Calow	Public Open Space Contribution	to be paid upon occupation of 25% of the dwellings	Agreement made (work not started)	Apr-21	
126	56 Top Road, Calow	Public Open Space Maintenance	to be paid upon occupation of 25% of the dwellings	Agreement made (work not started)	Apr-21	
127	Land between Poplar Grove and Park House Farm, Pilsley Road, Lower Pilsley	Public Open Space Contribution	to be paid upon occupation of 10th dwelling	Agreement made (work not started)	Mar-20	



127	Land between Poplar Grove and Park House Farm, Pilsley Road, Lower Pilsley	Public Open Space Maintenance	to be paid upon occupation of 10th dwelling	Agreement made (work not started)	Mar-20	
128	S & A Parsons Mansfield Road, Killamarsh	Public Open Space Contribution	to be paid upon occupation of 10th dwelling	Work started	Jul-21	
128	S & A Parsons Mansfield Road, Killamarsh	Public Open Space Maintenance	to be paid upon occupation of 10th dwelling	Work started	Jul-21	
129	J J Cummins Limited, Matlock Road, Wessington	Public Open Space Contribution	to be paid upon occupation of 5th dwelling	Agreement made (work not started)		
129	J J Cummins Limited, Matlock Road, Wessington	Public Open Space Maintenance	to be paid upon occupation of 5th dwelling	Agreement made (work not started)		
130	Land opposite The Avenue Visitors Centre on the South side of Mill Lane, Wingerworth	Off Site Play Equipment Contribution	to be paid before occupation of 50% of dwellings	Work started	Jul-21	
130	Land opposite The Avenue Visitors Centre on the South side of Mill Lane, Wingerworth	Off site Play Equipment Maintenance	to be paid before occupation of 50% of dwellings	Work started	Jul-21	
132	Land to the South of Ankerbold House, Ankerbold Road, Old Tupton	Off Site Play Equipment Contribution	to be paid upon occupation of 8th dwelling	Agreement made (work not started)		
132	Land to the South of Ankerbold House, Ankerbold Road, Old Tupton	Off site Play Equipment Maintenance	to be paid upon occupation of 8th dwelling	Agreement made (work not started)		
133	Land north of Pilsley Road and West of Coney Green Road, Clay Cross	Play Space	before first occupation of 85% of the dwellings	Agreement made (work not started)	Apr-21	
133	Land north of Pilsley Road and West of Coney Green Road, Clay Cross	Play Space Maintenance	before first occupation of 85% of the dwellings	Agreement made (work not started)	Apr-21	
<b>Highways:</b>						
13	Allotments, Masefield Avenue, Holmewood	Highways	paid prior to commencement of development	Started on site	Aug-21	JF in legal advised that monies will only be required if DCC request these for remedial works
42	The Former Avenue Site Derby Road Wingerworth	Highways	£594,200.00 in three installments of £171,446.00 (First Highway Works Payment prior to the completion of the 190th Property), £251,754.00 (Second Highway Works Payment prior to the completion of the 350th property), £85,000.00 (Third Highway Works Payment prior to the first employment land trigger date) & £85,500.00 (Fourth Highway Works Payment prior to the second employment land trigger date)	Started on Site (none occupied)	Jul-21	
50	Land To The South Of Pioneer House And To The Rear Of 1-59 Adlington Avenue Mill Lane Wingerworth	Highways	to be paid before occupation of 85% of approved dwellings	Started on site	Jul-21	Sent 1st letter October 2019 - Sent chase letter 01.06.2021
73	Hanging Banks Derby Road Wingerworth	Highways	to be paid before occupation of 85% of approved dwellings. Up to £1,900 per dwelling	Started on site	Aug-21	Sent 1st letter - 08.06.2021
91	Former Coalite Site on the North West and South East sides of Buttermilk Lane, Long Duckmanton	Highways	£2,000 to be paid prior to occupation of commercial development, £56,732 to be paid prior to occupation of 1st dwelling, £116,867 to be paid prior to occupation of 161st dwelling	Agreement made (work not started)	Mar-20	
95	Land Between Old Canal and North Side of Primrose Lane, Killamarsh	Cycle Link Contribution	£3,750.00 to be paid prior to the occupation of the 7th dwelling, £3,750.00 to be paid prior to the occupation of the 14th dwelling, £3,750.00 to be paid prior to the occupation of the 21st dwelling, remainder to be paid prior to the occupation of the 25th dwelling	Agreement made (work not started)	Mar-19	
95	Land Between Old Canal and North Side of Primrose Lane, Killamarsh	Right of Way Contribution	£21,000.00 to be paid prior to the occupation of the 7th dwelling, £21,000.00 to be paid prior to the occupation of the 14th dwelling, £21,000.00 to be paid prior to the occupation of the 21st dwelling, remainder to be paid prior to the occupation of the 25th dwelling	Agreement made (work not started)	Mar-20	
119	Land North of Spindle Drive and East of Deerlands Road, Wingerworth	Highways	to be paid before the occupation of 30% of the dwellings	Agreement made (work not started)	Mar-21	
119	Land North of Spindle Drive and East of Deerlands Road, Wingerworth	Travel Plan Monitoring	to be paid prior to the occupation of any of the dwellings	Agreement made (work not started)	Mar-21	
129	J J Cummins Limited, Matlock Road, Wessington	Highways	Before development commences	Agreement made (work not started)		
130	Land opposite The Avenue Visitors Centre on the South side of Mill Lane, Wingerworth	Highways	to be paid before occupation of the 85% of the dwellings	work started	Jul-21	
<b>Education:</b>						
42	The Former Avenue Site Derby Road Wingerworth	Education	N/A	Started on Site (none occupied)	Jul-21	

62	Land to the East of prospect House Highstairs Lane Stretton	Education	to be paid on occupation of 50% of dwellings	Agreement made (work not started)	Jan-20	
89	Land On The West Side of Chesterfield Road, Holmewood	Education	Used within 5 years of the date of receipt of the whole contribution	Agreement made (work not started)	Aug-17	
95	Land Between Old Canal and North Side of Primrose Lane, Killamarsh	Education	£17,098.00 to be paid prior to the occupation of the 7th dwelling, £17,098.00 to be paid prior to the occupation of the 14th dwelling, £17,098.00 to be paid prior to the occupation of the 21st dwelling, remainder to be paid prior to the occupation of the 25th dwelling	Agreement made (work not started)	Mar-20	
99	Land to rear of 181 Chesterfield Road, Holmewood	Education	The 1st £52,500 to be paid prior to the 1st occupation of the 10th Dwelling. The remainder to be paid prior to the 1st occupation of the 22nd dwelling	Agreement made (work not started)	Apr-21	
100	Land between 205 and 235 Chesterfield Road, Temple Normanton	Education	1st £17,660 to be paid prior to the first occupation of the first dwelling. A further £17,660 to be paid prior to the first occupation of the 8th dwelling. The remainder to be paid prior to the first occupation of the 15th dwelling.	Agreement made (work not started)	Mar-20	
102	Land to the South of Ankerbold House, Ankerbold Road, Old Tupton	Education	1st £17,660 to be paid prior to the first occupation of the first dwelling. A further £17,660 to be paid prior to the first occupation of the 6th dwelling. The reminder to be paid prior to the first occupation of the 11th dwelling	Agreement made (work not started)	Apr-19	
106	Land East of Rupert Street and Sotuh of Green Lane, Pilsley	Primary Education	1st £34,130 to be paid prior to 1st occupation of the 1st dwelling. Further £34,130 to be paid prior to 1st occupation of 21st dwelling. Remainder to be paid prior to the 1st occupation of the 32nd dwelling	Agreement made (work not started)	Mar-19	
106	Land East of Rupert Street and Sotuh of Green Lane, Pilsley	Secondary Education	1st £58,961 to be paid prior to 1st occupation of the 1st dwelling. Further £58,961 to be paid prior to 1st occupation of 21st dwelling. Remainder to be paid prior to the 1st occupation of the 32nd dwelling	Agreement made (work not started)	Mar-19	
108	Danesmoor County Infant School, Pilsley Road, Danesmoor	Secondary Education	No Trigger	agreement made (work not started)	Mar-19	
112	Land North West of 66 Stretton Road, Morton	Primary Education	50% to be paid prior to the first occupation of the 1st dwelling and the remainder to be paid prior to occupation of the 51st dwelling	agreement made (work not started)	Apr-21	
112	Land North West of 66 Stretton Road, Morton	Secondary Education	50% to be paid prior to the first occupation of the 1st dwelling and the remainder to be paid prior to occupation of the 51st dwelling	agreement made (work not started)	Apr-21	
117	Land Between 1 St Leonards Place and Shirland Primary School, Park Lane, Shirland	Education	to be paid before occupation of 50% of dwellings	agreement made (work not started)		
118	Watercress Farm, Watercress Lane, Danesmoor	Education	to be paid before occupation of 50% of dwellings	Started on Site	Mar-19	
119	Land North of Spindle Drive and East of Deerlands Road, Wingerworth	Post 16 Education	50% before occupation of 30% of the dwellings and the balance before occupation of 65% dwellings	agreement made (work not started)	Mar-21	
119	Land North of Spindle Drive and East of Deerlands Road, Wingerworth	Primary Education	50% before occupation of 30% of the dwellings and the balance before occupation of 65% dwellings	agreement made (work not started)	Mar-21	
119	Land North of Spindle Drive and East of Deerlands Road, Wingerworth	Secondary Education	50% before occupation of 30% of the dwellings and the balance before occupation of 65% dwellings	agreement made (work not started)	Mar-21	
123	Land to the North & West of the Poplars, Ankerbold Road, Old Tupton	Education	to be paid before occupation of 100th dwellings	Started on site	Apr-21	
125	Land Between Bypass And The Rear Of 109 To 247 Mansfield Road Hasland	Primary Education	to be paid before occupation of 80th dwellings	Started on Site	Aug-21	Letter sent 03/08/2021. Not due to 80th occupation not met
125	Land Between Bypass And The Rear Of 109 To 247 Mansfield Road Hasland	Secondary Education	to be paid before occupation of 80th dwellings	Started on Site	Aug-21	Letter sent 03/08/2021. Not due to 80th occupation not met
126	56 Top Road, Calow	Education	to be paid before occupation of 50% of the dwellings	Agreement made (work not started)	Apr-21	
127	Land between Poplar Grove and Park House Farm, Pilsley Road, Lower Pilsley	Education	to be paid before occupation of 10th dwelling	Agreement made (work not started)	Mar-20	
129	J J Cummins Limited, Matlock Road, Wessington	Education	to be paid before occupation of 5th dwelling	Agreement made (work not started)		
130	Land opposite The Avenue Visitors Centre on the South side of Mill Lane, Wingerworth	Education	to be paid before occupation of 50% of the dwellings	Work started	Jul-21	
132	Land to the South of Ankerbold House, Ankerbold Road, Old Tupton	Primary Education	to be paid before occupation of 9th dwelling	Agreement made (work not started)		
132	Land to the South of Ankerbold House, Ankerbold Road, Old Tupton	Secondary Education	to be paid before occupation of 9th dwelling	Agreement made (work not started)		
133	Land north of Pilsley Road and West of Coney Green Road, Clay Cross	Primary Education	To pay 50% before occupation of 50% of the dwellings, to pay 50% before occupation of 85% of the dwellings	Agreement made (work not started)	Apr-21	
133	Land north of Pilsley Road and West of Coney Green Road, Clay Cross	Secondary Education	To pay 50% before occupation of 50% of the dwellings, to pay 50% before occupation of 85% of the dwellings	Agreement made (work not started)	Apr-21	
	<b>Cleansing/Waste:</b>					
62	Land to the East of prospect House Highstairs Lane Stretton	Waste	to be paid on occupation of 50% of dwellings	Agreement made (work not started)	Jan-20	

73	Hanging Banks Derby Road Wingerworth	Waste	to be paid before occupation of 50% of approved dwellings. £25.18 per dwelling	Started on site	Aug-21	Sent 1st letter - 08.06.2021
	<b>Housing:</b>					
54	Ridgeway Craft Centre Main Road Ridgeway	Affordable Housing	to be paid before occupation of 50% of approved dwellings	Completed	Feb-18	Reminder letter sent 03.10.2017
59	Land To The South Of 205 Chesterfield Road Holmewood	Affordable Housing	to be paid prior to occupation of 50% of approved dwellings	Agreement made (work not started)	Aug-17	No RM application
95	Land Between Old Canal and North Side of Primrose Lane, Killamarsh	Affordable Housing	£78,025.50 to be paid prior to the occupation of the 7th dwelling, £78,025.50 to be paid prior to the occupation of the 14th dwelling, £78,025.50 to be paid prior to the occupation of the 21st dwelling, remainder to be paid prior to the occupation of the 25th dwelling	Agreement made (work not started)	Mar-20	
100	Land between 205 and 235 Chesterfield Road, Temple Normanton	Affordable Housing	1st £39,220 to be paid prior to the first occupation of the first dwelling. A further £39,220 to be paid prior to the first occupation of the 8th dwelling. The remainder to be paid prior to the first occupation of the 15th dwelling,	Agreement made (work not started)	Mar-20	
109	Land to the East and North of 119 Top Road, Calow	Affordable Housing	upon occupation of 50% of the dwellings	Agreement made (work not started)	Mar-19	
111	Land to the East of Prospect House Highstairs Lane Stretton	Affordable Housing	to be paid upon occupation of 75% of the dwellings	Agreement made (work not started)		
121	Land to the North of West Street, Stonebroom	Affordable Housing	None listed	Agreement made (work not started)	Mar-19	
122	Land to the rear of Hockley House, Hockley Lane, Wingerworth	Affordable Housing	None listed	Agreement made (work not started)		
124	Land to the East of prospect House Highstairs Lane Stretton	Affordable Housing	to be paid upon occupation of 75% of the dwellings	Agreement made (work not started)		
127	Land between Poplar Grove and Park House Farm, Pilsley Road, Lower Pilsley	Affordable Housing	to be paid upon occupation of 10th dwelling	Agreement made (work not started)	Mar-20	
128	S & A Parsons Mansfield Road, Killamarsh	Affordable Housing	to be paid upon occupation of 10th dwelling	Work started	Jul-21	
132	Land to the South of Ankerbold House, Ankerbold Road, Old Tupton	Affordable Housing	to be paid upon occupation of 8th dwelling	Agreement made (work not started)	Apr-19	
133	Land north of Pilsley Road and West of Coney Green Road, Clay Cross	Affordable Housing	only calculated if affordable housing is not delivered on site	Agreement made (work not started)	Apr-21	
	<b>Health:</b>					
99	land to the rear of 181 Chesterfield Road, Holmewood	Health	The 1st £6,500 to be paid prior to the 1st occupation of the 10th Dwelling. The remainder to be paid prior to the 1st occupation of the 22nd dwelling	Agreement made (work not started)	Apr-21	
112	Land North West of 66 Stretton Road, Morton	Health	to be paid upon occupation (formula on the S106)	Agreement made (work not started)	Apr-21	
119	Land North of Spindle Drive and East of Deerlands Road, Wingerworth	Health	to be paid before occupation of the 90th dwelling	Agreement made (work not started)	Mar-21	
123	Land to the North & West of the Poplars, Ankerbold Road, Old Tupton	Health	to be paid before occupation of the 50th dwelling	Started on site	Apr-21	
125	Land Between Bypass And The Rear Of 109 To 247 Mansfield Road Hasland	Health	to be paid before occupation of 100th dwelling	Started on site	Aug-21	Letter sent 03/08/2021. Not due to 80th occupation not met
126	56 Top Road, Calow	Health	to be paid before occupation of the 25% of dwellings	Agreement made (work not started)	Apr-21	
133	Land north of Pilsley Road and West of Coney Green Road, Clay Cross	Health	before first occupation of 50% of the dwellings	Agreement made (work not started)	Apr-21	
	<b>General/Public Realm:</b>					
95	Land Between Old Canal and North Side of Primrose Lane, Killamarsh	Community Facilities Contribution	£4,500.00 to be paid prior to the occupation of the 14th dwelling, the remainder to be paid prior to the occupation of the 25th dwelling	Agreement made (work not started)	Mar-20	
95	Land Between Old Canal and North Side of Primrose Lane, Killamarsh	Public Art Contribution	Upon commencement of development	Agreement made (work not started)	Mar-20	
101	Land North and West of Creg Ny Baa, Brackenfield Lane, Wessington	TRO Contribution	to be paid within 28 days of receipt of a request for payment	Started on site	Aug-21	Letter sent 03/08/2021
119	Land North of Spindle Drive and East of Deerlands Road, Wingerworth	Public Art Contribution	to be paid prior to the occupation of 75% of dwellings	Agreement made (work not started)	Mar-21	
120	Land Adjacent The West Side Of 40 Church Meadows, Calow	Wildlife Contribution	to be paid before occupation of 50% of the dwellings	Agreement made (work not started)	Apr-19	
129	J J Cummins Limited, Matlock Road, Wessington	Community Building Contribution	Prior to the occupation of the first market house	Agreement made (work not started)		
131	Car park at Tesco, Bridge Street, Clay Cross	Public realm	to be paid prior to commencement of development	Agreement made (work not started)		

## North East Derbyshire District Council

### Planning Committee

19<sup>th</sup> October 2021

#### **Planning Appeals Lodged and Determined**

#### **Report No PM/06/21-22/AK of the Planning Manager – Development Management**

This report is public

#### **Purpose of the Report**

- To inform the Committee of the appeals lodged and determined.

#### **1 Report Details**

##### **1.1 Appeals Lodged**

The following appeals have been lodged:-

**Mr Jonathan Dann - Application for two storey-side extension at 115 Snape Hill Lane, Dronfield (21/00083/FLH)**

Planning Officer–Kevin Figg [Kevin.Figg@ne-derbyshire.gov.uk](mailto:Kevin.Figg@ne-derbyshire.gov.uk)

**AGC Ltd - Application for Siting of 40no. holiday lodges together with the development of ancillary infrastructure and landscape (Major Development) (Amended Plan) (Amended Title) at Ainmoor Grange Caravan And Camping Park, Mickley Lane, Stretton (20/00535/FL)**

Planning Officer – Susan Wraith [susan.wraith@ne-derbyshiregov.uk](mailto:susan.wraith@ne-derbyshiregov.uk)

##### **1.2 Appeals Allowed**

No appeals have been allowed

##### **1.3 Appeals Dismissed**

The following appeal has been dismissed:-

**Mr Pearson and Ms Fisher – Application for conversion of barn to form dwelling (private drainage system) at Ramshaw Farm, Windmill Lane, Hundall, Apperknowle (20/00965/FL)**

Means of Determination – Delegated

Planning Officer's Recommendation – Refuse

Planning Officer – Susan Wraith [susan.wraith@ne-derbyshiregov.uk](mailto:susan.wraith@ne-derbyshiregov.uk) (Aspbury Planning)

#### 1.4 **Appeals Part Allowed/ Part Dismissed**

The following appeal has been part allowed/part dismissed:-

**Mr Philip Bramhall – Application for single-storey front and porch extension at Old Hall Farm Cottage Field Lane, Killamarsh (21/00124/FLH)**

Means of Determination – Delegated

Planning Officer's Recommendation – Refuse

Planning Officer – Kevin Figg [Kevin.Figg@ne-derbyshire.gov.uk](mailto:Kevin.Figg@ne-derbyshire.gov.uk)

#### 1.5 **Appeals Withdrawn**

No appeals have been withdrawn.

### 2 **Conclusions and Reasons for Recommendation**

2.1 N/a.

### 3 **Consultation and Equality Impact**

3.1 N/a.

### 4 **Alternative Options and Reasons for Rejection**

4.1 N/a.

### 5 **Implications**

#### 5.1 **Finance and Risk Implications**

N/a.

#### 5.2 **Legal Implications including Data Protection**

N/a.

### 5.3 Human Resources Implications

N/a.

## 6 Recommendations

6.1 N/a.

## 7 Decision Information

<b>Is the decision a Key Decision?</b> A Key Decision is an executive decision which has a significant impact on two or more District wards or which results in income or expenditure to the Council above the following thresholds: <i>BDC:</i> <i>Revenue - £75,000</i> <input type="checkbox"/> <i>Capital - £150,000</i> <input type="checkbox"/> <i>NEDDC:</i> <i>Revenue - £100,000</i> <input type="checkbox"/> <i>Capital - £250,000</i> <input type="checkbox"/> <input checked="" type="checkbox"/> <i>Please indicate which threshold applies</i>	No
<b>Is the decision subject to Call-In?</b> (Only Key Decisions are subject to Call-In)	No
<b>District Wards Affected</b>	All
<b>Links to Corporate Plan priorities or Policy Framework</b>	All

## 8 Document Information

Appendix No	Title
<b>Background Papers</b> (These are unpublished works which have been relied on to a material extent when preparing the report. They must be listed in the section below. If the report is going to Cabinet (NEDDC) or Executive (BDC) you must provide copies of the background papers)	
Report Author	Contact Number
Katie Spelman	01246 217172