

# Public Document Pack



**North East  
Derbyshire**  
District Council

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Date: Monday, 15 April 2024

To: **Members of the Planning Committee**

Please attend a meeting of the Planning Committee to be held on **Tuesday, 23 April 2024 at 1.00 pm in the Council Chamber**, District Council Offices, 2013 Mill Lane, Wingerworth, Chesterfield S42 6NG.

The meeting will also be live streamed from the Council's website on its You Tube Channel. Click on the following link if you want to view the meeting:

[North East Derbyshire District Council - YouTube](#)

Yours sincerely



Assistant Director of Governance and Monitoring Officer

### **Members of the Committee**

Councillor David Cheetham  
Councillor Andrew Cooper  
Councillor Peter Elliot  
Councillor Mark Foster  
Councillor Christine Gare  
Councillor David Hancock

Councillor Lee Hartshorne (Chair)  
Councillor Tony Lacey  
Councillor Heather Liggett  
Councillor Fran Petersen  
Councillor Kathy Rouse

**Please notify the Governance Manager, Alan Maher by 4.00 pm on Friday 19 April 2024 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 the Last Meeting (Pages 5 - 16)**

To approve as a correct record and the Chair to sign the Minutes of Planning Committee held on Tuesday 19 March 2024.

## **4 NED/23/01081/FL - PILSLEY (Pages 17 - 43)**

Change of use of land to use as a residential caravan site for 4 Gypsy households with 5 caravans, including no more than 4 static caravans/mobile homes, together with the construction of driveway, laying of hardstanding and erection of ancillary amenity building, at land approximately 50 metres east of Stretton View, Padley Wood Lane, Pilsley.

(Planning Manager – Development Management)

## **5 NED/22/01090/FL - CLAY CROSS (Pages 44 - 74)**

Section 73 application to vary Condition 4 (parameters plan) pursuant of planning approval 20/00532/OL to rearrange the uses on parcels 7, 8A, 9 and 11 (Major Development/Affecting Setting of Listed Building/Affecting Public Rights of Way) at Egstow Park, Clay Cross.

(Planning Manager – Development Management)

## **6 NED/23/00189/FL - GRASSMOOR (Pages 75 - 100)**

Residential development of the former Derbyshire County Council (DCC) Highways storage depot to erect 5 detached two storey dwellings and the creation of a new access (Amended Plans) at Highways Storage land, Chesterfield Road, Grassmoor.

(Planning Manager – Development Management)

## **7 Late Representations - Summary Update Report - NOW PUBLISHED (Pages 101 - 108)**

(Planning Manager – Development Management)

**8 Planning Appeals - Lodged and Determined** (Pages 109 - 111)

(Planning Manager – Development Management)

**9 Matters of Urgency (Public)**

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

**10 Exclusion of Public**

The Chair to Move:

“That the public be excluded from the meeting during the discussion of the following item of business to avoid the disclosure to them of exempt information as defined in Paragraphs 3 & 5, Part 1 of Schedule 12A to the Local Government Act 1972”. (As amended by the Local Government (Access to Information)(Variation) Order 2008).

**11 Section 106 Legal Agreements Update** (Pages 112 - 122)

(Planning Manager – Development Management)

**12 Matters of Urgency (Exempt)**

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

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**North East  
Derbyshire**  
District Council

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## PLANNING COMMITTEE

### MINUTES OF MEETING HELD ON TUESDAY, 19 MARCH 2024

#### **Present:**

Councillor Lee Hartshorne (Chair) (in the Chair)

Councillor Tony Lacey (Vice-Chair)

Councillor David Cheetham  
Councillor Peter Elliott  
Councillor Christine Gare  
Councillor Heather Liggett  
Councillor Kathy Rouse

Councillor Andrew Cooper  
Councillor Mark Foster  
Councillor David Hancock  
Councillor Fran Petersen

#### **Also Present:**

D Thompson	Assistant Director of Planning
S Sternberg	Assistant Director of Governance and Monitoring Officer
A Kirkham	Planning Manager - Development Management
A Lockett	Senior Planning Officer
S Wigglesworth	Senior Planning Officer
L Kassell	Solicitor
A Bond	Governance Officer
M E Derbyshire	Members ICT & Training Officer
A Maher	Governance Manager

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

77/2

3-24 None.

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

78/2

3-24 None.

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

79/2

3-24 The minutes of the meeting held on Tuesday 20 February 2024 were approved as a true record.

#### **PLA/ NED/23/00565/FL - WESSINGTON**

80/2

3-24 The report to Committee explained that an Application had been submitted for a residential development of nine dwellings at land opposite Wistanes Green, Matlock Road, Wessington. The Application had been referred to Planning Committee by Local Ward Member, Councillor C Cupit, who had raised concerns about it.

Committee had deferred consideration of the Application at its meeting on 20 February 2024. Committee had agreed to the deferral so that officers could assess the revised plans which had recently been submitted, and in particular, the addition of a pedestrian access to the proposed scheme.

Members were reminded that the site of the scheme lay outside of the Settlement Development Limit for Wessington. Although officers accepted that this would be contrary to the Development Plan, they believed that there were other material matters that would outweigh this and which would favour approval of the Application. In particular, they emphasised that there already was planning permission to construct eight dwellings on the site. Officers contended that created a strong case for approving the new Application for nine-dwellings, as this would in many respects be superior, with an overall better standard of design and better parking arrangements than the eight-dwellings scheme.

Concerns had been expressed about the impact on road safety of the Development, and especially the lack of a direct public footpath to and from Wessington. Members heard that as part of their assessment of the revised plans, officers had concluded that the proposed footpath would make the Development more sustainable, enable greater highway safety and provide a much greater level of connectivity and amenity for pedestrians. Consequently, they confirmed their original recommendation to Planning Committee, that the Application be approved, subject to conditions.

Before Committee considered the Application it heard from G Day the Applicant and T Tunnicliffe, the Agent, who both spoke in support of the Application. No one had registered to speak against the Application.

Committee considered the Application. It took into account the site's location outside of any Settlement Development Limits, within a Primary Area of Multiple Environmental Sensitivity (AMES). It also considered the extant planning permission for an eight-dwelling development on the site, which had been granted before the current Local Plan had been adopted.

Committee took into account the relevant local and national planning policies. These included Local Plan Policy SS1, on the specific requirements for Sustainable Development, Local Plan Policy SS2, on the spatial distribution of development and Local Plan Policy SS9 on those categories of development that would be permissible in the countryside. It considered Local Plan Policy SDC12, requiring that all new developments be of high-quality design and make a positive contribution to the local environment, Local Plan Policy SDC13 on Environmental Quality and Wessington Neighbourhood Plan Policy 1 on Sustainable Development and the Settlement Limit.

Members discussed the Application. They reflected on the changes which had been made to the proposed Development and especially the inclusion of a pedestrian access to Wessington. They also reflected on what impact the development might have on flooding. In this context they were reminded that as a condition of approval the Development would have to be carried out strictly in accordance with the submitted Flood Risk Assessment.

Some Members questioned whether approving the scheme would be appropriate, given that it would not comply with the Development Plan and specific Council policies. They were reminded in the context of Paragraph Twelve of the National Planning Policy Framework (NPPF), which makes clear that Local planning authorities may take decisions that depart from an up-to-date development plan,

if, as in the case of this application, there were material considerations which indicate that the plan should not be followed.

Some Members questioned whether the material conditions in favour of approving the Scheme that had been identified were sufficient to justify the development. Other Members felt that as the proposed scheme would be better than the development for which there is currently planning permission, approval for it should be granted, which would then preclude the inferior scheme from being built.

At the conclusion of the discussion Councillor K Rouse and Councillor T Lacey moved and seconded a Motion to approve the Application. The Motion was put to the vote and was approved.

### RESOLVED -

That the Application be conditionally approved, in line with officer recommendations.

That the final wording of the conditions be delegated to the Planning Manager (Development Management):-

### **Conditions**

1. The development hereby permitted shall be started within three years from the date of this permission.

*[Reason: To comply with the provision of Section 92 (as amended) of the Town and Country Planning Act 1990]*

2. The development hereby approved shall be carried out in accordance with the amended plans and specifications referenced:

- 001 rev A Location Plan
- 020 rev J Proposed Site Plan
- 021 rev C Proposed Highways Plan
- 050 rev A Cressbrook Plan
- 051 rev B Cressbrook 2 Plan
- 052 rev A Manifold Plan
- 053 rev B Wolfcote Plan
- 055 rev D Padley Grindleford Plan
- 056 rev B Padley Grindleford 2 Plan
- 060 rev B Cressbrook Brick Elevations
- 061 rev B Cressbrook 2 render Elevations
- 062 rev B Manifold Elevation
- 063 rev C Wolfscote Elevations
- 064 rev B Cressbrook Render Elevations
- 065 rev D Padley Grindleford Elevations
- 066 rev B Padley Grindleford 2 Elevations
- 1539-002 Tree Protection Plan
- 11367-FPCR-XX-XX-DR-L-0001 Landscape Strategy Plan

- A3\_105 Rev A Double Garage Plan
- A3\_106 Rev A Single Garage Plan
- A3\_110 Rev A Double Garage Elevation
- A3\_111 Rev A Single Garage Elevation

or otherwise required by any other condition in this decision notice.

*[Reason: For clarity and the avoidance of doubt]*

3. **Hedgerow Management** - As annotated on the approved plans '11367-FPCR-XX-XX-DR-L-0001' the hedgerows shall remain outside of the domestic curtilage of the dwellings. Prior to commencing development a management scheme for these hedgerows and the existing hedgerows that are shown to be retained shall be submitted to the Local Planning Authority for approval in writing. Once approved the hedgerows shall be managed and maintained in accordance with these details and shall be permanently so maintained.

*[Reason: In the interests of retaining the hedgerows throughout the lifetime of the development and in the interests of the character and appearance of the development and its landscape setting, in accordance with Local Plan Policy SDC3, and Neighbourhood Plan Policy 2:]*

4. Before the commencement of construction works including any demolition in connection with the development hereby approved, a program of measures to minimise the spread of airborne dust from the site during construction periods shall be submitted to and approved in writing by the Local Planning Authority. The construction shall be undertaken in accordance with the approved scheme.

*[Reason: In the interests of the amenity of neighbouring properties]*

5. Construction works on the site and deliveries to the site shall be undertaken only between the hours of 07.30am to 6pm Monday to Friday and 7.30am to 1pm on Saturday. There shall be no work undertaken on site or deliveries to the site on Sundays or public holidays.

*[Reason: In the interests of the amenity of occupants of nearby properties including the nearby dwellings and businesses and in accordance with policy SDC13 of the North East Derbyshire Local Plan.]*

6. No vegetation clearance shall take place between 1st March and 31st August inclusive, unless preceded by a nesting bird survey undertaken by a competent ecologist no more than 48 hours prior to clearance. If nesting birds are present, an appropriate exclusion zone will be implemented and monitored until the chicks have fledged. No works shall be undertaken within exclusion zones whilst nesting birds are present.

*[Reason: To ensure that the development does not adversely affect breeding birds, in accordance with Local Plan Policy SDC4, Wessington Neighbourhood Plan Policy 2, and the NPPF insofar as it relates to protected species]*



7. Prior to the installation of external lighting fixtures, a detailed lighting strategy shall be submitted to and approved in writing by the LPA to safeguard bats and other nocturnal wildlife. This shall provide details of the chosen luminaires, their locations and any mitigating features such as dimmers, PIR sensors and timers. Dependent on the scale of proposed lighting, a lux contour plan may be required to demonstrate acceptable levels of light spill to any sensitive ecological zones/features. Guidelines can be found in Guidance Note 08/23 - Bats and Artificial Lighting at Night (BCT and ILP, 2023). Once approved external lighting shall not be carried out other than in complete accordance with the approved scheme and shall be permanently so maintained.

*[Reason: To ensure that the development does not adversely affect bats, in accordance with Local Plan Policy SDC4, Wessington Neighbourhood Plan Policy 2, and the NPPF insofar as it relates to protected species].*

8. No development shall take place (including demolition, ground works, vegetation clearance) until a construction environmental management plan (CEMP: Biodiversity) has been submitted to and approved in writing by the local planning authority. The CEMP (Biodiversity) shall include the following.
  - a) Risk assessment of potentially damaging construction activities.
  - b) Identification of “biodiversity protection zones”.
  - c) Practical measures (both physical measures and sensitive working practices) to avoid or reduce impacts during construction (may be provided as a set of method statements for badger and hedgehog).
  - d) The location and timing of sensitive works to avoid harm to biodiversity features.
  - e) The times during construction when specialist ecologists need to be present on site to oversee works.
  - f) Responsible persons and lines of communication.
  - g) The role and responsibilities on site of an ecological clerk of works (ECoW) or similarly competent person.
  - h) Use of protective fences, exclusion barriers and warning signs.

The approved CEMP shall be adhered to and implemented throughout the construction period strictly in accordance with the approved details, unless otherwise agreed in writing by the local planning authority.

*[Reason: In accordance with Local Plan Policy SDC4, Wessington Neighbourhood Plan Policy 2, and the NPPF to ensure that mitigation measures to avoid and minimise impacts on species and retained habitats are in place and adhered to]*

9. Prior to building works commencing above foundation level, a Biodiversity Enhancement Plan shall be submitted to and approved in writing by the Local Planning Authority. Approved measures shall be implemented in full and maintained thereafter. The Plan shall clearly show positions, specifications and numbers of features, which will include (but are not limited to) the following:

- universal nest boxes at ratio of 1:1, in line with British Standard

42021:2022.

- integrated bat boxes.
- insect bricks / towers.
- fencing gaps 130 mm x 130 mm to maintain connectivity for hedgehogs.
- summary of ecologically beneficial landscaping (full details to be provided in Landscape Plans).
- The retention and management of hedgerows and hedgerow trees within a development free buffer.
- summary of ecologically beneficial landscaping (full details to be provided in Landscape Plans).
- The planting of new native hedgerows and trees to compensate for any hedgerow or tree removal. Photographs of these features in situ shall be submitted to the LPA to discharge this condition and the features shall be maintained in perpetuity.

*[Reason: To secure biodiversity enhancements in accordance with Local Plan Policy SDC4, the NPPF and Wessington Neighbourhood Plan Policy 2.]*

10. The development shall not be carried out other than in complete accordance with section 4 of the Ecological Appraisal (December 2022, FPCR).

*[Reason: To ensure the biodiversity protection and enhancements suggested by the applicants ecological consultants are carried]*

11. Prior to building works commencing above foundation level an integral swift nest box plan for the selection, siting, positioning and installation of integral swift nest boxes, such as swift bricks incorporated within the external walls of the development, shall be submitted to, and approved in writing by, the local planning authority. The integral swift nest box plan shall be prepared in accordance with the requirements of BS 42021 or equivalent best practice guidance and shall identify, as a minimum: a) the type and number of integral nest boxes to be installed; b) the specific buildings on the development into which boxes are to be installed, shown on appropriate scale drawings; c) the location on each building where boxes are to be installed, shown on appropriate building plans and elevations. A statement of good practice including photographs shall be submitted to the local planning authority prior to the discharge of this condition, demonstrating that the boxes have been selected and installed in accordance with BS 42021. The development shall not be carried out other than in complete accordance with the approved integral nest box plan and approved details and all boxes shall be permanently so maintained.

*[Reason: To enhance the biodiversity of the site in line with National Planning Policy Guidance Natural Environment 2019 paragraph 023.]*

12. The development hereby approved shall be carried out strictly in accordance with the submitted Flood Risk Assessment by 'collinshallgreen Ltd' dated Jan 2024 Ref: J023-CHG-00-XX-RP-S-0003 and shall incorporate all mitigation measures detailed that Flood Risk Assessment.

*[Reason: In the interests of minimising flood risk. In accordance with Policy*

*SDC11 of the North East Derbyshire Local Plan.]*

13. The means of disposal of foul sewage/foul water shall be to the mains sewer.

[For clarity and the avoidance of doubt and to ensure there is no pollution of the water environment]

14. No building hereby permitted shall be occupied until surface water drainage works have been implemented in accordance with details that have been submitted to and approved in writing by the local planning authority. These shall include a sustainable drainage scheme to achieve a surface water discharge of no greater than 2.0 l/sec. The submitted details shall:
  - a. provide information about the design storm period and intensity, the method employed to delay and control the surface water discharged from the site and the measures taken to prevent pollution of the receiving groundwater and/or surface waters;
  - b. include a timetable for its implementation; and
  - c. provide a management and maintenance plan for the lifetime of the development which shall include the arrangements for adoption by any public authority or statutory undertaker and any other arrangements to secure the operation of the scheme throughout its lifetime.

*[Reason: In the interest of satisfactory and sustainable drainage. In accordance with Policy SDC11 of the North East Derbyshire Local Plan and the NPPF.]*

15. No development shall commence until full details of the ground floor level of the proposed dwellings in relation to existing and finished ground levels and relative to a fixed datum have been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved levels.

*[Reason: In the interests of the appearance of the area and in accordance with Policies SDC12 of the North East Derbyshire Local Plan.]*

16. Prior to commencing development a detailed scheme of tree/hedgerow protection for the existing hedgerows which are being retained shall be submitted to the Authority for approval in writing. Once agreed these protection measures shall be installed in accordance with the approved details shown on this plan before any other works commence on site and shall be retained in position until all the building works hereby approved have been completed. The area within the fenced/protected area 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 SDC2, SDC3, SDC4 & of the North East Derbyshire Local Plan.]*

17. As shown on plan '1539-002' the existing trees which are being retained (T10 & T7) shall be protected as shown and these protection measures shall be installed in accordance with the approved details shown on this plan

before any other works commence on site and shall be retained in position until all the building works hereby approved have been completed. The area within the fenced/protected area 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 SDC2, SDC3, SDC4 of the North East Derbyshire Local Plan.]*

18. Before development starts any Intrusive Site Investigation (Phase II) required by the submitted Phase 1 Desk Top Study by Collinshallgreen ref 'J023-CHG-00-XX-RP-S-0001' (and any necessary Remediation Method Statement (Phase III) shall be submitted to and approved in writing by the Local Planning Authority. Thereafter the agreed surveys and mitigation shall be carried out strictly in accordance with the approved details.

*[Reason: To protect the environment and address any contamination issues and in accordance with Policy SDC14 of the North East Derbyshire Local Plan]*

19. The Development hereby approved shall not be occupied until the access, parking and turning facilities have been provided as shown on drawing no A1\_020C Revision J titled Proposed Site Plan and retained as such thereafter.

*[Reason: To ensure conformity with the submitted details.]*

20. The development hereby approved shall not be occupied until visibility splays are provided from a point 0.6m above carriageway level at the centre of the access to the application site and 2.4 metres back from the near side edge of the adjoining carriageway, (measured perpendicularly), for a distance of 120 metres in each direction measured along the nearside edge of the adjoining carriageway and offset a distance of 0.6 metres from the edge of the carriageway. These splays shall thereafter be permanently kept free of all obstructions to visibility over 0.6m in height above carriageway level.

*[Reason: In the interests of highway safety and in accordance with Policy ID3 of the North East Derbyshire Local Plan.]*

21. The Development hereby approved shall not be occupied until the site access works as shown on drawing no. A1\_021 Revision C titled Proposed Highway Plan, have been constructed and completed.

*[Reason: To ensure the safe and free flow of traffic onto the highway.]*

22. Prior to commencement of the development hereby permitted details of a construction management plan shall be submitted to and approved in writing by the Local Planning Authority. The approved plan shall be adhered to throughout the demolition/construction period. The plan/statement shall include but not be restricted to:

- Parking of vehicle of site operatives and visitors (including measures taken to ensure satisfactory access and movement for existing occupiers of

- neighbouring properties during construction);
- Advisory routes for construction traffic;
- Any temporary access to the site;
- Locations for loading/unloading and storage of plant, waste and construction materials;
  - Method of preventing mud and dust being carried onto the highway;
- Arrangements for turning vehicles;
- Arrangements to receive abnormal loads or unusually large vehicles;

*[Reason: In the interests of safe operation of the adopted highway in the lead into development both during the demolition and construction phase of the development.]*

23. All planting, seeding or turfing in the approved scheme of landscaping shown on plan '11367-FPCR-XX-XX-DR-L-0001' shall be carried out in the first planting and seeding season following the occupation of the buildings or the completion of the development, whichever is the sooner. Any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless the Local Planning Authority gives written consent to any variation.

*[Reason: In the interest of the appearance of the area and in accordance with policies SDC3 and SDC12 of the North East Derbyshire Local Plan and the policies of the Neighbourhood Plan.]*

24. Notwithstanding any submitted details, before development starts a plan to show the positions, design, materials, height and type of boundary treatments to be erected and/or retained shall be submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be implemented in full before the occupation of the building hereby approved and it shall be retained as approved.

*[Reason: To safeguard the privacy of neighbours and in accordance with Policies SDC12 of the North East Derbyshire Local Plan and in the interests of the character and appearance of the development and the landscape character of the area.]*

25. Prior to commencing any above ground works samples and specifications of the brick, render, and roof tiles shall be submitted to the Authority for approval in writing. Once agreed the development shall not be carried out other than in complete accordance with these agreed details.

*[Reason: In the interests of the character and appearance of the development in accordance with Local Plan Policy SDC12 ]*

26. The windows and external doors shall be recessed from the external face of the building by no less than 100mm and shall be permanently so maintained.

*[Reason: In the interests of the character and appearance of the development in accordance with Local Plan Policy SDC12 ]*

27. The roof verges shall be flush cement pointed and shall not use dry verge.

*[Reason: In the interests of the character and appearance of the development in accordance with Local Plan Policy SDC12 ]*

28. The gutters shall be black and fitted on rise and fall brackets (with the exception of the entrance canopies/porches) without the use of fascia or bargeboards and there shall be no overhanging rafters.

*[Reason: In the interests of the character and appearance of the development in accordance with Local Plan Policy SDC12 ]*

29. Prior to installing the windows and doors details of the material and finish shall be submitted to the Authority for approval in writing. Once agreed the door and windows shall not be installed other than in complete accordance with the agreed details.

*[Reason: In the interests of the character and appearance of the development in accordance with Local Plan Policy SDC12 ]*

30. Prior to installing hard surfaces, precise details of these shown on a materials plan shall be submitted to the Authority for approval in writing. Once agreed the development shall not be carried out other than in complete accordance with the agreed details.

*[Reason: In the interests of the character and appearance of the development in accordance with Local Plan Policy SDC12 ]*

31. Prior to occupying the dwellings hereby permitted where solar panels are shown on the roofs of the dwellings on the approved plans these shall be installed. These shall be integrated into the roof so they finish flush with the roof and shall be black panels with black frames and non reflective.

*[Reason: In the interests of the character and appearance of the development and achieving sustainable development and renewable energy in accordance with Local Plan Policies SS1, SDC10, SDC12 ]*

32. Prior to occupation of any of the dwellings hereby permitted the proposed footpath shown on the approved plans which links the development to the existing footpath on Matlock Road (A615) shall be substantially completed. The footpath shall be completed prior to occupation of the fourth dwelling hereby permitted and shall then be permanently so maintained.

*[Reason: To ensure the footpath link is provided in the interests of the amenity of the site, reducing the need to travel by car and ensuring the development properly links with the existing settlement in accordance with Local Plan policy SS1, SDC12, ID3 and Neighbourhood Plan Policies NPP3, ASPIRATIONAL Policy 1 and the NPPF.]*

**PLA/ NED/23/00918/FL - SHIRLAND**

**81/2**

**3-24**

The report to Committee explained that an Application had been submitted for a two-storey detached dwelling and garage, with the creation of a new access, at land to the North of 14 and between 10 and 18 Birkinstyle Lane, Shirland. The Application involved amended plans. The Application had been referred to Committee by Local Ward Member, Councillor M Roe, who had raised concerns about it.

Planning Committee was recommended to approve the Application. The report to Committee explained the reasons for this.

Officers contended that the proposed dwelling, located on a vacant site within the Settlement Development Limits for Shirland, would be in line with the overall aims of local and national planning policy - by support sustainable development within an existing settlement. They suggested that this ought to weigh heavily in favour of approving the Application.

Although officers accepted that the proposed dwelling would be large and that it would be of an unusual design to reflect the configuration of the site, they argued that it would, nevertheless, meet the minimum requirements of the Council's Successful Places Design Guidance Policy with regards to the privacy and amenity of both existing and future occupants. Moreover, it would be located in a mixed street scene, alongside properties with different designs. Similarly, it would be set back from the road and screening would be provided by adjoining buildings. Consequently, the new dwelling would not adversely impact the character of the area.

Before Committee considered the Application it heard from Local Ward Member, Councillor M Roe and J Pilkington, speaking on behalf of J Hardaker, who objected to the Application. No one had registered to speak in support of it.

Committee considered the Application. It took into account the location of the site within the Settlement Development Limits for Shirland. It considered the relevant local and national planning policies. These included Local Plan Policy SS2 on the distribution of Development, Local Plan Policy SS7, on the use of Unallocated Land within those settlement with defined Settlement Limits, Local Plan Policy SDC12, requiring all new developments to be of high quality design and to make a positive contribution to the quality of the local environment. It also considered the relevant policies being prepared for the still draft Neighbourhood Plan for Shirland and Higham and the Council's Successful Places Design Guidance Policy.

Members discussed the Application. Some Members felt that the siting, scale design and massing of the development would be inappropriate. Other Members felt that the proposed design was innovative and that the dwelling would be an appropriate use for the site. In this context Members discussed whether the proposed development would comply with all aspects of the Council's Successful Places Design Guidance Policy and how the design of the building would be tailored to make best use of the specific vacant land site on which it would be constructed.

Some Members expressed concern that the proposed dwelling would have an adverse impact on the amenity of neighbouring properties. Some Members felt that appropriate mitigations would be in place to address the concerns which had been raised. Other Members indicated that they would support the construction of a dwelling on the site but had reservations about whether the current proposal would be of the right scale and design for the location.

At the conclusion of the discussion Councillor H Liggett and Councillor D Hancock moved and seconded a Motion to refuse the Application.

The Motion was put to the vote and was agreed.

**RESOLVED -**

That the Application be refused, contrary to officer recommendations.

**Reasons**

The application is considered unacceptable as by reason of the proposed dwelling's siting, scale, size and massing it does not achieve high quality design and so would have a harmful impact on the character and general amenity of the area and therefore fails to meet the requirements of, and so is contrary to, policies SS7 and SDC12 of the North East Derbyshire Local Plan.

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

**82/2**

**3-24**

The report to Committee explained that two Appeals had been lodged, one Appeal had been allowed and four Appeals had been dismissed. Officers were thanked for the efforts on this.

**PLA/ Matters of Urgency**

**83/2**

**3-24**

None.



## PLANNING COMMITTEE – 23<sup>rd</sup> April 2024

**REFERENCE NUMBER:** 23/01081/FL      Application Expiry      30<sup>th</sup> April 2024  
Date:      2023

**Application Type:** Full Planning Permission

**Proposal Description:** **Change of use of land to use as a residential caravan site for 4 Gypsy households with 5 caravans, including no more than 4 static caravans/mobile homes, together with construction of a driveway, laying of hardstanding and the erection of an ancillary amenity building.**

**At:** **Land approximately 50 metres east of Stretton View Padley Wood Lane, Pilsley**

**For:** **Mr Kane Sykes**

**Third Party Reps:** O/S      **Parish:** Pilsley Parish

**Ward Name:** Pilsley and Morton Ward

**Author of Report:** Adrian Kirkham      **Date of Report:** 11.04.2024

**MAIN RECOMMENDATION: GRANT planning permission subject to conditions**

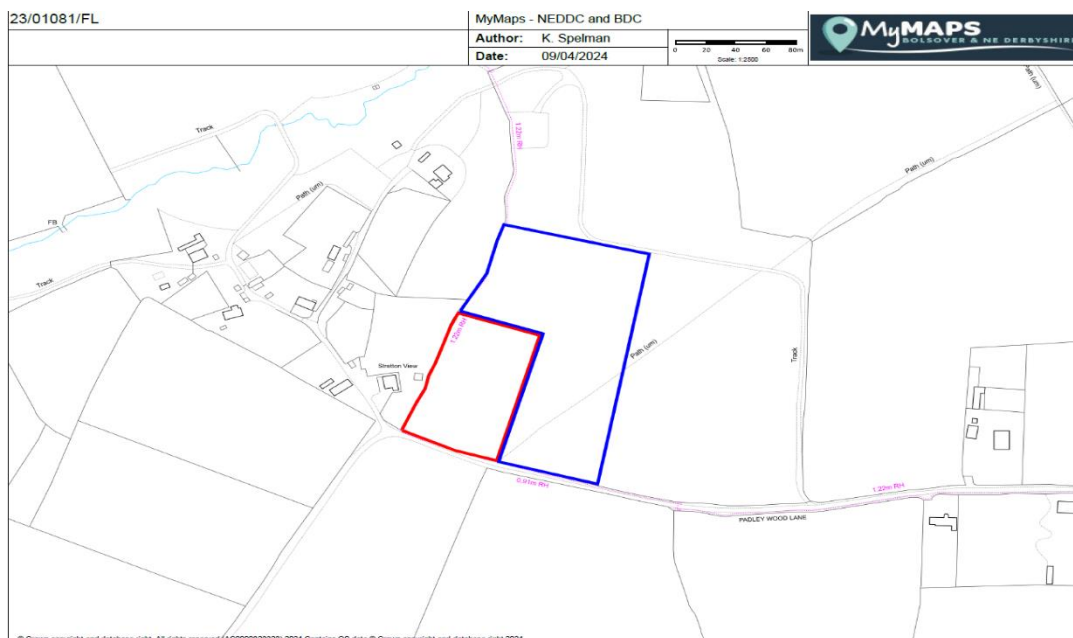


Fig 1: Location Plan (NTS) (app. site in red/other land owned by applicant in blue)

## 1.0 Reason for Report

- 1.1 The application has been called in for Planning Committee consideration and decision by Councillor Cooper to consider highway safety concerns both at the access and on to Padley Wood Lane from Morton Road.

## 2.0 Proposal and Background

- 2.1 The application site formerly comprised an open piece of land situated approximately 1km (as the crow flies) west of Pilsley. It is situated off Padley Wood Lane, a made road and bridleway (shown green in Figure 2), which itself lies off Morton Road. A further public footpath (purple in Figure 2) is located east of the site.

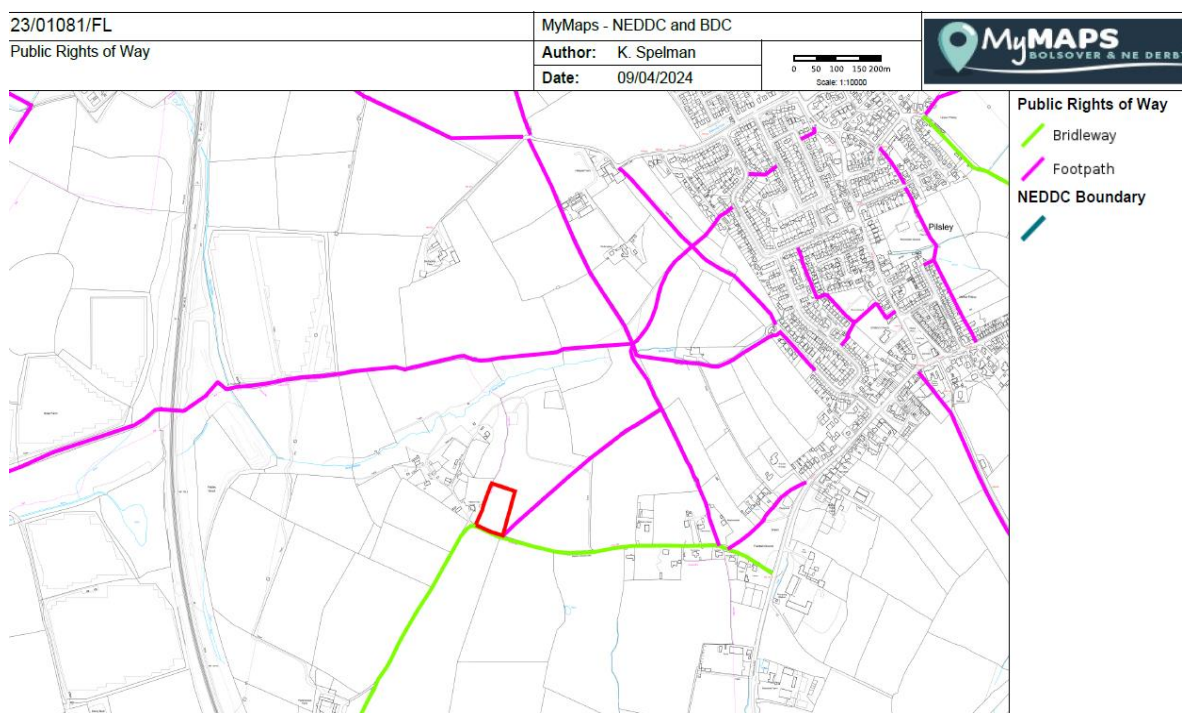


Fig 2: The site (edged red) in relation to bridleways (green) and footpaths (purple) (NTS)

- 2.2 The application site is bordered to the west by Stretton View, a residential property set in an extensive area of associated land (See Figure 1 above). The applicant also owns further land to the north and east of the site itself as shown in blue (the application site in red) in Figure 1.
- 2.3 The application seeks consent to change the use of the land to a use as a gypsy site comprising the stationing of 4 mobile homes and 1 touring caravan, the provision of parking for 9 vehicles (5 cars and 4 light goods vehicles are proposed to use the site), the construction of an amenity block (boarded with a tile/slate roof), the provision of a treatment plant and a bin store along with the erection of fencing and landscaping. The proposed site plan is shown at

Figure 3 below, the proposed amenity block at Figure 4 and the proposed fencing at Figure 5.

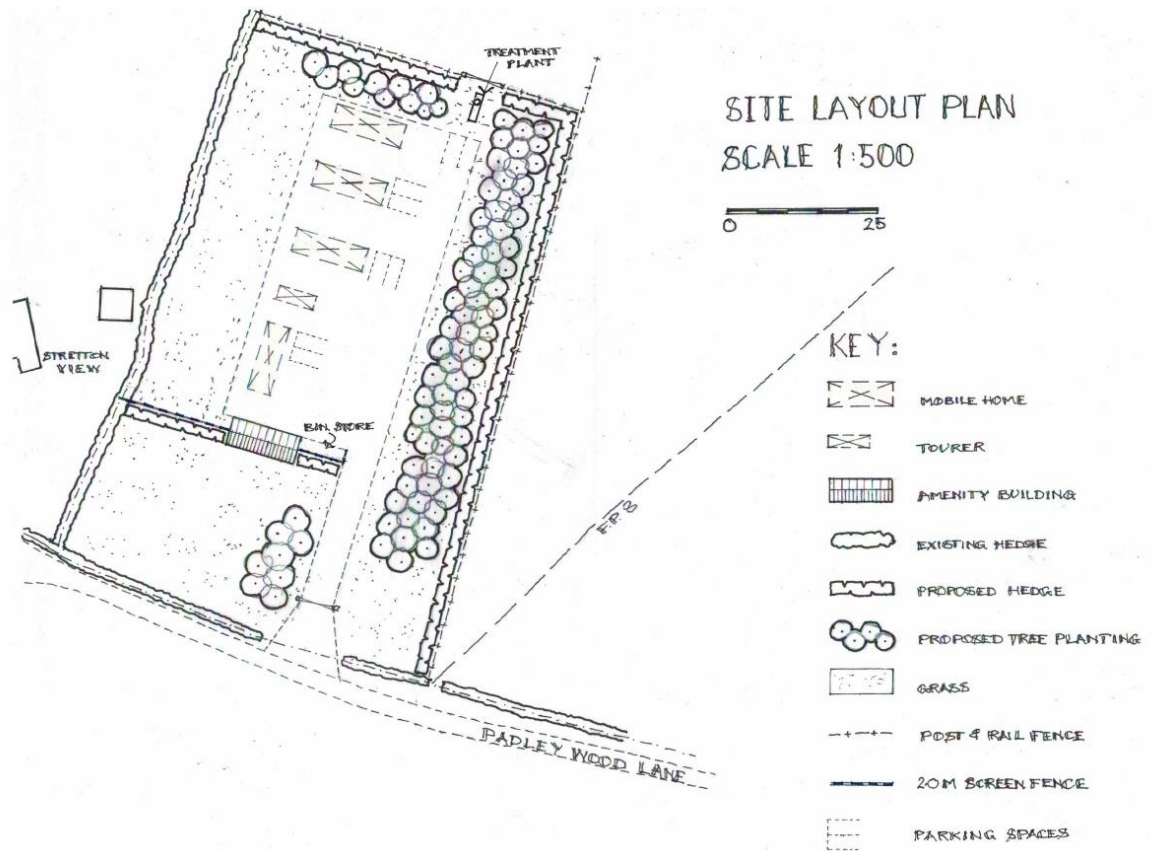


Fig 3: Proposed site layout plan



Fig 4: Proposed amenity block (not to scale)

DRAWING No. PBA 4

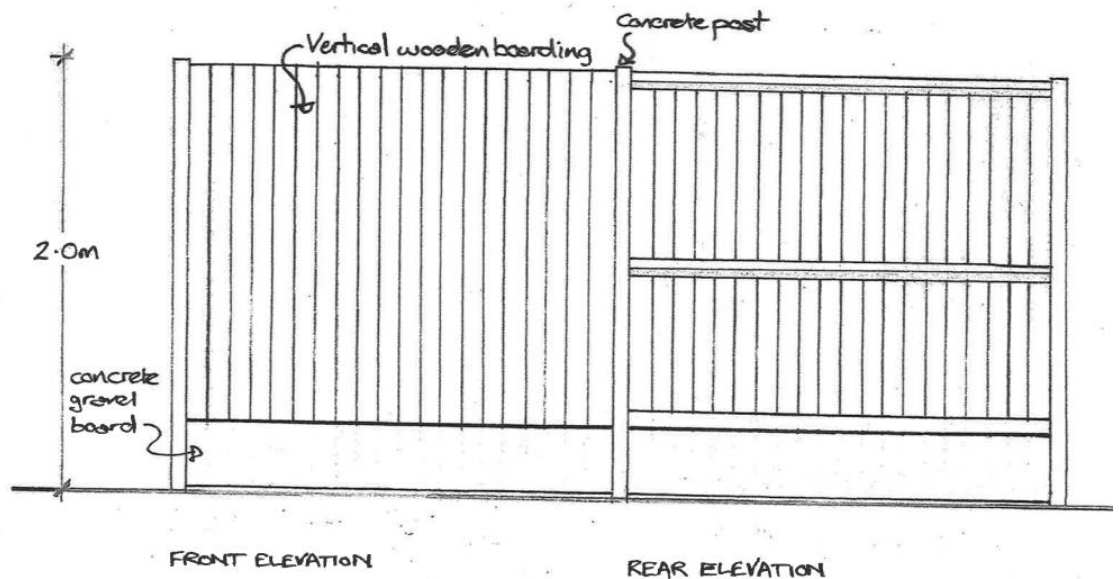


Fig 5: Proposed close boarded fencing.

- 2.4 The application is largely a retrospective application (despite the application form identifying that the change of use has not already started) as the site is already in use as a caravan site with the field having a depth of hard surfacing laid upon it, fencing installed to either side of a new access point and caravans placed on the site. Additionally, some mixed hedging has been planted. It is the view of Officers that the site has not been developed in accord with the plan submitted in respect of the application. However, the applicant's agent has confirmed that it is the submitted site plan for which consent is sought rather than the site as currently developed. Therefore, Officers have based their assessment on the plan as submitted. Two photographs of the site in its current form are given at Figure 6 and 7 below.
- 2.5 The application site measures just under 100m in depth and 60 metres in width. Within that area, an area of hardstanding is proposed measuring approximately 55m by 27m, on which would be located the caravans and the vehicle parking areas. The amenity block, bin store and treatment plant would be situated just off this area which would access Padley Wood Lane via a drive and vehicle access point. Landscaping is proposed to the north, east and south of the caravan hardstanding area with further hedging beyond that which, along with post and rail fencing, encloses the site. To the site frontage a section of 2m high screen fencing is proposed beyond hedging. Additional land, owned by the applicant, adjoins the application site to its north and east.



Fig. 6: Application site viewed from Padley Wood Lane.



Fig 7: Application site from current gate to the site.

### **The Applicant's submissions.**

- 2.6 The **applicant** in the submitted Design and Access statement sets out that the amenity block has been designed to resemble a stable building in keeping with its rural surrounds and the site is 880 metres from the edge of Pilsley. It also states that the proposal is in accord with policy SS9 and LC9 of the Local Plan and, in quoting from the national guidance set out in "Planning Policy for Traveller Sites" (PPTS), that such sites may be located in rural and semi-rural locations providing they are of a scale appropriate to their location. It acknowledges that the PPTS also sets out that new sites should be very strictly limited in open countryside or outside areas allocated in the development plan but that in this instance the site is located no more than 300 metres from residential development along Padley Wood Lane and only 880 metres from the edge of Pilsley itself. In the applicant's opinion, the site is clearly not in an isolated or remote location and not located away from the closest settlement.

The applicant goes on to state that the Council's current Gypsy and Traveller Accommodation Assessment (GTAA) has a base date of 2014 and was published in 2015. It established a need for 15 additional sites between 2014 and 2034 with 6 required between 2014 and 2019 with the need for a further 3 pitches in each of the 5 year periods to 2024. The applicant also states that the PPTS requires local authorities to have an up to date understanding of the need for accommodation and the GTAA is now 9 years old and "well past its sell by date". Permission has been granted for 9 sites and 5 pitches are allocated in the Local Plan. The applicant sets out that the approved sites or those allocated are private sites and not available to the applicant in this case and the allocated sites do not have permission and are not available now and so are not deliverable (and so can't be considered to contribute to the 5 year supply). In addition, the applicant sets out that 12 pitches should have been delivered up to 2028/29 and only 9 pitches have been provided and the Council cannot demonstrate a 5 year supply of deliverable gypsy sites. In the applicant's opinion the unmet need for sites, the absence of a 5 year supply and the long standing failure of the Development Plan to meet the identified need are matters which weigh in favour of the application and these deficiencies can be traced back to 2006.

The applicant goes on to state that he considers the application complies with the criteria of [Local Plan] policy LC9 being in close proximity to amenities and services, the site is large enough for on site facilities to be provided and 4 pitches is an appropriate scale compatible with the site's rural location.

It is acknowledged that there are "inevitable consequences" of proposals such as this and some degree of visual harm must be accepted and "be acceptable". The test should be whether or not the impact is "unacceptable". It is the applicant's view that sites do not have to be adequately screened from the outset, hidden from view, may be assimilated into their surroundings and be more visible in the winter and in this case the harm would be limited due to the site's offset from the road and the provision of landscaping and the consideration that the site would be largely laid to grass. The applicant would be prepared to plant more woodland and screen the site.

The site would accommodate the applicant, his own family and his extended family. They have not had a settled base and this has impacted the education of the children and medical care and this lifestyle is no longer tenable.

The applicant refers to the Public Sector Equality Duty and the requirement not to place any single factor above the best interest of any child living on the site.

In conclusion, the Council is reminded of its Public Sector Equality Duty and not to place any single factor above the best interest of any child living on the site. The applicant concludes that there is not an unacceptable effect on the area and the site satisfies the Council's own criteria and is acceptable in planning terms meeting the small but significant unmet need for ethnic gypsy and traveller sites and there are no alternative sites available now.

### **3.0 Relevant Planning History**

- 3.1 There is no site-specific relevant planning history but planning consent has recently been granted to change the use of the land adjoining the applicant's land (to the east) for equestrian use (NED/23/00724 refers).

### **4.0 Consultations and Representations**

- 4.1 Rambler's Association: No objection. Notes the new access and asks that this is safe for all users of the footpaths.
- 4.2 DCC Rights of Way: No objection.
- 4.3 Derbyshire Wildlife Trust (DWT): Set out that records of various species are within or adjacent the application area and Padley Wood Poultry Farm Local Wildlife Site (LWS) is located immediately west of the site and that the land use within the LWS immediately adjacent is that of gardens and the ancient woodland within the LWS is located 9 metres from the site boundary. Natural England's guidance that a minimum 15 metre buffer should be maintained between any development and ancient woodland should be adhered to. Advise that an ecological Impact Assessment and Biodiversity Net Gain assessment should be submitted prior to determination.
- 4.4 DCC Archaeology: No objection.
- 4.5 Environmental Health: Request details of waste disposal. In additional correspondence a condition is recommended to address this use.
- 4.6 Coal Authority: No objection but asks that informatives advising of the presence of shallow mining activities in the area are added to any consent issued.

4.7 Parish Council: Object to the application as follows:

1. Previous Appeal Decisions: The history of planning decisions in the area, dating back to 1976, consistently denies permission for new dwellings on Padley Wood Lane due to concerns about the lane's capacity to handle increased traffic. The proposed development goes beyond the scope of previous refusals, raising serious concerns about its impact on traffic, vehicular access, and highway safety.

2. Highway Issues: The proposed development does not align with the criteria outlined in the NEDDC Local Plan 'Provision for Traveller Sites.' Padley Wood Lane, being a single-track narrow lane with no pavement and limited passing places, does not meet the standards for accessibility outlined in the local plan. In line with point 1, above, the proposed development represents an intensification of use of Padley Wood Lane by motorised vehicles. This raises serious concerns about the developments impact on traffic, vehicular access, and highway safety.

Padley Wood Lane is also designated as a Bridleway. Equestrians regularly use the lane for exercising horses and leisure purposes. Cyclists also regularly use the lane. In addition, pedestrians use of the lane is frequent for local shopping trips, personal business and leisure purposes; indeed, several footpaths connect to Padley Wood Lane.

Equestrians, cyclists and pedestrians would not benefit from increased traffic on the lane, in particular with relation to highway safety.

3. Adverse Impact on Nature Conservation: The development site borders the North East 109 Padley Wood Wildlife site, raising concerns about the impact on skylarks and hares. Given the decline in hare numbers and the importance of protecting biodiversity, we request detailed information from the applicant on how the development will avoid adversely affecting the adjacent Local Wildlife Site.

4. Capacity of Physical Infrastructure: Concerns about water runoff and the adequacy of the drainage infrastructure, coupled with the installation of a septic tank, require thorough examination to ensure the development does not contribute to flood risk.

5. Government and Planning Inspectorate Requirements: The proposed development contradicts the NEDDC Local Plan's goal to protect and enhance green spaces, impacting the distinctive character of Pilsley. Additionally, the development does not meet the requirements outlined in Policy SS9 and LC8 of the Local Plan, indicating a misalignment with the established policies.

6. Local Plan Provision for Traveller Sites: Policy SS9: The development doesn't meet any of the categories in this policy which only allows for approval to be given for developments in countryside locations outside the Settlement Development Limits. Policy LC8 of the Plan allocates two traveller sites, neither in Pilsley, with a combined capacity for 5 pitches. There is a similar



site, for which planning permission was granted, on Pilsley Road, around a mile away as the crow flies. There have been no measures to mitigate the impact of the proposal in order to overcome any issues as set out in para 5.102 of the local plan, for example, consultation with the travelling community, discussion with applicants and community representatives to consider solutions relating to access arrangements or limits on activities.

7. Inconsistencies in Application Details: Numerous inaccuracies in the application details, such as the incorrect commencement date, misrepresentation of vehicular access, and omissions regarding trees and hedges, raise questions about the accuracy and completeness of the information submitted. For completeness we list these inaccuracies for you to consider and check with the applicant:

a. It states that development commenced on 8th December 2023 but it actually started over the weekend of 4/5 November.

b. 'Is a new or altered vehicular access proposed from the public highway'. The answer is 'no', however it was observed that over the weekend of 4/5 November an entrance to the site was created, allowing access directly off Padley Wood Lane. This work included laying hardcore in the new entrance, the erection of fences and removal of hedgerows.

c. 'Are there any trees and hedges on the proposed development site' The answer is 'no'. However, the plan accompanying the application shows multiple new trees. Also, hedges have already been planted along the new fencing lines

d. 'Are there trees or hedges on land adjacent to the proposed development site that could influence the development or might be important as part of the local landscape character?' Again the answer is shown as 'no'. However, the land is bounded on the south by Padley Wood Lane with hedgerows and to the west - Padley Wood - by hedgerows and trees.

e. 'Is there a reasonable likelihood of the following being affected adversely or conserved and enhanced within the application site, or on land adjacent to or near the application site? To assist in answering this question correctly, please refer to the help text which provides guidance on determining if any important biodiversity or geological conservation features may be present or nearby; and whether they are likely to be affected by the proposals.

f. Protected and priority species, on the development site, on land adjacent to or near the proposed development.' The applicant has stated no, however, there have been concerns expressed in relation to the existing planning application for the adjacent field that it will affect the habitat of Skylarks (on the red list). The Derbyshire Wildlife Trust have said in their comment for the other application to change the use from agricultural to equestrian, that Skylarks have been identified on site.

g. Designated sites, important habitats or other biodiversity features. The applicant answers 'no'. However, the boundary of the site that borders Stretton View and Padley Wood is the boundary of the NE 109 Padley Wood Wildlife site. Stretton View and much of the adjacent property is inside this Wildlife site. This site and its boundaries can be clearly seen on the Local Plan. The DWT also mention this Wildlife Site in their comments for the other Planning Application.

h. Site Plan attached to the application. This is extremely inaccurate. It is not

to scale and the dimensions of the mobile homes and other buildings shown on site bear no relationship to reality. This gives the impression that there is no further space for other buildings etc to be erected, which is not the case. Additionally, the fence line on the east side of the site is not in the correct location. This fence actually bisects the existing footpath a considerable distance to the east of that shown. It does not show the location of services, nor does it show the site where the septic tank has been buried.

i. The Application is for 4 households with no more than 4 static caravans/mobile homes, and 5 mobile caravans. It is assumed that each household, is likely to have more than 1 vehicle. The applicant has indicated that each of the static caravans will have two adults and there will be a minimum of 10 children in total living on the site. Also, there will be vehicles used for trade purposes, for example, light trucks, which are already on site. Residents are aware that the site is already being used as a base for building and related services, with the consequent vehicle usage. It is felt, therefore, that the application significantly underestimates the numbers of vehicle which will be parked on the site as follows: 'Vehicle Parking - Vehicle Type: Cars. Existing number of spaces: 0 - Total proposed (including spaces retained): 5 - Difference in spaces: 5 - Vehicle Type: Light goods vehicles / Public carrier vehicles. Existing number of spaces: 0 Total proposed (including spaces retained): 4 - Difference in spaces: 4

Given these material concerns, we urge the planning authority to carefully assess the objection points raised by Pilsley Parish Council and the community. It is crucial to ensure that any decision made is in line with established policies, considers environmental impacts, and prioritises the safety and well-being of the local residents.

Finally, and whilst not a material consideration, one that accentuates concerns of integrity and transparency displayed through the inconsistencies in the application - it has been brought to the Council's attention that at least 2 of the expressions of support on the Planning Portal have come from people and addresses that don't appear to exist and a third comes from a person who lives in the other Pilsley in Derbyshire.

4.8 Ward Councillor – See section 1 above.

4.9 Highways (LHA) – It is proposed to create a site access directly off Padley Wood Lane, which is an adopted single track road. The LHA have reviewed the submitted details and note it is currently unclear as to the width of the proposed access in the absence of dimensions.

The LHA would typically expect a site access of 5.0m in width for a distance of 10.0m from the carriageway, given the access would need to accommodate a Vehicle and Caravan, and two-way movements the applicant has not demonstrated vehicular visibility splays at the proposed site access.

Given the proposals are for a change of use and there is likely to be an intensification of use, the applicant should provide by way of scaled drawing, achievable visibility splays in both directions.

It should also be pointed out that visibility splays should be over the applicants or highway land, and not over any third-party land to a point 1m into the highway.

The applicant may wish to undertake a speed survey in the vicinity of the site access, in order to demonstrate that appropriate visibility, in line with the 85th percentile speeds of passing traffic can be achieved.

The LHA request the applicant to demonstrate parking provision on the proposed plan, each parking bay should measure a minimum of 2.4m x 5.5m, furthermore parking should be provided for caravans.

Notwithstanding the above the LHA request the applicant to provide further detail regarding how the static caravans/mobile homes are to be constructed or transported to site. Should they be transported to site the LHA request the applicant to submit a swept path analysis assessment for the vehicle type (usually wide-load), which would transport the mobile homes. This should be carried out from the Morton Road junction to the site access.

In conclusion the LHA does not consider that the application fully assesses the highway impact of the proposed development and further information is required as set out in this response.

The **applicant** has been advised of the comments made and has submitted further information in reply stating that the visibility splays are considered acceptable and in accord with those required in respect of the adjoining site to the east for which consent for equestrian uses has been approved, parking can be accommodated on site and mobile homes can be delivered along Padley Wood Lane as a recent example shows.

The LHA have been asked to respond to the information submitted but no further response has yet been received. Any further update will be reported as appropriate to the Planning Committee.

- 4.10 26 submissions have been made to the application objecting to it. 7 letters of objection (3 anonymous) have been received and 17 (2 anonymous) (2 from the applicant's spouse) of support. These make the following points (N.B. the points made by the anonymous contributors have not been included and very limited weight is placed on their submissions):

*Comments of Objection.*

The approval of the scheme would strain the limited infrastructure of Pilsley (doctors/dentists and schools).

The proposal would impact adversely on Pilsley's historical heritage and visual appeal.

The proximity of the site to a primary school raises concern about child safety. The Council has been hoodwinked by the application for equestrian development next door. [Officer note: This is a non-material matter]

The works to develop the site have already damaged grass verges.  
Dogs are barking when they weren't before.  
People feel unsafe walking the footpath and in the area generally.  
Development took place before permission had been granted. How can the applicant be trusted if permission is granted. [Officer note; This is a non-material matter]

Padley Wood Lane is narrow and a right of way and can't take any further traffic. There will be several vehicles on site, used for work and gatherings will take place.

The access [from Padley Wood Lane] on to Morton Road has seen numerous near misses.

No more houses should be allowed along Padley Wood Lane and in 1976 an application for one house was refused.

[The comments made by the anonymous contributors generally reflect comments made by others.]

#### *Comments in Support.*

The footpath remains open.

Many plants have already been planted.

The applicants are an English Romany family.

What impact will one more family have when new homes are being built in the area?

There is a shortage of sites suitable for gypsies and travellers and everyone should have their own home. There are no suitable pitches available locally.

The occupants are not causing problems, are a delightful family and just need a home. They have connection with the area and it is good that they have found a good location to be based at.

[The comments made by the anonymous contributors generally reflect comments made by others.]

Comment has been made that some of the supporting comments come from addresses that are non-existent. For sake of completeness all the comments made (other than by anonymous contributors) have been included but Members should note that the objection comments are from addresses located within close proximity to the site whereas those from supporters are generally from further afield including from Chesterfield, Clay Cross, North Wingfield, Tibshelf and Alfreton. In addition, it should be noted that some addresses given appear incomplete and cannot therefore be verified by Officers.

The full transcripts of all/any comments made can be seen on the Council's planning portal.

## 5.0 Planning Policy Considerations

### 5.1 The Development Plan comprises the **North East Derbyshire Local Plan**.

The following policies are considered those most relevant to the determination of this application:

SS1 Sustainable Development  
SS2 Spatial Strategy and the Distribution of Development  
SS9 Development in the Countryside  
LC8 Allocation of traveller Sites  
LC9: Provision of Traveller Sites  
SDC3: Landscape Character  
SDC12: High Quality design and Place Making  
ID3: Sustainable Travel

### 5.2 National Planning Policy Framework

The National Planning Policy Framework (NPPF) is also material to the determination of this application. It sets out that the need for various groups (including travellers) should be set out in planning policies and references the **Planning Policy for Traveller Sites (PPTS)**.

The PPTS re-iterates that planning applications must be determined in accordance with the Development Plan unless material considerations indicate otherwise, in accord with the presumption in favour of sustainable development and the policies of the NPPF and the PPTS. It goes on to state that:

Local planning authorities should consider the following issues amongst other relevant matters when considering planning applications for traveller sites:

- a) the existing level of local provision and need for sites
- b) the availability (or lack) of alternative accommodation for the applicants
- c) other personal circumstances of the applicant
- d) that the locally specific criteria used to guide the allocation of sites in plans or which form the policy where there is no identified need for pitches/plots should be used to assess applications that may come forward on unallocated sites
- e) that they should determine applications for sites from any travellers and not just those with local connections

Local planning authorities should very strictly limit new traveller site development in open countryside that is away from existing settlements or outside areas allocated in the development plan. Local planning authorities should ensure that sites in rural areas respect the scale of, and do not dominate, the nearest settled community, and avoid placing an undue pressure on the local infrastructure.

When considering applications, local planning authorities should attach weight to the following matters: a) effective use of previously developed (brownfield), untidy or derelict land b) sites being well planned or soft landscaped in such a

way as to positively enhance the environment and increase its openness c) promoting opportunities for healthy lifestyles, such as ensuring adequate landscaping and play areas for children d) not enclosing a site with so much hard landscaping, high walls or fences, that the impression may be given that the site and its occupants are deliberately isolated from the rest of the community

If a local planning authority cannot demonstrate an up-to-date 5 year supply of deliverable sites, this should be a significant material consideration in any subsequent planning decision when considering applications for the grant of temporary planning permission.

Local planning authorities should consider how they could overcome planning objections to particular proposals using planning conditions or planning obligations including: a) limiting which parts of a site may be used for any business operations, in order to minimise the visual impact and limit the effect of noise b) specifying the number of days the site can be occupied by more than the allowed number of caravans (which permits visitors and allows attendance at family or community events) c) limiting the maximum number of days for which caravans might be permitted to stay on a transit site.

## **6.0 Planning Issues**

### Principle of development

- 6.1 The application site is located in open countryside for planning purposes with the nearest settlement being Pilsley. In countryside areas policy SS9 of the Local Plan (LP) identifies that the use of land for a Traveller Site will be approved where it is in accordance with policy LC9 of the LP.
- 6.2 Policy LC9 identifies that (in addition to the 2 allocated sites as set out in the LP at Calow and North Wingfield) “The Council will seek to ensure the provision of further sufficient pitches within the District to meet the full accommodation needs of gypsies and travellers as assessed through the current GTAA (or its replacement).”
- 6.3 In accord with the most up to date GTAA (which was published in 2015) the accommodation needs for gypsy pitches in the District between 2014-2035 is for a further 15 pitches to be provided. There is currently supply for 14 of these (9 granted planning permission and 5 allocated in the Local Plan). This affords the District as a whole with, currently, a 8.33 years supply of sites which exceeds the 5 year supply required.
- 6.4 A further GTAA has been prepared and will be published shortly. This identifies that a further 22 pitches are needed between 2020-2040 with 14 of these required up to 2030. This need is met by the permissions granted (see above) and the allocations such that, even on this assumption, the Council has a demonstrable 5 year supply of sites up to 2030.

- 6.5 Therefore, it is concluded on this issue alone that there is no need for the Council to deliver further sites at the present time.
- 6.6 However, the level of gypsy/traveller provision identified is not an upper limit and more sites can be provided exceeding that number. Additionally, Officers note that the Council's policy is based on a reactive approach, such that it is dependent on site's coming forward through applications such as this, rather than identifying and allocating them; and as such there can be no guarantee that further sites will actually come forward to supplement the existing supply.
- 6.7 In addition, the Council's provision is only sufficient for its purposes up to 2030. As such, Officers conclude there is significant advantage in supporting this scheme in principle to provide a range of sites available across the District to meet projected future need. Officers attach significant weight to this consideration.
- 6.8 Officers have considered whether the applicant and his family, meets the relevant definition of gypsy to benefit from the special provisions set out in the PPTS. Officers are satisfied that the applicant in this case does so, travelling to work, keeping livestock, including horses, and so has a lifestyle that accords with that set out in the PPTS.
- 6.9 Additionally, Officers note the apparent lack of suitable alternative accommodation available to the applicant and, as per the advice of the PPTS, attach weight to that factor.
- 6.10 Accordingly, subject to other matters being found acceptable, Officers are of the view that the proposal accords with the overarching advice contained in the PPTS and the Council's own LP and that the principle of this Traveller Site is acceptable and accords with policy LC9 of the LP.
- 6.11 The second strand of policy LC9 comprises 3 elements and each is taken in turn as follows:

*A. The site is reasonably accessible to local amenities and services including schools, shops, health services, public transport and other community facilities.*

The site is located approximately 1 km west of Pilsley, a settlement where there are many local amenities such as schools, shops and other community facilities and access to good public transport links (there is also a bus service along Morton Road). It is slightly further when using roads/paths but there is pavement provision along Morton Road although not along Padley Wood Lane (PWL) itself. However, overall, Officers conclude there is ready access to nearby services and it is not precluded that these can be accessed by a variety of means, and not necessarily the car.

*B. The site provides adequate space for on site facilities, including storage, in particular for equipment for travelling show people and, where appropriate, mixed use yards to allow for on site business use.*

The site has adequate space within it to provide for all necessary on site facilities. However, it is considered the site is not appropriate to be used for business purposes (see para 6.35 below) and it is therefore recommended that such rights in this instance are specifically restricted by condition.

*C. The site is reasonable in scale in relation to the nearest settled community or surrounding built up area.*

In terms of its scale, it is noted that consent is sought for 4 mobile units in total. This is not considered an overwhelming number in comparison to the overall size of Pilsley and so reasonable in scale.

#### Impact on the character of the area

6.12 In all cases, to be acceptable in rural areas, Policy SS9 of the LP requires new development to respect the form, scale and character of the landscape through careful siting, scale, design and use of materials.

6.13 The application site occupies a location directly off PWL. It is also visible from the Pilsley to Morton Road (Figures 8, 9 and 10 below) to the south across farmland and from close quarters from PWL itself and the local footpath network. There are also some views south from Pilsley village itself.



Fig 8: Site viewed from Mortton Road.





Figure 9: Site viewed from Morton Road



Fig 10: Site viewed from Morton Road (magnified)

- 6.14 The site, whilst not included within an area identified as carrying a special designation, is part of a rolling, agricultural landscape characterised by small pockets of development, comprised of farmsteads and single or groups of dwellings, interspersed with occasional areas of woodland.
- 6.15 The development of the site as proposed will undoubtedly impact on the area and it would be visible in the wider landscape. However, as per the advice set out in the PPTS and case law set out in *Dowling v SSCLG/Chichester DC and*

*Wendy Dawn Kent (2007)*, it is not possible to accommodate sites, such as that proposed, in rural areas without some impact. To be unacceptable any adverse impact should be significant or material overriding other considerations.

- 6.16 It is noted that the site is set against a backdrop of some woodland. There is significant landscaping proposed to the east of the site and to a lesser degree to both the north and south and there is ample scope to further landscape the site on its southern flank (without seeking to enclose it inappropriately). If that further landscaping is undertaken, as the caravans and amenity building proposed on the site will not in themselves be greater in height than single storey structures, Officers conclude that the site could be integrated into the area acceptably such that it would respect the character of the landscape in which it would be located with a wooded area already directly to the west of the site.
- 6.17 It should be noted that close boarded fencing currently encloses the access splay. However, no fencing or enclosure is proposed forward of the amenity building such that with suitable softening any currently experienced harsh appearance would be removed.
- 6.18 The proposed amenity building would be 12m (long) by 6m (wide) by 4.4m (high) (see Figure 4 above). This would be located towards the front of the site closest to PWL but set back 29 metres from it within a (proposed) hedge line. Whilst the applicant sets out that it would take on the appearance of a stable, Officers retain the view it is utilitarian in appearance looking like a small bungalow. The applicant has agreed to clad the building in boarding but otherwise the structure would be as proposed.
- 6.19 Whilst the building would be visible from PWL, Officers are of the view that it is small structure, not dissimilar to other single storey buildings in the locality, and, if clad as proposed, and further softened by additional site frontage planting, bearing in mind its proposed use, it would not be so harmful to the area to justify refusal of the application in its own right.
- 6.20 A treatment plant is proposed to the far north of the site and a bin store area close to the access point. Officers consider that neither of these features would be detrimental to the character of the area being small scale and limited in extent.

#### Highway safety

- 6.21 The test set out at paragraph 115 of the NPPF is that “Development should only be prevented or refused on highway grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.”
- 6.22 The comments of the Highway Authority (HA) are noted. However, the site plan shows an access point of 11 metres width reducing to 6 metres width 10 metres back from the highway. The access track would then run at 6 metres

width for a further 28 metres to the site proper. This accords with the minimum requirements of the HA.

- 6.23 Officers have noted the request of the HA regarding visibility splays and the comments in response from the applicant. Adequate visibility splays are clearly apparent in both directions from the site access across unrestricted land and, in any case the road is lightly trafficked such that the movement onto and off the highway will not impact safety of other users or unacceptably impact the free flow of traffic along PWL and the ongoing highway network. Photographs showing the visibility in both directions are given at Figure 11 and 12 below.



Fig 11: Currently formed access – viewing west/south (critical direction)



Fig 12: Currently formed access – viewing east.

- 6.24 Additionally, recently an access to serve the adjoining field for equestrian purposes was permitted. This adds weight to the conclusion that a further access to serve the applicant's site can be accommodated without adversely affecting other road users.
- 6.25 The junction of PWL and Morton Road has limited visibility and it is narrow. However, it is already used by residents and others and the additional traffic that would use the junction would not adversely affect its ongoing proper safe use.
- 6.26 The plans identify specific parking areas for each pitch as requested by the HA (2 spaces for each pitch) and adequate space is otherwise available to park the further vehicles proposed and it is recommended that only those vehicles identified in the application submission are permitted to use the site and no business use is permitted.
- 6.27 Finally, the applicant has submitted evidence to show that a mobile home can be transported to the site with photographs showing one being delivered recently to the neighbouring property (See Figure 13 below). Notwithstanding this, it is not the intention to move mobile homes onto and off the site on a regular basis. There would be a single movement to the site only with purely the one touring caravan accessing and leaving the site more regularly. As such, it is not considered that a swept path analysis is necessary to support the application.



Fig 13: Photo by applicant showing a mobile home on PWL.

- 6.28 In conclusion on this issue, whilst the final comments of the HA are still awaited, Officers conclude that there is no overriding highway safety reason why permission should not be granted in this case subject to conditions to control parking, limit the number of vehicles to be located on the site to those specified in the application form, the provision and retention of adequate visibility splays, the maximum size limit of any vehicles permitted on the site and a restriction on business activity to ensure the site is not used for inappropriate commercial

reasons.

## Ecology

- 6.29 The comments of Derbyshire Wildlife Trust, as consultee, are noted. Various records of species seen within the site or on the adjoining land are noted as is the site's location close to the Local Wildlife Site as shown on Figure 14 below with an area of Ancient Woodland located within the site.

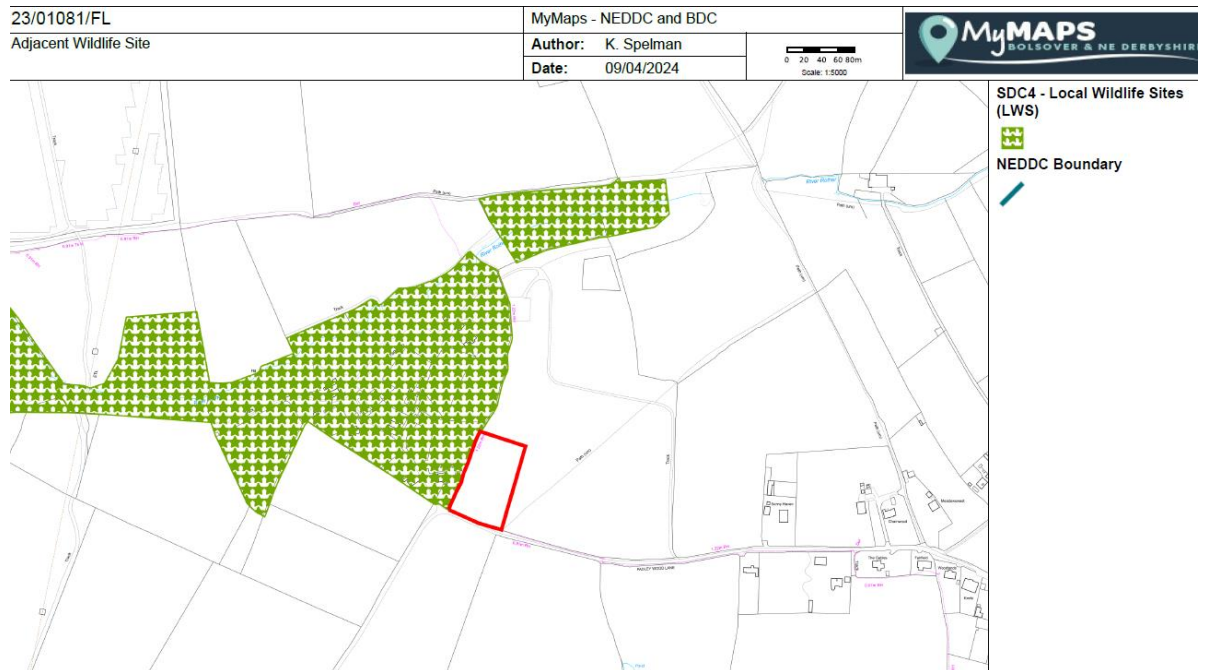


Fig 14: Local Wildlife Site (hatched green) (application site edged red)

- 6.30 It is noted that any ancient woodland should be located over 15 metres from any development. The area of proposed hardstanding would be at least 15 metres from the edge of the site and so there would be protection of any ancient woodland near the site appropriately.
- 6.31 It is noted that no ecological information has been submitted to support the application identifying any pre development habitats located on the site or of any impact or mitigation proposed to offset any adverse impacts identified. The applicant has been advised of this issue but no further information has yet been submitted.
- 6.32 Officers note the advice given in respect of the land to the east of the application site, and which used to form one single field (see Figure 15 below) with the application site and for which planning consent has recently been granted to change its use to allow for equestrian activity. It is considered appropriate to treat the application site similarly. In the case of the adjoining field, the impact of development was considered most notably on sky larks and their nesting and it was concluded that an enhancement of hedgerows combined with areas protected from intense grazing would provide sufficient habitat enhancement

to outweigh the harm to nesting skylarks. This matter was addressed by securing a habitat enhancement plan by condition.



Fig 15: View east of application site.

- 6.33 In this case, the area occupied by the hard standing would be lost to any ecological habitat and use that it may have held as an arable field. However, the remainder of the applicant's land holding could be enhanced ecologically with a large amount of hedgerow already having been planted as have some trees. This could be further enhanced by further planting and the identification of areas kept free from any formal use as per the site to the east. Therefore, it is recommended this matter is treated by way of condition to require a suitable habitat enhancement plan and this is considered sufficient to outweigh any harm caused to the former arable field.

#### Neighbouring amenity

- 6.34 The only near neighbour is the residential property to the west of the site, Stretton View (SV). The property itself is located some 35 metres from the location of the nearest proposed caravan which is some 20 metres from the boundary with SV. This distance and the mature hedgerow/tree line in between (See Figure 16 below) lead Officers to conclude there is no adverse impact on residential amenity by the stationing of caravans on the site in the location proposed.
- 6.35 The site is located in a rural location with other residential properties located both east and south along PWL. These other units would not be impacted by the use of the site as a residential site but maybe if it were to used for other activities. As such, it is recommended that a condition restricting the use of the site to residential purposes only would safeguard the overall general amenity of others in the area and the surrounding residential occupiers.



Fig 16: View from site to Stretton View.

#### Other Matters

- 6.36 The comments made in respect of the public rights of way that pass and cross the wider site are noted. However, the paths/bridleways will be retained without interruption.
- 6.37 The County Archaeologist advises there are no archaeological issues of concern in this case.
- 6.38 The comments of the Environmental Health Officer are noted. Suitable waste disposal facilities are shown to be provided on site as required but a specific condition requiring their formal provision and subsequent retention is recommended.
- 6.39 The comments of the Coal Authority are also noted and the informatives requested can be attached to any approval granted.
- 6.40 The site will be served by a package treatment plant. This is considered an acceptable manner in which to address the foul sewage from the site. A condition to control the discharge of surface water from the site is recommended to allow control over this issue.
- 6.41 Overall, there appears no technical reason why permission should not be granted in this case.
- 6.42 The particular statutory duties of the Council are noted as are the Human Rights of all the interested parties in this case. They have all been taken into account in considering this application and weighed against the relevant guidance set out in advice and regulation.

## Conclusion

- 6.43 The Council can currently demonstrate that it has a 5 year supply of sites for Traveller accomodation. However, this relies on the coming forward of the sites allocated in the Local Plan and, rolling forward, other sites being identified, seeking and obtaining planning permission. In addition, the provision of a 5 year supply does not preclude other sites being granted consent. As such, Officers place significant weight on this site delivering a further 4 pitches that secures the Council supply of suitable sites beyond 2030 particularly as the applicant sets out that he is unable to find other suitable accomodation locally for himself and his family.
- 6.44 The site is located in a countryside area where Traveller Sites may be located subject to various provisos and there being no overriding and adverse impact on the character of the area. The proposed site is located in relative proximity to Pilsley and would not be out of scale with it. The site would impact on the character of the area. However, due to the low level scale of the on site development and the opportunity to soften the impact through planting (as set out in the PPTS) and further landscaping it is concluded that the adverse impact of the development is not so significant or unacceptable.
- 6.45 The impact on highway safety has been quantified and it is conclueed that there would not be a severe impact on highway safety or the free flow of traffic as per the test set out in the NPPF. There are no technical reasons to refuse the application and so these technical matters are neutral in the planning balance.
- 6.46 There is little ecological evidence to support the appllication. However, in view of the issues discussed in respect of the adjoining site it is concluded that, subject to further control, ecological enhancements can be accommodated on the site and so this carries limited weight in favour of the application.
- 6.47 There is no adverse impact on residential amenity identified.
- 6.48 Therefore, weighing all these issues in the balance, Officers conclude that the benefits of providing additional Traveller accomodation is overriding and this is not outweighed by any other harm identified. Accordingly, it is recommended that planning consent is granted.

## **7 Recommendation**

- 7.1 To **GRANT** planning permission subject to the following conditions, the final wording of which is delegated to the Planning Manager (Development Management)

### Conditions

- 1 The development hereby permitted shall be started within 3 years from the date of this permission.



2 The development hereby approved shall be carried out in accordance with the details shown on the following drawings XXXXX (as approved).

3 Permission is hereby granted for 4 caravan pitches only, laid out in accordance with the details shown on the approved drawing. Each pitch shall only be used for the stationing and residential use of one static caravan, located as shown on the approved plan.

In addition, permission is hereby granted for the stationing of one touring caravan (i.e. a caravan capable of being towed by a car as opposed to requiring a larger vehicle to tow it) only in accordance with the details shown on the approved drawings. No residential occupation of the touring caravan is permitted at any time.

Twin unit caravans are not permitted.

4 Permission is hereby granted for 4 pitches only for the sole use and occupation of travellers as defined in "Planning Policy for Traveller Sites (2023)". Prior to the first, or any subsequent, occupation of any of the pitches, hereby approved, details of the pitch occupants shall be submitted to and be approved in writing by the Local Planning Authority. The pitch(es) shall then be occupied solely by the person(s) so agreed.

5 Prior to their first stationing on the site, hereby approved, the precise details/specifications of any/all caravans to be stationed there shall be submitted to and be approved in writing by the Local Planning Authority. The details/specifications shall include the size, type and design, including the sound insulation specification, of each caravan. Only those caravans so approved shall then be installed/placed on the site and no other caravans shall be located there.

6 Notwithstanding any other submitted details, only those fences/boundary treatments expressly shown on the approved plans shall be erected/placed or located on the site.

Notwithstanding the provisions of Article 3(1) of the Town and Country Planning (General Permitted Development) Order 2015, (or any Order revoking and re-enacting that Order) no other means of enclosure/boundary treatments shall be erected/constructed/placed on the site without first obtaining planning permission.

7 Notwithstanding any other submitted details, prior to the first occupation of any caravan on the site, the following shall be submitted to and be approved in writing by the Local Planning Authority:

- a) a scheme of landscaping, which shall include indications of all existing trees and hedgerows on the land,
- 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 (indicating that all trees to be planted shall meet the definition of “heavy stock” in BS 3936-1 on first planting) and
  - d) an implementation programme.
- 8 All planting, seeding or turfing in the approved scheme of landscaping agreed under the terms of condition 7 above shall be carried out in the first planting and seeding season following the first occupation of any caravan on the site. Any trees or plants which within a period of 5 years from the first occupation of caravans on the fifth pitch, hereby approved, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of a similar size and species.
- 9 Prior to the stationing of any caravan on the site, hereby approved, details of the disposal of surface water drainage and any discharge to a public sewer(s) shall be submitted to and be approved in writing by the Local Planning Authority.
- The approved scheme shall then be implemented as approved prior to the first occupation of any caravan on the site and be retained as such thereafter. There shall be no piped discharge of surface water from the site prior to the completion of all approved surface water drainage works.
- 11 Prior to the commencement of development, detailed designs shall be submitted to and be approved in writing by the Local Planning Authority, for the storage of plant and materials, site accommodation, loading, unloading and manoeuvring of goods vehicles, and parking and manoeuvring of employees and visitors vehicles. The approved scheme shall then be implemented within 7 days of the development hereby approved commencing and shall be retained free from any impediment to their designated use throughout the construction period of the site.
- 12 No caravans, hereby approved, shall be occupied until the space identified on the approved plan has been laid out within the site in accordance with details first submitted to, and agreed in writing by, the Local Planning Authority, for the parking and manoeuvring of vehicles. The space(s) so provided shall then be maintained free from any impediment to their designated use thereafter and for no other purpose. No other hard surfaced areas shall be laid out/created/provided.
- 13 No caravan, hereby approved, shall be occupied until the area identified on the approved plans for the storage of bins and the collection of waste in relation to the site have been provided in full. The approved facilities shall then be retained as such thereafter.
- 14 Notwithstanding the provisions of Article 3(1) of the Town and Country Planning (General Permitted Development) Order 2015, (or any Order revoking and re-enacting that Order) no development otherwise permitted by Part 5 Class B of the Order shall be erected/constructed/undertaken without first obtaining planning permission.

- 19 The site, hereby permitted, shall be used for residential uses only and not for any trade, business or commercial purposes.
- 20 No vehicle over 3.5 tonnes shall be stationed, parked or stored on the site, the subject of this permission.
- 21 Prior to the commencement of the use hereby permitted, a Biodiversity Enhancement Plan, including a timetable for its implementation and a schedule of future management, shall be submitted to, and be approved in writing by, the Local Planning Authority.

The scheme shall include, but not limited to:

- the location of a suitably sized fenced off grassy margins along the site's western and northern boundary sown with wild bird seed mixes
- enhancement of hedges with gap planting using native species (as outlined in the planting guidelines for the coalfield village farmlands landscape character area of the South Yorkshire, Nottingham and Derbyshire Coal fields landscape character area).

The approved scheme shall then be implemented in full as agreed and then be retained thereafter in accordance with the approved details.

Within 1 month following the full implementation of the approved measures, photographs showing the approved features in situ shall be submitted to the Local Planning Authority.

- 22 Within 56 days of the date of this permission the precise materials that will be used to clad the approved amenity block (walls and roofing) shall be submitted to and be approved in writing by the Local Planning Authority. The amenity block shall then be clad in accordance with the approved details, and be retained as such thereafter.

## PLANNING COMMITTEE – 23<sup>rd</sup> April 2024

**Reference Number:** 22/01090/FL

**Application expiry:** expired

**Application Type:** FULL

**Proposal Description:** S73 application to vary condition 4 (parameters plan) pursuant of planning approval 20/00532/OL to rearrange the uses on parcels 7, 8A, 9 and 11 (Major Development/Affecting Setting of Listed Building/Affecting Public Rights of Way)

**At:** Egstow Park, Clay Cross

**For:** St Modwen Homes Ltd

**Third Party Reps:** 3 objections

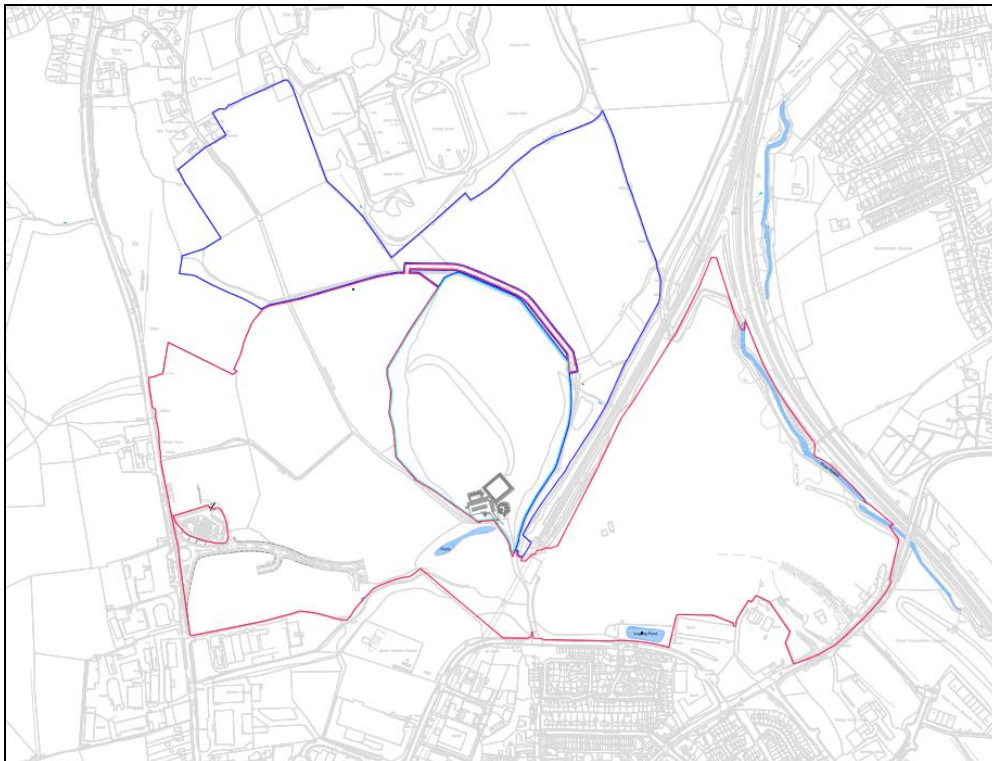
**Parish:** Clay Cross

**Ward:** Clay Cross North

**Report Author:** Graeme Cooper

**Date of Report:** 12<sup>th</sup> April 2024

**MAIN RECOMMENDATION:** Grant permission, subject to conditions



*Figure 1: Location plan, with site edged in red*

## **1.0 Reason for Report**

- 1.1 As determined by the Planning Manager, this application is being considered at planning committee due to the strategic importance of the proposed development.

## **2.0 Proposal and Background**

### **Site Description**

- 2.1 The application site forms the former BiWater site, now marketed and referred to in this report as Egstow Park, which is located to the north of Clay Cross. Phase 1 is complete, with Phases 2, 3 and 4 along with some of the western commercial land uses and link road well under construction, with the public house and McDonalds complete. The link road is almost complete with the exception of a short section near the Clay Cross tunnel, and which will connect the A61 with the A6175.
- 2.2 Most of Egstow Park, with the exception of Phase 2, sits in a bowl of the former industrial site. Brassington Lane runs from the north through Egstow Park and extends to the southeast onto Furnace Hill Road. A formal recreation site sits centrally between the two developable areas of Egstow Park. The midland rail mainline cuts the site in two, with it extending below the site through the Clay Cross tunnel.
- 2.3 The eastern part of Egstow Park is framed by mature woodland which screens views to the east back towards the Church of St. Lawrence, North Wingfield, which is a Grade I listed building. Land levels along the southern extent of Phase 2 are positioned higher in most parts to those on Phase 1.
- 2.4 The site is identified as a Strategic Site Allocation in the Local Plan.

### **Proposal**

- 2.5 This application seeks to amend condition 4 of planning approval NED/20/00532/OL to replace the Illustrative Masterplan with an updated Parameters Plan showing rearranged uses on the outstanding development parcels 7, 8A, 9 and 11.
- 2.6 It is proposed to amend the wording of the condition to read:

“Development shall proceed in accordance with the broad parameters identified in the Parameters Plan (7184-L23-A) and no buildings on Greenfield land to the north of the Derby Road site, heading toward Tupton, with the exception of those plots, which are 2.5 storeys in scale, outlined in red on drawing R9076-RPS-20-00-DRA-0235 Rev P01 dated June 2020 shall have accommodation over two-storeys”.

Parcel	Parcel Size (ha)	Approved Use	Proposed Use
7	0.3	Local Centre (A1, A2, A3, A4 and A5)	Residential (10 dwellings)
8A	0.22	Open Space	Ground Floor Level - Local Centre (E(a), E(b) and E(c) plus Drinking Establishments or Hot Food Takeaways (now sui generis) and First Floor Level – Residential (5 units)
9	3.15	Employment	Residential (106 units)
11	1	Employment	Open Space

Figure 2: Existing and proposed land uses

- 2.7 Figure 2 above illustrates a comparison between the approved uses at Egstow Park and the proposed land uses, along with the size of each parcel of land in question.
- 2.8 Figure 3 below illustrates the current approved land uses parameters plan for Egstow Park. the orange zones are identified to be allocated for housing, blue for employment, red for retail/local centre uses, purple for a care home/hotel and green for open space.



Figure 3: The approved land use parameters plan

- 2.9 Figure 4 below provides an illustration as to the proposed changes requested as part of this application submission. The beige colour is to be allocated for housing, orange for local centre uses, purple for the care home/hotel, light purple for the

public house and the light green between the brown and orange sites for commercial uses.



Figure 4: Proposed parameters plan

## Amendments

2.12 None.

### 3.0 Relevant Planning History (not the full site history)

- 3.1 17/00666/OL - Outline application for a mixed-use development, comprising: residential use (C3), employment-generating uses with employment (B1, B2, B8), local centre (A1, A2, A3, A4 and/or A5), hotel (C1) and/or care home (C2); and public open space, landscaping, highway works and associated infrastructure. Detailed approval is sought for principal access arrangements from A6175 Market Street, with all other matters to be reserved. (Major development/ Environmental statement/Affecting setting of a listed building/Departure from development plan) (Conditionally Approved - S106 complete)
- 3.2 20/00532/OL - Application to vary condition 4 (Land Use Parameters/Accommodation over two storeys) of planning approval 17/00666/OL to allow 2.5 storey dwellings (29 units in total) (Major Development/Affecting Setting of Listed Building/Affecting Public Rights of Way) (Conditionally Approved)

3.3 22/00936/EIA - EIA scoping opinion for redevelopment of Egstow Park to amend site parameters plan to include residential (25ha), care home/hotel, public house, reduced commercial area, retail, amended local centre, link road, attenuation ponds and public open space (EIA Required).

#### 4.0 Consultation Responses

4.1 **Ward member** raised no comments.

4.2 **Parish Council** raised no comments.

4.3 **Highways Authority** provided the following response:

4.4 Transport Assessment - The above-referenced application is S73 application to vary condition 4 (parameters plan) pursuant of planning approval 20/00532/OL to rearrange the uses on parcels 7, 8A, 9 and 11. In support of this proposal a Transport Assessment and Travel Plan has been submitted. The Highway Authority has the following comments:

4.5 It is proposed to develop Parcel 7 to provide 10 residential dwellings, Parcel 9 to provide 106 residential dwellings, and to develop Parcel 8A to provide a local centre and five dwellings. The site has a consent to provide a maximum of 825 dwellings, however due to the minor amendments only 783 dwellings could be provided. As a result of the revised proposal maximum quantum of employment development would reduce from 5ha to 1.41ha. However due to a number of environmental related constraints as indicated above, the developer is not able to deliver the 825 dwellings set out in the 2018 planning application 'envelope'. Consequently, with these changes in place, there will be an overall slight reduction in traffic generation.

4.6 Travel Plan - At the moment, the condition cannot be discharged as the submitted Travel Plan does not include a stated target (i.e. percentage reduction over x years) for SOV or car driver journey reductions.

4.7 Furthermore, the Travel Plan should be active throughout the build out and first occupation of the whole development (i.e. residential and employment) plus one year. This should be explicitly stated in the Plan, with a monitoring regime to follow suit. Assuming a fifteen year build out programme as stated, every reasonable step should be taken to ensure the Travel Plan does not expire before the development is complete and occupied.

4.8 In the event of a S106 for this particular application, the usual considerations apply, i.e. Travel Plan monitoring fee: @ £1,110.00 pa x five years = £ 5,550.00. (nb. Applies to these specific developments only). [*officer note: the outline permission requires the submission of a Travel Plan prior to the occupation of each phase of development and not at this outline stage*]



- 4.9 **Environmental Health Officer (EHO)** - The EHO initially confirmed no objections regarding noise but requested more information relating to land contamination. The EHO considered the additional information and noted the existing conditions in the previous decisions on this site. The EHO agreed that no additional conditions were required and that the relevant conditions would need to be addressed before any work commences on this new residential area (phase 9).
- 4.10 **DCC Planning Policy (Infrastructure)** raised no comments.
- 4.11 **NEDDC Housing** raised no comments.
- 4.12 **NEDDC Drainage** raised no comments.
- 4.13 **Lead Local Flood Authority (LLFA)** raised no comments.
- 4.14 **Yorkshire Water Authority** raised no objection to the variation of condition 4. It is noted from other application details that surface water will discharge to watercourse. Yorkshire Water fully endorse this mean of surface water disposal.
- 4.15 **The Coal Authority** note that they were not consulted on planning application 20/00532/OL, which stands to reason on the basis that the application type was listed as exempt from Version 5, 2019 of the Coal Authority's Resources for Local Planning Authorities. Notwithstanding the above, and whilst the Coal Authority has no comments to make on this application, as the condition is not coal mining related, I note that we were previously able to recommend the discharge of Condition 23. On account of the above, the Coal Authority has no comments to make in relation to this planning application and Condition 23 does not need to be duplicated on any reissued consent.
- 4.16 **Derbyshire Wildlife Trust (DWT)** reviewed the Ecological Appraisal (FPCR, 2022), the Planning Statement and Covering Letter, plus the updated Illustrative Masterplan (7184-L-05F) and the Amended Parameters Plan Ref. 7184-L-23 as shown in the Planning Statement. Full comments are available online, below is a summary of their comment.
- 4.17 DWT support the change in land use of Parcel 11 as it will retain woodland and increase habitat provision. This strengthens the central corridor. There is some uncertainty about the habitat that would be lost on Parcel 8a. DWT support retention where possible and offsetting can be done elsewhere on site. DWT recommend that measures to prevent amphibians becoming trapped in the road network. Overall, the proposed working methods to safeguard amphibians, reptiles, birds and badgers detailed in the Ecological Appraisal are acceptable and should be secured via conditions, which cover a LBEMP and CEMP: Biodiversity.
- 4.18 **DCC County Archaeologist** raised no comments.

- 4.19 **Derbyshire Police** raised no comments.
- 4.20 **NEDDC Economic Development Unit** raised no comments.
- 4.21 **NEDDC Planning Policy and Environment Team (PPET)** provided comments on 16/03/2023 and note that the proposal will amend the provision on site as per the table below:

	<b>Outline permission</b>	<b>S73 proposal</b>
Dwellings	825	783
B & E(g) uses	5ha	1.36ha
Local Centre	2ha	1.92ha
Open Space		Additional open space on parcel 11, partially offsetting 0.22ha to be lost at Plot 8a

- 4.22 Policies SS1, SS2, SS4, LC1, LC4, WC2 and WC3 are considered relevant to the decision process. The comments below focus on the proposals compliance with the policies in the Local Plan.
- 4.23 The strategic policies in the Local Plan aim to support sustainable growth which brings about regeneration and helps to balance housing and employment growth and integrate these alongside services and facilities in the most accessible locations. Growth should be focussed on strategic sites. SS4 allocates land on Egstow Park comprising 8ha of employment and up to 1000 dwellings. Paragraph 4.47 of the Local Plan explains further that outline permission was granted for 825 homes and approximately 8 ha of employment generating uses. It explains that this incorporated up to 5ha of B1 (now E(g), B2 and B8 uses, up to 2ha local centre and up to 0.8 ha hotel/care home.
- 4.24 The proposed changes at parcels 9 and 11 would result in less B and E(g) use employment provision on site (loss of approx. 3.6ha). The Local Plan employment allocations provide for 35.74ha of employment land on sites described in table 6.1. A proportion of this provision is on the strategic sites, including 5ha at Egstow Park. The Plan acknowledges that this provision, together with the take-up from 2014-17, results in a shortfall against the Plan target of 43ha, as set out in Policy SS2. The Local Plan Inspector considered this to be justified, in particular due to potential land at Dronfield Regeneration Area and Coalite Priority Regeneration Area coming forward, and the Council's commitment to robust monitoring of employment land supply.
- 4.25 The Council's Annual Monitoring Report published in December 2022 is based upon the 2021-2022 monitoring period and sets out the latest position on employment land supply. It reports that 26.17ha of employment land is still available and 10.30ha has been taken up. Furthermore, the rate of losses has been lower than predicted, with 2.99ha of employment land lost to other uses since 2014 (average

0.37ha/yr), compared to the predicted 8ha (1ha/yr). On this basis 5.01ha of employment land remains within the supply, rather than lost as predicted. The overall employment land supply at 31/03/2022 is therefore 26.17 + 10.30 + 5.01 = 41.48ha, against a requirement of 43ha.

- 4.26 Furthermore, there is increased certainty that employment land will come forward on land at the Coalite Priority Regeneration Area (Policy SS6). On the 4th November 2022, reserved matters approval was granted further to outline planning permission for B1c, B2 and B8 uses on plots 1 and 2 of the Coalite site. Due to this reserved matters approval, together with evidence in the form of a marketing brochure and website, there is now more confidence that this site will come forward for employment uses. This would result in approximately 15ha of additional available employment land supply. In overall quantitative terms, this additional supply would, in principle, cover both the current shortfall, as set out in the AMR, and the proposed 3.6ha loss on Egstow Park parcels 9 and 11.
- 4.27 The Local Plan seeks to secure and retain existing employment sites and allocations which have been identified as the most appropriate employment locations and safeguard them from potential redevelopment to a non-employment use. Those sites listed under policy WC2 are identified as being particularly important for the retention of the District's B-class employment base, either strategically or locally for a particular settlement. Egstow Park is one of these sites. The Plan clarifies that the strategic sites in particular will provide a significant improvement to the quality of the employment land portfolio of the entire District, and that delivery of B-class employment uses (including Class E(g)) should be prioritised on these sites due to their access to the strategic road network.
- 4.28 Evidence from the AMR shows that employment development has solely taken place at Coney Green Clay Cross and Markham Vale, demonstrating the importance of the sites listed under policy WC2 in Clay Cross. Furthermore, from an occupation perspective, there appears to be a strong level of demand for light industrial/warehousing units in the Clay Cross area, such as at Wingfield Court and Railway View at Coney Green Business Park and also at Egstow Park. Therefore, there is no reason why parcels 9 and 11 would not be reasonably expected to receive sufficient market interest to deliver development of this nature in the short, medium or longer term. 5ha of employment land is protected in line with WC2 and loss of this land would be contrary to the Local Plan.
- 4.29 Egstow Park is also listed within Policy WC3. This Policy will consider redevelopment of employment land for other appropriate employment generating uses, recognising the wider definition of economic development, which retail and commercial uses, and care homes account for, as explained in paragraph 6.33 of the Plan. The Policy states that the precise areas of land set aside for general employment purposes on the former Egstow Park site are not identified by a boundary on the Policies Map, to allow for flexibility of layout.

- 4.30 Egstow Park is included within Policy WC3, alongside Policy WC2, with the intention that the local centre and care home/hotel use could be located flexibly within the site, such as that proposed to parcels 7 and 8A for example. Officers consider that the proposals for parcels 7 and 8A do not result in a significant change to the overall provision of local centre uses in principle and are in line with Policy WC3. The Local Plan makes it clear that B-class employment uses (including Class E(g)) at the strategic sites, such as Egstow Park, are important and should be prioritised. This is done through the protection of policy WC2. In contrast, Policy WC3 intends to provide flexibility of layout for the employment generating uses that have been granted planning permission, specifically the 3 hectares with permission for retail and commercial uses and a care home/hotel. Similarly, the reference to 'up to 8ha' of employment generating land uses in Policy SS4 was included to reflect the more flexible mix of employment uses that had been granted planning permission. Table 6.1 and Policy WC2 make clear that 5 ha of B-class employment uses (including Class E(g)) is expected to be provided.
- 4.31 Policy SS2 also requires that new employment development will be focussed on Principal Employment Areas as identified in Policy WC2 and on Strategic Sites at the Avenue, Egstow Park and Markham Vale. The PPET do not consider that provision of only 1.36ha of E(g) and B-class employment uses can be regarded as an employment development focus on a Strategic Site.
- 4.32 The PPET are aware that the applicant has submitted an employment land statement, in which they set out that parcels 9 and 11 are not suitable and that abnormal costs make industrial and warehousing developments unviable. In particular the focus is on the suitability and viability of parcel 9, based upon a notional scheme of industrial units for this parcel. The applicant finds that the mitigation measures required to address the constraints and the costs associated with this would rule out the viability of any scheme on this site. External advice would be needed to verify or otherwise these findings to understand to what degree the abnormal development costs are appropriate.
- 4.33 Furthermore, the size of the units in the notional scheme are bigger than the applicant's own evidence seems to suggest is appropriate for the market, and it is unclear how the applicant has assessed the provision for starter units and managed workspace, as is required by Policy SS4. A scheme focussing upon smaller units would be more suitable. Further advice on alternative mitigation measures and costs taking account of smaller commercial units would be necessary.
- 4.34 The Local Plan requires development proposals to contribute to sustainable development (Policy SS1) and locate development where there is access to a broad range of jobs, services and facilities which are accessible by foot, cycle or public transport with reduced reliance on the private car. The Strategic Sites at the Avenue and Egstow Park are designed to include a mix of uses, so that the residential development on site is in close proximity to a range of employment facilities and services, reducing the reliance on the private car. A reduction in employment land

provision, as proposed, will not achieve the benefits of a sustainable mixed-use development.

- 4.35 The proposals would result in the provision of further housing land supply. This provides some benefits and is within the 825 dwellings permitted at outline stage. These benefits would be to the housing land supply in the later years of the Local Plan period, rather than to the supply in the first five years, which is sufficient to meet the Local Plan requirement.
- 4.36 If the proposal were to be considered acceptable, the change of parameters plan and confirmation of fewer dwellings than permitted at the outline stage may trigger a review of the conditions, or legal agreements, in particular in relation to the requirement for 20% accessible and adaptable dwellings as set out in Policy LC4, and the timing of the provision of a through road from the A61 to Furnace Hill/A6175.
- 4.37 In summary, although the proposed reduction of employment land at Egstow Park would in principle not lead to an overall District wide shortfall of employment land, due to the detailed permission at the Coalite site, it is not in line with the aims of the Local Plan, in particular policies SS2 and WC2. The Local Plan is clear that the strategic sites are critical for achieving the Plan's strategy and that new employment development should be focussed on these strategic sites, creating sustainable mixed-use developments. The proposals for parcels 9 and 11 are therefore not in accordance with the policies of the Local Plan. The proposals for parcels 7 and 8A do not result in a significant change to the overall provision of local centre uses in principle and are in line with Policy WC3.
- 4.38 **NEDDC Parks Team** raised no comments.
- 4.39 **Environment Agency (EA)** note that the development site appears to have been the subject of past industrial activity which may pose a risk of pollution to controlled waters. However, the EA are unable to provide site-specific advice relating to land contamination. The EA recommend that the LPA refer to our published guidance [Land Contamination Risk Management](#) which outlines the approach that should be adopted when managing this site's risks to the water environment and the LPA consult the in house EHO on land contamination risk.
- 4.40 **DCC Rights of Way** raised no comments.
- 4.41 **Ramblers Association** raised no objection to the proposed changes.
- 4.42 **Peak and Northern Footpaths Society** raised no comments.
- 4.43 **Chesterfield Cycle Campaign** raised no comments.

4.44 **British Horse Society (BHS)** provided comprehensive comments, all of which can be found in full online, these can be summarised as follows. The BHS provided commentary on the traffic and transport impact of the development and considered the Key and Local Cycle Networks within the site should be upgraded accordingly and providing a link to the school. The BHS notes the importance of Brassington Lane and that walking and cycling should be encouraged and provided. Concern is raised about the length of time the Brassington Lane route remains closed. The materials used on the pathway should be reconsidered as the current materials are inappropriate.

4.45 **Historic England** raised no comments.

## **5.0 Representations**

5.1 The application was publicised by way of neighbour letters and the display of a site notice. A site notice was placed adjacent to the application site and expired on 25<sup>th</sup> November 2022.

5.2 3 local residents have made representations raising the following comments objecting to the proposed development:

- Loss of green space (opposite Phase 1, in parcel 8A)
- Negative effect on wildlife currently in the green space
- Increased light pollution
- Increased noise pollution
- Potential of commercial smells (if a takeaway opens)
- Potential of anti-social behaviour
- Increase in pollution from additional traffic
- Traffic issues
- Road not designed for additional traffic volumes
- Parcel 8A would be better used to enhance biodiversity
- Inappropriate location for commercial units (within parcel 8A)

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

### **North East Derbyshire Local Plan 2014-2034 (LP)**

6.1 The following policies of the LP are material to the determination of this application:

SS1 Sustainable Development  
SS2 Spatial Strategy and the Distribution of Development  
LC1 Housing Allocations  
WC2 Principal Employment Areas  
WC3 General Employment Areas  
SP2 Clay Cross  
SDC2 Trees, Woodlands and Hedgerows

SDC3 Landscape Character  
SDC4 Biodiversity and Geodiversity  
SDC6 Development Affecting Listed Buildings  
SDC7 Scheduled Ancient Monuments and Archaeology  
SDC9 Non-designated Local Heritage Assets  
SDC11 Flood Risk and Drainage  
SDC12 High Quality Design and Place Making  
SDC13 Environmental Quality  
SDC14 Land potentially affected by Contamination or Instability  
ID1 Infrastructure delivery and Developer Contributions  
ID2 Provision and Safeguarding of Transport Infrastructure  
ID3 Sustainable Travel  
ID7 Green Infrastructure  
ID8 Greenways and Public Rights of Way  
ID10 Open Space, Sports and recreation Facilities

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

- 6.2 The overarching aims of the National Planning Policy Framework (NPPF) have been considered in the assessment of this application. With specific reference to (but not limited to) the follow paragraphs.
- 6.3 Para 47. Requires that applications for planning permission be determined in accordance with the development plan, unless material considerations indicate otherwise.
- 6.4 Para 123. States decisions should promote an effective use of land in meeting the need for homes and other uses, while safeguarding and improving the environment and ensuring safe and healthy living conditions. Strategic policies should set out a clear strategy for accommodating objectively assessed needs, in a way that makes as much use as possible of previously developed or 'brownfield' land.
- 6.5 Para 126. Planning policies and decisions need to reflect changes in the demand for land. They should be informed by regular reviews of both the land allocated for development in plans, and of land availability. Where the local planning authority considers there to be no reasonable prospect of an application coming forward for the use allocated in a plan:
- a) it should, as part of plan updates, reallocate the land for a more deliverable use that can help to address identified needs (or, if appropriate, deallocate a site which is undeveloped); and
  - b) in the interim, prior to updating the plan, applications for alternative uses on the land should be supported, where the proposed use would contribute to meeting an unmet need for development in the area.

## Other Material Planning Considerations

- 6.6 **Clay Cross Regeneration Framework 2025**; published 2013. This highlights the importance of the redevelopment of Egstow Park as a mixed used development.

## 7.0 Planning Issues

### Principle of Development

- 7.1 The principle of development on the site was established through the granting of outline planning permission 17/00666/OL and most recently updated by a Section 73 application, 20/00532/OL.

### Section 73 Process

- 7.2 Section 73 of the Town and Country Planning Act 1990 allows applications to be made for permission to develop without complying with a condition(s) previously imposed on a planning permission. A Local Planning Authority can grant such permission unconditionally or subject to different conditions, or they can refuse the application if they decide that the original condition(s) should continue. The original planning permission will continue to subsist whatever the outcome of the application under Section 73.

### The Proposal

- 7.3 As discussed above, the proposal would provide the following comparison (See Figure 5 below) to that originally granted permission.

	<b>Outline permission</b>	<b>S73 proposal</b>
Dwellings	825	783
B & E(g) uses	5ha	1.36ha
Local Centre	2ha	1.92ha
Open Space		Additional open space on parcel 11, partially offsetting 0.22ha to be lost at Plot 8a

Figure 5: Comparison chart between outline approval and this S73 application

- 7.4 What should be highlighted is that the number of dwellings granted permission to date is 669. Officers are not aware of any scope to increase housing delivery on site due to site constraints so the 825 approved at the outline stage are unlikely to ever be achieved, meaning that the proposal falls 156 dwellings short of that figure and only achieves 81% of the expected housing delivery.
- 7.5 The proposal would result in a similar level of Local Centre delivery to that originally approved and the delivery of 1.36ha of B (industrial) and E(g) (commercial) uses, achieving only 27.3% of expected levels. The combined employment delivery at Egstow Park would be approx. 3.28ha, less than half the requirement.



- 7.6 To add clarity to the above table, the proposed development would lose 0.22ha of open space at Parcel 8A but would create an additional 1ha within Parcel 11.

### **Planning Policy Considerations**

- 7.7 Local Plan policies SS1 (Sustainable Development) and SS2 (Spatial Strategy and the Distribution of Development) support sustainable growth which brings about regeneration and helps to balance housing and employment growth and integrate these alongside services and facilities in the most accessible locations, with growth focussed on strategic sites such as this one at Egstow Park.
- 7.8 Local Plan policy SS4 states that Egstow Park is an allocated strategic site for mixed use development. SS4 states that Egstow Park shall provide up to 8 hectares of employment generating land uses and up to 1000 dwellings. It shall also protect and enhance open space, sport and recreation facilities, provide public open space and provide a through road from the A61 to the A6175. The exact location of any employment or residential uses at Egstow Park is not identified in the Local Plan.
- 7.9 Local Plan policy SP2 (Clay Cross) states that new housing and employment should be in line with policies SS2, WC2 and WC3 respectively.
- 7.10 Local Plan policy WC2 (Principal Employment Areas) identifies the Egstow Park as an important site to deliver B2, B8 and E(g) uses. In the Local Plan explanatory text, 5ha of employment land is identified as being required for these uses. The Local Plan seeks to secure and retain existing employment sites and allocations which have been identified as the most appropriate employment locations and safeguard them from potential redevelopment to a non-employment use. The Local Plan clarifies that the strategic sites in particular will provide a significant improvement to the quality of the employment land portfolio of the entire District, and that delivery of B-class employment uses (including Class E(g)) should be prioritised on these sites due to their access to the strategic road network.
- 7.11 The proposed changes at parcels 9 and 11 would result in less B and E(g) use employment provision (a loss of approx. 3.6ha). The Local Plan employment allocations provide for 35.74ha of employment land on sites described in table 6.1 of the Local Plan. 5ha is identified to be provided at Egstow Park.
- 7.12 As of March 2022, the Council's Authority Monitoring Report (AMR) shows an overall employment shortfall (41.48ha against a requirement of 43ha). The same figures from March 2023<sup>1</sup> show an oversupply of 15.23ha (58.23ha against a requirement of 43ha).
- 7.13 Nevertheless, the latest AMR illustrates that whilst 5ha of employment land remains available at Egstow Park, Coney Green only has 1.59ha available. Furthermore

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<sup>1</sup> Para 5.8 of the Authority Monitoring Report 2023

1.2ha at Egstow Park is currently being developed out for employment uses. As such there is no evidence to suggest that parcel 9 and 11 wouldn't reasonably be expected to receive sufficient market interest to deliver development of this nature in the short, medium or longer term. 5ha of employment land is protected in line with WC2 and loss of this land would be contrary to the Local Plan.

- 7.14 Local Plan policy WC3 (General Employment) also includes Egstow Park development in the wording, with the intention of allowing for a local centre and care home/hotel use on the site. Policy WC3 intends to provide flexibility of layout for the employment generating uses that have been granted planning permission, specifically the 3 hectares with permission for retail and commercial uses and a care home/hotel. Similarly, the reference to 'up to 8ha' of employment generating land uses in Policy SS4 was included to reflect the more flexible mix of employment uses that had been granted planning permission. Table 6.1 and Policy WC2 make clear that 5 ha of B-class employment uses (including Class E(g)) is expected to be provided.
- 7.15 Local Plan policy LC1 (Housing Allocations) allocates the Egstow Park development to deliver approx. 730 dwellings in the plan period. If granted permission, the proposal would result in the provision of a further (approx.) 106 dwellings in lieu of the lost employment uses. As noted above, the outline permission for the site is granted for up to 825 dwellings, with only 669 delivered and no further housing expected on the site as a whole. As such, the benefits of additional housing delivery would weigh in favour of the proposed development.
- 7.16 In view of the above, it is considered that although the proposed reduction of employment land at Egstow Park would, in principle, not lead to a District wide shortfall of employment land it is not in line with the aims of the Local Plan, in particular policies SS2 and WC2. The Local Plan is clear that the strategic sites are critical for achieving the Plan's strategy and that new employment development should be focussed on these strategic sites, creating sustainable mixed-use developments. The proposals for parcels 9 and 11 are therefore not in accordance with the policies of the Local Plan. As such, this weighs against the proposal. The proposals for parcels 7 and 8A do not result in a significant change to the overall provision of local centre uses in principle and are in line with Policy WC3.

### **Applicants Position**

- 7.17 A number of reasons for the proposed change to the scheme have been outlined by the applicant, these include the suitability of the site for employment use, market demand, employment land supply and need, marketing issues and viability issues with the site. Figure 6 below illustrates the proposed distribution of development at Egstow Park.



Figure 6: Proposed indicative layout (Labelling: Nos.1, 2, 3, 4 & 5 residential / No.6 care home / No.7 proposed housing / No.8 commercial / No.8A local centre / No.9 proposed housing / No.10 retail/employment / No.11 open space / No.12 public house)

- 7.18 The applicant states that Parcel 7 (0.3ha) was identified as a proposed local centre use but considers this would be better suited to residential uses and could accommodate 10 dwellings. The local centre would be retained on a new 0.22ha plot labelled 8A on Figure 6 above. The proposed siting is considered more central and accessible to residents. The lost open space would be redistributed in parcel 11.
- 7.19 The proposals involving parcels 9 and 11 would result in a loss of 3.59ha of employment land from Egstow Park but increase the delivery of homes by 106 dwellings. The reasons for these changes are identified as specific ground conditions and parcel characteristics. The applicant comments that the Local Plan allocates the Egstow Park site to deliver up to 8ha but that this is a ceiling and not a minimum. They also consider the term “employment generating uses” is not confined to Class B uses but takes in A Class and C Class uses as well. Furthermore, the quantum of B Class land refers to “up to 5 hectares” and is also not expressed as a minimum figure, but as a cap.
- 7.20 The applicant notes that parcel 9 measures 3.15ha in size and is of an irregular shape (as seen above in Figure 6). The parcel also has a close relationship with residential development opposite. It is also considered that the parcel is constrained by topography (the land rises steeply from north to south) and ground conditions (the previous coal mining legacy). The resulting abnormal costs associated with

remediating this parcel for employment uses would be much greater than required for housing.

- 7.21 Parcel 11 is a small 0.44ha site which is a thin triangular shape (as seen in Figure 6 above). It also contains underground utility constraints, is steeply sloped, and constrained by an extended attenuation basin to the north of the link road. As such it is not considered appropriate for employment uses.
- 7.22 In terms of market demand, the applicant points out that the Council has an over provision of employment land and that the proposal put forward as part of this application would only result in the loss of 3.6ha of employment land. It is therefore considered by the applicant that the loss of employment land can be sustained.
- 7.23 It is also stated by the applicant that Clay Cross is a secondary market for industrial and warehouse premises and has a local, rather than a regional or national reach. Coney Green Industrial Estate is a popular development and comprises small to medium sized units which attract strong interest from the market.
- 7.24 The applicant also points to efforts made to market the site. Since 2016 Commercial Property Partners (CPP) have been employed to lead a marketing campaign. A brochure from 2018 has been provided by the applicant. It is noted that 4 bids were received, but only parcel 8 was sold as a result to Roe Developments. All the bids were subject to further ground investigations. Since the sale of parcel 8, parcels 9 and 11 have not been marketed and a reassessment of these sites has been undertaken in light of the ground conditions.
- 7.25 Finally in viability terms, a development appraisal and abnormal costs assessment have been undertaken by the applicant. These outline significant abnormal costs relating to site conditions above and below ground. As mentioned above, the applicant believes that the resulting abnormal costs associated with remediating the site for employment uses would be much greater than required for housing.

### **Delivery Considerations and Assessment**

- 7.26 In light of the applicant's case as set out above, the main issues appear to be:
- Ground conditions,
  - Parcel characteristics,
  - Market Demand,
  - Marketing,
  - Abnormal costs, and
  - Viability.
- 7.27 Officers had concern at the high level of abnormal costs set out by the applicant and how the ground conditions had been identified as impacting development. As such, to assist in considering the key points set out by the applicant the Council employed

the services of Fisher Hargreaves Proctor (FHP) to review market conditions, costings and viability and EMCUS to look at the geotechnical and geo-environmental matters.

- 7.28 Clearly the development is on land which was a former industrial use with historic coal mining activity having taken place. There is a highwall within the boundary of parcel 9 and services impacting parcel 11. The advice provided confirmed that even with the highwall this would not be a constraint to development and that there would be an engineering foundation solution. It was also advised that there could be flexibility in how the site is delivered in terms of its layout.
- 7.29 Officers do not agree with the applicant that parcel 9 is of a shape that would limit development. Furthermore, it is considered that the proximity of residential uses to the north would not necessarily restrict development as there is already employment uses to the south and this arrangement is similar to Coney Green not far from the application site. Officers do however note that parcel 11 is of an unusual size and has been constrained further by the approval of the large attenuation basin (21/00162/FL) to the north of the link road. Officers also note that a large number of trees may have to be removed to accommodate any employment development and that this site perhaps lends itself more to an enhanced area of public open space.
- 7.30 FHP confirm that it is clear that there is a strong local demand for small and medium sized industrial units in Clay Cross, as seen at Coney Green which is only a short distance away from the application site. Officers are of the view that the indicative scheme costed up and marketed by the applicant illustrated one large unit (44,000sqft), would be a wholly inappropriate form of development for this site. Officers are of the view that small/medium units would be more feasible and that perhaps marketing activity should have been more appropriately undertaken.
- 7.31 Regardless of the final layout of any employment use, abnormal costs (£1.4m) are extremely high, particularly for parcel 9. Included in this figure was dealing with a large volume of reclaimed spoil/earthworks which has been taken from the wider Egstow Park site (circa £3.6m). FHP and officers considered that it would not be appropriate to include the removal of all spoil/earthworks from plot 9 within the viability assessment. It was agreed that the figure of £3.6m was too high and that a much lower figure be considered. A figure of £135,000 for reclamation and earthworks was suggested by St Modwen but was considered highly optimistic and FHP were advised by JLL (viability consultants used by St Modwen) that this figure was inaccurate and should be disregarded. As is considered below in 7.36, several different approaches to abnormal, reclamation and earthworks were explored.
- 7.32 A number of foundation solutions were considered to overcome the highwall and ground conditions on plot 9, including raft and pile foundation options. It was agreed to use a pile foundation solution as this would provide some cost certainty during the viability appraisal and bridge the highwall. The use of pile foundations was

included in the viability appraisal by FHP and it was advised that regardless of the foundation solution to bridge the highwall, this would still render the site unviable for commercial development.

- 7.33 An assessment of the abnormal costs and wider scheme viability was undertaken by FHP. It is confirmed that the price paid for the land by St Modwen is not factored into the viability assessment. The abnormal allowances, reclaimed spoil/earthworks and external works for parcel 9 were assessed.
- 7.34 FHP considered three eventualities; the first applying the abnormal allowances, reclamation and earthworks costs at the full value presented by the applicant, this concluded that a scheme of employment would definitely be unviable. The second approach was to reduce the abnormal allowances, reclamation and earthworks at a rate to 50% of the applicants costs, this would still in the view of FHP make the commercial scheme unviable.
- 7.35 FHP then assessed what would be required to make the scheme viable. It was considered that the reclamation and earthworks would need to be a relatively nominal amount (i.e. not more than £135,000) and also to give additional headroom, abnormal allowances of circa £1.4m would also need to be significantly reduced. As such FHP conclude that, the only way that this site becomes viable is if the reclamation and earthworks and abnormal costs are significantly reduced and based on the information they have assessed, that appears to be extremely unlikely. On this basis, FHP conclude that a commercial development on this site is unviable.
- 7.36 FHP also confirmed in their advice to the Council that there is ready demand in the market for commercial development of this site, but that demand was subject to ground condition reports. FHP consider that this was the case back in 2018 when offers for the site were considered and that would still be the case today. FHP advise that it is an industry standard for offers made on land to be subject to ground conditions, as such officers are confident that this assumption is reasonable.
- 7.37 As considered above, it was agreed between FHP and the applicant that the original layout marketed by St Modwen was not appropriate for this site or the local market, and that a scheme of small/medium units would be more suitable. An amended layout for small/medium units was factored into the viability appraisals and FHP advise that regardless of the scale and quantum of development, the money needed to be spent to overcome the ground conditions would in all likelihood render the site unviable for commercial development.
- 7.38 In view of the above and the evidence provided to the Council, officers are of the view that, whilst changes to the layout of the site may be beneficial and that the local market is strong for commercial development, the money needed to be spent to overcome the ground conditions would in all likelihood render the site unviable for any form of commercial development.

## Other Material Considerations

- 7.39 The proposal, if approved, would result in a greater retention of broadleaved woodland and an overall increase in the area of semi-natural habitats across the development site. Whilst 0.22 ha of open space on Parcel 8A would be lost to accommodate the changes, 1 ha would be created within Parcel 11 (see Figure 7 below). The changes would also strengthen the central (north to south) green infrastructure corridor.



Figure 7: Existing v proposed (Parcel 11)

- 7.40 Whilst this amendment would achieve a modest overall gain in biodiversity for the wider site, this would also create a more structured green corridor between the east and west elements of Egstow Park, along with providing a larger wildlife buffer and larger area of public open space. This, in the opinion of Officers, would weigh in favour of the proposal.
- 7.41 Another benefit of granting permission for the revised scheme would be an opportunity to update condition 3 of the original approval. Currently this condition requires the completion of the link road through from the site from the A61 to the A6175 no later than the occupation of the 800<sup>th</sup> dwelling. Local Plan policy SS4 seeks to provide a through road from the A61 to the A6175. The scheme as approved only delivers 669 dwellings, which means there is no requirement in the permission to ever deliver this link road.
- 7.42 It has been agreed between Officers and the developer to update this trigger to deliver the link road prior to the occupation of the 661<sup>st</sup> dwelling if permission is granted. If members are minded to support this application it will mean that up 783 dwellings will now be delivered at Egstow Park, meaning that the link road will be opened up well in advance of the completion of the wider scheme. This also weighs

in favour of the proposal as it would help alleviate traffic movements in the town centre and ensure the development accords with policy SS4(h) of the Local Plan.

### **Other Matters**

- 7.43 With regards to condition 1 (Time Limit) the original approval granted an 8 year permission, however, if approved, this application should not then grant a further 8 years and should only retain the 8 years period from the date of the original decision notice. In this instance a date of 10<sup>th</sup> August 2026 would align with the most recent approval.
- 7.44 Derbyshire Wildlife Trust (DWT) support changes in the land use for Parcel 11, but request that conditions be included in any decision to ensure that working methods safeguard amphibians, reptiles, birds and badgers. DWT also recommend that a revised CEMP and LBEMP for Parcel 11 be required. These matters are controlled by way of conditions on the outline permission and are proposed to be retained if permission is granted.
- 7.45 The Coal Authority note in their comments that condition 23 does not need to be duplicated on any approval. It is recommended that this condition is removed.
- 7.46 The EA in their comments note that a number of explanatory notes should be included in any decision.
- 7.47 The approved 2017 permission included a signed S106 agreement safeguarding a number of matters. Included in the agreement was the provision of ensuring that any future S73 application would be linked to the signed agreement. As such there is no requirement or need to revisit this matter.
- 7.48 If a resolution to grant permission is made by members of Planning Committee, officers will be revisiting the section 106 agreement with the applicant to ensure that adequate mitigation is secured for the uplift in the number of dwellings that would result from the approval of this application. It is proposed that these negotiations are delegated to the Planning Manager – Development Management in consultation with the Chair of the Planning Committee, with the application returned to committee if this matter cannot be resolved between officers and the applicant.

## **8.0 Summary and Conclusion**

- 8.1 Egstow Park was originally granted permission for a maximum of 825 dwellings, 8ha of employment generating uses, public open space and link road. The applicant seeks to amend the approved parameters plan to include additional residential units, lose some employment land, move the local centre and accommodate a larger area of public open space.



- 8.2 Whilst the proposed reduction of employment land at the Egstow Park site would in principle not lead to a District wide shortfall of employment land it is not in line with the strategic aims of the Local Plan, in particular policies SS2 and WC2.
- 8.3 The Local Plan is also clear that the identified strategic sites are critical for achieving the Plan's strategy and that new employment development should be focussed on the strategic sites, creating sustainable mixed-use developments. The proposals for parcels 9 and 11 are therefore not in accordance with the policies of the Local Plan.
- 8.4 The proposals for parcels 7 and 8A do not result in a significant change to the overall provision of local centre uses in principle, and so do accord with local plan Policy WC3.
- 8.5 The applicant sets out a case for the proposed changes and considers that ground conditions, parcel characteristics, market demand, marketing, abnormal costs and viability make the delivery of employment on parcels 9 and 11 unachievable. However, evidence of both the applicant and, more particularly, that obtained by the Council suggests that, whilst the local market is strong, the constraints and costs associated with the proposed (primary) employment use of the site would rule out the viability of any employment delivery on parcels 9 and 11.
- 8.6 If permission was to be granted as proposed, Egstow Park would deliver an additional 106 dwellings at the loss of the employment land. The delivery of additional housing is a benefit to the scheme and would show flexibility in line with the advice of para 126 of the NPPF.
- 8.7 Furthermore, amending parcel 11 from an employment use to public open space would strengthen the central (north to south) green infrastructure corridor, retain woodland and create a green wedge between the two halves of Egstow Park. There would also be some modest biodiversity gain from this amendment.
- 8.8 Finally, in granting permission it would create an opportunity to revisit the trigger for delivery of the link road between the A61 and A6175. At present the trigger is no later than the occupation of the 800<sup>th</sup> dwelling. Egstow Park at present can only deliver 669 dwellings in total. As such the applicant has agreed that the trigger can be amended downwards to give the Local Planning Authority certainty that the link road will be delivered.
- 8.9 In view of the above, whilst noting the proposal does not, as a whole, accord with the Development Plan, Officers consider that there are other material matters that indicate approval of the scheme should still be given and that they carry overriding weight. These are the overall viability of delivering employment uses on the site, the benefits of additional housing, the ecological enhancement that would follow and the certainty over delivery of the link road. As such, Officers are minded to

recommend that permission is granted to allow the amendments to the parameters plan.

## 9.0 Recommendation

- 9.1 That planning permission is **CONDITIONALLY APPROVED**, with the final wording of the conditions and any amendments to the section 106 agreement delegated to the Planning Manager (Development Management) in consultation with the Chair of Planning Committee: -

### Conditions

- 1 Applications for approval of reserved matters are required for each part of the site before development can start on that part of the site. The Application(s) for approval of reserved matters shall be made to the Local Planning Authority (LPA) before 10th August 2026. The development hereby permitted shall be started within three years from the date of approval of the last of the reserved matters to be approved.
- 2 Approval of the details of the layout, scale and appearance of the building(s) and the landscaping of the site (called "the reserved matters") for each part of the site shall be obtained from the Local Planning Authority in writing before any development is started on that part of the site.
- 3 The development hereby approved shall be restricted to the following land uses and maximum levels of development:
  - o 825 dwellings including a minimum of 11% affordable units (25.2 hectares of residential)
  - o Employment generating uses (B1, B2 and B8 uses (5 hectares); a local centre A1, A2, A3, A4 and A5 (2 hectares); Hotel and/or care home (C1 and C2)) totalling 8 hectares (including the existing pub/restaurant)
  - o Recreational uses and landscaping (totalling 21.5 hectares, including existing off-site public open space at the former Egstow Quarry)
  - o Associated highway works including a link road from the A61 to the A6175 (the link road should be complete not later than occupation of the 661<sup>st</sup> dwelling)
- 4 Development shall proceed in accordance with the broad parameters identified in the Parameters Plan (7184-L23-A) and no buildings on Greenfield land to the north of the Derby Road site, heading toward Tupton, with the exception of those plots, which are 2.5 storeys in scale, outlined in red on drawing R9076-RPS-20-00-DRA-0235 Rev P01 dated June 2020 shall have accommodation over two-storeys.

- 5 The phasing of the development in relation to the provision of affordable housing and highways infrastructure phasing programme for a link road from the A61 to the A6175 within the boundary of the site shall be completed within each phase of the development in accordance with the approved timescales hereby approved by 18/01205/DISCON.
- 6 As part of the reserved matters application for the Biwater Works site, in accordance with condition 2, a plan shall be submitted to show that development does not/will not preclude the future provision of access to a potential off-site railway station. Thereafter, the means to ensure future access to the potential off-site railway station as agreed shall be safeguarded.
- 7 The reserved matters submission for the residential development of the land to the north of the Derby Road site, as referenced in condition 4, shall include details and a timetable for delivering the pedestrian link to the boundary of Tupton Hall School for written approval by the Local Planning Authority. Thereafter, the pedestrian link shall be implemented in accordance with the approved timetable and be retained as such thereafter.
- 8 On any particular phase of development, as defined on the phasing plan agreed under condition 5, no development shall take place (including demolition, ground works, vegetation clearance) until a Construction Environmental Management Plan (CEMP: Biodiversity) for that phase has been submitted to and approved in writing by the Local Planning Authority. The CEMP (Biodiversity) shall include the following:
  - a) Risk assessment of potentially damaging construction activities.
  - b) Identification of "biodiversity protection zones".
  - c) Practical measures (both physical measures and sensitive working practices) to avoid or reduce impacts during construction (may be provided as a set of method statements).
  - d) The location and timing of sensitive works to avoid harm to biodiversity features.
  - e) The times during construction when specialist ecologists need to be present on site to oversee works.
  - f) Responsible persons and lines of communication.
  - g) The role and responsibilities on site of an ecological clerk of works (ECoW) or similarly competent person.
  - h) Use of protective fences, exclusion barriers and warning signs.

The approved CEMP shall be adhered to and implemented throughout the construction period on that phase in accordance with the approved details.

- 9 On any phase of development, as defined on the phasing plan agreed under condition 5, no development shall take place (including demolition, ground works, vegetation clearance) until an Ecological Mitigation and Management Plan for that phase has been submitted to, and been approved in writing by, the Local Planning Authority, The plan shall set out details of biodiversity mitigation, compensation and enhancement based on the recommendations within Chapter 5 of the Environmental Statement (June 2017).
- a) Description and evaluation of features to be managed.
  - b) Aims and objectives of management.
  - c) Appropriate management options for achieving aims and objectives
  - d) Prescriptions for management actions.
  - e) Preparation of a work schedule (including an annual work plan capable of being rolled forward over a five-year period)
  - f) Details of the body or organization responsible for implementation of the plan
  - g) Ongoing monitoring and remedial measures
  - h) A method statement to mitigate possible impacts on reptiles

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

The plan shall also set out (where the results from monitoring show that conservation aims and objectives of the plan are not being met) how contingencies and/or remedial action will be identified, agreed and implemented so that the development still delivers the fully functioning biodiversity objectives of the originally approved scheme.

The approved plan as part of that phase will be implemented in accordance with the approved details.

- 10 Development shall not take place on any phase of development until an invasive non-native species strategy is submitted and approved by the local planning authority, detailing the containment, control and removal of Japanese knotweed and Himalayan balsam on that phase. The measures shall be carried out on that phase in accordance with the approved scheme.
- 11 No removal of hedgerows, trees, shrubs or brambles shall take place between 1st March and 31st August inclusive on any phase, unless a recent survey has been undertaken by a competent ecologist to assess the nesting bird activity on that phase during this period, and details of measures to protect the nesting bird interest on the site, have first been submitted to for that phase and approved in writing by the local planning authority and then implemented as approved.

- 12 Development shall not take place on any phase until an external lighting strategy has been submitted to and been approved in writing by the Local Planning Authority for that Phase. The approved measures must be implemented in full and maintained as such thereafter.
- 13 All planting, seeding or turfing in the approved scheme of landscaping for each phase of development shall be completed prior to 85% of occupation of the dwellings in that phase and the landscaping for each individual plot shall be completed prior to the first occupation of that dwelling. Any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.
- 14 The reserved matters details on any phase of development as agreed under condition 5, shall include a scheme for the provision and management of the amenity space within that phase and such scheme shall be submitted to and be approved in writing by the Local Planning Authority. The scheme shall include:
- provision of play equipment on site;
  - details of footpaths and access furniture;
  - provision of cycle-ways;
  - identified means of managing and maintenance of public open space;
  - indicative uses e.g. play equipment, community woodland, green space;
  - detailed landscaping within the public open space.

Thereafter, the approved amenity space shall be laid out in accordance with the approved details for that phase and the agreed delivery timetable and managed as agreed thereafter.

- 15 Before development starts on each phase of the development as defined on the Phasing Plan agreed under condition 5, a plan to show the positions, design, materials, height and type of boundary treatment to be erected for each phase (as defined) shall be submitted to and approved in writing by the Local Planning Authority. The approved boundary treatment scheme for each building as part of the development hereby approved shall be carried out prior to the first occupation of that building and shall be retained as such thereafter.
- 16 Before development starts on each phase of the development hereby approved as defined on the Phasing Plan agreed under condition 5, details of the existing ground levels, proposed finished floor levels of the buildings and the proposed finished ground levels of that phase, shall be submitted to and approved in writing by the Local Planning Authority. Thereafter that phase of the development shall be constructed strictly in accordance with the approved levels and shall be retained as such thereafter.

- 17 Development shall not take place on any phase (excluding those that already benefit from reserved matters approval) until a Phase I contaminated land assessment (desk-study) for that phase is undertaken and approved in writing by the local planning authority.

The contaminated land assessment shall include a desk-study with details of the history of the site use including:

- the likely presence of potentially hazardous materials and substances,
- their likely nature, extent and scale,
- whether or not they originated from the site,
- a conceptual model of pollutant-receptor linkages,
- an assessment of the potential risks to human health, property (existing or proposed) including buildings, crops, livestock, pets, woodland and service lines and pipes, adjoining land, ground waters and surface waters, ecological systems, archaeological sites and ancient monuments,
- details of a site investigation strategy (if potential contamination is identified) to effectively characterise the site based on the relevant information discovered by the desk study and justification for the use or not of appropriate guidance. The site investigation strategy shall, where necessary, include relevant soil, ground gas, surface and groundwater sampling/monitoring as identified by the desk-study strategy.

The site investigation shall be carried out by a competent person in accordance with the current U.K. requirements for sampling and analysis. A report of the site investigation shall be submitted for that phase to the local planning authority for approval.

- 18 Development shall not take place on any phase until a detailed remediation scheme to bring that phase to a condition suitable for the intended use by removing unacceptable risks to human health, buildings and other property and the natural and historical environment shall be submitted to and approved in writing by the local planning authority where the site investigation identifies unacceptable levels of contamination. The submitted scheme shall have regard to CLR 11 and other relevant current guidance. The approved scheme shall include all works to be undertaken, proposed remediation objectives and remediation criteria and site management procedures for that phase. The scheme shall ensure that the site will not qualify as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land after remediation.
- 19 No dwelling or other building associated with the use hereby approved within any phase shall be occupied until the approved remediation works required by 18 above for that phase have been carried out in full in compliance with the approved methodology and best practice.

- 20 If during the construction works associated with any phase of development hereby approved any suspected areas of contamination are discovered, which have not previously been identified, then all associated works shall be suspended until the nature and extent of the contamination is assessed and a report submitted and approved in writing by the Local Planning Authority and the local planning authority shall be notified as soon as is reasonably practicable of the discovery of any suspected areas of contamination. The suspect material shall be re-evaluated through the process described in conditions 17 and 18 above.
- 21 Upon completion of the remediation works for any phase required by conditions 18 and 19 above a validation report prepared by a competent person shall be submitted to and approved in writing by the local planning authority. The validation report shall include details of the remediation works and Quality Assurance/Quality Control results to show that the works have been carried out in full and in accordance with the approved methodology for that phase. Details of any validation sampling and analysis to show the site has achieved the approved remediation standard, together with the necessary waste management documentation shall be included.
- 22 Works on site and deliveries to the site during the construction phases shall be undertaken only between the hours of 07:30 to 18:00 Monday to Friday and 07:30 to 12noon on Saturday. There shall be no work undertaken on site or deliveries to the site undertaken on Sundays or public holidays.
- 23 Condition no longer required, but numbering retained for clarity.
- 24 For every reserved matters application seeking to deliver a dwelling(s) associated with this outline approval a scheme of sound insulation shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall be designed following the completion of a sound survey (where necessary) undertaken by a competent person. The scheme shall take account of the need to provide adequate ventilation, which will be by a means to be agreed with the LPA, where an open window would not achieve the following criteria. The scheme shall be designed to achieve the following criteria with the ventilation operating:
- Bedrooms 30 dB LAeq (8 hour) (2300 hrs - 0700 hrs)
  - Living/Bedrooms 35 dB LAeq (16 hour) (0700 hrs - 2300 hrs)
  - All Other Habitable Rooms 40 dB LAeq (16 hour) (0700 hrs - 2300 hrs)
  - Bedrooms 45 dB LAm<sub>ax</sub> to occur no more than 6 times per hour (2300 hrs - 0700 hrs)
  - Any outdoor amenity areas 55 dB LAeq (16 hour) (0700 hrs - 2300 hrs)

The scheme shall include full details of all fences/barriers needed to achieve the outdoor amenity criteria set out in this condition. The scheme as approved shall be implemented in full and retained thereafter.

- 25 Prior to the first occupation of any building on the Market Street part of the application site, the access as approved under permission 14/00586/RM, or other subsequent permission for the access so approved, shall be completed as approved.
- 26 Development shall not take place on any particular phase, as defined in the phasing programme subject of Condition 5 above, until a scheme for the safeguarding of footpaths or their temporary diversion is submitted to and approved in writing by the Local Planning Authority. If a temporary diversion is not required, footpaths shall be retained along their legal line at all times during and after construction works hereby approved.
- 27 Before commencing any works on a particular phase as defined on the phasing programme, the subject of Condition 5 above, a scheme shall be submitted to and approved in writing by the Local Planning Authority with details of the site compound for that phase. The scheme shall include details of site accommodation, storage of plant and materials, parking and manoeuvring areas for site operatives and visitors vehicles, loading/unloading and manoeuvring areas for the goods vehicles and wheel washing facilities. Thereafter, before any operations are commenced on that phase of the development, the scheme shall be implemented in accordance with the approved details and retained as such for the duration of works for that phase.
- 28 Before development commences on each phase of the development as defined on the phasing programme, the subject of Condition 5 above, a scheme for improvements to the pedestrian and cycle networks within that phase, along with a timetable for their implementation, shall be submitted to, and approved in writing by the Local Planning Authority. The approved scheme shall then be implemented in accordance with the agreed scheme of works and approved timetable and shall be retained as such thereafter.
- 29 Prior to occupation of any phase of the development a Travel Plan shall be submitted to and approved in writing by the Local Planning Authority. The Travel Plan shall include proposals to maximise the use of public footpaths, cycling and public transport. Thereafter the Travel Plan shall be implemented in accordance with delivery mechanisms included in the Plan.
- 30 Piling using penetrative methods shall not be carried out other than with the written consent of the local planning authority. If so agreed the development shall be carried out in accordance with the approved details.



- 31 No infiltration of surface water drainage into the ground at the site for any phase is permitted, other than with the written consent of the Local Planning Authority.
- 32 Development shall not commence until details of the means of protecting all waste water infrastructure, during all phases of the development, that is laid within the site boundary has been submitted to and approved by the Local Planning Authority. If the required protection measures to be achieved via diversion or closure of any part of the infrastructure, the details shall include evidence that the diversion or closure has been agreed with the relevant statutory undertaker for that phase. Furthermore, construction in the relevant section(s) of the site shall not commence until the approved measures have been implemented to the satisfaction of the Local Planning Authority.
- 33 No piped discharge of surface water from the application site shall take place for each phase until works to provide a satisfactory outfall, other than the existing local public sewerage, for surface water that has been informed by confirming the viability and location of SuDS techniques as outlined within the Flood Risk Assessment have been completed in accordance with details submitted to and approved in writing by the Local Planning Authority.
- 34 Development shall not commence on any phase of the development until a scheme to ensure that on-site and off-site foul water sewerage, designed to serve the whole development, is of adequate capacity to ensure proper disposal to the receiving public sewer network has been submitted to and approved in writing with Local Planning Authority. The approved scheme shall be fully implemented and subsequently maintained, in accordance with the timing/phasing arrangements embodied within the scheme and the number and type of properties to be constructed within that phase, or within any other period or number of properties as may subsequently be agreed in writing, by the Local Planning Authority.
- 35 Development shall not take place on any phase until a detailed design and associated management and maintenance plan of surface water drainage for that phase, in accordance with the principles outlined within:
- a. Land at Clay Cross, Derbyshire - Flood risk Assessment and Drainage Strategy (Revision 1.0, by St Modwen Developments Ltd.) dated June 2017,
  - b. DEFRA Non-statutory technical standards for sustainable drainage systems (March 2015),
  - c. And Technical Note 'Response to LLFA Comments' dated 22 Feb 2018 and referenced 5122281-ATK-NE-ZZ-TN-D-0001.

have been submitted to and approved in writing by the Local Planning Authority. The approved drainage system shall be implemented in

accordance with the approved detailed design for that phase prior to the first occupation of any building within that phase.

## PLANNING COMMITTEE – 23<sup>rd</sup> April 2024

**Reference Number:** 23/00189/FL

**Application expiry:** 26/04/24

**Application Type:** Full

**Proposal Description:** Residential development of former Derbyshire County Council (DCC) Highways storage depot to erect 5 detached two storey dwellings and creation of new access (Amended Plans)

**At:** Highways Storage Lane, Chesterfield Road, Grassmoor

**For:** DC Homes Limited

**Third Party Reps:** 1 objection

**Parish:** Grassmoor, Hasland & Winsick

**Ward:** Grassmoor

**Report Author:** Graeme Cooper

**Date of Report:** April 2024

**MAIN RECOMMENDATION:** Grant permission, subject to conditions



Figure 1: Location plan, with site edged in red

## **1.0 Reason for Report**

- 1.1 Cllr Cupit requested that this application be considered by Planning Committee due to concerns regarding the potential highways issues in this area along with the scale and density of the proposals.

## **2.0 Proposal and Background**

### **Site Description**

- 2.1 The application site is a triangular shaped site fronting onto Chesterfield Road. Its previous use was a Highways Storage Depot for Derbyshire County Council (DCC). The site has been disused for some time and had become overgrown, but has now been cleared of nearly all vegetation, with the exception of some trees along the eastern boundary and fronting Chesterfield Road.
- 2.2 The site rises from Chesterfield Road into the north east corner. Properties to the north sit adjacent to the application site and the northern boundary is a mix of low brick wall and timber fencing. To the east are open agricultural fields, with the boundary made up of a hedgerow and self-set trees. Opposite the site are existing properties fronting Chesterfield Road.
- 2.3 The site is within the Settlement Development Limit of Grassmoor.

### **Proposal**

- 2.4 This application is for 5 large detached dwellings fronting onto Chesterfield Road. Initial proposals illustrated 5 large dwellings, with one fronting Chesterfield Road and the others backing onto countryside to the south.
- 2.5 A Design and Access Statement, Coal Mining Risk Assessment, Flood Risk Assessment and Biodiversity Reports have been submitted for consideration.

### **Amendments**

- 2.6 Following concerns raised by Officers to the overall layout, design of the proposed dwellings and impact on highway safety amended plans were submitted for consideration.
- 2.7 An amended scheme was submitted which included 4 detached properties fronting directly onto Chesterfield Road, with access to the rear of the site taken from the southern corner of the site. A further dwelling is proposed to the rear of the site and parking for all properties is formed around a turning

area. 2 visitor spaces are proposed parallel to the site access. Pedestrian access to the properties fronting Chesterfield Road would be provided.

- 2.8 Following additional comments from the Highways Authority a further amended plan, drawing PL\_01 Rev F was submitted to ensure that the visibility splays from the site were included in the applicant's land ownership. The latest amended layout can be seen in Figure 2 below.



Figure 2: Extract of proposed site layout (taken from drawing PL\_01 Rev F)

### 3.0 Relevant Planning History (not the full site history)

- 3.1 20/00198/OL - Application with all matters reserved for outline permission to construct eight houses (Withdrawn)

### 4.0 Consultation Responses

- 4.1 **Parish Council** wish to object to this application on the following grounds:

“The land itself and North Wingfield Road adjacent to the proposed development are areas that are prone to flooding and the development will

only make this issue worse in the future. The highways access to the site is on to a busy main road and the Parish Council consider given its position, that this would be dangerous and unsafe.”

- 4.2 The **Parish Council** were re-consulted on amended plans and made the following objection:

*“The Parish Council wishes to object to the above application on the following grounds:*

*The site is on a busy main road and also on a bend where visibility is poor. The Parish Council is concerned that there would be a high risk of a serious accident should the application be approved.*

*The stretch of road adjacent to the site is prone to flooding. The Parish Council is concerned that the development will only make this problem worse and potentially put houses on the opposite side of the road in danger of being flooded. As mentioned above, the site is on a main road and if more standing water is on the road, this increases the risk of serious accidents.”*

- 4.3 **Ward Member** Cllr Cupit raised concern regarding the potential highways issues in this area along with the scale and density of the proposals. It is requested that the application be considered by planning committee.

- 4.4 **Highways Authority** (HA) raised the following comments to the original and amended scheme.

*Comments 18/04/23*

The Proposed Site Plan illustrates the creation of new vehicular access via North Wingfield Road, which is subject to a 30mph speed limit. Drawing No. PL\_01 Rev A demonstrates an access width of 5m which is in accordance with the Delivering Streets and Places Design Guide (DSPDG) for a development of this scale.

The applicant has attempted to demonstrate vehicular visibility splays of 2.4m x 43m on the proposed site plan. However these have been drawn incorrectly and therefore a revised plan should be submitted which demonstrates vehicular visibility splays at a setback distance of 2.4m (measured along the centre-line of the access) back from the near edge of the carriageway to a point offset a maximum of 1m into the carriageway.

Additionally an independent Stage 1 Road Safety Assessment (RSA) with a designers response should also be submitted.

The HA have reviewed parking provision on Drawing No. PL\_01 Rev A and it is currently unclear how many parking spaces are allocated to each

dwelling in particular for plots 2/3. Considering the proposed development is for five 4-bed dwellings, in accordance with Part 4 of the DSPDG each dwelling should have a minimum of three parking spaces. Minimum parking size dimensions of 2.4m x 5.5m, with an additional 0.5m if bounded by a wall, fence, hedge, line of trees or other similar obstructions on 1 side, 1m if bounded on both sides.

Consequently, until the above is addressed the HA is unable to determine if the development proposal is acceptable in highway terms.

4.5 *Comments 19/09/23*

The HA note the revised access position, which is illustrated on the Proposed Site Plan. Drawing No. PL\_01 Rev D demonstrates an access width of 4.75m, which is in accordance with the Delivering Streets and Places Design Guide (DSPDG) for a development of this scale. The applicant has illustrated vehicular visibility splays of 2.4m x 43m on the proposed site plan. However the visibility splay to the south appears to be impeded by third party land as shown on the image (taken from proposed site plan) on the right. Additionally an independent Stage 1 Road Safety Assessment (RSA) has been submitted, which has also raised the visibility splay to the South as a problem. The applicant is advised visibility splays must remain within the applicant's land and highway land; they cannot encroach into third party land. As such the applicant may wish to shift the access further North to achieve the required visibility splays. Given the quantum of development the proposed parking is acceptable and in accordance with the Delivering Streets and Places Design Guide (DSPDG). The HA is satisfied that the site affords sufficient turning facilities in order to enable vehicles to enter and exit the site in a forward gear. An updated site plan is therefore requested.

4.6 *Comments 02/11/23*

Requested updated plans indicating the visibility splay from the site being included in land under the applicants control.

4.7 *Comments 30/01/24*

Following the submission of additional information the HA notes that the applicant has illustrated vehicular visibility splays of 2.4m x 43m on the proposed site plan (Rev F), which are in accordance with the Delivering Streets and Places Design Guide (DSPDG). As such the HA has no objection to the proposed development subject to conditions relating to the provision of access, parking and turning in line with the approved plans, adequate vehicle and pedestrian visibility splays being provided onto Chesterfield Road, and a condition requiring the submission of a construction management plan before development commences.

- 4.8 **Environmental Health (EHO)** raised no objection subject to conditions covering land contamination and hours of construction due to proximity to existing residential development.
- 4.9 **The Coal Authority** raised no objection subject to the imposition of conditions relating to past coal mining activity.
- 4.10 **Derbyshire Wildlife Trust (DWT)**  
*Comments 31/05/23*  
DWT advise that a Preliminary Ecological Appraisal (PEA) should be completed to provide up to date information about the site, including the habitats and species it supports. The field survey work should be undertaken by a suitably qualified and experienced ecologist and be supported by a desk study, which includes obtaining existing records from the local record centre. The format and content of the ecology report should follow current guidelines (CIEEM, 2019 and British Standard BS:42020: 2013). To be sufficient for planning purposes, the report should provide an assessment of impacts, along with details of agreed mitigation and compensation measures (not recommendations). It should also provide details of enhancement opportunities and explain how the development will result in a measurable net gain for biodiversity, in line with guidance within the NPPF 2021. We would be happy to comment on the ecological survey report once it has been produced.
- 4.11 *Comments 16/08/23*  
DWT reviewed the submitted PEA, prepared by Elite Ecology dated March 2023. The report confirms the site was cleared since the 2019 survey which found the site to be of a low value habitat. DWT would typically advise that the baseline for biodiversity net gain is calculated using the previous data, in this case, we do not have an objection to using the current baseline. A metric should be completed for the site to demonstrate that a gain can be achieved, in line with local and national policy.
- 4.12 The PEA makes contradicting statements about suitability for reptiles and whether further survey is necessary. We believe that the recommendation for survey may be an error from when the site supported more suitable habitats. We do not consider that reptile presence/absence survey is necessary but rather recommend that a best practice approach is taken to removal of the brush pile and any other habitat features. This can be secured via condition, along with species enhancements.
- 4.13 *Comments 10/04/24*  
DWT reviewed the submitted Small Sites Metric, Biodiversity Impact Assessment (BIA) and BNG Statement. It is noted a net loss of 0.3 habitat units is predicted. DWT also note that additional wildlife features will be provided within the proposal.



- 4.14 The BIA sets out the options to secure the additional units required to achieve a gain and states that two are currently being explored (these are assessed in more detail below). Given that there is a reasonable level of confidence that a net gain can be achieved, DWT consider it acceptable to secure this via a suitably worded condition. Any offsite gain will have to be secured by way of a legal agreement. Given the limited extent of onsite gains, a detailed Landscape Plan including management prescriptions would be suitable and subject to conditions relating to BNG provision, nesting birds, site clearance methods and species enhancement DWT have no objection to the proposal.
- 4.15 **NEDDC Streetscene** raised no comments.
- 4.16 **Lead Local Flood Authority (LLFA)** note that the proposal is a minor application and as such no formal comments are made. However a number of advisory/informative notes are recommended for inclusion on any decision issued by the LPA.
- 4.17 **Yorkshire Water Authority (YWA)** raised no comments.
- 4.18 **Council's Drainage Engineer** raised no comments.
- 4.19 **Forward Planning and Development Team** raised no comments.
- 4.20 **Derbyshire Swift Conservation Project** note that the submitted Preliminary Ecological Appraisal (PEA) omits any recommendation for biodiversity enhancements in the form of integrated nest bricks despite best-practice guidance stating that ecological enhancement for declining urban bird species should take the form of Swift bricks integrated into the façade.
- 4.21 Integrated nest bricks are preferable to external nest boxes as they become a permanent feature of the building, require zero maintenance, are aesthetically integrated with the design of the building, are less vulnerable to vandalism and have better thermal regulation with future climate change in mind. Additionally, such bricks are considered a universal nest brick for urban bird species, including red-listed species such as Common Swift, House Sparrow, House Martin, and Starling.

## **5.0 Representations**

- 5.1 The application was publicised by way of neighbour letters and the display of a site notices adjacent to the site. A Site notice was placed adjacent to the application site on Chesterfield Road which expired on 7<sup>th</sup> April 2023. The application was on the weekly list which expired on 10<sup>th</sup> April. Amended

plans were submitted and consultees re-consulted for 14 days. This consultation period ended on 12<sup>th</sup> July 2023.

5.2 Two objections have been received from a single resident making the following comments objecting to the proposed development:

- Negative impact on the mature trees
- Site cleared having detrimental impact on ecological features
- Negative impact of proposal on wildlife
- Water run-off onto Chesterfield Road could cause localised flooding
- Proposed development would make flooding issues on Chesterfield Road even worse
- Chesterfield Road in this location is a chicane and potentially unsafe for vehicles exiting the site
- Poor visibility onto Chesterfield Road from the site
- Further housing in Grassmoor unnecessary
- Scheme does not include any affordable housing [*Officer note: there is no requirement contained in National and Local planning policies requiring development of this scale to provide affordable housing*]

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

### **North East Derbyshire Local Plan 2014-2034 (LP)**

6.1 The following policies of the LP are material to the determination of this application:

- SS1 Sustainable Development
- SS7 Development on Unallocated Land within Settlement with defined Settlement Development Limits
- LC4 Type and Mix of Housing
- SDC2 Trees, Woodlands and Hedgerows
- SDC3 Landscape Character
- SDC4 Biodiversity and Geodiversity
- SDC11 Flood Risk and Drainage
- SDC12 High Quality Design and Place Making
- SDC14 Land potentially affected by Contamination or Instability
- ID3 Sustainable Travel

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

6.2 The overarching aims of the National Planning Policy Framework (NPPF) have been considered in the assessment of this application.

## **Other Material Planning Considerations**

- 6.3 Successful Places Interim Planning Guidance, adopted December 2013.

## **7.0 Planning Issues**

### **Principle of Development**

- 7.1 The application site is a former County Council Depot within the Settlement Development Limit of Grassmoor.
- 7.2 Local Plan policy SS1 considers sustainable development in the District and development proposals will support the local economy by contributing towards business expansion and growth; reduce the need for energy in new developments and ensure that it can use energy efficiently through the lifetime of the development; create well designed places; protect and enhance the character, quality and setting of heritage assets; and play a positive role in adapting to and mitigating the effects of climate change and take into account land stability risks and where necessary incorporate mitigation measures to address the risk.
- 7.3 Local Plan policy SS7 states that all development proposals on sites within Settlement Development Limits that are not allocated in the Local Plan or in a Neighbourhood Plan, will be permitted, provided that the proposed development:
- a. Is appropriate in scale, design and location to the character and function of the settlement; and
  - b. Does not result in the loss of a valued facility or service unless it can be demonstrated that it is no longer viable, or is not the subject of a Community Right to Bid; and
  - c. Is compatible with, and does not prejudice any intended use of adjacent sites and land uses; and
  - d. Accords with other policies of the Plan.
- 7.4 In view of the above, the principle of development is considered acceptable in this case subject to an assessment against the various strands of planning policy as outlined above.

### **Design/Street Scene/Landscape Considerations**

- 7.5 Policy SS1 of the LP states that development proposals will “*create well designed places that are accessible, durable, adaptable and enhance local distinctiveness*”.

- 7.6 Local Plan policies and the NPPF consider that the design and layout of new housing development should be considered in the context of the immediate and wider locality. The local pattern of streets and spaces, building traditions, materials and ecology should help to determine the character and identity of any development. Specifically, Local Plan policy SDC12 seeks to ensure new development meets the highest standards of urban and architectural design, positively contributing to the quality of the local environment.
- 7.7 The application site is located in the Settlement Development Limit for Grassmoor and is a former county highways depot and has become overgrown. Existing residential development sits to the north west and south west of the site.
- 7.8 The immediate street scene in this location is a mix of detached houses and bungalows to the west, semi-detached properties to the north west and hipped roofed semi-detached properties opposite. To the south east is also a row of terraced properties. There is also a mix of red brick and rendered properties.
- 7.9 The latest amended layout as seen in Figure 2 above illustrates 5 dwellings on a triangular shaped site on the edge of Grassmoor. The proposed dwellings will be 3, 4 and 5 bed, two storey dwellings. A red brick finish, with soldier course detailing and grey roof tile is illustrated, details of which can be controlled by condition.
- 7.10 Access is taken from Chesterfield Road and will serve all 5 dwellings, with parking provided to the rear of the site. 4 properties will front onto Chesterfield Road and have a pedestrian access only. Figure 3 below illustrates the proposed street scene view from Chesterfield Road.



STREET SCENE ELEVATION SCALE 1:500

*Figure 3: Proposed street scene view*

- 7.11 The site slopes from the rear down to Chesterfield Road, with properties on a new development to the north positioned in an elevated position to this site. An indicative levels plan (see Figure 4 below) has been submitted showing the changes in levels across the site. Full levels details will need to be submitted to and approved by the Local Planning Authority, this can be controlled by way of condition.

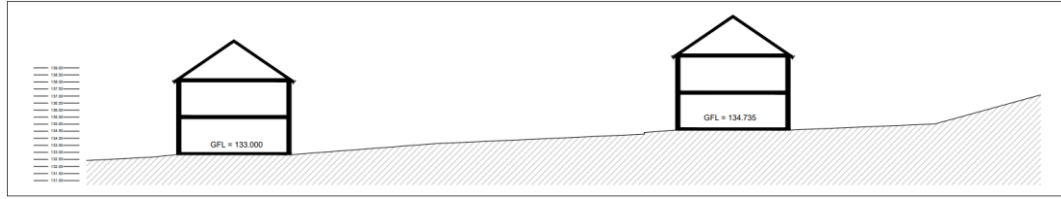


Figure 4: Indicative site levels

- 7.12 The submitted plans illustrate a low brick boundary wall fronting Chesterfield Road and a feature wall, brick piers and infill timber to the side of the access road into the site. A 1.8m high timber fencing will frame the rear gardens of the properties. No specific boundary treatment details have been submitted between the application site and No.333 to the north, and as such full boundary treatment details will need to be submitted at a later date. This matter can be addressed by way of condition.
- 7.13 Landscaping details submitted with the application are limited to the retention of trees and hedgerow along the south eastern boundary of the site. A single tree fronting the site will have to be removed to accommodate the development. It is considered that there is sufficient space within the site to accommodate some native landscaping, details of which can be controlled by condition.
- 7.14 Access into the site is by a private tarmac drive which leads to a turning point and a number of parking spaces, including two parallel parking spaces on the access road. The submitted details are unclear how these will be surfaced and as such it is considered necessary to require these details are controlled by a condition.
- 7.15 Overall officers consider that, subject to conditions, the proposed development would be of a design and layout which would be in keeping with the surrounding street scene.

### **Privacy and Amenity Considerations**

- 7.16 The nearest residential properties are those to the north and opposite the site on Chesterfield Road.
- 7.17 Local Plan policy SDC12 includes a requirement for new development to “*Protect the amenity of existing occupiers and create a good quality of amenity for future occupants of land or buildings including in relation to privacy, overlooking, overshadowing and/or any overbearing impacts*” and to create open space which is overlooked and development which is inclusive to all.
- 7.18 The Council’s Successful Places Planning Guidance provides guidance on separation distances, gardens sizes and the general layout of development to avoid loss of privacy for existing and future residents.

- 7.19 The proposal is now for 5 detached dwellings, with 4 fronting onto Chesterfield Road and the other set to the rear of the site. All dwellings will be accessed via a single point of access in the southern corner of the site. Parking is provided to the rear of the site, with properties fronting Chesterfield Road having a direct pedestrian access.
- 7.20 No.333 Chesterfield Road sits to the north west of the site, sits side onto the application site and has a blank side elevation. The primary view from this property is onto Chesterfield Road and to the east into their own private rear garden. The boundary between this property and the application site is made up of a low brick wall and will need enhancing. No details have been submitted but these details can be covered by way of condition. The separation between the proposed development and No.333 is considered acceptable. The proposed dwelling in this position has one side facing ground floor window which will serve a utility room. Rear facing upper floor windows will have angled views into the far extent of the garden to No.333 and back towards No.27 and 29 Farmhouse Way. The properties on Farmhouse Way are in excess of 21m away and as such it is considered by officers that this relationship would be acceptable.
- 7.21 The other properties to the north of the application site which could be impacted by the proposed development are numbers 27 and 29 Farmhouse Way. These properties are set up higher than the application site. The proposed dwelling which would be sited to the rear of the application site includes no upper floor side facing windows which would face towards these properties. Furthermore rear facing windows proposed in the dwelling to the rear of the site would face into its own rear garden. Any elevated views from upper floor windows would face into a front parking area associated with numbers 25 and 27, officers consider this relationship acceptable.
- 7.22 The proposed dwellings fronting Chesterfield Road will be set back approx. 24m from properties opposite, which accords with the separation distances contained in the Council's Successful Places Interim Planning Guidance.
- 7.23 The proposed access onto Chesterfield Road is located in a similar position to the existing access. Properties opposite are likely to have some disturbance from the comings and goings of vehicles into the application site, however given the scale of development officers do not consider that this would be harmful.
- 7.24 Internally, the proposed development includes a row of 4 dwellings fronting Chesterfield Road and another to the rear of the site, these are set approx. 26m apart. Due to the levels on site the dwelling to the rear of the site will be in an elevated position compared to those fronting the site, however the minimum separation distance being 21m as set out in the Council's

Successful Places Interim Planning Guidance. As such, it is considered that the layout to be acceptable in privacy and amenity terms.

- 7.25 The proposed dwellings are a mix of 3, 4 and 5 bedroom properties. The Council's Successful Places Interim Planning Guidance requires 3 bed dwellings to be provided with 70sqm of private amenity space and 4+ bedroom dwellings with 90sqm. 4 properties appear to comfortably meet this guidance, with a single dwelling having approx. 80sqm of private outdoor amenity space. Whilst this falls just marginally short of the required 90sqm, officers note that not all residents desire large gardens and it is not considered a strong enough reason to refuse the proposed development on this matter alone.
- 7.26 In view of the above, Officers consider that the proposed development would protect the privacy and amenity of existing occupiers and create a good quality of privacy and amenity for future occupants.

### **Highway Safety Considerations**

- 7.27 The proposal is for 5 dwellings with a single point of access from Chesterfield Road. Within the site 14 car park spaces are proposed and the dwelling to the rear of the site will have an integral garage measuring 3m x 5.5m. Two additional informal parallel parking spaces are provided adjacent to the access road and a turning area is also provided within the site to allow vehicles to turn around and exit the site in a forward gear. No information is provided as to how refuse bins will be presented, but this matter can be addressed by way of condition.
- 7.28 Officers note the concerns of residents regarding the nature of Chesterfield Road in this location and the visibility from the application site.
- 7.29 The Highways Authority (HA) have noted the latest amended plans and that vehicular visibility splays of 2.4m x 43m are now achievable onto Chesterfield Road in line with the Delivering Streets and Places Design Guide (DSPDG). Subject to conditions, no objection is raised to the proposed development.
- 7.30 Officers note the above comments and have to weigh the comments of the HA with the concerns raised by residents. The applicant has confirmed safe visibility splays from the site can be achieved and Officers are of the view that an acceptable refuse collection scheme can be controlled by way of condition.
- 7.31 Overall officers conclude that, subject to conditions, the proposed development would not lead to an unacceptable impact on highway safety

and the residual cumulative impact on the wider road network would not be severe.

### **Drainage Considerations**

- 7.32 The site falls in Flood Zone 1 with the lowest probability of flooding. A small area to the south of the application site is identified as at low risk of surface water flooding.
- 7.33 Guidance on Gov.uk<sup>1</sup> confirms the site is in Flood Zone 1 and part of the site frontage is at a low risk of surface water flooding (see Figure 5 below). Based on the site being at risk in the southern corner from surface water flooding and the proposed development would change its vulnerability classification it is considered that a Flood Risk Assessment (FRA) is required.



*Figure 5: Extent of low risk of surface water flooding on Chesterfield Road*

- 7.34 A FRA, prepared by Botham's Architectural Design has been submitted and considers potential flood risk on and adjacent to the site. The FRA accepts the risk of historical surface water flood risk on Chesterfield Road. The proposed development will be designed to control surface water and limit surface water running off the site. The FRA concludes that the proposed development, subject to a carefully designed surface water drainage scheme, will not create additional flood risk within or adjacent to the application site.
- 7.35 Officers note the objections raised stating that water run-off from the site enters Chesterfield Road and are aware of footage of flooding on the

<sup>1</sup> [Flood risk information for this location - Flood map for planning - GOV.UK \(flood-map-for-planning.service.gov.uk\)](https://www.gov.uk/guidance/flood-risk-information-for-planning)



highway from 2007 and more recently from October 20<sup>th</sup> 2023. Notwithstanding this, Officers do not consider that this is evidence that flood risk is likely to be exacerbated by the proposed development.

- 7.36 Neither Yorkshire Water, NEDDC Drainage Engineer or the Lead Local Flood Authority (LLFA) raised any specific comments in relation to the proposed development.
- 7.37 No objection has been received from any statutory consultee and as such Officers are of the view that, subject to conditions, the proposed development can be adequately drained and will not adversely affect the local environment, amenity or public health.

### **Land Contamination/Land Stability Considerations**

- 7.38 A Coal Mining Risk Assessment has been submitted, prepared by GRM Development Solutions Ltd dated 31st January 2020. The report sets out risks within the site from coal mine workings. No land contamination reports have been submitted with the application.
- 7.39 The Coal Authority reviewed the submitted details and raised no objection to the proposed development subject to conditions relating to the developer undertaking intrusive site investigations prior to work commencing on site.
- 7.40 The Councils EHO raised no objection to the proposal subject to conditions covering land contamination and construction working hours.
- 7.41 Officers conclude that there are no technical reasons relating to land contamination or land stability that would preclude development.

### **Ecological Considerations**

- 7.42 A Preliminary Ecological Appraisal (PEA) prepared by Elite Ecology, dated March 2023 has been submitted for consideration. The report makes a number of recommendations about habitats, trees and wildlife corridors. It recommends that if no works commence within 6 months of the date of the report a badger survey be undertaken. No removal of trees or hedgerows should be undertaken during nesting season and no artificial lighting should be shone onto the surrounding trees. Hedgehog gaps should be provided. Site enhancements for birds, bats, flora and invertebrates should be considered. It is important that biodiversity Net Gain needs to be ensured within the scheme of works.
- 7.43 A Biodiversity Impact Assessment, prepared by Futures Ecology dated March 2024 has been submitted and states that the proposal would result in a loss in habitat biodiversity on site as such 3 potential recommendations

have been outlined by the ecologist to make up 0.5 habitat units to ensure a net gain resulting from the proposed development. These options include utilising off site land under the applicant's control, biodiversity credit purchase from a third party habitat bank or secure credits from the governments statutory biodiversity credits. This can be secured by condition at this stage and then by legal agreement at a later stage.

- 7.44 DWT initially commented on the submitted PEA and recommended that the recommendations made in the report can be controlled by way of condition but required a BNG assessment be undertaken for the site.
- 7.45 Following the submission of a Small Sites Metric, Biodiversity Impact Assessment (BIA) and BNG Statement, DWT were reconsulted. They note that a net loss of 0.3 habitat units (20.96%) is predicted and that additional wildlife features will be provided within the proposal.
- 7.46 DWT note that the submitted BIA outlines 3 options for off site habitat mitigation as described above. DWT understand that there is capacity for Wild Solutions can provide the required units. Given that there is a reasonable level of confidence that a net gain can be achieved, DWT consider it acceptable to secure this via a suitably worded condition. Any offsite gain will have to be secured by way of a legal agreement. Given the limited extent of onsite gains, a detailed Landscape Plan including management prescriptions would be suitable and subject to conditions relating to BNG provision, nesting birds, site clearance methods and species enhancement DWT have no objection to the proposal.
- 7.47 The Derbyshire Swift Conservation Project notes that the PEA omits any recommendation for biodiversity enhancement in the form of integrated nest bricks despite best-practice guidance stating that ecological enhancement for declining urban bird species should take the form of Swift bricks integrated into the façade. A condition to cover this request can be included in any decision issued by the LPA.
- 7.48 Based on above, officers consider that, subject to conditions, the proposed development would protect and enhance biodiversity.

### **Other Considerations**

- 7.49 No reference is made in the proposed development to the provision of mitigating climate change. Officers consider that this matter can be controlled by way of condition on any decision.

## **8.0 Summary and Conclusion**

- 8.1 The application site is within the Settlement Development Limits for Grassmoor where new residential development is acceptable in principle.
- 8.2 The proposal for 5 dwellings would complement the site and the surrounding street scene and offer a scheme of development that would respect the countryside edge in this location.
- 8.3 The proposed development would protect the privacy and amenity of existing occupiers and create a good quality of privacy and amenity for future occupants.
- 8.4 In highway safety terms, officers conclude that, subject to conditions the proposed development would not lead to an unacceptable impact on highway safety and the residual cumulative impact on the wider road network would not be severe.
- 8.5 Technical matters such as site drainage, land stability, land contamination and ecology/biodiversity can be addressed by suitably worded conditions or informative notes.
- 8.6 Overall, Officers conclude that the development is in accordance with the policies (and land allocation) contained in the Local Plan. The application should be determined in accord with it unless material matters suggest otherwise.
- 8.7 Accordingly, there are not considered to be any matters to outweigh the Development Plan and so the proposal is recommended for approval subject to conditions.

## **9.0 Recommendation**

- 9.1 That planning permission is **CONDITIONALLY APPROVED** with the final wording of the conditions delegated to the Planning Manager (Development Management):-

### **Conditions**

- 1) The development hereby permitted shall be started within 3 years from the date of this permission.

*[Reason: To comply with the provision of Section 91 (as amended) of the Town and Country Planning Act 1990.]*

2) Unless otherwise required by any condition contained in this decision notice the development hereby permitted shall be carried out in accordance with the details shown in the following plans:

- PL\_01 Rev F (Amended Site Plan)
- PL\_02 Rev A (Amended Site Location Plan)
- PL\_03 Rev C (Amended House Type 1)
- PL\_04 Rev C (Amended House Type 3)
- PL\_06 Rev A (Amended House Type 2 - Rear plot)

*[Reason: For clarity and the avoidance of doubt.]*

### **Construction Details**

3) Notwithstanding the submitted details, before development commences, details of the existing ground levels, proposed finished floor levels of the dwellings and the proposed finished ground levels of the site shall be submitted to and approved in writing by the Local Planning Authority. The development shall then be carried out in accordance with the approved details.

*[Reason: In the interest of the character and appearance of the site and the surrounding street scene.]*

4) Before above ground work starts, precise specifications (including the manufacturer, range and colour details where applicable) or samples of the walling and roofing materials to be used, shall be made available on site for inspection, and subsequent written approval, by the Local Planning Authority. The development shall then be carried out in accordance with the approved details.

*[Reason: In the interest of the character and appearance of the site and the surrounding street scene.]*

5) Before above ground work starts, a plan illustrating the position, design and materials of hard landscaping in shared public areas (including driveway, turning area and parking areas) shall be submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be implemented in full prior to the occupation of any dwelling and shall be retained as approved thereafter.

*[Reason: In the interest of the character and appearance of the site and the surrounding street scene.]*

## **Landscaping**

- 6) Before above ground work 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 and hedgerows on the land,
  - b) the details of any trees and hedgerows to be retained, together with measures for their protection during development,
  - c) a schedule of proposed native plant species, size and density and planting locations and
  - d) an implementation programme.

*[Reason: In the interest of the character and appearance of the site and the surrounding street scene.]*

- 7) All planting, seeding or turfing in the approved scheme of landscaping shall be carried out in the first planting and seeding season following the occupation of the buildings or the completion of the development, whichever is the sooner. Any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless the Local Planning Authority gives written consent to any variation.

*[Reason: In the interest of the character and appearance of the site and the surrounding street scene.]*

## **Boundary Treatments**

- 8) Notwithstanding any submitted details, before above ground work starts a plan to show the positions, design, materials, height and type of boundary treatments to be erected and/or retained shall be submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be implemented in full prior to the occupation of each dwelling and shall be retained as approved thereafter.

*[Reason: In the interest of the character and appearance of the site and the surrounding street scene.]*

## **Climate Change**

- 9) Before above ground work starts, a scheme for mitigating climate change through the sustainable design and construction of the dwellings including the provision of sources of renewable energy shall be submitted to and approved in writing by the Local Planning Authority.

Thereafter the approved climate change scheme shall be implemented in full and retained as such thereafter.

*[Reason: In the interest of delivering sustainable development and in accordance with the North East Derbyshire Interim Sustainable Buildings Policy, policies SS1 and SDC12 of the North East Derbyshire Local Plan and the National Planning Policy Framework.]*

### **Environmental Health**

- 10) Construction works on the site and deliveries to the site shall be undertaken only between the hours of 07:30 to 18:00 Monday to Friday and 07.30 to 13:00 on Saturdays. There shall be no work undertaken on site or deliveries to the site on Sundays or bank/public holidays.

*[Reason: In the interest of highway safety and the amenity of neighbouring residents.]*

### **Land Contamination**

- 11) Development, other than that required to be carried out as part of an approved scheme of remediation, must not commence until;
- a. A Phase I contaminated land assessment (desk-study) shall be undertaken and approved in writing by the local planning authority.
  - b. The contaminated land assessment shall include a desk-study with details of the history of the site use including:
    - the likely presence of potentially hazardous materials and substances,
    - their likely nature, extent and scale,
    - whether or not they originated from the site,
    - a conceptual model of pollutant-receptor linkages,
    - an assessment of the potential risks to human health, property (existing or proposed) including buildings, crops, livestock, pets, woodland and service lines and pipes, adjoining land, ground waters and surface waters, ecological systems, archaeological sites and ancient monuments,
    - details of a site investigation strategy (if potential contamination is identified) to effectively characterise the site based on the relevant information discovered by the desk study and justification for the use or not of appropriate guidance. The site investigation strategy shall, where necessary, include relevant soil, ground gas, surface and groundwater sampling/monitoring as identified by the desk-study strategy.

The site investigation shall be carried out by a competent person in accordance with the current U.K. requirements for sampling and analysis. A report of the site investigation shall be submitted to the local planning authority for approval.

*[Reason: To protect future occupiers of the development, buildings, structures/services, ecosystems and controlled waters, including deep and shallow ground water.]*

12) Before the commencement of the development hereby approved:

Where the site investigation identifies unacceptable levels of contamination, a detailed remediation scheme to bring the site to a condition suitable for the intended use by removing unacceptable risks to human health, buildings and other property and the natural and historical environment shall be submitted to and approved in writing by the local planning authority. The submitted scheme shall have regard to relevant current guidance. The approved scheme shall include all works to be undertaken, proposed remediation objectives and remediation criteria and site management procedures. The scheme shall ensure that the site will not qualify as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land after remediation.

The developer shall give at least 14 days notice to the Local Planning Authority (Environmental Health Division) prior to commencing works in connection with the remediation scheme.

*[Reason: To protect future occupiers of the development, buildings, structures/services, ecosystems and controlled waters, including deep and shallow ground water.]*

13) No dwellings hereby approved shall be occupied until:

a. The approved remediation works required by condition 12 above have been carried out in full in compliance with the approved methodology and best practice.

b. If during the construction and/or demolition works associated with the development hereby approved any suspected areas of contamination are discovered, which have not previously been identified, then all works shall be suspended until the nature and extent of the contamination is assessed and a report submitted and approved in writing by the local planning authority and the local planning authority shall be notified as soon as is reasonably practicable of the discovery of any suspected areas of contamination. The suspect material shall be re-evaluated through the process described in condition 11(b) to 12 above and satisfy condition 13(a) above.

c. Upon completion of the remediation works required by conditions 12 and 13(a) above a validation report prepared by a competent person shall be submitted to and approved in writing by the local planning authority. The validation report shall include details of the remediation works and Quality Assurance/Quality Control results to show that the works have been carried out in full and in accordance with the approved methodology. Details of any validation sampling and analysis to show the site has achieved the approved remediation standard, together with the necessary waste management documentation shall be included.

*[Reason: To protect future occupiers of the development, buildings, structures/services, ecosystems and controlled waters, including deep and shallow ground water.]*

### **Land Stability**

- 14) No development shall commence until;
- a) a scheme of intrusive site investigations has been carried out on site to establish the risks posed to the development by past coal mining activity, and;
  - b) any remediation works and/or mitigation measures to address land instability arising from coal mining legacy, as may be necessary, have been implemented on site in full in order to ensure that the site is made safe and stable for the development proposed.

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

*[Reason: The undertaking of intrusive site investigations, prior to the commencement of development, is considered to be necessary to ensure that adequate information pertaining to ground conditions and coal mining legacy is available to enable appropriate remedial and mitigatory measures to be identified and carried out before building works commence on site. This is in order to ensure the safety and stability of the development, in accordance with paragraphs 183 and 184 of the National Planning Policy Framework.]*

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



*[Reason: The undertaking of intrusive site investigations, prior to the commencement of development, is considered to be necessary to ensure that adequate information pertaining to ground conditions and coal mining legacy is available to enable appropriate remedial and mitigatory measures to be identified and carried out before building works commence on site. This is in order to ensure the safety and stability of the development, in accordance with paragraphs 183 and 184 of the National Planning Policy Framework.]*

## **Drainage**

- 16) The site shall be developed with separate systems of drainage for foul and surface water on and off site.

*[Reason: In the interests of the satisfactory drainage of the site.]*

- 17) Before development starts, a scheme for the provision of foul drainage works shall be submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be implemented in full before the development is brought into use and shall be maintained as such thereafter.

*[Reason: In the interests of the satisfactory drainage of the site.]*

- 18) Before development starts a scheme for the provision of surface water drainage works, including details of any SuDS, balancing and off-site works, shall be submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be implemented in full before the development is first brought into use, and shall be retained as such thereafter.

*[Reason: In the interests of the satisfactory drainage of the site.]*

## **Highway Safety**

- 19) The Development hereby approved shall not be occupied until the access, parking and turning facilities have been provided as shown on drawing no. PL\_01 Rev F titled proposed site plan.

*[Reason: To ensure conformity with submitted details.]*

- 20) The development hereby approved shall not be occupied until visibility splays are provided from a point 0.6m above carriageway level at the centre of the access to the application site and 2.4m back from the near side edge of the adjoining carriageway, (measured perpendicularly), for a distance of 43m in each direction measured

along the nearside edge of the adjoining carriageway and offset a distance of 0.6m from the edge of the carriageway. These splays shall thereafter be permanently kept free of all obstructions to visibility over 0.6m in height above carriageway level.

*[Reason: In the interests of highway safety.]*

- 21) The Development hereby approved shall not be occupied until pedestrian visibility splays of 2m x 2m measured perpendicularly back from the back of footway shall be provided on both sides of the access. These splays shall thereafter be permanently kept free of all obstructions to visibility over 1m in height above the adjoining ground level.

*[Reason: To ensure motorists have clear and unrestricted views of approaching pedestrians when pulling out onto the adopted highway, in the interest of highway safety.]*

- 22) Prior to commencement of the development hereby permitted, details of a construction management plan shall be submitted to and approved in writing by the Local Planning Authority. The approved plan shall be adhered to throughout the demolition/construction period. The plan/statement shall include but not be restricted to:

- Parking of vehicle of site operatives and visitors (including measures taken to ensure
- satisfactory access and movement for existing occupiers of neighbouring properties during
- construction);
- Advisory routes for construction traffic;
- Any temporary access to the site;
- Locations for loading/unloading and storage of plant, waste and construction materials;
- Method of preventing mud and dust being carried onto the highway;
- Arrangements for turning vehicles;

*[Reason: In the interests of safe operation of the adopted highway in the lead into development both during the demolition and construction phase of the development.]*

- 23) Prior to commencement of the development hereby permitted, details for the storage of refuse bins and collection of waste from the site, including any bin presentation areas, shall be submitted to and approved in writing by the Local Planning Authority. The development shall then be carried out in accordance with the approved details and the facilities retained for the designated purposes at all times thereafter.

*[Reason: To ensure that each property is provided with adequate bin collection arrangements clear of the public highway.]*

## **Ecology**

- 24) Prior to commencement of development, a strategy for achieving the required biodiversity net gain shall be submitted to and approved in writing by the Local Planning Authority.

The strategy shall deliver the number of units specified in the Small Sites Metric submitted as part of the application (dated 20th February 2024). Sufficient information shall be provided with regards to habitat creation/enhancement prescriptions and 30 year objectives for management and monitoring. A schedule for submitting monitoring reports to the Local Planning Authority shall also be included.

The approved strategy shall be implemented in full and in accordance with the approved details and shall be retained in that manner thereafter.

*[Reason: In the interest of protecting wildlife and providing a net biodiversity gain. All in the interests of policies SDC2 and SDC4 of the North East Derbyshire Local Plan.]*

- 25) No tree, scrub or hedgerow clearance shall take place between 1st March and 31st August inclusive, unless preceded by a nesting bird survey undertaken by a competent ecologist no more than 48 hours prior to clearance. If nesting birds are present, an appropriate exclusion zone will be implemented and monitored until the chicks have fledged. No works shall be undertaken within exclusion zones whilst nesting birds are present.

*[Reason: In the interest of protecting nesting birds. All in the interests of policy SDC4 of the North East Derbyshire Local Plan.]*

- 26) Prior to the commencement of works (including clearance of habitats and refugia piles) a Method Statement for Site Clearance shall be submitted to the Local Planning Authority to safeguard common reptiles and amphibians. This shall include reasonable avoidance measures, seasonal timings and instructions in the event animals are discovered. The Method Statement shall be implemented in full, and a short statement of compliance submitted at the end of site clearance works.

*[Reason: In the interest of protecting wildlife during site clearance works. All in the interests of policies SDC2 and SDC4 of the North East Derbyshire Local Plan.]*

- 27) Prior to building works commencing above foundation level, a Species Enhancement Plan shall be submitted to and approved in writing by the Local Planning Authority. Approved measures shall be implemented in full and maintained thereafter. The Plan shall clearly show positions, specifications and numbers of features, which will include (but are not limited to) the following:
- universal nest boxes at ratio of 1:1, in line with British Standard 42021:2022.
  - integrated bat boxes in at least 2x dwellings.
  - insect bricks in at least 2x dwellings and / or towers in public open space.
  - fencing gaps 130 mm x 130 mm to maintain connectivity for hedgehogs in all gardens.

*[Reason: In the interest of enhancing biodiversity, all in the interest of policy SDC4 of the North East Derbyshire Local Plan.]*

## Planning Committee 23<sup>rd</sup> April 2024

### SUMMARY OF LATE COMMENTS/REPORT UPDATE

The aim of this report is to seek to avoid the need for lengthy verbal updates that Planning Officers have sometimes needed to provide in the past at the Planning Committee. In consultation with the Chair, it has been decided that on the evening before committee a summary of all the late comments/representations received so far will be emailed to the Committee Members by the Governance Team.

It is possible that verbal updates will still be required at the meeting as sometimes comments are received at the last minute or Officers may wish to amend their recommendations: however Officers will seek to keep verbal updates to a minimum.

At the meeting Officers will only refer briefly to any key points of the case in the summary that has been emailed, as well as providing the usual verbal update for any additional last minute items.

If Members have any queries about the comments or the application itself please feel free to contact the relevant case officer given beneath the title of each summary below.

**PARISH:** Grassmoor, Hasland & Winsick Parish

**APPLICATION:** 23/00189/FL

**CASE OFFICER:** Graeme Cooper

**1. SOURCE OF COMMENTS:** NEDDC Drainage Engineer

**DATE RECEIVED:** 11/04/24

**SUMMARY:**

The NEDDC Drainage Engineer understands concerns raised regarding flooding in this area, but realistically the proposed development will reduce the amount of surface water runoff onto the highway and the issue with highway flooding isn't the applicants to deal with. The officer reiterates DCC's advisory comments provided as part of the application process, in that as long as the applicant demonstrates the appropriate level of treatment stages from the resultant surface water discharge, in line with Table 4.3 of the CIRIA SuDS Manual C753<sup>1</sup> the drainage officer has no reason to object.

**OFFICER COMMENTS:**

The comments above reiterate the conclusion of the officer report in that surface water drainage is not a reason to preclude development.

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<sup>1</sup> [The SuDS Manual \(unisdr.org\)](https://www.unisdr.org)

**2. SOURCE OF COMMENTS:** Lead Local Flood Authority (LLFA)

**DATE RECEIVED:** 12/04/24

**SUMMARY:**

The LLFA reviewed application 23/00189/FL and have some queries based on concerns raised. Can answers to my questions please be addressed before I can provide our final comment?

- In section 5.1 of the Flood Risk Assessment it is stated that flood control measures will be implemented and SuDs drainage will be introduced, can the applicant please specify what flood control measures and SuDs features will be implemented on the site to reduce the risk of flooding on site and to the surrounding area? What consideration was given for the use of SuDs on the site?
- What is the proposed outfall destination for surface water from the site? Can the applicant please demonstrate that they have considered the surface water run off destination hierarchy?
- Can the applicant please state the proposed surface water discharge rate from the site, including the greenfield rate calculations?
- What is the existing surface water discharge rate from the site?
- Have appropriate calculations been made for any surface water attenuation required?
- Will there be an increase to the impermeable area of the site? If so, what will this increase be?

**OFFICER COMMENTS**

These comments are noted and have been put to the applicant. At the time of writing this report to members officers have received no further information from the applicant.

**3. SOURCE OF COMMENTS:** Resident: Nicola Field

**DATE RECEIVED:** 15/04/24

**SUMMARY:**

I wish to object to the proposal on three main points:

1. We have had flooding on this road on numerous occasions over the past few years and any further building would mean there is less natural drainage and therefore worse flooding.
2. It is a busy road with increased traffic. The proposed development is where the road bends and therefore vehicles entering the road are in danger of causing an accident. Visibility for vehicles from the proposed development entering on to the road and for

vehicles already on the road seeing vehicles coming from the new development would be limited. Again, there is a high potential for accidents.

3. There has already been a high level of house building in Grassmoor which has put a strain on local amenities such as the school and doctors' surgery. More house building will increase these problems.

## **OFFICER COMMENTS**

These comments raise no new material considerations.

**4. SOURCE OF COMMENTS:** Resident: Jacob Field

**DATE RECEIVED:** 16/04/24

## **SUMMARY:**

My objections are based on the following grounds:

### 1. Flooding Risk:

o Over the past few years, our road has experienced repeated flooding incidents. Any additional construction would further reduce natural drainage capacity, exacerbating the flooding problem.

o The attached photographs vividly depict the extent of flooding and damage to local infrastructure, wildlife, and homes, directly at the location of the proposed buildings. These adverse effects would only worsen with additional building.

### 2. Traffic Hazards:

o The proposed development site is situated on a busy road, where the road bends. This configuration poses a significant risk to vehicles entering the road, potentially leading to accidents.

o Limited visibility for vehicles from the proposed development when merging onto the road, as well as for vehicles already on the road anticipating traffic from the new development, raises the likelihood of collisions.

### 3. Strain on Local Amenities:

o Grassmoor has already witnessed a high volume of house building, which has strained local amenities such as schools and doctors' surgeries.

o Further house construction will exacerbate these existing problems, impacting the quality of life for residents.

I urge the planning authorities to consider the attached photographs, which indisputably demonstrate the impact of flooding and the strain on our community. Approving additional building would only compound these issues, jeopardising the safety, infrastructure, and well-being of our neighbourhood.

## **OFFICER COMMENTS**

These comments raise no new material considerations.

**5. SOURCE OF COMMENTS:** Resident: Phil Hawkins

**DATE RECEIVED:** 16/04/24

**SUMMARY:**

I am aware of the plans submitted under the above reference number and would like to outline a major concern connected to the above development. At present the highway directly in front of the proposed development is subject to a major and serious standing water issue even when heavy rain is not a factor due to incorrect levels of drain height and the inefficiency to take excess water away. this becomes a major issue in heavy rain as highlighted in a Derbyshire Times of October 2023 where a van and a car can be seen floating in the standing water.

Once dwellings have been built on the proposed land any water that is now soaking into that area will have to be dispersed either down drains that already cannot cope or directly onto the highway making an already serious situation even worse.

I hope prior to any committee meeting passing the above plans this matter could be given some serious consideration as to how to deal with this ongoing problem which has been evident for many years. to highlight the problem further there is even a you tube video from previous years showing an emergency Police Vehicle stranded in the flooded area. If these houses are built without proper drainage being considered a situation could arise with Five (5) or more households stranded in there New homes.

I hope this matter can be given the attention it requires and not left to be dealt with after the development has been built.

**OFFICER COMMENTS**

These comments raise no new material considerations.



**PARISH:** Clay Cross

**APPLICATION:** 22/01090/FL

**CASE OFFICER:** Graeme Cooper

**1. SOURCE OF COMMENTS:** Applicant

**DATE RECEIVED:** 18/04/24

**SUMMARY:**

It is requested that the delivery trigger for the link road be amended to read “prior to the occupation of the 674<sup>th</sup> dwelling” as this will provide a clear break between development consented based on the current Parameter Plan(s) and any additional development which may follow as a result of the changes to the Parameter Plan(s).

The applicant also confirms that the S106 will not need to be amended and the second Updated Viability Appraisal will consider the uplift in anticipated housing delivery, albeit it does not increase the amount of housing beyond the overall amount already consented under the outline permission.

**OFFICER COMMENTS:**

Officers note that Egstow Park will currently deliver 674 dwellings (Phase 1, 171 dwellings, phase 2, 147 dwellings, phase 3, 97 dwellings, phase 4, 223 dwellings, phase 5a, 36 dwellings). The proposed development will increase this figure north of 780 dwellings. Therefore to amend the trigger from 661 to 674 will still ensure that the link road is delivered prior to the completion of housing which currently has planning permission on Egstow Park and protect the delivery of the link road. It is therefore recommended that condition 3 is updated to amend the delivery trigger for the link road from “not later than occupation of the 661<sup>st</sup> dwelling” to 674 dwellings.

Officers have noted the comments regarding the S106 and agree with the applicant’s conclusion. The LPA look forward to receiving the last Updated Viability Appraisal in due course.

**PARISH:** Pilsley

**APPLICATION:** 23/01081/FL

**CASE OFFICER:** Adrian Kirkham

**1. SOURCE OF COMMENTS:** Highway Authority

**DATE RECEIVED:** 11.04.2024

**SUMMARY:**

The following observations should be considered in conjunction with previous observations issued to the Local Planning Authority (LPA) dated 8th February 2023.

The applicant has stated '*the existing layout significantly exceeds the 5m wide for 10m sought by the Highway Authority*'. As such the Local Highway Authority (LHA) have advised a condition securing the minimum access geometry.

It is understood vehicular visibility of 2.4m x 60m to the West and 2.4m x 50m to the east are achievable, and given that Padley Wood Lane is a single track road, with no through route, vehicle speeds are likely to be low, therefore the LHA consider the achievable visibility splays above acceptable in the site specific circumstances.

The applicant has submitted an updated site plan demonstrating parking provision of 2 spaces per each caravan/mobile home, which is considered acceptable. It is also noted the applicant has stated caravans/mobile homes can be transported to site, given this has been carried out at an adjacent site.

As such, the following conditions are recommended:

1. Notwithstanding the submitted plans, the proposed access shall have a width of a minimum of 5 metres, a gradient of no more than 1/20 for a distance of at least 10 metres behind the highway boundary and shall be surfaced in a hardbound material and radii. The access once provided shall be so maintained at all times.
2. The development hereby approved shall not be brought into use until the parking and turning facilities have been provided as shown on drawing Site Layout Plan
3. The development hereby approved shall not be brought into use until visibility splays are provided from a point 0.6m above carriageway level at the centre of the access to the application site and 2.4 metres back from the near side edge of the adjoining carriageway, (measured perpendicularly), for a distance of 60 metres to the west and 50 metres to the east, measured along the nearside edge of the adjoining carriageway and offset a distance of 0.6 metres from the edge of the carriageway. These splays shall thereafter be permanently kept free of all obstructions to visibility over 0.6m in height above carriageway level.
4. Prior to commencement of the development hereby permitted details of arrangements to receive abnormal loads or unusually large vehicles shall be

submitted to and be approved in writing by the Local Planning Authority. The approved plan shall be adhered to throughout the construction period.

**OFFICER COMMENT:**

The updated comments of the Highway Authority are noted. These matters can be addressed by the modification of the recommended conditions or their addition to any approval granted.

**2. SOURCE OF COMMENTS:** Derbyshire Wildlife Trust (DWT)

**DATE RECEIVED:** 15.04.2024

**SUMMARY:**

DWT were not aware that much of this development was underway. It was queried if the 15 m buffer zone specified by Natural England (to ancient woodland) existed, are any necessary tree protection measures in place and has a Tree Officer reviewed or commented on the application.

Expressed disappointment that construction is underway as there are records of brown hare, badger, slow worm and farmland birds within or adjacent to the application area and mitigation measures should have been in place prior to construction to avoid disturbance or injury.

The cumulative loss of the application area and the field immediately east [as a result of granting NED/23/00724/FL] will result in a loss of nesting habitat for farmland birds. In respect of NED/23/00724/FL, grassy margins and wild bird seed mixes were to be provided for farmland birds. As such it was recommended that a condition for a Habitat Enhancement and Management Plan, to include a map, specifications/species list for seed mixes and hedgerow plants, and management prescriptions was required and a similar approach could be taken here. Whilst a metric should ideally be used to compensate for habitat losses, it may be more pragmatic to consider the local species present and how opportunities could be incorporated into the site through habitat creation.

As such DWT recommend the imposition of a condition is attached to any permission as follows:

A Biodiversity Enhancement and Management Plan (BEMP) shall be submitted to, and be approved in writing by, the Local Planning Authority prior to the first occupation of the site to provide details for the creation, enhancement and management of habitats and species on the site post-development. The BEMP shall be suitable to provide to the management body responsible for the site. It shall include the following:-

- a) Description and location of habitat features to be retained, created, enhanced and managed. These should include native mixed bird-friendly hedgerows, native tree planting, flowering amenity lawn and wild bird seed mixes at margins.
- b) Rationale for habitat choices and how these will benefit local species.
- c) Appropriate management methods and practices.
- d) Prescriptions for management actions, including a work schedule capable of being rolled forward in perpetuity.
- e) Details of the body or organization responsible for implementation of the plan.
- f) A monitoring schedule to assess the success of the habitat creation and enhancement measures at intervals of 1, 2, 3, and 5 years.
- g) Monitoring reports to be sent to the Council at each of the intervals above
- h) A set of remedial measures to be applied if conservation aims and objectives of the plan are not being met.
- i) Detailed habitat enhancements for wildlife, including pole-mounted owl box at periphery and habitat piles.
- j) Details of proposed lighting, if any is required, to demonstrate no lightspill to adjacent Ancient Woodland.
- k) Requirement for a statement of compliance upon completion of planting and enhancement works.

The approved plan will be implemented in accordance with the approved details.

**OFFICER COMMENT:**

The updated comments of DWT are noted. This additional condition can be attached to any approval granted to address the ecological issues raised in an amended form to include a timetable for submission, implementation and forward monitoring that addresses the site-specific nature of the proposal.

## North East Derbyshire District Council

### Planning Committee

23 April 2024

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

#### **Report 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 Mike Slinn - Demolition of existing barn and construction of a detached dwelling with package treatment plant (Private drainage System) (Conservation Area) at Land And Outbuilding East Of Troway Hill Farm Main Road Troway Marsh Lane (23/00368/FL)**

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

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

No appeals have been allowed.

##### **1.3 Appeal Dismissed**

The following appeal has been dismissed: -

**Ms Harriet Wordsworth – Change of use from agriculture to dog exercise and training facility at Land South Of Little Chatsworth Cottages Millthorpe Lane Holmesfield (22/00574/FL)**

Planning Officer – (AP) Susan Wraith [Susan.Wraith@ne-derbyshire.gov.uk](mailto:Susan.Wraith@ne-derbyshire.gov.uk)

1.4 **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:  <b>NEDDC:</b> <b>Revenue - £100,000</b> <input type="checkbox"/> <b>Capital - £250,000</b> <input type="checkbox"/> <input checked="" type="checkbox"/> <i>Please indicate which threshold applies</i>	No
<b>Is the decision subject to Call-In?</b>	No

(Only Key Decisions are subject to Call-In)	
<b>District Wards Significantly Affected</b>	None
<b>Consultation:</b> <b>Leader / Deputy Leader</b> <input type="checkbox"/> <b>Cabinet</b> <input type="checkbox"/> <b>SMT</b> <input type="checkbox"/> <b>Relevant Service Manager</b> <input type="checkbox"/> <b>Members</b> <input type="checkbox"/> <b>Public</b> <input type="checkbox"/> <b>Other</b> <input type="checkbox"/>	Yes  Details:
<b>Links to Council Plan priorities, including Climate Change, Equalities, and Economics and Health implications.</b>	

**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) you must provide copies of the background papers)	
Report Author	Contact Number
Katie Spelman	01246 217172

# Agenda Item 11

By virtue of paragraph(s) 3, 5 of Part 1 of Schedule 12A of the Local Government Act 1972.

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