

<p><b>PLANNING COMMITTEE – 17<sup>th</sup> May 2022</b></p>
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**REFERENCE NUMBER:** 18/01003/OL Application expiry date: 20/05/2022  
Application Type: Outline application (All matters reserved except access)

Proposal Description: **Outline application (with all matters except access reserved for further approval) for the erection of 397 dwellings (Major Development) (Affecting a public footpath)(Amended Information) (Further Amended Information)**

At: **Land South West of Upperthorpe Road, Killamarsh**  
For: **Harworth Group**

Third Party Reps:            Objections            Parish: Killamarsh  
Received            Ward: Killamarsh West

Author of Report: Adrian Kirkham      Date of Report: 05 May 2022

**MAIN RECOMMENDATION: GRANT CONDITIONALLY SUBJECT TO PRIOR SIGNING OF A S106 AGREEMENT**

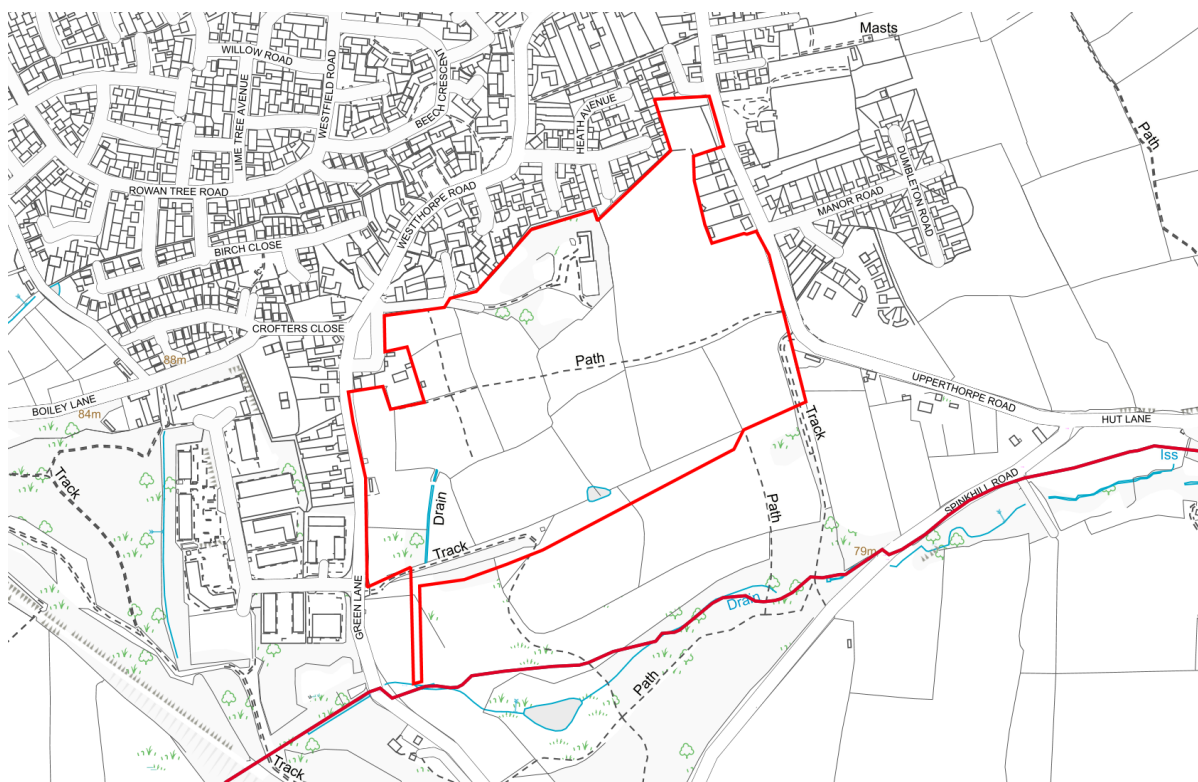


Fig 1: Application Site (outlined in red) with the District boundary added (Crimson)

## **1.0 REASON FOR REPORT**

- 1.1 The application has been referred to Committee by a Ward Councillor. In addition, the development of the site comprises major development of a scale considered appropriate for a Committee decision to be taken on it.

## **2.0 PROPOSAL AND BACKGROUND**

- 2.1 The application seeks outline planning consent for 397 dwellings. All matters other than access are reserved for further approval should consent be granted. There are three accesses proposed, two off Upperthorpe Road (with one being to serve a small number of units only) and one off Green Lane.
- 2.2 The application was supported by an indicative master plan (Fig 2 below), a landscape masterplan, details of the attenuation ponds, a coal mining risk assessment, a design and access statement, a gradiometer (archaeology) survey report and historic environment assessment, a flood risk assessment, a travel plan, a contaminated land assessment, a planning statement, a utilities appraisal, an ecological impact assessment, a tree survey, a gas risk assessment and a transport assessment.
- 2.3 The application was originally submitted in October 2018 pending the adoption of the Local Plan. It has been held in abeyance subsequently pending the Examination into the Local Plan (November 2018/March 2019), the publication of the Inspector's report (July 2021) and the formal adoption of the Plan (November 2021).
- 2.4 The application was screened at submission and it was concluded that the application did not comprise EIA development.
- 2.5 In December 2021, further and updated information was submitted by the applicant comprising an updated overview addressing issues covering the Local Plan adoption, a Design Review, Biodiversity, a Flood Risk Assessment, a revised masterplan and landscape masterplan and strategy, a Tree Strategy and an updated Design and Access Statement.
- 2.6 Subsequently, further limited updated information has been submitted seeking to address outstanding issues as they have been raised.

## **3.0 RELEVANT PLANNING HISTORY**

- 3.1 The relevant planning history of the wider site is as follows:

18/00590/EIA – EIA screening opinion for 393 dwellings and associated infrastructure. Determined (05.06.2018) that no EIA was required.



Fig. 2 Indicative Master Plan

## 4.0 CONSULTATION RESPONSES

4.1 The following consultation responses were received to the originally submitted details ((2018) :

**Peak and Northern Footpath Society (PANFS)** – The application seems to integrate the definitive footpaths into the proposed development. What it does not seem to do is make allowance for the claimed public footpath across the site, the subject of a forthcoming public local inquiry. If the Order was confirmed, then further amendments would be needed to the Design & Access Statement or the footpath will have to be subsumed into the estate footway network. This flies in the face of the assurance that all public rights of way will be retained as closely as possible to their existing alignment & separate from the normal road infrastructure as far as possible. It also

conflicts with national advice that such paths are not just subsumed into estate roads but kept as a separate distinct feature of the network.

Agree that any paths through & within the site should be well overlooked to discourage anti-social behaviour and ask that any landscape or planting scheme approved, does not lead to paths becoming overgrown in future years thus becoming a maintenance and enforcement problem. All paths within and through the site should be surfaced and be weather-proof and be wide enough for multi-use. The network should encourage as much non-vehicular movement as possible.

In Jan 2019 PANFS submitted details showing the addition of a footpath to the definitive map that crosses the site.

**Chesterfield, NED and Bolsover Ramblers** - Endorse the comments made by Peak and Northern. Regard must be made for the existing, and potentially future, public right of way affecting the site. In respect of the footpath claim, the planned public inquiry was cancelled. In respect of existing PROW Killamarsh FP39, it has been obstructed by fences, vegetation etc. for many years. These have been repeatedly reported to DCC without any effective action being evident. This path must be made available to the public.

**Employment and Skills Officer** – request a condition on any approval granted requiring a detailed employment and training package to accompany any approval granted.

**Streetscene (Refuse)** – No objections

**Streetscene (Parks)** - There are a significant number of public open spaces but the plans do not appear to show any planned on site play provision. Considering the size of this development, provision would be expected of an on-site Local Area for Play (LAP), a Locally Equipped Area for Play (LEAP) and a Multi-Use Games Area (MUGA), along with a contribution towards a Neighbourhood Equipped Area for Play (NEAP).

With regards to the open spaces, it is unclear whether the stated public open space are proposed to be managed by a management company. If any/all of the proposed to be an open space are to be adopted by NEDDC this would be subject to the appropriate maintenance fee and agreement over detailing.

Proper tree protection measures should be sought as appropriate

The site currently acts as amenity land in the form of grassed and wooded areas through which a number of public rights of way run. Parts of the existing public rights of way appear to cross the proposed public open spaces, but other sections would be affected by the proposed new dwellings and highways.

**Sports England** – unable to support the application but willing to review this position further.

**(Former District) Cllr Rice** – Objected to the application as it proposed the building of houses on the Green Belt in Killamarsh. Green Lane is the narrowest road coming into Killamarsh from Spinkhill. All the tenants park on the road reducing the road down to one lane. The road becomes blocked with

cars and when the bus comes it becomes a nightmare through the village, as the roads cannot take the traffic. Heavy goods wagons also use this road and so to build another 397 houses would put another 1000 cars on the road through the village to get to work. The roads cannot take the traffic now. The entrance and exit from this development would be in the basin at the bottom of the hill opposite the industrial site. Before any development takes place it would need the infrastructure doing.

**(Former District) Cllr Windle** – Concerns regarding building on Green Belt, Highways/Infrastructure and lack of information on the site entrance

**Police** – No objections in principle subject to the detailed design being acceptable. One issue that should be resolved is regarding public rights of way which are not signposted clearly and one disputed right of way is evident.

**Lead Local Flood Authority** – No objection subject to conditions.

**Environment Agency** – No objections

**Yorkshire Water** – Note the indicative layout showed development over a public sewer. No objection subject to conditions.

**Coal Authority** – No objection subject to conditions

**Environmental Health** – No objection subject to conditions.

**DCC Infrastructure** – No objection

**Parish Council** – Reduction in Green Belt; Highway Issues (traffic and pollution generation/Access/Safety/Impact on footpaths); Noise and disturbance during development and pollution; Concern regarding former mine workings; capacity of infrastructure/ Insufficient amenities.

In Sept 2019 a letter was received from “the newly elected Parish Council” wishing its opposition to the application to be registered. It specifically raised concerns about the traffic network, pollution, infrastructure, over development, loss of Green Belt, Mining, sewage and flooding and archaeology.

**NEDDC Housing** – Expect the full affordable housing provision to be made preferably of 4 and 5 person houses for social or affordable rent managed by a registered provider.

**DCC Archaeology** – requested further information

**Derbyshire Wildlife Trust** – No objection subject to condition.

**DCC Highways** – No objection subject to a number of detailed issues being addressed.

In respect of the **reconsultation** undertaken following the submission of the further/revised information in **November/December 2021** (and so following adoption of the Local Plan) the following comments have been received:

**Cllr Potts** – Objects to the application as the development will increase traffic flows and the infrastructure in Killamarsh is inadequate to accommodate more

traffic. The services and amenities are not within practical walking distance and most commuting is out to Sheffield. This is before other trips are factored in.

There is a poor public transport network linking to Chesterfield and Sheffield. Residents will have no choice but to use their cars increasing congestion, wear and tear and increased pollution.

The application is therefore contrary to policy ID3 of the Local Plan and the application can be refused “where the residual cumulative impacts on the road system would be severe”.

**Cllr Clough** – Calls in the application for scrutiny as this is a large scale development and seems to exceed the adopted Local Plans sustainable figures.

**Chesterfield, NED and Bolsover Ramblers** – Note the development will impact directly on Killamarsh PRoW, Killamarsh FP, (Footpath), 39, 40, 41, 43, and 88 with sections of the footpaths being completely/partially obliterated.

For the development to go ahead it will be necessary to raise and obtain approval for footpath extinguishment or significant diversions. Should this occur an objection would be raised for the following reasons:

- 1) The granting of planning permission for the development of land over which there is a public right of way does not itself constitute authority for interference with the right of way or for its closure or diversion.
- 2) Should the development be considered to be desirable then in the case in question the said development could be carried out whilst maintaining the existing footpath network including character and location, by the use of protected corridors. This would make the footpaths infinitely more inviting
- 3) Building over the paths and replacing them with roadside causeways or kerbs will considerably lessen the enjoyment of the areas crossed by the paths.
- 4) This is a green belt site providing access to green spaces for a considerable number of existing homes. This development, as presented, fails to follow national and local government policies with respect to providing access to green spaces for all.
- 5) The replacement of open paths with enclosed ones is generally perceived to be less desirable both from an aesthetic and undesirable activities point of view. For comparison see Killamarsh FP 65 and 85, these are enclosed paths resulting from previous developments to the north of this proposed development. Both are less than pleasant to use.

Although a short paragraph makes reference to footpaths in the submitted Design and Access Statement, it is considered that this is totally inadequate. It does not refer to the advantages of the existing footpaths in providing access to the wider footpath network, the extensively used Rother Valley Country Park and the Cuckoo Way canal side path.

**DCC Archaeology** – The position remains as it was in 2018. The application does not meet the heritage information requirement at NPPF para 194 in relation to archaeological remains. Object to the application as it currently

stands but this can be addressed by the submission of the results of archaeological evaluation trenching on the site.

**Coal Authority** – No objection subject to conditions.

**Environmental Health** – No further comments made.

**Employment and Skills Officer** – No objection subject to condition.

**CCG** – Request a section 106 contribution of £190,656 towards additional care in Killamarsh and other surrounding surgeries

**Police** – Considers the revised indicative layout inferior to that previously submitted and seeks resolution of these issues from a community safety perspective.

**Lead Local Flood Authority** – No objection subject to conditions.

**Yorkshire Water** – No objection but require an amended plan to show no building or landscaping features are located within 3 metres of the diverted sewer.

**Parish Council** – object to the application: as it is not in line with the adopted Local Plan dwelling numbers and does not meet sustainable requirements as the infrastructure does not have capacity and would not limit the need to travel by car due to its location and a lack of other transport modes; it would remove a major area of open space and recreation ground and not meet the requirements of NPPF 98 and 99 or NPPF 15.

**DCC Infrastructure** – request funding to cover Special Educational Needs and Disability (SEND) of £265,727.81 and £27,960 for library provision (plus monitoring).

**DCC Highways** – No objection in principle subject to the finalisation of some areas of detail.

In a further letter (8<sup>th</sup> March 2022) it is stated the size of the refuse vehicle used to provide the swept path analysis appears incorrect and a supporting speed survey has not been provided in respect of forward visibility to Upperthorpe Road. Boundary treatments should also not be hedgerows.

Clarity is sought as to the level of development proposed

Confirmation that the impact on the A618 Sheffield Road mini roundabout is not significant but that mitigation in the form of a traffic control junction at the Bridge Street/Sheffield Road priority junction is investigated. Comments are also made on the Travel Plan.

It is concluded there is no objection to the application in principle but the outstanding issues should be addressed.

Finally, the County Council has advised that off-site mitigation is required at the Bridge Street/Sheffield Road junction (in the form of a signal controlled junction) that the implementation and monitoring of the Travel Plan may be addressed by way of inclusion in the section 106 agreement and all other



matters may be covered by the imposition of conditions on any approval granted. It is anticipated a final list of highway conditions as necessary will be provided to members ahead of the Committee meeting.

A request has also been made for an upgrade of the Key Cycle Network (KCN) in and around the site (this issue is addressed in the Officer report – below)

**NEDDC (Parks)** - The proposed development comprises of 397 dwellings of unspecified size; whilst the Design Review Panel document states they will comprise of 2, 3 and 4 bed dwellings and an apartment block, the numbers of each property is unclear. This could attract an estimated £293,332.18 of section 106 monies towards existing provision with a 10 year maintenance fee of approximately £92,735.21, or an estimated £381,291.50 of section 106 monies towards new off-site provision with a 10 year maintenance fee of approximately £120,543.02. These estimates are based on the last available update (April 2021) to Appendix 2 of the Council's Supplementary Planning Document, and uses an average given the unknown size of the dwellings. These figures are given for new off-site provision given that the plan indicates the developer is still proposing new on site play area, and this figure will assist in giving an idea of the value of provision that may be expected on the development site.

The developer is proposing a NEAP on the informal green space, a LEAP and four LAPs. Further consultation is requested with regards the proposed provision and layout for the play area, particularly if the play area is proposed to be adopted by the District Council. This should be made a condition of any consent.

If the on-site play areas are proposed to be adopted by the District Council, this would attract the appropriate maintenance fees.

With regards the proposed on-site play area(s), consideration should be given to inclusivity for disabled users. In addition to the play equipment, ancillary items (i.e. fencing, bins, benches etc) should be considered. Ideally any play areas would be separated by fencing from the wider area, with a minimum two entrances, not in the direct vicinity of any pond, and not in a position overhung or overshadowed by trees.

Metal equipment is suggested, but if wooden equipment is used it should have metal feet.

Comments are made on the indicative landscaping plan.

Further advice is given in respect of the play areas maintenance either by a Management Company and/or adoption by NEDDC.

**Derbyshire Wildlife Trust** – No further comments specifically on the changes to the landscape masterplan. Recommendations of 21st December 2018 are still relevant. This application was submitted prior to the use of biodiversity metrics and the recommendation in 2018 was for an off-site compensation scheme to be submitted and approved. This will be important in ensuring no net loss of biodiversity.



**NEDDC Engineers** - The LLFA are the appropriate consultee on land drainage/flooding. Query raised as to how the SuDS will be managed.

## **5.0 REPRESENTATIONS**

- 5.1 A Site Notice was posted on 22/10/2018. An advert was published in the local press on 01/11/2018.

124 neighbours were consulted by letter dated 18/10/2018. 80 Objection letters have been received. 11 of which were a standard letter.

The following points of objection were made:

### Green Belt/Countryside:

The site is green belt land, the units are not affordable housing and there are brownfield sites within NED that could be used instead of green belt.

Due to the local topography there will be no delineation of the built environment creating a significant, unwanted and obvious intrusion into the countryside. There is little thought for its loss.

The site continues to play an important role in Green Belt function and the assessment of Green Belt functionality is queried. If developed the built environment will extend all the way to both Green Lane and Spinkhill Road

### Infrastructure:

Killamarsh cannot cope with that level of population increase as there is a lack of services including schools, doctor. There is no secondary school in the village.

There is nothing in the application to improve upon the poor local leisure facilities or improve the town's amenities.

### Highways:

Concern about the 3 new site entrances being unsuitable and unsafe. With only limited visibility. Green Road is already impacted with poor visibility and this will be exacerbated. Issues will not be solved by road widening. How will it be widened and a pavement added without removing the hedgerow.

600-800+ cars will be added to the roads increasing congestion in and around Killamarsh and there is poor public transport. The road from Halfway should be adjusted first whilst the other routes into and out of Killamarsh are unsuitable for the additional traffic.

The access point on Uppertorpe Road was already deemed unsuitable and unsafe for a previous development of 28 houses.

The site will bring a large number of commuters increasing congestion on surrounding roads.

No mention is made of pedestrian crossings or traffic calming measures.

Insufficient parking on the plans.

The suggested exit point of Ross Court would be unsuitable. The green is a public open space and therefore the road cannot be widened onto it.

Local amenities are not within easy walking access of the site and people are most likely to travel to them by car. The site is unsustainable.

The application does not assess the impact of Gulliver's Kingdom development.

Limited car parking within the village centre.

Has a pollution survey been carried out to determine the effects of the extra traffic?

Schools outside safe walking distance increasing congestion on school runs.

Negative impact on local businesses due to increased traffic.

The accesses are unsafe as vehicles travel beyond the speed limit.

#### Land stability/Air pollution:

High risk area due to coal mine shafts. There are a number of safety risks due to shallow workings and development on an ex mine site.

Increase in air pollution in the area, congestion and standing traffic.

High risk of contamination from gases.

#### Ecology

The site is currently a haven for diverse wildlife and dog walkers. Impact on trees.

There will be a loss of wildlife including nesting birds, bats, deer and fox.

There are few green areas within Killamarsh to access we need to keep the ones we have.

Point 13 Biodiversity states protected and priority species are only on adjacent land. This is not the case. The EIA was not undertaken correctly. On the site there are bats, cuckoo, song thrush, kestrel, tawny owl and many other birds and mammals requiring conservation measures by UK BAP.

The loss of high value mature hedgerows, trees, wildlife habitats, wildflowers.

#### Flooding

There will be an increased risk of flooding on the site and in neighbouring properties.

Park Brook floods in heavy prolonged rain and closes off Spinkhill Road. It's flooding will be exacerbated by the development.

Green Lane and Spinkhill Road flood in heavy rain and more houses would increase the issue.

Concerns regarding the capacity of the Waste Water Treatment Plant at Woodhouse Mill.

Point 11 Assessment of Flood Risk stated NO to the site within an area at risk of flooding. This is incorrect.

#### Recreation

Virtually no safe recreational ground for children as many dog walkers in the area using the open spaces. The development would make this problem worse.

No provision for playgrounds or spaces for young people on the plans.

#### Other

Concerns the site will be abandoned if costly problems are met.

Killamarsh is a village and not a town. This development will damage the identity of the village and its residents.

Queries over the size of the site due to differing figures in the application and the applicant appears to have increased the number of houses by 67.

Unlikely that local employment opportunities will occur.

Historical relevance and archaeological features will be lost and forgotten.

Concerns whether the developer will fulfil the affordable homes obligation due to viability and remediation works.  
Significantly negative impact on a public visual amenity.  
Appears to be no benefits to current local residents who will have to put up with the upheaval.  
Increase in anti-social behaviour.  
The site goes against everything for the new plans for development and is not part of the development plan.  
There is enough new development with the area.  
Intrusion of privacy for current residents living nearby.  
Smells and impact on health and well-being of local residents.  
Risk of damage to local properties due to the large scale of the development.  
Loss of a public footpath. Five footpaths across the site are well used by local residents.  
Methane gas has been found in a nearby property – how suitable and safe is the site.  
Noise pollution affecting local residents for a number of years.  
Allowing large scale development on the site would be detrimental to the rural character of Westthorpe.  
Loss of light and overshadowing of current residents.  
Negative impact on neighbouring houses including loss of peace and quiet, loss of countryside and wildlife.  
Affordable homes not big houses are needed.  
The application does not take into account the development at the end of Fanny Avenue.  
The size, scale and location of the development is the concern.  
If it were to go ahead it should be significantly reduced in size accompanied by improvements to roads, public transport and amenities.

Further to **the reconsultation undertaken in 2021**, after adoption of the Local Plan, 315 letters of objection have been received to the updated scheme (N.B. a significant number are standard comments entitled Killamarsh RAGE petition). These make the following comments in summary:

#### Green Belt/Countryside:

The site should not have been released from Green Belt. There is no exceptional need.  
Killamarsh should not become a sprawling urban area.  
There will be an adverse impact on the countryside and brown field land should be built on. It will be an unwanted and obvious intrusion into the countryside.  
Detrimental impact on the visual and physical amenity of the village.  
Loss of amenity due to loss of recreational opportunity.  
It is another green area lost and represent an expansion of the urban sprawl eroding the distinction between Spinkhill and Killamarsh.  
The DAS photographs are not reflective of the development. Screening will be difficult.  
There will be beautiful, peaceful countryside lost.  
There will be long term environmental issues.  
For years the former Westthorpe Colliery site scared the landscape. It has now recovered and the new rural character of the area should be retained.

#### Highways/Traffic:

Currently, the road network is not fit for purpose and poses risks to residents and passing motorists.

The development will add 800 cars to an already dangerous situation.

During the peak the roads in Killamarsh are already congested. There is limited management at busy junctions. Commuting is difficult.

Killamarsh does not have enough jobs so most people will commute.

The road to Sheffield is over a small bridge with congestion and long tail backs.

Difficult on road parking already

Limited parking in the centre and more homes will exacerbate that issue.

All routes to the development are unsuitable, over congested and there are no suitable access point.

There is no public transport.

A previous application for 28 houses off Fanny Avenue was refused on safety grounds so why is 397 acceptable.

Surrounding roads will have more parked cars on and this will encourage break ins.

Construction traffic will be a huge issue.

The access points have issues and Upperthorpe Road is already a rat run.

The proposed parking areas will be a blight.

The road network cannot cope and is at breaking point.

The houses are crammed in.

The traffic survey is 3 years out of date.

Spinkhill shares the traffic problems.

An objectors own survey is submitted showing a 14% increase in traffic since 2017 before any development takes place. Traffic management solutions are suggested.

The A618 is a single road and 1000/2000 a day use it at Gullivers Country Park

People have to access outside Killamarsh to attend supermarkets.

### Infrastructure:

Infrastructure is overstretched already and cannot cope with more people.

Roads and infrastructure can't support new homes.

Doctor's surgeries are at capacity. There are not enough nurses.

The dentist is oversubscribed and refuses to take any more patients.

The primary schools are at capacity and there is no secondary school. There are not enough places available and a new school is needed.

There is not enough shops.

There is no plan to increase the industrial areas in Killamarsh.

Loss of recreational areas contrary to the NPPF

Killamarsh is the dumping ground of the County with less facilities and more population.

### Drainage and Flooding:

Flooding will increase. Green Lane is prone to flooding and this will worsen.

Park Brook is a small stream already prone to flood.

The attenuation ponds are a risk to drowning.

There are already enough flooding problems without covering up natural soakaways.

A number of photographs have been submitted showing flooding in areas around the site.

### Ecology:

Adverse impact on wildlife, loss of flora and fauna.

Loss of hedgerows and trees.

The green areas should be protected, other brown field areas should be developed first.

### Footpaths:

Footpaths will be obstructed and/or changed detracting from the pleasantness of the area.

Footpaths that cross the site need to be taken account of. They have not been taken seriously and integrated into the scheme but have largely disappeared.

This is not good enough and contrary to advice which requires them not be merely transferred onto estate roads.

The development will remove the right of access from a garden onto a public footpath making maintenance difficult.

### Land stability/Air pollution:

There are mine workings under the site. They haven't been treated.

Risk to residents from mining gases and contaminated soil.

Potential subsidence.

Pollution caused by extra commuting.

There is the potential for mines gas migration.

An air quality assessment should have been provided as should an EIA. The application fails to meet the requirements of Local plan policy SDC13.

Adverse impact on health from pollution.

There is already poor air quality due to the location close to the M1.

### Other Planning Issues:

There should be more social housing.

Noise and disturbance to residents and their homes for 10 years.

Impacts negatively on climate change.

Keep green space for mental and physical health benefits

There is no need to expand in Killamarsh. This development will expand it by about 10%.

Approval will set a precedent.

There is an historic access onto the field and no consideration of this is given.

The use of this recreational area is being denied.

Sarah Housden (Planning Inspector) said 330 houses were correct. Why do planners insist on 397 contrary to government advice?

The revised indicative plan shows housing which will affect privacy, amenity and result in sunshine loss.

There will be archaeological and ecological damage caused.

The site is distant from facilities in the village and so no one is likely to walk/cycle to them making the development unsustainable.

The application fails to meet the three planks of sustainable development set out in the NPPF. It is not sustainable development.

The development will detract from the setting of listed buildings and adversely affect archaeological interest. The application is unsympathetic.

The scale of new housing is too great.

The development will bring with it noise upheaval and pollution.

Concerns raised over crimes.

Adverse impacts on amenity.  
The air quality will be impacted by the removal of the soil.  
Plant greater numbers of trees to compensate for the tree loss.  
The land is polluted.  
Will lead to cramped development.

Additionally, a petition with 1183 signatories has been submitted (it is undated) stating they support the application to extend green belt status which is currently in place on the land between Upperthorpe Road and Green Lane/Westthorpe Road. A covering letter explains the petition was started many years ago when development was first mooted on the land.

## **6.0 RELEVANT POLICY AND STRATEGIC CONTEXT**

- 6.1 The development plan comprises the North East Derbyshire Local Plan [LP]. The following are the policies considered most relevant to the determination of this application:

SS1: Sustainable Development  
SS2: Spatial Strategy and the Distribution of Development  
SS9: Development in the Countryside  
SS10: North East Derbyshire Green Belt  
LC1: Housing Allocations  
LC2: Affordable Housing  
LC4: Type and Mix of Housing  
SP4: Killamarsh  
SDC2: Trees, Woodland and Hedgerows  
SDC3: Landscape Character  
SDC4: Biodiversity and Geodiversity  
SDC6: Development affecting Listed Buildings  
SDC7: Scheduled Monuments and Archaeology  
SDC9: Non Designated Local Heritage Assets  
SDC1: 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  
ID3: Sustainable Travel  
ID7: Green Infrastructure  
ID8: Greenways and Public Rights of Way  
ID10: Open Space, Sports and Recreation Facilities

The LP was adopted in Nov. 2021. It is considered that, in respect of this application, the policies are all in general conformity with the NPPF and so carry full weight in the determination of this application.

- 6.2 The National Planning Policy Framework [NPPF] is a further material consideration in the determination of the application

## **7.0 PLANNING ISSUES**

### **Principle of Development**

- 7.1 The majority of the application site lies within the settlement development limits defined for Killamarsh in the newly adopted LP and is allocated as a

housing site capable of accommodating residential development. This is identified in Figure 3 below where the settlement/Green Belt boundary is given in red with the application site area outlined in blue. A small section of the site is located outside the settlement boundary and so in Green Belt [This issue is discussed further below].

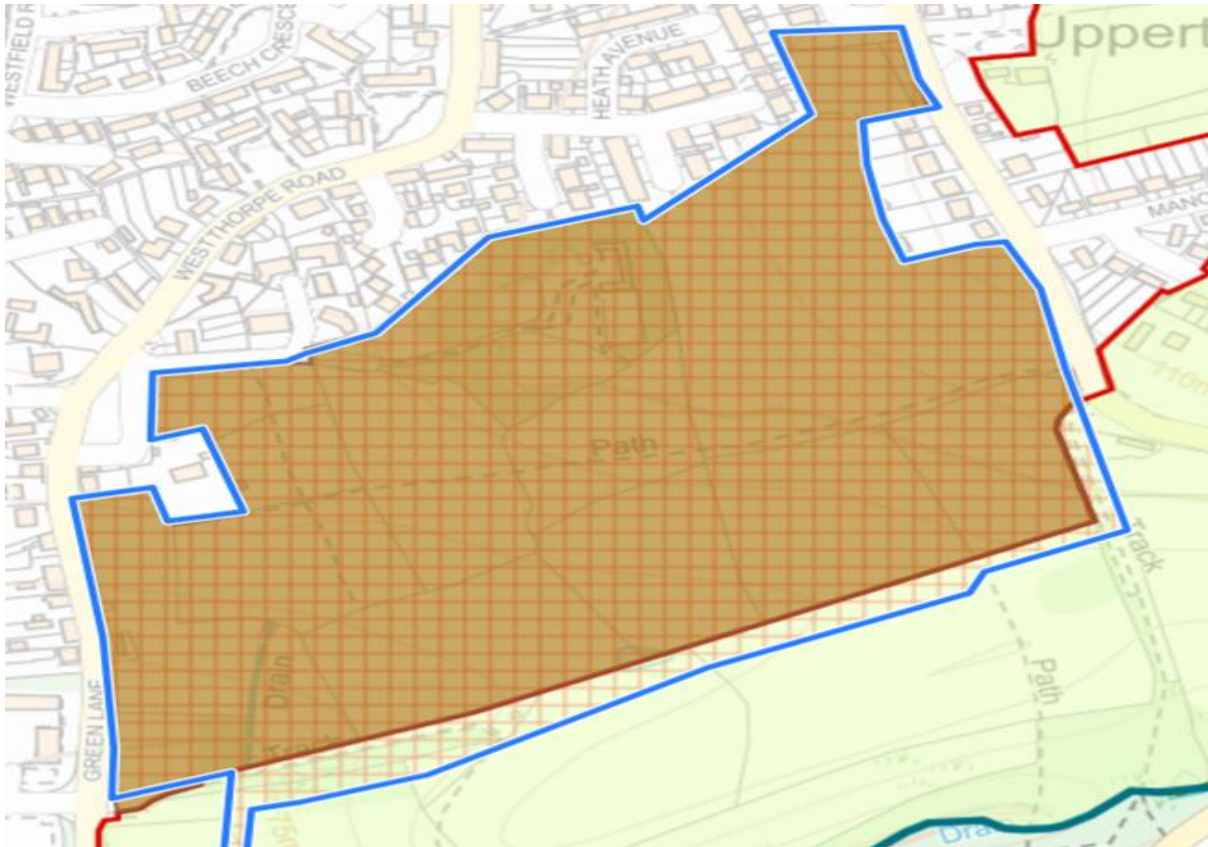


Fig.3 The application site (edged blue) and Settlement Boundary (red) (not to scale)

- 7.2 As such, the principle of residential development on the site and within the settlement limit is considered acceptable and sustainable and in accord with the Council's spatial strategy, and specifically LP policies SS1, SS2 and SP4, which seek to focus housing development on the District's four main towns, including Killamarsh. The indicative layout submitted identifies that all built development would be located within the settlement limits.

### **Green Belt**

- 7.3 An element of the site at its southern and eastern boundary is located outside the allocated site and settlement limits and so in Green Belt. In such areas, new development is strictly controlled and the construction of new buildings is considered unacceptable subject to a few specific exceptions. In this case, the indicative layout indicates that no new buildings are proposed in the Green Belt areas of the site.
- 7.4 Other certain forms of development are considered also acceptable in Green Belt including engineering operations providing they preserve Green Belt openness and do not conflict with the purposes of including land within it.



- 7.5 The application is made in outline with only access to be determined at this stage. However, the indicative layout indicates that only open space and works associated with draining the site and creating a number of attenuation ponds are proposed within the Green Belt area.
- 7.6 Whilst the detailed layout and design of the site would be determined at the reserved matters stage, the applicant has indicated that they would accept a planning condition that only non-built development (i.e. the attenuation ponds and any associated infrastructure) could be located in the Green Belt area so defined on the indicative layout.
- 7.7 It is considered that this caveat, covered by a suitable worded condition, along with a condition requiring that details of all engineering and other operations associated with the creation of the attenuation ponds, and any associated infrastructure, is submitted as part of any reserved matters application, would be sufficient to ensure the Council retained control to ensure that no inappropriate development took place within the Green Belt and it did not result in any unacceptable encroachment into countryside. In this form it is considered that the development specifically proposed outside the settlement limit and within Green Belt accords with LP policy SS10.

### **Allocated Site**

- 7.8 The vast majority of the site is allocated for housing development within the adopted LP. It is identified as site KL1 in policy LC1, having an approximate capacity of 330 dwellings. The application actually proposes the creation of 397 dwellings with a net density of 38.9 dwellings per hectare (gross density of 23.4 dwellings per hectare) and the various submissions are based on the delivery of that number.
- 7.10 The fact that 397 units are proposed (as opposed to an approximate capacity of 330) does not, however, lead to a conclusion that the application is not acceptable. The LP clarifies at paragraph 8.58 that the Council applies, as a starting point, a density of 30 dwellings per hectare and a 70% developable area for sites of this size (resulting in a gross density of 21 dwellings per hectare), but that this may vary in different locations. The allocated LP yield of 330 dwellings is based on the starting calculation, but a flexible approach is advocated in the LP, with the characteristics of the site and surrounding area determining the appropriate density, whilst at the same time making efficient use of land by optimising housing densities, particularly in and around town centres and other locations where there is good access to frequent public transport services (Policy SDC12(h)), as at Killamarsh.
- 7.11 A higher density and site yield of dwellings is therefore acceptable in principle and the detailed final design of the scheme remains within the Council's further control through the determination of any necessary reserved matters application(s).
- 7.12 The various other issues identified in policy LC1 are discussed below.
- 7.13 As the LP allocation removed the site from the Green Belt, Policy LC1 also requires compensatory improvements to the environmental quality/ accessibility of the remaining Green Belt land, where appropriate, to off-set the effect of removing land from the Green Belt. This could include new or enhanced green infrastructure, biodiversity improvements, new

walking/cycling routes, or landscape enhancements, focussed on the remaining Green Belt land around the allocation site.

- 7.14 The submitted Ecological Impact Assessment acknowledges the need for offsite compensation to the south of the application site, to compensate for impacts resulting from the development itself, and, through further submissions, a net biodiversity gain in that area and overall. This, and the improvements to, and of, the footpath network through the site, see fig 4 below, (the applicant identifies that almost 2km of new footpath will be created), is the applicant's package of off-site compensation. These are a limited set of compensatory measures, but in line with the relevant policy, and so, on balance, it is considered by Officers this is sufficient to demonstrate compliance with policy LC1 and they can be secured by inclusion in the section 106 agreement.



Fig 4. Proposed footpath network

### Other policy requirements

- 7.15 The development would be expected to meet the other policy requirements of the LP (Policy LC4). These include for the provision of 20% affordable housing and that 20% of the units approved being accessible and adaptable. The applicant has indicated an agreement to provide this level of affordable/accessible units and their delivery can be obtained through the

imposition of conditions/inclusion in the section 106 agreement as appropriate.

## **Design**

- 7.16 The application is made in outline with all matters, other than access, reserved for further approval. However, the applicants have submitted an indicative layout/design to accompany the application along with having undertaken a full independent design review.
- 7.17 The comments of, and in response to, the independent design review are noted. However, the detailed design of any scheme would be dealt with by the submission of a reserved matters application(s) and so Officers place only very limited weight on the indicative drawing other than in respect of the attenuation ponds issue referred to above. If outline approval was granted the recommendations of the design review would be expected to be an integral part of the detailed design submitted as reserved matters.
- 7.18 Notwithstanding that, to deliver the benefits identified by the applicant, particularly in mitigation, it will be necessary, if consent is granted for the scheme, to require the areas of open space shown on the indicative plan and the footpath links and improvements shown, to be delivered as per the indicative plan leaving the “development parcels” subject of detailed design assessment. [In this regard the detailed comments received from the Police Design Officer could then be addressed].

## **Open Space**

- 7.19 LP policy ID10 requires the on-site provision of urban green space and recreation areas. In this instance, at 2.3 people per household (a District average), it is anticipated that the development would have an expected population of 913.1 people.
- 7.20 Based on this, the proposed development (397 dwellings/913 people) would need to provide as follows, as a minimum: 0.082ha equipped children’s play space, 0.023ha outdoor youth facility (MUGA) and 1.46ha urban green space. The applicant has stated that the indicative layout shows at least this [3.12ha of Green Space; 2.7ha of Outdoor Sports Facilities and 0.180 of Children’s’ Play Space]. The delivery of this level of open space can be controlled by condition on any permission granted.
- 7.21 In addition, there is also a requirement to support off-site formal sport provision. This is, as explained in the Local Plan, calculated using Sport England’s Playing Pitch Demand Calculator and the Playing Pitch Strategy Action Plan. Based on these documents there is a requirement for off-site financial contributions of £49,949 plus £100,890 for lifecycle costs to provide cricket pitch provision at Killamarsh Junior Athletics Club and Institute and 24,011 plus £8,460 for lifecycle costs towards 3G play pitch provision at Killamarsh sports centre. The applicant has indicated they are happy to make such payments as detailed as part of any agreed section 106 package.

The original comments of Sports England are noted and that no updated comments have been received. However, it is considered that with this level of provision the overall strategy to develop playing pitches and facilities in the local area is achieved and so overrides the historic Sport England comments.

## Highway Issues

- 7.22 The Highway Authority (HA) have raised no objection to the application in principal but retain, at the time of writing this report, five residual issues.

These are as follows:

- A. Swept Path auto track. The HA and applicant differ as to what size of vehicle has been used to test the swept paths for larger vehicles. The applicant considers the swept path acceptable. This matter remains subject of final discussion with the applicant [although it is noted that no objection has been raised by the Council's own Streetscene team].
  - B. Forward junction visibility. The HA was concerned that boundary treatments could impact on visibility splays at the main 3 junctions.
  - C. Travel Plan. Final advice on this issue is awaited but £5,500 is sought to monitor any agreed Travel Plan over 5 years.
  - D. Mitigation. The HA retain a view that some mitigation, in the form of a traffic controlled junction, is required at the Bridge Street/Sheffield Road junction. The applicant disputes this and has submitted further information seeking to demonstrate the acceptability of the scheme without the need for such a level of mitigation. This matter remains subject of final discussion with the applicant.
  - E. The Local Cycle Network includes a section of the Dronfield to Rotherham route. This should be kept free from development and a contribution for its development secured.
- 7.23 In all other respects, notwithstanding the various comments made on this issue, including the positioning of the three accesses and the traffic generated by the scheme and its impact on the highway network, the HA advise the scheme is acceptable and that it would not have any adverse impact on highway safety or the residual cumulative impact on the road network would be severe. All detailed on site road design issues would be subject of final consideration at the reserved matters stage in any case and so be able to address any issues relative to A above.
- 7.24 In respect of the outstanding matters B and C, both the forward visibility issue and travel plan matters can, in any case, be addressed by way of conditions attached to any approval granted and/or through the terms of the section 106 agreement.
- 7.25 Regarding mitigation, point D above. It is anticipated agreement on this issue will be achieved prior to the Committee meeting but any final update will be provided to Members ahead of Committee in the late comments report. The HA remain of the view that the Bridge Street/Sheffield Road requires mitigation to be achieved in the form of a traffic light controlled junction. This could be achieved through the section 106 agreement or imposing conditions as appropriate. The Officer recommendation is based on the provision of this mitigation
- 7.26 In respect of E, this can be dealt with at any reserved matters (detailed design stage) to ensure that the route identified is not over built. However, the applicant has indicated they will not make any contribution towards the improvement of the cycleway network. This is regrettable but not considered by Officers to weigh heavily against supporting the scheme due to its localised

and limited scale and the ability to protect the cycle network otherwise from development.

- 7.27 As set out above, in all other respects the application is considered acceptable from a highway safety aspect and Officers conclude that there is no evidenced reason to resist the application on highway safety or traffic impact grounds.

### **Land Contamination**

- 7.28 The comments of the Environmental Health Officer (EHO) are noted in respect of land contamination and the submission made by the applicant.
- 7.29 It is recommended that should consent be granted conditions are attached in respect of land contamination and Officers agree that this is an appropriate way to address all and any land contamination issues arising.
- 7.30 Aural amenity is also considered by the EHO and, as with land contamination, with the imposition of conditions, it is considered this issue can be adequately addressed as advised.
- 7.31 The EHO also addresses air quality and notes that whilst the application is not accompanied by an air quality assessment there are insufficient grounds to require one. The EHO asks that opportunities are taken to improve air quality although the NPPF advises this issue is properly addressed at the plan making stage. As such, this is not considered an overriding issue but in any case with the open space proposed and the proper implementation of a Travel Plan any impacts on air quality will be mitigated as such.

### **Coal Mining Legacy**

- 7.32 A Coal Mining Risk Assessment accompanied the application. Based on its findings the Coal Authority have raised no objection to the application subject to conditions.

### **Drainage and Flood Risk**

- 7.33 The site is located outside both Flood Zone 2 and 3 and so not in an area liable to flood. Surface water will primarily be dealt with by a series of attenuation ponds to the southern edge of the site. This is a strategy common amongst new development sites.
- 7.34 The Lead Local Flood Authority (LLFA) have identified there are no objections to the scheme subject to conditions relating to the management of all surface water drainage, control over the final destination of the surface water, control of surface water run off during the construction of the dwellings and the prior agreement of detailed designs for the attenuation ponds and their future management. Subject to these conditions there are no objection to the surface water strategy presented. The Environment Agency has no objection to the scheme either.
- 7.35 Yorkshire Water do not object to the scheme in respect of the disposal of waste water providing that there are no buildings/landscaping features within 3 meters of the sewer that crosses the site. This can be addressed when any reserved matters are considered and secured by condition.

## **Ecology**

- 7.36 The originally submitted ecological assessment identified bat activity, a locally present population of great crested newts and a variety of bird species using the site. The foraging of badgers was not ruled out although no evidence of badgers living on the site was found. Some semi improved grassland was to be lost but overall the quality of the site was limited in its ecological interest.
- 7.37 In terms of compensation/mitigation it is noted that effort has been made to maintain areas of existing green space, wood and hedges and green infrastructure will be integrated into the development. The four attenuation basins will also contribute to site biodiversity. Overall, Derbyshire Wildlife Trust (DWT) in advising the Council consider that providing the ecology areas and drainage corridor are well designed and managed for wildlife there is great potential for these areas and it may actually result in a net gain for certain species and birds.
- 7.38 Officers note the comments of DWT, the areas of potential ecological enhancement, the off-site compensation proposed to the south of the site and also that the site is now allocated for development in the Local Plan. As such, the package of ecological compensation/mitigation is considered appropriate for the site and acceptable subject to the conditions recommended by DWT and the off-site compensation strategy outlined by the applicant (this to be contained within the section 106 agreement).

## **Footpaths**

- 7.39 As shown in fig 4 above, the site is crossed by a variety of existing public rights of way. There would, inevitably be an impact on the way these are experienced as, if permission is granted, they will be running through an area of development as opposed to through open countryside, as at present.
- 7.40 However, it is not intended to extinguish any rights of way altogether although some of the rights of way are proposed to be re-aligned rather than retained on their current lines. These changes would need to follow due process but it is not considered, in the context of this application that any changes would result in significant inconvenience to users such that the application should be resisted on this basis.
- 7.41 Therefore, notwithstanding the comments of the various Footpath bodies the proposal is considered acceptable

## **Heritage and Archaeology**

- 7.42 There are no listed structures on the site itself but some listed buildings close by as follows:
- (A) Historic farmstead to the north-west of the development site comprising:
    - (i) Westthorpe Farmhouse, Killamarsh - grade II listed;
    - (ii) Acres Hill - grade II listed; and
    - (iii) Cruck Barn and Crofters Barn - grade II listed.
  - (B) To the north-east:
    - (i) St. Giles Church, Church Lane, Killamarsh - grade II\* listed.
    - (ii) Medieval Cross 10 metres south of St. Giles Church - grade II listed.

(C) To the south-west, at Spinkhill

- (i) Mount St Mary's College Memorial Chapel - grade II listed.
- (ii) Church of the Immaculate Conception - grade II listed.
- (iii) Park Farmhouse and attached farm building, The Lane, Eckington - grade II listed.

There are also a number of listed buildings within the jurisdiction of Bolsover District Council which also form part of the wider setting of the development site. These designated heritage assets include: Park Hall, Barlborough - grade II\* listed, Barlborough Hall, Barlborough - grade I listed, Gazebo at Barlborough Hall - grade II\* listed; Stable-block at Barlborough Hall – grade II listed; and gate piers to east of Barlborough Hall. These structures lie within the grade II Registered Parkland and Gardens of Barlborough Hall.

- 7.43 It is considered that the proposal will not materially harm the setting of any of these listed structures as, whilst the site contributes to the wider setting of Westthorpe Farm, it is separated from it by a road and its historic setting has been diluted by other development over the years. The very limited harm caused, therefore, is outweighed by the wider public benefits of the scheme delivering strategic housing in a sustainable location in accord with an adopted Local Plan.
- 7.44 There will be no impact on the significance or setting of St. Giles Church or the medieval cross within the churchyard or the listed structures at Spinkhill due to the distance to those structures. The same is considered applicable to the nearest listed structures in Bolsover District.
- 7.45 The Non-Designated Heritage Assets of Westthorpe Farm, to the south-west of The Green and The Green itself are not considered to be materially harmed by the proposal.
- 7.46 The comments of the DCC Archaeologist are noted. Further works were requested to demonstrate the archaeological significance of the site and particularly on an earth work site, some ridge and furrow, some “banks” and a possible hollow way. It is thought that these features may indicate a medieval settlement.
- 7.47 The discussion with the DCC Archeologist has continued and further work has been undertaken such that it is anticipated that this issue will be successfully resolved in the very short term such that the site’s significance can be properly evaluated and any conditions formulated. Any final comments will be presented to Members in the late comments report prior to committee.

### **Infrastructure**

- 7.48 The relevant infrastructure providers have been contacted regarding what additional mitigation is required to offset any impact of the development on infrastructure in the area.
- 7.49 The health authority has sought provision for additional capacity in nearby doctor surgeries (£190,656) whilst the education authority has sought £265,727.81 for special educational needs. £27,960 for libraries is also requested in addition plus monitoring.



- 7.50 The applicant has agreed to pay these contributions in full alongside the formal off site open space requirements at Killamarsh Junior Athletics Club and Institute and Killamarsh sports centre, the Travel Plan monitoring and the monitoring costs required.
- 7.51 Subject to the payment of these requests there is no evidence of any shortfall in the infrastructure necessary to support the development and no evidence that the social infrastructure in the area will be insufficient to support the new housing and its occupants. The applicant has declined to fund any cycle network upgrades but this is not considered a significant shortfall such that it makes the development unacceptable.

## **8.0 SUMMARY AND CONCLUSION**

- 8.1 The site is allocated in the recently adopted LP for residential development. As such, the principle of such development on the site is acceptable and sustainable.
- 8.2 The Local Plan identifies that the approximate number of dwellings that may be accommodated on the site is 330 and 397 are proposed. However, the fact that the number of units proposed exceeds the approximate level set out in the Plan does not mean that figure is necessarily unacceptable. In this case, 397 units, subject to the final detailed design being agreed, has been shown capable of being accommodated on the site.
- 8.3 Mitigation to offset Green Belt loss is also required. The applicant has indicated the intention to upgrade the land to the south of the site and to integrate the footpath network on and off the site into the local network. This is considered sufficient to compensate for the Green Belt loss in planning policy terms.
- 8.4 A small section of the application site lies outside the SDL and in Green Belt. However, subject to final design considerations, it is considered the engineering work that will take place in this area is compatible with Green Belt policy and is not inappropriate development.
- 8.5 The various other LP requirements are all to be delivered and would be policy compliant with open space to be provided on and off site as necessary.
- 8.6 The technical elements of the scheme have all been addressed save the final elements of potential highway mitigation and the archaeological assessment. These are anticipated to have been addressed by the time Planning Committee meet to discuss the application and subject to a final determination of these two issues there is no technical reason why the development should not proceed.
- 8.7 The full policy required infrastructure mitigation package has generally been agreed with the applicant and a section 106 agreement will be finalised as such before formal and final determination of the application.
- 8.8 In conclusion, the development of the site for a residential use is in conformity with the adopted Development Plan and there not considered any other material matters that outweigh approving the application in this case.

## **9.0 RECOMMENDATION**

9.1 **GRANT** full planning permission subject to the imposition of conditions, with the final wording of those conditions to be delegated to the Planning Manager – Development Management, and the prior completion of a section 106 legal agreement covering the following issues:

- A. Provision of affordable housing (20%)
- B. Adaptable and Accessible units (20%)
- C. Off-site ecological mitigation and enhancement as set out in the submitted details.
- D. Off-site highway mitigation
- E. £190,656 for health  
£265,727.81 for educational requirements  
£27,960 for libraries  
£49,949 plus £100,890 for lifecycle costs \*to provide cricket pitch provision at Killamarsh Junior Athletics Club and Institute  
£24,011 plus £8,460 for lifecycle costs towards 3G provision at Killamarsh sports centre.  
£5500 – Travel Plan monitoring  
£140 monitoring costs for DCC  
£210 for monitoring costs for NEDDC.

9.2 Conditions to cover (this is not an exhaustive list with a final list to be included in the late comments report):

- 1. Time limits
- 2. Submission of reserved matters (all except access)
- 3. Reserved matters to include details of levels and boundary treatments.
- 4. Approval of any relevant plans
- 5. No built development in GB (only attenuation ponds and associated infrastructure)
- 6. Details of attenuation ponds to be submitted and approved
- 7. Upper limit on dwellings of 397
- 8. Implementation of landscaping
- 9. Land Contamination
- 10. Coal Mining Legacy (land stability)
- 11. EHO condition on aural amenity
- 12. Ecology protection and any on site Mitigation/Compensation
- 13. Drainage (Details as required by LLFA and 3 metre offset of any sewer)
- 14. Highway Conditions
- 15. Delivery and future maintenance of open space to be submitted as part of any RM [set at levels indicated by applicant]
- 16. Submission and agreement on Travel Plan (as necessary)
- 17. Highway conditions
- 18. Archaeology conditions
- 19. Employment and skills