

PLANNING COMMITTEE – 20 December

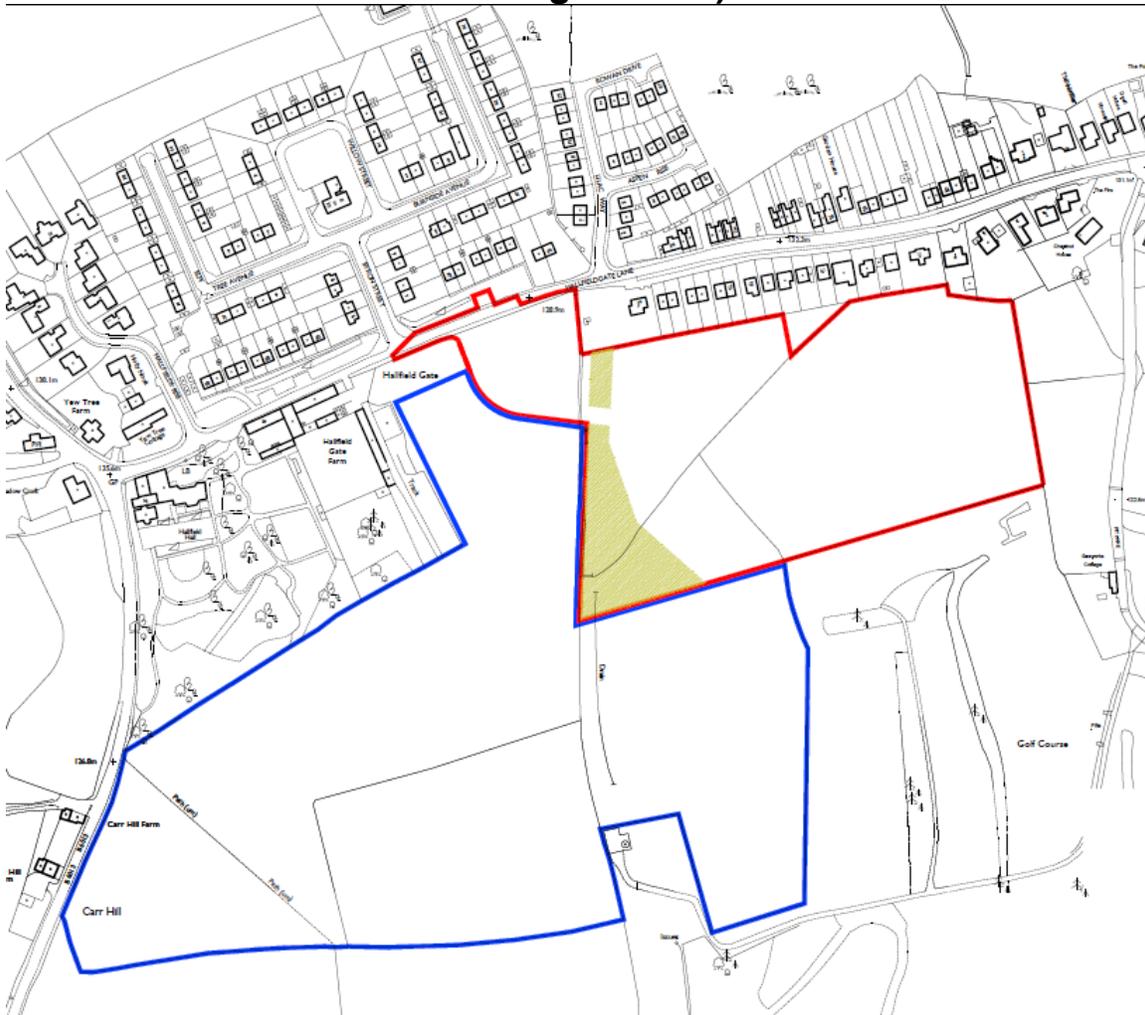
REFERENCE NUMBER: 21/01376OL Application Expiry Date: 22 December 2022
Application Type: Full Planning Permission

Proposal Description: Application to vary conditions 4 (Approved Plans), 16 (Temporary Access) and 17 (Highway Improvement Works) of planning approval 19/00335/OL to provide a revised site access (Major Development)
At: Land To The South Of Hallfieldgate Lane, Shirland

For: Trustees Of Ted Speed And Pauline Speed Hallfield Trust
Third Party Reps: 6 Parish: Shirland and Higham Parish Council
Ward Name: Shirland Ward

Author of Report: Case Officer Phil Slater **Date of Report:** 02 December 2022

MAIN RECOMMENDATION: GRANT (subject to section 106 Agreement)



1.0 Reason for Report

- 1.1 Councillor Liggett has called in the application for determination by planning committee due to the visibility of the site from various public viewpoints and concerns in relation to the proximity to the already overloaded access/entrance to Lilac Way and to the new Wheeldons development which is not mentioned in this application.
- 1.2 The Planning Committee is required to determine the application.

2.0 Proposal and Background

- 2.1 The site is situated to the south of Hallfieldgate Lane, on the south western edge of Shirland, and lies outside of the defined settlement development limit (SDL) and within land designated as open countryside. To the west of the site lies the Hallfield Gate Conservation Area.
- 2.2 The northern side of the site directly bounds Hallfieldgate Lane before following the rear boundaries of houses fronting onto the road along its north-eastern edge. To the east of the site is Pit Lane, to the south-east is Shirland Golf Course and to the south-west are fields. The west of the site is bounded by a barn and agricultural buildings associated with Hallfieldgate Farm, now partially converted to residential and office use.
- 2.3 The site comprises approximately 4.5 hectares of pasture covering four fields divided by hedgerows and tree lines. These are located across a generally south-facing slope the ground level also falls towards either side of a north-south aligned drainage ditch. There is a row of mature trees fronting Hallfield Gate Lane which are protected by Tree Preservation Orders.
- 2.4 The site benefits from an extant outline permission for up to 90 dwellings with details of the access not reserved for subsequent approval which was allowed on appeal on 22nd January 2021.

Proposals

- 2.4 This application is a section 73 application to vary planning conditions 4, 16 and 17 of application 19/00335/OL in order to provide a revised site access for the approved residential development on land south of Hallfieldgate Lane.
- 2.5 The revised site access is located towards the north eastern corner of the western field within the application site, as shown on the Drawing No. 07/1657/101 Rev. G Illustrative Masterplan. (see fig 1 below)



Figure 1: Illustrative masterplan

- 2.6 The application is accompanied by a Transport Assessment and details of the proposed site access are shown on Drawing No. JD119 – Figure 3.1C Access Option 2. (see figure 2 below)
- 2.7 The proposed site access, along with the western visibility splay and the majority of the eastern visibility would be delivered within the site on land under the Applicant’s control and highway land. Part of the eastern visibility splay extends outside the application site across the north west corner of the garden for No. 43 Hallfieldgate Lane. In addition, the proposed site access would not require the removal of any trees covered by the Tree Preservation Order along the north side of the western field adjacent to Hallfieldgate Lane, Shirland.

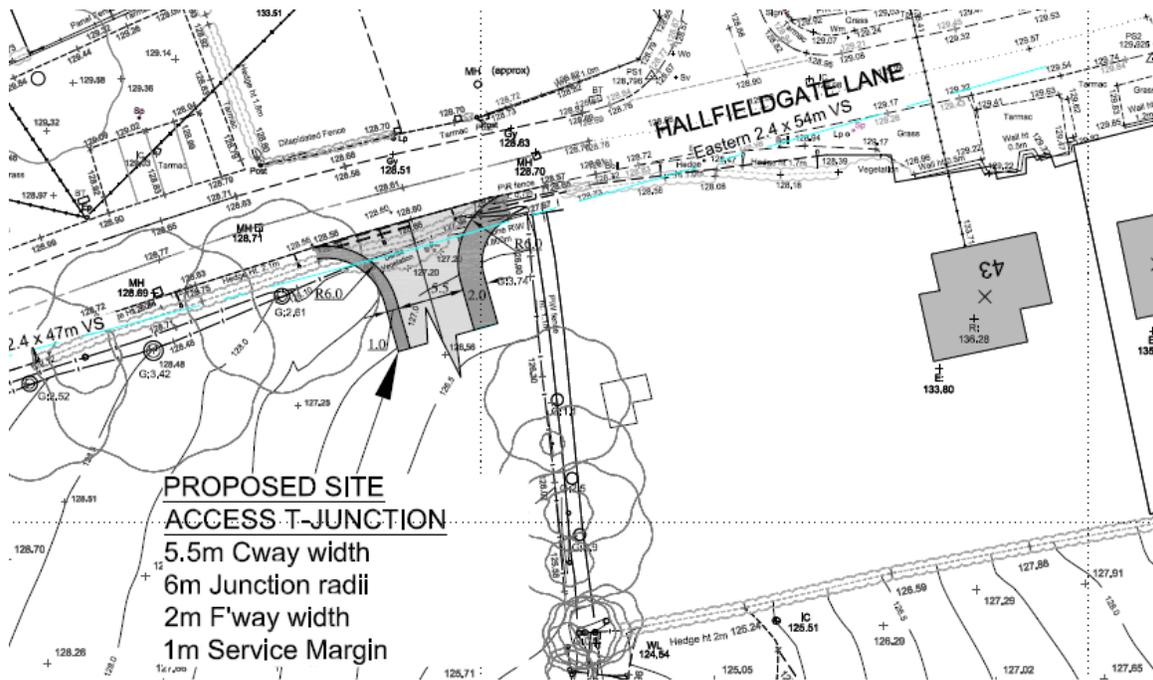


Figure 2: originally submitted new site access.

Amendments

- 2.8 The agent has submitted amended plans which includes an extension to the proposed eastern footway to tie-in with the existing footpath to the east on the south side of Hallfieldgate Lane, Shirland. (see fig 3 below).
- 2.9 Additional plans have also been submitted which include plan and section detail for the proposed site access, including the existing and proposed change in levels between Hallfieldgate Lane and land to the south.

Drawing No: 0703 Rev. P01 – Proposed Footway Improvement across frontage of Plot 43; and

Drawing No: 0705 Rev. P02 – Cross Sections and Long Section New Proposed Road.

Drawing No: 0720 Rev. P01 – Modified Site Access Visibility Splays

- 2.10 The proposed site access along part of its eastern side includes an indicative retaining wall which can be screened with landscape planting, where appropriate, and a minor realignment notably towards its southern end in order to maintain an appropriate stand-off from some trees along the field boundary along the western curtilage of No. 43. In addition, an indicative low level retaining wall is proposed to the south side of part of the new length of footway to the south of Hallfieldgate Lane and within the northern curtilage of No. 43.

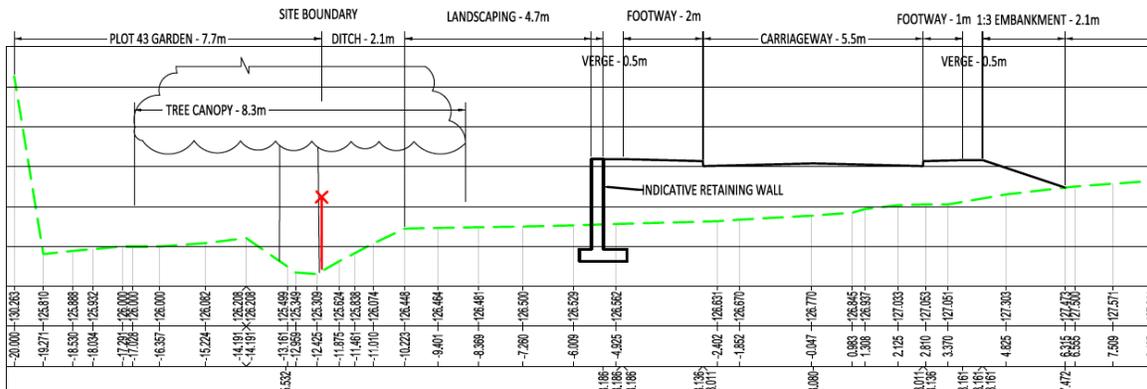


Figure 3: indicative cross section of the access road.

2.11 A third drawing shows the proposed site access visibility splays of 2.4m x 47m to the west and 2.4m x 54m to the east remain consistent with the details previously referred to in the Transport Assessment (see Fig 4 below).

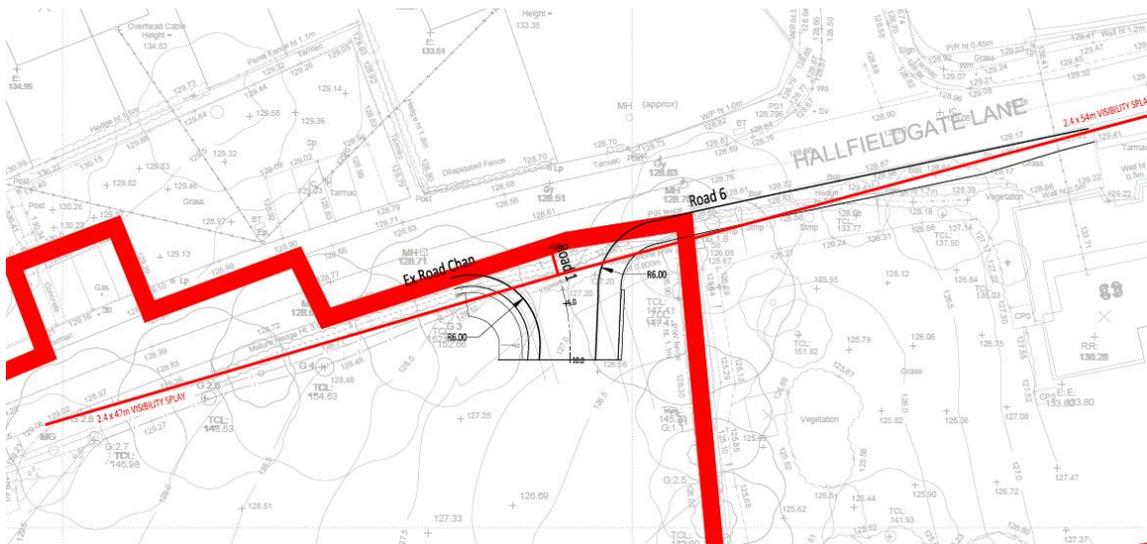


Figure 4: revised access details (0720-P03)

2.12 The agent has also submitted a separate full planning application, NED/22/00185/FL refers (see Fig 5 below), for a footway extension to the north side of this property (“No. 43 application”) which includes part of the garden, with boundary hedgerow, and some adjoining land within the public highway (primarily a grass verge).

2.13 Any planning permissions which may be granted for the No. 43 application and Section 73 application would be mutually compatible and enable the delivery of the revised site access for the proposed approved development and “mirror” conditions could be imposed on both decisions which require the revised site access to be installed in accordance with the approved details.

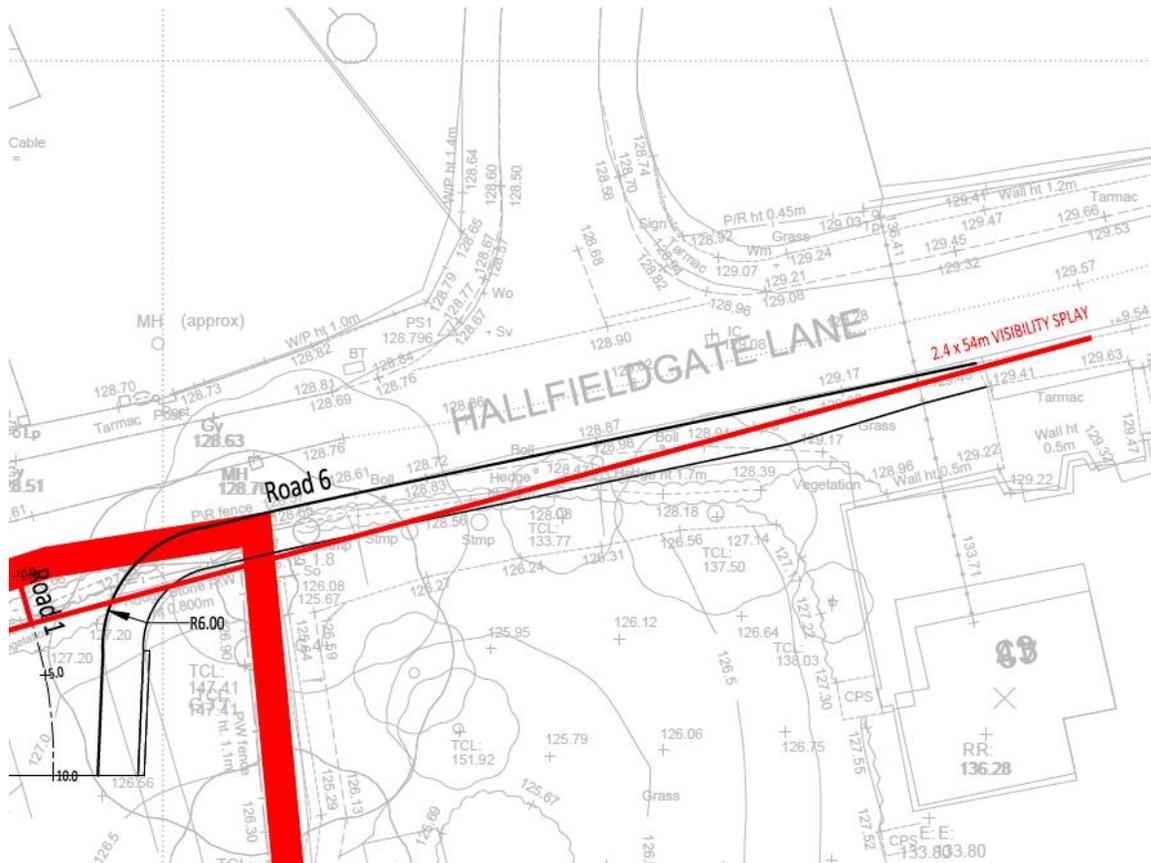


Figure 5: application plan for NED/22/0185/FL

3.0 Relevant Planning History

- 3.1 NED/19/00335/OL - Outline planning application for up to 90 dwellings and site access with all other matters reserved (apart from access) (Major development/Departure from Development Plan/Affecting Setting of Conservation Area). Application refused but subsequently allowed on appeal.
- 3.2 NED/22/00185/FL - Proposed footway extension to the north side of Hallfieldgate Lane, Shirland for Friar 2019 Ltd. Under consideration.

4.0 Consultation Responses

- 4.1 **Councillor Liggett** has called in the application for determination by planning committee due to the visibility of the site from various public viewpoints and concerns in relation to the proximity to the already overloaded access/entrance to Lilac Way and to the new Wheeldons development which is not mentioned in this application.
- 4.2 The **Parish Council** are concerned about the traffic, parking and visibility on Hallfieldgate Lane. The lane forms part of a bus route and the Parish Council are keen to know where the bus stop will be relocated to. The

Council would also like to know what alternative provision is to be made for the cars that currently park in this area.

- 4.3 The **Highway Authority** have commented that the amended plan addresses highway comments dated 16th December 2021. Accordingly, there are no highway objections to the proposed variation of conditions 4, 16 and 17 to planning approval 19/00335/OL.
- 4.4 The HA have been consulted on the additional section drawings and have commented that they have no objection to the variation of conditions. Regarding the previous legal agreement, the revised access location should negate the need for extending of the opposite parking spaces and bus stop relocation.
- 4.5 **Force Designing Out Crime Officer** has commented that the application seeks to vary plans in connection with site access only, for which there are no objections or comments to make.
- 4.6 **Chesterfield Royal Hospital** seek s106 contributions of £191,362 towards cost pressures.
- 4.7 The **Coal Authority** recommends that the LPA consider imposing a condition on any reissued consent to reflect the recommendation in the consultation response to the planning application and the content included in Section 52 of the Appeal Decision.
- 4.8 **Environmental Health Officers** have confirmed that they have no comments to make.
- 4.9 **Derbyshire Wildlife Trust** have commented that the new location of the access would not require any removal of trees and there are no objections to the proposals.
- 4.10 The **Lead Local Flood Authority** has commented that the LLFA did not set the conditions to be varied and the proposed changes will not require the alteration of any of those conditions on the appeal decision.
- 4.11 **NEDDC Parks Officers** have commented on the Illustrative Masterplan and that the proposed revised site access will have the effect of altering some of the open space land, by creating a strip of open space land to the west side of the first few properties as you enter the site.

Parks understand that the site is subject to a Unilateral Undertaking, not a S106 agreement, and it is my understanding the public open space would be maintained by a Management Company, and is not proposed to be adopted by the District Council. However, I would suggest that the developer doesn't position a new tree on the open space as indicated on the Illustrative Masterplan between the west boundary of the site and the

north-westernmost property, as it would seem to unsuitably close to the corner of the proposed dwelling.

5.0 Representations

5.1 Objections have been received from 6 local residents which have raised the following issues (in summary).

Highway impact

- The transport assessment is based on information dating back to 2011. The assessment does not take into account the planned increase in car journeys resulting from the development taking place to the North of Hallfieldgate or the planned developments on Park Lane to the east of the village.
- Two bus-stops are within the restricted area. Buses completely block all traffic four times each day.
- The location of the development is currently considered to be semi-rural. Why does the report not consider the agricultural traffic along the lane?
- The position of the new access road into the proposed development is in a much worse position than previously proposed. The new access road emerges much closer to the junction with Lilac Way on the North side of Hallfieldgate Lane
- This planning application adds 489 extra journeys each day onto an already hazardous route. (officer note: *the application does not increase the numbers of dwelling already approved on appeal*)
- safe access for all users cannot be provided due to the existing traffic conditions on Hallfieldgate Lane and B6013
- The transport assessment uses out-of-date information, completely ignores the impact of current development projects, predicts an increase in traffic based on inaccurate information and shows zero knowledge of the local conditions and hazards. The assessment completely ignores the fact that Hallfieldgate Lane is restricted to a single vehicle width along a significant length. Traffic flow is already restricted and visibility is poor along this section. The lane is completely blocked several times each day and therefore has zero traffic flow at these times.
- Easternmost mature tree has recently been removed complete. This tree would have completely blocked vision eastwards. There was no evidence of disease to the trunk or limbs on removal.
- A clear line of sight westwards is not possible from the proposed variation location due to the line of established and presumably protected trees.
- There is no existing access to the Golf course and consequently Pit Lane from the Field to the South of Hallfieldgate Lane.
- Important information contained within application form regarding visibility is incorrect, (officer note – *revised plans have been submitted which demonstrate achievable visibility splays*)

- Sections illustrating the levels across the proposed site entrance are vital in making such an important decision on road access in such a dangerous location. Both East to West and North to South. (*officer note: sections have been submitted*).
- The existing access road to Hallfield Farm will still exist, therefore creating even further problems as there will be two vehicular accesses emerging on to the lane at a dangerous point.
- It is critical that a new and comprehensive traffic survey is carried out before this application is determined.
- There have been several substantial changes to traffic volumes since the previous survey, carried out a number of years ago.

Matters relating to layout

- the layout of the road and driveways behind Number 19, 17, and 15 in terms of security and the previously circulated illustration of a much larger development linking up to a proposed new road to a new solar farm
- Loss of amenities has not satisfactorily been covered

Other matters

- Concerns raised around Severn Trent pumping works
- new revised site access (Major Development) is a totally change to the plans submitted
- The proposed amendments are too significant to warrant being treated as a variation

6.0 Relevant Policy and Strategic Context

6.1 The North East Derbyshire District Local Plan (2014-2034)

SS1 Sustainable Development
SS2 Spatial Strategy and the Distribution of Development
SS9 Development in the Countryside
LC 2 Affordable Housing
LC4 Type and Mix of Housing
SDC4 Biodiversity and Geodiversity
SDC11 Flood Risk and Drainage
SDC12 High Quality Design and Place Making
SDC13 Environmental Quality
SDC14 Land potentially affected by Contamination or Instability
ID3 Sustainable Travel
ID10 Open Space, Sports and Recreation facilities

National Planning Policy Framework

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

Other

Successful Places: A guide to Sustainable Housing Layout and Design

7.0 Planning Issues

- 7.1 This application seeks to vary planning conditions 4, 16 and 17 of planning approval NED/19/00335 in order to provide a revised site access for the proposed residential development.
- 7.2 The revised site access is located towards the north eastern corner of the western field within the application site, as shown edged red on the Location Plan, and as shown on drawing 0720-P04. The application is also accompanied by a Transport Assessment. The proposed site access, along with the western visibility splay and the majority of the eastern visibility would be delivered within the application site on land under the Applicant's control and highway land. Part of the eastern visibility splay extends outside the application site across the north west corner of the garden for No. 43 Hallfieldgate Lane. A separate planning application for a new footway and visibility splay has been submitted.

Section 73 Application

- 7.3 This application seeks a minor material amendment to the approved plans condition of the approved application under section 73 of the Town and Country Planning Act 1990. A Section 73 application cannot be used to change the description of the development. There is no statutory definition of 'minor material amendment' but it can include any amendment

where its scale and/or nature results in a development which is not substantially different from the one which has been approved

- 7.4 Comments have been received from residents regarding the changes requiring a new application for the whole development. On this issue the agent has submitted a Counsel opinion, and in response the planning Authority have also sought an independent legal opinion from Counsel.

Legal Opinion (Precis)

- 7.5 The original site access arrangement included a wider footpath to the eastern 'curve' of the bell mouth and the provision of tactile paving indicating a crossing point over Hallfieldgate Lane to the footpath on the northern side of the road. A similar arrangement is proposed in relation to the amended scheme. A separate application has been submitted for works to create a new footpath heading eastwards from the bell mouth along the south side of the road.
- 7.6 The revised access arrangement (i.e. not the new footpath) works all fall within the original red line for the permission (except for part of the eastern visibility splay which now cut across land owned by No 43). The proposed footpath works (including the creation of a new footpath along the southern side of the road using land owned by No 43) along with the remainder of the visibility splay fall within the separate application (Ref: NED/22/00185/FL).
- 7.7 Reference to the original planning application (Ref: NED/19/00335/OL) show that there was to be no new footpath created to the east of the site access but simply that tactile paving was to be installed, with the intention being that pedestrians simply cross the road and use the existing footpath which runs along the north side of it. The proposed scheme will allow for the existing footpath along the south side of Hallfieldgate Lane to connect into the Site without the need to cross the road. It does not appear to be the case that it was considered necessary for the development of the Site to be considered acceptable that such a link be provided.
- 7.8 A s73 application is an application "for planning permission for the development of land without complying with conditions subject to which a previous permission was granted" (s73(1)). When considering a s73 application the Local Planning Authority (LPA) "shall only consider the question of the conditions subject to which planning permission should be granted" (s73(2)). Upon such an application the LPA may grant planning permission subject to conditions "differing from those subject to which the previous permission was granted" or grant permission unconditionally (s73(2)(a)).
- 7.9 Firstly, s73 cannot be used to amend the description of development (described also as the 'operative' part of the permission). Secondly, in accepting an application to vary or remove conditions the LPA may not

approve conditions which are inconsistent with the description of the development.

- 7.10 In the present case, the description of development permitted is for the 90 residential units and "...site access". It is the conditions imposed upon the original permission which define where and how the site access will be delivered. An alteration to the site access condition(s) would not be inconsistent with the description (the 'operative' part of the permission).
- 7.11 Whilst the Planning Practice Guidance introduced the term 'minor material amendment', there is nothing in the section 73 itself which limits it to what are called "minor amendments". The decision-maker is required to look at the permission as a whole to ascertain whether the proposed change is 'fundamental' or seeks to change some specific part of the permission as granted.
- 7.12 The question is therefore whether or not moving the site access (the location and design of which is not specified in the operative part of the grant – the description) is so different that it could be categorised as a fundamental variation of the effect of the permission overall. It must be borne in mind that the effect of the permission overall, as granted, is for the erection of up to 90 dwellings and the provision of a site access.
- 7.13 On this issue, and weighing all the advice that has been submitted and received, Officers are of the view that the relocation of the site access is not a fundamental variation of the overall permission for 90 dwellings that was allowed on appeal and that the application can properly be determined as a s73 application. Detailed discussion of the application's merits follows below.

Principle of Development

- 7.14 The site benefits from an extant outline planning permission for up to 90 dwellings granted on appeal. The application site is a Greenfield site located outside of, although adjacent to, the settlement development limits for Shirland as identified in the Local Plan. Shirland is a level 2 settlement within the settlement hierarchy and considered to have a good level of sustainability. The development of the site would, therefore, conflict with the general policies of restraint in countryside areas as set out in the adopted Local Plan (policy SS9 specifically refers).
- 7.15 However, this is an application for a minor material amendment that does not seek to change the description of the development. As the planning permission granted on appeal remains extant, the principle of the development is therefore acceptable and the only issues needing consideration here are those impacts by the proposed changes and these relate to the access alone.

Highway issues

7.16 The original approved site access arrangement (see Fig 6 below) proposed a single priority junction onto Hallfieldgate Lane, utilising an existing private driveway, which is currently used for access to the offices referred to above. It included a wider footpath to the eastern 'curve' of the bell mouth and the provision of tactile paving indicating a crossing point over Hallfieldgate Lane to the footpath on the northern side of the road.

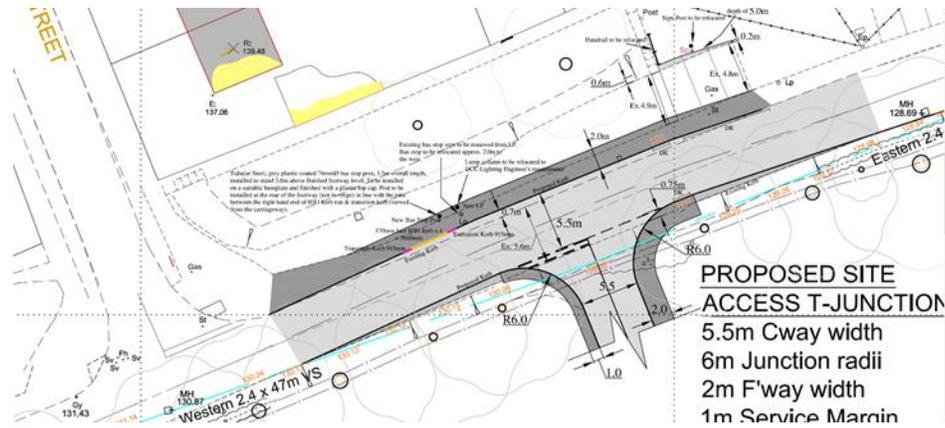


Figure 6: Approved site access

7.17 This application proposes a similar arrangement with the access located further to the east adjacent to no. 43 Hallfieldgate Lane (Fig 7 below). A separate application has been submitted for works to create a new footpath heading eastwards from the bell mouth along the southern side of the road. The revised access arrangement (i.e. not the new footpath) works all fall within the original red line for the permission (except for part of the eastern visibility splay which would now cut across land owned by No 43). The proposed footpath works along with the remainder of the visibility splay fall with the separate application (Ref: 22/00185/FL)

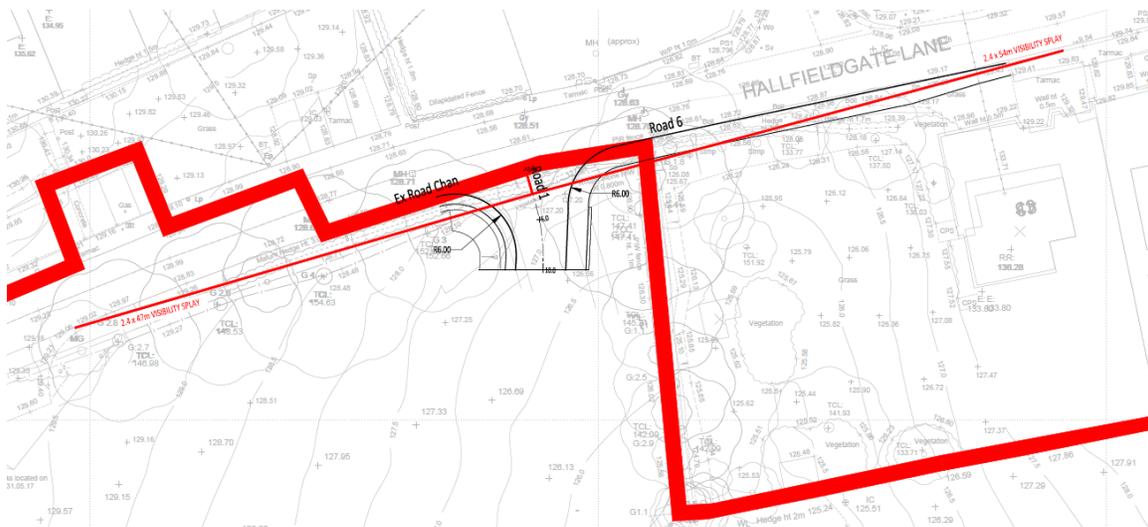


Figure 7: Proposed access and new footpath

- 7.18 The Highway Authority (HA) has been consulted on the revised access arrangements and have confirmed that they have no objections to the proposals from a highway safety perspective. The HA have also confirmed that the revised access location should negate the need for extending the opposite parking spaces and the bus stop relocation which formed part of the approved legal agreement. This would address the Parish Council concerns regarding the parking spaces and bus stop.
- 7.19 Following concerns raised regarding the change in levels at the point of the new access, the agent has submitted levels and cross sections of the new access and the new footway. The drawings include plans and section detail for the proposed site access, including the existing and proposed change in levels between Hallfieldgate Lane and land to the south. The proposed site access along part of its eastern side includes an indicative retaining wall which can be suitably screened with landscape planting and controlled by condition. In addition, an indicative low level retaining wall is proposed to the south side of part of the new length of footway to the south of Hallfieldgate Lane and within the northern curtilage of No. 43.
- 7.20 The submitted drawings demonstrate that a suitable access can be formed in this location. The internal road layout, landscaping and retaining wall within the site are detailed matters that would be properly addressed at the reserved matters stage which would cover landscaping, appearance, layout and scale. Only the site access is a matter to be considered under this application.
- 7.21 Concern has been raised in respect of some of the data that has informed the submitted Transport Assessment; and the necessity of a new and comprehensive traffic survey; however the Highway Authority have not raised any such concerns. As the application does not change the description of the development (i.e. 90 dwellings) the traffic generation would be identical to that previously considered and the impact on the highway would be the same as both the extant permission and this application propose a single point of access to the highway. Similarly no objection has been raised to the retention of the current access.
- 7.22 Concern has been raised by local residents regarding the highway implications of the development and the volume of traffic using Hallfieldgate Lane. The NPPF is clear in that it states 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. This matter has previously been considered by consultees and reviewed by the Inspector in allowing the appeal.
- 7.27 Therefore, in considering all the issues pertaining to Highway Safety, the comments of the HA are clear in stating that the scheme is wholly acceptable from a highway safety point of view and Officers concur with that assessment.

Impact on Heritage Assets

- 7.28 The application site lies to the east of the Hallfieldgate Conservation Area which consists of a former small rural hamlet with Hallfield Hall as the main focus. The relocated access would be sited further away from the conservation area boundary and therefore have a lesser impact than the approved location. The siting and design of dwellings would be addressed through the reserved matters application. On this issue Officers consider that the proposals would preserve the character of the conservation area.

Impact on the streetscene

- 7.29 The proposed site access would be between the boundary of no.43 and the row of trees that front the lane and which are protected by a TPO. The development would necessitate the removal of a section of hedgerow and some engineering works within the site to form the access (see fig 7 above). The formation of the footway in front of no.43 would necessitate the removal of a small section fronting the highway although the majority of these works lie within the highway grass verge. (see fig 8 below)



Figure 8: site access location



Figure 9: location of new footpath

7.30 Officers consider that removal of the hedgerow to form the new access, and the revised location of the access would not have a detrimental impact upon the character of the street in this location. In respect of no. 43 a new 1.2m high fence would replace the hedgerow above a retaining wall on the garden side. There are similar examples of low fencing to the frontage of properties in the vicinity of the site and this is considered to be acceptable. Details of the fence can be required by condition on application 22/00185/FL.

Effect on Neighbours

- 7.31 The property most likely impacted by the relocation of the access would be 43 Hallfieldgate Lane as the new access would be located closer to this properties boundary. However, it has a large side garden between the new access point and the existing dwelling. Whilst there may be some increased disturbance compared to the approved access officers do not consider that it would result in a significant or materially detrimental impact on this property or its privacy and amenity. The owners of the property would also need to be party to the legal agreement to maintain the visibility splays and have not raised any objections to the proposals. Otherwise, the impact on neighbouring properties of a new access is considered not materially different to the approved scheme.
- 7.32 The layout and design of the overall scheme are not to be determined at this stage. Therefore, it is at the reserved matters stage that any issues affecting the living conditions of adjacent residents from any new dwellings, such as privacy and noise, would be considered. Nonetheless, the illustrative plan shows that adequate separation distances between existing and new dwellings could be provided between existing and proposed houses.

Design and layout

- 7.33 This is an s73 application relating solely to the access. The layout and masterplan are indicative although Officers consider that the masterplan demonstrates some good design principles and has the potential to create an attractive place to live.

Other matters

- 7.34 The technical consultees have not raised any objections to the variation of conditions relating to the access. Conditions imposed by the Inspector will be re-imposed on any decision taken to grant this s73 permission and a s106 legal agreement would replace the Unilateral Undertaking submitted with the appeal. This would ensure the contributions towards educational provision and 20% affordable housing are carried forward.
- 7.35 The Council's Parks Officers have commented on the layout however the masterplan is indicative and matters such as landscaping and layout would be addressed through a reserved matters submission and are not for consideration under this application.
- 7.35 NHS Chesterfield Royal Hospital have requested a s106 contribution, however as the matters only being considered here are the site access; it's not appropriate to renegotiate the s106 contributions as the impact of the development on social infrastructure has already been considered by the Planning Inspector.

Ecology and Trees

- 7.36 In reaching the original appeal decision the inspector commented in respect of biodiversity that whilst the proposal would result in the development of open fields the illustrative plans indicated significant areas of open space and improved planting. These are matters that would be considered when the landscaping and layout are finally determined but the inspector was satisfied that the proposal has the potential to enhance the biodiversity of the site.
- 7.37 The Derbyshire Wildlife Trust (DWT) have been consulted on the revised proposals and have not raised an objection.
- 7.38 The access approved on appeal was to be formed in the existing gap between the row of TPO trees that front Hallfieldgate Lane where an existing access is already formed; whereas the new access would be located to the east of these trees. The new, now proposed, kerb edge would run under the canopy of one of the trees. However this was also the case with the approved access. The approved outline permission includes a condition requiring a detailed Tree Protection Plan to be submitted.
- 7.39 The Council's Tree Officer has commented on the current application that the creation of the existing access, that serves the existing dwelling and offices, has resulted in damage being sustained to some protected trees either side of it. The Tree Officer's view is that the widening of the access, as approved by the Inspector, will cause significant damage to both of the trees either side of that access. In his opinion this would be detrimental to those trees and should be avoided if at all possible. This being the case, the Tree Officer advises that the newly proposed access to the east of the TPO'd trees is the better option as whilst the new access appears to show it cutting through the RPA of one of the protected trees (and this would normally be avoided) this will have a lesser impact overall on the TPO trees. In view of the applicants permitted fallback of implementing the approved access, and most notably the advice of the Council's own Tree Officer, Officers consider that the impact on the tree is acceptable in this instance as it provides a better option than the applicant implementing the approved access..

8.0 Summary and Conclusion

- 8.1 This is an application for the variation of conditions which relate to the relocation of the access to serve an approved development of 90 dwellings. Officers are satisfied that the proposals can be dealt with as a Section 73 application rather than requiring a new outline application and have sought independent legal opinion on this point.

- 8.2 The Highway Authority have not raised an objection to the new access, and the proposals are considered to be acceptable in terms of their impact on the character of the area and the adjacent Conservation Area. The proposals would have some impact on the long term health of a TPO'd tree however this is considered to be preferable than the fall back of implementing the extant permission with an access that would have a greater impact on the TPO's trees. Officers attach considerable weight to this issue.
- 8.3 A s106 agreement would ensure that the contributions to education and affordable housing are carried over to this new permission.
- 8.4 Accordingly, as the extant permission remains live, despite the site lying outside the settlement development limit for Shirland, it is recommended that, subject to conditions, permission should be granted.

9.0 Recommendation

- 9.1 GRANT Full Planning Permission subject to the following conditions and section 106 agreement with Heads of Terms for this

Conditions

1. Details of the appearance, landscaping, layout, and scale, (hereinafter called "the reserved matters") shall be submitted to, and approved in writing by, the local planning authority before any development takes place and the development shall be carried out as approved
2. Application for approval of the reserved matters shall be made to the local planning authority not later than three years from the 22 January 2021.
3. The development hereby permitted shall take place not later than two years from the date of approval of the last of the reserved matters to be approved.
4. The development hereby permitted shall be carried out in accordance with the following approved plans: Site Location Plan Drawing No 07/1657/LP Rev N; and Modified Site Access Drawing No. 0720 revision P03.
5. No more than 90 dwellings shall be built on the site.
6. The details to be submitted to, and approved in writing by, the local planning authority as part of the landscaping reserved matters shall include a scheme for the delivery and future management and maintenance of all on-site open space, including a Landscape Management Plan and a timetable for implementation relative to the completion of the dwellings hereby approved. The approved scheme of open space shall be implemented in full in

accordance with the approved timetable, and shall be managed and maintained in accordance with the approved scheme thereafter

7. The details to be submitted to, and approved in writing by, the local planning authority as part of the appearance reserved matters shall include a scheme for mitigating climate change through sustainable design and construction of the dwellings. The dwellings shall be constructed in accordance with the approved climate change scheme.
8. No development shall take place until a detailed Tree Protection Plan, showing the positions, species and crown spread of trees to be retained within, and adjacent to, the application site together with measures for their protection for the duration of the works, has been submitted to, and approved in writing by, the local planning authority. The means of protection shall be installed in accordance with the approved scheme before any 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.
9. 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 and the survey report shall first have been submitted to, and approved in writing by, the local planning authority. If nesting birds are present, the report shall include details for an appropriate exclusion zone which will be implemented prior to the commencement of vegetation clearance and which shall remain in place until the chicks have fledged. No works shall be undertaken within the exclusion zone(s) whilst nesting birds are present.
10. No development above ground level shall take place until a Biodiversity Enhancement Plan has been submitted to, and approved in writing by, the local planning authority to achieve a net gain in biodiversity. The plan shall provide for (although shall not necessarily be limited to) the following measures and their ongoing management and maintenance all with timescales:
 - Integrated bat boxes in 25% of dwellings clearly shown on a plan (positions/specification/numbers);
 - Bird boxes (including swift boxes) in 25% of dwellings clearly shown on a plan (positions/specification/numbers);
 - Insect bricks in 10% of dwellings clearly shown on a plan (positions/specification/numbers);
 - Measures to maintain connectivity for hedgehogs clearly shown on a plan (fencing gaps 130mm x 130mm and/or railings and/or hedgerows); and
 - Summary of ecologically beneficial landscaping (full details to be shown in Landscape Plans).

Thereafter the measures shall be implemented, managed and maintained in accordance with the details and timescales as approved.

11. No development shall take place until drainage details for the disposal of foul sewage and a timetable for implementation have been submitted to, and approved in writing by, the local planning authority. The scheme shall be implemented in full and in accordance with the approved details and timetable and shall be retained as such thereafter.
12. No development shall take place until a detailed design and associated management and maintenance plan, with timescale(s), for the surface water drainage for the site, (including highways surface water) has been submitted to, and approved in writing by, the local planning authority. This shall be in accordance with the principles outlined within:
 - a. Land at Hallfieldgate Lane, Shirland, Derbyshire Flood Risk Assessment, (March 2019 by Armstrong Stokes & Clayton Ltd) and also including any subsequent amendments or updates to this document as approved by the Flood Risk Management Team; and
 - b. DEFRA's Non-statutory technical standards for sustainable drainage systems (March 2015).

The approved surface water drainage system shall be implemented in accordance with the approved detailed design prior to occupation of any dwelling and shall be retained, managed and maintained thereafter in accordance with the details and timescales approved.

13. No development shall take place until a detailed assessment has been provided to, and approved in writing by, the local planning authority to demonstrate that the proposed destination for surface water accords with the drainage hierarchy as set out in paragraph reference ID: 7-080-20150323 of the Planning Practice Guidance.
14. No development shall take place until a scheme has been submitted to, and approved in writing by, the local planning authority giving details for how surface water run-off from the site will be avoided during the construction phase. The details may include arrangements for collection, balancing and/or settlement systems for these flows. The approved system shall be implemented and operating before the commencement of any works which would lead to increased surface water run-off from the site during the construction phase.
15. No development shall take place until a construction management plan or construction method statement has been submitted to, and approved in writing by, the local planning authority. The approved plan/method statement shall be implemented prior to the commencement of any works and adhered to throughout the construction period. The statement shall provide for:
 - the parking of vehicles for site operatives and visitors;
 - routes for construction traffic, including abnormal loads/cranes etc;
 - hours of operation;

- methods for the prevention of debris being carried onto the highway;
 - pedestrian and cyclist protection; and
 - any proposed temporary traffic restrictions
16. No development shall take place until a temporary access for construction purposes has been provided to Hallfieldgate Lane, generally in accordance with Drawing No 0720 revision P03 and provided with visibility splays measuring 2.4m x 54.0m to the east and 2.4m x 47.0m to the west. The area in advance of the sightlines shall remain free from any obstructions to visibility over 1.0m high, relative to the nearside carriageway channel level, for the time over which the temporary access is in use. The temporary access shall be retained for the duration of the construction phase or until such time as it is replaced by the permanent access'.
17. No development above ground level shall take place until a detailed scheme of highway improvement works for the provision of a new estate street junction formed to Hallfieldgate Lane shall be submitted to, and approved in writing by, the Local Planning Authority. The scheme shall provide for: a minimum 5.5m carriageway, 2.0m footway and 1.0m margin; a maximum gradient of 1:30 for the first 15.0 and 1:20 beyond; visibility splays measuring 2.4m x 54.0m to the east and 2.4m x 47.0m to the west; and shall include highway works for the realignment of the carriageway and tactile crossing adjacent to the site, in accordance with submitted Drawing No. 0720 Revision P04, together with a programme for the implementation and completion of the works. The highway works shall be implemented in accordance with the details and programme as approved. The visibility splays shall thereafter be maintained free from obstruction over 1.0m high relative to the nearside carriageway channel level.
18. Within 28 days of the permanent access being constructed and brought into use any works comprised in the temporary access to Hallfieldgate Lane, not incorporated into the permanent access, shall be removed and the highway shall be reinstated in accordance with a scheme that shall first have been submitted to, and approved in writing by, the local planning authority.
19. The details to be submitted with the layout reserved matters shall include details of:
- The design and layout of internal roads which shall accord with the guidance contained in the "Manual for Streets" and Derbyshire County Council's residential design guide;
 - arrangements for the parking and manoeuvring of residents and visitors' vehicles, together with secure cycle parking;
 - suitable turning arrangements to enable service and delivery vehicles to turn; and
 - arrangements for bin storage and collection.

The development shall take place in accordance with the approved details.

20. Prior to the first occupation of any dwelling a Travel Plan shall have been submitted to, and approved in writing by, the local planning authority. The Travel Plan shall set out proposals (including a timetable), to promote travel by sustainable modes, and shall be implemented in accordance with the timetable set out therein. Reports demonstrating progress in promoting sustainable transport measures shall be submitted annually, on each anniversary of the date of the Travel Plan being approved, to the local planning authority for approval for a period of five years from the first occupation of the development.
21. No development shall take place until further works deemed necessary in the DAB Geotechnics Ltd report 'Phase 1 Contamination Assessment Proposed Residential Development of Land to the South of Hallfieldgate Lane Shirland (Ref: DABGeot/17005/Final; dated 4th March 2019)' have been undertaken by a competent person in accordance with good practice guidance for the investigation and assessment of land contamination; and a report of that investigation and assessment has been submitted to, and approved in writing by, the local planning authority.

Where the site investigation identifies unacceptable levels of contamination, no development shall take place until 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 and a timetable for implementation has been submitted to, and approved in writing by, the local planning authority. The scheme shall have regard to CLR 11 and other relevant current guidance and shall include a timetable for implementation. The 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 scheme shall be implemented in accordance with the details and timetable as approved. At least 14 days' written notice shall be given to the local planning authority prior to commencing works in connection with the remediation scheme and no dwellings shall be occupied until the approved remediation works have been carried out in full in compliance with the approved methodology and good practice guidance.

22. If during the construction associated with the development hereby approved any suspected areas of contamination are discovered, then all works shall be suspended until the nature and extent of the contamination is assessed and a report has been submitted to, and approved in writing by, the local planning authority. The local planning authority shall be notified as soon as is reasonably practicable following the discovery of any suspected areas of contamination. The suspect material shall be re-evaluated through the process described in the Phase I report (DAB Geotechnics Ltd 'Phase 1 Contamination Assessment Proposed Residential Development of Land to the South of Hallfieldgate Lane Shirland (Ref: DABGeot/17005/Final; dated 4th

March 2019)) submitted with the application and through the process described in condition 21 above. Upon completion of the remediation works a validation report prepared by a competent person shall be submitted to, and approved in writing by, the local planning authority before any particular dwelling is occupied. The validation report(s) 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.

23. No development shall take place until a Written Scheme of Investigation for archaeological work has been submitted to, and approved in writing by, the local planning authority, and until any pre-start element of the approved scheme has been completed to the written satisfaction of the local planning authority. The scheme shall include an assessment of significance and research questions; and
- 1) The programme and methodology of site investigation and recording;
 - 2) The programme for post investigation assessment;
 - 3) Provision to be made for analysis of the site investigation and recording;
 - 4) Provision to be made for publication and dissemination of the analysis and records of the site investigation;
 - 5) Provision to be made for archive deposition of the analysis and records of the site investigation; and
 - 6) Nomination of a competent person or persons/organisation to undertake the works set out within the Written Scheme of Investigation.

No development shall take place other than in accordance with the approved Archaeological Written Scheme of Investigation.

No dwelling shall be occupied until the site investigation and post investigation assessment has been completed in accordance with the programme set out in the Archaeological Written Scheme of Investigation and the provision to be made for analysis, publication and dissemination of results and archive deposition has been secured.

24. No development shall take place until a scheme to enhance and maximise employment and training opportunities during the construction stage of the development, including a timetable for implementation, has been submitted to, and approved in writing by, the local planning authority. The approved scheme shall then be implemented in full and in accordance with the approved details and timetable.