

PLANNING COMMITTEE

MINUTES OF MEETING HELD ON TUESDAY, 6 JUNE 2023

Present:

Councillor Lee Hartshorne - Chair
Councillor Tony Lacey – Vice-Chair

Councillor David Cheetham
Councillor Peter Elliott
Councillor Mark Foster
Councillor Kathy Rouse

Councillor Andrew Cooper
Councillor Stuart Fawcett
Councillor Heather Liggett

Also Present:

A Kirkham	Planning Manager - Development Management
P Slater	Principal Planning Officer
C Wilson	Senior Planning Officer
L Ingram	Legal Team Manager & Deputy Monitoring Officer
A Maher	Governance Manager
A Bond	Governance Officer
T Scott	Governance and Scrutiny Officer

PLA/ Chair's Announcements

**1/23-
24**

The Chair and Vice Chair of the Committee, Councillor L Hartshorne and Councillor T Lacey, welcomed new and returning Members to the meeting. They asked that the former Chair and Vice Chair of the Committee, Mrs Diana Ruff and Mr Alan Powell, be thanked for ensuring that all Members could make a valuable contribution to its meetings.

The Chair of the Committee stated that Applications NED/21/01472/FL and NED/21/01468/FL, would not be taken at today's meeting. The Applications were included at Item 5 and Item 6 on the Agenda. Members were informed that these Applications had been submitted by the Council and both sought permission for 'Amenity Land' sites to now be reallocated for use as additional parking spaces. He explained that as the new Administration intended to review the Council's Parking Strategy, it would not be appropriate for Committee to determine on these specific applications until the review had been completed.

PLA/ Apologies for Absence and Substitutions

**2/23-
24**

Apologies were received from Councillor D Hancock and from Councillor N Morley.

PLA/ Declarations of Interest

**3/23-
24**

None.

PLA/ Minutes of the Last Meeting

**4/23-
24**

The minutes of the meeting held on Tuesday 21 March 2023 were approved as a true record.

PLA/ NED/22/00886/OL - STONEBROOM

**5/23-
24**

The report to Committee explained that an Outline Planning Application had been submitted for a residential development of up to 30 dwellings, along with informal open space, the creation of public rights of way and other associated works, at land to the rear of 14 to 54 High Street, Stonebroom. The Application had been referred to Committee by Local Ward Member, Councillor C Cupit, who had raised concerns about it.

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

The proposed development would be located on a suitable site, identified for use as housing in the Local Plan. The developers had also agreed to make a financial contribution through a Section 106 Agreement (an agreement between the Council and developer to help offset the impact of a development on local infrastructure) towards education, a Traffic Regulation Order on High Street, health services at Chesterfield Hospital and open space enhancements, if the development was approved.

Officers contended that the development would accord with the relevant local and national planning policies. Although there were a range of technical matters, such as the presence of Japanese Knotweed on the site, these could be addressed by suitability worded conditions or informative notes. As there were no material issues that would outweigh its accordance with the development plan Officers recommended that the Committee should approve the Application.

Before the Committee considered the Application it heard from Councillor C Cupit, M Kimber, J Smith and A Cooper, who spoke against the Application. It also heard from S Ellis, who explained the position of Chesterfield Hospital in relation to its request for additional finance to offset the impact of the development on its services and the Agent, D Phillips, who spoke on behalf of the Application.

Committee considered the Application. It took into account the site's location within the Settlement Development Limit for Stonebroom and its allocation for housing in the Local Plan and the relevant Local and National Planning Policies. These included, Local Plan Policy LC1 setting out housing allocations in the District and Local Plan Policy SS2 on the distribution of development and the status of Stonebroom as a 'Level Two' settlement, with good levels of sustainability and Local Plan Policy ID1, on securing the infrastructure and other facilities required for development to proceed.

Members discussed the Application. They reflected on the contribution that the development would make to meeting housing needs in the District. They noted that a fifth of the new dwellings that would be classed as affordable housing and that this would be in line with Local Plan Policy LC2, requiring that major developments for housing should provide 20% of new dwellings as affordable

housing in those areas of the District, such as this, which were not high value locations.

Committee discussed the concerns which had been raised about flooding problems on the access to the site and the measures that would be put in place by the developers to combat this. Members also discussed from the Section 106 Agreement if the Application was approved. In this context, Members discussed the impact which the development would have on Chesterfield Hospital.

At the conclusion of the discussion Councillor D Cheetham and A Cooper moved and seconded a Motion to approve officer recommendations. The motion was put to the vote and was agreed.

RESOLVED

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

That approval be subject to the prior agreement of a 'Section 106 Agreement to address the issues identified in the report and to provide for 20% of the development to consist of Affordable Housing.

That the final wording of the Conditions and the Section 106 Agreement be delegated to the Planning Manager (Development Management) in Consultation with the Chair and Vice Chair of the Committee.

Conditions

- 1) Applications for approval of reserved matters are required before development can start and shall be made to the Local Planning Authority before the expiration of three years from the date of this permission. The development hereby permitted shall be started within two years from the date of approval of the last of the reserved matters to be approved.

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

- 2) Approval of the details of the layout, scale and appearance of the buildings and the landscaping of the site (called "the reserved matters") shall be obtained from the Local Planning Authority in writing before any development is started.

[Reason: The application is in outline only and not accompanied by detailed plans.]

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

- 226660-PD05 (Proposed Site Access (Pasture Lane) General Arrangement and Visibility Splay

- A1L (Location Plan)

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

Affordable Housing

- 4) Before development commences, a scheme for the provision of 20% affordable housing shall be submitted to and approved in writing by the Local Planning Authority. The affordable housing shall be provided in full in accordance with the approved scheme and shall meet the definition of affordable housing in the Glossary of the National Planning Policy Framework or any future guidance that replaces it. The scheme shall include:
 - i. Detailed breakdown of the tenure of all the units (by plot number);
 - ii. The arrangements for managing the affordable housing units by the RSL;
 - iii. The arrangements to ensure that such provision is affordable for both first and subsequent occupiers of the affordable housing; and
 - iv. The occupancy criteria to be used for determining the identity of occupiers of the affordable housing and the means by which such occupancy criteria shall be enforced.

[Reason: To comply with policy LC3 of the North East Derbyshire Local Plan.]

Construction Details

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

[Reason: In the interest of the character and appearance of the site and the surrounding scenic countryside setting.]

Landscaping

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

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

Employment

- 7) Before the development hereby approved commences, a scheme to enhance and maximise employment and training opportunities during the construction stage of the project, including a timetable for implementation, shall be submitted to and approved in writing by the Local Planning Authority. The approved scheme shall then be implemented in full in accordance with the approved timetable.

[Reason: In the interests of creating sustainable development in accordance with policy SS1 of the North East Derbyshire Local Plan and in the interest of the overarching aims of the Council.]

Public Art

- 8) Before above ground work commences, a scheme for the provision of public art on the site including a timetable for implementation of the scheme shall be submitted to and approved in writing by the Local Planning Authority. The public art shall thereafter be completed in full in accordance with the approved scheme and timetable and shall be retained as such thereafter.

[Reason: In the interests of providing public art.]

Climate Change

- 9) The details to be submitted to and approved in writing by the Local Planning Authority as part of any reserved matters shall include a scheme for mitigating climate change through the sustainable design and construction of the dwellings including the provision of sources of renewable energy. Thereafter the approved climate change scheme shall be implemented in full and retained as such thereafter.

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

Environmental Health

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

[Reason: in the interest of the amenity of neighbouring residents and air quality.]

- 11) Construction works on the site and deliveries to the site shall be undertaken only between the hours of 07:30 to 18:00 Monday to Friday

and 07.30 to 13:00 on Saturdays. There shall be no work undertaken on site or deliveries to the site on Sundays or bank/public holidays.

[Reason: In the interest of highway safety, the amenity of neighbouring residents and hotel guests.]

Land Contamination

- 12) If any unexpected, visibly contaminated, or odorous material is encountered during redevelopment (given any previous desk study, site investigation and/or remediation work), works shall cease and remediation proposals for the material shall be submitted to and agreed in writing by the Local Planning Authority. Thereafter the remediation works shall be implemented in full and works recommenced.

[Reason: To protect the environment and address any contamination issues.]

Ecology

- 13) Prior to the commencement of works (including clearance of grassland, refugia piles, hedgerow and scrub, groundworks or the introduction of machinery / materials to site) a Reptile Mitigation Strategy shall be submitted to the LPA to safeguard slow worm, grass snake and common amphibians, along with any other reptiles or amphibians encountered. This shall include reasonable avoidance measures and seasonal timings for habitat clearance. It shall specifically include a protocol for removal of the existing onsite pond. Instructions will be provided in the event any individuals are discovered. The Strategy shall also outline habitat creation onsite and detail opportunities for enhancements for reptiles. The Reptile Mitigation Strategy shall be implemented in full and a short statement of compliance submitted at the end of site clearance works.

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

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

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

- 15) A Landscape and Biodiversity Enhancement and Management Plan (LBEMP) shall be submitted to, and be approved in writing by, the LPA prior to the commencement of the development. The aim of the LBEMP is to provide details for the creation, enhancement and management of

habitats and species on the site post-development. Proposals shall achieve a net biodiversity gain and an up-to-date DEFRA metric shall be submitted with the final site layout and landscaping, for written agreement by the LPA. The LBEMP should combine both the ecology and landscape disciplines and shall be suitable to provide to the management body responsible for the site. It shall include the following:-

- a) Description and location of features to be retained, created, enhanced and managed, as per the approved biodiversity metric.
- b) Aims and objectives of management, in line with desired habitat conditions detailed in the metric.
- c) Appropriate management methods and practices to achieve aims and objectives.
- d) Prescriptions for management actions.
- e) Preparation of a work schedule (including a 30-year work plan capable of being rolled forward in perpetuity).
- f) Details of the body or organization responsible for implementation of the plan.
- g) A monitoring schedule to assess the success of the habitat creation and enhancement measures at intervals of 1, 2, 3, 4, 5, 10, 15, 20, 25 and 30 years.
- h) A set of remedial measures to be applied if conservation aims and objectives of the plan are not being met.
- i) Detailed habitat enhancements for wildlife, in line with British Standard BS 42021:2022.
- j) Details of offset gullies and drop kerbs in the road network to safeguard amphibians.
- k) Detailed specifications for open water habitats to provide biodiversity benefits.
- k) Requirement for a statement of compliance upon completion of planting and enhancement works.

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

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

Drainage

16) No development shall take place until a detailed design and associated management and maintenance plan of the surface water drainage for the site, in accordance with the principles outlined within:

- a. Flood Risk Statement and Surface Water Management Report, Issue Date: 28th February 2023, Revision C prepared by Mr Mark Symonds “including any subsequent amendments or updates to those documents as approved by the Flood Risk Management Team”;

b. And DEFRA's Non-statutory technical standards for sustainable drainage systems (March 2015),

have been submitted to and approved in writing by the Local Planning Authority.

[Reason: To ensure that the proposed development does not increase flood risk and that the principles of sustainable drainage are incorporated into this proposal, and sufficient detail of the construction, operation and maintenance/management of the sustainable drainage systems are provided to the Local Planning Authority, in advance of full planning consent being granted.]

- 17) Prior to commencement of the development, the applicant shall submit for approval to the Local Planning Authority (LPA) details indicating how additional surface water run-off from the site will be avoided during the construction phase. The applicant may be required to provide collection, balancing and/or settlement systems for these flows. The approved system shall be operating to the satisfaction of the LPA, before the commencement of any works, which would lead to increased surface water run-off from site during the construction phase.

[Reason: To ensure surface water is managed appropriately during the construction phase of the development, so as not to increase the flood risk to adjacent land/properties or occupied properties within the development.]

- 18) The attenuation pond should not be brought into use until such a time as it is fully designed and constructed in line with CIRIA SuDS manual C753 and an associated management and maintenance plan, in line with CIRIA SuDS Manual C753 is submitted to and approved in writing by the Local Planning Authority.

[Reason: To ensure that the proposed attenuation pond does not increase flood risk, that the principles of sustainable drainage are incorporated into the proposal, the system is operational prior to first use and that maintenance and management of the sustainable drainage systems is secured for the future.]

- 19) Prior to the first occupation of the development, a verification report carried out by a qualified drainage engineer must be submitted to and approved by the Local Planning Authority. This must demonstrate that the drainage system has been constructed as per the agreed scheme (or detail any minor variations), provide the details of any management company and state the national grid reference of any key drainage elements (surface water attenuation devices/areas, flow restriction devices and outfalls).

[Reason: To ensure that the drainage system is constructed to the national Non-statutory technical standards for sustainable drainage and CIRIA standards C753.]

Highway Safety

- 20) Before any other operations are commenced (excluding demolition/site clearance) a temporary access for construction purposes shall be formed in accordance with a detailed design first submitted to and approved in writing by the Local Planning Authority. The access shall be retained in accordance with the approved scheme throughout the construction period, or such other period of time as may be agreed in writing by the Local Planning free from any impediment to its designated use.
- 21) Before any other operations are commenced, a construction method statement shall be submitted to and be approved in writing by the Local Planning Authority. The agreed plan/statement shall be adhered to throughout the construction period. The construction method statement shall provide information about the storage of plant and materials, wheel washing facility, site accommodation, loading, unloading and manoeuvring of goods vehicles, parking and manoeuvring of employees and visitors vehicles during the construction period.
- 22) Before any other operations are commenced excluding conditions 1 and 2, a new permanent vehicular access shall be created to in accordance with the application drawing 226660-PD05, laid out, constructed and provided with visibility sightlines extending from a point 2.4m from the carriageway edge, measured along the centre line of the access, to the extremities of the site frontage abutting the highway in each direction. The land in advance of the sightlines shall be maintained in perpetuity clear of any object greater than 1m in height (0.6m in the case of vegetation) relative to the adjoining nearside carriageway channel level.
- 23) Before the commencement of any operations on site, a scheme for the disposal of highway surface water via a positive gravity-fed system, discharging to an outfall on public sewer, highway drain or watercourse, shall be submitted to and approved by the Local Planning Authority.
- 24) The premises, the subject of the application, shall not be occupied until space has been provided within the site curtilage for the parking, loading and unloading, manoeuvring of residents, visitors, service and delivery vehicles including secure/ covered cycle parking, located, designed, laid out and constructed all as agreed in writing with the Local Planning Authority and maintained throughout the life of the development free from any impediment to its designated use.
- 25) No part of the development shall be occupied until details of arrangements of the storage of refuse bins and collection of waste shall be submitted to and approved in writing by the Local Planning Authority. The development shall then be carried out in accordance with the approved details and the facilities retained for their designated purposes at all times thereafter.
- 26) Prior to any works exceeding demolition and site clearance,

construction details of the residential estate roads and footways (including layout, levels, gradients, surfacing and means of surface water drainage) shall be submitted to and approved in writing by the Local Planning Authority.

- 27) Before any other operations are commenced excluding conditions 20 and 21 above, the internal layout/internal design of the roads needs to be agreed as part of a subsequent Reserved Matters applications. The scheme of the internal layout must include information such as detailed design of internal roads, dimensioned plan, swept path assessments for refuse vehicle and fire tender vehicle, waste strategy management document, drainage proposal, dimension of carriageway and footways, road radii, turning head dimension, visibility splays at junctions, at driveways and garages, cross-corner visibility, forward visibility, pedestrian visibility etc. should be provided, all in accordance with current guidance in a manner be agreed in writing with the Local Planning Authority in consultation with the County Highway Authority.

[Reasons: In the interest of highway safety, all in accordance with Policies ID3 of the North East Derbyshire Local Plan.]

Informatives:

- a) DISCON
- b) NMA
- c) LLFA Advisory/Informative Notes. As per letter dated 12 April 2023.
- d) The proposed development lies within a coal mining area which may contain unrecorded coal mining related hazards. If any coal mining feature is encountered during development, this should be reported immediately to the Coal Authority on 0345 762 6848.

Further information is also available on the Coal Authority website at: www.gov.uk/coalauthority.

SUDs

It should be noted that where SUDs are proposed as part of the development scheme consideration will need to be given to the implications of this in relation to the stability and public safety risks posed by coal mining legacy. The developer should seek their own advice from a technically competent person to ensure that a proper assessment has been made of the potential interaction between hydrology, the proposed drainage system and ground stability, including the implications this may have for any mine workings which may be present beneath the site.

Mine Gas

It should be noted that wherever coal resources or coal mine features exist at shallow depth or at the surface, there is the potential for mine gases to exist. These risks should always be considered by the LPA. The Planning & Development team at the Coal Authority, in its role of statutory consultee in the planning process, only comments on gas issues if our data indicates that gas emissions have been recorded on

the site. However, the absence of such a comment should not be interpreted to imply that there are no gas risks present. Whether or not specific emissions have been noted by the Coal Authority, local planning authorities should seek their own technical advice on the gas hazards that may exist, and appropriate measures to be implemented, from technically competent personnel.

- e) Cadent Gas Ltd own and operate the gas infrastructure within the area of your development. There may be a legal interest (easements and other rights) in the land that restrict activity in proximity to Cadent assets in private land. The applicant must ensure that the proposed works do not infringe on legal rights of access and or restrictive covenants that exist.

If buildings or structures are proposed directly above the apparatus the development may only take place following diversion of the apparatus. The applicant should apply online to have apparatus diverted in advance of any works, by visiting cadentgas.com/diversions.

Prior to carrying out works, including the construction of access points, please register on www.linesearchbeforeudig.co.uk to submit details of the planned works for review, ensuring requirements are adhered to.

- f) Japanese Knotweed – The applicant should note that if invasive non-native plants are found on the development site, you must stop them from spreading and causing a nuisance or damage to other land or property. If you do not, you could be responsible for any damage they cause and may be prosecuted. For further information on this matter please visit <https://www.gov.uk/guidance/prevent-the-spread-of-harmful-invasive-and-non-native-plants>. Contact the Environment Agency if you want to:
- find out when you need a waste licence to dispose of waste;
 - complain about waste producers passing Japanese knotweed waste to waste carriers without telling them what it is.

For General enquiries contact:
National Customer Contact Centre
PO Box 544
Rotherham
S60 1BY

Email enquiries@environment-agency.gov.uk

Telephone 03708 506 506 (Monday to Friday, 8am to 6pm.)

- g) Ecological support - Please Derbyshire Wildlife Trust planning pages at <https://www.derbyshirewildlifetrust.org.uk/planning> for ecological advice on submitting a planning application, finding an ecological consultant and information on mitigation and enhancement.
- h) The application site is affected by a Public Right of Way (Footpath 07 on the Derbyshire Definitive Map). The route must remain unobstructed on its legal alignment at all times and the safety of the public using it must not be prejudiced either during or after development works take place. Further advice can be obtained by calling 01629 533190. Please note that the granting of planning permission is not consent to divert or obstruct a public right of way. If it is necessary to temporarily obstruct a

right of way to undertake development works then a temporary closure is obtainable from the County Council. Please contact 01629 533190 for further information and an application form. If a right of way is required to be permanently diverted then the Council that determines the planning application (The Planning Authority) has the necessary powers to make a diversion order. Any development insofar as it will permanently affect a public right of way must not commence until a diversion order (obtainable from the planning authority) has been confirmed. A temporary closure of the public right of way to facilitate public safety during the works may then be granted by the County Council. To avoid delays, where there is reasonable expectation that planning permission will be forthcoming, the proposals for any permanent stopping up or diversion of a public right of way can be considered concurrently with the application for proposed development rather than await the granting of permission.

- i) Pursuant to Section 38 and the Advance Payments Code of the Highways Act 1980, the proposed new estate roads should be laid out and constructed to adoptable standards and financially secured. Advice regarding the technical, legal, administrative and financial processes involved in Section 278 Agreements may be obtained from emailing development.implementation@derbyshire.gov.uk in Development Control at County Hall, Matlock (tel: 01629 538658). The applicant is advised to allow approximately 12 weeks in any programme of works to obtain a Section 278 Agreement.
- j) Pursuant to Section 278 of the Highways Act 1980 and the provisions of the Traffic Management Act 2004, no works may commence within the limits of the public highway without the formal written Agreement of the County Council as Highway Authority. It must be ensured that public transport services in the vicinity of the site are not adversely affected by the development works. Advice regarding the technical, legal, administrative and financial processes involved in Section 278 Agreements may be obtained from emailing development.implementation@derbyshire.gov.uk in Development Control at County Hall, Matlock (tel: 01629 538658). The applicant is advised to allow approximately 12 weeks in any programme of works to obtain a Section 278 Agreement.
- k) Pursuant to Sections 219/220 of the Highways Act 1980, relating to the Advance Payments Code, where development takes place fronting new estate streets the Highway Authority is obliged to serve notice on the developer, under the provisions of the Act, to financially secure the cost of bringing up the estate streets up to adoptable standards at some future date. This takes the form of a cash deposit equal to the calculated construction costs and may be held indefinitely. The developer normally discharges his obligations under this Act by producing a layout suitable for adoption and entering into an Agreement under Section 38 of the Highways Act 1980.
- l) Pursuant to Section 163 of the Highways Act 1980, where the site curtilages slopes down towards the public highway/new estate street, measures shall be taken to ensure that surface water run-off from within the site is not permitted to discharge across the footway margin. This usually takes the form of a dish channel or gully laid across the access immediately behind the back edge of the highway, discharging

- to a drain or soakaway within the site.
- m) Pursuant to Sections 149 and 151 of the Highways Act 1980, steps shall be taken to ensure that mud or other extraneous material is not carried out of the site and deposited on the public highway. Should such deposits occur, it is the applicant's responsibility to ensure that all reasonable steps (e.g. street sweeping) are taken to maintain the roads in the vicinity of the site to a satisfactory level of cleanliness.
- n) Highway surface water shall be disposed of via a positive, gravity fed system (i.e.; not pumped) discharging to an approved point of outfall (e.g. existing public sewer, highway drain or watercourse) to be sanctioned by the Water Authority (or their agent), Highway Authority or Environment Agency respectively. The use of soakaways for highway purposes is generally not sanctioned.
- o) The footpaths must remain open, unobstructed and on their precise legal alignment.
- There should be no disturbance to the path surface without prior authorisation from the Rights of Way Section.
 - There should be no encroachment of the path, and no fencing should be installed without consulting the Rights of Way Section.
 - The footpath width needs to be maintained at 2 metres. Any fencing needs to be installed outside of 1 metre from the precise centre of the legal line of the path.
 - As the proposals would result in additional vehicular traffic using the lane down which FP No. 7 runs, there is an increased risk to path users. The Rights of Way Section requires more information regarding any measures that the applicant intends to put in place to mitigate those risks.
 - Private rights must not derogate the public right to the footpath. Vehicles must give way to the public when using the right of way.
 - Consideration should be given to the safety of members of the public using the path during the works. A temporary closure of the footpath may be granted to facilitate public safety during the construction phase subject to certain conditions. Further information may be obtained by contacting the Rights of Way Section. The applicant should be made aware that at least 5 weeks' notice is required to process the closure and an alternative route should be provided if possible.
 - Finally, I would request that consideration is given to funding being provided to improve the paths linking to and surrounding the development which will receive increased use on completion of the development.
- p) The applicant should note the comments of the Councils Tree Officer dated 16 November 2022, particularly the officer recommends that to safeguard existing trees and hedges around the perimeter of the site, any future reserved matters application includes the following in accordance with BS5837:2012:
1. Tree survey to identify the quantity and value of existing trees and hedgerows including calculated RPAs
 2. Tree retention/removal plan (finalised) which clearly shows which trees are to be retained and which trees are proposed removed.
 3. Retained trees and RPAs shown on proposed layout
 4. Strategic hard and soft landscape design, including species and location of any new tree planting

5. Arboricultural impact assessment evaluating the extent of impact of the proposal on the existing trees
 6. Tree Protection Plan superimposed on a layout plan indicating the precise location of protective barriers and specification of temporary protective barriers
 7. Arboricultural method statement – heads of terms
 8. Details for all special engineering within RPA and other relevant construction details
- q) The applicant should note that Derbyshire County Council (DCC) operate the Digital Derbyshire Programme which helps provide access to high speed broadband services for residential and business users. You are encouraged to make enquiries with broadband providers in order to ensure that future occupants have access to sustainable communications infrastructure and that appropriate thought is given to the choice and availability of providers which can offer high speed data connections. Any new development should be served by a superfast broadband connection unless it can be demonstrated through consultation with the network providers that this would not be possible, practical or economically viable. More information on how to incorporate broadband services as part of the design of new development is available by following the link below: <https://www.gov.uk/government/publications/better-connected-a-practical-guide-to-utilities-for-home-builders>.
- r) Provision of bins.

PLA/ NED/23/00365/FL - CUTTHORPE

**6/23-
24**

The report to Committee explained that a Planning Application had been submitted for the installation of a Domestic Wind Turbine at Overholme Farm, Main Road, Cutthorpe. The Application was a resubmission of Application NED 22/00871/FL, which had previously been refused and involved Amended Plans. The Application had been referred to Committee by Local Ward Member, Councillor M Thacker MBE, who had raised issues about it.

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

Members were informed that under the National Planning Policy Framework the installation of wind turbines is only acceptable in areas specifically identified for them in the Development Plan. As the District does not have such designated areas and so permission could not be granted for the turbine and in any case, the proposal would be inappropriate development in the Green Belt, which would impact adversely on the openness of the Green Belt. Officers did not believe that there were any special circumstances to offset this harm and so recommended that the Application should be rejected.

Before the Committee considered the Application, it heard from J Robinson, the Applicant and D Catton, who both spoke in support of the Application. No one spoke against the Application.

Committee considered the Application. It took into account the Principle of Development and the site's location in the countryside, to the north of the defined

settlement of Cutthorpe. It also took into account the relevant planning policies, including Local Plan Policy SDC10, and the circumstances when proposals for renewable energy would be permitted and Paragraph 158 of the National Planning Policy Framework on the circumstances when new wind energy installations would be permissible.

Members discussed the Application. They reflected on the as yet unadopted Brampton Parish Neighbourhood Plan, which would support small scale proposals for renewable and low carbon installations. Some Members highlighted the different circumstances in which the installation of the turbine would be permitted. They felt that the Application should be approved, given the potential carbon reduction benefits. Some Members regretted that no areas for wind energy had been designated, but felt that until this had happened for this location the installation would contravene planning policy.

At the conclusion of the discussion, Councillor M Rouse and T Lacey moved and seconded a Motion to refuse the Application. The Motion was put to the vote and was agreed.

RESOLVED

That the Application is refused, in line with officer recommendations.

Reasons

- 1 Footnote 54 of the National Planning Policy Framework (NPPF) states that except for applications for the repowering of existing wind turbines, a proposed wind energy development involving one or more turbines should not be considered acceptable unless it is in an area identified as suitable for wind energy development in the development plan; and, following consultation, it can be demonstrated that the planning impacts identified by the affected local community have been fully addressed and the proposal has their backing.

Footnote 54 effectively precludes the installation of wind turbines in areas which are not identified in the development plan as being suitable for wind energy development.

In this case the development plan is the adopted North East Derbyshire Local Plan (2014-2034). The application site does not fall within an area identified as being suitable for wind energy development in the adopted North East Derbyshire Local Plan. Therefore, to grant permission for the proposed wind turbine would be contrary to the aims of the NPPF, specifically the requirements of Footnote 54.

- 2 The application site is located within the North East Derbyshire Green Belt. The construction of a wind turbine represents inappropriate development which is, by definition, harmful and it should not be approved except in very special circumstances.

The turbine would impact on the openness of the Green Belt and it is not considered there are any very special circumstances that outweigh the

harm caused.

As such the application is considered unacceptable and contrary to policy SS10 of the North East Derbyshire Local Plan and the policies of the National Planning Policy Framework when read as a whole.

PLA/ Planning Appeals - Lodged and Determined

**7/23-
24**

The report to Committee explained that two appeals had been allowed, one appeal had been dismissed and that four had been dismissed.

PLA/ Matters of Urgency

**8/23-
24**

None.