

## PLANNING COMMITTEE – 3 September 2024.

**REFERENCE NUMBER:** 23/00877/FL      Application Expiry Date: 20<sup>th</sup> September 2024

**Application Type:** Full Planning Permission

**Proposal Description:** Full application for the erection of 180 dwellings including formation of access and associated landscaping and infrastructure (Major Development)

**At:** Land North of Spindle Drive and East of Deerlands Road  
Wingerworth

**For:** Mr David Sheinman - Rippon Homes Ltd  
**Third Party Reps:** 155      **Parish:** Wingerworth  
   **Ward Name:** Wingerworth Ward

**Author of Report:** Case Officer Alice Lockett      **Date of Report:** 02/7/2024

### MAIN RECOMMENDATION: REFUSE



Figure 1 Location Plan

## **1.0 REASON FOR THE REPORT**

- 1.1 The Planning Manager considers that the scale of the application, the strategic level of development proposed and the site's location outside the settlement development limits of Wingerworth require this application being considered, and determined, by the Planning Committee.
- 1.2 The application has also been called into Planning Committee by Cllr Baker for the following reasons: I have significant concerns about this development and would recommend it is dealt with through the Planning Committee. I may have further comments when I have studied the proposals in more detail, but my initial observations are: That the proposal should be judged against the Local Plan and the Neighbourhood Plan. Just to keep adding more and more houses in Wingerworth without any uprating of the infrastructure, school places or other service provisions, seems to make no sense to me. Surface water run-off will be a major issue both during any site preparation, construction, and use of the site. Sadly, surface water run off was not dealt with properly at the Ankerbold Road development in Tupton and as a result there was flooding.

## **2.0 PROPOSAL AND BACKGROUND**

- 2.1 The application site (see Figure 2 below) comprises two fields located to the east of Hockley Lane and the north of Spindle Drive which leads eastwards from Deerlands Road at Wingerworth. The site would be accessed via and from Spindle Drive.



*Figure 2 photo taken from land to the north of the site, looking south west over the site towards Deerlands road and Spindle Drive*

- 2.2 The application site is approximately 7ha of pasture with associated hedgerows. A tributary of Tricket Brook runs in the ditch to the south of the site, forming the boundary with the public open space associated with the existing Spindle Drive development. This brook joins Tricket/Red Lead Mill Brook close to the southeast corner of the site. This area of land is located within flood zone 2 (of 3), however, no built development is proposed in this area, although an attenuation pond is intended to be constructed here.
- 2.3 The site is located outside the settlement development limits (SDL) for Wingerworth and so in the countryside for planning purposes. It is also located within a secondary Area of Multiple Environmental Sensitivity (AMES) comprising the most sensitive areas of landscape in North East Derbyshire (Para 8.18 of the Local Plan).
- 2.4 The site was granted outline planning permission for residential development in 2018 (ref: NED/17/00268/OL) (the application was allowed on appeal) with the reserved matters being approved in 2020 (ref: NED/20/00409/RM). The permission was not implemented as required and so the applicant is seeking consent once again for a duplicate of the previously approved scheme.

### 3.0 RELEVANT PLANNING HISTORY

17/00268/OL	Refused (Appeal Allowed)	Outline application (with all matters except access and scale reserved) for a residential development of up to 180 houses, public open space, landscaping, highway and drainage works and associated infrastructure with access taken from Deerlands Road (Major Development)(Departure from Development Plan)
17/00278/EIA	No EIA required	Screening opinion for 180 dwellings
20/00409/RM	Conditionally Approved	Reserved Matters application for 180 dwellings, including details of Layout, Appearance and Landscaping, pursuant to outline planning permission 17/00268/OL (Major Development / Departure from Development Plan) (Amended Plans/Additional information)

### 4.0 CONSULTATION RESPONSE

#### Wingerworth Parish Council

- 4.1 Object to the above application for the following reasons:
- (i) The application site lies outside of the Wingerworth settlement boundary. The Parish Council does not support additional allocations that are not

- identified in the Local Plan. This application, therefore, is contrary to Local Plan Policy LC1
- (ii) The Parish Council feels that Wingerworth has had more than its share of development in recent years. Further such development is unsustainable and contrary to Local Plan Policy SS1.
  - (iii) The application is contrary to Policy W2 in the Wingerworth Neighbourhood Plan as it would have an adverse impact on the local community, existing infrastructure and highway network.
  - (iv) The plans do not show the provision of bungalows within the types proposed. This is not reflective of the housing need in Wingerworth nor the requirements of older and disabled people. This is also contrary to Policy W4 in the Wingerworth Neighbourhood Plan.
  - (v) This is a greenfield site in the open countryside which is contrary to Local Plan Policy SS9. The site should be protected along with local wildlife and natural habitats.
  - (vi) Development on this scale would put further pressure on our local medical services and schools which are already overstretched.
  - (vii) The local highway network is already severely congested and beyond capacity. Traffic volumes along the A61 and Derby Road regularly result in long queues and congestion. Further development in the area would only exacerbate this.
  - (viii) The above point is of significant concern as the roads to and from Chesterfield Royal Hospital are often at a standstill, which make access problematic for emergency services and those needing urgent medical attention.
  - (ix) The Parish Council has concerns over vehicular access to the site which lies on a bend where visibility will be limited.
  - (x) The applicants propose to build a bridge over the brook to access the site but does not provide any detail about the type of bridge or its construction.
  - (xi) There is a large attenuation pond proposed on the site which will require a vast amount of work and funding to ensure it is regularly cleaned and maintained. The Parish Council questions who will be responsible for maintaining the pond and monitoring its condition.
  - (xii) The application refers to a storage tank underneath the attenuation pond which will release water run-off into the brook. The Parish Council is concerned that if this could lead to localised flooding if not managed properly. We trust that the above comments are helpful and will be taken into consideration.

## **DCC Highways**

- 4.2 Derbyshire County Council has no objection subject to conditions and financial obligations.

## **Environmental Health**

- 4.3 No objection to the proposals in principle, subject to conditions re: spread of airborne dust during construction, construction work hours, phase 1 contaminated land assessment, remediation and validation as appropriate.

## **NEDDC Housing**

- 4.4 The Strategic Housing Market Assessment OAN Update 2017 estimates that 172 additional units of affordable housing are required each year over the next five years to fully meet affordable housing need in the district.
- 4.5 The proposal for 40 percent of the units on this site to be for affordable housing would help to address the affordable housing need in the District. There is a demand for 2 and 3 bedroom houses and also for 2 bedroom bungalows and 1 bedroom accommodation. Due to the small amount of affordable housing in the area and the low number of Council owned properties, the preference would be for the properties to be offered as affordable rent tenure, including a smaller percentage being offered for affordable home ownership tenure.
- 4.6 The properties should be managed by a Housing Association or Registered Provider who have existing stock in the area, with nominations being made through the Council's Choice Move system.

## **Peak And Northern Footpaths Society**

- 4.7 No comments received.

## **The Ramblers Association**

- 4.8 Wingerworth FP 2, runs approximately north south on the western edge of the application site. Since no physical changes to the route or surface of the path are proposed there is no objection to the development as presented.
- 4.9 Express concern that a large tract of natural green land is to be lost to this proposed development. This area forms part of a "one-kilometre-wide belt of green land" at the edge of a major housing estate and it forms a buffer between the estate and the A61.

## **DCC Rights of Way Inspector**

- 4.10 Wingerworth Public Footpath No. 2 runs adjacent to the western boundary of the development site, along Hockley Lane. There is no objection to the proposals as the route will be ultimately unaffected by the proposed works.

- 4.11 The connection from the site to footpath 2 is welcomed.
- 4.12 Consideration should be given to funding being provided to improve the paths surrounding the development, in particular Footpath 2, which will receive increased use on completion of the development.

### **Chesterfield Cycle Campaign**

- 4.13 This development is unlikely to have many residents using sustainable methods of transport and will inevitably add to the congestion on local roads.
- 4.14 Cycling provision is minimal with the only references being a link onto Hockley Lane at the northwestern edge of the site but with no details of the width of this short section of shared path. To comply with LTN 1/20 this needs to be minimum 3m wide.
- 4.15 Reference is also made to cycling along Deerlands Road (30mph limit). This road probably forms a link between the development site and Deer Park Primary School but due to the amount of traffic on this road at school times it is very unlikely any parents will allow their child to cycle along here probably resulting in additional car traffic.
- 4.16 Older secondary school children will probably attend Tupton Secondary and are also unlikely to cycle because there is no direct access out of the site to the A61. There is a poorly maintained shared path alongside the A61 (less than 3m wide) but then no cycle provision from the A61 to Tupton school.
- 4.17 Reference is also made to the existing cycle infrastructure particularly the north south route through the Avenue site (east of the development site). There is a link route towards Wingerworth which crosses the A61 but requires cyclists to use a set of steps adjacent to the Hunloke Arms (recently built by a developer). Due to gradients, not being continuous and a very poor cycling surface on the north south route this is unlikely to attract commuting cyclists.
- 4.18 Conclude that the development does not comply with Active Travel England's Standing Advice para 2.12 'Moreover, all new or improved cycle routes need to be fully accessible. Cycling infrastructure should be provided on-site, while this and any new or improved off-site infrastructure to destinations such as schools, local centres, employment centres, railway stations and the existing cycling network should conform to the five Core Design Principles (coherent, direct, safe, comfortable and attractive),

separation requirements (Figure 4.1) and geometry requirements required by LTN 1/20' and so object to the application.

### **British Horse Society**

4.19 No comments received.

### **Environment Agency**

4.20 Make no comment as the development falls within flood zone 1 and there are no fluvial flood risk concerns associated with the site.

### **Yorkshire Water Services Ltd**

4.21 No objection subject to conditions to protect the local aquatic environment and Yorkshire Water infrastructure.

### **Derbyshire Wildlife Trust**

4.22 The application is not subject to mandatory 10% net gain, as it was submitted prior to 12th February 2024. However, there is still a requirement to achieve some level of gain, in line with the NPPF 2023.

4.23 The proposals are for 180 dwellings which will result in a heavily built-out site, albeit with some green space along the southern brook and a ribbon of green space running north-south. The nature of these spaces will be very different to their current state and less likely to be used by wildlife averse to human disturbance. A net loss of habitat for grass snake and foraging badgers will result. Welcome the retention of significant trees and the exclusion of many trees/treelines/hedges from private gardens. However, there will be a loss of at least 5 ha of semi-natural grassland available for local wildlife and acting as supporting habitat to the nearby Sutcliffe and Hanging Banks Woods LWS and ancient woodland. The nature of the established boundary habitats will also change and be far less suitable for farmland birds.

4.24 Whilst protected species constraints can be, to some extent, mitigated by good practice working measures, DWT advise that to achieve a meaningful net gain, revisions should be considered to provide a more meaningful buffer to the Brook and a detailed scheme of offsite habitat enhancement and creation should be secured. If possible, this should ideally be in the local area surrounding Sutcliffe and Hanging Banks Woods LWS, to secure the remainder of the land for biodiversity and ensure no further degradation of habitat. The BNG hierarchy should be evidenced, which requires onsite gains to be secured in the first instance, then gains in proximity to the site, with habitat banks and distanced offsetting schemes as a last resort.

- 4.25 Once a strategy to achieve net gain is in place, a Gain Plan will be required post-development.
- 4.26 If approved it is recommended that conditions are required to address the need for a CEMP, a Habitat Management and Monitoring Plan (HMMP) (onsite and potentially offsite) and a Lighting Strategy.

### **Derbyshire Swift Conservation Project**

- 4.27 We request that a condition is imposed to secure 180 internal swift nest bricks (1 brick per dwelling).

### **NEDDC Drainage**

- 4.28 No comments received.

### **Derbyshire Constabulary**

- 4.29 The submission detail is identical in most respects to that of consented application 20/00409, which was subject to a series of consultations and responses, leading to the final design. As such, there are no further comments to add for this application.

### **NEDDC Parks**

- 4.30 The proposed development would attract an estimated £185,423.93 of section 106 monies towards existing off-site provision with a 10 year maintenance fee of approximately £72,579.75, **or** an estimated £241,079.27 of section 106 monies towards new off-site provision with a 10 year maintenance fee of approximately £94,364.69 (based on Appendix D of the Local Plan).
- 4.31 The figures for new off-site provision is provided given that the plan indicates the developer is proposing a new on-site play area, and the figure will provide the value of provision expected on site.
- 4.32 The nearest existing facility to the proposed development is at Deer Park which is owned and maintained by Wingerworth Parish Council. This play area, or other nearby play areas, may benefit from additional/replacement equipment to increase the play value to local residents. An alternative, given the size of the development, is to seek the provision of on-site facilities as a Local Area for Play (LAP) and a Locally Equipped Area for Play (LEAP), along with a contribution to a Multi-Use Games Area (MUGA).



- 4.33 Request further consultation on the proposed provision and layout for the play area, particularly if the play area is proposed to be adopted by the Council. If the on-site play area is proposed to be adopted by the Council, this would attract the appropriate maintenance fees.
- 4.34 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, with a minimum two entrances, not in the direct vicinity of any pond, and not in a position overhung or overshadowed by trees.
- 4.35 Suggest metal equipment, but with regards any wooden equipment it should have metal feet. Ground conditions should be taken into account.
- 4.36 If the play area is proposed to be maintained by a Management Company, there should be clear signage and contact details provided.

### **NEDDC Streetscene**

- 4.37 Access is required for an RCV which has a GVW of 32t with a 22.8m turning circle, allowances should be made in the construction of highways for this vehicle and the need to consider its manoeuvrability.
- 4.38 There must be adequate off-street parking to allow full access for refuse collection vehicles, obstructions may lead to missed collections.
- 4.39 The Council will not access or cross any block paved, gravelled or any other un-adopted areas. Any properties located beyond these areas will have to present their bins at a nominated collection point.
- 4.40 The developer has included the locations of the proposed bin collection points on the planning layout. These are acceptable but the developer should ensure that they are large enough for all households to present their bins.
- 4.41 The developer may propose an alternative solution to ensure that the private/un-adopted road in question is of a suitable construction and is approved and signed off by the highway authority. This will be of a satisfactory standard to ensure that damage will not be incurred to vehicles and/or the road surface.

### **Derbyshire County Council - Flood Risk Team**

- 4.42 Raise queries that require addressing.

- 4.43 The hydraulic model is based on the current situation and does not include the proposed culverted access. The conclusions in the model report recommend a clear span bridge for access with a soffit 600 mm above 105.861m AOD (the modelled 100 yr + 30% flood level) whilst the proposals are for a 900mm culvert to facilitate access with an invert of 104.730 giving a soffit of 105.630 in addition to the restriction of the culvert. The proposals are not in line with the recommendations therefore no increase in flood risk, on and off site, needs to be demonstrated.
- 4.44 If the proposed culvert has a soffit of 105.630 this leaves 1.040 of cover to the road surface, a minimum of 1.200 cover or suitable protection will be required.
- 4.45 No areas of the site should be raised within the (up to) 1 in 100 +30% flood extents and if areas are raised within the 1 in 100 – 1 in 1000 (including plots 17 and 18) then it should be demonstrated that this will not increase flood risk elsewhere or to proposed properties.
- 4.46 It is noted that a range of SuDS features are proposed including swales yet the swales are not included on the landscape proposals.

### **The Coal Authority**

- 4.47 No objection to the proposed development subject to conditions.

### **DCC Planning (Infrastructure)**

- 4.48 The impact of the proposed development on school places requires mitigation.
- 4.49 The County Council requests (education) financial contributions as follows:
- £848,263.15 to expand Hunloke Park Primary School or alternatively be used towards the proposed new primary school at The Avenue, the planned site of which is within the Hunloke Park Primary School.
  - £1,522,139.50 towards educational facilities at Tupton Hall School.
  - £142,231.50 towards SEND places
- 4.50 The developer should look to provide for NGA broadband infrastructure services as an integral part of the development scheme at the outset.
- 4.51 No capital improvements to Wingerworth Library are required.
- 4.52 In this instance a stock only contribution of 12,684.96 is sought and is calculated as follows:
- 180 dwellings x 2.3 (average household size) = 414 people

- 414 people x 1.532 (stock level per person) = 634 stock items
- 634 (stock items) x £20 (cost per stock item) = **£12,684.96** (i.e. £70.47 per dwelling).

- 4.53 As affordable housing in this district is a key priority, support the provision of 40% affordable dwellings. Raise concern that not all dwellings meet national space standards, particularly the Loxley type dwelling which states it meets M4(2) standards: at 757 square feet but falls short of the 1001 square feet suggested by the national space standards.
- 4.54 Note that bungalows are to be omitted. Request a redesign of the 'Hudson' type dwelling so that half the units are on ground level only, effectively creating 'stacked' bungalows.
- 4.55 The density of the development would be lowered by the omission of the bungalows but request that the original density is retained and that any dwellings not meeting the national space standards are increased to do so to create a development which is 'safe, inclusive and accessible and which promotes health and well-being, with high standards of amenity and flexibility for existing and future users.'
- 4.56 Seek a monitoring fee towards the monitoring and reporting of S106 contributions. The fee requested is the cumulative number of triggers to be monitored for County Council obligations x £77.

#### **NEDDC Employment and Skills Officer**

- 4.57 No objections raised subject to the imposition of a condition for a scheme to enhance and maximise employment and training opportunities during the construction stage (and post construction stage) of the project.

#### **County Archaeologist**

- 4.58 The proposed development area lies some 350m to the south-west of pre-historic, Roman and early medieval (Anglo-Saxon) occupation at Hanging Banks, Wingerworth and is adjacent, to the south, of the former walled gardens of Wingerworth Hall. The site is on a south facing slope (from 110m to 98m aOD) overlooking the Redleadmill brook. Previous geophysical survey has proven inconclusive, it reflected various signal types ascribed to different origins and excluded the potential for buried archaeology on the site.
- 4.59 The Heritage Statement accompanying the application was produced in 2017 and so is out of date, its accompanying figures do not accurately reflect the proposed development area in relation to the current land-use or the historic mapping as the images are presented back to front. In the first

instance the figures for the HS should be amended and the document re-submitted to this office.

- 4.60 In terms of below ground archaeology, given the context of the site, there is the potential for hitherto unknown archaeology to be present and should you be minded to grant planning permission this potential should be addressed in Archaeology conditions.

#### **Severn Trent Water Ltd**

- 4.61 No comments received.

#### **Derbyshire Community Health Services NHS Trust**

- 4.62 Financial contribution of £162,000.00 is requested to enhance Wingerworth Medical Centre.

#### **Chesterfield Royal Hospital NHS Foundation Trust**

- 4.63 Section 106 request of £393,000.

#### **Active Travel**

- 4.64 Following a high-level review of the above planning consultation, Active Travel England has determined that standing advice should be issued and would encourage the local planning authority to consider this as part of its assessment of the application. Our standing advice can be found here: <https://www.gov.uk/government/publications/active-travel-england-sustainable-development-advice-notes>

### **5.0 REPRESENTATIONS**

- 5.1 Number of original neighbour notifications: **235**  
Total number of comments received: **157**  
Number of General Comments: **2**  
Number of Objection Comments: **155**  
Number of Support Comments: **0**

- 5.2 The raised comments are summarised as follows:

- (i) The site is not allocated, and it does not meet criteria to build on land outside the Settlement Development Limits (does not meet policies SS1, SS9, LC1 and LC3). The Council has an up-to-date Local Plan and a 5-year housing supply. Building should be on brownfield sites.
- (ii) Affordable housing need is already met in Wingerworth

(iii) No biodiversity survey submitted. Concern regarding impact on trees and biodiversity of the site including:

- Impact on nesting owls
- Bats, slow worms and deer

(iv) Concern re capacity of infrastructure including:

- Roads (congestion on surrounding roads)
- schools (including pupil spaces and parking) both primary schools are full.
- medical services including spaces at the local surgery and lack of dentist places.
- Sewage and water network (sewerage capacity on Deerlands Road)
- transport network, including public transport as there are poor bus services.

(v) Too many houses are proposed

(vi) Drains at Deerlands Road already overflowing.

(vii) The sewerage capacity is not sufficient so the proposal will fail to meet SDC11.

(viii) There is no provision for improvements to local infrastructure

(ix) Impact on the character of the area:

- Wingerworth has had its share of new development and the cumulative effect is a step too far.
- Development will replace a much enjoyed green space.
- The site is separated from the built form of Wingerworth by Hockley Lane and Trickett brook.
- Wingerworth will lose its village “feel”.
- Wingerworth is characterised by greenspaces, and this will result in the loss of one of those spaces.
- The development will result in sprawl.
- Loss of Public Open Space.
- Loss of green fields around Wingerworth that separate it from surrounding villages.
- The proposal will disrupt the tranquillity of our community.
- The proposal will harm the character of the countryside and fail to meet the requirements of SDC3.

(x) House types

The planning statement says there will be more bungalows, but this doesn't seem to be the case.

The mix of homes in the scheme is inappropriate, the area needs bungalows not 3,4 and 5 bed houses.

Proposed development is not affordable for local young people.

(xi) The site is not sustainable

- There are insufficient shopping areas in Wingerworth.
- Facilities are not within walking distance.

- No local employment resulting in a community which congests the highways.
- Access to the site for people with limited mobility will be challenging as public transport links too far away.
- Distance to the bus stops in not realistic
- Accessing cycle routes is not straightforward.
- Walking distances to services are not of “desirable” length.

*(Officer comment: This issue was discussed by the inspector in respect of the 2018 appeal)*

(x) Flooding

- Flood Risk will be increased as the site is a valuable sink for water.
- Surface water flooding

(xi) No net zero targets such as solar panels etc, buildings should be fossil fuel free with heat pumps etc.

(xi) Highways

- Single bridge road into the site will be risky.
- Pollution caused by increased traffic.
- More traffic will make the highway dangerous.
- There will be a further safety risk to pedestrians particularly children and the elderly.
- There have already been car accidents around the school- police have been attending schools at closing times.
- There is a blind bend on Deerlands which will be very unsafe with the proposed volume of traffic.
- Spindle Drive is not wide enough, refuse vehicles and rescue vehicles will not be able to access the site.

(xi) There are Coal mining risks.

(xiii) Light and noise pollution

(xiv) There will be disruption due to building works, where will construction workers park etc, there will be damage to roads caused by construction traffic, there is concern about using Nethermoor Road for construction traffic.

(xv) There will be disruption of building works which will affect the health and wellbeing of surrounding neighbours.

(xvi) There will be light and noise pollution from the construction.

(xvii) Development is for developer profit and council revenue.

(xviii) There has not been enough consultation with the local community.

(xix) Land on Spindle Drive is not being maintained

(xx) Council taxes are high because Wingerworth is a beautiful area.

(xxi) Development will affect property prices.

(xxii) Impact on BT infrastructure.

(xxiii) Increased flood risk lowers values of our homes/increases insurance premiums

(xxiv) Rippon are taking advantage of a national shortage of housing which is not reflected in this area.

(xxv) Road line of sight issues caused by illegally parked vehicles.

- (xxvi) Documents are too complicated to be understood by the public.
- (xxvii) Already had damage and disruption caused by Hockley Lane development.
- (xxviii) Views will be lost.

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

- 6.1 The Development Plan comprises the **Wingerworth Neighbourhood Plan (NP)** and the **North East Derbyshire Local Plan (LP)**. The most relevant policies in this case are as follows:

### 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  
WC4 Retail Hierarchy and Town Centre Uses  
WC5 Visitor Tourism Development  
SDC3 Landscape Character  
SDC4 Biodiversity and Geodiversity  
SDC11 Flood Risk and Drainage  
SDC12 High Quality Design and Place Making  
SDC14 Land potentially affected by Contamination or Instability  
ID3 Sustainable Travel  
ID4 New Social Infrastructure

### Wingerworth Neighbourhood Plan

W1: Wingerworth settlement development limit  
W2 Development in the Countryside  
W11 Heritage Assets  
W12 Design Principles  
W13 Biodiversity  
W14 Trees and Hedgerows  
W15 Important Views and Vistas  
W17 Highway safety  
W19 Enhancement of footpaths, cycle ways and bridleways

Other relevant policy documents include the Council's design guidance set out in "Successful Places". The National Planning Policy Framework (NPPF) has also been taken into account.

## 7.0 PLANNING ISSUES

### Policy Context - Background

- 7.1 The application site is located outside the SDL for Wingerworth (as set out in the Development Plan) and is therefore within the countryside for planning purposes. It is also within a secondary AMES.
- 7.2 The site is otherwise not allocated in the LP and LP policy SS1 states that in order to contribute to sustainable development, development proposal will meet development needs within defined settlements or other allocated areas whilst policy SS2 sets out that, whilst concentrating new housing on settlements such as Wingerworth, land outside SDLs will be treated as countryside where development will only be permitted in accord with policies SS1 and SS9.
- 7.3 Paragraph 82 of the NPPF states that in rural areas, planning policies and decisions should be responsive to local circumstances and support housing developments that reflect local needs. Paragraph 83 states that to promote sustainable development in rural areas, housing should be located where it will enhance or maintain the vitality of rural communities.
- 7.4 Policy SS9 of the LP supports development proposals in countryside locations outside the Settlement Development Limits where it can be demonstrated to fall within one or more of the following categories:
- a. It involves a replacement building for the same use and is not significantly larger than the building it replaces;
  - b. It involves the re-use of buildings and accords with policy SDC1;
  - c. It is necessary for the efficient or viable operation of agriculture, horticulture, forestry and other appropriate land based businesses, including the diversification of activities on an existing farm unit;
  - d. It involves small scale employment uses related to local farming, forestry, recreation, or tourism;
  - e. It involves new visitor accommodation, or extensions to existing visitor accommodation in accordance with Policies WC5 & WC6;
  - f. It involves the change of use, re-use, limited infilling or redevelopment of vacant, derelict or previously developed land which would not have a greater impact on the character of the countryside than the existing development;
  - g. It involves the use for a Traveller Site in accordance with Policy LC9;
  - h. It involves the provision, expansion, or improvement of social infrastructure and accords with policy ID4, or relates to a development which has a demonstrable community and/or social benefit;
  - or i. It is in accordance with the policies of an adopted Neighbourhood Plan.



- 7.5 Additionally, LP policy LC3 supports development proposals for affordable housing which would be contrary to Policy SS9 (Development in the Countryside) in certain circumstances.
- 7.6 LP policy SDC3 in respect of Landscape Character only supports proposals for development where they would not cause significant harm to the character, quality, distinctiveness or sensitivity of the landscape, or to important features or views, or other perceptual qualities such as tranquillity. Development proposals should be informed by, and be sympathetic to, the distinctive landscape areas identified in the Derbyshire Landscape Character Assessment and the Areas of Multiple Environmental Sensitivity (AMES), or any successor document(s), and contribute, where appropriate, to the conservation and enhancement, or restoration and re-creation of the local landscape taking into account its wider landscape character type.
- 7.7 Policy SDC12 requires that all new development should be of a high-quality design and make a positive contribution to the quality of the local environment. Proposals for development will only be permitted if they (inter alia): Respond positively to local character and context to preserve and, where possible, enhance the quality and local identity of existing communities and their surroundings; Include boundary treatments and landscaping which are well designed and create strong physical features which provide visual and functional separation from the site's surroundings. Where appropriate, effective landscape buffers will be required which create appropriate transition between urban and rural environments; Maintain or enhance important existing site features of landscape, ecological, heritage or amenity value as integral elements of the design.
- 7.8 Policy WC2 of the NP states that land outside the SDL will be treated as countryside where development proposals will be carefully controlled and limited to that which is appropriate in a rural location or supports thriving rural communities within it.

### **Assessment**

- 7.9 The SDL for Wingerworth follows the western and southern boundaries of the site. It, therefore, falls outside the settlement limits and is located within the countryside for planning purposes (see Figure 3 below).



*Figure 3 Photo taken from land to the north of the site looking west towards the boundary with the settlement formed by Hockley Lane*

- 7.10 Policies SS1, SS2 and SS9 of the LP only support housing development in the countryside where it makes use of previously developed land (in certain circumstances) or it is an affordable housing exception site.
- 7.11 In this case, the site comprises paddocks that intervene between the settlement and woodland to the east. It is not previously developed and so development of it for housing is not supported by planning policy.
- 7.12 Even if the site was considered to be PDL, as the site is currently undeveloped, the construction of housing on it would have a greater impact on the countryside and so it would fail the test set out in policy SS9 (1) (f).
- 7.13 Whilst the proposal proposes 40% affordable housing, this does not meet the thresholds set out in policy LC3 to secure development outside SDLs for affordable housing.
- 7.14 As a consequence, the proposal does not meet the requirements of policies SS1, SS2 and SS9 of the LP or policy WC2 of the NP and as such it is concluded that the principal of development on this site is not supported by planning policy.

### **2018 Appeal context**

- 7.15 Residential development on the site was approved (at appeal) in 2018 under a certain set of circumstances present at that time. The development has, however, not been implemented in accord with the consent granted. It is, therefore, no longer extant.

- 7.16 Subsequently, a new Local Plan has been adopted which does not allocate the site for housing or development. This alters the planning considerations for the site and, in addition, the Council can now demonstrate a 5-year housing land supply. Development should be determined in accord with Development Plan unless material matters indicate otherwise and, in this instance, residential development of the site falls contrary to the Development Plan,

### **Landscape and Design**

- 7.17 The Inspector in respect of the 2018 appeal concluded that the site is not a valued landscape in terms of the NPPF and the introduction of built form into the countryside beyond the settlement edge would cause limited harm to the character and appearance of the area and would therefore conflict with the relevant development plan policies. Since then, the LP has been adopted which refers to the Derbyshire Landscape Character Assessment (DLCA) and AMES.
- 7.18 Policy SDC3 supports proposals where they would not cause significant harm to the character, quality, distinctiveness, or sensitivity of the landscape, or to important features or views, or other perceptual qualities such as tranquillity and that development proposal should be informed by, and be sympathetic to, the DLCA and the AMES
- 7.19 The application site is located within the 'Wooded Farmlands' landscape character type of the Derbyshire Peak Fringe and Lower Derwent landscape character area. Key characteristics of this landscape type include: (i) undulating, intermediate landform, with gentle slopes; (ii) poorly draining soils over mudstone with localised sandstone and coal seams, (iii) scattered ancient woodlands and scattered hedgerow trees locally dense in places; (iv) small to medium irregular fields enclosed by mixed species hedgerows; (v) curving lanes with irregular verges; and scattered sandstone farmsteads and occasional hamlets'. The document describes the built environment in this landscape type as, 'The majority of historic buildings are constructed of local sandstone, roofed with Welsh or stone slates. Farmsteads and groups of cottages are dispersed throughout the landscape. The presence of coal in the area and the expansion of Chesterfield have contributed to widespread development of red brick housing. Of special interest is the development at Wingerworth, on the site of a former country house park, reflecting its former boundaries.'
- 7.20 As a collection of gentle sloping fields with hedgerow boundaries, the application site is a good example of the type of landform described. As discussed below, it is also considered to form the setting to a non-designated historic asset, Wingerworth Hall walled garden, and as such comprises a feature of existing value within the secondary AMES.



*Figure 4 view into the site from Spindle Drive*

- 7.21 The proposed layout, which mirrors that previously approved, displays some characteristics of good design in that it is outward facing to its west, south and east sides [but backs onto the countryside with gardens and close boarded fencing on the northern boundary], follows a broadly block structure, has a set back from Hockley Lane and links the open spaces within it, the house types are proposed to be finished in a variety of red bricks with brick and render detailing, the larger more prominent dwellings on the southern boundary will have sandstone corbel, heads and sills and form an entrance to the site, there is interesting open space throughout, and the prominent trees are celebrated. In addition, the dwellings along the northern boundary, whilst not bungalows, are smaller in scale to reflect the elevated part of the site.
- 7.22 However, there are a number of inconsistencies between the landscape drawings and the submitted arboricultural report making it difficult to understand what is actually proposed. There are also inconsistencies between these documents and the ecology report so it is not clear exactly how many trees would be lost, although using the documents submitted it appears that 22 trees would require removal due to the scheme layout of which 8 are category A2 or B2 (high quality) trees.
- 7.23 The Council's Landscape Architects have suggested that of the trees identified for removal:
- T78-B2 could be retained with minor adjustments to the attenuation basin. It is noted the outline approval sketch layout in the DAS appears to show the attenuation basin further way from the southern boundary of trees.
  - G5 2nr A2 trees could be retained with minor realignment of the footpaths.

- G7 2nr trees we assume are removed to facilitate highways requirements, which may be due to statutory layout requirements, though this should be tested and made clear. It is noted the outline approval sketch layout in the DAS appears to show the hammerhead turn further way from G7.
  - G4- C2 3nr Quercus Robur could be retained with the adjustment of the LEAP and associated access footpath. Note the LEAP does not have to be formed in a rectangle. It is noted the outline approval sketch layout in the DAS shows an indicative area of LEAP pulled away from these trees.
- 7.24 In addition, it is considered that there are opportunities to better design the public open space in the site to make more of trees and deliver more onsite biodiversity gains.
- 7.25 As a consequence, it is considered that the design could be improved to deliver better quality green space and lessen the impact of the proposal on the wider landscape.
- 7.26 Overall, the design mirrors that previously granted permission and it does offer some positive elements. There is concern over the relationship with the countryside (and the non-designated heritage asset - see assessment of heritage impact below) on the northern boundary and the site landscaping could be improved if the opportunity arose but bearing in mind the comments made by the appointed Inspector in 2017 and the previously consented scheme, Officers conclude that in this regard the development is acceptable despite the potential to be amended and improved as set out above.

### **Heritage Impact**

- 7.27 There are several sites within the setting of the application site that have entries on the Derbyshire Historic Environment Record (HER) and are shown on the map inserted below (Figure 5).
- 7.28 These include the walled garden of former Wingerworth Hall, off Hockley Lane, Wingerworth. (To the north-east boundary of the site) (map ref 1), The Garden House to the former Wingerworth Hall, (north-east of the site)(map ref 2), the Iron forge/red lead mill (site of), Hanging Banks, Wingerworth (east of the site) (map ref 3), findspot of Mesolithic flint flakes. (South-east of the site) (map ref 4), Wingerworth Park (site of), and (map ref 5) Bloomery (site of), Wingerworth Lido (West of the site) (map ref 6).



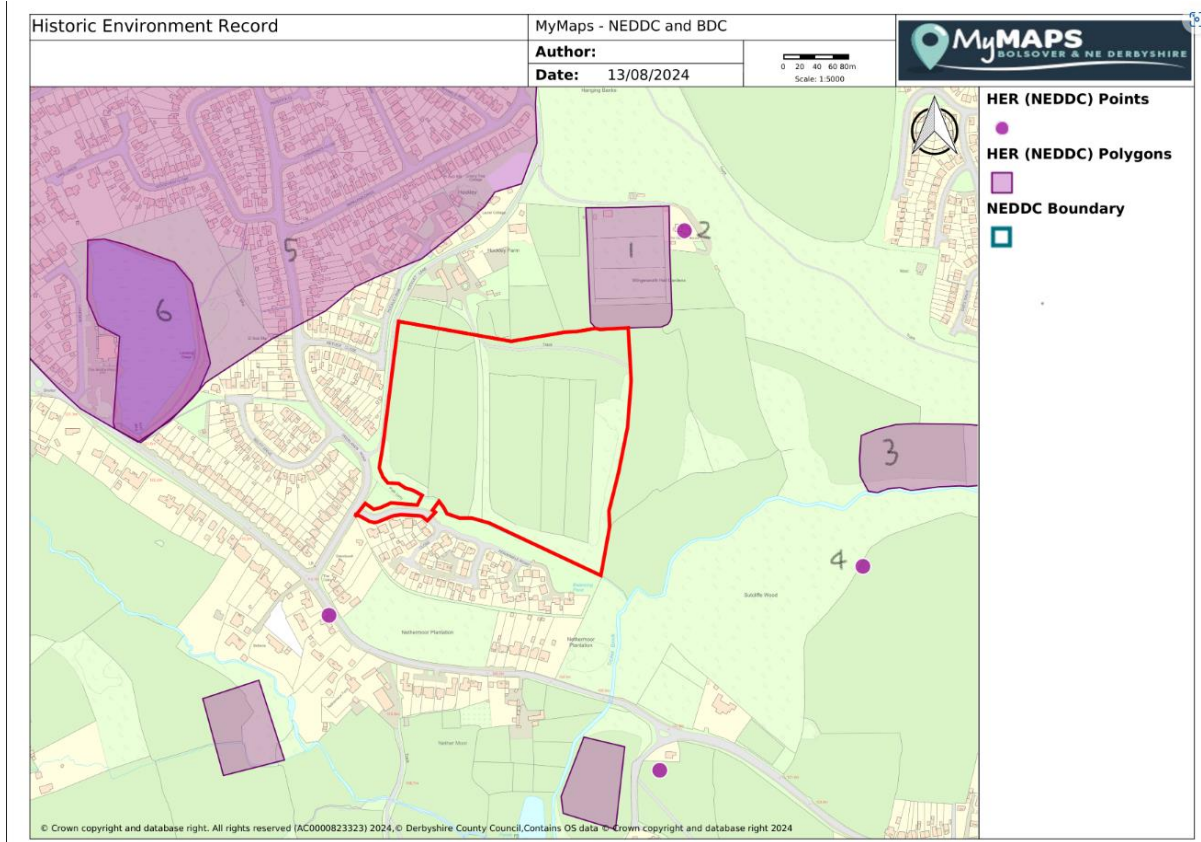


Figure 5 map Showing Historic Environment Records mentioned in the list above.

- 7.29 The walled kitchen garden to the former Wingerworth Hall is situated north-east of the application site (see Figure 6 below). The impact on the walled garden was not assessed as part of the 2018 application as it was added to the Heritage Environment Record in 2023.
- 7.30 It has aesthetic (architectural and artistic) value because of its planned design (form), materials and detailing and formed part of the landscaped grounds to the important country house of Wingerworth Hall.
- 7.31 The walled garden has group value along with the surviving historic structures that formed part of the grounds to, and were associated with, Wingerworth Hall. Several of these structures are listed buildings and include 238 and 240, Longedge Lane, the entrance gate-piers and attached walls adjacent to nos. 35 and 37 New Road, No. 1 Hockley Lane, the two western wings to the former Wingerworth Hall, and the pair of gate piers and linking wall to the west of Estate House.
- 7.32 The historical value of the walled garden is also derived from its age (its footprint is depicted on an 1835 map, and it may have earlier origins) and because of its association with the Hunloke family (past owners of the estate).

- 7.33 The Planning Practice Guidance: Historic Environment (para.39) defines a non-designated heritage asset as, 'buildings, monuments, sites, places, areas or landscapes identified by plan-making bodies as having a degree of heritage significance meriting consideration in planning decisions, but which do not meet the criteria for designated heritage assets. A substantial majority of buildings have little or no heritage significance and thus do not constitute heritage assets. Only a minority have enough heritage significance to merit identification as non-designated heritage assets.'
- 7.34 Historic England's Good Practice Advice in Planning: Managing Significance in Decision-Taking in the Historic Environment (2015) explains, 'Non-designated heritage assets include those that have been identified in a Historic Environment Record, in a local plan, through local listing or during the process of considering the application.'
- 7.35 Taking all this advice in the round, Officers are of the opinion that the historic walled kitchen garden, built as part of the Wingerworth Hall Estate, is a non-designated heritage asset because of the sum of the heritage values given above. The HER mapping records the asset abutting the northern edge of the study site, although the site visit and the historic map evidence reviewed below confirm that the southern side of the walled garden itself actually lies around 30m north of the study site boundary, with the intervening area originally forming a small orchard – but now cleared.
- 7.36 The land south of the walled kitchen gardens, formerly used as an orchard and closest to the application site, is likely to have been associated with the walled garden. This means that this parcel of land has historical association with the non-designated heritage asset and the grounds to the former Wingerworth Hall. Additionally, this area of land forms the immediate setting to the south side of the walled garden – a non-designated heritage asset.



Figure 6 Historic map (left) showing the Walled Garden, centre and comparison with current aerial photograph (right)

- 7.37 Although the application site might not contribute to the heritage significance of the former Wingerworth Hall parkland, the north-eastern section of the application site is within the setting of a historic walled kitchen garden (a non-designated heritage asset).
- 7.38 In this case, the development proposed is considered to have a negative impact on the setting of the walled kitchen garden because of its form, design, and detailing. In this respect it has less than substantial harm.
- 7.39 However, the public benefits of delivering a large amount of housing, 40% of which would be affordable, is noted and considered to outweigh the harm caused.

### **Affordable Housing**

- 7.40 The proposal includes provision for 40% of the units to be for affordable housing. This represents 72 dwellings (of those proposed) and mirrors that proposed by the 2018 scheme on which the appointed Inspector attached significant weight.
- 7.41 It is proposed that 18 of these would be for affordable rent with the remainder offered as shared ownership (it is expected that 18 of these would be delivered as First Homes in line with the NPPF).
- 7.42 The mix of affordable housing is predominantly two and three bed units with 4no. one bed and 3no. two bed affordable rent units and 8no. one bed and 2no. two bed shared ownership properties offered.
- 7.43 The Council currently has 90 individuals on the local connections list for placement in affordable housing in Wingerworth and Tupton. Recent permissions at The Avenue (Wingerworth Parish) and Ankerbold Road, Tupton will provide 106 units to be delivered over the next few years.
- 7.44 Council data on the bids for affordable housing in Wingerworth and Tupton show that the most popular property type sought are 2 bed dwellings and 1 and 2 bed ground floor flats (or bungalows).
- 7.45 No bungalows or flats are proposed on the application site and as set out above, the supply of one and two bed dwellings is limited.
- 7.46 It is apparent that there remains a high demand for social housing in North East Derbyshire as a whole and for smaller properties within Wingerworth and Tupton locally. However, the scheme, the subject of this application, is not catering for the local need with the current need already having been met in other local schemes.



7.47 In conclusion, on this issue it is considered that the level of affordable housing proposed carries limited weight in that scenario.

## **Flood Risk**

7.48 The far southeast corner of the site is located within flood zone 2 (FZ2) with the remainder being within Flood Zone 1 (FZ1) (see Figure 7 below). However, no physical residential development is proposed in FZ2. As such, it is considered that a sequential test is not necessary.



Figure 7: Map showing extent of Flood Zones 2 and 3 on the site.

7.49 Due to the size of the site a flood risk assessment was required and was submitted. The Local Lead Flood Authority commented and requested further information, particularly with regard to the management of water through the culvert under the access. No new information has subsequently been provided.

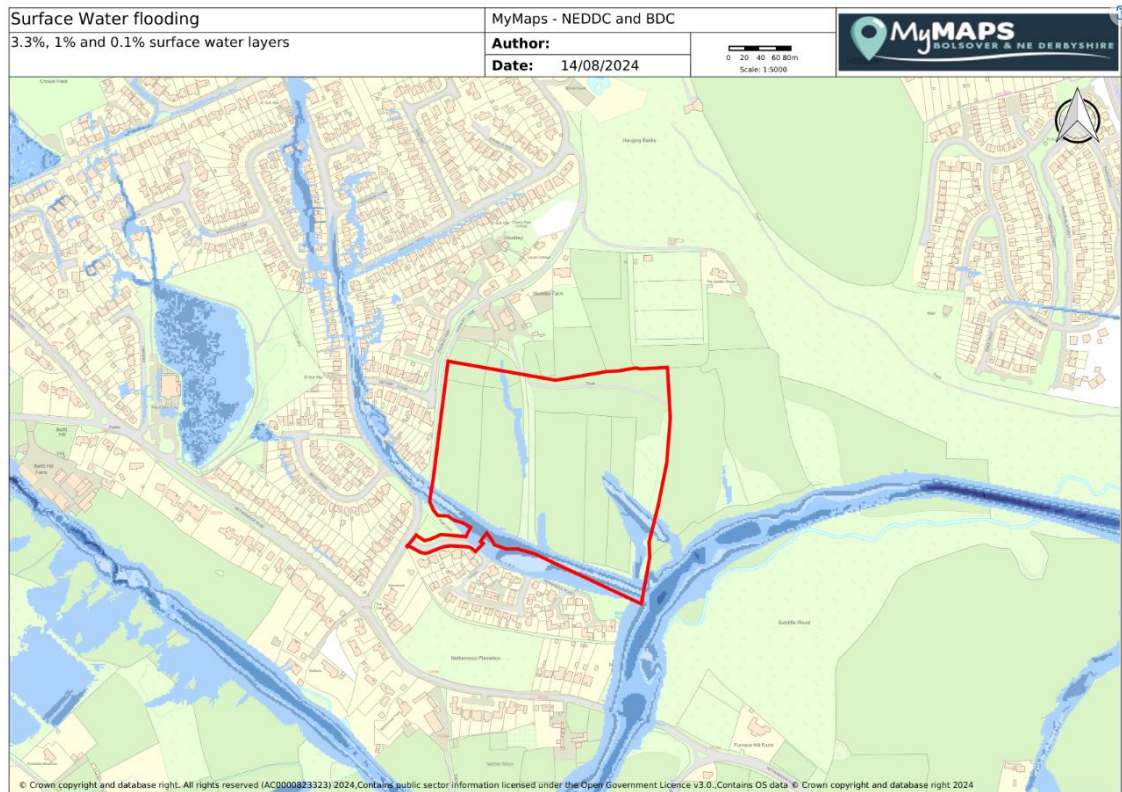


Figure 8 Plan showing the 3.3%, 1% and 0.1% chance surface water flooding.

7.50 As such, it is considered that insufficient evidence has been provided to make an accurate assessment of the flood risk posed by the development and so it fails to meet the requirements of LP policy SDC11 and the requirements of the NPPF. Notwithstanding that, such is the specific comment of the LLFA, related to the culvert, it is considered this matter could be addressed and overcome either by further discussion or a condition attached to any permission granted.

### **Coal Mining Risk**

7.51 The development site is in an area which is at high risk from coal mining legacy. The Coal Authority has confirmed that intrusive investigations will be required before development begins but that these could be secured by condition if permission was granted.

### **Biodiversity**

7.52 The application was submitted before the introduction of the statutory 10% Biodiversity net gain requirements. However, a net gain in biodiversity is required under paragraph 180(d) of the NPPF and policy SDC4 of the LP.

7.53 The submitted BNG metric shows that there will be a significant loss of - 16.74 habitat units (-37.56%) and -0.45 watercourse units (-10%).

- 7.54 Derbyshire Wildlife Trust (DWT) has commented that there are inaccuracies in the metric which means it is not possible to fully assess the impact of the proposal and DWT disagrees with the assessment that the site is of low strategic significance suggesting it should be given at least moderate strategic importance.
- 7.55 These inaccuracies need to be dealt with to get a true picture of the current biodiversity level of the site so that a suitable mitigation scheme can be delivered. No further information has been submitted to address the concerns expressed by the relevant consultee.
- 7.56 As a consequence of the above, it is considered that insufficient evidence has been submitted and the proposal therefore fails to meet the requirements of NPPF paragraph 180(d) and LP policy SDC4.

### **Planning Obligations**

- 7.57 In the submitted Planning Statement the applicant states that in addition to the provision of 40% affordable housing discussed above, they are willing to re-enter into a legal agreement similar to that concluded in respect of the outline application in 2017 to deliver full social mitigation.
- 7.58 The Planning Obligation requests that have been received in this case are as follows:

		with new parks provision	improve existing parks provision		
	<b>TOTAL</b>	<b>£3,494,826.07</b>	<b>£3,417,385.79</b>		
Organisation		amount			
DCC	Hunloke park primary	£848,263.15	£848,263.15		
DCC	Tupton Hall School	£1,522,139.50	£1,522,139.50		
DCC	SEND	£142,231.50	£142,231.50		
DCC	libraries	£12,684.96	£12,684.96		
DCC	monitoring fees	£77x cumulative number of triggers to be monitored			
CRH	total	£392,624.00	£392,624.00		
DCHS	total	£162,000.00	£162,000.00		
Parks have requested either	new provision	£241,079.27			
	maintenance	£94,364.69			
or					
	Improvement of existing provision		£185,423.93		
	maintenance		£72,579.75		
Formal sports sites (Policy ID10)	rugby provision capital	£4,026.00	£4,026.00		
	rugby provision lifecycle	£8,620.00	£8,620.00		
	3G at Tupton School	£11,117.00	£11,117.00		
	3G lifecycle costs	£3,960.00	£3,960.00		
	Changing rooms at deer park (football)	£24,265.00	£24,265.00		
	changing rooms at deer park (cricket)	£27,451.00	£27,451.00		

Figure 9: Table to show Planning Obligation requests.

- 7.59 The headings are broadly similar to those outlined in 2017 however the figures have changed (by time). The agent has been asked to confirm that the applicant accepts these figures, but confirmation has not been forthcoming.
- 7.60 With reference to the request from NEDDC Parks for play provision, a variety of figures depending on whether the applicant contributes towards enhancements of existing off-site provision or delivers an on-site play area have been provided. The submitted plans show an on site LEAP, but the level of equipment to be provided should be of an equivalent of approximately £241,000. If this is to be transferred to the council for maintenance a further contribution of approximately £94,000 would be required. This matter could be addressed through the section 106 mechanism and so be delivered.
- 7.61 In addition to the above, the Highway Authority has requested a contribution of £1900 per dwelling plus monitoring fees for improvements to the A61 corridor (this is the same as was agreed in 2017/18).
- 7.62 As the applicant has indicated a willingness to meet these requirements, it is considered that the social mitigation package could be secured as required for education, libraries, health, open space provision and highways.

### **Highways**

- 7.63 The Highway Authority have no objections to the scheme subject to conditions and financial obligations (see above).
- 7.64 As such, notwithstanding the comments made, it is concluded that there is no evidence to show that the proposed scheme would impact adversely on highway safety or the impact on the highway network would be severe, the test set out in the NPPF.

### **Other Matters**

- 7.65 There is discussion expressing concerns that the site is unsustainable. However, in the appeal determined in 2018 the inspector concluded that the site was within an acceptable distance from shops and other facilities. Officers do not consider there is any reason to defer from that conclusion.
- 7.66 There is no suggestion that the development would cause unacceptable light and noise pollution due to its close proximity to a built-up area.
- 7.67 There would be disturbance caused during any building operations. However, a condition restricting the hours that the site can be developed

could be imposed on any approval granted as could conditions to control matters such as noise and or dust.

7.68 There is no evidence to suggest that the new houses would unacceptably impact on the amenity of existing house owners due to the distance between the proposed and existing development which far exceed the parameters set out in the guidance document "Successful Places".

7.69 Issues of profit, consultation, the maintenance of other land, Council tax levels, property prices, BT infrastructure, house values, illegally parked vehicles and views are not matters material to the determination of planning applications.

## **8.0 SUMMARY AND CONCLUSIONS**

8.1 The application seeks consent for 180 dwellings. It mirrors a scheme that was approved in 2018/20. However, that scheme was not implemented and since then the policy background to the site, and so the application, has altered.

8.2 The site is located outside the SDL for Wingerworth as defined in the now adopted Local Plan and, notwithstanding that, the Council can also demonstrate a 5-year housing supply.

8.3 The site is located in the countryside where new development is strictly controlled. In view of these matters, the proposal fails to comply with the policy requirements of LP policies SS1, SS2 and SS9 and therefore the principle of development is not accepted. This weighs heavily against the scheme.

8.4 It is considered that the proposal will cause limited harm to the local landscape (a secondary AMES) and will also harm the setting of the Wingerworth Hall walled garden, a non-designated heritage asset. These factors also weigh against the scheme but could be improved through further negotiation and redesign. As such, whilst adding some weight against the scheme, they could be addressed and so are not considered of sufficient weight to refuse the application on.

8.5 The applicant has set out that the 40% affordable housing proposed is a major factor in its favour. The 40% affordable housing proposed is a positive element of the scheme but it is not a need identified in the local area nor of the type and nature of housing required more generally. As such, limited weight is attached to this aspect of the scheme.

8.6 Additionally, weighing against the scheme are the lack of detail submitted in respect of flooding and biodiversity. The issue of flood risk could be

addressed and so is not considered an area on which to refuse the scheme but the issue of biodiversity weighs against the scheme and is also considered sufficiently material to refuse the scheme on as it has not been found that an appropriate mitigation is proposed in the submitted scheme which also shows certain inconsistencies.

- 8.7 The other technical matters are neutral in the balance as it has been found that there are no substantive highway objections or amenity considerations of substance. The full social mitigation package [it is understood] would be met in full and so this is also a neutral factor merely offsetting the impact the development would have on the local infrastructure.
- 8.8 In conclusion, therefore, it is considered that the benefits of the proposal, namely the affordable housing proposed, does not outweigh the cumulative impact of the policy harm to the countryside and the harm caused to biodiversity.
- 8.9 As a consequence of the issues outlined above it is recommended that the application be refused.

## **9.0 RECOMMENDATION**

### **9.1 REFUSAL for the following reasons:**

- A. The application site is located outside the established settlement development limits for Wingerworth. The proposal fails to meet any of the exceptions as set out in policy SS9 of the Local Plan where development will be approved and, as such, the development is considered unacceptable in principle and contrary to policies SS1, SS2 and SS9 of the North East Derbyshire Local Plan, policy WC2 of Wingerworth Neighbourhood Plan and the National Planning Policy Framework when taken as a whole.
- B. The development would result in a net loss in biodiversity. There is no submitted scheme that has shown the loss can be adequately offset and so the proposal would adversely impact the biodiversity of the area. As such, the proposal is unacceptable and would adversely impact ecology and biodiversity contrary to policy SDC4 of the North East Derbyshire Local Plan and the requirements of the NPPF paragraph 180(d).