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File No: CHE/16/00614/OUT
Plot No: 2/1903

ITEM 1

OUTLINE PLANNING APPLICATION WITH ALL MATTERS EXCEPT ACCESS RESERVED FOR PROPOSED HOUSING DEVELOPMENT INCLUDING LAND ALLOCATED FOR A PRIMARY SCHOOL (ADDITIONAL INFORMATION RECEIVED - HERITAGE IMPACT ASSESSMENT AND GEOPHYSICAL SURVEY REC'D ON 19/04/2017; AND TRANSPORT ASSESSMENT ADDENDUM REC'D ON 02/05/2017) ON LAND TO THE NORTH WEST OF NORTHMOOR VIEW, BRIMINGTON, CHESTERFIELD, DERBYSHIRE FOR FG SISSONS (CHESTERFIELD) LTD.

Local Plan: Open Countryside / Other Open Land & Strategic Gap
Ward: Brimington South

1.0 CONSULTATIONS

Local Highways Authority	Comments received 22/09/2016 (referral), 24/11/2016, 24/11/2016, 30/06/2017 and 07/07/2017 – see report
CBC Strategic Planning Team	Comments received 03/11/2016 and 16/08/2017 – see report
Environmental Services	Comments received 10/10/2016 – see report
Design Services (Drainage)	Comments received 26/09/2016 – see report
Economic Development	No comments received
Housing Services	Comments received 13/10/2016 and 27/10/2016 – see report
Leisure Services	No comments received
Environment Agency	Comments received 22/09/2016 and 12/05/2017 – see report

Yorkshire Water Services	Comments received 17/10/2016 and 16/05/2017 – see report
Derbyshire Constabulary	Comments received 30/09/2016 – see report
DCC Strategic Planning Team	Comments received 12/10/2016, 30/11/2016, 02/02/2017 and 02/06/2017 - see report
Lead Local Flood Authority	Comments received 26/09/2016, 09/11/2016 and 17/05/2017 – see report
Chesterfield Cycle Campaign	No comments received
Coal Authority	Comments received 10/10/2016 and 22/05/2017 – see report
Tree Officer	No comments received
Conservation Officer	Comments received 23/11/2016 and 28/06/2017 – see report
Urban Design Officer	Comments received 07/11/2016 – see report
Derbyshire Wildlife Trust	Comments received 19/10/2016, 26/10/2016 and 02/06/2017 – see report
Derby & Derbyshire County Archaeologist	Comments received 07/10/2016 and 10/05/2017 - see report
CCG	Comments received 14/10/2016 and 09/11/2016 – see report
Brimington Parish Council	Comments received 17/10/2016 and 29/05/2017 – see report
Ward Members	Comments received as part of

	local residents campaign – see below
Site Notice / Neighbours	381 no. representations and a petition received containing 458 no. signatures

2.0 **THE SITE**

2.1 The site the subject of the application is located to the south of Chesterfield Road and to the west of Manor Road on the southern fringe of the settlement of Brimington centre.



2.2 The land is currently in agricultural use (grade 4) which extends to approximately 15.9ha in area. Levels of the site fall from north east to south west and the Tinker Sick watercourse runs along the southern boundary.

2.3 There is open land to the west, south west and south east of the site with housing development arranged along Chesterfield Road and Manor Road to the north and north east.

2.4 The Brimington Footpaths 16 and 17 traverse the application site running from Cotterhill Lane to Briar View; and from Northmoor View to Chesterfield Road respectively.

3.0 **RELEVANT SITE HISTORY**

3.1 CHE/1090/0760 – Erection of 8 no. bungalows on land adj to 76 Manor Road. Condition permission granted 15/02/1991.

4.0 **THE PROPOSAL**

4.1 The application submitted seeks outline planning permission for the erection of up to 300 dwellings (incorporating open space and landscaping) and a site 2 hectares in area for the provision of a new primary school. All matters except for means of access are reserved for approval at a later date. Access points are shown to be formed as both a continuation of Northmoor View (located off Manor Road) and as a new junction onto Chesterfield Road (A619) east of Briar View.

4.2 An illustrative Site Development Plan is provided for the purposes of setting the Design & Access Statement into context and this plan gives an illustration how the site might be laid out and the development formed.

4.3 The application submission is supported by the following plans / documents:

- Application Form
- C596.2 - Site Development Plan
- C596.3 - Site Location Plan
- 3834_OGL_1000 – Topographical Survey
- 3834_OGL_PLAN1 – Topographical Survey
- 3834_OGL_PLAN2 – Topographical Survey
- Planning Statement
- Design and Access Statement
- Transport Assessment inc. Technical Appendix (prepared by Northern Transport Planning (NTP) dated July 2016)
- NTP Response to Local Highways Authority 09/01/2017
- Ecological Appraisal (prepared by ECUS dated March 2016)
- Air Quality Assessment (prepared by Air Quality Consultants Ltd dated August 2016)
- Flood Risk Assessment, Surface Water Strategy and Sustainable Drainage Systems Assessment (prepared by CSG Consulting Engineers Ltd dated April 2016)
- Preliminary Risk Assessment (prepared by CSG Consulting Engineers Ltd dated April 2016)

Additional / Revised Information

- Indicative Surface Water Drainage Storage Calculations (prepared by CSG Consulting Engineers Ltd dated October 2016).
- Heritage Impact Assessment (prepared by Archaeological Research Ltd dated March 2017)
- Geophysical Survey (prepared by Archaeological Research Ltd dated March 2017)
- C596.2A - Site Development Plan (received 23/05/2017)
- Transport Assessment First Addendum inc. Technical Appendix (prepared by Northern Transport Planning (NTP) dated April 2017)
- Transport Assessment Second Addendum (prepared by Northern Transport Planning (NTP) dated April 2017)

5.0 **CONSIDERATIONS**

5.1 **Planning Policy Background**

5.1.1 The site the subject of the application is land allocated as Open Countryside / Other Open Land which is a protected allocation of Policy EVR2 from the 2006 Local Plan, which was saved alongside the adoption of the Chesterfield Local Plan: Core Strategy 2011 - 2031.

5.1.2 Having regard to the nature of the application proposals and the allocation above policies CS1 (Spatial Strategy), CS2 (Location of Development), CS3 (Presumption in favour of Sustainable Development), CS4 (Infrastructure Delivery), CS6 (Sustainable Design), CS7 (Management of the Water Cycle), CS8 (Environmental Quality), CS9 (Green Infrastructure and Biodiversity), CS10 (Flexibility in delivery of Housing), CS11 (Range of Housing), CS13 (Economic Growth), CS18 (Design), CS19 (Historic Environment) and CS20 (Demand for Travel) of the Core Strategy and the wider National Planning Policy Framework (NPPF) apply. In addition the Councils Supplementary Planning Document on Housing Layout and Design 'Successful Places' is also a material consideration.

5.2 **Principle of Development (Open Countryside, 5yr Housing Supply & Strategic Gap)**

- 5.2.1 The application is on a greenfield site within an area identified in the saved Replacement Chesterfield Borough Local Plan (2006) under policy EVR2 as Open Countryside. It is also in an area shown on the Core Strategy Key Diagram as being potentially affected by the Brimington and Tapton Strategic Gap. It is not allocated for housing development.
- 5.2.2 Policy CS10 of the Local Plan: Core Strategy states that: *“Planning permission for housing-led greenfield development will only be permitted if allocated land has been exhausted or if annual monitoring shows that there is less than a five year supply of deliverable sites...”*. The council’s latest Five Year Housing Supply statement, for the 2016/17 monitoring period, sets out that the council considers that it is able to demonstrate a supply of specific, deliverable housing sites sufficient for a five year period (plus a 20% buffer to take into account historic levels of under-delivery), when calculated using both the ‘Sedgefield’ and ‘Liverpool’ approaches.
- 5.2.3 In this position the full weight of policy CS10 applies and the application is clearly contrary to the adopted Local Plan policy.
- 5.2.4 Policy EVR2 states that *“within the areas of open countryside and other open land planning permission will only be granted for new development which is necessary for the needs of agriculture and forestry or is related to recreation tourism or other types of farm or rural diversification...”*. The proposed development would be contrary to this policy. Recent court judgements have given greater clarity to how the council should apply policies that pre-date the NPPF, taking into account the impact and the degree to which the policies accord with the NPPF. These have clarified that it is for the Local Planning Authority to determine the weight that should be given to such policies.
- 5.2.5 The NPPF recognises the “intrinsic character and beauty of the Countryside” (‘Core Planning Principles, para 17 page 5’) and that the planning system should contribute to and enhance the natural and local environment by “protecting and enhancing valued landscapes...” (‘Conserving and Enhancing the Natural Environment’, para 11, page 25). The value attributed locally to this landscape is demonstrated by the identification of an indicative Strategic Gap in the adopted Core Strategy and the draft allocation as a Strategic Gap in the consultation Local Plan published in

January 2017 (the issue of the weight to be given to the specific Strategic gap policy is set out below). The application is for a substantial expansion of the urban area into Open Countryside

- 5.2.6 The Core Strategy Key Diagram and policy CS1 indicate that there will be a Strategic Gap identified between Brimington and Tapton. Within the strategic gap policy CS9 applies and development that would harm the character and function of the strategic gap, that is:
- Maintain open land between neighboring settlements to prevent merging (perceptual and physical) and protect the setting and separate identity of settlements.
 - Support appreciation and wider perceptual benefits of open countryside.
 - Maintain existing or influence form and direction of settlements.
- 5.2.7 A draft boundary of this Strategic Gap was published as part of the consultation on Sites and Boundaries Issues and Options in November 2012, and was also the subject of an assessment undertaken by ARUP in 2016 in support of the preparation of the new Local Plan. The draft Local Plan, published for consultation in January 2017, includes the application site as part of the proposed Strategic Gap. Whilst the specific allocated boundary has not been tested through a Local Plan examination, the broad location of the gap has been (as part of the examination of the adopted Core Strategy and therefore a precautionary approach should be taken and the impact of the development on the openness of the countryside in this location and the separation between settlements should be taken into account.
- 5.2.8 Policy CS2 deals with the location of development and sets out tests under which locations that are not in strict accordance with the Local Plan may be permitted, namely where the proposed use:
- Needs to be in a specific location in order to serve a local need, access specific resources or facilities or make functional links to other uses; or
 - Is required to regenerate sites and location that could not otherwise be addressed
- Neither exemption applies in this case.
- 5.2.9 The principle of housing development on this land would be contrary to Local Plan policies CS1 (location of Strategic Gaps), CS10, CS9 (harming the character and function of the Strategic

Gap) CS2 and EVR2 and this is a fundamental objection to the development of this site as proposed.

5.3 **Design and Appearance (including. neighbour representations)**

5.3.1 The application submission is accompanied by a Design and Access Statement which has been considered alongside the indicative Site Development Plan having regard to design and appearance consideration including neighbouring amenity.

5.3.2 Given that the application submission is outline in nature consideration of design and appearance issues is limited to principles and parameters; as any outline permission granted would need to be the subject of further reserved matters consideration concerning appearance, landscaping, layout and scale.

5.3.3 With the above context in mind, the Council's **Urban Design Officer** (UDO) reviewed the application submission, providing the following comments:

Use

The site is currently open countryside and lies outside the built up area of Brimington, where new development is normally strictly controlled. Any proposals for residential development should be viewed against need to take into account the current 5 year housing supply position.

Notwithstanding the acceptability of the principle of development on greenfield land, the northern edge of the site is located within 300m of the centre of the Brimington as the crow flies and could be considered to represent a sustainable location in respect of proximity to services and local amenities. The centre of the site is within 575m and the southern extent approximately 830m. The most direct routes measure approximately 430m and 480m respectively, following actual walking routes to the edge of the development, although one route is via a poorly overlooked footpath. Nevertheless, overall, a large part of the site would be located within a 10 minute walk or less, of Brimington village. However, the steep topography of the site and the need to cross busy roads (Chesterfield Road and Hall Road) would be likely to

discourage some local trips that could be undertaken on by foot or by bicycle.

Amount

The total site area measures 15.90 hectares, of which 2 hectares is identified for use as a new primary school. The submission proposes 300 dwellings on the remaining 13.90 hectares which would equate to a density of 22 dwellings per hectare. This represents a relatively low density, although the need for the provision of open spaces and SUDS drainage measures are likely to concentrate the amount of housing into development parcels which focus the development into areas of higher density. This is implied on the submitted Site Development Plan and the DAS refers to a density of 26dph as being in keeping with the established density of development in the adjoining area.

The DAS also indicates the use of different densities, with lower densities used on the edges of the site and higher densities in the centre in order to achieve a more open character against the countryside. This concept is supported in principle although the proposed densities required to achieve this are not defined, nor reflected on the illustrative Site Development Plan drawing.

Layout

Layout is a reserved matter, although the submission is supported by an illustrative Site Development Plan. However, this is not underpinned by a site appraisal to assess the site constraints and opportunities. Whilst the illustrative layout indicates 'soft' edges and outward facing development against the countryside, in line with guidance contained within the residential design SPD (Successful Places, 2013) other considerations are less well resolved.

Significant features of the site are its countryside setting, its elevated position and far reaching views, areas of steep topography and its relationship to nearby heritage assets. Some of these characteristics do not appear to have been fully recognised or informed the resulting illustrative layout. For example, a number of development blocks cut across contours rather than working with the topography, particularly on the steeper southern half of the site. It is unclear how realistic it is that these areas could accommodate the development proposed and substantial retaining

structures and changes in land form would seem likely to be required.

Furthermore the significance of the adjacent listed building (The Manor House) is not recognised with respect to its relationship to the site. The DAS indicates that the presence of modern development is such that the proposals would not detract from its setting. However, whilst its original rural context has been eroded over time, it remains one of the few visually dominant features of this open landscape, appearing taller and more prominent than its surroundings. As a key local landmark, acknowledging views to this feature from across the site would the legibility of the layout and maintaining a spacious setting to the west would be appropriate. Views to and from Tapton Grove care home to the south also exist.

Notwithstanding these comments, the submission fails to include a Heritage Statement¹ to examine any nearby heritage assets, assess their significance or determine the degree of impact that would result from the proposed development.

The supporting DAS states that the scheme will incorporate a layout and principles that would accord with the Council's residential design SPD Successful Places (2013). However, the illustrative layout and DAS indicate a loop road with a series of cul-de-sacs. This approach is actually discouraged by Successful Places which seeks more permeable 'joined up' layouts based upon a hierarchy of street types in preference to cul-de-sacs.

Furthermore, the arrangement of the layout along the SE boundary against the Tinker Sick Brook and the NW boundary against the adjacent field indicates narrow bands of development that would appear to back onto these edges of the site. The illustrative plan shows footpaths passing between the housing and the edges of the site. This is likely to result in the paths being sandwiched between the rear fences of the dwellings and the site boundaries, creating unappealing and poorly overlooked routes. This would raise concerns in respect of crime and design considerations and represents an unacceptable aspect of the illustrative site plan.

¹ A Heritage Impact Assessment (prepared by Archaeological Research Ltd dated March 2017) was subsequently submitted.

Scale and massing

Scale is a reserved matter although the DAS anticipates a range of heights between one and three storeys in height. This would be an appropriate range of scales in principle, subject to details.

Landscaping

Landscaping is a reserved matter, although the DAS indicates the potential to supplement existing trees and hedgerow planting, both within gardens and new areas of public open space. The landscape concept underpinning the proposals is to retain the rural character of the site and its surroundings. The illustrative layout indicates a number of continuous blocks of development which do not appear to support this approach.

Appearance

Appearance is a reserved matter. The DAS indicates that the scheme will be designed to incorporate the prevailing characteristics of the area, to achieve a development with a positive character and that detailed designs will include architectural details and materials that are part of the heritage of the area, although these qualities are not defined or explained within the submission.

The visual impact of the scheme is described in the DAS as, not prominent when viewed from within the settlement or the surrounding countryside. Whilst public views from within Brimington (north and east) may be obstructed by existing buildings, views from the west and south are more open and far reaching, with distant views towards Chesterfield from elevated parts of the site. In addition, public footpaths in the area would offer clear views of the development within the landscape. Although the submission asserts that the development would not appear prominent in the landscape, the application is not supported by a landscape and visual impact assessment (LVIA) to support this opinion.

Access

Permission for access is sought as part of this application. The acceptability of the proposed access arrangements should be advised by the DCC Highway Engineer.

Conclusion

The proposals raise a number of concerns in urban design terms and the limited nature of the supporting information provide little substance upon which to base future reserved matters proposals.

Given the scale of this proposal, a more detailed masterplan approach which establishes key principles to inform the more detailed stages of the development would be appropriate. However, the outline nature of the application means the detailed considerations could potentially be addressed at the reserved matters stages. As such, despite the shortcomings of the current submission, there is no objection to the application on the grounds of urban design. However, in the event that planning permission is granted, it is recommended that an advisory note is attached to the decision notice drawing attention to these comments and advising that any subsequent design work is informed and prepared on the basis of a site appraisal process and guidance contained within the Councils SPD Successful Places (2013).

- 5.3.4 Having regard to the comments of the UDO above, in the context of the provisions of policies CS2, CS18 and CS20 of the Core Strategy and the Council's SPD Successful Places, it is considered that whilst there are weaknesses and issues highlighted by the UDO in the detail of the outline application as submitted; none of the issues which are raised would be insurmountable if permission were to be granted and reserved matters detail sought. Further detailed consideration of appearance, landscaping, layout and scale would be undertaken at this second tier of the application process. This would include consideration of immediate neighbouring amenity (separation distances etc) which would extend beyond amenity issues highlighted against the principle of development above. Overall therefore it is considered that the outline development proposals could be viewed to comply with the design and appearance principles of policies CS2, CS18 and CS20 of the Core Strategy and the Council's SPD Successful Places.

5.4 **Highways Issues**

- 5.4.1 Having regard to the nature of the application proposals and the fact that access is detailed for consideration alongside this outline planning application the submission was initially accompanied by a Transport Assessment (TA).

5.4.2

Together with the TA the proposals and supporting documents were reviewed by the **Local Highways Authority** (LHA) who made initial comments (dated 24 November 2016) as follows:

'The submitted details propose a residential development of 300no. dwellings and allocation of land for a new primary school, vehicular access from the existing highway network to be taken via a new junction with Chesterfield Road (A619) and from North Moor View.

Although likely to be a reflection of the type of property, mix of private and affordable, etc., the trip rates used within the Transportation Assessment for the residential element of the proposals are not considered to be particularly robust and, it should be noted, are less than those agreed for the proposed developments at Mastin Moor and Staveley Works. Account has been taken of a consented residential development of 32no units on Manor Road to the south of the proposed development site although building out of Markham Vale has not.

The Transportation Assessment includes analysis of peak hour traffic flows through various junctions on the local highway network noting that the Brimington gyratory system will be at capacity in 2022, with or without the proposed development, adding that particular issues in relation to the right turn from Hall Road onto Chesterfield Road the right turn from Church Street onto High Street are likely to occur. The Transportation Assessment also includes some analysis of past longer term traffic trends based upon traffic data taken from an Automatic Traffic Counter monitoring site on Chesterfield Road, near the Crematorium. This analysis indicates a spreading peak demand with some growth in weekday peak period traffic in the 'shoulders' to the morning and evening peak periods but little growth in peak hour traffic volumes in the actual peaks themselves. This demonstrates a gradual reduction over time of the ratio of peak hour to peak period traffic flows, consistent with peak spreading which of course is consistent with a network already operating at (peak hour) capacity. The Highway Authority has reservations about the principle of peak hour spreading being a justification for allowing further development related trips to enter the network as this simply extends the harm to parts of the day which are not currently subjected to congestion and does nothing to mitigate the harm.

This is consistent with the Highway Authority's understanding of this part of the highway network in particular that derived from the modelling work currently under development to support Transportation Assessment that would see redevelopment of the former Staveley works site. This work also included committed development including that of Markham Vale. The Transportation Assessment does acknowledge that a longer term solution to traffic problems in the Chesterfield Road corridor would be the Chesterfield to Staveley Regeneration Route highway improvement that would provide a bypass of Brimington and Staveley. The A619 Staveley - Brimington Bypass (Chesterfield to Staveley), is identified in Derbyshire's third Local Transport Plan 2011 – 2026 as a potential scheme for appraisal in association with land-use plans, so presumably its absence would act as a constraint to the long term economic growth on the A619 Corridor. However, it's suggested that there should be no reliance on this to support current development proposals as the entire route is unlikely to be delivered in the near future or on a timescale compatible with this development.

The submitted details indicate that the current proposals would be served via two separate vehicular access points, i.e. from North Moor View and a new junction with Chesterfield Road, with each serving 150no. residential units and around half of the new school site with no vehicular link through the site (although the indicative plan does show one).

The carriageway and footway widths of North Moor View satisfy current guidance to serve a development of up to 150no. residential units although swept path analysis of the existing alignment should be carried out to demonstrate suitability to cater for use by Large Refuse Vehicles accessing the proposed development. On street parking on the existing carriageway should be taken into consideration. Notwithstanding, the existing geometry may not be adequate to serve the extended development beyond the current proposals as suggested on the indicative site layout plan. The majority of the site (current proposals and future extension) would be in excess of the desirable maximum walking distance to bus stops therefore it's suggested that the design should be taking into account future access for buses.

The proposed access road to Chesterfield Road is demonstrated at 6.0m width, to cater for use by vehicles servicing the proposed

school site. The details demonstrate a prohibition of right turns out of the junction to Chesterfield Road due to it being demonstrated that there is insufficient capacity on the existing network to accommodate right turns. It's suggested that vehicles wishing to travel eastwards or to Manor Road would be expected to make use of Wikeley Way and Station Road. The former is a traffic calmed residential road subject to an environmental weight restriction. Presumably, anything larger than the 7.5t weight limit would be expected to travel further westwards to the Sainsbury's roundabout in order to turn and travel eastwards. This form of mitigation is considered to be unenforceable, unreasonable and, as a consequence, unacceptable.

The submitted details mention provision of cycle links a number of times although it's unlikely that much beyond the site boundary could be delivered to encourage cycle use. The upgrade of Footpath 16 to cater for shared cycle and pedestrian use would be likely to require land that appears to be outside of the applicant's control. Access not being a reserved matter, suitability of, or improvements to, this route for shared cycle use should be demonstrated or reference to such use withdrawn.

As suggested above, the internal site layout plan is indicative and does not form a part of the current application. As such, no specific comments are to be made at this stage in this respect other than the layout would need to generally comply with the recommendations of the Highway Authority's current design guidance and the routes of existing Public Rights of Way crossing the site would need to be satisfactorily accommodated.

Therefore, whilst current guidance may support development of up to 150no. units served via North Moor View (subject to swept path analysis), the Highway Authority is not satisfied with the proposed junction arrangements with Chesterfield Road and considers this would be likely to result in severe harm to operation of the highway network. The submitted details do little to inspire confidence that future extended development (the aspirations for which are included on the indicative plan, are the subject of a LAA assessment and have been raised in pre-application correspondence/ discussion) can be satisfactorily served and would be more likely to be jeopardised by the proposed access arrangements as shown. The Highway Authority would expect to see provision of a major access road to serve an extended site of

potentially up to 1000no. residential units and a primary school, as well as accommodate bus penetration of the site. In addition, consideration should be given to running the Saturn model to support the extended development.

Cumulatively it is considered that the above concerns are sufficient to sustain objection to the 'as submitted' proposals.

It's recommended that the applicant be given further opportunity to submit details of measures to satisfactorily address the above issues. The Highway Authority would be grateful to receive further opportunity to make recommendations of refusal if the applicant is unable or unwilling to provide additional details.'

5.4.3 In reaction to the comments received from the LHA above the applicant / agent was given the opportunity to consider the detail of the LHA response; and a further meeting was held between the LHA, the LPA, the applicant / agent and their own highway consultants to discuss the issues in detail.

5.4.4 Subsequently a revised TA Addendum (made up of a First Addendum, First Addendum Appendices and Second Addendum) was submitted for further consideration (on 02 May 2017) and the LHA were again invited to formally comment on the submission details. The following comments were made:

'The proposals comprise a residential development of 300no new residential dwellings and allocation of land for a new primary school with vehicular access from the existing highway network to be taken via a new junction with Chesterfield Road (A619) and from North Moor View. Each of the access routes would serve a half of the proposed development with no vehicular link between them.

Whilst a description of geometry for the proposed Chesterfield Road junction has been provided, no adequate detailed drawings have been received in this office. As access isn't a reserved matter, the Highway Authority would expect a detailed design on a topographical survey base at 1:200 scale demonstrating the proposed geometry and provision of visibility sightlines commensurate with the results of a specific traffic speed survey (rather than those obtained from an Automatic Traffic Counter).

Although swept path analysis of North Moor View for use by a refuse vehicle has been provided, this is for a vehicle of 9.93m in length rather than an 11.6m length vehicle as highlighted in Manual for Streets. Unless otherwise agreed with the local refuse collection service, the Highway Authority recommends that analysis is undertaken using the largest waste vehicles currently in use. The suggestion that vehicles would be expected to wait within the bell mouth of a junction whilst a larger vehicle negotiates the existing sinuous length of North Moor View is also considered to be undesirable.

The Transportation Assessment predicts a 50% increase in vehicle queue lengths at the Chesterfield Road - Hall Road junction, however, no details of how this impact may be mitigated have been submitted.

The 6C's Design Guide, i.e. the design guide adopted by this Authority, clearly states that no more than 150no. residential units should be served by a residential access road via single point of access; schools should not be served via cul-de-sacs (which each of the routes would be); and that the minimum carriageway width of roads serving schools should be 6.75m.

A significant proportion of the proposed development site would be in excess of the desirable maximum walking distance from bus stops as would any extended development that, although verbally stated as not being pursued, remains clearly annotated on the current application drawings held in this office. With this in mind, the Highway Authority considers that the proposed accesses should be of a suitable layout to enable buses to be routed though the site.

It is, therefore, considered that the outline proposals will lead to a poor internal estate street layout design for the scale and nature of development being sought both currently and, potentially, in the future.

When taking into account all of the above, and based on the details as submitted in support of the proposals to date, the Highway Authority recommends that the application is refused on the following Grounds:-

1. *The details submitted do not demonstrate safe and satisfactory access for the scale and nature of development proposed, a situation considered against the best interests of highway safety.*
2. *The details submitted predict impact upon the existing highway network for which no mitigation measures have been demonstrated or proposed, a situation considered contrary to safe and efficient operation of the public highway.'*

5.4.5 Despite the submission of the TA Addendum details and the dialogue which took place between the applicant / agent, the LPA and the LHA the fact remains that the development proposals continue to raise significant concerns regarding the impact of the development proposals upon highway safety contrary to the provisions of policy CS2 and CS20 of the Core Strategy and the wider NPPF. In the opinion of the LHA the development proposals do not demonstrate a safe or satisfactory access for the scale and nature of the development proposed and despite a predicted adverse impact upon the existing highway network; no mitigation measures have been demonstrated or proposed and therefore for these two reasons the development proposals would be contrary to the best interests of highway safety and the safe and efficient operation of the public highway and are unacceptable.

5.5 **Ecology / Biodiversity**

5.5.1 The site the subject of the application is undeveloped and has an established arable agricultural use. Given the open nature of site and land beyond, the presence of peripheral trees and hedgerows within the site and an adjoining watercourse there is potential for biodiversity / ecological interest to exist which must be considered.

5.5.2 In accordance with para. 118 of the NPPF and policy CS9 of the Core Strategy the application submission is accompanied by an Ecological Appraisal undertaken by ECUS dated March 2016; therefore consultation took place with **Derbyshire Wildlife Trust** (DWT) who operate a service level agreement with the LPA on planning matters and provided the following response:

'A preliminary ecological appraisal was undertaken on 19th February 2016, which is outside the optimal survey season. The site comprises of hedgerows, scattered trees and arable field, with adjacent Tinker Sick stream and woodland. The site does have

the potential to support roosting bats and ground nesting birds. As detailed in the ecology report, further surveys for ground nesting birds are required, which we concur with.

The proposed development will largely take previously arable land, and the ecological assessment work must therefore play a pivotal role in informing the site layout and which areas are to remain unbuilt.

The ecological assessment has identified that the network of hedgerows and mature trees and adjacent stream and woodland provides the main habitats of interest within the site. We would advise the Council that this is likely to be an accurate assessment.

We fully support the provision of water attenuation areas and the provision of a Landscape and Ecological Management Plan (LEMP) covering all retained and created habitats. The submission of the LEMP should be a condition of any permission and include details of how the appropriate nature conservation management of the habitats will be implemented and funded (further details below).

We accept that some removal of hedgerow sections will be required to facilitate the formation of internal access roads. However, we would advise that sufficient compensation should be provided by new native hedgerow planting to ensure there is no net loss of hedgerow as a result of the proposed development. Figures should be provided detailing the extent of hedgerow and tree removal in comparison to the extent of proposed (native) hedgerow and tree planting.

We would advise that all trees and hedgerows to be retained should be adequately protected during works which should be imposed as a condition of any permission.

We note that the illustrative layout shows that some consideration has been given to the layout of the built development in respect of the location of the existing hedgerows and mature trees, along with the incorporation of SuDs/Ponds along the south west boundary. It would be welcomed for the buffer along the south to provide an adequate distance between the proposals and the water course. Furthermore, the hedgerow on the western boundary will be potentially intersected with regards to a future link as well as residential dwellings adjacent. It would be preferred for hedgerows

to be excluded from residential dwellings, to ensure their longevity, as well as hedgerows buffered and incorporated into green space. At present, small pockets of green space are proposed, however, they are not linked. It would be welcomed for the green infrastructure across the site to be linked and provide connecting habitat across the site and onto the wider environment.

It should be noted, that the ecologists (as detailed in the ecology report) has not reviewed any plans for the site. It is therefore important that the retention of hedgerows, trees, stream and woodland are fully reflected in the reserved matters submission along with a revised layout plan which includes ecological input from the ecologist.

Birds

Breeding bird surveys have not been undertaken, although the ecology report has suggested the site has potential to support ground nesting birds. Therefore it is likely to be some displacement and loss of habitat for these bird species. To conclude, ground nesting bird surveys should be undertaken prior to determination. Once further surveys have been undertaken, mitigation, compensation and enhancements, if required should be included with potentially a revised layout plan.

We would therefore advise that the applicant to undertake further surveys, and to provide additional mitigation and/or compensation, ideally to farmland priority species that may currently be using the site. Alternatively the applicant should make a financial contribution commensurate with the nature of the impacts. This contribution would be used for the enhancement or creation of habitats of biodiversity value elsewhere within the locality.

The local planning authority in implementing their duty under section 40 of the NERC Act need to have regard to the conservation of biodiversity in England when carrying out their normal functions with priority species requiring specific consideration and paragraph 117 of the National Planning Policy Framework (NPPF) seeks to promote the protection and recovery of priority species populations.

Due to the site offering potential for ground nesting birds, it is recommended the hedgerows on site are gapped up where necessary, and suitable buffers along the hedgerow margins to

include 5-7m buffer of wild flower grassland will provide enhancement for birds. As well as a range of bird boxes for species such as house sparrows. These enhancements will minimise the impact to birds on site.

We would advise that no site clearance work / construction shall take place between 1st March and 31st August inclusive, unless a competent ecologist has undertaken a careful, detailed check of the site for active birds' nests immediately before work is commenced and provided written confirmation that no birds will be harmed and/or that there are appropriate measures in place to protect nesting bird interest on site.

Badger

The survey did not identify any badgers on site, although the site was considered suitable for foraging badgers. Therefore, no works which include the creation of trenches or culverts or the presence of pipes shall commence until measures to protect mammals (badgers) from being trapped in open excavations and/or pipe and culverts are submitted to and approved in writing by the local planning authority. The measures may include the creation of sloping escape ramps for mammals (badgers) and/or blocking off pipework.

It is recommended that the proposed planting on the boundaries in regards to badgers is incorporated within the landscape strategy to include the provision of suitable fruit and nut bearing trees and/or shrubs within the planting scheme for the re-developed site.

Bats

An initial ground level tree assessment was undertaken alongside the preliminary ecological assessment identified trees to have potential to support bats. However, the plans/ecology report note that the trees will be retained and no further surveys are required if the trees remain unaffected by the works. No activity surveys including transects and/or static surveys have been undertaken to fully understand the sites usage by foraging and commuting bats. The significance of this is difficult to determine with a lack of known bats using the site. Establishment of grassland habitat within the field boundaries, detailed lighting strategy to include directional and timed lighting as well as incorporation of artificial habitats will be required and implemented in full as part of the overall design of the site.

It would be welcomed, with the retained hedgerows, as a minimum, be buffered from the built development by 5-7 metres (as discussed above) and should be secured as part of the landscaping scheme dealt with as a planning condition.

Landscape Strategy

The current Landscape Strategy Plan can in theory provide opportunities for buffering and retains existing habitats along the boundaries of the site, along with areas of open space. However, there are no specific details of where and how particular habitats of biodiversity benefit can or will be incorporated. We also note 'Open Space Including Drainage Attenuation Features' are to be provided to the south west. These areas seems to offer the best opportunity to compensate for the loss of habitats, but it is unknown what is envisaged for this area. These areas are unlikely to be suitable for the displaced ground nesting birds using the site.

The potential to mitigate for these impacts would appear to exist to some extent within the retained areas of green space subject to how the habitats can be managed, created or enhanced.

Conclusions and Recommendations

- We would advise the Council to seek further information from the applicant on how they intend to address the adverse impact on ground nesting breeding birds of conservation concern (UK BAP priority species) such as skylark.*
- We would advise the Council to clarify how the applicant intends to compensate for the loss of habitats.*
- We would advise the Council to seek further information with regard to drainage attenuation features.*

Assuming that the outstanding issues raised above are addressed to the satisfaction of the Local Authority we would recommend the following conditions or measures are considered.

In order to secure the provision of the green corridors, green space and buffers as shown in the proposed layout plan which should provide mitigation for the impacts upon some breeding birds, bats and habitats.

We would advise that a further check for badger should be carried out prior to the commencement of work.

Detailed lighting strategy to include directional, and where possible, timed lighting to ensure dark corridors for fauna to move across the site.

We would advise the LA attach a condition to the effect that no development shall take place (including demolition, ground works, vegetation clearance) until a construction environmental management plan (CEMP: Biodiversity) has been submitted to and approved in writing by the local planning authority. The CEMP (Biodiversity) shall include the following.

- a) Risk assessment of potentially damaging construction activities.*
- b) Identification of “biodiversity protection zones”.*
- c) Practical measures (both physical measures and sensitive working practices) to avoid or reduce impacts during construction.*
- d) The location and timing of sensitive works to avoid harm to biodiversity features.*
- e) The times during construction when specialist ecologists need to be present on site to oversee works.*
- f) Responsible persons and lines of communication.*
- g) The role and responsibilities on site of an ecological clerk of works (ECoW) or similarly competent person.*
- h) Use of protective fences, exclusion barriers and warning signs.*

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

This would address issues relating to protected species and wildlife legislation as well as the wider biodiversity sensitivities of the site.

We would advise the LA attach a condition to the effect that a landscape and ecological management plan (LEMP) for all retained and created habitats shall be submitted to, and be approved in writing by, the local planning authority as part of any reserved matters application. The content of the LEMP shall include the following:

- a) Description and evaluation of features to be managed / created*
- b) Ecological trends and constraints on site that might influence management.*
- c) Aims and objectives of management.*

- d) Appropriate management options for achieving aims and objectives.*
- e) Prescriptions for management actions.*
- f) Preparation of a work schedule (including an annual work plan capable of being rolled forward over a five-year period).*
- g) Details of the body or organization responsible for implementation of the plan.*
- h) Ongoing monitoring and remedial measures.*

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

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

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

- 5.5.3 The comments of DWT were passed to the applicant for further consideration and a response from their consultants ECUS were forwarded to the LPA on 09 November 2016 from the applicant / agent with an indication that in their view the outstanding issues raised should form the basis of conditions attached to any consent granted.
- 5.5.4 The response from ECUS appears to concur with the comments of DWT and they comment that 'they are reasonable and do not include any surprises from an ecology point of view'. Despite this the applicant / agent has not offered to undertake the breeding birds survey prior to determination of the application. Their view is that this should form a planning condition of outline permission alongside all other matters raised by DWT.
- 5.5.5 In some respects the LPA would concur that the use of planning conditions could address some of the issues which remain outstanding where they relate to the need for a further badger check, lighting strategy, CEMP and LEMP as these details would

be formulated alongside a more detailed application submission (reserved matters or full application); however the expert advice provided to the LPA by DWT is that the breeding birds survey should be undertaken prior to the current outline planning application being determined. There is significant evidence to suggest the site is being used in the breeding season by ground nesting birds which are a UK BAP priority species and therefore the advice from DWT is that the LPA in implementing their duty under section 40 of the NERC Act need to have regard to the conservation of biodiversity in England when carrying out their normal functions with priority species requiring specific consideration and paragraph 117 of the National Planning Policy Framework (NPPF) seeks to promote the protection and recovery of priority species populations.

- 5.5.6 On the basis of the issues considered above it is a requirement of the National Planning Policy Framework paragraph 117 that the Local Planning Authority promote the protection and recovery of priority species populations and policy CS9 of the Chesterfield Local Plan: Core Strategy 2011 – 2031 states that development proposals will be expected to demonstrate that they will not adversely affect, or result in the loss of, features of recognised importance. In this context it is considered on the basis of expert advice provided to the Local Planning Authority that insufficient information has been submitted to determine the potential impacts of accepting the principle of development on this site upon ground nesting birds and a UK BAP priority species and therefore the proposed development does not fully accord with the requirements of the National Planning Policy Framework, Planning Practice Guidance and the provisions of policy CS9 of the Chesterfield Local Plan: Core Strategy 2011-2031.

5.6 **Flood Risk and Drainage**

- 5.6.1 Policy CS7 requires all new development proposals to consider flood risk and incorporate, where appropriate, Sustainable Drainage Systems (SuDS) to ensure the maximum possible reduction in surface water run off rates are achieved commensurate with the development being proposed.
- 5.6.2 In accordance with policy CS7 of the Core Strategy and wider advice contained within the NPPF the application submission is supported by a Flood Risk Assessment, Surface Water Strategy

and Sustainable Drainage Systems Assessment (prepared by CSG Consulting Engineers Ltd dated April 2016) and subsequently Indicative Surface Water Drainage Storage Calculations (prepared by CSG Consulting Engineers Ltd dated October 2016).

5.6.3 Consultation took place with the **Lead Local Flood Authority** (LLFA), the Councils own **Design Services (Drainage)** team (DS), **Yorkshire Water Services** (YWS) and the **Environment Agency** (EA) who all provided detailed responses to the outline proposals and the Strategy / Assessment submitted.

5.6.4 The DS team commented that the greenfield run off calculations were acceptable to them to establish the principle of development and therefore they would seek a full drainage design with any subsequent detailed / full application. The LLFA initially queried storage volume calculations, which were subsequently provided, and consideration of these led to following response being received:

The Flood Risk Assessment (FRA) for this site states that soakaways are not a suitable means of disposing of surface water. However, it appears the applicant hasn't undertaken an appropriate ground investigation to support and inform the application. Therefore the application cannot demonstrate the runoff destination hierarchy as described in Document Part H of the Building Regulations 2000. A brief review of the British Geological Survey (BGS) data suggests that ground is probably suitable for infiltration.

It is proposed that surface water is attenuated on site via storage tanks, detention basins or ponds before being discharged into the watercourse within the southern boundary of the site.

There are no details regarding the condition of the existing watercourse to which the applicant refers.

This is important since it is proposed that surface water from the developed site will be discharged into this culvert.

The County Council is aware of a historic report of flooding downstream. The County Council would recommend the applicant achieves better than greenfield runoff rate with a 40% allowance

which may result in the reduced likelihood of flooding from the unnamed watercourse identified to be the point of discharge.

- 5.6.5 Having regard to the comments made by the LLFA above (who are responsible to comment fully on these development proposals by the EA) it is considered that appropriate conditions could be imposed upon any outline planning permission granted to ensure that a fully detailed drainage strategy for the development proposals could be drawn up to achieve acceptable run off rates, incorporate appropriate storage volumes and provide adequate improvements measures sought. The LLFA has suggested a series of conditions which they consider would achieve this and these are standard conditions which the LPA are familiar with and have imposed on greenfield sites granted permissions in the past.
- 5.6.6 A detailed consultee response was also provided by YWS who advised that the site layout details submitted on the indicative plan were not acceptable to them; however they accepted that due to the outline nature of the application submission these details could be subject to change and therefore their concerns not insurmountable. YWS advised that the site was constrained by the presence of existing infrastructure entering the site that formed part of the public sewer network and therefore this infrastructure would need to be protected by a conditional easement. YWS also commented that it was unclear whether all the site could be served by gravity fed infrastructure to the foul water network and therefore they advised that a pumping station might be necessary as part of a site wide drainage solution. Furthermore they advised that the existing network did not have capacity to accept any additional surface water discharge and therefore infiltration or a watercourse solution should be investigated.
- 5.6.7 Having regard to the comments made by YWS above it is considered that appropriate conditions could be imposed upon any outline planning permission granted to ensure that a fully detailed drainage strategy for the development proposals could be drawn up alongside a fully detailed application (reserved matters or full application) to achieve the requirements sought. YWS has suggested a series of conditions which they consider would achieve this and these are standard conditions which the LPA are familiar with and have imposed on greenfield sites granted permissions in the past.

5.6.8 Taking into consideration all of the comments received in respect of flood risk and drainage matters it is concluded that if the principle of development is accepted, appropriate planning conditions and agreement by S106 (for any private drainage solutions) can be imposed / secured to meet the requirements above in accordance with policy CS7 of the Core Strategy.

5.7 **Land Condition / Contamination**

5.7.1 Albeit that the site is an undeveloped greenfield it is essential to ensure that the ground conditions are appropriate, or can be appropriately remediated to an appropriate level, to ensure that the ground is suitable for the development being proposed.

5.7.2 In accordance with policy CS8 of the Core Strategy and wider advice contained in the NPPF the application submission is accompanied by a Preliminary Risk Assessment (prepared by CSG Consulting Engineers Ltd dated April 2016) which has been reviewed alongside the application submission by both the Councils **Environmental Health Officer (EHO)** and the **Coal Authority (CA)** in respect of land condition and contamination.

5.7.3 The Council's EHO commented that in respect of contaminated land, *'made ground has been identified on other developments sites within the area and therefore desk top and site investigation is recommended'*.

5.7.4 The Coal Authority also provided the following comments:
The Coal Authority concurs with the recommendations of the Preliminary Risk Assessment (PRA); that coal mining legacy potentially poses a risk to the proposed development and that intrusive site investigation works should be undertaken prior to development in order to establish the exact situation regarding coal mining legacy issues on the site.

The Coal Authority recommends that the LPA impose a Planning Condition should planning permission be granted for the proposed development requiring these site investigation works prior to commencement of development.

In the event that the site investigations confirm the need for remedial works to treat the areas of shallow mine workings to ensure the safety and stability of the proposed development, this

should also be conditioned to ensure that any remedial works identified by the site investigation are undertaken prior to commencement of the development.

A condition should therefore require prior to the commencement of development:

- * The submission of a scheme of intrusive site investigations for approval;*
- * The undertaking of that scheme of intrusive site investigations;*
- * The submission of a report of findings arising from the intrusive site investigations;*
- * The submission of a scheme of remedial works for approval; and*
- * Implementation of those remedial works.*

The Coal Authority therefore has no objection to the proposed development subject to the imposition of a condition or conditions to secure the above.

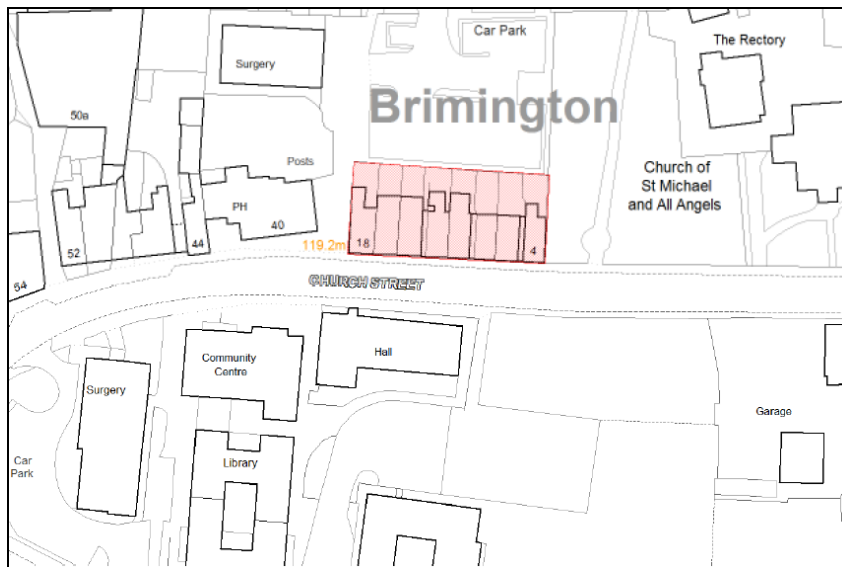
- 5.7.5 The EHOs comments in respect of contaminated land / land condition note that made ground could potentially affect the site and therefore whilst it is noted that the conclusions / recommendations of the PRA Report suggest that there is no record of current or historical uses of the site which could have caused contamination of the site; made ground is not mentioned. Notwithstanding this intrusive site investigations are deemed necessary to address land condition and coal mining risk (see CAs comments above) and therefore it is considered that as part of a Phase II investigation both land condition and contamination surveys could be undertaken concurrently. Appropriate planning conditions could be imposed to this effect to meet the requirements of policy CS8 of the Core Strategy and paragraphs 120-121 of the NPPF.

5.8 **Air Quality**

- 5.8.1 Policy CS8 of the Core Strategy requires development proposals to assess air quality impact and incorporate measures to avoid or mitigate increase in air pollution. Furthermore paragraph 124 of the NPPF states, 'Planning policies should sustain compliance with and contribute towards EU limit values or national objectives for pollutants, taking into account the presence of Air Quality Management Areas and the cumulative impacts on air quality from individual sites in local areas. Planning decisions should ensure

that any new development in Air Quality Management Areas is consistent with the local air quality action plan’.

- 5.8.2 In the context of the policy framework above the application submission is supported by an Air Quality Assessment (prepared by Air Quality Consultants Ltd dated August 2016) which has been considered by the Councils **Environmental Health Officer (EHO)** in light of the fact there is an existing Air Quality Management Areas (AQMA) designated in the centre of Brimington affecting 8 no. properties on Church Street (see map below).



- 5.8.3 The AQA submitted was initially reviewed by the EHO who commented:

‘Information is provided on the likely impact of the proposed development, and the changes in traffic flows directly associated therewith.

The levels of pollution are modelled, and the proposed development is likely to have a slightly adverse impact on the air quality at houses on the A619 (Chesterfield Road/Ringwood Road). These include houses in the Chesterfield No 1 Air Quality Management Area (AQMA). The modelling (which is to an accepted industry standard) shows the air quality to be not breaching the air quality standard (AQS) for nitrogen dioxide both with and without the proposed development taking place, in the most likely scenario. However, real world monitoring results over the last few years shows the AQS being breached, and the levels of traffic pollution gradually increasing. The reason behind this

mismatch appears to be that the model assumes a level of turnover on the vehicle fleet, and whilst this is broadly accurate at a national level this is not the case within this region, and older (more polluting) vehicles are more prevalent. I remain concerned that the proposed development will have an adverse impact on the houses adjacent to the main access road, and the existing AQMA in particular.'

5.8.4 The EHO also provided a further response upon the application when they were re-consulted on the revised TA submission as follows:

'I have inspected the above application, with particular reference to the air quality assessment, and the revised traffic management information.

The centre of Brimington is subject to an Air Quality Management Area (AQMA), this places a duty on Chesterfield BC (and other public agencies) to carry out works to improve the air quality in the affected area. An Air Quality Action Plan is being prepared, in conjunction with Derbyshire County Council (in their role as local highways authority) and in consideration of outline measures suggested by that body.

The traffic assessment indicates that the one way system is expected to reach capacity in the next few years. This will result in regular congestion, and a concomitant increase in levels of pollution within the existing AQMA. The air quality assessment, submitted in support of this application, similarly indicates that the air quality within the AQMA will be adversely affected and, further, that levels of nitrogen dioxide will breach the annual objective at locations which are currently outside the existing AQMA.

For this reason, I advise that the application should be refused.'

5.8.5 Despite the provisions of policy CS8 of the Core Strategy stating that development proposals will be required to incorporate measures to avoid or mitigate against any increase in air pollution the AQA submitted concludes that it is not considered appropriate to propose specific mitigation measures for this scheme. The AQA argues that it demonstrates the scheme will not cause any exceedance of the air quality objectives in areas where they are

not currently exceeded and, overall, the air quality impacts will be 'not significant'.

- 5.8.6 Despite the AQA conclusions the LPA is of the opinion the lack of mitigation measures proposed in this instance would be clearly in conflict with the provisions of policy CS8 of the Core Strategy and the overall strategic aspirations of the development plan. Designation of the AQMA in the centre of Brimington presents a barrier to any new major development relying upon the local highway network and for a scheme of this scale to simply suggest that they should 'do nothing' because the limits are already being exceeded is contrary to the best interests of proper planning.
- 5.8.7 Clearly on a strategic scale the delivery of the Staveley Regeneration Route (SRR) would assist in relieving the traffic pressures encountered in Brimington centre by traffic travelling eastwards, which contributes heavily to the air quality issues currently faced; however the development proposals the subject of this application are not offering any contribution to this solution. The SRR is on the Regulation 123 list of the Community Infrastructure Levy; however based upon issues already discussed earlier in this report, CIL may be discounted on this scheme in favour of a payment in kind to deliver the site for the primary school.
- 5.8.8 Overall it is considered that the development proposals fail to adequately address the provisions of Policy CS8 of the Chesterfield Local Plan: Core Strategy 2011 – 2031 in so far as they do not incorporate measures to avoid or mitigate increases in air pollution where the development proposals would clearly have a demonstrable impact (worsening) upon an area designated as an Air Quality Management Area. Contrary to the conclusions reached in the Air Quality Assessment that air quality standard (AQS) for nitrogen dioxide are not being breached; the Local Planning Authority hold monitoring records over the last few years show the AQS being breached, and the levels of traffic pollution gradually increasing. Given this evidence it is considered that a development of this scale should include appropriate mitigation measures and failure to do so conflicts with the provisions of Policy CS8 and the wider aspirations of the National Planning Policy Framework paragraph 124.

5.9 **Heritage and Archaeology**

5.9.1 Having regard to potential heritage and archaeological impacts it is noted that in the context of 'designated' heritage assets the application site is adjoined on its eastern boundary by 'the Manor House' (Grade II) and its associated boundary wall and gate piers (separately Grade II), and that the southern boundary of the site lies 250m from the Grade II* Listed Tapton Grove and its Grade II Listed stables.

5.9.2 Furthermore during the initial consultation process the **Derby & Derbyshire County Archaeologist** identified that the application site was likely to fall partly within the medieval core of the settlement at Brimington. He commented that, 'the site of the former Brimington Hall (HER 2509) lies only about 200m to the north: this was a 15th-16th century building demolished in 1931. Immediately to the east of the proposal site lies a Grade II Listed building known as 'the Manor House' and incorporating parts of a 17th century cruck-framed house (this is probably a conservative estimate of age as cruck frames in this part of the county tend to date from the 15th-16th centuries when subject to dendrochronology). Further to the south along Manor Road lies 'Manor Farm', another building with likely late medieval origins incorporating two sets of crucks (HER 2510). This evidence suggests that the medieval settlement may have been organised along the line of Manor Road between the early chapel (on the site of the modern Church of St Michael and All Saints) and the hall, and the site of Manor Farm at the southern end.'

5.9.3 The **Conservation Officer** also provided the following initial comments:
'This application is in outline form and all matters are reserved except access - only the principal of major housing development on this site is being considered. As such it is not possible to assess or make any meaningful comments on elements such as housing types, boundary treatments, landscaping or specific impacts on adjacent heritage assets (e.g. grade II listed Manor House and grade II listed Tapton Grove). Furthermore, it appears that the applicant has not included some form of heritage statement or assessment (in line with paragraph 128 of the NPPF) to demonstrate that the proposals would not cause harm to heritage assets (including the setting of listed buildings).*

The Council is currently preparing a new Local Plan which will

presumably include potential major new housing sites for public and statutory consultation. This application should be considered premature and not based on any up-to-date policy or allocation. It is worth noting that the Council's 'Review of Green Wedges and Strategic Gaps within Chesterfield, 2016' (prepared to inform the preparation of the new Local Plan) identifies this area as being an important strategic gap of open countryside providing separation between the urban areas of Brimington and Chesterfield town centre. This proposal would undermine the purpose of the proposed strategic gap and hence not accord with the Council's evidence base to support the emerging Local Plan.

Given the above I am not able to offer any support to the proposals.'

5.9.4 Initially the application submission was not supported by a Heritage Impact Assessment; therefore the applicant was approached to undertake this assessment, alongside a Geophysical Survey of the site given the undeveloped nature of the application site in accordance with para. 128 of the NPPF and policy CS19 of the Core Strategy. The Geophysical Survey was deemed necessary and proportionate to establish the presence of any potential archaeological interest affecting the site, which could potentially be affected by the development proposals being considered.

5.9.5 Reports undertaken by Archaeological Research Ltd were subsequently provided (19/04/2017) and further consultation was then undertaken with the County Archaeologist and the Conservation Officer on the results of these documents. The following comments were made respectively:

County Archaeologist

'Thank you for sending on the HIA and geophysical survey in relation to this application. Both assessments identified the potential that archaeological remains may survive within the proposed development area. Historical research and information on early maps and plans of the site reveal the changes in land use that have occurred through time. The geophysical survey revealed a significant number of anomalies of possible archaeological origin, which indicate below ground remains of a prehistoric or early historic field system (features 1-8), possible subsurface remains of a farmstead which is referred to on the 19th century Brimington

Tithe and Enclosure Awards, a possible area of former coal mining (area 15), evidence of ploughed out ridge and furrow earthworks (features groups 12 a to c and 13 a to e), and a range of other anomalies which may relate to geological features (feature group 14 a to o).

In order to assess the nature, extent and preservation of the identified anomalies a scheme of archaeological trial trenching will be required. In line with the requirements at NPPF para 128, the results of this work will enable us to understand the significance of any surviving archaeological remains on the site and the impact that development will have upon them. This work should be undertaken by suitably accredited heritage professionals (CIfA), preferably the same organisation that undertook the HIA and geophysics, for the sake of consistency. A scheme of trial trenching of the site, along with a trenching plan, should be prepared for our comments and approval before any fieldwork takes place.'

Conservation Officer

'I made previous comments on the above application (May 2016) so would refer you to those comments, particularly regarding the inconsistency of the proposals with the Local Plan, e.g. the fact that development would be located in a 'Strategic Gap' of open countryside where the presumption is against development of this scale and type.

Nevertheless, the applicant has now submitted a Heritage Impact Assessment (HIA), prepared by ARS Ltd, March 2017.

The primary aim of the HIA is to assess any archaeological potential of the proposed development area and impact the development may have on any heritage assets identified. Given the County's expertise in archaeological matters, I would defer to Steve Baker or his colleagues regarding archaeology - my comments only refer to on-the-ground heritage assets.

In that context, and in my opinion, the HIA is robust and succeeds in identifying those heritage assets that might be affected by the proposed development. The HIA is sound on what those impacts might be and concludes, correctly in my view that any impacts would be less than substantial. The only substantive recommendation the HIA makes in terms of mitigating potential

impacts (excluding archaeology) is that the 'design and layout of the proposed housing development and associated landscaping should be considered in relation to the westward views from/to The Manor House (grade II listed) so as to minimise the impact on the development on these views'. I would agree with this recommendation.

However, notwithstanding this, I would object to the application on the basis that it is inconsistent with the Local Plan and the presumption against development in open countryside and 'Strategic Gaps' where the emphasis is on retaining open countryside and the identity of settlements.'

5.9.6

Having received the comments from the County Archaeologist above further clarity was sought over the timing of the trial trenching, as previously schemes in outline had been permitted on the basis that further investigations were undertaken to inform reserved matters detail, with the results being submitted concurrent to those applications. The following response was received.

'In the case of the Northmoor View site we would strongly recommend that the work be done in advance of a planning decision. This site is much larger than the land at Cranleigh Road (15.7ha in comparison to 3.7ha), and the geophysical survey has indicated more varied, extensive and complex archaeological remains than those at Cranleigh Road.

The Northmoor site includes: the remains of a possible Prehistoric field system which extends across a wide area of the site; the site of a farmstead which may have complex and extensive subsurface remains and a large area of disturbance which may be the result of coal mining or mineral extraction. In order to be able to advise confidently on an appropriate scheme of post-permission archaeological recording, we require the results of a scheme of trial trenching to sample the above anomalies. The resulting information will also provide the developer with a more clear indication of the potential extent and costs of post-permission archaeological mitigation for the site.

On a site of this size, on which a range of different types of archaeological remains potentially occur, the detailed field evaluation recommended would be proportionate and in line with the requirements of NPPF paragraphs 128 and 129.'

- 5.9.7 The request of the County Archaeologist were passed to the applicant for further consideration and their agent subsequently responded to indicate that in their opinion (and that of their Archaeological Consultants) the trenching could be done post determination. They commented that para. 128 of the NPPF was divisive and open to interpretation and therefore the comments should be retracted.
- 5.9.8 Notwithstanding the opinion of the applicant, the Local Planning Authority has a service level agreement with the County Archaeologist to allow them to provide expert archaeological advice to the LPA on matters arising from planning applications.
- 5.9.9 Paragraph 128 of the NPPF states that, *'Where a site on which development is proposed includes or has the potential to include heritage assets with archaeological interest, local planning authorities should require developers to submit an appropriate desk-based assessment and, where necessary, a field evaluation'*. Furthermore paragraph 129 states, *'Local planning authorities should identify and assess the particular significance of any heritage asset that may be affected by a proposal (including by development affecting the setting of a heritage asset) taking account of the available evidence and any necessary expertise. They should take this assessment into account when considering the impact of a proposal on a heritage asset, to avoid or minimise conflict between the heritage asset's conservation and any aspect of the proposal.'*
- 5.9.10 In this instance it is considered that the expert advice provided to the Local Planning Authority from the County Archaeologist is that it is necessary and proportionate to require the trial trenching to be undertaken prior to the determination of the current planning application and therefore it is concluded that there is insufficient information submitted with the application at present.
- 5.9.11 It is a requirement of the National Planning Policy Framework, paragraphs 128-129 that the applicant demonstrates to the satisfaction of the Local Planning Authority that appropriate desk-based assessment and, where necessary, field evaluation has been undertaken to determine the potential impact of the development proposals upon any heritage assets, including those with archaeological interest. On the basis of expert advice

provided to the Local Planning Authority it is considered that insufficient information has been provided to properly assess the impact of these development proposals upon potential archaeological features which have been identified by geophysical survey results. A significant number of anomalies of possible archaeological origin identified by the geophysical survey results exist which require further investigation to advise confidently on an appropriate scheme of post-permission archaeological recording and a more clear indication of the potential extent and costs of post-permission archaeological mitigation for the site. Therefore the proposed development does not accord with the requirements of the National Planning Policy Framework, Planning Practice Guidance and the provisions of policy CS19 of the Chesterfield Local Plan: Core Strategy 2011-2031.

5.10 **Other Considerations (On Site Open Space / S106 / CIL)**

- 5.10.1 Having regard to the nature of the application proposals several contribution requirements are triggered given the scale and nature of the proposals. Policy CS4 of the Core Strategy seeks to secure necessary green, social and physical infrastructure commensurate with the development to ensure that there is no adverse impact upon infrastructure capacity in the Borough.
- 5.10.2 Internal consultation has therefore taken place with the Councils own **Economic Development, Leisure Services and Housing** teams, as well as externally with **Derbyshire County Councils Strategic Planning** team on the development proposals to ascertain what specific contributions should be sought.
- 5.10.3 The responses have been collaborated to conclude that were permission to be granted a requirement to secure S106 Contributions via a Legal Agreement in respect of the Affordable Housing (Policy CS11); up to 1% of the overall development cost for a Percent For Art scheme (Policy CS18); a Health contribution via the CCG (Policy CS4); and appointment of an external management company to manage and maintain the on site green open space (Policies CS9). Matters in respect of education and leisure provision are now dealt with by CIL contributions and education in particular is discussed in more detail below. In respect of Leisure a development of this scale would trigger the need for on-site open spaces or play areas which through

appropriate S106 clause would need to include appropriate provisions for maintenance in the long term.

- 5.10.4 Policy CS11 of the Core Strategy concerns Affordable Housing; and a development of this scale would trigger negotiations to secure up to 30% affordable housing provision on site. Furthermore policy CS18 of the Core Strategy concerns Design and includes a mechanism by which the Council would seek a contribution of up to 1% of the overall development costs towards a public art scheme (for major development proposals costing in excess of £1million).
- 5.10.5 There is no Viability Appraisal / Assessment presented with the application submission and therefore at this stage appropriate levels of contributions for the specific issues of Affordable Housing and Percent for Art cannot be calculated. In similar such cases the Council has incorporated a requirement in a S106 Agreement for a Viability Appraisal / Assessment to be completed and submitted concurrently with the first reserved matters submission to determine the level of these contributions in line with the policy wording.
- 5.10.6 In addition to the above a request for a contribution has been received from the North Derbyshire Clinical Commissioning Group (CCG) for a contribution of £114,120 towards providing GP services. Health services are not currently covered by the council's CIL Regulation 123 list and it is therefore necessary to consider if this should be addressed through a financial contribution, secured by a S106 agreement as well as matters above.
- 5.10.7 In respect of the GP contribution Policy CS4 states that 'developers will be required to demonstrate that the necessary infrastructure (green, social and physical) will be in place in advance of, or can be provided in tandem with, new development'. The preamble (para 5.6) to the policy describes infrastructure, but does not provide an exclusive or exhaustive list. It does refer to health facilities specifically as an example of social infrastructure. Para 5.8 refers to working 'co-operatively and jointly with partners to ensure delivery of the infrastructure required to enable development and improve existing facilities'.

- 5.10.8 Under the policy, strategic infrastructure set out in the council's Infrastructure Delivery Plan should be secured through CIL. The expansion of GP services in this area is not in the IDP or on the Regulation 123 list and therefore securing a contribution through S106 would not be considered 'double counting'.
- 5.10.9 The CIL regulations and NPPF set out the tests for planning obligations. Planning obligations should only be sought where they meet all of the following tests:
- necessary to make the development acceptable in planning terms
 - directly related to the development
 - fairly and reasonably related in scale and kind to the development
- 5.10.10 The CCG has clearly set out the evidence relating to the second two tests. On the basis of policy CS4, as expanded in the preamble to the text, it is clear that health facilities are covered by policy CS4 where a need can be identified. The request also therefore meets the first test and it is considered that this contribution should be sought if permission is granted. This would form a standard clause in the associated S106 agreement.
- 5.10.11 Looking in turn at other triggered requirements (policy CS13 – Economic Development to secure local labour and policy CS4 to secure appropriate infrastructure) the LPA would look to secure by planning condition the requirement for local labour and the provision of on-site high speed broadband connections.
- 5.10.12 As mentioned above, if permitted, the development would be CIL liable and the site is within the medium zone and would be charged at £50 per sqm of gross internal floorspace (index linked). Relief would be available on any affordable or Custom and Self Build element upon application.
- 5.10.13 Notwithstanding the above on the basis of comments received from Derbyshire County Council Education there is insufficient capacity within local infant and secondary schools (Henry Bradley and Springwell respectively) to serve the proposed development.
- 5.10.14 Whilst CIL provides a mechanism through which funding can be secured for new/additional education provision, it is also necessary to demonstrate how the provision can be locally provided in a

timely manner as policy CS4 states that *‘developers will be required to demonstrate that the necessary infrastructure... will be in place in advance of, or can be provided in tandem with, new development...’*. The response from DCC indicates a need for both infant and secondary places, and that it is not physically practical to expand the existing infant provision. (the creation of a situation where families have no choice but to travel longer distances to find provision would be contrary to the principles set out in CS20).

- 5.10.15 In response the application does indicate a 2ha site for a new primary school however because education is covered by the council’s CIL, it is not therefore possible to secure provision in the form of a site or infrastructure through S106. The CIL regulations do allow for ‘payment in kind’ and the council has now adopted a ‘payment in kind policy’.
- 5.10.16 Given the scale of proposed development, it is likely that the potential CIL receipt for this site would be in the region of £1.5m (subject to any deductions for social housing exemptions). It is likely that the costs of provision of a new primary school would significantly exceed this and this does not provide funds to resolve the secondary school shortfall.
- 5.10.17 On this basis the full cost of provision could not therefore be met through the application of a payment in kind policy and meeting the requirement for school places that would result from the proposed development would require additional external funding via CIL or other means. This raises issues about timing (as there is currently not sufficient funding available via CIL, which has only been in place since April 2016) and which is also competing with other priorities. A new school in this location was not identified in the Core Strategy Infrastructure Delivery Plan and would therefore be competing with other priorities required for the delivery of the council’s approved Spatial Strategy (in particular provision to support the regeneration of the Staveley Corridor, including a new primary school in that location). Given these issues it is considered that whilst the proposed development would require the provision of additional primary school capacity the application does not adequately explain how this provision would be secured and is therefore the development proposals would be considered contrary to Core Strategy policy CS4 (Infrastructure delivery) in this respect.

6.0 **REPRESENTATIONS**

6.1 The application has been publicised by site notice posted on 29/09/2017; by advertisement placed in the local press on 29/09/2016 and by delivery of neighbour notification letters sent on 22/09/2016. The application was also subject to a second round of publicity by site notice posted on 10/05/2017 following the receipt of revised information.

6.2 As a result of the applications publicity 383 no. representations and a petition received containing 458 no. signatures from the local community have been received and the list set out below includes the street names and numbers which were identifiable in these representations. A number of other representations received by email or other means of correspondence were also received where an address was not given or legible and therefore these are categorised as 'local resident'.

Brimington Parish Council (x2)

38 (x5), 42 (x4) Almond Place

34, 43 Balmoak Lane

39 Barry Road

1 Birch Kiln Croft

5 Bradley Close

2, 3, 10, 11, 12 (x2) Bradley Way

3 (x3), 5 (x3), 8 (x2), 18 (x2), 20 (x2), 22 (x3), 24 (x2) Briar View

346 (x2) Brimington Road

8 Broom Gardens

28, 78 Brooke Drive

14, 18, 22, 30 (x2) Cemetery Terrace

1 (x2), 3, 4 (x4), 5 (x2), 7 (x2), 12 (x2), 14 (x4), 15 (x2), 16 (x3), 17 (x4), 19 (x2), 21 (x2), 23 (x4), 25 (x2), 28 (x3), 29 (x3), 31 (x2), 32, 33, Thornleigh Chesterfield Road

2, 7 (x2) 12 (x3), 14, 30, 59 (x3), 67-71 The Cottage, 77, 79 (x2) Cotterhill Lane

11 Devonshire Street

3, 5, 10 (x2), 11 (x2), 16 (x2) Everett Close

3 Fuller Drive

2, 15, 16 Grove Farm Close

10 (x2) Grove Gardens

39 Hathern Close

9 (x2) Headland

2, 3, 4, 6, 8 (x4) Headland Close

1, 2 (x2), 4 (x3), 6 (x3), 7, 8 (x2), 10 (x4) Headland Close

22 Hillview Road

2, Wood View (x2) Ivy House Farm Lane

96A Lansdowne Road

2, 7, 11, 18, 26, 28 (x5) Manor Avenue

14 Manor Drive

14, 16, 22, 24, 35, 36, 38, 42, 46, 48, 50 (x3), 52, 54, 65, 69, 71 (x2), 76, 79, 81, 83 (x3), 87 (x2), 91 (x5), 92 (x4), 94 (x3), 95, 96 (x3), 100, 102 (x4), 106 (x2), 107, 108 (x2), 110, 129, 139, 140 (x2), 142, 144, 144A, 146, 151, 153, 154, 167 (x2), 169 (x2), 176 (x3), 178, 180 (x2), 182, 184 (x3), 186, 204, 212, 214, 218, 222 (x2) Manor Road

4, 10 Nether Croft Close

**1 (x2), 3, 5 (x2), 6, 8, 15, 22 (x2), 24, 26 (x5), 29 (x2), 30 (x5)
Nether Croft Road**

1 Nether Farm Close

2 Northmoor Close

1 (x4), 2 (x3), 3 (x5), 4 (x2), 6 (x2) Northmoor View

14, 15 (x2), 19, 22 Pondwell Drive

33 Recreation Road

56 Ringwood Road

8 Ringwood View

7 Somerset Drive

8 Stacey Road, Mansfield

31 Steeping Close

10 (x2) Tapton Vale

**2, 3, 4, 11, 14 (x2), 15 (x2), 16 (x3), 18 (x2), 19, 20 (x4), 21, 20, 22
(x3), 24 (x3), 28, 30, 32 (x2), 34 (x3) Top Pingle Close**

114 Walton Road

2 (x3), 3, 6 (x2) Well Spring Close

6 Wheathill Close

1 (x2), 3 (x5), 5, 7 (x4), 8, 10 Upper Croft Close

Tapton Grange, Tapton (x2)

14 x Local Residents (whose addresses were unknown)

6.3

Categorised below are summaries of the issues which have been raised by the representations received:

- 1. Highway safety/congestion and parking**
- 2. Traffic survey submitted**
- 3. Air pollution**
- 4. Development in the open countryside**
- 5. Impact on conservation/wildlife and loss of greenspace**
- 6. Impact on the amenity of existing residents**
- 7. Planning Policy and Alternative locations for housing in the borough**
- 8. Impact on existing infrastructure/facilities and services/businesses**
- 9. Access to the site**
- 10. Flooding and surface water**
- 11. Land Stability**
- 12. Impact on historic environment**
- 13. Proposed cycle path**
- 14. Inaccuracies on application form**
- 15. Other**

1. Highway safety/congestion and parking

- The proposal will increase traffic, Brimington already has significant issues with congestion and gridlock at the one way system. Existing congestion causes problems for emergency services, road users, residents, cyclists and pedestrians, particularly at peak times, this is exacerbated when there is congestion/closure on the M1 leading to long delays
- Parking on the road is a problem in the area resulting in accidents and hazards,
- Existing congestion and heavy traffic means access to and from A619 from surrounding estates is difficult especially peak times
- The proposal will create an incident hotspot, there have been several accidents in recent years and at least 3 fatalities even with the existing volume of traffic
- 900 additional vehicular journeys at peak times increasing traffic on already overloaded roads
- Addition of a new school will add to congestion
- Existing congestion and traffic linked to crematorium
- The proposal will make the bend by St Michael's even more dangerous and needs a traffic light system
- Danger point of North Moor View and Manor Rd is an accident waiting to happen as the care home will be directly opposite the junction

- Already people park their cars on the road side, especially near the school making access for residents difficult
- The proposal will create a rat run at Station Road
- Existing issues with limited parking in village

SEE SECTION 5.4

2. Traffic Assessment submitted

- Traffic survey in submission state that the proposals will result in traffic not exceeding certain maximum measurements
- Lack of detail in TA submitted and the evidence base is currently incomplete including journey time analysis and queue length survey should've been included. The traffic survey should be undertaken at all times of day and over a number of months

SEE SECTION 5.4

3. Air pollution

- Air pollution in Brimington identified as the highest in borough and Brimington is an air quality management area. The proposal will increase pollution in an area already adversely affected.
- Increased pollution levels are a major concern for the health and well-being of local people- invisible deadly problem needs addressing without delay

SEE SECTION 5.8

4. Development in the open countryside

- The proposal will result in the loss of a greenfield site, against policy and local plan.
- Greenbelt should only be built on in exceptional circumstances
- One of our few remaining green field sites in Brimington and the loss of this will directly affect the local community.
- Greenfield site part of the Pennine Way which is regularly used and enjoyed by local community
- Campaign to protect rural England wants that England's green belt is under siege from developers
- Deprive the people of Brimington and surrounding areas the pleasure of walking the beautiful fields

- The application site highly visible from neighbouring settlements and westerly vantage points, resulting in a loss of open countryside views.

SEE SECTION 5.2

5. Impact on conservation/wildlife and loss of greenspace

- The proposal shows a lack of conservation of the natural environment and wildlife.
- Loss of beautiful greenspace and Brimington's 'green lung'
- Concerns raised regarding the response from Derbyshire Wildlife Trust.
- Loss of important habitat for many rare birds and wildlife. Wildlife impacted by the proposal includes bats, skylarks, plovers, hedgehogs, badgers, foxes, buzzards, kestrels, mistle thrush, linnet, redwing, fieldfare, grey partridge, lapwing, hawk, frogs, toads, newts, field mice, squirrels, bees, butterflies, rare flora and fauna including the scarlet pimpernel plant
- Loss of wildlife corridors for shrews, hedgehogs, weasels, field voles, water voles, red crested newts present in gardens joining fields on briar view,
- Loss of valuable farmland
- Loss of public footpaths and will restrict access to fields and wider countryside at the detriment to local people, walkers etc
- Protected boundary hedge and hedgerows across the site, the proposal does not accord with policy CS9.

SEE SECTION 5.2 AND 5.5

6. Impact on the amenity of existing residents

- The proposal will result in overlooking, loss of privacy, loss of light and overbearing impacts on existing residents, feeling of enclosure
- Noise and light pollution
- topography of site means housing to the north of the site would dominate the bordering properties, elevated position of site in relation to properties e.g. Briar View
- Impact on residents of nursing home
- Concerns regarding 3 storey properties on site

- Design and access statement states that the development will be screen by existing buildings fronting manor road will have a dominating effect on the existing dwellings
- Impact on the crematorium and cemetery overlooking a private place
- Loss of views for residents
- Living next to a building site with lorries and noise resulting in health and safety concerns
- Noise from school means residents would not be able to enjoy properties and gardens
- Will impact the quality of life of existing residents
- Loss of fields which are very popular local amenity

SEE SECTION 5.2 AND 5.3

7. Planning Policy and Alternative locations for housing in the borough

- Development does not accord with policy CS1 (clause 1.13) will lose the separate identities of Tapton and Brimington. The proposal will result in the loss of the defined ribbon development along Manor Road and Chesterfield and begin 'block' building
- The future link shown on plan will erode the designated strategic gap (SG1) and is overdevelopment of community. Brimington will lose its character and will no longer be a village. The proposal will contribute to the urban sprawl of Chesterfield
- Chesterfield Core Strategy Document states that new houses should be built on brownfield sites. A sequential test has not been carried out to identify brownfield sites as alternative locations, a number of brownfield site have already been identified for development and these should be developed first
- on outskirts of chesterfield including brownfield sites for redevelopment including; carbonisation site at old Whittington, Bywater site, recreation area with access from Hazel Drive and Whitecotes Lane, Staveley works site, site at bottom of Station Road, old Trebor site(waterside), Walton Hospital, ex greyhound track, land to the west and north of brimington school, north of Peterdale estate, Shuttlewood Coalite, Staveley bowl, Poolsbrook slack heaps, other council owned sites e.g. chesterfield hotel, on newbridge lane and in Whittington

- Chesterfield has plenty of brownfield land available for housing development as identified in the new local plan. There is no need or requirement to what so ever to consider development on this greenfield land

SEE SECTION 5.2

8. Impact on existing infrastructure/facilities and services/businesses

- Existing infrastructure struggling to cope with current demand, particularly the GPs, dentist's, difficult for local people to get appointments
- GP surgeries not consulted, currently no plans to expand healthcare facilities
- negative economic impact for local businesses in Brimington, due to restricted access for cars
- Impact on energy and water supplies, additional housing leading to problems, residents already have low water pressure at peak times
- No spare capacity for waste and foul drainage
- Local Schools at capacity and how will the proposed school be funded?
- Increase traffic at services such as doctors and schools
- Additional bus services will be needed

SEE SECTION 5.4 AND 5.10

9. Access to the site

- The proposed access points to the site are not adequate
- Access to site from chesterfield road opposite cemetery terrace via briar view previously refused due to narrow road, poor visibility and additional traffic.
- Access via north moor view too narrow with poor visibility. North Moor View is a congested cul-de-sac, the existing access just 5.5m wide and will be a hazard for road users. Currently the cul-de-sac is used for parking for nearby care home and walkers, additional traffic will be a disturbance for residents
- Possibility of creating 'rat runs' on Ivy House Farm Lane and to Manor Road
- left turn only from estate requiring vehicles to go to Wikeley Way and Station Road is unrealistic
- Cotterhill lane not wide enough to accommodate traffic

- Access to chesterfield road not viable for safe access, the proposed road widening will not be large enough to employ a right hand filter.
- The proposed pedestrian crossing within three metres of junction will result in a poor visibility black spot
- location of proposed roundabout situated in an area of accidents
- transport assessment submitted is unrealistic
- Proposed junction would impede the flow of traffic
- The development would further increase problems which occur along Manor Rd, being the main route to the Royal Hospital , the New NGS Macmillan Centre, a school entrance, a busy bus route, and speeding traffic on a very narrow highway
- Creation of junction near Briar View as per latest plan will inevitably lead to more standing traffic at peak times

SEE SECTION 5.4

10. Flooding and surface water

- main sewers and drains cannot cope with existing properties
- existing issues with flooding and surface water on highway
- natural spring running through fields and high water table

SEE SECTION 5.6

11. Land Stability

- Coal mining risk, the proposed development could displace underground gases, a public safety concern

SEE SECTION 5.7

12. Impact on historic environment

- The development will adversely impact the setting of the manor house (no 76 manor road) a grade 2 listed building which occupies an elevated position, this contrary to policy CS19

SEE SECTION 5.9

13. Proposed cycle path

- jubilee walk path is designated as a cycleway this is completely unsuitable, used by elderly residents from the adjacent estate

SEE SECTION 5.4

14. Inaccuracies on application form

- Proposal within 20m of watercourse – not ticked
- Current use of the site – ‘ low grade agricultural land, now redundant’ – when did the use end ‘not known’ – presumably these inaccuracies invalidate the application? Site recently used for crops harvested on 8.09.2016

LOCATION OF WATERCOURSE IS NOTED ON THE APPLICATION DRAWINGS AND HAS BEEN CONSIDERED

APP. IS NOT INVALID

15. Other

- Dust dirt and disruption during construction period, construction vehicles causing highway safety concerns
- increase in population leading to anti-social behaviour and crime
- development leading to a reduction in average property prices
- loss of views
- All residents of Calow and Brimington should be notified of application

NOTED

Support

- Need more houses and development will bring jobs

NOTED. SEE SECTION 5.2

7.0 HUMAN RIGHTS ACT 1998

- 7.1 Under the Human Rights Act 1998, which came into force on 2nd October 2000, an authority must be in a position to show:
- Its action is in accordance with clearly established law
 - The objective is sufficiently important to justify the action taken
 - The decisions taken are objective and not irrational or arbitrary

- The methods used are no more than are necessary to accomplish the legitimate objective
- The interference impairs as little as possible the right or freedom

7.2 It is considered that the recommendation is objective and in accordance with clearly established law.

7.3 The applicant has the right to appeal the final decision.

8.0 **STATEMENT OF POSITIVE AND PROACTIVE WORKING WITH APPLICANT**

8.1 The following is a statement on how the Local Planning Authority (LPA) has adhered to the requirements of the Town and Country Planning (Development Management Procedure) (England) (Amendment No. 2) Order 2012 in respect of decision making in line with paragraphs 186 and 187 of the National Planning Policy Framework (NPPF).

8.2 The proposed development conflicts with principles of the NPPF and the relevant Development Plan policies for the reasons given in the report above.

8.3 The conflict with Development Plan policies has led the LPA to conclude the development is not fully regarded as meeting the definitions of "sustainable development" having regard to local character and amenity and a presumption on the LPA to seek to approve the application is not considered to apply.

9.0 **CONCLUSION**

9.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 and section 70(2) of the Town and Country Planning Act 1990 require that, 'applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise'. In this context the application has been considered against all up to date development plan policies and the wider national planning policy framework as detailed in the report above. In this respect there are a number of fundamental concerns arising from the development proposals which have led the Local Planning Authority to conclude that the application should be refused.

10.0 **RECOMMENDATION**

10.1 That the application be refused for the following reasons:

Principle of Development

01. The site the subject of the application is on land allocated under policy EVR2 of the 2006 Local Plan (a saved designation of the Chesterfield Local Plan: Core Strategy 2011 – 2031) as open countryside and land located under policy CS1 as a Strategic Gap between Brimington and Tapton. Policy CS10 of the Chesterfield Local Plan: Core Strategy 2011 – 2031 states that greenfield led housing development will not be accepted where the Local Planning Authority is able to demonstrate a 5 year housing land supply.

On the basis that the Local Planning Authority is currently able to demonstrate a 5 year housing land supply the development would be contrary to the provisions of policy CS10 and EVR2 of the Chesterfield Local Plan: Core Strategy 2011 – 2031, the wider provisions of the National Planning Policy Framework.

Strategic Gap

02. The development would introduce an extension to the built settlement of Brimington which would encroach into land which is Open Countryside and has been identified to form part of the Strategic Gap between Tapton and Brimington under the provisions of policies CS1, CS2 and CS9 of the Chesterfield Local Plan: Core Strategy 2011 – 2031 and the wider National Planning Policy Framework. The development proposals are considered to be contrary to the provisions of these policies which seek to maintain open land between neighboring settlements to prevent merging (perceptual and physical) and protect the setting and separate identity of settlements; support appreciation and wider perceptual benefits of open countryside; and maintain existing or influence form and direction of settlements.

Archaeology

03. It is a requirement of the National Planning Policy Framework, paragraphs 128-129 that the applicant demonstrates to the satisfaction of the Local Planning Authority that appropriate desk-based assessment and,

where necessary, field evaluation has been undertaken to determine the potential impact of the development proposals upon any heritage assets, including those with archaeological interest. On the basis of expert advice provided to the Local Planning Authority it is considered that insufficient information has been provided to properly assess the impact of these development proposals upon potential archaeological features which have been identified by geophysical survey results. A significant number of anomalies of possible archaeological origin identified by the geophysical survey results exist which require further investigation to advise confidently on an appropriate scheme of post-permission archaeological recording and a more clear indication of the potential extent and costs of post-permission archaeological mitigation for the site. Therefore the proposed development does not accord with the requirements of the National Planning Policy Framework, Planning Practice Guidance and the provisions of policy CS19 of the Chesterfield Local Plan: Core Strategy 2011-2031.

Ecology

04. It is a requirement of the National Planning Policy Framework paragraph 117 that the Local Planning Authority promote the protection and recovery of priority species populations and policy CS9 of the Chesterfield Local Plan: Core Strategy 2011 – 2031 states that development proposals will be expected to demonstrate that they will not adversely affect, or result in the loss of, features of recognised importance. In this context it is considered on the basis of expert advice provided to the Local Planning Authority that insufficient information has been submitted to determine the potential impacts of accepting the principle of development on this site upon ground nesting birds and a UK BAP priority species and Therefore the proposed development does not fully accord with the requirements of the National Planning Policy Framework, Planning Practice Guidance and the provisions of policy CS9 of the Chesterfield Local Plan: Core Strategy 2011-2031.

Air Quality

05. It is considered that the development proposals fail to adequately address the provisions of Policy CS8 of the

Chesterfield Local Plan: Core Strategy 2011 – 2031 in so far as they do not incorporate measures to avoid or mitigate increases in air pollution where the development proposals would clearly have a demonstrable impact (worsening) upon an area designated as an Air Quality Management Area. Contrary to the conclusions reached in the Air Quality Assessment that air quality standard (AQS) for nitrogen dioxide are not being breached, monitoring data over the last few years show the AQS being breached, and the levels of traffic pollution gradually increasing. Given this evidence it is considered that a development of this scale should include appropriate mitigation measures and failure to do so conflicts with the provisions of Policy CS8 and the wider aspirations of the National Planning Policy Framework paragraph 124.

Highways

06. The development raises significant concerns regarding the impact of the development upon highway safety contrary to the provisions of policy CS2 and CS20 of the Chesterfield Local Plan: Core Strategy 2011 – 2031 and the wider National Planning Policy Framework. The development proposals do not demonstrate a safe or satisfactory access to / from the site for the scale and nature of the development proposed and despite a predicted adverse impact upon the existing highway network, no mitigation measures have been demonstrated or proposed. The development would be contrary to the best interests of highway safety and the safe and efficient operation of the public highway.

Infrastructure Delivery

07. The proposed development would require the provision of additional primary school capacity however the application submission does not adequately examine or conclude a mechanism by which this capacity can be provided. Under the provisions of policy CS4 of the Chesterfield Local Plan: Core Strategy 2011 – 2031 it is a requirement to demonstrate how the provision can be locally provided in a timely manner and therefore given that a satisfactory solution has not been reached the development is likely to result in inadequate education facilities to cater for the increased demand.