

**ITEM 1**

**Outline planning application with all matters reserved except for access for a Residential-led mixed use development comprising up to: 275 new homes (class C3), 300m<sup>2</sup> of commercial floorspace (class E) & 300m<sup>2</sup> of floorspace for community use (Class F2). Primary accesses from Tom Lane, with separate access to the commercial zone. (Additional Information received 04.04.2023) on Land to South of T10m Lane and West of Rectory Road, Duckmanton for Mr and Mrs Elliot.**

Local Plan: Allocation H34 and RP1

Ward: Staveley South

Plot No:

Committee Date: 21<sup>st</sup> August 2023**1.0 CONSULTATION SUMMARY**

Environment Agency	No comment
The Coal Authority	Comments made and conditions recommended.
NEDDC	No response received
CCG – NHS	Request for £247,500 in contributions towards healthcare at one or more of: Castle Street Medical Centre (Bolsover), Family Friendly Surgery (Bolsover), Royal Primary Care – Rectory Road Medical Centre (Chesterfield).
Derbyshire Constabulary Designing out Crime Officer	Should follow basic principles: <ul style="list-style-type: none"> <li>– All movement routes, open space and private curtilage overlooked by primary elevations.</li> <li>– Principally back to back housing blocks to avoid exposed rear garden elevations.</li> <li>– Parking within curtilage.</li> <li>– Secured private garden space with individual access points.</li> <li>– Housing with private space adjoining open space or public space to have an adequate buffer between, with boundary treatment to define and reinforce the distinction between the two.</li> </ul>
CBC Economic Development	Recommend condition on local labour supply

DCC Archaeology	The majority of the site has been subject to open cast mining and retains no archaeological potential. However, the eastern edge of Duckmanton Road may be undisturbed and may therefore have archaeological potential in the vicinity of Polar farm which is likely to represent the medieval core of settlement at Middle Duckmanton. Recommend condition.
CBC Design Services	Comment made see report.
CBC Conservation Officer	No objection
Highways England	No objection
CBC Housing	In principle support for the application subject to negotiation with the developer for the provision of Affordable Housing.
Lead Local Flood Authority	Conditions recommended
CBC Urban Design Officer	No objection on urban design grounds at this stage. However, a design framework is recommended as the basis for taking forward the detailed reserved matters proposals in the event that outline planning permission is granted. The incorporation of adequate on-site green infrastructure to mitigate the landscape impacts will also be required.
DCC Policy	Comments made pre the Adopted Local Plan when there was insufficient housing land supply. Also notes that monies from CIL will be needed for school expansion to accommodate the additional pupils. No further updated comments.
Yorkshire Water	Recommend conditions, but note that the public sewer network does not currently have capacity available to accommodate the anticipated discharge from this proposal. Therefore, a feasibility study will be required to determine suitable foul connection points, any available capacity in the public sewer network, together with any likely costs and timescales for any potential upgrading works required
CBC Environmental Health	Conditions recommended and queries raised regarding the noise study.
Derbyshire Wildlife Trust	Comments as set out in the report and conditions recommended.

CBC Tree Officer	It is important the remaining hedges and trees are retained, with new planting to compensate for loss. Conditions recommended.
CBC Climate Officer	Comments made see report.
DCC Highways	Concerns raised initially now addressed and conditions and S106 matters recommended.
Active Travel England	No comment to make as the application was submitted before 1 <sup>st</sup> June 2023.
Neighbours, Site Notices and Advert	152 comments have been received with some parties commenting more than once. The comments include those from a local Councillor in NE Derbyshire. The main points raised by all of the comments are summarised in section 7.0 of the report.

## **2.0 THE SITE**

- 2.1 The application site is an area of 16.6 hectares of agricultural fields which generally slope away from Rectory Road to the west. There are hedgerows to the perimeter of the site which has generally been used for agriculture.
- 2.2 The site is located to the west of Duckmanton and north of Long Duckmanton. There are small clusters of housing to the east of the site with the main residential area of Duckmanton beyond Duckmanton Road to the east. There is a primary school nearby on West Crescent and a local store on Markham Road with bus stops providing a regular service into Chesterfield on Duckmanton Road. A solar farm is located to the north.
- 2.3 Staveley footpath no. 10 is opposite the site to the north leading from Tom Lane to Poolsbrook Country Park. The route of a proposed local cycle network runs along the site edge on Tom Lane.
- 2.4 There are two small local wildlife sites in the area one if the Ireland Wildlife site to the north west and the Arkwright Town Railway to the south west.
- 2.5 Opposite the site is a Grade II listed building which is the original farmhouse now the house to the riding school. This is described as: Poplar Farmhouse, late C18-early C19. Coursed stone rubble; 2 storeys; 3 sash windows (one with single glazing bars); central arched doorway in plain stone surround with semi-circular traceried fanlight and later door; coped gabled ends, brick stacks; slates.
- 2.6 There are other listed buildings at a further distance from the site in Long Duckmanton; Cherry Tree House and the Manor Farmhouse and Barn, and

further to the north west Inkersall Farmhouse. The site is also within the wider setting of the Grade I listed and schedule monuments of Bolsover Castle and Sutton Scarsdale Hall which are outside of the Borough.

The application site:



## 2.7 Site Images:

From Rectory Road



From Duckmanton Road



From Tom Lane



### **3.0 SITE HISTORY**

- 3.1 CHE/14/00504/EIA Residential - led mixed use development of up to 400 new homes, up to 500sqm of retail/commercial development (A class uses), provision of public open space, play facilities, public footpath network and green infrastructure – 01.08.2014 An Environmental Statement is required.
- 3.2 However, there is a letter on file from the Secretary of State dated November 2014 following the date of the above application where the SoS

determined that; “having taken into account the selection criteria in Schedule 3 to the 2011 Regulations, the proposal would not be likely to have significant effects on the environment.” The letter concludes: “in exercise of the powers conferred on him by Regulation 6(4) of the 2011 Regulations the Secretary of State hereby directs that the proposed development is not ‘EIA development’ within the meaning of the 2011 Regulations. This letter constitutes the statement required by Regulations 4(7).

- 3.3 Therefore despite the determination under reference CHE/14/00504/EIA above, the Secretary of State determination means that the proposal does not require the submission of an Environmental Statement. It is also worth noting that the extent of development has been reduced since the initial submission from 400 dwellings to 275 dwellings.
- 3.4 On the adjacent site development has been recently completed fronting Rectory Road and a small housing estate known as Poplar Heights has been completed.

#### **4.0 THE PROPOSAL**

- 4.1 In 2016 Outline planning permission was submitted for the erection of 400 new houses on the site with 300m<sup>2</sup> of commercial space under A use Classes (now Class E and sui generis uses) and 300 m<sup>2</sup> of community uses identified as Class D1 and D2 (now Class E, F or sui generis).
- 4.2 In 2021 the Council’s Forward Planning Team in consultation with DCC Urban Design Officer and Landscape Officer provided an indicative masterplan of the site with a position statement to aid progress of the development given the elongated time period over which the application was being considered. This was provided on the basis that further updated information would come forward from the applicant’s agent to support the scheme and to address policies Adopted in the Local Plan 2020 which allocated this site for the development of 275 houses (Site H34).
- 4.3 Following this the application was substantially amended and updated in 2022 to be for a Residential-led mixed use development comprising up to: 275 new homes (class C3), 300m<sup>2</sup> of commercial floorspace (class E) and 300m<sup>2</sup> of floorspace for community use (Class F2). The primary accesses to the site, which are the only matter being considered at this stage, are proposed from Tom Lane, with separate access to the commercial area. This is an outline application with only access being considered at this stage and all other matters reserved for future consideration.

4.4 The application has been updated information with regard to the proposal, including highways and ecological information. Drainage and LVIA information remains unchanged from the initial 2016 submission. A sustainability statement was submitted which notes:

The applicant is not a developer or building and will not be developing the site, it is intended that following a grant of permission the land will be sold to a developer.

In view of this the applicant cannot put forward sustainability measures but will accept a condition requiring the submission of a more detailed statement as apart of the reserved matters and encourage the successful bidder to engage with the LPA in this matter.

The document then considers a list of issues to be considered further at the detailed design stage.

4.5 The updated planning statement notes:

- It is a sloping site.
- There are public transport routes in the area as well as local services and facilities including Church, local shop and school.
- The proposed density equates to 16 dwellings per hectare, but with blue and green infrastructure increases to 31 dwellings per hectare.
- Affordable housing would be at 10% in line with policy.
- 25% of the units would be at the M4(2) adaptable and accessible homes standard.
- The proposal will include around 5.5 hectares of formal and informal public open space with a network of multi functional green routes and spaces to incorporate SUD's, support biodiversity and pedestrian and cycle routes, with 0.4 hectares of allotments and a large central public open space.
- It is noted that the volume of storm surface water has been calculated and the swales and pond storage designed to equate to or exceed greenfield run-off rate, with additional capacity for climate change.
- Foul water will be into the existing mains system with pumping where necessary.
- The community zone is envisaged to include 1 or 2 small retail units and community rooms with class E and F2 uses proposed.
- The proposal includes 3 access points from Tom Lane.
- The masterplan is indicative only.



## 5.0 **CONSIDERATIONS**

### 5.1 **Planning Policy**

5.1.1 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'. The relevant Development Plan for the area comprises of the Chesterfield Borough Local Plan 2018 – 2035.

5.1.2 Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires that; In considering whether to grant planning permission for development which affects a listed building or its setting, the local planning authority shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.

### 5.2 **Chesterfield Borough Local Plan 2018 – 2035**

CLP1 Spatial Strategy (Strategic Policy)

CLP2 Principles for Location of Development (Strategic Policy)

CLP3 Flexibility in Delivery of Housing (Strategic Policy)

CLP4 Range of Housing



CLP11 Infrastructure Delivery  
CLP13 Managing the Water Cycle  
CLP14 A Healthy Environment  
CLP16 Biodiversity, Geodiversity and the Ecological Network  
CLP17 Open Space, Play Provision, Sports Facilities and Allotments  
CLP20 Design  
CLP21 Historic Environment  
CLP22 Influencing the Demand for Travel  
RP1 Regeneration Priority Areas (Strategic Policy)

### **5.3 Other Relevant Policy and Documents**

National Planning Policy Framework:

Part 2. Achieving sustainable development  
Part 4. Decision-making  
Part 5. Delivering a sufficient supply of homes  
Part 8. Promoting healthy and safe communities  
Part 9. Promoting sustainable transport  
Part 11. Making effective use of land  
Part 12. Achieving well-designed places  
Part 14. Meeting the challenge of climate change, flooding and coastal change  
Part 15. Conserving and enhancing the natural environment  
Part 16. Conserving and enhancing the historic environment

Supplementary Planning Documents:

Designing Out Crime  
Successful Places' Residential Design Guide  
Historic Environment

### **5.4 Key Issues:**

- Principle of development
  - Primacy of the Development Plan
  - Commercial element
  - Affordable and Accessible Homes
  - Infrastructure
  - Climate
  - Settlement coalescence
  - Conclusion
- Design and appearance
- Impact on Heritage Assets
- Impact on residential amenity
- Highway safety

- Ecology and Biodiversity
- Ground conditions
- Drainage
- Waste
- CIL Liability
- Conclusion

## **5.5 Principle of Development**

### Primacy of the Development Plan

5.5.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 and section 70 (2) of the Town and Country Planning Act set out the primacy of the development plan where it states that, 'regard is to be had to the development plan for the purpose of any determination to be made under the planning Acts the determination must be made in accordance with the plan unless material considerations indicate otherwise'. The relevant Development Plan for consideration in this regard is the Chesterfield Borough Local Plan 2018 – 2035, Adopted July 2020.

5.5.2 It needs to be acknowledged that the submission of the application and the consultation responses to the proposal were all received prior to the adoption of the Local Plan. Policy CLP1 of the Adopted Local Plan sets out the Spatial Strategy for development in the Borough; The overall approach to growth will be to concentrate new development within walking distance of a range of Key Services as set out in policy CLP2, and to focus on areas that need regenerating, including the 'place shaping' areas set out in policies SS1 to SS6 and Regeneration Priority Areas.

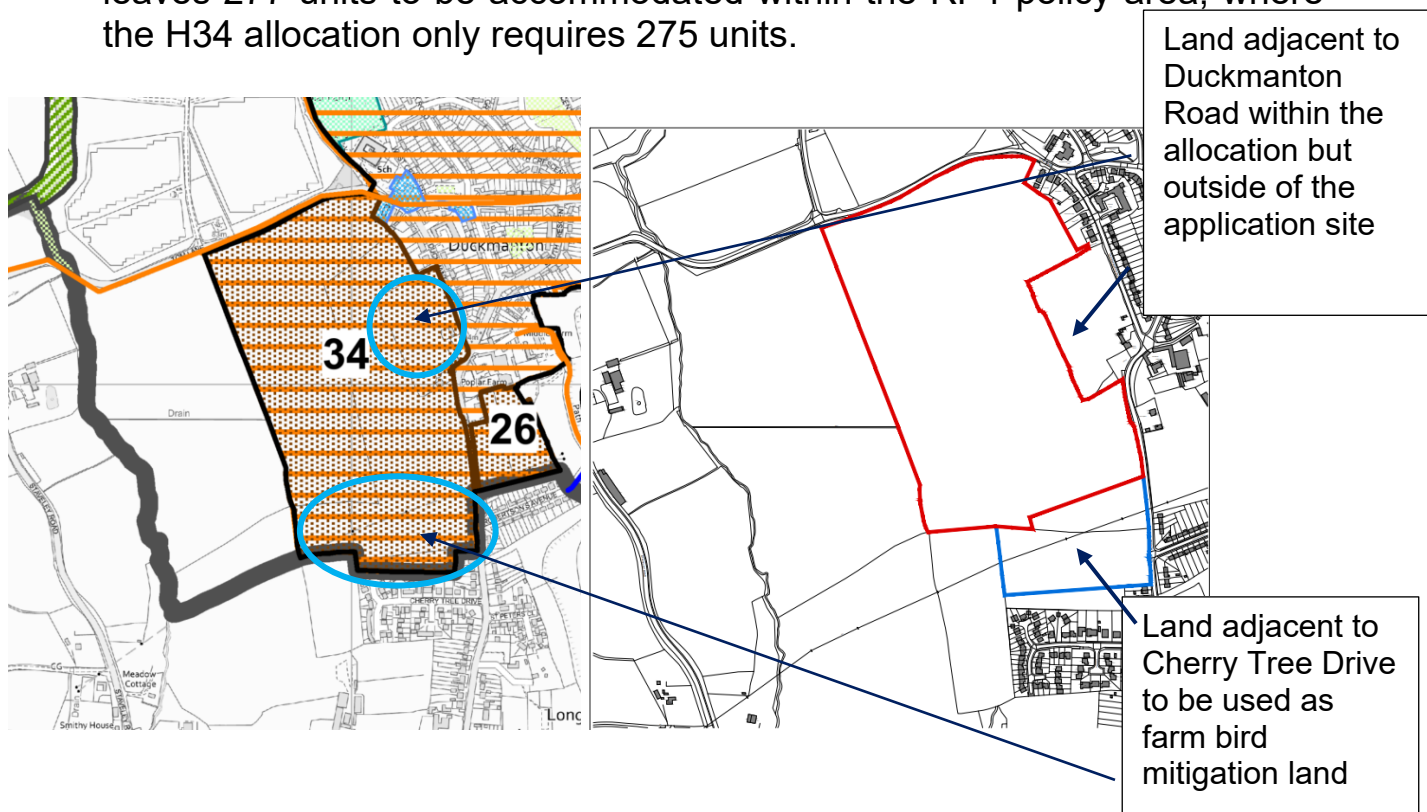
5.5.3 The site is within the Regeneration Priority Area established under policy RP1, where it is noted that the council will grant planning permission for development which supports regeneration and where it would;

- a) extend the type, tenure and quality of housing; and
- b) deliver environmental and biodiversity benefits; and
- c) support or enhance existing services and community facilities;
- d) provide recruitment, training and procurement to benefit the local economy (via a Local Labour Agreement in line with Policy CLP6), with the priority being to maximise training and employment opportunities for existing residents of the RPA within which the development is located; and
- e) increase trees and tree groups to enhance landscape character; and
- f) have an acceptable impact on the wider highway network (taking account of cumulative effects of other developments within the RPAs) and provide any necessary mitigation.

5.5.4 Specifically in terms of Duckmanton the policy requires; Within the Duckmanton Regeneration Priority Area, development is expected to:

- i. deliver a minimum of 310 new homes on sites H26 and H34; and
- ii. provide safe and convenient walking and cycling access to job opportunities at Markham Vale; and
- iii. provide safe and convenient walking and cycling connections to Poolsbrook and Poolsbrook Country Park; and
- iv. promote design that positively contributes to the surrounding area, and conserves or enhances the significance of heritage assets including Poplar Farmhouse, Duckmanton Model Village and Long Duckmanton; and
- v. deliver highway and pedestrian improvements at Tom Lane and Duckmanton Road.

5.5.5 Under Policy RP1, Housing allocation H26 as set out in policy CLP3 has been completed and is now known as Poplar Heights. There are 33 residential units on the development in line with the allocation and as approved under CHE/15/00085/OUT and CHE/18/00768/REM. This leaves 277 units to be accommodated within the RP1 policy area, where the H34 allocation only requires 275 units.



5.5.6 Under Policy CLP3 allocation H34 seeks to accommodate 275 units which generally aligns with this submission in terms of the quantum of development proposed. However, it should be noted that the red edged site plan does not match the allocation as there is third party land fronting

Duckmanton Road which is not within the control of the applicant and a further parcel that is owned by the applicant located to the south adjacent to the Cherry Tree Drive development. Housing allocation H26 has been completed with 33 residential units on that development. This leaves 277 units to be accommodated within the RP1 policy area, which accords with the allocation. The application is for up to 275 units with areas of the allocation outside of the application site which could make up for the slight shortfall in numbers. It should be noted that there has been no application put forward on this part of the allocation.

- 5.5.7 The amended scheme for the site includes an area of land, owned by the applicant, to the south of the site, the land adjacent to Cherry Tree Drive. This land will be used for farm bird mitigation, which effectively removes this area from future development as recommended to be controlled in perpetuity by the S106 legal agreement.
- 5.5.8 This then leaves a small parcel of land adjacent to Duckmanton Road which is not within the application site but is within the allocation. The application is for up to 275 units which seeks the entirety of H34 allocation. Therefore, any further development on the additional land out of the application site but within the allocation would have to be carefully considered in terms of overdevelopment and character of the area should a planning application come forward for this site. In addition, the description of this application for 'up to 275' units for will ensure that under the reserved matters application in order to achieve an appropriately detailed scheme it will not be critical should a lesser number of units than the 275 be approved.
- 5.5.9 Overall in terms of numbers of dwellings proposed and the extent of land for development the proposal is considered to meet the requirements of policies CLP3 and RP1.

#### Commercial element

- 5.5.10 The application site is sustainably located with access to the local services and facilities provided in Duckmanton and that can be accessed via public transport. The proposal also includes proposed commercial and community uses under Use Classes E and F2 which would be a welcome addition to the local area in line with the regeneration aims of Policy RP1. In considering potential retail uses the impact of this upon the local centre has to be considered as set out in policy CLP9 which notes:  
"Across the borough, a sequential approach will be used to assess sites for retail and other town centre uses, to focus such development on town,

district, local service centres and local centres to meet the requirements of national planning policy.”

5.5.11 Whilst the submission refers to 300m<sup>2</sup> of Class E floorspace (Retail and office etc) and 300m<sup>2</sup> and Class F2 floorspace (community uses), these cover a wide range of uses that are accepted in residential locations. There are no details regarding the specific building or intended uses provided at this stage. It is important that these uses enhance rather than compete with the existing Local Centre in order to ensure their vitality and viability.

5.5.12 The Revised Planning Statement refers to the sequential test for new retail outside of a centre being met by virtue of the commercial element being ‘location specific’ and asserts that there are no vacant units within the Local Centre. Considering the scale of the proposed commercial element, the proximity to the Local Centre (which could be extended in future Local Plan reviews), and the specific requirement of RP1 to support or enhance services/facilities; it is considered that a strict application of the sequential test is not appropriate in this case. It is noted that Class E uses include a range of commercial uses which would be suitable in this location and would not necessarily result in undue competition with the nearby retail uses within the existing local centre. On this basis and given that the final details of this commercial element of the scheme are unknown at this point, it is considered that the broad Class E uses and the community use class F2 are appropriate in line with the aims of Policy RP1.

#### Affordable and accessible homes

5.5.13 Policy CLP4 states in part that: In order to increase local housing choice, respond to emerging needs and promote the creation of sustainable communities, in new housing developments the council will seek a range of dwelling types and sizes based on the council’s most up to date evidence of housing needs and the location and characteristics of the area. Policy CLP4 also requires that: On sites totalling 10 or more dwellings (including phases of those sites) 25% of dwellings should be built to building regulations standard M4(2) (where a site includes affordable housing this should normally be proportionately split between tenures). Where the council has identified evidence of a specific need for a wheelchair accessible standard M4(3) property (for which the council is responsible for allocating or nominating a person to live in that dwelling) that is relevant to a site, this will be negotiated with the developer and secured by planning obligation, subject to consideration of viability and suitability.

5.5.14 The application site is within the medium CIL charging zone where the affordable housing requirement in the Local Plan is 10% provision with a 90/10 percentage split of affordable rent and shared ownership. The revised planning statement notes the requirement for 10% affordable housing provision on site and for 25% of the units to be M4(2) compliant for adaptable and accessible homes. These matters can be secured via S106 and conditions respectively.

### Infrastructure

5.5.15 Whilst an up-to-date statement from DCC Policy in terms of the impact on school places has not been provided in this case, any shortfall in places is considered under the CIL payments which will be calculated at the reserved matters stage once the floorspace of the units is known. Concern has been raised from local residents that the area has insufficient early years childcare, such as a child minders. As this would be largely provided on a private basis, this provision is based on market forces and a contribution for this cannot be provided through the planning process.

5.5.16 The CCG have commented on the proposal requesting a contribution of £247,500 towards healthcare at one or more of the following GP Practices: Castle Street Medical Centre (Bolsover), Family Friendly Surgery (Bolsover), Royal Primary Care – Rectory Road Medical Centre (Chesterfield). This will be secured via S106. As hospitals and dentists are funded in a different way the planning process cannot seek contributions for these matters.

### Climate

5.5.17 The Council's Climate Officer commented that:

While it is important to address the environmental impact of all human activity, the long life expectancy of domestic dwellings means that it is particularly important to address climate change in this context.

It is difficult to assess the mitigations proposed by the applicant at this stage without detailed specifications for building works proposed, but I recommend that the applicant be asked to provide evidence that they are taking steps to reduce the emissions of building works and end use of the proposed development. Particularly in terms of walking / cycling / public transport access, renewable energy generation, sustainable water management, air quality and green infrastructure. Including: Carbon in building materials, insulation, low carbon heating, energy and water efficiency, renewables, EV Charging, footpaths and cycleways, justification for mains gas, no installation of log/coal burning devices.

I recommend that the applicant be asked to provide evidence that they are taking steps to reduce the vulnerability of site users to the effects of climate change over the projected lifetime of the dwellings. Including: Permeable surfaces, SUDS, rainwater collection, tree planting, insulation.

In terms of adapting to climate change I would expect to see reference to a healthy local environment, local green infrastructure, net biodiversity gain, and support for sustainable transport. In particular: a modal shift to more sustainable travel, less intrusive forms of transport.

The principle of net biodiversity gain suggests that the biodiversity value of the site should increase post development. Provision of detailed landscaping with tree planting and other biodiversity improvement measures.

5.5.18 In terms of Climate impacts a sustainability statement has been submitted which notes:

- The Applicant is not a developer or builder, the Applicant is the land owner and will not be developing the site or preparing reserved matters application. The Applicant's intention is to establish the principle of developing the site, determine what is achievable on the land and to sell the land to a developer. Given that the developer has not yet been determined, the Applicant cannot reasonably propose a package of sustainability measures. Instead, the Applicant is willing to:
- Accept a condition requiring the submission of a further, more detailed sustainability statement.
- Undertake to encourage the successful bidder to engage positively and proactively with the Local Authority in preparing a Sustainability Statement.
- The Applicant would accept a condition requiring the provision of a sustainability statement to incorporate provisions to address the following three core principles: 1. The direct impact of the development on the climate in terms of emissions, and the mitigation actions that could be put in place to reduce this impact. 2. The direct effects of a changing climate on the users of the development, and adaptations that could be put in place to reduce them. 3. The indirect impact of the development on the emissions and capacity of others in the local area to adapt to climate change (including natural ecosystems). All as set out in the comments of the Council's Climate Officer.

5.5.19 As the construction of the buildings is a matter for Building Regulations, the main way in which the Local Plan considers climate matters is through the consideration of the location of development to ensure that there are

public transport, walking and cycling routes to serve the development as set out in policies CLP1 and 2. As this is an allocated site it is considered to be sustainable in terms of its location. The provision of the commercial elements along with walking and cycling routes through the site, to be considered at the reserved matters stage along with the recommended connectivity noted by the Highway Authority in their comments and conditions, all help toward providing a sustainable neighbourhood.

5.5.20 It is noted that in this case the applicant is not a developer and therefore there is limited detail as to the proposed layout and design of the development, however only the principle of the development and its access is being considered and therefore the best way to consider the climate matters raised is by the imposition of conditions in line with the Climate Officer's recommendation.

#### Settlement coalescence

5.5.21 This area has what are considered to be two distinct areas, Duckmanton and Long Duckmanton. Modern development has resulted in the separation between these two areas being diminished somewhat. The allocation does not include a separation. The application site if allowed to build to the very edge of the boundary with Cherry Tree Drive would assimilate the two areas together. By securing the parcel of land to provide for the farm bird mitigation area, this field separation between the two areas is appropriately maintained and settlement coalescence prevented whilst also allowing growth and regeneration in the area.

#### Conclusion

5.5.22 Considering these principle matters it is important to again consider the policy requirements of the allocation:

CLP3 allocates the site for 275 homes.

Policy RP1 requires: Within the Duckmanton Regeneration Priority Area, development is expected to:

- i. deliver a minimum of 310 new homes on sites H26 and H34; and
- ii. provide safe and convenient walking and cycling access to job opportunities at Markham Vale; and
- iii. provide safe and convenient walking and cycling connections to Poolsbrook and Poolsbrook Country Park; and
- iv. promote design that positively contributes to the surrounding area, and conserves or enhances the significance of heritage assets including Poplar Farmhouse, Duckmanton Model Village and Long Duckmanton; and



v. deliver highway and pedestrian improvements at Tom Lane and Duckmanton Road.

In response:

i. as set out in para 5.5.5 above; Housing allocation H26 has been completed and is now known as Poplar Heights. There are 33 residential units on the development in line with the allocation and as approved under CHE/15/00085/OUT and CHE/18/00768/REM. This leaves 277 units to be accommodated within the RP1 policy area. The application is for up to 275 units with an area of the allocation outside of the application site which can then make up the slight shortfall.

ii, iii and v. it is intended that the reserved matters application will include cycle and walking routes within and to the edge of the site. The Highway Authority in their comments below have conditioned the need for; the provision of pedestrian crossing facilities on Tom Lane and the provision of approximately 30m of footway on the northern side of Tom Lane between the access to Poolsbrook Country Park and the Duckmanton Arms PH along with a new bus stop on Tom Lane and improvements to bus stops on Rectory Road near Robertson's Avenue which links into the route to Markham Vale. On this basis this element of the policy has been met.

iv. the impact on heritage assets is considered below, with the conclusion that the impacts are acceptable. In terms of the visual impact on Duckmanton Model Village and Long Duckmanton this is considered in the Design and Appearance section below.

5.5.22 Given the allocation of the site within the local plan, subject to considering the detail of the development and conditions noted above, it is considered that the proposal is acceptable in principle and meets the requirements of policies CLP3 and RP1 of the Adopted Local Plan.

## **5.6 Heritage Impacts**

5.6.1 Policy CLP21 of the Adopted Local Plan states that; In assessing the impact of a proposed development on the significance of a designated heritage asset, the council will give great weight to the conservation of designated heritage assets and their setting and seek to enhance them wherever possible. The Policy goes on to note in part that: In order to ensure that new development conserves or enhances the significance of designated and non-designated heritage assets and their settings, the council will: b) protect the significance of designated heritage assets and their settings including Listed Buildings.

Where a development is likely to result in harm to, or a degree of loss of significance of designated heritage assets and/or their setting, planning applications should be accompanied by evidence that sets out:

1. a description of the significance of the affected assets and their setting and an assessment of the nature and degree of impact on this;
2. an evaluation of how harm or loss would be avoided, minimised or mitigated; and
3. a clear and convincing justification for the development and the resulting harm or loss.

5.6.2 This policy is in line with the requirements of Part 16 of the NPPF which states in part that; in Para 199; When considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation (and the more important the asset, the greater the weight should be). This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance. In Para 194; In determining applications, local planning authorities should require an applicant to describe the significance of any heritage assets affected, including any contribution made by their setting. The level of detail should be proportionate to the assets' importance and no more than is sufficient to understand the potential impact of the proposal on their significance. As a minimum the relevant historic environment record should have been consulted and the heritage assets assessed using appropriate expertise where necessary. 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. In Para 202; Where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal.

5.6.3 The setting of a listed building can be a wide-ranging area not just the curtilage of the building itself. The listed building here is the original farmhouse and would have been surrounded by its operational farmland this along with the siting of the building at the crest of the hill is fundamental to its setting.

Listed farmhouse, and shown in its context:



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5.6.4 In this case the submitted application includes minimal information in terms of the heritage asset and the impact of the development upon its setting. The Heritage and Archaeology report notes: “The proposed development is unlikely to have an impact on the setting of the 19th century Poplar Farmhouse (listed building, Grade II (DDR1096), situated immediately to the east. This is already within an existing residential setting. Whilst there is likely to be an adverse impact on the setting of the listed building, this would potentially be outweighed by the public benefits arising from the housing development, including the supply of homes, the economic benefits derived from this and the regeneration priorities of the local plan. However, this is on the basis that the scheme is acceptable in all other matters.”

5.6.5 The Council's Conservation Officer noted:

"Poplar farm is a 2-storey former farmhouse, constructed circa late-C18 and is primarily characterised by coursed stone rubble, sash windows, and a slate roof. It is a fairly typical historic farmhouse of the period. It is set back from Rectory Road and is partly screened by associated stone outbuildings, a hedgerow, two mature trees, and Rectory Road (which would act as something of a buffer between the development and setting of the listed building). As such, any impact on the setting of the listed building caused by the development would in my view be fairly insignificant, given this screening. Moreover, the proposed development would not extend fully eastwards of the fields where a large area of land would, I presume, remain undeveloped (Masterplan, ref: 1505-01(20)M401). I am basing these comments on the assumption that the proposed house types and housing layout would represent fairly typical suburban residential development, the type that would blend in reasonably well with the existing built environment of Duckmanton."

5.6.6 The County Archaeologist has commented that:

"Most of the site, except for the eastern boundary, has been subject to open cast coal extraction during the 20<sup>th</sup> century and has no archaeological potential. The eastern edge of the site, however where it adjoins Duckmanton Road, appears to be relatively undisturbed based on the abandonment plans in the coal mining report. There is the potential therefore for archaeological deposits and/or features, relating to the medieval core of Middle Duckmanton, to be present on this part of the site. Given this potential I advise that under the provisions of the National Planning Policy Framework, archaeological prospection, survey and recording of the relevant areas at the site's eastern edge be undertaken. This will comprise geophysical survey followed by archaeological evaluation through trial trenching and/or Strip, Map and Record excavation of any significant areas. A condition is recommended."

5.6.7 A Heritage and Archaeological Assessment was submitted with the application and considered by the County Archaeologist who recommended a watching brief condition. Therefore, in terms of the potential below ground archaeology as a non-designated heritage asset it is considered that the proposal is acceptable subject to the recommended condition in line with policy CLP21 and part 16 of the NPPF where para 203 notes that; The effect of an application on the significance of a non-designated heritage asset should be taken into account in determining the application. In weighing applications that directly or indirectly affect non-designated heritage assets, a balanced judgement will be required having regard to the scale of any harm or loss and the significance of the heritage

asset. Para 205 notes: Local planning authorities should require developers to record and advance understanding of the significance of any heritage assets to be lost (wholly or in part) in a manner proportionate to their importance and the impact, and to make this evidence (and any archive generated) publicly accessible. However, the ability to record evidence of our past should not be a factor in deciding whether such loss should be permitted.

5.6.8 Whilst limited information has been provided we can understand at this point the heritage matters pertaining to the development of the site. The potential archaeology can be considered via a condition to ensure the site is suitably investigated and recorded. In terms of setting; whilst the setting of Poplar Farmhouse has already been diluted by surrounding development nevertheless to the west of Rectory Road that rural character remains and contributes to the significance of the listed building through an understanding and appreciation of its setting. The loss of that setting as a result of the housing development will result in harm to the significance of the heritage asset. That harm is considered to be less than substantial harm. Similarly, there will be very low level harm to nearby assets in terms of setting. Given the extent of development it is also considered that the economic and social benefits arising from the additional housing will outweigh that harm. However, any reserved matters scheme will need to consider how development in close proximity to the listed building can minimise the adverse impacts. The reserved matters should include an appropriate planted buffer to the edge of Rectory Road and include planting throughout the site to soften the appearance of the site in the wider landscape.

## **5.7 Design and Appearance**

5.7.1 Local Plan policy CLP20 states in part; all development should identify and respond positively to the character of the site and surroundings and respect the local distinctiveness of its context respect the character, form and setting of the site and surrounding area by virtue of its function, appearance and architectural style, landscaping, scale, massing, detailing, height and materials.

5.7.2 The allocated development is in outline only and matters of appearance and layout are therefore reserved for subsequent approval. In terms of the visual impacts of the development, the site is on rising land within a very open landscape with far reaching views. Therefore, the development of the site will have harmful visual impacts. This can be mitigated to some degree by the form and layout of the development and planned areas of open

space and landscaping, all of which should utilise the contours of the land to soften the visual impact of the development. The site is not a specified sensitive landscape. However, the scale of the development in this open landscape will result in change, as the site is allocated that change is considered to be acceptable.

5.7.3 The Council's Urban Design Officer has noted the need for a condition for the submission of a comprehensive Design Framework for the site, this would need to include how landscape impacts will be minimised. The masterplan which has not been submitted by the applicant but devised by the Council's Strategic planning team and Derbyshire County Council to help move the application forward; considers this visual impact and breaks up the development with landscaped parcels. However, this work is not comprehensive enough to determine whether the contours and landscaped areas will work practically for such a large scale development and therefore can only be considered as very indicative and of limited weight. The design framework condition will therefore need to provide a strategy for street design/hierarchy and street trees and for the landscaping of the site to visually soften the development from the west and to provide appropriate planted buffers to the east for the listed building and to the south for the farm bird mitigation area. In design terms it is considered that an appropriate scheme for the site can be achieved through the condition and reserved matters.

5.7.4 Duckmanton was largely developed at a single point in time where the designed layout and appearance of the housing was considered a model of its time as referred to in policy RP1. That character of two storey red bricked properties can be appropriately reflected on in the detailed design stage of this development. However, this will have to be considered at the reserved matters stage, as only the principle of the development and access is being considered through this application. The same applies to reflecting on the character of Long Duckmanton which has a more varied design approach with both modern and inter war development.

5.7.5 As far as can be ascertained at this stage of the application process the proposal is considered to be able to meet the requirements of Policy CLP20.

## **5.8 Residential Amenity**

5.8.1 Local Plan policy CLP14 states that development will be expected to have an acceptable impact on the amenity of users and neighbours.

- 5.8.2 This is an outline application where matters of amenity in terms of overlooking, overshadowing and outlook issues are not considered until the detailed design stage as part of the reserved matters. It is noted that any detailed scheme will be considered against the Residential SPD in terms of separation distances to ensure any impacts to neighbouring residents are within acceptable limits.
- 5.8.3 In terms of the consideration of noise from the scheme the Council's Environmental Health Officer noted that:  
"Recommend that the hours of construction are limited to mitigate noise impact on nearby residential properties.  
As this application is an outline I am unable to fully assess the impact that the commercial units could have on the occupiers of the residential properties. The noise report states "As the end user of the commercial area is unknown, it is not possible to undertake an assessment of fixed plant. However, the rating noise level of any plant must be no more than 5dB(A) above the existing background noise level."  
Questions were raised regarding this relate to who will measure noise level and is existing background noise with or without the development?  
Should planning consent be granted, further details will be required regarding - all lighting to be installed on site, location and sound output of fixed plant, kitchen extraction to be installed at hot food takeaways, no roller shutter doors, deliveries to the commercial units shall only take place between 7:30am and 5:00pm Monday to Friday and 8:30am to 5:00pm Saturday. Deliveries shall not take place on a Sunday or Public Holiday, opening hours of the commercial units to be restricted."
- 5.8.4 Since these comments were made the Use Classes have been amended to Class E and F2 which are uses that are generally considered suitable in a residential area. Hot food takeaways and other noise or odour related uses would require a further change of use. However, E b) which could include a restaurant use and E d) which could include indoor fitness/gym may be more problematic in terms of noise. A condition is therefore considered reasonable in regard to these specific uses in terms of noise along with a condition relating to proposed operating hours for all of the uses. On this basis it is considered that subject to conditions the use classes proposed are acceptable without further restriction in line with policy CLP14.
- 5.8.5 In terms of open space Policy CLP17 notes: Where proposed development would result in a need for new open space and outdoor sports facilities and/or exacerbate existing deficiencies in provision, development must contribute to public open space, sports facilities and play provision in

accordance with the council's adopted standards as set out in Appendix B of the Local Plan.

5.8.6 The Council's Forward Planning team have commented that:

"When considering the requirements of the allocation (3.42 hectares of open space), existing deficiencies and the regeneration needs of the settlement, the following mix was recommended and incorporated into the indicative masterplan:

- A multifunctional open space that fits within the typology of Parks and Gardens but also contains quality Natural/Semi-Natural Open Space, with play provision including provision for the older age groups of children;
- The multifunctional space should be at least 2 hectares (the threshold for on-site Park provision);
- The space should be located and designed in such a way as to serve both the new development and the existing community;
- An additional 1ha of Accessible Natural/Semi-Natural Open Space within the site provided in a manner that provides a net gain in biodiversity and is well connected to existing and proposed new habitats – for example in the form of linked corridors;
- An allotment site of 0.4ha accessible to the new and existing community;
- Permeability within the site that allows new residents to access existing open space provision (in particular play and amenity greenspace) in the locality. The indicative masterplan shows 3.89 hectares of public open space (including SuDS) and includes the recommended typologies. It is noted that as a development under 300 dwellings it is not necessary to consult Sport England and that any need for new/improved off-site sports and playing pitches resulting from the development will be covered by CIL."

5.8.6 As noted above the master planned layout was not undertaken by the applicant but by Derbyshire County Council Urban Design and Landscape Officers in order to aid moving the application forward given the long time it has been under consideration. Therefore, the masterplan cannot be given significant weight as there has been no background work to ascertain the full constraints of the site including below ground matters and viability. Therefore, whilst the requirements for open space are noted these will not be considered in detail until the reserved matters stage. However, the comments above provide the developer with a clear understanding of the needs in terms of open space. In addition, as the biodiversity net gain will be on site there may need to be compromise between the extent and type of public open space and the creation of habitat. On the basis of later consideration it is considered that the development of this site can bring forward suitable public open space in line with policy CLP17.



## **5.9 Highway Safety**

5.9.1 Local Plan policy CLP20 and CLP22 require consideration of parking provision and highway safety.

5.9.2 Through early discussions on the application and from comments of the Highway Authority it is clear that there was substantial concern at the highway impacts of the development, particularly in terms of the junctions onto the A632 but also noting other local junction issues. This was in reaction to a planning appeal decision in North East Derbyshire which noted that one of these junctions of particular concern in terms of existing traffic flow and could not accommodate additional traffic without improvement. It was noted that the junction improvements would be made in line with the development of the Coalite site in the adjacent Authority area (Bolsover) but that as the improvements were secured against certain development triggers it would be difficult to define exactly when these would occur. It is also clear that much of the submission had changed over time including a reduction in the quantum of development and that all submitted highway information needed to be updated.

5.9.3 In view of this a transport assessment by Bancroft Consulting was submitted in July 2022 with a further addendum in August 2022 to address the highway concerns and update the traffic assessments, the reports made the following key points:

The addendum has been carried out specifically in connection with the extent of development described in the application.

The initial TA was submitted to support a larger scheme of 400 dwellings and retail development, which was clearly out of date and needed to be reconsidered.

National highways had already confirmed that no further assessment of impacts to the M1 Junction 29a were required.

The main concern remaining from DCC Highways was the passage of time since the original traffic counts, clarity of the extent of development, updated assessment of the completed and committed developments including Coalite and Markham Vale (including the recently agreed expansion), traffic growth factors to be reassessed, visibility splays, bus stop improvements, accident reports and junction capacity assessments.

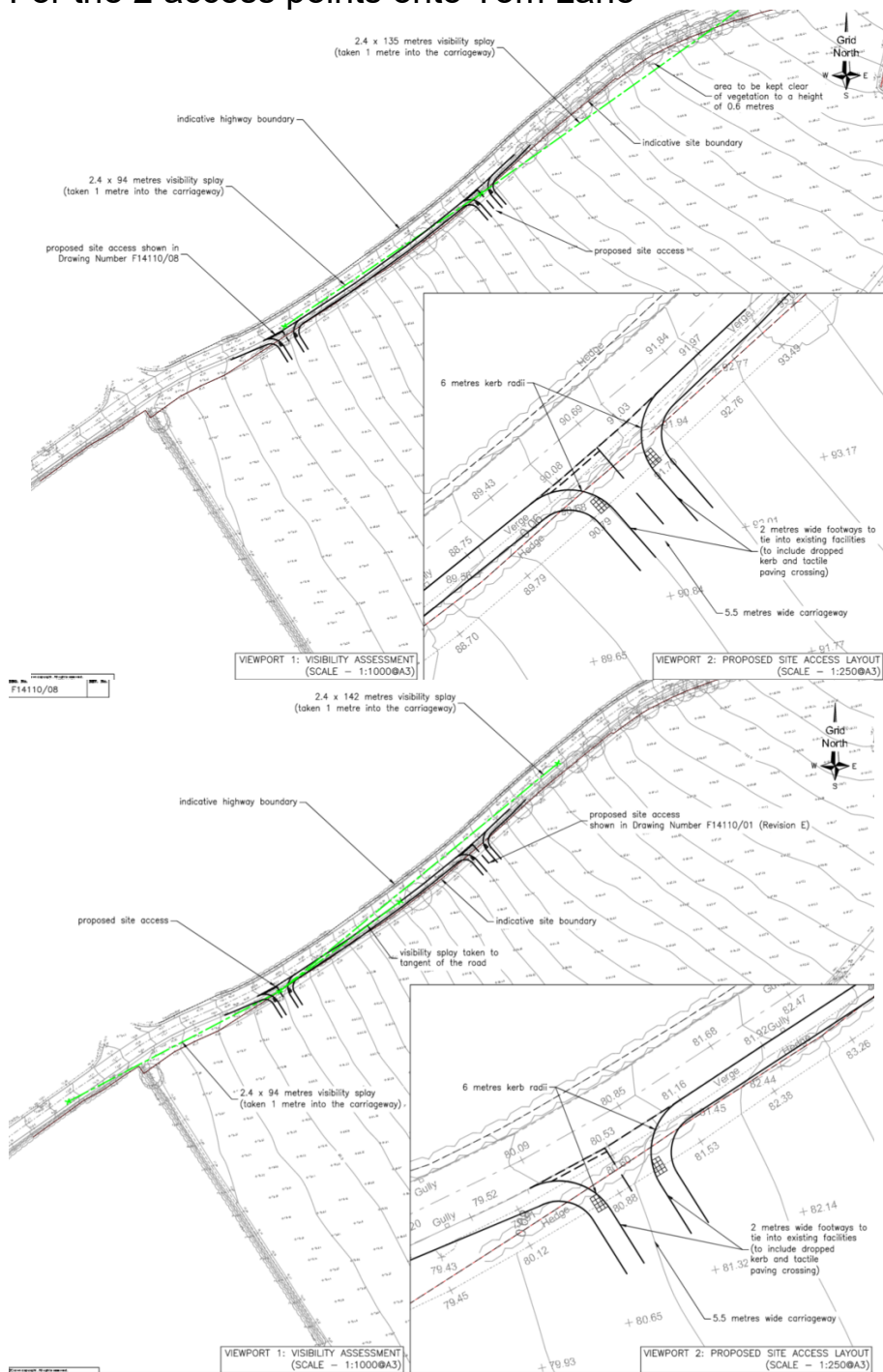
This addendum is to provide DCC with the additional information requested and demonstrate that the proposed development would not generate a severe residual cumulative impact on the surrounding highway network, to enable DCC to support the scheme.

Bus stop improvements would be:

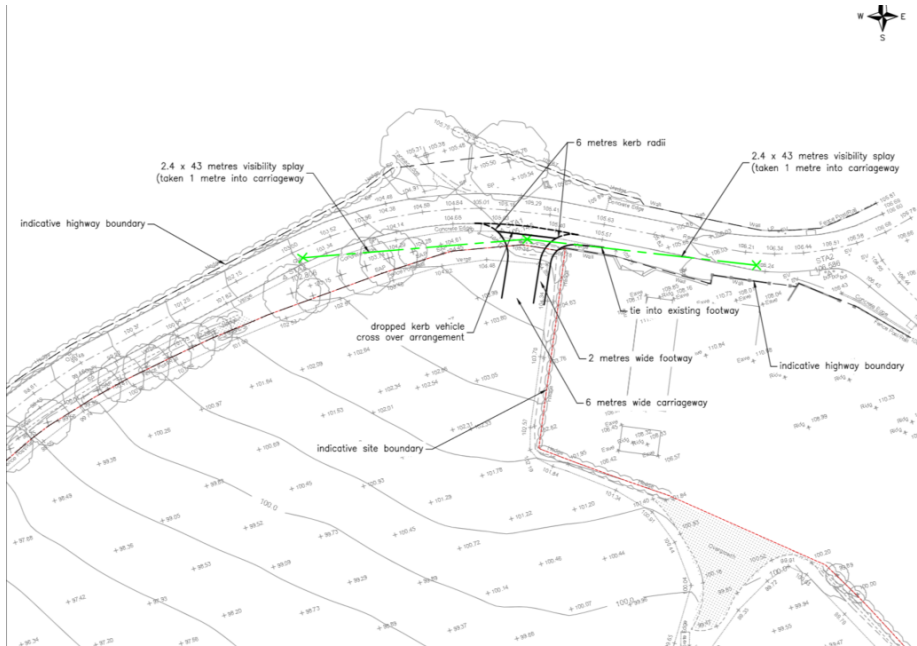
New sheltered stop on Tom Lane near the site frontage with tactile paving for crossing and real time information, all to be agreed under S278 works. Improvements to the Robertsons Avenue stops to better connect to the development again with shelter and real time information.

5.9.4 The assessment sets out that access to the residential development would be via 2 access points onto Tom Lane with 5.5m wide carriageway and 6m radii with 2m paths either side. With a further access proposed for the commercial element as set out below:

For the 2 access points onto Tom Lane -



For the access to the commercial area via Tom Lane / Duckmanton Road corner -



5.9.5 The junction assessment within the Transport Assessment confirmed that all junctions (Tom Lane, J2 Markham Road/North Crescent/South Crescent, J3 Markham Road/Tom Lane, Duckmanton Road, J5 South Crescent/Rectory Road/Duckmanton Road, J6 Chesterfield Road(A632)/Rectory Road, would operate within junction capacity on year 2031 in a 'with development' scenario.

5.9.6 From the assessment J7 Chesterfield Road (A632)/Staveley Road, was considered likely to have a degree of congestion. Due to this maximum queue lengths were considered which demonstrated negligible impacts on the mean maximum queue length. This found the proposal would not result in a severe impact on the highway network as referenced in the NPPF. It was suggested that a contribution, bearing in mind the reduction in the quantum of development and the nearby Coalite development; could be agreed towards junction improvements, this has been recommended by the Highway Authority.



5.9.7 Following the submission of the above updated assessment and addendum submitted in August 2022, the Highway Authority have now confirmed: The Addendum Transport Assessment dated August 2022 has been submitted to address outstanding highways matters. Accordingly, there are no highway objections to the above proposal, subject to conditions, S106 contributions and notes being appended to any consent in the interest of highway safety, these are included within the recommendation. The following should be considered by the applicant in any reserved matters application; on site traffic free links should be provided at a 3 metre width to allow simultaneous use by pedestrians, cyclists, push chairs and mobility scooters, all on site connections to off-site paths and facilities should also be provided at a 3 metre width and the extension of the designed strategic cycle path along the boundary of Tom Lane to the western boundary of the site where the existing drop kerb would allow reconnection to the highway and future onward route development.

5.9.8 The recommendation includes a series of conditions and the provision of S106 matters:

- A sum of £36,822 as a contribution to the improvement of the A632/Staveley Road signalised junction.
- Travel Plan monitoring fee of £1,110.00 pa x five years; total £5,550.

5.9.9 The conditions include; highway construction management, provision of the accesses as proposed, solid surface adjacent to main highway, no occupation until parking is provided, road layout to be agreed under the Reserved Matters, Travel plan and highway improvements which are noted to be: a bus stop on the northern side of Tom Lane, improvements of the bus stops on Rectory Road, pedestrian crossing facilities on Tom Lane, 30m of footway on the north side of Tom Lane between access to the Poolsbrook Country Park and the Duckmanton Arms PH. All of these works

are within highway controlled land and therefore suitably controlled via condition.

5.9.10 In line with these recommendations; subject to the required contributions to be secured via S106, conditions and details to be agreed through the Reserved Matters, the scheme in terms of highway safety and connectivity is considered to be acceptable in line with policies CLP20 and 22 of the Adopted Local Plan.

## **5.10 Biodiversity including trees and landscaping**

5.10.1 Local Plan policy CLP16 states that all development will “protect, enhance, and contribute to the management of the boroughs ecological network of habitats, protected and priority species ... and avoid or minimise adverse impacts on biodiversity and geodiversity and provide a net measurable gain in biodiversity.” The NPPF in paragraph 170 requires decisions to protect and enhance sites of biodiversity and paragraph 174 also requires plans to “pursue opportunities for securing measurable net gains for biodiversity”.

6.6.2 Whilst landscaping is a reserved matter it is fundamental to the acceptability of the scheme to know at the outline stage whether a biodiversity net gain can be achieved at the site post development. Given the site is agricultural fields which are of low biodiversity value a gain should be achievable. As the secondary legislation to the Environment Act is not due until November at this time the net gain should ideally be 10% but this cannot be secured at this time as this is not stipulated in Policy CLP16.

6.6.3 Given the passage of time since the original submission updated biodiversity information has been provided. Derbyshire Wildlife Trust were consulted on this and commented;

“We have reviewed the ecological appraisal prepared by FPCR June 2021 which is accompanied by a Biodiversity Metric assessment and calculation. The ecological appraisal and the metric assessment have been undertaken to an acceptable standard. The appraisal builds upon two earlier assessments of the same site in 2016 and 2014. The updated assessment does not include a breeding bird survey so conclusions reached on birds are based on casual observations and some information collected in earlier reports as well as the desktop survey.

The site is primarily comprised of arable land that is used to grow crops. There are internal and boundary hedgerows present.

The site does not have any statutory or non-statutory nature conservation designations and apart from the hedgerows it does not support any habitats of high nature conservation value.

#### Species issues:

There are likely to be foraging and commuting bats using the hedgerows and the site does contribute to the support of farmland birds in this area. The appraisal states that the arable fields are suitable for ground nesting birds such as skylark and lapwing. Skylark have been observed using the field by local people and there are records for this species from nearby fields as well. The ecological appraisal also refers to linnet, grey partridge and reed bunting. Whilst use of the site by skylark may vary depending upon crop type and their chances of successful breeding will also be affected by crop type it seems reasonable to assume that the fields are used by skylark.

#### Habitats:

The development will result in the loss of c.16 ha of arable land including small areas of sparsely vegetated ephemeral habitat. All hedgerows will be retained according to the Biodiversity Metric. However, the appraisal does refer to minor losses for access, roads etc.

#### Birds:

There will be an impact on the following Species of Principal Importance; linnet, skylark, reed bunting and possibly grey partridge.

#### Mitigation and compensation proposals:

The proposed mitigation is set out in the ecological appraisal, the biodiversity metric and on Figure 1 Habitat Proposals plan. The proposals are considered to be broadly acceptable with regard to the impacts on habitats. There are some discrepancies between the appraisal and the biodiversity metric. In the appraisal there is reference under para 4.9 to minor loss and replacement of hedgerow as well as a reference to strengthening hedgerows. There is also a reference to a new hedgerow network para 4.9 and 4.10. None of this is referred to in the metric. In terms of losses and gains the additional hedgerow planting as well as the retention of most of the existing hedgerows will probably be an overall increase in hedgerows in the metric. To this extent it is not a major concern that it is omitted, but it does need to be clearly set out in any enhancement plan.

#### Impacts on farmland birds:

Additional bespoke measures are required to address the impact on the priority bird species namely, skylark, reed bunting, linnet and grey partridge.

Though the impacts on these bird species may appear to be relatively minor there is a cumulative impact from development across this part of the north-east of Derbyshire that is reducing the extent of suitable habitat for farmland birds.

It is recommended that the applicant agrees to provide a bespoke mitigation plan for farmland birds and that this is secured by condition if the application is approved. Mitigation should include measures to increase the availability of suitable foraging and nesting habitat and/or the chances of nesting birds being successful in fledging chicks. For similar developments this has included provision of skylark plots within cultivated fields, sowing of spring crops, wild bird crops for foraging, leaving arable margins fallow and weedy stubbles overwinter. The applicant may have to approach neighbouring landowners to reach a suitable agreement. Conditions recommended.”

6.6.4 The submitted biodiversity metric notes only a 0.6% net gain to be provided on site. However, it appears from the comments of the Trust that it may be possible to increase this. In addition, in response to the concerns regarding farmland birds a section of the allocated land owned by the applicant, measuring approximately 2.69 hectares, will be set aside to provide this habitat over the long term. The Trust have noted that this land will also require:

- The mitigation area should not be accessible to people and dogs
- The boundaries should be hedgerows or walls, well maintained and not easily accessed by dogs
- The management of the field needs to be specifically tailored to the needs of the farmland birds to provide breeding and foraging habitat for linnet, yellowhammer, skylark and grey partridge.

This will need to be secured via condition and S106 to appropriately address the mitigation needed for farmland birds.

6.6.5 The intention to provide only 0.6% net gain on site is disappointing however it is policy compliant. Following further detailed consideration under reserved matters applications it may be that this figure could be increased based on a detailed landscaping scheme particularly given that the full number of 275 units is not critical. In order to prevent any loss on site or gain below the 0.6% it is considered reasonable to seek off site contribution to CBC at £20,000 per habitat unit, should the on-site net gain fall below 0.6% provision.

- 6.6.6 Subject to conditions as recommended by the Trust and a S106 agreement to secure the farmland bird mitigation and potential off-site contribution as set out above, the proposal is considered to meet the requirements of Policy CLP16 in terms of ecology and biodiversity matters.
- 6.6.7 In terms of trees on site these are limited. The Tree Officer has confirmed that none of the hedgerows are classed as ‘important’ hedgerows. The Tree Officer notes that:  
“It is inevitable that there will be some loss of hedgerow and trees mainly for the access and road network but the proposed new planting and other features will overall have a positive impact on the site with the creation of water features, green corridors and wildlife buffer zones. I therefore have no objections to the proposed development but recommend conditions.”
- 6.6.8 As noted above the site is relatively lacking in biodiversity features. Therefore, retention and enhancement of hedgerows where possible and proposed landscaping will benefit the site overall. There are no concerns with regard to hedges and trees subject to conditions.

## **6.7 Ground conditions and contamination including air quality**

- 6.7.1 Policy CLP14 requires that; Proposals for development on land that is, or is suspected of being, contaminated or unstable will only be permitted if mitigation and/or remediation are feasible to make the land fit for the proposed use.
- 6.7.2 The application is accompanied by a Coal Mining Risk Assessment which recommends:  
“In summary, based on the findings of the coal mining risk assessment research undertaken to date, there is considered to be a high risk given the extensive historical opencast workings and subsequent backfilling within the proposed development area; and relatively low risk associated with the presence of former coal mine workings at shallow depth beneath the study site.  
The main requirement for any conventional geotechnical site investigation will be primarily for foundation design i.e. spread or piled foundations, floor slab and road pavement design together with environmental issues including contamination assessment and ground gas monitoring. Dependent upon the findings of the intrusive site investigation, shallow underground mineworkings investigations may also be required in certain areas.  
It is, therefore, recommended that intrusive investigation works should be carried out in order to establish the ground conditions and bedrock profile



and including confirmation of the bearing properties of any fill materials. The intrusive works should determine the soil profiles and the depth to and quality of the underlying Coal Measures bedrock (including the locations of buried highwalls) and subsequently determine the presence or absence of any unrecorded coal workings by rotary drilling techniques.

In summary, it is considered that despite the former mining activities at the site, appropriate solutions and mitigation measures are likely to be technically achievable to enable the construction of the proposed development. It is anticipated at this stage that this report shall be submitted to the Local Authority as part of an outline planning application and the Phase 2 intrusive investigations carried out after outline planning approval has been granted.”

#### 6.7.4 The Coal Authority have commented on the application:

“The application site falls within the defined Development High Risk Area; therefore within the application site and surrounding area there are coal mining features and hazards which need to be considered in relation to the determination of this planning application.

Appropriate mining information for the proposed development site has been obtained on behalf of the applicant and has been used to inform the Coal Mining Risk Assessment Report (May 2016, prepared by Opus International Consultants Ltd), of which considers ground conditions and coal mining related issues.

The Coal Mining Risk Assessment Report correctly identifies that the application site has been subject to past coal mining activity. In addition to the mining of 8 deep coal seams, The Coal Authority records indicate that thick coal seams are likely to outcrop at or close to the surface of the site and historic unrecorded underground coal mining is likely to have taken place beneath the site at shallow depth. One mine entry (shaft, CA ref. 443372-004) is located within the site and the site has also been subject to past surface mining activities.

The Coal Mining Risk Assessment Report has been informed by an appropriate range of sources of information including a Coal Authority Mining Report, published geological maps, OS historic mapping, coal mine abandonment plans, borehole records and mining memoirs. Based on a review of these sources of geological and mining information, Section 3.2.3 of the Coal Mining Risk Assessment confirms; that due to previous opencast operations, the Clowne seam is likely to have been removed in its entirety, along with shaft 443372-004).

Notwithstanding the above, and whilst the Report considers that subsequent risks posed by these features are considered to be low, the Report does confirm that unrecorded underground coal mining within the Foxearth seam and high walls pose risks to development at the site. Accordingly, Section 5.2 makes appropriate recommendations for the carrying out of further intrusive ground investigations in order to ascertain the ground conditions and to establish the presence or otherwise of shallow mine workings and to delineate high walls within the site.

The applicant should ensure that the exact form of any intrusive site investigation is agreed with The Coal Authority's Licensing and Permitting Department as part of their permit application. The findings of these intrusive site investigations should inform any mitigation measures, such as the drilling and grouting of shallow mine workings and the capping of any shaft, if identified, which may be required in order to remediate mining legacy affecting the site and to ensure the safety and stability of the proposed development.

The Coal Authority would therefore expect any subsequent reserved matters submission relating to the site layout to adhere to the above policy and avoid the siting of buildings over high walls or within influencing distance of any recorded mine entry on or off site. Conditions recommended.”

6.7.4 It is clear from the ground conditions and former mine working on the site that further investigations are required, these will be secured via condition. Whilst Environmental Health have not requested contamination investigations a condition requiring this is considered reasonable given the known ground conditions to ensure compliance with policy CLP14 of the Local Plan.

## **6.8 Flooding and drainage**

6.8.1 Policy CLP13 requires that; The council will require flood risk to be managed for all development commensurate with the scale and impact of the proposed development so that developments are made safe for their lifetime without increasing flood risk elsewhere.

6.8.2 The Council's Design Services commented on the proposal as follows: *The EA maps show that part of the site may be at risk of surface water flooding in what appears to be a low spot on the site which then forms into a watercourse as it leaves the site. The supplied Flood Risk Assessment*

*does not describe the risk formed by this and any mitigation against this hazard. We would like to see this risk discussed at full planning stage.*

*The site is located upstream of the Pools Brook, which is known to flood where it passes through the culvert under Tom Lane. The site must therefore not increase the flood risk to this watercourse or anywhere else downstream. We would therefore require full details of the proposed drainage from the site, including details of existing greenfield runoff rates, proposed flow controls and proposed attenuation features in accordance with CBC's minimum development control standards and DEFRA's Technical Standards for SuDS. The use of sustainable drainage systems should be explored for the site. The watercourse mentioned above may provide a suitable discharge point for surface water and will require approval from Derbyshire County Council. We would also request that infiltration tests are carried out to the sub-soils to determine if it may be feasible to discharge water via infiltration techniques.*

*Regarding the foul drainage, there are no public foul sewers in the direct proximity of the site. With the site being located on a slope, it is therefore likely that pumping may be required. The nearest public foul sewers are only 150mm diameter and may not have sufficient capacity to accept effluent from the proposed 400 dwellings. It therefore may be necessary to pump further afield to a suitable discharge point. Yorkshire Water should be consulted on this application for their advice on the discharge of foul water.*

*We would therefore require full details of the proposed drainage details for the site before full planning permission is granted. We would also require an updated FRA to discuss the above issues and the risk of surface water flooding to the site and the downstream effects. Derbyshire County Council and Yorkshire Water should also be consulted on these issues.*

6.8.3 The Lead local Flood Authority were consulted and commented that; *It is noted from the Flood Risk Assessment (FRA) supplied with the application that the recommendations are to dispose of surface water from the site at a rate of up to 83 l/s in up to and including the 1 in 100 year rainfall event. This will be facilitated by a recommended attenuation volume of up to 8852 m<sup>3</sup>.*

*The FRA makes reference to Tom Lane being closed due to flooding; once in 2007. To date the County Council have 51 historical records regarding flooding on Tom Lane including road closure due to flooding. The proposed development should take into account this historical flooding information and ensure that any proposals do not cause or exacerbate local flood risk. Ways to help reduce the flood risk for the local community should also be explored.*

*The nature of Pools Brook's long profile in the locality ensures that it is likely to overtop its banks during periods of high rainfall, therefore, there should be no increase in surface water runoff rates (should development progress) from current conditions. Furthermore, to reduce the risk of flooding of Tom Lane a reduction from the current greenfield rate is desirable given the expected increase in heavy rainfall events.*

*Whilst the FRA gives the indication that SuDS will be utilised within the proposed development it does not specify in what manner they will be used and makes no reference to treatment stages to improve water quality.*

*The applicant should be aware that the revised Environment Agency Climate Change Allowances should be taken into account.*

*With the above comments in mind the County Council Flood Risk Management (FRM) team recommend conditions.*

6.8.4 Yorkshire Water recently made comment referring back to their 2016 comment which noted recommend conditions and support for the flow of surface water to SuDs and watercourse but it was noted that YW cannot confirm as to whether these would be adoptable by Yorkshire Water. In terms of foul water, comments note that; *It should be noted that the YW public sewer network directly adjacent to the site does NOT currently have adequate capacity available to accommodate the anticipated foul water discharge from this proposal and a feasibility study will be required to determine suitable foul connection points, any available capacity in the public sewer network, together with any likely costs and timescales for any potential upgrading works required.*

*Whilst the site appears in the 2013 issues and Options document, it is not an allocated site. The developer has not made any pre-application enquiries to Yorkshire Water although I note that the submitted Planning and Regeneration Statement states that "The proposed system would be adopted by the Water Authority (sic), which would also be obliged to provide the necessary capacity within the receiving infrastructure as required by the Water Industry Act 1991".*

*Planning Policy guidance notes that "The timescales for works to be carried out by the sewerage company do not always fit with development needs. In such cases, local planning authorities will want to consider how new development can be phased, for example so it is not occupied until any necessary improvements to public sewage treatment works have been carried out." The application does not give any clear idea of timing of development, build out rates, phasing etc and as noted the site is not currently allocated in a local plan. If the developer wishes to expedite the necessary foul water infrastructure they may have to fund the required investigative work and additional infrastructure as noted above.*

- 6.8.5 Whilst concern has been raised regarding the capacity of the network in this area the site is now allocated for development and the potential for this application has been considered for some time. On this basis given that the Yorkshire Water have raised phasing as a matter, this is to be conditioned as recommended by YW as set out within the recommendation.
- 6.8.6 From comments raised the private foul water provision for the adjacent Church appears to be within the application site and there is a request that if the existing on site sewerage provision for the Church is to be amended for the development to take place then connection into the proposed development is sought. Whilst this is a private matter between land owners, for clarity a condition is recommended to set out the intentions with regard to this private drainage matter.
- 6.8.7 On this basis the proposal in this outline form and subject to reserved matters submission and conditions is considered to be acceptable in terms of potential drainage impacts in line with policy CLP13 of the Adopted Local Plan.

## **6.9 CIL Liability**

- 6.9.1 The proposed development will be liable for the Community Infrastructure Levy (CIL), subject to any exemptions that may be applied for. The site is located within the medium (£50) CIL charging Zone as set out in the Council's Charging Schedule ([Community Infrastructure Levy \(CIL\) \(chesterfield.gov.uk\)](https://www.chesterfield.gov.uk)). The CIL charge will be calculated in detail at the point of the reserved matters submission based on the floor space of each retail and residential unit.

## **7.0 REPRESENTATIONS**

- 7.1 It should be noted that concerns had been raised through the lengthy application process that not all residents had been consulted about the application including those within NE Derbyshire, therefore a bespoke letter to all neighbouring residents was sent in June 2023. Around 152 comments have been received with some parties commenting more than once. The comments include those from a local Councillor in NE Derbyshire, the main points raised by all of the comments are summarised as follows:

1. This application will contribute to major over-development outside the existing built-up area.

2. This proposed development is that it appears to assume that vehicular access via Tom Lane or Rectory Road would be suitable. Over the last decade or so, Tom Lane has been closed on account of flooding for an average of more than ten days per year. Someone (environment Agency?) has been doing some work on Pools Brook adjacent to Tom Lane but there have been more flooding incidents since that was done. I suspect a complete cure to Tom Lane flooding would necessitate dredging the complete length of Pools Brook and maybe even continuing into the Doe Lea. Tom Lane cannot therefore be regarded as a satisfactory route for traffic to and from the proposed development.
3. Rectory Road also floods.
4. Tom Lane is not suitable for this additional traffic, it is a narrow country lane.
5. There are already speeding issues in the area.
6. Children will not be able to get to school safely.
7. This will adversely impact horse riders in the area.
8. Large potholes in the area are a problem and will get worse.
9. Once on Rectory Road, access to 'the rest of the world' is restricted to three routes : Tom Lane (see above), Markham Road (a very congested residential street which invariably has parked cars on both sides and a lot of pedestrian traffic to local shops and a primary school) or its junction with Bolsover Road (the A632) which in a previous Public Planning Enquiry the presiding inspector noted that; turning out of Rectory Road was potentially hazardous, adding to traffic negotiating this junction would be contrary to local policy (NE Derbyshire). There should be a new link road between Rectory Road and Markham Lane.
10. Existing services such as schools, GP surgeries and dentists are overcrowded.
11. There are limited services and facilities in the area.
12. Insufficient early years and child care providers in the area.
13. The existing roads and sidewalks are not satisfactory to handle this amount of increased traffic. In some locations along the listed roads, sidewalks are not even complete or are in a state of disrepair, not to mention not accessible for wheelchairs to travel on. The roads and paths should be upgraded by the developer.
14. This will increase vehicles by 800 (2 per house) the increase in traffic in the village will be huge, this will impact on the safety of children.
15. Too many other developments (over 1000 homes) have been approved close by, the area cannot cope with this growth.
16. This will take away the picturesque scenery in the area and harm local wildlife.

17. The fields should be used for growing food.
18. There have been accidents at the Tom Lane, Staveley Road junction as visibility to see cars coming from the right is limited.
19. Road junctions in the area are already dangerous, this number of vehicles will worsen this.
20. The area is already used as a rat run for the M1.
21. For Staveley Road/Tom Lane junction – The assessment states only an additional 6 peak hour movements from the development, this is unrealistically low.
22. For the A632/Rectory Road junction – this has already been found to be dangerous in an appeal at NE Derbyshire.
23. For Staveley Road and the A632 - The developers own survey notes a significant increase in queues would be anticipated if the new houses are built.
24. For Markham Road to the M1 – increased traffic from the new M1 junction has already caused problems, traffic here would be vastly increased there have been 4 accidents here, 2 with pedestrians within the past few years.
25. There will be increased traffic and use of nearby petrol stations worsening impacts on residents quality of life.
26. Subsidence is a problem in this area, there is a large and growing crack in my patio from prior mine workings, building may impact existing housing which has often needed repairs along the fault line.
27. The development will detrimentally affect the health and quality of life of existing residents with increased noise and pollution.
28. This will result in dust impacting our homes.
29. Building on green field land should be a last resort.
30. This will double the size of the existing village damaging the rural nature of the community.
31. The field is used by ground nesting sky larks.
32. Green fields are beneficial for people and wildlife, once gone they are gone forever, we should preserve them.
33. In terms of a commercial use, the M1 commerce park is on the doorstep, this therefore seems unnecessary.
34. Will the houses be affordable family homes or more luxurious homes?
35. These fields have provided a breath of countryside which has made the impacts of local industry in the area bearable.
36. Since the motorway junction (29A) was opened Markham Road has become a race track with many HGV's using the road, the speed limit of the road should therefore be reduced to 20mph, parking restrictions should apply allowing only residents to park and the

- weight limit should be reduced to 3.5 tonnes. This is a major problem now and will only be worsened by the development.
37. We have regular flooding at the bottom of Tom Lane, such a large development will affect drainage, making this problem worse.
  38. Surface water run off will worsen resulting in more flooding.
  39. The weight limit on the road will be breached.
  40. There is a known fault line running across the site indicating the ground is not stable.
  41. It is known there are Bats in the area despite the comments in the submitted report.
  42. Horse riders use Tom Lane and Rectory Road and this development would be harmful to them.
  43. Drainage problems will be made worse, tree removal in the area will also add to the problem.
  44. The development would cause disruption in the area for a long period of time.
  45. Commercial operations are likely to be late into the night making the lives of residents unbearable.
  46. The fields are a view for the tourists of the caravan park.
  47. Many houses on Duckmanton Road are not connected to the mains sewage and the soakaway goes into these fields – what is proposed to resolve this?
  48. There are brownfield sites needing to be developed nearby.
  49. Parked cars can often cause problems with traffic trying to get through.
  50. This will ruin our view and the natural beauty of the area.
  51. It will increase the risk of flooding.
  52. People with mental health issues need to look at these green spaces to relax. There is a link between mental health and air pollution.
  53. Increased air pollution will impact on children with Asthma.
  54. Increased environmental pollution.
  55. Flooding issues have increased since the solar farm, this will add to the issue.
  56. When Tom Lane is flooded traffic builds up elsewhere.
  57. As the population grows more land will be needed to grow food, we shouldn't lose this farm land.
  58. The area is congested, already ambulances can struggle to get through.
  59. Overdevelopment of the area has led to congestion.
  60. Given the extent of development in the area the need for homes must be met by now.
  61. Development should be an enhancement – this will be the opposite.



62. The Inspector for the NE Derbyshire scheme considered there would be an increase in flooding, near the Arkwright Arms pub in heavy rain the pumping station as to be switched off as it cannot cope with the extra water, if it stays on water back fills the pipes and the residents have raw sewage in their gardens. Yorkshire Water have noted that they do not have adequate capacity to accommodate foul water discharge from this development.
63. We have counted that between 8 am and 9 am there are 115 vehicle movements on Tom Lane. If the motorway or Bolsover Road is blocked the traffic increases significantly.
64. Would question the sense of an access next to the bend at the top of Tom Lane.
65. The area is too steep for cycling.
66. Increase in social housing increasing the risk of crime.
67. We moved here for the view which is being gradually eroded and our property devalued.
68. The character of the area is being diminished.
69. I want to live in the countryside not in an urban built up area.
70. This is a quiet village and does not need this extent of development.
71. Disturbance from building has already harmed wildlife in the area as well as the mental health of residents, please stop building here.
72. Adverse impacts on wildlife through loss of hedges.
73. The small shop will not be able to serve all of these people.
74. Soil stability will be impacted by the loss of hedges.
75. Significant landscape harm.
76. Local residents should be notified of the proposals whether in CBC or NEDDC areas.
77. Shouldn't build on greenbelt land.
78. People moving in are unlikely to be local workers who can walk or cycle to work.
79. The topography carries noise into the village.
80. The council should refuse the application to protect vulnerable residents, prevent flooding, safeguard travel choices, protect local economy, protect local aspirations, have proof this will improve the local highway.
81. The steep topography will isolate the less mobile, failing under RP1 a).
82. There should be a wide belt of trees along the eastern boundary.
83. Adverse impact on heritage assets.
84. I have come to this quiet area to retire – there will now be a long period of horrendous disturbance which will ruin my retirement.

85. The Church have no problem with removing the cess pit in the field behind the Church but will want to ensure the Church has drains connected to the new development.
86. What will happen to the septic tank run off into the fields.
87. There is already a litter problem in the area which will become worse.
88. There are diggers on the land- assume this has been approved.
89. Comment from Sutton-come-Duckmanton Parish Council:  
This will increase surface water run-off the Pools Brook already floods. Houses on Staveley Road have been flooded.  
The road system in Duckmanton is stretched in terms of capacity, there are bottlenecks and have been accidents.  
There are insufficient facilities to serve the needs of the development.  
The recent refusal in NE Derbyshire is relevant, why should there be approval for a larger scheme here.  
This would take away a valuable green space when brownfield land is available to build on.  
There is little demand for commercial development.

xxx

Officer response:

These matters are considered in the content of the report above.

## **7.0 HUMAN RIGHTS ACT 1998**

- 7.1 Under the Human Rights Act 1998, which came into force on 2<sup>nd</sup> 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 recommended conditions are considered to be no more than necessary to control details of the development in the interests of amenity and public safety and which interfere as little as possible with the rights of the applicant.

## **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 2015 in respect of decision making in line with paragraph 38 of 2021 National Planning Policy Framework (NPPF).
- 8.2 Given that the proposed development does not conflict with the NPPF or with 'up-to-date' Development Plan policies, it is considered to be 'sustainable development' and there is a presumption on the LPA to seek to approve the application. The LPA has used conditions to deal with outstanding issues with the development and has been sufficiently proactive and positive in proportion to the nature and scale of the development applied for.
- 8.3 The applicant /agent and any objectors/supporter will be notified of the Committee date and invited to speak, and this report informing them of the application considerations and recommendation /conclusion is available on the website.

## **9.0 CONCLUSION**

- 9.1 The development of such a large greenfield site for housing will bring change to the local area, which is an understandable concern for local residents given the growth proposed for the village. However, planning decisions must be based on the development plan unless material considerations indicate otherwise. The site is allocated for 275 homes, which this application seeks permission for. In addition, the application includes a commercial area with community use, which is of further benefit to the local area. Walking and cycling routes as well as landscaping and biodiversity gains are to be provided as part of the detailed scheme which will be subject to a further planning application.
- 9.2 Whilst there is minimal information about the future development at this outline stage it is considered that the principle matters have been addressed to ensure compliance with local plan policies CLP3 and RP1. It is considered that the concerns raised have been considered fully and whilst they no doubt remain, these have been addressed within the remit of the application and the planning system.

9.3 The proposal is considered to meet the expectation of the allocation and the requirements of Policies CLP3 and RP1 subject to conditions and matters to be tied into a S106 legal agreement. On this basis the proposal is recommended for approval.

## **10.0 RECOMMENDATIONS**

10.1 It is therefore recommended that the application be **GRANTED** subject to the following S106 matters being concluded as set out in 10.2 and conditions as set out in 10.3:

### **10.2 S106 matters:**

1. CCG contribution for GP provision - £247,500 (index Linked) to be paid on the occupation of the 10<sup>th</sup> Unit. (Dialogue with the CCG is continuing regarding the potential project/s)
2. Affordable housing provision of 10% provision within each phase with a 90/10 percentage split (or as otherwise agreed) of affordable rent and shared ownership.
3. Highways:  
A sum of £36,822 as a contribution to the improvement of the A632/Staveley Road signalised junction.  
Travel Plan monitoring fee of £1,110.00 pa x five years; total £5,550.  
(All index linked)
4. Parcel of blue edged land of around 2.69 hectares, within the allocated land but outside of the application site, to be used for farmland mitigation with the land set aside in perpetuity and a strategy for the management of the land to provide suitable mitigation to be agreed.
5. Should the extent of habitat creation fall below 0.6%, as to be assessed through the submission of each reserved matters application; then an off-site biodiversity contribution of £20,000 per habitat unit or part thereof in order to achieve the gain (index linked) payable to CBC for the off site gain to be provided elsewhere within the borough, shall be provided to meet a minimum 0.6% gain overall. A report to assess progress shall be submitted bi-annually from commencement of development to the end of a 6 year period with payments to address the shortfall to be made within 3 months of a submitted report advising that the habitat creation will fall short of the required amount. At the end of the 6 year period then if no off-site

contribution is required no further assessments beyond this time period will be required.

### **10.3 Conditions**

1. Application for approval of all reserved matters must be made not later than the expiration of three years from the date of this permission. The development hereby permitted must be begun not later than the expiration of two years from the final approval of the reserved matters, or in the case of approval of such matters on different dates, the date of the final approval of the last such matter to be approved.

Reason: This is a statutory period which is specified in Section 92 of the Town and Country Planning Act 1990.

2. An application for details of the following matters (hereafter referred to as the “reserved matters”) shall be submitted to and approved in writing by the Local Planning Authority before the commencement of any works:-
  - a) the scale of the development;
  - b) the layout of the development;
  - c) the external appearance of the development;
  - d) the landscaping of the site.The development shall thereafter be implemented in accordance with the approved details.

Reason: The application was made for outline planning permission and is granted to comply with the provisions of Section 92 of the Town and Country Planning Act 1990 and Article 5(1) of the Town and Country Planning (Development Management Procedure) Order 2015.

3. The development hereby approved shall only be carried out in full accordance with the approved plans (listed below) with the exception of the indicative masterplan framework 2021 which is informative only and any approved non-material amendment or conditional requirement. All external dimensions and elevational treatments shall be as shown on the approved plan/s (listed below).

Location Plan with blue edged farmland bird mitigation area (20)M101  
Rev A received 04.04.2023

Indicative Masterplan Framework March 2021

Residential Access 1 at Tom Lane F14110/01 Rev E (within the  
Transport Assessment Addendum August 2022)

Residential Access 2 at Tom Lane F14110/08 (within the Transport Assessment Addendum August 2022)  
Proposed retail access F14110/03 Rev D (within the Transport Assessment Addendum August 2022)

Reason - In order to clarify the extent of the planning permission in the light of guidance set out in "Greater Flexibility for planning permissions" by CLG November 2009.

4. Prior to the submission of the first reserved matters application for the site the subject of this permission, a supplementary Development Framework Masterplan shall be submitted to the Local Planning Authority for approval in writing. The Framework shall seek to establish the overarching design approach for the entire site to inform any phased reserved matters proposals. The Framework should be compatible with and expand upon the Masterplan and those of the adopted Supplementary Planning Document 'Successful Places: Housing Layout and Design', it shall include;
  - A planted buffer to minimise impacts on the adjacent listed building on Rectory Road,
  - A landscaped buffer and robust edge to the farmland bird mitigation area to the south
  - Planting to mitigate wider landscape impacts from the west
  - A street hierarchy
  - A strategy for street trees
  - A strategy for connected pedestrian and cycle routes through the siteThe reserved matters shall follow the detail of the agreed framework.

Reason: To ensure that the development is constructed to appropriate design quality / standard in accordance with the requirements of policies CLP16, 20 and 21 of the Adopted Local Plan and the 'Successful Places' SPD.

5. The first reserved matters submission required by condition 2 shall include a phasing scheme for the whole of the outline permission site area and adjacent farmland bird mitigation area, including;
  - Setting out the maximum housing numbers within each phase,
  - A phasing scheme for the delivery of the commercial elements of the scheme
  - A phasing scheme for the delivery of structured landscape planting;

The sequence of development across the whole site; such as strategic drainage and SuDS infrastructure, green infrastructure, cycle routes and footpaths, and the associated access arrangements and timescales for implementation of the off-site highway improvements.

The development shall be completed in accordance with the agreed details.

Reason: For clarification and to secure appropriate phasing of the development in accordance with policy SS6 of the Adopted Local Plan.

6. No development shall commence until the site wide phasing programme required by condition 5 has been approved in writing by the local planning authority. Thereafter each subsequent reserved matters application for any phase (or part thereof) shall be accompanied by an updated programme or statement of compliance for approval by the local planning authority. Thereafter the development shall be carried out in accordance with the phasing programme as approved and/or updated. The development shall be completed in line with the agreed details.

Reason: For clarification and to ensure appropriate control over the whole development in accordance with CLP3 and RP1 of the Adopted Local Plan.

7. Each reserved matters submission shall set out within a supporting statement, measures to minimise carbon emissions, including but not restricted to;  
The construction of the dwellings in terms of; heating, cooling, use of renewables, insulation, orientation and energy efficiency,  
A strategy to reduce carbon emissions through construction,  
A justification for any mains gas connection,  
Works shall be completed in accordance with the agreed details.

Reason: To seek to minimise emissions from the development in accordance with Policy CLP20 of the Adopted Local Plan.

8. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or in any Statutory Instrument revoking or re-enacting that Order with or without modification) no chimneys or flues shall be installed in any housing without the prior written approval of the Local Planning Authority upon an application submitted to it.

Reason: To seek to minimise emissions from the development in accordance with Policy CLP20 of the Adopted Local Plan.

9. Prior to works commencing in connection with each identified phase:
- a) No development shall take place until a Written Scheme of Investigation for archaeological work has been submitted to, and approved by, the local planning authority in writing, and until any pre-start element of the approved scheme has been completed to the written satisfaction of the local planning authority. The scheme shall include an assessment of significance and research questions; and
- 1.The programme and methodology of site investigation and recording
  - 2.The programme for post investigation assessment
  - 3.Provision to be made for analysis of the site investigation and recording
  - 4.Provision to be made for publication and dissemination of the analysis and records of the site investigation
  - 5.Provision to be made for archive deposition of the analysis and records of the site investigation
  - 6.Nomination of a competent person, persons or organisation to undertake the works set out within the Written Scheme of Investigation.
- b) No development shall take place other than in accordance with the archaeological Written Scheme of Investigation approved under condition (a).
- c) The development shall not be occupied until the site investigation and post investigation assessment have been completed in accordance with the programme set out in the archaeological Written Scheme of Investigation approved under condition (a) and the provision to be made for analysis, publication and dissemination of results and archive deposition has been secured.

Reason: In the interests of preserving and/or recording historical information in accordance with Policy CLP21 of the Adopted Local Plan.

10. Prior to any works exceeding site clearance, within each identified phase, a construction management plan or construction method statement shall be submitted to and be approved in writing by the Local Planning Authority. The approved plan/statement shall be adhered to throughout the construction period. The statement shall provide information for:
- Construction access
  - Storage of plant and materials



- Site accommodation, loading, unloading and manoeuvring of goods vehicles
- Parking of vehicles of site operatives and visitors
- Routes for construction traffic, including abnormal loads/cranes etc
- Hours of operation
- Method of prevention of debris being carried onto highway
- Pedestrian and cyclist protection
- Proposed temporary traffic restrictions
- Information about wheel washing facilities

Reason: In the interest of Highway Safety in accordance with policies CLP20 and 22 of the Adopted Local Plan

11. No part of the development shall be occupied until proposed vehicular accesses have been formed to the proposed site in accordance with the application drawings No F14110/01 Revision E, F14110/08 and F14110/03 Revision D provided with visibility sightlines as shown on the plans extending from a point 2.4 metres from the carriageway edge, measured along the centreline of the accesses. The land in advance of the visibility sightlines shall be retained throughout the life of the development free of any object greater than 1m in height (0.6m in the case of vegetation) relative to adjoining nearside carriageway channel level.

Reason: In the interest of Highway Safety in accordance with policies CLP20 and 22 of the Adopted Local Plan

12. The Highway Authority recommends that the first 5m of the proposed access road should not be surfaced with a loose material (i.e. unbound chippings or gravel).

Reason: In the interest of Highway Safety in accordance with policies CLP20 and 22 of the Adopted Local Plan

13. No part of the development shall be occupied until parking of residents and visitors vehicles and details of secure cycle parking facilities for the occupants of, and visitors to, the development have been provided within the site in accordance with the details/plan which need to be agreed as part of a subsequent Reserved Matters applications. These facilities shall be fully implemented and made available for use prior to the occupation of the development hereby permitted and shall thereafter be retained for use at all times.

Reason: In the interest of Highway Safety in accordance with policies CLP20 and 22 of the Adopted Local Plan

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

Reason: In the interest of Highway Safety in accordance with policies CLP20 and 22 of the Adopted Local Plan

15. The premises, the subject of the application, shall not be occupied until an approved Travel Plan/measures including a timetable, to promote travel by sustainable modes shall be implemented in accordance with the timetable set out therein, unless otherwise agreed in writing by the Local Planning Authority. Reports demonstrating progress in promoting sustainable transport measures shall be submitted annually, on each anniversary of the date of the planning consent, to the Local Planning Authority for approval for a period of five years from first occupation of the development.

Reason: In the interest of Highway Safety in accordance with policies CLP20 and 22 of the Adopted Local Plan

16. The Development hereby approved shall not commence until drawings of the highway improvements/offsite works comprising:
- the provision of a new bus stop with raised boarder, suitable waiting area and post on the northern side of Tom Lane;
  - improvements to the bus stops on Rectory Road in the vicinity of Robertson's Avenue;
  - the provision of pedestrian crossing facilities on Tom Lane;
  - the provision of approximately 30m of footway on the northern side of Tom Lane between the access to Poolsbrook Country Park and the Duckmanton Arms PH;

Have been submitted to and approved in writing by the Local Planning Authority; the development shall not be occupied until those works have been constructed in accordance with the approved details.

Reason: In the interest of Highway Safety in accordance with policies CLP20 and 22 of the Adopted Local Plan

17. Prior to the submission of reserved matters within each phase as agreed by condition 5, there shall be submitted to and agreed in writing by the Local Planning Authority then carried out on site:  
The submission of a scheme of intrusive site investigations for the high walls within the site for approval;  
The submission of a scheme of intrusive site investigations for the shallow coal workings for approval; and  
The undertaking of both of those schemes of intrusive site investigations.

Reason: In order to ensure the site is appropriately remediated in the interests of safety in accordance with Policy CLP14 of the Adopted Local Plan.

18. As part of the reserved matters application, to be submitted for any phase (as may be agreed under condition 5 above), there shall be:  
The submission of a report of findings arising from both of the intrusive site investigations, including the results of any gas monitoring undertaken;  
The submission of a layout plan which identifies the opencast high walls and the definition of suitable 'no-build' zones;  
The submission of a scheme of remedial works for the shallow coal workings for approval.  
The remedial works shall be implemented prior to the construction of any other works on site.

Reason: In order to ensure the site is appropriately remediated in the interests of safety in accordance with Policy CLP14 of the Adopted Local Plan.

19. Prior to development commencing within any phase, an Employment and Training Scheme shall be submitted to and be approved in writing by the local planning authority. The Scheme shall include a strategy to promote local supply chain, employment and training opportunities throughout the construction of the development and the scheme.

Development shall be carried out in accordance with the approved scheme.

Reason: In order to support the regeneration and prosperity of the Borough, in accordance with the provisions of Policy CLP6 of the Adopted Local Plan.

20. Prior to any construction or contaminated land remediation works commence in connection with each identified phase, a Construction Environmental Management Plan (CEMP) shall be submitted to, and approved in writing by, the Local Planning Authority detailing the provisions to be made for the monitoring and control of:
- a) Operating hours: No demolition, construction or contaminated land remediation activities, movement of traffic, or deliveries to and from the premises, shall occur other  
Monday to Friday: 08:00 – 18:00  
Saturday: 08:00 – 13:00  
Sundays and bank Holidays - No working
  - b) Noise and vibration: To demonstrate compliance with the guidance in British Standard BS5228 Noise and vibration control on construction and open sites; including the proposed measurement methodology, the location of monitoring locations and noise-sensitive premises, the maximum permitted facade noise levels. No piling, blasting, dynamic compaction or use of vibrating rollers shall occur without the written approval of the Local Planning Authority;
  - c) Dust/Particulate emissions: To include the prevention of dust/particulates being blown off-site. At such times as the prevention of dust/particulate nuisance by the agreed means is not possible, the movement of vehicles, soils or dusty materials must temporarily cease until such time as weather conditions improve;
  - d) Waste: To include suitable and sufficient provisions for the collection, storage and disposal of waste materials. No unwanted materials shall be disposed of on site by burning without the prior written approval of the Local Planning Authority;
  - e) Lighting: To include a site plan showing the proposed types, locations and heights of the lamps, vertical illuminance levels (Lux) to the facades of agreed light-sensitive premises and operating times.
- All works shall be fully implemented in accordance with the approved CEMP. The CEMP shall be reviewed at least at the start of each phase of the development or where there are changes to relevant legislation or where changes are made to the agreed CEMP.

Reason: This pre commencement condition is required to safeguard the privacy and amenities of the occupiers of adjoining properties in accordance with policy CLP14 of the Adopted Local Plan.

21. No individual dwelling hereby approved shall be occupied until the optional requirement for water consumption (110 litres use per person per day) in Part G of the Building Regulations has been complied with for that dwelling.

Reason: To protect the water environment in accordance with policy CLP13 of the of the adopted Chesterfield Borough Local Plan and to accord with paragraph 149 of the National Planning Policy Framework.

22. Each reserved matters submission shall demonstrate that 25% of the residential units across the whole site, including across tenures, shall be to the M4(2) building regulations for adaptable and accessible homes.

Reason: To ensure appropriate consideration of the requirements set out in policy CLP4 of the Adopted Local Plan.

23. In accordance with any phase (as may be agreed under condition 5 above);
- a) Prior to work commencing on site, the application site shall be subjected to a detailed scheme for the investigation and recording of contamination and a report has been submitted to and approved in writing by the Local Planning Authority;
  - b) Prior to works commencing on site, detailed proposals in line with current best practice for the removal, containment or otherwise rendering harmless such contamination (the 'Contamination Proposals') shall be submitted to and approved in writing by the Local Planning Authority;
  - c) For each part of the development, 'Contamination Proposals' relevant to that part shall be carried out either before or during such development as appropriate;
  - d) If during development works any contamination should be encountered which was not previously identified and is derived from a different source and/or of a different type to those included in the 'Contamination Proposals' then the revised 'Contamination Proposals' shall be submitted to and approved in writing by the Local Planning Authority;

- e) If during development work site contaminants are found in areas previously expected to be clean then their remediation shall be carried out in line with the agreed 'Contamination Proposals';
- f) Prior to the commencement of any construction works in any area that has been subject to remediation, a verification report shall be submitted to and approved in writing by the Local Planning Authority.

Reason - This pre commencement condition is required in the interests of safeguarding the proposed development and adjacent properties from the possible harmful effects of development affecting contaminated land, in accordance with Policy CLP14 of the Adopted Local Plan.

24. No piped discharge of surface water from the application site shall take place until works to provide a satisfactory outfall, other than the existing local public sewerage, for surface water have been completed in accordance with details submitted to and approved in writing by the Local Planning Authority.

Reason: To ensure that the site is properly drained and in order to prevent overloading, surface water is not discharged to the foul sewer network in accordance with Policy CLP13 of the Adopted Local Plan.

25. Prior to submission of the first reserved matters application(s) for development of the site, a site wide phasing plan shall be submitted to and approved in writing by the Local Planning Authority. The phasing plan shall include details of the proposed sequence of development across the entire site, the extent of the phases/plots, including reference to the type and extent of development envisaged and include timing information (by reference to any date, the commencement or completion of development of any phase or provision of any element or to any other applicable trigger point) for:
- a) Strategic foul water drainage features including but not exclusive to the points of connection to the public sewer, sewerage, the pumped rate of discharge if appropriate, pumping stations and any other necessary infrastructure.
  - b) Surface water drainage features including SuDs, sewerage and outfalls plus any other necessary infrastructure identified as part of a surface/storm water management plan. The details shall include:
    - i. information about the design storm period and intensity, the method employed to delay and control the surface water discharge from the site, the point(s) and rate(s) of discharge and the measures taken to prevent pollution of surface waters;

- ii. a timetable for its implementation;
- iii. a management and maintenance plan for the lifetime of the development which shall include the arrangements for adoption by any public authority or statutory undertaker and any other arrangements to secure the operation of the scheme throughout its lifetime.

Reason: In order to ensure that provision of waste water infrastructure is provided such that the development does not adversely impact on the local aquatic environment or increase flood risk on or off site and to ensure the needs of the development with respect to drainage are properly addressed in a timely manner, in accordance with Policy CLP13 of the Adopted Local Plan.

26. No development shall commence until such time as the phasing plan has been approved in writing by the Local Planning Authority. The provision of all water infrastructure (including any necessary off site works and the point of connection(s) into the existing public sewer) shall be carried out in accordance with the approved timing contained within the phasing plan, unless otherwise agreed in writing by the Local Planning Authority. Furthermore, the site shall be developed with separate systems of drainage for foul and surface water on and off site and no surface water shall discharge to the public foul or combined sewer network. Surface water from vehicle parking and hard standing areas shall be passed through an interceptor of adequate capacity prior to discharge to a public sewer. Roof drainage should not be passed through any interceptor.

Reason: To ensure that no foul or surface water discharges take place until proper provision has been made for their disposal and treatment in accordance with policy CLP13 of the Adopted Local Plan.

27. Prior to works commencing on site clarification of the sewerage to the adjacent Church and any amendments to this as a result of this development shall be submitted to and agreed in writing by the Local Planning Authority.

Reason: For clarification.

28. No development shall take place until a detailed design and associated management and maintenance plan of surface water drainage for the site, in accordance with DEFRA's Non-statutory technical standards for sustainable drainage systems (March 2015), has been submitted to and approved in writing by the Local Planning Authority. The approved

drainage system shall be implemented in accordance with the approved detailed design prior to the use of the building commencing.

Reason: To ensure that the principles of sustainable drainage are incorporated into this proposal and sufficient detail of the construction, operation and maintenance of sustainable drainage systems is provided to the Local Planning Authority in advance of full planning consent being granted in accordance with policy CLP13 of the Adopted Local Plan.

29. No development shall take place until a detailed assessment has been provided to and approved in writing by the Local Planning Authority to demonstrate that the proposed destination for surface water accords with the hierarchy in Approved Document Part H of the Building Regulations 2000.

Reason: To ensure that surface water from the development is directed towards the most appropriate waterbody in terms of flood risk and practicality by utilising the highest possible priority destination on the hierarchy of drainage options. The assessment should demonstrate with appropriate evidence that surface water runoff is discharged as high up as reasonably practicable in the following hierarchy: 1. into the ground (infiltration); 2. to a surface water body; 3. to a surface water sewer, highway drain, or another drainage system; 4. to a combined sewer; in accordance with policy CLP13 of the Adopted Local Plan.

30. Prior to the commencement of the development within each phase or sub-phase as approved under condition 5 above, (including land stripping and all preparatory work), a scheme for the protection of the retained trees/hedgerows, in accordance with BS 5837:2012, including a tree/hedgerow protection plan(s) (TPP) and an arboricultural method statement (AMS) shall be submitted to and approved in writing by the Local Planning Authority.

Specific issues to be dealt with in the TPP and AMS:

- a) Location and installation of services/ utilities/ drainage.
- b) Details of construction within the RPA or that may impact on the retained trees/hedgerows.
- c) a full specification for the installation of boundary treatment works.
- d) a full specification for the construction of any roads, parking areas and driveways, including details of the no-dig specification and extent of the areas of the roads, parking areas and driveways to be constructed using a no-dig specification. Details shall include relevant sections through them.



e) Detailed levels and cross-sections to show that the raised levels of surfacing, where the installation of no-dig surfacing within Root Protection Areas is proposed, demonstrating that they can be accommodated where they meet with any adjacent building damp proof courses.

f) A specification for protective fencing to safeguard trees/hedgerows during both preparation works and construction phases and a plan indicating the alignment of the protective fencing.

g) Tree/hedgerow protection during construction indicated on a TPP and

construction and construction activities clearly identified as prohibited in this area.

h) details of site access, temporary parking, on site welfare facilities, loading, unloading and storage of equipment, materials, fuels and waste as well concrete mixing and use of fires

i) Boundary treatments within the RPA

The development thereafter shall be implemented in strict accordance with the approved details.

Reason: Required prior to commencement of development to satisfy the Local Planning Authority that the trees/hedgerows to be retained will not be damaged during demolition or construction and to protect and enhance the appearance and character of the site and locality pursuant to section 197 of the Town and Country Planning Act 1990 and policy CLP16 of the Adopted Local Plan.

31. As part of each reserved matter to include landscaping, in a phased approach as required; details of treatment of all parts on the site not covered by buildings shall be submitted to and approved in writing by the Local Planning Authority. The site shall be landscaped strictly in accordance with the approved details in the first planting season after completion or first occupation of the development, whichever is the sooner. Details shall include:

1) a scaled plan showing all existing vegetation and landscape features to be retained and trees and plants to be planted;

2) location, type and materials to be used for hard landscaping including specifications, where applicable for:

a) permeable paving

b) tree pit design

c) underground modular systems

d) Sustainable urban drainage integration

e) use within tree Root Protection Areas (RPAs);

- 3) a schedule detailing sizes and numbers/densities of all proposed trees/plants;
- 4) specifications for operations associated with plant establishment and maintenance that are compliant with best practise; and
- 5) types and dimensions of all boundary treatments

There shall be no excavation or raising or lowering of levels within the prescribed root protection area of retained trees/hedgerows unless agreed in writing by the Local Planning Authority. Unless required by a separate landscape management condition, all soft landscaping shall have a written five year maintenance programme following planting. Any new tree(s) that die(s), are/is removed or become(s) severely damaged or diseased shall be replaced and any new planting (other than trees) which dies, is removed, becomes severely damaged or diseased within five years of planting shall be replaced. Unless further specific permission has been given by the Local Planning Authority, replacement planting shall be in accordance with the approved details.

Reason: Required to safeguard and enhance the character and amenity of the area, to provide ecological, environmental and bio-diversity benefits and to maximise the quality and usability of open spaces within the development, and to enhance its setting within the immediate locality

32. There shall be no removal of hedgerows, trees, shrubs or brambles shall take place between 1st March and 31st August inclusive, unless a recent survey has been undertaken by a competent ecologist to assess the nesting bird activity on site during this period, and details of measures to protect the nesting bird interest on the site, have first been submitted to and approved in writing by the local planning authority and then implemented as approved.

Reason: To protect nesting birds in accordance with policy CLP16 of the Adopted Local Plan.

33. 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 (may be

provided as a set of method statements for species and other sensitive features).

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.

Reason: In the interests of ecology and biodiversity in accordance with policy CLP16 of the Adopted Local Plan.

34. A Landscape and Biodiversity Enhancement and Management Plan (LBEMP) shall be submitted to, and be approved in writing by, the LPA prior to the commencement of the development. The aim of the LBEMP is to enhance and sympathetically manage the biodiversity value of onsite habitats and should combine both the ecology and landscape disciplines. The plan should be in accordance with the measures set out in the Ecological Appraisal, Figure 1 Habitat Proposals and the Biodiversity Metric prepared by FPCR June 2021 in order to achieve a minimum 1% net gain. It shall be suitable to provide to the management body responsible for the site and shall include the following: -
- a) Description and location of features to be retained, created, enhanced and managed.
  - b) Aims and objectives of management.
  - c) Appropriate management methods and practices to achieve aims and objectives.
  - d) Prescriptions for management actions.
  - e) Preparation of a work schedule (including a five-year work plan capable of being rolled forward in perpetuity).
  - f) Details of the body or organization responsible for implementation of the plan.
  - g) A monitoring schedule to assess the success of the enhancement measures
  - h) A set of remedial measures to be applied if conservation aims and objectives of the plan are not being met.
  - i) Details of habitat enhancements for roosting bats and nesting birds to include provision of integrated swift bricks within 50% of dwellings.

j) Details, including a plan, for provision of gaps for hedgehogs between the gardens within the development.

k) Requirement for a statement of compliance upon completion of planting and enhancement works.

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

Reason: To ensure biodiversity enhancement in accordance with policy CLP16 of the Adopted Local Plan.

35. In line with the provision of land in the associated S106, a Farmland Bird Off-site Mitigation Plan shall be submitted to, and approved in writing by the LPA prior to the commencement of the development. The aim of the plan is to enhance and sympathetically manage habitats within the vicinity of the development (ideally within 3km) to benefit skylark, grey partridge, reed bunting and linnet. It shall be suitable to provide to the management body responsible for the site and shall include the following:

a) Description and location of features to be retained, created, enhanced and managed and how these will benefit the bird species listed above.

b) Aims and objectives of management.

c) Details of any legal agreements with neighbouring landowners

The Plan should also ensure:

The mitigation area should not be accessible to people and dogs

The boundaries should be hedgerows or walls, well maintained and not easily accessed by dogs.

The management of the field needs to be specifically tailored to the needs of the farmland birds to provide breeding and foraging habitat for linnet, yellowhammer, skylark and grey partridge.

Reason: To ensure appropriate and necessary farm bird mitigation in accordance with policy CLP16 of the Adopted Local Plan.

36. Prior to the commencement (Or each phase of development where necessary) an updated biodiversity metric for the whole site shall be submitted to the Local Planning Authority for approval. This shall reflect the final layout and landscaping for that phase and ensure the development is on track to deliver a minimum of 1% biodiversity net

gain. If this cannot be achieved on site then appropriate provision shall be provided off site in line with the S106 agreement.

Reason: In order to ensure biodiversity net gain in accordance with Policy CLP16 of the Adopted Local Plan.

37. Prior to building works commencing above foundation level in each phase, a Biodiversity Enhancement Plan shall be submitted to and approved in writing by the Local Planning Authority. Such approved measures shall be implemented in full and maintained thereafter. The plan shall clearly show positions, specifications and numbers of features, which will include (but are not limited to) the following:
- integrated bird boxes on all dwellings where possible, as per the British Standard 42021:2022.
  - integrated bat boxes in 20% of dwellings.
  - insect bricks in 20% of dwellings.
  - variety of tree-mounted bat and bird boxes in suitable locations.
  - features for amphibians and reptiles in suitable locations, such as log piles and hibernacula.
  - gaps 130 mm x 130 mm in residential garden fencing to maintain connectivity for hedgehogs.

Reason: In order to ensure biodiversity enhancement in accordance with Policy CLP16 of the Adopted Local Plan.

38. Prior to building works commencing above foundation level, a detailed lighting strategy shall be submitted to and approved in writing by the LPA to safeguard bats and other nocturnal wildlife. This should provide details of the chosen luminaires and any mitigating features such as dimmers, PIR sensors and timers. A lux contour plan shall be provided to demonstrate acceptable levels of lightspill to any sensitive ecological zones/features. Guidelines can be found in Guidance Note 08/18 - Bats and Artificial Lighting in the UK (BCT and ILP, 2018). Such approved measures will be implemented in full.

Reason: For the protection of habitat and species in accordance with policy CLP16 of the Adopted Local Plan.

39. Prior to any of the commercial Class E or F2 units being brought into use the operating hours of the proposed units along with delivery times shall be submitted to and agreed in writing by the Local Planning Authority. The units shall be operated in accordance with the agreed hours.

Reason: In the interest of residential amenity in accordance with policy CLP14 of the Adopted Local Plan.

40. Notwithstanding the provisions of The Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking or re-enacting these Orders with or without modifications), the ground floor premises shall not be used for Classes E b and d until details as set out below are first submitted to and agreed in writing by the local planning authority and those agreed details are fully installed on site;

For Class E (b) – details of extraction and cooking facilities and noise assessment and mitigation measures

For Class E (d) – noise assessment and mitigation measures

Reason - In the interests of residential amenity of the occupants in accordance with policies CLP14 and CLP20.

#### **10.4 Informative Notes**

1. The Local Planning Authority have during and prior to the consideration of this application engaged in a positive and proactive dialogue with the applicant in order to achieve a positive outcome for the application.
2. If work is carried out other than in complete accordance with the approved plans, the whole development may be rendered unauthorised, as it will not have the benefit of the original planning permission. Any proposed amendments to that which is approved will require the submission of a further application.
3. When you carry out the work, you must avoid taking, damaging or destroying the nest of any wild bird while it is being built or used, and avoid taking or destroying the egg of any wild bird. These would be offences (with certain exceptions) under the Wildlife and Countryside Act 1981, the Habitats Regulations 1994 and the Countryside and Rights of Way Act 2000.

#### **Highway Informatives**

- Pursuant to Section 278 of the Highways Act 1980 and the provisions of the Traffic Management Act 2004, no works may commence within the limits of the public highway without the formal written Agreement of the County Council as Highway Authority. It must be ensured that public transport services in the vicinity of the site are not adversely affected by the development works. Advice

regarding the technical, legal, administrative and financial processes involved in Section 278 Agreements may be obtained from emailing [development.implementation@derbyshire.gov.uk](mailto:development.implementation@derbyshire.gov.uk) in Development Control at County Hall, Matlock (tel: 01629 538658). The applicant is advised to allow approximately 12 weeks in any programme of works to obtain a Section 278 Agreement.

- Pursuant to Section 38 and the Advance Payments Code of the Highways Act 1980, the proposed new estate roads should be laid out and constructed to adoptable standards and financially secured. Advice regarding the technical, financial, legal and administrative processes involved in achieving adoption of new residential roads may be obtained from the Executive Director Economy, Transport and Environment at County Hall, Matlock (tel: 01629 580000) or email to [development.implementation@derbyshire.gov.uk](mailto:development.implementation@derbyshire.gov.uk)
- Highway surface water shall be disposed of via a positive, gravity fed system (ie; not pumped) discharging to an approved point of outfall (eg; existing public sewer, highway drain or watercourse) to be sanctioned by the Water Authority (or their agent), Highway Authority or Environment Agency respectively. The use of soakaways for highway purposes is generally not sanctioned.
- The cost required for the improvements to bus stops for the proposal be discussed with Derbyshire County Council's Public Transport Unit, County Hall, Matlock, DE4 3AG or tel: 01629 536748 for advice.
- Pursuant to Section 50 (Schedule 3) of the New Roads and Streetworks Act 1991, before any excavation works are commenced within the limits of the public highway, at least 6 weeks prior notification should be given to the Executive Director Economy, Transport and Environment at County Hall, Matlock (tel: 01629 533190 and ask for the New Roads and Streetworks Section).
- Pursuant to Sections 149 and 151 of the Highways Act 1980, steps shall be taken to ensure that mud or other extraneous material is not carried out of the site and deposited on the public highway. Should such deposits occur, it is the applicant's responsibility to ensure that all reasonable steps (e.g. street sweeping) are taken maintain the roads in the vicinity of the site to a satisfactory level of cleanliness.
- Pursuant to Section 163 of the Highways Act 1980, where the site curtilage slopes down towards the public highway, measures shall be taken to ensure that surface water run-off from within the site is not permitted to discharge across the footway margin. This usually takes the form of a dish channel or gully laid across the access immediately behind the back edge of the highway, discharging to a drain or soakaway within the site.
- Pursuant to Section 184 of the Highways Act 1980 and Section 86(4) of the New Roads and Streetworks Act 1991 prior notification shall be given to the Place department at County Hall, Matlock regarding access works within the

highway. Information, and relevant application forms, regarding the undertaking of access works within highway limits is available via the County Council's website <https://www.derbyshire.gov.uk/transportroads/roads-traffic/licences-enforcements/vehicular-access/vehicle-accesses-crossovers-and-droppedkerbs.aspx> E-mail [highways.hub@derbyshire.gov.uk](mailto:highways.hub@derbyshire.gov.uk) or Telephone Call Derbyshire on 01629 533190

### Yorkshire Water informative:

In line with conditions 24 – 26 above:

Surface water – the developer has produced a brief flood risk assessment which suggests that surface water from this greenfield development will drain to SuDs and water course. Yorkshire water supports this approach as it follows the surface water hierarchy and will not impact and will not impact on the local sewer network (which in any case has no capacity for surface water from the development). We are unable to make any comment at this stage as to whether any SuDs features would be adoptable by YW although I note the planning and regeneration statement suggests that the developer would seek to have them adopted by the relevant Authority.

Foul water – it should be noted that the YW public sewer network directly adjacent to the site does NOT currently have adequate capacity available to accommodate the anticipated foul water discharge from this proposal and the feasibility study will be required to determine suitable foul connection points, any available capacity in the public sewer network, together with any likely costs and timescales for any potential upgrading works required.

Whilst the site appears in the 2013 issues and Options document, it is not an allocated site. The developer has not made any pre-application enquiries to Yorkshire Water although I note that the submitted Planning and Regeneration Statement states that “The proposed system would be adopted by the Water Authority (*sic*), which would also be obliged to provide the necessary capacity within the receiving infrastructure as required by the Water Industry Act 1991”.

Planning Policy guidance notes that “The time scales for works to be carried out by the sewerage company do not always fit with the development needs. In such cases, local planning authorities will want to consider how new development can be phased, for example so it is not occupied until any necessary improvements to public sewage treatment works have been carried out.” The application does not give any clear idea of timing development, build out rates, phasing etc and as noted the site is not currently allocated in any local plan. If the developer



wishes to expedite the necessary foul water infrastructure they may have to fund the required investigative work and addition infrastructure as noted above.

For further information, the developer should contact our Developer Services Team – 08451208482

In line with conditions 28 and 29 above from the Lead Local Flood Authority:

Advisory Notes (Non Conditions):

The Local Planning Authority should be mindful to obtain all the relevant information pertaining to the proposed discharge in land that is not within the control of the applicant, which is fundamental to allow the drainage of the proposed development site. The County Council do not adopt any private SuDS schemes. As such, it should be confirmed prior to commencement of works which organisation will be responsible for SuDS maintenance once the development is completed. Any works in or nearby an ordinary watercourse require may consent under the Land Drainage Act (1991) from the County Council (e.g. an outfall that encroaches into the profile of the watercourse, etc) to make an application for any works please contact [Flood.Team@derbyshire.gov.uk](mailto:Flood.Team@derbyshire.gov.uk).

The applicant should ensure there is a sufficient buffer strip in place which will allow for efficient maintenance to take place. We would recommend an easement of approximately 3m if a swale is less than 2m in width and 4.5m for swales over 2m in width. Whilst this is not stipulated within any legal byelaw the County Council would recommend these distances in order to safeguard access for essential maintenance and inspection purposes.

The applicant should demonstrate, to the satisfaction of the Local Planning Authority, the appropriate level of treatment stages from the resultant surface water in line with Table 3.3 of the CIRIA SuDS Manual C697. This type of development usually requires >2 treatment stages before outfall into surface water body/system which may help towards attainment of the downstream receiving watercourse's Water Framework Directive good ecological status. The County Council would prefer the applicant to utilise existing landform to manage surface water in mini/sub-catchments. The applicant is advised to contact the County Council's Flood Risk Management team should any guidance on the drainage strategy for the proposed development be required.

#### OVERCOMING OBJECTIONS AND DISCHARGING CONDITIONS:

To discharge the conditions the applicant should ensure all of the below parameters have been satisfied:

Condition 1

The production and submission of a scheme design demonstrating full compliance with DEFRA's Non-statutory technical standards for sustainable drainage systems:

- Limiting the discharge rate and storing the excess surface water run-off generated by all rainfall events up to the 100 year plus 30% (for climate change) critical duration rain storm so that it will not exceed the run-off from the undeveloped site and not increase the risk of flooding off-site to comply with S2 & S3.
- Provision of surface water run-off attenuation storage to accommodate the difference between the allowable discharge rate/s and all rainfall events up to the 100 year plus 30% (for climate change) critical rain storm to comply with S7 & S8.
- Detailed design (plans, cross, long sections and calculations) in support of any surface water drainage scheme, including details on any attenuation system, and the outfall arrangements.
- Details of how the on-site surface water drainage systems shall be maintained and managed after completion and for the lifetime of the development to ensure the features remain functional.
- Production of a plan showing above ground flood pathways where relevant for events in excess of 1 in 100 year rainfall event to comply with S9.
- Where reasonably practicable demonstrate that the runoff volume of the site reflects the requirements of S4.

## Condition 2

Information to indicate that the surface water can, in principle, be disposed of sustainably in compliance with Approved Document H of the Building Regulations 2000. In particular, the following information should be provided to the Local Planning Authority for review:

- Soakaway/ground investigation conducted in compliance BRE Digest 365 methodology or similar submitted to demonstrate the feasibility of infiltration alone to manage surface water on the site.
- If infiltration is found not to be feasible, an alternative option for surface water disposal should be proposed. In order of preference this should be to: i. an adjacent watercourse with detailed evidence of the feasibility of this option given the existing site constraints, ii. a surface water public sewer, with appropriate evidence that the relevant Water and Sewerage Company deems this acceptable, or iii. a combined public sewer, with appropriate evidence that the relevant Water and Sewerage Company deems this acceptable