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File No: CHE/18/00532/OUT
Plot No: 2/1903

ITEM 2

OUTLINE APPLICATION FOR RESIDENTIAL DEVELOPMENT (OF UP TO 150 DWELLINGS) AND ASSOCIATED ACCESS WORKS - RE-SUBMISSION OF CHE/16/00614/OUT (ADDITIONAL INFORMATION REC'D INC. 12/09/2018 5YR HLS ADDENDUM, 11/01/2019 AIR QUALITY INFORMATION, 11/01/2019 GROUND NESTING BIRDS MITIGATION STRATEGY AND 15/01/2019 ARCHAEOLOGICAL EVALUATION REPORT; AND EMAILS / LETTERS FROM AGENT 07/11/2018, 04/12/2018 AND 05/12/2018)

ON LAND TO THE NORTH WEST OF NORTHMOOR VIEW, BRIMINGTON, CHESTERFIELD, DERBYSHIRE FOR FG SISSONS (CHESTERFIELD) LTD.

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

1.0 CONSULTATIONS

Local Highways Authority	Comments received dated 22/10/2018 – see report
CBC Strategic Planning Team	Comments received 29/10/2018 – see report
Environmental Services	Comments received 20/08/2018, 08/11/2018, 08/01/2019 and 17/01/2019 – see report
Design Services (Drainage)	Comments received 24/08/2018 – see report
Economic Development	Comments received 25/10/2018 – see report
Housing Services	Comments received 11/10/2018 – see report

Leisure Services	No comments received
Environment Agency	Comments received 09/08/2018 – see report
Yorkshire Water Services	Comments received 29/08/2018 – see report
Derbyshire Constabulary – Crime Prevent Design Advisor	Comments received 14/08/2018 - see report
DCC Strategic Planning Team	Comments received 30/08/2018 – see report
Lead Local Flood Authority	Comments received 30/08/2018 – see report
Chesterfield Cycle Campaign	Comments received 13/10/2018 – see report
Coal Authority	Comments received 29/08/2018 – see report
Tree Officer	Comments received 19/10/2018 – see report
Conservation Officer	Comments received 21/09/2018 – see report
Urban Design Officer	Comments received 24/10/2018 – see report
Derbyshire Wildlife Trust	Comments received 30/08/2018 and 17/01/2019 – see report
Derby & Derbyshire County Archaeologist	Comments received 29/08/2018, 15/10/2018 and 14/01/2019 - see report
North Derbyshire CCG	Comments received 10/08/2018 – see report

Brimington Parish Council	Comments received 11/09/2018 - see report
Ward Members	Comments received as part of local residents campaign – see below
Site Notice / Neighbours	261 no. representations and a petition received containing 647 no. signatures

2.0 **THE SITE**

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



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

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

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

3.0 **RELEVANT SITE HISTORY**

3.1 CHE/16/00614/OUT - Outline planning application with all matters except access reserved for proposed housing development including land allocated for a primary school (additional information received - heritage impact assessment and geophysical survey rec'd on 19/04/2017; and transport assessment addendum rec'd on 02/05/2017). Refused 30/08/2017 for the following reasons:

Principle of Development

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

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

Strategic Gap

02. *The development proposals would introduce an extension to the built settlement of Brimington which would encroach into land which is Open Countryside and has been identified to form part of the Strategic Gap between Tapton and Brimington under the provisions of policies CS1, CS2 and CS9 of the Chesterfield Local Plan: Core Strategy 2011 – 2031 and the wider National Planning Policy Framework. The development proposals are considered to be contrary to the provisions of these policies which seek to maintain open*

land between neighboring settlements to prevent merging (perceptual and physical) and protect the setting and separate identity of settlements; support appreciation and wider perceptual benefits of open countryside; and maintain existing or influence form and direction of settlements and for this reason they are unacceptable.

Archaeology

03. It is a requirement of the National Planning Policy Framework, paragraphs 128-129 that the applicant demonstrates to the satisfaction of the Local Planning Authority that appropriate desk-based assessment and, where necessary, field evaluation has been undertaken to determine the potential impact of the development proposals upon any heritage assets, including those with archaeological interest. On the basis of expert advice provided to the Local Planning Authority it is considered that insufficient information has been provided to properly assess the impact of these development proposals upon potential archaeological features which have been identified by geophysical survey results. A significant number of anomalies of possible archaeological origin identified by the geophysical survey results exist which require further investigation to advise confidently on an appropriate scheme of post-permission archaeological recording and a more clear indication of the potential extent and costs of post-permission archaeological mitigation for the site. Therefore the proposed development does not accord with the requirements of the National Planning Policy Framework, Planning Practice Guidance and the provisions of policy CS19 of the Chesterfield Local Plan: Core Strategy 2011-2031.

Ecology

04. It is a requirement of the National Planning Policy Framework paragraph 117 that the Local Planning Authority promote the protection and recovery of priority species populations and policy CS9 of the Chesterfield Local Plan: Core Strategy 2011 – 2031 states that development proposals will be expected to demonstrate that they will not adversely affect, or result in the loss of, features of recognised importance. In this context it is considered on the basis of expert advice provided to the Local Planning Authority that insufficient

information has been submitted to determine the potential impacts of accepting the principle of development on this site upon ground nesting birds and a UK BAP priority species and Therefore the proposed development does not fully accord with the requirements of the National Planning Policy Framework, Planning Practice Guidance and the provisions of policy CS9 of the Chesterfield Local Plan: Core Strategy 2011-2031.

Air Quality

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

Highways

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

Infrastructure Delivery

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

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

4.0 **THE PROPOSAL**

4.1 The application submitted (which is a resubmission of app. CHE/16/00614/OUT) seeks outline planning permission for the erection of up to 150 dwellings (incorporating open space and landscaping) on site with all matters except for means of access being reserved. Access is shown to be formed as a new junction onto Chesterfield Road (A619) east of Briar View.

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

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

- Application Form
- C596.10B – Site Development Plan
- 3834_OGL_1000 – Topographical Survey
- 3834_OGL_PLAN1 – Topographical Survey
- 3834_OGL_PLAN2 – Topographical Survey
- Planning Statement and Statement of Community Involvement (prepared by DLP Planning dated July 2018)
- Design and Access Statement (prepared by Malcolm Smith Associates dated July 2018)
- Air Quality Assessment (prepared by Air Quality Consultants Ltd dated July 2018)

- Flood Risk Assessment, Surface Water Strategy and Sustainable Drainage Systems Assessment (prepared by CSG Consulting Engineers Ltd dated April 2016)
- Geophysical Survey (prepared by ARS (Archaeological Research Services) Ltd dated March 2017)
- Harron Homes – Expression of Interest (Email July 2018 to Wilkins Vardy)
- Heritage Impact Assessment (prepared by ARS (Archaeological Research Services) Ltd dated March 2017)
- Indicative Surface Water Drainage Storage Calculations (prepared by CSG Consulting Engineers Ltd dated July 2018).
- Preliminary Ecological Appraisal (prepared by ECUS dated July 2018)
- Preliminary Risk Assessment (prepared by CSG Consulting Engineers Ltd dated April 2016)
- Report on 5yr HLS Position of CBC (prepared by SPRU / DLP Planning dated July 2018)
- Transport Assessment inc. Technical Appendix (prepared by Northern Transport Planning (NTP) dated July 2018)
- Travel Plan (prepared by Northern Transport Planning (NTP) dated July 2018)

Additional / Revised Information

- Report on 5yr HLS Position of CBC (prepared by SPRU / DLP Planning dated September 2018)
- Letter from DLP responding to consultee responses dated 9th October 2018.
- Letter from DLP responding to consultee responses dated 7th November 2018.
- Emails from DLP Planning dated 4th December 2018 and 5th December 2018 responding to consultee responses.
- Air Quality Addendum (prepared by Air Quality Consultants Ltd dated January 2019)
- Ground Nesting Birds Mitigation Strategy (prepared by ECUS dated January 2019)
- Archaeological Evaluation Trenching (prepared by ARS (Archaeological Research Services) Ltd dated January 2019)

5.0 **CONSIDERATIONS**

5.1 **Planning Policy Background**

- 5.1.1 The site the subject of the application is land allocated as Open Countryside / Other Open Land which is a protected allocation of Policy EVR2 from the 2006 Local Plan, which was saved alongside the adoption of the Chesterfield Local Plan: Core Strategy 2011 - 2031.
- 5.1.2 Having regard to the nature of the application proposals and the allocation above policies CS1 (Spatial Strategy), CS2 (Location of Development), CS3 (Presumption in favour of Sustainable Development), CS4 (Infrastructure Delivery), CS6 (Sustainable Design), CS7 (Management of the Water Cycle), CS8 (Environmental Quality), CS9 (Green Infrastructure and Biodiversity), CS10 (Flexibility in Delivery of Housing), CS11 (Range of Housing), CS13 (Economic Growth), CS18 (Design), CS19 (Historic Environment) and CS20 (Demand for Travel) of the Core Strategy and the wider National Planning Policy Framework (NPPF) apply. In addition the Councils Supplementary Planning Document on Housing Layout and Design 'Successful Places' is also a material consideration.
- 5.1.3 On 14th January 2019, the council published the Local Plan for its formal 'regulation 19' consultation, prior to submitting it for examination. The Submission Plan shows the entirety of the application site designated as a Strategic Gap. Consultation on the draft plan will run until 22nd February 2019, after which it, and any representations received, will be submitted to the Planning Inspectorate for independent examination later in the year
- 5.1.4 The National Planning Policy Framework set out (at paragraph 50) that "Refusal of planning permission on grounds of prematurity will seldom be justified where a draft plan has yet to be submitted for examination Where planning permission is refused on grounds of prematurity, the local planning authority will need to indicate clearly how granting permission for the development concerned would prejudice the outcome of the plan-making process". The Local Plan will not be submitted for examination until after the date of this meeting. If permission were granted for this application, although it would be contrary to some of the proposed policies of the plan, it would be unlikely to significantly prejudice the outcome

of the plan-making process itself by, for example, making it difficult for the plan to deliver the objectively assessed need for housing, or prejudicing the delivery of key infrastructure to support the strategy of the plan. A refusal on the ground of prematurity is therefore unlikely to be justified.

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

- 5.2.1 The application is on a greenfield site within an area identified in the saved Replacement Chesterfield Borough Local Plan (2006) under policy EVR2 as Open Countryside. It is also in an area shown on the Core Strategy Key Diagram as being potentially affected by the Brimington and Tapton Strategic Gap. It is not allocated for housing development.
- 5.2.2 Policy CS10 of the Local Plan: Core Strategy states that: *“Planning permission for housing-led greenfield development will only be permitted if allocated land has been exhausted or if annual monitoring shows that there is less than a five year supply of deliverable sites...”*. The council’s latest Five Year Housing Supply statement, reported to the Council Planning Committee on 6th August 2018, sets out that the council considers that it is able to demonstrate a supply of specific, deliverable housing sites sufficient for a five year period (plus a 20% buffer to take into account historic levels of under-delivery). The applicant has submitted a five year housing supply statement addendum which is commented on below.
- 5.2.3 Policy EVR2 states that *“within the areas of open countryside and other open land planning permission will only be granted for new development which is necessary for the needs of agriculture and forestry or is related to recreation tourism or other types of farm or rural diversification...”*. The proposed development would be contrary to this policy.
- 5.2.4 The Core Strategy Key Diagram and policy CS1 indicate that there will be a Strategic Gap identified between Brimington and Tapton. Within the strategic gap policy CS9 applies and development that would harm the character and function of the strategic gap, that is:
- Maintain open land between neighbouring settlements to prevent merging (perceptual and physical) and protect the setting and separate identity of settlements.

- Support appreciation and wider perceptual benefits of open countryside.
- Maintain existing or influence form and direction of settlements.

5.2.5 A draft boundary of this Strategic Gap was published as part of the consultation on Sites and Boundaries Issues and Options in November 2012, and was also the subject of an assessment undertaken by ARUP in 2016 in support of the preparation of the new Local Plan. A further plan showing the proposed extent of the gap was published in the draft Local Plan in January 2017. The most recent version (the 2017 Local Plan draft) indicates that the application site would be within the Strategic Gap. However the weight given to this boundary should reflect that fact that it has not been tested through a Local Plan examination. A precautionary approach should be taken and the impact of the development on the openness of the countryside in this location and the separation between settlements should be taken into account.

5.2.6 Policy CS2 deals with the location of development and sets out tests under which locations that are Not in strict accordance with the Local Plan may be permitted, namely where the proposed use:

- Needs to be in a specific location in order to serve a local need, access specific resources or facilities or make functional links to other uses; or
- Is required to regenerate sites and location that could not otherwise be addressed

Neither exemption applies in this case.

5.2.7 The weight to be given to the above policies (and CS10 and EVR2 in particular) depends upon the conclusions reached on whether or not the council can demonstrate five year supply of deliverable housing sites under the approach and definitions set out in the NPPF and the guidance in the NPPG.

5.2.8 The Council's most recent evidence for its five year supply position was set out for the monitoring period ending March 31st 2018 and reported to Planning Committee on 6th August 2018.

- 5.2.9 The applicant has submitted a five year supply statement addendum dated September 2018 that addresses the council's position and the following comments are based upon this addendum.
- 5.2.10 The council agrees with the applicant that the housing need should be calculated using the new standard method as the adopted Local Plan Core Strategy is more than five years old. The applicant calculates this as resulting in a target of 247 dwellings per annum rather than the council's 248 but, as the difference is minor and clearly attributable to rounding (the form of which the methodology does not specify), the applicant's calculation is reasonable.
- 5.2.11 The applicant has not added any shortfall for previous under delivery. A shortfall was added in the council's statement but, on further examination of the PPG and the standard methodology, recent appeals, and following discussions with other LPAs in the same position, it is agreed that the applicant's approach is correct.
- 5.2.12 It is therefore agreed that the applicant's position that the council's five year housing requirement is for 1235 net new dwellings (247x5) before applying any buffer for choice and flexibility.
- 5.2.13 The council's statement already acknowledges that the 20% buffer should be applied for under delivery as calculated for the Housing Delivery Test (HDT), and that the council's own monitoring figure for 2017/18 is a sensible proxy for the as-yet unpublished HDT figures.

It is therefore agreed that the applicant's revised position that the council's five year housing requirement is for 1482 net new dwellings once the 20% buffer is applied.

- 5.2.14 The applicant's statement then goes on to the council's assessment of sites that contribute to the supply, specifically sites for major development with outline planning permission, local plan allocations or included on the Brownfield Sites Register.
- 5.2.15 It correctly identifies that such site 'should only be considered deliverable where there is clear evidence that housing completions will begin on site within five years'. However of these sites, it allows for a supply of only 337 dwellings, a reduction of 644 from the council's supply statement.

5.2.16

In this area the LPA do not agree with the applicant's assessment. Whilst the published five year statement does only provide a summary of the position for these sites the council does hold sufficient evidence to justify their inclusion.

Each site is addressed below:

Site	Capacity (five years only)	Evidence
Land At East Of A61 Known As Chesterfield Waterside, Brimington Road, Chesterfield	484	Trajectory and development timetable for Basin Square, Park and Island Character Areas provided by Bolsterstone (dated 7 th March) Reserved Matters applications expected Q4 2018
Land To The West Of Dunston Lane, Dunston Lane, Chesterfield	240	Email from Pegasus Planning dated 28 th march 2018
Walton Hospital, Whitecotes Lane, Chesterfield	90	Note of approach to be taken by Homes England to procurement and development of site
Land South Of Walton Hospital, Harehill Road, Chesterfield	60	Note of approach to be taken by Homes England to procurement and development of site
Land To South Of Poplar Farm, Rectory Road, Duckmanton, Chesterfield	35	Reserved matters application has been agreed with housing developer. Application to be submitted prior to expiry of outline permission

292 Manor Road, Brimington, Chesterfield	30	Revised plans received from developer. Reserved Matters application now expected to be reported to committee [date]
Former Brockwell Court, Cheedale Avenue, Newbold	28	Confirmed as part of CBC Housing programme. Developer agreed, planning application expected by end of Q4 2018. Completion must be before 2021
Former Heaton Court, Meynell Close, Chesterfield	14	Confirmed as part of CBC Housing programme. Developer agreed, planning application submitted. Completion must be before 2021 (Note, scheme size subsequently reduced by 2 dwellings)
	979	

5.2.17 In addition to the above the council has granted full planning permission subject to a S106 agreement for 175 homes at Poolsbrook to be delivered by Gleesons on CBC land (CHE/18/00229/FUL).

5.2.18 The housing supply position is therefore now:

	Dwellings
Local Housing Need (annual)	247
5 year supply requirement (2018-2023) (247dpa x 5)	1235
5 year supply requirement (2018-2023) including 20% buffer	1482
Annual supply required	296
Supply	1785
Difference	303
Supply	6.03

5.2.19 Furthermore, it is noted that by the applicant's argument regarding what constitutes 'clear evidence' of delivery, their own application for outline planning permission would by definition fail the test and would not be considered as making any contribution to the council's five year housing supply.

5.2.20 In conclusion the Council can demonstrate a five year supply of deliverable housing sites and the principle of housing development on this land would be contrary to Local Plan policies CS10, CS2 and EVR2.

5.3 **Design and Appearance (inc. Neighbour Representations)**

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

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

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

Use

The site is currently open countryside and lies outside the built up area of Brimington, where new development is normally strictly controlled. Further advice should be sought from the Forward Planning Team.

Notwithstanding the acceptability of the principle of development on greenfield land, the northern edge of the site is located within 300m of the centre of the Brimington as the crow flies and could be considered to represent a sustainable location in respect of proximity to services and local amenities.

Actual walking routes measure approximately 575m to Brimington centre from the middle of the site via the footpath past Top Pingle

Close or 725m via the new access road and crossing. The shorter route is poorly overlooked along the footpath section. Distances are measured for actual walking route rather than as the crow flies. Although the site would be located within a 10 minute walk or less, of Brimington village, the need to cross a number of busy roads (Chesterfield Road and Hall Road) would be likely to discourage some local trips that could be undertaken on by foot or by bicycle.

Walking routes to the nearest schools are somewhat further and in several cases would also involve crossing a number of busy roads. The actual walking distances are approximately:

Brimington Junior School

- 1500m via footpath to Top Pingle Close, Station Road and Rother Avenue.*

- 1440m via proposed site entrance, controlled crossing and Bradley Close/Devonshire Street shortcut.*

Henry Bradley Infants School

- 1245m from centre of the site via proposed main entrance.*

- 1295m via North Moor View.*

Brimington Manor Infants and Nursery School

- 1260m from centre of the site via North Moor View.*

Amount

The total site area measures 15.90 hectares, which is the same as the previous submission, on the basis that any revised proposal would need to be based upon the same red line in order to benefit from a 'free go'. However, the current submission proposes a reduced amount of development (up to 150 dwellings compared with 300 previously sought).

The submission includes a 'Site Development Plan' which shows development on approximately one third of the land on the northernmost part of the site.

The developable area, excluding the access running parallel to Briar View, is approximately 6.4 hectares. A development of 150 dwellings would equate to a density of 23.5dph which is an appropriate suburban density in relative to the neighbouring areas of built development.

The DAS also indicates the use of different densities, with lower densities proposed on the edges of the site and higher densities in the centre in order to achieve a more open character against the

countryside. This concept is supported in principle although the proposed densities required to achieve this are not defined, nor reflected on the illustrative Site Development Plan drawing.

Layout

Layout is a reserved matter, although the submission is supported by a Site Development Plan. Although this is illustrative, it nevertheless represents an expression of how it is anticipated that the site would be developed. As such it is appropriate to comment on the design aspects of the layout which could come forward.

The Site Development Plan, however, is not underpinned by a site appraisal to assess the site constraints and opportunities. For example the relationship to nearby scrapyard is not identified as potential constraint. In addition, a number of principles promoted by the scheme, are not reflected on the supporting drawing.

For example, whilst the illustrative layout indicates 'soft' edges and outward facing development against the countryside, this is not reflected on the 'Site Development Plan', which illustrates development backing onto the landscape which would be contrary to guidance contained within the residential design SPD (Successful Places, 2013). Significant features of the site are its countryside setting, public rights of way, its elevated position and far reaching views and its relationship to nearby heritage assets.

Relationship to The Manor House - The adjacent listed building (The Manor House) represents a significant local landmark for this site, by reason of its height, character and prominent position giving it considerable presence in the local landscape as seen from the site. Although 20th Century development has encroached upon the setting of this building on Manor Road, the majority of buildings are single storey and the dominance of The Manor House on the skyline, as experienced in views across the site, including public footpaths and its relationship to the rural landscape remains clearly evident.

The current application includes a Heritage Impact Assessment (HIA) which assesses the significance of nearby heritage assets. In respect of The Manor House, the HIA identifies views from the site to the west still largely reflect an open landscape. However, the HIA fails to acknowledge the numerous views towards the building

from within the proposed development site or its landmark presence on the skyline as experienced from the site.

The HIA goes on to confirm that the proposed development would further urbanise the setting of The Manor House resulting in moderate change to its setting, but concluding that that this aspect of the buildings setting does not provide a significant contribution to the assets significance. The HIA focusses instead on the view from Manor Road towards the front of The Manor House as providing the most significant view of the asset, despite this being the area where urbanisation has already compromised its former rural context.

Historical development along Manor Road has taken the form of a ribbon pattern, which has been a logical progression, albeit to the detriment of the setting of The Manor House. However, developing in depth to the rear of Manor Farm would urbanise the remaining connection to its former pastoral landscape and further compromise the setting of this heritage asset.

The HIA recommends that the design and layout of the development and its landscaping should be considered in views to and from Manor House so as to minimise the impact of the development on these views. This approach is supported in principle. However, it does not specify what form these design considerations should take, thereby leaving considerable ambiguity for any future reserved matters. The Site Development Plan shows only a modest field retained to the rear of the listed building

It is considered that the HIA does adequately recognise the experiential value of The Manor House as appreciated from the land to the west of this asset and that it underplays the impact that further urbanising development would have upon its remaining rural setting.

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

Legibility and Streetscene - The alignments of the internal roads do not take advantage of the views towards The Manor House which are shown as obstructed by intervening development on the Site Development Plan, arising from the absence of a site identifying this as a feature of significance in the locale.

The Site Development Plan shows 'indicative' housing blocks that define streets with near continuous built frontages and blocks on corners to define key locations in the townscape. However, the DAS, together with notes on the Site Development Plan indicate that housing blocks will comprise a mix of terraces, semi-detached and detached houses. This is a very generic statement that could apply to almost anywhere, although the depth of some blocks range between 14m and 20m which implies apartment scale buildings which does not therefore reflect the nature of development being suggested.

Relationship to scrap yard - A vehicle scrapyard is located on the western edge of the site between the field and Briar View. During my site visit the yard was active and generated a noticeable amount of noise which is a potential source of noise nuisance. Notwithstanding the presence of existing dwellings on Briar View and Ivy House Lane, the proposal would introduce additional sensitive noise receptors within close proximity to the scrap yard. It would therefore be advisable to seek guidance from the EHO regarding the relationship of the scrapyard to the proposed development, whether this is likely to result in an adverse impact on amenity or if noise monitoring may be required to establish baseline noise data from which to assess the proposals.

Public Open Space - The provision of public open space within the Site Development Plan is unclear and while some amenity space appears to be indicated where the public footpaths intersect, it is uncertain whether this is intended to form usable open space, such as a play area.

Furthermore, the arrangement of the illustrative layout shows footpaths passing between and behind the housing and the edges of the site. This is likely to result in the paths being sandwiched between the rear fences of the dwellings and the site boundaries, creating unappealing and poorly overlooked routes. This would

raise concerns in respect of crime and design considerations and represents an unacceptable aspect of the illustrative site plan.

Scale and massing

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

Landscaping

Landscaping is a reserved matter, although the DAS indicates the potential to supplement existing trees and hedgerow planting, both within gardens and new areas of public open space. The landscape concept underpinning the proposals is to retain the rural character of the site and its surroundings.

Appearance

Appearance is a reserved matter. The DAS discusses views of the site from various perspectives although the approach to the architectural style of the development is not addressed in any detail.

Access

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

Footpath connections are shown to North Moor View to the east and Top Pingle Close to the north, although the latter is via a narrow unsupervised path. An additional connection would be provided via the proposed main entrance and controlled crossing is proposed on Chesterfield Road.

Conclusion

The proposals raise a number of concerns in urban design terms and the limited nature of the supporting information provide little substance upon which to base future reserved matters proposals. In light of the above concerns it is recommended that the Site Development Plan is revisited and substituted with a Parameters Masterplan establishing a number of key design principles that would underpin any future housing development of this site. This should include:

- Points of connection to the adjoining areas.*
- Creating views towards The Manor House from within the site.*

- *Maintaining a broad open setting to the rear (west) of The Manor House.*
- *The low density outward facing nature of development on the outer edges of the site where this addresses the landscape and creates a soft edge to the open countryside.*
- *A permeable layout.*
- *Incorporate existing public rights of way.*
- *Adequate separation from the adjoining neighbouring dwellings.*
- *Identify the provision of open space(s) to form focal amenity spaces within the site.*

If an appropriate parameters plan can be agreed, this could potentially be conditioned as part of any outline planning permission and form the basis of future reserved matters proposals.

Notwithstanding the above, given the outline nature of the application, the detailed considerations could potentially be addressed at the reserved matters stages. As such, despite the shortcomings of the current submission, there is no objection to the application on the grounds of urban design. However, in the event that planning permission is granted, it is recommended that an advisory note is attached to the decision notice drawing attention to these comments and advising that any subsequent design work is informed and prepared on the basis of a site appraisal process and guidance contained within the Councils SPD Successful Places (2013).

5.3.4 Further comments were also received from the **Crime Prevention Design Advisor (CPDA)** as follows:

As with the previously refused application, there would be no objection in principle to residential development of the site related to crime and disorder community safety matters.

As all matters except access are not to be determined, and the masterplan is taken as indicative only, comments are minimal.

I previously mentioned poorly supervised existing footpath connections which would naturally continue into the site as part of local connectivity, and advised that these should be open, well supervised by adjacent housing frontages, with a sufficient buffer of space and boundary treatment to define footpath from private space.

This concept would extend to what appears to be, although it's not explicit within the application, a peripheral circular footpath around the development, which has the potential to be enclosed between existing and proposed garden spaces. This feature would not be implicitly safe for users, present a higher risk of crime and nuisance to both new and existing housing, and consequently not be acceptable to us.

Excluding existing footpath routes, to which the development should respond as above, any new pedestrian routes should be shared, lit and well overlooked.

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

5.4 **Highways Issues**

- 5.4.1 Having regard to the nature of the application proposals and the fact that access is detailed for consideration alongside this outline planning application the submission was initially accompanied by a Transport Assessment (TA) and Travel Plan (TP).
- 5.4.2 Together with the TA and TP the proposals and supporting documents were reviewed by the **Local Highways Authority** (LHA) who made the following comments:

The submitted details propose a development of 150no. residential units with all vehicular access taken via a new junction created with Chesterfield Road (A619). It's proposed to maintain existing footpath links (although development according with the indicative site layout would require formal diversion of the routes) and provide multi-user access via North Moor View.

A Transportation Assessment has been submitted in support of the proposals in which a priority junction with ghost-island turning lane is demonstrated to serve the development site and a capacity assessment of this layout predicts that the junction would operate satisfactorily.

In addition, it's proposed to upgrade the existing uncontrolled pedestrian crossing of Chesterfield Road to take the form of a signalised Pelican crossing.

Although no assessment of operation of the Brimington gyratory has been undertaken, the Highway Authority is aware that this section of the A619 is operating at capacity during peak hours and assessments carried out in association with development proposals for other sites to the east of Chesterfield have identified a need for mitigation. You are also no doubt aware of the existing air quality issue in this same area.

Given the proposed nature and scale of the proposals for the application site, and its proximity to the gyratory, you may wish to give some consideration to securing a proportional financial contribution towards undertaking mitigation identified as being required to offset the impact of all development proposed within the vicinity.

As layout is a Reserved Matter, no detailed comment will be made with respect to the submitted indicative site layout plan other than the proposed internal road layout will need to comply with the Highway Authority's current design guidance and include demonstration of suitability for use by a Large Refuse Vehicle (circa 11.6m length) as well as adequate, conveniently located, off-street parking provision.

The details submitted to this office also include a Travel Plan comments on which may be found appended to this response. It's recommended that Travel Plan monitoring fees of £1,000 p.a. are secured for a period of 5 years i.e. total fees of £5,000.

Therefore, if you are minded to approve the proposals, it's recommended that the following Conditions are included within the Consent:-

- 1. Space shall be provided within the site for storage of plant and materials, site accommodation, loading, unloading and manoeuvring of goods vehicles, parking and manoeuvring of employees and visitors vehicles, laid out and constructed in accordance with detailed designs first submitted to and approved in writing by the Local Planning Authority. Once implemented the facilities shall be retained free from any impediment to their designated use throughout the construction period.*
- 2. Notwithstanding the submitted information a subsequent reserved matters or full application shall include design of the internal layout of the site in accordance with the guidance contained in the Delivering Streets and Places Design Guide.*
- 3. Unless otherwise approved in writing by the Local Planning Authority, the Site Compound, the subject of Condition 1 above, shall not be brought into use until a detailed scheme of highway improvement works for the provision of a new junction with Chesterfield Road, together with a programme for the implementation and completion of the works, has been submitted to and approved in writing by the Local Planning Authority. No part of the development shall be brought into use until the required highway improvement works have been constructed in accordance with the approved details. For the avoidance of doubt, this will include improved pedestrian facilities for crossing the A619 and the developer will be required to enter into a 1980 Highways Act S278 Agreement with the Highway Authority in order to comply with the requirements of this Condition.*
- 4. No part of the development shall be occupied until detailed designs for the pedestrian and cycle link with North Moor View, together with a programme for the implementation and completion of the works, have been submitted to and approved in writing by the Local Planning Authority. For the avoidance of doubt, the developer will be required to enter*

into a 1980 Highways Act S278 Agreement with the Highway Authority in order to comply with the requirements of this Condition.

- 5. No part of the development shall be constructed above foundation level until construction details of the residential estate roads and footways (including layout, levels, gradients, surfacing and means of surface water drainage) have been submitted to and approved in writing by the Local Planning Authority.*
- 6. The carriageways and footways of the proposed estate roads shall be constructed in accordance with Condition 4. above up to and including base course surfacing to ensure that each dwelling prior to occupation has a properly consolidated and surfaced carriageway and footway, between the dwelling and the existing highway. Until final surfacing is completed, the footway base course shall be provided in a manner to avoid any upstands to gullies, covers, kerbs or other such obstructions within or abutting the footway. The carriageways, footways and footpaths in front of each dwelling shall be completed with final surface course within twelve months (or three months in the case of a shared surface road) from the occupation of such dwelling, unless otherwise agreed in writing by the Local Planning Authority.*
- 7. The premises, the subject of the application, shall not be occupied until space has been provided within the site curtilage for the parking of residents/ visitors vehicles (including secure/ covered cycle parking)], located, designed, laid out and constructed all as agreed in writing with the Local Planning Authority and maintained throughout the life of the development free from any impediment to its designated use.*
- 8. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any Order revoking and/or re-enacting that Order) the garage/ car parking spaces hereby permitted shall be retained as such and shall not be used for any purpose other than the garaging/ parking of private motor vehicles associated with the residential occupation of the property without the grant of further specific planning permission from the Local Planning Authority.*

9. *There shall be no gates or other barriers within 6.0m of the proposed nearside highway boundary and any gates shall open inwards only, unless otherwise agreed in writing by the Local Planning Authority.*
10. *The proposed access drives to the new estate streets shall be no steeper than 1 in 14 for the first 6m from the nearside highway boundary and 1 in 10 thereafter.*
11. *No part of the development shall be occupied until details of arrangements for storage of bins and collection of waste have been submitted to and approved by the Local Planning Authority. The development shall be carried out in accordance with the agreed details and the facilities retained for the designated purposes at all times thereafter.*
12. *Prior to the commencement of the development details shall be submitted to and approved in writing by the Local Planning Authority showing the means to prevent the discharge of water from the development onto the existing and proposed highway. The approved scheme shall be undertaken and completed prior to the first use of the access and retained as such thereafter.*
13. *The Approved Travel Plan shall be implemented in accordance with the timescales specified therein, to include those parts identified as being implemented prior to occupation and following occupation, unless alternative timescales are agreed in writing with the Local Planning Authority. The Approved Travel Plan shall be monitored and reviewed in accordance with the agreed Travel Plan targets.*
14. *No part of the development shall be occupied until details of the proposed arrangements for future management and maintenance of the proposed streets within the development have been submitted to and approved by the Local Planning Authority. The streets shall thereafter be maintained in accordance with the approved management and maintenance details until such time as an Agreement has been entered into under Section 38 of the Highways Act 1980 or a private management and Maintenance Company has been established.*

5.4.3

Having regard to the comments of the LHA made above, it is noted that the scheme the subject of this latest application differs from that of the previously refused app. CHE/16/00614/OUT in so far as the scheme is reduced in density and is proposed to be served from a singular point of access off Chesterfield Road. Whilst the

LHA had supported a reason for refusal on the previous application on the grounds of impact upon highway safety (reason 06.) clearly the changes made to the scheme and the supporting information with this latest application have led the LHA to reach a differing conclusion.

5.4.4 Despite the concerns raised by numerous local residents over highway safety and the impact of the development and its access upon Chesterfield Road, advice from the local highway experts must lead the LPA to have no justifiable evidence to suggest that the development proposals and the access junction details submitted would have detrimental impact upon highway safety.

5.4.5 In addition to the comments made by the LHA above the **Chesterfield Cycle Campaign** (CCC) also reviewed and commented on the application as follows:

Unfortunately the 'master plan' available online doesn't have a key attached so we have made some assumptions on the paths shown. We assume that the light blue dotted line from Manor Road through the proposed development is the line of the cycleway? (Dark blue being footpaths). If so that seems a sensible access providing it is built to a good standard. For a new development we expect that any new cycling facility should be built to a better standard than currently provided within the borough so would expect a two way cycleway separated from the footway by kerbs, not a shared path.

The proposed cycleway crosses several access roads and the internal circular road. The cycleway/footway should have priority with surfacing to designate this.

The western end is less clear. It appears that the cycleway simply ends at the site boundary! This is not acceptable as there appears to be space to continue a separate cycleway all the way to the junction with Chesterfield Road.

The proposed Chesterfield Cycle Network does include a route along Manor Road that this development will link to. At the western end the nearest part of the cycle network is the shared path and Toucan crossing opposite Wikeley Way. We suggest that the developer should provide a sum of money to the Highway Authority to continue the shared path from the Toucan crossing up to the

entrance to this development. That way the development will form a useful addition to the cycle network.

Within the travel plan we would like to comment on a couple of issues:

'Space for provision of cycle storage facilities' - all the housing units especially if flats or small houses should be provided with secure cycle storage as a matter of course. Secure cycle storage lockers are available as a one off for around £500, a bulk order from a developer would see the price lowered considerably.

The £100 'travel voucher' per household can only be seen as a token gesture especially when houses will probably have more than one occupant. We suggest for that to be meaningful it needs to be increased considerably.

Taking all the above into account at this stage Chesterfield Cycle Campaign objects to the proposed outline planning permission because it does not comply with CBC core strategy CS20 'prioritising pedestrian and cycle access'.

However most of the comments outlined above are easily remedied and we hope the developers take note.

- 5.4.6 Having regard to the comments made by the CCC above, the majority of the observations made relate to internal layout and surface details – all of which would be determined at the reserved matters stage if outline planning permission were to be granted.
- 5.4.7 Overall it is considered that the development proposals in principle are to be served by an appropriate site access and the new development access road of an appropriate geometry. In respect of highway safety matters and the provisions of policies CS2, CS18 and CS20 of the Core Strategy the proposals are considered to be acceptable.

5.5 **Ecology / Biodiversity**

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

5.5.2

In accordance with para. 175 of the NPPF and policy CS9 of the Core Strategy the application submission is accompanied by a Preliminary Ecological Appraisal undertaken by ECUS dated July 2018; therefore consultation took place with **Derbyshire Wildlife Trust** (DWT) who operates a service level agreement with the LPA on planning matters and provided the following response:

'The Trust has previously commented on the proposed development of this site under application CHE/16/00614/OUT. The current application is for a smaller portion of the total landholding, however given the location of terminated roads providing potential for future expansion, we are mindful of future extension of the development area.

The current application area comprises arable land, with native and non-native hedgerows and fences along its boundaries. The small stream, Tinker Sick, is no longer immediately adjacent to the application area and the current application will not impact this green corridor. The habitats present are of low intrinsic botanical value and there is potential to retain and enhance existing hedgerows around the site boundaries.

The key ecological concern is the loss of breeding habitat for ground nesting birds, including confirmed breeding skylarks and lapwing. Whilst the Ecological Appraisal report (Ecus Ltd., 2018) considers that grey partridge were unlikely to breed on site, juveniles were recorded indicating at least some level of site use by this species. These species are all on the Birds of Conservation Concern Red List due to habitat loss and species decline. Grey partridge and lapwing are also considered Species of Principal Importance (S41, NERC Act 2006). Development of the site in the absence of compensation will result in a net biodiversity loss and adverse impacts to S41 species, contrary to national and local planning policy. As detailed in the Ecological Appraisal, we advise that a detailed Mitigation and Compensation Strategy is developed for ground nesting birds. Given that offsite compensation would be required, we advise that this is produced prior to determination to provide the LPA with the confidence that this impact can be adequately addressed.

The Planning Statement refers to “contributions for green infrastructure and biodiversity” and states that “proposals maximise opportunities for a green spine throughout the development”. The Trust can see no evidence of this in the current layout as the Masterplan shows only green space around dwellings, with no meaningful Public Open Space or wildlife area and the “green corridor” comprises a line drawn alongside a residential road. The NPPF 2018 aims for developments to result in a net biodiversity gain and currently it is not clear how this will be achieved.

The Trust support and encourage the recommendations within the Ecological Appraisal for bat and bird boxes, hedgehog holes, pre-commencement badger checks and precautionary Method Statements for brown hare and reptiles. These could all be secured through planning conditions, once the concerns detailed above have been addressed.’

5.5.3 The comments of DWT set out above were passed to the applicant for further consideration and a further Ground Nesting Birds Mitigation Strategy prepared by ECUS dated January 2019 was submitted which was reviewed by DWT. The following comments were made (17/01/2019):

‘Further to our response dated 30th August 2018, a Ground Nesting Bird Mitigation Strategy has been produced (Ecus Ltd., January 2019). We welcome the commitment to sowing spring crops in the remainder of the field and leaving winter stubble until Feb/March. However we would still advise that skylark plots are incorporated and a commitment is made to retaining wider field margins than those existing, which would benefit species such as grey partridge.

We also request that a Figure is added to clearly show the landholding, with the boundaries of the development and the mitigation area. The Strategy should also state a timeframe for the mitigation strategy – will spring sown crops be implemented every two in three years in perpetuity? We understand that there may need to be some flexibility for the farmer to rotate crops every so often. We support the suggestion of exploring stewardship options, however it should be clear that this commitment will be made regardless of this. Once these amendments are made, this document could be secured through a 106 Agreement’.

- 5.5.4 Based upon the comments of DWT above it is accepted that the strategy suggests the site and landholding beyond offer suitable opportunities for ground nesting bird mitigation, inc. treatment of the land, the choice of crops and appropriate harvesting measures. Furthermore the strategy acknowledges that the development area of the application site (as reduced by this latest submission) will allow for mitigation measures to be incorporated in and around the edges of the development and on the remainder of the site to offer biodiversity gain in accordance with the provisions of policy CS9 and the wider NPPF. The comments of DWT regarding uncertainties with the current site layout are noted, however given that the application at this stage is submitted in outline with all matters including landscaping and layout reserved it is considered that these requirements and points of clarification could be addressed at this later stage.
- 5.5.5 If permission was to be granted it is considered that appropriate conditions / S106 obligatory clauses could be imposed to address the ecological requirements arising. This would secure appropriate mitigation to target species and secure enhancement to biodiversity overall. Such measures would be expected to be shown in the preparation of any 'landscaping' reserved matters submission. Comments arising from DWT's initial consultee response could also be addressed in this similar manner.
- 5.5.6 In addition to the comments made by DWT above, the Council's **Tree Officer** (TO) also reviewed the proposals and made the following comments:

There will be some loss of trees on the development site consisting of Ash and an overgrown hedgerow at the proposed access off Chesterfield Road to the rear of the existing car sales. The remainder of the development site is mainly agricultural land with garden boundary treatments, including sections of native and non-native hedgerow, fencing and walls along the north and part of the west boundary, and remaining arable land to the east and south. There are some valuable habitats such as the watercourse Tinker Sick, woodland and hedgerows further to the south which have been recorded in the Ecological Survey by ECUS but these are not part of the proposed development site.

I therefore have no objection to the application, however if consent is granted to the application the following conditions should be attached to enhance the character and amenity of the area and to provide ecological, environmental and bio-diversity benefits:

Landscaping:

Prior to completion or first occupation of the development hereby approved, whichever is the sooner; 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**
- 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*

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.

Tree Planting:

Prior to completion or first occupation of the development hereby approved, whichever is the sooner; full details of all proposed tree planting shall be submitted to and approved in writing by the Local Planning Authority. This will include planting and maintenance specifications, including cross-section drawings, use of guards or other protective measures and confirmation of location, species and sizes, nursery stock type, supplier and defect period. All tree planting shall be carried out in accordance with those details and at those times.

Any trees that are found to be dead, dying, severely damaged or diseased within five years of the completion of the building works OR five years of the carrying out of the landscaping scheme (whichever is later), shall be replaced in the next planting season by specimens of similar size and species in the first suitable planting season.

- 5.5.7 Having regard to the comments firstly made by DWT it is considered that the suggested conditions sought by them are acceptable. Appropriate Mitigation Measures and Biodiversity Enhancement Measures associated with major development proposals are a requirement of policy CS9 of the Core Strategy and such measures can be incorporated into the building fabric as well as through soft landscaping proposals. Given that this is an outline planning application, any subsequent reserved matters submission concerning 'layout and landscaping' can incorporate the measures deemed necessary to secure a net gain in biodiversity across the development site. These measures can also target appropriate mitigation against any impacts to ground nesting birds, as per the recommendations set out in the mitigation strategy accepted by DWT. The comments made by the TO are also noted and it is considered that the suggested conditions sought by him are also acceptable and can imposed should outline planning permission be granted.

5.6 **Flood Risk and Drainage**

- 5.6.1 Policy CS7 requires all new development proposals to consider flood risk and incorporate, where appropriate, Sustainable Drainage Systems (SuDS) to ensure the maximum possible reduction in surface water run off rates are achieved commensurate with the development being proposed.

- 5.6.2 In accordance with policy CS7 of the Core Strategy and wider advice contained within the NPPF the application submission is supported by a Flood Risk Assessment, Surface Water Strategy and Sustainable Drainage Systems Assessment (prepared by CSG Consulting Engineers Ltd dated April 2016) and Indicative Surface Water Drainage Storage Calculations (prepared by CSG Consulting Engineers Ltd dated July 2018).
- 5.6.3 Consultation took place with the **Lead Local Flood Authority** (LLFA), the Councils own **Design Services (Drainage)** team (DS), **Yorkshire Water Services** (YWS) and the **Environment Agency** (EA) who all provided detailed responses to the outline proposals and the Strategy / Assessment submitted.
- 5.6.4 Firstly the EA confirmed that they would not wish to make any representations on the application given that *'the site is located within flood zone 1 and there are no other environmental constraints associated with the application site which fall within the remit of the EA'*. This was further corroborated by the DS team who commented, *'The site is located within Flood Zone 1 on the Environment Agency flood maps and is not currently shown to be at risk of surface water flooding on these maps either. It is noted that the applicant proposes to discharge surface water to the Tinker Sick watercourse. This is proposed to be discharged at greenfield runoff rates with the use of flow controls and attenuation storage. The flood risk assessment discusses the use of sustainable drainage systems for the proposed development, which we would encourage the use of. The discharge to the foul sewer network will require approval from Yorkshire Water. Prior to full approval we would require to see detailed drainage proposals, including proposed drainage layouts and details, calculations for the proposed surface water runoff and attenuation storage sizing. We would also need to see evidence that infiltration methods would not be suitable for this site. Due to the scale of the development, Derbyshire County Council Flood Team should be consulted on this application'*.
- 5.6.5 Looking in turn therefore at the issues mentioned by the DS team above YWS reviewed the application submission and did not raise any objections to the proposals. YWS observed that there is an existing 300mm sewer recorded to cross the site and they have commented that it is essential that the presence of this

infrastructure is taken into account in the design of the scheme at Reserved Matters stage and a stand-off distance of 3 (three) metres is required at each side of the sewer centre-line. A proposal by the developer to alter/divert a public sewer will be subject to YWS requirements and formal procedure in accordance with Section 185 Water Industry Act 1991.

- 5.6.6 In addition YWS also highlighted that there is an outfall to watercourse (under their control) located near to the site and therefore they recommend that vehicular access, including with large tankers, could be required at any time. They also comment that the proximity of the existing outfall to the site may mean a loss of amenity for future residents and therefore they recommend both a stand-off distance from the outfall (15m) and a suitable screen should be incorporated to protect amenity.
- 5.6.7 Having regard to the issues highlighted by YWS in respect of the existing sewer and outfall, the determination of 'layout' (and provision of appropriate easements and / or diversions) would be determined at the reserved matters stage, but in principle it is not considered that the presence of this infrastructure adversely impacts upon the sites ability to be developed for the purposes proposed.
- 5.6.8 YWS advise that development of the site should take place with separate systems for foul and surface water drainage and the separate systems should extend to the points of discharge to be agreed. YWS have observed from the submitted planning application and FRA that surface water is proposed to be drained to watercourse. As surface water from the site is not proposed to discharge to the public sewer network no assessment of the capacity of the public sewers to receive surface water has been undertaken. Should the surface water disposal proposals change further consultation will be required. YWS has observed that foul water domestic waste should discharge to the 300mm diameter public combined sewer recorded in Manor Road, however from the information supplied, it is not possible to determine if the whole site will drain by gravity to the public sewer network. If the site, or part of it, will not drain by gravity (which is unlikely given the lies of the land) then it is likely that a sewage pumping station will be required to facilitate connection to the public sewer network. If sewage pumping is required, YWS advise that the peak pumped foul water discharge must not exceed 6 (six) litres per second.

5.6.9 Having regard to the comments made by YWS above it is considered that appropriate conditions could be imposed upon any outline planning permission granted to ensure that a fully detailed drainage strategy for the development proposals could be drawn up alongside a fully detailed application (reserved matters or full application) to achieve the requirements sought. YWS has suggested a series of conditions which they consider would achieve this and these are standard conditions which the LPA are familiar with and have imposed on greenfield sites granted permissions in the past.

5.6.10 In respect of surface water drainage, the LLFA were consulted on the application submission and commented, *'In order to make an informed comment, we would like clarification of the location of the proposed attenuation features for the development'*.

5.6.11 Notwithstanding the comments of the LLFA received however it is commented that given that this application is submitted in outline the final detailed drainage strategy would not be formulated until the reserved matters 'layout' stage. This is not unusual and is a typical way in which outline planning permissions (inc. major applications) are progressed if the LPA are satisfied that there are no insurmountable site constraints preventing a decision being taken. In this case there is not. On the previous application submission (which was for 300 dwellings) the LLFA made the following comments:

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

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

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

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

The County Council is aware of a historic report of flooding downstream. The County Council would recommend the applicant achieves better than greenfield runoff rate with a 40% allowance which may result in the reduced likelihood of flooding from the unnamed watercourse identified to be the point of discharge.'

5.6.12 Having regard to the comments made by the LLFA above it is considered that appropriate conditions could be imposed upon any outline planning permission granted to ensure that a fully detailed drainage strategy for the development proposals could be drawn up to achieve acceptable run off rates, incorporate appropriate storage volumes and provide adequate improvements measures sought. The LLFA previously suggested a series of conditions in their comments on app. CHE/16/00614/OUT which they considered would achieve an appropriate solution and these are standard conditions which the LPA are familiar with and have imposed on greenfield sites granted permissions in the past.

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

5.7 **Land Condition / Contamination**

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

5.7.2 In accordance with policy CS8 of the Core Strategy and wider advice contained in the NPPF the application submission is accompanied by a Preliminary Risk Assessment (prepared by CSG Consulting Engineers Ltd dated April 2016) which has been reviewed alongside the application submission by both the

Councils **Environmental Health Officer (EHO)** and the **Coal Authority (CA)** in respect of land condition and contamination.

5.7.3 No specific comments were made by the EHO in respect of contamination in their response to this resubmitted application, however in response to the previous app. CHE/16/00614/OUT they commented, *‘made ground has been identified on other developments sites within the area and therefore desk top and site investigation is recommended’.*

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

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

In the event that the site investigations confirm the need for remedial works to treat the areas of shallow mine workings to ensure the safety and stability of the proposed development, this should also be conditioned to ensure that any remedial works identified by the site investigation are undertaken prior to commencement of the development.

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

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

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

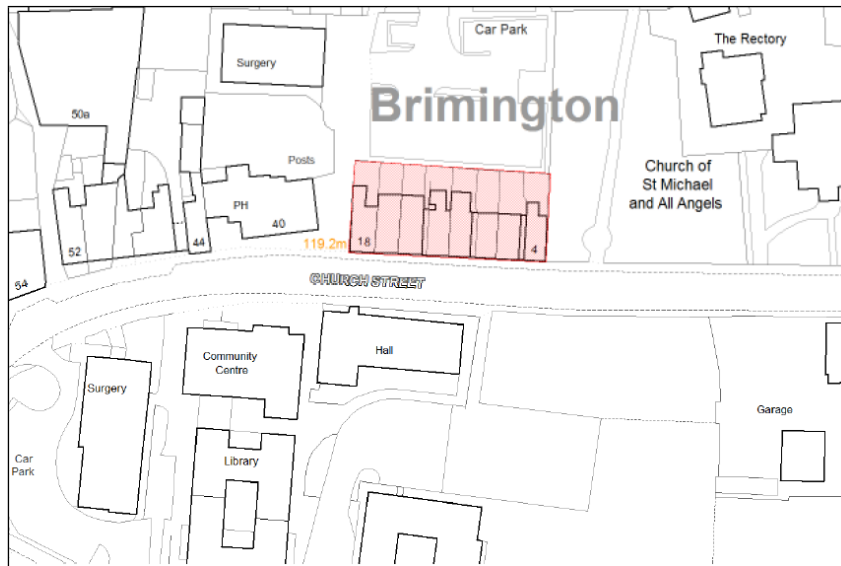
5.7.5 The EHOs comments in respect of contaminated land / land condition note that made ground could potentially affect the site and therefore whilst it is noted that the conclusions / recommendations of the PRA Report suggest that there is no record of current or historical uses of the site which could have caused contamination of the site; made ground is not mentioned. Notwithstanding this intrusive site investigations are deemed necessary to address land condition and coal mining risk (see CAs comments above) and therefore it is considered that as part of a Phase II investigation both land condition and contamination surveys could be undertaken concurrently. Appropriate planning conditions could be imposed to this effect to meet the requirements of policy CS8 of the Core Strategy and paragraphs 178-179 of the NPPF.

5.8 Air Quality

5.8.1 Policy CS8 of the Core Strategy requires development proposals to assess air quality impact and incorporate measures to avoid or mitigate increase in air pollution. Furthermore paragraph 181 of the NPPF states, *'Planning policies and decisions should sustain and contribute towards compliance with relevant limit values or national objectives for pollutants, taking into account the presence of Air Quality Management Areas and Clean Air Zones, and the cumulative impacts from individual sites in local areas. Opportunities to improve air quality or mitigate impacts should be identified, such as through traffic and travel management, and green infrastructure provision and enhancement. So far as possible these opportunities should be considered at the plan-making stage, to ensure a strategic approach and limit the need for issues to be reconsidered when determining individual applications. Planning decisions should ensure that any new development in Air Quality Management Areas and Clean Air Zones is consistent with the local air quality action plan'*.

5.8.2 In the context of the policy framework above the application submission is supported by an Air Quality Assessment (AQA) (prepared by Air Quality Consultants Ltd dated July 2018) which has been considered by the Councils **Environmental Health Officer** (EHO) in light of the fact there is an existing Air Quality Management Areas (AQMA) designated in the centre of Brimington affecting 8 no. properties on Church Street.

(see map below)



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

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

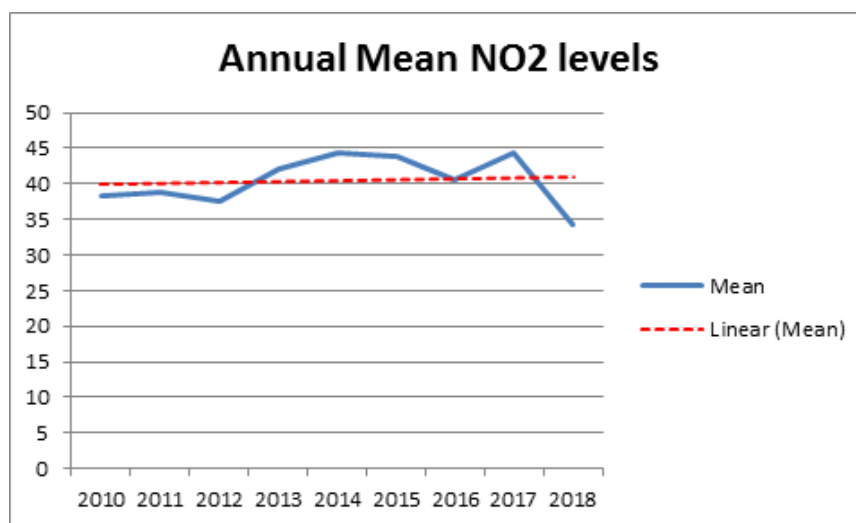
The levels of pollution are modelled, and the proposed development is likely to have a slightly adverse impact on the air quality at houses on the A619 (Chesterfield Road/Ringwood Road). These include houses in the Chesterfield No 1 Air Quality Management Area (AQMA). The modelling (which is to an accepted industry standard) shows the air quality to be not breaching the air quality standard (AQS) for nitrogen dioxide both with and without the proposed development taking place, in the most likely scenario. However, real world monitoring results over the last few years shows the AQS being breached, and the levels of traffic pollution gradually increasing. The reason behind this mismatch appears to be that the model assumes a level of turnover on the vehicle fleet, and whilst this is broadly accurate at a national level this is not the case within this region, and older (more polluting) vehicles are more prevalent. I remain concerned that the proposed development will have an adverse impact on the houses adjacent to the main access road, and the existing AQMA in particular.

5.8.4 In response to these comments the applicant prepared rebuttal responses dated 15/10/2018 and 04/12/2018 which were forwarded to the EHO to review.

5.8.5 The EHO commented:

08/11/2018 - I remain concerned regarding modelling Air Quality results, there is an ongoing mismatch between modelled results and real world measurement (it is a bone of contention in the air quality world, for example RicardoAEA has two arms, one modelling and the other monitoring. The results don't match, and each say the other is wrong!), so while I accept that the modelling is industry standard it is still only modelling, and I err on the side of caution.

The long term trend of nitrogen dioxide at the façade of Church Street, Brimington (where the AQMA is and the road which is most likely to be adversely affected) demonstrates a gradual increase (even when the reduction in 2017 is included), as shown in the figure, below:



08/01/2019 - The data which they are presenting is from the monitoring unit on Chatsworth Road, the data which I am showing (above) is from Church Street, Brimington – where the AQMA is, and near to the proposed development. I believe that the development will have an adverse effect on the AQMA, and this can be robustly defended.

5.8.6 Following this exchange the applicant submitted an Air Quality Addendum (AQAd) prepared by Air Quality Consultants Ltd dated January 2019 which reached the following conclusion:

This addendum has demonstrated that vehicle NOx emissions are reducing, and resultant annual mean nitrogen dioxide concentrations at roadside sites are also reducing, including those measured at sites in Chesterfield and Brimington. There is, therefore, little justification for assuming no reduction in emissions between 2017 and 2020.

Regardless of this clear evidence, it has also been demonstrated that the proposed development will have a negligible impact at all existing receptors, including those within Brimington AQMA, even if emissions do not reduce beyond 2017 levels. It must, therefore, be concluded that the effect of the proposed development on local air quality will be 'not significant', whether or not Chesterfield Borough Council's Environmental Health Officer's concerns about concentration reductions prove realistic.

5.8.7 The AQAd was forwarded to the EHO for comment and despite the conclusions being made in the AQAd the EHO reiterated his previous concerns.

5.8.8 In this case there is a contradictory opinion in the conclusions of the experts in respect of this matter. The applicants case is that NOx emissions are reducing and therefore there is no justification to assume no reduction in emissions between 2017 – 2020; furthermore in their opinion the impact of the development proposals upon the receptors would be 'negligible' even if no account for a reduction in emissions is applied. In the EHO's opinion he has presented actual results taken from the AQMA that show a mean gradual increase in NO2 levels and therefore he disputes the robustness of the conclusions the AQA made.

5.8.9 The EHO was asked to comment further upon the conclusion made regarding the 'negligible' impact of the development proposals, which the applicant has reached with no assumed reduction being applied. The following comments were made:

I've had a read through the comments and would like to re-iterate my earlier comments:

I agree that national monitoring (and modelling) shows a reduction in pollution levels from traffic. However, localised monitoring (both within the borough, and at recognised pollution “hot-spots” - ie traffic choke-points, etc – across the country) had shown that this reduction is outpaced by the increases in traffic flows. I remain concerned that this is the case in the area of the existing AQMA, and, as a direct result, the increase in traffic flows and associated pollution related to the development will have an effect which should not be regarded as negligible.

- 5.8.10 In this case, the LPA should support the view of the Council’s EHO who would act as an expert in such matters and therefore the LPA must apply the assessed opinion of the development proposals impact against the development plan policies.
- 5.8.11 The provisions of policy CS8 of the Core Strategy state that development proposals will be required to incorporate measures to avoid or mitigate against any increase in air pollution. No such mitigation measures have been offered, as the applicant argues their perceived ‘negligible’ impact does not warrant it.
- 5.8.12 The LPA is therefore of the opinion that the lack of mitigation measures proposed in this instance would be clearly in conflict with the provisions of policy CS8 of the Core Strategy and the overall strategic aspirations of the development plan. Designation of the AQMA in the centre of Brimington presents a barrier to any new major development relying upon the local highway network and for a scheme of this scale to simply suggest that they should ‘do nothing’ because their impact is ‘negligible’ is contrary to the best interests of proper planning.
- 5.8.13 Clearly on a strategic scale the delivery of the Staveley Regeneration Route (SRR) would assist in relieving the traffic pressures encountered in Brimington centre by traffic travelling eastwards, which contributes heavily to the air quality issues currently faced; however the development proposals the subject of this application are not offering any contribution to this solution. Despite the SRR being on the Regulation 123 list of the Community Infrastructure Levy, there is no guarantee that the CIL receipts for this specific site will be distributed for this purpose.

5.8.14 Overall it is considered that the development proposals fail to adequately address the provisions of Policy CS8 of the Chesterfield Local Plan: Core Strategy 2011 – 2031 in so far as they do not incorporate measures to avoid or mitigate increases in air pollution where the development proposals would clearly have a demonstrable impact (worsening) upon an area designated as an Air Quality Management Area. Contrary to the conclusions reached in the Air Quality Assessment the Local Planning Authority hold monitoring records that show the Air Quality Standard (AQS) being breached, and the levels of traffic pollution increasing. The LPA dispute the applicants interpretation that the impacts of the development proposed are 'negligible'. Given this opinion it is considered that a development of this scale should include appropriate mitigation measures and failure to do so conflicts with the provisions of Policy CS8 and the wider aspirations of the National Planning Policy Framework paragraph 181.

5.9 **Heritage and Archaeology**

5.9.1 Having regard to potential heritage and archaeological impacts it is noted that in the context of 'designated' heritage assets the application site is adjoined on its eastern boundary by 'the Manor House' (Grade II) and its associated boundary wall and gate piers (separately Grade II), and that the southern boundary of the site lies 250m from the Grade II* Listed Tapton Grove and its Grade II Listed stables. When the previous app. CHE/16/00614/OUT was considered, below ground archaeological features were also identified within the application site as follows:

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

of the modern Church of St Michael and All Saints) and the hall, and the site of Manor Farm at the southern end’.

5.9.2 In respect of this latest application and the fact that the previous app. CHE/16/00614/OUT was refused on archaeological grounds (reason 3 – para. 3.1 above), the submission is now supported by a Heritage Impact Assessment, Geophysical Survey and subsequently (at the request of the DCC Development Control Archaeologist dated 15th October 2018) by an Archaeological Evaluation Trenching Report (received January 2019).

5.9.3 Under the provisions of policy CS19 of the Core Strategy and the wider NPPF both the Council’s **Conservation Officer** (CO) and the **DCC Development Control Archaeologist** (DCC Arch) have been consulted on the latest development proposals and the following comments were received:

CO - I would reiterate my previous comments regarding CHE/16/00614/OUT, namely that the applicant’s Heritage Impact Assessment (HIA) is robust and succeeds in identifying those heritage assets that might be affected by the proposed development. The HIA is sound on what those impacts might be and concludes that any impacts would be less than substantial, hence the proposals are acceptable from an on-ground heritage perspective.

The key recommendation in terms of mitigating potential impacts (excluding archaeology) is that the ‘design and layout of the proposed housing development and associated landscaping should be considered in relation to the westward views from/to the Manor House (grade II listed) so as to minimise the impact on the development on these views’.

I would support this recommendation.

DCC Arch – Thank you for sending on the report on the archaeological field evaluation for comments. The report relates to the sampling of a number of potentially archaeological geophysical anomalies which occurred across the proposed development area. The scheme of trial trenching revealed archaeological remains dating from the Romano-British (2nd century AD), medieval and industrial periods. At least two phases of a Romano-British field system were identified. These were represented by a surviving complex of ditches and pits in which artefacts and environmental remains were preserved. A medieval field systems was also

identified which was represented a complex of ditches on a slightly different alignment from the Romano British features. Evidence ridge and furrow ploughing was associated with this field system.

Finally, evidence of industrial activity was also recovered which comprised extensive deposits of slag, and the remains of the base of a kiln or furnace.

The archaeological evaluation has identified extensive and well preserved remains and features, including environmental and industrial deposits. Taking this in to account we would recommend that a further phase of targeted, detailed excavation be undertaken in advance of development of this site. This requirement is in line with NPPF para 199 which requires developers to record and advance understanding of the significance of any heritage assets which are to be lost. We would therefore recommend that the following pre-start condition be attached to any grant of permission for the scheme:

"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 or persons/organization 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 has 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."

The archaeological works should be undertaken by a suitably qualified archaeological consultancy (CIFA Registered) to a written scheme of investigation to be approved by ourselves.

- 5.9.4 Having regard to the comments received from the CO and DCC Arch above, it is a requirement of the National Planning Policy Framework, paragraphs 189-190 that the applicant demonstrates to the satisfaction of the Local Planning Authority that appropriate desk-based assessment and, where necessary, field evaluation has been undertaken to determine the potential impact of the development proposals upon any heritage assets, including those with archaeological interest.
- 5.9.5 In this instance it is now considered that the applicant has provided the Local Planning Authority (LPA) with satisfactory assessment and evaluation of heritage / archaeological assets to determine the application and overcome the previous reason for refusal.
- 5.9.6 Clearly the advice now given by the DCC Arch is that whilst the site does boast some archaeological assets of interest, the features identified are not of such significance that their presence would prevent a permissible development taking place on the site in the future. In such instances record and removal (or retention in situ following record) of such features is appropriate and the DCC Arch is now satisfied that measures to secure these works can be the subject of appropriate planning conditions.
- 5.9.10 Having regard to the comments of the CO also made in respect of other surrounding heritage assets, it is noted that his comments suggest his support of the conclusions of the HIA submitted. He iterates that, *'the design and layout of the proposed housing development and associated landscaping should be considered in relation to the westward views from/to the Manor House (grade II listed) so as to minimise the impact on the development on these views'*. In this regard however, these specific design matters do

not form part of the current outline application consideration and therefore in concluding that the overall impact of development would have a less than substantial impact upon nearby heritage assets through appropriate design parameters the principle of development would be considered acceptable against the provisions of policy CS19 of the Core Strategy and the wider NPPF. Layout and appearance would be reserved matters considered at a later date if outline permission were to be granted.

- 5.9.11 As part of the previous app. CHE/16/00614/OUT the CO raised concerns regarding the site and the overall compliance of the development proposals with the development plan as follows: *It is worth noting that the Council's 'Review of Green Wedges and Strategic Gaps within Chesterfield, 2016' (prepared to inform the preparation of the new Local Plan) identifies this area as being an important strategic gap of open countryside providing separation between the urban areas of Brimington and Chesterfield town centre. This proposal would undermine the purpose of the proposed strategic gap and hence not accord with the Council's evidence base to support the emerging Local Plan.* The CO does reiterate reference to his previous comments in his latest consultee response; however matters concerning the impact of the development proposals upon the strategic gap are considered and concluded in further detail in section 5.2 above.

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

- 5.10.1 Having regard to the nature of the application proposals several contribution requirements are triggered given the scale and nature of the proposals. Policy CS4 of the Core Strategy seeks to secure necessary green, social and physical infrastructure commensurate with the development to ensure that there is no adverse impact upon infrastructure capacity in the Borough.
- 5.10.2 Internal consultation has therefore taken place with the Councils own **Economic Development, Leisure Services and Housing** teams, as well as externally with **Derbyshire County Councils Strategic Planning** team and the **North Derbyshire Care Commissioning Group** on the development proposals to ascertain what specific contributions should be sought.

- 5.10.3 The responses have been collaborated to conclude that were permission to be granted a requirement to secure S106 Contributions via a Legal Agreement in respect of the Affordable Housing (Policy CS11); up to 1% of the overall development cost for a Percent For Art scheme (Policy CS18); a Health contribution via the CCG (Policy CS4); and appointment of an external management company to manage and maintain the on site green open space (Policies CS9). Matters in respect of education and leisure provision are now dealt with by CIL contributions and education in particular is discussed in more detail below. In respect of Leisure a development of this scale would trigger the need for on-site open spaces or play areas which through appropriate S106 clause would need to include appropriate provisions for maintenance in the long term.
- 5.10.4 Policy CS11 of the Core Strategy concerns Affordable Housing; and a development of this scale would trigger negotiations to secure up to 30% affordable housing provision on site. Furthermore policy CS18 of the Core Strategy concerns Design and includes a mechanism by which the Council would seek a contribution of up to 1% of the overall development costs towards a public art scheme (for major development proposals costing in excess of £1million).
- 5.10.5 There is no Viability Appraisal / Assessment presented with the application submission and therefore at this stage appropriate levels of contributions for the specific issues of Affordable Housing and Percent for Art cannot be calculated. In similar such cases the Council have incorporated a requirement in a S106 Agreement for a Viability Appraisal / Assessment to be completed and submitted concurrently with the first reserved matters submission to determine the level of these contributions in line with the policy wording.
- 5.10.6 In addition to the above a request for a contribution has been received from the North Derbyshire Clinical Commissioning Group (CCG) for a contribution of **£57,060** towards providing GP services. Health services are not currently covered by the council's CIL Regulation 123 list and it is therefore necessary to consider if this should be addressed through a financial contribution, secured by a S106 agreement as well as matters above.

- 5.10.7 In respect of the GP contribution Policy CS4 states that ‘developers will be required to demonstrate that the necessary infrastructure (green, social and physical) will be in place in advance of, or can be provided in tandem with, new development’. The preamble (para 5.6) to the policy describes infrastructure, but does not provide an exclusive or exhaustive list. It does refer to health facilities specifically as an example of social infrastructure. Para 5.8 refers to working ‘co-operatively and jointly with partners to ensure delivery of the infrastructure required to enable development and improve existing facilities’.
- 5.10.8 Under the policy, strategic infrastructure set out in the council’s Infrastructure Delivery Plan should be secured through CIL. The expansion of GP services in this area is not in the IDP or on the Regulation 123 list and therefore securing a contribution through S106 would not be considered ‘double counting’.
- 5.10.9 The CIL regulations and NPPF set out the tests for planning obligations. Planning obligations should only be sought where they meet all of the following tests:
- necessary to make the development acceptable in planning terms
 - directly related to the development
 - fairly and reasonably related in scale and kind to the development
- 5.10.10 The CCG has clearly set out the evidence relating to the second two tests. On the basis of policy CS4, as expanded in the preamble to the text, it is clear that health facilities are covered by policy CS4 where a need can be identified. The request also therefore meets the first test and it is considered that this contribution should be sought if permission is granted. This would form a standard clause in the associated S106 agreement.
- 5.10.11 Looking in turn at other triggered requirements (policy CS13 – Economic Development to secure local labour and policy CS4 to secure appropriate infrastructure) the LPA would look to secure by planning condition the requirement for local labour and the provision of on-site high speed broadband connections.

- 5.10.12 As mentioned above, if permitted, the development would be CIL liable and the site is within the medium zone and would be charged at £50 per sqm of gross internal floorspace (index linked). Relief would be available on any affordable or Custom and Self Build element upon application.
- 5.10.13 As part of the previous app. CHE/16/00614/OUT, the issue of infrastructure delivery and the need for a new primary school arose (specifically expansion at existing schools to provide infant school places) and formed the 7th reason for refusal of the previous application.
- 5.10.14 Having regard to the above the previous application was for a scheme of 300 dwellings, whereas the current application is now reduced to a development of 150 dwellings and therefore an updated position on the nearby school capacity and need arising from the development proposals was required from the DCC SP team.
- 5.10.15 In their latest response the DCC SP team advise that they have reviewed the scale of development now proposed, the net capacity of nearby schools (infant, junior and secondary) and the projected roll for infant, junior and secondary places.
- 5.10.16 The DCC SP team have advised that, *'the reduction in the scale of the development now means that there is no longer a potential capacity issue in the primary phase, however there remains a need to mitigate the impact of the proposed development in terms of the provision of secondary school places in order to make the development sustainable'*. The DCC SP team have advised that the matter concerning the calculated shortfall of secondary school places arising from the development proposals would be sought to be funded through CIL receipts and would be directed towards the expansion of Springwell Community College.
- 5.10.17 On the basis of the latest comments / advice provided by the DCC SP team the development proposals would no longer trigger a requirement to deliver on site infrastructure to address school capacity. In all other respects appropriate planning conditions / or clauses written into a S106 legal agreement would address other outstanding / arising infrastructure requirements and obligatory provisions.

6.0 **REPRESENTATIONS**

6.1 The application has been publicised by site notice posted on 17/08/2018; by advertisement placed in the local press on 16/08/2018 and by delivery of neighbour notification letters sent on 08/08/2018.

6.2 As a result of the applications publicity 123 no. individual letters of representation were received, 138 no. copies of the same / duplicate representation were received, and a petition containing 647 no. signatures in total was also received. The list set out below includes the street names and numbers which were identifiable in these representations. A number of other representations received by email or other means of correspondence were also received where an address was not given or legible and therefore these are categorised as 'local resident'.

Brimington Parish Council

Brimington Village Circle, c/o 28 Brooke Drive, Brimington

1 Acacia Avenue, Hollingwood

34 Balmoak Lane, Tapton

30 Bank Street, Brimington

17 Barry Road, Brimington

4, 5, 6 (x2), 7, 8 Brackendale Close, Brimington

16 Bradley Way, Brimington

5 Brandene Close, Calow

3, 20, 22, 24 Briar View, Brimington

345, 346 Brimington Road, Brimington

3, 6, 7, 8, 9 Broom Gardens, Brimington

14, 16 Cemetery Terrace, Brimington

5, 7, 12, 14, 15, 16 (x2), 17, 19, 21, 23, 25, 28 Chesterfield Road, Brimington

7 Church Meadows, Calow

113 Coronation Road, Brimington

2, 3, 7, 9, 12, 14, 59, 67-71 (x2), 73, 77, The Old Forge Cotterhill Lane, Brimington

16 Edmund Street, Dunston

4 Eliot Close, Brimington

7 Elkstone Road, Linacre

20 Elm Street, Hollingwood

3, 5, 16 Everett Close, Brimington

15 Freydon Way, Calow

3 Fuller Drive, Tapton

4 Grange Park Avenue, Brimington

4, 6, 23 Gregory Close, Brimington

7, 19 Grove Farm Close, Brimington

10, 14 Grove Gardens, Brimington

2 Half Croft, Brimington

21 Hathern Close, Brimington

2, 4, 6 (x2), 7, 8 Headland Road, Brimington

6, 8 Headland Close, Brimington

137 Highfield Lane, Newbold

The Bungalow Ivy House Farm Lane, Brimington

2A John Street, Brampton

6, 7 Laburnum Court, Calow

66, 77, 100A Lansdowne Road, Brimington

Peartree Cottage, Lower Alley, Calow

11 Ludham Close, Newbold

7, 9, 11, 26, 28, 29 Manor Avenue, Brimington

14, 16, 19, 20, 21, 22, 24, 25, 26, 27, 28, 29A, 35, 36, 38, 46, 50, 52, 54, 65, 69, 71, 76, 83, 85, 91, 92, 94, 95, 96, 97, 100 (x3), 102 (x2), 103, 106, 107, 112 (x2), 124, 125, 129, 131, 139, 141, 140, 142 (x2), 144, 146, 150, 151, 152A, 169, 175, 176, 179, 184, 204, 212, 220A, 227, 304 Manor Road, Brimington

2, 8 Nether Croft Close, Brimington

14, 22, 26, 28 (x2), 29, 30 (x2) Nether Croft Road, Brimington

10 Newbridge Drive, Brimington

17 Newhaven Close, Walton

2 Northmoor Close, Brimington

2, 3, 4, 6 Northmoor View, Brimington

32 Parker Avenue, Calow

5 Patan Grove, Brimington

27 Peterdale Road, Brimington

15 (x2), 22 Pondwell Drive, Brimington

2 Queen Mary Road, Somersall

24 Queen Street, Brimington

9, 34 Rayleigh Avenue, Brimington

33 Recreation Road, Brimington

48 Riber Close, Inkersall

12, 24, 26, 32 Ringwood Road, Brimington

8 Ringwood View, Brimington

5 Selmer Court, Brimington

17 Somerset Drive, Brimington

45 Springfield Road, Holmewood

23 Springvale Road, Brimington

74 Staniforth Avenue, Eckington

98, 103 (x2), 129 Station Road, Brimington

31 Steeping Close, Brimington

10 Tapton View, Tapton

1, 2, 5, 9, 11, 14, 15, 16, 17, 18, 20, 22, 24, 26, 27, 30, 32 Top Pingle Close, Brimington

4 Tolley Mount, Brimington

3 Thorndene Close, Newbold

9 Victoria Grove, Brimington

2, 6 Well Spring Close, Brimington

1 (x2), 2, 3 (x3), 5, 6, 7, 8, 10 Upper Croft Close, Brimington

12 Westmoor Road, Brimington

8, 11 (x2), 13, 14, 28, 30 (x2) Westwood Lane, Brimington

12 x Local Residents (whose addresses were unknown)

6.3 Categorized below are summaries of the issues which have been raised by the representations received. In addition, a number of residents who made representations on the previous app. CHE/16/00614/OUT have asked for their previous comments to also be taken into account and therefore the summaries below include those points in addition:

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

1. Highway safety/congestion and parking

- Congestion / pollution would be increased significantly
- Chesterfield Road is congested at rush hour, school times and the one way system also creates a bottleneck
- The proposal will increase traffic, Brimington already has significant issues with congestion and gridlock at the one way system. Existing congestion causes problems for emergency services, road users, residents, cyclists and pedestrians, particularly at peak times, this is exacerbated when there is congestion/closure on the M1 leading to long delays
- Parking on the road is a problem in the area resulting in accidents and hazards,
- Existing congestion and heavy traffic means access to and from A619 from surrounding estates is difficult especially peak times

- The proposal will create an incident hotspot, there have been several accidents in recent years and at least 3 fatalities even with the existing volume of traffic
- 900 additional vehicular journeys at peak times increasing traffic on already overloaded roads
- Addition of a new school will add to congestion
- Existing congestion and traffic linked to crematorium
- The proposal will make the bend by St Michael's even more dangerous and needs a traffic light system
- Danger point of North Moor View and Manor Rd is an accident waiting to happen as the care home will be directly opposite the junction
- Already people park their cars on the road side, especially near the school making access for residents difficult
- The proposal will create a rat run at Station Road
- Existing issues with limited parking in village

SEE SECTION 5.4

2. Traffic Assessment submitted

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

SEE SECTION 5.4

3. Air pollution / quality

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

SEE SECTION 5.8

4. Development in the open countryside

- These plans would have an adverse impact on Green Belt
- The proposal will result in the loss of a greenfield site, against policy and local plan – particularly as the Council can demonstrate a 5yr supply of housing (Aug 2018)
- The site is designated as open countryside (policy EVR2) and therefore the development is contrary to policy CS10 of the Core Strategy
- Greenbelt should only be built on in exceptional circumstances
- One of our few remaining green field sites in Brimington and the loss of this will directly affect the local community.
- Greenfield site part of the Pennine Way which is regularly used and enjoyed by local community
- Campaign to protect rural England wants that England's green belt is under siege from developers
- Deprive the people of Brimington and surrounding areas the pleasure of walking the beautiful fields
- The application site highly visible from neighbouring settlements and westerly vantage points, resulting in a loss of open countryside views.

SEE SECTION 5.2

5. Impact on conservation/wildlife and loss of greenspace

- The proposal shows a lack of conservation of the natural environment and wildlife
- Development on greenfield is a last option, when brownfield sites have been identified in the borough and should be developed first
- Access to open spaces has a positive impact upon health and wellbeing and promotes people to undertake exercise. Issues such as accessibility and proximity all impact upon people's choice to undertake such activities. Whilst the applicant argues there will still be green space at Tapton development of this site would mean people in Brimington have further to walk to access such spaces
- Loss of beautiful greenspace and Brimington's 'green lung'
- Concerns raised regarding the response from Derbyshire Wildlife Trust.

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

SEE SECTION 5.2 AND 5.5

6. Impact on the amenity of existing residents

- The proposal will result in overlooking, loss of privacy, loss of light and overbearing impacts on existing residents, feeling of enclosure
- It would have a detrimental impact upon residential amenities
- Noise and light pollution
- Topography of site means housing to the north of the site would dominate the bordering properties, elevated position of site in relation to properties e.g. Briar View
- Impact on residents of nursing home
- Concerns regarding 3 storey properties on site
- Design and access statement states that the development will be screen by existing buildings fronting manor road will have a dominating effect on the existing dwellings
- Impact on the crematorium and cemetery overlooking a private place
- Loss of views for residents
- Living next to a building site with lorries and noise resulting in health and safety concerns
- Noise from school means residents would not be able to enjoy properties and gardens
- Will impact the quality of life of existing residents
- Loss of fields which are very popular local amenity

SEE SECTION 5.2 AND 5.3

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

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

SEE SECTION 5.2

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

- Existing infrastructure struggling to cope with current demand, particularly the GPs, dentist's, difficult for local people to get appointments

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

SEE SECTION 5.4 AND 5.10

9. Access to the site

- The proposed access point to the site are not adequate / safe
- Access to site from chesterfield road opposite cemetery terrace via briar view previously refused due to narrow road, poor visibility and additional traffic.
- Access via north moor view too narrow with poor visibility. North Moor View is a congested cul-de-sac, the existing access just 5.5m wide and will be a hazard for road users. Currently the cul-de-sac is used for parking for nearby care home and walkers, additional traffic will be a disturbance for residents
- Possibility of creating 'rat runs' on Ivy House Farm Lane and to Manor Road
- left turn only from estate requiring vehicles to go to Wikeley Way and Station Road is unrealistic
- Cotterhill lane not wide enough to accommodate traffic
- Access to chesterfield road not viable for safe access, the proposed road widening will not be large enough to employ a right hand filter.
- The proposed pedestrian crossing within three metres of junction will result in a poor visibility black spot
- location of proposed roundabout situated in an area of accidents
- transport assessment submitted is unrealistic
- Proposed junction would impede the flow of traffic

- The development would further increase problems which occur along Manor Rd, being the main route to the Royal Hospital , the New NGS Macmillan Centre, a school entrance, a busy bus route, and speeding traffic on a very narrow highway
- Creation of junction near Briar View as per latest plan will inevitably lead to more standing traffic at peak times

SEE SECTION 5.4

10. Flooding and surface water

- main sewers and drains cannot cope with existing properties
- the drainage calculations are not in line with EA guidelines and there is no provision to improve water quality; in fact there is no drainage design at all
- existing issues with flooding and surface water on highway
- natural spring running through fields and high water table

SEE SECTION 5.6

11. Land Stability

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

SEE SECTION 5.7

12. Impact on historic environment

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

SEE SECTION 5.9

13. Proposed cycle path

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

SEE SECTION 5.4

14. Inaccuracies on application form

- Proposal within 20m of watercourse – not ticked

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

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

APP. IS NOT INVALID

15. Other

- Is the farmer aware of the application as he is still has crops in the field?
- We are disappointed this application has raised its head again as it has previously been refused
- The timing of the consultation letters was poor because it was summertime so people were on holiday etc and did not have time to object
- We already have swaths of fields covered in solar panels so it is important to protect existing / remaining arable land
- Dust dirt and disruption during construction period, construction vehicles causing highway safety concerns
- increase in population leading to anti-social behaviour and crime
- development leading to a reduction in average property prices
- loss of views
- All residents of Calow and Brimington should be notified of application

UNDER THE TCPA GDPO THE APPLICANT HAS THE OPPORTUNITY TO APPLY FOR A ‘FREE GO’ RESUBMISSION AND THEREFORE THE LOCAL PLANNING AUTHORITY CANNOT REFUSE TO DETERMINE THE APPLICATION.

DEVALUATION OF PROPERTY IS NOT A MATERIAL CONSIDERATION

THE APPLICATION WAS SUBMITTED IN AUGUST 2018 HOWEVER GIVEN THE TIMEFRAME FOR CONSIDERING THE APPLICATION, THE LOCAL COMMUNITY HAVE NOT BEEN HINDERED BY LIMITATIONS IN THE TIME TO MAKE REPRESENTATIONS.

NOTED

7.0 HUMAN RIGHTS ACT 1998

- 7.1 Under the Human Rights Act 1998, which came into force on 2nd October 2000, an authority must be in a position to show:
- Its action is in accordance with clearly established law
 - The objective is sufficiently important to justify the action taken
 - The decisions taken are objective and not irrational or arbitrary
 - The methods used are no more than are necessary to accomplish the legitimate objective
 - The interference impairs as little as possible the right or freedom
- 7.2 It is considered that the recommendation is objective and in accordance with clearly established law.
- 7.3 The applicant has the right to appeal the final decision.

8.0 STATEMENT OF POSITIVE AND PROACTIVE WORKING WITH APPLICANT

- 8.1 The following is a statement on how the Local Planning Authority (LPA) has adhered to the requirements of the Town and Country Planning (Development Management Procedure) (England) (Amendment No. 2) Order 2012 in respect of decision making in line with paragraphs 186 and 187 of the National Planning Policy Framework (NPPF).
- 8.2 The proposed development conflicts with principles of the NPPF and the relevant Development Plan policies for the reasons given in the report above.
- 8.3 The conflict with Development Plan policies has led the LPA to conclude the development is not fully regarded to meet the definitions of "sustainable development" having regard to local character and amenity and a presumption on the LPA to seek to approve the application is not considered to apply.

9.0 **CONCLUSION / RECOMMENDATION**

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

Principle of Development

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

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

Strategic Gap

02. The development proposals would introduce an extension to the built settlement of Brimington which would encroach into land which is Open Countryside and has been identified to form part of the Strategic Gap between Tapton and Brimington under the provisions of policies CS1, CS2 and CS9 of the Chesterfield Local Plan: Core Strategy 2011 – 2031 and the wider National Planning Policy Framework. The development proposals are considered to be contrary to the provisions of these policies which seek to maintain open

land between neighboring settlements to prevent merging (perceptual and physical) and protect the setting and separate identity of settlements; support appreciation and wider perceptual benefits of open countryside; and maintain existing or influence form and direction of settlements and for this reason they are unacceptable.

Air Quality

03. Overall it is considered that the development proposals fail to adequately address the provisions of Policy CS8 of the Chesterfield Local Plan: Core Strategy 2011 – 2031 in so far as they do not incorporate measures to avoid or mitigate increases in air pollution where the development proposals would clearly have a demonstrable impact (worsening) upon an area designated as an Air Quality Management Area. Contrary to the conclusions reached in the Air Quality Assessment the Local Planning Authority hold monitoring records that show the Air Quality Standard (AQS) being breached, and the levels of traffic pollution increasing. The LPA dispute the applicants interpretation that the impacts of the development proposed are 'negligible'. Given this opinion it is considered that a development of this scale should include appropriate mitigation measures and failure to do so conflicts with the provisions of Policy CS8 and the wider aspirations of the National Planning Policy Framework paragraph 181.