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File No: CHE/19/00251/OUT
Plot No: 2/3582

ITEM 3

OUTLINE APPLICATION FOR THE CONSTRUCTION OF UP TO 120 DWELLINGS WITH ALL MATTERS RESERVED EXCEPT FOR POINT OF ACCESS. REVISED DRAWINGS AND NOISE ASSESSMENT REPORT RECEIVED 29 JULY 2019. REVISED MASTERPLAN RECEIVED 5 SEPTEMBER 2019 AND EXTRA INFORMATION RE BERM VIEW. ON LAND SOUTH OF CALOW LANE, HASLAND, DERBYSHIRE

Local Plan: Open Countryside /unallocated
Ward: Hasland

1.0 CONSULTATIONS

CBC Strategic Planning	Revised comments received 13/11. Object – Contrary to Policies CS1, CS2, CS10 and LP4. Premature in advance of the Emerging Local Plan and poorly related to the centre and does not encourage sustainable transport modes – See report.
CBC Environmental Health	Comments received 25/09/2019 – The noise barrier, as proposed will meet the WHO noise criteria, so rather than specify the noise level, I think that it's best to condition the barrier design. Historical mapping shows this to be a greenfield site, with no previous use (no contamination) – advises 2 conditions
CBC Design Services	Comments received 29/05/2019 – see report
CBC Economic Development	Comments received 06/06/2019 – No objection - advise condition/106 agreement to cover local employment, training

	and supply chain opportunities
CBC Housing	No comments received
CBC Leisure Services	No comments received
Environment Agency	Comments received 20 & 22/05/2019 – see report
Yorkshire Water Services	Comments received 25/06/2019 – No objection advises 3 conditions (public sewers cross the site and should not be built-over except with agreement
Adjacent Authority – NEDDC	No comments received
DCC Contributions (Education)	Revised Comments received 11/06/2019 – Hady School will need to accommodate children from the development – Revised Comments received 28/06/2019 - County Council is not objecting to this application on education grounds
Derbyshire Constabulary	Comments received 31/05/2019 – No objections to the principle of residential development on this site. As all matters except access are to be determined at a later date - no further comment to make
Lead Local Flood Authority	Revised Comments received 18/01/2019 - No objection on surface water grounds
DCC Highways	Comments received 04/07/2019 and 25/09/2019 - The speed survey results confirm that these support suitability of 2.4m x 70m exit visibility sightlines in each direction from the proposed junction. No objection, advises 14 conditions – see report
C/Field Cycle Campaign	Comments received 03/08/2019 – The transport assessment for this application makes the usual glib DfT statements about suitability simply based on

	<p>distance without any thought to the quality of the potential cycling routes. The Campaign therefore objects to this application because it falls short of Chesterfield Borough Council's core strategy of prioritising pedestrian and cycle access.</p>
Coal Authority	<p>Comments received 06/06/2019 – No objection, advise 1 condition</p>
CBC Tree Officer	<p>Comments received 25/05/2019 no objection subject to retention of trees. Hedgerows are not deemed 'important' under the Hedgerows Act 1997 and any hedge removed should be replaced – advises 2 conditions</p>
CBC Urban Design Officer	<p>Defer to DCC Urban Design / Landscape Team comments – would wish to comment on Reserved Matters if outline approved</p>
DCC Urban Design / Landscape Team	<p>Revised Comments received 25/10/2019 – Given the planting and maturity of a robust appropriate native planting scheme as well as the retention of substantial amounts of existing hedgerow and trees, it could be possible to in the long term to reduce landscape impacts of the proposals to an acceptable level.</p> <p>However, I do not consider that the proposed layout achieves this.</p> <p>The loss of existing hedgerow and lack of space to plant sufficient woodland to the east of the proposed acoustic bunds are problematic and would result</p>

	in an unacceptable level of visual landscape impacts - see report
Derbyshire Wildlife Trust	Comments received 07/06/2019, No objection advise 5 conditions
DCC Archaeology	Comments received 10/06/2019 – No objection as much of the site had been subjected to open cast mining and therefore it would be of little archaeological potential
North Derbyshire CCG	Comments received 18/06/2019 – Contribution to Health facilities needed - £57,600
Ward Members	No comments received
Site Notice / Neighbours	10 no. representations received

2.0 **THE SITE**

- 2.1 The application site is located to the north west of Hasland (700m) and to the south west of Chesterfield (2.4km). It is bounded by Calow Lane to the north and the A617 to the west. The site is approximately 6.75ha roughly rectangular in shape and comprises 4 fields of agricultural land which are contained by hedge-rows along each boundary.
- 2.2 The site is accessible via a gate from Calow Lane at the western corner of the site. Land to the north and east of the site lies within Flood Zones 2 and 3 of the Environment Agencies Flood Risk Map for Planning. There are also a number of identified old open cast mining pits within the site.
- 2.3 The site is gently sloping from south-west down to the north-east. The site contains an incised valley within the south-western and central area of the site, the valley is orientated approximately south-west/north-east. The difference in the site levels across the site is roughly 13m.
- 2.4 The application site is bound to the north by Calow Lane, beyond which the land use is largely residential. The western border of the site is formed by the A617, beyond which lies the Calow Lane Industrial Estate, and residential properties. The site is located

adjacent to greenfield agricultural land to the south and east as shown by Figure 1.

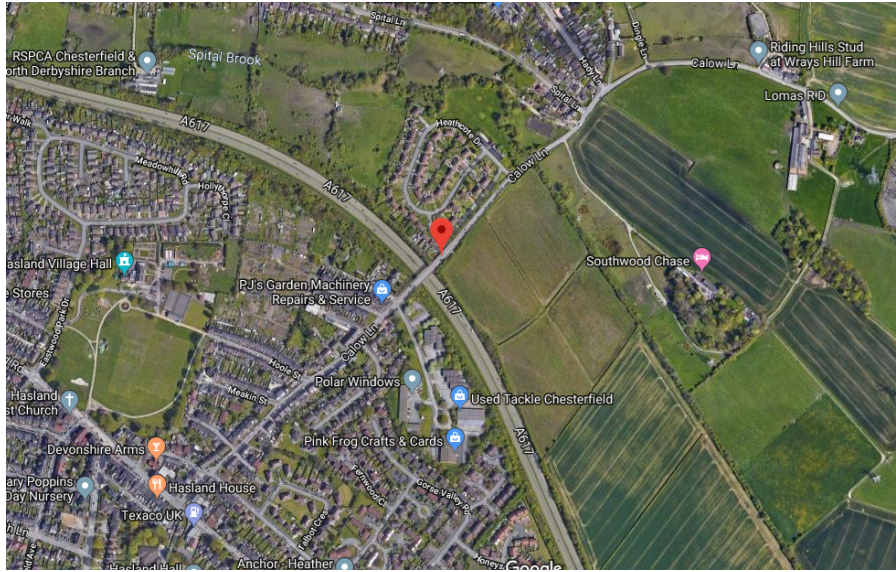


Figure 1: Aerial Photograph (Source: Google Maps)

- 2.5 The surrounding residential properties on Heathcote Drive comprise semi-detached two storey family homes. Properties along Gorse Valley Road and Blackthorn Close comprise a mix of semi-detached and detached properties. The majority of these have driveways and some have garages. Most have front and rear gardens.
- 2.6 Calow Lane as a whole has a range of different styles of properties, built across different eras, but is largely characterised by semi-detached properties. These properties mostly front the road and only some properties have driveways and front gardens.
- 2.7 Calow Lane provides pedestrian access in to Hasland district centre, although the footpaths are not high quality although they are reasonably well-lit. There is a footpath running along the north-side of Calow Lane past the site, and the footpath along the southern edge runs up to the corner of the site.
- 2.8 The nearest bus-stop lies opposite the site on Calow Lane, providing a service to Hasland local centre and Chesterfield.
- 2.9 A series of public footpaths run around the site and one to the east affords elevated views of the site.

3.0 **RELEVANT SITE HISTORY**

3.1 No planning history.

4.0 **THE PROPOSAL**

4.1 The application submitted seeks outline planning permission for the erection of up to 120 dwellings (incorporating public open space, landscaping and sustainable drainage) with all matters except for means of access being reserved. Access is shown to be formed as a single entrance-point from Calow Lane.

4.2 The applicant indicates that the scheme will provide up to 120 dwellings, and be a mix of both market and affordable housing and include 2, 3, 4, and 5 bedroom homes, with a focus on the provision of family housing and housing for the elderly.

4.3 An illustrative layout indicates the single-point access and spine road running roughly north-south with a series of cul-de-sacs spurs off as shown on the plan below:-



4.4 The illustrative layout indicates that an area of public open space incorporating the SUD's attenuation ponds will be created on the eastern side next to Calow Brook (the part of the site falls within flood-risk zones 2 and 3).

- 4.5 A noise attenuating bund (4 metres in height with a 1.5m high acoustic fence on top) would be provided along the entire length of the A617 edge and the bund would have steep sides at a slope of 1:2.
- 4.6 Extensive planting is proposed as a part of the scheme, particularly to the eastern and southern boundaries.
- 4.7 The applicant is proposing various up-grades to the footpaths and road crossings along Calow Lane to improve pedestrian access although little can be done to improve the footpaths at the numerous 'pinch-points' along Calow Lane.
- 4.8 The application submission is supported by the following plans/documents:
- Site plan
 - Visual Impact Assessment
 - Revised Landscape Masterplan
 - Topographic Survey
 - Engineering Constraints plan
 - Internal Road Gradient plan
 - Berm section details and views
 - Refuse vehicle tracking
 - Visibility splay details
 - Preliminary s278 layout
 - Preliminary Highway Works
 - Archaeological Assessment
 - Design and Access Statement
 - Drainage Strategy and Constraints
 - Ecology Report
 - Geo Environmental Reports phases I, II, III and IIIa
 - Planning statement
 - Transport assessment
 - Travel Plan
 - Noise report and Assessment
 - Acoustic Information
 - Footpath survey
 - Speed survey

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), CS18 (Design), CS19 (Heritage) and CS20 (Demand for Travel) of the Core Strategy and the wider National Planning Policy Framework (NPPF) apply.

5.1.3 In addition the Councils Supplementary Planning Document on Housing Layout and Design 'Successful Places' is also a material consideration.

5.2 **Principle of Development (inc. Open Countryside / 5yr Housing Land Supply)**

5.2.1 There are five key Local Plan considerations in determining the principle of housing development in this location:

1. Does development accord with the spatial strategy as expressed through policies CS1 and CS2 of the Core Strategy?
2. Does it accord with policy EVR2 of the 2006 Local Plan?
3. Can the council demonstrate a five year housing supply as required by the NPPF and how does this affect the consideration of Core Strategy Policy CS10?
4. Is the countryside location appropriate, and is the site close to a centre?
5. Is consideration premature?

- 5.2.2 The Council's Strategic Planning Officer has commented on the Policy situation as follows:-
- 5.2.3 The following comments are provided in addition to the comments previously provided on the 11th June 2019 relating to this application. They are primarily related to:
- An update of the Council's five year housing supply
 - the weight to be given to the emerging Local Plan;
 - matters of prematurity;
 - the implications of the recent successful appeal against the refusal of outline planning permission for 150 homes at Northmoor View on the interpretation of the Development Plan;
 - Reference made to an appeal on a site in North East Derbyshire at Hasland;
 - Amendments made to the application since the previous comments.
- 5.2.4 For the avoidance of doubt, at the time of writing the adopted development plan continues to be the Chesterfield Local Plan Core Strategy (2013) and the saved policies of the Replacement Chesterfield Local Plan (2006), the relevant policies of which are referred to above.
- 5.2.5 The emerging Local Plan was submitted to Planning Inspectorate at the end of June 2019. Hearing sessions on the Local Plan were held between 15th October and 6th November 2019 and the Council is currently preparing modifications to the plan as requested by the Inspectors, for consultation later in 2019/early 2020.

FIVE YEAR SUPPLY POSITION

- 5.2.6 The Council's latest five year supply position was published on 29th May 2019 and clearly indicates that the council can demonstrate a five year supply of deliverable housing sites, including provision for the 20% buffer required by the results of the Housing Delivery Test.
- 5.2.7 This position was confirmed in the Appeal Decision (hearing) on the Chesterfield Cattery Site at Crow Lane (CHE/18/00225/FUL).

- 5.2.8 The latest Housing Delivery Test was due to be published in November but is now likely to be delayed due to the election purdah period. However based on monitoring of housing delivery for the 2018-19 period the Council believes the 20% buffer that has already been applied remains appropriate and that paragraph 11(d) of the NPPF would not be triggered by the Housing Delivery Test results.

IMPLICATIONS OF NORTHMOOR VIEW APPEAL

- 5.2.9 The key implications of the Northmoor View appeal relate to the interpretation of Core Strategy policy CS10 and RCBLP policy EVR2. In doing so it is relevant to re-consider whether the application accords with the spatial strategy as set out in policies CS1 and CS2, in the light of changes to the application.

POLICIES CS1 and CS2

- 5.2.10 The Core Strategy does not set a specific distance to centres, but the Residential Design SPD does set out distances to a range of destinations that define whether a development is 'walkable', and policies CS2 and CS20 seek to maximise opportunities for walking and cycling and use of public transport. In considering whether an application meets these requirements it is appropriate to also take into account the safety and convenience of routes and whether there are any factors that would discourage occupants to walk (as a position that was confirmed in the Chesterfield Cattery appeal).

- 5.2.11 Relevant indicators include:
- 600-800m to a Local Centre/shop
 - 800-1000m to a primary school
 - 800-1000m to a GP Surgery

Accessibility criteria should also have regard to a range of local factors:

- The catchment populations of different facilities.
- The degree of permeability/directness of walking/cycle routes.
- The general shape of the settlement.
- The propensity of users to walk to specific facilities.
- The influence of topography.
- The safety of the route (real or perceived fear of crime).

- The level of hostility in terms of traffic speed and volume and the quality of the pedestrian experience.

The most recent MHCLG guidance contained in the National Design Guide (dated 1st October 2019) identifies the need to secure well designed places and which include those which are walkable. Walkable is defined as a site where local facilities are within walking distance, generally considered to be no more than a 10 minute walk (800 metre radius).

5.2.12 As previously outlined, the boundary of the site is some 700m from the Hasland Local Centre, with the majority of the site beyond 800m, and 1400 metre from the boundary of the site to Hady Primary School (the nearest primary school to the site). There are concerns about the quality and safety of the route however the applicant has suggested some potential improvements to the route from the site to Hasland Centre, but not to the routes north east along Calow Lane to Hady Primary School and the bus stops along Spital Lane that provide public transport access to Chesterfield Town Centre.

5.2.13 The conclusion reached is that the proposed application is in conflict with policies CS1 and CS2 of the adopted Local Plan Core Strategy in terms of its location, as one which would not encourage the use of sustainable means of transport.

POLICY EVR2

5.2.14 As set out in the previous comments, the application is in conflict with policy EVR2. This policy is a saved policy of the Replacement Chesterfield Borough Local Plan, which pre-dated the 2012 NPPF. Whilst the NPPF does make it clear that policies should not automatically be considered out of date because they predate the NPPF, consideration should be given to the weight that they should be given.

5.2.15 In determining the Northmoor View appeal, the Inspector gave consideration to the fact that when the policy was adopted, this was in a different climate regarding housing need, and the need for some level of greenfield housing development set out in the 2013 Core Strategy. The policy should therefore be considered 'out of date' and the conflict with EVR2 given limited weight in determining the current planning application.

5.2.16 As part of the emerging Local Plan examination (in the Inspector's Matters Issues and Questions), the Inspectors requested the council prepare settlement boundaries in support of emerging policy LP4 that would effectively replace EVR2 and this is addressed under the section on weight to be given to the emerging plan.

Policy CS10

5.2.17 Policy CS10, whilst also pre-dating the current NPPF, was prepared after the 2012 NPPF. Weight should be accorded to it depending on the extent to which it accords with the current NPPF. The policy seeks to restrict greenfield housing development whilst the council can demonstrate a five year supply of deliverable housing sites. The council can currently demonstrate such a supply (confirmed in the decision dismissing the appeal against the Council's refusal of planning permission at Chesterfield Cattery).

5.2.18 In considering the Northmoor View appeal the Inspector gave considerable weight to the fact that the appeal site otherwise accorded with the Council's Spatial Strategy (which seeks to locate development within walking distance of centres).

5.2.19 In the case of the current application, it is considered to be in conflict with policies CS1 and CS2 (see above) and is not therefore considered a sustainable location for new housing. Paragraph 103 of the NPPF seeks to limit the need to travel and offer a choice of transport modes to reduce congestion and emissions, improve air quality and public health. It also acknowledges that sustainable transport solutions will vary between urban and rural areas, and this should be taken into account in decision-making. In a compact borough such as Chesterfield, it is entirely appropriate to prioritise walking as the most sustainable form of transport.

5.2.20 The location of the development does not therefore outweigh the requirements of policy CS10 whilst the council can demonstrate a five year supply of housing sites.

5.2.21 Considerable weight should continue to be given to the conflict with policy CS10 in determining the application.

WEIGHT TO BE GIVEN TO THE EMERGING LOCAL PLAN

- 5.2.22 Paragraph 48 of the NPPF states that “Local planning authorities may give weight to relevant policies in emerging plans according to:
- a. the stage of preparation of the emerging plan (the more advanced its preparation, the greater the weight that may be given);
 - b. the extent to which there are unresolved objections to relevant policies (the less significant the unresolved objections, the greater the weight that may be given); and
 - c. the degree of consistency of the relevant policies in the emerging plan to this Framework (the closer the policies in the emerging plan to the policies in the Framework, the greater the weight that may be given).”
- 5.2.23 With regard to (a) The Council’s emerging Local Plan (the Chesterfield Local Plan 2018-2033) was submitted for examination at the end of June 2019. Hearing sessions were held between 15th October and 6th November 2019. The Council is currently preparing draft main modifications in response to the Inspectors’ directions for later consultation. The plan has therefore reached an advanced stage of preparation.
- 5.2.24 The emerging Local Plan does not allocate the application site for development.
- 5.2.25 The site would be outside the proposed urban area, and emerging policy LP4 would apply.
- 5.2.26 The most relevant policies in this case are emerging policies LP1, LP2 and LP4 (the policies that will replace Core Strategy Policies CS1, CS2 and CS10 respectively). Emerging policies LP1 and LP2, set out the spatial strategy and approach to location of development, which remains broadly the same as set out in the current Core Strategy. Policy LP4 allocates land for housing (which does not include the application site), and provides a framework for determining applications for development that are not allocated, and are outside the urban area (as the application site is).
- 5.2.27 The proposed development would likely be in conflict with each of these policies, as submitted and as proposed to be amended.

However, these policies are subject to a number of Main Modifications on which further consultation is required. Whilst material considerations, only limited weight should be given to these emerging policies in determining the principle of development. In particular, the conflict with adopted Core Strategy Policy CS10 should continue to be given greater weight than conflict with emerging policy LP4.

- 5.2.28 Regarding other emerging policies, the emerging local plan continues the Core Strategy aim of securing a net gain in biodiversity and on site EV charging points. Policies for affordable housing are the subject of a number of objections and proposed modifications and the Core Strategy policy should continue to be given greater weight.

PREMATURITY

- 5.2.29 The NPPF sets out how prematurity is to be considered at paragraph 50. It is clear that a refusal on this basis will seldom be justified where a draft plan has yet to be submitted for examination. However in this case the draft plan was submitted in June 2019 and Hearing Sessions were undertaken between 15th October and 6th November on the submitted plan, so the issue of prematurity is pertinent. It should be noted that prematurity is a material consideration but is not, by itself, necessarily a bar to granting planning permission where it would otherwise be appropriate taking account of national and local planning policy, and other material considerations.
- 5.2.30 A refusal on these ground should only be justified on the basis of clearly showing how granting permission would prejudice the outcome of the plan-making process. In such a case it would be necessary to demonstrate that:
- a. the development proposed is so substantial, or its cumulative effect would be so significant, that to grant permission would undermine the plan-making process by predetermining decisions about the scale, location or phasing of new development that are central to an emerging plan; and
 - b. the emerging plan is at an advanced stage but is not yet formally part of the development plan for the area.

- 5.2.31 Regarding (b), the plan has been subject to formal consultation, submission and Hearings. Consultation on Main Modifications is expected to follow. The emerging plan is therefore considered to be at an advanced stage.
- 5.2.32 Turning back to (a), the question is whether, on its own or cumulatively, this application would predetermine the scale, location or phasing of new development in an emerging plan. First and foremost, it must be noted that the emerging Local Plan does not seek to allocate the application site for housing development. Development of the application site for housing would be contrary to the spatial strategy set out in the emerging plan, which seeks to prioritise sites with good walking access to centres and a range of other facilities, and limit unnecessary greenfield development. Furthermore, the emerging local plan is expected to be able to demonstrate a five year supply of deliverable housing sites upon adoption, and a sufficient supply of housing sites across the plan period (which is to be extended to 2018-2035 by main modifications) to comfortably exceed the minimum objectively assessed need for the period.

RELEVANCE OF APPEAL AT LAND OFF MANSFIELD ROAD, WINSICK, NORTH EAST DERBYSHIRE

- 5.2.33 Reference has been made to an appeal decision to approve planning permission for 160 dwellings on a site off Mansfield Road at Winsick in North East Derbyshire, for 160 dwellings, and whether this is pertinent to the current application.

The site at Winsick lies just outside Chesterfield Borough at the east end of Hasland and referred to two planning applications refused planning permission by NEDDC (one for full planning permission and one for reserved matters permission relating to an outline that had already been granted at appeal).

The key issue is whether these appeal decisions alter the view on whether the Calow Lane site should be viewed as a sustainable location for development on the basis that the Winsick site is further from the Hasland Local Centre than the Calow Lane site and was considered a sustainable location for development by the Planning Inspector.

All planning applications should be considered on their merits, although relevant appeal decisions do provide context to interpreting local and national planning policy. Before looking at the Winsick appeal decision in detail, there are a number of key points to consider:

- The application site already benefitted from an outline planning permission that had been granted at appeal, at a point when NEDDC were unable to demonstrate a five year supply of deliverable housing sites;
- The NEDDC Local Plan dated from 2005, prior to publication of the first NPPF in 2012 (the Chesterfield Core Strategy by comparison was adopted in 2013).

Planning law requires that applications for planning permission be determined in accordance with the development plan, unless material considerations indicate otherwise. The development plan in the case of Calow Lane is the Chesterfield Local Plan, and the spatial strategy in particular that was adopted in 2013 and is still considered to overall be appropriate and in conformity with the NPPF. It is entirely possible and reasonable for two council's Local Plans to take different approaches to what is considered a sustainable location for development. Paragraph 103 of the NPPF specifically recognises that 'opportunities to maximise sustainable transport solutions will vary between urban and rural areas, and this should be taken into account in both plan-making and decision-making'.

It is notable that in considering the appeal, the Inspector did not specifically consider the distance of the site to the centre, as this was not an aspect of the relevant Local Plan policies (unlike the Chesterfield Core Strategy). Crucially, the Inspector concluded that the main Local Plan policies relating to the site were out of date and that the emerging policies (which included settlement boundaries that the proposed development would have conflicted with) should be given little weight, but did give substantial weight to the existing outline planning permission.

It is also worth noting that, whilst the Winsick site is slightly further from Hasland Local Centre, the nature is different in character, with pavement along the full length which is direct, sufficiently wide and lit, does not cross the A617, and is also on a regular (every 30

minutes during daytime) bus route that gives access to both the Local Centre and Chesterfield Town Centre via public transport options, unlike Calow Lane which does not have a regular service to Hasland, and where services to the Town Centre are accessed by roads that do would require either walking on the road or repeated crossings of the road.

The comparison of distance to schools has also been noted, with the Winsick site securing a contribution to provide school places. The council's report on the full planning application acknowledged that the distance to primary and secondary education from the site at Winsick, along 'highly trafficked highways' would encourage the use of private cars, particularly to Hady School. It also acknowledged that providing Junior places at Hady School would not contribute to healthy, inclusive communities. This was acknowledged in the reports conclusions, although greater weight was given to other material considerations including, crucially, the existing outline planning permission. Therefore as it had not been identified as a reason for refusal it was not specifically addressed by the Inspector.

In conclusion, sufficient material differences exist between the appeal site and the application site at Calow Lane, and between the planning policy contexts in which the decisions are being taken, that limited weight should be given to this appeal in determining the current application.

- 5.2.34 Based on the above it can be seen that there are considerable policy-based objections to the proposal, which is premature in advance of the emerging Local Plan and would conflict with and therefore prejudice it's provisions.

5.3 **Design and Appearance Considerations (inc. Landscape)**

- 5.3.1 The application submission is accompanied by a Design and Access Statement which has been considered alongside the Landscape Master-plan and Revised Master-plan and the noise berm design having regard to design and appearance, particularly the impact and encroachment in to the countryside.
- 5.3.2 Given that the application submission is an outline, 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 including concerning appearance, landscaping, layout and scale.

5.3.3 With the above context in mind, the **DCC Urban Design / Landscape Officer** (DCC UDLO) has reviewed the application and provided the following comments:

An LVIA was carried out in relation to Landscape Masterplan drawing 2887/4 and previous landscape comments relating to this were dated 25.04.19. Due to further investigation into noise reduction measures a revised layout has been submitted with the inclusion of earth bunds and acoustic fencing. The bunds would be an alien feature in the landscape and the proposal need considering in terms of its landscape and visual impacts.

Visual impacts

The submitted information comprises sections and views from the A619 and it is accepted that the impacts here will be minimal. However, no views are provided for any other receptors and it is considered that the new layout including the bund needs to be assessed.

In the letter from the applicant dated 4/9/19 it is considered that other views of the bund will be minimal as they will be shielded by the proposed dwellings. It would be useful if the sections included the proposed dwellings as there is a lack of information on proposed ridge heights and the relationship to the bunds is important.

To the east of the site, footpath NE 5/19/1 rises to a height of 95m for a short distance, and it is very likely that the bund will be visible from here especially between dwellings and over dwellings. The LVIA assessed impacts for this footpath on completion of the development as 'Substantial' and as 'Moderate' 15 years following completion of the development. This assessment was without the addition of the bund which can only increase the impacts.

Although the impacts of the bund are likely to be high from footpath NE 9/21/1, adjacent and to the south of the site, it is likely to be little used as a connection has been severed to the west by the A617.

The level of the top of the fence on the bund is similar to the road level of Calow Lane on the bridge over the A617 and from this elevated viewpoint the bund and fence will be visible.

It is also likely that the proposed bunds topped by a fence will be visible against the skyline from Calow Lane at the crossing of

Calow Brook. Whilst the housing would screen this in places a perception would exist of a continuous sky line of fencing. This would be increased by the loss of existing hedgerows.

Layout and Planting

There is mention of tree planting to the bunds, however this is not shown on the Masterplan. The bunds are also shown extremely close to the proposed dwellings in several cases and this would create a poor outlook and would not allow space for meaningful buffer planting which is considered would be essential to mitigate the impact of the bunds.

The proposed loss of hedges along Calow Lane and across the site are of great concern and their presence would help screen and integrate the development into the wider landscape. The construction of the bunds will involve extensive earthworks and localised changes to soil conditions. The position of the bunds close to an existing hedgerow and associated trees may endanger their long term survival. It is considered that a much wider margin is required.

Conclusion

Given the planting and maturity of a robust appropriate native planting scheme as well as the retention of substantial amounts of existing hedgerow and trees, it could be possible, in the long term, to reduce landscape impacts of the proposals to an acceptable level. However, the DCC UDLO does not consider that the proposed layout achieves this.

The proposed loss of existing hedgerows and lack of space to plant sufficient woodland to the east of the proposed acoustic bunds are problematic and it is considered that the current proposals would result in an unacceptable level of visual landscape impacts.

- 5.3.4 On this basis it is concluded that the development of the site would have a harmful landscape impact particularly when viewed from elevated view-points from the public footpath to the east and which would be exacerbated by the noise-bund that would appear as an alien feature within this rural landscape and that it would expand the built-up area in to an area of open countryside.
- 5.3.5 The **Crime Prevention Design Advisor** (CPDA) has indicated that being an outline application there are no particular concerns and that the main issues can be considered at the detailed stage.

Neighbour responses have also raised concerns over the impact on the environment.

- 5.3.6 Having regard to the comments of the DCC UDLO and CPDA above, in the context of the provisions of policies CS2, CS9 (e), CS18 and CS20 of the Core Strategy and the Council's SPD Successful Places, it is considered that whilst there are weaknesses and landscape impact issues highlighted by the DCC UDLO in the detail of the outline application as submitted, and whilst further detailed consideration of appearance, landscaping, layout and scale would be undertaken at a second tier (reserved matters) level of the application process, there is a fundamental concern that the development and the noise-bund (necessary to make the development acceptable on noise-related grounds) and the overall landscape impact is unacceptable.

Overall therefore it is considered that the outline development proposals is regarded as in conflict with the design and appearance and landscape principles of policies CS2, CS9 (e) and CS18 of the Core Strategy and the guidance within the N.P.P.F which indicates that development should respect the intrinsic beauty of the countryside.

5.4 **Highways / Demand for Travel**

- 5.4.1 The majority of the representations received are directed at highway safety issues, and having regard to the nature of the application proposals there are a number of highway related matters to be considered. These include considerations in respect of the impact of the development upon the local highway network; the quality of the route in to the centre and connectivity thereto; and finally the demand for travel arising from the nature of the development proposals, particularly as the local schools are at capacity and cannot be extended and therefore there would be increased travel to other schools.
- 5.4.2 Looking in turn at each of the considerations set out above, in regard to the local highways network, the nature of the application proposals will inevitably lead to an impact upon the local highway network which must be considered. The fact that access is detailed for consideration alongside this outline planning application means that as well as the impacts of the development

5.4.3

upon the wider highway network, the impacts of the specific junction proposals upon Calow Lane must also be considered. In order to address these matters the application submission is accompanied by a Transport Assessment (TA) and Travel Plan (TP) which have both been prepared by Local Transport Projects dated April 2019. In relation to initial concerns regarding the availability of adequate visibility splays and the impact on the front boundary hedge, the applicants carried out a speed survey, a detailed design of the junction to Calow Lane and a visibility splay plan, along with a gradient plan which demonstrated that the site can be developed in a manner that would not have any significant highway implications and the gradients were such that the road could meet adoptable standards.

5.4.4

Together with the TA and TP, the proposals and supporting documents were reviewed by the **Local Highways Authority** (LHA) who initially made the following comments:

“The Highway Authority has considered the traffic and transport information submitted in respect of the above proposal. It should be understood that, as a generality, the Highway Authority does not “agree” the content of a Transportation Assessment or, inevitably, concur with every detail contained therein. However, providing it is considered that the conclusion is sound then it is not regarded as reasonable or warranted to require the applicant to devote resources to amending detail which would not vary the conclusion. In this case the Highway Authority does not consider that there is an evidence base to suggest that the conclusion that the development would not have a significant adverse effect on capacity or safety of the local road network is incorrect. Certainly, there is no data that would support a reason for refusal of planning permission on the basis that the development would result in severe harm on the highway network, with reference to Paragraph 106 of the National Planning Policy Framework.

The Highway Authority recommended within its pre-application advice that some consideration should be given to impact of the development traffic on operation of the length of Calow Lane between the proposed site access and B6039 Mansfield Road. Whilst the submitted Assessment does not contain any specific commentary with regard to this, the predicted horizon year traffic flows included within the report indicate that development related traffic would be likely to constitute between 6% and 6.5% of traffic

on this section of the highway. It's known that on-street parking is the main constraint to existing operation of this length of Calow Lane and increased flows may well exacerbate the current situation. This being the case it's recommended that funding is secured for a period of 5 years post full occupation of the development, normally under a S106 Agreement, for investigation into, and any subsequent implementation of, Traffic Management Measures should the need arise.

Notwithstanding, the Highway Authority considers that a suitable junction can be created in the vicinity of the location shown within controlled land/ existing highway.

As stated in pre-application advice, there should be no reduction in existing width of Calow Lane at any point as a result of the S278 works and the carriageway should be of 6.0m absolute minimum width across the entire site frontage. In addition, a review of street lighting on Calow Lane will be required as a part of any S278.

The Transportation Assessment acknowledges that relocation of the existing bus stop on the site frontage may be necessary to accommodate the proposed junction. It's recommended that a review is undertaken with this Authority's Public Transport Officer to determine the desired location and infrastructure required to serve the development proposals.

As layout is a reserved matter, no specific comments will be made in this respect. However, any internal road layout submitted in association with a future Reserved Matters/ Full application should comply with the recommendations contained within the Delivering Streets and Places Design Guide.

The existing difference in level between the site and Calow Lane will be likely to require major earthworks and care will be required to ensure acceptable longitudinal gradients can be delivered.

The proposed off-street parking levels contained within the Transportation Assessment are considered to be acceptable. Off-street parking spaces should be of 2.4m x 5.5m minimum dimension (2.4m x 6.5m where in-front of garage doors) with an additional 0.5m of width to any side adjacent to a physical barrier e.g. wall, hedge, fence, etc. Single and double garages should be

of 3.0m x 6.0m and 6.0m x 6.0m minimum internal dimension respectively if to be included within off-street parking provision.

Specific comments with respect to the submitted Travel Plan are appended to this letter. It's recommended that Travel Plan monitoring fees of £1,015p.a. are secured (usually under a S106) for a 5 years period (i.e. £5,075 total index linked).

In addition to the aforementioned S106 funding for traffic management measures and Travel Plan monitoring, it's recommended that 14 conditions are included within the Consent"

5.4.5

In relation to the revised plans and the speed survey provided, the Local Highways Authority (LHA) made the following additional comments:

"I note termination of the fronting footway just to the east of the existing bus stop. There would be no objection to this, however, a 2.0m width grassed margin should be provided over the remaining length of frontage.

The drawings I have indicate that the proposed junction will be provided with exit visibility sightlines of 2.4m x 70m to the nearside carriageway channel in each direction. Without taking into account approach gradient, these are commensurate with 36mph vehicle approach speeds i.e. in excess of the speed limit.

As stated in the initial response, the Highway Authority is satisfied that an acceptable access can be formed to serve a development of the scale and nature proposed. If the detailed design of this can't be made the subject of condition, then a full detailed design will need to be submitted including sightlines based on speed survey results and taking into account gradient and swept paths for the largest vehicle likely to frequently visit the site – normally a Large Refuse Vehicle of 11.6m length.

TA's are predictions of impact of development on the existing highway network. What transpires during and after development can be radically different to the predictions and, this being the case, the HA wouldn't seek to undertake Works that may prove to be unnecessary (or in the wrong place) hence the recommendation to secure funding for a period post full occupation of the site.

I note the speed survey results and can confirm that these support suitability of 2.4m x 70m exit visibility sightlines in each direction from the proposed junction.

I note the developers intentions to assess existing footways and identify potential improvements”.

- 5.4.6 Having regard to the comments above, it is apparent that despite the concerns of local residents, the development is acceptable in highway safety terms and the proposal is acceptable and the N.P.P.F indicates that permission should only be refused on highway safety grounds when the resulting situation would be severe.
- 5.4.7 On this basis, and having regard to the other matters considered above, the development proposals are considered to be acceptable in terms of Highway Safety and any impacts will not be severe and the scheme will therefore accord with the provisions of policies CS2, CS18 and CS20 of the Core Strategy in respect of highway safety matters.
- 5.4.8 A key issue is the acceptability and quality of the route from the site in to the Hasland Centre, as this has an impact on the connectivity and therefore the sustainability of the proposal, given that proximity to centres is a fundamental and determining factor of Policy CS1 of the Core Strategy.
- 5.4.9 The local school is located at the end of Calow Lane where it meets Mansfield Road within Hasland Centre however this school is over-subscribed, cannot be extended, and as a result, children from the development would need to travel to Hady School and the acceptability of that route has an impact on the connectivity and hence sustainability credentials of the site.
- 5.4.10 The route from the site to Hady School is convoluted since the path moves from one side of the road to the other, resulting in the need to cross Calow Lane several times. The route is not a high quality route and as such would not encourage walking or cycling especially with young children in mind.
- 5.4.11 Whilst the Education department has not objected on education grounds, as the expansion of Hady school could be potentially funded from C.I.L, the fact that children could not attend the local school raises a concern that the site is not readily accessible in terms of access to key services.

- 5.4.12 The route along Calow Lane in to the centre of Hasland is referred to in the 'Policy' section above, which indicates the travel distances and that the 'quality' of the route is poor.
- 5.4.13 The footpaths are particularly narrow in places (down to 750mm or less in places), obstructed with street furniture and many of the junctions where side-streets meet Calow Lane have high kerbs, all of which would deter 'walking' and the route is not an attractive one, particularly for anyone with a push-chair or young children, or the elderly or infirm on say mobility scooters.
- 5.4.14 Whilst the applicant has undertaken a condition survey of the route, and is proposing to provide dropped kerbs at some of the junctions to aid anyone with a push-chair, wheel-chair or mobility scooter, there is nothing that can be done to resolve the narrow nature of the path or the numerous pinch-points and the condition of the footpaths would not encourage walking as advocated by the N.P.P.F and which forms one of the key elements of the spatial strategy, particularly Policy CS1 and which promotes developments that can easily access centres. It is considered that the poor quality of the route (irrespective of the distance travelled) would be a disincentive to use transport modes other than the car.
- 5.4.15 Additional comments were also made by the **Chesterfield Cycle Campaign (CCC)** as follows:
- CCC have objected on the basis that the route in to Hasland involves travelling along narrow roads and the Transport Assessment ignores the quality of the route and it falls short of Chesterfield Borough Council's Core Strategy of prioritising pedestrian and cycle access.*
- 5.5.16 The above comments from the cycling-body emphasis that the routes from the site to accepted destinations would not encourage cycling either.
- 5.4.17 Turning to the third and final issue of the demand for travel arising from the development proposals, the application submission is supported by a Travel Plan which has been reviewed by the Local Highways Authority Travel Plan team (LHA TP). Their comments received make a series of recommendations to carry the TP forward following commencement of development and these could be the subject of a condition, if permission is granted.

- 5.4.18 Whilst the applicant has examined the route in to the district centre (and indicated improvements), there are numerous other destinations that need to be reviewed as noted in the Policy comments above, which states:-
The applicant has suggested some potential improvements to the route from the site to Hasland Centre, but not to the routes north east along Calow Lane to Hady Primary School and bus stops along Spital Lane that provide public transport access to Chesterfield Town Centre.
- 5.4.19 The applicant has not suggested any improvements to the other routes (other than the Hasland Centre), and the quality of those other destinations would also deter walking/cycling.
- 5.4.20 On the basis of the above it is concluded that the quality of the connections to local services and facilities is poor and would not represent a walkable and well connected form of development.

5.5 **Flood Risk / Drainage**

- 5.5.1 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.
- 5.5.2 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 (FRA) prepared by Eastwood and Partners dated 2th March 2019. Part of the site falls within the Flood-risk zones 2 and 3, although the dwellings would be located on the part of the site within flood-risk zone 1. The SUD's drainage and attenuation ponds would be located in flood-risk zone 2 with the pen-space being located within flood-risk zones 2 and 3. A drainage strategy by BSP Consulting 24th April 2018, addressed the drainage issues
- 5.5.3 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 Assessments submitted.

- 5.5.4 Firstly the EA confirmed that they do not object and that it is appropriate to have open-space within the flood-risk zone providing the dwellings are in FRZ1.
- 5.5.5 There are public sewers crossing the site although an appropriate way-leave is provided to Yorkshire Water requirements, and the technical bodies (Lead Flood Authority and CBC Drainage) reviewed the application submission and did not raise any objections to the proposals in principle.
- 5.5.6 Having regard to the comments made 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 as set out.
- 5.5.7 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 can be imposed to meet the requirements above in accordance with policy CS7 of the Core Strategy and the wider NPPF.

5.6 **Land Condition / Contamination**

- 5.6.1 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.
- 5.6.2 In accordance with policy CS8 of the Core Strategy and wider advice contained in the NPPF the application submission is accompanied by a Phase I Investigation Report (Desk Study) and Coal Mining Risk Assessment prepared by Ecus Environmental dated April 2018 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.

- 5.6.3 The EHO has confirmed that the report demonstrates that contamination would not be a constraint on development in their response to this application.
- 5.6.4 The site was formerly within an open-cast mining area, and having regard therefore to the conclusions of the Mining report and the advice of the CA above, intrusive site investigations are deemed necessary to address land condition and coal mining risk. 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 if permission is granted.

5.7 **Ecology / Biodiversity**

- 5.7.1 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.
- 5.7.2 The Derbyshire Wildlife Trust has raised no objections as the proposed peripheral planting belts would compensate for any losses and represents an increase in Biodiversity as required by CS9. Overall therefore if permission is granted it is considered that appropriate conditions could be imposed to address the ecological requirements arising. This would secure enhancement to biodiversity overall. Such measures would be expected to be shown in the preparation of any 'landscaping' reserved matters submission.
- 5.7.3 In addition to the comments made by DWT above, the Council's **Tree Officer** (TO) also reviewed the proposals and has no objection subject to appropriate replacement trees/hedges and to landscaping conditions.
- 5.7.4 Having regard to the comments made by the Tree Officer it is considered that the suggested conditions are acceptable and can imposed should outline planning permission be granted.

5.8 **Air Quality / Noise**

- 5.8.1 In respect of Air Quality 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 and under the provisions of policy CS20 of the Core Strategy the Council requires all new residential properties to include provision for Electric Vehicle Charging points. This would be imposed by planning condition, if permission were granted.
- 5.8.2 In respect of Noise policy CS2 and CS18 of the Core Strategy addresses matters in respect of noise/amenity. Furthermore para. 170 e) and 180 of the NPPF requires '*decisions taken to contribute to the natural / local environment by e) preventing new and existing development from contributing to, but put at unacceptable risk from, or being adversely affected by, unacceptable levels of noise pollution*' and '*ensure that new development is appropriate for its location taking into account the likely effects of pollution on health and in doing so should a) mitigate and reduce to a minimum potential adverse impacts resulting from noise from new development – and avoid noise giving rise to significant adverse impacts on health and the quality of life*'.
- 5.8.3 The application submission is supported by a Noise Assessment (NA) (prepared by Acute Acoustics Ltd dated 24th July 2019) and further noise modelling data which has been considered by the Councils **Environmental Health Officer** (EHO).
- 5.8.4 The Noise Assessment concludes that the site is subject to noise from the A617 and the dwellings would require acoustic ventilation and double glazing to reduce noise, although acceptable levels can only be achieved by means of a noise attenuating soil berm, (4m high berm with 1.5m high acoustic fence on the top) along the entire boundary with the A617. As there is a 'gap' to allow the sewer wayleave, this would allow noise entry to the site, but can be resolved by placing apartment blocks (with single-aspect design facing away from the gap) to each side of the gap to shield the remainder of the site.
- 5.8.5 The EHO has advised that:
The report is appropriate and the design of the berm would need to be conditioned.
- 5.8.6 As the EHO confirms the means of mitigation proposed is appropriate to mitigate the impacts identified, and subject to an

appropriate condition requiring such measures to be set out in any reserved matters submission the issue of noise would be addressed in compliance with policies CS2, CS18 and the wider NPPF. This would be imposed by planning condition, if permission was to be granted.

5.9 **Heritage and Archaeology**

- 5.9.1 The impact of new development on the setting of heritage assets should be a consideration when assessing proposals, having regard to the provisions of policy CS19 of the Core Strategy and the wider NPPF. The application is also supported by an Archaeological Desk Based Assessment (prepared by LANPRO SERVICES dated March 2019) and the **DCC Development Control Archaeologist** (DCC Arch) have been consulted on the development proposals and conclude that as the site is a former open-cast mining site, it will have little archaeological interest remaining.
- 5.9.2 Having regard to the comments received from the DCC Arch above, it is a requirement of the National Planning Policy Framework, para. 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.
- 5.9.3 In this instance it is 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 based upon the requirements set out in para. 196 – 197 of the NPPF, it is therefore concluded that there would be no harm to the heritage assets and the proposal therefore complies with Core Strategy Policy CS19 and the wider requirements of the N.P.P.F.

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) Matters in respect of education and leisure provision are dealt with by CIL contributions.
- 5.10.4 Policy CS11 of the Core Strategy concerns Affordable Housing; and a development of this scale would trigger negotiations to secure up to 30% affordable housing provision on site. Furthermore policy CS18 of the Core Strategy concerns Design and includes a mechanism by which the Council would seek a contribution of up to 1% of the overall development costs towards a public art scheme (for major development proposals costing in excess of £1million).
- 5.10.5 There is no Viability Appraisal / Assessment presented with the application submission and therefore at this stage appropriate levels of contributions for the specific issues of Affordable Housing and Percent for Art cannot be calculated. In similar such cases the Council has incorporated a requirement in a S106 Agreement for a Viability Appraisal / Assessment to be completed and submitted concurrently with the first reserved matters submission to determine the level of these contributions in line with the policy wording.
- 5.10.6 In addition to the above a request for a contribution has been received from the North Derbyshire Clinical Commissioning Group (CCG) for a contribution of £ **£57,600** indicating that It is unlikely that NHS England or NHS Derby and Derbyshire CCG would support a single handed GP development as the solution to

sustainably meet the needs of the housing development and that the health contribution would ideally be invested in enhancing capacity/infrastructure with existing local practices. The closest practices to this development are; Inspire Health, Hasland Medical Centre and Inspire Health, Hasland Surgery.

New CIL Regulations came into force on 1st September 2019, replacing the council's 'Regulation 123' list (which determined what infrastructure would be covered by CIL and which by S106), replacing them with 'Infrastructure Funding Statements' (IFS). However the first IFS is not due to be published until the end of 2020. In the interim, the Regulation 123 list continues to be the most up to date evidence of the council's intentions and priorities for spending CIL contributions. Health services are not currently covered by this 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 in the event that a planning permission were to be granted.

- 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 be the appropriate mechanism.
- 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) the LPA would look to secure by planning condition the requirement for local labour
- 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.

6.0 **REPRESENTATIONS**

- 6.1 The application has been publicised by site notice posted on 28/05/2019; by advertisement placed in the local press on 06/06/2019; and by neighbour notification letters sent on 20/05/2019 and 30/07/2019.
- 6.2 As a result of the applications publicity there have also been 10 representations received in total from local residents. 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.

224 Hady Lane, Hady S41 0DB x2

273 Spital Lane, Spital S41 0HS

7 Norwood Close, Hasland S41 0NL

49 Blackthorn Close, Hasland S41 0DY x2

59A Calow Lane, Hasland S41 0AX

11 Halesworth Close, Walton S40 3LW

6.3 Detailed below is a summary of all the comments / issues which were made in the representations received:-

- Policy concerns
- Traffic or Highways issues
- Visual impact
- Impact on residential amenity
- The proposed scheme compromises the policies as set out in the CBC Policy Team Document. CS10,CS1&2
- The site is a greenfield one which should go to nature if no longer needed for farmland – increasing vegetation cover would aid climate-change with forecasts of increasingly hot/wet summers
- Calow Lane already gets gridlocked and further traffic would promote chaos without another access
- 120 extra houses in an already congested area will put pressure on traffic for most of the day
- Highway and road junctions are dangerous as it is a rat-run to junction 29A of the M1
- Roads already blocked at peak times. Calow Lane is the main arterial route to Chesterfield Royal Hospital. Need less traffic not more
- Council falls short on basic litter/glass left locally. Speeding is a problem. Road speed reduction scheme needed
- Calow Lane is already a majorly congested road during peak times
- Many people on this estate use Calow Lane to get to the hospital via Hady Lane
- The Calow Lane junction in Hasland is congested and there is conflict between traffic and pedestrians in the centre
- There are stables nearby and horses use this once quiet road
- Please connect up the site to truncated Grassmoor FP21 and on to Temple Normanton and Mansfield Rd
- Unsuitable development for the area and location with regards to access off Calow lane & flooding – run-off to

Calow brook will increase and will threaten low-lying dwellings and property

- No initial neighbour letters received and I take an interest of proposals in my area particularly as we are looking to complete a house extension ourselves soon and came across this application last month and added a public comment stating my view to object the application - perhaps if a thorough consultation was carried out, more feedback would be received rather than limiting the window of opportunity for members of the public to have their say
- It's fair to say the estate I live on is predominantly made up of the older generation with likely no access to the internet, sending a letter so far down the consultation stage seems a very unfair process being they were not informed previously, I suspect this is why there are very little public comments listed
- We were consulted some time ago by the developer and responded then, but did not copy in the Council - so hope our comments will still be considered
- Development should never be allowed to go ahead when there are environmental impact/increased flooding or road and pedestrian safety

Officer response: many of the above comments relate to traffic and highway safety which are addressed in the report. Other issues relate to environmental issues and flooding which are also addressed in the report as are the policy/greenfield issues. The publicity and neighbour letters which were sent out met the Council's usual and required procedures.

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 in the event of a refusal.

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 paragraph 38 of the National Planning Policy Framework (NPPF).

8.2 Whilst detailed matters including highways and noise have been addressed via the amended plans, there remains fundamental policy/landscape impact concerns, and 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**

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 (as set out in section 5.1 and 5.2) and the wider National Planning Policy Framework (NPPF) as detailed in the report above.

9.2 In the context of para. 11 of the NPPF it is acknowledged that the Framework directs all planning decisions to apply a presumption in

favour of sustainable development; however in this case having regard to the considerations set out in the report above neither para. 11c or 11d of the Framework are engaged in this respect.

- 9.3 At the time of writing the adopted development plan continues to be the Chesterfield Local Plan Core Strategy (2013) and the saved policies of the Replacement Chesterfield Local Plan (2006), the relevant policies of which are highlighted in the previous comments. The emerging Local Plan was submitted to Planning Inspectorate at the end of June 2019. Hearing sessions on the Local Plan were held between 15th October and 6th November 2019 and the Council is currently preparing modifications to the plan as requested by the Inspectors, for consultation later in 2019/early 2020.
- 9.4 The Council's latest five year supply position was published on 29th May 2019 and clearly demonstrated that the council can demonstrate a five year supply of deliverable housing sites, including provision for the 20% buffer required by the results of the Housing Delivery Test.
This position was confirmed in the Appeal Decision on the Chesterfield Cattery Site at Crow Lane (CHE/18/00225/FUL).
- 9.5 So in so far as the Principle of the Development of the site the proposed application is in conflict with policies CS1 and CS2 of the adopted Local Plan Core Strategy in terms of its location, which would not encourage the use of sustainable means of transport. Policies CS1 and CS2 are considered to be up to date and consistent with the NPPF.
- 9.6 The proposed development is in conflict with saved policy EVR2 of the RCBLP, but this policy is considered 'out of date' and the conflict with EVR2 is therefore given limited weight in determining the current planning application. On the basis that the application is considered in conflict with policies CS1 and CS2, considerable weight should continue to be applied to the conflict with policy CS10.
- 9.7 The emerging Local Plan does not allocate the site for development, supporting the position that the site is not considered a 'sustainable' site for residential development. It would be considered outside the urban area in terms of the application of policy LP4. However at this stage only limited weight should be

given to the conflict with emerging local plan policies LP1, LP2 and LP4.

9.8 When taken together with the recent grant of permission at appeal for 150 dwellings at Northmoor View (as a site that is not accounted for in the Local Plan), and an outstanding (at the time of writing the report) outline application for 350 dwellings at Bamford Road, this could result in a further 620 new dwellings not accounted for in the emerging plan, on greenfield sites - or 15.2% of the minimum housing requirement across the whole emerging Local Plan period. Cumulatively the applications have the potential to have a significant impact on the strategy in the emerging Local Plan in terms of the Sustainability Appraisal and Infrastructure provisions of the plan. The planning application should therefore be considered premature.

9.9 The site falls within the open countryside and will be prominent from various view-points particularly the Calow Lane bridge over the A617 and the elevated public footpath to the east. Whilst the proposed noise bund would not be prominent from the A617, it would appear as an alien intrusion in to the countryside from other views and together with the landscape impact of the development, this would constitute an intrusion in to the countryside contrary to CS18 and the N.P.P.F.

9.10 All other technical issues have been resolved.

10.0 **RECOMMENDATION**

10.1 It is therefore recommended that the application be **REFUSED** for the following reasons:

1. Having regard to the requirements of policy CS1 of the Chesterfield Local Plan: Core Strategy 2011 – 2031 the site is not located within an acceptable walking distance to local services, including primary education provision, and a local centre via a safe, convenient route and therefore the development fails to meet the provisions set out in the CS1 Spatial Strategy to 'concentrate new development within walking and cycling distances of centres' and is not considered Sustainable Development. Furthermore the development proposals fails on the majority of the criteria set out in policy CS2 of the Chesterfield Local Plan: Core

Strategy 2011 – 2031 (the exceptions being (c) and (g)), and there is no evidence to suggest that the proposal meets the exception tests set out in CS2 (i) and (ii).

In respect of policy CS10 of the Chesterfield Local Plan: Core Strategy 2011 – 2031 the policy requirement is clear in its aim that greenfield led housing development will not be accepted where the Local Planning Authority is able to demonstrate a 5 year housing land supply.

Overall 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 CS1, CS2 and CS10 of the Chesterfield Local Plan: Core Strategy 2011 – 2031 and the wider provisions of the National Planning Policy Framework and it is therefore unacceptable.

2. Having regard to paragraph 50 of the NPPF, the proposed development, would undermine the plan-making process by predetermining decisions about the scale, location or phasing of the emerging Chesterfield Local Plan (2018-2035) by enabling substantial development of a scale and location not supported by the emerging strategy when taken cumulatively with other development proposals.
3. The site falls within the open countryside and will be prominent from various view-points particularly the Calow Lane bridge over the A617 and the elevated public footpath to the east.
Whilst the proposed noise bund would not be prominent from the A617, it would appear as an alien intrusion in to the countryside from other views and together with the landscape impact of the development, this would constitute an intrusion in to the countryside contrary to Core Strategy Policies CS9(e) CS18 and the N.P.P.F.