

PLANNING COMMITTEE 11TH APRIL 2023
CORRESPONDENCE RECEIVED AFTER PREPARATION OF THE AGENDA

ITEM 5.1 – 22/00641/REM - RESERVED MATTERS APPLICATION FOR THE ERECTION OF 367 NO. DWELLINGHOUSES WITH ASSOCIATED ACCESS, INFRASTRUCTURE AND LANDSCAPING PURSUANT TO HYBRID PLANNING PERMISSION REFERENCE NUMBER 19/01274/FUL AT LAND BETWEEN ASHBOURNE AIRFIELD AND DERBY ROAD, YELDERSLEY

1. Correction to reason for refusal no. 4

The reason contains a typographical error in that reference is made to Policy S8 not PD8 (which deals with Flood Risk Management and Water Quality). The reason should read:

Insufficient information has been submitted to demonstrate that the surface water drainage system will be capable of serving the development and will not result in flooding on the site and elsewhere contrary to the requirements of Policies S1 and PD8 of the Adopted Derbyshire Dales Local Plan (2017) and guidance contained within the National Planning Policy Framework (2021).

2. Representations from the adjacent land owners

The following representations have been received on behalf of Bamford Property Limited and JCB (these representations apply to both this item and item 5.2):

On 10 March 2023, DWH submitted revised details for the RM Application and the Full Application. We wish to make the following further representations on those revised details.

1. DWH have submitted a revised planning layout drawing (H8537-001-05 Rev B) for the RM Application. The revised drawing fails to address the previous objections submitted by JCB to the RM Application fundamentally because it does not accommodate JCB's 7.5 metre existing legal right of access to its landholding from Ladyhole Lane.
2. The revised drawing states in the key that "The width of JCB grasscrete strips and access gates increased and repositioned". However, the drawing shows 5 metre grasscrete strips adjacent to Ladyhole Lane and on the western boundary of the RM Application site as per the previous submitted drawing. More fundamentally, however, the revised drawing fails to accommodate a 7.5 metre wide access route to which JCB is legally entitled.
3. The revised drawing shows a blue dotted line which it is assumed is to indicate the route of JCB's legal right of access although there is no key on the revised drawing explaining what the blue dotted line denotes. On the assumption that the blue dotted line shows the route and width of JCB's existing access rights, examination of the revised drawing shows the absurdity of DWH's proposition in the revised drawing which is that JCB's construction traffic and low loaders seeking to use the full 7.5 metre width access to which JCB is entitled would need to mount pedestrian footpaths on either side of the residential estate road. That would cause significant road safety issues not least to local residents as well as causing considerable detriment to residential amenity. It would inevitably lead to conflict between JCB's business operations and residents living in this location.
4. The revised drawing, therefore, fails to address at all the issue of JCB's existing access and is wholly unacceptable.

5. JCB notes that DWH state in relation to the revised layout that it retains and improves the legal right of way through the site for JCB. That statement is plainly incorrect and entirely misleading for the reasons set out above and in JCB's previous representations.
6. DWH also state that the revised layout is sufficient for the use described by JCB. Examination of the revised layout reveals that statement is simply wrong for the reasons set out in these and JCB's previous representations (including the SCP Transport Position Appraisal).
7. DWH also refer to the demolition of buildings on JCB's land with the suggestion that JCB's use of this site has ceased. Again that statement is incorrect. JCB's use of its land is not limited to the use of buildings. JCB's activities on site which involve training and testing/operation of construction machinery is a use that relates to the whole of JCB's land and that use is continuing.
8. DWH also suggest that because JCB's land has been allocated for housing as part of DS8 for phase 2 of the airfield site, this should not enable the Agent of Change principle to be invoked. That position is also wrong. The facts are that whilst JCB's land is allocated for housing, it is allocated as part of a much larger allocation which is expected to take many years to be fully developed. It is not anticipated that JCB's land will come forward as part of the early phases on the airfield site and, in those circumstances, JCB is quite entitled to continue to carry on its business operations on its own land. Not only is JCB entitled to proceed on that basis it is also perfectly reasonable for JCB to do so. Should DWH wish to build houses on land in and around JCB's access, then the onus is on DWH to take account of that access and to design the layout in a way which is both compatible with and accommodates that access. For the reasons set out above, DWH have failed to do so. That failing is no doubt in part due the fact that DWH have made no attempt whatsoever to engage with JCB regarding its proposals prior to the submission of the RM Application.
9. DWH also state that as the RM Application is a reserved matters application pursuant to the outline element of the hybrid permission, the principle of development is already established. What that does not mean, however, is that any form of development submitted as reserved matters must be acceptable. Residential development can be achieved on the land covered by the hybrid permission through the reserved matters process provided the layout is acceptable. The revised layout submitted by DWH in the RM Application, however, is unacceptable as it fails to accommodate JCB's existing access and will inevitably lead to conflict between residents and JCB's business operations and its use of that access. In those circumstances, the RM Application is contrary to the Agent of Change principle and unacceptable.
10. The revisions by DWH to both the RM Application and the Full Application fail to address any of JCB's previous objections which are maintained by JCB in respect of both applications. As set out previously in our representations of 21 September 2022 and as outlined above, the approach adopted by DWH in the RM Application and the Full Application would in JCB's submission significantly prejudice the comprehensive delivery of the wider airfield site. We have confirmed previously that JCB is keen to see the airfield come forward for development in a comprehensive and sustainable way and is willing to work with the Council and other landowners/ stakeholders to do so.

3. Representations from the occupant of 2 Oak Tree Cottage:

The following further representations have been received from the occupant of the above property in respect of the amended plans:

- Since the land was sold there has always been problems with water and flooding.
- There are underground lakes and springs.
- Nature is one thing we cannot change.
- We now hear pumps humming at any time night and day.
- The crows, magpies and jackdaws are causing damage to my thatch, since the lovely wood was cut down to make way for the roundabout.
- If all of the traffic has to come around the roundabout, the other road is the link road to the industrial estate. How dangerous is that.
- Lady Hole is already a very busy lane.
- The pond is already too close to our gardens. What happened to the buffer on the original plan?
- Seeing all this going on for at least 3 years, I have said many times I hope that they know what they are doing and have got it right!

4. A non-attributable representation has been received from Sarah Suggitt, in which the following concerns are raised:

- Ladyhole lane is flooding on a regular basis since building works began. Rubble washes down the lane, the grass edging to the ditches is being eroded causing dangerous driving conditions.
- Back gardens are no longer a wildlife haven and subject to flooding.
- The street lighting around the huge traffic island lights up the kitchen at 2 Holly Tree cottage on Ladyhole Lane. More houses built adjacent to the garden fence will cause more light pollution and loss of privacy.
- The demolition of the Rookery has caused rooks and other birds to take reed and straw from the thatched roofs causing immense damage.
- Where are the extra doctor's schools, shops for the 800 or more people who are going to move in?
- The 50mph limit along the stretch of the A52 at the island is insane!
- Will Yeldersley still be a village??
- It is already difficult to turn out of Ladyhole Lane at Osmaston cross roads as vehicles speed around the blind corner of the island.
- How on earth can Ashbourne sustain this many people in its current state?
- The town centre is already congested at weekends and bank holidays with traffic visiting the peak District, you will not be able to leave your house!
- What happened to the original plans of the light industrial units and the green belt buffer zone?

5. Further representations received from Ashbourne Town Council on the amended scheme:

In objecting to the amended scheme Ashbourne Town Council comment as follows:

Members wish to re-iterate their previous objection that the plan is not a finite plan and would like to see a detailed master plan for the whole of the Airfield Industrial Estate, as the larger development will have a major impact on the infrastructure within Ashbourne. Only showing a section of the development will not show the whole picture and the impact on education, health, highways and adult social care as it is being drip fed to all parties giving an unrealistic view of the facilities needed for all residents.

The development appears to be of a similar size to the near-by village of Brailsford,

which has its own supporting amenities and infrastructure including school, doctors, shops and a post office. Members raised concerns that a development of this size does not show the necessary infrastructure.

Members raised concerns that the proposed housing is not energy efficient and would like to see a more carbon neutral development as per the development at Cawdor Quarry, Matlock which appears to link to the Local Plan Policy PD7 Climate Change and takes into account the Climate Change Supplementary Planning Document Section 6 "Improving Building Design and layout to Meet the Objectives". This appears not to have been considered within this development.

Concerns were raised regarding the sewerage being pumped from the development to Osmaston Crossroads and back to the main sewer, which is already outdated by existing and more recent housing developments.

Members were disappointed that the Neighbourhood Plan was not a consideration factor as the development is outside of the designated area.

The proposed development will also land-lock an area owned by JCB with the only access being from Lady Hole Lane.

Officer response to subheadings 2, 3, 4 and 5:

Members are advised to take note of the additional representations received. The matters raised are considered in the officer's report.

6. Additional correspondence received from the applicant

The applicant has requested an extension of time, and presented additional information to address the various reasons for refusal.

In respect of the various concerns raised the following comments area made:

Ecology

The following additional information has been submitted:

- Letter from FPCR in response to the statutory consultee comments from the Wildlife Trust, dated 4th April 2023
- Technical Note - Biodiversity Net Gain - Full Application
- Technical Note - Biodiversity Net Gain - Reserved Matters Application
- Biodiversity Metric 4.0 Calculation Tool- Full Application
- Biodiversity Metric 4.0 Calculation Tool- Reserved Matters Application
- Ecology Phase 1 Habitat Plan

The letter and Technical Notes confirm that when the development is considered as a whole, the 468 dwelling scheme delivers a 4.17% biodiversity net gain. The Local Planning Authority do not have a policy setting a minimum net gain requirement, and the level of net gain achieved is in accordance with the requirements of the NPPF and other local planning policies. Confirmation is also provided that the landscape plans provide suitable habitat and enhancement for Dingy Skipper and Small Heath. The ecology information is submitted to address RfR 4 of the Full application and RfR 3 of the Reserved Matters application.

Officer Response:

The above information was received on the 6th April and consultation carried out with Derbyshire Wildlife Trust on the same day. No response has been received at the time of preparing the late representations.

Notwithstanding the above, the additional information continues to consider the phase 1 residential component in isolation and does not address the requirements of strategic site allocation DS1 in the case officer's view, in terms of wildlife and open space linkage. The proposals do not demonstrate how the sites will contribute to coherent network of OMH or butterfly habitat, which was a requirement of the hybrid permission (which includes the employment component). The delivery of a BNG also appears to adopt a residential land value baseline and is only achieved when the development is considered as a whole, with no net gain on the full component, which could technically come forward in isolation.

The additional information does not address officer concerns regarding this matters or the other fundamental concerns with the application and without further comments from Derbyshire Wildlife Trust RfR 4 of the Full application and RfR 3 of the Reserved Matters application are not considered to be addressed.

Highways

The following additional information has been received:

- Transport Technical Note from BWB dated 4th April 2023 in response to concerns raised by Hill Dickinson on behalf of Bamford Property Limited that it has not been demonstrated that the infrastructure/services for the airfield site (in particular access) have sufficient capacity to accommodate the additional 101 dwellings proposed.

The Technical Note includes modelling results, confirming that the access roundabout which has been built on the A52 to the south-east of Ashboume, will operate within capacity. This includes all consented traffic associated with Phases 1 and 2, the trips generated by the additional dwellings, re-routed industrial estate traffic and sensitivity testing of the JCB development.

Officer Response:

Officer advise that members take note of this additional information. The capacity of the local highway network to accommodate the development does not form a reason for refusal of the applications.

Flood Risk Assessment

The following additional information has been received:

- Flood Risk Assessment Revision D, produced by DDS, dated 21st March 2023

The FRA has been updated in respect of the latest layout. The amended FRA is submitted to address RfR 5 of the Full application, and RfR 4 of the Reserved Matters application. If any further clarification is required on surface water drainage the applicant has advised that they are confident that this can be addressed through further discussion between their consultant DDS and the Councils Flood Risk Management.

Officer Response:

The above information was received on the 6th April and consultation carried out with Lead Local Flood Authority on the same day. No response has been received at the time of preparing the late representations.

The amended FRA does not appear to demonstrate that the existing drainage basin that was designed to serve the employment land and link road is capable of accommodating additional flows from the development.

The additional information does not appear to address officer concerns regarding this matter or the other fundamental concerns with the application and without further comments from Lead Local Flood Authority RfR 5 of the Full application, and RfR 4 of the Reserved Matters application are not considered to be addressed.

Urban Design Matters

The applicant advises in respect of RfR 1 and 2 of the Full and RfR 1 of the Reserved Matters application we can formally confirm that we are willing, in principle, to make amendments to the layout to address these reasons for refusal, subject to further discussion with the Council and our Design Consultants. It is considered that further meeting to discuss the specifics of the proposed layout is required in order to adequately address these RfRs. We have not been provided the opportunity to engage in further layout discussions with officers or their advisors prior to the April Committee following the initial submission of the layout on 27th January and the additional details that followed on the 3rd March despite previous requests.

Officer Response:

The target date for a decision on the applications was the 14th September 2022. Recognising that the site was an important strategic allocation and should be delivered in a planned and comprehensive manner, an urban designer was appointed to help shape the development. A revised layout was presented in January for review by the applicant. The District Council requested commentary on how the revised scheme had addressed the urban designer's comments on the assessment of the scheme against National Design Guide Criteria. This important information was not submitted. The applicant presented the amended layout to the Council formally for reconsultation in March and failed to address the other fundamental concerns with the application, set out in the officer's report which had also been raised. In the circumstances the requirement to engage in a positive and proactive manner was considered best served by issuing a decision on the application at the earliest opportunity, thereby enabling the applicant to exercise their right to appeal. This would not prohibit further applications being submitted, utilising any free go provisions and continued discussions with officers to address the various concerns with the current applications.

Playing Fields

In respect of RfR 3 on the full application, the applicant has requested that the Council confirm the requirement for sports pitches generated by the 101 development scheme, so that further discussion can take place in respect of mitigating this requirement.

Officer Response:

Whilst this would address the needs arising from the full application, without any indication as to where this provision will be made, the requirements of the Developer Contributions SPD and strategic policies in the Development Plan would not be met, nor is the development being planned in a comprehensive manner, which is of key importance for a site of this nature in terms of achieving sustainable development.

Operations on Adjacent Land

The applicant has advised in respect on RfR 2 of the reserved matters application, that they require confirmation from the Council regarding nature of the existing planning permission in relation to JCB's use of the adjacent site.

Officer Response:

The adjacent land has been used as excavation machinery demonstration ground for many years, with the last permission for a training and amenity building granted on the 16th July 1987, under application code ref. 0687/0426. A planning history search shows permission for an excavator area and machine security in 1970. The use is therefore clearly established and it remains that the applications do not adequately mitigate against the adverse impacts from this existing use.

ITEM 5.2 – 22/00642/FUL – ERECTION OF 101 NO. DWELLINGHOUSES WITH ASSOCIATED ACCESS, INFRASTRUCTURE AND LANDSCAPING AT LAND BETWEEN ASHBOURNE AIRFIELD AND DERBY ROAD, YELDERSLEY

1. Correction to reason for refusal no. 5

The reason contains a typographical error in that reference is made to Policy S8 not PD8 (which deals with Flood Risk Management and Water Quality). The reason should read:

Insufficient information has been submitted to demonstrate that the surface water drainage system will be capable of serving the development and will not result in flooding on the site and elsewhere contrary to the requirements of Policies S1 and PD8 of the Adopted Derbyshire Dales Local Plan (2017) and the National Planning Policy Framework (2021).

2. Representations from the adjacent land owners

See the representations that have been received on behalf of Bamford Property Limited and JCB at 2. of item 5.1.

3. Representations from the occupant of 2 Oak Tree Cottage:

The following further representations have been received from the occupant of the above property in respect of the amended plans:

- Since the land was sold there has always been problems with water and flooding.
- There are underground lakes and springs.
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- If all of the traffic has to come around the roundabout, the other road is the link road too the industrial estate. How dangerous is that.
- Lady Hole is already a very busy lane.
- The pond is already too close to our gardens. What happened to the buffer on the original plan?
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The development appears to be of a similar size to the near-by village of Brailsford, which has its own supporting amenities and infrastructure including school, doctors, shops and a post office. Members raised concerns that a development of this size does not show the necessary infrastructure.

Members raised concerns that the proposed housing is not energy efficient and would like to see a more carbon neutral development as per the development at Cawdor Quarry, Matlock which appears to link to the Local Plan Policy PD7 Climate Change and takes into account the Climate Change Supplementary Planning Document Section 6 “Improving Building Design and layout to Meet the Objectives”. This appears not to have been considered within this development.

Concerns were raised regarding the sewerage being pumped from the development to Osmaston Crossroads and back to the main sewer, which is already outdated by existing and more recent housing developments.

Members were disappointed that the Neighbourhood Plan was not a consideration factor as the development is outside of the designated area.

The proposed development will also land-lock an area owned by JCB with the only access being from Lady Hole Lane.

Officer response to subheadings 2, 3 and 4:

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- Ecology Phase 1 Habitat Plan

The letter and Technical Notes confirm that when the development is considered as a whole, the 468 dwelling scheme delivers a 4.17% biodiversity net gain. The Local Planning Authority do not have a policy setting a minimum net gain requirement, and the level of net gain achieved is in accordance with the requirements of the NPPF and other local planning policies. Confirmation is also provided that the landscape plans provide suitable habitat and enhancement for Dingy Skipper and Small Heath. The ecology information is submitted to address RfR 4 of the Full application and RfR 3 of the Reserved Matters application.

Officer Response:

The above information was received on the 6th April and consultation carried out with Derbyshire Wildlife Trust on the same day. No response has been received at the time of preparing the late representations.

Notwithstanding the above, the additional information continues to consider the phase 1 residential component in isolation and does not address the requirements of strategic site allocation DS1 in the case officer's view, in terms of wildlife and open space linkage. The proposals do not demonstrate how the sites will contribute to coherent network of OMH or butterfly habitat, which was a requirement of the hybrid permission (which includes the employment component). The delivery of a BNG also appears to adopt a residential land value baseline and is only achieved when the development is considered as a whole, with no net gain on the full component, which could technically come forward in isolation.

The additional information does not address officer concerns regarding this matters or the other fundamental concerns with the application and without further comments from Derbyshire Wildlife Trust RfR 4 of the Full application and RfR 3 of the Reserved Matters application are not considered to be addressed.

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The Technical Note includes modelling results, confirming that the access roundabout which has been built on the A52 to the south-east of Ashboume, will operate within capacity. This includes all consented traffic associated with Phases 1 and 2, the trips generated by the additional dwellings, re-routed industrial estate traffic and sensitivity testing of the JCB development.

Officer Response:

Officer advise that members take note of this additional information. The capacity of the local highway network to accommodate the development does not form a reason for refusal of the applications.

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The following additional information has been received:

- Flood Risk Assessment Revision D, produced by DDS, dated 21st March 2023

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Officer Response:

The above information was received on the 6th April and consultation carried out with Lead Local Flood Authority on the same day. No response has been received at the time of preparing the late representations.

The amended FRA does not appear to demonstrate that the existing drainage basin that was designed to serve the employment land and link road is capable of accommodating additional flows from the development.

The additional information does not appear to address officer concerns regarding this matter or the other fundamental concerns with the application and without further comments from Lead Local Flood Authority RfR 5 of the Full application, and RfR 4 of the Reserved Matters application are not considered to be addressed.

Urban Design Matters

The applicant advises in respect of RfR 1 and 2 of the Full and RfR 1 of the Reserved Matters application we can formally confirm that we are willing, in principle, to make amendments to the layout to address these reasons for refusal, subject to further discussion with the Council and our Design Consultants. It is considered that further meeting to discuss the specifics of the proposed layout is required in order to adequately address these RfRs. We have not been provided the opportunity to engage in further layout discussions with officers or their advisors prior to the April Committee following the initial submission of the layout on 27th January and the additional details that followed on the 3rd March despite previous requests.

Officer Response:

The target date for a decision on the applications was the 14th September 2022. Recognising that the site was an important strategic allocation and should be delivered in a planned and comprehensive manner, an urban designer was appointed to help shape the development. A revised layout was presented in January for review by the applicant. The District Council requested commentary on how the revised scheme had addressed the urban designer's comments on the assessment of the scheme against National Design Guide Criteria. This important information was not submitted. The applicant presented the amended layout to the Council formally for reconsultation in March and failed to address the other fundamental concerns with the application, set out in the officer's report which had also been raised. In the circumstances the requirement to engage in a positive and proactive manner was considered best served by issuing a decision on the application at the earliest opportunity, thereby enabling the applicant to exercise their right to appeal. This would not prohibit further applications being submitted, utilising any free go provisions and continued discussions with officers to address the various concerns with the current applications.

Playing Fields

In respect of RfR 3 on the full application, the applicant has requested that the Council confirm the requirement for sports pitches generated by the 101 development scheme, so that further discussion can take place in respect of mitigating this requirement.

Officer Response:

Whilst this would address the needs arising from the full application, without any indication as to where this provision will be made, the requirements of the Developer Contributions SPD and strategic policies in the Development Plan would not be met, nor is the development being planned in a comprehensive manner, which is of key importance for a site of this nature in terms of achieving sustainable development.

Operations on Adjacent Land

The applicant has advised in respect on RfR 2 of the reserved matters application, that they require confirmation from the Council regarding nature of the existing planning permission in relation to JCB's use of the adjacent site.

Officer Response:

The adjacent land has been used as excavation machinery demonstration ground for many years, with the last permission for a training and amenity building granted on the 16th July 1987, under application code ref. 0687/0426. A planning history search shows permission for an excavator area and machine security in 1970. The use is therefore clearly established and it remains that the applications do not adequately mitigate against the adverse impacts from this existing use.

ITEM 5.4 - ERECTION OF 47 NO. DWELLINGHOUSES WITH GARAGES AND ASSOCIATED INFRASTRUCTURE AND LANDSCAPING AT LAND NORTH EAST OF TANSLEY HOUSE GARDENS, TANSLEY

Re-consultation response

Derbyshire Wildlife Trust have responded to re-consultation and state that since their response dated 12th January 2022 (DWTDAL934), the site layout has been revised. They

have reviewed the amended Landscape Plan (Drawing No.: 3941/1 Rev. E). We note that the SUDS feature is no longer proposed in the south-east, however this area will remain as open space and comprise retained grassland, managed to encourage a diverse structure and wildflowers. The existing trees and scrub along the southern boundary can now be retained in this area. In the south-western open space, grassland will be created through seeding with meadow mixture for wetlands (EM8) to recreate an MG4-type grassland, with a band of native scrub planting along the boundary. The central corridor will comprise a grassland mix suitable for hedgerow bases and the existing hedgerow will be retained and managed. This is considered an improvement on the previously proposed amenity grassland in this area. They still advise that the boundary treatment adjacent to the retained hedgerow (H5) in the north-east should be carefully considered. They also query where access will be provided to the southern areas of open space to enable management to take place, as these areas appear completely enclosed by hedgerow?

The EclA has also been revised to reflect the amended design, including a revision of the Biodiversity Net Gain Assessment. A minor net loss of -0.03 habitat units is predicted and a gain of +2.32 hedgerow units. By including trees and hedgerows located within gardens (although not recommended in the guidance), this increases to a small net gain of +0.14 habitat units and +2.53 hedgerow units. Either way, this comprises an improvement on the previous prediction of a net loss of -4.44 habitat units (43%). However, they do note that the trading rules are not satisfied. There is an overall loss of medium distinctiveness habitats. This includes -1.4 ha of 'other neutral grassland' and -0.36 ha of scrub. Metric rules states that both habitats should be compensated for by the same broad habitat or one of higher distinctiveness. As such, whilst the overall figures almost balance out to achieve no net loss, in real terms higher value habitats have been replaced with lower value habitats, which is not in line with BNG best practice guidance.

They consider that the proposed landscaping and management maximises the possible gains for the site, within the current layout. Compensating fully on site for the grassland and scrub is unlikely to be possible, whilst delivering the proposed number of dwellings. As such, it is a decision for the LPA whether, on balance, this scheme is acceptable despite the level of loss and non-compliance with trading rules, or whether offsite compensation will be requested.

Notwithstanding the issues around BNG, they maintain that the general mitigation and enhancement measures recommended in the EclA are considered appropriate and sufficient to adequately safeguard protected species. These can be secured through appropriately worded planning conditions, as previously advised.

They note that a Landscape and Ecological Management Plan (LEMP) has also been produced at this time. They have reviewed this document and consider that it contains appropriate management prescriptions to deliver the predicted level of loss/gain detailed in the metric. They welcome the proposed features for wildlife also included. Compliance with the LEMP should be secured via an appropriately worded condition. Other appropriate conditions were provided in our previous letter.

Officer Response

In respect of the BNG trading rules, these are part of the principles of BNG with a requirement to secure a true gain in all habitats and not replacing higher habitats with lower habitats. In this case the loss of neutral grassland that is of medium distinction has been replaced with lower value gardens. However, the old meadow has not been managed and although medium the LPA could take the stance that on balance a BNG has been achieved based on the actual quality of the loss and its amount. Whilst there is Good Practice Guidance, the 10% net gain does not become mandatory until November and until such time as more detailed Government guidance on the interpretation of trading rules is provided, a view within the planning balance on a case by case basis could be made.

Change to Condition 26

The development hereby approved shall be implemented in accordance with the Landscape and Ecology Management Plan (LEMP) dated 17th February 2023 by Middleton Bell Ecology.

Re-consultation Response

The Highway Authority reiterate that the previous recommended Condition no. 3 relating to engineering drawings should be omitted from my formal comments (Dated 28TH November 2022) and not be included in your overall recommendation.

The removal of Condition 3 has an impact on Condition 4 which should be reworded to:

The existing and proposed carriageway of the estate road to serve the development shall be laid out in accordance with submitted drawing ref: 47402-ECE-XX-XX-DR-C-0029 P01 and constructed in accordance with technically approved (Section 38 HA 1980) drawings above up to and including at least road base level, prior to the commencement of the erection of any dwelling intended to take access from that road. The carriageways and footways shall be constructed up to and including base course to ensure that each dwelling prior to occupation has a properly consolidated and surfaced carriageway and footway, between the dwelling and Church Street. 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 12 months (or 3 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.

Please also add the following informative: -

The applicant is advised to obtain legal approval from the Local Highway Authority for the details required under Condition 4. Such details, as may be submitted to the Local Highway Authority, will be subject to technical and safety assessments /audits, which may

result in changes to the layouts and alignments as shown on any submitted planning layouts approved by virtue of the planning permission.

Condition 3 to be removed and condition 4 changed as above together with additional informative above.

Amended Landscape Plan

The location of the trees have been amended to take on board objector's concerns.

Conditions 2 and 12 shall be amended to refer to the landscape plan 3941/1 Rev F

Representation from James Neville

He has read through the Officers Report to Planning Committee for the above site and noted Condition 20 regarding working hours and deliveries. An 8am start on a Building Site is very disruptive to effective site work and he also believes the 1pm finish time on a Saturday is not feasible because creates 4 hours of productive working. He would suggest a 7.30am (site opening time) and a 4pm site close time on a Saturday. If the site opens at 7.30am then it will be at least 7.45am before any productive work starts.

If an 8am start time is conditioned then there will be delivery vehicles and vans parked on Church Street causing major traffic congestion between 7.30am to 8am. In addition the site duration will be longer causing disturbance to neighbours over a longer period of time.

We had many discussions at Pump Close, Matlock about working hours and we did adhere to them 99.5% of the time. On this site, he opened site at 8am - this caused vehicles to be parked up on adjacent roads causing traffic congestion. In addition my workforce became used to arriving at work at 8am and this reduced productivity by around 15%. He was extremely pleased when you did not impose any restrictions on working hours at our Thatchers Croft site. We have been neighbourly and respectful and enjoy good relations with our neighbouring residents.

Maybe you could consider changing the working hours in condition 20 to site opening times of 7.30am to 6pm Monday to Friday and 8am to 4pm on Saturday.

Further comment from applicant

The applicant has asked for the condition around a CEMP and the reference to working hours be removed and updated respectively. We have already submitted a CEMP twice to officers. We have also made representation relating to a number of other conditions that are included here relating to information that has already been submitted. I concur with the comments made by James below and in section 4 of our CEMP we have requested the following working hours:

"Stancliffe Homes understand the potential nuisance construction work and the associated deliveries can have on neighbouring residents, therefore all work will be undertaken between 7:30am and 5:30pm Monday to Friday and 8am to 3pm on Saturdays, deliveries will be restricted to 7:30am-5:30pm Monday to Friday, 8am-3pm on Saturday, and no works or deliveries on Sundays."

I concur with James that these working hours would cause the most limited disruption to local residents, and we would therefore respectfully request that the proposed conditions are updated.

Officer response

Whilst the CEMP document has been submitted, the Wildlife Trust have not confirmed that it is acceptable and as such condition 25 should remain. In respect of condition 20, I have asked the advice of the Environmental Health Officer and they consider that the weekday alteration is acceptable but on Saturdays the 1-3pm working shall be restricted to internal work within properties only. Therefore the condition 20 shall read:

No site machinery or plant shall be operated, no process shall be carried out and no demolition or construction related deliveries received or dispatched from the site except between the hours of 7:30am-5:30pm Monday to Friday, 8am -1pm Saturdays for external work and between 1-3pm Saturdays internal works within the properties only and at no time on Sundays, Bank or Public Holidays.

Further response Cllr Flitter

I have had countless emails and telephone calls to discuss the planning application on the above, referring to the change from single storey dwellings to two story development which will affect the privacy of residents of Church Street and Tawney Croft.

I am led to believe this will be discussed at the April planning meeting, so I am asking that you place this item on the site visit list and ensure you view from Tawney Croft.

Response from the owner of 5, Tansley House Gardens

The owner raised objections to the amended landscaping plan for the development adjacent to their land due to the location and species of trees and the potential for overbearing impacts on their property. Sam Jones and colleagues have responded positively to their concerns and submitted a further plan Rev F, which they can see is now published on the Council's website and is the one that a decision will be made on at the planning meeting on the 11th April. They have already contacted Sam to confirm that they are happy with the revised non-material changes to the layout and that their concerns have been addressed in full.

ITEM 5.5 – CONSTRUCTION OF REPLACEMENT MIXED USE DISCOVERY CENTRE WITH ASSOCIATED LANDSCAPING, DRAINAGE AND CAR PARKING AT THE NATIONAL STONE CENTRE, PORTER LANE, MIDDLETON BY WIRKSWORTH.

Consultation response from Derbyshire Wildlife Trust

A further consultation response was received by letter dated 06.04.2023 which states:

“We are disappointed to see that the trading rules for the metric are not met. This is due to a net loss of medium and high distinctiveness habitats, including calcareous grassland, other neutral grassland and scrub. Whilst two options are provided to achieve a 10 % net gain, they include the principle of ‘trading down’, which is not compliant with best practice guidance.

The BNG Best Practice Guidelines (CIRIA C776a, 2019) state that, “A BNG design should improve the extent or condition of biodiversity affected by a project. It should not result in lost or damaged features being replaced by features of lower biodiversity value. This is regardless of whether a metric shows an increased amount of biodiversity after a project compared with the baseline”.

The Best Practice Guidelines also require that “Net gains should be in the same habitat as that affected by the development, or a habitat of higher biodiversity value that supports the same species affected”. In our previous response we advised that the habitat creation should be designed to benefit the wildlife that use the area e.g. invertebrates and reptiles. The current proposals rely heavily on enhancement of woodland to gain units, whilst we advise that the offsetting strategy for the scheme should include meaningful areas of calcareous grassland or open mosaic, arguably some of the most valuable habitat at the Stone Centre site and those that would provide most continued ecological functionality for invertebrates and reptiles.

In addition, the footprint of works will encroach into the SSSI/LWS. We previously noted that Natural England have requested additional information regarding potential impacts to the SSSI. We noted that whilst this focuses on the geological reasons for designation, a clear plan showing the exact overlap of the proposals with the boundary of the SSSI (and LWS) would be useful. This does not appear to have been provided.

Given the size of the wider Stone Centre site, it is unclear as to why a proposal has not been submitted which satisfies the trading rules and provides meaningful and varied habitat creation or enhancement. In the first instance, we advise that the Strategy should be revised and re-submitted with a scheme that meets the trading rules. We suggest that grassland management could be focussed along woodland edges and in open areas of the site to enhance existing calcareous grassland and open mosaic. The Trust are open to discussions about habitat creation and management, if useful.

Should timescales not allow for this, an alternative option is to secure a revised metric via condition, which requires the trading rules to be satisfied. This would form the basis for a Landscape and Biodiversity Enhancement and Management Plan (LBEMP), which can also be secured via condition.”

Officer response:

In respect of the Biodiversity Net Gain (BNG) trading rules, these are part of the principles of BNG with a requirement to secure a true gain in all habitats and not replacing higher habitats with lower habitats. In this case the loss of calcareous grassland or open mosaic would be replaced by woodland units. Whilst there is Good Practice Guidance, the 10% net gain does not become mandatory until November and until such time as more detailed Government guidance on the interpretation of trading rules is provided, a view within the planning balance on a case by case basis could be made.

However, in this case there is scope within the wider Stone Centre site to satisfy the trading rules and provide a meaningful and varied habitat creation.

It is therefore recommended that an additional planning condition be imposed:

No development shall commence (including demolition, ground works and vegetation clearance) until a revised Biodiversity Metric satisfying the trading rules and revised Biodiversity Net Gain Strategy has been submitted to and approved in writing by the Local Planning Authority.

Reason:

In order to safeguard protected and/or priority species from undue disturbance and impacts, noting that initial preparatory works could have unacceptable impacts; and in order to secure an overall biodiversity gain in accordance with Policy PD3 of the Adopted Derbyshire Dales Local Plan (2017).

These details go to the heart of the planning permission and are required before the commencement of any development.

It is also recommended that condition 5 be amended to:

No development shall commence (including demolition, ground works, and vegetation clearance) until a Landscape and Biodiversity Enhancement and Management Plan (LBEMP) has been submitted to and approved in writing by the Local Planning Authority. The aim of the LBEMP is to enhance and sympathetically manage the biodiversity value of onsite habitats, in line with the proposals reflected in revised Biodiversity Net Gain Strategy and revised Biodiversity Metric (submitted and approved in connection with condition X) and to achieve no less than a +10 % net gain. The LBEMP should combine both the ecology and landscape disciplines and shall be suitable to provide to the management body responsible for the site. It shall include the following:

- a) Description and location of features to be retained, created, enhanced and managed, as per the approved biodiversity metric;
- b) Aims and objectives of management, in line with desired habitat conditions detailed in the metric;
- c) Appropriate management methods and practices to achieve aims and objectives.
- d) Prescriptions for management actions;
- e) Preparation of a work schedule (including a 30-year work plan capable of being rolled forward in perpetuity);
- f) Details of the body or organization responsible for implementation of the plan;
- g) A monitoring schedule to assess the success of the habitat creation and enhancement measures at intervals of 1, 2, 3, 4, 5, 7, 10, 15, 20, 25 and 30 years;
- h) A set of remedial measures to be applied if conservation aims and objectives of the plan are not being met;
- i) Detailed habitat enhancements for wildlife, in line with British Standard 42021:2022 and the recommendations in Section 6 of the submitted Ecological Appraisal (baker consultants, October 2022); and
- j) Requirement for a statement of compliance upon completion of planting and enhancement works.

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

Reason:

In order to safeguard protected and/or priority species from undue disturbance and impacts, noting that initial preparatory works could have unacceptable impacts; and in order to secure an overall biodiversity gain in accordance with Policy PD3 of the Adopted Derbyshire Dales Local Plan (2017).

These details go to the heart of the planning permission and are required before the commencement of any development.

Correspondence from agent

The agent has sent the following correspondence in regard to proposed conditions and bus stop improvements and associated footway connections:

“I can confirm that we are happy with the pre-conditions 3-12.

However, regarding condition 16, can I reiterate that we will find it highly problematic to implement a scheme of bus stop improvements and associated footway connections as the IOQ does not own the bus stop land nor the land leading up to the bus stop. That is not to say that we won't endeavour to implement a scheme, but we do not have the authority or power to implement works not on IOQ land.”

Officer response:

The proposed improvement works anticipated by planning condition 16 are anticipated to be carried out either on land within the ownership of the applicant or within the highway. Therefore there is a reasonable prospect of these works being able to be carried out. Planning condition 16 is therefore a Grampian condition (negatively worded) to give flexibility to the precise nature of the works to achieve satisfactory improvements.

ITEM 5.7 – CHANGE OF USE OF LAND FOR GLAMPING SITE COMPRISING THE SITING OF 10NO. BELL TENTS, 10NO. SHEPERD HUTS / TIMBER PODS, 4NO. BATHROOM UNITS, 2NO. WOODLAND LODGES AND OPERATIONS COMPRISING CREATION OF A TRACK, CAR PARK, ANCILLARY BUILDINGS AND ASSOCIATED LANDSCAPING AT LAND EAST OF TURLOWFIELD LANE, HOGNASTON.

The agent has sent the following correspondence:

“I would be grateful if the following comments are made available to the Committee.

Section 5 contains the comments of the Parish Council, set out as a number of bullet points. I would make the following comments in respect of each of the points raised by the Parish Council:

1. This is agricultural diversification in a broad sense - in accord with Government advice.
2. Where is the Parish Councils evidence of 'the threat of over-commercialisation'?
3. The site is certainly not over-developed.
4. We note that the highways officer raises no objection to the development.
5. There will always be a duty manager available to manage the site. The Parish Council and close neighbours will be provided with the contact number for the duty manager in case an issue was to arise.
6. Foul sewage issues can be dealt with by condition.
7. The ecology report has been updated to take account of the badger sett.
8. We agree that the boundary trees and hedges should be reinforced with new planting.

9. The issue of the power supply is not a planning consideration.

Paragraph 5.7 - Landscape and Trees. There seems to be a misunderstanding that the applicant proposes to remove existing hedgerows. This is certainly not the case. A few recently planted poplar trees will be removed, but the applicant is also proposing to plant additional trees and hedging within and around the boundaries of the site. The Landscape Officer suggests that a Arboricultural Method Statement could be required by condition - we agree.

We note the conclusion at 7.12 that the site can accommodate the proposed development without harm to the character and appearance of the area - subject to additional landscaping. This makes the recommendation for refusal somewhat surprising.

Paragraph 7.15. The statement that existing hedgerows would be removed to facilitate the development is simply wrong.

Paragraphs 7.21-7.23. There is clearly scope for biodiversity net gain within the site. This is a matter that can be dealt with by conditions (alongside landscaping).

Paragraph 7.26. We welcome the suggestion of a planning condition to control the location of pitches to minimise any adverse impacts on nearby dwellings.

Paragraph 7.27. We welcome the suggestion of a planning condition to deal with foul drainage.

Paragraph 7.29. We welcome the suggestion of a condition to secure a scheme of climate change mitigation measures.

In conclusion, I return to the comment made by Hognaston Parish Council that; "the applicant appears to have a driving ambition to secure a residential dwelling on this site". This is an intemperate and unreasonable comment from the Parish Council to cast doubt on the intention of the applicant. There is no proposal for a residential dwelling on this site, so the comment is plainly wrong as a matter of fact. The applicant does want to create a new tourist related business which will create employment and economic activity in the area, supporting existing employment in the leisure and tourism sectors and creating new job opportunities, particularly for young people in the area. We make no apology for this, which broadly accords with national and local planning policies.

One might reasonably ask what the Parish Council is doing to support economic development in the area?"

Officer response:

The response from the Parish Council is set out in section 5.1 of the report. The Officers appraisal is set out in section 7 of the report and deals with the issues raised.

In regard to hedgerows, the application is not supported by an Arboricultural Impact Assessment (AIA), however, a comparison of the submitted existing and proposed block plans does indicate that hedgerows are proposed to be removed. The comments of the Trees and Landscape Officer are set out in section 5.7 of the report.

