

Appeal Decision

Hearing held on 30 July 2025

Site visits made on 29 and 30 July 2025

by K Stephens BSc (Hons) MTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 23 September 2025

Appeal Ref: APP/R1038/W/25/3361536

Land north of Burns Drive and east of Southfield Drive and on the northern and southern sides of Chesterfield Road, Dronfield S18 1YP

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by W Redmile & Sons Limited against the decision of North East Derbyshire District Council.
 - The application Ref is 23/00932/FUL.
 - The development proposed is full planning application for residential development of 132 dwellings (Use Class C3), with highways, landscaping and associated works.
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Decision

1. The appeal is dismissed.

Applications for costs

2. An application for costs was made by W Redmile & Sons Limited against North East Derbyshire District Council. This application is the subject of a separate Decision.

Preliminary Matters

3. At the Hearing the parties submitted a final draft planning obligation pursuant to Section 106 of the Town and Country Planning Act 1990 (as amended) (the S106). However, as it was not signed, a date for the submission of the signed S106 was agreed. A signed S106 has now been submitted, but it has not been dated. As the appeal is being dismissed for other substantive reasons, it has not been necessary for me to pursue the matter.

Main Issues

4. The main issues in this appeal are:
 - Whether the underground storage tank would be inappropriate development in the Green Belt; its effect on the openness of the Green Belt and purposes of including land within it; and if inappropriate, whether any harm by reason of inappropriateness, and any other harm, would be clearly outweighed by other considerations, so as to amount to the very special circumstances required to justify the proposal;
 - Whether the proposed development provides sufficient compensatory improvements to the environmental quality and accessibility of the remaining Green Belt;

- The effect of the proposed development on the character and appearance of the area;
- Whether the proposed development would provide acceptable living conditions for existing occupants of properties along Burns Drive and future occupants of the new housing, with regard to privacy and overlooking, and
- Whether the proposal would make adequate provision for affordable housing.

Reasons

Whether the underground tank is inappropriate development in the Green Belt

5. The government attaches great importance to the Green Belt. Paragraph 153 of the National Planning Policy Framework (the Framework) states that 'inappropriate development' in the Green Belt is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. Development in the Green Belt is inappropriate unless it falls within one of the exceptions set out in Framework paragraph 154, and paragraph 155 if applicable.
6. Policy SS10 of the North East Derbyshire Local Plan (the Local Plan) seeks to ensure that inappropriate development in the Green Belt will not be approved except in very special circumstances and lists various exceptions to this. I am satisfied that Policy SS10 is broadly consistent with the Framework.
7. A large 'Carlow' concrete underground drainage tank, measuring approximately 72 metres long x 14 metres wide and 2 metres deep, would be installed in the adjacent field as part of the surface water drainage infrastructure system for the proposed housing development. The land on which the tank would be sited is part of a larger field located outside the settlement development limit of Dronfield, in the open countryside and within the Green Belt. The land clearly contributes to the openness of the Green Belt.
8. The parties do not dispute that significant ground excavations would be required to create a hole big enough to accommodate the tank and then cover it over with earth and reinstate the slope profile of the field. The parties agree that these excavations would constitute "engineering operations" under Framework exception paragraph 154h)ii). However, to be considered not inappropriate the engineering operations must also preserve the openness of the Green Belt and not conflict with the purposes of including land within it.
9. The tank is a large urban-type feature and the excavations for it would be undertaken on land that is currently free of built development. The excavations would likely need to be undertaken, and the tank made operational, before any of the dwellings or apartments were occupied. Thus the ground works/excavations would be temporary and would likely be a relatively short-lived operation.
10. At the Hearing I asked for the sections to be explained to me in order to better understand the works. I heard that once the tank had been installed underground, the ground over it would be made good and the slope profile of the field reinstated. When finished, on the surface of the ground and approximately flush with it, there would be 4 manhole covers each about 600mm in diameter, that would give access to vertical shafts down into the tank for maintenance observations. It was confirmed there would be no vertical elements on the ground and that afterwards the land would look very similar to what it looks like now. The resulting installation

would therefore not be a feature on the surface of the ground and would have no impact on the spatial or visual openness of the Green Belt. Hence, I am satisfied that the openness of the Green Belt would be preserved.

11. Framework paragraph 143 sets out the five purposes of the Green Belt. Due to the tank's subterranean location, with the 4 manhole covers on the surface after installation, the tank would not conflict with any of the purposes.
12. To conclude on this main issue, the installation of the underground storage tank would be an 'engineering operation' under exception paragraph 154h)ii) of the Framework, but openness would be preserved and there would be no conflict with the purposes of including land in the Green Belt. It therefore follows that the underground tank would not be inappropriate development in the Green Belt in accordance with the terms of the Framework. Accordingly, the underground tank would comply with Local Plan Policy SS10.
13. As the proposed underground storage tank would not amount to inappropriate development in the Green Belt, there is no need for me to consider whether very special circumstances exist.

Green Belt Compensatory Improvements

14. Green Belt completely encircles Dronfield. The appeal site is rectangular and forms part of a larger L-shaped parcel of land that was removed from the Green Belt as part of the Local Plan process for allocation of the site for housing (as site DR1)¹. Where land is removed from the Green Belt the Framework expects local planning authorities to positively enhance the beneficial use of the remaining Green Belt, such as looking for opportunities to provide access; provide opportunities for outdoor sport and recreation; and retain and enhance landscapes, visual amenity and biodiversity. This is echoed in paragraph 4.71 of Local Plan Policy SS10.
15. Furthermore, Local Plan Policy LC1 and its supporting paragraph 5.19 state that in order to off-set the effect of removing land from the Green Belt for allocated sites, compensatory improvements to the environmental quality or accessibility of the remaining Green Belt will be required where appropriate. The Policy does not elaborate or indicate what type of measures would be expected for each site, but the term 'where appropriate' would seem to suggest some flexibility and that the specifics of the site, its location and context would play a factor. I heard at the hearing that the Council expects compensatory improvements to be considered by developers on a site by site basis and that the remaining Green Belt was the adjacent field.
16. At the time the application was determined, guidance on compensatory improvements was found in the national Planning Practice Guidance (the PPG). This set out what improvements could entail, such as new or enhanced green infrastructure; woodland planting; landscape and visual enhancements (beyond those needed to mitigate the immediate impact of the proposal); improvements to biodiversity; new or enhanced walking and cycle routes, and improved access to new, enhanced or existing recreational and playing field provision.

¹ Allocated site DR1 is referred to in Policy LC1 as 'Land off Shakespeare Crescent & Chesterfield Road' - the whole allocated site extends beyond the appeal site's southern boundary to abut dwellings on Shakespeare Crescent.

17. The PPG has since been updated² and no longer expressly includes the previous list of suggested measures. It now requires that consideration should be given to whether the release of the land would affect the ability of the remaining Green Belt across the area of the plan from serving all five purposes of the Green Belt in a meaningful way³. However, the parties were of the view that the previous PPG still offered a useful starting point.
18. The parcel of land to the north side of Chesterfield Road, which is within the application site, is within the Green Belt and is proposed for Biodiversity Net Gain⁴. It is currently grassland and the appellant proposes a 10% biodiversity gain with a mix of native species and shrubs and areas of wildflowers. The Derbyshire Wildlife Trust has advised that this parcel of land could be used to secure meaningful net gains, as enhancing this land would create a relatively species-rich grassland, separate from the public open space offering. The Council has accepted this.
19. Whilst these measures would be coming forward as part of the proposed housing development, the biodiversity net gain would nonetheless be an improvement to the environmental quality of the Green Belt, on land very close to the site, even if it is not the adjacent field to the east. It is unlikely the proposed land would be the subject of biodiversity net gain measures on its own without the prompt of the proposed housing on the other side of the road. Therefore, I consider the biodiversity measures for the parcel of land on the north side of Chesterfield Road would qualify as a Green Belt compensatory measure in this instance.
20. The appellant proposes a number of other improvements they consider are Green Belt improvements, such as planting a green buffer some 7-10 metres wide that would be located between the hedgerow along the Public Right of Way (PRoW) no.68 and the housing to help soften the transition between the proposed built form and the Green Belt in the adjacent field. Existing trees, including 2 oak trees within the site and those with Tree Preservation Orders and boundary hedges would be retained; new green spaces created within the site and some native species and shrubs would be planted along the spine road. However, I consider these are the types of mitigation measures one would ordinarily expect to be provided on any proposed housing site as part of good planning. Moreover, these measures would be on land that is no longer within the Green Belt and would not be improvements to the Green Belt itself and hence could not be regarded as Green Belt compensatory measures.
21. New or enhanced walking links would involve footpath links from the ends of the cul-de-sac of proposed roads 1 and 2 onto the existing PRoW no.68 that runs alongside the site's eastern boundary with the adjacent field. This would allow future residents slightly quicker access onto the PRoW that runs along the edge of the Green belt, rather than having to go down to Chesterfield Road and along, so is a very modest enhancement to accessibility of the Green Belt.
22. At the hearing I heard that cyclists leaving the appeal site would have to join Chesterfield Road to cycle into Dronfield. To access the existing cycle path that lies within the Green Belt between Dronfield and Unstone a tactile dropped kerb would be provided, but users would still have to cross Chesterfield Road with their bikes

² 27 February 2025

³ As the allocated housing site was released from the Green Belt before the revised Framework was published in December 2024, the 'Golden Rules' do not apply.

⁴ As the planning application was submitted before 4 February 2024, there are no mandatory requirements for Biodiversity Net Gain under Schedule 7A (Biodiversity Gain in England) of the Town and Country Planning Act 1990.

to get to the cycleway, with no formal crossing or even a refuge. I do not regard a very limited section of tactile paving to the edge of a busy road as a meaningful improvement to cycling accessibility to the Green Belt. Whilst the appellant's modelling projects that very few future residents would cycle, it was confirmed at the Hearing that no new cycle links would be created.

23. The appellant refers to a proposed footway extension from the proposed site to the existing pavement along Chesterfield Road to the recently upgraded play facilities at Cemetery Road. Whilst the footpath would allow future residents to walk along Chesterfield Road without crossing it and walk more safely towards the play facilities, the improvements are not within the Green Belt. Furthermore, this footpath link would be a measure one would expect to see as a basic requirement to link a new housing development with existing facilities, regardless of whether the site and facilities are within the Green Belt or not. The S106 would provide financial contributions for various sports and recreation facilities in the local area, but these are within the urban confines of Dronfield and not within the Green Belt.
24. Overall, these other proposed measures would not be compensatory improvements as they are not in the Green Belt, nor do they go beyond measures to ordinarily mitigate the immediate impacts of the development.
25. However, there is nothing in Local Plan Policy LC1 to specify the number or types of measures that should come forward when redeveloping allocated site DR1, merely measures "where appropriate". In the absence of substantive evidence to the contrary, I am of the view that the biodiversity net gain proposed for the parcel of Green Belt on the north side of Chesterfield Road would be an appropriate environmental compensatory improvement to the Green Belt. Accordingly the proposal would comply with Local Plan Policy LC1.

Character and Appearance

26. The appeal site is grazing field comprising two fields separated by a post and wire fence and a few individual trees. It rises steeply up from the Chesterfield Road behind a low stone wall and mature hedgerow along the southern and eastern boundaries. It is on a main route into Dronfield along the valley. I saw that the site is part of a larger swathe of fields, countryside and woodlands between Unstone and Dronfield. With the appeal site and adjacent fields, mature hedging and little development on this stretch of Chesterfield Road and none opposite the site on the north side of Chesterfield Road, there is a rural and verdant character and appearance to the area at this entrance point to Dronfield.
27. This is reinforced by the fact the area beyond the site lies within the 'Wooded Hills and Valleys' character type within the South Yorkshire, Nottinghamshire and Derbyshire Coalfield National Character. It is characterised by a landscape dissected by the River Drone in the valley with steeply sloping valley sides, mature hedgerows and blocks of mature woodland with occasional scattered farmsteads and network of country land, footpaths and connections.
28. The buildings I saw along Chesterfield Road were predominantly two storey, save for a small three-storey block closer to the town centre and a few dwellings, which residents at the hearing also mentioned. The existing housing development on the adjacent Southfield Mount steps down the hillside, partly screened by existing hedging, as is the housing in Burns Drive, along the site's southern boundary. As a

result the existing built development is somewhat screened and provides a transition between the built form of Dronfield and the surrounding countryside.

29. However, as part of the Local Plan and allocation of housing DR1 the settlement development limit boundary around Dronfield was redrawn to run along the site's eastern boundary with the adjacent field. The entire appeal site is open and visible from Chesterfield Road and when approaching and leaving Dronfield in either direction. When built out with housing, the allocated site will become the new interface and built-up edge to Dronfield and become the new transition point between the urban and rural area.
30. Policy LC1 sets an indicative capacity of 160 dwellings for allocated site DR1. However, the appeal site does not include the entire allocated site - it excludes the parcel of field to the south of the site at the top of the slope, although the land is in the appellant's ownership. The proposed development, as amended, is for 132 dwellings on part of the allocated site DR1.
31. There is no dispute between the parties, or the design specialists⁵ that have been involved in offering advice, that the slope of the site, at approximately 1 in 6, offers technical and design challenges, as does the site's location at the entrance and leaving point of Dronfield at this transition between the urban built form and the adjacent countryside. Local Plan Policy LC1 offers some acknowledgement of the challenges affecting site DR1 in that *"The site has considerable sloping gradient down to Chesterfield Road, as well a difference in levels between the site and the highway. This would need to be given consideration in the layout and design of a development proposal. Green infrastructure should be provided to help new development integrate into the landscape. There are also trees protected by TPO No7 along the north-western boundary and western boundary of the site and in the southwest of the site. These should be retained within the layout in line with policy SDC2. Any site layout should incorporate appropriate provision for the public right of way which is within the site area"*. Policy LC1 therefore offers broad commentary about the various allocated sites, but does not offer a detailed prescription of how to design a proposed development on any of the sites, as there are other policies in the development plan that do this and the Council has the "Successful Places: A Guide to Sustainable Housing Layout and Design" supplementary planning document (the Design SPD).
32. The appellant has had the benefit of substantial advice from design specialists at both pre-application stage and during the Council's determination of the application. The Design Midlands Review Panel (Design Midlands) met with the appellants and offered 8 pages of detailed commentary, some of which the appellant incorporated into the scheme submitted as the planning application. The Council then sought the advice of design consultants PJA. Their design review commentary ran to 34 pages of general and specific advice, followed by an addendum following some changes.
33. A common factor of the design specialists and the Council is that the design has been driven by a technical response of constructing an adoptable road layout, based on the advice of the Highways Authority that for adoption purposes they would only accept a longitudinal gradient of 1:12, instead of a place-based approach. As a result, a diagonal spine road runs across the site from the bottom north west corner to the top south east corner with 4 cul-de-sacs off it on linear

⁵ Before submitting the application, the appellant used the Design:Midlands Design Review Service, and later the Council commissioned consultants PJA to provide a summary review of the submitted planning application.

alignments. This has resulted in fairly straight rows of houses, which would have a fairly linear roofscape, and a predominance of split level three-storey dwellings rather than the more modest mix of dwellings found nearby. There would also be a line of three-storey blocks of apartments along the street frontage set on land at a higher level than the road, which would dominate Chesterfield Road, which is a main approach route in/out of Dronfield. Most houses would tend to have driveways and garages to the front, rather than to the side. Hence the houses, many of which would be three storey, would be located close together, in rows, and would appear as a dense built form up the hillside. As a result the proposal would result in a harsh and overly urbanised form of development at the new town edge and boundary with the countryside. This would be at odds with the prevailing semi-rural character of the area and more modest size of properties in the area.

34. I have found the submitted Design & Access Statement (the DAS) to be limited in its description of how the site has been developed. It lacks a basic site and context analysis, no meaningful consideration or assessment of site opportunities and constraints, and little to explain how the scheme has evolved as a consequence, apart from stating "*The existing site topography has a gradient of 1:6. Therefore the topography dictates the road pattern*", and plans showing the spine road diagonally crossing the site. Whilst there is no doubt that the layout and arrangement of the roads is a significant part of the layout and the topography is a design challenge, I find the lack of basic site and context analysis has limited the overall scope and success of the design of the proposed development.
35. The Council's SPD is a comprehensive document with a wide range of design advice. It contains a 4-step approach on designing a development that involves 1) Understanding the place, 2) Develop site design principles, 3) Develop the design concepts, and 4) Detailed design work. From my consideration of the scheme and the evidence submitted, this has not been done.
36. The comments from Design Midlands and PJA and the Council's summary of the main design concerns in its Appeal Statement are comprehensive and provide adequate articulation and explanation as to the shortcomings of the design of the development. I do not intend to repeat them all here.
37. I concur with the design specialists that had the detailed analysis and assessment been undertaken, fully exploring the constraints and opportunities that the site presents, this would then have better informed and driven the approach and the design concept, such that the outcome would have been a scheme that would respond more appropriately to its context and create a strong sense of place.
38. The appellant has endeavoured to engage with the Council and made some changes to the layout, taking on board some of the comments from the various design advisors throughout the process. However, these amendments have created other knock-on issues. For example, relocating the car parking for the apartments from the front of the site to the rear of the apartment blocks would improve the frontage of the site and its relationship with Chesterfield Road. However, the way the car parking has then been designed at the rear has created a large car park for residents to overlook, but with little integrated landscaping or spaces apart from a few trees planted along road 2, such that the amendments were not wholly successful. Relocating the car park also allowed the apartment blocks to be reconfigured. The two end blocks would now be cranked, one to surround an amenity tree that would be retained and the other to stand over the

open space near the site entrance, and which has later become the space intended for the locally equipped play area (LEAP). However, this repositioning would exacerbate the height and scale of the apartment blocks on the sloping ground and to the road, and present overbearing elevations to the street scene, with large areas of blank brickwork below ground floor windows, that would result in a poorly designed frontage that has little regard for the prevailing development in the area.

39. The fact the appellant amended the design to retain two oaks trees with high amenity levels, and created a 'buffer' along the eastern boundary to soften the edge of the development, and another one the on the western boundary to improve the relationship with the existing dwellings in Southfield Mount, further indicates to me a lack of understanding of the site and its relationship with existing development and the wider surroundings.
40. I find there is no compelling evidence that, even if the spine road has to go across the site to be adoptable, that the secondary side roads have to all be cul-de-sacs, or the same width as the spine road, or that they could not be shared surfaces, or of varying widths to accommodate landscaping. Most trees along the spine road would be within the small pockets of open space, and those along the side roads are in front gardens where there would be little control of their maintenance and even survival.
41. The design overall lacks meaningful open space for future residents to use and to provide a focus for the development. There are small areas along the spine road, some with benches, intended as connecting green nodes. However, they do not connect as they are separated by road junctions and houses. They appear to be located as left-over spaces on corners where a dwelling cannot be sited. The open space at the site entrance appears as a limited landscaped setting to the gateway block. However, if it is to be for a LEAP then it appears as an after-thought, especially as it is not shown on the plans. I find this another indication of how the overall design has not been comprehensively considered from the outset.
42. The two buffer zones, created as a result of later amendments, lack purpose and it is unclear if these are part of the overall communal offering of open space. In the eastern buffer zone garden fences have been awkwardly contrived and angled to avoid the retained tree such that the tree is not meaningfully integrated into the buffer zone, although it would be surrounded by fewer dwellings than initially designed. It is not clear what function the buffer adjacent to Southfield Mount plays, apart from relieving the previous close proximity of new housing to their garden boundaries. This is another example of a response made to one situation that then created other issues because of a lack of detailed initial site and context analysis.
43. There is limited connectivity through the site. Residents would have follow the cul-de-sacs and spine road. There are no cross links for pedestrians or cyclists, other than to walk the cul-de-sacs and spine road, and the links through the eastern hedge onto the PRow. The buffer zones do not appear to provide an obvious connection purpose. I have already referred to the lack of connection to the existing cycle network.
44. The Council's Design SPD offers clear advice on settlement edges and how to achieve a transition, such as grading development and reducing its scale near to the edges, more planting between plots, and dwellings orientated to face outwards to address the countryside. Instead the buffer uses the existing hedge as screening

but merely pushes the houses back and they do not look towards the countryside or provide any natural surveillance of the green buffer open space. The settlement edge at the front of the site does the opposite of the design advice by increasing the density and scale with the blocks of apartments, thus introducing a severe and abrupt urbanisation of the site at this transition point that would be out of keeping with the prevailing form of development.

45. The appellant may well have developed the houses in Burns Drive and helped shape this part of Dronfield, but that is a different site, location and context to the current appeal site and proposal.
46. The Council regard the lack of a sustainable drainage system (SuDS) within the design of the scheme to be regrettable and that it has not been adequately explained why SuDS features cannot be incorporated into the design in order to mitigate the effects of climate change. Local Plan Policy SDC11 requires developments to incorporate SuDS to manage surface water drainage, unless it has been proven that SuDS is not appropriate. The proposal includes the underground tank for the storage of surface water and due to the topography of the site the appellant advises there are limited SuDS options. The appellant has added SuDS pods for rainwater treatment to individual rainwater pipes to help mitigate surface water drainage across the site. Whilst the appellant may not have definitively proven that SuDS will not be appropriate to the satisfaction of the Council, the Flood Authority is content with the drainage proposals, subject to conditions. In the absence of substantive evidence to the contrary I am satisfied that appropriate drainage measures have been designed, despite some conflict with Policy SDC11.
47. Drawing the various points together, I find the appellant has tended to address various issues raised by the Council in an isolated manner and this has then created consequential new issues. These knock-on effects stem from a failure to have first meaningfully and properly understood the site and its context and to not have undertaken a full and proper assessment using the Council's 4-step approach clearly set out in its Design SPD. This had led to a series of piece-meal changes to individual aspects or parts of the site, which have in turn generated other design issues. Whilst there might be localised improvement to part of the design, the overall proposed development has not been substantially improved.
48. I find the proposal would be an inappropriate design response that would fail to satisfactorily respond to the character and appearance of the area and would result in development that is not well designed. Accordingly, the proposed development would be contrary to Local Plan Policies SS1, SDC3 and SDC12 and Policies ENV2 and D3 of the Dronfield Neighbourhood Plan (the DNP). Collectively these seek, amongst other things, to create well-designed places that reinforce local character and a sense of place and make a positive contribution and relate well to the surrounding character, landscape and historic context.
49. The Council has confirmed that Local Plan Policy SC7 is not relevant – it relates to development on unallocated sites, which the appeal site is clearly not.

Living conditions

50. Due to the sloping topography of the site and surrounding area, existing dwellings and gardens of properties along Burns Drive would be on higher ground than the proposed dwellings and their sloping gardens that would be sited along Road 4 at

the top of the site. Some of the properties on Burns Drive have built high-level decking platforms at the end of their gardens, which take advantage of views across the site and towards the other side of the valley. In particular proposed plots 41, 42, 43 and 49-50 would back onto these existing particular properties in Burns Drive.

51. Local Plan Policy SDC12 seeks, amongst other things, to ensure high quality design, and in particular part e) seeks to protect the amenity of existing occupiers and create a good quality of amenity for future occupants, including in relation to issues such as privacy and overlooking. Policy D3 of the Dronfield Neighbourhood Plan (the DNP) expects development not to adversely impact on general amenity. The Framework also states that places should be well designed with a high standard of amenity for existing and future users.
52. The Council's Design SPD states that proposals should ensure a satisfactory level of privacy with existing dwellings and advises a minimum separation distance of 21 metres between facing habitable rooms. There is no dispute between the parties that this distance and relationship would be met.
53. The Council does not have any specific separation distances for scenarios where gardens and houses are on different ground levels with implications for overlooking of gardens. Whilst it acknowledges the 21-metre standard is not directly applicable to privacy of gardens, it has used it as rule of thumb to conclude that distances are not enough in this sloping-scenario. This, in my view, is a reasonable approach to take. Indeed, the Council's Design SPD advises that minimum separation distances should be applied having regard to the particular site conditions and context. It goes on to state that as a result, distances may need to be relaxed or increased depending on specific circumstances, such as location or topography, and for example on "*sloping sites where the difference in levels would aggravate overlooking problems*".
54. The PJA review of the originally submitted scheme also commented on the elevated position of the existing dwellings and amenity spaces created at terraced level, and that the proposed dwellings should be set further back to ensure the privacy of future residents. The appellant's response, and reiterated in the PJA review of the amended scheme, was effectively that moving the dwellings a few metres further away would make little difference to overlooking.
55. From the evidence and my own site visit observations, I regard the relationship of these existing and proposed properties over these distances would be such that future occupiers could be looked down on and experience a perception of being looked down on from the rear gardens and terraces of Burns Drive above them, which would create an overall loss of privacy. In addition, future residents in upstairs windows would be able to look across towards the existing garden/decking areas of some of the Burns Drive properties. As a result there would be mutual overlooking and loss of privacy that would harm the living conditions of some of the existing and future occupiers of these properties.
56. Therefore, whilst there are no prescribed minimum separation distances for these particular circumstances, the Design SPD affords the opportunity to design a layout that would better respond to site specific to ensure the proposed development would not adversely affect amenity and living conditions. This has not been done.

57. The appellant suggests that this boundary could be landscaped with trees and shrubs. Due to the difference in ground levels, the trees would need to be tall and would take time to mature before they would provide any meaningful privacy screening. The landscaping would also take up space in the limited garden space and thus likely reduce proposed garden sizes. Being on the south west boundary, any trees would also likely have further implications for overshadowing the proposed rear sloping gardens. Hence landscaping and planting trees along this boundary with Burns Drive would not provide adequate mitigation to secure mutual privacy or overcome overlooking in this instance. Whilst future occupants would see and be aware of the relationships between the properties when they bought them, this would not overcome the poor built form and lasting concerns I have identified.
58. Thus the proposed development would not provide acceptable living conditions for some existing occupants of properties along Burns Drive and future occupants of the affected plots with regard to privacy and overlooking. Accordingly, this would be contrary to Local Plan SDC12(e) and DNP Policy D3, whose aims are set out above. It would also be contrary to the Framework and the advice in the Council's Design SPD.

Affordable housing

59. Local Plan Policy LC4 states there is a need for a mix of homes of different types and tenures to meet the requirements of a range of household sizes, ages and income across the district. This is supported by the Framework which states the overall aim should be to meet the area's identified housing needs including with an appropriate mix of housing types for the local community. DNP Policy HOU2 recognises the need for a wide range of house types to help people get on the property ladder and account for the under-occupancy of some larger properties by elderly households, as well as the need for specialist housing and bungalows.
60. The proposed development would provide a mix of house types, sizes (based on number of bedrooms) and designs comprising dwellings and apartments, and a provision of 1, 2, 3, 4, 5 and 6-bed units across the site. There would be 80 dwellings (19 of which would be 3-bed units and 61 would be 4+ units) comprising a mix of bungalows and detached, and semi-detached houses. There would also be 52 apartments (30 of which would be 1-bedroom units and 22 would be 2-bedroom units) provided in five detached, 3-storey blocks, along the front of the site. In addition, the appellant will provide 20% of the units across the site to be made available for accessible and adaptable dwellings, to meet the requirement M4(2) of the Building Regulations, as required by Local Plan Policy LC4.
61. The Strategic Housing Market Assessment has identified the need for specific types of housing and recommends the size mix (based on number of bedrooms in a property) and in relation to the mix of market housing, affordable home ownership and affordable rented housing. This is set out in Table 5.1 of Local Plan Policy LC4.
62. In its submitted evidence the Council has calculated the number of each dwelling size recommended in Table 5.1 against the number actually proposed. The parties accept that the figures in Table 5.1 are not targets for each individual site, as there may well be specific physical site constraints that may limit the range of housing. However, it is an evidence-based policy that is a good starting point in order to

create a mix of housing types and tenures across a site. The figures are also used to monitor delivery.

63. When comparing the proposed housing mix against the suggested mix in Table 5.1, the proposal would see an over-provision of 1-bedroom units (all of which would all be apartments) and 4+ bedroom dwellings. There would also be an under provision of 2 and 3 bedroom houses.
64. To justify the provision of 1 and 2-bedroom apartments, the appellant referred me to the North East Derbyshire Housing Needs Assessment⁶ (the HNA). Whilst there is evidence for a higher need for 1 and 2-bedroom homes for affordable rent and nationally 82% of all 1-bedroom homes are flats, this does not translate into the provision of all the 1 and 2-bedroom homes as apartments. When considering whether to provide flats or houses, the HNA recommends a combination of both.
65. Policy LC2 requires 30% affordable housing. The appellant is proposing to provide 41 affordable homes, which just exceeds to the policy requirements. The Council's report to its Planning Committee stated that the appellant had agreed to provide the 30% on site, although the specific mix and tenure had yet to be agreed and would form part of the forthcoming S106 agreement.
66. However, from the appellant's appeal statement it now transpires that only 31 units would be provided on site – in the form of 20 x 1-bedroom and 11 x 2-bedroom affordable apartments - and a S106 contribution would be provided in lieu of the difference. Whilst the Council has expressed its concerns with this, it has signed the S106, which has mechanisms that would allow for a commuted sum to be paid to the Council should the appellant be unable to secure a Registered Provider and not be able to provide all of the affordable housing on site, and provides the Council with controls to seek as many affordable units on site as possible.
67. That said, the entire affordable provision would be in the form of 1 and 2-bedroom apartments, with no affordable units provided as houses with gardens. Using table 5.1 in Policy LC4 the Council has calculated there would be an over-provision of affordable 1-bedroom units, and an under-provision of 2-bedroom affordable units, and there would be no 3-bedroom or 4-bedroom affordable units provided at all.
68. The Council stated in its report to the Planning Committee that it's preference would be for the majority of the affordable units to be for affordable rent, with a smaller percentage for affordable home ownership. However, all the affordable units would be for affordable rent, with none at all offered for affordable home ownership.
69. The appellant has not advanced any exceptional reasons, change in circumstances or viability issues since the application was determined to justify this stance and deviation from Policy. The appellant states in their appeal statement that some bungalows and semi-detached houses had been considered as affordable homes, but their size and change in levels made them unsuitable. There is no substantive explanation as to why size was an issue or indeed why the house types across the site could not be made a size more suited to affordable housing, especially when there is an under provision.

⁶ October 2024

70. All of the affordable units would be located in 3-storey apartment blocks aligned along the front of the site. The three middle blocks would all be 1-bed units with no mix within each block. Having the affordable housing all as one type (i.e. apartments) and all sited together may make maintenance and access easier for a Registered Provider. Building the affordable units as apartment blocks at the front of the site might also mean the affordable housing could be delivered together and possibly quicker, than if affordable houses were built in different locations around the site, becoming available at different times as the site got built out. However, the over concentration of affordable housing in one part of the site and as one type of accommodation (blocks of apartments) and tenure, would not see a mix of affordable provision distributed in small groups or clusters throughout the site to create mixed communities, as required by Local Plan Policy LC2.
71. The Council also has concerns about the inadequate internal size of some of the affordable apartments. Policy LC2 does not specify minimum floor areas, and therefore the National Space Standards⁷ (the 'Space Standards') are applied. With regards the sizes of the apartments, the parties disagree as to whether all of the 1-bedroom units and some of the 2-bedroom units meet the Space Standards, with the disagreement focusing on the number of bedrooms, bedspaces, and hence the likely occupancy of the units.
72. The Space Standards make it clear that the number of bedspaces is a means of classification and does not imply actual occupancy or define the minimum number of occupants for any room in a dwelling. The Space Standards also give minimum dimensions of single and double bedrooms. The Space Standards specify in its Table 1 that a 1bedroom-1person flat should have a minimum gross internal floor area (GIFA) of 39m²; a 1bedroom-2 person flat a GIFA of 50m² and a 2bedroom-4 person flat a GIFA of 70m².
73. The submitted floor plans for the proposed 1-bedroom and 2-bedroom apartments all illustratively show double beds in each bedroom. Whilst occupancy cannot be controlled, a 1-bedroom apartment shown with a double bed could potentially accommodate 2 people and a 2-bedroom apartment showing 2 double beds could potentially have 4 person occupancy.
74. On this basis the proposed 1-bedroom units should be considered as having potential for 2 person occupancy, and the proposed 2-bed apartments as having 4 person occupancy. Therefore, not all of the proposed apartments comply with the Space Standards. As a result, future occupants would have insufficient internal living space and substandard accommodation, resulting in poor living conditions.
75. To conclude on this main issue, the proposal would provide 132 dwellings with a numerical policy-compliant amount of affordable housing, although not all of this would be provided on site. There would be an imbalance in the housing stock. All of the affordable housing would be in the form of 1 and 2 bedroom apartments, with no affordable 2, 3 or 4-bedroom houses when there is a need. Moreover, all of the affordable units would be for affordable rent, with no other units or houses available for home ownership. Furthermore, all of the affordable housing would be in apartment blocks that would be located in one part of the site and not spread across it. In addition, the GIFA of some of the affordable apartments would not meet the national Space Standards, leaving future occupiers with inadequate living

⁷ Technical housing standards – nationally described space standard (DCLG March 2015)

conditions. Therefore, the proposed development would make inadequate provision for affordable housing. Accordingly, the proposal would conflict with Local Plan Policies LC2 and LC4.

Other Matters

Heritage assets

76. In considering whether to grant planning permission for development which affects a listed building or its setting, section 66(1) of the Listed Buildings and Conservation Areas Act 1990 requires me to have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.
77. Unstone Manor House is a Grade II* listed farmhouse, located about 450 metres away to the east. According to the official listing⁸ it dates from the 1630 with 18th century alterations. It is two storeys and built of coarse squared rubble sandstone, with stone slate roof and various decorative and architectural detailing, with historic details and features also remaining inside. From the evidence and my observations I consider that the special interest and significance of the Unstone Manor House are largely derived from its architectural and historic interests in illustrating a 17th century vernacular manor house with farm. The use of traditional construction techniques and materials, along with surviving historic fabric make important contributions in these regards.
78. Special interest and significance also stem, in part, from the surroundings in which Unstone Manor House is experienced. I was able to walk the public footpath alongside the property and towards the fields at the rear. Set back from the road behind mature vegetation the listed building occupied a secluded location. As the footpath proceeded up the hill, views back to it were limited. Whilst Unstone Manor House may have once been part of a wider farming landscape, the appeal site and the land for the underground tank are physically and visually separated from the former farmstead complex by the intervening undulating topography, mature landscaping and other farm complexes and buildings. As a result, I find the proposed development would not adversely affect the setting of the Grade II* listed Unstone Manor House or harm its significance.
79. The site is also recorded as a heritage asset on the Derbyshire Historic Environmental Record as it encompasses an area of former medieval strip fields. The County Archaeologist advises that the extant hedgerows are likely to be historic. The appellant has submitted an updated report that identifies the impact and significance of the hedgerows. With regards below-ground archaeology the proposal would result in the potential loss of archaeological features that may lie below the remains of medieval agriculture. The County Archaeologist is satisfied that a written scheme of investigation can be secured by a pre-commencement condition, should the development be allowed.

Third party comments

80. I am aware from the evidence and what I heard at the hearing itself that the proposal has attracted substantial local opposition, including from local councillors, who raise a number of additional concerns. The Council's officer report

⁸ National Heritage List for England: list entry number 1335126 (formerly listed as Manor Hall Farmhouse)

summarised these representations and addressed the matters in its discussion of the various issues, as well as reporting the comments from consultees. Issues such as traffic, drainage, biodiversity, location, noise and odour are all important matters. However, from the evidence before me there are no technical reasons to warrant refusal and have no reason to take a different view to the Council and consultees on these matters. Therefore, given my findings in relation to the reasons for refusal and main issues, these are not matters that have been critical to my decision and there is no need for me to address them in my decision.

Planning Balance

81. A decision on whether to grant permission must be made in accordance with the relevant policies in the development plan, unless there are material considerations, such as those in the Framework, which indicate otherwise.
82. The Council is able to demonstrate it has a 5 year supply of deliverable housing land, which includes the appeal site as part of the allocated housing site DR1. The provision of 132 dwellings would therefore go a long way in helping the Council maintain its housing supply, in accordance with Local Plan Policy LC1. There would also be a mix of housing types and sizes across the site and 20% would be provided as accessible and adaptable dwellings. The proposal would also provide the 30% policy requirement of affordable housing that would be secured through a S106 legal agreement. With a shortage of affordable housing, the proposal would help reduce the Council's deficit. Therefore the proposal would comply with Local Plan Policies LC2 and LC4 and support the Government's objectives to significantly boost the supply of homes and provide homes of different size, type and tenure to meet housing needs of different groups in the community.
83. Being an allocated housing site in the Local Plan, the proposal has already been deemed to be in an acceptable and accessible location. There would also be benefits to the local economy connected with the construction of the development, including employment, and in future expenditure by residents.
84. There would also be environmental benefits in the form of 10% biodiversity net gain from the land to the north Chesterfield Road and retention of trees and hedgerows on site, as well as additional landscaping and tree planting, and Green Belt compensatory measures.
85. Whilst there would be some policy conflict with regards the lack of the substantive provision of on-site SuDS, the site can be adequately drained and there is no technical reason to refuse.
86. Together the benefits of the proposal carry significant weight. However, I have found that the design of the development would harm the character and appearance of the area in this new built-up edge for Dronfield adjacent to the countryside, despite the site being allocated for housing. As it would be contrary to local design policies it would conflict with the development plan as a whole. It would also be contrary to the Framework, which states that good design is a key aspect of sustainable development and creates better places in which to live and work and helps make development acceptable to communities. It goes on to say that development that is not well designed should be refused, especially where it fails to reflect local design policies, government guidance on design (in the National Design Guide) and taking into account any local design guidance and

supplementary planning documents such as design guides – in this case the Council's Design SPD.

87. The poor design would also result in harm to the living conditions of some existing residents in Burns Drive and future residents adjacent by reason of overlooking and loss of privacy. This would be contrary to the development plan and the Framework's aims of promoting good design with a high standard of amenity including for existing users.
88. There would also be an inadequate provision of affordable housing in terms of the mix, house sizes, types and tenure and there are no exceptional circumstances to justify why it would not all be provided on site. The gross internal floor areas of some of the apartments would not meet the national Space Standards, leaving future occupiers with inadequate living conditions. Therefore this aspect of the proposal would be contrary to the development plan and the Framework, again for failing to create places with a high standard of amenity and ensuring there is housing for different groups in the community.
89. Apart from the provision of affordable housing, the provisions and financial contributions in the S106 are required to mitigate the potential adverse effects from the development and the resulting extra people that would live in the area and use facilities. Hence, they cannot be regarded as a benefit.
90. Drawing all the points together, the proposal would be contrary to the development plan as a whole. There would be lasting harm to the character and appearance of the area and to living conditions of a number of existing and future residents. There would be an imbalance in housing and affordable housing provision in terms of size, types and tenure, to the detriment of the wider community, as well as some apartments being substandard in terms of internal floor area. The absence of harm to the Green Belt carries neutral weight in the balance.
91. For the reasons above I conclude that the appeal proposal would not accord with the development plan as a whole, and the material considerations I outline above, including the Framework, are not sufficient to outweigh this conflict. Consequently, the appeal should be dismissed.

K. Stephens
INSPECTOR

APPEARANCES:

FOR THE LOCAL PLANNING AUTHORITY:

Philip Robson	Counsel
Graeme Cooper	Principal Planning Officer BSc (Hons) MSc
Kerry Wright	Senior Planning Officer BSc MSc
David Cunningham	Tree Officer MICFor
Annabel Keegan	PJA BA(Hons) MA,CIHT

FOR THE APPELLANT:

Michael Fry	Counsel
Michael Edgar	Director, DLP Planning Ltd MRTPI
Jason Bolger	Architectural Innovation Ltd ONC HNC
Richard Bland	RAB Engineering Design Ltd HNC
Anna Meer	DLP Consulting Group BA (Hons) MILT

INTERESTED PERSONS that spoke:

Stephen Hallett	Resident
Shelley Hemsley	Resident
Marie Ireland (for Dr Clare Freeman)	Resident
Martin Hanrahan	Resident
William Jones	Ward Councillor
Alex Dale	County Councillor/Unstone District

Documents submitted at the Hearing

1. Statement read out by Marie Ireland on behalf of Dr Clare Freeman
2. Revised list of Core Documents

Documents submitted by agreement after the Hearing

1. Signed S106 agreement
2. Updated list of plans/location plan
3. Appellants' application for costs