



**23 February 2016**

**Agenda Item:8**

## **REPORT OF CORPORATE DIRECTOR – PLACE**

**BROXTOWE DISTRICT REF. NO.: 5/15/00786/CCR**

**PROPOSAL: 3 PHASE DEVELOPMENT TO DEMOLISH AND REPLACE AN EXISTING RESIDENTIAL BLOCK (KNOWN AS THE SCARLET UNIT) WITH A NEW BUILD SINGLE AND 2-STOREY ACCOMMODATION BLOCK (FOR RESIDENTIAL AND VOCATIONAL STAFF) AND TO CONSTRUCT A LINKED SINGLE AND 2-STOREY VOCATIONAL BLOCK WITH ASSOCIATED EXTERNAL WORKS INCLUDING A 5.2M HIGH BRICK WALL WITH SECURITY FENCING**

**LOCATION: CLAYFIELDS HOUSE, 18 MOORBRIDGE LANE, STAPLEFORD**

**APPLICANT: NCC CHILDREN, FAMILIES AND CULTURAL SERVICES**

### **Purpose of Report**

1. To consider a planning application to extend a secure residential unit for young people through the demolition and replacement of an existing residential block (known as the Scarlet Unit) with a mixed single-storey and two-storey extension (residential and office space), and the construction of a second mixed single-storey and two-storey extension (vocational education block and office space), with new secure boundaries (5.2m high brick wall and fencing) and associated landscape works at Clayfields House, Moorbridge Lane, Stapleford.
2. The key issues relate to the impact of the siting of the buildings on neighbouring property; the appropriateness of expanding a secure unit in a residential area (loss of privacy/security and safety issues); residential amenity impacts (noise, dust, traffic) associated with the construction/demolition works given the duration of the works; traffic impact, noise and lighting issues associated with the use of the new facilities; and ecological impact on a protected species, notably the determination of the planning application prior to completion of the recommended bat surveys, and coverage of this, together with the securing of any mitigation measures, by way of planning conditions. The recommendation is to grant planning permission subject to the conditions in appendix 1.

### **The Site and Surroundings**

3. Clayfields House is a secure children's home, providing 24-hour care for 18 vulnerable children between the ages of 10 to 17 years. The facility is located towards the north-western edge of Stapleford, approximately 1.5km north of Stapleford town centre. It is situated on the northern side of Moorbridge Lane, to the north-west of its junction with Pasture Road (B6003). The site is bounded

by semi-detached two-storey residential development on all sides, with property to the east and west in Devonshire Drive, and Egerton Drive and Hartwood Drive respectively, together with property to the north of the site in Trowell Park Drive, and finally, within Moorbridge Lane to the south (see Plan 1). Vehicular and pedestrian access to the secure unit is from a single entrance off Moorbridge Lane.

4. The application site comprises Clayfields House and detached workshop buildings, with a car park, set within mature landscaped grounds comprising amenity managed grassland, hardstanding, stands of mature and semi-mature trees and shrubbery.
5. The main built development occupies the central and southern part of the site, comprising a complex of relatively low level interconnected single-storey buildings, made up of three distinct blocks linked into a central octagonal block. The buildings are of brick construction, with hipped tiled roofs on a traditional pitch, to a maximum ridge height of 6.4m. The Scarlet Unit forms the eastern wing to the linked building situated to the north of the octagonal building and is made up of two elongated linear accommodation blocks, with a broadly L-shaped footprint. In terms of residential living accommodation, the Scarlet Unit provides six bedrooms with communal lounge, dining and kitchen facilities, as well as providing office space. The outdoor area around the Scarlet Unit within the secure fencing is a grassed amenity area. The complex of buildings also comprises an assembly hall/gym block, with an overall height of 8.2m.
6. The complex of buildings, which collectively make up Clayfields House, together with the outside compound area, and a separate 7.2m high workshop block to the north-western part of the site, are enclosed by a combination of perimeter Moss green weldmesh security fencing, and a mix of brick wall with fencing, both to a height of 5.2m. The remainder of the grounds within the secured fenced off area provides recreational space and outdoor play and social areas. Beyond the secured compound, in the north-eastern part of the site, there is an extensive car park, with the caretaker's workshop situated towards the northern boundary, with the remaining external area comprising substantial soft landscaping of grassed areas, shrubbery and mature trees of varying ages and species. To the northern and eastern boundaries, there is 1.8m high close-boarded wooden fencing, with a substantial band of semi-mature trees towards the northern edge of the site.

### **Relevant planning history**

7. The County Council has previously dealt with a number of planning applications at the site, including the development of a sports hall and teaching accommodation, which was granted planning permission in 1999 (Planning reference 5/99/00570/CCR), an extension to the office/administration area granted planning permission in 2003 (planning reference 5/02/00908/CCR), various fencing and lighting schemes, including the increase in the height of the compound fencing from 4.2m to 5.2m in 2007 (Planning references 5/99/00103/CCR, 5/01/00877/CCR and 5/07/00361/CCR) and the creation of a pump bike track and gardening area, which was granted planning permission in 2008 (planning reference 5/07/00652/CCR).

8. More recently, in October 2013, planning permission (planning reference 5/13/00548/CCR) was granted for a new entrance lobby/administration area to the main building, and for the construction of separate workshop facilities (for education and training purposes) towards the rear (north-western part) of the site. The development also included the installation of 5m high security fencing around the workshop facilities, an extension to the car park and associated external works.

## **Proposed Development**

### Background

9. The Planning Statement and Survey of Condition Report supporting the planning application underline the unsound structural condition of the Scarlet Unit and demonstrate the need for its replacement, as set out under these proposals.
10. The Scarlet Unit, constructed in 1970, is the oldest part of the Clayfields House complex and in more recent years has developed construction defects associated with the movement and cracking of masonry. Since 2009, the building has been subject to periodic monitoring by the County Council's structural engineer, supplemented by a detailed ground investigation in April 2012, the outcome of which is that the Scarlet Unit building is suffering from subsidence and structural failure, due to its construction on an unsuitable base material. The foundations beneath the outer wall of the Scarlet Unit building are constructed upon clay, with the accommodation block suffering from structural movement caused by the heave and shrinkage of the clay subsoil. The result is that settlement over time has led to the structural failure of the outer wall, to the point where its structural integrity has been compromised.
11. It is considered that remedial work to the existing building would not significantly improve matters over the longer term, and is financially unviable, due to the fundamental unsuitability of the material beneath the building's foundations.
12. Added to the structural failings of the building, regular Ofsted inspections have also highlighted the poor quality of the existing Scarlet Unit accommodation, and its inability to meet current regulatory and contractual requirements for secure care, with the facilities falling short of the national minimum standards for residential care, and Youth Justice Board contractual requirements, as set for providers of secure care.
13. Department for Education (DfE) funding has been sought to replace the Scarlet Unit, with an initial award having been secured to cover the design of the scheme, the application phase, and some enabling works to be undertaken during the current 2015/16 financial year. A further bid is currently being assessed by the DfE, for the necessary follow-on construction works, and the demolition of the existing Scarlet Unit building. A decision on this further bid for funding is anticipated to be made at the end of February 2016.

### Proposed development

14. Planning permission is sought for the development of a replacement residential accommodation block with ancillary staff facilities, together with the demolition of the existing Scarlet Unit building and in its place, an extension block for the provision of vocational education and office space. The construction and demolition works would take place in three phases of development over a period of two years, commencing in June 2016, with an anticipated completion date of May 2018. The existing secure unit and site would remain operational throughout the duration of the works.

#### Phasing of the development

15. The first phase of the development (scheduled for June 2016 to April 2017) would involve constructing a stand-alone two-storey building, with single-storey wings, to the north-west of the existing Scarlet Unit, over a period of 10 months, on an area of mixed amenity grassland and mature trees, currently situated outside of the secure compound area.
16. The new element would have a footprint of approximately 374 m<sup>2</sup> with a length of 34m (north-western and south-western elevations) and a maximum width of 11m (eastern and western elevations) and would be to a maximum ridge height of approximately 8.6m. The ground floor would provide secure residential accommodation and at the eastern end of the block would comprise a separate non-secure, flexible living space or step-down area. The enhanced residential accommodation block would comprise eight bedrooms, two of which would provide facilities for moving on or step-down facilities, with this part of the building having a separate external entrance. The first floor of the central two-storey block would provide 105 m<sup>2</sup> of office space for care staff.
17. Phase 2 of the development (scheduled for April 2017 to July 2017) would bring about the demolition of the subsiding Scarlet Unit over a three month period, freeing up its footprint space of 263 m<sup>2</sup>, following on from the secure transfer of young people to the newly completed residential block via a temporary secure enclosure. Prior to its demolition, a destructive asbestos survey would be carried out on the vacated building, to inform any necessary remedial measures needed for demolition purposes.
18. In the final phase of the development (phase 3, scheduled for July 2017 to May 2018), it is proposed to construct a two-storey vocational/educational block, with single storey wings, over an 11 month period, on the footprint of the demolished Scarlet Unit, albeit with an enlarged ground floor area of 408 m<sup>2</sup>. The layout of this building would comprise a secure vocational area, and a separate non-secure vocational unit (with separate new entrance) occupying the eastern part of the new extension block, for use by outside members of the community. This phase of the development would also involve the construction of a link corridor along part of the north-western elevation to the vocational block, to the previously developed stand-alone residential block. This new element would have a footprint of 18m<sup>2</sup>.
19. In terms of proximity to surrounding residential property, the new Scarlet block would be situated 25m to the west of the boundary with residential development in Devonshire Drive and approximately 22m to 30m to the south of the boundary with Trowell Park Drive to the north. It would also be approximately 46m to the east of the western site boundary and properties in Egerton Drive; 60m to the

north-east of the western site boundary and properties in Hartwood Drive; and finally, approximately 75m, at its nearest point, from Moorbridge Lane, to the south.

20. The new vocational block, which would be located within the existing secure compound area, on the footprint of the existing Scarlet Unit, would be set into the site approximately 29m to the west of Devonshire Drive; 37m from Trowell Park Drive to the north; 50m from Egerton Drive to the west; 55m from Hartwood Drive to the south-west; and finally, approximately 50m due north-west from the southern boundary bounding Moorbridge Lane.
21. The extensions would be to a maximum height of 8.2m to 8.6m, which is only approximately 0.4m higher than the maximum height of the existing gym and workshop buildings. The proposed development would be situated at a lower ground level within an extended compound area, which falls away from a banked up area skirting the edge of the car park.

### Materials and finishes

22. The buildings would be of brick-built construction, in a red facing brickwork, to match up with the existing buildings. To the eastern elevation of the new accommodation block, there would be a feature panel of buff brickwork to the gable end, with an aluminium ventilation louvre. Externally, the roof, which would be a mix of flat and hipped roof construction on a traditional pitch, would be clad in a lightweight, but extremely strong, pressed metal tile, in a terracotta colour, with matching trims and flashings. The roof would have a deep overhang matching that of the existing building, which would conceal a deep hidden gutter system. Rooflights are proposed along the roof ridge, with the flat roof to each of the two-storey accommodation blocks (residential and vocational blocks) having opening rooflights, and raised parapets.
23. All materials and finishes would match up with the existing buildings. Window frames and doors would be of powder coated (RAL 6026 Green) steel, with the doors being of a secure heavy duty steel frame construction. Windows to the residential accommodation would face inwards, and high security glazing is proposed throughout the buildings, with pre-cast cills and detail in contrasting materials to the brickwork. The eastern elevation of the residential block would be without windows, given its close proximity to properties on Devonshire Drive, but with an enhanced brickwork feature to provide visual interest.

### Security measures

24. Various security measures have been built into the design. All services including fixings, pipework, and ductwork would be located in the roofspace, to ensure spaces are free from ligature points and potential for self-harm. Roofspace plantrooms would allow access for maintenance without disrupting service operations below. Ceiling heights of 3.2m are proposed throughout, to reduce the risk of damage and vandalism. Doors have been designed to be anti-barricading; and the upper storey to both buildings would provide clearly

separated zones, with separate staircases, which would be inaccessible to young people. There would be a high impact plaster finish to all internal walls.

### Sustainability design features

25. The proposed development has been designed with energy efficiency and sustainability at the core of its design principles.
26. Both extensions would incorporate sustainable features into their design, including high levels of insulation; natural ventilation to first floor staff areas (both manual and automatic); new secure glazed steel doors and windows to secure unit standards; the use of sunpipes and rooflights to provide additional natural daylight; low maintenance, durable materials; water management system with time controlled devices, and high efficiency equipment. The proposals would also include photovoltaic panels to the gym roof.

### External features

27. Externally, the secure compound area would be extended to accommodate the footprint of the new residential block, and it is proposed to secure this with a new 3.2m high anti-climb masonry brick wall, in a buff colouration, supplemented with a 2m high metal anti-climb security fencing, to an overall height of 5.2m.
28. External lighting to the car park, would be supplemented by new wall mounted lighting, and the existing lighting columns would be fitted with new fabricated shrouds to shield neighbouring properties from light spill.
29. It is proposed to carry out a landscaping scheme, comprising the planting of a stand of four semi-mature trees, to the east of the vocational and residential blocks, and proposed shrub planting.
30. The outdoor recreational area to the rear (immediate north-west) of the new residential block, would be separated into dedicated areas given over to exercise area, horticulture and vegetable plot, outdoor dining and barbecue area. There would be a separate dedicated outdoor space for the use of the non-secure residential unit providing a mix of hard surfaced outdoor dining area. Hard surfaced paving would be in a resin bound aggregate and synthetic Astro turf. Along the north-western boundary of the new compound area, the 5.2m high security fencing/wall would be supplemented by perimeter planting of prickly shrubbery up to 1.2m high. Proposals would also include a strip of wild flower grassland and block shrub planting along the eastern elevation of the vocational building. A further yard area or hard play area would be situated to the immediate north-west of the vocational block.
31. Some nine mature trees, situated to the immediate north of the existing Scarlet Unit would be removed to accommodate the footprint of the new residential block. It is also proposed to remove three smaller trees situated to the south-east of a group of four mature trees to the east of the existing Scarlet Unit, which are due to be retained. Landscaping works would also include the provision of upgraded circulatory space, with new tarmac pedestrian footways with concrete path edgings abutting the north-eastern elevations of the

vocational block, together with a water feature (proposed pond and fountain), and low-level planting.

### Ecological Appraisal in Support of Planning Submission

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32. An Extended Phase 1 Habitat Survey Report (September 2015) with two further addendum reports (December 2015), and a Bat Survey for the air handling plant relocation (October 2015) have been carried out in support of the planning application. The Habitat Survey report identified the following:
- The Scarlet Block has high potential for use by roosting bats, and three emergence/re-entry surveys should be carried out between May and September 2016. On inspection of the cavity between the felt and tiles, no bats or evidence of bat roosting was recorded in the area of tiles inspected;
  - A low level of bat activity (ranging from zero to four bat passes) was recorded during the survey visits, this included individual common pipistrelle and noctule bats, which were heard and seen;
  - With regards to birds, precautionary measures are recommended;
  - There is no evidence of Great Crested Newts, reptiles, or other protected species.
  - One tree with bat roosting potential is present on the western site boundary, but it is not anticipated that this tree would be impacted by the proposals, and the tree would be retained. If retention proves impossible, or works are required to this tree, then further assessment for bat roosting is recommended.

### **Consultations**

33. **Broxtowe Borough Council** *does not object to the application but expresses disappointment that the proposed development entails the removal of several mature trees which currently are a positive feature of the buildings' setting. The proposed development, in part, rises to two storeys and thereby introduces the potential for a degree of overlooking towards nearby houses which currently does not occur. It will be for the County Council to assess whether any substantial harm results. If there is an opportunity for replacement tree planting, Broxtowe Borough Council would certainly support it.*
34. **Broxtowe Borough Council EHO** *raises no objections to the development subject to controls over demolition and building works. Given the proximity of residential properties, it is advised that contractors limit noisy works to between 08:00 hours and 18:00 hours Mondays to Fridays, and between 08:00 hours and 13:00 hours on Saturdays, with no noisy work on Sundays and Bank Holidays. There should also be no bonfires on site at any time and all trade waste should be disposed of in the correct manner to ensure compliance with trade waste legislation. These mitigation measures should be secured by way of*

*relevant planning conditions, to prevent a noise and smoke nuisance to neighbouring properties.*

35. **Stapleford Town Council** has made no response.
36. **Natural England (NE)** *has no comments to make on this application, in the respect that the application is not likely to result in significant impacts on statutory designated nature conservation sites or landscapes. It is advised that LPAs obtain specialist or other environmental advice when determining the environmental impacts of the development.*
37. *It is noted that the application is supported by an Extended Phase 1 Habitat Survey, which identifies buildings on site, due to be demolished, to have high potential to be used by roosting bats, and recommendations have been made by the ecologist for further emergence survey work during the appropriate months, in accordance with the bat mitigation guidelines. However, it is noted that in the absence of this information, the County Planning Authority is considering conditioning the further bat survey work, which is contrary to the advice In Paragraph 99 of the ODPM Circular 06/2005.*
38. *In the absence of the results of the further survey work, NE is unable to advise the County Council of the implications of this proposal for bats.*
39. *NE's standing advice provides guidance on how protected species should be dealt with in the planning system. Specific advice on bats is provided within the detailed species sheets, as part of NE's protected species standing advice. Bats are a European Protected Species (EPS), and therefore the County Planning Authority needs to satisfy itself that it can meet its duties under the Habitats Regulations, when determining the application and therefore the County Planning Authority should apply NE's standing advice to this application as it is a material consideration in the determination of applications, in the same way as any individual response received from NE following consultation.*
40. **NCC (Nature Conservation)** *notes that the application is supported by an Extended Phase 1 Habitat Survey (dated September 2015) and a Bat Survey for Air Handling Plant Relocation (dated October 2015). From this it is concluded that no designated sites would be affected by the proposals, and works would involve the loss of small areas of amenity grassland and the removal of several trees; the loss of which is not considered to be significant. The tree on the western boundary of the site is considered to have potential for roosting bats, but should not be affected by the works. However, in the event that this tree (marked as target note 8 on figure 1 of the Extended Phase 1 Habitat Survey Report) needs to be removed or have works carried out to it, it should be subject to a bat survey as specified in paragraph 5.12 of the habitat survey report; it is advised that this is secured through a condition. A further, standard condition should also be used to control vegetation clearance during the bird nesting season.*
41. *It is noted that the bat survey carried out in September 2015 found no evidence to suggest that a bat roost is present in the area that ducting for the air handling unit would be relocated to within the Scarlet Unit as part of the 'enabling works'. There are no recommendations for further surveys in respect of the relocation of the ducting for the air handling unit, but in the unlikely event that bats are discovered in the course of the relocation of ducting, then works should cease*



*immediately and advice be sought from a suitably qualified and licensed ecologist to ascertain a suitable way forward including consideration of the need for a European protected species licence application as necessary. It is advised that an informative should be attached to any permission granted, to this effect.*

42. *Regarding the Scarlet Unit, due to be demolished, it is noted that this building is assessed as having high potential to be used by roosting bats; as such, a roost emergence/re-entry survey is recommended in the Extended Phase 1 Habitat Survey Report, to be carried out between May and September. The need for bat surveys of the wider Scarlet Unit presents difficulties, as surveys cannot now be completed until the period of May to September 2016.*
43. *Following the submission of further information, in the form of an Extended Phase 1 Habitat Survey Addendum Report (dated December 2015, issued 18 December 2015), it is noted that in paragraph 1.6, it is highlighted that the Scarlet Unit was previously assessed as having 'high' potential for bat roosting. Paragraph 2.7 qualifies this, by indicating that this is in relation to crevice dwelling bats. Paragraph 2.12 confirms that in relation to roof-void dwelling bats, the Scarlet Unit is considered to have 'very low' potential for bat roosting.*
44. *It is noted that the Addendum Report has given consideration to potential indirect impacts on any crevice dwelling bat roosts which may be present, in paragraphs 2.15 to 2.19. The conclusion that no significant indirect impacts on a potential bat roost within the Scarlet Unit are anticipated, is found to be satisfactory.*
45. *In relation to direct impacts, a range of mitigation/compensation measures are proposed in section 3 of the Addendum Report, with these adopting a precautionary approach (i.e. it is assumed that a maternity roost of a common species of crevice dwelling bat is present). Whilst this would appear to be appropriate, the views of NWT and NE would be useful, to confirm this.*
46. *It is highlighted that ordinarily, surveys should be carried out in advance of planning permission being granted; Government Circular 06/2005 states, in paragraph 99, that "it is essential that the presence or otherwise of a protected species, and the extent that they may be affected by the proposed development, is established before planning permission is granted, otherwise all material considerations may not have been addressed in making the decision. The need to ensure ecological surveys are carried out should therefore only be left to coverage under planning conditions in exceptional circumstances, with the result that the surveys are carried out after planning permission has been granted. However, bearing in mind the delay and cost that may be involved, developers should not be required to undertake surveys for protected species unless there is a reasonable likelihood of the species being present and affected by the development".*
47. *In this case, given that the building has been assessed as having "high" potential for roosting by crevice dwelling bats, it is apparent that there is indeed a reasonable likelihood of bats being present, and demolition of the building would evidently affect them if present. The presence (or otherwise) of a protected species, whilst being given consideration, has not yet been established (as it is an unknown), and nor has the extent to which they would be affected (although again, this has been assumed). This leads to the conclusion that the conditioning of bat surveys can only be done in 'exceptional*

circumstances'. The County Council's Senior Practitioner Nature Conservation advises that it is not for him to determine what constitutes an exceptional circumstance, but it is noted that an argument to this effect has been put forward by the applicant (Geldards LLP, dated 22 December 2015), and further discussions may be had in this respect.

48. Attention is also drawn to Regulation 53 of the Conservation of Habitats and Species Regulations 2010 (the Habitats Regulations). Activities which would otherwise contravene the strict protection regime offered to European Protected Species under Regulation 41 (which includes the destruction of roost sites) can only be permitted where it has been shown that certain tests have been met. Within the context of a planning application, these are that (i) the activity is for the purpose of preserving public health or for other imperative reasons of overriding public interest ("IROPI"); (ii) there is no satisfactory alternative; and (iii) the favourable conservation status of the species in question is to be maintained. Furthermore, under regulation 9 (5) of the Habitats Regulations, local planning authorities, in the exercise of their functions, have a statutory duty to have regard to the requirements of the Habitats Directive so far as they may be affected by the exercise of those functions. What this means is that consideration must be given (during the determination process) to whether or not the three tests outlined above have been met. Obviously, in the absence of surveys, this is very difficult to achieve.
49. The Addendum Report concludes (in paragraph 3.14) that "the proposed mitigation and compensation measures are considered to be proportionate and adequate and will ensure the site continues to provide roosting opportunities with the aim of maintaining the Favourable Conservation Status of common crevice dwelling bat species (if present)". This would appear to satisfy Regulation 53 (9) (b). Regulations 53 (2) (e) and 53 (9) (a) are essentially planning tests, and are addressed in the Geldards LLP response.
50. **Nottinghamshire Wildlife Trust (NWT)** initially objected to this application in the absence of information with which to fully assess the potential impact of the proposal on protected species. An Extended Phase 1 Habitat Survey report (BSG Ecology, September 2015) in support of the application is satisfactory, and it is noted that ecological constraints on the site would be limited to bats and breeding birds.
51. NWT states that in the light of the additional appraisal undertaken, and provided that the County Council deems this particular application to constitute 'exceptional circumstances' and conditions the additional bat surveys, it would be able to remove its initial objection to this application.
52. NWT's original response recommended that the additional bat survey work required should be carried out prior to determination of the application, which is in accordance with ODPM Circular 06/2005. The further information submitted (Statement from Geldards LLP, dated 22<sup>nd</sup> of December 2015) details why the applicant considers this application to constitute an 'exceptional circumstance' with respect to the above Circular. Attention is drawn to the fact that as the matters in paragraph 34 of the statement are not based on ecology grounds, NWT cannot comment on whether or not they constitute an 'exceptional circumstance'.

53. *However, attention is drawn to NE's advice for planners, which states that 'conditions requiring further surveys are sometimes used for outline or multi-phased developments' and that this application could be deemed to fit into the latter classification. With this being the case, and should the County Council deem this application to constitute an 'exceptional circumstance', the Council may consider it appropriate to condition the additional bat survey work. In this instance, careful attention should be given to the wording of any condition to ensure that a minimum of three emergence and/or re-entry surveys are carried out at the earliest opportunity, during the active season of May to September 2016.*
54. *In addition, it is noted that each of the three tests under Regulation 53 of the Conservation of Habitats and Species Regulations 2010 has been considered. In combination with the reasoning given in Section 2 of the Extended Phase 1 Habitat Survey Addendum Report (BSG, December 2015), NWT is satisfied that it has been demonstrated that appropriate mitigation could be provided in the event that a bat roost is discovered, and that it could be possible to secure the required EPS licence.*
55. *It is noted that the revised BSG Addendum report gives further consideration to the potential indirect impacts of the proposal on bats, as raised in the previous response. NWT is satisfied that the initial works to erect the new building would be unlikely to impact on bat foraging and commuting.*
56. *The comment covering protection of breeding birds remains valid and unchanged, with a recommendation that the County Council imposes the following condition regarding breeding birds, should the application be approved:*
57. *"No removal of hedgerows, trees or shrubs or works to or demolition of buildings or structures that may be used by breeding birds shall take place between 1 March and 31st August inclusive, unless a competent ecologist has undertaken a careful, detailed check of vegetation for active birds' nests immediately before the vegetation is cleared and provided written confirmation that no birds will be harmed and/or that there are appropriate measures in place to protect nesting bird interest on site. Any such written confirmation should be submitted to the local planning authority".*
58. **NCC (Landscape)** *support the application for the proposed extension and makes a number of recommendations covering the removal of trees and shrubs outside the bird nesting season; the appropriate protection of any retained trees and shrubs; tree removal if root zones are affected by re-grading of the existing landform required to accommodate the building's footprint; the removal or coppicing of existing Poplar and Willows near to the proposed building, with root barriers between any trees and the building. There is support for shrub planting, as referenced in the supporting planning statement, as well as the proposed semi-mature tree planting to the east of the development. Planting, establishment maintenance and long-term management proposals should be submitted to the local authority. It is also advised that advice be taken regarding possible soil heave and whether a period of time should elapse between removing trees and commencing building works.*
59. *The impact of the proposals on the physical landscape and landscape character would be moderate adverse, involving the removal of three large Poplar trees*

and several smaller trees, including Ash, Silver Birch and Hawthorn, to the north of the site. Areas of mature shrub planting including Dogwood and Hawthorn would also be removed. The existing mounded area would be levelled to allow the proposed extension to be built at the level of the existing buildings.

60. *The main visual impact would be on residents to the east and north of the site, and on users of the site. Properties on Devonshire Drive to the east are two story semi-detached houses and residents would have direct views of the development from first floor windows. Houses towards the southern end of Devonshire Drive are slightly elevated, with residents also having views of the development from ground floor windows and gardens. The proposed buildings to the south-east are within the existing fenced area and would be partially screened by existing mature trees on a mound to the east.*
61. *To the north-east, the proposed buildings are outside the existing secure fenced area on a mounded area with mature trees and shrubs. Here it is noted that the visual impact of the proposed development on residents of properties on Devonshire Drive would be moderate/major adverse during construction, reducing to minor adverse on completion and negligible/minor adverse when mitigation planting has matured. The visual impact is mitigated by the construction of a one-storey building to the east of the two-storey residential building. The addition of planting would also help to reduce the visual impact of the buildings.*
62. *It is noted that privacy issues are addressed by not having windows to the eastern elevations of the residential block. There are first-floor windows on the eastern elevation of the two-storey building to the vocational block, but only office staff would have access to this floor. Residents on Trowell Park Drive to the north would have views of the proposed development from first-floor windows. However views would be filtered by existing trees along the boundary, although these would be clearer views in winter. Visual impact of the proposed development from these properties would be moderate adverse during construction, reducing to minor adverse on completion.*
63. *Visual impact on staff and children during construction would be major adverse, reducing to negligible on completion.*
64. **NCC (Highways) Broxtowe** *has no objections in principle to the proposal. According to the submitted information, the proposal is to improve facilities within the site, and there is not proposed to be an increase in staff. In view of this, the development would not have a detrimental impact on the highway.*
65. **NCC (Noise Engineer)** *raises no objection to the proposals on noise grounds.*
66. **NCC (Lead Local Flood Authority) (LLFA)** *is satisfied that the flood risk would be mitigated in accordance with the NPPF, by way of the drainage design that has been submitted to them by the applicant. It is confirmed that this will enable the approval of the surface water drainage system by the LLFA.*
67. **Western Power Distribution** *raises no objection to the proposed development.*
68. **National Grid (Gas)** *raises no objections to the proposal, but has identified that it does have apparatus in the vicinity of the proposed works, comprising low or medium pressure gas pipes and associated equipment. Due to the presence of such apparatus in proximity to the specified area, the contractor should contact*

*National Grid before any works are carried out to ensure its apparatus is not affected by any of the proposed works.*

69. **Severn Trent Water Limited** has no objection to the application subject to the inclusion of a condition regarding drainage plans for the disposal of surface water and foul sewage.
70. **NCC (Reclamation) and Police Force Architectural Liaison Officer** have made no response. Any responses received will be reported orally to Committee.

## **Publicity**

71. The applicant held a pre-application consultation evening, at the secure unit's training room, on 7<sup>th</sup> September 2015, between 6pm to 7pm. Local residents were invited by letter drop, to view the proposals, and discuss any concerns, as well as completing a comments form, for return to the unit management. This process provided an input into the proposed mitigation measures, to directly address resident issues and concerns. The following concerns were raised:
  - (a) Existing car park lighting posts are directly opposite a property in Devonshire Drive, lighting up the rear garden at night;
  - (b) Concerns that existing views of trees would become views of a building;
  - (c) A request for inward facing windows to pupil areas, from a resident living on Trowell Park Drive, together with concerns regarding overlooking from the first floor windows;
  - (d) A 2m high close boarded fence between the trees and security fencing was suggested for installation behind gardens.
72. The application has been publicised by means of site notices, and seventy-three neighbour notification letters have been sent to the nearest occupiers on Devonshire Drive, Egerton Drive, Hartwood Drive, Moorbridge Lane and Trowell Park Drive, Stapleford, in accordance with the County Council's adopted Statement of Community Involvement Review.
73. Twenty-two letters of representation objecting to the proposed development, have been received from twenty-one separate households, including twelve on Devonshire Drive, Egerton Drive, Hartwood Drive, and Trowell Park Drive, with the remaining nine households being on Baker Avenue, Cambridge Crescent, Cranmer Street, Denver Court, Green Lane, Halls Road, and Windermere Road.
74. The grounds of objection can be summarised as follows:

Visual amenity impact

  - a) Views from adjacent residential property and garden would be 'horrendous', of a 'huge' brick wall, windows and metal fencing, as opposed to the trees currently there;

- b) Properties would be severely affected if the plans go ahead, as property backs onto an area where double height extensions would be introduced;
- c) The development would alter the whole appearance of the site; where presently single storey level and not noticed by residents, once it gains two storey height it would become an 'eyesore' to the surrounding residents;
- d) The two-storey height would affect all surrounding residents, as it would become an imposing building, and affect the view from so many neighbouring properties;
- e) Whilst appreciating that there may be a need for an improved facility, in such a highly residential area, this would have an impact on the surrounding area with regards to households and neighbours, with the plans appearing very intrusive and the development overlooking towards neighbours;
- f) Such a large and high development would result in a very substantial brick wall along the boundaries with residential property;
- g) No efforts have been made to screen the new extensions, and it cannot be seen how it could be achieved to anyone's satisfaction, given that any trees that would go high enough would be too close to houses;
- h) The development would involve the removal of established trees;
- i) The 17ft. metal fence is an eyesore, and further 17ft. fencing would not be visually appealing.

#### Residential amenity impact

- a) Major concerns are raised regarding the level of disruption, dust and noise during the three years of planned works; with one householder considering that the Clayfield's development will destroy their 'lovely home and garden, and all they have worked hard for over the years'. Consideration should be given to neighbours who have to live with the secure unit on their doorstep.

#### Loss of natural daylight

- a) The development would drastically affect the natural light into adjacent residential property and gardens;
- b) It is agreed that the building should be modernised at single storey levels, but if planning permission is granted to extend to two-storey height then there would be a potential loss of daylight/shading to local residents whose homes back on to this site.

#### Privacy issues, security, and health and safety considerations

- a) A complete lack of privacy if the development goes ahead, and the possibility of being overlooked, especially with the removal of some trees;
- b) Specific reference is made to two young children whose child care arrangements will involve them 'playing innocently in the back garden (of a property in Devonshire Drive), and being spied on by goodness knows who';

- c) Loss of privacy from the proposed two-storey extension;
- d) A nearest neighbour (No. 21 Devonshire Drive) having viewed the plans, has raised concerns that the building's windows would look directly into their house and garden. It is considered that this would directly affect their right to privacy, as this property has never been overlooked in the twenty-two years these particular occupiers have lived there. It is considered irrelevant whether the accommodation is used by staff or residents, or if the windows are of frosted glass, it is still an infringement on their right to privacy;
- e) The mix of trees and fence to the boundary along Egerton Drive is just tall enough to provide extra privacy from visual contact with offenders, for residents and their children, but privacy would be compromised with a mix of taller buildings, fencing and destruction of trees;
- f) This build is obviously being carried out to house more secure residents, which will bring an increased risk to the local area and with it an unwanted reputation for Stapleford, as a 'place that houses convicted offenders';
- g) Whilst there is support for rehabilitating young people, it should not be considered in an extremely residential area, given that this new extension would infringe on all existing residences privacy;
- h) How safe will the new buildings be? More residents means the need for more safety precautions (for example, staff, CCTV) and not just high fences.

#### Cumulative impacts of the development

- a) Local residents have already had to endure two extensions to the property in the last eighteen months, which has made the facility a lot bigger than originally planned;
- b) The facility keeps on extending with no thought for those people who live with this building on their doorstep, and given its location in the middle of a housing estate;
- c) Whilst understanding that the existing single storey building has to be demolished for safety reasons, it is questioned as to why it has to be replaced with not one, but two double storey buildings, and why it cannot be developed within the existing footprint of the existing metal fencing;
- d) Whilst secure centres are needed, there is no reason why this one should be allowed to extend to a two-storey level;
- e) The proposal represents further extension to this facility, which has kept growing slowly during the last 5 to 10 years, in a residential area, surrounded by housing;
- f) The local community have concerns as to the level of offenders that would be housed there, and the potential negative effect that it may have on the community;
- g) Would the extension mean more residents?

#### Traffic impact

- a) Traffic queues whilst the works are being undertaken;
- b) Parking problems on either side of Devonshire Drive would increase.

#### Inappropriate nature of the development

- a) Querying the appropriateness of extending a secure unit when it lies in the heart of a community full of children;
- b) Clayfields House should be shut, as this is a residential area;
- c) This is a residential area and these plans are totally inappropriate.

#### Lighting impact

- a) A nearest neighbour (No. 21 Devonshire Drive) makes reference to the dazzling lighting directly behind their property, on the Clayfield's site, and anticipates even more lighting if the plans go ahead. Existing lights already illuminate the bathroom, kitchen and a bedroom;
- b) Extensive lighting to the development does not take into account the neighbours.

#### Noise impact

- a) The facility is bad enough without making the place bigger, given that the inmates are very loud when outside playing football, shouting and swearing continuously;
- b) The exercise area has been moved closer to local residents, in fact closer than it has ever been; this seems at odds with the previous building, which was purportedly built, to act as a barrier, and reduce noise to local residents, which it has. Before the building was erected, balls could be heard being kicked against walls, with bad language and yelling. Residents would not want to go back to this;
- c) Had to tolerate the noise from the recent building of the workshops;
- d) These works are going to take a long time to complete, and noise disruption has been an issue during previous work at this site;
- e) Building noise over three years, as it will take three years to build;
- f) There should be restrictions as to when works can be undertaken, with consideration being given to local residents, with no overnight working, and ideally not during weekend periods.

#### Other matters

- a) Having this secure unit on their doorstep has resulted in house prices dropping, and if this plan goes ahead, the value of surrounding residential property would decrease even further. Detrimental to future house sales, it would lower the values of surrounding properties and put people off buying houses in the area. It would make it impossible to sell up and move, unless residents are prepared to accept a substantially knocked down price;



- b) The proposals have been 'railroaded through' without any thought for those living directly opposite the development;
  - c) At a pre-application meeting held by the applicant, at no time did those attending see any plans for an exercise yard or outdoor eating area for Clayfields residents;
  - d) It is appreciated how hard the staff work, but this development is unacceptable;
  - e) If it gets accepted will there be more expansion?
  - f) Extensions, exercise yard and barbeque/outdoor eating areas, for a young offenders secure unit. People in there have done a crime and are being punished, so why should local residents put up with all this upheaval, so that it will be more pleasant for the people in Clayfields House;
  - g) Only found out about the proposals due to walking closer to the facility along Moorbridge Lane; it would have been appropriate to post a notice on Trowell Park Drive, so more neighbours could have been alerted to the plans; more residents on Trowell Park Drive should have been notified of these proposals;
  - h) The whole proposal is ill advised and the full impact on the local area has not been fully considered;
  - i) The majority of people in the area work hard to create a safe environment in which to live, and this would have a detrimental effect on their lives and property values. The extension should be reconsidered.
  - j) Development by stealth; when the last development was done, the plans for this stage, would have been underway, but they chose not to make people aware of them. Are there any assurances around future development?
75. An individual letter from a local resident, sets out a personal testimony regarding the family's experience with one of the young people at Clayfield's House, involving the daughter, and an allegedly 'gruelling' experience in prosecuting the individual concerned. Consequently, it is expressed that Clayfield's House is not the right place for a rehabilitation centre, and questions are raised as to whether or not the 'innocent community and local children deserve to be put at risk'.
76. A further representation from a resident on Trowell Park Drive, has suggested amendments to the design of the scheme. Namely, that a new 2m high wooden fence should be erected between existing trees and security fencing, to the rear of gardens on Trowell Park Drive. Secondly, that the outward facing windows on the proposed development should be replaced with inward facing and/or skylights, particularly on the upper floor.
77. Two letters in support of the planning application have been received from Councillors Jacky Williams and Kate Foale, and their reasons for supporting the proposed development are set out below.
78. Councillor Jacky Williams, Member for Bramcote and Stapleford, supports the planning application, on the following grounds:

- a) The existing Scarlet Unit is 'desperately' in need of refurbishment, with subsidence and structural damage;
  - b) Funding from the Department for Education would ensure the long term viability of the unit, which provides a resource for the County Council and the Youth Justice Board, across England;
  - c) A social media campaign opposing the development is very distasteful, particularly as it has attracted opposition from people who do not even live within Nottinghamshire;
  - d) In twenty-three years as a local Councillor, including some eight years as Leader of Stapleford Town Council, and over two years on Nottinghamshire County Council, as representative for Bramcote and Stapleford, no complaints with regards to this facility have ever been received;
  - e) Whilst properties on Devonshire Drive could be impacted on by virtue of the new building being two storey, as opposed to the existing building which is single storey, there would be no windows in the wall facing the residential properties, and new planting could mitigate this issue.
79. Councillor Jacky Williams has confirmed that she would attend planning committee if required, and has conveyed the fact that in her role as a Corporate Parent, since 2013, involving the carrying out of rota visits to Clayfield's House, she has been extremely impressed by the work that is done 'with a very challenging and challenged group of young people'.
80. Councillor Stan Heptinstall MBE, Member for Bramcote and Stapleford, has responded by stating that he sees that the changes are really needed.
81. Councillor Kate Foale, Vice-Chairman of the Children and Young People's Committee, supports the planning application, on the following grounds:
- a) Clayfields is a 'wonderful resource for some of our most challenging and vulnerable children';
  - b) The Scarlet Unit is desperately in need of refurbishment, it is structurally unsound and in danger of subsiding;
  - c) The DfE has been approached to fund its development to ensure the longer term viability of the unit and whilst this has had a favourable response, the understanding is that there is a strong possibility that funding could be lost if planning permission is not given;
  - d) The educational provision at Clayfields helps these children and young people to stand a much better chance of a decent, happy life, where they can make a positive contribution to society.
82. Councillor Kate Foale states that she takes an active interest in service provision for what are referred to as 'looked after children', as Lead Member for Children's Social Care. In this capacity she asks that Members of Planning and Licensing Committee consider these children, their education and their future lives when considering this application.
83. The issues raised are considered in the Observations Section of this report.

## Observations

### Introduction

84. Clayfields House is part of a network of fifteen secure children's homes in England and Wales, meeting the complex needs of often very challenging children, in a secure, highly supportive environment. It is a key national and regional resource, in terms of providing secure accommodation, in an institution with an excellent reputation for its quality of education and care. Rated as outstanding by Ofsted, it offers placements for up to eighteen children at any one time, providing full residential care, education and healthcare facilities, in a highly supportive environment.
85. A need for the development has been clearly established, with a structural survey identifying the level of subsidence and structural failure to the Scarlet Unit and the need to replace this building over the longer term; and regular Ofsted inspections, which have highlighted the poor quality of this particular accommodation block, and its failure to meet current regulatory and standard requirements for secure care. The current provision falls short of the national minimum standard for residential care, and Youth Justice Board requirements, for providers in this sector.
86. The proposals seek to replace critical residential accommodation, which is no longer fit for purpose, together with enhancing the provision of educational and vocational facilities, capable of delivering a high standard of education to its resident children, as well as providing a resource for vulnerable young people within the local community.
87. Whilst primarily to enhance the residential and vocational provision to Clayfields young people, it is envisaged that young people from local schools and colleges, and the wider community, would also use part of the vocational facilities. It would complement the recently opened training workshops, which offer courses in motor mechanics and construction, to both its own residents and high risk children in the local community, by extending the range of facilities on offer, including hair and beauty and catering.
88. Reference is now made to those material considerations relevant to the determination of this planning application.

### Planning Policy considerations

89. In national planning policy terms, the proposed development is given due consideration in light of the National Planning Policy Framework (NPPF) (March 2012), and the National Planning Practice Guidance (NPPG) (published on-line in March 2014 and periodically updated).
90. The NPPF sets out the national policy approach towards development, including giving guidance as to the degree of weight that should be afforded existing local plans since its publication. It states that 'due weight should be given to relevant policies in existing plans according to their degree of consistency with this Framework (the closer the policies are to the Framework, the greater the weight that may be given)'.

91. Planning applications should be determined with regard to the development plan as far as material to the application, any material local finance considerations (i.e. a grant or other financial assistance that has been, or will or could be, provided by the government to the County Council) and any other material considerations and decided in accordance with the Development Plan unless material considerations indicate otherwise (per statutory requirements), and for the purposes of this application, the proposal has been assessed against key policies in the Broxtowe Aligned Core Strategy (adopted September 2014) (BACS) and relevant saved policies in the Broxtowe Local Plan (adopted September 2004) (BLP).
92. Overarching policy direction is set out in Section 8 of the NPPF '*Promoting Healthy Communities*' paragraph 70, which seeks to deliver the social services that a community needs, and to guard against the unnecessary loss of valued facilities and services. The NPPG section on health and wellbeing, at paragraph 005 supports the creation of healthy living environments for people of all ages, including meeting the needs of children and young people to grow and develop. These policies offer weight to the proposals under consideration in this planning application.
93. Also of importance is Section 7 of the NPPF '*Requiring Good Design*', which attaches great importance to the design of the built environment. Paragraphs 57 and 58 emphasise the importance of planning positively in order to achieve high quality and inclusive development, which functions well and adds to the overall quality of the area. The NPPG section on design, at paragraph 001 makes reference to the fact that as a core planning principle, decision takers should always seek to secure high quality design; and that good design responds in a practical and creative way to both the function and identity of a place.
94. Of particular relevance to this application, in terms of setting out key policy considerations relating to a European protected species, is ODPM Circular 06/2005: 'Biodiversity and Geological Conservation – Statutory Obligations and their impact within the Planning System', in particular Paragraph 99; and Regulation 9(3) of the Conservation of Habitats and Species Regulations 2010 (the Habitats Regulations). It is noted that Circular 06/2005, which provides guidance on the application of the law in terms of planning and the conservation of a protected species, and the statutory obligation on the planning system, should be considered in conjunction with the NPPF and the NPPG.
95. These policies are given due consideration in the Ecology Observations of this report given that the Scarlet Unit, which is due for demolition, has been identified as having high potential for use by roosting bats (Extended Phase 1 Habitat Survey Report, BSG September 2015), and the recommended emergence/re-entry surveys (paragraph 1.5 of the Extended Phase 1 Habitat Survey), are yet to be carried out, due to seasonal constraints. These policies, when taken together, provide scope to enable the County Council, as County Planning Authority (CPA), to consider the appropriateness of determining the planning application, ahead of completing these surveys, and as part of this process, leaving coverage of the necessary ecological surveys by way of planning conditions, which should only ever occur in 'exceptional circumstances'. The purpose of this report is to assess whether or not these 'exceptional circumstances' have been sufficiently demonstrated to exist and on

balance, whether the CPA is satisfied that all relevant material considerations are capable of being addressed, in the absence of these surveys.

### Landscape and visual impact

96. Of relevance is BACS Policy 10 (Design and Enhancing Local Identity), which sets out various design criteria by which development will be assessed, including consideration of massing, scale and proportion; materials, architectural style and detailing; impact on the amenity of nearby residents; and designing out opportunities for crime, disorder and anti-social behaviour; and promotion of safer living environments.
97. Suitable safeguards and features have been incorporated into the design and layout of the development, including an appropriate landscaping scheme, replacement tree planting, and careful attention to the orientation, scale and mass of the buildings. Those elements of the proposed development closest to the western and eastern boundaries would be single storey, and the positioning of windows has been sympathetically thought through and appropriately designed to avoid overlooking of adjacent property. Given that the site is within the urban area of Stapleford, the impact of the proposals on the physical landscape is assessed as being moderately adverse, involving the loss of various trees and amenity grassland. However, subject to planning conditions, a suitable landscaping scheme would be implemented to maintain the site's appearance and overall character.
98. The extensions have the potential to impact on residential properties to the east and north of the site, in Devonshire Drive and Trowell Park Drive respectively. This is particularly relevant in Devonshire Drive, where a number of properties have slightly elevated positions, including those towards its southern end. Whilst properties to the east and north would have views from upper storey windows, those more elevated properties would also have views of the development from ground floor windows and rear gardens. However, the proposals would be set well into the site, at a reasonable distance from the eastern and northern boundaries, and at a distance of some 23m to 25m, it is considered that the proposed buildings would not give rise to any overbearing or overshadowing impacts to those nearest occupiers. Similarly, the relative distance of the new built development to surrounding property, and the single storey elements of the scheme, would avoid any potential for adverse impact upon sunlight/daylight levels currently enjoyed by adjoining properties, including to their rear gardens.
99. Whilst there would be a perceptible change with regards to views from the nearest sensitive receptors in Devonshire Drive, over time the visual impact would diminish, as replacement tree planting matures, filtering out views towards the proposed buildings, and providing screening of the overall development. The proposed south-eastern vocational block would be constructed within the confines of the existing compound, and would be partially screened throughout by existing mature trees on a mounded area to the east. By reinstating a building on the footprint of a previous building, this part of the development would appear substantially as a like-for-like structure, albeit with a mix of single and two-storey elements. Over time, the visual impact to the nearest sensitive residential property in Devonshire Drive would be negligible to minor adverse, when mitigation planting has matured.

100. It is considered that any harm that may arise, during the construction phase, would be for a temporary period only and would be outweighed by the benefits of rebuilding this part of the Clayfield's site. Upon completion of these works, the visual impact upon the nearest sensitive receptors in Devonshire Drive would be insubstantial. As such, the proposal accords with BACS Policy 10, given that the impact on the amenity of the nearest residents, subject to the implementation of a planting scheme, is capable of being acceptably mitigated.
101. Sensitive receptors, to the north of the site, on Trowell Park Drive, would have views across the site from upper storey windows. However, any visual amenity impacts would be tempered by existing trees along the northern boundary, which would filter views, and again, visual impact would be reduced to minor adverse on completion of the development.
102. From Egerton Drive, to the west, there would be substantial screening from existing boundary treatments (trees/shrubs), the workshops and the edge of the gym building, which would obscure views towards the new development. Views would be relatively distant from Hartwood Drive to the south-west and Moorbridge Lane to the south, and obscured by existing built development.
103. Concerns have been raised in representations that the two-storey nature of the development would alter the whole appearance and character of the site, making the Clayfields site altogether more intrusive to surrounding occupiers. Whilst recognising that this is a substantial development, the new extension buildings would be grouped together with the complex of existing buildings, within an extended compound area, but still set well in from the boundary of the site, at a distance of 23 to 25m from the closest boundaries to the north and east respectively. It is noted that there are existing buildings on the site which are of two-storey height, namely the gym and workshops, and these elements are visually integrated into the site. Therefore, the site is not without taller built development, and the proposals would not in themselves be introducing incongruous features into the site. The mix of single storey elements into the design has ensured that the two-storey elements have been minimised throughout the scheme, with upper storey development only being provided where absolutely essential for staff accommodation.
104. The landscaping scheme is critical to providing an appropriate level of screening to the new Scarlet Unit, from residential property in Devonshire Drive, and restoring the level of tree coverage that currently exists across the site. The proposed semi-mature tree planting would over time compensate for the proposed loss of trees, and mitigate the visual impact of the development, particularly for those properties in Devonshire Drive, situated at slightly elevated positions.
105. Whilst the proposed development would be materially larger than the existing Scarlet Unit it is replacing, and includes an additional vocational block, the design of the scheme has nevertheless sought to minimise overall impact on the character and appearance of the Clayfields site. Design features have been incorporated into the fabric of the buildings, including to the eastern elevation of the new Scarlet building, which is windowless, and of solid brick construction, but would incorporate recessed contrasting buff brickwork, with triangular shaped ventilation louvre. Overall, it is considered that the proposed development provides a high standard of design in terms of scale, mass and materials, and that the new development is capable of being visually integrated

into the site, subject to controls over facing materials and finishes, and ensuring the landscaping scheme is implemented. It is therefore considered that the proposed development accords with BACS Policy 10, as it provides a high standard of architectural design, and is in accordance with BLP Saved Policy RC12. In this respect, it is considered that the development is proportionate in terms of its scale, siting and design, and is sympathetic to neighbouring buildings and the surrounding area. As such, the character of the surrounding area would not be unacceptably altered.

#### Safety/security considerations

106. BACS Policy 10 (Design and Enhancing Local Identity) states that development will be assessed in terms of its treatment of a number of elements, including criterion (g) which covers the incorporation of features to reduce opportunities for crime and the fear of crime, disorder and anti-social behaviour, and the promotion of safer living environments.
107. The new facility would enhance the provision of high quality, safe and secure residential care for young people who have been remanded, referred, sentenced or admitted, as a result of significant behavioural issues. The new built development would continue to be located within an extended secure compound, fenced off by high, extremely robust, secure boundary treatments.
108. In terms of internal security and safety, both for children and staff, it would bring significant benefit, in that the existing Scarlet Unit was not originally designed to meet the demands of secure residents with complex mental health issues and extreme behaviours and consequently, the current layout makes it unsuitable for separating out young people with conflicting needs. The replacement residential block would be purpose built, and would provide appropriate, secure, flexible space, which is capable of being segregated, as and when necessary. It would provide a safe, secure environment for both staff and children.
109. The new buildings have been designed with the aim of securing challenging young people, with safety measures having been designed into the scheme to enhance security. All new areas would provide for good supervision and security, with the design fully integrating the complexities of the existing operational security which is in place across the whole of the site.
110. Careful consideration has been built into the design of external routes and fencing boundaries, to ensure staff can manage the various outdoor zones in a safe and secure manner. This would include certain areas being out of bounds, with the proposed front garden (with pond and water feature) providing access to the vocational shared areas being inaccessible to Clayfields young people.
111. Passive/unobtrusive surveillance, and continued supervision of the young people would remain in force, and the extended site would continue to benefit from full CCTV. Existing security fencing would be supplemented by additional brick wall and security fencing, and whilst the footprint of the enclosed compound would be extended, key security features to its perimeter would ensure that the level of security that currently exists would not be compromised. As such, a secure barrier would be formed between the new development and the site boundary, and adjoining residential property.

112. With regards to concerns raised by residents regarding any increased risk to the local area, Clayfields House is a high secure unit and the proposed development would meet the same exacting standards. The security and safety implications for both surrounding residents and the young people and staff who would be using the facilities has been fundamental to the design of the development. As such, the development is in accordance with BACS Policy 10, criteria (g) with the development fully complying with the principle of this part of the policy. The development has sought to design out and reduce the risk of disorder and anti-social behaviour amongst the young people under the care of Clayfields, and the design incorporates key features to foster a safer living environment for these often mentally vulnerable young people. The development would provide highly secure facilities that would not impinge on or even remotely compromise the safety of surrounding residential properties, in accordance with BACS Policy 10.

### Privacy

113. BLP Saved Policy RC12 supports proposals for extensions to caring institutions provided that the amenity and privacy of occupiers of nearby residential properties would not be adversely affected; the character of the surrounding area would not be unacceptably altered; appropriate provision for servicing, access and parking requirements would be made; and outdoor amenity space of a satisfactory type and area would be provided; and finally, attractive outlooks from bedrooms and living rooms would be provided.
114. BACS Policy 10 states that development will be assessed in terms of its impact on the amenity of nearby residents.
115. The privacy of immediate neighbours has informed the design and simple, but key elements have been incorporated into the design and layout of the new buildings and ancillary outdoor facilities (recreational and social/garden areas). Features include the positioning of all bedroom windows to the ground floor only and facing inwardly, so as to avoid overlooking towards neighbouring dwellings. Furthermore, the residential unit would be confined to ground floor level only, with all first storey accommodation being for education and care staff only, in clearly separated zones, with dedicated staircases that would be inaccessible to Clayfields young people.
116. Whilst these proposals would involve siting recreational/social outside space closer to the northern boundary of the site, it would still be relatively distant to that boundary, and a high brick wall bounding the external elements to the scheme would prevent any views out of these secure outside recreational areas. The new boundary brick wall would also ensure all ground floor windows to the residential accommodation are concealed and inwardly facing, as well as obscuring views out of the secure recreational areas. These elements collectively seek to ensure that privacy for all neighbouring property is maintained at all times.
117. Upper storey windows would be to staff accommodation only, with restricted views out, through the use of appropriate glazing to windows, obscuring views outwards. It is noted that the County Council's Landscape Officer is satisfied that privacy issues have been addressed by not incorporating windows into the eastern elevations of the residential block.



118. When these various design features are taken together, it is considered that the new development, and its use, would not reduce or impact on the level of privacy currently experienced by adjoining residential property. Over the longer term, as the proposed replacement tree planting matures, the level of substantive screening would be further enhanced. Overall, it is considered that appropriate mitigation measures have been designed into the scheme, to overcome any potential for loss of privacy for those nearest sensitive receptors. As such, the development accords with BLP Saved Policy RC12 and BACS Policy 10, in the respect that the proposals would not adversely affect the residential amenity and privacy of the nearest sensitive residential occupiers in Devonshire Drive and Trowell Park Drive.

#### Noise impact

119. BLP Saved Policy 34 states that planning permission will not be granted for development where, even with appropriate mitigation measures, it would result in occupants of housing being exposed to significant noise disturbance.
120. Noise attenuation measures have been incorporated into the design and layout of the new development, with the proposed buildings being constructed with insulated walls and roof panels to the required building regulation standards, to reduce the incidence of noise break-out from the buildings. Outdoor recreational areas would be physically enclosed by a 3.2m high brick wall, which in itself would act as an acoustic barrier. Noise generating activities, such as ball games and other sports activities, would be confined to an inner courtyard, in a newly created yard area surrounded by buildings, which would provide acoustic baffling to the nearest sensitive properties surrounding the site. Added to this, there would be low-level usage of the outdoor areas at all times, including in the proposed 'step-down area' to the rear of the new Scarlet Unit, where only two young people at any one time would be able to access the outside garden area. Whilst there would be some noise associated with the new facilities, it is not considered that this would be excessive, or generate a significant impact to the nearest neighbours. The facilities would be appropriately managed and the young people supervised at all times. Based on the information provided and taking into account the responses of the County Council's Noise Engineer and the Borough Council's EHO, it is considered that when operational, the development would not significantly adversely affect surrounding residential property from noise disturbance.
121. Potential for noise nuisance at the nearest sensitive properties has been assessed, and the County Council's Noise Engineer is satisfied that there are no unacceptable noise impacts associated with this development and its use, which would be relatively low-level. Whilst concerns have been raised in neighbour representations about current levels of outdoor noise and the incremental increase in noise arising from the proposed development, it is considered that the new outdoor recreational areas would not add significantly to current background noise levels associated with the Clayfields site. The various attenuation measures outlined above, together with the appropriate management of the facility, and its low level of use, with limited numbers of young people using the facilities at any one time, would ensure that a significantly perceptible change to the current noise climate would not materialise. It is considered that the potential for adverse noise impact has been substantially designed out of the scheme, and this together with the

appropriate management of the outdoor areas, and acoustic baffling provided by the perimeter brick wall, and replacement tree planting (which would also act as a noise baffle) would ensure that the development and its attendant use would not give rise to noise nuisance, and unacceptable noise impact to the nearest sensitive residential receptors on Devonshire Drive, Egerton Drive and Trowell Park Drive.

122. Neighbour representations have raised concern that bad language, etc. which is currently blocked out by the workshop building adjacent to Egerton Drive, would again begin filtering through to their properties when the outdoor recreational areas are in use. However, this concern appears to be unfounded, given that the ancillary outdoor space to the rear of the new Scarlet Building would actually be situated to the rear (east) of the existing workshop building. Therefore, in terms of residential property to the west of the site, the workshop would continue to act as an acoustic barrier, shielding residents to the west in Egerton Drive. Thus, the benefit of the workshop building, as cited by residents, to reduce noise impact from on-site activities, would remain the situation.
123. The new block would only cater for eight young people, including two in the step-down facilities. To the rear of the new Scarlet block, the area would be restricted to activities such as dining and social areas, but the numbers of young people using this outside area at any one time would be extremely limited. The low-level use would contribute to ensuring that the development, once in use, would not adversely affect surrounding residential dwellings from unacceptable or excessive noise disturbance.
124. A front garden, with pond and water feature, to provide access to the vocational building's shared areas, would be inaccessible to Clayfields young people.
125. In terms of the buildings and the scheme's overall layout, it has been recognised that the site is sensitively located within a residential area surrounded by housing and, as a consequence, the internal arrangement of noisy activity spaces and landscape proposals have sought to design out the potentially noisiest activities, keeping them remote to the nearest sensitive properties, so as to minimise potential for noise nuisance.
126. Over time, as the compensatory tree planting proposed to the eastern boundary of the new development matures, this would provide a further element of acoustic shielding; and existing trees to the site, towards the northern and western boundaries, would remain intact, and afford further natural baffling. The existing built development i.e. the workshop building and the western wing (gym block) to the northern accommodation block would provide acoustic attenuation barriers to residential development to the west of the site in Egerton Drive. Overall, the design features and layout of the scheme would minimise noise disturbance to acceptable levels, and as such, the proposed development is in accordance with BLP Saved Policy 34. Furthermore, it would accord with BLP Saved Policy RC12, and BACS Policy 10, in terms of minimising amenity impact and, with regard to Policy RC12, would also meet the requirement for the provision of satisfactory outdoor amenity space.

#### Construction noise

127. Construction work has the potential to generate significant levels of noise, and in terms of this particular development, the three-phased development would mean a construction period of two years, including phased demolition works. A certain amount of disturbance and noise to local residents is unavoidable, given the duration of these works. Guidance has been provided by the Borough Council's EHO and it is recommended that, given the proximity of residential properties, contractors limit noisy works to between 8am and 6pm Mondays to Fridays (excluding Bank and Public Holidays), and 8am to 1pm on Saturdays.
128. Given the length of the construction period, these particular time restrictions are not considered unreasonable and would be secured by appropriate conditions. The fitting of silencers to plant and machinery would also be conditioned and would help minimise noise impact from the construction and demolition works. It is considered that subject to conditions, noise and disturbance arising from these works are capable of being controlled to acceptable levels. The proposal is therefore capable of complying with BACS Policy 10 criteria 2(f), which seeks to adequately control adverse impact on the amenity of nearby residents, and BLP Saved Policy E34, which seeks to control noise nuisance.
129. Due consideration has been given to noise in relation to the issues raised by objectors and this is reflected in the recommendations to restrict and control proposed construction operations on site. In addition to this, it is considered proportionate and reasonable, given the length and duration of the build and demolition programme, to build a complaints procedure into the construction management plan to ensure the works do not adversely impact on the residential amenity of local residents, in light of the number of objections received with regards to this matter.
130. Whilst it would not be possible to eliminate all noise and disturbance for residents, it is considered that subject to the mitigation measures proposed, and the recommended conditions securing these measures, the adverse effects on residential amenity would not be unacceptable. The proposal is therefore considered to be acceptable in this respect and in accordance with the development plan policies.

#### Drainage impact and flooding considerations

131. NPPF Paragraph 103 advises that when determining planning applications, it should be ensured that flood risk is not increased elsewhere. Also of relevance is BACS Policy 1 (Climate Change), which expects proposals to demonstrate their sustainable credentials including reducing carbon emissions and energy use, and by adopting a precautionary approach to flood risk.
132. In practice, this means ensuring that the proposed development does not give rise to localised surface flooding elsewhere within the Clayfield's site, or to adjacent residential property, or the public highway (Moorbridge Lane). A draft scheme of surface water drainage has been submitted to the County Council, as Lead Local Flood Authority, which in principle is acceptable.
133. The site is situated in flood risk zone 1, i.e. land assessed as having a less than 1 in 1,000 annual probability of flooding. Whilst the area is one of low potential for flooding, an assessment of the hydrological and hydrogeological conditions within the vicinity of the proposed development underline the localised risk of

flooding across the site. Soakaway testing has revealed the ground to be practically impervious, as a result of high clay content within the underlying natural granular strata. This has provided the context for the design of the drainage scheme.

134. This would include all pedestrian surfaces being relatively level with resin bound aggregate or tarmac to allow for surface water run-off to drainage points around the buildings and existing hard-surfaced areas.
135. The County Council, as the Lead Local Flood Authority, is satisfied that the drainage design for the scheme is capable of mitigating any flood risk associated with, or arising from the proposed development, in accordance with planning policy. Planning conditions would ensure that the drainage attenuation measures are appropriately secured and reflect sustainable drainage principles, in accordance with BACS Policy 1 and the NPPF. As such, it is considered that the issue of surface water drainage is capable of being adequately addressed by the measures being proposed.

#### Light impact

136. Of relevance is BLP Saved Policy E33 (Light Pollution), which seeks to ensure that planning permission is only granted where it can be demonstrated that schemes would use the minimum of lighting necessary, and where appropriate measures are incorporated to minimise impact outside of the site.
137. External lighting has recently been improved across the site, and any proposed new lighting would comply with strict technical guidance (Institution of Lighting Engineers – Guidance Notes for the Reduction of Obtrusive Lighting GN01). This would ensure that any proposed external lighting is compliant with the site's wider location, being situated within environmental zone category E3, representing a medium district brightness area (covering small town centres or urban locations). Planning conditions would ensure that any lighting scheme is adequately controlled in terms of its location, direction and shielding to ensure that the proposals would not adversely affect the nearest neighbours. As such, it is considered that the proposals are capable of according with BLP Saved Policy E33 and BACS Policy 10 and that any lighting is capable of being suitably controlled in accordance with this policy, to ensure that no light nuisance/spillage impacts on the nearest neighbours.
138. Regarding existing car park lighting, the applicant has confirmed that lighting post shields have now been fitted. This seeks to address concerns raised by an occupier on Devonshire Drive, at the pre-application meeting organised by the applicant and documented in the supporting Planning Statement (submitted as part of the application). This referred to a car park lighting post, directly opposite this particular property, lighting up the rear garden at night, and causing a nuisance. It is confirmed that the light has now been fully redirected into the car park, away from residential gardens and properties.
139. Controls would also be placed over any temporary lighting to be used during the construction of each phase of the development.

#### Air quality/dust impacts

140. The construction operations have potential to generate dust, particularly during the second phase demolition works and especially when conditions are dry and windy. However, the susceptibility of neighbouring properties to dust dispersal is capable of being adequately controlled through the implementation of dust mitigation measures to minimise or indeed eliminate the impact from any associated dust emissions.
141. Planning conditions would seek to appropriately regulate activities and subject to appropriate controls, the proposed construction phase would not give rise to any significant environmental and amenity impacts. The submission of an Environmental Management Plan providing details of construction management and impacts, including dust emissions, would be required. This would include specific measures with respect to the demolition of the Scarlet Unit. As such, subject to planning conditions, the development would accord with BACS Policy 10, in terms of general amenity impacts.

#### Contamination issues

142. It is noted that a destructive asbestos survey would be carried out on the empty Scarlet Unit prior to demolition, with this only being capable of being carried out once the building is vacated.
143. Planning conditions would require a pre-demolition asbestos survey and validation report to be submitted to confirm that the post-demolition footprint does not contain asbestos containing materials or other contaminated materials.

#### Traffic impact

144. BLP Saved Policy RC12 (Caring Institutions) supports extensions to caring institutions, where there is appropriate provision for servicing, access and parking requirements.
145. No increase in staffing levels is being sought. There is available parking on site, and no traffic impacts associated with the use of the facilities is envisaged. Any ancillary use by the wider community would be extremely low level and would not give rise to any significant traffic impacts. The County Council's Highways Officer has not identified any significant issues, either during the construction phase, or in terms of the development's use, and in principle the proposal is acceptable. The proposal is to improve facilities and given that there would be no increase in staff, the development would have no detrimental impact on the highway.
146. It is noted that Clayfields House has good access to existing service bus routes, and is within reasonable walking distance of a number of residential areas, served by established public transport links and good pedestrian access routes. Those young people living out in the community, who would access the new vocational facilities, would do so either by public transport or walking. This would be an extremely low level use, as the vocational unit only accommodates several young people at any one time. The development accords with the NPPF Paragraph 35 which supports development that maximises the use of sustainable transport modes.

147. Access arrangements for emergency vehicles and staff into the car park compound, via a single entry and exit system, would remain unchanged and unaffected by these proposals.
148. Planning conditions would ensure that the construction management plan adequately controls construction traffic, including hours of deliveries to the site. As a result, the proposed construction/demolition phase should not give rise to any adversely significant traffic impacts and subject to planning conditions, would accord with BLP Saved Policy RC12.

#### Cumulative impact

149. A number of applications to extend the Clayfields House complex have been approved by the County Council over recent years, as referenced in the Planning History section of this report, and it is acknowledged that a stage may be reached when it is the cumulative rather than the individual impact of a proposal that makes it unacceptable. With respect to the proposed built development under consideration in this report, whilst it would add to the amount of built development on the site, there is nothing to indicate that the development would result in significant adverse impact on the amenity of local residents. Nor is there anything to indicate from the County Council's Landscape Officer that the site and its surroundings are overly sensitive to change and that the site is not capable of accommodating the built development being proposed, subject to controls over building materials and a suitable landscaping scheme. Furthermore, the proposals would involve an element of replacement development, with the demolition of the existing Scarlet Unit and redevelopment of this area (albeit on an extended footprint, and to two-storey height).
150. Given the previous recent works (workshops and new office/entrance area) it is reasonable to conclude that without the appropriate mitigation and strict controls being proposed, there would be potential for cumulative construction impacts on local residential amenity. The phased working of the development would reduce noise, dust and general disturbance impacts throughout the construction/demolition programme, limiting any combined or cumulative impact. It is considered that with good environmental and construction practices, secured by mitigation measures considered proportionate to the works, there would be no unacceptable cumulative impacts upon sensitive receptors from this development. There are no indications from the Borough Council's EHO, or the County Council's Noise Engineer, that the development is not capable of complying with BACS Policy 10 and BLP Saved Policies E33 and E34 subject to recommended planning controls.

#### Ecological Impact

151. The County Planning Authority is being asked to consider whether there are 'exceptional circumstances' to justify granting planning permission subject to conditions requiring bat surveys to be carried out prior to the commencement of the development, as referenced in the advice in paragraph 99 of ODPM Circular 06/2005. The CPA must also have regard to the issue of proportionality and the likelihood of a licence being granted by Natural England, as licensing authority, given that the CPA considers that there is a reasonable likelihood of bats being

present in the existing Scarlet Unit and therefore potentially affected by the proposed development given the 'high potential' assessment referenced in the Extended Phase 1 Habitat Survey and subsequent addendums, submitted by the applicant's ecologist, in support of the application.

152. Members attention is drawn to the fact that the CPA has not been able to establish whether this approach has ever been adopted by other local planning authorities, and the CPA has never applied the 'exceptional circumstances' test before. Nor is the CPA being asked to determine the principle of the need for these surveys, which is accepted as a necessary and absolute requirement, along the route to establishing the actual status of the Scarlet Unit, as a potential roost, prior to its demolition; and to ensure that the development, if granted, is legally compliant with the protection afforded a European Protected Species under the Habitats Regulations.

- The CPA's legal duty to a protected species

153. The CPA has a duty under Section 40 of the Natural Environment and Rural Communities (NERC) Act 2006, in exercising its functions to have regard, so far as is consistent with the proper exercise of those functions, to the purpose of conserving biodiversity, including for the purposes of determining this application.

154. All species of bats are European Protected Species (EPS), under the Conservation of Habitats and Species Regulations 2010 (as amended), and several species of British bat are Species of Principal Importance under the provisions of the NERC Act 2006, and the protection of bats and their roosting habitat is a material consideration in determining this application. This means in principle that bats are protected against disturbance, killing or injuring, and their roosts are protected against obstruction, damage or destruction. A bat roost is any structure used by a bat for breeding, resting, shelter or protection, and as bats tend to re-use the same roost sites, a bat roost is protected from damage or destruction, whether or not the bats are present at the time. If roosting bats were confirmed to be present within the existing Scarlet Unit, then an EPS licence from Natural England would be required, ahead of its demolition, in order to derogate from the Conservation of Habitats and Species Regulations 2010 (as amended). The actual status of the Scarlet Unit, as a potential bat roost, can only be confirmed when the necessary surveys have been completed, and the following considerations would not alter this. In coming to a decision on this application, the CPA must also consider the question of the timing of these surveys.

155. The applicant's surveys and legal advice are a material consideration, and are now given due consideration, with regards to the Circular 06/05 and the Habitats Regulations.

- The Circular

156. As already indicated, the CPA must assess the application in terms of the ODPM Circular. This in turn, should be read in conjunction with the NPPF and the NPPG. With regards to guidance on statutory obligations concerning protected species, paragraph 007 of the NPPG section on the natural

environment states that local planning authorities should take a pragmatic approach, the aim of which should be to fulfil statutory obligations in a way that minimises delays and burdens.

157. Paragraph 118 of the NPPF, states that when determining planning applications, local planning authorities should aim to conserve and enhance biodiversity by applying various principles, notably that if significant harm resulting from a development cannot be avoided, adequately mitigated, or, as a last resort, compensated for, then planning permission should be refused. The 'mitigation hierarchy' detailed in paragraph 118 of the NPPF is given further direction in paragraph 018 of the NPPG section on the natural environment, where it states that where significant harm cannot be wholly or partially avoided, the possibility of whether impact can be minimised by design or by the use of effective mitigation measures which can be secured by planning conditions or planning obligations, should be explored together with compensation measures, to provide for an equivalent value of biodiversity. Where a development cannot satisfy the requirements of the 'mitigation hierarchy' planning permission should be refused.
158. Also of relevance is NPPF Paragraph 109, which states that the planning system should contribute to and enhance the natural and local environment by minimising impacts on biodiversity and providing net gains in biodiversity where possible, thereby contributing to the Government's commitment to halt the overall decline in biodiversity. Paragraph 119 is also of relevance in that it states that the presumption in favour of sustainable development (contained in paragraph 14 of the NPPF) does not apply where development requiring appropriate assessment under the Birds or Habitats Directives is being considered, planned or determined.
159. Further guidance is given in paragraph 016 of the NPPG section on the natural environment. This states that information on biodiversity impacts and opportunities should inform all stages of development as well as the application itself. The guidance advises that an ecological survey will be necessary in advance of a planning application if the type and location of development are such that the impact on biodiversity may be significant and existing information is lacking or inadequate. This should be read alongside the guidance in the Circular, although the NPPG states that separate guidance is to be published to replace the Circular. This paragraph in the NPPG also advises that local planning authorities should only require ecological surveys where clearly justified, for example if they consider there is a reasonable likelihood of a protected species being present and affected by the development. It advises further that assessments should be proportionate to the nature and scale of the development proposed and the likely impact on biodiversity. In accordance with Paragraph 99 of the ODPM Circular 6/2005, it is essential that the presence or otherwise of protected species and the extent to which they may be affected by the proposed development is established before planning permission is granted, otherwise all relevant considerations may not have been addressed in making the decision. The Circular advises that the need to ensure ecological surveys are carried out should only be left to coverage under planning conditions in 'exceptional circumstances'. To this effect, two further addendum reports have been submitted by the applicant's ecologist which have sought to provide sufficient information to meet the first part of the test. This information is set out as follows, and provides a professional judgement as to the presence or otherwise of a protected species, and the extent to which it may be affected by



the proposals in the application, together with proportionate mitigation and compensatory measures.

160. In the professional judgement of the applicant's ecologist, the features present on the Scarlet Unit could present suitable roosting opportunities for crevice dwelling bats, (Defined by the Bat Conservation Trust as common pipistrelle, soprano pipistrelle, Nathusius pipistrelle, Brandt's bat, Whiskered bat, Alcaethoe's bat and Bechstein's bat). The identified features with bat roosting potential are confirmed to be all cavity features, with none providing access to the roof void.
161. In terms of the roof void to the Scarlet Building, this was observed as being cluttered with modern wooden trusses and duct pipes. Therefore, with regards to roof void dwelling species, it is assessed as having very low bat roosting potential and further assessed as being sub-optimal for bat species, such as brown long-eared bats, which require large, uncluttered, open roof spaces.
162. It is considered that if a roost void dwelling species were present, evidence of roosting would have been apparent during the roof void inspection in September 2015. No bats were seen to emerge from, or re-enter the roof during the targeted survey work carried out for the re-location of the air handling plant, again in September 2015, and nor did an endoscope inspection of the cavity between the tiles and felt roof covering, the following month, reveal evidence of bats or bat roosting. However, a low level of bat activity (ranging from zero to four bat passes) was recorded during the survey visits, including common pipistrelle and noctule bats being seen and heard.
163. In the professional judgement of the applicant's ecologist, the presence of a roost by a void dwelling species in the Scarlet Unit, is considered very unlikely and this judgement has informed the mitigation and compensation measures which are provided as potentially being required for common crevice dwelling bat species.
164. As the building is to be demolished, if a bat roost were to be present, then an EPS licence would need to be secured from Natural England, and as part of this licensing process, mitigation and compensation measures would be required to be put forward.
165. It is considered that any indirect impacts from lighting, noise and loss of habitat would not impact on the bats.
  - Proposed mitigation and compensatory measures
166. Proportionate mitigation in line with Natural England's guidelines has been provided, based on finding a maternity roost of common crevice dwelling bat species. Replacement roost sites are proposed to be incorporated into the fabric of the new Scarlet Block, if required. This would take the form of four enclosed bat boxes, to be installed on the north, east, south and west elevations, to give variation in temperature between boxes. These replacement roosting features would be in place by the time the new Scarlet Building is complete (anticipated date of April 2017), and prior to demolition of the existing Scarlet Unit (planned to commence April 2017). In addition, four further bat boxes would be erected on the north, west and south elevations to the existing

gym building. These would be installed immediately if a maternity roost was identified by survey work carried out between May and early July 2016, to allow time for bats to find these replacement features prior to demolition works. All bat boxes would be placed at a height of 4m, with a suitably licensed bat ecologist advising as to the most appropriate locations.

- Surveys

167. Bat emergence and return-to-roost surveys would be undertaken between May and early July 2016, the outcome of which would be used to further refine the mitigation/compensation requirements outlined above.
168. In the event that a maternity bat roost is found to be present during the evening/dawn survey work, features with bat roosting potential on the existing Scarlet Unit would be excluded, under licence, to roosting bats by the beginning of April 2017, prior to maternity roost formation. During demolition, features with bat roosting potential would be removed by hand by a licensed ecologist and any bats, if found, relocated to one of the new bat roosting features. In the event that a roost supporting common species is identified, then proportionate mitigation and compensation measures would be required, with the installation of a number of bat roosting features and roof stripping by hand.
169. Any EPS licence would include proportionate mitigation and compensation for the type of roost present.
170. The CPA is satisfied that, notwithstanding the absence of the required surveys, due consideration has been given, as fully as possible, to the direct and indirect impacts on an EPS. A professional judgement has been made as to the probability or likelihood and extent to which bats may be affected by the development and that proportionate measures of mitigation have been put forward which demonstrates a precautionary approach in the event that a maternity roost for crevice dwelling bats is discovered. This does not negate the need for further surveys which must be completed in line with the recommendations in the Extended Phase 1 Habitat Survey, and addendums, and at that stage adjustments could be made to the mitigation measures if required. This aspect would be secured under planning conditions covering the mitigation and compensatory measures. The scope for adjustment to the submitted mitigation would be built into the attached planning conditions.
171. It has been identified that there is the likelihood that the Scarlet Unit holds key features that have a high potential to be used by bats and consequently, the extent to which it is likely that there would be a material effect on crevice dwelling bats is high. That the CPA can rely on the applicant's ecologist's professional judgement has been established under the judgement of Mr Justice Holgate in the case of *Barr v North Somerset Council and others* [2015] EWHC 1735 (Admin), which dealt with ecological issues including the three tests (referred to in paragraphs 190-201 of this report). It directly considered the opening sentence to Paragraph 99 of the Circular, and concluded that matters may be dealt with by the application of professional judgement and not only by the carrying out of surveys. He said that this was clear from the subsequent sentence in paragraph 99 on the possibility of delay and cost. In his judgment, in assessing the need for a survey, regard should be had (1) not only to the likelihood of the species being present but (2) also the extent to which it is likely

that there would be any material effect on that species (numbers added to illustrate that two limbs are covered). These two limbs are considered in paragraph 176 below. It is considered reasonable, taking into account of the matters mentioned in this report to conclude that the opening statement of Paragraph 99 has been reasonably and proportionately engaged with and that the ecological assessment is a reasonable reflection of the Scarlet Unit's potential as a bat roost. The further information put forward by the applicant's ecologist is a material consideration and it is considered that the assessment is proportionate to the nature and scale of the proposed development, and the likely impact on an EPS. Therefore, it carries significant weight, in terms of establishing the presence of a crevice dwelling bat species, and the extent to which it may be materially affected by the proposed development.

172. It is considered that this approach accords with the NPPF, Paragraph 118, and Paragraph 016 and 018 of the NPPG, as the mitigation and compensatory measures provided aim to conserve a protected species; and where potentially significant harm resulting from the development cannot be avoided, which in this case means demolishing the Scarlet Unit, that harm is considered capable of being adequately mitigated or compensated for. This is also in accordance with BACS Policy 17, which seeks to ensure that new development provides new biodiversity features and improves existing biodiversity features wherever appropriate; and seeks to ensure that where harm to biodiversity is unavoidable, and it has been demonstrated that no alternative sites or scheme designs are suitable, development should as a minimum mitigate or compensate at a level equivalent to the biodiversity value of the habitat loss. In line with this policy, a range of mitigation/compensation measures, reflecting a precautionary approach, are considered to be appropriate according to the views of the County Council's Senior Practitioner Nature Conservation and NWT. As such, subject to planning conditions covering further bat surveys and the identified mitigation/compensation measures, the proposed development is capable of according with the ecology policies contained in the local development plan, the NPPF and the NPPG. As such, there is nothing to indicate that planning permission should be refused and the proposals are considered capable of being supported at this stage.
173. A further material consideration is the standing advice from Natural England regarding bats and surveys and mitigation for development projects. This is qualified by drawing attention to the fact that in the absence of the results of further survey work, Natural England is unable to advise the CPA of the implications of the proposal for bats. Notwithstanding the fact that the surveys are yet to be completed, in line with Natural England standing advice, the applicant's ecologist has sought to assess the impacts of the proposed development on bats; the likelihood of a protected species being present in the Scarlet Unit; how it may use that building in terms of a maternity roost for crevice dwelling bats; and proportionate mitigation and compensatory measures put forward to avoid, reduce or manage any negative effects to a protected species. It is considered that the approach taken is in principle in line with Natural England's standing advice.
174. The County Council's Senior Practitioner Nature Conservation agrees with the assessment that the Scarlet Unit's high potential for bat roosting is in relation to crevice dwelling bats and that it has very low potential for bat roosting in relation to roof-void dwelling bats; that there would be no significant indirect impacts on a potential bat roost within the Scarlet Unit; and that a range of

mitigation/compensation measures would appear to be appropriate, having adopted a precautionary approach, based on assuming that a maternity roost of a common species of crevice dwelling bat is present. As the building is assessed as having high potential for roosting by crevice dwelling bats, there is indeed a reasonable likelihood of bats being present and demolition of the building would evidently affect them, if present. Consideration has been given to the presence of a protected species and an assumption has been made as to the extent to which they would be affected.

175. It would appear that sufficient consideration has been given to the presence of a protected species and the extent to which it may be affected by the proposed development, based on assumptions, as to finding a maternity roost of a common species of crevice dwelling bat, to satisfy the first part of the 'exceptional circumstances' test.
176. The County Council's Nature Conservation Officer is satisfied that with the proposed mitigation, bats would not be adversely or materially affected by the development. This view also appears to be shared by NWT who state that they are satisfied that it has been demonstrated that appropriate mitigation could be provided in the event that a bat roost is discovered. Although there is a reasonable likelihood of bats being present, the applicant's ecologist has done enough preliminary work to establish that any bats present are likely to be more common species. The applicant has built suitable mitigation into their development scheme, to the extent that the County Council's Senior Practitioner Nature Conservation is satisfied that any bats would not be adversely, or materially, affected. Hence, the CPA is able to agree that the proposals are capable of overcoming the hurdle of the two limb test (as quoted in paragraph 171 above), when applied, i.e. the reasonable likelihood of bats being present **and** being adversely affected by the development. In this context, the CPA is able to consider whether there are 'exceptional circumstances' which would allow the CPA to condition further survey work.

- Exceptional circumstances

177. Significantly, NWT has stated that they would remove their objection to the proposals if the CPA decides there are 'exceptional circumstances'. A legal opinion provided by the applicant's solicitors (Geldards LLP, December 2015), and further supporting information provided by the applicant (email dated 29<sup>th</sup> January 2016) taken together with the further addendums (BSG, Ecology December 2015) are material considerations. The supporting information seeks to demonstrate that 'exceptional circumstances' do indeed exist, and are set out as follows:
178. The applicant has put forward reasons why the application needs to be determined by the end of February, with these reasons being linked to funding bids to the Department for Education (DfE).
179. The County Council has been successful in securing funding from the DfE which allows the full scheme design to be developed to the 'readiness to deliver' stage, i.e. submission to planning, complete detailed design work for the first phase of the proposal (the building of the new Scarlet Unit), appointment of a contractor, and undertaking enabling works. Despite the County Planning Authority confirming that these enabling works (tree clearance, preliminary

drainage works, and works to some utilities) could be carried out as permitted development, it is understood that they are not going to take place in advance of any planning permission being issued. However, the funds provided for these enabling works are time limited to the current financial year (2015/16).

180. The key reason why the applicant wishes to see the application determined at February committee is because a bid for over £6 million to fund the remainder of the project is presently being considered by the DfE. The invitation to submit this bid occurred after the 'closed' period for bat surveys commenced. A decision on the bid is expected by the end of February and the applicant considers that a positive decision on the application would be extremely beneficial to the bid process as it would demonstrate that the project is in the best position possible in terms of its deliverability. If the application is not determined in February, the applicant believes that there would be a real risk to the main funding bid, given that there are other schemes across the country making similar bids. Furthermore, the funding already provided in respect of the enabling works would be lost as those works would not be commenced. As mentioned in paragraph 91, this grant funding is a matter to which the local planning authority must have regard, as far as it is material to this application.
181. The loss of all this funding would leave the County Council with the liability of the existing structural issues on the existing Scarlet Unit. These would have to be addressed using other capital funding streams, or the Scarlet Unit would have to be closed and the places it provides would be lost to other local authorities or private providers.
182. It is stated that the urgent and continuing need to maintain the availability of secure young offender beds and to increase the number of welfare beds in the region; the structural and operational condition of the existing facility; and the need to maintain the funding profile together amount to 'exceptional circumstances' for the purposes of Paragraph 99 of Circular ODPM 06/2005 (Geldards LLP, December 2015). Matters of cost and delay are relevant to the issue of 'exceptional circumstances' (see paragraph 171).

- Conclusions

183. It is considered acceptable in principle to apply the 'exceptional circumstances' test, as the CPA has considered the likelihood of bats being present and the extent to which they would be affected by the development pursuant to the first part of paragraph 99 of the ODPM Circular, having taken into account the environmental sensitivities of the Scarlet Unit as having high potential to be used as roosting habitat for crevice dwelling bats.
184. In terms of concluding whether 'exceptional circumstances' have been determined to exist, the following has been considered.
185. The approach adopted has been to assess the information on its merits, in line with relevant policy direction and information supplied.
186. It would seem reasonable to concur that because the information is considered capable of meeting the three part derogation tests under the Habitat Regulations, it is reasonable to assume that the information provided, under the legal opinion submitted by Geldards LLP, and the ecological addendums, also

meets the 'exceptional circumstances' test. This is also apparent from the judgement as quoted in paragraph 171. It is considered that critical policy support is provided in the NPPG paragraph 007, where it states that in fulfilling its statutory obligations, local planning authorities should take a pragmatic approach in a way that minimises delays and burdens. In this respect, it may be argued that to jeopardise funding, which the applicant has demonstrated would be the case if there is a delay in securing planning permission until after the bat surveys are completed, would place an unfair burden on the County Council as applicant, and in times when there are severe economic constraints and shortages of capital funding, to jeopardise a high level funding stream from the DfE would on balance be unreasonable. Both costs and delay are specifically referred to in the Circular.

187. The acceptability of the evidence put forward by the applicant has to be assessed on its own merits and it is considered that the national importance of the Clayfields facility, the high level of capital funding being sought, and the need for the redevelopment and replacement of the Scarlet Unit due to subsidence and structural failings are all material considerations which must be given significant weight. In addition, overarching policy direction, set out in Section 8 of the NPPF (Promoting Healthy Communities) paragraph 70, emphasises the importance of delivering social services that communities need and guarding against the unnecessary loss of valued facilities and services. It is apparent that if the funding stream is jeopardised by a delay in making a decision on the application, there is a real possibility that the Scarlet Unit would not be able to be redeveloped, as other funding streams have not been identified, and may well not exist, and it would result in the eventual closure of the existing Scarlet Unit with the loss of what are valued facilities and services. This would indeed appear contrary to the policy advice contained in paragraph 70 of the NPPF. It is also at odds with the policy direction contained in paragraph 001 of the NPPG which supports the development of healthy living environments, which the redevelopment of a new Scarlet building represents to meet the needs of Clayfields young people. It is considered that these policies offer considerable weight to the proposals, and more explicitly, the information provided to demonstrate that 'exceptional circumstances' do indeed exist. It is considered that there is substantial weight in terms of policy support for the 'exceptional circumstances' demonstrated by the applicant.
188. This must be balanced or weighed against any ecological disbenefits that may result from the conditioning of bat surveys, rather than their completion prior to determining the application. In this respect, the CPA has carefully and reasonably engaged with the tests set out under the Habitats Regulations and Directives, the ODPM Circular, the NPPF and the NPPG, relevant case law and taken into consideration Natural England's standing advice on bats, which is a material consideration, and the recommendations and opinions of the County Council's Senior Practitioner Nature Conservation and NWT; and it is considered that there would be no material harm to the bats and their potential roost, subject to the requirement for further survey work and the proposed mitigation and compensation measures, which would be secured by planning conditions.
189. On balance, it is considered that the weight of the evidence points towards 'exceptional circumstance' having been shown to exist; and to delay determining the application until after the bat surveys have been completed would place unreasonable disbenefits on the Clayfields project, which would appear to be

contrary to the policy direction contained in NPPG Paragraph 007, and NPPF Paragraph 70.

- Bats and the Habitats Regulations

190. Bats are a European Protected Species, by virtue of the Conservation of Habitats and Species Regulations 2010 as amended (the Habitats Regulations). Under regulation 53 of the Habitats Regulations, activities which would otherwise contravene the strict protection regime offered to an EPS under regulation 41, which includes the destruction of bat roost sites, can only be permitted where it has been shown that certain tests have been met. Within the context of a planning application these are:

- (i) the activity is for the purpose of preserving public health or safety, or for other imperative reasons of overriding public interest (regulation 53(2)(e));
- (ii) there is no satisfactory alternative (regulation 53 (9)(a)); and
- (iii) the favourable conservation status of the species in question is maintained (regulation 53(9)(b)).

191. In addition to the requirements of ODPM Circular 06/2005 Paragraph 99, the CPA, as a competent authority under the provisions of the Habitats Regulations, has a statutory duty, in the exercising of its functions, to have regard to the requirements of the Habitats Directive. What this means is that consideration must be given, during the determination process, as to whether or not the three tests outlined above have been met. The potential of the proposed development to have a material impact on an EPS and its roosting habitat has been identified, and therefore consideration must be given as to the likelihood of a licence being granted by Natural England under Regulation 53 of the Conservation of Habitats and Species Regulations 2010 (in line with R (Morge) v Hampshire County Council [2011] 1 WLR 268). The species protection provisions of the Habitats Directive, contain three 'derogation tests' which must be applied by Natural England when deciding whether to grant a licence to an applicant carrying out development which would harm an EPS. The three tests are considered below:

- Regulation 53(2)(e) test

192. It is considered that the benefits of the proposed development amount to 'imperative reasons of overriding public interest' given that Clayfields House fulfils functions that preserve public health and safety and carries out a range of social services in the rehabilitation of an extremely vulnerable and challenging group of young people.

193. The facility is of national importance, and is a critical part of a network of provision across the country. It is a mixed gender secure residential children's home, and accommodates 14 vulnerable child offenders, and also offers four beds for children secured on welfare grounds, because they are at risks to themselves and to others. The development would add two further welfare beds, for use by either vulnerable high risk child mothers and their babies, or children who have high dependency needs, or as 'step-down' beds to help

children make the transition back into the community. This particular category of welfare beds is in short supply and the development would be highly beneficial in terms of delivering a level of welfare provision and high dependency facilities that would contribute towards the health and safety of these most vulnerable young people.

194. As a result of these functions, Clayfields House is subject to the County Council's 'Looked after children and care leavers strategy 2015-18', which establishes the best possible outcomes for the children and young people in its care. A range of challenging behaviours are dealt with (self-harm, drug misuse, and violence), and the aim is to achieve long term positive benefits for the individual and the wider society. The proposed redevelopment of the Scarlet Unit would deliver a purpose built facility which would overcome current difficulties and meet the required regulatory standards for secure care. It would deliver a separate high dependency unit, where the individual needs of a child can be met, during episodes of more extreme behaviour. Finally, the development would replace a facility which is shown to be at risk of closure, for health and safety reasons, relating to its deteriorating condition.
195. Based on the above evidence, there is overarching support for the principle of the development established under the NPPG and NPPF, in particular paragraph 70 of the NPPF, which seeks to deliver the social services that a community needs, and in doing so, guard against the unnecessary loss of valued facilities and services. Without its redevelopment, the Scarlet Unit does face closure and an uncertain future regarding the secure placements it offers, and this would be a disbenefit to both the young people dependent on these facilities and the wider community whose safety and security is protected by a facility like Clayfields.
196. Overall, it is considered that the benefits of the development amount to 'imperative reasons of overriding public interest' and that this amounts to an imperative reason in the public interest for granting a licence.
  - Regulation 53(9)(a) test
197. The proposals have set out to demonstrate that there is no satisfactory alternative to the proposed development, and that the demolition of the existing Scarlet Unit and its complete replacement is the only viable option. It is considered that efforts to repair the building would be both costly and extremely disruptive to the running of the unit. Any repair works would mean closure of the unit for some considerable time, and the loss of the bed spaces would be nationally significant, with consequences for public health, safety and social outcomes.
198. The proposed development has a number of benefits, in that the phasing of the development means that there would be no loss of bed spaces at any time; and the proposed sequence of works allows replacement bat roosts to be built into the new buildings, prior to the Scarlet Unit's demolition.
199. There are no viable alternatives to the scheme. To develop the same number of secure beds elsewhere is not economically viable, nor is there a readily identifiable alternative site. The 'do nothing' option would lead to the eventual closure of the Scarlet Unit due to subsidence and structural failure. This would



also mean the loss of any potential bat roosts in this building, with no plans or funding for replacement facilities.

200. It is apparent that for operational and economic reasons, the demolition and replacement of the Scarlet Building, put forward under these proposals, is the most satisfactory course of action. Again, there is overarching policy support for the development, as referenced above, with the NPPF and NPPG arguing against the loss of these high value facilities and giving support to the continuation of these services. As such, it is considered that there is no satisfactory alternative to the proposals under consideration in this report and that this meets the necessary test for a licence being granted.

- Regulation 53(9)(b) test - Capability of maintaining Favourable Conservation Status

201. In the event that bat roosting is identified in the existing Scarlet Unit, it is considered highly likely that this would be limited to low numbers of common crevice dwelling species of bats. The proposed mitigation and compensation measures are considered by the applicant's ecologist to be proportionate and adequate, and would ensure that the site continues to provide roosting opportunities, with the aim of maintaining the Favourable Conservation Status of common crevice dwelling bat species (if present). Both the County Council's Senior Practitioner Nature Conservation and NWT are satisfied that this approach satisfies regulation 53 (9)(b), and that the favourable conservation status of the identified common crevice dwelling bat is capable of being maintained throughout this development. Again, the judgement in the case of *Barr v. North Somerset Council and others* [2015] indicates that the application of expert judgement may be applied with regards to establishing the extent to which a protected species may be affected by a proposed development, rather than the matter only being dealt with by survey work.

- Conclusions

202. Based on the reasons set out above, and submitted under legal opinion from Geldards LLP, and all other relevant information referred to in this report, it is considered that significant weight can be attached to the supporting information as a key material consideration and, when considered in conjunction with the principle arising from the *Morge* case, and Natural England's standing advice 'European Protected Species and the Planning Process' (2010), it is concluded that a licence is likely to be granted by Natural England if planning permission is granted. In line with Natural England's guidance, in terms of applying the Favourable Conservation test at a local level, the mitigation and compensatory measures would be sufficient to maintain a local population of crevice dwelling bats (if discovered), and it is concluded that the mitigation measures are proportionate to the scale of the impacts of the development on an EPS.

203. It is noted that without redevelopment, it is likely that the Scarlet Unit would fall into disrepair, with the potential loss of any identified bat roost. It is considered that the bat interest is more likely to be that of a common crevice dwelling species and that sympathetic measures have been proposed which would be capable of retaining the bat interest and minimising any incidental disturbance to the bats.

204. It is considered that the evidence put forward by the applicant has met the overriding reasons of public interest test in a licensing context. The application has clearly demonstrated sufficient 'need' and 'evidence' for the proposal to contribute to the health, well-being and safety of the young people at Clayfields and that the proposed development amounts to 'imperative reasons of overriding public interest'. It is also demonstrated that there is no satisfactory alternative to meeting this specific need and that there would continue to be beneficial consequences to the environment, by way of proportionate mitigation and compensatory measures that would be implemented, if required.
205. It is considered that there is a specific need to address the structural failings of the Scarlet Unit, the need to secure DfE funding, to ensure the long-term welfare and social well-being of the young people and that the demolition works and impacts potentially affecting a bat roost would be capable of being appropriately mitigated and compensated for, thereby passing the overriding reasons 'of public interest' test in a licensing context. Overall, it is considered that the three tests have been met and it is concluded that it has been demonstrated that appropriate mitigation could be provided in the event that a bat roost is discovered and that it would be possible for the applicant to secure the required EPS licence.

#### Other matters

206. The value of surrounding residential properties, in terms of their sale value, is not a material consideration.
207. The suggestion that appropriate householders in Trowell Park Drive were not notified of the planning application is considered to be unfounded, as those residential properties abounding the northern boundary to the site and situated within Trowell Park Drive were notified of the planning application (namely, nos. 82-98 (inclusive)). This is in line with the guidance set out in the County Council's Statement of Community Involvement Review (adopted April 2013), which covers the procedure with regards to the near-neighbour notification process (paragraphs 5.11, 5.12 and 5.13 of that document). It is considered that appropriate publicity/consultation was carried out as part of the planning application process, involving the application being advertised by site notices, and neighbour notification letters being sent to the nearest occupiers, as detailed in the Publicity section of this report.
208. These occupiers were identified as being the nearest sensitive properties to the proposals, and those that have the potential to be directly affected by the development. Given the scale and nature of the proposals, being contained and set into the site, moderately distant to surrounding residential properties, and a proportionate extension to an existing secure unit, it was considered proportionate to limit near-neighbour notification to those properties adjoining the site.
209. Attention is drawn to the fact that the extent of this near-neighbour notification is at the discretion of the individual case-officer dealing with the application (paragraph 5.12 of the Statement of Community Involvement Review); and in this respect, the Planning Officer considers that the notification is a sufficiently proportionate response in relation to these proposals.

210. The principle of the development as a secure unit for young people was established historically in the original planning application for the facility and pre-dates this application by many years. These proposals do not involve increasing the number of residential placements, which would continue to cater for a maximum of eighteen young people, and there would be no increase in staffing levels.
211. The representation detailed in paragraph 75 is viewed sympathetically, but it is considered that the purpose of this report is to consider the planning merits of the proposed development, and not how the facility is managed, and the impacts of its 'step-down' programme on individual members of the local community. Whilst the fear of safety and security being compromised by this development is recognised, it is considered that the development could actually enhance security and improve delivery of Clayfields rehabilitation programmes with the provision of new, purpose built facilities. However, Clayfields House is a high dependency, secure unit, with high levels of security, and overall, it is considered that the proposals would have a neutral impact on the local community's safety and security.
212. Whilst objections have been received with regards to weekend working during construction, the Borough Council's EHO recommendations cover Saturday morning working (from 8am to 1pm), and it is the County Planning Authority's standard practice to allow Saturday morning working. It is expedient to all parties concerned, including local residents and the applicant, to deliver the build programme as quickly as possible and to cut out Saturday morning hours would increase the length of the build programme significantly over the two years earmarked for its delivery. As there would be an element of unavoidable disruption associated with the construction works, it is considered expedient to complete building works as quickly as possible. The attachment of planning conditions controlling Saturday morning hours, in line with the EHO's recommendations, would ensure that any adverse impact on local amenity is kept to acceptable levels, and there would be no Sunday or Bank and Public Holiday working. The expert advice of the EHO with regards to hours of working across the week, including Saturdays, has informed the attached planning condition covering hours of working, and it is also noted that the County Council's Noise Engineer raises no concerns.
213. The other issues raised by the EHO covering the burning of rubbish (no bonfires on site at any time) and the disposal of all trade waste in the correct manner to ensure compliance with trade waste legislation would be secured by appropriate planning conditions, to ensure that there are no detrimental environmental impacts, from smoke nuisance, on neighbouring properties.
214. Whilst concerns have been raised that the proposals have been 'railroaded through' with no thought for those living directly opposite the development, this report sets out and considers the full impact of the proposed development, so that Members of Planning and Licensing Committee can make a fully informed decision.
215. It is acknowledged that there are local concerns over the high quality of provision (extensions, exercise yard, and barbeque/outdoor eating areas) being sought under this application. However, the proposals are seeking to deliver better outcomes for this particular group of young people, which would be of benefit when they return to the wider community.

216. It is not considered that this is development by 'stealth' and the planning merits and disbenefits of the proposals are set out in this report. Whilst assurances cannot be given around future development, any future application would be considered in terms of its individual and cumulative impact.
217. The County Council, as Planning Authority, cannot comment on the design information that was made available at the pre-application meeting, as this was undertaken independently by the applicant. However, the merits of this process are set out in paragraph 3.12.2 to 3.12.3 of the Planning Statement submission, in support of the application, and the CPA is satisfied that the outcome of this meeting partly informed the design brief for this project. This has involved mitigation measures being incorporated into the scheme, including additional infill tree and shrub planting, to provide screening along the eastern boundary elevation, orientated towards the car park and the rear of properties in Devonshire Drive; and a new brick boundary wall edging the recreational area to the rear of the new Scarlet Block, which would ensure that all windows to the ground floor of the residential block (accessed by the young people) are concealed and inwardly facing; all windows on the first floor would be to staff facilities only; and further close boarded wooden fencing would be erected between the extended compound perimeter and the northern site boundary. Improvements to the existing car park lighting scheme also arose out of the meeting, involving bespoke shrouds being fitted to lighting columns to direct light towards the car park and away from residential gardens.
218. As such, the proposals accord with NPPF Paragraph 66 which makes reference to the fact that applicants are expected to work closely with those directly affected by their proposals and evolve designs that take account of the views of the community. This policy direction goes on to say that proposals that can demonstrate this, in developing the design of the new development, should be looked on more favourably. Therefore, in principle there is policy support for the proposals under consideration in this report, given that the planning merits outweigh any disbenefits of the scheme, which are considered capable of being mitigated by the attached planning conditions.
219. National Grid's consultation response would be attached as an informative to any decision notice issued.

### **Other Options Considered**

220. The report relates to the determination of a planning application. The County Council is under a duty to consider the planning application as submitted. Accordingly no other options have been considered.

### **Statutory and Policy Implications**

221. This report has been compiled after consideration of implications in respect of finance, the public sector equality duty, human resources, crime and disorder, human rights, the safeguarding of children, sustainability and the environment, and those using the service and where such implications are material they are described below. Appropriate consultation has been undertaken and advice sought on these issues as required.

### Implications for Service Users

222. The proposed development would allow for the continued functioning of the facility through the replacement of one of the accommodation units.

### Financial Implications

223. The County Council as applicant has a bid for funding before the Department for Education and the applicant has confirmed that the determination of this application would impact on the success or otherwise of this bid. However, due consideration to this matter is set out in detail in the report.

### Equalities Implications

224. The continued operation of the Clayfields facility would provide secure accommodation for vulnerable children.

### Crime and Disorder Implications

225. The site benefits from high levels of security which would be maintained as a result of the proposed development.

### Human Rights Implications

226. Relevant issues arising out of consideration of the Human Rights Act have been assessed. Rights under Article 8 (Right to Respect for Private and Family Life), Article 1 of the First Protocol (Protection of Property) and Article 6.1 (Right to a Fair Trial) are those to be considered and may be affected due to the scale of the proposed development and the period of construction. The proposals have the potential to introduce impacts such as noise and dust during construction and visual impacts once the development is complete. However, these potential impacts need to be balanced against the wider benefits of the proposals such as the provision of a secure unit for vulnerable children. Members need to consider whether the benefits outweigh the potential impacts and reference should be made to the Observations section above in this consideration.
227. With respect to Article 6.1, the application has been submitted by the County Council to the County Council for determination but Members will be aware that Planning and Licensing Committee is an independent and impartial tribunal established by law. Furthermore, concerns from residents regarding the degree of public consultation carried out with respect to this application have been addressed in the report and are considered to be in accordance with the County Council's Statement of Community Involvement Review.

### Safeguarding of Children Implications

228. The continued operation of the Clayfields facility would provide secure accommodation for vulnerable children.

### Implications for Sustainability and the Environment

229. These are considered in the Observations Section of this report.
230. There are no human resource implications.

## **Conclusion**

231. Clayfields House is one of only 15 high security facilities for vulnerable children in the country and the only such facility in the county. It provides high levels of support for challenging children in a secure environment. Structural surveys and Ofsted inspections have identified a need to replace and upgrade existing facilities on site, leading to the submission of the application under consideration in this report.
232. The application has raised a number of material planning considerations, particularly with regards to the amenity of neighbouring residential properties and the impacts on bats, which are a European Protected Species. It is considered that the proposed replacement residential accommodation block and the extension block for the provision of vocational education and office space, in conjunction with the proposed landscaping scheme, have been carefully designed to minimise the visual, amenity and privacy impacts on neighbouring residential properties in accordance with Policy 10 (Design and Enhancing Local Identity) of the Broxtowe Aligned Core Strategy and Saved Policy RC12 (Caring Institutions) of the Broxtowe Local Plan. Existing high levels of security on site would be maintained.
233. The proposed three phase development would take two years to complete and it is accepted that the build programme has the potential to cause adverse impacts on residential amenity. However, a condition requiring the submission of a construction management plan would ensure that suitable mitigation measures are in place during the construction period, including during the demolition of the Scarlet Unit.
234. Overall, considerable weight is attached to the educational and residential benefits of the proposed scheme and the overwhelming need for the development at a facility which is of national importance and it is considered that these benefits outweigh the potential harm resulting from the proposals in terms of residential amenity impacts.
235. It is considered that the proposals have been given due consideration in terms of the Habitats Regulations, the Habitats Directive and the ODPM Circular 06/2005 in relation to bats, a European Protected Species, and that there has been informed engagement with the requirements of each of these policy directions, as set out in the Ecology Observations of this report. It is judged that the legal protection afforded a protected species would not be compromised by making a decision on the application prior to bat surveys being completed and that 'exceptional circumstances' referenced in Paragraph 99 of the Circular have on balance been deemed to exist. In determining this application, the County Council has had regard to the development plan, local finance considerations and all material planning conditions, including the NPPF and NPPG.

## **Statement of Positive and Proactive Engagement**

236. In determining this application the County Planning Authority has worked positively and proactively with the applicant by entering into pre-application discussions; scoping of the application; assessing the proposals against relevant Development Plan policies, the National Planning Policy Framework, and the Office for the Deputy Prime Minister Circular on biodiversity and geological conservation. The County Planning Authority has identified all material considerations; forwarding consultation responses that may have been received in a timely manner; considering any valid representations received; liaising with consultees to resolve issues and progressing towards a timely determination of the application. Issues of concern have been raised with the applicant, such as impacts of noise, visual impacts and impacts on protected species, and these have been addressed through negotiation and acceptable amendments to the proposals. The applicant has been given advance sight of the draft planning conditions by the County Planning Authority. This approach has been in accordance with the requirement set out in the National Planning Policy Framework.

## **RECOMMENDATIONS**

237. It is RECOMMENDED that planning permission be granted for the purposes of Regulation 3 of the Town and Country Planning General Regulations 1992 subject to the conditions set out in Appendix 1. Members need to consider the issues, including the Human Rights Act issues, set out in the report and resolve accordingly.

**TIM GREGORY**

**Corporate Director – Place**

## **Constitutional Comments (RHC 15/02/16)**

The subject of the attached report falls within the scope of the Planning and Licensing Committee and this is the appropriate body to consider the report.

## **Comments of the Service Director - Finance (SES 12/02/16)**

The financial implications are set out in the report.

## **Background Papers Available for Inspection**

The application file available for public inspection by virtue of the Local Government (Access to Information) Act 1985.

## **Electoral Division and Members Affected**

Bramcote and Stapleford

Councillor Stan Heptinstall MBE

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