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**2016/0952**

**Applicant:** Mr Mark Jones

**Description:** Variation of condition 3 of outline planning application 2013/1007 (residential development of up to 41 dwellings including means of access) to increase the maximum number of residential properties to 56 units details of which shall be submitted as part of a separate application for the approval of reserved matters.

**Site Address:** Land off New Road/Lidgett Lane, Pilley, Barnsley, S75 3AE

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2 letters of objection have been received  
1no. Councillor objection to the scheme

### **Site Location and Description**

The site is located towards Lower Pilley and measures approximately 2.6ha. It is rectangular in shape and extends from Lidgett Lane to the North and New Road to the South. The site is mainly grassed over and is open to New Road but separated from Lidgett lane by an established hedge. Levels fall to the South by approximately 10m.

The site borders detached properties to the East, with further residential properties opposite Lidgett Lane to the North, and a recreational ground to the West. Beyond New Road to the South is a wooded area.

### **Site History**

2013/1007 – Residential development for up to 41 dwellings including means of access (Outline) Land off New Road/ Lidgett Lane, Tankersley, Barnsley, S75 3AE

### **Proposed Development**

Outline planning permission has been granted, with matters of design, scale, siting and landscaping reserved for subsequent judgement, under reference 2013/1007, for a residential development for up to 41 dwellings with access taken from a central location on the southern Boundary to New Road. As part of the approval condition 3 stated;

*The development hereby approved shall not exceed a maximum of 41 residential units, the details of which shall be submitted as part of the application for approval of reserved matters.*

Permission is now being sought, through a section 73 application, to vary that condition to increase the number of dwellings from 41 to 56.

Offsite contributions towards Affordable housing, Public Open Space, Education and Travel were previously approved and these would be amended accordingly. These matters will be addressed in detail as part of the assessment process of the report.

### **Policy Context**

Planning decision should be made in accordance with the development plan unless material considerations indicate otherwise and the NPPF does not change the statutory status of the development plan as the starting point for decision making. The development plan consists

of the Core Strategy and saved Unitary Development Plan policies. The Council has also adopted a series of Supplementary Planning Documents and Supplementary Planning Guidance Notes, which are other material considerations.

The Council has produced the Publication Consultation Document of the Local Plan. It establishes policies and proposals for the development and use of land up to the year 2033. The document is a material consideration and represents a further stage forward in the progression towards adoption of the Local Plan. As such increasing weight can be given to the policies contained within the document although this is still limited by the need to consider any comments received during the consultation and with the knowledge that the Inspector can require changes to the plan.

#### Local Development Framework Core Strategy

CSP1 'Climate Change'  
CSP2 'Sustainable Construction'  
CSP3 'Sustainable Drainage Systems'  
CSP4 'Flood Risk'  
CSP5 'Including Renewable Energy in Developments'  
CSP8 'The Location of Growth'  
CSP9 'The Number of New Homes to be Built'  
CSP13 'The Release of Allocated Housing Land'  
CSP10 'The Distribution of New Homes'  
CSO13 'The release of Allocated Housing Land'  
CSP14 'Housing Mix and Efficient Use of Land'  
CSP15 'Affordable Housing'  
CSP25 'New Development and Sustainable Travel'  
CSP26 'New Development and Highway Improvement'  
CSP29 'Design'  
CSP33 'Green Infrastructure'  
CSP35 'Green Space'  
CSP36 'Biodiversity and Geodiversity'  
CSP37 'Landscape Character'  
CSP39 'Contaminated and Unstable Land'  
CSP40 'Pollution Control and Protection'  
CSP42 'Infrastructure and Planning Obligations'

#### Saved UDP Policies

UDP notation: Safeguarded land

Policy GS10 'In areas shown as Safeguarded Land on the proposals maps existing uses will normally remain during the plan period and development will be restricted to that necessary for the operation of existing uses. Otherwise planning permission for the permanent development will only be granted following a review of the UDP which proposes that development on the land in question'.

#### SPD's

- Designing New Residential Development
- Parking
- Open Space Provision on New Housing Developments

## Planning Advice Note's

30 -Sustainable Location of Housing Sites  
33 - Financial Contributions to School Places

## Local Plan

SAF33 – Safeguarded land

## Other

South Yorkshire Residential Design Guide

NPPF

The National Planning Policy Framework sets out the Government's planning policies for England and how these are expected to be applied. At the heart is a presumption in favour of sustainable development. Development proposals that accord with the development plan should be approved unless material considerations indicate otherwise. Where the development plan is absent, silent or relevant policies are out-of-date, permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework as a whole; or where specific policies in the Framework indicate development should be restricted or unless material considerations indicate otherwise.

Paragraphs of particular relevance to this application include:

Para 32 'Development should only be prevented or refused on transport grounds where the residual cumulative impacts of development are severe'

Para 49 'Housing applications should be considered in the context of the presumption in favour of sustainable development.

Para's 58 & 60 – Design considerations

## **Consultations**

Affordable Housing Officer: No objections subject to compliance with policy CSP 15

BMBC Drainage: No objections subject to conditions

Education: No objections subject to contribution

Highways DC: Increase in numbers would not have a significant adverse impact

Tankersley Parish Council: No comments received.

Legal Officer: No objection subject to deed of variation

Ward Councillors: Cllr Barnard objects – increased traffic movements and surface water runoff

Policy: No objections subject to increased contributions

## Representations

The applications have been advertised by way of site and press notices. Properties which share a boundary to the site have been consulted in writing.

As a result of the consultation 2 letters of objection have been received. The main points of concern are;

- Increased flood risk due to increased hardstanding, roofs etc.
- Drainage in the area cannot take the additional strain
- Reduced highway safety due to increase in cars/traffic
- Out of character with the area, detrimental to visual amenity
- Increased stress on inadequate local services
- Mining legacy under the site

## Assessment

### Principle of Development

The site is currently in agricultural use and is allocated as safeguarded land in the UDP and proposed Safeguarded Land in the Publication Draft of the Local Plan. However, the principle of residential development has previously been set on the site with the approval of application 2013/1007. The residential development on the site is supported for the following reasons;

*UDP policy GS10 is clear that on Safeguarded Land existing uses will normally remain during the plan period and that planning permission for alternative development will only be granted following a review of the UDP. Taken as read the proposal would be contrary to UDP policy.*

*The intention of Safeguarded Sites is to release land that is required beyond the development plan period to serve long term development needs. The purpose of the Safeguarded Land designation in the UDP was therefore not to protect the land from development in perpetuity, but rather to designate land on the edge of existing settlements that may be required to meet longer term development needs without the need to alter existing Green Belt boundaries at the end of the UDP plan period.*

*The Unitary Development Plan was adopted in 2000 therefore the extent it can be relied upon in terms of current development needs is becoming dated. The NPPF also states that decision makers should only afford full weight to policies adopted from 2004 onwards.*

*The Council cannot demonstrate a deliverable five year supply of housing land and as such the presumption in favour of sustainable development in the National Planning Policy Framework (NPPF) applies and indicates that the proposal should be allowed.*

*It is therefore recognised that the NPPF is a material consideration that carries substantial weight in the decision making process. Assuming the development is considered sustainable, paragraph 49 is clear that where no five year supply can be demonstrated, the presumption in favour of sustainable development at paragraph 14 of the NPPF should be used to determine planning applications and that relevant policies for the supply of housing should not be considered up to date. Other relevant development plan policies and material considerations should, however, still be considered.*

As the principle of residential development has already been established, this report will focus on the implications of increasing the number of units from 41 to 56. The impact will be explored under the following headings;

## Sustainability

The NPPF sets out that there are three dimensions to sustainable development: economic, social and environmental. The NPPF not only commits to the presumption of sustainable development but stresses that it is essential 'to significantly boost the supply of housing'.

Whilst the contribution to the environmental dimension of sustainable development would be largely neutral, the proposal would significantly contribute to the economic (through council tax revenue, increased spending within the local area, creation of jobs etc.) and social dimensions (contributions for improving local secondary schools, improvement to local green spaces, provision of affordable housing etc.), especially with the increased unit numbers above the original outline, as such, the development is considered to be sustainable. On this basis, it is considered the presumption in favour of sustainable development applies.

## Affordable Housing

The site falls within Penistone East which is part of the Rural West whereby a 25% affordable housing requirement is needed in accordance with policy CSP15. The subtext of the policy alludes to the fact that this need can also be met offsite. Indeed Members will be aware that offsite contributions have been considered on recent developments elsewhere in the Borough including the previous permission on this site.

The previous application (2013/1007) was considered alongside a further outline residential development at land off Pilley Green/Lidgett Lane for 31 units which was also by the previous applicant. The previous applicants committed to the delivery of a combined 18 offsite affordable units which would have been constructed at the former Rockingham Colliery site which was owned by the applicants and obtained planning permission under application B/02/0986/WB for the construction of 41 dwellings. With the exception of the 18 units the site has been constructed, being developed in the mid 2000's by Ben Bailey Homes. The planning permission therefore remains extant. The delivery of the affordable units was included within a 106 agreement.

However, this site is now being considered on its own and not in conjunction with the Pilley Green Site. As such, the Affordable Housing requirement needs to be site specific and, as the number of units is increasing, adjusted accordingly. Furthermore, the two residential approvals were tied together with 1no. 106 agreement previously, therefore, a deed of variation is required alongside this application not only to accommodate the additional requirements but also to separate the two sites so they are responsible for their own contributions.

Given that there are 56 units proposed, in accordance with CSP 15, 14no of affordable units are required for this site. There would still be 11 units provided off site on the Rockingham Colliery development, but 3no. 2 bed units would also be accommodated on site. The delivery of the units would be addressed within the 106 agreement deed of variation as outlined above.

The delivery of offsite housing on this basis is considered to be an acceptable offer given that it maximises housing delivery in accordance with the aspirations of the NPPF.

## Education

Concerns were repeatedly raised on the previous approvals regarding the capacity at St Peters primary school which is located off New Road, due east the site. The consultation which has been undertaken with Education confirms that this school and ones within Hoyland Common are currently operating close to capacity. The situation has been

assessed and it has been identified that there is scope to accommodate an additional classroom within the roof space of the existing school. It has been confirmed that the provision of this classroom would accommodate additional demand generated.

To address the demands raised by the previous 2no. of approvals, a financial contribution relating to primary school places was agreed with the previous applicants. The total contribution across both sites amounted to £100,000, and was secured within the section 106 agreement. The contribution was to be paid in full when work first commences on either of the two sites.

However, as the two sites are now to be considered separately this site would need a separate contribution compared to the Pilley Green site, and also amended trigger points for when the payment would be required, as it would be unacceptable for one developer to pay the full education contribution dependant on which development commenced first. Furthermore, since the previous approval the situation at local schools has changed, the deficit resulting in a large number of pupils at primary school age has now move through the system resulting in a deficit at local secondary schools . As with the affordable housing contribution above, the amendments would be addressed through a deed of variation.

The Education Officer has been consulted on the application and calculated that there is now a surplus at primary schools but there would be a deficit of places at secondary schools, as such, compensation would be required for the additional 9 secondary school places generated by the development. The contribution per place for secondary schools equates to £14,102, therefore, an overall contribution of £126,918 (9 x £14,102) is required as a result of the development.

### Green Space

In accordance with CSP35, CSP42 and the SPD: Open Space Provision on New Housing Developments, all residential development over 20 units are expected to provide green space, whether that be on site or a financial contribution to upgrade existing offsite facilities

General open space requirements require a minimum of 15% of the gross site area of new housing development must be open space of a type appropriate to the character of the site, its location and the layout and nature of the new housing and adjoining land uses as per 'SPD: Open Space Provision on New Housing Development' standards. An initial green space assessment suggests that an off-site contribution would be required, in connection with the requirement for new green space as per policy requirements. The amount required is based on a formula and will only be known should a reserved matters application be submitted. A condition is therefore recommended at the outline stage to secure this, as per the original approval.

### Highways Safety

The site would remain accessed in the same manner as approved application 2013/1007 i.e. via New Road which connects Pilley (west) to Tankersley (east). The carriageway measures 5.5m wide and is served with a continuous 1.6m wide footway.

Highway safety issues have been a prevalent concern expressed within the many representations received on the previous applications and also the representations received for this application. Principle concerns relate to the volume of traffic on local roads, inadequacy of Lidgett Lane and annual Flooding along New Road. In accordance with policy CSP26 new development must be designed to ensure that safe, secure and convenient access for all road users can be achieved. Mitigation must be secured where there is either a known or potential safety issue on hand.

The crux of resident's highways objections remains one of safety and capacity for the highway infrastructure to accommodate the proposed scale of growth. In response to this, the previous application was accompanied with an independent Transport Assessment, despite falling below the relevant threshold. The conclusion reached was that the site can be accessed safely and would not have a detrimental impact on the local highway network.

It is acknowledged that the current application would result in 15 additional dwellings which would inevitably generate additional vehicular movements. However, this has been reviewed by Highways who consider that, given the previous approval, the increase in numbers would not have a significant adverse impact on the highway network and, as such, no objections have been raised.

### Drainage & Flood Risk

No watercourses run directly through the sites but Birdwell Dyke is located adjacent to the southern side of New Road. Both sites lie within Flood Zone 1 on the Environment Agency's Flood Risk map. Development located within Flood Zone 1 is identified as being suitable for all types of development and the risk of flooding from rivers etc. is low. The Environment Agency was previously consulted and raised no objections.

The location of the New Road access point has previously been agreed with Highways DC as well as the Drainage Authority. It occupies the higher ground which is not prone to flooding. This would ensure that access and egress to the residential site can be maintained at all times.

The increase in numbers would not significantly affect drainage and flood risk, therefore, the Drainage Officer has not raised objections subject to the previous conditions on the outline permission being carried forward.

### Conclusions

The proposals are contrary to saved UDP policy with regard to the Safeguarded Land designation of the site. However, the principle of residential development has been set with the approval of application 2013/1107 and still at present the authority is unable to demonstrate a five year supply of specific, deliverable sites for residential development. In addition, the proposals are considered to be sustainable taking into account the three dimensions of sustainable development (economic, social and environmental) referred to in the NPPF. Accordingly, the NPPF Presumption in Favour of Sustainable Development applies.

Having thoroughly assessed the revised proposals and increased unit numbers against other relevant development plan policies and taking into account other material considerations, including those raised in representations, it is not considered that there are adverse impacts which significantly and demonstrably outweigh the benefits of the scheme (subject to securing the necessary mitigation sought within the S106 agreement and recommended planning conditions). On this basis, the proposals are considered acceptable.

### **Recommendation**

Members resolve to grant subject to the conditions given and completion of Section 106 Agreements securing off site affordable housing and financial contribution towards education.

- 1 Application for approval of the matters reserved in Condition No. 2 shall be made to the Local Planning Authority before 02/12/2017, and the development, hereby permitted, shall be begun before the expiration of two years from the date of approval of the last of the reserved matters to be approved.  
**Reason: In order to comply with the provision of Section 92 of the Town and Country Planning Act 1990.**
- 2 The development hereby permitted shall not be commenced unless and until approval of the following reserved matters has been obtained in writing from the Local Planning Authority:-

  - (a) the layout of the proposed development.
  - (b) scale of building(s)
  - (c) the design and external appearance of the proposed development.
  - (d) landscaping

**Reason: In order to allow the Local Planning Authority to assess the details of the reserved matters with regard to the development plan and other material considerations.**
- 3 Detailed plans shall accompany the reserved matters submission indicating existing ground levels, finished floor levels of all dwellings and associated structures, road levels and any proposed alterations to ground levels.  
Thereafter the development shall proceed in accordance with the approved details.  
**Reason: To enable the impact arising from need for any changes in level to be assessed in accordance with Core Strategy Policy CSP 29, Design.**
- 4 The development hereby approved shall not exceed a maximum of 56 residential units, the details of which shall be submitted as part of the application for approval of reserved matters.  
**Reason: To ensure the development conforms with the approved outline planning Permission and stays with the maximum assessed level of development.**
- 5 No residential property shall be more than two storeys in height.  
**Reason: To safeguard the privacy and amenities of the occupiers of adjoining residential property in accordance with Core Strategy Policy CSP 29.**
- 6 The development hereby permitted shall not begin until a scheme has been submitted to and approved in writing by the Local Planning Authority for the provision of or enhancement to off-site public open space in accordance with Core Strategy policy CSP35 and the Open Space Provision on New Housing Developments SPD. The provision or enhancement of the off-site open space shall be provided prior to completion of the development in accordance with the approved scheme.  
**Reason: In the interests of residential and visual amenity to ensure adequate provision of public open space in accordance with Core Strategy Policy CSP 29.**



- 7 No development shall take place, including any works of demolition, until a Construction Method Statement has been submitted to, and approved in writing by, the Local Planning Authority. The approved Statement shall be adhered to throughout the construction period. The Statement shall provide for:
- The parking of vehicles of site operatives and visitors
  - Means of access for construction traffic
  - Loading and unloading of plant and materials
  - Storage of plant and materials used in constructing the development
  - The erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate
  - Wheel washing facilities
  - Measures to control the emission of dust and dirt during construction
  - Measures to control noise levels during construction
- Reason: In the interests of highway safety, residential amenity and visual amenity and in accordance with Core Strategy Policy CSP 26, New Development and Highway Improvement, and CSP 29, Design.**
- 8 Construction or remediation work comprising the use of plant, machinery or equipment, or deliveries of materials shall only take place between the hours of 0800 to 1800 Monday to Friday and 0900 to 1400 on Saturdays and at no time on Sundays or Bank Holidays.
- Reason: In the interests of the amenities of local residents and in accordance with Core Strategy Policy CSP 40, Pollution Control and Protection.**
- 9 No development shall take place until:
- (a) Full foul and surface water drainage details, including a scheme to reduce surface water run off by at least 30% and a programme of works for implementation, have been submitted to and approved in writing by the Local Planning Authority;
  - (b) Porosity tests are carried out in accordance with BRE 365, to demonstrate that the subsoil is suitable for soakaways;
  - (c) Calculations based on the results of these porosity tests to prove that adequate land area is available for the construction of the soakaways;
- Thereafter no part of the development shall be occupied or brought into use until the approved scheme has been fully implemented. The scheme shall be retained throughout the life of the development.
- Reason: To ensure proper drainage of the area in accordance with Core Strategy Policy CSP 40, Pollution Control and Protection.**
- 10 No piped discharge of surface water from the application site shall take place until works to provide a satisfactory outfall for surface water have been completed in accordance with details to be submitted to and approved in writing by the Local Planning Authority before development commences.
- Reason: To ensure that the site is properly drained and surface water is not discharged to the foul sewerage system, which will prevent overloading in accordance with Core Strategy Policy CSP 40, Pollution Control and Protection.**
- 11 All on-site vehicular areas shall be surfaced and drained in an approved manner prior to the development being brought into use.
- Reason: To prevent mud/debris from being deposited on the public highway to the detriment of road safety in the interests of policy CSP26.**

- 12 Visibility splays, having the dimensions 2.4m x 60m, shall be safeguarded at the junction of the access road with New Road, such that there is no obstruction to visibility and forming part of the adopted highway.  
**Reason: In the interest of road safety in accordance with Core Strategy Policy CSP 26, New Development and Highway Improvement.**
- 13 Prior to any works commencing on-site, a condition survey (including structural integrity) of the highways to be used by construction traffic shall be carried out in association with the Local Planning Authority. The methodology of the survey shall be approved in writing by the Local Planning Authority and shall assess the existing state of the highway. On completion of the development a second condition survey shall be carried out and shall be submitted for the written approval of the Local Planning Authority, which shall identify defects attributable to the traffic ensuing from the development. Any necessary remedial works shall be completed at the developer's expense in accordance with a scheme to be agreed in writing by the Local Planning Authority.  
**Reason: To ensure a safe and adequate highway network, in accordance with Core Strategy Policy CSP 26.**
- 14 Vehicular and pedestrian gradients within the site shall not exceed 1:12 to ensure safe and adequate access  
**Reason: In the interest of road safety in accordance with Core Strategy Policy CSP 26.**
- 15 Prior to the occupation of the dwellings a draft Travel Plan shall be submitted to and approved in writing by the Local Planning Authority. The plan shall indicate measures that will be put in place to encourage travel by modes other than the private car, and allow for regular reporting and monitoring to be undertaken. Subsequently, within six months of the site becoming operational, a detailed travel plan shall be submitted to the Local Planning Authority and once approved shall be fully implemented.  
**Reason: In the interests of sustainable development.**
- 16 Prior to the commencement of development, details shall be submitted to and approved in writing by the Local Planning Authority of arrangements which secure the following highway improvement works:  
Provision of 2m wide strip on the New Road frontage;  
Provision of right turn lane, pedestrian islands and associated pedestrian crossing facilities;  
Provision of/any necessary changes to street lighting;  
Provision of/any necessary changes to highway drainage;  
Reconstruction/resurfacing as required;  
Provision of/any necessary changes to signing/lining.  
The works shall be completed in accordance with the approved details and a timetable to be submitted to and approved in writing by the Local Planning Authority.  
**Reason: In the interests of highway safety and the free flow of traffic in accordance with Core Strategy policy CSP 26.**

- 17 No development works shall begin until a report, endorsed by a competent engineer experienced in ground contamination and remediation, has been submitted and agreed with the Local Planning Authority. The report shall, amongst other matters, include the following:-
1. A survey of the extent, scale and nature of contamination.
  2. An assessment of the potential risks to human health, property, adjoining land, groundwaters and surface waters, ecological systems and archaeological sites and ancient monuments.
  3. An appraisal of remedial options, and proposal of the preferred option(s).
  4. A remediation statement summarising the works to be undertaken (if required).
- The above must be conducted in accordance with DEFRA and the Environment Agency's 'Model Procedures for the Management of Land Contamination, CLR 11'. The development shall thereafter be undertaken in full accordance with the submitted report. For further information, see BMBC's Supplementary Planning Guidance 28, "Developing Contaminated Land".

**Reason: To protect the environment and ensure the site is suitable for the proposed use.**

- 18 Prior to the commencement of development a Phase 2 intrusive site investigation must be undertaken and submitted for approval in writing by the Local Planning Authority. The site investigation and subsequent development should be undertaken in compliance with CIRIA publication 32 "Construction over abandoned mine Workings" where applicable.

**Reason: To accord with sections 120 & 121 of NPPF and Policy CSP29 of the Core Strategy.**

- 19 No development or other operations being undertaken on site shall take place until the following documents in accordance with British Standard 5837:2012 has been submitted to and approved in writing by the Local Planning Authority:

Tree Survey  
Tree protective barrier details  
Tree protection plan  
Arboricultural method statement

No development or other operations shall take place except in complete accordance with the approved methodologies.

**Reason: To ensure the continued well being of the trees in the interests of the amenity of the locality.**

- 20 No development shall take place until there has been submitted to and approved in writing by the Local Planning Authority, full details of both hard and soft landscaping works, including details of the species, positions and planted heights of proposed trees and shrubs; together with details of the position and condition of any existing trees and hedgerows to be retained. The approved hard landscaping details shall be implemented prior to the occupation of the properties.

**Reason: In the interests of the visual amenities of the locality.**

21 Prior to commencement of development, details of a scheme to reduce the developments carbon dioxide emissions by at least 15% by using decentralised, renewable or low carbon energy sources or other appropriate design measures shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details and upon completion of the development a report shall be submitted to and approved by the Local Planning Authority demonstrating that at least a 15% reduction in carbon dioxide emissions has been achieved. In the event that the use of other decentralised, renewable or low carbon energy sources or other appropriate design measures are also required to achieve a 15% reduction in carbon dioxide emissions, full details of such proposals and a timetable for their implementation shall be submitted to and approved in writing by the Local Planning Authority prior to installation. The approved details shall be implemented in accordance with the approved timetable and all the approved measures shall be retained as operational thereafter.

**Reason: In the interest of sustainable development, in accordance with Core Strategy policy CSP5.**

22 Notwithstanding the details submitted within the ecological assessment detailed plans shall be submitted with the Reserved Matters application indicating biodiversity mitigation and enhancement measures. Thereafter the development shall proceed in accordance with the approved details.

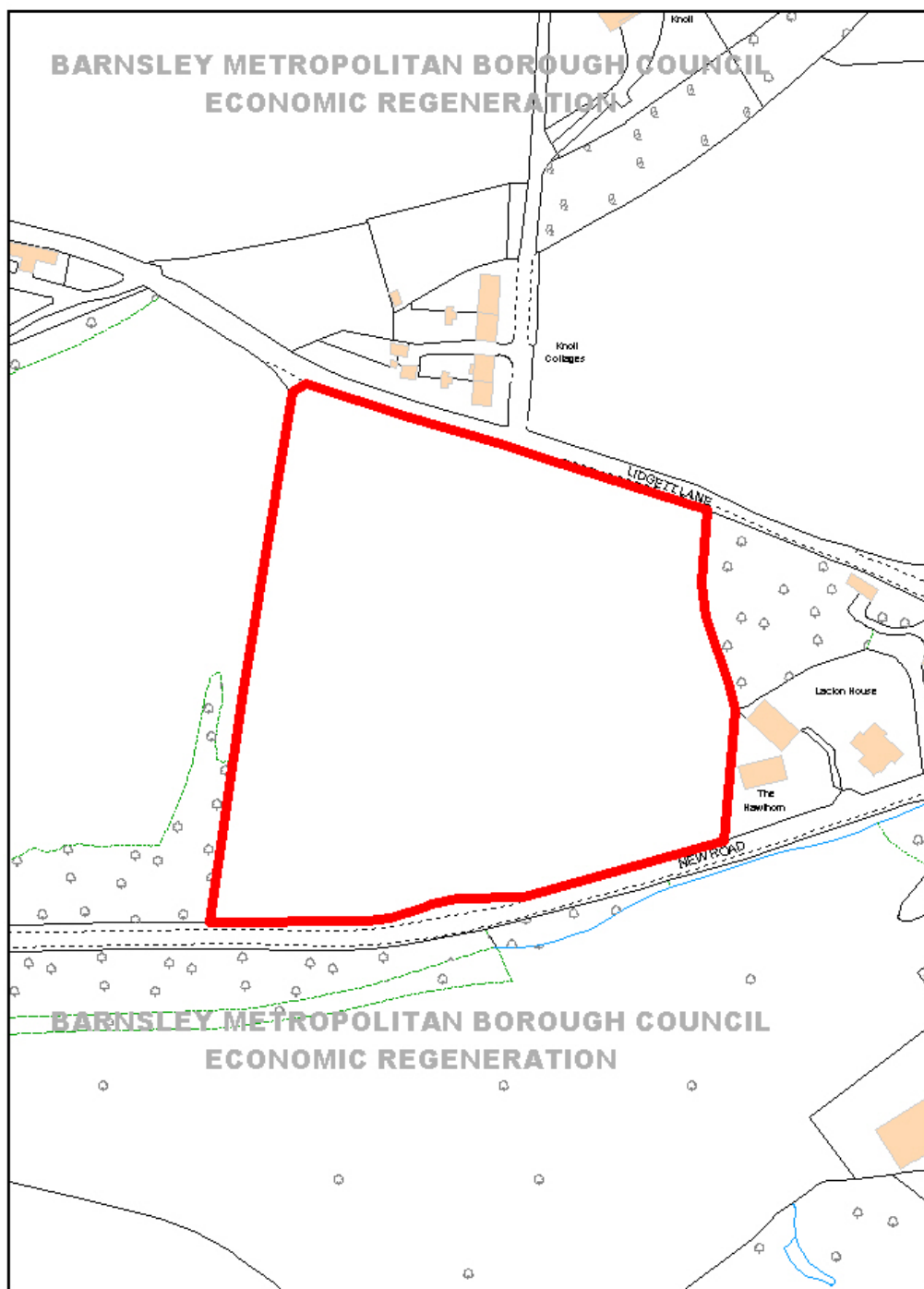
**Reason: To conserve and enhance biodiversity in accordance with Core Strategy Policy CSP 36.**

PA reference :-

2016/0952

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