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To: Chair & Members of the  
Planning Committee

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Tuesday, 28<sup>th</sup> November 2023

Dear Councillor


**PLANNING COMMITTEE – WEDNESDAY, 29TH NOVEMBER, 2023 AT 10:00 HOURS**

I refer to your recently circulated agenda for the above meeting and now enclose a copy of the supplementary update report in relation to the following items:

Item 5 - 22/00229/FUL - Change of use of former care home to 10 residential units and erection of two further residential units and associated development - total of 12 residential units (Use Class C3) - Amberleigh Manor, Primrose Hill, Blackwell Alfreton

Item 6 - 22/00583/FUL - Installation and operation of a solar farm renewable energy generating station comprising: ground-mounted photovoltaic solar arrays, substation, inverter/transformer units, site access, internal access tracks, security measures, access gates, other ancillary infrastructure and landscaping and biodiversity enhancements - Land To South Of Frithwood Farm Cottage, Frithwood Lane, Elmton

Yours faithfully



Solicitor to the Council & Monitoring Officer

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The Council believes that no person should be treated unfairly and is committed to eliminating all forms of discrimination, advancing equality and fostering good relations between all groups in society.

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## PLANNING COMMITTEE

*Wednesday, 29th November, 2023 at 10:00 in the Council Chamber,  
The Arc, Clowne*

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## COMMITTEE UPDATE SHEET

### SUPPLEMENTARY REPORT OF THE PLANNING MANAGER

This sheet is to be read in conjunction with the main report.

### Applications to be determined under the Town & Country Planning Acts

Planning Site Visits held on 24<sup>th</sup> November 2023 commencing at 10:00 hours.

#### PRESENT:-

Cllr Tom Munro, Cllr Carol Wood, Cllr Phil Smith and Cllr J Ritchie.

Officers: Steve Phillipson

#### SITES VISITED

1. 22/00583/FUL – Frithwood Lane, Elmton

The meeting concluded at 11:30hrs.

### **AGENDA ITEM 5 - 22/00229/FUL – AMBERLEIGH MANOR, BLACKWELL**

Additional neighbour representation received 27<sup>th</sup> October from the neighbour who shares their common boundary with the site, adjacent to the 2 no. new build properties:

*I have written now 4 times in relation to our concerns and objections mainly in relation to the proposed additional houses and the treatment of the boundary and boundary wall.*

*We have numerous mature fruit trees on the boundary, a fence which would be affected by any proposed work to the wall and a structure at the top of the garden which abuts the brick out building - if this was removed there would be no boundary and the pergola would collapse.*

*The ground on our side is much higher than the nursing home and the existing brick wall was there as a retaining structure - as it has been for the last 15 years we've lived here. Our fence foundations are therefore above the level of the land on the nursing home as are our trees.*

*We also have concerns about a loss of privacy and light with houses now proposed so close to our boundary - there has never been any window or means of looking into our property or garden previously- the existing house wall is circa 10m away with no windows on the elevation.*

*I have no problem with phase 1 or the work to the old home and I see it as a benefit that the site is improved. However the work up to our boundary is a great concern -*

*there's are enough properties on the site without trying to cram these into the small space next to us.*

*My point is that I do not want to speak at the meeting but I do want our concerns to be taken into account - our property and living environment will be greatly affected by the 2 new houses and any work to the boundary and retaining wall. I'd be happy for this and any other objections we have previously raised to be read at the meeting - if needed I'd also be happy for the committee or officers to visit our property so they can see for themselves.*

Details of the applications publicity and a summary of the representations received are contained in the officer report on pages 14 – 15 of the agenda pack. These include the representations received from this person. There are no additional points raised that require a separate or additional response.

Following observations made during the committee site visits, it is proposed that the wording of condition 20 is amended to give assurance that the boundary treatment detail reserved by condition that are still to be approved shall include details of any new features, as well as details to repair / make good any existing ones.

20. Prior to first occupation, a detailed scheme of works to all boundary treatments (that shall include details of those to be retained / made good and any new boundary treatments) shall be submitted to and approved in writing by the Local Planning Authority. Thereafter only those details approved in writing shall be implemented in full and the agreed boundary treatment scheme shall then be maintained in perpetuity.

The agent is also not able to attend committee to speak, but has asked that the following comments are relayed to members:

*Dear Members and Public,*

*Thank you for the opportunity to present represent my client at Committee, I am sorry but I have a prior engagement and unable to attend.*

*Phase I was approved in April 2021 following positive cooperation with the Council planning officers. Recently, the applicant has begun preparations to discharge pre-commencement conditions with the aim to start works early next year.*

*This Committee Application relates Phase II, the reuse of the vacant care home and erection of two units to the side.*

*As with both applications, the viability assessment (revised 2023) demonstrated that Phase I and II would be below benchmark land value. Additionally, the applicant has been paying a hefty mortgage no income since care home closed.*

*Therefore, this proposal would be a sustainable form of development that complies with both the development plan and the NPPF (revised September 2023). It would provide much needed housing for the Borough and bring back to life a site that has been subject to decay, vandalism and compromised residents that back onto it.*

*There are no objections received from consultees / all matters resolved.*

*Once built, Phase I (16 units) and II (12 units) would provide 28 units. It would offer a good mix of housing to create a balanced community, good urban design that is landscape sensitive (TPOs) and sufficient parking and amenity space for residents. The development has been well-designed and has been in two phases due to financial reasons.*

*Finally, the proposal would offer more positive benefits than negative and kindly request Committee take the move into consideration when reaching their decision.*

*Successful Places SPD (2013) has been used in addressing any concerns relating to private amenity.*

*It is noted that paragraph 3.11.16 of the SPD states that family houses likely to require larger gardens and a preferable range of between 70 – 100sqm but not less than 50sqm.*

*Majority of the units under Phase II would provide the standards set out in Table 4 of the SPD. Where some units fall below the SPD, paragraph 3.11.19 does allow for the overall requirements to be relaxed where existing buildings are converted. This is because the SPD recognises that flexibility must be applied with residential conversions due to site characteristics and constraints.*

*When taken into context with Phase II (this application), the conversion needs to work with the existing building structure which does result in majority of the units above the standard of the SPD:*

- Plot 1 (conversion) 3 bed providing 104.2 sqm – SPD 70 sqm minimum*
- Plot 2 (conversion) 3 bed providing 63.87 sqm – SPD 70 sqm minimum*
- Plot 3 (conversion) 3 bed providing 55.54 sqm – SPD 70 sqm minimum*
- Plot 4 (conversion) 3 bed providing 62.56 sqm – SPD 70 sqm minimum*
- Plot 5 (conversion) 3 bed providing 47.04 sqm – SPD 70 sqm minimum*
- Plot 6 (conversion) 2 bed providing 63.97 sqm – SPD 50 sqm minimum*
- Plot 7 (conversion) 2 bed providing 66.32 sqm – SPD 50 sqm minimum*
- Plot 8 (conversion) 4 bed providing 69.04 sqm – SPD 90 sqm minimum*
- Plot 9 (conversion) 2 bed providing 64.89 sqm – SPD 50 sqm minimum*
- Plot 10 (conversion) 2 bed providing 38.66 sqm – SPD 50 sqm minimum*
- Plot 11 ((new) 2 bed providing 47.16 sqm – SPD 50 sqm minimum*
- Plot 12 (new) 2 bed providing 49.24 sqm – SPD 50 sqm minimum*

*NOTE: above excludes land at the front of the property not the side, but when front garden space is included (plots 5, 6, 7, 8, 9, 10, 11, 12 have front gardens), below:*

- Plot 5 (conversion) 3 bed providing 55.64 sqm – SPD 70 sqm minimum*
- Plot 6 (conversion) 2 bed providing 70.78 sqm – SPD 50 sqm minimum*
- Plot 7 (conversion) 2 bed providing 75.92 sqm – SPD 50 sqm minimum*
- Plot 8 (conversion) 4 bed providing 76.35 sqm – SPD 90 sqm minimum*
- Plot 9 (conversion) 2 bed providing 72.97 sqm – SPD 50 sqm minimum*
- Plot 10 (conversion) 2 bed providing 51.43 sqm – SPD 50 sqm minimum*
- Plot 11 ((new) 2 bed providing 54.65 sqm – SPD 50 sqm minimum*

- Plot 12 (new) 2 bed providing 64.52 sqm – SPD 50 sqm minimum

#### *Conclusion*

*Therefore, on balance, Phase II complies with the SPD. As it is recognised that garden areas should be applied reasonably having regard to site conditions and context. Phase II has worked with constraints associated with the existing building and its position to existing site boundaries.*

Members will see that the plot sizes and private amenity sizes are already detailed in the officer report. There are no additional points raised that require a separate or additional response.

### **AGENDA ITEM 6 – 22/00583/FUL Land South of Frithwood Farm Cottage Frithwood Lane Elmton**

The main report advises that Committee Members would be updated on the following matters where additional information was awaited at the time of writing the report:-

- Additional noise modelling
- A revised Landscape Masterplan which responds to Landscape Officer comments
- A revised Biodiversity Net Gain Assessment relating to the reduced site area

The following revised documents have been received:-

Noise Impact Assessment 27/11/2023

Landscape Master Plan JSL3886\_100 Rev D rec 27/11/2023

Biodiversity Net Gain Assessment 24/11/2023

Updated Layout Plan 1146-Whaley-004 Rev B

#### Additional Noise Modelling

At the request of the EHO the proposed development has been modelled based upon worst-case assumptions regarding the operational noise of the inverters during the very early morning period 5-7am i.e. assuming that the inverters are just as noisy in low lighting levels as bright sunshine. Based on these assumptions there is potential for adverse impacts at receptors to the south of the proposed development site (Whaley Common) during the early morning period. Potentially they are predicted to result in a maximum exceedance of the representative background sound level at receptors on Whaley Common of +5 dB.

Options to control noise have been considered in the form of plant relocation and acoustic barriers (both along the southern edge of the site [*Officer comment: Southern boundary fence is not preferred from a landscape impact point of view*] or localised screening around the inverters). The report results show that adopting these measures is likely to reduce noise levels at receptors such that material adverse impacts are avoided. i.e. the report concludes that acceptable mitigation measures are available.

The Applicant states that the noise control measures adopted will be selected once the proposed layout and plant selection has been finalised. Therefore, an additional condition will be necessary requiring the submission of a scheme of noise mitigation measures for approval prior to commencement.

The Environmental Health Officer has been re-consulted and he is satisfied that the condition recommended below will address his concerns.

### Revised Landscape Masterplan

With regard to the revisions requested by the Urban Design/Landscape Officer:-

Points 1 and 2 to widen the buffer zone around the two ancient woodlands to 15m rather than 5m, as also advised by Derbyshire Wildlife Trust, has been accepted and the Landscaping Masterplan amended accordingly.

The following points listed below have not been agreed by the Applicant.

3. Widen hedge/scrub planting offset slightly from fence to reduce magnitude of views and soften edge to settlement boundary.
4. Provide more tree groups on south side or hedgerow to reduce impact on views of upper slope and ridge.
5. Soften vertical up and down runs of hard-edge lines of Arrays.
6. Widen and improve link between 2 woodlands to create habitat/wildlife links.

The Applicant says that this is because since the time the above revisions were requested, the Applicant has agreed to omit about a third of the site which contained best value agricultural land. It is argued that this has considerably reduced the overall visual impact of the proposed solar farm, but it has also reduced the overall generating capacity of the development. Bullet points 3, 4, 5 and 6 would result in further reductions in the number of panels on the site, thus further reducing the viability of the site, with only marginal improvements to visual amenity.

**[Officer Comment:** *The omission of the eastern fields is considered to result in a greater reduction in landscape visual impacts than would have been achieved had all the points 3-6 been agreed and the eastern fields retained. Since that would have rendered the landscape impacts acceptable it follows that the amended position agreed, omitting the eastern fields, must also be acceptable in terms of landscape impacts*].

Point 7, to relocate inverters away from public right of way has partially been achieved because the inverters previously proposed to the east side of the path have been omitted.

The Applicant proposes that point 8 can be dealt with by condition. Point 8 seeks an enhanced root protection zone around existing mature trees on southern boundary where the access track lies close to hedge. Details of no build techniques/hand tools only, in those areas need to be identified and agreed on plan.

**[Officer Comment:** *Condition 7c recommended in the main report already covers the need for a Construction Environmental Management Plan which includes practical measures (both physical measures and sensitive working practices) to avoid or reduce impacts during construction and cable laying to habitats and protected species, including trees, hedgerows, badger, bats, brown hare, nesting birds and herpetofauna. Therefore an additional condition is not considered to be necessary*].

Also, it should be noted that there is an error on the latest Landscape Masterplan (but not the revised layout plan) in that it still shows inverters to the east side of the bridleway. A corrected



version will be necessary before planning permission is issued by the Assistant Director of Planning and Planning Policy.

#### Revised Biodiversity Net Gain Assessment

A revised Biodiversity Net Gain Assessment has been submitted to account for the omission the fields to the east side of the path. The assessment predicts that the development proposals for the Whaley Solar site could deliver a net gain of +230.83% for habitats and +32.75% for hedgerows.

The Applicant states that this score is considerably above the standard target of 10% and demonstrates how the proposed development can provide a biodiverse, ecologically valuable site that will benefit a wide range of species.

*[Officer Comment: The predicted biodiversity gain is unchanged and so no change to the recommendation needed on this matter].*

#### **Recommendation**

**An additional condition be applied to any consent to deal with noise mitigation for the inverters:**

**“Prior to the commencement of development, a scheme of noise mitigation measures to deal with noise from the inverters, must have been submitted to and approved in writing by the Local Planning Authority in consultation with the Environmental Health Officer. The approved mitigation measures must be implemented and maintained whilst the solar farm is operational.”**

#### **AGENDA ITEM 7 - AMR**

Just a note to members to be aware the appendices for item 7 were updated in a supplementary report published on the 24<sup>th</sup> November 2023.