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To: Chair & Members of the Planning Committee

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Tuesday 18 June 2024

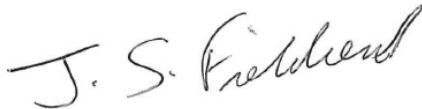
Dear Councillor

PLANNING COMMITTEE – WEDNESDAY 19TH JUNE 2024 AT 10:00 HOURS

SUPPLEMENTARY UPDATE REPORT

Please find attached the Supplementary Update Report for tomorrow's Planning Committee Meeting.

Yours faithfully



Solicitor to the Council & Monitoring Officer

Equalities Statement

Bolsover District Council is committed to equalities as an employer and when delivering the services it provides to all sections of the community.

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.

Access for All statement

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- **Phone:** [01246 242424](tel:01246242424)
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- **BSL Video Call:** A three-way video call with us and a BSL interpreter. It is free to call Bolsover District Council with Sign Solutions, you just need Wi-Fi or mobile data to make the video call, or call into one of our Contact Centres.
- Call with [Relay UK](#) - a free phone service provided by BT for anyone who has difficulty hearing or speaking. It's a way to have a real-time conversation with us by text.
- **Visiting** one of our [offices](#) at Clowne, Bolsover, Shirebrook and South Normanton

PLANNING COMMITTEE

Wednesday 19th June 2024 at 10:00 in the Council Chamber, The Arc, Clowne

Item No.	PART 1 – OPEN ITEMS	Page No.(s)
	<u>APPLICATIONS TO BE DETERMINED UNDER THE TOWN & COUNTRY PLANNING ACTS</u>	
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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 14th June 2024 commencing at 10:00am hours.

PRESENT:-

Cllr. Tom Munro, Cllr. Janet Tait and Cllr Deborah Watson

Officers: Chris Whitmore and Eleanor Thompson

SITES VISITED

1. AGENDA ITEM 6 – 23/00644/FUL – The New Victoria Inn, Acreage Lane, Shirebrook
2. AGENDA ITEM 7 – 24/00102/FUL – 16 The Chine, Broadmeadows, Pinxton, Nottingham, DE55 3AN

The meeting concluded at 12:10 hrs.

AGENDA ITEM 6 – 23/00644/FUL – The New Victoria Inn, Acreage Lane, Shirebrook

A representation from Shirebrook Town Council was received 14th June 2024 with the following comments:

- The transient nature provides a lack of cohesion within the community, decreased sense of security and quality of life.
- The Town Council is invested in improving our community but the addition of more of this type of development is detrimental to our vision to improve lives and wellbeing of our community, who deserve to expect more.
- With such a development comes excess noise, traffic, pollution, excess waste and waste bins which can cause vermin.
- Concern is raised for the safety of tenants as not all floors will give sufficient headroom.
- Concerns are raised for potential overcrowding, fire hazards and other safety risks.
- There are already major parking issues within the area and the development would exacerbate the problem.
- Residents raise concern regarding the devaluation of property and does not support a comfortable safe environment.
- Urges the Planning Committee to carefully reconsider approval of the application as alternative solutions should be explored.

Officer comment:

Sufficient internal headroom for the tenants and consideration of fire risk and safety would be considered through a Building Regulations application.

Devaluation of property is not a material planning consideration.

In reference to bin storage and vermin, the District Council's Environmental Health Officer has not raised any objection.

It is considered that the remaining concerns raised are already addressed within the main report.

Derbyshire Wildlife Trust - A late representation has been received from Derbyshire Wildlife Trust confirming that a Preliminary Bat Roost Assessment should be submitted prior to determination of the application, to demonstrate the presence or otherwise of protected species and the extent that they may be affected by the proposed development.

Recommendation

That authority be delegated to officers to grant planning permission, subject to

- a) the submission of a Preliminary Bat Roost Assessment and any necessary survey work identified to satisfy Derbyshire Wildlife Trust that the development will not adversely impact on bats, and
- b) no material changes being required to the development that require further assessment.

AGENDA ITEM 7 – 24/00102/FUL – 16 The Chine, Broadmeadows, Pinxton, Nottingham, DE55 3AN

Cllr Louise Fox & Cllr Julian Siddle

Councillor Louise Fox and Cllr Julian Siddle have made a joint representation with the following concerns:

Objections and concerns are so strong Cllr Fox supported residents by calling in the application and giving local residents time to provide evidence to support their objection.

It is important to clarify the objections are not driving by 'not in my back yard' opinions but that the location and essential support for the development is unsuitable and inappropriate. The issues associated with the application are far wide reaching and may not have been given adequate consideration.

Having both worked closely with local Police Safer Neighbourhood Teams and the Police & Crime Commissioner over the past few years, we have helped combat long standing Anti-Social Behaviour across South Normanton. One example being at The Boundary – the main recreational area of the Broadmeadows estate Whilst the installation of CCTV has helped to reduce damage and ASB, instances of drug related ASB and associated activity still remains. As outlined by Derbyshire Constabulary's Designing Out Crime Officer, South Normanton remains a significant risk for vulnerable children and young adults in relation to County Lines and Child Criminal Exploitation

This week (13th June) warrants were executed at one property in South Normanton, with

links across the village and to other areas. Although charges have been brought in relation to the supply of Cocaine and “holding a person in slavery”, unfortunately it naturally follows that the void will be filled. It is known that Children’s Homes such as the one proposed at The Chine, present the opportunity for County Lines recruitment. There have been other significant public objections to this planning application, and many critical consultation responses from key stakeholders:

- A high number of public objections – which reiterate how strong the community opposition is for the planning to go ahead.
- Several concerns from Environmental Health and Crime Prevention Officers relating to Noise and aggressive behaviour which has been experienced at similar locations.
- Discrepancies or lack of clarity regarding the age of the children to be cared for within the documentation.
- Concerns regarding significant risks of increase in noise and anti-social behaviour.
- Having only being incorporated on 25th September 2023, the applicant company’s lack of experience and prior “track record” potentially risks significant failures to control or monitor its residents. Particularly as it is not known the particular needs and difficulties each child requires

Whilst we appreciate that good quality, safe, nurturing Children’s Homes are needed, they are needed in the right location and run by well-established care providers, to help protect the children in their care. Vulnerable children and young adults should not risk being exposed to the existing issues we are currently trying to address in our area, particularly ASB CCE and County Lines. There is the potential that issues arising from this application will put a strain, both financial and physical, on already pressured Agencies & Authorities in our area if planning permission is granted.

The fact that this planning application has got this far is beyond belief, considering the strong opinions and facts provided by the residents and stakeholders consulted with – all of which seem to have been disregarded so far. Such a speculative opportunity taken by the company purely on property investment, with no real track record of expertise in providing high quality and appropriate care for some of our most vulnerable young people.

We truly believe that granting permission to the application would be detrimental to the local area, its amenity and would severely add to issues that we are already trying to address. More importantly, it risks exposing its residents to harm rather than protecting them. If the applicant genuinely has the wellbeing of the people in their care at heart, they should reconsider the location of this development, and site it somewhere with less issues to be exposing the children to.

Cllr Mary Dooley

Councillor Mary Dooley makes the following comments:

Emma Swann and her neighbours’ concerns were discussed at a meeting of the Parish Council. The concerns were:

- Anti Social Behaviour
- Noise
- Traffic

- Parking Issues

All of these issues will affect the surrounding areas. Due to the application being in Pinxton we must take the concerns of our Parishioners very seriously. Therefore, this is the reason I have called in the application to Planning Committee.

One additional resident representation has been received with the following concerns:

- The proposal will materially change the character of the area through additional traffic, the building will not function in the same way as a family home and will be a commercial premises besides a residence. There will be the removal of the front garden contrary to Paragraph 135 of the NPPF.
- The resident children's complex needs will affect residential amenity through increased activity, noise and disturbance. This is materially different to any normal home due to visiting carers, managers and other professionals.
- There will be additional traffic from staff, and other health, educational and care professionals, causing a strain on the site access and further off-street parking is required. There is limited visibility and vehicle movements will create hazards for pedestrians and other road users contrary to Paragraph 115 of the NPPF.
- The proposal will not improve community cohesion and quality of life. Anti-social behaviour is not assumed, and we do not stereotype children.
- The Guardian and BBC found for profit care homes had a higher number of police call outs compared to non-profit providers.
- The Force Designing Out Crime Officer acknowledges a lack of management and ability to tackle unacceptable behaviour.
- The Force Designing Out Crime Officer raises concerns about Child Criminal Exploitation from a county lines operation close to the site.

Officer Comments:

It is considered that the concerns raised are already addressed within the main report.

Recommendation

No change to the recommendation in the main report.

AGENDA ITEM 8 – 23/00573/OTHER – Forge New Homes Development site (former Bolsover Hospital), Welbeck Road, Bolsover

Leisure / Public Open Space considerations

In the original comments from BDC Leisure (dated 3 May 2024), it was suggested that if a reduced Section 106 contribution was to be negotiated, then the Playing Pitch contribution could be omitted as there were no playing pitches immediately related to the development; but only on the basis that the original Public Open Space (POS) contribution was increased from £50,460 to £55,970. This figure was agreed taking a logical approach, as it was 50% of the total contribution (for both POS and Playing pitches) required in the original Section 106 agreement.

The Council's Leisure officer suggested that the revised POS contribution should be allocated towards development of the new town park as an alternative to the three sites originally

stated, as it would be better related to the development due to walking distances. They also suggested that the POS clause should include the delivery of the town park within 5 years of receipt of payment (depending on the trigger point).

Following consideration, it was agreed that the town park may not be delivered within 5 years, and that a longer timescale would be likely. The Leisure officer was contacted on the 10 June 2024 to seek confirmation whether they required the draft Deed of Variation (DoV) to include a rewording of the POS clause to allocate the funds to the town park, and to consider the timescale for the delivery of this.

They commented on the 10 June, asking if the funds could be allocated to the *“town park with caveats that if the town park timescale is not agreed within 3 years, the funds are to be allocated to Horsehead Lane, Laburnum Close and or Hornscroft?”*

Officer comment:

The new town park will be located just to the west of Elmton Lane, so is just over 400m walking distance from the application site. However, given that it is a larger site which fits the definition of either ‘Amenity Green Space’ or ‘Recreation Grounds or Semi-Natural Green Space’ in Policy ICTR5, even though it is a park, this extends the walking distance requirement of the policy (to 500m to 800m), which the site definitely falls within.

Officers therefore consider that the allocation of funds towards the development of the town park should be prioritised, as this site will be better related to the development than the original sites stated in the Section 106 agreement, the closest of which (Horsehead Lane) is a walking distance of 600m away from the application site (300m as the crow flies). However, if the timescale for the new town park is not agreed within 3 years of the date of the Deed of Variation, then the funds are to be reallocated to Horsehead Lane, Laburnum Close or Hornscroft, as the three areas of open space closest to the application site.

Recommendation

Amendment to S106 agreement through Deed of Variation (in addition to the amendments currently proposed)

- **Amend definition of Public Open Space commuted sum – *The sum of £55,970 (Fifty thousand four hundred and sixty pounds) to be paid to the Council pursuant to Schedule 2 towards provision and/or improvement of the proposed Bolsover Town Park. If a timescale for the Town Park is not agreed within 3 years from the date of this Agreement, the funds shall be allocated towards the provision and/or improvement of the existing equipped play areas and amenity green spaces located at Horsehead Lane, Laburnum Close and Hornscroft Park.***
- **Amend Section 2.1 - *Prior to occupation of the 18th dwelling on the application land the first instalment in the sum of £27,985.***
- **Amend section 2.2 – *Prior to the occupation of the 40th dwelling on the application land the final instalment of £27, 985.***

Viability Clawback Review considerations

The applicant stated in an email dated 17 June 2024 that they endeavour to start on site by the end of June, and that the Deed of Variation is the final viability issue to resolve. There is also a pending application for the approval of conditions attached to the Technical Details Application which is currently out for consultation.

However, if Members consider that a clawback clause is necessary, the applicant has submitted a draft viability mechanism on the 14 June 2024, which has been sent to BDC Legal for comment. To summarise the proposed mechanism:

“If on the fourth anniversary of this Deed less than 90% of the Dwellings are Occupied, the Owner shall provide written notice to the Council to that effect...and will undertake a Viability Review of the Development...If the outcome of the Viability Review is that the Market Housing Units are achieving a profit greater than 17.5% of Gross Development Value the Owner will pay the Council the balance of any Surplus Profit up to the Commuted Sum Payment Cap...The Council and the Developer will use all reasonable endeavours to agree the Surplus Profit...If no agreement is reached between the Council and the Developer on the Surplus Profit the maker may be referred to an independent arbitrator for determination in accordance with the terms of Clause of the Original Agreement...In the event that it is agreed or determined pursuant to the Viability Review that there is no Surplus Profit, the Owner shall not be required to provide any Commuted Sum arising out of the Viability Review.”

Officer comment

RICS Professional Guidance - Financial Viability in planning, explains that re-appraisals [viability reviews] are generally suited to phased schemes over longer terms such as 5 years plus, rather than a single-phase scheme which is likely to be implemented immediately. Subject to the approval of any pre-commencement conditions, and according to the applicant, development is expected to start as soon as possible once the viability issues have been resolved. The development is for 58 units, and so will likely be delivered within a single phase, and in approximately 3 years. It is therefore considered that a viability review clause is not likely to be necessary.

However, a review mechanism can be used to determine whether the development will be capable, at a later stage of the process to meet the Local Plan policy requirements that have been currently deemed unviable through the processing of this application. If Members are minded to request a viability clawback clause, the following recommendation is provided:

Recommendation

If Members consider a clawback clause is necessary, the content of the Draft Review Mechanism, submitted by the applicant on the 14 June 2024 shall be incorporated into the Draft Deed of Variation, subject to any further amendment by BDC Legal services.

AGENDA ITEM 9 – 23/00640/VAR - Application to vary condition 2 (approved plans) of application 22/00323/FUL to make amendments to the scheme - amendments inc. changes to roof lights and doors (inc. omitting some openings); increased floor areas to accommodate toilets, new openings and lights; increased hall and plant room floor area; and revisions to landscaping and drainage scheme - Shirebrook Cemetery, Common Lane, Shirebrook

Lead Local Flood Authority – The Lead Local Flood Authority have confirmed in respect of conditions 9 -11 of application 22/00323/FUL, that the following surface water details are acceptable:

- SWH Letter to Derbyshire with accompanying Appendices 18/07/2023.
- Scott White and Hookins. (25 - May 2022) FRA & Drainage Strategy Report.
- 203810/Revision 1 b. Scott White and Hookins. (26 - May 2022) Drainage Layout.
- 203810-SWH-ZZ-XX-DR D-0500-P02

Recommendation

In light of the above, if members are minded to approve the application for completeness recommended conditions 8 – 10 should be replaced with the following two conditions:

8. Prior to first occupation of the development hereby approved, the surface water drainage for the site shall be provided in accordance with the following details:

- SWH Letter to Derbyshire with accompanying Appendices 18/07/2023.
- Scott White and Hookins. (25 - May 2022) FRA & Drainage Strategy Report.
- 203810/Revision 1 b. Scott White and Hookins. (26 - May 2022) Drainage Layout.
- 203810-SWH-ZZ-XX-DR D-0500-P02.

unless otherwise agreed in writing by the Local Planning Authority. Construction activities should be managed in line with the CIRIA Guidance on the Construction of SuDS Manual C768, to ensure that the effectiveness of the sustainable drainage features is not compromised.

Reason:

To ensure that the proposed development does not increase flood risk and that the principles of sustainable drainage are incorporated into this proposal, and sufficient detail of the construction, operation and maintenance/management of the sustainable drainage systems are provided to the Local Planning Authority, in advance of full planning consent being granted and to accord with policy SC2 and SC7 of the Local Plan for Bolsover District.

9. Surface water during the construction phase shall be managed in strict accordance with the details set out in document P301003 - Shirebrook Crematorium – Surface Water Run-Off Management by Dragonfly Developments.

Reason:

To ensure surface water is managed appropriately during the construction phase of the development, so as not to increase the flood risk to adjacent land/properties or occupied properties within the development and to accord with policy SC2 and SC7 of the Local Plan for Bolsover District.