

## PLANNING COMMITTEE

Minutes of a meeting of the Planning Committee of the Bolsover District Council held in the Council Chamber, The Arc, Clowne, on Wednesday 27<sup>th</sup> April 2022 at 1000 hours.

### PRESENT:-

Members:-

Councillor Tom Munro in the Chair

Councillors Derek Adams, Allan Bailey, Paul Cooper, Chris Kane and Duncan McGregor.

Officers:- Sarah Kay (Planning Manager), Chris Fridlington (Assistant Director - Development), Chris McKinney (Interim Planning Policy Manager), Julie Ann Middleditch (Conservation Officer), Jon Hendy (Senior Planner (Planning Policy)), Jenny Owen (Legal Executive) and Alison Bluff (Governance Officer).

### PL43-21/22      APOLOGIES FOR ABSENCE

An apology for absence was received on behalf of Councillor Jim Clifton.

### PL44-21/22      URGENT ITEMS OF BUSINESS

There were no urgent items of business to consider.

### PL45-21/22      DECLARATIONS OF INTEREST

There were no declarations of interest made.

### PL46-21/22      MINUTES

Moved by Councillor Derek Adams and seconded by Councillor Chris Kane  
**RESOLVED** that the Minutes of a Planning Committee meeting held on 23<sup>rd</sup> February 2022 be approved as a correct record.

### PL47-21/22      APPLICATION NO. 21/00720/FUL - CHANGE OF USE FROM A RESIDENTIAL GARDEN TO BEER GARDEN AND ERECTION OF A SMOKING SHED/COVERED AREA - 47 WHARF ROAD PINXTON NOTTINGHAM NG16 6LH

Application No. 21/00720/FUL - Change of use from a residential garden to beer garden and erection of a smoking shed/covered area - 47 Wharf Road, Pinxton.

Committee considered a detailed report presented by the Planning Manager in relation to the above application.

The application was seeking full planning permission to change the use of the former rear garden of 47 Wharf Road into a beer garden, ancillary to the operations at The

## PLANNING COMMITTEE

Headstocks micro-pub.

Further detail was included in the Supplementary Report which advised of one further letter of objection, however, the issues highlighted in this additional representation had already been considered in the original officer report.

The officer recommendation was not for a temporary consent, as it was considered that the operation of the beer garden was acceptable in planning terms on a permanent basis. The property already had a permanent premises license granted for the use of the beer garden in connection with the premises.

The Planning Manager read out a statement on behalf of Councillor Mary Dooley who had called in the application and could not be in attendance at the meeting. The statement spoke against the application.

The Planning Manager read out a statement on behalf of Julie Keward, who had not been able to attend the meeting. The statement spoke against the application.

Mr Ian Allcock (applicant) attended the meeting and spoke for the application.

Moved by Councillor Duncan McGregor and seconded by Councillor Derek Adams  
**RESOLVED** that the application be granted with conditions.

### **Conditions**

1. The development hereby permitted shall be carried out in accordance with the amended site location plan / block plan, received on the 31st March 2022.
2. The beer garden, which is the subject of this application shall closed to customers at 10pm every night, and there shall be no external activities carried out within this area after that time.
3. The development hereby permitted shall strictly accord with the Noise Management Plan submitted on the 8th February 2022.
4. Within 3 months from the date of this permission, a boundary treatment plan, and timetable for implementation shall have been submitted to and approved in writing by the Local Planning Authority. The boundary treatments shall be constructed in accordance with the approved details and retained as such for the life of the development.

### **Reasons for Conditions**

1. To define the terms of this permission and for the avoidance of doubt.
2. To protect the amenity of residents living adjacent to the application site, in compliance with policies SC3 and SC11 of the adopted Local Plan.
3. To ensure that the applicant has taken and maintained any necessary measures to prevent disturbance to adjacent residents. In the interests of residential amenity and in compliance with policies SC3 and SC11 of the adopted Local Plan.

## **PLANNING COMMITTEE**

4. To provide a clear distinction between the commercial and residential uses, to improve the appearance of the application site, and to provide additional noise mitigation measures. In the interests of visual and residential amenity and in compliance with policies SS1, SC3 and SC11 of the adopted Local Plan.

### **Notes**

1. In compliance with condition 2, the applicant shall ensure that this is adhered to for the life of the development. All bottles, glasses and other litter shall be cleared from this area as soon as the beer garden closes to prevent potentially unacceptable noise levels in the beer garden after 10pm.
2. The applicant shall ensure that any established right of way over the beer garden must be kept clear at all times, and customers shall need to be informed of the potential for vehicles accessing the beer garden, in the interests of customer safety.
3. In compliance with condition 3 above, the applicant is encouraged to maintain a diary of sound levels and instances of unacceptable behaviour from the site, in the event that complaints are received.
4. In compliance with condition 4 above, the applicant is advised that the boundary treatment shall need to provide a good standard of privacy between the application site and adjacent properties. The applicant shall also ensure that any rights of access to adjacent gardens is maintained.
5. The applicant is required to ensure that access to, and exit from the beer garden shall be via the rear door of The Headstocks only. There shall be no access from the driveway at the side of number 47 at any time, as this area is outside of the application site boundary and is required for access to the rear of properties on Wharf Road.
6. The applicant is advised to make visual improvements, and to provide some biodiversity to the beer garden through the provision of native landscaping. The Local Planning Authority can provide advice and assistance in regard to this provision.
7. The extent of the application site boundary has been reduced during processing of the application. The applicant is strongly advised to contact the Bolsover District Council Licensing department for advice on whether an amended License application is required to account for the reduction in the area of the beer garden.

### **Statement of Decision Process**

Officers have worked positively and pro-actively with the applicant to address issues raised during the consideration of the application. The proposal has been considered against the policies and guidelines adopted by the Council and the decision has been taken in accordance with the objectives of the Framework.

### **Equalities Statement**

Section 149 of the Equality Act 2010 places a statutory duty on public authorities in the exercise of their functions to have due regard to the need to eliminate discrimination and

## **PLANNING COMMITTEE**

advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it (i.e. “the Public Sector Equality Duty”). In this case, there is no evidence to suggest that the development proposals would have any direct or indirect negative impacts on any person with a protected characteristic or any group of people with a shared protected characteristic.

### **Human Rights Statement**

The specific Articles of the European Commission on Human Rights (‘the ECHR’) relevant to planning include Article 6 (Right to a fair and public trial within a reasonable time), Article 8 (Right to respect for private and family life, home and correspondence), Article 14 (Prohibition of discrimination) and Article 1 of Protocol 1 (Right to peaceful enjoyment of possessions and protection of property).

It is considered that assessing the effects that a proposal will have on individuals and weighing these against the wider public interest in determining whether development should be allowed to proceed is an inherent part of the decision-making process. In carrying out this ‘balancing exercise’ in the above report, officers are satisfied that the potential for these proposals to affect any individual’s (or any group of individuals’) human rights has been addressed proportionately and in accordance with the requirements of the ECHR.

The applicant or The agent on behalf of the applicant attended the meeting and spoke in support of the application.

Committee considered the application having regard to the Bolsover District Local Plan, the emerging Local Plan and the National Planning Policy Framework.

(Planning Manager (Development Control))

### **PL48-21/22      UPDATE ON SECTION 106 AGREEMENT MONITORING**

#### **i) Update on Section 106 Agreement Monitoring**

Committee considered a report which provided progress in respect of the monitoring of Section 106 Agreements in order to give Members the opportunity to assess the effectiveness of the Council’s monitoring procedures.

The Council had approved a procedure for recording and monitoring Section 106 Agreements in 2019. This procedure governed the work of the Council’s cross-departmental Section 106 Monitoring Group who provided a progress report to Planning Committee highlighting any sums at risk of clawback that needed spending within 12 months. The report was the quarterly progress report following the meeting of the Section 106 Monitoring Group held on 2<sup>nd</sup> February 2022.

Councillor Adams requested that future reports showed information in a graph format at each stage S106 monies were due per development and when monies had to be spent by. The Interim Planning Policy Manager advised Committee that the Annual Funding Statement would be presented to Members soon and would cover the graphs Councillor Adams referred to - the report to be considered at this meeting was in relation to the S106 monies which were coming to the end of their 5 year period.

Councillor McGregor raised serious concern regarding the time factors involved in

## PLANNING COMMITTEE

relation to some of the S106 monies as set out in the report and stated that serious discussions needed to take place with officers. He referred to paragraph 1.3 of the report which clearly stated that a developer was entitled to request S106 money back if the Council failed to spend monies within a set period of time. Further, the negative impact on the affected local community and the consequential reputational impact on the Council if this happened.

The Interim Planning Policy Manager stated that Members were right to raise their concern. He provided an update to Committee that the Community Arts Development Officer had advised that an alternative suitable scheme had been established and the sum of £3,045 for Public Art had paid for the development of a community arts resource to address anti-social behaviour on green spaces in the Clowne Parish area and this money was spent prior to 18<sup>th</sup> April 2022 deadline.

In relation to the Thurgaton Way Phase 2 sum of £30,132 for health, plans for new clinical consultation rooms were expected to be finalised during April 2022, enabling the sum of £30,132 to be transferred to the NHS and the conversion work to take place and be completed prior to the 1<sup>st</sup> August 2022 date.

Moved by Councillor Duncan McGregor and seconded by Councillor Tom Munro  
**RESOLVED** that the report be noted.

Councillor Chris Kane left the meeting at this point.

### **PL49-21/22          STATEMENT OF COMMUNITY INVOLVEMENT: DRAFT FOR PUBLIC CONSULTATION**

#### i) Statement of Community Involvement: draft for public consultation

Committee considered a detailed report which sought Members' approval to consult on a draft Statement of Community Involvement. The draft Statement was attached as an appendix to the report.

The Council's recently published Local Development Scheme (February 2022), set out a timetable for the preparation of a new Statement of Community Involvement by October 2022, as part of the Council's duties to keep planning documents up to date.

The report for Members consideration implemented the timetable and sought approval to start a 6-week public consultation exercise in May 2022. The findings of the public consultation exercise would be taken into account and a final Statement of Community Involvement prepared, which would be presented to the Local Plan Steering Group and then to Planning Committee for adoption in advance of October 2022. It was proposed that the consultation exercise commenced on Friday 6<sup>th</sup> May 2022 for a 6 week period through to Friday 17<sup>th</sup> June 2022.

Members welcomed the report and noted that the Council was a pilot authority for the Government's digital planning reforms and their PropTech Engagement Fund, and was also trialling some of the latest techniques to strengthen public engagement.

Moved by Councillor Duncan McGregor and seconded by Councillor Derek Adams

## **PLANNING COMMITTEE**

**RESOLVED** that the draft Statement of Community Involvement, as attached at Appendix A to the report, be approved for a public consultation exercise as outlined in the report.

(Planning Manager/Senior Planner (Planning Policy))

The meeting concluded at 1100 hours.