

PLANNING COMMITTEE

Minutes of a meeting of the Planning Committee of the Bolsover District Council held in the Council Chamber on Wednesday, 1st March 2023 at 10:00 hours.

PRESENT:-

Members:-

Councillor Tom Munro in the Chair

Councillors Derek Adams, Allan Bailey, Nick Clarke, Jim Clifton, Chris Kane and Duncan McGregor.

Officers: Sarah Kay (Planning Manager – Development Control), Jenny Owen (Legal Executive), Chris McKinney (Planning Policy and Housing Strategy Manager), Jonathan Gaynor (Principal Enforcement Officer), Mark Penfold (Planner) and Hannah Douthwaite (Governance and Civic Officer).

PL15-21/22 APOLOGIES FOR ABSENCE

There were no apologies for absence.

PL16-21/22 URGENT ITEMS OF BUSINESS

There were no urgent items of business to consider.

PL17-21/22 DECLARATIONS OF INTEREST

There were no declarations of interest made.

PL18-21/22 MINUTES

Moved by Councillor Derek Adams and seconded by Councillor Nick Clarke

RESOLVED that the Minutes of a Planning Committee meeting held on 25th January 2023 be approved as a correct record.

PL19-21/22 21/00424/OUT - OUTLINE PLANNING APPLICATION (WITH DETAILS OF ACCESS, LAYOUT, SCALE AND LANDSCAPING SUBMITTED) FOR ERECTION OF 2 WAREHOUSE UNITS (CLASS B2/B8) UP TO 68,000 SQ. M GROSS, WITH ANCILLARY OFFICE ACCOMMODATION; CONSTRUCTION OF NEW ACCESS ROAD; PROVISION OF SERVICE YARDS AND INTERNAL VEHICLE CIRCULATION AND PARKING AREAS; ERECTION OF COVERED CYCLE PARKING AREAS, PUMP HOUSE AND SPRINKLER TANK, GATE HOUSES AND PERIMETER FENCING; ASSOCIATED DRAINAGE WORKS, SITE LEVELLING AND LANDSCAPING; AND REALIGNMENT OF EXISTING PUBLIC RIGHT OF WAY - LAND TO THE NORTH OF THE M1 AND SOUTH WEST OF OXCROFT JUNCTION WOODTHORPE ROAD SHUTTLEWOOD

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The Planning Manager presented a detailed report in relation to the above application, which sought outline approval for 2 large warehouse buildings located next to the northern side of the Markham Vale Employment Site.

The application site straddled the administrative boundaries between Chesterfield Borough Council and Bolsover District Council; Unit A was located in Bolsover District and Unit B was located in Chesterfield Borough. At its planning committee meeting held on 12th December 2022, Chesterfield Borough Council had considered the application and had resolved to grant planning permission subject to the completion of a S106 obligation.

The entrance to the site would be off the access route from the existing road serving Gist Ltd off Seymour Link Road. The proposal was expected to create approximately 880 jobs with good links to the M1.

Footpath 29 crossed the site north/south, which would be less direct if the application was to be approved, however, the new footpath would be fully surfaced.

Chris Creighton (agent) attended the meeting and spoke for the application.

Councillors queried whether the proposed development already had an end user lined up. The agent confirmed that nothing was firmly in place, however, the site itself had received a good level of interest and there was high demand for units within the area.

Local bus companies had been approached relating to routes that would serve the site but currently none wished to extend their services, however, this could change in the future if the development was approved.

Moved by Councillor Duncan McGregor and seconded by Councillor Tom Munro that the application be approved.

For the motion: **3**

Against the motion: **3 (including Councillor Jim Clifton)**

Abstention: **1**

As the votes were tied, the Chair exercised his casting vote and voted **for** the application.

It was therefore **RESOLVED** that:

(1) the application be approved and;

(2) the Planning Manager of Development Control be given delegated authority to both formulate the final wording of the conditions (as per the current recommendation) and also to omit some of the conditions in their entirety if they do not pass the legal tests for conditions or are relevant to Chesterfield Borough only.

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

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against the policies and guidelines adopted by the Council and the decision has been taken in accordance with the guidelines of the Framework.

The decision contains several pre-commencement conditions which are so fundamental to the development permitted that:

- it would have been otherwise necessary to refuse the whole permission; or
- are necessary to address issues that require information to show that the development will or can be made safe; or
- address other impacts which need to be assessed to make the development acceptable to minimise and mitigate adverse impacts from the development.

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 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.

PL20-21/22 22/00389/FUL - EXTENSION TO STABLE BUILDING TO PROVIDE ANCILLARY FACILITIES - THE STABLES, FEATHERBED LANE, BOLSOVER, CHESTERFIELD

The Planning Manager presented a detailed report in relation to the above application, which had been referred to the Planning Committee by Councillor Donna Hales (Bolsover North and Shuttlewood) given the concerns of local residents about the impact of the development.

The report detailed 19 objections received from local residents that raised various concerns relating to the future intentions of the stable block.

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The proposed extension was considered to be in keeping with the scale, mass and design of the stable block originally approved and was not considered to harm the rural character of the area.

Moved by Councillor Duncan McGregor and seconded by Councillor Jim Clifton that the application be approved.

For the motion: **6**

Against the motion: **0**

Abstention: **1**

It was therefore **RESOLVED** that the application be approved subject to the following conditions:

1. The development must be begun before the expiration of three years from the date of this permission.
2. The development hereby approved must only be used for private use by the occupier of the land and must not be used for any trade or business use without the prior granting of planning permission by the Local Planning Authority.
3. The extension to the stables and store room hereby approved must be clad in timber and painted dark brown or dark green and the pre-coloured steel roof must be finished in dark brown, dark green or black and must be maintained as such thereafter.

Statement of the Decision Process

The proposal complies with the policies and guidelines adopted by the Council and the decision has been taken in accord with the Policies of the National Planning Policy 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 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).

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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.

PL21-21/22 22/00425/FUL - TRAVELLER SITE WITH 3 PITCHES - THE STABLES, FEATHERBED LANE, BOLSOVER, CHESTERFIELD

The Planning Manager presented a detailed report in relation to the above application, which had been referred to the Planning Committee by Councillor Donna Hales (Bolsover North and Shuttlewood) given the concerns of local residents about the impact of the development.

The application was seeking approval for the change of use of land to a traveller site with 3 pitches. The proposed use was not compliant with Policy SS9 (Development in the Countryside) but met an identified need for traveller sites within the District in compliance with Policy LC5 (Applications for Gypsies, Travellers and Travelling Show People.)

The supplementary report detailed further representations that had been received since the publication of the agenda, including the submission of two photographs detailing how Featherbed Lane had changed over the last 11 years. Also included within the supplementary report were revised recommendations subject to the approval of the application.

Roger Yarwood (agent) attended the meeting and spoke for the application.

Councillor Donna Hales attended the meeting and spoke against the application on behalf of residents of Shuttlewood Road.

Members were reminded that issues concerning rights of access were a private civil matter and not a material planning consideration.

Moved by Councillor Chris Kane and seconded by Councillor Duncan McGregor that the application be approved.

For the motion: **3**

Against the motion: **3**

Abstention: **1**

As the votes were tied, the Chair exercised his casting vote and voted for the application.

It was therefore **RESOLVED** that the application be approved subject to the following conditions:

1. Unless within 2 months of the date of this decision, the parking and turning area has been provided on site in accordance with the amended block plan submitted

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via email to the Local Planning Authority on 03/11/2022, the use of the site hereby approved must cease and all equipment and materials brought onto the land for the purposes of such use must be removed until such time as the approved parking and turning is provided on site.

Upon implementation of the approved parking and turning area specified in this condition, that parking and turning area must be maintained available for its intended use thereafter.

In the event of a legal challenge to this decision, or to a decision made pursuant to the procedure set out in this condition, the operation of the time limits specified in this condition will be suspended until that legal challenge has been finally determined.

2. The development hereby approved is for three mobile home pitches only, laid out in accordance with the amended site plan submitted via email to the Local Planning Authority on 03/01/2022. Each pitch must only be used for the residential use of one mobile home, located as shown on the approved plan, and for the storage of one touring caravan. No residential occupation of any touring caravan is permitted within the site at any time.
3. The mobile homes on site must be single storey only.
4. The development hereby approved is for three pitches which must solely be occupied by travellers as defined as defined in "Planning Policy for Traveller Sites (2015)".
5. The development hereby approved is for residential occupation only and no trade or business must be carried out from the site.
6. Unless within 2 months of the date of this decision, full details of the septic tank and soakaway, together with the results of percolation tests which substantiate the soakaway design, has been submitted in writing to the local planning authority for approval, and unless the approved scheme is implemented within 2 months of the local planning authority's approval, the use of the site hereby approved must cease and all equipment and materials brought onto the land for the purposes of such use must be removed until such time as a scheme is approved and implemented.

The approved septic tank and soakaway specified in this condition, must thereafter be maintained for its intended use and final effluent from the septic tank must not connect directly to any watercourse or land drainage system and no part of the soakaway shall be sited within 10m of any ditch or watercourse.

In the event of a legal challenge to this decision, or to a decision made pursuant to the procedure set out in this condition, the operation of the time limits specified in this condition will be suspended until that legal challenge has been finally determined.

7. Within 2 months of the date of this decision a Landscape and Biodiversity Enhancement and Management Plan (LBEMP) must be submitted to the local planning authority for approval. The LBEMP will provide specifications for habitat

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creation in line with the proposals reflected in the submitted Biodiversity Net Gain report (JM Ecology, December 2022) and to achieve a gain of no less than +0.01 habitat units (4.33%) and +0.12 hedgerow units (18.81%). The LBEMP should combine both the ecology and landscape disciplines and must be suitable to provide to the management body responsible for the site. It must include the following:-

- a) Description and location of features to be retained, created, enhanced and managed, as per the approved biodiversity metric.
- b) Aims and objectives of management, in line with desired habitat conditions detailed in the metric.
- c) Appropriate management methods and practices to achieve aims and objectives.
- d) Prescriptions for management actions.
- e) Preparation of a work schedule (including a 30-year work plan capable of being rolled forward in perpetuity).
- f) Details of the body or organization responsible for implementation of the plan.
- g) A monitoring schedule to assess the success of the habitat creation and enhancement measures
- h) A set of remedial measures to be applied if conservation aims and objectives of the plan are not being met.
- i) Requirement for a statement of compliance upon completion of planting and enhancement works.

The LBEMP must also include details of the legal and funding mechanism(s) by which the long-term implementation of the plan will be secured by the developer with the management body(ies) responsible for its delivery.

The LBEMP must be implemented in accordance with the approved details within an agreed time frame and if the approved plan is not implemented within that time frame, the use of the site hereby approved must cease and all equipment and materials brought onto the land for the purposes of such use must be removed until such time as a scheme is approved and implemented.

In the event of a legal challenge to this decision, or to a decision made pursuant to the procedure set out in this condition, the operation of the time limits specified in this condition will be suspended until that legal challenge has been finally determined.

8. Unless within 2 months of the date of this decision, details of the boundary treatment to be provided around the edge of the site hereby approved for three pitches, together with any boundary treatment details required to divide the pitches has been submitted to the local planning authority for approval, and unless the approved boundary treatment scheme is provided on site in accordance with approved details within 2 months of the local planning authority's approval, the use of the site hereby approved must cease and all equipment and materials brought onto the land for the purposes of such use must be removed until such time as a scheme is approved and implemented.

If no details in accordance with this condition are approved within 4 months of the date of this decision, the use of the site hereby approved must cease and all equipment and materials brought onto the land for the purposes of such use must be removed until such time as a scheme approved by the local planning authority

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is implemented.

The approved boundary treatment details must thereafter be maintained in accordance with the approved details.

In the event of a legal challenge to this decision, or to a decision made pursuant to the procedure set out in this condition, the operation of the time limits specified in this condition will be suspended until that legal challenge has been finally determined.

9. Notwithstanding the provisions of Classes A and B of Part 2 of Schedule 2, Article 3 of the Town and Country Planning (General Permitted Development) Order 2015 (or any Order revoking and re-enacting that Order with or without modification), no new accesses or boundary treatments must be installed on site unless authorised by an express grant of planning permission.
10. Notwithstanding the provisions of Article 3(1) of the Town and Country Planning (General Permitted Development) Order 2015, (or any Order revoking and re-enacting that Order) no development otherwise permitted by Part 5 Class B of the Order must be erected/constructed/undertaken without first obtaining planning permission.
11. Unless within 2 months of the date of this decision, details of arrangements for storage of bins and collection of waste is submitted in writing to the local planning authority for approval, and unless the approved scheme is implemented within 2 months of the local planning authority's approval, the use of the site hereby approved must cease and all equipment and materials brought onto the land for the purposes of such use must be removed until such time as the details are approved and implemented.

If no details in accordance with this condition are approved within 4 months of the date of this decision, the use of the site hereby approved must cease and all equipment and materials brought onto the land for the purposes of such use must be removed until such time as the details as approved by the local planning authority are implemented.

Upon implementation of the approved details specified in this condition, those bin storage and collection details must be maintained as such thereafter.

In the event of a legal challenge to this decision, or to a decision made pursuant to the procedure set out in this condition, the operation of the time limits specified in this condition will be suspended until that legal challenge has been finally determined.

12. There must be no external lighting installed on the site without the prior submission of a detailed lighting strategy for the site having been first submitted to and approved in writing by the Local Planning Authority.

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

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against the policies and guidelines adopted by the Council and the decision has been taken in accordance with the guidelines 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 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.

However if these protected characteristics were not taken into account and sufficient sites provided within the district to meet an identified need in accordance with Policy LC5 of the Local Plan for Bolsover District then it may be considered that such regard had not been exercised.

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.

PL22-21/22 ENFORCEMENT UPDATE REPORT

The Principal Enforcement Officer presented a 6 month update on the service targets set out in the Local Enforcement Plan (Planning) from 1st July 2022 – 31st December 2022, as well as providing an update on ongoing historic cases.

The report detailed that high priority cases would be visited on the same day that the suspected planning breach had been identified, medium priority cases would be visited within two weeks and low priority would be visited within six weeks.

During the period 1st July 2022 – 31st December 2022, 140 unauthorised activity enquiries were received. Out of these, 5 were considered high priority, 25 medium priority and 110 low priority. As a total, 97% of cases began investigation within the target time.

Moved by Councillor Duncan McGregor and seconded by Councillor Jim Clifton
RESOLVED that:

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- (1) the report be noted;
- (2) the Planning department's performance against the Service Standards in the Local Enforcement Plan and updates on planning enforcement continue to be reported to Planning Committee on a half-yearly basis.

The meeting concluded at 11:23 hours.