

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, 19th June 2024 at 10:00 hours.

PRESENT:-

Members:-

Councillor Tom Munro in the Chair

Councillors:- Chris Kane, Duncan McGregor, John Ritchie, Phil Smith, Janet Tait, Deborah Watson, and Jen Wilson.

Officers:- Sarah Kay (Assistant Director Planning and Planning Policy), Chris Whitmore (Development Management and Land Charges Manager), Chris McKinney (Senior Devolution Lead for Planning Policy, Strategic Growth and Housing), Kay Gregory (Principal Planner), Jenny Owen (Chartered Legal Executive), Julie-Anne Middleditch (Principal Planning Policy Officer), Matt Connelly (Special Projects Officer) (from Minute No. PL83-23/24), Dan Oakley (Community Arts Development Officer) (from Minute No. PL83-23/24) and Alison Bluff (Governance).

PL73-24/25 APOLOGIES FOR ABSENCE

Apologies for absence were received on behalf of Councillors Rob Hiney-Saunders and Carol Wood.

PL74-24/25 URGENT ITEMS OF BUSINESS

There were no urgent items of business to consider.

PL75-24/25 DECLARATIONS OF INTEREST

Members were requested to declare the existence and nature of any disclosable pecuniary interests and/or other interests, not already on their register of interests, in any item on the agenda and withdraw from the meeting at the appropriate time.

Minute No.	Member	Level of Interest
PL78-24/25.	Councillor Janet Tait	As a Member on the Planning Committee, Councillor Tait would sit in the public gallery and not take part in the discussion or vote on the item.

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PL76-24/25 MINUTES – 10TH APRIL 2024

Moved by Councillor Duncan McGregor and seconded by Councillor John Ritchie
RESOLVED that the Minutes of a Planning Committee held on 10th April 2024 be approved as a true record.

PL77-24/25 24/00144/VAR - VARIATION OF CONDITION 2 (RELOCATION OF TEMPORARY ACCESS ROAD) OF APPLICATION 22/00168/FUL - LAND NORTH WEST OF 1 BARN COTTAGES FARM LANE HARDSTOFT

Committee considered a detailed report in relation to the above application, presented by the Development Management and Land Charges Manager.

The application had been referred to Planning Committee as it proposed to vary a planning permission that was originally determined by Planning Committee and involved more than non-material minor amendments.

The current application was to vary condition 2 (approved plans) of planning permission 22/00168/FUL to allow for the relocation of the site access during the construction period. The access track currently proposed utilised the same access as previously approved, but the current proposal was to move the temporary access track within the site such that it ran directly to the rear of the boundary hedge before running across the field to the barn.

It was proposed that the land would be restored to its natural state following completion of the development and any hedge and boundary walls reinstated. The temporary surface road was proposed to comprise weed block matting/membrane with min. 100mm of hard core/crushed brick/stone laid over.

The only issue for consideration was, therefore, the line of the temporary access track within the paddock. There were no other alterations to the previously approved scheme.

Mr Chris Williams attended the meeting and spoke against the application.

Mr Paul Harris attended the meeting and spoke against the application.

In response to a Member's query, the Development Management and Land Charges Manager, advised the meeting that utilities and the route of utilities was a matter for the service providers and that they have national permitted development rights to carry out such work. Planning officers had looked at the proposed alternative access, assessed the impact on the environment and felt the revised routing of the access was better than the original routing because it was not a strident feature which crossed the land diagonally. It actually provided a more direct link to Farm Lane, and followed an existing landscape feature which helped mitigate its impact on the landscape, thus, the application was considered acceptable on its own merits. Members were asked to note that this was an application under s73, i.e., to grant a new permission, but the original permission was a valid application and a legitimate fall-back position.

The Member noted that the applicant was not at the meeting to answer Members'

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questions.

In response to another Member's query, the Development Management and Land Charges Manager, advised the meeting that land ownership was a civil matter. In relation to the original application, the applicant had confirmed the extent of the application site area was in their ownership and had served the correct certificate. In relation to the current application, this was to make an amendment to the original permission and it was not a requirement to submit a further site location plan.

Moved by Councillor Duncan McGregor and seconded by Councillor Jenny Wilson
RESOLVED that the application be approved subject to the following conditions:

1. The development shall be begun before 9th August 2025
2. The development hereby permitted must be carried out in accordance with the following plans and documents:
 - Site Block Ownership Plan & Site Location Plan as Proposed - L/01 Rev J received 2nd April 2024
 - Proposed block plan - L/02 Rev B; received 20th June 2022
 - Proposed ground floor plan - P/01 Rev B; received 20th June 2022
 - Mezzanine floor and roof plan - P/02 Rev B; received 20th June 2022
 - South and East Elevations - P/03 Rev B; received 20th June 2022
 - North and West Elevations - P/04 Rev B; received 20th June 2022
 - Section A-A as Proposed - P/05 Rev B; received 20th June 2022
 - M-Ecology - Bat Activity Survey Report (30th May 2022); received 20th June 2022.
 - Coal Mining Risk Assessment report (G22227) prepared by Geo-Investigate Ltd; received 20th June 2022.
3. Prior to commencement of development, the Structural Report, prepared by Nashmean Limited and received on the 23rd March 2022 shall be updated to correspond with the approved plans, submitted to and approved in writing by the Local Planning Authority. The development shall then be carried out in accordance with the approved details.
4. No development shall commence on the building conversion until details of the roofing materials and details of the verge have been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the agreed details and retained as such for the life of the development.
5. The rainwater goods shall be cast metal on rise and fall brackets.
6. Prior to the installation of any doors or windows, the following information must be submitted to and approved in writing by the Local Planning Authority:
 - Details of all new windows, including rooflights, in the form of 1:20 scaled plans.
 - Details of all new external doors, in the form of 1:20 scaled plans.
 - Details and treatment of the timber shutters in the form of 1:20 plans.
 - Details of the appearance and materials for the proposed cill and lintel treatments.The development shall then be carried out in accordance with the agreed details and retained as such for the life of the development.
7. The dry stone wall must be constructed in accordance with the details submitted under discharge of condition application 23/00614/DISCON, a sample panel of which must be constructed and approved prior to the wall being constructed. The

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- wall must be constructed in accordance with the approved details before the first occupation of the dwelling hereby approved and must be maintained as such thereafter.
8. No building shall be occupied until the hard and soft landscape works approved under discharge of conditions application no 23/00614/DISCON have been implemented on site.
 9. Prior to any works being carried out to trees within the application site, a specification of works shall be submitted to and approved in writing. Where development takes place within any identified root protection areas of trees to be retained, the ground excavations shall be carried out using hand dig technology only. All tree works shall be carried out in accordance with the appropriate recommendations contained in British Standard 3998: 2010 (Tree Work) and in general shall in no way prejudice the health, balance, and natural appearance of the trees to be retained.
 10. Prior to occupation of the dwelling hereby permitted, the temporary access track must be removed and the field must be restored to its previous condition through suitable ground preparation and the sowing of an appropriate seed mix. The section of hedgerow removed for access shall be reinstated using appropriate native species. The establishment of the hedgerow plants shall be monitored by the applicant for the next five years and any failed plants shall be replaced like for like. The stone wall along the western boundary shall be restored back to its current condition.
 11. Prior to occupation of the dwelling, an integrated or surface-mounted bat box shall be incorporated at the apex of the western gable. A photograph of the box in situ shall be submitted to and approved by the Local Planning Authority. The box shall be maintained in the agreed form for the life of the development.
 12. The removal of the hedgerow to create the temporary site access shall avoid the nesting season, which falls between 1st March and 31st August inclusive, unless preceded by a nesting bird survey undertaken by a competent ecologist no more than 48 hours prior to clearance. If nesting birds are present, an appropriate exclusion zone will be implemented and monitored until the chicks have fledged. No works shall be undertaken within exclusion zones whilst nesting birds are present.
 13. The lighting strategy approved under discharge of conditions application no 23/00614/DISCON must be provided on site before first occupation of the dwelling hereby approved and must be maintained as such thereafter.
 14. The premises, the subject of the application, shall not be taken into use until space has been provided within the application site for the parking of visitors/resident's vehicles (measuring a minimum of 2.4m x 5.5m), generally in accordance with the application drawings, constructed, laid out, surfaced, and maintained throughout the life of the development free from any impediment to its designated use.
 15. No part of the development shall be taken into use until details of arrangements for the collection of waste have been submitted to and approved by the Local Planning Authority. The development shall be carried out in accordance with the agreed details and the facilities retained for their designated purposes at all times thereafter.
 16. No development shall commence until;
 - a) a scheme of intrusive investigations has been carried out on site to establish the risks posed to the development by past shallow coal mining activity; and,
 - b) any remediation works and/or mitigation measures to address land instability arising from coal mining legacy, as may be necessary, have been implemented on site in full in order to ensure that the site is made safe and stable for the

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development proposed.

The intrusive site investigations and remedial works shall be carried out in accordance with authoritative UK guidance.

17. Prior to the occupation of the development, or it being taken into beneficial use, a signed statement or declaration prepared by a suitably competent person confirming that the site is, or has been made, safe and stable for the approved development shall be submitted to the Local Planning Authority for approval in writing. This document shall confirm the methods and findings of the intrusive site investigations and the completion of any remedial works and/or mitigation necessary to address the risks posed by past coal mining activity.
18. Notwithstanding the provisions of Classes A, B, C, D, E, and F of Part 1, and Classes A, B and C of Part 2 of Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that Order with or without modification), no extension, enlargement, alteration or the provision of incidental or ancillary buildings, surfaces or boundary treatments to the dwellinghouse hereby permitted and its curtilage shall take place, other than those approved under the terms of this permission, unless authorised by an express grant of planning permission.
19. Before the commencement of the development hereby approved:
 - a) A Phase I contaminated land assessment (desk-study) must be undertaken and approved in writing by the local planning authority.
 - b) The contaminated land assessment must include a desk-study with details of the history of the site use including:
 - the likely presence of potentially hazardous materials and substances, their likely nature, extent, and scale,
 - whether or not they originated from the site,
 - a conceptual model of pollutant-receptor linkages,
 - an assessment of the potential risks to human health, property (existing or proposed) including buildings, crops, livestock, pets, woodland and service lines and pipes, adjoining land, ground waters and surface waters, ecological systems,
 - archaeological sites and ancient monuments,
 - details of a site investigation strategy (if potential contamination is identified) to
 - effectively characterise the site based on the relevant information discovered by the desk study and justification for the use or not of appropriate guidance. The site investigation strategy shall, where necessary, include relevant soil, ground gas, surface and groundwater sampling/monitoring as identified by the desk-study strategy

The site investigation must be carried out by a competent person in accordance with the current U.K. requirements for sampling and analysis. A report of the site investigation must be submitted to the local planning authority for written approval.

Reasons for Condition(s)

1. To comply with the requirements of Section 51 of the Planning and Compulsory Purchase Act 2004.
2. To ensure that the development takes the form as envisaged by the Local Planning Authority.
3. To define the terms of this permission and to ensure a satisfactory appearance of the completed development, in the interests of visual amenity and in compliance with policies SS1, SS9, SC3, and SC5 of the adopted Local Plan.
4. To ensure a satisfactory appearance of the completed development. In the

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- interests of visual amenity and in compliance with policies SS1, SS9, SC3 and SC16 of the adopted Local Plan.
5. To ensure a satisfactory appearance of the completed development. In the interests of visual amenity and in compliance with policies SS1, SS9, SC3 and SC16 of the adopted Local Plan.
 6. To ensure a satisfactory appearance of the completed development. In the interests of visual amenity and in compliance with policies SS1, SS9, SC3 and SC16 of the adopted Local Plan.
 7. To ensure a satisfactory appearance of the completed development. In the interests of visual amenity and in compliance with policies SS1, SS9, SC3 and SC16 of the adopted Local Plan.
 8. To ensure a satisfactory appearance of the completed development. In the interests of visual amenity and in compliance with policies SS1, SS9, SC3 and SC16 of the adopted Local Plan.
 9. For the avoidance of doubt, and in the interests of visual amenity, good arboricultural management and in compliance with policies SS1, SC3, and SC10 of the adopted Local Plan.
 10. To define the terms of this permission, and in the interests of visual amenity, biodiversity, and highway safety, in compliance with policies SS1, SS9, SC3, SC9, SC10 and ITCR10 of the adopted Local Plan.
 11. In the interests of biodiversity and in compliance with policies SS1, SC3, and SC9 of the adopted Local Plan.
 12. In the interests of biodiversity and in compliance with policies SS1, SC3, and SC9 of the adopted Local Plan.
 13. In the interests of biodiversity and in compliance with policies SS1, SC3, and SC9 of the adopted Local Plan.
 14. To ensure the provision of on-site parking to serve the development. In the interests of highway safety and in compliance with policies SC3 and ITCR11 of the adopted Local Plan.
 15. In the interests of highway safety and in compliance with policies Sc3 and ITCR10 of the adopted Local Plan.
 16. The undertaking of intrusive site investigations, prior to the commencement of development, is considered to be necessary to ensure that adequate information pertaining to ground conditions and coal mining legacy is available to enable appropriate remedial and mitigatory measures to be identified and carried out before building works commence on site. This is in order to ensure the safety and stability of the development, in accordance with paragraphs 183 and 184 of the National Planning Policy Framework.
 17. The undertaking of intrusive site investigations, prior to the commencement of development, is considered to be necessary to ensure that adequate information pertaining to ground conditions and coal mining legacy is available to enable appropriate remedial and mitigatory measures to be identified and carried out before building works commence on site. This is in order to ensure the safety and stability of the development, in accordance with paragraphs 183 and 184 of the National Planning Policy Framework.
 18. To enable the Local Planning Authority to retain control over future extensions, alterations, and the erection of outbuildings, giving the simple form of the extended dwelling, and location within the countryside and conservation area; in compliance with policies SS1, SS9, SC3 and SC16 of the Bolsover District Local Plan.
 19. To ensure that the site is free from contamination, in compliance with policies SS1, SC2 and SC14 of the adopted Local Plan.

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Statement of 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.

Notes

1. Under provisions within Sections 149 and 151 of the Highways Act 1980, the developer must take all necessary action to ensure that mud or other extraneous material is not carried out of the site and deposited on the public highway. Should such deposits occur, it is the developer's responsibility to ensure that all reasonable steps (e.g. street sweeping) are taken to maintain the roads in the vicinity of the site to a satisfactory level of cleanliness.
2. The sewer records do not show any public sewers within the curtilage of the site. However, the applicant should be made aware of the possibility of unmapped public sewers which are not shown on the records but may cross the site of the proposed works. These could be shared pipes which were previously classed as private sewers and were transferred to the ownership of the Water Authorities in October 2011. If any part of the proposed works involves connection to / diversion of / building over / building near to any public sewer the applicant will need to contact Yorkshire Water in order to determine their responsibilities under the relevant legislation.
3. All proposals regarding drainage will need to comply with Part H of the Building Regulations 2010. In addition, any connections or alterations to a watercourse will need prior approval from the Derbyshire County Council Flood Team, who are the Lead Local Flood Authority.
4. It is essential that any work carried out does not detrimentally alter the structure or surface of the ground and increase or alter the natural flow of water to cause flooding to neighbouring properties. The developer must also ensure any temporary drainage arrangements during construction gives due consideration to the prevention of surface water runoff onto the public highway and neighbouring properties.
5. In the interests of maintaining good relationships with surrounding land users, the applicant is requested to provide a scheme of noise management for customers using the holiday let.
6. Certain plant and animal species, including all wild birds, are protected under the Wildlife and Countryside Act 1981. It is an offence to ill-treat any animal; to kill, injure, sell, or take protected species (with certain exceptions); or intentionally to damage, destroy or obstruct their places of shelter. It is thus an offence to take, damage or destroy a wild birds nest whilst in use or being built. Hedgerows or trees containing nests should therefore not be removed, lopped, or topped during the nesting season. Bats enjoy additional protection. It is an offence to kill, injure or disturb bats founds in the non-living areas of a dwelling house (that is, in the loft) or in any other place without first notifying English Nature. Some other animals are protected under their own legislation (e.g. the Protection of Badgers Act 1992).
7. The applicant is reminded that any amendment to the approved red line boundary or land owned by the applicant, following any dispute over land ownership may result in an amended planning application being required.

Councillor Janet Tait left her seat on the Committee and sat in the public gallery.

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PL78-24/25 23/00644/FUL - CONVERSION OF PUBLIC HOUSE TO GENERAL CONVENIENCE STORE WITH ADDITIONAL STORAGE AND CONVERSION OF 1ST AND 2ND FLOORS TO PROVIDE 2 SELF-CONTAINED FLATS AND 10 BEDROOM HMO - THE NEW VICTORIA INN ACREAGE LANE SHIREBROOK MANSFIELD

District Councillor Janet Tait, spoke against the application.

Committee considered a detailed report in relation to the above application, presented by the Development Management and Land Charges Manager.

The application was for the change of use of the building from a public house and above residential and office accommodation to a convenience store to the ground floor, two self-contained flats and a 10-bedroom House in Multiple Occupation (HMO) to the first and second floors for a maximum of 10 persons. The application included internal and external alterations involving a rear extension for commercial storage, alterations to a side facing dormer, deliveries from Acreage Lane, a shared secure amenity area for future occupants and parking for both residents and customers.

The application originally proposed a large flat roofed rear extension which spanned Acreage Lane and an amenity area surrounded by commercial access for delivery purposes. Other alterations were proposed to the façade of the building and the site's boundaries which were not considered to respect its design character and caused harm to the visual amenity of the locality and residential amenity. The application had therefore been formally amended to address these issues and increase off-road parking within the site.

District Councillor Janes Yates had requested the application be referred to Planning Committee because there were 15 licensed HMOs in the Bolsover District, all within Shirebrook South, Shirebrook North and Langwith Wards, and 8 of these were within Shirebrook South wards where the Victoria Inn was located. Councillor Yates had stated there had been multiple issues within HMOs in this area, for example, at the former Station Hotel in Shirebrook North Ward, and the former King of Diamonds in Langwith Ward. These were not on the list of licensed sites on the Council's Website.

Mrs Raj Padda (Applicant) attended the meeting and spoke for the application.

In response to Members' questions, Mrs Padda confirmed that in relation to the single occupant rooms, any potential tenant would be required to sign a single occupant contract. Work and background checks would also be carried out. In relation to management and inspection of the properties, this would be undertaken by Mrs Padda as she would be on site on a daily basis.

Shirebrook Town Councillor Dale Smith attended the meeting and spoke against the application.

Hazel Ward attended the meeting and spoke against the application on behalf of Shirebrook Town and District Councillor Jane Yates who could not attend the meeting.

Wendy Rogers, secretary of the Model Village Residents Association, attended the meeting and spoke against the application.

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The Development Management and Land Charges Manager referred to the Supplementary Update Report, which advised of a further representation received from Shirebrook Town Council and a late representation from Derbyshire Wildlife Trust which confirmed 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. If Members were minded to approve the application the recommendation would be to delegate authority 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.

Referring to the comments made by speakers against the application, Members noted that it was policies that governed decisions made by the Planning Committee. Representations made by consultees such as environmental health, police, and highways etc., also needed to be taken into account and given weight to for any planning application.

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

Councillor Deborah Watson proposed an alternative motion that the application be deferred pending the bat assessment and to enable the applicant to give consideration to the HMO element of the proposals given the concerns raised and that it be brought back to a future Planning Committee for Members to determine the application.

The motion was seconded by Councillor Chris Kane.

On being put to the vote, the motion was won;

For the motion: 5

Against the motion: 2

It was therefore **RESOLVED** that the application be deferred pending a bat assessment and the application be brought back to a future Planning Committee for Members to determine the decision.

Councillor Janet Tait left the public gallery and took her seat back on the Committee.

PL79-24/25 24/00102/FUL - CHANGE OF USE OF EXISTING DWELLINGHOUSE (C3 USE) TO CHILDREN'S CARE HOME FOR UP TO 3NO. CHILDREN (C2 USE). MINOR FACILITATING WORKS COMPRISING WIDENING OF DRIVEWAY AND VEHICLE ACCESS - 16 THE CHINE BROADMEADOWS PINXTON NOTTINGHAM

Committee considered a detailed report in relation to the above application, presented by the Development Management and Land Charges Manager.

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The application had been referred to the Planning Committee for determination due to significant resident objection.

The application was a proposal to change the use of 16 The Chine, Broadmeadows Pinxton (C3a - dwellinghouse) to a Children's Care Home (C2 - residential institutions) for a maximum of 3 children with 24-hour care supervision undertaken by the applicant One Home Property UK Ltd. The use would see 3 no. young people under 18 having unrestricted access to the property with the aim to replicate a family household where children and staff members ate and lived together, albeit on a rota basis where staff do not live within the property as their full-time residence.

The statement of purpose submitted with the application explained the property would be used for children at risk of CCE/CSE, drug/alcohol abuse, self-injurious behaviours, criminal behaviours, and complex needs. The statement explained the team had experience of working with a range of young people with various complex needs who may come from homes/family breakdowns, fostering breakdown or from residential children's homes.

The staff required to look after children would work to a register and weekly staff rota. Other visitors would include Social Services once every 6 weeks, an Ofsted visit taking place every 12 months. At Least one member of staff would be required to sleep at the property overnight.

No external changes were proposed to the appearance of the building. The only minor operational development associated with the application was a proposal to widen the vehicular access and driveway hardstanding to facilitate additional off-road parking and turning for the proposed use. The second floor of the building would not be in use.

Further information was contained in the Supplementary Update Report which advised that Bolsover District Councillor Louise Fox and South Normanton Parish Councillor Julian Siddle had made a joint representation stating their concerns regarding the application, and that a further additional resident representation had been received.

Emma Swann attended the meeting and spoke against the application.

Patricia Baker attended the meeting and spoke against the application.

Marie Martin attended the meeting and spoke against the application.

June Lambert attended the meeting and spoke against the application.

James Stannard (Agent) attended the meeting and spoke for the application.

Further to a question from a Member, James Stannard noted he had worked with the applicant a number of times over the previous 18 months and the applicant had recruited extensively for very senior positions in care homes the applicant had set up. Two representatives of the applicant who were present at the meeting, provided Members with their experience and number of years working with young people with complex needs and answered further questions raised by Members.

The Chair drew Members attention to the Principal Environmental Health Officer's (PEHO) comment in the report where the PEHO had quoted the Ministerial Statement

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issued in 2023 by the Minister of State Department for Levelling Up, which confirmed “the planning system should not be a barrier to providing homes of the most vulnerable children in society. As the statement did not state appropriate conditions would be unreasonable, the PEHO had recommended a two year temporary planning permission to enable any possible adverse impact on amenity to be monitored and evaluated during this period.

Councillor Phil Smith proposed an amendment to the recommendation in the report that a two year temporary planning permission be granted to enable any possible adverse impact on amenity to be monitored and evaluated during the two year period.

The motion was seconded by Councillor John Ritchie.

Following clarification sought on the reasons from the Development Management and Land Charges Manager, Councillor Duncan McGregor proposed a motion that the application be refused on the grounds that despite being located in an emerging town, the site had limited access to public transport, and as such, the future occupants, employees and support workers would be heavily reliant on the private motor vehicle for travel to and from the site, resulting in an unsustainable form of development and, as a consequence, vehicle movements and parking that would be detrimental to the residential amenity of the area.

After withdrawing his original proposal, Councillor Phil Smith seconded Councillor McGregor’s proposal. Councillor John Ritchie withdrew his support for Councillor Smith’s original proposal.

On being put to the vote, the motion was won;

For the motion: 5

Abstentions: 2

It was therefore **RESOLVED** that the application be refused.

As the time was 12:15 hours the Chair consented to a 15 minute break.

**PL80-24/25 23/00573/OTHER - APPLICATION UNDER S106A TO MODIFY THE
LEGAL AGREEMENT COMPLETED WITH PLANNING
PERMISSION 21/00464/TDC TO OMIT INFRASTRUCTURE
OBLIGATIONS FOR VIABILITY REASONS FOR: AFFORDABLE
HOUSING, LEISURE, SCHOOLS, HEALTH AND HIGHWAYS -
FORGE NEW HOMES DEVELOPMENT SITE WELBECK ROAD
BOLSOVER**

Committee considered a detailed report in relation to the above application, presented by the Principal Planner.

The application required a determination by Planning Committee, as it was contrary to policies contained within the Bolsover District Local Plan relating to developer

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contributions.

The application was to vary planning obligations and the wording of the Affordable Housing clause within a completed Section 106 legal agreement (dated 19th May 2022), attached to planning permission 21/00464/TDC, comprising 58 dwellings.

The application was accompanied by a Viability Assessment undertaken by Aspinall Verdi dated October 2023. Their Assessment concluded that *“the scheme is unable to provide any of the non-housing S106 contributions included within the signed s106 agreement. The applicant has confirmed that the 6 affordable units will be transferred to the Together Housing Group upon completion but in order to receive the Affordable Housing Grant from Homes England, the units must be outside the S106 agreement. The financial appraisal clearly demonstrated that even with the grant funding the viability of the scheme is challenging.”*

The application had since been subject to an independent viability review on behalf of the Council, which recommended that a reduced amount of £485,000 from the original £693,591 (£722,000 with indexation) was the total amount that the applicant could pay to deliver the scheme. This had been agreed by the applicant and consultees, and had been distributed across the obligations.

The proposed amendments to the Affordable Housing provision (6 units) were to insert a definition of ‘Homes England’, and to define the term ‘Registered Provider’ to allow for ‘Together Housing’ as developer of the affordable housing units, and who were a sub-company of Forge New Homes, or any other registered provider who was registered with Homes England, to enable grant funding to deliver social rented housing on site.

Further information was contained in the Supplementary Update Report in relation to Leisure / Public Open Space considerations. In the original comments from BDC Leisure (dated 3rd 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 had suggested the revised POS contribution should be allocated towards development of the new town park as an alternative to the three sites originally stated, as this 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. Thus, the Leisure Officer asked 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”*.

Officers therefore considered that the allocation of funds towards the development of the town park should be prioritised, as this site would be better related to the development than the original sites stated in the Section 106 agreement, the closest of which (Horsehead Lane) was a walking distance of 600m away from the application site (300m

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as the crow flies). However, if the timescale for the new town park was not agreed within 3 years of the date of the Deed of Variation, then the funds were to be reallocated to Horsehead Lane, Laburnum Close or Hornscroft, as the three areas of open space closest to the application site.

Members raised various questions to which the Principal Planner replied. The Chartered Legal Executive advised Members that the applicant's request was unusual on a site of a small size, however, Legal would be minded to accept the applicant's offer.

Moved by Councillor Tom Munro and seconded by Councillor Duncan McGregor

RESOLVED that 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 17th 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 14th 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.”

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PL81-24/25 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

Committee considered a detailed report in relation to the above application, presented by the Development Management and Land Charges Manager.

Members attention was drawn to the Supplementary Update Report which advised that the Lead Local Flood Authority had confirmed in respect of conditions 9-11 of application 22/00323/FUL, that the following surface water details were 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.

In light of the above, if Members were minded to approve the application for completeness, recommended conditions 8 – 10 should be replaced with the two conditions as outlined in the Supplementary Update Report.

The application followed the approval of planning application 22/00323/FUL on 28th September 2022 for a new crematorium, including a wake facility, administration space, memorial garden, car park and landscaping. At the technical design stage a number of changes to the development had been identified, which had necessitated the submission of this application. The application also addressed changes to foul drainage connections and landscaping.

The application sought permission under section 73 of the Town and Country Planning Act (1990) to make the following changes to the previously approved scheme.

- Changes to roof lights and doors (inc. omitting some openings);
- Increase floor areas to accommodate toilets, new openings, and lights; increased hall and plant room floor area; and,
- Revisions to landscaping and drainage.

Moved by Councillor Duncan McGregor and seconded by Councillor John Ritchie
RESOLVED that the application be approved subject to the following conditions;

1. Unless specifically stated in the conditions below, the development hereby permitted shall be carried out in accordance with the plans and documents approved in respect of application code ref. 22/00323/FUL, except where amended by the following details and plans:
 - Ground floor crematorium plan numbered 1481-A-10-01
 - Ground Arrangement Plan – Tranquillity and Flower Court Plan numbered

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1481-A-10-02

- Crematorium Roof Plan numbered 1481-A-10-03
- Crematorium Elevations Plans numbered 1481-A-12-01, 02, and 03
- Wake Facility Building General Arrangement Plan numbered 1481-A-50-01
- Wake Facility Building Roof Plan numbered 1481-A-50-02
- Wake Facility Elevations Plan numbered 1481-A-52-01
- Boundary Treatment Plan numbered D200020_CDS_EN_ZZ_DR_L_006 REV 02
- General Site Layout Plan numbered D200020 CDS EN ZZ DR L 01
- Soft Landscaping Plan 1 of 7 - Trees, Seeding & Native Hedgerows numbered D200020 CDS_EN_ZZ_DR_L_020
- Soft Landscaping Plan 2 of 7 - Front & Rear Of Building numbered D200020 CDS EN ZZ DR L 021
- Soft Landscaping Plan 3 of 7 - Car Park & Adjacent Border numbered D200020 CDS EN ZZ DR L 022
- Soft Landscaping Plan 4 of 7 - Flower Court to Wake Facility Borders numbered D200020 CDS EN ZZ DR L 023
- Soft Landscaping Plan 5 of 7 – Tranquillity Garden, Wake Facility and Memorial Garden Plan numbered D200020 CDS EN ZZ DR L 024
- Soft Landscaping Plan 6 of 7 – Bulb Planting numbered D200020 CDS EN ZZ DR L 025
- Soft Landscaping Plan 7 of 7 – Site Entrance numbered D200020 CDS EN ZZ DR L 026
- Hard Landscape Plan 1 of 2 numbered D200020 CDS EN ZZ DR L 028
- Hard Landscape Plan 2 of 2 numbered D200020 CDS EN ZZ DR L 029
- Gates, Fencing & Street Furniture Plan 1 of 3 numbered D200020 CDS EN ZZ DR L 040
- Gates, Fencing & Street Furniture Plan 2 of 3 numbered D200020 CDS EN ZZ DR L 041
- Gates, Fencing & Street Furniture Plan 3 of 3 numbered D200020 CDS EN ZZ DR L 042
- Vehicle Access Plant Plan numbered D200020 CDS EN ZZ DR Y 004 Rev 03
- Pedestrian and Cycle Access Plan numbered D200020 CDS EN ZZ DR Y 005 Rev 02
- Location of Proposed Foul Water Connection Plan, and
- Drainage layout drawings numbered DR-C-0503 C02, C06 and C07.

Reason:

For the avoidance of doubt and in order to define the planning permission.

2. The buildings hereby approved shall be constructed in the materials set out in the CDS Group Proposed Materials Schedule that was approved in respect of application code ref. 23/00104/DISCON unless otherwise agreed in writing by the Local Planning Authority.

Reason:

To ensure a satisfactory standard of external appearance and in compliance with Policies SS1(h), SC1, SC2(g and i), and SC3(a, b, and e) of the Local Plan for Bolsover District.

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3. Before any other operations commence the existing vehicular access onto Common Lane shall be improved. The junction shall be laid out in accordance with the approved plan(s), constructed to base level, drained and visibility sightlines of 215m measured in each direction to the nearside edge of the carriageway, as measured from a point located centrally and 2.4m back into the access. The area within the sightlines shall thereafter be kept clear of any object greater than 1m in height (0.6m in the case of vegetation) above the nearside carriageway channel level.

Reason:

To ensure that the proposed development does not prejudice the free flow of traffic or the conditions of general safety along the neighbouring highway and to accord with policy SC3 of the Local Plan for Bolsover District.

4. The proposed visitor parking shall be provided in accordance with the application drawings prior to first use of the facility. Once provided, the space shall be retained free from any impediment to its designated use for the life of the site.

Reason:

To ensure that the proposed development does not prejudice the free flow of traffic or the conditions of general safety along the neighbouring highway and to accord with policy SC3 of the Local Plan for Bolsover District.

5. Notwithstanding the provision of the Town and Country Planning (General Permitted Development) Order (2015), (or any Order revoking, amending or re-enacting that Order) no gates / bollards / chains / other means of obstruction other than as set out on drawings numbered D200020 CDS EN ZZ DR L 040, Vehicle Access Plant Plan numbered D200020 CDS EN ZZ DR Y 004 Rev 03, Pedestrian and Cycle Access Plan numbered D200020 CDS EN ZZ DR Y 005 Rev 02 and drawings D200020-CDS-EN-22-DR-L-55 and 56 (Construction Details 6 and 7 of 8) approved in respect of application 23/00104/DISCON shall be erected across the approved access, unless details have first been submitted to and approved in writing by the Local Planning Authority.

Reason:

In the interests of highway safety and to accord with policy SC3 of the Local Plan for Bolsover District.

6. Space shall be provided within the site for storage of plant and materials, site accommodation, loading, unloading, and manoeuvring of goods vehicles, parking, and manoeuvring of employees and visitors vehicles, laid out and constructed in accordance with detailed designs first submitted to and approved in writing by the Local Planning Authority. The facilities shall be retained free from any impediment to their designated use throughout the construction period.

Reason:

In the interests of highway safety and to accord with policy SC3 of the Local Plan for Bolsover District.

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7. Throughout the period of development vehicle wheel cleaning facilities shall be provided and retained within the site. All construction vehicles shall have their wheels cleaned before leaving the site in order to prevent the deposition of mud and other extraneous material on the public highway.

Reason:

In the interests of highway safety and to accord with policy SC3 of the Local Plan for Bolsover District.

Drainage

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.

10. The Geocellular tank should not be brought into use until such a time as it is fully designed and constructed in line with CIRIA SuDS manual C753 and to the agreed specifications on document:
- “Drainage Layout” referenced 203810-SWH-ZZ-XX-DR-D-0500-P02 (dated 26 May 2022 by Scott White and Hookins.), and an associated management and maintenance plan, in line with CIRIA SuDS Manual C753 is submitted to and approved in writing by the Local Planning Authority.

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Reason:

To ensure that the proposed attenuation pond does not increase flood risk, that the principles of sustainable drainage are incorporated into the proposal, the system is operational prior to first use and that maintenance and management of the sustainable drainage systems is secured for the future and to accord with policy SC2 and SC7 of the Local Plan for Bolsover District.

11. Prior to the first occupation of the development, a verification report carried out by a qualified drainage engineer must be submitted to and approved by the Local Planning Authority. This must demonstrate that the drainage system has been constructed as per the agreed scheme (or detail any minor variations), provide the details of any management company, and state the national grid reference of any key drainage elements (surface water attenuation devices/areas, flow restriction devices and outfalls).

Reason:

To ensure that the drainage system is constructed to the national Non-statutory technical standards for sustainable drainage and CIRIA standards C753 and to accord with policy SC2 and SC7 of the Local Plan for Bolsover District.

Ecology

12. No construction work, soil stripping, demolition works or vegetation clearance shall take place between 1st March and 31st August inclusive, unless preceded by a nesting bird survey undertaken by a competent ecologist no more than 48 hours prior to clearance. If nesting birds are present, an appropriate exclusion zone will be implemented and monitored until the chicks have fledged. No works shall be undertaken within exclusion zones whilst nesting birds are present.

Reason:

In order to mitigate the biodiversity impacts of the development and in accordance with Policies SS1(i), SC2(d), SC3(i) and SC9 of the Local Plan for Bolsover District.

13. The development shall be undertaken in strict accordance with the Construction Environmental Management Plan: Biodiversity V1 (CEMP: Biodiversity) by RPS Group dated 16.01.22 approved in respect of application 23/00104/DISCON. The approved CEMP shall be adhered to and implemented throughout the construction period strictly in accordance with the approved details, unless otherwise agreed in writing by the local planning authority.

Reason:

In order to mitigate the biodiversity impacts of the development and in accordance with Policies SS1(i), SC2(d), SC3(i) and SC9 of the Local Plan for Bolsover District.

14. Prior to first use of the facility the approved Landscape and Biodiversity Enhancement Plan (LBEP) V3 dated 10th February 2023 shall be updated to reflect the changes to the approved landscaping and the revised document submitted to the Local Planning Authority for approval in writing. The plan shall thereafter be carried out in accordance with the approved details.

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Reason:

In order to mitigate the biodiversity impacts of the development and to ensure that satisfactory landscaping is provided within a reasonable period in the interests of visual amenity and biodiversity interests and in compliance with Policies SS1(h and i), SC2(d, h and i), SC3(a, b, e, f and i), SC9 and SC10 of the Local Plan for Bolsover District.

15. If within a period of five years from the date of the planting of any tree or shrub that tree or shrub may die, be removed, uprooted, or become seriously damaged it shall be replaced by another of the same species during the first available planting season, unless a variation of the landscaping scheme is approved in writing with the Local Planning Authority.

Reason:

To ensure that any soft landscaping is suitably maintained in the interests of visual amenity and biodiversity and in compliance with Policies SS1(i), SC2(d, h and i), SC3(a, b, e, and i), SC9 and SC10 of the Local Plan for Bolsover District.

16. The external lighting shall be carried out in accordance with the External Lighting Strategy Rev C dated 17/06/2022 by CDS Group and no bat box shall be installed in areas where the proposed lux exceeds 1 (as per the Lighting Strategy).

Reason:

To safeguard bats and maximise the biodiversity value of the site of in accordance with Policies SS1(i), SC2(d), SC3(i) and SC9 of the Local Plan for Bolsover District.

17. The development shall be completed in accordance with the details on the Hard Landscaping Plans numbered D200020 CDS EN ZZ DR L 028 and D200020 CDS EN ZZ DR L 029 and the Hard Landscaping Materials Schedule dated May 2022 (except where amended by the above plans) prior to the site being brought into first use. The details thereafter shall be maintained throughout the life of the development as approved.

Reason:

To ensure that satisfactory landscaping is provided within a reasonable period in the interests of visual amenity and biodiversity interests and in compliance with Policies SS1(h and i), SC2(d, h and i), SC3(a, b, e, f and i), SC9 and SC10 of the Local Plan for Bolsover District.

Contamination / Noise

18. If during the development, any contamination is identified that has not been considered in the Phase II Geoenvironmental and Geotechnical Report, then additional remediation proposals for this material shall be submitted to the Local Planning Authority for written approval. Any approved proposals shall thereafter form part of the Remediation Method Statement for the site.

Reason:

To protect future occupiers / users of the development, buildings, structures/services, ecosystems, and controlled waters, including deep and

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shallow ground water and in compliance with Policies SS1(m&n), SC1(e), SC2(d,m,n&o), SC13 and SC14 of the Local Plan for Bolsover District.

19. Prior to first operation of the development an independent validation report must be submitted demonstrating that any remediation works carried out under condition 20 above have been carried out satisfactorily and remediation targets have been achieved and this report shall have been produced by a suitably qualified independent body. The report shall provide verification that the remediation works have been carried out in accordance with the approved Remediation Method Statement(s) and post remediation and monitoring results shall be included in the report to demonstrate that the required remediation has been fully met.

Reason:

To protect future occupiers / users of the development, buildings, structures/services, ecosystems, and controlled waters, including deep and shallow ground water and in compliance with Policies SS1(m&n), SC1(e), SC2(d,m,n&o), SC13 and SC14 of the Local Plan for Bolsover District.

20. Prior to the development being brought into operation, a further noise report validating that the development will achieve the operational noise levels as set out in Table 2 of the Noise Impact Assessment shall be submitted to and approved in writing by the Local Planning Authority. The development use shall only commence upon agreed of the validation report and measures deployed to achieve operational noise levels as agreed shall be retained and maintained throughout the lifetime of the development.

Reason:

To protect the amenity of future operators and nearby residential neighbours of the development in compliance with Policies SC3 and SC11 of the Local Plan for Bolsover District.

21. The development shall operate in accordance with the Employment and Skills Plan Method Statement approved in respect of application code ref. 23/00104/DISCON throughout its lifetime unless otherwise agreed in writing by the Local Planning Authority.

Reason:

To maximise potential local skills, training, and employment opportunities and to accord with policy II2 of the Local Plan for Bolsover District.

REPORTS OF THE ASSISTANT DIRECTOR OF DEVELOPMENT AND PLANNING

PL82-24/25 CRESWELL GROWTH PLAN - CONSULTATION DRAFT

Committee considered a detailed report, presented by the Principal Planning Policy Officer, which sought Members approval for the contents of the Creswell Growth Plan Consultation Draft Document and also to commence a consultation exercise upon it. The draft Growth Plan document was attached at Appendix 1 to the report.

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Work on the preparation of a Growth Plan for Creswell commenced in April 2022. Two stages of public consultation had taken place; an initial consultation exercise in June 2022 and a master planning consultation exercise in January-February 2023.

The feedback during these consultation exercises by way of the representations submitted had all been considered and informed the preparation of the draft Creswell Growth Plan document. The next step was to publish the draft Creswell Growth Plan for public consultation.

The consultation methods for prepared Growth Plans were set out in the Council's Statement of Community Involvement (December 2022) and were intended to mirror closely the methods used for statutory planning documents.

The Council had carried out a number of innovative digital planning consultations on its growth plans using the secured external funding through the Government's PropTech Innovation Fund. This funding extended to the planned public consultation exercise on the draft Creswell Growth Plan and would involve a further trial of the new purposely designed consultation website portal to increase public engagement.

If approved, the 6-week consultation exercise would commence on Monday 8th July 2024 to Monday 19th August 2024.

Councillor McGregor and the Portfolio Holder for Growth thanked the Principal Planning Policy Officer and Planning staff for their work on the document.

Moved by Councillor Tom Munro and seconded by Councillor Duncan McGregor

RESOLVED that 1) the contents of the proposed draft Creswell Growth Plan be approved,

2) delegated authority be given to the Assistant Director of Planning and Planning Policy in consultation with the Chair and Vice Chair of Planning Committee to agree the final arrangements of the proposed consultation exercise on the draft plan.

PL83-24/25 QUARTERLY UPDATE ON SECTION 106 AGREEMENT MONITORING

Committee considered a detailed report, presented by the Principal Planning Policy Officer, in relation to progress on the monitoring of Section 106 agreements.

The progress report was required to highlight any sums at risk of clawback that needed spending within 24 months, as well as a summary of the sums being held by infrastructure type that were in years three, four and five. Accordingly, the report was the quarterly progress report following the meeting of the Section 106 Monitoring Group held on 18th April 2024.

In the report provided to Members in March 2024, seven sums were identified as being within their 24-month deadline as of 18th January 2024. As at 18th April 2024, there were eight sums within their 24-month deadlines, details of which were set out in the report.

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Members asked various questions to which the Special Projects Officer and Community Arts Development Officer replied.

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

The meeting concluded at 13:17 hours.