

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 January 2022 at 1000 hours.

PRESENT:-

Members:-

Councillor Tom Munro in the Chair

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

Officers:- Sarah Kay (Planning Manager), Jenny Owen (Legal Executive) and Alison Bluff (Governance Officer).

PL25-21/22. APOLOGIES

There were no apologies for absence submitted.

PL26-21/22. URGENT ITEMS OF BUSINESS

There were no urgent items of business to consider.

PL27-21/22. DECLARATIONS OF INTEREST

Councillor Paul Cooper declared a Disclosable Pecuniary Interest in Agenda Item 5 - 21/00619/OUT – Land East of 22 Appletree Road, Stanfree – Two new dwellings, and would leave the meeting at the relevant time.

PL28-21/22. MINUTES – 17TH NOVEMBER 2021

Moved by Councillor Tom Munro and seconded by Councillor Derek Adams
RESOLVED that the Minutes of a Planning Committee meeting held on 17th November 2021 be approved as a correct record.

Councillor Paul Cooper having previously declared a Disclosable Pecuniary Interest in the following item, left the meeting.

PL29-21/22. APPLICATION TO BE DETERMINED UNDER THE TOWN AND COUNTRY PLANNING ACTS - 21/00619/OUT – LAND EAST OF 22 APPLETREE ROAD, STANFREE – TWO NEW DWELLINGS

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

The proposal was for Outline planning permission, with all matters reserved, for the construction of two detached dwellings to be created in the village of Stanfree.

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The main issues for Committee to consider were whether the principle of developing two dwellings in the countryside was acceptable by reason of the applicant's submitted statement that the site was previously developed land, the sustainability of Stanfree as a settlement within the countryside, and whether the site could be provided with a safe and suitable access.

The applicant had submitted some photographic evidence with the application, providing images of a hearth, and evidence of burning, and the applicant has claimed that there was a residential cottage previously on the site. A search of historic maps suggested that there were buildings on the site up until around 1970 and the presence of a burnt hearth also suggested that the buildings were residential in nature, rather than agricultural/animal buildings. A further site visit was carried out with the Development Control Manager where it was evident that there were remnants of former buildings on site that were barely covered with foliage. There were also areas of hard standing beneath and around the dilapidated, static caravan. Images of these have been provided in the Landscape and visual impact section of the report.

Whilst the Council acknowledged that the site was currently free of permanent buildings, it was evident that there had been a building on the site up until a timeframe of between 1949 and 1970, and it was highly likely that this was residential in nature. The Council therefore considered that the applicant had submitted sufficient information to demonstrate that the site was previously developed land.

Where this had been demonstrated, policy SS9 required that it was only on the basis that the proposed use was '*sustainable and appropriate to the location*'. The site was not within a sustainable settlement but given that it was proposing only two additional dwellings adjoining the built up area of Stanfree, and given that there had been recent approvals for limited infill developments within the village, it was considered that the location was acceptable and would not warrant a reason for refusal on sustainability grounds.

In relation to a safe and suitable access, the highway authority, DCC, had explained that some improvements would be required to the lane to improve access in the form of a Section 278 agreement, although they acknowledged that the works would need to be kept to the bare minimum in order to retain the rural appearance of the land. Their final comments were received on the 6th January 2022, advising that it was their understanding that in the event of permission being granted, some improvements could be offered to the Lane.

With regard to on-site parking provision, it was considered that there would be, subject to detailed approval of the residential scale and layout, sufficient space for resident's vehicles to park and manoeuvre within the site.

Moved by Councillor Tom Munro and seconded by Councillor Derek Adams
RESOLVED that the application be granted with the following conditions;

1. Approval of the details of the Appearance, Landscaping, Layout, and Scale (hereinafter called "the reserved matters") shall be obtained from the Local Planning Authority in writing before any development is commenced.
2. Application for approval of the reserved matters shall be made to the Local Planning Authority before the expiration of three years from the date of this

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permission and the development to which this permission relates shall be begun either before the expiration of three years from the date of this permission, or before the expiration of two years from the date of approval of the last of the reserved matters to be approved, whichever is the later.

3. Prior to the commencement of any development above foundation level, full details or samples of the facing and roofing materials to be used in the development hereby permitted shall be submitted to and approved by the Local Planning Authority. The development shall then be carried out in accordance with the approved details.
4. The reserved matters application shall include a detailed scheme for the proposed, and retention of existing (where possible) boundary treatments of the site, including position, design and materials, and to include all boundaries or divisions within the site. The approved scheme shall be completed before the buildings are first occupied or such other timetable as may first have been approved in writing with the Local Planning Authority.
5. No development shall take place (including demolition, ground works, vegetation clearance) until a construction environmental management plan (CEMP: Biodiversity) has been submitted to and approved in writing by the local planning authority. The CEMP (Biodiversity) shall include the following:
 - Risk assessment of potentially damaging construction activities.
 - Identification of "biodiversity protection zones". This shall include retained trees and the adjacent Brook.
 - Practical measures (both physical measures and sensitive working practices) to avoid or reduce impacts during construction. This shall include the precautionary working methods detailed in Section 5 of the Preliminary Ecological Assessment (Arbtech, December 2021) to safeguard amphibians, reptiles, hedgehogs, badgers and birds.
 - The location and timing of sensitive works to avoid harm to biodiversity features (as above).
 - The times during construction when specialist ecologists need to be present on site to oversee works.
 - Responsible persons and lines of communication.
 - The role and responsibilities on site of an ecological clerk of works (ECoW) or similarly competent person.
 - Use of protective fences, exclusion barriers and warning signs.

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.

6. Prior to the installation of lighting fixtures, a detailed lighting strategy shall be submitted to and approved in writing by the LPA to safeguard bats and other nocturnal wildlife. This should consider advice provided in Section 5 of the Preliminary Ecological Assessment (Arbtech, December 2021) and provide details of the chosen luminaires, their locations and any mitigating features such as dimmers, PIR sensors and timers. Guidelines can be found in Guidance Note 08/18 - Bats and Artificial Lighting in the UK (BCT and ILP,

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2018). Such approved measures will be implemented in full.

7. Prior to building works commencing above slab level, a Biodiversity Enhancement Plan shall be submitted to and approved in writing by the Local Planning Authority. This shall include enhancements for a range of species, as detailed in Section 5 of the Preliminary Ecological Assessment (Arbtech, December 2021). The plan shall clearly show positions, specifications and numbers of features. Such approved measures shall be implemented in full and maintained thereafter, with photographs of the measures in situ submitted to the LPA to fully discharge the condition.
8. Any reserved matters application shall include full details of improvements to the junction of the access route with Appletree Road whereby a distance of 10m back from Appletree Road shall be constructed and surfaced to an adoptable standard, with a minimum depth of 5m comprising a minimum width of 5m, to allow two vehicles travelling in opposite directions to pass. Such works shall be completed prior to occupation of any dwelling.
9. No development shall take place other than site clearance until a construction management plan or construction method statement has been submitted to and been approved in writing by the Local Planning Authority. The approved plan/statement shall be adhered to throughout the construction period. The statement shall provide for but not necessarily be restricted to the following as appropriate.
 - Parking of vehicles of site operatives and visitors
 - Routes for construction traffic, including abnormal loads/cranes etc
 - Hours of operation
 - Method of prevention of debris being carried onto highway
 - Pedestrian and cyclist protection
 - Proposed temporary traffic restrictions
 - Arrangements for turning vehicles
10. Before any other operations are commenced, a new vehicular and pedestrian access shall be formed to Church Road located, designed, laid out, constructed and provided with maximum achievable visibility splays from a distance of 2.4m back across the site frontage, all as agreed in writing with the Local Planning Authority, the area in advance of the sightlines being maintained throughout the life of the development clear of any object greater than 1 metre in height relative to adjoining nearside carriageway channel level.
11. The premises, the subject of the application, shall not be occupied until space has been provided within the site curtilage for the parking and manoeuvring of vehicles, designed, laid out and constructed all as may be agreed with the Local Planning Authority and maintained thereafter free from any impediment to its designated use.
12. 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

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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 development proposed.

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

13. 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.

14. Before the commencement of the development hereby approved:

- a. A Phase I contaminated land assessment (desk-study) shall be undertaken and approved in writing by the local planning authority.
- b. The contaminated land assessment shall 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 shall 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 shall be submitted to the local planning authority for approval.

15. Before the commencement of the development hereby approved:

Where the site investigation identifies unacceptable levels of contamination, a detailed remediation scheme to bring the site to a condition suitable for the intended use by removing unacceptable risks to human health, buildings and other property and the natural and historical environment shall be submitted to and approved in writing by the local planning authority. The submitted scheme shall have regard to relevant current guidance. The approved scheme shall include all works to be undertaken, proposed remediation objectives and remediation criteria

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and site management procedures. The scheme shall ensure that the site will not qualify as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land after remediation.

The developer shall give at least 14 days-notice to the Local Planning Authority (Environmental Health Division) prior to commencing works in connection with the remediation scheme.

16. No dwellings hereby approved shall be occupied until:

a. The approved remediation works required by condition 15 above have been carried out in full in compliance with the approved methodology and best practice.

b. If during the construction and/or demolition works associated with the development hereby approved any suspected areas of contamination are discovered, which have not previously been identified, then all works shall be suspended until the nature and extent of the contamination is assessed and a report submitted and approved in writing by the local planning authority and the local planning authority shall be notified as soon as is reasonably practicable of the discovery of any suspected areas of contamination. The suspect material shall be re-evaluated through the process described in 14b to 15 above and satisfy 16a above.

c. Upon completion of the remediation works required by 16 and 16a above a validation report prepared by a competent person shall be submitted to and approved in writing by the local planning authority. The validation report shall include details of the remediation works and Quality Assurance/Quality Control results to show that the works have been carried out in full and in accordance with the approved methodology. Details of any validation sampling and analysis to show the site has achieved the approved remediation standard, together with the necessary waste management documentation shall be included.

Reasons for Conditions

1. To comply with the requirements of Section 51 of the Planning and Compulsory Purchase Act 2004.
2. To comply with the requirements of Section 51 of the Planning and Compulsory Purchase Act 2004.
3. To ensure a satisfactory appearance of the completed development, in the interests of visual amenity and in compliance with policies SS1 and SC3 of the adopted Local Plan.
4. To ensure a satisfactory appearance of the completed development, and to ensure adequate visibility for motorists exiting the site, in the interests of visual amenity and highway safety, and in compliance with policies SS1, SS9, SC3, SC9 and ITCR10 of the adopted Local Plan.
5. To ensure the provision of a no loss, and/or net gain in biodiversity, in compliance with policies SS1, SS9, SC3 and SC9 of the adopted Local Plan
6. In the interests of ensuring the protection of any protected species or other

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species of nature conservation interest, in compliance with policies SS1, SS9, SC3 and SC9 of the adopted Local Plan.

7. To ensure the provision of a no loss, and/or net gain in biodiversity, in compliance with policies SS1, SS9, SC3 and SC9 of the adopted Local Plan

8. In the interests of providing a safe and suitable access to the site. In accordance with highway safety and in compliance with policies SS1, SC3 and ITCR10 of the adopted Local Plan.

9. To ensure that construction plant and materials can be safely stored within the application site, clear of the adopted highway, in the interests of highway safety and in compliance with policies SS1, SC3 and ITCR10 of the adopted Local Plan.

10. To ensure the provision of a safe and suitable vehicular access, in the interests of highway safety and in compliance with policies SC3 and ITCR10 of the adopted Local Plan.

11. To ensure the provision of satisfactory resident parking within the application site, in the interests of highway safety and in compliance with policies SC3 and ITCR11 of the adopted Local Plan.

12. To ensure that the stability of land within the site is capable of supporting built form, in the interests of land stability and coal mining legacies, and in compliance with policies SS1, SC2 and SC14 of the adopted Local Plan.

13. To confirm that sufficient investigations have been carried out to establish the stability of the site, in the interests of coal mining legacies, and in compliance with policies SS1, SC2 and SC14 of the adopted Local Plan.

14. To protect future occupiers of the development, buildings, structures/services, ecosystems and controlled waters, including deep and shallow ground water and to ensure that matters relating to potential contamination on site have been properly assessed, in compliance with policies SS1, SC2 and SC14 of the adopted Local Plan.

15. To protect future occupiers of the development, buildings, structures/services, ecosystems and controlled waters, including deep and shallow ground water and to ensure that matters relating to potential contamination on site have been properly assessed, in compliance with policies SS1, SC2 and SC14 of the adopted Local Plan.

16. To protect future occupiers of the development, buildings, structures/services, ecosystems and controlled waters, including deep and shallow ground water and to ensure that matters relating to potential contamination on site have been properly assessed, in compliance with policies SS1, SC2 and SC14 of the adopted Local Plan.

Notes

1. Pursuant to Section 184 of the Highways Act 1980 and Section 86(4) of the New Roads and Streetworks Act 1991 prior notification shall be given to the Department - Place at County Hall, Matlock regarding access works within the highway. Information, and relevant application forms, regarding the undertaking of access works within highway limits is available via the County Council's website

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<https://www.derbyshire.gov.uk/transport-roads/roads-traffic/licences-enforcements/vehicular-access/vehicle-accesses-crossovers-and-dropped-kerbs.aspx> E-mail highways.hub@derbyshire.gov.uk or Telephone Call Derbyshire on 01629 533190.

2. The Highway Authority recommends that the first 5m of the proposed access/driveway should not be surfaced with a loose material (i.e. unbound chippings or gravel etc.). In the event that loose material is transferred to the highway and is regarded as a hazard or nuisance to highway users, the Authority reserves the right to take any necessary action against the householder.
3. Pursuant to Sections 149 and 151 of the Highways Act 1980, steps shall be taken 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 applicant'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.
4. There is a Public Right of Way (Footpath 22 on the Derbyshire Definitive Map). The route must remain unobstructed on its legal alignment at all times and the safety of the public using it must not be prejudiced either during or after development works take place. Further advice can be obtained by calling 01629 533190. Please note that the granting of planning permission is not consent to divert or obstruct a public right of way.

If it is necessary to temporarily obstruct a right of way to undertake development works then a temporary closure is obtainable from the County Council. Please contact 01629 533190 for further information and an application form
If a right of way is required to be permanently diverted then the Council that determines the planning application (The Planning Authority) has the necessary powers to make a diversion order.

Any development insofar as it will permanently affect a public right of way must not commence until a diversion order (obtainable from the planning authority) has been confirmed. A temporary closure of the public right of way to facilitate public safety during the works may then be granted by the County Council.

To avoid delays, where there is reasonable expectation that planning permission will be forthcoming, the proposals for any permanent stopping up or diversion of a public right of way can be considered concurrently with the application for proposed development rather than await the granting of permission.

5. Pursuant to Section 278 of the Highways Act 1980 and the provisions of the Traffic Management Act 2004, no works may commence within the limits of the public highway without the formal written Agreement of the County Council as Highway Authority. It must be ensured that public transport services in the vicinity of the site are not adversely affected by the development works.

Advice regarding the technical, legal, administrative and financial processes involved in Section 278 Agreements may be obtained from Mr K Barton in Development Control at County Hall, Matlock (tel: 01629 538658). The applicant is advised to allow approximately 12 weeks in any programme of works to obtain a Section 278 Agreement.

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6. The applicant is reminded that the scale, layout and design (including use of material) will need to give full consideration and respect to the site's location in the countryside. The topography of the land should be utilised to ensure that the dwellings are sympathetically sited within the plot to ensure the retention of the rural character of the area. The Local Planning Authority encourage pre-application discussions prior to the formal submission of Reserved Matters.
7. 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 found 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).

(Planning Manager)

Councillor Paul Cooper returned to the meeting.

PL30-21/22. CONSERVATION AREA APPRAISALS – ELMTON WITH CRESWELL FARMSTEADS

At the Planning Committee meeting held on 17th November 2021, Members had resolved to adopt a number of Conservation Area Appraisals with the exception of Elmton with Creswell. This was because a further public consultation was necessary regarding two more farmsteads to be added into the Elmton and Creswell Farmstead conservation area appraisal.

On 1st December 2021, a letter was sent to those property owners affected by the proposed boundary changes, inviting their responses to be received by 17th December 2021 – No objections were received.

The proposed amendments to the Elmton with Creswell Conservation Area were considered to better reflect the special architectural or historic interest of the Conservation Area as a whole and would afford those additional areas the additional protection that designation brings.

Moved by Councillor Duncan McGregor and seconded by Councillor Tom Munro
RESOLVED that the proposed additions to the Conservation Area of Elmton with Creswell Farmsteads be designated as a Conservation Area, to be included in the Elmton with Creswell Conservation Area, to be known as Extension Number 1.

(Planning Manager)

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REPORTS OF THE ASSISTANT DIRECTOR OF DEVELOPMENT & PLANNING

PL31-21/22. UPDATE ON SECTION 106 AGREEMENT MONITORING

Committee considered a report which provided progress in respect of the monitoring of Section 106 Agreements. The report was a quarterly progress report following a meeting of the Section 106 Monitoring Group held on 26th October 2021.

S106 agreements were a type of legal agreement between the Council and landowners / developers, often completed alongside applications for planning permission for major developments. They were needed to deal with the additional pressures on infrastructure that resulted from the new development. They were only required where the effects of the development would otherwise be unacceptable in planning terms and where they could not be dealt with by conditions of the planning permission.

If the Council failed to spend monies provided through the Section 106 Agreement within a set period, there was a risk to the Council that the developer would be entitled to request the money back and this could be with interest.

To manage and mitigate this risk, the Council had approved a procedure for recording and monitoring Section 106 Agreements, which governed the work of the Council's cross-departmental Section 106 Monitoring Group.

Members would recall that three sums which remained unspent were identified in the report presented to Committee at its meeting held in June 2021. At the Section 106 Monitoring Group, a further sum had been highlighted also needing to be spent within 12 months.

Further updates for the four sums and their details were set out in the report and the actions which had been progressed with regard to these

Moved by Councillor Duncan McGregor and seconded by Councillor Chris Kane
RESOLVED that the report be noted.

PL32-21/22. APPEAL DECISIONS: JULY 2021 – DECEMBER 2021

Committee considered a report which set out the performance of the Planning Service against the Government's quality of decision making targets.

During the 6 month period since the last monitoring period ending June 2021, the Council had no appeals on major planning applications determined, and only one appeal on non-major applications which was dismissed. Therefore, the Council was still exceeding its appeal decision targets. The lack of appeals against decisions indicate that current decision making was sound. This was supported by Internal Audit who reported 'substantial' reassurance in the latest internal audit of 'Planning Processes and Appeals'.

Members welcomed the report and the Chair requested that the Planning Manager pass on Committee's thanks to planning staff who carried out their duties diligently.

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

PL33-21/22. LOCAL ENFORCEMENT PLAN UPDATE

Committee considered a report which provided an update on enforcement service targets set out in the Local Enforcement Plan for the period ending December 2021.

The service standards had been designed to facilitate prompt investigation of suspected breaches of planning control and to encourage making timely decisions on how to progress individual cases.

A graph in the report showed that out of 314 enquires received in 2021, the enforcement team had visited 84% of high and medium priorities (19 cases), within the service target. Of the 295 low priority cases, 9 were not inspected within the 42 day target (3%).

A table in the report provided the number of historic cases that had been closed over the last seven years, and also the number of cases that officers continued to process. A second table provided the number of cases, and also by low and medium priority, that had been closed in 2020 and 2021 and the number that remained pending consideration. A third table in the report provided the oldest cases up to end of 2019 that were pending or had progressed to enforcement action.

A Member commented that the report highlighted and underpinned the excellent work of the planning department.

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

The meeting concluded at 1035 hours.