

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 26th October 2022 at 10:00 hours.

PRESENT:-

Members:-

Councillor Tom Munro in the Chair

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

Officers:- Sarah Kay (Planning Manager – Development Control), Jenny Owen (Legal Executive), Chris McKinney (Interim Planning Policy Manager) and Hannah Douthwaite (Governance and Civic Officer).

PL28-22/23 APOLOGIES FOR ABSENCE

No apologies for absence had been received.

PL29-22/23 URGENT ITEMS OF BUSINESS

There were no urgent items of business to consider.

PL30-22/23 DECLARATIONS OF INTEREST

There were no declarations of interest made at the meeting.

PL31-22/23 MINUTES – 28TH SEPTEMBER

Moved by Councillor Derek Adams and seconded by Councillor Nick Clarke
RESOLVED that the Minutes of a Planning Committee meeting held on 28th September 2022 be approved as a true and correct record.

PL32-22/23 21/00560/FUL - DEMOLITION OF AGRICULTURAL BUILDINGS, CONVERSION OF EXISTING STONE BARNs AND OUTBUILDINGS TO CREATE 3 DWELLINGS AND 4 NEW BUILD DWELLINGS - WHALEY MOOR FARM, WHALEY ROAD

The Planning Manager presented a detailed report in relation to the above application. The application had been referred to the Planning Committee by the Planning Manager given the concerns of local residents about the impact of the development and the fact that the previous application on the site had been determined by Committee.

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Mr Eamonn Keogh (agent) attended the meeting and spoke for the application.

Members noted that there had been a number of responses received from local residents which were considered within the report.

No significant highway safety concerns had been raised as the proposal utilised existing accesses and also proposed slight improvements.

Concern was raised by Members regarding the amenities available in the surrounding village and also the new build aspect of the proposal on the conservation area.

Moved by Councillor Duncan McGregor and seconded by Councillor Jim Clifton **RESOLVED** that application 21/00560/FUL be **REFUSED** for the following reasons

1. The proposed development will result in an adverse impact to both designated and non-designated heritage assets, which is considered in context of the National Planning Policy Framework (NPPF) to amount to less than substantial harm. This harm is not outweighed by the demonstration of wider over-riding public benefits, nor is it justified by the demonstration of a need to consider enabling development to address a conservation deficit. The proposals are therefore contrary to Policies SC16 and SS9 of the Local Plan for Bolsover District and the wider NPPF.
2. Whaley is an isolated hamlet with little access to day to day services. There are no education facilities within the settlement, users of the development will be highly car dependent and there is insufficient pedestrian access to other settlements nearby due to the absence of pavement and narrow, unlit roads. Consequently, the application site is not in a location that is suitable for the new residential development proposed in this location. Moreover, the Council can demonstrate 5 years supply of deliverable housing sites and as such, the proposed housing is not needed to make up a shortfall in terms of meeting objectively assessed housing need in the District. Taking all these factors into account, the current proposals constitute an unsustainable form of development situated within an unsustainable location and any benefits of granting planning permission for the current application would be demonstrably and significantly outweighed by the adverse impacts of doing so when taking into account policies in the Development Plan and the National Planning Policy Framework as a whole.

Statement of Decision Process

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

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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.

PL33-22/23 22/00241/OUT - OUTLINE APPLICATION FOR THE CONSTRUCTION OF TWO DRIVE-THRU RESTAURANTS WITH TAKEAWAY FACILITY AND ASSOCIATED CAR PARKING - 73 MANSFIELD ROAD, SOUTH NORMANTON

The Planning Manager presented a detailed report in relation to the above application.

The application had been called in to the Planning Committee by Councillor Tracey Cannon, due to concerns over noise, amenity impacts, traffic congestion, contrary to local plan, and the number of takeaways already in the village.

Letters of representation had been received from 14 local residents which were detailed within the report, further to this Ashfield District Council had also submitted a representation during the consultation phase as the proposal was close to the District boundary.

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

Following a query raised by a Member concerning the removal of trees to facilitate the building works it was confirmed that trees would be replanted to equate to an equal or high biodiversity value once work was completed.

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

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1. Reserved Matters

Details of the appearance and landscaping (hereinafter called "the reserved matters") shall be submitted to and approved in writing by the local planning authority before any development takes place and the development shall be carried out as approved.

Reason. To comply with the requirements of Section 51 of the Planning and Compulsory Purchase Act 2004.

2. Time Period for Submission of Reserved Matters

Application for approval of the reserved matters shall be made to the local planning authority not later than 3 years from the date of this permission.

Reason. To comply with the requirements of Section 51 of the Planning and Compulsory Purchase Act 2004.

3. Time Periods for Commencement

The development hereby permitted shall commence within 3 years from the date of this permission or not later than 2 years from the date of approval of the last of the reserved matters, whichever is the later.

Reason. To comply with the requirements of Section 51 of the Planning and Compulsory Purchase Act 2004.

4. Approved Plans

Except where specifically stated otherwise in the conditions below, the development hereby permitted shall be carried out in accordance with the following approved drawings and documents received on:-

[list of approved plans]

Reason. For the avoidance of doubt having regard to the amended and additional drawings submitted during the application in order to define the planning permission.

5. Protection of breeding birds during construction

No removal of hedgerows, trees, shrubs or brambles shall take place between 1st March and 31st August inclusive, unless a recent survey has been undertaken by a competent ecologist to assess the nesting bird activity on site during this period, and details of measures to protect the nesting bird interest on the site, have first been submitted to and approved in writing by the local planning authority and then implemented as approved.

Reason. To ensure that breeding birds are protected from harm and to accord with policy SC9 of the Local Plan for Bolsover District.

6. Badger

A survey for any recently excavated badger setts on the site or within 30 metres of the site boundary shall be undertaken by a competent ecologist prior to the commencement of any groundworks on the site and submitted to the Local Planning Authority for approval together with a mitigation scheme if any activity is detected. Any approved mitigation shall be implemented in accordance with the approved scheme.

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Reason. To ensure that badgers are protected from harm and to accord with policy SC9 of the Local Plan for Bolsover District.

7. Restrictions on operations involving invasive non-native species

Prior to the commencement of development, an invasive species protocol shall be submitted to and approved by the local planning authority, detailing the containment, control and removal of all non-native invasive species on the site as determined by a pre-commencement site survey. The measures shall be carried out strictly in accordance with the approved scheme.

Reason. To prevent the spread of any invasive species on site and to accord with policy SC9 of the Local Plan for Bolsover District.

8. Construction environmental management plans (Biodiversity)

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.

- a) Risk assessment of potentially damaging construction activities.
- b) Identification of "biodiversity protection zones".
- c) Practical measures (both physical measures and sensitive working practices) to avoid or reduce impacts during construction (may be provided as a set of species method statements as needed).
- d) The location and timing of sensitive works to avoid harm to biodiversity features.
- e) The times during construction when specialist ecologists need to be present on site to oversee works.
- f) Responsible persons and lines of communication.
- g) The role and responsibilities on site of an ecological clerk of works (ECoW) or similarly competent person.
- h) 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 a variation to it is agreed in writing by the local planning authority.

Reason. To mitigate harms to biodiversity and to accord with policy SC9 of the Local Plan for Bolsover District.

9. Landscape and Biodiversity Enhancement and Management Plan (LBEMP)

A Landscape and Biodiversity Enhancement and Management Plan (LBEMP) shall be submitted to, and be approved in writing by, the Local Planning Authority (LPA) prior to the commencement of the development. The aim of the LBEMP is to deliver a net gain for biodiversity value of onsite habitats and it should combine both the ecology and landscape disciplines. The plan should be in accordance with the details set out in the Ecological Appraisal (BSG Ecology April 2022) and provide a net gain for biodiversity. It shall be suitable to provide to the management body responsible for the site and shall include the following:-

- a) Description and location of features to be retained, created, enhanced and managed.

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- b) Details for the creation of species rich neutral grassland.
- c) Details of the location and species of at least three native broadleaf trees to be planted in accordance with the submitted Tree Planting Detail Drwg No's 990-01 and 990-02 dated 07.09.2022.
- d) Details for the creation of 154m of native hedgerow habitat and the use of fruit and berry bearing species which shall be planted in accordance with Drwg No 990-03 07.09.2022 to include 300mm minimum soil depth and geotextile membrane for soil stability on 1:3 slopes or steeper.
- e) Aims and objectives of management.
- f) Appropriate management methods and practices to achieve aims and objectives.
- g) Prescriptions for management actions.
- h) Preparation of a work schedule (including a five-year work plan capable of being rolled forward in perpetuity).
- i) Details of the body or organization responsible for implementation of the plan.
- j) A monitoring schedule to assess the success of the enhancement measures
- k) A set of remedial measures to be applied if conservation aims and objectives of the plan are not being met.
- l) Requirement for a statement of compliance upon completion of planting and enhancement works.

The LBEMP shall 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 approved plan shall be implemented in accordance with the approved details.

Reason. To mitigate and compensate harms to biodiversity and to accord with policy SC9 of the Local Plan for Bolsover District.

10. Lighting Strategy

Prior to building works commencing above foundation level, a detailed lighting strategy shall be submitted to and approved in writing by the LPA to safeguard bats and other nocturnal wildlife. This should provide details of the chosen luminaires and any mitigating features such as dimmers, PIR sensors and timers. A lux contour plan shall be provided to demonstrate acceptable levels of lightspill to any sensitive ecological zones/features. Guidelines can be found in Guidance Note 08/18 - Bats and Artificial Lighting in the UK (BCT and ILP, 2018). Such approved measures shall be implemented in full.

Reason. To mitigate the impacts of any external lighting on Bats and nocturnal wildlife and to accord with policy SC9 of the Local Plan for Bolsover District.

11. Coal Mining Risks

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 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 safe and stable for the development proposed.

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

Reason. 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 and policy SC14 of the local plan for Bolsover District.

12. Coal Mining Risks -Verification

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.

Reason. 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 and policy SC14 of the local plan for Bolsover District.

13. Surface Water Drainage

“No development shall take place until a detailed design and associated management and maintenance plan of the surface water drainage for the site, in accordance with the principles outlined within:

- a. BWB. 06/04/2022. Flood Risk Assessment. REF. P38DT-BWB-ZZ-XX-RP-YE-0001_FRA.
- b. BWB. 06/04/2022.Sustainable Drainage Statement. REF. P38DT-BWB-ZZ-XX-RP-CD-0001_SDS. Including any subsequent amendments or updates to those documents as approved by the Flood Risk Management Team”
- c. And DEFRA’s Non-statutory technical standards for sustainable drainage systems (March 2015),

have been submitted to and approved in writing by the Local Planning Authority.”

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 SC7 of the Local Plan for Bolsover District.

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14. Surface Water Drainage during Construction

Prior to commencement of the development, the applicant shall submit for approval to the local planning authority details indicating how additional surface water run-off from the site will be avoided during the construction phase. The applicant may be required to provide collection, balancing and/or settlement systems for these flows. The approved system shall be operating to the satisfaction of the LPA, before the commencement of any works, which would lead to increased surface water run-off from site during the construction phase.

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 sensitive wildlife sites and to accord with policies SC7 and SC9 of the local plan for Bolsover District.

15. Surface Water Drainage - Verification

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 SC7 of the local plan for Bolsover District.

16. Parking and EV-Charging

The premises, the subject of the application, shall not be taken into use until space has been provided within the application site in accordance with the revised layout plan 21788-302-P-01 for the parking and manoeuvring of staff, customers' and service and delivery vehicles, and until the charging facilities for electric vehicles has been provided, and until it has all been laid out, surfaced and equipped. Thereafter the parking, charging and manoeuvring facilities shall be maintained throughout the life of the development free from any impediment to its designated use.

Reason. In the interests of highway safety and to encourage the use of electric vehicles as a lower carbon and emissions form of transport and to accord with policies ITCR11, SS1, SC3 and SC12 of the local plan for Bolsover District.

17. Litter Bins

Prior to each drive thru restaurant being brought into use at least one external litter bin shall be provided to serve each restaurant.

Reason. To reduce the incidence of littering to and to reduce the impacts of the proposal on the character and amenity of the area and to accord with policy WC9 and SC11 of the local plan for Bolsover District.

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18. Commercial Waste Bins

Prior to each drive thru restaurant being brought into use details of the location and screening of any commercial waste bins shall have been submitted to and approved in writing by the Local Planning Authority. No other external storage shall be undertaken on site without the written approval of the Local Planning Authority.

Reason. To ensure that large commercial waste bins do not adversely affect the street scene, to preserve the amenity and appearance of the area and to accord with policies WC9 and SC11 of the local plan for Bolsover District.

19. Details of External Flues and Plant

Application for approval of reserved matters of appearance shall be accompanied by details of the appearance and position of any external flues and plant.

Reason. In the interests of the amenity and appearance of the area and to accord with policies SC2, SC3 and SC11 of the local plan for Bolsover District.

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

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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.

The meeting closed at 10:41 hours.