

## COMMITTEE UPDATE SHEET

### SUPPLEMENTARY REPORT OF THE DEVELOPMENT MANAGEMENT AND LAND CHARGES MANAGER

This sheet is to be read in conjunction with the main report.

### Applications to be determined under the Town & Country Planning Acts

Planning Site Visit held on 13<sup>th</sup> September 2024 commencing at 10:00 hours.

#### PRESENT: -

Cllr. Munro, Cllr. Kane, Cllr. Hiney-Saunders, Cllr. McGregor, Cllr. Ritchie, Cllr. Tait, Cllr. Watson & Cllr. Wood

Officers: Stephen Gill and Chris Whitmore

#### SITE VISITED

1. 17/00640/OUT -Land North of Clowne Including Section of Town Centre, Hickinwood Lane, Clowne

The meeting concluded at 12:30

### **REPRESENTATIONS MADE AFTER PUBLICATION OF THE AGENDA PERTINENT TO THE ASSESSMENT OF THE APPLICATION**

AGENDA ITEM 3 – OUTLINE PLANNING APPLICATION WITH ALL MATTERS RESERVED FOR MIXED USE DEVELOPMENT INCLUDING UPTO 24HA OF EMPLOYMENT LAND (B1, B2, B8), UPTO 1800 RESIDENTIAL DWELLINGS, GREEN INFRASTRUCTURE, EDUCATIONAL AND RECREATIONAL USES, A RETIREMENT VILLAGE, NEIGHBOURHOOD CENTRE, HOTEL, RESTAURANT, HEALTH AND CARE, AND LEISURE USES, DEMOLITION OF EXISTING STATION ROAD INDUSTRIAL ESTATE WHERE APPLICABLE, DEMOLITION OF DWELLING/OUTBUILDING AS APPLICABLE, AND CONSTRUCTION OF NEW LINK ROAD WITH IN-PRINCIPAL POINTS OF ACCESS AT LAND NORTH OF CLOWNE INCLUDING SECTION OF TOWN CENTRE, HICKINWOOD LANE, CLOWNE TO BE DETERMINED UNDER THE TOWN & COUNTRY PLANNING ACTS

1. A representation has been received from a Sharon Gregory raising concerns with the use of tailpieces to the recommended planning conditions i.e. *“unless otherwise agreed in writing by the Local Planning Authority”*. They point to Planning Advisory Service (PAS) guidance on the Local Government Association website, which advises that objectors dislike tailpieces because it gives the applicant too much leeway on what they can do without applying for a formal amendment and therefore creates planning uncertainty. PAS advise that it can be seen to be undemocratic because it means that changes can be made without proper public / member scrutiny and it can weaken the

Local Planning Authority's negotiating position because an applicant could assume that the Local Planning Authority will be willing to make amendments.

Officer Comment:

Officer's note the concerns raised by Sharon Gregory. Recommended conditions 2, 5, 22 and 29 contain a 'tailpiece'. The nature of these conditions is such, however, that any significant change or non-compliance with the details reserved by the conditions would require an application to be made for a material amendment under s73 of the Town and Country Planning Act 1990, which would require full publicity and consultation to be carried out thereby facilitating public scrutiny. These provisions exist with or without a tailpiece and correct procedure followed. The avoidance of doubt if members are minded approving the application, the tailpiece to conditions 2, 5, 22 and 29 can be removed to provide certainty on the permission granted and the procedure that would need to be followed should material changes to the development be required.

2. A representation has been received from Greg Lindley raising concerns in relation to the following (in summary) the full representation can be viewed on the website under reference 23/00256/OTHER:

- Layout of the officer report, which is unhelpful to readers.
- The community strength of feeling against the development - The Officer Report underplays the vast community response against the application.
- The Green Belt decision – A request has been made to pause to allow a review of the decision to take the site out of the Green Belt.
- Employment – There is no requirement for the level of employment development proposed in this planning application.
- Housing – The housing delivery targets are not realistic.
- Socio Economic Impacts – Not covered in the Committee Report.
- Climate Change Emergency – Not referenced in the Committee Report
- Need to preserve Agricultural Land – This should be considered in the benefits and disbenefits of the application.
- Design Code – The formulation of the Design Code should involve public consultation.
- Transport Impacts on Clowne – Transport Impacts on Clowne are not fully understood.
- Sewerage – Potential impacts on the sewerage system are unknown in terms of capacity and what the potential impacts will be.
- Active Travel – Reference is made to the concerns raised by Active Travel.
- Connectivity – Connectivity has not been adequately assessed.
- Watercourse Impacts - The impact of the development on the watercourses is still a concern.
- Conservation Area – Impact of additional traffic on Clowne Conservation Area, means that there is not a neutral impact.
- Benefits vs Harm – Education and health contributions should not be considered as a benefit. The Treble Bob should be considered as mitigation in part.
- Travel Plan – The onus should be on the applicant to undertake a Travel Plan
- Hedgerows – Hedgerows must be protected.

- Condition Error – Condition 3 should be amended to remove the wording (aside from site clearance and preparation work)

Officer Comment:

The comments on the Committee Report (“CR”) are noted. The representations received are summarised within the CR and have been considered. In addition, the representations are available to review in full on the website. The decision to remove the site from the Green Belt was made at plan making stage as discussed in the CR. Justification for the sites allocation for employment is set out in the CR. It is noted that Coalite does deliver employment development, however, the aspiration to deliver 92 hectares of employment development set out in Development Plan Policy SS2, is not a ceiling figure. The potential shortfall in housing delivery is discussed in the CR and is not considered to be a fundamental issue. The socio-economic impacts were considered in the previous Committee Report, and officers would not have any further comments on what was previously concluded.

In terms of addressing climate change, as part of the drainage strategy, the applicant is proposing several sustainable drainage systems as set out in the CR. The applicant will also need to consider renewable energies, and energy conservation within layout and design, which would come forward as part of reserved matters applications. The condition relating to the Design Code did originally refer to a requirement for public engagement, however, this request was considered too vague, as it does not specify the type, scope or general requirements of what engagement should be undertaken. Planning Conditions should only be imposed when they are (amongst other criteria) precise, and this part of the Condition was not considered to be precise. The loss of Agricultural Land was considered at plan making stage as set out in the CR.

Transport impacts are considered in detail in the CR. A planning condition has been included to ensure that public sewerage capacities are assessed, and any necessary improvements implemented. Active travel and connectivity have been discussed in the CR and the Council has no further comments to add. Impacts of surface water and drainage has been discussed within the CR, and the proposals have been reviewed by DCC Flood Risk and the Environment Agency. The potential for additional traffic within Clowne Conservation Area has not been raised as a concern by the Conservation Officer, heritage impacts are considered in full in the CR., and appropriate weight has been given to them. The education contribution is listed as a benefit for the reasons set out in the CR, health contributions are not listed as a benefit in the current CR, and it has been noted that the improvements to the Treble Bob Roundabout are also a form of mitigation, as set out in the CR. The onus will be on the applicant to produce and agree a suitable Travel Plan. There is significant hedgerow provision proposed as part of the green infrastructure proposals as set out in the CR. The wording of Condition 3 in its requirements is reasonable, and there is no justification or evidence that suggests that the Condition needs to be amended as requested by Mr Lindley.

3. Clowne Parish Council have submitted a survey of the development, which concluded that:

- 365 replies were registered\*
- 22 respondents were in favour
- 359 respondents were against the development

\* please note that the above numbers cited do not tally, h

The full results of the survey and any comments can be viewed in full online under reference: 23/00256/OTHER

4. Further representations dated 15<sup>th</sup> September 2024 have been received from Clowne Parish Council, raising the following concerns in re-affirming their objection to the proposals:

- Dismissal of Clowne Parish Council's s106 requests for an increase in community centre space within Clowne, Clowne Parish Council's allotments, Provision of community safety measures including expanding the CCTV network in the new development and the expansion of Barlborough and Clowne's cemetery.

It is considered that the requests have been dismissed as not being necessary in planning terms, despite being needed.

- Playing Pitch provision and the opinion of Sport England

The Parish Council advise that Clowne has a shortage of green space, including sports pitch provision. Concern has been expressed that despite Sport England's consultation response that the development should provide at least on full playing pitch plus a single team changing room, this need has been deemed non-critical. It is considered that this deficiency can be easily solved by reconfiguring the masterplan for the site.

- Highways and Transport

Concern has been expressed that the impact of the development is based on outdated evidence, with no assessment of the impact upon key junctions within Clowne. The Parish Council consider that the termination of the road on Station Street will funnel traffic into part of the highway network that is already dangerous. Finally, the Parish Council point out that there is no certainty that notional improvements to junctions within the application documents will be delivered.

- Health

Concerns are expressed with regard to the negative impact that the development will have upon health care provision. Reference is made to the late stage that the health care contribution has been requested, the need for land to be set aside for health and care within the site and the dismissal of the contribution request from Chesterfield Royal Hospital.

- Employment land

The Parish Council considers that the proposed employment land is not necessary, having regard to other employment land that has come forward in the development plan period.

- Flooding

It is considered that the site conditions require a full hydraulic analysis on all watercourses with the site boundary to assess the risk of flooding to existing and proposed properties.

Officer Comment:

The District Council must consider whether otherwise unacceptable development could be made acceptable through the use of conditions or planning obligations. Officer's have set out in the OR the developer contributions that are considered to be necessary for the development to be acceptable in planning terms i.e. to mitigate what would otherwise be unacceptable impacts. Whilst the Parish Council may deem the contributions identified to be a benefit, they are not CIL regulations compliant in that they are not necessary and cannot be demonstrated to be reasonably related in scale and kind to the development. Such contributions could at best be deemed general, as opposed to planning benefits that are necessary, particularly having regard to the current viability position.

Officers have considered it necessary to amend the requirements of condition 5 to make it clear, as part of agreeing how the development will come forward, that the phasing makes provision for 10ha of formal open space in the form of a town park and village green. Separate provisions also require the preparation of a sports strategy to ensure that appropriate sports facilities are provided on site to meet any needs arising over the development period. The existing needs for sports facilities is set out in the CR.

The site was allocated in the Development Plan based on a transport assessment at that time. Transport assessment work has since been carried out to support this application and updated to demonstrate, based on a predict and provide assessment, that the development can be accommodated without any unacceptable impacts on highway safety or without resulting in severe impacts on the local highway network. Access is a reserved matter, as is the layout. Although some further offsite works to the local road network have been identified to increase capacity, these works may change based on traffic modelling work undertaken as part of future planning applications to the Local Planning Authority and would be secured under s278 of the Highways Act (1980). The conditions as drafted require the applicant to identify the offsite highway improvement works set out in the supporting Transport Assessment and Addendum as part of phasing of the development.

The indicative parameters plan shows an area for health and care. The ICB and local medical centre are currently at the exploration stage in terms of how additional capacity can be best delivered. Space on the site for a new medical centre on the site

could be an option in this respect and such land may be required for other health and care providers. The application includes such uses and has been assessed on this basis. Although triggers have not been agreed in respect of payment of the health care contribution, a later trigger will give the ICB time to plan and deliver the additional capacity required. The Royal Hospital Contribution request is not CIL regulations compliant. The sum of money requested does not relate to a capital project to deliver a scheme that can increase capacity and cannot therefore be demonstrated to be reasonably related in scale and kind to the development.

The development comprises a significant urban extension of Clowne. In order to support the housing development employment land is needed to provide employment opportunities to future residents and thereby help deliver sustainable growth objectives. This is a requirement of the development plan, in respect of the strategic land allocation.

Flooding has been considered and the proposals include sustainable urban drainage options, which will ensure that surface water from the site will not outfall at a rate greater than the greenfield run off rate, with additional storage capacity for climate change. These have been demonstrated to be deliverable and will be conditioned and controlled as part of any future approval of reserved matters applications.

5. A representation was received from Mrs Lauren Simpson because (in summary) it has not been properly detailed how the local road network can handle increased trips that it will generate.

Officer Comment:

The traffic and highway impacts of the development have been discussed in detail in the CR. A copy of the full representation can be viewed online under reference 23/00256/OTHER.

6. Representations have been received from Cheryl Philips, objecting to the development on the following grounds:
  - Increase in traffic and associated impacts on pedestrian safety
  - Overcrowding at the secondary school
  - Increase in air pollution

Officer Comment:

These matters are considered in the CR.

7. Further representations have been received from Mr Roger Dell, reiterating concerns previously expressed, namely:

- Impact on the environment – Loss of habitat, open spaces and wildlife
- Impact on Traffic and Transportation
- Impact on Noise Levels and Pollution
- Impact on the character and appearance of the area
- Impact on neighbouring properties and privacy
- Impact on local amenities and services

Officer Comment:

These matters are considered in the CR.

### Planning Conditions

8. For clarity and to ensure that a clear mechanism for the delivery of the formal open space put forward by the applicant and assessed by officers, should members be minded to approve the application the following revision to Condition 5 is recommended:

Proposed wording (changes in red):

5. *Notwithstanding the Phasing Plan submitted with the application prior to or on the first submission of any reserved matters application, a Phasing Plan shall be submitted to and approved in writing by the Local Planning Authority. The Phasing Plan shall indicate the broad location, timing, and delivery schedule of the following specific works:*
  - a. Details of structural landscaping and implementation schedule;*
  - b. The timing and phasing of the offsite highway's improvements as proposed in the Transport Assessment (Aecom November 2017 reference 60556776), the Transport Assessment Addendum dated April 2018 reference 60556776 and the Transport Statement dated March 2023), including offsite pedestrian crossings and onsite highways connections to existing strategic highway infrastructure including footways and cycle paths;*
  - c. Provision of education facilities within the site;*
  - d. Provision of 10 hectares of Formal Green Space including a Town Park and Central Village Green;*
  - e. A Sports Strategy, which details the timing and delivery of any sports provision within the development.*
9. In addition to the above Cllr D. Bennett has undertaken a further traffic survey on the 20<sup>th</sup> August 2024 between 11:00 – 11:15 to supplement the Review of Clowne highways and parking impacts of 17/00640/OUT report and survey work submitted by Cllr. Hiney-Saunders on the 14<sup>th</sup> May 2024. This survey is provided at appendix A.

Officer Comment:

Officers reiterate their comments in response to the traffic concerns raised by Clowne Parish Council in their further representations received on the 15<sup>th</sup> September 2024, namely: The site was allocated in the Development Plan based on a transport assessment at that time. Transport assessment work has since been carried out to support this application and updated to demonstrate, based on a predict and provide assessment, that the development can be accommodated without any unacceptable impacts on highway safety or without resulting in severe impacts on the local highway network. Access is a reserved matter, as is the layout. Although some further offsite works to the local road network have been identified to increase capacity, these works may change based on traffic modelling work undertaken as part of future planning applications to the Local Planning Authority and would be secured under s278 of the Highways Act (1980). The conditions as drafted require the applicant to identify the offsite highway improvement works set out in the supporting Transport Assessment and Addendum as part of phasing of the development.



**Appendix A - Traffic survey undertaken by Cllr. Bennett on the 20th August 2024  
between 11:00 – 11:15**