

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 Visits held on 25th October 2024 commencing at 10:00 hours.

PRESENT: -

Cllrs. Tom Munro, Deborah Watson, Carole Wood, Rob Hiney-Saunders and Phil Smith

Officers: Chris Whitmore

SITE VISITED

1. 24/00096/FUL, Land North Of 4 To 10 Meadow View Clowne
2. 24/00184/FUL, 18 Buckthorn Close Bolsover
3. 24/00356/FUL, Shirebrook Marketplace

The meeting concluded at 11:30 hrs.

AGENDA ITEM 7 – 24/00184/FUL: Change of use from residential dwelling (C3a) to a children's home (C2) for a maximum of three children at 18 Buckthorn Close Bolsover Chesterfield.

There is a typing error in the report on page 36 of the report in the title of the section which assesses the impact of the proposal on the character and amenity of the area. The word “conservation” should not be included in the title because the site is not within a conservation area. The title of that section should read “The impact on the character and appearance of the area” as set out in the list of key issues in the report.

This does not affect the assessment of the proposal or the that has been put forward.

Recommendation

No changes to the recommendation contained in the report on the main agenda.

AGENDA ITEM 10 – 24/00096/FUL: Use of land for nature based woodland play area, including a shelter building on Land North Of 4 To 10 Meadow View Clowne

The applicant has made a representation which raised concerns about the content of the report and has asked for the application to be determined at a later committee. The applicant’s representation is set out below:

“I am writing to express my concerns regarding the final report on my planning application. After a thorough review, I have identified several inaccuracies and omissions that may have impacted the overall assessment proposal. Specifically, key factual information and relevant site history, which were submitted with the application, appear to be absent from the final report prepared for the committee.”

The report does not adequately reflect the need for the recreational proposal or the public benefits we outlined, nor does it incorporate the documented site history and supporting evidence, such as photographs and communications with the Bolsover District Council Antisocial Behaviour team as a local drug den/antisocial hot spot. Far from the tranquil representation written in this final report. It's been highlighted in our planning statement that this proposal is for a land based outdoor recreational activity and will share the same access with Linear Park, which is an established recreational area. The access is fully compliant with mobility requirements, making it accessible for everyone, including those with physical disabilities.

There is no mention in your final report of the term recreation, it doesn't exist. Terms like classroom and school are used which are simply false as per our planning statement. This is not a provision for education, school nursery or classroom setting, it's recreational play in the woodland and doesn't constitute a use class of F1. It's in line with F2 (community use for outdoor sport or recreation not involving motorized vehicles). Given this proposal is recreation play adjacent to Linear Park, it meets Policy SS1, SS9, SC3 and SC5 of the local plan, is warranted and sustainable and preserves the site and delivers social, economic and environmental benefits. There are no structured educational programs to be in place. Woodland play is informal, unstructured and oriented towards recreation. Children might explore nature, use natural resources to play and it will serve a recreational spot for the local community. We highlight in our planning statement to create small scale employment use related to recreation. We don't mention the amount of local employment opportunities but it's certainly more than 1.

Additionally, it includes public comments that are not relevant to planning considerations, policy, or the defined scope of this red line application. Given these concerns, I kindly request that the report be revisited to address these inaccuracies, as they could substantially impact the decision-making process.

Furthermore, I understand that a site visit for committee members is to be scheduled. Given the inaccuracies with the current report and the limited time available before the meeting, I respectfully request that the committee's review of this application be postponed until the November meeting. This would provide sufficient time to address the inaccuracies and offer committee members a more complete and accurate picture of the proposal.

I would also like to emphasize that we have been working positively and proactively since March to address all concerns raised during the planning process. The fundamental principle of recreational outdoor woodland play was never questioned, despite having previously requested that we demonstrate how this recreational proposal aligns with the relevant policies and the Local Plan.

Even if the report's ultimate recommendation remains unchanged, it is crucial that the committee has all the relevant facts and public benefits we have presented. In your recent correspondence, you noted, 'I cannot make a positive recommendation on the proposal, so I'm assuming you will want to submit the revised metric.' This statement further emphasizes the need for an accurate and complete assessment before the committee reaches a final decision.

I hope we can have an opportunity to discuss this matter further in person to ensure all relevant information is considered. I would also like to formally request that this email be included in the public record for transparency.”

Response

The response to the applicant from the Development Management and Land Charges Manager is set out below:

I note your comments, which will be reported to planning committee in an update report. I will also ask the case officer to upload them and my response to the case in our document management system, so that they can be viewed online.

With regard to your comments regarding the proposed use, your supporting planning statement advises that there will be a strong focus on outdoor learning, although it is advised that it will not be any child’s permanent place of education or childcare. The provision of 1.5 hours supervised (meaning observe and direct the execution of a task or activity) sessions to both children and parents by experienced childcare practitioners indicates a hybrid / non-conforming use of the land, hence the reference to a sui-generis use in the officers report. The shelter is indicated to be used for activities linked to outdoor play / learning use. Notwithstanding whether it could be accepted that the use was a recreational one, consideration needs to be given to the sustainability of the development in the round and compliance with other policies of the development plan and planning law.

The reference to one employee is taken from your planning application form, which indicates that there will be one full time employee associated with the use.

The public benefits identified, including an opportunity to enhance the well-being of the site users have been noted, however, the research that underpins this has not been provided nor is it explained that the proposal will and is the only way of achieving such an aim. This carries minimal weight in a planning balance, setting aside the other constraints identified.

There is no basis to withdraw the item from planning committee. You are able to seek a deferment at the meeting should you wish, however, this will be a matter for planning committee members to consider. As it stands, the planning balance set out is considered to be an accurate and fair reflection of the development proposal, when assessed against the development plan and other material considerations. Given the concerns raised, any requirement to continue to engage in a positive and proactive manner is considered best served by issuing a decision on the application, having addressed all outstanding technical matters, at the earliest opportunity allowing you to exercise your right to appeal if members are minded to accept the officer recommendation. You are of course able to put your case to planning committee on the planning balance and I would encourage that you do this.

Recommendation

No changes to the recommendation contained in the report on the main agenda.

AGENDA ITEM 11 – SECTION 106 AUDIT REPORT (OCTOBER 2024)

Since the report was submitted there has been a reconsideration of the timeframe and approach for the recovery of S106 contributions from developers. The changes affect the Officer Report and the proposed amendments to the S106 Procedure Appendix B as below;

Officer Report: Page 130

Notification of Triggers being met.

2.10 Audit finding: The S106 Procedure does not specify the timeframe required between being notified of the trigger being met and sending the first, second and subsequent requests for payment to the developer. There is a risk therefore that recovery processes may be inconsistently applied, or the time taken to recover amounts due may be unnecessarily extended. Classified as Medium Risk.

2.11 Recommendation (R3): Timeframes should be established between each stage of recovery. These should be defined in the Procedure notes and effectively applied. If such requests for payment are not made via the Sundry debtor system, any alternative system should include these details and summary information available to management.

~~2.12 Response/Action taken: The suggested timeframes for recovery are an initial letter to the developer once the payment trigger is reached and further letter two weeks later if no response received/obligation not discharged.~~

~~Section 3 (i) b of the S106 Procedure has been amended accordingly.~~

Update: Paragraph 2.12 above to be replaced by the following;

2.12 Response/Action taken: The suggested timeframes for recovery are (1) an initial letter to the developer once the payment trigger is reached. Thereafter if no response is received within 28 days (2) an invoice will be issued for the amount owing (with a follow up late payment invoice (3), if needed). (4) Legal action will follow if no response is received, or the obligation is not discharged.

Section 3 (i) b of the S106 Procedure has been amended accordingly.

S106 Procedure Appendix B: Page 154

(i) Planning

- (a) Planning officers will monitor all sites where 'trigger points' have not been previously met every six months.
- (b) Where a trigger point has been reached, planning officers will:
 - e-mail the officer from the relevant Service area that a trigger point has been reached in respect of an obligation for delivery of infrastructure.

- ~~send a First Letter to the developer to request discharge of the obligation. If requested by the developer: instruct the Accounts Department to raise an invoice in respect of a financial contribution or commuted sum; and~~
- ~~If no response/obligation not discharged by the developer within 2 weeks, send a Second Letter stating that if obligation is not discharged within the next two weeks the debt will be referred to the Council's Legal Services [see under Section 7 Failure to Comply with Obligations]~~

Update: The above text to Section 3 (i) b of the Procedure updated to state the following;

(i) Planning

- (a) Planning officers will monitor all sites where 'trigger points' have not been previously met every six months.
- (b) Where a trigger point has been reached, planning officers will e-mail the officer from the relevant Service area that a trigger point has been reached in respect of an obligation for delivery of infrastructure and send:
 1. An initial letter to the developer once the payment trigger is reached. Thereafter if no response is received within 28 days
 2. an invoice will be issued for the amount owing with,
 3. a follow up late payment invoice if needed
 4. Legal action will follow if no response is received, or the obligation is not discharged.

Recommendation

Slight changes to the recommendation contained in the report on the main agenda

That Planning Committee notes the Section 106 Audit Report (October 2024) as updated; and

That Planning Committee approves the Section 106 Agreement Monitoring Procedure (as attached at Appendix B and updated).