

## **PLANNING COMMITTEE**

Minutes of a meeting of the Planning Committee of the Bolsover District Council held in the Virtual Meeting on Wednesday, 30 September 2020 at 10:00 hours.

### **PRESENT:-**

Members:-

Councillor Tom Munro in the Chair

Councillors Chris Kane (Vice-Chair), Derek Adams, Allan Bailey, Anne Clarke, Nick Clarke, Jim Clifton, Paul Cooper, Maxine Dixon, Natalie Hoy, Duncan McGregor, Graham Parkin, Liz Smyth, Janet Tait, Deborah Watson, James Watson and Jen Wilson.

Officers:- Chris Fridlington (Assistant Director of Development and Planning), Sarah Kay (Planning Manager (Development Control)), Chris McKinney (Principal Planning Officer), Jenny Owen (Legal Executive) and Donna Cairns (Senior Governance Officer).

### **PL1-20/21 APOLOGIES FOR ABSENCE**

There were no apologies for absence.

### **PL2-20/21 URGENT ITEMS OF BUSINESS**

There was no urgent business to be considered at the meeting.

### **PL3-20/21 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.

There were no declarations made at the meeting.

In the interests of transparency, Councillor Allan Bailey requested that it be noted that he did not attend or participate in the meeting of Clowne Parish Council when application 20/00209/FUL was considered.

### **PL4-20/21 MINUTES**

Councillor Nick Clarke requested that an amendment be made to the minutes to include a comment he had made in the meeting that pointed out that the Inspector's decision in an appeal relating to a neighbouring site was not to be considered as a precedent to be applied to the application being considered. Committee were advised that the Minutes did

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state that it was noted that the appeal decision was distinguished from the application before them, although the comment was not attributed to Councillor Nick Clarke.

The Chair considered that the Minutes sufficiently covered the point raised and no amendment was required.

Moved by Councillor Chris Kane and seconded by Councillor Duncan McGregor

**RESOLVED** - that the minutes of a meeting of the Planning Committee held on 12th February 2020 be approved as a true and correct record.

Councillor James Watson requested that his abstention be recorded in the Minutes.

### **PL5-20/21            20/00209/FUL - ERECTION OF 17 NO. DWELLINGS AND ASSOCIATED INFRASTRUCTURE - LAND WEST OF HOMELEA AND TAMARISK MANSFIELD ROAD, CLOWNE**

Further details relating to the application were included in the Supplementary Report, which included additional recommended conditions.

The Planning Manager (Development Control) presented the report which gave details of the application and highlighted the location and features of the site and key issues.

Mr and Mrs Whittaker attended the meeting remotely and spoke against the application.

The agent on behalf of the applicant attended the meeting remotely and spoke in support of the application.

Committee considered the application having regard to the Bolsover District Local Plan and the National Planning Policy Framework. The main issues considered in the determination of this application were:

- the principle of the development;
- highway safety considerations, including whether the development would be provided with a safe and suitable access and the impact of the development on the local road network;
- landscape and visual impact of the development;
- whether the development has a suitable design and layout and provides sufficient residential amenity;
- the ecology impacts of the development;
- potential contamination risks;
- drainage requirements;
- impacts on infrastructure, including recreation and leisure, education and health facilities; and
- heritage and archaeology impacts.

Members discussed the impact of plot 5 in particular on the amenity of neighbouring properties and were advised of the negotiations that had taken place regarding the design to mitigate the impact and the consequent details to ensure that relevant planning policy was complied with.

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It was concluded that the previous permissions and Local Plan allocation for residential development weighed heavily in favour of granting planning permission for the current application because the acceptability of the current site for housing was well established. In all other respects, the application was considered to be acceptable in planning terms for the reasons set out in the report and although there were some minor technical issues outstanding, these were very likely resolvable and therefore they did not weigh negatively in the overall balance of considerations.

Committee discussed the proposal to include further recommendations in addition to those proposed by officers in the report and supplementary papers, which were to require the provision of electric vehicle charging points for all dwellings on the site and for the road within the site to be made up to an adoptable highway standard.

It was moved by Councillor Duncan McGregor and seconded by Councillor Chris Kane that the application be approved in line with the officer recommendation as set out in the report and supplementary papers, also to include the conditions proposed by Members as outlined above. On being put to the vote, the vote was tied. The Chair exercised his casting vote in favour of the motion. It was therefore:-

**RESOLVED** that subject to satisfactory resolution of the outstanding issues in respect of highway safety and surface water drainage, application 20/00209/FUL be approved subject to prior entry into a s.106 legal agreement containing the following planning obligations:

- A** Education contribution of £17,176.59 (Index Linked) for the provision of 1 infant pupil at Clowne Infant and Nursery School.
- B** A commuted sum of £14,586 (17 dwellings x £858 per dwelling) (Index Linked) to improve the following areas of green space:
  - Equipped Play Area: The Arc and / or The Edge
  - Recreation Ground / Semi-Natural Green Space: Improvements to foot / cycle links to the wider countryside and to Clowne Town Centre via The Edge and a new link to Mansfield Road
- C** A commuted sum of £17,374 (17 dwellings x £1022 per dwelling) (Index Linked) to be invested in improving playing pitches and their ancillary facilities at Gloves Lane Recreation Ground.

AND subject to the following conditions that are given below in draft precis form, and also to include conditions relating to the provision of electric vehicle charging points and the improvement of the road within the site up to adoptable standard, with the final wording to be agreed by the Planning Manager in consultation with the Chair and Vice Chair of the Planning Committee: -

1. The development shall be begun before the expiration of three years from the date of this permission.
2. List of approved plans
3. In this condition retained tree means an existing tree which is to be retained to comply with the approved Tree Retention Plan ref: 9516-T-02 A, as contained in

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the Arboricultural Assessment by fpcr dated May 2020 submitted with the planning application; and paragraphs (a) and (b) below shall apply for five years, after the occupation of the last building on the development.

(a) No retained tree will be cut down, uprooted or destroyed, or topped or lopped, other than in accordance with the approved plans and particulars without the written approval of the Local Planning Authority.

(b) If any retained tree is removed, uprooted or destroyed or dies, another tree shall be planted at the same place and that tree must be of such size and species, and must be planted at such time, as approved in writing by the Local Planning Authority.

(c) Before any equipment, machinery or materials are brought on to the site, other than those reasonably necessary to implement this condition, protective barriers must be erected to protect the retained in accordance with the specifications contained in the Arboricultural Assessment by fpcr dated May 2020, and such barriers must be erected at a distance not less than the identified Root Protection Areas on drawing ref 9516-T-02 A, as contained in that assessment document. Nothing shall be stored or placed within the fenced area around a retained tree and the ground levels within the fenced area must not be altered, nor must any excavation take place, without the written consent of the Local Planning Authority.

(d) Where works within the areas covered under c are required, methods of working and construction for those operations must have been submitted to and approved in writing by the Local Planning Authority before such works are commenced and the development must only be carried out in accordance with those approved details.

4. The retained boundary hedgerows along the north, west, and south boundaries of the site must be retained in accordance with drawing ref 9516-T-02 A in the Arboricultural Assessment by fpcr dated May 2020 and protected from damage during construction by the erection of temporary protective barriers (as per condition 3 above) erected at least 2m from the centreline of the hedgerow before development commences on site. Any gaps in the retained hedgerow shall be reinforced and replanted and thereafter the hedgerow shall be maintained and replaced if necessary for a period of 5 years.
5. Notwithstanding the submitted details, no building will be occupied until full details of both hard and soft landscape works, to include details of all proposed means of enclosure and details of all trees and hedgerows to be retained and means for their protection during the course of the development, along with a programme for implementation, has been submitted to and approved in writing by the Local Planning Authority and the works and implementation programme must be carried out as approved. Means of enclosure must be located to avoid the removal of any of the protected hedgerows referred to in condition 4 above.
6. 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.
7. No development shall take place (including demolition, ground works, vegetation

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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 and demarcation of “biodiversity protection zones” (to include hedgerows and trees).
  - c) Practical measures (both physical measures and sensitive working practices) to avoid or reduce impacts during construction (may be provided as a set of method statements and should include a badger working method statement).
  - 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 (as necessary).
  - h) Use of protective fences, exclusion barriers and warning signs.
8. A landscape and biodiversity enhancement and management plan (LBEMP) shall be submitted to, and be approved in writing by, the LPA prior to the commencement of the development. The LBEMP should combine both the ecology and landscape disciplines and include the following:-
- a) Description and location of features to be created, planted, enhanced and managed to include wetland habitat associated with the swale, species rich grassland habitat, scrub creation and tree planting.
  - b) Details of the type and locations of 20 integrated swift nest boxes/bricks,
  - c) Details of hedgehog access throughout the development to include type and location of access gates/holes.
  - d) Aims and objectives of management (retained hedgerows and green infrastructure)
  - e) Appropriate management methods and practices to achieve aims and objectives.
  - f) Prescriptions for management actions.
  - g) Preparation of a work schedule (including an annual work plan capable of being rolled forward over a ten-year period).
  - h) Details of the body or organization responsible for implementation of the plan.
  - i) Ongoing monitoring visits, targets and remedial measures when conservation aims and objectives of the plan are not being met.

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 will be implemented in accordance with the approved details.

9. Prior to the occupation of any dwelling, a bat friendly lighting scheme for the access roads and footways shall have been submitted to and approved in writing

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by the Local Planning Authority; that scheme shall include details of implementation timescales and the approved scheme shall be implemented as approved.

10. Notwithstanding the provisions of Part 2: Minor Operations, Class A – gates, fences, walls etc., of Schedule 2, Article 3 of the Town and Country Planning (General Permitted Development Order) 2015 (as amended), or any Order revoking and re-enacting that Order, no means of enclosure shall be erected within 2m of the centre line of the retained hedgerows to the north, west and southern boundaries of the application site (as identified on drawing ref 9516-T-02 A in the Arboricultural Assessment by fpcr dated May 2020), nor between the dwellings (excluding garages) and the footpath connection on plots 4, 5 and 6, except for any that may be permitted under condition 5, or unless planning permission has first been granted by the Local Planning Authority.
11. Notwithstanding the submitted information, before construction commences on the erection of any building or wall, specifications or representative samples of the materials to be used in all external wall and roof areas shall first have been submitted to and approved in writing by the Local Planning Authority.
12. Notwithstanding the provisions of Parts 1 and 2 of Schedule 2, Article 3 of the Town and Country Planning (General Permitted Development) Order 2015 (as amended), or any Order revoking and re-enacting that Order, the dwelling on plot 5 shall not be extended or altered externally nor shall any incidental building, structure or enclosure be erected without the prior grant of planning permission.
13. The windows serving the living room and en-suite bathroom in the northern elevation of plot 5 (facing dwellings on Fallowfield) shall be obscure glazed and non-opening unless the parts of the window which can be opened are more than 1.7 metres above the floor of the room in which the window is installed, which shall thereafter be retained unless planning permission has first been granted by the Local Planning Authority.
14. Before building work on any building or wall commence, a scheme showing the details of the proposed footpath connections to Fallowfield to the north, together with a timetable for implementation, must have been submitted to and approved in writing by the Local Planning Authority. The scheme must provide details of design, specification, gradient, sections and levels details (level details both on site and on the adjacent site) demonstrating that the footpath link to the adjacent development can be successfully achieved to a usable and adoptable standard. The approved scheme must be implemented in accordance with the details and timescales approved.
15. Drainage Conditions (pending further comments of the LLFA and to cover issues raised by BDC's drainage engineer).
16. 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.

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17. Before any other operations are commenced a new vehicular access/ junction shall be formed to the new estate street serving adjacent development provided with visibility sightlines extending from a point 2.4 metres from the carriageway edge, measured along the centreline of the access, for a distance of 33 metres in each direction measured along the nearside carriageway edge in accordance with a scheme first submitted to and approved in writing by the Local Planning Authority. The area in advance of the visibility sightlines shall be constructed as footway/ verge and form a part of the new estate street serving adjacent development.
18. No dwelling shall be occupied until space has been provided within the curtilage of that dwelling for the parking of residents/ visitors vehicles together with areas suitable for manoeuvring of service and delivery vehicles to enable such vehicles to enter and exit the new estate street serving the adjacent development site in a forward gear, all laid out, surfaced and maintained to the satisfaction of the Local Planning Authority throughout the life of the development free from any impediment to its designated use.
19. No part of the development shall be occupied until details of arrangements for storage of bins and 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.
20. No development shall be commenced until details of the proposed arrangements for future management and maintenance of the proposed streets within the development have been submitted to and approved by the Local Planning Authority. The streets shall thereafter be maintained in accordance with the approved management and maintenance details until such time as a private management and maintenance company has been established.

Councillor James Watson requested that his vote against the motion be recorded in the minutes.

(Planning Manager (Development Control))

### **PL6-20/21            APPEAL DECISIONS: JANUARY 2020 - JUNE 2020**

Committee considered the report of the Planning Manager (Development Control) on the Planning Service's performance against the Government's quality of decision making targets.

During the 6 months since the last monitoring period, the Council had no appeals on major planning applications determined, had won 98.7% of appeals on non-major applications and had no appeals against enforcement notices.

The Planning Manager gave a presentation, outlining the 5 appeals decisions that had

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been received from January 2020 to June 2020. 4 related to non-major developments and 1 to a validation dispute, which was deemed not to be valid. Of the non-major development appeals, 2 had been allowed and 2 had been dismissed. The two appeals which were dismissed related to inappropriate development in the Greenbelt, where the Inspector agreed with officer's interpretation and the decisions.

One of the appeals that was allowed related to extended opening hours of McDonald's at Tally's End, Balborough. The Inspector agreed to vary the conditions to allow an extra hour of opening in the morning and the evening. The Inspector disagreed with the Council's view on the impact on the neighbouring properties.

The second allowed appeal related to a dispute over whether a building had been in agricultural use, to allow the application to seek prior approval for its alternative use. The Inspector took a different view to the Council on whether the criteria had been fulfilled.

Both allowed appeals involved the Inspector reaching a different judgement on the particular cases and did not have any wider policy implications

The Council was exceeding its appeal decision targets and this indicated that the Council decision-making on planning applications and enforcement issues continued to be sound.

Moved by Councillor Tom Munro and seconded by Councillor Chris Kane

**RESOLVED** that the report be noted and that appeal decisions continue to be reported to Committee every 6 months.

(Planning Manager (Development Control))

### **PL7-20/21            REVISED TERMS OF REFERENCE FOR LOCAL PLAN STEERING GROUP**

The Principal Planning Officer (Planning Policy) presented the report which sought approval for the revised name and terms of reference for the Local Plan Steering Group.

Following the successful implementation of the new Local Plan, the Group had considered a report which sought approval to rename the Local Plan Steering Group as the Local Plan Implementation Advisory Group and update its Terms of Reference to reflect the change of purpose. At an informal meeting in July, it was found that Members wished to stay involved during the implementation of the Local Plan and the delivery of its proposals and projects.

In addition to these changes, in light of the publication of the Planning White Paper and the Government's current consultation on proposals to reform the planning system the Terms of Reference were updated slightly from that discussed in July. This enabled the group to endorse the suspension of work on the Local Plan implementation projects and prioritise and dedicate resources to recommence plan-making tasks as required.

The group had been provided with outline proposals of projects to be undertaken and what further documents needed to be produced following the adoption of the new local plan.

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Moved by Councillor Duncan McGregor and seconded by Councillor Chris Kane

**RESOLVED** – That the proposed Terms of Reference for the Local Plan Implementation Advisory Group at Appendix 2 to this report be approved.

The meeting concluded at 12:20 hours.