

## **PLANNING COMMITTEE**

### **MINUTES OF MEETING HELD ON TUESDAY, 19 OCTOBER 2021**

#### **Present:**

Councillor Diana Ruff (Chair) (in the Chair)  
Councillor Alan Powell (Vice-Chair)

Councillor William Armitage  
Councillor Peter Elliott  
Councillor Roger Hall  
Councillor David Hancock  
Councillor Heather Liggett

Councillor Andrew Cooper  
Councillor Mark Foster  
Councillor Lee Hartshorne  
Councillor Maggie Jones  
Councillor Jacqueline Ridgway

#### **In Attendance**

Councillor Pat Antcliff

#### **Also Present:**

A Kirkham	Planning Manager - Development Management
J Fieldsend	Legal Team Manager (non contentious)
N Calver	Governance Manager
D Stanton	Governance Officer
M E Derbyshire	Members ICT & Training Officer
A Bond	Governance Officer
A Maher	Senior Governance Officer

#### **PLA/ Apologies for Absence and Substitutions** **30/2**

**1-22** An apology was received from Councillor K Rouse.

#### **PLA/ Declarations of Interest** **31/2**

**1-22** Councillor H Liggett indicated that she would not participate in the Committee's consideration of Item 4 on the agenda. She would leave the meeting and return following the Committee's determination on the application.

#### **PLA/ Minutes of Last Meeting** **32/2**

**1-22** The minutes of the meeting, held on Tuesday 21 September 2021, were approved as a true record.

#### **PLA/ NED/21/00938/FL - BRACKENFIELD** **33/2**

**1-22** Councillor H Liggett left the meeting.

The report to Committee explained that an application had been submitted for the demolition of two polytunnels and the erection of a single storey dwelling with windows in the roof at land to the north of School Farm Church Land and south of Conlands, Carr Lane, Brackenfield. It was a revised scheme of application

20/01272/FL, which had been withdrawn.

The Application had been referred to Committee by Local Ward Member, Councillor H Liggett, who had raised concerns about it.

The report explained the reasons why Members were recommended to refuse the Application. In particular, Committee was advised that the dwelling would be an inappropriate development in what was classed as an open countryside location. It would impact adversely on the character of the village. It would also be detrimental to the distinctive landscape of the surrounding area.

Before Members discussed the Application those registered to speak were asked to address the Committee. Councillor C Cupit as Ward Member, A Towleron and G Keeton spoke to oppose the Application. The Applicant, K Walker and the Agent for the Application, C Stainton, spoke in support of it.

Committee considered the Application. It took into account the relevant Planning Issues, It reflected on whether the proposed development would be compatible with local planning policies, including the provisions of the Brackenfield Neighbourhood Plan. It considered policy on sustainable development within the countryside. It also took into account the potential impact on the character, quality, distinctiveness, important features and views of the landscape

Members discussed the Application. They noted the previous planning history for the site. They discussed its use as farmland. They considered whether the proposed dwelling could be classed as 'infill' and so an acceptable development in terms of the Brackenfield Neighbourhood Plan. They discussed the height of the proposed dwelling, its visibility from different locations and the impact this might have. They reflected on whether the dwelling would be in line with the National Planning Policy Framework NPPF, which requires that developments contribute to and enhance the natural and local environment by protecting valued landscapes.

At the conclusion of the discussion, Councillor D Ruff and Councillor A Powell moved and seconded a motion to reject the Application. The motion was put to the vote and approved by Committee.

#### RESOLVED -

(a) That the application for planning permission be refused, in line with officer recommendations.

(b) That the application be refused for the following reasons:

The development site is located within open countryside to the north of the village of Brackenfield which is a level 4 village where development under countryside polices apply.

The site does not represent limited infill as it is located a considerable distance from the main part of the village with open field between it and other development to the south. The previous use of the site was agricultural and therefore cannot be considered to be previously developed

land.

The land on which the site is located has been identified as one of the gaps between developments which characterises Brackenfield. It also forms the foreground of an important view as outlined in the Brackenfield Neighbourhood Plan. Although the design of the building itself is not considered to be out of keeping with the area its siting, scale and massing makes it highly visible from important viewpoints, School Lane and public footpath 19. As such it is considered that it is an intrusion into the countryside and harms the character of the primary Area of Multiple Environmental Sensitivity.

There are no material considerations which outweigh these harms.

As such it is considered that the proposal does not meet the requirements of policies GS1, GS6, NE1 and H3 of the North East Derbyshire Local Plan, Policies CH1, CH2, NE2 and H1 of the Brackenfield Neighbourhood Plan and policies SS1, SS8, SS9 and SDC3 of the Publication Draft Local Plan and the aims of the National Planning Policy Framework when read as a whole.

**PLA/ NED/21/00914/FL - ASHOVER**

**34/2**

**1-22**

Councillor H Liggett re-joined the meeting.

The report to Committee explained that an application had been submitted to spread soil on agricultural land in order to raise land levels on the field to the north of Grange Barn, Milken Lane, Far Hill, Ashover.

The Application had been referred to Committee by local Ward Member, Councillor W Armitage, who had raised concerns about it.

Committee was recommended to approve the Application, subject to conditions.

The report to Committee explained why Members were asked to agree the recommendations. The Application intended to use soil from a part of the agricultural holding where there is planning permission for a residential development. This would then be used to make the land levels at the Application site less steep, and so more usable for farming. Officers had concluded that the Application complied with the relevant Policies of the North East Derbyshire Local Plan and the National Planning Policy Framework. As such, it would be an acceptable development, which would not adversely impact on the visual amenity, character of the open countryside and Special Landscape Area.

Before Members discussed the Application those registered to speak were asked to address the Committee. M McCann spoke in objection to the Application. The Agent, D Cooney, spoke in support of it.

Committee considered the Application. It took into account the relevant Planning Issues. In particular, Committee considered national and local planning policies. It took into account the impact of the development on the character of the area and on the amenity of existing residential property occupiers. It considered possible

land contamination issues and the impact on the ecology of the site.

Members discussed the concerns raised about possible land contamination. They heard that the applicant intended to spread soil from a site elsewhere on the agricultural holding, which had previously been used as farm land. Such a movement, it was explained, would normally be allowed as an Agricultural Permitted Development. Committee noted that the Council's Environmental Health Officer had raised no concerns about the proposed soil spreading from this site and did not object in principle to the Application.

Members heard of the pre-commencement conditions which had been imposed on the outline and reserved matters application for housing development on the site from where the soil would be taken. The conditions relating to land contamination, it was explained, required the developer to provide the Council with further information before they could proceed. This information, it was confirmed, had not yet been provided. Soil could not be taken from there to be spread on this site, until these conditions had been complied with.

Members heard about the late representation made by the Derbyshire Wildlife Trust (DWT) on the Application. DWT had reviewed the Ecology report which had been submitted and suggested that additional conditions on specific points be added. Committee was informed that these would satisfy and outstanding ecological concerns and it was suggested that appropriate conditions be now added as conditions of approval.

Committee was also reminded that the report had explained that a condition could be imposed a 'Walk-Over survey' for Badgers should permission be granted.

At the conclusion of the discussion Councillor D Ruff and P Elliot moved and seconded a motion to approve the Application in line with officer recommendations, with appropriate additional conditions to be included to address the concerns raised by the DWT and to require a 'Walk-Over' survey for Badgers. The motion was put the vote and approved.

#### RESOLVED -

- (1) That planning permission be conditionally approved in accordance with officer recommendations.
- (2) That final wording of the conditions be delegated to the Planning Manager (Development Management).

GRANT Full Planning Permission subject to the following conditions

#### **Conditions**

- 1 The development hereby permitted shall be begun before the expiration of three years from the date of this permission.
- 2 The development hereby approved shall be carried out in accordance with the plans received unless otherwise subsequently agreed through a formal submission under the Non material Amendment procedures and unless

otherwise required by any condition contained in this decision notice.

- 3 The Reasonable Avoidance Measures set out in Section 4 of the Ecological Report, prepared by Ardea Ecology LTD dated 4 October 2021 shall be adhered to and maintained prior to and during the works hereby approved.

**PLA/ Tree Preservation Orders - ASHOVER**

**35/2**

**1-22**

The report to Committee explained that four Provisional Tree Preservation Orders (TPOs) had been made, covering various areas of trees and a woodland at Ashover. Members were informed that representations had been received on the four Orders (TPO 280, TPO 281, TPO 282 and TPO 283). Committee was asked to decide if it wished to confirm them without modification, confirm the Orders with modifications or to not confirm them, in which case the Orders would then lapse.

Committee was reminded that an original Tree Preservation Order had been made to protect a large number of trees on an area of land west of Ashover. This Order had been made in 1944. Consequently, it had become increasingly difficult to enforce. There was often no way of confirming that specific trees or groups of trees were present at the time the Order had been made and so protected by it.

Committee was informed that certain portions of the land had been re-surveyed over time and replacement TPOs covering part of it had been made. These provisional Orders had then been made earlier in the year to cover the other trees in the area. This meant that the original Order had been superseded altogether.

Before Members discussed the Provisional TPOs they heard from, D Atkinson, representing Marsh Green Estates Ltd, the site owner for trees covered by several of the Orders. Mr Atkinson spoke against their confirmation. As part of this, he raised a number of points about the technical evaluation of the specific trees covered by the Orders, the process for making Provisional Tree Preservation Orders and communicating these decisions to their owners.

Committee discussed the Application and the concerns which had been raised about the way in which the trees covered by the Orders had been evaluated and the process for Making the Provisional Orders. Some Members felt that further information would be required for the Committee to reach a determination on what protection should be accorded to the trees covered by the Provisional Orders. Committee noted that if the Orders were not confirmed then the trees would cease to be protected until further provisional Orders could be put in place.

At the conclusion of the discussion Councillor A Powell and Councillor P Elliot moved and seconded a motion for determination on the existing Tree Preservation Orders be deferred, to enable further information to be gathered. They recognised that as a consequence of this the existing Provisional Orders would lapse and so also proposed further provisional Tree Preservation Orders be now drafted, while an assessment is made of the protection required by the trees for the Committee to then consider at a later date.

The motion was put to the vote and was approved

**RESOLVED -**

- (1) That the Committee does not determine on the existing Provisional Tree Preservation Orders – (TPO 280, TPO 281, TPO 282 and TPO 283) and that the Orders lapse.
- (2) That interim Provisional Tree Preservation Orders covering those trees protected by TPO 280, TPO 281, TPO 282 and TPO 283 be re-made as soon as possible.
- (3) That an assessment of the protection required by the specific trees and woodland takes place to help inform the Committee's subsequent decision on whether the interim Provisional Tree Preservation Orders be confirmed, modified or not-confirmed.

**PLA/ Section 106 (Legal) Agreements Update**

**36/2**

**1-22**

Committee received an update on the current 'Section 106' Agreements, or agreements, reached between the Council as Planning Authority with developers to carry out specific work to help offset the impact of new developments on local people.

The report set out details of those agreements where the funding had now been secured. It also included information about Section 106 agreements where the funding had not yet been received or written-off.

Members asked for clarification on certain Section 106 agreements, where payments were due but had not yet been received. In particular, Councillor M Foster sought clarification on the agreement relating to 'The White House' Morton. The officers explained the reasons why specific action had not yet been taken. Members agreed that a further update on this issue be provided to the Committee at its next meeting. He also sought clarification on the payments relating to 'The Royal Hotel' Eckington. Committee agreed that the officers should respond to Councillor M Foster following on from the meeting, to provide the necessary information. Councillor H Liggett asked for clarification on payments relating to 'The Woolpack' Shirland. Again, Members agreed that the officers contact her following on from the meeting, to provide the necessary information.

Committee felt it important to receive regular updates on Section 106 Agreements. Members concluded that these updates should be received by Committee quarterly.

**RESOLVED -**

- (i) That Committee noted the information about Section 106 Planning Agreements contained within Appendices A and B to the report and the clarifications required on specific agreements
- (ii) That Committee noted and endorsed the contents of paragraphs 1.1 to 1.6 relating to Section 106 Agreements.

- (iii) That Committee agreed that updates on Section 106 Agreements be reported to Planning Committee on a quarterly basis.

**PLA/ Planning Appeals - Lodged and Determined**

**37/2**

**1-22**

The report to Committee informed Members that two appeals had been lodged. No appeals had been allowed. One appeal had been partly allowed and partly dismissed. No appeals had been withdrawn.

**PLA/ Matters of Urgency**

**38/2**

**1-22**

None.