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PLANNING COMMITTEE

Minutes of a Meeting held on Tuesday 9 August 2016 at 6.00pm at Council Chamber, Town Hall, Matlock.

PRESENT

Councillor Garry Purdy - In the Chair

Councillors Jason Atkin, Sue Burfoot, Tom Donnelly, Graham Elliott, Chris Furness, Neil Horton, Tony Millward BEM, Jean Monks, Tony Morley, Joyce Pawley, Lewis Rose OBE, Peter Slack and Joanne Wild.

Sandra Lamb (Head of Corporate Services), Jon Bradbury (Development Manager), Gareth Griffiths (Senior Planning Officer), Helen Frith (Senior Planning Officer), Chris Whitmore (Area Planning Officer), Brett Wilson (Barrister) and Jackie Cullen (Committee Assistant).

21 members of the public.

APOLOGIES

Apologies for absence were received from Councillors Richard FitzHerbert, Sue Bull and Mike Ratcliffe. Councillor Joyce Pawley attended as Substitute Member.

138/16 – MINUTES

It was moved by Councillors Garry Purdy, seconded by Councillor Tony Millward BEM and

RESOLVED That the minutes of the Planning Committee meeting held on 12 July (unanimously) 2016 be approved as a correct record.

The Minutes were signed by the Chairman.

139/16 – APPLICATION NO. 16/00307/FUL – ERECTION OF A DWELLING AT THE OLD COTTAGE, MAIN STREET, KIRK IRETON

In accordance with the procedure for public participation, Mr David Fearn and Mr John Taylor, residents, spoke against the application and Mr Sanjay Patel, Applicant, spoke in favour of the application.

It was moved by Councillor Tony Millward BEM, seconded by Councillor Tony Morley and

RESOLVED That planning permission be refused for the reason set out in the report.
(unanimously)

140/16 – APPLICATION NO. 16/00316/FUL – DEMOLITION OF AGRICULTURAL BUILDING AND ERECTION OF DWELLING AT WALLANDS FARMHOUSE, BRASSINGTON ROAD, BRASSINGTON

In accordance with the procedure for public participation, Mr Jeff James, Montague Architects, and Mr Jonathan Jenkins, Agent. spoke in favour of the application.

Correspondence received after publication of the Agenda was distributed at the meeting; this comprised comments from Brassington Parish Council

It was moved by Councillor Sue Burfoot, seconded by Councillor Joyce Pawley and

RESOLVED That planning permission be refused for the reasons set out in the report.

Voting:

For	7
Against	7
Abstentions	0

The Chairman used his casting vote and consequently declared the motion carried.

141/16 – APPLICATION NO. 16/00095/OUT – RESIDENTIAL DEVELOPMENT OF UP TO 165 DWELLINGS, UP TO 47 UNITS OF CLASS C2 EXTRA CARE AND DOCTORS SURGERY (OUTLINE) AT LAND OFF BABBS LANE, DOVERIDGE

The Committee visited the site prior to the meeting to allow Members to fully assess the impact of the development on the local environment.

The Area Planning Officer advised the Committee that the Applicant had appealed against Non-Determination of this Application, with a date set for a Public Inquiry in May 2017.

Correspondence received after publication of the agenda was distributed at the meeting; this comprised a letter from Doveridge Parish Council.

It was moved by Councillor Tony Morley, seconded by Councillor Jason Atkin and

RESOLVED That had the Committee been asked to make a decision on this scheme they would have been minded to refuse it for the reason stated in the report.

Voting:

For	13
Against	1
Abstentions	0

The Chairman declared the motion carried.

142/16 – APPLICATION NO. 16/00208/OUT – ERECTION OF 17 DWELLINGS (OUTLINE) AT THE WOODYARD, 2 OLD MARSTON LANE, DOVERIDGE

The Committee visited the site prior to the meeting to allow Members to fully assess the impact of the development on the local environment.

Correspondence received after publication of the agenda was distributed at the meeting; this comprised a letter of representation from Doveridge Parish Council.

It was moved by Councillor Peter Slack, seconded by Councillor Tom Donnelly and

RESOLVED That planning permission be refused for the reasons set out in the
(unanimously) report.

143/16 – APPLICATION NO. 16/00100/FUL – CONVERSION OF BUSINESS PREMISES TO DWELLING WITH ASSOCIATED EXTENSION/ALTERATIONS AT FORMER SHOP OFF MILLERS GREEN, WIRKSWORTH

The Committee visited the site prior to the meeting to allow Members to consider the location for a house, amenity space, impact upon neighbours and impact on pedestrian route.

In accordance with the procedure for public participation, Mr Michael Bamford, Agent, spoke in favour of the application.

Correspondence received after publication of the agenda was distributed at the meeting; this comprised a letter from Councillor Mike Ratcliffe, which incorporated comments from a neighbour.

It was moved by Councillor Lewis Rose OBE, seconded by Councillor Tony Morley and

RESOLVED That planning permission be granted subject to the conditions as set
(unanimously) out in the report, including an amendment to Condition 3 whereby the roof lights are to be non-opening and of obscure glazing.

144/16 – APPLICATION NO. 16/00322/OUT – ERECTION OF DWELLING (OUTLINE) AT LAND OFF WHITE TOR ROAD, STARKHOLMES, MATLOCK.

This Application had been withdrawn.

145/16 – APPLICATION NO. 15/00814/OUT – RESIDENTIAL DEVELOPMENT OF UP TO 57 DWELLINGS (OUTLINE) AT LAND ADJACENT TO BAKEWELL ROAD, MATLOCK

In accordance with the procedure for public participation Mr Jonathan Jenkins, Agent, spoke in favour of the application.

At the Planning Committee meeting of the 12th April 2016 the following were agreed:

1. That planning permission was approved for the development of up to 57 dwellings subject to the applicant entering into a S106 Agreement to secure:

- 30% on-site affordable homes
 - Affordable homes to be built as bungalows and managed by a Registered Social Landlord with all affordable homes built to M4(3) standard
 - Occupancy restrictions to apply to a further 20% of the dwellings built to M4(3) standard limiting occupation to registered disabled persons only
 - Funding for the provision of a pedestrian crossing on the A6
 - Mixture on site to achieve 50% dwellings to M4(2) standard and 50% to M4(3) standard
2. That the Development Manager be delegated authority to impose conditions in consultation with the Applicant's Agent to:
- Achieve the provision of a pavement on the south side of the A6
 - Restrict development to the Eastern part of the site to retain an area of wetland and retain an open aspect in accordance with the illustrative masterplan
 - Other general conditions deemed necessary in consultation and those in response to the concerns of the statutory consultees

Since that decision was made by Members, Officers had been in negotiation with the applicant's agent and solicitor regarding the above restriction and the wording of the S106 agreement, leading to 3 issues for determination and/or clarification:

1. The definition of 'disabled' persons and whether the occupancy included the disabled person's family members;
2. Whether the restriction should be widened to include occupation to those aged over 55 and their family members;
3. Whether Members wished to give delegated authority to the Development Manager to finalise the S106 agreement and to determine compliance with the occupancy restriction.

In reference to item 1 above the definition of disability was considered to be that which was defined in the Equalities Act 2010:

A person (P) has a disability if -

- (a) P has a physical or mental impairment, and*
- (b) the impairment has a substantial and long-term adverse effect on P's ability to carry out normal day-to-day activities.*

The restriction should include that the family or carer of the disabled occupant would also qualify for occupancy whilst they were living there and their spouse and dependent children would continue to qualify following the death of the qualifying disabled person. Furthermore, the occupancy restriction would be registered on the land registry title which would require a certificate of compliance on each sale of the property to ensure the person complied. Therefore the buyer or solicitor for any proposed purchaser would need to provide details in writing to the Council to show how they or their client satisfied the definition and the Council would need to determine whether it was satisfied in each case.

With regard to item 2 above, The Planning Committee in April did not include those aged over 55 into the qualifying occupancy criteria. The applicant's agent and solicitor now requested that Members widened the occupancy criteria to allow those aged over 55 and their families to occupy the units, based on the reasons set out in the report.

With regard to item 3 above, clarification was sought as to whether Members wished to delegate authority to the Development Manager to finalise the S106 agreement, which was considered likely in this case to enable the successful completion of the legal agreement.

It was moved by Councillor Lewis Rose OBE, seconded by Councillor Garry Purdy and

RESOLVED

1. That planning permission is approved for the development of up to 57 dwellings subject to the applicant entering into a S.106 Agreement to secure:

- 30% on-site affordable homes
- The affordable homes are to be built as bungalows and managed by a Registered Social Landlord with all affordable homes built to M4(3) standard
- Occupancy restrictions to apply to a further 20% of the dwellings built to M4(3) standard limiting occupation to disabled persons with disabled persons defined as stated in the Equalities Act 2010 as follows:

A person (P) has a disability if -

- (a) P has a physical or mental impairment, and*
- (b) the impairment has a substantial and long-term adverse effect on P's ability to carry out normal day-to-day activities.*

The restriction should include that the family or carer of the disabled occupant would also qualify for occupancy whilst they are living there and their spouse and dependent children would continue to qualify following the death of the qualifying disabled person.

- Funding for the provision of a pedestrian crossing on the A6 (£40,000)
 - Mixture on site to achieve 50% dwellings to M4(2) standard and 50% to M4(3) standard
2. That the Development Manager be delegated authority to impose conditions in consultation with the Applicant's Agent to:
 - Achieve the provision of a pavement on the south side of the A6
 - Restrict development to the Eastern part of the site to retain an area of wetland and retain an open aspect in accordance with the illustrative masterplan
 - Other general conditions deemed necessary in consultation and those in response to the concerns of the statutory consultees
 3. That the Development Manager also be given delegated authority to finalise the S106 Agreement and to determine compliance with the occupancy restriction.

Voting:

For	13
Against	0
Abstentions	1

The Chairman declared the motion carried.

146/16 – 16/00144/S106D – DISCHARGE OF S106 PLANNING OBLIGATION DATED 6 AUGUST 2013 TO REMOVE REQUIREMENT TO PAY AFFORDABLE HOUSING CONTRIBUTION AT THE MINERS COTTAGE, MINING LANE, CARSLINGTON

The Committee was reminded that this item had been deferred from the Planning Meeting held on 24 May 2016 (Minute no. 24/16) pending the provision of evidence relating to the Applicant's current financial status.

In accordance with the procedure for public participation Mr Lawrence Cramer, Petitioner, presented a petition in favour of the application and Mr Lee Maddox, Applicant, spoke in favour of the application.

It was moved by Councillor Peter Slack, seconded by Councillor Lewis Rose OBE and

RESOLVED That the S106 legal obligation relating to the financial contribution towards affordable housing provision shall be removed.

Reason: The Applicant has provided evidence of unforeseen additional expense incurred during the course of this development which justifies extenuating circumstances. As such the legal agreement no longer continues to serve a useful planning purpose.

Voting:

For	10
Against	4
Abstentions	0

The Chairman declared the motion carried.

147/16 – APPLICATION NO. 16/00355/FUL – ERECTION OF 6 NO. BUNGALOWS AND ASSOCIATED GARAGES AT RICK YARD ORCHARD, CHURCH LANE, BRAILSFORD

Councillor Jason Atkin left the meeting at 8.14pm during discussion of this item.

The Committee was reminded that this application had been deferred at the 12th July 2016 planning meeting (Minute No. 109/16) in order for legal advice to be sought on the potential to mitigate reasons given in the Officer Recommendation for refusal such that an alternative decision could be debated that was reasonable in all circumstances, as outlined in the report. A legal opinion had been received and was summarised in the report, and it was also noted that the applicant's agent had submitted further information to the Highway Authority regarding access issues, but this had not overcome the concerns raised by the Highway Authority.

In accordance with the procedure for public participation Mr John Colley, Resident, spoke against the application and Ms Laughlin, on behalf of Brailsford Parish Council, Mrs Alison

Clamp, on behalf of Peak District Rural Housing Association, and Ms Julia Allen, Agent, spoke in favour of the application.

It was moved by Councillor Tony Morley, seconded by Councillor Garry Purdy and

RESOLVED That planning permission be refused for the reasons set out in the report.

Voting:

For	11
Against	2
Abstentions	0

The Chairman declared the motion carried.

148/16 – MOTION TO CONTINUE

It was moved by Councillor Tony Millward BEM, seconded by Councillor Tom Donnelly and

RESOLVED That, in accordance with Rule of Procedure 13, the meeting continue beyond 2 ½ hours to enable the business on the agenda to be concluded.
(unanimously)

149/16 – INFORMATION ON ACTIVE AND CLOSED ENFORCEMENT INVESTIGATIONS

It was moved by Councillor Garry Purdy, seconded by Councillor Tony Millward BEM and

RESOLVED That the report be noted.
(unanimously)

150/16 - APPEALS PROGRESS REPORT

It was moved by Councillor Garry Purdy, seconded by Councillor Tony Millward BEM and

RESOLVED That the report be noted.
(unanimously)

MEETING CLOSED 8.46PM

CHAIRMAN