

PLANNING COMMITTEE

Minutes of the virtual meeting held on Wednesday 28th April 2021 via Microsoft Teams

Present: Councillor D Pidwell (Chair)
Councillors H M Brand, D Challinor, M Charlesworth, G Freeman, S Fielding,
G A N Oxby, M W Quigley MBE, M Richardson, N Sanders, L Schuller and B Tomlinson.

Officers in attendance: E Hinsley, J Krawczyk, J Lavender and S Wormald.

(Meeting commenced at 6.30pm).

The Chair welcomed all to the virtual Planning Committee and explained that councils have been enabled to hold virtual meetings in order to allow business to be conducted while maintaining social distancing due to the outbreak of Covid-19. He then introduced Members and Officers by doing a roll call. The Chair outlined that in the event of the livestream failing or Members losing connection the meeting would be adjourned to allow the connection to be re-established. He also reminded participants to take appropriate safety precautions from their place of livestreaming.

157. APOLOGIES FOR ABSENCE

None.

158. DECLARATIONS OF INTEREST

(a) Members

Conflict of interest for the Chair as a friend of one of the speakers.

(b) Officers

There were no declarations of interest by Officers.

159. MINUTES OF THE MEETING HELD ON 3RD MARCH 2021

RESOLVED that the minutes of the meeting held on 3rd March 2021 be approved.

160. MINUTES OF THE PLANNING CONSULTATION GROUP MEETING HELD BETWEEN 22ND FEBRUARY AND 6TH APRIL 2021

RESOLVED that the minutes of the Planning Consultation Group meetings held on between 22nd February and 6th April 2021 be noted.

Cllr Charlesworth dropped out of the meeting at 6:36pm.

161. OUTSTANDING MINUTES LIST

RESOLVED that the Outstanding Minutes List be noted.

162. THE FUTURE OF PLANNING COMMITTEE MEETINGS

The Council's Solicitor delivered a verbal update on the future conduct of committee meetings at Bassetlaw District Council. Under the Coronavirus Act 2020, local authorities were permitted

to hold virtual meetings, but the regulations were due to expire on 6th May 2021. The Lawyers in Local Government (LLG) and the Association of Democratic Services Officers (ADSO) launched a judicial review after the Government refused to extend the emergency legislation to allow for virtual meetings to take place. The challenge was dismissed in the High Court, so the Council will have to go back to physical meetings. There would be meetings with the Chief Executive and Senior Managers into how the Council's AGM and other Committee meetings will be conducted whilst social distancing measures still being in place.

Cllr Charlesworth rejoined the meeting at 6:45pm.

163. DETAILS OF PLANNING COMMITTEE TRAINING

The Planning Development Manager delivered a verbal updating stating that Planning Committee Training will take place through Microsoft Teams on the morning of Friday 21st May. The training would be open to all Members of the Council to attend.

SECTION A – ITEMS FOR DISCUSSION IN PUBLIC

Key Decisions

None.

Other Decisions

164. REPORT(S) OF THE DIRECTOR OF REGENERATION AND NEIGHBOURHOODS

(a) Public Interest Test

The Director of Housing, Neighbourhoods and Regeneration had deemed that all Items on the Agenda were of a non-confidential nature.

(b) Appeal Decision

Members were presented with one appeal decision. This was regarding P.A. 20/01166/ADV, which was advertising consent to display four identical, non-illuminated signs on the roundabout of Sandy Land/Shireoaks Road for the ASDA supermarket store. The application was refused by Planning Officers on the grounds of it would encourage the proliferation of advertisement signage in the area and that it was unnecessary for the supermarket to advertise. The appeal was allowed by the Planning Inspectorate on the grounds that they were modest in size and there was existing signage in the area. Planning Team were concerned about setting a precedent for the area, but each application would be considered on its own merits.

(c) Planning Applications

<u>Application No.</u>	<u>Applicant</u>	<u>Location and Proposal</u>
20/01478/FUL	Griffin Design and Build Ltd	Erection of Nine Detached Dwellings and Garages Including New Access. Land West of Number 6 Deans Close, Misterton.

Members were advised that full planning permission was being sought for the erection of nine 4-bedroom detached dwellings and garage including new access onto land west of 6 Deans Close.

The development would be located on open land bounded by existing residential development. The surrounding area contained a mixed character of dwellings. Deans Close to the south contained detached dwellings and Old Forge Road to the north was characterised by smaller semi-detached and detached dwellings. Ashdown Way – further to the east are detached brick built dwellings and Minster Road is a cul-de-sac of bungalows. North and West boundaries back onto the gardens of more traditional village buildings.

The nine dwellings would form a cul-de-sac with a new access point being created from Deans Close.

Dwelling designs and site photographs were displayed to Members.

No objections were received from statutory consultees.

Misterton Parish Council raised an objection to this application. Nine letters of objection were received from the public. After the agenda was published, further comments were received from six residents, which reiterated the earlier comments. The comments also contained a request to delay a decision on the application by a minimum of fourteen days to allow all parties to consider the committee report. There were concerns that residents had been given insufficient notice about the application.

The Planning Development Manager stated that it would be for the Committee to decide whether to defer the application if they felt that they did not have sufficient information to determine the application during this meeting. The Planning Team did notify adjoining neighbours and landowners, posted a site notice and publicised the application in the local press, so had met and exceeded the statutory notification requirements.

In terms of the principle of development, Policy CS1 carried limited weight in the decision-making process, the Misterton Neighbourhood Plan (MNP) was made and formed the most up-to-date development plan for the settlement. The site was not identified within the Neighbourhood Plan as an allocation for residential development, but it did lie within the defined settlement boundary. Policy 5 of the Neighbourhood Plan (Windfall Development) does support residential developments within the development boundary subject to criteria being met, so it was considered that the fundamental principle of the development was acceptable.

In terms of design and layout, the Neighbourhood Profile identified the area as being in Profile Area Zone 2. Most properties were post-WW2 with older properties positioned around the church. One of the central recommendations of the type of dwellings were brick built detached houses were more appropriate and in keeping with the surrounding area. The proposed dwellings were detached, contemporary suburban-type houses. Given the housing mix in the surrounding area and the recommendations in the Neighbourhood Profile, it was considered that the development would not result in harm to the character of the surrounding area.

In terms of the impact on residential amenity, the proposed dwellings would be well separated from nearby existing properties, with a distance of at least 30m. This would ensure the existing residents would not be overlooked nor overshadowing by the new dwellings.

The new access point would come from a priority junction onto the south of 6 Deans Close, in which the adopted highway would extend into the site, with plots 4 -9 being served by a private

driveway. The Nottinghamshire County Council (NCC) Highways Authority raised no objections to the application, subject to the proposals being delivered in an appropriate manner.

Trees located to the southern boundary of the site were under a TPO as they were deemed to make a valuable contribution to the visual amenity and quality of the surrounding area. The applicant submitted a Tree Survey, Constraint Plan and Tree Protection Plan. The Council's Tree Officer raised no objections to the proposal, provided that the Ash Trees under the Tree Preservation Order were adequately protected during the construction period.

In terms of the housing mix, concerns were raised about the types of dwellings being proposed. Under Policy 4 of the MNP, housing development of more than ten dwellings would be supported if they delivered a mix of 2-3 bedroom houses. As the proposal was for nine dwellings, there was no conflict with Policy 4 in this respect.

In conclusion, Planning Officers believed that the proposal would cause no harm to the character of the surrounding area or street scene and would not have a considerable impact on the living conditions of the neighbouring occupiers. There would be no detriment to highway safety or increased flooding due to this proposal and the conditions proposed would ensure that the trees would be protected and provide ecological and biodiversity enhancement. There was a suitable mix of dwelling types which gave regard to the character of the surrounding area. The proposal also fell within the criteria as interpreted in the MNP and Bassetlaw Local Development Framework.

Prior to the meeting, questions were submitted by Members about the proposal. They were advised that:

- The MNP was made, formed the development plan for the area and therefore carried full weight;
- The recommendations within the Misterton Neighbourhood Profile Report asked for detached, brick built dwellings in this character zone;
- The width of the highway would be 5m, with the adoptable section of the highway containing a 2m wide footway;
- Any impact on the nearby adopted road from trees would be a matter for the NCC Highways Authority, as they maintain the highway;
- Members would be able to amend any conditions if it was considered necessary;
- Whilst the area does have a mixed character, the Neighbourhood Profile Report did recommend detached, brick built dwellings within this character zone.

At this point in the meeting, Councillor Hazel Brand withdrew as a Member of the Planning Committee, to represent Misterton as the Local Member, on the following grounds:

- The site was not put forward in the call for sites as part of the MNP;
- The site was not one of initial sites evaluated as part of the MNP;
- The site could be considered for development in future, along with other vacant land in Misterton, but it would need the same rigorous evaluation in which other development sites went through for inclusion in the MNP;
- If this proposal is approved, then it would be to the benefit of the landowner and developer not to engage with the neighbourhood planning process;
- Policy 1 of the MNP outlines six criteria for development proposals to be supported. This application did not meet any of those six criteria;
- The site plan indicated that the site borders a listed farmhouse to the west which is also subject to a planning application for demolition of the barn and outbuildings and

the erection of a detached dwelling. The land in which these applications are being made are in the same ownership and adjacent to the site in discussion;

- The three applications should be considered in conjunction as the number of dwellings on this site would be ten and therefore be liable for affordable housing provision. The application was a cynical action to avoid providing affordable housing and considering the housing mix;
- 91% of residents in Misterton approved of the MNP, which was the highest in Bassetlaw;
- Although the plan was open to interpretation, who better to interpret it than the residents who were consulted on and approved it.

Peter Marsden, the Chair of Misterton Parish Council objected the application on the following grounds;

- The dry ditched should have be culverted prior to forming the temporary access road, showing that the developer had not shown any respect to the procedure or normal construction practices;
- The photographs of the site showed the visibility splays for the Old Forge Road side, but not for the Deans Close side. It will be difficult to see for any vehicles leaving Deans Close to see vehicles coming up Old Forge Road, making this junction dangerous to highway safety;
- The house types were comparable with those on the private section of Deans Close, they are not comparable with the dwellings on Old Forge Road and large, 4-bedroom dwellings were not suitable for this part of Misterton;
- No provision for site accommodation, laydown area or toilet facilities had been allocated for the construction period;
- The applicant had made no explanation of how large delivery vehicles would travel safely through this estate. If the intention was to use access from 7 Gringley Road, it should be considered as part of this application;
- The Highways Authority Principal Officer had reservations about this application. One of the eleven recommendation was for large construction vehicles having their wheels washed to prevent a build-up of mud on the highways. The applicant had not been forthcoming about how this would be provided;

Gail Collett of the Misterton Neighbourhood Planning Group objected to the application on the following grounds:

- Policy 5 of the MNP did allow for Windfall developments, which were defined in the National Planning Policy Framework (NPPF) as sites which have not been specifically identified as available in a Neighbourhood Plan. However, the Planning Portal supported by Department for Communities and Local Government defined Windfall development as not just a site which had not been identified in Neighbourhood Plans, but also sites that comprise of a previous developed site that had unexpectedly becoming available. Misterton Neighbourhood Planning Group utilised this definition for developing their own Neighbourhood Plan;
- Newells was the site of a former factory that was demolished some years ago. During the Neighbourhood Plan Consultation, 96% of residents wished for this site to be allocated for Windfall development and this was considered in the final Neighbourhood Plan;
- Additional site allocations were unnecessary. If demand for further residential developments grew, the new sites would be considered in a review of the Neighbourhood Plan;
- A number of non-developed areas were not allocated for development in order to keep the rural character of Misterton;

- Windfall policies were not there for backdoor development.

Nicola Smith, a member of the public, objected to the application on the following grounds:

- 11 letters of objection were received, not 9;
- The letter of support was from the owner of 6 Deans Close who sold the land to the developer;
- Lack of statutory notification. Anybody who owned property adjoining to or linked to the site was not formally notified;
- Notification on the lamp post on the corner of Deans Close was insufficient;
- Complete disregard from the developer for air quality, habitats wildlife and ecology of the land;
- The builder started to clear the land during the lockdown period before the application was formally submitted. The builder set fires, felled trees, and filled the culvert in with hard-core to create the access point. This caused the resident on 4 Deans Close's pitches to fall off. An enforcement position enquiry took place before the application was submitted.

NCC County Councillor Tracey Taylor, representing Misterton, objected to the application of the following grounds:

- Bassetlaw's Local Plan was out of date and carried little weight in this decision. Misterton's made Neighbourhood Plan was the strongest legal document which holds any protections from developments in the settlement. It clearly identifies the sizes and types of housing need for Misterton. The demand for 2 to 3-bedroom houses, including bungalows and affordable housing, was clear;
- Developments would be supported if they met just one of the six criteria outlined Policy 1 of the MNP, which were:
 - New homes of size, type and tenure to meet local requirement;
 - Affordable housing of size and tenure to meet local need;
 - Leisure and business developments did not apply here;
- The site of the proposal was located on one part of a single land holding. The rest of the land was subject to two separate planning applications currently live, one of which was looking for the demolition of a farmhouse and associated outbuildings, which English Heritage noted was of "significant relevance". This was discounted in the Conservation Officer's response;
- If these applications were successfully, there would be 11 dwellings on this site, which would be over the threshold for being classed as a Major Residential Development;
- Splitting these applications would keep the number of dwellings below key trigger points and limit the scrutiny of the listed buildings' significance;
- An additional 9 houses to Misterton's housing stock was irrelevant, Bassetlaw District Council (BDC) already had ten and half year housing supply;
- There would be no special benefit to Misterton's infrastructure from this site;
- It would cause unacceptable harm to the character of the locality;
- Too much emphasis was given on the revenues which BDC would receive CIL contributions, Council Tax and the New Homes Bonus.

Graham Raynor, the Planning Agent, spoke in favour of the application, stating:

- No previous planning application was made on the site, but the larger area was allocated for development back in 1993 as part the Local Plan Draft Consultation. The buildings located at the end of Deans Close were built as part of that allocation.

- The proposal was entirely consistent with the MNP, including Policy 5 which supported Windfall Developments within the confines of the village and it satisfied the six criteria outlined in Policy 1;
- The proposal was consistent with government guidance within the NPPF;
- The site is in an extremely sustainable location;
- The applicant had engaged with Highways Engineers to help construct the plans for the access. As a result, the NCC Highways Authority were satisfied with the proposed access;
- Planning Officers believed this development was sustainable.

Members raised comments and questions which were addressed by the Planning Development Manager as follows:

- Alleged breaches of planning control were investigated by Planning Officers and it was deemed essential work by the Government during the Pandemic. However, BDC did not have the authority to stop people from undertaking building work, such as the site clearances which caused a great deal of concern to neighbouring residents. They could only investigate breaches of the Town and Country Planning Act and other legislation breaches. The Ash Trees under the TPO were not removed;
- Drainage ditch extends around the boundary and hedgerows. The developer created temporary access to the site by dumping some hard-core into the ditch. Planning Officers need to consider whether this is operational development that would constitute the need for planning permission. The access itself doesn't need planning permission. If planning permission was granted, the Internal Drainage Board requested for a condition to be imposed requiring a Drainage Scheme for Surface Water and Foul Drainage Scheme must be submitted and approved by the Internal Drainage Board;
- Where piece-meal developments are identified as forming a larger development by Planning Officers, they do seek Section 106 contributions. This proposal for nine dwellings was served from a new cul-de-sac off Deans Close. The second application on Gringley Road was considered to be separate application and addressed Gringley Road, not the new cul-de-sac;
- The majority of the hedgerows and trees were expected to be retained. The applicant's Tree Survey and Protection Plan states that the hedgerows and trees can largely be retained and the Council's Tree Officer was satisfied with these plans. Conditions would be imposed for tree protection and appropriate boundary treatments;
- The MNP was given clear weight in the decision, however there was dispute between Planning Officers, the speakers and local residents towards how the policies of the MNP should be interpreted. The plan, as interpreted by Planning Officers, did support Windfall Developments and a mixture of housing types in this zone area of Misterton outlined in the Neighbourhood Profile. Ultimately, it would be up to Members to decide on the application based on interpretations of MNP;
- Whilst developments of ten dwellings would be supported in the MNP, this did not mean that developments of less than ten dwellings would not be allowed;
- The most up-to-date definition of Windfall Developments came from 2019 NPPF, which defined Windfall Developments as sites which have not been specifically identified as with the Development Plan. The policy within the MNP interprets that Windfall Developments would apply within the Development Boundary.

Cllr Sanders proposed to defer this decision in order to examine how other two planning applications would relate to this one. Cllr Schuller seconded the proposal.

Cllr Oxby and the Chair spoke against the proposal.

The Solicitor stated that the deferment needs to put to a vote.

(Vote on the proposal to defer the decision took place).

COMMITTEE DECISION – Proposal to defer the decision falls.

RECOMMENDATION OF THE DIRECTOR OF HOUSING, NEIGHBOURHOODS AND REGENERATION – Grant outline planning permission subject to conditions...

COMMITTEE DECISION –Refuse Planning Permission.

The decision of the Committee was to refuse planning permission for the following reasons:

- There was a dangerous junction at the exit of Deans Close onto Old Forge Road with a potential blind corner for vehicles exiting the site;
- The housing types were contrary to the MNP and to the housing need for Misterton;
- The proposal did not reflect what the residents wanted from Windfall Developments as identified in the MNP;
- Contrary to Policy 1 of the MNP as the development did not meet the 6 criteria and Policy 5 of the MNP regarding Windfall Developments has been taken out of context;
- The development would have an adverse impact on highway safety and conflict with the provisions and aims of Policy DM4 of the Bassetlaw Local Development Framework and Paragraphs 108 and 109 of the NPPF.

165. ANY OTHER BUSINESS WHICH THE CHAIR CONSIDERS TO BE URGENT

The Chair thanked the Planning Committee for their service during the Committee Cycle from 2019/21. Members also thanked the Chair and Vice-Chair.

(Meeting ended at 8:32pm).