

Planning Committee Late Observations

6 March 2024

ITEM 1

Application no.	Location	Proposal
23/0894	AFC FYLDE, MILL FARM SPORT VILLAGE, CORONATION WAY, MEDLAR WITH WESHAM, PRESTON, PR4 3JZ	ERECTION OF NORTH STAND WITH STANDING CAPACITY OF 1,800 AND ASSOCIATED SUPPORTER FACILITIES BELOW, INCLUDING CAR PARKING AREA AND ANCILLARY FACILITIES

Representation from Wesham Town Council sent 22 February 2024

At the Medlar with Wesham Town Council meeting last night we discussed application 21/0894 again (Mill Farm, North Stand) which we believe is due to be presented to the planning committee in March.

The Town Council remain extremely concerned about car parking arrangements at Mill Farm as the lack of parking continues to have an increasing impact on the town during match days. We consider that car parking, an issue outstanding for many years, should be resolved before any other permissions are granted on the site and to this end we are concerned that in granting permission for this application, there is some sort of acceptance of the amount of parking being proposed in it especially if this is linked to a "notionally" reduced capacity. The North Stand in effect increased capacity at the stadium, so if this was not needed, why build it! We continue to consider that sufficient car parking for the total capacity of the stadium should be identified and provided before any further development considered.

Whilst the Town Council accepts that retrospective planning permission for the stand might be approved, we consider that the parking arrangements remain significantly inadequate and if these form a part of this application (and not the separate long outstanding Car Parking Management Strategy document) then we strongly object to the proposal and fully endorse the comments you have received from Lancashire County Council.

Officer response:

Their comments are referenced in the report. The key points are that the application does not increase capacity at the stadium as the existing planning permission is extant, the capacity is now to be linked to the parking availability by a legal agreement and reflects the parking standards, and that the Car Parking Management Strategy remains outstanding but is the proper mechanism for controlling the management of the parking arrangements as a whole with the quantum of that just one element of it.

ITEM 2

App no.	Location	Proposal
23/0651	ICE CREAM KIOSK - STANNAH BANK, FAIRHAVEN LAKE AND GARDENS, INNER PROMENADE, LYTHAM ST ANNES	1) DEMOLITION OF EXISTING ICE CREAM KIOSK BUILDING, 2) ERECTION OF ICE CREAM KIOSK BUILDING FOR THE PRODUCTION AND SALE OF ICE CREAM, AND SALE OF FOOD AND DRINK, WITH COVERED SEATING AREA, HARD LANDSCAPING AND GROUND RE-PROFILING WORKS, AND 2 PARKING SPACES

Legal Advice

The council has received a letter from a local resident who is a legal professional which argues that the council ought not to determine the planning application for two reasons:

The Circumstances are similar to those in **R (Day) v Shropshire County Council**, in which the Supreme Court quashed the planning permission because the local planning authority had failed to take into account a material planning consideration, namely the existence of public rights (sometimes referred to as a 'statutory trust') over the land.

The council holds the land as a charitable trustee rather than as beneficial owner because of the terms on which it was acquired.

The Head of Governance has advised that the committee can determine the application and makes the following observations on the two points made in the letter:

Public rights

The circumstances are materially different from those in **Day**. In **Day**, the application land had not been used for public recreation since the Second World War. The Planning Committee had not been told of the existence of the public rights to use the land for recreation, and had rather been told that the land could not be used for recreation. Further, the land in **Day** had already been sold by a local authority to a developer without complying with the relevant statutory procedure. This meant that the public rights over the land could not now be discharged.

In the current application, the report makes it clear that the land is public open space that is used for public recreation and that the land to be occupied by the proposed building would not be available for that use should the building be developed. Nevertheless, to avoid any doubt, the committee should note that the land is presently subject to public rights of recreational use, and corresponding obligations that apply to the council. This is a material planning consideration which should be taken into account. Like any material planning consideration, the weight to be given is a matter for the decision-maker (i.e. the committee), subject to the requirement of reasonableness.

Unlike in **Day**, the public rights are capable of being discharged if the council follows the statutory procedure in section 123 of the Local Government Act 1972, which consists of giving public notice of a proposed disposal and considering objections made in response to the notice.

Charitable trust

The predecessor to the council appears to have bought the land that includes the application site for valuable consideration, using powers given to it in the Lytham St Annes Corporation Act 1923. There does not appear to be any basis to support the suggestion that the council holds the land subject to a charitable trust.