

## Development Management Committee

Wednesday 07 January 2015

### Late Observations Schedule

#### Schedule Items

<u>Item</u>	<u>App No</u>	<u>Observations</u>
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2	14/0619	<b><u>Additional Consultation Comments</u></b>
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Since the Committee agenda was published the following comments have been received.

#### Lancashire County Council – Rights of Way

They have provided comments on the application which are:

*“With regards to the proposed development I have no objection to raise subject to the public rights of way being available for safe and convenient use by the public at all times.*

*I have looked at the attached plans and there appears to be an adequate separation distance between the proposed development and the public rights of way.”*

#### Treales, Wharles and Roseacre Parish Council

The report includes initial comments made by the Parish Council. Further comments have been received and are repeated in full:

*“As per Fylde Borough Council (FBC) Officer's advice with regard to the above item, the Parish Council of Treales, Roseacre & Wharles submitted an initial summary conclusion. It also committed to providing a more detailed assessment of the requirement for this application utilising local knowledge.*

*The proposal before us is for an isolated, large scale, permanent development of open storage of One Million Gallons of slurry excrement in open countryside, upwind of the village of Wharles and adjacent to public footpaths. It occupies an area of the order of a football pitch (80mx45m), equivalent to the area of 13 dwellings, which is one third of the number of homes in the entire village of Wharles. This is a substantial development and the most substantial proposed development in the Parish, bar one, in over 15 years.*

*We still have particular concerns over the plethora of incomplete, inconsistent and in some cases conflicting written & verbal data supplied on behalf of the Applicant. There has been no explanation as to why stock, practice and facility data should be repeatedly amended, but it calls into question the robustness of the application. Additionally, there appears to have been no consideration of enhancing existing practices and storage facilities at the farm enterprise, which would avoid all additional environmental impacts, whilst still meeting the Applicant's stated business aims. These should be included in the assessment and have yet to be so by the County Land Agent or FBC Officers.*

*This Application has caused an extremely time consuming process. The ambiguities created by the Applicant could readily be resolved through verification with farm records. The Applicant has declined to provide such data to the Parish Council and it is understood that the County Land Agent, nor Fylde Borough Officers have not yet sought such evidence to resolve the ambiguities created by this Application.*

*In summary, Treales, Roseacre & Wharles Parish Council objects to the above proposal and recommends refusal for the reasons given below.*

- *The application does not protect: the intrinsic value and rural character of the countryside; the environment; or the health & well-being of the community of Wharles.*
- *There is not an essential requirement for the application to be sited away from the Roseacre Hall Farm curtilage and a range of attractive alternatives exist to achieve the enterprise's business objectives through enhancing existing practices and facilities at Roseacre Hall Farm, without additional negative impact.*
- *The above application is not in accord with the requirements of FBC policies SP2, EP11, EP22 and EP26, nor the aims of the NPPF for sustainable development. “*

4      14/0735      Additional consultee comments

Natural England -

Further to LCC Ecology's comments on the method of surveying for Newts Officers asked Natural England to comment specifically on this issue and their response is as follows:

"Thank you for contacting Natural England regarding proposals at Land off Willow Drive, Ribby Road. I have reviewed the information provided and would advise that Natural England does not object to the proposed development.

We recommend that a condition to secure the following should be appended to any consent:

- Prior to the commencement of any works which may affect great crested newts and or their habitat, a detailed mitigation and monitoring strategy should be submitted to, and approved in writing by the local planning authority. All works should then proceed in accordance with the approved strategy with any amendments agreed in writing.

Natural England's standing advice provides guidance on how protected species should be dealt with the planning system. Specific advice on great crested newts is provided within the detailed webpage.

The advice provided in this email is based on the information currently available to us and is subject to any material changes in circumstances, including adjustments to the proposals or further information on the protected species.

As great crested newts are a European Protected Species protected under the Conservation of Habitats and Species Regulations 2010 (as amended), a licence is required in order to carry out any works that involve certain activities such as disturbing or capturing the animals, or damaging or destroying their resting or breeding places. It is for the developer to decide whether a species licence is needed to carry out work directly connected with the proposed development as well as associated mitigation work. The developer may need to engage specialist advice in making this decision.

Natural England's advice on this planning application relates only to whether the proposed development (including any proposed mitigation measures) is likely to be detrimental to the maintenance of the species concerned at a favourable conservation status. It does not consider whether the proposal requires a licence, satisfies the three licensing tests or whether a licence is likely to be granted for this proposal. In particular, it should be noted that we are not in a position to advise whether there are alternative solutions that would deliver the stated need while having a lesser impact on the protected species.

Under regulation 9(3) of the Habitats Regulations, competent authorities (in this instance the local planning authority) must have regard to the requirements of the Habitats Directive when exercising any of their functions, including whether or not to grant planning permission. This includes having regard to whether the development proposal is likely to negatively affect any European Protected Species (EPS) and whether any necessary licence is likely to be granted by Natural England. This should be based on the advice we have provided in this response on likely impacts on favourable conservation status and our published guidance on the three licensing tests (ie no satisfactory alternative solutions, imperative reasons of overriding public interest and maintenance of favourable conservation status). More information on the requirements to meet the three tests is provided in Defra's draft [guidance on the Habitats Directive](#) (of particular interest are paragraphs 125-143) and Natural England's guidance [on how we apply the three tests](#)."

#### Officers comments

As stated in the committee report Ecology section on Amphibians it was considered that the methods of survey used were adequate subject to the mitigation required LCC being a condition of any approval. The lack of objection from Natural England above confirms this and it is considered that condition 13 of the committee report covers the condition requested above. There are therefore no ecological issues with the proposal.

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| 7  | 14/0790 | Written error  |
|    |         | The committee report wrongly states on page 97 of the overall agenda that the properties will be managed by New Prospect Housing Association when in fact the applicants are Great Places Housing Group and the dwellings will be managed by them.   |
| 9  | 14/0801 | This application has been formally withdrawn by the agent and so is no longer with the council for a decision.   |
| 10 | 14/0833 | Electricity North West comments received on 24 December 2014. No objections to the proposal but advise that the development could have an impact on their infrastructure and that care should be taken at all times to protect any apparatus in the vicinity and any personnel. The applicant should have regard for relevant HSE guidance in respect of underground and overhead electric supplies. |
| 11 | 13/0655 | <u>Referral to Secretary of State</u>  |
|    |         | Due to the area of retail floor space proposed, following consideration of the application by Committee in June 2014, the application was referred to the Secretary of State (National Planning Casework Unit). On 22 December 2014, the Secretary of State confirmed that he is content that the application should be determined by the local planning authority.                                  |

### Additional Issues Raised by Neighbour

A letter has been received from a solicitor acting on behalf of the neighbouring land owner where the NWAA facility is proposed raising the following points:

Planning Officers are not qualified to state that there is sufficient space between the helipad and the proposed development to provide for safe operation.

Ecological matters have still to be resolved

The commuted sums proposed to be secured by Sn 106 agreement are not in accordance with the CIL Regulations

In more detail the letter advises that NWAA are aware of the application for the helicopter base and actually paid the application fee.

The future of the NWAA at Blackpool airport is uncertain since the airport entered administration.

The Blackpool airport facility is expensive for NWAA to maintain.

It is unlikely that a charity such as NWAA would have submitted the application were they not seriously considering relocation.

The officer assertion that 150m is adequate separation is not accepted by the owner of the adjacent land who is a very experienced helicopter pilot.

The officer report does not explain what additional information has been provided to resolve ecological matters.

If members are misled on this matter it could call the legality of the application into question.

Planning obligations must be necessary, directly relevant to the development and fairly and reasonably related in scale and kind to the development.

The applicant has produced a viability report that seeks to reduce contributions and any reduction should be considered by the committee.

Sport England claim there is no strategic need for the facility and yet the need is relied on heavily in the planning balance.

The letter concludes that

all issues raised since June have not been addressed

The content of the letter be brought to Members attention

The owner of the adjacent land is prepared to meet with Officers and the applicant to see if a locational compromise can be reached.

The letter appends a report from an aviation consultant which concludes:

The air ambulance must be able to suffer a single engine failure and continue flight.

The most critical phase of any flight is take-off and landing.

There is a requirement to provide a flight path of 100m within which there should be no obstacle higher than 40 feet.

The prevailing wind is westerly - meaning that the majority of flights will take-off toward the stadium.

The stadium will infringe ICAO guidelines for obstacle clearance and has clear implications for safety.

Fylde Council has a duty to consider the effects of proposed developments on

the safe operation of aerodromes.

#### Additional Information Provided by the Applicant

A letter and an e-mail have been received from the applicant raising the following points:

The NWAA facility is not yet operational and NWAA are still in discussion with the site owner about their use of the site.

NWAA have not, themselves, lodged any objection to the proposed development at Mill Farm

The email attached an e-mail from NWAA which advised:

A planning application was submitted by MSS Holdings (UK) Limited in February 2014 for change of use for an Air Ambulance base at Wesham House Farm. No objections have been raised by the North West Air Ambulance Charity to the proposed Mill Farm development. The press announcement to the Blackpool Gazette regarding our Blackpool airport based helicopter stated that 'as the airport remained open, we made the decision to stay at this location for the foreseeable future'.

That this information has also been communicated to Mr Connolly and the Charity has no further comment to make in this regard.

The applicant has also commissioned a report, which has been prepared by an aviation consultant, in order to assess the potential impact of the Mill Farm development on the NWAA operation. The report examines whether: the safe operation of the stadium would be affected by the proximity of the NWAA site; the local weather patterns would result in 76% of take-off occasions being over the proposed stadium and whether the stadium will be disturbed by noise from helicopters. The report concludes that: On the basis of risk from helicopter usage at the proposed NWAA site at Wesham House Farm, there would be no reason why planning permission for the proposed development at Mill Farm should not be granted. This conclusion is based upon, the restrictions imposed on the NWAA operation by planning conditions including the number and type of helicopters and their hours of operation, the nature of the advanced deployment of the helicopter, the take-off profile of the helicopter authorised to use the site, the typical weather conditions and the position of the stadium in relation to the helipad. The report also concludes that, due to the low noise profile of the particular helicopter type authorised to use the site and the nature of the use of the stadium being one which is not noise sensitive, there will be no adverse impact on the Mill Farm development as a result of noise from helicopter operations.

The report has been reviewed by a Flight Operations (Helicopters) Inspecting Officer from the CAA who has advised that the statements contained within it regarding CAA policy and aviation regulations are correct and that they have no comments to make in regard to the report.

#### Additional Officer Comment

The matters relating to Ecology and the Section 106 agreement were delegated

to officers to resolve and so are not an additional matter that requires further consideration by committee as the circumstances surrounding these issues have not changed. Notwithstanding this, the County Ecologist has confirmed that they are satisfied with the additional information and the Sn 106 payments set out in the officer report are to be met in full by the applicant with the exception of the Travel Plan monitoring contribution which is to be monitored by the applicant directly. All the sustainable travel matters requested by LCC will be secured.

Whilst Sport England has advised there is no strategic need for additional facilities, there is an identified local need and so the provision of these facilities is correctly weighted in consideration of the application. These circumstances are not changed since the original application was considered.

There appear to be differing views on the safety aspect from 2 aviation consultants. However, the consultant acting for the owner of Wesham House Farm advises that there should be no obstructing greater than 40 feet high within 100m of the helipad. The proposed stadium would be 150 m from the helipad. Both consultants advise that there would be a greater risk given the proximity of more people to the helipad, but the applicant's consultant considers that the increased risk is not so great that planning permission ought to be refused.