

## Development Management Committee

Wednesday 18 June 2015

### Late Observations Schedule

#### Schedule Items

<u>Item</u>	<u>App No</u>	<u>Observations</u>
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1	11/0221	<u>Additional consultee comments</u>
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Blackpool Council – The following comments have been received by Blackpool Planning Officers with regard to the report written by Fylde.

- *There ought to be an introduction to the report which acknowledges the involvement of Atlas in the application process and the series of working groups that took place to drive the various elements of the proposal forward – education/highways/employment land/policy etc. There should also be mention of the member meetings between members of both Councils. There should also be mention that as the site straddles the boundary between the two Councils applications have had to be made to both Councils and decisions have to be made by both Councils*
- *We have concerns regarding the weight being attached to your Interim Housing Policy (IHP) document which the report acknowledges ‘ is an informal document of little weight’. We acknowledge it post-dates the publication of the National Planning Policy Framework (NPPF) and has been revised but in terms of the legislation it is not policy nor a supplementary planning document.*
- *Given the concerns regarding the weight attached to the IHP the starting point in terms of the consideration of the provision of affordable housing should be para 50 of the NPPF*
- *In the context of para 50 of the NPPF we believe that we have robustly justified the case for off-site provision in the form of a commuted sum. If additional information is required to further this position we are happy to provide it*
- *In this case the application site is an extension to the built up area of Blackpool in the same way as Runnell Farm, Midgeland Road and Moss House Road will be. The site will function as part of the Blackpool Housing Market and will function as part of Blackpool. Whilst there could be benefits in terms of additional retail and leisure spending power there will also be demands on services not catered for within the development and the pressures are going to fall on Blackpool given the location of the site. Indeed in your own emerging plan you refer to the site as ‘Blackpool periphery strategic location’*

- *The affordable housing requirement for the Parish of Westby with Plumpton in which the site is located would not extend to 280 dwellings (20% of 1400)*
- *We recognise that this site is important to Fylde in meeting its 5 year land supply and in relieving pressure for housing development in other areas of Fylde Borough and have so far been happy to support the proposal on the basis that education, transportation and affordable housing contributions are made to Blackpool to mitigate the impacts of the development.*
- *In terms of the proposed development meeting the economic, social and environmental strands of sustainable development (paras 6-10 of the NPPF) we would draw your attention to para 10 which refers to decisions taking account of local circumstances so that they respond to the different opportunities for achieving sustainable development in different areas. Our premise is that the local circumstances in this case are that the site is an extension to the built up area of Blackpool and this attracts significant weight in terms of para 10 and hence its relationship to Blackpool means that sustainable development includes how the site will interact with the Blackpool Housing Market and Blackpool in general. In this context we believe that the affordable housing provision should be provided off site by means of a commuted sum .*
- *There does not appear to be any commentary on the education demands of the proposed development in terms of primary and secondary school provision*
- *On the basis of the content of the draft report we **object** to the application as it is being presented to your Development Management Committee*

#### Additional Comment and Analysis

With regard to the points raised above your officers is that the Committee report as published takes into account the material planning matters in full. It is acknowledged that ATLAS which is the HCA's Advisory team for large applications have had significant involvement in the application process and their involvement has helped the application towards consideration by members and that there have been a number of meetings between officers and members of both Councils prior to the application coming before members today. The geographical location and the fact that a decision has to be made by both Council's is made clear in the report.

The issues raised with regard to the location of affordable housing, weight of the Interim housing policy (IHP) and the NPPF are well covered in the report. As the representations states the IHP was produced post publication of the NPPF and has been revised as national policies have changed, and as both documents

state that affordable housing should be on site asides in exceptional circumstances it is considered the planning balance around local and national policy issues is well covered in the report. The IHP has been accepted by the Planning Inspectorate at numerous appeals as an appropriate document for provision of affordable housing. Furthermore for the reasons outlined in the report Fylde Officers consider that the justification provided by Blackpool is inadequate and does not constitute the exceptional circumstances required to allow this deviation from local and national policy.

With regard to the issue of location and the site functioning as part of Blackpool, as the representation states it will be of benefit to Blackpool in terms of additional retail and leisure spending power. The representation also states 'there will be demands for services not catered for within the development and the pressures are going to fall on Blackpool given the location of the site'. However the representation does not state which services, and given that the proposal includes the provision of a primary school and surgery on the site, and is making significant contributions towards education, sustainable highways measures and an off-site affordable housing contribution for those dwellings located in Blackpool, Fylde Officers consider that there will not be any unacceptable demands for services on Blackpool and that the proposal contains appropriate mitigation of any impacts in the Lancashire, Fylde and Blackpool administrative areas.

It is agreed that the affordable housing requirement for the Parish of Westby with Plumpton would not extend to 280 dwellings, or the 262 which will be provided by the dwellings located in Fylde, however, it is considered that the site will make a contribution to meet the needs of the surrounding Parishes as well, and that as the site will be developed over potentially a long period of time the affordable housing as developed will contribute to address an existing and future need.

With regard to the site being important to Fylde meeting its 5 year housing supply the reasons behind this and issues are outlined within the report. With regard to Blackpool's support the area of the site within Blackpool is allocated for housing in its own emerging Local Plan and the application proposes contributions towards education, sustainable transport and affordable housing contributions for those dwellings located in Blackpool.

With regard to the argument made about the proposed development meeting the economic, social and environmental strands of sustainable development and paragraph 10 which states; "Plans and decisions need to take local circumstances into account, so that they respond to the different opportunities for achieving sustainable development in different areas" and Blackpool's opinion that the local circumstances are that the site is an extension to Blackpool and the relationship to Blackpool means that sustainable development includes how the site will interact with Blackpool in general, it is considered that the report fully outlines why the site with no affordable housing located within Fylde would be unacceptable. The provision of a range of housing types and tenures is an important aspect of the social aspect of

sustainable development, affordable housing is required to meet the development needs of an area and its delivery should be on-site asides in exceptional circumstances, which there are not considered to provide sufficient justification in this case. All other matters raised have been addressed in the report.

The following additional comments have been received from Blackpool highways officers in relation to highways issues for the application:

- *The report should read more like Blackpool Council is the main highway authority (as our network is the most affected)*
- *I think I'm correct in saying that we require a Section 278 Agreement to cover all works in the attached drawing. This needs to be absolutely clear in the reporting and the Conditions, i.e. it is all the highway bordered in red on drawing NW/CAP/WHYN.1/1001 rev H as well as specific junctions.*
- *The developer must, under the Section 278 Agreement, indemnify Blackpool Council against all costs relating to the Land Compensation Act 1973.*
- *In addition to the Section 106 contributions, ATLAS provide details of a number of highways works which are required to be carried out to existing roads. How have these figures been calculated?*
- *The latter junction is in Fylde. The key point is that all works in NW/CAP/WHYN.1/1001 rev H require to be delivered and the Troutbeck Crescent issue evaluated. Please see the annotation on the attached plan, "Alignment to be considered as part of detailed design".*
- *There is no mention of Parking Standards in the Conditions. The applicant (through Mayer Brown) stated "Development will provide parking in accordance with relevant local standards". Also, Mayer Brown stated that; "Details [of appropriate traffic calming within the site] to be provided in subsequent applications."*
- *Conditions (last point) – wrong motorway, M55 not M25. A Section 38 Agreement will be required, together with plans for lighting and drainage (for both surface water and waste water).*

#### Additional Comment and Analysis

With regard to the comments made by Blackpool Highways, the committee report on page 67 states "The impact of the proposal on both the local highway network and strategic highway network has to be considered.....The application has been considered by three different highways authorities, with Lancashire County Council responsible for providing and maintaining a safe and reliable highway network in the area of Fylde Borough to the north, south and east of the proposed development. Blackpool Council is responsible for the network immediately west of the proposed development site including the A583 Preston

New Road, from where it is proposed the main site accesses will be taken. The Highways Agency is responsible for the M55, part of the strategic highway network which runs along the southern boundary of the proposed development". It is considered that this constitutes a fair assessment of the sites location and the report as written includes the requirements of Blackpool highway department in order to make the application acceptable from their point of view, some of these requirements mirror those of LCC and HE however some such as cycle way improvements are additional requirements but have been included.

With regard to the comments about Section 278 agreements page 71 of the report outlines works required by condition and a section 106 legal agreement. A S278 agreement relates to modifications to the existing highway network to make a development acceptable and provides the legal basis for the responsibilities of parties involved in construction of works to the public highway. Therefore works to existing highways listed here will be subject to a S278 agreement, these being the Mythop Road Access, Grahams Cottage access and highway improvement, Clifton Road access and highway improvement and the M55 J4 improvement scheme, as well as the conditions which provide the trigger and requirement for these schemes to be implemented. The agreement will be between the developer and the highway authority (LCC or Blackpool BC), and as the response from BC highway section states, the developer will be required to indemnify the highways authorities against all costs relating to the Land Compensation Act 1973. Section 106 planning obligations are used to secure financial contributions from a developer such as for funding public transport services which are necessary to make a development acceptable in planning terms. These obligations are listed on pages 71 and 72 of the report and relate to the requirements which are not direct works to existing highways.

With regard to the highways works that have been identified within the viability assessment these costs were calculated by independent consultants and quantity surveyors appointed jointly by the applicants, Blackpool BC and Fylde BC. With regard to parking and traffic calming the application has been made in outline and these details will be determined in reserved matters applications. However the applicants have indicated that a 20mph speed limit and traffic calming measures will be included as necessary, these details will be agreed at reserved matters stage as the masterplan progresses further.

Appropriate conditions have been proposed for lighting and drainage and whilst the final bullet point on page 71 states M25 which is a typing error all of the conditions state M55 not M25.

#### Conditions

The following amendments to conditions are proposed;

##### Condition 1

*The first application for approval of reserved matters shall be made to the Local Planning Authority before the expiration of three years from the date of this*

*permission. All subsequent reserved matters shall be submitted no later than 12 years from the date of this permission.*

*Reason – To comply with the provisions of section 92(2) of the Town and Country Planning Act 1990.*

The reason for this amendment is because of the size of the application site, the condition in the committee report requires the submission of Reserved Matters for the whole of the site within three years. Clearly the development will need to be phased and it would not be practical for all reserved matters to be required to be submitted within three years when portions of the site will not be constructed for a number of years after this. Allowing a period of 12 years would align with both the developer's proposed build rates and the 15 year local plan period, allowing a period of 3 years to construct the final phase.

#### Recommendation

The recommendation for the application remains the same however it is requested that permission be granted subject to the legal agreements and conditions (or any amendment to the wording of these conditions or additional conditions that the Head of Planning & Regeneration believes is necessary to make otherwise unacceptable development acceptable).

The reason for this is to allow some fine tuning to the wording of conditions to prevent the need for full details to be submitted prior to the commencement of development over the site as a whole, again due to the phased construction of the site.

## 2      14/0822      Additional representation

Following publication of the committee report a letter from the applicants agent's Indigo was received via email on the 16 June which they requested be circulated to members ahead of committee. The representations refer to the following matters;

1. Summary of officer recommendation
2. Loss of employment land
3. Qualitative value of site
4. Officer recommendation

#### Summary of officer recommendation

The applicants letter states;

*We are pleased that officers acknowledge that all technical issues have been addressed. We are however concerned that too much weight has been placed on the negative, often unfounded, comments of the economic development*

*officer. All other statutory consultees are satisfied. When taking all the benefits of the scheme into account, we believe officers have placed too much emphasis on these comments and have incorrectly tipped the balance to one of recommending refusal rather than approval.*

#### Additional Comment and Analysis

It is considered that the economic development officer's views are balanced and indeed he makes reference to the potential benefit in investor confidence and potential stimulation of further development in his assessment. The written report takes into account the economic development officers views as well as the other statutory consultees.

#### Loss of employment land

The applicants letter states;

*Page 120 sets out the applicant's case for why a small reduction in employment land is not a significant material consideration in the determination of this application when taking into account all the benefits. Officers acknowledge on page 122 that the loss of employment land could be offset by the positive impacts of the proposed development if the following was met: '...the land would have to have little or no chance of being developed for an employment use within an appropriate timeframe and the positive economic impacts would need to be significant'. In the context of this balance, firstly, the term 'employment use' is erroneous. This is out-of-date terminology and officers should instead refer to the NPPF definition of 'economic development'. This includes development within the B Use Classes, public and community uses and main town centre uses. As such, the proposal is economic development and therefore fundamentally the discussion around 'loss' can be afforded significantly less weight in the planning balance. Secondly, the applicant has demonstrated through marketing evidence that there is little or no chance of Site 3 being developed for traditional B Class employment. Officers have not provided any evidence to the contrary. Thirdly, the positive economic impacts are significant, including:*

- 93 FTE jobs including store and department managers, supervisors, specialist sales staff and customer service roles;*
- 8 FTE construction jobs;*
- 19 FTE supply chain jobs;*
- £6m capital investment;*
- £500,000 additional rates payable to the council; and*
- £3m gross added value.*

*Fourthly, there is no evidence that a B Class development on this site would create a higher number of better paid jobs (assertions made at page 122). Our evidence is to the contrary; a B8 warehouse would generate only 44 jobs if*

*interest for such a development ever existed (compared to the 112 proposed). Therefore using the officer's own considerations, the criteria have been met and the significant positive impacts of the scheme outweigh any loss.*

#### Additional Comment and Analysis

As the representation states p120 of the report outlines the applicants case for allowing the development and on page 122 outlines the circumstances at which the development might be found acceptable – if the land had little or no chance of being development for an employment use within an appropriate timeframe and if the positive economic impacts would be significant. As outlined in the report officers consider the prospect of an employment use on the site to be reasonable and that the positive economic impacts are not significant enough to detract from policy. Whilst the applicants state the term 'employment use' is erroneous and the term used should be 'economic development' which includes B Use classes, public and community uses and main town centre uses (of which retail is one) the application site is allocated for employment uses, i.e. B use classes and therefore in this case it is reasonable to refer to it as employment land – as that is what it is allocated for within the Local Plan, and is recommend to be retained as in the Employment Land and Premises Study. This also recommends the provision of additional employment land, if this site of 1.69 hectares were lost it would need to be replaced.

#### Qualitative value of site

The applicants letter states;

*Page 123 of the committee report states that Site 3 is not hindered by the weaknesses of Whitehills that, in the applicant's view, make it unsuitable for B Class development. Officers suggest that Site 3 'is located in one of the most prominent locations...' This is clearly not the case. Site 3 suffers from the same deficiencies as the rest of Whitehills and its location within the estate is not particularly prominent when compared to plots along the B5410.*

#### Additional Comment and Analysis

With regard to these comments it is considered that p123 of the report covers these issues, the deficiencies of Whitehill's for employment identified in the WDA relate to the site as a whole and it is considered that an employment scheme on this site would not be hindered by these issues, or that they could be overcome as appropriate.,

#### Officer recommendation

The applicants letter states;

*The recommendation is in part justified on the 'viability' of the site for employment use. This is however the wrong case and fails to address that. The applicant has not presented a viability case; rather the case is based on a demonstrable lack of interest and suitability for traditional B Class employment development. No evidence has been presented to demonstrate that retail use on Site 3 would reduce the qualitative value of Whitehills as an employment site. To*

*the contrary, the development will return investor confidence to Whitehills and will act as a catalyst for economic development elsewhere on the business park. The letter of support from Bathroom Solutions is testament to this.*

#### Additional Comment and Analysis

The application site is an allocated employment site and as stated above the applicants are not stating that the site is not viable for an employment use. This being the case, and given the sites allocation and proposed retention in the emerging Local Plan the loss of the site would reduce the amount of employment land available in the Borough. It is not considered that one letter of support is evidence of the development acting as a catalyst for economic development (or employment development) elsewhere on the site.

#### Summary

The applicants letter states;

*We have provided clear evidence of the constraints of the site; the lack of market interest; the wide availability of employment land in the Borough; and the significant economic benefits to be generated by the development. It is wholly contrary to the NPPF to seek to delay a proposal with submitted economic, social and environmental benefits, due to a preference for a theoretical future development which has not materialised since allocation in the 1990s and is unlikely to come forward. NPPF paragraph 22 is clear that 'planning policies should avoid the long term protection of sites allocated for employment use where there is no reasonable prospect of a site being used for that purpose'. Reserving the site until 2032 with no prospects for development is contrary to national policy. We ask that Members take a pragmatic view at committee on 18 June and approve the application based on the strong positive evidence that has been submitted*

#### Additional Comment and Analysis on summary

Whilst the application is finely balanced and there will undoubtedly be some positive impacts if this application were to be approved it is your officer's opinion is that the advice and analysis reported in the committee report is correct and that positive impacts do not outweigh the negative loss of this allocated employment site.

3      15/0185      Additional Consultee response from Natural England:

The consultation documents provided by your authority do not include information to demonstrate that the requirements of Regulations 61 and 62 of the Habitats Regulations have been considered by your authority, i.e. the consultation does not include a Habitats Regulations Assessment.

In advising your authority on the requirements relating to Habitats Regulations Assessment, it is Natural England's advice that the proposal is not necessary for the management of the European site. Your authority should therefore

determine whether the proposal is likely to have a significant effect on any European site, proceeding to the Appropriate Assessment stage where significant effects cannot be ruled out. Natural England advises that there is currently not enough information to determine whether the likelihood of significant effects can be ruled out.

Our concerns relate to increased visitor levels. The redevelopment of the lake with sculpture trails etc and the placement of the largest sculpture on the sea wall above Granny's Bay have the potential to result in increased visitor activity resulting in additional footfall and recreational activity.

We recommend you obtain the following information to help undertake a Habitats Regulations Assessment:

- An assessment of how increased visitor numbers will affect SPA/Ramsar birds and their use of the roosts

- It is not clear from the submitted documents whether the largest sculpture is to be placed on the new/refurbished sea wall (once the work has been completed in approximately two years). Clarity is needed.

SSSI – Further information required

Our concerns regarding the potential impacts upon the Ribble Estuary SSSI coincide with our concerns regarding the potential impacts upon the Ribble & Alt Estuaries SPA and Ramsar site and are detailed above.

Should the application change, or if the applicant submits further information relating to the impact of this proposal on the SSSI, Natural England will be happy to consider it.

If your Authority is minded to grant consent for this application contrary to the advice relating to the SSSI contained in this letter, we refer you to Section 281 (6) of the *Wildlife and Countryside Act 1981* (as amended), specifically the duty placed upon your Authority, requiring that your Authority;

- Provide notice to Natural England of the permission, and of its terms, the notice to include a statement of how (if at all) your authority has taken account of Natural England's advice, and

- Shall not grant a permission which would allow the operations to start before the end of a period of 21 days beginning with the date of that notice.

#### Additional Comment and Analysis

The Fairhaven Lake site is a well-established visitor attraction with the RSPB an on-going partner with the Council. Therefore the trails are merely a low intensive/scale development in connection with an existing organisation established on the site. Although visitor number could increase it is not considered that the visitor numbers will increase so drastically that there would be a material change. In addition the recommendation is for a temporary

consent to allow the scheme to then be included in the overall scheme for the sea defence and lake works. This application will include a comprehensive assessment of all ecological and habitat issues.

Revised plans:

The applicant has submitted a revised plan showing the arrivals board repositioned to now be located immediately adjacent the RSPB building. It will still be free standing and the same size as previously proposed.

Additional Comment and Analysis

The new position of the arrivals board is considered a more suitable location that will have a reduced impact on the visual amenity of the surrounding area and will also relate better to the existing RSPB facilities.