

Development Management Committee

Wednesday 11 January 2017

Late Observations Schedule

Schedule Items

<u>Item</u>	<u>App No</u>	<u>Observations</u>
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1	15/0114	<u>Additional observations from interested party</u>
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An email has been sent to all members of the planning committee by Kensington Developments Limited which reads as follows:

"Dear Councillor

Re; Major Application 15/0114; Mixed Use Development of up to 265 Dwellings and 1.5 Hectares of Employment Development; Whitehills Business Park, Whitehills, Westby with Plumpton.

The above application is scheduled to be determined by the Development Management Committee on the 11th January 2017. The recommendation is that the application should be supported by the committee, with power to approve delegated to the officers, subject to a legal agreement (s106) necessary to implement the development appropriately.

We write to register our concerns in relation to the above major development proposal in its current form, and respectfully request that consideration of the application is Deferred until proper analysis of the planning obligations necessary to mitigate the effects of the development are concluded.

Planning Obligations to contribute to M55 to Heyhouses Link Road

In the past the Whitehills developments have contributed at various levels to a fund to bring forward the M55 to Heyhouses Link Road. LCC are now actively seeking funding from current and future developments to support the early delivery of the M55 to Heyhouses Link Road, and acknowledge that this major development should provide a contribution.

A comparison of contributions currently sought/offered is as follows;

1. Rushcliffe (In liquidation) Application 16/0903; Outline Application for up to 53 Dwellings, Valentines Kennels, Wildings Lane, St Annes.

LCC have requested a financial contribution from the Valentines Kennels development towards the M55 to Heyhouses Link Road Scheme. The request is based on the number of dwellings and a proportionate contribution with regard to the scale of the proposal. This application is also due to be put in front of the Development Management Committee on the 11th January 2017.

*Financial contribution sought: £450,000
Equates to approx. £8,500 per dwelling.*

2. Lancashire County Council Major Application 15/0114; Mixed Use Development of up to 265 Dwellings and 1.5 Hectares of Employment Development, Whitehills.

The proposed contribution is not financial but the offer of the use of a former tip site owned by LCC adjacent to the Moss Road. This contaminated site was a former landfill tip which accepted domestic, commercial and industrial waste, and was assessed and found to be unviable for use as a working compound in August 2016. Following this assessment a 4 acre compound site was secured and is available free of charge to LCC at the northern end of the link road route. Notwithstanding the fact that the LCC proposed site is impractical for its intended use, there is clearly no requirement for the compound.

Financial contribution offered; NIL

Potential contribution based on a pro rata rate of item 1 (£8,500/dwelling); £2.25Million

3. Kensington Application 15/0686; Erection of 14 dwelling, Whitehills Road, Whitehills.

The Kensington Developments proposal is currently under consideration by the Council and is structured to contribute to the highway network improvement works associated with the M55 to Heyhouses Link Road scheme. These works are supported by LCC Highways.

Financial contribution offered; £120,000

Equates to approx. £8,500 per dwelling.

Conclusion

The statutory tests for the use of planning obligations in respect of development includes that obligations should be fairly and reasonably related in scale and kind to the development.

We believe that to comply with this requirement the LCC major development of up to 265 dwellings and 1.5 hectares of employment land should proportionately contribute some £2.25Million to the M55 to Heyhouses Link Road scheme

Unsustainable Development

The development as currently proposed is unsustainable given that the planning obligations necessary to mitigate the impact of the scheme to an acceptable level are not in place.

The recommendation for approval is dependent upon a planning obligation as a reason for granting permission and the statutory tests for such an obligation apply. If a less stringent approach is followed with the LCC application then any consequent permission would potentially be vulnerable to a legal challenge.

Premature

The local road network is currently under considerable pressure with residents experiencing lengthy delays in travel times to and from the main centres of Lytham and St Annes. The Moss Road is closed and there are no plans to repair and reopen this road. On behalf of local residents, Fylde Council are actively working to bring forward the completion of the M55 to Heyhouses Link Road to alleviate this problem.

In the meantime and until the completion of the M55 to Heyhouses Link Road, this major development will generate a further burden on local infrastructure which can only be mitigated by a proper contribution towards the Link Road scheme.

M55 Link Road Acceleration

Fylde Borough Council, Lancashire County Council, Lancashire Enterprise Partnership and

Kensington Developments are jointly working towards bringing the M55 to Heyhouses Link Road forward at the earliest possible opportunity. The Link Road and Queensway planning permissions are now extant and a technical start on site has been made.

A properly accounted contribution of £2.25 Million from the revenue of developing the LCC Whitehills lands will help to accelerate the delivery of the Link Road.

We therefore respectfully request that the LCC Whitehills application is deferred until a robust analysis of the level of planning obligations associated with this site is available to the Development Management Committee.

Yours faithfully,

*David Tingle
Managing Director
Kensington Developments Limited"*

Officer Comment on Interested Party Representation

It should be noted that the County Highway Authority has requested contributions totalling £448,000 from this development in order to make the development acceptable in highway terms. Following receipt of the e-mail from Kensington Developments Ltd, your officers contacted the highway authority regarding its content. They have confirmed that they do not feel that there is any highway justification to request additional contributions towards the St Annes/M55 link road as a result of the development at Old House Lane.

The highway authority has requested contributions of £450,000 from the Valentine's Kennels site. They have calculated this sum based on the same level of contributions per dwelling as secured on the adjacent Queensway site which surrounds the Valentine's Kennels site on three sides and so, in the opinion of the highway authority, this site should be considered on the same basis as that adjacent site i.e. £8,500 per dwelling. It should be noted that the Valentine's kennels is expected to provide 30% affordable housing, rather than the 10% provision at the Queensway site. Accordingly, as set out in the recommendation, the contributions at Valentine's Kennels will be subject to a viability appraisal. Unlike the other developments, it is considered that the delivery of the link road is essential to support the development of the Queensway site.

Whilst the Kensington Developments refer to an offer of a contribution of £8,500 per dwelling at their Whitehill Road Site, this has not been requested by the highway authority and there is no certainty of delivery of that sum against that undetermined application. Nor did the highway authority request any significant contributions from the residential developments at four sites on the east side of Lytham St Annes Way or for the residential development east of Cropper Road. It is considered that the highway authority has been consistent in its approach to securing contributions towards the M55 link road.

Accordingly, your officers cannot support deferral of the applications as requested by Kensington Developments Ltd.

Officer Update on Drainage

The agenda report refers to objections from consultees on this basis and infers that a revised Flood Risk Assessment and Drainage Strategy is to be received. This remains

outstanding at this time and as such the recommendation to delegate to officers subject to the withdrawal of the objections from the drainage consultees remains relevant.

Additional Consultation response – LCC Education

They have confirmed that the development generates a need for 101 primary school places and there is not the existing capacity within local schools and as such are seeking a contributions towards these places which totals £1,360,927.53. They states that the site will generate 40 Secondary school places for which there is not the capacity and will be a shortfall and therefore they request the full contribution for these places which totals £812,143.60.

Officer Comments on Education Response

There is support for the improvement of education capacity to meet the needs of new developmental the NPPF, in the Fylde Borough Local Plan and in the Fylde Local Plan to 2032, and so the payment of such contributions has policy support. These payments should be secured by a s106 agreement and so the recommendation should be revised to include a clause that secures the delivery of proportionate contributions to the enhancement of primary and secondary education capacity to meet the needs of the development.

2 16/0062 **Officer Ecology Update**

Since the agenda report was drafted, discussions have been undertaken with the applicants, Natural England and the Local Authority in an effort to agree the mitigation required for the site. Natural England require additional information in relation to matters including existing baseline data, dog walking activity, proposed public space protection orders, and the implications of proposed coastal defence works. Their position remains that they have no objections in principle but the mitigation needs to be agreed.

The report recommendation is that the determination of the application is delegated to the Head of Planning and Regeneration subject to Natural England support for an Appropriate Assessment of the implications of the development on biodiversity matters. Whilst these discussions are progressing this the final agreed position has yet to be reached and so the recommendation is unchanged to allow these to continue. Planning conditions will be imposed based on the mitigation agreed as part of these discussions.

Additional Consultation response – LCC Education

They have confirmed that the development generates a need for 67 primary school places but there is existing capacity within schools and as such are not seeking a contributions towards primary school places. They states that the site will generate 33 Secondary school places for which there is a shortfall and will be a shortfall and therefore they request the full contribution for these places which totals £670,018.47.

Officer Comments on Education Response

There is support for the improvement of education capacity to meet the needs of new developmental the NPPF, in the Fylde Borough Local Plan and in the Fylde Local Plan to 2032, and so the payment of such contributions has policy support. These payments

should be secured by a s106 agreement and so the recommendation should be revised to include a clause that secures the delivery of proportionate contributions to the enhancement of primary and secondary education capacity to meet the needs of the development.

4 16/0619 **Consultee Comments - LCC Highways**

Since the report was completed the council has received an email with the final recommendation of LCC Highway Officers. These are as follows:

"As this application stands LCC cannot support the application for the following reasons:-

- a) The access details as submitted are not acceptable. Speed surveys should be undertaken to ascertain the actual 85 percentile speed of vehicles, from which the sightlines should be determined (using the methodology established in Manual for Streets). The access should be a minimum of 5.5m wide with 6m radii (vehicle tracking should be provided to show that no kerb overrun occurs).*
- b) There is doubt as to whether a continuous footway can be provided between the site access and the centre of Wrea Green, thus avoiding the need to cross Moss Side Lane. The developer should demonstrate beyond reasonable doubt that a footway as proposed can be delivered. The alternative of providing crossing points on Moss Side Lane should be detailed and accompanied by a Safety Audit if a continuous footway is unavailable.*

In the absence of any evidence that these provisions may be secured, the access arrangements and associated connectivity to the existing highway and pedestrian network cannot be in accordance with the requirements of criteria 9 of Policy HL2 of the Fylde Borough Local Plan, to criteria p) and q) of Policy GD7 of the Submission Version of the emerging Fylde Local Plan to 2032, and to guidance in para 32 of the NPPF.

The implications of a) above cannot be fully established without knowing traffic speeds but potentially could lead to a re-siting of the access and loss of hedgerow.

If you were minded to grant planning permission I would ask that the developer be required to enter into a s106 for sustainable transport improvements (it is requested that £250k spread over 5 years be secured with the first payment prior to commencement of development and annually thereafter) and the following conditions imposed:"

(They then list a series of standard conditions)

Officer Comments on LCC Highways response

Whilst this is not the final formal views of the highway authority the above comments confirm the views that officers anticipated at the time of writing the report and so the reason for refusal on the agenda papers is appropriate.

Additional Applicant Comments

Given the receipt of these late views from LCC and the inclusion of the uncertainty over the adequacy of the access as a reason for the refusal of the application the applicant has asked that the application be deferred from determination until the February meeting to allow them to consider a response to the highway comments. Officers have advised that they recommend that the application be considered on this agenda,

and in response the applicant has asked that the Committee be made aware of the following views:

“Mactaggart & Mickel Homes Ltd, the housebuilder, promoting the Moss Side Lane outline application at Wrea Green, wish to have recorded its extreme disappointment at both the inability of Lancashire County Council as Highways Authority, to timeously provide their consultee comments within a satisfactory time period in order to inform the planning application process and for having been denied the opportunity to reasonably consider the Lancashire County Council comments prior to the determination of the application.

The provision of verbal comments that are incorporated into the Committee Report and which are then provided as a further reason for refusal, based on no evidential information that can be shared with the applicant is wholly unsatisfactory. To then receive the e-mailed comments of Lancashire County Council less than 48 hours before the Committee is unacceptable. To then have the logical and reasonable request for the application to be deferred from this Committee, to allow the applicant to consider the Lancashire County Council comments denied by the Chair, amount to circumstances that constitute unreasonable behaviour by Fylde Borough Council, in the view of the applicant.”

Officer Comment on Additional Applicant Comments

Whilst it is unfortunate that the views of the highway authority were received so late in the day, the highway concerns are not the only reason for refusal in this case and so officers do not believe that this should prevent the determination of the application at this meeting.

It is quite possible that the applicant will appeal any refusal and officers will be able to continue dialogue with the highway authority and the applicant's representatives to assess if the concerns that led to the reason for refusal are adequately addressed by revised information.

9 16/0857 Additional Neighbour Representation

One additional letter of objection has been received to the proposal from the Management Company of The Homestead, which is a residential retirement development on Henry Street. The letter strongly opposes the application due to the adverse impact it would have on residents of the Homestead who moved to Henry Street to spend their retirement in a peaceful and secure environment. Being surrounded by a large number of drinking establishments and restaurants means there is a lot of excess noise and disruption late into the evening. The proposal will intensify this problem, in turn affecting the mental and physical health of 35 residents currently living at the Homestead.

Officer Response to Additional Neighbour Representation

The issue of amenity impact resultant from the proposal is discussed in the Committee report.

Additional Consultee Response - United Utilities

They advise that:

1. The site should be drained on a separate system with foul water draining to the public sewer and surface water draining in the most sustainable way.
2. Surface water to be drained in accordance with the hierarchy advocated by the

- NPPG (into the ground, surface water body, sewer or combined sewer).
3. The level of cover to the water mains and sewers must not be compromised either during or after construction.
 4. A separate meter supply to each unit must be provided.
 5. The applicant must demonstrate the exact relationship between any of UU's assets and the proposed development.
 6. If the applicant intends to offer wastewater assets for adoption by UU, the detailed design will be subject to approval by UU.

Officer Response to Additional Consultee Response

Since this is a change of use proposal UU would not normally provide comment, however have been asked to do so due to objections received relating to infrastructure capacity. This is a general response to development provided by UU. Notwithstanding, it is noted that the comments from UU do not raise any concerns to the development.

10 16/0903 **Additional Information Received**

The applicants have submitted a revised Habitat Regulations Assessment which takes into consideration the comments of Natural England (NE). This has been forward to NE however no response has yet been received. The applicants have also contacted TEP for details of their FCA Management Plan to address this and are awaiting that information.

Officer Comments on Additional Information

The recommendation on the agenda papers is to delegate the decision to the Head of Planning and Regeneration to allow the ecological assessment to be fully considered prior to any formal determination of the application. This remains appropriate, and, as outlined in the report, conditions will be added in relation to the mitigation required by NE as appropriate.

Further Consultation Response - Blackpool Airport

The full response from the airport has now been received as referred to in the Aviation section of the main report. As stated in the report they have advised that they require a Bird Strike Risk Assessment and details of the mitigation proposed by the HRA and within their email suggest that a planning condition be applied to the development.

Officer Comments on Blackpool Airport Representation

It is proposed that a condition be added to any planning permission which requires a risk assessment to be submitted and any mitigation identified approved prior to the commencement of development. Bird hazard plans need to take into consideration landscaping and therefore it is appropriate to be dealt with by condition.

Further Consultation Response - LCC Education

LCC have confirmed that the development generates a need for 20 primary school places but there is existing capacity within schools and as such are not seeking a contributions towards primary school places. They states that the site will generate 8 Secondary school places for which there is and will be a shortfall and therefore they request the full contribution for these places which totals £162,428.72.

Officer Comments on Education Representation

There is support for the improvement of education capacity to meet the needs of new development in the NPPF, in the Fylde Borough Local Plan and in the Fylde Local Plan to 2032, and so the payment of such contributions has policy support. These payments should be secured by a s106 agreement and so the recommendation should be revised to include a clause that secures the delivery of proportionate contributions to the enhancement of primary and secondary education capacity to meet the needs of the development.

Additional Officer Comments on Heads of Terms/Viability

The Recommendation requires a financial contribution of £450,000 towards the M55 to Heyhouses Link Road. This request was made by LCC Highways and is based on the amount the Queensway development contributed per dwelling applied to this application of up to 53 dwellings.

The applicants have commented that they have not yet seen the justification for the amount suggested by LCC. Their initial view is that the £450,000 figure referred to in the committee report is very high given the scale of development proposed, but as stated in the report this figure is for discussion / negotiation and agreement following the committee meeting.

This figure has been based on the level of contributions per dwelling agreed at the adjacent Queensway development, i.e. £8,500 per dwelling. However, unlike the Queensway site, this application proposes to deliver 30% of the units as affordable dwellings. As set out above, it will be necessary to carry out a viability assessment in order to ascertain whether the proposed infrastructure contributions would render the proposed development unviable. Whilst this work has still to be carried out, it is considered that as the viability appraisal carried out in support of the larger Queensway development provided justification to provide a lower level of affordable housing, it is likely that a viability assessment of the Valentine's Kennels application is likely to conclude that this site is unable to sustain such levels of contributions.