

URGENT BUSINESS AND SUPPLEMENTARY INFORMATION

Planning Committee

19 April 2012

Page	Title
(Pages 1 - 5)	Written Updates

If you need any further information about the meeting please contact Natasha Clark, Law and Governance natasha.clark@cherwellandsouthnorthants.gov.uk, 01295 221589

Agenda Item 14

CHERWELL DISTRICT COUNCIL PLANNING COMMITTEE

19 April 2012

WRITTEN UPDATES

Agenda Item 6 11/01932/F

**Land N of Willowbank Farm, Fritwell
Rd, Fewcott**

Further comments have been received and are summarised below.

1. **Ardley with Fewcott Parish Council** has sent additional comments;
 - Only a couple of notices have been found at the periphery of village and none around the site or on the bridleway or bridge over the motorway – the most trafficked areas by foot and horse
 - Potential removal of notices undermines residents right to be informed and consulted – this should be rectified
 - Documents have not been accurately captured onto the public access system – therefore public don't have access to considered view
 - Delays in objections being posted on public access
 - Residents adjacent to site have not been notified by post – CDC therefore not done best to consult with residents
 - Consider that given further inadequacies in consultation the application should not be determined at scheduled committee
2. **Hardwick with Tusmore Parish Council** object to the application stating that there are no grounds for a variation of the condition.
- 3.. **Fritwell Parish Council** objects to the application on the following grounds;
 - Condition was imposed by Inspector, putting the airport (LOA) in control of safety as they are the experts and as such the District Council should not have final determination of any issue of safety
 - Application is asking CDC to discharge condition without confirmation that Safety Report has been approved by LOA leaving air safety responsibility with the Council
 - CDC in no position to override airports objection
 - CDC should not rely on a report which LOA representatives have questioned. LOA points should not be ignored
 - Council are suggesting that LOA is acting unreasonably. Letter from LOA representatives indicate that safety is the paramount consideration
 - CDC should not discharge the condition until the Safety Report has been approved by the airport
 - Applicants have the option to appeal the Council's decisions
 - Fritwell PC ask to be informed of all future applications relating to the wind farm site given the proximity of the village to the site and previous comments from residents of Fritwell
4. **Stoke Lyne Parish Council** don't object to the application but feel that Oxford Airport should comment on this as they have the knowledge
5. **16 further Letters/emails have been received from local residents**, their comments are summarised as follows;

- Nearby and the closest residents have not received timely and due notice of proposal, all residents should be consulted
- Residents that were involved in the formal Inquiry process should be involved in subsequent stages of the process
- Matters of public safety should be dealt with publically
- Lack of attention to process is divisive, suspect and unconstitutional – not transparent
- Insufficient notices have been placed around the site
- Condition was imposed after great deal of expert evidence
- Flagrant dismissal to rulings and findings of Inspector
- Left LOA as the responsible body for a number of reasons
- LOA are the experts of safety
- The condition locks the applicants into honouring their safety obligations
- CDC officers are compromised as far as this application is concerned – seemingly relishing the prospect of the turbines being built
- Applicants have only provided evidence from a pseudo expert
- Seems officers are asking the committee to hand control to CDC officers.
- Varying the condition represents a real danger to public safety
- LOA/CAA have the expertise in Terminal Approach Procedures for airport operations – extremely important to passenger and resident safety
- Neither Bolserstone or CDC have the expertise or right to interfere with the due process in ensuring air safety is not compromised
- Appalled that CDC are taking the application seriously
- Website inadequate with supporting material and comments not being made available
- No appeal should be granted until better information is made available for all to view
- Proposal undermines original decision
- Failure to consult with the public is a sign of the attempt to by-pass the strong public feeling
- The proposed variation will leave the committee ultimately accountable for air passenger safety and the safety of those living under the flight path
- Employee of the airport has knowledge of the number of take off and landings that occur, the airport also has students training to become pilots – adds to concern about safety
- Majority of accidents occur due to pilot error, private pilots or unscheduled flights
- Radar is essential and whether the turbines affect the radar should be a matter for professionals at Oxford Airport.
- Residents will receive no benefit from the turbines
- If the condition is unlawful it should have been challenged during the period for judicial review
- Accidents could be catastrophic due to close proximity to housing and the M40

- **Further advice received from the Anti-Social Behaviour Manager**

My original recommendation in respect of this application was one of approval, based on the information contained in an acoustic consultants report submitted in support of the application. Having made this recommendation further representations were received from resident(s) of Fallowfields claiming that the noise produced by The Granite House was still excessive and did not accord with the predictions made by the applicants consultants. An initial subjective assessment was made followed by an objective survey and the measurements made indicated that the levels of noise experienced at dwellings were higher than predicted. This information was relayed to the applicants noise consultant who correctly challenged our findings questioning whether we could be certain that the noise measured at Fallowfields actually originated from his clients premises. Further measurements were carried out including a measurement of the noise level with no equipment operating. The latter measurement supported our view that the noise we had measured did originate from The Granite House and when compared with a previously agreed background level was in my opinion too loud for that location. Accordingly my recommendation has now changed on one of refusal.

- **Latest representation from applicant requesting further deferral**

“Our current planning application for a change of use was due to be considered at March’s planning meeting. 48 hours before that meeting, the application was being supported by Graham Wyatt, (relevant planning officer) and Rob Lowther (ASB officer). Less than 24 hours before the meeting I was informed that the planning application would be deferred to April, to allow Rob Lowther to make some more noise measurements.

Rob made the noise measurements there proceeded some debate between Rob and the noise consultant that I have employed.

I think the fairest way to describe it, is that Rob has concerns that his readings are not the same as the noise consultant had predicted; the noise consultant (Airo) had concerns about the equipment and methods being used by Rob to make the measurements and calculations. Both Rob and Airo have confirmed that Airo’s equipment is superior and that Airo possesses a higher level of expertise in the field, due to their very specific diversification.

On Monday of this week Rob telephoned me to ask if he could make more measurements, I of course complied. Yesterday (Tuesday) afternoon Natasha telephoned me and informed me that the recommendation to support the planning application was to be reversed to a recommendation for refusal, this is due to be considered tomorrow. I have telephoned Rob this morning who has confirmed, but have had no other communication from anyone at the council. Given this last minute sea change in the council’s position and given that there is still some uncertainty and debate surrounding the noise readings, **the application should again be deferred**. This will allow Rob Lowther time to present his findings to The Granite House and time for AIRO to comment. It is likely that we would need a few days to allow AIRO to carry out their assessment. Please note that on the previous occasion it was not us that asked for the deferment. It should also be noted that if we had had yesterdays information a week ago, we would NOT need a deferment now.

I am also disappointed that this information came to me via Natasha and that I have had no official correspondence from anybody else.

It would be highly undemocratic to not give The Granite House the full reasons for the change in position. We should be allowed to look at evidence, comment on it and also prepare for the committee meeting with all the current information and be given adequate time to do so.

- **Recommend REFUSE on the grounds that**

The use of the building for the B2 use being undertaken (the milling and cutting of stone material such as granite, quartz and marble) gives rise to unacceptable levels of noise to the detriment of the amenities of adjoining residential occupiers at Fallowfields. The development is therefore contrary to the advice contained in paragraph 123 of the National Planning Policy Framework and to Policy ENV1 of the adopted Cherwell Local Plan.

Agenda item 9 12/00233/F

Bicester Village, Pingle Drive, Bicester

- Bicester Town Council - Make observations that there is concern as to the increased number of eateries open after the shopping area has closed and its detrimental effect on similar premises in the town. The process of sequential testing should be applied.

In response, as with many established retail destinations there is no restriction on opening hours relating to Bicester Village. These would only be sought where there might be some concern with regard to disturbance or nuisance to local residents e.g. increased comings and goings, car doors slamming and general anti-social behaviour. There are no such issues at Bicester Village. The new NPPF advises that 'Development means growth. We must accommodate the new ways by which we will earn our living in a competitive world'. At the heart of the NPPF is a presumption in favour of sustainable development. As for the process of sequential testing, this is not considered necessary because of the analysis shown in section 5 of the report. The application is not relating to an A3 operator looking to build new premises but a change of use of existing retail premises to accommodate A3 at an established destination. Proper regard has been had to the impact the proposal might have on the town centre as advised by the NPPF.

- Typo update. In order to be consistent with the conditions imposed on the original 2005 consent, recommended condition 6 should read: "No individual retail units hereby permitted shall have a gross area of in excess of 450 sq metres, except for one unit which shall not exceed 650 sq metres gross floor area, unless otherwise agreed in writing by the Local Planning Authority".

Consultation responses received since report was completed:

- Bicester Town Council has no objection to the application.
- Oxfordshire County Council Highways and Transport advise that the variation of Conditions 2 and 6 must not allow any surface water run-off into the highway.

Suggested amendment to Condition 4:

That the parking and manoeuvring areas shall be provided in accordance with Drawing Numbers: E/3432/02 Rev. P2, E/3432/03 Rev. P3, E/3432/04 Rev. P3, E/3432/11 Rev. P3, E/3432/12 Rev. P1 and E/3432/40 all received in the department on 13 April 2012 with Agents email of the same date prior to the first occupation of the development, and shall be retained unobstructed except for the parking and manoeuvring of vehicles at all times thereafter.

Reason – In the interests of highway safety and to comply with Government advice on promoting sustainable transport contained within the National Planning Policy Framework.