

SUPPLEMENTARY INFORMATION

Planning Committee

24 April 2014

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CHERWELL DISTRICT COUNCIL
PLANNING COMMITTEE

24 April 2014

WRITTEN UPDATES

Agenda Item 7 **13/01688/F** **Bagnalls Ltd. Enslow**

- The Council's Anti-Social Behaviour Manger comments that
"I visited the Bagnalls site this morning (Tuesday 22 April). As I indicated on Thursday the conveyor, hopper and bagging machinery that is included in planning application no. 13/01688/F has been removed from site and relocated to the companys' Enstone facility. The remaining three coal bagging machines have been disconnected from the external hoppers that feed them. The machinery itself is now in storage at the Bletchington site. No loose or bagged coal was present on the site and Mr Bagnall advised that the bagging of coal at Enslow had now ceased.

At the time of my visit those buildings that were formerly used for the bagging and storage of coal were now being used for the storage of stone and slate products on pallets and Mr Bagnall indicated that it was the companys intention to develop this part of their business form the Enslow site.

With regard to the stone cutting shed that formed the second element of planning application 13/01688/F the structure contains a rotary stone cutting saw. The saw is water suppressed and contained within a structure so dust production from this equipment should not be an issue. On the basis that the material being cut is relatively soft i.e. slate, limestone and man-made composite materials the water suppression and enclosure within a structure should be sufficient to prevent excessive levels of noise".

- In the light of these comments the description of development needs to be amended at the least, the site needs further examination to see if all the necessary planning permissions are in place for the apparent intention to change the use from a coal yard to another use, and to consider the need for conditions to adequately control the noise of stone cutting
- Consequently **it is recommended that the application be deferred**

Agenda Item 8

Railway embankment, Piddington/Blackthorn

The Environment Agency have responded as follows

Further to our letter of objection, dated 05 March 2014, we received additional information from Atkins regarding the assessment of flood risk associated with the proposed development works. We have reviewed the proposal and additional information in line with NPPF requirements and confirm that we have no objection to the proposal.

Environment Agency Position

We have no objection to the application as submitted, subject to the inclusion of a number of conditions, detailed under the headings below, to any subsequent planning permission granted.

Without the inclusion of these conditions we consider the development to pose an unacceptable risk to the Environment

Condition 1

The development permitted by this planning permission shall only be carried out in accordance with the approved Flood Risk Assessment (FRA) ref 5120216-ENV-REP-003 undertaken by Atkins dated 10/7/2013 and the following mitigation measures detailed within the FRA:

1. Provision of 2141 m³ compensatory flood storage
2. The access track shall be kept at existing ground level within the 1% plus climate change flood extent
3. 4no 450mm culvert pipes, 1 north and 3 south of the River Ray to be cleaned out and regularly maintained

The mitigation measures shall be fully implemented prior to occupation and subsequently in accordance with the timing / phasing arrangements embodied within the scheme, or within any other period as may subsequently be agreed, in writing, by the local planning authority.

Reason

1. To prevent flooding elsewhere by ensuring that compensatory storage of flood water is provided.
2. To ensure the structural integrity of existing flood defences thereby reducing the risk of flooding.
3. To ensure the free movement of flood water through the railway embankment and to prevent an increase in flood water levels elsewhere

Condition 2

Prior to each phase of development approved by this planning permission no development (or such other date or stage in development as may be agreed in writing with the Local Planning Authority), shall take place until a scheme that includes the following components to deal with the risks associated with contamination of the site shall each be submitted to and approved, in writing, by the local planning authority:

- 1) A preliminary risk assessment which has identified:
 - all previous uses

- potential contaminants associated with those uses
- a conceptual model of the site indicating sources, pathways and receptors
- potentially unacceptable risks arising from contamination at the site.

2) A site investigation scheme, based on (1) to provide information for a detailed assessment of the risk to all receptors that may be affected, including those off site.

3) The results of the site investigation and detailed risk assessment referred to in (2) and, based on these, an options appraisal and remediation strategy giving full details of the remediation measures required and how they are to be undertaken.

4) A verification plan providing details of the data that will be collected in order to demonstrate that the works set out in the remediation strategy in (3) are complete and identifying any requirements for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action.

Any changes to these components require the express written consent of the local planning authority. The scheme shall be implemented as approved.

Reason

Previous activities at this site may have resulted in contamination. Potential sources of contamination such as contaminated made ground may be present within the application area.

From a controlled water perspective this site is located in a moderately sensitive location. This site is partially located on a secondary aquifer, watercourses are also present in close vicinity of this site. There may also be potable abstractions in the vicinity of the application area. Groundwater is likely to occur at shallow depth beneath the site. These are controlled water receptors which could be impacted by any contamination present on this site. Further investigation would be required to determine the extent of any contamination present and to what extent it poses a risk to controlled waters. Any risk identified would need to be adequately resolved to ensure that this development does not impact on controlled water receptors. This may include remedial works to resolve contamination issues.

Condition 3

No occupation of each phase of development shall take place until a verification report demonstrating completion of works set out in the approved remediation strategy and the effectiveness of the remediation shall be submitted to and approved, in writing, by the local planning authority. The report shall include results of sampling and monitoring carried out in accordance with the approved verification plan to demonstrate that the site remediation criteria have been met. It shall also include any plan (a "long-term monitoring and maintenance plan") for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action, as identified in the verification plan. The long-term monitoring and maintenance plan shall be implemented as approved.

Reason

To ensure that contamination at the site is remediated, such that the site does not pose a threat to controlled waters.

Condition 4

If, during development, contamination not previously identified is found to be present at the site then no further development (unless otherwise agreed in writing with the local planning authority) shall be carried out until the developer has submitted a remediation strategy to the local planning authority detailing how this unsuspected contamination

shall be dealt with and obtained written approval from the local planning authority. The remediation strategy shall be implemented as approved.

Reason

To ensure that any unexpected contamination encountered during the developments is suitable assessed and dealt with, such that it does not pose a unacceptable risk to ground or surface water.

Advice to LPA/Applicant

Flood Risk

We acknowledge that the proposed design for the embankment is required by Network Rail to ensure the structural integrity of the railway line is maintained. The proposals include raising of existing ground levels within the 1% (1in100 year) plus climate change flood extent. Without mitigation this work could lead to an unacceptable impact on third parties. It is best practice to implement level for level compensatory floodplain storage works to ensure there is no loss of floodplain as a result of development.

This is normally achieved by identifying an area which is outside the 1% plus climate change flood extent and lowering it so that it will flood during equivalent magnitude flood events. Due to the flat topography of the site and surrounding area it was not considered possible by Network Rail to provide level for level compensatory floodplain storage. They have therefore proposed the use of volumetric floodplain storage along with a commitment to clear and maintain some culverts close to the River Ray. We find this acceptable.

Under the terms of the Water Resources Act 1991, and the Thames Region Land Drainage Byelaws, prior written consent of the Environment Agency is required for any proposed works or structures, in, under, over or within 8 metres of the top of the bank of the River Ray and Piddington Brook, designated a 'main river'.

Erection of flow control structures or any culverting of an ordinary watercourse requires consent from the Lead Local Flood Authority which in this instance is Oxfordshire County Council. It is best to discuss proposals for any works with them at an early stage.

Contaminated Land

We have reviewed the Atkins environmental statement and would make the following observations.

(1) We note that though controlled water protection is covered in section 9 from development works. Section 10 which deals with ground conditions and Waste, focuses almost entirely on human health. We would certainly require any ground condition assessment to also cover risk to controlled waters. Dependent of site sensitivity and potential sources identified there could be the requirement for groundwater sampling.

(2) We note that section 9.6.6 -states that - "According to the BGS website, there is only one abstraction well along the length of the Scheme, which is privately owned by Blackstone Farm, for domestic water supply. This borehole is approximately 56 m deep"

We do not have records of a registered private water supply associated with this borehole. We should though highlight that the local authority rather than ourselves, hold and maintain the register of private supplies. If a potable borehole were present in the vicinity of site then this would be regarded as a very sensitive receptor. The location of the borehole may vary slightly reported by BGS. The exact location and use

of this borehole should be established in any phased site investigation.

We have concerns that this borehole/abstraction does not appear to be flagged up in the list of receptors. We would require this to be amended.

There is a default 50m Source Protection (SPZ) 1 zone around any borehole used for potable supply, a default 250m Source Protection 2 would also apply. Restriction may apply on any activities that could impact on a potable abstraction. This would be most relevant for any work within 50m (i.e. SPZ 1) of the borehole.

Pollution Prevention

Due to the proximity of the site to the River Ray all works carried out in connection with this development should comply with Environment Agency pollution prevention guidelines (PPG5): 'Works and maintenance in or near water'. Copies and further information are available from your local Agency office or from www.environment-agency.gov.uk/ppg

- **It is recommended that these conditions and informatives are attached to the approval recommended**

Agenda Item 10 14/00011/F Wind turbine, March Road, Mollington

Additional representations

- **Mollington Parish Council**

Surely it is impossible to navigate this route without destroying telephone lines and poles, power lines, road signs and any street furniture. This makes this application even more unacceptable. The developers seem to have never been to the site and have only done their plans via computer.

- Further comments from Mollington PC have been circulated via Cllr Atack

- **Warmington and Arlescote Parish Council**

The proposed route maps themselves eloquently demonstrate that the transport proposals are simply not feasible.

Vehicles would have to pass over the threshold of the lane and onto unsupported grass verges at a number of locations - even to stand any chance of squeezing through.

This route is the only way in and out so vehicle movements must be multiplied by a factor of two – not that the number of vehicle movements has ever be specified.

The maps do not show perpetual twists and blind turns along the route. Due to the narrowness of the lane, visibility is poor.

How would oncoming traffic, even cyclists, pass by the large delivery vehicles which would be involved? Where, indeed, could such traffic wait in safe places?

The route is unlit.

I doubt whether the modest bridge over the M40 near Mollington has the capacity to bear the weight of the loads which would be involved.

The maps do not reveal the obstacles represented by street furniture along the route –

- telephone lines and telegraph poles
- power lines
- road signs

There is no reference to the cost and difficulty of rectifying damage to infrastructure which would be caused to –

- people's homes nearby nor beneath the lane surface
- to the drainage system, and
- sewerage network

- **Shotteswell Parish Council**

1. M40 over bridge junction at Mollington - Where the truck would need to swing over the verge to make the corner is a sheer drop and therefore I doubt that they can hang over the edge of a precipice. There are metal railings along the verge to avoid cars overshooting the junction and going over the top for just this purpose. The company producing these maps should have made a site visit and not another desk based assessment as such I don't think that their swept path map can be upheld until they can evidence the feasibility.
2. I accept street furniture may be removed such as signposts, but there are telegraph poles in the way too are they to be removed?
3. The Highways Authority (M40) did not know the bridge weighting when I asked them and said this would be for the developer to research, given that Chris Nicholls (OCC Highways) did not pick this up before can this be drawn to his attention? Mr Nicholls should also be made aware that most of the route falls in a different authority, therefore does his assessment stand in regard to highways in your appraisal? Again the applicant has failed to consult with the relevant authority.
4. The fact there are not any signs indicating the weight limit is nothing to go by, there are not any signs saying unsuitable for HGVs at the overbridge, yet there are at the other end of March Road, an oversight by OCC. When this bridge was constructed some 20 years ago it would have been expected that only light and farm traffic would use it, it could not have been envisaged that anyone would wish to erect a wind turbine

in the valley necessitating abnormal loads, so I think this is reasonable that we can ask for assurance that the bridge is capable and as a result of this abnormal traffic will not be compromised.

- **Assessment of additional information**

The applicant has submitted additional details relating to matters of access. Swept path analysis has been undertaken in respect of large vehicles required to access the site. The analysis provides plans for various points along the route from the M40 at Gaydon, through Warmington to the application site. The details are in response to concerns raised by third parties over the ability of construction vehicles to access the site along the route identified. The delivery of turbine components involves the use of specialist vehicles and operators and is a complex process often requiring road closures to enable vehicles to access along relatively narrow routes which are often found leading to turbine sites in rural areas. There could also be the need for removal of street furniture as well as overrunning of verges in order to achieve access. These matters would need to be addressed with the Highway Authority and agreement reached regarding reinstatement of any features. There are some queries over the information that has been provided and the ability for the manoeuvres to be undertaken within the public highway at certain points.

It is considered that there is insufficient evidence to suggest that access could not be achieved by the largest delivery vehicles required and the precise details of the route could be controlled by way of a condition attached to any permission.

The applicant has also amended the proposed access into the site for the largest vehicles. The proposal is to use an existing field entrance further along March Road towards Mollington. A temporary access track would be laid on the land, spanning the stream to provide access into the application site. The provision of such an access route would not, in my opinion, require planning permission because it does not involve development of the land. This access route provides a more convenient means of entry to the site requiring the removal of far less hedgerow. This alternative access is a reasonable solution and the precise detail could be controlled by way of a condition if necessary.

Agenda Item 13

14/00249/F

Clattercote Priory Farm, Claydon

- Error in report Reference at 3.1 should be to Claydon Parish Council
- At para. 5.9 the second sentence should read "Conversely views from the south and east will to some extent be screened by the buildings within the farm complex". The words 'be screened' have been missed out.

**Agenda Item 17 re 13/01372/CDC, 13/01709/CDC, 13/01879/CDC,
13/01880/CDC and 13/01708/CDC**

The recommendations to planning committee were made with the specific wording that the applications were recommended for approval subject to 'The applicants entering into an appropriate legal agreement to the satisfaction of the District Council to secure the units as affordable' in perpetuity'. We have been informed that unfortunately 'in perpetuity' is not an accurate description of what will be secured through the legal agreement. Therefore Members have been misinformed as to what will be achieved through the legal agreement.

With regards to shared ownership properties it is possible that occupiers could 'staircase' up their ownership and could therefore achieve full ownership. This could also occur on equity loan housing, where occupiers could also acquire 100% of the equity in their property

It is therefore **recommended** that the Committee agree to this revised position with respect to the proposed Section 106 agreements

Agenda Item 17 13/01947/F Land at 4 The Rookery, Kidlington

This application was approved at the 3rd April 2014 Committee meeting and was subject to further negotiation regarding S106 contribution and specifically the offsite financial contribution towards affordable housing. This further negotiation has taken place along with discussions on the viability of the scheme and has resulted in a surplus available for the overall contributions amounting to £116,000. From this figure an amount of £60,816.50 would be used to contribute to future offsite affordable housing.

Usually 35% on-site affordable housing would be required from a scheme in this location, however during the consideration of the application, the Council's Strategic Housing Officer advised that, "given the type of development that McCarthy and Stone tend to provide, the scheme is likely to be unaffordable to those residents nominated from the Councils housing register due to the high service charges incurred or likely to be incurred. It does not provide best value to have 11 units for affordable housing and it would not make sense for an RP to have a management presence in such a scheme, and the cost in rent and service charges would be high.

Therefore, on this basis and in this particular case, it was considered that it would not present value for money to have the normal affordable housing policy requirement on this type of scheme". Clearly £60,816.50 is not near a true 35% financial contribution, but there is no further surplus available without compromising the viability of the scheme.

The applicant has provided a justification statement along with detailed case-law that supports this position. Specifically citing the letter from the Chief Planner which accompanied a Ministerial Statement - Planning for Growth (23rd March 2011) by Mr Greg Clark the Minister of Decentralisation and further

advice regarding Planning Obligations which updates the previous advice set out in Mr Quartermain's letter of May 2009. "The Minister advises that Authorities should not impose unnecessary burdens on development – in this respect, the issue of contributions is also commented upon in the letter, requiring all Local Authorities to consider at the developer's request existing Section 106 Agreements that currently render scheme unviable and where possible modify those obligations to allow the development to proceed. Whilst this comment is directed at approved schemes and current Section 106 Agreements, the principle is equally applicable to new development proposals. This is pertinent in respect to the issue of all contributions but would also apply should "overage" be mooted the mooted.

Annex B Section 106 and Viability specifically deals with planning obligations and clearly identify that the impact of planning obligations on the viability of development will be an important consideration when obligations are reviewed. This principle is equally applicable to new proposals where current economic circumstances must be properly appreciated and considered in a balanced manner. Unrealistic or over optimistic expectations by decision makers run the considerable risk of jeopardising new developments coming forward. The letter makes clear that planning permissions should not be withheld unreasonably and this equally applies to applications which may be refused due to the unreasonable demands for Section 106 contributions and constitutes a material consideration in respect of this application.

Your officers consider that given the distinctive type of elderly accommodation proposed on this scheme, the need for this accommodation in the locality and the contribution the number of units make towards the Council's 5 year housing land supply position, it would not be expedient to pursue further contributions in this instance. It is therefore **recommended that Members accept the £60,816.50 (which can be index linked) as an off-site financial contribution towards affordable housing.**

However, should Members find that this is not acceptable; the application will need to be refused. The applicant has already advised that they will appeal against the decision.

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