

Lancashire County Council

Development Control Committee

Minutes of the Meeting held on Wednesday, 8th April, 2015 at 10.00 am in Cabinet Room 'B' - The Diamond Jubilee Room, County Hall, Preston

Present:

County Councillor Munsif Dad (Chair)

County Councillors

T Aldridge	M Johnstone
P Buckley	N Penney
M Devaney	P Rigby
M Green	K Sedgewick
P Hayhurst	K Snape
C Henig	B Yates
S Holgate	

1. Apologies for absence

Apologies for absence were received from County Councillor D Howarth.

2. Disclosure of Pecuniary and Non-Pecuniary Interests

County Councillor N Penney declared a non pecuniary interest in Items 6, 7 & 8 of the agenda as the Chair of the Board of Lancashire County Developments Limited who had been approached by the applicant for a business loan.

3. Minutes of the last meeting held on 25 February 2015

Resolved: That the Minutes of the last meeting held on 25 February 2015 be confirmed and signed by the Chair.

4. South Ribble Borough: Application number. LCC/2015/0009 Change of use to inert waste transfer and storage, construction of concrete track and loop for vehicles and plant manoeuvring, site office cabin, welfare cabin and weighbridge. Land west of Tomlinson Road, Tomlinson Road Industrial Estate, Leyland.

A report was presented on an application for the change of use to inert waste transfer and storage, construction of concrete track and loop for vehicles and plant manoeuvring, site office cabin, welfare cabin and weighbridge on land west of Tomlinson Road, Tomlinson Road Industrial Estate, Leyland.

The report included the views of South Ribble Borough Council, the County Council's Developer Support (Highways), the County Ecology Service, the Environment Agency and details of 5 letters of representation received.

Jonathan Haine, Development Management Officer, presented a PowerPoint presentation showing an aerial view of the site and the nearest residential properties. The committee was also shown a site layout plan and photographs of the site from various aspects.

Following debate during which concerns were raised at the proposed hours of working and the potential for the stockpiling of materials, it was proposed that Condition 3 with regard to the hours of working be amended as follows:

3. No importation of waste, management of waste materials or export of waste or recycled materials shall take place outside the hours of:

08.00 to 17.30 hours, Mondays to Fridays (except Public Holidays)
08.00 to 12.00 hours on Saturdays

No importation of waste, management of waste materials or export of waste or recycled materials shall take place at any time on Sundays or Public Holidays.

The use of the screening plant shall only take place between the hours of 09.00 - 17.30 hours Mondays to Fridays and shall not be used at any time on Saturdays, Sundays and Public Holidays.

The reason to remain the same.

It was also proposed that an additional condition be imposed to prevent the stockpiling of materials above a height of 4 metres. The condition is included in the minutes for completeness as follows:

'No stockpile of waste or recycled material shall exceed a height of 4 metres.

Reason: In the interests of the visual amenities of the area and the minimisation of dust emissions and to conform with Policy DM2 of the Lancashire Minerals and Waste Local Plan and policy QD1 of the South Ribble Borough Local Plan'.

Resolved: That planning permission be granted subject to the conditions set out in the report to the committee, with an amendment to Condition 3 and the inclusion of an additional condition as set out above.

5. **Wyre Borough: Application number. LCC/2014/0166
Variation of condition 2 of planning permission 02/08/1116 to allow the importation of post IVC compost from commercial waste management facilities. Iron House Farm, Lancaster Road, Out**

Rawcliffe, Preston.

A report was presented on an application for the variation of condition 2 of planning permission 02/08/1116 to allow the importation of post IVC compost from commercial waste management facilities at Iron House Farm, Lancaster Road, Out Rawcliffe, Preston.

The report included the views of the Environment Agency and Lancashire County Council's Ecology Service.

Jonathan Haine, Development Management Officer, presented a PowerPoint presentation showing an aerial view of the site and the nearest residential properties. The committee was also shown a site layout plan and photographs of the site.

It was reported orally that the applicant had written requesting that the application be deferred to allow him to address the issues raised by the Environment Agency.

The Committee was advised that the waste types proposed to be imported to the site could have potentially odorous characteristics and their manner of management in open windrows could make control of such impacts difficult. Given the proximity and direction to the nearest property, it was considered that the proposal raised a fundamental land use planning objection and that it conflicted with policy DM2 of the Lancashire Minerals and Waste Local Plan.

Resolved: That planning permission be **refused** for the following reason:

The development would give rise to bio aerosol and odour emissions and such impacts on the nearest residential property could not be mitigated to acceptable levels. The development would therefore have unacceptable impacts on residential amenity contrary to policy DM2 of the Lancashire Minerals and Waste Local Plan and policy SP14 of the Wyre Borough Local Plan.

- 6. Wyre Borough: Application number LCC/2014/0144
Retrospective planning application for the variation of conditions 3 and 9 of planning permission 02/11/0876 to extend the hours of waste transfer and recycling operations and the delivery and removal of waste and processed materials, and to allow the doors of the waste transfer building to be open while plant is operating but only for the ingress and egress of vehicles requiring access to the building. Lancashire Waste Recycling Limited, Unit 8, Burn Hall Industrial Estate, Venture Road, Thornton.**

A report was presented on a retrospective planning application for the variation of conditions 3 and 9 of planning permission 02/11/0876 to extend the hours of waste transfer and recycling operations and the delivery and removal of waste and processed materials, and to allow the doors of the waste transfer building to

be open while plant is operating but only for the ingress and egress of vehicles requiring access to the building at Lancashire Waste Recycling Limited, Unit 8, Burn Hall Industrial Estate, Venture Road, Thornton.

The report included the views of Wyre Borough Council, Fleetwood Town Council, the County Council's Developer Support (Highways), the Environment Agency, the County Council's Specialist Adviser (Ecology), and details of 97 letters of representation received.

It was reported orally that a further letter had been received subsequent to the publication of the committee reports from NLP Ltd, planning consultants acting on behalf Bourne Leisure Ltd, owners of the Cala Gran Caravan Park. NLP Ltd who raised four issues:-

- NLP Ltd considered that the full scope of Bourne Leisure's objection had not been reported to members in the Committee report.
- Application LCC 2014/0145 – proposed condition 7 – the wording of this condition caused NLP significant concern as they felt it would result in a development that was significantly different from that which the applicant applied for and on which consultation had been undertaken. NLP consider that the wording of the proposed condition should be subject to consultation.
- Application LCC/2014/0146 Conditions 3 and 4. NLP consider that these are inadequate as they do not impose a noise level or a restriction in the event that noise levels cannot be reduced or a timescale to require reduction.
- Ownership certificates – NLP consider that there is an error in the ownership certification for applications 0144 and 0146 that results in the applications being invalid. The applicant is Mr Paul Mellor yet the land is owned by Lancashire Waste Recycling yet no notice has been served on that company.

NLP therefore considered that applications 0144 and 145 should not be determined on the 8th April as the applications were invalid and that application 0146 should similarly not be determined as the conditions were inadequate and they wished the opportunity to comment on revised conditions.

The Committee was advised that the objections raised by NLP on behalf of Bourne Leisure had been lengthy and had therefore been summarised in the report. However, it was considered that the main points of the objection had been covered.

In relation to condition 7, the use of the land would remain as a waste transfer station which was the current permitted use. The wording of condition 7 would not change the character of that use sufficiently to give rise to a development that was fundamentally different to require a further planning application.

Conditions 3 and 4 – The Borough Council Environmental Health Officer considered that the noise levels from the air extraction system could be reduced to acceptable levels and the applicant had a timescale for undertaking the necessary work. Condition 3 provided a timescale for undertaking the modifications and a prediction of the noise reductions that would result. Condition 4 required a further survey to monitor effectiveness and a schedule of works if the noise levels in condition 3 were not achieved.

Certification: Applications 0144 and 0145 were made in the name of Paul Mellor and no notice had been served on any other landowners. The applicant had subsequently confirmed that the site was – owned by the company Lancashire Waste Recycling Limited. The other director of the company had confirmed he was aware of the application and that he had no objection to it.

However, as the applicant did not serve the correct ownership certificate there had been a breach of the statutory requirements and s.327A of the Town and County Planning Act 1990 provides that a local planning authority must not entertain an application where there has been a breach of the requirements.

However, if planning permission were to be granted notwithstanding this breach, the permission would still be valid unless set aside by the High Court on review. In a case in 2012, (**Queen on the Application of O'Brien v West Lancashire Borough Council**), the High Court declined to set aside a planning permission in similar circumstances for the following reasons:

1. There was no evidence of bad faith and no intention to deceive;
2. Those challenging the permission were not owners of the land;
3. Those who had been directly affected by the breach (the other land owners) had made it clear they do not consider themselves as prejudiced because they never intended to make representations in relation to the grant of permission; and
4. The adjoining landowners were aware of the application and had made representations.

The committee was advised that all the above reasons applied here and it was clear that no prejudice had been caused to the other director of the company or to those third parties now objecting to the application. In the circumstances it was considered that should planning permission be granted, any challenge on this point would fail and the permission would be allowed to stand.

A summary of presentations to Committee Members on 7th April 2015 was provided.

1. A presentation was provided by Bourne Leisure opposing the applications. The presentation included the following information:
 - Bourne Leisure provided information on the scale of their company and the numbers of guests at the Cala Gran site which were in the region of 30,000 per year. It was stated that Cala Gran had not invested in the site due to the odour issues generated by Lancashire Waste Recycling. Information was also provided on the planning history of the site and continued breaches of condition at the site. It was stated that the issues at the site had lead to adverse comments being posted on Trip Advisor.
 - Information was also provided in relation to odour including a map to show the relationship between Cala Gran and the application site and also a wind rose showing prevailing wind direction. It was calculated that odours from the application site are blown towards Cala Gran for approximately 25% of the time. Information was also provided on measurement criteria for odour impacts and it was stated that the waste was around 2 weeks old by the time it reached the application site.
 - It was stated that Lancashire Waste Recycling was not operating in accordance with its permitted development and that 2 applications were to regularise breaches and the other application was retrospective. It was also stated that there appeared to be an issue with the validity of the applications. It was considered that the proposed condition on waste types conflicted with the Wheatcroft principles the applicant considered that they had been denied the opportunity to comment on this condition.
 - Bourne Leisure considered that the significance of the proposals had been understated in that it would allow for a large increase in hours and tonnages of waste delivered to the site. There were concerns that the air extraction system produced additional noise and the proposed conditions to control this noise were imprecise.
 - Bourne Leisure considered that the problems could not be pushed onto another objector to deal with and that applications 144 and 145 should be refused with 146 only being approved if conditions were strengthened.

2. There was also a presentation from Mr Bashir for Lancashire Waste Recycling. He said that Lancashire Waste Recycling is local company employing 30 staff.

The additional hours were needed to allow traffic to be programmed to avoid the busiest parts of the day and no more waste would be imported than at present.

It was acknowledged that there were some odour issues at first but there were other activities in the area which generated odour – a map was circulated showing the location of these.

Mr Bashir explained that a number of MPs had been to the site and were satisfied and that the company complied with environmental controls. He explained the types of waste that were processed and that they had invested £200,000 in odour abatement plant and new doors to control odour and noise.

In response to questions raised by members, further explanation was provided of the odour abatement systems that had been installed and the improvements that were programmed for further control noise and odour.

The committee was asked whether having considered the above advice, it wished to proceed to determine the application and the associated application LCC/2014/0145 at item 7 of the agenda.

Following a short debate, it was Moved and Seconded that:

"Applications LCC/2014/0144 and LCC/2014/0145 be not considered as the applications are invalid".

On being put to the vote the Motion was Carried. It was therefore:

Resolved: That applications LCC/2014/0144 and LCC/2014/0145 be not considered as the applications are invalid.

7. **Wyre Borough: Application number LCC/2014/0145**
Retrospective planning application for the variation of conditions 4, 12 and 17 of planning permission 02/11/0877 to extend the hours of waste transfer and recycling operations and the delivery and removal of waste and processed materials, to allow the waste imported to the site for processing to have low levels of food contamination, and to allow the doors of the waste transfer building to be open while plant is operating only for the ingress and egress of vehicles requiring access to the building. Lancashire Waste Recycling Limited, Unit 8, Burn Hall Industrial Estate, Venture Road, Thornton.

See the resolution above in relation to planning application LCC/2014/0144.

8. **Wyre Borough: Application number LCC/2014/0146**
Retrospective application for the retention of an air filtration system consisting of a pre-filter unit, a shipping container to house a carbon filter unit, single storey extension to contain the air filtration fan assembly, steel ducting and 16.6 metre high steel vent stack on the east and south elevations of the waste transfer buildings, a single storey extension to provide a site substation plant room on the south elevation of the waste transfer building, the relocation of a

weighbridge, the provision of a demountable unit for use as a reception/ office, three shipping containers for use as a canteen, showers and mess room, and the construction of a secure cycle stand. Lancashire Waste Recycling Ltd. Unit 8, Burn Hall Industrial Estate, Venture Road, Thornton.

The Committee was asked to consider whether it wished to defer application LCC/2014/0146 so that the application could be considered at the same time as LCC/2014/0144 and LCC/2014/0145.

It was therefore Moved and Seconded:

"That consideration of application LCC/2014/0146 be deferred"

On being put to the vote the Motion was Carried. It was therefore:

Resolved: That consideration of application LCC/2014/0146 be deferred.

9. Planning Applications determined by the Executive Director for Environment in accordance with the County Council's Scheme of Delegation.

It was reported that since the last meeting of the Development Control Committee on the 25 February, 2015 eleven planning applications had been granted planning permission by the Executive Director for Environment in accordance with the County Council's Scheme of Delegation.

Resolved: That the report be noted.

10. Urgent Business

There were no items of urgent business.

11. Date of Next Meeting

Resolved: That the next meeting of the Committee be held on Wednesday 20 May 2015.

I Young
Director of Governance, Finance
and Public Services

County Hall
Preston