

Lancashire County Council

Development Control Committee

Minutes of the Meeting held on Wednesday, 14th November, 2018 at 2.00 pm in Committee Room 'B' (The Diamond Jubilee Room) - County Hall, Preston

Present:

County Councillor Barrie Yates (Chair)

County Councillors

P Rigby	D Foxcroft
S Clarke	P Hayhurst
C Crompton	A Kay
B Dawson	M Pattison
J Eaton	A Schofield
K Ellard	

County Councillor Bernard Dawson replaced County Councillor Munsif Dad on the committee.

1. Apologies for absence

None received.

2. Disclosure of Pecuniary and Non-Pecuniary Interests

County Councillor C Crompton declared a non-pecuniary interest in agenda item 5 as a member of Preston City Council.

County Councillor P Hayhurst declared a non-pecuniary interest in agenda items 4 and 5 as a member of Fylde Borough Council and as ward councillor for Fylde West.

The Chair invited County Councillor Hayhurst to comment on a representation received from the applicant's agent with regard to Westby Landfill Site, the subject of planning application LCC/2018/0019 at item 4 of the agenda

In response, County Councillor Hayhurst, denied having expressed a view with regard to the Westby Landfill Site and announced that it was his intention to take part in determining the application.

3. Minutes of the last meeting held on 12 September 2018

Resolved: That the Minutes of the meeting held on 12 September 2018, be confirmed and signed by the Chair of the Committee.

**4. Fylde Borough: Application number LCC/2018/0019
Variation of condition 1 of planning permission 05/09/0152 to allow
the period for landfill/recycling/waste transfer operations to
continue until 01 June 2028.
Westby Landfill Site, south side of Anna's Road, Westby.**

A report was presented on an application for the variation of condition 1 of planning permission 05/09/0152 to allow the period for landfill/recycling/waste transfer operations to continue until 01 June 2028 at Westby Landfill Site, south side of Anna's Road, Westby.

The report included the views of Fylde Borough Council the county council's Highways Development Control, the Environment Agency, the county council's Specialist Advisor (Ecology), Natural England, and details of 12 letters of representation received.

The Development Management Officer presented a PowerPoint Presentation showing an aerial view of the site and the nearest residential properties. The committee was also shown photographs of the site including the landfill cells, the soil production area, wheel wash and the site access.

The Officer reported orally that further representations had been received from an objector with regard to vibrations being experienced at properties near to the site and by the applicant in relation to the proposed conditions 13, 19 and 28.

Full details of the above together with the advice of the officers in relation to such, together with additional amendments to the conditions and the imposition of an additional condition in relation to wheel cleaning measures were set out in the Update Sheet circulated at the meeting. (Copy set out at Annex A to the Minutes).

Ms Hollowell, a local resident, addressed the committee objecting to the application. She informed the committee that the field purchased by the applicant for land raising was being portrayed as a former clay pit to justify the recycling activities. However, the land raising was taking place in a field and not the quarry. Concern was also raised with regard to the mud and dust being tracked out of the site. Ms Hollowell called for an additional condition to be imposed to ensure the wheel wash was cleaned out every week to prevent silt being tracked out onto the roads.

Mr Raynor Porter, Site Manager of the Westby Landfill Site addressed the committee and made the following summarised points in support of the application:

- The site provided work for 25 employees and various contractors and helped to support the local economy.
- The recycling activities helped to divert waste away from landfill
- The importation of inert waste to the site would assist in restoring the land to the agreed levels.
- The site was well screened from the road.
- The application had attracted ten letters of support.
- Fylde Borough Council, the Environment Agency and the LCC's Highways had raised no objection to the application.

The applicant also mentioned that landfill cells 1 and 2 had already been completed and capped.

Following debate and questions to officers with regard to the time extension and the increased number of vehicle movements associated with the application, it was Moved and Seconded that:

"The Development Control Committee visit the site prior to determining the application".

On being put to the vote the Motion was Lost.

Following further discussion, the committee agreed that an additional condition be imposed requiring the existing wheel wash to be cleaned out on a weekly basis. It was also suggested that the local liaison committee be reconvened.

In response to the concerns raised with regard to the wheel wash, the officer explained that the applicant had been asked to review the wheel cleaning measures at the site. Whilst they considered that the existing wheel cleaning measures were adequate, the applicant had mentioned that if a further planning permission was forthcoming, they would undertake further improvements to the internal site roads including increasing the amount of surfaced road. It was considered that this would improve the cleanliness of vehicle wheels to the benefit of the local environment. It was therefore considered that the further condition as set out in the Update Sheet (Condition 12) would address the local resident's concerns.

Despite the additional measures outlined above and the advice of the officer, Members reaffirmed their wish for an additional condition to be imposed requiring the wheel wash on the site to be cleaned out on a weekly basis following which it was:

Resolved:- That subject to the amendments to conditions 2, 3, and 13, the deletion of condition 28, the inclusion of condition 12 as set out in the 'Update

Sheet' and the imposition of an additional condition requiring the wheel wash on the site to be cleaned out on a weekly basis, planning permission for the variation of condition 1 of planning permission 05/09/0152 to allow the period for landfill/recycling/waste transfer operations to continue until 01 June 2028 be **granted** as set out in the report to the committee.

5. Preston City and Fylde Borough: Application number. LCC/2016/0046

Development of new highways including Preston Western Distributor Road, Cottam Link Road and East West Link Road. The development includes a new motorway junction to the M55 together with temporary soil storage and contractor areas, cycle track alongside all highways, water attenuation ponds, diversion/stopping up of public rights of way, landscaping and ecology mitigation areas, construction of two bridges, two viaducts, two underpasses, a cattle creep and diversion of the Hodder Aqueduct. Land in Lea, Cottam and Bartle and to the west and north of the existing built up area of Preston

A report was presented on an application for the development of new highways including Preston Western Distributor Road, Cottam Link Road and East West Link Road on land in Lea, Cottam and Bartle and to the west and north of the existing built up area of Preston.

The committee was reminded that at their meeting held on 4 October 2017, they had resolved to approve the application, subject to the signing of a section 106 agreement in relation to the provision and retention of off-site bat mitigation measures.

In the meantime, the applicant had undertaken further design work on the proposed highway and associated mitigation measures and proposed a number of amendments to the previously submitted scheme. These included a proposed diversion route for the Hodder Aqueduct, noise mitigation measures and details of the mitigation measures for bats.

The report included the views of the county council's Specialist Advisor (Ecology) and Natural England.

It was also reported that since the application was considered in October 2017, a landowner had served a pre action protocol letter on the county council giving details of their intention to apply to the High Court for a judicial review of the Preston Western Distributor Road scheme.

The council's response to the issues raised in the pre action protocol letter were set out in the committee report.

The Development Management Officer presented a PowerPoint presentation showing an aerial photograph of each section of the proposed highway and the nearest residential properties. The committee was also shown illustrations of the

proposed diversion route of the Hodder Aqueduct together with photographs of each section of the proposed highways.

The officer reported orally that since the report had been published two further letters of representation have been received from DPP, a consultant working on behalf of Tom Barron Farms Ltd, a land owner at the northern end of the scheme. A summary of the issues and the response to the issues raised was set out in the 'Update Sheet' circulated at the meeting (Copy set out at Annex A to the Minutes)

Mr Purser of DPP Planning addressed the committee on behalf of his client. He advised that his client did not wish to frustrate the development provided that their land was not rendered inaccessible to the bypass. Their support for the scheme was conditional upon securing a direct roundabout access south of M55 Junction 2. They felt that such a roundabout would not only serve their land, but it would render the delivery of the scheme considerably cheaper and would furthermore facilitate a future expansion of North West Preston as a strategic development site. Mr Purser also reiterated the issues set out in the pre action protocol letter in relation to his client's view that the scheme should be promoted through a Development Consent Order rather than a planning application. It was also felt that the county council should undertake a revised screening assessment of the project in the light of recent case law regarding the impacts of developments on European wildlife sites.

The officers reiterated their response to the above issues as set out in the committee report. The officers also advised that the county council's response had been confirmed by the legal advice from their own Counsel and therefore the landowners view was not supported. In response to requests for clarification from members, officers explained that a judicial review application had been lodged by Tom Barron Farms Ltd but that even if the committee approved the planning application today, it would be some time before commencement of development which would allow time for the matters in dispute to be determined by the courts. It was also explained that there may, in the future, be an opportunity to construct a further roundabout to facilitate additional development as proposed by Tom Barron Farms Ltd, but this would need to take the normal course of an application to Preston City Council.

Officers responded to questions raised by the members with regard to the impact of the scheme on the Guild Wheel, following which it was:

Resolved: That after first taking into consideration the environmental information, as defined in the Town and Country Planning (Environmental Impact Assessment) Regulations 2011, and subject to a section 106 agreement relating to the provision and retention of off-site bat mitigation measures, planning permission be **granted** subject to the conditions set out in the report to the committee.

6. Planning Applications determined by the Head of Planning and Environment in accordance with the County Council's Scheme of Delegation.

It was reported that since the last meeting of the Committee on 12 September 2018, thirteen planning applications had been granted planning permission by the Head of Service Planning and Environment in accordance with the county council's Scheme of Delegation.

Resolved: That the report be noted

7. Urgent Business

There were no items of urgent business.

8. Date of Next Meeting

Resolved: That the next meeting of the Committee be held on Wednesday 12 December 2018 at 10.30am.

L Sales
Director of Corporate Services

County Hall
Preston

Annex A

Development Control Committee Update – 14th November 2018

Item 4 – Application LCC/2018/0019 – Westby Landfill Site

Consultations

Representations

An objector has submitted records from a seismograph local to the landfill site on Saturday and Sunday 3rd and 4th November 2018 and on Wednesday 7th November 2018. The objector states that this demonstrates the vibrations that are experienced at properties near to the site when it is operating.

Conditions

The applicant has submitted an email in relation to the proposed conditions:

Condition 13 – this should require that ‘all HGVs’ instead of ‘all vehicles’ leaving the site should use the wheel cleaning facilities because it would not be appropriate to make all cars drive through the wheel wash.

Condition 19 – The applicant considers that the requirement should not relate to screening plant as the use of dust suppression sprays on such equipment can hinder the effectiveness of the plant.

Condition 28 – the applicant disputes the need for condition 28. They are of the view that condition 4 requests a restoration phasing plan plus timescales which combined with the requirement of condition 7 to submit an annual topographical survey, allows adequate tracking of progress without the need for condition 28. They say that condition 28 would be detrimental in terms of business planning and investment and would not allow for fluctuations in inputs year on year, due to market forces, which may even themselves out within the 10 year timespan.

Advice

Response to further representations

The resident is of the view that activities on the site are generating vibrations that are being picked up by seismic monitors that have been installed in the area. These monitors have been installed to allow monitoring of seismic impacts generated by the nearby Preston New Road hydraulic fracturing site. The monitors are very sensitive and will pick up vibrations caused by activities at the ground surface as well as those caused by fracking activities. However, due to the distance from the site to the resident's property and the nature of activities at the site, it is not considered that there would be unacceptable vibration impacts

Email from applicant relating to proposed conditions

Condition 13 should be amended as suggested by the applicant to read as follows:

'The wheel cleaning facilities at the site shall be maintained in full working order and shall be used by all *HGV's* leaving the site during the development so as to ensure that no debris from the site is deposited by vehicle wheels upon the public highway.'

Condition 19 - The changes requested by the applicant are not supported. The condition does not require water suppression to be fitted to all plant and there are other measures that can be fitted to reduce dust emissions from such plant that do not require the application of water.

Condition 28 – On reflection it is considered that the combination of conditions 4 and 7 should provide a means to control the phasing of the site and monitoring of the progress of tipping. If tipping progress did not match the phasing as set out in condition 4, it would provide a mechanism for reviewing matters.

The applicant has also been asked to review the wheel cleaning measures at the site. Whilst they consider that the existing wheel cleaning measures are adequate, the applicant does say that if a further planning permission is forthcoming, they will undertake further improvements to the internal site roads including increasing the amount of surfaced road. It is considered that this would improve the cleanliness of vehicle wheels to the benefit of the local environment. It is considered that a further condition should be imposed relating to this matter as follows:-

12. Within three months of the date of this permission, a scheme and programme detailing the further lengths of internal road that are to be hard surfaced shall be submitted to the County Planning Authority for approval in writing. The scheme and programme shall detail the lengths of road to be surfaced, the means of hard surfacing and a timescale for undertaking the works.

The works shall thereafter be undertaken in accordance with the details and timescale as set out in the approved scheme and programme.

Reason: In the interests of local amenity and highway safety and to conform with Policy DM2 of the Lancashire Minerals and Waste Local Plan.

A number of other minor amendments to the conditions are recommended as follows:-

Condition 2 should be amended by including the following text in italics:

'The development shall be carried out, except where modified by the conditions to this permission, in accordance with the following documents:

a) Planning Permissions Nos. 5/93/115, 5/98/124, 5/99/27 and 05/09/0152, as amended by Planning Application LCC/2018/0019 and Planning Statement received by the County Planning Authority on 22 May 2018, and the emails received from the applicant on 12 July 2018.

b) Submitted Plans and documents accompanying planning permission 5/99/27:

Drawing no. JEK/WW/TS1A - Location Plan
Drawing No. JEK/4W - Infrastructure Layout Phases 13 to 23

Submitted Plans and documents accompanying planning permission 05/09/0152:

Drawing No. TC/P2057/JEK/TIMEX 08 - Location Plan
Drawing No. P2057/04/SK-1/A - Cell Development Plan
Drawing No. J1982_08/D/C_500/STH/B - Site Survey
Drawing No. J2025_08 - Digitised Data of Final Profile
Drawing No. J2025_08/XS/LS/2 - Proposed Final Profile and Existing Profile

Submitted Plans and documents received by the County Planning Authority on 22 May 2018 accompanying planning application LCC/2018/0019:

Drawing No. 09516/01 - Site Location Plan
Drawing No. 09516/12A - Site Plan
Drawing No. 09516/14 - Cell Layout
Drawing No. sss-7294 - Topographical Survey

Submitted Plans and documents received by the County Planning Authority on 11 October 2018 accompanying planning application LCC/2018/0019:

Habitat Management Plan dated October 2018

c) All schemes and programmes approved in accordance with this permission.'

Condition 3 should be amended by including the following text in italics:

'The landfilling operations approved by this permission shall be landfilled in phases in the numerical order, as indicated on *Drawing No. 09516/14 - Cell Layout*.

Non-hazardous active industrial, commercial and demolition waste shall only be deposited in cells 1 and 2 at the site, as indicated on Drawing No. 09516/14 - Cell Layout.

Non-hazardous inert industrial, commercial and demolition waste shall only be deposited in cells 3 - 14 at the site, as indicated on Drawing No. 09516/14 - Cell Layout.'

Item 5 Application - LCC/2016/0046 - Preston Western Distributor Road

Representations

Since the report was prepared two further letters of representation have been received from DPP, a consultant working on behalf of Tom Barron Farms Ltd, a land owner at the northern end of the scheme. The letters raise the following issues:-

- DPP state that the scheme would require a licence from Natural England due to impacts on European protected species (great crested newts). DPP state that such a licence can only be issued where it can be demonstrated that the

three tests in the Habitats Directive are satisfied including that there is no satisfactory alternative to the proposed scheme. DPP consider that there is an alternative scheme which would not have the same impacts on protected species and therefore to grant planning permission for the proposed alignment would offend the requirements of the Directive.

- DPP also state that the incorporation of the Hodder Aqueduct into the scheme has not been properly advertised and consulted upon and the dates when information has been submitted or amended are incorrect.

Advice

In relation to the protected species issue, the report to the 4th October 2017 Committee did address the issues relating to the three tests in the Habitats Regulations (pages 81 and 82 of the report). It also deals with the issue of alternative route options (pages 66 – 69 of the previous report). The conclusion of the report was that the proposed route was the only option when considering all environmental impacts of the road. It is therefore my opinion that the County Council has addressed the requirements of the Habitats Regulations including the test relating to alternatives.

In relation to the Hodder Aqueduct issue, further information has been submitted but this was advertised according to the Regulations on 13th October 2018. On the second issue, the County Council has reviewed the sequence of information being submitted and does not consider that there is any procedural error. All further submitted information has been advertised and consulted upon.