

Development Control Committee
Meeting to be held on 21st January 2015

Electoral Division affected:
Chorley Rural West

Chorley Borough: Application number. LCC/2014/0132
Retention of five existing ponds and creation of eight additional ponds for use as fish rearing ponds, erection of a portal frame building, upgrade of existing access track from Tincklers Lane, and associated hardstanding, sewage treatment facility, boundary treatment and hard and soft landscaping.

Land at Tincklers Lane, Eccleston

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Executive Summary

Application - Retention of five existing ponds and creation of eight additional ponds for use as fish rearing ponds, erection of a portal frame building, upgrade of existing access track from Tincklers Lane, and associated hardstanding, sewage treatment facility, boundary treatment and hard and soft landscaping. Land at Tincklers Lane, Eccleston.

Recommendation – Summary

That planning permission be granted subject to conditions controlling time limits, working programme, provision of visibility splays, hours of operation for pond construction, noise prevention, wheel cleaning measures, building materials and landscaping.

Applicant's Proposal

The application is for the retention of five existing ponds and for the creation of a further eight additional ponds for use as a fish rearing facility. The applicant currently runs a commercial coarse fishery but wishes to develop their business to include the ability to breed and rear coarse fish for supply to other fisheries. Such an operation requires a building to hold tanks which are used to prepare adult fish prior to spawning and then to rear fry and larvae so that they grow quickly and are protected from predation. Upon reaching a certain growth stage, the young fish are then transferred to the outdoor ponds.

The additional ponds would be created by excavating the existing clay materials which would be exported from the site, approximately 8,000 cubic metres in total. Each pond would be rectangular in shape and would be between 1 and 2 metres in

depth and would measure 40 metres by 20 metres. The five existing ponds are of similar dimensions.

The site is served by an existing track which would be upgraded by surfacing with gravel and would link with Tincklers Lane via an existing agricultural access. Some works to the hedgerow to the south of the access would be required in order to improve visibility.

The application proposes the construction of a portal framed building measuring 17.8 metres by 18 metres by 6.7 metres in height. The building would be used for the storage of fish food and for the breeding of fish and care of eggs and fish larvae before they are transferred to the ponds for further rearing. The building also includes basic living and office accommodation for the staff involved in running the business. The building would have green metal sheeting walls with a grey roof.

Description and Location of Site

The application site measuring 4.2 hectares occupies an area of agricultural land located off Tincklers Lane approximately 1 km south west of Ecclestone. The southern boundary of the site is formed by the Syd Brook. A mature hedgerow with trees runs through the centre of the site with the existing and proposed ponds located to the south and the proposed building to the north. The nearest properties are located on Tincklers Lane near to the proposed access point, approximately 110 metres from the proposed ponds. There are also some further properties located on Syd Brook Lane 120 metres to the south of the application site.

An over head power line crosses the site.

The site is located in the Green Belt.

Background

History – there is no relevant planning history on this site.

Planning Policy

National Planning Policy Framework

Paragraphs 11 – 16, 17, 18 – 22, 55, 79 – 90, 100, 109- 118 are relevant with regards to the presumption in favour of sustainable development, core planning principles, economic growth, new buildings in the countryside, protection of Green Belt, flood risk and biodiversity

Joint Lancashire Minerals and Waste Local Plan (JLMWLP)

Policy DM2 Development Management

Central Lancashire Core Strategy

Policy 13 Rural Economy

Policy 17 Design of New Buildings
Policy 21 Landscape Character Areas
Policy 29 Water Management

Chorley Borough Local Plan

Policy GN5 Design of Development
Policy DC1 Green Belt
Policy DC2 Development in the Countryside outside of the Green Belt
Policy DC9 Development in rural areas
Policy EP7 Agricultural development
Policy EP10 Landscape Assessment
Policy EP18 Surface water run off.

Consultations

Chorley Borough Council: No observations received.

Mawdesley Parish Council : No objection but wish to ensure that the development will not increase flood risk to local residents or the road network.

Eccleston Parish Council: No observations received.

LCC Developer Support (Highways): No objection subject to a condition being imposed requiring the provision of appropriate visibility splays on Tincklers Lane to the south of the site.

Environment Agency: No objection in principle subject to the building and caravan not being located within flood zone 1 and that measures are taken to limit run off from the site to green field rates. Conditions should therefore be imposed to require the development to be undertaken in accordance with the submitted flood risk assessment and to require the submission of a surface water management scheme.

Representations – The application has been advertised by press and site notice, and neighbouring residents informed by individual letter. Six representations objecting to the application have been received which are summarised as follows:

- The site is located within the Green Belt and is an unsuitable form of development for such a location.
- The existing lakes have been developed without planning permission
- The site could become a centre for sport fishing which would introduce noise, light pollution and increased traffic into the area.
- The access onto Tincklers Lane would create a highway safety issue
- The development would create a flooding problem on the Syd Brook.
- The development would affect property values.
- Impact on privacy and local amenity

Advice

The application is for the development of a fish breeding and rearing facility utilising five existing ponds on the site together with a further eight ponds that are proposed as part of this application. A building is also proposed to provide living and office

accommodation, feed storage and to house tanks used for the breeding and rearing of fish.

The applicants currently operate a commercial fishing lake at Burscough and have used the existing ponds off Tincklers Lane on an occasional basis for the rearing of course fish for the stocking of their fishing lakes. However, the site has never been commercially viable as there is no building on site which can be used to store feed and provide living accommodation for site management and therefore staff had to visit the site several times per day. The proposal provides for the erection of a building which would allow personnel to live on the site permanently and therefore provide for the continual care of fish. The proposal would require a new employee and the development would therefore have some economic benefit to the rural economy.

The main issue relates to the location of the site within the Green Belt, the visual impact of the proposals and highway safety.

The site is located within the Green Belt. Certain forms of development such as engineering operations and mineral extraction are not inappropriate in the Green Belt provided that they preserve the openness of the Green Belt and do not conflict with the purposes of including land within the Green Belt. The construction of ponds would normally be regarded as an engineering operation and therefore the retention of the existing ponds and proposed construction of a further eight ponds would normally be regarded as appropriate development provided that they are of an appropriate scale and design that would not harm the Green Belt. Whilst the development proposes 13 ponds over a relatively small site, they are individually small in scale and would be created by excavating into the insitu soils and clays without the need to construct any perimeter bunding. The ponds that have already been constructed have re-vegetated to provide features with some ecological and landscape interest and given the screening provided by the hedgerows and other vegetation do not detract from the openness of the Green Belt in this location. Although the new ponds that are proposed are located nearer to Tincklers Lane and are therefore potentially more prominent, they are still relatively small scale features that would allow the retention of sufficient perimeter vegetation such that they would not harm the openness of the Green Belt.

The application also provides for the construction of a building. Buildings within the Green Belt are inappropriate development unless they are for certain specified purposes such as agriculture or forestry and the provision of appropriate facilities for outdoor sport and recreation. The applicant has argued that the use is agricultural development and that the building is therefore appropriate development within the Green Belt. The Town and Country Planning Act defines agriculture as including 'horticulture, fruit growing, seed growing, dairy farming and the breeding and keeping of livestock'. Although the keeping and breeding of fish predominantly to be used for recreational purposes is not an operation that would be traditionally classified as agriculture, the dictionary definition of livestock includes 'animals kept or raised for use or pleasure especially on a farm'. It is therefore considered that the proposed use could fall within the definition of agriculture particularly as the development is effectively for the development of a fish farm. Using the above analysis, it is considered that the use of the building would fall within the definition of agriculture and would therefore be appropriate development within the Green Belt.

In addition to the policy controlling development in the Green Belt, paragraph 55 of the NPPF states that new isolated homes in the countryside should be avoided unless there are specific circumstances such as the need for a rural worker to live permanently at or near the place of work.

The application originally provided for the construction of a portal framed shed for housing the fish breeding and rearing facilities together with a static caravan to provide living accommodation for a single member of staff. The applicant has now amended the proposal by incorporating the living accommodation on a mezzanine floor within building itself thereby removing the need for the caravan. Only a very small part of the building would be used for living accommodation with most of the building being used for the storage of fish food and the spawning and rearing tanks.

The tanks would be used to contain spawning fish, eggs and larvae. Use of indoor tanks enhances growth and survival rates and prevents predation which would occur in outdoor ponds but such tanks need to be kept at a constant temperature and oxygen level. Any fluctuations or failure of the control systems can lead to major loss and therefore it is necessary for site personnel to regularly monitor the tanks and to be able to take action if there is any failure of the control systems. The fish within the outdoor ponds also need to be protected from predation, particularly from birds and otters, and possible poaching. It is therefore considered that there is demonstrable need for the building, including living accommodation, on this site. However, given the particular circumstances that justify the development of the building on this site, it is considered that any permission should be subject to a condition restricting the use of the building to that associated with the fish rearing activities.

Whilst the applicant has included information to demonstrate the viability of the proposal, there will always be some risk that the business will fail, thereby resulting in a disused building being retained in a location where it would not normally be supported. It is therefore considered necessary to impose a condition requiring the building to be removed from the site and the land restored should the fish rearing use cease.

The building itself has been reduced in width by six metres and 0.5 metres in height. These amendments will reduce the impacts of the development on the Green Belt and countryside generally. The building would be located to the north of a hedgerow that runs through the site which would provide some screening to the building. The access to the building would also make use of a break in the existing hedgerow and therefore no further trees or hedgerow would need to be removed in this part of the site. The protection of all existing trees and the requirement to plant additional hedgerow planting around the building can be the subject of a planning condition. The building would be constructed from materials that are similar to that found on other agricultural buildings and which are therefore generally acceptable in this rural location. Subject to conditions relating to building materials and landscaping, the building is considered acceptable in terms of the impact on the Green Belt and the visual amenities of the countryside generally and complies with Policy DC1 of the Chorley Local Plan and paragraph 55 of the NPPF.

The access to the site would utilise an existing stone track which links with Tincklers Lane. Tincklers Lane at this location is derestricted and therefore a visibility splay of 2.4 metres by 160 metres is required. The applicant is of the view that these splays are unnecessary as there is no record of accidents at this location and the

development would not increase traffic. However, it is considered that the development of the new use including the building housing living accommodation would inevitably involve some increase in vehicle movements and therefore the normal visibility splay requirements should apply. This would not require removal of hedgerow along the full distance of the splay but could be achieved by setting back a more limited length of 90 metres and then replanting behind the splay to link with the hedgerows on either side. The provision of the visibility plays would have some visual impacts on Tincklers Lane including on the two properties opposite the site. However, given appropriate replanting, it is considered that the amenity value of the hedge can be replaced. This can be the subject of a planning condition.

The construction of the new ponds would have some impacts in terms of noise and traffic involved in the export of the clay from the site. However, the volumes of materials to be exported are relatively modest and the applicant estimates that the excavation works would be complete within one month. Provided that conditions are imposed regarding noise, hours of operation and wheel cleaning, it is considered that the impacts of the pond construction are acceptable. In terms of other amenity impacts, the application is only for the construction of a fish rearing facility and the individual ponds would not be of a scale where the site could readily be operated as a commercial fishing facility. Nevertheless, it is considered that a condition should be imposed to prevent the ponds from being used as a commercial angling facility.

The proposed ponds are located near to the Syd Brook within Flood Zone 3 (location with high probability of flooding). However, the ponds would not have surrounding perimeter bunds and therefore would not result in a loss of flood storage capacity. The proposed building is located in Flood Zone 1. The EA have no objection to the building provided that it is located in the proposed location and that a condition is imposed regarding surface water management so that discharge to the Syd Brook is managed to green field rates

In view of the scale, location and design of the development, it is considered that no Convention Rights set out in the Human Rights Act 1998 would be affected.

Recommendation

That planning permission be **Granted** subject to the following conditions

Time Limits

1. The development shall commence not later than 3 years from the date of this permission.

Reason: Imposed pursuant to Section 91 (1)(a) of the Town and Country Planning Act 1990.

Working Programme

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

- a) The Planning Application and supporting statement received by the County Planning Authority on 26th August 2014 as amended by the email from Roman Summer Associates Ltd dated 3rd December 2014.
- b) Submitted Plans and documents:
 - Studio 2014-217-005 Location Plan
 - Studio -2014-217-001 Rev D - Proposed Site Plan
 - Studio 2014-297-003 Rev B - Proposed portal frame floor plan and elevations
 - Studio 2014-217-002 - Existing and proposed site sections
 - Studio -2014-217-004 - Proposed pond detail.
- c) All schemes and programmes approved in accordance with this permission.

Reason: For the avoidance of doubt, to enable the County Planning Authority to adequately control the development and to minimise the impact of the development on the amenities of the local area, and to conform with policy DM2 of the Lancashire Minerals and Waste Local Plan, policy DC1 of the Chorley Borough Local Plan and policy 29 of the Central Lancashire Core Strategy.

- 3. No excavation of ponds or export of excavated materials from the site shall take place outside the hours of:

- 07.30 to 18.00 hours, Mondays to Fridays (except Public Holidays)
 - 08.00 to 13.00 hours on Saturdays

No excavation of ponds or export of excavated materials from the site shall take place at any time on Sundays or Public Holidays.

This condition shall not, however, operate so as to prevent the use of pumping equipment and the carrying out, outside these hours, of essential repairs to plant and machinery used on site.

Reason: To safeguard the amenity of local residents and adjacent properties/landowners and land users and to conform with Policy DM2 of the Lancashire Minerals and Waste Local Plan.

- 4. No excavation of soil or clay shall take place below a depth of two metres below existing ground levels.

Reason : in the interests of the amenities of local residents and to conform with policy DM2 of the Lancashire Minerals and Waste Local Plan.

- 5. No development of the building shall commence until details of the following matters have been submitted to and approved in writing by the County Planning Authority

a) the colours of the materials to be used for the external elevations and roof of the building

b) details for landscaping around the perimeter of the building including locations to be planted, numbers, species, types and sizes of plants, planting techniques and protection measures.

Thereafter, the building shall be retained in the approved colours.

The landscaping works contained in the approved scheme shall be implemented in the first planting season following the construction of the building and thereafter maintained for a period of five years including replacement of failed planting, maintenance of protection measures and weed control.

Reason : To ensure the satisfactory design and landscaping of the building in the interests of visual amenity and to conform with Policy 17 of the Central Lancashire Core Strategy.

6. The ponds shall only be used for the rearing of fish and shall not be used for any commercial fishing or angling activities.

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

7. The building shall not be used for any purpose other than for the rearing and breeding of fish and for any residential purpose that is ancillary to that use.

Reason : To ensure that the building is only used for purposes that are ancillary to the use of the adjacent ponds in the interests of local amenity and the protection of the openness of the Green Belt and to conform with Policy 13 of the Central Lancashire Core Strategy.

8. In the event that the ponds or building are not used for fish breeding and rearing activities for a continuous period of one year, notice in writing of such cessation of use shall be provided to the County Planning Authority. The building, foundations and all associated hardstandings shall be removed from the site and the land occupied by such structures restored to agricultural use within a further period of one year.

Reason : In the interest of the amenities of the Green Belt and to conform with Policy DC1 of the Chorley Borough Local Plan.

9. All plant, equipment and machinery used in connection with the excavation of the ponds shall be equipped with effective silencing equipment or sound proofing equipment to the standard of design set out in the manufacturer's specification and shall be maintained in accordance with that specification at all times throughout the development.

Reason: To safeguard the amenity of local residents and adjacent properties/landowners and land users and to conform with Policy DM2 of the Lancashire Minerals and Waste Local Plan.

10. No development shall commence until a scheme and programme for the improvement of the access and provision of a visibility splay on Tincklers Lane has been submitted to and approved in writing by the County Planning Authority. The scheme and programme shall provide for the following:-
- a) details for the surfacing of the access road and junction with Tincklers Lane.
 - b) details for the provision of a visibility splay on Tincklers Lane to the south of the access point measuring 2.4 metres by 160 metres.
 - c) details for the provision of new landscaping behind the visibility splay including details of new planting works, numbers and types of species to be planted, planting techniques and protection measures.

The approved access improvements and visibility splay shall be implemented prior to any other development works taking place. The visibility splay shall be maintained free of obstruction above a height of one metre.

The approved landscaping works shall be undertaken in the first planting season following the improvements to the access and visibility splays being undertaken and shall thereafter be maintained for a period of five years including replacement of failures, maintenance of protection measures and weed control.

Reason ; In the interests of highway safety and the visual amenities of the area and to conform with policy DM2 of the Lancashire Minerals and Waste Local Plan and policy 17 of the Central Lancashire Core Strategy.

11. Measures shall be taken at all times during the excavation of the ponds and export of soils and clays from the site to prevent mud, dust or other deleterious materials from being deposited on Tincklers Lane by HGV's leaving the site.

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

12. No trees or other vegetation except that required to construct the visibility splay required by condition 10 shall be removed during the construction of the development.

Reason : In the interests of the visual amenities of the area and to conform with policy 17 of the Central Lancashire Core Strategy.

13. The measures to be used for the management of surface water shall be installed in accordance with the submitted flood risk assessment ref CH242/01. The measures shall limit surface water run off from the site to the Qbar greenfield rate of 6.45 l/s/ha so that run off rates will not exceed the run off rates from the undeveloped site.

The surface drainage measures contained in the approved scheme shall be installed prior to occupation of the building and subsequently maintained in full working order.

Reason : In order to prevent flooding and to conform with policy 29 of the Central Lancashire Core Strategy.

Definitions

Planting Season: The period between 1 October in any one year and 31 March in the following year.

Heavy Goods Vehicle: A vehicle of more than 7.5 tonnes gross weight.

Notes

The applicant's attention is drawn to the observations of the Environment Agency in their letter of 17th September 2014. In particular, the applicant's attention is drawn to the informatives within the letter relating to the Syd Brook, disposal of foul drainage and stocking of the ponds.

Local Government (Access to Information) Act 1985 List of Background Papers

Paper	Date	Contact/Directorate/Ext
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Development Information Flder LCC/2014/0132		
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26th August 2014		
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Jonathan Haine Environment 534130		
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Reason for Inclusion in Part II, if appropriate N/A		
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