

Development Control Committee
Meeting to be held on 25th May 2016

Electoral Division affected:
Preston East

Preston City: application number. LCC/2016/0029
Application for the removal of condition 4 and the variation of condition 5 of permission 06/12/0695 to remove the restriction on opening hours of the visitor centre and to allow amplified music within the building from 9am to 1am Mondays to Sundays. Brockholes Nature Reserve, Preston New Road, Samlesbury.

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Executive Summary

Application for the removal of condition 4 and the variation of condition 5 of permission 06/12/0695 to remove the restriction on opening hours of the visitor centre and to allow amplified music within the building from 9am to 1am Mondays to Sundays. Brockholes Nature Reserve, Preston New Road, Samlesbury.

Recommendation – Summary

That planning permission be **granted** subject to conditions controlling time limits, working programme, hours of operation, noise controls, highway matters, flooding and landscaping.

Applicant's Proposal

The application relates to the existing nature reserve site at Brockholes, Preston. The existing planning permission for the site ref 6/12/0695 contains two conditions restricting the hours of use of the visitor centre:-

- condition 4 restricts the opening hours of the visitor centre to between 06.00 – 12.00 midnight
- condition 5 states that no amplified music shall be played outside of the building at any time and that amplified music within the building shall only take place between the hours of 09.00 -23.00 hours.

The current application is for the deletion of condition 4 and for the variation of condition 5 to allow amplified music to be played within the building from 09.00 – 01.00 hours Mondays to Sundays.

Description and Location of Site

Brockholes Nature Reserve is located in a former sand and gravel quarry immediately east of the M6 motorway, 4km east of Preston city centre. Access to the site is gained via a private access road from junction 31 of the M6.

The site is comprised of a series of lakes and other surrounding grassland and woodland. In the southern part of the site is a large lake that includes a floating pontoon accommodating a visitor centre including café/ restaurant, retail facilities and event space.

To the south and east of the site is the River Ribble beyond which are a number of properties in Salmesbury village which are accessed off Potters Lane. These properties are approximately 300 metres from the Brockholes visitor centre.

To the north of the Brockholes site is Tun Brook Woods which is a SSSI. The whole of the River Ribble and the Brockholes site is designated as a Biological Heritage Site.

The Ribble Way footpath and Guild Wheel cycle path run through the centre of the application site and a permissive footpath runs along the bank of the River Ribble.

Background

History

The site was a sand and gravel quarry between 1995 and 2007.

Planning permission for the development of a visitors centre at the site including café unit, retail, conference and exhibition space, car parking and other visitor facilities was granted in 2011 (planning permission 6/09/0311).

Planning permission (ref 6/12/0695) was granted in 2012 for the variation of conditions 4 and 5 of planning permission 6/09/0311 to allow the visitor centre to open between 06.00 – 12.00 midnight.

Planning Policy

National Planning Policy Framework

Paragraphs 6 -14, 17, 28, 79 – 90, 123 of the NPPF are relevant with regards to the presumption in favour of sustainable development, core planning principles, supporting a prosperous rural economy, green belts and the impacts of noise

Central Lancashire Core Strategy

Policy 13 Rural Economy

Preston City Local Plan

Policy V1 Model Policy

Policy EN1 Development in the open countryside

Consultations

South Ribble Borough Council: The Borough Council's Environmental Health Officer is aware of the complaints that have previously been received regarding noise from the Brockholes site. He notes that the noise survey accompanying the application was conducted until midnight whereas the proposal is for music to be played until 01.00 when background noise levels are likely to be lower. The EHO considers that the existence of complaints is an indication that the extended hours have the potential to result in an adverse impact on the nearby residential properties. The EHO considers that there may be potential to mitigate impacts through all doors and windows being closed during periods of entertainment, provision of a lobby and use of a limiting device on amplification equipment.

Preston City Council: No objection.

Samlesbury Parish Council: Object to the application. The affected properties are within Salmesbury and the Parish Council consider that there are fundamental conflicts between a bird reserve and the playing of loud music.

Representations – The application has been advertised by press and site notice, and neighbouring residents informed by individual letter. Fifteen representations have been received objecting to the application for the following reasons:-

- The applicant has not assessed background noise over the full period for which opening hours are proposed and the assessment was carried out when the wind was away from the properties in Salmesbury. The assessment is therefore defective.
- The mitigation measures proposed by the applicant rely on the owner being able to manage events at the site.
- Loud music will be detrimental to the wildlife interest of the site and is not compatible with the intended nature conservation purpose of the site.
- The introduction of private functions is detrimental to the use of site by others as it restricts access to certain facilities at the site.
- The amenity of local residents has been ignored by the applicants.
- The use of the site as a wedding / party venue is inappropriate for a wildlife site within the Green Belt.
- Most of the mitigation measures proposed by the applicant to limit noise are unenforceable.
- The use of the site for longer hours would result in more light pollution.
- The extended hours will have an adverse effect on the amenity of local residents and property values.
- The existing noise from the site is not acceptable and allowing further noise will increase the impact on the area.
- The applicant should be safeguarding wildlife and this proposal would be detrimental to the original objectives of the site.
- The noise would interfere with Sunday services, funerals and weddings at Salmesbury church.
- It is unreasonable to expect parties to be contained within the buildings and the outside areas at the site will undoubtedly be used at night thereby increasing noise.

- It is unsafe to have such parties on a site surrounded by water.

A further letter has also been received via Nigel Evans MP who believes that proper scrutiny of the application is needed.

Advice

The Brockholes Nature Reserve was established on the site in April 2011 following the cessation of the former sand and gravel extraction operation and the restoration of the site to a series of lakes and other habitats that quickly acquired nature conservation value.

When the Lancashire Wildlife Trust acquired the site, they maintained that the site required a visitor centre to provide some visitor facilities such as a café and interpretation area as well as ancillary exhibition and event space. These facilities were required to allow the development of an income stream which could be used to support the nature conservation activities on the site. An outline planning permission was granted in 2008 for the construction of the visitor facilities with a full application following in 2009 which included details of the buildings located on the floating raft structure and the car parking and other ancillary developments (planning permission 6/09/0311). This permission included a condition (no.8) restricting the opening hours of the visitor centre to between 10.00 – 17.00 Mondays to Fridays and 09.00 – 18.00 on Saturdays and Sundays.

A planning application ref 6/12/0695 was then made to vary condition 8 of planning permission 6/09/0311 to allow the visitor centre to be used between the hours of 06.00 to 12.00 midnight. At that time the applicant stated that longer hours were required to allow evening events such as natural history talks, early morning or evening guided walks, late night seasonal opening at Christmas and summer evenings and community group meetings. The Wildlife Trust explained that these events were essential as they helped to attract a wider range of visitors and increase income, thereby ensuring that the site could be economically sustainable.

Whilst application 6/12/0695 was considered to be generally acceptable, the County Council also became aware that the site had been granted an alcohol licence and was also a licenced wedding venue. In order to protect local amenities from the noise impacts that might arise from such activities, two conditions were attached to the permission. Condition 4 limits the use of the visitor centre to between 06.00 and 24.00 hours and condition 5 prevents the playing of amplified music outside of the buildings at any time and inside the buildings only between the hours of 09.00 – 23.00 Mondays to Sundays.

An application has now been made to remove condition 4 on general opening hours and to vary condition 5 to allow the playing of amplified music within the building until 01.00 hours Mondays to Sundays. In support of their application to remove condition 4, the applicant maintains that they need to operate the site outside of the existing general opening hours in order to be able to clean the buildings and external areas following evening / night time events and that the nature of the access (which is direct to the M6) and distance from properties means that there is no need for the condition to remain. In respect of condition 5, the applicant states a significant part of their income comes from weddings and other celebrations and that the current restrictions on the playing of amplified music limit the ability to attract such business.

The Trust draw attention to the need for this income stream to be able to fund the management of the surrounding nature reserve which they state is now a considerable visitor attraction (160,000 visitors per annum) and is of SSSI quality for its population of whimbrel and assemblage of other birds.

A number of comments have been raised in representations regarding the appropriateness of the site being used for weddings and other celebratory events given the location of the site in a nature reserve which is also in the Green Belt and open countryside. However, the buildings on the site have already been constructed for the purposes of providing visitor facilities and exhibition / event space and it is considered that the use of the facilities for weddings and other events does not necessarily conflict with the purposes of including land within the Green Belt or is contrary to the policies of the development plan relating to development within the open countryside. The nature reserve is a large area of land and the visitor centre is located well away from the existing SSSI and the other areas of the Brockholes site where visitor access is restricted to encourage wildlife. For these reasons, longer opening hours would not necessarily conflict with the overall nature conservation objectives of the site and it is clearly necessary for the site to be able to develop an income to support the management of the wider site.

The main issue relates to the applicant's request to vary condition 5 to allow the playing of amplified music within the building until 01.00 hours Mondays to Sundays. The current permission restricts such activities until 23.00 hrs. In support of their application, a noise assessment has been undertaken in order to evaluate noise impacts at the nearest properties in Salmesbury. The assessment was undertaken by generating a noise level within the visitor centre building equivalent to a loud disco and then measuring the noise in the village to assess impacts. The assessment concluded that the noise levels in Salmesbury were below the background levels such that the noise could not be measured or heard.

There are some concerns in that the survey only assessed noise impacts until 12.00 and therefore did not cover the full period over which site activities are proposed. Background noise levels may reduce between 24.00 and 01.00, particularly in this location where the noise climate is heavily influenced by motorway traffic. The wind during the survey period was also towards the site rather than towards the nearest houses which could have affected the result.

In summer 2015 two complaints were received from a local resident on Potters Lane, Salmesbury regarding music noise from the site late at night. A number of representations received to this application have also commented that night time noise from the site has been heard on occasion. When the complaints were investigated, the Wildlife Trust conceded that the occurrence of noise beyond 11.00 was due to a change of staff at the site and confusion as to the finishing time for events as the premises (alcohol) licence issued by the City Council permits the site to open until midnight as opposed to 23.00 in the planning permission.

Notwithstanding the findings of the noise survey, it is therefore considered that noise from weddings and other events at the site has the potential to impact upon local amenity unless properly controlled.

The noise assessment submitted in support of the application suggests a range of mitigation measures that could be employed to reduce noise levels in the event that

the buildings are to be used for a loud disco / live performance. These include the use of a noise limiter which would restrict outputs from a PA system to a pre-set level or ensuring that the doors and windows to the buildings remain closed.

Closure of the doors and windows would be effective in containing noise. However, the buildings are sited on a large decking type area with floor to ceiling glazing. It is inevitable that the decking areas will be used in conjunction with the interior space during events and that the glazed panels will be open especially during summer thereby allowing sound to escape. A condition requiring doors and windows to remain closed in order to contain sound would therefore not be acceptable to the applicant and would also be difficult to enforce.

The Wildlife Trust consider that the use of a noise limiter would be excessively prescriptive regulation and as an alternative they propose a number of alternative measures including that the manager would actively monitor music levels, control of the use through room hire conditions, use of certain approved DJ's and careful screening where live music is proposed so that load bands are declined. However, none of those measures are considered to be enforceable in planning terms.

The Borough Council EHO considers that additional mitigation measures are required including doors and windows to be kept closed, provision of a lobby and use of a limiting device for all entertainment. For the reasons set out above, it is considered that requiring all doors and windows to remain closed would not be possible and the design of the buildings would not lend itself to the construction of a lobby. However, noise limiters are often employed in clubs and pubs to restrict noise to acceptable levels and it is considered that the use of such a device could be the subject of a planning condition and would be effective in restricting noise to a pre-set level. Such a condition would also need to require further investigation as to the noise level to which such a limiter should be set and procedure to be followed should complaints be received.

Permission is sought for amplified music to be able to be played until 01.00 Mondays to Sundays. However such hours are considered to be excessive in this location and therefore it is considered that the hours should be restricted to 12.00 midnight on Fridays and Saturdays and 23.00 on other days. Such hours would be within those included in the existing premises licence. In terms of the general hours of opening (condition 4), it is considered that there is some scope for flexibility and that the general opening hours could be extended until 02.00 to allow for cleaning / maintenance following events.

With such conditions, the application is considered acceptable in terms of local amenity and complies with the NPPF and policies V1 and EN1 of the Preston City Local Plan.

In view of the scale, location and nature 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 ref 6/09/0311 and supporting statement received by the County Planning Authority on 27 April 2009 as modified by the planning application ref 6/12/0695 dated 30th August 2012 and planning application LCC/2016/0029 dated 18th March 2016.

- b) Submitted Plans and documents:

Drawing nos 027/3001a, 027/3002a, 027/3100a, 027/3105, 027/3110, 027/3111, 027/3120, 027/3121, 027/3400,

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 policies 13, 17, 18, 21 and 22 of the Central Lancashire Core Strategy.

3. The car parking including the disabled parking, motorcycle and cycle parking provision shall be retained in accordance with the scheme and programme received by the County Planning Authority on 28th January 2011 including car park layout plan ref 027/3105 rev A.

Reason: In the interests of highway safety and to ensure the proper management of parking to conform with Policy 17 of the Central Lancashire Core Strategy.

4. The visitor centre including the café, retail units, offices, education facility, exhibition space and conference centre and meeting rooms authorised by this permission shall not be open to the public outside the hours of:

06.00 to 01.00 hours, Mondays to Sundays

Notwithstanding the requirements of this condition, the site shall also be able to be open until 02.00 hours Mondays to Sundays for the purposes of cleaning and site maintenance following events.

Reason: To safeguard the amenity of local residents and adjacent properties/landowners and land users and to conform with Policy 17 of the Central Lancashire Core Strategy.

5. There shall be no playing of amplified music outside of the buildings within the visitor centre at any time.

The playing of amplified music shall be contained within the buildings and shall not take place outside of the hours of 09.00 - 24.00 hrs on Fridays and Saturdays and 09.00 - 23.00 on any other days.

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

6. There shall be no playing of amplified music at the site after 23.00 hours until noise attenuation measures have been installed in accordance with a scheme and programme to be first submitted to and approved in writing by the County Planning Authority.

The scheme and programme shall provide details of the following:-

- a) Details of a noise limiting device to be fitted to any PA or amplification equipment used at the site.
- b) Details of the noise level to which the noise limiting device shall be set. The noise level used shall be based upon a background noise level survey undertaken on the southern boundaries of the Brockholes Wildlife Site between the hours of 23.00 hours and 24.00 hours. The survey shall be undertaken according to the methodology in BS4142 and shall be undertaken on a Friday or Saturday night.

The level used for the limiting device shall ensure that the noise from the site in each octave band between 63Hz and 4Hz shall not exceed the background level when measured at any noise sensitive property.

- c) The procedure to be followed in the event that there is a complaint about noise from the site including reviewing the levels used on the noise limiting device.

The noise limiting device shall be employed at any time when PA or amplification equipment is used at the site and shall be set at the level identified under part b) of this condition or any alternative level subsequently approved under the requirements of c).

Reason: In order to control noise in the interests of the amenity of local residents and to conform with Policy 17 of the Central Lancashire Core Strategy.

7. The traffic and parking management measures described in the scheme and programme dated submitted on 28th January 2012 to comply with the requirements of condition 3 of planning permission 6/09/0311 shall be maintained and operated in working order throughout the duration of the development.

Reason: In the interests of highway safety and the management of parking and to conform with policy 17 of the Central Lancashire Core Strategy.

8. The recommendations contained in appendix 6 of the Brockholes Travel Plan dated 29th October 2009 and submitted with the letter from Adam Khan Associates dated 28th January 2011 pursuant to condition 6 of planning permission 6/09/0311 shall be implemented at all times during the development.

Reason: In the interests of promoting sustainable travel and road safety and to conform with Policy 17 of the Central Lancashire Core Strategy.

9. The flood warning measures and evacuation procedures contained in the flood risk assessment and operational plan submitted with the letter from Adam Khan Associates dated 28th January 2011 pursuant to condition 9 of planning permission 6/09/0311 shall be implemented at all times during the operation of the visitor centre and nature reserve site.

Reason: To ensure the safety of users of the site and to conform with Policy 29 of the Central Lancashire Core Strategy.

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

Paper	Date	Contact/Directorate/Ext
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LCC/2016/0029		
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31st March 2016		
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Jonathan Haine Planning and Environment 534130		
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Reason for Inclusion in Part II, if appropriate N/A		
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