

## **Lancashire County Council**

### **Development Control Committee**

**Minutes of the Meeting held on Wednesday, 21st July, 2021 at 10.30 am in the Council Chamber, County Hall, Preston**

**Present:**

County Councillor Matthew Maxwell-Scott (Chair)

#### **County Councillors**

P Rigby	G Mirfin
L Cox	M Pattison
A Cullens	J Potter
A Hindle	E Pope
S Clarke	B Yates
H Khan	

#### **1. Apologies for absence**

None received.

#### **Temporary changes**

County Councillor Hindle replaced County Councillor Dad.

County Councillor Clarke replaced County Councillor Kay.

#### **2. Disclosure of Pecuniary and Non-Pecuniary Interests**

No pecuniary or non-pecuniary interests were disclosed.

#### **3. Minutes of the last meeting held on 16 June 2021**

**Resolved:** That the minutes of the last meeting held on Wednesday 16 June 2021 be confirmed and signed by the Chair.

#### **4. Update Sheet**

The Update Sheet and Addendum Update Sheet were circulated prior to the meeting (copies attached).

**5. West Lancashire Borough: application number LCC/2021/0027  
Construction of a new access track to provide safe access to water  
area East Quarry, Appley Lane North, Appley Bridge, Wigan**

A report was presented on an application for the construction of a new access track to provide safe access to the water area at East Quarry, a disused sandstone quarry off Appley Lane North, Appley Bridge, Wigan.

It was reported that mineral extraction operations had been completed in the late 1980's but that the quarry had since flooded to a considerable depth. Although the quarry had security fencing around the majority of its boundary to prevent unauthorised access, it had become attractive to trespassers as a location for swimming and 'tombstoning', especially during warmer periods in the summer.

The construction of the track was required so that the landowner could pump the water out of the quarry in order to address the public safety and amenity issues in the local area. The current ramp was very steep and narrow and the access route was considered by the applicant to be unsuitable for purpose under the Health and Safety at Work Act.

Committee noted that the application raised a number of issues including the requirement for the ramp and the local environmental impacts arising from its construction including ecology, highways and residential amenity.

The report included the views of Ecology Advice (Jacobs Ltd), LCC Highways Development Control, Lancashire Fire and Rescue (Skelmersdale Fire Station) and details of 42 representations received comprising 30 objections and 12 letters of support.

The Development Management Officer presented a Powerpoint presentation showing an aerial view of the site, site access and the location of the proposed ramp and illustrations of the applicant's proposals.

The Officer drew attention to the Update Sheet which contained consultation responses from West Lancashire Borough Council (objecting to the application), the Environment Agency (no objection to the application) and Shevington Parish Council who had requested a deferment in order to allow them more time to consider the application. In addition, the Update Sheet contained details of a further 106 representations objecting to the application, a further 3 letters of support and a letter from County Councillors Bailey and Fillis and Borough Councillor Jukes.

The Addendum Update Sheet provided details of further consultation responses and representations including 24 further objections.

Councillor Katie Jukes, West Lancashire Borough Council addressed the Committee and disclosed a declaration of interest as she was currently in a legal dispute with Maybrook Investments. Councillor Jukes made the following points:

- the application should have been heard by West Lancashire Borough Council.
- the problems with the quarry were dividing the community as a result of false promises within the application.
- No application for an Environmental permit had been made and clarification was sought on this.
- The application stated that the proposed ramp would reach the existing track; Councillor Juckes said there was no evidence to support this.
- A further investigation was required as detailed in West Lancashire Borough Council's response, prior to a decision being made.
- Councillor Juckes accepted that the quarry presented a real danger and suggested this could be resolved by the applicant providing a secure fence around the perimeter whilst further information was being gathered.

Mr Julian Chambers, a local resident addressed the Committee. Mr Chambers had circulated a presentation to Committee Members in advance of the meeting highlighting residents' concerns. Mr Chambers made the following points:

- the application contained out of date information in relation to the bat habitat assessment, preliminary agricultural assessment, preliminary ecological appraisal and the survey scoping appraisal.
- concerns around desk-based studies being carried out.
- The only site inspection was in 2019 and had taken place on one side of the quarry, away from where the majority of the wildlife was based.
- The building of the ramp and destruction of trees would have a great impact on the habitat. The bat habitat on the site had changed over the past 11 years but no bat habitat survey had been commissioned or performed on site. Residents had video evidence of a high number of bats being present on the site, in addition to video evidence of several other legally protected species being present.
- Applicant says report is only valid until March 2021 after which it would need to be reviewed – this has not taken place.
- No planning permission should be granted until a full physical survey has been undertaken over a period of 2 seasons.

Anne Fletcher, a local resident addressed the Committee. Ms Fletcher made the following points:

- the photographs displayed on the Powerpoint presentation were not a true reflection of how busy the area was. Ms Fletcher had witnessed several accidents at the junction of Skull House Lane and Appley Lane North and these would only increase should the application be accepted.
- There was a huge volume of traffic on a daily basis on Appley Lane North and a traffic survey had shown 4,000 vehicle movements between 05.00 and 19.00 with the highest numbers being recorded between 7.30-9.30 and 15.30-17.30. If the proposed works took place, the increase in vehicle movements and parking issues would pose an increased danger to pedestrians and cyclists due to pathways being further restricted.
- Residents' loss of amenity would increase if the application was approved.

- The application does not take into account the empty lorries leaving the site which would double the numbers on the roads.
- The ramp would not fulfil its purpose.

Roger Alexander, a local resident, addressed the Committee. Mr Alexander made the following points:

- different diagrams had been sent to Lancashire County Council and the Environment Agency by the applicant. The diagram sent to the Environment Agency showed the track was more than double the length and size of that being presented today. The emergency services had not requested this work to be carried out as the existing tracks were sufficient.
- The application was incomplete as it showed less than half of the total roadway that was required.
- The applicant required an Environmental permit.

Mr Mark Tamlin, a local resident, addressed the Committee. Mr Tamlin made the following points:

- There had been a significant increase in trespassing/anti-social activity on the quarry site in the last 2 years.
- The photographs of the perimeter fence on the presentation had been taken of the opposite side of the quarry and did not show that many parts of the fence were damaged.
- Disagrees that Maybrook Investments had kept the site safe. No repairs had been made to the perimeter fence and no security staff had been seen.
- The gate to the north had been left unlocked, allowing full access to the site. Another emergency access gate to the north east had been breached during the Dispersal Order in June 2021. A resident had reported this to the police and had made temporary repairs to the fence but no permanent repairs had been carried out.
- Breaches of the fence were left to residents to monitor and report trespassers to the police. Bars in the fence had been levered open and remained unfixed.
- The proposed ramp would potentially increase the numbers of people gathering on the site and would provide easier access to the water.
- No life buoys or emergency contacts were provided on site and the boundary needed to be secured.

Mr David Connor, a local resident addressed the Committee. Mr Connor made the following points:

- Maybrook Investments had announced on social media on Friday 16<sup>th</sup> July, that they had had a meeting with the Police and Lancashire Fire and Rescue to ensure the perimeter was secure. It had also been advertised that there would be a Dispersal Order in place with additional Police presence. A film had also been published discouraging children to enter the quarry. Soon after, children had been seen swimming in the quarry and they remained unchallenged, despite a Police drone flying around the quarry.

- A large number of swimmers also arrived on Saturday 17<sup>th</sup> July, again breaching the perimeter. A resident witnessed people with crates of alcohol waiting to access the quarry and in the early evening, youths had climbed over garden walls at Dawber Delph damaging the emergency access gate to the quarry. When questioned by the resident, they continued to force their way into the site with persistent and wilful disregard of residents properties. At the same time, the Police were filming from the other side of the quarry. Residents were having to inform people about the Dispersal Order in place but many ignored this. Disturbances in the quarry had been noted until midnight on Saturday 17<sup>th</sup> July.
- On Sunday 18<sup>th</sup> July, several more swimmers were seen near the Maybrook office but nothing was done.
- The fence had been shoddily repaired on Monday 19<sup>th</sup> July but youths smashed it open with concrete. Damage to the fence was a regular occurrence. Incidents had been reported to Maybrook Investments via email as no emergency telephone number was available.

Mrs Jane Corner, a local resident, addressed the Committee. Mrs Corner made the following points:

- Appley Bridge had been built around three quarries and there was a lack of monitoring and management of the quarries which had an impact on residents.
- the presentation shown did not include mention of the other 2 quarries which also generated HGV movements and all vehicles used the same road for access to the sites.
- The presentation did not show a true picture of the area and the village amenities, in particular the school and the village hall which was used for daily activities.
- Parents dropped off and picked up children from the school which was on a bend on a steep hill. The Headteacher had reported that the increase in traffic would impact on the safety of children and their families.
- The increase in traffic was not conducive to the narrow, winding section of Appley Lane North.
- The work would not be completed by the end of the school summer holidays.
- The proposed works would result in an increase of accidents in the area.

Ms Sally Edmondson, a local resident, addressed the Committee. Ms Edmondson made the following points:

- The application contained misleading quotes of support.
- Neither of the 2 police officers who patrolled the area supported the application and had asked further questions in relation to the fence and security.
- Lancashire Fire and Rescue had said the current access to the site was sufficient and that no access to the waterside was required at this stage.
- The Health and Safety Executive had said the Quarries Regulations 1999 did not apply in this case, nor was there any relevance to COMA.

- The need for the emergency services to access the site had increased exponentially under the current owner, Maybrook Investments.
- The picture of the fence on the presentation was misleading as it did not show the parts of the fence which were damaged.
- Debris was left around the area and not cleared away, and was used to gain access to the quarry.
- The proposed works would encourage more swimmers as it would provide easier access to the water.

Ms Kerry Elstone, a local resident, addressed the Committee. Ms Elstone made the following points:

- Maybrook Developments had obtained a de-watering licence to remove 70% of the water and fill the quarry with clay. The construction phase plan completed by Russell Group in June 2020 referred to the existing area being re-inforced to ensure wagons making deliveries did not slip down the bank towards the quarry. This clearly stated the reason was not to improve access for emergency vehicles but for filling the quarry with clay.
- The report stated there had been 2 fatalities in 1999 and 2015 – no effort had been made to provide access for emergency vehicles in the meantime.
- If approval for the new ramp was granted for emergency access purposes but was then used to facilitate the dumping of clay, who would ensure that Maybrook complied with its granted use.
- Dangerous equipment had been left on site despite Wigan Council's instruction to remove it.
- The traffic assessment had still not been carried out.
- Relevant consultees had not been contacted.
- More evidence was required as to what safety grounds were currently in breach.
- Contradictory information provided - Lancashire County Council had confirmed the works would be short term but Maybrook Investments had stated it could take 10 years to complete.
- The application should be disregarded until further information had been provided.

Mr Stuart Thorn, a local resident addressed the Committee. Mr Thorn made the following points:

- This application was not about safety but about the applicant wanting to fill the quarry.
- The new ramp would make it easier for trespassers to access the water.
- There would be a loss of amenities for residents. More HGVs would cause further congestion and danger. Commuters using the railway station already parked all along Appley Lane North and the road network was unsuitable for any increase in traffic, especially lorries.
- The increase in HGV movements would cause noise, dust and pollution to local residents.

- Planning Officers had failed to consult Appley Bridge residents on the proposal.
- If the quarry was such a liability, it should be donated to The Wildlife Trust who could access grants to maintain the existing wildlife.

County Councillor Fillis addressed the Committee. CC Fillis stated that he had initially asked Committee to reject the application due to it appearing to accept that the site would become a landfill, without any consideration of the impacts on the environment or local community. Officers had advised CC Fillis that the application was only for the construction of an access ramp and not for landfilling the whole site, and that it must be determined on that basis.

County Councillor Fillis referred to consultation responses both for and against the proposal and made the following points:

- the importance of emergency vehicles needing to access the site easily.
- the design and construction was all down to HGVs and landfill.
- the best way to judge this application was for Committee to undertake a site visit, in order to assess whether the application was for temporary access, or whether it was the beginning of a major landfill site.
- If the site was going to be developed, this should be done as a whole rather than piecemeal.

James Shahhet, Health & Safety Executive - Soteria (UK) Limited, addressed the Committee on behalf of the applicant. Mr Shahhet made the following points:

- This application was a case of safety first.
- The current access ramp was not fit for purpose due to the gradient and width, not just for operatives working on the site but for emergency services access.
- All objections to the application had been listened to but appropriate emergency preparedness and response was of paramount importance for the quarry site.

County Councillor Pope seconded CC Fillis' proposal for Committee to undertake a site visit and requested further information on the application and sight of the full report from West Lancashire Borough Council, prior to a decision being made on the application.

County Councillor Yates expressed concern that there was no adequate fencing to secure the site or signs warning of the dangers and that these issues should have been enforced in the planning conditions. On listening to the residents concerns about the location of the school, CC Yates added that, should the application be approved, an appropriate travel plan needed to be in place stating that no HGV movements should take place during school drop off and pick up times. CC Yates also raised the issue of the applicant not having an Environmental Permit. In relation to the comments about the site becoming a

landfill site, CC Yates pointed out that the application needed to be considered as it was and not on what it may become in the future.

County Councillor Hindle asked why no life buoys were available on the site and why there was no update on the impact to wildlife if the water was emptied from the quarry and the trees were cut down.

County Councillor Cullens stated that a response to the consultation was required from either the Chief Constable or the Police and Crime Commissioner due to breaches of law on the site. CC Cullens added that signs were required to confirm that this was trespassing, not merely to inform people there was no swimming allowed. CC Cullens supported the suggestion for a site visit.

County Councillor Potter agreed that the application needed to be assessed solely on the proposed construction of the new access track. However, he stated that the ecology reports from the applicant could not be accepted. In relation to the width of the track, CC Potter asked whether it would mitigate other issues if 2 HGVs could pass each other easily and not 'spill' outside of the site. In relation to some of the points raised at the meeting, CC Potter stated that these were not matters for this Committee to make a decision on although he sympathised with residents' concerns.

County Councillor Mirfin stated that the full consultation response from Lancashire Fire and Rescue was required and clarification from the Health and Safety Executive on whether there was a Health and Safety at work issue on the site. Further information was requested on the impact of the HGV movements and how these would be managed, potential damage to the road and route and unresolved ecology issues. In relation to the safety of the site, CC Mirfin queried why CCTV cameras were not in place and why security staff were not monitoring the site.

Ross Hudson, Lawyer, and Jonathan Haine, Development Management Officer responded to the comments raised and provided further details on the following issues:

- West Lancashire Borough Council had provided comments on the application which had been included on the Update Sheet. They had indicated their contentment for Lancashire County Council to consider the application.
- Historic condition of fencing/insecurity of old site – as planning permission had originally been granted in the 1940s or 1950s, no controls had been placed on fencing or restoration after quarrying activity had stopped.
- Travel plan – comments were noted although it was reported it would be difficult to enforce this and control vehicle movements to avoid school drop off and pick up times. This would also extend the duration of the proposed works.
- Ecology reports – the protection that existed related specifically to bat roosts. If old trees and buildings were present on site, a full bat survey would be required but it was not considered necessary in this case as the impact to bats would be limited.



- Health and Safety at work – this would be determined once an incident had occurred. The Health & Safety Executive had made the applicant aware that they would need to take this into account.
- Damage to road – the HGVs were publically useable vehicles so this would be classed as ordinary use of a public highway.
- Environmental Permit - the applicant had requested an exemption for this due to this being a small scale construction and clean materials being used.
- Lack of life saving equipment on site – this was a large site with multiple access points so it would not be helpful to just have this equipment where the ramp was located.
- Requests for Site visit – Committee were reminded that site visits were the exception rather than the rule and that there must be an expectation of substantial benefit in order for one to be carried out.

After a discussion, CC Pope withdrew his seconding of the site visit proposal and it was Moved and Seconded that:

"the application be refused"

On being put to the vote, the Motion was Carried.

Committee requested officers to draft the specific reasons for refusal, which would be detailed in the minutes.

It was therefore:

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

- (i) The importation of the inert fill materials to construct the ramp would generate volumes of HGV movements that would be harmful to the amenity of local residents, contrary to Policy DM2 of the Lancashire Minerals and Waste Local Plan.
- (ii) The applicant has not satisfactorily demonstrated that the proposal would not have an adverse impact on bat species, contrary to the requirements of Policy EN2 of the West Lancashire Local Plan and Policy DM2 of the Lancashire Minerals and Waste Local Plan.

**6. Pendle Borough: application number LCC/2021/0017 Construction of three buildings and three kiosks at Burnley Wastewater Treatment Works, off Barden Lane, Woodend Road, Burnley**

A report was presented on an application for the construction of three buildings and three kiosks at Burnley Wastewater Treatment Works, off Barden Lane, Woodend Road, Burnley.

The proposed development was part of a wider programme of upgrading works that was necessary to enable compliance with an enhanced effluent discharge consent for phosphorous, as set by the Environment Agency, as well as to increase the treatment capacity of the works to cater for predicted population growth in the catchment area to 2035. Much of the upgrade work was to be carried out under sewerage undertaker permitted development rights and planning permission is only required for three buildings and three kiosks.

The report included the views of Reedley Hallows Parish Council, the Coal Authority, the Environment Agency and The Wildlife Trust for Lancashire, Manchester and North Merseyside and details of 7 objections.

The Development Management Officer presented a Powerpoint presentation showing an aerial view of the site and the nearest residential properties, site layout and the typical building design of a Biomag building. In addition, Committee were shown a diagram of where replacement woodland planting would be located and photographs of the location for the detention tank kiosk, the Biomag building, the Biomag complex and the sludge thickening building polymer dosing kiosk.

The Officer drew attention to the Update Sheet which provided further consultation responses and details of revisions to Conditions 2 and 4, following revised drawings being submitted by the applicant.

It was reported that, although the application site was located in the Green Belt, in this instance, there was clear justification to construct these buildings and kiosks within an existing wastewater treatment facility, as part of wider upgrading works. Furthermore, the aim of the proposed development was to be able to accommodate population growth and changes to local wastewater management, and to tighten final effluent standards to contribute towards improved river water quality. On this basis, it was considered that very special circumstances existed to justify the development within the Green Belt. Committee were informed there would be no extension to the boundary of the works and therefore no additional encroachment in the Green Belt.

County Councillor Potter asked whether the trees to be planted would provide adequate replacement screening. It was confirmed that the material generated from the works would be used to create mounds and that trees and shrubs would be planted on the mounds. Some of these would be saplings as these usually fared better than planting larger trees. There would be a management period to show the trees had reached maturity and contributed towards the landscape.

**Resolved:** That subject to the amendments to Conditions 2 and 4 as set out in the Update Sheet at Item 4 of the agenda, planning permission be **granted**, subject to conditions controlling working programme, building materials and construction working hours, as set out in the Committee report.

**7. West Lancashire Borough: application number LCC/2021/0022  
Formation of a multi-use games area - West Lancashire Community  
High School, School Lane, Chapel House, Skelmersdale**

A report was presented on an application for the formation of a multi-use games area at West Lancashire Community High School, School Lane, Chapel House, Skelmersdale.

It was reported that the proposed multi-use games area was required to address a short fall of hard play area, which limited the amount of outdoor physical education and sports/games that could take place. The playing fields could not be used for most of the year as they were waterlogged and took a long time to dry out to a usable standard. The multi-use games area would provide additional hard play area and encourage pupils to participate in more outdoor activities. The facility would also be available to neighbouring schools and the local community.

The report included the views of West Lancashire Borough Council, the Coal Authority, LCC Highways Development Control, Lead Local Flood Authority, Sport England and United Utilities, and details of 5 representations received comprising 4 objections and one letter of support.

The officer drew attention to the Update Sheet which contained confirmation from Sport England that their objection to the application had been withdrawn, following further information being submitted to them in relation to the need for the games area, the parking issues and the issues with the current playing field. Committee were informed that this would remove the requirement to refer the application to the Secretary of State.

The Development Management Officer presented a Powerpoint presentation showing an aerial view of the application site, the nearest residential properties and proposed multi-use games area, path and gates. The Committee were also shown photographs of the site, the view from the nearest houses on School Lane and the existing multi-use games area which was currently used as a car park.

County Councillor Cullens asked whether any mitigations would be put in place to camouflage the multi-use games area at each end in order to deflect noise to the local residential areas. It was reported that the current playing field was also used by the local community and that the multi-use games area would have fencing surrounding it to reduce noise levels and that it was a fair distance to the nearest residential properties.

In response to CC Cullens' question about the working hours, it was confirmed that the school had requested the specified opening hours. Sport England had asked for a Scheme to be submitted on how the site could be accessed and controlled including hours of use and how the school would control access out of school hours.

County Councillor Potter had noted that the games area would be open until 8.00pm but that no floodlighting had been proposed which would restrict use in the winter months. It was reported that the school wanted to maximise the use of the multi-use games area over the summer.

**Resolved:** That subject to the additions of Conditions 8 and 9 as set out in the Update Sheet at Item 4 of the agenda, planning permission be **granted**, subject to conditions controlling time limits, working programme, building materials and drainage, as set out in the Committee report.

## **8. Planning decisions taken 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 16 June 2021, the following decisions had been taken by the Head of Planning and Environment, in accordance with the County Councils Scheme of Delegation to Chief Officers:

### **Lancaster**

Ellel Quarry, Bay Horse Road, Lancaster - compliance with condition 27 - scheme of archaeological research.

### **South Ribble**

Blackburn Waste Water Treatment Works, Cuerdale Lane, Samlesbury, Preston - compliance with condition 7 of permission LCC/2020/0016 - details and designs of the drainage ponds and associated drains ditches and outfalls.

Plot 3.3, Badger Road, Lancashire Business Park, Leyland - erection of new class B2/B8 industrial unit with ancillary class e first floor office/flexible use storage mezzanine and associated car parking, servicing areas, refuse storage, landscaping, vehicular access point and other private highway works.

### **Burnley**

Brunshaw School, Morse Street, Burnley - two temporary single storey modular buildings consisting of two classrooms per unit with a connecting level landing between the buildings.

Deerplay Landfill Site, Bacup Road, Cliviger, Burnley - proposed netted tipping bay for the transfer of waste and the installation of two portacabins for the duration of landfilling and associated activities.

**Resolved:** That the report be noted.

**9. Urgent Business**

There were no items of Urgent Business.

**10. Date of Next Meeting**

**Resolved:** That the next meeting of the Committee be held on Wednesday 8 September 2021 at 10.30am.

L Sales  
Director of Corporate Services

County Hall  
Preston