

# UPDATE SHEET

## PLANNING COMMITTEE – 01 March 2016

### To be read in conjunction with the Head of Planning and Regeneration's Report (and Agenda)

#### This list sets out: -

- (a) Additional information received after the preparation of the main reports;
- (b) Amendments to Conditions;
- (c) Changes to Recommendations

#### MAIN REPORT

A1	14/00800/OUTM	<b>Residential Development and Associated Infrastructure (outline - all matters other than part access included)</b> Land off Hall Lane, Whitwick
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#### **Additional Submissions**

The applicant has submitted an updated Arboricultural Assessment which now reflects the impacts on the proposed Hall Lane access. This indicates that, in addition to the Category C alder and Category B wild cherry assumed as affected as set out in the main report, a Category B alder would also be lost to facilitate the access.

#### **Applicant Comments**

The applicant has provided clarification of its position in respect of a number of matters, as follows:

#### *Highways Infrastructure*

The applicant notes that, whilst identified as having a greater impact on the Broom Leys Crossroads in terms of numbers of vehicles than the Gladman Developments Greenhill Road development, mitigation was not required by the County Highway Authority in that instance.

The applicant also clarifies its position in terms of the proposed highways infrastructure contributions. It accepts that the original proposal put forward by its highways consultant was unclear but now confirms that its offer comprises £35,000 towards the Broom Leys Crossroads and £255,000 towards the Stephenson Way / Hermitage Road / Whitwick Road junction. The offer is summarised as follows:

- (i) Pay a total contribution of £290,000 towards improvements at both junctions;  
*or*
- (ii) Pay a contribution towards one or other scheme and agree to undertake the works (not covered by the contribution) through a Section 278 agreement; *or*
- (iii) Carry out both schemes by way of a Section 278 agreement.

#### *Other Leicestershire County Council Contributions*

Should the Local Planning Authority consider that the contributions sought are CIL compliant, the applicant confirms it would be agreeable to making them.

#### *Police Contributions*

The applicant maintains its position that the contributions sought do not meet the requirements of the CIL Regulation tests. However, should the Local Planning Authority conclude that they do, the applicant confirms that it would make the contributions sought.

#### *Air Quality*

The applicant takes the view that, on the basis that the additional vehicles passing through the Broom Leys Crossroads would not result in additional queuing (by virtue of the proposed junction mitigation scheme), no increased impacts on air quality would result and, therefore, no assessment of the impacts on air quality within the AQMA would be necessary.

### **Additional Consultee Responses**

**Leicestershire Police** draws attention to recent appeal decisions within North West Leicestershire where policing contributions have been supported (and including in respect of Greenhill Road, Coalville, Woodcock Way, Ashby de la Zouch and Money Hill, Ashby de la Zouch (a Secretary of State decision)).

**Leicestershire County Council Local Highway Authority** confirms that it requested a contribution towards highways infrastructure in respect of the Greenhill Road scheme referred to by the applicant.

### **Additional Representations**

One further representation has been received, from **Andrew Bridgen MP**. He opposes the application on the following grounds:

- Site is allocated as part of the Green Wedge
- Building on the Green Wedge is against the wishes of local communities and District Council policy
- Development would have an adverse effect on the present open and undeveloped character of the Green Wedge
- This and other applications are cynical opportunism before the Local Plan is due to be submitted in June 2016

### **Officer Comments**

#### *Developer Contributions*

The applicant's proposals in respect of transportation contributions are now set out above and, clearly, differ to the position as referred to in the main report (and as understood by the County Highway Authority). It is not known whether Leicestershire

County Council would have any objections to the updated contribution proposals. However, it is (Local Planning Authority) officers' view that, whilst it is not clear at this stage whether the County Highway Authority would be content with the covering of scheme costs indicated, there would be no overriding reason why, through any agreements negotiated under Section 106 or Section 278, an appropriate distribution of the funding to mitigation of these junctions could not be agreed; it is recommended that agreement of a suitable position on this issue be delegated to officers (in consultation with the County Highway Authority) in the event that planning permission is granted, or if an appeal is lodged.

In view of the applicant's confirmed position in respect of the contribution requests sought by Leicestershire Police and Leicestershire County Council (and assuming that it does indeed make the contributions towards highways infrastructure as indicated above), it is considered that Reason for Refusal 3 is addressed.

#### *Existing Trees*

In addition to the three trees identified as affected in the updated Arboricultural Assessment, it is now clarified that four additional trees would fall within the northerly direction visibility splay (three silver birch and a wild cherry; all Category B trees) and would, to a greater or lesser degree, be affected. Whilst this issue is not fully addressed within the updated Arboricultural Assessment, the District Council's Tree Officer identifies that a Category B oak would be the most important specimen and would be retained. On this basis, no objections are raised.

#### *Air Quality*

The District Council's Environmental Protection Officer does not concur with the view of the agent as set out above. In particular, it is not accepted that, just because mitigation is proposed to address additional queue lengths at the Broom Leys Crossroads, it can be assumed that no additional air quality impacts would result given that an increased number of vehicles would still be passing through the junction. As such, in the absence of an assessment of the impacts, the Environmental Protection Officer's concerns remain.

### **RECOMMENDATION - DELETE REASON FOR REFUSAL 3**

**A3      15/00950/FULM      Proposed erection of agricultural buildings, farm shop and farmhouse along with the formation of vehicular access and yard.**  
Land South of The Green, Diseworth.

**Additional information received:**

An additional comment objecting to the application has been received which argues that the permitted development rights which exist for agricultural structures to be constructed on the site would limit their height to 3.0 metres, due to the proximity to an aerodrome. As the buildings to be provided are greater than 3.0 metres this agreement is not wholly applicable. Suggested amendments to Conditions 20 and 21 are also outlined with Condition 20 being changed to specify that the floor space should be 'completed' rather than 'provided' and within Condition 21 the specific grain dryer equipment to be installed should be outlined, it should be stated that no external storage of silage is permitted and that an incorrect page reference is made as the relevant page within the design and access statement is 17 and not 15. An additional condition should also be applied to state that the grain dryer should not be used during 10:30pm and 07:30am.

**Officer comment:**

In respect of the provision of buildings on the site under permitted development rights it is acknowledged that the structures to be supplied would be excess of 3.0 metres and therefore not 'permitted development'. However, the argument in respect of this point is that built floor space could be provided on the site, which would impact on its openness, and it is also known that a 'loophole' exists within the permitted development regulations in that the height of the building would be taken from the highest land level adjacent to the structure. Therefore on sloping land, such as the application site, the height of the building when viewed from a particular direction could be higher than 3.0 metres provided that its 'overall' height was no greater than 3.0 metres above the highest land level adjacent to the building.

In respect of Condition 20 it is considered that in 'providing' the floor space the building would need to be completed and therefore no alteration is required to this condition.

In terms of Condition 21 it is noted that an incorrect page reference is made and therefore the condition will be amended to refer to Page 17 and not 15. The specific grain dryer to be utilised is outlined within the condition and any proposed changes to the position of the grain dryer and silage store would need to be agreed with the Local Planning Authority. As it stands, therefore, the condition secures all the relevant requirements raised by the objector.

The Council's Environmental Health team have not specified that the hours of use on the site, or the use of machinery, should be limited given that farming operations are usually undertaken on a 24 hour basis. On this basis a condition limiting the hours of use of the grain dryer would be unreasonable and in any event the Council's Environmental Protection team could take appropriate action under Environmental Health legislation should a noise complaint be raised.

**RECOMMENDATION: No change to recommendation subject to Condition 21 being amended as follows: -**

The proposed silage store and grain dryer (Master Farm Super 120 Type R/S), which shall include a dust extraction unit, shall be provided on site in strict accordance with that specified within Paragraphs 2 and 3 on Page 17 (The proposed development should not be significantly detrimental to the amenities of the occupiers of nearby dwellings through its oppressiveness, proximity, noise, vibration, smells, fumes, smoke, soot, ash, dust, grit or excessive traffic generation) of the Design and Access Statement by Chave Planning, received by the Local Authority on the 12th October 2015, before first use of the relevant agricultural buildings hereby permitted and shall thereafter be so retained. The above applies unless an alternative silage store and position of grain dryer is first submitted to and agreed in writing by the Local Planning Authority.

*Reason - in the interests of limiting odours and to protect wider residential amenities.*

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