



AGENDA ITEM:

**PLANNING COMMITTEE:
12 NOVEMBER 2020**

Report of: Corporate Director of Place and Community

Contact: Mrs. C. Thomas (Extn.5134)
Email: catherine.thomas@westlancs.gov.uk

SUBJECT: LATE INFORMATION

1.0 INTRODUCTION

The information below has been received since compilation of your Agenda. The following also includes suggested adjustments to the recommendations further to the receipt of late plans and/or information.

2.0 ITEM 7 – PLANNING APPLICATIONS

REPORT NO.1 – BUNGALOW FARM, HEATONS BRIDGE ROAD – 2019/0747/FUL

Following publication of the Planning Committee Agenda, additional representations have been received.

A representation has been received which states that the reason for deferral at the July Planning Committee meeting was to determine if refusal of the application could be upheld at appeal. This representation also includes an appeal decision within the area of Hyndburn Borough Council, in which the Planning Inspector concluded that there was no justified agricultural need for the proposed development.

An objection has been received from the farmer of the fields adjacent to the application site. The main grounds for objection are:

- Increase in pigeons due to tree planting around the development, leading to damage to brassica crops as a result of grazing causing loss of young plants and droppings rendering the crop unsaleable
- Shade from trees and the proposed building
- Leaves having the potential to contaminate crops
- Trees providing shelter for aphids (depending on species planted)
- Drainage issues including potential blocking of the proposed culvert

- Landscape impact
- Highway safety.

A further representation has been received from the Council for the Protection of Rural England (CPRE) requesting that condition 24 be amended to preclude the packing of produce other than mushrooms on site, and a condition be added to ensure growing logs are not produced for sale off site.

OBSERVATIONS OF CORPORATE DIRECTOR OF PLACE AND COMMUNITY

The application was deferred at the July Planning Committee meeting to seek further information on a variety of points which are detailed within the report on the Planning Committee Agenda, and this information has been provided and assessed by officers and statutory consultees. The appeal decision provided with this representation is not relevant to the assessment of this application as the proposed mushroom farm is clearly designed for the purposes of agriculture.

I note the concerns of the farmer of the adjacent land. Matters relating to drainage have been assessed by the Lead Local Flood Authority and they are satisfied an appropriate drainage scheme can be implemented as part of the development. Issues relating to highway safety have been thoroughly assessed by the Highway Authority and are detailed within the Planning Committee Report, and I am satisfied the proposed development would have a negligible impact on highway capacity and highway safety.

In terms of impacts arising from landscaping at the site, paragraph 11.66 of the Planning Committee Report advises that planting could be designed to take into account potential impacts on existing farming practices and be concentrated on the site frontage to minimise disruption to current farming on adjacent land. Landscaping details are to be secured by condition. As regards impact from overshadowing, the proposed building is of a modest height and would be unlikely to have a significant impact in term of overshadowing adjacent land due to the distance the building would be inset from site boundaries.

Regarding the further representation from the CPRE, I am satisfied that condition 24 is clear in that it relates to mushrooms and does not require amending to include none-mushroom produce. As detailed in the Planning Committee Report, the application no longer includes the export of growing logs.

REPORT NO. 5 – EDEN TEA ROOMS AND GALLERIES, COURSE LANE – 2020/0439/FUL

A critique of the Acoustic Impact Assessment Report and Noise Management Plan has been received from a local resident raising various points of concern and shortcomings. These can be summarised as follows:

- The report does not demonstrate that noise levels can be controlled sufficiently
- The building was designed as a farm shop and therefore is not sound proofed

- Only music noise is mentioned in the report. Traffic noise and noise from people is not discussed. An acoustic impact assessment should have been carried out for these
- The in house speakers installed (200w) are significantly lower than may recommended for best DJ powered speakers (700-1300w) therefore the in-house system is not fit for weddings, anniversary parties etc.
- The noise breakout test is flawed as:
 - It should have been carried out with the external doors and windows being open. In reality doors will be opened regularly and result in public nuisance. No estimate in the report of how many times the door would be opened. Objector suggest it is likely to be opened every 12 to 15 minutes
 - It should have been carried out during late night hours as proposed under the application not at 12 noon and 5.30pm as sound travels further at night
 - The report should have mentioned wind direction and strength, time of year and humidity as all would affect results of breakout test
 - It did not include amplified voices at maximum output
 - It should have been carried out using a dance track with base beats and the door open
 - It makes reference to a seating area that is not currently approved
- Human nature will make it unlikely that any licensee could ensure all 21 conditions imposed by the Noise Management Plan are met
- Residents have always enjoyed peace and tranquillity. Any type of noise must not be clearly distinguishable at the boundary of any neighbouring residential property after 18:00 hours
- A condition to control the installation of any future amplified systems should have been included
- All of above undermine the confidence in the report's conclusions.

A neighbouring objection has also been received which reiterates points already documented within section 8 of the Committee Report. Additional points raised are summarised below:

- No reference is made in the Case Officer's report to light pollution and to loss of privacy
- The building has large glazed openings and the use of the first floor for functions would be on full view to neighbouring residents
- Reference is made in the Case Officer's report to other late night facilities in Newburgh (Red Lion) but these are not comparable to the site. It should be compared to other similar establishments such as Newburgh Post Office and Applecast café which have closing times of 9pm and 8pm respectively.
- Request a condition for window coverings to be added or a change in the type of glass used to protect privacy.
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A further response has been received from the Council's Environmental Health Officer.

Environmental Health Officer 10.11.2020 - *This department reviewed both the Noise Management Plan and Acoustic Impact Assessment which were submitted as part of the application for a premises licence and deemed them to be satisfactory. The Acoustic Assessment Report was carried out by an acoustic*

expert and followed standard assessment procedures. The Noise Management Plan was formally accepted by the Licensing Sub Committee and added as a premises licence condition. In terms of the planning regime, this department has recommended planning conditions to mitigate noise disturbance to residents within this Departments memo dated 1/10/2020 and these remain valid and appropriate.

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The Acoustic Impact Assessment Report referred to above has not been submitted as part of this planning application but formed part of the applicant's licensing submission. However both the Acoustic Impact Assessment Report and Noise Management Plan were reviewed by Environmental Health as part of their consideration of the licensing application and found to be satisfactory.

The agenda report recommends appropriate planning conditions to prevent noise disturbance to nearby residents.

In regards to comments made in relation to light pollution from lighting within the building, I am of the view that a planning condition could not be imposed to require the applicants to install window coverings or turn out lights. The premises already benefits from planning permission and it would be unreasonable for the Council to seek to control interior décor or lighting through the planning process. In applying planning conditions to any grant of planning permission the NPPF requires local planning authorities to have regard to six tests to ensure the validity of conditions. The tests are set out in paragraph 55 of the NPPF; further advice on the matter is provided by the Government's National Planning Practice Guidance (NPPG). The relevant tests are: necessary, relevant to planning, relevant to the development to be permitted, enforceable, precise and reasonable in all other respects. I do not consider that such a condition would meet the reasonableness test outlined above.

Condition 12 seeks to ensure that no additional external lighting is provided on the site without the consent of the Local Planning Authority to prevent light pollution from external light sources.

REPORT NO. 6 – FYLDE VIEW FARM, SHORE ROAD – 2020/0424/FUL

Following compilation of the agenda, an email has been received from the applicant's agent requesting that the temporary consent be extended to 5 years rather than 2 years, due to the cost implications of submitting a planning application.

The applicant's agent has also suggested that condition 1 be reworded to make it clear that there would be an opportunity in the future to apply to extend the temporary consent if required.

OBSERVATIONS OF CORPORATE DIRECTOR OF PLACE AND COMMUNITY

The agenda report recommends granting planning permission for a temporary structure at this site given the very special circumstances demonstrated by the applicant at the current time. It is considered that allowing the temporary structure

to remain in situ for 5 years without reassessment would be difficult to justify. I appreciate the applicant's concerns about the costs associated with the planning process and therefore recommend that a 3 year temporary permission would be a reasonable compromise. The applicant's agent has agreed to this amendment.

I recommend that condition 1 be reworded as follows, to take account of the agent's concerns.

The use hereby permitted shall be for a limited period of 3 years from the date of this decision. The farm shop/ portacabin hereby permitted shall be removed from the site and the land restored to its former condition on or before 12/11/2023 unless a further permission for this use has been granted.