



PLANNING COMMITTEE: 27th JULY 2023

Report of: Corporate Director of Transformation, Housing & Resources.

Contact for further information:

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SUBJECT: PLANNING APPLICATION REF. 2022/0769/FUL

PROPOSAL: Variation of Conditions No. 2, 3, 5, 6, 8 and 18 imposed on planning permission 2019/0747/FUL to amend the growing and incubation rooms from portal framed buildings to polytunnels.

APPLICANT: Smithy Mushrooms (VAR)

ADDRESS: Bungalow Farm, Heatons Bridge Road, Scarisbrick

REASON WHY APPLICATION IS AT PLANNING COMMITTEE:

To advise members that an Appeal to the Secretary of State has been made by the Applicant against the Council's non-determination of application ref: 2022/0769/FUL.

Notwithstanding the Appeal, the Members must come to a resolution as to whether they would have refused or approved the Application.

In so doing Officers are required to provide their recommendation as to how the Application would have been determined. The recommendation would have been to refuse the Application and the putative reason for making that recommendation are set out in the Report below.

Wards affected: Scarisbrick

1.0 PURPOSE OF THE REPORT

- 1.1** For the Members of the Planning Committee to make a recommendation to the Planning Inspectorate on whether the Application be approved or refused and if the latter the putative reasons for making that recommendation.

2.0 RECOMMENDATION TO PLANNING COMMITTEE

- 2.1 The Officer's recommendation is that this Application to vary certain conditions to the extant Planning Permission is unacceptable on ecology grounds identified at paragraph 6.1 below and the Application would have been refused on this basis.

3.0 BACKGROUND

- 3.1 The Council have been notified that the applicant has submitted an appeal against non-determination of application 2022/0769/FUL. It will be decided by the Planning Inspectorate using the written representations procedure. At the time of writing the Council have been advised the appeal is valid however no formal start date has yet been provided by the Inspectorate.
- 3.2 The application has previously been considered at Planning Committee meetings in November 2022 and March 2023. Members will recall that the application was deferred in March 2023 to request that the applicant provide a lighting assessment.
- 3.3 Following the deferral of the application in March 2023 the applicant was contacted and advised that further information in the form of a lighting assessment was required in order for Members to fully assess the proposal and its impacts.
- 3.4 The agent was contacted on subsequent occasions however no response or additional supporting information was received. The appeal was submitted to the Planning Inspectorate without any prior contact with the Council.

4.0 ASSESSMENT

- 4.1 The full assessment of the proposal is set out in the appended report. In summary the application seeks to vary conditions 2, 3, 5, 6, 8 and 18 imposed on planning permission 2019/0747/FUL to amend the growing and incubation rooms from portal framed buildings to polytunnels.
- 4.2 The principle of the development of this site has been accepted via the grant of planning application ref: 2019/0747/FUL at appeal on 22nd November 2021. The matters to be considered in the application therefore are whether the replacement of the portal framed building (growing and incubation rooms) with polytunnels is acceptable.
- 4.3 Matters relating to Impact on the Green Belt, Design/Layout, Residential amenity, Highways and Drainage remain as per the recommendation of officers as set out in the appended report and are considered acceptable in Planning terms.
- 4.4 In particular paragraph 10.8 of the appended Report is noted which states: *Concerns have been raised regarding the potential for lighting to have an impact on nearby residents. The Planning Inspector imposed a condition*

requiring details of lighting to be submitted for approval and the Applicant has submitted an external lighting layout with this submission. The Council's Environmental Health Officer considers the details provided are acceptable to discharge this condition.

- 4.5 On the basis of the assessment undertaken by the EHO, it is considered that the submission of a further lighting assessment would not alter this stance. It is not recommended the application is refused for reasons relating to impacts on residential amenity.
- 4.6 On that basis the only matter relating to the outstanding lighting assessment that falls to be considered is the potential impact of lighting on ecology.

Ecology

- 4.7 Policy EN2 (1) of the WLLP states that where there is reason to suspect that there may be a priority species, or their habitat, on or close to a proposed development site, planning applications should be accompanied by a survey assessing the presence of such species and, where appropriate, making provision for their needs. This allows the LPA to screen the project against the Habitats Regulations and relevant national and local policy.

- 4.8 The Council's consultant ecologist MEAS had previously provided comments in regard to the submission and did not raise any objections. However, on 29th March, after the Committee meeting, an email was received from MEAS as follows:

From a MEAS point of view, the only condition of potential relevance is condition 18 (lighting) which may have impacts on conclusions reached in the previously agreed HRA. I think this at the crux of Natural England's recent response of 28/2/23 although they do not elaborate.

In any event, it does need to be determined whether the HRA is still compliant or requires updating (likely a light touch if anything at all), therefore, has the applicant submitted a new lighting strategy?

- 4.9 As detailed above the applicant was given the opportunity to submit a lighting assessment however no such information has been received. The Council are therefore unable to properly assess the impact on ecology, i.e., protected species and their habitats.
- 4.10 Having regard to the original comments from Natural England (para 6.1 of the appended report) and the comments subsequently received from MEAS it is considered that the Application submission fails to demonstrate that the development would not result in harm to protected species or their habitats and therefore fails to comply with the requirements of local plan policy EN2 2.

5.0 CONCLUSION

- 5.1 The principle of agricultural development of a mushroom farm has been accepted by the granted planning permission 2019/0747/FUL at appeal. The

proposal comprising polytunnels to replace the approved portal framed buildings would not result in a detrimental impact upon the character of the area. It is considered that subject to relevant conditions the proposal would not adversely impact on residential amenity, drainage or highway safety in the area. However, the submission fails to demonstrate that development would not result in harm to protected species or their habitats and therefore fails to comply with the requirements of local plan policy EN2 2 in respect of ecology. On that basis the application is therefore recommended for refusal.

6.0 RECOMMENDATION

- 6.1 That Planning Committee notes the submission of a non-determination appeal and agrees that the Council should defend the appeal on the basis that the application should be refused for the following reason:
1. The submission documentation fails to demonstrate that the development would not cause harm to protected species or their habitats and therefore the proposal fails to meet the requirements of Policy EN2 in the West Lancashire Local Plan (2012-2027) Development Plan Document.