

PLANNING COMMITTEE

26 June 2013

Schedule of Committee Updates/Additional Representations

Note: The following schedule represents a summary of the additional representations received following the publication of the agenda and received up to midday on the day before the Committee meeting where they raise new and relevant material planning considerations.

7 130907/O - AN OUTLINE APPLICATION FOR THE ERECTION OF UP TO 127 DWELLINGS (35% TO BE AFFORDABLE) WITH ALL MATTERS EXCEPT ACCESS TO BE RESERVED FOR FUTURE CONSIDERATION AT PORTHOUSE FARM, TENBURY ROAD, BROMYARD, HEREFORDSHIRE

For: Marsten Developments Ltd per Mr John Wilson, 66 Stratford Road, Shirley, Solihull, West Midlands B90 3LP

ADDITIONAL REPRESENTATIONS

A further letter of objection has been received from Bromyard & Winslow Town Council (BWTC). In summary they consider that circumstances have changed since the recent appeal decision for the following reasons:-

- a) Due to the removal of Linton as Industrial/Employment land confirmed in March 2013 which could not have been known by the Planning Committee in April 2012 or by Planning Inspector Burden, and there being no current allocation in situ at this time there is no Industrial/Employment land to match the proposed housing development as required under the UDP and NPPF as mentioned above.
- b) Noise Attenuation Assessments have not been based upon the lawful requirement of BS4142. Therefore the basis of Inspector Burden's assumption that adequate noise attenuation measures could be put in place is fatally undermined.
- c) Given that there is no examined Industrial/Employment land yet allocated for Bromyard & Winslow the application has become premature, and it would be premature to now consider the application at this stage of the Core Strategy – Local Development Framework 2011-2031.
- d) Inspector Burden did not have regard to the maintenance of open space on the development; rather she concentrated only on noise attenuation and future maintenance of such.
- e) The applicants will argue that this is the same application as considered in April 2012 and that they have dealt with the issue raised by Planning Inspector Burden and therefore the application should be approved. However given the reasons above we maintain that this is a new application under new material circumstances that has to be considered in view of these changed circumstances.

BWTC have submitted a report prepared by AV Technology (AVT) to check / review the noise / acoustic submissions and assessments made in relation to this application, the recent appeal and the application the subject of the recent appeal.

That report essentially concludes that the noise is such that complaints from occupiers of the proposed development would be likely. Crucial to their analysis has been their attempt to carry out a background noise survey for the development site that relies upon an "equivalent location". This procedure has been employed so as to get over the difficulty of direct measurement of a background at the actual site. The background noise level is the baseline of such professional assessments.

The agent for the applicant has submitted a further report from CWA (Colin Waters Acoustics) reviewing the AVT report that in summary makes the following critical points:-

- References to PPG24 by AVT are no longer relevant to this matter; and
- The site chosen by AVT is not considered to be equivalent to the development site. The "equivalent site" selected by AVT has not been justified. For this measurement technique to be valid it is required that the user justifies the choice of the chosen site;

It concludes that the previous noise / acoustic reports submitted on behalf of the applicant and reviewed by RPS on behalf of the Council and accepted by the Inspector remain sound.

Two further letters, effectively supporting the application, have been received from the occupier of 'Rosebank', New Road and Andrew Grant Professional Services. They make the following points:-

- the 5 industrial units built after 2006/07 adjacent to this site, upon the Porthouse Industrial Estate, remained vacant for a number of years and rents are low. One has come onto the market again in the last few weeks. There is little or no interest in industrial units in this location due to heavy goods vehicles having to travel through the Town Centre;
- More housing would enhance the Town;
- The proposed development would provide affordable housing for the Town which the young in housing need would wish to be delivered as soon as possible; and
- Polytec have not objected to the planning application.

OFFICER COMMENTS

The issues raised in the further letter of the BWTC are addressed in the report to Committee (including its annexes). The application before Members could not reasonably be considered as premature as there is a policy within the Council's currently adopted Development Plan (i.e. Herefordshire Unitary Development Plan 2007) allocating the site for housing development. This matter was effectively addressed by the Inspector in paragraph 9 of the appeal decision (Annex 2).

With regard the noise / acoustic report commissioned by BWTC, Officers have commissioned the specialist expert advice of RPS Acoustic Consultants who have undertaken a further independent review of that submission. They advise that:-

- a) the use by AVT of PPG24 after it has been revoked is inappropriate;
- b) the AVT report makes no reference to the Colin Waters Acoustics report CWA 26310/R05/1;
- c) they do not consider that the substitute background survey location chosen by AVT is representative;
- d) they do not consider the use by AVT of a +5 rating correction when plant will be non-tonal when mitigated to be appropriate;
- e) the use of BS4142 is inappropriate when noise levels fall around or below the lower levels scoped for; and

- f) no consideration appears to have been given of other noise assessments such as BS8233, which indicates that a good internal noise environment can be achieved.

RPS concludes that:-

“Despite the findings of the AVT report, I consider the conclusions of the CWA and RPS reports still stand and that a satisfactory level of residential amenity can be achieved for the Porthouse Farm development, with the noise mitigation measures secured”

Essentially AVT submit that the background noise level is 24dB with a rating level of 35 dB whilst CWA and RPS submit that the background noise level is 30dB with a rating level of 35dB. A differential of 5dB is normally considered of marginal significance. Furthermore when one applies the World Health Guidelines (WHO) guideline values for community noise and BS8233 the dwellings would in essence achieve a level of quietude around two times what the standard requires.

NO CHANGE TO RECOMMENDATION

8 N123540/F - ADAPTATION AND CHANGE OF USE OF STORAGE BUILDING (BUILDING 7) FOR STORAGE AND MANUFACTURING, ADDITIONAL CAR PARKING, EXTERNAL STORAGE TANKS AND THE ERECTION OF A 26 METRE ODOUR STACK AND ASSOCIATED INFRASTRUCTURE AT TYRRELLS COURT, STRETFORD, LEOMINSTER, HR6 9DQ

For: Tyrrells Potato Chips Ltd per Drivers Jonas Deloitte, 4 Brindley Place, Birmingham, West Midlands, B1 2HZ

OFFICER COMMENTS

Members are advised that an application to vary condition 1 of planning permission N121981/F has been received and validated. The condition required the chimney stack to be constructed and fully operational within 8 months of the date of the permission (by 17th June 2013). The application seeks to allow a further 4 months for compliance, so that the stack would be constructed and fully operational by 17th October 2013.

The reason for the delay given is that Tyrrells have had difficulty in sourcing a contractor with a proven track record and which could also deliver the development at a commercially realistic cost and within a reasonable timeframe. A preferred contractor has now been selected, and a project programme submitted with the application indicates that the construction of the stack will take place between July and August 2013.

The application is currently under consideration and subject to public consultation.

NO CHANGE TO RECOMMENDATION