

9 July 2013

Dear Councillor

DEVELOPMENT CONTROL COMMITTEE - TUESDAY, 9TH JULY 2013

I am now able to enclose, for consideration at the above meeting of the Development Control Committee, the following report that provides an update of events that have taken place since the agenda was printed..

Addendum (Pages 3 - 26)

Report of the Director of Partnerships, Planning and Policy (enclosed).

Yours sincerely



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C O M M I T T E E R E P O R T		
REPORT OF	MEETING	DATE
Director of Partnerships, Planning and Policy	Development Control Committee	9 July 2013

ADDENDUM

ITEM 4a-13/00385/COU-2 Heath Paddock Hut Lane Heath Charnock, Chorley, PR6 9FP

The recommendation remains as per the original report.

(3)/No. further letters of objection have been received setting out the following issues:

The Ward Councillor has the following comments:-

This is inappropriate development of the greenbelt. The family have already been there for 4 years and to approve tenancy for another 4 I believe is entirely unreasonable and unacceptable. In previous public enquiries both appeals have been turned down by the inspector. I understand the council is undergoing a new Traveller assessment and in the mean time I am in agreement that 2 years temporary permission is agreeable whilst we await the outcome of the assessment.

Representations Received

The letter received from a Planning Consultant acting on behalf of residents of 22 dwellings in the immediate vicinity of the site is attached to this addendum for members information.

Further comments have also been received drawing Members attention to an announcement last week by the Local Government Secretary in respect of Gypsy and Travellers.

On 2nd July 2013 the DCLG published a written statement by Brandon Lewis MP, Local Government Minister, in respect of the Government policy of "making the planning system work more efficiently and effectively." It is apparent that the Government is concerned that Planning Inspectors may not be attaching adequate weight to the protection of the Green Belt in gypsy cases. To that end the Secretary of State has, by the statement of 2nd July 2013, stated an intention to "call in" an increased number of Gypsy/green belt cases for his own determination.

The written statement is a "broad brush" statement that, other than expressing concern at a pattern of Inspectorate decision making, otherwise simply notes that unmet demand is "unlikely" to amount to very special circumstances. The statement does not say unmet demand "will not" or "cannot" amount to very special circumstances. Moreover, it is not a simple case of unmet demand and other aspects of national policy require a full range of other issues to be weighed in the balance. The Local Plan Inspector's position has meant that the issue of need (not mere demand) will be subject to a GTAA. The issue of temporary consent is now before the Council; the written statement does not begin to address the

complexity of the current situation which requires a careful balancing exercise to be undertaken and interpretation of the Minister's Statement does not result in a change in the recommendation in the Committee report.

The following conditions have been amended/ added

Condition 2 The permission shall expire on the 9 July 2015, following which the use shall cease and the land restored in accordance with the requirements specified in condition 3 of this permission.

Reason: To reserve to the Local Planning Authority control over the long-term use of the land, as the use is inappropriate development in the Green Belt and not acceptable on a permanent basis.

Additional Condition

Condition 8 Within three months of the date of this permission details of the boundary treatment including gating shall be submitted to the Local Planning Authority for approval. The approved details shall be implemented within 3 months of the expiry of this permission.

Reason: In the interest of the amenity of the Green Belt.

The original report has been amended as follows:

Paragraph 88 of the Committee Report should read:

The development now proposed relates to part of the site situated next to the M61 with the remainder of the site on the eastern side lying vacant following one of the owners giving an undertaking to the Court to vacate the land. The numbers of residential caravans now proposed has been reduced since the last appeal decision. That proposed 2 No static caravans and 4 No touring caravans for residential use and the storage of 2 No touring caravans when not in use for working away making a total of 8 caravans. This application is for 2 No mobile homes and 2 touring caravans for residential use and 1 caravan for storage only when not away travelling making a total of 5 caravans. Overall a reduction of 3 caravans. The utility block would be retained and because it would now be used only by one family this would free up storage space and would enable the storage container on site to be removed."

ITEM 4b 13/00219/FULMAJ - Pemberton House Farm, Park Hall Road, Charnock Richard, Chorley, PR7 5LP

The application has been withdrawn.

ITEM 4c-13/00365/OUT-HW Moon Ltd, 56 Wood Lane, Heskin, Chorley, PR7 5NU

The recommendation remains as per the original report.

Affordable housing is covered in the main report which details that a viability report was submitted with the application which has been assessed by the Council's property services provider. In line with this the applicant has provided a further development appraisal and provided comparable information on selling prices in the area to establish if increasing the sales costs of the properties is feasible or not to see if providing two affordable units on the site is viable.

The additional information submitted by Eckersley Chartered Surveyors supports the original viability report that the proposed selling prices of the units are a reasonable assumption of

what is likely to be achieved from the development. This is backed up by valuations from three estate agents, five comparisons in the form of new build 3 and 4 bed terraced / mews properties on recent developments in Chorley and fourteen comparisons in terms of houses for sale in the Heskin / Eccleston area.

In addition the applicant states that the scheme will be required to meet Level 4 of the Code for Sustainable Homes which will increase build costs per property by £5000, which was not taken into account in the original appraisal. Eckersley have therefore amended their previous appraisal to reflect this. Taking this into account even using the figures of the Council's property services provider the scheme would be unviable with two affordable units, this is before taking into account proposed condition that requires the scheme to reduce carbon emission by 15%.

The additional information by the applicant on affordable housing is accepted as it is considered that sufficient evidence has been provided that the provision of any affordable housing on the site will render the scheme unviable. The viability of a scheme is a material planning consideration. Paragraph 205 of the National Planning Policy Framework states that where obligations are sought: *'...local planning authorities should take account of changes in market conditions over time and, wherever appropriate, be sufficiently flexible to prevent planned development being stalled'*.

The application is therefore considered acceptable in this respect.

The policy reasons for all the proposed conditions have been removed as they are no longer required to be listed under an amendment to the Development Management Procedure Order that came into force on 25th June 2013.

ITEM 4d - 13/00411/FUL - 11A Long Copse, Astley Village, Chorley, PR7 1TH

The recommendation remains as per the original report

The Ward Councillor has the following comments:-

The Scale, appearance and design of the proposal is out of keeping with the current residential setting and appearance of the cul de sac.

The revised proposal includes a 2 storey extension provides for seven bedrooms in a property which when originally constructed was a 3 bedroom house on a relatively small plot of land located in close proximity to three other properties on a small cul-de-sac.

Very little land would remain for a garden and it would have an overbearing appearance on properties that are adjacent and back onto it.

It would change the appearance of this particular area of Long Copse and I view it as over development.

There is already extremely limited car parking in area which also acts an occasional parking areas for the occupants of No's 5, 7 and 9 of Long Copse (the rear entrances to these properties open out into the cul-de-sac).

Having spoken to residents who will be affected by any extension to this property they all feel this application is over build on a site already given extension approval and is out of keeping with the neighbouring properties.

Should the application receive a approval for a third extension, will end up becoming a property with 7 bedrooms. This then would if it ever began available for selling have little to no attraction to an average family, which could result in the premises being offered for some commercial use such as a small children's nursery. Indeed, I am informed the owner is already owns and operates a business in Adlington.

The latest proposal is a request to extend the property to a two storey extension which in effect is a request to extend a property which had already been granted permission to extend a relatively small original property from the original 3 bedroom sized house building up over the double garage and permission given for another single extension out to the back.

In effect this application is an extension on an extension on an extension.

The proposal would lead to a property extended to such an extent that it would be totally out of keeping with other properties in Long Copse and significantly detract and have a visually adverse impact on the surrounding area. It would create a long brick facing wall twice the original size of the original built home facing onto a public path and opposite a nearby property.

ITEMS

4e-12/00253/FUL – *Jumps Farm, South Road, Bretherton*

4f-12/00254/FUL – *Jumps Farm, South Road, Bretherton*

4g-12/00255/FUL – *Jumps Farm, South Road, Bretherton*

The recommendations remain as per the original reports

Since production of the committee report **2no. further letters** have been received from neighbouring residents, the comments of which can be summarised as follows:

- Each application has its own site plan, and therefore each permission and the Conditions attached thereto, would only relate to the site defined by the red edge of the relevant site plan. The consequence of this would include the following:
Condition 3 in respect of Building C (12/00253/FUL), Condition 4 in respect of Building B (12/00254/FUL) and Condition 1 in respect of the storage and recycling area (12/00255/FUL) would be meaningless and would relate to the red edge only. These conditions are clearly intended to prevent external storage.
Condition 3 in respect of the storage and recycling area would not prevent the operation of woodchip equipment anywhere else at Jumps Farm, including an area of hardstanding south of Building B.
If Members are minded to approve the three applications at this site, the conditions must clearly relate to all of the land in the control of the applicant as shown edged blue on each of the submitted plans.
- Application 12/00253/FUL would result in Norris Garden Sheds relocating from Building B to Building C. Given the noise nuisance the current arrangement is creating, it is imperative that the transfer to Building C takes place without due delay. As operations in Building C require the closure of the 'wooden doors', a time limit should be imposed for the installation of those doors, for example 1 month from the date of the planning permission.
- It is imperative that the existing unauthorised wood working operation in Building B ceases and is relocated to Building C without delay. This should take place as soon as the 'wooden doors' are installed on Building C. To ensure that this happens, Members

may consider it prudent to authorise enforcement proceedings in respect of the current use of Building B should the relocation not take place within the proposed time limit. The occupiers of Church House Barn cannot be expected to endure a continuation of the current noise nuisance caused by the wood working as a result on delays implementing these permissions.

- Application 12/00254/FUL does not propose any structural alterations to Building B and consequently vehicular access would still be gained via the doors on the southern elevation which are located towards the boundary with Church House Barn. That in turn would result in vehicles manoeuvring in and out of the building over the adjoining area of hardstanding. A condition should therefore be imposed restricting vehicular access to Building B from the existing doors in the eastern gable end.
- The double doors on the south elevation of Building B should be permanently blocked up to prevent any possible future vehicle access. Access to the building should be gained through the east facing doors.
- In respect of application 12/00255/FUL, concerns were originally raised regarding the conclusions and recommendations of the acoustics report, as there can be no guarantee that a 3m high acoustic fence would adequately abate the noise nuisance caused by the wood chipping operation.

Some of the conditions which have been suggested by the acoustics report are not adequate, practicable or capable of being monitored or enforced. The Conclusion contained in Paragraph 73 should therefore be that no condition or conditions could be imposed which would adequately remove the harm caused by the operation of the wood chipper. Concern is also raised regarding the enforceability of the suggested conditions.

If Members were minded to go against such a recommendation, it would be essential that a condition be imposed setting a dBA limit which could be monitored from the boundary of Church House Barn, or Position 1 as referred to in the acoustics report.

- In respect of application 12/00255/FUL and recycling operation itself, Condition 5 should be clarified as to expressly preclude the importation of waste other than that produced by the Applicant's own landscaping operations. The importation of waste from third parties for recycling would amount to a waste transfer operation, for which a further consent and license would be required.
- Complaints have been raised regarding excessive noise generated by the use of the wood chipper which appears to have been addressed. However, complaints have also been made regarding noise generated by chain sawing and other machines and activities on site which have not been addressed.
- The site is directly opposite a local primary school and concern is still held regarding large vehicles manoeuvring in and around the site.
- Skips must be for the use of the applicant only and one skip should be sufficient to meet those needs.
- The site should be regularised by proper and appropriate planning conditions which will protect the amenity of neighbouring residents.

Officer response

Bullet 1 It is considered the proposed conditions to restrict external storage at the site (condition 3 of 12/00253/FUL; condition 4 of 12/00254/FUL and condition 1 of 12/00255/FUL) should apply to land in the applicant's ownership (ie. that identified by the blue line on the relevant location plan) in the interests of neighbour amenity, the Green Belt and the Conservation Area. The proposed applications would provide adequate storage within Building B and in restricted parts of the Storage and Recycling area.

In respect of Condition 3 of 12/00255/FUL relating to the operation of wood chipping equipment, it is also considered this should apply to land in the applicant's ownership in the interests of neighbour amenity. If this condition is not amended, this could result in significant

detrimental harm to the amenity of neighbouring residents through operation of the wood chipper elsewhere at the wider Jumps Farm site.

As such, the relevant planning conditions will be amended accordingly.

Bullets 2-3 The wooden doors to the western elevation of Building C have already been installed which was highlighted at paragraphs 36, 37, 51, 52 and 53 of the Officer Committee Report. Additionally, appropriately worded planning conditions will secure their retention and operation in association with the permitted uses.

Officers agree that the relocation of Norris Garden Sheds should take place as soon as possible. The applicant has been contacted to this effect and has advised that they consider a period of 6 -12 months to be reasonable. This is because (1) people are on holiday throughout the summer; (2) there are currently a number of orders to meet and a quieter period would be during winter and; (3) alterations are required to Building C before Norris Garden Sheds can occupy the building.

Whilst it has been acknowledged that the applications have been under the Council's consideration for some time, it is important to note that Norris Garden Sheds are operating out of Building B unlawfully and have been doing so for some time. Additionally, it is relevant to note that enforcement action has already been sanctioned by Members on 13th December 2011 to cease the use of Building B as a wood workshop.

As such, 2 months from the date of permission is considered a reasonable timeframe in which to relocate the wood workshop use from Building B to Building C. This takes account of the applicant's intention to regularise development at the site; the impact on neighbour amenity (including historical issues regarding noise); and the apparent alterations required to Building C to accommodate the wood workshop business (although it should be noted that Building C benefits from permission to be used as a workshop in connection with the applicant's landscape gardening business).

This will be imposed as an appropriately worded planning condition.

Bullets 4-5 The nature of the landscaping business means that a variety of items/machinery are likely to be stored at the site in connection with the applicant's Landscape Gardening Business, some of which will be within Building B. It has been acknowledged that the proximity of Building B to the boundary with Church House Barn means that vehicular access to Building B could result in noise and disturbance to nearby residents. As such, a further condition is proposed to restrict vehicular access from Building B to the eastern entrance only. It is not considered reasonable to restrict all access from these doors as access by foot to a storage use should not result in significant noise and disturbance.

The applicant has advised that these doors are not capable of being used by vehicles. However, it is considered that a smaller vehicle could gain access via these doors which would concentrate noise and disturbance close to the boundary with neighbouring residential properties. As such, this condition is required to ensure vehicular access to Building B is kept away from nearby residential properties in the interests of neighbour amenity.

Bullet 6 Officers agree that the mitigation measures proposed within the acoustic report cannot guarantee that noise created by the wood chipper would be reduced to an 'acceptable level', which is why it is proposed to remove the right to operate wood chipping machinery from land within the applicant's ownership by planning condition.

It is the view of Officer's that if permission is granted, this is on the basis of the conditions proposed with the application. Should Members want to explore a recommendation which

includes wood chipping, appropriate verbal advice will be given at committee and delegated authority sought to try and condition mitigation measures required to abate noise disturbance to neighbouring residential properties.

Bullet 7 It is considered Condition 5 proposed with application 12/00255/FUL adequately deals with the use of the storage and recycling area. Should the nature of the business evolve in the future or the site be used by others not in connection with the applicant's landscape gardening business, the matter will be investigated and referred to Lancashire County Council Waste department at which point, a new planning application could be required.

The Council has no firm evidence to suggest that this area is being used by others not in connection with the landscape gardening business.

Bullet 8 It has been noted in the Officer's committee report that complaints regarding noise have been received in relation to operations at this site and that the Council's Environmental Health Team have taken readings which have not amounted to a statutory noise nuisance.

As established in the officer's committee report, it is important to note that the site benefits from consent to be used in connection with the applicant's landscape gardening business. As such, it is considered reasonable to expect some level of noise and disturbance from activity at the site.

The two main issues which have been persistently brought to the Council's attention in respect of this site are noise from the wood chipper and banging from within Building B. Both these issues are considered to have been appropriately dealt with in respect of the current applications.

Issues of chain sawing and the manoeuvring of material may well occur at the site. However, it is not considered the applications could be refused on these grounds, taking into consideration the established use, together with the proposed planning conditions to restrict activity at the site.

Should issues of noise and disturbance become persistent, neighbouring residents could have these investigated as a statutory noise nuisance under the relevant procedures/guidance by the Council's Environmental Health Team.

Bullet 9 Comments have been received from Lancashire County Council Highways for each application in respect of vehicle manoeuvring and highway safety, to which no objection is raised. It is important to note that the proposed developments seek to regulate existing activity, not increase the intensity of use at the site.

It is therefore not considered a refusal of the application could be sustained on these grounds.

Bullet 10 The storage and recycling area would be restricted to use in connection with the landscape gardening business only and includes a number of skips positioned to the eastern site boundary. The amount of skips proposed is considered reasonable given the various activities undertaken as part of the applicant's landscape gardening business. Restricting the amount of skips to 1 is considered to be unreasonable in this case.

Bullet 11 Officers agree that the site should be regularised by appropriately worded and proper planning conditions, however, equally, it is important that such conditions meet the relevant tests under Circular 11/95.

12/00253/FUL

As a result of the above, the following conditions have been amended in relation to application 12/00253/FUL:

Condition 3. No industrial, display or storage activities shall take place within the site (identified by the blue edged line shown on the approved location plan) other than inside the building hereby permitted (identified by the red edged line shown on the approved location plan).

Reason: To protect the amenity of local residents and in the interests of preserving the character and appearance of the Conservation Area. In accordance with the National Planning Policy Framework and Policies EP20, EM2 and HT7 of the Adopted Chorley Borough Local Plan Review 2003.

Condition 7. The approved plans are:

<u>Received on:</u>	<u>Plan Ref:</u>	<u>Rev:</u>	<u>Title:</u>
9 March 2012	411/20	A	Site plan
9 March 2012	411/21	-	Existing wood workshop / proposed store.
9 March 2012	411/22	-	Existing workshop in connection with landscape gardening business / proposed wood workshop.
22 June 2012	1944-5		Extended Parking Area. Hatched in Red.
5 July 2013	1944-5		Location plan

Reason: To define the permission and in the interests of the proper development of the site.

12/00254/FUL

As a result of the above, the following conditions have been amended in relation to application 12/00254/FUL:

Condition 4. No industrial, display or storage activities shall take place within the site (identified by the blue edged line shown on the approved location plan) other than inside the building hereby permitted (identified by the red edged line shown on the approved location plan).

Reason: To protect the amenity of local residents and in the interests of preserving the character and appearance of the Conservation Area. In accordance with the National Planning Policy Framework and Policies EP20, EM2 and HT7 of the Adopted Chorley Borough Local Plan Review 2003.

As a result of the above, the following conditions are now proposed with application 12/00254/FUL:

Within 2 months from the date of this permission, any use or operation associated with the wood workshop business 'Norris Garden Sheds' operating out of Building B shall cease in entirety.

Reason: To protect the amenity of local residents and in particular Church House Barn, in accordance with the National Planning Policy Framework and Policies EP20, EM2 and HT7 of the Adopted Chorley Borough Local Plan Review 2003.

Vehicular access to Building B shall only be taken from the existing doors positioned in the east elevation of the building and in particular, vehicular access shall not be taken from the doors positioned to the south of the building.

Reason: To limit the number of access points to the building in the interests of neighbour amenity and in particular Church House Barn. In accordance with the National Planning

Policy Framework and Policies EP20, EM2 and HT7 of the Adopted Chorley Borough Local Plan Review 2003.

It is proposed to delete Condition 5 and modify Condition 7 to prevent repetition. Condition 7 will now read:

7. The use of Building B hereby permitted shall be as a store, in connection with the applicant's landscape gardening business and shall only enure for the benefit of the applicant 'S & A Wignall'. Building B shall be used for no other purpose (including any other purpose in Class B8 of the Schedule to the Town and Country Planning (Use Classes) Order 1987 (as amended), or any provision equivalent to that use class in any subsequent instrument revoking or re-enacting that Order).

Reason: To protect the amenity of local residents and the character of the conservation area. In accordance with the National Planning Policy Framework and Policies EP20, EM2 and HT7 of the Adopted Chorley Borough Local Plan Review 2003.

12/00255/FUL

As a result of the above, the following conditions have been amended in relation to application 12/00255/FUL:

1. No storage shall take place on the site (identified by the blue edged line shown on the approved location plan) other than within the areas defined: storage clamps; storage area; tractor, trailer, digger, and implement store or storage bins (identified on the approved plan ref: 411/20A). Any storage within these defined areas shall not exceed the height of the existing storage clamp walls.

Reason: To protect the amenity of local residents and in the interests of preserving the character and appearance of the Conservation Area and Green Belt. In accordance with the National Planning Policy Framework and Policies EP20, EM2 and HT7 of the Adopted Chorley Borough Local Plan Review 2003.

3. There shall be no operation of wood chipping equipment within the Jumps Farm site as identified by the red and blue edged lines on the approved location plan (ref: 1944-6).

Reason: On the basis of the Mitigation measures detailed in Section 9 of the Noise Assessment (dated 2nd May 2013); it is considered the modification of the acoustic barrier (to a minimum height of 3m as required) would result in significant detrimental harm to the visual amenity and openness of the Green Belt. Conversely, if the development were to proceed without the required mitigation measures to the acoustic barrier, the development would result in a likelihood of complaints and therefore significant detrimental harm to the amenity of neighbouring residents and in particular Church House Barn. The use of the land for purposes of storage and recycling in connection with the applicant's landscape gardening business including the wood chipper would result in significant detrimental harm to the amenity of neighbouring residents and in particular Church House Barn. Furthermore, the effect of wood chipping has not been established at other points within the wider Jumps Farm site and so the resulting impact on neighbour amenity cannot be quantified.

This condition is therefore required in accordance with National Planning Policy Framework, the Noise Policy Statement for England, Policy EP20 of the Adopted Chorley Borough Local Plan Review and Policy BNE1 of the Emerging Local Plan (2012-2026).

ITEM 4h- 13/00082/FULMAJ - Chorley Rugby Union, Chancery Road, Euxton, Chorley, PR7 1XP

The recommendation remains as per the original report.

As detailed in the main report Sport England have not objected to the application subject to their recommended conditions being imposed. If these are not imposed then Sport England object to the application, and any amended wording of the conditions must be agreed with them. The conditions they recommended caused the developer problems in terms of phasing and so discussions have taken place between the Council and Sport England **and the following agreed conditions are now proposed:**

The existing main rugby pitch shall not be built on until the Natural Grass Rugby Pitch has been laid out in accordance with the approved plans so that it is available for use as a rugby pitch and temporary changing facilities have been provided on the site, details of which (specification and location) shall have been submitted to and agreed in writing by the Local Planning Authority prior to them being brought to site. The Natural Grass Rugby Pitch and temporary changing facilities shall not thereafter be used for any purpose other than for outdoor sport and recreation. The temporary changing facilities shall be removed from the site once the pavilion/club house building shown on the approved plans is completed.

Reason: To ensure the pitch is provided commensurately with the housing development and to protect the playing field from loss and/or damage and to maintain the quality of and secure the safe use of sports pitches.

The pavilion/club house and main car park (103 car spaces and 2 coach spaces) hereby permitted shall be constructed in accordance with the details as shown on the approved plans prior to the occupation of the 30th dwelling and shall be completed prior to occupation of the 40th dwelling. The main car park shall thereafter not be used for any other purposes other than the parking and manoeuvring of vehicles.

Reason: To ensure the pavilion/club house and car park are provided commensurately with the housing development.

The Artificial Grass Pitch, associated lighting and grasscrete overspill car park as shown on the approved plans shall be constructed prior to the occupation of the 50th dwelling and shall be completed within 3 months of occupation of the 50th dwelling. The Artificial Grass Pitch shall not thereafter be used for any purpose other than for outdoor sport. The overspill car park shall thereafter not be used for any other purposes other than the parking and manoeuvring of vehicles.

Reason: To ensure the satisfactory quantity, quality and accessibility of compensatory provision.

The Natural Grass Rugby Pitch hereby permitted shall not be constructed until full details of its specification have been submitted to and approved in writing by the Local Planning Authority. This pitch shall then only be constructed in accordance with the approved details.

Reason: To ensure the development is fit for purpose and sustainable and to accord.

The Artificial Grass Pitch hereby permitted shall not be constructed until full details of its specification have been submitted to and approved in writing by the Local Planning Authority. This pitch shall then only be constructed in accordance with the approved details.

Reason: To ensure the development is fit for purpose and sustainable.

The floodlighting condition has been amended as follows to allow the floodlights to operate for a further half hour (until 9.30pm rather than 9pm as originally proposed). The Rugby Club state this is necessary to allow pitch maintenance after games or training:

The floodlights hereby permitted shall not be used before 14:00 or after 21:00 on any day of the week.

Reason: In the interests of the amenities of neighbouring properties.

The condition relating to the hours of operation of the club house/pavilion building has been amended from the wording in the main report. The Rugby Club requested some later opening until 1pm on New Years Eve and on a limited number of days throughout the year. Given the proximity of residential properties the Council is not comfortable to agree to longer opening hours even on a limited basis without being satisfied that there are sufficient safeguards in place to protect the amenities of surrounding properties. The condition has been reworded so that the opening hours need to be agreed and approved in writing by the Council prior to the pavilion building being brought into use, and this should include details of safeguards to reduce noise. This will then allow the Council to consider what safeguards the Rugby Club are proposing (e.g. sound limiting equipment) to help inform appropriate opening hours. The following reworded condition is therefore proposed:

Before the club house/pavilion building hereby permitted is brought into use the opening hours of the building shall be submitted to and approved in writing by the Local Planning Authority. The information submitted shall include details of the safeguards to be implemented to protect surrounding properties from noise disturbance. The club house pavilion building shall thereafter only operate in accordance with the approved details.

Reason: To safeguard of local residents from noise disturbance.

The policy reasons for all the proposed conditions have been removed as they are no longer required to be listed under an amendment to the Development Management Procedure Order that came into force on 25th June 2013.

Viability

The Council's property services provider has reviewed the viability assessment submitted with the application. They advise there is a surplus in the assessment that could go towards either affordable housing and/or highways or public open space commuted sums. The developer has responded to this with further information including a further viability assessment using the Homes and Communities Agency (HCA) model. This shows the scheme to be unviable with affordable housing or commuted sums.

The additional information by the applicant on viability is accepted as it is considered that sufficient evidence has been provided that the provision of any affordable housing or further commuted sums (other than education) will render the scheme unviable. The viability of a scheme is a material planning consideration. Paragraph 205 of the National Planning Policy Framework states that where obligations are sought: '*...local planning authorities should take account of changes in market conditions over time and, wherever appropriate, be sufficiently flexible to prevent planned development being stalled*'.

The application is therefore considered acceptable in this respect.

Ecology

The updated bat survey report has been received. No evidence of bats was found during the dusk emergence surveys on 4 July 2013. There are no implications relating to bats preventing the demolition of the building to make way for a new development. The report recommends bat friendly features could be incorporated within the new build and it is recommended that planting within the new build scheme incorporates native plant and tree

species of locally sourced stock. Planting and strengthening of features, including trees and hedgerows, along the boundaries of the site will enhance foraging and commuting potential for bats and other species within the site.

A landscaping condition is already proposed that will control planting at the site. An informative note is proposed recommending that bat friendly features be incorporated within the new building.

ITEM 4m - 12/01134/OUTMAJ– JF Electrical, Little Quarry, Hill Top Lane, Whittle-Le-Woods, Chorley

The recommendation remains as per the original report.

The applicant’s agent has confirmed that the applicant agrees to a financial contribution towards the improvement of playing pitches provided the money is spent locally and is therefore related to the development. This will be included within the Section 106 Obligation.

The following conditions are recommended:

1) An application for approval of the reserved matters (namely appearance, layout, scale and landscaping of the site) must be made to the Council before the expiration of three years from the date of this permission and the development hereby permitted must be begun two years from the date of approval of the last of the reserved matters to be approved.

Reason: This condition is required to be imposed by the provisions of Article 3 (1) of the Town and Country Planning (General Development Procedure) Order 1995 and Section 92 of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.

2) The outline planning permission hereby approved relates to the erection of up to 85 residential units. The application for reserved matters shall not exceed 85 residential units.

Reason: In the interests of the appropriate development of the site, to prevent intensification in the development of the site and in the interests of the visual amenities of the area.

3) The development hereby permitted shall be carried out in accordance with the following approved plans:

Title	Drawing Reference	Received date
Site Location Plan	n/a	21 November 2013
Illustrative masterplan	11/040	21 November 2013

Reason: To define the permission and in the interests of the proper development of the site

4) The application for approval of reserved matters shall be accompanied by full details of existing and proposed ground levels and proposed building finished floor levels (all relative to ground levels adjoining the site), notwithstanding any such detail shown on previously submitted plan(s). The development shall only be carried out in conformity with the approved details.

Reason: To protect the appearance of the locality and in the interests of the amenities of local residents.

5) Before the development hereby permitted is first commenced, full details of the alignment, height and appearance of all fences and walls and gates to be erected (notwithstanding any such detail shown on previously submitted plan(s)) shall have been submitted to and approved in writing by the Local Planning Authority. No dwelling shall be occupied until all fences and walls shown in the approved details to bound its plot have been erected in conformity with the approved details. Other fences and walls shown in the approved details shall have been erected in conformity with the approved details prior to substantial completion of the development.

Reason: To ensure a visually satisfactory form of development and to provide reasonable standards of privacy to residents.

6) Prior to the commencement of development samples of all external facing and roofing materials (notwithstanding any details shown on previously submitted plan(s) and specification) shall be submitted to and approved in writing by the Local Planning Authority. All works shall be undertaken strictly in accordance with the details as approved.

Reason: To ensure that the materials used are visually appropriate to the locality.

7) Prior to the commencement of the development a Carbon Reduction Statement shall be submitted to and approved in writing by the Local Planning Authority. The Statement shall demonstrate that either appropriate decentralised, renewable or low carbon energy sources will be installed and implemented to reduce the carbon dioxide emissions of the development by at least 15% or additional building fabric insulation measures are installed beyond what is required to achieve the relevant Code Level rating.

Reason: In the interests of minimising the environmental impact of the development

8) All dwellings commenced after 1st January 2013 will be required to meet Code Level 4 of the Code for Sustainable Homes and all dwellings commenced after 1st January 2016 will be required to meet Code Level 6 of the Code for Sustainable Homes. Within 6 months of occupation of each dwelling a Final Certificate, certifying that the relevant Code for Sustainable Homes Level for that dwelling has been achieved, shall be submitted to the Local Planning Authority.

Reason: In the interests of minimising the environmental impact of the development

9) Prior to the commencement of the development a 'Design Stage' assessment and related certification shall be submitted to and approved in writing by the Local Planning Authority. The assessment and certification shall demonstrate that the dwellings will meet the relevant Code Level.

Reason: In the interests of minimising the environmental impact of the development

10) No dwelling shall be occupied until a letter of assurance; detailing how that plot has met the necessary Code Level has been issued by a Code for Sustainable Homes Assessor and approved in writing by the Local Planning Authority

Reason: In the interests of minimising the environmental impact of the development

11) The development shall not begin until a scheme for the provision of affordable housing as part of the development has been submitted to and approved in writing by the local planning authority. The affordable housing shall be provided in accordance with the approved scheme and shall meet the definition of affordable housing in the National

Planning Policy Framework or any future guidance that replaces it. The scheme shall include:

- i. the numbers, type, tenure and location on the site of the affordable housing provision to be made which shall consist of not less than 30% of housing units;
- ii. the timing of the construction of the affordable housing and its phasing in relation to the occupancy of the market housing;
- iii. the arrangements for the transfer of the affordable housing to an affordable housing provider[or the management of the affordable housing] (if no RSL involved) ;
- iv. the arrangements to ensure that such provision is affordable for both first and subsequent occupiers of the affordable housing; and
- v. the occupancy criteria to be used for determining the identity of occupiers of the affordable housing and the means by which such occupancy criteria shall be enforced.

Reason: To ensure the residential development provides appropriate affordable housing.

12) Reserved matters applications shall be accompanied by full details of the type design and location of the affordable housing units to be provided on the site for written approval by the Local Planning Authority. The development shall only be carried out in accordance with the details approved in writing by the Local Planning Authority.

Reason: To ensure the residential development provides appropriate affordable housing.

13) Reserved matters applications shall include details of the location of the on-site equipped play provision for written approval by the Local Planning Authority. The development shall only be carried out in accordance with the details approved in writing by the Local Planning Authority.

Reason: To ensure adequate provision for public open space and play areas within the development.

14) The land shown on the approved plan for amenity open space shall be retained for this and no other purpose.

Reason: To enhance the environment created by the new development.

15) No part of the development shall be commenced until all the highway works have been constructed in accordance with a scheme that shall be submitted to and approved by the Local Planning Authority in consultation with the Highway Authority.

Reason: To enable all construction traffic to enter and leave the premises in a safe manner without causing a hazard to other road users.

16) No part of the development hereby approved shall commence until a scheme for the construction of the site access and the off-site works of highway improvement has been submitted to and approved by the Local Planning Authority in consultation with the Highway Authority.

Reason: In order to satisfy the Local Planning Authority and Highway Authority that the final details of the highway scheme/works are acceptable before work commences on site.

17) No part of the development hereby approved shall be occupied until the approved scheme referred to in Condition 15 has been constructed and completed in accordance with the scheme details.

Reason: In order that the traffic generated by the development does not exacerbate unsatisfactory highway conditions in advance of the completion of the highway scheme/works.

18) The development authorised by this permission shall not begin until the local planning authority has approved in writing a full scheme of works for the provision of a pedestrian/cycle link from the proposed site to the existing highway in Smith Street.

The occupation of the development shall not begin until those works have been completed in accordance with the local planning authority's approval and have been certified in writing as complete by or on behalf of the local planning authority.

Reason: In the interests of highway safety and sustainability.

19) No development shall commence until a stage 1 safety audit for the proposed local safety improvement scheme have been submitted to, and approved in writing by, the local planning authority. Any safety concerns highlighted shall be mitigated against by the developer according to details to be submitted to, and approved in writing by, the local planning authority.

Reason: In the interest of the highway safety.

20) Prior to construction, a construction plan shall be submitted to and approved in writing by the local planning authority. The plan to include method and details of construction including vehicle routing to the site, construction traffic parking and the proposed temporary closing of any roads or streets. No construction traffic or deliveries to enter/exit during traffic peak periods or to wait on the public highway. Such a construction plan to be implemented and adhered to during the construction of the development.

Reason: To maintain the operation of local streets and through routes in the area during construction, particularly during peak periods.

21) Before the use of the site hereby permitted is brought into operation and for the full period of construction, facilities shall be provided within the site by which means the wheels of vehicles may be cleaned before leaving the site.

Reason: To avoid the possibility of the public highway being affected by the deposit of mud and/or loose materials thus creating a potential hazard to road users.

22). Prior to the first use of the development hereby permitted, a Travel Plan shall be submitted to, and approved in writing by, the Local Planning Authority in consultation with the Highway Authority. The Travel Plan shall be implemented within the timescale set out in the approved plan and will be audited and updated at intervals not greater than 18 months to ensure that the approved Plan is carried out.

Reason: To promote and provide access to sustainable transport/multi-modal options.

23) Notwithstanding any indication on the approved plans, no development approved by this permission shall be commenced until a scheme for the provision and implementation of a surface water regulation system, restricting surface water discharge to Greenfield runoff rates has been approved by the Local Planning Authority. The development shall be completed, maintained and managed in accordance with the approved details.

Reason: To secure proper drainage and to reduce the risk of flooding.

24) Notwithstanding any indication on the approved plans, no development approved by this permission shall commence until a scheme for the disposal of foul and surface waters for the entire site has been submitted to and approved in writing by the Local Planning Authority. For the avoidance of doubt, surface water must drain separate from the foul and no surface water will be permitted to discharge directly or indirectly into existing foul or combined sewerage systems. The development shall be completed, maintained and managed in accordance with the approved details.

Reason: To ensure a satisfactory form of development and to prevent an undue increase in surface water run off and to reduce the risk of flooding

25) Due to the large scale of development and sensitive end-use (housing with gardens), no development shall take place until:

- a) a methodology for investigation and assessment of ground contamination has been submitted to and agreed in writing with the Local Planning Authority. The investigation and assessment shall be carried in accordance with current best practice including British Standard 10175:2011 'Investigation of potentially contaminated sites - Code of Practice'. The objectives of the investigation shall be, but not limited to, identifying the type(s), nature and extent of contamination present to the site, risks to receptors and potential for migration within and beyond the site boundary;
- b) all testing specified in the approved scheme (submitted under a) and the results of the investigation and risk assessment, together with remediation proposals to render the site capable of development have been submitted to the Local Planning Authority;
- c) the Local Planning Authority has given written approval to any remediation proposals (submitted under b), which shall include an implementation timetable and monitoring proposals. Upon completion of remediation works a validation report containing any validation sampling results shall be submitted to the Local Authority.

Thereafter, the development shall only be carried out in full accordance with the approved remediation proposals.

Should, during the course of the development, any contaminated material other than that referred to in the investigation and risk assessment report and identified for treatment in the remediation proposals be discovered, then the development should cease until such time as further remediation proposals have been submitted to and approved in writing by the Local Planning Authority.

26) Prior to the commencement of the development a geotechnical investigation of the slopes within and adjacent to the application site shall be undertaken to ensure their stability. This investigation shall be submitted to and approved in writing by the Local Planning Authority. Any remedial works required to ensure the continued stability of the ground shall be implemented prior to the commencement of development of the site.

Reason: To ensure the continued stability of the surrounding land and in accordance with Policy EP15 of the Adopted Chorley Borough Local Plan Review

27) Prior to the commencement of the proposed regrading works to form the development platform(s), a method statement and programme of works shall be submitted to and approved in writing by the local planning authority. The method statement shall demonstrate the extent of the works required to infill the pond within the site and shall include full construction details of the development platform(s).

Reason: To ensure a satisfactory form of development and to prevent an undue increase in surface water run-off, reduce the risk of flooding and to ensure the continued stability of the surrounding land.

ITEM 5 – Proposed confirmation of Tree Preservation Order No. 2 (Clayton-le-Woods) 2013 without modification

The plan relating to this report is attached to the back of the addendum.

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Mr P Willacy
Principal Enforcement Officer
Chorley Borough Council
Civic Offices
Union Street
Chorley
PR7 1AL

Your ref: 13/00385/COU
Our ref: sa/pks/4461

25 May 2013

Dear Mr Willacy

**TOWN AND COUNTRY PLANNING ACT 1990
PLANNING APPLICATION NO 13/00385/COU
LAND AT 2 HEATH PADDOCK, HUT LANE, HEATH CHARNOCK**

Thank you for your letter dated 8th May 2013 in which you inform me and my clients of the submission of the above planning application by Mr Michael Linfoot and which provides an opportunity for submitting representations to it. These representations are submitted on behalf of the residents of 22 dwellings which are in the immediate vicinity of the site.

As you are aware, this site is part of a larger incursion into the Green Belt of several gypsy families who sought to establish a residential site for gypsies in defiance of planning law. Since that time, the LPA has been unable to effectively enforce against its continuing occupation by these families, and whilst injunctive proceedings have been taken, the actual enforcement of this is on hold pending the outcome of the present planning appeal. The continued presence of this site is unacceptable to all of my clients. They find it very harmful to their residential amenity and ability to enjoy their homes. The offence arising from such inappropriate development in the Green Belt is exacerbated by the continuing and even developing poor neighbour relations between the applicant and his family and their settled neighbours and also by its appearance and by the fact that they are expected to abide by the Green Belt's restraint on development whilst the gypsies have enjoyed the benefit of living on this site for the last 4 years. The application has been made in the expectation that at least a further four years period is justified.

Since the time of the first incursion, national planning policy has been changed in order to improve enforcement against such unlawful developments by gypsies and travellers. However, these policy changes were balanced by a requirement on LPA's to provide a deliverable 5 years supply of gypsy

and traveller sites sufficient to meet identified needs, including through local plan allocations. It is understood that Chorley BC does not have an up-to-date evidence base on which to assess the need, if any, for gypsy and traveller accommodation. The year-long lead-in period set out in the national policy at §28 expired at the end of March 2013 and therefore the absence of up-to-date evidence on need for this form of accommodation, if any, this is a significant material consideration to be weighed in favour of granting temporary consent in determining planning applications.

You will have received a number of individual objections from among the 22 families which I represent. They recognise that the development is unacceptable and flies in the face of national and local policy relating to inappropriate development in the Green Belt. They are also a response to the harm that they experience to their enjoyment of their homes as a result of this intrusive development and the bad neighbour relations that stem from it. The application is for a 4 year temporary consent, and all of my clients consider that this doubling of the present period of unlawful occupancy by means of a limited period consent to be wholly unacceptable.

Since the application was made it has emerged that the Council is going to quickly embark on a new GTAA to establish a sound evidence base to inform emerging development plan policy. It is expected that the GTAA will establish whether there is or is not any need for gypsy sites within Chorley and if so the quantum and trajectory for their provision. The results of this are expected to be available by January 2014. Should that show a need for site provision, the site allocations DPD will be amended with the necessary allocations, and this process, which will involve consultation on a Preferred Options and Submission stages at least, resumption of the EiP, report of the Inspector and Adoption of the DPD would be completed by April 2014. Even with some slippage in this timetable, any identified need within Chorley should be met well within two years, including a period for delivery of any sites.

It follows from this assessment that, even if need is found, a four year temporary period is not justified. This is even more the case if no need is found as it would result in the extended occupation of the site for a subsequent 3 ½ years.

In the application submission, the appellant has undertaken to withdraw the existing planning appeal if planning permission is granted. There is advantage to this as it will remove the vestiges of the previous application for the larger and more populous site and provide a focus on the real issue, which is the occupation by the applicant and family on the reduced site.

In the light of the above considerations, my clients have formed the view that the LPA should grant a limited period planning permission subject to several requirements being met, some of which can be secured by planning conditions:

1. The planning permission should be for a temporary period of no more than 2 years. This provides the residents with a safeguard that occupation will not continue for longer than necessary if the GTAA finds that there is no need for sites in Chorley. If there is a need, Chorley Council will have sufficient time to provide sufficient deliverable sites to meet the identified need but should they fail to do this, an application to extend the period could be considered in the light of the situation in 2015;
2. The development be limited to two mobile homes and 3 touring caravans. The proposals include the laying of concrete bases and the siting of new and much larger mobile homes.

These features belie the intention to occupy the site for only a temporary period and the consent should therefore relate solely to the retention of the existing mobile homes and exclude new hardstandings;

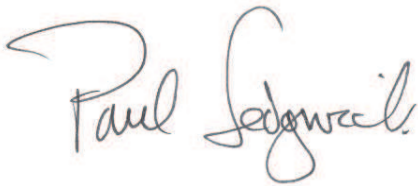
3. The occupation of the development be limited to Michael Linfoot and his immediate family and to Mr and Mrs Bird and named descendants;
4. On permanently leaving the site the facilities building, hard standings, gates and gateposts, septic tank and all other operational development be removed from the site and the site be levelled, landscaped and bounded by a post and wire or post and rail fence including a single agricultural type gate.
5. The appellant has agreed in writing prior to the grant of temporary planning permission to withdraw the existing planning appeal within five days of the decision notice being issued.

It is expected that my clients' constructive approach to the planning application in the evolving planning context is of assistance to the LPA in determining this application.

It is worth stating that this is not a negotiating position and that consent for longer than two years would be vigorously opposed. A maximum period of two years has been justified in 1. above and is demonstrably reasonable. The fallback for the applicant should need be identified but not met is a renewal application; if there is no need identified he has a reasonable period in which to vacate the site in accordance with the injunction.

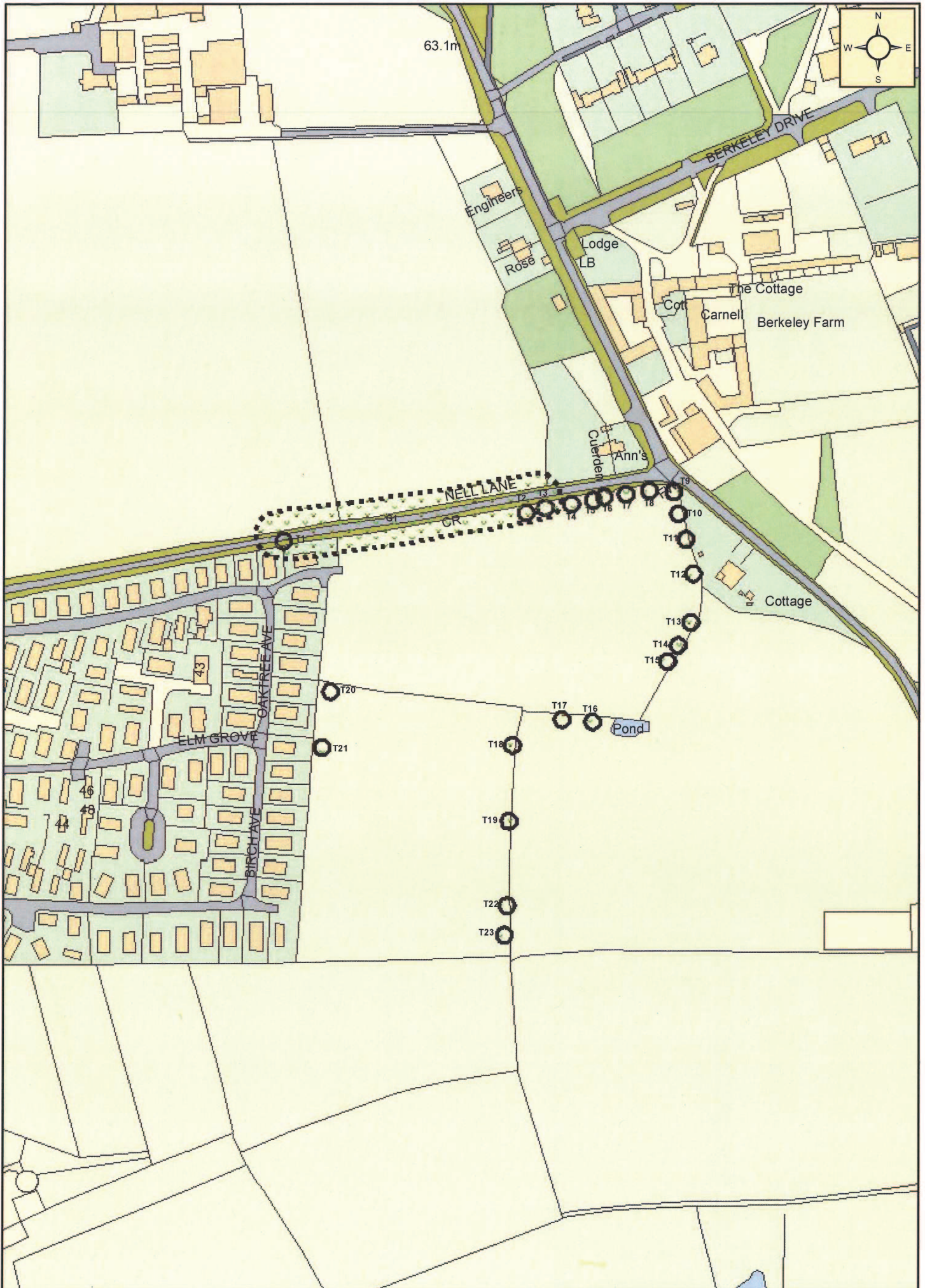
Should the planning appeal continue for any reason, I anticipate that a larger proportion of the residents will wish to put proofs of evidence to the Inspector at the public inquiry in support of their position and the unacceptability of any occupation that is longer than necessary. As this may impact on the appeal timetable I will inform PINS of this possibility.

Yours sincerely,

A handwritten signature in black ink that reads "Paul Sedgwick". The signature is written in a cursive, flowing style with a large initial 'P'.

Paul Sedgwick
Dip TP MRTPI

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