

10 December 2013

Dear Councillor

DEVELOPMENT CONTROL COMMITTEE - TUESDAY, 10TH DECEMBER 2013

I am now able to enclose, for consideration at the above meeting of the Development Control Committee, the following reports that were unavailable when the agenda was printed.

Agenda No Item

9. **Addendum - 10 December 2013 (Pages 3 - 18)**

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

Yours sincerely



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Distribution

1. Agenda and reports to all Members of the Development Control Committee (Paul Walmsley (Chair), Dave Rogerson (Vice-Chair) for attendance.

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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	Date Month 2013

ADDENDUM

ITEM 4a-13/00811/FULMAJ – Land Bounded By Black Brook, Chapel Lane And Tithe Barn Lane Heapey

The recommendation remains as per the original report.

There is an error in the paragraph 2. This should read:

2. The applicant advises the proposed solar farm would provide up to 8MW of energy which is the equivalent of powering 2500 homes a year. It would save 3440 tonnes of carbon dioxide.

Since the report has been written further information has been received from the applicant and consultees.

Four additional neighbour responses have been received, objecting to the proposals. All the issues raised have been addressed in the main report.

National Grid have also provided a consultation response on the application. They have advised that there is a gas transmission pipeline within the vicinity of the application site and that they have referred the consultation to their Land and Development Asset Protection Team for further assessment.

Further information has also been provided from the Council’s Parks and Open Spaces Officer with regard to the proposed planting. He advises that:

- The applicant has stated that heavy standard / extra heavy standard hedgerow trees will be planted at 2-5m centres within existing and proposed hedgerows. It would not be desirable to plant the hedgerow trees at any closer spacing than this. Approval of the detailed landscape scheme should be conditioned so that the actual spacings can be checked. The only way to get a significantly more immediate effect with the hedge planting itself would be to plant an 'instant hedge' which can be up to 2m in height. However, it is likely that installing such a hedge would be cost prohibitive for the applicant. As an illustration, the bare root stock hedge as currently specified by the applicant would cost in the region of £15 a metre to plant. A container grown instant hedge by comparison would be around £250 per metre.
- The LVIA identifies some of the more sensitive views around the site as being from the upper storey windows of residences therefore even if an instant hedge was used, it would not really improve this situation. Whilst some of the visual impacts on views from public rights of way relate to the visibility of the solar arrays, others relate to the loss of open character of the landscape and view, (particularly on FP31 running across the application site) due to the introduction of a hedge. With reference to the points above, it is considered

that the more immediate effect of using an instant hedge would be of limited benefit in terms of further mitigating the visual impacts on neighbouring properties and public rights of way.

- It is recommended that the Council should condition the preparation of a landscape management plan which would set out the management of the hedges and landscape once construction is finished and then again once the development has been decommissioned.

The applicant has also provided additional information with regards to the impact of the access points on the public footpath crossing the site; how the surface water runoff from the various ancillary buildings would be dealt with; the positioning of the security cameras and has also provided an indicative cross sectional plan of the site, showing the public footpath and access tracks. An addendum to the Landscape and Visual Impact Assessment has also been provided. This additional information can be summarised as follows:

- Our transport consultant has confirmed that there will only be one access point onto Chapel Lane for the construction period only and traffic will need to cross the public footpath at a suitable designated point. A crossing point will be constructed to provide safety for users of the footpath whilst construction takes place. The footpath will be protected during construction by laying a geotextile membrane on top followed by a layer of crushed material in order to prevent wheel rutting etc., and compaction.
- The public footpath and its users will be protected during the construction period through the use of signs, barriers and cones to provide awareness of the works taking place. The construction period is very short and the level of use of the footpath is relatively modest. It is not unusual for construction traffic to cross a public footpath and suggest the imposition of a planning condition to agree the means of ensuring site safety and the protection of the footpath during the works. The width left for the footpath between the two lines of fencing varies between 6-10m, allowing adequate space for the footpath to be retained and used in the future. As a comparison this is generally wider than country lanes which may be between hedgerows or fencing.
- It is predicted that due to the limited roof/surface area, run off from the inverter buildings, substation and proposed access tracks will be minimal and therefore can be dealt with via soakaway. From a landscape perspective there is no reason why the roof run off shouldn't drain to the existing soft landscape and there shouldn't be any need for an engineered drainage solution. Access track run off could similarly drain to existing soft landscape either side of the access track. We will install an ACO Drain at the interface of the access tracks with existing highway so that there is no additional run off to the existing highway drainage system subject to this being considered necessary by the highways authority.
- All of the security cameras bar one can be accommodated on existing trees at the site. The only one that would require putting on a fence post would be the one by the footpath leading out onto Chapel Lane.

The addendum to the Landscape and Visual Impact Assessment was prepared in response to the comments made by the Council's Parks and Open Spaces requesting that the findings of the report relating to FP31, FP19 and FP22 should be re-assessed in light of the 'increased' height of the array and details of the boundary treatments noted in the applicants letter at the time of the planning application submission. In addition the findings of the report relating to Wogden's Farm (R6), Tithe Barn Farm (R5), and properties overlooking the site from Guildford Avenue,

Ewell Close, Dorking Road and Sutton Grove (R8) should be re-assessed for the same. The addendum to the LVIA contains the following information:

The assessment was originally undertaken on the basis of the proposed array being stated as a height of 2.74m. This will indeed be the case for the vast majority of the site where the arrays are to be positioned on the existing, relatively flat pasture land. The LVIA states that 'the topography of the overall site falls gently from 154m AOD at Chapel Lane to an approximate height of 110m AOD at Heapey Road. Isolated areas within the site are more acute, particularly to the south of Philipsons Farm ...' No development was recommended for the steepest areas within the application site therefore no arrays will be positioned to the south of the existing railway embankments associated with the disused railway line. Arrays will be positioned on the west facing Black Brook Beck valley side and in this situation the height of the array on the down slope side of the valley will be increased to accommodate the topography whilst maintaining a horizontal top line of the array. This down slope height will vary from 2.74m where the array is positioned on flat land to a maximum of 3.78m where the array is aligned across the valley slope.

The representative viewpoints identified within the LVIA were referenced to reassess the existing and anticipated changes to the visual composition of the view from given locations around the site. Changes to the view were recorded and magnitude of change rating attributed to the changes in each view. The independent assessment was then compared to the original assessments, which resulted in no significant change to the original assessment ratings.

Notwithstanding this additional information and conclusions, it is considered that the proposed development would considerably change the character of the site and detract from its largely unspoilt rural qualities.

It is not considered that the additional information received does not overcome the reasons for refusal and the officer recommendation remains as per the original report.

The following reasons for refusal have been added:

Reasons for refusal

1. The proposed solar farm would be located within the Green Belt (as defined by the Adopted Central Lancashire Core Strategy (2012), the Adopted Chorley Borough Local Plan Review (2003) and the emerging Local Plan 2012-2026. The proposed development would be inappropriate within the Green Belt, as defined in the Framework. There are insufficient very special circumstances to outweigh the harm that will be caused to the Green Belt by reason of inappropriateness; and to the character and openness of the Green Belt as a result of the proposals
2. The proposed solar farm would be harmful to the visual amenity and character of the local area, by reason of the size, scale, incongruous appearance and inappropriate nature of the proposals. Additionally, inadequate information has been provided to demonstrate that the visual impact of the proposals can be adequately mitigated. As such the proposal is contrary to Government advice in the framework, Guidance for Renewable and Low Carbon Energy, and Policy 28 of the Adopted Central Lancashire Core Strategy (2012).

3. The application cannot be fully assessed due to the provision of insufficient information in respect of the ecological impacts of the scheme. In particular further clarification is required on:
- Detail ecological surveys in respect of protected species, in particular Great Crested Newts;
 - Whether the proposed development has been designed to avoid/minimise losses; or that loss of semi-natural habitat will be adequately compensated for;
 - An assessment of the habitat connectivity and maintenance of habitat connectivity

As such it is not possible for the Local Planning Authority to discharge its obligations in respect of the three 'derogation' tests of the Habitats Directive implemented by the Conservation (natural Habitats) Regulations 1994. Additionally, the proposals area contrary to Government advice in the Framework, Policy 22 of the Adopted central Lancashire Core Strategy (2012), Policy EP4 of the Adopted Chorley Borough Local Plan Review (2003) and Policy BNE10 of the Emerging Local Plan 2012-2016.

ITEM 4b-13/00875/FUL – 109 Chorley Road Heath Charnock

The recommendation remains as per the original report

The following conditions have been added (*include reason*):

The existing shed located to the south side of the application dwelling shall be removed from the site in its entirety prior to the commencement of the development hereby permitted.

Reason: To protect the appearance of the locality

The garage hereby approved shall be kept freely available for the parking of cars or general domestic storage and no works, whether or not permitted by the provisions of the Town and Country Planning (General Permitted Development) Order 1995 or any order amending or revoking and re-enacting that order, shall be undertaken to alter convert the space into living or other accommodation.

Reason: To protect the amenity of neighbouring occupiers

ITEM 4c-12/01131/FUL – The Beeches Care Home 25 Park Road Coppull Chorley

The recommendation remains as per the original report.

An objection letter and plan was handed to Members at the Committee Site Visit on 3rd December by Mr Dickinson of Orchard Heys Farm, the contents of which can be summarised as follows: -

- The extension is too close to the working farm and if the plans are amended to retain a buffer strip, this would benefit residents and the farm
- The extension is adjacent to a service road and yard area which is the heart of the farm business and there are up to 150 cattle in the adjacent buildings in winter and 100 in summer
- The farm is a 7 day a week business employing 1 full time and 2 part time person
- Around 1000 bales of silage are handled in the yard area in the summer, sometimes late into the night depending on the weather and contractors pressure and sometimes work will take place through the night if the weather is unfavourable
- Bedding muck is stacked in the area 'B' on the plan when the sheds are cleaned out every 6 to 8 weeks, it is then collected to go to arable/veg farms
- The straw barn 'C' is filled in the autumn and extra loads come when needed all within metres of the planned extension
- Work starts at 6:30am every day for 4 to 5 hours on feeding, bedding, cleaning out all taking place in the area 'A/B' on the plan using tractors
- To allow occupation rooms closer to the boundary is not right and fair on residents as some years the silage can be sour smelling depending on how long it has stood in the yard
- Straw is bedded with a chopper which does create dust and barley is blown in the bins every 10 days with delivery by a wagon.
- The trees and hedges have been allowed to grow taller to screen the yard but due to the closeness of this extension they would not provide any
- Several years ago the nursing home had an open day and the owners came to the farm and asked certain things in the yard to be moved out of view yet now the care home owners want to build closer to the yard but the methods and yard area are exactly the same
- We are only objecting to the closeness of this extension to our working yard and do think it should be turned down for this reason and the applicant encouraged to reapply keeping this established distance away

The applicant has also provided additional information in relation to the tree on the boundary (T32) and the reason for enlarging the bedrooms. The applicant states that the tree branches should not be taken into account in terms of proximity to the extension as the branches can be legally removed from the applicant's site due them overhanging the boundary.

The applicant also advises that the existing bedrooms which are being extended will allow these rooms to be provided with en-suite facilities and this will improve the overall experience and standards for the residents currently within the care home. CQC (Care Quality Commission) guidelines are highlighted by the new build element of the proposal but the applicant advises that the rooms should not be looked at as a CQC issue. However, upgrading of the existing rooms will provide a higher level of standards for the existing residents.

ITEM 4d-13/00991/OUT – Land 75M East Of Hilfred Crosse Hall Lane Chorley

The recommendation remains as per the original report

The agent for the application has written a letter in response to the Committee report and reasons for refusal which can be summarised as follows:

Affordable Housing

- At four dwellings the application proposals fall significantly below the 15 dwelling threshold and at 0.39ha the site also falls below the 0.5ha threshold.
- The policy's reference to a site area of 0.5ha is to prevent developers from purposely seeking a lower density scheme to avoid having to provide affordable housing. This is not the case in this instance. The fact is that the topography of the land is such that the site simply does not have a developable area of 0.5ha and even before the site boundary was amended it would not be realistic to expect 15 dwellings to be secured on the site.
- Adjusting the red edge to exclude land which is neither developable nor necessary for the proposal does not therefore comprise the sub-division of a developable area for the purposes of policy 7.
- Appeal decision referred to in Committee report: Circumstances are therefore entirely different to this application. As previously stated, the topography of the site is such that the developable area is below 0.5ha and the amended red edge merely reflects this. It is therefore incorrect for Council officers to draw support from this appeal decision.
- It is noted the Committee Report states that no information has been provided to explain why the remainder of the applicant's land ownership was not included as part of the development and refers to there being a new access road to the field behind as part of the scheme. This is a somewhat unreasonable comment to make given that the report confirms in paragraph 19 that this land was removed from the Local Plan preferred options as a housing allocation because "the steep gradients on this site limited the development potential without major mitigation measures". As to the access, this simply reflects the fact that the agricultural land to the rear of the site requires continued access and for the report to suggest anything to the contrary is entirely misleading.
- For the above reasons it is considered that there is no foundation to the suggestion in the report that the lack of affordable housing provision is a justifiable reason for refusal. The fact is that the proposal falls below the threshold for when affordable housing is required, both in terms of dwelling numbers and site size.

Ecological Issues

- The suggestion in the Committee Report that insufficient information has been submitted in relation to ecological impacts is without foundation. Further ecological information has been provided.

Highway Impacts

- The suggestion in the Committee Report that the NPPF presumption in favour of sustainable development only applies when there is not a five year supply is incorrect. NPPF paragraph 14 states that "At the heart of the National Planning Policy Framework is a presumption in favour of sustainable development, which should be seen as a golden thread running through both plan-making and decision-taking".
- Paragraph 14 goes on to state that for decision taking this means approving development proposals that accord with the development plan without delay; and where the development plan is absent, silent or relevant policies are out-of-date, granting permission unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies in the NPPF as a whole.
- NPPF Paragraph 186 requires LPAs to "approach decision-taking in a positive way to foster the delivery of sustainable development" whilst paragraph 187 states that LPAs should "look for solutions rather than

problems, and decision-takers at every level should seek to approve applications for sustainable development where possible.”

- Nothing in the NPPF suggests that the presumption in favour of sustainable development only applies when there is not a five year housing supply.
- The Committee Report accepts in paragraphs 20 and 125 that the proposed development is sustainable and for reasons already stated the suggestion that the application conflicts with development plan policies relating to affordable housing and ecology are unjustified. As to the access issues in suggested reason for refusal 3, the Committee Report suggests that without the provision of passing places, improvements to the bridleway and the upgrading of the bus stop, it is not possible to secure the safety and sustainability of the site.
- NPPF paragraph 32 states that “Development should only be prevented or refused on transport grounds where the residual cumulative impacts of development are severe.” Bearing this in mind, it is noted that paragraphs 78 - 80 of the Committee Report acknowledge that:
 - traffic speeds are not a problem down the private road;
 - existing traffic flows are low and the vehicle trips generated by the proposed development would be minimal;
 - whilst the Highway Engineer requests passing bays he accepts that, in principle, passing bays are only usually required where traffic flows are very high. This is particularly relevant when bearing in mind the above bullet point and that the passing bays in any event already exist;
 - there has not been any recorded traffic accident in the past 10 years;
- Accordingly, whilst it may well be considered beneficial by the Highway Engineer to provide passing places and improve the bridleway and bus stop, the implications of the development cannot reasonable be considered ‘severe’. Indeed, paragraph 93 of Committee Report acknowledges that the Highway Engineer accepts that as the development proposal is only for 4 dwellings the proportion of vehicular trip generation and pedestrian usage are unlikely to cause any serious safety concern on Crosse Hall Lane and the surrounding highway network.
- In addition to the above, it is disputed that the upgrading of the bus stop is necessary, however the applicant is prepared to make a reasonable contribution towards the upgrading of the bus stop proportionate to the proposed development of 4 properties. The upgrading of the bus stop is possible and deliverable contrary to the assumption in reason for refusal 3 which implies that the upgrading cannot be secured. In this regard the applicant suggests that if the Committee wish for such an improvement they resolve to approve the application subject to an s.106 Agreement securing a contribution towards the bus stop improvement.
- It is therefore considered that the refusal of this application on the grounds suggested would be entirely contrary to the requirement of the NPPF to approach decision-taking in a positive way and to approve applications for sustainable development where possible.

Officer’s response to the comments raised:

Affordable Housing

The reference to the Inspector’s decision at Appenzell was purely to demonstrate that the threshold of 0.5 hectares has been established for new housing sites. Although it is acknowledged that there are steep gradients across the site it is evident that there are varying land levels across the application site which necessitates the need for a cut and fill exercise. As such although the site was not included within the

emerging Local Plan as a housing allocation it is clear, via the submission of this application, that mitigation measures can be secured on this site to enable the sites development and no evidence has been submitted to date, notwithstanding the level differences on the site, to demonstrate that the remainder of the land holding could not be developed with/ without mitigation measures.

In respect of affordable housing the Council's Housing and Support Services Manager has confirmed that *we would always prefer the affordable housing element to be on site unless the site was so remote as to render affordable housing not sustainable in terms of infrastructure and amenities. This site does not fall into that category as it is close proximity to schools, shops and other social housing.*

If an off-site contribution was deemed acceptable this would be £38,056.

Ecological Issues

At the time of writing the committee report there was insufficient information to enable the Ecologist to satisfactorily state that there would not be an impact on protected species/ habitats and as such it was not possible for the Local Planning Authority to discharge its obligations in respect of the three 'derogation tests'.

The additional letter from Cameron S Crook and Associates has been forwarded to the Ecologist at LCC who has commented as follows:

The additional Ecological information confirms that the pond identified to the west of the proposed application area is separated from the application site by the stream (Black Brook) and an area of housing and associated gardens. As the stream is fast flowing, this along with the houses and gardens forms a barrier to newt dispersal.

The additional information concludes that whilst it is not impossible that great crested newts may be present on site, given that the only pond within 250m is effectively isolated in habitat terms and that there are no historic records of great crested newts in the area, it is reasonable to assume that their presence is highly improbable.

The ecologist at LCC agrees with the assertions set out within the additional ecological information. The Ecologist has however confirmed that *it should be noted that whilst no records for great crested newt and/or common toad were identified in the data search, this may just indicate a lack of survey effort. As the presence of amphibians cannot be fully ruled out (although the risk is low) and no information has been submitted to demonstrate that the ponds were previously surveyed (before being infilled), it would be appropriate to take a precautionary approach during site clearance and the proposed works (e.g. hand search of suitable habitat such as the marshy grassland and hedgerow immediately prior to works, if great crested newts are suspected or identified prior to or during works, all works should stop and advice should be sought from Natural England regarding the need for a licence). This could be dealt with by planning condition/reserved matters.* As there will be no likely impact upon European Protected Species there is no requirement for the LPA to apply the 'three derogation tests'.

In respect of the potential impact on habitats the additional information confirms that the species-rich grassland would not be affected. The Ecologist raised concerns as the information originally submitted related to a large area of proposed banking and it appears that both Ecologists are not talking about the same area of grassland. The Ecologist has concluded that *Chorley Borough Council should therefore be satisfied that sufficient compensation can be provided within the application area or alternatively through offsite compensation. However, I note that there may be*

opportunities to provide habitat with biodiversity value on the proposed banking (e.g. species rich grassland/translocation of species rich grassland, if appropriate), opportunities to enhance the remaining hedgerows through appropriate management, provision of additional planting and there may be opportunities in the area towards the north east of the site where no details have been provided on the proposed plan. Provided that Chorley Borough Council is satisfied that compensation can be provided, the details could be dealt with at reserved matters stage/by planning condition.

As such it is considered that the ecological impacts of the proposals could be dealt with via condition and reason for refusal 2 has been deleted.

Highway Impacts

It was not the intention of the original Committee report to suggest that sustainable development only applies when there is not a five year supply. This reference is purely to confirm that it is not considered that there is a presumption to approve housing on this greenfield site. In fact paragraph 128 of the original report makes it clear that the Framework puts the presumption on sustainable development.

In the case of this area of the Borough development has occurred incrementally over time and it is considered that the cumulative impacts of this development necessitate improvements to the access Lane. Whilst the Highway Engineer does accept that in principle passing places should only be provided where traffic flows are very high in this case the Highway Engineer has also considered the constraints in respect of this particular site.

In this case the Highway Engineer considers that 6 standard passing places would be required on Crosse Hall Lane due to the fact that the existing narrow widths do not allow free flow of traffic and as the current level of traffic flow will be increased as a result of the proposed development.

7 further letters of objection have been received which reflect those included within the original report and include:

- Access issues.
- Average speed down lane is closer to 25-30, (15-20 heading up).
- Additional traffic will significantly raise danger of pedestrian accidents on lane, particularly at Canal Bridge and in dip.
- Lane & Canal Bridge unsuitable for construction traffic.
- Will not give any permission for access via private road or connections to utilities etc. if on, or under, our property.
- The submission completely misrepresents the availability of suitable passing places stating there are three when there are in fact none.
- Loss of privacy
- Visual amenity
- Adequacy of parking/loading/turning
- Highway safety
- Traffic generation
- Noise and disturbance resulting from use
- Development Site Noise Level
- Hazardous materials
- Loss of trees
- Effect on listed building and conservation area- concerns with the adequacy of the Heritage Statement
- Landscaping

- Road access
- Local, strategic, regional and national planning policies
- Disabled persons' access
- Proposals in the Development Plan
- Nature conservation
- Archaeology
- Flood Risk
- Emergency Vehicles Access
- Will pilling be required?
- How can the Highway Engineers suggestions be adhered to on an unadopted road?
- Loss of a cycle route
- Flooding concerns
- Crosse Hall Lane needs to be remodelled to create a safe route.

The following consultee responses have been received:

Friends of Healey Nab have made the following comments:

- Loss of countryside
- Impact on wildlife
- Impact on trees
- Impact on ancient walls
- Impact of additional traffic and construction traffic
- Impact on footpaths/ bridleways
- Loss of hedgerows
- Impact on safety
- Impact on listed Buildings

ITEM 4e-13/00715/FUL – Kem Mill Kem Mill Lane Whittle-Le-Woods

The recommendation remains as per the original report.

The applicant has commented on LCC (Ecology) and Environment Agency recommendations requiring Japanese Knotweed, stating that it should be eradicated from the site. However, the applicant confirms, that the submitted Ecological information, identifies that the Japanese Knotweed is not present on the application site, it is present on the car park adjacent to Kem Mill to the north east, hence a condition is not therefore necessary.

The following condition is amended to include reference to enhancing biodiversity: -

A scheme for the landscaping of the development (demonstrating enhancement of biodiversity) and its surroundings shall be submitted prior to the commencement of the development. These details shall include all existing trees and hedgerows on the land; detail any to be retained, together with measures for their protection in the course of development; indicate the types and numbers of trees and shrubs to be planted, their distribution on site, those areas to be seeded, paved or hard landscaped; and detail any changes of ground level or landform, proposed finished levels, means of enclosure, minor artefacts and structures.

All hard and soft landscape works shall be carried out in accordance with the approved details within the first planting and seeding seasons following the occupation of any buildings or the completion of the development, whichever is the

sooner, and any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.

Reason: To ensure that a satisfactory landscaping scheme for the development is carried out to mitigate the impact of the development and secure a high quality design.

The following conditions are added, based on LCC (Ecology) advice: -

The development hereby permitted shall only be carried out in accordance with the written text of Arboricultural Impact Assessment received on 15th August apart from T17 (Mature Horse Chestnut) which shall be retained in accordance with the amended Tree Constraints Plan and Tree Protection Plan received on 9th December 2013.

Reasons: In the interests of protecting the retained trees on the site.

In order to avoid potential impacts on bats, a further precautionary bat survey of the buildings shall be undertaken immediately prior to commencement of works. If the presence of roosting bats is detected or suspected during this survey or at any other stage before or during the proposed development, then works should not proceed until it has been established whether or not a Natural England licence is required.

Reason: To avoid potential impacts on bats.

The recommendations provided in the Ecology Services UK Ltd letter (22nd July 2013) relating to bats shall be implemented in full (including the removal of features suitable for roosting bats by hand and tool box talk to site workers).

Reason: To avoid potential impacts on bats.

Prior to the commencement of development, details of replacement bat roosting opportunities shall be submitted to and approved in writing by the Local Planning Authority (in liaison with LCC Ecology) and thereafter provided within the application area in accordance with the timescale set out in the approved details.

Reason: To avoid potential impacts on bats.

If works within 5m of the tops of the banks of the water course cannot be avoided, then a further precautionary survey for water voles shall be undertaken immediately prior to commencement of works. If water voles are found to have colonised the water course, then mitigation proposals shall be submitted to Chorley Borough Council for approval prior to the commencement of works on site and the approved mitigation measures shall thereafter be implemented in full.

Reasons: To safeguard any water voles found to be present in the watercourse adjacent to the site.

Tree felling, vegetation clearance works, demolition work or other works that may affect nesting birds will be avoided between March and August inclusive, unless the absence of nesting birds has first been confirmed by further surveys or inspections.

Reason: To protect nesting birds.

During the construction period, all trees to be retained shall be protected by 1.2 metre high fencing as specified in paragraph 8.2.2 of British Standard BS5837:2012 at a distance from the tree trunk equivalent to the outermost limit of the branch spread, or at a distance from the tree trunk equal to half the height of the tree (whichever is further from the tree trunk), or as may be first agreed in writing with the Local Planning Authority. No construction materials, spoil, rubbish, vehicles or

equipment shall be stored or tipped within the area(s) so fenced. All excavations within the area so fenced shall be carried out by hand.

Reason: To safeguard the trees to be retained.

The following condition has been added in the interests of neighbour amenity: -

All first floor windows in the dwellings which serve a bathroom or an en-suite bathroom shall be fitted with obscure glazing, which shall be retained and maintained as such at all times thereafter.

Reasons: In the interest of safeguarding neighbour amenity.

The following condition is added to define the approved plans: -

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

Title	Drawing Reference	Received date
Location Plan	13/047/L01	15 th August 2013
Topographical Survey	P/2013/001	15 th August 2013
Proposed Site Layout	13/047/P01 Rev A	15 th October 2013
House Type B - 5H2147 - Plot 1 Proposed Plans, Elevations & Roof Plan	13/047/P04 Rev A	29 th August 2013
House Type C - 5H2258 -Plot 2 Proposed Plans, Elevations & Roof Plan	13/047/H/P05	29 th August 2013
House Type C - 5H2258 - Plots 3 & 8 Proposed Plans, Elevations & Roof Plan	13/047/P05 Rev A	29 th August 2013
House Type A - 5H2043 - Plot 4 Proposed Plans, Elevations & Roof Plan	3/047/P03A	29 th August 2013
House Type B - 5H2147 - Plot 5 Proposed Plans, Elevations & Roof Plan	13/047/P08	29 th August 2013
House Type D - 5H2758 - Plot 6 Proposed Plans, Elevations & Roof Plan	3/047/H/P06	29 th August 2013
House Type D - 5H2758 - Plot 7. Proposed Plans, Elevations & Roof Plan.	13/047/P06 Rev A	29 th August 2013
Detached Double Garage Plots 5,6 & 7	13/047/P07	15 th August 2013
Proposed Street Scenes	13/047/P02	15 th August 2013
External Works Detail 1800mm High Stock Proof Fence	13/047/EW04	15 th August 2013
External Works Details 1800mm High Party Fence	13/047/EW03	15 th August 2013
External Works Details 1800mm Timber Screen Fence	13/047/EW02	15 th August 2013
External Works Details 1800mm Brickwork Screen Wall	13/047/EW01	15 th August 2013
Tree Constraints Plan	-----	9 th December 2013

Tree Protection Plan	-----	9 th December 2013
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Reason: For the avoidance of doubt and in the interests of proper planning

The following condition is added to secure the making good of the retained mill wall which will form the northern site boundary: -

Prior to the commencement of any demolition works, full details of how the retained wall of Kem Mill will be made good, which will form the northern boundary of the site, shall have been submitted to and approved in writing by the Local Planning Authority. The development shall only thereafter be carried out in accordance with the approved details of how the wall will be made good.

Reasons: To ensure the wall is made good to an acceptable standard.

The following condition is recommended in relation to the landscaped seating area: -

Prior to the commencement of the development hereby permitted, a management plan for the future maintenance and management of the landscaped seating area shall have been submitted to and approved in writing by the Local Planning Authority. The landscaped seating area shall thereafter be maintained and managed in accordance with the approved management plan.

Reason: To ensure the satisfactory maintenance and management of the landscaped seating area.

ITEM 4f-13/00982/CB3 – Land To The Rear Of 3-4 Barn View, 11-17 Maytree Court And 52-78 Fairview Drive Adlington

The recommendation remains as per the original report.

Two further letters of objection have been received setting out the following issues, which are addressed in the main report:

- The objection is on the basis that access will be obstructed
- The main objection is that all the work has been carried out without planning permission being granted, but because it appears to suit the Council's wishes, all correct channels can be brushed aside
- Essentially it would appear that these people have trespassed on the land because they have not had the correct permission
- The pathway has been regularly used since the estate was built in 2003 for recreation including dog walking
- The path provides a connection between the footpath crossing the railway line and the path along the northern side of the estate leading up to Chorley Road
- It is well used and has been for a long time, though in the last few weeks it has not been possible to use the path as a fence has been erected
- It is very disappointing that the route has been closed to public access in advance of any decision on the application

Network Rail advise that there is a demarcation agreement which includes covenants relating to the access to the railway which must remain open and unblocked on a 24 hour/7 day a week basis, for 365 days a year. Therefore, **Network Rail** advises that each resident/the applicant will need to enter into a separate agreement with Network Rail for the use of the land.

Network Rail also make the following comments and these are to be made the subject of an informative: -

(a) Any works to the land adjacent to the railway including non demarcated land, in terms of any drainage, planting or excavation works will need to be reviewed and approved by the Network Rail Asset Protection Engineer.

(b) No surface water or foul water should be allowed to be drained from the applicant's land onto Network Rail land. All surface water or foul water must be drained away from the railway. The applicant's will be liable for any costs incurred by Network Rail as a result of any water from the gardens causing flooding or pollution damage to the railway.

(c) Network Rail would request that no trees are planted next to the boundary with our land and the operational railway. Network Rail would request that only evergreen shrubs are planted and we would request that they should be planted a minimum distance from the Network Rail boundary that is equal to their expected mature growth height.

- Trees can be blown over in high winds resulting in damage to Network Rail's boundary treatments / fencing as well as any lineside equipment (e.g. telecoms cabinets, signals) which has both safety and performance issues.
- Trees toppling over onto the operational railway could also bring down 25kv overhead lines, resulting in serious safety issues for any lineside workers or trains.
- Trees toppling over can also destabilise soil on Network Rail land and the applicant's land which could result in landslides or slippage of soil onto the operational railway.
- Deciduous trees shed their leaves which fall onto the rail track, any passing train therefore loses its grip on the rails due to leaf fall adhering to the rails, and there are issues with trains being unable to break correctly for signals set at danger.

(d) Suitable trespass proof fencing must be installed by each applicant adjacent to the railway boundary.

ITEM 5 b- ENFORCEMENT ITEM

Erection Of building for use as feed store and parking of a horse vehicle transporter and siting of trailer, land adjacent to 367 Southport Road Ulnes Walton

Since the report was drafted I have received representations from the landowner querying the breach of planning control alleged in paragraph 2.2 of the report and whether the Council could actually enforce against uses of land which are ancillary to the use of land for keeping horses, which would now appear to be immune from enforcement action.

After consultation with the Council's Legal officer, I have now concluded that this would not involve a breach of planning control, and accordingly the recommendation has been modified to exclude this particular breach.

The recommendation has changed as follows:

That it is expedient to issue an Enforcement Notice in respect of the following breach of planning control:

Without planning permission the erection of a building for use as a feed store.

Period for compliance

One month

Reason for Issue of Notice

In order to protect the residential amenities of neighbouring residents.

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