

## **DEVELOPMENT CONTROL COMMITTEE**

TUESDAY, 22ND MAY 2018, 6.30 PM

COUNCIL CHAMBER, TOWN HALL, CHORLEY

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.

**Agenda No    Item**

6        **ADDENDUM**

| (Pages 71 - 74)

GARY HALL  
CHIEF EXECUTIVE

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C O M M I T T E E R E P O R T		
REPORT OF	MEETING	DATE
Director (Customer and Digital)	Development Control Committee	22 <sup>nd</sup> May 2018

ADDENDUM
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**ITEM 3a – 18/00024/FUL - 2 Heath Paddock, Hut Lane, Heath Charnock, Chorley**

The application has been withdrawn from the agenda in order to further investigate the timescales for delivery of the Cowling Farm gypsy and traveller site and wording of possible planning conditions.

**ITEM 3b- 18/00294/P3PAO– Orcheton House Farm, Wood Lane, Heskin, Chorley**

**The recommendation has changed as follows: It is recommended that prior approval is refused.**

Further representations of objection have been received since publication of the Committee agenda regarding the use of the site and they reiterate the original objections received claiming that the site has not been used solely for agricultural purposes within the required time frames and that the site is not within an established agricultural unit. This has prompted a review of the evidence submitted by the applicant.

*Evidence -*

- A sworn affidavit which makes the claim that the site was used solely for agricultural purposes on the 20 March 2013 and was used to store agricultural machinery to facilitate agricultural activities including the breeding of pigs and sheep
- A letter from an accountancy firm which states that the enterprise generated a profit at the end of the 2013 financial year from the breeding of fish and pigs.
- Veterinary receipts have been provided which confirm that animal inspections at the site were carried out in June and July 2013
- Animal slaughter movement records and reports confirming the transfer of 2 pigs from the site on the 20 of March 2013

*Site Planning History -*

Despite this evidence, further representations state that the application site was not in use solely for agricultural activities within the required time frames. The application site and planning unit within which it is located does have a very detailed and complex planning history and it is not disputed that the planning unit comprises a mix of uses which form a hybrid or composite planning unit with no defined primary use.

The use of part of the site as a fish farm has been identified by several previous planning permissions including application 99/00224/FUL which was for the siting of a mobile home, in association with approved fish farm, for a temporary period of 3 years. A subsequent planning application submitted in 2009 which sought planning permission to replace this dwelling, was however, refused on the basis that no evidence had been submitted to demonstrate that the existing dwelling was not adequate and commensurate with the functional requirements of the fish farm. It should also be noted that a prior approval application refused by the council in 2016 (ref 16/00522/P3PAO) sought prior approval to convert a different building in the unit to a dwellinghouse. This application demonstrated that part of the wider site had been used as a recreational fishery, however, it was refused and an appeal subsequently dismissed on the basis that it could not be demonstrated that the building was used solely for an agricultural use, as the building was being used for the rearing of fish for recreational angling which does not fall within the definition of agriculture set out at section 336(1) of the Town and Country Planning Act.

It is, therefore, clear that the site has been used as a recreational fishery, however, it is noted that the applicant is not claiming that this use alone constitutes an agricultural use rather that the site has benefited from a range of uses including the agricultural uses referred to in the sworn affidavit and other evidence submitted which relates to the breeding of sheep and pigs.

#### *Conclusion -*

It is also accepted that the building was erected under agricultural permitted development rights (ref 05/00746/AGR). However, this was in 2005 and, therefore, it cannot be relied upon to clearly demonstrate that the application site was used solely for agricultural purposes during the required time frames i.e. on 20 March 2013, as it is possible that there could have been intervening non-agricultural uses following the erection of the building under this consent.

In addition to this, it is also acknowledged that the evidence submitted by the applicant does demonstrate that parts of the planning unit have been used for agricultural activities; however, it is not sufficient to only demonstrate that the application site lies within an agricultural unit. The provisions of paragraph Q.1 (a) Part 3 of the Town and Country Planning (General Permitted Development) (England) Order 2015 also require that the site must have been used solely for an agricultural use.

Given that the planning unit within which the application site is located is a composite unit which has been used for a range of activities, including non-agricultural uses in the form of a recreational fishery, it is considered that there exists a reasonable degree of doubt as to whether the application site would have been used solely for agricultural activities within the applicable time frames given the range of other uses it could have also supported. Due to this lack of clear evidence it is recommended that prior approval is refused.

#### Reasons for refusal

1. It is not considered that sufficient evidence has been provided to demonstrate that the application site (the storage building and the land forming its curtilage), has been used solely for an agricultural use as part of an established agricultural unit within the applicable time frames as required

under paragraph Q 1(a) of Part 3, of The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended). Accordingly it is considered that the proposed development would not accord with the requirements of paragraph Q 1(a) and would, therefore, not amount to permitted development.

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**ITEM 3c - 18/00228/FUL – The Deli Hut, 327 Preston Road, Clayton-le-Woods, Chorley**

**The recommendation remains as per the original report**

3no. further letter of objection have been received including 1 from the original objector setting out the following issues:

The original objector requested that it be noted that their main objection to the development concerns the odours produced by the business and poor extraction. A further objection echoes the grounds of objection detailed in the main report including parking problems caused by the development, smells from the cooking process and litter and mess caused by the development. It was also stated that the change of use to a hot food takeaway would exacerbate these issues.

**Officer comments:** Members are requested to note that the Council's Environmental Health section have confirmed that the installation of an extraction system would not necessarily reduce the impact of odours in this case, as an extractor system could serve to concentrate cooking odours. They advised that the neighbour should make a formal odour nuisance complaint which had not been received by the Environment Health Section at the time the application was submitted. This would allow the issue to be properly investigated and if it is determined that there is a nuisance then abatement procedures could be undertaken.

It should also be noted that despite the use class changing to that of a Class A5 hot food takeaway, this use is limited by the imposition of a condition which restricts opening hours during the week to between 8am and 3pm and between 8am and 2pm on Saturday, Sundays and Bank Holidays. This restriction would mean that it would be unlikely that the site would be suitable for a more conventional fast food takeaway with late night opening hours.

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**ITEM 3e – 18/00269/REMAJ - Parcel H1B Group, Euxton Lane, Euxton**

**The recommendation has changed as follows:**

**Additional letters have been sent to the occupiers of neighbouring properties notifying them about the application and the time period for any representations to be made is 5 June 2018.**

**Should Members be minded to approve the application, it is recommended that the decision is delegated to the Director, Customer and Digital in consultation with Chair and Vice Chair.**

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