

## PLANNING DEVELOPMENT CONTROL COMMITTEE – 11 JUNE 2014

### UPDATES FOR COMMITTEE

#### **Item A01 – Ridgeway Cars, Spicers Hill, Totton (Application 13/11614)**

Totton and Eling Town Council have commented further in respect of the amended plans stating that the amendments have not alleviated any of their concerns and they maintain their objection to the proposal as set out in paragraph 7 of the report.

Seven further letters of objection (including one from New Forest East Labour Party) have been received raising concerns already referred to in paragraphs 10.1 to 10.3 of the report. In addition, comments have been made that the decision on the application should not be based on a suggestion that a preferable site for the development is not available.

Condition no. 2 needs to be revised to refer to amended plans that have been received.

There is an error in paragraph 14.33, 6<sup>th</sup> sentence “not” should be deleted.

#### **Item A02 – Sequoia Farm, Puddleslosh Lane, Tinkers Cross, Fordingbridge (Application 14/10290)**

##### 1. Trees

There is a linear group of conifer and broadleaf trees on the western boundary. These have recently been protected by TPO:0008/14. The comments from the New Forest National Park Authority Tree Officer are that the proposal would not adversely affect the trees or their long term retention. Therefore no objection has been raised.

##### 2. HCC Rights of Way

Comments have been received from the Area Countryside Access Manager that the change of use of land, and the additional turning area do not impact upon the Public Rights of Way crossing the land.

##### 3. HCC Highways

‘No comment’ on this application.

##### 4. Additional Representations received

One further letter advising that there is a refrigerated container on site and raising concerns of noise pollution (from refrigeration unit on container) and possible commercial/ light industrial use. (See also point 9, below)

##### 5. Corrections to Officer Report

Paragraph 14.38: ‘ops’ should read ‘is’.

The last two sentences should read: *'If the applicant continues to develop the business successfully without on-site accommodation, then any future revised business plan and evidence on the need for an agricultural dwelling would need to be considered on its merits.'*

#### 6. Mitigation - Proposed Third Reason for Refusal

The agent has queried the need for habitat mitigation because the mobile home is proposed for a temporary period. Our Mitigation Strategy document advises that *'Where it is unclear whether or not the mitigation requirements apply to a particular form of development, advice will be sought from Natural England'* (para 7.14).

Natural England have now been consulted and they have advised that mitigation would not be required given that a 3 year permission would have a significantly reduced effect regarding recreational impacts, provided that the Council safeguard against successive applications for a temporary dwelling. In view of the above, it is considered that the third reason for refusal should be withdrawn. The Council's Planning Policy Officer concurs with this change to the recommendation.

#### 7. Additional Information

Further correspondence has been received today (10<sup>th</sup> June) from the agent which seeks to address the concerns raised by the report from Reading Agricultural Consultants. The agent has asked for this to be referred to our consultant.

Prior to this, the applicant's agent had requested that consideration of the planning application be deferred to allow time to address the issues raised by Reading Agricultural Consultants.

#### 8. 'Functional' and 'Financial' Tests

At the end of Section 4, the report refers to the Annex to the former PPS7 and the continued use of both the functional and financial tests since the NPPF was published. This is developed in paragraphs 14.27 and 14.28 by our consultant. However, the Applicant's Agent has drawn attention to a High Court Judgment dated 6 December 2013 on the case of *Embleton Parish Council v Northumberland County Council*. In this case, planning permission had been granted for a livestock building, a temporary caravan and associated development. The planning permission was subsequently the subject to judicial review and was challenged on 7 grounds. Ground 1 related to the Council's failure to take account of material considerations; namely its agricultural consultant's viability figures and failure to give an opportunity for comment on those figures.

The judgment states that the guidance in paragraph 55 of the National Planning Policy Framework is significantly less onerous than in PPS7. The judge accepted that the tests under paragraph 55 of the Framework are different to the tests of Annex A to PPS7 and that the NPPF does not require proposals to be economically viable. He notes that the NPPF simply requires a judgment of whether the proposed agricultural enterprise has an essential need for a worker to be there or near there.

With regard to local policy, Local Plan Part 2 Policy DM21 (which relates to proposals for permanent agricultural or forestry dwellings) does require proposals to be financially sound and to have a clear prospect of remaining so.

#### 9. Shipping Container

We have had reports that a shipping container was moved onto the application site on the afternoon of Monday June 9<sup>th</sup>. The Applicant's Agent had previously advised that the shipping container(s) do not form part of this planning application.

We have heard today (Tuesday) from the agent that two storage containers have now been stationed at Sequoia Farm for the purpose of mushroom cultivation. His view is that, as the containers are capable of being moved about the site, planning permission is not required.

This appears to be based on the understanding that the siting of a container is a use not an operational development, that an agricultural use is not development and that this does not require planning permission. However, installation of a container or other structure may be operational development which does require planning permission. The size, permanence and physical attachment of the containers need to be considered. This is clearly something that requires further investigation and action, if appropriate.

**Item A14 - The Old Church, Mockbeggar Lane, Ellingham (Application 14/10585)**

Under Section 3 of the report titled "Local Plan Part 2", "Policy DM3: Mitigation of impacts on European nature conservation sites" should be included and at the end of paragraph 14.16 policy "LYM2" should be replaced with "DM3".