

BFBCs response to Appellants Comments

Case Officers response to the points raised by the Appellant.

Point 1

It has to be acknowledged that the site is located within the countryside and establishing a commercial use with two newly constructed buildings that appear to be positioned unnecessarily so far apart with associated access road and car parking and given the anticipated levels of activity associated with the proposed uses, in particular that of the Use Class A2 (Financial and Professional) would create an intensification of activity over and above anything that has ever operated from this site would therefore be considered unacceptable and harmful to the rural character of the area and thus contrary to BF Local Plan Policy EN8.

Further to this even under BF Local Plan Policy E4 which actively encourages small business use the Officers delegated reports states "...Even if the applicant were to convert an existing building, this use would not be considered appropriate within the Countryside.."

The appellant also states that "...The new vehicle facilities were to be constructed of either grasscrete or hardcore with scalplings and topped with gravel..." I am of the view that that such a proposal is nothing other than construction of a hard standing specifically for the parking and turning of vehicles which would amount to an engineering operation that falls within the definition of development and the laying of hardcore or grasscrete would be no different except in terms of its finishing and external appearance.

Point 2

I am of the view no comparison can be made between what a previous Inspector had considered acceptable in terms of a single dwellinghouse compared to two new business units in terms both the type and number of vehicles involved.

Further to this it is clear that in order for the proposed units to accord with The Councils Parking Standards the parking provision would need to be increased. This is covered in the Officers delegated report under 4. Highway safety implications:

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“The applicant has indicated 3 spaces for each unit and this should be increased to 4 spaces to comply with borough standards for the size of the development. The site is not very sustainable and thus demand on the use of the car is likely to be high..”

Point 3

Whilst it is acknowledged that the appellant did show a splayed entrance for turning of vehicles at the entrance to the site it was unclear how this would work. It is understood that the Highways Officer was familiar with the site and considered this arrangement as proposed to be unacceptable.

This is covered in the Officers delegated report under 4. Highway safety implications:

“...Turning on site has not been shown, instead the applicant is widening the access and proposing to use this for turning. Gibbins Lane is narrow and thus turning in this area is likely to be difficult and it proposes safety issues for other road users along the lane. The applicant is required to provide turning on site for the types of vehicle expected for such a use...”

Point 4

Without any supporting evidence to substantiate the previous vehicular movements associated with the previous use compared to that of this proposed use, the Highways Officer can only conclude, that in his view the proposed use will create more vehicular movements, and remains unconvinced that the proposed turning would be safe for all users of the road.

Point 5

The application noted to have being decided on 17th November 2009 was considered in accordance with Natural England’s current [Standard Advice on Protected Species](#) issued on 23 February 2009.

As setout in the officers delegated report the Biodiversity Officer states:

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“The application involves works that have potential to impact on protected species through the following:

- Demolition of a building in a rural area that may support roosting bats or nesting birds (e.g. Barn Owls)
- Works within 100m of a pond with potential to support great crested newts
- Development on a derelict site with semi-natural habitats such as grassland, scrub and trees.

It is considered that the risk of impacting on protected species from these points signifies that an ecological survey is required to be conducted by a qualified ecologist. The report should also consider the potential for wider biodiversity to be affected by the proposals (including lighting) and make recommendations for enhancements of the site.

The application in its current state does not demonstrate that it protects and enhances biodiversity as set out in policy CS1. PPS9 states that planning decisions should be based on up-to-date information; therefore, an ecological survey is required to be submitted prior to the determination of the application. Therefore for this reason the application is recommended for refusal.”

Natural Englands Protected guidance includes a flowchart which identifies when planning applications will require ecological surveys, available at:
http://www.naturalengland.org.uk/regions/south_east/ourwork/standingadvice/protectedspecies/default.aspx

Natural Englands Standing Advice is that if a proposal affects a traditional timber framed building or traditional farm building as in this case, a barn - it states that a bat and barn owl survey will be required.

Natural England recommends that, where there is a reasonable likelihood of a protected species being affected by a development, surveys are provided prior to determination of the application. This is in accordance with Paragraphs 98 and 99 of ODPM Circular_06/2005.

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Circular 06/2005 states “It is essential that the presence or otherwise of protected species, and the extent that they may be affected by the proposed development, is established before the planning permission is granted, otherwise all relevant material considerations may not have been addressed in making the decision.”

Therefore this reason for refusal is justified until it can be demonstrated that the proposal to demolish the existing buildings and clear the site would have no impact on any protected species.

With regards to the appellants other matters raised.

i) It is alleged that The Council has not provided the appellant with a decision notice.

It is assumed that this relates to this planning application 09/00240/FUL. I can confirm that I have checked our records and it appears this was posted out to the applicants address as provided on the application form. Further to this I am not aware of a request for a copy of the decision notice and in any case these are publicly available on the Councils website.

ii) Pre-Application response

Whilst I can acknowledge a number of interim responses where posted out it would appear that none of the letters are likely to have been received by the appellant as the postal address provided has no delivery point on site as noted by a returned letter from the Royal Mail. (The most relevant interim response dated 12 February 2010 is attached on the next page as evidence).

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Mr Geoffrey Richard Noquet.

Land At The Old Piggery
Gibbins Lane
Warfield
Bracknell
Berkshire



SENT BY POST

12 February 2010

Interim Pre-Application Enquiry Response

Dear Sir/Madam

Town and Country Planning Act 1990

REFERENCE: PRE/09/00237 UPDATE

DESCRIPTION: Demolition and removal of an asbestos barn, derelict wooden barn, pig pens and hard standing. Erection of two single storey units for light industrial (B1c) and financial and professional Services (A2) use.

LOCATION: Land At The Old Piggery Gibbins Lane Warfield

CASE OFFICER: Paul Corbett, direct line 01344 351199

I refer to your pre-application enquiry validated on 23.11.2009. As stated in the acknowledgement letter sent to you the aim is to reply to you within 30 working days. However I was unable to meet this deadline as it was necessary to consult with other colleagues and I am awaiting their comments.

In the meantime I offer the following informal advice in terms of your points raised:

1. Principle of the proposal

As set out in the Officers delegated report - The proposal involves the erection of 2no. new buildings in the countryside which is considered not only contrary to policy but the aims and objectives of the Local Plan. Therefore the application has been advertised as a departure from the development plan. Any scheme contrary to policy can only be considered acceptable if there are any special circumstances that outweigh the harm. It is acknowledged that the proposal would involve the use of environmental measures such as solar panels, heat pump, bio-disc waste water purification and rainwater storage and re-use and a wind turbine that would be outside that of the red line within a paddock.

Although these sorts of measures are encouraged their implementation does not outweigh the harm new buildings would have upon the countryside location. They also do not outweigh the harm the inappropriate use of the buildings would have upon the countryside location.

It is also acknowledged that the proposal would generate employment within the area. However according to Policy E4 of the BFBLP this can only be considered acceptable if the proposal does

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not result in any adverse impacts upon the character and appearance of the area and highway safety which this proposal is considered to be the case.

Therefore to conclude on the principle of the development the proposed erection of 2no. buildings, wind turbine (noted to be positioned outside the red line site area) and associated hardstanding for access road and parking is considered unacceptable and contrary to policy. The proposal is not a re-use of agricultural buildings with the ones the applicant wishes to substitute have already been demolished.

2. Traffic generation
3. Vehicular turning arrangements
4. Traffic generation

In respect of the above highways points the Highways has reported he has no further comment to make and that I should draw your attention to his comments covered in the Case Officers delegated report and the Inspectors Decision in relation to the transport concerns.

The Highways Officer has indicated that should you wish to submit further information that would be supportive of your proposal he would be happy to comment further.

5. Protected species
I hope to respond to this point when I have received the Biodiversity Officers comments.

I trust this brief response is helpful whilst I await my colleagues response. If, in the meantime, should you wish to discuss the matter further please contact me on the number/address below.

Yours faithfully

Paul Corbett

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Cc