

**MINUTES** of a meeting of the **REGULATORY – PLANNING COMMITTEE** held at County Hall, Matlock on 6 November 2017.

**PRESENT**

Councillor M Ford (in the Chair)

Councillors J Atkin, S Brittain (substitute Member), A Griffiths, R Iliffe, R Mihaly, J Perkins (substitute Member), P Smith, J Twigg (substitute Member) and B Wright.

Apologies for absence were received on behalf of Councillors D Charles, L Grooby and R A Parkinson.

Councillor Griffiths declared that he had been lobbied by local residents regarding the Long Eaton application (Minute No 92/17).

**88/17**                    **SITE VISIT** In accordance with the Code of Practice members visited the site at Long Eaton (Minute No 92/17).

**89/17**                    **MINUTES RESOLVED** that the Minutes of the meeting of the Committee held on 9 October 2017 be confirmed as a correct record and signed by the Chairman.

**90/17**                    **APPLICATION FOR A CERTIFICATE OF LAWFUL USE FOR THE EXISTING WASTE RECYCLING FACILITIES, FURNACE HILL, LOWER MARKET STREET, CLAY CROSS**      **APPLICANT: RE-USE SALES LTD (CODE NO: CL4/0415/9)** The application had been made under Section 191 of the Town and Country Planning Act 1990 for a Certificate of Lawful Existing Use (CLEUD) in respect of a use of land relating to waste recycling. The Committee was reminded that unlike a conventional planning application an application for a CLEUD was assessed entirely on its available factual evidence about planning history of the land to which it related and whether or not it was considered ‘on the balance of probability’ to be an existing use or development, which had become lawful over time.

The application claimed that a ‘waste recycling facilities’ use had been a continuous use for a period of over 10 years. The report gave a history of the application land. The applicant had provided no evidence by way of statutory declaration, witness statements or other documents with the application. A short supporting statement suggested the application relied on the site history records of both North East Derbyshire District Council and Derbyshire County

Council and the historic planning applications received, enforcement action taken and planning permissions granted by both authorities and the Secretary of State.

Consultations had taken place with the Environment Agency, North East Derbyshire District Council, and Clay Cross Parish Council, as well as nearby businesses. Responses received were included in the report of the Strategic Director - Economy, Transport and Environment.

The report considered the extant permissions for the site and information held by the County Council on its database, which contained site visit notes and photographs. Whilst the photographs indicated the presence of piles of waste materials on the land they did not show any sign of a waste facility having been established over any part of the land distinguishable from the authorised uses on the western and eastern parts of the land under planning permissions. Site inspections and photographs from the last three years related to the presence on the central part of the land of a large pile of more newly imported waste material. The size of the pile and the lack of any discernible sorted bundles of materials indicated that it represented operations carried out in breach of planning control.

In conclusion it was considered that there was no cogent body of evidence to support any claim that the central part of the land, or indeed any other part of the land, had been subject to any material change of use to use for waste recycling (as opposed to the uses specified in the permissions granted by the Secretary of State which had been referred to) any time, and that the available evidence of the history of the land over the 10 year period up to the date of the application showed that there was no continuous use of this kind up to that time.

**RESOLVED** that the application for the grant of a Certificate of Lawful Use for the use of land at Re-Use Sales Ltd, Furness Hill, Lower Market Street, Clay Cross be refused.

**91/17                      APPLICATION FOR A CERTIFICATE OF LAWFULNESS OF EXISTING USE OR DEVELOPMENT IN RESPECT OF THE STORAGE AND PROCESSING OF INERT WASTE MATERIAL ON LAND AT CARR HILL FARM, 79 COLE LANE, OCKBROOK APPLICANT: MR R BARTON (CODE NO: CL8/0617/28)**

The application had been made under Section 191 of the Town and Country Planning Act 1990 for a Certificate of Lawfulness of Existing Use or Development (CLEUD) in respect of a stated existing use of land for the storage and processing of inert waste. The Committee was reminded that unlike a conventional planning application an application for a CLEUD was assessed entirely on its available factual evidence about planning history of the land to which it related and whether or not it was considered 'on

the balance of probability' to be an existing use or development, which had become lawful over time.

The applicant contended that the land had been in continuous use for the storage and processing of inert waste for a period of 10 years. The report of the Strategic Director - Economy, Transport and Environment gave a summary of the application details. A statutory declaration by Mr Barton referring to a bundle of 36 photographic images had been submitted in support of the application. Six statutory declaration by other individuals also accompanied the application.

In addition to notifying members of the public living closest to Carr Hill Farm of the application, consultations had been carried out with Erewash Borough Council, the Environment Agency, Ockbrook Parish Council and Local County Council and District Council local members. Responses received were included in the report of the Strategic Director - Economy, Transport and Environment.

Having considered the information provided, the Strategic Director - Economy, Transport and Environment concluded that the Statutory Declarations did not provide convincing evidence that the development described in the application had been ongoing continuously for the period of 10 years up to the date of the application over the whole or any part of the application area. He was also doubtful whether any activities involving waste, waste products and aggregate products and the presence of such materials, which might have been elements of such a use were distinguishable from similar activities and presence, which would have been associated with agricultural or other operations taking place at the farm.

**RESOLVED** that the application for the grant of a Certificate of Lawful Use for the stated use of land at Carr Hill Farm, 79 Cole Lane, Ockbrook be refused.

**92/17                      CHANGE OF USE FROM B2 TO A MIXED USE OF END OF LIFE VEHICLE DEPOLLUTING, VEHICLE REPAIRS AND STORAGE, 20 CHATSWORTH AVENUE, LONG EATON, NG10 2FL APPLICANT: MC SALVAGE LTD (CODE NO: CW8/0617/25)** The planning application site was within an established industrial estate in Long Eaton. It was proposed to change the use of an existing industrial unit to a facility for the depollution of motor vehicles (removal of engine/gearbox oils, brake/clutch fluids, power steering fluids, coolants, fuel, etc). All depollution activities would take place inside the unit. The drained fluids would be decanted into appropriate containers pending disposal or recycling off-site. This was an operation requiring Environment Agency authorisation for which there would be a strict monitoring and compliance regime.

Details of the application were contained in the report of the Strategic Director - Economy, Transport and Environment, together with comments received from consultees and following publicity. Responses received were summarised in the report. One of the main concerns had been the use of Barton Road for vehicle access/egress. It was reported that the proposed site access/egress would be via Chatsworth Road and this was pointed out to members during the site visit. The proximity of nearby residential properties to the application site had also been observed.

The key planning issues to be considered in respect of the application were the need for the development, location of the development, and potential impacts on amenity and on the surrounding environment, and these were considered in the report.

In his report, the Strategic Director also considered that the proposal for the change of use of the industrial unit to an End of Life Vehicle depollution unit with ancillary vehicle repairs was acceptable and would not have any significant environmental or amenity impacts, subject to appropriate conditions under any permission. It was, therefore, considered that the development was acceptable within the context of national and local development plan policies.

A local resident, addressed the Committee with his concerns. He commented that the small access onto the storage area in the site had been enlarged and felt that this would be used for vehicle access/egress rather than Chatsworth Road. He perceived that the applicant had no regard to health and safety issues and he was not confident that they would dispose of vehicle fluids in an appropriate manner and that the proposed hours of operation would not be adhered to. He referred to the comments made by Erewash Borough Council on the hours of operation, which he considered would be more acceptable and in line with other operations.

Councillor Griffiths supported the application on the basis that the applicant would be required to abide by the proposed conditions and that the operation would be closely monitored. The Strategic Director's representative at the meeting affirmed that the County Council would monitor the depollution use if permission was granted on the application and would co-operate with the District Council with regard to its monitoring.

Councillor Ford pointed out that a condition controlling hours of use could only do so for the development which was proposed in this application. Councillor Wright commented that it would be difficult to separate the working hours for this use from the timing of any other activities taking place on the site.

Councillor Smith pointed out that if permission was granted any issues relating to a non-waste use on the site would still be a matter for the District Council to address.

**RESOLVED** that planning permission be granted, subject to conditions as set out in the recommendation to the report of the Strategic Director - Economy, Transport and Environment.

**93/17**                    **CURRENT ENFORCEMENT ACTION** **RESOLVED** to receive the report on Current Enforcement Action.

**94/17**                    **OUTSTANDING APPLICATIONS** **RESOLVED** to receive the list on decisions outstanding on 6 November 2017 relating to EIA applications outstanding for more than sixteen weeks, major applications outstanding for more than thirteen weeks and minor applications outstanding for more than eight weeks.

**95/17**                    **CURRENT APPEALS/CALLED-IN APPLICATIONS** **RESOLVED** to note the report on current appeals/called-in applications relating to County matters.

**96/17**                    **MATTERS DETERMINED BY THE STRATEGIC DIRECTOR FOR ECONOMY, TRANSPORT AND COMMUNITIES UNDER DELEGATED POWERS** **RESOLVED** to note that the following applications had been approved by the Strategic Director for Economy, Transport and Environment under delegated powers on:-

**(a) Delegation Meeting – 28 September 2017**

- 1      Construction of a Freestanding Steel-Framed Canopy with Polycarbonate Roof Structure at Howitt Primary Community School, Cottage Garden Lane, Heanor  
Applicant: Derbyshire County Council  
Planning Application Code No: CD6/0817/41
- 2      Delegation Decisions on Schemes Required by Planning Conditions:
  - SD3027
  - SM2948

**(b) Delegation Meeting – 12 October 2017**

- 1      Section 73 Not to Comply with Planning Conditions 1, 2, 3 and 6, and Remove Condition 5 of Planning Permission CM5/0207/192 to Enable the Retention of a Two-Storey Modular Office Building within the Upper

Car Parking Area of Whitwell Quarry and Works at Whitwell Quarry,  
Craggs Road, Whitwell, S80 3JL  
Applicant: Tarmac  
Planning Application Code No: CM5/0117/90

- 2 Renewal of Main Pedestrian Gate and Side Infill Panel at Lea Primary School, Church Street, Lea, Matlock  
Applicant: Derbyshire County Council  
Planning Application Code No: CD6/0817/42
- 3 Application for Non Material Amendments to Planning Permission CM9/0805/73 at Elvaston Quarry Northern Extension, Elvaston  
Applicant: Tarmac  
Planning Application Code No: NMA/0717/56

**(c) Delegation Meeting – 19 October 2017**

- 1 Proposed Three Year Temporary Planning Permission for a Single Storey Portakabin Titan Building at Gamesley Primary School, Grindleford Grove, Glossop  
Applicant: Derbyshire County Council  
Planning Application Code No: CD1/0817/43
- 2 Proposed Construction of a 3 Metres Wide 7.5 Kilometres Long Surfaces Strategic Greenway from Creswell, via Clowne to the New Commercial Development on the Site of the Former Seymour Colliery, on the Route of the Former Midland Railway Clowne Branch Line  
Applicant: Derbyshire County Council  
Planning Application No: CD5/0817/39
- 3 Proposed Construction of a New Vehicular Exit on to a Public Highway for the Existing Car Park at Holbrook Centre for Autism, Port Way, Holbrook, Belper  
Applicant: Derbyshire County Council  
Planning Application Code No: CD6/0817/45
- 4 Proposed Construction of and Effluent Treatment Plant within the Nestle UK Works Site, off Marston Lane, Hatton, Derbyshire  
Applicant: Nestle UK Ltd  
Planning Application No: CW9/0717/33

**(d) Delegation Meeting – 26 October 2017**

- 1 Retrospective Application for Proposed Landraising and to Install Pipework as Part of Improvement Works to Increase Waste Water

Treatment Capacity at the Whaley Bridge Waste Water Treatment Works, Bridgemont, Derbyshire

Applicant: United Utilities

Planning Application Code No: CW1/0717/34

- 2 Proposed Single Classroom Extension and Link Corridor at Melbourne Junior School, Pack Horse Road, Melbourne  
Applicant: Derbyshire County Council  
Planning Application Code No: CD9/0817/4

#### Exempt Item

3. Proposed Enforcement Action in Relation to a Breach of Planning Control on Land at M1 Commerce Park, Duckmanton

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