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Hinckley & Bosworth
Borough Council

Bill Cullen MBA (ISM), BA(Hons) MRTPI
Chief Executive

Date: 29 August 2018

To: Members of the Planning Committee

Mr R Ward (Chairman)	Mr C Ladkin
Mr BE Sutton (Vice-Chairman)	Mr KWP Lynch
Mr PS Bessant	Mrs J Richards
Mr DC Bill MBE	Mr RB Roberts
Mrs MA Cook	Mrs H Smith
Mr WJ Crooks	Mrs MJ Surtees
Mr MA Hall	Ms BM Witherford
Mrs L Hodgkins	Ms AV Wright
Mr E Hollick	

Copy to all other Members of the Council

(other recipients for information)

Dear Councillor,

Please see overleaf a Supplementary Agenda for the meeting of the **PLANNING COMMITTEE** on **TUESDAY, 28 AUGUST 2018** at **6.30 pm**.

Yours sincerely

A handwritten signature in black ink, appearing to read 'R Owen'.

Rebecca Owen
Democratic Services Officer

SUPPLEMENTARY AGENDA

7. 18/00425/FUL - HORIBA MIRA LTD, WATLING STREET, CALDECOTE, NUNEATON

Application for construction of a Connected and Autonomous Vehicle (CAV) testing track, a control tower and storage building, ground works, landscaping and associated infrastructure.

Late items:

Further Information submitted:

Following the objection received from Leicestershire County Council Highways Authority the applicant has provided further details to clarify the reasons why the HGV traffic cannot access the proposed site via the existing A5 access. A plan has been submitted which identifies the pinch point at the proving ground bridge to be the main site constraint, and any potential mitigation is restricted by the proximity of water main, storm water pipe, foul water pipe and communication and telecom cables and the location of existing embankments. Supporting text has also been provided which states that the primary reason for not being able to use the existing A5 access is not conflict from a health and safety perspective as has been highlighted by LCC Highways. The applicant has highlighted that around 4metres of widening of the existing access at the bridge junction would be required to allow the flow of vehicles to not be impeded. A 4 metre widening is not possible as it would extend past the verge into the ditch and vegetation and it would mean construction over services of which the water main is a particular constraint. The applicant highlights that the water main was only recently put in (2014-15) and was never intended to be built over (it has a way leave in agreement with Severn Trent Water over it), it is buried as 0.9metres and haulage vehicles moving over this main could create pressure that can't be sustained by it. The assessments that the applicant has undertaken shows the road could only be widened by approximately 0.5 metres which would not overcome the traffic issues highlighted. The applicant also stresses that *'It is also important to note that we are not saying that this access is unsuitable for all construction access. We are looking to provide construction access for workers, and all deliveries (with the exception of aggregate and asphalt surfacing materials) from the A5. It is only when you introduce the aggregate and asphalt vehicles as well, when the pinch point becomes a major issue. Fenn Lanes will be used for 5 months only. For the first 2.5 months this will be up to 75 vehicles a day but we can manage these deliveries to ensure they are pulsed or spaced out depending on desired timings to mitigate impact. The final 2.5 months there will be a reduction in the amount of trucks falling to a maximum of 30 vehicles a day by September 2019.'*

Consultation:-

Leicestershire County Council has submitted a statement to Planning Committee in its capacity as the Highway Authority. This statement has been included as Appendix A to this late item. The Highway Authority recommends the following reason for refusal:

1. The Applicant has failed to demonstrate that an appropriate and safe construction access would be provided and the proposal, if permitted could result in an unacceptable increase in traffic turning onto or off a high speed, class I (A) road in an area remote from development. Such an increase would not be in the interests

of highway safety.

The proposal would lead to a significant increase in turning movements at the junction of the A444 with Fenn Lanes which is contrary to policy IN5 of the Leicestershire Highway Design Guide which seeks to resist the intensification of turning movements especially onto high speed, rural, classified A roads. Noting also the 7.5T weight restriction on Fenn Lanes which currently limits use by relevant vehicles to access only and is an indication that Fenn Lanes is not particularly suitable for HGV use. This is considered unacceptable in the absence of any material reason why construction traffic cannot utilise the existing junction access from the A5.

The proposal, if permitted, would lead to an increase in HGV traffic using a route and construction access, which are unsuitable in their design to cater for this increase and would not be in the interests of the highway.

Councillor Ould provided the following comments

- 1) Fenn Lanes subject of considerable local comment regarding speeding traffic, increasing volume of traffic and accidents. The shape of the junction with the A444 is also not suitable.
- 2) Support the comments submitted by Leicestershire County Council Highways department.
- 3) The committee report states that as it is only a temporary arrangement, by inference, that for a 5 month period highway and pedestrian safety is at risk
- 4) There is a solution available for the applicant to manage the construction traffic through the existing site from the A5.
- 5) Overall, objections raised regarding highways safety and further considerations should be had in respect of the comments submitted by Leicestershire County Council Highways department.

Kind Richard III Society object for the following reasons:

- 1) This is a green field site, as well as being a place where a king died in battle and where a new dynasty was born.
- 2) Members of the Society have no love for the Tudors but that does not mean we approve of such wanton damage to a heritage site.
- 3) Please reconsider and find somewhere else to build this monstrosity, a testing centre is obviously required but does it have to be to the detriment of England's heritage and history.

Chairman of Battlefields Trust object for the following reasons:

- 1) The battlefield is a site of national importance and attracts visitors to and generates income for the area
- 2) Development would significantly impact upon the setting of the walks around the battlefield site
- 3) Development would result in a depreciation of the route from which Henry VII approached the battlefield
- 4) Subsequent applications that encroach further into the battlefield would result in moderate harm
- 5) Lack of consultation with the Battlefields Trust

459 letters of objection have been received raising the following comments:

- 1) Objection to the development in principle
- 2) Destroying/loss of a significant local and national historic interest
- 3) Loss of harm to the battlefield which is considered significant, not less than substantial
- 4) Lack of full consideration upon this heritage asset and the negative impacts are considered to outweigh the public benefits
- 5) Subsequent applications that encroach further into the battlefield would result in moderate harm
- 6) Loss of income/ local tourism from the loss of the local heritage
- 7) Harm to local ecology
- 8) Unjustified reasons for development
- 9) Setting of a negative precedent which other councils will have to then follow
- 10) Lack of full archaeological impact and evaluation
- 11) Alternative sites should be used and are available
- 12) Loss of the battlefield would be disrespectful to the people who lost their lives
- 13) Impact upon the conservation area
- 14) Drainage issues
- 15) Noise concerns during construction
- 16) Impact upon highway safety during construction
- 17) Significant adverse visual impact upon the special landscape qualities of the area
- 18) Lack of demand for a driverless car
- 19) Lack of public consultation and the rushed through nature of the application
- 20) Battle sites need to be secured to allow for future technologies to further investigate the sites archaeological potential
- 21) Visitors travel from all over the world to visit the site
- 22) Previous applications elsewhere in the borough have no regard for historical sites, for example Richard III was found under a car park
- 23) Impact upon adjacent footpaths as a result of the noise impacts from the development
- 24) Loss of the battlefield which would be irreplaceable and irreversible
- 25) Noise and disturbance from construction traffic upon the battlefield
- 26) Contrary to HBBC's own heritage strategy
- 27) Loss of historical significance for the future generations and future research
- 28) Noise impacts from the development, conditions should be imposed if allowed
- 29) Impact upon highway safety and inadequate access from Fenn Lanes
- 30) Lack of consultation with interested parties
- 31) The argument that the proposed development involves destroying land
- 32) No overwhelming need for the development to take place
- 33) The battlefield extends further than the existing registered area
- 34) Bosworth battlefield attracts many visitors to the area, even more so since the discovery of Richard III's remain in Leicester.
- 35) If Archaeology beneath the ground on the site is lost, it prevents future breakthroughs, which could reshape our understanding of the battle.
- 36) British past will be erased.
- 37) Battle of Bosworth brought the Tudor dynasty to the throne and saw the last death of an English King in Battle.
- 38) While agricultural land management has changed since the battle, the battlefield remains largely undeveloped and permits the site of encampments and the course of the battle to be appreciated.
- 39) Bosworth is one of the earliest battles in England for which we have clear evidence of significant artillery.
- 40) The existence of a testing track, with its associated noise and traffic, would interfere with the peaceful nature of the site, and change the experience of those who go there to quietly reflect upon the event of August 1485.
- 41) The area of the proposed development is most likely where the French

- mercenaries were deployed, along with the Tudor artillery.
- 42) This clearly affects the battlefield adversely despite the justifications placed in the planning documentation.
 - 43) The proposal does not justify why the new facility has to be on the battlefield or the potentially expanded area.
 - 44) It appears that the proposal has been kept under wraps until the last minute.
 - 45) The site has been described as 'the edge of the wider battlefield area' which is misleading and irrelevant.
 - 46) Open spaces need to be retained for further research. As technology improves we may learn more about this pivotal battle in England's history.
 - 47) England is a crowded place, and there must be difficulty finding appropriate places to test these vehicles, may consider prairie provinces, rather than spoil precious places in England.
 - 48) Exhaust pollution from the proposed development
 - 49) Contrary to the conservation management scheme for the battlefield

Appraisal:-

Impact upon heritage

Reference from objectors has been made to the Bosworth Battlefield Conservation Plan (2013). This document outlines the Landscape Character and Views; Leisure Recreation and Tourism; Significance Values and Issues and sets Objectives and Policies. Policy 5.1 and 5.4 requires the protection of the land and new development does not have an adverse visual or landscape impact on the special qualities of the area within the Registered Battlefield boundary in line with current national policy, in liaison with the Historic and Natural Environment Team (LCC). A full assessment has been undertaken of the impact of the development upon the Battlefield and can be viewed in the committee report in paragraphs 8.61 – 8.78.

Objectors state that by approving this application it would set a precedent for development within the Battlefield Site. Every application must be assessed on its own merits and the details of each application will differ. This application would not set a precedent.

Objectors have highlighted that a full archaeological impact and evaluation has not been undertaken. Historic England and LCC Archaeology have accepted that sufficient information has been submitted to allow an assessment of the application upon the impact of Heritage Assets to be made. The details submitted are therefore sufficient to allow a determination to be made on the application.

A full assessment and weighted exercise has been had within the committee extract in respect of the potential impact upon heritage impacts and the additional comments do not raise any new issues which would alter the appraisal of the proposal and the recommendation outlined in the committee report.

Impact upon highways

The additional information submitted by Leicestershire County Council highlights the concerns with the temporary construction access. Additional information has been submitted by the applicant and this has not been assessed by the Highway Authority.

The applicant has provided additional information which highlights the significant operational and site constraints they have on site which would not make the existing A5 access a feasible option for HGV deliveries of aggregate and asphalt.

The highway authority considers the impact of the development to be contrary to Paragraph 108 of the NPPF criterion b), which states that 'safe and suitable access to the site can be achieved for all users'. The proposal includes an operation access which satisfies this criterion and the Highway Authority do not object to the operation access and it is the temporary construction access which the objection is related to. The temporary construction access would only be limited to specific vehicles delivering the aggregate and asphalt all workers and other deliveries will use the existing A5 access. It is therefore considered that whilst the Fenn Lanes road is not considered suitable for HGV vehicles and a permeant access would have a severe impact on the highway network, a temporary constriction access restricted to certain vehicles with the mitigation measures proposed would only have a temporary impact upon the highway network and would not be considered a severe impact on the highway network which would warrant refusal in this instance.

Impact upon ecology

Additional information by way of a Biodiversity Impact Assessment Calculation and a Great Crested Newt Method Statement have been received on 10th August 2018.

The submitted information confirms that the development would result in a 'net-gain' of habitats on site as a result of the proposed habitat creation and enhancements which would be created as part of the landscaping on the site.

The submitted Great Crested Newt Mitigation strategy is satisfactory and this is considered acceptable for the proposed development. Condition 22 is therefore amended to ensure that the development is also carried out in accordance with the mitigation strategy of the submitted Great Crested Newt strategy. An additional condition is recommended to ensure the proposed ecological ponds are suitable for Great Crested Newt habitation this would be managed through condition 5 which requires full landscaping plans and details to be submitted prior to the commencement of development and condition 6 within the committee report which requires the submission of a landscape and biodiversity management plan.

Leicestershire County Council Ecology have reviewed the additional information and have no objections subject to the imposition of conditions.

Other Matters

Some objectors have stated that the proposal has had a lack of public consultation. All statutory consultee were notified of the application and given a 21day period for comments, a site notice was erected nearby the site and a consultation notice was published in the local paper for a period of 21days in line with the statutory requirements for consulting on a planning application.

Conclusions:-

The conclusions and recommendation for approval, subject to conditions, outlined in the planning committee report stand.

Recommendation:-

Amended Condition

22. The development shall be carried out in complete accordance with the conclusions, mitigations and compensations contained within the submitted Preliminary

Ecological Appraisal dated February 2018 received by the Local Planning Authority on 12 July 2018, the submitted Badger Survey and Plan dated July 2018 received by the Local Planning Authority on 1 August 2018 and the submitted Great Crested Newt Method Statement dated August 2018 received by the Local Planning Authority on 13 August 2018.

Reason: To ensure appropriate conservation and enhancement of nature conservation features and protection to biodiversity in accordance with Policy DM6 of the Site Allocations and Development Management Policies Development Plan Document.

APPENDIX

Statement on behalf of Leicestershire County Council in its capacity as Highway Authority at HBBC Planning Committee

28th August 2018

Re: 18/00425/FUL at Horiba Mira Ltd, Watling Street, Caldecote, Nuneaton, Warwickshire

Introduction:

1. The County Highway Authority (CHA) was consulted on the proposed Development and provided formal consultation responses on 18 June 2018 and 10 August 2018
2. The Hinckley and Bosworth Borough Council Officer Report was prepared for the Planning Committee to be held on 28 August 2018 and concluded that the highway issues identified as material planning considerations by the CHA could be mitigated and recommended that the Application be approved (para 1 in the Officer Report). However this is not the view of the CHA.
3. This supplemental statement seeks to clarify the highway issues and assessment related to this proposed Development.

Highway Considerations:

4. **Construction Access**
The County Highway Authority (CHA) wishes to clarify its position in relation to the issue of construction access on to Fenn Lanes as part of the Application. This statement is intended to ensure members of the planning committee are fully informed of the CHA's advice in respect of this application prior to its determination.
The CHA maintains the position that the proposal is contrary to paragraph 108 of the NPPF 2018 where it should be *ensured* that safe and suitable access to the site can be achieved for all users.
Notably, and following consideration of Personal Injury Collision data for the relevant study area the CHA is aware of a collision history which could be exacerbated by the construction routeing proposed. In fact Leicestershire County Council has identified Fenn Lanes for the Rural Road Initiative, which aims to address the higher than national average number of collisions occurring at selected de-restricted (60mph) roads throughout the County. .

Furthermore, the proposal would lead to a significant increase in turning movements at the junction of the A444 with Fenn Lanes which is contrary to policy IN5 of the Leicestershire Highway Design Guide which seeks to resist the intensification of turning movements especially onto high speed, rural, classified A roads. Noting also the 7.5T weight restriction on Fenn Lanes which currently limits use by relevant vehicles to access only and is an indication that Fenn Lanes is not particularly suitable for HGV use.

5. **The Existing A5 Access**

The additional information provided by the Applicant provided by email on 20 August 2018 does not show any material reason why construction traffic cannot utilise the existing junction access from the A5. The main arguments made by the Applicant and accepted by the Planning Authority at paragraph 8.93 in the committee report, is that construction traffic would conflict *from a health and safety perspective with a growing number of cyclists on site taking advantage of the Green Travel Plan*. The CHA have concerns with the safety of *all* network users on the highway including cyclists, pedestrian and motor-vehicles. It is within the Applicant's gift to exercise authority on the internal movements within the development site thereby reducing this perceived internal conflict.

Whilst there are several factors that inform the Planning Authority's decision the CHA has not been provided with evidence of the prohibitive nature of the costs of on-site mitigation, definitive evidence that delay will result in loss of funding or viability issues raised. Therefore the CHA cannot support the view of the Planning Authority in its recommendation.

6. Potential Mitigation Measures

The CHA further wishes to clarify that its advice relates to the principle of the access onto Fenn Lanes for use by construction traffic. Comments and advice on other highways matters contained within the Committee Report, particularly regarding suitability of mitigation and the temporary nature of any risk, are provided by the Planning Authority or the Applicant and do not represent the view of the CHA. The CHA would have concerns and comments on the proposed mitigation should the in principle objection be resolved.

Conclusion

7. To conclude the CHA confirms the advice to refuse the application on the basis of the proposed temporary access and its consequential impact on the County Highway Network.

For clarity, the CHA would not seek to resist the principle of development proposed, merely the temporary access arrangements and has maintained this position consistently. Should the opportunity arise to engage further the CHA would be pleased to work with all parties to enable a satisfactory outcome.

8. 18/00302/FUL - LAND SOUTH OF AMBER WAY, BURBAGE

Application for erection of 40 dwellings and associated infrastructure.

Late items:

Recommendation:-

Condition 2: replace reference to Planning Engineering Layout/Levels Drawing Ref. FW1329 120 received by the local planning authority on 26 April 2018 with Planning Engineering Layout/Levels Drawing Ref. FW1329 120A received by the local planning authority on 21 August 2018.

Condition 17: replace reference to Planning Engineering Layout/Levels Drawing Ref. FW1329 120 received by the local planning authority on 26 April 2018 with Planning Engineering Layout/Levels Drawing Ref. FW1329 120A received by the local planning authority on 21 August 2018.

9. 17/01297/FUL - 84 LEICESTER ROAD, HINCKLEY

Application for erection of seven dwellings, garages and associated drive (resubmission of application 17/00096/FUL).

Late items:

Introduction:-

An amended plan has been submitted for plots 7 and 8, which include the proposed single garages, to accord with the proposed layout plan. Given the minor nature of the amendments there was no need to carry out any further re-consultation.

Consultations:-

Councillor Kirby has objected to the proposal on the following grounds:-

- 1) Surrounding properties have suffered flooding from sewerage in homes and gardens from poor drainage and concerned this development would add pressure on the system.
- 2) Works to the drainage in the area last year, has still resulted in flooding issues to Island Close which is situated to the rear.
- 3) Although Highways have not objected surely another 14 plus vehicles using this narrow entrance onto an already busy with often speeding traffic is going to be an issue.
- 4) This is a piecemeal development to avoid any contributions having to be paid.

The residents object to the development on the following grounds:-

- 1) As it would be out of character, would not have enough car parking, and would set a precedent.
- 2) The provision for waste collection would be detrimental to No.82 by reason of noise, pest infestation and detrimental to amenity.
- 3) Out of character in respect of density and tiny gardens. There are also 3 storey houses which are out of character.
- 4) No sustainable drainage solution.
- 5) All previous infill in the area has been limited to maximum 25 degrees to prevent upwards development.
- 6) Noise pollution from the amount of traffic going down No.82.
- 7) Garage for plot 7 would be inside the root protection area of the TPO Oak tree.

Appraisal:-

Other matters

Objections have been received the proposed development is a piecemeal development to avoid Section 106 contributions. To attract Section 106 contributions the development should be 10 or more dwellings. Approving this scheme in addition to the existing two dwellings which front onto Leicester Road, which have been carried out by the same applicant would equate to 9 dwellings, and therefore would not attract contributions having regard to the existing development.

Recommendation:-

Grant planning permission subject to:

That the Planning Manager, Development Management be given powers to determine the

final detail of planning conditions.

Replace condition 2 with the following:

The development hereby permitted shall not be carried out except in complete accordance with the details shown on the submitted plans: Site Location Plan, Site Plan and internal street scenes plan Dwg No.692.MP.09F received on the 9 May 2018, Plot 3 and 4 Dwg No.692.MP.04 Rev A, Plot 5 Dwg No.692.MP.05, Plot 6 Dwg No.692.MP.06 and Plot 9 692.MP.08 received by the Local Planning Authority on the 14 December 2017 and Plot 7 and 8 Dwg No.692.MP.07 Rev B received by the Local Planning Authority on the 3 June 2018.

Reason: To ensure a satisfactory impact of the development to accord with Policy DM1 of the adopted Site Allocations and Development Management Policies DPD.

11. 18/00581/FUL - 98 WOLVEY ROAD, BURBAGE

Application for change of use from A1 to A3 (café) and erection of lean-to canopy (part retrospective).

Late items:

Consultations:-

No objection
Leicestershire County Council (Highways)

Appraisal:-

Impact upon highway safety

Leicestershire County Council (Highways) have advised they have no objection to the proposed use and development, and the impact of the proposal would not be deemed as severe in accordance with paragraph 109 of the NPPF.

12. 18/00353/FUL - COLD COMFORT FARM, ROGUES LANE, HINCKLEY

Application for change of use to a dog day care centre (retrospective).

Late items:

Consultations:-

A further representation has been received from a previously registered objector raising the following additional comments:-

- 1) Having a maximum of 30 dogs generates a lot of noise and this is carried on the wind.
- 2) There is a minimum of 4 properties that are within the outlined 250 metre circle on the plan.
- 3) Noise and pollution will infringe on existing properties.
- 4) Constant barking or whining of a dog will be very disturbing or annoying.
- 5) In law, a barking dog can be a 'statutory noise nuisance' under the Environmental Protection Act 1990 so how can this be adhered to when there is a possibility of 30 dogs being at the property at any one time. It is going to be all day everyday so surely this would constitute nuisance.

Councillor Cope has provided the following statement to be considered by member of the

Planning Committee:-

"I have been approached by both parties in respect of this application. I can see the relevance and importance of both arguments and appreciate the need to be equitable in my approach for the parties, considering that in general, the issue and persons are encompassed within Trinity ward. I would ask that members give due consideration to the noise issues articulated by neighbours and the environmental health reporting that attaches to matters. The dog centre appears to be a worthwhile and local enterprise that requires a suitable location and that needs a sensitive and sustainable approach.

I consider that what is required therefore is one of balance between the ability of the applicant to conduct the operation without compromising the environment of the immediate neighbours. In this respect policy DM10 applies generally, but I would ask members to consider the rights to "quiet enjoyment" of their homes.

It is difficult to satisfy the differing approaches in both parties contentions but it is arguable that the amount of dogs envisaged in the application, is it possible and reasonable that the barking liable, can be adequately controlled and mitigated by conditions applied? If not I would suggest that a "minded to refuse" be considered in order to further develop the position equitably."

Leicestershire County Council (Highways), have no objections to the proposed development.

Appraisal:-

Impact upon residential amenity

The additional comments have not raised any additional material planning considerations, which have not been addressed within the committee report. Matters concerning the impact upon residential amenity have been fully considered. The site has been subject site visits being carried out on 3 separate occasions for a 30 minute period to monitor the noise and no significant barking has been witnessed.

Impact upon Highway Safety

Leicestershire County Council (Highways) have considered the application, and given the proposal is in excess of 300 metres from the adopted highway and the proposal is unlikely to result in an increased number of trips in comparison to the existing permitted use, it could not be demonstrated that the proposal if permitted would result in severe harm to the public highway in accordance with paragraph 109 of the NPPF

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