

Report of	Meeting	Date
Head of Planning and Enforcement	Planning Committee	6 July 2023

Appeal to the Secretary of State against non-determination of planning application 07/2022/00689/FUL (Gables Farm, Lindle Lane, Hutton)

Is this report confidential?	No
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Is this decision key?	No
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Savings or expenditure amounting to greater than £100,000	None
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Purpose of the Report

1. To seek the resolution of the Planning Committee members as to what the Council's case will be at the forthcoming appeal into the non-determination of planning application 07/2022/00689/FUL for '*change of use from livery yard to dog training facility including 6 floodlights to outdoor area at rear*' at Gables Farm, Lindle Lane, Hutton PR4 4AQ
2. Members are requested to consider from the following options:
 - For the Council not to contest the Appeal (recommending the imposition of conditions as per officer recommendation (see appendix report) should the Inspector be minded to grant planning permission).

or

 - For the Council to advance an argument with the Planning Inspectorate as to why planning permission should not be granted (if so on what basis, and having regard to which adopted policy)

Recommendations to Planning Committee

3. That the Committee endorses the recommendation made by Officers in relation to planning application 07/2022/00689/FUL that the proposal for change of use and ancillary works shall be approved subject to the imposition of conditions and for the Council therefore not to contest the forthcoming Appeal

Reasons for recommendations

4. See detailed recommendation as appendix to this report.

Other options considered and rejected

5. See detailed recommendation as appendix to this report.

Executive summary

6. See detailed recommendation as appendix to this report, and background (below).

Corporate priorities

7. The report relates to the following corporate priorities: (Please bold one)

An exemplary council	Thriving communities
A fair local economy that works for everyone	Good homes, green spaces, healthy places

Background to the report

8. This planning application was received by the Council on the 10th August 2022 and validated on the 31st August 2022
9. It was first brought before Planning Committee on 9th February 2023 with an officer recommendation to approve with conditions but was deferred by members to allow for review of the conditions and for officers to facilitate a meeting between the applicant and local residents. It was anticipated that agreement could be reached with regards to amendments to the proposal sufficient to overcome local resident concerns.
10. As it was evident that significant changes were needed to overcome local residents concerns, officers provided the applicant with a list of the five main issues as the basis of discussion, to ascertain whether there was room for compromise in advance of a meeting. The issues raised are listed at Paragraph 1.1 of the Officers report (attached), together with the applicant's response which clearly signalled that there was no prospect of residents' concerns being resolved in any meeting. Consequently, senior council officers determined that there was no benefit in setting up the meeting or delaying determination of the proposed application.
11. Proposed conditions were also reviewed as requested by members. The wording of some were revised for greater clarity and additional conditions were added (conditions 2 and 16) to provide the Council with greater control of the site.
12. The application was returned to the agenda for planning committee on the 9th March 2023 but was withdrawn shortly before the meeting following notification of an appeal by the applicant to the Secretary of State against non-determination on the morning of 9th March.

13. The Planning Inspectorate will now be responsible for making the decision.
14. **Non-Determination:** Once a planning application is valid, the local authority should make a decision as quickly as possible, and in any event within the statutory time limit, unless a longer period is agreed in writing. The statutory timescale for this proposal was 8 weeks (original expiry date 26th October 2022), followed by a series of agreed 'extensions of time' (agreement to delay the target date) until the 13th February 2022 to allow for determination at the first appropriate committee. Further extension of time was thereafter not agreed.
15. Where a valid application has not been determined within the relevant statutory period (or such other period as agreed in writing), the applicant has a right to appeal to the Secretary of State against non-determination. The appeal against the Council was validated by the Planning Inspectorate on behalf of the Secretary of State on the 24th May 2023 and at the time of writing this report an Inspector has not been allocated, and the appeal has not been determined
16. As part of that determination however, the Inspector will require notification from the Council as to the decision that Planning Committee would have been minded to make had it been able to. The decision Members need to come to therefore is what that might have been – either approval with conditions as recommended by officers, or refusal, and if so on what basis.
17. The report (attached) is as prepared for the 9th March meeting and should assist with deliberations. Please note however that your decision is not binding on the authority and is given in an advisory capacity only for the benefit of the Planning Inspectorate. It is also a 'committee member only' discussion and as such it is not possible for interested parties, residents or members who are not on committee to speak in support of, or against the matter in committee.
18. The conditions noted below will also be passed to the Inspectorate for their consideration should they be minded to approve. The Inspectors decision may differ from that made by Planning Committee.

Climate change and air quality

Please delete below as appropriate (for further advice please contact the relevant officer)

19. The work noted in this report impacts on the following areas of climate change and sustainability targets of the Councils Green Agenda.:
 - a. net carbon zero by 2030,
 - b. reducing waste production
 - c. limiting non sustainable forms of transport,
 - d. working with sustainable and green accredited companies,
 - e. limiting or improving air quality,**
 - f. limiting water waste and flooding risks,
 - g. improving green areas and biodiversity.**
20. The work noted in this report does not impact the climate change and sustainability targets of the Councils Green Agenda and all environmental considerations are in place.

Equality and diversity

21. No equality implications

Risk

Comments of the Statutory Finance Officer

22. The applicant does have the right to appeal to the Planning Inspectorate for an award of costs if they feel there are grounds of unreasonable behaviour on the part of the Council. At this stage it is felt that this is unlikely to happen, but it remains possible. Costs are difficult to forecast, and vary case by case, but could be awarded in the region of £6,000 to £10,000

Comments of the Monitoring Officer

23. In this instance we are dealing with an appeal against non- determination. In such circumstances it is now for the Planning Inspectorate to decide the appeal, not the council as the local planning authority. We need to give an indication though of what decision we would have made. If Committee considers that it would have refused the planning application and now wants to contest the appeal, then it needs to provide reasons for refusal based on material planning considerations including reference to relevant local policy.

Background documents

24. The written advice of the Head of Planning and Enforcement is attached to this report as an addendum and should be read in conjunction with this report.

- Appendix A: Attached planning committee report

Report Author:	Email:	Telephone:	Date:
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This decision will come into force and may be implemented five working days after its publication date, subject to being called in in accordance with the Council's Constitution.