

PLANNING APPLICATIONS COMMITTEE

23rd February, 2011

PRESENT - Councillor Baldwin (in the Chair); Councillors Hartley, L. Haszeldine, Johnson, D.A. Lyonette, Regan, Robson, Stenson and Walker. (9)

APOLOGIES – Councillors M. Cartwright, Dunstone, Freitag and Lee. (4)

OFFICERS – Andrew Errington, Planning Law Assistant, within Resources Group, Roy Merrett, Development Manager and Andrew Harker, Planning Officer, Philip Roxby, Ecology Officer and Harry Alderton, Highways Engineer, within Services for Place.

PA80. DECLARATION OF INTERESTS – There were no declaration of interests reported at the meeting.

PA81. PROCEDURE – The Borough Solicitor’s representative gave a short presentation which outlined the procedure to be followed during consideration of the applications for planning permission before this Committee.

RESOLVED – That the procedure be noted.

PA82. APPLICATIONS FOR PLANNING PERMISSION AND OTHER CONSENTS UNDER THE TOWN AND COUNTRY PLANNING ACT AND ASSOCIATED LEGISLATION

(1) Planning Permission Granted

10/00798/FUL – Whessoe Grange Farm Burtree Lane. Hybrid application for erection of data centre with associated access, landscaping and ancillary buildings (Detailed); and construction of access road from Rotary Way (Outline) (Additional information received 8th December 2010; 14th December, 2010; additional plans received 13th January, 2011; additional highway related information received 14th January, 2011; additional Ground Investigation Reports, Ecology Reports, Archaeological Reports and Environmental Reports received 18th January, 2011).

(In reaching its decision the Committee took into consideration the Planning Officer’s report (previously circulated), seven letters of objection; the objections of Natural England and the Ramblers Association; the comments of Network Rail, Durham County Council Archaeology Section, One North East Darlington, the Council’s Environmental Health, the Council’s Ecology Officer, the Council’s Rights of Way Officer and the Council’s Highways Engineer that had been received and the views of Mr. Neaves, applicant, and Mr. Cole, an objector, whom Members heard. The Development Manager also made reference to two further letters of objection, a verbal objection, further letters of support and a letter from a local business man that had been received and were summarised at the meeting. It was also highlighted that the objections of The Durham Bat Group and Durham Wildlife Trust had been withdrawn).

RESOLVED – That the Director of Place be authorised to negotiate an agreement under Section 106 of the Town and Country Planning Act 1990 to secure the following :-

- The provision of a scheme to ensure that employment and training opportunities are made available for the residents of Darlington during the construction of the development.
- A financial contribution towards to the erection of two bus stops and associated footpath links.
- A financial contribution for signage to identify cycle way links to the existing cycle network.
- A financial contribution for legal and administration costs for parking restrictions on the southern access road.
- A financial contribution for upgrading the Footpath No 5 (Archdeacon Newton Parish to a Bridleway status.

That upon satisfactory completion and signing of that agreement, planning permission be granted subject to the following conditions and reasons :-

- (a) In respect of the access road to the site from Rotary Way the approval of the Local Planning Authority shall be obtained with respect to the following reserved matters prior to the access road being commenced : --

- (i) Appearance;
- (ii) Landscaping; and
- (iii) Layout.

The application for approval of reserved matters shall be made to the Local Planning Authority before the expiration of three years from the date of this permission.

Reason - To accord with the provisions of Section 92(1) of the Town and Country Planning Act 1990.

- (b) The access road from Rotary Way shall be begun two years from the final approval of the reserved matters referred to in condition (1) or, in the case of approval on different dates the final approval of the last such matter to be approved.

Reason - To accord with the provisions of Section 92(1) of the Town and Country Planning Act 1990.

- (c) Notwithstanding the details secured under condition 1 the access road from Rotary Way shall be constructed to a standard suitable for adoption by the Local Planning Authority prior to the development hereby approved first coming into operation.

Reason – In the interests of highway safety.

- (d) Access to High Faverdale Farm shall not be obstructed during the construction of the access road from Rotary Way unless otherwise agreed in writing by the Local Planning Authority.

Reason – To ensure that access to the property is retained at all time.

- (e) Notwithstanding the requirements of condition 1 relating to the outline planning permission for the southern access road the remainder of the development is subject to full planning permission and shall be commenced not later than the expiration of three years from the date of this permission.

Reason - To accord with the provisions of Section 91(1) of the Town and Country Planning Act, 1990.

- (f) A phasing plan for the development shall be submitted to, and approved by, the Local Planning Authority prior to the commencement of the development. The development shall be implemented in accordance with that plan, unless otherwise agreed in writing with the Local Planning Authority.
Reason - To ensure the development is carried out in accordance with the planning permission and scheme of works and to avoid any detriment to amenity that may be caused by any phase remaining incomplete.
- (g) The premises shall be used only as a data centre and for no other purpose (including any other purpose within the Town and Country Planning (Use Classes) Order 1987 or any Order revoking or re-enacting that Order) unless otherwise agreed in writing by the Local Planning Authority
Reason - The Local Planning Authority is satisfied that the use hereby approved would not result in detriment to adjoining properties or conditions prejudicial to highway safety but would wish to control future changes of use in the interests of amenity and highway safety.
- (h) Following the completion of Phase 1 of the approved development the vehicular access to the site from Burtree Lane shall be used for emergency purposes only, including access to the sub station, unless otherwise agreed by the Local Planning Authority.
Reason – In the interests of highway safety.
- (i) Prior to the commencement of the development a Construction Traffic Management Plan for each phase agreed under condition 6) shall be submitted to and approved in writing by the Local Planning Authority. The Plan shall include details of travel routes and times for HGV vehicles attending the site and other on site operatives; details of construction related staff trip generation and trip generation once in operation; details for the segregation of pedestrians and traffic; road management/maintenance details; details of wheel washing facilities. Upon commencement of the relevant phase of the development the contents of the Plan shall be regularly reviewed (the Plan shall incorporate details of how the Plan will be monitored and managed) and the development shall not be carried out otherwise than in complete accordance with the Plan.
Reason – In the interests of highway safety.
- (j) A pre and post construction Road Condition Survey (carried out in consultation with Darlington Borough Council Highway Section) of the roadways to be used for the conveyance of construction materials to both Phases of the development shall be carried out , submitted to and agreed in writing by the Local Planning Authority. The Survey shall include methods and timetables for reporting and repairing any damage to the roadways. Such works shall thereafter be implemented in accordance with this.
Reason – In the interests of highway safety.
- (k) Unless otherwise agreed by the Local Planning Authority, the development shall not commence until details of improvement works to the Burtree Lane access have been submitted to, agreed in writing by and carried out to the satisfaction of the Local Planning Authority. The details shall include the introduction of a junction and associated visibility splays and details of any remedial and strengthening works to the carriageway and the development shall be carried out in accordance with the approved details.
Reason – In the interests of highway safety.
- (l) Unless otherwise agreed by the Local Planning Authority, prior to the first occupation of the development a scheme to improve pedestrian and cycle access to the site from Rotary Way shall be submitted to and agreed in writing by the Local Planning Authority. The details shall include pedestrian and cycle links from the south side of Rotary Way to the access and shall be implemented prior to the development being brought into first

occupation.

Reason – In the interests of pedestrian and highway safety.

- (m) All works within the public highway shall be subject to a Road Safety Audit at both design and completion stages. The Audit shall be carried out in accordance with the Road Safety Audit Standard in the Design Manual for Road and Bridges and shall be submitted to and approved by the Local Planning Authority.

Reason - In the interests of highway safety.

- (n) Prior to Phase 1 of the approved development becoming operational, a Travel Plan shall be submitted to and approved by the Local Planning Authority and the development shall not be carried out otherwise than in complete accordance with the details contained within the approved Plan.

Reason - To encourage the use of sustainable means of transport.

- (o) Notwithstanding the details shown on the approved plans, precise details of a secure cycle parking area shall be submitted to and approved by the Local Planning Authority prior to the commencement of the development and the development shall not be carried out otherwise than in complete accordance with the approved details.

Reason - To ensure that satisfactory levels of cycle parking areas are provided.

- (p) Prior to the operation of any buildings of Phase 1 of the approved development a full Noise Impact Assessment based on the noise data relating to the actual plant and machinery to be installed, including tonal noise assessment, for this Phase shall be undertaken and approved by the Local Planning Authority. Prior to commencing the Assessment the scope of the report including all plant and machinery associated shall be agreed in writing with the Local Planning Authority. The findings and recommendations of the noise assessment shall be implemented in accordance with a timescale to be agreed with the Local Planning Authority. The operation of the plant and machinery shall not commence until the local planning authority has given notice, in writing, that it is satisfied that the level of noise emission from the plant and machinery respectively shall comply with the noise limits contained within conditions (r) and (s).

Reason - In the interests of residential amenity.

- (q) Prior to the operation of any buildings of Phase 2 of the approved development a full Noise Impact Assessment based on the noise data relating to the actual plant and machinery to be installed, including tonal noise assessment for this Phase shall be undertaken and approved by the Local Planning Authority. Prior to commencing the Assessment the scope of the report including all plant and machinery associated shall be agreed in writing with the Local Planning Authority. The findings and recommendations of the noise assessment shall be implemented in accordance with a timescale to be agreed with the Local Planning Authority. The operation of the plant and machinery shall not commence until the Local Planning Authority has given notice, in writing, that it is satisfied that the level of noise emission from the plant and machinery respectively shall comply with the noise limits contained within conditions (r) and (s).

Reason - In the interests of residential amenity.

- (r) The Rating Level including any necessary correction for the character of the noise emitted from both phases of development combined shall be at least 5dB(A) below the background noise level at the surrounding residential properties identified in the “Whessoe Grange Noise and Vibration Impact Assessment for Lloyds TSB Bank plc” prepared by Ramboll dated November 2010 when measured in accordance with BS 4142:1997. The background noise level shall be measured and agreed in writing with the Local Planning Authority prior to the development being brought into operation.

Reason - In the interests of residential amenity.

- (s) The Rating Level, including any necessary correction for the character of the noise, from the testing of generators emitted from both phases of the development combined shall not

exceed the background noise level at the surrounding residential properties identified in the “Whessoe Grange Noise and Vibration Impact Assessment for Lloyds TSB Bank plc” prepared by Ramboll dated November 2010 when measured in accordance with BS 4142:1997. The background noise level shall be agreed in writing with the Local Planning Authority prior to the development being brought into operation.

Reason - In the interests of residential amenity.

- (t) The testing of generators shall only take place between the hours of 8.00am-6.00pm, Monday to Saturday inclusive, unless agreed in writing with the Local Planning Authority.

Reason - In the interests of residential amenity.

- (u) The Rating Level, including any necessary correction for the character of the noise, from the emergency use of generators in the event of a power failure emitted from both phases of the development combined, shall not be greater than 5 dB (A) above background noise level at the surrounding residential properties identified in the “Whessoe Grange Noise and Vibration Impact Assessment for Lloyds TSB Bank plc” prepared by Ramboll dated November 2010 when measured in accordance with BS 4142:1997. The background noise level shall be agreed in writing with the Local Planning Authority prior to the development being brought into operation.

Reason - In the interests of residential amenity.

- (v) Following commencement of the development, a Noise Impact Assessment shall be submitted to and approved by the Local Planning Authority for any additional external equipment to be installed which has the capability of producing noise levels beyond the site boundary of greater than 10 dB(A) below the background noise level (for example, if the background noise level is 35 dB(A) LA90, any plant producing noise levels beyond the site boundary of 25 dB(A) or greater), The Noise Impact Assessment shall be based on the noise data relating to the actual plant and machinery to be installed, including tonal noise. Prior to commencing the Assessment the scope of the report shall be agreed in writing with the Local Planning Authority. The findings and recommendations of the Noise Impact Assessment shall be implemented in accordance with a timescale to be agreed with the Local Planning Authority. The operation of the plant and machinery shall not commence until the Local Planning Authority has given notice, in writing, that it is satisfied that the level of noise emission from the plant and machinery respectively shall comply with the noise limits contained within conditions (r) and (s).

Reason - In the interests of residential amenity.

- (w) Prior to the commencement of the development a Construction Environmental Management Plan shall be submitted to and approved by the Local Planning Authority. The Plan shall include details relating to the specific noise producing activities expected on site, proposed suitable noise criteria and information to demonstrate that the criteria is achievable, details of any noise monitoring which is considered appropriate, a Code of Construction Practice and a Dust Action Plan and the hours of operation of construction activities. The development shall not be carried out otherwise than in complete accordance with the approved Plan unless otherwise agreed in writing by the Local Planning Authority.

Reason - In the interests of residential amenity.

- (x) In the event of a complaint to the Local Authority regarding noise from the development, at the reasonable request of the Local Planning Authority, a noise consultant’s report shall be submitted to the Local Planning Authority. The report shall contain an assessment of the noise emissions from the development and show whether the noise limits contained in conditions (r and s of this permission are complied with. In the event of the assessment showing any exceedances of the noise limits, a scheme for the attenuation of noise necessary to meet the limits shall be submitted to, and agreed with,

the Local Planning Authority and the agreed attenuation scheme shall thereafter be implemented.

Reason - In the interests of residential amenity.

- (y) The development hereby permitted shall not commence until a scheme to deal with contamination of land and/or groundwater, including soil contamination, ground/surface water contamination, landfill gas, leachates and stability as appropriate, has been submitted and approved by the Local Planning Authority. The measures approved in that scheme shall be fully implemented in accordance with a timescale to be approved prior to the operation of the development. The scheme shall include all of the following measures unless the Local Planning Authority dispenses with any such requirement specifically and in writing :-

A desk top study, carried out by a suitably qualified person, to identify and evaluate all potential sources and impacts on land and/or groundwater contamination relevant to the site. The scope of the study shall be agreed with the Local Planning Authority before it is commenced and the report shall conform to any such agreed requirements. Two copies of the desktop study and non-technical summary shall be submitted to the Local Planning Authority upon completion of the development.

A site investigation shall be carried out by a competent person to fully and effectively characterise the nature and extent of any land and/or groundwater contamination and its implications. The site investigation shall not be commenced until :-

- (i) A desk top study has been completed satisfying the requirements of the relevant paragraph above;
- (ii) The requirements of the Local Planning Authority for site investigations have been fully established; and
- (iii) The extent and methodology have been agreed in writing with the Local Planning Authority.

Two copies of the report on the completed site investigation shall be submitted to the Local Planning Authority on the completion of the development.

A written method statement for the remediation of land and/or groundwater contamination affecting the site shall be determined through risk assessment and agreed in writing with the Local Planning Authority prior to the commencement of the development. The works specified in the Reclamation Method Statement shall be implemented and completed in accordance with the agreed method statement by a competent person, no alterations to the method statement or associated remediation works shall be carried out without the written agreement of the Local Planning Authority. Two copies of a completion report (the 'Validation Report') confirming the objectives, methods, results and conclusions of all remediation works shall be submitted to the Local Planning Authority within 2 months of completion of the development.

Any contamination not considered in the Reclamation Method Statement but identified during the reclamation works should be subject to further risk assessment and remediation proposals agreed with the Local Planning Authority and the development completed in accordance with any further agreed amended specification of works.

Reason - The site may be contaminated as a result of past or current uses and/or is within 250 metres of a site which has been landfilled and the Local Planning Authority wishes to ensure that the proposed development can be implemented and occupied with adequate regard to environmental and public protection

- (z) Prior to operation of the development, an air quality impact assessment shall be submitted to and approved in writing by the Local Planning Authority. Any mitigation measures shown to be necessary shall be agreed in writing with the Local Planning Authority and implemented prior to the commencement of the development.
Reason - In the interests of residential amenity.
- (aa) Should piling be required, a Piling Risk Assessment, which includes details of the piling method to be employed, justification for its choice, means of monitoring vibration and groundwater risk and the impact upon trees shall be submitted to and approved by the Local Planning Authority. The development shall not be carried out otherwise than in complete accordance with the approved details.
Reason - In the interests of residential amenity.
- (bb) Prior to the commencement of the development a surface water drainage scheme for the site, based on sustainable drainage principles and an assessment of the hydrological and hydro geological context of the development, shall be submitted to and approved in writing by the local planning authority. The scheme shall include details of the construction, management and maintenance responsibilities for the design life of the site and the development shall not be carried out otherwise than in complete accordance with the approved details.
Reason - To prevent the increased risk of flooding, to improve and protect water quality, improve habitat and amenity, and ensure future maintenance of the surface water drainage system.
- (cc) Prior to the commencement of the development an 'Archaeological Mitigation Strategy' document, prepared in conjunction with Durham County Council Archaeology Section and covering all the requirements of a phased programme of archaeological work shall be submitted to and approved by the Local Planning Authority. This document will incorporate the written scheme of investigation and the strategy shall include details of the following:
- (i) Measures to ensure the preservation in situ, or the preservation by record, of archaeological features of identified importance;
 - (ii) Methodologies for monitoring of groundworks where required, and preservation by record of features identified during monitoring;
 - (iii) Methodologies for the recording and recovery of archaeological remains including artefacts and ecofacts;
 - (iv) Post-fieldwork methodologies for assessment and analyses;
 - (v) Report content and arrangements for dissemination, and publication proposals, including requirements for interim post-excavation assessment reports to be submitted to County Durham HER for each phase of the development;
 - (vi) Archive preparation and deposition with recognised repositories;
 - (vii) A timetable of works in relation to the proposed development, including sufficient notification and allowance of time to ensure that the site work is undertaken and completed in accordance with the strategy;
 - (viii) Monitoring arrangements, including the notification in writing to the County Durham Archaeologist of the commencement of archaeological works and the opportunity to monitor such works; and
 - (ix) A list of all staff involved in the implementation of the strategy, including sub-contractors and specialists, their responsibilities and qualifications.

The development shall then be carried out in full accordance with the approved details contained within the Mitigation Strategy document.

Reason- To comply with policy E34 of the Borough of Darlington Local Plan 1997 and Planning Policy Statement 5 – Planning for the Historic Environment because the site is of identified archaeological interest.

(dd) Within six months of Whessoe Grange Farm being left unoccupied the implementation of a programme of archaeological work in accordance with a written scheme of investigation (to be included in the overall 'Mitigation Strategy' document) must be secured and cover the following :-

- (i) Methodologies for Level 2 EH-style building recording of the farmhouse (and any other building/s of historic importance);
- (ii) A timetable of works in relation to the proposed development, including sufficient notification and allowance of time to ensure that the site work is undertaken and completed in accordance with the approved strategy;
- (iii) Monitoring arrangements, including the notification in writing to the County Durham County Archaeologist of the commencement of archaeological works and the opportunity to monitor such works; and
- (iv) A list of all staff involved in the implementation of the strategy, including sub-contractors and specialists, their responsibilities and qualifications.

The development shall then be carried out in full accordance with the approved details.

Reason - To comply with Planning Policy Statement 5 – Planning for the Historic Environment as the building is of historic significance.

(ee) Within six months of the completion of the archaeological programme of work, agreed with Durham County Council Archaeology Section, a copy of the full post-excavation assessment report synthesising the results for all phases of the development, including any analysis, reporting, publication or archiving required as part of the mitigation strategy, shall be deposited at the County Durham Historic Environment Record. Should it be required, the results of the excavations will also need to be published in an appropriate academic journal or equivalent.

Reason - To comply with Planning Policy Statement 5 – Planning for the Historic Environment to make the information as widely accessible to the public as possible.

(ff) No development shall take place until the Local Planning Authority has approved, in writing, a report by the applicant identifying how at least 10% of their energy supply through the use of renewable and decentralised or low carbon sources will be secured. The carbon savings, which result from this, will be above and beyond what is required to comply with Part L of the Building Regulations. Before the development is occupied the renewable energy equipment shall have been installed and the Local Planning Authority shall be satisfied that their day-to-day operation will provide energy for the development for so long as the development remains in existence. If this target cannot be met, the applicant must submit a report to the Local Planning Authority to demonstrate why the targets should be reduced or possibly waived and if an agreement is reached on this matter, the development shall be carried out in accordance with the submitted report.

Reason - In order to comply with the objectives set out in the North East of England Plan Regional Spatial Strategy to 2021 and the Council's Supplementary Planning Document – Design for New Development for on site renewable sources.

(gg) Prior to the commencement of the construction of the data centre related buildings a design statement, to secure the appropriate BREEAM standard for the development shall be submitted to and approved by the Local Planning Authority. The development shall not be carried out otherwise in accordance with the approved details.

Reason - In order that the Local Planning Authority are satisfied as to the details of the development and to ensure that the development is carried out in a sustainable manner in

accordance with the Council's Supplementary Planning Document 2009 – Design for New Development.

- (hh) The development shall be carried out in complete accordance with the "Proposed Data Centre, Land at Whessoe Grange Farm, Darlington – Planting Proposals and Management Schedule" prepared by Gillespies LLP dated November 2010 unless otherwise agreed by the Local Planning Authority
Reason – In the interests of the visual amenity of the surrounding area and fulfilling of the mitigation of the protected species ecology
- (ii) Unless otherwise agreed in writing with the Local Planning Authority the development shall be carried out in complete accordance with the "Whessoe Grange, Ecology Method Statement for Lloyds TSB Bank Plc" prepared by Thomson Ecology dated January 2011 (Report No. 5 Rev. 4) including the prescriptions, procedures and scheduling of the various measures for ecological mitigation and enhancement works
Reason - In order to conserve protected species and their habitats.
- (jj) Within a six month period of the commencement of the development an Ecological Management and Maintenance Plan shall be submitted to and approved by the Local Planning Authority and the development shall not be carried out otherwise than in complete accordance with the approved details.
Reason – To ensure that habitats and ecological enhancements will be maintained on site
- (kk) An annual monitoring regime for all protected species identified in the Ecology Method Statement and identified habitats within the Ecological Masterplan (Fig 6 of the Ecology Method Statement) shall be submitted within a six month period from commencement of the development, with reports made available to the Local Planning Authority.
Reason- To ensure success of the mitigation and ecology enhancement proposals
- (ll) Notwithstanding any description of the external materials in the submitted application, details of the external materials to be used in the carrying out of this permission (including samples) shall be submitted to, and approved by, the Local Planning Authority in writing prior to the commencement of the development and the development shall not be carried out otherwise than in accordance with any such approved details.
Reason - In order that the Local Planning Authority may be satisfied as to the details of the development in the interests of the visual amenity of the area.
- (mm) Prior to the commencement of the development hereby approved details shall be submitted of a scheme to protect the existing trees and hedgerows shown on the submitted plans to be retained. The submitted details shall comprise generally the specification laid down within BS 5837 and shall include fencing of at least 2.3 metre high, consisting of a scaffolding frame braced to resist impacts, supported by a weldmesh wired to the uprights and horizontals to dissuade encroachment. The agreed scheme of protection shall be in place before the commencement of any work, including demolition operations. The Local Planning Authority shall be given notice of the completion of the protection works prior to the commencement of any work to allow an inspection of the measurements to ensure compliance with the approved scheme of protection. Notwithstanding the above approved specification, none of the following activities shall take place within the segregated protection zones in the area of the trees :-
- (i) The raising or lowering of levels in relation to the existing ground levels;
 - (ii) Cutting of roots, digging of trenches or removal of soil;
 - (iii) Erection of temporary buildings, roads or carrying out of any engineering operations;
 - (iv) Lighting of fires; and
 - (v) Driving of vehicles or storage of materials and equipment.

Reason - To ensure that a maximum level of protection in order to safeguard the well being of the trees on the site and in the interests of the visual amenities of the area.

- (nn) Notwithstanding the provision of condition (a) the proposed development shall be carried out in all respects in accordance with the proposals contained in the application and the plans submitted therewith and approved by the Local Planning Authority, or as shall have been otherwise agreed in writing by the Local Planning Authority.

Reason - To ensure the development is carried out in accordance with the planning permission.

- (oo) Notwithstanding the details shown on the approved plans, precise details of the electricity substations and the storage building shall be submitted to and approved by the Local Planning Authority prior to their construction. The details shall include design, materials of the buildings and details of any means of enclosures. The development shall not be carried out otherwise than in complete accordance with the approved details.

Reason – In the interest of the visual appearance of locality.