

ADDENDUM 1 – 09.02.2023

Application No:	21/00304/FUL	Author	Maxine Ingram
Date valid:	3 February 2021	:	
Target decision date:	5 May 2021	☎:	0191 643 6322
		Ward:	Valley

Application type: full planning application

Location: Land at Backworth Business Park Eccleston Close Backworth NEWCASTLE UPON TYNE

Proposal: Construction of 57 residential dwellings (Use Class C3(a)) and 14 No. commercial units totalling 650 sqm (Use Class E(g)), with associated road infrastructure, car parking spaces, open spaces, gardens, and landscaping. (Resubmission) (Amended plans and reports received 04.04.2022)

Applicant: The Northumberland Estates, Mr Barry Spall Estates Office Alnwick Castle Alnwick NE66 1NQ

Agent: The Northumberland Estates, Mr Barry Spall Estates Office Alnwick Castle Alnwick NE66 1NQ

RECOMMENDATION: Minded to grant legal agreement req.

1.0 Representations

1.1 Following a review of the committee report the agent, acting on behalf of Keenan's has submitted further comments which are set out in full below:

Having read the report I've noted that there is no reference to or summary of the technical objections that we have submitted on many occasions from Apex Acoustics. There's no reference to Mr Keenan having submitted evidence from his own qualified noise consultants or any analysis of the content of these submissions. The only reference I can find is in the Environmental Health Officer (EHO) comment where reference is made to having reviewed the latest objections. There's no further detailed comments. Effectively members from this report would not even be aware that Mr Keenan had commissioned and submitted evidence from qualified noise consultants and that a contrary technical view on the use of standards and the issue of overheating had been submitted. Given the applicants noise reports are referred to in some detail and you have referred to our objections in relation to policy matters I would have expected reference to be made to the Apex objections and their content. In the absence of this it does not provide a clear audit trail in respect of the balance decision that officers have made on then noise issue that is referred to. As any approval is likely to be the subject of Judicial Review (JR) could I strongly suggest this matter is looked at and that

either the application be deferred so the error is rectified, or an addendum be provided to members prior to the meeting.

1.2 Planning Officer Comments

1.3 The case officer has advised Members that several objections submitted on behalf of Keenan's have been received and that they instructed their own consultant to review the noise information accompanying this application. This is set out in the Appendix to the committee report at paragraph 2.1. The case officer goes on to advise that the objector's consultant produced their own reports that accompanied some of their objections. These objections and reports were considered by the Manager of Environmental Health.

1.4 Members are advised that the most recent objection submitted on behalf of Keenan's was received on the 17th January 2023. To confirm this objection was accompanied by three reports produced by Apex Acoustics (17 page report dated 16.01.2023, 10 page report dated 26.09.2022 and an eight page report dated 08.12.2022). This document is available to view in its entirety on the council's website. The covering letter submitted with this objection is set out in full in the committee report and the other objections were summarised.

1.5 The report produced by Apex Acoustics dated 16.01.2023 is a review of the applicant's Noise Assessment dated 20.12.2022. Their summary is set out on pages 1-5 of their report.

1.6 It is clear from the Apex Acoustics reports that they do not agree with the applicant's Noise Assessment. The following points are referred to in their report:

- The applicant has failed to adequately justify that suitable mitigation has been put in place to avoid significant adverse effect or provide confirmation that an existing business will not have unreasonable restrictions place on them at some time in the future.
- A robust assessment has not been carried out to properly assess the impact of noise from the factory. They do not consider that maximum noise levels from events have been adequately characterised nor has their effect on sleeping residents been properly assessed. This impact is likely to be considered to exceed a significant adverse effect as defined in Paragraph 187.
- Incorrect application of BS 4142.
- Incorrect application of BS 8233.
- Incorrect assessment and prediction of maximum noise levels.
- Unresolved concerns from Environmental Health Officer.
- No reference to Apex Acoustics previous responses in the applicant's noise assessment.

1.7 The latest report from Apex Acoustics concludes that the applicant's noise assessment fails to address the issues demonstrated in previous letters and fails to address the key concerns raised by both the EHPO and Apex Acoustics Ltd., such as windows open during overheating conditions, incorrect

application of BS4142 etc. The noise assessment fails to adequately justify that the requirements of Paragraph 187 of the NPPF are achieved. Apex Acoustics conclude that the application should be refused.

2.0 One further additional objection has been received. This objection is set out below:

- Adverse effect on wildlife
- Affect character of conservation area
- Affect setting of listed building
- Affect Site of Spec. Scientific Interest
- Impact on landscape
- Inadequate drainage
- Inadequate parking provision
- Inappropriate design
- Inappropriate in special landscape area
- Loss of privacy
- Loss of residential amenity
- Loss of visual amenity
- Loss of/damage to trees
- None compliance with approved policy
- Not in accordance with development plan
- Nuisance - disturbance
- Nuisance - dust/dirt
- Nuisance - fumes
- Nuisance - noise
- Out of keeping with surroundings
- Pollution of watercourse
- Poor traffic/pedestrian safety
- Poor/unsuitable vehicular access
- Precedent will be set
- Traffic congestion
- Will result in visual intrusion

There are 2 types butterflies that will suffer a serious impact if this proposal is allowed to go ahead. The Wall butterfly and the Dingy Skipper are both in serious decline and under threat. The conservation status of the Dingy Skipper is 'protected in the UK under the Wildlife and Countryside Act 1981. Priority Species under the UK Post 2010 Biodiversity Framework'. Butterflies have a very short life span that can be measured in days and weeks rather than months and years. Therefore, it is irresponsible to suggest that the butterflies can be reinstated with the creation of a compensatory habitat. This will not be so, the larvae of the butterflies will be destroyed, therefore the whole generation will be lost forever!! As there will be no future generation. The land has its own eco system covered in insects, flowers etc. Given the number of new houses built in the local area and the displacement and destruction of wildlife habitats it must be clear that wildlife cannot simple be reinstated. The decline of the nation's wildlife is testament to that. The clover and many flowers that grow attract numerous pollinating insects,

the importance of which we are only now beginning to understand. There is no mention of other wildlife bats, hedgehogs, birds etc. All of which rely on that land for their existence. This proposal goes against the whole ethos of conservation and it is within the council's gift to preserve or destroy. Once a wildlife habitat has been destroyed it cannot be reinstated by a landscaping scheme.

Japanese knotweed. Who is going to remove and control the spread of the infestation of Japanese knotweed identified on that site? This is a very invasive weed that can cause great damage to property causing property to be greatly devalued. Japanese knotweed is classified as a controlled plant under the Wildlife and Countryside Act 1981. I am given to understand that it is against UK law to cause or allow the spread of Japanese knotweed in the wild. What remedy is there to prevent this? Who is responsible? Who will prevent the knotweed from spreading to adjacent properties?

Infrastructure. As you have already granted planning permission for thousands of new homes which has caused problems getting into and out of the estate, due to the now excessive volume of traffic using Backworth Lane. What remedy is there for residents in the area to manage the even greater flow of traffic and increase in traffic noise? There are times when it is very difficult to get in to and, out of Claverley/Rushbury, particularly if wanting to turn right out of the estate. What are you going to do about the fact that there are occasions when the traffic is queuing to get out of the estate? As there has been no attempt to alleviate current traffic problems I reiterate what are the future plans? As public transport links are no more than adequate residents rely on their cars. It is a 15 minute walk to the metro from where I live, or a bus ride then a metro ride if going into town. Using public transport is not always an option for the disabled which I am! Public transport is a joke. Pedestrian walkways and pavements are unsafe and not fit for purpose. Speeding traffic through the village is a constant nightmare. people and families with young children and babies.

Health and Wellbeing. Many primary school children walk to school via that land enabling them to avoid walking along a busy main road. What is the plan for giving parents the option of keeping children safe and away from a very busy road and car fumes? Is there an alternative walking route for children? The land is used by locals as an area to walk their dogs and an area where children play. I was given to understand that the council pledged to protect areas where children play, and people walk etc. Given that the council reneged on that in granting planning permission to build houses on the playing fields at Castle Park, is the council going to keep its promise and protect this environmentally important piece of land that is also used recreationally by residents? Considering obesity is a growing problem is the rationale for allowing building on ground that is used as recreational space?

Summary

This is an important piece of land that is host to endangered protected

species. Japanese knotweed infestation that may well spread if disturbed recklessly. The land that is used recreationally. And, there are no viable infrastructure plans to solve the existing traffic problems on Backworth Lane, never plans for when the problem is exacerbated by introducing new housing and industrial units. Every little step we can take to protect the biodiversity and species on this planet will help to preserve its inhabitants. I have no doubt that the planet will survive whatever we do. It's the species that call this planet home that will ultimately not survive, and that includes the human species, you and me, our children and grandchildren. Sometimes people need to be put before profit, and it is the council's responsibility.