

Supplementary Information

The following information was verbally reported to the Planning Committee at its meeting on 18th February 2014

Agenda Item 4

Application Number 13/00426/OUT

Both the Agenda Report and the Advance Supplementary Report state that Officers will provide a supplementary report on the matter of the possible presence of an animal carcass burial site along the route of the proposed construction access. The comments of the **County Council's Animal Health Team** have not been received but comments have been received from the **Animal Health and Veterinary Laboratories Agency**, an executive agency of **DEFRA**. They state that they have incomplete records of a notifiable disease burial site at the location and there are no details of any stock numbers or type of stock. They go on to state that if sites are disturbed there may be implications under the Control of Pollution Act and in this respect it is suggested that the appropriate authorities are contacted. In the event that animal remains are discovered in the course of land excavation, work should cease immediately and the occurrence or suspicions should be reported. A licence will be required under the Animal Health Act 1981 to enable the remains to be excavated and be re-buried in a secure disposal site.

As detailed in the Advance Supplementary Report, the applicant has informed the Planning Authority that the landowner has advised that some carcasses were buried to the west of the farmhouse between the farmhouse and the properties on Madeley Road but not in the field where the construction access would cross. No evidence has been received from any consultees to suggest that this is incorrect (although records apparently do not exist) and in any event, should any remains be discovered during excavation, then a licence would be required under separate legislation. The possibility of the works of formation of the track revealing a burial site is neither grounds for refusal of the planning application nor is it necessary to include any condition on a grant of planning permission either – bearing in mind the clear guidance that planning conditions that duplicate other forms of control are unnecessary and therefore should be avoided. Where other controls are available normally the only circumstances where a planning condition may be needed is if the considerations material to the exercise of the two systems of control are substantially different. This is not considered to be the case here.

For the avoidance of doubt Members are advised that any reference to construction traffic within the Agenda Report, including in its recommendations, or the Advance Supplementary Report, relates to vehicles that exceed 3 tonnes in weight. Officers of the Highway Authority have verbally indicated that they do not consider that Gateway Avenue is an inappropriate access for construction traffic of less than 3 tonnes in weight (unladen). To give members some indication a 'transit van' or similar would normally be under that weight.

Finally with respect to the suggestion that the Council would render itself liable for claims with respect to flooding affecting existing residential development - the Local Planning Authority is undertaking a statutory function, and should exercise this function reasonably and to an appropriate standard. Provided the Planning Authority has consulted with the appropriate statutory consultee and has taken into account

and acted upon the consultation as is the case if the authority imposes a Grampian condition as proposed by that consultee, the view of the Head of Business Improvements, Central Services and Partnerships is that the Council would not be liable for, and could successfully defend any claim for damages resulting from the type of action detailed in the supplementary report.

The recommendations remain one of approval of the application unless the sought for planning obligations are not secured by 14th April, all as detailed in the Agenda Report and the Advance Supplementary Report, for the reasons indicated in the Agenda Report.

DRAFT