

Supplementary Information

The following information will be reported to the Planning Committee at its meeting on 21st July 2015

Agenda Item 10 Application No. 13/00245/FUL

Old Springs Farm, Stoneyford

It was indicated within the main agenda report that the use of conditions to impose routeing restrictions on the unauthorised building, adjoining the building which is the subject of this application, would be further explored and that an update would be given.

Case law has established that it is possible to impose planning conditions restricting existing planning rights with respect to another development. It is necessary, however, to ensure that such a condition complies with the six tests that apply to the use of conditions which includes the requirement that the condition is relevant to the development to be permitted. Guidance on this test, as set out in the national Planning Practice Guidance (PPG), indicates that the question to be asked is does the condition fairly and reasonably related to the development to be permitted? The PPG further advises it is not sufficient that a condition is related to planning objectives, it must also be justified by the nature or impact of the development permitted; and that a condition cannot be imposed in order to remedy a pre-existing problem or issue not created by the proposed development.

In this case, the unauthorised building and the building which is the subject of this application are related as they are used for similar purposes and are in very close proximity to each other. It could not be argued, however, that the vehicle movements associated with the unauthorised building would otherwise be acceptable and that the impact of the vehicle movements associated with the building applied for renders them unacceptable. As such a close relationship between the two buildings cannot be demonstrated that would satisfy the test that a routeing restriction condition is fairly and reasonably related to the development to be permitted.

As such the recommendation remains as set out within the main agenda other than the omission of the reference to further consideration as to whether a condition can be imposed that restricts the routeing of vehicles transporting miscanthus to and from an adjoining unauthorised building.