

**BURY METROPOLITAN BOROUGH COUNCIL
ENVIRONMENT & DEVELOPMENT SERVICES**

PLANNING CONTROL COMMITTEE

16 March 2010

SUPPLEMENTARY INFORMATION

Item:01 **YORK STREET MILL, YORK STREET, BURY, BL9 7AR Application No. 51924**
CHANGE OF USE OF SITE TO WASTE RECYCLING CENTRE WITH ERECTION OF TRANSFER BUILDING

Nothing further to report.

Item:02 **LAND AT WHITTLES, TURTON ROAD, TOTTINGTON, BL8 3QQ**
Application No. 52082
ERECTION OF AGRICULTURAL BUILDING (RETROSPECTIVE)

A revised plan has been submitted to correctly show the extent of land in the applicant's ownership. (dated 9/3/2010)

Objection received from 2 Whittles on 11/3/2010 with the following comments:

- The height of the building impairs their view from the rear of their property which would impact on the value of their property;
- The application infers it is a working farm with many acres of land and the applicant is building on a small amount which is misleading. The applicant owns 1 acre which has been completely covered with concrete and buildings;
- This affects the drainage of the area and spillage onto their land and their neighbour's land;
- The applicant does not live on this land and has no interest in property prices and leaves animals unattended at night which causes a noise problem;
- Previous building work carried out by the applicant is far from fit for purpose and has caused problems to the adjacent properties.

Item:03 **Unsworth Hall, Manchester Road, Bury, BL9 9TJ Application No. 52093**
Amendment to route of 54km of buried pipeline connecting Prescott Reservoir, Knowsley to Woodgate Hill Reservoir in Bury (Re-route section 1.142km in Bury), from Barlow Recreation ground to Bury Golf Club

Consultations

Environment Agency - have responded and confirm no objections to the proposals.

Traffic Section - No objections.

Plans

The scale on plan reference 80011507/01/34/55039 AB was incorrectly marked and has been amended to reflect the correct 1:500 scale. Condition 2 therefore includes reference to 80011507/01/34/55039 AE to replace the former.

Representations

A further letter has been received from Britannia Hotels. This is attached in full to the supplementary agenda.

In response to the comments made:

- A planning permission was approved for residential development of the site reference C/05899/78. The status of that planning permission whether it has been lawfully implemented or not is not for United Utilities to determine. They have

amended their pipeline route such that development can go ahead on the site, given the details of the pipeline development.

- An application for a Certificate of Lawful Development has been submitted and is currently being assessed.
- It is not the place of the current pipeline application to determine the legality of commencement of the Britannia Hotels scheme and the report does not invite the Committee to do so. The report states fact and as such, it is not misleading. The certificate of lawful development can be readily assessed independently of this current pipeline application and vice versa. The application shall be determined on its planning merits in accordance with advice from the Chief Planning Officer and Council Solicitor.
- Britannia Hotels confirm that as long as United Utilities is held to its current proposals that the proposed pipeline would not prevent the extant planning permission for the former Bleach works site from coming forward. The position of the pipeline would be fixed through condition 2 on the main report. The Local Planning Authority are not empowered to control the extent of any pipeline easement but the current status of the easement is that there would be an easement of 5m radius of a pipeline that is 14m underground. An easement at such a depth is unlikely to be inhibitive in terms of the development of the Britannia Hotels land.
- The suggested condition is considered not to be relevant or necessary. The merits and nature of the details of the proposed pipeline scheme are such that the pipeline would not prevent construction of a development of the land.

**Item:04 St Marys Park, St Marys Road, Prestwich, Manchester, M25 1GG
Application No. 52147**

Installation of outdoor skate park (Resubmission of 51619)

Additional comment received from No 18 St Mary's Road:

It is too close to the children's play area. Why can it not be located at the corner of the park with only a few meters between it and the boundary wall.

Consultation response received from Sport England -

Do not raise a specific objection to the application and consider that the proposal meets Exception E5 of their playing field policy -

The proposed development is for an indoor or outdoor sports facility, the provision of which would be sufficient benefit to the development of sport as to outweigh the detriment caused by the loss of the playing field or playing fields.

Request that a condition relating to the improvement of drainage be included on any grant of permission.

Condition 8 added -

No development approved by this permission shall be commenced until a scheme for the provision of surface water drainage works has been submitted to and approved in writing by the Local Planning Authority. The scheme shall be carried out in accordance with the approved plans.

Reason - To ensure that alternate pitch provision is useable and meets the requirements of Unitary Development Plan Policy RT1/1 and pursuant to Planning Policy Guidance 17 - Planning for Open Space, Sport and Recreation .

Item:05 4 Wentworth Avenue, Whitefield, Manchester, M45 7GQ Application No.

52154

Demolition of existing bungalow and erection of two storey dwelling

Nothing further to report.

Item:06 27 Bolton Road, Bury, BL8 2AB Application No. 52160

Change of use of ground floor from retail (Class A1) to hot food takeaway (Class A5);
Installation of external flue at side and alterations to shop front

Nothing further to report.

Item:07 Land adjacent to 11 Bowland Close, Bury, BL8 3DJ Application No. 52182

Detached dwelling; Detached garage to no. 11 Bowland Close

Nothing further to report.

Item:08 6 Rufford Parade, Rufford Drive, Whitefield, Manchester, M45 8PL Application No. 52197

Variation of condition 2 of 50231 to change the opening hours from 0800 to 2030
Monday to Saturday and 0800 to 1800 on Sundays and Bank Holidays to 0800 to
2200 daily

Nothing further to report.

Item:09 152 Tottington Road, Bury, BL8 1RU Application No. 52209

A: 1 no. internally illuminated fascia sign; B: 1 no. internally illuminated projecting sign
(Retrospective Application)

Nothing further to report.

Item:10 Black Moss Farm, Bolton Road, Radcliffe, Manchester, M26 3QG Application No. 52224

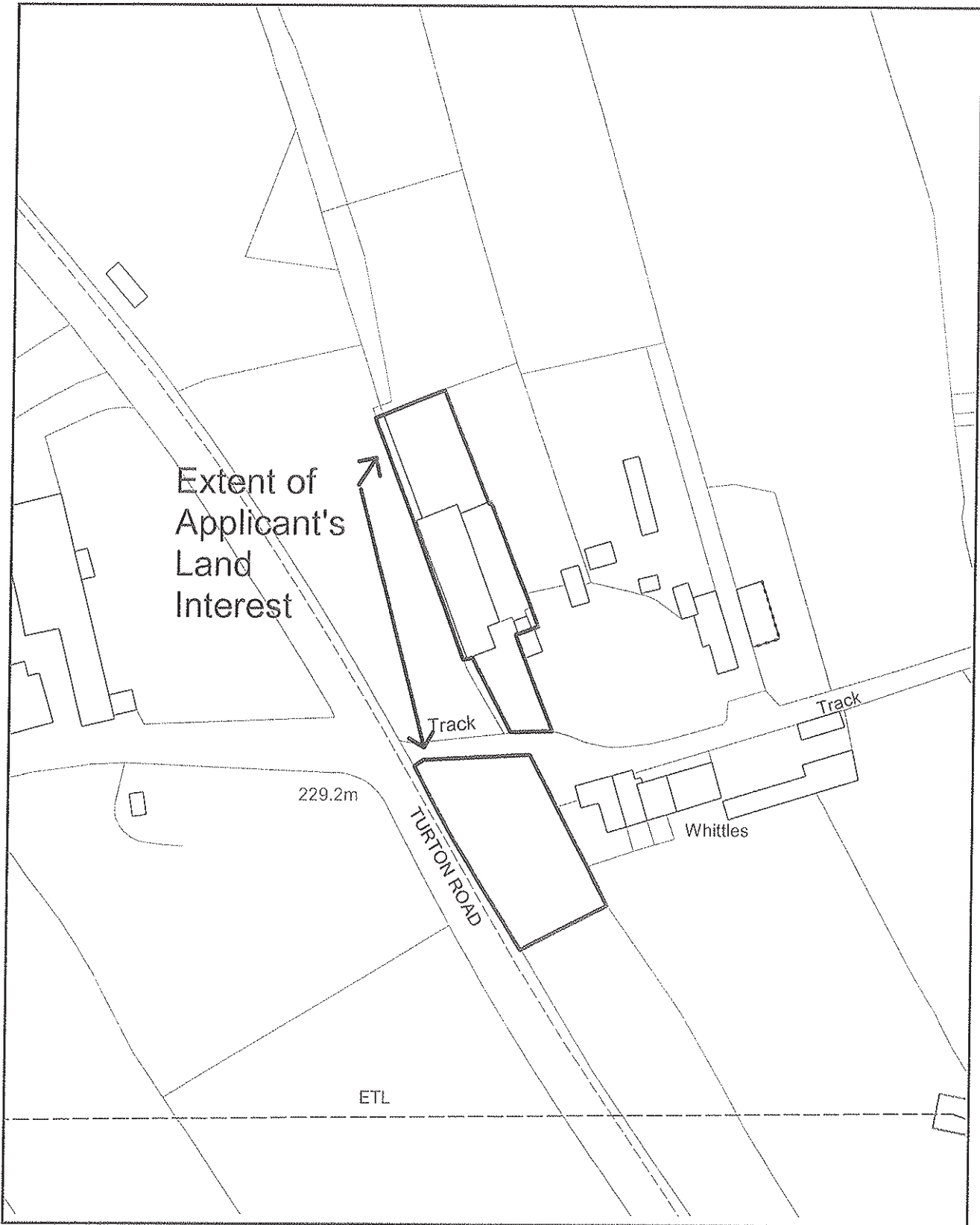
Demolition of storage/workshop buildings; Erection of block of 7 terraced houses and
associated parking area

Nothing further to report.

Item:11 Unit 1Ac, Bealey Industrial Estate, Dumers Lane, M26 2BD Application No. 52228

Retrospective application for change of use of car park to car sales and display area,
Erection of mobile office. Proposed fencing along Dumers Lane
frontage.(Re-submission of 52124)

Nothing further to report



PLANNING APPLICATION LOCATION PLAN

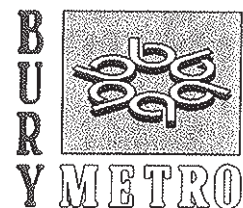
APP. NO 52082

ADDRESS:

Environmental and Development Services



1:1250



52093

Item 03



Britannia Hotels

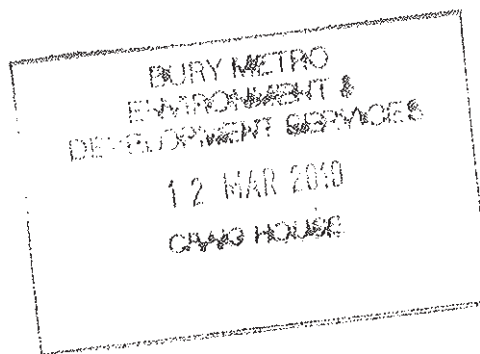
Halecroft, 253 Hale Road, Hale, Cheshire, WA15 8RE. Tel: 0161 904 8686 Fax: 0161 904 5331
 Planning and Economic Development
 Department of Environment and Development Services
 2nd Floor
 Craig House
 5 Bank Street
 Bury
 BL9 0DN

Our Ref SG

BY HAND FAC MARK KILBY

12 March 2010

Dear Sirs,



RE: Application for Planning Permission 52093/Full

We would be grateful if the contents of this letter could be taken into account by the planning committee on Tuesday in considering application no. 52093/Full.

We have a planning permission (reference C/05899/78) on land at the former Eagle Bleachworks site in Manchester Road, Bury for a substantial residential development. That planning permission has been lawfully implemented as United Utilities acknowledges in its letter to the Council dated 25th February 2010 (which acknowledges the "extant planning permission").

Our concern with the United Utilities scheme has always been that it might prevent this planning permission and we have lodged objection in the past to protect our position.

We note that the Officer's Report to Committee explains that:

"It is agreed that works had commenced on the site to form a car park. However, there is no record on file of pre-commencement conditions having been complied with."

We have now applied for a certificate pursuant to s192 TCPA 1990 to establish conclusively that the planning permission has indeed been implemented. The mere fact that pre-commencement conditions may not have been complied does not automatically mean that works carried out do not lawfully commence development. The precise nature and wording of the relevant conditions has to be considered carefully: see for example *R(Hart Aggregates Ltd) v Hartlepool BC* [2005] EWHC 840 and the grounds that accompany our application for a s192 certificate.

BRITANNIA HOTEL
Aberdeen - 0871 222 0873

BRITANNIA HOTEL
Newcastle - 0871 222 0028

GRAND HOTEL
Scarborough - 0871 222 0047

NORBRECK CASTLE HOTEL
Blackpool - 0871 222 0051

THE SAVOY HOTEL
Blackpool - 0871 222 0054

METROPOLE HOTEL
Blackpool - 0871 222 0052

LEEDS BRADFORD AIRPORT
Leeds - 0871 222 0027

BRITANNIA HOTEL
Bolton - 0871 222 0024

BRITANNIA HOTEL
Wigan - 0871 222 0026

BRITANNIA HOTEL
Manchester - 0871 222 0017

SACRAS HOTEL
Manchester - 0871 222 0018

BRITANNIA ASHLEY HOTEL
Hale - 0871 222 0015

BRITANNIA AIRPORT HOTEL
South Manchester - 0871 222 0019

COUNTRY HOUSE HOTEL
South Manchester - 0871 222 0016

BRITANNIA HOTEL
Stockport - 0871 222 0014

PRINCE OF WALES HOTEL
Southport - 0871 222 0039

BRITANNIA ADELPHI HOTEL
Liverpool - 0871 222 0029

GRAND HOTEL
Llandudno - 0871 222 0046

NORTH STAFFORD HOTEL
Stoke on Trent - 0871 222 0097

BRITANNIA HOTEL
Nottingham - 0871 222 0098

BRITANNIA HOTEL
Birmingham - 0871 222 0095

BRITANNIA HOTEL
Coventry - 0871 222 0095

COVENTRY HILL HOTEL
Coventry - 0871 222 0094

ROYAL COURT HOTEL
Coventry - 0871 222 0096

BRITANNIA HOTEL
Wolverhampton - 0871 222 0091

BOSWORTH HALL HOTEL
Market Bosworth - 0871 222 0089

INTERNATIONAL HOTEL
London E14 - 0871 222 0042

BRITANNIA BAMPSTEAD
London NW5 - 0871 222 0045

EUROPA GATWICK HOTEL
West Sussex - 0871 222 0041

ROYAL ALBION HOTEL
Brighton - 0871 222 0038

ROUNDHOUSE HOTEL
Bournemouth - 0871 222 0037

BRITANNIA HOTEL
Bournemouth - 0871 222 0036

GRAND BURSTIN HOTEL
Folkestone - 0871 222 0048

The correct legal position is not explained to the Committee in the Officer's Report and as a result the Report presents a misleading impression to the Committee.

If the Council considers it necessary to determine as part of its consideration whether or not there is an extant planning permission on the former Bleachworks land then it should defer consideration of the United Utilities application until the s192 certificate application has been formally determined or determine the matter with regard to the grounds that accompany our application for a s192 certificate. To determine the matter on the basis of the advice as set out in the Officer's Report at present would result in an error of law.

We do not believe, however, that the status of planning permission C/05899/78 is an issue that it is necessary to determine in the light of the clarification received from United Utilities in its letter of the 25th February 2010.

We are grateful to United utilities for clarifying that the re-routed pipeline would be constructed 14m underground in solid rock and that we could build over it so long as the foundations for any building would not be within 5m in radius of the centre line.

We have carefully examined the plans and drawings submitted. They are in fact inaccurate. We produce an accurate plan of the relationship between the propose pipeline and the development permitted by the extant planning permission (attached).

On plan, the pipeline passes within about 4m of the corner of one of the blocks permitted. However the foundations of this block would not extend into the ground so as to infringe a 5m radius of a pipeline that is 14m underground. It would appear that so long as United Utilities is held to its current proposals that the proposed pipeline would not prevent the extant planning permission for the former Bleachworks site from coming forward.

In the circumstances, our client is prepared to remove its objection to the proposed scheme provided that the following condition is imposed upon any planning permission granted:

"No development shall commence until a scheme demonstrating that the construction and operation of the pipeline hereby permitted will not prevent the implementation of any of the development permitted by planning permission reference C/05899/78 has been submitted to the local planning authority in writing and approved in writing by the local planning authority. The development shall be carried out in accordance with any scheme so approved."

This condition is required in order to ensure that the development permitted in planning permission C/05899/78 can proceed.

In this way, if planning permission C/05899/78 is established to have been implemented the conditions will ensure that United Utilities are held to its letter of the 25th February 2010 and the ability to build out that permission can be assured.

We would therefore be grateful if the Committee were informed that it does not need to reach a view as to whether planning permission C/05899/78 has been implemented or not and indeed should not do so. We would also be grateful if the Committee could impose the conditions suggested above upon any planning permission granted.

Yours faithfully


Suzanne Gadsby

GROUP SOLICITOR

BRITANNIA HOTELS

Tel: 0161 904 8686

Email: suzanne.gadsby@britanniahotels.com