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Your ref: 3/2023/0797 & 0798
Our ref: 3_2023_0797-0798-LCC
Date: 16th November 2023

FAO S Kilmartin

Dear Ms Hopkins,

Applications 3/2023/0797: Approval of details reserved by condition 5 (archaeological investigation and mitigation) of planning permission 3/2019/0951.

AND

3/2023/0798: Approval of details reserved by condition 6 (archaeological investigation and mitigation) of planning permission 3/2019/0953.

Land at Pendle Road, Clitheroe (Higher Standen Hey)

Thank you for your consultations on the above planning applications. The need for archaeological work on this site has been made clear many times through the planning process. The original outline planning consent for the site (3/2012/0942, granted 17 April 2014) included conditions 24 and 25 requiring a scheme of archaeological investigation and a scheme of historic building recording to be designed, agreed and implemented prior to any development commencing. These conditions were retained as part of the variation of conditions application 3/2015/0895 (consent of 12 April 2016).

The precise wording of those conditions appears to have been altered following application 3/2016/0939 (although no decision notice, officer's report or other relevant document appears on the appropriate page of the council's web site) to require schemes of archaeological and building recording work for each phase of the development to be agreed and implemented prior to work commencing on that phase.

We would refer you to the letter from the Lancashire Archaeological Advisory Service dated 10th November 2016 relating to that application, suggesting that this was not the best way forward. I quote from that letter:

"... a single, phased scheme of archaeological works, to cover the whole of the proposed development site, which could be implemented in such a way as to coordinate with the phasing of the development across the site ... would ... by

providing an overall framework for the heritage works, reduce the risks of the managers of individual phases forgetting to comply with the planning condition."

It continued, stating that if the conditions needed to be changed (and that this was by no means well-justified by the applicants) that an alternative wording requiring the development of an 'archaeological masterplan' for the whole of the development site would be a better way forward. This advice does not appear to have been taken on board by the council or applicants, nor the offer to discuss the matter further taken up, with the applicant's suggested wording apparently being adopted verbatim.

Phase 1 of the development was undertaken in accordance with the now-altered conditions, with written schemes of investigation (WSIs) being submitted and approved for both archaeological works and building recording for that phase (applications 3/2017/0198 and 3/2017/0291). Those WSIs were implemented and resulted in the recording of a series of buildings and the excavation and recording of a significant prehistoric burial site.

The present applications are concerned with the discharge of conditions applied to phases 2, 3 and 4 of the development, and the construction of the spine road, as set out in planning consents 3/2019/0951 and 0953 (decision date 16 March 2020). Despite the earlier archaeological works and the extant planning conditions, neither of these applications was accompanied by either a Heritage Statement or a proposed archaeological mitigation strategy. An archaeological condition (like that applied to consent 3/2015/0895) was therefore applied to those decisions.

A WSI dated June 2019 for the necessary archaeological works including the phase 4 work was approved as part of consent 3/2020/0323 (10 Aug 2020) but it should be noted that the WSI was submitted (as part of a draft report) and approved subsequent to the undertaking of the fieldwork. The archaeological works for phases 2 and 3 and the spine road had been undertaken and the same draft report submitted and approved as part of consent 3/2020/0322 (decision date 27 May 2020). Both those decision notices noted that the phase 4 archaeological work still had to be implemented and consent 20/0322 specifically states:

"The condition is partially discharged insofar that there remains the requirement to submit further archaeological evaluation, investigation and mitigation reports relating to phase 4 prior to any works being commenced with that phase."

Despite this reminder significant elements of the development of phase 4, including the construction of the estate roads, installation of sewerage, construction of drainage swales and bunding of soil/spoil, were undertaken before the archaeological investigations for that phase were commissioned and implemented. This occurred on more than one occasion and the council were notified of this (emails of 09-11-2022 and 15-03-2023 from P D Iles to S Kilmartin). These construction works caused significant disturbance to the site and could easily have obscured or destroyed archaeological deposits. These 'premature works' forced the adoption of changes to the scheme of archaeological investigation that was proposed for the phase 4 area. This is obliquely referred to in section 4.1.3 of the present, updated, version of the 2019 WSI, with the changes required made obvious in the 'coloured' copy of Fig. 4.



We have not been informed of any enforcement decisions or actions that the council may have taken in response to these 'premature works'. Neither have we been informed of any mitigation actions proposed or undertaken by the developers beyond the alterations to the WSI and the resulting changes to the archaeological trenching.

The amended WSI has been implemented by archaeological contractors working for the developers and two episodes of archaeological trenching took place within the phase 4 area between 14th and 22nd March 2023 and between 10th and 16th July 2023. The pause in these works was caused by the need to remove banded soil/spoil from the phase 4 area, which had been deposited as part of the 'premature works' noted above. A draft report on these archaeological works has been compiled by the archaeological contractor.

Given that development works within the phase 4 area had commenced prior to the submission for approval of the amended WSI, and that the archaeological works set out in that amended WSI have already been undertaken, we are not sure if it can or should be formally approved, given the previous actions of the developers and the wording of the condition. We must leave consideration of the advisability and legality of this to you, however.

In order to proceed further with the discharge of the conditions, it will be necessary for the applicants to submit a formal report on the phase 4 archaeological works. If you will forward such a report to us when it is received, we will provide further information and advice.

We are happy to discuss any of the matters mentioned above further with you if that would be helpful and allow the planning process to move forward.

Yours sincerely

Peter Iles

Planning Officer (Archaeology),
Historic Environment Team

