



**ENVIRONMENTAL SCRUTINY  
COMMITTEE  
23 OCTOBER 2015**

**PRESENT: COUNCILLOR C L STRANGE (CHAIRMAN)**

Councillors Mrs V C Ayling (Vice-Chairman), A M Austin, C J T H Brewis, M Brookes, J R Marriott, N M Murray, C R Oxby, C Pain and R A Renshaw

Councillors: R G Fairman and A H Turner MBE JP attended the meeting as observers

Officers in attendance:-

Simon Evans (Health Scrutiny Officer), Phil Hughes (Strategic Planning Manager), Neil McBride (Development Manager), Mark Welsh (Flood, Risk and Development Manager) and Rachel Wilson (Democratic Services Officer)

**37 APOLOGIES FOR ABSENCE/REPLACEMENT MEMBERS**

Apologies for absence were received from Councillor A Bridges.

**38 DECLARATION OF COUNCILLORS' INTERESTS**

There were no declarations of interest at this point in the meeting.

**39 MINUTES OF THE PREVIOUS MEETING OF THE ENVIRONMENTAL SCRUTINY COMMITTEE HELD ON 4 SEPTEMBER 2015**

RESOLVED

That the minutes of the meeting held on 4 September 2015 be signed by the Chairman as a correct record.

**40 ANNOUNCEMENTS BY THE EXECUTIVE COUNCILLOR FOR ECONOMIC DEVELOPMENT, ENVIRONMENT, PLANNING AND TOURISM AND SENIOR OFFICERS (ECONOMY AND PLACE)**

There were no announcements by the Executive Councillor for Economic Development, Environment, Planning and Tourism or Senior Officers (Economy and Place).

**41 LINCOLNSHIRE COUNTY COUNCIL'S ROLE IN THE PLANNING SYSTEM**

The Committee received two presentations which outlined recent changes to the planning system and how these changes affected the role of a county councillor in

relation to planning issues. The presentations provided further detail in relation to the following areas:

Lincolnshire County Council's Role in Planning – Phil Hughes, Strategic Planning Manager

- Introduction
- Changes since 2010
- Plan Making
- Infrastructure and Funding
- Development Management (Local)
- NSIP (Nationally Significant Infrastructure Projects)
- NSIP Process
- How members can engage

Development Management (Flood Risk and Highways) 2015 – Mark Welsh, Flood Risk and Development Manager

- Development Management (Flood Risk and Highways) and Floods and Water Structure
- Statutory Consultee (Development Management Procedure Order)
- Statutory Role
- We are a Consultee (highway authority)
- Consider Impact and Facilitate Growth
- What we consider as a consultee
- We are a consultee (lead local flood authority)
- What we consider as a consultee
- Surface Water Flooding
- Formal response to the Local Planning Authority (LPA)
- Highway Authority – Consultee
- Construction and Adoption
- S278 Highways Act 1980

Members were provided with the opportunity to ask questions to the officers present in relation to the information contained within the report and some of the points raised during discussion included the following:

- It was commented that this was a very good presentation on the changing position. The role of councillors was very much one where local knowledge of issues could be highlighted;
- Local knowledge of areas which were liable to flooding was useful, so that measures such as permeable road surfaces could be incorporated into designs. It was important that local views were taken into account;
- It was queried how members could help if they became aware of a development which was taking place in an inappropriate place. Members were advised that district councils were normally the enforcement authority. The potential impact of a development would be a matter of perception;
- The County Council was responsible for surface water flooding. However, the Environment Agency was still responsible for fluvial flooding;

- With local plans being established, it was queried whether the neighbourhood plan or local plan would have priority if there was a conflict between the two. Members were advised that the local plan would always take precedence, the neighbourhood plans were intended to influence the design for an area. The Parish Councils would receive a proportion of the CIL (Community Infrastructure Levy) revenue, which the parish would have to decide, as a community, how to spend;
- Members were informed that there was very complex legislation around Section 38 agreements, and it was not possible for it to be backdated to include unadopted roads. It was very important that developers signed up to S38 agreements;
- There was a need to ensure that new estate roads were built to an adoptable standard, before they would be adopted by the authority;
- Under the previous system, there was a Local Development Framework which included a number of documents, one of which was the core strategy which set out broad strategic priorities. With the new system, there was an integrated local plan which included elements from the core strategy as well as other information such as site allocations for minerals and waste sites;
- There were concerns that a lot of new developments had block paving on the roads, with no pavements, and that this could be dangerous for pedestrians;
- The County Council was the SUDS (Sustainable Urban Drainage Systems) approving body for drainage, but the district council was required to ensure that there was sustainable drainage which was maintainable. The authority did also advise districts on the construction if required;
- In relation to comments made concerning an estate in Lincoln, members were advised that previously roads were approved in accordance with the residential development guide which specified longer, straight roads with pavements and grass, but it was found that this encouraged people to drive faster on these roads due to the good visibility. However, guidance had changed and now that roads in estates were perceived as shared spaces, this encouraged people to drive more slowly;
- In relation to concerns raised regarding instances where block paving had 'sagged', it was noted that this was domestic paving and not part of the public highway. For highway use, block paving with a strong structural capacity;
- A very detailed local impact report had been submitted in opposition to the onshore aspect of the Triton Knoll project;
- Comments were made regarding whether sustainable development was really possible, and there was a need to protect the land;
- It was confirmed that the Internal Drainage Boards were not statutory consultees on planning applications, but the County Council included them as secondary consultees;
- The requirement was to have sustainable drainage in a development over 10 properties or more, there was a possibility that in the future there could be a need for this to be applied to developments of less than 10 properties;
- If officers saw that a proposed development was on the flood map, flood risk mitigation measures would be requested;
- It was commented that there was a need for housing development to proceed as people had children and grandchildren, and they would all need

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somewhere to live. However, there was a need for caution to ensure that villages were not over developed.

RESOLVED

That the presentations, and comments made be noted.

**42**     PLANNING ENFORCEMENT AND MONITORING PROCESSES

Consideration was given to a report which set out the background to the procedures the Council had in place for monitoring waste sites in Lincolnshire. Following a number of fires at waste sites within the County, the report provided councillors with information in relation to the mechanisms in place to ensure that waste sites were regularly inspected to minimise the risk of unauthorised activity taking place. Breaches of planning control increased the risk of fires or other unacceptable environmental impacts taking place and therefore it was essential that sites were inspected regularly as set out in the Council's Local Enforcement Plan.

The Committee received a presentation from the Enforcement Team Leader and Planning Manager, and provided further information in relation to the following areas:

- Granted "subject to conditions"
- Waste (England & Wales) Regulations 2011 s19
- Periodic Inspections – LEP
- Planning Enforcement (paragraph 207 of the national Planning Policy Framework 2012)
- Planning Enforcement
- Carnwath report 1989
- Enforcement 'Toolkit'
- Planning Enforcement – Discretion /expediency test
- Legal Aid, Sentencing and Punishment of Offenders Act 2012: came into force 12 March 2015. Section 85
- Enforcement 'Toolkit' – Penalties
- Enforcement 'Toolkit' – injunction
- Enforcement 'Toolkit' – Direct Action
- DCLG 31 August 2015
- The impact of "POCA" (Proceeds of Crime Act 2002)
- POCA – Recent Compensation Orders
- POCA – Proceeds of Crime – Del Basso
- POCA

The Committee was provided with the opportunity to ask questions to the officers present in relation to the information contained within the presentation and some of the points raised during discussion included the following:

- It was commented that this was a really good presentation and members felt assured by it;
- It was suggested that a proposal be made to the Secretary of State that the first inspection of a site was free, but if subsequent inspections were required, then they should be charged for. However, members were advised that there

was nothing in the legislation that would allow authorities to do this, but the government had asked for suggestions on how planning enforcement could be strengthened. The Committee agreed that a letter should be sent on behalf of the Committee, supporting change that would enable local authorities to charge for inspection costs;

- It was noted that a charge could be made for inspections of minerals sites, and the government was considering extending this to all waste sites;
- Members were advised that every visit related to a prosecution could be added to the costs;
- Officers did rely on members of the public to inform the authority where there were issues with mineral and waste sites. There would be a condition on most planning permissions in relation to the need for wheel washing. If officers received reports of unacceptable levels of contamination on the highway, this would be investigated;
- Members commented that this was an excellent presentation and had always had confidence in the enforcement team. Members had always received good co-operation from the team when there had been reason to contact them;
- It was acknowledged that enforcement could take a long time, but this was due to the processes which had to be followed, and it was important that officers followed the correct procedure;
- In relation to contamination of land, it would always be the responsibility of the land owner, and if the land owner could be fined, then they would be;
- In relation to waste issues, the County Council was responsible for enforcement;
- It was suggested whether alternative uses could be found for waste tyres such as using them for planters in villages;
- It was queried whether people would be more likely to comply with planning enforcement notices if non-compliance became a criminal offence?
- There had been a change in culture and people were more willing to take risks;
- Officers had made representations for the waste and mineral law and planning law to be strengthened;
- It was proposed that the Committee should support a strengthening of the law in this area;
- The continued sharing of information between local authorities was important in tackling enforcement matter and authorities worked together to secure a prosecution. Where it was believed that there was a breach of condition in relation waste/minerals this would automatically trigger the involvement of the Environment Agency;
- A breach of Environment Agency conditions was a criminal offence and the Agency had powers to prosecute from day one of the breach;
- It was commented that the presentation had been extremely interesting and it was clear there had been a lot of movement in procedures over the past 30 years.

RESOLVED

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1. That the presentation and comments made be noted;
2. That a letter be sent on behalf of the Committee to the Secretary of State in relation to the suggestion to charge for required subsequent inspections following an initial visit;
3. That the Committee also advise the Secretary of State that it would support a strengthening of the law in relation to waste and minerals and planning in general.

43 ENVIRONMENTAL SCRUTINY COMMITTEE WORK PROGRAMME

Consideration was given to a report which enabled the Committee to consider and comment on the content of its work programme for the coming year.

Members were advised that the meeting on the 4 December 2015 would commence at 11.00am, in order to allow time for the Committee to hold a Financial Challenges workshop at 10.00am. Therefore, it was also suggested that the meeting scheduled for 29 January 2016 be held at Mid-UK in Caythorpe instead of 4 December 2015 as previously discussed.

The Committee was asked to agree that the Waste Working Group be put on hold until after the budget discussions had been held.

RESOLVED

1. That the contents of the Work Programme, and the amendments noted above be noted;
2. That the Waste Working Group be put on hold until further notice.

The meeting closed at 12.35 pm