

**PLANNING AND REGULATION
COMMITTEE
17 FEBRUARY 2014**

PRESENT: COUNCILLOR I G FLEETWOOD (CHAIRMAN)

Councillors Mrs H N J Powell (Vice-Chairman), Mrs V C Ayling, D M Hunter-Clarke, D McNally, D C Morgan, N H Pepper, Mrs J M Renshaw, C L Strange, T M Trollope-Bellew and W S Webb

Councillors: C J Davie, R G Davies, R J Phillips and R Wootten attended the meeting as observers

Officers in attendance:-

Steve Blagg (Democratic Services Officer), Jeanne Gibson (Area Highways Manager (City of Lincoln)), Andy Gutherson (Head of Planning), Charlotte Lockwood (Solicitor) and Marc Willis (Principal Planning Officer (Development Management))

149 APOLOGIES/REPLACEMENT MEMBERS

Apologies for absence were received from Councillors D Brailsford, D C Hoyes MBE, M S Jones and T Keyword-Wainwright.

150 DECLARATIONS OF MEMBERS' INTERESTS

It was noted that all members of the Committee had been lobbied by the applicant in connection with minute 157.

Councillor J M Renshaw requested that a note should be made that she lived in proximity to the site and that her husband, Councillor R A Renshaw, was the local electoral Division Member for the area. (Minute 153).

151 MINUTES OF THE PREVIOUS MEETING OF THE COMMITTEE HELD ON
13 JANUARY 2014

RESOLVED

That the minutes of the meeting of the Committee held on 13 January 2014, be agreed as a correct record and signed by the Chairman.

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152 TRAFFIC ITEMS

153 NETTLEHAM ROAD/NURSERY GROVE, LINCOLN - PROPOSED
WAITING RESTRICTIONS

Jeanne Gibson presented a report in connection with objections received to a proposal to introduce a 24 hour restriction on waiting along a section of Nettleham Road and its junction with Nursery Grove, Lincoln, following concerns expressed by local residents about visibility problems caused by the increased number of vehicles being parked at this junction.

On a motion by Councillor T M Trollope-Bellew, seconded by Councillor W S Webb, it was -

RESOLVED (unanimous)

That the objections be overruled and the Order as advertised be implemented.

154 MOONRAKER FLOATING TEAROOM, WATERSIDE NORTH, LINCOLN -
APPLICATION FOR PAVEMENT CAFE

Jeanne Gibson presented a report in connection with objections received to an application for a pavement café licence for the Moonraker Floating Tearoom, Waterside North, Lincoln.

Jeanne Gibson's responses to comments made by the Committee, included:-

1. Marking of the highway to show the location of the outdoor seating was not allowed with their location being marked on a plan.
2. The outdoor seating would not interfere with the "Empowerment" sculpture and would not impede the public using the ramp up to Mayfield Bridge.
3. The applicant had sufficient storage for the outdoor seating.
4. The outside seating was protected by a "post and rail" arrangement.

On a motion by Councillor T M Trollope-Bellew, seconded by Councillor N H Pepper, it was –

RESOLVED (unanimous)

That the objections be overruled and the Order as advertised be implemented.

155 TRAFFIC REGULATION ORDERS - PROGRESS REVIEW

The Committee received a report in connection with the latest position on all current Traffic Regulation Orders. No petitions had been received since the last meeting of the Committee.

The Chairman reminded the Committee that they should raise any matters they had on the Orders with officers after the meeting.

RESOLVED

That the report be noted.

156 COUNTY MATTER PLANNING APPLICATIONS

157 1. TO EXTEND THE OLD QUARRY TO ALLOW THE EXTRACTION OF 1.5 MILLION TONNES OF LIMESTONE (BLOCKSTONE AND LIMITED AGGREGATE), WITH RESTORATION TO CALCAREOUS GRASSLAND, AND THE CONSTRUCTION OF A NEW QUARRY ACCESS (REFERENCE NO. S2/3097/13); AND 2. TO USE 0.85HA OF THE EXISTING QUARRY TO FACILITATE THE PROPOSED EXTENSION OF THE QUARRY (REFERENCE NO. S2/3092/13) AT COPPER HILL QUARRY, B6403, HIGH DYKE, ANCASTER - ANCASTER COPPER HILL STONE LTD (AGENT: HUGHES CRAVEN LIMITED)

Andy Gutherson drew the Committee's attention to the legal advice received since the last meeting of the Committee which agreed "that further mineral extraction could not take place unless and until planning permission was granted". The legal advice stated that in connection with the "interpretation of Policy M3 that "existing workings" must be lawful sites, was correct. The legal advice also stated that a Certificate of Lawful Development would serve no purpose as workings less than four years old could not be shown to be lawful and future workings could not become lawful through this mechanism. Therefore, it would be necessary for the Committee to consider the application as if no quarrying existed at this site.

Andy Gutherson confirmed that the necessary highways works could be undertaken to improve the access visibility from the applicant's site to the highway.

Nik Johnson, the applicant, commented as follows:-

1. Quarrying had taken place before 1948.
2. The business paid Business Rates to South Kesteven District Council.
3. As the quarry had been worked for many years the legal advice in connection with a Certificate of Lawfulness was incorrect.
4. Blocked limestone existed in the area and was of a high quality.
5. Referred to the support given by the British Geological Association to the quarry.
6. Referred to letters of support.
7. There had not been any adverse comments from nearby quarrying businesses.
8. Referred to support from Natural England and the Wildlife Trust.

The applicant responded to questions from the Committee and stated that he remembered his great Uncle producing blocked limestone in 2004 and that although the quarry had produced aggregate he emphasised it was not an aggregate quarry.

Andy Gutherson responses to questions asked by the Committee included:-

1. The applicant was aware of the legal position in connection with the quarry.

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2. The applicant was aware of the options available to him in respect of an application for a Certificate of Lawfulness. Also, if the applicant had been so confident why had he not submitted a planning application.

Councillor R Wootten, the local Member, commented as follows:-

1. Ancaster had been developed by the Romans and there was a Roman road in the area. The Romans had used limestone from Ancaster for their burials.
2. Limestone from the quarry had been used in carvings in Norwich and Windsor Castle. The quarry had existed since 1905.
3. Good quality stone still existed in the quarry and there was sufficient supply to last 40 years.
4. The quarry provided employment for local people.
5. Ancaster Parish Council and other consultees supported the continued operation of the quarry.
6. South Kesteven District Council was aware of its existence as it collected Business Rates from the quarry.
7. The Minerals and Waste Core Strategy showed the quarry existed.
8. The quarry had existed for many years and therefore the conditions for a Certificate of Lawfulness were met.

Councillor R G Davies, the neighbouring local Member, commented as follows:-

1. Had been aware of the existence of the quarry since his youth and he remembered its existence when he was a member of the local Scouts which met in proximity to the quarry.
2. Noted that Ancaster Parish Council fully supported the development and that Parish Council was very active in supporting the local community.
3. Noted that the Wildlife Trust supported the application.
5. It was not the local authority's responsibility to prove need. The local authority's responsibility was to support the local economy.

Councillor R J Phillips was permitted to speak by the Chairman because of his interest in rural matters and because the company was known to him. His comments included:-

1. The business was local and had a long history.
2. The business provided blocked stone for a niche market and noted that the Sub Dean of Lincoln Cathedral had given his support.
3. Considered that the National Planning Policy Framework supported the development of the quarry because of its economic benefits.
4. Consultees had not objected to the development and the landscape was protected.
5. The development should be approved with suitable conditions.

Andy Gutherson responses to the comments made included:-

1. The existence of the quarry was not denied but was not an authorised use given the planning law issues set out in the report.
2. Gave details of the nature of the reserves quoted by the planning agents.

3. The Minerals and Waste Core Strategy made reference to limestone quarries at Ancaster but there was no reference to the Copper Hill Quarry in the latest consultation version on November 2013.
4. Acknowledged there was no opposition from consultees to the application.
5. Acknowledged the general letter of support for the quarry from Lincoln Cathedral but stated that the Cathedral sourced stone from its own quarry which had recently had an extension to its extant permission granted.
6. Clarified that in the preparation of the Minerals and Waste Core Strategy there was an identified surplus of blocked limestone in the period covered by the Strategy.
7. During pre-application discussions the applicant proposed 90% aggregates production but this had now been reduced to 10% following the discussions.

Andy Gutherson responses to comments made by the Committee included:-

1. While the current legal position was that the quarry was not authorised there was nothing to prevent the Committee making a decision to approve the application.
2. Another option for the applicant was to apply for a Certificate of Lawfulness but he had not pursued this course of action and a deferral to allow such would serve no real purpose.

The Committee considered that greater weight should be afforded to paragraphs 142 and 144 of the National Planning Policy Framework and Policy EN1 of South Kesteven Core Strategy and that the unique site specific economic benefits of the quarry being allowed outweighed the officer's reasons for recommending that permission should be refused.

On a motion by Councillor H N J Powell, seconded by Councillor W S Webb, it was –

RESOLVED (9 votes for, 0 votes against and 1 abstention)

- (a) That the Committee is minded to grant approval to Application No's S2/3097/13 and S2/3092/13 because they consider that greater weight should be afforded to paragraphs 142 and 144 of the National Planning Policy Framework and Policy EN1 of South Kesteven Core Strategy and that the unique site specific economic benefits of the quarry being allowed outweighed the officer's reasons for recommending that permission be refused.
- (b) That the Head of Planning submit a report back to the next meeting of the Committee outlining the conditions for approval.

158 TO ERECT A SINGLE WIND TURBINE WITH A MAXIMUM BLADE TO TIP HEIGHT OF 75M, MICRO-SITING AND ASSOCIATED INFRASTRUCTURE INCLUDING AREAS OF HARDSTANDING, CONTROL BUILDING AND CABLING AT GAINSBOROUGH LANDFILL SITE, LEA ROAD, GAINSBOROUGH - FCC ENVIRONMENT UK LTD (AGENT: STRATUS ENVIRONMENTAL LTD) - W33/130410/13

The Head of Planning reported that since the report had been published further correspondence and discussions had taken place with Robin Hood Airport about their objection. The Airport had now confirmed that they believed there was a form of mitigation that was appropriate and could be secured to address and resolve the impact of the turbine on their radar. This mitigation was called 'blanking' and they believed this would be available in the coming weeks, once the regulator (CAA through their Safety and Airspace Regulatory Group) had signed off the Airport's proposed Blanking Strategy.

The Airport had also confirmed that there were a number of proposed similar wind turbine/farm schemes that also impacted upon the Airport's radar but in those cases 'blanking' would not be an appropriate solution. Those developments required a more advanced solution such as resolution in-fill radar such that aircraft could still be detected in the vicinity of the wind turbines. This technology was available and was undergoing its first safety case process in the UK such that the Airport was confident it would have been commercially proven within the three years of consent.

In light of the above, under both scenarios the Airport believed mitigation was therefore available and could therefore be secured subject to conditions. They had also indicated that they required the applicant to enter into a standard commercial agreement with them, ideally before planning permission was granted and although the applicant had indicated a commitment to do this they had not yet done so. Consequently, the Airport maintained their objection but had confirmed that they did not expect to be in a position to support a refusal of this application on aviation grounds.

In light of the above, and given that it had now been confirmed that there was mitigation available which had a reasonable likelihood of being secured and would address the Airport's concerns, the officer's concerns and reasons for recommending that the application should be refused had now been satisfactorily addressed. Therefore it was recommended that the original recommendation as set out in the report should be superseded and instead planning permission should now be granted subject to the applicant first completing a highways indemnity agreement and subject to the imposition of a schedule of planning conditions as attached to the Update for today's Committee meeting.

David Baker, representing the applicant, commented as follows:-

1. Quoted Government advice in connection with the need to reduce CO₂ admissions and the production of energy from renewable resources.
2. Referred to support from the Government for wind energy development.
3. The geography of the proposed site for the wind turbine was suitable.

4. Robin Hood Airport had now given their support with certain requirements.
5. All concerns had been addressed and the application met sustainable development from renewable resources.

The applicant responded to comments from the Committee as follows:-

1. The photomontages which were presented to the Committee had been produced in line with the correct methodology and guidance and therefore represented well the effect of the wind turbine and the surrounding area.
2. The location of the wind turbine and its proximity to local residential properties had been carefully considered and appropriate separation had been provided to ensure impacts such as shadow flicker and noise fell within the required standards.
3. The wording of the condition in connection with the "blanking" of the wind turbine was the subject of consultations with Robin Hood Airport.

Officer's responses included:-

1. Confirmed the photomontages had been carried out in line with the correct methodology and guidance as indicated by the applicant.
2. There was no adopted planning policy which prescribed the distance a wind turbine should be from residential properties. Instead factors such as noise and shadow flicker were key to determining appropriate distances.
3. Robin Hood Airport had confirmed "blanking" mitigation measure was likely to be available in the coming weeks, once the regulator (Civil Aviation Authority) had signed off the Airport's proposed Blanking Strategy.

Officer's responses to comments made by the Committee included:-

1. The planning condition proposed to secure the mitigation necessary to address the Airport's concerns was worded in such a way that the development could not take place until the CAA approval had been sought. This ensured the concerns of the Airport would be addressed before the development commenced.
2. The lateness of the information presented to the Committee was noted. However, it should be noted that there was only one issue outstanding which the update addressed.
3. Any decision by the Committee to refuse the application on aviation safety grounds (as originally recommended) would pose difficulties as mitigation measures had now been confirmed as available and capable of being secured..

A motion by Councillor T M Trollope-Bellew, seconded by Councillor W S Webb, that the recommendations in the Update should be approved, was defeated by four votes for, five votes against and nil abstentions.

On a motion by Councillor C L Strange, seconded by Councillor D McNally, it was –

RESOLVED (5 votes for, 3 votes against and 0 abstentions)

- (a) That the application be deferred for a site visit in order to view the salient features of the site and its location in respect of local residential properties.

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(b) That when the application is reconsidered by the Committee that more clarity is provided by Robin Hood Airport or the CAA to confirm the proposed "blanking" is available.

(c) That the site visit is arranged to coincide with the site visit to Igas and Saltfleetby, on 13 March 2014.

The meeting closed at 12.00 pm