

**PRESENT: COUNCILLOR I G FLEETWOOD (CHAIRMAN)**

Councillors P Bedford, D Brailsford, M Brookes, N D Cooper, D R Dickinson, D C Hoyes MBE, R Hills, H R Johnson, S F Kinch, K Milner, J M Swanson, M Tinker and M T Trollope-Bellew

Also in attendance:- Councillors B W Keimach, C E H Marfleet and A H Turner MBE, JP (minute 40(1))

An apology for absence was received from Councillor S F Williams

Officers in attendance: Communities Directorate – Alan Freeman and Neil McBride; Legal – Stuart Tym; Performance and Governance – Steve Blagg; Adults and Childrens – Steve Mason

**38. DECLARATIONS OF COUNCILLORS' INTERESTS**

Councillor R Hills declared a personal interest as a member of the Planning Committee of the City of Lincoln Council.

Councillor T M Trollope-Bellew stated that he had attended the meeting of Baston Parish Council when the application had been discussed (minute 40(4)).

Councillor J M Swanson declared a personal interest as a member of East Lindsey District Council's Planning Committee.

Councillor M Tinker declared a personal interest as a member of West Lindsey District Council (minute 40(1)).

Councillor P Bedford declared a personal interest as a member of Boston Borough Council (minute 40(5)), as a member of Boston Borough Council, the Black Sluice Drainage Board and [Witham Fourth Internal Drainage Board](#) (minute 40(6)).

Councillor D C Hoyes declared a personal interest as the application was partly in his Division (minute 40(3)).

Councillor M Brookes declared a personal interest as a member of Boston Borough Council and the Black Sluice Drainage Board (minutes 40(5) and 40(6)). He added that when minute 40(5) had been discussed at Boston Borough Council he had not taken

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part and had declared an interest. He had attended a meeting of Sutterton Parish Council when the matter had been discussed but had not taken part (minute 40(5)).

Councillor K Milner declared a personal interest as a member of East Lindsey District Council and as the Executive Support Councillor for Highways and Transport.

Councillor H R Johnson declared a personal interest as a member of South Holland District Council's Planning Committee (minute 41).

Councillor D R Dickinson declared a personal interest as a member of North Kesteven District Council and the Black Sluice Drainage Board.

Councillor N D Cooper declared a personal interest as Chairman of East Lindsey District Council's Planning Committee.

39. MINUTES

RESOLVED

That the minutes of the previous meeting of the Committee held on 3 October 2011 be agreed as a correct record and signed by the Chairman.

40. PLANNING APPLICATIONS RELATING TO COUNTY MATTER DEVELOPMENTS

The Committee received six reports from the Executive Director for Communities on planning applications relating to County Matter developments. The responses to consultation were detailed in the reports.

- (1) To change the use of an external storage yard and building for the recycling, processing and storage of waste metal and wood including an end of life vehicle dismantling and de-pollution facility at Winchester Marine, Brookenby (Binbrook), Technical Park, Brookenby – Winchester Marine (Brookenby) Ltd – W128/127701/11

(Note:- Councillor I G Fleetwood declared a personal interest as the Deputy Leader of West Lindsey District Council and was involved in planning issues at the Council).

Since the publication of the report responses to consultation had been received as follows:-

Applicant - in relation to consultation responses note that Lincolnshire Wolds Area of Outstanding Natural Beauty (AONB) Management Plan (2012 – 17) is currently under public consultation and forms a material consideration for determination of planning

applications. Draw attention to references in the document to the importance of considering economic needs of the area as well as climate change. Notes that a commitment to the AONB being a vibrant living and working landscape. Submit that the assessments made with the application demonstrate that with the proposed mitigation measures it would not detract from any special factors that are considered to contribute to its scenic quality.

In respect of concerns about the impact on the character of the area through noise, note that the extant permission for the site does not limit operational hours or vehicle movements and no other businesses on the Technical Park is subject to restrictions on vehicle movements. The noise assessment includes an assessment of the nearest footpath and concludes that the predicted noise output from the proposed operation is not likely to be any higher than the ambient noise climate experienced by the public at identified location.

Submit that the economic benefit the proposal use will bring to the area through creation of jobs is a material consideration and be given appropriate weight. Local employment is crucial to maintaining a local population to create the vibrant living and working landscape is a vision for AONB. The development will create 15 full-time and 5 part-time jobs with potential to increase to 20 full-time and 10 part-time in a rural area with few employment opportunities.

In respect of the appeal decision this should not be seen as a limit that is acceptable at the site. This proposal should be considered on its own merits taking into consideration assessments undertaken and the relevant material considerations. The only difference between the proposal and the appeal decision is the operational processing on the concrete apron which the assessments have concluded that this will not have any significant adverse effects on the character or tranquillity of the AONB. The statutory consultee responses have not disagreed with the assessment findings.

Since the publication of the Update the Executive Director for Communities stated that the applicant had emailed a further response (from Robin Buchanan, Director PV Projects), dated 31 October 2011, to "Marc Willis, Principal Planning Officer", giving further reasons why the application should be approved and requesting that consideration of the planning application should be deferred to allow the planning officer to address the comments in the letter. The Director informed the Committee that the applicant was requesting that the application should be deferred. The Director explained the reasons for the applicant's request based on his contention that the Committee report was deficient in a number of areas. Briefly, the Director mentioned what the applicant had said in connection with Policies PPS 4, PPS 10, the applicant's interpretation of Policy WLP3 and WLP5 and what the applicant had stated on the recommended reason for refusal on noise.

The Director read out the first two paragraphs in the letter's conclusion.

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District Councillor Alan Caine, an objector, commented as follows:-

1. Concerned about effects of noise, disturbance and traffic.
2. Application highly intrusive in an Area of Outstanding National Beauty.
3. Area was very rural.
4. All of the main interested agencies, e.g. West Lindsey District Council, were against the application.
5. Damage to road side verges.

Joanna Berlyn, representing the applicant, commented as follows:-

1. Gave the environmental benefits of the scheme, including a reduction in landfill.
2. Outlined the social and economic benefits of the scheme.
3. Highlighted a plastic factory using one of the hangars on the site.
4. There would not be any substantial increase in noise levels from the scheme and it met local noise receptors.
5. The scheme supported the waste hierarchy for the disposal of waste.
6. The scheme met all the planning policies.
7. The scheme was not visually intrusive.

Councillors B W Keimach, the local Division Member, A H Turner MBE, JP and C E H Marfleet, neighbouring Division Members, commented as follows:-

1. The visual impact in a very special landscape.
2. Inadequate screening as far as noise, dust and visual aspects were concerned.
3. It would take at least 25 years for trees to form a barrier as the soil structure was not conducive to rapid tree growth.
4. A large increase in traffic movements across the ANOB especially through Tealby, Binbrook and Brookenby.
5. Safety issues for children, staff and parents at the school on Orford Road, Binbrook.
6. It did not comply with planning conditions now in place with West Lindsey District Council.
7. Traffic movements quoted by the Company were subjective and open to question as their application gave very little weight to the number of smaller vehicle movements in and out of the site.
8. Considering the length of time the application had been with officers the letter emailed to Marc Willis dated 31 October 2011 had been received too late to consider in detail.
9. Damage to highway verges.
10. The applicant had other suitable sites in Lincolnshire.
11. The evidence submitted in connection with the employment benefits was vague.
12. The application was contrary to the Waste Plan.

13. All of the comments received from the public were against the application, none in favour.

RESOLVED (unanimous)

That planning permission be refused for the reason detailed in the report.

- (2) Section 73 application to vary Condition 1 of planning permission N23/0292/08 to allow a further 12 months of operations at Hykeham Wellsite, Field No. 9433, off Thorpe Road, Whisby – Europa Oil and Gas plc – N23/0985/11

RESOLVED (unanimous)

That planning permission be granted subject to all other conditions set out in the Council's Decision Notice reference N23/0292/08, so far as the same are still subsisting and capable of taking effect, and subject to the condition detailed in the report.

- (3) Section 73 application to carry out development without complying with condition number 53 of planning permission number (E)S176/3099/07 as amended by the Council's letter of 29 October 2010. (This application seeks to amend the archaeological requirements of an existing planning permission to extract sand and gravel, erect processing, ready-mix concrete and mortar plant, site an aggregates recycling yard with concrete crusher, with restoration to agriculture) at Park Farm, Tattershall Thorpe – Cemex UK Operations Ltd – (E)S176/1429/11

RESOLVED (unanimous. (Note:- Councillors H R Johnson and K Milner were not present for this item only).

(1) That the applicant be invited to enter into a Deed of Variation under Section 106A of the Town and Country Planning Act 1990 to modify the Planning Obligation dated 10 August 2010, so that its requirements are carried forward and are compatible with a permission granted for this s73 application.

(2) That on completion of the Deed of Variation referred in (1) above, the Executive Director of Communities be authorised to grant planning permission to extract sand and gravel, erect processing, ready-mix concrete and mortar plant, site an aggregates recycling yard with concrete crusher, with restoration to nature conservation without complying with condition number 53 of planning permission S/75/3099/07 (LCC reference number (E)S176/3099/07) as amended by the Council's letter of 29 October 2010 subject to the following conditions (which replace all previous conditions) as detailed in the report.

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- (4) To change the use of land and building from Use Classes B2 and B8 to a Materials Recovery Facility. The proposal would comprise an extension to the building and the construction of a compound for outside storage of spoil and hardcore, including 2.4 m high concrete walls, as well as ancillary parking and weighbridge and the erection of a 2.4m high steel palisade boundary fence at Bradstone Site, Outgang Road, Baston Fen – PMK Recycling Ltd – S7/1775/11

Since the publication of the report responses to consultation had been received as follows:-

Fire and Rescue – object on the grounds of inadequate access and water supplies. To remove this objection need to demonstrate that fire appliances can access the site and confirm sufficient fire hydrants are available or confirm that this can be provided.

Applicant – confirm fire appliances can access 100% of the building as the entire area has a hard standing area. A fire hydrant exists on Outgang Road or a tank could be sited on site.

Environment Agency – inspected the additional information submitted and has no further comment to make.

Since the distribution of the update the Executive Director for Communities informed the Committee that further responses had been received from the Fire and Rescue Service in connection with access to a water supply as follows:-

Lincolnshire Fire and Rescue – In theory the solutions offered by the agent would seem to be acceptable, although we would need some further detail with regards the guaranteed availability of the water supply throughout the year and particularly during drought conditions. The proximity of the supply to the buildings would also require further detail.

Our concern with regards to authorisation from the neighbouring property is that should that premise be sold there would be no guarantees that it would remain available for use in the future and therefore our preference would be for a dedicated supply available as detailed by the agent.

Following an enquiry from the Committee about the provision of Reactive Signs on the highway, the Executive Director for Communities stated that highways had not requested these and in any event these could not be justified because the application only involved a relocation of the existing business and therefore vehicle movements were not anticipated to change.

RESOLVED (unanimous)

That planning permission be granted subject to the conditions detailed in the report and an additional condition approved at the meeting as follows:-

Condition: The development hereby permitted shall not be brought into use until wheel cleaning facilities have been installed in accordance with details of design, specification and position which shall have first been submitted to and approved in writing with the Waste Planning Authority. The approved facilities shall be available in full and be available in full working order for use at all times.

Reason: To prevent mud, dust and other extraneous material being deposited on the public highway, in the interests of highway safety and safeguarding the amenities of the area.

- (5) Change of use of existing haulage yard and workshop and erection of a building for the importation, sorting and baling of end-of-life tyres and construction of a surface water mitigation scheme and security fence to boundary at Reed Point, Spalding Road, Sutterton – Envirotyre UK Ltd – B18/0370/11

(Note:- Councillor P Bedford declared a personal interested because he knew Lewis Smith's wife when she was an officer at Boston Borough Council).

Since the publication of the report responses to consultation had been received as follows:-

Boston Borough Council – object to this application and request the application is refused on the following grounds:-

- the site is near to a major settlement with a residential population;
- concerns over implications for pollution in the event of an incident or major fire;
- inability to control external storage; and
- proximity to a reservoir.

Fire and Rescue – with the recommendation of a condition requesting the submission of a scheme to address fire fighting water run-off have confirmed removal of their objection.

Local Residents – five further representations have been received objection to the application for the following reasons (summarised):-

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- wrong development in wrong place and goes against wishes of residents of the parish as stated in parish plan. This states any future industrial development would be limited to current industrial parks. Questions the applicant's assertion about proximity to water courses as there is a drainage dyke on 3 sides of the site which at certain times of the year contains water.
- fear a fire event and the associated environmental impact of a fire on the area through water contamination and pollution from smoke;
- if permission is granted suggest 5m high bund is put in place and impermeable membrane is put in place to address run-off;
- note site always used for agriculture and residential property has agricultural habitation condition, although site previously used as haulage yard it was unlawful as no permission granted for that use;
- concern that applicant's cover for not siting as an industrial park was that due to its hazardous nature this type of business is not welcomed on site;
- question the number and amount of tyres to be stored on site as scheduled in the application will result in outside storage as buildings are not of sufficient size to accommodate the bales.
- concerned about the appearance of an enormous tin shed is visually intrusive.

Applicant – would be content to have a condition imposed limiting the amount of tyres that can be stored in the buildings at any one time.

Stress that the business relies on a flow of tyres in and bales out, therefore storage of tyres or bales in any quantity is not a realistic economic option.

Two bales proposed which can bale up to a maximum of 24 tonnes per day and would not propose to store any more than 48 tonnes in the building at any one time. In respect of the PAS 108 bales suggest that a limit of 96 bales stored in the building at any one time. In relation to 96 bales this equates to 81 tonnes.

Head of Planning – recommend additional conditions as follows:-

12. The maximum throughput of end of life tyres shall not exceed 11,000 tonnes per annum.
13. The maximum quantity stored within the buildings at any one time shall not exceed 48 tonnes (5,040 tyres) and 96 PAS 108 bales, unless otherwise agreed in writing with the Waste Planning Authority.
14. For the duration of the development the operator shall maintain records of the monthly receipt of end of life tyres and shall make them available to the Waste Planning Authority at any time upon request. All records shall be kept for at least 24 months.

15. Any tree or shrub planted in association with the landscaping scheme shown on Drawing No 981/01/SL101 Rev A that dies, is damaged, diseased or removed within the duration of 5 years following occupation of the buildings shall be replaced.

Reasons 12 – 14, to ensure the development is undertaken in accordance with the submitted details in the interest of the amenity of the area.

15, in the interests of the amenity of the area.

The Executive Director for Communities reported that since the publication of the update further responses to consultation had been received as follows:-

Anglian Water – (letter dated 28 October 2011 - the building itself under normal circumstances would not cause us concern. However, we would make general comments in relation to fire risk. A fire at this site could leave the following issues:

- Inability to access site in the event of a fire (site contains reservoir and boosters that feed directly into supply)
- Possible contamination of clean water reservoir if plumes of toxic smoke are created and wind is of the right direction. Reservoirs are sealed from ingress but are vented to atmosphere using fine insect screening.

Anglian Water – (email, dated 28 October 2011) - Further to the letter dated 28 October 2011, I confirm that the reservoir referred to is 60 metres from the proposed site.

Whilst a fire could raise issues, as described in my earlier letter, I believe that Fire and Rescue will request adequate measures to control any potential fire problems.

Parish Councillor Vinnie Bush, an objector, commented as follows:-

1. Lack of information about the proposals from the developer when he had attended a meeting of Sutterton Parish Council.
2. There had been a petition submitted and signed by many people objecting to the application.
3. The effects of the application on a rural and farming area.
4. Any fire would lead to serious contamination of land.
5. A proper fire risk assessment was needed.
6. The applicant was unaware of how much water he would require in the event of an emergency.
7. Anglian Water was concerned about the effect of toxic fumes on the water supply and the Fire and Rescue Service was not able to control.
8. It was noted that it was proposed to store plastic metal sheeting of which the fire risks were unknown.

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9. There were residential properties nearby.
10. If the Committee was unsure then consideration of the application should be deferred to allow a site visit.

Lewis Smith, representing the applicant, commented as follows:-

1. The application had been discussed with the Environmental Health Officer, Boston Borough Council and the Fire and Rescue Service and neither had objected.
2. There had been no questions asked on the application by Sutterton Parish Council.
3. Defra had no problem with the application.
4. The application met BSA standards.
5. The tyres on the site would be sorted and baled for engineering projects.
6. Tyres were collected from the Kirton site.
7. The application was located in a former agricultural building.
8. A fire hydrant was available and service water would be reused.
9. The application was not a tyre dump. Tyres would be collected from a variety of different agencies, e.g. MoD.
10. Local people would be employed.

The Committee commented as follows:-

1. Boston Borough Council and Sutterton Parish Council had objected to the application.
2. The fear of fire was great amongst local people because of the fire at Kirton.
3. Effects of pollution on a nearby reservoir.
4. There was a need to see the Fire and Rescue plans in detail before any agreement was made.
5. Concern that Anglian Water seemed to have some doubts about the capability of Fire and Rescue to deal with any toxic fumes.
6. Had the closeness of the reservoir been taken into consideration because it was noted that no Environmental Impact Assessment was required?
7. A sprinkler system was required.
8. There were more suitable areas for the location of this application in the area.
9. The application met all of the planning policies, there had not been any objections from the Environment Agency, the chances of a fire occurring were remote and the application would create employment.

A motion by Councillor K Milner, seconded by Councillor D Brailsford, for a site visit was defeated by six votes for and seven votes against.

A motion by Councillor N D Cooper, seconded by Councillor P Bedford, to refuse permission against the officer recommendation to approve was agreed because of the effect on the amenity of the nearby residential properties, concerns about contamination, fire risk and vehicle movements.

In accordance with the meeting of the Committee on 3 October 2011 (minute 27), the Executive Director for Communities would report to the next meeting of the Committee on the reasons for refusal.

RESOLVED (eight votes for and four against)

That the application be refused against the officer recommendation for approval and that the Executive Director report to the next meeting on the reasons for refusal.

- (6) Section 73 application to vary Conditions 2 and 5 of planning permission B/0248/06 (to enable outside storage areas and to extend the hours of operation) at Skirbeck Bulk Store and Engineering Works, Skirbeck Road, Boston – Reclaimed Appliances Ltd - B/0272/11

Tracy Gethin, representing the applicant, commented as follows:-

1. This was an expanding business and significant for Boston.
2. The business collected electrical waste from around the country.
3. There was a need for the business to meet the demands of customers.
4. The business was committed to compliance with noise conditions.
5. The business was located near to the Port of Boston which was open 24 hours.
6. Residents were not against the application.
7. The economic viability of the business would be affected if it did not receive approval.
8. Waste management was being addressed.

The Committee commented as follows:-

1. The application should be approved as the Port of Boston was open 24 hours.
2. There were not any problems caused by noise.
3. Access to the business was through the Port of Boston.
4. The need to protect employment.
5. There was no loss to residential amenity.
6. The application should be approved for a temporary period to allow an assessment to be made and to see if any complaints were received.

A motion by Councillor P Bedford, seconded by Councillor M Brookes, it was –

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RESOLVED (nine votes for and one against, with Councillor N D Cooper not voting as he declared that in his former employment he used to deliver to the business as a HGV driver)

That the application be approved against the officer recommendation to refuse and that the Executive Director for Communities report to the next meeting on the reasons for approval and conditions.

41. VARIATION OF PLANNING AGREEMENT PL/0152/11

The Executive Director for Communities presented a report on an application for the variation to a Section 106 Planning Obligation with regard to the provision of a school site and an education contribution by the developer relating to the development of a residential estate (ref H16/0578/01) on land at Woolram Wygate, Wygate Park, Spalding.

Since the publication of the report a response to consultation had been received as follows:-

South Holland District Council – officer report to South Holland District Council's Planning Committee and Section 106 Agreement were attached to the update. Head of Planning – as a result of further discussions with Legal Services, this recommendation should be amended to refer to those points which appear under paragraph 4 on page 3 of the report instead of points in the recommendation.

The Executive Director for Communities reported that South Holland District Council would consider the report on 2 November 2011 and the recommendation of the officers was no objection.

RESOLVED (unanimous)

That, subject to South Holland District Council's Planning Committee not raising at its meeting on 2 November 2011 any further matters which need consideration, the Executive Director for Communities, in consultation with the Chairman of the Planning and Regulation Committee, be authorised to agree the variation of Section 106 Planning Obligation with respect to development at Woolram Wygate, Spalding. The variations being the following:-

(a) "School Site" deleted and replaced with "an area of 1ha within the application land in a location to be agreed with the District Council as Planning Authority and County Council, but having at least one boundary contiguous with the boundary of the Urban Park and being as close as reasonably practical to the Spalding Primary School and to be selected in accordance with the criteria in Schedule 8";

(b) "Clause 20.1.2" to be deleted and replaced with; "in the event of the County Council calling for a transfer of the school site, pursuant to clause 19.1.6 but not either letting a contract for the construction of a school on the school site or using the School Site for a sport use in connection with the existing (or a successor to) Spalding Primary School by 1 January 2018 or within five years of the transfer of the school, whichever is the latest, then the County Council shall transfer back the school site to the party by whom it was transferred, such transfer to be for a nominal consideration and free from encumbrances save for those existing at the date of this Agreement";

(c) Clause 20.1.3 to be deleted and replaced with;

"that the Education Contribution shall be held by the County Council in an interest bearing account and the Education Contribution or any part thereof which shall remain unspent for the purposes specified 2 years from the date of the final payment of the Education Contribution to the County Council further to be phased payments agreed by clause 19.1.4 shall be repaid to the Developer or such person as shall have made the payment together with all such interest that shall have accrued thereon";

(d) Schedule 6, paragraph 2

After the words "with covenant in the transfer to use the school site only for ....." and before the words, "the construction of and use as a school"..... to add the words; "either the use as a school playing field in connection with the existing (or a successor to) Spalding Primary School or for.....".

#### 42. LIFTING OF CLAUSE IN PLANNING AGREEMENT N56/610/88

The Executive Director for Communities presented a report on a request for the lifting of clauses 2(a) and (2b), 6.1, 6.2 and 6.3 of the Section 52 Agreement dated 16 December 1988 associated with planning permission reference N56/610/88, which required area 6 on the site to be managed as a water based amenity conservation area. The land to the north was the Teal Park development and the land concerned to the south (subject of the request) would form an integral part of the surface water management of the site.

RESOLVED (unanimous)

That the Section 52 Agreement (signed on 16 December 1988) be modified to exclude Area 6 contained in the Agreement at Clause 6.1 to 6.3 and reference to Area 6 in other subsisting clause be deleted as the clauses are neither no longer relevant nor enforceable for the reason detailed in the report.

The meeting closed at 12.40pm.