



**PLANNING AND REGULATION
COMMITTEE
8 APRIL 2013**

PRESENT: COUNCILLOR I G FLEETWOOD (CHAIRMAN)

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

Also in attendance:- Councillors C J Davie (minute 68(2)) and A Stokes (minute 68(7)).

Officers in attendance: Communities Directorate – Steve Willis (Assistant Director (Environment, Planning and Customer Services), Neil McBride (Development Manager) and Marc Willis (Principal Planning Officer (Development Management)); Legal – Charlotte Lockwood (Solicitor) and Performance and Governance – Steve Blagg (Democratic Services Officer)

62. APOLOGIES FOR ABSENCE

An apology for absence was received from Councillor K Milner.

63. DECLARATIONS OF COUNCILLORS' INTERESTS

It was noted that all members of the Committee had been lobbied by the applicant (minute 68(2)).

Councillor J M Swanson requested that a note should be made in the minutes that he was a member of East Lindsey District Council in connection with minutes 68(1), (2), (3), (5), and (6). He requested that a note should be made in the minutes that he had spoken to the Parish Council and the applicant to try and seek an agreement (minute 68(6)).

Councillor R Hills requested that a note should be made in the minutes that he was a member of the City of Lincoln Council's Planning Committee.

Councillor N D Cooper requested that a note should be made in the minutes that he was Chairman of East Lindsey District Council's Planning Committee.

Councillor H R Johnson requested that a note should be made in the minutes that he was a member of South Holland District Council's Planning Committee (minute 68 (8)).

Councillor D R Dickinson requested that a note should be made in the minutes that he was a member of North Kesteven District Council's Planning Committee.

**PLANNING AND REGULATION
COMMITTEE
8 APRIL 2013**

64. ALAN FREEMAN, HEAD OF PLANNING

The Assistant Director (Environment, Planning and Customer Services) gave the Committee an update on the latest situation in connection with Alan Freeman's health following his operation last year. The Committee requested that their best wishes for a speedy recovery should be sent to Alan.

65. MINUTES

RESOLVED

That the minutes of the previous meeting held on 4 March 2013, be agreed as a correct record and signed by the Chairman, subject to the initials "T M" being added before "Trollope-Bellew" in the list of attendees.

66. THEDDLETHORPE AND MABLETHORPE VARIOUS ROADS PROPOSED
SPEED LIMIT AMENDMENTS

The Chairman informed the meeting that the reporting officer had taken ill on the day of the meeting and it was –

RESOLVED

That consideration of the report be deferred to the next meeting of the Committee.

67. TRAFFIC REGULATIONS AND PETITIONS RECEIVED

The Committee received a report from the Executive Director for Communities on the position of all current Traffic Regulation Orders and petitions received.

RESOLVED

That the report on Traffic Regulation Orders be noted and that the petitions be received.

68. PLANNING APPLICATIONS RELATING TO COUNTY MATTER
APPLICATIONS

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

- (1) Supplementary Report - to create an irrigation reservoir at Deeping Gate Trees, Northfield Road East, Market Deeping to provide irrigation for the applicant's business of growing up to 500,000 container trees - by Deeping Gate Trees Ltd (Agent: Sloane Mead) - S56/3060/11

On a motion by Councillor S F Williams, seconded by Councillor M Brookes, it was -
RESOLVED (unanimous)

That planning permission be granted subject to the conditions detailed in the supplementary report.

- (2) To continue to use building for a materials recycling facility incorporating picking line and baler and to extend types of waste to be brought to the site to include general commercial and industrial waste at Bowmans Business Park, Mill Road, Addlethorpe - Bowmans Waste to Recycling Ltd (Agent: GP Planning Ltd) - (E)S2/0397/13

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

Applicant - the applicant has submitted a Flood Risk Assessment (FRA) which provides a range of measures to put into position should a flood event take place or be expected.

Also provides a letter of support from Councillor Archer (District Councillor) who considers the creation of jobs as a very important issue at a time of high unemployment along the Coast and in Ingoldmells and Addlethorpe.

- Considers the County Council should be working to provide jobs and notes the closure of the facility is a major loss to the people affected and local community.
- Welcomes plans to provide fact action roller shutter doors and other measures to mitigate odours which could be included in the application by amendment.
- All public bodies should be working with the Parish Council and local community to find a means of re-opening the plant whilst addressing the concerns of local residents.

Environment Agency – confirmed receipt of FRA due to the scale and nature of the proposed application the use of traditional built mitigation measures are limited. Support the recommendation that the operator fully sign up to Floodline Warnings Direct and the use of a Flood Warning and Evacuation Plan to ensure the safety of the site users.

Therefore withdraw the objection. Whilst consider it is acceptable in principle to manage the risk to the site via a Flood Warning and Evacuation Plan, the Waste Planning Authority should be satisfied with the detail of the plan.

**PLANNING AND REGULATION
COMMITTEE
8 APRIL 2013**

Also previously highlighted current issues with the operation of the site. In summary, confident the Environmental Permitting Regulation provides the necessary legislation tools to ensure environmental risks are mitigated against. Are working with the applicant to ensure they are compliant with the condition of their permit.

Local Resident – further letters of objection received with concern about HGV movements and flies.

Also draw attention to management of the site with a recent history of non compliance of previous consents. Deliberately abused consents and conditions in the past. Two Breach of Condition Notices secured on it. Draw attention to Waste Local Plan policies that require separation distance of 250m from residential properties.

Development Manager – following the submission of a Flood Risk Assessment and the removal of the objection from the Environment Agency delete refusal reason 3 from the recommendation.

Kenneth Ellis, representing the applicant, commented as follows:-

1. His family lived locally.
2. His business supported local businesses.
3. The demand for the services of his business was high especially from Skegness and along the east coast and he referred to the contents of the letter he had sent to the members of the Committee, dated 2 April, 2013, supporting his application.
4. 97% of the waste generated should be able to be recycled.
5. His business was in close proximity to where the waste was generated.
6. If the application was approved today he would be submitting an order for £250k worth of new equipment.
7. The odour plan had been agreed with the Environment Agency and could be amended.
8. The application was supported by the Environment Agency, Addlethorpe Parish Council and the East Lindsey District Council local Member.
9. Twenty eight full time jobs including apprenticeships would be created.
10. He was committed to working with neighbours.
11. A list of conditions had been prepared to control the site.
12. The Committee was urged to visit the application site.
13. The facility would help the local community.

Councillor C J Davie, the local Member, commented as follows:-

1. He supported the recommendation in the report.
2. There were issues with the site including a large amount of waste which had not been cleared.
3. There were issues with enforcement of the site.

Comments made by the Committee included:-

1. Odour was the main problem and if this problem could be solved the application could be supported.
2. The definition of industrial and commercial waste.
3. It was difficult for the applicant to differentiate between the types of waste arriving at his site.
4. The site appeared to have a history of odour problems.
5. The application had the support of several consultees.
6. The need for paragraph 2 (reasons) to be amended to read "East Lindsey Local Plan 1999 Alterations (Saved Policies 2007)".
7. The distance of residential properties from the application site.

The Development Manager commented as follows:-

1. The description of waste streams came from Defra.
2. The distances of residential properties from the application site in relation to Policy WLP11 of the Lincolnshire Local Waste Plan detailed in the comments from the public were not applicable to this application as it was to be assessed against Policy WLP6 as detailed in the report.

A motion was moved by Councillor D R Dickinson that the application should be deferred pending a site visit by the Committee.

On a motion by Councillor S F Williams, seconded by Councillor T M Trollope-Bellew, it was –

RESOLVED (10 votes for and 3 votes against)

That, subject to the deletion of refusal reason 3 in the recommendations, detailed in the report, planning permission be refused for the reasons detailed in the report subject to the wording in paragraph 2 ("reasons") being amended to include "East Lindsey Local Plan 1999 Alterations (Saved Policies 2007)".

- (3) For retrospective planning permission to install a weighbridge, cabin and screening fence at Bowmans Business Park, Mill Road, Addlethorpe - Bowmans Waste to Recycling Ltd (Agent: GP Planning Ltd) - (E)S2/0396/13

On a motion by Councillor S F Williams, seconded by Councillor N D Cooper, it was -

RESOLVED (unanimous)

That planning permission be granted subject to the conditions detailed in the report.

**PLANNING AND REGULATION
COMMITTEE
8 APRIL 2013**

- (4) To construct an exploratory drillsite to include plant buildings and equipment the use of the drillsite for the drilling of three exploratory boreholes and subsequent short-term testing for hydrocarbons erection of security fencing and bunds and construction of an access track for a temporary period of three years with restoration to agriculture use at land to the north of Scotter Road Laughton - Blackland Park Exploration Ltd (Agent Hughes Craven) - W56/129112/12

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

Councillor Underwood-Frost – is unable to attend the Committee meeting due to being in hospital. However, wishes that the Committee is aware of his comments.

Firstly, had not made any comments to date as was in hospital at the time the notification of the planning application was sent out and when returned the computer he had been provided with by the Council had technical problems and all memory including the notification was lost and therefore he did not receive the notification sent to make representations on.

Supports the officer recommendation for refusal of the application. The development would have detrimental effect on the local community and the protected areas like SSSI Sites and others.

Also the application would have an effect on protected animals and birds within Laughton Forest area.

Is aware that the applicant has requested that deferment of the application from the Committee meeting. Does not consider the application should be deferred as the applicant has already seen the issues related to noise and the application should be determined at the Committee today. The applicant could then re-submit the application again under the “free go” provision.

Applicant – having reviewed the Committee report, formally request the determination of the application be deferred pending the submission of further information to noise issues.

Oliver Craven, representing the applicant, commented as follows:-

1. All the conditions had been addressed except noise.
2. The applicant was prepared to address noise but had been prevented from doing so due to the wind conditions.
3. Requested a deferral to allow the applicant to address noise and to report the outcome of his investigations to the Committee in the near future.

Comments made by the Committee included:-

1. The need to distinguish between the noise levels at night and during the day.
2. The restriction of drilling to twelve hours, instead of twenty four hours.

3. The need to examine the imposition of a condition to mitigate the effect of light pollution if the application was deferred.

Comments by the Development Manager included:-

1. By the nature of the operation the applicant needed to operate drilling on a twenty four hour basis.
2. Noise level restrictions during the night were more stringent compared with during day time hours. A noise assessment considering the impact of the development from only daytime operations had not been undertaken.
3. Light mitigation measures would be examined if the application came back for approval.

On a motion by Councillor N D Cooper, seconded by Councillor D R Dickinson, it was

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RESOLVED (11 votes for and 0 votes against, with Councillor T M Trollope-Bellew abstaining because he was not present during the discussion)

That consideration of the application be deferred to the next meeting of the Committee to allow the applicant to examine noise mitigation measures and that if the recommendation is for approval then officers also consider mitigation measures to reduce light pollution.

- (5) To install an electrical substation, two transformers and install a 1.35MW gas engine at Keddington Well Site, Stewton Newkin Lane, South Cockerington - Egdon Resources UK Ltd (Agent : Barton Wilmore) - (E)N158/0415/13

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

East Lindsey District Council – no objection.

On a motion by Councillor N D Cooper, seconded by Councillor R Hills, it was -

RESOLVED (unanimous)

That planning permission be granted subject to the conditions detailed in the report and the reasons for granting permission include reference to East Lindsey Local Plan 1999 Alterations (Saved Policies 2007).

- (6) To construct concrete hardstanding area and to continue to use land and buildings for composting at St Catherine's Farm, Bellwater Bank, Eastville - Cranberry Composting Producers (Agent: Active BP) - (E)S47/0180/13

(Note: Councillor J M Swanson stated that he would speak but not vote on this application as he had spoken to both the Parish Council and the applicant about this application to see if there was anyway of seeking an agreement. He requested that the Committee should make a site visit and that the Parish Council should be invited

**PLANNING AND REGULATION
COMMITTEE
8 APRIL 2013**

to attend the site visit. He added that there was a need for the applicant to speak to the Parish Council in more detail about the application).

Comments made by the Committee included:-

1. If odour was a problem then it would be appropriate to make a site visit.
2. This was a controversial site and had a previous history of issues.
3. Enforcement was required to that element of the site where according to the Resident's Association there were problems of over storage.
4. If material was processed right away then there should not be any problem with odour.
5. There did not appear to be an odour assessment with the application.
6. Concerned about the effects of leachate.
7. It appeared that the applicant wished to achieve PAS 100 by this application. Should the application, if approved, stipulate a condition that PAS 100 should be achieved.
8. What did PAS 100 achieve?
9. Site visits were for members of the Committee only.
10. The public and the various agencies involved in applications should be reminded of the need to talk to each other to solve any problem.

Comments by the Development Manager included:-

1. The site already existed and that there was a potential for odour to already exist and therefore there was not a need for an odour plan. Also, the nearest resident lived 600 metres from the site.
2. It was difficult in the planning process to have a condition specifying the applicant needed to achieve PAS 100. All that was required was evidence from the applicant that he was trying to achieve PAS 100.
3. The applicant was providing drainage for leachate.
4. The applicant was currently using the material produced for fertilizer. By achieving PAS 100 this would allow him to sell his compost to garden centres for onward sale to the public.

On a motion by Councillor S F Williams, seconded by Councillor T M Trollope-Bellew, it was –

RESOLVED (11 votes for and 0 votes against)

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

Condition: Prior to construction of the concrete hard standing area hereby approved details of any necessary soak away shall be submitted for the written approval of the Waste Planning Authority. The scheme shall proceed in accordance with the approved details.

Reason: In order to ensure the development would not be detrimental to the general amenities of the area.

- (7) To vary condition no.6 of planning permission S35/2558/10 so as to remove the restricted hours of operation in relation to the western part of the site (Yard 2) at The Boundary, Gorse Lane, Grantham – Traynors Ltd (Agent: McCreanor & Co. Architects) – S35/0842/13

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

Comments from EHO (summarised) - The site is close to residential properties along Gorse Lane which experience a fairly low background noise level at evening/night time (37db). I agree that the acoustic report has not included other ancillary operations (such as fork truck movements) when assessing the breaking and bailing operations. The rated noise for a fork lift truck at 4m is 92db according to table 2 in the report where it has been assessed for vehicle offloading during a delivery. The composite noise level for an evening is quoted as 47db. The back ground level has been recorded as low as 37db which is +10db and I feel potentially may impact upon amenity if some of the early evening background levels were also low.

In some recent planning applications our planning committee have granted temporary approval subject to conditions but only for 12 months with a review after this time if there has been complaints received etc. A recent example was for a supermarket requesting 24 hour delivery.

Response from Development Manager - The EHO comments confirm that if some of the early evening background levels were low (as indicated by the noise assessment) then the additional operations proposed to take place outside the hours currently indicated by Condition No.6 could impact upon amenity.

In response to the suggestion of a 12 month temporary permission being granted should the Committee be minded to approve the application, paragraph 19 of the Officers report already explains why the measures recommended to be implemented to minimise noise impacts as contained within the noise assessment are not considered capable of being secured and/or enforced. Whether a development is permitted to operate temporarily or permanently, Officers must be satisfied that it can do so without having an adverse impact and/or conditions imposed are capable of being enforced. As this is not the case the Officers recommendation that planning permission is refused remains unchanged.

Patricia Hindmarch, an objector, commented as follows:-

1. She was Vice-Chairman of the Residents' Association.
2. Residential properties were in close proximity to the entrance of the applicant's site.
3. There had been problems with the site since 2002.
4. There had been 202 breaches of conditions and was concerned about the regulation of the site.
5. There was movement of HGVs outside the working hours of the site.
6. Complaints to the applicant had been met with derision.
7. It was important that any conditions applied to the whole of the applicant's site.

**PLANNING AND REGULATION
COMMITTEE
8 APRIL 2013**

8. By the removal of the hours of operation for all of the site would mean that the whole site would have no conditions.

Councillor A Stokes, the local Member, commented as follows:-

1. The report was balanced and he supported the recommendations in the report.
2. HGVs visited the site during the night.
3. The fact that the site was split in two caused problems for enforcement.

Comments made by the Committee included:-

1. Reference was made to a previous site visit made by the Committee.
2. The problems with access to the site and the location of the residential properties were well known.
3. Gorse Lane was not wide and noise was an issue.
4. Enforcement needed to be implemented as quickly as possible.
5. There was a need to protect residents from the effects of night working.

The Development Manager stated that enforcement of the existing conditions had been investigated. However, it should be noted that the site was split and currently only Yard 1 was subject of planning conditions retracting the hours of use. Yard 2 was where the bulk of the operations took place and this part of the site operated under an Established Use Certificate which had no restrictions on the hours of use. This application sought to amend a condition attached to a currently unimplemented permission and therefore the hours of operation cited could not currently be enforced.

On a motion by Councillor S F Williams, seconded by Councillor N D Cooper, it was –

RESOLVED (unanimous)

That planning permission for the variation of Condition No.6 as set out in the Council's Decision Notice reference S35/2558/10, dated 7 September 2011, be refused for the reasons as detailed in the report.

- (8) For a change of use to permit end of life motor vehicle dismantling and reclamation facility at NKR Motors, Gull Bank, Whaplode Drove, Spalding - MR Z Majid (Agent: Mr N P Branston) - H13/0068/13

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

Applicant - since the report was published the applicant has submitted a revised drawing indicating the possible provision of a fire hydrant on the opposite side of the road to the development site. This plan was produced in response to the comments made by the Fire and Rescue Service.

Response from the Development Manager– it is understood that there are already fire hydrants present 180m south and 300m north of the site. Although the applicant

has indicated their willingness to provide a fire hydrant the proposed location for the hydrant does not lie within land within the control of the applicant and also assumes that the water pipeline is of a suitable pressure and/or permission would be granted by Anglian Water (who owns the pipeline) to provide and service it. In any case, as indicated by paragraph 30 of the Officer's report, the availability of water for fire fighting purposes is not a material planning issue and therefore rather than impose a condition it is recommended that the comments of the Fire and Rescue Service be drawn to the attention of the applicant by way of an Informative.

On a motion by Councillor T M Trollope-Bellew, seconded by Councillor S F Williams, it was –

RESOLVED (unanimous)

That planning permission be granted subject to the conditions detailed in the report and that the comments of the Fire and Rescue Service in connection with the provision of a fire hydrant be drawn to the attention of the applicant by way of an Informative.

- (9) To install additional gas flaring equipment within an existing electricity generation compound at North Hykeham Landfill Site, Whisby Road, North Hykeham - Viridis Energy (Norgen) Ltd (Agent: Amber Energy Limited) - N43/0213/13

Since the publication of the report the Development Manager reported as follows:-

Development Manager - error in the report regarding size of the additional flare. The application and paragraph 8 of the Officers report states that the additional flare is smaller than the existing stack at approx. 6.9m high. However, the additional stack in fact is marginally taller than the current stack (which is cited as being approx. 7.85m high) and therefore the comments in paragraph 23 of the Officers report are incorrect. Notwithstanding this, given the location of the flare and the additional infrastructure and the adjoining EfW plant the conclusions regarding the visual implications of the additional stack remain the same and therefore continues to accord with the policies cited.

On a motion by Councillor R Hills, seconded by Councillor P Bedford, it was –

RESOLVED (unanimous)

That planning permission be granted subject to the conditions detailed in the report.

**PLANNING AND REGULATION
COMMITTEE
8 APRIL 2013**

- (10) For a wash plant within the existing recycling area for use in connection with the consented recycling operations and the construction of three recycled product stocking bays at Highfield Quarry, Bluestone Heath Road, Welton-le-Marsh - Welton Aggregates Limited (Agent: Hughes Craven Ltd) - (E)N199/2496/12

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

East Lindsey District Council – do not wish to raise any objections subject to the continued imposition of conditions to ensure that no hazardous or contaminated materials are brought to the site; that the recycling storage area is only in the area shown on the previously approved plans and in the bays shown on the current plans, and that the remaining conditions imposed in respect of the 2010 permission are re-applied but modified where necessary to take into account the current proposal.

Natural England – confirm advice contained in previous correspondence is still applicable although no objection was made to the original proposal. The proposed amendments relate largely to size and are unlikely to have significantly different impacts on the natural environment than the original proposal.

In response to an enquiry about where the applicant sourced his water as this was a porous chalk quarry, the Development Manager explained that the applicant would initially bring the water on to the site. However, the plant re-used and re-circulated the majority of the water used. There would be a need to import water from time to time to top up levels.

The Development Manager also confirmed that the Committee could determine the application before them instead of granting delegated powers to the Executive Director (as currently proposed in the recommendation). This was because no further comments had been received (other than those already reported) and the timeframe for making such comments had now expired.

On a motion by Councillor N D Cooper, seconded by Councillor T M Trollope-Bellew, it was -

RESOLVED (12 votes for and 0 votes against)

That planning permission be granted subject to the conditions detailed in the report.

69. PLANNING APPLICATION RELATING TO COUNTY COUNCIL DEVELOPMENTS

The Committee received one report from the Executive Director of Communities on a planning application relating to a County Council development.

Supplementary Report - to construct a four classroom extension and extend hard play area at Westmere Community Primary School, Anne Road, Sutton Bridge - H18/0018/13

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

RESOLVED (unanimous)

That planning permission be granted subject to the conditions detailed in the report.

70. LAST MEETING BEFORE THE COUNTY COUNCIL ELECTION ON 2 MAY 2013

The Chairman, on behalf of the Committee, stated that this was the Committee's last meeting before the quadrennial Election of Councillors on 2 May 2013 and took the opportunity to thank Members and Officers for their support to the Committee.

The meeting closed at 12.35pm

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