

WEST LINDSEY DISTRICT COUNCIL

MINUTES of a Meeting of the Development Management Committee held in the Council Chamber at the Guildhall, Gainsborough, on Wednesday, 14 December 2011 at 6.30 pm.

Present: Councillor Chris Underwood-Frost (In the Chair)
Councillor Stuart Curtis

Councillor Owen Bierley
Councillor Alan Caine
Councillor David Cotton
Councillor Richy Doran
Councillor Malcolm Leaning
Councillor Jessie Milne
Councillor Roger Patterson
Councillor Judy Rainsforth

In Attendance:

Mark Sturgess Director of Regeneration and Planning
Simon Sharp Development Management Team Leader
Dinah Lilley Democratic Services Team Leader

Apologies: Councillor Ian Fleetwood

Also Present: Councillor Stuart Kinch
11 members of the public

63 PUBLIC PARTICIPATION

There was no public participation at the meeting.

The Development Management Team Leader then updated the Committee on the response that had been sent to Mrs Robinson of Cherry Willingham Parish Council who had spoken in the Public Participation section of the previous Committee meeting.

“Re: Parish Council consultation – planning application for 220 berth marina, Fiskerton Road, Cherry Willingham

Thank you for your enquiry regarding the abovementioned matter that was raised by you on behalf of the Parish Council during the public participation period at West Lindsey’s Development Management Committee on 16th November 2011.

In response to the comments made, I can advise that the requirements for consultation of parish councils by local planning authorities are currently provided by part 3, art 23 of The Town and Country Planning (Development Management Procedure) (England) Order 2010. This Order states that a local planning authority shall not determine any application before either

- (a) the council of the parish inform them that they do not propose to make any representations;
- (b) representations are made by that council; or
- (c) a period of 21 days has elapsed.

This period relates to the consultation on the original plans, but I fully accept that it is best practice to consult parish councils on amended plans where those plans materially differ from those originally submitted and that the consultation period for the amended plans should elapse prior to a local planning authority making a decision on that application. West Lindsey commonly provide a period of 14 days for parishes (and other consultees) to make new, amend or withdraw any comments made on the original submission. We also always ensure that this reconsultation period has lapsed prior to determining planning applications.

In the case where applications are reported to our Development Management Committee, it is required that the agenda is published five clear working days before that Committee (the five days not including the day the agenda was published nor the day of the Committee itself). This means that the agenda item reports are finalised approximately seven days before the Committee. Whilst officers will start preparing a draft report for major applications some days before its final publication, nevertheless the report will always consider the latest plans and assess all of the issues that the officer considers to be material to the determination of the case, having included and assessed all representations that have been received to that date.

However if, as in the case of your comments for the marina application, they were received following the preparation of the agenda, but still within the consultation period, then the officer will make a judgment as to whether the comments received have been addressed in the report. If this is considered to be the case, then they will verbally advise members of the Committee as such at the meeting. It will be at the officer's discretion as to whether they also wish to read out a summary of the comments at the same time.

If the comments have not been addressed in the report, then it is practice that the officer will verbally report, in detail, the new issues raised by the parish (or any other consultee). They may also advise members that determination should be deferred to a subsequent meeting to allow full consideration of the issue(s) by officers and for the report to be amended to consider that issue. However, if the comments

are such that members consider that they have been furnished with all the necessary information to be able to fully consider the application, then the determination can be made by them at that meeting. With regard to the marina application, members considered that a site visit was required prior to further consideration and this will take place on Friday 2nd December 2011 following a similar visit to a site at Newton on Trent.

Finally, I note that you stated that an automated “out of office” response had been sent to us following our consultation to you by e-mail regarding the amended plans. I have checked our records and can confirm that we did not receive an out of office message after that contact on 25 October. Our procedure in the event of such a message being received would be to make contact with another representative or member of the Parish Council to establish an alternative point of contact. However, I would advise that it is the responsibility of parish councils to arrange forwarding to an alternative e-mail address or access to the in-box when the clerk or normal reviewer is not available. Alternatively, parishes should notify us in advance of an alternative mailing arrangement if it is necessary to temporarily forward correspondence to a different recipient. As a suggestion, we could also add a second e-mail address for all correspondence to reduce the risk of messages not being read.

I hope I have responded to your queries. This response will be reported to a meeting of West Lindsey’s Development Management Committee.”

Members requested that a copy of the letter be circulated to the whole committee.

64 MINUTES

Meeting of the Development Management Committee held on 16 November 2011

RESOLVED that the Minutes of the meeting of the Development Management Committee held on 16 November 2011 be confirmed and signed as a correct record.

65 MEMBERS’ DECLARATIONS OF INTEREST

Councillor David Cotton declared a personal interest in item 2 as having responsibility for the church in the area.

Councillor Malcolm Leaning declared a personal interest in item 2 as he was a member of the Witham Internal Drainage Board.

The Chairman asked committee members to consider their position in terms of items 1 and 2, following the site visits that had taken place. He advised

members that if they had not been able to attend the site visits they make the decision as to whether they knew the sites well enough to be able to take part in the deliberation on the applications.

Councillors Caine, Curtis, Doran, and Patterson noted that they had been unable to attend one or both of the site visits so would abstain from voting on the relevant applications.

66 UPDATE ON GOVERNMENT CHANGES TO PLANNING POLICY

There were no recent updates to report.

67 PLANNING APPLICATIONS FOR DETERMINATION (DM.20 11/12)

RESOLVED that the applications detailed in report DM.20 11/12 be dealt with as follows:-

Item 1 - 127112 – Cherry Willingham

Planning application for development of a 220 berth marina with access to the moorings from the river Witham and marina building incorporating a chandlery, workshop, cafe and customer facilities. Also, 40no. 2 bedroom holiday lodges, 24no. bedroom hotel with attached restaurant-bar, landscaping and open space improvements and improved access from Fiskerton Road East incorporating a right turn ghost island. Fiskerton Road Cherry Willingham

The Development Management Team Leader updated the meeting that although a further representation had been received, no new issues had been raised.

Cllr Alex Bridgwood of Cherry Willingham Parish Council addressed the meeting describing how the parish council had undertaken extensive consultation with residents and although there was broad support for the project there remained some concerns. Some previously expressed concerns had been addressed, but the parish council wished to see a legally binding provision regarding the footbridge, as it was felt that the bridge was essential for the success of the scheme. There were still serious concerns regarding highway safety and it was not felt that £5,000 was a significant enough contribution to allay those fears, and a roundabout would be a better proposal. Residents were not happy with the revised design of the buildings which it was felt were too big, stark and severe and would have a detrimental effect on the character of the area. The committee was requested to revisit the original design.

Mr Phil Scrafton (agent for the applicant) spoke on the application. It was acknowledged that this was a major scheme for the area and the site's relationship to neighbouring houses had been carefully considered and

revised accordingly. In terms of the design of the buildings, the architecture was proposed to mirror the agricultural nature of the area, and the overall scale and size was the same as existing buildings. Access to the site had been carefully considered and the applicant would enter into a legal agreement and would bear the whole cost of traffic calming. This was an exciting scheme which would enhance the village.

Clarification was given regarding some of the section 106 obligations; the £5,000 highways contribution was in addition to the highways access works required and another obligation secure a landing for a river crossing bridge in the eventuality of further funding becoming available for the construction of a bridge. Officers would pursue the possibility of securing the bridge, but this was not part of the application before the committee for consideration and, in the context of the CIL Regulations, should not be.

Members had had matters clarified on the site visit and were able to see for themselves the likely impact on the character of the area, noting that the buildings were to be located on low lying land and few houses in the area would have an unrestricted view. The prospect of new jobs at the venture was exciting for the area and fitted with the entrepreneurial aspirations of the Council.

Some concerns were raised regarding the construction traffic and the phasing of the development, but these were addressed within the proposed conditions. It was acknowledged that the bridge was not part of the application. Members also noted the similarities between the proposal and that at Burton Waters, which at the time had had some objections against it, but which now was a very successful venture and an asset to the area.

The recommendation was moved and seconded and all those members who had attended the site visit voted upon the proposal, the outcome of which was unanimous.

It was therefore **AGREED** that the decision to grant permission subject to the conditions detailed in the report be delegated to the Planning & Development Services Manager subject to the completion and signing of the section 106 agreement.

Item 2 - 127585 - Newton on Trent

Planning application for construction of water treatment works, pumping station and open reservoir.

Note Councillor Cotton declared a personal interest at this point as he knew the landowner at location 3.

The Development Management Team Leader updated the committee on further representations that had been received relating to the provision of footpaths between Newton on Trent and the neighbouring villages of Dunham

on Trent and Laughterton and the importance of public access to the area around the proposed pumping station and protecting the Trent Vale landscape in and around the Newton Cliffs. Letters had also been received from the RSPB and the Trent Vale Landscape Partnership. Further discussions had taken place between officers, the applicant and LCC highways regarding conditions 5 and 6 and the timing of construction of the access. The proposed revised conditions were read out in full.

5 No development of the pumping station and intake hereby approved shall take place until the improvements to the vehicular access to Dunham Road, Newton on Trent (A57) have been completed to binder level in accordance with drawing WAT-05046-LNCW-SS-PLG-039A Rev A dated 22nd July 2011 and to a specification that has previously been submitted to and agreed in writing by the local planning authority. The said access shall then be completed to surface course prior to the pumping station and intake being first brought into use.

Reason: As stated in report.

6 No development of the reservoir and treatment works hereby approved shall take place until the improvements to the vehicular access to Newark Road, Newton on Trent (A1133) have been completed to binder level in accordance with drawing WAT-05046-LNCW-SS-PLG-049A Rev A dated 22nd July 2011 and to a specification that has previously been submitted to and agreed in writing by the local planning authority. The said access shall then be completed to surface course prior to the pumping station and intake being first brought into use.

Reason: As stated in report.

Legal opinion had also been sought regarding the possibility of securing the footpath provision referred to by the Parish Council, and this opinion was also read out in full.

“S.106’s are governed by Circular 05/05 as amended by the CIL regulations.

The CIL regs made the following law:

1. necessary to make the development acceptable in planning terms,
2. directly related to the development; and
3. fairly and reasonable related in scale and kind to the development.

05/05 still exists and is still policy – the 5 point list in 05/05 adds:

1. in relevant to planning; and
2. reasonable in all other respects.

To me the difference between that now in law (CIL regs) is that law must be complied with, you don't have a choice, whereas the policy test could be drifted from where material considerations indicate otherwise.

I can see no circumstances where this development can give rise to a public footpath link as mooted. It is neither necessary nor directly related. If it were, I do not consider it to be fairly and reasonably related in scale and kind, although this last point is open for debate depending on the size of the proposed development if 1 & 2 could be met. As an example of the problem – I can see no reasons why these works would give rise to the need of any kind of public link; it is not as though we are putting a leisure complex or shop etc out into the countryside where you could argue a sustainable walking link is required; this is a pumping station, something which does not require public access at all (unless I am wrong on this (public access) point I don't think this has very far to run at all). This in my view is the kind of wider community infrastructure which CIL is designed to secure but it is not obtainable under s.106 as currently drafted.

Nick (Ethelstone) has told me that he is aware of case law which allows you to take infrastructure if offered. What Nick has forwarded to me does not in my view read that way – the case law Nick has send me would indicate this to be ok not if offered but if included in the application with a s.106 to secure/facilities (this is a slight difference but quite key in my view)."

Andrew Arden of Newton on Trent Parish Council spoke on the application and referred to when a bypass had been constructed some years ago which had encroached on the village green, and the amenity was required to be replaced in the village, and subsequently a play area and park were provided. The proposed application for the pumping station would also remove a village amenity – the area near the cliff had been used for sledging in winter by villagers for over 50 years and was subject to common rights. Legal advice had been sought. Mr Arden also referred to the danger to pedestrians from highway traffic and felt that this needed further investigation, as, if someone was killed on the road through the lack of a footpath, this would be due to the negligence of the committee to enforce the provision of a path.

The Chairman stated that advice would be sought as to whether there would be any culpability on the part of the committee's decision making.

Wendy Kilmurray of Anglian Water then addressed the committee setting out the reasons for the proposed scheme. Population had increased over recent years, leading to an increase in the demand for water. There was currently insufficient capacity and Ms Kilmurray described the proposed process of using water from the Trent, this being fed into the treatment works and would connect with other existing schemes. It was proposed to have minimal impact on the surrounding area, and acknowledgement had been made of the proximity of the Scheduled Monument and archaeological remains. Anglian

Water were working with the community and had liaised with the Parish Council and staged a public exhibition. Comments had been taken on board regarding a planting scheme, and cladding of the building was being considered.

Councillor Stuart Kinch spoke as Ward Member for the area and circulated maps to clarify his comments. Councillor Kinch felt that alternative options had not been sufficiently explored. The Fosdyke Canal was used by Severn Trent and in discussion with Anglian Water it appeared that they were not aware of an existing pumping station in the area. Councillor Kinch felt that there would be a massive impact on the area and that better solutions were possible.

Members discussed the issue of common land and agreed that this was a civil matter and not relevant to the planning application, but did have reservations as to the amenity impact on the area. The Development Management Team Leader noted that the issue of public access was referred to in the report and should not affect determination of the application. The benefits of the proposed location above other possibilities were also addressed within the report, however he could not respond on the proposed advantages of using the Fosdyke as an alternative, nor on the proximity of the potable water main.

It was moved and seconded that the application be deferred to enable further discussion and investigation to take place to assess alternatives, and to address further mitigation of the impact of the proposal.

It was **AGREED** that determination of the application be **DEFERRED**.

Note Councillor Leaning left the meeting at this point.

Item 3 - 127850 – Scothern

Planning Application for change of use from A1 - shop and post office - to residential use.

The Development Management Team Leader noted that a further representation had been received by email expressing support for the proposal.

The Ward Member noted that policy CRT4 stated that community facilities should not be allowed to be lost unless it could be proved that they were no longer economically viable. The application site had ceased to be a Post Office in 1999 and there had been no interest in resurrecting this facility. Other Post Offices were available within a couple of miles and there was a village store in Sudbrooke, the site itself was in a quiet cul-de-sac and therefore not an appropriate position for such a business.

Members acknowledged that it was sad to lose another village facility and many Post Offices had been lost in recent years, however there would be no virtue in refusing this application.

The Director of Regeneration and Planning referred to the Localism Act and the Register of Assets of Community Value, whereby sales of such assets would be restricted in order for communities to investigate purchasing such businesses themselves.

It was **AGREED** that **PERMISSION BE GRANTED** subject to condition.

68 DETERMINATION OF APPEALS

The Development Management Team Leader referred to a letter from the Planning Inspectorate which had been received by the Chairman and subsequently circulated to the committee members. The letter was in response to a communication which had been sent in July expressing the Council's concerns at DVDs not being accepted as evidence during an appeal. The Inspector stated that it was felt that they could not accept electronic evidence for appeals following the written representation procedure.

Members expressed concern at the Inspector's response and also regarding the appeal decisions that were appended to the report, one of which had been allowed. The committee felt that decisions were inconsistent with each other and were dependant upon which Inspector considered the appeals. Concern was also expressed at how much weight was afforded in appeals to the National Planning Policy Framework which was still at the draft stage.

The Development Management Team Leader informed the committee that, whilst the draft National Planning Policy Framework could be a material consideration, the Regional Plan should still be afforded full weight as part of the development plan and little weight given to the draft National Planning Policy Framework. He further assured the committee about the very high percentage of Council decisions that were subsequently endorsed by the Inspectorate

The Chairman asked that a further letter be sent to the Planning Inspector in response to that received regarding DVD evidence.

RESOLVED that the determination of appeals be noted.

69 CHAIRMAN'S CLOSING REMARKS

Reference was made by the Chairman to the comments made earlier in the meeting regarding culpability of the committee, and the Director of Regeneration and Planning assured the committee that he would discuss the matter with the Council's Monitoring Officer. The Director also noted that

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training sessions were in the process of being arranged through the Lincolnshire Association of Local Councils (LALC) on planning issues for parish councils.

The Chairman expressed his gratitude to Planning and Democratic officers and the caretaker for all their hard work throughout 2011, and thanks to the committee members for their support. He then wished everyone a merry Christmas and successful new year.

The meeting concluded at 8.20 pm

Chairman