

## WEST LINDSEY DISTRICT COUNCIL

MINUTES of a Meeting of the Planning Committee held in the Council Chamber at the Guildhall, Gainsborough on Wednesday 9 January 2013.

**Present:** Councillor Chris Underwood-Frost (Chairman)  
Councillor Stuart Curtis (Vice Chair)

Councillor Owen Bierley  
Councillor Alan Caine  
Councillor David Cotton  
Councillor Richard Doran  
Councillor Ian Fleetwood  
Councillor Malcolm Leaning  
Councillor Giles McNeill  
Councillor Jessie Milne  
Councillor Roger Patterson  
Councillor Judy Rainsforth

**Apologies** No apologies had been submitted

**In Attendance :**  
Nick Ethelstone Acting Head of Development and Neighbourhoods  
Simon Sharp Senior Growth Strategy and Project Officer  
Dinah Lilley Governance and Civic Officer

**Also Present** Councillor Lewis Strange  
Councillor Paul Howitt-Cowan  
35 members of the public

The Committee Chairman opened the meeting by welcoming everyone and wishing all a Happy New Year. The Chairman of the Council (Councillor Jessie Milne) responded by welcoming the Chairman back following his illness.

### 48 PUBLIC PARTICIPATION

There was no public participation.

### 49 MINUTES

Meeting of the Planning Committee held on 28 November 2012.

**RESOLVED** that the Minutes of the meeting of the Planning Committee held on 28 November 2012 be confirmed and signed as a correct record.

## **50 MEMBERS' DECLARATIONS OF INTEREST**

Councillor Giles McNeill declared a non-pecuniary interest in item 1 as being employed by Edward Leigh MP who had commented on the application.

Councillor Jessie Milne declared a non-pecuniary interest in item 1 as being employed by Edward Leigh MP who had commented on the application.

## **51 UPDATE ON GOVERNMENT CHANGES TO PLANNING POLICY**

The Senior Growth Strategy and Project Officer gave a verbal update on the Government's Energy Bill, as had been requested at the previous Committee meeting.

The Bill included the following measures:- Electricity Market Reform (EMR); the Introduction of an Strategy and Policy Statement; Consumer Redress Orders; Creation of the Office for Nuclear Regulation; and Government Pipeline and Storage System (GPSS). A more detailed summary had been circulated to Members.

## **52 PLANNING APPLICATIONS FOR DETERMINATION (PL.10 12/13)**

**RESOLVED** that the applications detailed in report PL.10 12/13 be dealt with as follows:-

### Item 1 – 128606 - Normanby by Spital

Planning application to install two 50kw wind turbines and ancillary works - 35m height to tip of blade at Heath Farm Normanby Cliff Road Normanby-By-Spital.

The Senior Growth Strategy and Project Officer introduced the item by reading out the following statement

“We have received four additional representations since the consideration of the application at the November meeting of the Planning Committee.

Two of the representations, one of which is from the Parish Council, raise no new issues that haven't already been covered in the officer's report. Of the other two representations, one was received from a West Lindsey resident and the other was from the MoD. The letter from the resident was attached to an e-mail from me to you earlier today and I have previously advised you of the comments of the MoD.

However, it is considered necessary to make comment on both of these representations at this time before members consider the application.

With regard to the MoD comments, their latest comments respond to a question from the vice-chair when he chaired the November meeting of this Committee. The query was whether the MoD would object to lower turbines at a location much nearer to the Heath Farm complex than currently proposed in this application. The MoD has confirmed that they would not object to two turbines with a hub height of 18.3m and a tip height of 24.8m in this alternative location. Nevertheless, the application should not be refused on the grounds of there being an alternative development that may be considered preferable and the application should be considered on its own merits.

Turning to the matters raised in the letter from the resident, specifically consideration of the Equality Act and the impact of the proposed development on children with an autistic condition, cerebral palsy or others at risk, I will firstly read out this letter and then I advise, Chair, that a period of time is provided for members to read the letter if they haven't already done so.

The Senior Growth Strategy and Project Officer then paused to read out the letter addressed to Councillor Strange from Mr Hale of Hemswell dated 6th December 2012 (but received by West Lindsey officers on 8th Jan 2013) in full.

This letter had previously been e-mailed by the Senior Growth Strategy and Project Officer to the members of the Planning Committee earlier in the day and members confirmed to the Chairman that they had read and considered the comments of this representation.

The Senior Growth Strategy and Project Officer then resumed reading his pre-prepared introduction, a paper copy of which had been circulated to members.

“The Equality Act 2010 places a positive duty on public bodies to have due regard to the need to eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Act; to advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it; and to foster good relations between persons who share a relevant protected characteristic and persons who do not share it. Protected characteristics include: age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex and sexual orientation. The duty imposed applies in the exercise of the Council's functions, including planning decisions which have equality implications.

The amount of regard to be had to the duty will depend on the circumstances of the case, but the greater the potential impact of the decision in planning terms, the greater the regard that must be had. Where a proposal would have a potentially negative effect on any of the protected characteristics the requirement to have due regard under the Act would entail evaluating the

extent of the effect on affected persons and considering whether there are any means by which they may be mitigated.

In terms of this specific case we are aware that a field approximately 330m from the nearest of the two turbines appears to be used up to 29 times per calendar year for horse riding including by a riding club and that some of the riders include children with conditions such as autism. The site on which these equestrian activities are taking place is not in planning terms an authorised equestrian site; there is currently no planning permission in place for such a use and for the majority of the time it has the appearance and function of a field in agricultural use. The riding club is not based at the field.

Nevertheless, the field can be used up to 28 days in any calendar year for such a use without the need for the express granting of planning permission.

In this context, the impact of the proposed development on this use needs to be considered and reference is indeed made to this and the letters referring to this matter in the officer's report. It appears that all but one of the letters refer to children with autism using the site for horse riding in a generic sense but one copy of a letter from a person with an autistic child using the field for riding their pony has been received.

This specific case needs to be considered.

The child is 16 years old and the representation states that her disability means that she is only able to ride in safe enclosed settings. She cannot be allowed on the roads on her own. Her autism creates many problems for her and her specific sensitivity is noise. She cannot, for instance, enjoy many normal family activities such as a cinema visit. Riding is for her, a quiet, calming activity. A parent fears that the wind turbines so close would cause this child enormous problems from the noise – as this parent considers that turbines do make quite a lot of noise and a peculiar one at that.

In response, I would refer members to the sections on Residential Amenity (noise and flicker) and Health in the officer's report. The distance of the turbines to the field would mean that, even at 100m distance, the noise from the turbines would have reduced to 35 dBA at a 5m/s wind speed.

With regards to the more general impact on the health and wellbeing of the community and users of the field for equestrian use, excepting the specific case detailed above, the officer's report considers the matters of health and amenity and the use of the field for equestrian use and concludes that permission should not be withheld on these grounds.

Nevertheless, it is open for members to defer the application to seek further information on specific children and adults who use the field although no one would be under any obligation to come forward and provide details. The application has been publicised widely in accordance with and beyond the statutory requirements

The weight to be attached to this matter is for members to decide having regard to the information before them. I would also advise members that, if they consider that weight should be afforded to this matter and the development should respond to it, then a condition requiring a risk assessment and mitigation measures could be imposed. Such a condition would, for example, require the turbines to be stopped when children with certain conditions, including if necessary the specific child referred to above, are at the field for riding. Such a condition would pass the tests in circular 11/95 and specifically would not be unreasonable to the developer given that this would only prevent the turbines from being in use a maximum of 28 days per calendar year (the maximum period the field can be used in the absence of an application for planning permission having been granted).

This advice has been provided following consultation with and agreement by our legal advisers and they consider that members can determine the application this evening but the issues above must be fully considered along with all the other material planning considerations raised in the report before making a decision.

Finally, we have included a PowerPoint presentation from the objectors in the Council PowerPoint. It includes montages prepared for the objectors but they are considered to misrepresent the impact of the turbines. A PowerPoint presentation from the applicant is also included.”

Prior to consideration of the application Barbara Moulson, representing Normanby by Spital Parish Council, addressed the Committee. Mrs Moulson briefly noted that the Parish Council had opposed this application, and the previous, on the grounds of the turbines' proximity to the village and its residents, and the impact on the open countryside and landscape. Parish meetings had been well attended and there was overwhelming public support, including a 150 signature petition, and support from the local MP.

The applicant's agent, Steve Catney then addressed the meeting, and informed Members of the cost of power supply to the business, which employed local people. The business wanted to have minimal impact on the community, and had looked at alternative solutions, but had determined that the proposed turbines provided the most cost effective solution. Gaia turbines would produce a much lesser output so more of these turbines would be needed, thereby being non-viable. The applicant was concerned about the impact on the equestrian business, and had requested a risk assessment, and attempted to engage with the riding club. It was noted that it would be easy to carry out the required mitigation for 28 days per year, which the field would be in use by the riders.

Mr Richard Armstrong, representing the objectors, noted that comments from the applicant relating to flicker and its effect on autism, were not relevant as it was the fixation to movement which was the issue. Other matters to consider were: road safety and the potential for accidents, the scale of the turbines were disproportionate to their surroundings; and the proposal was against the Council's Green Energy Statement and Planning Policy statements. On the

site visit undertaken by the Committee balloons had been displayed at a height of 25-35m, however these did not give a representation of the stem of the turbine. Green energy was desirable, but not in the middle of an open field, smaller turbines closer to the farm would be better, or even in combination with an anaerobic digester.

As the local Ward Member was not present, the Chairman used his discretion to allow the County Councillor to speak on the application. Councillor Strange supported the objectors, and their concerns regarding the impact on the outlook of the nearby villages. Councillor Strange respectfully requested the Committee to defer the application for more consideration to be given to the advice received regarding the impact of turbines on autism sufferers.

Councillor Cotton, as the Member Champion for Equality and Diversity moved that the report be deferred in order for expert opinion to be given regarding autism.

The Senior Growth Strategy and Project Officer informed Members that legal advice had been sought and that the report took into account all material considerations, so there was no reason not to determine the application. The Autism Society had also been contacted, and they had advised that Autism was a spectral condition and each individual was affected differently and there would be no single definitive response. The applicant's offer to stop the turbines working whilst children were in the nearby field would be an acceptable condition to attach to the permission.

Members commented on the lateness of some of the representations, and it was affirmed that there was a closing date for comments to be received, however if it was considered that a late representation contained information that was considered useful to the committee, or raised new issues not already addressed in the officer's report, then it was appropriate to bring them to Members' attention.

The motion to defer the application was seconded, and subsequently voted upon. **The motion to defer was not agreed.**

Members then discussed potential policy justification to refuse the application and sought officer advice. The Senior Growth Strategy and Project Officer advised members that it was not for officers to suggest reasons for refusal should members be considering overturning the recommendation. However, officers could advise as to whether policies were relevant and confirmed that policy NBE10 was, as were parts, but not all, of policy STRAT1. The officer also read out policy NBE10 in full. Members then discussed whether the application could be refused on the basis of being contrary to policy NBE10 due to visual impact. The officer suggested that Members should quote the policy but also be explicit and site specific about the impact.

The recommendation to approve the application, as set out in the report was then voted upon and lost.

**Note:** Councillor Malcolm Leaning requested that his vote to grant permission be recorded.

The Committee then voted on a refusal to grant the application. It was then **agreed that permission be REFUSED** for the following reasons:-

The development is contrary to saved policy NBE10 of the West Lindsey Local Plan First Review 2006 in the fact that it has a detrimental impact on the visual amenity of the open area. The scale, design and materials of the turbines are totally out of character with the area. The development will also affect views of Lincoln Cathedral from the open area.

The development is contrary to saved policy NBE20 of the West Lindsey Local Plan First review 2006 as it detracts from the rural character of the settlement edge and contrary to saved policy STRAT1 part vi of the West Lindsey Local Plan First Review due to its impact on the character, appearance and amenities of neighbouring and other land, including its visual encroachment into the countryside.

It is also contrary to saved policy STRAT1 part vii of the West Lindsey Local Plan First Review due to its impact on the character, appearance and setting of historic assets including Listed Buildings.

**Note:** Councillors Cotton, Rainsforth and Doran requested that it be recorded that they had abstained from voting.

### **53 PRECONSIDERATION OF A SITE VISIT TO CHERRY WILLINGHAM**

**RESOLVED** that the Committee undertake a site visit to Cherry Willingham for planning application 129269 - Erection of 32 dwellings, including 24 affordable housing units at land opposite 55-77, Waterford Lane, Cherry Willingham prior to subsequent consideration at Planning Committee.

### **54 DETERMINATION OF APPEALS**

**RESOLVED** that the determination of appeals be noted.

The meeting concluded at 8.12 pm.

Chairman