

PLANNING COMMITTEE 21 May 2013
LIST OF LATE ITEMS RECEIVED AFTER PREPARATION OF MAIN AGENDA:

ITEM 01

12/01125/REM

Bellway Homes East Midlands

Introduction:-

During the course of the application representative samples for the construction of the proposed dwellings and garages have been received.

Consultations:-

No objections from Head of Community Services (Land Drainage).

No objection subject to the conditions from:-

Head of Business Development and Street Scene Services (Waste Minimisation)
The Environment Agency.

Appraisal:-

Materials (Condition 3)

There are five proposed brick types, with a further two detailing bricks and four roof tile samples.

Whilst the Ibstock Lenton Cream Multi - the only buff brick proposed on site is lighter/paler than that of surrounding buff brick properties, it is considered that this brick type is welcomed as it breaks up the other more traditional red brick types.

Overall the brick and roof tile of varying colours and textures provide variation and add interest as such Condition 3 can be removed.

Drainage

In response to the Environment Agency, the outline consent is subject to a condition (condition 12) requiring a scheme incorporating Sustainable Urban Drainage to limit surface water run-off, has to be submitted to and approved in writing by the Local Planning Authority. As such there is no requirement to further condition drainage plans at this reserved matters stage. Accordingly the applicant will be required to discharge condition 12 attached to the outline planning consent.

Recommendation:-

Remove of condition 3.

ITEM 02

12/01098/FUL

Mr & Mrs Peter & Theresa Aspinall

Introduction:-

This application is to be considered at Planning Committee in accordance with the Scheme of Delegation, at the request of Councillor Ozzy O'shea.

Consultations:-

One further letter of neighbour representation has been received this raises the following issues:-

- a) there are discrepancies on the submitted plans. Distances between the proposal and residential property boundaries are incorrect

- b) Concerns that it is stated that the supporting documents carry no weight
- c) issues of 'Flash' have not been fully considered within the report
- d) impacts on horses and the associated Health and safety risks
- e) Human rights issues
- f) impacts of shadow flicker
- g) impacts on bats and birds, no ecology survey has been conducted.

A letter of representation has been received on behalf of residents from Marrons, this raises the following issues with the officers report:-

- a) policy BE27 requires the development to be sensitively located in relation to the existing landform and landscape features, not be unduly prominent in view from viewpoints and not have a detrimental impact on surrounding properties in terms of noise and other forms of nuisance
- b) as such if it is unduly prominent and have a detrimental impact it would be contrary to the development plan
- c) the Character Assessment sets a relevant and important context and trust that members will have proper regard to the Character Assessment and the site being 'highly sensitive and with limited capacity for change', the officer report says it is not material, this is plainly wrong
- d) the report dismisses the British Horse Society guidance note as only being relevant to bridleways and not material to the determination of the application
- e) the officer suggests that the guidance documents and reports referred to in the letters of representation carry no weight in the determination of the application. The weight given to the documents is entirely a matter for the members of the planning committee but it is not our view that they should be given 'no weight'
- f) the report fails to deal with the objections based on 'flash' and that it is not possible to eliminate it. Flash causes the most severe risk to photosensitive epilepsy and health and safety risks to horse and rider
- g) perceived health risk has been dealt with in such a cursory manner and down played as a material consideration
- h) the consideration of Human Rights is not balanced within the committee report
- i) the interference on our client's human rights is profound.

MP David Tredinnick raises the following issues:-

- a) concerns over the impacts on surrounding residential properties including impacts on health and safety, wellbeing, and the negative impacts on amenity

Councillor Sue Sprason raises the following objections:-

- a) number of neighbours are extremely distressed at this application
- b) health concerns - one being epilepsy of which one of the tenants in the neighbouring property suffers from a severe form of which is exasperated by flickering lights, this is dismissed in the officers report as not being serious
- c) various equestrian people state that the wind turbine will effect young horses behaviour
- d) too close to neighbours, surely there is a limit of distance from houses?
- e) selfish on the applicant's part causing extreme distress to the neighbours and is a form of anti social behaviour.

County Councillor David Sprason raises the following issues:-

- a) sighting will have a negative impact on the amenities of surrounding residential properties
- b) sustainability of the turbine.

Appraisal:-

The main report considers the issues and concludes that the development is in conformity with the development plan.

The main report already addresses the concerns, however to re-iterate some points:-

The Hinckley and Bosworth Landscape Character Assessment is an evidence based document used to inform policy making. It is material in the determination of any application, however as it is not a formal adopted development plan document the amount of weight to be given needs to be balanced against the nature of the development and other policy positions. In this instance as there is a presumption in favour of renewable and low carbon energy supply proposals in the NPPF the amount of weight is limited.

As previously considered rights under Article 8 of the Convention Rights and Article 1 of the First Protocol are not absolute rights but qualified ones.

The British Horse Society has an advisory statement which contains advice on issues relating to rights of ways or roads. The advice contained within the Companion Guide to PPS22 (paragraph 56) refers only to exclusion zones around bridle paths.

Paragraph 76 within the Companion Guide to PPS22 states that shadow flicker can be mitigated by siting wind turbines at sufficient distance from residences likely to be affected. Flicker effects have been proven to occur only within 10 rotor diameters of a turbine. All residential properties are outside of the 10 metre rotor diameter.

Paragraph 78 within the Companion Guide to PPS22 states turbines can also cause flashes of reflected light, which can be visible for some distance. It is possible to ameliorate the flashing but it is not possible to eliminate it. Careful choice of blade colour and surface finish can help reduce this effect. Light grey semi-matt finishes are often used for this.

Accordingly whilst the proposed tower is proposed in matt grey the blades are proposed in white, there is a condition imposed requiring details of materials and colour finish, which if members consider flash an issue, could be re-considered to secure a grey semi matt finish for both the tower and blades.

Concerns have been raised that once the government grant has been removed, the turbine will no longer be sustainable and will remain as an unwanted structure on the landscape. This does not constitute a material planning consideration as there is not a requirement to demonstrate need. However condition 8 of the main report requires a Decommission Method Statement for removal if the turbine ceases to operate for a continuous period of 6 months.

ITEM 03

12/01141/FUL

Plesvale Ltd

Consultations:-

One additional objection has been received and following re-consultation two additional objections have been received.

The additional comments relate to the initial objection from the Director of Environment and Transport (Highways) and comment upon the conceded position which does not in the opinion of the objector overcome the principle highways objections and will result in reduced accessibility to the neighbouring unit which share the access.

ITEM 04

12/01045/EXT

Mr Jagtar Singh

Appraisal:-

A Unilateral Undertaking pursuant to section 106 of the Town and Country Planning Act 1990 has been completed to secure developer contributions towards the provision and maintenance of off-site play and open space.

Recommendation:-

Amend recommendation to:-

Permit subject to the following conditions.

ITEM 05

12/01121/FUL

Mr Roger Neep

Consultations:-

The Joint Radio Company has confirmed the following:-

"Our buffer (or coordination zone) is 500m for a small turbine and 1km for a larger turbine (>32m rotor diameter). However, is not a "no go" buffer as in the case for other fixed links. The turbine can be placed inside these buffer zones but only with detailed analysis and this is therefore done on a case by case basis taking into account the lay of the land, the position of the turbine in relation to the link and also reflections caused by the turbine.

This means that each position is cleared at the position quoted in our response using the turbine dimensions quoted and any movement that is required due to site constraints, change of turbine size etc will need to be re-evaluated.

From looking at the plan the position shown is the one we have cleared in our email to the council. Providing these details do not change then JRC will have no objection."

36 letters have been received raising the following comments:-

- a) prominent position overlooking Desford
- b) close proximity to houses
- c) not sensitively located so as to minimise visual impact; Contrary to BE27 criterion b
- d) impact upon the amenity of residents is contrary to Policy BE1
- e) badger survey required to ensure the sett is not damaged
- f) ruin the view of the fields; blight on the landscape; eyesore
- g) explain why a turbine of such immensity is required on top of a hill
- h) would a tower block of houses be considered in this position, I think not
- i) noise pollution
- j) renewable sources of energy should not be at the cost of residents
- k) area is haven for wildlife and development would be harmful to this
- l) depreciation of house prices
- m) the Wind Turbines (Minimum Distances from Residential Premises) Bill has passed its first reading and is awaiting its second and should become mandatory law from 1 Jan 2014; the Act will prohibit a wind turbine of this height from being erected any closer than 1 km
- n) do not permit this turbine in a location that is shortly going to be unlawful through parliamentary law
- o) the cost of manufacture and transport to the site is hardly eco friendly
- p) lorries through the village have increased at an alarming rate
- q) village suffers from traffic noise, Desford being used as a cut through
- r) 84% of the villagers will be able to see this from their homes
- s) pastimes of walking, horse riding, flying model aeroplanes would be spoilt by the intrusion of a turbine on the landscape
- t) abuse of the democratic process, lack of consultation
- u) Lib Dem members have agreed to conspire to put these type of applications through regardless of their "democratic" title, and responsibility to the electorate.

Comments on the Plan

- a) there is a large area shown coloured white on the revised plan
- b) it is naïve to take at face value comments made on behalf of the applicant at the last meeting; The planning committee and Councillors must be given the true data

- c) the applicant has placed the turbine as far as possible from his own residence to alleviate the toxic effects on his own property
- d) more suitable site nearer to the owner's own property which will fit in better with the industrial area of Caterpillar
- e) alternative location would be on a more elevated location and would generate more wind flow
- f) planning committee is being misled by being given a false layout to rule out land nearest to the applicant's residence leaving only a site nearer to the village
- g) the 50 kw turbine should be sited 350 metre away from neighbours and is recommended for use by larger farms and commercial and industrial sites
- h) the Fisher German letter states the turbine requires a minimum clearance of 220 metres yet the distance is 194 metres
- i) areas are excluded as there might be newts within 500 metres of a pond next door - there is also a pond to the north of Meadow Way that is only 400 metres from the proposed turbine location - surely this must be excluded for the same reasons?; There is a pond and a ditch and a further pond and there is no mention of either of these
- j) pond only has potential, not actual
- k) pond exclusion zone only needs to be 100 m not 500 m
- l) another pond but no less significant to the proposed site as detailed on the map just north of the hedgerow off Meadow Way and therefore a similar clearance should be given
- m) has the council received any factual evidence that these protected amphibians are present?
- n) no mention of protected species on part 13 in the application form, ecological consultant should be sought
- o) application 10/00235 has an ecology report to Alder Hall and no Great Crested Newts were found there
- p) did the Chairman say that if it was found that the applicant was lying about the only possible siting of the turbine being where it is then the application would be rejected?

MP David Tredinnick raises the following observations:-

- a) equivalent to 14 storey building
- b) only 220 metres from residential properties
- c) clear view from the village of Desford
- d) directly impact upon amenities such as footpaths, bridleways and Sport in Desford
- e) growing body of research about detrimental impact in terms of health
- f) noise and sleep loss and link to photosensitive epilepsy through the flicker effect
- g) increasingly agreed the safe distance is 1.5 to 2 miles
- h) given relatively low generating levels difficult to argue it is sustainable, particularly with associated construction work
- i) concerned that the Council has not consulted the community of Desford more widely, the scope should be extended
- j) despite limited consultation, significant number of local residents have objected.

Councillor Paul Bessant raises the following objections:-

- a) will be visible from 85% of Desford
- b) 13 stories high
- c) 200 metres from nearest residential properties
- d) Lack of consultation
- e) Disregard for the communities opinion.

Councillor Michael Mullaney raises the following concerns:-

- a) The radio link north from Forest View Farm shown on the plans with a 300m wide exclusion zone that excludes almost all of the area does not exist
- b) The 'Newt Check' has never been carried out; the exclusion zone only needs to be 100m from the pond, and not 500m as stated. This would release multiple alternative and preferable sites and consequently the turbine could be located further away from residents.

County Councillor David Sprason raises the following concerns:-

- a) the siting of the proposal would have a negative impact on the residential amenity of surrounding properties.
- b) Issues surrounding the sustainability of the proposal.

Appraisal:-

The Wind Turbines (Minimum Distance from Residential Premises) Bill 2012-13 was at the first stage of reading in the House of Lords 14 May 2012, with the date for the second reading yet to be confirmed it is still some considerable way off being a material planning consideration in relation to such distances.

The remainder of the comments raised have been addressed within the report.

The application needs to be determined on its own merits. There is no requirement for applicants to demonstrate that there are no alternative sites that are more suitable. Members need to consider whether the siting is acceptable as proposed and cannot make a decision based on whether there is a more preferable site available.

Concerns have been raised that once the government grant has been removed, the turbine will no longer be sustainable and will remain as an unwanted structure on the landscape. This does not constitute a material planning consideration as there is not a requirement to demonstrate need. However condition 9 of the main report requires a Decommission Method Statement for removal if the turbine ceases to operate for a continuous period of 6 months.

ITEM 07

13/00086/FUL

Mr C Whitby

Consultations:-

Leicestershire and Rutland Primary Care Trust: - Do not wish to provide a response due to the size of the development falling below the threshold and it being flats.

ITEM 15

13/00138/FUL

Mrs Katharine Griffiths

Consultations:-

No objection received from Head of Community Safety (pollution).

ITEM 16

13/00227/FUL

Mr T Clinton

Introduction:-

The description of the proposal has changed to:-

Change of use from B2 to B8 storage/distribution, addition of internal first floor offices, insertion of additional windows at first floor level and expansion of car park, including bund (part retrospective).

Appraisal:-

Amended plans were received addressing inaccuracies between the originally submitted plans and what was observed on site during the officer's site visit, in particular works to the reconfiguration of the car park.

The extension to the parking and turning areas encroaches into flood zone 2. Following consideration it is not considered that the development falls within a category which the Environment Agency should be consulted upon. The proposal includes a small earth bund and hard surfacing within the flood zone. The

development is therefore considered to be a low risk as there is little harm should the car park flood and the bund is not considered to be so big to result in a serious flood risk to other properties. The proposal is therefore considered acceptable.

A further 10 day consultation has taken place with neighbours that expired 20.05.13 and the description has been amended to reflect the proposed changes.

PLANNING COMMITTEE

21 MAY 2013

SPEAKERS

Item	Application	Speaker(s)	Applicant/objector
02	12/01098/FUL	Mr Parkes Mr Eburne	Objector Agent
03	12/01141/FUL	Mr Gibson Ms Adams	Objector Agent
04	12/01045/EXT	Mr Kirby	Objector
05	12/01121/FUL	Mr Marrant Mr Armfield	Objector Applicant
06	13/00055/FUL	Mr Bennett	Agent
07	13/00086/FUL	Mr Blackwell	Objector
09	13/00089/EXT	Barwell Parish Council Mr Khour	Objector Agent
10	13/00198/FUL	Mr White Mrs Ashby	Objector Applicant