

North Yorkshire County Council

Planning and Regulatory Functions Committee

Minutes of the meeting held at County Hall, Northallerton on 19 December 2017 at 10.00 am.

Present:-

County Councillors Peter Sowray (Chairman), David Blades, Eric Broadbent, Caroline Goodrick (as substitute for Zoe Metcalfe), Robert Heseltine, David Hugill, Mike Jordan, Richard Musgrave, Chris Pearson, and Clive Pearson.

There were 8 members of the public in attendance.

Apologies for absence were submitted by County Councillors Zoe Metcalfe and John McCartney.

Copies of all documents considered are in the Minute Book

36. Minutes

Resolved -

That the Minutes of the meeting held on 24 October 2017, having been printed and circulated, be taken as read and confirmed and signed by the Chairman as a correct record.

The Head of Planning Services provided a brief update on reported breaches of the Transport Plan and conditions in relation to the Kirby Misperton fracking site, noting that operational control was resulting in the Police having to divert vehicles along alternative routes to avoid routes blocked by protestors, and that the Police had to be adhered to in these circumstances, in the interests of safety.

37. Declarations of Interest

There were no declarations of interest.

38. Public Questions or Statements

The representative of the Assistant Chief Executive (Legal and Democratic Services) stated that, apart from the people who had registered to speak in respect of the applications below, and who would be invited to do so during consideration of those Items, there were no questions or statements from members of the public.

39. Approval of Safety of Sports' Grounds Policy

Considered -

The report of the Corporate Director - Business and Environmental Services seeking approval for a Safety of Sports' Grounds Policy to facilitate the discharge of statutory duties under the Safety of Sports Grounds Act 1975 and the Fire Safety and Safety of Places of Sport Act 1987.

The report set out the regulation of sports grounds, the County Council's draft policy in relation to the safety of sports grounds and the delegation of authority to the Planning and Regulatory Functions Committee. Details of how the policy would be implemented, who would be affected by the policy and the specific requirements of the policy were outlined.

It was noted that a "regulated stand", set out in the policy, which related to covered accommodation for 500 or more spectators, included covered areas for standing or seating.

Resolved -

- (i) That the draft policy, for use with immediate effect, be approved; and
- (ii) That the policy be reviewed on an annual basis.

47. Application for a Safety Certificate pursuant to Section 26 of the Fire Safety and Safety of Places of Sport Act 1987

Considered -

The report of the Corporate Director - Business and Environmental Services, asking Members to determine an application for the issue of a General Safety Certificate under Section 26 of the Fire Safety and Safety of Places of Sport Act 1987 in respect of the Wetherby Road Stand, "The Regulated Stand", at Harrogate Town Football Club.

A representative of the Corporate Director - Business and Environmental Services, provided details of the application in relation to the Wetherby Road Stand at Harrogate Town Football Club noting that the covered stand that this related to had a calculated capacity of 878. The preliminary determination was notified to Harrogate Town Football Club by letter in April 2017, which became a final determination on 13 June 2017.

The Managing Director of Harrogate Town Football Club, Gary Plant, was considered to be a suitably qualified person, in accordance with the requirements set out in the appropriate Act, for the Certificate to be issued to.

It was noted that Environmental Health were awaiting the issuing of gas safety and electrical safety certificates, at the time of the writing of the report, but it was expected that these would be in place by the date of this meeting.

A copy of the draft Certificate was appended to the report.

Members undertook a discussion of the application and the following issues and points were raised:-

- ◆ A Member noted that training exercises in relation to emergency procedures, as set out in the plan of action, related to the Certificate, should be undertaken annually and he asked whether these would be monitored. In response it was stated that it was expected that these would be table top exercises and suitable officers from the Safety Advisory Group, and other appropriate organisations, would be in attendance when these were undertaken.
- ◆ Clarification was provided that it was expected that the gas and electric safety certificates would now be in place.

- ◆ A Member noted that the report referred to North Yorkshire Police requiring some additional information to be added to the Operations Manual and he asked what this related to. In response it was stated that the issues were in relation to the segregation of fans within the stand and noted that the Police were working closely with the Football Club to address this matter and ensure that it was included in the operating plan.

Resolved -

That a General Safety Certificate under Section 26 of the Fire Safety and Safety of Places of Sport Act 1987, is issued to Gary Plant, in respect of the Wetherby Road Stand, "The Regulated Stand", at the Harrogate Town Football Club, subject to the following condition:-

- (i) Officers should review the terms of the General Safety Certificate at least annually and make any amendments to capacity as required under the Officers' Delegation Scheme. Any amendments to be reported to the Planning and Regulatory Functions Committee following the Annual Meeting of the Multi-Agency Safety Advisory Group.

County Councillor Caroline Goodrick declared a non-pecuniary interest in respect of Items 41 and 42 below in relation to her being a Member of Ryedale District Council's Planning Committee.

- 41. C3/16/01918/CPO – (NY/2016/0194/ENV) - Erection of a Green Energy Facility (6,342 sq. metres) (energy from waste via gasification), office reception building (91 sq. metres), substation and switchroom (39 sq. metres), air cooled condenser (195 sq. metres), installation of a weighbridge, earthworks, 20 car parking spaces, extension to internal access road, landscaping and associated infrastructure, including a local connection via underground cable (340 metres) to the 11kV grid via a proposed substation at land south of Knapton Quarry/Landfill as well as an underground connection (Option 1: 5.26 km and Option 2: 8.25km) to the 66kV grid via the primary substation at Yedingham at Land to the South of Knapton Quarry Landfill Site, Knapton**

Considered -

The report of the Corporate Director - Business and Environmental Services requesting Members to determine a planning application in relation to the above.

The application was subject to 18 objections having been raised by local members of the public (summarised in paragraphs 5.4 and 5.7 of the report), an objection raised by Wintringham Parish Council, and concerns raised by Scampston Parish Council (section 4 of the report) and was, therefore, reported to the Committee for determination.

It was noted that Members undertook formal site visits to the application site on both 28 February 2017 and 14 July 2017.

Mr Bruce Watson, local resident, addressed the committee, outlining the following:-

- ◆ Many locals were against the scheme.
- ◆ The area was of landscape value.
- ◆ Many of the visual plans issued with the application were misleading and were not up to date.

- ◆ There appeared to be contradiction as to waste being brought into the site and what that would be used for.
- ◆ It had been claimed that gas had been flared off from the site but this had not taken place since before the application was submitted.
- ◆ There were concerns regarding pollution from the site, particularly taking account of the size of the stack for the proposal.
- ◆ Locals had been misled in relation to the type of waste and where it would be brought from, that would be used on the site.
- ◆ It was noted that only two months previously the application had been recommended for refusal and there did not appear to have been significant changes to warrant the recommendation for approval in place now.
- ◆ It was not considered that the proposal could be carried out safely.
- ◆ It was requested that, should Members be minded to approve the application, that they do this on a temporary basis, for 3-5 years, to evaluate whether the process being undertaken was safe and provide evidence for this.

Mr Philip Tate, local resident, addressed the Committee, outlining the following:-

- ◆ He referred to previous comments by Members in relation to applications relating to energy provision and noted them outlining the need for a mix of energy, and the use of different energy sources, obtained from a local source, and he hoped that Members would be consistent in their approach when considering this application.
- ◆ He noted that the proposal would provide energy to the National Grid and to local homes.
- ◆ He did not consider that the area in question had particularly high landscape value, but acknowledged that agricultural practices were undertaken in the area.
- ◆ He did not consider that the structure would be excessive in size and noted that, in the main, it would be obscured from view by vegetation already in place and planting to be undertaken.
- ◆ He noted that there were no immediate neighbours to the proposed facility.
- ◆ It would replace the current landfill site and would be a much better process for the disposal of waste.
- ◆ No precedent would be set in providing this facility.
- ◆ It would enable Ryedale to be at the cutting edge of providing technological solutions for the disposal of waste and providing energy.

Mr Philip Atkinson, the applicant, addressed the Committee, highlighting the following:-

- ◆ He outlined the benefits to the area in terms of the environment, the local economy and the diversion away from landfill to recycling and energy creation.

- ◆ He noted the significant increase in energy from waste that would be created through the proposal, for relatively little cost.
- ◆ The proposal would bring 55 high quality jobs and apprenticeships, together with around £1m into the local economy.
- ◆ The building had been designed in such a way so that it would be unobtrusive to the local area, with further planting in place to obscure its view, therefore, it was not expected to have an unreasonable impact on the local landscape.
- ◆ Acknowledging the concerns of nearby residents amendments had been made to the original application and work would continue with those local residents to ensure that concerns were met as much as possible.
- ◆ It was expected that power would be provided to local homes through the development.

A representative of the Head of Planning Services presented the Committee report, highlighting the proposal; the site description; the consultations that had taken place; the advertisement and representations; planning guidance and policy; planning considerations and provided a conclusion and recommendation.

Detailed plans, photographs and visual information were presented to complement the report. Issues from the report were highlighted, specifically, to address the concerns that had been expressed during public questions.

Members undertook a discussion of the application and the following issues and points were raised:-

- ◆ A Member noted that the conditions relating to the application stated that the site would open at 7.30 am during operating times, but noted that HGVs bringing the waste could park nearby, causing a disturbance to the local area, waiting for the site to open. He asked how that would be addressed. In response it was noted that the capacity of the site would restrict the number of HGVs coming to the area, however, if they were to park up near to the site, prior to its opening, this would be outside the remit of planning control and would be an issue that would have to be addressed through Area Highways.
- ◆ Clarification was provided in relation to the monitoring of the development of the screening for the site, ensuring that this was appropriate, maintained and in place from an early stage, with continued monitoring to ensure that it was being developed appropriately.
- ◆ It was noted that a questioner had referred to granting a temporary permission and it was asked whether that could be considered. In response it was stated that the nature of the development would not justify the granting of a temporary permission.
- ◆ A Member asked what had been the major changes to the application that had resulted in the recommendation being changed to approval. In response it was noted that the main issues, previously, that had seen the application recommended for rejection, related to landscape and visual impact. The applicant had worked closely with the planning authority to reduce that impact, and the application submitted to this meeting had been deemed acceptable by the District Council's, and the County Council's, Landscape Officers in view of the amendments made.

- ◆ Clarification was provided in relation to the use of the material that would be excavated as a result of the structure being developed below the land's surface. It was noted that the majority of the material would be utilised for landscaping the bund and the site, rather than it being taken away, lowering the number of vehicle movements.
- ◆ A Member welcomed the application, emphasising the need for additional green energy to be produced in local areas.
- ◆ Members acknowledged the concerns regarding the natural landscape of the area, but did not consider that the construction of the facility would have a major impact on that. They welcomed the revised application submitted, which addressed a number of the concerns of local residents. A Member stated that the landscape setting was valuable and should be protected as much as possible, but emphasised that he considered that the application before Members would not have a significant impact on that.
- ◆ Members welcomed the development of sustainable energy sources in the Ryedale area.

Resolved -

That, subject to the prior completion of a Section 106 agreement, the application be approved for the reasons stated within the report and subject to the conditions detailed.

42. C3/17/00604/CPO - (NY/2017/0129/FUL) - Retention and change of use of existing waste transfer buildings and associated yard, weighbridge and ancillary structures to allow for waste recycling Knapton Quarry Landfill Site, Knapton,

Considered -

The report of the Corporate Director - Business and Environmental Services requesting Members to determine an application for the retention and change of use of existing waste transfer buildings, as detailed above.

The application was subject to objections and concerns raised by two local residents (as summarised in paragraph 5.4 of the report) and was, therefore, reported to the Committee for determination.

It was noted that Members had undertaken site visits in relation to this application on 28 February 2017, which was not mentioned in the report, and on 14 July 2017.

Mr Derek Watson, local resident, addressed the Committee, outlining the following:-

- ◆ He noted that measures to protect the local area from issues related to waste, previously, had not been adequately monitored or addressed, resulting in waste being blown around the area.
- ◆ He suggested that there would be little use for the waste stations if already treated waste was brought in to the facility.
- ◆ He suggested that the condition of the buildings was not good and would need substantial renovation.
- ◆ Use of the waste transfer stations would generate more traffic having a negative

impact on the area.

- ◆ He thought that local waste was to be used by the facility which would negate the use for the transfer station.
- ◆ He had concerns regarding additional traffic, noise and dirt that this application would create for the local area.

Mr Philip Atkinson, the applicant, addressed the Committee, outlining the following:-

- ◆ He was pleased to see that the application had been recommended for approval.
- ◆ He noted that the application that had been approved, in relation to the energy from waste facility, was reliant upon this application being approved.
- ◆ The application would safeguard the jobs of those currently employed in the waste transfer stations and would maintain and enhance the economy of the local area.
- ◆ The application would enhance the economy for Ryedale.

A representative of the Head of Planning Services presented the Committee report, highlighting the proposal; the site description; the consultations that had taken place; the advertisement and representations; planning guidance and policy; planning considerations and provided a conclusion and recommendation.

Detailed plans, photographs and visual information were presented to complement the report.

Members undertook a discussion of the application and the following issues and points were raised:-

- ◆ A Member noted that the report indicated that the County Council's Landscape Officer had not been in support of the application. In response it was stated that the issues raised were in conjunction with the original report, in terms of the energy from waste facility, and the cumulative landscape impact that those two applications would have. It was noted that the subsequent revised application for the energy from waste station had mitigated those matters, and although not reflected in this report, had been acknowledged by the Landscape Officer. Members accepted the explanation.
- ◆ A Member expressed concern that there were no fences or nets conditioned to be in place to prevent windblown material from spreading beyond the boundary of the site. This was acknowledged and it was noted that, should Members be minded, then an additional condition could be provided.
- ◆ A Member referred to the access road to the site and noted that, during the site visit, access to the site had been difficult and expected that HGVs would have problems negotiating the road and accessing the site. In response it was noted that the access road to the site would be maintained and there were adequate passing places provided along what was a straight route, to enable HGVs to pass safely. The access at the transfer station would be enhanced to accommodate the waste from energy facility, approved earlier in the meeting, which would enable the HGVs to have appropriate access to the site.
- ◆ Members suggested that windblown material be monitored to ensure that this was

not causing a nuisance to the local area, however, it was stated that, without condition, it would be difficult to monitor this issue.

Resolved -

That the application be approved for the reasons stated within the report and, subject to the addition of an additional condition to protect the area from windblown litter from the site, with appropriate wording for that condition to be developed by the Head of Planning Services, subject to the conditions detailed.

- 43. C8/41/107A/PA – (NY/2016/0073/ENV) - Variation of condition No's 1, 2, 3, 5, 6, 14, 18 and 20 of Planning Permission ref. C8/2012/0035/CP dated 4 September 2012 for the continuation of tipping of colliery waste from Kellingley Colliery and soil materials from other locations for a further two years until 13th May 2018, revised tipping materials and revisions to the vehicle route, revised restoration scheme and landscaping at Womersley Quarry, off Stubbs Lane, Womersley**

Considered -

The report of the Corporate Director - Business and Environmental Services requesting Members to determine a planning application for the variation of conditions to planning permission ref. C8/2012/0035/CP dated 4 September 2012, as detailed above.

The application was subject to three objections having been raised by local members of the public and local businesses, summarised in paragraphs 5.3 and 5.5 of the report, and was, therefore, reported to the Committee for determination.

A number of representations were submitted and read out by the Clerk as follows:-

Womersley Parish Council

Their letter highlighted the following:-

- ◆ Good progress had been made by Harworth Estates in restoring the tip, with good communication between them and the Parish Council.
- ◆ They would like to see the security company retained to ensure the security of the site.
- ◆ They suggested that any public access to the site had to be managed.
- ◆ Access to any path must prevent unauthorised access, whilst allowing on foot/disabled access.
- ◆ Protection from public access to the water body at the back of the Northfield Quarry was required.
- ◆ Only one access point had been noted by Highways, within the report, whereas there appeared to be three, which were sources for unauthorised access, and those needed to be managed.
- ◆ A formal agreement with the Yorkshire Wildlife Trust adopting areas of the site was required.
- ◆ Ongoing monitoring and management of the site, going forward, was required to ensure that the installed drainage system remained patent and functioning

effectively.

- ◆ Mitigation of existing and prevention of further pollution of groundwater and the Blue Lagoon must remain of upmost importance with close liaison with the Environment Agency essential.
- ◆ Replacement of the deteriorated perimeter fencing.
- ◆ Details of the unrestored areas of the tip site adjacent to Northfield Quarry were required.
- ◆ Would further planning applications be required for future use of the site.
- ◆ It was suggested that conditions be applied to the issues outlined to ensure that they could be monitored by Planning Enforcement.
- ◆ There was concern as to who would monitor the site and undertake future management when it was completely restored and the planning permission duration had expired.
- ◆ It was suggested that a Liaison Committee to monitor the restoration and management of the site would assist with the formalisation of the process.
- ◆ The Parish Council would welcome the restoration of the site as an area of nature conservation.

J F Scott and Son (Womersley Limited) - Northfield Quarry

- ◆ On many occasions in recent years parts of Northfield Quarry have been flooded by run-off water from the tip particularly along the northern and southern boundaries.
- ◆ The tip operators were aware of the flooding but had done nothing to prevent the problems.
- ◆ The planning authority had been made aware of these issues at times of extension and modification of existing planning consents.
- ◆ The flooding of the quarry by run-off water was illegal and resulted from the tip not having been built correctly.
- ◆ It was suggested that the Health and Safety Executive, the Environment Agency and North Yorkshire County Council Planning Department have not acted appropriately in relation to these concerns.
- ◆ Planning Committee Members had also failed the company by continuing to approve planning applications for the tip despite objections being raised in relation to the flooding.
- ◆ It was suggested that information was not in place in respect of the current planning application which related to:
 - a detailed map of the boundary between the tip and Northfield Quarry
 - a detailed plan showing the tip realigned according to best practice with an appropriate access road and drainage between the tip and the boundary

- details of how the realignment would be achieved.

Pinsent Masons - Agent for the Applicants (Harworth Estate Mines Property Limited)

- ◆ There was satisfaction within the draft planning conditions submitted with the exception of condition 22.
- ◆ It was stated that the final sentence “if pollution occurs, the effects of that pollution shall be rectified and further pollution shall be prevented” was not within the remit of the planning authority to seek compliance, as this was a matter for the Environment Agency to control through legislation, including the Environmental Protection Act 1990.
- ◆ It was requested that the condition be redrafted to remove the final sentence as, not doing so, would result in an appeal against the decision being lodged by Harworth Estate Mines Property Limited.

In respect of the issue regarding condition 22, the Committee’s legal adviser acknowledged the position outlined by the applicant’s agent and suggested that it would be appropriate to remove the final sentence as suggested.

Members agreed that condition 22 be amended as highlighted, with the final sentence removed.

A representative of the Head of Planning Services presented the Committee report, highlighting the proposal; the site description; the consultations that had taken place; the advertisement and representations; planning guidance and policy; planning considerations and provided a conclusion and recommendation.

Detailed plans, photographs and visual information were presented to complement the report.

In relation to the number of issues raised in the letters read out to the Committee he noted that many of those concerns were addressed within the conditions set out in the report.

In terms of the flooding issues he noted that the applicant was taking reasonable steps to address that matter and any further issues in relation to that were a civil matter between the applicant and the complainant.

It was noted that action was being taken to ensure that only one main access to the tip was in place, with only emergency access allowed from other points.

Members undertook a discussion of the application and the following issues and points were raised:-

- ◆ A Member referred to the issue raised by the Parish Council in relation to the development of a Liaison Committee and asked whether this was part of the legal agreement going forward. In response it was noted that the Yorkshire Wildlife Trust had not stated whether they would be developing this committee, at this stage, but it was expected that as development continued this matter would be addressed.
- ◆ It was asked whether the diving business operating at the Blue Lagoon was still unable to function due to pollution and what their position in relation to the application was. In response it was noted that the business owners were still

opposed to the application and that their concerns were set out in the report. The Environment Agency were monitoring the situation, but it was noted the legacy tipping on the site had a major effect on their business and whilst every effort was being made to reduce the pollution suffered by the Blue Lagoon the whole colliery tip would have to be excavated for the situation to be rectified.

- ◆ A Member asked what would happen if wildlife settled in one of the temporary lagoons and wondered whether this would be protected. In response it was stated that the situation would be monitored and the services of the County Council's Ecologist would be acquired to determine the impact of such an occurrence.
- ◆ Members welcomed the progress that had been made on the site, noting that the situation had been continuing for a number of years now and suggested that it was important that the matter was brought to completion.

Resolved -

That, subject to the prior completion of a Section 106 agreement, the application be approved for the reasons stated within the report and, subject to an amendment to condition no. 22, removing the final sentence, with that sentence being provided as an informative rather than part of the condition, subject to the conditions outlined.

44. Items dealt with under the Scheme of Delegation

Considered -

The report of the Corporate Director - Business and Environmental Services, outlining items dealt with under the Scheme of Delegation between the period 26 September 2017 to 20 November 2017, inclusive.

Resolved -

That the report be noted.

45. Publication by Local Authorities of Information about the Handling of Planning Applications

Considered -

The report of the Corporate Director - Business and Environmental Services, which outlined the County Council performance in the handling of "county matter" and County Council development planning applications for quarter 2, the period 1 July 2017 to 30 September 2017.

Information on enforcement cases was attached as an Appendix.

Resolved -

That the report be noted.

46. Planning and Regulatory Functions Sub-Committee - Appointment

Considered -

The report of the Assistant Chief Executive (Legal and Democratic Services) requesting

the Committee to consider the appointment of a Planning and Regulatory Functions Sub-Committee.

It was noted that the Committee was required to appoint a Planning and Regulatory Functions Sub-Committee to consider applications relating to the registration of common land and town and village greens.

To reflect proportionality the Sub-Committee would be divided as follows:-

- 4 Conservative Members
- 1 North Yorkshire Independent Member

Resolved -

That the Committee agrees to the appointment of the Planning and Regulatory Functions Sub-Committee in line with proportionality and details of the membership be provided in due course.

47. Alan Goforth

Members were advised that this would be Planning Officer, Alan Goforth's last meeting of the Committee before taking up another post. Members thanked Alan for his service to the Committee over a number of years and for the work that he had produced.

The meeting concluded at 12.45pm

SL/JR