

MINUTES

DEVELOPMENT CONTROL
COMMITTEE
TUESDAY, 21 JULY 2015



COMMITTEE MEMBERS PRESENT

Councillor Barry Dobson	Councillor Mrs Judy Smith
Councillor Mike Exton	Councillor Jacky Smith (Vice-Chairman)
Councillor Mrs Rosemary Kaberry-Brown	Councillor Judy Stevens
Councillor Michael King	Councillor Ian Stokes
Councillor Charmaine Morgan	Councillor Mrs Brenda Sumner
Councillor Helen Powell	Councillor Brian Sumner
Councillor Robert Reid	Councillor Martin Wilkins (Chairman)
Councillor Nick Robins	Councillor Rosemary H Woolley

OFFICERS

Business Manager, Development Management and Implementation (Dylan Jones)
Planning Officers (Phil Moore, Kevin Cartwright, Alan Harvey)
Solicitor (Colin Meadowcroft)
Democratic Officer (Lucy Bonshor)

13. APOLOGIES FOR ABSENCE

An apology for absence was received from Councillor Adam Stokes.

(13.04pm Cllr Judy Stevens arrived)

14. DISCLOSURE OF INTERESTS

Councillor Martin Wilkins disclosed an interest in application S14/0927 as the applicant was now one of his clients and he left the meeting during the debate and vote.

Councillor Judy Stevens disclosed an interest in application S15/0432 as she had organised a petition and submitted a letter of support. She spoke on the application as Ward Councillor for the area but did not take part in the vote.

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15. MINUTES OF THE MEETING HELD ON 23 JUNE 2015

The minutes of the meeting held on 23rd June were agreed as a correct record of the decisions taken.

16. PLANNING MATTERS

1) APPLICATION REF: S15/1611

DESCRIPTION: (PL/0082/15) FOR THE EXTRACTION OF LIMESTONE AND IMPORTATION OF SUSTAINABLE INERT FILL TO ACHIEVE A BENEFICIAL RESTORATION OF THE SITE

LOCATION: LAND AT GORSE LANE, DENTON

As there were technical problems at the commencement of the meeting the last item on the agenda PL/0082/15 was dealt with first as it did not need the projector.

Decision:

That a letter be sent to Lincolnshire County Council advising them that the following issues needed to be addressed:

- 1. The Landscape and Visual Impact Assessment (LVIA) concluded that there was no conflict with South Kesteven CS policy EN1. EN1 stated “Development must be appropriate to the character and significant natural, historic and cultural attributes and features of the landscape within which it is situated, and contribute to its conservation, enhancement or restoration.” Clearly the LVIA conclusion was incorrect as the area is part of the Kesteven Uplands which is described as relatively unspoilt undulating agricultural landscape in the South Kesteven Landscape Character Assessment. There would inevitably be an adverse landscape and visual impact through the nature of the operations, which could never be fully mitigated through landscaping. LCC must give this conflict with policy EN1 due weight in the planning balance and be satisfied that the benefits outweigh the adverse impacts if they were minded to approve.**
- 2. The north western part of the site (which was beyond the historic permission), was very close to Hill Top Farm, which was a former farmstead consisting of a grade II listed farmhouse and a range of associated curtilage listed barns converted to a dwelling, and another barn listed as grade II in its own right which has been converted to 2 x dwellings. There were also a pair of semi detached cottages nearby. Whilst some landscaping (including woodland planting and bunding) is proposed, there would inevitably be some adverse impact (less than substantial harm) on the relatively**

unspoilt rural setting of this group of heritage assets. It was considered that the ES understated the potential impact identified above which again conflicted with CS policy EN1. LCC must give this conflict with policy EN1 due weight in the planning balance and in accordance with the NPPF be satisfied that any public benefits outweigh the adverse impacts if they are minded to approve.

- 3. Whilst it was acknowledged that environmental issues would mostly be regulated by a permit issued by the Environment Agency, in accordance with advice from South Kesteven Environmental Protection Officers, it was recommended that dust monitoring be undertaken at sites approved by the local authority and should be included as a planning condition.**
- 4. It was recommended that the northern boundary of the site be moved back to create a more acceptable separation distance, preferably to correspond to the extant permission.**
- 5. If LCC were minded to approve the application in its current form they must be satisfied that the impacts were within acceptable limits and that all necessary mitigation was in place and that LCC were satisfied that the historic permissions were still actually extant when making their decision.**
- 6. Copies of objection letters received by SKDC were to be forwarded to the County Council and the issues raised endorsed by SKDC.**
- 7. That a traffic impact assessment be carried out especially in connection with the bridge crossing the A1.**
- 8. That all top soil should be stored and then replaced (or replaced with similar) when the quarrying was complete.**

The Council had been consulted on a planning application submitted by Lincolnshire County Council, who in their role as the Mineral Planning Authority was the determining authority for the planning application. South Kesteven District Council was a consultee.

The site was mostly agricultural land with an area of approximately 103.9ha wholly within South Kesteven District and Denton Parish. The site was part of an extensive area (approximately 6 square km) which benefited from an extant historic planning permission for quarrying which dated back to 1955 and 1958. This included sensitive areas directly adjacent to Denton and Harlaxton villages. Historic mineral permissions of this type remained “dormant” under the 1995 Environmental Act but could be reactivated at any time on approval of a new scheme of planning conditions accompanied by an environmental statement submitted to the local minerals planning authority.

As part of the approval of the scheme the applicant was proposing entering into a Section 106 Agreement which would permanently rescind the historic permissions currently in place.

If permission for the scheme was not granted then the fallback position (what could be done under existing consents) would mean that a much more extensive and environmentally damaging historic permission would apply and was therefore an important material consideration that had to be taken into account.

SKDC Environmental Protection Services had confirmed that in their opinion there were adequate measures proposed to ensure that noise, disturbance and dust were kept to a minimum. These included air quality, land, water and noise pollution issues which were for the most part regulated by a permit issued by the Environment Agency under the Environmental Permitting (England & Wales) Regulations 2010. However officers had identified a number of shortcomings in the submitted details which need to be adequately addressed by LCC. Objections had also been received from Denton Parish Council, GOLAG (local opposition group) and members of the public.

On discussing the application Members raised the issue of LCC having a traffic impact assessment carried out especially in connection with the bridge over the A1, that all top soil that was removed during the quarrying to be stored and replaced on completion and that the points raised by Denton Parish Council should be endorsed by SKDC. It was also stressed that LCC should be satisfied that the historic permissions were actually still extant when making their decision. On being put to the vote it was proposed, seconded and agreed that a letter be sent to LCC outlining the points raised in the officers report together with endorsing the comments raised by Denton Parish Council, that LCC should carry out a traffic impact assessment especially in relation to the bridge over the A1 and that the top soil removed during quarrying should be stored and replaced upon completion. It was also agreed that LCC should be satisfied that the historic permissions are actually extant when making their decision.

It was requested that future applications where SKDC were a consultee should be items on the agenda outside of the main planning matters applications.

2) APPLICATION REF: S14/0927

DESCRIPTION: DEMOLITION OF EXISTING INDUSTRIAL BUILDINGS AND REDEVELOPMENT OF SITE FOR RESIDENTIAL PURPOSES (23XDWELLINGS)

LOCATION: GRIMERS TRANSPORT, WEST ROAD, BILLINGBOROUGH

(13.35pm Cllr Wilkins left the meeting)

As this was a part heard application the Vice-Chairman read out the list of

those Members who had been present when the application had previously been before the Committee. Only those Members voted on the application.

Decision:

That the application be approved subject to the conditions set out in the report and subject to prior completion of a Section 106 agreement to secure the requirements specified in paragraph 7.4. (with the priority of use of the Affordable Housing Contribution being Billingborough, followed by the surrounding villages and then the normal cascade provisions). Provided that if the Section 106 has not been completed within 6 weeks of the date of this meeting and the Business Manager for Development Management and Implementation, after consultation with the Chairman and Vice Chairman of the Development Control Committee, considers there are no extenuating circumstances which would justify an extension (or further extension) of time, the Business Manager for Development Management and Implementation be authorised to refuse the application on the basis that the necessary infrastructure or community contributions essential to make the development acceptable have not been forthcoming

Noting the original report to the Committee where all issues had been discussed when the original application came before the Committee, only the viability and planning obligations though a section 106 were considered.

A new viability assessment had been undertaken by the Council's new viability consultant the District Valuer Services (DVS) section of the Valuation Office Agency (VOA). The VOA Service had concluded that whilst not all the S106 requirements could be met, a modest commuted sum towards the upgrade to recreational facilities within Billingborough and/or off site affordable housing could be provided whilst ensuring that the development remained viable.

(1.48pm Cllr Ian Stokes left the meeting)

(1.50pm Cllr Ian Stokes returned to the meeting)

Noting comments made by Members at the meeting on the amount of affordable housing contribution and where the affordable housing contribution should be used and the advice given by the Committee's Solicitor on the use of claw back clauses it was proposed, seconded and agreed that the application be delegated to the Business Manager for Development Management and Implementation in consultation with Chairman and Vice-Chairman for approval subject to the signing of a Section 106 Agreement in accordance with the conditions and notes set out in the Case Officers report and subject to the affordable housing contribution being allocated firstly in Billingborough, followed by the nearby villages and then the normal cascade provisions.

1. The development hereby permitted shall be commenced before the expiration of three years from the date of this permission or two years

from the approval of the last of the reserved matters, whichever is the later.

2. Details of the reserved matters set out below shall be submitted to the Local Planning Authority for approval within three years from the date of this permission:
 - (a) layout;
 - (b) scale;
 - (c) appearance;
 - (e) landscaping.

Approval of all reserved matters shall be obtained from the Local Planning Authority in writing before any development is commenced.

3. Before each dwelling is occupied the roads and/or footways providing access to that dwelling, for the whole of its frontage, from an existing public highway, shall be constructed to a specification to enable them to be adopted as Highways Maintainable at the Public Expense, less the carriageway and footway surface courses. The carriageway and footway surface courses shall be completed within three months from the date upon which the erection is commenced of the penultimate dwelling.
4. When application is made for approval of the 'Reserved Matters', that application shall show details of arrangements to enable a motor vehicle to turn within the site so that it can enter and leave the highway in a forward gear.
5. When application is made for approval of the 'reserved matters', that application shall show details of a surface water and foul water drainage scheme (based on sustainable drainage principles). The approved drainage works shall be completed in accordance with the details and timetable agreed to the satisfaction of the Local Planning Authority.
6. No works pursuant to this permission shall commence, unless otherwise agreed in writing by the Local Planning Authority, until there have been submitted to and approved in writing by the Local Planning Authority:
 - (a) A site investigation report assessing the ground conditions of the site and incorporating chemical and gas analysis identified as appropriate by the desk top study; and
 - (b) A detailed scheme for remedial works (should such works be required) and measures to be undertaken to avoid risk from contaminants and/or gases when the site is developed and proposals for future maintenance and monitoring. Such scheme shall include nomination of a competent person to oversee the implementation of the

works.

7. The development hereby permitted shall not be occupied or brought into use until a verification report has been submitted to and approved in writing by the Local Planning Authority. The report shall be submitted by the agreed competent person and identify that approved remedial works have been implemented. The report shall include, unless agreed in writing:

- (a) A complete record of remediation activities, and data collected as identified in the remediation scheme, to support compliance with agreed remediation objectives;
- (b) As built drawings of the implemented scheme;
- (c) Photographs of the remediation works in progress; and
- (d) Certificates demonstrating that imported and/or material left in situ is free from contamination.

Thereafter the scheme shall be monitored and maintained in accordance with the approved remediation scheme.

8. Unless otherwise agreed in writing by the local planning authority a fire hydrant shall be installed in accordance with details to be submitted to and approved in writing by the local planning authority prior to the occupation of any properties on the site.
9. When application is made for approval of the 'reserved matters', that application shall show details of existing and proposed ground levels and proposed finished floor levels within the site.

The development shall be undertaken in accordance with any such details that are approved.

10. The development hereby permitted shall be carried out in accordance with the following list of approved plans submitted as part of the application:

Site Layout Plan
1994 (03) 004 Rev A2 (in respect of the position of the site access only)
both received 07 April 2014

Note(s) to Applicant

11. This site is within 50m of a Land Contamination Concern. Please contact Environmental Protection Services on 01476 406300 for further information.

12. Prior to the commencement of any access works within the public highway, you should contact the Divisional Highways Manager on 01522 782070 for application specification and construction information.

3) APPLICATION REF: S14/1316

DESCRIPTION: RESIDENTIAL DEVELOPMENT AND USE OF FORMER SCHOOL PLAYING FIELD FOR COMMUNITY USES

LOCATION: FORMER AVELAND HIGH SCHOOL, BIRTHORPE ROAD, BILLINGBOROUGH

(14.11pm Cllr Wilkins returned to the meeting)

Decision:

To defer the application for a discussion to take place between Billingborough Parish Council, Lincolnshire County Council and South Kesteven District Council to include the Executive Manager for Development and Growth to find a solution towards implementation of basic infrastructure requirements for the proposed community facilities.

Noting comments made during the public speaking from:

- Robert Doughty (agent)

Together with:

- 6 representations received as a result of public consultation.
- No objection in principle from Billingborough Parish Council
- No objections from LCC Highways subject to conditions.
- An objection from Sports England.
- No objection from the Environment Agency.
- No objection from Black Sluice Internal Drainage board
- No objection from SKDC Drainage Officer
- A request from Environmental Protection on conditions to ensure that any contamination of the land is adequately dealt with.
- No contributions required for NHS or Lincolnshire CC Education.
- Comments from South Kesteven DC Open Space Officer on outdoor sports space.
- Comments from the South Kesteven DC Tree Officer suggesting a tree preservation order on the trees along the street frontage and that the horse chestnut within the site could be incorporated within a future layout.
- The additional information report, which reported that it was not possible to include within a Section 106 Agreement payment of a financial contribution towards certain works that were considered necessary to

- enable the former playing field to be used as community open space.
- Comments from the South Kesteven DC Affordable Housing Officer that 35% on site affordable housing was required through a section 106 Agreement – A reduced amount would only be acceptable if it could be demonstrated that provision of the full amount would make the development unviable – additional papers reduced to 28%.
- Provisions within the National Planning Policy Framework and the South Kesteven Core Strategy and supplementary planning documents together with Planning Policy Guidance.

During discussion on the application the affordable housing element and details of the community infrastructure required and future maintenance were debated at length, together with how the site was outlined within the SAP. The case officer stressed that the application was for outline permission; all other details would be contained within an application for reserved matters. Further discussion followed on the costs and specification involved for the community structure aspect of the site and the Business Manager reiterated the reasons contained within the late paper concerning why certain elements could not be contained with a Section 106 Agreement.

A proposal was put forward to approve the application but to amend a condition to include an agreement to contribute to the Parish Council for a basic track, car park, fencing and water provisions for the allotments. The Business Manager informed the Committee that these additional requirements could not be contained within a Section 106 Agreement, as they did not fulfil the statutory test.

(15.35pm Cllr Brian Sumner left the meeting)

Further discussion on the community infrastructure followed and it was suggested that provision for the land for the track access be passed to the Parish Council properly within a proposition. Following more discussion a pragmatic solution was put forward to defer until an agreement had been reached between the Parish Council and Lincolnshire County Council to overcome a very technical legalistic point about what Section 106 Agreements could be used for. Various proposals were then put forward but were not seconded. It was then proposed that the application be deferred for discussions to take place between Billingborough Parish Council, Lincolnshire County Council, South Kesteven District Council including the Executive Manager for Development and Growth to find a solution towards the implementation of a basic infrastructure for the proposed community facilities. This was seconded and on being put to the vote agreed.

(15.43pm Cllr Brian Sumner returned to the meeting)

(15.44pm meeting adjourned)

(16.00pm meeting reconvened)

(16.00pm Cllr Morgan did not return)

As the meeting had been in progress for 3 hours, the Chairman asked for Members' consent to continue. Members agreed

(16.02pm Cllr Morgan returned to the meeting)

4) APPLICATION REF: S15/0432

DESCRIPTION: ERECTION OF BUNGALOW WITH GARAGE IN CONNECTION WITH EXISTING LIVERY BUSINESS

LOCATION: FROGNALL LIVERY, VILLAGE STREET, FROGNALL

Decision:

To grant planning permission subject to conditions

Noting comments made during the public speaking session by:

- Councillor Judy Stevens (ward councillor)
- David Kemp (agent)

Together with:

- Objections from Deeping St James Parish Council.
- No objections from LCC Highways Authority.
- No objections in principle from SKDC Drainage Engineer.
- Two representations received as a result of publicity.
- Representation made by the Local Ward Councillor.
- A petition submitted by the Local Ward Councillor.
- Provisions within the National Planning Policy Framework and the South Kesteven Core Strategy and supplementary planning documents.
- Site visit observations.
- The additional information report, which reported that the final Unilateral Undertaking had been received from the applicant's agent along with revised plans to address minor boundary errors and changes to condition 2 and 3.

It was proposed, seconded and agreed that the application be approved as per the case officer's report and the changes to conditions as outlined in the additional information report.

1. The development hereby permitted shall be commenced before the expiration of three years from the date of this permission.
2. Unless otherwise required by another condition of this permission the development hereby permitted shall be carried out in

accordance with the following list of approved plans/drawings submitted as part of the application:

Drawing No. PA001 Rev A (received on 16 July 2015)

Drawing No. PA002 Rev A (received on 16 July 2015)

Drawing No. PA003 (received on 5 March 2015)

Drawing No. PA004 Rev A (received on 16 July 2015)

3. The occupation of the dwelling hereby permitted shall be limited to a person solely or mainly working, or last working, in the livery stables business at Frognall Livery or any other business that has to be located in the countryside, or a widow or widower of such a person.

4. No works on the construction of the external elevations of the proposed dwelling shall take place on the site until samples of any materials to be used in the construction of the external surfaces of the development hereby permitted have been submitted to and approved in writing by the Local Planning Authority. The scheme shall be carried out in accordance with the approved details.

5. No development shall be commenced until full details relating to the vehicular access to the public highway, including materials, specification of works and construction methods have been submitted to and approved in writing by the Local Planning Authority. The approved details shall be implemented on site before the new dwelling is first occupied.

6. Before the dwelling hereby approved is first occupied the arrangements for the provision of the parking/turning/manoeuvring of vehicles to serve the new dwelling shall be provided in accordance with the approved details shown on the approved plans listed at condition 2 above. Once provided the approved arrangements for the parking/turning/manoeuvring of vehicles shall thereafter be retained available at all times for the purposes specified.

7. No development shall be commenced on the site until full details of the arrangements for surface water drainage have been submitted to and approved in writing by the Local Planning Authority. The approved details shall be implemented on the site before the new dwelling is first occupied.

Note(s) to Applicant

8. The application is subject to a Section 106 Unilateral Obligation to provide for the removal of the existing double static caravan and single static caravan at the livery stables site and the cessation of the use of the land for the siting of caravans/mobile homes.

5) APPLICATION REF: S14/1921

DESCRIPTION: ERECTION OF OUTBUILDINGS AND TERRACING OF GARDEN

LOCATION: 33A, NEWTON WAY, WOOLSTHORPE-BY-COLSTHERWORTH

Decision:

To grant planning permission subject to conditions.

Noting comments made during the public speaking session by:

Neil Bennett

Together with:

- Comments from Colsterworth and District Parish Council.
- Six letters of representation received as a result of publicity.
- Provisions within the National Planning Policy Framework and the South Kesteven Core Strategy and supplementary planning documents.
- The additional information report which corrected content in relation to information contained in the original report circulated with the agenda.

During discussion on the application it was confirmed that it was a retrospective application. The current planning system did allow for applications for planning permission to be determined retrospectively once the work had been commenced. They had to be assessed on their own merits the same as if works had not been commenced. The applicant had been informed that to continue work was at his own risk if planning permission was not granted. No Section 106 was required. The outbuildings and terracing of the garden were considered appropriate in the context of the residential area, with appropriate screening in place to ensure no overlooking of neighbouring private amenity space. It was proposed, seconded and agreed to grant planning permission.

(Cllr Jacky Smith left the meeting at 4.36pm)

(Cllr Rosemary Kaberry-Brown left the meeting at 4.41pm)

6) APPLICATION REF: S14/1592

DESCRIPTION: INSTALLATION OF TWO BIOMASS COMBINED HEAT & POWER UNITS, FEED HOPPERS AND ASSOCIATED ACTIVITIES AND WOODCHIP STORAGE

LOCATION: QUARRY FARM, HOLYWELL ROAD, CLIPSHAM, OAKHAM, LINCOLNSHIRE, LE15 7SQ

Decision:

That the application is deferred to enable an independent expert opinion to be sought on whether the output of electricity produced on site makes the proposal a commercial project as opposed to the submitted householder scheme and that if it is so determined, the application is referred back to Rutland County Council.

Noting comments made during the public speaking session by:

- Clifford Bacon (Parish Clerk – Clipsham Parish Meeting)
- Richard Turpin (Parish Clerk – Careby, Holywell and Aunby)
- Tony Dighton

Together with:

- Objections received from Careby, Holywell and Aunby Parish Meeting
- Representations from Clipsham Parish Meeting
- No objections from Lincolnshire County Council Highways
- No objections in principle from Planning Policy
- Comments made by Rutland County Council Highways requesting a lorry routing agreement for the site and keeping a vehicle movement log similar to the adjacent quarry.
- Environmental Protection request for conditions to be attached
- No objections from Rutland County Council Environmental Protection but request for conditions to be imposed.
- 11 Representations received as a result of publicity
- Provisions within the National Planning Policy Framework and the South Kesteven Core Strategy and supplementary planning documents
- Information contained with the additional information document on operational information and energy output.

The case officer referred to a presentation from Arbor heat and power that had previously been circulated to Members. After discussions with the agent it had been confirmed that the information contained within the document had been compiled in February 2013 and did not reflect the current intentions of the application and had no relevance to the planning application.

Discussion on the application included whether there was sufficient noise attenuation measures in place, the routing of the HGV's and whether a routing agreement was required, the number of deliveries to the site and the amount of output from the bio mass units. During the course of the discussions it became apparent that Members had concerns about the applicant's affirmation that the application was for domestic use rather than commercial due to the figures that had been submitted and the evidence given by those who had spoken on the application.

It was proposed and seconded that the application be refused, contrary to the

planning officer's recommendation to approve the application, the reason being that the application was contrary to planning policy EN1. The Business Manager Development Management and Implementation did not accept the reason for refusal as defensible and therefore the proposition was 'minded to refuse' and a cooling off period would be invoked to allow members to submit reasons for refusal.

(Cllr Charmaine Morgan left the meeting at 5.46pm)

(Cllr Brenda Sumner left at 5.47pm)

(Cllr Brenda Sumner returned at 5.50pm)

A recorded vote was taken on the proposition 'minded to refuse' against the officer recommendation to approve.

For

Councillor Mike King
Councillor Helen Powell
Councillor Judy Stevens

Against

Councillor Barry Dobson
Councillor Mike Exton
Councillor Robert Reid
Councillor Nick Robins
Councillor Judy Smith
Councillor Ian Stokes
Councillor Brenda Sumner
Councillor Brian Sumner
Councillor Martin Wilkins
Councillor Rosemary Woolley

The proposition was lost.

The Business Manager Development Management and Implementation and the Solicitor to the meeting clarified the position following which a new proposal was put forward that the application be deferred to enable an independent expert opinion to be sought on whether the output of electricity produced on site makes the proposal a commercial project as opposed to the submitted householder scheme and that the application be referred back to Rutland County Council for their views if it was found that it was a commercial application rather than domestic. The proposal was seconded and on being put to the vote agreed.

(Cllr King left the meeting at 18.08pm)

7) CLOSE OF MEETING

The meeting closed at 18.10pm.