

DURHAM COUNTY COUNCIL

At a Meeting of **County Planning Committee** held in Council Chamber, County Hall, Durham on **Tuesday 1 December 2015 at 1.00 pm**

Present:

Councillor K Davidson (Chairman)

Members of the Committee:

Councillors D Boyes, J Clare, P Conway, M Davinson, M Dixon, J Gray, G Holland, I Jewell, H Nicholson, G Richardson, A Shield, P Taylor and R Young

The Chairman proposed, and the Committee agreed, that Agenda Item 5(b) be considered before Agenda Item 5(a) because a speaker registered to speak on Agenda Item 5(a) was delayed in traffic.

1 Apologies for Absence

Apologies for absence were received from Councillors A Laing, R Lumsdon, C Marshall and B Moir.

2 Substitute Members

Councillor M Davinson as substitute for Councillor A Laing and Councillor J Gray as substitute for Councillor R Lumsdon.

3 Declarations of Interest

Councillor Dixon declared an interest in Agenda Item 8 because the appeal was by the Church Commissioners and withdrew from the meeting for this item.

4 Minutes

The Minutes of the meeting held on 3 November 2015 were confirmed as a correct record and signed by the Chairman.

5 Applications to be determined

a DM/15/02768/FPA - Blakeley Hill Farm, North Bitchburn, Crook

The Committee considered a report of the Senior Planning Officer regarding an application for the erection of 1 wind turbine, 30m to hub and 45m to tip, installation of associated equipment and infrastructure, including access track at Blakeley Hill Farm, North Bitchburn, Crook (for copy see file of Minutes).

A Rawlinson, Senior Planning Officer gave a detailed presentation on the application which included photographs of the site and the proposed layout.

Councillor F Tinsley, local Member addressed the Committee in support of approval of the application. He informed the Committee that officers had been placed in a difficult position when considering applications such as this because of inconsistencies in Government policies relating to wind turbine developments.

Councillor Tinsley informed the Committee that the Written Ministerial Statement (WMS) on wind farm development dated 18 June 2015 contained two criteria for such development, that the site was identified as suitable for wind energy development in a Local or Neighbourhood Plan and had active community support.

There was no up to date County Durham Plan or Neighbourhood Plan, and therefore in this context, no further wind turbine development would be permitted. However, there was significant community support for this development. While the WMS was a material consideration the NPPF, which was the bedrock of the planning system, supported such developments and therefore there were inconsistencies between the WMS and the NPPF.

The proposed wind turbine was 45 metres to tip and therefore could be considered to be a small to medium sized turbine. This contrasted to the two nearby wind turbines – one at Crook which was 61 metres to tip and one at Oakenshaw which was 74 metres to tip. The wind turbine would have no overbearing impact on local residents and only one objection to the development on the grounds of visual impact had been received. The other three objections received were on the grounds of community consultation and noise.

The visual impact of any wind turbine development was a subjective view of those who had to live with it. The County Council had sent 282 consultation letters for this application, and only 1 objection had been received on the grounds of visual impact. Of the photo montages of the wind farm from an agreed 15 viewpoints of the wind turbine, in only one was another wind turbine visible. Councillor Tinsley questioned how this application would therefore have a cumulative effect.

The proposed site of the wind turbine was not in a designated sensitive area and the undulating topography of the land would mitigate much of the visual impact.

The application had local public support, which was the second criterion of the WMS. The applicant had agreed a community benefit package of £40,000 to mitigate the visual impact of the development on the Hunwick area.

In conclusion, Councillor Tinsley informed the Committee that the future of energy provision would rely upon a significant element of renewable energy to help deliver a carbon neutral environment. While there were occasions when wind turbines were not appropriate, this application was not such an occasion.

Councillor Gunn, local Member, addressed the Committee in support of the application. Councillor Gunn informed the Committee that as well as being a local Member, she was also a resident of Hunwick.

The grounds for recommending refusal of the application included the visual impact of the development. This was only a small to medium sized wind turbine. Councillor Gunn informed the Committee that the wind turbine would not be overbearing, as this description would mean unpleasantly overpowering, which it was not. The wind turbine would have little or no impact on users of the Public Right of Way which actually took a route away from the site of the turbine.

Councillor Gunn disputed the cumulative effect of the wind turbine because of the undulating topography of the land. The turbine was a greater distance than 6 times tip height from the nearest local property and was near to electricity pylons which were some 260 metres in height. The site of the wind turbine was not in an area of outstanding natural beauty and public support for the application had been demonstrated. There was no opposition to the development in Hunwick and the community benefit package which the development was offering was recognised in Government policy.

Kieran Tarpey addressed the Committee on behalf of the applicant. The proposed wind turbine would produce 470,000 kW hours of carbon free electricity per annum which would be sufficient to power up to 100 homes. The development was a partnership with the local farm and was fully NPPF compliant. It was not in a designated landscape area and would have no impact on local settlements. The Public Right of Way was orientated away from the site of the wind turbine and was not often used. The nearest wind turbines were some 2.7km and 3.1 km away from this site and therefore the cumulative impact would not be excessive.

There was overwhelming community support for the development with only 3 letters of objection but 31 letters of support. The wind turbine would offset 256 tonnes of CO₂ per annum and would provide a community fund of £40,000.

L Renaudon, Planning and Development Solicitor advised the Committee about the proposed Community Fund. Although the applicant proposed to deliver a s106 community benefit package it was not clear how this would mitigate the development of the wind turbine. A s106 agreement should overcome objection to a development in some way and therefore the Committee could not give any weighting to this payment when deciding the application unless it was able to identify its planning purpose.

Councillor Dixon informed the Committee that this was finely balanced decision and sought clarity on the weighting to be given to the WMS and the NPPF.

Councillor Boyes informed the Committee that while, in the past, he had been vocal in opposition to wind turbine developments. However, he would be supporting approval of this application because the proposed turbine was not large and there was no widespread opposition to it, indeed, there appeared to be local support for it. The two local Members were also in support of the development which would bring with it a community benefit package of £40,000. In reply to a question from Councillor Boyes, Councillor Gunn confirmed that Hunwick was not in a Parished area. Councillor Boyes suggested that the community benefit package be paid

direct to the community of Hunwick for it to decide which projects to support. Councillor Boyes **moved** approval of the application.

The Senior Planning Officer, in reply to Councillor Dixon, informed the Committee that planning applications were considered with regard to the Development Plan, NPPF and WMS. Paragraph 74 of the report provided details of the WMS and how his application would conflict with it. The WMS was the most up to date position regarding the Government's stance on wind turbines and therefore carried significant weight.

Councillor Boyes, referring to paragraph 74 informed the Committee that reference was made to the WMS and wind farm development. This application was not for a wind farm but was for a single turbine. The Senior Planning Officer replied that the WMS advised the term to be used was wind energy development rather than wind farm or wind turbine.

Councillor Conway informed the Committee that he considered Councillor Tinsley had addressed the issue the two criteria specified in the WMS. Paragraph 74 of the report stated that the development was not consistent with Policy MW4 of the Wear Valley Local Plan in that the site did not lie within an area identified as suitable for wind energy development. However, the Local Plan dated back to 1997 and the Committee had been previously advised that Local Plans should only be given limited weight.

The Planning and Development Solicitor replied that weighting should be given to the Local Plan, the WMS and the NPPF. It was for Members of the Committee to consider what level of weighting should be given. The Planning Policy Guidance within the WMS stated that wind turbine developments should be within areas identified as suitable for wind energy development, and if the site was not so allocated, then the application would not be supported by the WMS.

Councillor Richardson informed the Committee that while he had been impressed by the representations made by the local Members and would be prepared to be persuaded into approving the application, he reminded Councillor Tinsley that politics had no place in the Committee.

Councillor Shield informed the Committee that the recommendation in the report stated that the application should be refused because the site was not located within an area identified as suitable for wind energy development in the Wear Valley Local Plan Local or Neighbourhood Plan and as such the proposal would be in conflict with the Written Ministerial Statement of 18 June 2015, and Paragraph 033 of the Planning Practice Guidance. The recommendation also stated that the proposed development would conflict with Policy GD1 in the Wear Valley Local Plan. Although a nearby application had been refused some time ago, that was for a larger turbine and was in an Area of Outstanding Natural Beauty. Policy GD1 was a general development criteria and as such Councillor Shield informed the Committee he would give this a low weighting. Councillor Shield sought clarity on how the £40,000 community benefit package would be shared by the local community.

Councillor Holland regretted that there had been no site visit for this application. However, he firmly believed that farmers should be able to progress developments such as this to improve the sustainability of their farms. In the absence of a site visit Councillor Holland was not convinced to refuse the application, which was in accordance with the NPPF regarding energy and he **seconded** approval of the application.

Councillor Davidson, referring to the community fund from the s106 contribution, asked the local members whether they would be supportive of the application were this funding not being proposed. Councillor Gunn replied that she was unsure why this was being asked. Councillor Davidson clarified that the community benefit must outweigh any detriment from the development. Councillor Gunn informed the Committee that generally in the area the farming community needed supporting, and this development would help improve sustainability of the farm. She would therefore be supportive of the application regardless of the community fund. Councillor Tinsley added that the application required many issues to be balanced, and that the visual aspect of the development was subjective. The scale of the turbine was acceptable and it brought with it a wider benefit from renewable energy.

Councillor Dixon asked whether the s106 contribution would be used to mitigate the impact of the wind turbine.

The Planning and Development Solicitor informed the Committee that if the Committee decided a s106 contribution was necessary to grant planning permission, this must be a reason to mitigate the development, and would need to explain why this would mitigate if part of the decision.

Councillor Dixon asked what benefit the development would provide to the farmer. Mr Tarpey replied that the development was a joint venture between the farmer and the energy company.

Councillor Gunn informed the Committee that the development would improve the sustainability of the farm, which then could be continued by future generations. The s106 money would be used to enhance areas in and around Hunwick.

Councillor Clare informed the Committee that normally he disliked wind turbines. However this application appeared to have the support of the local community and the Local Plan was out of date. Previously, the Committee had been advised to give little or no weight to such Plans. The proposed money from the development was not s106 money but had been described as a unilateral payment, and Councillor Clare asked whether a s106 payment would be needed to make the development acceptable. He would approve the application without such a payment and would be happy to leave the proposed £40,000 as a payment to the local community.

The Senior Planning Officer informed the Committee that, as yet, no unilateral undertaking had been received about the £40,000 payment and asked how this would be secured.

Councillor Richardson informed the Committee that the development was not solely for the benefit of the energy company but instead was a joint venture with the farmer, and he supported approval of it.

Councillor Davidson informed the Committee that he had reservations about the proposed payment from this application and added that if the Committee was to approve the application it would need to agree to delegate conditions to officers. Councillor Boyes moved that planning conditions be delegated to officers in consultation with the Chairman of the Committee, together with issues around the community fund.

The Planning and Development Solicitor informed the Committee that if the Committee approved the application then permission would not be granted until a planning obligation had been finalised.

Councillor Taylor informed the Committee that any s106 payment should mitigate the detriment of a development. He would be refusing the application because of the degree of ambiguity around the developer's contribution.

Upon a vote being taken it was

Resolved:

- (i) That, upon completion of a planning obligation providing for the £40,000 community fund, planning permission be granted;
- (ii) That the conditions attached to the planning permission be delegated to officers, in consultation with the Chairman of the Committee.

b DM/14/02041/FPA - Bogma Hall Farm Coxhoe Durham

The Committee considered a report of the Senior Planning Officer regarding an application for the erection of 155 dwellings, associated access and landscaping at Bogma Hall farm, Coxhoe (for copy see file of Minutes).

H Jones, Senior Planning Officer gave a detailed presentation on the application which included photographs of the site and the proposed layout. Members had visited the site and were familiar with the location and setting.

Councillor S Dunn of Coxhoe Parish Council addressed the Committee addressed the Committee to object to the application.

While the Parish Council welcomed some aspects of the application, and recognised the part of Coxhoe in the village's contribution the County Durham Plan, paragraph 53 of the report did not represent that this was part of a larger comprehensive development of the adjacent site by the Church Commissioners, and the Parish Council would be keen to prohibit the linking of this application site with the adjoining development to prevent egress onto Station Road. There were concerns about the emergency access outlined at paragraph 146 and Councillor Dunn asked what would prevent other vehicles using this. The Parish Council would prefer for the Church Commissioners development also to be accessed from the A177 and a 30 m.p.h. speed limit to be placed on this road and the point of

access. While the financial contribution towards education provision was welcome, no provision had been made to expand medical facilities in the village. Councillor Dunn hoped that should the development be approved employment opportunities for local people would be maximised.

Councillor Dunn considered that the lack of a s106 contribution towards amenity space was a deficiency in the application, which brought with it very little benefit other than bungalows and affordable housing. Although the impact on school places had been mitigated, the impact on local health facilities had not.

Amy Ward of Barratt Homes addressed the Committee in support of the application. The land the subject of the development was unused and underutilised and this development would be an investment for the area. The development was for 155 houses and included areas of open space and mitigation measures for the Great Crested Newt populations.

The development had been designed in a holistic manner to optimise the potential of the site and to deliver mixed housing. It responded well to the local area and was an attractive design. It would bring with it 10% affordable housing as well as a contribution of nearly £270,000 towards school accommodation.

J McGargill, Highway Development Manager addressed the Committee to clarify highways issues around this application. Access for the proposed development would be from the A177 which was a bypass road. The design for the proposed access was acceptable and safe access had been engineered. A 30 mph speed limit could not be imposed on this length of the A177 because it would not meet speed management requirements. Referring to the proposed emergency access, this would not be a road but would be a space through which emergency vehicles could pass.

Highways had objected to the application because the A177 was constructed as a bypass road and its function needed to be considered. It was a principal road and accesses directly on to it from developments could erode this function. Principal roads were designed to link settlements, not to provide access to residential developments. The Highway Design Guide for Residential Developments stated that residential access from such a road was not acceptable.

Councillor Jewell referred to the design of the entrance to and egress from the development and the right hand turn and asked what was being proposed to ease this. Additionally, Councillor Jewell commented that there was nothing to mitigate the concerns regarding the impact of the development on health facilities in Coxhoe.

The Senior Planning Officer informed the Committee that the application was not being refused on highways grounds because access could be designed in a safe manner and impact on traffic flows would not be severe as described in the NPPF. Referring to health provision, the Senior Planning Officer informed the Committee that although the Coxhoe Medical Practice had raised objections to the application NHS Property Services, who took a more strategic view, had raised no objection.

The Highway Development Manager informed the Committee that the design of the access met national standards for such a road junction and that a ghost island would be introduced for westbound traffic wishing to turn right.

Councillor Blakey, local Member, addressed the Committee. She informed the Committee of massive concerns in the area regarding both GP provision and the number of school places available. Coxhoe Parish Council was in the process of developing new Parish Plans and notice of these should be taken when deciding upon this application.

There was a long standing problem on Cornforth Lane which needed a one-way system introducing and the introduction of traffic calming and Councillor Blakey asked that this be considered before the development took place. Councillor Blakey thanked the developers for the discussions they had held with the Parish Council and the County Council.

Councillor Nicholson informed the Committee that while he had concerns regarding the right turn manoeuvre on the A177 and also was disappointed that only 10% affordable housing would be available, he welcomed the financial contribution towards enhanced education provision. The development site up to the A177 was a natural boundary for Coxhoe and he **moved** approval of the application.

Councillor Dixon, while agreeing the application had both problems and benefits, **seconded** approval of the application.

Councillor Boyes informed the Committee he had reservations regarding the proposed access and the level of affordable housing being proposed. He said that 10% affordable housing was not acceptable and, referring to paragraph 71 of the report, suggested that a financial contribution to other forms of space offsite should be requested.

The Senior Planning Officer replied that the development would offer some open space on site. The provision of a financial contribution to other forms of space offsite as well as more than 10% affordable housing was not considered to be viable. Several appraisals had been considered by the County Council's assets officers who agreed with this.

Councillor Shield asked how wide the egress road from the development would be and how far this would go into the development. The Highway Development Manager replied that the junction had been modelled to be 5½ metres wide with a 10m radii. The length of the road met DfT standards.

Councillor Conway referred to the viability appraisals considered by the County Councils assets officers and informed the Committee he would have liked to see substantiation evidence produced in the Committee report. Councillor Davidson replied that every comment in the report could be further expanded upon, but there was a limit in the amount of information to be produced for the Committee. It was necessary for the Committee to accept that this work had been undertaken by Council officers. The Senior Planning Officer added that the commercial sensitivity

of such information meant that officers were not at liberty to provide full details. Ms Ward confirmed this to be the case.

Councillor Richardson referred to the site visit when the coach waited for a period of time before it could turn right from the site onto the A177. There had been mention of a roundabout further along the A177 to enter into Coxhoe and he suggested it would make exiting the development safer if it was left turn only, should this roundabout be constructed. While the underpass which was from the site to neighbouring fields would be maintained, Councillor Richardson was unsure where any livestock would be kept, and he expressed concern that the underpass may be result in anti-social behaviour.

Councillor Dixon referred to the issue of viability and suggested this could be a topic for a Members seminar. Councillor Boyes agreed with this and Councillor Davidson agreed to raise this issue at a subsequent Chairs/Vice Chairs meeting.

Upon a vote being taken it was

Resolved:

That, subject to the completion of a legal agreement pursuant to Section 106 of the Town and Country Planning Act 1990 to secure the following

- i) The provision of 10% affordable housing
- ii) A financial contribution of £269,215 towards school accommodation

and the Conditions contained in the report, the application be approved.

Councillor M Dixon left the meeting.

6 Exclusion of the Public

Resolved:

That under Section 100(A)4 of the Local Government Act 1972, the public be excluded from the meeting for the following item of business on the grounds that it involves the likely disclosure of exempt information as defined in Paragraph 5 of Part 1 of Schedule 12A to the Act.

7 Appeal Update - Mill Lane, Sherburn Village

The Committee considered a report of the Planning and Development Solicitor which provided an update on an appeal by the Church Commissioners for England in respect of an application for outline planning permission for up to 120 dwellings and new access at land east of Mill Lane, Sherburn Village (for copy see file of Minutes).

The Planning and Development Solicitor presented the report. Following discussion of the options available, it was **moved** by Councillor Taylor, **seconded** by Councillor Nicholson and

Resolved:

That the highways reason for refusal of the application be withdrawn.