

EAST RIDING OF YORKSHIRE COUNCIL

PLANNING COMMITTEE

10 DECEMBER 2009

PRESENT: Councillors Pollard (in the Chair), Abraham, Bayram, Bird, C Chadwick, Chapman MBE, Engall (substitute for Councillor Hunter), Lynn, Mathieson, Moore (substitute for Councillor O'Neil), Pearson, Robinson, Sharpe, Tress and Whittle.

Also in attendance: Press - 1
Public - 34

The Committee met at County Hall, Beverley.

4500 DECLARATIONS OF INTEREST AND DECLARATIONS UNDER THE CODE OF PRACTICE FOR DEALING WITH PLANNING APPLICATIONS - The following declarations were made:-

Item	Member
(i) Land south of Hogsea Lane, Hilston (Minute 4503).	<p>Councillor Pearson made a declaration under Section 4 of the Planning Code of Practice as he had fixed views on wind farms.</p> <p>Councillor Robinson made a declaration under Section 4 of the Planning Code of Practice as he had been approached by both objectors and supporters but had not made his views known.</p> <p>Councillor Chapman made a declaration under Section 4 of the Planning Code of Practice as she had been approached by both objectors and supporters but had not made her views known.</p> <p>Councillor Bird made a declaration under Section 4 of the Planning Code of Practice as she had been approached by both objectors and supporters but had not made her views known.</p> <p>Councillor Lynn made a declaration under Section 4 of the Planning Code of Practice as she had been approached by both objectors and supporters but had not made her views known.</p>

Councillor Whittle made a declaration under Section 4 of the Planning Code of Practice as he had been approached by both objectors and supporters but had not made his views known.

- (ii) Land north of Rosedale Community Centre, Preston Road, Hedon (Minute 4504)

Councillor Sharpe declared a personal interest as she ran a care agency.

Councillor Lynn made a declaration under Section 4 of the Planning Code of Practice as she had been approached by the objectors.

Councillor Moore declared a personal interest as the applicants were known to him as they ran a similar facility in Goole.

4501 MINUTES - Resolved - That the minutes of the meeting of the Committee held on 19 November 2009 be confirmed and signed as a correct record.

4502 PLANNING SUB-COMMITTEES - The minutes of the under-mentioned Sub-Committees were received:-

- (i) Eastern Area Planning of 23 November 2009.
- (ii) Western Area Planning of 24 November 2009.

4503 LAND SOUTH OF HOGSEA LANE, HILSTON - The Director of Planning and Economic Regeneration submitted a report on an application by Energiekontor UK Limited for the erection of a three wind turbine sub-station construction of access tracks and associated ancillary development at land south of Hogsea Lane, Hilston (application 09/02000/STPLFE).

This application had previously been reported to this Committee on 8 October 2009 when it had been deferred to enable officers to write to the Secretary of State for Communities and Local Government for more information and clarification on the current working between the national interest and the cumulative impact of wind farms. Members also deferred making a decision for further clarification regarding aviation safety issues affecting Garton Airfield.

At the meeting the Council's legal representative updated the Committee on the following two issues:-

- Dr Wells (one of the objectors) had received legal opinions raising the possibility of conflict between the airfield safety and the colour of the turbines. The planning officers would advise on this.
- Concerns had been expressed by the objectors in relation to the offer of an additional sum of money by the applicants and it was indicated that this offer undermined the integrity of the Council. Members were referred to paragraph 1.6 in the report and offered further clarification on this point emphasising that planning decisions must be made on relevant planning issues and community benefits were not generally considered to be legitimate material considerations.

The Director then updated the Committee on the following representations and consultation responses received on the application following the publication of the report.

- Reference was made to the response from the Secretary of State to this Committee's request for clarification referred to above. The letter was appended to the report indicating that it would be inappropriate for the Secretary of State to comment on the merits of the proposal due to his appellant role in the planning system.
- In relation to the local aviation interest on the safety at Garton Airfield paragraphs 1.4 and 1.5 of the report set out additional information in relation to the airfield.
- A lengthy response had been received from Hilston and Tunstall Residents' Association referring to the legal opinion on the turbine colour an aviation study had not shown grey to be an appropriate colour. The turbines had to be white if they were an aviation danger. If the turbines had to be white the basis on which the environmental statements had been made would be undermined and this would have to be rewritten. There was no industry definition of white and it was acknowledged by the CAA that there was no definition. One such proposal was to provide the turbines in industry standard colours and pale grey would fulfil this guidance. The Lissett turbines were also grey and the inspectors agreed to a condition that the turbines in Withernwick could be grey, however an appropriate Condition needed to be added to ensure that the right colour was provided.
- In terms of aviation issues the Association indicated that Withernwick should not be used as a comparison. These were MoD flights whereas on this site the turbines affected a private airfield. The response also reiterated their objection to the Local Planning Authority's interpretation of Coastal Zone policies and also indicated that locational need should be proven. They felt that the proposal was contrary to the Coastal Zone Management Plan and expressed concerns that the proposal did not comply with the landscape character assessment.
- The British Horse Society had submitted an objection as Hogsea Lane was one of the few quiet routes for equestrians and the road widening measures would result in the loss of verges. This would result in a loss of enjoyment to the countryside. Officers indicated that if appropriate, a Section 106 Agreement could provide for an alternative equestrian route.
- Rimswell Parish Council had submitted a further objection based on the points raised concerning aviation safety and the offer of further monies from the developer referring to Clauses 8 and 9 of the Government Protection Bill which they indicated should be relevant. It also referred to the impact on the Shoreline Management Plan and concerns at the number of onshore wind farm developments proposed and approved when there were also further offshore developments proposed.
- A series of objections had been received from Bewholme, Newbald, Skeffling, Withernwick, Hutton Cranswick, Hornsea, Burton Constable and Etton Parish Councils.
- An objection had been received from Mr Robinson in relation to the additional offer of the monies by the developer and the suggestion that this be used to offset against any appeal costs which was seen as an interference with due process.

- A further objection had been received from Professor Bantin from Garton Airfield referring to the fact that the Northern Flight Path had already had to be closed due to the gas caverns. The suggestion for revised routes were not practical and the developer had not entered into any discussions with the Airfield operator.
- 76 letters of support had been received from the residents of Withernsea and Easington referring to the need for wind energy to tackle climate change. The view that wind farms were better than nuclear energy, that money should not be wasted on further expensive Appeals and the Councillors should vote for clean energy in the future.

An objector and the applicant addressed the meeting in accordance with the agreed protocols.

Councillor Stead addressed the meeting in accordance with the agreed protocols.

Resolved - That the application be refused on the grounds of cumulative impact.

(In accordance with procedure rule 9 (iii) Councillor Pearson wished to be recorded as voting in favour of the above decision).

4504 LAND NORTH OF ROSEDALE COMMUNITY CENTRE, PRESTON ROAD, HEDON - The Director of Planning and Economic Regeneration submitted a report on an application by Yorkare Home for outline consent for the erection of a two storey 60 bedroom residential nursing care home, 15 single storey assisted living units with a Day Centre and a 30 bedroom Dementia Centre (layout of access and scale to be considered) at land north of Rosedale Community Centre, Preston Road, Hedon (application 09/02983/STOUT).

Members of the Committee had visited the site in accordance with the resolution of this Committee.

At the meeting the Director updated the Committee on the following representations and consultation responses received on the application following the publication of the Report.

- A representation had been received from forward planning stating that the site was outside the Hedon development limits and was a Greenfield site and contrary to policy ENV30 (1) of the Local Plan which required an open space be maintained between settlements. The benefits and need for this type of nursing care facility in this part of the East Riding and the sequential testing of alternative sites should be weighed against planning policy in determining this application.
- A further letter of support had been received from the applicants presenting a business case and referring to land values in the Hedon area.
- In paragraph 9.7.3 there was a reference to paragraph '9.1.6' this should read '9.1.7'.

The applicant's agent and an objector addressed the meeting in accordance with the agreed protocols.

Councillor Harrap addressed the meeting in accordance with the agreed protocols.

Resolved - That the application be refused for the reasons as set out in the Director's report.

4505 THE ARTTS INTERNATIONAL CENTRE, HIGHFIELD GRANGE, HIGHFIELD, BUBWITH - The Director of Planning and Economic Regeneration submitted a report on an application by Mr Steven Hazel and Mr John Quinlan for the conversion of student accommodation to form 14 dwellings and two offices and part conversion of theatre complex to provide B1, B2 and B8 flexible business floor space together with ancillary parking, landscaping, servicing and recycling facilities at the Artt's International Centre, Highfield Grange, Highfield, Bubwith (application 09/03718/STPLF).

At the meeting the Director updated the Committee on the following representations and consultation responses received on the application following the publication of the report:-

- A letter from the agent had been received proposing to remove uses B2 and B8 from the proposal making the application for purely residential and B1 office use. Highways had objected to these uses in relation to highway safety. However the removal of these uses meant that reason 5 for the refusal should be removed. Public Protection had also withdrawn its objection suggesting limiting the B1 use from Monday to Saturday from 8.00am to 6.00pm, therefore reason 4 should be removed from the reasons for refusal.
- A submission from Edward Simmons, Chartered Surveyor indicated that they had been marketing the site since July 2006, confirming details had been sent out to 2,200 agents on a national basis and a number of regional agents. This highlighted the extensive marketing undertaken and confirming that they had consulted all avenues to market the site and there had been little interest in it.
- The Theatre's Trust had withdrawn its objection and accepted that there was no demand for the Theatre. The Council needed to be satisfied that the building was surplus to requirements before demolition.
- The Planning Officer updated the planning history indicating that the original permission was granted in November 1988.

The applicant's agent addressed the meeting in accordance with the agreed protocols.

Moved by Councillor Engall and seconded by Councillor Chapman:-

That the application be approved as it is a brownfield site and the highways issues have been resolved.

Moved by Councillor Moore and seconded by Councillor Bird as an amendment:-

That consideration of the application be deferred for a site visit.

Amendment Carried.

Substantive Motion Carried.

Resolved - That consideration of the application be deferred for a site visit.

4506 ADELPHI WAREHOUSE DEVELOPMENT ON PHOENIX STREET AND RICHARD COOPER STREET, GOOLE - The Director of Planning and Economic Regeneration submitted a report on an application by Peter Ward Homes Limited for the erection of 59 dwellings with associated parking at Adelphi Warehouse Development on Phoenix Street and Richard Cooper Street, Goole (application 09/04053/STPLF).

Resolved - (a) That consideration of the application be deferred pending:-

- The receipt of further flood risk and drainage information to the satisfaction of the Environment Agency and Internal Drainage Board.
- The completion of a Section 106 Legal Agreement to cover:-
 - The provision of affordable housing.
 - The provision of recreational open space and a commuted sum in lieu of part provision, and

(b) that following the satisfactory completion of (a) above the Director of Planning and Economic Regeneration be authorised to approve permission subject to the conditions as set out in his report.

4507 LAND WEST OF HEDON SALADS LIMITED, MAIN STREET, BURSTWICK - the Director of Planning and Economic Regeneration submitted a report on an application by the Environment Agency for the variation of Condition 14 of planning permission 09/00740/STPLF relating to the importing of material for flood defence works at land west of Hedon Salads Limited, Main Street, Burstwick (application 09/04000/STVAR).

At the meeting the Director updated the Committee indicating the applicant's agent had provided an update to discussions between the Environment Agency and the land owner to use material from the borrow pit at Stud Farm, but also wished to source material from a sand and gravel site east of Keyingham.

Councillor Turner addressed the meeting in accordance with the agreed protocols.

Resolved - (a) That consideration of the application be deferred pending the submission of a unilateral undertaking in an agreed form or the completion of an Agreement under Section 106 of the Town and Country Planning Act 1990 to secure details of lorry routing, and

(b) that subject to the satisfactory resolution of the above the Director of Planning and Economic Regeneration be authorised to approve the application subject to the conditions as set out in his report.

4508 LAND NORTH AND EAST OF GUARDIAN GLASS, CAPITAL PARK, RAWCLIFFE ROAD, GOOLE - The Director of Corporate Resources submitted a report on an application by Sterling Capital Goole Limited for outline-mixed B1, B2 and B8 employment development, hotel class A3, A4 and A5 facilities, car showrooms and associated landscaping and engineering works at land north and east of Guardian Glass, Capital Park, Rawcliffe Road, Goole (application 08/01710/STOUTE).

This application was originally reported to this Committee on 30 October 2008 when one of the reasons of the deferral had been to complete the link road in accordance with an

agreed timetable prior to the occupation of new buildings on the site. The applicant had requested that the phase to a link road be provided through the Section 106 Agreement “proportionately as to the value of the level of development being carried out at the application site from time to time”. With the proviso that the applicant would not be obliged to construct the link road to an acceptable standard except to the extent that the cost of construction would be made available to the applicant by Yorkshire Forward by way of cash or land contribution. The applicant had also requested that Planning Condition 18 be amended so that instead of reading: “With the exception of the already constructed Tesco distribution centre and the bio-mass processing plant no development shall be brought into use until the Phase 2 link road from Anderson Road to the connection to the existing Phase 1 link with Junction 36 of the M62 has been constructed and is available for use by traffic”. To read: “That no development shall be brought into use until the local planning authority has approved a scheme for the construction and completion of the Phase 2 link road”.

The justification provided related to current economic conditions and delivering the spine road which was commercially acceptable to Sterling Capital’s bankers and advisers.

At the meeting the Director of Planning and Economic Regeneration updated the Committee on these issues and clarified the request indicating that the spine road was to be completed within 24 months from commencement of development. A correction to paragraph 3.6 was made which should read ‘24’ and not ‘12’ months.

An agreed Position Statement had been received from Yorkshire Forward and Sterling Capital. Sterling Capital was the preferred developer of Capital Park and had the responsibility for the spine road. An initial £2m contribution had been made but the costs of completing the road exceed the valuation at present, therefore Yorkshire Forward and Sterling Capital had to provide alternative sources of funding.

A letter from Hull and Humber Chamber of Commerce emphasised the importance of Capital Park to the region and considered the Section 106 Agreement should be revised to allow this to continue. The shortage of funding particularly from Yorkshire Forward should not put a stop to future development. They supported the phasing should no more funding become available.

The Council’s Legal Officer suggested that she provide legal advice on the possible risks of taking the suggested way forward which would be given in confidence, however this was not considered necessary.

Resolved - (a) That consideration of the application be deferred for the completion of an Agreement under Section 106 of the Town and Country Planning Act 1990 to achieve the following:-

- Completion of the link road within 24 months of the commencement of development or development under application reference 08/01720/STPLFE whichever is the sooner.
- Achieve public access across the site to the Council’s land proposed as a country park including the provision of car parking dedicated to the Council.
- An environmental/ecological litigation strategy to achieve an appropriate method of ecological protection both during construction and for the future on and off site.

- An appropriate contribution towards the development of the allocated country park (£500 per developable acre).
- Promotion of the rail link for the transport of goods in bulk, and

(b) that upon satisfactory completion of (a) above the Director of Corporate Resources be authorised to approve the application subject to the conditions as set out in her report.

4509 CAPITAL PARK, RAWCLIFFE ROAD, GOOLE - The Director of Corporate Resources submitted a report on an application from Sterling Capital Goole Limited for the erection of two distribution warehouses (B8) with ancillary facilities and associated landscaping and engineering works and construction of Phase 2 spine road at Capital Park, Rawcliffe Road, Goole (application 08/01720/STPLFE). The applicant was requesting that the Phase 2 link road be provided through the Section 106 Agreement “proportionately as to the value of the level of development being carried out at the application site from time to time”. With the proviso that the applicant would not be obliged to construct the link road to an acceptable standard except to the extent that the cost of construction would be made available to the applicant by Yorkshire Forward “by way of cash or lump contribution”. The application had also requested that Planning Condition 18 be amended to the effect that instead of the reading “No development shall be brought into use until the Phase 2 link road from Anderson Road to the connection to the existing Phase 1 link with Junction 36 of the M62 has been constructed and is available for use by traffic” would read instead “That no development should be brought into use until the local Planning Authority has approved a scheme for the construction and completion of the Phase 2 link road”.

The justification provided related to the current economic conditions and delivering the spine road which was commercially acceptable to Sterling Capital’s bankers and their advisors.

Resolved - (a) That consideration of the application be deferred for the completion of an Agreement under Section 106 of the Town and Country Planning Act 1990 to achieve the following:-

- Completion of the link road within 24 months of the commencement of development or development under application reference 08/01720/STPLFE whichever is the sooner.
- Achieve public access across the site to the Council’s land proposed as a country park including the provision of car parking dedicated to the Council.
- An environmental/ecological litigation strategy to achieve an appropriate method of ecological protection both during construction and for the future on and off site.
- An appropriate contribution towards the development of the allocated country park (£500 per developable acre).
- Promotion of the rail link for the transport of goods in bulk, and

(b) that upon satisfactory completion of (a) above the Director of Corporate Resources be authorised to approve the application subject to the conditions as set out in her report.

4510 FUTURE PLANNING APPLICATIONS - The Director of Planning and Economic Regeneration submitted a report giving advance notice of planning applications which were currently under consideration and were likely to be submitted to the next or subsequent meeting of the Committee.

Resolved - That the report be noted.