

NOTICE OF MEETING

MEETING	PLANNING AND ENVIRONMENTAL PROTECTION COMMITTEE
DATE:	TUESDAY 3 MARCH 2009
TIME:	1.30 pm
VENUE:	BOURGES/VIERSEN ROOM - TOWN HALL
CONTACT:	Martin Whelan Telephone: 01733 452323 e-mail address martin.whelan@peterborough.gov.uk
<i>Despatch date:</i>	<i>23 February 2009</i>

AGENDA

PAGE NO

1. **Apologies for Absence**
2. **Declarations of Interest**
3. **Members' Declaration of intention to make representations as Ward Councillor**
4. **Development Control and Enforcement Matters**
 - 4.1 **08/01433/FUL - Retention of Smoking Shelter at the Phoenix, Townsend Road, Wittering** **1 - 6**
5. **06/01051/FUL & 07/01411/FUL Erection of Wind Turbines at Wrydecroft and Nutsgrove Farms, Thorney, Peterborough*** **7 - 14**

*This item falls outside of the Public Speaking Scheme. Interested parties may speak at the discretion of the Committee. Expressions of interest must be registered by 4.00pm on Monday 2nd March 2009 with the Senior Governance Officer (Martin Whelan 01733 452323).

MEMBERS OF PLANNING AND ENVIRONMENTAL PROTECTION COMMITTEE

Councillor M Todd (Chairman), Councillor P Hiller (Vice-Chairman), Councillor C Ash, Councillor C Burton, Councillor M Cereste, Councillor P Kreling, Councillor S Lane, Councillor P Thacker,



There is an induction hearing loop system available in all meeting rooms. Some of the systems are infra-red operated, if you wish to use this system then please contact Martin Whelan on 01733 452323.

Councillor I Walsh and Councillor C Day

Subs: Councillors: F Benton and K Sharp

NOTES:

1. Any queries on completeness or accuracy of reports should be raised with the Case Officer or Head of Planning Services as soon as possible.
2. The purpose of location plans is to assist Members in identifying the location of the site. Location plans may not be up-to-date, and may not always show the proposed development.
3. These reports take into account the Council's equal opportunities policy but have no implications for that policy, except where expressly stated.
4. The background papers for planning applications are the application file plus any documents specifically referred to in the report itself.
5. These reports may be updated orally at the meeting if additional relevant information is received after their preparation.



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08/01433/FUL: RETENTION OF SMOKING SHELTER AT THE PHOENIX, TOWNSEND ROAD, WITTERING
VALID: 11 DECEMBER 2008
APPLICANT: MR DAVID TURNER
REFERRED BY: PARISH COUNCIL
REASON: DETRIMENTAL TO THE NEIGHBOURHOOD
DEPARTURE: NO

CASE OFFICER: LOUISE LEWIS
TELEPHONE: 01733 454412
E-MAIL: louise.lewis@peterborough.gov.uk

1 SUMMARY/OUTLINE OF THE MAIN ISSUES

The main considerations are:

- The character and appearance of the smoking shelter and its impact on the immediate area

The Head of Planning Services recommends that the application is APPROVED.

2 PLANNING POLICY

In order to comply with section 38(6) of the Planning and Compulsory Purchase Act 2004 decisions must be taken in accordance with the development plan policies set out below, unless material considerations indicate otherwise.

Development Plan Policies

Relevant policies are listed below with the key policies highlighted.

The Adopted Local Plan 2005 (Saved Policies)

DA2 The impact of development on the character and appearance of the area

Material Planning Considerations

Decisions can be influenced by material planning considerations. Relevant material considerations are set out below, with the key areas highlighted:

3 DESCRIPTION OF PROPOSAL

The smoking shelter is already in place. It is of timber, with a slightly pitched roof and open areas along the upper part of the sides forming "windows". These are glazed with Perspex which can be removed in hot weather. The timber roof is attached to the main building but there is an unroofed area between building and shelter.

4 DESCRIPTION OF SITE AND SURROUNDINGS

The pub is located on the north side of Townsend Road, on the inside of a curve in the road. The walls are of pale buff stone and brick, with a small unobtrusive area of red commons. The roof is of slate.

There is a garden area to the side and a garage court and parking area to the rear. The beer garden is separated from the road by a stone wall topped with railings. The smoking shelter is along one side of the pub.

5 **PLANNING HISTORY**

Application Number	Description	Date	Decision
07/01271/FUL	Smoking and sun shelters and lean-to store	31 October 2007	Permitted
0/01063/FUL	First floor extension to public house to provide living accommodation, new roof over remainder of premises, change of use of hairdressing salon to public house and erection of detached double garage	8 November 2000	Permitted

6 **CONSULTATIONS/REPRESENTATIONS**

NEIGHBOURS

A letter of objection has been received from the Parish Council raising the following issues:

- Original permission was granted for one year to allow for review. The sketches and photographs submitted with the application do not accurately represent the condition of the site at present.
- The smoking shelter is now an aviary which has resulted in complaints by neighbouring residents of unacceptable noise, dust and risk of vermin which have already been investigated by Environment Services.
- Only 50% of the smoking shelter is not enclosed, there are fixed windows, and areas have been roofed that are not shown on drawings and photographs.
- No gutters or proper soakaways have been installed and there is no evidence that statutory fire precautions are in place.
- The whole site is considered unsightly and detrimental to the neighbourhood.

7 **REASONING**

a) **Introduction**

The smoking shelter was approved in 2007 subject to a temporary condition allowing for reconsideration after one year.

b) **Policy issues**

The relevant Policy is DA2, which requires that development does not have an adverse impact on the character of the area or on neighbour amenity.

c) **Impact on character of the area**

The shelter is of timber and blends well with the existing building, being of a similar colour. The character of the area is varied, residential, with no particular defining characteristics. The shelter does not obtrude itself into the streetscene, and is considered acceptable in this regard.

d) **Use as smoking shelter**

The compliance or otherwise with the smoke-free legislation is not a planning matter. Smoking shelters must not be enclosed or substantially enclosed. This means that no more than half of the sides must be enclosed. In this case the roof of the shelter is offset from the side building of the wall, and although there is perspex glazing in some of the window openings this is only on two sides. The Planning system cannot determine whether the shelter falls within the definition of smoking shelter as set out in The Health Act 2006.

e) **Aviary**

There is an aviary on site. It is not covered by this application.

f) **Other matters**

The Parish Council has also commented that there are no gutters, soakaways or fire precautions. These are not planning matters, although guttering and downpipes have been fitted.

8 CONCLUSIONS/REASONS FOR RECOMMENDATION

The proposal is acceptable having been assessed in the light of all material considerations, including weighting against relevant policies of the development plan and specifically:

- the shelter is unobtrusive and has no detrimental impact on the amenity of the area or the amenities of occupiers of nearby dwellings. The proposal is therefore in accordance with Saved Policy DA2 of the Peterborough Local Plan 2005 (First Replacement).

9 RECOMMENDATION

The Head of Planning Services recommends that this application is APPROVED. No conditions are considered necessary.

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06/01051/FUL & ERECTION OF WIND TURBINES AT WRYDECROFT & NUTSGROVE
07/01411/FUL: FARMS, THORNEY, PETERBOROUGH
VALID: 25 JULY 2006 AND 8 OCTOBER 2007
APPLICANT: WPR WIND LTD & RENEWABLE ENERGY SYSTEMS UK LTD
REFERRED BY: HEAD OF PLANNING SERVICES
REASON: TO ENSURE THAT MEMBERS ARE FULLY INFORMED

CONTACT OFFICER: BARRY FAGG
TELEPHONE: 453475
E-MAIL: barry.fagg@peterborough.gov.uk

1 BACKGROUND

Members will recall that these applications were considered at the Planning and Environmental Protection Committee on 21st October 2008, when Members resolved to refuse permission to 07/01411/FUL and that they would have refused permission to 06/01051/FUL for the following reasons:

R1 The proposed wind turbine development would unacceptably affect Ministry of Defence radar systems to the degree that it would not, if the turbines were constructed, be possible to provide a safe and expeditious air traffic service to military and non-military aircraft in the area. The Ministry of Defence has advised that the applicant has failed to prove that the proposal would have no adverse impact on aviation interests as required in accordance with paragraph 25 of Planning Policy Statement 22 (PPS 22) – Renewable Energy which states;

'It is the responsibility of developers to address any potential impacts, taking account of Civil Aviation Authority, Ministry of Defence and Department for Transport guidance in relation to radar and aviation, and the legislative requirements on separation distances, before planning applications are submitted. Local Planning Authorities should satisfy themselves that such issues have been addressed before considering planning applications'.

and paragraph 96 of the Companion Guide to PPS 22 which states:

Because topography, intervening buildings and even tree cover can mitigate the effect of wind turbines on radar, it does not necessarily follow that the presence of a wind turbine in a safeguarding zone will have a negative effect. However, if an objection is raised by either a civil aviation or Defence Estates consultee, the onus is on the applicant to prove that the proposal will have no adverse impact on aviation interests.

Thus the proposal is contrary to the provisions of Planning Policy Statement 22.

R2 The proposed development, when considered alongside other existing and potential wind turbine sites would have, cumulatively, a harmful impact upon the character and appearance of the Fen landscape in conflict with policy LNE1 of the Peterborough Local Plan (First Replacement) which states:-

Development in the countryside will be restricted to that which is demonstrably essential to the effective operation of local agriculture, horticulture, forestry, outdoor recreation or public utility services.

R3 A request has been made by the Local Planning Authority to secure funding from the applicant to promote renewable energy measures within the local communities through information literature and education and community based renewable energy related projects. However, no S106 Obligations have been completed and the proposal is therefore considered to be contrary to policy IMP1 of the Peterborough Local Plan (First Replacement) which states:-

Planning permission will not be granted for any development unless provision is secured for all additional infrastructure, services, community facilities and environmental protection measures, which are necessary as a direct consequence of development and fairly and reasonably related to the proposal in scale and in kind.

The provision of such requirements shall be secured as part of development proposals or through the use of conditions attached to planning permissions, or sought through planning obligations.

Where provision on an application site is not appropriate or feasible, provision elsewhere, or a contribution towards this provision, will be sought where necessary.

Where a planning application is for part of a larger area planned for development, a pro rata provision of any necessary facilities, services or infrastructure, or a contribution towards them, will be sought.

Appeals have been lodged in respect of both applications and a Public Inquiry requested. In order to prepare the Council's case officers have secured the services of an expert landscape consultant experienced in fighting wind turbine appeals on landscape grounds. This report has been prepared on the basis of the Consultants initial advice, a copy of which is attached.

The **Head of Planning Services** recommends that Members resolve to offer no evidence at the Public Inquiry in respect of Reason 2 of the above decisions.

2 POLICY

There is a great deal of policy advice relating to renewable energy developments, an extensive selection of which is quoted in the application for two turbines at French farm, reported elsewhere on this agenda. The most important policy advice is contained in PPS 22 which sets out 8 key principles as follows:

Planning Policy Statement 22 (PPS22) - Planning for Renewable Energy

- (i) Renewable energy developments should be capable of being accommodated throughout England in locations where the technology is viable and environmental, economic, and social impacts can be addressed satisfactorily.
- (ii) Regional spatial strategies and local development documents should contain policies designed to promote and encourage, rather than restrict, the development of renewable energy resources. Regional planning bodies and local planning authorities should recognise the full range of renewable energy sources, their differing characteristics, locational requirements and the potential for exploiting them subject to appropriate environmental safeguards.
- (iii) At the local level, planning authorities should set out the criteria that will be applied in assessing applications for planning permission for renewable energy projects. Planning policies that rule out or place constraints on the development of all, or specific types of, renewable energy technologies should not be included in regional spatial strategies or local development documents without sufficient reasoned justification. The Government may intervene in the plan making process where it considers that the constraints being proposed by local authorities are too great or have been poorly justified.

- (iv) The wider environmental and economic benefits of all proposals for renewable energy projects, whatever their scale, are material considerations that should be given significant weight in determining whether proposals should be granted planning permission. This directs Planning Authorities to give a greater emphasis to the overall benefits of renewable energy than was previously given in PPS22.
- (v) Regional planning bodies and local planning authorities should not make assumptions about the technical and commercial feasibility of renewable energy projects (e.g. identifying generalised locations for development based on mean wind speeds). Technological change can mean that sites currently excluded as locations for particular types of renewable energy development may in future be suitable.
- (vi) Small-scale projects can provide a limited but valuable contribution to overall outputs of renewable energy and to meeting energy needs both locally and nationally. Planning authorities should not therefore reject planning applications simply because the level of output is small.
- (vii) Local planning authorities, regional stakeholders and Local Strategic Partnerships should foster community involvement in renewable energy projects and seek to promote knowledge of and greater acceptance by the public of prospective renewable energy developments that are appropriately located. Developers of renewable energy projects should engage in active consultation and discussion with local communities at an early stage in the planning process, and before any planning application is formally submitted.
- (viii) Development proposals should demonstrate any environmental, economic and social benefits as well as how any environmental and social impacts have been minimised through careful consideration of location, scale, design and other measures.

Regional renewable energy targets should be expressed as a minimum amount of installed capacity. The fact that a target has been reached should not be used in itself as a reason for refusing planning permission for further renewable energy projects. Nor should it be argued that the potential to generate substantial amounts of energy from offshore projects is reason to justify lower targets for onshore projects. The PPS also states that fixed targets for renewable development proposal should not be used.

Of all renewable technologies, wind turbines are likely to have the greatest visual and landscape effects. However, in assessing planning applications, local authorities should recognise that the impact of turbines on the landscape will vary according to the size and number of turbines and the type of landscape involved, and that these impacts may be temporary if conditions are attached to planning permissions which require the future decommissioning of turbines.

Renewable technologies may generate small increases in noise levels (whether from machinery such as aerodynamic noise from wind turbines, or from associated sources - for example, traffic). Local planning authorities should ensure that renewable energy developments have been located and designed in such a way to minimise increases in ambient noise levels. Plans may include criteria that set out the minimum separation distances between different types of renewable energy projects and existing developments. The 1997 report by ETSU for the Department of Trade and Industry should be used to assess and rate noise from wind energy development.

3 ISSUES

Reason 1

The MOD are still in negotiation with the appellants and on the basis that they do not reach agreement before any public inquiry they will present their own evidence.

Reason 2

The impact of wind turbine schemes on the landscape, both individually and cumulatively, is a material planning consideration and thus is a legitimate reason for refusal.

In order to succeed at appeal the Local Planning Authority must be able to show that their concerns for the landscape are justified and that they outweigh what is effectively a presumption in favour of renewable energy proposals in PPS22.

In order to ensure that the Council's case was presented in the best possible way, Officers have employed the services of a Consultant with considerable experience in fighting wind turbine appeals on the basis of landscape impact. The Consultant has given the advice in the attached letter.

He would be willing to proceed to represent the Council's case at the Public Inquiry, however, his advice is clearly that the case is weak and is unlikely to succeed.

Where an Inquiry is held, the appellant can claim that the Council acted unreasonably in refusing the application and claim the costs of preparing and presenting evidence against the Council. This can come to many thousands of pounds, in addition to the costs of preparing and presenting the Council's own case.

In view of our Consultants advice, Officers consider that it is highly likely that the Inspector would regard Reason 2 of both applications as unreasonable and as such it would exposing the Council to a very high risk of both losing that element of the appeal and having costs awarded against the Council if we proceed to defend those Reasons.

If the Council makes this decision at this stage, there may be no costs incurred beyond our own Consultant.

Reason 3

Officers are confident that agreement can be reached with the appellants regarding the level of S106 contribution to mitigate the impact of the development on the landscape through contributions towards Renewable Energy, wildlife and archaeological projects. Officer would continue to defend this reason for refusal.

4 CONCLUSIONS

It is not in the public interest to continue to defend Reason 2 of both 06/01051/FUL and 07/01411/FUL.

5 RECOMMENDATION

The Head of Planning Services recommends that Members agree to OFFER NO EVIDENCE in respect of Reason 2 of both 06/01051/FUL and 07/01411/FUL at the forthcoming Public Inquiry. The MOD will continue to defend their reason for refusal (Reason 1) and Officers will continue to defend Reason 3.

Copy to Councillors Dobbs and Sanders

JOHN CAMPION ASSOCIATES Ltd

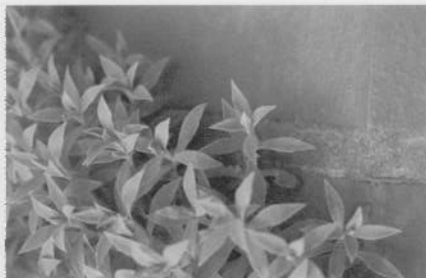
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Dear Mr Fagg,

13th February, 2009

APPEAL AGAINST NON-DETERMINATION OF PLANNING CONSENT: NUTSGROVE FARM & WRYDECROFT PROPOSED WIND FARM DEVELOPMENTS LANDSCAPE ADVICE

I refer to our discussions concerning the above matter held in your office late yesterday afternoon, following my site inspection and my meeting with your Principal Planning Officer colleague Dale Barker and Mr Ben Robinson, the City Council's archaeologist.

I had instigated the briefing meeting with Dale Barker and Ben Robinson subsequent to a protracted interchange of email and telephone correspondence between Mr Barker and myself since late December 2008. I was approached with a view to providing landscape expert witness services to Peterborough City Council at a possible appeal against non-determination of planning consent.

I have read the Planning Committee report from October 2008 and other appropriate documents relating to the deemed refusal of consent and the grounds for refusal in particular. I understand that the main remaining objection to the proposal is by the Ministry of Defence in relation to matters of air navigation. I also understand that the applicant is still engaged in discussions with the MoD as to whether their concerns can be addressed. If this negotiation were to result in the MoD objection being subsequently withdrawn, then Peterborough City Council would need to decide

I have appeared as a landscape expert witness at 7 planning inquiries concerning wind turbine developments of between 3 and 26 turbines since 2001, in each case appearing for the local planning authority or (in two instances) for the Countryside Council for Wales (CCW), the government's statutory adviser on landscape and nature conservation in Wales. One such scheme was the Deeping St. Nicholas windfarm, where I appeared for South Holland District Council, and which was upheld on appeal and implemented only relatively recently. I have also given landscape opinions to planning authorities on a further 3 wind turbine schemes. In addition I worked since 2007 as a professional advisor under contract to CCW providing landscape advice on wind turbine planning applications, of which there have been 10 to date

It is extremely difficult for an appeal to be dismissed purely on landscape grounds alone. I have only appeared at one planning inquiry involving wind turbines where this did occur; in this case, there were 3 turbines around 90 metres high sited less than 300 metres from the boundary of the Pembrokeshire Coast National Park.

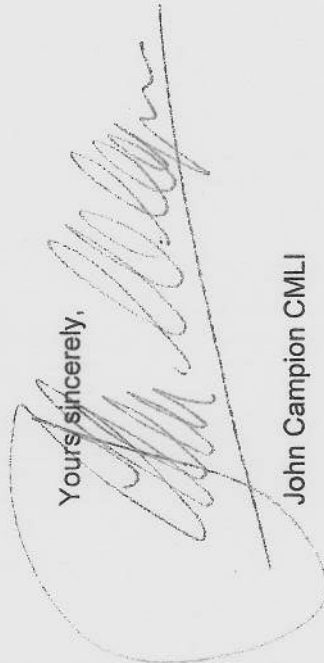
I have examined the nature of the landscape in which the turbines would be set. From previous knowledge of working in the Fens and in east Lincolnshire, and travelling through this area, I had felt that the village of Thorney possessed sufficient special characteristics that a landscape case might have been able to be built upon its historical significance in the creation of the fenland landscapes we see today. The excellent in-depth briefing I received from your highly experienced archaeologist – of fenland origin, with a specialised knowledge of fenland landscape history and previous work experience with Cambridgeshire County Council – supported my pre-suppositions. However, in spite of the unique role played by the Earl of Bedford's estate of Thorney in fenland drainage and subsequent landscape change, and its estate village architecture and layout being unique within The Fens, the Peterborough Landscape Character Assessment reported in 2007 only graded the Thorney Island 'strength of character' as being 'moderate'. This I find difficult to understand and I believe that it very much understates the significance of this landscape. The archaeology officer provided a wealth of historical information to assist in the preparation of the Landscape Character Assessment, yet the outcome in respect of Thorney Island appears to have been very much diluted.

The landscape case against the erection of the proposed turbines at Nutsgrove Farm and Wrydecroft is therefore extremely weak. The Nutsgrove Farm applicant did not refer to the Peterborough Landscape Character Assessment study in the Environmental Statement, since it pre-dated the study. Although I would attempt to make a case that the applicant has understated the historical significance of the Thorney Island area in his assessment of the baseline landscape condition – and therefore that the landscape and visual impacts are understated - I cannot rely on any actions, decisions or evidence brought by the Council to support this. The predicted effects upon the setting of the Scheduled Ancient Monument at the

not recommend that Peterborough City Council continue to progress this appeal if the MoD withdraw their objection.

If you wish to discuss any of the above matters, please do not hesitate to contact me.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'John Campion', written over a horizontal line. The signature is enclosed within a faint, hand-drawn oval.

John Campion CMLI

Director

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