

CALL-IN REQUEST FORM

This form must be completed and signed by at least TWO members of any Scrutiny Commission or Scrutiny Committee and **MUST** be returned to the *Proper Officer within 3 working days of the decision being published (*not including the day of publication*). Please telephone the Proper Officer to make them aware that the Call-In form is on its way.

**Please note that the Proper Officer can be any of the following Senior Governance Officers: Paulina Ford, Gemma George. The Call-In Request will only be valid if it has been received in person by any of the above people within the 3 working day deadline. The form may be emailed or hand delivered. If sent in the post you must call the Proper Officer to advise that it has been posted and it will need to be received by the Proper Officer within the 3 working day deadline.*

Decision taker:	Cabinet
Date of publication of decision:	24 February 2014
Title of Decision Called in :	Update on Proposed Ground Mounted and Wind Developments at Newborough, Morris Fen and America Farm – FEB14/CAB/16
Date Decision Called in:	26 February 2014

	REASONS FOR CALL-IN	Tick which reason applies
1.	Decision contrary to the policy framework?	
2.	Decision contrary or not wholly consistent with the budget?	
3.	Decision is Key but it has not been dealt with in accordance with the Council's Constitution.	
4.	Decision does not follow principles of good decision-making set out in Article 12 of the Council's Constitution.	X
	If reason 4, please tick which specific element of Article 12 the decision maker has not followed, did he or she not:	
(a)	Realistically consider all alternatives and, where reasonably possible, consider the views of the public.	X
(b)	Understand and keep to the legal requirements regulating their power to make decisions	
(c)	Take account of all relevant matters, both in general and specific, and ignore any irrelevant matters.	X
(d)	Act for a proper purpose and in the interests of the public.	
(e)	Keep to the rules relating to local government finance.	
(f)	Follow procedures correctly and be fair.	X
(g)	Make sure they are properly authorised to make the decisions.	
(h)	Be responsible for their decisions and be prepared to give reasons for them.	
(i)	Take appropriate professional advice from officers.	

Detailed Reason(s) for Call-in. Please explain below why one of the reasons for call-in applies (eg. For number 1 - which major policy affected and how/why)

1. There has been a significant change to the financial projections between consideration of the financial position in December at Scrutiny and the Cabinet report of 24 February. There was no explanation for that change and more importantly; no opportunity for the Wind and Solar working group, and therefore the public, to explore that change or to be given an opportunity to consider all alternatives (Article 11 (2) (a)).
2. By failure to refer consideration of the financial position to the Wind & Solar Working Group prior to the Cabinet meeting; the Cabinet has failed to follow procedures correctly and be fair (Article 11 (2) (b)).

There is a serious concern about the grid connection at America Farm and £3million has been set aside to meet any contingency arising but no explanation has been given about whether this is an appropriate amount for the risks around the grid connection. There is no justification for this figure and no opportunity has been given to the working group to examine this.

3. There has been a significant change to the quality of the land as set out in the Cabinet report (from grade 1 and 2 to 3a). The public, in particular the tenant farmers, were not told of this until the report was issued. This has the potential to impact the tenant farmers and the Council's own freehold interests and no consideration was given as to the commercial impact that this information could have; i.e. developing the land. The Cabinet has therefore failed to take into account all relevant matters before making their decision (Article 11 (2) (c)).

Outcome:

Before any final decision is made by the Executive, the matter should be referred to the Scrutiny Committee and / or the Wind and Solar working group for an in-depth consideration of these issues with appropriate public involvement.

	Name (please print)	Signature	Date
1.	Cllr D Harrington		26 Feb 2014
2.	Cllr D Sanders		26 Feb 2014
3.	Cllr E Murphy		26 Feb 2014

THIS PART OF THE CALL-IN REQUEST FORM IS TO BE COMPLETED BY THE CHIEF EXECUTIVE (OR HIS/HER REPRESENTATIVE)

Date form received:		26 February 2014	
Form processed by (name):		Paulina Ford	
Was Call-in request received within timescales?	YES	If No, reject and inform parties, initial and date this box to show completed	
Is the request form signed at least 2 members of any Scrutiny Commission or Scrutiny Committee?	YES	If No, reject and inform parties, initial and date this box to show completed	
URGENCY			
1.	In the view of the decision-maker, was the decision made of an urgent or special urgent nature, and if so, why?		
	No		
2.	In the view of the Chairman of the Scrutiny Committee, is the decision under consideration sufficiently urgent that it should not be available for call-in, and if so, why?		
	No		
To be considered by which Scrutiny Commission/Committee		Sustainable Growth and Environment Capital Scrutiny Committee	
Date for Scrutiny Commission/Committee to consider request for call-in		12 March 2014	
Result of the Scrutiny Commission/Committee's considerations			
If necessary, which decision-maker is to reconsider decision and by which date?		Decision-maker	Date
Signature and date of officer completing Call-in request form		Signature	Date
		Name (please print)	

SUSTAINABLE GROWTH AND ENVIRONMENT CAPITAL SCRUTINY COMMITTEE	Agenda Item No.
12 MARCH 2014	Public Report

Report of the Executive Director, Resources

Contact Officer(s) – John Harrison, Executive Director, Resources
Contact Details – 01733 452398

RESPONSE TO CALL-IN OF EXECUTIVE DECISION – UPDATE ON PROPOSED GROUND MOUNTED AND WIND DEVELOPMENTS AT NEWBOROUGH, MORRIS FEN AND AMERICA FARM – FEB14/CAB/16

1. PURPOSE

- 1.1 The purpose of this Report is to respond to the issues raised in the Call-in Request relating to the Update on Proposed Ground Mounted and Wind Developments at Newborough, Morris Fen and America Farm (FEN14/CAB/16).

2. RECOMMENDATIONS

- 2.1 That the Committee considers the response to the Call-in Request and is asked not call in this matter subject to:

2.1.1 the referral of the Call-in Request to the Wind and Solar working group meeting on 18 March 2014 which shall report upon the issues contained in the Call-in Request; and

2.1.2 consideration of the Report of the Wind and Solar working group by Cabinet.

- 2.2 That the Cabinet shall not act upon the decision made by Cabinet on 24 February until after it has considered the working group report..

3. LINKS TO THE SUSTAINABLE COMMUNITY STRATEGY

- 3.1 The project supports delivery of the Council’s Environmental Capital ambitions by producing ‘Green energy’ through the use of renewable technologies. The proposed developments will maximise energy output as well as balance environmental and community concerns whilst contributing a significant reduction of the Council’s carbon footprint.

In addition, the energy generated can be sold to create a new and significant source of revenue to the Council that will help to close the Council’s funding gap and protect its ability to continue in the provision of front line services. The Medium Term Financial Strategy approved by Full Council in March 2013 included the income generated by these proposals. If the schemes do not proceed, then the budget deficits forecast in future years will worsen.

The project will generate significant amounts of renewable power which can be used by the Council to safeguard its budgets against future electricity price rises and uncertain energy price inflation.

4. BACKGROUND

- 4.1 On 24 February 2014 Cabinet considered the Public Report entitled “Update on Proposed Ground Mounted and Wind Farms at America Farm, Morris Fen and Newborough” (“the Report”).

That decision of the Cabinet has been called-in by Call-In Request Form dated 26 February 2014. – see separate document.

5. KEY ISSUES

5.1 RESPONSE TO CALL IN REQUEST

Although the Call-in Request does not have merit, due of the high profile nature of the America Farm proposals there is a benefit in the matter being discussed in greater depth by the Wind and Solar working group. The detailed reasons for the Call-In Request and responses detailing out why this matter should not be called in are set out below:

Reason 1:

There has been a significant change to the financial projections between consideration of the financial position in December at Scrutiny and the Cabinet Report of 24 February. There was no explanation for that change and more importantly; no opportunity for the Wind and Solar working group, and therefore the public, to explore that change or to be given an opportunity to consider all alternatives (Article 11 (2) (a)).

Response to Reason 1:

- The changes to the financial projections were fully explained in the report. For example:

'4.1.2 The Council has further consulted the market, through its advisors, Deloitte, EC Harris and through other developers. As a result, the updated position presented here takes into account revisions to costs and assumptions to that presented on 16th December 2013 as follows:

- *Grid Connection costs have been shown against the item and monies transferred from the contingency budget*
- *Removal of contingency for install capital costs (£100k per MWp installed)*
- *Reduction of O&M (running costs) rate based on current industry best practice*
- *Reduction in insurance costs as a result of Capital Cost reducing*
- *Business rates adjusted to reflect 2014/15 levy*
- *Inclusion of a Community Benefit Fund rate of £500 / MW per annum, index linked for the lifetime based upon a recent market comparator*
- *Increase in Interest due to revised capital cost and a change to PWLB forecast rates (weighted average from 4.38% to 4.55%)*
- *Revision of ROC income due to RPI update and market intelligence*
- *Revision of PPA indexation aligned to DECC central wholesale price scenario*
- *Updated RPI to reflect more recent HMT guidance over 5 year RPI estimates;*
- *Business rates income retained by the Council and not paid out to national government under "Green" business rates legislation.'*

- The Extraordinary Scrutiny Commission for Rural Communities meeting held on 16 December 2013 did not ask the Wind and Solar Working Group to consider the ground mounted wind and solar proposals further as the Report had fully addressed all of the financial issues in detail. Instead the matter was referred straight to Cabinet.

Reason 2:

By failure to refer consideration of the financial position to the Wind and Solar Working Group prior to the Cabinet meeting; the Cabinet has failed to follow procedures correctly and be fair (Article 11 (2) (b)).

There is a serious concern about the grid connection at America Farm and £3m has been set aside to meet any contingency arising but no explanation has been given about whether this is an appropriate amount for the risks around the grid connection. There is

no justification for this figure and no opportunity has been given to the working group to examine this.

Response to Reason 2:

- Proper procedures have been followed and the case that the Council has failed to follow proper procedures and be fair has not been made out.
- The estimated cost of the grid connection has been based upon professional advice received from Aecom.
- The Report recognised this as a risk:

'5.7 America Farm: Risks

'5.7.1' A risk to a solar farm's financial viability on America Farm is continued uncertainty around the cost of the grid connection. Council currently has assigned £3m which is deemed to be sufficient.'

- As already explained above, the Extraordinary Scrutiny Commission for Rural Communities meeting held on 16 December 2013 did not ask the Wind and Solar Working Group to consider the financial implications surrounding the grid connection.

Reason 3:

There has been a significant change to the quality of the land as set out in the Cabinet Report (from grade 1 and 2 to 3a). The public, in particular the tenant farmers, were not told of this until the report was issued. This has the potential to impact the tenant farmers and the Council's own freehold interest and no consideration was given as to the commercial impact that this information could have; i.e. developing the land. The Cabinet has therefore failed to take into account all relevant matters before making their decision (Article 11 (2) (c)).

Response to Reason 3:

- The Call-in Request states that the land in question was at grade 1 and 2. This is incorrect – the land in question is currently categorised as grade 1.
- Paragraph 4.3.3 of the Report detailed the change in the quality of the land from grade 1 to grade 3a. This soil report related solely to America Farm and not any other sites.
- The existing tenant of America Farm is vacating the site. No other farmer interests are impacted upon at America Farm.

6. NEXT STEPS PROPOSED BY CABINET

Prior to this report being prepared Councillor Seaton had proposed that he was willing to not implement the decision of Cabinet to enable the matter to be discussed in detail by the Wind and Solar working group.

This was rejected.

The Cabinet believes that because of the high profile nature of the proposals that there is benefit in the matter being discussed in greater depth by the Wind and Solar working group. It intends notwithstanding whether committee seeks to call in the matter or not that it will undertake this course of action. This is in line with the outcome requested by the Call-in Request.

7. IMPLICATIONS

7.1 No new implications since preparation of the report and the implications contained therein

8. CONSULTATION and NEXT STEPS

8.1 It is proposed that the matter be referred to the working group.

9. BACKGROUND DOCUMENTS

9.1 None

10. APPENDICES

10.1 None

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