

## **MINUTES OF A MEETING OF THE DEVELOPMENT AND REGULATION COMMITTEE HELD AT COUNTY HALL, CHELMSFORD ON 28 FEBRUARY 2014**

### **Present**

Cllr R Boyce (Chairman)  
Cllr J Abbott  
Cllr W Archibald  
Cllr A Brown  
Cllr P Channer  
Cllr M Ellis

Cllr J Lodge  
Cllr M Mackrory  
Cllr Lady P Newton  
Cllr J Reeves  
Cllr C Seagers  
Cllr S Walsh

### **1. Apologies and Substitution Notices**

Apologies were received from Cllr Keith Bobbin (substituted by Cllr Archibald) and Cllr Carlo Guglielmi (substituted by Cllr Seagers).

### **2. Declarations of Interest**

Cllr Lady Newton declared a personal interest in agenda items 5a, Little Warley Hall Farm, and 5b, Driberg Way, Braintree, as a Member of Braintree District Council and Portfolio Holder for Planning at Braintree.

Cllr Abbott declared a personal interest in items 5a, Little Warley Hall Farm, and 5b, Driberg Way, Braintree, as a Member of Braintree District Council.

### **3. Minutes**

The Minutes and Addendum of the Committee held on 13 December 2013 were agreed and signed by the Chairman.

### **4. Identification of Items Involving Public Speaking**

The persons identified to speak in accordance with the procedure were identified for the following item:

The construction (retention) of a circular concrete storage tank; de-odourising ring; equipment container; and associated hardstanding to facilitate the storage of abattoir wash water. Together with the use of the existing agricultural access track to access the wash water tank.

Location: Little Warley Hall Farm, Ranks Green, Fairstead, Essex, CM3 2BG.  
Ref: ESS/60/13/BTE

Public Speakers: Sarah McNamara speaking against  
Colin Adams speaking against  
Stewart Rowe speaking for

## 5. Little Warley Hall Farm

The Committee considered report DR/03/14 by the Director for Operations, Environment and Economy.

The Members of the Committee noted the contents of the Addendum attached to these minutes.

The Committee was advised that this was a retrospective planning application for the retention of a concrete storage tank for abattoir wash water, with associated development and provisions.

Policies relevant to the application were detailed in the report.

Details of consultation and representations received were set out in the report.

The Committee noted the key issues that were:

- Need and Site Suitability
- Proposed Operations
- Impact upon Landscape and Amenity
- Human Rights

In accordance with the protocol on public speaking the Committee was addressed by Sarah McNamara, Chairman of Terling and Fairsted Parish Council. Mrs McNamara said:

- The Parish Council has been lobbied by several local residents about the nuisance caused by the transport of waste materials, the importing of it onto the land and the odours being given off
- The activity is an industrial one, not an agricultural one and so the tank is an industrial building. It is also unacceptably large and visually intrusive
- The County Council should have taken action in respect of this illegal activity
- This application has lacked a meaningful assessment of the environmental impact, eg in respect of the content and composition of the waste material, the odour, and industrial traffic generation
- The present activity should stop immediately and a contractor should be used to dispose of this material off-site
- Were the application to be allowed, any ongoing activity should be subject to stringent controls.

Colin Adams, a local resident, then addressed the meeting. Mr Adams said:

- Residents have been tolerant over the years, but this escalation of activity has aroused very strong feelings locally. They acknowledge the success of the applicant's business, but with this comes responsibility; he owes a duty of care to those in the area
- There is a very strong odour emanating from the tank; residents cannot keep windows open, during day or night, and cannot enjoy social activities

in their gardens.

- In response to a request by the Environment Agency, residents kept “nuisance diaries” for a six month period. During this time, 206 complaints were recorded in these diaries
- Residents do not object to a tank per se, but believe it would be better situated next to the abattoir, properly capped, with appropriate plumbing allowing the direct transfer of waste. This would reduce both odours and transport impact.

Stewart Rowe, on behalf of the applicant, then addressed the meeting. Mr Rowe said:

- The applicant’s farms and abattoir are well-established, producing very good quality meat reared locally, trying to rely on local resources
- The tank was erected on the advice of a consultant that it was permitted development and did not need planning permission. The applicant took the advice at face value. This was a simple error and not an uncommon one.
- In the past, the water was transported in tankers to Maldon; the use of a tank was thought to be a better solution, having three main benefits:
  - Sustainability – it reduces transport mileage
  - Productive reuse/recycling of a waste product
  - Agricultural benefits of having a ready supply of natural based fertiliser to hand
- The tank also creates flexibility – the water can be spread at a convenient time, eg when the wind is light and/or when it is blowing in a favourable direction, so as to cause minimal impact on residential amenity
- Regarding the visual impact, the structure forms part of a group of large farm buildings and looks to be a part of this. Some natural hedgerow screening is proposed
- Regarding the odour, although this is evident at times, alongside other farm-related smells, neither the Environment Agency nor the environmental health officer from Braintree District Council have found this to constitute a nuisance.

In response to concerns and questions raised, Members were informed that:

- The Environment Agency did not see the odour problem as a major issue, as it was not convinced that the tank was the major source of odour. However, the EA had initiated discussion with the applicant about the potential for capping the tank in some way, to minimise any potential problems. It was noted that, although Members may wish to impose a condition requiring a cap, and may express concerns over the effectiveness of any cap, it is not reasonable for the Committee to insist on the particular design of a cap. It is up to the applicant to propose a solution and agree this with the EA
- Similarly, the Committee may believe this site to be unsuitable, but it cannot insist on the applicant moving to another site. It would be up to the applicant to make a separate application for that site and for the Committee to determine this on its own merits
- No bunding has been recommended for this tank, which suggests that the

EA do not believe leakage from the tank to pose a risk to groundwater.

The resolution was moved, seconded and following a vote of none in favour and eleven against, further discussion was held and it was

**Resolved**

That planning permission be refused for the following reasons:

- Unsustainable location
- Inadequate design details.

In accordance with the Committee Protocol, it was agreed Officers would present a report to the next meeting setting out appropriate advice as to the clarity and reasonableness of the reasons put forward for refusal of the application and a plan for appropriate enforcement action, if necessary.

**6. Driberg Way, Braintree**

The Committee considered report DR/04/14 by the Director of Operations: Environment and Economy.

The Committee was advised that the proposal was for a change of use of Industrial Unit, for mixed uses comprising a small scale waste transfer station, storage and associated office use. The waste to be stored on site would be health care waste.

Policies relevant to the application were detailed in the report.

Details of Consultation and Representations received were set out in the report.

The Committee noted the key issues that were:

- Need & Principle of Development
- Impacts on Local Amenity
- Hydrological Impacts
- Highway Impacts

Councillor Archibald left the meeting during consideration of this item, at 11:37 am, returning at 11:40 am.

The resolution was moved and seconded and following a vote of 11 in favour and none against (with Councillor Archibald not voting), it was:

**Resolved:**

That planning permission be **granted** subject to conditions covering the following matters.

1. COM1 – to be implemented within 5 years
2. COM3 – to be carried out in accordance with submitted details
3. HIGH2 – compliance with indicated access

## **7. Land to the south of Terminus Drive, Pitsea**

The Committee considered report DR/05/14 providing an update on an application with regard to a site on south of Terminus Drive, on Pitsea Hall Lane, Pitsea SS16 4UH (Ref ESS/69/12/BAS). Permission was given in May 2013 for a change of use of the site, to enable a waste recycling and materials recovery facility. Following the findings of a judicial review and errors within the decision notice, the council and the applicant agreed that the permission be quashed. As a result the application is now undetermined and will be reconsidered by the Committee shortly. In the meantime, officers recommended that the activities on the site should be monitored and the need for any enforcement action kept under review, until the determination of the application.

The Committee unanimously Agreed:

That no enforcement action is undertaken in respect of the existing breach of planning control (against the unauthorised development) pending the determination of the extant planning application (ref ESS/69/12/BAS), subject to the Waste Planning Authority continuing to monitor activities on site to ensure that no injury to local amenity takes place.

## **8. Statistics**

The Committee considered report DR/06/14, Applications, Enforcement and Appeals Statistics, as at end of the previous month, by the Head of Planning, Environment and Economic Growth.

The Committee **NOTED** the report.

## **9. Dates of Future Meetings**

The Committee considered report DR/07/14, listing the proposed Committee meeting dates to April 2015.

The Committee **NOTED** the report.

The Committee also noted that the next meeting will be held on Friday 28 March 2014 at 10.30am in Committee Room 1.

## **10. Exclusion of the General Public**

### **Resolved:**

That the press and public should be excluded from the meeting during

consideration of the following agenda item on the grounds that it involves the likely disclosure of exempt information as specified in paragraph 5\* of Part I of Schedule 12A of the Local Government Act 1972 or it being confidential for the purposes of Section 100A(2) of that Act:

(\*Paragraph 5 is Information in respect of which a claim to legal professional privilege could be maintained in legal proceedings.)

Restoration of mineral workings and non-compliance with planning conditions at Dannatts Quarry, Hatfield Peverel. Ref. 70/421/33/114

### **Enforcement of Planning Control**

#### **11. Restoration of mineral workings and non-compliance with planning conditions at Dannatts Quarry, Hatfield Peverel. Ref: 70/421/33/114**

The Committee considered report DR/08/14 by the Director of Operations: Environment and Economy.

The Committee **unanimously agreed the recommendations.**

There being no further business the meeting closed at 12.12pm.

Chairman