

MINUTES OF A MEETING OF THE DEVELOPMENT AND REGULATION COMMITTEE HELD AT COUNTY HALL, CHELMSFORD ON 25 APRIL 2014

Present

Cllr R Boyce (Chairman)
Cllr K Bobbin
Cllr P Channer
Cllr M Ellis
Cllr I Grundy

Cllr T Higgins
Cllr J Lodge
Cllr Lady P Newton
Cllr J Reeves
Cllr S Walsh

1. Apologies and Substitution Notices

Apologies were received from Cllr James Abbott, Cllr Anne Brown, Cllr Carlo Guglielmi (substituted by Cllr Grundy) and Cllr M Mackrory (substituted by Cllr Higgins).

2. Declarations of Interest

Cllr Boyce declared a personal interest in agenda item 5a, Land at Wallasea Island, Rochford, as a Member of Maldon District Council and the County Council Member for the Southminster Division, including Burnham-on-Crouch, situated opposite the island.

Cllr Channer declared a personal interest in agenda item 5a, Land at Wallasea Island, Rochford, as a Member of Maldon District Council District Council, where she is currently Chairman of Planning & Licensing. She has been approached about this, although has made no comment to date. She also serves on the Kent and Essex Inshore Fishing Committee, and the Crouch Harbour Authority Advisory Committee, and has been working on funding issues linking Burnham and Wallasea. Consequently, to avoid any conflicts of interest, she will withdraw for this item.

Cllr Walsh declared a personal interest in agenda item 5a, Land at Wallasea Island, Rochford, as a Member of the RSPB. As the RSPB is the applicant, Cllr Walsh believes there is a conflict of interest and so he will withdraw for this item.

3. Minutes

The Minutes and Addendum of the Committee held on 28 March 2014 were agreed and signed by the Chairman.

4. Identification of Items Involving Public Speaking

The person identified to speak in accordance with the procedure was identified for the following item:

Continuation of the importation of waste to develop a coastal nature reserve without compliance with certain conditions, together with the inclusion of previously agreed non-material amendments to permission ref ESS/54/08/ROC.

Location: Land at Wallasea Island, Rochford, Essex
Ref: ESS/09/14/ROC
Applicant: Royal Society for the Protection of Birds
Public Speaker: Chris Tyas speaking for.

Councillors Channer and Walsh left the meeting at this point

5. Land at Wallasea Island, Rochford

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

The Committee was reminded that the original application had been approved in July 2009 (attached as Appendix 3 to the paper). The main purpose of this application is to make two alterations to the existing permission: to extend the time for cessation and restoration of the development to 2025; and to remove the restriction to inert material, allowing the importation of suitable natural material.

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 Principle of Development
- Policy Considerations
- Environmental Impact
- Amenity Impact
- Traffic and Highways
- Airport Safeguarding

In accordance with the protocol on public speaking the Committee was addressed by Chris Tyas, Project Manager, RSPB Wallasea Island Wild Coast Project. Mr Tyas said:

- The five aims of the project are: to replace coastal habitats; to create new accessible coastline for people to enjoy; to provide a sustainable solution to the flood risk; to move the scientific element forward (this is the largest scheme of this kind in Europe, in terms of land raising/habitat creation); and to develop the Defra marsh site
- It has been successful – attracting 12,000 birds at its winter peak
- 1.7 million tonnes (out of 4 million) have been imported so far; talks are being conducted with both EDF Energy (possible work at Sizewell) and Thames Water (new sewer under London), as potential sources for material
- The RSPB have worked hard to keep the effects of the scheme to a minimum; and local liaison and shipping management groups have been set up
- Only suitable materials are used and the RSPB is committed to completing

the Scheme according to the consented design.

In response to questions raised by Members, it was noted:

- that trials had been carried out on the suitability of the peat to be used for the development and the Environment Agency had confirmed the material was suitable. The EA would regulate material to be used through the Environmental Permit
- a further 3.5 million m³ of material would be required to complete the development from projects other than Cross-rail and that material must be imported by ship. It was not certain at present exactly where the necessary material will come from, however the applicant needs additional time to negotiate large-scale contracts for potential infrastructure projects.

The resolution was moved, seconded and following a unanimous vote in favour it was

Resolved

That planning permission be granted subject to:

- the Secretary of State not calling in the application for his own determination; and,
- the completion within 12 months of a S106a legal agreement relating to the removal of the existing obligation for imported material to be clean, inert and uncontaminated; and,
- conditions covering the following matters:

Conditions to be amended as follows:

1. The development hereby permitted shall be begun before the expiration of 5 years from the date of this permission. Written notification of the date of commencement shall be sent to the Waste Planning Authority within 7 days of such commencement.
2. The development hereby permitted shall be carried out in accordance with the details submitted by way of the application dated November 2008, covering letters dated 28 November 2008 and 16 December 2008 and accompanying Planning Statement, together with drawings numbered 'Location of Wallasea Island' Figure 1 (July 08), 'Planning Application Boundary' Figure 3a (Oct 08), 'Proposed Design' Figure 5 (Oct 08), 60039950/IPER/50 Rev 03 (11/12/08), 60039950/3563/65 (27/11/08), 60039950/3563/66 (26/11/08), 'Aerial View Visualisation at Mean Low Water' Figure 10 (Sept 08), 'Aerial View Visualisation at Mean High Water' Figure 11 (Sept 08), 'Aerial View Visualisation as Viewed from the East at Mean Low Water' Figure 12 (Sept 08), 'Selection of Photos Describing the Key Habitat Types to be Created' Figure 14 (Nov 08), 60039950/3563/60 (26/11/08), 'Location of the Unloading facility and Route of the Conveyor Belt and the Wet Chalk Pipeline' Figure 16

(Oct 08), 60039950/3563/51 Rev 01 (26/11/08), 'Locations of the Footpaths on Wallasea Island' Figure 17 (sept 08) as amended by email from RSPB 'Footpath 21 Supplementary Submission' dated 20 March 2009, 'Topography of the whole of Wallasea Island' Figure 3 (Oct 08), 60039950/3563/100 Rev 01 (11/12/08), Schematic Cross Sections Showing Design of Key Features of the Proposed Realignment Scheme' Figure 9 (Oct 08), 60039950/IPER/101 Rev 02 (15/07/08), 'Location and Extent of the Five Cells' Figure 4 (Oct 08), 60039950/3593/53 November 2008, 60039950/3563/53 Rev 01 (11/12/08), 'Existing and Indicative Standards of Protection along the Crouch and Roach Estuaries' Figure 6 (July 08), 'Historic Embankments, Creeks and Postulated Medieval Marsh Boundaries' Figure 8 (Oct 08) and 'Location of Historical EHER References' Figure 25 (Oct 08) and Environmental Statement dated November 2008 and Appendices A-R, together with email from RSPB dated 11 December 2008, email from RSPB headed 'Burnham Access' dated 09 February 2009, email from RSPB headed 'Working Hours Submission' dated 04 March 2009, email from RSPB headed 'Impacts on Oyster Fishery' dated 06 March 2009, email from RSPB headed 'Wallasea: Supplementary Sailing Submission' dated 20 March 2009, email from RSPB headed 'Wallasea: Supplementary Submission Spreading Hedge Parsley' dated 13 March 2009, email from RSPB headed 'Green Belt Submission' dated 24 March 2009, email from RSPB headed 'PROW steps' dated 25 March 2009, email from RSPB headed 'Wallasea: Supplementary Submission Working Hours (2)' dated 20 March 2009, email from RSPB headed 'Wallasea: 1900-0700 Noise Generation and Mitigation' dated 20 March 2009, email from RSPB headed 'Permissive Paths' dated 26 March 2009, email from RSPB headed 'further submissions' dated 06 April 2009, email from RSPB headed 'Supplementary Submissions' dated 02 April 2009, email from RSPB headed 'Roach Erosion' dated 02 April 2009, email from RSPB headed 'Supplementary Submission: Landscape' dated 02 April 2009 and Design and Access Statement,

AS AMENDED BY

- The details of the application dated 17 January 2014;
- covering letter from ABPmer dated 17 January 2014;
- Planning Statement by ABPmer Report no. R.2213 Version 2.0 dated 17 January 2014, including appendices A-C; and
- the Environmental Impact Assessment by ABPmer Report no. R.2202 Version 3.0 dated 17 January 2014, including appendices A-D.

Except as varied by the following conditions:

4. Within 3 months of the date of this permission, full details of the location, height, design, sensors and luminance of the existing and proposed fixed lighting on site shall be submitted to the Waste Planning Authority for its approval in writing. The details shall ensure the lighting is designed and managed to minimise the potential nuisance of light spillage on adjoining properties and highways. The lighting shall thereafter be erected, installed and operated in accordance with the approved details.

6. Except for temporary breaching works (which shall not exceed 70dB LAeq), the free field Equivalent Continuous Noise Level (LAeq, 1hr) at noise sensitive premises adjoining the site shall not exceed background levels plus 10dB during normal working hours, 42-44dB LAeq 1hr in the evening and 42dB LAeq 1hr at night, except at Burnham Wick Farm where the free field Equivalent Continuous Noise Level (LAeq, 1hr) shall not exceed 46 – 48 dB during normal working hours, 42-44dB LAeq 1hr in the evening and 42dB LAeq 1hr at night. Measurements shall be made no closer than 3.5 m from the façade of properties or other reflective surface and shall be corrected for extraneous noise

38. The development hereby permitted shall be completed by 31 December 2025, by which time operations shall have ceased and the site shall have been reinstated and restored to a coastal nature reserve and shall be the subject of aftercare for a period of 5 years

39. Any building, plant, machinery, foundation, hard standing, roadway, structure or erection in the nature of plant or machinery used in connection with the development hereby permitted shall be removed from the site when they are respectively no longer required for the purpose for which built, erected or installed and in any case not later than 31 December 2025. The unloading facility, conveyor and pipeline shall be removed within 12 months of completion of the final phase of development.

All remaining conditions attached to permission ref ESS/54/08/ROC to be re-numbered, updated, removed or re-imposed as appropriate

Councillors Channer and Walsh rejoined the meeting at this point.

6. Michelins Farm, Rayleigh

The Committee considered report DR/15/14 by the Director of Operations: Environment and Economy.

The Committee was advised that the item concerned the enforcement of planning control: unauthorised development relating to a material change of use of the land from agricultural land to land used for the importation, deposition and spreading of waste materials, substantially raising the land levels.

An enforcement notice was served by the Waste Planning Authority in 2011 and similar notices were also served by the Environment Agency and Rochford District Council. Subsequent site visits demonstrated that these had not been acted upon, and a Regulation 44 Order was served. However, this has not been complied with, even after having its deadline extended, so further action is intended by the EA and Rochford District Council.

Were the County Council, as WPA, also to pursue this further, it would present the defendant with the opportunity to argue abuse of process, as he would be prosecuted for the same offences twice. Consequently, legal opinion on this situation has suggested that the County Council should continue to support the EA and Rochford DC in their prosecution, but should not itself pursue a second prosecution under these circumstances.

In response to a query, Members were reminded that any action taken would be funded from the public purse; and it was not clear at present what further action might be taken, in relation to clearing the site itself.

The resolution was moved and seconded, and with a unanimous vote in favour, it was

Resolved:

That subject to Court Order (issued under the Environment Agency's powers) being enforced or complied with, no further action is taken by the County Council as Waste Planning Authority in respect of the breach of the enforcement notice issued in June 2011.

7. Enforcement Report

The Committee considered report DR/16/14, by the Director of Operations: Environment and Economy, on enforcement matters for the period 1 January to 31 March 2014.

The Committee **NOTED** the report.

8. Statistics

The Committee considered report DR/17/14, 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. Date and time of Next Meeting

The Committee noted that the next meeting will be held on Friday 23 May 2014 at 10.30am in Committee Room 1.

There being no further business the meeting closed at 11.08 am.

Chairman