

EAST RIDING OF YORKSHIRE COUNCIL

PLANNING COMMITTEE

2 OCTOBER 2014

PRESENT: Councillors Pollard (in the Chair), Bayram, Boatman, A Burton, C Chadwick, Chapman MBE, Galbraith, Pearson, Turner, West, Whitehead and Whittle.

Also in attendance: Press - 10
 Public - 62

The Committee met at County Hall, Beverley.

7885 DECLARATIONS OF INTEREST AND DECLARATIONS UNDER THE CODE OF PRACTICE FOR DEALING WITH PLANNING APPLICATIONS - The following Members made declarations:-

Item	Member/Interest
(i) 14/02622/STVAR - Land south west of Crawberry Hill, Walkington Heads, Walkington (Minute 7888 refers)	Councillor Whitehead declared a non-pecuniary interest as he owned a property in the vicinity of the application area. All Councillors present made a declaration under Section 4 of the Planning Code of Practice as they had received correspondence in relation to this application.
(ii) 14/01989/STVAR - Little Weighton railway cutting, Westfield Road, Eppleworth (Minute 7889 refers)	All Members present made a declaration under Section 4 of the Planning Code of Practice as they had received correspondence in relation to this application. Councillor Whitehead declared a non-pecuniary interest in the application as his house overlooked the site.
(iii) 13/03138/STOUT - Land north of Eastfield House, Pilmar Lane, Roos (Minute 7890 refers)	Councillors Boatman and Whittle made a declaration under Section 4 of the Planning Code of Practice as they had received correspondence in relation to this application.
(iv) 13/03454/OUT - Land east of England Springs, Long Lane, Woodmansey (Minte 7891 refers)	Councillor Pearson made a declaration under Section 4 of the Planning Code of Practice as he had spoken with the applicant and visited the site.

- (v) 14/00640/STPLF - Cattle Market, Exchange Street, Driffield (Minute 7893 refers) All Councillors present made a declaration under Section 4 of the Planning Code of Practice as they had received correspondence in relation to this application.
- (vi) 14/02350/STPLF and 14/02351/STOUT - Land west of Barmston Beach Caravan Park, Sands Lane, Barmston (Minutes 7894 and 7895 refers) Councillor Chapman made a declaration under Section 4 of the Planning Code of Practice as she had received correspondence in relation to these applications.

7886 MINUTES - Resolved - That the minutes of the meeting of the Committee held on 11 September 2014 be confirmed and signed as a correct record.

7887 PLANNING SUB-COMMITTEES - Resolved - That the minutes of the undermentioned Sub-Committees be received:-

- (i) Eastern Area Planning of 1 September 2014.
- (ii) Western Area Planning of 2 September 2014.

7888 LAND SOUTH WEST OF CRAWBERRY HILL, WALKINGTON HEADS, WALKINGTON - The Director of Planning and Economic Regeneration submitted a report on an application by Rathlin Energy (UK) Limited for the variation of Condition 2 of planning permission 12/02945/STPLF to allow a further 24 months in which to complete the approved operations at land south west of Crawberry Hill, Walkington Heads, Walkington (Application 14/02622/STVAR).

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

An additional 17 letters of objection had been received. The key points raised by the objectors were as follows:-

- Extension of the time period for a further 24 months would continue to adversely impact on visual, leisure activities, tourism and biodiversity;
- The original planning permission was restricted to 2 years because of the Wolds Area of High Landscape Value. As the landscape is the same now as it was then the 2 year period should remain. Rathlin has blamed delays caused by protests and changes in legislation. The truth is that this has had a minor effect on the initial 2 year period and Rathlin decided to concentrate its efforts at West Newton, rather than at Crawberry Hill. Newbald Parish Council's reply in the report describes the situation perfectly;
- Contrary to para 9.3.2 of the Officer's Comments a second drill rig in the extended period will not be 'screened by existing tree and hedge planting'. The original drill rig was completely visible from Walkington;

- This would set a dangerous precedent for further developments impacting on the Wolds High Landscape Value area and seriously undermine the Council's case for the Wolds to be granted Area of Outstanding Natural Beauty (AONB) status;
- There is no bund on the eastern boundary of the main drilling site so if there is heavy rainfall there is a high probability of run-off on to the adjacent fields;
- Leaks go into a very small bund around the tank which does not meet the required specification of 110% capacity of the tank;
- The risk of water contamination is sufficient reason in itself to refuse the application;
- The location of the development in a Groundwater Protection Zone and further evidence of groundwater contamination from shale gas exploration and production means that the extension of time for the development presents an unacceptable level of risk to residents and the local environment;
- Rathlin have twice drilled through the main aquifer that supplies drinking water in the region, with a concerning recent 'incident' with their well at the West Newton site;
- Possible pollution of the underground aquifers that supply much of East Riding, including Hull would be catastrophic and is the major consideration for this application. Since the applicant will, as has taken place at their West Newton site, carry out pressure fall off testing there is a risk of underground water becoming contaminated. Indeed there has been an incident at West Newton where unexpected pressure from the well occurred. Even though we are re-assured that the borehole at Crawberry Hill will be properly sealed, there is no guarantee that a problem will not occur at the time of testing, or after Rathlin's work is completed;
- The prolongation of Rathlin's activities is contrary to, and delays the move to a low carbon economy;
- Extension of planning permission could set a legal precedent, leading to the proliferation and prolongation of test sites throughout the region, resulting in the inappropriate industrialisation of areas of East Yorkshire;
- In the long-term gas extraction would lead to an industrial landscape and an increase in traffic. The knock-on effects include a drop in house prices and tourism and detrimental effects on the ecology of the area;
- Under the Humberside Act 1982 there should be adequate access for the fire brigade. Given the distance from the nearest fire station and the extreme danger of fire and leakage from the site, object strongly on the grounds that access for the fire brigade is inadequate given the location;

- Breaches of various aspects of the existing planning at both well sites at West Newton and Crawberry Hill, including traffic management plans, failure to containing fluids to site, light plans etc;
- Only installed a site office and security fence in August;
- Can they be trusted to adhere to the next set of conditions?;
- East Yorkshire roads are not geared up to take convoys of tankers e.g. A1034;
- Increased pressure on country roads, the costs of which would be borne by East Riding residents;
- Altered access route has been an issue for horse riders who have had near accidents when large vehicle convoys have passed along non-specified routes;
- Air pollution through methane gas leakage;
- Light pollution from powerful rigs in the well pad area to allow 24 hour working;
- Waste chemicals are not being safely isolated in retaining bunds and are being allowed to leak onto neighbouring land;
- Potential impact on the YWT nature reserve and SSSI in Newbald – Becksies;
- No enforcement or even visits, until very recently, from any personnel from East Riding of Yorkshire Council (ERYC), Health and Safety Executive and the Environment Agency;
- Organisations such as the HSE have approved the 24 month extension – yet they've never even been to the site;
- With a failure to monitor or enforce planning permission of a potentially dangerous, industrial environment how can ERYC recommend approval for a 2 year extension at Crawberry Hill with any confidence Rathlin will not continue to flout its responsibility to planning rules and that ERYC are able to effectively monitor and enforce breaches of planning at the site?;
- If they are confident they could lodge a £5bn bond with the Council to pay for remediation when the wells leak (as they all do eventually) as Rathlin have 50 year leases;
- Cannot burn the fossil fuels found in the ground let alone look for new ones if we want to stay within the internationally agreed limit of two degrees. Two degrees is the increase in the planet's temperature from pre-industrial levels. We have already increased by one degree and the planet is warming

exponentially. Climate scientists across the world agree that beyond two degrees (which is considered a conservative estimate) irreversible catastrophic climate change is reached;

- The exploration and consequent production of shale gas would lead to higher carbon emissions and have a significant impact on climate change;
- Allowing companies to explore for more fossil fuels is also a highly contentious issue and simply a distraction from focussing on investment in new and sustainable methods of producing energy – solar, off-shore wind, tidal and the production of gas from food and animal waste to name but a few;
- The original decision to grant planning permission for the development that would compromise the protection of the Wolds area of High Landscape Value was incorrect. Specifically, the decision contravened the following policies of the Joint Structure Plan - Policy SP4 to protect distinctive landscape character. Policy DS5 as it does not meet any of the criteria set out in the policy (ie essential infrastructure, rural diversification, requiring direct access to rail or water transport or provision for sport, recreation, tourism or agriculture);
- Also note Joint Minerals Plan policies specifically:

DC1 states that "*adequate proposals are made to minimise visual and other amenity impacts to an acceptable level*". We consider that the attempts to restrict development to two years identified that impacts were not simply limited to scale but also to duration and that to extend the timescale for development would extend the impacts beyond the level of acceptability.

Similarly, DC2 seeks to ameliorate harm. We maintain that an extension to development would fail in this amelioration.

DC4 on groundwater places the onus on the applicant to demonstrate that development will not adversely affect the integrity of such areas. We note that the development is within the Groundwater Protection Zone 3 and would direct the Planning Authority to the growing evidence of risks to groundwater.

DC7 on Areas of Landscape Quality. The applicant states that the development is temporary and of short duration. We are of the opinion that an extension for development up to four years can no longer be considered to be "of short duration". The planning authority has sought to minimise the effect to an acceptable degree by imposing a two year restriction and to extend would breach the intended effect of the original condition.

DC16 states that development will not be permitted if there is no need for the mineral that cannot be met from a suitable alternative source. It is our opinion that there is sufficient gas to meet the UK's energy requirement and, indeed, to maintain our legal obligations under the Climate Change Act to be found elsewhere (largely offshore).

- The original decision, and therefore the proposed extension is also inconsistent with the National Planning Policy Framework on the following grounds:

It is contrary to the National Planning Policy Framework as there would be unacceptable adverse impacts on the natural environment (NPPF para 144);

It is inconsistent with the precautionary principle and EU water legislation;

It is incompatible with the need for Planning to reduce climate change emissions (NPPF paras 17 and 93).

- Consider that approval would undermine the Secretary of State's intention, expressed alongside the announcement of DECC's 14th onshore licensing round, to strengthen protection for countryside from oil and gas exploration and production. It is clear from these statements that the Government is of the view that exploration and, by implication, the extension of planning consent should only be allowed in areas of High Landscape Value in exceptional circumstances.

Additional information has been submitted by the applicant regarding the phasing of operations over the next 24 months and comments on ecological issues that have been raised by the objectors:-

Phasing

- If planning permission is granted the well test operation will commence immediately and will have a duration of approximately three months. The well test equipment is likely to be as shown on the layout plan accompanying the original planning application;
- Rathlin Energy anticipates a period of inactivity at the well site following completion of the well testing operation. This period provides for analysis of the data obtained during the well testing operation and for it to make a decision as to whether to drill the second of the two permitted boreholes from the site, whether to retain the site for production or abandon the well and restore the well site. During this inactive period, minimal equipment will be on the site including a gauge on the well and a security cabin. If the protestor presence remains at the site during this time then a number of lighting towers will be required to light the perimeter of the site so we can see if they are attempting to get in. Drilling of the second well from the site would take approximately 5 to 10 weeks to complete, depending on the depth being targeted;
- If the well is proven to be capable of producing commercial quantities of petroleum, a planning application to retain the well site for production would be required, together with a variation to the existing Environmental Permits to reflect the production of petroleum;

- If the well is proven not to be capable of producing commercial quantities of petroleum, the well will be abandoned and the well site restored. Depending where within the seasons this decision is taken to abandon the well, the restoration of the well site will need to be undertaken when the weather is favourable. Whilst we accept the well site is located on well-draining land, it is important that the soils be of suitable condition (dry and friable) to undertake successful restoration;

Ecology

- On 7 November 2013 a barn owl was noticed by Rathlin construction workers on the south side of Walkington Heads Road, directly opposite the Crawberry Hill site. Rathlin Energy called the RSPCA who attended the site, captured the owl and took it away;
- On 11 May 2014 protestors set up camp on verge outside the Crawberry Hill well site;
- On 4 June 2014 Rathlin identified that the overflow tank serving the perimeter ditch at the Crawberry Hill well site had developed a leak. Rathlin Energy isolated the tank by closing the valve between the perimeter ditch and the tank and instructed all personnel that the tank was not to be used;
- On 12 June 2014 Rathlin was informed that the Crawberry Hill well site perimeter fencing had been damaged;
- On 17 June 2014 the protestors blockaded the entrance to the Crawberry Hill well site;
- On 2 August, following legal proceedings in the high court, Rathlin Energy enforced its right of possession and re-took control of the Crawberry Hill well site. An initial assessment of the well site immediately following repossession identified the remains of a hare in the perimeter ditch. Prior to the damage to the perimeter fencing Rathlin Energy had not encountered any dead mammals in the perimeter ditch;
- Can confirm that Rathlin Energy, as an enhancement measure, wish to offer three barn owl boxes to ERYC for their use as required within ERYC area.

In response to points raised by objectors regarding ecology and wildlife issues the Council's Biodiversity Officer has made the following additional comments:-

- The brown hare is a UK Biodiversity Action Plan and East Riding of Yorkshire Biodiversity Action Plan species that is listed as a species of principal importance on the S41 list of the Natural Environment and Rural Communities (NERC) Act 2006. The Council has a duty to have regard for the purpose of conserving biodiversity under the NERC Act, as such the Council should consider the impact that the proposals will have on brown hares and ensure that appropriate measures to avoid or minimise damage to

the species are taken when determining the planning application. In this instance the Council is satisfied that appropriate measures to address potential effects on the species have been undertaken as security fencing which effectively excludes hares from the site has been erected on the boundary of the site. This should avoid any possible impacts on the species.

- Barn Owls - Under Section 1 of the Wildlife and Countryside Act 1981 (as amended), wild birds are protected from being killed, injured or captured, while their nests and eggs are protected from being damaged, destroyed or taken. In addition, barn owls are included in Schedule 1 of the Act and are protected against disturbance while nesting and when they have dependent young. The Yorkshire Wildlife Trust response highlights the need to ensure that barn owls will not be intentionally harmed or recklessly disturbed by the proposals.
- Adult barn owls are effectively only protected against disturbance while they are in or near a nest containing eggs or young. 'Near' is open to interpretation, but normally means within the same building or just outside, and within 30m in the case of a tree nest (Ramsden & Ramsden, 1995, 2002). However, the extent of potential disturbance depends largely on the extent of deviation from the norm; a major building project involving large numbers of workmen, vehicles and machinery generating a great deal of noise 100m from a previously isolated, quiet nest site might potentially be disturbing, whereas a similar development the same distance from a barn owl nest in a busy farm complex might not be. In this instance there is no evidence to suggest that the species would be at particular risk of disturbance while nesting or when they have dependent young because the site and the immediate area does not provide nesting or roosting opportunities for barn owls and any roosts are likely to be some distance away (>400m to the north east - wood at Crawberry Hill).

Biodiversity enhancements

- The Yorkshire Wildlife Trust response notes the need for the restoration of the development site to include enhancements for wildlife. The Council acknowledges it has a duty, under s40 of the NERC Act, to have regard to the purpose of conserving biodiversity when exercising its functions in accordance with Government guidance contained within ODPM Circular 06/2005. In implementing its duties the Council is guided by Natural England Standing Advice for protected species, which is a material consideration in the determination of applications.
- The Council has yet to prepare a Supplementary Planning Document on opportunities for biodiversity enhancement in new development but does adopt a consistent approach on the matter based on different scales and types of development. However it does not routinely impose conditions to secure biodiversity enhancements on developments of such a small scale and temporary nature where no significant adverse effects are predicted and robust restoration plans have been secured which is the case in this instance.

- Nevertheless in this instance Rathlin Energy has offered to provide three barn owl boxes as an enhancement measure to ERYC for its use as required within ERYC area to benefit ecology. These could be offered to YWT in the first instance or alternatively be erected in the Humber Bridge Country Park.
- The officer attended both the West Newton and the Crawberry Hill sites on Friday, 26 September 2014 to ensure he was fully apprised of all the relevant information relating to the specific ecological issues raised in the planning consultation process. Having carefully considered the issues that have been raised and taken into account the Ecological Report submitted with the 12/02945/STPLF application he was satisfied that the proposal was unlikely to have an unacceptable impact on ecology and biodiversity. In this respect the current proposal was not considered to have any significantly greater impact upon the ecological interests of the locality compared to the previous permission. Consequently he advised that there is nothing that caused him to change the advice provided in the consultation response ref MG/14/02622/ECO/001 dated 19 August 2014.

Further response from Public Protection with regard to a specific concern from a local resident regarding noise from the site:-

- With reference to residents objection due to noise during the previous test drill, there are no records of Public Protection having received any complaints.
- With reference to the recent consultation response, night time noise assessments were carried out and subjective observations were made on a number of occasions during the test drilling, many of which were within a 400 - 800m from the site. At no time were there any breaches of the planning condition or subjectively any noise which would give rise to reasonable disturbance.
- With reference to the comment regarding having discussed noise issues with nearby residents, a number of people were asked who live on Townend Road, in Walkington and one at Walkington Heads about noise issues during the drilling phase and none had observed any noise.
- If permission is granted for further drilling Public Protection would be happy to make observations at Cold Harbour Farm.

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

Resolved - That the application be approved for a period of 18 months, 12 months for the operation and 6 months for site restoration, subject to the conditions as detailed in the Director's report to include the amendment to Condition 1 reflecting the time period agreed.

7889 LITTLE WEIGHTON RAILWAY CUTTING, WESTFIELD ROAD, EPPLEWORTH - The Director of Planning and Economic Regeneration submitted a report on an application by Biowise Limited for the variation of Condition 8 (Approved Building Dimensions and Operation) of planning reference 09/00417/STPLF at Little Weighton railway cutting, Westfield Road, Eppleworth (Application 14/01989/STVAR).

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

- A letter of objection had been received from Mr Marsden, the main points of which were read out to the Committee and included the concern that any odour problems would be made more serious due to the single process being suggested, concerns that there would be a dramatic increase in tonnage, including animal waste being processed and the view that the current approval was slipped through without thorough consultation and without due consideration being given as to how such a project could affect a heavily populated residential area.
- A report had been prepared by J W P C Planning Consultants on behalf of the residents of Willerby, Kirk Ella, Skidby and Cottingham referring to 2,213 complaints received by the Environment Agency against the site on the basis of odorous emissions between January 2011 and 31 July 2014.
- The applicant had responded to the J W P C Planning report in relation to the complaints about odour, referring to the number of substantiated complaints, which it was believed were much less than the figures quoted and in 2012 a report published by the Environment Agency referred to a total of 188 complaints in relation to odour, of which only two were substantiated.
- An email had been received from Mr Roy Hunt of Newport supporting the application on the basis that the proposed facility was in a good location and he was impressed with the odour management plans, particularly when compared to other sites that were operational in the area.
- The applicant had raised a number of concerns about the proposed planning conditions, specifically Condition 8 and Conditions 17 - 21. Officers were in agreement with the points raised and recommended that Conditions 17 - 21 be deleted and that Condition 8 should refer to any new permission granted.

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

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

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

Moved by Councillor Galbraith and seconded by Councillor Bayram -

That the application be refused on the grounds of the detrimental effect of the proposal on residential amenity.

Motion lost.

Resolved - That the application be approved, subject to the conditions as detailed in the Director's report, with the addition of a condition requiring a Liaison Committee to be established and the deletion of Conditions 17 - 21 and that officers be authorised to make any minor changes to conditions where required.

7890 LAND NORTH OF EASTFIELD HOUSE, PILMAR LANE, ROOS - The Director of Planning and Economic Regeneration submitted a report on an application by Mr David Grayson for outline consent for residential development (means of access and layout to be considered) at land north of Eastfield House, Pilmar Lane, Roos (Application 13/03138/STOUT).

The Director informed the Committee that Yorkshire Water had responded to confirm that it had no objections to the proposal but recommended a series of standard conditions regarding foul and surface water.

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

Resolved - That the application be approved subject to the conditions as detailed in the Director's report to include those as recommended by Yorkshire Water.

7891 LAND EAST OF ENGLAND SPRINGS, LONG LANE, WOODMANSEY - The Director of Planning and Economic Regeneration submitted a report on an application by Mr and Mrs Neil Helyard for outline consent for the erection of four dwellings (all matters reserved) at land east of England Springs, Long Lane, Woodmansey (Application 13/03454/OUT).

The application had been referred to this Committee for determination by the Eastern Area Planning Sub-Committee with a recommendation to approve the application contrary to established and emerging policies. This Committee had deferred the application for a site visit.

The applicant addressed the meeting in accordance with the agreed protocols.

Resolved - That the application be approved, subject to the appropriate conditions on the grounds that the site should be developed in isolation from the main BEV-J allocation as it was geographically different and its development would not impact on future developments on the allocated site.

7892 LAND NORTH WEST OF FOREST FARM, SKIFF LANE, HOLME UPON SPALDING MOOR - The Director of Planning and Economic Regeneration submitted a report on an application by 2 Agriculture Limited for the erection of four poultry sheds and one site office following demolition of existing poultry units and the change of use of part of the land for the siting of one temporary agricultural worker's caravan for a period of three years, at land north west of Forest Farm, Skiff Lane, Holme upon Spalding Moor (Application 14/00345/STPLFE).

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

Resolved - That the application be approved subject to the conditions as detailed in the Director's report.

7893 CATTLE MARKET, EXCHANGE STREET, DRIFFIELD - The Director of Planning and Economic Regeneration submitted a report on an application by Drifffield Cattle Market Company Limited for the erection of a Class A1 food store with associated means of access, servicing, car parking and landscaping following demolition of existing buildings at Cattle Market, Exchange Street, Drifffield (Application 14/00640/STPLF).

At the meeting the Director informed the Committee that the applicants had submitted an updated site layout demonstrating how the sewer which crossed the site could be diverted in connection with the proposed development. Yorkshire Water had considered this plan and had confirmed that it would withdraw its objection to the scheme, therefore, the third reason for refusal was deleted from the recommendation to Members.

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

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

Resolved - That consideration of the application be deferred pending the receipt of a revised design of the building to be submitted back to this Committee for determination.

7894 LAND WEST OF BARMSTON BEACH CARAVAN PARK, SANDS LANE, BARMSTON - The Director of Planning and Economic Regeneration submitted a report on an application by Park Resorts Limited for the change of use of existing agricultural land to allow for the roll back of an existing holiday park at land west of Barmston Beach Caravan Park, Sands Lane, Barmston (Application 14/02350/STPLF).

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

Resolved - That the application be approved subject to the conditions as set out in the Director's report, to include liaison with the Ward Members on the landscaping scheme.

7895 LAND WEST OF BARMSTON BEACH CARAVAN PARK, SANDS LANE, BARMSTON - (ENTERTAINMENT COMPLEX) - The Director of Planning and Economic Regeneration submitted a report on an application by Park Resorts Limited for outline consent for the erection of an entertainment complex as part of the proposed roll back of existing holiday park (all matters reserved) at land west of Barmston Beach Caravan Park, Sands Lane, Barmston (Application 14/02351/STOUT).

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

Resolved - That the application be refused on the grounds of the detrimental effect on residential amenity.

7896 FUTURE APPLICATIONS - The Director of Planning and Economic Regeneration submitted a report giving advance notice of planning applications that were currently under consideration and were likely to be submitted to the next or subsequent meetings of the Committee.

Resolved - That site visits be undertaken in relation to:-

- The KP Club, Millington Lane, Kilnwick Percy.
- Land south of Roman Road, adjacent to Burtonfield Barns, Roman Road, Stamford Bridge (as previously agreed).