

Planning (Regulatory) Committee

Date: **Friday, 01 December 2017**

Time: **10:00**

Venue: **Edwards Room, County Hall,
Martineau Lane, Norwich, Norfolk, NR1 2DH**

Persons attending the meeting are requested to turn off mobile phones.

Membership

Mr S Askew	Mr B Long
Mr R Brame	Mr W Richmond
Mr D Collis	Mr M Sands
Mr D Douglas	Mr E Seward
Mr C Foulger	Mr C Smith
Mr D Harrison	Mr M Storey
Mr A Jamieson	

At meetings of this Committee, members of the public are entitled to speak before decisions are made on planning applications. There is a set order in which the public or local members can speak on items at this Committee, as follows:

- Those objecting to the application
- District/Parish/Town Council representatives
- Those supporting the application (the applicant or their agent.)
- The Local Member for the area.

Anyone wishing to speak regarding one of the items going to the Committee must give written notice to the Committee Officer (committees@norfolk.gov.uk) at least 48 hours before the start of the meeting. The Committee Officer will ask which item you would like to speak about and in what respect you will be speaking. Further information can be found in [Part 4.4 of the Constitution](#).

**For further details and general enquiries about this Agenda
please contact the Committee Officer:**

Julie Mortimer on 01603 223055 or email committees@norfolk.gov.uk

Under the Council's protocol on the use of media equipment at meetings held in public, this meeting may be filmed, recorded or photographed. Anyone who wishes to do so must inform the Chairman and ensure that it is done in a manner clearly visible to anyone present. The wishes of any individual not to be recorded or filmed must be appropriately respected.

When the County Council have received letters of objection in respect of any application, these are summarised in the report. If you wish to read them in full, Members can do so either at the meeting itself or beforehand in the Community and Environmental Services Department, County Hall, Martineau Lane, Norwich.

A g e n d a

1. **To receive apologies and details of any substitute members attending**

2. **Election of Chairman**

To elect a Chairman for the ensuing Council year.

3. **Election of Vice Chairman**

To elect a Vice-Chairman for the ensuing Council year.

4. **To confirm the minutes of the Planning (Regulatory) Committee meeting held on 31 March 2017.**

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5. **Declarations of Interest**

If you have a **Disclosable Pecuniary Interest** in a matter to be considered at the meeting and that interest is on your Register of Interests you must not speak or vote on the matter.

If you have a **Disclosable Pecuniary Interest** in a matter to be considered at the meeting and that interest is not on your Register of Interests you must declare that interest at the meeting and not speak or vote on the matter

In either case you may remain in the room where the meeting is taking place. If you consider that it would be inappropriate in the circumstances to remain in the room, you may leave the room while the matter is dealt with.

If you do not have a Disclosable Pecuniary Interest you may nevertheless have an **Other Interest** in a matter to be discussed if it affects

- your well being or financial position
- that of your family or close friends
- that of a club or society in which you have a management role
- that of another public body of which you are a member to a greater extent than others in your ward.

If that is the case then you must declare such an interest but can speak and vote on the matter.

6. **Any items of business the Chairman decides should be considered as a matter of urgency**

7. **Nominations to Serve on the Planning (Regulatory) Urgent Business Sub-Committee.**

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The Committee is asked to nominate five Members of the Committee to serve on the Planning (Regulatory) Urgent Business Sub-Committee (3 Conservative, 1 Labour, 1 Liberal Democrat). The Terms of Reference for the Sub-Committee are "To exercise all the powers of the main Committee where a decision is required urgently (having been agreed as such by the Head of Democratic Services and relevant Chief Officer)".

Chris Walton
Head of Democratic Services
County Hall
Martineau Lane
Norwich
NR1 2DH

Date Agenda Published: 23 November 2017



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STANDING DUTIES

In assessing the merits of the proposals and reaching the recommendation made for each application, due regard has been given to the following duties and in determining the applications the members of the committee will also have due regard to these duties.

Equality Act 2010

It is unlawful to discriminate against, harass or victimise a person when providing a service or when exercising a public function. Prohibited conduct includes direct discrimination, indirect discrimination, harassment and victimisation and discrimination arising from a disability (treating a person unfavourably as a result of their disability, not because of the disability itself).

Direct discrimination occurs where the reason for a person being treated less favourably than another is because of a protected characteristic.

The act notes the protected characteristics of: age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation.

The introduction of the general equality duties under this Act in April 2011 requires that the Council must in the exercise of its functions, have due regard to the need to:

- Eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by this Act.
- Advance equality of opportunity between people who share a relevant protected characteristic and those who do not.
- Foster good relations between people who share a relevant protected characteristic and those who do not.

The relevant protected characteristics are: age; disability; gender reassignment; pregnancy and maternity; race; religion or belief; sex; sexual orientation.

Crime and Disorder Act, 1998 (S17)

Without prejudice to any other obligation imposed on it, it shall be the duty of the County Council to exercise its various functions with due regard to the likely effect of the exercise of those functions on, and the need to do all that it reasonably can to prevent, crime and disorder in its area.

Human Rights Act 1998

The requirements of the Human Rights Act 1998 must be considered.

The human rights of the adjoining residents under Article 8, the right to respect for private and family life, and Article 1 of the First Protocol, the right of enjoyment of property are engaged. A grant of planning permission may infringe those rights but they are qualified rights, that is that they can be balanced against the economic interests of the community as a whole and the human rights of other individuals. In making that balance it may also be taken into account that the amenity of local residents could be adequately safeguarded by conditions albeit with the exception of visual amenity.

The human rights of the owners of the application site may be engaged under the First Protocol Article 1, that is the right to make use of their land. A refusal of planning permission may infringe that right but the right is a qualified right and may be balanced against the need to protect the environment and the amenity of adjoining residents.

**Planning Regulatory Committee
Minutes of the Meeting Held on Friday 31 March 2017
at 10am in the Edwards Room, County Hall**

Present:

Mr M Sands (Chairman)

Mr S Agnew
Mr S Askew
Mr B Bremner
Mr C Foulger (Vice-Chairman)
Mr A Grey
Mr D Harrison
Mr J Law

Mr B Long
Ms E Morgan
Mr W Northam
Mr E Seward
Mr I Monson
Mr J Ward
Mr A White

1 Apologies and Substitutions

Apologies for absence were received from Mr M Storey (Mr I Monson substituted); Mr M Baker and Mr T Jermy.

2 Minutes from the meeting held on 17 February 2017

- 2.1 The minutes from the Planning (Regulatory) Committee meeting held on Friday 17 February 2017 were agreed as a correct record by the Committee and signed by the Chairman.

3 Declarations of Interest

Mr D Harrison declared an interest in agenda item 6 (C/5/2015/5007: SPC Atlas Works, Norwich Road, Weston Longville) in that, whilst he had been Cabinet Member for Waste he had been approached by the applicant and visited the site. He had not been a Member of the Planning (Regulatory) Committee at that time and had not expressed any view on the matter.

Mr B Long declared an interest in agenda item 5 (C/2/2016/2011: Land at Cross Bank Road, King's Lynn, PE30 2HD) as he was a Member of King's Lynn and West Norfolk Borough Council Drainage Board.

4 Urgent Business

There was no urgent business.

Applications referred to the Committee for Determination:

The Committee agreed to consider agenda item 6 (C/5/2015/5007: SPC Atlas Works, Norwich Road, Weston Longville) as its next item of business.

5 C/5/2015/5007: SPC Atlas Works, Norwich Road, Weston Longville.

- 5.1 The Committee received the report by the Executive Director of Community and Environmental Services seeking planning permission for change of use from B8: Warehousing to a Sui Generis use for waste processing and the production of refuse derived fuel (RDF) with an annual throughput of 150,000 tonnes; installation of office, 2 x weighbridges and photovoltaic panels. (Serruys Property Company Ltd).
- 5.2 During the presentation of the report, the following points were noted:
 - 5.2.1 The Secretary of State had received a request from a third party to consider an Environmental Impact Assessment (EIA) Screening Direction under Regulation 4(8) and also a request to issue a holding direction on the application if planning permission was granted. The Committee noted, therefore, that if planning permission was granted Norfolk County Council would not issue the decision notice on the application until such time as the Secretary of State had considered the EIA Screening Request and the call-in request for the application. The Committee was also advised that this did not prevent it from considering the application, however if it was to approve the application then the request to consider call-in of the application would be considered by the Secretary of State. Therefore if the Committee approved the application the recommendation would need to be amended accordingly.
 - 5.2.2 The Committee welcomed Richard Herrell and Joe Warnes from Norfolk Fire Service and Lorraine Machin and Rob Brodie from the Environment Agency, who attended the meeting to answer any questions raised by the Committee.
 - 5.2.3 The Environment Agency had confirmed that, should planning permission be granted and before any waste was treated at the site, a bespoke environmental permit would need to be applied for and granted. The permit would cover all aspects of the operation including odour, risk of fire, noise and dust, and also measures to prevent risk of contamination of the nearby Wensum valley.
 - 5.2.4 The Highways Authority had requested that a ghost island right hand turn lane be provided on the A1067 to allow traffic to right turn safely into the site if planning permission was granted. This would be funded by the developer.
 - 5.2.5 All of the existing entrance(s) to the site would be closed off, with the entire site

(including both existing and proposed users) served via the new entrance provided. An existing electricity substation at the site would need to be moved to make way for the new access. The Committee was informed that permission had not yet been sought or granted from UK Power Networks to re-site the substation.

- 5.2.6 The Planning Services Manager reiterated that as the Secretary of State had been asked to consider whether an EIA was required, if the Committee approved the application, the decision notice would not be issued until the Secretary of State had made his judgement.
- 5.3 Mr P Webb addressed the Committee in objection to the application. Mr Webb raised particular concerns about the risk of fire and also the possible contamination of the water course in the event of water being used to put out a fire. He also raised concerns about the danger to businesses in close proximity of the site as well as the impact on Marriott's Way, the nearby woodland and ancient monument. Mr Webb also questioned whether the asbestos cladded buildings at the site were fit for storing RDF bales which were highly flammable and also whether the site was a suitable location for a waste plant of this nature.
- 5.4 Ms L Foster of Richard Buxton Consultants, addressed the Committee on behalf of Ms O Mead, local resident, in objection to the application. Ms Foster raised concerns about the land use allocation process and the impact on the River Wensum. She also raised the issue of possible potential pollution and said no consideration appeared to have been given to the stored material that became leachate. She referred to the letter from GWP to the Council explaining the risks to the River Wensum from potential pollution. She added that this was not the right location for a plant of this nature and that the proposal should be subject to an Appropriate Assessment in accordance with the Habitats Directive.
- 5.5 Mr G Youngs of Bernard Matthews Ltd addressed the Committee in objection to the application. Mr Youngs stated that some 800 permanent staff were employed by the company in the area, as well as seasonal staff. He raised concerns about the impact on the food factory, hatchery and the turkey farm which were approximately 300m and 700 m from the proposed site. He added that bio security was critical to the whole operation, as Bernard Matthews drew water from bore holes from an aquifer situated under the proposed site and there were serious concerns about possible contamination which could have a devastating impact on the business. He added that the potential adverse impact on the Bernard Matthews business was sufficient reason for the Committee to refuse the application. He also mentioned that little or no consideration appeared to have been given to bioaerosols and contaminants and also queried the validity of the vehicle movement numbers quoted in the application.
- 5.6 Mrs M Bishop addressed the Committee in objection to the application, as an owner of 14 of the 17 units at Shepherds Business Park which was situated near to the west of the application site. Mrs Bishop referred to other waste disposal sites, such as Longwater at Costessey which had issues with odour and flies and asked for reassurance that businesses and commercial premises would not be troubled when

the Environmental Permit was in place. She felt nothing had changed since the application had been considered in October 2016 and urged the Committee to refuse planning permission.

- 5.7 Mr F Brown addressed the Committee in objection to the application on behalf of Weston Longville and Morton Parish Councils. Particular concerns were raised about the impact of traffic and the number of vehicle movements which could be up to 200% more than the applicant had suggested, much of which would travel through Lenwade. He also referred to the road being unsuitable for the volume of traffic and the speed at which it travelled causing danger to pedestrians trying to cross the road and using the narrow pavements. He added that the view of the Parish Council was that the proposal was unsatisfactory.
- 5.8 Mr J Bailey addressed the Committee in objection to the application on behalf of Great Witchingham Parish Council. Particular concerns were raised about pollution and the possibility of contamination to the waterways causing harm to local fish populations from leachate. He felt that Norfolk County Council had gone against its own conservation policy and referred to the NDR not joining with the A47 due to its need to pass through a site of significant scientific interest.
- 5.9 Mr R Hirst, of Wiser Group, addressed the Committee on behalf of the applicant. Mr Hirst reassured the Committee that mitigation measures would be put in place to prevent contamination. He added that applying for planning permission was a long and expensive process and that the applicant had decided not to apply for planning permission in conjunction with applying for an environmental permit in this instance. Mr Hirst reassured the Committee that if planning permission was granted, a bespoke environmental permit would be applied for, which would address all the concerns raised. He also thanked officers for the diligent way they had considered the application and reassured the Committee that, if planning permission was granted, the works would be well managed. He also referred to the nearby Bernard Matthews operation as demonstration that a properly operated and regulated industrial process could take place in the area without having adverse impacts upon the environment.
- 5.10 Mr J Joyce, County Councillor for Reepham Division, addressed the Committee as Local Member, during which he reiterated that the committee had heard representations from six individuals who were not happy with the application. He added that the location was totally unsuitable for this type of operation and that he considered that the environmental permit should have been applied for before an application had been made for planning permission so the potential impact on the environment was known. He urged the Committee to refuse the application to protect the Wensum Valley.
- 5.11 In response to questions from the Committee, the following points were noted:
- 5.11.1 The Planning Services Manager advised that the Committee needed to assume that the development would comply with all the relevant permitting standards.

- 5.11.2 Mr R Herrell, Norfolk Fire Service said that the fire authority would always assess every risk when attending a fire to decide whether to fight the fire with water or let it burn out under controlled conditions. He added that the first responsibility was to protect lives, then protect the environment, then protect the economy and each fire would be assessed individually to ascertain the best way of dealing with it.
- 5.11.3 The details of the fire-fighting facilities the applicant was proposing to install at the site would be included in the application for an environmental permit.
- 5.11.4 The stretch of Marriott's Way, which was a footpath/cycleway/bridleway open to the public along an unused railway line adjacent to the site was not on an embankment and was thought to be a similar level with the application site.
- 5.11.5 There were 8 bore holes located within approximately 700m of the proposed site, behind Great Witchingham Hall to the east of the site.
- 5.11.6 The inclusion of sprinklers within the buildings at the site would be considered as part of the environmental permitting process.
- 5.11.7 It was to be expected that all buildings on the site would need a substantial amount of renovation to bring them up to a suitable standard in order to obtain a pollution control permit for the proposed operational use.
- 5.11.8 The Highways Authority had requested that a ghost island right hand turn lane be provided from the A1067 which would be used by both existing users of the site as well as the proposed development. The A1067 was a principal road which already carried significant volumes of traffic, including HGV traffic. The Highways Authority was satisfied with the proposals and did not consider that the development represented a material increase in traffic movements using the road.
- 5.11.9 The Planning Services Manager advised that the Committee needed to consider two matters in relation to water management – 1. The pollution impact which was included within the report, and 2; flood risk and what could happen during heavy rainfall to ensure that clean water did not become contaminated before flowing off site. The Planning Services Manager also advised that drainage issues would also be covered within the environmental permit and that the Committee had been provided with sufficient information to allow it to decide whether it could approve the application.
- 5.11.10 Mr R Brodie from the Environment Agency advised that, in terms of mitigating risks of water pollution, when the applicant applied for an environmental permit all factors would be taken into consideration. The Committee was reassured that run-off from clean surfaces, or inert run-off would be allowed to discharge to ground water, with unclean water requiring storing in sealed tanks.
- 5.11.11 The operator would be responsible for monitoring the site, with the Environment Agency (EA) carrying out compliance inspections to check the permit was being complied with. When a permit was first issued, regular checks would be carried out

to ensure the site was operating correctly and once the EA was satisfied that this was happening the monitoring visits would reduce. The Committee was reassured that if any complaints were received about the site the EA would visit to monitor and check compliance, and offer advice and if necessary impose restrictions to bring the operation back into compliance. In extreme cases, the permit could be revoked if the operator failed to bring the operation back into line with the environmental permit. In the initial stages of a new operation, monitoring would be higher, although it was not possible to specify how many visits would be made.

- 5.11.12 The Senior Lawyer, nplaw, advised that although a third party had requested the Secretary of State to make a final ruling on whether an Environmental Impact Assessment was required, this did not prevent the committee from considering the application and reaching a decision. However, the Committee needed to bear in mind that the Secretary of State's decision was final and binding. He added that officers had suggested that the recommendations in the report should be amended to the effect that any decision to approve the application should be subject to the Secretary of State's decision.
- 5.11.13 With regard to concerns raised by the Committee about the applicant not applying for an environmental permit before they had applied for planning permission, the Senior Lawyer, nplaw, advised that, although pollution control was a material planning consideration, the National Planning Policy Framework guidance made it clear that pollution control regimes were in place and that not applying for a environmental permit in conjunction with planning permission was the choice of the applicant. He added that the Committee should assume the environmental permitting procedure would operate effectively to control environmental issues.
- 5.12 Mr B Long proposed, seconded by Mr J Law, that the Committee refuse planning permission on the grounds of the impact on the environment which had not been addressed by the applicant and the impact on the nearby scheduled ancient monument and the potential impact on the water course.
- 5.13.1 The Chairman advised the Committee of the options that were available to it:-
- The Committee could debate the proposal and vote on Mr Long's motion to refuse planning permission, or
 - The Committee could vote to accept the recommendations in the report, or
 - The Committee could vote to accept the recommendations in the report, subject to the Secretary of State's screening process, or
 - The Committee could defer a decision until the Secretary of State had made his judgement on whether an Environmental Impact Assessment was necessary.
- 5.14 In response, Mr Long, as proposer of the motion, advised that he wished to proceed with his original motion.

- 5.15 In answer to a question about the risks of refusing the application, the Planning Services Manager advised that the Committee was being asked to determine whether or not the application accorded with the development plan, and in doing so, come to a view as to whether it had heard any over-riding material considerations that would prevent it from determining the application in accordance with the plan.
- 5.15.1 The Senior Lawyer, nplaw, reminded the Committee that the Secretary of State had been asked to rule on whether an Environmental Impact Assessment was required. The Senior Lawyer strongly recommended the Committee carefully consider deferring making its decision until the judgement from the Secretary of State had been made on whether an EIA was required.
- 5.15.2 The Senior Lawyer also reminded the Committee that it would need to provide strong and sound planning reasons if it chose to refuse the application, bearing in mind that Historic England had confirmed they had no objection to the application. He added that the Committee's decision was likely to be either undermined or supported by the Secretary of State's decision regarding the screening direction and that this was an important consideration. He again urged the Committee to defer making a decision until the judgement from the Secretary of State had been made.
- 5.16 Mr A White, seconded by Mr J Ward, made a counter-proposal that, after listening to the legal advice, the Committee defer making a decision until the Secretary of State had made a judgement on whether an EIA was required.
- 5.17 Mr B Bremner proposed an amendment to Mr Long's original proposal, adding that the site was not appropriate location given the effects on all the different businesses situated in the vicinity of the application site.
- 5.17.1 In response, Mr Long reiterated that the environmental impact had not been addressed by the applicant which was a reason for the Committee refusing the application and that he did not accept the amendment.
- 5.18 The Senior Lawyer, nplaw, advised that if the Committee refused planning permission on the basis of the effect on the environment, and the Secretary of state judged that an EIA was not required, this would be a judgement that the proposal would not be likely to have a significant environmental effect and while it would not over-rule the decision, it could undermine it. He again suggested the Committee defer making a decision until the Secretary of State had made his ruling.
- 5.19 The proposal from Mr B Long, seconded by Mr J Law, that the Committee refuse planning permission on the grounds of the impact on the nearby scheduled ancient monument and insufficient information to demonstrate the proposal would not adversely impact on the River Wensum water environment was put to the vote. With 9 votes in favour, 6 votes against and 0 abstentions the Committee **RESOLVED** to

Refuse planning permission on the grounds of the impact on the nearby scheduled

ancient monument and River Wensum water environment outweighed the scheme's compliance with the development plan allocation.

The meeting adjourned at 12.10 and reconvened at 12.20pm.

Mr A Grey, Mr D Harrison, Mr W Northam and Mr J Law left the meeting.

6 C/2/2016/2011: Land at Cross Bank Road, King's Lynn, PE30 2HD.

- 6.1 The Committee received the report by the Executive Director of Community and Environmental Services seeking planning permission to erect an anaerobic digestion facility (to process up to 14,000 tonnes of biomass/slurry) including reception/office building and workshop, two digesters, two storage tanks, combined heat and power plant, energy crop storage area, and ancillary plant. (Michael Stollery, Mikram Ltd).
- 6.2 Mr T Pither, local resident, addressed the Committee in objection to the application, raising particular concerns about traffic, safety, the lack of a construction management plan and unsuitability of the location. He also raised concerns about the lengthy construction period causing disruption to byway users as well as residents. He urged the Committee to refuse planning permission.
- 6.3 Mr M Kettlewell, local resident, addressed the Committee in objection to the application. Mr Kettlewell raised particular concerns about noise disturbance to residential properties from road haulage, and the negative impact of increased HGV traffic on the grade 2 listed residential properties which could also have a detrimental impact on their market value. He urged the Committee to refuse planning permission.
- 6.4 Mr M Stollery, Mikram Limited, addressed the Committee as the applicant in support of the application. Mr Stollery said Mikram recognised the byway was crucial to all users. He added that visitors were welcomed and parking provided, litter left by visitors was regularly picked up and that Mikram maintained the byway at its own expense. Mr Stollery thanked the officers for the work they had undertaken with the application and stated that the conditions would be adhered to if the Committee approved the application.
- 6.5 Mr P Greenaway, Lutra Limited, addressed the Committee in support of the application and on behalf of the applicant. He said it was common to see anaerobic digestion plants in urban environments and that well-managed plants created no problems. Mr Greenaway said that the proposed development was a partially submerged system with approximately 1.2m above the ground and included a unique containment liner to avoid leakage, a system favoured by the Environment Agency. He added that other sites had been considered for the plant, but the primary reason for choosing the proposed site was because of its location to the grid. He requested that the Committee approve the application.
- 6.6 In response to questions from the Committee, the following points were noted:

- 6.6.1 As Cllr Alexandra Kemp's ward was situated on the other side of the river to the proposed site, her comments had been included as it was customary to consult Councillors in neighbouring constituencies to where an application had been made.
- 6.6.2 Approximately 8000m³ of material would need to be removed from the flood defence, with piles being constructed to maintain the security of the flood defence. The entrance gate would include a flood gate. Although the risk of flooding was potentially higher on the opposite side of the river to the application site, the site was classified as being in flood zone 3, and therefore remained at risk of flooding.
- 6.6.3 The swing bridge would take approximately 20 minutes to open and then close once a boat had passed through. As the site was approximately 130m from the highway, it was considered unlikely that it would cause traffic queues to back up to the highway.
- 6.7 Upon being put to a vote, it was unanimously **RESOLVED** to recommend the Executive Director of Community and Environmental Services is authorised to:
- i) **Refuse** permission for the grounds outlined in Section 12 of the report.

The meeting ended at 1.15pm.

Chairman



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