

16th OCTOBER 2014

REPORT OF HEAD OF REGULATORY SERVICES

PLANNING APPLICATION 13/00552/FUL, BRENTINGBY: REPORT OF INVESTIGATION INTO SITE INSPECTION

1. PURPOSE OF THE REPORT

- 1.1 This report informs the Committee of the findings of an investigation into the site inspection relating to application 13/00552/FUL. The site inspection concerned took place on Monday 1st September in preparation for the meeting to be held on the 4th and the investigation was instigated following concerns raised at the meeting of 25th September 2014 that Members had not viewed the correct application site, i.e. that they viewed a different parcel of land at an alternative location. The actual application site, as conveyed in the application, is attached below as **appendix 1** to this report.

2. RECOMMENDATION

- 2.1 **The Committee are invited to consider the results of the investigation and to determine any future steps.**

3.0 BACKGROUND

- 3.1 Members will be aware that site inspections are a regular and integral element of the consideration of applications determined by the Committee. They provide a source of information to assist the Committee to make an informed decision, along with other sources such as the application itself (plans and forms etc), the officer's reports and representations received from residents and consultees including Parish Councils: The Council's Constitution describes the purpose of site inspections as follows: *"The purpose of a site visit is for Members to gain factual knowledge and make a visual assessment of the development proposal, the application site and its relationship to adjacent sites"*.

3.2 Scope of investigation

- 3.2.1 The concerns were expressed in very clear terms at the meeting of 25th September 2014: that when the Planning Committee went to look where that turbine is going to be it was not the site where it is going to be. Members had viewed an incorrect, alternative, site when undertaking their site inspection rather than the application site itself. This was reaffirmed in a response to a question: the officer showed the Committee the wrong parcel of land.
- 3.2.2 Accordingly, the investigation has sought to establish only **whether or not the correct application site was viewed on the 1st September**. It has not looked into wider issues such as whether the site inspection protocol was correctly adhered to, whether the viewpoints were optimum or others might have been advantageous, or how the application was subsequently considered.

3.3 Investigation

3.3.1 The investigation comprised the following:

- Review of the documentation, minutes and recording of the meeting.
- An interview with attending officers as to the steps taken at the site inspection
- A visit to the site accompanied by the Lead Officer who attended the site inspection on 1st September 2014, in effect to 'retrace the steps' of the Committee and;
- A detailed written account of the site inspection from the lead officer, supported by a diagram.
- An invitation to comment on the written account to all Members in attendance, seeking their agreement or otherwise with the written account.

3.4 Findings of fact

3.4.1 Review of the documentation

The documents include the site inspection attendance list in which it is shown that 6 Members attended the site inspection, accompanied by 2 officers, the Regulatory Services Manager and the case officer for this application. The Regulatory Services Manager was the 'lead officer' by virtue of the seniority of his position, but at this site the information was conveyed by the case officer, being the most familiar with the details. The Member who lodged the complaint that is the subject of this report did not participate in the site inspection.

3.4.2 Interviews with attending officers as to the steps taken at the site inspection

Officers were able to describe, with the aid of the planning application documents, the route taken and how they accompanied Members to various vantage points. They were able to explain how they were able to relate the locations visited to the specific location of the proposed turbine, i.e. how reference was made to it when the exact site was not visible due to intervening features, which viewpoints were used to obtain an unobstructed view of the site and how they used the presence of existing physical features in the landscape to identify the position of the proposal.

3.4.3 A visit to the site accompanied by the Lead Officer

The Lead Officer (The Regulatory Services Manager) escorted me to the same locations, in the same order, as had been visited by the Committee. Specifically:

- From the B676 looking south towards the site whilst travelling
- From the North West corner of the applicant's farmyard where unobstructed views are available
- From Main Street at a point where trees give way to a low hedge, looking west

The second and third of these locations are illustrated on the plan accompanying this report as 'point C' and 'point D' (Appendix 2).

3.4.4 A detailed written account of the site inspection from the lead officer.

The Lead Officer provided a detailed account of the site inspection insofar as it relates to this application. In addition to describing the viewpoints at para 3.4.3 above it explains also some further details of the inspection, i.e.

- How the exact location of the turbine was identified by reference to physical landmarks, e.g. hedgerows, power lines and individual trees.
- Other locations visited, and the reasons why (i.e. reasons other than assessing the impact of the turbine on the landscape, such as the vicinity of listed buildings in order to inform how their setting would be affected).

- The route to and from the site.
- Accounts of conversations carried out during the inspection, including the offer from the presenting officer to move to additional vantage points for further views.

3.4.5 An invitation to comment on the written account to all Members in attendance

The Lead Officer's account and diagram was sent to all other Members and Officers who attended the Inspection and they were invited to comment on whether it was an accurate account or whether they had a different recollection. The result was as follows:

- 4 Members agreed fully with the Lead Officer's account
- The presenting officer agreed, but added additional detail in respect of offering further view points
- 1 Member provided an alternative account. This differs in detail from the Lead Officer's on several matters not relevant to this investigation. However, it importantly states that the Member has no recollection of viewing from the NW corner of the applicant's farm yard ('point C' on appendix 2) but does not contend the account in respect of the viewpoints from the B676 and from 'point D', Main Street.
- 1 Member similarly dissents from the description that a view was taken from the NW corner of the farmyard and that offers to walk to alternative viewpoints were made at that location. It similarly does not contend the account in respect of the viewpoints from the B676 and from 'point D'.

3.5 Conclusions

3.5.1 I am satisfied from the information provided that the viewpoints provided an adequate view of the correct site. Both the viewpoints from the NW corner of the farmyard ('point C') and from Main Street ('point D') offer an unobstructed view of the application site.

3.5.2 I am satisfied that the assistance offered by Officers was adequate to identify the correct location of the turbine within the views obtained. There are a wealth of features in the landscape that allow the position to be described in terms of distance away (e.g field boundaries) and position (e.g between, or aligned, with vertical features in the landscape such as trees and the power lines) such that 'pinpointing' of the position is relatively easy.

3.5.3 None of the information I have obtained indicates that Members viewed the wrong site. Where potential deficiencies are described (see para 3.4.5) they relate to only one of the viewpoints visited. No similar criticisms are made of the other viewpoints. However, these comments do not suggest an alternative site was viewed, simply that the actual site was not visible from the location described ('point B'). It is concerning that 2 members do not recall visiting the NW corner of the farmyard ('point C') whilst all the other participants did, nor hear the explanations provided whilst at that location or the invitation to visit further viewpoints. An explanation for this may be that the 2 Members concerned were separated from the remainder of the group? However, within these differing recollections, there is no suggestion that an incorrect site was viewed at any stage.

3.5.4 It is considered informative that no Member asked to take in additional viewpoints, either when invited to do by the presenting officer or more generally, without prompting. From this it can be inferred that the Members present were satisfied that from the inspection – together with the other sources of information about the application – they were adequately informed to make an assessment of the issues.

Ultimately it is for Members to satisfy themselves they are adequately informed to make an assessment of the issues. By the time of the site inspection Members had received the Committee report in which issues of visibility in the landscape and the relationship with a nearby properties were addressed and the nature and position of the proposed turbine was described and illustrated. With this information, Members would be aware of viewpoints they required if they felt the ones presented were insufficient.

- 3.5.5 Similarly, it was open to Members to defer the application if they felt it necessary to take in any additional or specific view. Specific relationships with buildings were highlighted at the meeting on the 4th by both Officers and speakers and there was an opportunity for Members to defer the application had they felt it necessary to experience additional specific view(s) to those already visited. The motion to refuse the application was tabled by a Member who did not participate in the site inspection so clearly she felt sufficiently informed despite this. This was seconded by a Member who had participated. Later, the motion to approve the application was tabled by a Member who hadn't attended the site inspection so clearly he believed his understanding was adequate from the information he received from the papers and verbal reports.

3.6 Overall conclusion

- 3.6.1 It is concluded that there is no evidence, from any source, indicating that the Committee viewed the incorrect site when undertaking its site inspection. Accordingly, the complaint is unsubstantiated.**

4.0 POLICY AND CORPORATE IMPLICATIONS

- 4.1 It is important that decisions are taken based on a proper understanding of the issues and sufficient information to assess the impacts within the framework required for planning decisions. It is considered that the above investigation demonstrates that this application was determined accordingly.

5.0 FINANCIAL AND OTHER RESOURCE IMPLICATIONS

- 5.1 The investigation has required significant amounts of officer and Member time and these in turn have resulted in other priorities being affected.

6.0 LEGAL IMPLICATIONS/POWERS

- 6.1 There are no legal implications arising from this report because the complaint has not been substantiated. However, had the complaint been correct, it would have represented a significant shortcoming in the making of this decision and would have exposed the Council to potential judicial review (on the basis of making a decision based on an incorrect understanding of the impacts of the proposal).

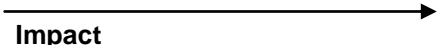
8.0 COMMUNITY SAFETY

- 8.1 There are no direct community safety implications as a direct result of this report.

9.0 EQUALITIES

- 9.1 There are no direct Equalities implications as a direct result of this report.

10.0 RISKS

Very High A				
High B				
Significant C		2		
Low D			1	
Very Low E				
Almost Impossible F		3		
	IV Neg- ligible	III Marg- inal	II Critical	I Catast- rophic
				

Risk No.	Description
1	Further information is provided which affects the conclusion of this investigation
2	The content of the investigation is used to submit a legal challenge
3	There is a successful challenge of the planning permission

11.0 CLIMATE CHANGE

11.1 There are no direct Climate Change implications as a direct result of this report.

12.0 CONSULTATION

12.1 no consultation has been carried out as part of this investigation.

13.0 WARDS AFFECTED

13.1 All wards are affected in terms of the need to adhere to a reliable decision making process.

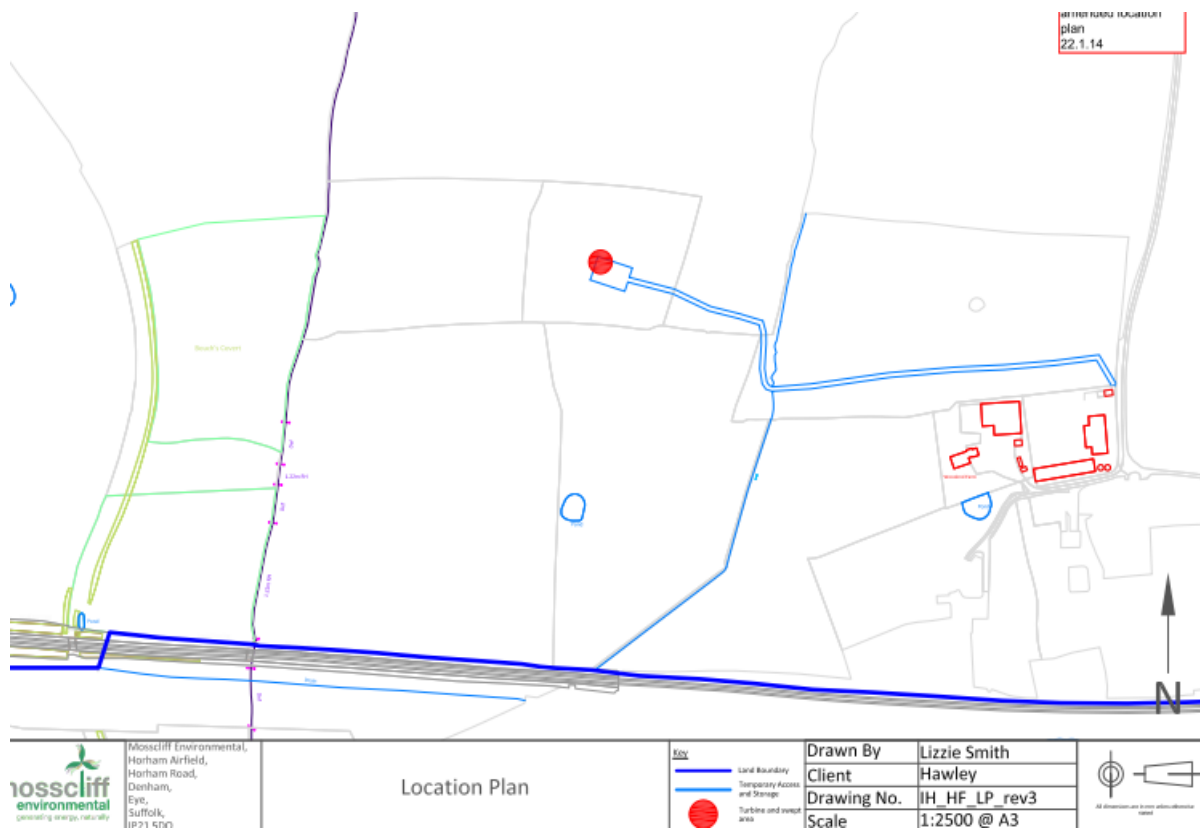
Appendices:

1 – site location plan from planning application 13/00552/FUL

2- site inspection viewpoints diagram

Background documents: correspondence with officers and Members attending the site inspection

Appendix 1 – site location plan (extract from application 13/00552/FUL)



Appendix 2 – site inspections location diagram (see para 3.4.2 above)

