

PLANNING & REGULATION COMMITTEE

MINUTES of the meeting held on Thursday, 12 November 2009 commencing at 10.30 am and finishing at 12.45 pm

Present:

Voting Members: Councillor Steve Hayward – in the Chair

Councillor Mrs Catherine Fulljames (Deputy Chairman)

Councillor Alan Armitage

Councillor Mrs Anda Fitzgerald-O'Connor

Councillor Tim Hallchurch MBE

Councillor Jenny Hannaby

Councillor Ray Jelf

Councillor Peter Jones

Councillor Lorraine Lindsay-Gale

Councillor G.A. Reynolds

Councillor John Sanders

Councillor Don Seale

Councillor Bill Service (In place of Councillor David Nimmo-Smith)

Councillor Dr Peter Skolar (In place of Councillor Neil Owen)

Other Members in Attendance: Councillor Charles Mathew (for Agenda Item 5)

By Invitation: Jon Robinson (Scott Wilson)

Officers:

Whole of meeting G. Warrington and R. Hanson (Corporate Core); R. Dance and J. Duncalfe (Environment & Economy)

The Committee considered the matters, reports and recommendations contained or referred to in the agenda for the meeting, together with a schedule of addenda tabled at the meeting and decided as set out below. Except as insofar as otherwise specified, the reasons for the decisions are contained in the agenda, reports and schedule, copies of which are attached to the signed Minutes.

62/09 APOLOGIES FOR ABSENCE AND TEMPORARY APPOINTMENTS

(Agenda No. 1)

Apologies for absence and temporary appointments were received as follows:

Apology from	Temporary Appointment
Councillor David Nimmo-Smith Councillor John Tanner Councillor Neil Owen	Councillor Bill Service - Councillor Peter Skolar

63/09 DECLARATIONS OF INTEREST - SEE GUIDANCE NOTE OPPOSITE

(Agenda No. 2)

None declared

64/09 PETITIONS AND PUBLIC ADDRESS

(Agenda No. 3)

The following requests to address the meeting had been agreed:

Name	Item
Julie Hankey)
Terry Kirkpatrick)
Robert Florey) 4. Stonehenge farm, Northmoor
Steve Good)
Councillor Charles Mathew)

**65/09 MINERAL EXTRACTION AND ASSOCIATED DEVELOPMENT -
STONEHENGE FARM, NORTHMOOR**

(Agenda No. 4)

On 24 November 2008 the Planning & Regulation Committee had refused planning permission for mineral extraction and associated development at Stonehenge Farm on the following grounds:

1. It had not been sufficiently demonstrated to the satisfaction of the County Planning Authority that the impact of the proposed development would not increase the risk to people, property and businesses arising from additional flood risk.
2. That routeing agreements had proved ineffective in the past and in practice and were therefore considered to be contrary to Oxfordshire Structure Plan (OSP) policy T8.
3. The development was contrary to MWLP Policy PE7 and WOLP NE8 and NE9.

The applicants had appealed and an Inquiry was due to start on 17 November 2009.

Government Circular 03/2009 (“Costs Awards in Appeals and other Planning Proceedings”) provided guidelines so that the parties to an appeal could minimise the likelihood of costs being awarded against them. One such guideline required parties to an appeal to actively review their cases, respond promptly to changing circumstances and provide a clear explanation of a revised stance or position, with nothing coming as a complete surprise throughout the process. The Committee now had before it a report (PN4) which outlined work undertaken since the Committee made its decision in November 2008 and sought the Committee’s further instructions as to the stance to be taken at the forthcoming Inquiry in the light of developments since the refusal of permission last year.

Julie Hankey addressed the issues of routeing. She considered that negotiations undertaken since November 2008 had undermined and prejudiced the County Council’s case at the appeal. The evidence underlying this particular reason for refusal had been based on evidence gathered by County officers in November 2006 which had shown that a large percentage of lorries travelled to and from this site using the prohibited route through Sutton. This had been the case for many years and continued to be so. The Committee were now being told that a more robust agreement had been negotiated but there was little confidence locally that this would be observed and with no real sanction for offenders. Furthermore, the number of lorries using the main complex made it difficult to identify lorries transporting Hanson’s gravel and easy for Hansons to deny that offending lorries were using there operation. A routeing agreement in this case was a weak instrument for controlling HGV traffic and she asked the Committee to instruct its officers to defend its decision in line with national guidance set out in MPG2, Annex C paragraph C9.

Responding to a question from Councillor Seale she considered that signing should make it clear that traffic exiting the site was required to turn left.

Terry Kirkpatrick addressed the issues of flooding and referred to his submission in November regarding increased flood risk and the technical inadequacy of the Flood Risk Assessment and Ground Water Modelling undertaken work by the applicant. That work had been called for because of the acknowledged complexities of the site which lay within a broad flood plain and on the confluence of 4 main rivers. That had formed the basis of one of the Committee’s reasons for refusal in November 2008. Following the appeal by Hanson the County Council had engaged an expert consultant who had agreed that the earlier work by the applicant had been inadequate and they had now started to undertake that work, although it remained incomplete. It had also been rushed and based on incorrect data from the 2007 flood and had included a map produced by Hansons which was flawed. Together with OUTRAGE and local residents the views of the flood modeller employed by the Environment Agency to create the 1D model used by Hansons had been obtained and it was quite clear that the new modelling had not demonstrated that there was no increased risk to properties in the area. Therefore, the Committee should not base any decision it takes before the Inquiry on the evidence of current modelling. Furthermore, Hansons had admitted that the proposed quarry would casue serious derogation of local wells and water courses unless active mitigation measures were employed but it was felt that any mitigation measure could not be effective and in any event there no funding was in place to pay for such measures in the long term beyond 25 years. He urged the Committee to instruct its officers to continue to fight the appeal vigorously on the grounds agreed in November 2008.

Responding to:

Councillor Seale - he advised it would have been better to use a normal year to calibrate information rather than 2007. In the normal course of events a hole in a flood plain could reduce risk but the situation at Stonehenge Farm was exceptional because of the confluence of 4 main rivers and its situation in a broad flood plain. The proximity of a flood hole between the Windrush and Thames could affect the peaks of flooding which occurred from those rivers and increase risk.

Councillor Skolar – theoretically it would be possible for a flood hole to take all excess water from the Windrush but it would have to be a big hole.

Robert Florey endorsed the comments made by Julie Hankey and Terry Kirkpatrick and referred to the scale of the 2007 incident and fear experienced by local residents. Experts have said that the frequency and impact of these incidents could worsen. He considered the proposed earth bunds would exacerbate the situation in the event of future flooding and urged the Committee to fight the appeal and protect local residents from the very real danger and fear of similar events.

Steve Good referred to the unreliability of forecasting and modelling and to the reality of flooding which had faced businesses and homes in this area. 2007 had been horrendous with the threat of loss of business, damage to property and disease. There was no pressing need for gravel at this current time and he referred to opposition expressed to this application by local Parish Councils, West Oxfordshire District Council and the County Council in November 2008. He also referred to proposals to provide a new river crossing at Newbridge which, if it went ahead, would involve substantial new works in this area and this had not been taken into account. He asked the Committee to endorse its reasons for refusal and continue to fight the appeal.

Councillor Mathew felt that local residents had been treated unfairly in this matter and expressed concerns over the legitimacy of this process. He resisted any moves to undermine the decision reached by the Planning & Regulation Committee in November 2008, although the perception was that everything possible had been done to do that. No decision had been reached on the final allocation of sand and gravel from Oxfordshire and the County Council were working to Plans agreed in 1996. Accepting that costs against the Council could be a possibility if the appeal was successful he could not accept that justified undermining the Council's case to avoid such a situation. Refusal by the Committee had encouraged Hansons to undertake the 2D modelling work. Furthermore the effect on Rack End had not been taken into account and the number of operators on the Dix Pit site would make any routeing agreements unenforceable. He asked the Committee to defend vigorously the reasons given for refusal of this application in November 2008.

Mr Dance reminded the Committee that the County Council had a duty to review its position up to the date of commencement of the Inquiry and present any new information to the Committee. The Committee had to consider the merits of this application and potential matters such as the Newbridge scheme should not be taken into account. He accepted that routeing agreements were not always easy to manage and enforce but a great deal of work had gone into making them robust.

Mr Robinson responded to questions from:

Councillor Armitage

- flood holes could potentially aggravate flooding by reversing the flooding order of the Thames and Windrush but it was unlikely. The modelled scenario had taken the Thames at a constant peak and had allowed for comparison of the Windrush joining the Thames.
- Environment agency records had shown that in 2007 the Thames had peaked before the Windrush.
- Modelling had taken account of surface water only and not watertable levels. Climate change could also lead to issues of drought.
- Observed flooding had not been replicated exactly in the model.

Councillor Hannaby - Bunding was the controversial part of this and he considered that work by Hanson, although in line with EA requirements, had not been detailed enough. That had now been done and the bunds repositioned accordingly.

Councillor Seale

- Any independent application for further development would need to proceed on its own merits and the assumption had to be that any development would have to look after itself.
- Yes balancing reservoirs were generally helpful.

The Committee also discussed the merits of seeking a further deferral of the Inquiry to enable all new information to be considered.

With regard to Traffic issues it was **RESOLVED** (on a motion by the Chairman, seconded by Councillor Jelf, amended with their consent by Councillor Service and carried by 12 votes to 2, Councillor Reynolds being recorded as voting against):

- (a) Development traffic to use an approved route (through Dix Pit, west along the B4449 and north along the A415);
- (b) Appellant to provide £32,000 to enable OCC to carry out 3 (random) monitoring surveys per year, and 3 additional monitoring surveys per year in the event of complaints;
- (c) Provision for meetings after routeing surveys to discuss action to be taken (if required).
- (d) Provision of signing guiding all emerging lorries from the quarry left onto the B4449 (Witney direction) and not right (Sutton direction).

With regard to flooding issues it was **RESOLVED** (on a motion by the Chairman, seconded by Councillor Jelf, amended with their consent by Councillor Armitage and Councillor Hannaby and carried by 14 votes to 0) that:

- (e) The Committee stress to the Inquiry Inspector its concern that, in view of the history of substantial flooding in the area, he will need to be fully satisfied on the evidence that the impact of the proposed development would not increase the risk to people, property and businesses arising from additional flood risk; and

- (f) The approach to be taken to the evidence at the Inquiry be delegated to the Director for Environment & Economy in consultation with the Chairman in the light of the concern expressed at (d) above.
- (g) Officers ask the Inspector to adjourn the Inquiry for a suitable period to enable parties to have sufficient time to consider the additional flood modelling work recently carried out by Hanson.

..... in the Chair

Date of signing 200