

PLANNING & REGULATION COMMITTEE

MINUTES of the meeting held on Monday, 14 May 2018 commencing at 2.00 pm and finishing at 2.47 pm

Present:

Voting Members: Councillor Les Sibley – in the Chair

Councillor Jeannette Matelot (Deputy Chairman)
Councillor Mrs Anda Fitzgerald-O'Connor
Councillor Mike Fox-Davies
Councillor Glynis Phillips
Councillor G.A. Reynolds
Councillor Judy Roberts
Councillor Dan Sames
Councillor Alan Thompson
Councillor Richard Webber

Other Members in Attendance: Councillor Charles Mathew (for Agenda Item 7)

Whole of meeting G. Warrington & D. Mytton (Law & Governance); C. Kenneford and D. Periam (Planning & Place)

Part of meeting

Agenda Item 8. **Officer Attending**
C. Hodgkinson (Planning & Place)

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

20/18 APOLOGIES FOR ABSENCE AND TEMPORARY APPOINTMENTS

(Agenda No. 1)

<i>Apology for absence</i>	<i>Temporary Appointment</i>
Councillor Stefan Gawrysiak (-)	(-)
Councillor Mark Lygo (-)	(-)
Councillor Bob Johnston (-)	(-)

21/18 MINUTES
(Agenda No. 3)

The minutes of the meeting held on 26 March 2018 were approved and signed.

22/18 PETITIONS AND PUBLIC ADDRESS
(Agenda No. 4)

<i>Speaker</i>	<i>Item</i>
John Salmon (Agent for the Applicant) Councillor Charles Mathew (Local Member))) Item 7 – Dix Pit Recycled) Aggregate Facility)

23/18 ROUTEING AGREEMENTS PROTOCOL
(Agenda No. 6)

On 27 March 2018 the County Council approved a motion by Councillor Fox-Davies in the following terms:

“Many approvals for planning permission are granted, subject to routeing agreements, (normally for HGV traffic). These form a contract with the applicant. If these agreements are not followed, there is limited power of enforcement. Once granted the permission cannot be removed, the only enforcement process is for the applicant to be pursued through the civil court.

This is currently embedded in planning law. Whilst many applicants will abide by the legal agreements, there is no easy deterrent for applicants who flout them.

As a rural Council with many villages affected by HGV movements, we feel strongly that the law in this area needs to be amended. This Council requests that the Planning & Regulation Committee strengthen the existing OCC planning protocols to include measures to enable easy redress following persistent breaches such as the retention of a financial performance bond, with the necessary mechanism for any persistent breaches of the routeing agreements.

Additionally, this Council asks that the Leader of the Council Lobby every MP in Oxfordshire to support this change and raise a back-bench motion in Parliament, to strengthen the UK planning law to allow local authorities more redress when conditions or legal agreements entered by contractors are persistently breached.”

In the light of that approved motion the Committee considered (PN6) a revised routeing agreements protocol based on the terms of the six options which comprised

the existing routeing protocol as agreed in September 2016 and which applied only to applications which the County Council itself determined as Minerals and Waste Planning Authority together with an additional option to meet the terms of Councillor Fox-Davies' motion as follows:

"7) If an application is received:

- a) and there is a history of substantiated, persistent or flagrant breaches by an applicant of the terms of an existing routeing agreement, a security deposit will be required from the applicant at the outset when entering into the new routeing agreement.
- b) for a site in a part of the county where there has been an ongoing concern with regard to existing vehicle movements but there has been no history of non-compliance on the part of the applicant, the routeing agreement will include a provision that if the Council reasonably determines later that there have been substantiated, persistent or flagrant breaches of that agreement then operations will cease until a security deposit has been paid to the County Council

In either case, the security deposit would be used to fund the council's costs incurred in monitoring the agreement, investigating suspected breaches of the agreement and securing compliance with the agreement, as necessary. The security deposit would not normally exceed an amount of £1,000 per year for the number of years the development is permitted."

Councillor Fox-Davies agreed in principle with the terms of the additional option but considered a more appropriate figure for a security deposit would be £5,000 per year or a minimum of £25,000 in order to encourage operators not to break the terms of a routeing agreement and he so moved. Councillor Webber seconded the motion which was then put to the Committee and –

RESOLVED: (by 9 votes to 0 with one abstention) that the revised Routeing Agreements Protocol set out in Annex 2 to the officer's report PN6 be adopted subject to amending the final sentence in paragraph 7) of that protocol to read as follows:

"The security deposit would not normally exceed an amount of £5,000 per year for the number of years the development is permitted or a minimum of £25,000."

24/18 SECTION 73 APPLICATION TO CONTINUE THE OPERATION OF DIX PIT RECYCLED AGGREGATE FACILITY PERMITTED BY PLANNING PERMISSION NO. 16/04166/CM (MW.0140/16) WITHOUT COMPLYING WITH CONDITION 6 THEREBY ALLOWING AN INCREASE IN THE MAXIMUM TONNAGE OF WASTE MATERIAL IMPORTED TO SITE TO 175,000 TONNES PER ANNUM - SECTION 73 APPLICATION TO CONTINUE THE OPERATION OF DIX PIT RECYCLED AGGREGATE FACILITY PERMITTED BY PLANNING PERMISSION NO. 16/04166/CM

(MW.0140/16) WITHOUT COMPLYING WITH CONDITION 6 THEREBY ALLOWING AN INCREASE IN THE MAXIMUM TONNAGE OF WASTE MATERIAL IMPORTED TO SITE TO 175,000 TONNES PER ANNUM - SECTION 73 APPLICATION TO CONTINUE THE OPERATION OF DIX PIT RECYCLED AGGREGATE FACILITY PERMITTED BY PLANNING PERMISSION NO. 16/04166/CM (MW.0140/16) WITHOUT COMPLYING WITH CONDITION 6 THEREBY ALLOWING AN INCREASE IN THE MAXIMUM TONNAGE OF WASTE MATERIAL IMPORTED TO SITE TO 175,000 TONNES PER ANNUM - APPLICATION NO. MW.0015/18

(Agenda No. 7)

The Committee considered an application to increase the amount of waste imported to the existing Dix Pit Recycled Aggregates Facility from 100,000 to 175,000 tonnes per calendar year through a variation of condition 6 of planning permission no. 16/04166/CM (MW.0140/16). No other changes to the existing conditions were proposed. The application was being reported to the Planning & Regulation Committee as a resubmission of a previous application no. MW.0073/17 for the same development which had been refused planning permission and was now the subject of an undetermined appeal.

Presenting the report Mr Periam updated members on recent contraventions of the routing agreement. Although no complaints had been received from members of the public since the last meeting officers had carried out two separate monitoring visits which had culminated in one vehicle being observed on the previous Thursday contravening the terms of the agreement, which, on investigation, it had been established that the vehicle was not in fact owned by the applicant but in the ownership of a third-party contractor. The applicant had subsequently responded and dealt with the report immediately in line with agreed procedures.

Mr Periam then responded to questions from:

Councillor Matelot – officers continued to use their best endeavours to ensure compliance.

Councillor Sames – the site had wheel-washing facilities but vehicles from this site weren't the only vehicles which used this road.

John Salmon on behalf of the applicants stated that a lot of information put before members had been incorrect and misleading and confirmed the applicant's view that the agreement was not frequently or flagrantly violated. This was a sound application which met the county council's guidelines and lorry route policies as well as government aspirations for recycling and daily traffic fluctuations resulting from this application would be imperceptible. The applicants were proud of their operation, which was the only one at the Dix Pit site which had signed up to a routing agreement and it was important to note that the company owned 18 lorries yet 180 used the site. They considered they had been unfairly treated and delays with this application had cost them £1m. Today's application had been made on Counsel's advice to try and reach a compromise and to do that the company had tried to be honest and objective.

Councillor Charles Mathew reminded the Committee that at the 8 January 2018 meeting he had proposed a staggered approach to the increased tonnage with a reduced amount of traffic on the B4449. That approach had been rejected by the applicants and the application subsequently refused on the grounds of adverse impact on amenity of residents in Sutton village so he was not happy to now see a reapplication based merely on an increased offer towards highway maintenance and provision of a road sign. He understood an email had been sent to all members by the applicants stating their intention to sue him and the County Council for defamation which he considered had been based on a false interpretation of what he had said. He had every respect for the recycling industry but felt this site was quite simply in the wrong place. He referred to an abusive email he had received from Chris Sheehan and hoped that members would not submit to pressure and reaffirm their decision to reject the application. The B4449 was not capable of taking extra traffic and any further increase would be unacceptable and continue to make life uncomfortable for residents.

Mr Mytton confirmed that this was a largely repeat application of the one refused in January 2018 but there was an opportunity for the Committee to reconsider it in the light of the revised offer by the applicants for an increased highway maintenance contribution and improved signage. It would be difficult to justify refusal on grounds other than those specified in the January refusal unless there was evidence for that.

Councillor Fox-Davies asked whether or not the Committee could justifiably reconsider this application in the light of the revised routeing agreements protocol previously agreed by the Committee at this meeting.

Mr Periam and Mr Mytton advised that in general fairness if the Committee wished to do that then the application should be deferred to enable the applicants to consider their position in the light of the terms of the revised protocol. However, it was still open for the Committee to refuse the application if it remained of a view that it was still unacceptable but if the Committee were minded to approve the application now then it needed to do so under the old protocol.

RESOLVED: (on a motion by Councillor Fox-Davies, seconded by Councillor Webber and carried by 9 votes to 0, with one abstention recorded) that the Section 73 application to continue the operation of Dix Pit Recycled Aggregate Facility permitted by planning permission no. 16/04166/CM be deferred to enable the application to be considered under the terms of the revised Routeing Agreements Protocol and to seek the views of the applicant on this.

25/18 PROGRESS REPORT ON MINERALS AND WASTE SITE MONITORING AND ENFORCEMENT

(Agenda No. 8)

The Committee considered (PN8) a report updating members on the regular monitoring of minerals and waste planning permission for the financial year 1 April 2017 to 31 March 2018 and progress of enforcement cases.

Councillor Fox-Davies suggested it would be useful to have some brief comment against monitoring to give members more guidance on the current state of operations

rather than just a figure stating the number of visits. Councillor Phillips noted this but stated that she preferred officers to devote their time going out and monitoring sites and investigating breaches of planning control.

RESOLVED: that the schedule of compliance monitoring visits set out in Annex 1 and the schedule of enforcement cases in Annex 2 to the report PN8 be noted.

..... in the Chair

Date of signing