

PLANNING APPLICATIONS COMMITTEE

23rd November 2011

PRESENT - Councillor Baldwin (in the Chair); Councillors Cossins, Johnson, Knowles, Landers, Lee, Long, D.A. Lyonette, Macnab, Stenson and J. Taylor. (11)

APOLOGIES – Councillors L. Haszeldine and Regan (2)

OFFICERS – Roy Merrett, Development Manager, Andrew Harker, Planning Officer and Harry Alderton, Highways Engineer, within Services for Place and Andrew Errington, Lawyer (Planning) within Resources Group.

PA53. DECLARATION OF INTERESTS – No declaration of interest reported at the meeting.

PA54. MINUTES - Submitted - The Minutes (previously circulated) of the meetings of this Committee held on 19th October, 2011 and 2nd November, 2011.

RESOLVED - That the Minutes be approved as a correct record.

PA55. PROCEDURE – The Assistant Director of Resources representative gave a short presentation which outlined the procedure to be followed during consideration of the applications for planning permission before this Committee.

RESOLVED – That the procedure be noted.

NOTE - APPLICATIONS FOR PLANNING PERMISSION – The following standard conditions are referred to in those Minutes granting permission or consent :-

Code No.	Conditions
A3	Implementation Limit (Three Years) The development hereby permitted shall be commenced not later than the expiration of three years from the date of this permission. Reason - To accord with the provisions of Section 91(1) of the Town and Country Planning Act, 1990.
B4	Notwithstanding any description of the external materials in the submitted application, details of the external materials to be used in the carrying out of this permission (including samples) shall be submitted to, and approved by, the Local Planning Authority in writing prior to the commencement of the development and the development shall not be carried out otherwise than in accordance with any such approved details. Reason - In order that the Local Planning Authority may be satisfied as to the details of the development in the interests of the visual amenity of the area.
B5	The proposed development shall be carried out in all respects in accordance with the proposals contained in the application and the plans submitted therewith and approved by the Local Planning Authority, or as shall have been otherwise agreed in writing by the Local Planning Authority.

	Reason - To ensure the development is carried out in accordance with the planning permission.
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PA56. APPLICATIONS FOR PLANNING PERMISSION AND OTHER CONSENTS UNDER THE TOWN AND COUNTRY PLANNING ACT AND ASSOCIATED LEGISLATION

(1) Planning Permission Granted

11/00245/FUL - Garthorne Farm, Archdeacon Newton, Darlington. Single Wind Turbine – 67 metres to rotor tip and substation, transformer building and access road.

(In reaching its decision, the Committee took into consideration the Planning Officer’s report (previously circulated), nine letters of objection, seven signed pro forma letters of objection, fifty eight letters of support, the objections of Walworth Parish Council, High Coniscliffe Parish Council, Denton Parish Council, Archdeacon Newton Parish Council, Coatham Mundeville Parish Council and Campaign to Protect Rural England, the comments of Environmental Health and the support of Darlington Friends of the Earth that had been received and the views of Mr. Tweddle, applicant, Mr. Ridgeon, applicants agent, Mr. Spinks and Mr. Welch, objectors and Mr. Snedker, representative, whom Members heard).

RESOLVED - That planning permission be granted, subject to the following conditions :-

- 1 The development hereby permitted shall be begun before the expiration of five years of the date of this decision.
Reason - Pursuant to the requirements of Section 91 of the Town and Country Planning Act 1990, as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.

- 2 The planning permission hereby granted shall be for a temporary period only, to expire 25 years after the first commercial export of electricity from the site. Written confirmation of the date of commercial electricity export shall be provided to the Local Planning Authority within one month after the event.
Reason - To provide certainty over the duration of the development.

- 3 Unless otherwise required by conditions attached below, this permission shall relate to the drawings and plans submitted with the application hereby approved.
Reason - For the avoidance of doubt as to what has been approved.

- 4 Not later than six months before the date on which the planning permission hereby granted expires, the wind turbine, ancillary equipment, buildings, crane platforms and access roads shall be dismantled and removed from the site and the land reinstated to its former condition in accordance with a scheme to be submitted to the Local Planning Authority for written approval prior to the commencement of development. The scheme to be submitted shall include the dismantling and removal of all turbines, equipment, buildings, and access roads above existing ground levels and the removal of turbine bases and crane platforms to a depth of one metre below existing ground levels.
Reason - To provide certainty over the duration of the development.

- 5 If the turbine hereby permitted ceases to be operational for a continuous period of 6 months, or such period of time as may otherwise be agreed in writing by the Local

Planning Authority, all of its above ground elements plus one metre of the turbine base and associated crane pad below ground level, as well as any access track that directly serves it, shall be removed within the ensuing period of not more than six months, or as may otherwise be agreed in writing by the Local Planning Authority, and the land reinstated to its former condition.

Reason - To ensure that the development is carried out in an efficient manner.

- 6 Development shall not commence until details of the surface finish of the access tracks and crane bases have been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details.

Reason - To mitigate the visual impact of the development.

- 7 The maximum height of the wind turbine hereby permitted when measured from the existing ground level to blade tip in vertical position, shall be no greater than 67 metres.

Reason - For the avoidance of doubt.

- 8 Development shall not commence until details of the surface finish of the turbine have been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details.

Reason - For the avoidance of doubt.

- 9 Development shall not commence until full details of the site control building and sub station including details of the materials and colours to be used on its external surfaces and security fencing have been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details.

Reason - In the interests of visual amenity.

- 10 All electrical cabling between the wind turbine and the sub station building shall be located underground. Thereafter, the excavated ground shall be reinstated to its former condition within three months of the commissioning of the wind turbine.

Reason - To mitigate the visual impact of the development.

- 11 Development shall not commence until details of the site compound, temporary structures and temporary security fencing to be used in connection with the construction of the development together with detailed proposals for the restoration of the site compound and any other land associated with temporary structures have been submitted to and approved in writing by the Local Planning Authority. The development shall not be carried out otherwise than in accordance with the approved details. Within six months of the commissioning of the wind farm, the compound, temporary structures, temporary security fencing and ancillary materials shall be removed and the ground restored to its previous condition in accordance with the approved details. For the purposes of this condition, commissioning shall mean the date upon which the grid connection to the wind farm is first energised.

Reason - In the interests of visual amenity.

- 12 Site establishment and civil and electrical ground works (including roads, foundations, substation, site control building) shall only take place between the hours of 08:00 – 18:00 on Mondays to Fridays inclusive, 08:00 – 13:00 hours on Saturdays, with no such work on a Sunday or Bank Holiday working unless otherwise approved in writing by the Local Planning Authority.

Reason - In the interests of protecting the amenity of neighbouring occupiers and the environment.

- 13 Turbine delivery and erection shall only take place between the hours of 08:00 – 22:00 on Mondays to Fridays inclusive, 08:00 – 13:00 hours on Saturdays, with no such work on a Sunday or Bank Holiday unless otherwise approved in writing by the Local Planning Authority following a request by the Police and Highways Agency.

Reason - In the interests of protecting the amenity of neighbouring occupiers and the environment.

- 14 Turbine testing and adjustment activities prior to commissioning shall only take place between the hours of 08:00 – 22:00 on any day.

Reason - In the interests of protecting the amenity of neighbouring occupiers and the environment.

- 15 Within 28 days of a written request by the Local Planning Authority following the receipt by the Local Planning Authority of a complaint, the wind turbine operator shall supply a written report from a consultant approved by the Local Planning Authority, providing a detailed assessment of the noise emissions from the wind turbine at the complainant's property following a methodology to be agreed with the Local Planning Authority. If requested by the Local Planning Authority, the assessment shall include an assessment of the tonality of the noise and/or amplitude modulation.

The assessment shall provide details of any noise mitigation measures shown to be necessary in order to comply with condition 16 or to alleviate amplitude modulation or tonal noise to a level agreed with the Local Planning Authority, and shall include details of the timescale within which the measures shall be implemented.

- 16 Noise arising from the operation of the wind turbine shall not exceed an LA90,10min of 35dB(A), up to wind speeds of 10m/s when this speed is measured at 10m height, with noise measurements taken at 1.2 metre height in a free field position at any residential property (already in existence at the time of granting this permission).

- 17 On the written request of the local planning authority, following a complaint to it considered by the local planning authority to relate to regular fluctuation in the turbine noise level (amplitude modulation), the wind turbine operator shall at its expense employ an independent consultant approved in writing by the local planning authority to undertake the additional assessment outlined in Guidance Note 1 to ascertain whether amplitude modulation is a contributor to the noise complaint as defined in Guidance Note 1. If the said assessment confirms amplitude modulation to be a contributor as defined in Guidance Note 1, the local planning authority shall request that within 28 days of the completion of the noise recordings referred to in Guidance Note 1, the developer shall submit a scheme to mitigate such effect that will be designed to solve the problem as it occurs and which will need to be approved by the Local Planning Authority. Following the written approval of the scheme by the local planning authority the scheme shall be activated forthwith and thereafter retained.

Reason - In the interests of protecting residential amenity.

- 18 Prior to the commencement of the development hereby permitted, a Traffic Management Plan shall be submitted to and approved in writing by the local planning authority and the Highways Agency. The Traffic Management Plan shall include details of all roadways

(temporary or otherwise) including standard of construction , visibility splays, relocation of existing road signs, reduction in levels adjacent to the proposed access point and appropriate signage to be used for the conveyance of construction materials, plant and equipment. The Traffic Management Plan shall confirm the routes to be used for transportation of abnormal loads both during construction of the turbines and during their decommissioning. The Traffic Management Plan shall include a road condition survey of the roadways to be used for the conveyance of construction materials, both pre and post construction. The Management Plan shall include a procedure for approval of the temporary removal of highway furniture.

The development shall be carried out in accordance with the approved Traffic Management Plan unless otherwise approved in writing by the local planning authority.

Reason - In the interests of highway safety.

- 19 Construction and delivery of abnormal loads shall be undertaken in accordance with the Transport Management Plan: “Draft – Method Statement Road Transport “ (Ref FVD/337/2011).

Reason - In the interests of highway safety.

- 20 No development shall take place until the applicant, or their agents or successors in title, has secured the implementation of a programme of archaeological work in accordance with a written scheme of investigation, including a timetable for the investigation, which has been submitted by the applicant and approved in writing by the Local Planning Authority. The Scheme shall provide for:

- i) the proper identification and trial trench evaluation of the extent, character and significance of archaeological remains within the application area in accordance with a brief issued by the County Durham Archaeology Section; the evaluation is to be undertaken following the approval of planning permission,
- ii) an assessment of the impact of the proposed development on any archaeological remains identified in the trial trench evaluation phase; a report on the results is to be submitted to the planning authority;
- iii) proposals for the preservation in situ, or for the investigation, recording and recovery of archaeological remains and the publishing of the findings, it being understood that there shall be a presumption in favour of their preservation in situ wherever feasible;
- iv) sufficient notification and allowance of time to archaeological contractors nominated by the developer to ensure that archaeological fieldwork as proposed in pursuance of (i) and (iii) above is completed prior to the commencement of permitted development in the area of archaeological interest; and
- v) notification in writing to the County Durham and Darlington County Archaeologist of the commencement of archaeological works and the opportunity to monitor such works."

Reason - To comply with policy CS14 (E)(12) of Borough of Darlington Core Strategy Document (2011) as the site may potentially contain features of local archaeological importance.

- 21 A copy of any and all analysis, reporting (evaluation and post-excavation and/or final reports), publication or archiving required as part of the above mitigation strategy shall be deposited at the County Durham Historic Environment Record within six months of the date of completion of the development hereby approved by this permission or such other period as may be agreed in writing by the local planning authority.
Reason - To comply with policy CS14 (E)(12) of Borough of Darlington Core Strategy Document (2011) as the site may potentially contain features of local archaeological importance.
- 22 Prior to the commencement of the development hereby permitted, a scheme shall be submitted and approved in writing by the Local Planning Authority setting out the protocol for the assessment of television interference in the event of any complaints, including the remedial measures to be taken within six months of commissioning. Operation of the wind turbines shall not take place except in accordance with the approved protocol.
Reason - To mitigate any interference with electromagnetic transmissions.
- 23 No development shall commence until such time that a scheme for the modification of radar at Durham Tees Valley Airport has been agreed in writing by the Local Planning Authority in consultation with the Airport in order to mitigate impacts from the development, and the agreed scheme has been implemented.
Reason - In the interests of Airport Safety.
- 24 Prior to the commissioning of the development hereby approved, a scheme to alleviate the incidence of shadow flicker at any affected property shall be submitted to and approved in writing by the Local Planning Authority. At the request of the occupant of the affected property which existed prior to the grant of planning permission an assessment will be carried out to verify whether shadow flicker is occurring. If it is demonstrated to be occurring, the turbines producing shadow flicker shall be programmed to be shut down during the conditions which cause the shadow flicker effects. The development shall be carried out in accordance with the approved details.
Reason - In the interests of the amenity of neighbouring residential properties.

Note 1 (to be read in conjunction with Condition 17)

Amplitude Modulation (AM) is the regular variation of the broadband aerodynamic noise caused by the passage of the blades through the air at the rate at which the blades pass the turbine tower. ETSU-R-97, "The Assessment and Rating of Noise from Wind Turbines", assumes that a certain level of AM (blade swish) is intrinsic to the noise emitted by the wind turbine and may cause regular peak to trough variation in the noise of around 3 dB and up to 6 dB in some circumstances. The noise assessment and rating framework recommended in ETSU-R-97 fully takes into account the presence of this intrinsic level of AM when setting acceptable noise limits for wind farms.

Where the local planning authority considers the level of AM may be at a level exceeding that envisaged by ETSU-R-97, they may require the operator to appoint an approved independent consultant to carry out an assessment of this feature under Condition 17. In such circumstances, the complainant(s) shall be provided with a switchable noise recording system by the independent consultant and shall initiate recordings of the turbine noise at times and locations when significant amplitude modulation is considered to occur. Such recordings shall be

undertaken in accordance with a methodology to be agreed in writing by the Local Planning Authority. The effects of amplitude modulation are normally associated with impacts experienced inside properties or at locations close to the property, such as patio or courtyard areas. For this reason the assessment of the effect necessarily differs from the free-field assessment methodologies applied elsewhere in these Guidance Notes.

If, over a period of six months, commencing at a time of the first occasion at which the local planning authority records an amplitude modulation event, the complainant fails to record 5 occurrences of significant amplitude modulation, in separate 24 hour periods, then its existence as a contributor to the noise complaint shall be excluded. If, however, the independent consultant, on analysis of the noise recordings, identifies that amplitude modulation is a significant contributor to the noise complaint then the Local Planning Authority shall be informed in writing.

11/00461/FUL - Street Record, Glaisdale Court, Darlington. Erection of 9 No additional dwellings within existing residential development and revisions to the layout (Additional and amended plans received 9th August 2011 and 12th October 2011 and 10th November 2011; Arboricultural Method Statement and Implication Assessment received 19th August 2011).

(In reaching its decision, the Committee took into consideration the Planning Officer's report (previously circulated), five letters of objection; the comments of Northern Gas Works and the concerns of the Council's Senior Arboricultural Officer that had been received and the views of Mr. and Mrs. Reeves, objectors that Members heard).

RESOLVED - The Director of Place be authorised to negotiate an agreement under Section 106 of the Town and Country Planning Act 1990 to secure the following :-

(a) A financial contribution to mitigate open space requirements not being provided on site

(b) That upon satisfactory completion and signing of that agreement, planning permission be granted subject to the following conditions :-

1 The development hereby permitted shall be commenced not later than the expiration of three years from the date of this permission.

Reason - To accord with the provisions of Section 91(1) of the Town and Country Planning Act, 1990.

2 Notwithstanding any description of the external materials in the submitted application, details of the external materials to be used in the carrying out of this permission (including samples) shall be submitted to, and approved by, the Local Planning Authority in writing prior to the commencement of the development and the development shall not be carried out otherwise than in accordance with any such approved details.

Reason - In order that the Local Planning Authority may be satisfied as to the details of the development in the interests of the visual amenity of the area.

3 Prior to the commencement of the development, an Interim Certificate for Code for Sustainable Homes shall be submitted to and approved in writing by the Local Planning Authority. The necessary Code for Sustainable Homes Rating shall be agreed with the Local Planning Authority and the Certificate will include details to show how the approved development will meet the agreed Rating level.

Reason - To ensure that the development accords with the Darlington Core Strategy Development Plan Document 2011 and the Supplementary Planning Document – Design for New Development.

- 4 Upon completion of the development a Final Certificate for Code for Sustainable Homes shall be submitted to and approved by the Local Planning Authority to show that the development has been carried out in accordance with condition 3).

Reason - To ensure that the development has been carried out in complete accordance with condition 3) in accordance with the Darlington Core Strategy Development Plan Document 2011 and the Supplementary Planning Document – Design for New Development.

- 5 Prior to the commencement of the development hereby approved (including demolition work), details shall be submitted of a scheme to protect the existing trees shown on the submitted plans to be retained. The submitted details shall comprise generally the specification laid down within BS 5837 and shall include fencing of at least 2.3m high, consisting of a scaffolding frame braced to resist impacts, supported by a weldmesh wired to the uprights and horizontals to dissuade encroachment. The agreed scheme of protection shall be in place before the commencement of any work, including demolition operations. The Local Planning Authority shall be given notice of the completion of the protection works prior to the commencement of any work to allow an inspection of the measurements to ensure compliance with the approved scheme of protection. Notwithstanding the above approved specification, none of the following activities shall take place within the segregated protection zones in the area of the trees :-

- (a) The raising or lowering of levels in relation to the existing ground levels;
- (b) Cutting of roots, digging of trenches or removal of soil;
- (c) Erection of temporary buildings, roads or carrying out of any engineering operations;
- (d) Lighting of fires; and
- (e) Driving of vehicles or storage of materials and equipment.

Reason - To ensure that a maximum level of protection in order to safeguard the well-being of the trees on the site and in the interests of the visual amenities of the area.

- 6 Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any order revoking or re-enacting that Order), no enlargement, improvement or other alteration of the dwellings on Plot Nos. 23 – 27, including any additional structures/building within the curtilage of the dwellings, shall be carried out without the prior consent of the Local Planning Authority, to whom a planning application must be made.

Reason - In order safeguard the health of the trees contained within the Borough of Darlington Tree Preservation (No 17) Order 2006.

- 7 The proposed development shall be carried out in all respects in accordance with the proposals contained in the application and the plans submitted therewith and approved by the Local Planning Authority, or as shall have been otherwise agreed in writing by the Local Planning Authority.

Reason - To ensure the development is carried out in accordance with the planning permission.

- 8 Prior to the commencement of the development a scheme for the disposal of surface water shall be submitted to and approved in writing by the Local Planning Authority and

the development shall not be carried out otherwise than in complete accordance with the approved details.

Reason - To ensure that that discharge of surface water from the site does not increase the risk of flooding from sewers in accordance with the requirements of Planning Policy Statement 25 - Development and Flood Risk.

(2) Planning Permission Refused

11/00468/FUL - Street Record, Glaisdale Court, Darlington. Variation of planning permission reference number 02/00937/RM2 dated 20th October 2006 for residential development - to permit substitution of house types on thirteen plots to and revise the approved layout (Additional information and amended plans received 9th August 2011 and 12th October 2011 and 10th November 2011; Arboricultural Method Statement and Implications Assessment received 19th August 2011).

(In reaching its decision, the Committee took into consideration the Planning Officer's report (previously circulated), four letters of objection, the comments of Northern Gas Works and the comments the Council's Senior Arboricultural Officer that had been received and the views of Mr. and Mrs. Reeves, Mr. Beevers and Mrs. Teasdale, objectors, whom Members heard).

RESOLVED - That planning permission be refused for the following reason :-

- 1 In the opinion of the Local Planning Authority, the proposed dwelling on Plot 118 would have an overbearing impact upon the residential amenities of the residents of Nos 58 and 60 Elton Road by reason of its design, increased elevation and close proximity to the plot boundary. The development would be contrary to Policy CS16 (Protecting Environmental Resources, Human Health and Safety) of the Darlington Core Strategy Development Plan Document 2011.

PA57. NOTIFICATION OF APPEALS – The Director of Place reported that the Inspectors appointed by the Secretary of State for the Environment had :-

- (a) Dismissed the appeal by Mr. Richardson against this Authority's decision to refuse planning permission for the erection of 2 No. dwellings at 54 Barmpton Lane, Darlington DL1 3HE (Reference Number 11/00150/FUL); and
- (b) Dismissed the appeal by Done Brothers (cash Betting) Limited against this Authority's decision to refuse planning permission for change of use from retail shop (A1) to licensed betting office (A2) at 3-4 Tubwell Row, Darlington DL1 1NU (Reference Number 11/00269/CU).

RESOLVED - That the reports be received.

PA58. EXCLUSION OF THE PUBLIC - RESOLVED - That, pursuant to Sections 100B(5) of the Local Government Act 1972, the public be excluded from the meeting during the consideration of the ensuing item on the grounds that it involves the likely disclosure of exempt information as defined in exclusion paragraph 7 of Part I of Schedule 12A to the Act.

PA59. PLANNING ENFORCEMENT ACTION (EXCLUSION NO. 7) - Pursuant to Minute PA52/Nov/11, the Director of Place submitted a report (previously circulated) detailing breaches of planning regulations investigated by this Council, as at 10th November, 2011.

RESOLVED - That the report be received.