

EAST HERTS COUNCIL

DEVELOPMENT CONTROL COMMITTEE – 21 MARCH 2011

REPORT BY HEAD OF PLANNING AND BUILDING CONTROL

6. ERECTION OF A SINGLE WIND TURBINE AND ASSOCIATED DEVELOPMENT: BENINGTON: POTENTIAL APPEAL (PLANNING APPLICATION 3/11/1190/FP)

WARD(S) AFFECTED: Walkern and Watton at Stone.

Purpose/Summary of Report:

- To enable the Committee to consider issues relevant to the potential appeal relating to the above planning proposals.

<u>RECOMMENDATIONS FOR DECISION:</u> that	
(A)	The Committee determines its preferred procedure in relation to the appeal process; and
(B)	Officers be granted delegated authority, in consultation with the Committee Chairman and ward Members for Walkern and Watton at Stone, to make appropriate operational decisions in relation to the appeal, including the sign off of submitted documents and the level and degree of representation.

1.0 Background

1.1 Members of the Committee will recall that the planning application proposals relating to this matter were considered at the 26 October 2011 meeting of the Committee. The Committee resolved that the application be refused. The decision notice is attached as **Essential Reference Paper B**. The agent dealing with the application has contacted Officers to indicate that an appeal is to be made against the Councils decision. That appeal will need to be lodged with the Planning Inspectorate by 26 April 2012.

2.0 Report

2.1 Members will recall that the recommendation of your Officers was that permission for the proposals could be granted. That course

of action was not followed. Given that, this report asks Members to provide a steer for Officers in relation to the matters set out below regarding the potential appeal.

- 2.2 **Appeal Route.** Members will be aware of the potential appeal routes. The three routes are written representations, informal hearing or a full public inquiry. The main differences are probably self-evident. The written representations process requires that all cases are made in writing, including any submissions by third parties. The Inspector dealing with the matter will consider these submissions and visit the site. No oral representations will be heard.
- 2.3 An informal hearing allows oral representations. In this case, the Inspector leads a discussion during which all the issues identified by the inspector will be discussed. All parties can be involved in the discussion.
- 2.4 At a public inquiry matters are formalised. Parties are invited to give evidence and be cross examined on it. The formal parties are usually represented by advocates.
- 2.5 The applicant has expressed an initial preference for the appeal to be dealt with through the written representations route. Members are invited to consider the approach that the Council prefers. The ultimate decision on the route is made by the Planning Inspectorate using a published range of criteria attached in **Essential Reference Paper C**. The initial view of your Officers is that the written representation procedure is probably not appropriate in this case. With reference to the criteria, this is because the issues raised, whilst they can be clearly understood, are the subject of environmental assessment. In addition, the proposals have raised significant local interest. It would appear that, at least, a hearing would be appropriate.
- 2.6 **Officers Authority.** In most cases, authority which is delegated to Officers is exercised to deal with appeals on behalf of the Council. Because of the circumstances in this case, Members are invited to consider the degree to which they wish that delegated authority to be exercised.
- 2.7 It is suggested that some degree of delegation is still exercised in order to allow efficient processing of the matter. Officers are also mindful that ward Members, who are not members of the Committee, made submissions in relation to the application. The

Committee is asked to endorse the recommendation set out in this report whereby some authority is delegated to those Members to provide a degree of representation for the Council in this matter, if they wish. It is through this route that agreement could also be reached on the appropriate degree of professional representation during the finally determined appeal process.

3.0 Implications/Consultations

3.1 Information on any corporate issues and consultation associated with this report can be found within **Essential Reference Paper 'A'**.

Background Papers

Planning application 3/11/1190/FP.

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ESSENTIAL REFERENCE PAPER 'A'

Contribution to the Council's Corporate Priorities/ Objectives	<p>Pride in East Herts <i>Improving standards of the built neighbourhood and environmental management in our towns and villages.</i></p> <p>Shaping now, shaping the future <i>Safeguard and enhance our unique mix of rural and urban communities, ensuring sustainable, economic and social opportunities including the continuation of effective development control and other measures.</i></p> <p>Leading the way, working together <i>Deliver responsible community leadership that engages with our partners and the public.</i></p>
Consultation:	No additional public consultation subsequent to the planning application. Local ward Members have been alerted to the report and invited to comment on it, or attend the Committee and speak at the discretion of the Chairman.
Legal:	The implications depend on the ultimate appeal route
Financial:	Costs associated with any professional representation engaged in dealing with the appeal
Human Resource:	None identified
Risk Management:	There are cost and reputational risk issues to be considered in determining how to proceed in relation to this matter.