

NORTH DEVON COUNCIL

Minutes of a meeting of Overview and Scrutiny Committee held at Barum Room - Brynsworthy Environment Centre on Thursday, 7th March, 2019 at 10.00 am

PRESENT: Members:

Councillor Patrinos (Chairman)

Councillors Chesters, Croft, Ley, Spear and Worden

Officers:

Head of Environmental Health and Housing Services, Head of Corporate and Community Services, Service Lead – Environmental Protection and Senior Planning Officer.

Also Present:

Councillors R.Cann and Yabsley.

Mr Davis – Acoustic Consultant.

Representing the Batsworthy residents:

Ms Faust and Mr Morgans.

78. APOLOGIES

Apologies for absence were received from Councillors Bonds, J. Cann, Mathews, Roome, Webber and White.

79. DECLARATIONS OF INTEREST

The following declarations of interest were announced:

Councillor Patrinos declared a personal interest as he had been in communication via email with Ms Faust in relation to the Batsworthy Cross - Wind Turbines.

80. BATSWORTHY CROSS - WIND TURBINES.

The Chairman welcomed Members, officers and public to the meeting and outlined the reason and the format of the meeting.

The Chairman invited the two appointed spokespersons to address the Committee on behalf of the Batsworthy residents.

Mr Morgans addressed the Committee in relation to the noise concerns, which were raised at the public enquiry. He also outlined the background information to the windfarm together with the compliance with the noise conditions. He requested that the noise assessment be undertaken in accordance with the conditions to ensure that the site was operating within the noise limits.

He took the Committee through the Councils timeline for the Batsworthy Cross wind turbines addressing each point up until May 2017.

Ms Faust addressed the Committee in relation to the remaining items on the timeline with reference to the measuring of three locations and discussed issues in relation to the measurements. She summarised the reasons why the residents felt that the site was not operating within the stipulated noise limits.

The Chairman thanked the residents for their presentation to the Committee and invited officers from the Council to address the Committee.

The Senior Planning Officer presented the timeline of the process together with the approach taken by the Council and the significant resources that had been committed to regulate the planning conditions.

The Service Lead – Environmental Protection explained the Council's approach to achieve compliance with noise conditions, in accordance with the planning consent, legislation and guidance. The approach taken to regulate the noise conditions was the same as it was for Fullabrook, which was now compliant. He acknowledged the amount of time taken but added that it was a complex site with a lot of technical detail. The Council wanted to have regard to the community concerns whilst being mindful of officer time.

He outlined the details in relation to noise monitoring and the work that had been undertaken. He added that one property owner had not permitted the operator to undertake monitoring on their land. He summarised the topics of the representations received and the proposals going forward.

The Chairman invited the Batsworthy residents to respond to the officers.

Ms Faust addressed the Committee. She challenged the statement made by officers that the process followed had been in line with planning conditions. She also raised issues with the measurements and when they were taken together with the associated costs. She clarified a point in relation to a statement by the officers that the owner of a property would not allow monitoring on its land and challenged the time that it had taken the Council to find an alternative monitoring location.

Mr Morgans addressed the Committee and questioned the complexities of the case and the time that it had taken to measure.

The Chairman sought clarification from the officers in relation to the unjustifiable delays at various points in the process.

The Head of Environmental Health and Housing Services explained that officers were disappointed with the time that it had taken to get to the present position. However, he added that the variability of the weather was a contributing factor together with issues regarding the full turbine operation on the site and periods of disagreement with the operator. The regulation of the consent had also been challenged together with the time it had taken to negotiate monitoring with the residents.

Councillor Ley addressed the Committee stating that the Council wished to draw the case to a satisfactory conclusion. He outlined the issues surrounding monitoring of the noise levels from properties together with the delay in locating an alternative site. He added that the first monitoring which had been undertaken in 2017 had found a breach at one property. He drew Committee's attention to the relevant section in the National Planning Policy Framework (NPPF) in relation to a breach in Planning Control and questioned if the relevant conditions had not been complied with would serving a breach of condition notice be a proportionate response?

The Head of Corporate and Community Services explained that the NPPF did refer to proportionate response. However, discussions with the operator were ongoing to demonstrate compliance and that the Members had been fully informed.

In response to a further question from Councillor Ley regarding the findings for the new location, the Service Lead – Environmental Protection advised that the monitoring was currently ongoing.

In response to a question regarding the Committee's power to act, the Head of Corporate and Community Services explained that would depend on where the Committee chose to make a recommendation to.

Councillor Cann addressed the Committee and stated that it was a very difficult situation and that he welcomed the meeting. He gave details in relation to the background of the process and added that officers had been working to address the issues. He explained that it was important to look to the future to find a solution.

Councillor Yabsley addressed the Committee as the Ward Member and stated that the issue of compliance was not clear and he discussed the response times to the community from the Council. He added that he hoped to bring the process to a positive conclusion.

The Head of Environmental Health and Housing Services explained that the Council had received challenges in relation to the robustness of the process and suggested that the Committee may wish to hear from Mr Davies, the Council's appointed noise expert.

The Chairman invited Mr Davies to address the Committee.

Mr Davies explained the time that it had taken to monitor the noise and set out the requirements for measuring data together with the measuring process. In response to a question regarding the enforcement of the six month condition in relation to the

measuring process. He explained that officers were permitted to extend the six month period to allow for collection of sufficient data.

In response to a question regarding a possible end date, the Service Lead – Environmental Protection advised that it was not possible to predict when the work would conclude. However, he did advise that the monitoring would hopefully be completed over the next few weeks/months.

Mr Davies added that the data from the three sites would be assessed and the Council could then take a view on the wind farm compliance. If the operator was found to not be compliant the Council could take further action and that could involve further monitoring and analysis.

In response to the request for an explanation in relation to tonal noise and how distressing its impact might be, the Service Lead – Environmental Protection advised that tonal noise was a component of turbine noise, which could be heard as a whir or a hum. He added that tonal analysis had been completed for the site and it was concluded that it was not at a level to incur a penalty.

The Committee discussed the following:

- That a conclusion to the situation was required as soon as possible.
- The requirement to keep the Council's regulation of the windfarm in the public eye.
- The importance of concluding the noise compliance work to allow the Council to address individual concerns of nuisance.

RECOMMENDED, the Committee raised concerns regarding the protracted time taken in relation to the process and requested that the subject be added as a standing item to all future agendas of the Executive to allow for regular monthly updates in relation to the progress being made until the matter was resolved.

Chairman

The meeting ended at 11.25 am