

DEVELOPMENT CONTROL BOARD
18th April 2011

**SUMMARY OF ADDITIONAL CORRESPONDENCE RECEIVED SINCE THE
PUBLICATION OF THE AGENDA AND ERRATA**

Item No	Pages	Summary
8/1(a)	1	<p>Third Parties:</p> <p>ONE additional letter received expressing concerns at the impact of the development upon bats. In particular, states that Natural England is not a statutory consultee on bats.</p> <p>Planning Control Manager's comments: The impact of the development upon bats is dealt with in the agenda papers. Whilst Natural England are not a statutory consultee on this issue, only on the impact on designated sites, they clearly possess expertise in this area and equally clearly have stated that they have no objection to the impact of the proposed development upon bats.</p>
8/1(b)	37	<p>Third Parties:</p> <p>TWELVE additional letters received raising the following issues:-</p> <ul style="list-style-type: none"> • Impact on bats - in particular, states that Natural England are not a statutory consultee on bats; • Impact on geese and inadequacy of any refuge proposals; • Comment that the application appears to be being rushed through; • If RES submit a Section 106 agreement so late in the day this would be undemocratic and give inadequate time for it to be considered. If the application was approved on this basis, it would be susceptible to a legal challenge; • Dispute applicant's claims about the amount of homes the development would power, stating that it would be about 4,400 rather than the 8,000 claimed. • Farm traffic must be allowed to enter and exit farm gateways surrounding the site unimpeded. • Dispute methodology used to establish whether excessive amplitude modulation will occur; • Will have a devastating impact on the Area of Important Landscape Quality and as a result will have an adverse effect on the tourist trade, to the detriment of local people. <p>NATURAL ENGLAND : Refer to a revised S.106 agreement submitted for the Jack's Lane Wind Farm from RES UK and Ireland Ltd.</p>

	<p><u>Revisions to S.106 agreement</u></p> <p>Feel that the “contingency measures” defined on page 5 of the Draft S.106 agreement would need to directly mitigate the predicted impacts on the proposal (such as provision of supplementary feed potatoes described). Our advice is that the making of financial contributions to projects whose objective includes benefits for pink-footed geese does not constitute mitigation, and therefore should be deleted.</p> <p>Natural England would be pleased to be a contributing member of the Monitoring Group, as outlined in paragraph 2 of Schedule 1, and to provide guidance on contingency measures as part of that group should it not be possible to provide the whole or part of the Refuge area in any one year. NE would expect the developer or appointed representative to arrange for such contingency measures to be enacted, under guidance from the Monitoring Group, and recommend that this paragraph is amended accordingly.</p> <p>For clarity, the enactment of contingency measures described in the draft S106 relate to situations, following commencement of the development, where part or all of the Refuge cannot be secured or managed effectively in any one year, but not prior to development. In our view, securing of the Refuge prior to commencement of works is essential in order for there to be no adverse effects on the integrity of the North Norfolk Coast SPA, and we would not accept evidence that the Refuge area could not be secured as described in paragraph 5 of Schedule One as justification for development commencing without the Refuge area being secured. We therefore recommend that as a condition of planning permission, should consent be granted, that the Refuge area is secured prior to works commencing.</p> <p><u>Additional Mitigation Measures</u></p> <p>We have previously highlighted the need for a condition of consent requiring the consideration of additional mitigation measures, given the relatively novel mitigation proposals. We have discussed the possibility of the shutdown of one or more turbines, should post-construction monitoring identify the location of a turbine/turbines as particularly problematic for pink footed geese, with the developers, and while we understand the implications that this may have for funding of the proposal, given our concerns above, we recommend that such a condition is applied.</p> <p>Based on the information provided, and subject to the inclusion of our recommended revisions and conditions above, Natural England withdraws its objection to the proposed development. However, as stated in our previous correspondence, it is our view that the proposal represents a Likely Significant Effect on the North Norfolk Coast SPA. It is our belief that while adverse effects on integrity could be</p>
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		<p>overcome by planning conditions, planning obligations or other legal agreements (hence we are able to withdraw our objection), our advice is that your council as the Competent Authority must determine this application via an Appropriate Assessment in order to demonstrate compliance with the Habitats Regulations 2010. Natural England's view is that if your council fails to comply with the requirements of the Habitats Regulations it could be vulnerable to judicial review.</p> <p>Part I B of <i>ODPM Circular 06/2005 Biodiversity and Geological Conservation Statutory Obligations and their Impact within the Planning System</i> describes the procedure for the consideration of plans and projects that may affect European and Ramsar sites.</p> <p>Planning Control Manager's comments: The Council is not in a position to challenge the appellant's claims about the development's potential output. Indeed, PPS22 advises that Local Planning Authorities should not challenge the need for renewable energy developments.</p> <p>The impact of the development upon bats is dealt with in the agenda papers. Whilst Natural England are not a statutory consultee on this issue, only on the impact on designated sites, they clearly possess expertise in this area and equally clearly have stated that they have no objection to the impact of the proposed development upon bats.</p> <p>Correspondence from Natural England has been submitted at a very late stage, which withdraws their objection, based upon the potential impact upon Pink-Footed Geese. Unfortunately given the timing of Natural England's comments, the Local Planning Authority (LPA) has not seen the draft S.106 agreement which has led to the withdrawal of the objection, nor has it had chance to consider the implications of this. This is important because the LPA is required to carry out an 'Appropriate Assessment' into the proposals, which would need to be based on the latest information available. Based upon Natural England's view that the Council could be vulnerable to judicial review if it fails to comply with the requirements of the Habitats Regulations, and given the need to properly and thoroughly consider the information that has led to the withdrawal of Natural England's objection, it is recommended that the application be DEFERRED a cycle, to resolve this particular issue.</p>
8/1(c)	66	<p>Agent: Queries clarity of conditions 3 and 4 relating to time for submission of reserved matters and implementation of development. The applicant seeks 5 year consent as set out in the Supporting Case.</p> <p>Planning Control Manager's comments: Conditions 3 and four are the same as used on the original planning permission 06/01110/OM. The conditions allow a reserved matters</p>

		<p>application to be submitted within 3 years of the date of the permission and a further two years for commencement of the development from the final approval of the reserved matters application. Were the applicant to submit the reserved matters application close to the three year submission deadline, the 2 year commencement period from the final approval of reserved matters could extend beyond 5 years. As a result, conditions 3 and 4 are considered more than reasonable.</p>
8/2(c)	91	Environmental Health & Housing (CSNN): No comment.
8/2(d)	Report to follow	<p>Agent: Amended plans have been submitted that seek to address the Local Highway Authority's comments. Dwg. 715/10-Lawless Rev A amends the application site (red line) to include the frontage wall of the property know as Roseleigh to the north of the access drive. The aforementioned property is owned by the applicant's parents and Certificate B was served on them at the start of the application process.</p> <p>Dwg. 715/10-07 shows the additional works and alterations to improve the visibility at the access junction with Lime Kiln Road. The owners of Roseleigh have provided a letter consenting to the modification and reduction in the height of their frontage wall to achieve the required visibility standard.</p> <p>Local Highway Authority: The Local Highway Authority raise no objection in principle to the amended plans however the letter of intent is not sufficient in its own right to overcome its concerns. The Local Highway Authority states that in order to protect visibility into the future, the applicants will need to enter into a S106 agreement with the neighbour to ensure that the wall is not subsequently rebuilt. The following conditions are recommended:</p> <p>Condition Prior to the first occupation of the development hereby permitted a visibility splay measuring 43 X 2.4 metres shall be provided to each side of the access where it meets the highway and such splays shall thereafter be maintained at all times free from any obstruction exceeding 1 metre above the level of the adjacent highway carriageway.</p> <p>Reason In the interests of highway safety in accordance with PPG13.</p> <p>Condition Prior to the first occupation of the development hereby permitted the proposed on-site car parking / turning area shall be laid out, demarcated, levelled, surfaced and drained in accordance with the approved plan and retained thereafter available for that specific use.</p> <p>Reason: To ensure the permanent availability of the parking</p>

		<p>manoeuvring area, in the interests of highway safety in accordance with PPG13.</p> <p>Condition No works shall commence on the site until a legal agreement protecting the visibility splays in perpetuity has been secured by the applicant.</p> <p>Reason: In the interests of highway safety in accordance with PPG13.</p> <p>Third Party: ONE letter making the following comments:</p> <ul style="list-style-type: none"> • Refers to Section 5 .20 of the Core Strategy and queries whether this development is considered infill; • Due to height, the appearance of the property does not sit comfortably within the immediate surrounding properties; • Queries whether water pipe will be upgraded if the water supply to the new dwelling is spurred off the existing pipe • Queries whether the new foul sewer chamber for the dwelling will be located in the new access drive • Land adjacent to the existing shared access drive has been recently purchased. Queries whether the existing drive will be widened to allow for two-way traffic in order to accommodate the increased traffic flow; • Queries the boundary treatment to the north boundary. <p>Planning Control Manager's comments: On the basis of the Local Highway Authority comments, it is recommended that Reason for refusal no. 3 be removed. Notwithstanding the above, the remaining reasons for refusal remain.</p>
8/2(e)	98	Applicant: Confirms that the application be WITHDRAWN.
8/2(f)	109	Third Party (Chairman of Hockwold Village Club): Note that amended plans have been received. The management committee of Hockwold Village Club are concerned about the addition of the single garage to Plot 1. Refer to a small triangular area of land created to the rear of the proposed garage and the boundary between the club and Munden House. Concern is related to access to the small piece of ground – safety issue for children and query whether the cricket club would be able to easily retrieve cricket balls. Suggest that the rear of the proposed garage becomes the boundary line thus removing the small piece of land completely.
8/2(i)	139	Planning Control Manager's comment: A consultation document was issued by the Department of Communities and Local Government regarding "Planning for Travellers" on 13 th April 2011. This is a material planning consideration in the determination of this application. Having read through the proposed 'development management policy', the proposal

		would not conflict with advice contained within the document, pertaining to need, location, use of previously developed land and landscaping As a result, the recommendation of approval stands.
8/2(j)	152	<p>ENVIRONMENTAL HEALTH & HOUSING (CSNN): NO OBJECTION subject to a foul and surface water drainage condition being imposed.</p> <p>PARISH COUNCIL : Had registered to speak but cannot attend and were only going to raise the issue of the off-site highway works being implemented prior to the commencement of the development, rather than occupation, because of the impact of construction on this narrow road.</p> <p><u>Additional condition</u></p> <p><u>Condition</u> 8. No development shall commence until full details of the foul and surface water drainage arrangements for the site have been submitted to and approved in writing by the local planning authority. The drainage details shall be constructed as approved before any part of the development hereby permitted is brought into use.</p> <p><u>Reason</u> 8. To ensure that there is a satisfactory means of drainage for the site in accordance with PPS23 and PPS25.</p> <p><u>Correction</u> Condition 6 should read as follows:</p> <p>Prior to the commencement of the development hereby permitted, or another timescale to be agreed in writing with the Borough Planning Authority, the off-site highway improvement works referred to in Condition 5 shall be completed to the written satisfaction of the Local Planning Authority in consultation with the Highway Authority.</p> <p>Reason 6 remains as per the report.</p> <p>Planning Control Manager's comments: The Parish Council's view does have some merits in that it seeks to ease the situation for residents during construction, on what is a narrow road. As such it is agreed that condition 6 be amended to get the passing bays put in at the beginning of the development.</p>
8/2(l)	170	<p>Agent: Submits rebuttal to Environment Agency objection. Submits case to suggest that the development is safe by reason of flood resilient construction; adoption of flood warning procedures; provides a safe refuge at first floor level which is above the peak water level should there be a breach</p>

		<p>in the flood defences; provision of emergency escape. Provides independent structural engineers calculations to demonstrate that the building would withstand a flood.</p> <p>Environment Agency: Responds to the correspondence outlined above. Notwithstanding the comments made by the Agent, the EA maintains its objection upon the principle of the development i.e. the location of two dwellings in an area at risk of hazardous flooding (considered to be dangerous for all based on depth and velocity) contrary to PPS25. Suggests that advice is sought from Building Control and Emergency Planning regarding the structural stability of the building (calculations) and emergency evacuation in the event of a flood.</p> <p>Environmental Health & Housing (CSNN): NO OBJECTION subject to conditions regarding foul and surface water drainage. Suggests that informatives be imposed on the decision notice regarding asbestos removal and noise, dust and smoke from clearing and construction work.</p>
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