

Present:

Chairman: Councillor Alison Austin  
Vice-Chairman: Councillor Colin Brotherton

Councillors: Michael Cooper, Jonathan Noble, Sue Ransome,  
Brian Rush, Claire Rylott, Paul Skinner, Yvonne Stevens and  
Stephen Woodliffe

In attendance: Councillor Dr Gordon Gregory (Ward Member)

Officers: Development Control Manager, Monitoring Officer and  
Senior Democratic Services Officer

#### **45 APOLOGIES**

There were apologies for absence from Councillors David Brown, Anton Dani and Maureen Dennis.

#### **46 MINUTES**

The minutes of the Committee's last meeting, held on 13<sup>th</sup> September 2016, were agreed as a correct record and signed by the Chairman, with the addition of wording in Minute 40, *Transport and Works Act 1992 Consultation on the Boston Barrier*, to the effect that Councillor Jonathan Noble stated he was in favour of the concept of the barrier, but had reservations about this particular proposal because it did not propose provision of a lock or address serious concerns raised by river users.

#### **47 DECLARATION OF INTERESTS**

With respect to application number B/16/0210, Councillor Stephen Woodliffe declared that he had been approached by a former Councillor who lived near the application site, but he had refused to discuss the matter and had not been influenced with respect to the application. Councillor Alison Austin declared that she was acquainted with a number of near neighbours, some of whom she believed were objectors, but she did not know them well, had not spoken to them and her judgement would not be affected. Councillor Brian Rush declared that he knew one of the objectors, but had not known this person was objecting and it had not influenced him.

Councillor Yvonne Stevens declared that she would be speaking for Mr & Mrs Brewster, who were objecting the application. The Monitoring Officer advised the Committee that Councillor Stevens would be stepping down from the Committee for that item, would speak as Ward Member and then leave the room until consideration of that item had finished. Councillor Dr Gordon Gregory would also speak as Ward Member, but would not have to leave the room because he was not a Member of the Planning Committee.

**48 PLANNING APPLICATION B 16 0210**

Proposal: Retrospective application for the retention of works consisting of the construction of a koi pond and associated equipment surrounded by decking, the erection of a plant room/shed and a summerhouse, including the dispersal of the excavated soil around the raised area

Site: 134 Spilsby Road, Boston PE21 9NY

Applicant: Mr & Mrs M Abdel-Khalek

*[Councillor Yvonne Stevens left the Committee table and joined the public gallery.]*

The Development Control Manager presented this application. Further communications had been received from objectors and from the applicant. The objectors were concerned about the recommended conditions should it be granted, particularly with respect to the second condition relating to noise from mechanisms and equipment that provided surface, above level water aeration. There was concern that only the noise and equipment would be measured, but there were also pipes providing falling water. Therefore, it was recommended that the second condition be amended and ensure there would be no noise of falling water during the night.

The Committee then received representation from the applicant, Mr Abdel-Khalek, and the two Ward Members, Councillors Yvonne Stevens and Dr Gordon Gregory.

In summary, Mr Abdel-Khalek asserted that the pond was not the size of a swimming pool and was purely to accommodate his growing pet koi carp. The air, gravity and filtration pumps were small and he had relocated them further away from neighbouring dwellings following complaints about noise. He had done everything to minimise the auditory and visual impact of the pond and it enhanced the setting of the listed building.

Councillor Yvonne Stevens advised the Committee that she had visited the home of neighbouring objectors and had witnessed the noise level of the water pump, which she described as constant and extremely noisy, and escaping water that had caused wet and slippery steps in their garden, causing one of the objectors to slip. She had been advised that the Police and the Council had photographs showing the effects of the escaping water.

An enforcement notice had been issued in March 2016 because the works were contrary to Policy G1, but Councillor Stevens asserted that there had been no improvement since. There was no objection to the works in principle, but the objectors were concerned that the issues of water and noise should be addressed. In conclusion, Councillor Stevens suggested the Committee visited the site to witness the issues of water and noise.

Councillor Dr Gordon Gregory then spoke on behalf of the applicants, but stressed he was only concerned with common sense and facts. He felt that works were minor and that problems had arisen due to the breakdown of neighbourly relations. Planning permission was only required due to a legal technicality relating to the setting of the listed building. The issues raised by objectors, set out in the report, were not planning matters and the applicants had done all they could to mitigate neighbours' concerns. They had replaced equipment with the most expensive in order to minimise noise and had also agreed to switch it off from 10 pm to 8 am. A number of authorities had been

consulted regarding the risk of escaping water and all agreed they now had no objections and there was no significant flood risk, though the applicants had taken out high insurance in the very unlikely event that water caused any damage.

In conclusion, Councillor Dr Gregory asserted that a site visit would serve no purpose and asked that the application be approved. The matter purely concerned a private disagreement and that, although neighbours' concerns were understandable, they had been addressed and mitigated for. The photographs referred to had not been seen and no evidence had been produced with respect to escaping water.

It was proposed by Councillor Brian Rush and seconded by Councillor Stephen Woodliffe that the Committee visit the site, but when put to the vote, this proposal fell (Vote: 4 for, 5 against).

It was then proposed by Councillor Jonathan Noble and seconded by Councillor Mike Cooper that planning permission be granted as recommended.

Vote: 5 for, 4 against

**RESOLVED That planning permission be granted as recommended, subject to the following conditions:**

1. The development hereby permitted shall be carried out in accordance with the submitted application forms dated 31 May 2016 and the following approved plans:
  - Location Plan Scale 1:1250
  - Site Plan Plan No A 90/1
  - Details of Buildings Plan No A 90/2
  - Letter and additional details from the applicants dated 5 July 2016
  - Site Location Plan marked with Positions A and B Dwg No XX

Reason: To ensure the development is carried out in accordance with the approved details and to accord with Adopted Local Plan Policy G1.

2. The noise from mechanisms and equipment that provide surface, above water level aeration of the pond and including the water flow shall not exceed a level of 45 dB LA eq 15 min measured at a height of 1.5m at positions A and B on the site boundary shown on attached Dwg No. xxx which forms a part of this permission and those mechanisms and equipment shall not operate after 22.00hrs and before 08.00hrs on each day of operation.

Reason: To define this permission and to ensure that those pieces of equipment which utilise falling water to aerate the pond do not cause disturbance when the background noise levels are significantly reduced in order to protect residential amenity in accordance with saved Local Plan Policy G1.

In determining this application the authority has taken account of the guidance in paras 186 – 187 of the NPPF (2012) in order to seek to secure sustainable development that improves the economic, social and environmental conditions of the Borough.

*[Councillor Yvonne Stevens returned to the room at this point.]*

#### **49 RECEIPT OF APPEAL DECISION**

The Development Control Manager presented a report regarding the appeal decision in respect of land at the corner of Sibsey and Wainfleet Roads, Boston. Guidance from Committee was sought upon the extent to which any development would address the Inspector's concerns about less than substantial harm of the development upon the settings of the listed buildings.

The Committee had visited this site and refused planning permission, in line with the Planning Officers' recommendation, for the single reason that the proposed access was below standard. This was in accordance with an objection from the highway authority that the proposal did not adequately demonstrate that a suitable vehicular access between the proposed development and the adjacent A16 Sibsey Road could be provided that would not pose an unacceptable risk to the safe use of the public highway.

The Inspector dismissed the appeal, i.e. planning permission was not granted. However, the Inspector discounted the highway concerns, concluding, contrary to the highway authority advice, that Policies T1, H3 and G6 were all satisfied. Instead, the Inspector found that the effects upon the setting of the Burton Hall listed buildings raised the question of whether any part of the appeal site was capable of development.

The Development Control Manager advised that, as the Planning Committee's reason for refusal was purely on highway grounds, which the Inspector had discounted, it had to follow that the Local Planning Authority had no objection in principle to the development of the land. There remained the undetermined revised application on this site from these appellants, which might be revised in the light of this Inspector's decision and, whilst Members could not prejudice any future decision they might take on that application if it came to Committee, this appeal decision now became a material consideration for that application.

#### **50 DELEGATED DECISION LIST 29 AUGUST TO 23 SEPTEMBER 2016**

The report was noted.

The Committee sent its best wishes to Karen Rist, the Democratic Services Officer, for a speedy recovery.

The Meeting ended at 3.35 pm