**Melton Borough Council Planning Committee 5th September 2023 Transcript[[1]](#footnote-1)**

Good evening everyone and welcome to this reconvened planning meeting of the Melton Borough Council. For clarity this meeting is a continuation of the meeting that was held on the 31st of August that we unfortunately had to suspend.

I am Cllr Alan Thwaites chair of planning and as normal I just need to go through some housekeeping. In the event of having to evacuate the council chamber please leave by one of the six emergency exits around the sides of the chamber. Please assemble at the far side of the front car park nearest to the park entrance, officers will be on the hand to assist anyone who needs any assistance.

Please put your phones on silent during this meeting and we will be using the audio visual system this evening and the meeting will also be streamed live on YouTube.

As this is an adjourned item only members who were present before are able to take part tonight, unfortunately Cllr Chris Evans is unable to attend tonight but that was the only absence.

Before the recap I would like to also state that some members have been contacted directly by the applicant which is an unusual situation because of the suspension, and they've had the opportunity to do that normally we'd only be able to um discuss anything if I requested it, which I didn't, um but on reflection and advice from legal there was nothing new in that communication and therefore members can actually disregard the email that they received. There was only one part in it which was a comment about appeal which is not a material planning matter, and whilst we also need to actually make sure that we are robust in all of our decisions and the things that we put forward they shouldn't be the material condition.

Sorry now there's one other thing I just needed to say because of the emergencies the other night I'd really want to publicly thank Tom, Sarah and Sir Gatherton who's actually in the public Gallery this evening, for their actions at the last meeting in the help of Jim who I'm really pleased to say is back with us tonight.

So to move the meeting forward I will now hand over to Sarah to the point where we were when we ended the meeting, where Sarah was going to clarify the conditions that were talked about.

**Sarah Legge**

Thank you chair.

So where we recall picking up or where the meeting finished from was Cllr Mason had tabled some reasons for refusal, alongside policies that he considered were applicable, we were questioning at that point as to getting into the detail of the harm, I believe that that had been seconded by Cllr Alnet on it so we've taken the opportunity over the last couple of days to go away and work those details up into reasons for refusal essentially, in a kind of planning speak and to get those together and I just wanted to run through those with you. We've also taken the opportunity to have a look at some appeal decisions recently, and just to give you some ideas I suppose as to the weight that can be given to those, those appeal decisions and the reasons for refusal that have been put forward. So, if it's okay with the chair I'll run you through those now.

Thank you.

I will take it nice and slowly.

So the first reason for refusal was based on the use of the best and most versatile agricultural land, so the wording proposed, is “the proposal seeks to remove grade two and three (A) best and most versatile land from food production which in the opinion of the Local Planning Authority has not been adequately substantiated. The harm caused by the loss of best and most versatile land does not outweigh the climate change benefits of The Proposal, contrary to the overall aims and objectives of policies SS1 and E10 part 10 of the Melton Local Plan.”

The NPPF paragraph 174 and policy 3 part 4 and policy 9 part 4 d of the adopted Bottesford Neighbourhood Plan. So in respect of that particular reason for refusal members are reminded to consider that the proposed use is temporary and the land would be returned to its current use at the end of the development period.

There have been many recent appeal decisions relating to the best and most versatile agricultural land. Inspectors have been giving significant weight to the temporary placement of the solar panels on the land, the soil being minimally disturbed and able to rest, and the fact that the grading of grazing of the land and the grading of the land does not change. The land can still be used for some agricultural purposes through sheep grazing. You'll be aware that Solar Farms need a large area of land close to a good grid connection, this land is 93% grade 3B land, which is not the best and most versatile agricultural land. Inspectors in very similar situations have recently allowed appeals in very similar circumstances.

Appeals have also dealt with the issue of food security, noting that there are no National or local policies, guidance, or strategies that relate to food security and production. Inspectors have found that the proposed use of land Solar Farms would not be detrimental to the nation's food security. I would therefore strongly advise you that in my professional opinion, this reason for refusal would not stand up to the scrutiny that would be placed upon it to appeal.

Second reason for refusal proposed was based on the cumulative impact, So the wording that we have proposed here is “This proposal when considered cumulatively with other permitted and operational schemes within 30 square kilometres of the site (and we've listed those which is the 49.9 megawatt site land east of Jericho covert, 12.4 megawatt site Lodge Farm long Hedge Lane, 49.9 megawatt farm land south of the A1 Foston bypass and the 10 megawatt land site south of the Railway line and east of Station Road Elton) those would result in an unacceptable cumulative impact on the landscape, where swathes of panels would be visible within a Vista which could not be adequately mitigated. There would be a disproportionate effect of several sites within a small area with solar panels covering approximately 10% of the identified area.

The Proposal is therefore considered to have an unacceptable adverse impact on the veil of Belvoir’s sense of place and local distinctiveness contrary to policies SS1, EN1, and D1 of the Melton Local Plan. Paragraph 174 of the NPPF and the Bottesford Neighbourhood Plan policy nine.”

Interestingly, in respect of this proposed reason for refusal, a recent appeal decision dealing with cumulative impacts, the Inspector found that as the appeal scheme was actually larger than ones that were previously approved by that same Authority. It would provide greater benefits in terms of renewable energy, that site was actually in the green belt and ultimately that appeal was allowed. Again it is my professional opinion that the cumulative impacts as described within that proposed reason for refusal would not stand up to the scrutiny of an appeal hearing or inquiry in this case.

The third reason for refusal proposed was relating to the public rights of way around the site, and the proposed wording is “In the opinion of the Local Planning Authority the amenity of the public utilizing the many rights of way which run through and adjacent to the site would be harmed by the substantial impact and effect of a large-scale solar installation, the ability of residents and visitors to the area using the footpath to appreciate and enjoy the landscape character would be diminished and adversely impacted by the proposed development creating corridor effects limiting the appreciation of the wider landscape, which also impacts upon key views as defined within the Bottesford Neighbourhood Plan. The quality of the natural environment is highly valued by residents and visitors to the area, particularly for the long views and openness. The Proposal is therefore contrary to the Melton Local Plan policy EN1, the Bottesford Neighbourhood Plan policy 2, parts 1 and 5 and policy 9 part 4 A.”

Again in respect of this particular reason for refusal, further recent appeal decisions have weighed up the impact of Solar Farms on the users of public rights of way, specifically take talking about channelling effects between and next to hedgerows where footpaths run adjacent to perimeter fencing. In both cases the appeals were allowed due to the substantial benefit of the solar farm in generating renewable energy, it is therefore again my professional opinion that the harms identified by members are outweighed by the provision of renewable energy are set out in the Officer’s report. Officers consider it highly unlikely that this reason for refusal would stand up to test it appeal.

The fourth and final reason for refusal, respective heritage, and the proposed wording is “In the opinion of the Local Planning Authority the proposal would result in an unacceptable impact on the setting of the Heritage Assets in the vicinity of the proposal, including but not limited to grade one listed Belvoir Castle and its registered Park and Garden, two grade two style listed buildings and three scheduled monuments, which cannot be adequately mitigated.

The Proposal is considered to damage the setting and the appreciation of the Heritage assets and their appreciation in the landscape, which should be considered as a wider Vista in the context of Belvoir Castle and the veil of Belvoir. The benefits in reducing carbon emissions are therefore not considered to outweigh the harm to the Heritage assets, the proposal is therefore considered to be contrary to policies SS1, EN1, EN10, EN13 and D1 of the Melton Local Plan and Bottesford Neighbourhood Plan Policy nine.”

The final commentary I would offer on this particular reason for refusal is that appeals relating to Heritage aspects note that much of the impact would be reversed once a solar farm is decommissioned. However, during the course of the solar farm being in operation its impacts would be mitigated by Landscaping. The Inspector observes that the proposals would contribute to meeting the shortfall in renewable energy and make an early and significant contribution to meeting the country's 2050 Net Zero Target. This particular appeal site was only 22 hectares in size but all be it a 45 megawatt scheme. It remains Officer's opinion that insufficient harm has been identified to justify a reason for refusal on Heritage aspects as detailed in the report. It is not considered that this reason for refusal would be held upheld at appeal.

Finally members are reminded that Officers have recommended approval for the reasons set out in the report, members should consider the use of conditions wherever possible, before resorting to refusing a development. Whilst some harms have been identified the benefits are considered to outweigh those harms the benefits are significant in terms of renewable energy, energy security and the climate crisis, and are considered to outweigh those harms identified as reinforced by those recent appeal decisions across the country.

Thank you chair.

**Cllr Allan Thwaites (Chair)**

Thank you Sarah.

As you said that's the professional opinion, but it is our job to actually weigh those together and to put those forward and agree those forward. I would like now to open the debate on this proposal.

I know Marilyn would like to talk but it's just whether either of the proposal or the second that wanted to talk before we moved on it will go straight into debate.

So Marilyn can I pass it to you.

**Cllr Marilyn Gordon**

I'm not sure whether this is all covered because we did talk about tourism and that but I think it's going to be detrimental to tourism as a whole, because it's the businesses, such as cafes, pubs and shops. So even though we've talked about tourists going around rights of way and places like that, you know sort of through the through the environment but it's to do with the cafes pubs and shop and shops, because it's the detrimental to the businesses there as well and I just wanted to make that point.

**Cllr Allan Thwaites (Chair)**

Thank you anybody else like to add tothe debate.

Okay I'll add one of my points which is we have constantly looked in within this one that it is the good provided by the good clean energy versus the harm that it may do to produce that energy. One of the things I think we've actually missed within it I mean need to consider this is not a silver bullet or whatever but it is the fact that the good that the current land produces, that it's not just a sudden increase in Good by producing electricity the food that that land produces which I'm using the save figures so I can't verify them myself but which is 26,000 tons of wheat 6,000 tons of beans, 5,000 tons of all solid rape over the 40 years has to be taken as part of equivalent good that that land is currently producing, that's just one of the things I wanted to add to the debate.

Is there anybody else that would like to come to debate? Jim?

**Cllr James Mason, (Vice Chair)**

Thank you Chair, and thank you for bearing with me from the previous meeting, I do appreciate it.

We talk about at the quantifying and the benefits, I don't see in the report or any anywhere else that the benefits have been quantified and substantiated, and that and that's where I have a huge problem. As yet I cannot see where, and correct me if I'm wrong, but from memory and it is a long time ago that we're supposed to take out 40 odd thousand tons per annum of CO2. I can find nowhere where that figure could be substantiated as yet and so the missing part of the equation that I have, is the benefit and when we say the harm against the benefit we understand the harm and we've been through the harm my problem is I've had to create my own metrics for the benefit and as far as I'm concerned that's been that's been a difficulty within this paper.

**Cllr Ronan Browne**

Yeah I think you know we've got a recommendation you know pause on the second up and we've debated this for four hours at the last meeting and we've listened to the Officers, so you know I think you know we just need to put it to the vote and see what's the outcome of that that is. Yeah that's my view so that's what I would like to see rather than being here for hours again going over the same old ground.

**Cllr Pip Allnatt**

Thank you chair I'll try not to speak for four hours.

I think we do need to make comment because we've had four professional comments from our Officer’s and if it does go to appeal we need to have said something about why we are rejecting that professional advice, which I take as being given in good faith and good judgment. Now there are four elements of harm, for myself I agree that taking one of those and setting it against the possible benefits subject to what Councillor Mason just said, if it's they're not strong enough but the four taken together I think do represent a greater balance with the harm that's that is given. We know there's harm because the applicant has quite diligently tried to respond to the concerns of the objectors by proposing mitigation, but we heard last time through the questioning of my colleague Councillor Atherton that there is some doubt about the effectiveness of the mitigation proposed, namely the hedges, because they are going up and down. Now I suppose one consideration could be given a condition could be placed upon it that they should be much higher than is proposed, that would be one way of dealing with it I suppose, but the problem with that is that the reason why the mitigation is there is because it's trying to prevent the citizens, the Walkers, and so on from casting their eyes across onto the panels, so what we're really doing is saying well the best way to not look at these panels is to put a blindfold on, or if I would put it another way very tall hedges. So the remedy is worse than the disease in this particular case I would suggest so I think that is a weakness in the applicant's case.

Can I refer you to 8.3.15 on page 19 which specifically relates to the independent LVIA review, and it comes to a point where it says that the applicant and the independent reviewer are in contention and the word rebuttal is stated. We then have four pages of commentary from the Officer which is okay and then at 8.3.40 on page 22, the paragraph says, “the key characteristics of the character area would not significantly would not be significantly altered by the proposed development” now that's a value judgment it's not a piece of evidence and I accept it's a worthy judgment but it's one that I disagree with, and I think the objectives generally would I think the overall impact is that it does significantly affected it, in that sense. So, I would reiterate my support for the four points for the reason I've suggested. There is, I should say, one other point which I thought about, and that is there is reference somewhere I can't quite see it now with my eyes, but there's reference to the notion that local opinion has been aside as it were and there is a reference to the fact that uh I can't quite remember where it is but there has to be reasonable attempt to make certain that that's been done, now the actual evidence of the public opinion is quite slight, when you look at it, and I don't think that has been worked through adequately, so I think there are some weaknesses there. So overall I'm comfortable with the original proposition that I seconded, even though I did want a deferment which I got by um very thankful Jim that we gave me you gave me.

**Cllr Margaret Glancy**

Just quickly um I note that we refer to the appeal decisions, are any of those cases actually have the same set of refusals? So we can actually sort of think about, well there is one as Councillor Alma said, there's one case which has had the same mirrored reasons and that was upheld, the appeal was upheld.

**Sarah Legge (Ass. Director for Planning)**

I haven't got those absolutely to hand of the original decisions that were made by the Councils in terms of what was being defended but we have got all of the appeal decisions that should you wish to differ we can circulate all of those appeal decisions to you.

**Cllr Ian Atheron**

The first is a question about the process, should the motion tonight fail does that automatically mean planning permission is granted or do we have to vote on that too.

Yes, so if the motion fails we'll need a new motion of whatsoever that may be.

Okay thank you very much and the second is something that I've just noticed while Cllr Allnatt was speaking in Policy EN10 paragraph part 15 it says “a bond is in place to cover decommissioning” now specifically it talks about wind energy and in the Melton Local Plan we don't talk about solar energy at all. Should we get to the stage where we need to vote beyond the motion currently in place can we add that as a condition of any planning approval?

Policy EN10 does talk about solar part 15 specifically talks about proposals for wind energy decommissioning,

**Sarah Legge**

Yeah you're absolutely correct with in that Policy part 15 in terms of a bond to cover decommissioning that was written specifically for wind turbines, we have got I think from memory it's two of those in place which is done not through a condition it's done through a Section 106 agreement which is a legal agreement separate and where the applicant then essentially lodges money with us that we then keep and should they not be in a position to decommission that wind turbine in that case at the end of its planning consent, then we have the ability to spend money to take it down.

**Cllr Ian Atherton**

So could we impose that similar thing on this should we need to should this motion fail.

**Cllr Allan Thwaites (Chair)**

I can say the from my research that the decommissioning was purely put down for wind turbines purely because of the impact a wind turbine does and the depth of concrete that they have to build a base for the wind turbine, so in and look for advice whether that's true but I don't think the decommissioning on a wind on a solar farm is as big as removing a 50-ton block of concrete that's buried 10 feet into the ground whatever it is into the ground.

**Tom Pickwell (Solicitor)**

Thank you chair and so members you've heard the motion um that Sarah um sort of recapped um and I'll confirm in a moment with Jim uh sorry Councillor Mason and Councillor Allnatt that that is the proposed and second emotion they are happy with that.

You have heard their professional the Planning Office professional opinion um of whether that would stand up to scrutiny at appeal um I can only give you the governance advice and the fact that you're being told that by the Planning Officers in a professional capacity would lead me to say that that is not a robust decision that you are making this is open to challenge and therefore because you are going against the Officer opinion without substantiating the reasons further we may be going into the territory of unreasonable behaviour. The reason I use that term specifically is because that is when costs may become relevant um I do have an example of a cost I'm not prepared to give it an open forum, but they are significant costs if that decision is not robust and it would be improper of me not to make you aware of that before you go to the votes.

**Cllr Don Pritchett**

I don't see much substance to that, I do thank Sarah for what she's done what Sarah's given us tonight is a snippet of the type of things I would have liked to have seen in a well-written report. Um the portal information and just to go back to the it didn't show you the um appeals that went the other way, including an Inspector saying it was but the issue I just want to make quickly is that once one is comfortable with the evidence on the portal and we've heard tonight I'm not suggesting that the conclusion in the report is sound. You are making an assumption that the Officer's recommendation is sound based on that report and I am going to the contrary based on the evidence so I would tone down exactly you know what you've I don't accept the fear that you've just said I don't accept.

**Cllr Allan Thwaites (Chair)**

Just a reminder that the Officers here just to give us their professional opinion based on their knowledge of the law or planning or whatever it's not their personal opinion.

**Tom Pickwell (Solicitor)**

I just answer that of course, members don't have to take that advice but we are here as professional Officer’s qualified in our respective areas you don't have to like the advice um we are not here to tell you what you want to hear we are here to tell you what we think in our professional opinion and as I said before it would be improper is not to do that because if it then did go wrong and there was issues you would turn around and rightly say to us why did you not give us that professional opinion.

I would rebut also what you've said I think the Officers are qualified to give their opinion within the reports and I think that that's what the report does. I think that is a strong Sound Decision that comes from that that is not to say that members have to agree with it in any way but I would rebut that that what you have said Council appropriate.

**Cllr Allan Thwaites (Chair)**

Thank you Tom in that case then unless we've got any other comments I'd like to put forward that the proposal by Councillor Mason seconded by Cllr Allnatt to the vote and in the usual manner I'd like everybody to.

Sorry um Councillor Mason Cllr Allnatt happy with the conditions of the road app therefore I'd like to put it to the vote.

All those in favour of The Proposal:

Seven

and those against:

Two Against

and abstentions:

In that case the motion is passed and the application is refused.

Thank you.

1. <https://www.youtube.com/channel/UCJRUHAreMlQhVR9lfg-hvpQ/streams> [↑](#footnote-ref-1)