

Cornwall Council report

Cllr Dick Cole

Time period: 26th September to 23rd October 2016.

Please note: I was on holiday between 7th and 16th October.

1. Council meetings

I have attended a range of formal meetings at Cornwall Council over the last month. These included: Full Council, Constitution and Governance, a meeting for Cornwall Councillors in the China Clay Area, a meeting of Group Leaders, a meeting between the leadership of the Council and the Chairs of the various Policy Advisory Committees, a member briefing, and an all-day Planning Conference which was held in the parish of St Enoder at Kingsley Village.

As well as the meetings listed above, I have had a large number of informal meetings with council officers.

2. New play area in Indian Queens Recreation Ground

In the last few weeks, I have continued to work with the Parish Clerk in negotiating with the suppliers about some "snags" which have now mostly been dealt with.

In my last monthly report, I did write about the grant application I had submitted to the National Lottery's Awards for All programme on behalf of the Parish Council. It was for a grant of £10,000 to construct a tarmac path from the car park area to the new play area in the Recreation Ground, to make it easier to access the new facilities during the winter months when the field can get quite wet and boggy.

I can report that, on the 11th October, the National Lottery publicised that we had been successful.

Local contactors T Julian and Son have already started work on site and the path will probably be completed by the end of this week.

3. Planning hearing; Land to east of the Kelliers

As I reported previously, on 16th August I attended and spoke at the informal appeal hearing into the part-retrospective proposal for seventeen caravans on land to the east of the Kelliers (PA15/06186).

Councillors will recall that the landowner placed seven caravans on the site without any form of planning permission in the autumn of 2014. Subsequent applications for 12 and then 17 caravans were refused by Cornwall Council and the landowner went to appeal.

The Inspector has dismissed the appeal and upheld the Council's enforcement notice, which means the site must be cleared within nine months.

In her conclusion, the Inspector wrote: "The developments fail to protect or enhance the natural environment and are of a poor design that has little regard to the characteristics of the area. I recognise that the caravans are occupied for residential purposes and that compliance with the notice will therefore result in the loss of accommodation for those tenants. However, in light of the harm that I have identified, I consider the refusal of planning permission is necessary and that a period of nine months in which to comply with the notice is a proportionate response when balancing the harm against the loss of accommodation for the current tenants ... to conclude, I find that, the adverse impacts of granting planning permission would significantly and demonstrably outweigh the benefits, when assessed against the policies in the National Planning Policy Framework taken as a whole."

4. Planning hearing; biogas plant at Higher Fraddon

As I reported previously, on 2nd September, I attended and spoke at the informal hearing relating to the "non-determination" appeal into the "regularisation" application for the biogas plant (PA15/03073) and the associated appeal of Cornwall Council's decision to refuse the related application (PA15/05220) to modify traffic movements to the site.

The Inspector has issued a planning permission for the site and consented the number of vehicle movements requested by the applicant (Greener for Life), though he has also strengthened some of the 21 conditions attached to the planning permission, as suggested by myself, the Parish Council and local residents.

The Inspector also showed some sympathy for local residents and the tone of his ruling was clearly critical of both Cornwall Council and Greener for Life.

The decision notes that I had "argued that because the tanks had not been built in the exact location and to the height of the approved plans in PA12/01700" and made the case that the development was unauthorised and no planning permission therefore existed "for the biogas plant as built." The Inspector acknowledges we argued that little weight should be given to planning permission PA12/01700 and the associated non-material amendments (NMAs), but the Inspector took a different view. He has decreed that "permission PA12/01700 and the NMAs constitute the appellant's fall-back position and as such are relevant material considerations that must be afforded significant weight."

The Inspector did say that: "I have read the numerous objections from neighbouring residents and have considerable sympathy for these neighbours in terms of the way the biogas plant has adversely affected their living conditions, in part as a result of the NMAs." But, in spite of this, he went on to say that "in view of the fact that PA12/01700 has been

lawfully implemented I must assess these appeals by comparing the development as permitted, including the amendments in the NMAs, with what the appellant now proposes."

Because of this, in considering Appeal A (PA15/03073) which related to the regularisation of the site as built and reduction of the digester closest to residents, he focussed his attention on the height of the digester and came to the view that Appeal A should be allowed.

In terms of Appeal B (PA15/05220), which related to traffic movements, he was critical of the nature of the access road, stating: "I agree that the access road is manifestly unsuitable to accommodate any increase in HGV numbers due to its blind bends, narrow width and lack of any footway or central white line."

But he went on to state that he needed to assess "whether the appeal proposal would lead to any increase above the number and type of movements that have already been permitted," adding that "I am concerned to minimise the impacts of HGV traffic to the AD plant on residents living on the access road. But it would be unreasonable to impose a condition limiting such movements to less than that already permitted and implemented."

He therefore decided that the 35 HGVs per week requested by the application were "less than in the implemented permission," which "the Council saw fit in 2013 to grant permission for the NMA allowing this." I fundamentally disagree with his ruling on this, as the first NMA was unworkable and should never have been agreed. I am not sure that the Inspector grasped the significance of the evidence relating to traffic movements presented at the hearing, and he came to the view that Appeal B should also be allowed.

The Inspector issued a single consent for the two appeals with a single set of 21 conditions. Those of particular interest to local residents are as follows:

Condition 14

The Inspector has detailed that: "The weekly number and types of vehicles visiting the AD Plant site shall not exceed the following: 35 Heavy Goods Vehicle movements, 7 Staff/Other Vehicle movements (Light Goods Vehicles) - Total number of movements per week for the Anaerobic Digester Plant: 42." He also agreed that: "The operators shall keep contemporaneous records of all vehicles visiting the site and shall provide written details of such vehicle movements at the request of the LPA, in order to show compliance with this condition"

One addition he made was that: "The definition of Heavy Goods Vehicles shall be agreed between the applicant and the Local Planning Authority (LPA) by the appellant submitting to the LPA within one month of this decision a list of vehicles types (including dimensions) of this class that will service the plant." He also stated that once these had been agreed, only such vehicles would be able to be used to "import material for the

digesters and remove the digestate.”

I am very disappointed that he did not reduce the number of HGVs in this condition, as I do not believe that the plant would be able to operate with only seven non-HGV movements per week. Indeed, the Inspector himself noted that residents had provided “compelling evidence” that vehicle movements, particularly of smaller vehicles, were consistently are “in excess of those permitted;” but simply concluded that the Council could take enforcement action or allow more (smaller) vehicle movements.

Condition 15

The Inspector sided with local residents in terms of delivery times for the plant. He did not consider that Greener for Life should be able to undertake deliveries from 7am to 7pm, and imposed the following condition:

“During school term times, vehicles delivering to and from the site shall operate only between the hours of 9am to 3pm and 4.15pm to 6pm Monday to Friday and between 8am–1pm on Saturday. There shall be no deliveries on Sundays or Bank/Public Holidays. Outside of school term times, vehicles delivering to and from the site shall operate only between the hours of 9am to 6pm Monday to Friday and between 8am–1pm on Saturday. There shall be no deliveries on Sundays or Bank/Public Holidays.”

Condition 20

The Inspector agreed with the unitary authority that “within two months of the date of this permission” the operators had to submit a revised Odour Management Plan to the Council for approval, which had to include “covered storage on site for all imported material.” He further defined “covered storage” as meaning “all waste and biocrops imported by lorry shall be stored either inside the main reception building or that the outside storage bays where the biocrops are currently stored shall be roofed and walled via a scheme to be submitted as part of this revised Odour Management Plan.”

Other conditions

It is the case that Greener for Life has much work to do in the coming few weeks. As well as agreeing the detail of HGVs entering the site with the Council (within one month) and submitting the Odour Management Plan within two months, Greener for Life will have to supply further information to meet three other conditions. These are as follows: (i) details of surface water drainage, (ii) the company’s vehicle management policy and (iii) the proposed scheme of planting; and must all be submitted within two months. It is also stated that the planting must be carried out within six months.

Costs ...

At the appeal, Greener for Life also attempted to persuade the Inspector that an award of costs should be made against Cornwall Council, but failed.

Greener for Life argued that the actions of Cornwall Council were "unreasonable" and resulted in "unnecessary costs" to their company. In particular, they moaned about the fact that councillors took a different view to planning officers and even criticised elected members for deferring both appeals on 19th November in order to consider the possibility of an alternative access off the A30 and deferring Appeal A on 11th February to look at the detail of specific conditions.

The Inspector did not agree with Greener for Life and his ruling was very critical of them.

He wrote: "The deferral from the November 2015 Committee was sensible so that the Council could explore with Highways England whether an access could be created directly off the A30, which would have overcome most of the residents' problems with the plant ... in view of the breach of several of the conditions attached to the original permission it was not unreasonable of the Council to defer the application from the February 2016 Committee in order to carefully consider the precise wording of the conditions, given the issues raised by neighbouring residents at that Committee meeting."

It was also quite telling that he added: "The appellant's response at the hearing to Cllr Cole's assertion that it had declined to discuss the wording of the proposed conditions following that deferral was unconvincing. The evidence presented by the Council, residents and Cllr Cole points to a lack of urgency on the applicant's part in seeking to resolve problems to residential neighbours arising from the plant. The Council was obliged to relook at the conditions carefully in view of the significant number and serious nature of residents' continuing objections."

And in another part of the ruling, he made clear his view that Greener for Life should have been "more focussed" in trying to resolve problems they had caused.

5. Biogas plant at Higher Fraddon

As noted above, the biogas plant now has planning permission and Cornwall Council has already written to Greener for Life to inform them what is expected from them from this point onwards.

Sadly, a number of complaints have already been made that lodged that Greener for Life are failing to meet certain conditions (such as the number of vehicle movements). I am monitoring the situation.

6. Pines Tip

The timetable for the appeal into the refusal of the application for three wind turbines on Pines Tip (Strategic Planning Committee; 10th March 2016) has not yet been published. I have formally requested a meeting with planning officers to consider how the authority will approach the appeal.

7. Cornwall Local Plan

The Inspector into Cornwall's Local Plan published his final report at the beginning of October. Following his Examination in Public (EiP), which took place between two inquiry sessions in May 2015 and May 2016, he has ruled that the Plan can be made "sound" – or, in other words, consistent with central government regulations – if a range of changes are made to the document.

This includes an increase in the overall housing target from 47,500 to 52,500 for the period 2010 to 2030 – which I know will disappoint many people, myself included. He has also inserted an additional target for 2,550 bed-spaces in communal facilities for older people, and revised the affordable housing policy to make it less ambitious but consistent with the Government policy – which is sadly a backward step.

The attempt of local MK councillors to get the so-called eco-community removed from the document has also failed.

The Local Plan will now be re-presented to the Council's Planning Policy Advisory Committee (which I chair) on Wednesday 26th October, before going forward for adoption at a meeting of the Full Council on Tuesday 22nd November.

8. Devonwall

In addition to my local activities, I have been heavily involved in the campaign against the creation of a cross-Tamar "Devonwall" seat for the 2020 General Election.

I have been informed that all Parish Councils have been written to by a local campaign group asking them to write to the Minister for the Constitution and the Boundary Commission in support of the campaign.

It is my hope that St Enoder Parish Council will be keen to do this.

9. Inquiries

During the last month, I have also helped numerous people with advice and guidance. These issues have been very varied, though there has been a significant rise in housing queries, many of which relate to new rental properties which will soon become available on Ocean Housing's Harvenna Heights estate.