



clean, green, safe

Councillor Leigh Hunt
c/o Rugby Borough Council

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Date 22 March 2016

Dear Councillor Hunt

Thank you for providing copies of the "Swift Windfarm Timeline" and "Swift Windfarm Complaint" against the Borough Council. As we discussed, it is my aim that this letter answers the substantive points raised in the letter. As I have explained, I consider that the vast majority of the complaint against the Council is unfounded, but it is clear that this position is unlikely to be easily accepted by the complainants so I hope that by responding formally, we may quicken the process of further complaint to the Local Government Ombudsman should that be forthcoming.

Before I deal with any of the main points of complaint, there are three background points that I consider to be important:

1. These were major planning applications and significant bodies of work in themselves and the planning process is rarely straightforward and often involves individual judgement. On this basis it would be remarkable if a detailed trawl of the case files and records did not identify any errors on the part of the Council.
2. Planning officers are employed (and required) to implement national and local planning policy; they should not have to feel attacked for implementing policy they are not responsible for. Over the course of these applications, officers were often made to feel attacked during the course of these applications and feel strongly that their honesty, integrity and professionalism has been publicly questioned by objectors.
3. The fundamental factor that has changed over the course of these development proposals is national Government policy on renewable energy development. The policy landscape in this respect has shifted and I personally believe that a turbine permission in the swift valley would have been forthcoming had the timings been different.

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With this context in mind, I will now turn to those points I consider substantial in the complaint:

1. IR 281 – The Inspector has come to a different view to the Council. This is a matter of individual professional judgement and does not make officer's or the Council's judgement invalid.
2. Pre-judgement / Predetermination – the complainant is correct that, at the time of the first application, there was clear expert evidence that suggested a smaller scheme may be acceptable in terms of landscape and visual impact. This was also reiterated in the report to planning committee. It is perfectly reasonable for these views to be expressed and does not demonstrate pre-determination of future applications on the part of the officer.
3. The applicant's LVIA was fully assessed and considered by the Council's Landscape Architect who is professionally qualified and accredited and has many years' experience in dealing with such matters. This was not a reason for refusal and therefore there was no need to defend the position in detail at the Inquiry.
4. Committee Reports written by case officers are not reviewed by senior officers. This approach was implemented following a "systems thinking" review of the application process and has been very successful.
5. I am entirely content that the Council's review of the submitted LVIA was entirely robust and appropriate.
6. The Barrister instructed on behalf of the Council has been used by this authority on multiple occasions and is experienced in the application of Council planning policy. His individual costs have increased recently and the cost of this Inquiry in total exceeded original estimates and it is reasonable to conclude we are unlikely to instruct him again.
7. There is a great deal of confusion over the "barnwell" points. In my opinion the extent of officer's detailed knowledge of this case prior to the decision and during the Inquiry is somewhat irrelevant. The case officer has acknowledged that the complainants are correct that he had received information about the judgement from a representative of the Parish Council – a point he later forgot. However the approach taken in the officer's in relation to heritage impact was exactly as guided by "barnwell" so I see nothing of substance to complain about here.
8. I disagree that the Council took a position of active support of the proposal as has been suggested. The Council's position is well summarised by the Inspector at paragraph 151 of his report. RBC did not resist the proposal at the Inquiry; a position that is entirely in line with the officer's report to and therefore the decision of planning committee. The officer's report made it very clear that, on balance, the benefits of the proposal outweighed the negative impacts. The only reason for refusal was the technical objection from NATS.
9. On the basis of the above, I believe it is clear that the Council's position was consistent throughout.
10. The procurement of counsel was undertaken entirely in line with the Council's constitution with all necessary authorisations.
11. Whilst I did not personally witness the approach taken by the barrister on behalf of the Council, from the reports I have heard, it may well have been too aggressive towards representatives of the Parish Council and objectors. This approach had not been instructed by Council officers, is regrettable and I apologise on behalf of the Council – I will convey this separately to those concerned.

12. In relation to the separate application that was eventually made invalid, I entirely accept that it was the intervention from the community that rectified our error and I am grateful for that intervention. Again, I apologise for the error and will write separately to those concerned.

I believe that this covers all of the substantive points raised in the complaint. If you have any queries or if I have missed anything, please let me know. I would be very keen to do all we can to strengthen the Council's relationship with the Parish Council. If it would be helpful to meet and discuss any of the above I would be very happy to do so.

Yours sincerely



Rob Back
Head of Planning and Recreation

cc

Lorne Smith, ASWAR
Chris Down, c/o Churchover Parish Council