

Planning processes and timescales

Background

1. Members will be aware that, whilst the number of planning applications considered at committee by NCC are reducing, significant planning applications are still likely to be considered by one or other of NCC's two remaining planning committees.
2. Members will also be aware that there exists, in cases where a town or parish council (or other person) has made representations on an application that is going to committee, a right to address the committee on this matter.
3. A case has recently arisen which illustrates some important learning points for Berwick Town Council.
4. Berwick TC made representations concerning 16/03939/VARYCO, a retrospective application to allow for minor material amendments to the development at the former KwikSave site on Walkergate. Broadly speaking, the application was to allow for additional mechanical ventilation cowls to be added to the roof of the building.
5. Council made its representations on this matter, seeking further information, and expressing its concerns in a timely fashion, and they were acknowledged by NCC.
6. On 3rd January 2017 council received a letter, which was posted by NCC on 28 December 2016, at second class postage rates, informing us that the matter would be decided by NCC's Strategic Planning Committee on 3rd January 2017, and that any applications to speak on the matter had to be registered by midday on Friday 30 December 2016.
7. A chain of email correspondence ensued in which NCC at first asserted that their letter had been sent out on the 21st December 2016 first class, and then appeared to apologize if that had not been the case.
8. Irrespective of the apparent confusion, NCC declined to withdraw the matter from the agenda, and asserted that because the issues raised in the original representation had been addressed in their report, they would proceed to decide the matter. On your behalf the Interim Town Clerk explained the Town Council's disappointment at this decision, and informed NCC that the matter would have to be referred to Town Council.
9. Irrespective of the facts of this case, which do not reflect well on NCC, members may wish to consider the following learning points from this case.

Recommendations

1. Council is recommended to advise its Planning Committee, when considering applications, to give thought as to whether this is a matter on which it may wish an officer or member to attend the planning committee, if any, and to include that decision within its minutes, so that early notice may be given to NCC of the intention to attend. And make verbal representations.

2. Council is recommended to make representations, both directly and through NALC, to NCC concerning its planning timescales during holiday periods or periods of likely postal disruption, and
3. Council is recommended to suggest to NCC that its public speaking protocol for planning committees to be amended to allow those who have made representations to give earlier indication of their intention to speak, e.g. before the agenda has been prepared for the meeting.

Town Clerk

From: Town Clerk
Sent: 03 January 2017 12:31
To: 'Neil Armstrong'
Cc: Ketley, Mark; Neil Masson; Rawlinson, Ann
Subject: RE: Late representation - Application at Former Kwik Save site Berwick

Dear Neil

Obviously I am disappointed on behalf of Berwick TC by NCC's decision.

I am not content for my observations to be paraphrased; I would therefore seek your confirmation that you will place the whole of my earlier email before the committee. I understand your apology, but a well-intentioned apology is no substitute for a process that operates in the way it is intended to operate.

Given that this is a serious breakdown in your process, with implications for how we operate as a council in future, I will have to seek further instructions from elected members, most likely by way of a report to council on Monday next; I mention this only since the facts of this case will form part of the report I prepare for council.

Regards

Gareth Davies LL.B.
Interim Town Clerk
Berwick Town Council
5 The Chandlery
Quayside
Berwick upon Tweed
TD15 1HE
01289 302391

From: Neil Armstrong [mailto:neil.armstrong@northumberland.gov.uk]
Sent: 03 January 2017 12:09
To: Town Clerk <town.clerk@berwick-tc.gov.uk>
Cc: Ketley, Mark <mark.ketley@northumberland.gov.uk>; Neil Masson <neil.masson@northumberland.gov.uk>; Rawlinson, Ann <Ann.Rawlinson@northumberland.gov.uk>
Subject: Re: Late representation - Application at Former Kwik Save site Berwick

Hello Gareth,

Since our earlier e-mails I have now discussed further with Cllr Kelly, Mark Ketley and Neil Masson. I am not sure what has occurred in terms of why the letter looks to have been sent at a later date, so apologies if this has been received later as a result.

It is still our intention to include the application on this afternoon's agenda, although I will highlight your comments as part of my presentation as requested. This is on the basis that these are issues that had already been raised by the Town Council in respect of noise and odour, and that have also been further considered by Public Protection following additional comments from residents, and have already been addressed in the report. Public Protection is satisfied with the likely levels of noise based on information that has been provided, whilst condition 19 will also ensure that potential effects are mitigated. In addition extracted odour from the building would be the same as air within and extracted from any office environment. I hope

you can be assured that these matters have been considered as part of the application, and ultimately Public Protection cannot see any reasonable acoustic or odour reason to object to the proposal.

I hope that this will be of assistance, but please just get in touch if you need to discuss further.

Regards,

Neil

Neil Armstrong
Senior Planning Officer
Development Management (Major Developments and Delivery)

Northumberland County Council
County Hall
Morpeth
Northumberland
NE61 2EF

01670 [REDACTED]

On 3 January 2017 at 10:39, Town Clerk <town.clerk@berwick-tc.gov.uk> wrote:

I'm happy to provide a scan of the envelope if required Neil.

Regards

Gareth Davies LL.B.

Interim Town Clerk

Berwick Town Council

5 The Chandlery

Quayside

Berwick upon Tweed

TD15 1HE

01289 302391

From: Neil Armstrong [mailto:neil.armstrong@northumberland.gov.uk]

Sent: 03 January 2017 10:37

To: Town Clerk <town.clerk@berwick-tc.gov.uk>

Cc: Rawlinson, Ann <Ann.Rawlinson@northumberland.gov.uk>

Subject: Re: Late representation - Application at Former Kwik Save site Berwick

Dear Gareth,

Thank you for your e-mail.

As far as I am aware from our Registration Team, the letters were generated and sent out first class on the 21 December. However, I have forwarded your e-mail on to our Legal team and Head of Planning, Mark Ketley, for information and we will discuss this further this morning as part of the briefing with the Chairman of the Strategic Planning Committee.

In terms of the specific issue you raise in respect of noise our Public Protection team has advised that they have no concerns with the noise levels that have been identified, and condition 19 will mitigate impacts in respect of noise. Although the vents have been installed on the roof the condition requires the formal submission of details to discharge the condition before the overall development is brought into use.

I will contact you again as soon as I can once we have discussed further.

Kind regards,

Neil Armstrong

Senior Planning Officer

Development Management (Major Developments and Delivery)

Northumberland County Council

County Hall

Morpeth

Northumberland

NE61 2EF

01670-

On 3 January 2017 at 10:04, Town Clerk <town.clerk@berwick-tc.gov.uk> wrote:

Dear Neil

I have today received your letter dated 21st December 2016 concerning the above application, and have had my first opportunity to read your report which goes before the committee today. I understand the deadlines you work to, but fear that you do not reciprocate that understanding. We received your letter today; if any of our councillors wished to register to speak they would have had to do so by last Friday, the 30th, when this office was closed. Even if your letter had been posted on the 21st December that would have been difficult; given that it was franked on the 28th December I'd amend that to just about impossible. It is unacceptable to expect small local councils to respond to letters, sent second class, that are unlikely to be delivered before the deadline for registration for public speaking has expired. As your partners we work hard to develop a good relationship with NCC, but this example does not reflect well on NCC and its concern for the way in which we work.

I would therefore suggest that the delay in sending out the letter of notification, and the impossibility of our registering to speak if we wished to do so, is so significant a failure that you should withdraw this matter from today's agenda.

In the event that you decide to proceed, I would make the following points on behalf of our members. We said 'Members are concerned that the 4 air con/vent units are likely to cause noise as they are mechanically operated. One of the

purposes of the vents is to remove odours and CO2 is mentioned. Members feel that more details are required. '

The issue of noise is addressed at Condition 19 which begins 'Before the scheme is brought into use...' despite the fact that you pointed out at para 2.2 that this is a retrospective application. Can you therefore confirm that the ventilation scheme is not yet in operation? If it is, have the noise measurements specified been taken, and will they be reported to today's meeting?

I await your response with interest.

Regards

Gareth Davies L.I.B.

Interim Town Clerk

Berwick Town Council

5 The Chandlery

Quayside

Berwick upon Tweed

TD15 1HE

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