Planning Act 2008 (as amended) Section 55

Application by Navitus Bay Development Ltd for an Order Granting Development Consent for the Navitus Bay Wind Park

Adequacy of consultation request – New Forest District Council Response

24th April 2014

This document sets out New Forest District Council’s formal response to the adequacy of consultation requested by the Planning Inspectorate (PINS), in accordance with Section 55 of the Planning Act, as amended by the Localism Act 2011. In formulating the response, this authority has considered how the applicant Navitus Bay Development Ltd (NBDL) has complied with Section 42, 47 and 48 of the above Act.

New Forest District Council officers have worked with other authorities in Hampshire (New Forest National Park and Hampshire County Council) and other authorities in Dorset and the Isle of Wight who are directly affected. This joint working enabled the local authorities to engage proactively with NBDL and to discuss issues at regular intervals. New Forest District Council also sent formal invitation to the affected Parish and Town Councils for comments on the adequacy of consultation and consultation generally – appended to this response are 3 representations from Parish Councils and one individual, together with attachments which are representations received by the ‘Challenge Navitus’ umbrella group.

1.) Duty to consult PA2008 – Section 42 (carried out between 2012 - 2013)

Following consultation by NBDL in September 2011 on Scoping Opinion for EIA which NFDC responded to, the Preliminary Environmental Information 2 was released in June 2012 and considered by NFDC Planning Development Control Committee with responses made to NBDL. These were in relation to environmental health, landscape & visual assessments, and coastal impacts in relation to ongoing work by NFDC coastal engineers. Updates throughout the pre-application process from NBDL about revisions to the specifications and extent of the wind farm site were received by NFDC and well explained. Preliminary Environmental Information 3 was received by NFDC in August 2013, and again this was considered by NFDC Planning Development Control Committee with responses duly made.

2.) Duty to consult the local community PA2008 – Section 47 (carried out between 2011 – 2013)

NFDC responded to the draft SOCC in March 2013 – re. the cable route consultation zones which omitted properties backing onto the cable route (NFDC supplied annotated map to NBDL who then amended the buffer zone in the appropriate places), a request for locations where documentation should be sent and minor, and minor comments on the SOCC. NFDC officers attended various public exhibitions within the district area and came away very satisfied that the exhibition content was effective and the exhibitions well staffed by NBDL. Additionally, comments received by Parish
Councils do not indicate any material shortcomings in the manner in which NBDL undertook its consultation through the various stages.

3.) **Duty to publicise PA2008 – Section 48 (carried out in 2013)**

NBDL kept this authority informed of the public notice it published in September 2013 and supplied electronic copies of that notice and accompanying documentation. Regular newsletters were also sent by email to this authority and distributed to various groups and recipients who requested it.

**Conclusion**

NBDL have publicised the development, sought the views of the local community, and consulted this council as a statutory consultee. NBDL have had regard to the responses received and amendments have been made to the proposal during the pre-application phase.

Concerns do remain from local Parish Councils and other groups in relation to the quality of the consultation material and outstanding issues with regard to the potential adverse effects that the project could bring. NFDC agrees that those points are valid ones, but these do not relate to the statutory duties of the consultation undertaken to date. Overall, NFDC is of the opinion that sufficient consultation has been undertaken during the pre-application stage and that the developer has complied with and met the requirements of the Planning Act.

NFDC does have an outstanding concern about the process going forward (should the application be accepted by PINS), with particular regard to the developer’s unwillingness to provide local authorities with adequate hard copies of the documentation. NFDC notes that in Planning Inspectorate Advice Note 6 – *Preparation and submission of application documents* (June 2012) it states that ‘At least one public inspection copy should also be made available at a location or locations in the vicinity of the proposed development. The Planning Inspectorate also strongly advises applicants to send a public inspection copy of their submission to the local authority(s) within whose area(s) the project is located.’ (Page 3). NFDC’s ability to participate in the process going forward could be compromised by not having adequate access to printed copies of the full documentation and photomontages in an accurate format.
Appendix 1

Representations received (Email) from New Milton Parish Council

From: Theresa Elliott  
Sent: 22 April 2014 12:33  
Subject: Lack of information - Navitus Bay

Dear Mr Herring,

Thank you for your email dated 15th April, giving us until today to respond on information adequacy submitted by NBDL for the Planning Inspectorate to strike a view on whether the application should be accepted for consideration.

Both my colleague Claire and I were on annual leave all of last week, making today our first opportunity to respond.

From our meeting with NBDL in August I have noted that PTFE lining will be on the cable (benign but poisonous if ignited) and a ‘top tile’ but they were waiting for an assessment to come back in order to update the EIA. This update does not appear to have taken place according to the documents shown on your link to the Planning Portal.

Regards

Theresa Elliott  
Assistant Town Clerk

Representations received (Email) from Milford on Sea Parish Council

From: Keith Metcalf  
Sent: 23 April 2014 10:01  
Subject: RE: Navitus Bay - Application for Wind Park

Dear Andrew,

Following our Planning committee meeting last night, members decided to respond as follows to the two questions:

**Adequacy of the applicants consultation carried out**
Members were content with the amount of publicity given to the windfarm proposals. The Parish Council has held copies of all Navitus Bay reports and background papers, which have been made available to the Council members and public at all times.

**Likely impact of the development**
The following concerns were discussed:

- The possible impact of waves hitting the wind turbine structures and the effect the new wave patterns might have on our precarious sea defences at Hordle Cliff, Milford Promenade, Hurst Spit and Keyhaven. The 14th February 2014 storm dealt Milford a serious blow and considerable damage with over 100 beach huts lost, severe undermining of our sea defences and exterior and interior damage to The Marine Restaurant. If the wave
patterns are artificially disturbed out at sea, might this cause a change to how our coastline is affected by the waves hitting our shoreline?

- Members are also concerned about the impact on tourism at the point where the cables and pipes come ashore at Taddiford Gap and the route taken north-westwards. Downton Lane runs immediately alongside the route and the Shorefield Country Park is in Downton Lane. The Holiday Park has about 3,000 weekly visits and brings many visitors to our shops and restaurants, helping keep Milford-on-Sea commercially vibrant. Will holiday visitors be inconvenienced by the proposed pipe/cable laying process in this area?
- There appear to be varying reports from different wildlife organisations that indicate concern about migratory bird flight routes, Gannet fishing sites in the area and shell fishing etc. and we would like to be assured that the windfarm proposals have taken all of these concerns into full consideration.

We would like these concerns registered and request that answers are sought from Navitus.

Thank you for allowing us an extension of one day to comment.

Keith Metcalf
Parish Clerk

Representations received (Email) from Bill Hoodless and John Lambon

From: Bill Hoodless (forwarding an original email of 14 April 2014 to Jackie Anderson)
Sent: 16 April 2014 11:56
Cc: Lambon John
Subject: Fw: Fwd: Navitus Bay Wind Farm .. invalid consultation

Dear Mrs. Anderson,

I believe you are the right person for me to advise of my concerns regarding the developer's (NBDL) consultation failings. If not grateful if you could forward.

Although the consultations were deemed Community Consultations, I was given the distinct impression that it is the statutory consultees carry the real weight. I'm assuming however that now matters are in the inspectorate domain, my comments on the invalidity of the consultation can equally be submitted to and formally taken on board by yourselves.

As an architect with over 40 years experience, whilst I have seen many failings in the Navitus Bay consultation process in many topic areas, I concentrate my expertise on visuals.

The message at each stage from NBDL is that they have followed industry standards endorsed by the Landscape Institute (the equivalent of my own Institute of Architects). I have approached the Landscape Institute and they have not commented. Nevertheless, in my view as an Architect there are serious failings and although I am forced to acknowledge that the industry standard, for right or wrong, remains the benchmark until revised, I cannot let NBDL’s misrepresentations go unchallenged noting their stretching the boundaries of such standards.

Regardless of standards followed, I am sure you are aware that rules can and are bent. This has
been the case throughout this consultation when various graphic devices have been employed to effectively try and pull the wool over both the public's and statutory consultee's eyes. These include poor visibility base visuals, poor resolution, poor reproduction, lack of reference landmarks, indeed layout, all which collectively are tools at the disposal of a graphic communicator to minimize perception of true impact. This is notwithstanding the fact that the printed image can never replicate the naked eye or truth. But the issue here is that throughout the consultation NBDL, despite massive criticism, have not responded to these consultation criticisms and continued to employ graphic tricks to create impressions that the public and statutory consultees would, for the most part, accept in good faith, but in reality are misleading. The public outcry bears witness that I am far from alone in noting these deceptions but of course the majority and potentially the statutory consultees do accept at face value what NBDL put out at the consultations thus placing the validity of the consultation in question.

Fortunately, my expertise has enabled me to double check NBDL's visuals booklet for every single viewpoint. I find that the measurable turbines on the photomontages are undersize by an average of almost 46%. This is in part attributable to the turbine blades not being visible when in reality they are in fact the most visible element. This does not however excuse the undersizing of the wireframe images by an average of 12%. This is all taken from NBDL's own documentation, scales, images and benchmarks. As a professional I am obliged to analysis facts strictly as presented and my skills enable this.

Naturally there are variables but this remains tantamount to deception and on the basis that the visuals represent the main thrust of the developer's consultations, hence public perception, even that of the statutory consultees, this deception must be questioned in voiding the consultation process itself.

If you want details of my findings I will be pleased to forward them.

Please note also that the turbine images on page 25 of the Feb 2013 phase three community consultation booklet illustrated grossly undersize turbine blades. For example, the 8MW turbine sweep is illustrated at about 110m not 176m as stated. May be stating 176m excuses NBDL, but the deception is perpetrated with again an undersizing of close to 40%.

NBDL's PR has also been in overdrive.

For example, between consultation stages 2 and 3, NBDL nominally set back the boundary claiming it was in response to the public response on visual impact. Of course the reality was it was an inevitable set back to accommodate an essential navigation line and their PR team massaged the facts to promote the belief they had responded to the public on visual impact. Again my expertise enabled me to check the reality. In fact it was basic geometry. The truth was that the concurrent average increase in turbine height had effectively negated any visual improvement and of course it was a more economically effective scheme for NBDL. But, the public and media were led to believe it was a visual improvement and again a deception perpetrated.

Most recently, NBDL conducted a fourth round of public consultation to promote the impression
they have gone above and beyond. The truth .... there was absolutely nothing new, NBDL’s representatives could advise on nothing except the process and they were not even aware of the concurrent revisions, despite being questioned on this very topic. People left these presentations most frustrated.

Unfortunately we have a David and Goliath situation where the resources and PR at NBDL’s disposal can never be matched by a member of the public or indeed local organizations or expertise groups.

I trust now that it is in the domain of the inspectorate, our frustrations and comments will no longer fall on deaf ears and you will seriously question the adequacy of the consultation.

Regards and thanks,

John Lambon