

**Wiltshire Council**

**Cabinet**

**3 July 2018**

---

**Colin Gale**

**To Councillor Bridget Wayman, Cabinet Member for Highways, Transport and Waste**

**Pewsey Community Area Partnership (PCAP), Campaign to Protect Rural England (CPRE) and Pewsey Parish Council (PPC) Statement to Wiltshire Council Cabinet, 12 June 2018, on the status of Everleigh HRC**

PCAP/CPRE/PPC provided a statement to the Cabinet Meeting held on the 12<sup>th</sup> June in Salisbury on the status of Everleigh Household Recycling Centre. It was noted that the 'Consultation on the Proposed Closure of Everleigh Household Recycling Centre' had been issued the previous day on the 11<sup>th</sup> June. The groups had not had the opportunity to look at the consultation in detail but the initial belief was that the consultation may be unlawful.

The chair of the Cabinet Meeting noted the point and placed an action on the Councils Monitoring Officer to investigate the legal status of the consultation as identified in the cabinet minutes.

PCAP/CPRE/PPC have since fully reviewed the consultation and independently produced two separate documents, an assessment and an appraisal. Both documents concluded the same that it is believed that the consultation on the proposed closure of Everleigh household recycling centre may be unlawful.

For transparency purposes the assessment and appraisal documents have been shared with the Monitoring Officer. Please can the Monitoring Officer advise if he has had the opportunity to consider the lawful status of the consultation and what his findings are?

### **Response**

I am responding to the submission made by both Mr. Gale and the CPRE and Pewsey Parish Council regarding the consultation process being undertaken by Wiltshire Council in relation to the proposed closure of the Everleigh Household Recycling Centre.

The Council has a legal duty to act fairly in all of its actions and decisions. In some circumstances, compliance with that duty means that there is an obligation to consult prior to a final decision being taken.

There is no general duty on the Council to consult. It would clearly be impracticable for the Council to consult the public in advance of every decision that it made. In the absence of any statutory requirements, there are no set criteria that specify when a public consultation exercise has to be undertaken. However, there are certain situations where prior consultation would be expected.

In view of the local public interest regarding Everleigh HRC, the Council has previously stated that it would consult the local community before any final decision were made as to the future of the site. This is why the current consultation exercise is taking place. The Council does not accept that there would otherwise necessarily be a duty to consult in this instance.

Where a consultation process is undertaken, there are certain requirements that must be met. These have been developed by case law including, but not limited to, the case of Moseley v Haringey LBC 2014 that you mentioned in your submission. The general requirements set out in that judgement remain valid and relevant. The current consultation process being carried out by the Council meets those requirements.

No decision has been made to close Everleigh HRC at this stage. The position is that the Council has identified that there would be considerable costs incurred in bringing the site up to an acceptable standard and that therefore its preference would be to cease to operate the site. The Council therefore has a preferred option for the site, which is its closure, and it is now seeking the views of local residents and users of the site on that proposal, before any final decision is made. It is perfectly reasonable and lawful for the Council to have a preferred option and to seek comments on that option.

Where a public body is consulting on a preferred option, it has a duty to explain what other options were considered and why those other options were not supported. The Council has done this in the questionnaire and the linked information, which provide details of the reasons why closure of the Everleigh HRC is the preferred option and why the other options were not considered suitable. This information is sufficient for members of the public to make reasoned comments on the Council's proposals and the rationale for them. The Council does not accept that it has failed to provide sufficient information to enable the public and users of the site to comment on the proposals and the reasons for them. Nor does it accept that the phrasing of the questions affects the validity of the consultation process. It is clear that the public are being given an opportunity to say whether they agree with the proposed closure of the Everleigh HRC (taking into account the reasons for the proposal and the other options that were considered) or not. If they do not support it, they are able to say why, again by reference, if they so wish, to the other options that were considered. The public are also able to comment on the effect of the closure on them, if it were to go ahead, which again is a relevant consideration for the Council when making its final decision.

It would not be appropriate to restrict the consultation to local residents. This is not a case where there are specific users of a service (such as a proposal to close a residential care home) where there are clearly only a limited number of identifiable people affected. In this case, the consultation is open to anyone, although the responses can be identified by location. Again, this is entirely appropriate for this type of consultation.

Clearly, no consultation process is perfect and there will always be ways in which it can be improved. The issue here is whether the process is lawful, in terms of the factors set out by the Courts. Having considered the points raised in your submission to the Environment Select Committee, the Council remains satisfied that the consultation process that it is undertaking is lawful and does give the public the opportunity to comment properly on the proposal and that those comments will be taken into account before any final decision is made on the future of the Everleigh HRC.