

Wiltshire Council

Cabinet

14 November 2023

Agenda Item 16 – Waste Services Delivery Plan

Question from Cllr Richard Budden, Tisbury Division

To Cllr Nick Holder, Cabinet Member for Environment and Climate Change

Question (23-92)

Preamble

At the Council meeting on 17 October 2023, during discussion of the Council's response to the Climate Emergency, I pointed out that Wiltshire's performance in recycling 40% of household waste is particularly disappointing since it had gone down from the previous year when (according to data collected by the Local Government Association) Wiltshire was placed only 63rd out of 149 single-tier councils.

What made this performance even worse is that it was accompanied by an increase in the burning of household waste, up from 39% of the total to 44%.

I pointed out that councils achieving far higher recycling rates (a large number well over 50%, and over 60% in a couple of cases) were almost all carrying out separate collection of food waste for composting rather than burning.

In his response, Cllr Holder made plain that Wiltshire Council had no plans to introduce separate collection of food waste, even though this was likely to become mandatory under new regulations anticipated to be introduced shortly.

On Friday of the same week Defra announced it intends to introduce rules requiring waste collection authorities - such as Wiltshire Council - to arrange, by the end of March 2026, for weekly collection of food waste for recycling or composting. Since then, Defra has been using social media to publicise its plan to introduce separate food waste collections for everybody as part of a 'simpler recycling' initiative.

The Defra announcement does make provision to treat local authorities with long-term contracts for 'energy from waste' as exceptions, but makes plain that, as such, they are undesirable.

The Defra statement also included the announcement of amendments to existing regulations for producer responsibility for packaging. These should lead to the Council receiving its share of £900 million of income from producers that Defra expects to distribute to local authorities to cover costs associated with the recycling of packaging waste.

Question

In light of what we know (and, indeed, always knew) concerning the detrimental effect of depleting the environment by burning food waste instead of composting it, plus the climate change impact of the greenhouse gases emitted, and following Defra's announcements on Friday 21 October 2023, would Cllr Holder now agree with me that

the decision a decade ago to contract with Hills for a term fixed until 2038 for a plant to process food waste prior to burning was unwise?

Response

No. The contract let was appropriate for Wiltshire's circumstances at the time of tender.

Agenda Item 5 - Public Participation

Questions from Mel Boyle

To Cllr Richard Clewer, Leader of the Council

Over the last few months the replacement Radial Gate options in Chippenham have caused concern among residents. People may have voted for the best option for nature in the One Plan Consultation, but as we saw on the 9 October 2023 trial the water levels went a lot lower than expected and are likely to be worse for nature, especially the large fish and will effect the whole eco system. We were also told at events that the weir was not a flood defence mechanism.

Question (23-93)

Was the trial cancelled for the second day planned for the 10 October 2023 because the water levels went lower than expected on the first day?

Response

This is a question for the Environment Agency (EA) which was conducting the testing. Officers have sought comment from the EA and their response is as follows:

During the trial the water levels were lowered by about 2m upstream of the radial gate. We had aimed to get to about 1.5m, but only because we weren't sure we would be able to get them lower. This trial was extremely useful in terms of understanding the impacts upstream and looking at the structural condition of the river walls. Lowering the water levels, especially if in combination with removing the radial gate and weir, will actually makes things much better for nature. By removing barriers it will enable fish to travel further upstream and downstream and also allow greater passage of bed material through this reach. With lower levels and faster velocities there will be less silt deposited within the river and the more natural gravel bed and banks can be re-established. Lower, more natural water levels will enable vegetation to grow within the channel which will provide shelter and food for fish and other wildlife. More natural river banks will provide homes for many wildlife through here as well. Higher velocities will also improve the water quality with clearer, cleaner water. The question about the gate being a flood defence mechanism is answered in the next question.

We always hoped to do all the water level trial on one day, but had a second day planned as well in case things weren't successful on the first day. As we managed to achieve everything we required on the first day, there was no need to use the second day.

Question (23-94)

Quote from the Environment Agency after the consultation had closed "The gate is not a flood defence, but does play a part in managing water levels along the Bristol Avon through Wiltshire." Isn't this the same thing?

Response

This is also a question for the Environment Agency and the response has been confirmed with them:

The management of water levels as noted refers to the maintenance of a water level upstream of the radial gate for amenity purposes during low flows. The gate is required to be closed, or only partially open for this to happen. Once the flows increase the gate has to lift to allow enough flow through, and if it doesn't and the gate gets stuck then this results in increased flood risk upstream. This is the key reason why it is in need of replacement.

Question (23-95)

Q3. How is the replacement to the Radial Gate being tied in with the accumulative development on the area before and after the Radial Gate, 1,000 houses at Rowden Brook, 650 at Rawlings Farm and the 2,525 proposed for South Chippenham in the Local Plan? (The Environment Agency said they weren't aware of the 2,525 proposed houses at the One Plan consultation event)

Response

This is also a question for the Environment Agency and the response below has been confirmed with them:

Whichever scheme comes forward to replace the radial gate will serve to reduce flood risk. The Environment Agency is fully aware of the policies in the Local Plan and is a statutory consultee. Whatever developments may come forward in these locations in the future will be tested against policy and subject to appropriate assessment of their environmental impact.

Question (23-96)

The water levels in between Chippenham and Lacock have been very high many times over the last few years, how is this evidence being used to influence the options for the replacement Radial Gate?

Response

This is also a question for the Environment Agency and the response below has been confirmed with them:

Data is collected throughout the river on high flows and flood events and this is used to inform the designs in terms of the amount of flow we would expect in the river at different times and during flood conditions. Whatever works are done within Chippenham will not have any impact downstream of Chippenham.

Agenda Item 5 - Public Participation

Questions from Colin Gale, Pewsey Community Land Trust

To Cllr Phil Alford, Cabinet Member for Housing, Strategic Assets, Asset Transfer and Cllr Nick Botterill, Cabinet Member for Finance, Development Management, and Strategic Planning

Background:

Pewsey Community Land Trust (PCLT) raised the following four questions to Wiltshire Council Cabinet on 10th October 2023 and received the following responses:

Question (23-88): Please confirm our status as an appropriately constituted body - able to issue a draft CRTBO proposal. Other CLTs have been approved to issue CRtBOs by their LPA, using the same corporate legal framework of primary and secondary rules that we have been using, so there is legal precedent.

Response: This is a matter of statutory process being considered by the Neighbourhood Planning Manager and legal on whether the requirements have been met for Pewsey Community Land Trust (PCLT) to be able to create a Community Right to Build Order (CRtBO). Officers are aware of the PCLT recent new approach submission which officers are considering and will respond soon.

Question (23-89): Please confirm they will open and review the DRAFT CTRBO - rather than leaving it unopened - accepting that it is of course only a draft proposal needing constructive feedback to improve the next version of the proposal which will be subject to a further subsequent statutory consultation and external examination regarding compliance with regulations.

Response: See above

Question (23-90): Please confirm that PCLT can circulate the DRAFT CTRBO proposal to all other statutory and local consultees without further delay.

Response: See above

Question (23-91): Please confirm that in principle they would consider a s.106 request to support some partial funding for this development in order to meet their approved Pewsey NDP.

Response: See above

Notes:

1. *The response to question 23-88 was effectively a holding response and the response to the other three questions simply referred to the response to question 23-88.*

2. *At the cabinet meeting a PCLT statement was given advising the PCLT's frustration with trying to make progress and the difficulty with timescales in getting even an acknowledgement to submissions to achieve progress. The Cabinet were sympathetic and agreed to progress the issues and the Director for Legal & Governance agreed to arrange a response by the end of the week.*

Current Status:

16 October 2023: *PCLT received a disappointing response from the Neighbourhood Planning Manager which was not particularly progressive but did suggest PCLT liaise with 'Locality' and that the PCLT research the approach approved by other LPA's.*

17 October 2023: *PCLT acknowledged the response from the Neighbourhood Planning Manager advising that the response had only addressed the first question and had not addressed the other 3 questions? The PCLT acknowledgement also suggested that WC look at the Nailsworth CLT submission <https://www.nailsworthclt.org.uk/> as their rules and secondary rules were accepted by their LPA – crucially by the independent examiner as compliant with regulations to propose a CRTBO.*

17 October 2023: *PCLT also emailed the Director for Legal and Governance requesting he advise if the response from the Neighbourhood Planning Manager reflected the legal response/position as it was not clear from the response received and no separate response had been received from the Director for Legal and Governance post the Cabinet meeting as expected?*

Note! To date no acknowledgement or response has been received to this email.

27 October 2023: *PCLT emailed the Neighbourhood Planning Manager advising:*

“As you suggested we have discussed the matter further with David Chapman at Locality and following his suggestion now include for your information a copy of two Made CRtBOs with their accompanying Examiners' Reports. I have also included a modified schedule cross referencing the requirements of the T&CPA 1990 & NP (Gen) Regs 2012 with PCLT's rules and membership Policy and these are also attached for ease of access.

In preparing our CRtBO, Pewsey CLT has used these two Made Orders as precedents for its own.

I look forward to hearing from you next week, but in any event by Monday 6th November 2023.”

Notes!

1. *PCLT included two Made orders for Totnes Community Development Society (Atmos Totnes) and Nailsworth CLT with the respective 'Examiners' Reports to the neighbourhood Development Manager.*
2. *To date no acknowledgement or response has been received to this email.*

1 & 7 November 2023: PCLT issued chasing emails to the email above requesting an acknowledgement of receipt and a timeframe for a response. An acknowledgement was received from the Neighbourhood Planning Managers Associate.

Issue:

PCLT are finding it very difficult to make progress with their development programme and held their monthly Directors and Advisors meeting last night, 7 November having to advise that the PCLT were no further forward and effectively were still awaiting a response to their questions tabled to WC Cabinet on 10 October 2023.

Question (23-97)

Please confirm our status as an appropriately constituted body - able to issue a draft CRTBO proposal. Other CLTs have been approved to issue CRtBOs by their LPA, using the same corporate legal framework of primary and secondary rules that we have been using, so there is legal precedent.

Response

To be considered as a 'community organisation' and therefore, a 'qualifying body' to create a CRtBO in a particular area, there is a requirement to meet the necessary legal tests (i.e., prescribed conditions). It is a matter of statutory process to determine whether the requirements have been met. Officers will be responding directly on this matter.

Question (23-98)

Please confirm they will open and review the DRAFT CTRBO - rather than leaving it unopened - accepting that it is of course only a draft proposal needing constructive feedback to improve the next version of the proposal which will be subject to a further subsequent statutory consultation and external examination regarding compliance with regulations.

Response

See above

Question (23-99)

Please confirm that PCLT can circulate the DRAFT CTRBO proposal to all other statutory and local consultees without further delay.

Response

See above

Question (23-100)

Please confirm that in principle they would consider a request to support some partial funding for this development in order to meet the WC approved Pewsey NDP.

Response

There is no direct financial support currently available from Wiltshire Council. However, the council will organise and pay for the independent examination of the draft order and the referendum.