

Strategic Planning Committee

MINUTES OF THE STRATEGIC PLANNING COMMITTEE MEETING HELD ON 20 APRIL 2022 AT COUNCIL CHAMBER - COUNTY HALL, BYTHESEA ROAD, TROWBRIDGE, BA14 8JN.

Present:

Cllr Howard Greenman (Chairman), Cllr Tony Trotman (Vice-Chairman), Cllr Ernie Clark, Cllr Sarah Gibson, Cllr Carole King, Cllr Christopher Newbury, Cllr Pip Ridout, Cllr James Sheppard, Cllr Elizabeth Threlfall, Cllr Robert Yuill and Cllr Helen Belcher (Substitute)

Also Present:

Cllr Ruth Hopkinson, Cllr Matthew Dean, Cllr Tony Jackson, Cllr Gordon King, Cllr Dr Brian Mathew, Cllr Ashley O'Neill, Cllr Antonio Piazza, Cllr Jo Trigg and Cllr Suzanne Wickham

84 Apologies

Apologies were received from Cllr Adrian Foster who was substituted by Cllr Helen Belcher.

85 Declarations of Interest

Prior to asking for declarations of interest, the Chairman highlighted that there was strong public interest in the application to be considered and that Members may have been canvassed by many interested parties. He therefore felt it would be helpful to remind Members of the requirements of Protocol 4 of the Wiltshire Council Constitution, the [Planning Code of Good Practice](#), which sets out guidance on pre-determination and sound decision making. The Chairman read paragraphs 6.2, 6.3, 6.4, 9.3, 9.4, 9.5, 9.6 and 11.3.7 and highlighted the importance of listening to everything said at the meeting prior to coming to a decision.

While there were no declarations of interest, due to comments made at the previous meeting where the application was considered, Cllr Rob Yuill read a statement for transparency and the avoidance of doubt. He clarified that he had worked in the waste industry for 18 years, 10 of which were spent working in waste plants of different types as a health and safety professional where his role encompassed the health and safety of the plants themselves, the operatives at the plants and anyone affected by the plants. He had also previously been the Portfolio Holder for Waste. As part of that role, he had a relationship with the waste team at Hills, regarding collecting household waste. This was a totally different part of the company to that making the application.

He did not feel that this history affected his ability to take part in the debate and vote and he would consider the matter with an open mind.

86 **Chairman's Announcements**

The Chairman made an announcement stating that it had been drawn to his attention that following the last meeting of the Committee in respect of this application some members of the Committee had received correspondence directed to them personally which contained threats.

The Chairman recognised that planning applications could generate differing and sometimes strongly held views. However, he stated that planning committees, including this Committee, provided an important quasi-judicial function on behalf of the Council. They often had to determine competing interests of the community in respect of land use. The Members who made up these committees made collective decisions based on the planning merits of applications and after receiving professional advice from officers. They did this without fear or favour.

It was therefore unacceptable for any person who may disagree with the outcome to address any threatening correspondence to Members. This not only risked interference with a recognised democratic due process, but it could also be distressing to the elected Member's family when such threats were received at their home address.

The Chairman had discussed this aspect with officers, including the Head of Legal Services on behalf of the Monitoring Officer, who had recommended that should there be any repeat of such behaviour any elected Members of the Committee should immediately refer any such correspondence to the Monitoring Officer for consideration, and further action. This may include, if appropriate, referring the matter to the Police.

The Chairman hoped this would not be necessary.

87 **Public Participation**

The Chairman detailed the rules on public participation. Ordinarily the procedure allowed for three objectors, followed by three supporters, to speak for three minutes each. In further accordance with procedure, due to the large scale and controversial nature of the application, the Chairman had extended his discretion to allow up to six speakers each for objectors and supporters.

88 **20/06775/WCM: Northacre Energy from Waste Facility, Stephenson Road, Northacre Industrial Estate, Westbury, BA13 4WD**

Public Participation

Rt Hon Dr Andrew Murrison MP spoke in objection to the application.

Lorae Alford spoke in objection to the application.

Ian Cunningham spoke in objection to the application.

Bill Jarvis spoke in objection to the application.

Philip Harcourt spoke in objection to the application.

Lynn Roberts (Arla Foods) spoke in objection to the application.

Alex Young spoke in support of the application.

Ed Dodd spoke in support of the application.

Cllr Val Jarvis representing Dilton Marsh Parish Council spoke in objection to the application.

Cllr Mike Sutton representing Westbury Town Council spoke in objection to the application.

Andrew Guest (Head of Development Management) presented a report which recommended that having taken into account all relevant new material considerations together with the environmental information previously considered, to grant planning permission for the proposed development, subject to the conditions as before for application 20/06775/WCM for an amended energy from waste facility to that consented under planning permission 18/09473/WCM, for the Northacre Energy from Waste Facility, Stephenson Road, Northacre Industrial Estate, Westbury.

The officer stated that the Committee would recall that the application was considered at the meeting of the [Strategic Planning Committee on 22 June 2021](#) where the Committee resolved to approve the application. As the Committee supported the application it was referred to the Secretary of State (SoS) for his consideration as to whether it should be called-in for his determination before any planning permission were issued. On 31 March 2022, notification was received that the SoS did not wish to call-in the application.

The officer explained that planning law stated that if the Council became aware of new material considerations, then the relevant law required it to have regard to the considerations before finally determining the application. In such a situation where the initial decision was made by a planning committee, the consideration of new material considerations should also be by the planning committee.

In the time since the application was first considered by the Committee, new material considerations, such as changes to policy and legislation had arisen, which meant that the Committee needed to consider the new material considerations. It was highlighted that the focus of the Committee should be limited to the new material considerations only, and not matters which had not changed and were fully considered and debated upon when the application was first considered. Matters which remained unchanged were stated to be:

- Land use – in the development plan the land was allocated for strategic waste use.
- That energy from waste was preferable to land fill in the hierarchy.
- The planning history of the site.
- The design and impact of the site.
- Intended methods of operation.

- The amount of waste to be processed, approximately 243,000 tonnes, which would power approximately 54,000 homes.
- The consequences of not approving the application were the same, in that residual waste would be sent to landfill or to incinerators elsewhere.
- The facility would require an environmental permit which would deal with emissions and site operational matters. The Environment Agency were minded to approve the permit, but this was subject to further consultation.

New material considerations were listed on page 6 of the agenda.

Some late representations and their responses were published in agenda supplement 1. The officer drew attention to further late representations received.

Late representations from David Davis and their responses are below:

- Regarding why there had been no public debate and evidence, the officer stated that evidence had been provided by the applicant which was considered at the meeting of the Committee in June 2021, at which point the application was approved with conditions, subject to call-in by the SoS. On 31 March notification had been received that the SoS did not wish to call-in the application. Due to the time passed and new material considerations, it was now being presented to the Committee again. The application itself had not changed at all, so there was no new evidence to go in the report.
- In response to a question as to why Northacre had been allowed to ignore their duty of care under the Health and Safety Act 1974 due to the fact that their Chimney would fail to prevent grounding, the officer stated that the National Planning Policy Framework (NPPF) focused on whether applications were an acceptable use of land and implementing the planning strategies set out in local plans, rather than controlling processes and emissions. Pollution control was regulated by other authorities such as the Environment Agency. The Planning Authority worked on the assumption that those who enacted the laws would enforce them.
- In response to a question asking why the area most likely to be polluted had no receptors, the officer stated that this was not a new material consideration and had been explained in the environmental consultant's technical response in the papers. Table 8.16 (page 92) had details which should satisfy the Committee that public health was not an issue. Public Health England (PHE) / UK Health Security Agency (UKHSA) stated in its response that local background emissions are considered as part of the environmental permit process.

Late representations from the Wiltshire Climate Alliance (WCA) and their responses are below:

- Regarding the perceived lack of time to review changes the officer explained that 9 months had passed since the Committee's original decision in June and that at any time since then parties could have raised new material considerations. This was the first Strategic Planning Committee meeting since the SoS decision and therefore the application had come to this meeting, which was entirely reasonable, as there was no good reason to defer hearing the application.
- In response to a suggestion stating that the matter should be adjourned to allow for emerging legislation, the officer stated that this was addressed in the Committee report.
- Regarding the rejection by the Western Area Planning Committee (WAPC) on 9 March for a gas peaking generation plant in Westbury the officer explained that this was also covered in the report and stated that each application had to be considered on its own merits.
- Regarding the protection of the local community, the officer stated that this had been addressed in the original report and was a matter for the environmental permit. For which the applicant was required to submit details including background levels of emissions. The current values were protective of public health.
- Regarding the waste hierarchy, this was not a new material consideration. The hierarchy detailed in policy WCS5 (of Wiltshire and Swindon Waste Core Strategy) was essentially the order of preferences, it was not intended to bar options lower down on the hierarchy.
- Regarding the Environment Agency draft permit, which the WCA stated had almost no limits on what could be burnt, the officer clarified that the Environment Agency was responsible for the permit, the application before the Committee was for a plant burning residual non-hazardous waste.
- The WCA stated that the permit set a limit of waste to be processed at 35,000 tonnes higher than that proposed in the application. The officer stated that the application had not changed.
- Regarding matters of visual impact which the WCA felt should be reconsidered, the officer confirmed that this had been addressed in the original report and that there had been no change in circumstances.
- Regarding a recent decision in Kent to refuse an energy from waste facility and the precedent that set, the officer stated that each application should be considered on its own merits.

Late representations from Steven Eades and their responses:

- Issues were raised stating that the Environment Agency had not correctly undertaken the permit procedure and that officers were using NPPF 118 to say that these considerations were not relevant to the planning process. The officer explained that it had not been said at any stage that environmental issues were not planning issues, and that anything could be a material consideration. However, in the view of officers this could be given very little weight due to NPPF 118, which stated that:

“Local planning authorities must determine applications on planning grounds only. They should not seek to prevent competition between different operators, question the need for an electronic communications system, or set health safeguards different from the International Commission guidelines for public exposure.”

PHE / UKHSA were satisfied that they had undertaken environmental assessments according to the law. There was also a consultation running as part of the environmental permit process, which people could respond to. There was no significant impact on health subject to compliance with air quality standards.

- A further issue was raised stating that prior to determining the application the Committee should take further evidence on possible environmental affects and discuss issues with the Environment Agency. The officer stated that Wiltshire Council responses were in the original report, there was no further evidence to be presented and nothing further to discuss. Any issues people had regarding the environmental permit process should be directed to the Environment agency.

The Chairman thanked the officer for his report and invited Members of the Committee to ask technical questions of the officer.

Details were sought on the Government Consultation on the Environment Act target, which was seeking views amongst other things on reducing the waste going to landfill sites and for incineration. The officer explained that proposed target that was out for consultation was to halve waste that would be going to landfill or incineration. However, this was a consultation, and it was not known if, or when, it would become policy. Working on the assumption that it did at some point become policy to halve waste going to landfill or for incineration, there would still be the other half of the residual waste to deal with, which was approximately 5.5 million tonnes. The applicant had demonstrated a need in the local area for such a facility. The officer also highlighted that at the current time, it was not policy and therefore should have very limited weight.

Further clarification was sought on this issue. The officer explained that nationally there was approximately 11 million tonnes of residual waste not being recycled that would either go to landfill or be burnt. There was a national shortage of facilities to deal with residual waste. There was a capacity gap and waste needed to be managed nationally, regionally and locally. The applicant had demonstrated via an independent consulting firm that there was a local need and a capacity shortage within the market area. Even if the amount of waste going to landfills and incinerators was halved there would still be a capacity gap. If this residual waste was not dealt with in the local market area, some would go to other UK plants, some to landfill and some would be exported abroad. Whilst the nature of waste was likely to change over the next few decades, there would still be residual waste. It was also highlighted the consultation on halving waste going to landfill and incinerators was a target and therefore could not be given much weight as a material consideration.

Members requested specific figures on how much waste from the local market area was being sent for incineration elsewhere. The Chairman asked the applicant to answer the question to establish facts. This would not form part of their 3-minute statement in support. The applicant highlighted that there were figures in the report detailing the need and there was a sufficient need in the local market area for such a facility. They did not have specific figures or details to hand of where the waste was going, but at present waste was being sent to Europe. The planning officer then highlighted details within the original report, stating that there was a sub-regional need of 470,000 tonnes of residual waste per annum. Even if this was halved (in accordance with the possible new government policy) this would leave a sub-regional need of 235,000 tonnes per annum of residual waste which needed to be dealt with, and the proposed facility would address that need.

A further question was asked regarding Wiltshire waste, as currently a large portion of this was sent to Slough, and whether Wiltshire Council were tied into a contract there. The officer stated that he could not comment on the contract, but that the proposed plant was not tied in to local authorities, it would deal with commercial and industrial waste.

In response to further questions on the above matters the officer confirmed that there was no local authority contract, so in theory the application could be considered as commercial or speculative, but that as a business the applicants would have considered the need in the area so that the business was viable.

A Member highlighted Arla Foods belief that its future was threatened due to the risk of tainting and the officers view that this was a negligible risk. The Member sought legal advice as to whether if planning permission was granted, Arla Foods could challenge the decision of the Council or the Environment Agency for granting the permit. Legal officers stated that it was difficult to provide such advice, as it would depend on the facts in their entirety which were currently unknown. It was also highlighted that any challenge, whether to the Council or the Environment Agency would have to be based on a legal error and not just a matter of judgement.

A question was asked regarding a late representation received from Leigh Day Solicitors on behalf of Westbury Town Council. As the officer had not seen this representation the Chairman agreed, as an exception, and with the officer's permission, to take a brief adjournment so that the officer could consider the representation. A point of order was raised that this put undue pressure on the officer, but as the officer had agreed the adjournment went ahead.

The meeting adjourned at 11.45am and reconvened at 11.55am.

The officer highlighted the very late nature of the representation with it being received at 9.48pm the night prior to the meeting. The representation did not bring any new material considerations, mainly highlighting issues regarding NPPF 118 and pollution control. The officer stated that pollution control was a material consideration but of limited weight as it was a matter for other

authorities such as the Environment Agency. All matters raised were covered in the reports and were considered by the Committee at the meeting in June 2021.

In response to a question asked regarding traffic generation and whether this was a material consideration, the officer stated that the proposal was exactly the same as that considered by the Committee in June 2021, and therefore matters such as traffic generation had been considered by the Committee at that time.

The Chairman highlighted that whilst the Committee recognised that they were looking at material considerations which had changed since June 2021, the whole case had come back for consideration and there were material issues which had changed considerably since then, one of which he felt was the traffic generated, as amongst other things many new houses had been built in the area, and he was not sure the matter was closed. The officer responded that the transport assessment was applied to a predicted baseline assessment for 2025, so took account of new housing being built and the assessment stated that new traffic being generated was insignificant. So, this had been addressed at the June meeting. Regarding other considerations, it was for the Committee to decide if a number of material considerations with limited weight added up to a substantial issue.

In response to a question as to whether the possible effect on Arla Foods and the wider impact on the economy of Westbury and related jobs was a material consideration the officer explained that this went back to NPPF 118, the issues were a material consideration, but with limited weight. Other authorities such as the Environment Agency were responsible for emissions and pollution.

A question was asked regarding whether the reasons for refusal detailed by the WAPC when considering 20/10440/FUL, an application for a gas peaking generation plant located very close to the current application site, could be used to refuse this application. The officer stated that every application should be considered on its own merits. The reasons for refusal in that case were related to the impact on the Air Quality Management Area (AQMA). When the Strategic Planning Committee had previously considered this application and approved it, the AQMA was considered, the Public Protection team had analysed the situation and found that there would be no detrimental impact on the AQMA.

Members of the public then had the opportunity to present their views as detailed above.

The Committee adjourned for a break at 1.15pm and reconvened at 1.35pm.

In response to points raised in the public statements and for information, the Chairman then highlighted some points to the meeting which were taken from an Environment Agency briefing note (available online at the [June 2021 Strategic Planning Meeting](#) as 20/06775/WCM – Annex 5: EA Briefing Note). These were:

“There is currently no validated, commercially available equipment for continuously monitoring PM10 and PM2.5 emissions from EfW plants. Instead, plants are required to continuously measure total particulate matter (TPM). TPM includes particulates of all sizes including PM10, PM2.5, PM1 etc as well as ultrafine particles (i.e. particles with a diameter of less than 0.1 micrometres).”

“EfW plants are an extremely small source of PM in the UK, giving rise to just 0.03% / 0.05% of total UK PM10 / PM2.5 emissions in 2016 according to government estimates. This compares to 5.35% / 4.96% from traffic and 22.4% / 34.3% from wood fires and stoves in people’s houses.”

The Chairman then invited Unitary Councillors to speak to the application.

Cllr Brian Mathew (Box and Colerne) spoke in objection to the application, points raised included the lack of time to review new material considerations such as the government consultation on halving waste going to landfill and incinerators; the vast amount of objections (over 2,000); the recent decision by WAPC to refuse a gas peaking generation plant nearby; the obligation to protect public health; the obligation to protect and enhance the landscape; the issue of possible contamination at Arla Foods which was a critically important employer in Westbury and Wiltshire and the climate emergency.

Cllr Gordon King (Westbury East) spoke in objection to the application, points raised included the viability and deliverability of the system; environmental impacts; that the last decision on this application made by the Committee was not safe and should be taken back and that waste should be recycled not burnt. Cllr King detailed at length issues regarding pollution and particulate matter and urged the Committee to either refuse the application on the grounds mentioned, or to defer it until the Government Consultation on the Environment Act target was complete.

Cllr Suzanne Wickham (Ethandune) spoke in objection to the application. Points raised included objections on the grounds of CP51 (landscape), air quality and highways issues. The route to the site was in her ward. The highways issues raised were an increase in HGV’s affecting road safety and air quality; the fact that the road approaching the site was a busy single lane road; the traffic light system on the road was already an issue; that the layout of the junction was not safe and long delays on the Westbury bypass. The Cllr stated she would rather the Committee refuse the application, however if minded to approve, s106 funds to address the issues she had highlighted should be considered.

Cllr Matthew Dean, the unitary division Member (Westbury West) spoke in objection to the application. Points raised included that the SoS had not endorsed the application; local reaction and objections were overwhelming; the existing Hills Plant in Westbury already had issues, such as an offensive odour, strikes and a possible breach of permit that was being investigated by the Environment Agency; possible contamination issues for Arla Foods; employment issues for Westbury and the whole Arla supply chain if the dairy was affected; the Government consultation and direction of travel to reduce waste going to incinerators which were likely to become law; the fact that

Westbury already had the lowest air quality of anywhere in Wiltshire, with associated poor health and breathing conditions which would be further exacerbated by the proposal if built; increased traffic; the proposal was not low carbon or green and changes to the way people recycle would occur over the life of the plant meaning a reduction in waste and therefore no need for the plant. Cllr Dean felt that all of these issues were material considerations for the Committee and urged them to refuse the application.

The Chairman then stated that he felt the Committee had insufficient information to make a decision. There was information available on this occasion that he had not seen previously and there were new material considerations. It was particularly clear that the Government consultation underway was a game changer in the way that waste was handled, so it was necessary to know the outcome of that prior to making a decision. The Chairman felt that the application had come forward very quickly after the SoS decision, and whilst he understood the reasons for that, it had not given the Committee time to digest all the information. At the current time he did not want to refuse the application but neither did he want to approve it.

The Chairman proposed a motion to defer the application until such time that the results of the Government consultation were known. This was seconded by Cllr Ernie Clark.

A debate followed where many Members agreed with what the Chairman had said and supported his motion. Most felt that the Government Consultation on the Environment Act 'target' was a very important new material consideration.

Some Members felt there had been too much information, rather than not enough, but it had simply been overwhelming and impossible to digest and therefore to rush a decision was foolish.

Several Members stated that they were not satisfied with the answers they were given when drilling into the need for the plant and some were not convinced of the need but rather felt that need could be met by existing capacity. A Member also wanted to know more details regarding Arla Foods representations.

A couple of Members were leaning towards refusal, with one citing points such as CP55 and CP2 as reasons for refusal. However, the main point was that this was different to before and there were new material considerations. There had been a population increase in Westbury, increased traffic movement and therefore concerns regarding air quality and particulates.

A point was raised was that if the Committee were to defer the application, the life of the application should be viable.

On taking officer and legal advice regarding his proposal, taking into account possible timeframes to receive a response from a government consultation which closed in May, reasonableness and possible issues with non-determination, the Chairman made an amendment to his proposal. The new proposal was that the application should be deferred, with it to be considered by

the Committee again by end of July, this was supported by the seconder, Cllr Ernie Clark. This was put to the vote and it was,

Resolved:

To defer the application, with it to be considered by the Committee again by end of July.

89 **Urgent Items**

There were no urgent items.

(Duration of meeting: 10.35 am - 2.55 pm)

The Officer who has produced these minutes is Tara Shannon of Democratic Services, direct line 01225 718352, e-mail tara.shannon@wiltshire.gov.uk

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