

Strategic Planning Committee

MINUTES OF THE STRATEGIC PLANNING COMMITTEE MEETING HELD ON 22 JUNE 2021 AT COUNCIL CHAMBER - COUNTY HALL, BYTHESEA ROAD, TROWBRIDGE, BA14 8JN.

Present:

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

Also Present:

Cllr Matthew Dean and Cllr Gordon King

1 **Apologies**

There were no apologies or substitutions.

2 **Minutes of the Previous Meeting**

The minutes of the meeting held on 21 April 2021 were presented for consideration, and it was,

Resolved:

To approve and sign the minutes as a true and correct record.

3 **Declarations of Interest**

The Chairman noted the constitutional guidance to Members on determination of items considered by the Committee.

In discussion, Councillor Robert Yuill declared that he had previously been Portfolio Holder for Waste, which had involved some limited contact and communication with the applicants in a professional capacity. He stated this was not a close connection, including to other parts of the business not associated with the proposed application, and that he would have an open mind and consider all evidence before making any determination.

4 **Chairman's Announcements**

It was announced there would be a site visit ahead of the next meeting in respect of Freeth Farm Quarry, Compton Bassett, references 16/05464 and 16/05708.

5 **Public Participation**

The procedure for public speaking was detailed. It was noted that the Chairman had exercised discretion available under the proscribed procedure to double the number of slots for objecting and supporting members of the public.

The Committee's exercising of the role of local Planning Authority and need to follow local and national planning policy was noted.

6 **20/06775/WCM: Northacre Energy from Waste Facility, Stephenson Road, Northacre Industrial Estate, Westbury, BA13 4WD**

Public Participation

Alison Rance, Arla Foods, spoke in objection to the application.

Marie Hillcoat, Westbury Gasification Action Group (WGAG), spoke in objection to the application.

Dr Andrew Murrison MP, South West Wiltshire, spoke in objection to the application.

Bill Jarvis, Wiltshire Climate Alliance, spoke in objection to the application.

Barney Jones, local resident, spoke in objection to the application.

Ian Cunningham, local resident, spoke in objection to the application.

Alex Young, Director of Northacre Renewable Energy, spoke in support of the application.

Michael Hill, Chief Executive of The Hills Group, spoke in support of the application.

Stephen Othen, Technical Director of Fichtner, spoke in support of the application.

James Brain, Managing Director of Westbury Park Engineering, spoke in support of the application.

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

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

Cllr John Masson, Heywood Parish Council, spoke in objection to the application.

Andrew Guest, Major Projects and Performance Manager, presented a report which recommended that subject to conditions permission be granted for the proposal 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.

In the event of the Committee supporting the recommendation the application would be referred to the Secretary of State for his consideration as to whether it should be called-in for his determination before any planning permission were issued.

The details of the site between the existing Mechanical Biological Treatment (MBT) plant also owned by Hills, and the dairy operated by Arla Foods, was provided. The history of applications on the site was explained, with an Advanced Thermal Treatment (ATT) plant approved in 2015, a revised ATT application refused in 2018 due to visual impact, and a further revised ATT application approved in 2019. The approved application did constitute a legal fallback position,

although this was considered to be of limited weight in considerations due to it being unlikely to be implemented.

The earlier proposals had utilised gasification technology as opposed to combustion grate technology with the new application for an incinerator. It was stated that though different the technology was still up to date, the footprint compared to past applications was similar although the stack was higher, and arrangement of site and infrastructure was different. The throughput capacity would increase by a further 83,000 tpa, producing electricity o power a further 8000 domestic homes, up to 54,000.

Assessments did suggest an increase in Heavy Goods Vehicle movements, but no objection had been raised from Highways as the impact on the A350 was predicted to be <1% against 2025 baseline flows, which would be indiscernible. Within the Westbury Air Quality Management Area the prediction was a 0.2% increase to daily all traffic baseline conditions in 2025, or 1.9% in HGV conditions, which is insignificant.

In the opinion of officers, the proposal complied with planning policies. Energy from Waste facilities were able to contribute to climate change targets as confirmed by government planning statements, and in accordance with legal advice existing policy on planning and climate change would take precedence of potential future policy, and energy recovery from residual waste was part of a suite of initiatives encouraged to decarbonise energy. The comparative impact of waste being diverted to landfill or exported overseas for incineration was noted. In terms of visual impact this was not considered inappropriate for the established industrial estate, the scale of development already permitted for the site, and mitigation in colouring and elevations.

Air quality policies were explained in detail. It was noted that it was for the planning authority to determine if the facility proposed was compliant with policies and could be built, but the operational aspects of the site including emissions and monitoring of air quality was a matter for the Environment Agency, who would separately consider the matter of an operating permit for the site. However, details had been provided on measures to address odours and particulates generated at the site. Neither the Environment Agency nor Public Health England had raised objections to the proposal.

It was also explained that approximately 95 further representations had been received since publication of the agenda, all in objection, and it was not considered these raised additional matters not already covered in the report.

Members then had the opportunity to ask technical questions of the officers present. Details were sought on the process for obtaining an operating permit for the site, and the consultations that would be undertaken by the Environment Agency. In response to queries details were provided on the government waste hierarchy setting out order of preference for waste disposal, with landfill the least preferred option due to its more significant impact.

It was stated that matters such as health or air quality which were substantially monitored or controlled through other agencies or processes would affect the weight that might be given to those issues, but that they were of some material consideration. Attention was drawn to advice in the report suggesting little weight could be given to such matters.

In relation to questions on emissions it was reiterated the Environment Agency would be responsible for issuing any permit or monitoring, but that all plans monitored particles of all sizes, including ultrafine particles. Further details were also sought on the odour abatement systems proposed. In relation to ecology it was confirmed Natural England had been consulted and raised no objection. The existence of other incineration sites or relative efficiency of energy generation to waste input was not considered by officers to be relevant to consideration of this specific application.

It was also confirmed that the consideration of need for any facility was on a sub-regional basis not county specific. Conditions restricting the type of feedstock to be incinerated was also queried, and what would constitute non-hazardous waste or byproduct.

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

Councillor Gordon King, Unitary Member for Westbury East, then spoke in objection to the application. He highlighted the opposition from residents in Westbury and the many surrounding parishes in the region, with concerns around potential pollution and poor air quality. In addition to health concerns there were concerns on the impact of achieving carbon reduction climate targets, that the proposed incinerator did not meet best available techniques, that it would consume recyclable materials, involved transportation of much waste from outside Wiltshire, and would have significant environmental impacts.

A statement was then read on behalf of Councillor Suzanne Wickham, Ethandune Division, in objection to the application. This highlighted concerns over the impact on highways and traffic in particular on the villages around Westbury, on the landscape as it was stated the proposal was contrary to Core Policy 51, and on air quality in respect of Core Policy 55.

The local Unitary Division Member for the site within Westbury West, Councillor Matthew Dean, then spoke at length in objection to the application. He stated 1 in 10 residents of Westbury had contacted the council to object to the application, an unprecedented level of interest and opposition for a planning matter. He detailed the planning history of the site, stating that at no point had it been envisaged to include incineration, or be of such a nationally significant scale. He noted a previous refusal of an application on the grounds of scale, and considered the larger proposal could similarly be refused. He raised the issue of housing which would be visible from the site, and the significant traffic problems which already existed in Westbury, and that the cumulative impact of any such proposal was too much. He considered there was no community benefit to the proposals, and noted the objections of Arla Foods to the potential impact on their dairy production

business and its many employees, which he said had not been addressed by the applicants. He also noted the railway line nearby but the lack of intended use of the line for freight traffic. For these and other reasons including the council's pledge to seek to become carbon neutral by 2030, he urged the Committee to refuse the application.

The Committee then took a break from 1305-1320.

The Committee then debated the application. The very high number of objectors to the application including from many local and regional parishes was noted. Comments in favour of the application included considering whether it was compliant with policies in respect of location, visual impact, operating hours, traffic or economic benefit. The area being a principal employment site on a major route, the lack of objection from highways, the existence of approval for major buildings on the site relevant to the visual impact, were considered relevant, along with the acceptability, in planning policy terms, of the proposed technology. The need to consider the application against planning policies and the lack of objections from officers or agencies in respect of traffic or public health was noted. It was emphasised that there would be several steps including obtaining a permit from the Environment Agency before the facility could operate, even if permission were granted, and that while waste was produced in current and expected quantities policies needed to address this.

Comments in objection included that the proposals were contrary to a number of policies relating to managing the impact of waste and sustainable transport of waste, that suggested minimising of pollutants did not mean there would not be any, and concerns over the incineration technology as compared to previous proposals, which had themselves not been without objection. Concerns were raised on policy grounds relating to air quality and landscape impact and the impact of traffic, which was felt to be considerable in its cumulative effect. The potential impact on Arla Foods was raised, with officers pointing to details in the report in response to suggestion of whether a deferral would provide further information. The council's commitments on climate change and carbon reduction were raised, along with increased housing planned around the town

On the motion of Councillor Tony Trotman, seconded by Councillor Robert Yuill, at the conclusion of debate it was,

Resolved:

Having taken into account the environmental information, the decision is to grant planning permission subject to the following conditions.

However, the planning permission will not be issued until the application has been referred to the Secretary of State for his consideration as to whether it should be called-in for his determination.

- 1 The development hereby permitted shall be begun before the expiration of three years from the date of this permission.**

REASON: To comply with the provisions of Section 91 of the Town and Country Planning Act 1990 as amended by the Planning and Compulsory Purchase Act 2004.

- 2** The development hereby permitted shall be carried out in accordance with the following approved plans:
- 1409_PL110 (Proposed Site Plan) dated 30/07/2020**
 - 1409_PL111 (Site Layout) dated 3/07/2020**
 - 1409_PL120 (Proposed Main Facility Ground Floor Plan) dated 30/07/2020**
 - 1409_PL130 (Proposed Main Facility Roof Plan) dated 30/07/2020**
 - 1409_PL140 (Office & Admin Plans 00,01,02) dated 30/07/2020**
 - 1409_PL141 (Office & Admin Plans 03,04,05) dated 30/07/2020**
 - 1409_PL150 (Fencing Plan) dated 30/07/2020**
 - 1409_PL201 (Proposed Site Sections) dated 30/07/2020**
 - 1409_PL310 (Proposed Main Facility North East Elevation) dated 30/07/2020**
 - 1409_PL311 (Proposed Main Facility South East Elevation) dated 30/07/2020**
 - 1409_PL312 (Proposed Main Facility South West Elevation) dated 30/07/2020**
 - 1409_PL313 (Proposed Main Facility North West Elevation) dated 30/07/2020**
 - 1409_PL314 (Proposed Main Facility North West Elevation (ACCs removed)) dated 30/07/2020**
 - 1409_PL400 (ACC Elevations) dated 30/07/2020**
 - 1409_PL401 (Weighbridge Gatehouse Plans & Elevations) dated 30/07/2020**
 - 1409_PL402 (Fire Water Tan Plan & Elevations) dated 30/07/2020**
 - 1409_PL404 (Emergency Diesel Generator Elevations) dated 30/07/2020**
 - 1409_PL405 (Fuel Oil Tank & Ammonia Hydroxide Tank Elevations) dated 30/07/2020**
 - 1409_PL406 (Transformer & Substation Plans) dated 30/07/2020**
 - 1409_PL407 (Transformer & Substation Elevations) dated 30/07/2020**
 - 1409_PL408 (Dirty Water Pit Plan & Elevations) dated 30/07/2020**
 - 1409_PL409 (Bicycle Shelter Plan & Elevations) dated 30/07/2020**
 - 1409_PL410 (Fencing Elevations) dated 30/07/2020**
 - 1409_PL411 (Conveyor Plan & Elevations) dated 30/07/2020**
 - 1409_PL412 (Ramp Elevations) dated 30/07/2020**
 - 1409_PL413 (Odour Abatement System Elevations) dated 30/07/2020**
 - 1409_PL414 (Gate Elevations) dated 30/07/2020**
 - 2778-01-01 (Landscape Plan) dated 08/2020**
 - IMA-19-208B (Proposed Site Access Arrangement & Visibility) dated 05/2020**

REASON: For the avoidance of doubt and in the interests of proper planning.

- 3** Notwithstanding the details set out in the application particulars, no above ground level construction works for the Main Facility shall

commence on site until details of the colours for the facility's external cladding have been submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with the approved details.

REASON: These details are required to be agreed with the Local Planning Authority before development commences in order that the development is undertaken in an acceptable manner, in the interests of visual amenity and the character and appearance of the area.

- 4 With the exception of solid recovered fuel delivered to the site via conveyor, the un-loading, storage and re-loading of waste materials (both in-coming and out-going) shall take place inside the buildings hereby approved only, and shall not take place at, on or over any other parts of the application site.

REASON: To comply with the terms of the planning application and its justification, and to ensure the amenities of the wider environment are safeguarded.

- 5 The total tonnage of waste material managed by the site will not exceed 243,000 tonnes in any twelve-month period. No more than 191,000 tonnes shall be delivered by road. The remainder shall be residual waste delivered directly from the adjacent Mechanical Biological Treatment Plant.

REASON: To ensure that the development substantially accords with the terms of the Transport Assessment and Environmental Statement which accompany the planning application, and their conclusions that this scale of operation would not cause harm to matters of acknowledged importance.

- 6 A record of the quantity (in tonnes) of waste materials delivered to the site and all the residues from the facility despatched from the site shall be maintained by the operator of the site and made available to the local planning authority upon request. All records shall be kept for at least 36 months.

REASON: In order that the local planning authority can monitor the approved development.

- 7 Only feedstock which is non-hazardous residual waste that arises following recycling shall be used as fuel for the Energy from Waste facility hereby approved.

REASON: Waste material outside of the aforementioned would raise alternate additional environmental concerns, which would need to be considered afresh.

- 8 Heavy Goods Vehicle (HGV) deliveries to and removals from the site of waste materials shall be limited to the following times:

Monday to Friday: 07:00 to 22:00

Saturdays: 07:00 to 17:00

**There shall be no deliveries or removals on Sundays or Bank Holidays.
REASON: To safeguard the amenities of the wider area.**

- 9 If within a period of 9 months of the receipt of first waste for testing and commissioning of the combustion plant the facility has not commenced export of electricity to the electricity distribution grid, then the facility shall immediately cease operation. The facility shall then only re-commence operation when such re-commencement coincides exactly with the commencement of export of electricity to the electricity distribution grid.**

REASON: To comply with the terms of the application and its related justification – which is for an energy from waste facility – in order to ensure it is, and it remains, a ‘Recovery’ process in the Waste Hierarchy.

- 10 All soft landscaping comprised in the approved details of landscaping on 2778-01-01 (Landscape Plan) dated 08/2020 shall be carried out in the first planting and seeding season following the first operation of the facility or the completion of the development whichever is the sooner; All shrubs, trees and hedge planting shall be maintained free from weeds and shall be protected from damage by vermin and stock. Any trees or plants which, within a period of five years, die, are removed, or become seriously damaged or diseased shall be replaced in the next planting season with others of a similar size and species, unless otherwise agreed in writing by the local planning authority. All hard landscaping shall also be carried out in accordance with a programme to be agreed in writing with the Local Planning Authority prior to receipt of first waste for testing and commissioning.**

REASON: To ensure a satisfactory landscaped setting for the development and the protection of existing important landscape features.

- 11 Prior to first delivery of any waste to the site, including for testing, the access, turning area and parking spaces shall have been completed in accordance with the details shown on the approved plans. The areas shall be maintained for those purposes at all times thereafter.**

REASON: In the interests of highway safety.

- 12 No permanent external lighting shall be installed on site until plans showing the type of light appliance, the height and position of fitting, illumination levels and light spillage in accordance with the appropriate Environmental Zone standards set out by the Institute of Lighting Engineers in their publication "Guidance Notes for the Reduction of Obtrusive Light" (ILE, 2005)", have been submitted to and approved in writing by the Local Planning Authority. The approved lighting shall be installed and shall be maintained in accordance with the approved details and no additional external lighting shall be installed.**

REASON: In the interests of the amenities of the area and to minimise

unnecessary light spillage above and outside the development site.

- 13 There shall be no surface water discharge connection to the foul water network.

REASON: To safeguard the integrity of the foul water network and prevent flooding.

- 14 Prior to commencement of works for the construction of buildings and internal roads, a vehicle tracking study shall be undertaken to ensure that all circulatory routes and the 'manoeuvring apron', as illustrated on drawing 1409_P111, are sufficient to accommodate the necessary HGV movements. Included within this study should be a vertical assessment of HGV access to the adjacent Mechanical Biological Treatment plant. Details of any alterations found to be necessary shall be submitted to the local planning authority for approval in writing, and thereafter the circulatory routes and manoeuvring apron shall be constructed as approved.

REASON: To ensure that the proposals operate as assessed and to ensure that internal operation does not affect external highway networks.

- 15 No development hereby approved shall take place until a site specific Construction Environmental Management Plan has been submitted to and been approved in writing by the local planning authority. The plan must demonstrate the adoption and use of the best practicable means to reduce the effects of noise, vibration, dust and site lighting during construction. The plan should include, but not be limited to:

- Procedures for maintaining good public relations including complaint management, public consultation and liaison
- Arrangements for liaison with the Council's Public Protection Team
- In accordance with BS 5228:2009+A1:2014 'Code of Practice for Noise and Vibration Control on Construction and Open Sites' construction noise shall not exceed the levels provided below during the agreed daytime hours (07:30 – 18:00 weekdays and 08:00 – 13:00 Saturdays) at the closest points to the curtilages of the residential sensitive receptors listed below, accessible by the applicant or his consultant as well as the WPA at a height of 1.2m to 1.5m above local ground height. The measurement should be in free-field conditions, e.g. at least 3.5m away from the nearest reflecting surface other than the ground.

1. Orchard House 65dB LAeq,T
2. Crosslands/Brookfield 65dB LAeq,T
3. Storridge Road 70dB LAeq,T
4. Oldfield House 70dB LAeq,T

5. Brook Lane 70dB LAeq,T

6. Brook Cottage 65dB LAeq,T

["T" refers to the relative operating hours]

- **In accordance with BS5228-1:2009+A1:2014 outside the hours of 07:30 – 18:00 weekdays and 08:00 – 13:00 Saturdays, construction activities shall only be carried out, following agreement with the Local Planning Authority, which are compliant with the following noise limits:**
 - **During weekday evenings between the hours 18:00 – 23:00; Saturdays between 13:00 – 23:00 and Sundays between 08:00 – 23:00 the maximum noise limit from construction activities when measured at any nearby residential receptor shall not exceed 55 dB LAeq,T.**
 - **During the night-time/daytime on weekdays between the hours 23:00 – 07:30 and Saturdays/Sundays between 23:00 - 08:00 the maximum noise limit from construction activities when measured at any nearby residential receptor shall not exceed 45 dB LAeq,T.**

when measured at the closest points to the curtilages of the residential sensitive receptors listed above, accessible by the applicant or his consultant as well as the LPA at a height of 1.2m to 1.5m above local ground height. The measurement should be in free-field conditions, e.g. at least 3.5m away from the nearest reflecting surface other than the ground."

- **Construction deliveries to and removal of plant, equipment, machinery and waste from the site must only take place within the permitted hours detailed above unless otherwise agreed with the Local Planning authority.**
- **Procedures for emergency deviation of the agreed working hours.**
- **Mitigation measures as defined in BS 5528: Parts 1 and 2 : 2009 Noise and Vibration Control on Construction and Open Sites shall be used to minimise noise disturbance from construction works. These shall include –**
 - **Careful choice of piling rigs to minimise noise - where piling is required this must be continuous flight auger piling wherever practicable to minimise impacts**
 - **The location and use of generators and temporary site accommodation and ensuring plant is locating away from nearest sensitive receptors or in locations which provide good screening in the direction of sensitive receptors**
 - **Use of broadband noise reverse alarms (where practicable) on all mobile plant/vehicles;**
 - **The cutting or other processing of building materials on site;**

- **Control measures for dust and other air-borne pollutants.**
- **Measures for controlling the use of site lighting whether required for safe working or for security purposes.**
- **A programme for the construction of the consented acoustic screen at the north eastern boundary, to be at an early stage of the construction programme to provide screening benefit to the residential noise sensitive receptor.**
- **A scheme for the management of construction traffic and the transportation and storage of construction materials and wastes, to include the following details -**
 - **Areas for the parking of vehicles of site operatives and visitors;**
 - **Areas for the loading and unloading of plant and materials;**
 - **Areas for the storage of plant and materials used in constructing the development;**
 - **wheel washing facilities;**
 - **measures to control the emission of dust and dirt from construction traffic during construction;**
 - **Pre-condition Photo survey (of affected highways).**
- **A scheme for the recycling of waste materials (if any).**
- **Construction traffic routes, c/o a 'Construction HGV Routing Plan'.**

REASON: In the interests of the amenities of surrounding occupiers during the construction of the development.

INFORMATIVE: Pre-condition Survey – a photographic pre-condition highway survey to be carried out along the full length of Stephenson Road and copies of pre and post condition survey to be supplied to the local planning authority.

The applicant is advised that the Highway Authority will pursue rectification of any defects identified by the highway condition survey which can be attributed to the site construction traffic under the provision of S59 of the Highways Act.

- 16** Prior to first delivery of any waste to the site, including for testing, a Transport Plan for the routing of HGV's to and from the site shall be submitted to the local planning authority and approved in writing. The Transport Plan shall include details of implementation and monitoring, and shall be implemented in accordance with the written approval thereafter. The results of the implementation and monitoring shall be

made available to the local planning authority on request, together with any changes to the Plan arising from these results

REASON: To accord with the terms and evidence submission of the planning application and to ensure that the development contributes towards a reduction in emissions within the Air Quality Management Area as required by the emerging Air Quality SPD and Core Policy 55 of the Wiltshire Core Strategy and limits impact upon sensitive areas of the highway network in accordance with Core Policies 60, 61, 62 and 65.

INFORMATIVE: Failure to comply with the Transport Plan may result in penalty as arising from the application of appropriate legislation.

- 17 No part of the development hereby approved shall be first brought into use until a Green Travel Plan has been submitted to and approved in writing by the Local Planning Authority. The Travel Plan shall include details of implementation and monitoring and shall be implemented in accordance with these agreed details. The results of the implementation and monitoring shall be made available to the Local Planning Authority on request, together with any changes to the plan arising from those results.

The Travel Plan shall include provision for car sharing and for ultra low energy vehicle infrastructure (electric vehicle charging points).

REASON: In the interests of air quality and reducing vehicular traffic to the development.

- 18 The rating level (LArTr) of the noise emitted from the proposed development shall not exceed the established representative background sound level (LA90T) during daytime [07:00 to 23:00] and night-time [23:00 to 07:00] periods, with the exception of R6 Brook Cottage (as defined in Chapter 7 [Noise and Vibration] of the Environmental Statement) where the rating level of noise shall not exceed the representative background noise level during the daytime [07:00 to 23:00] and only exceed the representative background sound level by a maximum of 3dB during the night time [23:00 to 07:00]. The rating level shall be determined by measurement and/or calculation at the boundary of noise sensitive residential receptors [receptors R1 to R6 (as defined in Chapter 7 [Noise and Vibration] of the Environmental Statement). Measurements shall be made in accordance with BS4142:2019 once the plant is operational. Where the site specific noise level shall be expressed as an LAeq 1 hour during the daytime [07:00-23:00] and shall be expressed as a LAeq 15 minutes during the night [23:00-07:00].

For the purposes of this condition 'operational' is defined as the point in time when thermal treatment of waste commences other than if this thermal treatment is for the purposes of initial testing of any plant or machinery

REASON: To protect local amenity from the adverse effects of noise.

- 19 Prior to the development hereby approved becoming first operational, a noise-mitigation scheme shall be submitted to the local planning authority for approval in writing detailing specific measures that will be implemented to ensure that any noise associated with the development will deliver the level of attenuation as modelled and assumed within section 7.5.1 (Incorporated Mitigation) and section 7.6.3 (Additional mitigation) as set out in Chapter 7 [Noise and Vibration] of the Environmental Statement. The scheme shall be assessed and designed by a competent person with at least 5 years' experience in the field of industrial and environmental acoustics and who is a practicing member of the Institute of Acoustics. The scheme shall be implemented fully and retained and maintained for the lifetime of the development. For the purposes of this condition 'operational' is defined as the point in time when thermal treatment of waste commences other than if this thermal treatment is for the purposes of initial testing of any plant or machinery.

REASON: To protect local amenity from the adverse effects of noise.

- 20 Prior to receipt of first waste for testing and commissioning, a screen bund shall be constructed and completed in accordance with the approved drawing, NOR-LP02 Rev A as approved in 18/09550/FUL and thereafter permanently retained for the lifetime of the development.

REASON: To protect local amenity from the adverse effects of noise.

- 21 Prior to receipt of first waste for testing and commissioning a pest management plan (for the management of flies, vermin, etc., should they arise) shall be submitted to the local planning authority for approval in writing. Thereafter, the approved plan shall be implemented as approved, if/as necessary.

REASON: To safeguard amenity.

- 22 The development hereby permitted shall be carried out strictly in accordance with the Mitigation Measures for biodiversity set out in the 'Biodiversity' chapter (chapter 6) of the Environmental Statement dated August 2020 accompanying the planning application.

REASON: To safeguard wildlife.

INFORMATIVE: Environmental Permitting - this activity will require a bespoke installation environmental permit issued by the Environment Agency (EA). As part of the environmental permitting process, the EA assess all applications to ensure that they meet the requirements of the Environmental Permitting Regulations. During assessment, the design of the plant is reviewed, as well as how it will be operated, the emissions it will generate (to air, water and land) and whether emissions will have an adverse impact on people living nearby and the natural environment. The EA do this by consulting partner organisations, such as Natural England (experts on impacts on wildlife) and Public Health England

(experts on human health impacts). Emissions limits and techniques used to protect the environment and human health are set by the EU Industrial Emissions Directive (IED). In order to achieve the limits set by the IED the operator will need to show that they will use Best Available Techniques (BAT). The EA cannot set environmental permit conditions that go beyond what is specified by the IED and BAT.

A recorded vote having been requested by the required number of Members, the vote was taken as follows:

For (7)

*Cllr Howard Greenman
Cllr Christopher Newbury
Cllr Pip Ridout
Cllr James Sheppard
Cllr Elizabeth Threlfall
Cllr Tony Trotman
Cllr Robert Yuill*

Against (4)

*Cllr Ernie Clark
Cllr Adrian Foster
Cllr Sarah Gibson
Cllr Carole King*

Abstain (0)

7 **PL/2021/04232: Fairford Road, Marston Meysey, SN6 6LL**

Jason Day, Minerals and Waste Planning Officer, presented a report which recommended that determination of the planning application be delegated to Gloucestershire County Council.

The application was for a new quarry, and all but a few metres of the large site were located within Gloucestershire, with a very small amount by the access crossing the county boundary into Wiltshire. Accordingly, it was considered appropriate that determination of the application be taken by Gloucestershire County Council.

Members were given the opportunity to ask technical questions. There were no public speakers.

On the motion of Councillor Howard Greenman, seconded by Councillor Adrian Foster, it was then,

Resolved:

That the following functions be discharged to Gloucestershire County Council in accordance with Section 101(1) of the Local Government Act 1972:

- a) **determination of planning application ref: PL/2021/04232; and**
- b) **determination of any subsequent applications for the discharge of conditions or non-material amendments pursuant to that application;**

subject to Wiltshire Council in its roles as mineral planning authority and highway authority, together with the local Divisional Member and parish

council, being consulted for their views regarding the proposed development.

8 Planning Updates

Public Participation

A statement from Helen Stuckey in opposition to the proposal was read.
A statement from Steve Perry, CAUSE, in opposition to the proposal was read.
A statement from Chris Caswill in opposition to the proposal was read.

A report was received from Sarah Marshall, Senior Solicitor, updating the Committee in respect of application 15/12351/OUT: Land at Rawlings Farm, Cocklebury Lane, Chippenham. Details of five statements received opposing the proposal were provided to the Committee. Questions were received and verbal responses provided, as detailed to these minutes at Appendix 1;

At its meeting on 16 September 2020 the Committee resolved to defer and delegate to the Head of Development Management to grant outline planning permission for this development subject to the prior completion of a Section 106 agreement within six months of the date of the committee resolution. The resolution went on to state that in the event that the applicant declines to enter the agreement and/or it becomes clear that they will not do so, then to refuse planning permission on the grounds that the proposal fails to provide and secure the necessary and required services and infrastructure.

It had not been possible for the S106 to be signed within the six months detailed, due to the strategic and complex nature of the site, including some delays with the Applicant's engagement with landowners. However, the lack of agreement had not been due to the applicant declining to do so or it becoming clear they would not do so, as specified in the original resolution. It was also confirmed that the conditions agreed by the Committee remained, and the affordable housing element remained at 40%. There had been no changes to material considerations of the site or application itself, which had been fully considered by the Committee when making its resolution, and the update was not a reopening of the merits of that decision.

It was stated that the draft S106 agreement was almost ready for engrossment, the finalisation of the agreement, and the applicant had indicated to officers that they should be in a position to sign within a few weeks.

Accordingly, it was recommended that the period allowed for completion of the agreement be extended until 31 October 2021.

Statements as detailed above were read opposing the recommendation to extend the delegation to enable signing of the agreement.

A statement from the local unitary member, Councillor Dr Nick Murry, was also read opposing the recommendation and a response is attached at Appendix 1.

The Committee debated the report. It was considered that in the circumstances an extension was appropriate, though there were comments on how the initial resolution could have been more effectively drafted to avoid a situation where it had been unclear whether the item should be refused or extended, and how soon the extension could have been sought. It was debated whether an extension to October 2021 was necessary or appropriate, and it was agreed to amend the recommendation to make clear if the S106 had still not been signed by the end of the period, the application should come back to the Committee for determination.

On the motion of Councillor Howard Greenman, seconded by Councillor Adrian Foster, it was therefore,

Resolved:

To extend the period allowed for the completion of the S106 agreement for application 15/12351/OUT until 31 October 2021. If the agreement was not signed by that date, the application would be brought to Committee for determination.

Councillor Ernie Clark left the meeting at 1440 ahead of the vote on the resolution.

9 **Urgent Items**

There were no urgent items.

(Duration of meeting: 10.30 am - 2.50 pm)

The Officer who has produced these minutes is Kieran Elliott of Democratic Services, direct line 01225 718504, e-mail kieran.elliott@wiltshire.gov.uk

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Minutes to Strategic Planning Committee 22 June 2021

APPENDIX 1

Agenda Item 8 – Planning Updates

Application 15/12351/OUT: Land at Rawlings Farm, Cocklebury Lane, Chippenham

Response to the relevant questions of Mr Chris Caswell, Mr Steve Perry and Bremhill Parish Council/Ms Kim Stuckey

- The Council's publication timescales are as set out in the Constitution. The 106 agreement is in accordance with the decision taken by Committee on 16 September 2020 including the 40% Affordable Housing. The completed 106 agreement will be made public in the usual way on the Council's website on the relevant planning pages.
- The 106 agreement is ready for completion so far as the Council is concerned and any landownership issues encountered by the Applicant are for the Applicant to resolve. This item is an update and to seek to extend time for completion of the 106 agreement. It is not an opportunity to revisit the decision already taken by Committee on 16 September 2020. The site is a strategic and complex site and some 106 agreements require longer to complete than the usual 6 months.

Response to the Statement of Councillor Dr Nick Murry

- The Committee's resolution of 16 September 2020 states that 'Or in the event that the applicant declines to enter the agreement and/or it becomes clear that they will not do so then to refuse permission for the following reason: The application proposal fails to provide and secure the necessary and required Services and infrastructure supporting the proposed residential development including Affordable Housing; Waste; Air Quality Management; Highways; Education and is therefore contrary to Policies CP3 CP43 & CP55 of the Wiltshire Core Strategy Adopted January 2015 and Paras 11, 12 & 54 of the National Planning Policy Framework July 2019'. The Applicant has not declined to enter into a 106 nor has it become clear they will not do so. On 21 June their solicitor emailed the Council to confirm they have gone through the draft 106 agreement and they have indicated they are happy with the final draft (save for a few typos /un-used definitions which will need correction/alteration). The applicant's solicitors have been engaging with landowners regarding an issue concerning an indemnity and the applicant's solicitor has implied this is now resolved and expects to be in a position to sign the 106 in the next couple of weeks.
- There is nothing in law or within the Planning officers report or the SPC minutes for the 16 September 2020 meeting that would give a rational and legal basis for adopting an interpretation which imposed a time limited condition on the applicant for entering into a section 106. Such an interpretation is also inconsistent with the basis for refusal contained within the resolution itself;

namely if the applicant “*declines to enter into the agreement and/or it becomes clear that they will not do so*”. The basis for a refusal was not limited by time but by evidence of an unwillingness to meeting the identified planning conditions to make the permission sound or an unwillingness to enter into a s106 agreement at all.

- If a refusal was based solely on the time limitation for entering into a s106 agreement then the Council would be at risk of being successfully challenged in that decision. Provided the applicant is working co-operatively with an aim to meet the planning obligations identified which is clearly the case here, there is no legal basis for a refusal either by delegated decision or by remittance back to the Committee.
- The purpose of the requirement to limit the officer’s delegation for approval or refusal to six months arose because in the officers report it was confirmed that delivery of the site was *critical to meet the identified housing requirement set out in CP1, CP2 and CP10 of the WCS* (section 9.1 of the Officer’s report) and that during the members discussions in Committee, there were queries on the speed of implementation of any permission and the Committee may have wished to have some form of oversight of the 106 process to ensure matters were being dealt with in a timely manner by both Officers and the Applicant.
- Putting a time limited delegation into the resolution would mean that either permission could be granted within that time if the 106 was completed or if there was evidence that the applicant was unwilling to agree the planning requirements within that time for a refusal. However, if the six month time period came up and there was evidence the applicant was working co-operatively towards meeting the requirements then a report would simply need be taken back to the committee by officers giving an explanation for the delays and either seeking an extension to the delegation or if the s106 was signed seeking the formal grant of permission in accordance with the original resolution. As previously explained, this is an update in order to seek to extend the time for completion of the 106 agreement and is not an opportunity to revisit a valid decision already taken by Committee. This is a strategic and very complex site and some 106 agreements require longer to complete than the standard 6 months and in particular where various restrictions arising from the global pandemic have caused delays to all parties dealing with the 106 agreement.
- The original decision of a duly constituted committee is valid and unchallenged and remains extant. The 3 month delay in the signing the s106 agreement does not by itself give any legal basis for reconsideration of the 16 September 2020 decision. The case law tends to be concerned with long delays (for example 5 years) between decision in principal to grant and final grant – Hertfordshire CC and North Herts DC v SoS Communities and Local Govt 2011 (EWH 1572). For a reconsideration of the decision there would have to be a material change in circumstance which could justify any such re-consideration but that has not occurred in this case.