

REPORT FOR STRATEGIC PLANNING COMMITTEE

Date of Meeting	20 April 2022
Application Number	20/06775/WCM
Site Address	Northacre Energy from Waste Facility, Stephenson Road, Northacre Industrial Estate, Westbury, BA13 4WD
Proposal	Amended energy from waste facility to that consented under planning permission 18/09473/WCM
Applicant	Northacre Renewable Energy Ltd
Town/Parish Council	WESTBURY
Electoral Division	WESTBURY WEST – Cllr Matthew Dean
Grid Ref	385757 151868
Type of application	Full Planning
Case Officer	Andrew Guest

1. Background

On 22 June 2021 the Strategic Planning Committee resolved to grant planning permission for the above proposed development (committee report (excluding annexes) at appendix 1). This was subject to the planning permission not being issued until the application had been referred to the Secretary of State for his consideration as to whether or not it should be 'called-in' for his determination. On 31 March 2022 the Council received notification from the Planning Casework Unit that the Secretary of State does not wish to call-in the application (SoS decision letter at appendix 2).

Planning law requires the Council in dealing with a planning application to have regard to the development plan and all material considerations. If the Council becomes aware of new material considerations then the relevant law requires 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 c. 9 months since the planning application was first considered by the Strategic Planning Committee there has been some changes to relevant policy and legislation, and some further representations received from third parties. These are considered to be new material considerations for the purposes of the application's consideration. The purpose of this report is to, therefore, set out and appraise the extent to which these changes may affect the original assessment of the planning application covered in the original committee report of June 2021, and advise the Strategic Planning Committee accordingly.

2. New Material Considerations

The policy/legislation and representations which are to be considered are set out below:

- a. Updated version of the National Planning Policy Framework (NPPF) published 20 July 2021.
- b. Net Zero Strategy: Build Back Greener published by the Ministry of Business, Energy and Industrial Strategy on 19 October 2021.
- c. The Environment Act which was enacted into law on 9 November 2021.
- d. Further written representations received from interested parties.
- e. The Government's consultation on the review of National Energy Policy Statements, specifically EN-1 and EN-3.

Having regard to these changes and further representations, the Council's officers are satisfied that they either do not raise matters which were not already identified and assessed within the original committee report, or do not include new considerations which could lead to a different conclusion being reached.

3. Consideration of the New Material Considerations

- a. Updated version of the National Planning Policy Framework (NPPF) published 20 July 2021.**

The revised NPPF is an update of previous national planning policy. The relatively minor changes incorporated in the updated NPPF are not considered to affect the merits of the original planning policy assessment of the application.

- b. Net Zero Strategy: Build Back Greener published by the Ministry of Business, Energy and Industrial Strategy on 19 October 2021.**

The Government's Net Zero Strategy builds on current waste and energy policies; it does not identify major policy reforms in the energy from waste sector.

The publication of the Government's Net Zero Strategy builds on the progress which has been made since 1990 in terms of reducing the level of greenhouse gas emissions and has seen the UK waste sector reduce its emissions. The Strategy pulls its ambitions and direction of travel for future waste management policy from existing policy and legislation which is currently in place, and is as referred to in the original committee report for the planning application.

It is considered that the policy direction within the Government's Net Zero Strategy does not propose major policy reforms in the sector. The planning application was considered with full reference to the most recently published and up to date waste and energy policies relevant to the case, with these matters being discussed in detail in Section 9.3 of the original committee report. It is considered that the original committee report and the committee's original decision continues to be consistent with Net Zero objectives including the policies set out within this latest Net Zero Strategy.

c. The Environment Act which was enacted into law on 9 November 2021.

There is nothing contained in the Environment Act that affects the merits of the planning application. Recently announced proposed 'targets' required by the Act are discussed in d. below.

d. Further written representations received from interested parties.

'Late' representations received from interested parties since the June planning committee meeting do not raise any new issues that have not already been addressed and/or refer to matters which should be given only very limited, or no, weight as material planning considerations.

Representations on behalf of Arla

Representations made by and/or on behalf of Arla – including technical reports referring to emissions/air quality/product tainting – were received c. September 2021. Essentially, the issue raised was that potential tainting of Arla's products had not been considered.

The broad issue of emissions was considered in considerable detail at Section 9.6 of the original committee report. Of note from the report was/is that neither the Environment Agency nor Public Health England raise/d objections to the planning application, the latter being satisfied that the applicant had approached the environmental impact assessment in a manner consistent with UK requirements, and utilising "... a satisfactory approach and methodology to predict the likely emissions, distribution of a range of key pollutants and the impact on the local environment and receptors". PHE further stated that it would, in any event, "... further consider the emissions and appropriate control measures when consulted as part of the Environmental Permitting process and will make additional comments at that time".

The Environmental Permitting application – which is made to the Environment Agency – has been running its separate course, and the matters raised in the 'late' Arla representations have been / are being considered as part of that. This is confirmed in an Environment Agency public 'Briefing Note' dated 13 March 2022 which states the following:

"We have reviewed all the comments you sent us [from interested parties following the public consultation exercise for the Permit application], along with the documents submitted by NREL, and have considered all the evidence very carefully. As part of this consideration, we have explored several issues of concern, such as the possibility of products from Arla Dairy becoming tainted by emissions from the incinerator. Concerns like these caused us to ask for more information from NREL, in the form of Schedule 5 notices, and when we received this information we made it available to you on our Citizen Space web portal.

We are now satisfied we have all the information we think we need and cannot find any reason to refuse this permit application. We are therefore now 'minded to' grant this permit to NREL".

A draft Permit with conditions has been produced by the Environment Agency, and is currently subject to further consultation; (the draft Permit is attached as appendix 3 to this report).

But in any event, the original committee report fully and properly considers/ed, for the purposes of planning, the issue of emissions and air quality, and so it follows that the further representations and technical reports raise no relevant planning issues not already considered. The original committee report refers to the standalone Environmental Permitting process, noting that it is the appropriate mechanism through which highly technical matters about the operation and control strategies for the development should be addressed, and that satisfactory operation is, indeed, an operational consideration. The original committee report refers to paragraph 183 of the earlier NPPF. This is now paragraph 188 in the July 2021 version, but is un-changed. Paragraph 188 states –

The focus of planning policies and decisions should be on whether proposed development is an acceptable use of land, rather than the control of processes or emissions (where these are subject to separate pollution control regimes). Planning decisions should assume that these regimes will operate effectively. Equally, where a planning decision has been made on a particular development, the planning issues should not be revisited through the permitting regimes operated by pollution control authorities.

Representation by UKWIN

UKWIN's late representation is dated 18 March 2022. It refers to the Government's recent announcement through its Consultation on Environmental Targets document that it will be seeking a target for "halving the waste that ends up at landfill or incineration by 2042". UKWIN concludes from this that the halving will reduce the need for incineration capacity, and specifically remove the need for the proposed facility at Westbury which has a operational lifetime ending after 2042.

At this point in time the Government's suggested targets in the document are proposed only, being subject to the public consultation exercise; the consultation commenced 16 March 2022 and closes 11 May 2022. As it is a matter which is currently out for consultation only and so potentially subject to change, and as there is no indicated timeline for implementation of a target and/or the re-drafting of government policies or legislation that may be affected by it, it is considered that little weight, if any weight, can be given to it as a material planning consideration at this time. It is, in essence, a theoretical / aspirational position at this time.

As referred to above, the planning application was considered with full regard to the relevant and adopted waste and energy policies which applied in 2021 and which continue to apply now, and these have not materially changed in terms of the relevance of incineration and energy from waste facilities. Likewise, the planning application was also considered with regard to the question of need for such facilities based on actual quantities of waste requiring management. Again, the circumstances relating to the need have not changed over the last c. 9 months. In particular, the 'capacity gap' referred to in the original report between the present availability and capacity of facilities to manage waste and the actual quantities of residual waste to be managed, remains essentially the same. It follows that at this point in time the current 'targets' consultation

exercise can have little or no bearing on the Council's original decision which addresses the current and, for the time-being, future positions.

In the event that the Government's target is adopted and is then enshrined in policy and legislation, there will remain a need for facilities to manage residual waste in any event. Referring back to the sub-regional waste market analysis work commissioned by the applicant in support of the planning application (and referred to in the original committee report), this forecast the sub-regional need for the Westbury facility to be presently c. 470,000 tpa which has not changed, from mainly commercial and industrial waste and some LACW (Local Authority Collected Waste) sources. 'Halving' this (as proposed in the proposed Government target) would leave 235,000 tpa still to be addressed. The facility would address this continuing need.

Several other third-party representations were received shortly after 22 June 2021. These raise matters relating to emissions, highway safety, amenity, etc.. No new material considerations arose from these representations.

e. The Government's consultation on the review of National Energy Policy Statements, specifically EN-1 and EN-3.

The Government's consultation on the review of National Energy Policy Statements is a consultation document seeking to update existing policy. While the review is undertaken the current suite of National Energy Policy Statements referred to in the original committee report continue to form the basis for the decision. But in any event, the consultation statements identify a continuing role for Energy from Waste as part of a mix of energy generation opportunities, and there is not a requirement for new energy from waste facilities to incorporate carbon capture and storage. Facilities which exceed 300MW production threshold will be required to demonstrate that the installation of carbon capture and storage is feasible. Notwithstanding that the proposal is for a facility below this threshold, the planning application was supported by this information.

The Secretary of State's decision to not call-in the application for his determination has only recently been made. In making his decision it is reasonable to assume that the Secretary of State will have also had regard to the new considerations raised in this report.

4. Conclusion

Changed circumstances / new material considerations since the Strategic Planning Committee considered the planning application in June 2021 are addressed in this report. But, for the reasons set out, there have been no changes that should lead the committee to conclude differently in its assessment of the application. Accordingly, the committee is recommended to endorse its original decision to grant planning permission subject to conditions.

RECOMMENDATION

That having taken into account all relevant new material considerations together with the environmental information previously considered, the recommendation remains to grant planning permission for the proposed development, subject to the conditions as before.

