

STRATEGIC PLANNING COMMITTEE

MINUTES OF THE STRATEGIC PLANNING COMMITTEE MEETING HELD ON 23 JANUARY 2019 AT COUNCIL CHAMBER - COUNTY HALL, BYTHESEA ROAD, TROWBRIDGE, BA14 8JN.

Present:

Cllr Fleur de Rhé-Philippe (Chairman), Cllr Derek Brown OBE (Vice-Chairman), Cllr Ernie Clark, Cllr Andrew Davis, Cllr Sarah Gibson, Cllr Christopher Newbury, Cllr James Sheppard, Cllr Tony Trotman, Cllr Fred Westmoreland, Cllr David Halik (Substitute) and Cllr Ruth Hopkinson (Substitute)

Also Present:

Cllr Gordon King, Cllr Trevor Carbin, Cllr Brian Mathew, Cllr Toby Sturgis and Cllr Robert Yuill.

1 Apologies

Apologies for absence were received from Cllr Stewart Dobson who was substituted by Cllr David Halik and Cllr David Jenkins who was substituted by Cllr Ruth Hopkinson.

2 Minutes of the Previous Meeting

Resolved:

To confirm and sign the minutes of the previous meeting held on 5 December 2018.

3 Declarations of Interest

Cllr Andrew Davis declared a non-pecuniary interest in that he was a member of Warminster Town Council but had not taken part in the debates when the two Northacre applications were considered.

4 Chairman's Announcements

There were no Chairman's announcements made at the meeting.

5 Public Participation

There were no questions or statements submitted.

6 **Planning Appeals and Updates**

An update on planning appeals and decisions was received.

Resolved:

To note the contents of the update.

7 **18/09473/WCM - Revision of the layout and design of Advanced Thermal Treatment Facility permitted under consent 14/12003/WCM at Northacre Renewable Energy, Stephenson Road, Northacre Industrial Estate, Westbury**

The Case Officer informed the Committee that the Secretary of State had received a request to 'call-in' this planning application at Northacre Industrial Estate, Westbury. The Secretary of State would be unable to commence his consideration of this request until such time as this Council had reached its decision on the planning application. Should this Committee be minded to approve the application then the Secretary of State could begin his consideration and decide whether or not to call in the application for his own determination.

The Committee received a presentation from the Case Officer which set out the issues in respect of the application. The presentation referred to late representations from interested parties; these were circulated to the Committee. The Case Officer commented on the late representations as follows:

Regarding the email from Schlomo Downen, United Kingdom Without Incineration Network (UKWIN) – this was critical of the Committee report, stating that, firstly, the proposal should be treated as a D10 ('Disposal') operation at the bottom of the Waste Hierarchy unless and until it could be demonstrated it would meet and maintain R1 ('Recovery') status through the achievement of the relevant threshold; and secondly, the fact that that it was a gasification plant or that it would treat non-municipal solid waste feedstock did not provide an exemption from this.

In response, the Case Officer stated that the Waste Hierarchy was clearly set out in various planning policy documents including DEFRA's 'Guidance on applying the Waste Hierarchy' and this Council's own Development Plan. These documents did not rely on R1 calculation to confirm that gasification was a recovery operation. The presence or absence of R1 status was not a barrier to planning. In actuality, the D and R codings were 'just' a means of establishing efficiency, as applied by the Environment Agency in a different regulatory capacity.

To confirm this, in a High Court case relating to a site in Derbyshire a third party argued that a Planning Inspector was wrong to conclude that a proposal without R1 status was not the same as 'disposal' to landfill. The judge did not accept the argument – he said

'I am left in no doubt that the inspector did what he was required to do, which was to apply the waste hierarchy in a practical way by asking whether the proposal would achieve the best overall environmental outcome, and that he was fully entitled to conclude that the proposal would result in waste being treated higher up the waste hierarchy than disposal to landfill'.

The Case Officer confirmed that this was exactly what his report was doing, and he drew attention to the following sections of his report:-

'Policy WCS5 of the Wiltshire and Swindon Waste Core Strategy provides an order of preference, or hierarchy, for waste disposal in the interests of sustainability. The purpose of the hierarchy is to bring to the fore the preference for 'elimination' over other forms of waste management; the hierarchy is not intended to bar all other forms of waste management. Presently energy from waste remains a relevant 'recovery' form of waste management which, in the hierarchy, is preferable to landfill and land-raise (which are 'disposal');

And.

'The Waste Management Plan for England identifies 'gasification' as an 'other recovery' operation, alongside anaerobic digestion, incineration with energy recovery and pyrolysis which produce energy (fuel, heat and power). Similarly, the adopted Wiltshire and Swindon Waste Core Strategy identifies EfW (thermal treatment) as recovery. The Waste Core Strategy does not require energy from waste proposals to achieve a specific energy efficiency threshold (such as R1 status) in order to be classified as recovery operations'.

Regarding Mr Downen's second point about non-municipal solid waste feedstock, the Case Officer stated that the waste framework Directive [EU regs] did not in any event specify a minimum level of energy efficiency for recovery facilities primarily dedicated to the processing of non-municipal solid waste, such as this proposal.

Thus all of the planning policy and guidance sources referred to, and also the case law referred to, pointed to energy recovery, and specifically here gasification, being 'recovery' and so sitting higher in the Waste Hierarchy than 'disposal'.

Regarding the email from Mr Tim Hill, Technical Director, UKWIN, this was also critical of the report and the Environmental Statement that accompanied the planning application, stating that they offered no information regarding the net effect of the proposal on climate changing emissions.

This was not agreed as the Environment Statement did refer to climate change, and the matter was addressed in the report. Notably, the Environment Statement confirmed in qualitative terms that –

- The development would emit carbon dioxide as an inevitable consequence of the thermal treatment process; and
- The development would also result in NOx and other emissions.

But, critically these would comply with all relevant air quality objectives, and would be the subject of an Environmental Permit in any event.

On other climate change considerations, the Environment Statement stated that there would be no increase in energy demand as this would be drawn from the energy produced in the form of heat and electricity, and there would be no increased water demand. As for emissions associated with transport, these would reduce in view of the fewer movements compared with the current situation.

Based on this, the Environment Statement was able to conclude that the proposal would not have a significant effect on climate change, and accordingly no further examination of this EIA matter was required. This applied to the proposal in both isolation and in combination with other developments. This was all set out in the report.

Regarding the email from Cllr Brian Mathew – this referred to new and different processes for recycling plastics which were now evolving. In response to this, the ‘stock’ position was that the Committee had a particular proposal before it which obviously must be considered. As demonstrated in the report, the proposal complied with Development Plan policy in any event. It followed that other ways to manage waste now or in the future could not amount to a reason for refusing planning permission for this particular proposal.

To effectively seal this, the continuing relevance of what was proposed was evident from a very recent Central Government publication entitled ‘Our Waste, Our Resources: A Strategy for England’, dated December 2018. One of the report headlines stated, ‘Growth in energy from waste and alternative residual waste treatment infrastructure will divert further waste from landfill’. So, the publication demonstrated how the Government had seen, and now saw, the Waste Hierarchy effectively evolving with time, and ‘recovery’ including gasification, continuing to be part of that evolution.

Added to this, the evolving technology Cllr Mathew referred to related only to plastics, whereas the proposed input to this ATT covered a wide range of different industrial and commercial waste products, and mainly those left over after recyclables were removed.

Regarding the other late correspondence from Claire King, Sophy Williams, Harriet James, Bradford-on-Avon Town Council and Warminster Town Council, these raised matters including impact of traffic, climate change, alternative recycling solutions, impact on Westbury in general, and other matters. These were either already covered, were about to be covered or were covered in the report.

The purpose of the report was to consider the proposed development and the recommendation that planning permission is granted subject to conditions.

Members then had the opportunity to ask technical questions during which Members noted that the application related to the disposal of commercial and

industrial waste and enquired where this waste would be arriving from. The Case Officer explained that the waste would be generated from businesses in Wiltshire which was currently disposed of further afield. However, he confirmed that in accordance with the Wiltshire Core Strategy it would not be possible to impose a condition restricting the source of the waste.

In answer to a question, the Case Officer stressed that the Committee could only consider the planning aspects of the proposal and that issues regarding health and safety and emissions were matters for consideration by the Environment Agency when issuing an environmental permit.

Representatives from the Environment Agency and Public Health England were in attendance to answer any questions regarding environmental, safety and public health issues. The representative from the Environment Agency confirmed that the Agency was responsible for environmental matters and the issuing of a permit to carry out the operation was necessary before the operation on site could commence. Once applications had been received, they would be advertised thus giving members of the public an opportunity to make representations which would be fully taken into account before a permit was issued.

In answer to an enquiry about air quality especially on Road A350, the Council's Public Protection Officer stated that a system of air quality monitoring regularly took place.

Members then heard statements from members of the public as follows, expressing their views regarding the planning application:-

- Mr David Davis, a local resident, spoke in opposition to the proposal.
- Mr Stephen Eades, representing Wiltshire Friends of the Earth, spoke in opposition to the proposal.
- Ms Margaret Cavanna, representing Westbury Gasification Action Group, spoke in opposition to the proposal.
- Mr Michael Hill, representing Hills Group, spoke in favour of the proposal.
- Mr Phin Eddy, representing Fichtner Consulting Engineers, spoke in favour of the proposal.
- Mr Ed Dodd, representing Hills Waste Solutions, spoke in favour of the proposal.

- Cllr Mike Sutton, Deputy Mayor, Westbury Town Council, spoke in opposition to the proposal.
- Cllr Mrs Lee, representing North Bradley Parish Council, spoke against the proposal.
- Cllr John Eaton, representing Southwick Parish Council, spoke against the proposal.

The Chairman stated that Cllr Russell Hawker, the local Member, had informed her that he was unable to attend this meeting but that he had not received any objections or concerns regarding this application from any of his constituents.

Cllr Gordon King, an adjoining Member, expressed his opposition to the proposal, stating that Westbury community, considered that the proposed development was too large for this visually sensitive area. He also expressed concern on the likely impact that additional traffic would have on the surrounding road network and the impact on the local environment.

Thereupon, the Chairman proposed the recommendation as set out in the Case Officer's report and this was seconded by Cllr Tony Trotman.

Cllr Christopher Newbury expressed some concern that the origin of the waste to be transported to the proposed plant was not specified and proposed that Conditions 5 & 6 as set out in the report be amended to state that only waste from Wiltshire be accepted. This amended Motion was seconded by Cllr Sarah Gibson and on being put to the vote was lost.

It was pointed out that the current application was effectively a revision to planning permission 14/12003/WCM which was also for an ATT facility which was granted on 23 September 2015. This permission had not yet been implemented but remained extant. Works to commence 14/12003/WCM, which were common to both it and the current planning application, were programmed to commence at end 2018/early 2019. It was stressed that the fact that there was an extant planning permission for an ATT facility at this site was a significant material consideration to be taken into account in determining the new application.

Thereupon the Motion as proposed by the Chairman and seconded by Cllr Tony Trotman was put to the vote and on a recorded vote as proposed by Cllr Ernie Clark and supported By Cllr Sarah Gibson and Cllr Ruth Hopkinson,

Resolved:

Subject to the Secretary of State not calling this application in for his determination, to grant planning permission, subject to the following conditions:-

- 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:
18616-G-03 (Location Plan) dated 10/18
040_A05 REV D (Site Plan) dated 01/09/18
040_A07 REV E 1 to 4 (Site Elevations) dated 01/09/18
040_A08 REV D (Floor Plan) dated 01/09/18
040_A09 REV D (Site Section Levels) dated 01/08/18**

**040_A10 REV D (Site Traffic Route Plan) dated 01/09/18
NOR-LPO1 REV C (Landscape Plan) undated**

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

- 3 Notwithstanding the details set out in the application particulars, no development shall commence on site until details of the colours for the building'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 The un-loading, storage and re-loading of waste materials 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 delivered to the site shall not exceed 118,500 tonnes in any twelve month period.**

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 waste-derived products 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 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.

- 8 All soft landscaping comprised in the approved details of landscaping 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 the approved details prior to the occupation of any part of the development or in accordance with a programme to be agreed in writing with the Local Planning Authority.

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

- 9 No part of the development hereby permitted shall be brought into use until the access, turning area and parking spaces 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.

- 10 No 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 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.

- 11 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.

- 12 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
- All works and ancillary operations which are audible at the site boundary, or at such other place as may be agreed with the Local Planning Authority, shall be carried out only between the following hours:
08 00 Hours and 18 00 Hours on Mondays to Fridays and 08 00 and 13 00 Hours on Saturdays and; at no time on Sundays and Bank Holidays.
- Construction deliveries to and removal of plant, equipment, machinery and waste from the site must only take place within the permitted hours detailed above.
- 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.
- Procedures for emergency deviation of the agreed working hours.
- 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.
- Construction traffic routes.

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

- 13 No part of the development shall be 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.

- 14 Prior to first operation of any plant, noise mitigation measures for the plant shall be installed in accordance with the specifications set out in the 'Noise and Vibration' chapter (chapter 6) of the Environmental Statement dated 11 October 2018 accompanying the planning application. The mitigation shall be retained and maintained thereafter.

Within 3 months of any plant having become first operational a noise assessment shall be carried out by an independent consultant to confirm compliance with the noise predictions set

out in the Environmental Statement. The outcomes of the noise assessment shall be provided in writing to the local planning authority for agreement in writing no later than 1 month after the initial 3 month period. In the event that the noise assessment finds that the noise predictions have been exceeded then details of additional mitigation measures shall be provided as part of the noise assessment together with a timeframe for installation. The additional mitigation shall then be installed in accordance with the agreed noise assessment and retained and maintained thereafter.

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

- 15 Prior to the development hereby approved becoming first operational an odour management plan (for the management of odours, should they arise) and 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 plans shall be implemented as approved, if/as necessary.

REASON: To safeguard amenity.

- 16 The development hereby permitted shall be carried out strictly in accordance with the Mitigation Measures for biodiversity set out in the 'Biodiversity' chapter (chapter 8) of the Environmental Statement dated 11 October 2018 accompanying the planning application.

REASON: To safeguard wildlife.

- 17 **INFORMATIVE:** 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.

(Cllrs Fleur de Rhe-Philipe, Derek Brown, David Halik, Christopher Newbury, James Sheppard, Tony Trotman and Fred Westmoreland voted for the Motion.

Cllrs Ernie Clark, Andrew Davis, Sarah Gibson and Ruth Hopkinson voted against the Motion.)

8 **18/09550/FUL - Landscaping and screening bund at Land at Brook Farm / adj Northacre Renewable Energy, Stephenson Road, Northacre Industrial Park, Westbury**

The Committee received a presentation by the Case Officer which set out the issues in respect of the application. The purpose of the report was to consider the proposed development and the recommendation that planning permission is granted subject to conditions.

Members then had the opportunity to ask technical questions after which they heard statements from members of the public as follows:-

- Ms Harriet James, a local resident spoke in opposition to the proposal.
- Mr Ed Dodd, representing Hills Waste Solutions, spoke in support of the proposal.

On the proposal of the Chairman, which was seconded by Cllr David Halik,

Resolved:

To grant planning permission, subject to the following conditions:-

- 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:**

- **No. 18616-500-03A (Location Plan) dated 10/2018**
- **No. NOR-LP02 Rev A (Screen Mound Plan) dated 09/2018**
- **'Technical Report - Screen Mound' by Floodline Consulting dated 05/10/2018**

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

- 3 **With the exception of its final surfacing with top soil, the bund hereby approved shall be constructed from existing inert soils**

and sub-soils derived from the adjacent Northacre Renewable Energy site only. No other materials shall be used in the construction of the bund, including non-existing materials that may be imported to and/or stored at the Northacre Renewable Energy site.

REASON: To accord with the terms of the proposal and to minimise construction traffic generation in the interests of amenity.

- 4 All soft landscaping comprised in the approved details of landscaping shall be carried out in the first planting and seeding season following the first occupation of the building(s) 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 the approved details prior to the occupation of any part of the development or in accordance with a programme to be agreed in writing with the Local Planning Authority.

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

- 5 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
 - All works and ancillary operations which are audible at the site boundary, or at such other place as may be agreed with the Local Planning Authority, shall be carried out only between the following hours:
08 00 Hours and 18 00 Hours on Mondays to Fridays and
08 00 and 13 00 Hours on Saturdays and; at no time on Sundays and Bank Holidays.
 - Construction deliveries to and removal of plant,

equipment, machinery and waste from the site must only take place within the permitted hours detailed above.

- 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.
- Procedures for emergency deviation of the agreed working hours.
- 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.
- Construction traffic routes.

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

9 **Date of Next Meeting**

Resolved:

To note that the next meeting of this Committee was due to be held on Wednesday 20 February 2019 at County Hall, Trowbridge, starting at 10.30am.

10 **Urgent Items**

There were no items of urgent business.

(Duration of meeting: 10.30 am - 1.00 pm)

The Officer who has produced these minutes is Roger Bishton of Democratic Services, direct line 01225 713035, e-mail roger.bishton@wiltshire.gov.uk

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