

Questions

Colin Gale - Pewsey Community Area Partnership (PCAP), Campaign to Protect Rural England (CPRE) and Pewsey Parish Council (PPC) Comments and Questions on the status of the decision to close Everleigh Household Recycling Centre

**To Councillor Richard Clewer – Cabinet Member for Housing, Corporate Services, Arts, Heritage and Tourism
Councillor Bridget Wayman – Cabinet Member for Highways, Transport and Waste**

The decision to close Everleigh Household Recycling Centre was taken by Wiltshire Council Cabinet at the Cabinet Meeting held on the 9th October 2018. PCAP/PPC and CPRE have identified a number of irregularities concerning the decision process and the reason for the decision to close Everleigh.

Both the Cabinet Agenda Item and the Consultation Report identified the proposal to close Everleigh HRC as a 'key decision'. The regulations for publicity in connection with 'key decisions' is stated in the 'Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012', see Appendix 1. The regulation identifies that where a decision maker intends to make a 'key decision', that decision must not be made until a document has been published at least 28 clear days before a 'key decision' is made and the document must be made available for public inspection. The Consultation Report was first made available to the public as part of the 'Cabinet Agenda Pack' via the WC website on 1st October 2018. Clearly the timeline of the publication of the documents did not satisfy the regulation requirement of 28 clear days.

Question 1:

The Local Authority regulation is believed to be a legislation requirement from central government through parliament to local authorities. Does the Wiltshire Council Monitoring Officer acknowledge that the non-compliance with the regulation by Wiltshire Council may be unlawful?

Response

The Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012 sets out the publicity requirements for key decisions (as defined in the Regulations). Were there to be a failure to comply with

those requirements, then the validity of any relevant key decisions made by the Council may be affected.

In accordance with the 2012 regulations, the Council produces and publishes a public four month document, called the Cabinet and Council Forward Work Plan. (Referred to as Plan from this point forward). This Plan is the document, in bold type, referred to in the Regulations, as detailed below:

9 Publicity in connection with key decisions

(1) Where a decision maker intends to make a key decision, that decision must not be made until a **document** has been published in accordance with paragraph (2)...

The Plan is prepared on a monthly basis and each Plan covers a four month period beginning with the first day of month.

The Plan will contain matters which will be subject of a key decision (as defined in Part 1 of the Council's Constitution) to be taken by the Cabinet during the period covered by the plan. The Forward Plan is published 28 clear days before the matter is considered and a decision made.

Question 2:

What action is Wiltshire Council going to take to recover the breach of the regulation to publish the documents at least 28 days before the decision was made, which failure, we submit, renders the 9th October decision void?

Response

Details of the report on the Consultation on the future of Everleigh Household Recycling Centre, to be considered by Cabinet on 9th October 2018, was included in the 4 month Plan for October 2018 to January 2019, that was published on 10th September 2018. That was 29 clear days before the Cabinet meeting, therefore meeting the deadlines contained in the Regulations.

As the publication of the Plan was in accordance with Regulations, the decision of the Cabinet on 9th October 2018 was a lawful decision.

Question 3:

From experience of attending Cabinet Meetings over a long period, PCAP do not believe that Wiltshire Council have been observing the Local Authorities Regulation with respect to publicity for 'key decisions' possibly since the regulation was enacted in 2012. What retrospective action does Wiltshire Council propose to take to identify which 'key decisions' may have been affected and what action will be taken to reconcile the individual shortfalls?

Response

The Council has been aware of, and has complied with, the Regulations since they came into force. In summary, the inclusion of the report in relation to Consultation

on the future of Everleigh Household Recycling Centre in the Forward Plan, and the publication of this Plan did comply with the Regulations.

Question 4:

The 9th October Cabinet Meeting draft minutes identifies one of the reasons for the decision as:

“1. The proposed option generates the combination of the greatest annual revenue saving coupled with avoidance of additional in-year capital spend.”

PCAP believe that the reason for the decision as stated is incorrect reference to the Wiltshire Council response at the Cabinet meeting at which question 9 was put is identified.

The question asked: The conclusion that ‘The proposed option is the one that generates the combination of the greatest annual revenue saving’ is not substantiated. No comparison has been published showing the annual revenue cost for all of the 11 sites. The argument that the closure of Everleigh generates the greatest annual revenue saving is clearly false as Everleigh operates for the least number of hours out of all of the HRC sites, and therefore cannot have the largest annual revenue cost.

and the response stated: The sentence in full reads ‘The proposed option is the one that generates the combination of the greatest annual revenue saving coupled with avoidance of additional in-year capital spend to ensure the site is made safe and can comply fully with relevant environmental legislation.’. Closing the site generates the greatest revenue saving of the options considered based on the saving from the current operation and the avoided cost incurred should the site remain open and further investment be required. Everleigh was selected because it has the lowest number of visitors and collects and diverts from landfill the lowest number of tonnes of waste.

Response

Appendix 3 to the report considered by Cabinet on 9 October 2018 contains details of seven options considered in concluding that the closure of Everleigh generates the combination of the greatest annual revenue saving coupled with avoidance of additional in-year capital spend to ensure the site is made safe and can comply fully with relevant environmental legislation. For each of the seven options, details were given of the actions required, the annual revenue cost and the initial capital investment cost.

The capital investment cost required to keep Everleigh open and compliant was estimated to be £102,500. The operating costs of Everleigh were £100,000 per annum and these were contrasted with average operating costs of other, far busier, sites of £135,500. In addition, had Everleigh remained open, new containers and a new compactor would have been required for the remainder of the eight year contract period. These would have increased the revenue costs of the contract by £43,000 per year.