

CORNWALL COUNCIL

PLANNING (DEVELOPMENT CONTROL) COMMITTEE

MINUTES of a Meeting of the Planning (Development Control) Committee held at Council Chamber, Cornwall Council, County Hall, Truro, TR1 3AY on Thursday 26 March 2009 commencing at 10.00 am.

Present:- Roger Bonney (Chairman)
Barbara McTaggart (Vice-Chairman)

Paul Adams, Robert Booker, Collin Brewer, Glenton Brown, Jackie Bull, Mrs A J Carlyon, Gerald Chin-Quee, Julian German, Graeme Hicks, Les Hunkin, Roger Jones, Pam Lyne, Peter Mates, Des Mennear, Neil Plummer, John Pope, Alec Robertson, John Stocker, Joan Symons and Joan Vincent.

Also in attendance:- Mrs D M Ansari, Sally Bain, B M M Biscoe, Des Curnow, James Currie, Robert Hichens, Paul Phillips, Howard Roberts, Andrew Waters and Tamsin Williams.

Apologies for absence:- Tony Nettle.

DECLARATIONS OF INTEREST

(Agenda No. 2)

PL/338 In accordance with the Council's Code of Conduct, Jackie Bull declared a personal interest in Agenda No. 3.1, Proposed 'Cornwall Energy Recovery Centre' and Associated Works on Land at Rostowrack Farm, Wheal Remfry, Goonvean and Parkandillick Dryers, St Dennis, Nr St Austell, because she took some of the residents of the village of St Dennis on an annual holiday. She also advised that she had taken legal advice as her son was one of the public speakers and been advised that this was not a constitutional issue.

WASTE

(Agenda No. 3)

PL/339 The following item was considered.

Proposed 'Cornwall Energy Recovery Centre' and Associated Works on Land at Rostowrack Farm, Wheal Remfry, Goonvean and Parkandillick Dryers, St Dennis, Nr St Austell (Borough of Restormel)

(Agenda No. 3.1)

PL/3391 The Senior Solicitor reminded Members of their extensive training in terms of predetermination, bias and the Code of Conduct and that they should keep an open mind, listen to the debate and further information provided, before making a decision as to how they would vote.

The Committee received a short presentation from officers on policy issues relating to waste which included reference to the following:-

- (i) the Landfill Directive and associated targets;
- (ii) the implications of the Waste Strategy 2000 and 2007;
- (iii) the fact that the Waste Local Plan 2002 had identified a central Area of Search for a waste facility;
- (iv) the Waste Development Framework had indicated a facility with a capacity of 240,000 tonnes per annum;
- (v) the Integrated Waste Management Contract had been let to SITA and emphasis put on a network of facilities including the proposed Energy Recovery Centre, household waste recycling facilities and waste transfer stations;
- (vi) municipal solid waste arisings had largely increased annually; and
- (vii) recycling and composting levels had increased in recent years.

Members were also provided with some background to the planning application, including:-

- (i) the context for the site included an access road to the public highway and a purpose built private haul road;
- (ii) the Parkandillick Dryers would be a recipient of some of the heat that was generated;
- (iii) St Dennis was 30 metres above the ground level of the proposed site;
- (iv) the railway line provided a barrier between the china clay area and agricultural land;
- (v) the proposed site would cover 14.6 hectares;
- (vi) the highest part of the building would be 45 metres with the stack extending to 120 metres;
- (vii) the power generated by the site would be 20 megawatts of which 16.6% would be exported with the rest used within the incinerator building itself; and
- (viii) the planning application would require a public footpath diversion.

The Head of Planning and Regeneration referred Members to the update sheet that was tabled at the meeting which included a change to the recommendation to make reference to the inclusion of a Section 106 agreement in relation to the footpath diversion. It also included further

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consultation responses and updates to the appendices. He advised Members of the need for effective waste disposal and the policy context. The Committee was referred to the harmful impacts that could arise from the proposal and was advised that the recommendation weighed up both these and the benefits of granting planning permission. Members needed to consider the relevant legislation and whether material considerations could, for example, outweigh the Development Plan issues and whether the development could be seen as a sustainable approach to waste in the county.

The Head of Planning and Regeneration stated that in terms of impacts of the development, these included landscape impact, noise, footpaths, amenity, transport issues and impact on the historic environment. In 2002 the capacity of the facility had been anticipated as 200,000 tonnes. The proposal was for a facility capable of processing 240,000 tonnes of waste and therefore the Waste Local Plan would need to be updated accordingly.

The emerging Regional Spatial Strategy made reference to significant towns where the majority of the population was to be found. In Cornwall, however, it was recognised that there was, instead, a collection of towns.

Members were referred to the tabled paper from Lee Jameson, Labour Prospective Parliamentary Candidate who was not able to attend the meeting.

Public Speaking

St Dennis Anti Incineration Group – Mr Rickard and Ms Blanchard

Mr Rickard stated that incineration was an out of date technology and that centralised waste management was not appropriate for Cornwall. He stated that planning case law outlined that alternative sites could be a relative planning consideration. Other technologies which would have less impact had not been considered. An earlier, draft report, had made it clear why planning permission should be refused. Restormel Borough Council had voted unanimously in objection to the proposal. Concern was expressed about the probity and the circumstances which had led to the latest report recommending approval of the planning application.

In terms of the development, the stack would have a significant visual and landscape impact. Other impacts included those relating to the haul road; the public rights of way and the impact on the historic landscape.

Ms Blanchard expressed the view that anaerobic digestion was a better solution. 80% of waste was recyclable and the CERC could result in recyclable waste being incinerated. This would also have an impact on climate change as it would produce in the region of 168,000 tonnes of carbon dioxide every year. Little reference had been made to the fears relating to the impact on the health of the community arising from the

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development. Noise impacts would result during both construction and operation and the Committee was asked to refuse the application.

St Dennis Parish Council – Mr F Greenslade and Mr J Wood

Members were shown a photo montage produced by an architect which highlighted the impact of the proposal on St Dennis village. The majority of buildings were lineal, with the tallest being 40 metres. Reference was made to the 'blimp' and the fact that it was 400ft above ordnance datum of Hendra Downs. Views were projected showing the scale of the building from St Dennis Church, how it compared with the existing tree lines and its impact on Fore Street. Reference was made to the fact that the proposal did not comply with many planning policies or the proximity principle whereby waste was dealt as close to its source as possible.

Mr Wood referred to harm, perceived harm, need and perceived harm and queried whether need outweighed harm. There was clearly a need to deal with waste but a safe approach was required. The dioxins produced by the plan would impact agricultural land and the dust would have an impact on asthma sufferers.

St Stephen-in-Brannel Parish Council - Mrs Wonnacott

Mrs Wonnacott referred the Members to the noise and air pollution that would be caused by the multi-axled lorries transporting waste to the site. The amount of road miles travelled by these vehicles should also be recognised. 364-384 loads of waste a day were predicted, in addition to 14 refuse trucks from the local areas. This amounted to 1 load every 2.2 minutes. There would be a further 728-768 additional movements daily in and out of the site which would include employee vehicles. The noise from reversing lorries (106 decibels) would reverberate around the surrounding area, despite the bunding that was proposed. The vehicles would consume 1 litre of fuel every 71 kilometres, with the journey along the haul road being predicted to cost £30 every 7 minutes.

One of the local residents would be severely impacted due to the proximity of his house to the road. This would have a substantial effect on the equity of his property.

Members were referred to a letter from the Primary Care Trust of 12 September 2008 which highlighted the risks associated with road traffic in relation to a single site for Cornwall. This could also have an impact on the level of Road Traffic Accidents and pollution. The perceived potential health impacts were also referred to and the fact that it was not possible to predict the levels of anxiety and stress associated with such a development.

St Enoder Parish Council – Mr D Cole

The Parish Council was unanimous in opposing a central facility. It considered that it was unsustainable to transport waste to a single location and that the proposal was against local, regional and national policies. Mr Cole stated that it was considered that the report was not balanced and was selective in terms of the information presented. The proposal represented a departure from the Development Plan.

The central area of search had been superseded by national planning guidance, namely Planning Policy Statement 10 and the Regional Spatial Strategy. An incinerator would be acceptable under certain conditions, such as being within reasonable proximity of a major road network and that rail was used. The current proposal was 3 kilometres from the major road network and rail was not proposed as a means of transporting waste.

The proposal would have an impact on landscape character and would not compliment the local setting as it would dominate both St Dennis and Treviscoe. He referred to the fact that the Waste Development Framework had not been submitted; as the Planning Inspector had advised that it would be found to be unsound, and Members should, therefore, give it limited weight when considering the proposal. Policy W2 of the draft Regional Spatial Strategy proposed to minimise the distance that waste was transported for treatment and should, therefore, be treated close to source. A brownfield site should be developed rather than the proposed greenfield site. Concern was expressed that the applicant had not looked at alternative sites outside of the clay area and that an arbitrary approach had been taken to those alternative sites that had been considered.

In concluding, Mr Cole stated that the application was against the Cornwall Structure Plan and Restormel Local Plan and that it would have an adverse impact on St Dennis in relation to noise, loss of greenfield land and landscape character.

Matthew Taylor, M.P.

Mr Taylor stated that he had spoken against incineration at the Inquiry and had written the Liberal Democrat manifesto relating to the policy on incineration which, as a choice of waste management technology, was seen as the last resort. He stated that the Committee could refuse the application on planning grounds and considered that it was contrary to waste planning policy. It would have a significant adverse impact on the local environment, landscape character, footpaths and residents. He stated that officers and the Council had been put under pressure to change the recommendation from refusal to approval.

He stated that there must be a 'Plan B' should the application be refused. If the Committee refused the application the applicant could appeal and it would then be considered by an independent Inquiry and this would

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ensure an impartial outcome. The application conflicted with the Regional Spatial Strategy and the County's own policy and would be located on the edge of a Special Area of Conservation. There was derelict land elsewhere that could prove to be a more suitable site as the existing site was highly visible and would have a significant impact on the community of St Dennis.

He expressed concern that the Council had two roles, as planning authority and waste authority and it was difficult for it therefore to assess the merits of the application. He stated that there was a political element to any decision and addressed the Liberal Democrats on the Committee stating that they should be committed to the best environmental solution and practical options and therefore vote against the application on planning grounds.

Steven Gilbert, Prospective Parliamentary Candidate (Liberal Democrat)

Mr Gilbert stated that Cornwall County Council had only days left in existence and that its choice would stay with the community of St Dennis for years to come. He stated that he opposed the application and recognised the significant financial costs if it was refused. The blimp had highlighted the full scale of the application. SITA had not dealt with the numerous questions that it had been asked. He considered that the incinerator was outdated and ill perceived.

Caroline Righton, Prospective Parliamentary Candidate (Conservative)

Ms Righton stated her opposition to the proposal and made a cross party appeal to refuse planning permission. There were less costly and more environmentally friendly solutions to Cornwall's waste. She stated that she had been told that there were other options which could be explored but this would not happen unless permission was refused.

Cornwall Sustainable Waste Network – Mr R Toms

Mr Toms stated that the weight of waste being dealt with by the incinerator must be related to what was emitted from the stack. Particulates of acid gas would be emitted at a total of 16 tonnes per hour, a figure agreed by the Environment Agency. A better air pollution control system had been suggested by SITA but only 6 of the chemicals emitted would be closely monitored. 60,000 tonnes of bottom ash would be generated which would need to be tested and he queried what would happen to it if it was hazardous given that the nearest facility available to deal with this type of waste was in Gloucestershire. The emissions from the stack would be discharged over Goss Moor which was inhabited by rare plant life and, therefore, an appropriate assessment was required.

Transition Cornwall – Ms C Larke

The proposal did not comply with the waste hierarchy and the application was incomplete. The Council should be putting emphasis on recovery rather than disposal. The application conflicted with national policies and would have significant visual and landscape impact. The application was not complete in terms of the Habitats Directive. A decentralised solution should be pursued and an interim solution could be flock which was inert and could be landfilled due to reduced bulk.

Member advice

Members were advised by the Senior Solicitor that if the Committee was minded to approve the proposal that the update sheet made it clear that this would be subject to a number of factors including an appropriate assessment under the Habitats Regulations.

The Head of Legal Services advised the Committee that the content of some of the speeches by members of the public clearly expressed or implied party political issues and informed Members that they were required to take a decision on planning grounds only.

SITA

The applicant stated that landfill was set to run out in 2014 at which point waste would have to be disposed of outside of Cornwall. The CERC was part of an integrated solution to managing household waste and would mean that the County would avoid having to pay fines. The Cornwall Waste Local Plan was a strategy which anticipated a single energy from waste plant in the central area of search. They had considered 35 sites in central Cornwall which had been assessed against planning, environmental and operational criteria and the current application site had been considered most suitable.

The Cornwall Waste Local Plan, in stating that a single solution should be provided, had recognised that this would be a substantial development which would have significant visual and landscape impacts. The South West Regional Assembly had not objected and the Environment Agency supported a single facility. The development was in accordance with national waste policy and its benefits to the wider community should be considered.

All such facilities had strict limits on emissions. Possible impacts had been assessed based on worse case scenarios. The Primary Care Trust had been consulted and stated that emissions would have little impact on health. The Food Standards Agency had also stated that there were unlikely to be effects on food production in the locality.

The CERC could be defined as recovery rather than disposal as it would generate power and heat. 48 full time jobs would be provided at the

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plant, with a further 250 during the construction period. Most trips would not be new as the road network was currently used to transport waste to other facilities. A haul road would be provided and the site was next to the railway which could be utilised in the future if required. There would be the lowest environmental impact compared to other sites in the UK.

Member advice

Members were advised by the Minerals and Waste Policy Manager that landfill capacity was a matter of debate between the Waste Disposal Authority and the Waste Planning Authority. The rate at which landfill was used depended on the volume of waste and how much it was compacted. Projections currently indicated that it would be exhausted between 2018 and 2024. These projections also took account of Lean Quarry, which was outside the ownership of the Council.

Comments by Local and Adjoining Local Members

Brian Higman, Local Member, stated that the Committee was required to consider the planning issues rather than the cost. He queried how many Members had visited the site when the blimp was present to gain an indication of the implications of the development. The decision made by the Committee would affect children and future generations and have environmental consequences. He referred to visits to other plants in the UK which had been situated on industrial estates and had easy access to arterial roads, rather than being in rural settings such as St Dennis. The haul road development would not be permitted if sought for another purpose and would cut through public footpaths which were used extensively. Members should also recognise that all other traffic would use the other roads in the area to access the site. Health concerns were immeasurable and there would also be psychological impacts.

Andrew Waters, adjoining Local Member, stated that if Members considered there was the slightest risk to public health as a result of the proposal they should refuse permission. Incineration was an outdated technique and most of Europe had modern, cleaner and more efficient facilities. The proposal did not accord with government policy. Further, it was not mid-Cornwall which produced most of the waste. The impact on the transportation network and on Fraddon in particular required consideration. He considered that the development itself would overshadow St Dennis and dispersal of emissions would be affected by the bad weather.

Des Mennear, adjoining Local Member, stated that this was a major industrial development. Although heat could be exported to the nearby driers, the clay industry was in decline so it should be questioned as to how long it would use the heat and how it would be used in the future.

Joan Vincent, adjoining Local Member, had been involved in numerous visits to look at different methods of dealing with waste. Previously a

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study had been done on alternative methods but this could not now be located. She considered that the proposal was for the wrong method and in the wrong location.

Des Curnow, adjoining Local Member, reiterated many of the concerns previously expressed, stating that waste should be dealt with close to source. The building would dwarf the village of St Dennis and would disadvantage the community.

During discussion a number of further issues and comments were raised, including:-

- i) the rail connection was not going to be used and, therefore, other sites should be considered;
- ii) the local environment was already affected by china clay waste;
- iii) clay tips in the area had been reprofiled to improve the landscape but this proposal would create greater impacts;
- iv) other options should be considered as the contract allowed flexibility and SITA could consider other technologies;
- v) the noise during construction and operation would be untenable;
- vi) there would be an impact on human rights in both existing and future generations;
- vii) there would be impacts on agricultural land;
- viii) it was considered that recycling should be further enhanced and encouraged;
- ix) the impact on the historic environment and heritage should be recognised;
- x) government guidance stated that development should not cause an unacceptable degree of disturbance;
- xi) the development would be seen from the Area of Outstanding Natural Beauty;
- xii) other sites could have lesser environmental impacts and have shorter access points;
- xiii) the community of St Dennis had behaved in a manner that should be congratulated as they had raised awareness and challenged how the County dealt with its waste;
- xiv) the Environment Agency was responsible for issuing the environmental permit and for giving planning advice. Should permission be granted it had indicated that a draft permit could be available by July;
- xv) the planning authority had been in discussion with the Civil Aviation Authority;
- xvi) the view was expressed that those speakers who had spoken on party political grounds had questioned the integrity of the Committee who had received training, could interpret advice and would make a decision based on planning grounds;
- xvii) there was no 'Plan B' if permission was refused;
- xviii) the proposal would harm the countryside and have significant impact on a greenfield site;
- xix) noise and light pollution issues should be recognised, in addition to the perceived impact on the health of the community;

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- xx) if there was a public inquiry health issues could be raised but, if the Committee wished to refuse permission it would need to do so on planning grounds;
- xxi) the transport implications were considered unsustainable and contrary to the Regional Spatial Strategy;
- xxii) a single incinerator was not sustainable;
- xxiii) the development could have a significant impact on the regeneration of the clay area;
- xxiv) the impact of the scale and size of the proposal on the location should be recognised; and
- xxv) Members were advised that should they wish to refuse the application they should provide broad grounds for refusal which officers could then develop into detailed reasons for refusal which could be brought back to the Committee following an adjournment.

It was moved by Jackie Bull, seconded by Graeme Hicks, that the Committee be minded to refuse planning permission for the following broad reasons:-

- i) the proposal is not sustainable as it is sited in the wrong location and waste should be dealt with where it arises;
- ii) the development would cause harm to the countryside;
- iii) the development would have a cumulative impact in terms of scale, mass and height of the building, thereby impacting on the community;
- iv) impact on residential amenity due to noise and traffic impacts;
- v) landscape character impacts in terms of the historic environment and nature conservation;
- vi) light pollution;
- vii) impact on the public rights of way; and
- viii) impact on the regeneration of the china clay area.

In accordance with Council Procedure Rule 15.6, more than a quarter of the Members present requested a recorded vote on the proposed grounds for refusal.

On a vote, the proposal as won (20 for, 1 against and 1 abstention).

Those voting for the proposal:-

Paul Adams, Roger Bonney, Bob Booker, Collin Brewer, Jackie Bull, Mrs A J Carlyon, Gerald Chin-Quee, Julian German, Graeme Hicks, Roger Jones, Pam Lyne, Peter Mates, Barbara McTaggart, Des Mennear, Neil Plummer, John Pope, Alec Robertson, John Stocker, Joan Symons and Joan Vincent.

The following Member voted against the proposal:- Les Hunkin.

The following Member abstained from voting:- Glenton Brown.

The meeting adjourned at 2.25 p.m. to enable officers to develop detailed reasons for refusal for the Committee to consider.

The meeting reconvened at 3.00 p.m.

Further to the broad grounds of refusal on which Members were minded to refuse the application, a paper detailing reasons for refusing the planning application was tabled for Members' consideration and changes discussed. It was moved by Des Mennear, seconded by Graeme Hicks, and

RESOLVED that

(a) the application be refused for the reasons set out below:-

1. The proposed development of this single energy from waste facility, accessed by road, in this location, to serve the County of Cornwall is not considered to represent a sustainable approach to manage waste in a County characterised by its dispersed settlement pattern and population. The existing planning policy framework requires a single Energy from Waste facility to be located in proximity to the SSCT. For this reason the proposal conflicts with Policy W2 of the draft Regional Spatial Strategy (2008);
2. The proposed energy from waste facility in this location is contrary to the Waste Planning Authority's policies by virtue of failing to meet the criteria set out within policies L6, L6A and L6B of the Cornwall Waste Local Plan 2002 and policies 13 (Energy from Waste), 24 (Landscape and Townscape Designations), 25 (Historic Environment), 31 (Agricultural Land Quality) and 32 (Public Rights of Way and Recreational Areas) of the emerging Waste Development Framework (submission stage) 2007;
3. The proposal would have an unacceptable impact on landscape character and visual impact by virtue of its scale, massing and height, and the proposed loss of established Cornish hedge. This is contrary to Policies 2 and 6 of the Cornwall Structure Plan 2004; Policy L6A, L6B and C1 of the Cornwall Waste Local Plan 2002 and Policy 6 of the Restormel Borough Council Local Plan 2001;
4. The proposal would have an unacceptable impact on historic landscape and Listed Buildings. This is contrary to Policies 2, 3 and 6 of the Cornwall Structure Plan 2004; Policy C1 of the Cornwall Waste Local Plan 2002 and Policy 11, 18, 25 of the Restormel Borough Council Local Plan 2001;
5. The proposal would have an unacceptable impact on the network and users of public rights of way. This is contrary to Policies 2, 3 and 6 of the Cornwall Structure Plan 2004; Policy C1 of the Cornwall Waste Local Plan 2002 and Policy 32 of the Restormel Borough Council Local Plan 2001;

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6. The proposal would have an unacceptable impact on residential amenity due to noise both during the construction and operational stage, particularly in respect of those properties located at 'La Mount Corner', Rostowrack and Bodella Farms; north west Treviscoe and properties immediately adjacent to the proposed haul road. This is contrary to Policies 2, 3 and 6 of the Cornwall Structure Plan 2004; Policy C1 of the Cornwall Waste Local Plan 2002 and Policy 37 of the Restormel Borough Council Local Plan 2001;
7. The applicant has inadequately considered the availability of alternatives, the development of which may have given rise to lesser environmental impacts. This is contrary to Policies 2, 3 and 6 of the Cornwall Structure Plan 2004; Policy C1 of the Cornwall Waste Local Plan 2002 and Policy 37 of the Restormel Borough Council Local Plan 2001;
8. The proposal by virtue of its scale, size and proximity to surrounding areas would have significant adverse impacts upon the environment and setting of those areas. This is contrary to the regeneration ambitions of the china clay area within the china clay Strategic Investment Framework which proposes regeneration of communities, landscape and the economy as well as improving the wellbeing of such communities. This is contrary to Policies 1, 2, 3 and 6 of the Cornwall Structure Plan 2004; Policy C1 of the Cornwall Waste Local Plan 2002 and Policy 11 and 12 of the Restormel Borough Council Local Plan 2001;

(b) prior to the issue of the decision of refusal, the Assistant Director: Spatial Planning of Cornwall County Council or the Head of Planning and Regeneration, Cornwall Council (after 1 April 2009) be authorised to amend or add reference to any policies which are considered to be material to the above grounds of refusal.

The meeting ended at 3.15 pm.

[The agenda and reports relating to the items referred to above are attached to the signed copy of the Minutes].