

**PLANNING & DEVELOPMENT CONTROL COMMITTEE**  
**17 APRIL 2015**

Minutes of the meeting of the Planning & Development Control Committee of Flintshire County Council held at Council Chamber, County Hall, Mold on Friday, 17th April, 2015

**PRESENT: Councillor David Wisinger (Chairman)**

Councillors: Marion Bateman, Chris Bithell, Derek Butler, David Evans, Ray Hughes, Christine Jones, Richard Lloyd, Mike Peers, Neville Phillips, Mike Reece, Gareth Roberts and David Roney

**SUBSTITUTIONS:**

Councillor: Haydn Bateman for Carol Ellis, Richard Jones for Veronica Gay and Mike Lowe for Billy Mullin

**ALSO PRESENT:**

The following Councillors attended as adjoining Ward Members:-

Councillor: Bernie Attridge, Ian Dunbar and Ian Smith for agenda item 4.1

**APOLOGIES:**

Councillors: David Cox and Alison Halford

**IN ATTENDANCE:**

Chief Officer (Planning and Environment), Planning Strategy Manager, Senior Engineer - Highways Development Control, Manager (Minerals and Waste), Senior Minerals and Waste Officer, Pollution Control Officer, Democracy & Governance Manager and Committee Officer

172. **DECLARATIONS OF INTEREST**

Councillor Bernie Attridge declared a personal and prejudicial interest in the application and indicated that, following advice from the Democracy and Governance Manager, he would leave the meeting after he had spoken.

173. **LATE OBSERVATIONS**

The Chairman allowed Members an opportunity to read the late observations which had been circulated at the meeting.

174. **FULL APPLICATION FOR AN ENERGY RECOVERY FACILITY AT WEIGHBRIDGE ROAD, DEESIDE INDUSTRIAL PARK (052626)**

The Committee considered the report of the Chief Office (Planning and Environment) in respect of this application which had been the subject of a site visit earlier that day. The usual consultations had been undertaken and the responses received were detailed in the report. Additional comments received since the preparation of the report were circulated at the meeting.

The Senior Minerals and Waste Officer detailed the background to the report and explained that the proposal was to address the management of residual municipal waste for the five North Wales Authorities that had signed up

to the North Wales Residual Waste Treatment Project (NWRWTP). The proposal would allow the waste to be dealt with in a cost effective way rather than being submitted to landfill to comply with local and national directives. The current figures for recycling in North Wales were 56% which was an increase from 19% in 2003. The target was to achieve 70% recycling with 30% residual by 2025 with a target of zero residual by 2050. Failure to comply with these targets would result in heavy penalties. The officer explained that the waste was currently sent to a disposal facility in Wrexham or processed by the Council's themselves and there were two digesters in North Wales for food waste, one in Caernarvon and one in Rhuddlan.

It was reported in the late observations that some of the Local Members had not responded to the second round of consultation that was undertaken. The officer explained that the applicant had submitted information on technical flood issues on part of the site based on Natural Resources Wales (NRW) forecasts. Flooding had not been raised in any of the public consultation responses and therefore responses to the second consultation on this particular issue had not been expected from all those who responded to the first consultation. He commented on the Environmental Impact Assessment requirements to re-consult following the submission of further information and the second consultation process had gone above and beyond the requirements of the Regulations that only required relevant consultees to be consulted. Because the site ran very close to different wards, even though it was sited in Connah's Quay Wepre ward, there had been a decision to undertake wider consultation with adjoining ward members which was repeated in the second consultation.

The site was 10.5 hectares in size and was located in the Deeside Industrial Park. The development was industrial in nature and would look like other sites in the area. It was proposed that the chimney stack would be 85 metres and the site was to be fully landscaped and would include a water attenuation pond. The facility would be reached by road from the A548 but it was anticipated that in the longer term rail links could be achieved. The officer commented on a site visit that some Members had attended in Wolverhampton to a similar type of facility to what was being proposed. This site could take up to 200,000 tonnes of waste whereas the site in Wolverhampton was designed to take up to 300,000 tonnes. This site would accept residual municipal waste from the five North Wales authorities of between 112,000 and 118,000 tonnes per year and would also be able to process and treat 57,000 to 88,000 tonnes of industrial and commercial waste. The recycling of the waste would produce 16MW of electricity and 8MW of heat and the facility would produce 45,000 tonnes of bottom ash.

The proposal was in accord with the Unitary Development Plan and complied with policies GEN1, STR1, EWP5 and EWP6 to EWP8. The proposal would not affect the ecological integrity of the site or the designation of the River Dee or the Dee Estuary. It also complied with good design standards. There were excellent transport links in place to the Deeside Industrial Park. It was recommended that the proposal be approved and granted a temporary permission to 2050 to address the concerns raised by NRW. Control of the site would be by planning conditions and the requirement to apply for an environmental permit from NRW. There were strict guidelines in place in relation to omissions and noise level controls and if these were not adhered to, then the permit would not be granted and the facility could not operate. The proposal was

sited some way from residential properties and it was not anticipated that noise would be an issue. Up to 300 jobs would be created during the construction of the proposal with 32 to 37 personnel required to operate the site. The officer explained that it was the intention of the applicant to set up a liaison group to serve as a forum to highlight and address concerns as a result of the proposal. The application had received a small number of objections and the officer indicated that more letters of support than objection had been received. The letters of support mainly commented on sustainability and the economic benefits for the area whilst the letters of objection highlighted noise pollution and air quality as areas of concern as well as insufficient transport links in the wider area. Objections had also been received about the procurement process undertaken by the NWRWTP but the officer explained that this was not a material planning consideration. The initial objections raised by NRW had now been withdrawn following submission by the applicant of further information relating to flooding issues and therefore there were no objections from statutory consultees.

Mr. M. Redmond spoke on behalf of Burton Residents Association. He said that the main reasons for objecting to the proposal were on the grounds of possible risk to health, possible noise pollution and the use of obsolete technology. He felt that particles PM1 and PM2.5 could not be monitored and these could cause serious damage to health and that an incinerator was an obsolete method of dealing with waste as there were other options such as mechanical and biological treatments. He commented that incinerators were banned in Germany. On the issue of noise, he explained that following a public consultation exercise held in June, information on noise modification work by the company had been requested but Mr. Redmond said that to date this had not been received. Concerns had also been raised about noise and vibration and requests had been submitted to the operator to consider the issues but these had been denied. If the application was approved, Mr. Redmond asked that strict environmental conditions be imposed. He added that he was aware that if the application was refused, then Flintshire County Council would be liable for a large penalty.

Mr. P. Short spoke in support of the proposal. He felt that Parc Adfer was vital to manage waste sustainably and would be used as a resource for energy and would produce 40,000 tonnes of secondary aggregates. The site was specifically allocated for employment use and would create 35 jobs once the facility was in operation. The proposed facility would be sited in the Deeside Enterprise Zone and the proposal complied with all guidelines on the issues of noise and air quality. The site was over 1.7km away from residential settlements and would not lead to any noise issues for residents. It was not anticipated that the traffic in the area would increase because of the proposal and if all of the vehicles from the facility used Aston Hill, the traffic would only increase by 0.1%. It complied with all policies and met and exceeded the required guidelines. The proposal would produce 16MW of low cost energy and would also produce heat.

Councillor C. Risley from Connah's Quay Town Council spoke against the proposal. He raised significant concern about the process for identifying the preferred site and indicated that if the application was refused, Flintshire County Council would be liable for a penalty of over £70m; he therefore queried how the Committee could objectively determine the application. He highlighted serious concerns on pollution, noise, dust, soot, ash and noxious omissions and added that the facility would have little or no control over what entered the process other

than it was residual waste. He felt that it was difficult to monitor omissions and added that any omissions would affect the residents of Connah's Quay. He commented on the increase in traffic and problems which currently occurred on the wider road network and added that in 2012/13, the A494 which served the Deeside Industrial Park was free of roadworks or accidents for only 84 days. The risk to the health of residents had not been considered and he asked whether this was worth the provision of 35 jobs.

The Democracy and Governance Manager indicated that how the site had been identified and any penalties that would have to be paid were not material planning considerations and should therefore not be taken into account in considering the application.

Councillor Ian Dunbar, an adjoining Ward Member, spoke on behalf of the residents of Connah's Quay. They were strongly against the proposal due to fears about the fallout of omissions and he commented on omissions from other facilities on the Deeside Industrial Park including the power station and the steelworks. Concerns had been raised about the health of residents and their families and Cllr Dunbar referred to a USA environmental protection website which indicated that Wheelabrator had violated the clear air act. On the issue of policy EWP12, he did not feel that the report had addressed the concerns raised by Cheshire West and Chester Council and therefore suggested that the application could be refused or deferred until the concerns had been addressed. He queried what would happen if the rates of waste fell below the proposed targets and referred to an email which indicated that the costs had increased once Wheelabrator became the final bidder. He said that Connah's Quay Town Council had asked that the proposal be scrapped but the NWRWTP had proceeded with the proposal. Cllr Dunbar added that there was now the added concern of the penalty of £71m. He commented on the consultation undertaken with Connah's Quay Town Council where the proposals to bring the waste in by rail had been discussed but not proceeded due to the cost. This would now result in 80 to 90 extra wagons on the road to bring the waste to the site.

The Democracy and Governance Manager reiterated his earlier comment that the issue of penalty was not a material planning consideration.

Councillor Bernie Attridge, an adjoining Ward Member, spoke on behalf of Connah's Quay Town Council's request to reject the application but added that as it appeared that local members had not been consulted on the second round of consultation, that the application be deferred to allow the consultation to take place. Burton Residents Association had also requested information but this had not been received. If the application could not be deferred, he asked that it be refused on the grounds that there had been a failure to demonstrate the need for the facility and non-compliance with Welsh Government (WG) policies. Concern was also raised about the proposals no longer including an option to bring the waste to the site by rail. He felt that this would result in wagons coming to the site from all over the country rather than just North Wales to make up the commercial and industrial waste targets. He felt that the proposal would not benefit the residents of Connah's Quay, Shotton or Garden City and requested that the Committee either defer or refuse the application. Having earlier declared an interest, Councillor Attridge left the meeting.

Councillor David Roney proposed refusal of the application, against officer recommendation, which was duly seconded. He commented on concerns about

health of residents and referred to a report by an environmental watchdog that hundreds of thousands of people would die as a result of air pollution. He felt that to install an incinerator would add to these concerns. He queried the amount of pollutants that would be produced and queried how the Committee could approve an application to burn waste that should be recycled. He commented on the waste site in Rhyl where 90% of waste was recycled if operatives on site supervised the disposal of the waste into skips, but this reduced to 60% with no supervision. He referred to TAN8 which indicated that such facilities should be sited adjacent to a suitably sited heat user but he did not feel that such a user was in place currently.

In referring to paragraph 8.04 where site selection was reported, Councillor Mike Peers indicated that this provided little background about the brownfield site. He commented on the 200,000 tonnes that could be processed at the site but raised concern about the industrial and commercial waste of approximately 57,000 tonnes which was more than 25% of the amount that the site could process; he queried why this was not reported and asked where the waste would come from. He commented on the use of rail to bring waste to the site and referred to the original consultation document from the NWRWTP about the benefits of using rail to reduce traffic and bring financial benefits. It had now become apparent that rail would not be used due to costs but Councillor Peers felt that it should be a fundamental part of the application.

Councillor Ian Smith objected to the application. He said that thousands of tonnes of waste would be burned and the omissions would be spread over a wide area, but the distance was unknown. He felt that there were no plans to measure the omission levels so the accumulation levels would not be known.

In referring to the suggestion to defer the application, Councillor Chris Bithell said that responses to the first consultation were well documented but very few appeared to have been consulted in the second round of consultation; he therefore moved deferment which was duly seconded. He suggested that it could be that the consultees were satisfied and had therefore not responded but he also queried whether the consultation had been undertaken properly. Councillor Derek Butler concurred as he felt that it was important that all consultees be given the opportunity to respond to the second consultation. Councillor Peers referred to the earlier explanation from officers about the second consultation and asked whether it was safe to proceed to a determination at this meeting because of the lack of response to the second consultation. Councillor Roney felt that there had been a conspiracy of silence as the press and public had not been aware of the meeting which was originally scheduled for 13 March 2015 and that he had only known of this meeting last week. Councillor Richard Jones reiterated the comments about the lack of responses to the second consultation and highlighted the comments from Cheshire West & Cheshire Council who had responded first time round but not the second. Cllr Neville Phillips also agreed with deferment.

In response, the Chief Officer (Planning & Environment) explained that the reason the meeting had not taken place on 13 March 2015 was because of the second consultation as a result of objections from NRW about flooding. Further information was then submitted by the applicant on that aspect and officers were then duty bound to reconsult and therefore the meeting on 13 March could not take place. The initial response from Cheshire West & Chester Council had not made any reference to flooding and therefore they would not

have been expected to make any response to the second consultation which was only on flooding issues. Statutory consultees had been consulted and the issues of flood risk had been addressed and as a result, NRW had withdrawn their objection.

The Democracy and Governance Manager explained that for special planning committees, the date was only released to the public when officers were sure that the meeting would proceed. Notice was provided to Members of the 13<sup>th</sup> March date but further consultation was required so the meeting could not take place. Advance notice of this meeting was also provided to members but confirmation that the meeting could take place was only agreed last Friday as the report had to be considered by a barrister to ensure that it was legally sound to proceed today; he confirmed that it was. The press had been kept updated by the Corporate Communications Office.

Councillor Bithell said that issues other than flooding had been raised and consultees would expect their comments to be carried forward too. The Chief Officer (Planning and Environment) said that all comments received were valid but that he would not have expected all consultees to respond to the second consultation if they had not referred to the issue of flooding in their initial response. He did not feel that the application should be deferred and added that all of the objections received were material to the consideration of the application.

On being put to the vote, the proposal to defer the application was LOST.

Councillor Bithell indicated that the proposal was on a brownfield site which was allocated in the UDP for B1 and B8 employment uses and was an appropriate site for a waste management facility. He was disappointed that the provision for rail was not included in the proposals as he felt that the 5.5 extra vehicle movements per hour was considerable. He referred to the comments about there being no sustained level of nuisance which he felt suggested that there was some such levels. He commented on the cumulation of omissions from this and other factories on the Deeside Industrial Park but indicated that it was reported that this was within allowable levels. He raised concern about the stack height.

Councillor R. Jones referred to the comments of Cheshire West & Cheshire Council about levels of nitrous oxide which he was concerned about and he raised concern that details of omissions had not been provided other than to refer to them being below acceptable levels in paragraph 8.104; he requested a guarantee that the omissions would not be a risk to health. He referred to the possible issue of contaminated land and highlighted paragraph 8.68. He also asked for clarification on where the industrial and commercial waste would come from and, in referring to TAN8, sought clarification on what could be used as a heat load. He felt that there were better ways to deal with waste. Councillor Christine Jones raised concern about the health of residents and referred to the toxic omissions from the stack and the effect on the environment and atmosphere on the future health of residents. She considered it was a major concern and she sought reassurance that the emissions would be monitored. She also considered that the impact on the highways was a major concern with an additional 208 movements by heavy goods vehicles; the highways were already extremely congested. She was disappointed that the waste would not be brought to the site by rail.

Notwithstanding the comments of the Burton Residents Association, Councillor Butler said that national bodies that had been consulted did not have an issue with health and the proposal was compliant with guidelines. He added that if the applicant did not comply, a permit would not be issued and the site could not operate. He commented on the visit to Wolverhampton and of the support put forward by local business. He also referred to the 35 jobs that would be created. He felt that businesses in the area would be able to use the heat source but raised concern that rail links no longer formed part of the proposal. He also commented on whether the arisings over the period would be sufficient and that waste would be brought in from further afield. He felt that it was important to concentrate on whether the proposal was needed.

Councillor Gareth Roberts felt that it would be difficult to substantiate grounds for refusal in an appeal as the application met the criteria. He was surprised at the omission of rail as a method to transport the waste but felt that this was not a sufficient reason to refuse the application. He commented on the height of the chimney stack but suggested that it would not be out of place as it was on an industrial estate. No adverse comments or objections had been received from statutory consultees and he spoke of the visit to the site in Wolverhampton. He also suggested that consideration of whether there were other methods available to dispose of the waste was not grounds for refusal of this application and he felt that the correct decision was to approve the proposal.

In response to the comments made, the Senior Minerals and Waste officer explained that the majority of residential municipal waste from Gwynedd, Anglesey and Flintshire was currently taken to the Hafod site in Wrexham and therefore this proposal would not result in additional traffic movements as the vehicles were already on the road, even though they were going to a different destination. The site could accommodate the levels of traffic proposed because of the transport links and in an ideal world, rail would be a good option for the movement of waste but the applicant could not be forced to include this in the proposal. On the issue of contaminated land, he explained that the site was a brownfield site where the steelworks had been sited. It was therefore felt that the best option was to leave the earth in situ rather than dig it up and this had been detailed in paragraph 8.68. The Council would have no control over where the industrial/commercial waste was sourced from but the officer did not feel that it would come from far away from the site. The main purpose of the application was for the municipal waste generated by five local authorities across North Wales and any other parts to the proposal could not be controlled by condition. Consultation with Environmental Health colleagues had been undertaken and they had indicated that there would be no adverse cumulative effects on human health from pollution. He reminded Members that they should deal with the application before them and not consider whether there were other technologies that were more appropriate. On the issue of the stack height, at 85 metres, it was slightly shorter than the height from the road to the top of the Flintshire Bridge which was 93 metres.

The Minerals and Waste Manager commented on the stack height and displayed photographs to show the Committee the area where the chimney would be sited and suggested that because it would be sited in an industrial area, it would blend into the background. On the issue of where the industrial/commercial waste would come from, he explained that waste seldom travelled more than 35 miles and given that new facilities had recently opened in

England that served Cheshire/Lancashire/Greater Manchester, he felt that the waste would come from areas where this site would be nearer to travel to. He commented on the capacity of the site which would accommodate the target amount of 30% residual waste which currently went to landfill and added that the greatest contributor would be Flintshire and local authority waste with any difference in arisings probably coming from North Wales.

In response to a comment from Councillor Roney on the requirements of TAN8, the officer confirmed that the site was located in the Deeside Industrial Park which was one of the largest industrial areas in Wales or even the UK and was a suitable heat load.

The Policy Strategy Manager felt that TAN8 was relevant and commented on the future of Deeside Enterprise Zone and Northern Gateway and the target of 5,000 jobs for the area for which he suggested energy would be required. He advised that there was the additional safeguard that none of the statutory consultees had any concerns or objections to the proposal which he felt Members should be mindful of. It was also a requirement that the site was operated in a safe sustainable manner otherwise NRW would not issue an environmental permit.

In summing up, Councillor Roney reiterated his earlier comments about a large number of people dying because of air pollution and suggested that a heat load source had not been identified. He commented on the lack of an option for rail transportation of the waste and queried what would happen if there was not enough waste to achieve the targets set for the proposal. He spoke of possible alternatives to deal with the waste and also of the trip to Wolverhampton which he had not enjoyed. On the site visit Members had been advised that the site was run with six operators in the day and one at night and he felt that this proposal would therefore not create jobs. He commented on the harmful effect of top ash which had to be buried because of its toxic nature. He felt that the application should be refused because the applicant had not shown the need for the size of facility that was being proposed and that the proposal did not include the movement of waste by rail to reduce traffic on the road.

The Chief Officer (Planning and Environment) commented that the second reason given was not valid and indicated that there was a need to identify the harm shown by the development. Councillor Roney then suggested that the reasons should be:-

1. No need for the size and type of facility
2. No suitable receptor for combined heat and power plant as required by TAN8
3. Increased impact on the road network

The Chief Officer (Planning and Environment) said that there had been no objections from Highways on traffic issues and queried whether Councillor Roney wanted to include the third reason; he confirmed that he did.

On being put to the vote, the proposal to refuse application against officer recommendation was CARRIED.

The Chief Officer (Planning and Environment) indicated that the application had been refused against officer recommendation and he considered it appeared to represent a significant departure from planning policy and as such



would need to seek advice from the Legal Officer as to whether he agreed that the decision was a significant departure from policy. If he did, the decision would need to be referred back to the Committee in line with procedures.

**RESOLVED:**

That a decision be sought from the Democracy and Governance Manager about whether the decision to refuse planning permission represented a significant departure from policy and needed to be referred back to Committee to be reconsidered.

175. **MEMBERS OF THE PRESS AND PUBLIC IN ATTENDANCE**

There were 9 members of the public and 2 members of the press in attendance.

(The meeting started at 2.30 pm and ended at 4.33 pm)

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**Chairman**