

FLINTSHIRE COUNTY COUNCIL

REPORT TO: **PLANNING & DEVELOPMENT CONTROL COMMITTEE**
DATE: **FRIDAY, 22 MAY 2015**
REPORT BY: **CHIEF OFFICER, GOVERNANCE**
SUBJECT: **PLANNING APPLICATION 052626 FOR AN ENERGY RECOVERY FACILITY ("ERF") AT WEIGHBRIDGE ROAD, DEESIDE INDUSTRIAL PARK**

1.00 PURPOSE OF REPORT

- 1.01 For the committee to reconsider the decision it made at its meeting on the 17 April 2015 relating to the above application as the Democracy & Governance Manager has concluded that the decision amounts to a significant departure from policy.

2.00 BACKGROUND

- 2.01 At the special meeting of the committee on the 17 April 2015 it considered an application from Wheelabrator Technologies for a proposed energy recovery facility at Weighbridge Road, Deeside Industrial Park (application number 052626) ("The Application"). At that meeting the Chief Officer, Planning & Environment presented a report which recommended permission be granted for the application. A copy of that report is attached as Appendix 1. The late observations relating to this application are attached as Appendix 2.
- 2.02 At the meeting Councillor D Roney proposed that the application be refused and this was seconded by Councillor M Peers. Following debate and advice from officers the committee resolved to refuse the application in accordance with Councillor Roney's proposition. The three reasons for refusal being:-
1. That the scale and type of facility were not needed.
 2. That the proposal failed to identify a receptor for the heat or energy that the development will generate.
 3. That the development will have an unacceptable impact on the highways network.
- 2.03 Following the decision of the committee the Chief Officer, Planning & Environment advised the committee that in his view the decision it had made amounted to a significant departure from planning policy and he would therefore be seeking a view from the Legal Advisor present pursuant to paragraph 11.5 of the Flintshire Planning Code. This paragraph of the Flintshire Planning Code provides a mechanism

whereby the committee can be required to reconsider its decision if the Legal Advisor present at the meeting concludes that the decision reached at that meeting amounts to a significant departure from planning policy.

2.04 The Legal Advisor present at the meeting was the Democracy & Governance Manager. In accordance with his normal practice in such situations he gave an opportunity for the Chief Officer, Planning & Environment and the Members who proposed and seconded the motion to make written representations to him before he reached his view on the question of whether the decision amounted to a significant departure from planning policy.

2.05 By the deadline of the 1 May 2015 written representations had been made by and on behalf of the Chief Officer, Planning & Environment and by the proposer of the motion, Councillor Roney. These written representations were then carefully considered by the Democracy & Governance Manager in reaching his opinion.

3.00 CONSIDERATIONS

3.01 In relation to the first reason of refusal based on the scale and type of facility not being needed the Chief Officer, Planning & Environment in his representations included the following points:-

- The EU Landfill Directive seeking to divert biodegradable municipal waste away from landfill and as far up the waste hierarchy as possible as referred to in paragraphs 8.23 to 8.38 of the committee report.
- The selection of ERF technology by the applicant is supported by Welsh Government.
- The scale and need of the facility is clearly evidenced within the committee report. Despite increased levels of recycling taking place at each of the partner authorities this would be offset by increases in population and number of households.

3.02 In his written representations on this reason for refusal Councillor Roney included the following points:-

- The incinerator is too big and unnecessary because this type of residual waste can be treated in many ways and other Councils are proving this.
- Recycling technologies are improving all the time and the partner authorities will be locked into an agreement guaranteeing tonnages that would have an adverse effect on recycling.
- The Welsh Government's Waste Prevention Programme and ongoing technological improvements would mean in his view a 100,000 tonnes discrepancy per annum with the projected figures in the application documentation.

- 3.03 The Democracy & Governance Manager is of the view that the reasons given by Councillor Roney whilst relevant to the authority in its land disposal role are not planning policy reasons for the Council as planning authority refusing the application. The Democracy & Governance Manager agrees with the reasons given by the Chief Officer, Planning & Environment in relation for this reason for refusal being a significant departure from policy.
- 3.04 In relation to the second reason for refusal the written representations from both Councillor Roney and the Chief Officer, Planning & Environment refer to Technical Advice Note 8 (TAN8) entitled "Planning for Renewable Energy". Councillor Roney has interpreted this as requiring a plant such as that the subject of the application to be carefully sited adjacent to a suitably matched heat load. He draws attention to paragraph 8.135 of the application that states that no heat user has been identified for this proposed development. The Chief Officer, Planning & Environment in his written representation on TAN8 explains that this sets out criteria which should be met for such proposals to be acceptable and these are set out in paragraph 14.3 of Annex C. He draws attention to this saying that any EFW should include combined heat and power "wherever practicable". He also draws attention to the Annex saying that developments such as the one in the application need to be carefully sited adjacent to a suitably matched heat load and explains that this is not the same as requiring a developer to identify a specific heat user. He goes on to indicate that the developer, in this case, has identified a site which lies within Deeside Industrial Park where there is a likely demand for heat and energy and in his view this is sufficient to satisfy the requirements of TAN8. The Democracy & Governance Manager whilst agreeing with the interpretation of the Chief Officer, Planning & Environment does not believe that the differing interpretation by Councillor Roney amounts to a significant departure from policy.
- 3.05 Turning to the third reason for refusal at the meeting the committee received detailed advice from the Highways representative why there was no evidential basis for that reason for refusal. This was reinforced by advice from the Democracy & Governance Manager as to the possible implications on any appeal. No evidential basis has been given in Councillor Roney's written representations. The Chief Officer, Planning and Environment in his representations explains that the highway issues were comprehensively addressed in paragraphs 3.08 and 3.75 to 3.95 of the committee report. The Democracy & Governance Manager agrees with the Chief Officer, Planning & Environment on this reason for refusal being a significant departure from policy.
- 3.06 The Democracy & Governance Manager has concluded that overall the committee's decision was a significant departure from policy for the reasons given in paragraphs 3.01 to 3.05 above. The committee

is therefore required to reconsider its previous decision. The Chief Officer, Planning and Environment will advise the committee on the planning issues at the meeting.

4.00 RECOMMENDATIONS

4.01 As the decision on the application reached by the committee at its meeting on the 17 April amounts, in the opinion of the Democracy and Governance Manager, to a significant departure from policy the committee is required to re-determine the application.

5.00 FINANCIAL IMPLICATIONS

5.01 None as a result of this report.

6.00 ANTI POVERTY IMPACT

6.01 None as a result of this report.

7.00 ENVIRONMENTAL IMPACT

7.01 None as a result of this report.

8.00 EQUALITIES IMPACT

8.01 None as a result of this report.

9.00 PERSONNEL IMPLICATIONS

9.01 None as a result of this report.

10.00 CONSULTATION REQUIRED

10.01 With the Chief Officer, Planning & Environment and Councillors Roney and Peers.

11.00 CONSULTATION UNDERTAKEN

11.01 With the Chief Officer, Planning & Environment and Councillors Roney and Peers.

12.00 APPENDICES

12.01 Appendix 1 – Report by the Chief Officer, Planning & Environment
Appendix 2 – Late Observations

**LOCAL GOVERNMENT (ACCESS TO INFORMATION ACT) 1985
BACKGROUND DOCUMENTS**

The e-mail from Andrew Farrow of the 20 April 2015
The e-mail from Gary Nancarrow of the 21 April 2015
The e-mail from Councillor Roney of the 25 April 2015
TAN8 Planning for Renewable Energy.

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