

PLANNING AND DEVELOPMENT CONTROL COMMITTEE
22 MAY 2015

Minutes of the meeting of the Planning and Development Control Committee of the Flintshire County Council held at County Hall, Mold on Friday 22 May 2015

As the agenda for this meeting was published before all of the nominations to the Planning and Development Control Committee had been confirmed following the Annual meeting, the Legal Officer read out the name of the members not already listed on the agenda.

PRESENT: Councillor David Wisinger (Chair)

Councillors: Marion Bateman, Chris Bithell, Derek Butler, Ray Hughes, Christine Jones, Richard Jones, Mike Lowe, Gareth Roberts and David Roney

SUBSTITUTIONS:

Councillor: Mike Reece for Ian Dunbar, Haydn Bateman for Carol Ellis and Veronica Gay for Mike Peers

ALSO PRESENT:

The following Councillor attended as adjoining ward Member:-

Councillor Ian Dunbar - agenda item 4.1

The following attended as observers:

Councillors: Glyn Banks, Nancy Matthews and Paul Shotton

APOLOGIES:

Councillors: David Cox, Richard Lloyd, Billy Mullin, Neville Phillips and Owen Thomas

IN ATTENDANCE:

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

Mr. Paul Wright from Natural Resources Wales

22. DECLARATIONS OF INTEREST

No declarations of interest were made.

23. LATE OBSERVATIONS

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

24. PLANNING APPLICATION 052626 FOR AN ENERGY RECOVERY FACILITY (“ERF”) AT WEIGHBRIDGE ROAD, DEESIDE INDUSTRIAL PARK, DEESIDE

The Chief Officer (Planning and Environment) explained that the application had been refused at the Planning & Development Control Committee meeting on 17 April 2015. At that meeting he had indicated that he would be seeking advice from the Legal Officer, in line with the protocol, as to whether the decision was a significant departure from policy.

The Housing & Planning Solicitor explained that the report of the Chief Officer (Planning and Environment) and the late observations that were submitted to the meeting of the 17 April 2015 were appended to the report of the Chief Officer (Governance). He detailed the background to the report and explained that the three reasons for refusal suggested by Councillor David Roney were reported at paragraph 2.02. Advice had been sought from the Democracy & Governance Manager, who was the Legal Officer at the 17 April 2015 meeting, about whether the decision was a significant departure from policy and this was in accordance with paragraph 11.5 of the Planning Code. Written representations had been requested from the Chief Officer (Planning and Environment) and the proposer and seconder of the motion and these were detailed in paragraphs 3.01 to 3.05 of the report. A response had not been received from the seconder of the motion by the deadline of 1 May 2015. The Democracy & Governance Manager had decided that the decision was a significant departure from policy and therefore the Committee was being asked to reconsider its decision made on 17 April 2015.

The Chairman advised that normally all Members would ask their questions and responses would be provided at the end of the debate but on this occasion, as the previous debate had been lengthy and raised many detailed questions, Members' questions would be answered after they were asked.

Councillor David Roney queried why Councillor Mike Peers' comments were not included when he had seconded the motion to refuse the application on 17 April 2015 and had provided a detailed response to the Democracy & Governance Manager. The Housing & Planning Solicitor advised that the response from Councillor Peers had not been received by the 1 May 2015 deadline date so the decision was made without his response. However, all of the representations made at the meeting on 17 April 2015 had been taken into account by the Democracy & Governance Manager.

Councillor Richard Jones queried whether the Democracy & Governance Manager made his judgement based only on the written representations or whether he had viewed any other policy documents. The Chief Officer (Planning & Environment) advised that in his response, he had referred to Technical Advice Notes, planning policy and the Unitary Development Plan and this would therefore have formed part of the decision made by the Democracy & Governance Manager.

The Chair indicated that the Senior Minerals & Waste Officer would now present his report for the Committee to consider.

The Senior Minerals & 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 waste to be dealt with in a cost effective way rather than being submitted to landfill to comply with local and national directives. The facility could take up to 200,000 tonnes of waste per annum which would include between 112,000 to 118,000 tonnes per year of residual municipal waste from the five North Wales authorities and the processing and treatment of 57,000 to 88,000 tonnes of industrial and commercial waste.

The current figures for recycling in North Wales were 56% and the target was to achieve 70% recycling and 30% residual by 2025 with a target of zero residual waste by 2050. The officer explained that the recovery of waste through the Energy Recovery Facility (ERF) was a medium term solution and failure to comply with the targets would result in heavy penalties per tonne. The facility was urgently required as there were currently limited facilities to treat residual waste and based on Natural Resources Wales (NRW) data, 405,000 tonnes of waste was produced in North Wales in 2012 with 140,000 tonnes being sent to landfill so more waste was being produced than this site could treat. The facility would be sited on the Deeside Industrial Park and was small in size when compared to other factories and buildings on the Industrial Park. The officer commented on the policies that had been considered and reminded Members that there had not been any objections to the proposals from statutory consultees. He added that the application had received 12 letters of objection on issues such as noise and air pollution, old technology and a rail link not being delivered from the outset of the project. However, the proposals had received more letters of support than objections. The procurement process of the NWRWTP had also been raised as an area of concern but the officer advised the Committee that this was not a material planning consideration.

The proposed facility would produce 16MW of electricity and 8MW of heat which would make it a combined heat and power generator. The proposal complied with TAN8 which indicated that such a facility needed to be sited near to a suitably sited heat load; TAN8 did not require the heat load to already be in place. He commented on the use of technologies and spoke of TAN21 which the application complied with. The infrastructure in and around the Deeside Industrial Park could comfortably accommodate the traffic that would be generated by the proposal as this was only expected to be a 2% increase which was insignificant. Waste was already being transported along the A55 to landfill sites or to other facilities in England. A rail link to the site was included as part of the original project but this application indicated that the bulk of waste would be taken to the site by road as a rail link was currently unviable.

On the issue of pollution, the officer explained that conditions would be put in place to monitor the air quality and an environmental permit would also be required. If the levels did not comply with policy, then NRW would not issue the permit and the facility could therefore not operate; this would ensure that there was no risk to the general public. Dispersion modelling studies submitted by the applicant had proved to be inconclusive and a Human Health Risk Assessment had also been submitted which showed that the risk of omissions from ERFs were all within the limits for the protection of public health. The Environmental Health department had monitoring stations in the county and the development was also subject to noise level controls so would not have an unacceptable impact on residential amenity. The predicted noise levels would not affect health and it was anticipated that the noise produced by this facility would be drowned out by the other factories in the area. The proposal would create up to 300 jobs during the construction stage and between 32 and 37 personnel would be required to operate the site. The officer reminded the Committee that the facility was required to deal with the waste that could not currently be recycled and this was a medium term solution to achieve 70% recycling targets by 2025 and 0% by 2050.

Mr. M. Redmond from Burton Residents Association spoke against the application. He understood that the local authority had an obligation to replace landfill but he did not feel that this facility was the appropriate alternative. He commented on the proposed cost of the project (£800m) and said that the incinerator would pollute the air, would be noisy and would contaminate the water. Mr Redmond called into question the assumption that population growth would offset increased recycling rates. Mr. Redmond spoke of the banning of incinerators in Germany in favour of new, cheaper and more effective technologies and urged the Committee to confirm its decision of 17 April 2015 to refuse the application. He quoted from a letter about alternative options to incinerators and suggested that less intrusive alternatives should be considered. Mr. Redmond spoke of the risk from air pollution and nano-particles that would be produced and added that all plastics could be recycled rather than incinerated.

Mr. P. Short spoke in support of the proposal. He felt that the proposal was located in an ideal site and the facility would provide opportunities which would include the development of apprenticeships. It would allow the Council and the partner authorities to comply with Welsh Government targets and move waste up the hierarchy and achieve better recycling figures. He concurred that more letters of support than objection had been received. On the issue of air pollution and health concerns, he gave assurance that there would not be any detrimental impact from the facility. Mr. Short added that there had not been any need to consider cumulative impact as there was very little impact from the facility. He commented on the site visit that had been undertaken to a similar facility in Wolverhampton. He said that household recycling collections would not be affected by the approval of this application as this facility would deal with the items that could not be recycled and would also treat commercial waste. Mr. Short spoke of the economic benefits that the proposal would provide and detailed the number of jobs that would be created during the construction phase and for the operation of the site. Mr

Short referred to the treatment of fly ash and recycling of bottom ash into building products, and examples of these were on display in the chamber. The applicant felt that this was a robust proposal and indicated that no objections had been received from statutory consultees. Mr Short therefore asked the Committee to approve the application.

Councillor A. Dunbobbin from Connah's Quay Town Council spoke against the application. It had been suggested that residents of Connah's Quay had not been overly concerned about the proposals but Councillor Dunbobbin dismissed this. He spoke of a meeting at the Civic Hall which had attracted a large amount of attention from the public but said that people did not feel empowered to challenge large organisations and therefore it was the role of Councillors to provide a voice for the public. He referred to the comment from the Highway Development Control Manager in the late observations which indicated that the proposal would not have a significant impact on the A548/zone 4 roundabout. Councillor Dunbobbin commented that the A548 will go through heavily populated areas and that the A55 only had 84 days free of roadworks or accidents in 2012/13. He sought a commitment from the operator that a rail link would be implemented in the future and suggested that there had not been any consultation on its removal from the original proposals. He added that he felt that the appropriate infrastructure in and around the site was not yet in place.

Councillor Chris Bithell proposed that the previous decision be overturned and that the officer recommendation for approval in the report of 17 April 2015 be accepted; this was duly seconded. At the 17 April 2015 meeting, he had expressed concerns about the lack of a rail link but added that there were no planning grounds to refuse the application; he felt that there were planning reasons and policies in place to approve the proposals. He said that the brownfield site was allocated for B1, B2 and B8 uses in the UDP and would be developed on the largest industrial area in Europe. He noted that the site was included in the areas of search list identified in the UDP. The proposal complied with policy and the suggestion that there may be better methods of dealing with residual waste was not a material planning consideration. The Committee needed to consider the application before it and decide if it complied with policy and could be accommodated on the site. Concerns had been raised about noise and air pollution and flooding but these issues had been considered in detail and addressed satisfactorily in the report. Councillor Bithell added that the proposal would also be the subject of monitoring from NRW and would require a permit to be able to operate the site; this would not be granted if levels of pollution were unsuitable. On the third reason for refusal on highways issues, Councillor Bithell said that no objections had been received from Highways officers and it had been indicated that the road network could cope with a 2% increase in traffic. The waste was currently being transported on the roads in Flintshire to other sites. Councillor Derek Butler agreed with Councillor Bithell that the three reasons for refusal did not stand up and that concerns about the proposed development had been adequately addressed. He reminded the Committee that the permit from NRW would not be issued if the appropriate levels were exceeded. The proposal was required and complied with policies including

TAN8 and he felt that the health and pollution issues had also been addressed. The 2% increase in traffic movements on the road network could be accommodated and Councillor Butler commented on the major improvements for the A55 which had been identified in the National Transport Plan.

Councillor Ian Dunbar spoke as an adjoining ward Member. He spoke of the concerns raised by residents of Connah's Quay and reiterated the comments he had made at the meeting on 17 April 2015. He felt that there had been a fundamental failure to demonstrate the need for the facility and he commented on the impact for the area for the next 25 years. Councillor Dunbar spoke of future increases in recycling rates which would reduce the amount of residual waste that would be created and suggested that not achieving the targets for the treatment of residual waste would be costly. He commented on the possible costs of treating the waste which he felt would be more expensive than penalties for not meeting the lower than target waste figures. He said that since Wheelabrator had become the preferred bidder, the rail link had been removed from the proposals and the costs had accelerated. He commented on the meeting that the applicant had attended at Connah's Quay Town Council and asked the Committee to confirm its decision of 17 April 2015 and refuse the application.

In response to a comment from Councillor Marion Bateman about vehicle movements as a result of the proposal, the Chief Officer (Planning & Environment) reminded the Committee that these were not new vehicle movements as the journeys to move the waste to other disposal sites within the region were currently being undertaken.

Councillor Christine Jones objected to the proposal and raised concern about environmental issues and added that she did not feel that the emissions from the facility would be safe. She commented on a report that dioxins were responsible for 12% of human cancers and the effects caused a great deal of anxiety. She reiterated that she had significant concerns about the risks to the public from emissions which could harm humans and animals and was a cause of anxiety. Councillor Jones sought clarification that monitoring would be undertaken on a regular basis. The Senior Minerals & Waste Officer acknowledged the concerns but referred to a review by the Health Protection Agency which indicated that incinerators would have a very small detrimental effect on human health. The Chief Officer (Planning & Environment) reiterated earlier comments that NRW would not issue a permit if they had concerns. It had also been indicated that the operator would go 'above and beyond' in the monitoring of pollution from the facility so the Chief Officer was confident that the impact on health would be managed appropriately.

Councillor David Roney spoke against the proposal and reiterated his three reasons for refusal at the meeting on 17 April 2015 which were:-

- that the facility was too big
- increased impact on the road network

- there was no suitable receptor for the combined heat and power plant as required by TAN 8

He felt that the proposal assumed a year on year increase of 3 to 4% waste but Welsh Government projections showed a reduction of 1.2% each year. He was concerned that this could give rise to a 100 kilotonne discrepancy. He added that approval of the application would prevent additional recycling for 25 years and it was not known where the commercial waste would be obtained from to reach the targets of treatment of waste that needed to be achieved. Councillor Roney spoke of a recent case which would force the Government to address pollution levels including those from diesel engine vehicles; he said that this application depended on the transport of waste by lorries powered by diesel. On the issue of TAN8, he said that a heat load source had not been identified and therefore the application did not comply with the policy. He asked that the Committee refuse the application to allow the best solution for recycling of residual municipal waste to be considered. He raised concern that Members' comments were being greeted and dismissed by a panel of officers, and said that the practice followed at this meeting for answering Members' questions was not how the meeting was normally conducted; he suggested that this was not democratic. In response, the Chief Officer (Planning & Environment) explained that the only difference at this meeting was that questions were answered after they had been asked rather than officers responding to all of the questions at the end of the debate.

In response to the comments of Councillor Roney, the Senior Minerals & Waste Officer advised that 175,000 tonnes per annum of waste currently went to landfill and it was expected that there would be more waste arisings in the future than the facility could treat so there was therefore a considerable need for the ERF. It was considered to be a medium term solution to deal with the waste arisings from the five North Wales partners in the project. On the issue of TAN8, the Deeside Industrial Park where the facility would be sited was one of the largest in Europe and was therefore a suitable heat load site. He reminded the Committee that TAN8 indicated that there did not need to be a suitable heat load in place before the planning application could be considered. The Planning Strategy Manager concurred that there was no requirement in TAN8 to identify an appropriate or potential user for the heat source as part of the proposal. He spoke of the comments about reductions in waste arisings but added that it was anticipated that waste arisings would increase due to the numbers of new houses that were expected to be built over the next 15 to 20 years across North Wales.

Councillor Richard Jones spoke of the different types of residual waste (biomass and combustible) and raised concern about the effect on the efficiency of the facility if a heat source load was not in place. He spoke of fossil fuels which contributed significantly to the greenhouse effect and would lead to an increase in the global warming effect. He felt that the heat source should be considered at this stage and queried whether this could be conditioned to be in place before the site was operational. He suggested that not having a heat load source in place would affect the efficiency of the facility and added that the provision of this facility would not encourage residents or

businesses to recycle. In response, the Chief Officer indicated that the authority could not require the applicant to identify a heat source. However he added that it was important that the plan was located where it was likely that there would be a requirement for heat, which this site was. There was great potential and a number of opportunities in the locality and the application was seen as a positive introduction into the Deeside Enterprise Zone. He added that the figures behind the proposal supported the size of the proposal project. On the issue of imposing a condition requiring a heat source load prior to commencement, the Chief Officer and the Housing & Planning Solicitor advised that the proposed condition did not meet the required test for a planning condition. Councillor Jones suggested that the operator may want to consider identifying a source. The Planning Strategy Manager indicated that it was in the interest of the operator to explore the use of the heat load but reiterated that policy did not require it at this stage.

Councillor Butler referred to an email from the Chair of the Deeside Industrial Park Business Forum which indicated that there was demand for the heat source. Councillor Roney asked for the email to be shared with the Committee Members. The Housing & Planning Solicitor indicated that Members needed to treat any new information with caution as such information could not be verified.

The Chief Officer (Planning & Environment) referred to comments from the Chair of the Forum in relation to the planning application which were included in the late observations circulated to the Committee at its 17 April 2015 meeting and included as appendix 2 on this agenda.

Councillor Roney started to read out from what he said was a further email sent by the Chair of the Forum to all Labour Members of the Council. The Housing and Planning solicitor advised that new documents that had not been circulated previously should not be introduced during the meeting and the information Councillor Roney had read was not relevant to the application before the Committee.

Councillor Richard Jones suggested that the applicant should be asked if they would commit to identifying a heat source user and that every effort be put in to ensuring that recyclables were not included in the waste treated by the facility.

In response to the comments made, the Manager (Minerals & Waste) said that recycling rates in North Wales currently stood at 55 to 58%. WG had set out a projected target that 70% waste should be recycled and this facility was designed to deal with the remaining 30%.

Following a comment from the Chief Officer (Planning & Environment) that the concerns over the identification of a heat user *could* be addressed by the imposition of a planning condition, Councillor Richard Jones proposed an amendment that a condition be included that a heat source user be identified at an early stage; this was duly seconded. The Chief Officer said that the condition proposed would require Wheelabrator to submit a scheme to identify

an end user for the heat load. Councillor Bithell noted that whilst the principle of this amendment had merit, if the facility was constructed, he considered that demand for the heat would follow anyway. On being put to the vote for the approval of the application with the additional condition proposed, there was an equality of voting and the Chair used his casting vote against the proposal.

The original recommendation of approval then became the substantive motion.

Councillor Gareth Roberts felt that refusal of the application would be difficult to defend at appeal and commented on the risk of costs being awarded against the Council if the appeal was allowed. He said that the site was in a suitable location and would generate a small amount of extra traffic and reminded Members that the waste was currently already transferred through Flintshire to reach landfill sites.

Councillor Richard Jones requested a recorded vote and was supported by the requisite five other Members.

In summing up, Councillor Bithell said that the reasons for refusal provided at the previous meeting would be difficult to defend at appeal. He commented on the higher level of support than objections and added that the facility as a heat source would attract other businesses to the area once it was operational. He added that the proposal would provide valuable jobs.

On being put to the vote, planning permission was granted by 7 votes to 6 with the voting being as follows:-

FOR – GRANTING PLANNING PERMISSION

Councillors: Marion Bateman, Chris Bithell, Derek Butler, Haydn Bateman, Mike Lowe, Gareth Roberts and David Wisinger

AGAINST – GRANTING PLANNING PERMISSION

Councillors: Mike Reece, Ray Hughes, Christine Jones, Richard Jones, Veronica Gay and David Roney

RESOLVED:

That planning permission be granted subject to the conditions detailed in the report of the Chief Officer (Planning and Environment).

25. MEMBERS OF THE PUBLIC AND PRESS IN ATTENDANCE

There were 12 members of the public and 3 members of the press in attendance.

(The meeting started at 10.00 am and ended at 11.55 am)

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Chair