

Town and Country Planning Act 1990 – Section 77 and Town and Country Planning (Inquiries Procedure) (England) Rules 2000.

Planning Inspectorate Ref: APP/L3055/V/14/3001886

Rule 6 Statement of Case on behalf of Nottinghamshire County Council.

Planning Application No. 3/13/01767/CMW

Application by: Peel Environmental Management UK LTD and Bilsthorpe Waste LTD.

Site Address: Bilsthorpe Energy Centre, Bilsthorpe Business Park, off Eakring Road, Bilsthorpe, Nottinghamshire.

March 2015

Introduction

1. Nottinghamshire County Council (NCC) considered a planning application for the proposed development of the Bilsthorpe Energy Centre (BEC) to manage unprocessed and pre-treated waste materials through the construction and operation of a Plasma Gasification Facility, Materials Recovery Facility and Energy Generation Infrastructure together with supporting infrastructure on land at the Bilsthorpe Business Park, Off Eakring Road, Bilsthorpe at its Planning and Licensing Committee on the 18th November 2014. At this meeting NCC resolved to support a grant of planning permission for the development.
2. Following this committee decision the National Planning Casework Unit exercised powers under Article 25 of the Town and Country Planning (Development Management Procedure) Order 2010 directing the Council not to grant planning permission for the development. Subsequently on the 19th December 2014 the Secretary of State decided to call in the planning application under powers referred to him in Section 77 of the Town and Country Planning Act 1990 (as amended) for him to determine following a public local inquiry.
3. This statement sets out the role and position that NCC proposes to take within this public local inquiry process. It also incorporates a summary of the information and evidence that NCC proposes to provide to the Inquiry. The statement has been prepared having regard to advice in The Planning Inspectorate's: Procedural Guide for Called-in planning applications – England (7th July 2014).

Role that NCC propose to take within the Inquiry process

4. NCC had resolved to grant conditional planning permission for this development subject to agreeing with the developer an acceptable Section 106 Agreement to make the development acceptable in planning terms. The decision has now been taken out of NCC's hands. Accordingly the role that NCC will play at the Inquiry will be limited to placing before the Inspector (and through the Inspector the Secretary of State) the relevant planning policies, both local and national, applicable to this application. NCC as Waste Planning Authority has in place an up-to-date local development plan, which has only been very recently adopted in December 2013.
5. NCC will provide evidence to the inquiry to show that the development proposed is in accordance with the provisions of the local development plan when read as a whole. At this stage it is anticipated that NCC will call a single

witness, their Planning Applications Senior Practitioner, who was the case officer responsible for processing the planning application.

6. The scope of evidence that the Council proposes to present to the inquiry will cover the following matters:
 - The site's location and relevant designations of the area.
 - The planning history of the development site and surrounding area.
 - A description of the development for which planning permission is sought.
 - The consultation/publicity process that was undertaken by the Council and a summary of the responses that were received.
 - An identification of the process that was taken by the Council to determine the planning application including a summary of the Regulation 22 submissions.
 - The planning assessment of the development and the balance given to different issues within the overall planning decision. Insofar as there are heritage assets affected by the proposed development, it is acknowledged that this is a matter to which particular weight must be given pursuant to section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990.
 - The controls that are considered necessary by the Council through planning condition and legal agreement to ensure that the development operates within appropriate environmental controls.
7. These matters were all examined in depth by NCC during the course of its assessment of the planning application. The Council's Planning and Licensing Committee Report (Core Document 09) incorporates a thorough and in depth analysis of the planning merits of the case and will be used as the main body of evidence by the Council's expert witness.
8. NCC will not provide expert witnesses to respond to technical questions regarding the environmental assessment of the case or any other matter beyond planning policy. It is anticipated that these matters will be dealt with by the developer, who will provide witnesses to inform the Inspector on these matters. The Council's planning witness, however, will inform the Inspector (and through the Inspector the Secretary of State) how NCC dealt with these matters during the course of it processing the planning application.

Response to Secretary of State's Rule 6 Statement

9. The Secretary of State has identified five matters he particularly wishes to be informed about, these are listed below together with the Council's response in terms of how it proposes to deal with the matter.

10. The consistency with the development plan for the area.

- The scale of the proposals means that there are a large number of development plan policies relevant to the proposal. These matters were fully considered within the committee report. Evidence will be provided to demonstrate that the development plan is supportive of the development and there is no departure from any individual policy.
- Notably the development plan identifies a shortfall of waste recovery capacity, which the facility would assist in addressing, thereby delivering waste management at a higher level in the waste hierarchy by diverting waste that would otherwise be disposed of by landfill. The facility would generate low carbon electrical energy and therefore benefits from the positive planning policy support given to such developments. Furthermore the siting of the development on 'available industrial land' is an appropriate location in the context of development plan policy.
- Notwithstanding the above, NCC acknowledges that the development presents some areas of policy tension; the Council's evidence will inform the Inspector of these matters.

11. Its conformity with the policies contained in the National Planning Policy for Waste (NPPW)

- The policy implications of the NPPW are considered within Paragraphs 132-134 of the committee report.
- NCC will demonstrate that the development is compliant with the policy objectives of the NPPW. The decision has been taken in accordance with an up to date development plan; the development would achieve compliance with the waste hierarchy; there is a need for the development which has been informed from a reliable evidence base; that the planning system plays a pivotal role in bringing forward new waste management facilities and therefore a positive approach should be taken in the assessment of the planning application; the potential for heat and energy recovery from the process has been investigated and maximised as far as practicable; the facility would contribute to renewable and low carbon energy; its siting on previously developed land identified for employment redevelopment is appropriate; that the Council has not sought to stifle innovation; and the environmental

safeguards listed in Appendix B of the NPPW have been appropriately applied and pollution control matters have been appropriately dealt with including emissions and health;.

12. Its conformity with the National Waste Management Plan for England (WMPfE).

- The implications of the WMPfE and its supporting DEFRA publication Energy from Waste – A guide to the debate (February 2014) are extensively considered within the committee report.
- Evidence will be provided to demonstrate that the development is consistent with the objectives of the WMPfE insofar that the development complies with the waste hierarchy by managing waste within an efficient energy recovery facility and the recovered energy would contribute to the country's wider energy policy which incentivises renewable and low carbon energy generation.

13. Its conformity with the National Planning Policy Framework (NPPF)

- The policy implications of the NPPF are considered within the committee report. In particular evidence will be provided to demonstrate that the development accords with the up to date development plan and therefore should be approved (paragraph 12); the development contributes towards reducing impacts of climate change and maximising the use of renewable/low carbon energy (paragraph 93) and therefore should be assessed against the presumption in favour of sustainable development (paragraph 14). Evidence will also be provided to demonstrate that appropriate environmental protection measures have been followed in accordance with NPPF policy.

14. Other matters the Inspector considers relevant.

- NCC will provide information on other matters the Inspector considers relevant insofar as they fall within the planning policy sphere.

15. The County Council reserves the right to add to their list of documents in presenting its evidence.

Response to matters raised by Dr Chow

16. Within his Statement of Case, Dr Chow advises that his evidence will concentrate only on the health issues associated with the operation of the

development and he is not proposing to provide evidence on the wider planning issues.

17. NCC will not provide an expert witness to respond to Dr Chow's concerns relating to the health and safety impacts of the development. These matters will be addressed by the developer's relevant expert witnesses.
18. NCC will inform the Inspector of how it dealt with concerns regarding health and safety matters that were raised during the course of processing the planning application. In particular it will be demonstrated that Public Health England were properly consulted at all stages of processing the planning application and their views have been appropriately considered within the planning decision. The reality is that such matters will fall to be considered within the licensing regime and it is inappropriate for planning conditions to duplicate them.

List of Documents to which the Council may refer

19. The key policy documents identified at this stage which the Council will rely upon to present their case are listed below:
 - a. The planning application submission, supporting Environmental Impact Assessment, Traffic Assessment and subsequent Regulation 22 responses.
 - b. Planning consultation responses.
 - c. The Landfill Directive (1993/31/EC)
 - d. EU Renewable Energy Directive (2009/28/EC).
 - e. Revised EU Waste Framework Directive (2008/98/EC).
 - f. Landfill (England and Wales) Regulations 2002
 - g. Environmental Permitting (England and Wales) Regulations 2010.
 - h. Waste (England and Wales) Regulations 2011 (SI 2011/988).
 - i. National Planning Policy Framework (NPPF) (March 2012) and Technical Guidance.
 - j. National Planning Policy for Waste (NPPW) (October 2014).
 - k. Planning Practice Guidance: Waste
 - l. National Policy Statement for Energy (NPS EN-1) (July 2011).
 - m. Energy White Paper 2007.
 - n. Waste Policy Review 2011.
 - o. Waste Management Plan for England (July 2013).
 - p. Waste prevention Programme for England (December 2013)
 - q. Energy from Waste – A guide to the debate (February 2014).
 - r. Nottinghamshire and Nottingham Waste Local Plan (saved policies) (WLP) (January 2002).

- s. Nottinghamshire and Nottingham Waste Core Strategy (December 2013).
- t. Newark and Sherwood Core Strategy (N&SCS) (March 2011)
- u. Newark and Sherwood Allocations and Development Management Document (N&S ADM) (July 2013).
- v. Planning Appeal Ref: APP/M2460/A/11/2150748: Energy Recovery Facility at Newhurst Quarry, Ashby Road East, Shepshed, Leicestershire.
- w. National Infrastructure Commission Ref 12.04.04/35C Energy from Waste fuelled power station at Lostock Power Station, Lostock, Northwich, Cheshire.
- x. British Standard BS5228:2009: Code of practice for noise and vibration control on construction and open sites